

APPELLATE COURT  
OF THE  
STATE OF CONNECTICUT

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DOCKET NUMBER – AC 42555

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ROBERT MEYERS V. TOWN OF MIDDLEFIELD

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APPENDIX TO THE BRIEF OF THE PLAINTIFF-APPELLANT

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*SUBMITTED AND TO BE ARGUED BY:*  
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JURIS: 436049

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Attorney/Firm: **BROWN ERIC R LAW OFFICE OF (436049)** E-Mail: [eric@thelaborlawyer.com](mailto:eric@thelaborlawyer.com) Logout

**MMX-CV17-6017522-S MEYERS, ROBERT v. TOWN OF MIDDLEFIELD**

Prefix: MX2 Case Type: M90 File Date: 03/30/2017 Return Date: 04/18/2017

[Case Detail](#) | [Notices](#) | [History](#) | [Scheduled Court Dates](#) | [Help Manual](#)

[To receive an email when there is activity on this case, click here.](#)

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Information updated as of: 10/29/2019

Case Information
<p><b>Case Type:</b> M90 - Misc - All other</p> <p><b>Court Location:</b> Middletown JD</p> <p><b>List Type:</b> COURT (CT)</p> <p><b>Trial List Claim:</b> 06/16/2017</p> <p><b>Last Action Date:</b> 10/24/2019 (The "last action date" is the date the information was entered in the system)</p>

Disposition Information
<p><b>Disposition Date:</b> 01/17/2019</p> <p><b>Disposition:</b> JUDGMENT OF DISMISSAL</p> <p><b>Judge or Magistrate:</b> HON MATTHEW FRECHETTE</p>

Party & Appearance Information			
Party	No Fee Party	Party Category	Party Type
<b>P-01 ROBERT MEYERS</b> <b>Attorney:</b> BROWN ERIC R LAW OFFICE OF (436049) File Date: 03/30/2017 30 WOODRUFF AVENUE #615 WATERTOWN, CT 06795		Plaintiff	Person
<b>D-01 TOWN OF MIDDLEFIELD</b> <b>Attorney:</b> BLAZI JOHN LAW OFFICES OF (419424) File Date: 03/31/2017 786 CHASE PARKWAY WATERBURY, CT 06708		Defendant	Government Entity

**Viewing Documents on Civil, Housing and Small Claims Cases:**

If there is an in front of the docket number at the top of this page, then the file is electronic (paperless).

- Documents, court orders and judicial notices in electronic (paperless) civil, housing and small claims cases with a return date on or after January 1, 2014 are available publicly over the internet.\* For more information on what you can view in all cases, view the [Electronic Access to Court Documents Quick Card](#).
- For civil cases filed prior to 2014, court orders and judicial notices that are electronic are available publicly over the internet. Orders can be viewed by selecting the link to the order from the list below. Notices can be viewed by clicking the **Notices** tab above and selecting the link.\*
- Documents, court orders and judicial notices in an electronic (paperless) file can be viewed at any judicial district courthouse during normal business hours.\*
- Pleadings or other documents that are not electronic (paperless) can be viewed only during normal business hours at the Clerk's Office in the Judicial District where the case is located.\*
- An Affidavit of Debt is not available publicly over the internet on small claims cases filed before October 16, 2017.\*

\*Any documents protected by law Or by court order that are Not open to the public cannot be viewed by the public online And can only be viewed in person at the clerk's office where the file is located by those authorized by law or court order to see them.

Motions / Pleadings / Documents / Case Status				
Entry No	File Date	Filed By	Description	Arguable
	03/31/2017	D	<b>APPEARANCE</b> Appearance <b>A-001</b>	

100.30	03/30/2017	P	<b>SUMMONS</b>	No
100.31	03/30/2017	P	<b>COMPLAINT</b>	No
100.32	03/30/2017	P	<b>RETURN OF SERVICE</b>	No
101.00	04/12/2017	D	<b>MOTION TO STRIKE</b>	Yes
102.00	04/12/2017	D	<b>MEMORANDUM IN SUPPORT OF MOTION</b> Memorandum Of Law In Support Of Motion TO Strike	No
103.00	04/17/2017	P	<b>REVISED COMPLAINT</b>	No
104.00	06/01/2017	D	<b>ANSWER TO AMENDED COMPLAINT</b>	No
105.00	06/16/2017	P	<b>CERTIFICATE OF CLOSED PLEADINGS AND CLAIM FOR TRIAL LIST</b>	No
106.00	07/25/2017	P	<b>SCHEDULING ORDER</b>	No
106.10	07/28/2017	C	<b>ORDER</b> <i>RESULT:</i> Accepted 7/28/2017 HON EDWARD DOMNARSKI	No
107.00	07/28/2017	P	<b>MOTION TO MODIFY SCHEDULING ORDER</b> <i>RESULT:</i> Granted 8/14/2017 HON EDWARD DOMNARSKI	No
107.10	08/14/2017	C	<b>ORDER</b> <i>RESULT:</i> Granted 8/14/2017 HON EDWARD DOMNARSKI	No
108.00	09/29/2017	D	<b>NOTICE</b> Notice of Filing Record of Termination Hearing	No
109.00	09/29/2017	D	<b>EXHIBITS</b> Record Part 1 of 2	No
110.00	09/29/2017	D	<b>EXHIBITS</b> Record of Hearing 2 of 2	No
111.00	11/27/2017	P	<b>MOTION TO MODIFY SCHEDULING ORDER</b> <i>RESULT:</i> Granted 12/1/2017 HON EDWARD DOMNARSKI	No
111.10	12/01/2017	C	<b>ORDER</b> <i>RESULT:</i> Granted 12/1/2017 HON EDWARD DOMNARSKI	No
112.00	11/27/2017	P	<b>SCHEDULING ORDER</b>	No
113.00	11/29/2017	P	<b>MOTION TO MODIFY SCHEDULING ORDER</b> regarding Expert Witness disclosure <i>RESULT:</i> Granted 12/1/2017 HON EDWARD DOMNARSKI	No
113.10	12/01/2017	C	<b>ORDER</b> <i>RESULT:</i> Granted 12/1/2017 HON EDWARD DOMNARSKI	No
114.00	01/02/2018	P	<b>MOTION TO MODIFY SCHEDULING ORDER</b> Joint Motion re: disclosure of expert witnesses	No
115.00	01/02/2018	P	<b>BRIEF</b> in Support of Statutory Claims of Plaintiff	No
116.00	02/07/2018	D	<b>RECORD</b> Notice of Filing Supplemental Record with attached Exhibit	No
117.00	02/14/2018	D	<b>EXHIBITS</b> exhibit to record	No
118.00	03/02/2018	D	<b>REPLY</b> Reply Brief of Town of Middlefield	No
119.00	08/10/2018	P	<b>BRIEF</b> Plaintiff's Rebuttal Brief	No
120.00	08/10/2018	P	<b>CASEFLOW REQUEST (JD-CV-116)</b>	No
121.00	08/14/2018	D	<b>REPLY</b> Reply to Plaintiff's Rebuttal Brief	No
122.00	09/28/2018	D	<b>BRIEF</b> reply Brief of the Defendant as amended to include complete names	No
123.00	09/28/2018	D	<b>BRIEF</b> sur-rebuttal brief as amended to include full names	No
124.00	10/04/2018	D	<b>BRIEF</b> supplemental brief	No
125.00	01/17/2019	C	<b>MEMORANDUM OF DECISION</b>	No

A-002

126.00	01/17/2019	C	<b>JUDGMENT OF DISMISSAL</b> <i>RESULT: HON MATTHEW FRECHETTE</i>	No
127.00	02/04/2019	P	<b>APPEAL TO APPELLATE COURT ALL FEES PAID</b>  Last Updated: Party Type - 10/21/2019	No
128.00	10/21/2019	P	<b>DRAFT JUDGMENT FILE</b>  <b>NEW</b>	No
129.00	10/24/2019	C	<b>JUDGMENT FILE</b>  <b>NEW</b>	No

Scheduled Court Dates as of 10/28/2019				
MMX-CV17-6017522-S - MEYERS, ROBERT v. TOWN OF MIDDLEFIELD				
#	Date	Time	Event Description	Status
No Events Scheduled				

Judicial ADR events may be heard in a court that is different from the court where the case is filed. To check location information about an ADR event, select the **Notices** tab on the top of the case detail page.

Matters that appear on the Short Calendar and Family Support Magistrate Calendar are shown as scheduled court events on this page. The date displayed on this page is the date of the calendar.

All matters on a family support magistrate calendar are presumed ready to go forward.

The status of a Short Calendar matter is not displayed because it is determined by markings made by the parties as required by the calendar notices and the [civil](#) or [family](#) standing orders. Markings made electronically can be viewed by those who have electronic access through the Markings History link on the Civil/Family Menu in E-Services. Markings made by telephone can only be obtained through the clerk's office. If more than one motion is on a single short calendar, the calendar will be listed once on this page. You can see more information on matters appearing on Short Calendars and Family Support Magistrate Calendars by going to the [Civil/Family Case Look-Up](#) page and [Short Calendars By Juris Number](#) or [By Court Location](#).

Periodic changes to terminology that do not affect the status of the case may be made. This list does not constitute or replace official notice of scheduled court events.

**Disclaimer:** For civil and family cases statewide, case information can be seen on this website for a period of time, from one year to a maximum period of ten years, after the disposition date. If the Connecticut Practice Book Sections 7-10 and 7-11 give a shorter period of time, the case information will be displayed for the shorter period. Under the Federal Violence Against Women Act of 2005, cases for relief from physical abuse, foreign protective orders, and motions that would be likely to publicly reveal the identity or location of a protected party may not be displayed and may be available only at the courts.

# SUMMONS - CIVIL

JD-CV-1 Rev. 4-16  
C.G.S. §§ 51-346, 51-347, 51-349, 51-350, 52-45a, 52-48, 52-259, P.B. §§ 3-1 through 3-21, 8-1, 10-13

## STATE OF CONNECTICUT SUPERIOR COURT

www.jud.ct.gov



### See other side for instructions

- "X" if amount, legal interest or property in demand, not including interest and costs is less than \$2,500.
- "X" if amount, legal interest or property in demand, not including interest and costs is \$2,500 or more.
- "X" if claiming other relief in addition to or in lieu of money or damages.

TO: Any proper officer; BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this Summons and attached Complaint.

Address of court clerk where writ and other papers shall be filed (Number, street, town and zip code) (C.G.S. §§ 51-346, 51-350) <b>1 Court Street, Middletown, CT 06457</b>	Telephone number of clerk (with area code) <b>( 860 ) 343-6400</b>	Return Date (Must be a Tuesday) <b>April 18, 2017</b> <small>Month Day Year</small>
<input checked="" type="checkbox"/> Judicial District <input type="checkbox"/> G.A. Number:	At (Town in which writ is returnable) (C.G.S. §§ 51-346, 51-349) <b>Middletown</b>	Case type code (See list on page 2) Major: <b>M</b> Minor: <b>90</b>

### For the Plaintiff(s) please enter the appearance of:

Name and address of attorney, law firm or plaintiff if self-represented (Number, street, town and zip code) <b>Law Office of Eric R. Brown, P.O. Box 615, Watertown, CT 06795</b>	Juris number (to be entered by attorney only) <b>408630</b>
Telephone number (with area code) <b>( 888 ) 579-4222</b>	Signature of Plaintiff (If self-represented)
The attorney or law firm appearing for the plaintiff, or the plaintiff if self-represented, agrees to accept papers (service) electronically in this case under Section 10-13 of the Connecticut Practice Book. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Email address for delivery of papers under Section 10-13 (if agreed to) <b>eric@thelaborlawyer.com</b>

Number of Plaintiffs: **1**      Number of Defendants: **1**       Form JD-CV-2 attached for additional parties

Parties	Name (Last, First, Middle Initial) and Address of Each party (Number; Street; P.O. Box; Town; State; Zip; Country, if not USA)	
First Plaintiff	Name: <b>Meyers, Robert</b> Address: <b>76 East Haddam Colchester Turnpike, Moodus, CT 06469</b>	P-01
Additional Plaintiff	Name: Address:	P-02
First Defendant	Name: <b>Town of Middlefield</b> Address: <b>393 Jackson Hill Road, Middlefield, CT 06455</b>	D-01
Additional Defendant	Name: Address:	D-02
Additional Defendant	Name: Address:	D-03
Additional Defendant	Name: Address:	D-04

### Notice to Each Defendant

1. **YOU ARE BEING SUED.** This paper is a Summons in a lawsuit. The complaint attached to these papers states the claims that each plaintiff is making against you in this lawsuit.
2. To be notified of further proceedings, you or your attorney must file a form called an "Appearance" with the clerk of the above-named Court at the above Court address on or before the second day after the above Return Date. The Return Date is not a hearing date. You do not have to come to court on the Return Date unless you receive a separate notice telling you to come to court.
3. If you or your attorney do not file a written "Appearance" form on time, a judgment may be entered against you by default. The "Appearance" form may be obtained at the Court address above or at [www.jud.ct.gov](http://www.jud.ct.gov) under "Court Forms."
4. If you believe that you have insurance that may cover the claim that is being made against you in this lawsuit, you should immediately contact your insurance representative. Other action you may have to take is described in the Connecticut Practice Book which may be found in a superior court law library or on-line at [www.jud.ct.gov](http://www.jud.ct.gov) under "Court Rules."
5. If you have questions about the Summons and Complaint, you should talk to an attorney quickly. **The Clerk of Court is not allowed to give advice on legal questions.**

Signed (Sign and "X" proper box) 	<input checked="" type="checkbox"/> Commissioner of the Superior Court <input type="checkbox"/> Assistant Clerk	Name of Person Signing at Left <b>Eric R. Brown</b>	Date signed <b>3/16/2017</b>
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If this Summons is signed by a Clerk: a. The signing has been done so that the Plaintiff(s) will not be denied access to the courts. b. It is the responsibility of the Plaintiff(s) to see that service is made in the manner provided by law. c. The Clerk is not permitted to give any legal advice in connection with any lawsuit. d. The Clerk signing this Summons at the request of the Plaintiff(s) is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service of the Summons or Complaint.	<i>For Court Use Only</i> File Date
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I certify I have read and understand the above:	Signed (Self-Represented Plaintiff) <b>A-004</b>	Date	Docket Number
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RETURN DATE: APRIL 18, 2017 : SUPERIOR COURT  
: :  
ROBERT MEYERS : JUDICIAL DISTRICT OF  
: MIDDLESEX AT MIDDLETOWN  
VS. :  
: :  
TOWN OF MIDDLEFIELD : MARCH 16, 2017

**COMPLAINT**

1. This complaint is an appeal brought before this court pursuant to Conn. Gen. Stats. Sec. 29-260(c).
2. The plaintiff is Robert Meyers of 76-A East Haddam / Colchester Turnpike, Moodus, Connecticut.
3. The plaintiff was formerly employed as the statutory building official for the Town of Middlefield until he was terminated effective February 21, 2017.
4. The defendant Town of Middlefield is the former employer of the plaintiff until the plaintiff was terminated by the defendant on February 21, 2017.
5. In his position as building official for the Town of Middlefield, the plaintiff was at all times bound to enforce the state building code pursuant to Conn. Gen. Stats. Sec. 29-253.
6. The plaintiff served as the building official for the Town of Middlefield pursuant to authority set forth in Conn. Gen. Stats. Sec. 29-260.
7. Throughout his tenure as building official for the Town of Middlefield, the plaintiff performed the duties of his office without fail and in accord with state statutes as applied to his position.
8. On February 21, 2017, the plaintiff was notified by Edward Bailey, First Selectman of the Town of Middlefield, that his employment with the Town of Middlefield as Building Official was being terminated effective February 21, 2017. See Notice of Termination Attached as Exhibit 1.
9. Prior to terminating the plaintiff, the defendant failed to abide by the provisions of Conn. Gen. Stats. Sec. 29-260 (b) and (c) to wit:
  - a. The defendant failed to provide the plaintiff with written notice of the specific grounds for such dismissal;
  - b. The defendant failed to prove that the plaintiff failed to perform the duties of his office;

- c. The plaintiff presented sufficient evidence showing that he performed his duties as required by statute and in accord with the state building code and local building codes.

WHEREFORE, the plaintiff claims the following remedies:

1. Reinstatement and make whole relief;
2. Back pay;
3. Money damages;
4. Attorneys fees and costs;
5. In accord with Sec. 29-260(c) that the court take evidence or appoint a referee or a committee to take such evidence as the court may direct and report the same to the court with its findings of fact, which report shall constitute a part of the proceedings upon which the determination of the court shall be made, and thereafter act upon such findings and report.

THE PLAINTIFF,  
Robert Meyers

/s/ 408630

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By: Eric R. Brown, Esq.  
Law Office of Eric R. Brown  
P.O. Box 615  
Watertown, CT 06795  
[eric@thelaborlawyer.com](mailto:eric@thelaborlawyer.com)  
Ph. and Fax: 888-579-4222  
Juris No.: 408630

RETURN DATE: APRIL 11, 2017 : SUPERIOR COURT  
: :  
ROBERT MEYERS : JUDICIAL DISTRICT OF  
: MIDDLESEX AT MIDDLETOWN  
VS. :  
: :  
TOWN OF MIDDLEFIELD : MARCH 7, 2017

**STATEMENT OF AMOUNT IN DEMAND**

The Plaintiff asserts that the amount, legal interest or property in demand is  
~~fifteen thousand dollars or more, exclusive of interest and costs.~~

THE PLAINTIFF,  
Robert Meyers

/s/ 408630

---

By: Eric R. Brown, Esq.  
Law Office of Eric R. Brown  
P.O. Box 615  
Watertown, CT 06795  
[eric@thelaborlawyer.com](mailto:eric@thelaborlawyer.com)  
Ph. and Fax: 888-579-4222  
Juris No.: 408630

STATE OF CONNECTICUT

MARCH 21, 2017

SS: MIDDLEFIELD

COUNTY OF MIDDLESEX

Then and there and by virtue hereof and by direction of the plaintiff's attorney, I made due and legal service upon the within named defendant, Town Of Middlefield by leaving two true and attested copies of the original, Writ, Summon, Complaint, Statement of Amount In Demand and Exhibit with and in the hands of the Assistant Town Clerk, Judi Rand duly authorized to accept service for the within named defendant, Town of Middlefield at 393 Jackson Hill Road, Middlefield, Connecticut.

The within and foregoing is original Writ, Summons, Complaint, Statement of Amount In Demand and Exhibit with my doings hereon endorsed.

ATTEST:   
SEBASTIAN J. MILARDO  
STATE MARSHAL, COUNTY OF  
MIDDLESEX

Service _____	\$40.00
Copies _____	14.00
Endorsement _____	2.40
Travel _____	7.00
Total _____	\$ 63.40

DOCKET NO: MMX CV 17-6017552 S : SUPERIOR COURT  
ROBERT MEYERS : J.D. OF MIDDLESEX  
v. : AT MIDDLETOWN  
TOWN OF MIDDLEFIELD : APRIL 12, 2017

**MOTION TO STRIKE**

The defendant, Town of Middlefield, hereby moves to strike Paragraph 4, claim for “Attorney’s fees and costs”, of the Prayer of Relief in Plaintiff’s Complaint dated March 16, 2017. In support of this Motion, the Defendant submits that the Plaintiff’s claim for Attorney’s Fees and Costs is legally insufficient in that he has not alleged a statute or common law basis for the award of Attorney’s Fees and Costs. A memorandum of law in support of this motion is filed simultaneously herewith.

**FOR THE DEFENDANT,  
TOWN OF MIDDLEFIELD**

**BY** \_\_\_\_\_ /s/  
Bethany B. Karas  
Law Offices of John A. Blazi  
786 Chase Parkway  
Waterbury, Connecticut 06708  
(203) 596-0600

**CERTIFICATION**

This is to certify that a copy of the foregoing has been mailed to the following counsel of record this 12<sup>th</sup> day of April, 2017 to:

Eric R. Brown, Esquire  
Law Offices of Eric Brown  
P.O. Box 615  
Watertown, CT 06795

\_\_\_\_\_/s/  
Bethany B. Karas

DOCKET NO: MMX CV 17-6017552 S : SUPERIOR COURT  
ROBERT MEYERS : J.D. OF MIDDLESEX  
v. : AT MIDDLETOWN  
TOWN OF MIDDLEFIELD : APRIL 12, 2017

**MEMORANDUM OF LAW IN SUPPORT OF MOTION TO STRIKE**

**I. FACTUAL BACKGROUND:**

The plaintiff was employed by the Town of Middlefield as a building official. On February 21, 2017 the plaintiff was terminated from his position. The plaintiff alleges that this was a wrongful termination. On March 16, 2017, the Plaintiff filed a single count complaint against the Town of Middlefield. The complaint consists of nine paragraphs. Paragraph nine of the plaintiff's complaint alleges a violation of Connecticut General Statute Section 29-260(b) and (c) as a basis for his claim against the defendant. In Paragraph 4 of the Plaintiff's Prayer of Relief, he request the court to award Attorney's Fees and Costs.

In that the Plaintiff's Complaint fails to allege a cognizable basis for an award for Attorney's Fees and Costs, Paragraph 4 of the Pray for Relief should be stricken

**II. LEGAL DISCUSSION:**

" A motion to strike shall be used whenever any party wishes to contest: (1) the legal sufficiency of the allegations of any complaint, counterclaim or cross claim, or of any one or more counts thereof, to state a claim upon which relief can be granted; or (2)

the legal sufficiency of any prayer for relief in any such complaint, counterclaim or cross complaint . . ." Practice Book § 10-39(a). In ruling on a motion to strike, " [the court] construe[s] the complaint in the manner most favorable to sustaining its legal sufficiency . . . Thus, [i]f facts provable in the complaint would support a cause of action, the motion to strike must be denied . . . Moreover, [the court notes] that [w]hat is necessarily implied [in an allegation] need not be expressly alleged . . . It is fundamental that in determining the sufficiency of a complaint challenged by a defendant's motion to strike, all well-pleaded facts and those facts necessarily implied from the allegations are taken as admitted." (Internal quotation marks omitted.) *Coppola Construction Co. v. Hoffman Enterprises Ltd. Partnership*, 309 Conn. 342, 350, 71 A.3d 480 (2013). A court may not seek beyond the complaint for facts not alleged or necessarily implied. *Westport Bank & Trust Co. v. Corcoran, Mallin & Aresco*, 221 Conn. 490, 495 (1992). What is necessarily implied [in an allegation] need not be expressly alleged...It is fundamental that in determining the sufficiency of a complaint challenged by a defendant's motion to strike, all well-pleaded facts and those facts necessarily implied from the allegations are taken as admitted...Indeed, pleadings must be construed broadly and realistically, rather than narrowly and technically." (Citations omitted; internal quotation marks omitted.) *Commissioner of Labor v. C.J.M. Services, Inc.*, 268 Conn. 283, 292-93, 842 A.2d 1124 (2004).

**A. The plaintiff's Complaint Fails to Allege Any Recognized Basis For An Award Of Attorney's Fees and Costs**

The sole allegation of negligence in the Plaintiff's Complaint is a violation of Connecticut General Statute Section 29-260 (b) and (c).<sup>1</sup> In order to have a basis for a claim of Attorney's fees and Costs, a pleading must allege a contractual or statutory predicate for an award of such fees. *St. Dennis v. De Toledo*, cv 00-0180606, J.D. of Stamford, Judge Downey, April 5, 2002. "The general rule of law known as the 'American Rule' is that attorney's fees and ordinary expenses and burdens of litigation are not allowed to the successful party absent contractual or statutory

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<sup>1</sup> **Connecticut General Statutes 29-260** – Municipal building official to administer code. Appointment. Dismissal, (b) Unless otherwise provided by ordinance, charter or special act, a local building official who fails to perform the duties of his office may be dismissed by the local appointing authority and another person shall be appointed in his place, provided, prior to such dismissal, such local building official shall be given an opportunity to be heard in his own defense at a public hearing in accordance with subsection (c) of this section. (c) No local building official may be dismissed under subsection (b) of this section unless he has been given notice in writing of the specific grounds for such dismissal and an opportunity to be heard in his own defense, personally or by counsel, at a public hearing before the authority having the power of dismissal. Such public hearing shall be held not less than five or more than ten days after such notice. Any person so dismissed may appeal within thirty days following such dismissal to the superior court for the judicial district in which such town, city or borough is located. Service shall be made as in civil process. The court shall review the record of such hearing and if it appears that testimony is necessary for an equitable disposition of the appeal, it may take evidence or appoint a referee or a committee to take such evidence as the court may direct and report the same to the court with his or its findings of fact, which report shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may affirm the action of such authority or may set the same aside if it finds that such authority acted illegally or abused its discretion.



DOCKET NO.: MMX-CV17-6017522-S : SUPERIOR COURT  
: :  
ROBERT MEYERS : JUDICIAL DISTRICT OF  
: MIDDLESEX AT MIDDLETOWN  
VS. :  
: :  
TOWN OF MIDDLEFIELD : APRIL 14, 2017

**REVISED COMPLAINT**

1. This complaint is an appeal brought before this court pursuant to Conn. Gen. Stats. Sec. 29-260(c).
2. The plaintiff is Robert Meyers of 76-A East Haddam / Colchester Turnpike, Moodus, Connecticut.
3. The plaintiff was formerly employed as the statutory building official for the Town of Middlefield until he was terminated effective February 21, 2017.
4. The defendant Town of Middlefield is the former employer of the plaintiff until the plaintiff was terminated by the defendant on February 21, 2017.
5. In his position as building official for the Town of Middlefield, the plaintiff was at all times bound to enforce the state building code pursuant to Conn. Gen. Stats. Sec. 29-253.
6. The plaintiff served as the building official for the Town of Middlefield pursuant to authority set forth in Conn. Gen. Stats. Sec. 29-260.
7. Throughout his tenure as building official for the Town of Middlefield, the plaintiff performed the duties of his office without fail and in accord with state statutes as applied to his position.
8. On February 21, 2017, the plaintiff was notified by Edward Bailey, First Selectman of the Town of Middlefield, that his employment with the Town of Middlefield as Building Official was being terminated effective February 21, 2017. See Notice of Termination Attached as Exhibit 1.
9. Prior to terminating the plaintiff, the defendant failed to abide by the provisions of Conn. Gen. Stats. Sec. 29-260 (b) and (c) to wit:
  - a. The defendant failed to provide the plaintiff with written notice of the specific grounds for such dismissal;
  - b. The defendant failed to prove that the plaintiff failed to perform the duties of his office;

- c. The plaintiff presented sufficient evidence showing that he performed his duties as required by statute and in accord with the state building code and local building codes.

WHEREFORE, the plaintiff claims the following remedies:

1. Reinstatement and make whole relief;
2. Back pay;
3. Money damages;
4. In accord with Sec. 29-260(c) that the court take evidence or appoint a referee or a committee to take such evidence as the court may direct and report the same to the court with its findings of fact, which report shall constitute a part of the proceedings upon which the determination of the court shall be made, and thereafter act upon such findings and report.

THE PLAINTIFF,  
Robert Meyers

/s/ 408630

---

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Juris No.: 408630

RETURN DATE: APRIL 11, 2017 : SUPERIOR COURT  
: :  
ROBERT MEYERS : JUDICIAL DISTRICT OF  
: MIDDLESEX AT MIDDLETOWN  
VS. : :  
: :  
TOWN OF MIDDLEFIELD : APRIL 14, 2017

**STATEMENT OF AMOUNT IN DEMAND**

The Plaintiff asserts that the amount, legal interest or property in demand is fifteen thousand dollars or more, exclusive of interest and costs.

THE PLAINTIFF,  
Robert Meyers

/s/ 408630

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Juris No.: 408630

**CERTIFICATION**

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on 4/14/17 to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

/s/ 408630

\_\_\_\_\_  
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DOCKET NO. MMX-CV-17-6017552-S : SUPERIOR COURT  
ROBERT MEYERS : J.D. OF MIDDLESEX  
VS. : AT MIDDLETOWN  
TOWN OF MIDDLEFIELD : JUNE 1, 2017

**ANSWER TO REVISED COMPLAINT**

1. As to the allegations contained in Paragraph 1 of the plaintiff's Complaint, the defendant lacks sufficient information upon which to form an opinion or belief, and therefore leaves the plaintiff to his burden of proof.
2. ADMIT
3. As to the allegations contained in Paragraph 1 of the plaintiff's Complaint, the portion that reads, "the statutory" the defendant lacks sufficient information upon which to form an opinion or belief, and therefore leaves the plaintiff to his burden of proof. As to the remaining allegations contained in Paragraph 1 of the plaintiff's Complaint, are ADMITTED.
4. ADMIT
5. As to the allegations contained in Paragraph 5 of the plaintiff's Complaint, the defendant lacks sufficient information upon which to form an opinion or belief, and therefore leaves the plaintiff to his burden of proof.
6. As to the allegations contained in Paragraph 6 of the plaintiff's Complaint, the defendant lacks sufficient information upon which to form an opinion or belief, and therefore leaves the plaintiff to his burden of proof.
7. DENIED
8. ADMIT
9. DENIED

**FOR THE DEFENDANT:  
TOWN OF MIDDLEFIELD**

BY \_\_\_\_\_/s/\_\_\_\_\_

John A. Blazi  
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Juris No. 419424

**CERTIFICATION**

This is to certify that the foregoing has been mailed postage pre-paid this **1st day of June, 2017**, to the following counsel of record:

Eric R. Brown  
Law Office of Eric R. Brown  
P.O. Box 615  
Watertown, CT 06795

\_\_\_\_\_/s/\_\_\_\_\_  
John A. Blazi

DOCKET NO.: MMX-CV17-6017522-S : SUPERIOR COURT  
: :  
ROBERT MEYERS : JUDICIAL DISTRICT OF  
: MIDDLESEX AT MIDDLETOWN  
VS. :  
: :  
TOWN OF MIDDLEFIELD : JANUARY 2, 2018

**Memorandum of Law in Support of Reinstatement as the Statutory Building Inspector**

**I. Statement of Facts**

Plaintiff, Robert Meyers, was hired as the building inspector, or statutorily defined “building official,” for the town of Middlefield, Connecticut on April 18, 2011. During the course of his duties, Meyers was involved in his role as building official with the renovation and subsequent transformation of a building on the Powder Ridge Mountain Park and Resort, located at 99 Powder Hill Road, Middlefield, Connecticut. The Town of Middlefield purchased the Powder Ridge property on December 30, 2008 and the property sat vacant and in disrepair. On December 5, 2011, Meyers sent the town a “Notice of Unsafe Structure.” The notice referenced several violations, including “broken windows, open doors, unsafe stairs, and missing barriers around the swimming pool.” The unsafe conditions were in direct violation of the Connecticut State Building Code. Conn. Gen Stat. §29-252.

Powder Ridge Mountain Park and Resort LLC subsequently purchased the property on September 13, 2012. It wasn’t until after the sale that the property was made safe. The “Notice of Unsafe Structure” was rescinded on December 27, 2012. Property records show that the property had four buildings at the time of the sale, with the largest of the buildings, the ski lodge, being approximately 22,523 square feet in total size. This is the building referenced most in the following brief.

The occupancy, or use, of the building at the time, was classified as a cafeteria with several hotel rooms on the second floor. After Powder Ridge Mountain Park and Resort LLC purchased the building, a massive renovation to the entire property, including the lodge building, was planned. The occupancy of the lodge building was going to be changed from its current use to a restaurant and bar. The restaurant was going to hold more than fifty people, making the occupancy classification “assembly.” This renovation was going to be a large undertaking requiring the focused attention of the town’s code officials, including the building official, fire marshal, and zoning officials. Meyers recognized that this was going to be a large project requiring a lot of time and technical expertise. Meyers sent a letter to the town dated December 19, 2012 requesting additional hours and support. Moreover, there were several other large construction projects happening at the same time in the Town of Middlefield, which Meyers would have to oversee.

The renovations at Powder Ridge included structural repairs, the installation of a commercial kitchen, and the installation of a fire sprinkler system. The Town of Middlefield hired Harwood Loomis, a licensed architect and building official, as a consultant. Loomis was hired to assist with the plan and permit application reviews to ensure adherence to the building code. Furthermore, the town hired Vincent Garofalo to assist Meyers with the inspections of the Powder Ridge property as the renovations progressed. As the renovations continued, Meyers suffered medical issues and needed to take some time off from work. Even though he was using sick leave and absent from work from time to time, he was still the statutorily defined building official, and he was therefore the authority having jurisdiction over building code enforcement. *See Conn. Gen. Stat. §29-260.*

The fire sprinkler system was installed and inspected in November of 2014, just before the start of the 2014-15 ski season. Powder Ridge was hoping to open the lodge for commercial purposes. The sprinkler system was not certified due to the fact that there was no reliable water source to feed the system and there was not a proper source of continuous power to supply the fire pump. Notwithstanding these issues, Garofalo issued a certificate of completion on December 26, 2014. This allowed the first floor of the lodge to be opened. However, this was in violation of Chapter 34 of the International Building Code as adopted by Connecticut. Conn. Gen Stat. §29-252b.

On July 28, 2015, Meyers cited Sean Hayes, Owner of Powder Ridge, for performing work without a permit. Specifically, Hayes was filling in the swimming pool without obtaining a demolition permit. The State Demolition Code requires that a permit be obtained, and other testing be conducted before commencing such work. Conn. Gen. Stat. §29-406. On August 6, 2015, Meyers made a complaint to the First Selectman, Jon Brayshaw, regarding the way Meyers was being treated by other town employees. Around the same time, Sean Hayes questioned the need for a demolition permit to the State Building Inspector's Office. The answer provided by the State Building Inspector was ambiguous and incomplete. Meyers was not satisfied that the demolition work was being done properly and in a safe manner, and he continued to insist on a permit and required inspections. These events seem to be the start of the friction between Meyers and the town and Meyers and Sean Hayes.

In fact, Meyers actually referred Sean Hayes to the State's Attorney's Office for violations of the State Building Code. Hayes renovated and opened the "rental building" on the property without permits or inspections. Moreover, Hayes used the building to hold an event attended by over 200 people. The case referral to the State's Attorney was dropped at the urging of the First

Selectman, which the First Selectman claimed was “a shot across his bow.” The referral to the State’s Attorney was made on August 27, 2015.

On August 31, 2015, Hayes sent a memo to the First Selectman asking that Meyers be removed from the Powder Ridge Project and a “third party building inspector” be appointed. In response, First Selectman Brayshaw sent an email to State Assistant Building Inspector Daniel Tierney inquiring if such a request was possible. Tierney explained that Meyers still is the appointed building official for the Town of Middlefield and the authority having jurisdiction over building code enforcement under state statutes. Moreover, Meyers is responsible for issuing permits and certificates of occupancy and approvals. Brayshaw sent a letter back to Hayes, dated November 11, 2015, acknowledging that Meyers is the appointed building inspector and the authority having jurisdiction, effectively denying Hayes’ request for a “third party building inspector.”

In November of 2015, Edward Bailey was elected as First Selectman of the Town of Middlefield. Bailey replaced Brayshaw as First Selectman but Brayshaw was elected to a position on the Board of Selectmen.

On November 19, 2015, Meyers sent a letter to Sean Hayes outlining the reasons he had not issued a certificate of occupancy for the lodge and restaurant renovation. The letter explained that (1) wiring specifications for the fire pump had not been submitted; (2) the parking lot did not meet satisfactory standards; (3) an “as-built” plot plan had not been submitted showing the location of the holding tanks that supplied the sprinkler system; (4) information pertaining to an exhaust hood in the “food prep area” was not submitted to the fire marshal; (5) a permit with the required documentation was not submitted for the installation of a third 1000 gallon propane tank on the property; (6) an “as-built” plot plan was not submitted for the electrical work done on the

mountain lights; and (7) a statement of professional opinion pursuant to Conn. Gen. Stat. §29-267c was not received. Meyers cited the specific building code section for each violation. Rather than remedy the issues, Hayes again complained. First Selectman Bailey appointed Mr. Garofalo as “acting building official during the disability of Building Official, Mr. Meyers....” Over the course of the next several days, Meyers explained via email the violations and again cited the appropriate code sections. Again, Hayes complained.

On December 24, 2015, Meyers went to Powder Ridge in an attempt to conduct an inspection. Hayes refused to allow Meyers onto the property and forced him to leave without completing an inspection. Again, Hayes complained to First Selectman Bailey, this time complaining that Meyers came to the property “unannounced and uninvited.”

On January 7, 2016, Garofalo, acting in a capacity as acting building inspector and as the person assigned to replace Meyers on the Powder Ridge project, conducted an inspection on the restaurant and bar in the lodge building. Garofalo sent a letter dated January 8, 2016 to Meyers essentially telling him to issue a temporary certificate of occupancy to allow the restaurant to open. In the letter Garofalo acknowledged that the building was not fully up to code. He acknowledged that the fire pump was not operational, thus the sprinkler system was not functional. Garofalo, apparently in agreement with the Town of Middlefield and the fire marshal, was going to allow the restaurant to open even without an operating sprinkler system as long as there was a “fire watch” on duty. In this case, a fire watch consisted of a Middlefield volunteer fire fighter being on the premises during times the restaurant was to be open to the public. The fire fighter would be equipped with a radio and could call for the fire department to respond if there were a fire and assist the public from the building if needed. Meyers was not comfortable with this arrangement as it would not reduce the possibility of fire and would not offer the public

more time to exit the building had there been a fire. Based on the fear that a fire watch was not sufficient to ensure public safety, Meyers declined to issue the temporary certificate of occupancy.

However, in direct violation of the building code, Hayes decided to open the restaurant to the public on January 14, 2016. First Selectmen Ed Bailey and other town official attended the grand opening of the restaurant, even after being told of the denial of the certificate of occupancy by Meyers. On January 15, 2016, Meyers sent Hayes an abatement letter demanding that he close the restaurant immediately and keep it closed until the building was brought in to compliance with the code and a proper certificate of occupancy was issued.

In response to the abatement letter, Hayes did not attempt to get the sprinkler system in working order; rather he applied to the Office of the State Building Inspector for a modification. A modification can be sought if strict compliance of the building code would entail a practical difficulty or unnecessary hardship, or is otherwise deemed to be unnecessary, as long as the intent of the code is observed and public welfare and safety assured. Conn. Gen. Stat. §29-254.

Assistant State Building Inspector Tierney approved the modification, however, Meyers, as the authority having jurisdiction over the Middlefield property did not believe that the building was safe to open to the public and again, declined to issue a certificate of occupancy. Under the building code and state statute, issuance of certificate was within the jurisdiction of Meyers only.

Again on January 20, 2016, Meyers conducted an inspection of the lodge building and restaurant at Powder Ridge. Meyers found that the restaurant was still open to the public and sent a second abatement order. The order cited two violation: (1) restaurant open to the public without a valid certificate of occupancy in violation of §903.2.1.2 of the State Building Code and (2) restaurant open to the public without an approved and functional sprinkler system in violation of

§903.2.1.2 of the State Building Code. Based on the abatement and the violations of the code, the Middlefield fire marshal sent Sean Hayes and Ed Bailey a letter acknowledging Meyers's authority and reiterated that the public should not occupy the restaurant area.

Later that day, Meyers attempted to hand deliver an abatement notice and notice of violation to Sean Hayes at Powder Ridge. Due to the friction between Meyers and Hayes, he requested an escort from the Connecticut State Police. Meyers and Trooper Brendan Rey started to drive towards Powder Ridge when Trooper Rey "pulled over" Meyers using his overhead lights and siren. Trooper Rey advised Meyers that he was told by his superiors that there were communications from town officials and he was not to allow Meyers to deliver the abatement and violation notices. When Meyers followed up on this, he learned that First Selectman Bailey had contacted Middlefield Resident Trooper Eric Kelly who, in turn, contacted Sergeant Rob Derry, who ordered Trooper Rey to stop Meyers from delivering the notices. Moreover, Powder Ridge again opened the restaurant, in violation of the State Building Code, on January 26, 2016.

On February 17, 2016, Vincent Garofalo inspected the fire pump and the wiring. The inspection failed because the pump was missing a bond wire. This issue was remedied and re-inspected on February 23, 2016. The fire pump passed inspection and the sprinkler system went online.

Notwithstanding the fire pump issue, Meyers and Fire Chief Peter Tyc, along with the Middlefield fire marshal, needed to conduct a "final walkthrough" before issuing the certificate of occupancy. That had yet to be scheduled as of March 12, 2016, when First Selectman Ed Bailey came to Meyers's office. Bailey questioned why the certificate of occupancy was not issued and demanded one be issued immediately. Meyers tried to explain that he needed to

conduct a final walk through but that it had yet to be scheduled. Bailey got upset and walked out of the office.

On April 11, 2016, a noon inspection was scheduled. Ed Bailey was present at the inspection and immediately questioned why Meyers was there. Bailey told Meyers it was not a normal workday for him and ordered him to leave. Also present was Vincent Garofalo. Meyers tried to explain to Bailey that Garofalo was not the statutory building official and was not the authority having jurisdiction. Therefore, Garofalo did not have the authority to conduct the final walk through and issue a certificate of occupancy. Bailey said that he did not care and ordered Meyers to leave. Subsequently, Sean Hayes requested a certificate of occupancy on April 14, 2016. Again, Meyers advised Hayes that he could not legally issue the certificate of occupancy because First Selectman Ed Bailey barred him from conducting the final inspection. On May 12, 2016, Ed Bailey came to Meyers's office and again demanded that he issue the certificate of occupancy to Powder Ridge. Meyers tried to explain to Bailey that he had still not been allowed access to the property to conduct a final inspection, thus, could not issue a certificate of occupancy. Bailey ordered Meyers to "get this off the books by Monday" and walked out of the office.

On May 13, 2016, Meyers filed a grievance with his union. Meyers felt he was being harassed and prevented from doing his job by Bailey. Meyers believed that Bailey was using his position as First Selectman to pressure him into issuing a certificate of occupancy for Powder Ridge even though it was Bailey who was preventing him from conducting a final walk through and inspection. On May 19, 2016, Meyers referred Hayes to the State's Attorney's Office for prosecution for violation of the building code. The referral letter references an inspection that was conducted on May 18, 2016, where violations found during a January 20, 2016 inspection

still had not been remedied. However, the records held in the Town of Middlefield Land Use Office do not contain an inspection report dated May 18, 2016.

After some back and forth, Edward Bailey finally allowed Meyers to conduct a final walk through and inspection on June 15, 2016 at 3:00 PM. This inspection revealed several violations of the building code including parking spaces that did not meet code, combustibles being stored in the “hotel room,” and improperly protected propane tanks on the property. Meyers did not believe that the building was up to code and again, believed that issuing a certificate of occupancy was improper at that time.

Shortly after this inspection, the town placed Meyers on administrative leave. Mr. Garofalo issued Powder Ridge a certificate of occupancy shortly thereafter. Meyers was terminated by the town on February 17, 2017 after a public hearing. The reasons for termination were outlined in a letter to Meyers dated January 18, 2017. One of the reasons cited by the town was Meyers’s “failure to promptly reasonably [sic] perform your duties... long term projects such as Powder Ridge...” Another was for failing to abide by his assigned hours, and finally, insubordination and inappropriate conduct.

During the course of his employment, Meyers was a member of AFSCME Council 4, Local 818. A collective bargaining agreement between the union and the Town of Middlefield, effective July 1, 2015-June 30, 2018, protected Meyers and other union members from termination without just cause. Article 10, Section 1 defined “disciplinary action” as a written reprimand, suspension or discharge. Moreover, the same section required “just cause” for any disciplinary action, including termination (discharge).

## II. Analysis

A statutory building official is appointed by a municipality pursuant to Conn. Gen. Stat. §29-260. The statute states a building official is appointed to a term of four years unless otherwise defined by town charter. Conn. Gen. Stat. §29-260. Moreover, the statute describes in detail how a building official is discharged. *Id.* The statute is very clear on that fact.

In order to discharge a building official, the municipality must give the building official written notice outlining the specific grounds for which he is being terminated and the building official must be given a public hearing where he can appear in his own defense and be heard. Conn. Gen. Stat. §29-260(c).

The town provided written notice to Meyers on December 9, 2016 of a pre-disciplinary hearing to be held on December 13, 2016. On January 18, 2017, Meyers was given a second notice explaining the charges against him in detail. This notice also advised Meyers of a public hearing scheduled for January 24, 2017. Meyers is not disputing the fact that the notice written on January 18, 2017 meets the statutory notice requirements outlined in §29-260(c). Furthermore, the statute requires that a public hearing be held not less than five days or more than ten days after notice was given. *Id.* Again, the notice written on January 18, 2017 meets the statutory public hearing requirements outlined in §29-260(c).

As stated above, Conn. Gen. Stat. §29-260 outlines the procedure for dismissing a building official and Meyers is not disputing that the procedure was satisfied. However, the statute also states that a building official can only be discharged if he “fails to perform the duties of his office.” Conn. Gen. Stat. §29-260(b). Moreover, Meyers’s collective bargaining agreement required that he only be disciplined if there was “just cause.” Art. 10, §1 of the CBA. Meyers performed his job to the best of his abilities while keeping public safety in mind at all times.

However, First Selectman Bailey insisted that Powder Ridge open to the public even though there were outstanding building code violations.

A common understanding of what “just cause” requires in this context involves not only a determination of whether Meyers committed the infractions as alleged, but whether “the proven conduct constitutes sufficient grounds to support the discipline or discharge imposed.” Burr Road Operating Co. II, LLC v. New England Health Care Employees Union, Dist., 162 Conn. App. 525 (2016). In order to show “just cause,” the Town of Middlefield would have to show, not only that Meyers did not do his job properly, but also that the alleged infractions rose to the level of supporting termination. Id.

A public hearing was held in the Town of Middlefield on January 24, 2017 at 3:15 PM. The hearing was statutorily required by Conn. Gen. Stat. §29-260. More importantly, this was an opportunity for the Town to explain the charges against Meyers and show that its investigation not only showed that Meyers committed the infraction as alleged, but also to show that his conduct warranted termination. Id.

The minutes from the public hearing show that First Selectman “Ed Bailey read a summary of reasons into the record *as attached.*” January 24, 2017 special meeting minutes. However, there are no comments attached to the public record of the meeting available on the Town of Middlefield’s website. Moreover, there is no internal affairs report or other investigative report in Meyers’s personnel file. The only evidence of an “investigation” into Meyers’s conduct is contained in memos First Selectman Bailey wrote to himself and the notices Meyers received prior to his termination.

During the hearing, Meyers and his Union Representative, Robert Parziale, testified that he followed the code and always had the public’s interest and safety in mind. Id. Moreover, Meyers

testified that Bailey knew the certificate of occupancy had not been issued and legally, the restaurant at Powder Ridge should not have opened. Id. However, Bailey authorized and attended the grand opening. Id. Furthermore, Meyers testified that he attempted to do a final inspection and walk through of the property but Bailey prevented him from doing so. Id. Meyers testified that Bailey ordered him off the property during the final inspection and walk through, thus he could not issue the certificate of occupancy. Id. Meyers testified that this was malfeasance on Bailey's part and interference with his official duties. Id.

Several other witnesses testified on Meyers's behalf. Seb Aresco found Meyers to be "a complete gentleman" and very helpful with a plumbing problem. Id. Jen Huddleston, Manager of Indian Springs Golf Course, located at 132 Mack Road, Middlefield, Connecticut, testified that she worked closely with Meyers on a long-term renovations project. Id. Huddleston testified that Meyers "went out of his way to do a great job for them" and "went above and beyond to answer questions and took extra time to help." Id. Cheryl Pizzo testified, "As a tax payer she takes comfort that in knowing they have experts that the town has hired to do their jobs." Id. Pizzo testified, "She does not take comfort in knowing that the Selectman [sic] is usurping his knowledge and expertise and she believes it would be a mistake to dismiss Mr. Myers." Id.

Sean Hayes, CEO of Powder Ridge Mountain Park and Resort, testified that he endured three years of delays that "cost the community hundreds of thousands of dollars and losses of jobs and revenue." Id. Hayes also accused Meyers of having a vendetta against him, his business, and the Powder Ridge project in general. Id. However, no details of the delays, lost revenue or jobs, vendettas, or accusations were ever entered into the record.

Zjan Wojas, a local Architect, testified that he was not pleased with the time it took Meyers to return plans. Id. Wojas testified “it only took him a couple days to complete the drawings it is unacceptable for it to take over 30 days to review them.” Id.

Meyers rebutted that testimony by explaining to the Selectmen that plans take longer than “ a couple days” to review because the plans are reviewed by Planning and Zoning, the Health Department, and the Fire Marshal before even getting to the Building Inspector. Id. Wojas’s comments were both wrong and very misleading. The review process is far longer than the “couple days” it takes him to draw the plans.

After public comments were made and the public hearing was closed, Jon Brayshaw made a motion to adjourn. The motion was seconded by Ed Bailey and approved by all voting members. Id. At no time during the public hearing did the Town of Middlefield present concrete evidence of Meyers’s misconduct, nor did it present witnesses to corroborate the memos written by First Selectman Bailey or the complaints made by Sean Hayes. Furthermore, Meyers was not afforded an opportunity to examine or cross-examine the complainants or the town’s witnesses.

The town failed to prove that it had just cause to dismiss Meyers which is a violation of Article 10, Section 1 of the collective bargaining agreement between the town and the union. Furthermore, the town was unsuccessful in proving that Meyers “failed to perform the duties of his office,” as required by Conn. Gen. Stat. §29-260(b).

Since Meyers was dismissed without just cause, he retains a property interest in his public sector job. Board of Regents v. Roth, 408 U.S. 564 (1972). That right comes not from the Constitution but from existing rules and understandings that stem from an independent source such as state law. Id. Here, that state law is Conn. Gen. Stat. §29-260.

The termination of Mr. Meyers was politically and commercially motivated and without any just or reasonable cause. The record shows that Mr. Meyers was terminated not because he failed to do his job of building inspector, but rather because he performed it too well. As the sole individual empowered in the town of Middlefield with specific enforcement of the building code, it was Mr. Meyers' grave obligation to ensure, in the interest of public safety, and in compliance with public policy and statutory authority, to ensure that there was strict compliance with the code.

However, requiring strict compliance with the code created a political and commercial problem for the elected leaders of the town, and the owner of Powder Ridge. But those political and commercial concerns could be of no matter to Mr. Meyers, and indeed, state statute requires that the building official act independently of such concerns. A failure on his part to do so would put the public safety at risk. A solemn obligation is placed upon the building official and Mr. Meyers seemingly was the only party involved in this matter who took that obligation seriously. Ultimately he was terminated because he was steadfast.

Neither state statute, public policy, nor the collective bargaining agreement can support the decision by the town to terminate Mr. Meyers' employment. This court should immediately reverse the decision of the town and reinstate Mr. Meyers to his position of building official. If the court is unwilling to take this step, it should at a minimum order an evidentiary hearing to assess the merits of Mr. Meyers' claim in order to aid in deciding whether or not the termination of Mr. Meyers was in compliance with statute statutes.

THE PLAINTIFF,  
ROBERT MEYERS

/s/ 439174

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**CERTIFICATION**

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on 1/2/18 to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

/s/ 439174

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DOCKET NO: MMX CV 17-6017552 S : SUPERIOR COURT  
ROBERT MEYERS : J.D. OF MIDDLESEX  
v. : AT MIDDLETOWN  
TOWN OF MIDDLEFIELD : MARCH 2, 2018

**TOWN OF MIDDLEFIELD’S REPLY BRIEF**  
**AS TO ROBERT MEYER’S STATUTORY APPEAL**

**I. FOREWORD**

Plaintiff, Robert Meyers’ (“RB”) appeal to this Court of his dismissal as a building official from the Town of Middlefield is grounded on C.G.S. 29-260. <sup>1</sup> This statute provides that the Superior Court may reinstate a building official if it determines that the local authority acted illegally or abused its discretion in dismissing a building official. Plaintiff cannot dispute that First Selectman Edward Bailey (“EB”) had the power to dismiss him because C.G.S. 29-260 (b) expressly provides that a “...local building official who fails to perform the duties of his office may be dismissed by the local appointing authority...”. <sup>2</sup> Plaintiff cannot claim that Middlefield

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<sup>1</sup> Meyers was dismissed by a unanimous vote of Middlefield’s Board of Selectmen on February 16, 2016 after additional comments were heard and after the dismissal hearing on January 24, 2016. As Middlefield indicated in its’ Notice of Filing the Record in this matter a DVD or transcript of January 24<sup>th</sup> hearing can be provided should the Court find it necessary to review this material to decide the issues presented in this appeal. A copy of the transcript of the meeting held on February 16<sup>th</sup> has been provided to the Court.

<sup>2</sup> See § 29-260 (b) and also § 7-12a. which provides that the First Selectman is to be the chief executive officer in each town for which its board of selectmen is the executive authority. In his brief, Plaintiff conflates the basis for his removal from office under C.G.S. 29-260 with the “just cause” basis for termination of a town employee under the Collective Bargaining Agreement the Town had in place with union employees. The statute which provides for this appeal does not import a “just cause” cause standard. The statute, by its terms, allows for termination of a building official as long as the local authority rightfully finds he was not performing his duties.

acted illegally with respect to his due process rights as protected by C.G.S. 29-260. In fact, he concedes that the Town followed the statutory due process requirements by providing him notice of the basis for dismissal and an opportunity to be heard.<sup>3</sup> So, the sole issue before the Court is whether the record before the BOS supports a finding that the BOS acted legally and within its discretionary authority when it dismissed the plaintiff for “failing to perform his duties”.<sup>4</sup> If the Court finds that Middlefield acted legally and did not abuse its discretion when passing on the question of whether RM failed to perform his duties then his appeal must be dismissed.

As discussed in Plaintiff’s brief, animosity between RM and Sean Hayes (‘SH’) of Powder Ridge began in July, 2015 when Powder Ridge was filling a swimming pool and RM insisted that this activity required a demolition permit. Pltff’s Br. P. 3. As the record shows, from that point forward, RM failed to perform his duties as a building official and abused his power by wrongfully delaying the issuance of a temporary certificate of occupancy for the use of the second floor of the Powder Ridge lodge.<sup>5</sup>

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<sup>3</sup> See Plaintiff’s Brief at p. 10. Plaintiff acknowledges that he was afforded all the due process protections set out in 29-260. The record establishes that he was given notice in writing of the specific grounds for such dismissal and an opportunity to be heard.

<sup>4</sup> The record provided by Middlefield in this appeal is the same record that was before the BOS when it considered the dismissal of the plaintiff. Members of the BOS cited to the emails, letters and memos in the record during their consideration of the motion to dismiss at the February 16, 2016 hearing. See transcript of hearing submitted as part of the record in this matter.

<sup>5</sup> RM’s abuse of power had a crippling effect on Powder Ridge’s ability to open and operate its business. An early example of this is when he shut down Powder Ridge in January, 2016 after all officials agreed a TCO could issue and after Powder Ridge had scheduled a holiday event in its second-floor restaurant/bar. This action by RM drew a threat of legal action from Powder Ridge and was cited by First Selectman Edward Bailey as a particularly disturbing conduct. See transcript of hearing of February 16, 2016. RM failed to issue a TCO even after VG advised him a letter dated Dthat a TCO could issue

The record demonstrates that RM failed to issue a TCO when it was appropriate. He needlessly delayed it by failing to accept guidance and/or directives of state and local officials who were assisting in approving the project. He wrongfully broadened the scope of the approval process by considering aspects of the property that were unrelated to the issuance of a CO for the Powder Ridge Lodge. He demanded compliance with codes and regulations that were inapplicable to the project. He failed to act on applications for permits. He failed to follow instructions from the First Selectman to expedite the approval process to bring a valuable asset to the Town online. His dismissal was neither illegal nor an abuse of the discretion of the appointing authority. RM's actions, or perhaps more accurately his lack of action, left Middlefield no choice but to remove a rogue building official.

## **II. LEGAL STANDARD**

C.G.S. § 29-260 is silent as to what actions by a Town in dismissing a building official would be deemed illegal or an abuse of discretion. Middlefield could find no case law addressing this subject. Therefore, an examination of these standards in other contexts is useful.<sup>6</sup>

The abuse of discretion standard is typically employed by the Appellate Court when examining evidentiary rulings made by the lower court, or discretionary rulings based on a procedural rule..." *State v. Apodaca*, 303 Conn. 378, 386, 33 A.3d 224 (2012), *State v. Cubano*, 203 Conn. 81, 88-89, 523 A.2d 495 (1987). "In determining whether there has been an abuse of discretion, every reasonable presumption should be made in favor of the correctness of the trial court's ruling..." (Internal quotation marks omitted.) *State v. Creech*, 127 Conn.App. 489, 495, 14 A.3d 434, cert. denied, 301 Conn. 906, 17 A.3d 1045 (2011). In *Burton v. Browd*, 258 Conn. 566

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<sup>6</sup> Middlefield submits that when passing on the question of whether a dismissal of a building official is appropriate the local official is acting in a judicial capacity.

