

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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_____))
In the Matter of))
CENTRAL SPRINKLER CORP.,))
and) CPSC DOCKET NO. 98-2
CENTRAL SPRINKLER CO.,))
Respondents))
_____)

**COMPLAINT COUNSEL'S SURREPLY IN OPPOSITION
TO RESPONDENTS' MOTION TO DISMISS**

COMES NOW Complaint Counsel, pursuant to the Presiding Officer's Order of April 21, 1998, and respectfully submits its Surreply in Opposition to Respondents' Motion to Dismiss this matter.

I. INTRODUCTION

On March 3, 1998, the staff of the Consumer Product Safety Commission filed an Administrative Complaint against Respondents Central Sprinkler Corp. and Central Sprinkler Co. The Complaint seeks a nationwide recall of approximately 10 million "Omega" automatic fire sprinklers manufactured by Respondents since 1982.

On March 26, 1998, Respondents filed a Motion to Dismiss and supporting Memorandum (hereinafter, "Respondents' Motion"), claiming that CPSC lacks jurisdiction over Omega fire sprinklers, and that the staff's Complaint and List and Summary of Documentary Evidence are deficient. On April 6, 1998, Complaint Counsel filed its Opposition to that Motion. On or about April 20, 1998, Respondents filed a Motion for

Leave to Submit a Reply Brief in this matter, attaching their Reply Brief as an exhibit to that Motion (hereinafter, "Respondents' Reply"). Respondents' Motion for Leave was granted by Order of the Presiding Officer on April 21, 1998, and Complaint Counsel was permitted, by that same Order, to file this Surreply.

As detailed below, Respondents' Reply adds little if anything to their original arguments. CPSC clearly has jurisdiction over Omega fire sprinklers, and its Complaint and List and Summary of Documentary Evidence meet all applicable requirements.

II. OMEGA SPRINKLERS ARE CONSUMER PRODUCTS WITHIN THE CPSC'S JURISDICTION

The Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*, imposes three basic requirements in order for an item to be a "consumer product" within the Commission's jurisdiction. *See* 15 U.S.C. § 2052 (1997). First, the item must be an "article" (or a component part of such "article") -- a final manufactured product, rather than anything at an intermediate stage of production. *See id.*; *Consumer Prod. Safety Comm'n v. The Anaconda Co.*, 593 F.2d 1314, 1319 (D.C. Cir. 1979). Second, the article must be customarily produced or distributed for sale to, or for the personal "use, consumption, or enjoyment of a consumer." *Id.* Lastly, the use, consumption or enjoyment of the article must be "in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." *Id.*

As fully detailed in Complaint Counsel's Opposition, Omega sprinklers are "articles" that are "used or enjoyed by consumers in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." Omega sprinklers are a final manufactured product. As recognized by Respondents, they are installed in a "wide range of residential,

looked at whether "housing" is a consumer product. *Anaconda*, 593 F.2d at 1320-21.¹ The court held that "housing" per se is not a consumer product. *Id.* at 1320.

It's inquiry did not end there, however. Housing components, according to *Anaconda*, are consumer products as long as they are "articles." *Anaconda*, 593 F.2d at 1321. *Anaconda* held that as a component part of housing, wiring would nonetheless be a "consumer product" if it is "produced or distributed as a distinct article of commerce." *Id.* (holding that "since housing as such is not a consumer product, a component part of a residence, its aluminum branch circuit wiring system, cannot qualify as a consumer product unless it is produced or distributed as a distinct article of commerce") (emphasis added).²

Respondents admit that sprinklers are "articles" under the CPSA. *See* Respondents' Reply at 2; Respondents' Reply at 8, n.3. By this admission, they concede the Commission's jurisdiction over Omegas.

¹ Although Complaint Counsel and Respondents may differ as to whether it was necessary for the *Anaconda* court to address this question, that issue need not be reached here. We assume, for purposes of this Memorandum, that the inquiry was proper.

² In *Anaconda*, the defect that gave rise to the fire hazard in the wiring systems resulted from faulty connections between the wires -- i.e., from "improper design or installation of the wiring system as a whole." *Anaconda*, 593 F.2d at 1317. The *Anaconda* decision ultimately turned on the fact that the wiring systems are not and cannot be sold or distributed as distinct articles of commerce. Although their component parts (the wires) are 'articles' distributed in commerce, the systems themselves are actually created as their components are installed. As such, the systems are not distinct 'articles' of commerce, and thus, are not "consumer products" under the CPSA.

Sprinklers, by contrast, are final, manufactured products distributed in commerce. They are 'articles' in their own right. Unlike wiring systems, sprinklers are not created through installation; they are created by the manufacturer, and are then distributed for the use and enjoyment of consumers.

For further evidence that Respondents misconstrue *Anaconda*, one need look no further than the D.C. Circuit's decision in *ASG Indus. v. Consumer Prod. Safety Comm'n*, 593 F.2d 1323, 1328 (D.C. Cir.), *cert. denied*, 444 U.S. 864 (1979). *ASG* was decided on the same day as *Anaconda*, by the same court, in a decision written by the same judge. In *ASG*, the court considered whether architectural glazing materials, including plastics and glass, are consumer products subject to CPSC jurisdiction. The petitioners in *ASG*, like Respondents herein, argued that such materials belong to a category of construction materials not encompassed by the CPSC's definition of consumer products, and thus outside the Commission's jurisdiction. *Id.* at 1327. Citing *Anaconda*, the *ASG* court held that glazing materials are consumer products -- they are distinct articles of commerce "customarily produced or distributed for sale to consumers or for the use of consumers in or around a household or residence, a school, in recreation, or otherwise." *Id.* (emphasis added).

The architectural glazing materials in *ASG*, including wired glass used in glazed panels, fire doors, and other fire-retardant barriers, were deemed consumer products despite the fact that they are, to borrow Central's terms, "integral parts of a building's basic structure." See *ASG*, 593 F.2d at 1327. *ASG* demonstrates that regardless of when, how and if a product is installed in a building, it is a consumer product if it is a distinct article of commerce, or component part thereof,

produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise . . .

ASG, 593 F.2d at 1327. *ASG* demonstrates that the issue of whether an item is "free-standing" or "integrated" into a building, *see* Respondents' Reply at 5 (arguing that sprinklers have no use as a free standing item), is simply irrelevant to the jurisdictional inquiry. The Commission's authority over a consumer product is in no way diluted or eliminated because the product is 'integrated' or installed.

That products installed or incorporated into buildings, even during initial construction, do not lose their status as "consumer products" is demonstrated by the fact that CPSC has jurisdiction over blown-in fiberglass and household insulation (CPSC Advisory Op. No. 205 (1975); CPSC Advisory Op. No. 230 (1976)); wallpaper and doors (CPSC Advisory Op. No. 200 (1975)); architectural hardware (CPSC Advisory Op. No. 132 (1974)); furnaces (CPSC P.R. 97-012 (1996)); vent pipes (CPSC P.R. 98-073 (1998)); installed lighting fixtures (CPSC P.R. 91-84 (1991)); and pre-wired alarm systems and smoke detectors (*see* CPSC Advisory Op. No. 181 (1975); CPSC Advisory Op. No. 254 (1977)). Even escalators and elevators fall within CPSC's jurisdiction. CPSC Advisory Op. No. 262 (1978); CPSC Advisory Op. No. 182 (1973). Like fire sprinklers, these products are often installed by builders and/or contractors during initial construction or otherwise. Yet they, like fire sprinklers, are "consumer products."

2. Omega Sprinklers are Distinct Articles Used in Other than Initial Building Construction

Respondents attempt to 'back into' *Anaconda* by arguing that products used in construction of a building are not consumer products, because buildings are not consumer products. *See* Respondents' Reply at 5. As demonstrated above, Respondents' premise is invalid. Moreover, the evidence does not support Respondents' claim that fire sprinklers are

"a fixed and integral part of a building's basic structure and are incorporated into the building's fundamental structure as constructed." Respondents' Reply at 5. First, Respondents ignore the thousands of sprinklers they have provided to building owners and operators as replacements for Omegas that have failed in testing. These replacements were clearly not "incorporated into the building's fundamental structure as constructed."

Respondents also ignore the multitudes of existing buildings that have been retrofitted with sprinklers pursuant to numerous sprinkler retrofit ordinances now in effect across the country. *See* Virginia Statewide Fire Prevention Code § 108.0, Virginia Uniform Statewide Building Code, Vol. II (1993), attached hereto as Exhibit A; City of Louisville, Ky. Code of Ordinances § 95.85 (1995), attached hereto as Exhibit B; City of Los Angeles Uniform Building Code, Vol. I, § 8604.6.4 (1996), attached hereto as Exhibit C; City of Scottsdale, Az. Uniform Fire Code § 1003.2.13 (1997), attached hereto as Exhibit D; San Francisco, Ca. Building Code § 1746(a) (1993), attached hereto as Exhibit E; Louisiana Revised Statutes § 40:1641, *et seq.* (1992), attached hereto as Exhibit F; City of Glendale, Ca. Building and Safety Code § 1003.2.9 (1998), attached hereto as Exhibit G.³ These retrofits are often constructed using exposed piping and, like replacements, are not a "fixed and integral part of a building's basic structure . . . incorporated into the building's fundamental structure as constructed." *See* Respondents' Reply at 5. The Kent Manor Inn in Stevensville, Maryland, one of the sites in which an Omega sprinkler failed to activate in a fire, is a 170-year-old building that was retrofitted with sprinklers in 1987. *See* Affidavit of Donna B. Towers and

³ Violations of such ordinances carry heavy penalties, including fines and/or imprisonment. *See id.*

Office of the Maryland State Fire Marshal Investigation Report re: fire at Kent Manor Inn on October 27, 1997, attached hereto as Exhibit H. Like other retrofits and replacements, the Kent Manor Inn, which suffered an estimated \$50,000 in property damage as a result of an Omega failure, *see id.*, is clear evidence against Respondents' claim that sprinklers exist only as components of new construction.

Sprinklers are distinct "articles" of commerce. That they are incorporated or installed in buildings, and when such installation or incorporation takes place, is irrelevant for purposes of CPSC jurisdiction.

B. By Respondents' Own Admissions, Omegas are Consumer Products

Forgetting that the statutory definition of "consumer product" includes articles produced or distributed for the "personal use, consumption or enjoyment" of the consumer, Respondents argued in their initial Motion that use of a product by consumers is absolutely necessary for the product to qualify as a "consumer product." *See* Respondents' Memorandum at 7; 10. Respondents further argued that use "must be understood as requiring some sort of active consumer interaction with the product," such as turning the sprinkler on and off, controlling it, activating it, holding it, occupying it, etc. *See* Respondents' Memorandum at 11.

In their Reply, Respondents acknowledge that "use" and "control" are unnecessary, and that consumer "enjoyment" or "availment" of a product is enough to bring a product within the Commission's jurisdiction. Respondents' Reply at 7. To "avail oneself of" something, according to the dictionary definition, is to "take advantage of" it. Webster's New World Dictionary (3d College ed. 1988). Consumers clearly avail themselves and take

advantage of fire sprinklers, relying on them to serve as the first line of defense in a fire. See Affidavit of Francis J. Teevan, attached as Exhibit A to Complaint Counsel's Opposition. Consumers "avail" themselves of fire sprinklers in exactly the same way that they "avail" themselves of smoke detectors and fire alarms -- two products that Respondents concede are "consumer products" within CPSC's jurisdiction. Respondents' Memorandum at 6. By Respondents' own admissions, Omega sprinklers are consumer products.

C. CPSC has Jurisdiction Over Fire Sprinklers Regardless of any State, Local or Other Codes that may Address Fire Safety and/or Installation of Sprinkler Systems

Respondents argue in their Reply that building construction is already extensively regulated by local jurisdictions. Respondents' Reply at 10. Respondents further claim that "without a clear statement that Congress intended the Act to displace that entire body of regulatory codes, the [Consumer Product Safety] Act cannot, and should not, be so broadly construed." *Id.* Respondents' argument fails on several grounds.

1. There is No Conflict Between State Law and CPSC Jurisdiction over Fire Sprinklers

Even if building construction is already extensively regulated by state and local authorities, the safety and efficacy of fire sprinklers is not. A review of NFPA 13, the model code which Respondents note "details virtually every aspect of implementing the codes' fire safety provisions," clearly demonstrates this. NFPA 13 is titled "Installation of Sprinkler Systems." See NFPA 13, 1996 Ed. (emphasis added), attached as Exhibit B to Respondents' Motion for Leave to File Reply. NFPA 13 regulates sprinkler system construction, design and installation. Although it discusses sprinkler installation, it provides no guidance on, and

in fact makes absolutely no mention of, sprinklers that do not and will not function.⁴ NFPA 13 assumes that the sprinklers being put into the systems it regulates actually work.

