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**IN THE MATTER OF THE SAFETY STANDARDS ACT  
SBC 2003, CHAPTER 39**

**AND IN THE MATTER OF an appeal to the  
British Columbia Safety Standards Appeal Board**

BETWEEN: **HOMEOWNER** **APPELLANT**

AND: **BRITISH COLUMBIA SAFETY AUTHORITY** **RESPONDENT**

**Reasons for Decision**

**Introduction**

[1] Most appeals to the Safety Standards Appeal Board (the “Board”) come from appellants issued compliance orders or monetary penalties by the regulatory agencies over which the Board has jurisdiction. Interestingly, this is an appeal where the Appellant is the party that feels that a regulated product does not comply with the safety standards legislated by the government rather than the other way around.

[2] The Appellant has a lengthy history with the Respondent and for some time has been seeking confirmation that her high efficiency gas furnace (the “Furnace”) is not installed in accordance with the applicable safety legislation of the Province. On August 13, 2014 the Respondent sent personnel to the Appellant’s home to assess the installation and operation of the Furnace. After this visit, a gas safety officer for the Respondent (the “Safety Officer”) issued a written decision to the Appellant dated August 27, 2014, which summarized the Gas Certificate of Inspection also dated August 27, 2014 (the “Decision”). The Decision set out two small deficiencies found with the Appellant’s gas furnace, but noted that the deficiencies were considered minor in nature and did not represent any safety hazard. Upon receipt of the Decision, the Appellant requested that the Decision be reviewed by the Provincial Safety Manager pursuant to section 49(1) of the *Safety Standard Act*, SBC 2003, c. 39 (the “Act”) as is

her right. The Provincial Safety Manager declined to review the Decision and instead referred the Decision directly to the Board as permitted by section 49(5) of the Act.

### **The Decision Being Appealed**

[3] As set out above, the Decision summarized the findings of an inspection of the Appellant's gas furnace. Two deficiencies were set out in the Decision. The first deficiency noted was that the vent termination clearance requirements between the intake and the exhaust piping were not as indicated in the installation instructions for the furnace. The second deficiency noted was that the mufflers were not installed as required. Neither of these deficiencies was stated to be a safety hazard in need of repair.

### **History of the Appeal**

[4] A review of the Appeal Record filed in this Appeal indicates that the Appellant and the Respondent have been at odds over the Furnace for over two years before the matter was referred to the Board. There is little doubt that both parties were frustrated with each other and the process leading to this Appeal.

[5] Upon having the appeal referred to the Board by the Respondent, the Board held an Appeal Management Conference on October 8, 2014. At this Appeal Management Conference the parties agreed and the Board ordered that the appeal would proceed in front of a three member panel of the Board and that the parties would exchange a list of evidence they wished to submit in their appeal. A further Appeal Management Conference was held on October 16, 2014. At this Appeal Management Conference the parties agreed and the Board ordered that the appeal would proceed via written submissions and the Board set a schedule for the exchange of the parties' evidence and submissions. It was agreed that the parties would exchange their materials as follows:

- a) The Appellant was to serve the Respondent and the Board with the Appellant's written submissions and any further evidence by 4:00 p.m. on Monday, November 24, 2014;
- b) The Respondent was to serve the Appellant and the Board with the Respondent's written submissions and any further evidence by 4:00 p.m. on Wednesday, December 10, 2014; and

- c) The Appellant, if necessary, was to serve the Respondent and the Board with her reply to submissions by 4:00 p.m. on Wednesday, December 17, 2014.

[6] The parties did exchange evidence and submissions as set out above. However, despite the schedule agreed to by the parties and ordered by the Board, the Appellant continued (and in fact, continues) to provide further material to the Board for consideration.

[7] A third Appeal Management Conference was held on December 17, 2014. This Appeal Management Conference was held to clarify the scope of the Appellant's appeal with the Board and to limit ongoing filing of materials with the Board. At this Appeal Management Conference the parties were advised that the issue of bonding of various contractors that have performed regulated work on the Furnace was not at issue in this Appeal and would not be addressed by the Board. Further, the Board advised the parties that it wished to ask questions of those witnesses that deposed evidence filed with the Board and the matter was adjourned to set a date for an oral hearing component to take place.