(2001), the Court stated, that “[j]udicial discretion... is always a legal discretion, exercised according to the recognized principles of equity. *Thomas v. Thomas*, 159 Conn. 477, 480 271 A.2d 62 (1970).” 258 Conn at 569-70. “Such discretion... imports something more than leeway in decision making and should be exercised in conformity with the spirit of the law and should not impede or defeat the ends of substantial justice.” *Id.* at 570, citing *Red Rooster Construction Co. v. River Associates, Inc.*, 224 Conn. 563, 575, 620 A.2d 118 (1993). “[R]eversal is required where the abuse is manifest or where injustice appears to have been done.” *Id.* citing, *Thomas v. Thomas*, *supra*, 480.

While there is a dearth of case law as to how superior courts deal with appeals from decisions made by boards of selectmen there is ample authority as to how they deal with appeals from zoning boards’ decision. There is no logical reason to import a different standard. Zoning Boards are endowed with liberal discretion, and their decisions are subject to review by a court only to determine whether the board acted arbitrarily, illegally or unreasonably. *Pleasant Farms Development, Inc. v. Zoning Board of Appeals*, 217 Conn. 265, 269 (1991); *Torsiello v. Zoning Board of Appeals*, 3 Conn. App. 47, 50 (1984). The burden of demonstrating that the board acted improperly is on the party seeking to overturn the board's decision. *Adolphson v. Zoning Board of Appeals*, 205 Conn. 703, 707 (1988); *Whittaker v. Zoning Board of Appeals*, 179 Conn. 650, 654 (1980).

A court should not usurp the function and prerogatives of a zoning board of appeals by substituting its judgment for that of the board, where an honest judgment has been reasonably and fairly exercised, after full hearing. *Bloom v. Zoning Board of Appeals*, 233 Conn. 198, 206 (1995). The question is not whether another decision maker, such as the trial court, would have

reached a different decision, but whether the record before the agency supports the decision reached. *Calandro v. Zoning Commission*, 176 Conn. 439, 440 (1979).

A decision must be upheld, if it is supported by substantial evidence in the record. Substantial evidence is enough evidence to justify, if the trial were to a jury, a refusal to direct a verdict if the conclusion sought to be drawn is one of fact. *Sampieri v. Inland Wetlands Agency*, 226 Conn. 579, 588 (1993). The possibility of drawing two inconsistent conclusions does not prevent a decision from being supported by substantial evidence. *Property Group, Inc. v. Planning & Zoning Commission*, 226 Conn. 684, 697 (1993).

Where a municipal zoning agency has stated collective reasons for its decision, a court should not go beyond the collective reasons of the agency but should only decide whether any reason is supported by substantial evidence in the record. *Gibbons v. Historic District Commission*, 285 Conn. 755, 770–71 (2008); *Vine v. Zoning Board of Appeals*, 281 Conn. 553, 559–60 (2007). Consistent with Sec. 8–75 of the General Statutes, where reasons have been stated by the board, the court must determine whether any reason given is supported by substantial evidence. However, where a zoning board of appeals has failed to state collective reasons for its decision, that fact is not fatal to the board's action. In that event, a court is required to search the record in an attempt to determine some basis for the action taken. *Moon v. Zoning Board of Appeals*, 291 Conn. 16, 25 (2009); *Grillo v. Board of Appeals*, 206 Conn. 362, 369 (1988); *Ward v. Zoning Board of Appeals*, 153 Conn. 141, 144 (1965). The burden is on the party challenging the action to prove that the commission acted arbitrarily, illegally, or in abuse of its discretion. *Whittaker v. Zoning Board of Appeals*, supra, 654; *Rackowski v. Zoning Commission*, supra, 639. " In reviewing decisions made by an administrative agency, a

reviewing court must sustain the agency's determination if an examination of the record discloses evidence that supports any one of the reasons given." (Internal quotation marks omitted.) *Adriani v. Commission on Human Rights & Opportunities*, 228 Conn. 545, 550-51, 636 A.2d 1360 (1994).

### **III. BASIS FOR DISMISSAL**

#### **A. Reasons for Dismissal Stated in the Record**

The minutes of the RM's termination hearing indicate that First Selectman Edward Bailey read the following comments into the record:

"A copy of the materials that have been provided to the Union and the Employee is hereby incorporated into the record."<sup>7</sup>

The notice of public hearing provided the following as the specific grounds on which the Board of Selectmen is considering his dismissal:

Failure and/or refusal to promptly reasonably perform your duties, including but not limited to longstanding projects such as Powder Ridge. Indeed, Mr. Meyers' allowed months to pass with little if any follow-up to resolve such long-term projects. Such failure and/or refusal in this regard is supported by the complaints that the Town has received that Mr. Meyers has intentionally and unjustifiably obstructed and prevented Powder Ridge from obtaining a certificate of occupancy for an extended period of time and his own statements made on several occasions that Mr. Meyers would never issue such a certificate of occupancy with respect to that project. It is further supported by his failure to accept guidance and/or directives of state and local officials who were assisting with resolving this project.

Failure to maintain and retain proper documentation submitted by applicants and records of his own actions with respect to such long-term projects such as Powder Ridge. Such documentation issues include errors and inaccuracies and failure to provide relevant and required backup for legal documents.

Failure to follow reasonable instructions and/or abide by assigned work hours including but not necessarily limited on the following dates: January 29, 2016, April 11, 2016, May 12, 2016, May 13, 2016, May 18, 2016, and July 8, 2016.

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<sup>7</sup> This material was provided to the Court as part of the record before the BOS supporting its decision to terminate Plaintiff.

Display of inappropriate conduct and/or insubordination on May 12, 2016 May 13, 2016, May 19, 2016 and July 2016.”<sup>8</sup>

#### **IV. THE RECORD**

##### **A. Documentary Evidence**

The record shows that the EB hired Assistant Building Official, Vincent Garafalo (“VG”), in December, 2015 to assist RM with, among other things, getting Power Ridge the necessary approvals so that it could operate its business. He met with the state building officials and consulted with state and town fire officials and determined that the second floor of the main building could be opened for business provided a fire watch would be utilized until the fire sprinkler system was made operational.

On December 23, 2015 VG sent a letter to RM and EB to report on his inspection of powder ridge. He concluded that the second floor of the restaurant could be safely utilized without a fire sprinkler system if a fire watch was employed. The next day RM went to Powder Ridge unannounced without a complaint or request for inspection. On December 28th, 2015, VG sent an email to RM advising him that an existing building does not need a CO. By written report of January 8, 2016, VG advised RM based upon his inspection of the Powder Ridge Lodge, the second-floor assembly room (restaurant/bar area) met the criteria conditions for granting a TCO with the condition that a fire watch be provided. By email dated January 8, 2016, State Assistant Building Inspector Daniel Tierney (“DT) advised RM and others that from his observations and consultation with the State Fire Marshal, the second floor was safe to occupy and a TCO should be issued by Middlefield. In the report dated January 14, 2016, RM notes that he received a request for a TCO from SH and he was going to deny the request. The

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<sup>8</sup> See minutes of hearing of January 27, 2016.

*next day* he inspected Power Ridge Lodge and found it to be in violation due to the absence of a functioning fire sprinkler system and issued a notice of violation and order to abate.

By letter dated January 19, 2016, DT advised RM (by copying him on a letter to SH) that he was approving the modification like to fire the sprinkler requirement to allow use of second floor assembly room. This effectively over-rode RM's basis for denying the TCO application. The following day, RM again, inspected Powder Ridge and issued a second notice of violation due to the absence of the sprinkler system.

On January 22, 2016, Middlefield's Fire Marshal issued a report indicating the fire department cannot provide a fire watch in the absence of a TCO. RM's denial of the TCO left the Fire Marshall no other choice and it effectively prevented Powder Ridge from opening for business. By letter of the same date, counsel for Powder Ridge advised town counsel that RM's actions in refusing to grant a TCO subjected the town to legal action. By email dated January 25, 2016, the Office of the State Fire Marshall notified Middlefield's Fire Marshal that it authorized that the fire watch be reinstated.

In an e-mail dated January 26, 2016 EB asked DT, whether considering his modification to the sprinkler system requirement, if there is any justification to RM's issuance of a notice of violation. DT responded that there was not.

By letter date February 2, 2016, the State of Connecticut granted Powder Ridge an exemption from state building codes accessibility requirements due to space constraints at powder ridge.

On February 9, 2016, VG advised RM that after consulting with the state building inspector's office and the state fire marshal's office, Powder Ridge was ready for the approval of

an electrical permit. The same day VG asked RM in an e-mail why he was requiring SH to fill out a modification form, explaining that he had already forwarded to RM information indicating the modification is not required for an electrical permit. VG invited RM to contact DT if he needed an additional confirmation and advised that all inspections of the project was done prior to the application so as not to delay the issuance of a permit. Nonetheless, RM insisted that a modification to permit was required which prompted an irritable response from DT on February 18, 2016. The response indicated that everyone involved in the project had already explained to RM that the modification is not necessary but advised SH to submit one anyway just to move the project along. The modification was granted the following day by letter from DT to SH and copied to RM. DT also sent a letter that day to SH with a copy to RM approving an accessibility exemption for parking spaces.

By email dated February 26, 2016, VG advised RM that the wiring of the fire sprinkler system passed inspection and that the TCO could issue until hard copies of the report were received. On March 2, 2016, SH again requested the TCO or the reason for its continued denial.

On March 4, 2016 RM sent an email to VG questioning him about the wiring of a septic pump. VG responded by saying that the pump should not hold up the TCO because it was not part of the structure. Nonetheless, on March 7, 2016, the pump was inspected and passed. On March 10, 2016, VG advised RM of this fact and said that a CO for the bar and restaurant could now be issued. SH again requested a CO and was advised *the next day* by RM that the final walk through would be conducted next week.

On March 15, 2016, VG sent EB an email saying that Powder Ridge had been inspected many times by many officials and finding nonsignificant, non-complaint items could always be a pretext for denying a TCO. He continued by saying that if RM was truly interested in

compliance, he should have issued a violation order for Powder Ridge using the structure without a TCO, and by failing to do so showed that he is ignoring his duties. He indicated that he wanted to attend the next inspection and encouraged EB to attend to watch “this train wreck continue”.

On April 6, 2016, Middlefield’s Fire Chief indicated that all documents had been reviewed and a CO could be issued. On April 11, 2016, the final walk through of the restaurant and bar was conducted by VG and other officials. By email dated April 12, 2016, VG advised all officials and SH that the final inspections were completed, and a CO should issue. By letter dated April 20, 2016, RM acknowledge that he received a request for CO from SH but denied the request because he was not allowed to attend the final inspection, nor did he have paperwork concerning propane tanks. The CTTA letter from RM prompted an email from SH on April 22, 2006, imploring the Town to rein in RM. It also prompted a reply to RM dated May 5, 2016, indicating the all necessary paperwork concerning the propane tanks had been submitted multiple times.<sup>9</sup>

On May 12, 2016, EB requested RM to finalize the CO process at powder ridge. In a memo of the same date, EB memorializes the fact that RM has been advised that there are no issues preventing the issuance of a CO by the deputy state building official and that RM has taken no action since April 11, 2016 to facilitate the issuance of a CO. On May 13, 2016, RM filed a grievance with the town and stated that he was not going to the issue a CO for Powder Ridge. RM then began pressing compliance issues with propane tanks located on the property. On May 13, 2016, TD sent an email to SH explaining that any issues relating to propane tanks

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<sup>9</sup> The applications that required approval or denial per statute and which were never acted upon are included in the record.

had no bearing on issuing a CO for the restaurant bar/area. He continued by saying the fact that the town has a permit application for the tanks and has failed to act on them “is just another problem in this continuing saga”.

By letter dated May 19, 2016, RM referred SH to the State’s Attorney’s office for criminal prosecution for building code violations. While the letter referenced an arrest warrant application, the only enclosure listed is: “Copy of Notice of Violation and Order to Abate”. When SH asked DT about RM’s referral to the state’s attorney’s office, DT replied in email dated May 25, 2016 that the only violation referenced in the attachment to RM’s letter was a sprinkler code violation that *did not* exist and the reference to propane tanks which did not fall under the building code.

By email dated June 1, 2016, SH made yet another request of RM to issue a CO for the restaurant/bar area. DT emailed EB on June 7, 2016 inquiring as to why the CO had not been issued. On June 13, 2016, SH emailed the town indicating that because of the inexplicable failure to issue a CO, legal action may be required.

By email of June 14, 2016, EB advised RM that on June 15, 2016 another walk through inspection of the property was scheduled so that he could inspect the property. In an email to RB that day, EB requested a copy of the inspection report by 1:00 pm on June 16<sup>th</sup>. On the 16<sup>th</sup>, RM emailed SH advising him that the propane violation remain uncorrected and that DT was reading the applicable code section correctly. On June 16<sup>th</sup> RM advised EB that he could not produce a report by the 1:00 pm deadline so it was extended until Friday, June 17<sup>th</sup>. RM did not tender a report to EB on the 17<sup>th</sup> but instead sent a letter to SH detailing his inspection of the second floor, restaurant/bar area. He cited numerous violations *that had nothing to do* with the second-floor use of the building. All violations pertained to exterior conditions concerning the parking

lot, ramps, decks and propane tanks. Again, the issuance of a CO for the second floor of the lodge was denied.

SH asked RM to provide the code sections that state that the state building code has jurisdiction over the installation of propane tanks. RM cited to IBC 105.1. DT advised SH to appeal this finding to Joseph Cassidy (“JC”), that State Building Inspector. By letter dated June 20, 2016, SH received a response to his appeal. The substance of the letter is set out in an email dated June 24, 2016 from JC to SH. JC advised that the propane tanks did not fall under the jurisdiction of the state building code or the local building official. RM’s response to JC’s ruling was to question his interpretation of the applicable code section and to threaten to file an ethics complaint concerning DT’s involvement in the Powder Ridge project in an email dated June 28, 2016. JC responded to this email by stating in his email of the same date that the Fire Marshall had jurisdiction over liquid propane tanks and that EB requested DT’s involvement in the project.<sup>10</sup> EB received an email from TD on June 28, 2016, stating simply, “Ed, you really have to put a stop to this.”

RM by email dated July 1, 2016, requested a meeting with JC because his interpretation of the code section had caused the issues that the first selectman, town attorney and himself. RM cited to a 2009 edition of the Connecticut Petroleum Gas and Liquefied Gas Code (“CPGLGC”)

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<sup>10</sup> On June 29, 2016, RM sent SH another letter changing the reference to the code sections that he felt the propane tanks were in violation of. This letter prompted an email from SH to EB and DT dated June 29, 2016. SH complained about the change in the references to the applicable code sections for the propane tank permit. He said, putting aside the state ruling that a permit is not required, Powder Ridge had applied for two permits and supplied RM with multiple copies of the applications. SH asks why is RM being allowed to ignore the applications without issuing permits and allowed to falsely claim that he only had a permit application for two tanks when an application had been submitted for all three tanks in issue. He concludes by asking why the building official is being allowed not to perform his duties when the application for the permits for the tanks had been submitted and paid for on two occasions.

which he claimed give him jurisdiction over the propane tank compliance issue. By email dated July 5, 2016, DT asked Connecticut State Fire Marshal, William Abbott, when the CPGLG code had been repealed. Fire Marshall Abbott advised by email the same day that it was repealed on January 1, 2015. Later that same day, SH emailed RM requesting, once again, a CO for the second-floor lodge restaurant/bar. SH followed this email with another sent out the same day, referencing an email sent on June 21, 2016 which requested clarification on issues RM had raised and SH's response to those issues. SH indicated that RM never responded to the email, and that the issues raised RM raised were moot in any event because there was compliance with the applicable regulations. It also reminded RM that all other necessary items had been completed. SH sent a third email on July 5<sup>th</sup> requesting an inspection of the lodge. RM responded by saying in an e-mail sent the same day that he had prepared a letter and placed it on the desk of the secretary ("Nancy") to be sent out. In the record before the BOS, there is a document captioned "Nancy". It has a handwritten notation below the copy of RM's email penned by Nancy indicating that she returned from vacation on July 6<sup>th</sup> but did not find the letter RM referred to in his email. <sup>11</sup> EB prepared a memo on July 7, 2016, referencing a telephone conversation he had with RM about SH's request for an inspection. According to the memo, RM said he was too busy to make an appointment with SH to conduct an inspection. RM again maintained that he was the proper authority governing propane tank compliance. He was asked to call the State Fire Marshal for clarification on this issue.

On July 8, 2016, SH emailed both state and local officials concerning the two-year campaign to get a CO and how Powder Ridge was thwarted every step of the way by RM who

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<sup>11</sup> EB referenced in his comments at the termination hearing that RM misrepresented to SH that he left a letter for Nancy to send out as further evidence that RM was not performing his duties.

publicly vowed that; “He would never sign the CO for the for a lodge at Powder Ridge.”<sup>12</sup> SH advised the officials that unless a CO was issued, Powder Ridge could not close on its small business loan and the business would have to shut down. SH complained that RM is not responsive to requests for clarifications about his claims of building code violations. Literally, 10 minutes after SH sent the e-mail, EB met SH and RM at Powder Ridge. According to EB’s memorandum about this meeting, during RM’s inspection of the property, he raised new violations there were not previously set forth in his CO report of June 14, 2016. When the topic of the propane tanks was discussed, there was a disagreement as to whether permits had been properly filed. RM complained to SH that involving DT in the issue caused him problems. RM tried to end the conversation about whether the propane tanks were in compliance, but SH wanted to finish it. RM said he was going to discontinue the inspection notwithstanding EB’s instruction to complete it. RM then left the premises. Termination proceedings ensued.

## V. LAW AND ARGUMENT

### A. Statutory Duty of a Building Official

The statutory predicate for the finding that Plaintiff was not performing his duties can be found in C.G.S. §29-261(b). It provides that “[t]he building official or assistant building official *shall pass* upon any question relative to the mode, manner of construction or materials to be used in the erection or alteration of buildings or structures, pursuant to applicable provisions of the State Building Code and in accordance with rules and regulations adopted by the Department of Construction Services. “Shall pass” is the operative term. “Pass” is commonly defined as “proceed”. The record demonstrates that the RM did not proceed upon the question of whether Powder Ridge was in compliance with applicable provisions of the State Building Code and in

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<sup>12</sup> The record shows that this statement was made more than once.

accordance with rules and regulations adopted by the Department of Construction Services so that it could be issued a temporary or final certificate of occupancy. Instead, he needlessly stonewalled the project.<sup>13</sup>

## **A. Grounds for Dismissal**

### **1. Obstruction of the Temporary Certificate of Occupancy for the Second Floor Restaurant/Bar of Powder Ridge Lodge**

Walking off the job was the last straw. Actions now matched declarations. RM made good on his vow that he was never going to issue a TCO for Powder Ridge to open its Lodge for business. RM demonstrated over a period of more than seven months that he was unwilling to put personal animus aside and discharge his duty under C.G.S. §29-261(b) to “...*pass* upon any question relative to the mode, manner of construction or materials to be used in the erection or alteration...” of the Powder Ridge Lodge restaurant/bar area.<sup>14</sup> RM’s constant delay of his duty to proceed with the approval of the Powder Ridge project was the primary basis for his dismissal. He was charged with stonewalling the project, to wit; the

“[f]ailure and/or refusal to promptly reasonably perform [his] duties, including but not limited to longstanding projects such as Powder Ridge...and...”intentionally and unjustifiably obstruct[ing] and prevent[ing] Powder Ridge from obtaining a certificate of occupancy for an extended period

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<sup>13</sup> As discussed, it appears that the Plaintiff’s lack of cooperation sprang from his personal animus with SH and culminated with his declaration that he would never issue a certificate of occupancy.

<sup>14</sup> The minutes of the January 16, 2016 meeting reflect that “Sean Hayes, CEO of Powder Ridge, stated that [RM’s actions] over a three-year period delayed everything and cost the community hundreds of thousands of dollars and losses of jobs and revenue. Mr. Hayes explained that this did not happen on one occasion but was continuously repeated. The State had to step in and overruled Mr. Meyers' decision to the point that Mr. Meyers no longer listened to them. Mr. Hayes stated that he sent numerous letters of complaints to the State’s Attorney, Building Officials and the Town of Middlefield outlining the magnitude of the situation. Mr. Hayes explained that some of the experiences the community has felt with Mr. Meyers further exemplifies that this is a vendetta against a business that was specifically targeted toward Powder Ridge and their project.”

of time...and his failure to accept guidance and/or directives of state and local officials who were assisting with resolving this project.”

The record makes clear the dismissal of RM was justified. Powder Ridge was not only going to be a source of income for its owners and employees, it was going to be an economic shot in the arm for Middlefield. Unquestionably, it was the most important project on the books for Middlefield. Because of this, Middlefield provided an assistant building official and enlisted the assistance of state and local building and fire safety officials to assist RM in getting the project on line in a timely fashion. The quest was to get approvals in place for the changes that were made to convert the second floor of the ski lodge into a workable restaurant and bar so that it could open for business to serve the patrons of Powder Ridge. The scope of the certificate of occupancy was for approval of “...the manner of construction or materials [that were] used in the erection or alteration...” of the second floor of the lodge - nothing more – nothing less.

The record demonstrates that there was no reason to delay the issuance of the TCO past January 8, 2016. As of this date, the alterations made to the second floor of the lodge were inspected and approved by local building official VG, and State Building Inspector DT after consultation with the State Fire Marshal. State Building Code § 110.3 “Temporary occupancy” provides that a building official may issue a temporary CO before completion of all permitted work provided doing so would not endanger life or public welfare.

As of January 8, 2016, plans were in place to allow for the use of the second floor with the proviso that a fire watch be provided. Per SBC § 110.3, there was no reason not to grant a TCO. Nonetheless, RM thwarted the issuance of the TCO by demanding an operational fire sprinkler, something that was not necessary given the plan to have a fire watch system in

place.<sup>15</sup>

RM continued his wrongful delay of a TCO by insisting on an unnecessary modification before the issuance of an electrical permit for the fire sprinkler system. After this electrical work approved, the TCO was delayed further by RM improperly focusing on wiring of the septic pump, a component that was not part of the structure that had been altered.<sup>16</sup> Even after the pump passed inspection, RM still refused to grant a TCO, instead insisting on scheduling the final walk through. After the second floor passed final inspection, RM continued his refusal to grant a TCO, this time by improperly bringing exterior propane tanks into play and by falsely claiming he lacked the appropriate paperwork for permitting work on the propane tanks. At this point, the record shows that the prospects for getting a TCO for the second floor of the lodge were bleak. A sham walkthrough inspection by RM produced another denial of the TCO based upon a battery of purported violations *that had nothing to do* with the second-floor use of the building.<sup>17</sup>

Now, six months after building and fire officials agreed that a TCO should have issued, RM continued to stonewall the granting of a TCO by wrongfully maintaining; 1) that propane tanks were part of the TCO approval process, 2) that Powder Ridge had not been issued permits for the propane tanks, 3) that he had jurisdiction over approval of the propane tanks, 4) that the

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<sup>15</sup> RM's unreasonable refusal to grant a TCO cost Powder Ridge substantial revenue and exposed Middlefield to legal action. See letter from Attorney Laudati to Corporation Counsel, Bruno R. Morasutti, Esq. dated January 22, 2016.

<sup>16</sup> The record shows that VG advised RM that the septic pump should not hold up issuance of a TCO.

<sup>17</sup> All violations pertained to exterior conditions concerning the parking lot, ramps, decks and propane tanks.

propane tanks were not up to code and 5) that repealed sections of the CPGLG code were still in effect.

The record also shows that the CPGLG code section that RM insisted he had jurisdiction to enforce was repealed on January 1, 2015. Therefore, RM's actions in blocking the issuance of the TCO based upon propane tank compliance issues were unauthorized, unsupported by law, and were transparently pretextual. When he was taken to task by SH to support his position about propane compliance, RM's actions spoke louder than words. He had no choice but to turn tail and leave. He had run out of excuses for not issuing the TCO.

## **2. Failure to Act on Permit Applications**

The next basis for the dismissal of RM included his "Failure to maintain and retain proper documentation submitted by applicants and records of his own actions with respect to such long-term projects such as Powder Ridge."

The evidence is that Powder Ridge had applied for permits for its propane tanks, but RM never acted on them.<sup>18</sup> CGS 29-263 provides that a building permit shall be issued or refused in whole or part within 30 days after application date.<sup>19</sup> The record shows that Powder Ridge had submitted multiple applications for permits for propane tank approval, but RM never acted on them. The evidence is that RM used the absence

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<sup>18</sup> Two applications are included in the record but RM's signature granting the applications is conspicuously absent.

<sup>19</sup> SBC 105.3.1 "Action on application" repeats the 30 day examination provision and adds that the BO *shall* reject the application in writing if it does not conform with the SBC and pertinent laws. The record makes clear that RM never rejected Powder Ridge's propane tank application in writing.

of a permit for the propane tanks as a basis to stall the Powder Ridge project and that SH pressed RM on this basis for delay by pointing to the fact that applications had been submitted but never acted on by RM. Even after SH requested action on the applications to put the propane permit issue to rest, RM never acted on them. RM's failure to issue or refuse Powder Ridge a permit was a violation of state statute and a dereliction of duty.

### **3. Failure to provide relevant and required backup for legal documents.**

The next basis for dismissal surrounded RM's attempt to thwart the Powder Ridge project by referring SH to the State's Attorney's office for criminal prosecution for building code violations. As discussed, the referral referenced an arrest warrant application but was unsupported by one. The only enclosure listed is: "Copy of Notice of Violation and Order to Abate" which cited a sprinkler code violation that *did not* exist and the reference to propane tanks which did not fall under the building code. Violation of the CT State Building Code is a crime, categorized as a Class B Misdemeanor. See CGS 29-254a. RM did not support his referral for a criminal prosecution with a warrant showing that probable cause existed to believe that Powder Ridge had violated any provision of the state building code. Clearly, RM did not provide the required backup for his request for criminal prosecution in dereliction of his duty as a building official.

### **4. Failure to follow reasonable instructions**

The record is replete with instances where RM failed to follow the instruction of EB to move forward with the project or to follow the instruction he was provided by state building and fire safety officials. EB specifically instructed RM to act on Powder Ridge's TCO application on several occasions. RM's attitude was that he was "too busy" to "pass on" approving the project in a timely fashion. Instead of accepting the instructions of state officials as to the

interpretation and applicability of building and CPGLG code sections, RM rebuked them all, steadfastly refusing to accept guidance even went it meant relying on repealed sections of the code as support for his position. <sup>20</sup>

### **5. Display of inappropriate conduct and/or insubordination**

By all accounts, RM's conduct during the approval process for the Powder Ridge project was unprofessional, non-cooperative (bordering on combative) and disruptive. It might even be fairly described as vindictive. The evidence shows that RM refused to put his feelings of personal animosity towards SH aside. When it came to passing on the application for the TCO he acted a lot like the character of "Lucy" in the Charlie Brown cartoon series - he would pull "the football" away every time Powder Ridge was kicking for a field goal. He issued a notice of violation for the absence of a fire sprinkler when none was required because of the institution of a fire watch. He insisted on a modification to an electrical permit when it was not required. He pressed propane tank compliance issues that had no bearing on the TCO application. But, perhaps the most telling piece of evidence that RM was intent on pulling away the football on Powder Ridge's TCO application was his post-inspection letter of June 17, 2016 where he raised for the first-time numerous purported violations that existed outside of the lodge as a pretext for denying the TCO for the restaurant/bar area.

The comments as the public hearing show how RM became a disruptive force in the land use office. First Selectman Brayshaw's comments at the termination hearing on February 16, 2016 are telling. He quotes from an email from VG describing RM's conduct as showing a "lack of professional courtesy, creation of anguish, frustration, drama, unnecessary bordering on

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<sup>20</sup> See in this regard EB's comments at the termination hearing at p. 21 of the hearing transcript.

harassment”. Mr. Brayshaw noted that the Town had proud history of its product and didn’t deserve this description of its building official in its file. Transcript at p. 22. EB commented that he received many complaints from other town employees about RM’s “interference in their job duties”. First Selectman Ruffino commented that after listening to residents and going through the documentation as to how the Powder Ridge project was handled that “it would be a disappointment for any town-appointed official ...to interact or present themselves in that fashion when they’re working for the town.” <sup>21</sup>Id at 22-23. EB noted that when RM was put on administrative leave he did not receive any more complaints about missed inspections or controversies coming from the land use office. Transcript at p. 20.

## VI. CONCLUSION

According to C.G.S § 29-260, the court’s review of the dismissal of a building official shall be limited to the record of the hearing and it shall take testimony only if is necessary for an equitable disposition of the appeal. Testimony should not be required. The record demonstrates that Plaintiff was not performing his duties but instead was abusing the authority of his office. He was an obstructionist. He was insubordinate. He was a disrupter. He was making good on his vow never to grant Powder Ridge a TCO. First Selectman Bailey was well within his statutory authority in removing Mr. Meyers from office. For this reason, Plaintiff’s statutory appeal should be dismissed.

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<sup>21</sup> The documentation referred to by First Selectman Ruffino is the same as that provided to the Court as the record in this matter.

**FOR THE DEFENDANT,  
TOWN OF MIDDLEFIELD**

**BY** \_\_\_\_\_ /s/  
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**CERTIFICATION**

This is to certify that a copy of the foregoing has been emailed to the following counsel of record this 2<sup>nd</sup> day of March, 2108 to:

Eric R. Brown, Esquire  
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Watertown, CT 06795

\_\_\_\_\_/s/  
John A. Blazi

DOCKET NO.: MMX-CV17-6017522-S : SUPERIOR COURT  
: :  
ROBERT MEYERS : JUDICIAL DISTRICT OF  
: MIDDLESEX AT MIDDLETOWN  
VS. :  
: :  
TOWN OF MIDDLEFIELD : AUGUST 10, 2018

**PLAINTIFF’S REBUTTAL BRIEF**

**I. Introduction**

The plaintiff Robert Myers is the former statutory building inspector for the Town of Middlefield. He commenced this action in March, 2017 alleging that he was wrongfully terminated on February 21, 2017 in violation of Conn. Gen. Stats. Sec. 29-260(c)<sup>1</sup>. This action is brought pursuant to the terms of that statute. The plaintiff filed his

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<sup>1</sup> Sec. 29-260. (Formerly Sec. 19-396). Municipal building official to administer code. Appointment. Dismissal. (a) The chief executive officer of any town, city or borough, unless other means are already provided, shall appoint an officer to administer the code for a term of four years and until his successor qualifies and quadrennially thereafter shall so appoint a successor. Such officer shall be known as the building official. Two or more communities may combine in the appointment of a building official for the purpose of enforcing the provisions of the code in the same manner. The chief executive officer of any town, city or borough, upon the death, disability, dismissal, retirement or revocation of licensure of the building official, may appoint a licensed building official as the acting building official for a single period not to exceed one hundred eighty days. (b) Unless otherwise provided by ordinance, charter or special act, a local building official who fails to perform the duties of his office may be dismissed by the local appointing authority and another person shall be appointed in his place, provided, prior to such dismissal, such local building official shall be given an opportunity to be heard in his own defense at a public hearing in accordance with subsection (c) of this section. (c) No local building official may be dismissed under subsection (b) of this section unless he has been given notice in writing of the specific grounds for such dismissal and an opportunity to be heard in his own defense, personally or by counsel, at a public hearing before the authority having the power of dismissal. Such public hearing shall be held not less than five or more than ten days after such notice. Any person so dismissed may appeal within thirty days following such dismissal to the superior court for the judicial district in which such town, city or borough is located. Service shall be made as in civil process. The court shall review the record of such hearing and if it appears that testimony is necessary for an equitable disposition of the appeal, it may take evidence or appoint a referee or a committee to take such evidence as the court may direct and report the same to the court

brief in support of his claim on January 2, 2018, and the defendant filed its reply brief on March 2, 2018. The plaintiff now submits his brief in rebuttal. A full statement of the facts are set forth in the parties' initial briefs.

## II. Law and Argument

The defendant has characterized the plaintiff's performance of his duties as an "abuse of power." (Defendant's Brief at p. 2, fn. 5). That characterization succinctly sets forth the real issue in this case. Was Mr. Meyers' performance of his statutory duties done in the interest of public safety, or was it executed as an abuse of power.

Alternatively, did the town of Middlefield, acting through the office of its first selectman, abuse its power when it placed political and commercial interests over the public safety.

When the public safety is on the line, the performance of statutory responsibilities is of the greatest import, and doubts should always be resolved in the favor of the public safety.

The defendant supports its decision to jeopardize the public safety by asserting, without any support in statute or case law, that Mr. Meyers failed "to accept guidance and/or directives of state and local officials who were assisting in approving the [Powder Ridge] project." This argument fails for multiple reasons.

First, the statute empowering the local building official to make decisions does not contain any provision calling on him to take "guidance and/or directives" from state and local officials. Such a scenario would represent a clear usurpation of his statutory

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with his or its findings of fact, which report shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may affirm the action of such authority or may set the same aside if it finds that such authority acted illegally or abused its discretion.

authority and the legislature did not call for such a usurpation. The reasons are obvious. The legislature did not want to allow public safety decisions to become politicized through appointment of “guiding” or “directing” officials. The authority to approve or not approve buildings is vested fully and completely in the statutory authority – the local building official.

Second, the state and local officials cited by the defendant include Dan Tierney who apparently may not even hold a position of building official in the state; and Vincent Garofalo, who did not have the authority to usurp the decision-making authority of the plaintiff, and who was a political appointee of an interested and biased party, the first selectman of the Town of Middlefield, Edward Bailey. These “officials” were simply utilized as politically-expedient straw men to do the bidding of the political and commercial interests in play, all at the expense of the public safety.

Finally, Mr. Meyers neither requested nor required assistance, and the defendant had no power to provide any “assistance” to him by appointing Mr. Garofalo or by taking any other action designed to deprive Mr. Meyers of his statutory authority.

The facts are not in dispute. The Powder Ridge property included a dilapidated and unsafe building that was being converted to a lodge with a restaurant and bar to be named “Fire at the Ridge.” Rather than concern himself with the public safety or the lawful enforcement of the building code in his town, Mr. Bailey placed political pressure on Mr. Meyers to get Mr. Meyers to sign off on the renovations to Powder Ridge and issue a certificate of occupancy (CO), or at minimum, a temporary certificate of occupancy. Mr. Meyers, in performing his duties, determined that the renovations did not

meet the standards set forth in the State Building Code, and refused to issue a certificate of occupancy until there was compliance with the code.

In order to avoid compliance, Mr. Bailey in doing the bidding of Mr. Hayes the owner of Powder Ridge, sought to appoint Mr. Garofalo to the position of assistant building inspector so that he could then use his influence over Mr. Garofalo to have a C.O. issued to Mr. Hayes. But under the Building Code, Section 103.3, only the building official has the authority to appoint an assistant building official. Mr. Meyers did not appoint Mr. Garofalo. Therefore Mr. Garofalo had no authority to act as building official and issue a C.O. to Mr. Hayes and Powder Ridge.

The question ultimately is whether Mr. Meyers “failed to perform the duties of his office” when he elected to enforce the building code rather than succumb to political and commercial pressure that was trying to corrupt his office. When he was steadfast in refusing to succumb to the pressure he lost his job. The law cannot countenance such an outcome.

**A. Standard of Review.**

The authority to appoint and terminate a building inspector is found in Conn. Gen. Stats. Sec. 29-260. When a municipality makes the decision to terminate a building inspector, that decision is subject to appeal under the statute. The statute sets forth the standards to be utilized in assessing the municipality’s decision on appeal.

The statute provides at subsection (c) that “the court shall review the record of such [termination] hearing and if it appears that testimony is necessary for an equitable disposition of the appeal, it may take evidence or appoint a referee or a committee to take such evidence as the court may direct and report the same to the court with his or its

findings of fact, which report shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may affirm the action of such authority or may set the same aside if it finds that such authority acted illegally or abused its discretion.” This standard thus allows for the taking of evidence and for a determination de novo by the court.

This makes sense in a scenario where the public safety is at stake and where the chief executive officer conducted the hearing that led to the decision to terminate. Here, the chief executive officer, Mr. Bailey, was conflicted by his own political interests and could not make an informed and impartial decision. The court therefore should take evidence and determine the matter notwithstanding the record that was placed before the hearing.

The court’s obligation in assessing a municipality’s personnel decisions on appeal was set forth in Vangehle v. Town of Fairfield, 156 Conn. App. 714, 722 (2015).

We first set forth the applicable standard of review. “An appellate court, in reviewing a decision from a local personnel and pension appeals board, may not adjudicate facts or otherwise substitute its judgment for that of the board.... The court’s function is limited to the examination of the record to determine whether the ultimate decision was factually and legally supported to ensure that the board did not act illegally, arbitrarily or in abuse of its discretion.” (Citations omitted.) Ferrier v. Personnel & Pension Appeals Board, 8 Conn.App. 165, 166–67, 510 A.2d 1385 (1986). 789 “Conclusions of law reached by the administrative agency must stand if the court determines that they resulted from a correct application of the law to the facts found and could reasonably and logically follow from such facts.... It is fundamental that a plaintiff has the burden of proving that the [municipal board], on the facts before [it], acted contrary to law and in abuse of [its] discretion.... The law is also well established that if the decision of the [municipal board] is reasonably supported by the evidence it must be sustained.” (Citation omitted; internal quotation marks omitted.) Greene v. Waterbury, supra, 126 Conn.App. at 750, 12 A.3d 623.

Vanghele v. Town of Fairfield, 156 Conn. App. 714, 722 (2015).

Here, the defendant's decision to terminate the plaintiff cannot withstand scrutiny upon application of the law and the policy behind the law. Building officials are meant to act without the possibility of political or commercial interests burdening their decision-making authority. It cannot be disputed that the plaintiff's actions in the Powder Ridge matter were always and consistently guided by his concerns for the public safety, which is the essential role of his position. The defendant's decision to terminate the plaintiff for "failure to perform the duties of his office" is ironic but not funny. In actuality the plaintiff was terminated for performing the duties of his office in a way that did not satisfy the corrupting interests of his employer. On that basis, the decision of the defendant must be reversed.

**B. The defendant, in disagreeing with the plaintiff's enforcement activities had statutory remedies available to it to challenge the enforcement decisions without necessitating the plaintiff's termination.**

The defendant argues that because the plaintiff failed to enforce the building code in accord with its own beliefs and opinions, stymying the completion of the Powder Ridge project, that it had no other option but to remove the plaintiff from his position. But that is not so, and indeed it does not make sense.

The plaintiff's decisions were subject to appeal under Conn. Gen. Stats. Sec. 29-266.<sup>2</sup> However, neither Mr. Hayes, Powder Ridge, nor the Town of Middlefield filed any

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<sup>2</sup> Sec. 29-266. (Formerly Sec. 19-402). Municipal board of appeals. Filing of appeals in absence of board of appeals. (a) A board of appeals shall be appointed by each municipality. Such board shall consist of five members, all of whom shall meet the qualifications set forth in the State Building Code. A member of a board of appeals of one municipality may also be a member of the board of appeals of another municipality.

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(b) When the building official rejects or refuses to approve the mode or manner of construction proposed to be followed or the materials to be used in the erection or alteration of a building or structure, or when it is claimed that the provisions of the code do not apply or that an equally good or more desirable form of construction can be employed in a specific case, or when it is claimed that the true intent and meaning of the code and regulations have been misconstrued or wrongly interpreted, or when the building official issues a written order under subsection (c) of section 29-261, the owner of such building or structure, whether already erected or to be erected, or his authorized agent may appeal in writing from the decision of the building official to the board of appeals. When a person other than such owner claims to be aggrieved by any decision of the building official, such person or his authorized agent may appeal, in writing, from the decision of the building official to the board of appeals, and before determining the merits of such appeal the board of appeals shall first determine whether such person has a right to appeal. Upon receipt of an appeal from an owner or his representative or approval of an appeal by a person other than the owner, the chairman of the board of appeals shall appoint a panel of not less than three members of such board to hear such appeal. Such appeal shall be heard in the municipality for which the building official serves within five days, exclusive of Saturdays, Sundays and legal holidays, after the date of receipt of such appeal. Such panel shall render a decision upon the appeal and file the same with the building official from whom such appeal has been taken not later than five days, exclusive of Saturdays, Sundays and legal holidays, following the day of the hearing thereon. A copy of such decision shall be mailed, prior to such filing, to the party taking such appeal. Any person aggrieved by the decision of a panel may appeal to the Codes and Standards Committee within fourteen days after the filing of the decision with the building official. Any determination made by the local panel shall be subject to review de novo by said committee.

(c) If, at the time that a building official makes a decision under subsection (b) of this section, there is no board of appeals for the municipality in which the building official serves, a person who claims to be aggrieved by such decision may submit an appeal, in writing, to the chief executive officer of such municipality. If, within five days, exclusive of Saturdays, Sundays and legal holidays, after the date of receipt of such appeal by such officer, the municipality fails to appoint a board of appeals from among either its own residents or residents of other municipalities, such officer shall file a notice of such failure with the building official from whom the appeal has been taken and, prior to such filing, mail a copy of the notice to the person taking the appeal. Such person may appeal the decision of the building official to the Codes and Standards Committee within fourteen days after the filing of such notice with the building official. If the municipality succeeds in appointing a board of appeals, the chief executive officer of the municipality shall immediately transmit the written appeal to such board, which shall review the appeal in accordance with the provisions of subsection (b) of this section.

(d) Any person aggrieved by any ruling of the Codes and Standards Committee may appeal to the superior court for the judicial district where such building or structure has been or is being erected.

appeals of any decisions made by the plaintiff in the matter. Instead, the interested parties sought to bully the plaintiff into making a decision that was satisfactory to them, ultimately removing the plaintiff from his position when he would not succumb to the bullying.

The defendant's failure to utilize the appeals process set forth in Conn. Gen. Stats. 29-266 is clear evidence that it had not justification to terminate the plaintiff. There is no factual or legal support for the defendant's illegal decision to terminate the plaintiff. The decision is counter to the public policy of this state requiring an incorruptible building official to enforce the building code in order to ensure the public safety.

The defendant's decision to terminate the plaintiff under the circumstances described was an abuse of discretion, a violation of the public policy of the state, and it should be overturned by this court and the plaintiff's reinstatement should be ordered at once.

THE PLAINTIFF,  
ROBERT MEYERS

/s/ 408630

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**CERTIFICATION**

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on 8/10/18 to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

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DOCKET NO: MMX CV 17-6017552 S : SUPERIOR COURT  
ROBERT MEYERS : J.D. OF MIDDLESEX  
v. : AT MIDDLETOWN  
TOWN OF MIDDLEFIELD : AUGUST 13, 2018

**TOWN OF MIDDLEFIELD’S REPLY TO PLAINTIFF’S REBUTTAL BRIEF**

Plaintiff, Robert Meyers’ (“RB”) rebuttal brief adds little to the mix with respect to this Court’s determination of whether First Selectman Bailey acted within his statutory authority in dismissing Plaintiff for failing to perform the duties of his office. The rebuttal brief without reference to evidentiary support in the record, does nothing more than attempt to paint the plaintiff as the champion of public safety and First Selectman Bailey as a corrupt politician who bullied the plaintiff for not doing his job. This characterization of facts is amusing because the facts establish that First Selectman Bailey (and others) were doing all within their power to get Plaintiff to do his job. As the Town highlighted in its reply brief, the record makes clear that *one* of the duties that Plaintiff refused to perform is set out in C.G.S. 29-261 (b) which provides in pertinent part that “[t]he building official or assistant building official *shall* pass upon any question relative to the mode, manner of construction or materials to be used in the erection or alteration of buildings or structures, pursuant to applicable provisions of the State Building Code...” (emphasis added). The record makes clear that at every opportunity, Plaintiff either delayed or flat out refused to pass upon the many questions that related to the mode, manner of construction or materials to be used in the erection or alteration of the buildings at Powder Ridge.

Contrary to Plaintiff's suggestion, evidence that Plaintiff failed to accept guidance and/or directives of state and local officials was not put forth before the Board of Selectman to show that Plaintiff was bound by statute to accept such guidance. Rather, this evidence was presented to demonstrate that Plaintiff failed to pass on questions that fell under the building code after repeated requests to do so - by all involved - and notwithstanding guidance provided by other officials who believed there was no legitimate reason to fail to grant a TCO. The evidence is clear that Plaintiff let his personal animosity towards the CEO of Powder Ridge interfere with his duty to perform timely inspections, pass on permit applications and to apply *only* the codes that applied to the TCO that was the subject of the application. The animosity caused Plaintiff to engage in a tireless game of obstructionism, making good on his vow to "Never approve the Powder Ridge project."

One of the bases for Mr. Meyers' dismissal was the fact that he was stonewalling the Powder Ridge project, to wit; the

"[f]ailure and/or refusal to promptly reasonably perform [his] duties, including but not limited to longstanding projects such as Powder Ridge...and..."intentionally and unjustifiably obstruct[ing] and prevent[ing] Powder Ridge from obtaining a certificate of occupancy for an extended period of time...and his failure to accept guidance and/or directives of state and local officials who were assisting with resolving this project."

As Middlefield argued its reply brief a board decision must be upheld, if it is supported by substantial evidence in the record even if there is a possibility of drawing two inconsistent conclusions. Middlefield Brief, at p. 5. Consistent with Sec. 8-7 of the General Statutes, where reasons have been stated by the board, the court must determine whether any reason given is supported by substantial evidence. Even if a board fails to state a collective reason for its decision, a court is required to search the record in an attempt to determine some basis for the action taken. *Id.* The Court has ample evidence before it to determine that Middlefield was

more than justified in terminating an employee who was insubordinate to the point of flat out refusing to do his job. His last act in carrying out his vow never to approve the Powder Ridge project was to storm off a site inspection when asked to explain his rationale for refusing to discharge his duties.

Plaintiff argues at page 5 of his rebuttal brief that the Court should take further evidence because First Selectman Baily was “conflicted by his own political interests” and presumably because of this he could not make “an informed and impartial decision”. Plaintiff’s argument, glosses over the fact that the record supporting the finding that Plaintiff was not performing his core function of passing on questions pertaining to Powder Ridge’s building permit applications is as voluminous as it is damning. Plaintiff’s attempt to cast the decision to terminate him as a personal vendetta by Mr. Bailey ignores the fact that the full board of selectmen considered the evidence before it before dismissing the plaintiff from his position as a building official.

Plaintiff is misguided when he suggests that Middlefield could have appealed Plaintiff’s enforcement decisions pursuant to C.G.S. § 29-266. This statute *only* gives the owner of a building (or his authorized agent) the right to appeal a building official’s refusal to “approve the mode or manner of construction” to municipal board of appeals. This statute does not supplant C.G.S. 29-260 (b) or the power it vested in Mr. Bailey to dismiss a “...local building official who fails to perform the duties of his office...” The failure of Middlefield to utilize C.G.S. § 29-266 is understandable. It simply does not apply to a local authority who must remove a building official who refuses to perform his duties as set in C.G.S. 29-261 (b).

The dismissal of the plaintiff was supported unanimously by Middlefield’s board of selectmen. There was no abuse of discretion as plaintiff now claims. The evidence

overwhelmingly supported the only conclusion the board could reach – Mr. Meyers was “never going to approve the Powder Ridge project”.

**FOR THE DEFENDANT  
TOWN OF MIDDLEFIELD**

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**CERTIFICATION**

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**FOR THE DEFENDANT  
TOWN OF MIDDLEFIELD**

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John A. Blazi

DOCKET NO: MMX CV 17-6017552 S : SUPERIOR COURT  
ROBERT MEYERS : J.D. OF MIDDLESEX  
v. : AT MIDDLETOWN  
TOWN OF MIDDLEFIELD : OCTOBER 4, 2018

**TOWN OF MIDDLEFIELD'S SUPPLEMENTAL BRIEF FILED IN ACCORDANCE  
WITH COURT ORDER**

The parties came before the Court, this date, to argue the Plaintiff's statutory appeal of Middlefield's decision to terminate him as its building official. During the proceedings, the Court, Honorable Matthew Frechette, presiding, asked Counsel for Middlefield to direct the Court to references in the record to support its comment in its brief at page 23 that "[Mr. Meyers] was making good on his vow never to grant Powder Ridge a Temporary Certificate of Occupancy." At the hearing, Counsel directed the Court to the transcript of the proceedings held on February 16, 2017 at p. 32 l. 19-22, where Mr. Meyers was quoted as saying "I will never issue a certificate of occupancy for Powder Ridge."

Middlefield submits that other references to Mr. Meyer's vow are seen in the record. One is in the email from Steven Hayes to Joseph Cassidy (and others) dated July 8, 2016 where Mr. Hayes writes "This Building Official has publicly told multiple people 'He will never sign the CO for the Lodge at Powder Ridge.'" Another reference is in the Memorandum of Edward Bailey dated May 13, 2016 where he notes that Mr. Meyer advised that he is not issuing a certificate of occupancy for Powder Ridge and this was not the first time Mr. Meyers made this claim. The next reference in the record is in the Memorandum of Edward Bailey dated July 26,

2016 where he notes (referring to Mr. Meyers) that “It has been alleged on several occasions that you stated that you will never issue such a certificate with respect to that project.”<sup>1</sup>

Plaintiff also claimed at the hearing that he could not issue a TCO for the second floor of the ski lodge because of concerns about propane tanks. Middlefield would like to point out that in addition to the fact that Mr. Meyers would not grant Powder Ridge a permit for the tanks, he was not the official that had jurisdiction over insuring that the tanks met code. See email chain, copy attached. Therefore, any claim that Mr. Meyers failed to grant a TCO, certifying that the second floor of the ski lodge was constructed or altered in such a way so as not to endanger the public, is without merit. The propane tanks had nothing to do with the interior alteration of the ski lodge, and were not within Mr. Meyer’s jurisdiction, in any event.

**FOR THE DEFENDANT  
TOWN OF MIDDLEFIELD**

**BY** \_\_\_\_\_ /s/  
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<sup>1</sup> The referenced documents from the record are attached, and an asterisk is placed alongside the text where the comments appear.



DOCKET NO.: MMX-CV-17-6017522

ROBERT MEYERS

V.

TOWN OF MIDDLEFIELD

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SUPERIOR COURT

J.D. OF MIDDLESEX

AT MIDDLETOWN

JANUARY 17, 2019

**MEMORANDUM OF DECISION ON PLAINTIFF'S APPEAL PURSUANT TO  
CONNECTICUT GENERAL STATUTES § 29-260 (C)**

The sole issue presented is whether the court should uphold the decision of the Board of Selectman of the town of Middlefield (board) in unanimously voting to terminate the plaintiff, Robert Meyers, as the statutory building inspector of Middlefield. The court hereby dismisses the plaintiff's appeal for the reasons that follow.

**FACTS**

The facts relevant to the plaintiff's appeal are as follows. On April 18, 2011, Meyers was hired by the town of Middlefield as the statutory building inspector.<sup>1</sup> As the building inspector, Meyers was tasked with ensuring structures within the town were in compliance with the state building code and processing applications for occupancy certificates. During his tenure, Meyers was directly involved in the renovation and transformation of a building on the Powder Ridge Mountain Park. Middlefield purchased the Powder Ridge property in 2008, which was vacant and

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Judicial District of Middlesex  
State of Connecticut

<sup>1</sup> During his employment with the town, Meyers was a member of the AFSCME Council 4, Local 818 Union (union). In 2015, Middlefield entered into a collective bargaining agreement with the union. Among the provisions in the agreement was a section that protected Meyers from termination as the building inspector without just cause.

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in disrepair,<sup>2</sup> and later sold it to Powder Ridge Mountain Park and Resort LLC (the company) in September, 2012.

Acknowledging that the company planned to implement massive renovations, Meyers sent a letter to Middlefield on December 19, 2012, requesting that the town offer him additional work hours and support for the project. In response, the town hired Harwood Loomis, a licensed architect and building official, to serve as a consultant; and Vincent Garofalo as an assistant building official to aid Meyers with the inspections of the Powder Ridge property. Moreover, the town enlisted the help of both state and local building officials, including State Building Inspector, Daniel Tierney, in order to participate in meetings pertaining to the project and provide guidance regarding the process and necessary steps to issue Powder Ridge a certificate of occupancy (CO).<sup>3</sup>

In November, 2015, Edward Bailey was elected as the First Selectman of the Town of Middlefield, replacing Jon Brayshaw, who was elected to a position on the board. In 2015, Bailey became aware of issues and conflicts between Meyers and Sean Hayes, the owner of the company. In fact, throughout the duration of the Powder Ridge project, Bailey alleged, inter alia, that Meyers was failing to follow-up on his projects, accept the guidance of the various state officials who attempted to assist him in the inspection and approval process of Powder Ridge, abide by his work hours as required by his union contract, and maintain proper documentation on his long-term projects, including those documents related to Powder Ridge. As a result, Bailey placed Meyers

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<sup>2</sup> While the powder ridge property sat vacant from 2008 up to its sale in 2012, Meyers sent the town a "Notice of Unsafe Structure," which cited violations of the building code, including, inter alia, broken windows, unsafe stairs, and missing barriers around the swimming pool. The notice was later rescinded on December 27, 2012, after the sale.

<sup>3</sup> During the Powder Ridge project, Meyers suffered medical issues and, as a result, had to take time off of work. During this time, Loomis, Garofalo, and Tierney were assisting with the project.

on paid administrative leave on July 12, 2016, and conducted an investigation into Meyers' performance and conduct. Between August and December, 2016, the board held several pre-disciplinary meetings to allow Meyers and his union representative to respond to the concerns raised regarding his performance as the building inspector. Thereafter, on January 24, 2017, the board held a public hearing to consider the termination of Meyers from his position. Following the meeting, on February 16, 2017, the board voted unanimously to terminate Meyers as the building inspector.

On March 30, 2017, Meyers filed a complaint pursuant to General Statutes § 29-260 (c), appealing the decision of the board.<sup>4</sup> On January 2, 2018, Meyers filed a brief in support of his statutory appeal. Thereafter, on August 10, 2018, the town of Middlefield filed a reply brief, as well as a record of the public hearing in which the board voted unanimously to terminate Meyers from his position, which was accompanied by exhibits to the record. Meyers filed a reply brief on August 14, 2018, and Middlefield filed a "sur-rebuttal" brief on September 28, 2018. On October 4, 2018, the court heard oral argument on the plaintiff's appeal.

### **STANDARD OF REVIEW**

The court will begin its analysis with the applicable standard of review. Pursuant to General Statutes § 29-260, a local building official who fails to perform the duties of his office may be dismissed by the local appointing authority. A building official who is dismissed "may appeal [the decision] within thirty days following such dismissal to the superior court." General Statutes § 29-260. On appeal, "[t]he court shall review the record of such hearing and if it appears that testimony

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<sup>4</sup> In his complaint, Meyers concedes that Middlefield has met the statutory due process requirements in providing him with notice of the basis for his dismissal and an opportunity to be heard. Meyers filed a revised complaint on April 17, 2017.

is necessary for an equitable disposition of the appeal, it may take evidence or appoint a referee or a committee to take such evidence as the court may direct and report the same to the court with his or its findings of fact, which report shall constitute a part of the proceedings upon which the determination of the court shall be made.” General Statutes § 29-260. “The court may affirm the action of such authority or may set the same aside if it finds that such authority acted illegally or *abused its discretion*.” (Emphasis added.) General Statutes § 29-260.

“The abuse of discretion standard is typically employed by the Appellate Court when examining evidentiary rulings made by the lower court, or discretionary rulings based on a procedural rule . . .” *State v. Apodaca*, 303 Conn. 378, 386, 33 A.3d 224 (2012). “In determining whether there has been an abuse of discretion, every reasonable presumption should be made in favor of the correctness of the trial court’s ruling . . .” *State v. Creech*, 127 Conn. App. 489, 495, 14 A.3d 434, cert. denied, 301 Conn. 906, 17 A.3d 1045 (2011). “The salient inquiry is whether the [board] could have reasonably concluded as it did. . . . It goes without saying that the term abuse of discretion does not imply a bad motive or wrong purpose but merely means that the ruling appears to have been made on untenable grounds.” (Internal quotation marks omitted.) *Halloran v. North Canaan*, 32 Conn. App. 611, 614, 630 A.2d 145 (1993).

There is little case law on the standard set forth in § 29-260 for the review of administrative appeals from boards of selectmen; however, our Superior Courts have dealt extensively with appeals from decisions of zoning boards. “[Zoning boards are] endowed with a liberal discretion, and its [actions are] subject to review by [a] court only to determine whether [they were] unreasonable, arbitrary, or illegal.” *Pleasant Farms Development, Inc. v. Zoning Board of Appeals*, 218 Conn. 265, 269, 585 A.2d 1189 (1991). “The burden of proof to demonstrate that the board acted improperly is upon the plaintiffs.” *Adolphson v. Zoning Board of Appeals*, 205 Conn. 703,

707, 535 A.2d 799 (1988). “Courts are not to substitute their judgment for that of the board . . . and decisions of local boards will not be disturbed so long as honest judgment has been reasonably and fairly exercised after a full hearing.” *Bloom v. Zoning Board of Appeals*, 233 Conn. 198, 206, 658 A.2d 559 (1995). “The question is not whether the trial court would have reached the same conclusion, but *whether the record before the agency supports the decision reached.*” (Emphasis added.) *Calandro v. Zoning Commission*, 176 Conn. 439, 440, 408 A.2d 229 (1979). “A decision must be upheld if it is supported by substantial evidence.” *Kobyluck Brothers, LLC. v. Zoning Board of Appeals*, Superior Court, judicial district of New London, Docket No. CV-06-4104122 (May 13, 2008, *Hendel, J.T.R.*). “Substantial evidence is enough evidence to justify, if the trial were to a jury, a refusal to direct a verdict, if the conclusion to be drawn is one of fact.” *Side Step, Inc. v. Board of Zoning Appeals*, Superior Court, judicial district of Ansonia-Milford, Docket No. CV-12-6008717-S (January 21, 2014, *Lee, J.*). “The possibility of drawing two inconsistent conclusions from the evidence does not prevent [a decision] from being supported by substantial evidence.” *Property Group, Inc. v. Planning & Zoning Commission*, 226 Conn. 684, 698, 628 A.2d 1277 (1993).

