

# FATAL FIRE INVESTIGATIONS AND CODE ISSUES AS CONTRIBUTING FACTORS

Detectives  
Ken Christensen & Paul Makuc

Connecticut State Police  
Fire & Explosion Investigation Unit



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## INTRODUCTION

Fire investigations that result in serious injuries or fatalities must be analyzed to not only determined the origin and cause of the fire, but also to identify and document those conditions of the fire incident that contributed to and resulted in the injury or death of persons involved.



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## CONTRIBUTING FACTORS

- Detection/ Alarm Systems
- Human Behavior
- Fire Suppression
- Housekeeping/Fuel Loads
- Ventilation
- Means of Egress/Refuge
- Change of Occupancy/Hazards
- Intentional Acts



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### DOCUMENTATION

Contributing factors should be documented during a fire investigation with photographs, video, notes and sketch maps



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### STRUCTURAL PHOTOGRAPHS

Structural failures (windows, doors, walls and roofs) and code violations can play a significant role in the fire travel and spread



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### INTERIOR PHOTOGRAPHS

Interior fire protection devices and systems (detectors, sprinklers, extinguishers, and door closers, etc.) are important features that may play a critical role in the outcome of a fire resulting in injuries or fatalities



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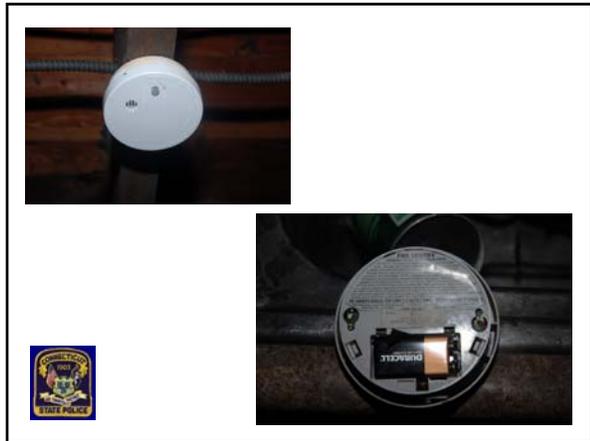
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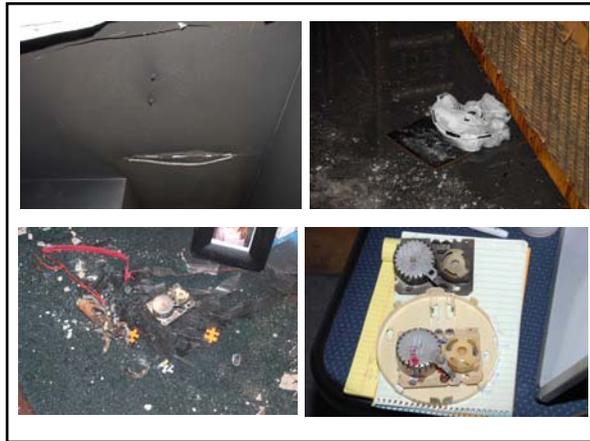
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### VICTIM PHOTOGRAPHS

Victims should be photographed in place in the location found, or if already removed from the scene, the exact spot where they were located.

The victim's clothing and any related burn injuries should be documented in an attempt to determine any activities they were conducting prior to or during the fire.



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## DETECTION/ALARM SYSTEMS

The presence, or absence of, functional detection devices and systems can contribute to both timely or delayed effective or ineffective notification



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## HUMAN BEHAVIOR

Human behavior resulting in injuries or fatalities can include failure to react or inappropriate reactions to notification which can lead to delayed evacuation



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## FIRE SUPPRESSION

Failure or malfunction of the building fire suppression systems can be a factor in fire development, growth and spread



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### HOUSEKEEPING/FUEL LOADS

Poor housekeeping and excessive fuel loads can contribute to rapid fire and smoke spread resulting in injuries, and can obstruct egress and inhibit firefighting and rescue efforts



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### VENTILATION

Open doors, windows, HVAC systems and improper building features can affect fire growth and spread and can cause smoke and toxic gases to travel to areas endangering occupants



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### MEANS OF EGRESS/REFUGE

Improper design, installation, maintenance, operation or non-code compliance can increase the potential for injuries and fatalities due to the occupants inability to escape or find refuge