[8] The Oral Hearing Component of the appeal took place on April 15, 2015 via teleconference (the "Oral Hearing"). Teleconference was chosen as the medium for the oral component of the appeal given the numerous geographic locations involved with the parties to the appeal and the fact that the parties agreed on the facts at hand and credibility of the witnesses was not an issue in the appeal. At the Oral Hearing the Board questioned the Appellant as well as the Safety Officer whose inspection and written decision is at the heart of this appeal. As a result of the questions posed to the Safety Officer, he was asked to provide his view of the installation instructions contained in the 1992 furnace instruction manual tendered as evidence by the Appellant. The Safety Officer provided this information to the Board via letter, which was forwarded by legal counsel for the Respondent and received by the Board on May 5, 2015.

[9] On May 14, 2015 the Appellant wrote to the Board seeking to have an intervener added to the Appeal. Given the late timing of this request, the Board denied the Appellant's request saying that the time for submitting evidence and submissions to the Board had passed.

## **Issue**

[10] The sole issue before the Board is whether the Safety Officer's findings set out in the Decision were reasonable given the applicable legislation and the evidence submitted to the Board.

## **Facts**

[11] In support of her position, the Appellant tendered a plethora of evidence with the Board, all of which has been reviewed by the panel hearing this appeal. While all of the evidence tendered by the Appellant has been reviewed by the Board, the Board found the following evidence particularly useful:

- a) Video of the side venting and intake for the furnace;
- b) Affidavit of the Appellant, unsworn, dated December 16, 2014 (the "Appellant's Affidavit");
- c) 1992 Lennox installation instructions (the "1992 Manual");
- d) 1998 Lennox installation instructions (the "1998 Manual"); and
- e) Various photographs showing snow accumulation around exterior of Appellant's home;

[12] In support of its position, the Respondent filed an Affidavit sworn by the Safety Officer (the "Safety Officer's Affidavit"). The Safety Officer's Affidavit provides the evidentiary underpinning for the submissions of the Respondent set out later in these reasons for decision.

[13] Surprisingly, given the history of this matter between the parties, the Appellant and Respondent agree to the facts in evidence. There is no dispute as to what configuration the Furnace is installed in the Appellant's home. The Furnace was installed at her home in December 1994 by a licensed natural gas contractor. It had warranty work performed in January 2007 by another licensed natural gas contractor. The Furnace is installed with direct side venting and air intake. The venting and air intake are located 12 inches above grade and are marginally closer together than the 8 inches required by the manufacturer's instructions. The Furnace has never had the mufflers installed as required by the manufacturer's instructions. The parties also agree that the Appellant's Furnace is installed in her home in Dawson Creek. No issue has been made that this area of the province regularly receives cold temperatures and substantial snowfall.

[14] As stated above, the facts themselves are not at issue. Rather, the parties disagree on the application of the applicable legislation, namely the *Safety Standards Act* (the “Act”) and the *BC Natural Gas and Propane Code* (the “Code”), to the existing furnace installation. The parties also disagree as to the scope of jurisdiction of the Respondent and Board with respect to policy recommendations and regulatory changes concerning high efficiency furnaces in northern climates.

### **Appellant’s Submissions**

[15] The Appellant has submitted copious volumes of emails outlining her submissions along with more formal written submissions and an unsworn affidavit dated December 16, 2014 (the “Appellant’s Affidavit”) to the Board. The panel has reviewed all materials provided by the Appellant.

[16] Unfortunately, many of the submissions and materials filed with the Board by the Appellant are irrelevant to the issue that must be determined in this Appeal. A large part of the Appellant’s submissions before the Board address evidence of how other brands of high efficiency gas furnaces are installed in northern British Columbia. Given that the Board’s jurisdiction is only to review the Decision under appeal and the fact that the Decision involved a Lennox furnace and none of these other brands, this evidence and the submissions regarding the same are not considered with respect to the reasonableness of the Decision.

[17] The Appellant also raises concerns regarding the bonding of gas furnace installers, technicians, suppliers, and educators in British Columbia. The Board addressed these concerns at one of the numerous Appeal Management Conferences held in this Appeal and advised the Appellant that the issue of bonding was not the subject of the Appeal as bonding was not at issue in the Decision of the Safety Officer. The Board will also not address contractual matters between the Appellant and the various contractors that installed or serviced the Furnace in these reasons for Decision. While the Appellant states in her submissions that the Respondent and Board ought to order certain work done with respect to her Furnace, the Board does not have the jurisdiction to interject itself into contractual disputes between homeowners and the contractors that may perform regulated work on regulated products in their homes. That is a matter that the legislature has left to the courts of British Columbia.

