

STATE OF MINNESOTA
STATE BUILDING CODE APPEALS BOARD

In the Matter of the Appeal of Twin City
Fireplace & Stone Company

Appeal No. 15-01

FINAL DECISION
Dated: February 23, 2015

This matter came on for hearing before the State Building Code Appeals Board (“Board”) on January 27, 2015. The record closed at the conclusion of the hearing. The Board authorized its Chair, Scott McKown, to prepare and issue the Board’s final written decision.

Chris Becker, President of Twin City Fireplace & Stone Company (“TC Fireplace”), and Jon Monson, President of the Landschute Group, appeared on behalf of Appellant TC Fireplace. Loren Kohnen, Building Official, appeared on behalf of Respondent City of Excelsior, Minnesota (“City”).

The issue in this appeal is whether the City’s Building Official incorrectly interpreted Minn. R. 1346.5621 to prohibit TC Fireplace’s installation of a Heat & Glo Carolina 36 fireplace (“Heat & Glo”) on the unenclosed porch of a single family home at 176 Maple Street in Excelsior. The cited rule provides: “Unvented room heaters and unvented decorative appliances shall not be installed in any dwelling or occupancy.”

Pursuant to the Board’s authority under Minn. R. 1300.0230, and based upon the entire record, including all documents, testimony, and arguments submitted to the Board, the Board holds that the City incorrectly interpreted Minn. R. 1346.5621 by applying the rule to the Heat & Glo installation at 176 Maple Street. Specifically, the City’s interpretation was incorrect because the Heat & Glo is not an “unvented room heater” or “unvented decorative appliance,” and Minn. R. 1346.5621 therefore does not apply to or prohibit the Heat & Glo installation that is the subject of this appeal.¹ The Board’s decision is supported by a variety of facts and information discussed during the hearing.

According to the photographs and architect’s plans submitted by TC Fireplace, the porch at 176 Maple Street has a ceiling height of 108 inches and an area greater than 100 square feet. The porch is completely open on all sides except where it is attached to the house. The Heat & Glo is installed at the edge of the porch opposite the house, with open railing on both sides. The

¹ The City’s arguments regarding the “occupancy” of the porch at 176 Maple Street are misdirected. Because the Heat & Glo is not an unvented room heater or unvented decorative appliance to which Minn. R. 1346.5621 applies, the “occupancy”—if any—of the porch has no bearing on the permissibility of the installation of the Heat & Glo or the outcome of this appeal. The Board therefore need not, and expressly does not, decide whether the porch at 176 Maple Street constitutes an “occupancy” for purposes of Minn. R. 1346.5621.

Heat & Glo was included in the design of the home when it was submitted for code review. The porch was not included in the energy calculation for the interior of the building. The building permit issued by the City for the Heat & Glo's installation indicates that it is an outdoor fireplace, and the porch location where the Heat & Glo is installed is, in fact, outdoors. According to the Building Official, as of the date of the hearing, the City had not completed inspection of the Heat & Glo beyond concluding that it was an unvented room heater prohibited by Minn. R. 1346.5621.

The manufacturer's installation instructions for the Heat & Glo state that the unit is an "outdoor decorative gas appliance" tested and certified under ANSI Z21.97-2014. The instructions warn that the unit is "for outdoor use only" and never to be used in an enclosed space. The instructions also set forth minimum specifications for the requisite outdoor installation and use, which permit installation on a porch with at least one open wall, minimum porch area of 96 square feet, minimum ceiling height of 82 inches, and minimum distance of 49.5 inches from the top of the unit to the ceiling.

Minnesota Rule 1346.5621 deletes from the State Building Code a section of the International Fuel Gas Code ("IFGC") that would have permitted unvented room heaters tested in accordance with ANSI Z21.11.2 and installed in accordance with that ANSI standard and the manufacturer's installation instructions. The deleted section is replaced by a blanket prohibition on unvented room heaters, which was not intended to apply to appliances classified as anything other than unvented room heaters or unvented decorative appliances. The Heat & Glo, which is tested and listed under ANSI Z21.97—not ANSI Z21.11.2—is not an unvented room heater or unvented decorative appliance, and Minn. R. 1346.5621 does not apply to the Heat & Glo.

The 2012 International Fuel Gas Code ("IFGC"), which took effect in Minnesota on January 24, 2015, codifies the long-existing distinction between an "outdoor decorative appliance" such as the Heat & Glo and an "unvented room heater" or "unvented decorative appliance" subject to Minn. R. 1346.5621. Consequently, under Minnesota's current building code: "Permanently fixed-in-place outdoor decorative appliances shall be tested in accordance with ANSI Z21.97 and shall be installed in accordance with the manufacturer's instructions." IFGC § 636.1 (2012) (incorporated by reference by Minn. R. 1346.5050 (2015)).

As a result of the foregoing, the Board finds and concludes that:

- (1) Minnesota Rule 1346.5621 applies only to unvented room heaters and unvented decorative appliances, and does not apply to outdoor decorative appliances;
- (2) the Heat & Glo is an outdoor decorative appliance, not an unvented room heater or unvented decorative appliance;
- (3) the City incorrectly interpreted Minn. R. 1346.5621 by concluding that the rule applies to the Heat & Glo installed at 176 Maple Street;
- (4) IFGC § 636.1 (2012) governs the installation of outdoor decorative appliances in Minnesota.

Pursuant to IFGC § 636.1, TC Fireplace's Heat & Glo installation at 176 Maple Street is approved provided it is in compliance with its ANSI listing, manufacturer's instructions, and other applicable provisions of the current State Building Code. The Board therefore orders the Building Official to complete inspection of the Heat & Glo at 176 Maple Street and approve the installation if it is in compliance with its ANSI listing, manufacturer's instructions, and other applicable provisions of the current State Building Code, and when the appliance and installation pass that inspection, to record the final inspection.

RIGHTS OF APPEAL

This is the final decision of the State Building Code Appeals Board in this matter. A person aggrieved by this decision may, within 180 days of its date, appeal to the Commissioner of Labor and Industry as set forth in Minn. Stat. § 326B.139 (2012).



SCOTT McKOWN, Chair
State Building Code Appeals Board