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### CHANGE OF OCCUPANCY/HAZARDS

Changes to original intended design and use of a building without appropriate changes to fire protection systems, building construction features or means of egress can result in injuries and fatalities



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### NEGLIGENT ACTS

Acts that directly cause injuries and fatalities may or may not be done with the intent to cause injuries or fatalities, however, someone must be held responsible when injuries or fatalities result from a fire

These incidents may constitute NEGLIGENCE

Landlord/Tenant Responsibilities  
C.G.S. 47a-7



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### CASE STUDY

80-82 Fox Street, Waterbury 03/16/11  
Fatal Fire w/Code Violations



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**03/16/11  
Fatal Fire  
80-82 Fox Street Waterbury**

- ▣ Assistant Supervisory States Attorney Judith Dicine
- ▣ Waterbury Deputy Fire Marshal Terry Ballou
- ▣ Waterbury Fire Inspector Mel Pierce
- ▣ Waterbury Police Detective Richard Baxter
- ▣ Waterbury Electrical Inspector Thomas Wengertsman
- ▣ CSP-FEIU Det. Ken Christensen




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**Building Information**

Building Construction:  
 2.5 story Wood Frame Residential  
 Type 5 000  
 Construction per NFPA 220  
 Originally two family - modified to four apartments  
 First floor - 2 apartments; Second floor - 1 Apartment  
 Attic - one apartment  
 Victim: Pedro Claudio age 32 - Attic apartment




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**SYNOPSIS**

- ▣ 03/16/11 0329 hours -passerby reports smoke and flames from roof
- ▣ Patrolman arrives 0333 hours and learns tenants on first and second floor are safe. Third floor tenant not seen yet.
- ▣ Fire Department arrives 0334 hours, located victim in attic apartment bedroom, on the floor.
- ▣ Victim Pedro Claudio's death later determined to be from Smoke Inhalation. (CO level 65.8%; BAC 0.11%)




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**Fire Origin and Cause still active.**

**CSP Accelerant Canine requested.**

**Determined there were four apartments vs two apartments; Classified as Apartment Occupancy**

**Due to Code related issues, decision made to obtain a Criminal Search Warrant to conduct further investigation.**




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**Homeowner Interview**  
**Narinesammy Ramsammy**

- **Interviewed at Waterbury Police Department 03/16/11**
- **stated attic apartment already in place when he bought the two family home**
- **changed some doors and the door on second floor for the attic, all fire protection rated doors from Home Depot**
- **Wanted to put in another set of stairs for the attic apartment but did not have the money.**
- **Had a friend, unknown last name, do the electrical work**




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**West Side**



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West side, first floor entry



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**First Floor**



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**First Floor**



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**Second Floor**



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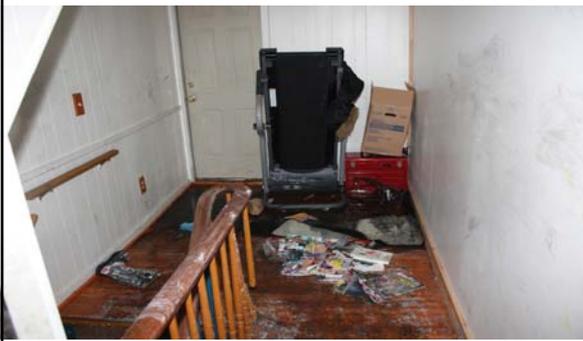
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**Second Floor landing - opposite  
attic stairs**