“There can be no doubt about the wide discretion attaching to the board as an administrative agency of government. It is a discretion which may be overruled only if the board has not acted fairly or with proper motives or upon valid reasons.” *Gulf Oil Corp. v. Board of Selectmen*, 144 Conn. 61, 66, 127 A.2d 48 (1956). “The burden of proving that the board acted improperly [is on] the plaintiff.” *Id.* “[R]eview of an administrative agency decision requires a court to determine whether there is *substantial evidence* in the administrative record to support the agency's findings of basic fact and whether the conclusions drawn from those facts are reasonable. . . . [T]he trial court may [not] retry the case or substitute its own judgment for that of the

administrative agency on the weight of the evidence or questions of fact. . . . [The court's] ultimate duty is to determine, in view of all of the evidence, whether the agency, in issuing its order, acted unreasonably, arbitrarily, illegally or in abuse of its discretion." (Emphasis added; internal quotation marks omitted.) *Board of Selectmen v. Freedom of Information Commission*, 294 Conn. 438, 446, 984 A.2d 748 (2010).<sup>5</sup>

## DISCUSSION

On January 24, 2017, the board held a public hearing moderated by town attorney, Bruno Morasutti, to consider the dismissal of Meyers as the Middlefield building inspector. The public hearing was Meyers' opportunity to be heard and respond to the specific grounds for dismissal, and for the board to hear from the public prior to a decision being rendered on his termination. Members of the public, including Meyers' union representatives, Robert Parziale and Kelly Martinez, his colleagues, members of the Powder Ridge project, and residents of the town of Middlefield testified as to Meyers' performance as the building inspector during this hearing. After public comment, the board moved to close the meeting to allow for deliberations at a later date. Thereafter, on February 16, 2017, the board held a special meeting to put the decision to a vote and, as the record reflects, the board unanimously voted to dismiss Meyers as the Middlefield building inspector pursuant to General Statutes § 29-260. Prior to the January 24, 2017 public hearing, the board provided Meyers with a notice of public hearing in which the board specified the following reasons for considering his dismissal as the building inspector:

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<sup>5</sup> The plaintiff has cited *Vanghele v. Fairfield*, 156 Conn. App. 714, 722, 115 A.3d 474 (2015) (noting court's function is limited to examination of record to determine whether decision was factually and legally supported), exhibiting his agreement that this is the standard the court should follow in reviewing his appeal. See Docket Entry #119.

“[First] [y]our failure and/or refusal to promptly reasonably perform your duties, including but not limited to longstanding projects such as Powder Ridge. Indeed, you allowed months to pass with little if any follow-up to resolve such long-term projects. Your failure and/or refusal in this regard is supported by the complaints that the Town has received that you have intentionally and unjustifiably obstructed and prevented Powder Ridge from obtaining a certificate of occupancy for an extended period of time and your own statements made on several occasions that you will never issue such a certificate of occupancy with respect to that project. It is further supported by your failure accept guidance and/or directives of state and local officials who were assisting with resolving this project. . . . [Second] [y]our failure to maintain and retain proper documentation submitted by applicants and records of your own actions with respect to such long-term projects such as Powder Ridge. Such documentation issues include errors and inaccuracies and failure to provide relevant and required backup for legal documents. . . . [Third] [y]our failure to follow reasonable instructions and/or abide by your assigned work hours . . . [Fourth] [y]our display of inappropriate conduct and/or insubordination . . .” A review of the record reveals that there is more than substantial evidence to support the board’s decision to terminate Meyers.<sup>6</sup>

At the outset of the Powder Ridge project, Meyers personally requested assistance and, in response, the town hired, among others, Garofalo and Tierney to assist in obtaining Powder Ridge their certificate of occupancy (CO). Nevertheless, as the record supports the finding that, Meyers continually obstructed the assistance he personally requested and the issuance of an occupancy certificate.<sup>7</sup> In December 2015, the company began renovating the second floor restaurant of a

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<sup>6</sup> The record before the court incorporates several exhibits, including, but not limited to, e-mail exchanges, letters, and other documentation regarding Meyers’ duties with respect to his position as the building inspector and his work on the Powder Ridge project.

<sup>7</sup> In his Memorandum of Law in Support of Reinstatement as the Statutory Building Inspector, Meyers concedes that he “sent a letter to the town dated December 19, 2012 requesting

structure on the Powder Ridge property, which was subject to approval by the building inspector. On December 23, 2015, Garofalo conducted the inspection of the second floor, and determined that it was appropriate to grant a temporary certificate of occupancy (TCO), provided that a fire watch be on duty since the sprinkler system was not in operation. In conjunction with this inspection, the Middlefield fire department agreed to provide this service to Powder Ridge at no charge. Garofalo wrote a letter to Meyers to inform him that he and Tierney, who also performed an inspection of the second floor, determined that the building was safe to occupy and that a TCO should be issued with the fire watch present. On January 8, 2016, Garofalo then issued a written report advising Meyers that the second floor had met the criteria for granting a TCO. On January 14, 2016, Meyers issued his own report acknowledging that he received a request for a TCO, but that he decided to deny it because of the fact that the sprinkler system was nonoperational. Based on this report and his inspection of the premises, Meyers then issued an abatement order, effectively shutting down Powder Ridge.

Thereafter, as one of the personnel hired to assist Meyers with this project, Tierney granted Powder Ridge a waiver for the fire sprinkler requirement so that the building could receive a TCO to open for business. Although Tierney's waiver superseded Meyers' denial of the TCO, the next day, Meyers again inspected Powder Ridge and issued a second notice of violation on account of the absence of a sprinkler system. Upon the second notice of violation being issued, the

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additional hours and support. Moreover, there were several other large construction projects happening at the same time in the Town of Middlefield, which Meyers would have to oversee." See Docket Entry #115. Nonetheless, in his "Rebuttal Brief," Meyers asserts that he "neither requested nor required assistance." See Docket Entry #119.

Middlefield fire marshal issued his own report, indicating that the fire department could not provide a fire watch in the absence of the TCO.<sup>8</sup>

The next month, Powder Ridge underwent inspection for an electrical permit for fire pump wiring. The construction services building official who conducted the inspection determined that the requirements were met for the state building code, and Garofalo advised Meyers on February 9, 2016, that Powder Ridge was ready for the approval of the electrical permit. On February 12, 2016, Garofalo asked Meyers whether he would be issuing the permit and Meyers stated that he would issue it based on his conversation with the building official that conducted the inspection of the fire pump. Thereafter, however, Meyers sent an email to Tierney on February 17, 2016, notifying him that there were issues with the electrical permit application that did not comply with the code. Garofalo emailed Meyers to inform him that a modification was not required for the electrical permit, and he invited Meyers to contact Tierney if he required any further information on the matter, but Meyers still decided that a modification was required. Tierney then emailed the members of the Powder Ridge project, including Meyers, that “everyone involved in the project” already explained to Meyers that a modification was not necessary, but Tierney instructed Hayes to submit one anyway in order to move the project along. The following day, Tierney granted the modification and copied the approval to Meyers. Thereafter, on March 2, 2016, Hayes requested another TCO from Meyers and the reason for its continued denial. Two days later, Meyers emailed Garofalo requesting information regarding the inspection of the septic pump wiring and Garofalo informed Meyers that the pump should not hold up the TCO because it is not a part of the structure that is subject to approval by the building inspector. On March 7, 2016, the pump passed

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<sup>8</sup> On January 26, 2016, Bailey asked Tierney whether Meyers had any justification to issue a notice of violation after the waiver for the sprinkler system was put in place. Tierney stated that Meyers had not justification to do so.

inspection. Meyers received notice of this approval and Hayes emailed Meyers again requesting the CO. Meyers reported that he would conduct a final walkthrough of the property the following week prior to the issuance of a CO.

In March, Garofalo emailed Bailey to inform him that Powder Ridge had been inspected on numerous occasions, by many officials, and that non-significant items were being used as a pretext for denying the TCO. In this email, Garofalo also expressed his opinion that Meyers was not interested in compliance, that he was ignoring his duties, and Garofalo encouraged Bailey to attend the upcoming inspection, characterizing it as a "train wreck." A final walk through of the Powder Ridge property took place on April 11, 2016, after the fire chief of Middlefield indicated that a certificate of occupancy could be rendered. On April 12, 2016, Garofalo advised the members of the project, including Hayes, that the final inspections were completed and that a CO should issue. In response, Meyers acknowledged that he received another request for the CO, but denied it because he was not permitted to attend the final inspection and did not have paperwork concerning the propane tanks outside of the restaurant/lodge. In a May 13, 2016, email, Tierney notified Meyers that the propane tanks had no bearing on the issuance of a CO. Moreover, on numerous occasions, Hayes personally notified Meyers that he had already submitted the propane tank application in 2012 and 2013 in a November 30, 2015 letter to Bailey, a May 5, 2016 memorandum to Bailey, and in-person during an inspection of Powder Ridge on July 8, 2016. After this exchange took place, Meyers then referred Hayes to Attorney Steven Lesco of the Office of the State's Attorney on May 19, 2016, for criminal prosecution based on the building code violations on Powder Ridge. In an email dated May 25, 2016, Hayes asked Tierney about the contents of the referral and Tierney replied that the only violation cited was the sprinkler code

violation from earlier that year that was no longer existing. The record shows that the State's Attorney's office never acted upon the referral.

On June 1, 2016, Hayes sent another request for a CO to Meyers and Meyers replied on June 16, 2016, stating that the propane tank violation had not been resolved and that it was "funny" because the section of the code previously cited by Tierney is incorporated into the statute which requires a permit to exist for the propane tanks. Thereafter, Meyers asked Hayes to furnish a copy of the permit he had for the tanks. On the same day, Bailey asked for a report of the inspection he conducted, which was later submitted on June 21, 2016. The record shows that in this report Meyers denied the CO and cited violations that had no bearing on the issuance of the CO for the second floor lodge of Powder Ridge. In his inspection report, Meyers cited issues pertaining to access aisles in the parking lots that do not meet minimum width requirements, van parking signage and space requirements, walking surface violations that failed to meet a certain slope, missing handrails, missing bolts, and the absence of a permit for one of the propane tanks, among other issues.

In response to this report, Hayes appealed Meyers' decision to state building inspector, Joseph Cassidy, who emailed Hayes on June 24, 2016, advising him that the propane tanks did not fall under the jurisdiction of the state building code or the local building official. Cassidy later responded to an inquiry made by Meyers regarding the propane tanks, informing him that the fire marshal had jurisdiction over the liquid propane tanks. Later, on July 5, 2016, Hayes sent a third formal request to Meyers for the issuance of a CO. Meyers responded to Hayes, notifying him that he prepared a letter and placed it on "Nancy's" desk to be sent out. The record shows that Nancy made a handwritten notation on this email stating that she returned from vacation on July 6, 2016, but did not find the letter Meyers was referring to. Finally, on July 8, 2016, Hayes emailed state

and local officials regarding the issues he had in attempting to obtain a CO for the preceding two years. In this email, Hayes wrote that Meyers had publicly stated that he would never sign the CO for Powder Ridge, and advised these officials that Powder Ridge would have to shut down if the company could not obtain the CO. Termination proceedings commenced after Bailey recorded, through a series of memoranda that Meyers was failing to perform the duties of his job.

In fact, throughout the duration of the Powder Ridge project, Bailey recorded instances of Meyers' insubordination and inappropriate behavior while serving as the building inspector. The first record of such insubordination was recorded on May 12, 2016. On this date, Bailey drafted a memorandum documenting his interaction with Meyers on the same day. Bailey noted that he inquired about the CO for Powder Ridge and Meyers dismissively replied that they do not have one and then proceeded to inform Bailey that he was stopping him from doing his job. Bailey further noted that Meyers' demeanor was dismissive towards his duties and he seriously doubted that Meyers had any intention of following up on the Powder Ridge matter.<sup>9</sup> To Bailey's knowledge, Meyers had not made an attempt to facilitate a CO since the beginning of April and Bailey had received advice from the Deputy State Building Official that there were no outstanding issues prohibiting the issuance of a CO. The next day, on May 13, 2016, Bailey drafted another memorandum noting that Meyers presented him with a grievance form and that his demeanor was threatening and provocative. When Bailey told Meyers to clear up the CO for Powder Ridge,

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<sup>9</sup> During the public hearing, Bailey quoted from an email he received from Garofalo describing Meyers' conduct as showing a "[l]ack of professional courtesy, creation of anguish, frustration, drama, unnecessary bordering on harassment."

Meyers stated that he was not issuing a CO for Powder Ridge and Bailey noted that it was not the first time he had heard him make this statement.<sup>10</sup>

On June 15, 2016, Meyers conducted an inspection of the Powder Ridge property. Thereafter, in a memorandum signed by Bailey and dated June 21, 2016, Bailey writes that he requested a report from Meyers as to the result of the inspection with a copy to be submitted to him by the next day, June 16, 2016. Bailey then received an email from Meyers stating that it was an “unreasonable request.” Bailey followed up and extended the deadline to June 17, 2016, but Bailey never received a report until June 21, 2016.

On July 7, 2016, Bailey prepared another memorandum to document his interaction with Meyers. On July 5, 2016, Bailey inquired with Meyers about re-inspecting the Powder Ridge property pursuant to Hayes’ request. According to Bailey, Meyers responded that he was “going to do a drive around.” Bailey informed Meyers that Hayes sent an email to him and that he would like to set up an appointment so that Hayes could escort Meyers during the inspection. Meyers responded that he was “too busy and had other things to do” and noted that he would do an outside inspection at Powder Ridge. Thereafter, on July 8, 2016, Bailey filed a final memorandum; this time, documenting Meyers’ inspection of Powder Ridge the same day. Bailey indicated that Hayes was informing Meyers that he had sent over applications for his propane tanks in 2012 and 2013 and that they needed to be signed by Meyers. Meyers responded that he didn’t want to hear it and told Hayes to stop. According to Bailey, Meyers then stated that he “refuses to be involved in [a] hostile situation,” walked to his vehicle, and said he was leaving.<sup>11</sup>

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<sup>10</sup> During the public hearing, Bailey noted that he overheard Meyers on the phone one day and heard him state, “I will never issue a certificate of occupancy for Powder Ridge.”

<sup>11</sup> During the public hearing, Bailey cited that Meyers walked off of the job and that is when he placed him on administrative leave.

In addition to the documented claims of insubordination, the record is replete with instances of Meyers stating that he would never sign the certificate of occupancy for Powder Ridge. In a June 13, 2016, email, Hayes wrote to Tierney that Meyers told his architect two years ago “I will never sign a CO for that lodge as long as I am the Building Official in town.” On July 8, 2016, Hayes emailed state officials regarding the delays with the Powder Ridge project, noting that Meyers has publicly stated “he will never sign the CO for the lodge at Powder Ridge.” Moreover, as indicated, in the May 13, 2016, memorandum drafted by Bailey, Meyers stated that he was not issuing a CO for Powder Ridge, and Bailey noted during the public hearing that he overheard Meyers make this statement to someone over the phone.

Moreover, the record supports the assertion that, in addition to his intention to never issue a CO, Meyers was flippant toward the Powder Ridge project as a whole. In a June 16, 2016, email exchange Hayes asked Meyers for clarification on the building code section that had jurisdiction over the installation of the propane tanks on the Powder Ridge property. Meyers replied that it was “funny.”

The court concludes that there is substantial evidence in the record to support the termination of Meyers as the building inspector in Middlefield.<sup>12</sup> The record shows that, on

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<sup>12</sup> The plaintiff, for the first time in his reply brief dated August 14, 2018, raised the issue of Bailey being an interested party. This issue was not raised below, nor was it pleaded in the complaint. “[It] is fundamental in our law that the right of a plaintiff to recover is limited to the allegations of his complaint. . . . [courts do] not have the discretion to look beyond the pleadings and trial evidence to decide claims not raised. . . . The purpose of the [petition] is to put the [respondent] on notice of the claims made, to limit the issues to be decided, and to prevent surprise.” *Nelson v. Commissioner of Correction*, 326 Conn. 772, 780-81, 167 A.3d 952 (2017). See also *Clisham v. Board of Police Commissioners of Naugatuck*, 223 Conn. 354, 367-68, 613 A.2d 254 (1992) (holding claim of bias must be raised in timely manner). *Henderson v. Department of Motor Vehicles*, 202 Conn. 453, 462, 521 A.2d 1040 (1987) (noting failure to raise claim of disqualification with reasonable promptness after learning ground for claim constitutes waiver); *Statewide Grievance Committee v. Egbarin*, 61 Conn. App. 445, 462, 767 A.2d 732

multiple occasions, Meyers failed to perform the essential duties of his office, intentionally obstructed the issuance of a TCO and CO for Powder Ridge during his tenure as the building inspector, even after all of the building code requirements were met. In fact, the record shows that Meyers found minor issues, such as the absence of permits for propane tanks, to deny the CO even when he had no jurisdiction over the propane tanks in the first place.

At the outset of the project, Meyers personally requested assistance, but ended up ignoring the assistance he asked for. Whenever the members of the Powder Ridge project conducted an inspection or reported compliance to Meyers, the record supports the inference that he referenced inconsequential matters as a pretext to deny Powder Ridge a CO. This is evident from Meyers conduct dating from January through July of 2016, where Meyers stalled and obstructed the efforts of the members of his team and the Powder Ridge project as a whole. Meyers further refused to pass on items that fell under the building code, walked off of an inspection of Powder Ridge, raised additional issues that never were under the jurisdiction of the building code, including the size of the accessibility ramps at Powder Ridge. Moreover, Meyers stated that he was "too busy" to perform an inspection on one occasion, was flippant when he emailed Hayes stating that it was funny that the code Tierney cited was the same section of the statute which required a permit for propane tanks, and in numerous instances stated that he would never issue a certificate of occupancy for Powder Ridge. Therefore, there is substantial evidence in the record to support the board's decision to terminate Meyers.

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(2001) (noting failure to raise procedural claim or failure to utilize remedy to cure procedural defect can constitute waiver of right to object to alleged defect). The court notes, in any case, that the vote of the board to terminate the plaintiff was unanimous.

## CONCLUSION

For the foregoing reasons, there is substantial evidence in the record to support the board's decision to terminate Meyers from his position as the building inspector and the board did not act illegally or abuse its discretion in reaching its decision. Accordingly, Meyers' appeal is hereby dismissed.

By the Court,

*Frechette*  
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Frechette, J. 1-17-19

**STATE OF CONNECTICUT**

DOCKET NO.: MMXCV17-6017522S

SUPERIOR COURT

ROBERT MEYERS  
76-A East Haddam/Colchester Turnpike  
Moodus, CT 06469

JUDICIAL DISTRICT OF  
MIDDLESEX AT  
MIDDLETOWN

VS.

TOWN OF MIDDLEFIELD  
393 Jackson Hill Road  
Middlefield, CT 06455

JANUARY 17, 2019

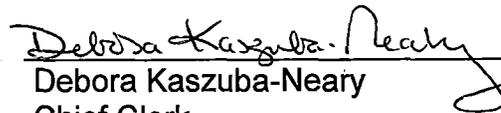
**Present:** **Hon. Matthew E. Frechette, Judge**

**JUDGMENT**

This action, by writ and complaint, by an appeal brought before this court pursuant to Conn. Gen. Stats. Sec. 29-260(c) came to this court on March 30, 2017 with a Return Date of April 18, 2017; and thence to April 12, 2017 when the defendant filed a Motion to Strike; and thence to April 17, 2017 when the plaintiff filed a Revised Complaint; and thence to June 1, 2017 when the defendant filed an Answer to the Amended Complaint; and thence on January 2, 2018 when plaintiff filed a Brief in support of his action; and thence on March 2, 2018 when the defendant filed a Reply to the plaintiff's brief; and thence on August 10, 2018 when the plaintiff filed a Rebuttal Brief; and thence on August 14, 2018, September 28, 2018, and October 4, 2018 when the defendant filed a Reply to the rebuttal brief; and thence on October 4, 2018 when the matter came before this court for a trial before Judge Matthew E. Frechette; and thence on January 17, 2019 when the Memorandum of Decision was filed dismissing the case.

WHEREUPON, it is adjudged that a Judgment of Dismissal enter in favor of the defendant and the appeal is dismissed.

By the Court,

  
Debora Kaszuba-Neary  
Chief Clerk

**APPEAL**     **JOINT APPEAL**     **CROSS APPEAL**     **AMENDED APPEAL**     **CORRECTED FORM**

JD-SC-33 Rev. 11-17  
P.B. Sections 3-8, 60-7, 60-8, 62-7, 62-8, 63-3, 63-4, 63-10, 72-3  
C.G.S. Sections 31-301b, 51-197f, 52-470

All appeals must be filed electronically unless an exemption from the requirements of electronic filing has been granted or you are an incarcerated self-represented party. For further information about e-filing or this form, see the Appeal Instructions, form JD-SC-34.

To Supreme Court     To Appellate Court

Name of case (State full name of case)

**MEYERS, ROBERT v. TOWN OF MIDDLEFIELD**

Type of appellate matter (If a writ of error, the writ and the signed marshal's return must be filed on the same business day as this form. See Practice Book Section 72-3.)

**Appeal**

<b>Trial Court History</b>	Tried to		Trial court location	
	<b>Court</b>		<b>1 COURT STREET Middletown CT 06457-3374</b>	
	Trial court judges being appealed		List all trial court docket numbers, including location prefixes	
	<b>HON. MATTHEW E FRECHETTE</b>		<b>MMX-CV-17-6017522-S</b>	
	All other trial court judges who were involved with the case		Judgment for (Where there are multiple parties, specify those for whom judgment was rendered)	
	<b>HON. EDWARD S. DOMNARSKI</b>		<b>TOWN OF MIDDLEFIELD</b>	
Date of judgment(s) or decision(s) being appealed		Date of issuance of notice on any order on any motion that would render judgment ineffective	Date for filing appeal extended to	
<b>01/17/2019</b>		<b>01/17/2019</b>		
Case type		For Juvenile Cases		
<b>Civil</b>		<input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Order of Temporary Custody		
For Civil/Family Case Types, Major/Minor code:		<input type="checkbox"/> Other		
<b>M90</b>				

<b>Appeal</b>	Appeal filed by (Party name(s))			
	<b>ROBERT MEYERS</b>			
	From (the action that constitutes the appealable judgment or decision)			
	<b>Judgment of Dismissal of plaintiff's claim of wrongful termination</b>			
If this appeal is taken by the State of Connecticut, provide the name of the judge who granted permission to appeal and the date of the order				
Statutory Basis for Appeal to Supreme Court				
By (Signature of counsel of record)		Telephone number	Fax number	Juris number (If applicable)
▶ <b>408630</b>		<b>888-579-4222</b>		<b>408630</b>

<b>Appearance</b>	Type name and address of counsel of record filing this appellate matter (This is your appearance; see Practice Book Section 62-8)			E-mail address
	<b>BROWN ERIC R LAW OFFICE OF 30 WOODRUFF AVENUE #615 WATERTOWN CT 06795</b>			<b>eric@thelaborlawyer.com</b>
	"X" one if applicable			
<input type="checkbox"/> Counsel or self-represented party who files this appeal will be deemed to have appeared in addition to counsel of record who appeared in the trial court.				
<input type="checkbox"/> Counsel or self-represented party who files this appeal is appearing in place of:		Name of counsel of record	Juris number (If applicable)	

<b>Certification</b>	I certify that a copy of the appeal form I am filing will immediately be delivered to each other counsel of record and I have included their names, addresses, e-mail addresses and telephone numbers; the appeal form has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law; and the appeal form complies with all applicable rules of appellate procedure in accordance with Practice Book Sections 62-7 and 63-3.			
	Date to be delivered		If this appeal is a criminal or habeas corpus matter, I certify that a copy of this appeal form will immediately be delivered to the Office of the Chief State's Attorney Appellate Bureau. Date to be delivered	
	<b>02/04/2019</b>			
If you have an exemption from e-filing under Practice Book Section 60-8, attach a list with the name, address, e-mail address, and telephone number of each counsel of record and the address where the copy was delivered.		Signed (Counsel of record)		Date signed
		▶ <b>408630</b>		<b>02/04/2019</b>

<b>Required Documents</b>	To be filed with the Appellate Clerk within ten days of the filing of the appeal, if applicable. See Practice Book Section 63-4.			
	1. Preliminary Statement of the Issues    4. Statement for Prerequisite Conference (form JD-SC-28A) 2. Court Reporter's Acknowledgment or Certificate that no transcript is necessary    5. Constitutionality Notice 3. Docketing Statement    6. Sealing Order form, if any			

<input checked="" type="checkbox"/> Entry Fee Paid <input type="checkbox"/> No Fees Required <input type="checkbox"/> Fees, Costs, and Security waived by Judge (enter Judge's name below)			<i>Court Use Only</i> Date and time filed
Judge	Date waived		

**Print Form**

A-096

**Reset Form**

127

## Appeal Form (continued)

**CASE NAME:**

MEYERS, ROBERT v. TOWN OF MIDDLEFIELD

### Parties & Appearances

**PARTY/PARTIES INITIATING THE APPEAL**

ROBERT MEYERS

Juris: 436049 BROWN ERIC R LAW OFFICE OF  
30 WOODRUFF AVENUE  
#615  
WATERTOWN, CT 06795  
Phone: (888) 579-4222 Fax:  
Email: eric@thelaborlawyer.com

**ALL OTHER PARTIES AND APPEARANCES**

TOWN OF MIDDLEFIELD - Judgment For

Juris: 419424 BLAZI JOHN LAW OFFICES OF  
786 CHASE PARKWAY  
WATERBURY, CT 06708  
Phone: (203) 596-0600 Fax: (203) 596-7953  
Email: blazi.law@sbcglobal.net

DOCKET NUMBER: AC 42555 : STATE OF CONNECTICUT  
: :  
ROBERT MEYERS : APPELLATE COURT  
: :  
VS. : :  
: :  
TOWN OF MIDDLEFIELD : FEBRUARY 11, 2019

**DOCKETING STATEMENT**

A. Names and addresses of all parties to the appeal

- a. Robert Meyers  
76-A East Haddam / Colchester Tpke  
Moodus, CT 06469
- b. Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455

Names and addresses and email addresses of trial and appellate counsel of record

- a. Eric R. Brown – Counsel for Appellant  
Law Office of Eric R. Brown  
P.O. Box 615  
Watertown, CT 06795  
eric@thelaborlawyer.com
- b. At Attorney John Blazi  
Law Offices of John Blazi  
786 Chase Parkway  
Waterbury, CT 06708  
Email: [blazi.law@sbcglobal.net](mailto:blazi.law@sbcglobal.net)

Names and addresses of all persons having a legal interest in the cause on appeal

**None.**

B. Case names and docket numbers of all pending appeals to the Supreme or Appellate Courts which arise from substantially the same controversy as the cause on appeal, or involve issues closely related to those presented on appeal:

**None.**

C. Whether there were exhibits in the trial court

**Yes.**

THE APPELLANT

/s/ 408630

---

By: Eric R. Brown, Esq.  
Law Office of Eric R. Brown  
P.O. Box 615  
Watertown, CT 06795  
[eric@thelaborlawyer.com](mailto:eric@thelaborlawyer.com)  
888-579-4222  
Juris No.: 408630

### CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on 2/11/19 to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery. The attached document has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law. The attached document complies with all applicable Rules of Appellate Procedure to the best of undersigned's knowledge following a review of such Rules.

/s/ 408630  
Eric R. Brown, Esq.

Attorney John Blazi  
Law Offices of John Blazi  
786 Chase Parkway  
Waterbury, CT 06708  
Tel: 203-596-0600  
Fax: 203-596-7953  
Email: [blazi.law@sbcglobal.net](mailto:blazi.law@sbcglobal.net)  
Juris No.: 419424

DOCKET NO. MMX-CV-17-6017552-S : SUPERIOR COURT  
ROBERT MEYERS : J.D. OF MIDDLESEX  
VS. : AT MIDDLETOWN  
TOWN OF MIDDLEFIELD : September 29, 2017

**NOTICE OF FILING OF RECORD OF PROCEEDINGS**

The defendant, Town of Middlefield, hereby gives notice that it has filed the record of the proceedings for the consideration of the termination of the plaintiff. CD recordings of the hearings can be made available to the court for its review or transcribed at the Court's request.

**FOR THE DEFENDANT:  
TOWN OF MIDDLEFIELD**

BY \_\_\_\_\_/s/\_\_\_\_\_  
John A. Blazi  
Law Offices of John A. Blazi  
786 Chase Parkway  
Waterbury, CT 06708  
203-596-0600  
Juris No. 419424

**CERTIFICATION**

This is to certify that the foregoing has been mailed postage pre-paid this **29<sup>th</sup> day of September, 2017**, to the following counsel of record:

Eric R. Brown  
Law Office of Eric R. Brown  
P.O. Box 615  
Watertown, CT 06795

\_\_\_\_\_/s/\_\_\_\_\_  
John A. Blazi





# TOWN of MIDDLEFIELD, CONNECTICUT



Office of the First Selectman

January 18, 2017

VIA OVERNIGHT MAIL AND E-MAIL

Robert Meyers  
76 East Haddam Colchester Turnpike  
Moodus, CT 06469

Re: Notice of Public Hearing for Consideration of Dismissal

Dear Mr. Meyers:

As you know, the Town has conducted an investigation into alleged concerns related to your conduct as the Building Official for the Town of Middlefield. You and your Union representatives have been provided with supporting documentation and have participated in a series of investigatory meetings and/or pre-disciplinary hearings regarding such concerns. At its regular meeting on January 17, 2017, the Board of Selectmen referred this matter to a public hearing to consider the possible dismissal of your employment. Such public hearing has been scheduled for **Tuesday, January 24, 2017 at 3:15 pm at the Middlefield Community Center, located at 405 Main Street in Middlefield.** As you know, you have the right to be accompanied by a Union representative and/or counsel.

The following is a summary of the reasons for which the Town is considering your dismissal:

- Your failure and/or refusal to promptly reasonably perform your duties, including but not limited to longstanding projects such as Powder Ridge. Indeed, you allowed months to pass with little if any follow-up to resolve such long-term projects. Your failure and/or refusal in this regard is supported by the complaints that the Town has received that you have intentionally and unjustifiably obstructed and prevented Powder Ridge from obtaining a certificate of occupancy for an extended period of time and your own statements made on several occasions that you will never issue such a certificate of occupancy with respect to that project. It is further supported by

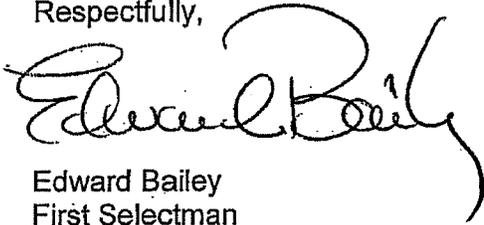
393 Jackson Hill Road, Middlefield, CT 06455      Phone 860.349.7114      Fax 860.349.7115

your failure to accept guidance and/or directives of state and local officials who were assisting with resolving this project.

- Your failure to maintain and retain proper documentation submitted by applicants and records of your own actions with respect to such long-term projects such as Powder Ridge. Such documentation issues include errors and inaccuracies and failure to provide relevant and required backup for legal documents.
- Your failure to follow reasonable instructions and/or abide by your assigned work hours including but not necessarily limited on the following dates: January 20, 2016, April 11, 2016, May 12, 2016, May 13, 2016, May 18, 2016, and July 8, 2016.
- Your display of inappropriate conduct and/or insubordination on May 12, 2016, May 13, 2016, May 19, 2016 and July 8, 2016.

This public hearing is your opportunity to be heard and to respond to the grounds for dismissal prior to any final decision as to what action the Town will take in this matter.

Respectfully,



Edward Bailey  
First Selectman

cc: Board of Selectman  
Town Attorney and Labor Counsel  
Union President  
AFSCME Staff Representative  
Personnel File

# TOWN *of* MIDDLEFIELD, CONNECTICUT



Office of the First Selectman

## NOTICE OF PUBLIC HEARING TOWN OF MIDDLEFIELD

January 24<sup>th</sup>, 2017

NOTICE is hereby given that the Board of Selectmen have called for a Public Hearing of the Town of Middlefield, to be held in Meeting Room 2 at the Middlefield Community Center, 405 Main Street, Middlefield, Connecticut, at 3:15 P.M. on Tuesday, January 24<sup>th</sup>, 2017. For the following purposes to wit:

Consideration of Dismissal of the Middlefield Building Official in accordance with Connecticut State Statute Chapter 541, Section 29-260.

At this hearing any and all citizens may appear and be heard, and written communications will be received.

Dated in Middlefield, Connecticut this 18<sup>th</sup> day of January, 2017.

Edward P. Bailey  
First Selectman  
Town of Middlefield, CT

393 Jackson Hill Road, Middlefield, CT 06455

Phone 860.349.7112

Fax 860.349.7115

Sec. 29-260. (Formerly Sec. 19-396). Municipal building official to administer code. Appointment. Dismissal. (a) The chief executive officer of any town, city or borough, unless other means are already provided, shall appoint an officer to administer the code for a term of four years and until his successor qualifies and quadrennially thereafter shall so appoint a successor. Such officer shall be known as the building official. Two or more communities may combine in the appointment of a building official for the purpose of enforcing the provisions of the code in the same manner. The chief executive officer of any town, city or borough, upon the death, disability, dismissal, retirement or revocation of licensure of the building official, may appoint a licensed building official as the acting building official for a single period not to exceed one hundred eighty days.

(b) Unless otherwise provided by ordinance, charter or special act, a local building official who fails to perform the duties of his office may be dismissed by the local appointing authority and another person shall be appointed in his place, provided, prior to such dismissal, such local building official shall be given an opportunity to be heard in his own defense at a public hearing in accordance with subsection (c) of this section.

(c) No local building official may be dismissed under subsection (b) of this section unless he has been given notice in writing of the specific grounds for such dismissal and an opportunity to be heard in his own defense, personally or by counsel, at a public hearing before the authority having the power of dismissal. Such public hearing shall be held not less than five or more than ten days after such notice. Any person so dismissed may appeal within thirty days following such dismissal to the superior court for the judicial district in which such town, city or borough is located. Service shall be made as in civil process. The court shall review the record of such hearing and if it appears that testimony is necessary for an equitable disposition of the appeal, it may take evidence or appoint a referee or a committee to take such evidence as the court may direct and report the same to the court with his or its findings of fact, which report shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may affirm the action of such authority or may set the same aside if it finds that such authority acted illegally or abused its discretion.

(d) Each municipality shall become a member of the International Code Council and shall pay the membership fee.

(1949 Rev., S. 4107; 1967, P.A. 874; 1969, P.A. 443, S. 5; P.A. 79-153; P.A. 86-372, S. 1; P.A. 92-164, S. 3; P.A. 05-288, S. 128; P.A. 07-110, S. 3.)

TOWN of MIDDLEFIELD, CONNECTICUT



Office of First Selectman

December 9, 2016

**VIA CERTIFIED MAIL, RETURN RECEIPT  
AND ELECTRONIC MAIL TO - robert.meyers@snet.net**

Robert Meyers  
76 East Haddam Colchester Turnpike  
Moodus, CT 06469

**Re: Pre-Disciplinary Hearing**

Dear Mr. Meyers:

As you know, the Town is considering serious discipline of you up to and including a referral to a public hearing for the termination of your employment due to alleged concerns related to your performance which have been previously addressed with you, including but not limited failure/refusal to perform your duties and related documentation issues, and inappropriate conduct exhibited by you, including but not limited to insubordination and/or failure to obey reasonable instructions and failure/refusal to abide by work hours and job requirements, in violation of the reasonable work rules of the Town. Further information was provided in my memorandum to you dated July 26, 2016 and in correspondence with your Union representative, Bob Parziale.

393 Jackson Hill Road, Middlefield, CT 06455      Phone 860.349.7114      Fax 860.349.7115

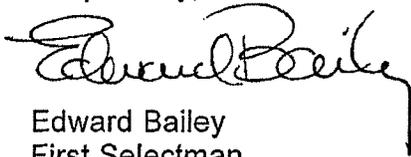
December 9<sup>th</sup>, 2016  
Robert Meyers  
Page 2

An initial pre-disciplinary hearing was scheduled for August 2, 2016. At that time, your Union representative requested a continuance pending further discussions related to this matter. A subsequent meeting was held on October 13, 2016. At that time, your Union representative requested additional information. A follow-up meeting was held on November 9, 2016. This correspondence serves as notification to you that another hearing will be held on **December 13, 2016 at 2:30 pm** at the **Middlefield Community Center, located at 405 Main Street in Middlefield**. This pre-disciplinary hearing will give you an opportunity to respond to the allegations prior to the Town making a final decision with respect to what action it will take in this matter.

Since this meeting may lead to serious discipline, up to and including a referral to a public hearing for the termination of your employment, you have the right to be accompanied by a Union representative.

Thank you for your anticipated cooperation.

Respectfully,



Edward Bailey  
First Selectman

cc: Union President  
AFSCME Staff Representative  
Town Counsel  
Personnel File

# TOWN of MIDDLEFIELD, CONNECTICUT



Board of Selectmen - Notice of Special Meeting  
Thursday, October 13<sup>th</sup>, 2016, 12:30 PM  
Community Center Conference Room  
405 Main Street  
Middlefield, Connecticut

## Special Meeting Agenda

1. Call to order
2. Public Session: Personnel/Pre-Disciplinary Hearing regarding AFSCME, Council 4 Bargaining Unit Member.  
(If necessary, in the event that the Employee elects to have this discussion take place in public session pursuant to Conn. Gen. Stat. §1-200(6)(A)).
3. Executive Session: Personnel/Pre-Disciplinary Hearing regarding AFSCME, Council 4 Bargaining Unit Member pursuant to Conn. Gen. Stat. §1-200(6)(A).
4. Public Session: Discussion and Possible Action Concerning Disciplinary Action/ Employment of AFSCME, Council 4 Bargaining Unit Member
5. Adjourn

cc: Board of Selectmen  
Town Clerk

# TOWN of MIDDLEFIELD, CONNECTICUT



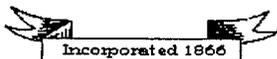
Board of Selectmen - Notice of Special Meeting  
Tuesday, August 2, 2016, 3:30 PM  
Community Center Conference Room  
405 Main Street  
Middlefield, Connecticut

## Special Meeting Agenda

1. Call to order
2. Public Session: Personnel/Pre-Disciplinary Hearing regarding AFSCME, Council 4 Bargaining Unit Member.  
(If necessary, in the event that the Employee elects to have this discussion take place in public session pursuant to Conn. Gen. Stat. §1-200(6)(A)).
3. Executive Session: Personnel/Pre-Disciplinary Hearing regarding AFSCME, Council 4 Bargaining Unit Member pursuant to Conn. Gen. Stat. §1-200(6)(A).
4. Public Session: Discussion and Possible Action Concerning Disciplinary Action/ Employment of AFSCME, Council 4 Bargaining Unit Member
5. Adjourn

cc: Board of Selectmen  
Town Clerk

# TOWN of MIDDLEFIELD, CONNECTICUT



Office of the First Selectman

TO: Robert Meyers, Building Official

From: Edward Bailey, First Selectman

Date: July 26<sup>th</sup>, 2016

Subject: Pre-Disciplinary Hearing

---

This memorandum serves to inform you that the Town is considering serious discipline of you up to and including a referral to a public hearing for the termination of your employment due to alleged concerns related to your performance which have been previously addressed with you, including but not limited failure/refusal to perform your duties and related documentation issues, and inappropriate conduct exhibited by you, including but not limited to insubordination and/or failure to obey reasonable instructions and failure/refusal to abide by work hours and job requirements, in violation of the reasonable work rules of the Town.

Specifically, it is alleged that you have failed and/or refused to promptly reasonably perform your duties, including but not limited to longstanding projects such as Powder Ridge. It is further alleged that there are issues with your documentation with respect to such long-term projects. Such documentation issues include errors and inaccuracies and failure to provide relevant and required backup. Most recently, you have failed to follow reasonable instructions and directives of the Town with respect to such long-term projects to completion, including failing to abide by your assigned work hours and job requirements as set forth in the collective bargaining agreement and the reasonable work rules of the Town. In fact, you have attempted to report to locations, including Powder Ridge, at times when you are not assigned to work. On a regular basis, including but not limited to on the most recent occasion July 8, 2016, you were insubordinate to the First Selectman and acted inappropriately and unprofessionally in interactions with property

393 Jackson Hill Road, Middlefield, CT 06455 Phone 860.349.7114 Fax 860.349.7115

owners, contractors and other state and municipal officials. On July 8, 2016, you actually walked off the job despite the directive from your supervisor to continue with your inspection. The Town has received complaints that you have intentionally and unjustifiably obstructed and prevented Powder Ridge from obtaining a certificate of occupancy for an extended period of time. Furthermore, it has been alleged that on several occasions, you have stated that you will never issue such a certificate of occupancy with respect to that project.

Prior to making a final decision with respect to what action the Town will take in this matter, I have asked the Board of Selectmen to join me in conducting a pre-disciplinary hearing to give you an opportunity to respond to the allegations. This pre-disciplinary hearing will take place on August 2<sup>nd</sup>, 2016 at 3:30 PM at the Middlefield Community Center, 405 Main Street in Middlefield. Since this meeting may lead to serious discipline, up to and including a referral to a public hearing for the termination of your employment, you have the right to be accompanied by a Union representative.

cc: Union President  
AFSCME Staff Representative  
Town Counsel  
Personnel File

Mr. Robert Meyers  
76 East Haddam Colchester Turnpike  
Moodus, CT 06469

TOWN of MIDDLEFIELD, CONNECTICUT



Office of the First Selectman

MEMORANDUM

TO: Robert Meyers, Building Official

From: Edward Bailey, First Selectman

Date: July 12, 2016

Subject: Paid Administrative Leave

---

This memorandum serves to document that you have been placed on paid administrative leave effective immediately. During this administrative leave, you shall continue to receive your regular weekly pay. This administrative leave shall remain in effect until further notice from me.

During your administrative leave, you will not be scheduled for work and you may not report to Town offices, use and/or access any Town equipment or systems and/or have any contact with other Town employees other than your union representative(s). Finally, you may not respond to calls for service and/or conduct inspections and other duties during the time that you remain on administrative leave. You are hereby directed to surrender any keys and passwords to Town facilities or systems, any Town equipment and any Town files in your possession.

You will be contacted at an appropriate time in the future regarding a meeting to discuss recent events and concerns regarding your performance which led to you being placed on administrative leave and any further required action(s).

Should you have any questions or concerns, please let me know. Otherwise, thanks in advance for your cooperation.

cc: Personnel File  
Union Representatives  
Town Attorney

393 Jackson Hill Road, Middlefield, CT 06455 Phone 860.349.7114 Fax 860.349.7115

TOWN of MIDDLEFIELD, CONNECTICUT



MEMO

Friday, July 8<sup>th</sup>, 2016

To: File

From: Edward Bailey, First Selectman

Subject: R. Meyer, Certificate of occupancy (CO) inspection at Powder Ridge - July 8, 2016.

*Ed Bailey*  
*10:50 AM 7/8/16*

Arrived on site at 10:01 AM. Met Mr. Sean Hayes (SH) of Power Ridge. BO was walking around an adjoining parking lot and rental building (not part of the CO inspection of the lodge restaurant and kitchen). Joined by Mr. Robert Meyers, Middlefield Building Official (BO) at 10:08. BO proceeded to inspect outside walkway on lodge building claiming it exceed 5% slope per ADA requirements. SH pointed out that this was not a handicap access ramp and thus not subject to the 5% slope requirement. BO inspected lip on wood handicap ramp; he claimed it was  $\frac{3}{4}$ " vs required  $\frac{1}{4}$ " maximum lip. This was not on the report of the June 14, 2016 inspection report dated 6/29/2016 (Revision). SH instructed on-site manager to place transitional mat to correct. Conversation between BO and SH regarding curbing along handicap ramp. Again not on BO letter of

6/29/16. SH stated that the 6/29/16 letter states that BO does not enforce ADA requirements so why is this being discussed as a problem.

Proceeded to handicap parking area next to rental building for review of handicap parking spaces. Subject of van vs regular handicap spaces. BO brought up issues van access which after discussion by SH turned out not to be a non-issue. Some issue with one out of a dozen or so regular handicap spaces having access of 2-1/2 feet vs 5 feet. Reference made by SH that approved site plan was followed.

On to propane tanks. BO stated that no permit applications filed for tanks. SH stated that they were and also paid years ago. SH stated that twice copies were submitted to BO in recent months. BO claimed no knowledge of such. Looked at bollards at propane tanks. BO stated bollards at propane tanks are incorrect. SH stated that this was not on the letter of outstanding CO issues. BO stated it didn't matter. BO said that Dan Tierney the Deputy State Building Inspector is involved with this issue causing BO some sort of hassle regarding liquefied natural gas and petroleum gas inspections. SH stated that applications were completed and paid years past (2012 & 2013); that the BO has the applications; that the copies were provided to BO twice in recent months; that the permits need to be signed by the BO; and that this issue becomes a non-issue once the permit is signed by BO as the propane system has already been inspected and passed. BO stated that he didn't want to hear this and told SH to stop. SH stated that he would not and that he wanted to proceed with making his point. BO then stated that he refuses to be involved in hostile situation and proceed to walk toward his Town vehicle and said he was leaving. I stated clearly to BO that this was not a hostile situation in my judgment and that the inspection was to proceed. BO stated that he was leaving, and proceed to enter his Town vehicle ignoring my instructions and left the premises. Time 10:19 AM

## Edward Bailey

---

**From:** Sean Hayes <shayes@brownstonepark.com>  
**Sent:** Friday, July 08, 2016 9:50 AM  
**To:** joseph.cassidy@ct.gov; Edward Bailey  
**Cc:** Nancy Wyman - CT Gov (LtGovernor.wyman@ct.gov); Garofalo, Vincent; Michael Margolis; daniel.tierney@ct.gov; Larry McHugh - Middlesex Chamber of Commerce (lmchugh@middlesexchamber.com)  
**Subject:** Powder Ridge CO

Gentlemen,

I really appreciate all of the support and extra effort everyone is going through in trying to resolve our CO issue. Joe, Dan and the entire State Building and State Fire Marshal departments have been cooperative, supportive and communicated the requirements clearly and fairly and I and this company truly appreciate it. But as long as a local building official is allowed to use the system to willfully harm me and this company it is all for nothing.

We are a small struggling Connecticut based company trying to bring back to life what was a major tourism destination for over 100,000 visitors a year and employed over 200 people, and we can no longer afford to be the victim of a rogue building official while the state and local administrators try to figure out how to rein him in. If we cannot get the final signature on the CO from an authorized Building Official by Tuesday the 12<sup>th</sup> our Small Business Association loan cannot close for the 3<sup>rd</sup> and final chance, therefore the company will have no option but close the facility and bring legal action against the town and state, for continuing to allow the willful obstruction with intent to harm by this public official to continue for over 2 years. We have sent notifications and documented proof of such obstructionist behavior to every depart of the state and town for over 2 years. This Building Official has publically told multiple people "He will never sign the CO for the Lodge at Powder Ridge". And is certainly proving it was not an ideal threat.

On the subject of the Propane tank permit requirement, the Local Building Official seems to be enjoying watching everyone spend countless hours trying to document why a permit is not required. But we already submitted a permit application for the one tank in question over 2 years ago. The Building Official inspected and signed the CO for the Rental building for the tank in question. We have resubmitted the application 3 times. While the State and Town figure out if a permit is required can someone insist he take the copy of the application that was sent to him numerous time and issue or deny the permit.

We are simply asking for a clear and concise set of final requirements to get a CO and then clear responses to questions and concerns, and immediate re-inspections. The last response we received after waiting for over a week, from the building official did not answer any of our questions or put to bed any of the items we clearly documented. This same building official is being allowed to come back here without any 3<sup>rd</sup> party building official oversight so nothing will get resolved again for countless more weeks.

Who do we appeal to? Please tell us. This should have been resolved in January, it is Now July!! When this all blows up next week it will be another black eye for Middlefield, Middlesex county and the State of Connecticut as it relates to small business.

## Sean Hayes

Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC  
Brownstone Exploration and Discovery Park, LLC

161 Brownstone Avenue Portland, CT 06073  
860-918-3092

TOWN of MIDDLEFIELD, CONNECTICUT



MEMO

Thursday, July 7<sup>th</sup>, 2016, 12: 35 PM

To: File

From: Edward Bailey, First Selectman

Subject: R. Meyer, Telcon - July 7<sup>th</sup>, 2016 12:20 PM.

- 1) Inquired from Robert Meyer, Building Official (BO) about requested re inspection of Powder Ridge by owner Sean Hayes (SH) on Tuesday July 5<sup>th</sup>. BO replied he was "going to do drive around". I informed him that SH had sent an email that he would like to make an appointment so that he could escort BO. BO replied he was too busy and had other things to do. BO repeated that he would do an outside inspection at Powder Ridge. I again told him that SH wanted an escorted appointment. I told him to call SH and make arrangements to get this inspection done today (July 7).
- 2) BO stated that he is governing authority on the propane tanks. I directed him to an email dated 7/5/16 from William Abbott, State Fire Marshall via Dan Tierney regarding Gas Code. BO stated that this was incorrect. I suggested that he contact William Abbott to discuss.

BO said "absolutely not"; that Abbott was incorrect. I again suggested that he contact Mr. Abbott.

- 3) Discussion regarding PTO on Wednesday afternoon. Clarified that his was a social event and not on Town time.

Nancy

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**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Wednesday, July 06, 2016 6:32 AM  
**To:** Garofalo, Vincent  
**Cc:** Nancy  
**Subject:** FW: CO For Powder Ridge Mountain Park & Resort

**From:** Tierney, Daniel  
**Sent:** Wednesday, July 06, 2016 6:23 AM  
**To:** 'Sean Hayes' <shayes@brownstonepark.com>  
**Cc:** 'Ed Bailey' <e\_bailey@middlefield-ct.com>  
**Subject:** RE: CO For Powder Ridge Mountain Park & Resort

Sean, you might want Ed to be there

**From:** Sean Hayes [<mailto:shayes@brownstonepark.com>]  
**Sent:** Tuesday, July 05, 2016 4:26 PM  
**To:** Building Inspector <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>  
**Cc:** Tierney, Daniel <[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)>; 'Ed Bailey' <[e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)>; Michael Margolis <[pmmargolis@bnglaw.com](mailto:pmmargolis@bnglaw.com)>  
**Subject:** RE: CO For Powder Ridge Mountain Park & Resort

Building Official,

Please let me know what time you would like to schedule the inspection for tomorrow and I will walk you around.

Thank you,

*Sean Hayes*

Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC  
Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073  
Toll Free 866-860-0208

**From:** Building Inspector [<mailto:buildinginspector@middlefield-ct.com>]  
**Sent:** Tuesday, July 05, 2016 3:29 PM  
**To:** Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>  
**Subject:** RE: CO For Powder Ridge Mountain Park & Resort

Mr. Hayes

I have prepared a revised letter for you and placed it for Nancy to send out. She's been out a few days. I will look at the exterior issues tomorrow or Thursday. I will need to set up a time for the inside.

vac 7/5 Returned 7/6 I did not find anything to send out.

## Edward Bailey

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**From:** Sean Hayes <shayes@brownstonepark.com>  
**Sent:** Tuesday, July 05, 2016 2:13 PM  
**To:** Building Inspector  
**Cc:** Edward Bailey; daniel.tierney@ct.gov  
**Subject:** FW: Response to letter sent on 6/21/16 dated 6/17/16  
**Attachments:** scan.pdf

Building Official,

As a follow-up to our request for CO sent earlier today 7/5/16 I have attached again our response below to your letter of 6/21/16.

The two items we requested clarification on, we still have not gotten any response from you.

Despite that, we do not believe either should hold the CO because the Access Aisles do meet code and were made to the plan that was approved during the handicap parking waiver that was approved by the State and the certified Engineer site survey shows the ramp to be at the 5% grade.

Again, all other items have been completed.

## Sean Hayes

Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC  
Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073

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**From:** Sean Hayes  
**Sent:** Wednesday, June 29, 2016 8:13 AM  
**To:** 'Building Inspector' <buildinginspector@middlefield-ct.com>  
**Cc:** 'Ed Bailey' <e\_bailey@middlefield-ct.com>; daniel.tierney@ct.gov; Garofalo, Vincent <garofalov@madisonct.org>  
**Subject:** Response to letter sent on 6/21/16 dated 6/17/16

Building Official,

**Parking Lot:**  
Clarification requested under previous email, due to code referenced does not exist.

**Van Parking Signage:**  
Van parking spots are lined with required aisles and stripping, handicap signs will be replaced with "Van" handicap signs designation.

**Accessible route:**

Clarification required, previously requested site survey by engineering firm was performed and spot elevations at various points were taken (those points were all shown on parking lot site map, including top and bottom of walkway east of the rental building), none showed more than 5% grade on any of the egress pathways.

**Ramp missing handrails:**

See above accessible route, it is a walkway not a ramp therefore does not require handrails.

**Ramp hand rail extensions:**

All handrails do extend 12" beyond as of 6/28/16.

**Curbs or barrier:**

See above accessible route, it is a walkway not a ramp therefore does not require curbs or barriers.

**Van Parking:**

See above.

**Hotel Units:**

Day rooms are still under construction, have 2-hour fire separation and all are equipped with working sprinkler systems. All unnecessary supplies have been removed from the rooms as of 6/28/16.

**Footings & Posts:**

Please find attached copies of 2 RFI's that were previously provided to you at time of request over 2 years ago. Copies were then again provided to you in a book format with every RFI up to that point. As you will see the bracket themselves and requirement for through bolts were modified. The only Posts that did not have all the nails set in the brackets were those that were recently reconfigured at your request to ensure bracket and post were centered on concrete. As of 6/28/16 all required nails are in place.

**Propane Tanks:**

No permit required per State of CT

**Service Equipment:**

All supplies have been moved away from equipment per code.

**Sean Hayes**

Chief Executive Officer

Powder Ridge Mountain Park & Resort, LLC

Brownstone Exploration and Discovery Park, LLC

161 Brownstone Avenue Portland, CT 06073

Toll Free 866-860-0208

**From:** Sean Hayes [mailto:shayes@brownstonepark.com]

**Sent:** Tuesday, July 05, 2016 9:32 AM

**To:** Building Inspector <buildinginspector@middlefield-ct.com>; daniel.tierney@ct.gov; joseph.cassidy@ct.gov; Edward Bailey <E\_bailey@middlefield-ct.com>

**Cc:** Michael Margolis <pmargolis@bnlaw.com>

**Subject:** CO For Powder Ridge Mountain Park & Resort

Building Official,

Please consider this another formal request for our certificate of occupancy for the upstairs lodge restaurant, kitchen and tavern.

To the best of our knowledge all items on your 6/17/16 letter have been addressed.

Thank you,

*Sean Hayes*

Chief Executive Officer

Powder Ridge Mountain Park & Resort, LLC

Brownstone Exploration and Discovery Park, LLC

161 Brownstone Avenue Portland, CT 06073

Toll Free 866-860-0208

**Edward Bailey**

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**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Tuesday, July 05, 2016 7:52 AM  
**To:** Cassidy, Joseph  
**Cc:** Edward Bailey; 'Sean Hayes'; Garofalo, Vincent; Nancy; Kellett, Michael; Building Inspector  
**Subject:** FW:

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**From:** Abbott, William  
**Sent:** Tuesday, July 05, 2016 7:49 AM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Subject:** RE:

1-1-15

William Abbott  
Connecticut  
State Fire Marshal

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**From:** Tierney, Daniel  
**Sent:** Tuesday, July 05, 2016 7:33 AM  
**To:** Abbott, William <William.Abbott@ct.gov>  
**Subject:**

Bill, can you give me the date that the Connecticut Petroleum Gas And Liquefied Gas Code was repealed and no longer in effect.

