

STATE OF MINNESOTA

STATE BUILDING CODE BOARD OF APPEALS

In the Matter of the Appeal of  
Winslow Companies, d/b/a SUPER SIDERS

Appeal No. 21-02

**FINAL DECISION**  
**Dated: Sept. 2, 2021**

This matter came on for hearing before the State Building Code Board of Appeals (“Board”) on August 10, 2021. The hearing was held by video conference as the Board determined, pursuant to Minn. Stat. § 13D.021, that an in-person meeting was not practical because of the COVID-19 pandemic. The record closed at the conclusion of the hearing.

Russell Winslow appeared for applicant and appellant Winslow Companies, d/b/a SUPER SIDERS (“Appellant”). Paul Heins, Building Official for the City of St. Michael (“Building Official”), appeared on behalf of respondent City of St. Michael. Steven Bot, City Administrator and Public Works Director for City of St. Michael (“City Administrator”) provided testimony for respondent City of St. Michael.

The issue in this appeal is whether the Building Official correctly interpreted and applied the 2020 State Building Code (“State Building Code”) by not requiring a total roof replacement for the residential building on the property located at 525 Main Street North in St. Michael (“Magnuson Project”). The Magnuson Project involved repairs related to hail and wind damage to the roof of the residential building. The original scope of damage included the replacement of roof flashings and wood lap siding in the areas that covered and surrounded the flashings. Upon removal of the affected siding, Appellant discovered the wall did not contain a code-compliant water resistive barrier (“WRB”). Appellant stated he then had a series of conversations with the Building Official to determine the minimum scope of repairs to send to the insurance company.

Appellant contends that the Building Official incorrectly interpreted the true intent of the State Building Code by failing to consider that Appellant must install roofing, siding, and WRB according to the manufacturers’ installation instructions. In this case, Appellant contends that the State Building Code and the manufacturer’s installation instructions required Appellant to remove and replace the shingles surrounding the damaged flashings, replace the underlayment on the entire lower portion of the roof, and replace existing decking with approved decking. Appellant also contends that the siding overlaying the flashing would need to be removed, siding testing positive for lead paint would need to be removed, and the house wrap and siding would need to be replaced

for the entire elevation and connecting elevations. The Building Official contends that the State Building Code allows an individual to retrofit roofing and siding repairs to existing structures and does not require replacement of the entire roof or wall cladding system to comply with all requirements of the State Building Code.

The administration of the State Building Code is detailed in Minnesota Rules, chapter 1300. Minn. R. 1300.0030 and Minn. R. 1300.0040 discuss the scope, purpose, and application of the State Building Code.

The 2020 Minnesota Residential Code, as outlined in Minn. R. 1309.0010, incorporates the 2018 edition of the International Residential Code (“IRC”) into the State Building Code, except as amended or qualified by applicable provisions of the Minnesota Rules. References to the IRC mean the Minnesota Residential Code, adopted under Minnesota Rules, chapter 1309, and Minn. Stat. § 326B.106, subdivision 1. Chapter 7 of the IRC controls the design and construction of the interior and exterior wall coverings for buildings. Chapter 9 of the IRC governs the design, materials, construction, and quality of roof assemblies.

The Minnesota Conservation Code for Existing Buildings, as outlined in Minn. R. 1311.0010, incorporates the 2018 edition of the International Existing Building Code (“IEBC”) into the State Building Code, except as amended or qualified by applicable provisions of the Minnesota Rules.

Appellant cited numerous provisions of the IRC in support of his argument: Sections R703.2 and R703.11.1, which state that WRB and vinyl siding shall be installed in accordance with the manufacturer’s instructions; Section R903.1, which states that roof decks shall be covered with approved roof coverings and that roof assemblies shall be installed in accordance with the manufacturer’s instructions; and Section R905.1, which states that roof coverings shall be applied in accordance with the manufacturer’s installation instructions. Appellant’s Exhibit 24 contains the manufacturer’s instructions for installing the WRB and Appellant’s Exhibit 25 contains a letter from the WRB manufacturer stating that it is the manufacturer’s “strong counsel to replace the entire building envelope.” Appellant’s Exhibit 10 contains a letter from the manufacturer regarding shingle installation instructions. Appellant testified that the Building Official initially verbally agreed with Appellant’s interpretation of the State Building Code regarding the minimum scope of repairs but later changed his position.

The Building Official testified that he did not remember verbally agreeing with Appellant’s interpretation of the State Building Code. The Building Official stated that he interpreted the State Building Code to allow for repairs without requiring additional cladding systems not related to the original scope of work. The Building Official cited provisions of the IEBC in support of his argument, including: Section R301.3, which states that, subject to approval of the code official, alterations complying with the laws in existence at the time the affected portion of the building was built shall be considered in compliance with the code; Section R302.4, which states that materials already in use in a building that were compliant at the time of their installation shall be permitted to remain in use unless they are deemed unsafe; and Section R405.2.1, which states that for damage less than substantial structural damage, the damaged elements may be restored to their predamage condition. The City Administrator testified that the Building Official does his best to

work with the people of the City of St. Michael, but it is not the Building Official's job to work with insurance companies regarding what is covered for insurance claims.

The Board discussed that Chapters 7 and 9 of the IRC explain how to complete work, but that the scoping provisions in Minn. R. 1309.0100 control what work is required. The Board noted that Minn. R. 1309.0100, subp. 2 allows for repairs to one-and two-family dwellings without requiring the existing building or structure to comply with the code, so long as the additions or alterations conform to the code. Based on the documents that were submitted, the Board discussed that the original scope of work for the Magnuson Project was only for minor re-roofing and siding repairs.

Appellant argued that he was required to follow the manufacturer's instructions under Chapters 7 and 9 of the IRC because Minn. R. 1300.0030, subp. 1, states that if differences occur between provisions of the code and referenced codes and standards, the provisions of the code apply. The Board discussed that the language in the Minnesota Rules supersedes the model code language and specific provisions supersede general provisions. The Board noted that manufacturer instructions may be more restrictive than what is required by the State Building Code but manufacturer recommendations or suggestions are not enforceable under the State Building Code.

Appellant stated that under Minn. R. 1300.0030, subp. 2, the State Building Code applies to the alteration and repair of buildings. The Board clarified that Minn. R. Chapter 1300 outlines procedures relating to administration and enforcement of all chapters of the State Building Code, but Minn. R. Chapter 1309 specifically applies to residential buildings and the IRC. The Board reiterated that Minn. R. 1309.0100 allows for repairs to existing buildings and does not require work outside the original scope of repairs to ensure the entire structure is compliant with the current State Building Code.

Pursuant to the Board's authority under Minn. R. 1300.0230, and based upon the entire record including all documents, testimony, and arguments submitted to the Board, the Board moved to affirm the decision of the Building Official under sections R703, R903, and R905 of the 2020 Minnesota Residential Code, allowing repairs to be made in accordance with Minn. R. 1309.0100, subp. 2. The roll call vote was unanimous, and the motion carried.

### **RIGHTS OF APPEAL**

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



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SCOTT McKOWN, Chair  
State Building Code Appeals Board