

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
443 LAFAYETTE ROAD N.
ST. PAUL, MINNESOTA 55155

In the Matter of the City of Bayport
Building Permit issued on May 22, 2012
for a deck project at 939 Inspiration
Parkway North, Bayport, MN 55082

ORDER

OAH Docket No. 66-1900-30843

The above-entitled matter came on for hearing before the Minnesota State Board of Appeals (“Board”) on March 18, 2014, at 9:00 a.m. in the Minnesota Room of the Minnesota Department of Labor and Industry, pursuant to an Order of Deputy Commissioner Eiden dated January 23, 2014, which adopted in their entirety the Findings of Fact and Conclusions of Law of the Administrative Law Judge, ordered that the Board’s Determination supersedes the authority of the City building official to require an engineered design, and remanded the matter to the Board for further proceedings such that the Board on remand either:

- 1) Specifies with particularity what the City of Bayport Building Official is required to do upon final inspection of the ledger board attachment, and that he be directed to approve the project if the contractor has done what the Board directed the contractor to do at its January 23, 2013 hearing; or
- 2) Approves the ledger board attachment for code compliance now that the GRK screws have been installed.

Contractor Christopher Koss was present and provided argument to the Board; neither building official John Buckley nor any other representative from the City of Bayport (“City”) was present at the hearing. However, Bayport City Attorney Andrew Pratt provided argument by way of an email message to the Board dated March 17, 2014, in which he stated that the City had no preference regarding the Board’s determination as remanded.

Based upon the underlying record of this matter, including Administrative Law Judge Thomas Wexler’s November 22, 2013 Findings of Fact, Conclusions of Law, and Recommendation, the Commissioner’s January 23, 2014 Findings of Fact, Conclusions of Law, and Order, Mr. Koss’s photographs taken of the connection of the block to the floor joist (see Minutes, Attachment C) and the ICC-ES Evaluation Report #2442 (the publication reviewed for the shear capacity of the screws) (see Minutes, Attachment D) as well as

argument provided to the Board at the underlying hearing, the Board by unanimous vote makes the following :

FINDINGS OF FACT

- 1) The number, size, length, type, and the placement of the GRK screws in the blocking attachment to the deck are in compliance with the building code. This means that the 3RSS 10 x 2 ½ inch screws placed into the blocking attachment are compliant with the code;
- 2) The screws are equal to or better than what the code requires; they were rated for 754 pounds of shear strength each, according to the ALJ's Findings;
- 3) The only issue regarding compliance of the deck with the building code was the issue of the blocking attachment, which the Board finds in in compliance with the code; and
- 4) It is important for the current homeowner that the building permit accurately reflect the fact that there are no outstanding issues with respect to the deck's compliance with the code. For this reason, the Board directs the building official to final the permit.

Based on the foregoing Findings of Fact, the Board by unanimous vote makes the following:

CONCLUSIONS OF LAW

- 1) The Board adopts and incorporates herein by reference as Conclusions of Law all of the Findings of Fact stated above; and
- 2) Any Conclusion of Law herein, which should more properly be deemed a Finding of Fact, is hereby adopted as such.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

- 1) The Board approves the 3RSS 10 x 2 inch screws that were placed into the blocking attachment as being compliant with the code. Specifically, the number, size, length, type, and the placement of the GRK screws in the blocking attachment to the deck are in compliance with the code; and
- 2) Based on its approval of the ledger board attachment, and its determination that the deck complies with the building code in all other respects, the Board directs the City of Bayport building official to final the building permit.

Dated: March 27, 2014

By: *Thomas J. Downs*
THOMAS J. DOWNS, Board
Chairperson