

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of RVA Home LLC
Appeal No. 24-08

DECISION OF THE REVIEW BOARD

I. Procedural Background

The State Building Code Technical Review Board (Review Board) is a Governor-appointed board established to rule on disputes arising from application of regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

II. Case History

On April 26, 2024 the City of Richmond Department of Planning and Development Review (City), the agency responsible for the enforcement of Part III of the 2021 Virginia Uniform Statewide Building Code (VUSBC or VMC), inspected the structure located at 1321 Porter Street in the City of Richmond and subsequently issued a Notice of Violation – Unsafe Structure (NOV) to RVA Home LLC (RVA), for the third-floor addition, citing the following VMC Sections:

- Report of Unsafe Conditions
106.1 US - Unsafe Structure

A Existing structure is determined to be unsafe if it (i) determined to by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public; (ii) that contains unsafe equipment; or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely.

This property has been inspected and found to be unsafe due to the following conditions:

The third-floor addition was constructed without plans, permits, or inspections.

These issues pose a safety risk to inhabitants, neighboring structures, and the public at large if not repaired immediately. Consequently, the building is hereby placarded as unsafe. As a result of being placarded as unsafe, the property shall remain so until all necessary plans, permits, engineering reports, and inspections have been received, approved, and performed. All occupants are required to vacate the premises immediately, and entry to the structure, including by the owner, tenants, contractors, etc., is prohibited until a Right to Enter Letter has been generated by the inspector. Any person(s) entering the premises without the Right to Enter Letter risk arrest for trespassing by the Richmond Police Department.

To rectify these violations, follow the "City of Richmond Permit Process" to completion. Failure to comply with this notice by the abatement date may result in criminal court action

RVA filed an appeal to the City of Richmond Local Board of Building Code Appeals (local appeals board). On August 21, 2024, the local appeals board upheld the decision of the code official. On September 12, 2024, RVA further appealed to the Review Board seeking to have the NOV overturned.

At the Review Board hearing on November 15, 2024, the City raised questions as to the ownership of the property at 1321 Porter Street, whether RVA was aggrieved, and whether RVA had standing to file the appeal; therefore, the Review Board heard those arguments and ruled accordingly.

Appearing at the Review Board meeting for RVA Home LLC was Sophia Oliveri. Appearing at the Review Board meeting for the City of Richmond were Attorney Greg Lukanuski, City Building Commissioner David Alley, and City of Richmond Building Commissioner staff Rick Paul.

III. Findings of the Review Board

A. Whether the appeal was properly before the Board.

RVA argued the merits of the case related to the NOV issued to RVA Home LLC on April 26, 2024 during opening statement and testimony. During testimony RVA confirmed that RVA had no ownership in 1321 Porter Street, was the property manager at the time of the April 26, 2024 NOV for 1321 Porter Street, and as of May 29, 2024 was no longer the property manager for 1321 Porter Street.

The City argued that the appeal should be dismissed while raising questions of ownership of 1321 Porter Street, whether RVA was aggrieved, and RVA's standing for the appeal.

The Review Board found that the April 26, 2024 NOV was moot and the appeal was not properly before the board because, although RVA was the property manager of 1321 Porter Street, and was properly issued an NOV on April 26, 2024 (which was properly appealed to the LBBCA as she was aggrieved by the NOV at the time, and was a party to the LBBCA hearing, which then properly brought the appeal before the Review Board). Based on the testimony at the hearing and evidence provided as of May 29, 2024, RVA was no longer the property manager for 1321 Porter Street and as of the Review Board hearing, RVA was no longer a responsible party. Additionally, the Review Board directed the City to rescind the April 26, 2024 RVA Home LLC NOV to create an official record that the April 26, 2024 RVA Home LLC NOV no longer exists.

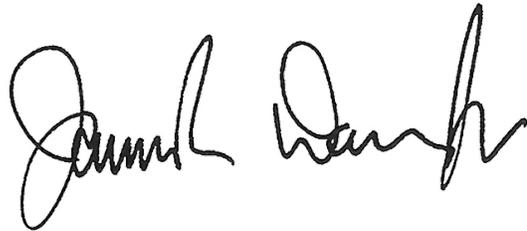
IV. Conclusion

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders as follows:

B. Whether the appeal was properly before the Board.

The NOV is moot and the appeal is dismissed as not properly before the Board because, although RVA was the property manager of 1321 Porter Street, and was properly issued an NOV

on April 26, 2024 (which was properly appealed to the LBBCA as she was aggrieved by the NOV at the time, and was a party to the LBBCA hearing, which then properly brought the appeal before the Review Board). Based on the testimony at the hearing and evidence provided as of May 29, 2024 RVA was no longer the property manager for 1321 Porter Street and as of the Review Board hearing, RVA was no longer a responsible party. Additionally, the Review Board directs the City to rescind the April 26, 2024 RVA Home LLC NOV to create an official record that the April 26, 2024 RVA Home LLC NOV no longer exists.



Chair, State Building Code Technical Review Board

Date entered _____ January 17, 2025 _____

As required by VCC 119.9: “As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with W. Travis Luter, Sr., Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period”.

As required by Rule 2A:2(C): “Any party appealing from a regulation or case decision shall file with the agency secretary, within 30 days after adoption of the regulation or after service of the final order in the case decision, a notice of appeal signed by the appealing party or that party's counsel. With respect to appeal from a regulation, the date of adoption or readoption shall

be the date of publication in the Register of Regulations. In the event that a case decision is required by § 2.2-4023 or by any other provision of law to be served by mail upon a party, 3 days shall be added to the 30-day period for that party. Service under this Rule shall be sufficient if sent by registered or certified mail to the party's last address known to the agency". See Rule 2A:2(A) of the Rules of the Supreme Court of Virginia.