***Daniel J. Tierney***  
Deputy State Building Inspector  
DAS Division of Construction Services  
Office of the State Building Inspector  
165 Capitol Avenue, Room 265, Hartford, CT 06106  
Phone: (860) 713-5900 email: [daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov)

## Edward Bailey

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**From:** Building Inspector  
**Sent:** Friday, July 01, 2016 12:53 PM  
**To:** Cassidy, Joseph  
**Cc:** Edward Bailey; Sean Hayes; Tierney, Daniel; dwrubel6512@charter.net; robert.meyers@snet.net  
**Subject:** RE: Request for Appeal

Joe

I would like to make a formal request for a sit down meeting with you and myself to discuss the issues that seem to be endless with the Office of the State Building Inspector. I received an email from you, a letter to Mr. Sean Hayes in regarding to IBC sec; 101.4.2. This reply does not meet the requirements of CGA. Sec: 29-252 (d) as I was not contacted by you to consult the code sections that I am siting, and it does not state that it is an interpretation of the code. Your letter has instantly caused issues with my 1<sup>st</sup> Selectmen, the town attorney and myself.

Furthermore, The Connecticut Petroleum Gas And Liquefied Gas Code is a 19 page document, on page 2 under "authority having jurisdiction" (b) "The local fire marshal or building official shall make the initial determination concerning compliance with this code" and IBC 105.1 as amended in 2009 states in part that any owner wishing to install any GAS shall 1<sup>st</sup> make an application with the building official.

Bob Meyers  
860-349-7123 x15

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**From:** Cassidy, Joseph [mailto:Joseph.Cassidy@ct.gov]  
**Sent:** Tuesday, June 28, 2016 4:00 PM  
**To:** Building Inspector <buildinginspector@middlefield-ct.com>  
**Subject:** RE: Request for Appeal

Bob,

This is a pretty clear cut issue. The "extent of each such reference" as it relates to 104.4.2 is limited by the statutes referenced, in this case 29-331 which governs LP systems. These statutes, which have primacy in law over the building code, give jurisdiction to the fire marshal.

I did receive your 1/29/16 letter, but have not begun an in depth investigation into the matter. As for Mr. Tierney's involvement with Powder Ridge, your First Selectman requested assistance from this office on this matter. Mr. Tierney has been assigned as our representative in this matter.

Joe

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**From:** Building Inspector [mailto:buildinginspector@middlefield-ct.com]  
**Sent:** Tuesday, June 28, 2016 2:28 PM  
**To:** Cassidy, Joseph <Joseph.Cassidy@ct.gov>  
**Subject:** RE: Request for Appeal

Hello Joe

1/11

I was just wondering why you didn't consult with me before issuing a letter to Mr. Hayes? With no disrespect, I am prepared to disagree with your letter do to IBC sec: 101.4. This section clearly states that 101.4.1 through 101.4.7 "Shall Be considered part of the requirements of this code to the prescribed extent of each reference"

Also, On 1/29/16, I sent you a letter about Mr. Tierney's involvement with Powder Ridge Park. I am prepared to file a complaint with the state ethics commission in regards to what seems clear to me that Dan Tierney is using his position to obfuscate the state building code for his friends. Could you please send me a copy of Dan Tierney's job description.

Thank you  
Bob Meyers

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**From:** Cassidy, Joseph [mailto:Joseph.Cassidy@ct.gov]  
**Sent:** Tuesday, June 28, 2016 1:46 PM  
**To:** Building Inspector <buildinginspector@middlefield-ct.com>  
**Subject:** FW: Request for Appeal

Bob,

I need to apologize to you. I sent this response back to the original recipient list and did not realize you were not included in the original appeal request.

Formal letter to follow via mail.

Joe

**Joseph V. Cassidy, P.E.**

State Building Inspector  
Director Div. of Construction Services  
Department of Administrative Services  
165 Capitol Ave. Rm 473B, Hartford, CT 06106  
Phone: (860) 713-5705 e-mail: [joseph.cassidy@ct.gov](mailto:joseph.cassidy@ct.gov)

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**From:** Cassidy, Joseph  
**Sent:** Friday, June 24, 2016 9:35 AM  
**To:** 'Sean Hayes' <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>; Tierney, Daniel <[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)>; Garofalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; 'Ed Bailey' <[e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)>; Michael Margolis <[pmmargolis@bnglaw.com](mailto:pmmargolis@bnglaw.com)>  
**Cc:** LtGovernor Wyman <[LtGovernor.Wyman@ct.gov](mailto:LtGovernor.Wyman@ct.gov)>; Lesko, Steven <[Steven.Lesko@ct.gov](mailto:Steven.Lesko@ct.gov)>  
**Subject:** RE: Request for Appeal

Mr. Hayes,

The installation of the propane tanks for this building do not fall under the jurisdiction of the 2005 State Building Code or the local Building Official. The local Fire Marshal has primary jurisdiction for these systems through his authority under the 2015 Connecticut State Fire Prevention Code. This authority is derived from the following:

- **The 2005 Connecticut State Building Code Section 101.4.2 Fuel gas states, in salient part:** "...The installation and operation of gas equipment and piping shall comply with sections 29-329, 29-330 and 29-331 of the Connecticut General Statutes... and the regulations known as the Connecticut Liquefied Petroleum Gas and Liquefied Natural Gas Code adopted by the Commissioner of Public Safety under authority of section 29-331 of the Connecticut General Statutes. References to the International Fuel Gas Code within the body of the model document shall be considered to be references to such statutes and regulations."

- Section 29-331 of the Connecticut General Statutes states, in salient part: "The Commissioner... shall adopt reasonable regulations...concerning the safe storage, [and] use...of liquefied petroleum gas. ... Such regulations shall be incorporated into the State Fire Prevention Code...".
- The 2015 Connecticut State Fire Prevention Code, Section 29-291a-4a Authority Having Jurisdiction states, in salient part: "(b) The local fire marshal shall make the initial determination concerning compliance with sections 29-291a-1a to 29-291a-10a, inclusive, of the Regulations of Connecticut State Agencies, except as expressly provided in the wording of a section or in subsection (c) or (d) of this section. Upon request, the initial determination of a local fire marshal may be reviewed by the State Fire Marshal."

If you have questions regarding this review, feel free to contact me.

**Joseph V. Cassidy, P.E.**

State Building Inspector  
Director Div. of Construction Services  
Department of Administrative Services  
165 Capitol Ave. Rm 473B, Hartford, CT 06106  
Phone: (860) 713-5705 e-mail: [joseph.cassidy@ct.gov](mailto:joseph.cassidy@ct.gov)

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**From:** Sean Hayes [<mailto:shayes@brownstonepark.com>]

**Sent:** Tuesday, June 21, 2016 9:29 AM

**To:** Cassidy, Joseph <[Joseph.Cassidy@ct.gov](mailto:Joseph.Cassidy@ct.gov)>; Tierney, Daniel <[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)>; Garofalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; 'Ed Bailey' <[e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)>; Michael Margolis <[pmmargolis@bnglaw.com](mailto:pmmargolis@bnglaw.com)>

**Cc:** LtGovernor Wyman <[LtGovernor.Wyman@ct.gov](mailto:LtGovernor.Wyman@ct.gov)>; Lesko, Steven <[Steven.Lesko@ct.gov](mailto:Steven.Lesko@ct.gov)>

**Subject:** Request for Appeal

Mr. Cassidy,

I would like to request an appeal of the local Building Officials decision under section 29-252 of the CGS.

Would you kindly advise as to whether or not I am required to obtain a building permit for the installation of gas tanks and or bollards; where such regulations that pertain to such are not part of or regulated by the 2005 SBC.

As briefly as I can, the following is a history of the circumstances surrounding this permit issue which has gone on now for 3 years.

- In 2012 we were issued a permit for renovations in the rental building at Powder Ridge, that building had a preexisting propane line that led to an area outside with preexisting bollards in place.
- In 2013 despite it being preexisting the Middlefield Building Official insisted our contractor apply for a separate permit for the tanks, and have the lines pressure tested, all of which we did. The same building Official and the local Fire Marshal signed off on that building Certificate of Compliance in 2013. That application for 3 tanks was paid for and received by the town on 11/13/13 (copied below from an attachment to previous email).
- In 2014 the Same Building Official said he never received the application and required our contractor to apply for another permit to place the 2 additional tanks that were needed for renovations to the Lodge building, that building also already had a signed permit for renovations. That application was received by the local building department on 10/6/14 no payment required was indicated by that office.
- In 2015 and early 2016 Additional bollards and a separate line to the lodge were installed and inspected by 3<sup>rd</sup> party Building Official and local Fire Marshal during regular inspections and final CO walk through.

- 
- In 2016 the Building Official writes a letter saying he did not have any paperwork on the 3<sup>rd</sup> tank (second application was for placing 2 additional tanks only). His letter is copied below. We replied, sending him again both applications.
  - In 2016 the Building Official states that there are no bollards therefore the 3<sup>rd</sup> party Building Official's inspection should have failed us and therefore no CO can be issued.
  - In 2016 The 3<sup>rd</sup> party Building Official immediately sends the building Official pictures showing both the preexisting bollards and the new bollards that were installed when the 2 additional tanks went in.
  - Later in 2016 Building Official states we have no permit for any of the tanks, therefore uses that as cause to continue to deny issuing Powder Ridge a CO for the restaurant and bar portion of the lodge.
  - May 25, 2016 Daniel Tierney in your office informs us and the Building Official through the email below no building permit for the tanks are required for issuance of the CO.
  - June 16, 2016 the Building Official denies CO request citing IBC 105.1 and finds Mr. Tierney's attempt to resolve the permit issue funny.

This is only one example of hundreds (and I do mean 100s) of hoops this building Official has been making us jump through for over 3 years of what should have been a simple renovation of two buildings. If a permit was required, we have already provided multiple copies of two applications to the local building official office and we actually have paid for the permit twice (once with the first tank application and once with the general lodge permit).

Yes, this letter is a request to appeal the need for the permit, but I hope it will also highlight the immediate need to remove this Building Official from his position for continued and blatant abuse of power.

All referenced emails and applications are below in order they were received or sent.

Thank you,



**Sean Hayes**

Chief Executive Officer

Powder Ridge Mountain Park & Resort, LLC

Brownstone Exploration and Discovery Park, LLC

161 Brownstone Avenue Portland, CT 06073

860.918.3092

Sean P. Hayes

CEO Powder Ridge Mountain Park & Resort, LLC

----- Original message -----

From: Building Inspector <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>

Date: 6/16/16 2:40 PM (GMT-05:00)

To: Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>

Subject: RE: Powder Ridge CO

Mr. Hayes

The funny thing is that the very code section that Tierney mentions in his email to you (101.4.2) is the very code section used to enter the statute sec:29-329 – 29-331 and gain access to NFPA 58, it is spelled out in the last sentence which he didn't provide. The code section that requires a permit is IBC 105.1

4

4/11

So, please provide a copy of the permit you to have.  
Bob Meyers

## Sean Hayes

Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC  
Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073  
Toll Free 866-860-0208

Building Official,

We are in receipt of your letter which I believe was incorrectly dated 5/8/16 and should have been 6/8/16.

Please provide the building code section or sections that state that the 2005 State Building Code has jurisdiction over the installation of propane tanks and bollards which would require me to obtain a building permit for such installations (see below).

## Sean Hayes

Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC  
Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073  
Toll Free 866-860-0208

From: Tierney, Daniel

Sent: Wednesday, May 25, 2016 7:00 AM

To: 'Sean Hayes' <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>; Michael Margolis <[pmmargolis@bnqlaw.com](mailto:pmmargolis@bnqlaw.com)>; Garofalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>; Lesko, Steven <[Steven.Lesko@ct.gov](mailto:Steven.Lesko@ct.gov)>; Cassidy, Joseph <[joseph.cassidy@ct.gov](mailto:joseph.cassidy@ct.gov)>; Dicine, Judith <[Judith.Dicine@ct.gov](mailto:Judith.Dicine@ct.gov)>; 'Nancy' <[Nancy@middlefield-ct.com](mailto:Nancy@middlefield-ct.com)>; 'Building Inspector' <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>

Subject: RE: Please Read ASAP

Sean, I'm not sure what he talking about, attached was a sprinkler violation that we all know does not exist and as far as the installation of bollards protecting LP- Gas tanks that he cited you in a May 6 2016 email without referencing a Building code section to back up his allegations, in fact is not a building code violation at all (see section 101.4.2 SBC) that's why it was not cited by Mr. Garofalo during his inspection of the underground piping. This is based on the fact that the requirement comes from NFPA 58 Liquefied petroleum Gas Code which is under the jurisdiction of the local Fire Marshal who has already sign off on all of the work. I have asked attorney Lesko that if he plans to get involved to please ascertain in writing from the Town what specifically has to be done or what code violations actually do exist in order for the restaurant to receive a CO in order to put an end to this nightmare.



May 5, 2016

Building official  
Town of Middlefield

In reference to you letter date 4/20/16, please see below:

I will again answer your inquiry for the 3<sup>rd</sup> time about the propane tanks.

- 1) Attached is the first permit that was paid for and filed with your office on 11/13/13. That was for 3 1,000 gallon tanks and the piping.
- 2) Attached is the second permit because you said you had not received the first one after one of the 3 tanks were already placed, when we opened only the rental building. The second permit was to deliver the 2 additional tanks and to finish the piping to the lodge that was also on the first permit.
- 3) Attached is my latest letter addressing this issue with you. Item number 5 addressed the inspection of those tanks that you said did not occur, as you can read they were inspected by Vincent Garafalo the Building Official at the time back in 2015.

The above is only one example of how difficult the existing building department has made every issue in the renovation process of Powder Ridge. Therefore NO I do not understand at all why we do not have a CO.



Sean Hayes  
Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC

June 28, 2016

Mr. Sean Hayes, Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC  
161 Brownstone Avenue Portland, CT 06073

Re: Request for Appeal – Propane Storage

Mr. Hayes,

In response to your email of June 21, 2016 requesting my review, pursuant to CGS 29-252, of the local Building Officials decision that you are required to obtain a building permit for the installation of LP gas storage tanks and or protective bollards under the requirements of the 2005 Connecticut State Building Code, I offer the following:

The installation of the liquid petroleum (LP) tanks for this building do not fall under the jurisdiction of the 2005 State Building Code or the local Building Official. The local Fire Marshal has primary jurisdiction for these systems through his authority under the 2015 Connecticut State Fire Prevention Code. This authority is derived from the following:

- **The 2005 Connecticut State Building Code Section 101.4.2 Fuel gas states, in salient part:** “ *...The installation and operation of gas equipment and piping shall comply with sections 29-329, 29-330 and 29-331 of the Connecticut General Statutes... and the regulations known as the Connecticut Liquefied Petroleum Gas and Liquefied Natural Gas Code adopted by the Commissioner of Public Safety under authority of section 29-331 of the Connecticut General Statutes. References to the International Fuel Gas Code within the body of the model document shall be considered to be references to such statutes and regulations.* ”
- **Section 29-331 of the Connecticut General Statues states, in salient part:** “The Commissioner... shall adopt reasonable regulations...concerning the safe storage, [and] use...of liquefied petroleum gas. ... Such regulations shall be incorporated into the State Fire Prevention Code...”.
- **The 2015 Connecticut State Fire Prevention Code, Section 29-291a-4a Authority Having Jurisdiction states, in salient part:** “(b) The local fire marshal shall make the initial determination concerning compliance with sections 29-291a-1a to 29-291a-10a, inclusive, of the Regulations of Connecticut State Agencies, except as expressly provided in the wording of a section or in subsection (c) or (d) of this section. Upon request, the initial determination of a local fire marshal may be reviewed by the State Fire Marshal.”

Pursuant to Subsection (d) of Section 29-252 of the Connecticut General Statutes, any person aggrieved by this decision may appeal to the State Codes and Standards Committee within fourteen (14) days after mailing of this decision. The appeal process may be implemented by written notice of intent to appeal mailed to the State Codes and Standards Committee at the address below.

If you have any questions, please contact me at (860) 713-5900.

Sincerely,

Joseph V. Cassidy, P.E.  
State Building Inspector

Cc: Robert Meyer, Building Official  
Daniel Tierney, Deputy State Building Inspector

## Edward Bailey

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**From:** Sean Hayes <shayes@brownstonepark.com>  
**Sent:** Wednesday, June 29, 2016 11:35 AM  
**To:** Edward Bailey; daniel.tierney@ct.gov; Steven.Lesko@ct.gov  
**Cc:** LtGovernor.wyman@ct.gov  
**Subject:** Propane tanks at Powder Ridge

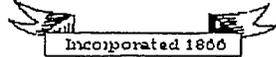
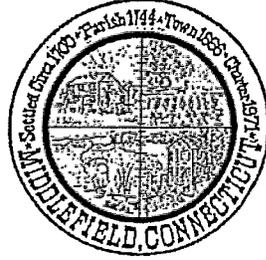
I just received another letter from the Middlefield building official, changing the code sections reference in his previous letter at it relates to the propane tank permit requirement. He is now referencing Sec: 101.4, 101.4.2 & 105.1.

Let's put aside the State ruling that the permit is not required. Powder Ridge has applied for and paid for two permit applications for the tanks. We have supplied the building official multiple copies of said permit applications. Why is he being allowed to just ignore the applications without issuing the permit. He now says he has a permit for the 2 tanks which was the second permit application. The first application was for all 3 when the rental building was restored. Only one was installed at that time and inspected by the very same building official and the local Fire Marshal. Both of them then signed off on the Certificate of Compliance for that building which included the tank and the line going to it.

The 2 tanks he now does acknowledge are the ones that were installed for the Lodge (the CO he is now denying). Why is this building official being allowed to not perform his duties as the building official and then blame the applicant for not having a permit. Application and payment has been collected twice. ENOUGH.

Sean Hayes

TOWN of MIDDLEFIELD, CONNECTICUT



Building Department

REVISION 6/29/16

6/17/16

Powder Ridge Mountain Park and Resort  
161 Brownstone Ave  
P.O. Box 208  
Portland, Ct. 06480  
Re: C.O. request for 99 Powder Hill Rd (Lodge)

Mr. Hayes

On 6/14/16 the building department conducted an inspection of the 2nd floor use group A-2 and required related accessibility features. As you know other inspections by other inspectors were conducted during the construction. Therefore, this building official will not accept responsibility for unseen code violations. The following violations have been observed on 6/14/16.

The following violations are from the 2003 ICC/ANSI A117.1.

Parking lot: Access aisles do not meet the minimum width requirements. Sec: 502.2. Vehicle space size Sec: 502.2. Accessible route: Change in level Sec: 303.2, Walking surface's in excess of 1/20 or 5% slope is a ramp Sec: 403.1, Ramp missing handrails, (east of rental building) Ramp hand rail extensions: Although this has been deleted from the ANSI/A117.1 supplement, it is still required in the ADA Sec: 4.8.5(2) ,this office does not enforce the ADA. Curb or barrier Sec: 405.9.2.

The following violations are from the 2003 IBC.

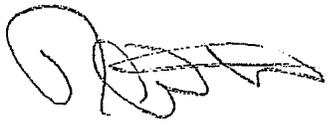
Van parking signs, Van Parking, Sec: 1106.5.1, 3 spaces required Sec: 1106.5, Also CGA Sec: 14-253a, Ramp handrails Sec: 1607.7.1.1 & 1607.7.1.2 (Load), Hotel unit # 2,3,4,5. All have combustibles being stored. 3301.2 & 3309.2. Approved construction documents show footings & posts supporting upper walkway and ramps. Drawings show details of metal connectors (cb66) with through bolts and nails, several areas have no nails and none have bolts. Sec: 1609.1.3

No permit for 3<sup>rd</sup> installed 1000gal propane tank and related connections. Sec: 101.4, 101.4.2 & 105.1. Drawings by Malone & MacBroom, dated 11/24/15, submitted for revision of accessible parking do not show van parking 106.1.1

The following violations are from the 2011 NEC. (NFPA70)

Service equipment is required to be readily accessible 30"x 30" x 78" NEC sec: 110.26

Robert Meyers: Building Official



Building/Health/Zoning \*Suite One, 405 Main St.\* Middlefield, CT 06455\*Phone: 860-349-7123 \* Fax: 860-349-8537

## Edward Bailey

---

**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Wednesday, June 29, 2016 7:27 AM  
**To:** 'Sean Hayes'  
**Cc:** Abbott, William; Edward Bailey; 'Garofalo, Vincent'  
**Subject:** FW: Life safety evaluation

Sean, write to Mr. William Abbott the SFM and ask him if the Fire code would require this LSE and whether or not they can require it if the Assembly Occupancy (New Mountain Biking Venue) is under 6000 people.

---

**From:** Sean Hayes [<mailto:shayes@brownstonepark.com>]  
**Sent:** Tuesday, June 28, 2016 10:19 AM  
**To:** Tierney, Daniel <[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)>  
**Subject:** FW: Life safety evaluation

---

**From:** Middlefield [<mailto:townofmiddlefield03@snet.net>]  
**Sent:** Wednesday, June 22, 2016 9:09 AM  
**To:** Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>; Veronica Cuthill <[vcuthill@brownstonepark.com](mailto:vcuthill@brownstonepark.com)>  
**Cc:** 'Ed Bailey' <[e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)>; Dana Arnold <[arnold.cd3@sbcglobal.net](mailto:arnold.cd3@sbcglobal.net)>; jeff Dicostanzo <[jdico45@comcast.net](mailto:jdico45@comcast.net)>; Peter Tyc <[pdtyc@aol.com](mailto:pdtyc@aol.com)>; SIMON ST. AMAND <[stamandsimon@aol.com](mailto:stamandsimon@aol.com)>; Steven Tyc <[steventyc@sbcglobal.net](mailto:steventyc@sbcglobal.net)>; William Konefal <[wjkonefal@aol.com](mailto:wjkonefal@aol.com)>  
**Subject:** Life safety evaluation

*The Fire Company is requesting a life safety evaluation as stated in the fire code , section 10-15 . Attached are the requirements of the plan . Please review as some of the items may not apply . The main concern is responses to injured parties and the evacuation of them . We will need this plan completed as it pertains to the new mountain biking venue at your facility .*

*Thank you for your anticipated cooperation .*

*Peter Tyc*

Fire Chief  
Middlefield Volunteer Fire Company  
405 Main St , suite 7  
Middlefield, CT 06455  
860-349-7124  
860-349-7996 FAX  
[townofmiddlefield03@snet.net](mailto:townofmiddlefield03@snet.net)

This electronic message, including any attachments, may contain proprietary, confidential or privileged information for the sole use of the intended recipient(s). You are hereby notified that any unauthorized disclosure, copying, distribution, or use of this message is prohibited. If you have received this message in error, please immediately notify the sender by reply e-mail and delete it.

**Edward Bailey**

---

**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Wednesday, June 29, 2016 7:04 AM  
**To:** 'Sean Hayes'  
**Cc:** 'Garofalo, Vincent'; Edward Bailey; Cassidy, Joseph  
**Subject:** FW: Message from "RNP00267364170C"  
**Attachments:** 201606290641.pdf

Sean, per your request attached please find section 405.9.2 that deals with edge protection for ramps, section 3301.2 and 3309.2 which deals with safeguards during construction (which I thought was done) all have been cited as violations by Mr. Meyers in a June 17 2016 report.

-----Original Message-----

**From:** Daniel Tierney [mailto:daniel.tierney@ct.gov]  
**Sent:** Wednesday, June 29, 2016 6:42 AM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Subject:** Message from "RNP00267364170C"

This E-mail was sent from "RNP00267364170C" (MP C3002).

Scan Date: 06.29.2016 06:41:29 (-0400)

**Table 405.2—Allowable Ramp Dimensions for Construction In Existing Sites, Buildings, and Facilities**

Slope <sup>1</sup>	Maximum Rise
Steeper than 1:10 but not steeper than 1:8	3 inches (75 mm)
Steeper than 1:12 but not steeper than 1:10	6 inches (150 mm)

<sup>1</sup>A slope steeper than 1:8 shall not be permitted.

**405.5 Clear Width.** The clear width of a ramp run shall be 36 inches (915 mm) minimum. Where handrails are provided on the ramp run, the clear width shall be measured between the handrails.

**405.6 Rise.** The rise for any ramp run shall be 30 inches (760 mm) maximum.

**405.7 Landings.** Ramps shall have landings at bottom and top of each ramp run. Landings shall comply with Section 405.7.

**405.7.1 Slope.** Landings shall have a slope not steeper than 1:48 and shall comply with Section 302.

**405.7.2 Width.** Clear width of landings shall be at least as wide as the widest ramp run leading to the landing.

**405.7.3 Length.** Landings shall have a clear length of 60 inches (1525 mm) minimum.

**405.7.4 Change In Direction.** Ramps that change direction at ramp landings shall be sized to provide a turning space complying with Section 304.3.

**405.7.5 Doorways.** Where doorways are adjacent to a ramp landing, maneuvering clearances required by Sections 404.2.3 and 404.3.2 shall be permitted to overlap the landing area. Where doors that are subject to lock-

ing are adjacent to a ramp landing, landings shall be sized to provide a turning space complying with Section 304.3.

**405.8 Handrails.** Ramp runs with a rise greater than 6 inches (150 mm) shall have handrails complying with Section 505.

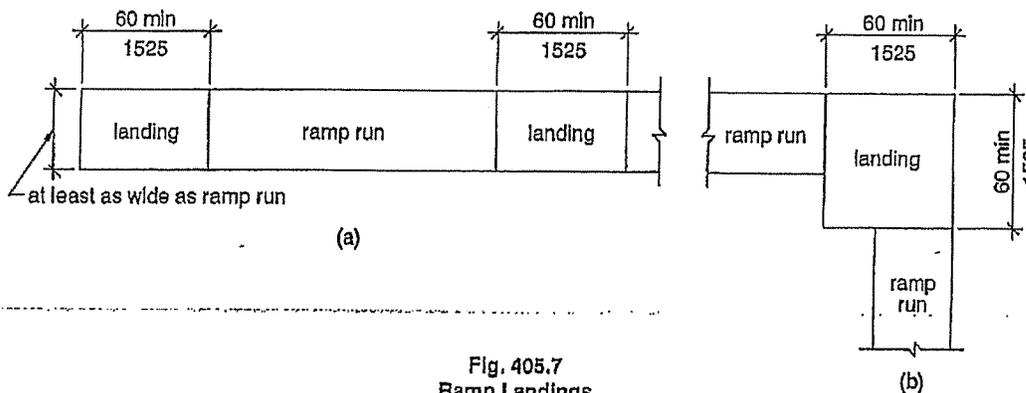
**405.9 Edge Protection.** Edge protection complying with Section 405.9.1 or 405.9.2 shall be provided on each side of ramp runs and at each side of ramp landings.

**EXCEPTIONS:**

1. Ramps not required to have handrails where curb ramp flares complying with Section 406.3 are provided.
2. Sides of ramp landings serving an adjoining ramp run or stairway.
3. Sides of ramp landings having a vertical drop-off of 1/2 inch (13 mm) maximum within 10 inches (255 mm) horizontally of the minimum landing area.

**405.9.1 Extended Floor Surface.** The floor surface of the ramp run or ramp landing shall extend 12 inches (305 mm) minimum beyond the inside face of a railing complying with Section 505.

**405.9.2 Curb or Barrier.** A curb or barrier shall be provided that prevents the passage of a 4-inch (100 mm) diameter sphere where any portion of the sphere is within 4 inches (100 mm) of the floor.



**Fig. 405.7  
Ramp Landings**

## CHAPTER 33

# SAFEGUARDS DURING CONSTRUCTION

### SECTION 3301 GENERAL

**3301.1 Scope.** The provisions of this chapter shall govern safety during construction and the protection of adjacent public and private properties.

**3301.2 Storage and placement.** Construction equipment and materials shall be stored and placed so as not to endanger the public, the workers or adjoining property for the duration of the construction project.

### SECTION 3302 CONSTRUCTION SAFEGUARDS

**3302.1 Remodeling and additions.** Required exits, existing structural elements, fire protection devices and sanitary safeguards shall be maintained at all times during remodeling, alterations, repairs or additions to any building or structure.

#### Exceptions:

1. When such required elements or devices are being remodeled, altered or repaired, adequate substitute provisions shall be made.
2. When the existing building is not occupied.

**3302.2 Manner of removal.** Waste materials shall be removed in a manner which prevents injury or damage to persons, adjoining properties and public rights-of-way.

### SECTION 3303 DEMOLITION

**3303.1 Construction documents.** Construction documents and a schedule for demolition must be submitted when required by the building official. Where such information is required, no work shall be done until such construction documents or schedule, or both, are approved.

**3303.2 Pedestrian protection.** The work of demolishing any building shall not be commenced until pedestrian protection is in place as required by this chapter.

**3303.3 Means of egress.** A party wall balcony or horizontal exit shall not be destroyed unless and until a substitute means of egress has been provided and approved.

**3303.4 Vacant lot.** Where a structure has been demolished or removed, the vacant lot shall be filled and maintained to the existing grade or in accordance with the ordinances of the jurisdiction having authority.

**3303.5 Water accumulation.** Provision shall be made to prevent the accumulation of water or damage to any foundations on the premises or the adjoining property.

**3303.6 Utility connections.** Service utility connections shall be discontinued and capped in accordance with the approved rules and the requirements of the authority having jurisdiction.

**3303.7 Demolition of structures.** The demolition of structures shall be conducted in accordance with sections 29-401-1 to 29-401-5, inclusive, of the Regulations of Connecticut State Agencies, known as the State Demolition Code, and Section 110.0 and Chapter 33 of this code.

### SECTION 3304 SITE WORK

**3304.1 Excavation and fill.** Excavation and fill for buildings and structures shall be constructed or protected so as not to endanger life or property. Stumps and roots shall be removed from the soil to a depth of at least 12 inches (305 mm) below the surface of the ground in the area to be occupied by the building. Wood forms which have been used in placing concrete, if within the ground or between foundation sills and the ground, shall be removed before a building is occupied or used for any purpose. Before completion, loose or casual wood shall be removed from direct contact with the ground under the building.

**3304.1.1 Slope limits.** Slopes for permanent fill shall not be steeper than one unit vertical in two units horizontal (50-percent slope). Cut slopes for permanent excavations shall not be steeper than one unit vertical in two units horizontal (50-percent slope). Deviation from the foregoing limitations for cut slopes shall be permitted only upon the presentation of a soil investigation report acceptable to the building official.

**3304.1.2 Surcharge.** No fill or other surcharge loads shall be placed adjacent to any building or structure unless such building or structure is capable of withstanding the additional loads caused by the fill or surcharge. Existing footings or foundations which can be affected by any excavation shall be underpinned adequately or otherwise protected against settlement and shall be protected against later movement.

**3304.1.3 Footings on adjacent slopes.** For footings on adjacent slopes, see Chapter 18.

**3304.1.4 Fill supporting foundations.** Fill to be used to support the foundations of any building or structure shall comply with Section 1803.5. Special inspections of compacted fill shall be in accordance with Section 1704.7.

### SECTION 3305 SANITARY

**3305.1 Facilities required.** Sanitary facilities shall be provided during construction, remodeling or demolition activities in accordance with the *International Plumbing Code*.

**3306.8 Repair, maintenance and removal.** Pedestrian protection required by this chapter shall be maintained in place and kept in good order for the entire length of time pedestrians may be endangered. The owner or the owner's agent, upon the completion of the construction activity, shall immediately remove walkways, debris and other obstructions and leave such public property in as good a condition as it was before such work was commenced.

**3306.9 Adjacent to excavations.** Every excavation on a site located 5 feet (1524 mm) or less from the street lot line shall be enclosed with a barrier not less than 6 feet (1829 mm) high. Where located more than 5 feet (1524 mm) from the street lot line, a barrier shall be erected when required by the building official. Barriers shall be of adequate strength to resist wind pressure as specified in Chapter 16.

### SECTION 3307 PROTECTION OF ADJOINING PROPERTY

**3307.1 Protection required.** Adjoining public and private property shall be protected from damage during construction, remodeling and demolition work. Protection must be provided for footings, foundations, party walls, chimneys, skylights and roofs. Provisions shall be made to control water runoff and erosion during construction or demolition activities. The person making or causing an excavation to be made shall provide written notice to the owners of adjoining buildings advising them that the excavation is to be made and that the adjoining buildings should be protected. Said notification shall be delivered not less than 10 days prior to the scheduled starting date of the excavation.

### SECTION 3308 TEMPORARY USE OF STREETS, ALLEYS AND PUBLIC PROPERTY

**3308.1 Storage and handling of materials.** The temporary use of streets or public property for the storage or handling of materials or of equipment required for construction or demolition, and the protection provided to the public shall comply with the provisions of the authority having jurisdiction and this chapter.

**3308.1.1 Obstructions.** Construction materials and equipment shall not be placed or stored so as to obstruct access to fire hydrants, standpipes, fire or police alarm boxes, catch basins or manholes, nor shall such material or equipment be located within 20 feet (6096 mm) of a street intersection, or placed so as to obstruct normal observations of traffic signals or to hinder the use of public transit loading platforms.

**3308.2 Utility fixtures.** Building materials, fences, sheds or any obstruction of any kind shall not be placed so as to obstruct free approach to any fire hydrant, fire department connection, utility pole, manhole, fire alarm box or catch basin, or so as to interfere with the passage of water in the gutter. Protection against damage shall be provided to such utility fixtures during the progress of the work, but sight of them shall not be obstructed.

### SECTION 3309 FIRE EXTINGUISHERS

**[F] 3309.1** Where required, All structures under construction, alteration or demolition shall be provided with not less than one approved portable fire extinguisher in accordance with Section 906 and sized for not less than ordinary hazard as follows:

1. At each stairway on all floor levels where combustible materials have accumulated.
2. In every storage and construction shed.
3. Additional portable fire extinguishers shall be provided where special hazards exist, such as the storage and use of flammable and combustible liquids.

**3309.2 Fire hazards.** The provisions of this code and the *International Fire Code* shall be strictly observed to safeguard against all fire hazards attendant upon construction operations.

### SECTION 3310 EXITS

**3310.1 Stairways required.** Where a building has been constructed to a height greater than 50 feet (15 240 mm) or four stories, or where an existing building exceeding 50 feet (15 240 mm) in height is altered, at least one temporary lighted stairway shall be provided unless one or more of the permanent stairways are erected as the construction progresses.

**3310.2 Maintenance of exits.** Required means of egress shall be maintained at all times during construction, demolition, remodeling or alterations and additions to any building.

Exception: Approved temporary means of egress systems and facilities.

### [F] SECTION 3311 STANDPIPES

**3311.1** Where required, Buildings four stories or more in height shall be provided with not less than one standpipe for use during construction. Such standpipes shall be installed where the progress of construction is not more than 40 feet (12 192 mm) in height above the lowest level of fire department access. Such standpipe shall be provided with fire department hose connections at accessible locations adjacent to usable stairs. Such standpipes shall be extended as construction progresses to within one floor of the highest point of construction having secured decking or flooring.

**3311.2 Buildings being demolished.** Where a building is being demolished and a standpipe exists within such a building, such standpipe shall be maintained in an operable condition so as to be available for use by the fire department. Such standpipe shall be demolished with the building but shall not be demolished more than one floor below the floor being demolished.

**3311.3 Detailed requirements.** Standpipes shall be installed in accordance with the provisions of Chapter 9.

Exception: Standpipes shall be either temporary or permanent in nature, and with or without a water supply, provided that such standpipes conform to the requirements of Section 905 as to capacity, outlets and materials.

## Edward Bailey

---

**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Tuesday, June 28, 2016 12:11 PM  
**To:** Edward Bailey  
**Subject:** FW: Message from "RNP00267364170C"  
**Attachments:** 201606281009.pdf

Ed, you really have to put a stop to this

-----Original Message-----

**From:** Sean Hayes [mailto:shayes@brownstonepark.com]  
**Sent:** Tuesday, June 28, 2016 12:10 PM  
**To:** 'Building Inspector' <buildinginspector@middlefield-ct.com>  
**Cc:** Tierney, Daniel <Daniel.Tierney@ct.gov>; Garofalo, Vincent <garofalov@madisonct.org>; 'Ed Bailey' <e\_bailey@middlefield-ct.com>; Cassidy, Joseph <Joseph.Cassidy@ct.gov>  
**Subject:** FW: Message from "RNP00267364170C"

Building Official,

Please see below email and attached code section, and please provide clarification on all issues related to the parking lot.

Thank you,

Sean Hayes  
Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073 Toll Free 866-860-0208

-----Original Message-----

**From:** Tierney, Daniel [mailto:Daniel.Tierney@ct.gov]  
**Sent:** Tuesday, June 28, 2016 10:59 AM  
**To:** Sean Hayes <shayes@brownstonepark.com>  
**Cc:** Ed Bailey <e\_bailey@middlefield-ct.com>; 'Garofalo, Vincent' <garofalov@madisonct.org>; Cassidy, Joseph <Joseph.Cassidy@ct.gov>; Nancy <Nancy@middlefield-ct.com>; Lesko, Steven <Steven.Lesko@ct.gov>; 'Building Inspector' <buildinginspector@middlefield-ct.com>  
**Subject:** FW: Message from "RNP00267364170C"

Sean, I can't help you with the cited code violations by Mr. Meyers as stated in his letter of June 17 2016 regarding sections 502.4.1, 502.4.2, and section 505.10.1 of the 2003 ICC/ANSI A117.1 since CT has deleted these sections from the 2005 SBC and are not enforceable. We also amended section 502.2. ( see attached) I would suggest that you seek a clarification from Mr Myers as to what he was talking about in order to resolve this .

-----Original Message-----

**From:** Daniel Tierney [mailto:daniel.tierney@ct.gov]  
**Sent:** Tuesday, June 28, 2016 10:10 AM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>

Subject: Message from "RNP00267364170C"

This E-mail was sent from "RNP00267364170C" (MP C3002).

Scan Date: 06.28.2016 10:09:48 (-0400)

TOWN of MIDDLEFIELD, CONNECTICUT



MEMO

Tuesday, June 21<sup>st</sup>, 2016

To: File

From: Edward Bailey, First Selectman

Subject: R. Meyer Building Official Powder Ridge Inspection June 15<sup>th</sup>, 2016

Attended an inspection concerning the certificate of occupancy for Powder Ridge with Mr. Robert Meyers, Building Official, Sean Hayes, owner and Vincent Garafalo, Powder Ridge Building Inspector.

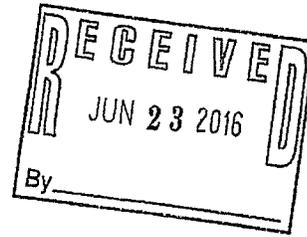
Inspection lasted about 16 minutes.

Requested a report from Mr. Meyers as to the result of this inspection, with a copy to be submitted to my office by Thursday June 16<sup>th</sup> at 1 pm. Received email from Mr. Meyers at 1:19 pm on June 16<sup>th</sup> stating that this was an unreasonable request. I followed this with a telcon giving him an additional 24 hours. On Friday, June 17<sup>th</sup>, I received no report. On Tuesday June 21<sup>st</sup> a letter regarding the inspection to Powder Ridge was forwarded to me from the Land Use Office.

A handwritten signature in black ink, appearing to read 'Ed Bailey'.

Middlefield Building Department

ERRATA



Sean Hayes

Powder ridge Mountain Park

Mr. Hayes

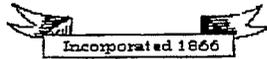
The letter this office sent you on 6/17/16 regarding your request for a C of O, has an error in printing.

The sited code sections involving the installation of propane tanks, Sec: 101.4, 104.2 & 105.1 shall be changed to Sec: 101.4, 101.4.2 & 105.1

Thank you

Robert Meyers; Building official

TOWN of MIDDLEFIELD, CONNECTICUT



Building Department

6/17/16

Powder Ridge Mountain Park and Resort  
161 Brownstone Ave  
P.O. Box 208  
Portland, Ct. 06480  
Re: C.O. request for 99 Powder Hill Rd (Lodge)

Mr. Hayes

On 6/14/16 the building department conducted an inspection of the 2nd floor use group A-2 and required related accessibility features. As you know other inspections by other inspectors were conducted during the construction. Therefore, this building official will not accept responsibility for unseen code violations. The following violations have been observed on 6/14/16.

The following violations are from the 2003 ICC/ANSI A117.1.

Parking lot: Access aisles do not meet the minimum width requirements. Sec: 502.4.1, No Van parking signage, Sec: 502.4.2, Vehicle space size Sec: 502.2,  
Accessible route: Change in level Sec: 303.2, Walking surface's in excess of 1/20 or 5% slope is a ramp Sec: 403.1, Ramp missing handrails, (east of rental building) Ramp hand rail extensions, 12" Sec: 505.10.1, 2 ramps, Curb or barrier Sec: 405.9.2.

The following violations are from the 2003 IBC.

Van Parking: 1106.5.1, 3 spaces required Sec: 1106.5, Also CGA sec: 14-253a, Ramp handrails Sec: 1607.7.1.1 & 1607.7.1.2 (Load), Hotel unit # 2,3,4,5. All have combustibles being stored. 3301.2 & 3309.2. Approved construction documents show footings & posts supporting upper walkway and ramps. Drawings show details of metal connectors (cb66) with through bolts and nails, several areas have no nails and none have bolts. Sec: 1609.1.3 No permit for 3<sup>rd</sup> installed 1000gal propane tank and related connections. Sec: 101.4, 104.2 & 105.1. Drawings by Malone & MacBroom dated 11/24/15, submitted for revision of accessible parking do not show van parking 106.1.1

The following violations are from the 2011 NEC. (NFPA70)

Service equipment is required to be readily accessible 30" x 30" x 78" NEC sec: 110.26

 6/21/16

Robert Meyers: Building Official

Building/Health/Zoning \*Suite One, 405 Main St.\* Middlefield, CT 06455\*Phone: 860-349-7123 \* Fax: 860-349-8537

## Edward Bailey

---

**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Friday, June 17, 2016 7:57 AM  
**To:** 'Sean Hayes'  
**Cc:** Edward Bailey; Cassidy, Joseph; Vinnie Garafalo; Building Inspector  
**Subject:** RE: Powder Ridge CO

Sean, since it's clear and troubling that some officials are confused on the fact that the standalone regulations ( which are not part of the 2005 SBC) adopted under the cited Statutes within section 101.4.2 of the 2005 State Building Code state that the Local Fire Marshal has the authority to enforce such regulation. Sean to resolve this issue quickly you should request an appeal of the Local Building Official decision under section 29- 252 of the CGS to the State Building Official Mr. Joe Cassidy as to whether or not you are required to obtain a building permit for the installation of gas tanks and or bollards where clearly such regulations that pertain to such are not part of or regulated by the 2005 SBC.

m: Sean Hayes [mailto:shayes@brownstonepark.com]  
**Sent:** Thursday, June 16, 2016 11:01 PM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>; Vinnie Garafalo <garofalov@madisonct.org>  
**Cc:** Ed Bailey <e\_bailey@middlefield-ct.com>  
**Subject:** Fwd: Powder Ridge CO

I am very glad he finds this all very funny. I have a company at risk of lossing everything and he finds it funny.

Sean

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----  
**From:** Building Inspector <>  
**Date:** 6/16/16 2:40 PM (GMT-05:00)  
**To:** Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>  
**Subject:** RE: Powder Ridge CO

Mr. Hayes

The funny thing is that the very code section that Tierney mentions in his email to you (101.4.2) is the very code section used to enter the statute sec:29-329 – 29-331 and gain access to NFPA 58, it is spelled out in the last sentence which he didn't provide. The code section that requires a permit is IBC 105.1

So, please provide a copy of the permit you to have.

Bob Meyers

---

**From:** Sean Hayes [mailto:[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)]  
**Sent:** Monday, June 13, 2016 12:56 PM  
**To:** Building Inspector <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>  
**Cc:** [daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov); Edward Bailey <[E\\_bailey@middlefield-ct.com](mailto:E_bailey@middlefield-ct.com)>; Garafalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>  
**Subject:** Powder Ridge CO

Building Official,

We are in receipt of your letter which I believe was incorrectly dated 5/8/16 and should have been 6/8/16.

Please provide the building code section or sections that state that the 2005 State Building Code has jurisdiction over the installation of propane tanks and bollards which would require me to obtain a building permit for such installations (see below).

## Sean Hayes

Chief Executive Officer

Powder Ridge Mountain Park & Resort, LLC

Brownstone Exploration and Discovery Park, LLC

161 Brownstone Avenue Portland, CT 06073

Toll Free 866-860-0208

---

**From:** Tierney, Daniel

**Sent:** Wednesday, May 25, 2016 7:00 AM

**To:** 'Sean Hayes' <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>; Michael Margolis <[pmmargolis@bnqlaw.com](mailto:pmmargolis@bnqlaw.com)>; Garofalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>; Lesko, Steven <[Steven.Lesko@ct.gov](mailto:Steven.Lesko@ct.gov)>; Cassidy, Joseph <[joseph.cassidy@ct.gov](mailto:joseph.cassidy@ct.gov)>; Dicine, Judith <[Judith.Dicine@ct.gov](mailto:Judith.Dicine@ct.gov)>; 'Nancy' <[Nancy@middlefield-ct.com](mailto:Nancy@middlefield-ct.com)>; 'Building Inspector' <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>

**Subject:** RE: Please Read ASAP

Sean, I'm not sure what he talking about, attached was a sprinkler violation that we all know does not exist and as far as the installation of bollards protecting LP- Gas tanks that he cited you in a May 6 2016 email without referencing a Building code section to back up his allegations, in fact is not a building code violation at all (see section 101.4.2 SBC) that's why it was not cited by Mr. Garofalo during his inspection of the underground piping. This is based on the fact that the requirement comes from NFPA 58 Liquefied petroleum Gas Code which is under the jurisdiction of the local Fire Marshal who has already sign off on all of the work. I have asked attorney Lesko that if he plans to get involved to please ascertain in writing from the Town what specifically has to be done or what code violations actually do exist in order for the restaurant to receive a CO in order to put an end to this nightmare.

## Edward Bailey

---

**From:** Sean Hayes <shayes@brownstonepark.com>  
**Sent:** Thursday, June 16, 2016 11:01 PM  
**To:** Tierney Daniel; Vinnie Garafalo  
**Cc:** Edward Bailey  
**Subject:** Fwd: Powder Ridge CO

I am very glad he finds this all very funny. I have a company at risk of losing everything and he finds it funny.

Sean

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Building Inspector <buildinginspector@middlefield-ct.com>  
**Date:** 6/16/16 2:40 PM (GMT-05:00)  
**To:** Sean Hayes <shayes@brownstonepark.com>  
**Subject:** RE: Powder Ridge CO

Mr. Hayes

The funny thing is that the very code section that Tierney mentions in his email to you (101.4.2) is the very code section used to enter the statute sec:29-329 – 29-331 and gain access to NFPA 58, it is spelled out in the last sentence which he didn't provide. The code section that requires a permit is IBC 105.1  
So, please provide a copy of the permit you to have.  
Bob Meyers

---

**From:** Sean Hayes [mailto:shayes@brownstonepark.com]  
**Sent:** Monday, June 13, 2016 12:56 PM  
**To:** Building Inspector <buildinginspector@middlefield-ct.com>  
**Cc:** daniel.tierney@ct.gov; Edward Bailey <E\_bailey@middlefield-ct.com>; Garofalo, Vincent <garofalov@madisonct.org>  
**Subject:** Powder Ridge CO

**Building Official,**

We are in receipt of your letter which I believe was incorrectly dated 5/8/16 and should have been 6/8/16.

Please provide the building code section or sections that state that the 2005 State Building Code has jurisdiction over the installation of propane tanks and bollards which would require me to obtain a building permit for such installations (see below).

**Sean Hayes**

Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC

Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073  
Toll Free 866-860-0208

---

**From:** Tierney, Daniel  
**Sent:** Wednesday, May 25, 2016 7:00 AM  
**To:** 'Sean Hayes' <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>; Michael Margolis <[pmmargolis@bnlaw.com](mailto:pmmargolis@bnlaw.com)>; Garofalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>; Lesko, Steven <[Steven.Lesko@ct.gov](mailto:Steven.Lesko@ct.gov)>; Cassidy, Joseph <[joseph.cassidy@ct.gov](mailto:joseph.cassidy@ct.gov)>; Dicine, Judith <[Judith.Dicine@ct.gov](mailto:Judith.Dicine@ct.gov)>; 'Nancy' <[Nancy@middlefield-ct.com](mailto:Nancy@middlefield-ct.com)>; 'Building Inspector' <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>  
**Subject:** RE: Please Read ASAP

Sean, I'm not sure what he talking about, attached was a sprinkler violation that we all know does not exist and as far as the installation of bollards protecting LP- Gas tanks that he cited you in a May 6 2016 email without referencing a Building code section to back up his allegations, in fact is not a building code violation at all (see section 101.4.2 SBC) that's why it was not cited by Mr. Garofalo during his inspection of the underground piping. This is based on the fact that the requirement comes from NFPA 58 Liquefied petroleum Gas Code which is under the jurisdiction of the local Fire Marshal who has already sign off on all of the work. I have asked attorney Lesko that if he plans to get involved to please ascertain in writing from the Town what specifically has to be done or what code violations actually do exist in order for the restaurant to receive a CO in order to put an end to this nightmare.

## Edward Bailey

---

**From:** Edward Bailey  
**Sent:** Friday, June 17, 2016 9:01 AM  
**To:** Building Inspector  
**Subject:** RE: Powder Ridge C.O.

After all this time you should be well versed in the matter of Powder Ridge. You should be able to make up report based on your inspection Wednesday that lasted some 15 or 20 minutes.  
I will extend this deadline until Friday at 1PM.

**Edward P. Bailey, First Selectman**  
**Town of Middlefield**  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
Email: [e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)  
Website: <http://www.middlefieldct.org>

---

**From:** Building Inspector  
**Sent:** Thursday, June 16, 2016 1:19 PM  
**To:** Edward Bailey <[E\\_bailey@middlefield-ct.com](mailto:E_bailey@middlefield-ct.com)>  
**Subject:** RE: Powder Ridge C.O.

Sorry Ed  
I can't meet your demand to have a report on your desk by 1 pm today. I also feel that it is an unreasonable demand on your part  
Bob Meyers

---

**From:** Edward Bailey  
**Sent:** Wednesday, June 15, 2016 6:20 PM  
**To:** Building Inspector <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>  
**Subject:** Powder Ridge C.O.

Provide this office with copy (including photographs if any) of the results of the inspection held today at Powder Ridge not later than 1PM, Thursday, June 16<sup>th</sup>, 2016.  
Thank you.

**Edward P. Bailey, First Selectman**  
**Town of Middlefield**  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114

## Edward Bailey

---

**From:** Building Inspector  
**Sent:** Thursday, June 16, 2016 1:19 PM  
**To:** Edward Bailey  
**Subject:** RE: Powder Ridge C.O.

Sorry Ed

I can't meet your demand to have a report on your desk by 1 pm today. I also feel that it is an unreasonable demand on your part

Bob Meyers

---

**From:** Edward Bailey  
**Sent:** Wednesday, June 15, 2016 6:20 PM  
**To:** Building Inspector <buildinginspector@middlefield-ct.com>  
**Subject:** Powder Ridge C.O.

Provide this office with copy (including photographs if any) of the results of the inspection held today at Powder Ridge not later than 1PM, Thursday, June 16<sup>th</sup>, 2016.

Thank you.

**Edward P. Bailey, First Selectman**

**Town of Middlefield**

393 Jackson Hill Road

Middlefield, CT 06455

860.349.7114

860.349.7115 fax

Email: [e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)

Website: <http://www.middlefieldct.org>

**Edward Bailey**

---

**From:** Edward Bailey  
**Sent:** Wednesday, June 15, 2016 6:20 PM  
**To:** Building Inspector  
**Subject:** Powder Ridge C.O.

Provide this office with copy (including photographs if any) of the results of the inspection held today at Powder Ridge not later than 1PM, Thursday, June 16<sup>th</sup>, 2016.

Thank you.

**Edward P. Bailey, First Selectman**

**Town of Middlefield**

393 Jackson Hill Road

Middlefield, CT 06455

860.349.7114

860.349.7115 fax

Email: [e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)

Website: <http://www.middlefieldct.org>

## Edward Bailey

---

**From:** Edward Bailey  
**Sent:** Tuesday, June 14, 2016 8:37 AM  
**To:** Building Inspector  
**Cc:** Edward Bailey; Nancy  
**Subject:** Powder Ridge Inspection

I have made arrangements for you to inspect the restaurant/kitchen at Powder Ridge with reference to the CO at 3PM on Wednesday June 15<sup>th</sup>. Please meet Mr. Hayes and myself at 3PM at the premises.  
Please confirm receipt of this email.  
Thank you.

Edward P. Bailey, First Selectman  
Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
Email: [e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)  
Website: <http://www.middlefieldct.org>

## Edward Bailey

---

**From:** Edward Bailey  
**Sent:** Tuesday, June 14, 2016 8:36 AM  
**To:** 'Garofalo, Vincent'  
**Cc:** 'Tierney, Daniel'  
**Subject:** RE: CO for Powder Ridge

I have instructed Mr. Meyer to make himself available at the premises for a walk thru Wednesday 3PM.  
Thank you for your assistance.  
Ed

Edward P. Bailey, First Selectman  
Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
Email: e\_bailey@middlefield-ct.com  
Website: <http://www.middlefieldct.org>

-----Original Message-----

**From:** Garofalo, Vincent [mailto:garofalov@madisonct.org]  
**Sent:** Tuesday, June 14, 2016 7:53 AM  
**To:** 'Tierney, Daniel' <Daniel.Tierney@ct.gov>; Edward Bailey <E\_bailey@middlefield-ct.com>  
**Cc:** 'Sean Hayes' <shayes@brownstonepark.com>  
**Subject:** RE: CO for Powder Ridge

Ed,

I have managed to make myself available for 3pm on Wednesday afternoon. I will meet you and Building Official Bob there on site. My advice would be not to let him know I am going to be there to observe this short walk through.

Best,

Vin

-----Original Message-----

**From:** Tierney, Daniel [mailto:Daniel.Tierney@ct.gov]  
**Sent:** Tuesday, June 14, 2016 6:22 AM  
**To:** Garofalo, Vincent  
**Subject:** RE: CO for Powder Ridge

You should

-----Original Message-----

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]  
Sent: Monday, June 13, 2016 7:29 PM  
To: Edward Bailey <E\_bailey@middlefield-ct.com>  
Cc: Tierney, Daniel <Daniel.Tierney@ct.gov>  
Subject: Re: CO for Powder Ridge

Dan,  
You should attend along with Ed. I can't make it this week

Vincent Garofalo III  
Madison Building Official  
8 Campus Drive  
Madison, Ct 06443  
203-245-5618  
203-996-7393

On Jun 13, 2016, at 4:33 PM, Edward Bailey <E\_bailey@middlefield-ct.com<mailto:E\_bailey@middlefield-ct.com>> wrote:

Hi all:

Sean Hayes has agreed to allow the building official on the premises to inspect the areas concerning the C.O. only. I know you guys are tired of this but Sean Hayes asked if either one of you can attend the walk thru. We are planning Wednesday or Thursday between 8:30AM and 3PM Mr. Meyer's working hours are until 4PM.  
Thanks for any assistance you can provide.

Regards

Edward P. Bailey, First Selectman  
Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
Email: e\_bailey@middlefield-ct.com<mailto:e\_bailey@middlefield-ct.com>  
Website: <http://www.middlefieldct.org><<http://www.middlefieldct.org/>>  
From: Tierney, Daniel [mailto:Daniel.Tierney@ct.gov]  
Sent: Monday, June 13, 2016 10:31 AM  
To: Edward Bailey <E\_bailey@middlefield-ct.com<mailto:E\_bailey@middlefield-ct.com>>  
Subject: FW: CO for Powder Ridge

Ed, can you call me 713 5915

From: Sean Hayes [mailto:shayes@brownstonepark.com]  
Sent: Monday, June 13, 2016 10:25 AM  
To: Tierney, Daniel <Daniel.Tierney@ct.gov<mailto:Daniel.Tierney@ct.gov>>; Michael Margolis <pmmargolis@bnglaw.com<mailto:pmmargolis@bnglaw.com>>; Garofalo, Vincent <garofalov@madisonct.org<mailto:garofalov@madisonct.org>>; 'Ed Bailey' <e\_bailey@middlefield-ct.com<mailto:e\_bailey@middlefield-ct.com>>  
Subject: CO for Powder Ridge

Gentlemen,

Please find attached the latest letter from your Building Official.

This cannot continue. I will be taking immediate legal action, this company can't risk everything over a town employee that is doing everything in his power to keep a promise he made to our architect over two years ago, and I quote "I will never sign a CO for that lodge as long as I am the Building Official in town".

As for your building official's claim that we did not respond about the propane tanks, the first permit was not signed, he is correct, but we were told at that time it was under the permit for our rental building, and only one tank was installed. That tank and connection was inspected by the very same building official and a Certificate of Compliance was later issued by him for that building (that building has been open for over 2 years). The second permit was signed by the building official which added the two additional tanks for the Lodge. Vincent Garofalov inspected those connections and signed off on the completion of the lodge building. Mr. Garofalov responded to the building official and forwarded him the pictures of the alleged missing bollards. The missing bollards was one his main reason for denial in his last letter, now the bollards are not mentioned.

If immediate action is not taken to resolve this ongoing saga Powder Ridge will suffer irreconcilable harm and will seek every means of recovery possible.

