

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, March 15, 2019 - 10:00am

Chesterfield County Government Center
9800 Government Center Parkway, Chesterfield, Virginia

- I. Roll Call **(TAB 1)**
- II. Approval of February 15, 2019 Minutes **(TAB 2)**
- III. Approval of Final Order **(TAB 3)**
In Re: Appeal of Karen Lindsey
Appeal No 18-07
- IV. Approval of Final Order **(TAB 4)**
In Re: Appeal of AMcL, LLC
Appeal No 18-14
- V. Approval of Final Order **(TAB 5)**
In Re: Appeal of Rappahannock County High School
Appeal No 18-16
- VI. Public Comment
- VII. Appeal Hearing **(TAB 6)**
In Re: Appeal of Greg Wooldridge (ODU)
Appeal No 18-17
- VIII. Appeal Hearing **(TAB 7)**
In Re: Appeal of Raymond M. Parker
Appeal No. 18-20
- IX. Appeal Hearing **(TAB 8)**
In Re: Appeal of Karen Hobbs
Appeal No. 18-21
- X. Request for Interpretation **(TAB 9)**
In Re: Powhatan County (David W. Dunivan, Building Official)
- I. Supplement **(TAB 10)**
In Re: Request for Reconsideration for AMcL, LLC
Appeal No. 18-14
- II. Secretary's Report
 - a. Briefing on cases for the upcoming May meeting

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

James R. Dawson, Chairman
(Virginia Fire Chiefs Association)

W. Shaun Pharr, Esq., Vice-Chairman
(The Apartment and Office Building Association of Metropolitan Washington)

Vince Butler
(Virginia Home Builders Association)

J. Daniel Crigler
(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

Alan D. Givens
(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

Christina Jackson
(Commonwealth at large)

Joseph A. Kessler, III
(Associated General Contractors)

Eric Mays
(Virginia Building and Code Officials Association)

E.G. “Rudy” Middleton
(Electrical Contractor)

Joanne D. Monday
(Virginia Building Owners and Managers Association)

Patricia S. O’Bannon
(Commonwealth at large)

J. Kenneth Payne, Jr., AIA, LEED AP BD+C
(American Institute of Architects Virginia)

Richard C. Witt
(Virginia Building and Code Officials Association)

Aaron Zdinak, PE
(Virginia Society of Professional Engineers)

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**STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING MINUTES
February 15, 2019
Chesterfield, Virginia**

Members Present

Mr. James R. Dawson, Chairman
Mr. W. Shaun Pharr, Esq., Vice-Chairman
Ms. Christina Jackson
Mr. Alan D. Givens
Mr. Eric Mays, PE
Mr. E. G. Middleton, III
Mr. J. Kenneth Payne, Jr.
Mr. Richard C. Witt
Mr. Aaron Zdinak, PE

Members Absent

Mr. Vince Butler
Mr. Daniel Crigler
Mr. Joseph Kessler
Ms. Joanne Monday
Ms. Patricia S. O'Bannon

Call to Order

The meeting of the State Building Code Technical Review Board ("Review Board") was called to order at approximately 9:20 a.m. by Chairman Dawson.

Roll Call

The roll was called by Mr. Luter and a quorum was present. Mr. Justin I. Bell, legal counsel for the Board from the Attorney General's Office, was also present.

Approval of Minutes

The draft minutes of the January 11, 2019 meeting in the Review Board members' agenda package were considered. Mr. Witt moved to approve the minutes with the addition of "arrived after the approval of the final order for appeal 18-10" next to Mr. Zdinak's name in the Member's present section on page five of the agenda package, the addition of the designation or title in the list of individuals sworn in for the preliminary hearing on page nine of the agenda package, and the editorial change in spelling of the word "*exists*" in the fourth line of the first paragraph of page eleven. The motion was seconded by Mr. Zdinak and passed with Messrs. Mays and Givens abstaining.

Final Orders

Appeal of Kristie L. Sours Atwood

Appeal No. 18-08:

Appeal of Kristie L. Sours Atwood

Appeal No. 18-12:

Appeal of Buracker Construction

Appeal No. 18-13:

(Preliminary Hearing: Potential Conflict of Interest Issue)

After review and consideration of the final order presented in the Review Board members' agenda package, Mr. Witt moved to approve

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the final order with the following editorial changes:

- Remove the word “enough” in the second line of the third paragraph on page three of the final order (shown on page 19 of the agenda package)
- Remove the words “The appeal having been given due regard, and” and capitalizing the word “For” in the first line of the first paragraph on page four of the final order (shown on page 21 of the agenda package)
- Remove the word “members” in the first line of the second paragraph and add “a” to the third line of the second paragraph on page four of the final order (shown on page 21 of the agenda package)

Ms. Jackson seconded the motion and it passed unanimously.

Public Comment

Chairman Dawson opened the meeting for public comment. Mr. Luter advised that no one had signed up to speak. With no one coming forward, Chairman Dawson closed the public comment period.

New Business

Appeal of Karen Lindsey; Appeal No. 18-07:

A hearing convened with Chairman Dawson serving as the presiding officer. The appeal involved citations under the 2012 Virginia Maintenance Code related to the property owned by Karen Lindsey located at 2245 Strawberry Lane in the City of Chesapeake.

The following persons were sworn in and given an opportunity to present testimony:

John T. King, III, City of Chesapeake
Karen Linsey, Owner
Alexis Lindsey, Owner’s daughter
Pepper Wilson, Owner’s son

Also present was:

Meredith Jacobi, Esq., legal counsel for the City of Chesapeake

After testimony concluded, Chairman Dawson closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

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Decision: Appeal of Karen Lindsey; Appeal No. 18-07:

After deliberations, Mr. Pharr moved to remand the appeal back to the local appeals board for it to re-issue its decision in a manner and form that complied with the 2012 VMC Section 106.7 because the prior resolution did not comply. The motion was seconded by Ms. Jackson. The motion passed with Mr. Payne voting in opposition.

It is the intent of this Review Board decision for the initial language in the original local appeals board resolution, especially pertaining to the deadlines (found on page 92 of the agenda package), to carryover to the re-issued local appeals board resolution.

Specifically, line five of the last paragraph of the re-issued local appeals board resolution (see excerpt of original resolution below) would read “*owner/Executor of the Estate a 30 day timeframe from the date of the **re-issued resolution, Month Day, and Year....***” pursuant to this Review Board decision. It is the hope of the Review Board that the time that has elapsed coupled with the new time provided by the re-issued code compliant local appeals board resolution provides Ms. Lindsey the requested time needed to comply and eliminates the need for another appeal.

NOW THEREFORE, be it resolved in the matter of Appeal No. 18-02, Karen Lindsey vs. City of Chesapeake Department of Development and Permits, the board hereby upholds the Notice of Violation issued on March 26, 2018 determining that the building is unsafe for human occupancy under the Virginia Uniform Statewide Building Code and has given the property **owner/Executor of the Estate a 30 day timeframe from the date of the hearing, May 16, 2018,** to obtain an engineer’s report and contractor’s agreement, an additional 60 days for the purchase of the required permits from the Development and Permits Department, and an additional 180 days for the structure to be repaired, inspected and obtain a new Certificate of Occupancy from the Development and Permits Department. Any entry of the property without a waiver of liability(s) issued by the City (John T. King, III, Code Official or his designee) is prohibited by law. If a Certificate of Occupancy is not issued or the property is not demolished by the Appellant, Ms. Lindsey, within 270 days of the date of this decision, the City of Chesapeake will perform the demolition of the structure at 2445 Strawberry Lane WITHOUT FURTHER NOTICE to the Board or Appellant.

Appeal of AMcL, LLC; Appeal No. 18-14:

A hearing convened with Chairman Dawson serving as the presiding officer. The appeal involved citations under the 2012 Virginia Maintenance Code related to the property owned by AMcL, LLC located at 2112 Oakwood Lane in Henrico County.

The following persons were sworn in and given an opportunity to present testimony:

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Greg Revels, Henrico County Building Official
John Butler, Henrico County Inspector
Michael Morrissey, Agent for AMcL, LLC.
Ronald Ames, AMcL, LLC.

Also present was:

John Gilbody, Esq., legal counsel for Henrico County

After testimony concluded, Chairman Dawson closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of AMcL, LLC; Appeal No. 18-14:

After deliberations, Mr. Mays moved to dismiss the appeal as not properly before the Board since the County rescinded the Notice of Violation (NOV). The motion was seconded by Mr. Witt. The motion passed with Messrs. Zdinak, Payne, and Pharr voting in opposition.

Appeal of Rappahannock County High School; Appeal No. 18-16:

A hearing convened with Chairman Dawson serving as the presiding officer. The appeal involved citations under the 2012 Virginia Statewide Fire Prevention Code related to the property owned by Rappahannock County located at 12576 Lee Highway in Rappahannock County.

The following persons were sworn in and given an opportunity to present testimony:

James E. Swindler II, Principal Rappahannock High School
Brian M. McGraw, State Fire Marshal
Greg Harp, Deputy State Fire Marshal

After testimony concluded, Chairman Dawson closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be

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distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of Rappahannock County High School; Appeal No. 18-16:

After deliberations, Mr. Witt moved to overturn the SFMO on items #1 and #2 in the suggested items for resolution on page 379 of the agenda package. The motion was seconded by Mr. Payne. The motion failed with Messrs. Givens, Zdinak, Middleton and Mays and Ms. Jackson voting in opposition.

After further deliberation Mr. Witt moved to uphold the SFMO with the following editorial changes to the Notice of Inspection wherever SFPC Section 1030.2.1 was cited:

(1) Remove the language that reads “Security devices affecting the means of egress shall be subject to approval of the fire code official” as it has been removed from the SFPC by VCC Section 103.2 and is therefore unenforceable

(2) Add a new sentence that reads “Devices are not permitted unless approved by the Building Official in accordance with the USBC.”
The motion was seconded by Mr. Givens. The motion passed with Mr. Payne voting in opposition.

Secretary’s Report

Mr. Luter reminded the Review Board members of the Board Retreat, scheduled for March 14, 2019. He informed the members that an email, with all of the particulars, had been sent on Thursday February 14, 2019. Mr. Luter asked the members to reply to the February 14th email letting Review Board staff know if the members planned to attend the retreat.

Mr. Luter provided the Review Board members with a basic overview of the three cases coming before them in the March meeting. Mr. Luter informed the members the March meeting would start at 10:00 a.m.

Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 3:30 p.m.

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Approved: March 15, 2019

Chairman, State Building Code Technical Review Board

Secretary, State Building Code Technical Review Board

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Karen Lindsey
Appeal No. 18-07

DECISION OF THE REVIEW BOARD

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).

Case History

On January 25, 2018, the home owned by William and Marjorie Lindsey located at 2445 Strawberry Lane in the City of Chesapeake caught fire. Karen Lindsey (Lindsey), daughter to the deceased owners and current resident of the property along with her two children, were displaced due to the extensive damage to the home. In February of 2018 Lindsey was certified as the Executor of the estate for the property. Lindsey, appealed the enforcement action by the City of Chesapeake, Development and Permits Department (City) under Part III of the Uniform Statewide Building Code (Virginia Maintenance Code).

On January 29, 2018, the City, in enforcement of the 2012 Virginia Property Maintenance (VMC), performed an inspection of the property. In early March of 2018 copies of the Notice of Unsafe Structure (Demolition), Demolition Authorization Form, City of Chesapeake Board of Building Code Appeals (local appeals board) application, Notice of Violation (NOV), Public

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Notice, and Building Inspection Report for Unsafe Structure dated March 7, 2018 were stapled to the garage of the structure. Lindsey removed them from the structure and contacted the City for clarification of the documents. On March 29, 2018, Lindsey received copies of the above referenced documents along with an amended Building Inspection Report for Unsafe Structure dated March 26, 2018 via USPS certified mail. The same documents were posted on the structure by the City Sheriff's Department on March 30, 2018.

The local appeals board heard Lindsey's appeal on May 16, 2018 and ruled to uphold the decision of the City. In addition to upholding the City's decision the local appeals board gave Lindsey 30 days from the date of the hearing to obtain an engineer's report and contractor's agreement; 60 days to acquire the needed permits and 180 days to complete all repairs, request the required inspections and obtain a new Certificate of Occupancy (CO); and 270 days to obtain the new CO or have the property demolished. The local appeals board further stated that if the deadlines provided were not adhered to the City would demolish the structure without further notice. Lindsey agreed with the cited violations; however, she found the timeline unattainable and asked for an extension of the timeframes provided by the local appeals board; therefore, Lindsey further appealed to the Review Board.

A Review Board hearing was held on February 15, 2019. Appearing at the Review Board hearing for the City of Chesapeake were John King and Meredith Jacobi, legal counsel. Karen Lindsey and her two children, Alexis Lindsey and Pepper Wilson, attended on behalf of the Lindseys.

Findings of the Review Board

A. Whether or not the appeal was timely to the Review Board.

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Lindsey argued that she emailed Review Board staff within the required timeframe to acquire the needed application; Lindsey expressed her desire to appeal the decision of the City in that email. The City argued that in accordance with VMC section 106.8, the application must be made to the Review Board within 21 days. The City also argued that a copy of the Code Official's decision and the resolution from the local board of appeals must accompany the application. Lindsey argued that she requested the necessary information and documentation at the local appeals board hearing needed to further appeal to the Review Board. Lindsey further argued the City did not provide her with the needed guidance, pertinent information, complete contact information, or Review Board appeals application needed to properly file an appeal to the Review Board. The City argued that it was not the responsibility of the City to provide Lindsey with the needed application form; however, the City did provide Lindsey with the link to the location of the Review Board appeals application located on the Department of Housing and Community Development, State Building Codes Office (SBCO) website and Review Board staff email addresses. The City also argued that Lindsey should have emailed Review Board staff sooner allowing ample time to receive the necessary application. Lindsey argued that she had limited access to technology due to being displaced from her home since the fire.

The Review Board did not agree with the City that the LBBCA resolution was adequate. The Review Board finds the local appeals board resolution did not provide the required language in accordance with the VMC Section 106.7 which reads:

“Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150.”

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The Review Board further finds that the information provided to Lindsey was outdated and referenced Review Board staff that retired nearly a year ago.

Final Order

For the reasons set out herein, the Review Board orders the appeal to be, and hereby is, remanded to the local appeals board to re-issue its decision in a manner and form that complies with the 2012 VMC Section 106.7 because the prior resolution did not comply.

Chairman, State Building Code Technical Review Board

Date entered: _____March 15, 2018_____

Certification

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.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of AMcL, LLC
Appeal No. 18-14

DECISION OF THE REVIEW BOARD

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).

Case History

On July 9, 2018, the County of Henrico Building Inspections Department (County), in enforcement of the 2012 Virginia Property Maintenance Code (VMC), issued a notice of violation to AML LLC for rental property located at 2112 Oakwood Lane. The notice outlined three VMC violations related to the lack of water service at the home.

Mr. Morrissey, agent for AMcL, LLC (AMcL) filed an appeal to the County of Henrico Local Board of Appeals (local appeals board) on July 12, 2018. The local appeals board conducted a hearing in August of 2018 and upheld the decision of the County. AMcL filed an application for appeal to the Review Board on August 20, 2018 after receipt of the local board's decision. The County rescinded the notice of violation on October 4, 2018.

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A Review Board hearing was held on February 15, 2019. Appearing at the Review Board hearing for the Henrico County were John Butler, Greg Revels and John Gilbody, legal counsel. Michael Morrissey and Ronald Ame, attended on behalf of the AMcL, LLC.

Findings of the Review Board

- A. Whether or not to dismiss the appeal as not properly before the Board since the County rescinded the notice of violation, based on previous rulings of the Review Board which hold that no right of appeal exists where a NOV has been resolved.¹

AMcL argued that the County had not filed a motion to dismiss the case as moot. AMcL further argued that the mere rescinding of the NOV did not render the appeal moot. The County argued that it had not filed a motion to dismiss because the issues for resolution indicated in the staff summary stated that the properness of the appeal before the Board based on the fact that the NOV had been rescinded would be the first issue addressed by the Review Board. The County stated that the rescinding of the NOV did not seem to be in dispute by AMcL. AMcL did not dispute the assertion.

The right to appeal is laid out by statute and by the building code. The Virginia Maintenance Code reads in part:

107.5 Right of appeal; filing of appeal application. *Any person aggrieved by the local enforcing agency's application of this code or the refusal to grant a modification to the provisions of this code may appeal to the LBBCA.*

The Maintenance Code clearly states that the right of appeal is for applications of the code and being aggrieved by those applications of the code. The Review Board consistently interpreted that the right to appeal is tied to applications of the code and the aggrievement by applications of the

¹ See Review Board Case No. 03-3 and 17-9. See also Review Board Case Nos. 98-8, 98-16, 00-2, 00-14, 11-9&10, and 16-6.

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code.² In other words, without applications of the code or being aggrieved by applications of the code, there is no right to appeal.

When the building official rescinded the NOV, which is the application of the code, he removed the application of the code. The removal of the application also ended whatever aggrievement there was against AMcL. Therefore, without the NOV there is no right to appeal. The Review Board finds that by rescinding the NOV, the County rescinded the cited violation and application of the code. So, AMcL no longer has a right to appeal in this case.

Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the appeal to be, and hereby is, dismissed.

Chairman, State Building Code Technical Review Board

Date entered: _____ March 15, 2018 _____

Certification

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.

² *Id.*

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: James E. Swindler, Principal for Rappahannock County High School
Appeal No. 18-16

DECISION OF THE REVIEW BOARD

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).

Case History

In September of 2018, a representative of the State Fire Marshal’s Office (SFMO) conducted inspections at Rappahannock High School located at 12576 Lee Highway in Rappahannock County. On September 4, 2018, the SFMO issued Notices of Violation to the school concerning the 2012 Virginia Statewide Fire Prevention Code (SFPC) Section 1030.2.1 (Security devices and egress locks) concerning the installation of security devices.

Mr. Swindler filed an appeal to the Review Board on September 12, 2018. The appeal was based on SMFO citing two violations of SFPC Section 1030.2.1 related to the installation of security devices, to be used in an “active shooter” event, that were not in use at the time of the inspection.

Review Board staff developed a staff summary of the appeal, distributed it to all the parties and scheduled an appeal hearing before the Review Board. The hearing before the Review Board

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was held on February 15, 2019. Appearing at the Review Board hearing for SMFO were Brian McGraw and Greg Harp. James E. Swindler II, Principal, appeared at the hearing for Rappahannock County High School .

Findings of the Review Board

- A. Whether to overturn or uphold the decision of the State Fire Marshal that a violation of the SFPC Section 1030.2.1 (Security devices and egress locks) exists in the auditorium and throughout the school.
- B. Whether to overturn or uphold the decision of the State Fire Marshal that a violation of the SFPC Section 1030.2.1 (Security devices and egress locks) exists in the library.

Rappahannock argued that the barracuda devices and the safety chains with a carabiner would only be used in an “active shooter” event; therefore, the two devices did not impede egress. Rappahannock further argued that the safety chains and barracuda devices were the same concept as using the teacher’s desk or a bookcase in the room to barricade the door. Rappahannock stated that the two devices simply make it easier and faster to barricade the door. Rappahannock also stated that it did not dispute the two devices are in violation of the SFPC as it is written; however, do dispute the validity of the way the SFPC is currently written and is looking for a way to gain permission to use the devices to fulfill the responsibility to protect the students and staff.

The SFMO argued that the Barracuda devices and the safety chains with a carabiner are security devices addressed under Section 1030.2 of the SFPC and are not locks or latches addressed under Section 1008.1.9 of the Virginia Construction Code (VCC). The SFMO further argued that any work that affects the means of egress is required to be reviewed by the Building Official and that the devices were not reviewed and/or permitted by the Building Official. SFMO also argued that, once deployed, the device were in conflict with the building code related to requirements for door operations and accessibility requirements related to the door operating height and grasping requirements. SFMO further argued that there was no way to overcome the

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device from outside the room once deployed. Lastly, SFMO argued that the two devices could be deployed by anyone at anytime since they were hanging on the wall of the classroom in plain sight, rather than being locked in a location with limited access.

The Review Board agrees with the SFMO that the devices are not permitted, unless approved by the Building Official; therefore, the Review Board denies the appeal and upholds the NOV.

Final Order

- A. Whether to overturn or uphold the decision of the State Fire Marshal that a violation of the SFPC Section 1030.2.1 (Security devices and egress locks) exists in the auditorium and throughout the school.
- B. Whether to overturn or uphold the decision of the State Fire Marshal that a violation of the SFPC Section 1030.2.1 (Security devices and egress locks) exists in the library.

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of the SFMO that a violation of SFPC Section 1030.2.1 (Security devices and egress locks) to be, and hereby is, upheld. The Review Board further orders the following editorial changes be made to the SFMO Inspection Notice:

- (1) Remove the language that reads “Security devices affecting the means of egress shall be subject to approval of the fire code official” as it has been removed from the SFPC by VCC Section 103.2 and is therefore unenforceable
- (2) Add a new sentence that reads “Devices are not permitted unless approved by the Building Official in accordance with the USBC.”

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Chairman, State Building Code Technical Review Board

Date entered: ___March 15, 2019_____

Certification

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.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Greg Wooldridge (ODU)
Appeal No. 18-17

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Greg Wooldridge - Old Dominion University (ODU)
Appeal No. 18-17

REVIEW BOARD STAFF DOCUMENT

Suggested Summary of the Appeal

1. In September of 2018, a representative of the State Fire Marshal's Office (SFMO) conducted inspections at Old Dominion University (ODU) Powhatan I Apartments and ODU Powhatan II Apartments located at 4701 (Units A-N) and 4601 (units AA – NN) Powhatan Avenue respectively, in the City of Norfolk. ODU Powhatan I & II Apartments are used to house students of ODU

2. The inspection resulted in the issuance of a notice of violation, dated September 12, 2018, under the Virginia Statewide Fire Prevention Code (SFPC) Section 102.7 (Inspections for USBC requirements) concerning retrofitting requirements for smoke detectors in sleeping rooms and Section 907.2.11 (Single and multiple station smoke alarms) concerning smoke detectors in the common areas of the suites in excess of 10 years old and needing to be installed in accordance with the manufacturer's recommendation.

4. ODU Powhatan I & II Apartments, identified in the notice of violation as Powhatan Housing Complex, consists of 28 buildings. Each building is either three or four stories and contain two apartments per story. Each apartment contains either two or four bedrooms with a common living room and kitchen. All 28 buildings have a fire alarm system; all 183 apartments have smoke detectors located in the hallway directly outside each bedroom. The two cited violations of the SFPC apply to all 183 apartment; therefore, collectively 366 violations were cited.

5. Mr. Wooldridge filed an appeal to the Review Board on September 21, 2018.

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6. This staff summary was distributed to the parties along with all documents received from the parties and opportunity was given for the submittal of additions, corrections or objections to the summary and for submittal of additional documents, pictures or written arguments.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn or uphold the decision of the SFMO that a violation of SFPC Section 102.7 (Inspections for USBC requirements) exists in each apartment of ODU Powhatan I & II Apartments.

2. Whether to overturn or uphold the decision of the SFMO that a violation of SFPC Section 907.2.11 (Single and multiple station smoke alarms) exists in each apartment of ODU Powhatan I & II Apartments.

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Basic Documents

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Michael Reilly
Executive Director

Brian M. McGraw, P.E.
State Fire Marshal



Tidewater Regional Office
State Fire Marshals Office
102 Pratt Street, Suite 101
Fort Monroe, VA 23651-1106
Phone: (757) 848-5828
Fax: (757) 848-5813
Billy Hux, Chief Deputy
Fire Marshal Eastern Supervisor

**Commonwealth Of Virginia
Department of Fire Programs
State Fire Marshal's Office
Inspection Notice**

Date of Inspection:

09/12/2018

Owner/Occupant: ODU Building Name: ODU Powhatan Cmplx Address: Powhatan Dr. Norfolk, 23529	File Number: T-1575-986 Occ/Use Code: DORM
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The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

Code Section	Violation(s)	Correct By
102.7	Inspections for USBC requirements. The fire official shall require that existing structures subject to the requirements of the applicable retrofitting provisions relating to the fire protection equipment and system requirements of the USBC, Part I, Construction, Section 103.7, comply with the provisions located therein. Observed during my inspection that there were no battery operated or AC Powered smoke alarms were present in sleeping rooms at the time of inspection throughout the Powhatan Housing complex.	Immediately
907.2.11	Single or multiple-station smoke alarms. Listed single- and multiple-station smoke alarms complying with UL 217 shall be installed in accordance with Sections 907.2.11.1 through 907.2.11.4 and NFPA 72. Observed during my inspection that there were smoke detectors in the common area of the suites that were older than 10 years and need to be installed and maintained per manufacturer's recommendation.	Immediately

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: **Chris Hicks**

Page 1 of 2

Inspected By: **Josh Hollingsworth, Deputy State Fire Ma**

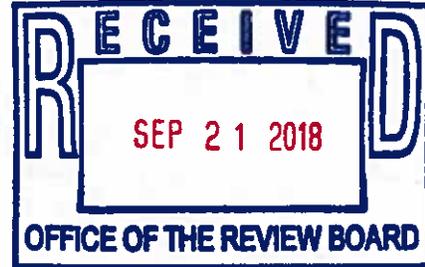
Date: 9/12/2018

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Greg Wooldridge- Old Dominion University - Fire Prevention Manager

4111 Monarch Way, Norfolk, VA. 23508 Suite 401

757-683-5166 gwooldri@odu.edu

Opposing Party Information (name, address, telephone number and email address of all other parties):

Joshua Hollingsworth - Virginia State Fire Marshal's Office - Tidewater Office

102 Pratt Street, Fort Monroe, Virginia 23651

757-848-5828 - josh.hollingsworth@vdfp.virginia.gov

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of September, 2018 a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

A handwritten signature in black ink that reads "Gregory Wooldridge".

Name of Applicant: Gregory Wooldridge

(please print or type)

Appeal's Board,

Retrofit Code section 1701.2;

1701.2 Smoke detectors in colleges and universities. In accordance with § 36-99.3 of the Code of Virginia, college and university buildings containing dormitories for sleeping purposes shall be provided with battery-powered or AC-powered smoke detector devices installed therein in accordance with this code in effect on July 1, 1982. All public and private college and university dormitories shall have installed such detectors regardless of when the building was constructed. The chief administrative office of the college or university shall obtain a certificate of compliance with the provisions of this subsection from the building official of the locality in which the college or university is located or, in the case of state-owned buildings, from the Director of the Virginia Department of General Services. The provisions of this section shall not apply to any dormitory at a state-supported military college or university that is patrolled 24 hours a day by military guards.

In reference to College and University dormitories for sleeping purposes, I believe the definition of the term (therein) for smoke detectors required, was to meet the intent in what is to install smoke detectors in the unit and not specifically in the sleeping room. I believe the unit space such as outside the sleeping area in the hallway would suffice due to when these building were built. The Dorms in question were built in 1977 and 1982. The dorms have 4 separate sleeping areas and currently have smoke detectors outside the sleeping rooms in the hallway. These buildings also do not have corridors to travel when exiting. All rooms units lead directly outside to an exterior stairway. These buildings have been inspected by the State Fire Marshal's Office for years and at no time was this required. I would like clarification on the definition and intent on the word therein.

Greg Wooldridge
Old Dominion University
Fire Prevention Manager
Office of Fire Prevention
4111 Monarch Way
Norfolk, VA. 23508
Office: (757)683-5166
Mobile: (757) 354-5998



Luter, William <travis.luter@dhcd.virginia.gov>

Appeal at ODU

Wooldridge, Gregory A. <gwooldri@odu.edu>
To: "Luter, William" <travis.luter@dhcd.virginia.gov>

Tue, Sep 25, 2018 at 7:45 AM

The attachment is documentation from back in 1982 I found in the old files here on Campus. I believe this issue was dealt with back in 1982. In reference to the R-2 , 1716.3.3 and 1716.3.4, 1716.3.3 references R-2 buildings higher than 75 ft. which Powhatan is less than 75ft and 1716.3.4 reference R-2 to install in dwelling units within buildings of R-2 and R-3 which is currently the case.

Thank you,



Greg Wooldridge
Old Dominion University
Fire Prevention Manager
Office of Fire Prevention
4111 Monarch Way
Norfolk, Va. 23508
Office: (757)683-5166
Mobile: (757) 354-5998

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COMMONWEALTH of VIRGINIA

O. GENE DISHNER
DIRECTOR

C. SUTTON MULLEN
DEPUTY DIRECTOR,
BUILDING REGULATORY SERVICES

H. H. SUMMERS, JR.
CHIEF FIRE MARSHAL

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

August 30, 1982

OFFICE OF
STATE FIRE MARSHAL

205 North Fourth Street
Richmond, Virginia 23219
(804) 786-4751

Dr. Alfred B. Rollins, Jr.
President
Old Dominion University
Norfolk, Virginia 23508

Dear Dr. Rollins:

The Division of Engineering and Buildings Directive No. 40, dated May 7, 1982 requires that the Office of State Fire Marshal provide you with a document indicating that the installation of smoke detectors in the dormitories at your institution is in compliance with the Virginia Uniform Statewide Building Code. To assist the Office of State Fire Marshal in providing such a document, we requested the Department of General Services to provide guidance as to their interpretation of an acceptable installation. As a result, the attached Minimum Requirements for Installation of Smoke Detectors in State-owned College and University Dormitories was developed. Compliance with these conditions will be necessary for us to provide you with the documentation required by Directive No. 40. Since these are minimum requirements, additional features may be added which will improve safety to life from fire if you so desire.

The Office of State Fire Marshal will gladly work with you and your staff in accomplishing this objective. If you have any questions, or if we may be of further assistance, please call.

Yours very truly,

H. H. Summers, Jr.

H. H. Summers, Jr.

/f1

MINIMUM REQUIREMENTS FOR INSTALLATION OF SMOKE DETECTORS IN STATE-OWNED COLLEGE AND UNIVERSITY DORMITORIES

1. Dormitories having accommodations for more than 20 people are classified in Use Group R-1. Dormitories providing accommodations for 5 to 20 people are classified in Use Group R-2.
2. Buildings to be equipped with smoke detection systems as set forth in Section 1716.0 of the 1981 Uniform Statewide Building Code (copy of requirements attached).

Comments:

- A. In R-1 buildings the system shall be installed throughout the building, except in sleeping areas.
- B. Single station smoke detectors shall be installed in sleeping areas in accordance with § 1716.3.4.
- C. In existing dormitories (occupied prior to July 1, 1982) the single station smoke detectors may be AC or battery powered.
- D. In new dormitories (occupied on or after July 1, 1982) the single station smoke detectors shall be AC powered.
- E. The emergency power supply required by the § 1718.8 shall be in accordance with Section 700 of the National Electrical Code (1981 Edition).

SECTION 1716.0 AUTOMATIC FIRE ALARM SYSTEMS

1716.1 Plans and specifications: Where required by this code, the plans and specifications for the automatic fire alarm system shall show the location and number of all sending stations and signals with specifications of the type, construction and operation of the system including all automatic detection devices. Installation of all equipment shall conform to requirements of this code and NFIPA 71, 72A, 72B, 72C, 72D, 72E, 74 and I221 listed in Appendix A.

1716.2 Approval: The automatic fire alarm system shall be approved for the particular application and shall only be used for detection and signaling in the event of fire. The automatic detecting devices shall be smoke detectors.

1716.3 Where required: An automatic fire alarm system shall be installed and maintained in full operating condition in the locations described in the following Sections 1716.3.1 through 1716.3.4.

1716.3.1 Use Group I: In all buildings of Use Group I.

1716.3.2 Use Group R-1: In all buildings of Use Group R-1.

1716.3.3 Use Group B or R-2: In all buildings of Use Group B or R-2 when such buildings have floors used for human occupancy located more than 75 feet (22860 mm) above the lowest level of fire department vehicle access.

Exception: In buildings of Use Group R-2, smoke detectors are not required within the individual dwelling units except as required by Section 1716.3.4.

1716.3.4 Dwelling units: A minimum of one single station smoke detector shall be installed in each guest room suite or sleeping area in buildings of Use Group R-1 and in dwelling units within buildings of Use Groups R-2 or R-3. It shall be installed in a manner and location approved by the authority having jurisdiction. When actuated, the detector shall provide an alarm suitable to warn the occupants within the individual unit (see Section 1717.3.1). In buildings having basements or cellars an additional smoke detector shall be installed in the basement or cellar in a location approved by the authority having jurisdiction.

1716.4 Sprinklered buildings exception: Buildings or portions thereof equipped with an automatic fire suppression system are not required to be equipped with an automatic fire alarm system but are required to be equipped with a manual fire alarm system conforming to Section 1717.0. This exception does not apply to single station smoke detectors as required in Section 1716.3.4.

1716.5 Manual pull stations: A manual fire alarm system conforming to the requirements of Section 1717.0 shall be installed in conjunction with an automatic fire alarm system.

Exception: Single station detectors required by Section 1716.3.4.

1716.6 Distances: Smoke detectors shall be installed not to exceed the linear or square footage allowances specified, based on the test standards under which they were tested and approved.

1716.7 Not mandatory: In special use buildings and structures or parts thereof, an automatic fire alarm system may be installed in lieu of an automatic fire suppression system when approved by the department and fire department when such suppression would be detrimental or dangerous to the specific use and occupancy (see Section 1702.19).

1716.8 Power supply: The power for the automatic fire alarm system shall be provided from an emergency electrical system.

Exception: Single station detectors required by Section 1716.3.4.

1716.9 Requirements: All automatic fire alarm systems shall be of the closed circuit type and shall be electrically or mechanically supervised. In addition, such systems shall comply with the following Sections 1716.9.1 through 1716.9.3.

Exception: Single station detectors required by Section 1716.3.4.

1716.9.1 Wiring: All wiring shall conform to the requirements of NFIPA 72A through 72E listed in Appendix A.

1716.9.2 Alarms: Audible alarms of the approved type shall be provided. The operation of any detection device shall cause all audible or visual alarms to operate. Visual and audible alarms shall be provided in occupancies housing the hard of hearing. Alarm sounding devices shall be of an approved type, shall provide a distinctive tone and shall not be used for any purpose other than that of a fire alarm. They shall be located so as to be effectively heard above all other sounds (or seen), by all the occupants, in every occupied space within the building.

