

STATE OF MINNESOTA

STATE BUILDING CODE APPEALS BOARD

In the Matter of the Appeal of
Grendahl Mechanical, LLC,

FINAL DECISION

Dated: 9-12-17

Appeal No. 17-01

This matter came on for hearing before the State Building Code Appeals Board ("Board") on August 30, 2017. The record closed at the conclusion of the hearing.

Brett Grendahl of Grendahl Mechanical, LLC, appeared as the appellant in this matter. Lenny Rutledge, Building Official for the City of Minnetonka, appeared on behalf of respondent City of Minnetonka.

The issue in this appeal is whether the City of Minnetonka arbitrarily and discriminatorily assessed an investigation fee pursuant to Minn. R. 1300.0160, subp. 8 that was double the building permit fee for the work Appellant performed at Eagle Ridge Academy, 11111 Bren Road, Minnetonka, MN 55345. The City of Minnetonka assessed the investigation fee because Appellant began work before the City issued a building permit. Appellant contends that the City of Minnetonka arbitrarily and discriminatorily issued the investigation fee because the amount of the investigation fee was significantly higher than the investigation fees issued to other entities for violating Minn. R. 1300.0160, subp. 8.

Minnesota Rule 1300.0160, subpart 8 provides that when work commences before a permit is has been obtained, a special investigation shall be made before a permit may be issued for the work. The rule also provides that municipalities may establish an investigation fee to collect, whether or not a permit is issued. Minn. R. 1300.0160, subp. 8. The investigation fee may not exceed the permit fee. *Id.*


Appellant and the Building Official agreed that Appellant commenced work before a permit was obtained. Appellant provided testimony that he believed that the \$7,036 fee that the City of Minnetonka assessed pursuant to Minn. R. 1300.0160, subp. 8 was arbitrary and discriminatory because it was a greater amount than most double fees assessed when work commences before a permit has been obtained. The Building Official testified that it is the City of Minnetonka's policy to assess fees at double the amount of the underlying building permit when work commences before a permit is issued. The City of Minnetonka municipal ordinance 705.011 provides that when work begins without obtaining the necessary license or permit, that person is required to pay double the fee of the underlying permit. The Building Official testified that the City of Minnetonka uniformly assesses a double fee when work commences before a

permit has been obtained. Appellant did not provide any evidence or testimony to show that the City of Minnetonka assessed other entities with less than a double fee for commencing work prior to when a permit was issued. Appellant also did not provide any evidence or testimony that the investigation fee pursuant to Minn. R. 1300.01600, subp. 8 exceeded the permit fee.

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 has affirmed the decision of the Building Official because there is no evidence in the record that the City of Minnetonka acted arbitrarily and discriminatorily in assessing the investigation fee pursuant to Minn. R. 1300.0160, subp. 8.

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.

A handwritten signature in black ink, appearing to read "Scott McKown", written over a horizontal line.

SCOTT McKOWN, Chair
State Building Code Appeals Board