



## **BUILDING CODE COMMISSION**

**IN THE MATTER OF** Subsection 24 (1) of the Building Code Act, 1992.

**AND IN THE MATTER OF** Article 9.5.2.1. and Clause 3.8.1.1.(1)(c) of Regulation 403, as amended by O. Reg. 22/98, 102/98, 122/98, 152/99, 278/99, 593/99, 597/99 and 205/00 (the “Ontario Building Code”).

**AND IN THE MATTER OF** an application by Mr. Jack Feldman, Director, Camp George, Thornhill, Ontario, for the resolution of a dispute with Mr. Wib Bethune, Chief Building Official, Township of Seguin, Ontario, to determine whether the proposed seasonal-use sleeping cabins are required to be barrier-free accessible, when considering Article 9.5.2.1. and Clause 3.8.1.1.(1)(c) of the Ontario Building Code at the Union of American Hebrew Congregations - Camp George, Township of Seguin, Ontario.

**APPLICANT** Mr. Jack Feldman, Director  
Camp George  
Thornhill, Ontario

**RESPONDENT** Mr. Wib Bethune  
Chief Building Official  
Township of Seguin

**PANEL** Dr. Kenneth Peaker, Chair  
Mr. Fred Barkhouse  
Mr. John Guthrie

**PLACE** Toronto, Ontario

**DATE OF HEARING** April 26<sup>th</sup>, 2001

**DATE OF RULING** April 26<sup>th</sup>, 2001

**APPEARANCES** Mr. Les Muniak, Principal  
Larden Muniak Consulting Inc.  
Toronto, Ontario  
**Agent for the Applicant**

Mr. Peter Shoebottom  
Deputy Chief Building Official  
Parry Sound, Ontario  
**Designate for the Respondent**

## **RULING**

### **1. The Applicant**

Mr. Jack Feldman, Director, Camp George, Thornhill, Ontario, has applied for a building permit under the Building Code Act, 1992 for the construction of four additional sleeping cabins at the facility known as the Union of American Hebrew Congregations - Camp George, Township of Seguin, Ontario.

### **2. Description of Construction**

Camp George currently operates as a youth camp facility, providing summer activities in a woodland setting. The organized camping activities provided are available to children of various ages. Accommodations at Camp George currently consist of two clusters of sleeping cabins with four cabins in each cluster. At present, one cabin per cluster is barrier-free accessible.

The Applicant is proposing an expansion of the existing facility which would include the construction of four additional cabins. The facility is classified as a Group C residential major occupancy. The individual cabins are one storey in building height and built of combustible construction. Each cabin is considered as a separate building and will have an area of approximately 95 m<sup>2</sup>.

The construction in dispute involves the accessibility of the proposed cabins. As noted, four additional sleeping cabins are proposed; two in each existing cluster. Of those four new cabins, two are proposed to provide barrier-free access; one in each cluster. As a result, a total of two barrier-free accessible cabins will be provided in each of the two clusters.

Access to the barrier-free cabins will be by a ramp, whereas access to the other cabins will be by stairs. The sleeping cabins, whether barrier-free or not, will contain eight single beds and four bunk beds. The maximum number of occupants per cabin would be 16 persons. The washrooms in the barrier-free cabins provide one large stall and one regular stall. In addition, a barrier-free shower would be provided in a separate room. The non barrier-free cabins would have two regular washroom stalls and two non-barrier free showers.

### **3. Dispute**

The issue at dispute between the Applicant and Respondent is whether all four cabins proposed in the anticipated expansion are to be made barrier-free accessible when considering Sentence 9.5.2.1.(1) and Clause 3.8.1.1.(1)(c) of the Ontario Building Code.

Sentence 9.5.2.1.(1) requires that every building be designed to comply with the provisions outlined in Section 3.8. in respect to barrier-free access. Section 3.8. requires, with certain exceptions, that all buildings be designed with barrier-free access and outlines the provision of such design. Clause 3.8.1.1.(1)(c), however, states that buildings that are not intended to be occupied on a daily or full time basis are exempt from the provisions of 3.8.