Nowhere in NFPA 13 or any other local or state code is there anything that would conflict with a CPSC mandate that defective sprinklers not be used in sprinkler systems. If anything, the goals of local and state authorities are aligned with those of CPSC in this matter. There is no conflict between state and federal law such that a preemption or federalism issue even comes into play.⁵

2. Congress Intended for CPSC to Dominate the Field of Defective Consumer Products

Furthermore, even if there were state and local regulation of safety and efficacy of fire sprinklers, Congress has clearly stated its intent that CPSC requirements preempt state regulation of consumer products. Congress' primary goals in establishing the CPSC -- "to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations," *see* H. R. 158, 97th Cong., 1st Sess., 390 (1981), have been cited by

⁴ Section 2-2.1, beginning on page 13-10, requires that "only new sprinklers shall be installed." Section 2-2.2 discusses the "k factor" (relating to flow characteristics), and Section 2-2.3 discusses which sprinklers may be used in which occupancy classifications. Section 2-2.4 discusses temperature ratings of automatic fire sprinklers, and requires that sprinklers have their frame arms colored according to their temperature ratings. Section 2-2.5 requires that only sprinklers listed as "corrosion-resistant" be installed in locations where corrosion can exist. Section 2-2.6 discusses escutcheon plates (which surround the sprinkler head), and requires that they be part of a listed sprinkler assembly where used with a recessed or flush-type sprinklers. Section 2-2.8 requires all locations to maintain a supply of spare sprinklers in a cabinet on the premises. Chapter 4 of NFPA 13 discusses installation requirements, and indicates how far apart sprinklers may be positioned, where sprinklers are and are not required, and which type of sprinkler may be installed in which type of occupancy (and with which type of system or ceiling). *See* NFPA 13, p. 13-27, *et seq.*

⁵ As discussed in Complaint Counsel's Opposition, the same is true of the OSHA regulations regarding workplace safety.

numerous courts that have unanimously rejected federalism arguments. *See, e.g., Butcher v. Robertshaw Controls Co.*, 550 F. Supp. 692, 700 (D. Md. 1981) (rejecting federalism argument on the ground that Congress made express finding that "control by State and local governments of unreasonable risks of injury associated with consumer products is inadequate and may be burdensome to manufacturers . . ." and that "regulation of consumer products . . . is necessary to carry out [the protection of the public against said unreasonable risks of injury]"); *Kaiser Alum. & Chem. Corp. v. Consumer Prod. Safety Comm'n*, 574 F.2d 178, 181 (3d Cir.), *cert. denied*, 439 U.S. 881 (1978) (holding that although local building codes continue to play a role in regulating installation and use of consumer products such as electric, gas, or plumbing appliances, design and performance standards for components are now a matter of national concern).⁶ The Consumer Product Safety Act itself provides that:

Whenever a consumer product safety standard under this Act is in effect and applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.

15 U.S.C. § 2075(a) (1997). As such, even if local and state building codes regulate sprinkler system design and installation, the safety and efficacy of sprinklers is still within the Commission's authority.

⁶ Despite arguing that *Kaiser* is "poorly-reasoned," *see* Respondents' Reply at 8, Respondents cite to and rely on *Kaiser* to support their arguments. *See* Respondents' Memorandum at 12, n. 4.

Based on the foregoing, it is clear that the Commission has jurisdiction over Omega sprinklers. Omegas are articles customarily produced or distributed for use or consumption by, or enjoyment of, consumers in or around households, residences, schools, recreational facilities or otherwise. No other standards, regulations or codes negate this jurisdiction.

III. THE COMPLAINT AND LIST AND SUMMARY OF DOCUMENTARY EVIDENCE ARE SUFFICIENT TO PROVIDE RESPONDENTS WITH AN UNDERSTANDING OF THE ALLEGATIONS AGAINST THEM

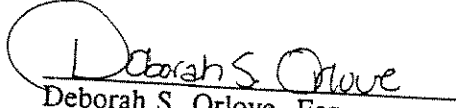
Respondents argue that the Complaint and List and Summary of Documentary Evidence do not provide them with sufficient information to understand the allegations against them. Having already responded to these arguments, Complaint Counsel now adds only that a perusal of Respondents' 148 Interrogatories and 71 Requests for Production to Complaint Counsel clearly demonstrate that Respondents know and understand the allegations against them. The over 2000 pages of documents provided by Complaint Counsel in response to Respondents' discovery requests in the last week are sufficient to provide Respondents with the documentary evidence supporting Complaint Counsel's allegations. The issues Respondents raise regarding sufficiency of the Complaint and List and Summary of Documentary Evidence are not only unsupported, they are moot.

IV. CONCLUSION

Based on the foregoing, the Commission has jurisdiction over Omega fire sprinklers, and the Complaint and List and Summary of Documentary Evidence meet all applicable requirements. Complaint Counsel respectfully requests that Respondents' Motion to Dismiss be denied.

Dated: May 4, 1998

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date, Complaint Counsel's SURREPLY IN OPPOSITION TO RESPONDENTS' MOTION TO DISMISS was deposited in the United States Mail, via certified delivery, postage pre-paid, addressed to the following:

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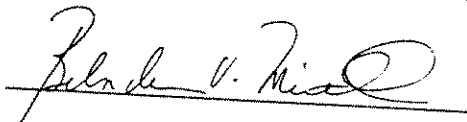
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A copy was also served on the Presiding Officer pursuant to 16 C.F.R. § 1025.16 at:

The Honorable William B. Moran
Office of the Administrative Law Judges
Environmental Protection Agency
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Dated: 5/4/98

EXHIBIT A

10/10/10

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1993 Edition
Effective April 1, 1994



**Virginia
Statewide Fire
Prevention Code**

**Virginia
Uniform Statewide
Building Code
VOLUME II**



COMMONWEALTH OF VIRGINIA
BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

SECTION 107.0.
DEMOLITION OF BUILDINGS.

107.1. **Procedures for demolition:** Whenever a building is to be demolished pursuant to any provision of this code, the work shall be carried out in compliance with the requirements of Volume I of the USBC.

SECTION 108.0. SPECIAL PROVISIONS.

108.1. **General:** The provisions of this section contain requirements for improving the safety of certain buildings by requiring the installation of materials or equipment not originally required. Unless otherwise noted, these provisions shall apply equally to both pre- and post-USBC buildings.

108.2. **Hotels and motels:** Existing hotels and motels shall comply with the provisions of this section.

108.2.1. **Fire sprinkler system:** An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment (effective date March 1, 1990), for Use Group R-1, shall be installed throughout existing hotels and motels by either March 1, 1997, or within seven years of the date upon which an adequate water supply is made available to meet the needs of the suppression system, whichever is later.

Exceptions:

1. Hotels and motels that are equipped throughout with an automatic sprinkler system.
2. Hotels and motels which are three stories or less in height.

108.2.2. **Single and multiple station smoke detectors:** Single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group R-1, shall be installed in existing hotels and motels.

Exception: Hotels and motels that are equipped throughout with single and

multiple station smoke detectors.

108.3. **Nursing homes and nursing facilities:** Existing nursing homes and nursing facilities licensed by the Virginia Department of Health shall comply with the provisions of this section.

108.3.1. **Automatic sprinkler system:** An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment (effective date October 1, 1990), for Use Group I-2, shall be installed in existing nursing homes and nursing facilities, as follows:

1. NFIPA 13D Standard for one story buildings.
2. NFIPA 13R Standard for buildings two or three stories in height.
3. NFIPA 13 Standard for buildings four or more stories in height.

Exceptions:

1. Nursing homes and nursing facilities which are equipped throughout with an automatic sprinkler system.
2. Nursing facilities consisting of certified long-term care beds located on the ground floor of general hospitals.

108.3.1.1. **Quick response sprinklers:** Quick response sprinklers shall be installed in patient sleeping rooms of buildings subject to Section 108.3.1.

108.3.1.2. **Exceptions provided for:** Buildings equipped throughout with an automatic fire sprinkler system meeting the requirements of NFIPA 13 shall be permitted to use the exceptions provided in the USBC, Volume I, 1987 Edition, Third Amendment including, but not limited to, the following:

1. Section 502.3 (Area Increase)
2. Section 503.1 (Height Increase)
3. Section 610 (Use Group I-2 Areas)
4. Section 807 (Types and Location of Means of Egress)

5. Section 808 (Capacity of Egress Components)
6. Section 809 (Number of Exits)
7. Section 810 (Exit Access Passageways and Corridors)
8. Section 921 (Firestopping and Draftstopping)]

108.3.2. Fire protective signaling system: A fire protective signaling system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

Exception: Nursing homes and nursing facilities that are equipped throughout with an automatic fire protective signaling system.

108.3.3. Fire detection system: An automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

108.3.3.1. Fire detection system in existing sprinklered facilities: Nursing homes and nursing facilities that are exempt from Section 108.3.1 because of an existing automatic sprinkler system shall install a fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group I-2.

108.4. Homes for Adults: Existing Homes for Adults licensed by the Virginia Department of Social Services shall comply with this section.

108.4.1. Fire protective signaling system and fire detection system: A fire protective signaling system and an automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with a fire protective signaling system and an automatic fire

detection system.

108.4.2. Single and multiple station smoke detectors: Battery or AC-powered single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for adults that are equipped throughout with single and multiple station smoke detectors.

108.5. Identification of handicapped parking spaces: All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with the bottom edge no lower than four feet nor higher than seven feet above the parking surface. Such signs shall be installed in accordance with applicable provisions of the current edition of Volume I of the USBC.

108.6. Family day homes: Family Day Homes as defined in § 63.1-195 of the Code of Virginia shall be provided with at least one exterior exit door from each floor used for the care of children.

NOTE: As of this printing, the above section was suspended by the BHCD.

EXHIBIT B

CHAPTER 95: FIRE PREVENTION

subchapter. Such rules, regulations and procedures shall be effective when promulgated, and within ten days of promulgation shall be submitted to the Board of Aldermen for their approval.

(4) At least 15 days before the scheduled date of the dance hall event, an application for a dance hall event permit must be filed with the Fire Chief or his designee. Standard dance hall event: When the dance hall event is part of a series of scheduled events, occurring at least twice within a weekly period, all of which features the same activity, only one application may be required to cover the entire series. This application shall cover a period of 365 days from the occurrence of the first event within the series. At that point a new application must be filed.

(5) Such application shall be accompanied with the application fee of \$25 and such information, floor plan, details of security, and the like as may be required by the Fire Chief or his designee.

(6) The Fire Chief or his designee shall forward a copy of each application and permit to the Director of Safety for coordination with police and emergency medical personnel. (Ord. 106-1988, approved 4-15-88) Penalty, see § 95.99

§ 95.71 NEGLIGENCE; NONCOMPLIANCE.

In the event of an emergency at a dance hall event from any willful omission or neglect to comply with any provision or condition of a permit or from violation of any of the ordinances pertaining to public assembly, then the person or persons promoting such dance hall event shall reimburse the city for any cost incurred in the assignment of city personnel or equipment to alleviate the emergency. The cost shall be determined by the Director of Safety and shall be collected by civil action. (Ord. 106-1988, approved 4-15-88)

AUTOMATIC FIRE SPRINKLER SYSTEMS
IN EXISTING HIGH-RISE BUILDINGS

§ 95.85 PURPOSE.

(A) The following provisions will require all existing high-rise buildings in the city having floors used for human occupancy located more than 75 feet above the lowest level of Fire Department vehicle access to be equipped throughout with an automatic fire sprinkler system within the time limits set out in § 95.92.

(B) The purpose of this subchapter is to provide a reasonable degree of protection for life and property from fire in high-rise buildings. (Ord. 123-1993, approved 6-25-93)

§ 95.86 INSTALLATION; EXEMPTIONS.

(A) An automatic fire sprinkler system shall be installed throughout all existing high-rise buildings having floors used for human occupancy located more than 75 feet above the lowest level of Fire Department vehicle access.

(B) Exempted from this requirement are the following:

- (1) Airport control towers
- (2) Open parking structures

CHAPTER 95: FIRE PREVENTION§ 95.90 MODIFICATIONS.

When there are practical difficulties involved in complying with the time frames of this subchapter, the Fire Chief of the Division of Fire is permitted to vary or modify such time frames upon application of the owner's representative, provided that the spirit and intent of the law is observed and public welfare and safety are assured. (Ord. 123-1993, approved 8-25-93)

§ 95.91 RIGHT TO APPEAL.

(A) Any party to a decision by the Department of Inspections, Permits and Licenses may appeal that decision to the local building code appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within 60 days of receipt.

(B) All parties to the appeal shall be notified of the time and place of the hearing by letter sent by certified mail no later than ten days prior to the date of the hearing.

(C) The local appeals board shall render a decision within 30 working days after the hearing. The board may uphold, amend or reverse the decision of the local building code official. (Ord. 123-1993, approved 6-25-93)

§ 95.92 TIME LIMITS.