[18] Further, several of the Appellant's submissions set out suggestions for improved policy and legislation regarding the use of high efficiency gas furnaces in northern British Columbia and the requirement for high efficiency gas furnaces rather than the older "regular" gas furnaces. These issues are addressed in the analysis set out below only so far as they pertain to the Decision at hand. Otherwise, the Board will not address these submissions as they are outside the scope of the Board's jurisdiction.

[19] Finally, throughout the Appellant's submissions to the Board, the Appellant regularly questions the Board's competency to hear her appeal and requests that the matter proceed to the BC Supreme Court. The Appellant also requests that criminal charges be laid over what she alleges is a known safety issue with the venting of her high efficiency furnace. With respect to the issue of the Board's competency the Board is fully independent and is composed of members appointed by the Minister on a merit-based application process. The legislation specifically sets out that the Board not the courts will hear appeals such as these. With respect to the Appellant's request for criminal charges to be laid, criminal charges are well outside of the jurisdiction of the Board and will not be addressed other than to reiterate that the legislature has specifically created the Board as an expert administrative tribunal to deal with such appeals.

[20] With respect to the submissions and evidence filed that is relevant to the issue that must be determined in this appeal, the Appellant states that she "has been the victim" of unsafe venting of her Furnace since it was originally installed in 1994. The Appellant notes several areas of concern with respect to the installation of her Furnace and states that her Furnace is not installed to Code for the following reasons:

- a) Elbow venting pipes should not be permitted;
- b) Exterior termination of venting should be installed 12 inches above the expected accumulated snow levels;
- c) Adequate insulation is lacking;
- d) Grade of exhaust venting is insufficient;
- e) Pressure testing should be performed;
- f) Opening for air intake is too narrow;
- g) Mufflers are lacking;
- h) Air intake and exhaust are located too close to one another; and
- i) Lack of mechanism to prevent intake of cold air from shutting down the furnace.

[21] With respect to these deficiencies, the Appellant notes that the Code requires regulated gas products to be installed according to the instructions supplied with regulated products, which in this case is the Appellant's furnace. The Appellant states repeatedly that the 1992 Manual and 1998 Manual must be followed and that failure to do so is a breach of the Code.

[22] Pertaining to the use of elbow piping, the Appellant submits that the Code recommends against the use of unnecessary elbow joints and connectors as the use of these items can cause restricted air flow, which when coupled with the lack of insulation would cause more "freeze ups" of the Furnace's venting system.

[23] With respect to the height of the termination of the exterior venting, the Appellant states that the installation instructions provided with the Furnace call for the venting for the Furnace to be installed 12 inches above the expected accumulated snow levels for the area in which the installation occurs. The Appellant submits that this requirement means that based on the average snowfall accumulations for Dawson Creek that the venting in question should be installed 60 inches above ground level.

[24] On the issue of insulation, the Appellant states that the installation instructions provided with the Furnace call for the use of insulation in unheated crawl spaces and on outside venting in regions where it is known to get extremely cold.

[25] With respect to the grade of the exhaust venting, the Appellant states that the installation instructions call for the Furnace's exhaust venting system to have a minimum upward slope from the Furnace to the termination wall vent to be  $\frac{1}{4}$  inch higher per every foot of venting pipes. The Appellant states that if this requirement was followed, that the venting termination would be six to eight inches higher. The Appellant submits that this higher termination would be beneficial as it would eliminate the need for elbow joints or connections in what she refers to as a "restricted venting air flow area."

[26] On the issue of pressure testing, the Appellant states that the installation instructions require pressure testing to ensure safe exhaust venting of fumes, carbon monoxide and carbon dioxide. The Appellant submits that the required form of testing set out in the installation instructions has never been performed and states that this deficiency indicates that those who

service residential homes are not prepared to do fume exhaust testing. The Appellant submits that the Respondent should direct that this deficiency be remedied with its regulated installers.

[27] With respect to the dimension of the air intake, the Appellant states that the dimensions of the air intake installed for her Furnace do not comply with the requirements of the installation instructions.

[28] As for the lack of mufflers, the Appellant states that the Manufacturer's Instructions require use of the mufflers and that as they are lacking they should be required to be installed. The Appellant states that the lack of mufflers is a breach of the Code and that the Respondent should order that this breach be remedied.

[29] With respect to the spacing of the air intake and exhaust, the Appellant states that although only marginally deficient of the required spacing apart that "close enough" does not satisfy the Code and that the installation should be repaired to remedy this deficiency.