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**Attic Access Stairs**



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**Attic apartment**



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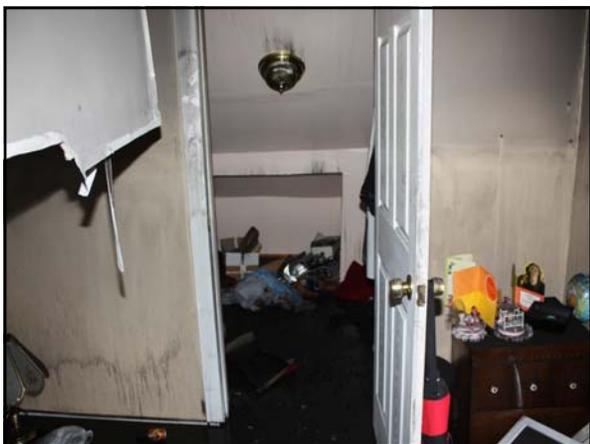
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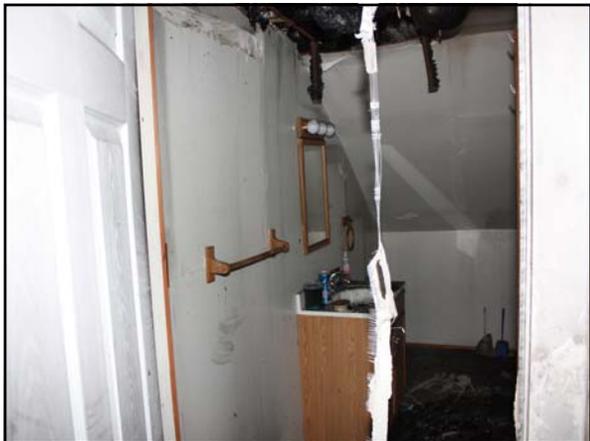
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**Probable Cause for Search Warrant:  
Concealment of number of tenants**



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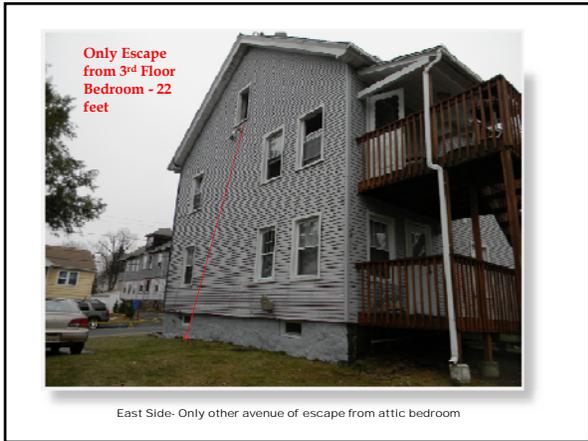
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### Code Issue (Basement)

- Storage 31.3.2 Protection from Hazards



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### First Floor

- Electrical 31.5.1 Utilities
- 9.1 Utilities - 9.1.2 Electrical wiring and equipment shall be in accordance with NFPA



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### First Floor - Improper Separation

- 31.2.2.2.1 Doors complying with 7.2.1 shall be permitted.
- 7.1.3.2.1 Where this Code requires an exit to be separated:
  - (1) The separation shall not have less than a 1 hour fire resistance rating where the exit connects three stories or less



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### Improper Separation - First Floor



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### Improper Separation - Second Floor

7.1.3.2.1 Where this Code requires an exit to be separated:

(1) The separation shall not have less than a 1 hour fire resistance rating where the exit connects three stories or less



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### Attic space Romex dated 11/12/05



- ☐ Due to the date, requirement for hard wire smoke and CO2 detectors
- ☐ Per IRC 2003 sec. R030.1\*

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**Third floor-Code Issues**

**IMPROPER SEPARATION**  
31.2.2.2.1

- ☐ 7.1.3.2.1
- ☐ 7.1.3.2.1 Where this Code requires an exit to be separated:  
(1) The separation shall not have less than a 1 hour fire resistance rating where the exit connects three stories or less

**IMPROPER EGRESS 31.2.3**

- ☐ Number of exits 31.2.4 – Every Dwelling unit shall have access to not less than two separate exits remotely located from each other as required

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**Third Floor Code Issues  
Smoke Detection**

31.3.4.5 Smoke Alarms - Approved single station smoke alarms shall be installed in accordance with 9.6.2.10, outside every sleeping area in the immediate vicinity of the bedrooms and on all levels of the -dwelling unit, including basements.




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**Victim's Bedroom Bureau**




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### Single Station vs. Battery operated



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### Electrical Issues



- ▣ NFPA 70 - 2005 sec.1103(B)
- ▣ Base board installed below 120 Volt outlet.
- ▣ Subject's power cord to potential damage

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### Electrical Issues NFPA 70

- ▣ Air Splices - 2005 sec. 300.15 (example only)
- ▣ Sub-panel re Neutral and equipment Ground connected together - 2005 sec. 250.24 (A) 5.