(A) Time limits for the installation of automatic fire sprinkler systems, in all high-rise buildings (with exception of high-rise, owner-occupied, residential condominiums classified as such as of January 1, 1993), shall be as follows:

(1) By July 1, 1997, approved water supply shall be installed to all floors of the building. Also all lobby floors and below grade levels shall have installed and operational full automatic sprinkler system protection.

(2) By July 1, 1999, a minimum of 25% of the remaining unsprinklered square footage of the building shall have installed and operational full automatic sprinkler system protection.

(3) By July 1, 2001, a minimum of 50% of the remaining square footage of the building shall have installed and operational full automatic sprinkler system protection.

(4) By July 1, 2003, a minimum of 75% of the remaining square footage of the building shall have installed and operational full automatic sprinkler system protection.

(5) By July 1, 2005, total square footage of the building shall have completed, approved, operational automatic sprinkler system protection.

(B) Time limits for the installation of automatic fire sprinkler systems in high-rise, owner-occupied, residential condominiums shall be as follows:

(1) By July 1, 1997, approved water supply shall be installed to all floors of the building. Also, all lobby floors and below grade areas shall have installed and operational full automatic fire sprinkler protection.

CHAPTER 95: FIRE PREVENTION

(2) By July 1, 1999, with the exception of individual living units, a minimum of 25% of the remaining square footage of all hallways, stairways and other common areas shall have installed and operational full automatic sprinkler system protection.

(3) By July 1, 2001, with the exception of individual living units, a minimum of 50% of the remaining square footage of all hallways, stairways and other common areas shall have installed and operational full automatic sprinkler system protection.

(4) By July 1, 2003, with the exception of individual living units, a minimum of 75% of the remaining square footage of all hallways, stairways and other common areas shall have installed and operational full automatic sprinkler system protection.

(5) By July 1, 2005, with the exception of individual living units, total remaining square footage of the building shall have complete, approved operational full automatic sprinkler system protection. (Ord. 123-1993, approved 6-25-93)

§ 95.99: PENALTY.

(A) Any person who violates any provision of this chapter or any provision of a lawful order, rule or regulation made under the provisions of this chapter, or who induces another to violate any provisions of this chapter or of any lawful order, rule or regulation made thereunder, upon conviction thereof shall be fined not less than \$25 nor more than \$1,000, or imprisonment for not more than 60 days, or both. Each day such violations exist shall, in the discretion of the courts, be considered as a separate offense.

(B) The imposition of the penalties herein described shall not prevent the Chief of Fire on behalf of the city, from pursuing other administrative and legal measures to enforce the provisions of Chapter 95. Such measures may include but not be limited to actions to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a building, structure or premises; or to stop an illegal act, conduct of business or use of a building or structure on or about any premises; or to otherwise protect the lives and property of the residents of the city. (Ord. 20-1992, approved 2-11-93)

EXHIBIT C

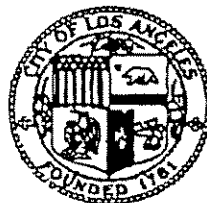
UNIFORM BUILDING CODE™

Volume 1
1994 EDITION



CITY OF LOS ANGELES

CITY OF LOS ANGELES 1996 AMENDMENTS



pair Order directing the owner to repair and modify the building so as to conform to those minimum requirements. The Department of Building and Safety shall serve the order either personally or by certified or registered mail, upon the owner as shown on the last equalized assessment roll and may serve the order upon the person, if any, in real or apparent charge or control of the building.

The order shall specify the manner in which the building fails to meet the minimum requirements of either Section 8604.2, 8604.3, 8604.4 or 8604.5. The order shall direct the owner of the building to submit plans, obtain the necessary permits and complete the necessary corrections.

8604.1.1.2 Whenever, pursuant to Section 57.01.22 of the Los Angeles Municipal Code, the fire department determines by inspection that a building does not conform to the minimum requirements of Section 8604.6, it shall prepare a written Fire/Life Safety Order directing the owner to repair and modify the building so as to conform to the minimum requirements of Section 8604.6.

The order shall specify the manner in which the building fails to meet the minimum requirements of Section 8604.6. The order shall direct the owner of the building to submit plans, obtain necessary permits and complete the necessary corrections.

The order shall be transmitted to the Department of Building and Safety for service, recordation and enforcement purposes. The Department of Building and Safety shall serve the order, either personally or by certified or registered mail, upon the owner as shown on the last equalized assessment roll and may serve the person, if any, in real or apparent charge or control of the building. The provisions of this section are not intended to prevent the Department of Building and Safety from also making a determination or issuing an order regarding failure to comply with Section 8604.6.

8604.1.2 Time for Compliance.

8604.1.2.1 Whenever the Department of Building and Safety serves a Fire Safety Standards Repair Order pursuant to Section 8604.1.1.1, the owner of a building shall submit plans and obtain necessary permits as required in that order not later than 90 days after service of the order and shall complete necessary corrections not later than one year after service of the order for work under Section 8604.2, 8604.3, 8604.4 or 8604.5. No extension of time, either to submit plans, obtain permits or complete the necessary corrections shall be granted except by the Board of Building and Safety Commissioners upon a finding of unusual circumstances which warrant an extension.

8604.1.2.2 Whenever the Department of Building and Safety serves a Fire/Life Safety Order pursuant to Section 8604.1.1.2, the owner of a building shall:

1. Submit main system plans, which include plans for any required water storage tank, fire pump(s), riser(s), fire department connection(s) and all sprinkler riser valves for sprinkler connections on each floor;
2. Obtain necessary main system permits as required in that order not later than one year after service of the order;
3. Complete necessary corrections required by the Fire/Life Safety Order not later than three years after service of the order for work required under Section 8604.6.

EXCEPTION: For work required under Section 8604.6:

1. Elevator lobbies. The owner of a building may request an extension of time to submit plans and obtain permits for work required by Section 8604.6.6 where strict compliance with the time requirements is not practical. Such an extension of time may be granted for a two-year period and may be renewed for three additional two-year time periods provided all permits for work required by Sections 8604.6.4, 8604.6.5 and 8604.6.7 are obtained prior to the granting of this exception and all necessary permits for work required by Section 8604.6.6 are obtained not later than nine years after service of the Fire/Life Safety Order and all required corrections are completed not later than 11 years after service of the order.

2. Vacant buildings. If a building is vacant and secured from unauthorized entry, the owner of the building may apply to the Department of Building and Safety for an extension of time to comply with the requirements of Section 8604.6. Such an extension of time may be granted for a two-year period and may be renewed for three additional two-year time periods, unless to do so poses a threat to health or safety, provided all necessary permits for compliance with Section 8604.6 are obtained not later than nine years after service of the Fire/Life Safety Order and all required corrections are completed not later than 11 years after service of the order.

3. Partially occupied buildings. If a building is only occupied below the second floor and all floors from the second floor and above are vacant and secured from unauthorized entry, the owner(s) of that building may apply to the Department of Building and Safety for an extension of time to comply with the requirements of Section 8604.6, provided sprinklers are installed on the occupied floor(s) and a two-hour fire-rated separation is provided between the vacant and occupied floors. Such an extension of time may be granted for a two-year period and may be renewed for three additional two-year time periods, unless to do so poses a threat to health or safety, provided all necessary permits for compliance with Section 8604.6 are obtained not later than nine years after service of the Fire/Life Safety Order and all required corrections are completed not later than 11 years after service of the order. No vacant portion of the building may be reoccupied until the requirements of Section 8604.6 are satisfied.

4. Asbestos. If an owner of a building commits to a program of abatement of asbestos, the Department of Building and Safety may grant an extension of time to complete the work required under Section 8604.6, provided that all necessary permits are obtained and the required water storage tank, fire pumps, riser and all sprinkler riser valves for sprinkler connections on each floor are installed and operational prior to the grant of any extension.

5. Other grounds for extension. The owner of a building cited for a violation of Section 8604.6 may request an extension of time to comply with those requirements. This extension shall not be granted in addition to those extensions granted pursuant to Items 1 through 4. The owner shall submit to the department a plan of action for compliance and specify why strict compliance is not practical at the time of application. Extensions of time may be granted for a period of one year from the date of application and may be renewed for three additional one-year periods. The above-referenced plan of action shall include but is not limited to the following:

- A. A date for the submittal of plans;
- B. A date to obtain plan approval no later than nine months from the extension approval date;
- C. A date to obtain a permit for the work no more than one year from the extension approval date;
- D. A reporting system designed to provide both the fire and building and safety departments with the status of job progress by the owner of the building; and
- E. A copy to the Department of Building and Safety of an affidavit filed by the owner with the Office of the County Recorder agreeing to comply with the conditions of any granted approvals.

Subsequent extension approvals beyond the initial approval shall also be conditioned on progress of work to install sprinklers in conformance with the plan of work submitted with the approved extension of time.

Request for an extension of time under Items 1 through 5 shall be filed on an application form provided by the Department of Building and Safety and signed by the owner of the building. Applications are subject to review and action by the Department of Building and Safety with concurrence by the fire department. An extension of time may be granted only where a good faith effort to comply can be demonstrated by the applicant. Applications shall be processed according to the guidelines set forth in Section 98.0403.2 of the Los Angeles Municipal Code.

8604.1.2.3 Recordation. At the time that the Department of Building and Safety serves a Fire/Life Safety Order or Fire Safety Repair Order, the department shall file with the Office of the County Recorder a certificate stating that the building does not meet the minimum fire safety requirements of Section 8604.2, 8604.3, 8604.4, 8604.5 or 8604.6 and that the owner of the building has been so notified.

After all necessary corrective work has been performed, the Department of Building and Safety shall file with the Office of the County Recorder a certificate terminating the status of the building as nonconforming to the minimum fire safety requirements of Section 8604.2, 8604.3, 8604.4, 8604.5 or 8604.6.

8604.1.2.4 Enforcement. Notwithstanding any other provisions of this code to the contrary, it shall be unlawful for any person, firm or corporation to maintain, use or occupy any building within the scope of this section which does not meet the minimum standards specified in Section 8604.6.

Any person who fails to comply with an order issued pursuant to this section, within each of the time periods set forth in Section 8604.1.2.2, or who causes or permits another person to fail to comply with such an order, is guilty of a misdemeanor which is punishable by a fine of not more than \$1,000.00 and/or six months' imprisonment.

For purposes of this section, the phrase "any person" includes an owner, lessor, sublessor, manager or any person in control of a building subject to this section. The legal owner of a building is that

person, firm, corporation, partnership or other entity whose name or title appears in the records in the Office of the County Recorder, as well as all successors or assignees of these owners.

In addition to any other remedy available at law, if the owner or other person in charge and control of the building fails to comply with an aforementioned order within the time periods set forth in Section 8604.1, the Department of Building and Safety may order that the building be vacated and that the building remain vacated until all required corrective work has been completed. Whenever compliance with an order issued pursuant to the provision of this section has not been accomplished within 90 days after the date the building has been ordered vacated, or such additional time as may have been granted by the board, the department may order demolition of the building, in accordance with the provisions of Chapter 89 of this code.

8604.2 Commercial Buildings.

8604.2.1 Purpose. The purpose of this section is to provide a reasonable degree of fire safety for persons occupying existing commercial and industrial buildings.

8604.2.2 Scope. The provisions of this section shall apply to all existing commercial and industrial buildings more than two stories in height which do not conform to the minimum shaft enclosure and exit requirements of this code and which are not required to comply with Section 403.11 of the California Building Code for existing buildings over 75 feet (22 860 mm) in height. The provisions of this section shall not authorize the modification of existing buildings or portions thereof which provide a greater degree of protection against fire than the minimum requirements established by this section.

EXCEPTION: The requirements of this section shall not apply to buildings erected after January 1, 1943.

8604.2.3 Shaft enclosures. Every opening in a floor shall be enclosed as required by Section 711 for shaft enclosures; however, existing enclosure walls constructed of wood lath and plaster or equivalent fire-resistive materials and which are in good condition may be accepted in lieu of enclosure wall construction.

Corridor exits which are interrupted by stairwell enclosures required by this section shall be provided with exit door fire assemblies which will close automatically when activated by an approved smoke detector.

EXCEPTIONS: 1. The shaft protection required by this section may be omitted if the building is sprinkled throughout.

2. Existing metal elevator doors need not be replaced if they are in good condition. Such doors may have openings protected with wire glass.

8604.2.4 Exits. Two reasonably separated and accessible exits shall be provided from each floor.

EXCEPTION: Existing fire escapes which are in structurally sound operational condition may be used as one means of egress.

An exit signal with letters at least 6 inches (152 mm) high shall be installed in conspicuous locations at each exit from the floor and whenever otherwise required to clearly indicate the direction of egress from the area served.