[30] Pertaining to the use of a mechanism to prevent intake of cold air from shutting down the Furnace, the Appellant states that "freeze up" of the Furnace could be prevented if the Respondent properly enforced the applicable legislation for venting of high efficiency gas furnaces installed in northern colder climate areas.

[31] With respect to the installation of her Furnace generally, the Appellant states that she has not experienced quality workmanship by the certified installers that have installed and/or serviced her Furnace nor professional gas safety inspections from the employees of the Respondent that have been to her home between 2012 and the present. The Appellant submits that the unsafe venting requires the acknowledgment of the Respondent and an official letter setting out what is incorrect with the installation of the Furnace and how to best remedy the noted deficiencies. With respect to her request for an official letter setting out a suggested remedy for the noted deficiencies, the Appellant states that she specifically requires such a letter as she has previously tried to convey her wishes for remedying what she perceived as a deficiency with the Furnace to a licensed installer and did not have her wishes met and was told that the Furnace was okay as installed.



## **Respondent's Submissions**

[32] The Respondent states that the Decision was correct, or in the alternative, reasonable and seeks to have the appeal dismissed. In support of this submission, the Respondent submits that while the Board has jurisdiction to apply the provisions of the Act, including enforcing compliance with Code and other legislated provisions, that the Board lacks jurisdiction to order changes to regulated equipment in circumstances where code requirements are met and no safety risks are present. The Respondent states that neither it nor the Board have jurisdiction to enforce contractual obligations between the Appellant and contractors or to make changes to the regulatory regime. The Respondent states that accordingly there is no basis for the Board to consider the Appellant's arguments respecting high efficiency furnaces in northern climates.

[33] In response to the materials filed by the Appellant, the Respondent states that despite the numerous submissions of the Appellant that there are only two relevant categories of concerns to be addressed. The first is whether the Safety Officer responded appropriately to those deficiencies he identified and the second is whether he failed to identify further deficiencies. The Respondent states that all other concerns raised are outside of the scope of this appeal and beyond the jurisdiction of the Board.

[34] With respect to whether the Safety Officer responded appropriately to those deficiencies he identified, the Respondent states that the Safety Officer's decision not to order corrective action with respect to the separation clearance between the intake and exhaust venting terminations and the lack of mufflers on the Appellant's furnace was reasonable. The Respondent submits that the decision was reasonable as the deficiencies were long-standing, minor deviations and did not present any safety risk. In this regard, the Respondent states that its response to deficiencies in regulated work should be reasonable and proportionate in the circumstances and that not all deficiencies require correction and that the extent to which an installation must be modified depends on the extent to which a hazard is present. When questioned regarding this approach to code compliance at the Oral Hearing the Safety Officer testified that this approach was not a formal policy of the Respondent, but rather the day to day reality of having to enforce the Code in a number of different situations ranging from new installations to installations that are substantially older.

[35] With respect to whether the Safety Officer failed to identify other deficiencies, the Respondent states that the Safety Officer was correct in his decision and that, other than as set out in the Decision, the Appellant's furnace is code compliant.

[36] With respect to its submission that the Appellant's other concerns are beyond the scope of this Appeal, the Respondent reiterates that the scope of this appeal is only the Safety Officer's Decision to approve the installation of the Appellant's gas furnace. With respect to the other concerns raised by the Appellant, the Respondent states as follows:

- a) there is no jurisdiction for the Board to embark on a broad inquiry regarding the use of high efficiency furnaces in northern climates or the content of training standards for contractors in the province;
- b) there are no restrictions in the Act or Code which place any efficiency requirements on new furnace installations and submits that if there are such requirements in other provincial legislation or regulations that enforcement of those requirements is outside the jurisdiction of both the Respondent and the Board;
- c) any concern the Appellant has with the cost associated with high efficiency furnaces is unrelated to the safety function of the Respondent and is outside the jurisdiction of the Board;
- d) to the extent that the Appellant's concerns arise from the failure of contractors to perform work for which they have been retained, the Respondent states that the legislation does not grant the Respondent jurisdiction to determine contractual issues provided that regulated work is Code compliant or equivalently safe; and
- e) the Appellant's references to other manufacturers instructions manuals are irrelevant to the appeal as neither the Respondent nor Board have the jurisdiction to enact regulatory changes.

[37] Finally, the Respondent states that there is nothing restricting the Appellant from improving the safety and functionality of the Furnace over and above the minimum Code requirements, provided she does so in a manner which is Code compliant and safe.