In this case, each cabin is considered a separate building while only two of the four proposed cabins to be constructed will provide barrier-free access. However, Camp George is a seasonal operation, providing camping facilities and accommodation throughout the summer months only. The cabins, both proposed and existing, are not winterized. The Building Code is unclear as to whether the type of buildings being proposed would fall under the exemption noted in Clause 3.8.1.1.(1)(c).

#### 4. Provisions of the Ontario Building Code

##### 9.5.2.1. General

(1) Except as provided in Sentence (2) and Article 3.8.1.1., every *building* shall be designed in conformance with Section 3.8.

##### 3.8.1.1. Application (See Appendix A.)

- (1) The requirements of this Section apply to all *buildings* except
- (c) *buildings* which are not intended to be occupied on a daily or full time basis, including automatic telephone exchanges, pumphouses and substations.

#### 5. Applicant's Position

The Agent for the Applicant outlined the nature of the construction anticipated, advising that his client is proposing to construct cabins that would provide sleeping accommodation at a recreational camp. The cabins are organized into clusters of six; three for girls and three for boys. One of the girls and one of the boys cabins are proposed to be barrier-free accessible. There would be two clusters of this type at Camp George for a total of twelve cabins at the facility; four providing barrier-free access. Of those twelve, eight cabins already exist. The existing cabins were built by the Applicant a few years ago, and at that time only two of the eight were required by the municipality to be barrier-free.

The Agent continued by explaining that the terrain at the camp is an issue in the provision of barrier-free access to each of the cabins. The cabins are located in a rugged, natural setting. The ramps required to access each cabin are 4 ft wide and roughly 60 ft in length. This would create a total of 240 sq. ft. of ground cover.

The Agent acknowledged that Section 9.5.2.1. of the Ontario Building Code requires that all buildings be barrier-free accessible. He also stated that this proposal may not fall under the exemptions outlined in Clause 3.8.1.1.(1)(c). In support of his position however, the Agent submitted, that Section 9.36. dealing with cottages and outlining requirements for seasonal accommodation, may apply in this instance. The cabins at Camp George provide seasonal accommodations for a recreational use. He argued that it was unclear from the provisions of the Building Code, whether the cabins should be considered seasonal recreational by virtue of their design or by the function of the camp. The Agent put forth the argument that, if the cabins can be considered under the provisions of Section 9.36.1.1.(1), then the Applicant has already, voluntarily, exceeded the Code requirements with the existence of even one barrier-free cabin. Buildings constructed in accordance with 9.36.1.1.(1) need not comply with the barrier-free access provisions outlined in Section 9.5.

#### 6. Respondent's Position

The Designate for the Respondent submitted that it is his understanding that Section 9.5. applies in this instance. The provisions outlined in this Section would require that all buildings be barrier-free accessible. In response to the Applicant's suggestion regarding the application of the provisions of Section 9.36., he submitted that, while the buildings may be seasonal and/or recreational, they are also considered tourist accommodation and would, therefore, fall under the specific provisions of Subsection 9.36.3.

Under the provisions of 9.36.3.1.(1), buildings that are intended to be used for seasonal tourist accommodation or are for rent, would be subject to the provisions of Section 9.5. and, therefore, must be barrier-free. In that regard, the Respondent submitted that, since the campers pay a fee for food, accommodation, use of the facilities, etc., and since they are in the area for a limited period of time, they should be considered tourists. He submitted that the definition of tourist and camper may overlap somewhat and he sought some direction from the Building Code Commission as to what might apply in this instance.

**7. Commission Ruling**

It is the decision of the Building Code Commission that the proposed seasonal-use sleeping cabins are not required to be barrier-free accessible, when considering Article 9.5.2.1. and Clause 3.8.1.1.(1)(c) of the Ontario Building Code at the Union of America Hebrew Congregations - Camp George in the Township of Seguin.

**8. Reasons**

1. This camp is not a tourist facility; it is a recreational residential use, therefore, barrier-free access provisions do not apply.

Dated at Toronto this 26<sup>th</sup>, day in the month of **April**, in the year **2001** for application number **2001-23**.

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Dr. Kenneth Peaker, Chair

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Mr. Fred Barkhouse

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Mr. John Guthrie