1716.9.3 Zones: Each floor shall be zoned separately. If the floor area exceeds 20,000 square feet (1860 m²), additional zoning shall be provided. The length of any zone shall not exceed 200 feet (60960 mm) in any direction. Zoning indicator panels and controls shall be located as approved by the department. Annunciators shall lock in until the system is reset.

1716.10 Fire alarm acceptance tests: Upon completion of a fire alarm system, the installation shall be subjected to a performance test to demonstrate its efficiency of operation. Also, all connections and wiring, with signal devices disconnected, shall develop an insulation resistance of not less than one megohm.



department of **University Police** • 804-489-6222 • Norfolk, Va. 23508

February 12, 1982

Dow F. Byers
Director of Public Safety
Old Dominion University

Dear Dow:

The university is presently in compliance with the attached bill to provide "a sufficient number" of smoke detectors. Each room or apartment of Rogers, Gresham and Powhatan complexes is provided with a battery or hard-wired smoke detector.

The alerting system could and should be improved by the provision of smoke detectors in hallways. I've attached correspondence on the fire in Rogers last February which demonstrates classically what I'm talking about. This recommendation was made initially to Marcus Buckley several years ago; the hesitancy is related to problems of dollars and probable vandalism to units in common areas.

Necessary changes in lease language as to certification etc. in House Bill 861 should be considered by Jim Schuppenhauer and company.

Sincerely,

A handwritten signature in cursive script that reads "Ken".

K. W. Chambers
Safety Officer

KWC:bp

cc: E. Wayne Higgins
Richard C. Runner
James W. Schuppenhauer
Mark S. Doherty

Documents Submitted
By Virginia Department of General
Services Engineering and Buildings
To Review Board Staff
(Staff Research To Build The Record)

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Luter, William <travis.luter@dhcd.virginia.gov>

Fwd: Compliance Certification in accordance with Virginia Rehabilitation Code 1701.2

Coppa, William <mike.coppa@dgs.virginia.gov>
To: travis.luter@dhcd.virginia.gov
Cc: Dreyer Mark gng04916 <mark.dreyer@dgs.virginia.gov>

Tue, Jan 29, 2019 at 1:22 PM

Travis,

The issue of compliance with COV 36-99.3 enacted July 1, 1982 (your reference 2012 VRC Section 1701.2 - now 2015 VEBC Section 1101.2) was addressed by correspondence dated July 29 - August 3, 1982, between the State Fire Marshal, H. H. Summers, Jr. and the Department of General Services Director, H. Douglas Hamner, Jr. Copies of the correspondence is attached. I interpret this correspondence as the State Fire Marshal agreeing to both inspect and approve (certify compliance) with the requirements of COV 36-99.3. DGS (DEB) has no record of these inspections or certifications.

I have limited familiarity with these 1977 and 1982 buildings or the details of this issue, but in researching this issue it appears that 1981 VUSBC (effective July 1, 1982), reference 1981 BOCA was the applicable code at the time the law was enacted, and that Section 1716.3.4, Automatic Fire Alarm Systems - Dwelling Units was the applicable section.

Because of the possible broader implications of this review, I would appreciate you keeping DGS (DEB) informed of any further research on this issue and the Technical Review Board conclusion on this matter.

Let me know if we can be of further assistance.

----- Forwarded message -----

From: **Dreyer, Mark** <mark.dreyer@dgs.virginia.gov>
Date: Tue, Jan 29, 2019 at 11:24 AM
Subject: Fwd: Compliance Certification in accordance with Virginia Rehabilitation Code 1701.2
To: Coppa, William <mike.coppa@dgs.virginia.gov>

----- Forwarded message -----

From: **Luter, William** <travis.luter@dhcd.virginia.gov>
Date: Mon, Jan 28, 2019 at 11:02 AM
Subject: Re: Compliance Certification in accordance with Virginia Rehabilitation Code 1701.2
To: Dreyer, Mark <mark.dreyer@dgs.virginia.gov>

Mark,

Facts of our conversations as understood by Review Board staff:

- DGS does not have a program that issues the certificates of compliance in accordance with Va. Rab. Code section 1701.2; therefore, no certificates exist for the appeal in question (facts of the appeal listed below for your reference).

Facts of the appeal (as indicated in the submitted documents by both parties):

- The specific case in question is for Old Dominion University (ODU), represented by Greg Wooldridge.
- The buildings that are the subject of the appeal are the Powhatan I Apartments and Powhatan II Apartments located at 4701 (Units A-N) and 4601 (units AA – NN) Powhatan Avenue respectively, in the City of Norfolk.
- The cited violation concerns retrofitting requirements for smoke detectors in sleeping rooms per Va. Reb. Code section 1701.2.

Please feel free to keep it as simple or elaborate as much as you see fit.

Again thanks for all of your help.

W. Travis Luter Sr., C.B.C.O.

Secretary to the State Building Code Technical Review Board
Code and Regulation Specialist
Department of Housing & Community Development
Division of Building & Fire Regulation
State Building Codes Office
600 East Main Street, Suite 300
Richmond, Virginia 23219
(804) 371-7163 - phone
(804) 371-7092 - fax

On Mon, Jan 28, 2019 at 10:14 AM Dreyer, Mark <mark.dreyer@dgs.virginia.gov> wrote:

Travis

you are welcome -

i would appreciate some kind of email that sets the facts as they are out - as i have not been in the loop - and don't want to say anything that would confuse the matter - regarding timing, persons involved and other statements of fact.

Mark

On Mon, Jan 28, 2019 at 9:16 AM Luter, William <travis.luter@dhcd.virginia.gov> wrote:

Good morning Mark.

Thank you for all of your assistance pertaining to my inquires related to the ODU appeal and the DGS procedures related to Virginia Rehabilitation Code section 1701.2. In completing the processing of the appeal I am drafting an overview of the information you provided me via our telephone conversations the past few weeks. Would you please provide me with a recap or summation so that I ensure I clearly and correctly articulate the information to the Review Board?

Thank you in advance for your assistance.

Regards,

W. Travis Luter Sr., C.B.C.O.

Secretary to the State Building Code Technical Review Board
Code and Regulation Specialist
Department of Housing & Community Development
Division of Building & Fire Regulation
State Building Codes Office
600 East Main Street, Suite 300
Richmond, Virginia 23219
(804) 371-7163 - phone
(804) 371-7092 - fax

--

Mark W. Dreyer, RA

State Review Architect
Division of Engineering & Buildings
Department of General Services
Office: 804-371-2570 | Fax: 804.225.4709

[1100 Bank St., Suite 600, Richmond, VA 23219](#)

[Webpage](#) | [Newsletter](#)

--

Mark W. Dreyer, RA

State Review Architect

Division of Engineering & Buildings

Department of General Services

Office: 804-371-2570 | Fax: 804.225.4709

[1100 Bank St., Suite 600, Richmond, VA 23219](#)

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--

W. Michael Coppa, RA

Director

Division of Engineering & Buildings

Department of General Services

Office: 804.786.4398 | Fax: 804.225.4709

[1100 Bank St., Suite 600, Richmond, VA 23219](#)

[Webpage](#) | [Newsletter](#)

2 attachments

 **0091_001.pdf**
81K

 **0092_001 (1).pdf**
134K

This letter dated July 29, 1982

Mr. H. Douglas Hamner, Jr., Director
Department of General Services
209 Ninth Street Office Building
Richmond, Virginia 23219

Dear Mr. Hamner:

The Division of Engineering and Buildings Directive No. 40, dated May 7, 1982, assigned the responsibility of approving the installation of smoke detectors, in buildings at state-owned colleges and universities containing dormitories, to the Office of State Fire Marshal. This directive does not, however, establish any basis for giving such an approval.

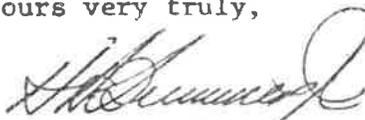
on what basis is the approval given?

From previous discussions with Mr. Stuart Barret, I have concluded that he interprets § 36-99.3 to require these facilities to be protected in accordance with the requirements of the Uniform Statewide Building Code. Based on this assumption, we suggest that the requirements on the attached sheet be used as the minimum acceptable requirements for granting approval.

Please let me know whether or not you agree with these requirements.

This letter & MINIMUM REQUIREMENTS ... forward to us with attached memo by JSB to HDH dated July 30, 1982, and attached letter by HDH to HHS dated August 3, 1982.

Yours very truly,



H. H. Summers, Jr.

EDW 8-11-82

MINIMUM REQUIREMENTS FOR INSTALLATION OF SMOKE DETECTORS IN STATE-OWNED COLLEGE AND UNIVERSITY DORMITORIES

1. Dormitories having accommodations for more than 20 people are classified in Use Group R-1. Dormitories providing accommodations for 5 to 20 people are classified in Use Group R-2.
2. Buildings to be equipped with smoke detection systems as set forth in Section 1716.0 of the 1981 Uniform Statewide Building Code (copy of requirements attached).

Comments:

- A. In R-1 buildings the system shall be installed throughout the building, except in sleeping areas.
- B. Single station smoke detectors shall be installed in sleeping areas in accordance with § 1716.3.4.
- C. In existing dormitories (occupied prior to July 1, 1982) the single station smoke detectors may be AC or battery powered.
- D. In new dormitories (occupied on or after July 1, 1982) the single station smoke detectors shall be AC powered.
- E. The emergency power supply required by the § 1718.8 shall be in accordance with Section 700 of the National Electrical Code (1981 Edition).

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Photographs Provided By Wooldridge

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Documents Submitted
By the State Fire
Marshal's Office

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COMMONWEALTH of VIRGINIA

Michael T. Reilly
EXECUTIVE DIRECTOR

Virginia Department of Fire Programs

Brian M. McGraw, P.E., FSFPE
STATE FIRE MARSHAL

Brook M. Pittinger
DEPUTY EXECUTIVE DIRECTOR

January 2, 2019

W. Travis Luter, Sr., C.B.C.O.
Secretary to the State Building Code TRB
Department of Housing & Community Development
Division of Building & Fire Regulation
600 East Main Street, Suite 300
Richmond, Virginia 23219

Dear Mr. Luter,

Please accept this letter as the State Fire Marshal's Office (SFMO) response to the request for additional documents related to the Application for Administrative Appeal submitted by Mr. Greg Wooldridge on behalf of Old Dominion University, Appeal No. 18-17.

We offer the following information for consideration by Staff and the Members of the Technical Review Board:

Staff has identified TWO issues to be considered by the Board. However, Appellant's application package, specifically the last sentence of the Statement of Specific Relief Sought, indicates that the Appellant is **only** seeking clarification on the definition and intent on the word "therein". This request relates to Violation #1 on the SFMO Notice of Violation.

Nowhere in the Appellant's submitted documents is there a reference, question or challenge to the issue of smoke alarms needing to be replaced because they are more than 10 years old, i.e. Violation #2 on the SFMO Notice of Violation. However, Staff has listed Violation #2 as an Issue for the Board to consider. This is yet another case of Staff opening the door for a wholesale review of every item on a Notice of Violation rather than limiting discussion to the specific item(s) identified by the Appellant. Based on this, the "Suggested Issues for Resolution by the Review Board" should be limited to Item 1 only.

State Fire Marshal's Office
1005 Technology Park Drive, Glen Allen, VA 23059-4500
Phone: (804) 249-1995 or Fax: (804) 371-3418
www.vafire.com

With regard to Item 1, “Whether to uphold or overturn the decision of the SFMO that a violation of SFPC Section 102.7 (Inspections for USBC requirements) exists in each apartment of ODU Powhatan I & II Apartments”, it is SFMO’s position that this issue should not yet lie before the Technical Review Board.

- The Appellant cannot be in violation of SFPC Section 102.7 as that is an administrative provision that provides direction to the fire official to require that existing structures comply with applicable retrofitting provisions. Section 102.7 provides the pathway by which the fire official can cite violations of the Virginia Rehabilitation Code.
- The Appellant is in violation of Section 1701.2 of the Virginia Rehabilitation Code, which requires the provision of smoke alarms in dormitories at colleges and universities and further requires the college or university to obtain a certificate of compliance from the local building official or, in the case of state-owned buildings, the Director of the Virginia Department of General Services.
- The inspection conducted by the State Fire Marshal’s Office in September of 2018 was in response to a complaint / concern identified by a member of the Old Dominion University’s fire safety staff regarding the lack of smoke alarms in the Powhatan Apartments.
- Field inspection by SFMO Deputy Fire Marshal confirmed that there is a single battery operated smoke alarm in each dwelling unit. There are not smoke alarms in each bedroom.
- Mr. Wooldridge initially submitted the attached “Request for Interpretation” to TRB Staff on September 17, 2018. In that document, Mr. Wooldridge inquires whether the term “therein” means that smoke alarms are required in each sleeping room or if a single smoke alarm in the hallway suffices.
- Mr. Wooldridge subsequently submitted the Application for Administrative Appeal on September 19, 2018, presumably at the direction of Staff. As with the initial Request for Interpretation, Mr. Wooldridge is questioning the definition / meaning of the word “therein” used in Section 1701.2 of the Virginia Rehabilitation Code and Code of Virginia §36-99.3, copies attached.
- Both Code of Virginia §36-99.3.C and Section 1701.2 of the Virginia Rehabilitation Code require that “*The chief administrative office of the college or university shall obtain a certificate of compliance with the provisions of this subsection from the building official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services*”.

- To date, Mr. Wooldridge and Old Dominion University have not been able to produce the required certificate of compliance from the Director of the Virginia Department of General Services.
- Mr. Wooldridge's initial request for interpretation should have been directed to the DGS Division of Engineering & Buildings, which functions as the State Building Official in accordance with Code of Virginia §36-98.1, rather than to the Technical Review Board, as they are the authority having jurisdiction regarding application of the referenced retrofit provisions.

Based on the above, the State Fire Marshal's Office requests that the Technical Review Board direct the Appellant to the DGS Division of Engineering & Buildings to obtain the "certificate of compliance" required by COV §36-99.3.C and Section 1701.2 of the Virginia Rehabilitation Code. If DGS-DEB determines that the currently provided smoke alarms are deficient, then the University can appeal *that* ruling to the State Technical Review Board in accordance with COV §36-98.2.

As noted previously, SFMO contents that the Appellant has not appealed Violation #2 on the Notice of Violation. However, if the Board chooses to take up this issue, we offer the following:

- The correct code citation is SFPC Section 901.6.1, Standards, which states "*Fire protection systems shall be inspected, tested and maintained in accordance with the referenced standards listed in Table 901.6.1*". The table refers to NFPA 72 for inspection, testing and maintenance of fire alarm systems. Based on Chapter 80 of the 2012 SFPC, the 2010 edition of NFPA 72 is the applicable edition.
- NFPA 72, Section 14.4.8.1, requires that smoke alarms in one- and two-family dwellings be replaced when they fail to respond to operability tests and specifically states that the *shall not remain in service longer than 10 years from the date of manufacture*.
- Replacement of smoke alarms after ten years has become the generally accepted standard within the industry and is typically included in the manufacturers instruction sheet that come with a smoke alarm.
- Section 14.4.4.5.3 of NFPA 72 requires periodic sensitivity testing of smoke detectors and single- and multiple-station smoke alarms in other than one- and two-family dwellings. The specific requirements are provided in a separate attachment. Section 14.4.5.3.5 requires that smoke alarms found to have a sensitivity outside the listed and marked sensitivity range shall be cleaned and recalibrated or be replaced.

- Old Dominion University has not provided documentation of the sensitivity testing required by NFPA 72. Absent such documentation, SFMO applied the generally accepted industry standard that smoke alarms more than 10 years old should be replaced.
- Acceptable options for achieving compliance include:
 - Provide documentation of sensitivity testing in accordance with NFPA 72 Section 14.4.5.3 and clean and recalibrate or replace all smoke alarms that are outside the listed and marked sensitivity range.
 - Provide documentation from the smoke alarm manufacturer indicating the smoke alarms are within their acceptable service life.
 - Replace all smoke alarms more than 10 years old in accordance with generally accepted industry practice.

Respectfully submitted,



Brian M. McGraw, P.E., FSFPE
State Fire Marshal

NFPA 72, National Fire Alarm and Signaling Code, 2010 edition
Excerpt from Chapter 14, Inspection, Testing and Maintenance

14.4.5.3 In other than one- and two-family dwellings, sensitivity of smoke detectors and single- and multiple-station smoke alarms shall be tested in accordance with 14.4.5.3.1 through 14.4.5.3.7.

14.4.5.3.1 Sensitivity shall be checked within 1 year after installation.

14.4.5.3.2 Sensitivity shall be checked every alternate year thereafter unless otherwise permitted by compliance with 14.4.5.3.3.

14.4.5.3.3 After the second required calibration test, if sensitivity tests indicate that the device has remained within its listed and marked sensitivity range (or 4 percent obscuration light gray smoke, if not marked), the length of time between calibration tests shall be permitted to be extended to a maximum of 5 years.

14.4.5.3.3.1 If the frequency is extended, records of nuisance alarms and subsequent trends of these alarms shall be maintained.

14.4.5.3.3.2 In zones or in areas where nuisance alarms show any increase over the previous years, calibration tests shall be performed.

14.4.5.3.4 To ensure that each smoke detector or smoke alarm is within its listed and marked sensitivity range, it shall be tested using any one of the following methods:

- (1) Calibrated test method
- (2) Manufacturer's calibrated sensitivity test instrument
- (3) Listed control equipment arranged for the purpose
- (4) Smoke detector / fire alarm control unit arrangement whereby the detector causes a signal at the fire alarm control unit where its sensitivity is outside its listed sensitivity range
- (5) Other calibrated sensitivity test methods approved by the authority having jurisdiction

14.4.5.3.5 Unless otherwise permitted by 14.4.5.3.6, smoke detectors or smoke alarms found to have a sensitivity outside the listed and marked sensitivity range shall be cleaned and recalibrated or be replaced.

14.4.5.3.6 Smoke detectors or smoke alarms listed as field adjustable shall be permitted to either be adjusted within the listed and marked sensitivity range, cleaned and recalibrated, or be replaced.

14.4.5.3.7 The detector or smoke alarm sensitivity shall not be tested or measured using any device that administers an unmeasured concentration of smoke or other aerosol into the detector or smoke alarm.

REQUEST FOR INTERPRETATION

TO: OFFICE OF THE STATE BUILDING CODE TECHNICAL REVIEW BOARD
VIRGINIA DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT
Main Street Centre
600 E. Main Street, Suite 300
Richmond, Virginia 23219-1321
Tel: (804) 371-7150 Fax: (804) 371-7092
Email: sbco@dhcd.virginia.gov

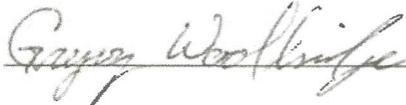
From: Greg Wooldridge

Phone Number: 757-683-5166

Email Address: gwooldri@odu.edu

Applicable Code: IEBC: Retrofit Code

Code Section(s): 1701.2- & Code of Virginia 36-99.3

Submitted by (signature):  Date: 9/17/2018

QUESTION(S):

In referance to College and University dormitories for sleeping purposes, is the definition of the term (therein) for smoke detectors required in the sleeping room or in the unit space such as outside the sleeping area in the hallway suffice? The Dorms in question were built in 1977 and 1982. The dorms have 4 seperate sleeping areas and currently have smoke detectors outside the sleeping rooms in the hallway.

Additional Documents
Submitted by
Wooldridge

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Luter, William <travis.luter@dhcd.virginia.gov>

RE: Appeal to the Review Board for Greg Wooldridge (ODU) (Appeal No. 18-17)

Wooldridge, Gregory A. <gwooldri@odu.edu>

Wed, Jan 2, 2019 at 2:32 PM

To: "McGraw, Brian" <brian.mcgraw@vdfp.virginia.gov>, "Luter, William" <travis.luter@dhcd.virginia.gov>

Cc: Joshua Hollingsworth <josh.hollingsworth@vdfp.virginia.gov>, "Potts, Richard" <richard.potts@dhcd.virginia.gov>, "Brown, Jeff (DHCD)" <Jeff.Brown@dhcd.virginia.gov>

In response to Brian McGraw's (Chief State Fire Marshal) email, all smoke detectors have been replaced that were found to be out of date from the manufacture or 10yrs on September 25th of 2018. This documentation has been sent to the State Fire Marshal's Office via email to William Hux and Joshua Hollingsworth. I have also sent this documentation with this email in the attachment.

**Greg Wooldridge***Old Dominion University**Fire Prevention Manager**Office of Fire Prevention**4111 Monarch Way**Norfolk, Va. 23508**Office: (757)683-5166**Mobile: (757) 354-5998*

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Powhatan 1 Smoke Alarm Inspection

Location	Manufacture	Date Installed	Expiration	Battery install	Tested Pass/Fail
A1	First Alert	3/ 2017	3/ 2027	9/25/18	Pass
A2	First Alert	5/2014	5/2024	9/25/18	Pass
A4	First Alert	3/2017	3/2027	9/25/18	Pass
A5	First Alert	5/2014	5/2024	9/25/18	Pass
A6	First Alert	5/2014	5/2024	9/25/18	Pass
B1	First Alert	5/2011	5/2022	9/25/18	Pass
B2	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
B3	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
B4	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
B5	First Alert	3/2016	3/2026	9/25/18	Pass
B6	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
C1	First Alert	5/2011	5/2022	9/25/18	Pass
C2	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
C3	First Alert	1/2015	1/2025	9/25/18	Pass
C4	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
C5	First Alert	1/2011	1/2022	9/25/18	Pass
C6	First Alert	9/25/18	9/25/2028	9/25/18	Pass
C7	First Alert	9/25/18	9/25/2028	9/25/18	Pass
C8	Fire X	9/25/18	9/25/28	9/25/18	Pass
D1	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
D2	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
D3	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
D4	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
D5	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
D6	First Alert	1/2017	1/2027	9/25/18	Pass

E1	First Alert	1/2011	1/2022	9/25/18	Pass
E2	First Alert	1/2017	1/2027	9/25/18	Pass
E3	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
E4	Red Alert	9/25/2018	9/25/2028	9/25/18	Pass
E5	First Alert	1/2016	1/2026	9/25/18	Pass
E6	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
F1	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
F2	First Alert	1/2011	1/2021	9/25/18	Pass
F3	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
F4	Kiddie	1/2011	1/2021	9/25/18	Pass
F5	Kiddie	9/25/2018	9/25/2028	9/25/18	Pass
F6	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
HOUSING OFFICE	First Alert X2	1/2011	1/2022	9/25/18	Pass
G3	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
G4	First Alert	1/2016	1/2026	9/25/18	Pass
G5	First Alert	3/2013	3/2023	9/25/18	Pass
G6	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
G7	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
G8	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
H1	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
H2	First Alert	1/2014	1/2024	9/25/18	Pass
H3	First Alert	1/2017	1/2027	9/25/18	Pass
H4	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
H5	First Alert	1/2016	1/2026	9/25/18	Pass
H6	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
I1	First Alert	1/2014	1/2024	9/25/18	Pass
I2	Fire X	9/25/2018	9/25/2018	9/25/18	Pass

I3	First Alert	9/25/2018	9/25/2018	9/25/18	Pass
I4	First Alert	1/2014	1/2024	9/25/18	Pass
I5	First Alert	1/2014	1/2024	9/25/18	Pass
I6	First Alert	9/25/2018	9/25/2018	9/25/18	Pass
I7	First Alert	1/2015	1/2025	9/25/18	Pass
I8	First Alert	9/25/2018	9/25/2018	9/25/18	Pass
J1	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
J2	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
J3	First Alert	7/2016	7/2026	9/25/18	Pass
J4	First Alert	2/2018	2/2028	9/25/18	Pass
J5	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
J6	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
J7	First Alert	5/2017	5/2027	9/25/18	Pass
J8	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
K1	First Alert	8/2012	8/2022	9/25/18	Pass
K2	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
K3	First Alert	3/2017	3/2027	9/25/18	Pass
K4	First Alert	2/2018	2/2028	9/25/18	Pass
K5	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
K6	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
K7	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
K8	First Alert	5/2016	5/2026	9/25/18	Pass
L1	First Alert	5/2014	5/2024	9/25/18	Pass
L2	First Alert	2/2018	2/2028	9/25/18	Pass
L3	First Alert	2/2018	2/2028	9/25/18	Pass
L4	First Alert	1/2018	1/2028	9/25/18	Pass
L5	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
L6	Fire X	9/25/2018	9/25/2028	9/25/18	Pass

M1	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
M2	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
M3	First Alert	3/2016	3/2026	9/25/18	Pass
M4	First Alert	5/2014	5/2024	9/25/18	Pass
M5	First Alert	7/2016	7/2026	9/25/18	Pass
M6	First Alert	8/2012	8/2022	9/25/18	Pass
M7	First Alert	7/2016	7/2026	9/25/18	Pass
M8	First Alert	9/25/2018	9/25/2028	9/25/18	Pass
N1	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
N2	Fire X	9/25/2018	9/25/2028	9/25/18	Pass
N3	First Alert	12/2014	12/2024	9/25/18	Pass
N4	First Alert	8/2011	8/2021	9/25/18	Pass
N5	First Alert	6/2016	6/2026	9/25/18	Pass
N6	Fire X	6/2016	6/2026	9/25/18	Pass

Powhatan 2 Smoke Alarm Inspection

Location	Manufacture	Date Installed	Expiration	Battery install	Tested Pass/Fail
AA1	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
AA2	First Alert	1/2016	1/2026	9/25/2018	Pass
AA3	First Alert	1/2016	1/2026	9/25/2018	Pass
AA4	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
AA5	First Alert	1/2015	1/2025	9/25/2018	Pass
AA6	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
BB1	First Alert	1/2015	1/2025	9/25/2018	Pass
BB2	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
BB3	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
BB4	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
BB5	First Alert	1/2012	1/2022	9/25/2018	Pass
BB6	First Alert	1/2016	1/2026	9/25/2018	Pass
CC1	First Alert	1/2015	1/2025	9/25/2018	Pass
CC2	First Alert	1/2015	1/2025	9/25/2018	Pass
CC3	First Alert	1/2017	1/2027	9/25/2018	Pass
CC4	First Alert	1/2014	1/2024	9/25/2018	Pass
CC5	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
CC6	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
CC7	First Alert	1/2017	1/2027	9/25/2018	Pass
CC8	First Alert	1/2017	1/2027	9/25/2018	Pass
DD1	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
DD2	First Alert	3/2018	3/2028	9/25/2018	Pass
DD3	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
DD4	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
DD5	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
DD6	First Alert	3/2018	3/2028	9/25/2018	Pass

DD7	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
DD8	First Alert	12/2014	12/2024	9/25/2018	Pass
EE1	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
EE2	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
EE3	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
EE4	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
EE5	First Alert	4/2017	4/2027	9/25/2018	Pass
EE6	First Alert	5/2014	5/2024	9/25/2018	Pass
FF1	First Alert	5/2016	5/2026	9/25/2018	Pass
FF2	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
FF3	First Alert	4/2017	4/2027	9/25/2018	Pass
FF4	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
FF5	Fire X	3/2009	3/2019	9/25/2018	Pass
FF6	First Alert	3/2009	3/2019	9/25/2018	Pass
FF7	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
FF8	First Alert	10/2011	10/2021	9/25/2018	Pass
GG1	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
GG2	First Alert	1/2016	1/2026	9/25/2018	Pass
GG3	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
GG4	Fire X	1/2017	1/2027	9/25/2018	Pass
GG5	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
GG6	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
HH1	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
HH2	First Alert	1/2016	1/2026	9/25/2018	Pass
HH3	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
HH4	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
HH5	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
HH6	First Alert	1/2017	1/2027	9/25/2018	Pass

HH7	First Alert	1/2017	1/2027	9/25/2018	Pass
HH8	First Alert	1/2017	1/2027	9/25/2018	Pass
II1	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
II2	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
II3	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
II4	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
II5	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
II6	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
JJ1	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
JJ2	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
JJ3	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
JJ4	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
JJ5	First Alert	1/2014	1/2024	9/25/2018	Pass
JJ6	First Alert	1/2015	1/2025	9/25/2018	Pass
KK1	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
KK2	First Alert	1/2014	1/2024	9/25/2018	Pass
KK3	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
KK4	First Alert	1/2014	1/2024	9/25/2018	Pass
KK5	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
KK6	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
KK7	First Alert	1/2017	1/2027	9/25/2018	Pass
KK8	First Alert	1/2017	1/2027	9/25/2018	Pass
LL1	First Alert	1/2011	1/2021	9/25/2018	Pass
LL2	First Alert	9/25/2018	9/25/2028	9/25/2018	Pass
LL3	First Alert	1/2012	1/2022	9/25/2018	Pass
LL4	First Alert	1/2012	1/2022	9/25/2018	Pass
LL5	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
LL6	Fire X	1/2013	1/2023	9/25/2018	Pass

MM1	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
MM2	Fire X	9/25/2018	9/25/2028	9/25/2018	Pass
MM3	First Alert	1/2017	1/2027	9/25/2018	Pass
MM4	First Alert	1/2018	1/2028	9/25/2018	Pass
MM5	First Alert	1/2011	1/2021	9/25/2018	Pass
MM6	First Alert	1/2017	1/2027	9/25/2018	Pass
NN1	First Alert	1/2012	1/2022	9/25/2018	Pass
NN2	First Alert	3/2016	3/2026	9/25/2018	Pass
NN3	First Alert	3/2016	3/2026	9/25/2018	Pass
NN4	First Alert	4/2017	4/2027	9/25/2018	Pass
NN5	First Alert	8/2012	8/2022	9/25/2018	Pass
NN6	First Alert	6/2016	6/2026	9/25/2018	Pass
NN7	First Alert	1/2015	1/2025	9/25/2018	Pass
NN8	First Alert	7/2018	1/2028	9/25/2018	Pass

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Relative Code Sections
Provided by Review
Board staff

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Upon completion of such structures, responsibility for fire safety protection shall pass to the local fire marshal or official designated by the locality to enforce this code in those localities that enforce the SFPC or to the State Fire Marshal in those localities that do not enforce this code.

102.7 Inspections for USBC requirements. The fire official shall require that existing structures subject to the requirements of the applicable retrofitting provisions relating to the fire protection equipment and system requirements of the USBC, Part I, Construction, Section 103.7, comply with the provisions located therein.

SECTION 103 INCORPORATION BY REFERENCE

103.1 General. The following document is adopted and incorporated by reference to be an enforceable part of the SFPC:

The *International Fire Code* -- 2012 Edition, hereinafter referred to as "IFC," published by the International Code Council, Inc., 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001-2070, 1-888 422-7233.

103.1.1 Deletion. Delete IFC Chapter 1.

103.1.2 Appendices. The appendices in the IFC are not considered part of the IFC for the purposes of Section 103.1.

Note: Section 101.5 references authority contained in the Code of Virginia for local fire prevention regulations that may be evaluated by localities to determine whether provisions in the IFC appendices may be considered for local fire prevention regulations.

103.2 Amendments. All requirements of the referenced codes and standards that relate to fees, non-operational permits not specifically required by Section 107.2, unsafe notices, disputes, condemnation, inspections, scope of enforcement and all other procedural, and administrative matters are deleted and replaced by the provisions of Chapter 1 of the SFPC.

Exception: The scope of referenced codes and standards referenced by the SFPC that relate to the maintenance, testing and inspection requirements or limitations shall be enforceable.

103.2.1 Other amendments. The SFPC contains provisions adopted by the Virginia Board of Housing and Community Development (BHCD), some of which delete, change or amend provisions of the IFC and referenced standards. Where conflicts occur between such changed provisions and the unchanged provisions of the IFC and referenced standards, the provisions changed by the BHCD shall govern.

Note: The IFC and its referenced standards contain some areas of regulation outside of the scope of the SFPC, as established by the BHCD and under state law. Where conflicts have been readily noted, changes have been made to the IFC and its referenced standards to bring it within the scope of authority; however, in some areas, judgment will have to be made as to whether the

provisions of the IFC and its referenced standards are fully applicable.

103.3 International Fire Code. Retroactive fire protection system requirements contained in the IFC shall not be enforced unless specified by the USBC.

SECTION 104 ENFORCEMENT

104.1 Local enforcement. Any local government may enforce the SFPC following official action by such body. The official action shall (i) require compliance with the provisions of the SFPC in its entirety or with respect only to those provisions of the SFPC relating to open burning, fire lanes, fireworks, and hazardous materials and (ii) assign enforcement responsibility to the local agency or agencies of its choice. Any local governing body may establish such procedures or requirements as may be necessary for the administration and enforcement of this code. If a local governing body elects to enforce only those provisions of the SFPC relating to open burning, it may do so in all or in any designated geographic areas of its jurisdiction. The terms "enforcing agency" and "fire official" are intended to apply to the agency or agencies to which responsibility for enforcement of the SFPC has been assigned. The terms "building official" or "building department" are intended to apply only to the local building official or local building department.

104.1.1 Enforcement of fireworks provisions by law-enforcement officers. In accordance with Section 27-100.1 of the Code of Virginia, law-enforcement officers who are otherwise authorized to enforce certain provisions of this code shall not be subject to the certification requirements of Sections 105.2 or 105.3.2.

104.2 State enforcement. In accordance with Section 27-98 of the Code of Virginia, the State Fire Marshal shall also have the authority, in cooperation with any local governing body, to enforce the SFPC. The State Fire Marshal shall also have authority to enforce the SFPC in those jurisdictions in which the local governments do not enforce the SFPC and may establish such procedures or requirements as may be necessary for the administration and enforcement of the SFPC in such jurisdictions.

104.3 State structures. Every agency, commission or institution of this Commonwealth, including all institutions of higher education, shall permit, at all reasonable hours, the fire official reasonable access to existing structures or a structure under construction or renovation, for the purpose of performing an informational and advisory fire safety inspection. The fire official is permitted to submit, subsequent to performing such inspection, his findings and recommendations, including a list of corrective actions necessary to ensure that such structure is reasonably safe from the hazards of fire, to the appropriate official of such agency, commission, or institution and the State Fire Marshal. Such agency, commission or institution shall notify, within 60 days of receipt of such findings and recommendations, the State Fire Marshal and the fire official of the corrective measures taken to eliminate the hazards reported by the fire official. The State Fire Marshal shall have the same power in the enforcement of this section as is

2. Reconstructed decks, balconies, porches and similar structures located 30 inches (762 mm) or more above grade shall meet the current code provisions for structural loading capacity, connections and structural attachment. This requirement excludes the configuration and height of handrails and guardrails.
3. Compliance with the VRC shall be an acceptable alternative to compliance with this section at the discretion of the owner or owner's agent.