8604.3 Residential Buildings.

8604.3.1 Purpose. The purpose of this section is to provide a reasonable degree of fire safety for persons living and sleeping in apartment houses, hotels, apartment hotels, and in buildings housing Group I, Division 2 Occupancies by requiring alterations to such existing buildings which do not conform to the minimum exiting, shaft enclosure and corridor protection requirements of this code.

8604.3.2 Scope. The provisions of this section shall apply to all existing buildings more than two stories in height which contain Group R, Division 1 and Group I, Division 2 Occupancies. The provisions of this section shall not authorize the modification of existing buildings or portions thereof which provide a greater degree of protection against fire than the minimum requirements established by this section.

8604.3.3 Corridor walls and openings. The walls of every public corridor shall be protected by one-hour fire-resistive construction; however, existing walls constructed of wood lath and plaster and which are in good condition will be acceptable in lieu thereof.

Transoms and openings other than doors from public corridors to guest rooms and dwelling units shall be closed and solidly covered with material which will provide the degree of fire resistiveness as shall be provided by adjacent corridor walls.

All door openings from public corridors to guest rooms and dwelling units shall provide the same degree of fire resistiveness as shall be provided by adjacent corridor walls.

EXCEPTION: Door openings from public corridors to guest rooms and dwelling units may have 20-minute protection, provided:

1. All stairways, hallways, exitways and storage or closet areas adjacent thereto are sprinklered;
2. A sprinkler head is placed inside each unit adjacent to each door opening from the public corridor to the guest room or dwelling unit; and
3. An approved self-closing device is installed on each door opening from the public corridor into the guest room or dwelling unit.

8604.3.4 Shaft enclosures. All stairwells shall be enclosed in approved shaft enclosures; however, existing enclosure walls constructed of wood lath and plaster which are in good condition will be accepted in lieu of approved shaft wall construction.

EXCEPTION: In buildings erected prior to January 1, 1943, stair shaft enclosures may be omitted if the building is sprinklered throughout and the sprinkler system is interconnected to the alarm system required under Section 8604.5 of this code.

8604.3.5 Existing conditions.

8604.3.5.1 Existing means of exit, including fire escapes, are acceptable where they exist in the required number and are maintained in good condition.

8604.3.5.2 No standpipes will be required where none exist.

8604.3.5.3 No emergency hallway illumination will be required where none exists.

8604.3.5.4 Dead-end corridors not over 20 feet (6096 mm) in length may have access to a second exit through a stair shaft enclosure.

8604.4 Fire Safety for Existing Group I, Division 2 Occupancies. Every existing Group I, Division 2 Occupancy over two stories in height which does not conform to the minimum shaft and corridor protection requirements of this code shall be made to conform to the minimum requirements as specified in Section 8604.3.

8604.5 Fire Protection Standards for Existing Group R, Division 1 Occupancies Erected Prior to January 1, 1943.

8604.5.1 Scope. The provisions of this section are in addition to those in Section 8604.3 and apply to all existing buildings three or more stories in height which contain Group R, Division 1 Occupancies and which were erected prior to January 1, 1943.

8604.5.2 Closure of doors. All required stair shaft, cutoff and area separation doors shall be equipped with approved self-closing devices and electrically operated hold-open devices designed to release the door by the activation of smoke detectors located on each side of the doorway and within 12 inches (305 mm) of the ceiling.

8604.5.3 Sprinklers. All interior stairways, hallways, exits and storage or closet areas adjacent thereto shall be provided with an approved automatic sprinkler system connected with an alarm system that emits an audible signal throughout the premises. In any room having a door opening into an interior hallway, stairway or exitway, a sprinkler head shall be located inside the room directly over the door. Sprinklers so installed shall be equipped with listed residential sprinkler heads

and may utilize polybutylene plastic pipe for laterals only. Sprinkler materials and installation shall comply with the Plumbing Code and Supplemental Rules and Regulations.

8604.5.4 Self-closing device. Each apartment or guest room door opening into an interior stairway, hallway or exit shall be equipped with an approved self-closing device.

8604.5.5 State Fire Code. Where the Group R, Division 1 Occupancy regulated by this section has floors used for human occupancy more than 75 feet (22 860 mm) above the lowest floor level having building access, the provisions of Part 2, Title 24 of the California Building Code relating to such occupancy shall apply in lieu of any less restrictive provisions set forth in this section.

8604.6 Fire Safety Standards for Existing High-rise Buildings.

8604.6.1 Purpose. The purpose of this section is to provide a reasonable degree of fire safety for persons occupying existing high-rise buildings.

8604.6.2 Scope. The provisions of this section shall apply to every existing high-rise building for which a building permit was issued prior to July 1, 1974.

EXCEPTION: The provisions of this section shall not apply to Group R, Division 1 Occupancies, as defined in Section 310.1. The provisions of this section shall not authorize the modification of existing buildings or portions thereof which provide a greater degree of protection against fire than the minimum requirements established by this section.

8604.6.3 Definition. For the purposes of this section, a high-rise building is a building of any type of construction having floors (as measured from the top of the floor surface) that may be used for human occupancy located more than 75 feet (22 860 mm) above the lowest floor level having building access.

8604.6.4 Requirements. Every building within the scope of this section shall be provided with an automatic fire sprinkler system complying with all applicable sections of the Los Angeles Municipal Code. The sprinkler system shall cover all areas of the building.

EXCEPTIONS: 1. Sprinklers need not be installed in locations expressly excepted in the Los Angeles Plumbing Code provided other approved fire-protection equipment is installed.

2. The Department of Building and Safety may review, on a case-by-case basis, buildings within the scope of this section and may approve alternative fire-protection systems which meet the intent of the high-rise sprinkler requirements.

3. The Department of Building and Safety may, with the concurrence of the fire department, grant exceptions from the requirements of Division 20 of Article 4, Chapter IX, of the Los Angeles Municipal Code as specified in Section 8604.6.5.

8604.6.5 Conditional exceptions. The following exceptions from the requirements set forth in Section 94.2001.0 of the Los Angeles Municipal Code are available upon application to the department, provided all the stated conditions are met for each category of building.

8604.6.5.1 Existing buildings 75 feet to 150 feet (22 860 mm to 45 720 mm) in height.

EXCEPTIONS: 1. Existing risers may be used when maintained in a safe and operable condition.

2. New, on-site water storage need not be provided. (When existing on-site water storage is available, it may be integrated into the fire sprinkler system.)

CONDITIONS: 1. A 3-inch (76 mm) test drain shall be provided in stair shafts where pressure-regulator valves are used. Valves, equipment and devices shall conform to Los Angeles Plumbing Code requirements.

2. A single pump having a minimum capacity of 750 gallons per minute (gpm) (2839 L/m) shall be provided. (Diesel pumps shall have a four-hour fuel supply.)

3. There shall be a flow of 750 gpm (2839 L/m) at 65 psi (448 kPa) at the roof and the sprinkler system design shall meet code requirements.

4. Existing sprinkler systems, existing or new standpipe systems, and existing or new sprinkler risers shall be interconnected at the base of the riser system with a minimum of one fire department connection.

5. Emergency standby electrical power with a four-hour fuel supply shall be provided for fire pumps and the following new installations: fire-protective signaling systems, emergency exit lighting, and exit and directional signs.

EXHIBIT D

ORDINANCE NO. 3100

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING ARTICLE II OF CHAPTER 36, RELATING TO FIRE PREVENTION AND PROTECTION, REPEALING THE ADOPTION OF THE UNIFORM FIRE CODE, 1994 EDITION AND RELATED STANDARDS AND AMENDMENT AND ADOPTING THE 1997 UNIFORM FIRE CODE VOLUME 1, 2, APPENDICES, AND AMENDMENTS TO IT.

BE IT ORDAINED by the Council of the City of Scottsdale, Arizona, as follows:

Sec. 36-16. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief means the chief of the fire department.

Duly authorized agent shall mean an individual employed by Rural/Metro Fire Department who has been appointed by the fire chief, in writing, to have the authority to issue civil fire code violations. Such authorization shall be filed with the City Clerk.

Fire department means the Rural/Metro Fire Department or, in the event that the city shall provide its own fire protection service, that organization.

Hillside landform area, is defined as any parcel of land or portion thereof with surface slope that can easily exceed 15%. Where major collection streets have a maximum grade of 9%, and minor and local collector streets have a maximum grade 12%, and local residential streets have a maximum grade of 15%.

NICET means the national Institute for the Certification of Engineering Technologies, 1420 King Street, Alexander, VA. 22314-2915.

Uniform Fire Code means the Uniform Fire Code, 1997 Edition.

Uniform traffic complaint shall mean the form approved by the State Supreme Court in their Rules of Procedure in Civil Traffic Violation cases.

"1003.2.11 Group S occupancies."

"1003.2.11.1 General. An automatic sprinkler system shall be installed throughout all Group S occupancies in accordance with section 1003.1.2 through 1003.2.2, 1003.2.3 and written city Fire Department Standards."

"1003.2.12 Group U occupancies."

"1003.2.12.1 General. An automatic sprinkler system shall be installed throughout all Group U occupancies in accordance with section 1003.1.2 through 1003.2.2, 1003.2.3 and written city Fire Department Standards."

"1003.2.13 Additions, alterations and repairs."

"1003.2.13.1 General. When additions, alterations or repairs within a twelve-month period exceed fifty (50) percent of the value of an existing building or structure, such building or structure shall be made to conform to the requirements for new buildings or structures."

"Exception: Such building or structures shall be equipped with an approved fire sprinkler system when work exceeds ten (10) percent of the value of an existing building of assembly use or twenty-five (25) percent of the value of an existing building or structure of other occupancies."

"1003.2.13.2 Partial systems prohibited. In all new additions to existing buildings and structures an automatic sprinkler system shall be installed in accordance with this section. There shall be no partially sprinklered compartments. Sprinklered and unsprinklered parts of a structure shall be separated in accordance with all applicable codes and standards."

"Exception: Structures in existing R-3 developed parcels which contain existing non-sprinklered requirements (i.e. seven-hundred foot (213,360mm) hydrant spacing.)"

"1003.2.13.3 Furring, or other means of altering or modifying room sizes for the purpose of deleting fire sprinklers from compartments such as closets is prohibited without resubmittal of building plans thru building department review."

Section 1004 subsections, 1004.1.1, 1004.2, and 1004.5 are amended to read:

"1004.1.1 General. Standpipes shall comply with the requirements of this section, written city Fire Department Standards and U.B.C. Standards."

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EXHIBIT E

(Automatic Sprinkler Systems - Existing High-Rise Buildings)
1 AMENDING PART II, CHAPTER 1, OF THE SAN FRANCISCO MUNICIPAL CODE
2 (BUILDING CODE) BY AMENDING SECTION 1746 TO REQUIRE INSTALLATION
3 OF AUTOMATIC SPRINKLER SYSTEMS IN EXISTING HIGH-RISE BUILDINGS
4 EXCEPT FOR APARTMENT BUILDINGS, RESIDENTIAL HOTELS, AND MIXED-USE
5 BUILDINGS CONTAINING AN R-1 OCCUPANCY/ EXCEPTIVE DATE.

NOTE: Additions or substitutions are underlined;
deletions are indicated by ((double parentheses))).

6
7
8
9
10 Be it ordained by the People of the City and County of San
11 Francisco:

12
13 Section 1, Part II, Chapter 1, of the San Francisco Municipal
14 Code (Building Code) is hereby amended by amending Section 1746
15 thereof to read as follows:

16
17 Automatic Sprinkler Systems - Existing High-rise Buildings

18
19 Sec. 1746. (a) General. Regardless of any other provisions
20 of these regulations, every existing high-rise building ((of Type
21 II-N, Type III-N or Type V-N construction)) as defined in Section
22 1711 shall be provided with an approved sprinkler system
23 conforming to ((NFPA 13)) Chapter 2E. Existing high-rise
24 buildings that are also qualified historical buildings as defined
25 in California Health and Safety Code Section 10350 shall be

Supervisors Balch, Shelley, Sierman
FOUNT OF SUPERVISORS

1 provided with an approved automatic fire sprinkler system than
2 and as required by the State Historical Building Code and need
3 not comply with this section.

4 EXCEPTION: 1. An apartment house, condominium or other
5 building used for "R-1" occupancy as defined in this Code,
6 excluding tourist hotels as defined in Section 17.1(c) of the

7 Francisco Administrative Code.

8 2. A mixed-use occupancy building containing an R-1
9 occupancy.

10 The following additional requirements shall also apply

11
12
13 1. A sprinkler control valve and a waterflow detection
14 device shall be provided at the lateral connection to the riser
15 for each floor.

16 2. A separate and distinct supervisory signal shall be
17 provided to indicate a condition that will isolate the
18 waterfactory operation of the sprinkler system. This shall

19 include, but not be limited to, monitor control valves, fire
20 pump power supplies, and pump running conditions. Such

21 supervisory signals shall be annunciated at a constantly attended
22 building security control center. When that location is not so

23 constant supervision by qualified personnel, the signal shall
24 transmitted to a remote monitoring station in accordance with

25 NFPA 72, NFPA 72C, or NFPA 71.

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1. The minimum water supply requirement for the sprinkler system shall be determined without regard to inside hose stream demand.

4. Existing standpipes may be converted to riserless risers, provided that they are hydraulically tested for 2 hours at not less than 20 psi in excess of the minimum pressure to be maintained in the system.

5. Additional hosepipe, braces, or other attachments for support of existing standpipes which have been converted in accordance with Exception 4 shall be provided if they are necessary to meet the requirements of NFPA 13. The installation of additional riserless risers in such risers is not required.

6. Any type pipe which has been listed by an approved testing agency for use in automatic sprinkler installations may be used when installed in accordance with the listing limitations.

(b) Permissible notations. The following features required in new high-rise buildings are not required in systems installed under the provisions of this Section:

- 1. Redundant fire pump
- 2. Secondary on-site supply of water

2. More than one fire department connection
4. Connection of the system to two risers on each floor.
Hydraulic calculations may consider all risers in service.

3. In an 8-1 occupancy building, risers shall be in bathrooms and closets.

See Section 2804 for additional permissible riserless risers.

(c) Effective Date. The effective date of this ordinance shall be February 12, 1994.

(d) Notification. Not later than 60 days after the effective date of this ordinance, the Superintendent shall notify in writing by certified mail the owner of such building within the scope of this Section. The notice shall contain a copy of this Section, a commentary on it, and a notice of intent form. The notice of intent shall be designed to elicit information regarding proposed water supply connections, pumps, risers, and existing partial riserless systems. The notice of intent shall include a tentative schedule for phasing the installation of the complete riserless system.

If a building within the scope of this Section is not discovered by the Superintendent until after the deadline for notification, the building owner shall be notified within 30 days of such discovery.

Failure to receive notification does not exempt a building owner from compliance with this section.

(a) Authority of Superintendent. For the purpose of applying the provisions of this section, the Superintendent, in consultation with the chief of the Division of Fire Prevention and Investigation, shall have the authority to be flexible in the event of extenuating circumstances that may exist in an individual case and to do the following but only when it is clearly evident that a reasonable degree of fire safety consistent with the public interest is provided:

1. Consider alternate protection based on nationally recognized standards, disciplines and tests, and generally recognized and well-established methods of fire protection;
2. Waive specific individual requirements if it can be shown that such requirements are not physically possible, require disproportionate effort, or pose an undue hardship with little increase in life safety and that a practical alternative cannot be provided; and

3. Grant necessary extensions of time when it can be shown that the specified time periods are not physically practical or pose an undue hardship. The granting of an extension of time

Board of Supervisors
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for compliance shall be based on the showing of good cause and subject to the filing of an accessible, systematic, progressive plan of correction with the Superintendent.

(1) Appeal Board of Examiners - Mechanical Contractors. There is hereby created a board of examiners ("Board") consisting of nine (9) members. The Board shall have and determine appeals concerning the application of the requirements of this section filed by the owner or the authorized agent of the owner of a building subject to the provisions of this section.

Six of the members of the board shall be the same persons and with the same terms as those appointed to the Board of Examiners pursuant to Section 104 of this Code. One member of the Board shall be a licensed plumber contractor, and shall be the same person and with the same term as the plumber contractor member of the Board of Examiners - Plumbers appointed pursuant to Section 10.11 of the San Francisco Plumbing Code. The two additional members of the Board shall be a registered fire protection engineer and a representative of owners of buildings subject to the requirements of this section, and shall be appointed by the Director of Public Works pursuant to the provisions of Section 204 of this Code. The following shall constitute ex-officio members of the Board, without vote and without compensation: The Chief of the Bureau of Fire.

Board of Supervisors
SUPERVISOR HAIEN

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1 Prevention and Investigation, and the Superintendent of the
2 Bureau of Building Inspection who shall act as Secretary of the
3 Board.

4 To the extent they reasonably apply, the procedures set
5 forth in Section 304 of this Code shall govern the proceedings
6 of the Board.

7
8 (a) Implementation. The requirements stated in Paragraph
9 (a) above shall be accomplished by the following steps. Failure
10 to complete any step within the required time frame is a
11 violation of this Code, and the Superintendent shall have the
12 power to abate the building in accordance with Section 301.

13
14 Item 1. Notice of Intent. The owner shall submit a
15 request completed, Bureau-provided, Notice of Intent to the
16 Superintendent not later than three years after the effective
17 date of this ordinance.

18 EXCEPTION: No Notice of Intent is required if an
19 approved sprinkler system is completed prior to the
20 deadline above.

21
22 Item 2. Water supply. The owner shall install the system
23 clear, including floor-control valves, and shall connect it to
24 an approved automatic water supply not later than five years
25 after the effective date of this ordinance. For purposes of

HOUSE OF REPRESENTATIVES

SUPERVISOR HEISEN

11/12/93

Page 7 of 8
1885

1 This paragraph, an automatic water supply shall consist of a
2 connection to the public water works system and, if required by
3 hydronic analysis, installation of a fire pump.

4
5 Item 3. Piping and Schedules. The owner shall complete
6 the sprinkler system, including required electrical modifications,
7 not later than three years after the effective date of this
8 ordinance.

9
10 APPROVED AS TO FORM:

11 LOUISE H. HEWZE
12 City Attorney

13 *Scott A. Pappas*
14 Deputy City Attorney

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23 SUPERVISOR HEISEN

11/12/93

Page 8 of 8
1885

HOUSE OF REPRESENTATIVES

1 (Automatic sprinkler systems - existing high-rise buildings)
 2 ENSURING THESE CHANGES AND PROVIDING FINISHES AS TO THE LOCAL
 3 CONDITIONS REQUIRING CHANGES FROM THE CALIFORNIA BUILDING
 4 STANDARDS CODE, AS REQUIRED BY THE CALIFORNIA HEALTH AND SAFETY
 5 CODE.
 6
 7 WHEREAS, The Board of Supervisors is enacting an amendment
 8 to the Building Code for the City and County of San Francisco; and
 9 WHEREAS, This San Francisco Building Code amendment changes
 10 or modifies the requirements contained in the California Building
 11 Standards Code by adding more stringent requirements regarding
 12 fire sprinkler protection in existing high-rise buildings; and
 13 WHEREAS, California Health and Safety Code Sections 17958.5
 14 and 17958.7 require the City to furnish reasons to the State
 15 Building Standards Commission for such modifications based upon
 16 local conditions; and
 17 WHEREAS, San Francisco is in a zone of high seismic risk;
 18 therefore, it requires additional fire safety standards
 19 particularly in high-rise buildings; and
 20 WHEREAS, Wind conditions in San Francisco are conducive to
 21 the spread of fire; and
 22 WHEREAS, San Francisco has many narrow lots, often smaller
 23 than lots in other California communities; most buildings extend
 24 the entire width of the lot and abut against neighboring
 25 buildings; these abutting buildings result in openings being

Board of Supervisors
 Supervisor Betch. Shalley, Chairman 1
 08/31/93

1 close to property lines; building and rental cost
 2 Francisco tend to more people in smaller spaces;
 3 WHEREAS, Special fire hazards exist in San
 4 result of these crowded conditions and high popul
 5 both in the City as a whole and within individual
 6 WHEREAS, San Francisco has many steep hills
 7 and sidewalks, and old, wood-frame buildings, all
 8 additional dangers to the public health, safety a
 9 unless special provisions are added to the Calif
 10 Codes; and
 11 WHEREAS, The San Francisco Fire Department
 12 size firefighting equipment than specified in the
 13 Housing Code; and
 14 WHEREAS, It is well known that sprinklers p
 15 fastest water response to a fire; and
 16 WHEREAS, The Board of Supervisors has revle
 17 set forth above for the modifications to the Cali
 18 Code, and the Board finds and determines that the
 19 are reasonably necessary based upon local conditio
 20 therefore, be it
 21 RESOLVED, That the Board of Supervisors does
 22 and determine that the aforesaid amendment to the
 23 Building Code is reasonably necessary due to local
 24 the reasons set forth above; and be it
 25 ///

Board of Supervisors
 2

1 FURTHER RESOLVED, That the Clerk of the Board of
2 Supervisors be hereby directed to transmit this Resolution
3 together with the San Francisco Building Code amendment to the
4 State Building Standards Commission for filing, pursuant to the
5 applicable provisions of law.
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BOARD OF SUPERVISORS

3

08/21/93

Adopted - Board of Supervisors, San Francisco November 15, 1993

Ayes: Supervisors Alton Bierman Conroy Helen Kaufman Kennedy
Lesli Mahler

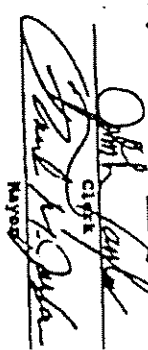
Noes: Supervisor Hallinan

Absent: Supervisors Mignon Shelley

I hereby certify that the foregoing resolution
was adopted by the Board of Supervisors
of the City and County of San Francisco

File No.
114-91-2.1

NOV 23 1993
Date Approved


Clerk
Mayor

Board of Supervisors, San Francisco

Passed for second reading

November 15, 1993

Ayes: Supervisors Alioto Blerman
Conroy Nelson Kaufman Kennedy Leal
Maber

Noes: Supervisor Hallinan

Absents: Supervisors Milden Shelleys

Finally passed

November 22, 1993

Ayes: Supervisors Alioto Blerman
Conroy Nelson Kaufman Kennedy Leal
Maber Milden Shelleys

Noes: Supervisor Hallinan

I hereby certify that the foregoing ordinance
was finally passed by the Board of Supervisors
of the City and County of San Francisco

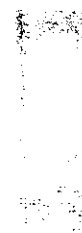
John E. Taylor
John E. Taylor
Mayor

File No:
114-91-1

DEC 2 1993
Date Approved

Paul H. Jenkins
Paul H. Jenkins
Mayor

EXHIBIT F



LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

OFFICIAL MANUAL
of the
OFFICE OF STATE FIRE MARSHAL



Contains the Statutes, Code References and Administrative Rulings of the Office of the Fire Marshal relative to the design, construction and occupancy of buildings (structures, watercraft and movables) as of September, 1992

THIS PUBLIC DOCUMENT WAS PUBLISHED AT A TOTAL COST OF \$1,432.00. FOUR HUNDRED (400) COPIES OF THIS PUBLIC DOCUMENT WERE PUBLISHED IN THIS FIRST PRINTING AT A TOTAL COST OF \$1,432.00. THE TOTAL COST OF ALL PRINTINGS OF THIS DOCUMENT INCLUDING REPRINTS IS \$1,432.00. THIS DOCUMENT WAS PUBLISHED FOR LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS, OFFICE OF FIRE MARSHAL, 5130 FLORIDA BLVD., BATON ROUGE, LA 70806 BY THE LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS, PRISON ENTERPRISES PRINT SHOP, P.O. BOX 44314, BATON ROUGE, LA 70804. TO PROVIDE CURRENT STATE RULES AND REGULATIONS GOVERNING FIRE HAZARDS AND LIFE SAFETY REQUIREMENTS TO ALL FIREFIGHTING AGENCIES WITHIN THE STATE, BUILDING OWNERS AND UPON REQUEST, ANY INTERESTED PERSON. THIS MATERIAL WAS PRINTED IN ACCORDANCE WITH THE STANDARDS FOR PRINTING BY STATE AGENCIES ESTABLISHED PURSUANT TO R.S. 43:31.

SUB-PART D-1. FIRE SPRINKLER SYSTEMS IN EXISTING BUILDINGS

40:1641. Purpose

A. The legislature hereby finds that existing high rise buildings which do not have fire protection sprinkler systems represent a serious threat to life and property. High rise building fires are particularly dangerous due to the fact that present fire fighting apparatus can only reach floor levels below seventy-five feet in height, leaving upper floors in high rise facilities vulnerable to the unchecked spread of fire, thereby endangering the occupants of those upper floor levels.

B. It is therefore the policy of this state in order to protect life and property from the hazards of fire and panic which may arise from fire or from the threat of fire in high rise buildings to require existing high rise buildings to be protected throughout by an approved fire protection sprinkler system.

40:1642. Definitions

As used in this Subpart, the following terms have these meanings:

(1) "Fire protection sprinkler system" means a system of overhead piping designed in accordance with fire protection engineering standards. The system must be supplied from a reliable, constant, and sufficient water supply such as a gravity tank, fire pump, reservoir or pressure tank, or connection by underground piping to a city main or any combination of these. The portion of the sprinkler system above ground is considered the fire protection sprinkler system for purposes of this Subpart and is a network of specially sized or hydraulically designed piping installed in a building, structure, or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area. Fire protection sprinkler system, dry-pipe systems, preaction systems, deluge systems, combined dry-pipe and preaction systems, antifreeze systems, and circulating closed loop systems, have meanings as defined and continuously revised in National Fire Protection Association Pamphlet 13, entitled Standard for the Installation of Sprinkler Systems.

(2) "Existing high rise buildings" means any building having floor surfaces used for human occupation located more than seventy-five feet above the lowest level of fire department vehicle access constructed before January 1, 1975.

~~(3) "Master plan" means a specific scheme or plan detailing the number of floors, total square footage, present occupancy and a proposed completion date or a schedule for construction date or total compliance with the requirements of this Subpart.~~

40:1643. Fire protection sprinkler system required in existing high rise buildings

A. All existing high rise buildings as defined in this Subpart shall be protected throughout by an approved fire protection sprinkler system.

B. All existing high rise buildings shall comply with the rules and regulations to be promulgated by the fire marshal in conformity with the Administrative Procedure Act, which shall establish as minimum standards the provisions of NFPA 13 as published by National Fire Protection Association, and the fire marshal shall be the authority having jurisdiction to enforce compliance with such regulations.

C. Notwithstanding any provision to the contrary, all existing high rise buildings as defined in this Subpart shall be protected throughout by an approved fire protection sprinkler system by January 1, 1999.

D. ~~The owners of existing high rise buildings which are not, as of September 1, 1988, protected throughout by an approved fire protection sprinkler system shall submit a written master plan to the state fire marshal on or before January 1, 1991, detailing with specificity a schedule for compliance with this Subpart.~~

E. Notwithstanding any other provision of law to the contrary, the state fire marshal may authorize alternative approaches for existing high-rise telephone equipment buildings occupied solely by telecommunications service providers which were not, as of September 1, 1988, protected throughout by an approved fire protection sprinkler system but which will provide an equivalent level of safety as provided by an approved automatic sprinkler system. Such alternative approaches shall be implemented on or before January 1, 1999. To obtain such approval, the telecommunications service provider shall submit a written master plan or a completed

fire safety evaluation form, as published by the National Fire Protection Association, to the state fire marshal on or before January 1, 1993. Upon receipt, such master plan or fire safety evaluation shall be evaluated by the state fire marshal to ensure that the building complies with either:

(1) The 1967 edition of the NFPA 101 (Life Safety Code). Such plan or evaluation shall also indicate that an equivalent level of safety is achieved by the proposed alternative.

(2) The compartmentation exception of Section 506 of the 1988 Standard Building Code. Such compliance shall be documented by a certificate signed by a licensed architect or civil engineer.

Suspension in Part

House Concurrent Resolution No. 23 of the 1990 Regular Session provides in part:

"WHEREAS, ACT No. 422 of the 1988 Regular Session of the Louisiana Legislature requires all existing high rise buildings over seventy-five feet in height with occupancies to be protected throughout with an approved automatic sprinkler system by the year 1999 and R.S. 40:1643(D) further requires that an implementation plan be submitted to the state fire marshal prior to January 1, 1991; and

"WHEREAS, 'business occupancies' include those occupancies used for the transaction of business, other than 'mercantile', for the keeping of accounts and records, and similar purposes as defined in NFPA 101:4-1.8; and

"WHEREAS, alternative features have not been considered that may provide an equivalent level of protection or safety for occupants within high rise buildings with business occupancies as that level of safety provided by the sprinkler protection required by Act No. 422.

"THEREFORE, BE IT RESOLVED that the Legislature of Louisiana hereby suspends the provisions of R.S. 40:1643(D), to the extent that those provisions require the submission of a written master plan to the state fire marshal for the installation of fire protection sprinkler systems in business occupancies in existing high rise buildings on or before January 1, 1991.

EXHIBIT C



as to if the valve was adjusted or not, and if so, what the
1 results were before and after adjustment; statement that by order
2 of the Chief the tag shall not be removed.

3 SECTION 108. Section 1003.1.2, Exception 3 of Volume VI of
4 the Building and Safety Code is repealed.

5 SECTION 109. Section 1003.2.1.1 of Volume VI of the Building and
6 Safety Code is added to read:

7 1003.2.1.1 New Occupancies. An automatic fire sprinkler
8 system shall be installed in all new occupancies.

9 EXCEPTION: Group B, Group F, Divisions 1 and 2, Group M, and Group S,
10 Divisions 1 and 2 occupancies less than 1000 total square feet (92.9
11 m²).

12 SECTION 110. Section 1003.2.9 of Volume VI of the Building and Safety
13 Code is added to read:

14 1003.2.9 Existing occupancies. An automatic fire
15 sprinkler system shall be installed and maintained in all existing
16 occupancies as follows:

- 17 1. Throughout existing and new sections of any existing
18 building whenever total additions result in an increase
19 of more than 1000 square feet (92.9 m²) in the total
20 floor area, including mezzanines or additional stories,
21 regardless of ownership. Additions shall be cumulative
22 with each application for building permit from the
23 effective date of Ordinance 4850 (7-20-89).

24 EXCEPTION: Group R, Division 3 occupancies.

- 25 2. Throughout existing and new sections of any existing
26 building whenever alterations exceed fifty percent (50%)
27 of the replacement value, as determined by the building
28

1 official. Alteration values shall be cumulative with
2 each application for a building permit from the
3 effective date of Ordinance 4850 (7-20-89).

4 **EXCEPTION:** Expenditures for tenant improvements, maintenance
5 and repairs such as interior and exterior painting, carpeting,
6 interior window coverings, drapes, movable partitions, surface re-
7 roofing or plumbing, mechanical and electrical repairs.

- 8 3. Throughout existing and new sections of any existing
9 building for which there is an occupancy classification
10 change to a more hazardous use, as determined by the
11 Chief.

12 **SECTION 111.** Section 1003.2.9.1 of Volume VI of the Building and
13 Safety Code is added to read:

14 1003.2.9.1 Existing High-Rise Buildings. Existing
15 high-rise buildings, as defined in Volume VI, Section 209-H of the
16 Glendale Building and Safety Code, shall have an automatic fire
17 sprinkler system installed and operational throughout within
18 forty-eight (48) months of the effective date of Ordinance 4850
19 (7-20-89).

20 **SECTION 112.** Section 1003.2.9.2 of Volume VI of the Building and
21 Safety Code is added to read:

22 1003.2.9.2 Existing Mid-Rise Buildings. Existing mid-
23 rise buildings, as defined in Volume VI, Section 214-M of the
24 Glendale Building and Safety Code, shall have an automatic fire
25 sprinkler system installed and operational throughout within sixty
26 (60) months of the effective date of Ordinance 4850 (7-20-89).

27 **SECTION 113.** Section 1003.2.9.3 of Volume VI of the Building and
28 Safety Code is added to read:

1003.2.9.3 Existing Low-Rise Building. Existing low-

rise buildings, as defined in Volume VI, Section 213-L of the
1 Glendale Building and Safety Code, shall have an automatic fire
2 sprinkler system installed and operational throughout within
3 seventy-two (72) months of the effective date of Ordinance 4850
4 (7-20-89).

5 SECTION 114. Section 1003.2.9.4 of Volume VI of the Building and
6 Safety Code is added to read:

7 1003.2.9.4 Notification, Recordation, Enforcement,
8 and Standards. Notification, recordation, enforcement and
9 standards addressed in this subsection shall be enforced by the
10 Chief to ensure compliance with Sections 1003.2.9.1, 1003.2.9.2
11 and 1003.2.9.3.

12 1. Notification. Whenever, pursuant to Section 1003.2 of
13 Volume VI of the Glendale Building and Safety Code, the Chief
14 determines by inspection, that a building does not conform to the
15 minimum requirements of Subsections 1003.2.9.1, 1003.2.9.2 or
16 1003.2.9.3 of this Code, the Chief shall prepare a fire/life
17 safety notice in writing that the building be repaired and
18 modified to conform to the minimum requirements of those
19 Subsections.

20 The notice shall specify in what manner the building fails to
21 meet the minimum requirements of Subsections, 1003.2.9.1,
22 1003.2.9.2 or 1003.2.9.3 of this Code. It shall direct that plans
23 be submitted, and that necessary permits be obtained not later
24 than one year after the service of the notice, and that necessary
25 corrections be completed not later than three years thereafter for
26 work required under Subsection 1003.2.9.1, not later than four
27 years thereafter for work required under Subsection 1003.2.9.2 a
28

not later than five years thereafter for work required under
1 Subsection 1003.2.9.3.

2 The notice shall be transmitted by the Chief for enforcement
3 purposes. The Chief shall serve the notice either personally or
4 by certified or registered mail upon the owner as shown on the
5 last equalized assessment roll and upon the person, if any, in
6 real or apparent charge or control of the building. The
7 provisions of this Section are not intended to prevent the Chief
8 from also making a determination or issuing an order regarding
9 failure to comply with Subsections 1003.2.9.1, 1003.2.9.2 or
10 1003.2.9.3 of this Code.

11 2. Recordation. At the time that the Chief serves the
12 aforementioned order or notice, the Chief shall file with the
13 Office of the County Recorder, a certificate stating that the
14 subject building does not meet the minimum fire safety
15 requirements of Subsections 1003.2.9.1, 1003.2.9.2 or 1003.2.9.3
16 of this Code and that the owner thereof has been so notified.

17 After all necessary corrective work has been performed, the
18 Chief shall file with the Office of the County Recorder, a
19 certificate terminating the status of the subject building as
20 nonconforming to the minimum fire safety requirements of
21 Subsection 1003.2.9.1, 1003.2.9.2 or 1003.2.9.3 of this Code.

22 3. Enforcement. If the owner or other person in charge and
23 control of the subject building fails to comply with the
24 aforementioned order or notice within the time periods set forth
25 in Section 1003, such person is guilty of a misdemeanor punishable
26 by a fine of not more than five hundred dollars (\$500), or by
27 imprisonment for not more than six (6) months, or by both such
28

1 fine and imprisonment. A person is guilty of a separate offense
2 each day during which he or she commits, continues or permits a
3 violation of Subsection 1003.2.9.1, 1003.2.9.2 or 1003.2.9.3 of
4 this Code.

5 The Chief shall also order that the building post a notice of
6 non-conformance. The notice shall be placed in a conspicuous area
7 of the building until all required corrective work has been
8 completed. Permits for work required under Subsections
9 1003.2.9.1, 1003.2.9.2 and 1003.2.9.3 of this Code that have not
10 been obtained prior to one year following notification will be
11 subject to a fee three times the amount of the customarily
12 required permit fee.

13 4. Standards. All automatic fire sprinkler systems
14 required by this Section, shall comply with those standards and
15 policies established by the Chief.

16 SECTION 115. Section 1003.3.1 of Volume VI of the Building and Safety
17 Code is amended to read:

18 1003.3.1 Sprinkler System Monitoring and Alarms.
19 Where required. All new and existing automatic sprinkler
20 systems shall be monitored for water flow and control valve
21 supervision by a central station, remote station or proprietary
22 monitoring station as defined by U.F.C. Standard 10-2 and shall be
23 listed by Underwriters Laboratories, Inc., and hold a valid fire
24 permit as specified under Section 105 when the number of
25 sprinklers are:

- 26 1. Twenty or more in Group I, Divisions 1.1 and 1.2
27 Occupancies.
- 28 2. One hundred or more in all other occupancies.

3. As required by the Chief for special hazards.

Exception: Local alarms may be supervised at a constantly attended location when approved by the Chief.

SECTION 116. Section 1003.4 of Volume VI of the Building and Safety Code is amended to read:

1003.4 Permissible Sprinkler Omissions. Subject to the approval of the Chief, sprinklers may be omitted in rooms or areas as follows:

1. When the application of water or flame and water to the contents may constitute a serious life or fire hazard, as in the manufacture or storage of quantities of aluminum powder, calcium carbide, calcium phosphide, metallic sodium and potassium, quicklime, magnesium powder and sodium peroxide;

2. When other automatic fire-extinguishing systems are installed to protect special hazards or occupancies.

SECTION 117. Section 1003.5 of Volume VI of the Building and Safety Code is added to read:

1003.5 Fire Protection System Valves -
Identification. All fire protection system valves shall be provided with approved custom signage of plastic or metal engraved materials which shall state the specific function of the valve and its normal position. If more than one valve controls the same function or zone, the signage shall so indicate and give the location of the other valve(s).

EXHIBIT H

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

_____))
In the Matter of))
CENTRAL SPRINKLER CORP.,))
and) CPSC DOCKET NO. 98-2
CENTRAL SPRINKLER CO.,))
Respondents))
_____)

AFFIDAVIT OF DONNA B. TOWERS

I, DONNA B. TOWERS, hereby declare, under penalty of perjury, that the following is true and correct:

1. I am employed by the Eastern Regional Office of the Office of the Maryland State Fire Marshall. My title is Office Secretary Three. I have held this position for 27 years. My business address is 315 Aurora Park Drive, Unit 2, Easton, MD 21601.
2. In my capacity as Office Secretary Three, I am the custodian of all records and reports filed with the Eastern Regional Office of the Office of the Maryland State Fire Marshall.
3. In my capacity as Office Secretary Three, I received the official Eastern Regional Office of the Office of the Maryland State Fire Marshall Investigation Report (and Supplemental Reports) of the fire which occurred on October 27, 1997, at the Kent Manor Inn, 500 Kent Manor Drive, Stevensville, MD 21666.
4. The attached report is a true and correct copy of the official Eastern Regional Office

of the Office of the Maryland State Fire Marshall Investigation Report (and Supplemental Reports) of the fire at the Kent Manor Inn, 500 Kent Manor Drive, Stevensville, MD 21666.

Date: 5-1-98

Signed: Donna B. Towers
DONNA B. TOWERS

OFFICE OF THE MARYLAND STATE FIRE MARSHAL INVESTIGATION REPORT

1. COMPLAINT CONTROL NO.
OSFM- 1 7 - 9 7 0 4 3

2. EPID # 17001 Incident # F-1297

3. Victim's Name (Firm Name If Business) Last, First, Middle
Kent Manor Inn Code V

4. Victim's Sex - Race - D.O.B.
NA

5. Victim's Residence Address City
500 Kent Manor Drive, Stevensville, Maryland 21666

6. Residence Phone
NA

7. Victim's Employer or School Attends City
NA

8. Business Phone
410-643-3757

COMPLAINANT - OTHER VICTIMS - O = OCCUPANT X = OWNER V = VICTIM (Other Than In Item #1 Above); C = COMPLAINANT; P = PARENT/GUARDIAN

9. Name (Last, First, Middle) Code Sex - Race - DOB
Meloy, David Vernon X M-W Unk.

Residence Phone Business Phone
301-309-0999 410-643-3757

Residence Address City
13009 Fox Den Road, Rockville, Maryland

10. Name (Last, First, Middle) Code Sex - Race - DOB
NA

Residence Phone Business Phone

Residence Address City

15. TIME OF ALARM:
0250

11. Crime/Incident 12. Weather 13. Date & Time Occurred 14. Day
Structure Fire cool/cloudy 10-27-97 0250 hrs. Mon.

FD ON SCENE:
0257

16. Location of Incident (Address)
500 Kent Manor Drive, Stevensville, Maryland 21666

OSFM NOTIFIED:
0312

17. Location of Incident Or Type Of Premise Co. Code Mu. Code
Hotel 17 -

OSFM ON SCENE:
0332

18. WAS THERE A WITNESS TO THE INCIDENT? No Yes

No. 1 Witness Or Neighborhood Check Last, First, Middle Sex - Race - DOB
Garrow, Dennis Doran M-W 3-12-53

Residence Phone Business Phone
412-443-4436 Unk.

Location/Address
1000 Apple Jack Drive, Gibsonia, PA 15044

Interviewed Statement Interviewed

No. 2 Witness Or Neighborhood Check Last, First, Middle Sex - Race - DOB
Cook, Robert Allen M-W 8-6-54

Residence Phone Business Phone
410-626-7541 Unk.

Location/Address
1433 Harmony Lane, Annapolis, MD 21401

Interviewed Statement Interviewed

19. SUSPECT? Named Known Known Location Identified Previously Seen Description No Yes

#1 Name (Last, First, Middle) Alias Sex - Race - DOB Height Weight Hair Eyes
NA

Address/Location Occupation/Employer CA # SS #

#2 Name (Last, First, Middle) Alias Sex - Race - DOB Height Weight Hair Eyes
NA

Address/Location Occupation/Employer CA # SS #

20. SUSPECT VEHICLE Stolen Recovered Other No

21. Vehicle Info. Color Year Make Model Body Style Reg. Yr. Reg. State Reg. No. Vin

22. SIGNIFICANT M.O., OR LIMITED OPPORTUNITY TO COMMIT THE CRIME? No

23. Mode of Operation 24. Scene Processing N/A Explain Crime Lab Crime Lab Tech
Fire originated in cooking area of hotel, Photo Fingerprinting Other Yes No NA

fire damage to kitchen area and contents, smoke damage throughout

25. WAS THERE TRACEABLE PROPERTY PHYSICAL EVIDENCE? No Yes

26. Property Insured, By Whom? Policy #
Gordon Insurance Agency Unknown

27. TYPE OF INCIDENT: Structure False Alarm Explosive Incident Injury
 Vehicle/Boat Fireworks Blasting Complaint Fatality
 Explosion Bomb Threat Other

28. REQUESTED BY:
T. Schulz
Kent Island VFD

29. DESCRIPTION OF PROPERTY DAMAGED:
three-story wood frame building

30. ESTIMATED LOSS: Structure 20,000 Contents 30,000 Other Total 50,000

31. POINT OF ORIGIN:
wheeled cart in cooking area

32. CAUSE: Incendiary Accidental Undetermined 33. USE AND OCCUPANCY:
 Single Family Multi-Family Commercial Other Occupied Unoccupied

34. PREMISES SECURED: BY WHOM: Yes No staff 35. FORCIBLE ENTRY USED: Yes No 36. WHERE/HOW: basement door/kicked 37. BY WHOM: FD

38. Assisting Agencies: OACSD, USCPSC, Fairfax Co., VA FD 39. Vehicle Identification No. NA

40. Registration No. State Year 41. Vehicle Year-Make-Body-Color(s) 42. Ignition Locked Yes No Unk 43. Keys in Ignition Yes No Unk

44. Lienholder (Name-Address-Name of Agent) 45. Doors Locked Yes No Unk 46. Windows Closed Yes No Unk Yes

47. IS THERE SOMETHING UNIQUE ABOUT THIS INCIDENT? No Yes
NARRATIVE: USE CONTINUATION SHEET FOR NARRATIVE. DETAIL ALL ADDITIONAL INFORMATION RELATING TO THE INVESTIGATION

**OFFICE OF THE
STATE FIRE MARSHAL**

SUPPLEMENT REPORT

PAGE 2 OF 4

COMPLAINT CONTROL NO.

VICTIM, COMPLAINANT, OCCUPANT OR ARRESTEE (LAST, FIRST, MIDDLE)

Kent Manor Inn

2

4

OSFM—

1

7

—

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7

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INCIDENT, OFFENSE OR CHARGE ON ORIGINAL REPORT

Structure Fire

CORRECT INCIDENT OR OFFENSE CLASS

CHANGED?

YES

MULTIPLE CLEAR-UP

YES

NO

NARRATIVE

ITEM NO.

Building:

This fire occurred in a three story wood frame building. The building was a originally constructed in 1820. The entire building was renovated in 1987. The building was retro-fitted with complete automatic sprinkler protection in 1987. This building is equipped with a local fire alarm system consisting of manual pull stations, heat detectors, smoke detectors and a/v devices. The building contains twenty four guest rooms and has no after hours staff. The building manager resides in a dwelling adjacent to the hotel.

Guest:

The hotel was occupied by four guests at the time of this fire. Guest Dennis Garrow (#18-1) and guest Robert Cook (#18-2) were interviewed by DFM Schlotterbeck at the scene on 10-27-97. Dennis Garrow and Robert Cook stated that they and their female companions were alerted to the fire by the building fire alarm system. Dennis Garrow and Robert Cook stated that they went to the rear of the building and observed smoke coming from the rear kitchen window. Dennis Garrow stated that he and Cook obtained portable fire extinguishers and attempted to extinguish the fire. According to Dennis Garrow the fire was near the window and the corner of the kitchen by the dining room. The female companions stated that they had attempted to call 911 from a cellular phone but had been cut off. The women stated that they re-entered Kent Manor Inn to call 911. The Queen Anne's County 911 center was advised only of an alarm sounding.

Queen Anne's County Sheriff's Department:

Deputies Jones, Rafter and Klotz were dispatched to the Kent Manor Inn for a 911 hang up reporting an unknown type of alarm. The Sheriff's Department units arrived at approximately 0250 hrs. to find smoke coming from the rear of the kitchen area. Deputy Rafter conducted a search of the entire building in an attempt to locate anyone remaining in the building. Deputy Klotz obtained the portable fire extinguisher from his vehicle and went to the rear of the building. Upon arrival at the rear of the structure Deputy Klotz observed fire and smoke coming from the rear kitchen window. Deputy Klotz gained access to the window and discharged the fire extinguisher knocking down the main body of fire. Deputy Jones acted to coordinate the efforts of the Sheriff's Department and the responding fire departments.

48. Date Supplemental Report Due

49. Initial Status
 Open Suspended Unfounded Closed

50. Initial Investigator

Paul A. Schlotterbeck

I.D. Number
1055

51. Date
11/4/97

52. Supervisor Status
 Agree Disagree

53. Recommended
 Suspend Investigation

54. Reviewing Supervisor

I.D. Number

55. Date

56. Investigation Supervisor
Joseph E. Furbert

I.D. No.

1033

57. Date

11/5/97

58. Assigned Investigator

59. Date

60. NCIC Entered NCIC Cleared
 Miles Entered Miles Cleared

61. Final Status (Check One)
 Open Suspended

62. Hours
16

DPSCS-SFMP 013
(REV. 7/90)

Related Report Numbers



PAGE NO.		COMPLAINT CONTROL NO.	
3	4	OSFM—	1 7 - 9 7 0 4 3

ITEM NO.

Fire Department:

This fire occurred in the first due area of the Kent Island Volunteer Fire Department. The first arriving units on the scene of this fire were Chief 1 and Engine 16. Chief Tracy Schulz assumed incident command. Second Assistant Chief Doug Thomas assumed operations at the rear of the building. Initial attack was made from the rear of the building utilizing a single 1 1/4 inch hose line. A single 3 inch line was connected to the fire department connection of the sprinkler system. The line was charged for a few seconds by Engine 16 utilizing tank water. According to Chief Schulz, the 3 inch line had not been fully charged when it was shut down. The installed fire pump was operating upon the arrival of the fire department. Second Assistant Chief Thomas stated that no problems were encountered during suppression efforts. Overhaul of the fire had begun prior to the arrival of DFM Schlotterbeck. The following equipment responded to this fire:

- Kent Island Volunteer Fire Department- Chief 1, Engine 16, Engine/Tanker 1, Rescue 1, Utility 1, and Ambulance 10
 - Grasonville Volunteer Fire Department- Truck 2, Engine/Tanker 2,
 - Queenstown Volunteer Fire Department- Engine 32, Engine/Tanker 3
 - United Communities Volunteer Fire Department- Engine 91, Engine/Tanker 9
 - Queen Anne's County Advanced Life Support
- No injuries were reported to this investigator.

Origin and Cause:

DFM Schlotterbeck was contacted by the Queen Anne's County 911 center to respond to the Kent Manor Inn for a building fire at the request of Chief Schulz. Upon arrival DFM Schlotterbeck was directed by suppression personnel to the rear of the kitchen area. Exterior examination showed only fire damage on the rear of the building. Smoke staining and some evidence of flame damage was noted at the rear window of the cooking area. Interior examination showed smoke light smoke staining in the food preparation area of the kitchen. Examination of the cooking area showed heavier smoke staining than had been noted in the food preparation area. DFM Schlotterbeck determined this area to be the area of origin. Examination showed the area of most burn to be in the area of the rear wall near a vertical cooler. According to suppression personnel a wheeled cart had been located next to the vertical cooler. The cart and its contents had been removed during overhaul operations. Examination of the cooler showed the side and rear of the cooler to have been exposed to high heat as evidenced by the melting of the outer metal covering of the cooler. The melting of the cooler case appears to have originated at approximately two feet from the floor surface. Examination of the electrical components of the cooler showed no apparent fire damage. An exhaust fan is located in the rear wall of the cooking area near the area of origin. Examination of the fan showed it to have minimal fire damage. The damage to the fan appears to be from fire exposure. The fan motor was not seized and spun freely. The wiring for the fan showed no evidence of internal heating. DFM Schlotterbeck located the wheeled cart outside of the rear of the building. Examination of the wheeled cart showed the aluminum frame to be melted starting at a point approximately two feet from the bottom of the cart. At the time of this examination it was unclear as to what was stored on the wheeled cart other than food. On 10-27-97 DFM Schlotterbeck interviewed Jamie Griffin who was in charge of the kitchen on the night prior to this fire. Jamie Griffin stated that he left the building at approximately 2100 hours on 10-26-97.

PAGE	OF	IN COMPLAINT	CONTROL	NUMBER
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NARRATIVE
ITEM NO.

Seven sprinklers, including all of those described above, were removed from the room of fire origin by service personnel from Livingston Fire Protection Co. An additional sprinkler was removed from the corridor adjacent to the kitchen. The purpose of this sprinkler was to act as a control for any testing that is to be conducted. All such sprinklers were placed in metal evidence containers and immersed in water drawn from the building sprinkler system. These sprinklers were forwarded to the Consumer Product Safety Commission Laboratory in Washington DC for operational testing. The results of those tests have not been received by this office at this time.

Further investigation on the cause and origin of the fire, and the circumstance of automatic sprinkler operation continue at this time.



**OFFICE OF THE
STATE FIRE MARSHAL**

SUPPLEMENT REPORT

PAGE 1 OF 1 COMPLAINT CONTROL NO.

VICTIM, COMPLAINANT, OCCUPANT OR ARRESTEE (LAST, FIRST, MIDDLE)

Kent Manor Inn 500 Kent Manor Dr. - Stevensville

1 1 OSFM- 1 7 - 9 7 0 4 3

INCIDENT, OFFENSE OR CHARGE ON ORIGINAL REPORT

CORRECT INCIDENT OR OFFENSE CLASS

CHANGED?

MULTIPLE CLEAR-UP

YES

YES

NO

NARRATIVE

ITEM NO.

At the direction of Fire Marshal Gabriele, on October 29, 1997 the writer met BC Carl Maurice, Capt. Francis Teevan and three other representatives of the Fairfax County Fire and Rescue Department at the above referenced location. The purpose of this meeting was to describe the results of the sprinkler operation at the time of the 10/27/97 fire incident, as well as to provide information regarding the general fire protection measures installed at this location.

It was understood that this information will be used by that department as a part of the study regarding the operational failures of Central Omega residential sprinklers. During this meeting, a general survey, including photographs, was made of the kitchen area and selected locations in the building where various fire protection system equipment was installed. All information was recorded by representatives of Fairfax County, who also requested copies of all official reports from this office concerning this incident, and offered assistance available from that department regarding the study of Omega sprinkler operations.

No further action in this regard is required by this office at this time.

48. Date Supplemental Report Due

49. Initial Status
 Open Suspended Unfounded Closed

50. Initial Investigator
 Kenneth E. Bush

Kenneth E. Bush

I.D. Number
 1034

51. Date
 10/30/97

52. Supervisor Status
 Agree Disagree

53. Recommended
 Suspend Investigation

54. Reviewing Supervisor

I.D. Number

55. Date

56. Investigation Supervisor

I.D. No.

57. Date

58. Assigned Investigator

59. Date

60. NCIC Entered NCIC Cleared
 Miles Entered Miles Cleared

61. Final Status (Check One)
 Open Suspended

62. Hours
 3

Related Report Numbers



REQUEST FOR LABORATORY EXAMINATION
CHAIN OF CUSTODY LOG

AGENCY TELEPHONE #
410-822-7609

INSTALLATION/AGENCY
M.D. Fire Marshal EASTON

CASE #
17-97043

PROPERTY HELD #
N/A

SUSPECT
N/A

VICTIM
KENT Manor INN

OFFENSE
Building Fire

DATE OF OFFENSE
10-27-97

COUNTY
Queen Anne's

TYPE EXAMINATION REQUESTED
None - Chain of Custody ONLY

EXAMINATION REQUESTED BY
Paul Schlottenbeck PM-1255
Paul Schlottenbeck

TRACE EVIDENCE ONLY
(SEX, RACE, D.O.B. OF VICTIM AND/OR SUSPECT - BRIEFLY DESCRIBE LOCATION OF CRIME SCENE AS TO OWNERSHIP AND IMMEDIATE SURROUNDINGS - EXAMPLE - BEDROOM, CAR, WOODS, ETC.)

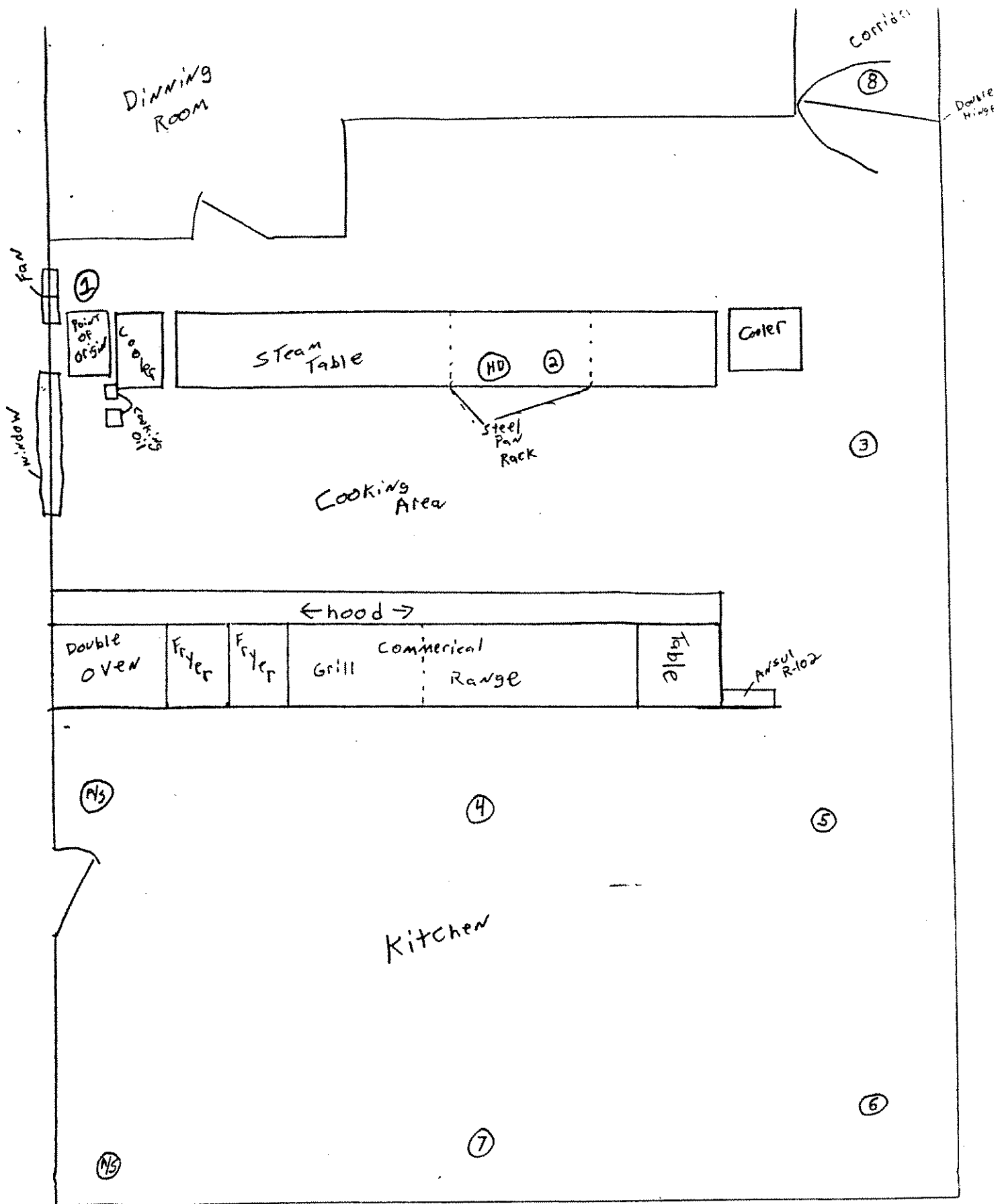
LIST OF ARTICLES

- 1) one quart can containing Omega sprinkler head
- 2) one quart can containing Omega sprinkler head
- 3) one quart can containing Omega sprinkler head
- 4) one quart can containing Omega sprinkler head
- 5) one quart can containing Omega sprinkler head
- 6) one quart can containing Omega sprinkler head
- 7) one quart can containing Omega sprinkler head
- 8) one quart can containing Omega sprinkler head.

★ - All cans contain water drained from sprinkler system.
All heads are submerged in water.

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THE EVIDENCE SUBMITTED IN THIS CASE, AND LISTED ABOVE, WHILE IN MY CUSTODY, REMAINED AND WAS DELIVERED IN ESSENTIALLY THE SAME CONDITION AS WHEN I RECEIVED IT, EXCEPT THAT MATERIAL OR PORTION THEREOF CONSUMED IN THE ANALYTICAL PROCESS AT THE CRIME LABORATORY, AND THAT I RECEIVED AND DELIVERED IT TO THE PERSON INDICATED ON THE DATE AND TIME STATED.

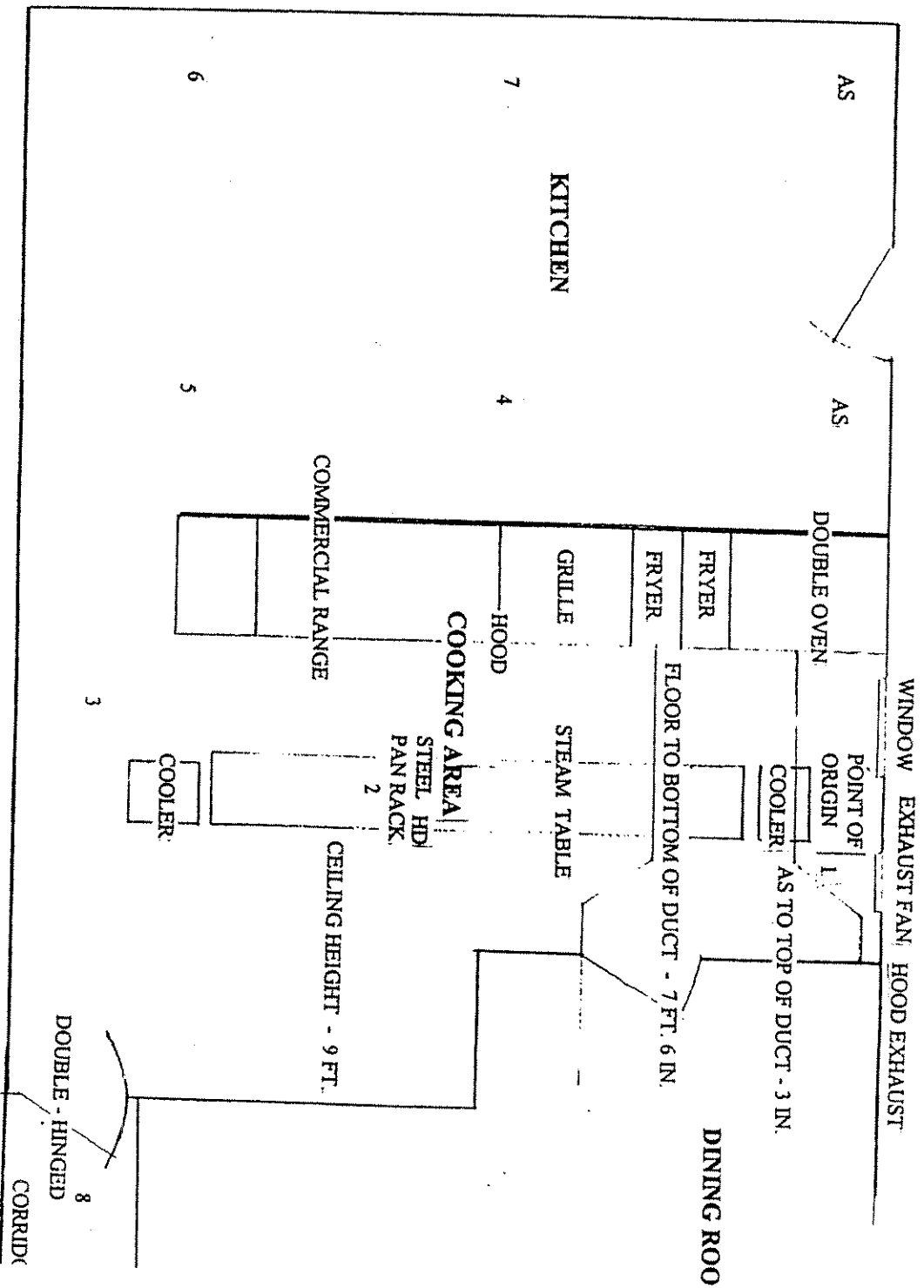
EVIDENCE RECEIVED FROM	DATE/TIME	EVIDENCE RECEIVED BY	EVIDENCE RELEASED TO
scene	10/27/97 1430	Paul Schlottenbeck	Vernon Kleiman / 10/27/97
Paul Schlottenbeck	10/27/97 1515	Vernon Kleiman	Webb, Robert L. / 10/28/97



① = sprinkler head = # = exhibit

HD = Heat Detector

Kent Manor Inn
 #17-97043
 10-77-07



SCALE 1/4 IN. = 1 FT.
 EQUIPMENT SIZES AND LOCATIONS NOT TO SCALE

- 1 - 8 - SPRINKLERS REMOVED AS EXHIBITS
- AS - AUTOMATIC SPRINKLERS
- HD - HEAT DETECTOR

KENT MANOR INN - # 17-97043
 500 KENT MANOR DRIVE
 OCTOBER 27, 1997

10/31/97 RCB