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### Basement Electrical Issues:

- ▣ Newer service cable for 100amp main with wrong manufacturer over current device installed
- ▣ Other cable went to service equipment that split electric power into two feeders:
  - First feeder went to the sub-panel on the third floor
    - This was fused and wired to code
  - Second feeder went to a sub-panel in the basement with a 100amp breaker and a cable rated for 60amps
    - This cable was too small- violation of NFPA70 2005 sec. 310.16.
- ▣ Electrical work performed by Unqualified person  
CGS-20- 393

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### Dated Romex



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### Basement Panels



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### Apartment Subpanel



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### Second Interview with Owner: Waterbury Police Department 03/17/11

- ☐ Was asked about discrepancy between first statement and evidence at the scene.
- ☐ Stated he was nervous at first interview
- ☐ He lived at house until 2009
- ☐ He made first floor into two apartments
- ☐ He stated that he did all carpentry work himself in attic and hired a friend to do electrical work
  - Did not apply for any permits



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### Narinesammy Ramsammy Arrest Warrant Issued 11/04/11

- ☐ Criminally Negligent Homicide 53a-58
- ☐ Violation of State Building Code 29-254a (8) counts
- ☐ Violation of State Fire Code 29-295 (8)counts



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**Waterbury Landlord Convicted of Manslaughter in Death of Tenant in Illegal Unit**

Waterbury landlord faces 2 1/2 years in prison following his conviction on a manslaughter charge in the death of a tenant in an illegal apartment unit.

NARINESAMMY RAMSAMMY, age 33, pled guilty under the Alford Doctrine in Waterbury Superior Court on June 22, 2012, before the Honorable Richard A. Damiani to one count of Manslaughter in the Second Degree and Violation of the Connecticut State Fire Safety Code for lack of the required two exits from the attic apartment unit. By plea agreement, Mr. Ramsammy was sentenced on October 12, 2012, to eight years incarceration, suspended after 2 1/2 years, followed by three years probation and such special conditions as set by the court.



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**NATURE OF RESPONSIBILITY**

Responsibility may be attributed to the accountable person as a result of reckless conduct, negligence, product liability, code violations or other aspects

Responsibility may take the form of an act or an omission; accidentally or intentionally

Responsibility may be attributed to a failure to act to correct or prevent a condition that resulted in injuries or fatalities



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**Cause and Responsibility Analysis**

Did human fault contribute to any of the following?

- Cause of the fire
- Cause of damage to property
- Cause of injury or death to persons

If so...to what degree?

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# PURPOSEFULLY

A person acts purposely with respect to a material element of an offense when:

- (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and
- (ii) if the element involves the attendant circumstances, he is aware of the existence of such circumstances or he believes or hopes that they exist.

## ARSON

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# KNOWINGLY

A person acts knowingly with respect to a material element of an offense when:

- (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and
- (ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.



## PREVIOUSLY BEEN CITED

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# RECKLESSLY

A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct.

The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the actor's situation.



## FORESEEABLE DISREGARD

MANSLAUGHTER 2<sup>nd</sup> DEGREE

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# NEGLIGENTLY

A person acts negligently with respect to a material element of an offense when he should be aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct.

The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation.



**ORDINARY CARE SET BY 47a-7**

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# CHARGING VIOLATIONS

Due Process to charge responsible persons with fire or building code violations requires prerequisite orders that have previously been cited

Violations of the codes can be listed as conditions and assessed in Totality of Circumstances that constitute a risk of injury



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# CRIMINAL CHARGES

If it is determined by building or fire officials that code violations resulted in injury or death, the following charges may be used

- RISK OF INJURY
- RECLSS ENDANGERMENT
- MANSLAUCHTER II
- CRIMINALLY NEGLIGENT HOMICIDE



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**FIRE MARSHAL RESPONSIBILITY**

**C.G.S. 298**

(b) No local fire marshal, deputy fire marshal, fire inspector or other inspector or investigator acting for a local fire marshal, who is charged with the enforcement of the Fire Safety Code and this chapter, may be held personally liable for any damage to persons or property that may result from any action that is required or permitted in the discharge of his official duties while acting for a municipality or fire district. Any legal proceeding brought against any such fire marshal, deputy fire marshal, fire inspector or other inspector or investigator because of any such action shall be defended by such municipality or fire district. No such fire marshal, deputy fire marshal, fire inspector or other inspector or investigator may be held responsible for or charged with the costs of any such legal proceeding. Any officer of a local fire marshal's office, if acting without malice and in good faith, shall be free from all liability for any action or omission in the performance of his official duties.