Sean Hayes  
Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073 Toll Free 866-860-0208

From: Ceil Hayes  
Sent: Monday, June 13, 2016 9:36 AM  
To: Sean Hayes <shayes@brownstonepark.com<mailto:shayes@brownstonepark.com>>  
Subject:

Respectfully,

Ceil Hayes  
Powder Ridge Mountain Park & Resort, LLC Brownstone Exploration & Discovery Park, LLC PO Box 208 Portland, CT  
06480  
860-894-2201

## Edward Bailey

---

**From:** Edward Bailey  
**Sent:** Monday, June 13, 2016 4:34 PM  
**To:** Tierney, Daniel; Garofalo, Vincent  
**Cc:** Edward Bailey  
**Subject:** RE: CO for Powder Ridge

Hi all:

Sean Hayes has agreed to allow the building official on the premises to inspect the areas concerning the C.O. only. I know you guys are tired of this but Sean Hayes asked if either one of you can attend the walk thru. We are planning Wednesday or Thursday between 8:30AM and 3PM Mr. Meyer's working hours are until 4PM.

Thanks for any assistance you can provide.

Regards

Edward P. Bailey, First Selectman  
Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
Email: [e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)  
Website: <http://www.middlefieldct.org>

---

**From:** Tierney, Daniel [<mailto:Daniel.Tierney@ct.gov>]  
**Sent:** Monday, June 13, 2016 10:31 AM  
**To:** Edward Bailey <[E\\_bailey@middlefield-ct.com](mailto:E_bailey@middlefield-ct.com)>  
**Subject:** FW: CO for Powder Ridge

Ed, can you call me 713 5915

---

**From:** Sean Hayes [<mailto:shayes@brownstonepark.com>]  
**Sent:** Monday, June 13, 2016 10:25 AM  
**To:** Tierney, Daniel <[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)>; Michael Margolis <[pmmargolis@bnqlaw.com](mailto:pmmargolis@bnqlaw.com)>; Garofalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; 'Ed Bailey' <[e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)>  
**Subject:** CO for Powder Ridge

Gentlemen,

Please find attached the latest letter from your Building Official.

This cannot continue. I will be taking immediate legal action, this company can't risk everything over a town employee that is doing everything in his power to keep a promise he made to our architect over two years ago, and I quote "I will never sign a CO for that lodge as long as I am the Building Official in town".

As for your building official's claim that we did not respond about the propane tanks, the first permit was not signed, he is correct, but we were told at that time it was under the permit for our rental building, and only one tank was installed. That tank and connection was inspected by the very same building official and a Certificate of Compliance was later issued by him for that building (that building has been open for over 2 years). The second permit was signed by the building official which added the two additional tanks for the Lodge. Vincent Garofalov inspected those connections and signed off on the completion of the lodge building. Mr. Garofalov responded to the building official and forwarded him

the pictures of the alleged missing bollards. The missing bollards was one his main reason for denial in his last letter, now the bollards are not mentioned.

If immediate action is not taken to resolve this ongoing saga Powder Ridge will suffer irreconcilable harm and will seek every means of recovery possible.

## **Sean Hayes**

Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC  
Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073  
Toll Free 866-860-0208

---

**From:** Ceil Hayes  
**Sent:** Monday, June 13, 2016 9:36 AM  
**To:** Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>  
**Subject:**

*Respectfully,*

*Ceil Hayes*

*Powder Ridge Mountain Park & Resort, LLC  
Brownstone Exploration & Discovery Park, LLC  
PO Box 208  
Portland, CT 06480  
860-894-2201*

## Edward Bailey

---

**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** ~~Thursday, June 09, 2016 6:02 AM~~  
**To:** Edward Bailey  
**Subject:** RE: CO For Powder Ridge Mountain Park & Resort

---

**From:** Edward Bailey [mailto:E\_bailey@middlefield-ct.com]  
**Sent:** Wednesday, June 08, 2016 9:44 PM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Subject:** FW: CO For Powder Ridge Mountain Park & Resort

Hi Dan:  
No reason given. I'm going ask him to provide me a written statement as to why the CO is not issued.  
Ed

Edward P. Bailey, First Selectman  
Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
Email: [e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)  
Website: <http://www.middlefieldct.org>

---

**From:** Edward Bailey [mailto:epb10@aol.com]  
**Sent:** Tuesday, June 07, 2016 5:44 PM  
**To:** Edward Bailey <E\_bailey@middlefield-ct.com>  
**Subject:** Fwd: CO For Powder Ridge Mountain Park & Resort

Edward Bailey  
860-985-0790 mobile

Begin forwarded message:

**From:** "Tierney, Daniel" <Daniel.Tierney@ct.gov>  
**Date:** June 7, 2016 at 1:14:27 PM EDT  
**To:** Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>  
**Subject:** FW: CO For Powder Ridge Mountain Park & Resort

Any reason given why this has not been issued yet

## Edward Bailey

---

**From:** Sean Hayes <shayes@brownstonepark.com>  
**Sent:** Wednesday, June 01, 2016 11:46 AM  
**To:** Building Inspector  
**Cc:** daniel.tierney@ct.gov; Garofalo, Vincent; Edward Bailey; Michael Margolis  
**Subject:** CO For Powder Ridge Mountain Park & Resort

Building Official,

Please consider this another formal request for our certificate of occupancy for the upstairs lodge restaurant, kitchen and tavern.

Thank you,

## Sean Hayes

Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC  
Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073  
Toll Free 866-860-0208

TOWN of MIDDLEFIELD, CONNECTICUT

Map  
Fiaseo



MEMO

Friday, May 27<sup>th</sup>, 2016

To: File

From: Edward Bailey, First Selectman

Subject: R. Meyer – 11:55 AM

Received email communication from Assistant Fire Marshall Peter Tyc (AFM) regarding event at Powder Ridge. Issue regarding map for event at Powder Ridge. Contacted Land Use Office Assistant Nancy Davidson at home (PTO day); who said the map was at her desk and that Building Official Robert Meyers (BO) was to give map to AFM. Called BO and he told me that the map wasn't at Nancy's desk. I went to Land Use Office, BO was not at the office. Map was at Nancy's desk. Left note for BO that I found the map. I made a copy and gave one to AFM.

In my opinion this episode is indicative of BO's lack of cooperation with matters concerning Powder Ridge.

---

Town of Middlefield

5/19/16

To: Sean Hayes  
99 Powder Hill Rd  
Middlefield, Ct. 06455

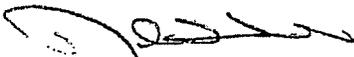
**STATE BUILDING CODE  
NOTICE OF REFERRAL FOR CRIMINAL PROSECUTION**

Dear Mr. Hayes

This is to inform you that on 5/19/16, this office referred the matter regarding the Building Code violations located at 99 Powder Hill Rd. Middlefield, Connecticut to the State's Attorney for the Judicial District of Middlesex, for criminal prosecution.

This referral results from the initial inspection conducted on January 20 2016 and your failure to respond properly to an order sent to you previously. A re-Inspection of the premises conducted on 5/18/2016, determined that compliance with the State Building Code had not been achieved, nor had steps been taken for alternate methods of compliance with the said Code as outlined in the order.

Sincerely,



Robert Meyers  
Building Official  
Middlefield.

Cc: Corporation Counsel

Forms\Notice of Referral for Criminal Prosecution and cover letter to prosecutor  
12/13/11

1/4

---

Town of Middlefield

5/19/2016

To: Attorney Steven Lesco  
Office of the State's Attorney, Housing Matters  
Judicial District of Middlesex County

Re: Referral for Prosecution for Violation of the State Building Code

Dear Steven Lesco

The undersigned duly appointed Building Official for the Jurisdiction of Middlefield, Connecticut, hereby refers the enclosed Affidavit in support of arrest warrant, against Sean Hayes, for criminal prosecution as outlined in CGS §29-254a or 29-394, for their alleged failure to comply with the State Building Code and its applicable referenced standards as set forth in the provisions of CGS §29-252.

Your assistance in this case will be greatly appreciated. Please contact our office if you require any further information or clarification.

Sincerely,



Robert Meyers  
Building Official  
Middlefield, Ct.  
860-349-7123 x 15

Cc: Corporation Counsel

Encl. Copy of Notice of Violation and Order to Abate

Forms\Notice of Referral for Criminal Prosecution and cover letter to prosecutor

12/13/11

2/4

January 21, 2016

Certified mail return receipt # 7015 0640 0003 1141 5251

To: Sean Hayes CEO/ Powder Ridge Mountain Park and Resort. LLC

Re: Fire at the Ridge Restaurant, 2<sup>nd</sup> floor (Lodge)  
99 Powder Hill Rd. Middlefield, Connecticut.

**STATE BUILDING CODE §113  
NOTICE OF VIOLATION AND ORDER TO ABATE**

Dear Mr. Hayes

On, January 20th, 2016 an inspection was conducted of the premises located at 99 Powder Hill Rd. From 6:00 pm to 6:20 pm for the purposes of determining compliance with the State Building Code as amended and the applicable referenced standards, adopted pursuant to the Connecticut General Statutes §29-252. The Code and said standards are available for your inspection at this office. The inspection revealed the following violation(s) of the State Building Code: SBC sec: 110.1 Restaurant open to public without certificate of occupancy. SBC sec: 903.2.1.2 Restaurant open to the public without an approved sprinkler system.

**PURSUANT TO STATE BUILDING CODE §113, YOU ARE HEREBY ORDERED TO DISCONTINUE THIS ILLEGAL ACTION AND TAKE THE PROPER CORRECTIVE ACTION TO ABATE ALL LISTED VIOLATION(S) EFFECTIVE IMMEDIATELY FROM THE DAY THAT THIS NOTICE IS RECEIVED.** Construction documents for work to be done shall be submitted to this office prior to the commencement of any construction in accordance with State Building Code §106. This review of all construction documents would avoid unnecessary expense that could result from non-complying changes. Please note that the correction of certain violations may require proper permits and approval from the Building Official and other local agencies prior to any construction.

You are hereby notified that you have the right to appeal this order pursuant to Connecticut General Statutes §29-266(b) to the municipal board of appeals or Connecticut General Statute §29-266(c) in the absence of a municipal board of appeals. Variations or exemptions from the State Building Code may be granted by the State Building Inspector where strict compliance with the code would entail practical difficulty or unnecessary hardship, or is otherwise adjudged unwarranted pursuant to Connecticut General Statutes §29-254(b), provided that the intent of the law shall be observed and public welfare and safety be assured. Any application for a variation or exemption or equivalent or alternate compliance shall be filed with the local Building Official.

Notice of Violation and Order to Abate re: 99 POWDER HILL RD, p. 2

3/4

This is the only order you will receive. Be advised that the Building Official is authorized to prosecute any violation of this order by requesting that legal counsel of the jurisdiction, or the Office of the State's Attorney, institute the appropriate proceeding at law. Per Connecticut General Statutes §29-254a and §29-394, and State Building Code §113.3, any person who is convicted in a court of law of violating any provision of the State Building Code or for failure to comply with the written order of a building inspector for the provision of additional exit facilities in a building, the repair or alteration of a building or the removal of a building or any portion thereof shall be fined not less than two hundred not more than one thousand dollars or imprisoned not more than six months or both.

This office seeks and anticipates your cooperation, and looks forward to working with you in the interest of building and life safety for a timely resolution of this serious matter. If you have any questions, please feel free to contact this office at 860-349-7123

Sincerely,



Robert Meyers  
Building Official  
Town of Middlefield, CT.

Forms\Notice of Violation and Order to Abate  
12/13/11

4/4

TOWN *of* MIDDLEFIELD, CONNECTICUT



MEMO

Friday, May 13<sup>th</sup>, 2016

To: File

From: Edward Bailey, First Selectman

Subject: R. Meyer – 11:55 AM 5/13/16 – First Selectman's Office

Mr. Meyer presented himself at my office. He handed me a grievance form. He told me that "you are going for the record this is the fourth". His demeanor was threatening and provocative. I took the grievance form and I told him to get back to work. I further told him to clear up the Certificate of Occupancy for Powder Ridge. He stated that he is not issuing a Certificate of Occupancy for Powder Ridge. I told him that this wasn't the first time I heard him make this statement and thanked him for confirming that he is not issuing a Certificate of Occupancy. Again told him to get back to work.

As with almost all my interactions with Mr. Meyer since occupying the office of First Selectman, I have the impression that he wants to provoke me into some sort of action that he will use against the Town of Middlefield in some form or another.

TOWN *of* MIDDLEFIELD, CONNECTICUT



MEMO

Thursday, May 12<sup>th</sup>, 2016

To: File

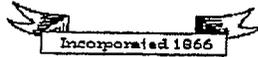
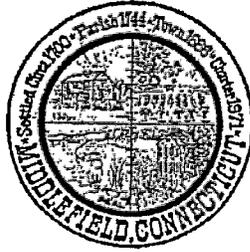
From: Edward Bailey, First Selectman

Subject: R. Meyer – 3:15 PM - 5/12/16 – Land Use Office

I stopped at Mr. Meyer's cubical and inquired as to the status of Powder Ridge's pending Certificate of Occupancy. When asked about Powder Ridge Mr. Meyer had to ask if I was asking about the Certificate of Occupancy, to wit I replied the CO. He dismissively replied that they don't have one and then proceeded to inform me yet again that I stopped him from doing his job. I advised Mr. Meyer to do his job and get this matter off the books. Mr. Meyer's demeanor was dismissive towards his duties and I seriously doubt he has any intentions of following up the Powder Ridge Certificate of Occupancy matter.

Since April 11<sup>th</sup> Mr. Meyer has made no attempt, to my knowledge, to facilitate a Certificate of Occupancy. I received advice from the Deputy State Build Official and the Building Inspector for Powder Ridge that there are no outstanding issues prohibiting a Certificate of Occupancy from being issued. Mr. Meyer has been advised of this via various emails and yet has not acted.

TOWN of MIDDLEFIELD, CONNECTICUT



Building Department

5/08/16  
Powder Ridge Mountain Park and Resort  
161 Brownstone Ave  
P.O. Box 208  
Portland, Ct. 06480  
Re: C.O. request

Mr. Hayes  
I am replying to your letter sent 5/6/16.

Enclosed you will find a copy of the letter I sent you on 4/20/16 explaining the issues at hand. I will not sign a C of O for any building for which I was denied access for final inspection. I am not able to supply with a list of items as you requested. I was denied access to the last inspection on 4/11/16.

On 11/19/15, I requested information on the 3<sup>rd</sup> propane tank installation (permit). On 4/20/16, I requested it again.  
You sent me a copy via email of 2 building permit applications that were unsigned by this department, applications are not permits.

Robert Meyers: Building Official

**From:** "Tierney, Daniel" <Daniel.Tierney@ct.gov>  
**Date:** May 13, 2016 at 9:13:51 AM EDT  
**To:** Sean Hayes <shaves@brownstonepark.com>, Edward Bailey <epb10@aol.com>, "Garofalo, Vincent" <garofalov@madisonct.org>  
**Cc:** Michael Margolis <pmmargolis@bnglaw.com>  
**Subject:** RE: Powder Ridge Park, CO

Sean, the issues is that the lodge an restaurant are under a different building permit, work done and inspected and been sign off by everybody in the town and ready for a CO for the portion of the building which had a change of use. The propane tanks are a totally different issue and have no bearing on the CO since they as the renovations to the lodge by code receive a Certificate of Approval. The fact that then town has the application for a permit for the tanks and not acted on them is just another problem in this ongoing saga.

---

**From:** Sean Hayes [mailto:shaves@brownstonepark.com]  
**Sent:** Friday, May 13, 2016 8:35 AM  
**To:** Edward Bailey <epb10@aol.com>; Tierney, Daniel <Daniel.Tierney@ct.gov>; Garofalo, Vincent <garofalov@madisonct.org>  
**Cc:** Michael Margolis <pmmargolis@bnglaw.com>  
**Subject:** FW: Powder Ridge Park, CO  
**Importance:** High

Gentlemen,

As I understand the building code, if an application is not denied within 30 days then it becomes valid, therefore your building officials argument of Powder Ridge not having a valid permit for the propane tanks is incorrect. The tanks were inspected and bollards are there, some well before our restoration even began.

Powder Ridge has been more than accommodating allowing repetitive inspections, addressing invalid concerns but we need our CO now. What needs to happen?

Sean Hayes

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Friday, May 06, 2016 4:02 PM  
**To:** Building Inspector  
**Cc:** 'Sean Hayes'  
**Subject:** FW:  
**Attachments:** 20160506\_152256.jpg; ATT00001.txt

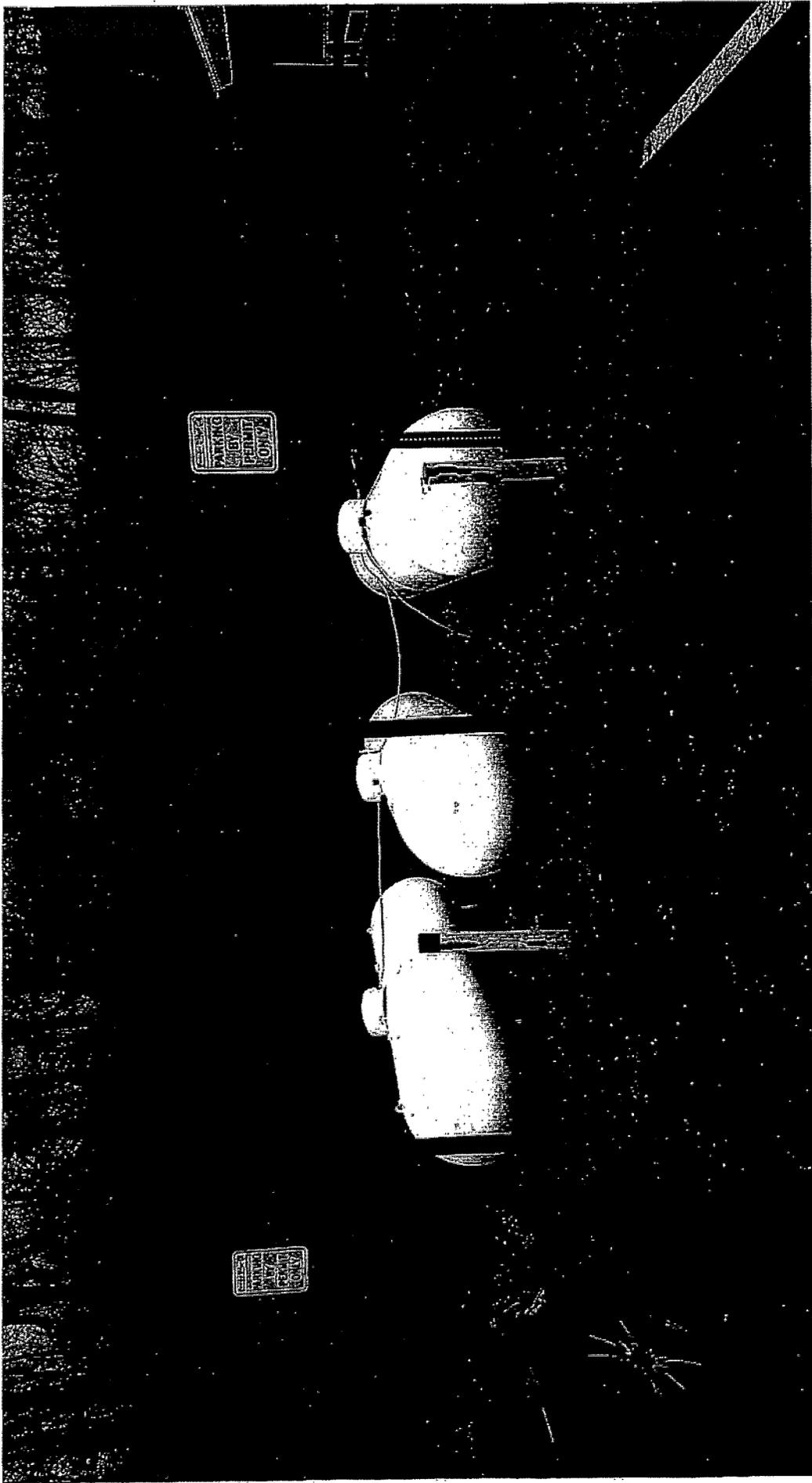
Bob,

I see five (5) bollards at four feet (48") on center in front of the three tanks pictured here. They are white and green in color. I would like to also note that these tanks were here prior to my involvement of helping you and the Town of Middlefield. I did the line and trench inspections on multiple occasions, due to insufficient trench depth from these tanks to the lodge structure. This CLEARLY satisfies that the tanks were installed and protected prior to my arrival for inspections at the Powder Ridge Facility.

Vin

-----Original Message-----

**From:** Garofalo, Vincent  
**Sent:** Friday, May 06, 2016 3:46 PM  
**To:** Garofalo, Vincent  
**Subject:**



From: Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>

Date: May 6, 2016 at 2:47:39 PM EDT

To: "daniel.tierney@ct.gov" <[daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov)>, "Garofalo, Vincent" <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>, Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>

Subject: FW: Powder Ridge Park, CO

ARE YOU KIDDING ME!!!!!!!

---

From: Building Inspector [<mailto:buildinginspector@middlefield-ct.com>]

Sent: Friday, May 06, 2016 2:45 PM

To: Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>

Subject: RE: Powder Ridge Park, CO

Mr. Hayes

In your email attachment the only thing I find is two unsigned applications. I asked for permits. And your letter that says Garoffalo did the inspection. Do you have an inspection ticket? Since there are no bollards protecting the tanks, the inspection should have failed.

Reminder: Ct State Statute, sec: 29-256 says in part that no building shall be occupied until a certificate of occupancy has been issued by the building official. You were already given an official order to close your second floor restaurant for operating without a certificate of occupancy. That order is binding until you receive a CO.

Building official

---

From: Sean Hayes [<mailto:shayes@brownstonepark.com>]

Sent: Thursday, May 05, 2016 12:03 PM

To: Building Inspector <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>

Cc: Garofalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; [daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov); Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>; Michael Margolis <[pmmargolis@bnlaw.com](mailto:pmmargolis@bnlaw.com)>; Nancy Wyman - CT Gov (<[LtGovernor.wyman@ct.gov](mailto:LtGovernor.wyman@ct.gov)> <[LtGovernor.wyman@ct.gov](mailto:LtGovernor.wyman@ct.gov)>

Subject: Powder Ridge Park, CO

Please find attached Powder Ridge's response to the latest and ongoing delays in the Lodge CO.

This has to END

**Sean Hayes**

Chief Executive Officer

Powder Ridge Mountain Park & Resort, LLC

Brownstone Exploration and Discovery Park, LLC

161 Brownstone Avenue Portland, CT 06073

Toll Free 866-860-0208



**Brownstone**  
Exploration & Discovery Park

**Powder Ridge**  
Mountain Park & Resort



May 5, 2016

Building official  
Town of Middlefield

In reference to your letter date 4/20/16, please see below:

I will again answer your inquiry for the 3<sup>rd</sup> time about the propane tanks.

- 1) Attached is the first permit that was paid for and filed with your office on 11/13/13. That was for 3 1,000 gallon tanks and the piping.
- 2) Attached is the second permit because you said you had not received the first one after one of the 3 tanks were already placed, when we opened only the rental building. The second permit was to deliver the 2 additional tanks and to finish the piping to the lodge that was also on the first permit.
- 3) Attached is my latest letter addressing this issue with you. Item number 5 addressed the inspection of those tanks that you said did not occur, as you can read they were inspected by Vincent Garafalo the Building Official at the time back in 2015.

The above is only one example of how difficult the existing building department has made every issue in the renovation process of Powder Ridge. Therefore NO I do not understand at all why we do not have a CO.

Sean Hayes  
Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC

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**Adventure Sports Parks for the Whole Family**

0002697

MIDDLEFIELD HIAC PERMIT APPLICATION  
BUILDING AND LAND USE  
400 MAIN ST. SUITE 1, MIDDLEFIELD, CT. 06465

Fee Paid 11/13  
Office Use Only

Street
State
Total fee
Receipt #
Class #
Value

Permit # 1006-14

Date: 10-6-14

RESIDENTIAL  COMMERCIAL  SEWER

Taxes paid if applicable Verification date:

Job Location Address 49 Powder Mill Rd

Owner's Name: Powder Ridge Mountain Park & Resort

Owner's Address:

Home Tel # 860-344-2459 Work Tel # Cell

Estimated Cost \$12,000 Total Square Feet

Contractor's Name: DANIELS PROGRESS LLC

Contractor's Address: 8 Hight St. Portland, Ct 06480

Home Tel # 860-342-1700 Work Tel # Cell

Contractor's License Type S-1 Contractor's License # 58557

Describe work to be performed  
 Framing  AC  Boiler/Furnace  Piping, wood, metal, fireplene  Other

Description of work: DELIVERING (2) - 1000 GAL POWDER MILK TANKS,

PERMITTED TO BRISTOL TOWN & RUN AHEAD 3000' UNDER -

GREENWICH LINKS TO BRISTOL HILL

I certify that I am the owner of record of the named property or that the proposed work is authorized by the owner of record and/or I have been authorized to make this application as an authorized agent. We agree to conform to all applicable laws, regulations and ordinances. All information contained within is true and accurate to the best of my knowledge and belief.

Owner or Applicant Print Name: Peter S. ...

Owner or Applicant Signature: Peter S. ...

WPCA If applicable

Date

Building Inspector

Date

REV. 07/15/14



MIDDLEFIELD HVAC PERMIT APPLICATION  
BUILDING AND LAND USE  
405 MAIN ST. SUITE 1, MIDDLEFIELD, CT, 06455

Office Use Only

Agency	70
State	156
Total Fee	71.50
Receipt #	40331
Check #	20161
Value	20000.00

Permit # 117-13  
Date 11-13-13

RESIDENTIAL  COMMERCIAL  SEWER

Job Location Address 99 Paradise Hill Rd

Owner's Name Paradise Ranch

Owner's Address 99 Paradise Hill Rd

Home Tel # \_\_\_\_\_ Work Tel # \_\_\_\_\_ Cell \_\_\_\_\_

Estimated Cost \$6,000 Total Square Feet \_\_\_\_\_

Contractor's Name DELIVERS PROPANE, LLC

Contractor's Address 8 HIGH ST. PO. BOX #32 PORTLAND, CT 06480

Home Tel # 860-347-1200 Work Tel # \_\_\_\_\_ Cell \_\_\_\_\_

Contractor's License Type S-1 Contractor's License # 385517

Describe work to be performed  
 Heating  A/C  Boiler/Furnace  Propane, wood, pellet, fireplace

Description of work SUET (S) - 100018 PROPANE TANK & GAS PIPING

I certify that I am the owner of record of the named property or that the proposed work is authorized by the owner of record and/or I have been authorized to make this application as an authorized agent. We agree to conform to all applicable laws, regulations and ordinances. All information contained within is true and accurate to the best of my knowledge and belief.

ROBERT SMITH  
Owner or Applicant Print Name

Robert Smith  
Owner or Applicant Signature

WFCA  If applicable

Date \_\_\_\_\_

Building Inspector \_\_\_\_\_

Date \_\_\_\_\_

Rev. 10/22/12



November 30, 2015

Middlefield Building Official,

As per your letter dated 11/19/15 please see below

- 1) Can you please provide us the NEC article numbers for all the requirements you are requiring in item 1 of your letter dated 11/19/15.
- 2) Attached hereto are two more copies of the revised site plan showing that we have no more than 814 therefore only 17 handicap accessible parking spots are required (2%). Also attached is an email from the State of CT Traffic Commission, stating no traffic study was required for renovations. That email was submitted and accepted by The Middlefield Planning & Zoning Commission upon site plan approval process.
- 3) Attached please find the as built drawing with measurements from building. Also attached is the engineers stamped specification sheets that were included in binders that were provided to your office prior to installation of the tanks. The HS20 design load of the tanks are clearly indicated and stamped.
- 4) Revised hood plans and information requested by the Fire Marshal, was provided directly to the Fire Marshal, and a copy given to Vincent Garofalo, a third copy is attached hereto.
- 5) Vincent Garofalo performed the inspection for the tanks and piping prior to us opening the facility last year. Please find proof of that inspection in your records.
- 6) As-built drawings for the outside electrical work done by USNE were submitted to your office last year by USNE directly. Another copy is attached hereto for your reference again.
- 7) Please clarify this requirement for a renovation.
- 8) All future correspondence from your office to this company should be address to both myself and our attorney who has been retained to handle this case on our behalf, his address is as follows: Michael Margolis at Butler Norris & Gold 254 Prospect Avenue Hartford, CT 06106.

Respectfully,

Sean Hayes  
CEO  
Powder Ridge Mountain Park & Resort, LLC.

cc.  
Ed Bailey  
Stan Atwell  
Peter Tyk  
Al Johanson  
Robert Johnson  
Vincent Garofalo

---

Adventure Sports Parks for the Whole Family

**From:** Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>

**Date:** April 22, 2016 at 12:59:18 PM EDT

**To:** Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>, "Garofalo, Vincent" <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>, "daniel.tierney@ct.gov" <[daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov)>, "Nancy Wyman - CT Gov (LtGovernor.wyman@ct.gov)" <[LtGovernor.wyman@ct.gov](mailto:LtGovernor.wyman@ct.gov)>

**Cc:** Michael Margolis <[pmmargolis@bnglaw.com](mailto:pmmargolis@bnglaw.com)>

**Subject:** CO at Powder Ridge

Attached is the lasted letter we just received from your building official, which prompted the below message.

---

**From:** Sean Hayes

**Sent:** Friday, April 22, 2016 12:55 PM

**To:** 'Edward Bailey' <[epb10@aol.com](mailto:epb10@aol.com)>; 'Garofalo, Vincent' <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; [daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov); 'Nancy Wyman - CT Gov (LtGovernor.wyman@ct.gov)' <[LtGovernor.wyman@ct.gov](mailto:LtGovernor.wyman@ct.gov)>

**Cc:** 'Michael Margolis' <[pmmargolis@bnglaw.com](mailto:pmmargolis@bnglaw.com)>

**Subject:** CO at Powder Ridge

Gentlemen,

The harassment of Powder Ridge has to stop. Can someone please tell me what oversight the town and/or state has over an individual that has clearly shown over the last 3 years that he will do anything to make it impossible for us to operate a business that is good for this Town and State.

I have gone to every channel within the state and town that I know of. The next step is to go to national media and let the public hear and see the over 20 documented incidents of harassment we have gone through at the hands of this State appointed government official. Everyone knows what he is doing is wrong but no one is willing to stop it.

Enough is Enough

## Sean Hayes

Chief Executive Officer

Powder Ridge Mountain Park & Resort, LLC

Brownstone Exploration and Discovery Park, LLC

161 Brownstone Avenue Portland, CT 06073

Toll Free 866-860-0208

TOWN of MIDDLEFIELD, CONNECTICUT



Building Department

4/20/16

Powder Ridge Mountain Park and Resort  
161 Brownstone Ave  
P.O. Box 208  
Portland, Ct. 06480  
Re: C.O. request

Mr. Hayes

On 4/14/16 my office received an email from you, requesting a certificate of occupancy for the lodge kitchen, dining, and bar area on the 2<sup>nd</sup> floor.

On 4/8/16 the Fire Marshal's office sent out an email requesting a walkthrough before final C.O. sign off. That meeting was requested to be held on Monday 4/11/16 at 12pm. I arrived at that meeting only to be refused to attend by 1<sup>st</sup> selectman Ed Bailey. Due to this unlawful political interference I was not able to view the building and its required minimum completions before issuing any certificate of occupancy. Surely you can understand why I will not be able to issue a C.O. until this matter is resolved.

Also, this office sent you a letter on 11/19/15 requesting information for final inspection. You have replied to some of the requests, however we have not yet received any information on the 3<sup>rd</sup> 1000 gal propane tank. We requested a copy of your permit since the town does not have any record of this 3<sup>rd</sup> tank.

Robert Meyers: Building Official



## Edward Bailey

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Tuesday, April 12, 2016 3:09 PM  
**To:** 'Middlefield Fire'; Edward Bailey; Michael Kellett; 'Sean Hayes'  
**Cc:** Building Inspector; Nancy  
**Subject:** RE: Powder Ridge Resturant

Gentlemen,

In conjunction with Middlefield Fire Marshal's office. The joint final inspection was done on April 11, 2016 for the new restaurant and bar area. All were in agreement, that all issues have been completed and is ready for a Certificate of Occupancy to be issued for the restaurant and bar areas as required.

Best,

Vincent A Garofalo III  
Building Official Consulant  
For Town of Middlefield  
6 Winterbrooke Road  
Moodus, Ct, 06469  
860-638-7586



---

**From:** Middlefield Fire [mailto:townofmiddlefield03@snet.net]  
**Sent:** Tuesday, April 12, 2016 2:32 PM  
**To:** Garofalo, Vincent; Edward Bailey; Michael Kellett  
**Subject:** Powder Ridge Resturant

All outstanding items on the fire marshal inspection have been completed as of this date . The water level in the fire tanks will be field verified for the proper water level in the near future.

Stanley Atwell  
Fire Marshal

Peter Tyc  
Deputy Fire Marshal

## Edward Bailey

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Wednesday, April 06, 2016 3:38 PM  
**To:** Middlefield Fire  
**Cc:** Sean Hayes  
**Subject:** Re: POWDER RIDGE - RNP2BCC0C

Peter,

That would be perfect and proper to the permit process. How about Monday at 12pm. We can finish the C/O inspection for the restaurant and bar area for the last time.

Sean, is that time good for you ?

Vincent Garofalo III  
Madison Building Official  
8 Campus Drive  
Madison, Ct 06443  
203-245-5618  
203-996-7393

On Apr 6, 2016, at 3:15 PM, Middlefield Fire <townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net>> wrote:

Understand totally . We can do it that way so you can "check out " officially

On Wednesday, April 6, 2016 2:31 PM, "Garofalo, Vincent" <garofalov@madisonct.org<mailto:garofalov@madisonct.org>> wrote:

Peter,

I agree that they will probably continue with renovations. I would like to do the one building, so I can be finished and completed with Middlefield completely before more crap starts again. I'm sure you can respect that part.

Thanks

Vincent Garofalo III  
Building Official  
203-996-7393

> On Apr 6, 2016, at 2:26 PM, Middlefield <townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net>> wrote:

>

> Vin , basically yes but it would not hurt to look at the rental  
> building either . This way we have a baseline of what is there as I  
> expect future modifications. I do not want to get into an issue of  
> that the way it always has been. I sure that they will continue with  
> the renovations we all can see things in the exact same way , it may

> eliminate issues in the future

>

> -----Original Message-----

> From: Garofalo, Vincent

> [mailto:garofalov@madisonct.org<mailto:garofalov@madisonct.org>]

> Sent: Wednesday, April 06, 2016 12:23 PM

> To: Middlefield

> Cc: Fire Technology Incorporated; Michael Kellett;

> shayes@brownstonepark.com<mailto:shayes@brownstonepark.com>; Edward

> Bailey; Building Inspector

> Subject: Re: POWDER RIDGE - RNP2BCCOC

>

> Peter,

>

> When you reference the entire facility. Do you mean the restaurant and  
> bar area?. As this is the only area the certificate of occupancy is required.

>

> Thank you for the clarification on this matter.

>

> Best,

>

> Vincent Garofalo III

> Building Official

> 203-996-7393

>

> On Apr 6, 2016, at 12:09 PM, Middlefield

>

> <townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net><mailto:townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net>>> wrote:

>

> After reviewing all the documents , myself and Stan Atwell are good.

> All requirements have been met to our satisfaction and a CO can be completed .

>

> Myself and the Fire Marshal request that a final walkthrough be

> conducted of the entire facility as there has been many items that

> have been changed and modified . It may be in the best interest of

> the property owner to have all involved do this walk through to

> eliminate any future issues with what is there or is not there. This

> should include the Building, Health and Zoning Enforcement / Town

> Planner to review the property . This will allow all to put into the

> record the improvements that were made to the facility and eliminate

> any questions for the future . Please let me know if this can be conducted and I would be happy to arrange the  
> attendance of all.

>

>

> Peter Tyc

> Fire Chief

> Middlefield Volunteer Fire Company

> 405 Main St , suite 7

> Middlefield, CT 06455

> 860-349-7124

> 860-349-7996 FAX

> townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net><mail  
> to:townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net>>

>  
> This electronic message, including any attachments, may contain  
> proprietary, confidential or privileged information for the sole use  
> of the intended recipient(s). You are hereby notified that any  
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> immediately notify the sender by reply e-mail and delete it.

>  
>  
>

> From: Fire Technology Incorporated  
> [mailto:firet@sbcglobal.net<mailto:firet@sbcglobal.net>]  
> Sent: Tuesday, April 05, 2016 3:50 PM  
> To:  
> townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net><mail  
> to:townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net>>  
> Cc: Michael Kellett;  
> garofalov@madisonct.org<mailto:garofalov@madisonct.org><mailto:garofal  
> ov@madisonct.org<mailto:garofalov@madisonct.org>>;  
> shayes@brownstonepark.com<mailto:shayes@brownstonepark.com><mailto:sha  
> yes@brownstonepark.com<mailto:shayes@brownstonepark.com>>  
> Subject: POWDER RIDGE - RNP2BCC0C

>  
> Please find our response to your email of March 17th, 2016, regarding  
> clarifications on the pump test report.

>  
>  
> 1- We will need documentation that the mega lug system meets the  
> requirements for proper secure for movement of the piping system

>  
>  
> Ans: ALL joints, before and after the fire pump, utilize UL/FM/NFPA  
> approved mechanical joint fittings rated for this service. Mega lug  
> fittings were submitted to the State Fire Marshal's office originally  
> and were used on every single joint below grade.

>  
>  
>  
> 2- Confirm that the Heating system is properly powered

>  
>  
>  
> Ans: The heating system was one and functioning at the time of the  
> acceptance test/final inspection.

>  
>  
>  
> 3- Sump pump size is adequate to meet the needs of the casing relief  
> flow

>  
> Ans: The casing relief discharge should never exceed 15gpm, and I  
> believe the sump is rated for 1400 gallons per hour (confirm with Owner/supplier).

>  
>  
>  
> 4- Confirm that the pit is adequately ventilated in accordance with  
> NFPA 4.12.6

>  
>  
> Ans: Confirm with Owner.

>  
>  
>  
> 5- A schedule date for the completion of the dry pipe trip test

>  
>  
> Ans: The trip test was completed at the time of the final inspection  
> with water flowed to the inspector's test valve in under  
> 20 seconds. This will be trip tested again in the fall of 2016.

>  
>  
> If I can be of any further help do not hesitate to contact me.

>  
>  
> Thank you.

>  
>  
> Benjamin Wysocki  
> FIRE TECHNOLOGY INC

**Edward Bailey**

---



To:

Cc:

Subject:

Garofalo, Vincent <garofalov@madisonct.org>  
Wednesday, April 06, 2016 12:29 PM  
Edward Bailey  
Daniel Tierney  
Fwd: POWDER RIDGE - RNP2BCC0C

Ed,

The entire facility does not need an inspection for this C/O. I'm not quite sure where Bob and Pete are going with this. I do know they have been in discussion about this recently.

Vincent Garofalo III  
Madison Building Official  
8 Campus Drive  
Madison, Ct 06443  
203-245-5618  
203-996-7393

Begin forwarded message:

From: "Garofalo, Vincent" <garofalov@madisonct.org<mailto:garofalov@madisonct.org>>  
Date: April 6, 2016 at 12:22:39 PM EDT  
Middlefield <townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net>>  
Fire Technology Incorporated <firet@sbcglobal.net<mailto:firet@sbcglobal.net>>, Michael Kellett  
<michael.kellett@ct.gov<mailto:michael.kellett@ct.gov>>,  
"shayes@brownstonepark.com<mailto:shayes@brownstonepark.com>"  
<shayes@brownstonepark.com<mailto:shayes@brownstonepark.com>>, Edward Bailey <E\_bailey@middlefield-  
ct.com<mailto:E\_bailey@middlefield-ct.com>>, Building Inspector <buildinginspector@middlefield-  
ct.com<mailto:buildinginspector@middlefield-ct.com>>  
Subject: Re: POWDER RIDGE - RNP2BCC0C

Peter,

When you reference the entire facility. Do you mean the restaurant and bar area?. As this is the only area the certificate of occupancy is required.

Thank you for the clarification on this matter.

Best,

Vincent Garofalo III  
Building Official  
203-996-7393

Apr 6, 2016, at 12:09 PM, Middlefield <townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net>>



...cer reviewing all the documents , myself and Stan Atwell are good. All requirements have been met to our satisfaction and a CO can be completed .

...elf and the Fire Marshal request that a final walkthrough be conducted of the entire facility as there has been many that have been changed and modified . It may be in the best interest of the property owner to have all involved ...his walk through to eliminate any future issues with what is there or is not there. This should include the Building, Health and Zoning Enforcement / Town Planner to review the property . This will allow all to put into the record the improvements that were made to the facility and eliminate any questions for the future . Please let me know if this can be conducted and I would be happy to arrange the attendance of all.

Peter Tyc  
Fire Chief  
Middlefield Volunteer Fire Company  
405 Main St , suite 7  
Middlefield, CT 06455  
860-349-7124  
860-349-7996 FAX  
townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net>

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 Fire Technology Incorporated [mailto:fired@sbcglobal.net]  
Sent Tuesday, April 05, 2016 3:50 PM  
To: townofmiddlefield03@snet.net<mailto:townofmiddlefield03@snet.net>  
Cc: Michael Kellett; garofalov@madisonct.org<mailto:garofalov@madisonct.org>; shayes@brownstonepark.com<mailto:shayes@brownstonepark.com>  
Subject: POWDER RIDGE - RNP2BCC0C

Please find our response to your email of March 17th, 2016, regarding clarifications on the pump test report.

1- We will need documentation that the mega lug system meets the requirements for proper secure for movement of the piping system

Ans: ALL joints, before and after the fire pump, utilize UL/FM/NFPA approved mechanical joint fittings rated for this service. Meg a lug fittings were submitted to the State Fire Marshal's office originally and were used on every single joint below grade.

2- Confirm that the Heating system is properly powered

 The heating system was one and functioning at the time of the acceptance test/final inspection.



Sump pump size is adequate to meet the needs of the casing relief flow

Ans: The casing relief discharge should never exceed 15gpm, and I believe the sump is rated for 1400 gallons per hour (confirm with Owner/supplier).

4- Confirm that the pit is adequately ventilated in accordance with NFPA 4.12.6

Ans: Confirm with Owner.

5- A schedule date for the completion of the dry pipe trip test

Ans: The trip test was completed at the time of the final inspection with water flowed to the inspector's test valve in under 20 seconds. This will be trip tested again in the fall of 2016.



If you need any further help do not hesitate to contact me.

Thank you.

Benjamin Wysocki  
FIRE TECHNOLOGY INC

## Edward Bailey

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
Tuesday, March 15, 2016 8:59 AM  
**To:** Edward Bailey  
**Cc:** Tierney, Daniel (Daniel.Tierney@ct.gov)  
**Subject:** RE: CO for Powder Ridge Lodge

Ed,

I understand the hard copies of fire pump report were delivered to the office yesterday. The parking lot striping has been completed. This should be the end of it. The Fire Marshal, Peter Tye and myself have been through the building multiple times. I'm sure if I wanted to continue torturing Powder Ridge. I could find some non-significant item to continue finding a reason not to issue the Certificate of Occupancy.

The meeting held in Middlefield last week showed Bob that he should have issued a violation order for using the structure without a TCO. He still has not done this to date. So he is ignoring his duties as it is. If he must go there for whatever reason. I'd like to know what day and time this would be conducted to watch this train wreck continue. You may want to attend as well to watch this inspection happen.

Vin

**From:** Sean Hayes [mailto:shayes@brownstonepark.com]  
**Date:** Friday, March 11, 2016 3:31 PM  
**To:** Garofalo, Vincent; daniel.tierney@ct.gov; Edward Bailey  
**Subject:** FW: CO for Powder Ridge Lodge  
**Importance:** High

Gentlemen,

Please your building official's response to my request for a CO.

I thought with the final report for the sprinkler system that was submitted already we were done with inspections. Why does anyone have to come here for another walk through??

If it is required, I respectfully request that Bob Meyers not come onto our property.

Thank you,

## Sean Hayes

Chief Executive Officer  
Powder Ridge Mountain Park & Resort, LLC  
Brownstone Exploration and Discovery Park, LLC  
161 Brownstone Avenue Portland, CT 06073  
Toll Free 866-860-0208



**From:** Building Inspector [<mailto:buildinginspector@middlefield-ct.com>]

**Sent:** Friday, March 11, 2016 12:13 PM

**From:** Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>

**Subject:** RE: CO for Powder Ridge Lodge

**Importance:** High

The fire marshal is waiting on hard copies of final report. We will be doing a final walk through next week.  
Building official

**From:** Sean Hayes [<mailto:shayes@brownstonepark.com>]

**Sent:** Thursday, March 10, 2016 3:04 PM

**To:** Building Inspector <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>

**Cc:** Garofalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; [daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov); Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>

**Subject:** CO for Powder Ridge Lodge

Building Official,

Please consider this a formal request for our certificate of occupancy for the Upstairs lodge restaurant, kitchen and tavern.

Thank you,

Sean Hayes

Powder Ridge Mountain Park & Resort, LLC

860-918-3092

[shayes@powderridgepark.com](mailto:shayes@powderridgepark.com)



## Edward Bailey

---

**From:** Edward Bailey  
**To:** Tierney, Daniel; 'Garofalo, Vincent'  
**Subject:** RE: Ask and you shall receive

Hopefully the typeface is up to code!

Edward Bailey, First Selectman  
Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
Email: [e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)  
Website: <http://www.middlefieldct.org>

-----Original Message-----

**From:** Tierney, Daniel [mailto:[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)]  
**Sent:** Wednesday, March 09, 2016 12:56 PM  
**To:** 'Garofalo, Vincent' <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>  
**Cc:** Edward Bailey <[E\\_bailey@middlefield-ct.com](mailto:E_bailey@middlefield-ct.com)>  
**Subject:** RE: Ask and you shall receive

money on its going to be on the wrong color paper

-----Original Message-----

**From:** Garofalo, Vincent [mailto:[garofalov@madisonct.org](mailto:garofalov@madisonct.org)]  
**Sent:** Wednesday, March 09, 2016 12:32 PM  
**To:** Tierney, Daniel <[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)>  
**Cc:** Edward Bailey <[E\\_bailey@middlefield-ct.com](mailto:E_bailey@middlefield-ct.com)> <[E\\_bailey@middlefield-ct.com](mailto:E_bailey@middlefield-ct.com)>  
**Subject:** RE: Ask and you shall receive

Update: The final paperwork from the installer and fire pump manufacturer will be emailed to me first thing in the morning. I received a call from the installer this morning letting me know that he received the certificate yesterday.

Vin

-----Original Message-----

**From:** Garofalo, Vincent  
**Sent:** Tuesday, March 08, 2016 5:35 PM  
**To:** Daniel Tierney  
**Cc:** Edward Bailey <[E\\_bailey@middlefield-ct.com](mailto:E_bailey@middlefield-ct.com)>  
**Subject:** Ask and you shall receive

shed striping at powder ridge. What could possibly be next ?

**Edward Bailey**

---



**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**To:** Tuesday, March 08, 2016 8:00 AM  
**Cc:** Building Inspector  
**Subject:** Nancy  
Sewage Pump Inspection

Bob,

On Monday afternoon on 3/7/2016 at the Powder Ridge location. I inspected the wiring of the new sewage pump and the trench depth with conduit. The depth of the electric trench is good and marking tape is installed. The wiring is correct and the wire is listed for a wet location. The trench was being backfill while I was there.

The inspection has PASSED and permit can be closed and issued a Certificate of Approval.

Best,

Vincent A Garofalo III  
Building Official Consultant  
6 Winterbrooke Road  
Moodus, Ct 06469  
203-996-7393

**From:** Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>  
**Date:** ~~March 31, 2016 at 9:04:36 AM EDT~~  
**To:** Middlefield Fire <[townofmiddlefield03@snet.net](mailto:townofmiddlefield03@snet.net)>  
**Cc:** "Garofalo, Vincent" <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>, "[michael.kellett@ct.gov](mailto:michael.kellett@ct.gov)" <[michael.kellett@ct.gov](mailto:michael.kellett@ct.gov)>, Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>  
**Subject:** RE: Message from "RNP2BCC0C"

Peter,

Sorry to be a pain in the .... But there is no section 4.12.6 in NFPA 25 The only reference I can find to confined space is 4.9.2 which simply says "legally required precautions shall be taken....". For that size precast chamber, the over 4' x4' opening with all the fall protection equipment is legal. The plans were designed, submitted and approved in 2014 by Milone & Macbroom when the chamber was installed.

Please let me know what else we can do.

Sean Hayes

---

**From:** Middlefield Fire [<mailto:townofmiddlefield03@snet.net>]  
**Sent:** ~~Wednesday, March 30, 2016 5:38 PM~~  
**To:** Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>  
**Subject:** Re: Message from "RNP2BCC0C"

It is in NFPA 25 , section 4.12.6

On Wednesday, March 30, 2016 10:09 AM, Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)> wrote:

Peter,

The only issue we seem to be having is finding the below referenced code of NFPA 4.12.6 When we look it up, NFPA says it does not exist.

Thank

---

**From:** Middlefield [mailto:townofmiddlefield03@snet.net]  
**Sent:** Wednesday, March 30, 2016 9:34 AM  
**To:** fire@sbcglobal.net  
**Cc:** garofalov@madisonct.org; 'Kellett, Michael' <Michael.Kellett@ct.gov>; 'Edward Bailey' <E\_bailey@middlefield-ct.com>; Sean Hayes <shayes@brownstonepark.com>  
**Subject:** FW: Message from "RNP2BCC0C"

Any progress on getting these details complete? Please let me know the progress so we can proceed with the final approvals .

---

**From:** Middlefield [mailto:townofmiddlefield03@snet.net]  
**Sent:** Thursday, March 17, 2016 10:58 AM  
**To:** garofalov@madisonct.org; fire@sbcglobal.net  
**Cc:** 'Kellett, Michael'  
**Subject:** FW: Message from "RNP2BCC0C"

We will need some clarifications on the pump test report as follows

- 1- We will need documentation that the mega lug system meets the requirements for proper secure for movement of the piping system
- 2- Confirm that the Heating system is properly powered
- 3- Sump pump size is adequate to meet the needs of the casing relief flow
- 4- Confirm that the pit is adequately ventilated in accordance with NFPA 4.12.6
- 5- A schedule date for the completion of the dry pipe trip test

CC- Stanley Atwell FM

---

**From:** Kellett, Michael [mailto:Michael.Kellett@ct.gov]  
**Sent:** Monday, March 14, 2016 10:46 AM  
**To:** 'Peter Tyc'  
**Subject:** RE: Message from "RNP2BCC0C"

We just need some clarification on the comments from the pump report. I have attached a few photos for the mechanically secured underground piping. Also there is not IOU for a full dry pipe trip test when the weather gets warmer.

### Mike Kellett

Fire & Life Safety Specialist  
State of Connecticut  
Office of the State Fire Marshal  
(860) 713-5750

---

**From:** Peter Tyc [mailto:townofmiddlefield03@snet.net]  
**Sent:** Friday, March 11, 2016 12:32 PM  
**To:** Kellett, Michael <Michael.Kellett@ct.gov>  
**Subject:** Fwd: Message from "RNP2BCC0C"

Please review when you get a chance  
Looks to be in order not sure if we are missing anything

Sent from my iPhone

Begin forwarded message:

**From:** Sean Hayes <[shaves@brownstonepark.com](mailto:shaves@brownstonepark.com)>  
**Date:** March 10, 2016 at 3:04:19 PM EST  
**To:** 'Building Inspector' <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>  
**Cc:** "Garofalo, Vincent" <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>, "[daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov)" <[daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov)>, Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>  
**Subject:** CO for Powder Ridge Lodge

Building Official,

Please consider this a formal request for our certificate of occupancy for the Upstairs lodge restaurant, kitchen and tavern.

Thank you,  
Sean Hayes  
Powder Ridge Mountain Park & Resort, LLC  
860-918-3092  
[shaves@powderridgepark.com](mailto:shaves@powderridgepark.com)

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Thursday, March 10, 2016 12:40 PM  
**To:** Building Inspector  
**Cc:** Nancy; Sean Hayes  
**Subject:** FW: Message from "RNP2BCCOC"  
**Attachments:** 20160310123517690.pdf

Bob,

Attached is the final paperwork for the fire pump commissioning test. I assume Sean Hayes will be calling for the Certificate of Occupancy today, now that a TCO is not needed. I do believe this is the last piece needed to issue the restaurant and bar C/O. The dayrooms are not ready yet for the certificate of approval.

Vin

-----Original Message-----

**From:** Vinny Garofalo [mailto:garofalov@madisonct.org]  
**Sent:** Thursday, March 10, 2016 12:35 PM  
**To:** Garofalo, Vincent  
**Subject:** Message from "RNP2BCCOC"

This E-mail was sent from "RNP2BCCOC" (Aficio MP 6001).

Scan Date: 03.10.2016 12:35:17 (-0500)

**Edward Bailey**

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Friday, March 04, 2016 1:02 PM  
**To:** Tierney, Daniel  
**Cc:** Edward Bailey  
**Subject:** Re: TCO for Powder Ridge Restaurant

I had a hard time not telling him what a moron he was being.

Vincent Garofalo III  
Madison Building Official  
8 Campus Drive  
Madison, Ct 06443  
203-245-5618  
203-996-7393

> On Mar 4, 2016, at 12:20 PM, Tierney, Daniel <Daniel.Tierney@ct.gov> wrote:  
>  
> You make this shit up if you tried. Well on second thought  
>  
> -----Original Message-----

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]  
Sent: Friday, March 04, 2016 12:02 PM  
To: Nancy <Nancy@middlefield-ct.com>  
Subject: Fwd: TCO for Powder Ridge Resturaunt

>  
>  
>  
> Vincent Garofalo III  
> Madison Building Official  
> 8 Campus Drive  
> Madison, Ct 06443  
> 203-245-5618  
> 203-996-7393

> Begin forwarded message:

>  
> From: "Garofalo, Vincent" <garofalov@madisonct.org<mailto:garofalov@madisonct.org>>  
> Date: March 4, 2016 at 11:58:37 AM EST  
> To: Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>>  
> Cc: "Garofalo, Vincent" <garofalov@madisonct.org<mailto:garofalov@madisonct.org>>  
> Subject: RE: TCO for Powder Ridge Resturaunt

> Bob,

I was not asked to inspect that part. I was unaware that you issued the permit for the sewer pump. after you denied it when it originally had been applied for due to lack of information. This wiring permit shouldn't be the deciding factor for the TCO. It is not inside of the lodge structure.

> when did you issue this permit ?

> Would you like me to inspect this ?

As far as the C/O issued in error due to miscommunication with you. You can consider this email as a recinded C/O or the AHJ, you can recind it yourself. This should clear the path for the C/O or TCO for today.

> Best,

> Sent from my Verizon Wireless 4G LTE Tablet

> ----- Original message -----

> From: Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>>

> Date: 3/4/2016 11:35 AM (GMT-05:00)

> To: "Garofalo, Vincent" <garofalov@madisonct.org<mailto:garofalov@madisonct.org>>

> Subject: RE: TCO for Poweder Ridge Resturaunt

> Who inspected the septic pump wiring? I don't have anything. Also Tierney said you were going to revoke the C.O. issued in error. I don't know why he said you were doing it, but that's what he said.

> From: Garofalo, Vincent [mailto:garofalov@madisonct.org]

> Sent: Wednesday, March 02, 2016 9:29 AM

> To: Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>>

> Cc: Nancy <Nancy@middlefield-ct.com<mailto:Nancy@middlefield-ct.com>>

> Subject: TCO for Poweder Ridge Resturaunt

> Bob,

> Sean Hayes called looking for the TCO until the hard copies of the fire pump approvals were delivered to your office. I didn't have an answer for him. Any idea when he may get this item ?

> Best,

> Vincent A Garofalo III

> Building Official Consultant



**From:** Sean Hayes <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>

**Date:** March 2, 2016 at 11:23:55 AM EST

**To:** Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>

**Cc:** Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>, "daniel.tierney@ct.gov" <[daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov)>, "Garofalo, Vincent" <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>

**Subject:** RE:

Gentlemen,

Here we are a month after your building official received the finalized stamped engineered drawings that he cited he needed in order to issue a TCO and still we have no TCO.

The drawings were approved, the wiring completed and inspected, the entire sprinkler system installed and tested, and signed off by all state and local agencies and still no TCO.

Please have your building official issue Powder Ridge a TCO as soon as possible or cite any additional reason why a TCO is not being issued.

Thank you for your continued support

**Sean Hayes**

Chief Executive Officer

Powder Ridge Mountain Park & Resort, LLC

Brownstone Exploration and Discovery Park, LLC

161 Brownstone Avenue Portland, CT 06073

Toll Free 866-860-0208



**From:** Sean Hayes

**Sent:** Friday, January 15, 2016 10:23 AM

**To:** [daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov); Garofalo, Vincent <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>

**Cc:** Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>

**Subject:** FW:

Gentlemen,

Our TCO for the restaurant was rejected by your building official based solely on not receiving yet finalized wiring diagrams for a fire pump that is not required during the TCO. For that reason, I am appealing to State to over-turn this decision which again seems to be politically motivated.