103.5.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing Group R-5 occupancies, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with the IRC.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition. Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.

103.6 Reconstruction, alteration, and repair in other occupancies. Reconstruction, alteration, and repair in occupancies other than Group R-5 shall comply with the VRC.

103.7 Retrofit requirements. The local building department shall enforce the provisions of Section 1701 of the VRC, which require certain existing buildings to be retrofitted with fire protection systems and other safety equipment. Retroactive fire protection system requirements contained in the *International Fire Code (IFC)* shall not be applicable unless required for compliance with the provisions of Section 1701 of the VRC.

103.8 Nonrequired equipment. The following criteria for nonrequired equipment is in accordance with Section 36-103 of the Code of Virginia. Building owners may elect to install partial or full fire alarms or other safety equipment that was not required by the edition of the USBC in effect at the time a building was constructed without meeting current requirements of the code, provided the installation does not create a hazardous condition. Permits for installation shall be obtained in accordance with this code. In addition, as a requirement of this code, when such nonrequired equipment is to be installed, the building official shall notify the appropriate fire official or fire chief.

103.8.1 Reduction in function or discontinuance of nonrequired fire protection systems. When a nonrequired fire protection system is to be reduced in function or discontinued, it shall be done in such a manner so as not to create a false sense of protection. Generally, in such cases, any features visible from interior areas shall be removed, such as sprinkler heads, smoke detectors or alarm panels or devices, but any wiring or piping hidden within the construction of the building may remain. Approval of the proposed method of reduction or discontinuance shall be obtained from the building official.

103.9 Use of certain provisions of referenced codes. The following provisions of the IBC and of other indicated codes or standards are to be considered valid provisions of this code. Where any such provisions have been modified by the state amendments to the IBC, then the modified provisions apply.

1. Special inspection requirements in Chapters 2–35.
2. Testing requirements and requirements for the submittal of construction documents in any of the ICC codes referenced in Chapter 35 and in the IRC.
3. Section R301.2 of the IRC authorizing localities to determine climatic and geographic design criteria.
4. Flood load or flood-resistant construction requirements in the IBC or the IRC, including, but not limited to, any such provisions pertaining to flood elevation certificates that are located in Chapter 1 of those codes. Any required flood elevation certificate pursuant to such provisions shall be prepared by a land surveyor licensed in Virginia or an RDP.
5. Section R101.2 of the IRC.
6. Section N1101.6 of the IRC and Sections C101.5.2 and R101.5.2 of the IECC.

103.10 Functional design. The following criteria for functional design is in accordance with Section 36-98 of the Code of Virginia. The USBC shall not supersede the regulations of other state agencies that require and govern the functional design and operation of building related activities not covered by the USBC, including but not limited to (i) public water supply systems, (ii) waste water treatment and disposal systems, and (iii) solid waste facilities. Nor shall state agencies be prohibited from requiring, pursuant to other state law, that buildings and equipment be maintained in accordance with provisions of this code. In addition, as established by this code, the building official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. For purposes of coordination, the locality may require reports to the building official by other departments or agencies indicating compliance with their regulations applicable to the functional design of a building or structure as a condition for issuance of a building permit or certificate of occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the locality. All enforcement of these conditions shall not be the responsibility of the building official, but rather the agency imposing the condition.

Note: Identified state agencies with functional design approval are listed in the "Related Laws Package," which is available from DHCD.

103.11 Amusement devices and inspections. In accordance with Section 36-98.3 of the Code of Virginia, to the extent they are not superseded by the provisions of Section 36-98.3 of the Code of Virginia and the VADR, the provisions of the USBC shall apply to amusement devices. In addition, as a requirement of this code, inspections for compliance with the VADR shall be conducted either by local building depart-

CHAPTER 17

RETROFIT REQUIREMENTS

SECTION 1701 GENERAL

1701.1 Scope. In accordance with Section 103.7 of the VCC and as set out herein, the following buildings are required to be provided with certain fire protection equipment or systems or other retrofitted components.

1701.2 Smoke detectors in colleges and universities. In accordance with Section 36-99.3 of the Code of Virginia, college and university buildings containing dormitories for sleeping purposes shall be provided with battery-powered or AC-powered smoke detector devices installed therein in accordance with this code in effect on July 1, 1982. All public and private college and university dormitories shall have installed such detectors regardless of when the building was constructed. The chief administrative office of the college or university shall obtain a certificate of compliance with the provisions of this subsection from the building official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services. The provisions of this section shall not apply to any dormitory at a state-supported military college or university that is patrolled 24 hours a day by military guards.

1701.3 Smoke detectors in certain juvenile care facilities. In accordance with Section 36-99.4 of the Code of Virginia, battery-powered or AC-powered smoke detectors shall be installed in all local and regional detention homes, group homes, and other residential care facilities for children and juveniles that are operated by or under the auspices of the Virginia Department of Juvenile Justice, regardless of when the building was constructed, by July 1, 1986, in accordance with the provisions of this code that were in effect on July 1, 1984. Administrators of such homes and facilities shall be responsible for the installation of the smoke detector devices.

1701.4 Smoke detectors for the deaf and hearing-impaired. In accordance with Section 36-99.5 of the Code of Virginia, smoke detectors providing an effective intensity of not less than 100 candela to warn a deaf or hearing-impaired individual shall be provided, upon request by the occupant to the landlord or proprietor, to any deaf or hearing-impaired occupant of any of the following occupancies, regardless of when constructed:

1. All dormitory buildings arranged for the shelter and sleeping accommodations of more than 20 individuals;
2. All multiple-family dwellings having more than two dwelling units, including all dormitories and boarding and lodging houses arranged for shelter and sleeping accommodations of more than 5 individuals; or
3. All buildings arranged for use as one-family or two-family dwelling units.

A tenant shall be responsible for the maintenance and operation of the smoke detector in the tenant's unit.

A hotel or motel shall have available no fewer than one such smoke detector for each 70 units or portion thereof, except that this requirement shall not apply to any hotel or motel with fewer than 35 units. The proprietor of the hotel or motel shall post in a conspicuous place at the registration desk or counter a permanent sign stating the availability of smoke detectors for the hearing impaired. Visual detectors shall be provided for all meeting rooms for which an advance request has been made.

1701.5 Assisted living facilities (formerly known as adult care residences or homes for adults). Existing assisted living facilities licensed by the Virginia Department of Social Services shall comply with this section.

1701.5.1 Fire protective signaling system and fire detection system. A fire protective signaling system and an automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in assisted living facilities by August 1, 1994.

Exception: Assisted living facilities that are equipped throughout with a fire protective signaling system and an automatic fire detection system.

1701.5.2 Single-station and multiple-station smoke detectors. Battery or AC-powered single-station and multiple-station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in assisted living facilities by August 1, 1994.

Exception: Assisted living facilities that are equipped throughout with single-station and multiple-station smoke detectors.

1701.6 Smoke detectors in buildings containing dwelling units. AC-powered smoke detectors with battery backup or an equivalent device shall be required to be installed to replace a defective or inoperative battery-powered smoke detector located in buildings containing one or more dwelling units or rooming houses offering to rent overnight sleeping accommodations, when it is determined by the building official that the responsible party of such building or dwelling unit fails to maintain battery-powered smoke detectors in working condition.

1701.7 Fire suppression, fire alarm and fire detection systems in nursing homes and facilities. Fire suppression systems as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing facilities licensed by the Virginia Department of Health by January 1, 1993, regardless of when such facilities or institutions were constructed. Units consisting of certified long-term care beds located on the ground floor of general hospitals shall be exempt from the requirements of this section.

Fire alarm or fire detector systems, or both, as required by the edition of this code in effect on October 1, 1990, shall be

§ 36-99.3. Smoke alarms and automatic sprinkler systems in institutions of higher education

A. Buildings at institutions of higher education that contain dormitories for sleeping purposes shall be provided with battery operated or AC powered smoke alarm devices installed therein in accordance with the Building Code. All dormitories at public institutions of higher education and private institutions of higher education shall have installed and use due diligence in maintaining in good working order such alarms regardless of when the building was constructed.

B. The Board of Housing and Community Development shall promulgate regulations pursuant to § 2.2-4011 establishing standards for automatic sprinkler systems throughout all buildings at private institutions of higher education and public institutions of higher education that are (i) more than 75 feet or more than six stories high and (ii) used, in whole or in part, as dormitories to house students. Such buildings shall be equipped with automatic sprinkler systems by September 1, 1999, regardless of when such buildings were constructed.

C. The chief administrative office of the institution of higher education shall obtain a certificate of compliance with the provisions of this section from the building official of the locality in which the institution of higher education is located or, in the case of state-owned buildings, from the Director of the Department of General Services.

D. The provisions of this section shall not apply to any dormitory at a military public institution of higher education that is patrolled 24 hours a day by military guards.

1982, c. 357; 1997, c. 584; 2018, cc. 41, 81.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

PREVIOUS ADOPTIONS and AMENDMENTS of the USBC and SFPC

The Virginia Uniform Statewide Building Code (USBC) was first adopted in 1973 by the State Board of Housing. Responsibility for the USBC passed to the State Board of Housing and Community Development on July 1, 1978. The Virginia Statewide Fire Prevention Code was first adopted by the Board of Housing and Community Development on March 1, 1988. The initial adoption and subsequent amendments by these Boards are indicated below:

1973 Edition

Effective date: September 1, 1973
Title: Virginia Uniform Statewide Building Code, Administrative Amendments, 1973 Edition
Major reference standards:
BOCA Basic Building Code/1970, with 1972 Accumulative Supplement
BOCA Basic Mechanical Code/1971
BOCA Basic Plumbing Code/1970, with 1972 Accumulative Supplement
NFPA National Electrical Code/1971
One and Two Family Dwelling Code/1971

1974 Accumulative Supplement

Effective date: April 1, 1974
Title: 1974 Accumulative Supplement to Virginia Uniform Statewide Building Code
Major reference standards:
BOCA Basic Building Code/1970, with 1972 Accumulative Supplement
BOCA Basic Mechanical Code/1971
BOCA Basic Plumbing Code/1970, with 1972 Accumulative Supplement
NFPA National Electrical Code/1971

1975 Accumulative Supplement

Effective date: February 7, 1976
Title: 1975 Accumulative Supplement to Virginia Uniform Statewide Building Code
Major reference standards:
BOCA Basic Building Code/1975
BOCA Basic Mechanical Code/1975
BOCA Basic Plumbing Code/1975
NFPA National Electrical Code/1975
One and Two Family Dwelling Code/1975

1978 Accumulative Supplement

Effective date: August 1, 1978
Title: 1978 Accumulative Supplement to Virginia Uniform Statewide Building Code
Major reference standards:
BOCA Basic Building Code/1978
BOCA Basic Mechanical Code/1978
BOCA Basic Plumbing Code/1978
NFPA National Electrical Code/1978
One and Two Family Dwelling Code/1975

1978 Accumulative Supplement (First Amendment)

Effective date: January 1, 1981

NOTE: The 1978 Accumulative Supplement to the Virginia Uniform Statewide Building Code was continued, but with a few changes to the previously referenced BOCA Basic Building Code/1978.

1981 Edition

Effective date: July 16, 1982
Title: Virginia Uniform Statewide Building Code, 1981 Edition
Major reference standards:
BOCA Basic Building Code/1981
BOCA Basic Mechanical Code/1981
BOCA Basic Plumbing Code/1981
NFPA National Electrical Code/1981
One and Two Family Dwelling Code/1979 with 1980 Amendments

1981 Edition (First Amendment)

Effective date: June 20, 1984
Title: Sections 515.4 and 515.5 of Article 5 of the 1981 Edition, Virginia Uniform Statewide Building Code

1984 Edition

Effective date: April 1, 1986
Title: Virginia Uniform Statewide Building Code, Volume I - New Construction Code, 1984 Edition
Major reference standards:
BOCA Basic Building Code/1984
BOCA Basic Mechanical Code/1984
BOCA Basic Plumbing Code/1984
NFPA National Electrical Code/1984
One and Two Family Dwelling Code/1983 with 1984 Amendments

1987 Edition

Effective date: March 1, 1988
Title: Virginia Uniform Statewide Building Code, Volume I - New Construction Code, 1987 Edition
Major reference standards:
BOCA Basic Building Code/1987
BOCA Basic Mechanical Code/1987
BOCA Basic Plumbing Code/1987
NFPA National Electrical Code/1987
One and Two Family Dwelling Code/1986 with 1987 Amendments
Title: Virginia Statewide Fire Prevention Code, 1987 Edition
Major reference standard:
BOCA National Fire Prevention Code/1987

1987 Edition (First Amendment)

Effective date: March 1, 1989
Title: Virginia Uniform Statewide Building Code, Volume I - New Construction Code, 1987 Edition
Major reference standards:
Same as 1987 Edition

guests where rent is paid in money, goods, labor or otherwise. A lodging house shall comply with all the requirements for dwellings.

Multi-family apartment house: A building or portion thereof containing more than two (2) dwelling units and not classified as a one- or two-family dwelling.

One-family dwelling: A building containing one (1) dwelling unit with not more than five (5) lodgers or boarders.

Two-family dwelling: A building containing two (2) dwelling units with not more than five (5) lodgers or boarders per family but not more than twenty (20) individuals.

Dwelling unit: A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Elevator: A hoisting and lowering mechanism equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure.

Freight elevator: An elevator primarily used for carrying freight and on which only the operator and the persons necessary for loading and unloading and employees having special permission of the building official are permitted to ride.

Hand elevator: A freight elevator that is driven by manual power.

Hydraulic elevator: A power elevator in which the motion of the car is obtained through the application of force from liquid under pressure.

Passenger elevator: An elevator for the transportation of individuals.

Power elevator: An elevator in which the motion of the car is obtained through the application of force other than by hand or gravity.

Sidewalk elevator: A freight elevator which operates between a sidewalk or other area exterior to the building and floor levels inside the building below such area, which does not have a landing opening into the building at its upper limit of travel and which is not used to carry automobiles.

Elevator repairs: All work necessary to maintain present elevator equipment in a safe and serviceable condition and to adjust or replace defective, broken or worn parts, with parts made of equivalent material, strength and design, and only where the replacing part performs the same function as the replaced part.

Existing building: A building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

Existing equipment: Any equipment covered by this article which was installed prior to the effective date of this code or for which an application for permit to install was filed with the building official prior thereto.

DEFINITIONS AND CLASSIFICATIONS

mark, reading matter, or illuminating device, constructed, attached, erected, fastened, or manufactured in any manner whatsoever so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever, and displayed in any manner out of doors for recognized advertising purposes.

Slidescape: A straight or spiral chute erected on the interior or exterior of a building which is designed as a means of human egress direct to the street or other public space.

Smoke detector: An approved, listed detector sensing visible or invisible particles of combustion.

Smokeproof enclosure: An enclosed stairway, with access from the floor area of the building either through outside balconies or ventilated vestibules, opening on a street or yard or open court, and with a separately enclosed direct exitway to the street at the grade floor.

Solid masonry: Masonry consisting of solid masonry units laid contiguously with the joints between the units filled with mortar, or consisting of plain concrete.

Solid masonry unit: A masonry unit whose net cross-sectional area in every plane parallel to the bearing surface is seventy-five (75) per cent or more of its gross cross-sectional area measured in the same plane.

Special hoisting and conveying equipment: Manually or power-operated hoisting, lowering or conveying mechanisms, other than elevators, moving stairways or dumbwaiters for the transport of persons or freight in a vertical, inclined or horizontal direction on one (1) floor or in successive floors.

Automotive lift: A fixed mechanical device for raising an entire motor vehicle above the floor level, but not through successive floors of the building or structure.

Conveyors: A system of machinery and manual or mechanized devices other than elevator and dumbwaiter equipment, consisting of belts, chains, rollers, buckets, aprons, slides and chutes and other miscellaneous equipment for hoisting, lowering and transporting materials and merchandise in packages or in bulk in any direction in a building or structure.

Manlifts: A power-operated belt device with steps and handholds for transporting persons in a vertical position through successive floors or levels of the building or structure.

Material lift: A power-operated rising or lowering device for transporting freight vertically, operating entirely within one (1) story of the building or structure.

Sprinkler alarm system: An alarm activated by waterflow from a sprinkler system.

so as to permit individual risers to be taken out of service if damaged or broken without interrupting the water supply to other risers.

SECTION 1215.0 YARD HYDRANTS

1215.1 Fire hydrants: Fire hydrants installed on private property shall be located and installed as directed by the fire department. Hydrants shall conform to the standards of the administrative authority of this jurisdiction and the fire department. Hydrants shall not be installed on a water main of less than six (6) inches in diameter.

SECTION 1216.0 AUTOMATIC FIRE ALARM SYSTEMS

1216.1 Plans and specifications: Where required by this code, the plans and specifications for the automatic fire alarm system shall show location and number of all sending station and signals with specifications of the type, construction, and operation of the system including all automatic detection devices. Installation of all equipment shall conform to the requirements of this code and the applicable standards listed in Appendix I.

1216.2 Approval: The automatic fire alarm system shall be approved for the particular application and shall only be used for detection and signaling in the event of fire. The automatic detecting devices shall be approved smoke detectors.

1216.3 Where required: An automatic fire alarm system shall be installed and maintained in full operating condition in the locations described in the following Sections 1216.3.1 through 1216.3.4.

1216.3.1 Institutional (I) use: In all buildings of use group I (institutional).

1216.3.2 Residential (R-1) use: In all buildings of use group R-1 (residential, hotels).

Exception: Buildings over six (6) stories or seventy-five (75) feet in height equipped with an automatic fire suppression system.

1216.3.3 Residential use: In each guest room, suite or sleeping area of use group R-1 (residential, hotel, motel, lodging house, boarding house and dormitory), dwelling unit within buildings of use groups R-2 (residential, multi-family) or R-3 (residential, one- and two-family) and R-4 (detached one- and two-family). Each dwelling unit shall be provided with a minimum of one (1) approved smoke detector installed in a manner and location approved by the authority having jurisdiction. When actuated, the detector shall provide an alarm suitable to warn the occupants within the individual dwelling unit (see Section 1217.3.1).

In buildings having basements or cellars an additional smoke detector shall be installed in the basement or cellar in a location approved by

the authority having jurisdiction. Smoke detectors required by this section shall comply with the standard listed in Appendix G.

1216.4 Sprinklered buildings exception: Buildings or portions thereof equipped with an automatic fire suppression system are not required to be equipped with an automatic fire alarm system but are required to be equipped with a manual fire alarm system conforming to Section 1217.0.

1216.5 Manual pull stations: A manual fire alarm system conforming to the requirements of Section 1217.0 shall be installed in conjunction with an automatic fire alarm system.

Exception: Automatic fire alarm system for use groups R-2 and R-3 as required by Section 1216.3.3.

1216.6 Distances: Approved fire detecting devices shall be installed not to exceed the lineal or square footage allowances specified, based on the generally accepted test standards under which they were tested and approved.

1216.7 Not mandatory: In special use buildings and structures or parts thereof, an automatic fire alarm system may be installed in lieu of an automatic fire suppression system when approved by the department and fire department when such installation would be detrimental or dangerous to the specific use and occupancy (see Section 1202.19).

1216.8 Power supply: The power for the automatic fire alarm system shall be provided from an emergency electrical system.

Exception: Automatic fire alarm systems for use groups R-2 and R-3 as required by Section 1216.3.3.

1216.9 Requirements: All automatic fire alarm systems shall be of the closed circuit type and shall be electrically or mechanically supervised. In addition, such systems shall comply with the following Sections 1216.9.1 through 1216.9.3.

1216.9.1 Wiring: All wiring shall conform to the requirements of NFPA 72 as listed in Appendix I.

1216.9.2 Audible alarms: Audible alarms, of approved type, shall be provided. The operation of any detection device shall cause all audible or visual alarms to operate. Visual and audible alarms shall be provided in occupancies housing the hard-of-hearing. Alarm-sounding devices shall be of an approved type, shall provide a distinctive tone and shall not be used for any other purpose than that of a fire alarm. They shall be located so as to be effectively heard above all other sounds, by all the occupants, in every occupied space within the building.

1216.9.3 Zones: Each floor shall be zoned separately. If the floor area exceeds twenty thousand (20,000) square feet, additional zoning shall be provided. The length of any zone shall not exceed two hundred (200)

1716.3.4 Dwelling units: A minimum of one single station smoke detector shall be installed in each guest room suite or sleeping area in buildings of Use Group R-1 and in dwelling units within buildings of Use Groups R-2 or R-3. It shall be installed in a manner and location approved by the authority having jurisdiction. When actuated, the detector shall provide an alarm suitable to warn the occupants within the individual unit (see Section 1717.3.1). In buildings having basements or cellars an additional smoke detector shall be installed in the basement or cellar in a location approved by the authority having jurisdiction.

1716.4 Sprinklered buildings exception: Buildings or portions thereof equipped with an automatic fire suppression system are not required to be equipped with an automatic fire alarm system but are required to be equipped with a manual fire alarm system conforming to Section 1717.0. This exception does not apply to single station smoke detectors as required in Section 1716.3.4.

1716.5 Manual pull stations: A manual fire alarm system conforming to the requirements of Section 1717.0 shall be installed in conjunction with an automatic fire alarm system.

Exception: Single station detectors required by Section 1716.3.4.

1716.6 Distances: Smoke detectors shall be installed not to exceed the lineal or square footage allowances specified, based on the test standards under which they were tested and approved.

1716.7 Not mandatory: In special use buildings and structures or parts thereof, an automatic fire alarm system may be installed in lieu of an automatic fire suppression system when approved by the department and fire department when such suppression would be detrimental or dangerous to the specific use and occupancy (see Section 1702.19).

1716.8 Power supply: The power for the automatic fire alarm system shall be provided from an emergency electrical system.

Exception: Single station detectors required by Section 1716.3.4.

1716.9 Requirements: All automatic fire alarm systems shall be of the closed circuit type and shall be electrically or mechanically supervised. In addition, such systems shall comply with the following Sections 1716.9.1 through 1716.9.3.

Exception: Single station detectors required by Section 1716.3.4.

1716.9.1 Wiring: All wiring shall conform to the requirements of NFPA 72A through 72E listed in Appendix A.

1716.9.2 Alarms: Audible alarms of the approved type shall be provided. The operation of any detection device shall cause all audible or visual alarms to operate. Visual and audible alarms shall be provided in occupancies housing the hard of hearing. Alarm sounding devices shall be of an approved type, shall provide a distinctive tone and shall not be used for any purpose other than that of a fire alarm. They shall be located so as to be seen or effectively

CHAPTER 9

FIRE PROTECTION SYSTEMS

SECTION 901 GENERAL

901.1 Scope. The provisions of this chapter shall specify where *fire protection systems* are required and shall apply to the design, installation, inspection, operation, testing and maintenance of all *fire protection systems*.

901.2 Construction documents. The *fire code official* shall have the authority to require *construction documents* and calculations for all *fire protection systems* and to require permits be issued for the installation, rehabilitation or modification of any *fire protection system*. *Construction documents* for *fire protection systems* shall be submitted for review and approval prior to system installation.

901.2.1 Statement of compliance. Before requesting final approval of the installation, where required by the *fire code official*, the installing contractor shall furnish a written statement to the *fire code official* that the subject *fire protection system* has been installed in accordance with *approved plans* and has been tested in accordance with the manufacturer's specifications and the appropriate installation standard. Any deviations from the design standards shall be noted and copies of the approvals for such deviations shall be attached to the written statement.

901.3 Permits. Permits shall be required as set forth in Sections 105.6 and 105.7.

901.4 Installation. *Fire protection systems* shall be maintained in accordance with the original installation standards for that system. Required systems shall be extended, altered or augmented as necessary to maintain and continue protection whenever the building is altered, remodeled or added to. *Alterations* to *fire protection systems* shall be done in accordance with applicable standards.

901.4.1 Required fire protection systems. *Fire protection systems* required by this code or the *International Building Code* shall be installed, repaired, operated, tested and maintained in accordance with this code.

901.4.2 Nonrequired fire protection systems. Any *fire protection system* or portion thereof not required by this code or the *International Building Code* shall be allowed to be furnished for partial or complete protection provided such installed system meets the applicable requirements of this code and the *International Building Code*.

901.4.3 Fire areas. Where buildings, or portions thereof, are divided into *fire areas* so as not to exceed the limits established for requiring a *fire protection system* in accordance with this chapter, such *fire areas* shall be separated by *fire barriers* constructed in accordance with Section 707 of the *International Building Code* or *horizontal assemblies* constructed in accordance with Section 711 of the *International Building Code*, or both, having a fire-resistance rating of not less than that determined in accordance with Section 707.3.10 of the *International Building Code*.

901.4.4 Additional fire protection systems. In occupancies of a hazardous nature, where special hazards exist in addition to the normal hazards of the occupancy, or where the *fire code official* determines that access for fire apparatus is unduly difficult, the *fire code official* shall have the authority to require additional safeguards. Such safeguards include, but shall not be limited to, the following: automatic fire detection systems, fire alarm systems, automatic fire-extinguishing systems, standpipe systems, or portable or fixed extinguishers. Fire protection equipment required under this section shall be installed in accordance with this code and the applicable referenced standards.

901.4.5 Appearance of equipment. Any device that has the physical appearance of life safety or fire protection equipment but that does not perform that life safety or fire protection function shall be prohibited.

901.4.6 Pump and riser room size. Fire pump and *automatic sprinkler system* riser rooms shall be designed with adequate space for all equipment necessary for the installation, as defined by the manufacturer, with sufficient working space around the stationary equipment. Clearances around equipment to elements of permanent construction, including other installed equipment and appliances, shall be sufficient to allow inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly. Fire pump and *automatic sprinkler system* riser rooms shall be provided with a door(s) and an unobstructed passageway large enough to allow removal of the largest piece of equipment.

901.5 Installation acceptance testing. Fire detection and alarm systems, fire-extinguishing systems, fire hydrant systems, fire standpipe systems, fire pump systems, private fire service mains and all other *fire protection systems* and appurtenances thereto shall be subject to acceptance tests as contained in the installation standards and as *approved* by the *fire code official*. The *fire code official* shall be notified before any required acceptance testing.

901.5.1 Occupancy. It shall be unlawful to occupy any portion of a building or structure until the required fire detection, alarm and suppression systems have been tested and *approved*.

901.6 Inspection, testing and maintenance. Fire detection, alarm, and extinguishing systems, mechanical smoke exhaust systems, and smoke and heat vents shall be maintained in an operative condition at all times, and shall be replaced or repaired where defective. Nonrequired *fire protection systems* and equipment shall be inspected, tested and maintained or removed.

901.6.1 Standards. *Fire protection systems* shall be inspected, tested and maintained in accordance with the referenced standards *listed* in Table 901.6.1.

TABLE 901.6.1
FIRE PROTECTION SYSTEM MAINTENANCE STANDARDS

SYSTEM	STANDARD
Portable fire extinguishers	NFPA 10
Carbon dioxide fire-extinguishing system	NFPA 12
Halon 1301 fire-extinguishing systems	NFPA 12A
Dry-chemical extinguishing systems	NFPA 17
Wet-chemical extinguishing systems	NFPA 17A
Water-based fire protection systems	NFPA 25
Fire alarm systems	NFPA 72
Mechanical smoke exhaust systems	NFPA 204
Smoke and heat vents	NFPA 204
Water-mist systems	NFPA 750
Clean-agent extinguishing systems	NFPA 2001

901.6.2 Records. Records of all system inspections, tests and maintenance required by the referenced standards shall be maintained on the premises for a minimum of three years and shall be copied to the fire code official upon request.

901.6.2.1 Records information. Initial records shall include the name of the installation contractor, type of components installed, manufacturer of the components, location and number of components installed per floor. Records shall also include the manufacturers' operation and maintenance instruction manuals. Such records shall be maintained on the premises.

901.7 Systems out of service. Where a required fire protection system is out of service, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shutdown until the fire protection system has been returned to service.

Where utilized, fire watches shall be provided with at least one approved means for notification of the fire department and their only duty shall be to perform constant patrols of the protected premises and keep watch for fires.

901.7.1 Impairment coordinator. The building owner shall assign an impairment coordinator to comply with the requirements of this section. In the absence of a specific designee, the owner shall be considered the impairment coordinator.

901.7.2 Tag required. A tag shall be used to indicate that a system, or portion thereof, has been removed from service.

901.7.3 Placement of tag. The tag shall be posted at each fire department connection, system control valve, fire alarm control unit, fire alarm annunciator and fire command center, indicating which system, or part thereof, has been removed from service. The fire code official shall specify where the tag is to be placed.

901.7.4 Preplanned impairment programs. Preplanned impairments shall be authorized by the impairment coordinator. Before authorization is given, a designated individual

shall be responsible for verifying that all of the following procedures have been implemented:

1. The extent and expected duration of the impairment have been determined.
2. The areas or buildings involved have been inspected and the increased risks determined.
3. Recommendations have been submitted to management or building owner/manager.
4. The fire department has been notified.
5. The insurance carrier, the alarm company, building owner/manager, and other authorities having jurisdiction have been notified.
6. The supervisors in the areas to be affected have been notified.
7. A tag impairment system has been implemented.
8. Necessary tools and materials have been assembled on the impairment site.

901.7.5 Emergency impairments. When unplanned impairments occur, appropriate emergency action shall be taken to minimize potential injury and damage. The impairment coordinator shall implement the steps outlined in Section 901.7.4.

901.7.6 Restoring systems to service. When impaired equipment is restored to normal working order, the impairment coordinator shall verify that all of the following procedures have been implemented:

1. Necessary inspections and tests have been conducted to verify that affected systems are operational.
2. Supervisors have been advised that protection is restored.
3. The fire department has been advised that protection is restored.
4. The building owner/manager, insurance carrier, alarm company and other involved parties have been advised that protection is restored.
5. The impairment tag has been removed.

901.8 Removal of or tampering with equipment. It shall be unlawful for any person to remove, tamper with or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system, or other fire appliance required by this code except for the purpose of extinguishing fire, training purposes, recharging or making necessary repairs, or when approved by the fire code official.

901.8.1 Removal of or tampering with appurtenances. Locks, gates, doors, barricades, chains, enclosures, signs, tags or seals which have been installed by or at the direction of the fire code official shall not be removed, unlocked, destroyed, tampered with or otherwise vandalized in any manner.

901.9 Termination of monitoring service. For fire alarm systems required to be monitored by this code, notice shall be made to the fire code official whenever alarm monitoring services are terminated. Notice shall be made in writing, to the

hangers or brackets supplied. Hangers or brackets shall be securely anchored to the mounting surface in accordance with the manufacturer's installation instructions.

906.8 Cabinets. Cabinets used to house portable fire extinguishers shall not be locked.

Exceptions:

1. Where portable fire extinguishers subject to malicious use or damage are provided with a means of ready access.
2. In Group I-3 occupancies and in mental health areas in Group I-2 occupancies, access to portable fire extinguishers shall be permitted to be locked or to be located in staff locations provided the staff has keys.

906.9 Extinguisher installation. The installation of portable fire extinguishers shall be in accordance with Sections 906.9.1 through 906.9.3.

906.9.1 Extinguishers weighing 40 pounds or less. Portable fire extinguishers having a gross weight not exceeding 40 pounds (18 kg) shall be installed so that their tops are not more than 5 feet (1524 mm) above the floor.

906.9.2 Extinguishers weighing more than 40 pounds. Hand-held portable fire extinguishers having a gross weight exceeding 40 pounds (18 kg) shall be installed so that their tops are not more than 3.5 feet (1067 mm) above the floor.

906.9.3 Floor clearance. The clearance between the floor and the bottom of installed hand-held portable fire extinguishers shall not be less than 4 inches (102 mm).

906.10 Wheeled units. Wheeled fire extinguishers shall be conspicuously located in a designated location.

4. Location of fire alarm control unit, transponders and notification power supplies.
5. Annunciators.
6. Power connection.
7. Battery calculations.
8. Conductor type and sizes.
9. Voltage drop calculations.
10. Manufacturers' data sheets indicating model numbers and listing information for equipment, devices and materials.
11. Details of ceiling height and construction.
12. The interface of fire safety control functions.
13. Classification of the supervising station.

907.1.3 Equipment. Systems and components shall be *listed* and *approved* for the purpose for which they are installed.

907.2 Where required—new buildings and structures. An *approved* fire alarm system installed in accordance with the provisions of this code and NFPA 72 shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.23 and provide occupant notification in accordance with Section 907.5, unless other requirements are provided by another section of this code.

A minimum of one manual fire alarm box shall be provided in an *approved* location to initiate a fire alarm signal for fire alarm systems employing automatic fire detectors or water-flow detection devices. Where other sections of this code allow elimination of fire alarm boxes due to sprinklers, a single fire alarm box shall be installed.

Exceptions:

1. The manual fire alarm box is not required for fire alarm systems dedicated to elevator recall control and supervisory service.
2. The manual fire alarm box is not required for Group R-2 occupancies unless required by the *fire code official* to provide a means for fire watch personnel to initiate an alarm during a sprinkler system impairment event. Where provided, the manual fire alarm box shall not be located in an area that is accessible to the public.

907.2.1 Group A. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group A occupancies where the occupant load due to the assembly occupancy is 300 or more. Group A occupancies not separated from one another in accordance with Section 707.3.10 of the *International Building Code* shall be considered as a single occupancy for the purposes of applying this section. Portions of Group E occupancies occupied for assembly purposes shall be provided with a fire alarm system as required for the Group E occupancy.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with

SECTION 907

FIRE ALARM AND DETECTION SYSTEMS

907.1 General. This section covers the application, installation, performance and maintenance of fire alarm systems and their components in new and existing buildings and structures. The requirements of Section 907.2 are applicable to new buildings and structures.

907.1.1 Construction documents. *Construction documents* for fire alarm systems shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code, the *International Building Code*, and relevant laws, ordinances, rules and regulations, as determined by the *fire code official*.

907.1.2 Fire alarm shop drawings. Shop drawings for fire alarm systems shall be submitted for review and approval prior to system installation, and shall include, but not be limited to, all of the following:

1. A floor plan that indicates the use of all rooms.
2. Locations of alarm-initiating devices.
3. Locations of alarm notification appliances, including candela ratings for visible alarm notification appliances.

Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

907.2.1.1 System initiation in Group A occupancies with an occupant load of 1,000 or more. Activation of the fire alarm in Group A occupancies with an *occupant load* of 1,000 or more shall initiate a signal using an emergency voice/alarm communications system in accordance with Section 907.5.2.2.

Exception: Where *approved*, the prerecorded announcement is allowed to be manually deactivated for a period of time, not to exceed 3 minutes, for the sole purpose of allowing a live voice announcement from an *approved*, constantly attended location.

907.2.1.2 Emergency voice/alarm communication system captions. Stadiums, arenas and grandstands required to caption audible public announcements shall be in accordance with Section 907.5.2.2.4.

907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B *occupant load* of all floors is 500 or more.
2. The Group B *occupant load* is more than 100 persons above or below the lowest *level of exit discharge*.
3. The *fire area* contains an ambulatory care facility.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

907.2.2.1 Ambulatory care facilities. *Fire areas* containing ambulatory care facilities shall be provided with an electronically supervised automatic smoke detection system installed within the ambulatory care facility and in public use areas outside of tenant spaces, including public *corridors* and elevator lobbies.

Exception: Buildings equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1 provided the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

907.2.3 Group E. A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When *automatic sprinkler systems* or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. A manual fire alarm system is not required in Group E occupancies with an *occupant load* of 30 or less.

2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

- 2.1. Interior *corridors* are protected by smoke detectors.
- 2.2. Auditoriums, cafeterias, gymnasiums and similar areas are protected by *heat detectors* or other *approved* detection devices.
- 2.3. Shops and laboratories involving dusts or vapors are protected by *heat detectors* or other *approved* detection devices.

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an *approved automatic sprinkler system* installed in accordance with Section 903.3.1.1, the emergency voice/alarm communication system will activate on sprinkler water flow and manual activation is provided from a normally occupied location.

907.2.4 Group F. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group F occupancies where both of the following conditions exist:

1. The Group F occupancy is two or more stories in height; and
2. The Group F occupancy has a combined *occupant load* of 500 or more above or below the lowest *level of exit discharge*.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

907.2.5 Group H. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group H-5 occupancies and in occupancies used for the manufacture of organic coatings. An automatic smoke detection system shall be installed for highly toxic gases, organic peroxides and oxidizers in accordance with Chapters 60, 62 and 63, respectively.

907.2.6 Group I. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group I occupancies. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be provided in accordance with Sections 907.2.6.1, 907.2.6.2 and 907.2.6.3.3.

Exceptions:

1. Manual fire alarm boxes in *sleeping units* of Group I-1 and I-2 occupancies shall not be required at *exits* if located at all care providers' control stations or other constantly attended staff locations, provided such stations are visible and

continuously accessible and that travel distances required in Section 907.4.2.1 are not exceeded.

2. Occupant notification systems are not required to be activated where private mode signaling installed in accordance with NFPA 72 is *approved* by the *fire code official*.

907.2.6.1 Group I-1. An automatic smoke detection system shall be installed in *corridors*, waiting areas open to *corridors* and *habitable spaces* other than *sleeping units* and kitchens. The system shall be activated in accordance with Section 907.5.

Exceptions:

1. Smoke detection in *habitable spaces* is not required where the facility is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1.
2. Smoke detection is not required for exterior balconies.

907.2.6.1.1 Smoke alarms. Single- and multiple-station smoke alarms shall be installed in accordance with Section 907.2.11.

907.2.6.2 Group I-2. An automatic smoke detection system shall be installed in *corridors* in nursing homes, long-term care facilities, detoxification facilities and spaces permitted to be open to the *corridors* by Section 407.2 of the *International Building Code*. The system shall be activated in accordance with Section 907.4. Hospitals shall be equipped with smoke detection as required in Section 407 of the *International Building Code*.

Exceptions:

1. *Corridor* smoke detection is not required in smoke compartments that contain *sleeping units* where such units are provided with smoke detectors that comply with UL 268. Such detectors shall provide a visual display on the *corridor* side of each *sleeping unit* and shall provide an audible and visual alarm at the care provider station attending each unit.
2. *Corridor* smoke detection is not required in smoke compartments that contain *sleeping units* where *sleeping unit* doors are equipped with automatic door-closing devices with integral smoke detectors on the unit sides installed in accordance with their listing, provided that the integral detectors perform the required alerting function.

907.2.6.3 Group I-3 occupancies. Group I-3 occupancies shall be equipped with a manual fire alarm system and automatic smoke detection system installed for alerting staff.

907.2.6.3.1 System initiation. Actuation of an automatic fire-extinguishing system, *automatic sprinkler system*, a manual fire alarm box or a fire detector shall initiate an approved fire alarm signal which automatically notifies staff.

907.2.6.3.2 Manual fire alarm boxes. Manual fire alarm boxes are not required to be located in accordance with Section 907.4.2 where the fire alarm boxes are provided at staff-attended locations having direct supervision over areas where manual fire alarm boxes have been omitted.

907.2.6.3.2.1 Manual fire alarms boxes in detainee areas. Manual fire alarm boxes are allowed to be locked in areas occupied by detainees, provided that staff members are present within the subject area and have keys readily available to operate the manual fire alarm boxes.

907.2.6.3.3 Automatic smoke detection system. An automatic smoke detection system shall be installed throughout resident housing areas, including *sleeping units* and contiguous day rooms, group activity spaces and other common spaces normally accessible to residents.

Exceptions:

1. Other *approved* smoke detection arrangements providing equivalent protection, including, but not limited to, placing detectors in exhaust ducts from cells or behind protective guards *listed* for the purpose, are allowed when necessary to prevent damage or tampering.
2. *Sleeping units* in Use Conditions 2 and 3 as described in Section 308 of the *International Building Code*.
3. Smoke detectors are not required in *sleeping units* with four or fewer occupants in smoke compartments that are equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1.

907.2.7 Group M. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group M occupancies where one of the following conditions exists:

1. The combined Group M *occupant load* of all floors is 500 or more persons.
2. The Group M *occupant load* is more than 100 persons above or below the lowest *level of exit discharge*.

Exceptions:

1. A manual fire alarm system is not required in covered or open mall buildings complying with Section 402 of the *International Building Code*.
2. Manual fire alarm boxes are not required where the building is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 and the occupant notification appliances will automatically activate throughout the notification zones upon sprinkler water flow.

907.2.7.1 Occupant notification. During times that the building is occupied, the initiation of a signal from a manual fire alarm box or from a water flow switch shall not be required to activate the alarm notification appliances when an alarm signal is activated at a constantly attended location from which evacuation instructions shall be initiated over an emergency voice/alarm communication system installed in accordance with Section 907.5.2.2.

907.2.8 Group R-1. Fire alarm systems and smoke alarms shall be installed in Group R-1 occupancies as required in Sections 907.2.8.1 through 907.2.8.3.

907.2.8.1 Manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-1 occupancies.

Exceptions:

1. A manual fire alarm system is not required in buildings not more than two stories in height where all individual *sleeping units* and contiguous attic and crawl spaces to those units are separated from each other and public or common areas by at least 1-hour *fire partitions* and each individual *sleeping unit* has an *exit* directly to a *public way*, *egress court* or yard.
2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:
 - 2.1. The building is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 or 903.3.1.2;
 - 2.2. The notification appliances will activate upon sprinkler water flow; and
 - 2.3. At least one manual fire alarm box is installed at an *approved* location.

907.2.8.2 Automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior *corridors* serving *sleeping units*.

Exception: An automatic smoke detection system is not required in buildings that do not have interior *corridors* serving *sleeping units* and where each *sleeping unit* has a *means of egress* door opening directly to an *exit* or to an exterior *exit access* that leads directly to an *exit*.

907.2.8.3 Smoke alarms. Single- and multiple-station smoke alarms shall be installed in accordance with Section 907.2.11.

907.2.9 Group R-2. Fire alarm systems and smoke alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 and 907.2.9.3.

907.2.9.1 Manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where:

1. Any *dwelling unit* or *sleeping unit* is located three or more stories above the lowest *level of exit discharge*;
2. Any *dwelling unit* or *sleeping unit* is located more than one story below the highest *level of exit discharge* of *exits* serving the *dwelling unit* or *sleeping unit*; or
3. The building contains more than 16 *dwelling units* or *sleeping units*.

Exceptions:

1. A fire alarm system is not required in buildings not more than two stories in height where all *dwelling units* or *sleeping units* and contiguous attic and crawl spaces are separated from each other and public or common areas by at least 1-hour *fire partitions* and each *dwelling unit* or *sleeping unit* has an *exit* directly to a *public way*, *egress court* or yard.
2. Manual fire alarm boxes are not required where the building is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 or 903.3.1.2 and the occupant notification appliances will automatically activate throughout the notification zones upon a sprinkler water flow.
3. A fire alarm system is not required in buildings that do not have interior *corridors* serving *dwelling units* and are protected by an *approved automatic sprinkler system* installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that *dwelling units* either have a *means of egress* door opening directly to an exterior *exit access* that leads directly to the *exits* or are served by open-ended *corridors* designed in accordance with Section 1026.6, Exception 4.

907.2.9.2 Smoke alarms. Single- and multiple-station smoke alarms shall be installed in accordance with Section 907.2.11.

907.2.9.3 Group R-2 college and university buildings. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 college and university buildings in the following locations:

1. Common spaces outside of *dwelling units* and *sleeping units*.
2. Laundry rooms, mechanical equipment rooms, and storage rooms.
3. All interior corridors serving *sleeping units* or *dwelling units*.

Required smoke alarms in *dwelling units* and *sleeping units* in Group R-2 college and university buildings shall be interconnected with the fire alarm system in accordance with NFPA 72.

Exception: An automatic smoke detection system is not required in buildings that do not have interior corridors serving *sleeping units* or *dwelling units* and where each *sleeping unit* or *dwelling unit* either has a *means of egress* door opening directly to an exterior *exit access* that leads directly to an *exit* or a *means of egress* door opening directly to an exit.

907.2.10 Group R-4. Fire alarm systems and smoke alarms shall be installed in Group R-4 occupancies as required in Sections 907.2.10.1 through 907.2.10.3.

907.2.10.1 Manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-4 occupancies.

Exceptions:

1. A manual fire alarm system is not required in buildings not more than two stories in height where all individual *sleeping units* and contiguous attic and crawl spaces to those units are separated from each other and public or common areas by at least 1-hour *fire partitions* and each individual *sleeping unit* has an *exit* directly to a *public way*, *egress court* or yard.
2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:
 - 2.1. The building is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 or 903.3.1.2;
 - 2.2. The notification appliances will activate upon sprinkler water flow; and
 - 2.3. At least one manual fire alarm box is installed at an *approved* location.
3. Manual fire alarm boxes in resident or patient sleeping areas shall not be required at *exits* where located at all nurses' control stations or other constantly attended staff locations, provided such stations are visible and continuously accessible and that travel distances required in Section 907.4.2.1 are not exceeded.

907.2.10.2 Automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed in *corridors*, waiting areas open to *corridors* and *habitable spaces* other than *sleeping units* and kitchens.

Exceptions:

1. Smoke detection in *habitable spaces* is not required where the facility is equipped

throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1.

2. An automatic smoke detection system is not required in buildings that do not have interior *corridors* serving *sleeping units* and where each *sleeping unit* has a *means of egress* door opening directly to an *exit* or to an exterior *exit access* that leads directly to an exit.

907.2.10.3 Smoke alarms. Single- and multiple-station smoke alarms shall be installed in accordance with Section 907.2.11.

907.2.11 Single- and multiple-station smoke alarms. *Listed* single- and multiple-station smoke alarms complying with UL 217 shall be installed in accordance with Sections 907.2.11.1 through 907.2.11.4 and NFPA 72.

907.2.11.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.
2. In every room in the path of the *means of egress* from the sleeping area to the door leading from the *sleeping unit*.
3. In each story within the *sleeping unit*, including *basements*. For *sleeping units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

907.2.11.2 Groups R-2, R-3, R-4 and I-1. Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of *occupant load* at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.

Exception: Single- or multiple-station smoke alarms in Group I-1 shall not be required where smoke detectors are provided in the sleeping rooms as part of an automatic smoke detection system.

3. In each story within a *dwelling unit*, including *basements* but not including crawl spaces and uninhabitable attics. In *dwelling units* or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

907.2.11.3 Interconnection. Where more than one smoke alarm is required to be installed within an individual *dwelling unit* or *sleeping unit* in Group R or I-1 occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physi-

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Raymond M. Parker Sr.
Appeal No. 18-20

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Raymond M. Parker Sr.
Appeal No. 18-20

REVIEW BOARD STAFF DOCUMENT

Suggested Summary of the Appeal

1. On July 12, 2018, the Essex County Building Inspections Department (County), in enforcement of the Virginia Construction Code (VCC), performed a final inspection on one of the buildings on the property located at 531 LaGrange Industrial Drive, owned by David Stokes, and subsequently issued a certification of occupancy (CO).

2. Mr. Parker, the adjoining property owner, filed an appeal to the Essex County Local Board of Appeals (local appeals board) on August 10, 2018 for the issuance of the CO based on assertions that required permits were not issued, proper inspections were not performed, the well on his property was too close to the building being given the CO, and that “any pertinent laws or ordinances” in accordance with VCC Section 116.1 was not properly enforced by the County.

3. The local appeals board conducted a hearing in September of 2018. At the hearing the appellants informed the local appeals board that they had not been given the required 14 day hearing notice; therefore, a new hearing date was scheduled for October of 2018 where the local appeals board upheld the decision of the County. Mr. Parker filed an application for appeal to the Review Board on December 5, 2018 after receipt of the local board’s decision.

4. This staff document along with a copy of all documents submitted will be sent to the parties and opportunity given for the submittal of additions, corrections or objections to the staff document, and the submittal of additional documents or written arguments to be included in

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the information distributed to the Review Board members for the appeal hearing before the Review Board.

Suggested Issue for Resolution by the Review Board

1. Whether or not to dismiss Mr. Parker's appeal due to Mr. Parker not being an aggrieved party.¹

2. If necessary to hear the merits of the appeal, whether or not to overturn the decision of the County and the local appeals board that the building in question was completed and the CO was issued in accordance with VCC Section 116 (Certificates of occupancy).

¹ See Review Board Case No. 17-6

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Basic Documents

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COUNTY-TAPPANNOCK
INSPECTION DEPARTMENT

CERTIFICATE ISSUED

DATE \$600.00

MECHANICS LIEN AGENT:
All off Street
Parking to be Contained
On lot 11.

BUILDING PERMIT - CERTIFICATE OF OCCUPANCY

APPLICANT David Stokes DATE January 11, 2008 PERMIT NO. 08-012
ADDRESS P.O. 1153, Dummsville, Va 22454 (STREET) (CONTR'S LICENSE)

PERMIT TO Metal building (TYPE OF IMPROVEMENT) (NO.) STORY (PROPOSED USE) NUMBER OF DWELLING UNITS

AT (LOCATION) LaGrange Industrial Dr. (NO.) (STREET) ZONING DISTRICT M-1

BETWEEN _____ (CROSS STREET) AND _____ (CROSS STREET)

SUBDIVISION LaGrange Farm LOT 11 BLOCK 11 TAX MAP #36-7-11

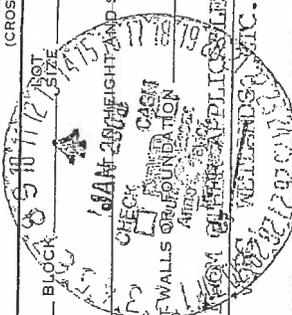
BUILDING IS TO BE _____ FT. WIDE BY _____ FT. LONG BY _____

TO TYPE _____ USE GROUP _____ BASEMENT _____ WALLS _____ FOUNDATION _____ (TYPE)

REMARKS: THIS BUILDING PERMIT DOES NOT EXEMPT YOU FROM OBTAINING APPLICABLE STATE & LOCAL PERMITS (EXAMPLE, ARMY CORPS OF ENGINEERS, VA, WELLHEADS, ETC.)

AREA OR VOLUME _____ (CUBIC/SQUARE FEET)

OWNER David Stokes
ADDRESS P.O. Box 1153, Dummsville, Va 22454



DEPARTMENTAL APPROVAL FOR CERTIFICATE
of OCCUPANCY and COMPLIANCE

To be filled in by each division indicated hereon
upon completion of its final inspection.

BUILDINGS Permit No. 08-012
Approved by [Signature] Date 7-12-18
Remarks Code Acceptable

PLUMBING Permit No. 08-012
Approved by [Signature] Date 7-12-18
Remarks Code Acceptable

ELECTRICAL Permit No. _____
Approved by _____ Date _____
Remarks _____

OTHER Permit No. _____
Approved by _____ Date _____
Remarks _____

OTHER Permit No. _____
Approved by _____ Date _____
Remarks _____

P.O. Box 2594 TAPPANWICK, VA. 22560

MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number NONE E-mail Address NONE

Agent (if different from owner/applicant)

Applicant N/A DAYTIME PHONE NUMBER

MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number E-mail Address

3. PROPERTY INFORMATION

Tax Map Number	<u>36-7-11</u>		Total Acreage	<u>1.406 +/-</u>		
Subdivision Name	<u>LAGRANGE IND PARK</u>	Section	<u>II</u>	Block	Lot	<u>11</u>
Physical Address	<u>531 LAGRANGE INDUSTRIAL DRIVE TAPPANWICK, VA. 22560</u>					
		Existing Structures	<u>BUILDINGS, FENCES SCALES, MATERIAL STORAGE</u>			
Current Zoning	<u>M-1</u>		Acreage of Request	<u>1.406 +/-</u>		
Proposed Utilities	<u>N/A</u>		Sewer: County	<u>PRIVATE DRAINFIELD</u>		

4. VARIANCES & ADMINISTRATIVE APPEALS

1. All applications for a variance shall include a recent survey of the property delineating the area(s) where relief is sought.

2. All applications for administrative appeals shall contain a narrative which explains why the administrator's determination is incorrect. - SEE ATTACHED DOCUMENTATION

5. SIGNATURE(S)

I/WE HAVE READ THIS COMPLETED APPLICATION, UNDERSTAND ITS INTENT AND FREELY CONSENT TO ITS FILING. THE INFORMATION PROVIDED IS ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. I UNDERSTAND THAT THE TOWN MAY APPROVE, CONDITIONALLY APPROVE, APPROVED WITH MODIFICATIONS OR DENY THE REQUEST FOR WHICH I AM APPLYING. FURTHERMORE, I GRANT

PERMISSION TO THE DEPARTMENT OF BUILDING AND ZONING AND ANY OTHER AUTHORIZED GOVERNMENT AGENTS TO ENTER THE PROPERTY AND MAKE SUCH INVESTIGATIONS AS THEY DEEM NECESSARY TO EVALUATE THE REQUEST AND ENSURE THAT CONDITIONS PLACED ON THE REQUEST HAVE BEEN IMPLEMENTED AND/OR MAINTAINED AS PROSCRIBED BY THE APPROVING AUTHORITY. ADDITIONALLY, IF OUTSIDE REVIEW IS NEEDED BY THE COUNTY TO EVALUATE THIS REQUEST I ACKNOWLEDGE AND AGREE TO REIMBURSE THE COUNTY OF ESSEX FOR THESE OUTSIDE REVIEW AGENCY COSTS.

[Handwritten Signature]
 Owner/Applicant Signature

8-09-2018
 Date

 Owner /Applicant Signature

 Date

 Owner /Applicant Signature

 Date

 Owner /Applicant Signature

 Date

11. FEES

Rezoning	_____
Conditional Use Permit	_____
Site Plan	_____
Subdivision	
Minor	_____
Major	_____
Concept	_____
Preliminary	_____
Final/Record	_____
Variance/Appeal	_____
Right-of-way Abandonment	_____
Total Fees Collected	_____

*NOTE: AN APPLICATION SHALL NOT BE DEEMED OFFICIALLY FILED UNTIL ALL REQUIRED PLANS, PLATS, FEES AND SUPPORTING DOCUMENTATION ARE SUBMITTED TO THIS DEPARTMENT.

7. FEES

Rezoning	_____
Conditional Use Permit	_____
Site Construction Plan	_____
Subdivision	
Major	_____
Minor	_____
Family	_____
Preliminary/Tentative	_____
Final/Record	_____
Right-of-way Abandonment	_____
Bay Act Exception	_____
Major/Minor WQIA	_____
Zoning/Subdivision Variance	_____
Zoning/Building - Administrative Appeal	_____
Land Disturbance	_____
Zoning Permit	<u>30.⁰⁰</u>
Total Fees Collected	<u>30.⁰⁰</u>

*NOTE: AN APPLICATION SHALL NOT BE DEEMED OFFICIALLY FILED UNTIL ALL REQUIRED PLANS, PLATS, FEES AND SUPPORTING DOCUMENTATION ARE SUBMITTED TO THIS DEPARTMENT. INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

APPEAL TO LOCAL BOARD OF BUILDING CODE APPEALS (LBBCA)

07/31/18

Property Owner/Location

David Stokes – Essex Recycling
531 LaGrange Drive
Tappahannock VA, 22560
Parcel # 36-7-11

Applicant

Raymond M. Parker, Sr.
P.O. Box 2594
Tappahannock, VA 22560

RE: Permit # 08-012 – Buildings and Plumbing Inspections Performed 07/12/18

This appeal is submitted in accordance with Section 119.5 of the VA Uniform Statewide Building Code to request review by the LBBCA of the Inspections and associated Approvals for the above-referenced permits.

As an adjacent property owner and existing business owner, I am concerned why an existing business would have two permit building inspections. What changed and what should I be concerned about with regard to my property and my existing businesses?

What was inspected? What Building(s) and What Plumbing? Were these inspection the result of recent design changes requiring a new permit, or was this an inspection performed on construction which was more than ten years old?

A building and a building addition were governed by Building Permits issued in 2003 and 2008 The County's Permit System records indicated Building Permit #0000222-2003 issued 07/15/03, with one approved electrical inspection, no other known inspections and an entry indicating a Certificate of Occupancy dated

01/08/04. Similarly, a CO was issued for Building Permit 08-012 on 01/11/08 with unknown inspection record and no specific reference(s) to any building plans prepared by appropriate design professionals or an indication that the proposed (existing) construction meets applicable building codes.

What plans were used as the basis for inspections? What specific International Code Council (ICC) Code sections applied to inspections and are there any calculations and/or checklists available to determine correct construction relative to applicable code and approved plans? How were such inspections performed for an existing building with extensive concealed construction?

Why were inspections performed in 2018 for a 2003 and/or 2008 Building Permit? Was a Certificate of Occupancy [re-]issued following the 07/12/18 inspections? Were there specific deficiencies in previous inspections other than incomplete inspections in office records? What purpose(s) was served by the inspections?

Who applied/requested/ordered the Building Permits as a basis to perform the 07/12/18 inspections?

Please review the information provided on this situation, review the history that has led to the present situation and determine if proper procedures have been used in applying the ICC Codes and VA-USBC to present and historical building permit activities at this site with specific emphasis on what and why inspections and approvals occurred on 07/15/18 for Building Permit 08-012.

Please direct County staff and/or Essex Recycling, as much as you are able, to perform any necessary actions to comply with applicable portions of the ICC Code and VA-USBC.

Attachments:

1. Land Development & Zoning Application (4 Pages)
2. Building Permit-Certificate of Occupancy Permit No. 08-012
3. Permit Inspection Page – Buildings and Plumbing Approvals dated 07/12/18 for Permit No. 08-012
4. VA USBC – Pages 22 & 23

Essex County
Board of Building Appeals
September 5, 2018
Boardroom at Middlesex County Historic Court House
Saluda, Va.

Members Present: C.B. Miller, Ray Burch, James Walden, Michael Johnston, William Rosenbaum

William Rosenbaum opened the meeting. This is the Middlesex County Board of Building Code Appeals. They are hearing an appeal from Essex County. First an addendum was proposed from Essex County for an overview of the situation and any background. The appellant will be heard to give their concerns and the basis of their appeal.

The Board introduced themselves. A quorum was met.

Chris Mackenzie with Sands Anderson PC introduced himself. He is the attorney for Essex County and will be representing the building official, Wyn Davis. He is here for any questions. Mr. Mackenzie has reviewed the application. There seems to be only one decision that is on appeal and that is a Certificate of Occupancy that was issued on July 12, 2018. Appeals can be taken within (30) days of any decision. This appears to be the only issue here. It is Mr. Mackenzie's understanding of the Building Code that you hear the evidence on that, and you can either affirm, reverse or modify the decision of Mr. Davis.

Mr. Alwyn Davis, Building Official for Essex County came forward. The Board had been sent a package that explains the reason for the appeal. The only information that he feels is pertinent to the hearing would be page 5 paragraph 3 which references the CO that he issued for a second building on property owned by Mr. David Stokes in the LaGrange

Industrial Park in Essex County. There has been a Board of Zoning Appeals hearing with the same two citizens that are involved in this appeal and the Deputy Zoning Administrator was asked if a CO had been issued for building number (2) on Mr. Stokes property. The Deputy Zoning Administrator, Gary Mitchell, came to Mr. Davis the next day and realized he had told the Board that a CO had been issued but then found that it had not. The Deputy Zoning Administrator asked Mr. Davis if he would mind going and inspecting the building to make sure it was in compliance with the building code and to issue a CO to clean the file up and close it out. This is not the first time something like this has happened. Mr. Davis asked the Office Manager, Andrea Skelton to check the file and see what inspections had been done. A building permit had been issued by Jeff Hodges, the previous building official. The only inspection on file was a footing. The footing had been inspected and approved. This was a metal building, steel frame, stamped plans, he assumed, engineered. Footing was inspected, nothing else. He then contacted Mr. Stokes and explained what was going on. Mr. Stokes said Mr. Davis was welcomed to inspect but he didn't know why since Jeff Hodges had done all of the inspections on the building and he told Mr. Stokes he had a CO to move in. Mr. Davis told Mr. Stokes that we didn't have record of it. It was very simple. He uses it as a scrap metal storage. Essex Recycling is the business. There were just a few electrical circuits serving for general lighting purposes. Everything was in conduit. There was a receptacle cover that was broken. There was a small bathroom; just a water closet, sink; there wasn't a problem there. There were no plumbing leaks. Looked like everything had been working for years. Mr. Stokes fixed the receptacle cover and Mr. Davis issued the CO. Days later, Mr. Parker, who is an adjacent property owner to Mr. Stokes filed the appeal. Mr. Parker appealed Mr. Davis' decision to issue the Certificate of Occupancy for

the building. Mr. Davis doesn't understand why and that is the reason for this gathering. He asked the Board if they had any questions.

Board member Ray Burch asked Mr. Davis what the time frame was from the first building inspection to his inspection. Mr. Davis said in 2008 there was a footing inspection. The previous inspector, Jeff Hodges had been on site and told Mr. Stokes that the inspections were fine, but there was no record of a CO. Board member Miller reiterated that the building was of steel structure. Mr. Davis said yes, and concrete slab. Board member Walden asked if this went through zoning and did everything pass. Building Official Davis said he did know if a zoning permit was issued. Mr. Davis asked the zoning office manager, Andrea Skelton if she remembered if a zoning permit was issued. She said she didn't know but was sure it was. Mr. Davis said it is very straight forward and asked if the Board had any more questions.

Board member Miller asked how far back can you go with this as far as an appeal. Attorney Mackenzie said you have to appeal the decision within (30) days. He further said that the permit was issued in 2008, inspections were lost or something and the building office was asked to go back and do an inspection. The Building office went out and did it and it got appealed.

The representative for the Parkers was asked to come forward.

Jeff Howeth, a licensed professional engineer, professional land surveyor and nationally certified flood plain manager came forward to represent the applicant. He is representing Mr. Parker who had filed the building code appeal. There was one issue Mr. Howeth would like to start with. It's the timeline for notification. In the timeline VCC section 19.6. notice of time and place of the hearing shall be sent to the parties in writing in at least (14) days prior to the hearing. If you look at the time line you will find that the notice was written (14) days but

according to the post mark, it was sent the 13th day. This does not meet the notification requirements of what's in the code. He said he was prepared to go forward but if this is not in keeping with the building code, he requests that this be kept with the building code.

Attorney Chris Mackenzie, representing Essex County came forward with a response. He said that they were aware of this issue. He further said that we would be happy to delay this. The applicant came into the building office this morning and told us it was sent out a day late. We would have delayed this if they had wanted but we couldn't get a position from the applicant as to what they wanted to do. Attorney Mackenzie said we are willing if they do not feel that (13) days is not enough notice to push it back (2) weeks or hear it today. They are also entitled to a hearing in (30) days.

Attorney Mackenzie asked Jeff Howeth about being a licensed engineer? Mr. Howeth answered, yes. Attorney Mackenzie said the Code of Va. prohibits the unlawful practice of law. You cannot represent someone for any kind of tribunal including this one. Unless you are a licensed attorney, the attorney doesn't want anyone running a fowl the law That is a misdemeanor. That needs to be dealt with as well because it is technically not permitted.

One of the Board members asked, "if this time frame has been exceeded, can we just go back and initiate the process again?"

Attorney Mackenzie said yes. The building code addresses this. They are entitled to (14) calendar days before the hearing. The letter went out a day late. They are entitled to say they want another letter sent out. The Board can send another letter out (14) days in advance and we can come back and do this all over again. It also says, a lesser time period can be permitted if agreed to by all parties involved in the appeal. The impression we got from the applicant from the letter he

brought in this morning was that they were, to quote them “they were withdrawing their postponement request and not willing or agreeable to provide a usually acceptable extension time.” It was assumed that they had agreed to hear this today which we will agree to as well. If everyone is in agreement, we can go ahead and do this. If they insist on (14) days instead of (13) days, we can come back in two weeks.

Jeff Howeth came forward. He said let’s make sure we set the record straight. As you can see in your timeline, we actually requested a postponement a few days ago. August 30, 2018 is when the request was made. He said he got a letter from Sands Anderson that said they were not going to postpone. Mr. Howeth said they wrote a letter back and withdrew their postponement request. You were told something different. Mr. Howeth said we are just here today to do what the code says. That is all Mr. Parker and myself are interested in. We would like to follow what that code says.

The Board of Building Appeals said they were looking at postponement, then. Mr. Howeth agreed.

Attorney Mackenzie said the code allows for either. He told Mr. Howeth that this is unauthorized practice of law. It is a misdemeanor. We can’t keep doing this. To address the issue, we can all agree, the code allows it, (13) days is enough notice to move forward. The miscommunication was that the County’s letter was dated the 22nd and we learned it went out the 23rd this morning. When we learned this, we were willing to continue. We can do either. They seem to be pushing this issue. They just need to take a position. We are in agreement for today if they are.

Mr. Jeff Howeth said they are not in agreement. He said they would like the proper timeline.

There was discussion among the Board members. They said they would just have to come back. They asked if an agreement could be made that both parties would be satisfied. The Board wanted to do that at this meeting.

Written notification will need to be sent (14) days ahead of time. In trying to pick a day, some of the Board members are not going to be available. It's obvious that the hearing will have to be in October. The appellant agrees that if it is not done in (30) days, as long as they are notified in writing two weeks ahead of time, this is in compliance with the code. Attorney Mackenzie said that October is fine because it is obviously not going to happen in (30) days.

The Board discussed the applicant sending in dates available for them. Mr. Parker is going to send dates to the County that he wants to have this hearing in October. Mr. Bugg, attorney for Mr. Stokes and Mr. Mackenzie, attorney for Essex will check their calendars and check the Board's calendar's and hopefully one of the dates will work. As soon as a date is agreed upon, a letter will be sent out.

Motion was moved to adjourn. All said, Aye, none opposed.

Meeting adjourned. 4:30 pm

A handwritten signature in cursive script that reads "Andree L. Skelton". The signature is written in black ink and is centered on the page.

ESSEX COUNTY

Board of Building Appeals

October 16, 2018

Boardroom at Middlesex County Historic Court House

Saluda, Virginia

Members Present: C.B Miller, Ray Burch, James Walden, Michael Johnston

Absent: Chairman William Rosenbaum

Vice Chairman, Ray Burch called the Board of Building Appeals to order in the absence of Chairman Rosenbaum. A quorum was met.

Vice Chairman Burch called Essex County Building Official Alwyn Davis forward to explain the situation. Mr. Davis came forward and introduced himself. He explained that this appeal is because of a CO that was issued for an existing building belonging to Mr. David Stokes. The building was built many years ago and there was not a Certificate of Occupancy on file. During a Zoning Appeals meeting the Zoning Administrator realized there had never been a CO issued. He then asked Mr. Davis to do a final inspection and issue an occupancy on this building. This was an accessory building for David Stokes, Essex Recycling. There are two buildings on the property. The primary building had a CO. The second building was for storage and it did not have a CO. The building has been there since 2008. This is a wide open metal building, steel frame, general lighting, receptacles, a small bathroom in the corner. There was one receptacle cover that had been broken. That was corrected and then the CO was issued. The footings for the building had been inspected by the previous building official in 2008. Mr. Stokes said that the previous building official, Jeff Hodges had done a final inspection and told him he could move into the building. It was a situation where the paper work was never completed. Mr. Parker, a neighbor, has appealed the decision to issue the CO.

One of the board members asked Mr. Davis about the previous building official, Jeff Hodges. Was there a reason he didn't sign the occupancy? Mr. Davis said he didn't know but perhaps Mr. Hodges was busy and just never did it. Mr. Davis said there was no record of there ever being a problem. It is just a simple building. The board member further inquired about the plans and paper work. Mr. Davis said that everything had been done and there had never been any complaints until this time?

Chris Mackenzie, attorney with Sands Anderson representing Essex County came forward. He refreshed the Appeals Board with what had happened. The original appeal was filed on July 31, 2018. Under the Code, you have 30 days to file an appeal. The only issue was a CO. Everything else is too old to appeal. The last hearing was scheduled for September 5, 2018. The notice wasn't sent out within the (14) day requirement. The only thing the Board has to do today is make a decision to affirm or modify the CO. As a refresher, a Zoning CO was issued and Mr.

Parker appealed that. That case went before the BZA. The BZA hearing was on September 27, 2018. The BZA found two things. (1) Mr. Parker wasn't an aggrieved person, and (2) the zoning permit was done properly. Based on what Wyn has presented, this is not Mr. Parker's property, it is not his CO, he is next door and there is no other property right. Mr. Mackenzie does not see Mr. Parker as an aggrieved person.

Vice Chairman Burch asked the Board if they had any questions. There were no questions.

Mr. Raymond Parker, Sr. came forward. He explained that he owned the property around the property he is appealing. Mr. Parker is concerned about his well that sits within 18 ft. of the action that is happening now. He is concerned that what is being crushed and salvaged will contaminate his well. The BZA said he didn't have a grievance until someone gets sick. He then asked Mr. Jeffrey Howeth to speak on his behalf. Mr. Howeth is an experience land surveyor and engineer who will give facts, figures and conclusions.

Mr. Jeff Howeth introduced himself as a licensed professional engineer, land surveyor who was present to help Mr. Parker. He proceeded to hand out copies to the Board and Mr. Mackenzie. He explained that (2003 and 2008) the building permits were issued for two 5000 sq.ft. industrial buildings. There was a Certificate of Occupancy for the first building issued in 2004. The second building had a site plan but no building plans were located in the file. A Certificate of Occupancy was partially complete in July of this year. There was a set of scales built between 2011 and 2013 with no site plan or building documents from the building department. It is felt that the owner acted as his own contractor. What was inspected by the building inspector on July 12th? Why were obvious improvements located on the property? Should a Certificate of Occupancy have been issued when electrical service was located in the building, but the electrical portion of the occupancy was not complete. Mr. Howeth pointed out a Google Earth picture of Mr. Stokes property from 2017 which he had handed out. There's an excerpt from the site plan that was done in 2007. This is a portion of the last site plan of the property. Mr. Howeth handed out more examples to the Board. Item #2, there is a shallow well adjacent to the property that was in existence before the Industrial Park. Mr. Parker has reported his concern about the well to the Building Dept. and the County Department of Health. A drain field and sump is closer to the well required by regulations. Does the Essex County Building Official have the power to override regulations and issue a CO for that site. Mr. Howeth further discussed the drain field and infiltration trench, location of how close this is to the well on Mr. Parker's property. Both of these appear to be within the 100 ft. radius. Item #3; it is indicated that the Building Official inspects a structure and doesn't find any violation or building laws from the book of safety, the Building Official can issue a CO. Is the Building Official ignoring regulations? Mr. Howeth pointed out some issues with the zoning permit. The zoning permit was signed on July 11, 2018 and it stipulates a justification of an approval that the Building Official issues an approval, and the BZA approved two Variances on the site. The CO was signed by the Building Official on July 12, 2018 of the two signature sections that were signed which was a day after the zoning permit was signed. The zoning permit said that a CO

had been issued on that property. Since then, the Essex County Planning Commission has made a change request on the advice of the Economic Development Authority to include privately owned recycling centers as an allowable use in the M-1 zoning, since no use for recycling is currently allowed. The Board of Zoning Appeals did take up the issue of the Zoning permit. They said they were not interested in the well because DEQ would take up that issue. They further said that since no one had gotten sick from the well, it must be ok; simply ignoring the regulation of the Va. Dept. of Health. Those are the concerns with the issuance of the Occupancy permit, not just for the building but the whole site. That is Mr. Parker's concern.

Vice Chairman Burch asked if anyone had any questions. Board member Michael Johnston feels that they are just here for the building. Not the other things that were sited. He feels that they are here just for the Occupancy permit. Mr. Jeff Howeth said, that is the question. Does the Occupancy permit because of what's said in the IBC which says that the building official has to make sure everything on the site is in compliance before issuing the CO. Who picks up the issues that have been presented? Board member Johnston feels that this shouldn't fall on the building inspector because he was just asked to inspect the building. He further said that he is not saying that they don't have an issue, it's just not something this Board can answer. Mr. Howeth thanked Mr. Johnston for that commentary and said they didn't know the answer either. He also said that in other counties, the building official has to make sure the well and septic are approved, the storm water, and DEQ is satisfied before issuing a CO on a building. Most building officials will not sign a Certificate of Occupancy if they are not sure the Health Department has issued an Operation Certificate on a well and septic. Is it the Building Officials job to make sure all of this is in place? The Zoning person said he signed the zoning permit because the building official had made sure everything else was in place. He said the entire site had been checked and it was good. Mr. Howeth said they don't see evidence that the site plan was good.

Vice Chairman Burch had a question for the lawyer. In reference to everything mentioned, the code, the septic, that is usually done before you start building. Board member Johnston said the Health Department takes care of one, the zoning department takes care of one. This is all done before you can get a permit. This has to be done before you can get a permit to build a building.

Attorney Mackenzie responded to the Board. The only thing we are here for is to focus on the building. Code 16.1, Certificate of Occupancy. Certificates shall be issued after the completion of the building. This is in compliance with this code. All we are talking about is the CO for the structure. All of the Zoning issues were taken care of by the BZA. All of the other issues are outside of the scope. Our position is that the CO was properly issued. They are just a neighbor. There is nothing the Board has to do except affirm the CO. The CO speaks for itself because of the Building Code.

Vice Chairman Burch asked Mr. Parker if he had anyone else he would like to speak? He said, no. Vice Chair Burch asked the Building Official if he had anything else he would like to add.

The Building Official for Essex, Alwyn Davis came forward and stated that this came from paper work that was incomplete. There was no indication that there was a problem. The Zoning person noticed that 10 years ago, a CO wasn't signed. He suggested that the file should be closed out. This is not the first file that has been run across that wasn't signed off on. The final inspection was done a day after the zoning permit but it was done because he was asked to close out the file. He further said that they were here today to speak directly to the appeal. This is puzzling as to why we are here.

Vice Chairman Burch said Mr. Davis had no other choice when asked but to go and inspect and make sure it meets all the criteria for an Occupancy.

Mr. Parker asked for Mr. Jeff Howeth to speak on his behalf. Mr. Howeth came forward. He said that what attorney Mackenzie read hits the nail on the head. He was quoting from the IBC. After the building official inspects the buildings or structure and doesn't find any violation against this code, what other laws against building safety, the building official can issue the CO? This may be an issue more than the building is. We would like to have the other items as least looked at. It is the building office that issued that CO.

Mr. David Stokes of Essex Recycling came forward. He said he has never done anything without a permit and everything has always been inspected. He was told he could move into the building. He said he is licensed under DEQ. He has never had a violation because he has indoor draining facilities; unlike Mr. Parker who has 40 cars that have been badly damaged in car accidents, leaking oil and fluids on the same ground near his service well where he drinks water every day from a fountain. For some reason Mr. Parker says he is polluting his water. If Mr. Stokes is on the same property, and everything he does is clean and inspected by the federal government, but Mr. Parker can put automobiles torn up from accidents on the other side of the fence which he sells to Mr. Stokes. They haven't been drained because Essex Recycling has to drain them. Mr. Stokes is not sure what all of this is about. All of his buildings are legal. Mr. Parker has been arguing for 15 years. Everything Mr. Stokes has done has been drawn up by engineers. That's all.

Vice Chairman Burch asked the Board if they had anything else to say. He then called for a vote. Board member Walden voted in favor of the Building Inspector. Mr. Miller voted in favor of the building inspector. Mr. Johnston voted in favor. Vice Chair voted in favor. It was a unanimous vote in favor of the decision of the Building Inspector for Essex County.

The meeting was adjourned at 5:00 p.m.



Resolution
of the Essex County Local Board of Building Code Appeals

WHEREAS, the Essex County Local Board of Building Code Appeals ("LBBCA") is duly appointed to resolve disputes arising out of enforcement of the Virginia Uniform Statewide Building Code; and

WHEREAS, an appeal has been filed and brought to the attention of the LBBCA; and

WHEREAS, a hearing has been held to consider the aforementioned appeal; and

WHEREAS, the LBBCA has fully deliberated this matter; now, therefore, be it

RESOLVED, That in the matter of

Appeal No.: AA-01-2018

Applicant: Raymond M. Parker, Sr.

IN RE: Permit # 08-012 – Departmental Approval for Certificate of Occupancy dated 7/12/18

The decision of the official brought up on appeal is hereby upheld, for the reasons set out below:

For the reasons stated by the LBBCA on the record, the decision was unanimous by the Board in favor of the Building Official in issuing the Certificate of Occupancy for the building located at 531 LaGrange Industrial Park, Tappahannock, Va. 22560. "Essex Recycling

Date: 11-07-2018

Signature: Ray Burch Vice Chairman

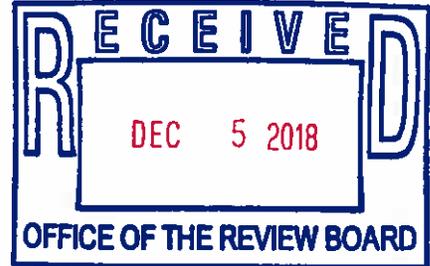
Note: Any person who was a party to the appeal may appeal the LBBCA's decision to the State Building Code Technical Review Board by submitting an application to such board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, VA 23219, (804) 371-7150, <http://www.dhcd.virginia.gov/index.php/va-building-codes/building-and-fire-codes/appeals.html>.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Raymond M. Parker, Sr. 2159 Richmond Highway P. O. Box 2594 Tappahannock, Va. 22560
804-445-5314 parkertowing247@aol.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

Alwyn Davis, Essex Co. BO 202 S. Church Lane Tappahannock, Virginia 22560 804-443-4951 awdavis@essex-virginia.org

Property Owner: David and Sherry Stokes 531 Lagrange Drive, Tappahannock, Virginia 22560 804-443-3896

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of December, 2018 a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

A handwritten signature in black ink, appearing to read "Raymond M. Parker Sr.", written over a horizontal line.

Name of Applicant: Raymond M. Parker, Sr.
(please print or type)

Raymond M. Parker, Sr.
P. O. Box 1174
Dunnsville, Virginia 22454

December 3, 2108

Mr. W. Travis Luter, Sr.
Virginia DHCD
Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300
Richmond, Virginia 23219

Dear Secretary Luter:

Enclosed please find my application for appeal of the Essex County Building Official's decision to issue a Certificate of Occupancy for the existing metal recycling operation located at 531 LaGrange Drive in Essex County, Virginia. My reasons for requesting this appeal have been previously presented both in writing as contained in the appeal application required by Essex County and verbally as presented to the Essex County Board of Building Code Appeals. While these are not all of my concerns as the adjacent property owner on two sides of this metal recycling operation, the following are the items I am most concerned about:

Item # 1: Building Permits were issued for two buildings in 2003 and 2008 for two 5000 SF metal industrial buildings. The Certificate of Occupancy for the first building was issued 2004. No plans or inspection records were found in the files. The second building had a Site Plan and Metal Building construction documents located in the file. However, the Certificate of Occupancy was recently only partially completed on July 12, 2018. Further site improvements including a set of scales built between 2011 and 2013 have no Site Plans and no construction documents or building permits. What was inspected during the Building Inspector's visit on July 12, 2018? Why weren't obvious improvements located on the property since the last Building Permit and Site Plan approval not addressed by the latest Certificate of Occupancy inspection? Should a Certificate of Occupancy have been issued for the building if an electrical service was obviously located in the building, but the electrical portion of the Certificate of Occupancy was not complete?

Item # 2: An existing shallow well is located on my property which predates the existence of the adjacent industrial park lots or the metal recycling facility. I have continuously expressed concern over the proximity of this well to potential sources of pollution to both the Building Official and the County Virginia Department of Health Representative. This concern was expressed to both parties as both the Subdivision Plat approved by the County as well as the Site Plan for the second metal building constructed in 2008 indicated that the primary and reserve drainfield areas and an infiltration trench and sump have been permitted and installed closer than the 100 foot setback required by the Private Well Regulations, On-Site Sewage Handling and Disposal Regulations, and the Regulations regarding the Chesapeake Bay Preservation Area

Mr. W. Travis Luter, Sr., Secretary
Office of the State Technical Review Board
Parker/ 531 LaGrange Industrial Park Appeal
Page 2

Overlay District Ordinance adopted by Essex County. Does the County Building Official have the authority to override these Regulations? Furthermore, does the County Building Official have an obligation to investigate these allegations prior to issuing a Certificate of Occupancy for the entire property, or can he simply look at the structure only and disregard all other regulations of the site during the issuance of the Certificate of Occupancy?

Item # 3: It has been indicated that the building official in accordance with the 2018 IBC Section 111.2 and prior Codes that "After Building Official inspects the building or structure and does not find violations of this code or other laws that are enforced by the Department of Building Safety, the Building Official can issue a "Certificate of Occupancy".

Do "other laws" include such regulatory agencies as the U. S. Army Corps of Engineers, Virginia Department of Environmental Quality, Virginia Department of Health, Virginia Department of Transportation or the Essex County Zoning Department if such permits routinely go through the Building (and Safety) Office of the locality? Can the Building Official over-rule or ignore the existence of such agencies or their findings?

Furthermore, the Zoning Permit signed on July 11, 2018 stipulates as it's justification for approval that the Building Official had issued a Certificate of Occupancy on the Site and that the Essex County Board of Zoning Appeals had granted two side yard variances on the property. The Certificate of Occupancy was signed by the Building Official on July 12, 2018, one day after the Zoning Permit was signed. Can a Zoning Permit be issued prior to the issuance of a Certificate of Occupancy for a property where the justification of the issuance of the Zoning Permit is that the Building Official apparently pre-determined that he was going to issue a Certificate of Occupancy for the facility prior to his visit to the property and that the Building Official furthermore concluded that "all other laws" were complied with?

The specific relief that I am seeking is clarification of the duties of the Building Official to enforce the regulations which affect my use of my property and protect my health and well-being as well as validation of the decision to issue a Certificate of Occupancy on the adjacent property. I appreciate the opportunity to be heard before the State Board of Building Code Appeals and I will be prepared to answer any questions you may have concerning this matter.

Sincerely,



Raymond M. Parker, Sr.

Documents Submitted
By Raymond M. Parker Sr.

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\$ 30⁰⁰



LAND DEVELOPMENT & ZONING APPLICATION

DEPARTMENT OF BUILDING & ZONING

202 S Church Lane

P O Box 1079

Tappahannock, VA 22560

(804) 443-4951

(804) 445-8023 fax

CASE NUMBER: _____ PERMIT NUMBER: 18-061

1. TYPE OF REQUEST - Check all/any that apply.

- Rezoning: From _____ To: _____
- Site Construction Plan Major - Name of Development: _____ Minor - Name of Development: _____
- Conditional Use Permit (ordinance section): _____
- Subdivision Types: Minor Family Major
 - Boundary line adjustment/Lot Consolidation
 - Preliminary Name & Phase/Section: _____
 - Final/Record Name & Phase/Section: _____
 - Final/Record Name: _____
- Land Disturbance Chesapeake Bay Exception
- Right-of-way Vacation Major WQIA Minor WQIA
- Zoning/Building Administrative Appeal: Specify ordinance/code section: _____
- Zoning/Subdivision Variance: Specify ordinance section: _____

Zoning Permit

GENERAL INFORMATION FOR ALL ZONING PERMITS:

Tax Map Number: 36-7-11 Site Address: 531 LaGrange Drive

Water/Sewer Supply: Well/Septic Central Public NA

Existing Land Use: Commercial Busn. Proposed Land Use: Business

Proposed Building Use: Reception Center

New Building Addition Change-in-Use/Modification Accessory Structure NA

• Residential - Zoning District: _____ Magisterial District: _____
 Subdivision Name: _____

Single-Family Dwelling Size - Length: _____ Width: _____ Height: _____ No. of Stories: _____
 Mobile Home Size - Length: _____ Width: _____ Height: _____
 Accessory Building Size - Length: _____ Width: _____ Height: _____ No. of Stories: _____
 Setbacks - Required: Front _____ Rear _____ Left side _____ Right Side _____
 Proposed: Front _____ Rear _____ Left side _____ Right Side _____

• Commercial/Industrial - Zoning District: M-1 Magisterial District: _____

Type of Structure: Steel Ind. Building
 Size - Length: 128 Width: 200 Height: 20 No. of Stories: 1
 Accessory Building Size - Length: _____ Width: _____ Height: _____ No. of Stories: _____
 Setbacks - Required: Front 90 1/2 Rear 70 1/2 Left side 70 1/2 Right Side 60 1/2
 Proposed: Front _____ Rear _____ Left side _____ Right Side _____

→ 2 buildings (see c-o)

*NOTE: All measurements in Feet (round to nearest whole foot).

Effective July 1, 2018



Page 1

2. APPLICANT INFORMATION

OWNER(s) OF RECORD (use additional sheets if more than one-party)

David Stokes ^{Alta} Essex Recycling 804 443 3896
 Owner DAYTIME PHONE NUMBER

531 LAGRANGE DRIVE TAPPANVILLE, VA 22560
 MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number E-mail Address

Applicant (if different from owner)

Applicant DAYTIME PHONE NUMBER

MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number E-mail Address

Agent/Contractor (if different from owner/applicant)

Applicant DAYTIME PHONE NUMBER

MAILING ADDRESS, CITY, STATE, ZIP CODE

Fax Number E-mail Address

3. PROPERTY INFORMATION (FOR REZONINGS, SITE PLANS, SUBDIVISIONS, CONDITIONAL USE & VARIANCES)

Tax Map Number			Total Acreage			
Subdivision Name	Section	Block	Lot			
Physical Address						
Current Zoning			Existing Structures			
Proposed Utilities			Acreage of Request			

4. NARRATIVE REQUIRED - FOR REZONINGS, CONDITIONAL USE, VARIANCES AND APPEALS A NARRATIVE DESCRIBING THE NEED AND/OR REASONS FOR THE APPLICATION IS REQUIRED. THE NARRATIVE SHOULD ADDRESS HOW THE REQUEST IS CONSISTENT WITH THE GOALS AND OBJECTIVES OF THE COMPREHENSIVE PLAN.

5. SIGNATURE(S)

I/WE HAVE READ THIS COMPLETED APPLICATION, UNDERSTAND ITS INTENT AND FREELY CONSENT TO ITS FILING. THE INFORMATION PROVIDED IS ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. I UNDERSTAND THAT THE COUNTY MAY APPROVE, CONDITIONALLY APPROVE, APPROVED WITH MODIFICATIONS OR DENY THE REQUEST FOR WHICH I AM APPLYING. FURTHERMORE, I GRANT PERMISSION TO THE DEPARTMENT OF BUILDING AND ZONING AND ANY OTHER AUTHORIZED GOVERNMENT AGENTS TO ENTER THE PROPERTY AND MAKE SUCH INVESTIGATIONS AS THEY DEEM NECESSARY TO EVALUATE THE REQUEST AND ENSURE THAT CONDITIONS PLACED ON THE REQUEST HAVE BEEN IMPLEMENTED AND/OR MAINTAINED AS PROSCRIBED BY THE APPROVING AUTHORITY. ADDITIONALLY, IF OUTSIDE REVIEW IS NEEDED BY THE COUNTY TO EVALUATE THIS REQUEST I ACKNOWLEDGE AND AGREE TO REIMBURSE THE COUNTY OF ESSEX FOR THESE OUTSIDE REVIEW AGENCY COSTS.

David W. Stokes
Owner/Applicant/Agent Signature

7-11-18
Date

Owner /Applicant/Agent Signature

Date

Owner /Applicant/Agent Signature

Date

Owner /Applicant/Agent Signature

Date

6. APPROVAL/DISAPPROVAL

* APPROVED AUTHORIZED SIGNATURE: [Signature] DATE: 7/11/18

DISAPPROVED AUTHORIZED SIGNATURE: _____ Date: _____

REASONS FOR DISAPPROVAL: _____

IF DISAPPROVED/DENIED: Any person aggrieved by the disapproval of this application may appeal to the Board of Zoning Appeals* in accordance with provisions of the Essex County Zoning Ordinance. Such an Appeal must be filed with the Zoning Administrator on approved application forms within thirty (30) days from the date of this denial. Application shall be accompanied by a filing fee of \$250.00, made payable to the County of Essex for the Administrative Appeal. This decision in written order shall be final and unappeasable if not appealed within thirty (30) calendar days from the date of this letter.

*NOTE: TO APPEAL A DECISION OF A BOARD OF ZONING APPEALS OR BOARD OF SUPERVISORS DECISION OR A PLANNING COMMISSION DENIAL OF A SUBDIVISION PLAT MUST BE FILED WITH THE ESSEX COUNTY CIRCUIT COURT WITHIN 30-DAYS OF THE DENIAL AS PROVIDED BY THE CODE OF VIRGINIA, 1950, AS AMENDED.

* per BZA review started 7/28/18 and VA Code 15.2-2307



Raymond M. Parker, Sr.
P. O. Box 1174
Dunnsville, Virginia 22454

February 7, 2019

Mr. W. Travis Luter, Sr.
Virginia DHCD
Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300
Richmond, Virginia 23219

Dear Secretary Luter:

Thank you for your email of January 22, 2019 regarding my appeal. Based upon my review of the documents submitted, I am in agreement with all material presented with the exception that the application was filed on December 4, 2018 at 9:07 PM by electronic mail to your office and the office of the Essex County Building Official. The appeal was also served to Essex Recycling, Inc. immediately before that email was sent to you as it included a photograph of the physical service of the documents (of which photograph you have included in your document package).

I have attached a copy of the email which transmitted a zipped file of all of the appeal documents I presented with my appeal request that evening to support my statement above.

I also respectfully request that my standing as an aggrieved party be supported as several of the consequences of the actions of the Essex County Building Official's issuance of a Certificate of Occupancy to Essex Recycling, Inc. have affected my use, enjoyment and value of my surrounding property.

I continue to remain appreciative of your office's efforts to hear this appeal and remain available to provide further information as may be required concerning this matter

Sincerely,



Raymond M. Parker, Sr.

State Building Code Appeals Board Application

Jeffrey Howeth

Tue 12/4/2018 9:07 PM

To: sbco@dhcd.virginia.gov <sbco@dhcd.virginia.gov>; travis.luter@dhcd.virginia.gov <travis.luter@dhcd.virginia.gov>; Wyn Davis <awdavis@essex-virginia.org>

 1 attachments (7 MB)

Parker.zip;

Attached please find our application and supporting documentation for an appeal of the Essex County Board of Building Code Appeals for Parker/531 Lagrange Industrial Drive in Essex County, Virginia.

Thank you for your attention to this matter.

Jeffrey L. Howeth, P.E., L.S., C.F.M., President, J. L. Howeth, P.C. 1019 Elm Street P. O. Box 1684 Tappahannock, Virginia 22560 804-443-6367 (Office) 804-241-4160 (Cell)

Documents Submitted
By Essex County
(through legal counsel)

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

**IN RE Raymond M. Parker Sr.
 Appeal No. 18-20**

WRITTEN ARGUMENT OF THE COUNTY OF ESSEX, VIRGINIA

The County of Essex, Virginia, (the "County"), by counsel, submits the following to the State Building Code Technical Review Board (the "Review Board") as its written argument in response to the appeal filed by the appellant, Raymond M. Parker, Sr. (the "Mr. Parker").

1. **Factual Background.** The County agrees with the factual background provided by the Review Board Staff in their Suggested Summary of Appeal dated January 22, 2019. Paragraphs 1 through 4 correctly detail the relevant factual aspects of this appeal. Furthermore, all relevant documents were submitted by Staff with the Summary of Appeal.

2. **Mr. Parker is not an aggrieved party under Virginia law.** With respect to the first Suggested Issue for Resolution by the Review Board, the County submits that Mr. Parker's appeal should be dismissed because he is not an aggrieved party under Virginia law. The County raised this issue during the October 16, 2018 hearing before the Local Board of Building Code Appeals ("LBBCA"), but the LBBCA decided instead to rule on the merits and affirm the actions of the Essex County Building Official (the "Building Official") in issuing the July 12, 2018 certificate of occupancy (the "CO") to the property owner, Mr. Stokes.

While the County agrees with the decision of the LBBCA and asks that it be affirmed on the merits, the County also again contends that Mr. Parker lacks standing to bring this appeal in the first place because he is not an aggrieved party. Pursuant to Section 119.5 of the Virginia Construction Code of 2012 (the "VCC"), "any person aggrieved by the local building

department's application of the USBC...may appeal to the LBBCA." Therefore, in order to have standing to bring this appeal, Mr. Parker must first establish that he is aggrieved by the Building Official's issuance of a CO for a building on Mr. Stokes' property. However, Mr. Parker cannot do so, because his only connection to the CO is that he is the owner of the adjacent parcel. Under well-settled Virginia law, this is insufficient to qualify as "aggrieved" and therefore attain standing to appeal under Section 119.5 of the VCC.

In its submission, Staff makes reference to a prior decision of the Review Board, Appeal No. 17-6, in which the Review Board addressed this exact issue. In that decision, the Review Board correctly stated the standard for determining whether a party is aggrieved, holding that:

In Virginia Supreme Court cases, the court has held that to have standing, a person's rights have to be affected by the disposition of the case and that to be an aggrieved party, the party has direct interest in the subject matter and an immediate, pecuniary and substantial interest, and not a remote or indirect interest. **In addition**, the court has held that to be aggrieved, there is a denial of some personal or property right, legal or equitable, or imposition of a burden or obligation upon a party different from that suffered by the public generally.

Decision of Review Board, Appeal No. 17-6, at pg. 3 (emphasis added).

This correctly states the controlling law. In cases such as these, where the party challenging a land use decision is not the owner of the subject property, the Supreme Court of Virginia has established a two-step analysis for determining whether that party is "aggrieved." First, the appellant must be the owner or have an interest in property that is close to the property that it is the subject of the determination. This is enough to establish a "direct, immediate, pecuniary, and substantial interest in the decision."

But proximity alone is not sufficient to confer standing. Rather, the second step of the analysis requires the appellant to allege facts demonstrating a particularized harm to "some personal or property right, legal or equitable, or imposition of a burden or obligation upon [the]

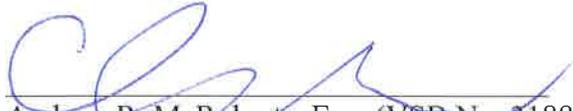
party different from that suffered by the public generally." Mr. Parker's appeal fails to meet this requirement. He has demonstrated no harm suffered by him, be it to his personal or property rights, as a result of the Building Official's issuance of a CO to his neighbor. Nor has he shown that the issuance of the CO affects him differently from how it affects the public generally. Accordingly, Mr. Parker does not have standing to bring this appeal before the Board, and it should be dismissed.

3. **The LBBCA decision should be affirmed.** With respect to the second Suggested Issue for Resolution by the Review Board, in the event the Review Board finds it necessary to hear the merits of this appeal, the County submits that the decision of the LBBCA should be affirmed. As detailed in his testimony before the LBBCA, and as will be detailed further if necessary before the LBBCA, the Building Official complied with Section 116 of the VCC in conducting his inspection of the building on Mr. Stokes' property. Furthermore, he complied with Section 116 in issuing the CO, upon finding that the requirements of the VCC were met.

WHEREFORE, the County of Essex, Virginia, by counsel, respectfully requests that the Review Board (1) find that Mr. Parker lacks standing to bring this appeal and dismiss this matter with prejudice; or, in the alternative (2) affirm the decision of the LBBCA.

Respectfully submitted,

COUNTY OF ESSEX, VIRGINIA



Andrew R. McRoberts, Esq. (VSB No. 31882)
Christopher M. Mackenzie, Esq. (VSB No. 84141)
SANDS ANDERSON, PC
1111 East Main Street, Suite 2400
Post Office Box 1998
Richmond, Virginia 23218-1998
Telephone: (804) 783-7211
Facsimile: (804) 783-7291
Email: amcroberts@sandsanderson.com
Email: cmackenzie@sandsanderson.com
Counsel for the County of Essex, Virginia

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2019, a copy of the foregoing was sent by electronic mail to:

W. Travis Luter Sr., C.B.C.O.
Department of Housing & Community Development
Division of Building & Fire Regulation, State Building Codes Office
600 East Main Street, Suite 300
Richmond, Virginia 23219
Telephone: (804) 371-7163
Facsimile: (804) 371-7092
Email: travis.luter@dhcd.virginia.gov
*Secretary to the State Building Code Technical Review Board
Code and Regulation Specialist*

Raymond M. Parker, Sr.
Email: parkertowing247@aol.com
Appellant, pro se

Donald Stokes
Email: essexrecycling@yahoo.com
Respondent, pro se



Counsel for the County of Essex, Virginia

Prior Review Board
Decisions provided by
Review Board staff

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Deborah Caldwell-Bono and Benny Bono
Appeal No. 17-6

DECISION OF THE REVIEW BOARD

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).

Case History

Deborah Caldwell-Bono and Benny Bono (Bonos) appeal to the Review Board from a decision of the County of Roanoke Building Code Board of Adjustments and Appeals (County appeals board), which upheld a determination of the County of Roanoke building commissioner that a building on property adjacent to property where the Bonos live and across a public road from an equestrian center operated by the Bonos was a farm building and not subject to the Virginia Uniform Statewide Building Code (state building code) due to a statutory exemption for farm buildings under the laws governing the state building code. The building in question is located at 5198 Blacksburg Road and owned by Kimberly Bolden and her mother. In addition to housing farm equipment and supplies, portions of the building are used for wedding events and were alleged by the Bonos to be used for a time as a residence by Ms. Bolden's son.

In the proceedings before the County appeals board, the building commissioner, through legal counsel, raised two jurisdictional issues; whether the Bonos had a right to appeal and whether they filed a timely appeal. The issue of the Bonos' right of appeal was questioned based on the statutory provision governing appeals under the state building code and requiring an appealing party to be aggrieved by the decision being appealed.

The County appeals board considered both jurisdictional issues and ruled that the Bonos were aggrieved and that the appeal was timely filed. In the appeal to the Review Board, the Bonos asserted that the building commissioner was barred from raising those jurisdictional issues since the building commissioner did not appeal the decision of the County appeals board to the Review Board.

A hearing was held before the Review Board with the Bonos and building commissioner and their respective legal counsel present. Ms. Bolden was present but did not participate in the proceedings.

The Review Board limited its proceedings to only consideration of whether the building commissioner was barred from raising the jurisdictional issues heard by the County appeals board and whether the Bonos were aggrieved as required by the statute governing appeals under the state building code.

Findings of the Review Board

Relative to the issue of the right of the building commissioner to raise jurisdictional issues in the appeal to the Review Board irrespective of whether the building commissioner further appealed the County appeal board's decision on those issues; proceedings before the Review Board are de novo (see § 36-115 of the Code of Virginia). The building commissioner

appeal the County appeal board's decision to preserve the right to raise the jurisdictional issues in the Bonos' appeal to the Review Board.

With respect to the issue of whether to dismiss the Bonos appeal due to their lack of standing as an aggrieved party, the Review Board finds that Virginia courts have provided guidance in determining whether a party is aggrieved. In Virginia Supreme Court cases, the court has held that to have standing, a person's rights have to be affected by the disposition of the case and that to be an aggrieved party, the party has direct interest in the subject matter and an immediate, pecuniary and substantial interest, and not a remote or indirect interest. In addition, the court has held that to be aggrieved, there is a denial of some personal or property right, legal or equitable, or imposition of a burden or obligation upon a party different from that suffered by the public generally.

The Bonos' concerns are predominately related to noise and activity associated with the zoning approval obtained by Ms. Bolden from the County of Roanoke for wedding events. The Bonos have challenged the County's zoning approval in a separate action and the matter is pending in the courts. The decision of the building commissioner that the building is a farm building has no bearing on those issues; they may continue to the extent that the County's zoning approval stands irrespective of whether the building is exempt or subject to the state building code.

The remaining issue raised by the Bonos is a claim that the building in question is unsafe based on their engagement of an architect to contact the building commissioner with his concerns. The farm building on the adjacent property in question is more than fifty feet (50') from the Bono's property line. Additionally, the Bonos have no existing structures in proximity to the property line. Therefore, while it is true that there are no standards for farm buildings due to the statutory exemption from the state building code, the issue of safety is more applicable to building occupants

than to the Bonos. Consequently, that issue does not make the Bonos aggrieved by the building commissioner's decision.

Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of the County appeals board to be, and hereby is, vacated, and the Bonos' appeal to the Review Board to be, and hereby is, dismissed for lack of standing since the Bonos are not an aggrieved party as required by the statute governing appeals under the state building code.



Chairman pro tem, State Building Code Technical Review Board

Date entered: 1/25/18

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 Vernon Hodge, Acting 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.

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Karen Hobbs
Appeal No. 18-21

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Karen Hobbs
Appeal No. 18-21

REVIEW BOARD STAFF DOCUMENT

Suggested Summary of the Appeal

1. On October 10, 2018, the County of Fairfax Department of Code Compliance (County), in enforcement of the Virginia Property Maintenance Code (VMC), issued a notice of violation to Karen M. Hobbs for her property located at 11812 Breton Court, Unit 2. The notice cited three VMC violations, one violation each for Sections 305.1 (General), 308.1 (Accumulation of rubbish and garbage), and 702.1 (General). The County also issued a Notice of Structure Unfit of Human Occupancy in accordance with VMC Section 202 (Definition).

2. Ms. Hobbs filed an appeal to the County of Fairfax Board of Building Code Appeals (local board) on October 22, 2018.

3. The local board conducted a hearing in November of 2018 and upheld the decision of the County. Ms. Hobbs filed an application for appeal to the Review Board on December 5, 2018 after receipt of the local board's decision.

4. This staff document along with a copy of all documents submitted will be sent to the parties and opportunity given for the submittal of additions, corrections or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the appeal hearing before the Review Board.

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Suggested Issue for Resolution by the Review Board

1. Whether or not to overturn the decision of the County and the local board that a violation of the VMC Section 305.1 (General) exists.
2. Whether to overturn the decision of the County and the local board that a violation of the VMC Section 308.1 (Accumulation of rubbish and garbage) exists.
3. Whether to overturn the decision of the County and the local board that a violation of the VMC Section 702.1 (General) exists.
4. Whether or not to overturn the decision of the County and the local board that in accordance with VMC Section 202 (Definition) the structure is unfit for human occupancy.

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Basic Documents

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County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

NOTICE OF VIOLATION Virginia Maintenance Code

DATE OF ISSUANCE: October 10, 2018

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Karen E. Hobbs
ADDRESS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

LOCATION OF VIOLATIONS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

TAX MAP REF: 0261 19120002B

CASE #: 201806838 **SR #:** 155372

ISSUING INVESTIGATOR: S. C. Lunsford, Ph: (703) 324-4374

POTENTIAL CIVIL PENALTIES PURSUANT TO FAIRFAX COUNTY

CODE § 61-7-1(B): Maintenance Code Violation(s)	First Offense	Each Subsequent Offense
§ VMC 305.1	\$ 100.00	\$ 150.00
§ VMC 308.1	\$ 100.00	\$ 150.00
§ VMC 702.1	\$ 100.00	\$ 150.00
TOTAL:	\$ 300.00	\$ 450.00

Dear Responsible Party:

In accordance with the Virginia Maintenance Code (Part III of the Uniform Statewide Building Code-2015 Edition), an inspection on October 5, 2018 revealed violations as listed below at the referenced location. The cited violations must be corrected within thirty (30) days from receipt of this notice unless otherwise indicated.

Violation: INTERIOR STRUCTURE GENERAL VMC 305.1. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-653-9459 TTY 711
www.fairfaxcounty.gov/code

Work to be Performed: Restore interior of dwelling to sanitary condition so as to be in substantial conformance with VMC 305.1.

Violation: ACCUMULATION RUBBISH GARBAGE VMC 308.1. Accumulation of rubbish or garbage. The interior of every structure shall be free from excessive accumulation of rubbish or garbage.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Work to be Performed: Remove excessive rubbish and garbage from interior of dwelling so as to be in substantial conformance with VMC 308.1.

Violation: MEANS OF EGRESS GENERAL VMC 702.1. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.

[F] 1001.1- Building or portions thereof shall be provided with a means of egress system as required by this chapter. The provisions of this chapter shall control the design, construction, and arrangement of means of egress components required to provide an approved means of egress from structures and portions thereof. Sections 1003 through 1029 shall apply to new construction. Section 1030 shall apply to existing buildings.

Exception - Detached one and two family dwelling and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with separate means of egress and their accessory structures shall comply with the International Residential Code.

[R] 311.1 Means of Egress - All dwellings shall be provided with a means of egress as provided in this sections. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress from all portions of the dwelling to the exterior of the dwelling at the required egress door without requiring travel through a garage.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Work to be Performed: Establish unobstructed egress throughout dwelling unit so as to be in substantial conformance with VMC 702.1.

All repairs, alterations, and/or additions must be made in accordance with applicable laws. Any additional violations that may appear as work progresses will require correction.

Information about obtaining any necessary permits required by other Fairfax County agencies may be obtained by calling (703) 222-0801, TTY 711 and requesting the appropriate department.

Per Sect. 107.5 of the Virginia Maintenance Code, any person aggrieved by the application of the code may appeal to the Local Board of Building Code Appeals (LBBCA), which is the Fairfax County Board of Building and Fire Prevention Code Appeals. The request for an appeal must be submitted in writing within 14 calendar days of receipt of the decision being appealed along with a \$208 fee. Failure to submit an application for appeal within the time limit established shall constitute acceptance of the Code Official's decision.

Karen E. Hobbs
October 10, 2018
SR 155372
Page 3

You may call the secretary of the LBBCA for more information about the appeals process, and/or appeal application forms:

Secretary to the Fairfax County Local Board of Building Code Appeals
Attention: Secretary to the Fairfax County Local Board of Building Code Appeals
Land Development Services
12055 Government Center Parkway, Suite 334
Fairfax, VA 22035-5504
Telephone: (703) 324-5175, TTY 711

Information and forms can also be obtained at:

<https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals>

A follow-up inspection will be made at the expiration of the time period outlined in this Notice.

Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Virginia Maintenance Code which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$100.00 for each violation cited herein for the first violation and \$150.00 for each subsequent violation cited herein per day totaling up to \$4,000.00 in accordance with Fairfax County Code § 61-7-1(B).

Civil penalties entered by the General District Court shall be paid to the Office of the County Attorney. Investigators may not accept any payments, including those associated with fines and fees.

In accordance with the code, the owner or person to whom this notice of violation has been issued is responsible for contacting me within the time frame established for any re-inspections to assure the violations have been corrected.

If you have any questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703) 324-4374. For any other questions, contact our main office at (703) 324-1300, TTY 711.

LEGAL NOTICE ISSUED BY:



Signature

S. C. Lunsford
Code Compliance Investigator
Ph: (703) 324-4374
catherine.lunsford@fairfaxcounty.gov



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

NOTICE OF STRUCTURE UNFIT FOR HUMAN OCCUPANCY

DATE OF ISSUANCE: October 10, 2018

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Karen E. Hobbs (Property Owner)
ADDRESS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

**LOCATION OF VIOLATION/
SUBJECT PROPERTY:** 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

TAX MAP REF: 0261 19120002B

CASE #: 201806838 **SR#:** 155372

ISSUING INVESTIGATOR: S. C. Lunsford, Ph: (703) 324-4374

Dear Responsible Party:

In accordance with the Virginia Maintenance Code (Part III of the Uniform Statewide Building Code - 2015 Edition), an inspection of the condominium unit located on the above-referenced subject property was conducted on October 5, 2018. The inspection found that this structure is unfit because of lack of sanitation and obstructed egress on the interior. Therefore, the Fairfax County Maintenance Code Official (Code Official) has deemed this structure to be a Structure Unfit for Human Occupancy, which is defined in Section 202 of the Virginia Maintenance Code as:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY:

An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because (i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Karen E. Hobbs
October 10, 2018
SR 155372
Page 2

equipment or (ii) the required plumbing, and sanitary facilities are inoperable.

A Field Notice of Structure Unfit for Human Occupancy was issued to you and/or posted to the subject property on October 5, 2018 because the property condition required immediate attention; and, pursuant to the provisions of Section 106.6 of the Virginia Maintenance Code, a placard stating the following has been posted to the entrance to the structure:

THIS STRUCTURE IS UNFIT FOR HUMAN OCCUPANCY AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL

The subject structure must remain vacant. No person shall enter the structure except upon the authorization of the Code Official for one of the following purposes: (a) to make the required repairs, (b) to demolish the structure, or (c) to make inspections. The placard shall not be removed until the structure is determined by the Code Official as safe to occupy.

You are hereby directed to abate the conditions found at the subject property by complying with the attached Notice of Violation.

Pursuant to Section 106.9 of the Virginia Maintenance Code, the Code Official may authorize emergency repairs to make the structure temporarily safe, whether or not legal action to compel compliance has been instituted. You will be billed if such work is done.

Per Sect. 107.5 of the Virginia Maintenance Code, any person aggrieved by the application of the code may appeal to the Local Board of Building Code Appeals (LBBCA), which is the Fairfax County Board of Building and Fire Prevention Code Appeals. The request for an appeal must be submitted in writing within 14 calendar days of receipt of the decision being appealed along with a \$208 fee. Failure to submit an application for appeal within the time limit established shall constitute acceptance of the Code Official's decision.

You may call the secretary of the LBBCA for more information about the appeals process, and/or appeal application forms:

Secretary to the Fairfax County Local Board of Building Code Appeals
Attention: Secretary to the Fairfax County Local Board of Building Code Appeals
Land Development Services
12055 Government Center Parkway, Suite 334
Fairfax, Virginia 22035-5504
Telephone: (703) 324-5175, TTY 711

Information and forms can also be obtained at:
<https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals>.

Please give this matter your immediate attention and should you have any questions, please contact me at (703) 324-4374.

Karen E. Hobbs
October 10, 2018
SR 155372
Page 3

LEGAL NOTICE ISSUED BY:



Signature

S. C. Lunsford
Code Compliance Investigator
Ph: (703) 324-4374
catherine.lunsford@fairfaxcounty.gov



Building Code Appeal Request

18 1022.0AP

OCT 22 2018

PROJECT INFORMATION

Project Name: Hunters Woods Village Condominium
 Project Address: 11812 Breton Ct, #2 Reston, VA 20191
 Permit or case number: 201806838 201806838 Tax map number: _____

APPLICANT INFORMATION

Applicant Name: Karen Hobbs Owner Owner's agent
 Address: 11812 Breton Ct #2
 City: Reston VA State: VA ZIP: 20191
 Phone: 703 608-2605 Email: Keh357@aol.com

OWNER INFORMATION

See applicant information
 Owner Name: Same
 Address: _____
 City: _____ State: _____ ZIP: _____
 Phone: _____ Email: _____

APPEAL INFORMATION

Appealing decision made on the date of by Building Official Fire Official Property Maintenance Official
 rendered on the following date: 10/10/18
 Code(s) (IBC) IMC, IPMC, etc.) and year-edition: 2015 edition
 Section(s): VMC 305.1, 308.1, 702.1 / Notice of Structure
un-fit for human occupancy

REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision:

Please return the completed form and any supporting documentation to the address or email below. A \$208 fee is required at the time of submittal. The application will not be further processed until this fee has been collected.

Chairman, Fairfax County Board of Building Code Appeals
 12055 Government Center Parkway, Suite 334
 Fairfax, VA 22035-5504
 Attention: Secretary to the Board
buildingofficial@fairfaxcounty.gov

BBCA appeal_request 2018

RESOLUTION

WHEREAS, the Fairfax County Board of Building Code Appeals (the Board) is duly appointed to resolve disputes arising out of enforcement of the VM Code/ 2015 Edition; and

WHEREAS, an appeal has been timely filed and brought to the attention of the Board; and WHEREAS, a hearing has been duly held to consider the aforementioned appeal; and WHEREAS, the Board has fully deliberated this matter; now, therefore, be it

RESOLVED, that the matter of

Appeal No. 181022.0AP
In RE: FFX COUNTY D O C v. KAREN E. Mobbs

The appeal is hereby DENIED for the reasons set out below.

THE VIOLATIONS CITED IN THE NOTICE OF VIOLATION HAVE NOT BEEN CORRECTED NOR HAS ANY ATTEMPT BEEN MADE BY THE APPEALANT TO CORRECT THEM AND MAKE THE COUNTY RE-INSPECT THE CONDO UNIT.

FURTHER, be it known that:

- 1. This decision is solely for this case and its surrounding circumstances;
- 2. This decision does not serve as a precedent for any future cases or situations, regardless of how similar they may appear;
- 3. (If appropriate to the motion) No significant adverse conditions to life safety will result from this action; and
- 4. All of the following conditions be observed.

- a. N/A
- b. _____
- c. _____

Date: 11-14-18

Signature: [Signature]
Chairman, Board of Building Code Appeals

Note: Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board within twenty-one (21) days of receipt of this resolution. Application forms are available from the Virginia Department of Housing and Community Development, 600 East Main Street, Suite 300, Richmond, VA 23219 or by calling 804.371.7150.

Carla Guerra-Horvath hereby certify that this is
CUSTODIAN
a true copy of a Fairfax County Department of Land Development
Services record of which I am a custodian.

Carla Guerra-Horvath
CUSTODIAN

Brian Foley hereby certify that this is
SUPERVISOR OF CUSTODIAN
a true copy of a Fairfax County Department of Land Development
Services record of which Carla Guerra-Horvath is the
CUSTODIAN
custodian and that Carla Guerra-Horvath reports to me.
CUSTODIAN

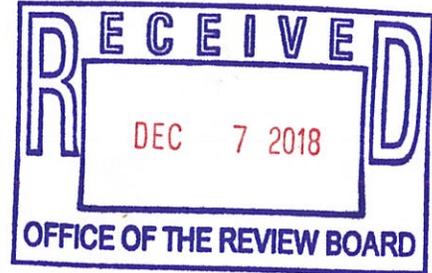
Brian Foley
SUPERVISOR OF CUSTODIAN

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 Statewide Fire Prevention Code
 Industrialized Building Safety Regulations
 Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Karen Hobbs 703 608-2605 keh357@aol.com
11812 Breton Ct #2
Reston, VA 20191

Opposing Party Information (name, address, telephone number and email address of all other parties):

Department of Code Compliance (703) 324-1300
12055 Government Center Parkway, Ste. 1016
Fairfax, VA 22035

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
 Copy of record and decision of local government appeals board (if applicable and available)
 Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of December, 2018, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: Karen Hobbs

Name of Applicant: Karen Hobbs
(please print or type)

I am seeking to overturn the decision of the Fairfax County Board of Building Codes to "uphold" the violations cited by investigator S. C. Lunsford of Fairfax County Department of Code Compliance, and to void the Notice of Violations, if possible.

No proof of any of the 3 violations was provided at my appeal hearing. I believe the board made their decision after being swayed by investigator Lunsford's final comments in which she described my home to be cluttered and unsanitary and went on and on about flies. While there is nothing in my home that violates any building codes and Ms. Lunsford has no proof of such, she chooses to misrepresent facts in order to serve her purposes. Take for example her gross exaggeration about flies. There were some fruit flies in my kitchen which appeared to be attracted by an apple which was going bad.

While I regret that there were a couple of areas of my home that were messy I contend that if she were to also barge into any of the other condos in my building or any of the buildings in the neighborhood she could easily find the same or worse - but nothing in my home violated any building codes.

Then there is the question of WHY, in fact, I was singled out to be inspected and why it was necessary to give false pretenses as a reason to enter my home. And Why did she take photos without my permission? Thanks to my FOIA request I have seen that she wrote that I authorized an inspection - and nothing is further from the truth!? Under threat of using a locksmith to enter my unit if I didn't voluntarily allow her in, I allowed her to come in - expecting to prove that the odor she described was not coming from inside my home! In their records DCC states the reason for their investigation as "Unsanitary living conditions" - then later was changed to "Structures Unsafe, Dilapidated Or in Disrepair."

It should be noted that the Complainant, Bob Howard who owns the unit across the hall and is the owner of Welborn Management and his daughter, Laura Davis have filed several complaints before - which have all been unfounded. I am enclosing some evidence of this.

Mr. Howard's condo is located directly next to the trash room - which is where the odors come from - but he insists on blaming me.

M. Caudle

It should be noted that in their complaints they describe the interior of my home, yet neither have ever been in my home!? Please note where DCC employee M. Caudle acknowledges this. In fact nothing they have said about the interior of my home or anything that goes on there is true. It is all false, made up immediately after I stopped being friends with Mr. Howard's daughter, Laura Davis, and is motivated by spite.

I would have thought that a county agency like Fairfax County DCC was supposed to remain arbitrary during investigations but in this case it was just the opposite. Ms. Lunsford and DCC were "catering" to the wishes of Bob Howard.

I also would think that there must be some way to protect a homeowner like me from being subjected to what is obviously a pattern of unfounded complaints from people like Bob Howard and his daughter Laura Davis?

(p. 1 of 4)

Thank you,
Karen Hobbs

Karen Hobbs

Following are some of the non truths that Inv. Lunsford reported:

1. I did NOT authorize an inspection!

I merely relented to allowing her to step inside my home so she could tell that the odor she described was not coming from inside my home.

I didn't realize that the claim of odor was just a ploy and that she really wanted to investigate other things. Please

* note that at first the "problem code" was reported to be "Unsanitary living conditions," but then it changed to "structures unsafe, Dilapidated OR in Disrepair"

2. The interior was not heavily cluttered with misc. junk and debris! Those are my belongings.

3. The sliding glass door was Not obstructed.

4. Hallways were not obstructed

5. The interior surfaces were not unsanitary.

6. There was No urine/feces on the floor!

Note: I did deny her free roam of my home as she did not have any warrant and I had not authorized an inspection.

(p. 2)

I also did not give her permission to take photos and will be discussing the whole matter with an attorney.

While I regret that my home was not neater - at best it could be said that there were a few messy areas - but nothing qualifies for a building code violation.

I am including photos taken before Ms Lunsford lied & bullied her way into my home and some other diagrams and notes. to clarify the condition of my home

Please also note that the Chairman's notes in their "Resolution" assume that the violations are real - but I contend that they are not - so when asked what "repairs" I had made I answered that I hadn't done anything other than my normal housework.

I believe that during her final comments, it was Ms Lunsford's claims of urine & feces which "Swayed" the board members. She also went on and on about flies -

(p. 3)

and the only flies were merely some fruit flies around an apple that was going bad!

After the hearing I insisted on Ms. Lunsford showing me what photo she had that she claimed showed feces. I have marked that photo and that was NOT feces. So again, there is no evidence of any of the violations she cited me for, yet she declared my condo "Unfit for human habitation" - denying me access to my home and causing me to spend about a month sleeping in my car. The last night it snowed!

Then please see the photo of how she left my door after removing the placard. I truly hope this appeal will put an end to this nightmare.

Thank you,

Karen Hobbs
11812 Breton Ct #2
Reston, VA 20191

(p. 4)

Documents Submitted
By the Owner (Karen Hobbs)

(Page left blank intentionally)

This would have been seen as "unsford's evidence" if un-sanitary surfaces, because he claims those brown spots are feces - which they are not!
KH

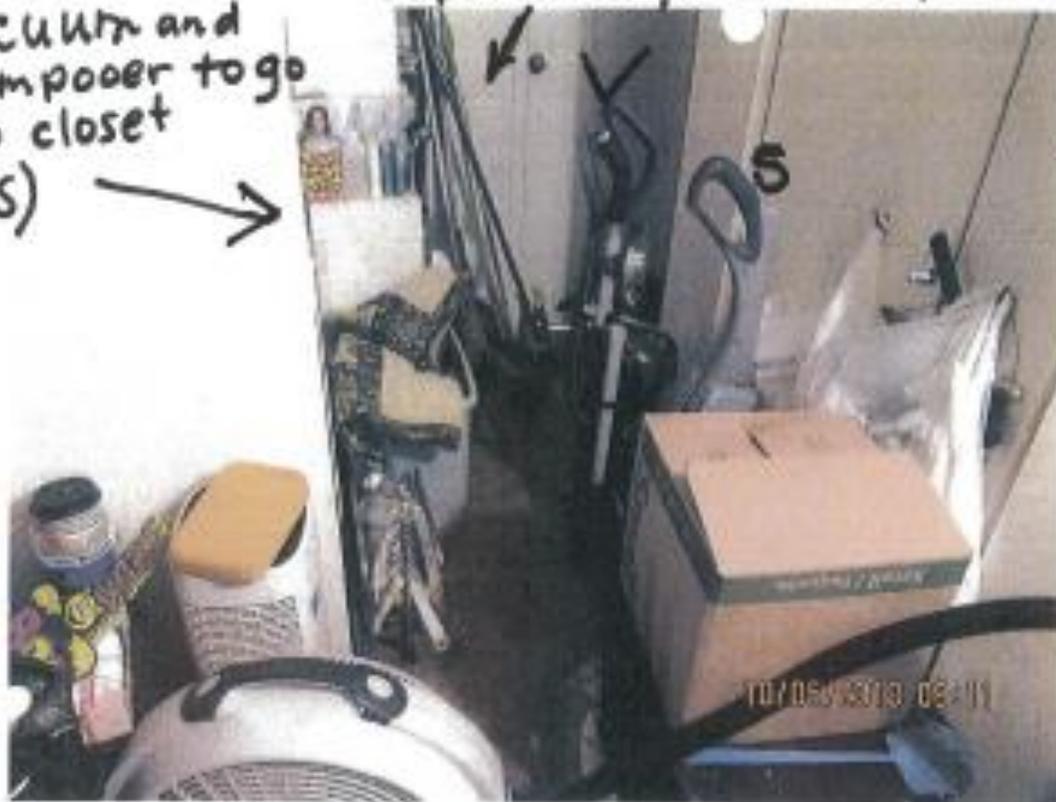


The brown spots are chipped areas on the tiles. KH

Vacuum and
shampooer to go
into closet
(VandS) →

Mops & brooms, about to be put away.

Front
Door
Hallway



2 hampers, usually
in Bed rooms but
out for doing
laundry

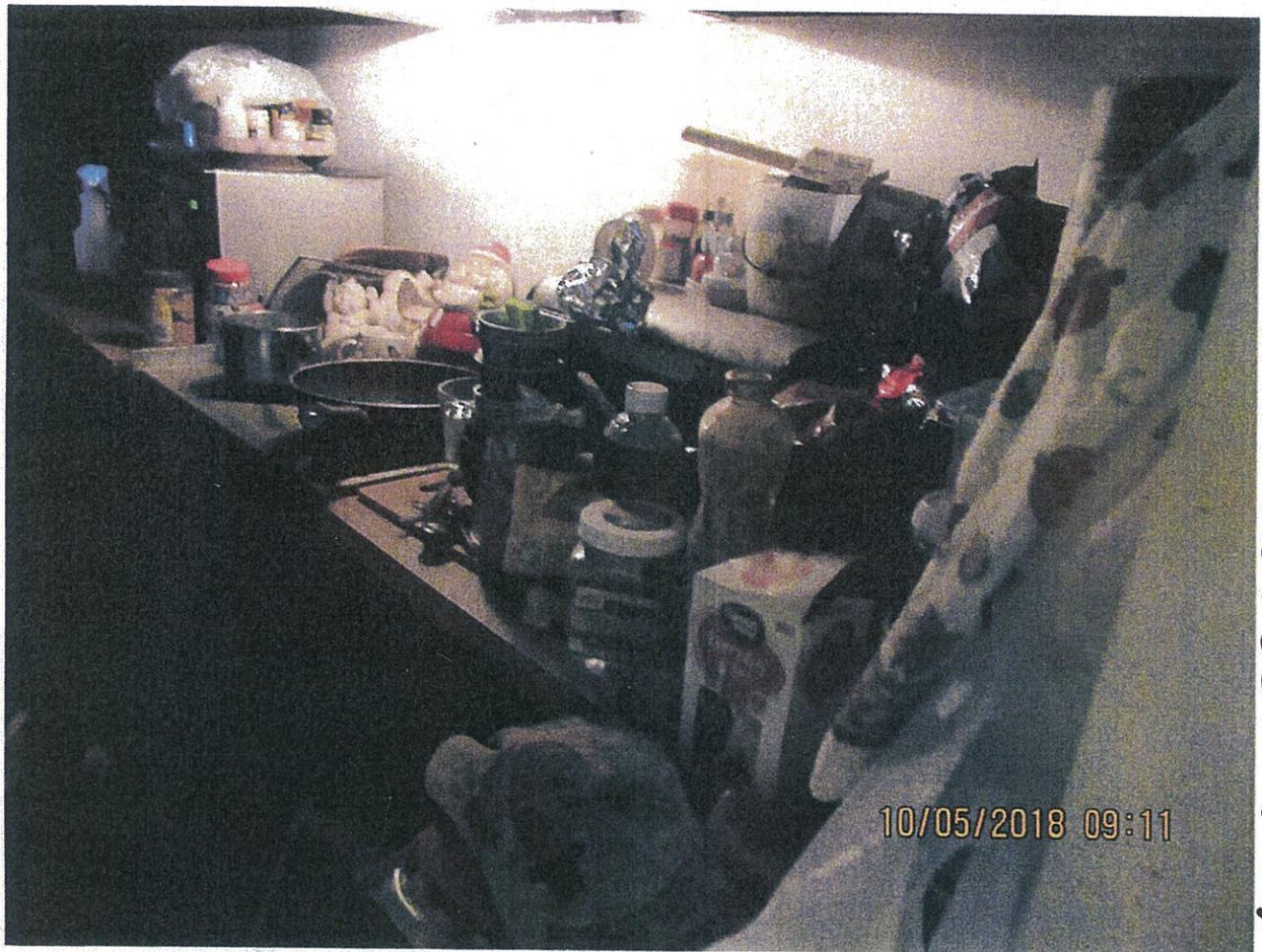
18/05/2018 08:13

← pail of Kitty
litter used as a bucket





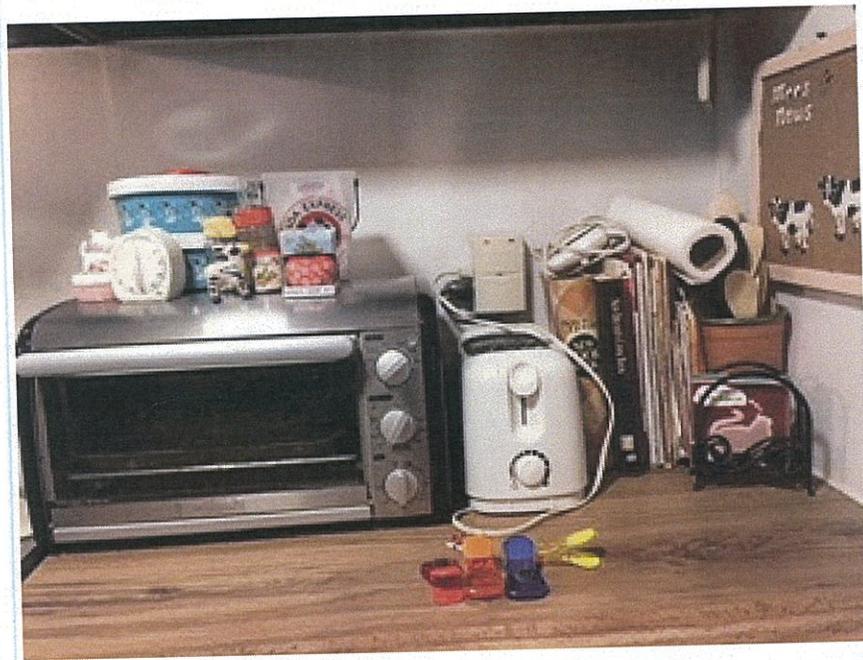
Front
Door
Hallway
(opposite
direction)



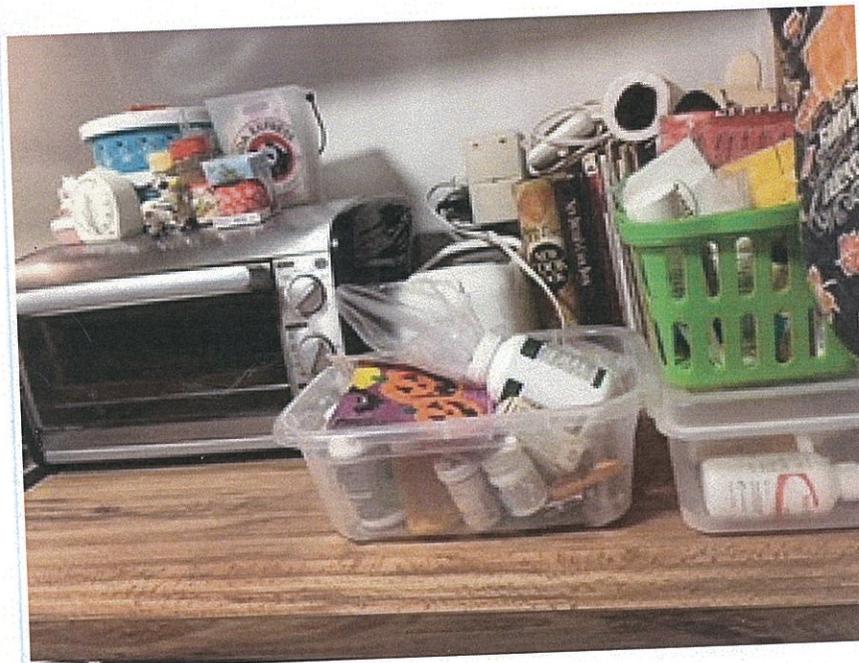
see other photos. Also note that I was working on a couple of kitchen appliances and had moved things OFF of them and put them here.



this is the same corner

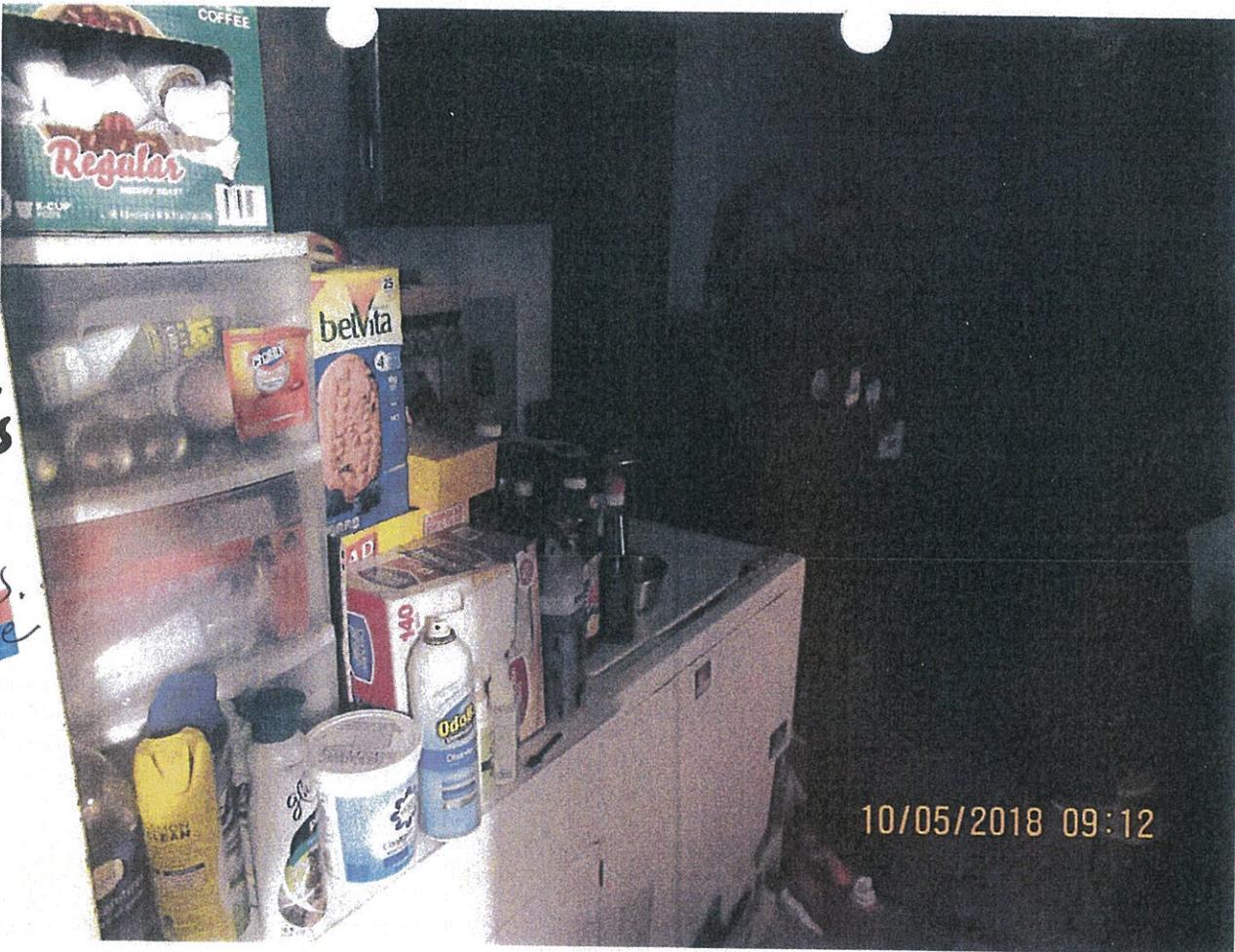


if you move
the plastic
bins of
vitamins and
prescriptions -
this is what
you see



If you move
all the chips
bags this is
what is under
them, a plastic
bin of vitamin
& prescription
for me - and
another for
my pets.

→
 plastic
 drawers
 holding
 laundry
 supplies.
 and some
 cleaning
 supplies



These things are
 stacked on my dryer.
 Note: there
 should be a cabinet
 behind them and
 next to the one
 you can see in the
 upper right hand
 corner. The person
 who sold me the
 condo was supposed
 to give me the
 cabinet - but she
 never did. I haven't been
 able to afford a new
 one so this is how I made do. Actually, the
 whole condo is short on closets/cabinets.



Refrigerator pulled out from corner to work on.



Fridge goes here

These items are usually where the refrigerator is - which is temp only.

my circuit breaker box. What's she saying about this? Why the photo? because it looks old??



10/05/2018 09:16

a messy dining room table is the only thing I'm guilty of here.



Small temp. fridge

the doorway to Den/or Dining Room.



One Corner in the den.

Sliding Glass Door

Cat condo & tree

Shelves

TV Shelves

Long, old Sofa

Shelves

Table

Futon Chair

Desk extension

Laundry

Baskets

Desk

chair

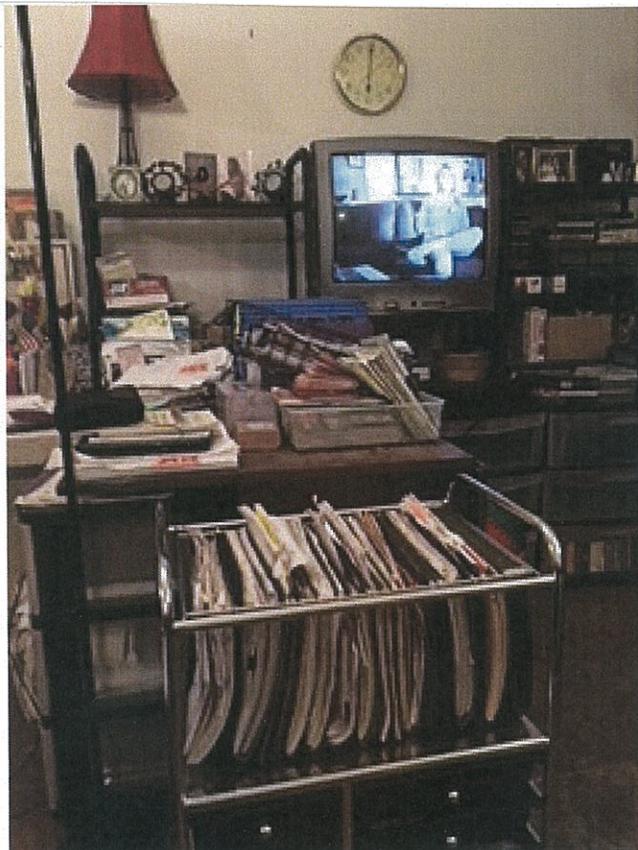
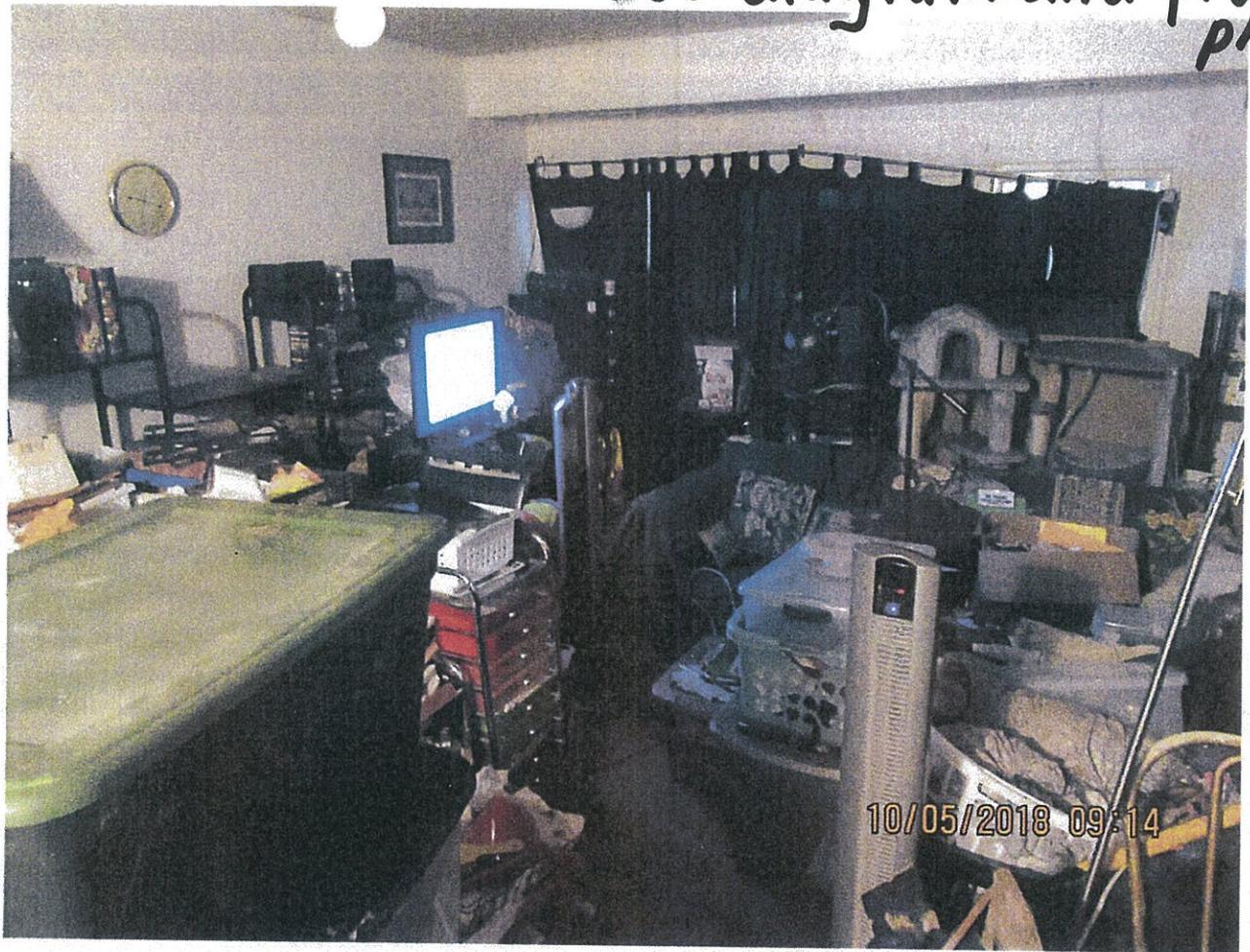
Entrance to Kitchen

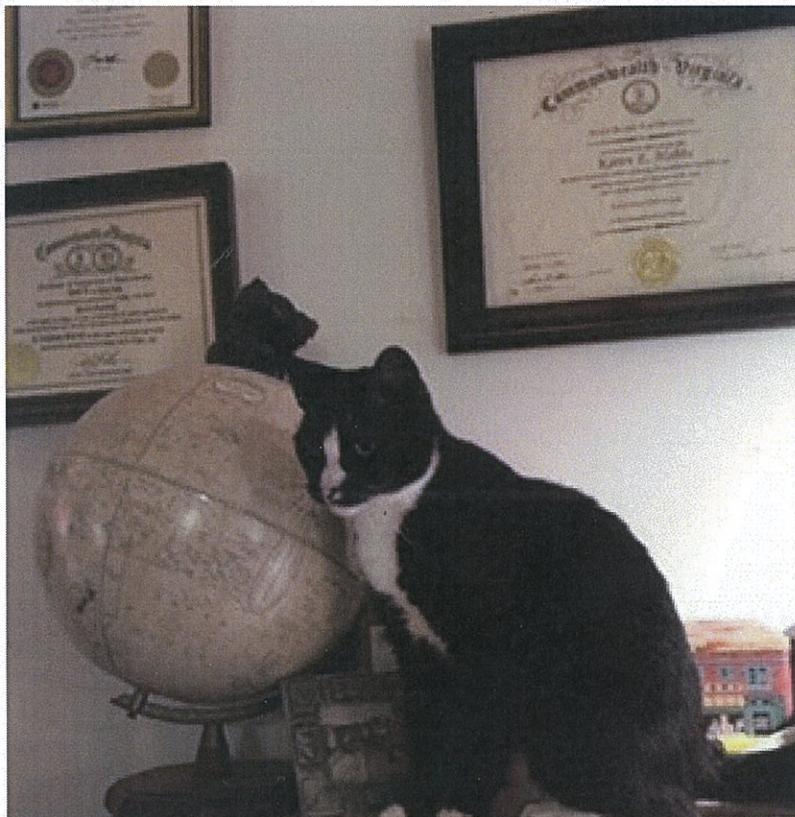
Filing cabinets

Step down

Front Door

see diagram and previous photos

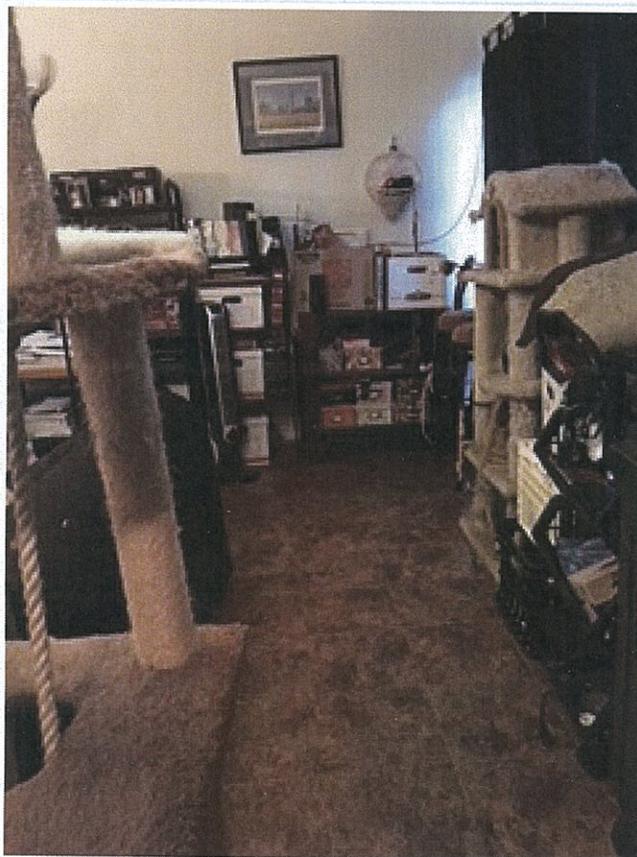




sliding
glass
door is
not
obstructed.
The chair
is kept
up against
the back
wall



This is where the man was standing - at the sliding glass door - in the previous photo.

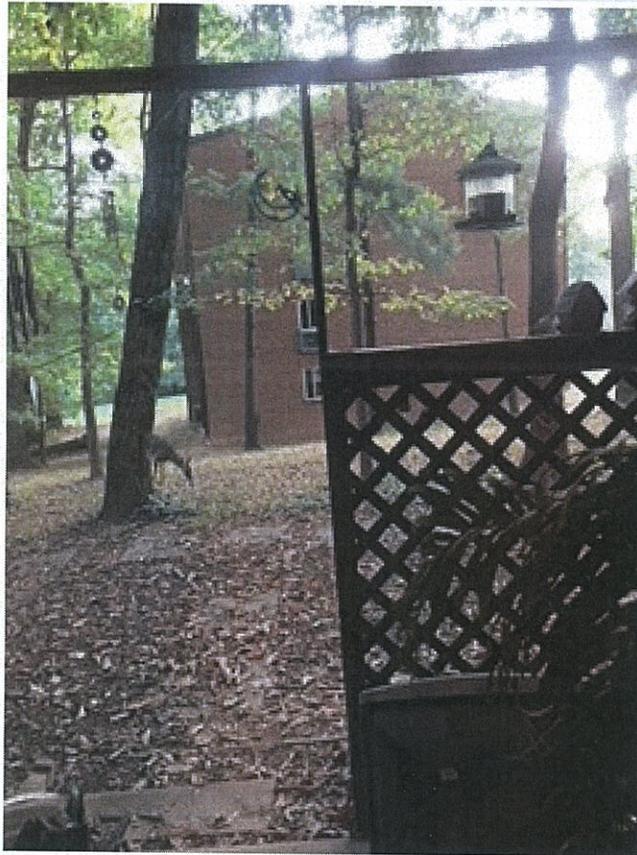


getting
thrown
out on
next
trash
day.
Fake
tree

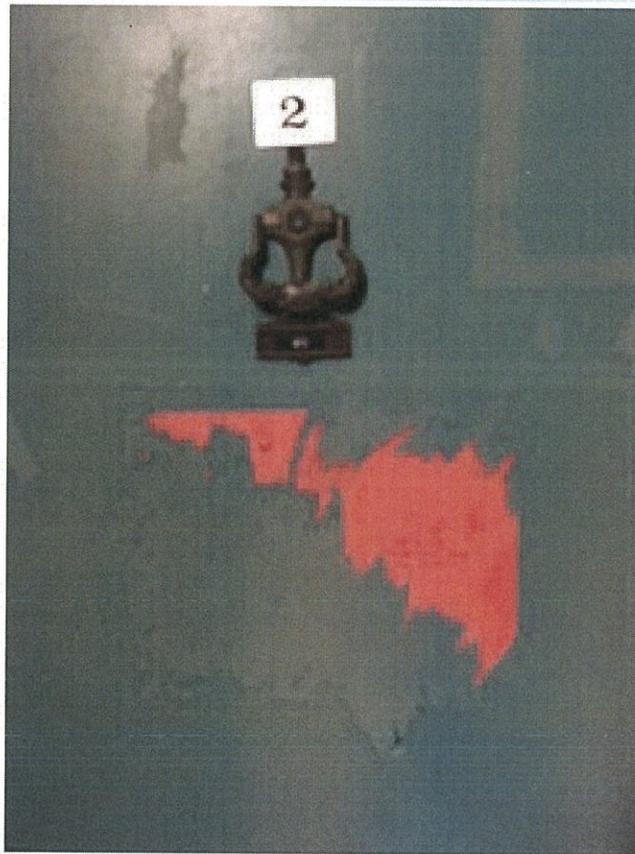


was
going
out on
next
trash
day.
he fake
ree
and a
trash
bag.





A view from the sliding glass door -
to show the pathway from the door across
the patio - was clear.



This photo is blurry but shows how Fairfax County Dept. of Code Compliance investigator, S.C. Lunsford left my front door - remnants of her "placard" and very scratched up paint!

FRAMME LAW FIRM, P.C.
2812 EMERYWOOD PARKWAY
SUITE 220
RICHMOND, VIRGINIA 23294

JUDY SNEAD, ATTORNEY
PHONE: 804-649-1334
FAX: 804-440-7508
WWW.FRAMMELAW.COM

December 5, 2012

Department of Code Compliance
Attn: Steve Mason
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035

Department of Code Compliance
Attn: James Watson
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035

Re: Karen Hobbs
Freedom of Information Act Request
Our File: VA 553239

Dear Mr. Mason and Mr. Watson:

Ms. Karen Hobbs sought this firm's assistance regarding information she requests in accordance with the Virginia Freedom of Information Act, Va. Code § 2.2-3700, et seq.



In particular, Ms. Hobbs requests that she be provided in writing any documentation regarding complaint #86223 filed against her. (see below). It is our understanding, that Ms. Hobbs has been the subject of various complaints. Ms. Hobbs has concerns that complaints are not being filed in good faith. In this specific case, Ms. Hobbs reports that she noticed an inspector looking at doors and inquired if he needed assistance. It is my understanding that the nature of the complaint was that Ms. Hobbs was having electrical work being performed by an unauthorized or unqualified contractor. Ms. Hobbs reports that she explained to the inspector at the time that such was not the case and noted what work she had done; and that she was subsequently informed that the matter was closed.

According to the county website, the complaint was closed as, "Unfounded (No Problem Found)" disposition. Ms. Hobbs is concerned about the cumulative affect of complaints on her reputation and character. Therefore, she requests that you investigate the complaint and allegation reported to your office, as well as Ms. Hobbs expressed concerns. Upon completion of such, Ms. Hobbs requests that you expunge this complaint entry.

Ms. Hobbs requests that within five (5) working days, you provide any FOIA records about this complaint (Va. Code § 2.2-3704 (B)). You may send the record, as well as written confirmation of your intention to expunge complaint #86223 directly to the attention of Ms. Hobbs at the address provided below.

By
Laura
Davis
and
her
father
Bob
Howard

Laura Knew I had changed my garbage disposal, but she presented that to DCC as: that as an unlicensed person - I had done electrical rewiring. Deliberately, misrepresenting the information in order to make it seem like a fire hazard.

Complaint #	86223
Street Address	11812 Breton Ct 2
Magisterial District	
Complaint Description	Unpermitted Other
Agency	Code Compliance
Status	Closed
Opened Date	07/30/2012
Closed Date	08/20/2012
Disposition	Unfounded (No Problem Found)
Inspector Assigned	James Watson, 703-324-1300
Notice of Violation and/or Corrective Work Order	No
Litigation	No

Please note that our office will continue our consultation with Ms. Hobbs regarding other listed complaints. However, in the interim, should you wish to contact this firm directly, please do so only in writing.

Sincerely yours,

Judy Snead

cc: Karen Hobbs
11812 Breton Court #2
Reston, VA 20191

FRAMME LAW FIRM, P.C.
2812 EMERYWOOD PARKWAY
SUITE 220
RICHMOND, VIRGINIA 23294

FRAMME LAW FIRM PC

JUDY SNEAD, ATTORNEY
PHONE: 804-649-1334
FAX: 804-440-7508
WWW.FRAMELAW.COM

December 27, 2012

Department of Code Compliance
ATTN: Steve Mason
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035

**Re: Complaint #83562
FOIA and Expungement Demand**
Our File: VA 542314 (Karen Hobbs)

Dear Mr. Mason:

Ms. Karen Hobbs has requested this firm's assistance regarding the above-referenced matter.

Ms. Hobbs has provided our office with the enclosed copy of a "notice of violation" dated June 22, 2012. The case number in the letter is identified as **#83562**. The first violation is listed as "mechanical appliances" under VMC Code #603.1, which is defined in the notice as requiring that all "mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition..." The notice purports to allege that Ms. Hobbs' "central air conditioning system is not working correctly."

Ms. Hobbs has also provided our office with a copy of a resolution, stating that this violation was deemed "void" and that Ms. Hobbs repaired the air conditioning system, while not mentioned in the notice, at a significant expense to her. On behalf of Ms. Hobbs, we request that the County expunge this entry from all searchable databases viewable to the public and obtainable under FOIA. In support of such, the resolution stated that the violation was "void." Furthermore, the maintenance code as cited in the June 22 notice does not cover a central air conditioning system, which is not an "appliance." Therefore, the notice of violation should never have been issued and at a minimum, the notice cited an ambiguous and vague VMC provision as applied to the central air condition system, as no homeowner is required to have an air condition system and many cool with fans by choice or necessity.

Additionally, Ms. Hobbs has provided our office with a copy of a "community complaint result," which references complaint #83562. It identified the complaint description as "hoarding" with a disposition as "compliance." As you can see from the enclosed "notice of violation" dated June 22, 2012, nowhere in large or fine print is there a mention of "hoarding" in complaint #83562. Ms. Hobbs has repeatedly asked that your office remove this entry from your website. Given nationally viewed television shows regarding hoarding, we are certain that your office can appreciate and accept Ms. Hobbs' concerns regarding her reputation, character and that she has been affiliated with a complaint of "hoarding" that was resolved by compliance. Ms. Hobbs maintains she was not hoarding, which is a grave and drastic description of one's home. Thus,

on behalf of Ms. Hobbs, we request that you immediately expunge this complaint from your website and any publicly searchable database.

Below is a list of complaints that are being reported by the County. We request a copy of all notices of violations for each respective complaint and any records relative to each complaint under FOIA, with the exception of complaint #83562, which Ms. Hobbs states she believes she has copies of all information relative to complaint #83562. Should there be a copying fee for provision of records subject to FOIA, we request that you send a notice to Ms. Hobbs as to the cost to provide such records.

#	Open Date	Unit	Description	Status	Closed Date	Disposition	
	83562	5/17/12	2B	Hoarding	Closed	8/8	Compliance - Not true
	83624	5/22/12	2B	DCC Fire	Closed	7/23	Compliance - Not true
Duplicate	85654	7/13/12	2	Hoarding	Under Investigation		Admin. Fire Action
Duplicate	85809	7/18/12	2	DCC Fire	Closed	7/19	Admin. Action
Laura Davis	86222	7/30/12	2	Hoarding	Closed	8/1	Admin. Action
Laura Davis	86223	7/30/12	2	Unpermitted Other (Electrical)	Closed	8/20	No problem found
Bob Howard	86549	8/8/12	2	Unsanitary Living Conditions	Closed	9/4/12	Unfounded. No problem found
Laura Davis	86410	9/27/12	2	Unsanitary Living Conditions	Under Investigation		
Bob Howard	89033	10/17/12	2B	Hoarding	Under Investigation		

Ms. Hobbs would like to note that she would like to be a cooperative resident of the County; however, she is concerned if complaints are being filed in good faith and concerned that she is not being notified of each individual complaint. Ms. Hobbs is requesting that your office respond to her demands within ten (10) calendar days of the date of this letter.

In order to expedite a resolution in this matter, you may and should written confirmation of your intention to address all matters noted in this letter and our previous letter to your office. You may send the documents and reply directly to Ms. Hobbs. If you wish to communicate with this firm directly, please do so only in writing, as we are unable to respond to telephone inquiries.

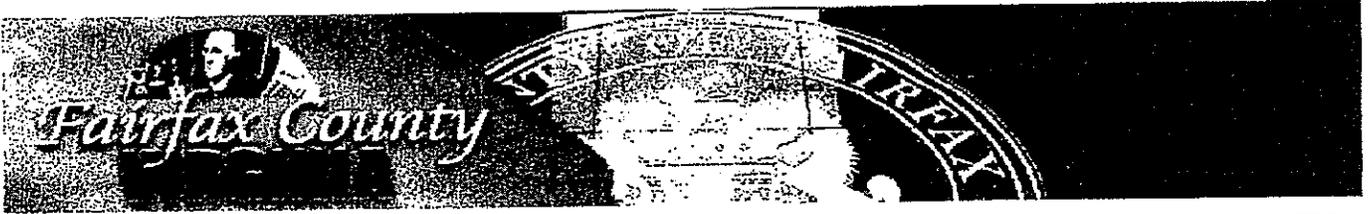
Sincerely yours,

Judy Snead

Judy Snead
Encl.

cc: Karen Hobbs
11812 Breton Court #2
Reston, VA 20191

* Please note that Laura Davis and her father Bob Howard began filing complaints THE VERY DAY after I won my appeal! Or as this attorney says on p. 1 "This NOV should never have been issued, and at a minimum..." Also DCC had just been in my home about 2 weeks earlier and found NO Health or Safety issues! So WHY???



Home Living Here

Search Site:

Complaints

Submit a Complaint
Complaint Search

homepage > fairfax inspections database online, fido > community complaint inquiry

Community Complaint Result

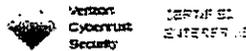
Complaint # 83562
 Street Address 11812 Breton Ct 2b
 Magisterial District Hunter Mill
 Complaint Description Hoarding
 Agency Code Compliance
 Status Closed
 Opened Date 05/17/2012
 Closed Date 08/08/2012
 Disposition Compliance
 Inspector Assigned Marsha Ansel, 703-324-1300
 Notice of Violation and/or Corrective Work Order Yes
 Litigation No

→ *the day of my appeal*
← Not true! (see letter from my attorney)

Previous

Contact Us: [General \(Office of Public Affairs\)](#) | [Technical \(Web Administrator\)](#) | [Directed Inquiries \(County Agencies\)](#)
Phone: County Main Number - 703-FAIRFAX (703-324-7329), TTY 711 | [County Phone Listing](#)

[ADA Accessibility](#) | [Website Accessibility](#)
[Awards](#) | [FOIA](#) | [Mobile](#) | [Using this Site](#) | [Web Disclaimer & Privacy Policy](#) | [Get Adobe Reader](#)
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Website Survey



Language Translations

RE: Karen Hobbs



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION OF THE VIRGINIA MAINTENANCE CODE

DATE OF ISSUANCE: June 22, 2012

CERTIFIED MAIL #: 7011-1570-0001-6632-4763

CASE #: 2012-03403 SR#: 83562

PROPERTY OWNER: Karen E. Hobbs
ADDRESS: 11812 Breton Court, #2
Reston, Virginia 20191

LOCATION OF VIOLATION: 11812 Breton Court, #2
Reston, Virginia 20191-3212
Tax Map Ref: 26-1 ((19)) (12) 2B

Dear Responsible Party:

In accordance with the Virginia Maintenance Code (Part III of the Uniform Statewide Building Code - 2009 Edition), an inspection on June 18, 2012, and discussion with the property condominium owner, revealed violations as listed below at the referenced location. The cited violations must be corrected within 30 days from receipt of this notice unless otherwise indicated.

Violation: MECHANICAL APPLIANCES

VMC 603.1. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

Location: 11812 Breton Court, #2, Reston, VA.

Work To Be Performed: Owner stated the central air conditioning system is not working correctly. Repair, replace and maintain the air conditioning system and unit to operate as it was designed.

*Note:
In this case
FFX DCC cited me with
code that did not
even apply to the
situation. I believe
this was in order to
attempt to force an
inspection, if needed.
Also note that it is
very misleading to say the
result of this case was
"Compliance!"
(also see my
attorney's
letter)*

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

**KE: Karen
Hobbs**

Karen E. Hobbs

June 22, 2012

Page 2

Violation: INSECT SCREENS

VMC 304.14. During the period from April 1 to December 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device in good working condition.

Location: 11812 Breton Court, #2, Reston, VA.

Work To Be Performed: Observed hole and tear in window screen of front condo window. Repair, replace and maintain window screens so that screens are intact, without holes or gaps, to comply with VMC 304.14, above.

All repairs, alterations, and/or additions must be made in accordance with applicable laws. Any additional violations that may appear as work progresses will require correction.

Information about obtaining any necessary permits required by other Fairfax County agencies may be obtained by calling (703)222-0801 and requesting the appropriate department.

The owner of a building or structure, or the owner's agent or any other person involved in the use of the subject building or structure may appeal a decision of the code official concerning the application of the Virginia Maintenance Code to such building or structure and may also appeal a refusal by the code official to grant a modification to the provisions of this code pertaining to such building or structure. Applications for appeals shall be submitted in writing to the Fairfax County Board of Building and Fire Prevention Code Appeals within 14 calendar days of the decision being appealed. Appeal application forms may be obtained by contacting:

Fairfax County Board of Building and Fire Prevention Code Appeals
Attention: Secretary to the Fairfax County Board of Building and Fire Prevention Code Appeals
Office of Building Code Services
Department of Public Works and Environmental Services
12055 Government Center Parkway, Suite 444
Fairfax, VA 22035-5504
Telephone: (703)324-1780.

Failure to submit an application for appeal within the time limit established shall constitute acceptance of the code official's decision.

The Fairfax County Board of Building and Fire Prevention Code Appeals shall meet within 30 calendar days after the date of receipt of the application for appeal.

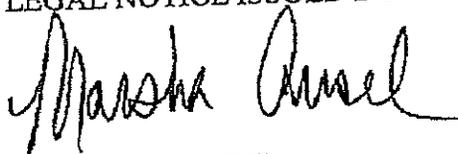
Re: Karen Hobbs

Karen E. Hobbs
June 22, 2012
Page 3

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Virginia Maintenance Code which can result in court ordered fines of \$100 for the first offense and \$350.00 for any subsequent offense per day totaling up to \$4,000.00.

In accordance with the code, the owner or person to whom this notice of violation has been issued is responsible for contacting me within the time frame established for any re-inspections to assure the violations have been corrected. When calling to schedule a re-inspection, please mention the subject address, and the "case number" at the top right corner of this page. I can be reached on (703) 324-9323 Monday through Thursday, weekdays.

LEGAL NOTICE ISSUED BY:



Marsha Ansel, MPH
Code Compliance Investigator
Zoning and Property Maintenance Inspector
Environmental Health Specialist II
Assistant Fire Marshal, Inspections

DCC Inspection Report

(Inspection # : 6538876)

CASE # : 201407347

Service Request # : 110915

Problem Code : CPULC: Unsanitary Living Conditions

Date Rcvd : 10/14/2014

Assigned To : CAUDLE

Res.Code : UNFND

Location: 11812 Breton Ct, Reston VA 20191-3212

Inspection Date	Inspection #	Inspection Status	Insp Sance #	INSPBY
10/22/14 8:03	6538876	CLOSED	3	MCAUDL
The investigation revealed the owner left me a note to stop pestering her. I spoke to the police officer on the report and called him back to confirm that he had not been inside the home, he replied he had not been inside, his info was based off the neighbor whom I also spoke to who had not been in the home. Case closed				
CODE	Code Violation	Status		
ZZ305.1	INTERIOR STRUCTURE GENERAL	CLOSED		
CERC FINAL	ENTER RESOLUTION CODE	UNFND		
LOG ACTION				
Date	LOG TYPE	Comments		
10/16/14	Called Complainant	I called the officer on the complaint, he never got in and his info is based off the neighbor whom I also spoke to and has not been inside.		
10/16/14	Assigned Case To Inspector	CPRPMT #1 ASSIGNED TO: MICHAEL CAUDLE		

The investigator realizes these people have no real knowledge of the interior of my home - they describe it in gross detail!

Bob Howard - owner of Wellborn Management and his daughter, Laura Davis - who lived in the unit for several years and I was friends with most of that time until I ended the friendship - at which time she became extremely spiteful and malicious - making up and spreading false stories about my home

filed about 9 complaints between them. All were unfounded.

The History of Bob Howard's and his daughter Laura Davis' complaints to Fairfax County D.C.C. :

Case #	Complainant	Date	Complaint	Investigator	Outcome
86222	Laura Davis	7/30/12		Raymond Rogers	Admin Action
86223	Laura Davis	7/30/12		James Watson	Unfounded, No Problem found
86549	Bob Howard	8/8/12		Gabe Zakkak	Unfounded, No Problem found
87086	Laura for Laura's unit	8/23/12		R C	Unfounded
88410	Laura Davis	9/27/12		Gabe Zakkak	Unfounded, No Problem found
89033	Bob Howard	10/17/12		Gabe Zakkak	Unfounded, No Problem found
94547	Laura Davis	5/20/13		Gabe Zakkak	Admin Action
94813	Laura Davis	5/23/13		Gabe Zakkak	Returned program
120589	Bob Howard's Hoarding employee	8/26/15		R. Parsons	Unfounded
149466	Bob Howard's Hoarding employee	5/4/18		R. Parsons	INACC
209 55238		10/4/18	1st: Unsanitary Living Conditions	C. Lunsford	Open
then 155372(?)		10/9/18	2nd: Structure Unsafe, Dilapidated or in Disrepair	C. Lunsford	Also C. Lunsford case - same new #

Bob Howard, owner/ceo
Wellborn Management and
owner of the unit across the hall
from me and his daughter, who lived
in that unit and was good friends
with me for several years - until I
ended the friendship,

Are responsible for filing at least
9 complaints in the last few years,
beginning right after I ended that
friendship.

All have been "Unfounded."

On 8/8/12 Re: 86549 -

Please note that Bob Howard filed his
first complaint the very day that I
won my appeal in reference to violations
that FFX County Dept of Code Compliance
had charged me with.

Also it should be very important to note
that Fairfax County Code Compliance
Investigator, Zoning and Property
Maintenance Inspector, Environmental
Health Specialist II and Assistant
Fire Marshall, Inspections' Marsha Ansel
had been inside my condo about 2 week

prior - and had found NO health OR
Safety issues!

So Why in the world was he
doing that??

Then, prompted by Laura Davis
and Bob Howards continued
complaints the HOA filed a suit
in Fairfax County General District
Court seeking "injunctive relief
and an order to correct those
violations..."

As a result, an inspection was
arranged by Consent Order in which
the Judge also ordered that the HOA
investigate the ongoing problem of
water leaks from above and the
damage they have made to my unit.
Enclosed are the findings of that
inspection, written by the Property
Manager at that time. (The Property
Management Company is the same
as now.)

It might be interesting to note that the HOA asked the Judge to make me pay their attorney's fees - which were at least \$50,000 - but the Judge said NO. She did not consider them the prevailing party as the inspection was negotiated by consent and it was the inspection that they had wanted - so they got what they wanted... But also we had shown the Judge that I had been asking the HOA to come to my unit to investigate the water leak problem and had pointed out that they should be able to tell that my home was not unsanitary while they were there - but they were not satisfied by that.

So it was evident that it had not been necessary to file a suit to have entered my unit!?

On **5/14/18** one of Bob Howard's employees filed complaint # **149466** of Hoarding. Based on the comments in DCC's files you can see that they are clearly using hearsay - the same that Laura Davis began years ago - and that they are blaming me for odor in the building when their unit is located right next to the trash room and on the opposite side of the hall from me. So it is more likely that if there is odor in that unit it is coming from the trash room that it shares a wall with.

Note that they blame me for losing prospective tenants, but I can tell you that when they were looking for their last tenant there was an occasion when I was sitting on the front steps of the building and got to talking with someone who was there waiting for someone from Wellborn to come show them the unit. We were just

chatting, then someone arrived and opened the door to the unit and they both went inside.

Just a couple of minutes later that prospective tenant left - rather rapidly - and as she passed me, I said "That was fast!?" To which she replied that it was awful inside - and even shook her head as she said it.

I believe this concurs with my theory that odor from the trash room seeps into that unit - it is NOT coming from my condo! But they continue to blame me and use the rumors Laura Davis started long ago to complain to FFX County Dept of Code Compliance And Fairfax County DCC is apparently incapable of seeing this. And in addition to that they are incapable of being arbitrary in investigating - clearly catering

to Bob Howard and Wellborn
Management.

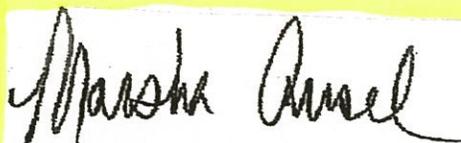
I contend that this is highly
unfair to me and must be
stopped!

Thank you,

Karen Hobbs

Bob Howard filed complaint 86549 the Very Day I won my appeal.

It should be important to note that was about 2 weeks after Marsha Ansel had been in my home! How do you explain that? Look at her credentials - and then look at how Bob Howard immediately began pursuing Another inspection



Marsha Ansel, MPH
Code Compliance Investigator
Zoning and Property Maintenance Inspector
Environmental Health Specialist II
Assistant Fire Marshal, Inspections

Re: 86549

Inspections Information:

Inspection Date	Inspection #	Insp Type	Inspection Status	Insp Source	Inspected By
11/13/2012	5842520	CPRPMT	CLOSED	2	GZAKKA

Mr. Zupan (703-837-5002) who is the legal representative for the Hunter Woods Condominium Unit Owners Association and Dar S. Cassidy

(Community Property Manager) have provided me with information pertaining to Unit 2. There was no current information provide as all information pre-dated the last interior inspection. Since no current/new evidence could be obtained, I'm unable to request a interior inspection warrant from the magistrate. Both parties have been contacted as to this investigation limitations. Since no inspection permission has been granted and no warrant can be obtained this case will be closed. Please note that the property owner has claimed harassment and is refusing to give access to her unit. She has also indicated she has obtained legal counsel.

Inspection Date	Inspection #	Insp Type	Inspection Status	Insp Source	Inspected By
10/23/2012	5837235	CPRPMT	FAILED	1	GZAKKA

A phone conversation with Karen Hobbs (703)608-2605 resulted in not allowing an interior inspection. She states that her neighbors have been harassing her and she should not have to allow an inspection every month. She fosters animals and then finds them homes. She currently has (4) cats and (1) dog. She states that ever since she broke off a friendship with a neighbor that this has been happening. The DCC has inspected this unit months ago and ended up closing the case with a result of compliance. Ms. Hobbs informed me that her legal representation will be sending DCC legal papers for all the trouble we have caused her. I explained to her that I'm trying to put an end to all the complaints by documenting everything so similar complaints do not recur. It is apparent to me that there is an ongoing issue between property owners in this condo.

Code Violation Information:

Code Violation	Status	Status Date
Interior Structure General	UNFND	11/13/2012

Certified Notice of Violation Information:

No Certified NOV is linked to this CASE.

Log Actions:

Date	Log Type	Comments
11/13/2012	Called Property Management	E-mail in case file.
11/02/2012	Called Responsible Party.	Contacted Mr. Zupan (legal rep for assoc)
10/18/2012	Assigned Case To Inspector	CPRPMT #1 ASSIGNED TO: GABRIEL ZAKKAK

No litigation information for this case!



County of Fairfax, Virginia

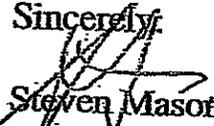
To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Karen E. Hobbs
11812 Breton Court, #2
Reston, Virginia 20191

Dear Ms. Hobbs:

This letter is to confirm that the property maintenance case investigation reference the central air conditioning system at 11812 Breton Court, #2, Reston, Virginia 20191 has been closed based on your compliance obtained on August 8, 2012. Thank you again for your assistance in this matter.

Sincerely,


Steven Mason
Division Supervisor

After I won my appeal on 8/8/12
I asked for something in writing to show
this case was closed. This is what I
got. It should help to understand
WHY the final disposition of this
case is listed as "compliance!"

Everything the complainants were writing about the interior of my home was based on the rumors that Laura Davis was spreading. So all of these complaints are based on hearsay. Below you can see that inspector M. Caudle realizes and reveals this.

There may be occasional odors in the building but they come from the trash room! These people are blaming me - but keep in mind that Laura Davis worked diligently to ensure that everyone believed her spiteful rumors.