[38] When asked to provide comment on the installation instructions for the Furnace at the Oral Hearing, the Safety Officer testified that the 1998 Manual did not require the air intake to be raised 12 inches above the expected average snowfall accumulation. He was unable to testify regarding the original 1992 Manual at the Oral Hearing, but when asked agreed to provide his

interpretation of the instructions set out in the 1992 Manual via writing subsequent to the Oral Hearing. The Safety Officer did so and noted in his letter of May 5, 2015 that the 1992 manual did require snowfall accumulation levels to be taken into consideration when placing the air intake for the Furnace.

## **Analysis**

[39] As submitted by the Respondent, much of the Appellant's submissions address matters outside of the jurisdiction of the Board. As stated above, the sole issue before the Board is whether, considering the legislation and the evidence filed with the Board, the Safety Officer's findings set out in the Decision were reasonable.

[40] While the Board recognizes the frustrations expressed by the Appellant concerning her high efficiency gas furnace and what she feels are its unsuitability for northern climates, the Board is without jurisdiction to address many of the issues she wishes to see addressed. Accordingly, the Board will not address the multiple manuals submitted from other furnace manufacturers, bonding or the general policy underlying the requirement for high efficiency gas furnaces. None of these issues are relevant to the outcome of this appeal given the jurisdiction of both the Respondent and the Board. Further, neither the Board nor the Respondent have jurisdiction to deal with contractual matters between homeowners and regulated installers. As set out above, these are issues that are within the jurisdiction of the courts of the British Columbia.

[41] Section 4.1.3 of the Code requires that an appliance, accessory, component, equipment, or any other item shall be installed in accordance with the manufacturer's certified instructions and this Code.

[42] Accordingly, the original 1992 installation manual supplied by Lennox at the time of the Furnace's purchase and installation (the "1992 Manual") and the updated 1998 installation manual from Lennox (the "1998 Manual") are both incredibly relevant evidentiary documents. There is no question that at the time the Furnace was installed that the 1992 installation manual carried the weight of Code as to how the Furnace was required to be installed.

[43] The Safety Officer has provided evidence to the effect that each issuance of updated installation manuals is deemed to be an improvement on the previous safety requirements set

out in the previous edition of the manual. The Appellant agrees with this assertion in principle. While much was made about the fact that the 1998 Manual is interchangeable with the 1992 Manual, the Board finds that the two manuals are in fact similar with respect to the installation requirements for the furnace. Either can be used with the same results in this Appeal.

[44] Upon review of the evidence submitted to the Board, the Board finds that in addition to the two areas of non-compliance noted by the Safety Officer in his Decision that the Appellant's Furnace is also non-compliant due to the failure of the exterior venting to be installed 12 inches higher than the average accumulated snow level for the region in which the Furnace is installed. Both the 1992 Manual and 1998 Manual clearly require this (see page 39, figure 56 of the 1992 Manual and page 12, paragraph 9 and page 13, figure 12 of the 1998 Manual). The Board notes that the Safety Officer testified that the 1998 Manual did not require this alteration for side venting furnaces; however, the Board disagrees. The 1998 Manual speaks for itself and, as noted above, figure 12 on page 13 makes this clear. With respect to the other alleged deficiencies set out by the Appellant in her submissions, the Board finds that the Furnace is otherwise correctly and safely installed to Code. It may well be that some of the Appellant's submissions regarding use of insulation or reduction of the use of elbows could improve the function of the Furnace; however, this is not a subject matter that is appropriately before the Board as the Board's jurisdiction is to determine whether the Decision under appeal is reasonable based on the applicable legislation and facts of the Appeal. Further, the safety standards system in British Columbia adopts minimum standards for safety. There is nothing stopping the Appellant from changing the installation of the Furnace in ways that may optimize its operation, provided that the alterations to the Furnace are Code compliant.

[45] The above finding of the Board means that the Appellant's Furnace is non-compliant with the Code in three separate areas: lack of mufflers, proximity of the exhaust and air intake venting and the failure of the venting to be located twelve inches above the average expected accumulated snowfall for the region. As noted above, the Safety Officer noted the first two of these three deficiencies in the Decision. However, the Safety Officer states in the Decision that although he has found instances of non-compliance that the Respondent does not need to remedy the non-compliance. In the Safety Officer's Affidavit the Safety Officer testified that the Respondent takes a proportionate view to remedying instances of non-compliance. However, at the Oral Hearing, the Safety Officer deposed that it is not formal policy of the Respondent to not require compliance, but rather the day to day practical reality of trying to balance the need for

compliance with regulatory fairness. In any event, the Board must determine whether this approach to Code compliance is reasonable.