Thank you,

Sean Hayes

CEO

Powder Ridge Mountain Park & Resort, LLC

860-918-3092



**Edward Bailey**

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Wednesday, March 02, 2016 9:29 AM  
**To:** Building Inspector  
**Cc:** Nancy  
**Subject:** TCO for Powder Ridge Resturaunt

Bob,

Sean Hayes called looking for the TCO until the hard copies of the fire pump approvals were delivered to your office. I didn't have an answer for him. Any idea when he may get this item ?

Best,

Vincent A Garofalo III  
Building Official Consultant

## Edward Bailey

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Friday, February 26, 2016 2:14 PM  
**To:** Building Inspector; Tierney, Daniel  
**Cc:** 'Sean Hayes'; Edward Bailey; Nancy  
**Subject:** RE: Powder Ridge Sprinkler Acceptance tests

Bob,

Please let this email serve as the electrical inspection report.

- Inspection done on 2/17/2016 – Did not pass. Missing potential bonding wire and jockey pump defective switch was not completed.
- Inspection done on 2/23/2016 – Passed – All non-compliant items were addressed and meet code.

Inspection of the wiring of the Fire Sprinkler Pump System is completed, Passed inspection and is in operation. The TCO can be issued until all hard copies of the reports have been submitted for the Certificate of Occupancy issuance.

Best,

Vincent A Garofalo III  
Building Official

---

**From:** Building Inspector [mailto:buildinginspector@middlefield-ct.com]  
**Sent:** Friday, February 26, 2016 1:42 PM  
**To:** Tierney, Daniel  
**Cc:** Garofalo, Vincent; 'Sean Hayes'; Edward Bailey; Nancy  
**Subject:** RE: Powder Ridge Sprinkler Acceptance tests

Thanks Dan  
I still need Vinny's electrical inspection report.  
Bob

**From:** Tierney, Daniel [mailto:Daniel.Tierney@ct.gov]  
**Sent:** Friday, February 26, 2016 1:14 PM  
**To:** Building Inspector <buildinginspector@middlefield-ct.com>  
**Cc:** 'Garofalo, Vincent' <garofalov@madisonct.org>; 'Sean Hayes' <shayes@brownstonepark.com>; Edward Bailey <E\_bailey@middlefield-ct.com>; Nancy <Nancy@middlefield-ct.com>  
**Subject:** FW: Powder Ridge Sprinkler Acceptance tests

Bob, for your file

**From:** Kellett, Michael  
**Sent:** Friday, February 26, 2016 12:51 PM  
**To:** Middlefield <townofmiddlefield03@snet.net>

Cc: Kingston, Joseph <Joseph.Kingston@ct.gov>; Tierney, Daniel <Daniel.Tierney@ct.gov>

Subject: Powder Ridge Sprinkler Acceptance tests

Good Afternoon Pete,

Below is a cut and paste of my report regarding our work at Powder Ridge yesterday. The hard copy if forthcoming.

Sincerely,

Mike Kellett

Fire & Life Safety Specialist  
State of Connecticut  
Office of the State Fire Marshal  
(860) 713-5750

**SCOPE:**

At the request of the Middlefield Fire Marshal Stan Atwell, the Office of State Fire Marshal (OSFM) joined the Middlefield Fire Marshal's Office to witness fire pump and sprinkler system acceptance tests.

**DATE & TIME of Review:**

This inspector arrived on site at 1400 hours on February 25, 2016 where I was met by personnel from Middlefield Fire Department, as well as the sprinkler contractor and fire pump manufacturer's representative.

**PERSONS PRESENT:**

Mike Kellett, Connecticut Office of the State Fire Marshal  
Stan Atwell, Middlefield Fire Marshal  
Peter Tyc, Middlefield Fire Chief  
Sean Hayes, Power Ridge Chief Executive Officer  
Ben Wysocky, Fire Technology Inc.  
Bob Belanger, Fire Technology Inc.  
Ryan Bartels, R.D. Bartels Pump Co.

**BACKGROUND:**

99 Powder Hill Rd is an existing ski lodge in the process of an addition and renovation which includes full sprinkler protection throughout the entire building. This writer along with the persons listed above witnessed the fire pump acceptance test as well as automatic sprinkler system dry pipe trip test and associated alarm tests.

**FINDINGS:**

**Fire Pump Acceptance Test:**

The fire pump flow test at 150% of capacity was conducted on 2/16/16 by Ryan Bartels. Mr. Bartels noted that the flow test results were satisfactory; however, additional components including the

jockey pump switch and alarm points needed to be tied in prior to completion of the remaining acceptance criteria.

On 2/25/16 after some adjustments, the remaining acceptance tests including but not limited to loads start, phase reversal, alarm supervision and controller tests as well as jockey pump test. All test witnessed by this writer were conducted in accordance with NFPA 20. Mr. Bartels confirmed that the test results were satisfactory and written documentation of this is forthcoming.

**Sprinkler System Acceptance Test:**

Satisfactory 200 pound hydrostatic test were conducted by Fire Technology Inc. and witnessed by the Middlefield and State Fire Marshal's Offices at earlier dates. On 2/25/16 a dry pipe trip test with the control valve partially open, main drain flow test and a test of the related alarm point tests were conducted by Fire Technology Inc. All test witnessed by this writer were conducted in accordance with NFPA 13 and NFPA 25. Mr. Wysocky confirmed that the test results were satisfactory and the contractor's test and materials certificate of this is forthcoming.

**CONCLUSION:**

Sprinkler System and Fire Pump Acceptance Testing was conducted in accordance with NFPA 13, NFPA 20 and NFPA 25 and found to be in substantial compliance with the referenced documents. After the testing was complete the owner was advised that once the system is placed in service, regular testing and maintenance in accordance with NFPA 25 is required. At 1730 this writer left the site while Fire Technology reset the dry pipe valve in the presence of Deputy Fire Marshal / Fire Chief Peter Tyc after which time the sprinkler system was left in service with the fire pump on

**Edward Bailey**

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Friday, February 26, 2016 9:45 AM  
**To:** Tierney, Daniel (Daniel.Tierney@ct.gov)  
**Cc:** Edward Bailey  
**Subject:** Fire Pump Test

Dan,

I spoke with Sean Hayes. Mike Kellett from the State Fire Marshal's office was present for the entire test. The sprinkler test passed with flying colors. As soon as Mike sends me an email confirming this, I'll forward it to Meyers to request that the Certificate of Occupancy be issued promptly

Best,

Vincent A Garofalo III  
Madison Building Official  
8 Campus Drive  
Madison, Ct 06443  
203-245-5619

**Edward Bailey**

---

**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Friday, February 19, 2016 10:57 AM  
**To:** 'Sean Hayes'  
**Cc:** Building Inspector; Edward Bailey; 'Garofalo, Vincent'; Phelps, Scott R; Nancy  
**Subject:** FW: Message from "RNP00267364170C"  
**Attachments:** 201602191047.pdf

Sean, please see the attached.

-----Original Message-----

**From:** Daniel Tierney [mailto:daniel.tierney@ct.gov]  
**Sent:** Friday, February 19, 2016 10:48 AM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Subject:** Message from "RNP00267364170C"

This E-mail was sent from "RNP00267364170C" (MP C3002).

Scan Date: 02.19.2016 10:47:41 (-0500)



February 19, 2016

Mr. Sean Hayes  
Powder Ridge Lodge  
99 Powder Hill Road  
Middlefield, CT 06455

RE: M-94-16 Powder Ridge Lodge  
99 Powder Hill Road  
Middlefield, Connecticut

Dear Mr. Hayes:

I have reviewed the referenced request for modification of Section 695.3(1), of the 2011 National Electrical Code portion of the 2005 State Building Code, which states in part a fire pump shall be permitted to be supplied by a connection located ahead of and not within the same cabinet, enclosure, or vertical switchboard section as the service disconnecting means.

It is my decision to approve this modification, as requested, and allow a fire pump which is supplied by a state approved reliable power source (electric utility) to be wired as submitted (see attached Drawing E-FP, dated 1/29/16). This decision is based on the fact that the submitted wiring of the fire pump meets the intent of the above mentioned code.

If you have any questions, please contact me at (860) 713-5900.

Very truly yours,

Daniel Tierney  
Deputy State Building Inspector

DT:jlc  
Attachment  
c: Robert Meyers, Middlefield Building Official





February 19, 2016

Mr. Sean Hayes  
Powder Ridge Lodge  
99 Powder Hill Road  
Middlefield, CT 06455

RE: W-01-16 Powder Ridge Mountain Park  
99 Powder Hill Road  
Middlefield, Connecticut

Dear Mr. Hayes:

I have reviewed the above-referenced request for accessibility exemption from the provision of Section 1106.1, Required, of the 2003 International Building Code portion of the 2005 State Building Code, together with Craig Henrici, Executive Director of the Office of Protection and Advocacy for Persons with Disabilities. (Mr. Henrici's letter is enclosed).

It is our joint decision to approve this accessibility exemption, as requested, that proposes to allow the submitted accessible parking spaces to exceed the 2 percent grade. This decision is based on the fact that full compliance with the State Building Code has been determined to be not feasible.

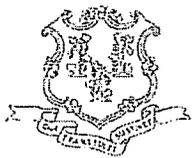
If you have any questions, please contact Paul Bette, of my office, at (860) 713-5900.

Very truly yours,

Daniel Tierney  
Deputy State Building Inspector

DT:PB:jlc  
Enclosure

c: Craig Henrici, Executive Director, OPA  
Robert Meyers, Middlefield Building Official



# STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR  
PERSONS WITH DISABILITIES

60-B WESTON STREET, HARTFORD, CT 06120-1551

February 2, 2016

Mr. Daniel Tierney  
Department of Construction Services  
165 Capitol Avenue  
Hartford, Connecticut 06106

Re: W-01-16

Multiple Buildings  
99 Powder Hill Road  
Middlefield, Connecticut

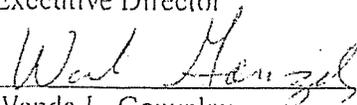
In regard to the request for exemption from the provisions for accessibility for the above-mentioned project, I submit the following decision:

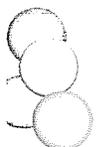
I have reviewed the information submitted and note that the applicant is seeking exemption from Section 1106.3 of the 2003 International Building Code portion of the 2005 State Building Code, Addressing Required. The applicant states that site constraints preclude full compliance with the code.

Based upon the information submitted, it has been demonstrated that compliance with the Building Code is not feasible. Accordingly, I approve this request for exemption.

Note: Our Office's decision to grant a waiver from the sections of the Connecticut State Building Code cited in this request for exemption does not relieve any party of separate obligations and responsibilities that may exist under the Americans with Disabilities Act (ADA) or other state and federal civil rights laws. Basic information about ADA requirements and resources can be obtained online at [ada.gov](http://ada.gov). For further information about disability rights laws that may apply, the applicant is advised to consult an attorney.

Sincerely,  
CRAIG HENRICI  
Executive Director

By:   
Wanda L. Gonzalez  
Human Services Advocate



STATE OF CONNECTICUT  
DAS-DIVISION OF CONSTRUCTION SERVICES  
OFFICE OF THE STATE BUILDING INSPECTOR  
165 CAPITOL AVENUE, ROOM 265  
HARTFORD, CT 06106  
TELEPHONE: (860) 713-5900  
FAX: (860) 713-7410

FILE # \_\_\_\_\_

FOR OFFICE USE ONLY

**REQUEST FOR MODIFICATION  
OF THE STATE BUILDING CODE**

1. Name and Location of Building Powder Ridge Lodge

<u>99</u>	<u>Powder Hill Road</u>	<u>Middlefield</u>	<u>CT</u>	<u>06455</u>
No. <u>99</u>	Street	Town	State	Zip

2. Building Owner Powder Ridge Mountain Park

3. Applicant's Name Sean Hayes Telephone 860 918 3092

<u>99 Powder Hill Road</u>	<u>Middlefield</u>	<u>CT</u>	<u>06455</u>
(Include Firm Name if Applicable) No. Street	Town	State	Zip

Name of Person to Contact Sean Hayes Telephone 860 918 3092  
(For information if required)

4. A. Date of Application for Building Permit October 6, 2014

B. Applicable Code (Title and Date) IDC 2003

5. Use Group A2

A. Was there a change of occupancy:  Yes  No

B. If yes from R1 to Mixed R1 & A2

6. Building Construction Classification VB

7. Square Foot Area of Building (Total) 19,000

Largest Square Foot Area per Floor 5,100

8. Number of Stories 2.5

9. Check Applicable Designation:  
 New Building  Existing  Addition  Other (Explain)

10. Fire Protection at subject premises (Check appropriate headings)

<input checked="" type="checkbox"/> Smoke Detection	<input type="checkbox"/> Heat Detection	<input type="checkbox"/> Extinguishers
<input checked="" type="checkbox"/> Sprinklers	<input type="checkbox"/> Standpipes	<input type="checkbox"/> Other (identify) _____

11. Describe alarm system(s) at premises Central Office Fire & Burglar Alarm Systems

12. Building Code Section that modification is requested from \_\_\_\_\_

NEC 695.3 (a) (1)

13. Modification Sought To tap from a reliable source after the first means of disconnect

14. Reason Modification Sought \_\_\_\_\_

Site is Campus environment with First means of disconnect at street

15. AFFIDAVIT: I certify that, to the best of my knowledge and belief, the foregoing statements are true and made in good faith.

Applicant's Signature

Date Signed

2/17/16

16. Important Requirement Failure to provide the following information will delay modification process. The Building Official must comment below on the modification request as per Connecticut General Statute 29-254 (b). \*Note: Must be signed by Chief Building Official, Acting Building Official or Provisional Building Official.

- Support Request
- Do Not Support Request
- The decision on this request is left to the Office of the State Building Inspector.
- Please contact the undersigned.

Building Official's written comments, if desired. \_\_\_\_\_

Building Official (Printed) \_\_\_\_\_ Town \_\_\_\_\_

\*Building Official Signature \_\_\_\_\_ Date Signed \_\_\_\_\_

Building Official's Telephone Number \_\_\_\_\_

Best Time to Contact \_\_\_\_\_

MODAPP  
Rev. 1/13/14

Edward Bailey

---

From: Tierney, Daniel <Daniel.Tierney@ct.gov>  
Sent: Thursday, February 18, 2016 6:49 AM  
To: Building Inspector  
Cc: Edward Bailey; Dicine, Judith; Phelps, Scott R; 'Garofalo, Vincent'  
Subject: RE: Fire Pump Permit

Bob this has all been explained to in the past by many, I don't have the time or energy to go through this again. Please just forward the modification request to this office as soon as possible so we can finally put this to rest. Thank you in advance for your continue corporation in this quest.

-----Original Message-----

From: Building Inspector [mailto:buildinginspector@middlefield-ct.com]  
Sent: Wednesday, February 17, 2016 3:22 PM  
To: Tierney, Daniel <Daniel.Tierney@ct.gov>  
Subject: RE: Fire Pump Permit

OK, here is the whole thing in a nut shell. Application has 2 things that don't comply to code. 1st NEC 695.3 reliable source of power (per description). 2nd NEC 695.3(A) requires 1 or more of 3 things to be available. Application has none. Can you show me how to (legally) issue a permit with violations present, without a modification?

-----Original Message-----

From: Tierney, Daniel [mailto:Daniel.Tierney@ct.gov]  
Sent: Wednesday, February 17, 2016 12:24 PM  
To: Building Inspector <buildinginspector@middlefield-ct.com>  
Phelps, Scott R <Scott.Phelps@ct.gov>; 'Garofalo, Vincent' <garofalov@madisonct.org>  
Subject: FW: Fire Pump Permit

Bob I forgot to cc on this email. Sorry

-----Original Message-----

From: Tierney, Daniel  
Sent: Wednesday, February 17, 2016 11:06 AM  
To: 'Garofalo, Vincent' <garofalov@madisonct.org>  
Cc: Phelps, Scott R <Scott.Phelps@ct.gov>  
Subject: RE: Fire Pump Permit

That's not what Scott told him, Scott said there was no mod required and Bob would not let it go so Scott gave up and said fine send the mod in and we would take care of it.

-----Original Message-----

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]  
Sent: Wednesday, February 17, 2016 10:47 AM  
To: Tierney, Daniel <Daniel.Tierney@ct.gov>  
Subject: FW: Fire Pump Permit

What should the modification's exact wording be ?

-----Original Message-----

From: Building Inspector [mailto:buildinginspector@middlefield-ct.com]

Sent: Wednesday, February 17, 2016 10:36 AM

Garofalo, Vincent

Subject: RE: Fire Pump Permit

Vin

I talked with Scott Phelps today and the answer to the NEC 695.3(A)(1) question is that it does need a modification. The ruling on a reliable source of power seems to not need one but, the tap after the 1st means of disconnect does. I informed the applicant that last week but someone told him no.

Bob

-----Original Message-----

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]

Sent: Monday, February 15, 2016 4:59 PM

To: Building Inspector <buildinginspector@middlefield-ct.com>

Subject: Re: Fire Pump Permit

I will do the inspection for the fire pump. I have spoken to Danni, and he will not be returning to the hill anymore. I'm not quite sure if I'd say if is the spunk the keeps all this going. I guess it's more subjective based on the issues. I'm just here to help to at a independent contractor.

Vincent Garofalo III

Madison Building Official

Campus Drive

Madison, Ct 06443

860-245-5618

860-996-7393

On Feb 12, 2016, at 2:19 PM, Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>> wrote:

Good point, I will consider that. I don't think Danny B. wants to do the fire pump electrical inspection so I guess it's up to you. Ha! This has been a hornets nest since the day they started. Got to admire all the spunk !

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]

Sent: Friday, February 12, 2016 12:06 PM

To: Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>>

Subject: RE: Fire Pump Permit

Bob,

I agree with you on the fees. The original drawings and requirements included a fire sprinkler system. The system would include wiring the pump as well, as part of the system. If you want to charge them again for this portion have at it. I would advise not to do this, as you don't need to stir up the hornets' nest again. I had the same issue at the hotel and had to refund the permit fee.

Vin

From: Building Inspector [mailto:buildinginspector@middlefield-ct.com]

Sent: Friday, February 12, 2016 10:55 AM

To: Garofalo, Vincent

Subject: RE: Fire Pump Permit

Yes I have Scott's email stating that the power grid is a reliable source of power. We talked via a phone call about the tap before the first means of disconnect, NEC 695.3(A)(1) he has addressed this as the Powder Ridge power lines on privet property will be treated as a utility and therefore a tap can be made after the first means of disconnect, however he does not state this in his email. I will sign the permit today based on his conversation with me. Nancy told me that you told her that the permit fee would be waved or considered part of the original permit. The fees paid for the lodge were based on the approved drawings submitted.

Bob

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]

Sent: Friday, February 12, 2016 9:30 AM

To: Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>>

Subject: Fire Pump Permit

Bob,

I understand that you spoke with Scott and the permit will be issued today. Could you please confirm this will take place.

Thanks,

Vincent A Garofalo III

Building Official

**Edward Bailey**

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Wednesday, February 17, 2016 2:56 PM  
**To:** Edward Bailey  
**Subject:** FW: Fire Pump Electrical

fyi

-----Original Message-----

**From:** Phelps, Scott R [mailto:Scott.Phelps@ct.gov]  
**Sent:** Wednesday, February 17, 2016 11:49 AM  
**To:** Tierney, Daniel; Garofalo, Vincent; buildinginspector@middlefield-ct.com  
**Cc:** Phelps, Scott R  
**Subject:** Fire Pump Electrical

All,

In my phone conversation with Mr. Meyer this morning, I told him to send over a modification request stating what code section he feels a mod is required for? The Office of the State Building Inspector has made the decision no Mod is required.



Scott Phelps

Construction Services Building Official

Office of the State Building Inspector

Division of Construction Services

165 Capitol Avenue - Rm. 265

Hartford, CT 06106

Office Phone - (860)713-5900

Cell Phone - (860)841-4975

Office Fax - (860)713-7410

scott.phelps@ct.gov<mailto:scott.phelps@ct.gov>

Edward Bailey

---

From: Garofalo, Vincent <garofalov@madisonct.org>  
Sent: Wednesday, February 17, 2016 11:43 AM  
To: Sean Hayes  
Subject: FW: Fire Pump Permit

Sean,

Fill out a modification form.

Reason for modification: To tap from a reliable power source after the first means of disconnect.

Code reference: NEC 695.3(a)(1)

All other information is the same as your last modification form

-----Original Message-----

From: Tierney, Daniel [mailto:Daniel.Tierney@ct.gov]  
Sent: Wednesday, February 17, 2016 11:06 AM  
To: Garofalo, Vincent  
Cc: Phelps, Scott R  
Subject: RE: Fire Pump Permit

That's not what Scott told him, Scott said there was no mod required and Bob would not let it go so Scott gave up and I'd fine send the mod in and we would take care of it.

-----Original Message-----

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]  
Sent: Wednesday, February 17, 2016 10:47 AM  
To: Tierney, Daniel <Daniel.Tierney@ct.gov>  
Subject: FW: Fire Pump Permit

What should the modification's exact wording be ?

-----Original Message-----

From: Garofalo, Vincent  
Sent: Wednesday, February 17, 2016 10:46 AM  
To: 'Building Inspector'  
Subject: RE: Fire Pump Permit

I have not spoken to anybody recently about a medication. I will ask him (A&S) today for one when I see him later this afternoon.

Vin

-----Original Message-----

From: Building Inspector [mailto:buildinginspector@middlefield-ct.com]  
Sent: Wednesday, February 17, 2016 10:36 AM  
To: Garofalo, Vincent

Subject: RE: Fire Pump Permit

Vin  
I talked with Scott Phelps today and the answer to the NEC 695.3(A)(1) question is that it does need a modification. The  
thing on a reliable source of power seems to not need one but, the tap after the 1st means of disconnect does. I  
informed the applicant that last week but someone told him no.

Bob

-----Original Message-----

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]  
Sent: Monday, February 15, 2016 4:59 PM  
To: Building Inspector <buildinginspector@middlefield-ct.com>  
Subject: Re: Fire Pump Permit

I will do the inspection for the fire pump. I have spoken to Danni, and he will not be returning to the hill anymore. I'm  
not quite sure if I'd say if is the spunk the keeps all this going. I guess it's more subjective based on the issues. I'm just  
here to help to at a independent contractor.

Vincent Garofalo III  
Madison Building Official  
8 Campus Drive  
Madison, Ct 06443  
203-245-5618  
203-996-7393

Vin Feb 12, 2016, at 2:19 PM, Building Inspector <buildinginspector@middlefield-  
com<mailto:buildinginspector@middlefield-ct.com>> wrote:

Good point, I will consider that. I don't think Danny B. wants to do the fire pump electrical inspection so I guess it's up to  
you. Ha! This has been a hornets nest since the day they started. Got to admire all the spunk !

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]  
Sent: Friday, February 12, 2016 12:06 PM  
To: Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>>  
Subject: RE: Fire Pump Permit

Bob,

I agree with you on the fees. The original drawings and requirements included a fire sprinkler system. The system would  
include wiring the pump as well, as part of the system. If you want to charge them again for this portion have at it. I  
would advise not to do this, as you don't need to stir up the hornets' nest again. I had the same issue at the hotel and  
had to refund the permit fee.

Vin

From: Building Inspector [mailto:buildinginspector@middlefield-ct.com]  
Sent: Friday, February 12, 2016 10:55 AM  
To: Garofalo, Vincent  
Subject: RE: Fire Pump Permit

Yes I have Scott's email stating that the power grid is a reliable source of power. We talked via a phone call about the tap before the first means of disconnect, NEC 695.3(A)(1) he has addressed this as the Powder Ridge power lines on private property will be treated as a utility and therefore a tap can be made after the first means of disconnect, however he does not state this in his email. I will sign the permit today based on his conversation with me. Nancy told me that you told her that the permit fee would be waved or considered part of the original permit. The fees paid for the lodge were based on the approved drawings submitted.

Bob

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]  
Sent: Friday, February 12, 2016 9:30 AM  
To: Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>>  
Subject: Fire Pump Permit

Bob,

I understand that you spoke with Scott and the permit will be issued today. Could you please confirm this will take place.

Thanks,

Vincent A Garofalo III  
Building Official

Edward Bailey

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Date:** Friday, February 12, 2016 12:06 PM  
**To:** Building Inspector  
**Subject:** RE: Fire Pump Permit

Bob,

I agree with you on the fees. The original drawings and requirements included a fire sprinkler system. The system would include wiring the pump as well, as part of the system. If you want to charge them again for this portion have at it. I would advise not to do this, as you don't need to stir up the hornets' nest again. I had the same issue at the hotel and had to refund the permit fee.

Vin

---

**From:** Building Inspector [mailto:buildinginspector@middlefield-ct.com]  
**Sent:** Friday, February 12, 2016 10:55 AM  
**To:** Garofalo, Vincent  
**Subject:** RE: Fire Pump Permit

Vin

Yes I have Scott's email stating that the power grid is a reliable source of power. We talked via a phone call about the tap before the first means of disconnect, NEC 695.3(A)(1) he has addressed this as the Powder Ridge power lines on  property will be treated as a utility and therefore a tap can be made after the first means of disconnect, however does not state this in his email. I will sign the permit today based on his conversation with me. Nancy told me that  told her that the permit fee would be waved or considered part of the original permit. The fees paid for the lodge  e based on the approved drawings submitted.

Bob

**From:** Garofalo, Vincent [mailto:garofalov@madisonct.org]  
**Sent:** Friday, February 12, 2016 9:30 AM  
**To:** Building Inspector <buildinginspector@middlefield-ct.com>  
**Subject:** Fire Pump Permit

Bob,

I understand that you spoke with Scott and the permit will be issued today. Could you please confirm this will take place.

Thanks,

Vincent A Garofalo III  
Building Official

Edward Bailey

---

From: Garofalo, Vincent <garofalov@madisonct.org>  
Sent: Friday, February 12, 2016 9:15 AM  
To: Nancy  
Subject: Electrical Permit

Good Morning Nancy,

I understand from the state that Bob will be issuing the electrical permit today for the fire pump portion. Could you confirm this ?

Thanks,

Vincent A Garofalo III  
Madison Building Official  
8 Campus Drive  
Madison, Ct 06443  
203-245-5619

Edward Bailey

---

From: Tierney, Daniel <Daniel.Tierney@ct.gov>  
Sent: Wednesday, February 10, 2016 6:11 AM  
To: Phelps, Scott R  
Cc: Building Inspector; 'Garofalo, Vincent'; Nancy; 'pdtyc@aol.com'; Edward Bailey; 'Sean Hayes'; Loomis, Harwood W  
Subject: FW: Electrical Permit for Fire Pump

Scott, please call Mr. Myer the Middlefield BO at 860 349 7123 to see what his problem is. If you can't get anywhere with him I will have Mr Hayes send in a mod and we will return it stating no mod is required Which may be the fastest way to resolve it. Thanks

-----Original Message-----

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]  
Sent: Tuesday, February 09, 2016 4:44 PM  
To: Building Inspector <buildinginspector@middlefield-ct.com>  
Cc: Tierney, Daniel <Daniel.Tierney@ct.gov>; Nancy <  
Subject: Re: Electrical Permit for Fire Pump

Let me get that for you tomorrow. It's ridiculous, but easily obtainable.

Vincent Garofalo III  
Building Official

Feb 9, 2016, at 4:06 PM, Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>> wrote:

Vin

With all due respect the letter from Scott Phelps is only an opinion letter, it's not signed, the letter only talks about the reliable source of power. It does not address the tap after the 1st means of disconnect as shown on drawings. If the applicant wants to make his tap after the 1st disconnect, he going to need an approved modification.

Bob

From: Garofalo, Vincent [mailto:garofalov@madisonct.org]  
Sent: Tuesday, February 09, 2016 1:40 PM  
To: Building Inspector <buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>>  
Cc: Tierney, Daniel (Daniel.Tierney@ct.gov<mailto:Daniel.Tierney@ct.gov>)  
<Daniel.Tierney@ct.gov<mailto:Daniel.Tierney@ct.gov>>; Nancy <Nancy@middlefield-ct.com<mailto:Nancy@middlefield-ct.com>>; pdtyc@aol.com<mailto:pdtyc@aol.com>  
Subject: RE: Electrical Permit for Fire Pump

Bob,

I just got a phone call from Sean Hayes He is stating that you want a modification form filled out. I forwarded the proper information this morning showing that a modification is not required for the electrical permit. That information came from the Office of the State Building Inspector stating a modification was not required.

Can you call Dan Tierney directly (860-713-5915) for additional confirmation that no modification is required. All of my reviewing was done prior to the application, to ensure there should be no delay for this permit. Attached is the letter for continued review and inspections from 1/31/16 that we both received.

Thanks, Vin

From: Garofalo, Vincent  
Sent: Tuesday, February 09, 2016 9:04 AM  
To: Building Inspector (buildinginspector@middlefield-ct.com<mailto:buildinginspector@middlefield-ct.com>)  
Cc: Tierney, Daniel (Daniel.Tierney@ct.gov<mailto:Daniel.Tierney@ct.gov>); Nancy (Nancy@middlefield-ct.com<mailto:Nancy@middlefield-ct.com>); pdtyc@aol.com<mailto:pdtyc@aol.com>  
Subject: Electrical Permit for Fire Pump

Bob,

After reviewing the fire pump wiring plan, in collaboration with the State Building Inspectors office and the State Fire Marshal's office. We are all in agreement, that the plan is ready for approval for the electrical permit. I have attached all the documentation needed for issuing this permit.

A&S has also provided the wire information for the sewer pump that you requested. A cut sheet shall follow today I believe.

Best,

Vincent A Garofalo III  
Building Official

Edward Bailey

---

From: Middlefield <townofmiddlefield03@snet.net>  
Sent: Tuesday, February 09, 2016 3:15 PM  
To: 'Kingston, Joseph'; 'Kellett, Michael'  
Cc: William Konefal  
Subject: Sprinkler testing

*I have not received a confirmation or cancellation from Powder Ridge as of yet . I did receive notification that the sprinkler portion was completed however there is a question on the electrical end of it . I along with Stan are planning on being there for 10:00 am to at least see where we are at pending a last minute cancellation.*

*In light of all the goings on here I think it is best that we continue to keep to a schedule on this so as we are not the topic of the 6 o'clock news for delaying the process.*

*Joe if possible I would still like Mike to come to Middlefield tomorrow as we have just received plans for a type 1 hood system along with some modifications to a sprinkler system to review at the Lyman's complex . I am speaking for Stan as we would like assistance to review this for compliance . Please let me know if this is possible .*

*As always I appreciate your guidance on this*

Peter Tyc  
Chief  
Middlefield Volunteer Fire Company  
405 Main Street Suite 7  
Middlefield, CT. 06455  
860-349-7124  
860-349-7996 FAX  
townofmiddlefield03@snet.net

**Edward Bailey**

---

**From:** Garofalo, Vincent <garofalov@madisonct.org>  
**Sent:** Tuesday, February 09, 2016 1:40 PM  
**To:** Building Inspector  
**Cc:** Tierney, Daniel (Daniel.Tierney@ct.gov); Nancy; pdtyc@aol.com  
**Subject:** RE: Electrical Permit for Fire Pump  
**Attachments:** Garofalo Powder Ridge 1.29.2016.pdf

Bob,

I just got a phone call from Sean Hayes He is stating that you want a modification form filled out. I forwarded the proper information this morning showing that a modification is not required for the electrical permit. That information came from the Office of the State Building Inspector stating a modification was not required.

Can you call Dan Tierney directly (860-713-5915) for additional confirmation that no modification is required. All of my reviewing was done prior to the application, to ensure there should be no delay for this permit. Attached is the letter for continued review and inspections from 1/31/16 that we both received.

Thanks, Vin

---

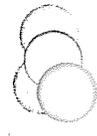
**From:** Garofalo, Vincent  
**Sent:** Tuesday, February 09, 2016 9:04 AM  
**To:** Building Inspector (buildinginspector@middlefield-ct.com)  
**Cc:** Tierney, Daniel (Daniel.Tierney@ct.gov); Nancy (Nancy@middlefield-ct.com); pdtyc@aol.com  
**Subject:** Electrical Permit for Fire Pump

After reviewing the fire pump wiring plan, in collaboration with the State Building Inspectors office and the State Fire Marshal's office. We are all in agreement, that the plan is ready for approval for the electrical permit. I have attached all the documentation needed for issuing this permit.

A&S has also provided the wire information for the sewer pump that you requested. A cut sheet shall follow today I believe.

Best,

Vincent A Garofalo III  
Building Official



MIDDLEFIELD ELECTRIC PERMIT APPLICATION  
BUILDING AND LAND USE  
405 MAIN ST. SUITE 1, MIDDLEFIELD, CT. 06455

Office Use Only

Midd	
State	NI
Total fee	NI
Receipt #	
Check #	
Value	

Lodge  
Permit # 0125-144  
Date: 2/8/16

RESIDENTIAL  COMMERCIAL

Taxes paid if applicable:  Verification date: AD

Job Location Address 99 Powder Hill rd.

Owner's Name: Sam Hayes

Owner's Address: 99 Powder Hill rd.

Home Tel # 860-349-5449 Work Tel # Sam Cell 203-213-8264

Estimated Cost 25,000.00 Total Square Feet

Applicant's Name: Tony Gannex / A+S Electric

Applicant's Address: 42 Orion Dr. Durham CT

Home Tel # Sam Work Tel # Sam Cell # Sam

Contractor's License Type E7 Contractor's License # 2014156

CRS # if applicable: ---

New Construction  Upgrade  Other

Description of work: Install new 200 amp breaker for new fire pump. Wire fire pump controller to interlock pump.

I certify that I am the owner of record of the named property or that the proposed work is authorized by the owner of record and/or I have been authorized to make this application as an authorized agent. We agree to conform to all applicable laws, regulations and ordinances. All information contained within is true and accurate to the best of my knowledge and belief.

Tony Gannex  
Owner or Applicant Print Name

[Signature]  
Owner or Applicant Signature

Building Official \_\_\_\_\_ Date \_\_\_\_\_



**Garofalo, Vincent**

---

**From:** Garofalo, Vincent  
**Sent:** Tuesday, February 02, 2016 8:06 AM  
**To:** pdtyc@aol.com  
**Cc:** Nancy (Nancy@middlefield-ct.com)  
**Subject:** FW: Reliable Utility Power Feed Powder Ridge

No modification required letter for records

-----Original Message-----

**From:** Phelps, Scott R [<mailto:Scott.Phelps@ct.gov>]  
**Sent:** Monday, February 01, 2016 9:13 AM  
**To:** Garofalo, Vincent  
**Cc:** Tierney, Daniel  
**Subject:** Reliable Utility Power Feed Powder Ridge

Good Morning,

The Office of the State Building Inspector in conjunction with the Office of the State Fire Marshal has determined the existing utility feed to be a reliable source of power and no additional source of power is needed per the 2005 Connecticut State Building Code.



This Decision is made per the current layout of the site, current power demands and the information shown on the construction document dated 1-29-16 by Eastern Engineering LLC. If additional upgrades or changes are made in the future to the system it will have to be re-engineered for compliance with the Connecticut State Building Code. No Modification is required at this time.

Scott Phelps

Construction Services Building Official

Office of the State Building Inspector

Division of Construction Services

165 Capitol Avenue - Rm. 265

Hartford, CT 06106

Office Phone - (860)713-5900

Cell Phone - (860)841-4975



State of Connecticut

Lookup Detail View

Name and Address	
Name	TONY GONZALEZ
Address	328 WALL ST MENDEN, CT 06450-4424

Credential Information			
Credential	Credential Type	Effective Date	Expiration Date
ELC0201456-E1	ELECTRICAL UNLIMITED CONTRACTOR	10/01/2015	09/30/2016
			Status
			ACTIVE

Generated on: 2/8/2016 4:05:27 PM

**Garofalo, Vincent**

---

**From:** Garofalo, Vincent  
**Sent:** Tuesday, February 02, 2016 8:05 AM  
**To:** 'pdtyc@aol.com'  
**Cc:** Nancy (Nancy@middlefield-ct.com)  
**Subject:** FW: Mod

2 of 2

**From:** Tierney, Daniel [<mailto:Daniel.Tierney@ct.gov>]  
**Sent:** Monday, February 01, 2016 7:52 AM  
**To:** Garofalo, Vincent  
**Subject:** FW: Mod

Give this to the FM

**From:** Kingston, Joseph  
**Sent:** Friday, January 29, 2016 2:27 PM  
**To:** Tierney, Daniel <[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)>  
**Subject:** RE: Mod

Yes I believe it would

**From:** Tierney, Daniel  
**Sent:** Friday, January 29, 2016 2:18 PM  
**To:** Kingston, Joseph <[Joseph.Kingston@ct.gov](mailto:Joseph.Kingston@ct.gov)>  
**Cc:** 'Sean Hayes' <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>; 'Garofalo, Vincent' <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>  
**Subject:** FW: Mod

Joe , based on your email to me then the attached drawing would comply with the CFSC

**From:** Tierney, Daniel  
**Sent:** Friday, January 29, 2016 12:35 PM  
**To:** Kingston, Joseph <[Joseph.Kingston@ct.gov](mailto:Joseph.Kingston@ct.gov)>  
**Subject:** FW: Mod

**From:** Sean Hayes [<mailto:shayes@brownstonepark.com>]  
**Sent:** Friday, January 29, 2016 12:05 PM  
**To:** Tierney, Daniel <[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)>; 'Garofalo, Vincent' <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>  
**Cc:** Jan Wojas <[jan@wojas.us](mailto:jan@wojas.us)>; 'Robert DeMarini' <[Robert.DeMarini@snet.net](mailto:Robert.DeMarini@snet.net)>  
**Subject:** FW: Mod

Gentlemen,

As per your request please find attached the engineered drawing of for the fire sprinkler system. Can you forward this to whomever you need to for final review.

**Garofalo, Vincent**

---

**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Monday, February 01, 2016 7:53 AM  
**To:** Garofalo, Vincent  
**Subject:** FW: Mod

This to

**From:** Tierney, Daniel  
**Sent:** Friday, January 29, 2016 2:08 PM  
**To:** 'Sean Hayes' <shayes@brownstonepark.com>  
**Cc:** 'Garofalo, Vincent' <garofalov@madisonct.org>  
**Subject:** FW: Mod

**From:** Kingston, Joseph  
**Sent:** Friday, January 29, 2016 2:04 PM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Cc:** 'Middlefield Fire' <townofmiddlefield03@snet.net>; Kellett, Michael <Michael.Kellett@ct.gov>  
**Subject:** RE: Mod

Dan  
Due to the nature and use of the building one can assume that it will not be occupied in the event of a power failure affecting the property, as such CSFSC Part III Section 913.2.1 refers us to the State building code section 2702.2.20 which would require stand-by power only if stand-by power were provided for continued operation or occupancy.

Joseph Kingston

**From:** Tierney, Daniel  
**Sent:** Friday, January 29, 2016 12:35 PM  
**To:** Kingston, Joseph <Joseph.Kingston@ct.gov>  
**Subject:** FW: Mod

**From:** Sean Hayes [mailto:shayes@brownstonepark.com]  
**Sent:** Friday, January 29, 2016 12:05 PM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>; 'Garofalo, Vincent' <garofalov@madisonct.org>  
**Cc:** Jan Wojas <jan@wojas.us>; 'Robert DeMarini' <Robert.DeMarini@snet.net>  
**Subject:** FW: Mod

Gentlemen,

As per your request please find attached the engineered drawing of for the fire sprinkler system. Can you forward this to whomever you need to for final review.

Thank you,

AS SHOWN IN SECTION 101.01, THE PROPOSED ONE-LINE RISER SHALL BE INSTALLED IN THE EXISTING CONCRETE FOUNDATION AND SHALL BE CONCRETE ENCASED TO THE FINISH FLOOR LEVEL.

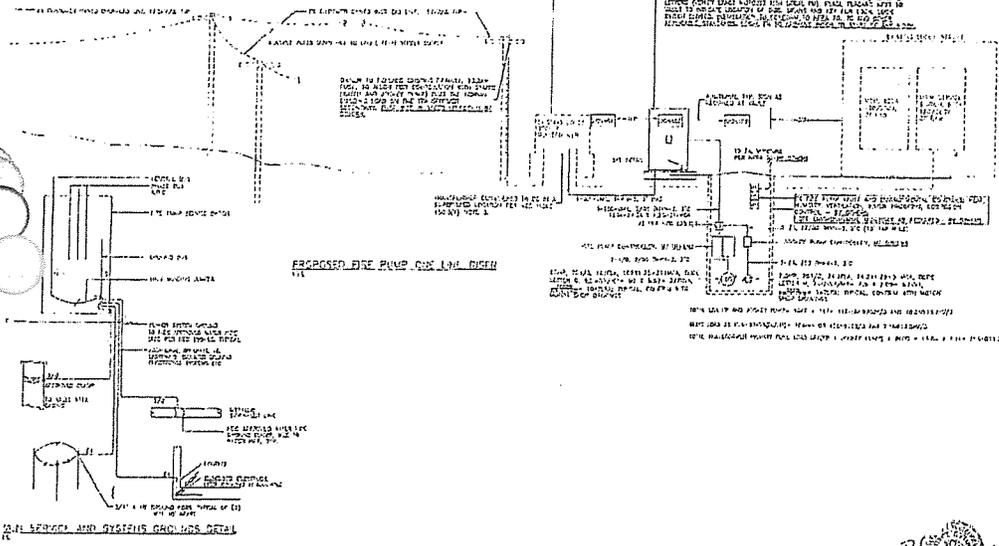
AS SHOWN IN SECTION 101.01, THE PROPOSED ONE-LINE RISER SHALL BE INSTALLED IN THE EXISTING CONCRETE FOUNDATION AND SHALL BE CONCRETE ENCASED TO THE FINISH FLOOR LEVEL.

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TO BE INSTALLED IN THE EXISTING CONCRETE FOUNDATION AND SHALL BE CONCRETE ENCASED TO THE FINISH FLOOR LEVEL.



**Powder Ridge**  
 THE SKI LODGE RENOVATION  
 Mountain Park, Vermont  
 PROJECT NO. 100-100-100-100

**EASTERN ENGINEERING LLC**  
 CHIEF ENGINEER  
 PROJECT NO. 100-100-100-100

**WOJAS ARCH, LLC**  
 ARCHITECT

**PROPOSED FIRE PUMP ONE-LINE RISER, MODS REQUEST**

DATE: 10/1/2018

**EFP**



**PROCEWELD**  
**Welding & Fabrication**

**Edward Bailey**

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**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Tuesday, January 26, 2016 9:05 AM  
**To:** Edward Bailey  
**Subject:** RE: Powder Ridge Notice of Violation

Not that I can see.

**From:** Edward Bailey [mailto:E\_bailey@middlefield-ct.com]  
**Sent:** Tuesday, January 26, 2016 8:53 AM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Subject:** Powder Ridge Notice of Violation

Hi Dan;  
Given that that you issued a modification not requiring a sprinkler system on January 19<sup>th</sup>, 2016 is there any justification for Middlefield's Building Official to issue the Notice of Violation that I have attached?

Thank you for your review of this matter.

Regards,  
Ed Bailey

Edward Bailey, First Selectman  
Town of Middlefield  
93 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
800.349.7115 fax  
[e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)

**Edward Bailey**

---

**From:** Middlefield <townofmiddlefield03@snet.net>  
**Sent:** Monday, January 25, 2016 5:59 PM  
**To:** Edward Bailey  
**Subject:** FW: Fire Watch

FYI

---

**From:** Sean Hayes [mailto:shayes@brownstonepark.com]  
**Sent:** Monday, January 25, 2016 2:02 PM  
**To:** Middlefield Fire  
**Subject:** RE: Fire Watch

Peter,

The schedule is perfect.

Thank you,  
Sean

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----  
**From:** Middlefield Fire <townofmiddlefield03@snet.net>  
**Date:** 01/25/2016 1:59 PM (GMT-05:00)  
**To:** Sean Hayes <shayes@brownstonepark.com>  
**Subject:** Fire Watch

The Office of the State Fire Marshal has authorized the fire watch to be reinstated . I will plan for this week as follows : Wednesday 1-27-16, Thursday 1-28-16 and Sunday 1-31-2016 from 1700-2200  
Friday- 1-29-16 and Saturday 1-30-2016 from 1700-2300

I will try to fill out this schedule tonight at our regular training and confirm with you tomorrow, Tuesday 1-26-2016 on the availability of personnel . Please let me know if this schedule is acceptable as soon as possible .

Peter Tyc  
Chief  
Middlefield Volunteer Fire Company

## Edward Bailey

---

**From:** Bruno Morasutti <bmorasutti@brmlawfirm.com>  
**Sent:** Saturday, January 23, 2016 12:55 PM  
**To:** Edward Bailey  
**Subject:** FW: Brownstone Entertainment/Town of Middlefield

Law Office of Bruno R. Morasutti, LLC  
405 Broad Street  
Meriden, CT 06450  
203-639-7245  
203-639-7281fax  
[bmorasutti@brmlawfirm.com](mailto:bmorasutti@brmlawfirm.com)  
[www.brmlawfirm.com](http://www.brmlawfirm.com)

**From:** jlaudati@mlkbr.com [mailto:jlaudati@mlkbr.com]  
**Sent:** Saturday, January 23, 2016 12:00 PM  
**To:** Bruno Morasutti <bmorasutti@brmlawfirm.com>  
**Subject:** Re: Brownstone Entertainment/Town of Middlefield

Thank you Bruno. We understand the Town's problems with Mr. Meyers. That having been said his actions yesterday afternoon were not only unjustified but were intentionally timed to prevent Brownstone from seeking relief either through your good offices or the Court. Consequently approximately 150 dinner reservations were cancelled and countless others declined. At least 100 walk ups to the Tavern have been turned away at this juncture. This has all occurred on a weekend where Brownstone was engaged in a dinner promotion for the Middlesex Chamber of Commerce. Compounding matters, Executive Chef Cottle appeared on Channel 3 News this morning for the intended purpose to promote the opening of the restaurant and Tavern. He unfortunately was unable to invite viewers to the facility. Needless to say, Mr. Meyers actions have severely damaged Brownstone's finances and reputation. That cannot be ignored. Our client looks forward to working with you and the Town to expeditiously resolve the situation. But we expect that the Town will take immediate action to ensure that Mr. Meyers not be permitted to take further unjustified actions which harm Brownstone's business operations. I look forward to speaking with you on Monday.

Sent from my iPhone

On Jan 23, 2016, at 11:30 AM, Bruno Morasutti <[bmorasutti@brmlawfirm.com](mailto:bmorasutti@brmlawfirm.com)> wrote:

Hello John: I can assure you that the town is fully aware of your concerns regarding Powder Ridge and shares your desire to not interfere with your client's business. I am meeting with the town Monday afternoon and will certainly bring up your situation.

Sent from my iPhone

On Jan 22, 2016, at 4:20 PM, John Laudati <[jlaudati@mlkbr.com](mailto:jlaudati@mlkbr.com)> wrote:

Dear Attorney Morasutti

Please find the attached letter with regard to the above-captioned matter.

John L. Laudati  
<image002.jpg>  
10 Talcott Notch, Suite 210  
Farmington, CT 06032  
Tel (860) 674 8296, ext. 102  
Fax (860) 674 0850

The information contained in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of the intended recipient. If you have received this transmittal in error, please notify me immediately by reply e-mail and destroy all copies. Thank you.

<Atty Morasutti 16-01-22.pdf>

# MLKB R

Murphy, Laudati, Kiel, Buttler, Rattigan, LLC

ATTORNEYS AT LAW

January 22, 2016

Attorney Bruno R. Morasutti  
Morasutti, LLC  
405 Broad Street  
Meriden, CT 06450-1695

**Re: Brownstone Entertainment LLC/Powder Ridge Ski Area**

Dear Attorney Morasutti:

As I advised you earlier this week, Mr. Meyers, the Building Official for your client the Town of Middlefield, has undertaken to interfere with our client Brownstone Entertainment LLC's operations at Powder Ridge Ski Area. Specifically, the Building Official has issued a Cease and Desist Order which improperly asserts that our client does not have the necessary temporary certificate of occupancy to operate its restaurant and tavern. Based on this improper assertion, the Town of Middlefield Fire Marshal has discontinued its fire watch at the restaurant and tavern.

As you and I discussed on Tuesday, our client has applied for a modification of the temporary certificate of occupancy. That modification has since been approved by the State Building Official. Attached please find the State Building Official's letter approving the modification. Despite the approval by the State Building Official, Mr. Meyers unjustifiably refuses to put his signature on the temporary certificate of occupancy. Based on this technical defect, a defect which he has created, he improperly asserts that no valid certificate of occupancy exists. Based on this improper assertion, the Town Fire Marshal believes that he must terminate the fire watch.

Please consider this as formal demand that the Town of Middlefield immediately direct its Fire Marshal to recommence its fire watch at our client's restaurant and tavern located on the second floor of the base lodge at Powder Ridge. Clearly the Town must take immediate action to prevent Mr. Myer's personal animus from interfering with his duties. Please also advise Mr. Meyers that any further interference with operations at Powder Ridge will result in the commencement of legal proceedings seeking monetary damages for financial losses by our client.

John L. Laudati | [jlaudati@mlkbr.com](mailto:jlaudati@mlkbr.com)

10 Talcott Notch, Suite 210 | Farmington, CT 06032 | (860) 674-8296 | Fax: (860) 674-0850 | [mlkbr.com](http://mlkbr.com)

Your immediate response to this letter is requested. Please contact the undersigned at your earliest convenience by calling my cell phone at (860) 614-7184.

Very truly yours,

*John L. Laudati* /KEO  
John L. Laudati

JLL/keo

cc. Mr. Sean Hayes,

CEO Brownstone Entertainment LLC

## Edward Bailey

---

**From:** Middlefield <townofmiddlefield03@snet.net>  
**Sent:** Friday, January 22, 2016 2:03 PM  
**To:** 'Sean Hayes'; Veronica Cuthill  
**Subject:** Edward Bailey  
Fire Watch

*The Fire Marshal has notified the Fire Company of the absence of a valid Certificate of Occupancy for the Powder Ridge Mountain Park second floor restaurant and bar area . The Building inspector for the Town of Middlefield has issued an order to abate this condition. The Office of the State Fire Marshal has been and advised of this . Due to this condition the area mentioned should not be occupied by the public and therefore the Fire Company cannot officially conduct the fire watch . Please notify both the offices of Fire Marshal and Fire Chief when this issue has been resolved so as we schedule the fire watch again .*

*Respectively*

Stanley Atwell  
Fire Marshal

Peter Tyc  
Chief  
Middlefield Volunteer Fire Company  
405 Main Street Suite 7  
Middlefield, CT. 06455  
60-349-7124  
60-349-7996 FAX  
townofmiddlefield03@snet.net

MIDDLEFIELD VOL. FIRE COMPANY Inc.

Established 1934

405-7 Main St.

Middlefield, CT. 06455

860-349-7124 / 860-349-7996 (fax)

Townofmiddlefield03@snet.net

1-22-2016

***The Fire Marshal has notified the Fire Company of the absence of a valid Certificate of Occupancy for the Powder Ridge Mountain Park second floor restaurant and bar area. The Building inspector for the Town of Middlefield has issued an order to abate this condition. The Office of the State Fire Marshal has been advised of this. Due to this condition the area mentioned should not be occupied by the public and therefore the Fire Company cannot officially conduct the fire watch. Please notify both the offices of Fire Marshal and Fire Chief when this issue has been resolved so as we schedule the fire watch again.***

***Respectively***

Stanley Atwell

Fire Marshal

Peter Tyc

Chief

Middlefield Volunteer Fire Company

405 Main Street Suite 7

Middlefield, CT. 06455

860-349-7124

860-349-7996 FAX

[townofmiddlefield03@snet.net](mailto:townofmiddlefield03@snet.net)

CC- E-Mail – Sean Hayes

Ed Bailey

Robert Myers

Copy to Fire Department  
Fire Marshal

Town of Middlefield, Connecticut.

January 21, 2016

Certified mail return receipt # 7015 0640 0003 1141 5251

To: Sean Hayes CEO/ Powder Ridge Mountain Park and Resort. LLC

Re: Fire at the Ridge Restaurant, 2<sup>nd</sup> floor (Lodge)  
99 Powder Hill Rd. Middlefield, Connecticut.

**STATE BUILDING CODE §113  
NOTICE OF VIOLATION AND ORDER TO ABATE**

Dear Mr. Hayes

On, January 20th, 2016 an inspection was conducted of the premises located at 99 Powder Hill Rd. From 6:00 pm to 6:20 pm for the purposes of determining compliance with the State Building Code as amended and the applicable referenced standards, adopted pursuant to the Connecticut General Statutes §29-252. The Code and said standards are available for your inspection at this office. The inspection revealed the following violation(s) of the State Building Code: SBC sec: 110.1 Restaurant open to public without certificate of occupancy. SBC sec: 903.2.1.2 Restaurant open to the public without an approved sprinkler system.

**PURSUANT TO STATE BUILDING CODE §113, YOU ARE HEREBY ORDERED TO DISCONTINUE THIS ILLEGAL ACTION AND TAKE THE PROPER CORRECTIVE ACTION TO ABATE ALL LISTED VIOLATION(S) EFFECTIVE IMMEDIATELY FROM THE DAY THAT THIS NOTICE IS RECEIVED.** Construction documents for work to be done shall be submitted to this office prior to the commencement of any construction in accordance with State Building Code §106. This review of all construction documents would avoid unnecessary expense that could result from non-complying changes. Please note that the correction of certain violations may require proper permits and approval from the Building Official and other local agencies prior to any construction.

You are hereby notified that you have the right to appeal this order pursuant to Connecticut General Statutes §29-266(b) to the municipal board of appeals or Connecticut General Statute §29-266(c) in the absence of a municipal board of appeals. Variations or exemptions from the State Building Code may be granted by the State Building Inspector where strict compliance with the code would entail practical difficulty or unnecessary hardship, or is otherwise adjudged unwarranted pursuant to Connecticut General Statutes §29-254(b), provided that the intent of the law shall be observed and public welfare and safety be assured. Any application for a variation or exemption or equivalent or alternate compliance shall be filed with the local Building Official.

Notice of Violation and Order to Abate re: 99 POWDER HILL RD, p. 2

**This is the only order you will receive.** Be advised that the Building Official is authorized to prosecute any violation of this order by requesting that legal counsel of the jurisdiction, or the Office of the State's Attorney, institute the appropriate proceeding at law. Per Connecticut General Statutes §29-254a and §29-394, and State Building Code §113.3, any person who is convicted in a court of law of violating any provision of the State Building Code or for failure to comply with the written order of a building inspector for the provision of additional exit facilities in a building, the repair or alteration of a building or the removal of a building or any portion thereof shall be fined not less than two hundred not more than one thousand dollars or imprisoned not more than six months or both.

This office seeks and anticipates your cooperation, and looks forward to working with you in the interest of building and life safety for a timely resolution of this serious matter. If you have any questions, please feel free to contact this office at 860-349-7123

Sincerely,



Robert Meyers  
Building Official  
*Town of Middlefield, CT.*

Forms\Notice of Violation and Order to Abate  
12/13/11



January 19, 2016

Mr. Sean Hayes  
Powder Ridge Mountain Park and Resort, LLC  
99 Powder Hill Road  
Middlefield, CT 06455

**RE: M-23-16 Powder Ridge Lodge  
99 Powder Hill Road  
Middlefield, Connecticut**

Dear Mr. Hayes:

I have reviewed the referenced request for modification of Section 903.2.1.2, of the 2003 International Building Code portion of the 2005 State Building Code, which sets forth requirements when automatic sprinkler systems are to be provided within Group A-2 occupancies.

It is my decision to approve this modification, as requested, and allow an existing building undergoing a partial change of use to be occupied without the installation of a required automatic sprinkler system with the stipulation that the town agreed upon fire watch be provided as stipulated within such agreement when the building is occupied until the installation of the fire pump (approximately 2 weeks). This decision is based on the provided fire watch, the openness of the second floor, the short travel distance to all of the apparent exits.

If you have any questions, please contact me at (860) 713-5900.

Very truly yours,

Daniel Tierney  
Deputy State Building Inspector

DT:jlc

c: Robert Meyers, Middlefield Building Official  
Terry Brouwer, OSFM

---

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Town of Middlefield

1/15/16

Hand delivered

To: Sean Hayes

Re: Fire at the Ridge, 2<sup>nd</sup> Floor (Lodge) 99 Powder Hill Rd, Middlefield, Ct.

**STATE BUILDING CODE §113  
NOTICE OF VIOLATION AND ORDER TO ABATE**

Dear Mr. Hayes

On 1/15/16, an inspection was conducted of the premises located at 99 Powder Hill Rd. Middlefield, Ct. for the purposes of determining compliance with the State Building Code as amended and the applicable referenced standards, adopted pursuant to the Connecticut General Statutes §29-252. The Code and said standards are available for your inspection at this office. The inspection revealed the following violation(s) of the State Building Code: SBC 903.2.1.2 SBC 110.1 Mr. Hayes, having full knowledge of a rejection of application for a Temporary Certificate of Occupancy (TCO) has gone ahead and opened the restaurant "Fire at the Ridge" Mr. Hayes called the Building Official Robert Meyers by phone, requesting information about the TCO. Meyers informed Mr. Hayes that the TCO would not be issued.

