

CENTRAL ARIZONA FIRE AND MEDICAL AUTHORITY
FIRE CODE BOARD OF APPEALS

January 28, 2021

MINUTES

1. CALL TO ORDER

Fire Code of Appeals Board Member Rich Poirier called the Fire Code Board of Appeals meeting to order on Thursday, January 28, 2021 at 10:02 a.m.

2. ROLL CALL OF BOARD MEMBERS

In-Person Attendance: Board Members Rich Poirier and Dale Slothower

Remote Attendance: Board Chairman Bill Otwell and Board Member Michael Young, Nicolas Cornelius, William O'Leary and Marc Forman

Staff Present: Fire Marshal Rick Chase, Assistant Fire Marshal Chuck Dowdy, Administration Manager Susanne Dixson and Administrative Assistant Teresa Frawley

Absent: Board Member Bruce Boomer

1. NEW BUSINESS

- A. Discussion and Action Regarding Request for Fire Code Variance Submitted by AEC, LLC Regarding Installation of Fire Alarm Equipment at 5533 E State Route 69, Prescott Valley AZ 86314

Rich Poirier inquired of Central Arizona Fire and Medical Authority (CAFMA) legal counsel how to proceed with the meeting. Mr. Cornelius confirmed all board members had received all related documents.

Nicolas Cornelius stated William O'Leary would present first, direct and redirect. CAFMA would present in same order.

Rich Poirier asked Attorney William O'Leary and Marc Forman to begin the meeting.

Marc Forman introduced himself and briefly described his company, Alarm Electronics and Communications (AEC), his experience and described specialized training he has completed – highest level of National Institute for Certifications in Engineering Technologies (NICET), National Fire Protection Agency (NFPA) certified, certified by several manufacturers and that his business is state-wide with focus in northern Arizona.

Mr. Forman proceeded to explain about the property at issue, 5533 Highway 69 Prescott Valley, constructed in 2017 specifically for restaurant/bar use and the type of services that he provided. Mr. Forman did not install any of the fire protection system when the building was originally constructed. AEC was hired by original owner, then again by the

new owner Iron Cask. The monitoring agreement includes annual inspection, which includes functional operational test, communications and integrity of system.

William O'Leary proceeded with letter dated March 18, 2020 that Mr. Forman received from Fire Marshal Rick Chase, referencing letter dated January 14, 2020 from Brett Mills – Mr. Forman stated that he never received the letter in January.

Mr. Forman responded to the letter from Fire Marshall Chase in March indicating that AEC had not done work that required a permit and identified the work completed by his company. He did not believe the work he performed required a permit as it was a part of normal maintenance. He did not receive any response from CAFMA.

A letter was received from the fire marshal that was sent six months later, dated September 16, 2020, which does not identify what wasn't permitted. Later received photos.

Box identified in photos – Mr. Forman explained what they were; box with single antenna was installed at the time the building was constructed; box with double antenna installed was to reestablish service for new owner and meet new requirements; this was done as part of general maintenance and service. Replaced old version (analog) with new version (5G or LTE). Does not do anything different other than operate on new carrier frequencies at higher speeds.

Mr. Forman stated in the March 23 letter to Fire Marshal Chase that indicates work performed was part of service and maintenance at this facility. He believes it does not require a permit as it is part of normal maintenance and not considered work that would require a permit. National Fire Protection Agency (NFPA) guidelines say this type of repair does not require a permit. It does not change or alter function of the equipment.

The definition in CAFMA code – fire protection system or equipment is to detect, control or prevent the spread of fire.

Mr. Forman explained that monitoring for fire or security is an exchange of information and does not have the ability to control or put out a fire and not part of the system that detects or controls the spread of fire. Replacement is part of the maintenance and monitoring services. He has hundreds of them out there, and did not get a permit for any of them.

There were no discussions with Brett Mills regarding this location. The relationship with Brett Mills in previous encounters would be described as tenuous, and on other jobs as well.

Regarding the letter from Fire Marshal Chase stating not in good standing – did not see that requirement in the CAFMA code.

Nicolas Cornelius conducts cross examination and presents testimony.

Discussion about the contracts with Iron Cask that were provided and were not signed. The letter that specified replacement and installation of a new cell dialer as general maintenance. Previous analog cell dialer – only method to communicate with monitoring call center.

Letter that specified new cell dialer was replaced – is there any other methodology by which this system will communicate with the call center?

There are no hard lines, only cell dialer. Previous analog cell dialer – only method to communicate with monitoring call center? Existing device – technology A we, replaced with new device to establish service and put the system back in service.

It was clarified that this is the only device that communicates with monitoring service.

This concluded questioning by legal counsel.

Board member Otwell understands that the 5G device sends communication to the monitoring system and that it's a critical component – this is the only way you know a protection system has been activated.

Board member Michael Young - understands the use of the devices being discussed, no further questions.

Board member Dale Slothower – understands, no further questions.

Board member Rich Poirier – understands that an upgrade was made and essential to the system to operate.

Mr. Forman stated that smoke detectors and fire suppression systems may still operate – most devices on the market are digital. The failure of any of those can impair the function of the system.

Nicolas Cornelius asked Assistant Fire Marshal Dowdy to provide testimony.

Chuck Dowdy introduced himself; described responsibilities at CAFMA; 5-years at CAFMA; previous job at national fire protection company for 22 years; specific responsibilities were – testing, inspection of fire protection systems, installation of those systems and monitoring; manufacturer certifications and NICET certification.

