

Kalamazoo Area Building Authority

www.kaba-mi.org

KABA Board of Directors Meeting

Thursday, February 19, 2015
2:00 PM

AGENDA

Oshtemo Township Hall
7275 W. Main St.
Kalamazoo, MI 49009

Business:

1. Call to Order
2. Approval of Agenda
3. Consent Agenda
 - a. Approval of Minutes from Dec. 4, 2014 meeting
 - b. Receipts and Disbursements Report
 - c. Administrative Report
 - d. Building Official Report
 - e. Executive Director Report
 - f. Revenue / Permit Report
4. Citizen Comments on Non-Agenda Items
5. Recommendation Regarding the Building Official – Jeff Sorensen representing the KABA Recruitment Committee
6. Home Builders' Association Regarding Complaint – Complaint Description, KABA Reply, and Discussion
7. Modifications to the KABA Temporary Occupancy Policy
8. Update from Doug Scott on Zoning Classes
9. Board Member Comments
10. Adjournment

**Kalamazoo Area Building Authority (KABA)
Board Meeting
December 4, 2014**

The KABA meeting was held at Comstock Township Hall. Board Chair Larson called the meeting to order at 2:15 p.m.

PRESENT:

Lee Larson, Chair
Carol DeHaan, Secretary
George Cochran, Treasurer
Ann Nieuwenhuis, Member

Also present were Executive Director Ed Hellwege, Attorney James Porter, Building Official Jerry Reitenour, Administrative Assistant Michelle Mohny, and Recording Secretary Deb Everett.

Approve Agenda

Mr. Hellwege requested two items be added to the agenda:

Discussion on Energy Code inquiry
Revision to PTO Policy

Consent Agenda

Minutes of the November 6th regular meeting
Receipts & Disbursements Report
Administrative Report
Building Official's Report
Executive Director's Report
Revenue/Permit Report
2015 Meeting Dates & Payroll Periods
Board of Appeals Roster

Motion by DeHaan, second by Nieuwenhuis to approve the consent agenda items. Carried.

Temporary Occupancy Policy Revision – Ms. Mohny advised of a situation where the required items for a temporary occupancy permit could not be met due to weather issues. Attorney Porter provided amended language to the policy to make exception in cases requiring sidewalks and landscaping for which a later completion date may be granted based upon weather consideration.

Motion by Nieuwenhuis, second by Cochran to adopt a resolution amending the Temporary Occupancy Policy as described. Roll call showed Nieuwenhuis-yes, DeHaan-yes, Larson-yes, Cochran-yes.

Building Official Recruitment – Mr. Hellwege provided an update advising to date there are six external and two internal applicants, he will continue to work with the consultant to obtain applicants. He also provided potential interview questions and tasks of the Hiring Committee which consists of himself, Chair Larson, Member Cochran, Cooper Township Supervisor Jeff Sorensen, and Comstock Township Trustee Jerry Amos. There was discussion with consensus the applicants must be registered as a Building Official in Michigan to be considered.

KABA 5 Year Vision – Mr. Hellwege provided a first draft and requested Board members feedback.

Veterans Day Holiday – Mr. Hellwege requested the Board consider adding Veterans Day to the list of holidays observed by KABA, to honor servicemen and women, Oshtemo Township, location of the KABA offices is closed, and the number of transactions were minimal that day. Ms. Nieuwenhuis commented she would consider trading Presidents Day but considering the current vacation/sick day policies would not be in favor of adding an additional holiday. Ms. DeHaan concurred.

Motion by Nieuwenhuis, second by DeHaan to retain the current holiday schedule.

Energy Code Discussion – Ms. Nieuwenhuis advised she had been contacted by a contractor questioning the KABA policy requiring proof of compliance of the Energy Code. Building Official Reitenour advised it is a Building Code requirement. Discussion included the role of KABA is to verify code compliance. Ms. Nieuwenhuis advised she would contact the contractor as well as the Home Builders Association.

PTO Policy Revision – Mr. Hellwege requested the Board consider a one-time exception to the PTO policy that would allow carryover of PTO hours beyond the current policy allowance. He noted due to increased activity and staff shortages due to medical issues, Building Official Reitenour and Administrative Assistant Tracy Fricke were unable to use enough of their PTO to prevent having an excess of the allowed carryover, which according to current policy they would lose. Ms. Nieuwenhuis recommended they be paid for the excess hours which would prevent a possible continuation of excessive carryover.

Motion by Nieuwenhuis, second by DeHaan to approve a one-time payment of excess carryover hours that would otherwise be lost. Carried.

Board Member Comments – Ms. Nieuwenhuis distributed a first draft of an inspection form for property maintenance and requested review and feedback. Ms. Mohney advised the form could probably be added to the inspection tablets.

There was no further business and the meeting was adjourned at approximately 3:20 p.m.

Next Meeting – Regular Meeting January 8, 2015 at Kalamazoo Township at 2:00 p.m.

Drafted: December 12, 2014

Approved: _____

DRAFT

KALAMAZOO AREA BUILDING AUTHORITY

2/4/2015 11:18 AM

Register: 371-001 · KABA CHECKING ACCT - CONSUMERS
 From 01/01/2015 through 01/31/2015
 Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
			SALARY (DIRECTOR)		-2,365.38			
			EMPLOYER SS & MEDICARE		-521.19			
			HOSPITALIZATION INSURANCE		115.00			
			HOSPITALIZATION INSURANCE		-115.00			
			EMPLOYEEAFTER TAX 401 A		352.01			
			EMPLOYEEAFTER TAX 401 A		-259.97			
			BUILDING INSPECTOR - MIKE		-720.00			
			MECHANICAL INSPECTOR - JOHN		-810.00			
			PLUMBING INSPECTOR - JOHN		-1,035.00			
			BUILDING INSPECTOR - STEVE ROY		-2,272.50			
			ELECTRICAL INSPECTOR - DOUG		-1,080.00			
01/28/2015	67		371-210 · ACCRUED ITEMS		2,026.75			612,328.22

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Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
01/28/2015			371-613 · ELECTRICAL PERMITS	Deposit-16567444			135.00	638,346.90
01/28/2015			371-618 · PLUMBING PERMITS	Deposit-16582800			218.00	638,564.90
01/28/2015	Transfer	GREAT WEST #915814	371-719 · PENSION CONTRIBUTION	Ref# 480904020	352.01			638,212.89
01/28/2015	2617	EDWARD R. HELLWEGE	371-853 · TELEPHONES	Cell Phone January 2015	62.87			638,150.02
01/28/2015	2618	EDWARD R. HELLWEGE	371-870 · MILEAGE	February 2015 Travel Allow...	85.00			638,065.02
01/28/2015	2619	Zemlick	371-728 · OFFICE SUPPLIES	Invoice # 0107818-001	32.85			638,032.17
01/28/2015	2620	K & S Plumbing	371-617 · MECHANICAL PERMITS	Permit Refund	91.00			637,941.17
01/28/2015	2621	KALAMAZOO TOWNSHIP	371-226 · DUE TO KABA MEMBERS	VOID: Initial Start-up Reim...		X		637,941.17
01/28/2015	2622	KALAMAZOO TOWNSHIP	371-226 · DUE TO KABA MEMBERS	Initial Start-up Reimburseme...	2,623.00			635,318.17
01/28/2015	2623	COMSTOCK TOWNSHIP	371-226 · DUE TO KABA MEMBERS	Initial Start Up Reimburseme...	3,127.00			632,191.17
01/28/2015	2624	OSHTEMO TOWNSHIP	371-226 · DUE TO KABA MEMBERS	Initial Start-up Reimburseme...	4,338.00			627,853.17
01/28/2015	66		-split- FIELD DEBIT ACCOUNT ACCRUED ITEMS BUILDING OFFICIAL SALARY SALARIES/CLERICAL		13,498.20 115.00 2,026.75 -2,472.11 -4,455.81			614,354.97

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Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
			ELECTRICAL PERMITS				110.00	
			ELECTRICAL PERMITS				358.00	
			ELECTRICAL PERMITS				180.00	
			MECHANICAL PERMITS				125.00	
			MECHANICAL PERMITS				260.00	
			MECHANICAL PERMITS				125.00	
			ELECTRICAL PERMITS				149.00	
			ELECTRICAL PERMITS				113.00	
			ELECTRICAL PERMITS				63.00	
			BUILDING PERMITS / OTHER				406.00	
			BUILDING PERMITS / OTHER				5,284.00	
			ELECTRICAL PERMITS				110.00	
			BUILDING PERMITS / OTHER				1,786.00	
			PLUMBING PERMITS				100.00	
			PLUMBING PERMITS				100.00	
			ELECTRICAL PERMITS				115.00	
			MECHANICAL PERMITS				150.00	
			MECHANICAL PERMITS				115.00	
			ELECTRICAL PERMITS				285.00	
			ELECTRICAL PERMITS				285.00	
			BUILDING PERMITS / OTHER				160.00	
			ELECTRICAL PERMITS				111.00	
			MECHANICAL PERMITS				120.00	
			MECHANICAL PERMITS				125.00	
01/28/2015			371-610 · BUILDING PERMITS / OTHER	Deposit-16632921			112.00	638,015.90
01/28/2015			371-610 · BUILDING PERMITS / OTHER	Deposit-16583639			196.00	638,211.90

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			ELECTRICAL PERMITS				111.00	
			MECHANICAL PERMITS				101.00	
			BUILDING PERMITS / OTHER				168.00	
			MECHANICAL PERMITS				239.00	
			BUILDING PERMITS / OTHER				2,150.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				124.00	
			PLUMBING PERMITS				170.00	
			MECHANICAL PERMITS				150.00	
			ELECTRICAL PERMITS				169.00	
			BUILDING PERMITS / OTHER				601.00	
01/28/2015			371-618 · PLUMBING PERMITS	Deposit-16603449			5.00	626,348.90
01/28/2015			371-617 · MECHANICAL PERMITS	Deposit-16570455			125.00	626,473.90
01/28/2015			371-613 · ELECTRICAL PERMITS	Deposit-16568789			115.00	626,588.90
01/28/2015			371-613 · ELECTRICAL PERMITS	Deposit-16568789			115.00	626,703.90
01/28/2015			371-617 · MECHANICAL PERMITS	Deposit-16568789			120.00	626,823.90
01/28/2015			371-617 · MECHANICAL PERMITS	Deposit-16568789			120.00	626,943.90
01/28/2015			371-610 · BUILDING PERMITS / OTHER	Deposit			100.00	627,043.90
01/28/2015			-split- MECHANICAL PERMITS	Deposit			10,860.00	637,903.90
							125.00	

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Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
			BUILDING PERMITS / OTHER				45.00	
			PLUMBING PERMITS				276.00	
			BUILDING PERMITS / OTHER				2,151.00	
			BUILDING PERMITS / OTHER				196.00	
			ELECTRICAL PERMITS				120.00	
			BUILDING PERMITS / OTHER				55.00	
01/21/2015	Debit	Skill Path	371-959 · TRAINING & EDUCATION	Tracy Class Managing Priori...	182.81			623,062.45
01/21/2015	2611	Zemlick	371-728 · OFFICE SUPPLIES	Invoice # 0106813-001	59.95			623,002.50
01/21/2015	2612	BCBS OF MICHIGAN	371-717 · HOSPITALIZATION INSURA...	PAYMENT 02/01/15-02/28...	516.32			622,486.18
01/21/2015	2613	Esper Electric	371-613 · ELECTRICAL PERMITS	VOID: Permit Refund PE15...		X		622,486.18
01/21/2015	2614	Hearth & Home Design Center	371-617 · MECHANICAL PERMITS	Permit Refund PM14-06-558	120.00			622,366.18
01/21/2015	2615	Redmond Engineering & Design	371-611 · BUILDING PLAN REVIEW F...	Project # 14023 6244 Techn...	500.00			621,866.18
01/21/2015	2616	SUN LIFE	371-722 · LTD / STD	January 2015	226.28			621,639.90
01/28/2015			-split-	Deposit			4,704.00	626,343.90
			BUILDING PERMITS / OTHER				45.00	
			BUILDING PERMITS / OTHER				45.00	
			MECHANICAL PERMITS				125.00	
			MECHANICAL PERMITS				125.00	
			MECHANICAL PERMITS				125.00	
			PLUMBING PERMITS				201.00	

