

## RESOLUTION NO. 2021-02

### A RESOLUTION OF THE BUILDING BOARD OF APPEALS OF THE CITY OF YORBA LINDA UPHOLDING THE BUILDING OFFICIAL'S DETERMINATION TO REQUIRE BUILDING PERMITS FOR UNPERMITTED GAS AND ELECTRICAL LINES SERVING A REAR YARD BARBEQUE STRUCTURE AT 21129 VIA CANON

**WHEREAS**, on Tuesday March 30, 2021, an appeal of the Building Official's determination that an unpermitted gas line and unpermitted electrical line serving an outdoor barbecue structure at 21129 Via Canon, Yorba Linda, California, 92887, was received via email from Shahram Manighalam on property located north of Esperanza Road and west of Dominguez Ranch Road in the Dominguez Ranch PD (Planned Development) zone; and,

**WHEREAS**, said appeal was in reference to the Notice of Violation issued to Mr. Manighalam by the City of Yorba Linda on March 15, 2021; and,

**WHEREAS**, the Building Official's determination was based on the following regulatory requirements:

- 2019 California Building Code and the 2019 California Residential Code, Section 105.1 and 105.2, Electrical, Plumbing
- 2019 California Plumbing Code
  - a. Section 104.2, Exempt Work
  - b. Chapter 12, Fuel Gas Piping
- 1997 Uniform Housing Code
  - a. Section 1001.6, Hazardous Plumbing
- 2019 California Electrical Code
  - a. California Article 89, General Code Provisions, Section 89.108.4.1, Permits and Section 89.108.4.4, Inspections
- 1997 Uniform Housing Code
  - a. Section 1001.5, Hazardous Electrical Wiring
- Yorba Linda Ordinance No. 2019-1065
  - a. Article 95.7 – Permit
  - b. Article 95.10 – Compliance
  - c. Article 95.11 – Inspections; and,

**WHEREAS**, the Building Official's determination was based further on observations made during a site inspection of the existing, unpermitted gas line and electrical line serving said outdoor barbecue structure, which was executed March 3, 2021, by City staff including

Jim Sowers, Building Official, David Brantley, Community Development Director and Mary Lewis, Senior Community Preservation Officer; and,

**WHEREAS**, this matter of appeal requires an open hearing in accordance with Section B101.3.1 of the 2019 California Building Code; and,

**WHEREAS**, notice of the open hearing before the Board of Appeals of the City of Yorba Linda concerning the matter of appeal was given in accordance with applicable law; and,

**WHEREAS**, on Monday, June 14, 2021, an open hearing pertaining to this matter of appeal was scheduled before the Board of Appeals held; and,

**WHEREAS**, the appellant requested a continuance of the originally scheduled appeal hearing and the City granted the requested continuance appeal hearing, continuing this matter to the Board of Appeals meeting on Thursday, June 24, 2021; and,

**WHEREAS**, city staff prepared a written report on this matter, a copy of which was provided to the appellant in advance of the open hearing; and,

**WHEREAS**, the Board of Appeals has reviewed and considered the Building Official's action to require building permits for said unpermitted gas and electrical lines serving the subject outdoor barbeque structure; and,

**WHEREAS**, after consideration of the staff report and all of the information, testimony, and evidence presented at the open hearing, the Yorba Linda Board of Appeals does hereby find that the Building Official's determination with respect to requiring the appellant to obtain building permits for the unpermitted gas and electrical lines serving an existing outdoor barbeque structure, in accordance with the aforesaid sections of the California Building Code and the City's Municipal Code, is appropriate and necessary to protect the public health, safety and welfare, based upon the following:

- A. The photographs of the gas line leading from the clothes dryer in the appellant's garage, through the garage wall and into the patio slab leading to the barbeque structure, clearly indicate that the barbeque structure is served by a gas line. The photographic evidence also suggests that additional flex connections between portions of said gas line recently have been removed by virtue of the clean, untarnished end caps on the garage side portions of the gas line, and the clean, untarnished male-ended gas line connector (nipple) that projects from the upper surface of the masonry barbeque structure to serve a separate gas-fired cooking device that sits atop the barbeque structure. In addition, photos depict a natural gas valve key that protrudes from the face of the barbeque. The appellant has contended that there is a gas line, but it has been disconnected, and was installed as part of the original house construction, or that it was existing when he purchased the home, which therefore obviates the need for obtaining a building permit for said gas line after-the-fact. The Board of Appeals disagrees with this contention and finds that the aforementioned sections of the California Building Codes and Yorba Linda Municipal Code are applicable and require that such gas line be permitted by

the City of Yorba Linda Building Division. Moreover, even if the gas line was installed by a prior owner without benefit of permits, and/or has been partially disconnected at the present time, it nevertheless must be permitted to ensure that it meets all applicable safety standards should it ever be reconnected by the appellant or a future property owner.

- B. Additionally, the Building Division has reviewed all City building permit records on file for the appellant's residence and has not found any evidence to support that said gas line was a part of the original house construction. In short, there is no building permit on file for the subject gas line.
- C. Similarly, the photographic evidence collected by the City's inspection of the property shows a non-weather rated, non-compliant electrical outlet built into the right side of the barbeque structure. This receptacle clearly is for the purpose of providing electrical service to the barbeque. As with the gas line, the Building Division has reviewed all City building permit records on file for the appellant's residence and has not found any evidence to support that said electrical line and outlet were permitted as part of the original house construction. In short, there is no building permit on file for the subject electrical line.
- D. Finally, the Board of Appeals finds that the adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") pursuant to Title 14 California Code of Regulations Sections 15061(b)(3), in that it can be seen with certainty that the adoption of the Resolution is not a project, and further, that it proposes no activity that may have a significant effect on the environment and will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

**NOW THEREFORE BE IT RESOLVED** that the Yorba Linda Board of Appeals does hereby uphold the Building Official's determination that building permits are required to be obtained for the subject unpermitted gas and electrical lines, or, alternatively, that said lines must be fully abandoned and removed from the structure to the satisfaction of the Building Official.

**PASSED AND ADOPTED** at an open hearing of the City of Yorba Linda Board of Appeals on June 24, 2021.

  
BOB HEINRICH  
CHAIRMAN

TO WIT:

I HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of the Yorba Linda Board of Appeals on June 24, 2021, and carried by the following roll call vote:

AYES:	4	BOARDMEMBERS: HEINRICH, KUWITZKY, MCFARLAND, GULLIVER
NOES:	1	BOARDMEMBERS: SESAR
ABSENT:	0	BOARDMEMBERS: NONE



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DAVID BRANTLEY, AICP  
SECRETARY TO THE BOARD OF APPEALS