Discussion regarding the inspection with Brett Mills of the restaurant systems at this location.

Discussion of photos – Chuck Dowdy took the photos and is familiar with them. The location and placement of both boxes were discussed.

Analog box placed on top of metal spare sprinkler head box—not mounted, not held to the wall with anything. New box also placed on top of the fire panel.

Photo of the back of new box shows mounting requirements per manufacturer – not mounted per manufacturer requirements.

A lot of discussion regarding CAFMA fire protection standards book; permit required for installation or modification of fire protection systems.

Definition in the standards book - Detection, prevention or control the spread of fire. This device notifies dispatch of instance of fire.

Considering the importance of this device, is this item critical to life and fire safety? Absolutely - In its absence, there is no other form of communication. Any experience having problems with these devices? Not with a device specifically, but with programming.

Discussion regarding other installers pulling permits for these types of devices. CAFMA requires permits for these types of modifications. There have been at least 50 since January 2020 for these devices. As a part of business inspections, we document the systems present and note changes. When we discover a violation or unpermitted work we send a letter.

Regarding permits - the 2018 IFC 105.1.1 Permits required and 2016 NFPA 72 7.2.1 minimum communication requirements; this section applies to this type of dialer. Under these codes this type of dialer requires a permit for installation. This was the type of permit that CAFMA was requesting.

Referencing the invoice dated 3/17/2020 of \$916 was for the unpermitted portion. The letter dated 3/18/2020, there was a typo in the name in the body of the letter, but was sent to correct company and referencing correct address which indicates a permit is required.

The position of CAFMA on unpermitted work is we want to be notified of this kind of work so we can ensure the device communicates properly with our dispatch center. It's not typical for companies to install these types of devices without a permit.

William O'Leary to Chuck Dowdy – discussed that the author of the letters or correspondence was not Chuck Dowdy and that the photos were provided recently. Chuck was familiar with letters and the letter dated January 14 referenced CAFMA's Fire Protection Development Standards book – the introduction indicates standards are based on International Fire Code (IFC), intended to reduce ambiguities, confusion due to code interpretations.

Discussion regarding the device whether it was mounted, hardwired to the panel and whether it's vital of communication. CAFMA's stance is this device is part of the alarm system and is a vital part of the communication.

More discussion about the CAFMA Fire Protection Development Standards, permits, specific fire alarm, monitoring, transceivers and good standing criteria.

Board members had questions / comments regarding the analog device and the new device and their location. Discussion about the new device being mounted on the wall, and when it was mounted. Clarification was needed on the letter dated January 14 – it was emailed, there was discussion in an email, but not received? Mr. Forman claimed that he never received letter and the email and response had nothing to do with this matter; it was for another job.

Legal counsel Nicolas Cornelius had more questions about the device not mounted on the wall – Chuck Dowdy stated there was no evidence that the device had ever been mounted to the wall.

Nicolas Cornelius asked about the CAFMA code – CAFMA adopted the IFC 2018 and National Fire Code – does the agency look at the code or the standards when resolving these issues? Chuck Dowdy stated the code.

Discussion about good standing in regards to permitted and unpermitted work – Good standing means, contractors that are in good standing are meeting the requirements of the IFC and contractors that are not in good standing with CAFMA - we will not accept new plans. When contractors fail to do permitted work then that's when they are not in good standing.

Discussion on the three different documents – IFC is the code, NFPA standards is about practices on how to install systems. The CAFMA standards is a reference to guide contractors – if contractors need clarification they reach out to the agency.

Closing statements

William O'Leary asked the board to consider and focus on CAFMA standards in the notification to AEC. The intent of CAFMA Development Standards is to reduce ambiguities and confusion. The focus is not of what is critical and what is not – but what CAFMA standards book says. If you're not changing the system, not modifying how the system works - CAFMA code definition of systems that require permit does not include dialers. Mounting of the box or not is not applicable to whether it requires a permit it's just changing technology. There are no specifics about this radio monitoring receiver or good standing.

Nicolas Cornelius stated that the CAFMA Standards book is guidelines, but the IFC is the ruling document and NFPA is interpreting and describing methods of installation to comply to the code; communicating with the fire department is the purpose of installing the device. Modification can be interpreted in many ways. New device, critical to the operation of the system - fire and life safety system require a permit. The request of the board is decide that the outstanding unpermitted work fee to be paid.

No further questions from the board.

Recess 11:35 a.m. – board members discussed the matter without the Prevention Division or attorneys present.

All parties rejoined the meeting at 11:59 a.m.

Motion in regard to the variance request from Mr. Forman, motion to deny the variance on the grounds that this is a modification.

Move: Dale Slothower Second: Bill Otwell

Discussion – Bill Otwell believes this is a modification, it's in a different location, not attached to wall advantage of having inspections. Also knowing that 50+ installations

have been done with permit. This would set an inappropriate precedent to not require a permit when others have done.

Rich Poirier – interpretation in this case is black and white, responsibility of contractor to know fire code and proper installation of equipment; communication with the fire authority and response is required.

Motion is to deny the request:

Bill Otwell: AYE Mike Young: AYE Dale Sothower: AYE Rich Poirier: AYE

Nicolas Cornelius will confirm with Fire Marshal Chase the amount of unpermitted work fee and will notify O'Leary.

2. ADJOURNMENT

- a. Meeting was adjourned at 12:05 p.m.

Yes: Dale Slothower Yes: Mike Young

Clerk

Date