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Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
01/21/2015			371-613 - ELECTRICAL PERMITS	Deposit-16473264			181.00	616,949.96
01/21/2015			-split-	Deposit			6,295.30	623,245.26
			ELECTRICAL PERMITS				347.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			ELECTRICAL PERMITS				177.00	
			MECHANICAL PERMITS				125.00	
			MECHANICAL PERMITS				1,158.30	
			BUILDING PERMITS / OTHER				1.00	
			PLUMBING PERMITS				100.00	
			MECHANICAL PERMITS				135.00	
			MECHANICAL PERMITS				120.00	
			ELECTRICAL PERMITS				111.00	
			MECHANICAL PERMITS				120.00	
			ELECTRICAL PERMITS				111.00	
			MECHANICAL PERMITS				120.00	
			ELECTRICAL PERMITS				111.00	
			MECHANICAL PERMITS				120.00	
			PLUMBING PERMITS				100.00	
			ELECTRICAL PERMITS				116.00	
			BUILDING PERMITS / OTHER				40.00	
			BUILDING PERMITS / OTHER				40.00	
			BUILDING PERMITS / OTHER				45.00	
			BUILDING PERMITS / OTHER				45.00	
			BUILDING PERMITS / OTHER				45.00	

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			EMPLOYEEAFTER TAX 401 A		-263.72			
			ELECTRICAL INSPECTOR - TOM		-720.00			
			MECHANICAL INSPECTOR - JOHN		-450.00			
			PLUMBING INSPECTOR - JOHN		-1,170.00			
			BUILDING INSPECTOR - STEVE ROY		-615.00			
			ELECTRICAL INSPECTOR - DOUG		-495.00			
			MECHANICAL INSPECTOR - TOM		-540.00			
01/13/2015	64		371-001 · KABA CHECKING ACCT - C...				115.00	617,329.34
01/13/2015	65		371-210 · ACCRUED ITEMS		1,770.38			615,558.96
01/15/2015	DEBIT	Gordon Water Systems	371-728 · OFFICE SUPPLIES	Cooler Rent/Bottle Deposit	31.00			615,527.96
01/21/2015			371-610 · BUILDING PERMITS / OTHER	Deposit			55.00	615,582.96
01/21/2015			-split-	Deposit			1,096.00	616,678.96
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				45.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				340.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				321.00	
			PLUMBING PERMITS				225.00	
01/21/2015			371-610 · BUILDING PERMITS / OTHER	Deposit-16473264			45.00	616,723.96
01/21/2015			371-613 · ELECTRICAL PERMITS	Deposit-16500819			45.00	616,768.96

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01/13/2015	Transfer	GREAT WEST #915814	MECHANICAL PERMITS ELECTRICAL PERMITS MECHANICAL PERMITS MECHANICAL PERMITS MECHANICAL PERMITS	Ref# 477266596	355.76		139.00 172.00 255.00 235.00 135.00	628,277.67
01/13/2015	2607	SIEGFRIED CRANDALL PC	371-719 · PENSION CONTRIBUTION	Inv 84290 Tracy's Tablet	120.00			628,157.67
01/13/2015	2608	AEG Development	371-806 · COMPUTER OPERATIONS	Permit Refund PP14-06-366	100.00			628,057.67
01/13/2015	2609	COCM	371-618 · PLUMBING PERMITS -split- TRAINING & EDUCATION DUES	Member Dues/Conference 2015 Joint Winter Conference 2015 COCM Membership	50.00 -10.00 -40.00			628,007.67
01/13/2015	2610	Metro Building Inspectors Associations	371-958 · DUES	Membership Renewal	125.00			627,882.67
01/13/2015	64		-split- KABA CHECKING ACCT - CONSUME... ACCRUED ITEMS BUILDING OFFICIAL SALARY SALARIES/CLERICAL SALARY (DIRECTOR) EMPLOYER SS & MEDICARE HOSPITALIZATION INSURANCE HOSPITALIZATION INSURANCE EMPLOYEEAFTER TAX 401 A		10,668.33 -115.00 1,770.38 -2,472.11 -3,379.40 -2,365.38 -438.86 115.00 115.00 355.76			617,214.34

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Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
01/07/2015	2603	Redmond Engineering & Design	371-611 · BUILDING PLAN REVIEW F...	Project # 14024 2593 Azo C...	300.00			635,478.43
01/07/2015	2604	OSHTEMO TOWNSHIP	371-226 · DUE TO KABA MEMBERS	Initial Start-up Reimburseme...	4,338.00			631,140.43
01/07/2015	2605	COMSTOCK TOWNSHIP	371-226 · DUE TO KABA MEMBERS	Initial Start Up Reimburse...	3,127.00			628,013.43
01/07/2015	2606	KALAMAZOO TOWNSHIP	371-226 · DUE TO KABA MEMBERS	Initial Start-up Reimburseme...	2,623.00			625,390.43
01/13/2015			371-610 · BUILDING PERMITS / OTHER	Deposit			124.00	625,514.43
01/13/2015			-split-	Deposit			3,119.00	628,633.43
			MECHANICAL PERMITS				125.00	
			PLUMBING PERMITS				110.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			BUILDING PERMITS / OTHER				55.00	
			MECHANICAL PERMITS				155.00	
			MECHANICAL PERMITS				125.00	
			MECHANICAL PERMITS				241.00	
			PLUMBING PERMITS				255.00	
			MECHANICAL PERMITS				622.00	

KALAMAZOO AREA BUILDING AUTHORITY

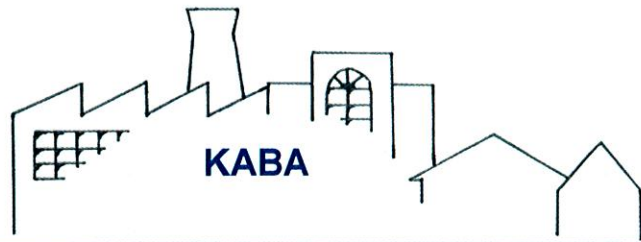
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01/02/2015	Debit	ADP	371-826 · ACCOUNTING & AUDIT FEES	Payroll Fee December	47.15			638,456.87
01/02/2015	2598	EDWARD R. HELL WEGE	371-870 · MILEAGE	Mileage January 2015	85.00			638,371.87
01/02/2015	2599	EDWARD R. HELL WEGE	371-853 · TELEPHONES	Cell Phone Dec 2014	67.77			638,304.10
01/04/2015	Debit	Vonage	371-853 · TELEPHONES	Telephone Service	187.06			638,117.04
01/04/2015	Transfer	GREAT WEST #915814	371-719 · PENSION CONTRIBUTION		343.14			637,773.90
01/07/2015			-split- ELECTRICAL PERMITS MECHANICAL PERMITS MECHANICAL PERMITS ELECTRICAL PERMITS PLUMBING PERMITS MECHANICAL PERMITS	Deposit			1,215.00 361.00 125.00 125.00 188.00 291.00 125.00	638,988.90
01/07/2015	Debit	IHS	371-726 · RESOURCE MATERIALS EX...	Order #1675969	831.00			638,157.90
01/07/2015	Debit	Gordon Water Systems	371-728 · OFFICE SUPPLIES	Cooler Rent/Bottle Deposit	10.00			638,147.90
01/07/2015	2600	BCBS OF MICHIGAN	371-717 · HOSPITALIZATION INSURA...	PAYMENT 01/01/15-01/31...	1,809.24			636,338.66
01/07/2015	2601	VERIZON WIRELESS	371-853 · TELEPHONES	Inv 3181605319	105.23			636,233.43
01/07/2015	2602	THE HARTLEBB AGENCY	371-831 · LIABILITY INSURANCE	Workers Comp Audit	455.00			635,778.43



Kalamazoo Area Building Authority
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Administrative Report – February 2015

- We continue to work with Brian Powell at BS&A to make the necessary adjustments and changes needed for KABA operations. The developers & programmers are working on the bug in the Bd.Net import process.
- The Essential Referenced Standards have been purchased all but for the few which are no longer available. Primarily it will be an electronic library. We are in the process of putting the collected standards onto discs.



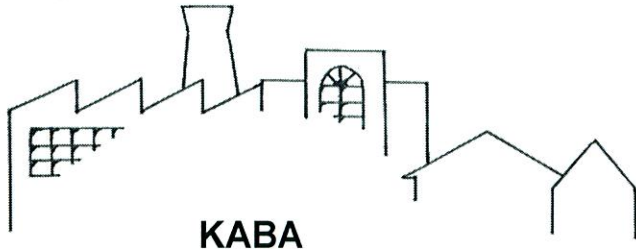
Kalamazoo Area Building Authority

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Building Official's Report

Project Updates:

- **Menard's (Comstock)** – work is in progress for the revised mezzanine; footings and structural steel has been completed.
- **1536 Gull Rd. - Court Facility (Kalamazoo)** – project is progressing, but it's moving slowly.
- **5622 West Main – Maple Hill Auto (Oshtemo)** – Audi addition has been completed; Subaru addition is in progress.
- **2854 South 8th – OBGYN Office Building (Oshtemo)** – framing is nearly complete.



Kalamazoo Area Building Authority

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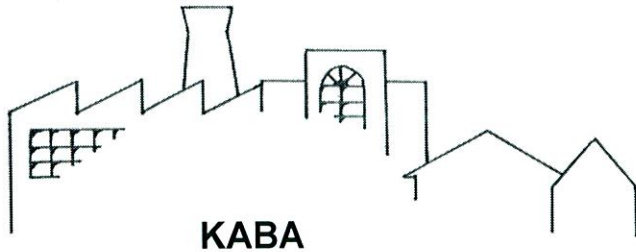
Executive Director Report February 19, 2014 - KABA Board Meeting

1. Revenue / Permit Summary YTD

- a. Total KABA Revenue **Jan 2014** - **\$28,126** Number Permits - **111**
- b. Total KABA Revenue **Jan 2015** - **\$37,611** Number Permits - **150**
- c. This is a **%** Increase in Revenue compared to **Jan 2014** of **33.7 %**
- d. Total KABA permits issued **YTD 2015 =150** vs **YTD 2014 =111** an increase of **35.1 %**.
- e. **Total Revenue YTD 2015 = \$37,611** which is **5%** of forecast for the entire year 2015 Revenue.
- f. **Total Revenue YTD through Jan 2015 is 34%** higher than **YTD through Jan 2014 Revenue**

2. Recent Trends / Projects

- a. **KABA Policy** - regarding the issuance of Temporary certificates of Occupancy for Residential buildings / structures has been approved by the KABA Board and posted on the KABA website. Another slight amendment for the consideration of the Board will be submitted at the Feb 19, 2015 meeting.
- b. **Recruitment of Individual to become KABA Building Official** – Recommendation from committee to be presented to KABA Board at Feb 19, 2015 meeting. I appreciate the Committee's working together to collaborate on the presentation we will present the Board at the Feb 19th meeting. The committee consisted of one representative from each Jurisdiction, chaired by the Executive Director (Amos – Comstock, Sorenson – Cooper, KTwp – Cochran, Oshtemo – Larson.
- c. **New Administrative Assistant** - I am pleased to announce that Kerrie LeClerq has accepted our offer to become the newest KABA administrative Assistant. Tracy and Michelle will work with me to devise an intensive training program for Kerrie so that she is ready to help process permits in the spring when the KABA business begins to get into our busy period. Barb Jean, our part-time administrative assistant is no longer working with KABA but still working for the Oshtemo Treasurer. We thank her for her contributions to KABA.
- d. **Schoolcraft Township** – Don Ulsh requested that we discuss potentially providing KABA's services to his township. Jim Porter and I traveled to Schoolcraft to discuss with Don and we left him our new member packet. When I returned from my surgery, I contacted Don to ascertain Schoolcraft's decision on whether he was still considering joining KABA and was informed of the following, through Email "At our board meeting a decision was made to contract with SCMCCI. One of the main reasons was their offer to work out of an office in our township hall for 2-3 days per week. The board liked that. I appreciate the time you and Jim spent with me, I personally think that KABA is a good thing for Kalamazoo County and who knows, maybe we will look at this again next year.



Kalamazoo Area Building Authority

www.kaba-mi.org

e. Ordinance Enforcement Inquiry from Director of Community Development, City of Portage –

I received this written request on Jan 22, 2015 from Vicki Georgeau, AICP, Director, Department of Community Development, City of Portage

. "As discussed, it is our goal to hire a full time Zoning and Codes Administrator to carry out a variety of work, which includes property and building inspections (usually in response to citizen complaints) and enforcement of the city's Community Quality Code and Housing/Property Maintenance Code. If we are unsuccessful in funding a full-time position, our alternative proposal is to hire a consultant to assist on a part-time basis, primarily in the warm weather months (May – August annually).

This work would involve field inspections, generation of correction notices, and re-inspections on a weekly basis, generally 10-20 hours per week. By way of example, code compliance efforts typically involve response to tall grass/weeds, debris, parking in the yard, inoperable vehicles and building maintenance complaints.

If you can provide me with a general idea of the costs for such a service, it would be appreciated. We have received one cost estimate from other organization and they broke down their costs by the following categories:

- Initial inspection for code (ordinance) violation
- Correspondence/correction letter to property owner
- Follow up/additional inspection
- If required to appear in court, attend meetings, etc."

Latest Update – 2/11/15 – "We are still deliberating over the creation of a new internal position or supplementing services via outsourced staff. I hope to know more over the next month, or less." from Vicki Georgeau

f. Update on Oshtemo Facility Modifications For Long-Term KABA Tenancy

KABA – Tracy Fricke and Ed Hellwege have met twice with Oshtemo – Libby Heiny-Cogswell and Architect Terry Schley and Terry has produced several options for consideration on modifications to the Oshtemo Township Complex to better house KABA and to provide options for Oshtemo personnel as well. We have narrowed it down to two options and once we agree on one option, Mr. Schley will perform a cost study on that option and then we will reconvene to plan further action.

2014 MONTHLY KABA PERMITS BY JURISDICTION
2015 MONTHLY KABA PERMITS BY JURISDICTION

2015 JANUARY

JANUARY 2014 "% PREV. YEAR MONTH

JURISDICTION	PERMIT CATEGORY	# PERMITS	PERMIT REVENUE
COMSTOCK	BUILDING	8	\$ 2,558
COMSTOCK	ELECTRICAL	9	\$ 1,414
COMSTOCK	MECHANICAL	11	\$ 1,581
COMSTOCK	PLUMBING	6	\$ 1,175
COMSTOCK	SPECIAL	5	\$ 225
TOTAL COMSTOCK		39	\$ 6,953
COOPER	BUILDING	14	\$ 1,161
COOPER	ELECTRICAL	4	\$ 451
COOPER	MECHANICAL	7	\$ 890
COOPER	PLUMBING	1	\$ 110
COOPER	SPECIAL	0	\$ -
TOTAL COOPER		26	\$ 2,612
KALAMAZOO	BUILDING	13	\$ 6,601
KALAMAZOO	ELECTRICAL	6	\$ 1,293
KALAMAZOO	MECHANICAL	12	\$ 2,017
KALAMAZOO	PLUMBING	3	\$ 488
KALAMAZOO	SPECIAL	2	\$ 135
TOTAL KALAMAZOO		36	\$ 10,534
OSHTEMO	BUILDING	13	\$ 7,718
OSHTEMO	ELECTRICAL	15	\$ 3,254
OSHTEMO	MECHANICAL	19	\$ 4,814
OSHTEMO	PLUMBING	10	\$ 1,681
OSHTEMO	SPECIAL	1	\$ 45
TOTAL OSHTEMO		49	\$ 17,512
TOTAL KABA	JANUARY	150	\$ 37,611

REVENUE	REVENUE	REVENUE	PERMITS	PERMITS
JAN 2014	"% PREV. YEAR MONTH	"% 2015 -YTD Budget.	JAN 2014	"% 2014 - YTD
\$ 28,126	134%	5%	111	135%

TOTAL BUILDING	48	\$ 18,038
TOTAL ELECTRICAL	34	\$ 6,412
TOTAL MECHANICAL	49	\$ 9,302
TOTAL PLUMBING	20	\$ 3,454
TOTAL SPECIAL	8	\$ 405

KALAMAZOO AREA BUILDING AUTHORITY
Profit & Loss
January 2015

	<u>Jan 15</u>
Income	
371-610 · BUILDING PERMITS / OTHER	15,705.00
371-611 · BUILDING PLAN REVIEW FEE	-800.00
371-613 · ELECTRICAL PERMITS	4,564.00
371-617 · MECHANICAL PERMITS	6,469.30
371-618 · PLUMBING PERMITS	2,051.00
Total Income	<u>27,989.30</u>
Expense	
371-701 · BUILDING OFFICIAL SALARY	4,944.22
371-702 · SALARIES/CLERICAL	7,835.21
371-703 · SALARY (DIRECTOR)	4,730.76
371-715 · EMPLOYER SS & MEDICARE	960.05
371-717 · HOSPITALIZATION INSURANCE	2,095.56
371-718 · EMPLOYEEAFTER TAX 401 A	-184.08
371-719 · PENSION CONTRIBUTION	1,050.91
371-722 · LTD / STD	226.28
371-726 · RESOURCE MATERIALS EXPENSE	831.00
371-728 · OFFICE SUPPLIES	133.80
371-751 · VEHICLE GAS AND MAINTENANCE	198.37
371-806 · COMPUTER OPERATIONS	120.00
371-808 · BUILDING INSPECTOR - MIKE	720.00
371-811 · ELECTRICAL INSPECTOR - TOM	720.00
371-812 · MECHANICAL INSPECTOR - JOHN	1,260.00
371-813 · PLUMBING INSPECTOR - JOHN	2,205.00
371-814 · BUILDING INSPECTOR - STEVE ROY	2,887.50
371-815 · ELECTRICAL INSPECTOR - DOUG	1,575.00
371-816 · MECHANICAL INSPECTOR - TOM	540.00
371-826 · ACCOUNTING & AUDIT FEES	47.15
371-831 · LIABILTY INSURANCE	455.00
371-853 · TELEPHONES	422.93
371-870 · MILEAGE	170.00
371-958 · DUES	165.00
371-959 · TRAINING & EDUCATION	192.81
Total Expense	<u>34,302.47</u>
Net Income	<u><u>-6,313.17</u></u>

KALAMAZOO AREA BUILDING AUTHORITY
Profit & Loss
January through December 2014

	<u>Jan - Dec 14</u>
Income	
371-539 · STATE GRANTS	6,226.00
371-610 · BUILDING PERMITS / OTHER	549,398.68
371-611 · BUILDING PLAN REVIEW FEE	-85.00
371-613 · ELECTRICAL PERMITS	135,682.50
371-617 · MECHANICAL PERMITS	124,253.10
371-618 · PLUMBING PERMITS	68,808.00
371-664 · INTEREST ON INVESTMENTS	2,050.23
Total Income	<u>886,333.51</u>
Expense	
371-701 · BUILDING OFFICIAL SALARY	64,509.40
371-702 · SALARIES/CLERICAL	87,706.34
371-703 · SALARY (DIRECTOR)	75,000.12
371-715 · EMPLOYER SS & MEDICARE	6,238.49
371-717 · HOSPITALIZATION INSURANCE	16,031.28
371-718 · EMPLOYEEAFTER TAX 401 A	-2,306.88
371-719 · PENSION CONTRIBUTION	9,158.06
371-722 · LTD / STD	2,715.36
371-726 · RESOURCE MATERIALS EXPENSE	21,869.79
371-727 · ACCREDITATION EXPENSES	5,703.75
371-728 · OFFICE SUPPLIES	8,448.84
371-730 · POSTAGE & MAILING	1,377.10
371-751 · VEHICLE GAS AND MAINTENANCE	7,254.54
371-806 · COMPUTER OPERATIONS	24,571.07
371-808 · BUILDING INSPECTOR - MIKE	28,777.50
371-811 · ELECTRICAL INSPECTOR - TOM	9,630.00
371-812 · MECHANICAL INSPECTOR - JOHN	9,405.00
371-813 · PLUMBING INSPECTOR - JOHN	51,090.00
371-814 · BUILDING INSPECTOR - STEVE ROY	43,695.00
371-815 · ELECTRICAL INSPECTOR - DOUG	32,730.00
371-816 · MECHANICAL INSPECTOR - TOM	23,580.00
371-820 · ON-LINE PERMITTING FEES	64.00
371-826 · ACCOUNTING & AUDIT FEES	6,428.02
371-827 · LEGAL SERVICES	3,000.00
371-831 · LIABILTY INSURANCE	7,676.00
371-835 · HEALTH SERVICES	25.00
371-853 · TELEPHONES	4,602.10
371-870 · MILEAGE	1,556.23
371-871 · OFFICE RENTAL	12,000.00
371-902 · PROMOTIONAL DEVELOPMENT	694.59
371-903 · RECRUITING/STAFFING AD/ACTIVITY	6,014.65
371-955 · BANKING CHARGES	189.00
371-958 · DUES	1,000.00
371-959 · TRAINING & EDUCATION	11,593.45
371-962 · MISC	18.51
Total Expense	<u>582,046.31</u>
Net Income	<u><u>304,287.20</u></u>



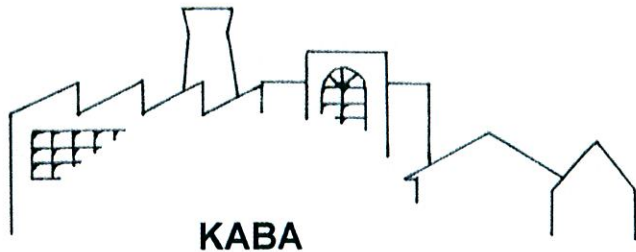
Kalamazoo Area Building Authority

www.kaba-mi.org

Building Official Recruitment Committee

The Committee Packet will be sent out to KABA Board and KABA Building Official Recruitment Committee Members in a separate communication.

It will also be available for view by the public at our KABA Board Meeting, Thursday Feb 19, 2015 at Oshtemo Township Hall 2PM.



Kalamazoo Area Building Authority

www.kaba-mi.org

February 12, 2015

Mr. Michael Somers, Specialist
Office of Administrative Services
Michigan Department of Licensing and
Regulatory Affairs
Bureau of Construction Codes
P. O. Box 30254
Lansing, MI 48909

Re: BCC Complaint No. LG 15-0529
Home Builders Association of Michigan

Dear Mr. Somers:

I am writing on behalf of my clients, the Kalamazoo Area Building Authority and the Charter Townships of Cooper, Comstock, Kalamazoo and Oshtemo. First, let me address the first statement in your letter of January 27, 2015, which was received on February 9, 2015, and then I will respond to the specific questions raised in your letter.

You stated that KABA cannot be the enforcing agency and may only perform the functions of MCL 125.1509(1)(a) through MCL 125.1509((1)(j)). First of all, KABA does not fall under MCL 125.1509 in any way because it is not a private organization. KABA is a governmental agency established by Oshtemo, Kalamazoo, Comstock and Cooper Charter Townships. These governmental units acted pursuant to the authority given to them under MCL 125.1508(b)(2), which states in the last sentence that "Governmental subdivisions may provide by agreement for joint enforcement of this Act." Pursuant to an Interlocal State Construction Code Enforcement and Administrative Agreement dated March 5, 2012, the respective units joined together to jointly enforce the Act, pursuant to Subsection 8(b) of the Michigan Construction Code, and further pursuant to the Urban Cooperation Act, located at MCL 124.501.

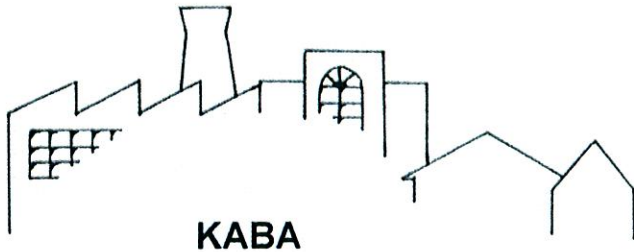
In response to your series of questions, I will respond to them in order.

- ◆ **Please identify the building official for your unit of government and provide the employment agreement to show compliance with MCL 125.1502a(i).**

ANSWER: Jerry Reitenour. He is an employee of the Kalamazoo Area Building Authority. He is employed by KABA pursuant to the Interlocal Government Agreement referenced above. Employees of KABA are at-will employees and do not have employment agreements. However, please note that each governmental unit separately appointed Jerry Reitenour as the Building Official for their respective municipalities.

- ◆ **Has the township delegated authority to KABA beyond that provided in MCL 125.1509(1)(a) through MCL 125.1509(1)(j). If so, explain the authority to do so.**

ANSWER: No. KABA does not fall under the authority of MCL 125.1509 as set forth above.



Kalamazoo Area Building Authority

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- ◆ **Is a permit required for roof repairs? If yes, please explain how it is not considered ordinary repair and when and what is inspected.**

ANSWER: No. Roof repair as defined by Section 202 of the Code is a reconstruction or renewal of any part of an existing roof for the purpose of its maintenance, and therefore, a permit for a roof repair is not required.

- ◆ **Is a permit required for residing a structure? If yes, please explain how it is not considered ordinary repair and when and what is inspected.**

ANSWER: It is our understanding that simply residing a structure which does not require the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support or the removal or change of any required means of egress or rearrangement of parts or structures affecting the egress requirements is an ordinary repair and therefore does not require a permit.

Very truly yours,

Edward R. Hellwege
KABA Executive Director

JWP/kkb

c: Libby Heiny-Cogswell, Oshtemo Charter Township Supervisor
Jeff Sorensen, Cooper Charter Township Supervisor
Carol DeHaan, Cooper Charter Township Treasurer
Ron Reid, Kalamazoo Charter Township Supervisor
Ann Nieuwenhuis, Comstock Charter Township Supervisor
KABA Board Members
Lee Schwartz, Home Builders Association of Michigan



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
IRVIN J. POKE
DIRECTOR

MIKE ZIMMER
DIRECTOR

January 27, 2015

Mr. Ronald E. Reid, Supervisor
Kalamazoo Charter Township
1720 Riverview Dr.
Kalamazoo, MI 49004

RE: BCC Complaint No. LG 15-0530
Home Builders Association of Michigan

Dear Mr. Reid:

Correspondence has been received in this office from Lee Schwartz on behalf of the Home Builders Association of Michigan regarding the administration and enforcement of construction codes within the governmental subdivisions served by the Kalamazoo Area Building Authority (KABA) agency. A copy of the complaint is enclosed for your review.

Within his complaint, Mr. Schwartz alleges that KABA, the inspection agency for Comstock, Cooper, Kalamazoo, and Oshtemo townships, is requiring a permit for roof repairs and residing of structures. It is alleged by Mr. Schwartz that the permit requirement held by the authority is in conflict with the formal interpretation issued by the State Construction Code Commission at its meeting on October 1, 2014.

Further, KABA, in its October 24, 2014, letter signed by Ed Hellwege, states that KABA is the enforcing agency for the four townships mentioned above. In accordance with MCL 125.1502a (t), KABA cannot be the enforcing agency and may only perform the functions in MCL 125.1509 (l) (a) through MCL 125.1509 (l) (i). The determination on what requires a permit is the function of the governmental subdivision and its building official. "Building official" is defined in MCL 125.1502a (i).

It is requested that you review the entire complaint and provide a written response to this office that addresses the specific allegations contained within the complaint and respond to the following questions:

- Please identify the building official for your unit of government and provide the employment agreement to show compliance with MCL 125.1502a (i).
- Has the township delegated authority to KABA beyond that provided in MCL 125.1509 (l) (a) through MCL 125.1509 (l) (j). If so, explain the authority to do so.

Providing for Michigan's Safety in the Built Environment

Mr. Reid
January 27, 2015
Page 2

- Is a permit required for roof repairs? If yes, please explain how it is not considered ordinary repair and when and what is inspected.
- Is a permit required for residing a structure? If yes, please explain how it is not considered ordinary repair and when and what is inspected.

It is requested that you provide a written response to all the allegations contained within the complaint and all requested copies of project documentation to this office **within 10 days of the mailing date of this letter.**

Thank you for your assistance and cooperation regarding this matter. If you have questions you may contact me at (517) 335-2972.

Sincerely,



Michael Somers, Specialist
Office of Administrative Services

Mailing Date: Feb 4, 2015

MDS/ms

Enclosure

cc: Lee Schwartz, Michigan Association of Home Builders, w/o enclosure
Ed Hellwege, Executive Director, KABA

RECEIVED

NOV 13 2014

OFFICE OF
ADMINISTRATIVE SERVICES



Mr. Bill Benoit
Chairman, State Construction Code Commission
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs
Lansing, MI 48909

Dear Mr. Benoit,

The Home Builders Association of Michigan (the Association) is formally requesting the Bureau of Construction Codes conduct a performance evaluation of the Kalamazoo Area Building Authority (KABA) to assure that the administration and enforcement of the Stille-DeRossett-Hale Single State Construction Code Act, Act 230 of 1972 (the Act) and the code is being done in accordance with the Act.

At its October 1, 2014 meeting the State Construction Code Commission (the Commission) issued a formal interpretation roof repairs do not require permits or notification to the building official provided the repairs do not include any of the prohibited actions found in R105.2.2 of the MRC. This formal interpretation mirrors a December 2007 formal interpretation issued by the Commission that a permit is not required for ordinary repairs including specifically the residing of a structure where the repair does not include any of the prohibited actions found in R105.2.2. Formal interpretations issued by the Commission are binding on all enforcing agencies in Michigan.

The KABA, which services the townships of Comstock, Cooper, Kalamazoo, and Oshtemo in Kalamazoo County, is requiring a permit for both of these activities.

On October 2, 2014 the Home Builders Association of Michigan sent a letter (attached) to both Cooper Township and KABA informing them of the formal interpretations issued by the Commission (both of which were provided along with the letter) and respectfully requesting the KABA comply with the formal interpretations of the Commission and cease requiring these permits.

On October 27, 2014 the KABA responded by letter to the HBA of Michigan. A copy of that letter is attached.

After thanking me for providing them with two "*opinion letters from the Bureau of Construction Codes*," the KABA stated that, despite the formal interpretations issued by the Commission, "*KABA is of the opinion that reroofing and re-siding are not ordinary repairs referred to in MCL 125.1510(7) or Michigan Residential Code, Section 105.2 or 105.2.2.*" (It should be noted that the Association has never

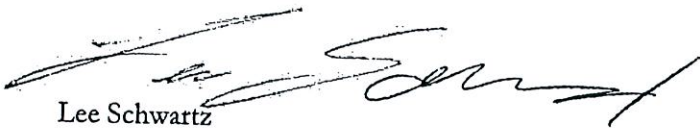
contended reroofing does not require a permit and that the KABA letter never references roof repair.) The letter then goes on to cite the rationale offered by the KABA for refusing to abide by the Commission's decisions.

Additionally, in their response letter, the KABA states "*While the Construction Code provides for a single uniform Code, the methods of enforcement are up to the municipality. When it comes to issuing permits, State law has not expressly pre-empted the field, nor has it done so by implication. ... We are not prohibiting what the statute permits or permitting something the statute prohibits. The fact that the State has established certain regulations does not prohibit us as a municipal entity from enacting additional regulations so long as there is no conflict between the two. We do not believe any conflict exists.*"

While the Association had hoped to resolve this matter in a congenial and collegial fashion, the response from the KABA and their assertions they are not bound by the decisions of the Commission or by the requirements of the Single State Construction Code or the Stille-DeRossett-Hale Single State Construction Code Act leaves us with no other option than to request a performance evaluation of their operations in all four townships they serve.

Please feel free to contact me if you have any questions or if I can be of further help in this matter.

Sincerely,



Lee Schwartz
Executive Vice President for Government Relations
Home Builders Association of Michigan



October 2, 2014

Mr. Jeff Sorensen
Supervisor
Cooper Charter Township
1590 West "D" Ave.
Kalamazoo, MI 49009-6321

Mr. Ed Hellwege
Executive Director
Kalamazo Area Building Authority
P.O. Box 292
Oshtemo, MI 49077

Gentlemen:

It has come to the attention of the Home Builders Association of Michigan that the Cooper Township Building Department is requiring a permit for both roof repair and residing of residential structures.

I'm certain that you were unaware that, under the Michigan Residential Code (MRC), neither of these activities requires a permit nor do they require notification to the building official provided the repairs do not include any of the prohibited actions found in R105.2.2 of the MRC.

These are the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to alteration of, replacement or relocation of any water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical work or other work affecting public health or general safety.

The Stille-DeRossett-Hale Single State Construction Code Act (Public Act 230 of 1972 as amended) provides for the statewide application of both the Act and the State Construction Code. The act also provides for the State Construction Code Commission (the Commission) to oversee uniform interpretation and enforcement of the State Construction Code Act.

In this regard the commission issues both technical bulletins which provide clarification on issues which arise regarding code administration and enforcement and formal interpretations of code requirements. A formal interpretation by the Commission is binding on all enforcing agencies in Michigan.

I am including two such formal interpretations issued by the Commission.

The first, Document # 08-11, from December of 2007 states that a permit is not required for an ordinary repair such as the residing of a structure where the repair does not include any of the prohibited actions found in R105.2.2.

The second, Document #14-41, approved by the Commission yesterday, October 1, 2014, states that a permit is not required for roof repair where the repair does not include any of the prohibited actions found in R105.2.2.

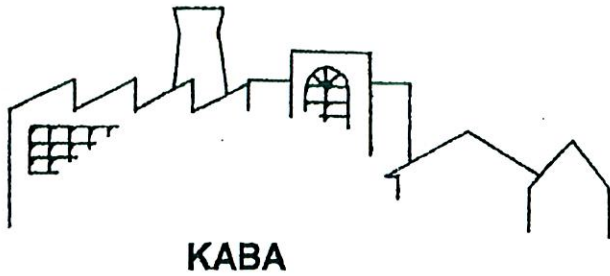
Now that you are aware of these formal interpretations, the Home Builders Association of Michigan respectfully requests you no longer require these permits.

If you have any questions, please feel free to call me at 517-646-2565 or email me at lee@habofmichigan.com.

With warm regards,



Lee Schwartz
Executive Vice President for Government Relations
Michigan Association of Home Builders



Kalamazoo Area Building Authority

www.kaba-mi.org

October 27, 2014

Mr. Lee Schwartz
Executive Vice President for Government Relations
Michigan Association of Home Builders
6427 Centurion Drive #150B
Lansing, MI 48917

Re: Permits for Roof Repairs and Re-Siding Residential Structures

Dear Mr. Schwartz:

I am writing in response to your letter of October 2, 2014, addressed to Jeff Sorensen, Cooper Charter Township Supervisor, and myself, as Executive Director of the Kalamazoo Area Building Authority. In your letter, you stated that the Cooper Township Building Department is requiring a permit for roof repairs and re-siding residential structures. You contend that such a practice is prohibited, and you attached two opinion letters from the Bureau of Construction Codes in support.

To begin with, Cooper Charter Township does not have a building department. Pursuant to the Cooper Charter Township State Construction Code Ordinance, the Kalamazoo Area Building ("KABA") is the enforcing agency for the Township. KABA serves as the enforcing agency for four municipalities and applies its policies uniformly throughout those member units. What KABA requests, on behalf of its member municipalities, is a permit for reroofing or re-siding. KABA is of the opinion that reroofing and re-siding are not ordinary repairs referred to in MCL 125.1510(7) or Michigan Residential Code, Section 105.2 or 105.2.2.

Clearly, Section 105.2a does not exempt reroofing or re-siding from the permitting process. Section 105.2.2 does state that ordinary repairs do not require a permit. However, we cannot define "ordinary repair" by arguing that it encompasses any repair that does not include the cutting away of any wall, partition or portion thereof; the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress. This is a bootstrap argument and improperly uses the same section of the Code to define itself.

Let's begin with the definition section of the Code. Since "ordinary repair" is not defined, we must first look at the definition of "repair." Section 202 defines "repair" as:

"REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance."

Mailing Address. PO Box 292 Oshtemo, MI 49077
Office Location: 7275 West Main St. Kalamazoo, MI 49009

Phone: (269) 216-9643 or (269) 216-9672
Fax: (269) 375-7180



KABA

Kalamazoo Area Building Authority

www.kaba-mi.org

Section 202 defines “roof repair” in almost the same terms as “repair.” Roof repair is defined in Section 202 as follows:

“ROOF REPAIR. Reconstruction or renewal of any part of an existing roof for the purposes of its maintenance.”

Both of these definitions involve repairing “any part” of an existing building or “any part” of an existing roof. We do not require permits for such repairs.

Section 202 of the Code defines “reroofing” as follows:

“REROOFING. The process of recovering or replacing an existing roof covering. See ‘Roof recover.’”

Section 202 also defines “roof recover” as follows:

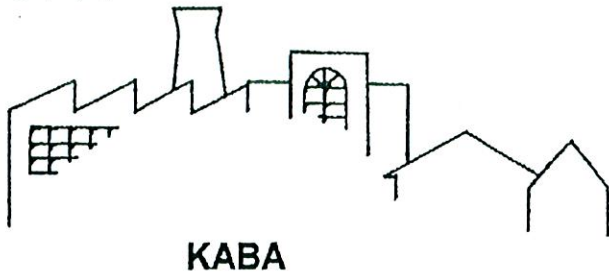
“ROOF RECOVER. The process of installing an additional roof covering over a prepared existing roof covering without removing the existing roof covering.”

Clearly, the Code sees a difference between a roof repair involving a part of the roof and the roof recover or reroofing which includes the recovering or reroofing of an entire roof.

Further evidence that the Code views roof recovering or reroofing differently than repairing a portion of the roof is found in Chapter 9 of the Michigan Residential Code entitled, “Roof Assemblies.” Ordinary repairs would not likely have a dedicated Code section providing directions to builders. Reroofing, on the other hand, has a specific section providing directions and the steps to be taken for a reroofing project. See Section R907. You may take issue with our permit requirements for reroofing and re-siding, but we believe that we have support to require such permits, both in the law and the Act itself.

Subsection (6) of MCL 125.1510 states that:

“(6) This section shall be construed to allow the imposition of requirements in the code, or in other laws or ordinances, for additional permits for particular kinds of work, including plumbing and electrical, or in other specified situations. The requirements of the code may provide for issuance of construction permits for certain of the systems of a structure and allow construction to commence on those systems approved under that permit even though the design and approval of all the systems of the structure have not been completed and subsequent construction permits have not been issued.”



Kalamazoo Area Building Authority

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Further, Section 102.2 states:

“R 102.2. Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.”

While the Construction Code provides for a single uniform Code, the methods of enforcement are up to a local municipality. When it comes to issuing permits, State law has not expressly pre-empted the field, nor has it done so by implication. The State statute on issuance of permits provides discretion to the local unit, and there is no basis to require uniformity in the issuance of permits – only in the implementation of the Uniform Building Code itself.

We are not prohibiting what the statute permits or permitting something the statute prohibits. The fact that the State has established certain regulations does not prohibit us as a municipal entity from enacting additional regulations so long as there is no conflict between the two. We do not believe any conflict exists.

If the party aggrieved by the decision of KABA wishes, he certainly can avail himself to a review by the Construction Board of Appeals. If he does not agree with the interpretation of the Construction Board of Appeals, then he is entitled to seek a hearing before the Construction Code Commission pursuant to MCL 125.1516. If, at that point, the party is not satisfied, there is always the ability to file a claim at the Michigan Court of Appeals pursuant to MCL 125.1518.

It is not the intent or the desire of KABA, on behalf of any of its member municipalities, to create an unreasonable burden on builders or any member municipalities' residents. However, over the years, we have seen a number of contractors (most of which are not members of your organization) holding themselves out as qualified builders, when they are unlicensed, and the work they perform does not meet the standards that any of your members would find acceptable. In many instances, KABA is the only entity ensuring a quality product, for which a homeowner has paid, is properly received.

I would be more than happy to discuss this matter at greater length if you choose. We do appreciate your bringing this matter to our attention.

Very truly yours,

Ed Hellwege
Executive Director

k kb

c: Jeff Sorensen

Mailing Address: PO Box 292 Oshtemo, MI 49077
Office Location: 7275 West Main St. Kalamazoo, MI 49009

Phone: (269) 216-9643 or (269) 216-9672
Fax: (269) 375-7180



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
IRVIN J. POKE
DIRECTOR

MIKE ZIMMER
DIRECTOR

January 27, 2015

Ms. Libby Heiny-Cogswell, Supervisor
Charter Township of Oshtemo
7275 W. Main St.
Kalamazoo, MI 49009

RE: BCC Complaint No. LG 15-0531
Home Builders Association of Michigan

Dear Ms. Heiny-Cogswell:

Correspondence has been received in this office from Lee Schwartz on behalf of the Home Builders Association of Michigan regarding the administration and enforcement of construction codes within the governmental subdivisions served by the Kalamazoo Area Building Authority (KABA) agency. A copy of the complaint is enclosed for your review.

Within his complaint, Mr. Schwartz alleges that KABA, the inspection agency for Comstock, Cooper, Kalamazoo, and Oshtemo townships, is requiring a permit for roof repairs and residing of structures. It is alleged by Mr. Schwartz that the permit requirement held by the authority is in conflict with the formal interpretation issued by the State Construction Code Commission at its meeting on October 1, 2014.

Further, KABA, in its October 24, 2014, letter signed by Ed Hellwege, states that KABA is the enforcing agency for the four townships mentioned above. In accordance with MCL 125.1502a (t), KABA cannot be the enforcing agency and may only perform the functions in MCL 125.1509 (l) (a) through MCL 125.1509 (l) (i). The determination on what requires a permit is the function of the governmental subdivision and its building official. "Building official" is defined in MCL 125.1502a (i).

It is requested that you review the entire complaint and provide a written response to this office that addresses the specific allegations contained within the complaint and respond to the following questions:

- Please identify the building official for your unit of government and provide the employment agreement to show compliance with MCL 125.1502a (i).
- Has the township delegated authority to KABA beyond that provided in MCL 125.1509 (l) (a) through MCL 125.1509 (l) (j). If so, explain the authority to do so.

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- Is a permit required for roof repairs? If yes, please explain how it is not considered ordinary repair and when and what is inspected.
- Is a permit required for residing a structure? If yes, please explain how it is not considered ordinary repair and when and what is inspected.

It is requested that you provide a written response to all the allegations contained within the complaint and all requested copies of project documentation to this office **within 10 days of the mailing date of this letter.**

Thank you for your assistance and cooperation regarding this matter. If you have questions you may contact me at (517) 335-2972.

Sincerely,



Michael Somers, Specialist
Office of Administrative Services

Mailing Date: Feb 4, 2015

MDS/ms

Enclosure

cc: Lee Schwartz, Michigan Association of Home Builders, w/o enclosure
Ed Hellwege, Executive Director, KABA

RECEIVED

NOV 13 2014

OFFICE OF
ADMINISTRATIVE SERVICES



Mr. Bill Benoit
Chairman, State Construction Code Commission
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs
Lansing, MI 48909

Dear Mr. Benoit,

The Home Builders Association of Michigan (the Association) is formally requesting the Bureau of Construction Codes conduct a performance evaluation of the Kalamazoo Area Building Authority (KABA) to assure that the administration and enforcement of the Stille-DeRossett-Hale Single State Construction Code Act, Act 230 of 1972 (the Act) and the code is being done in accordance with the Act.

At its October 1, 2014 meeting the State Construction Code Commission (the Commission) issued a formal interpretation roof repairs do not require permits or notification to the building official provided the repairs do not include any of the prohibited actions found in R105.2.2 of the MRC. This formal interpretation mirrors a December 2007 formal interpretation issued by the Commission that a permit is not required for ordinary repairs including specifically the residing of a structure where the repair does not include any of the prohibited actions found in R105.2.2. Formal interpretations issued by the Commission are binding on all enforcing agencies in Michigan.

The KABA, which services the townships of Comstock, Cooper, Kalamazoo, and Oshtemo in Kalamazoo County, is requiring a permit for both of these activities.

On October 2, 2014 the Home Builders Association of Michigan sent a letter (attached) to both Cooper Township and KABA informing them of the formal interpretations issued by the Commission (both of which were provided along with the letter) and respectfully requesting the KABA comply with the formal interpretations of the Commission and cease requiring these permits.

On October 27, 2014 the KABA responded by letter to the HBA of Michigan. A copy of that letter is attached.

After thanking me for providing them with two "*opinion letters from the Bureau of Construction Codes*," the KABA stated that, despite the formal interpretations issued by the Commission, "*KABA is of the opinion that reroofing and re-siding are not ordinary repairs referred to in MCL 125.1510(7) or Michigan Residential Code, Section 105.2 or 105.2.2.*" (It should be noted that the Association has never

contended reroofing does not require a permit and that the KABA letter never references roof repair.) The letter then goes on to cite the rationale offered by the KABA for refusing to abide by the Commission's decisions.

Additionally, in their response letter, the KABA states "*While the Construction Code provides for a single uniform Code, the methods of enforcement are up to the municipality. When it comes to issuing permits, State law has not expressly pre-empted the field, nor has it done so by implication. ... We are not prohibiting what the statute permits or permitting something the statute prohibits. The fact that the State has established certain regulations does not prohibit us as a municipal entity from enacting additional regulations so long as there is no conflict between the two. We do not believe any conflict exists.*"

While the Association had hoped to resolve this matter in a congenial and collegial fashion, the response from the KABA and their assertions they are not bound by the decisions of the Commission or by the requirements of the Single State Construction Code or the Stille-DeRossett-Hale Single State Construction Code Act leaves us with no other option than to request a performance evaluation of their operations in all four townships they serve.

Please feel free to contact me if you have any questions or if I can be of further help in this matter.

Sincerely,



Lee Schwartz
Executive Vice President for Government Relations
Home Builders Association of Michigan



October 2, 2014

Mr. Jeff Sorensen
Supervisor
Cooper Charter Township
1590 West "D" Ave.
Kalamazoo, MI 49009-6321

Mr. Ed Hellwege
Executive Director
Kalamazo Area Building Authority
P.O. Box 292
Oshtemo, MI 49077

Gentlemen:

It has come to the attention of the Home Builders Association of Michigan that the Cooper Township Building Department is requiring a permit for both roof repair and residing of residential structures.

I'm certain that you were unaware that, under the Michigan Residential Code (MRC), neither of these activities requires a permit nor do they require notification to the building official provided the repairs do not include any of the prohibited actions found in R105.2.2 of the MRC.

These are the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to alteration of, replacement or relocation of any water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical work or other work affecting public health or general safety.

The Stille-DeRossett-Hale Single State Construction Code Act (Public Act 230 of 1972 as amended) provides for the statewide application of both the Act and the State Construction Code. The act also provides for the State Construction Code Commission (the Commission) to oversee uniform interpretation and enforcement of the State Construction Code Act.

In this regard the commission issues both technical bulletins which provide clarification on issues which arise regarding code administration and enforcement and formal interpretations of code requirements. A formal interpretation by the Commission is binding on all enforcing agencies in Michigan.

I am including two such formal interpretations issued by the Commission.

The first, Document # 08-11, from December of 2007 states that a permit is not required for an ordinary repair such as the residing of a structure where the repair does not include any of the prohibited actions found in R105.2.2.

The second, Document #14-41, approved by the Commission yesterday, October 1, 2014, states that a permit is not required for roof repair where the repair does not include any of the prohibited actions found in R105.2.2.

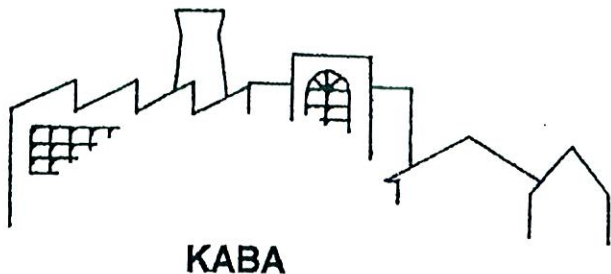
Now that you are aware of these formal interpretations, the Home Builders Association of Michigan respectfully requests you no longer require these permits.

If you have any questions, please feel free to call me at 517-646-2565 or email me at lee@habofmichigan.com.

With warm regards,



Lee Schwartz
Executive Vice President for Government Relations
Michigan Association of Home Builders



Kalamazoo Area Building Authority

www.kaba-mi.org

October 27, 2014

Mr. Lee Schwartz
Executive Vice President for Government Relations
Michigan Association of Home Builders
6427 Centurion Drive #150B
Lansing, MI 48917

Re: Permits for Roof Repairs and Re-Siding Residential Structures

Dear Mr. Schwartz:

I am writing in response to your letter of October 2, 2014, addressed to Jeff Sorensen, Cooper Charter Township Supervisor, and myself, as Executive Director of the Kalamazoo Area Building Authority. In your letter, you stated that the Cooper Township Building Department is requiring a permit for roof repairs and re-siding residential structures. You contend that such a practice is prohibited, and you attached two opinion letters from the Bureau of Construction Codes in support.

To begin with, Cooper Charter Township does not have a building department. Pursuant to the Cooper Charter Township State Construction Code Ordinance, the Kalamazoo Area Building ("KABA") is the enforcing agency for the Township. KABA serves as the enforcing agency for four municipalities and applies its policies uniformly throughout those member units. What KABA requests, on behalf of its member municipalities, is a permit for reroofing or re-siding. KABA is of the opinion that reroofing and re-siding are not ordinary repairs referred to in MCL 125.1510(7) or Michigan Residential Code, Section 105.2 or 105.2.2.

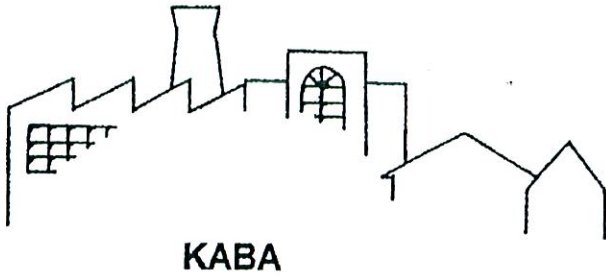
Clearly, Section 105.2a does not exempt reroofing or re-siding from the permitting process. Section 105.2.2 does state that ordinary repairs do not require a permit. However, we cannot define "ordinary repair" by arguing that it encompasses any repair that does not include the cutting away of any wall, partition or portion thereof; the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress. This is a bootstrap argument and improperly uses the same section of the Code to define itself.

Let's begin with the definition section of the Code. Since "ordinary repair" is not defined, we must first look at the definition of "repair." Section 202 defines "repair" as:

"REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance."

Mailing Address: PO Box 292 Oshtemo, MI 49077
Office Location: 7275 West Main St. Kalamazoo, MI 49009

Phone: (269) 216-9643 or (269) 216-9672
Fax: (269) 375-7180



Kalamazoo Area Building Authority

www.kaba-mi.org

Section 202 defines “roof repair” in almost the same terms as “repair.” Roof repair is defined in Section 202 as follows:

“ROOF REPAIR. Reconstruction or renewal of any part of an existing roof for the purposes of its maintenance.”

Both of these definitions involve repairing “any part” of an existing building or “any part” of an existing roof. We do not require permits for such repairs.

Section 202 of the Code defines “reroofing” as follows:

“REROOFING. The process of recovering or replacing an existing roof covering. See ‘Roof recover.’”

Section 202 also defines “roof recover” as follows:

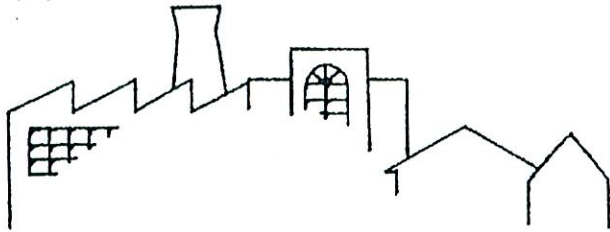
“ROOF RECOVER. The process of installing an additional roof covering over a prepared existing roof covering without removing the existing roof covering.”

Clearly, the Code sees a difference between a roof repair involving a part of the roof and the roof recover or reroofing which includes the recovering or reroofing of an entire roof.

Further evidence that the Code views roof recovering or reroofing differently than repairing a portion of the roof is found in Chapter 9 of the Michigan Residential Code entitled, “Roof Assemblies.” Ordinary repairs would not likely have a dedicated Code section providing directions to builders. Reroofing, on the other hand, has a specific section providing directions and the steps to be taken for a reroofing project. See Section R907. You may take issue with our permit requirements for reroofing and re-siding, but we believe that we have support to require such permits, both in the law and the Act itself.

Subsection (6) of MCL 125.1510 states that:

“(6) This section shall be construed to allow the imposition of requirements in the code, or in other laws or ordinances, for additional permits for particular kinds of work, including plumbing and electrical, or in other specified situations. The requirements of the code may provide for issuance of construction permits for certain of the systems of a structure and allow construction to commence on those systems approved under that permit even though the design and approval of all the systems of the structure have not been completed and subsequent construction permits have not been issued.”



KABA

Kalamazoo Area Building Authority

www.kaba-mi.org

Further, Section 102.2 states:

“R 102.2. Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.”

While the Construction Code provides for a single uniform Code, the methods of enforcement are up to a local municipality. When it comes to issuing permits, State law has not expressly pre-empted the field, nor has it done so by implication. The State statute on issuance of permits provides discretion to the local unit, and there is no basis to require uniformity in the issuance of permits – only in the implementation of the Uniform Building Code itself.

We are not prohibiting what the statute permits or permitting something the statute prohibits. The fact that the State has established certain regulations does not prohibit us as a municipal entity from enacting additional regulations so long as there is no conflict between the two. We do not believe any conflict exists.

If the party aggrieved by the decision of KABA wishes, he certainly can avail himself to a review by the Construction Board of Appeals. If he does not agree with the interpretation of the Construction Board of Appeals, then he is entitled to seek a hearing before the Construction Code Commission pursuant to MCL 125.1516. If, at that point, the party is not satisfied, there is always the ability to file a claim at the Michigan Court of Appeals pursuant to MCL 125.1518.

It is not the intent or the desire of KABA, on behalf of any of its member municipalities, to create an unreasonable burden on builders or any member municipalities' residents. However, over the years, we have seen a number of contractors (most of which are not members of your organization) holding themselves out as qualified builders, when they are unlicensed, and the work they perform does not meet the standards that any of your members would find acceptable. In many instances, KABA is the only entity ensuring a quality product, for which a homeowner has paid, is properly received.

I would be more than happy to discuss this matter at greater length if you choose. We do appreciate your bringing this matter to our attention.

Very truly yours,

Ed Hellwege
Executive Director

kkb

c: Jeff Sorensen

Mailing Address: PO Box 292 Oshtemo, MI 49077
Office Location: 7275 West Main St. Kalamazoo, MI 49009

Phone: (269) 216-9643 or (269) 216-9672
Fax: (269) 375-7180



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
IRVIN J. POKE
DIRECTOR

MIKE ZIMMER
DIRECTOR

January 27, 2015

Ms. Ann Nieuwenhuis, Supervisor
Charter Township of Comstock
P.O. Box 449
6138 King Hwy.
Comstock, MI 49041

RE: BCC Complaint No. LG 15-0514
Home Builders Association of Michigan

Dear Ms. Nieuwenhuis:

Correspondence has been received in this office from Lee Schwartz on behalf of the Home Builders Association of Michigan regarding the administration and enforcement of construction codes within the governmental subdivisions served by the Kalamazoo Area Building Authority (KABA) agency. A copy of the complaint is enclosed for your review.

Within his complaint, Mr. Schwartz alleges that KABA, the inspection agency for Comstock, Cooper, Kalamazoo, and Oshtemo townships, is requiring a permit for roof repairs and residing of structures. It is alleged by Mr. Schwartz that the permit requirement held by the authority is in conflict with the formal interpretation issued by the State Construction Code Commission at its meeting on October 1, 2014.

Further, KABA, in its October 24, 2014, letter signed by Ed Hellwege, states that KABA is the enforcing agency for the four townships mentioned above. In accordance with MCL 125.1502a (t), KABA cannot be the enforcing agency and may only perform the functions in MCL 125.1509 (l) (a) through MCL 125.1509 (l) (i). The determination on what requires a permit is the function of the governmental subdivision and its building official. "Building official" is defined in MCL 125.1502a (i).

It is requested that you review the entire complaint and provide a written response to this office that addresses the specific allegations contained within the complaint and respond to the following questions:

- Please identify the building official for your unit of government and provide the employment agreement to show compliance with MCL 125.1502a (i).

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- Has the township delegated authority to KABA beyond that provided in MCL 125.1509 (l) (a) through MCL 125.1509 (l) (j). If so, explain the authority to do so.
- Is a permit required for roof repairs? If yes, please explain how it is not considered ordinary repair and when and what is inspected.
- Is a permit required for residing a structure? If yes, please explain how it is not considered ordinary repair and when and what is inspected.

It is requested that you provide a written response to all the allegations contained within the complaint and all requested copies of project documentation to this office **within 10 days of the mailing date of this letter.**

Thank you for your assistance and cooperation regarding this matter. If you have questions you may contact me at (517) 335-2972.

Sincerely,



Michael Somers, Specialist
Office of Administrative Services

Mailing Date: Feb 4 2015

MDS/ms

Enclosure

cc: Lee Schwartz, Michigan Association of Home Builders, w/o enclosure
Ed Hellwege, Executive Director, KABA

RECEIVED

NOV 13 2014

OFFICE OF
ADMINISTRATIVE SERVICES



Mr. Bill Benoit
Chairman, State Construction Code Commission
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs
Lansing, MI 48909

Dear Mr. Benoit,

The Home Builders Association of Michigan (the Association) is formally requesting the Bureau of Construction Codes conduct a performance evaluation of the Kalamazoo Area Building Authority (KABA) to assure that the administration and enforcement of the Stille-DeRossett-Hale Single State Construction Code Act, Act 230 of 1972 (the Act) and the code is being done in accordance with the Act.

At its October 1, 2014 meeting the State Construction Code Commission (the Commission) issued a formal interpretation roof repairs do not require permits or notification to the building official provided the repairs do not include any of the prohibited actions found in R105.2.2 of the MRC. This formal interpretation mirrors a December 2007 formal interpretation issued by the Commission that a permit is not required for ordinary repairs including specifically the re-siding of a structure where the repair does not include any of the prohibited actions found in R105.2.2. Formal interpretations issued by the Commission are binding on all enforcing agencies in Michigan.

The KABA, which services the townships of Comstock, Cooper, Kalamazoo, and Oshtemo in Kalamazoo County, is requiring a permit for both of these activities.

On October 2, 2014 the Home Builders Association of Michigan sent a letter (attached) to both Cooper Township and KABA informing them of the formal interpretations issued by the Commission (both of which were provided along with the letter) and respectfully requesting the KABA comply with the formal interpretations of the Commission and cease requiring these permits.

On October 27, 2014 the KABA responded by letter to the HBA of Michigan. A copy of that letter is attached.

After thanking me for providing them with two "*opinion letters from the Bureau of Construction Codes*," the KABA stated that, despite the formal interpretations issued by the Commission, "*KABA is of the opinion that reroofing and re-siding are not ordinary repairs referred to in MCL 125.1510(7) or Michigan Residential Code, Section 105.2 or 105.2.2.*" (It should be noted that the Association has never

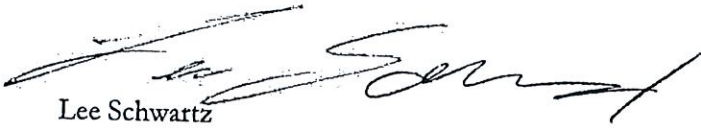
contended reroofing does not require a permit and that the KABA letter never references roof repair.) The letter then goes on to cite the rationale offered by the KABA for refusing to abide by the Commission's decisions.