[46] In this regard, the evidence before the Board clearly indicates that not all of the deficiencies would ultimately affect the safety of the Appellant as the issue of the muffler affects only the noise of the Furnace while under operation and the other two deficiencies will be caught by the “fail safe” mechanisms of the Furnace which will shut down the furnace if air intake or venting cannot safely take place. As the evidence given at the Oral Hearing indicates that the Appellant has other sources of heating for her residence, there is perhaps some credence to the fact that the issues are not safety concerns. However, the Board notes that absent an alternative heat source, the unplanned loss of the Furnace could be significantly unsafe in a cold northern climate.

[47] While on the facts of this appeal, the Safety Officer’s proportionate approach appears reasonable, a review of the applicable legislation raises questions regarding the appropriate response to known issues of non-compliance. Section 20(3) of the *Safety Standards General Regulation* states that when a certificate of inspection is issued and instances of non-compliance are found that the permit holder must remedy the instances of non-compliance. Given that in this instance the inspection was requested by the Appellant and not the contractor originally contracted it would be the Appellant that would be notified of the need to bring the installation into compliance. The legislation sets out two exceptions to this scenario, the granting of formal variances and the approval of alternative measures. Safety Officers are given the specific jurisdiction to issue a variance under section 18 of the *Safety Standards Act* and Safety Managers are given specific jurisdiction to institute alternative measures pursuant to sections 32 to 35 of the Act. Neither of these exceptions apply to the facts on appeal. Accordingly, regardless of whether the Safety Officer feels that an instance of non-compliance with the Code must be remedied, the legislation in place requires that the noted deficiencies be brought into compliance.

[48] It may well be that the day to day policy adopted by the Safety Officer of taking a proportionate view to remedying instances of non-compliance is reasonable given the practical realities faced by Safety Officers on the job. That being said, the Board must determine whether the Decision was reasonable in light of the applicable legislation and facts in evidence before the Board. The matter set out in this Appeal was not a routine inspection of a regulated

gas installation. Rather, it was an inspection that was done because a homeowner had very specific concerns regarding whether her Furnace was installed in accordance to the Code. In those circumstances it is unreasonable not to alert the homeowner to the relevant provisions of the legislation that require deficiencies to be promptly rectified.

[49] Section 52(1) of the Act requires the Board to consider the maintenance and enhancement of public safety when hearing appeals. Given that the applicable legislation sets out the minimum standards for safety (and the Board notes that the Respondents clearly agreed with this assertion in their submissions) the Board finds the Safety Officer's failure to require rectification of the deficiencies is unreasonable, especially given the statutory obligation put upon permit holders to ensure that such deficiencies are promptly rectified.

## **Decision**

[50] Given that the Decision failed to note that the air intake must be installed so as to account for average accumulated snowfall levels and further failed to require rectification of the other two instances of non-compliance, the Board varies the Decision as follows:

- a) in addition to the two instances of non-compliance noted in the Decision, the Code requires that the air intake for the Furnace should be raised to 12 inches above the average expected snowfall accumulation for Dawson Creek; and
- b) pursuant to section 20(2) of the *Safety Standards General Regulation*, the Appellant must rectify all noted instances of non-compliance.

[51] As set out above, while the use of high efficiency gas furnaces in northern climates and the required installation instructions for other makes of similar furnaces are outside the scope of this Appeal and the Board will make no formal order with respect to these issues, the evidence before the Board in this appeal clearly indicates that there exist certain requirements for proper installation of many such furnaces in cold and snowy northern climates. Given that the Furnace was installed, serviced and inspected without the Appellant's concerns being addressed, it may well be appropriate for the Respondent to issue a directive of some sort addressing the need to ensure that installation instructions for cold or snowy climates are properly adhered to.

[52] The Board also notes that the installation instructions for the Furnace require regular on-going maintenance to be performed on the Furnace. The evidence before the Board suggests that this has not regularly occurred, which is surprising given the Appellant's concern for the

safety of the installation. The Appellant ought to have the Furnace regularly serviced going forward. Further, the Code deals with only minimum safety requirements. Should the Appellant wish to implement the other alteration she has suggested are required to improve the operation of the Furnace she is free to do so, subject of course to such alterations being done to Code by individuals certified to perform such regulated work.

Signed:



**Emily C. Drown, Chair**



**Ted Simmons**



**Tim Haaf**