

(A copy of the decision referred to follows:)

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
OFFICE OF THE CORPORATION COUNSEL,
Washington, November 5, 1964.

In re Overlap of Functions of Minimum Wage and Industrial Safety Board and the Department of Licenses and Inspections. (CCO:3.M3.1—Overlap of Functions—Dept. of Licenses and Inspections.)

The Commissioners of the District of Columbia.

GENTLEMEN: You forwarded to this office a memorandum from the Director, Department of Licenses and Inspections, requesting that I define "the limits of authority and jurisdiction of the Minimum Wage and Industrial Safety Board and the Department of Licenses and Inspections" with respect to "permanent features of a building or structure." The request for an opinion resulted from a jurisdictional dispute as to what regulations should be applicable to certain public stairways in the Hotel Washington.

The stairways in question are five in number and the widths vary from 47 inches to 53 inches. Rule 11-2314 of the Minimum Wage and Safety Standards and Regulations requires a handrail on each side of a stairway, the width of which is more than 44 inches but less than 88 inches. The Building Code in Section 3-619 specifies two handrails for stairways over 36 inches wide, but Section 3-6235(g) permits one handrail for interior stairways on existing buildings erected prior to March 8, 1946.

The Director of Licenses and Inspections, in memoranda dated April 28, 1964, and June 15, 1964, states that the industrial safety regulations deal "primarily with temporary construction standards and facilities for the protection and safety of workmen * * * and should not apply to normal public stairways within a building." In his view, the only regulations applicable to such permanent appurtenances of a building are those contained in the Building Code, enforceable by the Department of Licenses and Inspections.

The Director of Industrial Safety, in a memorandum dated June 12, 1964, points out that there are some 343 employees at the hotel, and that employees use the stairways in question. This, it is said, makes the hotel a place of employment, as that term is used in the statute defining the authority of the Board.

If both the Building Code and the industrial safety regulations are applicable, the fact that the requirements of the latter are more stringent in a given case, does not necessarily make them void. The validity of a regulation depends rather on whether a reasonable standard is presented (See *Davis v. District of Columbia*, 59 A. 2d 208, 211 (Mun. App. 1948)), and whether the regulation is within the delegated authority of the enabling statute.

The handrail requirements specified in both the Building Code and the industrial safety regulations are sufficiently related to safety and protection against accidents so as to present reasonable standards. Whether these requirements as applied to the hotel are within the authority delegated under the pertinent statutes, depends, of course, on the wording of the statute in question. The requirements of the Building Code regarding handrails for stairways within hotels are valid on this ground because of the extremely broad authority given the Commissioners "to make and enforce such building regulations . . . as they deem advisable." 20 Stat. 131 (1878); Sec. 1-228, D.C. Code, 1961 ed. Whether the particular regulation of the Minimum Wage and Industrial Safety Board as applied to the Hotel Washington is within the scope of the Board's authority under its statute presents a more difficult question.

The Minimum Wage and Industrial Safety Board was created by an Act of Congress approved October 14, 1941, 55 Stat. 738, Ch. 438, which was amendatory of the Act of September 19, 1918, 40 Stat. 960, Ch. 174. The terms of the Act of 1941 are embodied in Title 36, Sections 401-442, D.C. Code, 1961 ed.

The 1941 amendment added Subchapter II which is entitled "Industrial Safety", and sets forth its purpose in Sec. 36-431:

"The purpose of this subchapter is to foster, promote, and develop the safety of wage earners of the District of Columbia in relation to their working conditions."

Other sections of Subchapter II relevant to the Board's authority provide in pertinent part as follows: