

July 25, 2022

Vince Paul

President, Music Hall Center of Performing Arts

350 Madison

Detroit, MI 48226

Re: Music Hall, Rooftop Assembly, Fire Escape

Mr. Paul,

Please accept this written communication as the final decision from the Detroit Fire Department Fire Marshal Division as it relates to the matter as stated above.

Historical Data (as extracted from archived Fire Marshal Division records):

This section shall highlight major decisions, documentations, requests, and rulings from all involved parties (FMD, Music Hall representatives, Board of Appeals, etc).

- June 22, 2015 - Music Hall requested a variance from the Fire Marshal Division to utilize the fire escape stairs as a means of egress for the rooftop assembly (**Exhibit 1**)
- July 14, 2015 – The request was denied by Fire Marshal Robin Eagan (**Exhibit 1**)
- August 12, 2015 – An appeal of the ruling on the variance denial by the FMD was filed by Music Hall representatives (**Exhibit 2**)
- Notice of ruling from the Fire Board of Appeals - Hearing dates: Sept. 10, 2015, Oct. 2, 2015. (**Exhibit 3**)
- Fire Board of Appeals meeting minutes - March 16th, 2018 (**Exhibit 4**)
- Fire Board of Appeals minutes – March 26th, 2018 (**Exhibit 5**)
- Notice of ruling from the Fire Board of Appeals – March 29th, 2018 (**Exhibit 6**)
- Fire Board of Appeals meeting – February 20th, 2022 (**Exhibit 7**)

Supplementary documents

- Plan Review record document from BSEED (**Exhibit 8**).
- Fire Escape Report – July 14, 2022 (**Exhibit 9**)
- Agreement between Music Hall and City of Detroit – unsigned (**Exhibit 10**)

Findings:

The focus of this section, and this document is to highlight the decisions that have been rendered from a legal body (Fire Board of Appeals) and all statements and agreements that have been noted based upon presented documentation. (NOTE: The purpose of this section is not to discuss, re-litigate or provide explicit details as it relates to the operability, functionality, construction of, and/or approvals/denials of construction plans for the use of the existing fire escape).

1. Mr. John Biggars of StudioOne LLC (Music Hall), applied for a variance request on behalf of the Music Hall for use of the fire escape as a secondary means of egress from a new rooftop assembly. This request was denied by Fire Marshal Robin Eagan (referenced code standards for basis of denial – **2009 NFPA 101, 7.4.11, 13.1.1.3, Detroit City Ordinance, 26-08, 1.4.4, 1.4.5 (Exhibit 1)**).
2. An appeal of this variance denial was filed with the Fire Board of Appeals (**Exhibit 2**). Two (2) meetings were held with the Board of Appeals and representatives from DFD and Music Hall representatives, with a ruling issued for the use of the fire escape as a secondary means of egress, with modifications to the fire escape and inspection by the Fire Marshal Division (**Exhibit 3**).
3. Fire Board of Appeals hearings were held on March 16th, 2018 (**Exhibit 4**). At this time the board decided to reconvene to allow BSEED representatives to be present and provide commentary on this matter (**Exhibit 4**). The special meeting was held on March 26th, 2018, with BSEED representative Mr. Glen Davis present. A motion was carried for an extension of the original variance approval for 2 years and a diminished capacity of 230 persons on the roof top assembly (**Exhibit 5**).
4. A notice of ruling was issued by the Board of Appeals on March 29th, 2018 (**Exhibit 6**), with all previously stated conditions of approval as carried and approved by the board, with the extension expiring March 29th, 2020.
5. Fire Board of Appeals meeting was held on February 20th, 2020, with Fire Marshal Division and legal counsel for the Music Hall (Mr. Hollowell). Discussions on the expiration of the variance extension took place between all parties. It was acknowledged by all parties present that the variance expiration was set to expire March 29th, 2020 and that this matter returned under the purview of the Fire Marshal Division. Additionally, as it relates to this particular appeal, the matter was closed (**Exhibit 7**).

Commentary:

To be succinct, the Music Hall (your organization) has been in open violation of the legal agreement that is on record from a lawful body (Fire Board of Appeals) that operates within the corporation limits of the city of Detroit. The willful disregard of the terms and agreements set for the use of this temporary means of egress, especially after sworn testimony was taken by all involved members (Music Hall representatives) is potentially unprecedented. Music Hall representatives appealed a ruling by the AHJ, agreed to terms and conditions of the rulings administered by the Fire BOA and never executed its duties/responsibilities as prescribed by

several rulings, less the alterations to the fire escape. Furthermore, all commentary from said BOA meetings verifies the acknowledgement by all parties, more specifically Music Hall representation, that the use of the fire escape was a **temporary** solution until a permanent structure – egress stair tower was constructed (**Exhibits 4, 5, 6**). There was no discussion on the construction of another building as a means to satisfy the required secondary means of egress within any of the meeting minutes from official hearing records. With finality, the new structure – egress stair tower was now “Plan A” (**Exhibit 5, pgs. 40, 41**).

In May of 2015, the Music Hall (your organization) planned on erecting an egress tower and elevator as a permanent solution to the rooftop egress issue (**Exhibit 8**). The application for plan review with description of work (**PRV2015-00846**) requesting to alter the existing fire escape, which was “**to be used temporarily**” until said permanent solutions were constructed (**Exhibit 8**). An unsigned agreement between Music Hall representation and the city of Detroit was drafted May 28th, 2015. This document adds additional clarity to the fact that Music Hall representatives were willing and intended to erect a barrier free access tower to comply with not only City of Detroit requirements, but also State of Michigan regulations (**Exhibit 10**).

The City of Detroit Code, Chapter 19, Article I, Division I, Section 19.1.1, speaks to the composition of the **Detroit Fire Prevention Code**, consisting of the adoption of the **2015 NFPA 1 Fire Code**. It is within this code in **Chapter 1, Administration, 1.10, Board of Appeals** is referenced. **1.10.6.5** states that the Fire Board of Appeals decisions are **final**, but subject to limited remediation. **1.10.6.6** states that once a ruling from the Fire Board of Appeals has been issued which reverses an order of the AHJ, immediate action must be taken by the AHJ in accordance with that ruling.

It is inexcusable and discriminatory to place the burden on the AHJ to follow the rulings of the Board of Appeals, while the Music Hall representatives (your organization) violates the rulings of the Board of Appeals. This statement is inclusive of the use of this temporary means of egress, after the expiration of the variance extension and without construction of a permanent tower, along with the continual violation of the occupant load capacity (230 persons) that was set by the BOA rulings (**Exhibit 6**). The rulings from the BOA meetings are legally binding.

Additional Commentary:

2015 NFPA 1 Fire Code, Chapter 1, 1.3.2.2: Where no applicable codes, standards, or requirements are set forth in this *Code* or contained within other laws, codes, regulations, ordinances, or bylaws adopted by the authority having jurisdiction (AHJ), compliance with applicable codes and standards of NFPA or other nationally recognized standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this *Code*.

2015 International Fire Code, Chapter 11, 1104.16.5.1: Fire escape stairways and balconies shall be examined for structural adequacy and safety in accordance with Section 1104.16.5 by a registered design professional or others acceptable to the fire code official every 5 years, or as required by the fire code official. An inspection report shall be submitted to the fire code official after such examination.

It has been stated by your representation that the fire escape is utilized as a second means of egress or means of egress for other floors (business areas) within this structure. The above referenced codes shall be applied for the use of the fire escape which is enforceable by virtue of the Detroit City Code. Additionally, a report (pre-load inspection) was generated on July 14th, 2022, which highlighted issues with the structural integrity of the existing fire escape (**Exhibit 9**).

Conclusion:

Your organization was given more than an adequate amount of time to raise funds and construct the permanent required means of egress as agreed to through a lawful body through the appeals process. The FMD has dutifully adhered to the rulings of the Fire Board of Appeals board, and now that the variance extension has expired, the AHJ will proceed with enforcing the life safety codes and perform its assigned duties as prescribed within the Detroit City Code.

Decision:

- The Music Hall organization shall discontinue use of the fire escape stair as a means of egress for all portions of the building.
- Once the required load testing, and structural repairs have been made, the use of the fire escape can resume for business areas only, if the fire escape is the second means of egress for that floor.
- All reports, documents on the structural integrity and repairs made to the existing fire escape stair shall be submitted to this office for review.
- The fire escape shall not be utilized as a secondary means of egress for the rooftop assembly.
- The Music Hall organization shall be allowed to utilize the rooftop at a limited capacity of 49 persons (due to there being only one approved exit).
- The Music Hall organization shall resume with plans to erect a permanent exterior stair as a second means of egress as agreed upon and based upon the rulings of the Fire Board of Appeals.
- The Music Hall organization shall submit construction drawings for the exterior stair to BSEED and the FMD for review and approval.

A timeline for which this work is to be completed can be discussed with all involved parties.

This decision is **final**.

Donald L. Thomas

Fire Marshal, City of Detroit

DT/dt