**PURSUANT TO STATE BUILDING CODE §113, YOU ARE HEREBY ORDERED TO "DISCONTINUE THIS ILLEGAL ACTION AND TO CLOSE TO THE PUBLIC THE USE OF Fire at the Ridge restaurant" TAKE THE PROPER CORRECTIVE ACTION TO ABATE ALL LISTED VIOLATION(S) Obtain a proper Certificate of occupancy. Construction documents for work to be done shall be submitted to this office prior to the commencement of any construction in accordance with State Building Code §106. This review of all construction documents would avoid unnecessary expense that could result from non-complying changes. Please note that the correction of certain violations may require proper permits and approval from the Building Official and other local agencies prior to any construction.**

You are hereby notified that you have the right to appeal this order pursuant to Connecticut General Statutes §29-266(b) to the municipal board of appeals or Connecticut General Statute §29-266(c) in the absence of a municipal board of appeals. Variations or exemptions from the State Building Code may be granted by the State Building Inspector where strict compliance with the code would entail practical difficulty or unnecessary hardship, or is otherwise adjudged unwarranted pursuant to Connecticut General Statutes §29-254(b), provided that the intent of the law shall be observed and public welfare and safety be assured. Any application for a variation or exemption or equivalent or alternate compliance shall be filed with the local Building Official.

Notice of Violation and Order to Abate re: 99 Powder Hill Rd. Middlefield, p. 2



This is the only order you will receive. Be advised that the Building Official is authorized to prosecute any violation of this order by requesting that legal counsel of the jurisdiction, or the Office of the State's Attorney, institute the appropriate proceeding at law. Per Connecticut General Statutes §29-254a and §29-394, and State Building Code §113.3, any person who is convicted in a court of law of violating any provision of the State Building Code or for failure to comply with the written order of a building inspector for the provision of additional exit facilities in a building, the repair or alteration of a building or the removal of a building or any portion thereof shall be fined not less than two hundred not more than one thousand dollars or imprisoned not more than six months or both.

This office seeks and anticipates your cooperation, and looks forward to working with you in the interest of building and life safety for a timely resolution of this serious matter. If you have any questions, please feel free to contact this office at 860-340-7123

Sincerely,



1/15/16

Robert Meyers  
Building Official  
Town of Middlefield, Ct.

Forms\Notice of Violation and Order to Abate  
12/13/11

1/14/16

Robert Meyers

Building Official

Town of Middlefield

Report of findings and decision on application for a temporary certificate of occupancy (TCO) for 99 Powder Hill Rd. (lodge)

On Thursday Morning 1/14/16, I received an email from Sean Hayes requesting a TCO for occupancy of the (lodge) the request is for "The upstairs lodge restaurant, tavern and day room 8 "

The approved plans do not show any dayrooms, however, they do show Hotel Rooms. A hotel is to be used for sleeping purposes by guests. Any other purpose not specified in use group R1, such as office or conference rooms may need another use group to be established. However, a request for a certificate of approval (SBC 110.6) for a hotel room that is not covered under the signed fire watch agreement until the sprinkler system has been completed shall be denied.

Application for a TCO for the 2<sup>nd</sup> level Restaurant and Tavern. On 11/19/15 this office sent out a letter to the applicant with a request for construction documents regarding the wiring of the fire pump which was never submitted during the sprinkler permit application. As of today, the building department has not seen any wiring documents. As I understand it to be, the request for a fire watch is for a limited period of time that will conclude no later than 1/31/16 and without any construction documents to review, (SBC 105.3.1) provides the code official 30 days to examine said construction documents, approve or reject, and with the unique situation present at this site with the wiring of this fire pump, the building official feels that some time may be required for the review. As of today, I did receive an email from Dan Tierney stating that a few days would be required for a letter of approval from the office of Protection & Advocacy. I would also like to clear up a grey area with the inspection report.

For the above reasons the building official feels that at this time no temporary certificate of occupancy should be issued.

Robert Meyers: Building official

## Building Inspector

---

**From:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Sent:** Friday, January 08, 2016 1:34 PM  
**To:** Building Inspector  
**Subject:** RE: On site meeting on 1/7/16 Powder Ridge

A 1] No, if the conditions or terms listed on the TCO are not complied with then the TCO would not be valid. A 2] No it has to do with the permit. A3] No. A 4] To many what ifs, every case is different. Good thing it's not the case at Powder Ridge. Have you had time to see what paper work you need?

**From:** Building Inspector [mailto:buildinginspector@middlefield-ct.com]  
**Sent:** Friday, January 08, 2016 1:16 PM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Subject:** RE: On site meeting on 1/7/16 Powder Ridge

Thanks Dan

I may end up asking you several questions about a TCO...bear with me.

- 1) Can IBC sec: 110.4 Be used to revoke a TCO if applicant fails to comply to any terms of the TCO?
- 2) Does the "180 day expiration of the permit" have any effect on the TCO?
- 3) Can IBC sec: 201.4 Be used to establish an expiration time? Webster Dictionary: Temporary; "Lasting for a limited time"
- 4) It seems like a loop hole in the system to allow someone to grab a TCO on a promise to comply, and simply never do the work that may be required by code to get what he wants without meeting the requirements of the code... Do you agree? (Sample) Someone builds and addition to an A2 use, code requires accessible restrooms to obtain a permit. OK, now the restrooms never get finished, he grabs a TCO on a promise to comply soon. 20 years later, still no restrooms. How does this effect the intent of the code?

**From:** Tierney, Daniel [mailto:Daniel.Tierney@ct.gov]  
**Sent:** Friday, January 08, 2016 10:01 AM  
**To:** Building Inspector <buildinginspector@middlefield-ct.com>  
**Subject:** RE: On site meeting on 1/7/16 Powder Ridge

Bob-

Section 110.3 of the 2005 State Building Code states in part that "any occupancy permitted to continue during completion of the work shall be discontinued within 30 days after construction of the work." So there is your timeline on a TCO. With that being said, in this case the Fire Marshal or Fire Chief may state that they will only agree to have a fire watch for 3 weeks that would be both a condition and a time limit on the TCO since it is not an arbitrary date established by the Building Official.

And you are correct that the commentary is not part of the code.

**From:** Building Inspector [mailto:buildinginspector@middlefield-ct.com]  
**Sent:** Friday, January 08, 2016 9:11 AM  
**To:** Tierney, Daniel <Daniel.Tierney@ct.gov>  
**Subject:** RE: On site meeting on 1/7/16 Powder Ridge

Hi Dan Thanks for your input.

I have some questions about IBC: sec:110.3. Since this section is amended by Connecticut, I can assume the ICC commentary does not apply. Is this correct?

You said yesterday, that the building official can require conditions to the temporary certificate of occupancy (TCO) but can't put a time frame or an expiration date on the TCO. Is that correct?

Bob Meyers

---

**From:** Tierney, Daniel [mailto:[Daniel.Tierney@ct.gov](mailto:Daniel.Tierney@ct.gov)]

**Sent:** Friday, January 08, 2016 7:59 AM

**To:** Building Inspector <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>; 'Garofalo, Vincent' <[garofalov@madisonct.org](mailto:garofalov@madisonct.org)>; 'Sean Hayes' <[shayes@brownstonepark.com](mailto:shayes@brownstonepark.com)>

**Cc:** Edward Bailey <[epb10@aol.com](mailto:epb10@aol.com)>; Kellett, Michael <[Michael.Kellett@ct.gov](mailto:Michael.Kellett@ct.gov)>; Dicine, Judith <[Judith.Dicine@ct.gov](mailto:Judith.Dicine@ct.gov)>; Abbott, William <[William.Abbott@ct.gov](mailto:William.Abbott@ct.gov)>; Cassidy, Joseph <[Joseph.Cassidy@ct.gov](mailto:Joseph.Cassidy@ct.gov)>

**Subject:** On site meeting on 1/7/16 Powder Ridge

Gentlemen-

First of all—it was a pleasure to have the opportunity to tour the newly renovated building at Powder Ridge Ski Resort.

The purpose of the meeting was twofold:

1. For Vincent Garofalo, building official, to perform his final inspection, which he will generate a report and submit to Mr. Robert Meyers, the Middlefield Building Inspector.
2. To ascertain from Mr. Meyers, what he would need in the form of outstanding paperwork or signoffs in order to issue the Temporary Certificate of Occupancy on or before January 13, 2016 in order to occupy the second floor of the above mentioned existing building. Due to the fact that Mr. Meyers has been out of work, he did not know what he needed or have any idea of when he could provide this information. After some discussion, the town of Middlefield has a sign off sheet that all departments must sign and provide to Mr. Meyers. Also, a letter from the Fire Marshal or Fire Chief on any requirements or stipulations of the fire watch that is going to be required until the fire pump is installed (last week in January, 2016) for the sprinkler system. At this time I'm not sure what other paperwork is going to be required by the Town keeping in mind that the request is for a TCO not a CO

Based on my observations and discussions with the State Fire Marshal's office, the openness of the second floor, the number of apparent exits, the short travel distance to the exits, a final sign off from Mr. Garofalo, and any other required approvals are obtained it is my professional opinion that with the proposed fire watch, the second floor is safe to occupy without endangering life or public welfare and a TCO under Section 110.3 of the 2005 State Building Code, should be issued by the town of Middlefield.

***Daniel J. Tierney***

Deputy State Building Inspector

DAS Division of Construction Services

Office of the State Building Inspector

165 Capitol Avenue, Room 265, Hartford, CT 06106

Phone: (860) 713-5900 email: [daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov)

**From:** "Tierney, Daniel" <Daniel.Tierney@ct.gov>

**Date:** January 8, 2016 at 7:59:03 AM EST

**To:** Building Inspector <buildinginspector@middlefield-ct.com>, "Garofalo, Vincent" <garofalov@madisonct.org>, 'Sean Hayes' <shayes@brownstonepark.com>

**Cc:** Edward Bailey <epb10@aol.com>, "Kellett, Michael" <Michael.Kellett@ct.gov>, "Dicine, Judith" <Judith.Dicine@ct.gov>, "Abbott, William" <William.Abbott@ct.gov>, "Cassidy, Joseph" <Joseph.Cassidy@ct.gov>

**Subject:** On site meeting on 1/7/16 Powder Ridge

Gentlemen-

First of all—it was a pleasure to have the opportunity to tour the newly renovated building at Powder Ridge Ski Resort. The purpose of the meeting was twofold:

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***Daniel J. Tierney***

Deputy State Building Inspector  
DAS Division of Construction Services  
Office of the State Building Inspector  
165 Capitol Avenue, Room 265, Hartford, CT 06106  
Phone: (860) 713-5900 email: [daniel.tierney@ct.gov](mailto:daniel.tierney@ct.gov)

# Vincent A. Garofalo III

6 Winterbrooke Road, Moodus, Ct. 06469

Licensed Ct. State Building Official and Code Consultant

Date: 01/08/2016

To: Robert Meyers

Re: Powder Ridge Lodge Structure

Dear Mr. Meyers

I conducted an inspection on 01/07/2016 at the Powder Ridge Lodge structure. The inspection was to confirm that the second floor portion of the structure, that includes the restaurant and bar assembly area is in compliance to issue the Temporary Certificate of Occupancy with the conditions of a fire watch. The fire watch is required only when the restaurant is open to the public. This has been agreed upon with the Middlefield Fire Marshal's Office and the property owner Sean Hayes at no expense to the Town of Middlefield.

There was one small item of a hand rail that was not completed. This item shall be completed today and I shall inspect this on 01/08/2016 for compliance for the TCO to be issued. I have attached the most current inspection report showing the compliance of the assembly area and balance of inspections for the C/O at this time. The balance of inspections for Certificate of Approval for the Day/Lodging rooms has also been included.

It is in my professional opinion as a licensed Building Official. The assembly area in question meets the criteria required to issue a Temporary Certificate of Occupancy along with the agreed fire watch. Day Room #8 has been completed as well. The Certificate of Approval can be issued at this time.

Respectfully Submitted,

Vincent A Garofalo III

Cc; Ed Bailey, Dan Tierney, Sean Hayes

## Edward Bailey

---

**From:** Edward Bailey  
**Sent:** Monday, January 04, 2016 4:20 PM  
**To:** Building Inspector (buildinginspector@middlefield-ct.com)  
'Daniel.Tierney@ct.gov'; 'Garofalo, Vincent'  
**Subject:** FW: Powder Ridge Inspections

Wrong date on previous email the meeting is set for Thursday January 7<sup>th</sup>.

Edward Bailey, First Selectman  
Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
[e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)

**From:** Edward Bailey  
**Sent:** Thursday, December 31, 2015 12:59 PM  
**To:** Building Inspector <buildinginspector@middlefield-ct.com>  
**Cc:** Daniel.Tierney@ct.gov; Garofalo, Vincent <garofalov@madisonct.org>  
**Subject:** Powder Ridge Inspections

Bob;  
I have been informed that the State Building Official, Mr. Dan Tierney, will be making himself available to supervise inspections at Powder Ridge at 2PM on Thursday January 10<sup>th</sup>. Please make arrangements to attend this meeting. I have been informed that outstanding issues will be ready for inspection at this time.

Thank you.

Edward Bailey, First Selectman  
Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
[e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)

**Edward Bailey**

---

**From:** Edward Bailey  
**ent:** Thursday, December 31, 2015 12:59 PM  
**:** Building Inspector (buildinginspector@middlefield-ct.com)  
**Cc:** 'Daniel.Tierney@ct.gov'; 'Garofalo, Vincent'  
**Subject:** Powder Ridge Inspections



Bob;  
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Thank you.

Edward Bailey, First Selectman  
Town of Middlefield  
393 Jackson Hill Road  
Middlefield, CT 06455  
860.349.7114  
860.349.7115 fax  
[e\\_bailey@middlefield-ct.com](mailto:e_bailey@middlefield-ct.com)

## Edward Bailey

---



From: Edward Bailey <epb10@aol.com>  
Sent: Monday, December 28, 2015 2:45 PM  
Subject: Edward Bailey  
Fwd: CE reply

Edward Bailey  
860-985-0790 mobile

Begin forwarded message:

From: "Garofalo, Vincent" <garofalov@madisonct.org>  
Date: December 28, 2015 at 7:53:23 AM EST  
To: "Building Inspector ([buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com))" <[buildinginspector@middlefield-ct.com](mailto:buildinginspector@middlefield-ct.com)>  
Cc: "Nancy ([Nancy@middlefield-ct.com](mailto:Nancy@middlefield-ct.com))" <[Nancy@middlefield-ct.com](mailto:Nancy@middlefield-ct.com)>  
Subject: CE reply

Bob,



I hope your Christmas was well. I was in NYC on Christmas Eve and was not thinking of work at the time. So to clarify, as previously discussed. An existing building undergoing alteration's does not need a Certificate of Occupancy. The Building Official is required to issue a Certificate of Approval which certifies that such work complies with the code. [see section 110.1, exception no.1 as requested]. A Certificate of Occupancy would be required for the portion of the building that had a change of use(Kitchen area).

I will make a list of open items for you this week. I'm pretty confident it is a small amount left in the dayrooms.

Best,

Vincent A Garofalo III  
Building Official  
6 Winterbrooke Road  
Moodus, Ct. 06469



**Brownstone**  
Exploration & Discovery Park

**Powder Ridge**  
Mountain Park & Resort



December 24, 2015

Edward Bailey  
First Selectman  
Town of Middlefield

Mr. Bailey,

Please be advised at 11.30 am on the morning of the December 24<sup>th</sup>, Bob Meyers came onto the Powder Ridge property unannounced and uninvited. After some discussion regarding the legalities of this visit he insisted on being allowed admission into the building or he would call the police. I insisted that without a complaint or an inspection request he was not welcome to enter the premises. He reluctantly did leave the property.

These unannounced visits of intimidation have been the standard for the last two years and can no longer be tolerated. Your assistance in this matter would be greatly appreciated.

Respectfully,

Hayes CEO

---

Adventure Sports Parks for the Whole Family

# Vincent A. Garofalo III

6 Winterbrooke Road, Moodus, Ct. 06469

Licensed Ct. State Building Official and Code Consultant

Date: 12/23/2015

To: Robert Meyers, Edward Bailey

Re: Powder Ridge Lodge Structure

Dear Gentlemen

I would like to start off by thanking you for the opportunity to assist the Town of Middlefield with the Powder Ridge Lodging and Restaurant structure. I completed what I believe was my last inspections last night at the facility. There are three (3) small items to be completed in order to issue the completion letter for the restaurant and bar area

- The H/C Grab Bars and Sinks in both the Men's and Ladies rooms
- The completion of the Handrails and Guards at the mezzanine stairways
- The completion of the Handrails at the ramp closest to the mountain

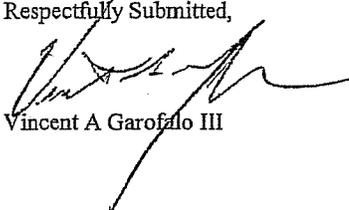
Summary,

I did have the Office of the State Building Official meet me on the site on 12/18/2015 to discuss and review the Accessibility Parking issue and route. Based on that meeting, OSBI suggested applying for a waiver for the two parking spots that exceed the code. There is a new drawing being done by the engineer and application being sent to OSBI and the Town of Middlefield by 12/28/15. This will close any issues for this area of the present parking concern.

All Life & Safety inspection have been done by myself and the Fire Marshal's office, along with help from the State Fire Marshal's Office. The 200lb sprinkler hydrostatic test will be completed to day 12/23/2015. This test is being completed early to allow the Middlefield Fire Dept to connect to the sprinkler in case of an emergency until the actual fire pump installation has been completed. Under the NFPA Fire Code 1.7.16.1, the Middlefield Fire Department has agreed to provide uniformed personnel to patrol the area during business operations at the cost of the owner under NFPA 1.7.16.2 & 1.7.16.2.1. The Town of Middlefield shall bear no cost for this protection. The anticipated date of Fire Pump installation should be 1/26/2016. The above stated NFPA items will allow Powder Ridge to operate normally. The Fire Watch is required when the restaurant and bar areas are open for business only. It is not required when only the first floor is in operation. If the watch is not available, the second floor operation shall be closed to the public with no exceptions.

There shall be two more completion letters to be issued. One will be when the dayrooms are completed. This should be the last of this project. The other one will be as soon as the three listed items above are completed. Due to the fact that the day rooms will not be completed until next year. It would fair to say that it is my professional opinion that the completion letter should be issued for the second floor minus the day rooms during the week of 12/28/2015. Additional supplemental information was received by the building department prior to my appointment as Acting Building Official. If any additional information is needed, it could be given to the building department prior to issuing the completion letter for the day rooms in order not to hold up the present day to day ski and restaurant/bar operations.

Respectfully Submitted,

  
Vincent A. Garofalo III

# AIA<sup>®</sup> Document G704<sup>™</sup> – 2000

## Certificate of Substantial Completion

**PROJECT:**  
*(Name and address)*  
 The Ski Lodge Renovation  
 Powder Ridge Ski Area  
 99 Powder Hill Road  
 Middlefield, CT 06455

**PROJECT NUMBER:** PR1100512/  
**CONTRACT FOR:** General Construction  
**CONTRACT DATE:** October 08, 2012

**OWNER:**   
**ARCHITECT:**   
**CONTRACTOR:**   
**FIELD:**   
**OTHER:**

**TO OWNER:**  
*(Name and address)*  
 Powder Ridge Ski Area  
 99 Powder Hill Road  
 Middlefield, CT 06455

**TO CONTRACTOR:**  
*(Name and address)*  
 Powder Ridge Mountain Park and Resort  
 99 Powder Hill Road  
 Middlefield, CT 06455

**PROJECT OR PORTION OF THE PROJECT DESIGNATED FOR PARTIAL OCCUPANCY OR USE SHALL INCLUDE:**

Portion of the Upper Level including: the restaurant, the kitchen, the bar, exterior walkway, stairs, ramps and the mezzanine.

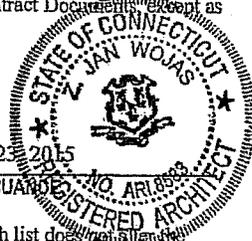
The Work performed under this Contract has been reviewed and found, to the Architect's best knowledge, information and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion designated above is the date of issuance established by this Certificate, which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

**Warranty**

WOJAS.ARCH LLC  
 ARCHITECT

*(Signature)*  
 BY \_\_\_\_\_  
 Date of Commencement  
 December 23, 2015

December 23, 2015  
 DATE OF ISSUANCE



A list of items to be completed or corrected is attached hereto. The failure to include any items on such list does not relieve the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Unless otherwise agreed to in writing, the date of commencement of warranties for items on the attached list will be the date of issuance of the final Certificate of Payment or the date of final payment.

**Cost estimate of Work that is incomplete or defective: \$0.00**

The Contractor will complete or correct the Work on the list of items attached hereto within Zero (0) days from the above date of Substantial Completion.

Powder Ridge  
 Mountain Park and Resort

CONTRACTOR

*(Signature)*  
 BY \_\_\_\_\_

December 23, 2015  
 DATE

The Owner accepts the Work or designated portion as substantially complete and will assume full possession at \_\_\_\_\_ (time) on \_\_\_\_\_ (date).

Powder Ridge  
 Mountain Park and Resort

OWNER

*(Signature)*  
 BY \_\_\_\_\_

December 23, 2015  
 DATE

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 User Notes: (1865756720)

The responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance shall be as follows:

*(Note: Owner's and Contractor's legal and insurance counsel should determine and review insurance requirements and coverage.)*

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User Notes:

(1865756720)

RE-INSPECT FINAL ELECTRIC FOR 2<sup>ND</sup> FLOOR LODGE.

**Failed** RE-INSPECTION NEEDED. **NOTE THE FOLLOWING:**

BREAKER PANEL IN MAIN ROOM FACE THE POND NEEDS DIRECTORY - **Completed**

BREAKER PANEL IN MAIN SWITCH GEAR ROOM NEEDS DIRECTORY - **Completed**

TWO WALL SCONCES ON THE POND SIDE BROKEN AND NEED REPLACEMENT. - **Completed**

TWO IN-USE COVERS MISSING IN KITCHEN BY SINKS. - **One completed, One not required**

CEILING JUNCTION BOX IN KITCHEN NEEDS PROPER COVER. - **Completed**

CEILING FIXTURE OUTSIDE TICKET AREA STILL MISSING COVER. - **Installed and completed**

ROOF TOP UNITS NEED DIRECTORY PROPER LABELING AS FAR AS PANEL LOCATION. - **Completed**

LIGHTING CONTROL FOR MAIN ROOM CHANDELIERS BLINKING AND NEEDS PROPER CONTROL INSTALLED. - **Completed, New switch installed**

EXTENSION CORD WAS NOTE IN USE FOR RENTAL MACHINE IN LOCKER ROOM ENTRY. **Cord was for**  
**machine removed, new outlet provided for machine**

MAIN SWITCH GEAR ROOM HAS STORAGE EQUIPMENT IN FRONT OF MAIN DISCONNECT - **Removed**

NOTED WAS A MISSING DAMPER COVER ON EXHAUST DUCT FROM LOWER LAV.'S. - **Maintenance**  
**issue, not an electrical issue. All issues resolved**

UN-USED TEMPORARY SERVICE NEEDS TO BE DISCONNECTED AND REMOVED - **Disconnected and removed**

NOTED WAS THE MISSING HORN/STROBE FOR FIRE OUTSIDE TICKET WINDOW. - **Installed**

**GENERAL CONTRACTOR AND OWNER REPRESENTATIVE INSPECTION**

Vin Garofalo



**STATE OF CONNECTICUT**  
 DEPARTMENT OF ADMINISTRATIVE SERVICES  
 DIVISION OF CONSTRUCTION SERVICES  
 OFFICE OF THE STATE BUILDING INSPECTOR

*From  
B. Meyer  
12/23/15*

**REQUIREMENTS TO BE MET PRIOR TO THE ISSUANCE OF  
 A CERTIFICATE OF OCCUPANCY**

PROJECT NAME: \_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

PROJECT NUMBER: \_\_\_\_\_

Date  
Completed

\_\_\_\_\_ All remaining inspection report items completed and all discrepancies resolved

\_\_\_\_\_ All changes to approved construction documents reviewed and accepted including third party structural review

\_\_\_\_\_ Final report of special inspections submitted and approved

\_\_\_\_\_ Office of the State Fire Marshal sign off and support for C of O, including but not limited to:

- \_\_\_\_\_ Fire suppression system
- \_\_\_\_\_ Fire pump
- \_\_\_\_\_ Alarm system
- \_\_\_\_\_ Emergency lighting
- \_\_\_\_\_ Exit signage
- \_\_\_\_\_ Kitchen exhaust hood system
- \_\_\_\_\_ Stairway pressurization
- \_\_\_\_\_ Other (specify) \_\_\_\_\_

\_\_\_\_\_ Certificates of substantial compliance submitted by:

- \_\_\_\_\_ The contracting agency (CGS 29-252a)
- \_\_\_\_\_ The general contractor (CGS 29-276b)
- \_\_\_\_\_ The architect of record (CGS 29-276b/29-276c)
- \_\_\_\_\_ The engineer of record (CGS 29-276b/29-276c)

\_\_\_\_\_ HVAC balance reports

165 Capitol Ave., Room 265  
 Hartford, CT 06106  
*An Equal Opportunity Employer*

REQUIREMENTS TO BE MET PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY

Page 2

\_\_\_\_\_ Testing and approval of all required emergency systems including but not limited to:

\_\_\_\_\_ Emergency/standby power system

\_\_\_\_\_ Fire dampers

\_\_\_\_\_ Smoke dampers

\_\_\_\_\_ Smoke control systems

\_\_\_\_\_ Area of refuge communication system (where applicable)

\_\_\_\_\_ Other (specify) \_\_\_\_\_

\_\_\_\_\_ Water potability test

\_\_\_\_\_ Backflow prevention acceptance by water supplier

\_\_\_\_\_ Elevator operating certificates from the State Elevator Inspector

\_\_\_\_\_ Boiler operating certificates from the State Boiler Inspector

\_\_\_\_\_ Department of Health approval (where applicable) including but not limited to:

\_\_\_\_\_ Kitchens/food service

\_\_\_\_\_ Swimming pools

\_\_\_\_\_ Health care

\_\_\_\_\_ Other (specify) \_\_\_\_\_

\_\_\_\_\_ Dept. of Environmental Protection approval (where applicable) including but not limited to:

\_\_\_\_\_ Smokestacks

\_\_\_\_\_ Fuel storage tanks

\_\_\_\_\_ Asbestos removal

\_\_\_\_\_ Other (specify) \_\_\_\_\_



**AGREEMENT**

**between**

**THE TOWN OF MIDDLEFIELD**

**-and-**

**LOCAL 818, COUNCIL 4, AFSCME, AFL-CIO**

**TOWN HALL EMPLOYEES**

**JULY 1, 2015 – JUNE 30, 2018**

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**PREAMBLE**

This Agreement is entered into by and between the Town of Middlefield (hereinafter referred to as the "Town"), and Local 818, Council 4, AFSCME, AFL-CIO (hereinafter referred to as the "Union").

**ARTICLE 1****Recognition**

The Town recognizes the Union as the exclusive representative for the purposes of collective bargaining with respect to wages, hours and other conditions of employment for all Town Hall employees including the administrative assistant, assessor, sanitarian, custodian, building official, code enforcement officer, highway foreman, assistant town clerk, office assistant, emergency services secretary, senior center coordinator/municipal agent, and fire department laborer, and excluding elected officials, supervisors and others as defined by the Municipal Employee Relations Act, Conn. Gen. Stat. § 7-467 et g. (the "Act").

**ARTICLE 2****Union Security**Section 1

All bargaining unit employees presently employed by the Town, and all bargaining unit employees who are hired after the signing of this Agreement, who do not voluntarily join the Union shall pay a service charge in an amount equal to that proportion of the regular Union dues and any other applicable fees, on a monthly basis, which represents the cost of collective bargaining, contract administration and grievance adjustment.

Section 2

The Town agrees to deduct Union membership dues once each month from the pay of these employees who individually and in writing authorize such deductions. The amounts to be deducted shall be certified to the Town by the Treasurer of the Union, and the aggregate deductions of all employees shall be remitted every three months, together with an itemized statement to the Treasurer of the Union after such deductions are made.

Section 3

The Union agrees to indemnify and save the Town harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or by reason of action or inaction taken by the Town for the purpose of complying with the provisions of this Article.

Section 4

The Town agrees to deduct from the wages of any employee who is a member of the Union a PEOPLE deduction provided for in a written authorization. Such authorization must be executed by the employee and may be revoked by the employee at any time by giving written notice to both the Town and the Union. The Town agrees to remit any deductions made pursuant to this provision promptly to the Union together with an itemized statement showing the name of each employee from whose pay such deductions have been made and the amount deducted during the period covered by the remittance. The Union agrees to hold the Town harmless from any claims arising as a result of any deduction made pursuant to this subsection.

### ARTICLE 3

#### Management Rights

##### Section 1

The Town has, and will continue to retain whether exercised or not, all of the rights, powers and authority heretofore had by it, and except where such rights and authority are specifically relinquished, abridged or limited by the provisions of this Agreement, it shall have the sole and unquestioned right, responsibility and prerogative of management of the affairs of the Town and direction of the working forces, including but not limited to the following:

- a. To determine the care, maintenance and operation of equipment and property used for and on behalf of the purposes of the Town.
- b. To establish and continue policies, practices and procedures for the conduct of Town business and, from time to time, to change, modify, or abolish such policies, practices and procedures.
- c. To discontinue work processes or operations or to discontinue their performance by employees.
- d. To select and determine the number and types of employees required to perform the Town's operations.
- e. To employ, transfer, promote or demote employees or to layoff, terminate or otherwise relieve employees from duty for lack of work or other legitimate reasons when it shall be in the best interest of the Town or department.
- f. To prescribe and enforce reasonable rules and regulations for the maintenance of discipline and for the performance of work in accordance with the requirements of the Town, provided such rules and regulations are made known in a reasonable manner to the employee(s) affected by such rules and regulations.
- g. To establish contracts or subcontracts for municipal operations provided this right shall not be used for the purpose or intention of undermining the Union or of discriminating against its members. All work customarily performed by employees of the bargaining unit shall be continued to be so performed unless in the sole judgment of the Town, it can be done more economically or expeditiously otherwise.
- h. To create job specifications and revise existing job specifications, subject to the Union's right to negotiate the assigned wage rate.
- i. Upon retirement of the incumbent Administrative Assistant, both the Town and Union agree that this position will no longer be represented by the Union, nor be subject to the conditions of this agreement.

##### Section 2

The above rights, responsibilities and prerogatives are inherent in the Board of Selectmen by virtue of statutory and charter provisions, and are not subject to delegation in whole or part. Such rights may not be subject to review or determination in any grievance or arbitration proceedings, except as specifically provided for by this Agreement, providing that the manner of exercise of such rights may be subject to the grievance and arbitration procedure of this Agreement.

**ARTICLE 4****Seniority****Section 1**

The seniority rights of all full time members of the bargaining unit shall be based upon actual length of service in the bargaining unit and shall be determined from the day such full time member(s) began working in the bargaining unit. The seniority rights of part time employees who are members of the bargaining unit shall be determined on a pro rata basis.

**Section 2**

Seniority shall not be broken by vacations, sick time or any authorized leave of absence.

**Section 3**

Employees who resign voluntarily, or are retired, or who are discharged for just cause shall lose all seniority. An individual who has resigned or retired and is reemployed by the Town within one (1) year of separation shall have his or her seniority prior to separation restored.

**Section 4**

No newly hired bargaining unit employee shall attain seniority under this Agreement until the employee has been continuously employed by the Town in the bargaining unit for a period of six (6) months. For a part-time employee, the probation period shall be nine (9) months. Any absence in excess of five (5) consecutive working days shall not count as time worked for completion of probation. During such period, the employee shall be on probation and may be discharged by the Town, without recourse to the grievance procedure. Upon completion of the probation period, the employee's seniority shall date back to the time of the employee's original date of hire in the bargaining unit.

**ARTICLE 5****Hours of Work****Section 1**

The regular work week for the highway foreman shall be Monday through Friday, from 7:00 am. to 3:30 p.m.

**Section 2**

The regular work week for all other full-time bargaining unit employees shall be Monday from 8:30 a.m. to 5:00 p.m., Tuesday through Thursday from 8:30 a.m. to 4:00 p.m. and Friday from 8:30 a.m. to 3:00 p.m.

The Town reserves the right to modify a full-time employee's work schedule based on the service needs of the Town, provided that the starting time shall not be earlier than 8:00 a.m. and the ending time shall not be later than 5:30 p.m. Further, the Town may elect to have evening hours one day per week and if it decides to do so will negotiate with the Union over the manner of implementing such evening hours. In all cases, the Town will give the affected employee(s) and the Union written notice of a work schedule change as much in advance as possible and not less than thirty (30) days in advance.

The regular work week for a part-time bargaining unit employee shall be established by the First Selectman. A part-time employee shall not work hours in excess of the regular work week unless the additional hours are approved in advance by the First Selectman or his/her designee. A part-time employee will have a specified number of hours for each scheduled work day.

The Town reserves the right to modify a part-time employee's work schedule based on the service needs of the Town. In all cases, the Town will give the affected employee(s) and the Union written notice of a work schedule change as much in advance as possible and not less than 10 business days in advance; provided, however, the Town reserves the right to modify the part-time custodian's work schedule on an occasional, non-permanent basis based on the service needs of the Town, on reasonable notice to the affected employee.

### Section 3

Full-time employees are required to have a thirty (30) minute unpaid lunch break each day, which will normally be taken between 12:00 noon and 1:00 p.m. However, the First Selectman, in his sole discretion, may determine that the lunch break be scheduled for any thirty (30) minute period between 11:30 a.m. and 1:30 p.m. due to the needs of the Town including the need to ensure that there is adequate coverage of Town facilities by bargaining unit employees during the lunch break.

A part-time employee whose work day is five (5) hours or more is required to have a thirty (30) minute unpaid lunch break each day, unless this requirement is waived by the First Selectman, in writing. The time of the lunch break shall be determined in the same manner as for full-time employees.

An employee shall punch out for lunch and punch in at the conclusion of the lunch break.

### Section 4

Full-time employees will have a fifteen (15) minute paid break each morning, and a fifteen (15) minute paid break each afternoon. The First Selectman, in his sole discretion, shall determine when the breaks shall be taken. Unless the paid breaks interrupt the coverage of Town facilities by bargaining unit employees, the paid breaks may be taken contiguously with the employees' unpaid lunch break. However, paid breaks may not be used to shorten an employee's work day.

A part-time employee who is scheduled to work four (4) or more consecutive hours will have one fifteen (15) minute paid break. The First Selectman, in his sole discretion, shall determine when the breaks shall be taken.

### Section 5

Time and one-half shall be paid to all bargaining unit employees for all work performed in excess of forty (40) hours in any one work week.

### Section 6

Time and one-half shall be paid for all work performed on Saturday or Sunday, but there shall be no pyramiding of premium pay for time over forty (40) hours in one week. In the case of the part-time custodian, work on Saturday or Sunday shall be paid at straight time (unless in excess of 40 hours in a week); however, there shall be a minimum weekend call-in of three (3) hours.

Section 7

No overtime shall be worked unless approved, in advance, by the First Selectman or the First Selectman's designee.

Section 8

If an employee is called to work for time not scheduled contiguous with his normally scheduled working hours, he shall be paid not less than three (3) hours pay at the rate of time and one-half.

Section 9

An employee or the Town may request that an employee work a flex time schedule. Such schedules shall be negotiated by the Union and the Town. If agreement cannot be reached between the Union and the Town regarding an employee's flex time schedule, the employee shall continue to work the same work schedule he or she was working before the employee or Town requested that the employee work a flex time schedule.

Section 10

Employees may elect to receive compensatory time in lieu of overtime pay. This provision will be administered in accordance with the Fair Labor Standards Act and Connecticut General Statutes. Employees who work more than forty (40) hours in any one work week shall earn an hour and one half off for each hour worked over that amount. Time earned is subject to approval by the First Selectman or his designee, and must be used within a reasonable amount of time from when it is earned. An accurate accounting of all compensatory time must be entered on the employee's weekly timesheet. Use of compensatory time may be denied when there is an overtime impact.

**ARTICLE 6**

**Vacations**

Section 1

Full-time employees shall be granted annual time off with pay for vacations according to the following schedule.

After 6 months of service	1 week
After 1 year of service	2 weeks
After 5 years of service	3 weeks
After 10 years of service	4 weeks

The employee in the position of Highway Foreman on August 12, 1992 shall receive one (1) additional week of vacation beyond that which is provided in the above schedule. Should the employee in the position of Highway Foreman on August 12, 1992 leave that position, any subsequent employee in the position of Highway Foreman shall receive the amount of vacation listed in the above schedule.

A part-time employee shall be eligible for vacation upon completion of the probationary period. All length of service and amounts of vacation shall be prorated for a part-time employee based on the proportion that his/her regularly scheduled hours bear to thirty-five (35) hours. A part-time employee may use vacation only for days and hours that are part of the regularly scheduled work week.

Section 2

The employee's anniversary date of hire will be used to determine the amount of vacation time due to the employee in each fiscal year (i.e. If an employee was hired in the month of October and would be entitled to 3 weeks vacation as of that October he would be allowed the 3 weeks as of July 1 of the current fiscal year).

Section 3

A minimum of two (2) weeks of notice must be provided to the First Selectman for vacation requests. Choice of date of vacation time taken shall be granted when practicable. Seniority shall prevail in the selection of vacation time granted. The First Selectman shall have the right to limit the number of employees that may be on vacation simultaneously in the best interest of operating requirements of the Town. Such right shall not be unnecessarily restrictive, however.

Section 4

Employees must use their accrued vacation time within one year of the date of accrual except, in special circumstances as determined by the First Selectman, the First Selectman may allow the carry over of vacation time of up to two (2) weeks for up to one (1) year.

Section 5

In the event of an employee's death, the employee's pro-rata vacation pay shall be paid to the employee's surviving spouse, and/or children. In the event that the employee has neither a spouse nor children, such payment shall be made to the estate.

Section 6

In the event that an employee terminates service with the Town, and has provided the Town with at least two (2) weeks notice, pro-rata, accumulated, unused vacation pay for the current year measured from the employee's anniversary date of hire to the end of the month preceding the employee's termination shall be paid to the employee.

Example: Employee A has completed 10 or more years of service as of Employee A's anniversary date of hire which occurs on May 15, 2004. As a result, Employee A is entitled to 4 weeks (equal to 140 hours) of vacation for the year beginning May 15, 2004 which may be used anytime prior to May 15, 2005. Employee A provides 2 weeks notice and terminates employment on April 15, 2005, having already used 3 weeks (equal to 105 hours) of his vacation allotment. Employee A is entitled to unused accrued vacation from May 15, 2004 (Employee A's anniversary date of hire) through March 30, 2005 (the end of the month preceding Employee A's separation) (10 months). That is, Employee A is entitled to 5/6 of his vacation allotment (117 hours) minus the vacation he has already utilized ( hours) for a total payout of 12 hours of vacation.

Section 7

If an employee becomes ill for more than three (3) days while on vacation time. the employee shall have the option of charging sick time to the employee's sick time bank in the place of the employee's vacation time being charged to the employee's vacation time bank, provided that the employee provides the First Selectman with a doctor's certificate verifying illness.

## ARTICLE 7

### Personal Leave Days

For employees hired prior to July 1st, 2012, the First Selectman shall grant each full time bargaining unit employee four (4) days personal leave at the beginning of the fiscal year, with full pay and benefits, providing such employee has notified the First Selectman a minimum of forty-eight (48) hours in advance, emergencies excepted.

For employees hired prior to July 1st, 2012; and beginning on July 1st, 2012, the First Selectman shall grant each part-time bargaining unit employee two (2) days personal leave at the beginning of the fiscal year, with full pay and benefits, providing such employee has notified the First Selectman a minimum of forty-eight (48) hours in advance, emergencies excepted. A part-time employee may use personal leave only for days and hours that are part of the regularly scheduled work week.

For employees hired after July 1st, 2012, the First Selectman shall grant each full time bargaining unit employee two (2) days personal leave at the beginning of the fiscal year, with full pay and benefits, providing such employee has notified the First Selectman a minimum of forty-eight (48) hours in advance, emergencies excepted.

For employees hired after July 1st, 2012, the First Selectman shall grant each part-time bargaining unit employee one (1) day personal leave at the beginning of the fiscal year, with full pay and benefits, providing such employee has notified the First Selectman a minimum of forty-eight (48) hours in advance, emergencies excepted. A part-time employee may use personal leave only for days and hours that are part of the regularly scheduled work week.

Personal days may be used for business which cannot be transacted outside of the regular workday such as legal or financial business that require the employee's attendance including but not limited to a house closing, or marriage or attendance at graduation exercises for the employee or his spouse or children. Personal leave days not used in the fiscal year in which they accrue shall be forfeited.

## ARTICLE 8

### Sick Leave

#### Section 1

Each full time bargaining unit employee shall be credited with sick leave with pay at the rate of twelve (12) days per fiscal year. Each part-time bargaining unit employee shall be credited with a pro rata portion of twelve (12) sick leave days per fiscal year based on the proportion that his/her regularly scheduled hours bear to thirty-five (35) hours. A part-time employee may use sick leave only for days and hours that are part of the regularly scheduled work week. Employees in their first year of service shall earn sick leave on a pro rata basis.

#### Section 2

Unused sick time may be accumulated, from fiscal year to fiscal year, in accordance with the following schedule:

- a. As of November 16, 2004, current employees with more than one hundred (100) days of accumulated sick leave shall be permitted to accumulate a maximum of one hundred twenty (120) days of sick leave from fiscal year to fiscal year.

- b. Other employees hired on or before November 16, 2004, shall be permitted to accumulate a maximum of ninety (90) days of sick leave from fiscal year to fiscal year.
- c. All employees hired on or after November 16, 2004, but before July 1, 2012, shall be allowed to accumulate a maximum of sixty (60) days of sick leave from fiscal year to fiscal year.
- d. All employees hired on or after July 1, 2012 shall be allowed to accumulate a maximum of thirty (30) days of sick leave from fiscal year to fiscal year.

Accumulated sick leave may be used for the purposes specified in this Agreement.

Section 3

Holidays and regular days off shall not be counted in computing sick leave taken.

Section 4

Sick leave may be used for the following purposes only:

- a. Personal illness, physical incapacity, or injury or disease non-compensable under the workers compensation laws.
- b. Enforced quarantine in accordance with community health regulations.
- c. For a maximum of five (5) consecutive work days upon approval by the First Selectman, for illness or physical incapacity by someone in the employee's immediate family. Immediate family is defined for the purpose of this provision to be the mother, father, sister, brother, wife, husband or child related by blood, marriage or adoption to the employee. Approval by the First Selectman shall not be unreasonably denied and will be based on an individual case.

Section 5

A doctor's certificate showing date of illness or incapacity and the employee's need to be absent from work may be required by the First Selectman. Unless in the judgment of the First Selectman verification of illness by a physician is warranted, proof of sick leave under three (3) days will not normally be required.

Section 6

Upon an employee's death or retirement, the employee or his/her surviving spouse and/or children shall be paid for a percentage of his/her unused accrued sick leave in accordance with the following schedule.

<u>Years of Service</u>	<u>Percentage of Unused Sick Leave</u>
<u>15 years or more</u>	<u>100%</u>
<u>10 years but less than 15 years</u>	<u>75%</u>
<u>5 years but less than 10 years</u>	<u>50%</u>
<u>Less than 5 years</u>	<u>0%</u>

In the event that the employee has neither a spouse nor children, such payment shall be made to the estate.

The Town reserves the right to make such payments equally over a twenty-four (24) month period, subject to mutual agreement with the retiree.

Section 7

Any employee hired prior to July 1, 1996 who has voluntarily terminated employment with the Town, who has at least five (5) years of service, and has provided the Town with two (2) weeks written prior notice, shall receive on the basis of the employee's current wages, payment for his unused accumulated sick leave. Any employee hired on or after July 1, 1996 shall not be eligible for sick leave pay upon termination except as provided in Section 6 of this Article.

Section 8

An employee who wants to use sick leave for an absence must call in to report the absence, the reason therefore and the anticipated duration to the First Selectman's office, prior to or at the start of his/her regular work hours. If the employee's absence goes beyond the anticipated duration, the employee must call again to report such to the First Selectman's office.

**ARTICLE 9**

**Holidays**

Section 1

The following days shall be paid holidays for all full time bargaining unit employees covered by this Agreement.

- |                        |                        |
|------------------------|------------------------|
| New Year's Day         | Independence Day       |
| Martin Luther King Day | Labor Day              |
| President's Birthday   | Columbus Day           |
| Good Friday            | Veterans' Day          |
| Memorial Day           | Thanksgiving Day       |
| Christmas Day          | Day after Thanksgiving |

Each part-time employee shall receive time off with pay on a holiday that is listed in this Section, provided the holiday falls on a regularly scheduled day of work for the employee. All new employees hired on or after January 1, 2016, Columbus Day is eliminated as a holiday.

Section 2

Holidays set forth in Section 1 shall be celebrated on the day on which the holiday is celebrated by the Town.

Section 3

Holiday pay will be paid to the employee at his/her regular hourly rate. Should an employee be required to work on a holiday listed in Section 1, in addition to regular holiday pay, the employee shall be paid two times (2.Ox) his/her regular hourly rate for the time actually worked

or if the employee is the highway foreman, a minimum of three hours at two times (2.0x) his/her regular hourly rate pursuant to Article 5, Section 8, whichever is greater.

## ARTICLE 10

### Disciplinary Action

#### Section 1

"Disciplinary action" as used in this Article shall be defined as written reprimand, suspension or discharge. Disciplinary action shall be for just cause.

#### Section 2

Disciplinary action as defined above may be appealed through the established grievance procedure.

## ARTICLE 11

### Grievance Procedure

#### Section 1

A "grievance" shall mean a complaint by an employee, the Union, or group of employees that as to him/her there has been a violation, misinterpretation or misapplication of a specific provision of this Agreement. "Grievant" shall mean any member of the bargaining unit, or a group of bargaining unit members or the Union similarly affected by a grievance, seeking recourse under the terms of this Article. "Days" shall mean calendar days.

#### Section 2

Any employee may use this grievance procedure with or without Union assistance. Should an employee process a grievance through one or more of the steps provided herein prior to seeking Union aid, the Union may at its discretion process the grievance from the next succeeding step following that which the employee has utilized.

#### Section 3

A grievance shall be processed in the following steps:

- STEP 1 The grievant or the grievant's Union representative shall submit the grievance in writing to the First Selectman within ten (10) days of the time the grievant became aware of the incident giving rise to the grievance. Within ten (10) days of receipt of the grievance, the First Selectman will render a written decision to the grievant and the Union.
- STEP 2 If the grievant is not satisfied with the decision rendered at Step I. the grievant or the grievant's Union representative may submit the grievance in writing to the Board of Selectmen within ten (10) days. Within ten (10) days of receipt of the grievance, the Board of Selectmen will schedule a meeting with the grievant, and his or her representative, if the grievant wishes to be represented, for the purpose of resolving the grievance. The First Selectman shall notify the grievant and the Union of the Board of Selectmen's decision within ten (10) days after the meeting.
- STEP 3 If the grievance is not resolved to the Union's satisfaction at Step 2, only the Union may, at its option, submit the grievance to arbitration by The Connecticut

State Board of Mediation and Arbitration within ten (10) days of receiving the Step 2 decision. The submission of the grievance shall state the specific provisions of the contract allegedly violated and the remedy sought.

The arbitrator shall have no power to add to, subtract from, alter or modify this Agreement. The arbitrator shall render his decision in writing no later than thirty (30) days after the conclusion of the hearing. The decision of the arbitrator shall be final and binding.

The cost of arbitration will be borne equally by the parties.

**ARTICLE 12**

**No Strike**

The Union agrees that it will not call or support any strike, work stoppage, work slowdown or any other action against the Town that would impede the proper functioning of the Town Hall or the Town Government. The Town agrees that it will not lock out bargaining unit employees.

**ARTICLE 13**

**Uniform Allowance**

Section 1

The highway foreman will be paid a uniform allowance up to a maximum amount of three hundred dollars (\$300.00) annually upon presentation of receipts to be used to purchase clothing for use on the highway crew.

Section 2

Twice each fiscal year, upon providing a written receipt to the First Selectman, the Town will pay for the cost of one pair of ANSI approved safety shoes for the highway foreman up to a total cost to the Town of \$175 per year. One pair shall be designated for paving projects.

Section 3

If any bargaining unit employees other than the highway foreman are required by the Town to wear a specific uniform in the future, the Town and the Union agree to negotiate regarding a uniform allowance.

**ARTICLE 14**

**Meal Allowance**

Section 1

If the highway foreman is ordered to report for snow and/or ice removal at least one hour before his regularly scheduled starting time, the Town shall pay up to seven dollars and fifty cents (\$7.50) for the cost of breakfast.

Section 2

If the highway foreman is ordered to work from the end of his regularly scheduled shift to later than 6:00 p.m. for snow and/or ice removal, the Town shall pay up to nine dollars (\$9.00) for the cost of supper.

**ARTICLE 15****Pension**

The Town shall continue participation in the Municipal Employees Retirement Fund (MERF B) for all full time bargaining unit employees.

**ARTICLE 16****Funeral Leave**

The First Selectman shall grant up to five (5) days leave with pay at the time of death of a spouse, mother, father or child of the employee. The First Selectman shall grant up to three (3) days leave with pay to bargaining unit employees at the time of death of a brother, sister, mother-in-law, father-in-law, grandparent or grandchild of the employee. The purpose of the funeral leave is to provide the employee time to travel to and from the place where services or burial will take place and to attend services for the deceased.

In his or her sole discretion, the First Selectman may grant up to two (2) additional days of leave without pay for traveling out of state or out of the country for the funeral services of a family member as provided in this subsection. Furthermore, in such cases where travel is required, an employee shall be allowed to utilize unused personal leave or vacation days without the regularly required notice provided they give some notice of their intent to do so prior to taking the time off.

**ARTICLE 17****Union Business Leave****Section 1**

One (1) Union officer shall be granted leave with pay for Union business, such as attending labor conventions and educational conferences, provided that the total leave for the bargaining unit for the purposes set forth in this section shall not exceed an aggregate of two (2) working days in any fiscal year.

**Section 2**

Two (2) Union officers shall be granted leave with pay for all meetings between the Town and the Union for the purposes of collective bargaining when such meetings take place during the regularly scheduled working hours of bargaining unit employees. Odd numbered meetings shall take place at times when the officers are not scheduled to work and even numbered meetings shall take place during the regularly scheduled work hours of the officers.

**ARTICLE 18**  
**Military Leave**

Section 1

Any permanent employee who leaves the service of the Town to join the military forces of the United States during time of war or other national emergency, or who is inducted by selective service, shall be placed on military leave without pay.

Section 2

Such leave shall extend for the period of service with the military forces and for ninety (90) days after discharge from the service.

Section 3

An employee on military leave who applies for reemployment within ninety (90) days from his date of discharge shall be entitled to the position he or she held at the time the leave was granted, providing that he or she is capable of meeting the minimum qualifications of the job and provided that he or she has received an honorable discharge or a general discharge for medical or hardship reasons.

Section 4

Employees returning to Town employment from military leave shall be granted all reemployment rights provided under the Uniformed Services Employment Reemployment Rights Act (USERRA).

Section 5

Any vacancies resulting from employees entering the armed forces shall be filled on a durational basis.

Section 6

Time spent on military leave shall be considered as continuous employment with the Town.

Section 7

Military leave shall be granted to permanent employees when required to serve on active reserve or National Guard duty. During this period, the employee shall be paid the difference, if any, between his or her regular pay from the Town and military pay the employee receives while required to serve. Payment under this provision shall be limited to thirty (30) days per year, in accordance with the provisions of Conn. Gen. Stat. § 7-461.

**ARTICLE 19**  
**Savings Clause**

If any section, sentence, clause or phrase of the Agreement shall be held for any reason to be inoperative, void or invalid, it shall be severed from the Agreement and the validity of the remaining portions of this Agreement shall not be affected thereby it being the intention of the parties in adopting this Agreement that no portion thereof or provisions herein, shall become inoperative or fail by reason of the invalidity of any other portion or provisions and the parties do

hereby declare that they would have severally approved of and adopted the provisions contained herein, separately and apart from the other.

## **ARTICLE 20**

### **Tuition Reimbursement**

The Town shall maintain a program of tuition reimbursement for employees who participate in job-related education programs outside of working hours. This tuition reimbursement program shall include the following:

1. Any employee who is interested in seeking tuition reimbursement shall make application at least thirty (30) days prior to the start of course to the First Selectman. Such application shall contain a statement from the employee as to the potential benefit of the course to the Town.

2. The First Selectman shall inform the employee prior to the start of the course whether reimbursement will be approved.

3. The Town shall reimburse the employee for fifty percent (50%) of the tuition charges upon satisfactory completion of the course with a grade of C or better.

4. An employee shall only be eligible for reimbursement for one course per semester.

5. The Town shall fund the tuition reimbursement program to a maximum of one thousand dollars (\$1,000.00) in each year of this Agreement, expiring June 30, 20018. The Town reserves the right to limit the number of tuition reimbursement applications approved based on the one thousand dollar (\$1,000.00) allocation in each contract year. There shall be no carryover of unused funds from one year to the next.

## **ARTICLE 21**

### **Leave of Absence**

An employee may request, in writing, a leave of absence without pay for good cause. The Board of Selectmen in their discretion may grant such leave when in their sole judgement, such leave will not adversely affect the operation of the Town of Middlefield. The granting of such a leave of absence shall not be unreasonably denied. Seniority or other fringe benefits shall not accumulate during such leave. Any employee on leave of absence without pay may elect to continue his or her health insurance at his or her own expense.

**ARTICLE 22**

**Wages**

Section 1

Salary grades and assignments of classifications to salary grades shall be as follows:

- Grade 1      Emergency Services Secretary – Part Time  
                  Custodian – Part Time  
                  Fire Department Laborer – Part Time
- Grade 2      Assistant Town Clerk - Part Time  
                  Senior Center Coordinator/Municipal Agent – Part Time  
                  Office Assistant – Part Time
- Grade 3      Administrative Assistant, - Full Time - subject to Article 3, Section1(i)
- Grade 4      Assessor – Part Time  
                  Highway Foreman – Full Time
- Grade 5      Building Official – Part Time  
                  Code Enforcement Officer – Part Time
- Grade 6      Sanitarian – Full Time

Section 2

Effective July 1, 2015, the salary schedule shall be increased by \$0.53 to the following rates:

Grade	Step 1	Step 2	Step 3	Step 4	Step 5
1	15.65	15.96	16.28	16.60	16.93
2	19.42	19.75	20.17	20.53	20.95
3	24.07	24.50	25.00	25.49	25.97
4	29.41	29.99	30.56	31.13	31.79
5	35.77	36.46	37.19	37.93	38.67
6	39.18	39.95	40.74	41.54	42.37

Effective January 1, 2016 each employee who has completed at least six (6) months of service with the Town and is not at the maximum step of his/her salary grade shall advance one step on the salary schedule.

Section 3

Effective July 1, 2016, the salary schedule shall be increased by \$0.53 to the following rates:

<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
1	16.18	16.49	16.81	17.13	17.46
2	19.95	20.28	20.70	21.06	21.48
3	24.60	25.03	25.53	26.02	26.50
4	29.94	30.52	31.09	31.66	32.32
5	36.30	36.99	37.72	38.46	39.20
6	39.71	40.48	41.27	42.07	42.90

Effective January 1, 2017 each employee who has completed at least six (6) months of service with the Town and is not at the maximum step of his/her salary grade shall advance one step on the salary schedule.

Section 4

Effective July 1, 2017, the salary schedule shall be increased by \$0.53 to the following rates:

<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
1	16.71	17.02	17.34	17.66	17.99
2	20.48	20.81	21.23	21.59	22.01
3	25.13	25.56	26.06	26.55	27.03
4	30.47	31.05	31.62	32.19	32.85
5	36.83	37.52	38.25	38.99	39.73
6	40.24	41.01	41.80	42.60	43.43

Effective January 1, 2018 each employee who has completed at least six (6) months of service with the Town and is not at the maximum step of his/her salary grade shall advance one step on the salary schedule.

Section 5

All Local 818 employees will be paid via Direct Deposit. Any employee not participating in a direct deposit arrangement for 100% (one hundred per cent) of their paycheck will incur a surcharge of five dollars (\$5) per paycheck.

**ARTICLE 23****Insurance**Section 1

For full-time employees hired prior to July 1st, 2012, the Anthem Century Preferred Plan shall be the health insurance plan with a co-pay of \$10.00 Doctor Office Visit and prescription plan for \$10.00 generic and \$20.00 for listed formulary brand name and \$30.00 for non-formulary drugs.

