

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Robert Hale Jr.
Appeal No. 23-05

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 11, 2023, the City of Fredericksburg Building Services Division (City), the agency responsible for the enforcement of the 2018 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), approved a building sewer test for the residential structure, located at 1820 Charles Street, in the City of Fredericksburg, owned by Robert Hale Jr. (Hale). Hale challenged the approval of the building sewer test stating that the required test, pursuant to VCC Section P2503.4 Building sewer testing, was not properly performed because the required pressurizing of the building sewer to not less than a 10-foot head of water was not performed.

Hale filed an appeal to the City of Fredericksburg Board of Building Code Appeals (local appeals board) which was denied June 15, 2023. Hale further appealed to the Review Board on July 11, 2023.

Appearing at the Review Board meeting for Hale was Robert F. Hale Jr. and his legal counsel, Donald R. Skinker. Appearing at the Review Board meeting for the City was John Schaffer.

III. Findings of the Review Board

A. Whether to overturn the City and local appeals board that the building sewer was properly tested in accordance with VCC Section P2503.4 Building sewer testing.

Hale argued that the City approved the building sewer test where the contractor pressurized the building sewer with a five-foot head of water rather than the required pressurizing of the building sewer with a 10-foot head of water in accordance with VCC Section P2503.4 Building sewer testing.

The City argued that due to the site conditions, potential safety issues, and time of day they allowed and approved pressurizing the building sewer with a five-foot head of water in lieu of the required pressurizing the building sewer with a 10-foot head of water.

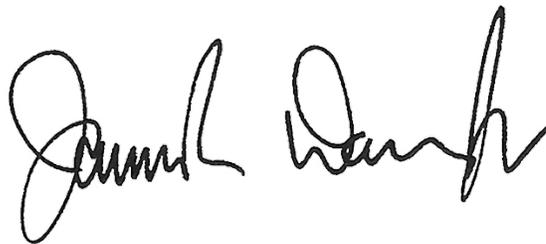
The Review Board found that the building sewer test conducted and approved by the City, pressurizing the building sewer with a five-foot head of water, did not meet the minimum testing requirement because the required test for a building sewer, pursuant to 2018 VCC Section P2503.4, requires pressurizing the building sewer to not less than a 10-foot head of water.

IV. Final Order

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

B. Whether to overturn the City and local appeals board that the building sewer was properly tested in accordance with VCC Section P2503.4 Building sewer testing.

The decision of the City and local appeals board that a proper building sewer test was conducted and approved pressurizing the building sewer with a five-foot head of water, is overturned, because the required test for a building sewer, pursuant to 2018 VCC Section P2503.4, requires the insertion of a test plug at the point of connection with the public sewer, filling the building sewer with water, and pressurizing the sewer to not less than a 10-foot (3048 mm) head of water; therefore, the test conducted and approved by the City did not meet the minimum testing requirements of the VCC.



Chair, State Building Code Technical Review Board

Date entered ____February 16, 2024____

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.