Additionally, in their response letter, the KABA states *"While the Construction Code provides for a single uniform Code, the methods of enforcement are up to the municipality. When it comes to issuing permits, State law has not expressly pre-empted the field, nor has it done so by implication. ... We are not prohibiting what the statute permits or permitting something the statute prohibits. The fact that the State has established certain regulations does not prohibit us as a municipal entity from enacting additional regulations so long as there is no conflict between the two. We do not believe any conflict exists."*

While the Association had hoped to resolve this matter in a congenial and collegial fashion, the response from the KABA and their assertions they are not bound by the decisions of the Commission or by the requirements of the Single State Construction Code or the Stille-DeRossett-Hale Single State Construction Code Act leaves us with no other option than to request a performance evaluation of their operations in all four townships they serve.

Please feel free to contact me if you have any questions or if I can be of further help in this matter.

Sincerely,



Lee Schwartz
Executive Vice President for Government Relations
Home Builders Association of Michigan



October 2, 2014

Mr. Jeff Sorensen
Supervisor
Cooper Charter Township
1590 West "D" Ave.
Kalamazoo, MI 49009-6321

Mr. Ed Hellwege
Executive Director
Kalamazo Area Building Authority
P.O. Box 292
Oshtemo, MI 49077

Gentlemen:

It has come to the attention of the Home Builders Association of Michigan that the Cooper Township Building Department is requiring a permit for both roof repair and residing of residential structures.

I'm certain that you were unaware that, under the Michigan Residential Code (MRC), neither of these activities requires a permit nor do they require notification to the building official provided the repairs do not include any of the prohibited actions found in R105.2.2 of the MRC.

These are the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to alteration of, replacement or relocation of any water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical work or other work affecting public health or general safety.

The Stille-DeRossett-Hale Single State Construction Code Act (Public Act 230 of 1972 as amended) provides for the statewide application of both the Act and the State Construction Code. The act also provides for the State Construction Code Commission (the Commission) to oversee uniform interpretation and enforcement of the State Construction Code Act.

In this regard the commission issues both technical bulletins which provide clarification on issues which arise regarding code administration and enforcement and formal interpretations of code requirements. A formal interpretation by the Commission is binding on all enforcing agencies in Michigan.

I am including two such formal interpretations issued by the Commission.

The first, Document # 08-11, from December of 2007 states that a permit is not required for an ordinary repair such as the residing of a structure where the repair does not include any of the prohibited actions found in R105.2.2.

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Now that you are aware of these formal interpretations, the Home Builders Association of Michigan respectfully requests you no longer require these permits.

If you have any questions, please feel free to call me at 517-646-2565 or email me at lee@habofmichigan.com.

With warm regards,



Lee Schwartz
Executive Vice President for Government Relations
Michigan Association of Home Builders



Kalamazoo Area Building Authority

www.kaba-mi.org

October 27, 2014



Mr. Lee Schwartz
Executive Vice President for Government Relations
Michigan Association of Home Builders
6427 Centurion Drive #150B
Lansing, MI 48917

Re: Permits for Roof Repairs and Re-Siding Residential Structures

Dear Mr. Schwartz:

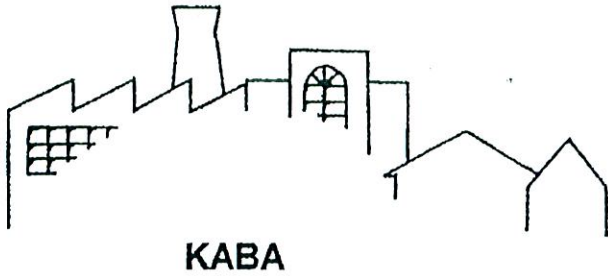
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To begin with, Cooper Charter Township does not have a building department. Pursuant to the Cooper Charter Township State Construction Code Ordinance, the Kalamazoo Area Building ("KABA") is the enforcing agency for the Township. KABA serves as the enforcing agency for four municipalities and applies its policies uniformly throughout those member units. What KABA requests, on behalf of its member municipalities, is a permit for reroofing or re-siding. KABA is of the opinion that reroofing and re-siding are not ordinary repairs referred to in MCL 125.1510(7) or Michigan Residential Code, Section 105.2 or 105.2.2.

Clearly, Section 105.2a does not exempt reroofing or re-siding from the permitting process. Section 105.2.2 does state that ordinary repairs do not require a permit. However, we cannot define "ordinary repair" by arguing that it encompasses any repair that does not include the cutting away of any wall, partition or portion thereof; the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress. This is a bootstrap argument and improperly uses the same section of the Code to define itself.

Let's begin with the definition section of the Code. Since "ordinary repair" is not defined, we must first look at the definition of "repair." Section 202 defines "repair" as:

"REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance."



Kalamazoo Area Building Authority

www.kaba-mi.org

Section 202 defines “roof repair” in almost the same terms as “repair.” Roof repair is defined in Section 202 as follows:

“ROOF REPAIR. Reconstruction or renewal of any part of an existing roof for the purposes of its maintenance.”

Both of these definitions involve repairing “any part” of an existing building or “any part” of an existing roof. We do not require permits for such repairs.

Section 202 of the Code defines “reroofing” as follows:

“REROOFING. The process of recovering or replacing an existing roof covering. See ‘Roof recover.’”

Section 202 also defines “roof recover” as follows:

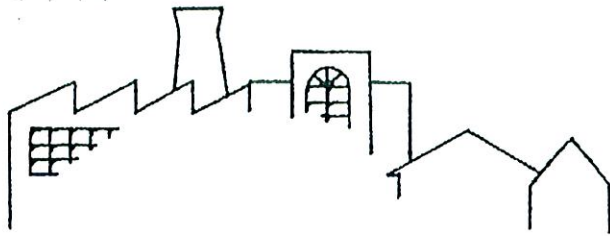
“ROOF RECOVER. The process of installing an additional roof covering over a prepared existing roof covering without removing the existing roof covering.”

Clearly, the Code sees a difference between a roof repair involving a part of the roof and the roof recover or reroofing which includes the recovering or reroofing of an entire roof.

Further evidence that the Code views roof recovering or reroofing differently than repairing a portion of the roof is found in Chapter 9 of the Michigan Residential Code entitled, “Roof Assemblies.” Ordinary repairs would not likely have a dedicated Code section providing directions to builders. Reroofing, on the other hand, has a specific section providing directions and the steps to be taken for a reroofing project. See Section R907. You may take issue with our permit requirements for reroofing and re-siding, but we believe that we have support to require such permits, both in the law and the Act itself.

Subsection (6) of MCL 125.1510 states that:

“(6) This section shall be construed to allow the imposition of requirements in the code, or in other laws or ordinances, for additional permits for particular kinds of work, including plumbing and electrical, or in other specified situations. The requirements of the code may provide for issuance of construction permits for certain of the systems of a structure and allow construction to commence on those systems approved under that permit even though the design and approval of all the systems of the structure have not been completed and subsequent construction permits have not been issued.”



KABA

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Further, Section 102.2 states:

“R 102.2. Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.”

While the Construction Code provides for a single uniform Code, the methods of enforcement are up to a local municipality. When it comes to issuing permits, State law has not expressly pre-empted the field, nor has it done so by implication. The State statute on issuance of permits provides discretion to the local unit, and there is no basis to require uniformity in the issuance of permits – only in the implementation of the Uniform Building Code itself.

We are not prohibiting what the statute permits or permitting something the statute prohibits. The fact that the State has established certain regulations does not prohibit us as a municipal entity from enacting additional regulations so long as there is no conflict between the two. We do not believe any conflict exists.

If the party aggrieved by the decision of KABA wishes, he certainly can avail himself to a review by the Construction Board of Appeals. If he does not agree with the interpretation of the Construction Board of Appeals, then he is entitled to seek a hearing before the Construction Code Commission pursuant to MCL 125.1516. If, at that point, the party is not satisfied, there is always the ability to file a claim at the Michigan Court of Appeals pursuant to MCL 125.1518.

It is not the intent or the desire of KABA, on behalf of any of its member municipalities, to create an unreasonable burden on builders or any member municipalities' residents. However, over the years, we have seen a number of contractors (most of which are not members of your organization) holding themselves out as qualified builders, when they are unlicensed, and the work they perform does not meet the standards that any of your members would find acceptable. In many instances, KABA is the only entity ensuring a quality product, for which a homeowner has paid, is properly received.

I would be more than happy to discuss this matter at greater length if you choose. We do appreciate your bringing this matter to our attention.

Very truly yours,

Ed Hellwege
Executive Director

k kb

c: Jeff Sorensen

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Office Location: 7275 West Main St. Kalamazoo, MI 49009

Phone: (269) 216-9643 or (269) 216-9672
Fax: (269) 375-7180



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
IRVIN J. POKE
DIRECTOR

MIKE ZIMMER
DIRECTOR

January 27, 2015

Mr. Jeff Sorensen, Supervisor
Cooper Charter Township
1590 West D Ave
Kalamazoo, MI 49009

RE: BCC Complaint No. LG 15-0529
Home Builders Association of Michigan

Dear Mr. Sorensen:

Correspondence has been received in this office from Lee Schwartz on behalf of the Home Builders Association of Michigan regarding the administration and enforcement of construction codes within the governmental subdivisions served by the Kalamazoo Area Building Authority (KABA) agency. A copy of the complaint is enclosed for your review.

Within his complaint, Mr. Schwartz alleges that KABA, the inspection agency for Comstock, Cooper, Kalamazoo, and Oshtemo townships, is requiring a permit for roof repairs and residing of structures. It is alleged by Mr. Schwartz that the permit requirement held by the authority is in conflict with the formal interpretation issued by the State Construction Code Commission at its meeting on October 1, 2014.

Further, KABA, in its October 24, 2014, letter signed by Ed Hellwege, states that KABA is the enforcing agency for the four townships mentioned above. In accordance with MCL 125.1502a (t), KABA cannot be the enforcing agency and may only perform the functions in MCL 125.1509 (l) (a) through MCL 125.1509 (l) (i). The determination on what requires a permit is the function of the governmental subdivision and its building official. "Building official" is defined in MCL 125.1502a (i).

It is requested that you review the entire complaint and provide a written response to this office that addresses the specific allegations contained within the complaint and respond to the following questions:

- Please identify the building official for your unit of government and provide the employment agreement to show compliance with MCL 125.1502a (i).
- Has the township delegated authority to KABA beyond that provided in MCL 125.1509 (l) (a) through MCL 125.1509 (l) (j). If so, explain the authority to do so.

Providing for Michigan's Safety in the Built Environment

Mr. Sorensen
January 27, 2015
Page 2

- Is a permit required for roof repairs? If yes, please explain how it is not considered ordinary repair and when and what is inspected.
- Is a permit required for residing a structure? If yes, please explain how it is not considered ordinary repair and when and what is inspected.

It is requested that you provide a written response to all the allegations contained within the complaint and all requested copies of project documentation to this office **within 10 days of the mailing date of this letter.**

Thank you for your assistance and cooperation regarding this matter. If you have questions you may contact me at (517) 335-2972.

Sincerely,



Michael Somers, Specialist
Office of Administrative Services

Mailing Date: Feb 4, 2015

MDS/ms

Enclosure

cc: Lee Schwartz, Michigan Association of Home Builders, w/o enclosure
Ed Hellwege, Executive Director, KABA

RECEIVED

NOV 13 2014

OFFICE OF
ADMINISTRATIVE SERVICES



Mr. Bill Benoit
Chairman, State Construction Code Commission
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs
Lansing, MI 48909

Dear Mr. Benoit,

The Home Builders Association of Michigan (the Association) is formally requesting the Bureau of Construction Codes conduct a performance evaluation of the Kalamazoo Area Building Authority (KABA) to assure that the administration and enforcement of the Stille-DeRossett-Hale Single State Construction Code Act, Act 230 of 1972 (the Act) and the code is being done in accordance with the Act.

At its October 1, 2014 meeting the State Construction Code Commission (the Commission) issued a formal interpretation roof repairs do not require permits or notification to the building official provided the repairs do not include any of the prohibited actions found in R105.2.2 of the MRC. This formal interpretation mirrors a December 2007 formal interpretation issued by the Commission that a permit is not required for ordinary repairs including specifically the residing of a structure where the repair does not include any of the prohibited actions found in R105.2.2. Formal interpretations issued by the Commission are binding on all enforcing agencies in Michigan.

The KABA, which services the townships of Comstock, Cooper, Kalamazoo, and Oshtemo in Kalamazoo County, is requiring a permit for both of these activities.

On October 2, 2014 the Home Builders Association of Michigan sent a letter (attached) to both Cooper Township and KABA informing them of the formal interpretations issued by the Commission (both of which were provided along with the letter) and respectfully requesting the KABA comply with the formal interpretations of the Commission and cease requiring these permits.

On October 27, 2014 the KABA responded by letter to the HBA of Michigan. A copy of that letter is attached.

After thanking me for providing them with two "*opinion letters from the Bureau of Construction Codes*," the KABA stated that, despite the formal interpretations issued by the Commission, "*KABA is of the opinion that reroofing and re-siding are not ordinary repairs referred to in MCL 125.1510(7) or Michigan Residential Code, Section 105.2 or 105.2.2.*" (It should be noted that the Association has never

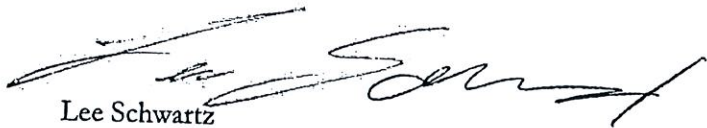
contended reroofing does not require a permit and that the KABA letter never references roof repair.) The letter then goes on to cite the rationale offered by the KABA for refusing to abide by the Commission's decisions.

Additionally, in their response letter, the KABA states "*While the Construction Code provides for a single uniform Code, the methods of enforcement are up to the municipality. When it comes to issuing permits, State law has not expressly pre-empted the field, nor has it done so by implication. ... We are not prohibiting what the statute permits or permitting something the statute prohibits. The fact that the State has established certain regulations does not prohibit us as a municipal entity from enacting additional regulations so long as there is no conflict between the two. We do not believe any conflict exists.*"

While the Association had hoped to resolve this matter in a congenial and collegial fashion, the response from the KABA and their assertions they are not bound by the decisions of the Commission or by the requirements of the Single State Construction Code or the Stille-DeRossett-Hale Single State Construction Code Act leaves us with no other option than to request a performance evaluation of their operations in all four townships they serve.

Please feel free to contact me if you have any questions or if I can be of further help in this matter.

Sincerely,



Lee Schwartz
Executive Vice President for Government Relations
Home Builders Association of Michigan



October 2, 2014

Mr. Jeff Sorensen
Supervisor
Cooper Charter Township
1590 West "D" Ave.
Kalamazoo, MI 49009-6321

Mr. Ed Hellwege
Executive Director
Kalamazo Area Building Authority
P.O. Box 292
Oshtemo, MI 49077

Gentlemen:

It has come to the attention of the Home Builders Association of Michigan that the Cooper Township Building Department is requiring a permit for both roof repair and residing of residential structures.

I'm certain that you were unaware that, under the Michigan Residential Code (MRC), neither of these activities requires a permit nor do they require notification to the building official provided the repairs do not include any of the prohibited actions found in R105.2.2 of the MRC.

These are the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to alteration of, replacement or relocation of any water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical work or other work affecting public health or general safety.

The Stille-DeRossett-Hale Single State Construction Code Act (Public Act 230 of 1972 as amended) provides for the statewide application of both the Act and the State Construction Code. The act also provides for the State Construction Code Commission (the Commission) to oversee uniform interpretation and enforcement of the State Construction Code Act.

In this regard the commission issues both technical bulletins which provide clarification on issues which arise regarding code administration and enforcement and formal interpretations of code requirements. A formal interpretation by the Commission is binding on all enforcing agencies in Michigan.

I am including two such formal interpretations issued by the Commission.

The first, Document # 08-11, from December of 2007 states that a permit is not required for an ordinary repair such as the residing of a structure where the repair does not include any of the prohibited actions found in R105.2.2.

The second, Document #14-41, approved by the Commission yesterday, October 1, 2014, states that a permit is not required for roof repair where the repair does not include any of the prohibited actions found in R105.2.2.

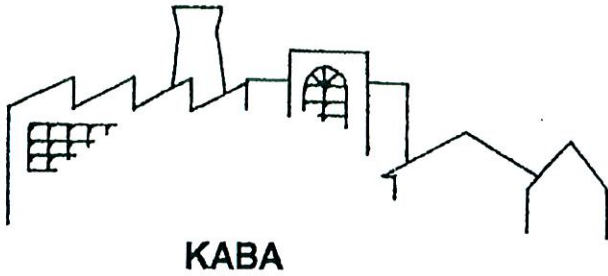
Now that you are aware of these formal interpretations, the Home Builders Association of Michigan respectfully requests you no longer require these permits.

If you have any questions, please feel free to call me at 517-646-2565 or email me at lee@habofmichigan.com.

With warm regards,



Lee Schwartz
Executive Vice President for Government Relations
Michigan Association of Home Builders



Kalamazoo Area Building Authority

www.kaba-mi.org

October 27, 2014



Mr. Lee Schwartz
Executive Vice President for Government Relations
Michigan Association of Home Builders
6427 Centurion Drive #150B
Lansing, MI 48917

Re: Permits for Roof Repairs and Re-Siding Residential Structures

Dear Mr. Schwartz:

I am writing in response to your letter of October 2, 2014, addressed to Jeff Sorensen, Cooper Charter Township Supervisor, and myself, as Executive Director of the Kalamazoo Area Building Authority. In your letter, you stated that the Cooper Township Building Department is requiring a permit for roof repairs and re-siding residential structures. You contend that such a practice is prohibited, and you attached two opinion letters from the Bureau of Construction Codes in support.

To begin with, Cooper Charter Township does not have a building department. Pursuant to the Cooper Charter Township State Construction Code Ordinance, the Kalamazoo Area Building ("KABA") is the enforcing agency for the Township. KABA serves as the enforcing agency for four municipalities and applies its policies uniformly throughout those member units. What KABA requests, on behalf of its member municipalities, is a permit for reroofing or re-siding. KABA is of the opinion that reroofing and re-siding are not ordinary repairs referred to in MCL 125.1510(7) or Michigan Residential Code, Section 105.2 or 105.2.2.

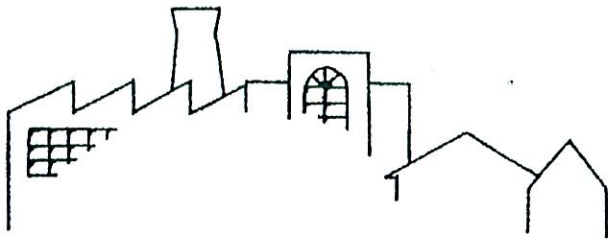
Clearly, Section 105.2a does not exempt reroofing or re-siding from the permitting process. Section 105.2.2 does state that ordinary repairs do not require a permit. However, we cannot define "ordinary repair" by arguing that it encompasses any repair that does not include the cutting away of any wall, partition or portion thereof; the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress. This is a bootstrap argument and improperly uses the same section of the Code to define itself.

Let's begin with the definition section of the Code. Since "ordinary repair" is not defined, we must first look at the definition of "repair." Section 202 defines "repair" as:

"REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance."

Mailing Address: PO Box 292 Oshtemo, MI 49077
Office Location: 7275 West Main St. Kalamazoo, MI 49009

Phone: (269) 216-9643 or (269) 216-9672
Fax: (269) 375-7180



KABA

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Section 202 defines “roof repair” in almost the same terms as “repair.” Roof repair is defined in Section 202 as follows:

“ROOF REPAIR. Reconstruction or renewal of any part of an existing roof for the purposes of its maintenance.”

Both of these definitions involve repairing “any part” of an existing building or “any part” of an existing roof. We do not require permits for such repairs.

Section 202 of the Code defines “reroofing” as follows:

“REROOFING. The process of recovering or replacing an existing roof covering. See ‘Roof recover.’”

Section 202 also defines “roof recover” as follows:

“ROOF RECOVER. The process of installing an additional roof covering over a prepared existing roof covering without removing the existing roof covering.”

Clearly, the Code sees a difference between a roof repair involving a part of the roof and the roof recover or reroofing which includes the recovering or reroofing of an entire roof.

Further evidence that the Code views roof recovering or reroofing differently than repairing a portion of the roof is found in Chapter 9 of the Michigan Residential Code entitled, “Roof Assemblies.” Ordinary repairs would not likely have a dedicated Code section providing directions to builders. Reroofing, on the other hand, has a specific section providing directions and the steps to be taken for a reroofing project. See Section R907. You may take issue with our permit requirements for reroofing and re-siding, but we believe that we have support to require such permits, both in the law and the Act itself.

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Further, Section 102.2 states:

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While the Construction Code provides for a single uniform Code, the methods of enforcement are up to a local municipality. When it comes to issuing permits, State law has not expressly pre-empted the field, nor has it done so by implication. The State statute on issuance of permits provides discretion to the local unit, and there is no basis to require uniformity in the issuance of permits – only in the implementation of the Uniform Building Code itself.

We are not prohibiting what the statute permits or permitting something the statute prohibits. The fact that the State has established certain regulations does not prohibit us as a municipal entity from enacting additional regulations so long as there is no conflict between the two. We do not believe any conflict exists.

If the party aggrieved by the decision of KABA wishes, he certainly can avail himself to a review by the Construction Board of Appeals. If he does not agree with the interpretation of the Construction Board of Appeals, then he is entitled to seek a hearing before the Construction Code Commission pursuant to MCL 125.1516. If, at that point, the party is not satisfied, there is always the ability to file a claim at the Michigan Court of Appeals pursuant to MCL 125.1518.

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I would be more than happy to discuss this matter at greater length if you choose. We do appreciate your bringing this matter to our attention.

Very truly yours,

Ed Hellwege
Executive Director

k kb

c: Jeff Sorensen

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KALAMAZOO AREA BUILDING AUTHORITY
RESOLUTION AMENDING THE
TEMPORARY CERTIFICATE OF OCCUPANCY POLICY

_____, 2015

WHEREAS, the issuance of temporary certificates of occupancy is discretionary and not mandatory under the Michigan State Construction Code.; and

WHEREAS, the delay in completion of residential structures can have negative impacts upon surrounding property owners and surrounding properties; and

WHEREAS, the delay in completion of residential structures can result in difficulties for local municipalities in areas of housing code enforcement and tax assessment; and

WHEREAS, issuing temporary certificates of occupancy may result in risk to the inhabitants of the structure; and

WHEREAS, the Kalamazoo Area Building Authority Board wishes to establish a policy outlining the circumstances under which temporary certificates of occupancy may be issued by the Building Official.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that temporary certificates of occupancy may be issued by the Building Official provided that the following conditions are met:

1. The structure is substantially complete.

“Substantially complete” means that all major systems – plumbing, electrical, mechanical/HVAC, and sewer/septic systems are installed and approved in accordance with the plans submitted.

2. The structure may be occupied safely.

“Occupied safely” means that adequate means of ingress and egress are in place – stairs and handrails are properly installed – lighting, heating and plumbing are complete with no open wiring.

3. The temporary certificate of occupancy will be issued for a period not longer than six weeks except in cases requiring only sidewalks, and landscaping, or exterior finishes not affecting the structural integrity of the building for which a later completion date may be granted based upon weather consideration. The applicant must post bond or provide a cash surety in the amount of \$1,000, which can be called by KABA should the applicant fail to complete the structure during the period of the temporary certificate of occupancy.

4. The local unit of government will be notified of any request for a temporary certificate of occupancy, and a representative of the local unit shall accompany KABA staff on the inspection made before the same is issued pursuant to this policy and provide a specific date upon which the structure will be complete, and the temporary certificate of occupancy will cease.

A motion was made by _____ seconded by _____ to adopt the foregoing Resolution.

Upon roll-call vote, the following voted “AYE”:

The following members voted "NAY":

Abstained:

Absent:

The Board Chairman declared the motion carried, and the Resolution duly adopted.

Lee Larson

CERTIFICATE

Deborah L. Everett, the duly elected and acting Secretary of the Kalamazoo Area Building Authority, hereby certifies that the foregoing is a true and correct copy of an Excerpt of the Minutes of a meeting of the Kalamazoo Area Building Authority Board held on _____, 2015, at which a quorum was present.

Deborah L. Everett