Each full-time employee shall contribute thirteen percent (13%) of the cost of the above health insurance coverage by payroll deduction. Such payroll deductions shall be made pursuant to the Town's Section 125 Plan.

For full-time employees hired on or after July 1, 2012 shall have the only option of the Health Savings Account (HSA) at \$2,000 deductible for single plan and \$4,000 family plan paid 87% by the employer. No dental or vision coverage is included with this plan, such coverage is available at 100% cost to the employee.

Section 2

The Town shall have authorization to change or alter insurance plans and/or insurance carriers provided, however, that any substitute plan will offer substantially equivalent benefits and privileges provided by the plans in effect on the whole and as specified in this Agreement and provided further that it is not the Town's intent to substitute a plan or plans which restrict the employee's right to choose his or her provider of medical services.

The Town shall have the specific right to provide coverage under the Municipal Employees Health Insurance Plan under the terms of this Agreement.

Section 3

The Town shall pay for a life insurance policy for each full-time member of the bargaining unit in the amount of twenty thousand dollars (\$20,000.00).

Section 4

Any full-time employee choosing to waive all coverage, in the Town of Middlefield Medical Insurance Plan, shall receive a sum equaling fifty percent (50%) of the net Town of Middlefield cost of said Plan for the coverage they were enrolled in. Once an employee waives such coverage they cannot opt back into the Insurance Plan until the next enrollment period, unless life changes cause them to lose coverage. The individual employee will have the option on how the above sum of money shall be paid (i.e. weekly, monthly, semi-annually, or annually).

Section 5

Effective with the execution of this agreement, the Town shall permit any full-time employee, who retires under the provisions of the MERF Plan, the option of purchasing the Health Insurance in effect for current employees at the group rates then prevailing, terminating at age 65 (sixty-five).

**ARTICLE 24**

**Duration**

Section 1

This Agreement shall be effective upon signing except for terms expressly showing an effective date, and shall remain in full force and effect through June 30, 2018. This Agreement shall remain in full force and be effective during the period of negotiations for successor Agreement.

Section 2

Either party may notify the other party in writing of its desire to bargain collectively with respect to the successor agreement, however, neither party shall be obligated to take part in any such collective bargaining session prior to one-hundred and twenty (120) days before expiration hereof.

IN WITNESS WHEREOF, THE PARTIES HEREUNTO HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORIZED REPRESENTATIVES THIS 17<sup>th</sup> DAY OF January, ~~2015~~ 2016

TOWN OF MIDDLEFIELD

LOCAL 818 OF COUNCIL 4  
AFSCME, AFL-CIO

Edward P. Reilly  
First Selectman

Francis Pac  
President

Joseph J. Jouch  
Financial Director

Kelly Martini  
Staff Representative

1-17-16  
Date

1-14-16  
Date

Middlefield Board of Selectmen

January 24<sup>th</sup>, 2017

Special Meeting

Public Hearing

Minutes

RECEIVED FOR RECORD ON 2/2/2017  
@ 9:30AM AND RECORDED BY  
Ronum Golech  
TOWN CLERK

1. Call to Order

Ed Bailey called the meeting to order at 3:16 p.m. Present is Ed Bailey, Taryn Ruffino and Jon Brayshaw.

2. Pledge of Allegiance

3. Public Hearing of the Town of Middlefield – consideration of Dismissal of the Middlefield Building Official in accordance with CT. State Stat. Chapter 541, Section 29-260.

**A motion was made by Ed Bailey to appoint Town Attorney Bruno Morasutti as Moderator of the Public Hearing. This motion was seconded by Jon Brayshaw and approved by all voting members.**

Bruno Morasutti read the call of the meeting as follows:

Notice is hereby given that the Board of Selectmen have called for a Public Hearing of the Town of Middlefield, to be held in Meeting Room 2 at the Middlefield Community Center, 405 Main Street, Middlefield, Connecticut, at 3:15 P.M on Tuesday, January 24<sup>th</sup>, 2017. For the following purpose to wit:

Consideration of Dismissal of the Middlefield Building Official in accordance with Connecticut State Statute Chapter 541, Section 29-260.

At this hearing any and all citizens may appear and be heard, and written communications will be received.

Dated in Middlefield, Connecticut this 18<sup>th</sup> day of January, 2017.

Edward P. Bailey  
First Selectman  
Town of Middlefield, CT

Bruno Morasutti explained that public discussion will open after Ed Bailey reads a summary of the reasons for considering the dismissal of Robert Meyers.

Ed Bailey read a summary of reasons into the record *as attached*. Mr. Bailey stated that a copy of the materials have been provided to Mr. Meyers and each member of the Board of Selectmen.

Bruno Morasutti asked if anyone had any comments.

Robert Parziale, Service Representative with Council 4 AFSME, stated that he was representing Robert Meyers through the Council 4 Contract Local 818. Mr. Parziale stated that under the contract that is provided through the Town of Middlefield and the employees of Local 818, Mr. Meyers has been the Building Official for the Town of Middlefield since April 2011. Mr. Meyers had the public's safety and welfare first in his mind while completing all of his assignments. Mr. Meyers has had intimate knowledge of the level of deterioration on the buildings of Powder Ridge during the 7 years they were left dormant. Mr. Meyers approved the plans and he knew what the amended plans were. As the rehabilitation of the building came to fruition, Mr. Meyers followed the International Building Code Book Regulations and he was absolute that these regulations were not being followed. Mr. Meyers would not bend, circumvent or otherwise deviate from the building codes to provide a Temporary Certificate of Occupancy. Based upon Mr. Meyers knowledge of the Building Code Book, he denied the Temporary Certificate of Occupancy. Mr. Parziale noted that Mr. Meyers does not have any prior discipline and he has never received a written warning, a reprimand or days of suspension. Mr. Parziale stated that Mr. Meyers should be allowed to return back to his position as the Building Official for the Town of Middlefield.

Seb Aresco stated that he had an experience with Mr. Meyers approximately three years ago involving a complaint from his tenant about a well. Mr. Aresco stated that he found Mr. Meyers to be a complete gentleman and not only did they work out the problem but, he got a hold of the plumbing contractor and they got things moving immediately. Mr. Aresco described Mr. Meyers as a very workable gentleman and he thinks that dismissing him from his position would be a mistake.

Jen Huddleston, Manager of Indian Springs Golf Course, explained that they worked closely with Mr. Meyers last year during renovation projects and he went out of his way to do a great job for them. Mr. Meyers went above and beyond to answer questions and took extra time to help. Mrs. Huddleston was very pleased with the work he did for their project.

Marianne Corona stated that she attended a number of Planning and Zoning meetings and a gentleman made some terrible remarks about Mr. Meyers during a public session. Mrs. Corona explained that this man was suing Mr. Meyers about something unrelated to the Town of Middlefield. Mrs. Corona stated that Jon Brayshaw said Mr. Meyers has been the best Building Inspector the Town of Middlefield has ever had. Mrs. Corona and Mr. Brayshaw volunteered to go as witnesses to court. Prior to court, Mrs. Corona checked with a number of people around town and they all had nothing but good things to say about Mr. Meyers. Mrs. Corona and Mr. Brayshaw went to court as witnesses and Mr. Brayshaw swore under oath that Mr. Meyers was the best Building Inspector the Town of Middlefield ever had and he intended on hiring Mr. Meyers for the second term of the Building Official position.

Cheryl Pizzo asked why these Public Hearings are held at 3:15 in the afternoon as many people need to take time off of work or cannot come. Mrs. Pizzo explained that more people would be able to participate if the hearing was held at a later hour. Mrs. Pizzo stated that it seems as though they are pointing at insubordination and she thinks it is a travesty that someone would be fired for trying to do their job. Mrs. Pizzo stated that, as a tax payer, she takes comfort in knowing they have experts that the town has hired to do their jobs. Mrs. Pizzo noted that she does not take comfort in knowing that the Selectman is usurping his knowledge and expertise and she believes it would be a mistake to dismiss Mr. Meyers.

Robert Meyers stated that he would like to point out to the gentleman trying to accuse him that, during

the month of January, he was required to issue a Notice of Violation and Order to Abate because Mr. Hayes opened his restaurant after receiving a denial letter for a Temporary Certificate of Occupancy. Mr. Meyers stated that he asked for a State Trooper to assist him because that is what the State Attorneys Office suggested. Mr. Meyers stated that on that day in January, Mr. Bailey attended the Grand Opening and was aware there was no Certificate of Occupancy. Mr. Meyers explained that he was pulled over on his way to deliver the Notice of Violation by the same trooper escorting him. The trooper told Mr. Meyers that he received notice from his Sergeant to abort the delivery of the Notice of Violation after speaking with Mr. Bailey. Mr. Meyers stated that it is his opinion that this was malfeasance. Mr. Meyers explained that a meeting was scheduled in April to go over Powder Ridge with everyone involved. Mr. Meyers received the email from the Fire Marshal to meet on Monday, April 11<sup>th</sup>. Mr. Meyers stated that Mr. Bailey greeted him in the parking lot and ordered him off the property. Mr. Meyers stated that this is the same man accusing him of these crimes.

Cindy Nick stated that she has been following what has been going on at Powder Ridge for years and it has been nothing but intentional delays. Mrs. Nick stated that the Building Inspector of the Town of Middlefield should be working with the businesses to help get them running not against them. Mrs. Nick explained that often times Mr. Meyers would make appointments and not show up repeatedly and intentionally just to delay progress. Mrs. Nick stated that this action to terminate Mr. Meyers is welcome and she is surprised it was not done sooner.

Sean Hayes, CEO of Powder Ridge, stated that the repetition over a three year period delayed everything and cost the community hundreds of thousands of dollars and losses of jobs and revenue. Mr. Hayes explained that this did not happen on one occasion but was continuously repeated. The State had to step in and overruled Mr. Meyers' decision to the point that Mr. Meyers no longer listened to them. Mr. Hayes stated that he sent numerous letters of complaints to the State's Attorney, Building Officials and the Town of Middlefield outlining the magnitude of the situation. Mr. Hayes explained that some of the experiences the community has felt with Mr. Meyers further exemplifies that this is a vendetta against a business that was specifically targeted toward Powder Ridge and their project.

Marianne Corona stated that she resents Mr. Hayes' statement and many people have worked very hard to keep Powder Ridge as a ski area and there is no vendetta against Powder Ridge. Mrs. Corona explained that Powder Ridge has cost the Town of Middlefield over 5 million dollars so far and they have done everything possible to help Powder Ridge.

Mr. Hayes explained that he is not criticizing the community and his statement was not directed toward the community. Mr. Hayes stated that the community overwhelmingly voted for the restoration of Powder Ridge and their plan and he strongly appreciates everyones support. Mr. Hayes explained that his statement was not toward the community, it was toward an individual that had a personal vendetta against the project and it was seen over and over for three years.

Robert Meyers explained that he followed the State Building Code and both sides need to comply with the Code. Mr. Meyers stated that the problems that Mr. Hayes experienced are from his own wrong doings. Mr. Hayes stated that numerous times he would find things changed, adjusted, totally eliminated and have to ask for amended construction documents to bring things back to compliance. Mr. Meyers explained that these documents needed to be signed off by the Architect and the Engineer and it took years to get these documents back.

Zjan Wojas, a local Architect with both commercial and residential clients, explained that he knows Mr. Meyers from many occasions. Mr. Wojas stated that he was not pleased with the amount of time it took for Mr. Meyers to respond. Mr. Wojas explained that he personally received a letter with a list of items to be addressed for a project just one day before the deadline. Mr. Wojas stated that many times the State Officials professional opinion regarding code compliance was different than the opinion of Middlefield's Building Official. Mr. Wojas stated that many times he observed a difference in the way Mr. Meyers approached a client. Mr. Wojas described a situation where his client waited more than 30 days to receive a building permit for a small project and was told they had to wait because the Building Official was busy reviewing a much larger project. Mr. Wojas noted that he does not feel any of this is right and if it only took him a couple days to complete the drawings it is unacceptable for it to take over 30 days to review them.

A gentleman by the name of Mike from Cromwell, stated that he worked with Mr. Meyers since the construction of the Lyman Golf Course Clubhouse and during this time, he found Mr. Meyers to be very professional. Mike explained that Mr. Meyers was strict but fair and he never had a problem with him as a Building Official.

In response to Mr. Wojas' statement, Mr. Meyers stated that most people think that submitting a set of plans to a Land Use Office starts the 30 day time frame but, in fact, it only starts the beginning of the process. Mr. Meyers stated that plans are sent to Planning and Zoning or the Zoning Officer, the Health Department, the Fire Marshall, and then the Building Official. The 30 day window begins once the plans reach the Building Official. Mr. Meyers stated that he feels that Mr. Wojas is wrong in his statement.

A town resident stated that he is saddened that Middlefield could not do better with its' town employees. He noted that things can always be worked out if wanted and he believes the honor of Mr. Meyers should be reinstated. He explained that the Board of Selectmen, with their wisdom, can pull this together without all the legal strength. He would like to believe that Middlefield is a community that can work things out.

Sean Hayes provided an example of an incident where the Building Official came to Powder Ridge with the Town Assessor and told them to step away or they would be arrested for interfering while they walked the property and assessed every building.

Ellen Waff, former Town Treasurer, stated that she had heard that Mr. Meyers was the best Building Official the Town of Middlefield ever had. Mrs. Waff explained that she wanted to point out that the dates of complaints are only under the time Mr. Bailey has been First Selectman and there are no complaints noted prior.

Carl Zimmerman stated that he is a contractor in town and he has had the privilege of working with Mr. Meyers and he has been very helpful, courteous and kind. Mr. Zimmerman explained that Mr. Meyers is always looking out for public safety and whenever there was an issue it was resolved.

Mr. Parziale thanked everyone for coming out to speak. Mr. Parziale asked for some sort of discipline to be imposed to come to an agreement to keep Mr. Meyers in his position as Building Official.

A gentleman named Kevin from Middletown noted that he is part of the Powder Ridge project and even

though many residents explain Mr. Meyers as helpful, he saw the absolute opposite for three years. Kevin explained that when they asked Mr. Meyers what they did wrong, he replied "not my job". Kevin stated that over the years they have seen a very deteriorated interaction with the project of Powder Ridge and Mr. Meyers. Powder Ridge went to several different lengths including Mr. Brayshaw several times.

Rob Poturnicki stated that both times he worked with Mr. Meyers he was great to work with but, when it came to Powder Ridge, he witnessed the issues that Sean and Kevin spoke of. A woman stated that she feels as though there is a personal vendetta based on things that have happened. She explained that Mr. Meyers showed up at Powder Ridge on Christmas Eve without an appointment. On another occasion, Mr. Meyers showed up at the final hour on a Friday when the State Office was closed and shut down the restaurant causing a loss of business and reputation. She explained that the moment an alternate Building Inspector came in everything moved smoothly. She stated that many of the reasons Mr. Meyers delayed the project was purposely to simply delay the project and it had nothing to do with safety.

Bruno Morasutti asked if anyone else wished to comment. No comments were made.

Bruno Morasutti closed the Public Hearing at 4:00 p.m.

#### 4. Adjournment

A motion was made by Jon Brayshaw to adjourn. This motion was seconded by Ed Bailey and approved by all voting members.

CERTIFIED TO BE A TRUE COPY  
RECORDED IN MIDDLEFIELD CT  
THIS 6 DAY OF February, 2018  
ATTEST: Dennis M. Holick  
TOWN CLERK



MIDDLEFIELD PUBLIC HEARING, JANUARY 24, 2017

By way of overview, I would like to give some background as to what brings us all to the public hearing today. In late 2015 and early 2016, as First Selectman, I became aware of certain issues and conflicts between the Building Official, Robert Meyers, and Sean Hayes, the owner of Powder Ridge relating to Powder Ridge's request for a certificate of occupancy. In order to facilitate the resolution of those issues, officials from the State Building Inspector's office began to participate in meetings and provide guidance regarding the process and necessary steps to issue Powder Ridge a certificate of occupancy. Mr. Meyers failed to follow-up on items and failed to accept the guidance of the various state officials who were attempting to assist with the inspection and approval process and provide relevant guidance regarding code and other requirements. In at least one instance, Mr. Meyers' failures resulted in the temporary closure of the restaurant at Powder Ridge without cause. At the same time, the Town received complaints, including but not necessarily limited to Powder Ridge regarding the actions of the Building Official. As a result, I conducted a review of the situation and asked for guidance from counsel regarding the statutory rights and obligations of Building Officials pursuant to Connecticut General Statutes. Mr. Meyers was made aware of the concerns related to the matter and no improvement was observed.

Instead, the concerns seemed to increase with Mr. Meyers' failing to abide by his stated work hours as required by the Union contract, his continued failure to follow-up and to maintain proper documentation and ultimately the submission of unsubstantiated legal documents to the State's Attorney's office (specifically a referral for criminal prosecution and request for an arrest warrant without the required affidavit). In addition, the Building Official on several occasions became dismissive and insubordinate to the First Selectman's directives to follow-up regarding longstanding projects including but not limited to Powder Ridge. On July 8, 2016, the Building Official was insubordinate and walked off the job despite the directive of the First Selectman to complete his inspection.

Mr. Meyers was placed on paid administrative leave on July 12, 2016. At that time, I conducted an investigation, including but not necessarily limited to a review of the Building Department files regarding my ongoing concerns regarding Mr. Meyers' performance and his conduct. On August 2, 2016, the Board of Selectmen held an initial pre-disciplinary meeting in this matter. After further discussions and exchange of information with Mr. Meyers' Union Representative in August and September, another meeting was held with the Board on or about October 13, 2016. At that time, the Union requested additional information. A follow-up meeting was held on November 9, 2016 regarding such information. On December 13, 2016, another pre-disciplinary hearing was held to give the Building Official and his Union representative another opportunity to respond to the concerns. On January 18, 2017, notice was provided to Mr. Meyers and his Union representative that this public hearing had been scheduled for January 24, 2017 at 3:15 pm in accordance with the requirements of the Connecticut General Statutes.

A copy of the materials that have been provided to the Union and the Employee is hereby incorporated into the record.

The notice of public hearing provided the following as the specific grounds on which the Board of Selectmen is considering his dismissal:

- Failure and/or refusal to promptly reasonably perform your duties, including but not limited to longstanding projects such as Powder Ridge. Indeed, Mr. Meyers' allowed months to pass with little if any follow-up to resolve such long-term projects. Such failure and/or refusal in this regard is supported by the complaints that the Town has received that Mr. Meyers has intentionally and unjustifiably obstructed and prevented Powder Ridge from obtaining a certificate of occupancy for an extended period of time and his own statements made on several occasions that Mr. Meyers would never issue such a certificate of occupancy with respect to that project. It is further supported by his failure to accept guidance and/or directives of state and local officials who were assisting with resolving this project.
- Failure to maintain and retain proper documentation submitted by applicants and records of his own actions with respect to such long-term projects such as Powder Ridge. Such documentation issues include errors and inaccuracies and failure to provide relevant and required backup for legal documents.
- Failure to follow reasonable instructions and/or abide by assigned work hours including but not necessarily limited on the following dates: January 20, 2016, April 11, 2016, May 12, 2016, May 13, 2016, May 18, 2016, and July 8, 2016.
- Display of inappropriate conduct and/or insubordination on May 12, 2016, May 13, 2016, May 19, 2016 and July 8, 2016.

This public hearing is Mr. Meyers' opportunity to be heard and to respond to the specific grounds for dismissal and hear from the public prior to any final decision as to what action the Town will take in this matter.

CERTIFIED TO BE A TRUE COPY  
RECORDED IN MIDDLEFIELD CT  
THIS 6 DAY OF February 2018  
ATTEST: Wanda M. Bolch  
TOWN CLERK



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Re: MIDDLEFIELD BOARD OF SELECTMEN  
SPECIAL MEETING  
FEBRUARY 16, 2018  
-----

TRANSCRIPT  
OF  
PROCEEDINGS

M E M B E R S P R E S E N T

ED BAILEY, FIRST SELECTMAN  
TARYN RUFFINO  
JON BRAYSHAW

I N D E X

PAGE

Transcript of Proceeding

3

1 MR. BAILEY: All right. I'm going to call the  
2 meeting to order. This is a meeting of the -- this is a  
3 special meeting of the Board of Selectmen notice special  
4 meeting. The time currently is 4:40 p.m., Thursday,  
5 February 16th. We're at the Middlefield Community Center.  
6 And present are all members of the Board of Selectmen,  
7 Taryn Ruffino, Jon Brayshaw and Ed Bailey.

8 If you would all rise and follow me in the  
9 Pledge of Allegiance.

10 (Pledge of Allegiance recited.)

11 MR. BAILEY: Next item on the agenda is public  
12 comment. Any public comment? None heard.

13 MR. MEYERS: Yes, I'll have a comment. I'd like  
14 to declare that the meeting --

15 MR. BAILEY: Could you -- excuse me. Could you  
16 please state your name please for the record?

17 MR. MEYERS: My name is Bob Meyers.

18 The meeting that took place on January 24th did  
19 not comply to the Statutes 29-260, paragraph C. It  
20 requires specific charges. Your own letter sent to me is  
21 a summary of charges which I would never have been able to  
22 answer the summary of charges because you don't spell out  
23 what the charges are.

24 In the beginning of your introduction, what you  
25 notice on the minutes as an Addendum to the Minutes, you

1 read to the public that I closed Powder Ridge without  
2 cause. I absolutely had cause. Powder Ridge did not have  
3 a certificate of occupancy. That is a state statute.

4 The hearing that took place that day, the agenda  
5 did not mention anything about the public comment.

6 However, Bruno opened the meeting with a public comment.  
7 My union representative spoke in public comment. I spoke  
8 during public comment. At the end of public comment, you  
9 closed the hearing. Never once was I asked to answer the  
10 charges. I believe that your meeting was held  
11 fraudulently. And I declare that this meeting did not  
12 take place legally.

13 MR. BAILEY: Any further comment? You done?

14 Yes.

15 MR. WOJAS: Yes, I would like to --

16 MR. BAILEY: If you could just state your name.

17 MR. WOJAS: My name is Jan Wojas. I'm  
18 architect. I'm also -- I was architect on -- of the  
19 record on the Powder Ridge project.

20 I just wanted to know everybody here that right  
21 after last meeting and when I was outside talking to  
22 another gentleman, I was approached by Mr. Meyer -- Meyers  
23 and the conversation at that point was rather intense,  
24 nothing insulting, but rather intense.

25 But at that point, I understood -- I became an

1 enemy of Mr. Meyers. And I didn't wait long enough to  
2 learn what he -- what are the results of being enemy of  
3 Mr. Meyers.

4 I, as many of people in this community, was able  
5 to read the letter to the Hartford Court written by Mr.  
6 Howard Loomis. Mr. Howard Loomis is the architect who was  
7 hired by Mr. Meyers to review the drawings. And in this  
8 letter pretty much I consider this letter as attempt to  
9 damage my reputation. He says that my drawings did not  
10 meet minimum requirement of the building code and that  
11 they needed to be revised as he asked Town of Middlefield  
12 to be paid to do so.

13 A couple things about that. First one is I  
14 never say that I want Town of Middlefield or the owner to  
15 pay for any revisions to the drawings after building  
16 department review. Matter of fact, this is ABC of  
17 architectural practice. In my contract and in my  
18 proposals, I always say that any changes to the drawings  
19 following the revisions by the building department are  
20 free of charge.

21 Another thing Mr. Loomis says that the drawings  
22 were incomplete. While originally we submitted about 70  
23 sheets of documents. By the way, those are the  
24 construction documents of Powder Ridge. Okay.  
25 Originally, we submitted a number of sheets. But then we

1 were forced to change this code of work. Example, the  
2 existing building had outdoor walking which was self-  
3 supporting and it was all around the building. The same  
4 thing was with the roof. Owner came up with the idea of  
5 changing the character of the building by adding columns.  
6 We were forced to design those columns to hold the load of  
7 the walkway of the roof and redesign the plans because we  
8 touched those elements. Didn't matter that those elements  
9 were self-supporting.

10 Next, Mr. Loomis is claiming that I was not  
11 educated in United States which is true. And I know from  
12 previous experience with the European and South American  
13 educated architects that other countries don't require  
14 architects to prefer detailed construction drawings. I  
15 think this is extremely biased. And I don't think I will  
16 be able to have my own practice for number of years if I  
17 wouldn't know how to put together a project for the  
18 building.

19 Matter of fact, I am one man operation. So most  
20 of those drawings which you here -- see here started from  
21 scratch and then end up as construction documents. I  
22 draft -- I used the computers. So I disregard this  
23 statement.

24 Another line, he, Mr. Loomis, says that Mr.  
25 Wojas simply did not understand his professional

1 responsibilities. I don't know what to say about this one  
2 after 28 years of practice. Matter of fact, when I came  
3 to this country 20 years ago, I needed to recertify my  
4 license. And I submitted my information about my  
5 education to the federal agency who came back with  
6 statement that I have about 20 more credits than U.S.  
7 architectural school requires, but I didn't have general  
8 education credits. So I took philosophy, English  
9 Literature, public speaking. This is what I needed to  
10 take in order to get the license architecture.

11 And, finally, Mr. Loomis claims that I came  
12 across as being stubborn and uncooperative. Those people  
13 that I work with will strongly disagree with that because  
14 in my mind the biggest compliment I can get as an  
15 architect that I am easy to work with, I am talented, and  
16 I am knowledgeable.

17 So in conclusion, I, once again, state that Mr.  
18 Meyers should not take position as a public figure because  
19 he's very revengeful. Thank you.

20 MR. BAILEY: Anyone else?

21 MR. MEYERS: Yes, I would.

22 MR. BAILEY: If you don't mind, I'd like to see  
23 if anyone else wants to speak because you already had a  
24 chance to speak.

25 MS. CORONA: I was wondering -- it's Marianne

1 Corona -- if we could have public comment at the end  
2 because none of us know what's going to unfold here quite  
3 frankly. And it's --

4 MR. BAILEY: Well, we weren't actually going to  
5 have any public comment at this meeting because it was  
6 very specific, the two issues under discussion. We had a  
7 public hearing previous regarding this matter and that was  
8 everyone's opportunity to speak.

9 MS. CORONA: But if --

10 UNKNOWN SPEAKER: It says on there you have  
11 public comment.

12 MS. CORONA: It says public comment.

13 MR. BAILEY: Yeah, it does, yes.

14 MS. CORONA: Furthermore, the issue today on  
15 your agenda is entirely different from the former public  
16 hearing. So --

17 MR. BAILEY: No, it wasn't. It is not. Well,  
18 one of the items -- one of the items is, one of the items  
19 is not, but that item is -- that item has to do with a  
20 grievance. And that grievance is for the Board of  
21 Selectmen to review in accordance with our labor agreement  
22 with the labor contract that we have, union labor  
23 contract.

24 MS. CORONA: Well, in all fairness to other  
25 folks here, I mean, it would be nice for the Board of

1 Selectmen to hear from everybody in the room. But until  
2 the meeting unfolds, we have no idea what to respond to  
3 whatsoever. And that's only fair, Ed. I mean, it says  
4 very little.

5 MR. BAILEY: Well --

6 MR. CORONA: It says discussion and  
7 consideration of dismissal of an Enfield building  
8 official.

9 MR. BAILEY: Yes, we had that that we had a  
10 public hearing on that matter. So you could --

11 MS. CORONA: But a lot of things unfolded since  
12 then apparently.

13 MR. BAILEY: What has unfolded since then?

14 MS. CORONA: I don't know. What is a grievance?  
15 I have no idea.

16 MR. BAILEY: No, the grievance in Item Number 4  
17 has nothing to do with Item Number 5. It's an independent  
18 -- it's a completely different matter.

19 MS. CORONA: So the only public comment is  
20 before everything at that meeting unfolds.

21 MR. BAILEY: Well, we normally have public  
22 comment at the beginning of the meetings.

23 MS. CORONA: I understand that.

24 MR. BAILEY: Yeah.

25 MS. CORONA: But normally you have a good idea

1 what's going to unfold at a meeting. But it would be nice  
2 for people who took the time -- this is a very unusual  
3 time -- to comment on that.

4 MR. BAILEY: Okay. All right. So if you want  
5 to make comment on Item 4 after we complete Item 4 you can  
6 -- I'll open for the floor up for comments on Item 4. But  
7 Item 5 that has been discussed and I don't -- we had a  
8 public hearing on that and I don't see any reason to  
9 continue.

10 MS. CORONA: I don't think that's been  
11 thoroughly discussed at all, discussion and consideration  
12 of the Middlefield Building Inspector. I don't think  
13 that's been thoroughly discussed by the public at all.  
14 And this is 4:30 in the afternoon and, again, a very  
15 unusual time.

16 MR. BAILEY: Well --

17 MS. CORONA: And I think you ought to give the  
18 citizens in town who foot the bill for the attorneys and  
19 everything else to have an opportunity to respond to  
20 whatever happens during the meeting.

21 MR. BAILEY: The time of the meeting that we're  
22 having at 4:30 is because we're trying to juggle a lot of  
23 schedules here. And this is a meeting -- it's not a  
24 general meeting of the Board of Selectmen, it's a very  
25 specific meeting of the Board of Selectmen.

1 MS. CORONA: All the more reason to allow the  
2 public to respond what happens.

3 MR. BAILEY: Thank you. Anyone else?

4 MR. MEYERS: Yes.

5 MR. BAILEY: Yes, Mr. Meyers.

6 MR. MEYERS: Mr. Wojas just --

7 MR. BAILEY: Yeah, I'm sorry. Okay. Yeah.

8 MR. MEYERS: Mr. Meyers. Yes, Mr. Wojas just  
9 stood and made an explanation of a letter that I had  
10 nothing to do with that letter. It was written by some  
11 other individual. However, I would like to go back to Mr.  
12 Wojas' comments of his expertise and the building code  
13 where he, last meeting in the minutes, it will say that he  
14 references Code Section 105.3.1 where the building  
15 official is allowed 30 days to examine the blueprints or  
16 the construction documents.

17 And then he goes on to say that that's been  
18 changed in the 2012 code. Well, I'd like to point out  
19 that Section 29-263 of the Connecticut State Statutes says  
20 that the building official has 30 days. And if Mr. Wojas  
21 was looking in the right place in his code book such as  
22 the 2016 State Amendments, he would find that. So,  
23 apparently, he does not really know what he's talking  
24 about. Thank you.

25 MR. BAILEY: Anyone else? No. I'll allow one

1 more -- on more comment.

2 MR. WOJAS: Okay. I just forgot to mention that  
3 Mr. Loomis who was not present at that meeting and I am  
4 assuming that it was relayed to him what was happening  
5 here. And, by the way, Mr. Loomis was hired as the  
6 reviewer in 2013 for a very short period of time. But for  
7 some reason his name occurs quite often. And as far as I  
8 know, he spent a lot of time in the building department.  
9 Thank you.

10 MR. BAILEY: Anyone else?

11 MS. CORONA: I would like to continue. It's  
12 Marianne Corona.

13 So far I've been trying to keep track of the  
14 expenses on this issue. I have not gotten satisfactory  
15 return from our Finance Director. He gave me totals. But  
16 what I got previously and added to this, somewhere in the  
17 \$60,000 range, Mr. Bailey, you have spent on lawyers. And  
18 this is all out of our tax dollar on trying to get rid of  
19 a building inspector that the last public hearing the  
20 public clearly indicated with the exception of Powder  
21 Ridge which seems to be what this is all about, that they  
22 very, very much supported the building inspector.

23 You posted a meeting at 3:00 yesterday afternoon  
24 during something for a 4:30 this afternoon meeting which  
25 means that most people in town aren't aware, weren't

1 aware, don't have the opportunity to attend. And it says  
2 right on here "Dismissal of the Middlefield Building  
3 Inspector."

4 Clearly, the feeling in the room at the last  
5 public hearing and I was totally surprised because I've  
6 been around here a long time. Went to court with Jon  
7 Brayshaw for two days, were under oath. Jon Brayshaw  
8 swore as the first Middlefield First Selectman that he  
9 would rehire Bob Meyers. I didn't know Bob Meyers before  
10 I was asked to attend this court session. The court  
11 session was because I was present at a number of Board of  
12 Selectmen meetings where in the public this Mr. Cohen  
13 (phonetic) came in and made accusations against Mr.  
14 Meyers.

15 But before I went to Court with Jon Brayshaw who  
16 was then First Selectman, I checked around town and got an  
17 unbelievably superior review of the building inspector.  
18 This is all about Powder Ridge, not the rest of the town.  
19 But so far, as far as I can figure out, you've spent  
20 somewhere in the vicinity of \$60,000 on legal attorneys to  
21 get rid of Mr. Meyers. Is that true?

22 MR. BAILEY: Your characterization of spending  
23 \$60,000 to get rid of Mr. Meyers I think is not correct.  
24 A great deal of legal expense or some legal expense was  
25 spent on trying to, over the first six months of 2016, to

1 find out and fathom the issues that Mr. Meyers was having  
2 with, in particular, Powder Ridge. They were other  
3 matters as well, but we focus on for this discussion on  
4 Powder Ridge.

5 So, anyway, that's it. We're going to move on.

6 MR. MEYERS: No, we're not. I'm not through  
7 with a comment.

8 MR. BAILEY: You've had two -- we have a meeting  
9 here.

10 MR. MEYERS: Are you going to deny me a right to  
11 public comment?

12 MR. BAILEY: You had a public comment. You  
13 ended your public comment, Mr. Meyers.

14 MR. MEYERS: I didn't end my public comment.

15 MR. BAILEY: All right, Mr. Meyers, continue.

16 MR. MEYERS: All right. Then I would like a  
17 motion that we continue public comment after it. And I'd  
18 like the Board of Selectmen to vote on it now.

19 MR. BAILEY: You have no right to make a motion.

20 UNKNOWN SPEAKER: It's not on the agenda.

21 MR. BAILEY: It's not on the agenda. Okay.

22 MR. MEYERS: Okay. We're going to move on to  
23 Item Number 4.

24 MR. MEYERS: No, I'm not.

25 MR. BAILEY: We are moving on to Item --

1 MR. MEYERS: I object. I object to this  
2 hearing.

3 MR. BAILEY: Object, object all you want.  
4 You're -- you do no run this meeting, I run this meeting,  
5 Mr. Meyers.

6 We're on Item Number 4.

7 MR. MEYERS: I'm going to continue to talk about  
8 what's happened here.

9 MR. BAILEY: We are going to move on to Item 4.

10 MR. MEYERS: In November of 2015 --

11 MR. BAILEY: Item Number 4 -- I will have you  
12 removed from the room if you do not sit down, Mr. Meyers.

13 MR. MEYERS: Is that what you're going to do?  
14 I'm here for a public hearing in my behalf.

15 MR. BAILEY: This is not a public hearing, Mr.  
16 Meyers. We had a public hearing prior regarding this  
17 matter. Now sit down.

18 (Off the record.)

19 MR. BAILEY: I just want to record as much as  
20 possible. I have no idea why this stopped. Okay.

21 MR. BAILEY: Okay. Sorry. You can proceed.

22 MS. MEHTA: That's okay. In the agreement that  
23 Mr. Parziale referenced in Exhibit 6 of the materials that  
24 he presented to you, it indicates that this is -- number 3  
25 on page 2. This is a union position represented by Local

1 818. You agree to this aspect of employment and agreed to  
2 its contract with the Town. Details of same are available  
3 from Fran Pack, Union President. It also indicates at  
4 Number 9 that benefits are as outlined in the union  
5 contract.

6 In Connecticut with any position that is covered by a  
7 collective bargaining agreement, the terms of the  
8 collective bargaining agreement control for all employees.  
9 So it would be, for example, an unfair labor practice for  
10 you to negotiate something different from what's in the  
11 contract for one individual employee. And so for the  
12 purpose as well as all other purposes under the  
13 controlling law, the Municipal Employee Relations Act,  
14 it's the collective bargaining agreement that controls  
15 even if there's a conflicting charter ordinance or other  
16 agreement that differs. It's the collective bargaining  
17 agreement that controls.

18 MR. BAILEY: So the collective bargaining in  
19 layman's terms, it supersedes anything else?

20 MS. MEHTA: Correct.

21 MR. BAILEY: Okay.

22 MR. MEYERS: I'd like to speak.

23 MR. BAILEY: Are you finished, Lisa?

24 MS. MEHTA: Yes, I am.

25 MR. BAILEY: Yes, Mr. Meyers.

1           MR. MEYERS: In the Code of Ordinances, Section  
2 1-5, amendments to the code, "Any and all additions,  
3 deletions, amendments or supplements to the code when  
4 adopted in such form as indicated in the attention of the  
5 Town Meeting" indicated the attention of the Town Meeting  
6 to make them part thereof.

7           The Town never had a meeting. I've checked all  
8 the research all the way back in the records. This code  
9 of ordinance just came into effect in 1970. It's still in  
10 effect and it's been reassigned right up until recently,  
11 October 2016 signed by yourself. It still says the Town  
12 employee, the definition of part-time is 22 hours.

13           Now, I'd also like to go into your union  
14 contract and question or make a statement that if the  
15 union went into negotiations based on a lie or a mislead  
16 information, then I can't believe that the union contract  
17 could hold value. There was never any authority by the  
18 Board of Selectmen to change the hours to 35 hours a week  
19 because they never had a Town Meeting.

20           I say --

21                           (Off the record.)

22           MR. BAILEY: All right. Proceed, Jon. Sorry.

23           MR. BRAYSHAW: Where was I?

24           MR. BAILEY: Well, I don't know.

25           MR. BRAYSHAW: You want to portray --

1 MR. MEYERS: Anybody remember?

2 MR. BRAYSHAW: No.

3 MS. CORONA: Just talked about modifications.

4 MR. BRAYSHAW: You were finishing. You were  
5 finishing.

6 UNKNOWN SPEAKER: You said in conclusion.

7 MR. BRAYSHAW: Oh, all right. Well --

8 UNKNOWN SPEAKER: I remember that one.

9 MR. BRAYSHAW: Having operated our architects  
10 office for 25 or 30 years and going through hundreds and  
11 hundreds of projects, I've always been of the ilk that you  
12 work together to try to make it through the construction  
13 process. It's a joint effort between the owner, the  
14 architect, the building officials. And you muster. You  
15 do what you have to do to get the job going. Nothing  
16 frosted me more than when we were ready to open up and the  
17 restraint was booked to open on a certain day and this is  
18 just an illustration of not working together.

19 I think we owe it to each other in -- in life to  
20 make sure that you work as a team. That was made  
21 impossible. Working as a team was impossible for us to  
22 achieve. And it was very painful to be the CEO of a Town  
23 where your employee, building official did not see things.  
24 He saw things black and white. He never saw the shades of  
25 gray that were needed in the particular situation with

1 Powder Ridge. So I end my comment.

2 MR. BAILEY: Yeah, I would add that one thing  
3 that was very telling to me was at one point around the  
4 time that the restaurant opened upon, the Powder Ridge,  
5 and there was -- it was shut down by our building  
6 official. And eventually we -- and one of my  
7 conversations with the Deputy State Building Official I  
8 said is there any reason that this place does not have a  
9 Certificate of Occupancy. And he told me he could think  
10 of no reason.

11 And the State Fire Marshall's Office signed off  
12 on having the fire watch at the premises. And,  
13 unfortunately, for whatever reason, the building official  
14 saw fit to shut down the restaurant. But that was just  
15 one instance.

16 And since I came into office, there was many  
17 requests by the owner of Powder Ridge to get -- they  
18 should have a Certificate of Occupancy issued. In some  
19 cases he would ask me to put a request in and there would  
20 be no response from our building official. And then I'd  
21 have to ask our building official. I remember one  
22 conversation what's going on in Powder Ridge and he just  
23 looked at me and said "Nothing." So --

24 MR. MEYERS: Put a date to that please.

25 MR. BAILEY: Excuse me, Mr. Meyers. The Board

1 of Selectmen are conducting a meeting. You're not to  
2 comment. Thank you.

3 The -- chain of thought here. Couple of things,  
4 you know, once Mr. Meyers has been on administrative leave  
5 since July, I have not had one phone call to my office  
6 with complaints regarding missed inspection appointments.  
7 I have not had any controvert, any issues coming from our  
8 Land Use Office about controversies regarding the workflow  
9 in the office. In fact, the office has been running  
10 extremely smooth. And I do know that there was a great  
11 deal of relief by the office when Mr. Meyers was put on  
12 administrative leave. They, you know, unfortunately, the  
13 employees were reluctant to come forward, perhaps, to  
14 complain about the situation in the Land Use Office.

15 But I just -- there is no way that I personally  
16 can see Mr. Meyers working in the Land Use Office in this  
17 Town because of what has transpired, not only Powder  
18 Ridge, but just the regular ongoing business activities of  
19 the office.

20 I've spent a considerable amount of time to try  
21 to move Mr. Meyers along. And consultation with our Town  
22 Attorney, I remember we had a lengthy meeting at one  
23 point. I had a lengthy meeting with Mr. Meyers and our  
24 Town Attorney to find out what the issues were, problems,  
25 solutions. I have to admit we did not get much headway in

1       that meeting.

2               We consulted, myself and legal counsel,  
3       consulted with the, you know, the Deputy State Building  
4       Inspector. The frustration level was extremely high. And  
5       I think the documents show and the emails show how Mr.  
6       Meyers would be receiving advice from I don't want to say  
7       his superiors, but, certainly, on the state level you had  
8       people from the State Building Official's Office and also  
9       from the State Fire Marshall's Office. And one telling  
10      statement he made to me was that just because the state --  
11      the Deputy State Building Official says it's okay and just  
12      because the State Fire Marshall's Office says it's okay  
13      doesn't mean it's okay and we were just stalled. This  
14      whole process was just stalled and not going anywhere.

15             So it was a very frustrating experience. I  
16      tried many, many times to resolve -- get the matter  
17      resolved. And it got to a point with -- in July, last  
18      July with Mr. Meyers when he was making an inspection of  
19      Powder Ridge and he refused. He walked off the job. And  
20      that's when I put him on administrative leave because it's  
21      clear -- clearly he was looking for any excuse not to do  
22      his job in my opinion.

23             But, anyway, I just wanted to share that with  
24      the Board.

25             Does anybody have anything else they want to

1 say?

2 MR. BRAYSHAW: I found one known file to be  
3 shared. There's a building official his name is Garafalo,  
4 he's been kind of filling in. And one of the  
5 transmissions in the file, Mr. Garafalo suggests and these  
6 were quotes out of his note "Lack of professional  
7 courtesy, creation of anguish, frustration, drama,  
8 unnecessary bordering on harassment." These are words  
9 that are in our Town file and they shouldn't be there.

10 This Town is bigger and greater and the product  
11 that we put out does not deserve to have a history with  
12 those kind of words period. That's it.

13 MR. BAILEY: Any comment?

14 MS. RUFFINO: Well, I've read through the  
15 binder, everything that was given. I've had the  
16 opportunity to speak to a number of residents that have  
17 had both pleasant and, unfortunately, unpleasant  
18 experiences with Mr. Meyers. And I feel bad that this is  
19 really pointed out a Powder Ridge versus the Building  
20 Inspector piece. There's more pieces to the puzzle than  
21 just that.

22 There are plenty of good interactions with Mr.  
23 Meyers with our residents and it seems to be primarily  
24 with residents that I've spoken to. And there have been  
25 not so pleasant interactions. And I've had the

1 opportunity to speak to a number of residents about this.  
2 And just unfortunately going through the documentation and  
3 the way things were handled, it would be a disappointment  
4 for any town-appointed official or a town employee to  
5 interact or present themselves in that fashion when  
6 they're working for a town.

7 MR. BAILEY: Any further discussion? Okay.

8 Well, I guess --

9 MR. BRAYSHAW: Is there a motion sheet typed up?

10 MR. BAILEY: Well, we can -- yeah, we need to  
11 make a motion. Our decision here is either to impose some  
12 sort of discipline or, you know, suspension or something  
13 to that nature or up to and including dismissal.

14 MR. BRAYSHAW: Do you need time to do that with  
15 counsel?

16 MR. BAILEY: I can -- no. I have a motion  
17 prepared, yeah.

18 MR. BRAYSHAW: Oh, you have a motion. Okay.

19 MR. BAILEY: I would put forward a motion for  
20 dismissal.

21 MR. MEYERS: Do I have a chance to speak?

22 MR. BAILEY: No, Mr. Meyers. It's not the  
23 purpose of this meeting.

24 I would put forward a motion. We have some  
25 technical matters to attend to on this. So what I'm going

1 to have to say is that we're going -- I would make a  
2 motion that the employment of Robert Meyers be terminated  
3 effective February 21st, 2016 --

4 MS. RUFFINO: 17.

5 MR. BAILEY: 20 -- thank you. 21 -- 2017, based  
6 on the materials presented to the public hearing held on  
7 January 24, 2017. And that the First Selectman shall  
8 prepare a written notice of the termination of Robert  
9 Meyers' employment. Said notice to be any part of his  
10 personnel file. And I'll make that motion.

11 MR. BRAYSHAW: I will second it.

12 MR. BAILEY: We have a motion to second. Is  
13 there any further discussion?

14 (No verbal response.)

15 MR. BAILEY: Okay. All those in favor indicate  
16 by saying aye.

17 MEMBERS: Aye.

18 MR. BAILEY: Nays, abstentions?

19 (No verbal response.)

20 MR. BAILEY: None heard. Yeah, I do have this  
21 motion sheet on this, Karen.

22 BOARD SECRETARY: Okay. Thank you.

23 MR. BAILEY: So we can just use that one I  
24 guess. It's of the correct form. Okay.

25 UNKNOWN SPEAKER: Point of clarification, sir.

1 MR. BAILEY: Yes.

2 UNKNOWN SPEAKER: May the union also be included  
3 in the dismissal letter to Mr. Meyers?

4 MR. BAILEY: You want to be copied?

5 UNKNOWN SPEAKER: Yes.

6 MR. BAILEY: Yes, yes, absolutely. No problem.  
7 I think we've been -- copied you all along so.

8 Do we want to open it up to public comment  
9 again? Okay. Public comment. All right. We'll open the  
10 meeting to public comment. You wanted public comment.

11 MS. CORONA: Well, obviously, the public wasn't  
12 involved in this and didn't have an opportunity. I don't  
13 know what comments were made at the hearing that led to  
14 this. I think you're making --

15 MR. BAILEY: The motion stated that it be based  
16 on the materials presented. So it wasn't just the verbal,  
17 it was the written documents.

18 MS. CORONA: It's all over Powder Ridge.

19 MR. BAILEY: You've asked for the opportunity  
20 and I've given you the opportunity.

21 MS. CORONA: I'm saying it's all over Powder  
22 Ridge. Jon went to court for two days and swore we had  
23 the best building inspector. So we'll see where it --  
24 spend money in court probably which is very sad, very sad  
25 based on what I don't know, Powder Ridge.

1 MR. BRAYSHAW: You all set?

2 MR. BAILEY: Yeah.

3 MR. MEYERS: I have a public comment.

4 MR. BAILEY: Mr. Meyers is speaking.

5 MR. MEYERS: On November 2015, just a few days  
6 after Mr. Bailey was in office, sworn into office, I met  
7 him in his office to discuss the ongoing issues at Powder  
8 Ridge. I requested the meeting. His reply to me was if I  
9 were First Selectman at the time of your reappointment I  
10 would have never reappointed you. So I asked why. I  
11 don't have to answer that question.

12 In early 2016, I was called into his office to  
13 question me on an email that I was copied on to my  
14 personal email address. He questioned me on my knowledge  
15 of that email which I had not opened at the time. He then  
16 starts screaming and yelling at me, similar to way he  
17 talked a little while ago, calling me a liar. The email  
18 was simply an inquiry to the State Health Director as to  
19 who goes first, Health Director or clarification of the  
20 restaurant being certified to be allowed to be open or the  
21 certificate of occupancy which is basically a chicken and  
22 an egg question.

23 That letter to the Health Director, an email,  
24 was by a co-consultant who I was discussing matters with  
25 on my personal time.

1           I would say that in his actions on that very day  
2 made me very suspicious as to why Mr. Bailey started  
3 screaming to the point where Fran Peck had to come in the  
4 room, ask me to get out of my chair, so that she could  
5 swing the door around my chair and close the door because  
6 his hollering was disturbing the entire Town Hall. I  
7 became to get suspicious that Mr. Bailey was involved in  
8 some kind of political corruption.

9           I would also like to say that during the last  
10 three years, Mr. Hayes made complaints on everything that  
11 was going on and that not once did the Town ever sit down  
12 and say what's the Building Department's issues. They  
13 didn't want to hear what the Building Department's issues  
14 were, they wanted to see that the complaints were  
15 satisfied.

16           Let's remind them that in November of 2014,  
17 Powder Ridge opened up their rental building illegally  
18 hooking up electricity, illegally hooking up gas, no  
19 permits, no inspections. And they opened it up to 200  
20 people for a swap meet.

21           I brought in the State's Attorney's Office. The  
22 State's Attorney's statement to me was "This is just as  
23 dangerous as the station nightclub fire in Rhode Island  
24 that killed 100 people." However, Mr. Brayshaw's request  
25 that it be shot across Mr. Haye's -- and let it go, I did

1 not file charges.

2 During construction before he even had a permit,  
3 he was replacing windows in the building that did not meet  
4 the energy requirements. Jon Brayshaw and I went there  
5 because he was screaming and hollering that this Building  
6 Official doesn't know what he's talking about. Well, it's  
7 in the code. You have to meet the energy requirements.  
8 He knows and installs them. He doesn't even have a permit  
9 yet.

10 Then he submits an application. His first  
11 drawings were simply to take a section of the second floor  
12 and turn it into a restaurant. The remaining hotel rooms  
13 were not going to be touched. I go up there one day and  
14 he gutted the whole building. So he had to start and file  
15 all new plans all over again.

16 Then he comes in and says -- he insisted on  
17 arguing with me that they don't need a sprinkler system  
18 and that I am wrong. This is not the Building Officials  
19 to play babysitter with people. The Building Official  
20 cites what's in the code, follows it or objects to it  
21 through the means of appeals through the Building Code.

22 So in rebuttal to Mr. Brayshaw, everybody tries  
23 to be cooperative. And I've had many people around here  
24 that work with me and work cooperatively. And we resolve  
25 problems. But when this man refused to do anything, files

1 are full of things where they allowed the restaurant while  
2 I was out on a medical leave, Vinny Neuraffalo (phonetic)  
3 allowed them to have a Certificate of Compliance to open  
4 the first floor only. With that, Dan Bonjay (phonetic),  
5 the electrical inspector, ordered that the second floor  
6 power services be locked out. They were not to cut them  
7 locks or take them locks off until a building official or  
8 electrical inspector gave them their approval to open them  
9 up to energize the upstairs. Dan Bonjay and I personally  
10 went there and I took personal photographs of the locks  
11 cut and the power on. This is a violation of OSHA, not  
12 only the building code, but OSHA.

13 I caught an employee named Eric who was some  
14 kind of a maintenance director or something doing  
15 electrical work without a permit. I stopped him. There's  
16 a letter in the file. It's not allowed. I tried to  
17 cooperate with him. I could have had him arrested right  
18 then and there. He's installing an electrical disconnect  
19 on a sky lift. He is not a licensed electrician.

20 You hired me to uphold the state building code.  
21 The minimum standard allowed in the State of Connecticut  
22 to work under. If he can't do it, then he has to be filed  
23 -- failed. And that's the job I did.

24 I object to a lot of the activities that have  
25 taken place especially with Ed Bailey and his hot head

1 looking for one side, any side they can find to fire the  
2 guy.

3 A year ago you hired an attorney to research  
4 case law on how to fire a building official. I object to  
5 all of this. And I think that, if anything, if anybody  
6 should be looking at anybody, you're the person that  
7 should be looked at for your corrupt activities. Thank  
8 you.

9 MR. BRAYSHAW: Any further comment? Do we have  
10 a motion to adjourn?

11 MR. BAILEY: I just have a couple of comments.

12 MR. BRAYSHAW: Go ahead.

13 MR. BAILEY: Public comment by way is closed.  
14 But I would like to say a couple of things.

15 Number one, there was a reference made to a  
16 letter to -- or an email that Meyers -- his most recent  
17 statement made. And that email was made by a Mr. Loomis  
18 who was the same person that Mr. Wojas quoted a letter  
19 from that was sent to the *Hartford Current*. Mr. Loomis  
20 sent a letter up to the Department -- an email up to the  
21 Department of Public Health which Mr. Meyers was copied on  
22 in his private email. And he was asking many, many  
23 questions regarding opening a restaurant, the health  
24 issues, the health inspections and that sort of thing.  
25 The Department of Public Health, I think, contacted -- my

1 recollection is they contacted Mr. Loomis and Mr. Loomis  
2 admitted it was the -- involved the Town of Middlefield  
3 and they directed him to our health official, Lee Vito.

4 Lee Vito then received a phone call from -- and  
5 it's quite clear in the email that it was in reference to  
6 Powder Ridge because it described a building that is  
7 basically the lodge at Powder Ridge. Mr. Vito had  
8 contacted -- he was contacted by the Department of Public  
9 Health saying that there was a person representing the  
10 Town, asking questions, wanted to know what was going on  
11 in the Town and so on and so forth. And it was a very  
12 strange episode.

13 Mr. Meyers, of course, when I confronted him  
14 with this email, he denied it, although he was copied on  
15 it. And it wasn't the first time that there was  
16 interference from the Building Department which is our  
17 Building Official into other departments in our Land Use  
18 Office, not only the Health Department, but also the  
19 Zoning Department. And I did receive many complaints from  
20 our Town employees about Mr. Meyers interference in their  
21 job duties. In fact, Mr. Vito was quite upset and I had  
22 to counsel him because he felt that his representation  
23 might have been sullied up at the Department of Public  
24 Health and he has an excellent representation as a health  
25 official.

1           And regarding Mr. Meyers stating that we have no  
2 interest in the Town and no interest in listening to his  
3 concerns about Powder Ridge is completely untrue. We  
4 spent considerable amount of time --

5           MR. MEYERS: We spent six months.

6           MR. BAILEY: Well, I just want to specifically  
7 and with our Town Council and Mr. Meyers for several  
8 hours. We also -- there was other interactions as well as  
9 a meeting with the union representative that lasted, I  
10 think, an hour and 45 minutes to listen to Mr. Meyers'  
11 issues. And nothing was resolved by those meetings.

12           Mr. Meyers says that I said that I wouldn't have  
13 hired him if was -- rehired him or reappointed him if I  
14 was First Selectman and that's correct. I did -- I  
15 probably I think it was in the spring or might have been  
16 fall of 2014 or spring of 2015, I forget exactly when, but  
17 I was in the Land Use Office at the Water Pollution  
18 Control Authority. No one else was in the office, but Mr.  
19 Meyers. And Mr. Meyers was on the phone with someone and  
20 he said I heard him quote -- I heard him say -- state that  
21 I will never issue a certificate of occupancy for Powder  
22 Ridge.

23           I took that, perhaps, as being a -- just an  
24 irrational statement on his part. You know, people say  
25 things they don't mean. And then I found out that he

1 really meant it and that he was going to do everything he  
2 could to not do his job, in essence.

3 I think if he had done his job and responded to  
4 the request for Powder Ridge to issue a CO and at one  
5 point I asked him for a report, this is months and months  
6 and months and months into this. I asked him for a  
7 report. He couldn't produce the report in a timely  
8 fashion. And then I extended the deadline once. I  
9 extended it twice. And then he said, "Well, the Land Use  
10 secretary wasn't at her desk, so, therefore, she couldn't  
11 prepare to mail it out or email it to me or some such  
12 thing. And he said it was on her desk. And I came down  
13 here and I looked on her desk and it was on her desk.

14 So, you know, it just frustration after  
15 frustration. It's -- anyway, I just wanted to make a  
16 couple of comments on that.

17 And I believe other people also heard -- and,  
18 also, he did repeat to me later at some point which I have  
19 documented in a memorandum, but to file that once again he  
20 stood in my office and said he was never going to give  
21 Powder Ridge a Certificate of Occupancy. Anyway --

22 MR. MEYERS: Absolutely not true.

23 MR. BAILEY: Anyway, that's all I have to say.

24 Motion to adjourn?

25 MS. RUFFINO: I'll second.

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MR. BRAYSHAW: So moved.

MR. BAILEY: So moved. Okay. Thank you.

Motion adjournment at --

MS. RUFFINO: 5:55.

MR. BAILEY: 5:55. Yeah. Thank you.

(Matter concluded.)

C E R T I F I C A T E

I hereby certify that I am a Notary Public in  
and for the State of Connecticut.

I further certify that the foregoing is  
a complete and accurate transcription of the  
recorded proceeding to the best of my knowledge and  
belief.

I further certify that I am neither of counsel  
nor attorney to any of the parties to said cause, nor  
of either counsel in said cause, nor am I interested  
in the outcome of said cause.

Witness my hand and seal as Notary Public this  
12<sup>th</sup> day of February, 2017.

Sheila D. Butch  
Sheila D. Butch

My Commission Expires: 5/31/2019