

Supreme Court douses WBA sprinkler lawsuit

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In the aftermath of its failed lawsuit, the Wisconsin Builders Association is debating whether to keep fighting state rules requiring fire sprinklers in apartment buildings.

The Wisconsin Supreme Court rejected a WBA appeal in a lawsuit challenging Wisconsin Department of Commerce rules requiring sprinklers in residential buildings with more than three units. The state since March 2008 has required sprinklers in buildings with more than eight units, but smaller projects with eight or fewer apartments or condos will be hit hardest, said Brad Boycks, WBA director of government and political affairs.

The rules will not affect buildings with fewer than eight units until 2011. "Those smaller units were really the ones that we wanted (to exempt)," Boycks said. "When you require four-plexes and eight-plexes to be sprinklered, especially in rural communities and small communities, you are going to make a big difference in the price." The association estimated in late 2006 requiring sprinklers in a three- or four-unit building could add between \$14,000 and \$50,000 to the cost of the building.

But fire-prevention associations argue the increase is tempered by savings in other parts of the building, said Dan Gengler, north central regional manager of the National Fire Sprinkler Association. Sprinklers reduce the expense caused by fires, he said, such as environmental damage from smoke and the cost of constructing new buildings. "If a building burns to the point where it can't be occupied," he said, "it gets torn down."

Cost questions aside, it's worth the price to protect building residents and firefighters, said Gengler, a retired department chief of the Milwaukee Fire Department. He offered, as an example, a fire that hit a four-unit building at the corner of 44th Street and North Avenue in Milwaukee on Dec. 24, 1994. The building did not have sprinklers, and firefighter Lionel Hoffer died when he got trapped in the building basement after the first and second floors collapsed. "It's not as simple as, 'Hey, it costs too much,'" Gengler said. "It's not that simple. I understand that argument and respect that argument, but if somebody had a cure for cancer, would you pay?"

The WBA's leadership will meet Thursday to consider its next move, which might be to ask the state Legislature to reverse Commerce's rules, said WBA President Douglas Scott, president of Amwood Homes Inc. and Advantage Homes Inc., both based in Janesville. Any lobbying attempt would face opposition from the governor's office and fire-prevention associations, he said.

But the WBA lawsuit was about more than just sprinkler rules, Scott said. The lawsuit also challenged Commerce's ability to change state rules covered in statutes, he said. "There is a pattern that the Department of Commerce is changing laws with rules and that's why the WBA pursued this," Scott said. "We do not feel the Department of Commerce should change what the laws have been."

The WBA has the same concern about Commerce's new rules, unveiled March 2, requiring contractors to get state certified by July 1, Scott said. But the Wisconsin Supreme Court decision on sprinklers does not bode well for the potential to challenge the certification rules, he said.

"The Supreme Court would probably also think that (Commerce) could implement contractor licenses," Scott said. "There are other implications for what the outcome of the sprinkler decision was."