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**DISCRETIONARY v. MINISTERIAL**

**DISCRETIONARY**

Discretionary functions are those where the official has the flexibility to use personal judgement and knowledge in their duties.

**MINISTERIAL**

Ministerial functions are those where the official is provided with clear parameters as to what must be done and how the job is to be performed



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**GOVERNMENTAL IMMUNITY**

In general,  
governmental immunity will protect  
officials performing discretionary acts,  
but not Ministerial acts

Courts generally hold that failure to inspect  
is RECKLESS DISREGARD



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**RECENT COURT CASES**

**Jerry SMART Sr., Administrator  
v.  
Jack CORBITT et al.**

Decided March 1, 2011



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**COURT RULING**

The court found that the Fire Marshal was not reckless in failing to inspect pursuant to C.G.S. 29-305, and that he was without notice of a problem with the smoke detection devices at the premises. He was entitled immunity from liability pursuant to C.G.S. 52-557n(b)(8) for failure to inspect.



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**RECENT COURT CASES**

**Rinh THACH  
v.  
CITY OF BRIDGEPORT et al.**

Decided 2012



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### COURT RULING

The court found that the alleged actions by the Fire Marshal were *ministerial*, referring to C.G.S. 29-305 which imposes a duty on Fire Marshals to complete annual inspections of public buildings and multi-family housing, and C.G.S. 52-557n(b)(8) which provides that an officer such as a Fire Marshal can be subject to liability if the marshal was made aware of a previous violation or hazard and did not go back to inspect the property to confirm that the violation or hazard was corrected.



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### FIRE MARSHAL LIABILITY

- Criminal
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- Administrative
- Social



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### 29-306 (b)

(b) Upon failure of an owner or occupant to abate a hazard or remedy a condition pursuant to subsection (a) of this section within a reasonable period of time as specified by the local fire marshal, such local fire marshal shall promptly notify in writing the prosecuting attorney having jurisdiction in the municipality in which such hazard exists of all the facts pertaining thereto, and such official shall promptly take such action as the facts may require, and a copy of such notification shall be forwarded promptly to the State Fire Marshal. The local fire marshal may request the chief executive officer or any official of the municipality authorized to institute actions on behalf of the municipality in which the hazard exists, or the State Fire Marshal, for the purpose of closing or restricting from public service or use such place or premises until such hazard has been remedied, to apply to any court of equitable jurisdiction for an injunction against such owner or occupant;



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### 29-306 (c)

(c) If the local fire marshal or a local police officer determines that there exists in a building a risk of death or injury from (1) blocked, insufficient or impeded egress, (2) failure to maintain or the shutting off of any fire protection or fire warning system required by the Fire Safety Code or State Fire Prevention Code, (3) the storage of any flammable or explosive material without a permit or in quantities in excess of any allowable limits pursuant to a permit, (4) the use of any firework or pyrotechnic device without a permit, or (5) exceeding the occupancy limit established by the State Fire Marshal or a local fire marshal, such fire marshal or police officer may issue a verbal or written order to immediately vacate the building. Such fire marshal or police officer shall notify or submit a copy of such order to the State Fire Marshal if such marshal or officer anticipates that any of the conditions specified in subdivisions (1) to (5), inclusive, of this subsection cannot be abated in four hours or less from the time of such order. Upon receipt of any such notification or copy, the State Fire Marshal shall review such order to vacate, and after consultation with the local fire marshal or local police officer, determine whether to uphold, modify or reverse such order, with any further conditions the State Fire Marshal deems appropriate to protect any person from injury. A violation of such order shall be subject to the penalties under section 29-295.




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## QUESTIONS?

THANK YOU  
AND  
BE SAFE

[paul.makuc@ct.gov](mailto:paul.makuc@ct.gov)  
[kenneth.christensen@ct.gov](mailto:kenneth.christensen@ct.gov)

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## REFERENCES

- ☐ Connecticut Building Code - IBC 2003
- ☐ Connecticut Fire Safety Code - 2003
- ☐ NFPA 921 - 2011 Edition
- ☐ Connecticut General Statutes
- ☐ WestLaw

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