I was so glad when I saw that M. Caudle realized that these people were talking about the interior of my home - but had NEVER been inside!

Inspections Information:

Inspection Date	Inspection #	Insp Type	Inspection Status	Insp Source	Inspected By
10/22/2014 8:03	6538876	CPRPMT	CLOSED	3	MCAUDL
The investigation revealed the owner left me a note to stop pestering her. I spoke to the back to confirm that [redacted] had not been inside the home. [redacted] replied [redacted] had not been inside. whom I also spoke to. [redacted] who had not been in the home. Case closed. info was based off the neighbor					
10/20/2014 11:48	6538871	CPRPMT	FAILED	2	MCAUDL
Attempted an inspection: nobody home					
10/17/2014 9:58	6532862	CPRPMT	FAILED	1	MCAUDL
Attempted an inspection: nobody home.					

Code Violation Information:

Code Violation	Status	Status Date
Interior Structure General	CLOSED	10/22/2014

Certified Notice of Violation Information:

No Certified NOV is linked to this CASE.

Log Actions:

Date	Log Type	Comments
10/16/2014	Called Complainant	I called the [redacted] on the complaint. [redacted] never got in and [redacted] info is based off the neighbor whom I also spoke to and has not been inside.
10/16/2014	Assigned Case To Inspector	CPRPMT #1 ASSIGNED TO: MICHAEL CAUDLE

Re: 110915

Inspection Report

11812 Breton Ct. #2
Reston, VA 20191

Prepared by:

Faith Price

Hunters Woods Village Property Manager, Legum & Norman, Inc.

Paul Shlesinger

President, Board of Directors for Hunters Woods Village Condominium Association

Joshua Vandeventer

Amtek Engineering Group

Summary

An inspection of the property owned by Karen Hobbs, located at 11812 Breton Ct. #2, Reston, VA, 20191 ("Unit"), was performed on Wednesday, December 30, 2015 at 1:00pm. The inspection was performed by Property Manager Faith Price, Association President Paul Shlesinger, and Amtek Engineering Group representative Joshua Vandeventer. Ms. Hobbs and her brother were also present for the inspection.

The inspection was conducted pursuant to a Court order issued in *Hunters Woods Village Condominium Association v. Karen E. Hobbs*, Case No. GV15003750-00. The inspection was to investigate complaints by multiple residents of foul odors emanating from and unsanitary conditions in the Unit. The * inspection was also performed to investigate claims by Ms. Hobbs of water damage to her Unit resulting from leaks emanating from the unit above. *As per the judge in the case.*

The inspection identified extensive damage to the bathroom ceiling. Ms. Hobbs agreed to coordinate with the association and Amtek to allow access so that this condition could be corrected. The inspection also identified a condensate drain not connected to the coil of the HVAC unit, which would result in water damage in the summer when the air conditioner is in use. No other violations or conditions to correct were observed. *The inspection did not reveal any unsanitary conditions or foul odors.*

These were NOT Violations! Just conditions!

1) Living Room/Dining Room/Hallway

The Living Room, Dining Room and hallways were inspected. No violations were observed, however, visible water damage to the ceiling in the living room was observed (Figure 1).

There was a noticeable smell of animals being present in the unit; however, there was no indication of animal urine, feces, or other condition that would be unsanitary. The smell was not noticeable from the outside the unit. The living room and dining rooms were arranged such that there was a clear path to move safely from room to room. There was no significant damage observed to the vinyl flooring, or walls.

2) Kitchen

The Kitchen was inspected. No violations were observed, however, visible water damage to the ceiling in the Kitchen was observed (Figure 2).

The water damage was observed directly above the washer and dryer, possibly from the washer of the unit above, assuming the layout is the same. The appliances appeared to be in acceptable condition and the room was clear from any tripping hazards. There was no significant damage observed to the vinyl flooring or walls.

3) Bathroom

The Bathroom Room was inspected. One condition to correct was observed.

The Bathroom has significant visible water damage to the ceiling. There is an open hole directly above the shower revealing a repair that was done to the hot water supply pipe for the shower (Figure 3). Since the unit above is vacant, it is not possible at this time to tell if the drain for their tub is leaking also causing water damage to the ceiling. Ms. Hobbs agreed to coordinate with Amtek and the Association to allow access to the unit so that this condition could be corrected.

4) Bedrooms

The master bedroom and second bedroom were briefly inspected. No violations or conditions to correct were observed.

The second bedroom appeared to be used as a storage area. There was a noticeable smell of animals being present; however, there was no indication of animal urine, feces, or other condition that would be unsanitary.

5) Utility Closet

The utility closet was inspected. One condition to correct was observed.

An HVAC unit was present, but it was observed that the condensate drain is not connected to the coil which will lead to water damage in the summer time when the unit is in use. There is also damage to the main condensate line that all the HVAC units connect to in that tier (Figure 4).

6) Miscellaneous

During the inspection, 2 dogs and 3 cats were observed in the unit.

wellborn

MANAGEMENT CO., INC.
REALTORS®

11250 Roger Bacon Dr., #20
Reston, VA 20190
703-464-7009
FAX 703-464-0127

July 17, 2018

Karen Hobbs
11812 Breton Court #2
Reston, VA 20191

Dear Karen,

~~My name is Kayla and I work for Wellborn Management Co., Inc. We manage the condo directly~~
across the hall from your unit. The prior tenant and the current tenant have reported a bad smell coming from your condo. I know there was a complaint made years ago regarding this as well. We were wondering if there was anything you could do to eliminate this smell? I know years ago lots of people needed to get involved, and I really don't want to cause that stress for yourself, your neighbors, and our management company. I would be more than happy to assist you in whatever way you need to make sure this smell doesn't permeate into the hallway. Unfortunately, if the smell remains by the end of the month, I have been directed to involve the appropriate agencies to assist us.

Thank you for your understanding, and if you'd like to speak on the phone I can be reached at 703-464-7009 X13, or by email kayla@wellbornmanagement.com.

Sincerely,



Kayla Alexander, GRI
Vice President/Associate Broker
Wellborn Management Co., Inc.

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www.wellbornmanagement.com

From: Karen Hobbs keh357@aol.com
Subject: Your letter
Date: Jul 31, 2018 at 5:37:40 PM
To: kayla@wellbornmanagement.com
Cc: keh357@aol.com

Ms. Alexander,

I met your tenant, Charles, at the recent July monthly homeowners association meeting and I asked him to show me where the smell he was referring to is. First of all, I did not smell any odor in the two places he pointed out, and secondly, there was no odor coming from my unit. So if there are occasional odors in the building - they are not coming from my unit. Also, it is clear from his own explanation that the Remers clearly got to him and influenced his opinion. There is no evidence of odors coming from my unit, so please refrain from making accusations based on assumptions without any actual proof. There is, however, a great deal of evidence of the animosity between the Remers and myself and of the complaints that they have made - as well as the complaints filed by Bob Howard and the numerous ones filed by his step daughter, Laura Davis - - -

All ending in the disposition "Unfounded."

If you are referring to Fairfax County Code Compliance - they are aware of the animosity between the parties in the building and I recently provided them with the history of this situation including lawsuits.

If you would like to walk together with me around my unit to see if there are any odors coming from it, I would be willing to do that.

And if we should happen to find any odor coming from it, then I will be happy to address it.

Karen Hobbs

Sent from my iPhone

Documents Submitted
By Fairfax County
(through counsel)

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VIRGINIA:

IN THE STATE TECHNICAL REVIEW BOARD

**In RE: KAREN HOBBS
 APPEAL NO. 18-21**

**BRIEF IN OPPOSITION TO APPELLANT’S REQUEST TO
REVERSE LOCAL BOARD’S DECISION UPHOLDING NOTICES OF VIOLATION**

Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia (“Code Official”) states the following in opposition to the appeal filed by Karen Hobbs (“Appeal”), which requests reversal of the decision by the Fairfax County Local Board of Building Code Appeals (“LBBCA”) that upheld Notices of Violation issued by Catherine Lunsford (“Lunsford”), Investigator, Fairfax County Department of Code Compliance. The written record that was before the LBBCA, which includes submissions from Karen Hobbs (“Hobbs”) and the Code Official, is attached hereto as Exhibit 1.

BACKGROUND

On October 4, 2018, Lunsford¹ attempted an inspection of the condominium located at 11812 Breton Court, Reston, Virginia (the “Property”), which is owned by Hobbs. She was not permitted to perform the inspection on that date, but at Hobbs’ request, Lunsford returned to the Property on October 5, 2018. On that date, Lunsford was admitted into the Property by Hobbs and performed an interior inspection. At Hobbs’ request, Lunsford did not inspect the bathroom or the bedroom. A table summarizing Lunsford’s attempted and successful inspections (“Inspection Table”) of the Property, which is based on her inspection logs is attached hereto as

¹ Investigator Lunsford was accompanied by various County personnel during her inspections of the Property. This brief refers only to Lunsford’s actions and observations, but the attached Inspection Table identifies other persons who were present during each inspection.

Exhibit 2, and includes corresponding photographs. Lunsford was never asked by Hobbs to not take photographs during the October 5, 2018, inspection.²

Based on the results of the October 5, 2018, inspection, Lunsford issued a Notice of Violation (the “VMC Notice of Violation”) for violating Virginia Property Maintenance Code (“VMC”) §§ 305.1, 308.1, and 702.1. Those VMC provisions provide as follows:

1. § 305.1 – The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in sanitary condition.
2. 308.1 – Accumulation of rubbish or garbage. The interior of every structure shall be free from excessive accumulation of rubbish or garbage.
3. 702.1 – A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the Fire Code.

In addition to the VMC Notice of Violation, Lunsford issued a Notice of Structure Unfit for Human Occupancy to Hobbs and the Property was placarded. A structure is unfit for human occupancy if, in relevant part, “the existing structure is determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or public because of the degree to which the structure is in disrepair or lack maintenance.” VMC § 202. The VMC Notice of Violation and the Notice of Structure Unfit for Human Occupancy are collectively referred to as the “NOVs”.

Following the November 15, 2018, inspection, the placard barring Hobbs from occupying the Property was removed because sufficient egress had been reestablished.

² It should be noted that photographs included in the Appeal that do not include a date-stamp were taken by Hobbs, and were likely taken during re-inspection on November 15, 2018.

ARGUMENT

The Appeal should be denied and the NOVs should be upheld because the conditions of the interior of the structure on October 5, 2018, justified the determinations and requirements in the VMC Notice of Violation and the conditions were such that the Notice for Structure Unfit for Human Occupancy was properly issued.

The photographs taken by Lunsford support the conclusion that the Property was unsanitary³, rubbish and garbage had excessively accumulated within the home, and, as a result, no safe, continuous and unobstructed path of travel to a public way existed. Each condition constitutes a violation of VMC §§ 305.1, 308.1, and 702.1, respectively, as identified in the VMC Notice of Violation. In addition to the photographs, which provide a visual summary of the inspection, Lunsford experienced an intense smell of ammonia when approaching the Property and, once inside, it was exponentially worse.⁴ This is additional evidence of the unsanitary condition of the Property.

The Notice of Structure Unfit for Human Occupancy was justified based on the obstructed egress and lack of sanitation of the Property. In the event of an emergency, the obstructed egress could prevent Ms. Hobbs from escaping the Property or prevent emergency responders from accessing the Property or moving within it, which poses a danger to Ms. Hobbs and the public.

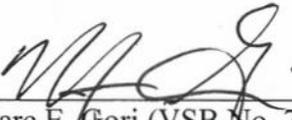
CONCLUSION

For the reasons set forth above, the Code Official, by counsel, respectfully requests that the State Technical Review Board deny the Appeal and uphold the decision of the LBBCA.

³ Urine and feces were found on the floor.

⁴ Lunsford attested to the smell during her testimony to the LBBCA.

ELIZABETH D. TEARE
COUNTY ATTORNEY

By  _____

Marc E. Gori (VSB No. 74926)

Assistant County Attorney

12000 Government Center Parkway, Suite 549

Fairfax, Virginia 22035-0064

(703) 324-2421 (tel.); (703) 324-2665 (fax)

marc.gori@fairfaxcounty.gov

Counsel for the Property Maintenance Code Official for Fairfax County, Virginia



County of Fairfax, Virginia

MEMORANDUM

STAFF MEMORANDUM TO THE LOCAL BOARD OF BUILDING AND FIRE CODE APPEALS

HEARING DATE: November 14, 2018

APPELLANT: Karen E. Hobbs (Property Owner)

SUBJECT PROPERTY: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

CODE: 2015 Virginia Maintenance Code

INVESTIGATOR: S. C. Lunsford
Department of Code Compliance

DCC CASE #: #: 201806838 **SR#:** 155372

Staff respectfully recommends that the Fairfax County Board of Building and Fire Code Appeals (Board) uphold the determination in the Notice of Violation and Notice of Structure Unfit for Human Occupancy that the subject property is in violation of the Virginia Maintenance Code.

Staff Position

In response to a complaint, an inspection of the referenced property was conducted. During the inspection, the Department of Code Compliance Investigator observed the following violations of the Virginia Maintenance Code, and issued a Notice of Violation:

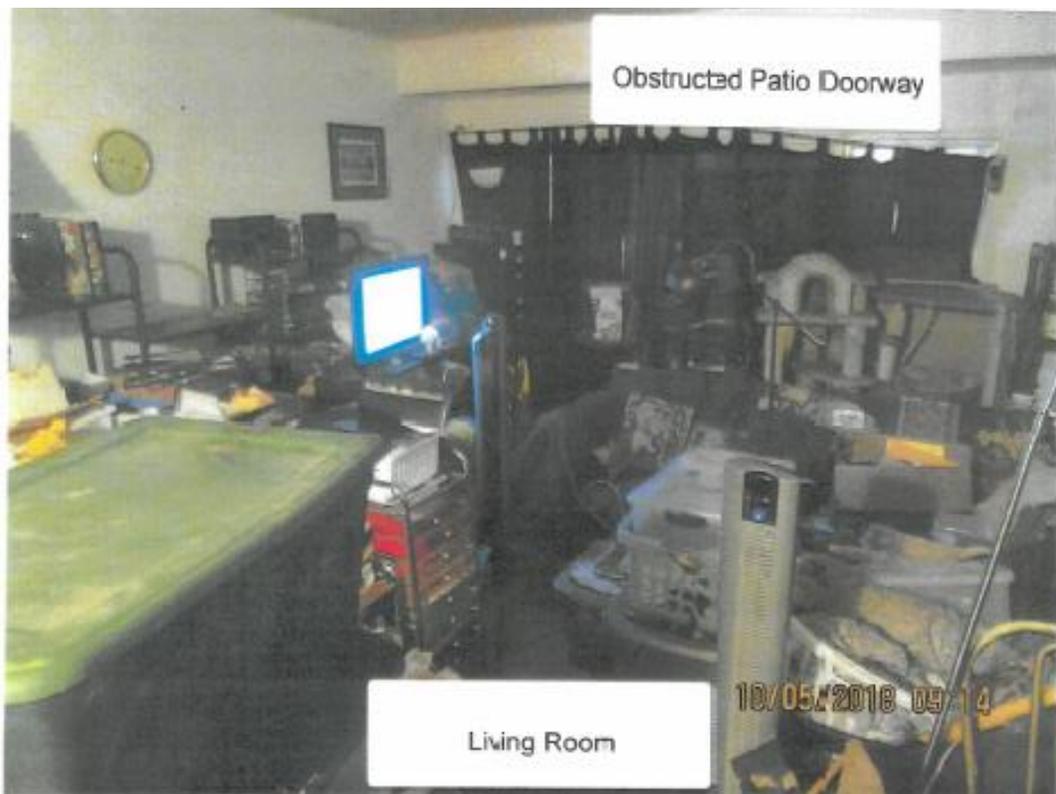
- Sect. 305.1, Interior Structure General
- Sect. 308.1, Accumulation of Rubbish and Garbage
- Sect. 702.1, Means of Egress General

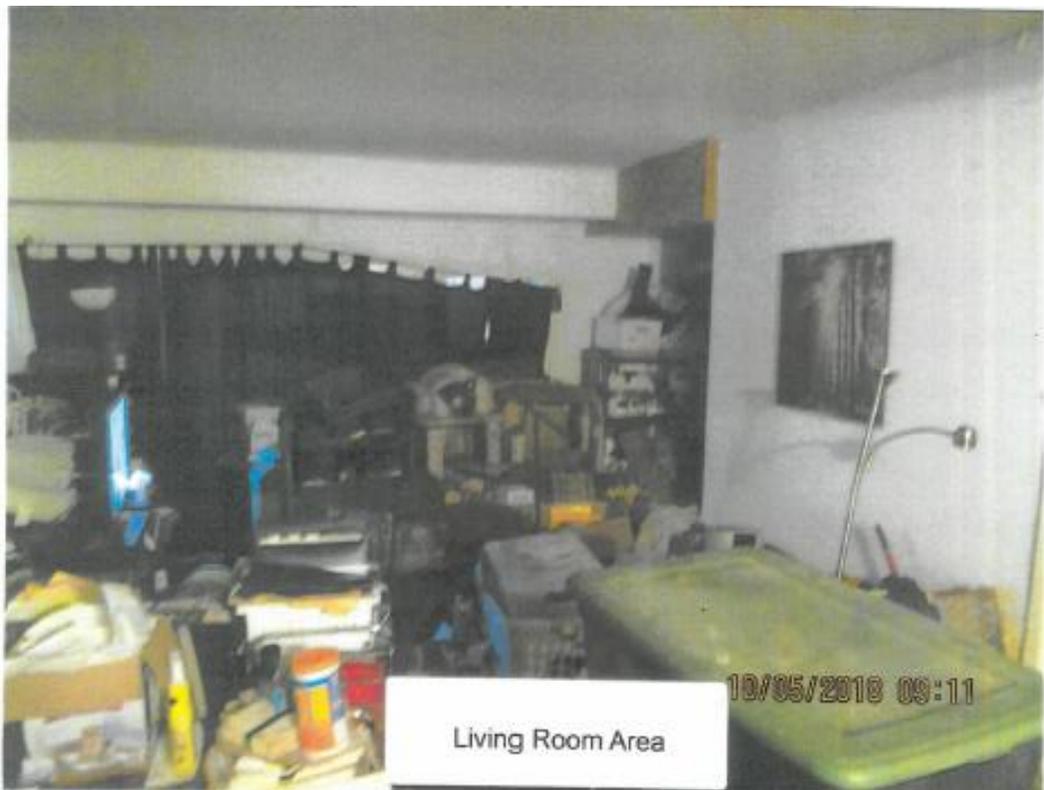
A Notice of Structure Unfit for Human Occupancy was also issued.

A copy of the Notice of Violation and Notice of Structure Unfit for Human Occupancy, which describe the violations, and photos from the inspection, are attached.

Appellant Position

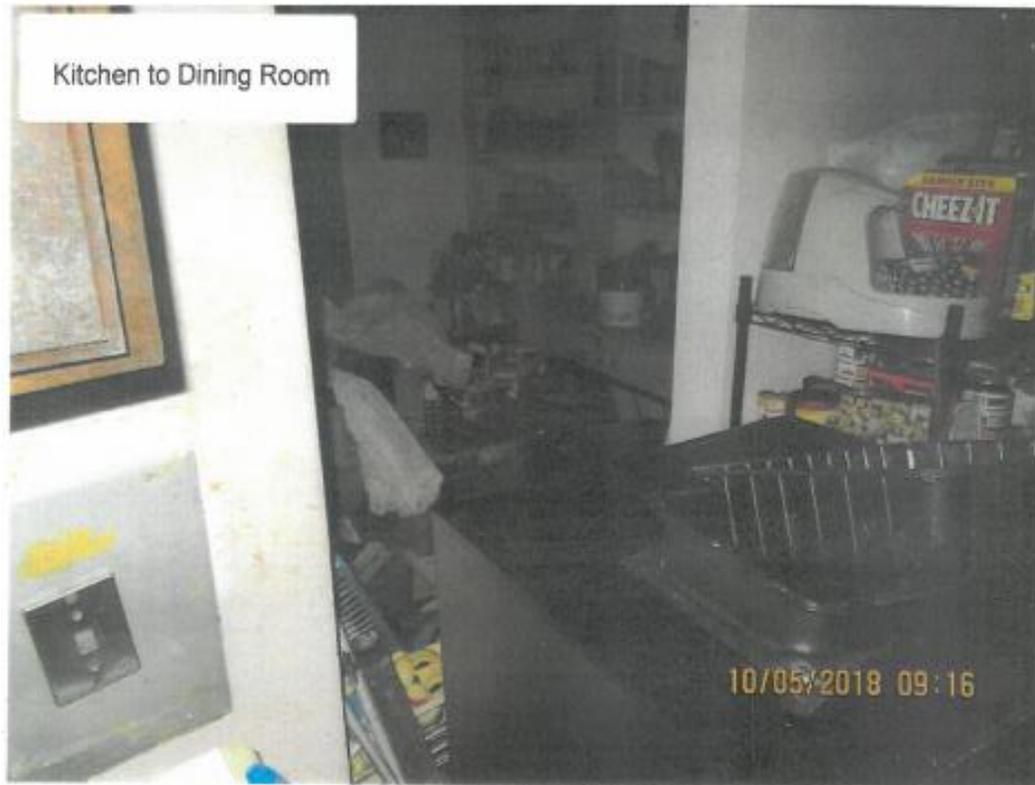
The appellant's appeal application is attached.



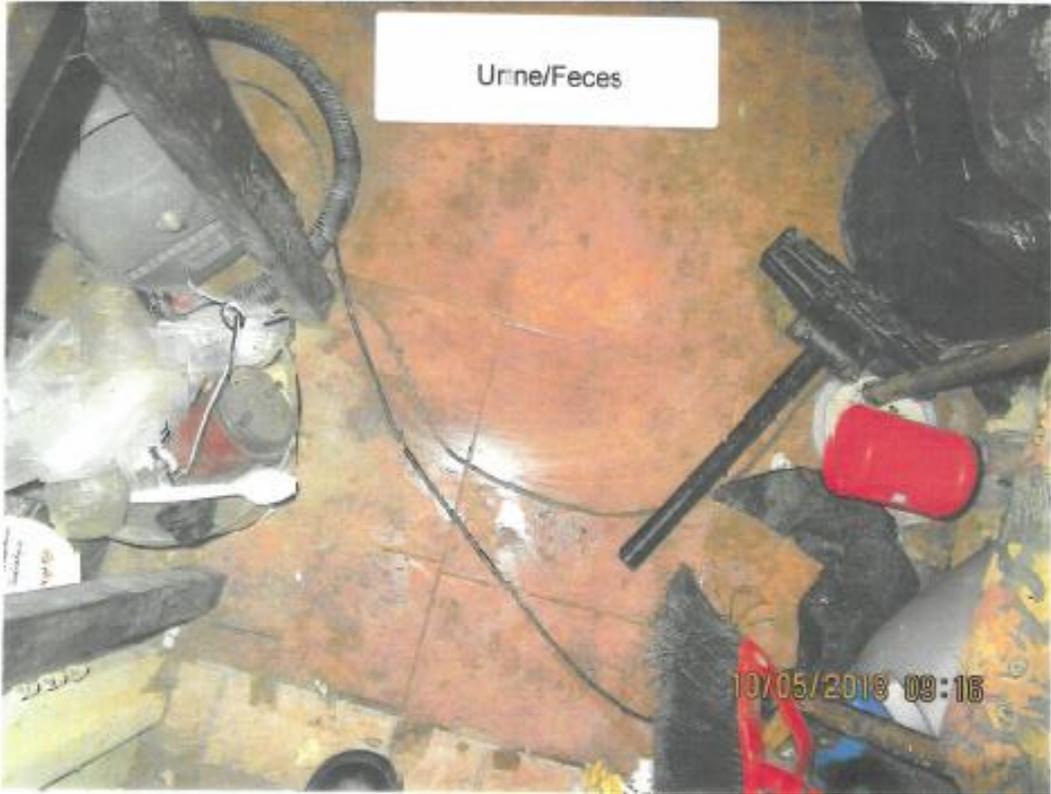




Kitchen



Kitchen to Dining Room





USE PROHIBITED - EVACUATION NOTICE
THIS STRUCTURE IS UNSAFE/UNFIT FOR HABITATION

USE OF THIS SPACE HAS BEEN PROHIBITED BY THE: City Marshal Building Official *Virginia Department of Housing and Community Development*

BY THE: Virginia Multiple Use Firearm Code Virginia Construction Code *Virginia Maintenance Code*
 Virginia Funding Building Code

As per the above cited, no use of this structure, except as authorized by the code official or engineer, is more necessary, or work is needed, or to demolish the building, any person who enters this structure in violation of this prohibition is responsible for damages to the building and the user. Further, the user is liable for any damages to the building and the user. This notice is posted for the purpose of the Virginia Maintenance Code.

THIS PROHIBITION NOTICE IS A FORMAL NOTICE OF DEFICIENCY UNDER PENALTY OF LAW WITHOUT LIABILITY TO THE ISSUING AGENCY.

Street address (Building or location, postal address): 1812 BERTON CT, UNIT 2, RESTON, VA 20191

Restriction and nature of condition: UNFIT FOR HABITATION (VMC 305.1 - INTERIOR SURFACES)
STRUCTURED: EXCESS (VMC 702.1 - MEANS OF EGRESS)

Issuing Agency	Address	Telephone
City and County Department	1200 Commonwealth Center Plaza, Suite 2000	703.222.4800 / 703.222.4800
City Maintenance Division	1200 Commonwealth Center Plaza, Suite 2000	703.222.4800 / 703.222.4800
Local Maintenance Division	1200 Commonwealth Center Plaza, Suite 2000	703.222.4800 / 703.222.4800
Building Official or Engineer	1200 Commonwealth Center Plaza, Suite 2000	703.222.4800 / 703.222.4800
Department of Code Enforcement	1200 Commonwealth Center Plaza, Suite 2000	703.222.4800 / 703.222.4800
Inspection Unit (City or County)	1200 Commonwealth Center Plaza, Suite 2000	703.222.4800 / 703.222.4800

Issued by: J. C. LINSFOTE, PE ST 488 309

③ UNDER NO CIRCUMSTANCES MAY ANY PERSON ENTER THIS STRUCTURE WITHOUT THE WRITTEN PERMISSION OF THE ISSUING AGENCY. 10/05/2018 09:48



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF STRUCTURE UNFIT FOR HUMAN OCCUPANCY

DATE OF ISSUANCE: October 10, 2018

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Karen E. Hobbs (Property Owner)
ADDRESS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

**LOCATION OF VIOLATION/
SUBJECT PROPERTY:** 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

TAX MAP REF: 0261 19120002B

CASE #: 201806838 **SR#:** 155372

ISSUING INVESTIGATOR: S. C. Lunsford, Ph: (703) 324-4374

Dear Responsible Party:

In accordance with the Virginia Maintenance Code (Part III of the Uniform Statewide Building Code - 2015 Edition), an inspection of the condominium unit located on the above-referenced subject property was conducted on October 5, 2018. The inspection found that this structure is unfit because of lack of sanitation and obstructed egress on the interior. Therefore, the Fairfax County Maintenance Code Official (Code Official) has deemed this structure to be a Structure Unfit for Human Occupancy, which is defined in Section 202 of the Virginia Maintenance Code as:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY:

An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because (i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Karen E. Hobbs
October 10, 2018
SR 155372
Page 2

equipment or (ii) the required plumbing, and sanitary facilities are inoperable.

A Field Notice of Structure Unfit for Human Occupancy was issued to you and/or posted to the subject property on October 5, 2018 because the property condition required immediate attention; and, pursuant to the provisions of Section 106.6 of the Virginia Maintenance Code, a placard stating the following has been posted to the entrance to the structure:

THIS STRUCTURE IS UNFIT FOR HUMAN OCCUPANCY AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL

The subject structure must remain vacant. No person shall enter the structure except upon the authorization of the Code Official for one of the following purposes: (a) to make the required repairs, (b) to demolish the structure, or (c) to make inspections. The placard shall not be removed until the structure is determined by the Code Official as safe to occupy.

You are hereby directed to abate the conditions found at the subject property by complying with the attached Notice of Violation.

Pursuant to Section 106.9 of the Virginia Maintenance Code, the Code Official may authorize emergency repairs to make the structure temporarily safe, whether or not legal action to compel compliance has been instituted. You will be billed if such work is done.

Per Sect. 107.5 of the Virginia Maintenance Code, any person aggrieved by the application of the code may appeal to the Local Board of Building Code Appeals (LBBCA), which is the Fairfax County Board of Building and Fire Prevention Code Appeals. The request for an appeal must be submitted in writing within 14 calendar days of receipt of the decision being appealed along with a \$208 fee. Failure to submit an application for appeal within the time limit established shall constitute acceptance of the Code Official's decision.

You may call the secretary of the LBBCA for more information about the appeals process, and/or appeal application forms:

Secretary to the Fairfax County Local Board of Building Code Appeals
Attention: Secretary to the Fairfax County Local Board of Building Code Appeals
Land Development Services
12055 Government Center Parkway, Suite 334
Fairfax, Virginia 22035-5504
Telephone: (703) 324-5175, TTY 711

Information and forms can also be obtained at:
<https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals>.

Please give this matter your immediate attention and should you have any questions, please contact me at (703) 324-4374.

Karen E. Hobbs
October 10, 2018
SR 155372
Page 3

LEGAL NOTICE ISSUED BY:



Signature

S. C. Lunsford
Code Compliance Investigator
Ph: (703) 324-4374
catherine.lunsford@fairfaxcounty.gov

PERSONAL SERVICE _____
 Being unable to make personal service a copy was delivered in the following manner:
 Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
 Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

 Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).
 Served on a Secretary of the Commonwealth.
 Not found.
T. Ayoub 0771
SERVING OFFICER
10-10-18 Stacey A. Kincaid, Sheriff
DATE Fairfax County, VA

PERSONAL SERVICE _____
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 Not found.
SERVING OFFICER
for _____
DATE

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SERVING OFFICER
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 Served on a Secretary of the Commonwealth.
 Not found.
SERVING OFFICER
for _____
DATE



FILE COPY

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF STRUCTURE UNFIT FOR HUMAN OCCUPANCY

DATE OF ISSUANCE: October 10, 2018

METHOD OF SERVICE: CERTIFIED MAIL # 7018 0040 0000 7459 4296

LEGAL NOTICE ISSUED TO: Karen E. Hobbs (Property Owner)
ADDRESS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

**LOCATION OF VIOLATION/
SUBJECT PROPERTY:** 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

TAX MAP REF: 0261 19120002B

CASE #: 201806838 **SR#:** 155372

ISSUING INVESTIGATOR: S. C. Lunsford, Ph: (703) 324-4374

Dear Responsible Party:

In accordance with the Virginia Maintenance Code (Part III of the Uniform Statewide Building Code - 2015 Edition), an inspection of the condominium unit located on the above-referenced subject property was conducted on October 5, 2018. The inspection found that this structure is unfit because of lack of sanitation and obstructed egress on the interior. Therefore, the Fairfax County Maintenance Code Official (Code Official) has deemed this structure to be a Structure Unfit for Human Occupancy, which is defined in Section 202 of the Virginia Maintenance Code as:

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Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Karen E. Hobbs
October 10, 2018
SR 155372
Page 2

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You may call the secretary of the LBBCA for more information about the appeals process, and/or appeal application forms:

Secretary to the Fairfax County Local Board of Building Code Appeals
Attention: Secretary to the Fairfax County Local Board of Building Code Appeals
Land Development Services
12055 Government Center Parkway, Suite 334
Fairfax, Virginia 22035-5504
Telephone: (703) 324-5175, TTY 711

Information and forms can also be obtained at:
<https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals>.

Please give this matter your immediate attention and should you have any questions, please contact me at (703) 324-4374.

Karen E. Hobbs
October 10, 2018
SR 155372
Page 3

LEGAL NOTICE ISSUED BY:



Signature

S. C. Lunsford
Code Compliance Investigator
Ph: (703) 324-4374
catherine.lunsford@fairfaxcounty.gov



County of Fairfax, Virginia

DCC RETURN COPY

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

NOTICE OF VIOLATION Virginia Maintenance Code

DATE OF ISSUANCE: October 10, 2018

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Karen E. Hobbs
ADDRESS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

LOCATION OF VIOLATIONS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

TAX MAP REF: 0261 19120002B

CASE #: 201806838 **SR #:** 155372

ISSUING INVESTIGATOR: S. C. Lunsford, Ph: (703) 324-4374

POTENTIAL CIVIL PENALTIES PURSUANT TO FAIRFAX COUNTY

CODE § 61-7-1(B):	Maintenance Code Violation(s)	First Offense	Each Subsequent Offense
	§ VMC 305.1	\$ 100.00	\$ 150.00
	§ VMC 308.1	\$ 100.00	\$ 150.00
	§ VMC 702.1	\$ 100.00	\$ 150.00
TOTAL:		\$ 300.00	\$ 450.00

Dear Responsible Party:

In accordance with the Virginia Maintenance Code (Part III of the Uniform Statewide Building Code-2015 Edition), an inspection on October 5, 2018 revealed violations as listed below at the referenced location. The cited violations must be corrected within thirty (30) days from receipt of this notice unless otherwise indicated.

Violation: INTERIOR STRUCTURE GENERAL VMC 305.1. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-653-9459 TTY 711
www.fairfaxcounty.gov/code

Karen E. Hobbs
October 10, 2018
SR 155372
Page 2

Work to be Performed: Restore interior of dwelling to sanitary condition so as to be in substantial conformance with VMC 305.1.

Violation: ACCUMULATION RUBBISH GARBAGE VMC 308.1. Accumulation of rubbish or garbage. The interior of every structure shall be free from excessive accumulation of rubbish or garbage.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Work to be Performed: Remove excessive rubbish and garbage from interior of dwelling so as to be in substantial conformance with VMC 308.1.

Violation: MEANS OF EGRESS GENERAL VMC 702.1. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.

[F] 1001.1- Building or portions thereof shall be provided with a means of egress system as required by this chapter. The provisions of this chapter shall control the design, construction, and arrangement of means of egress components required to provide an approved means of egress from structures and portions thereof. Sections 1003 through 1029 shall apply to new construction. Section 1030 shall apply to existing buildings.

Exception - Detached one and two family dwelling and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with separate means of egress and their accessory structures shall comply with the International Residential Code.

[R] 311.1 Means of Egress - All dwellings shall be provided with a means of egress as provided in this sections. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress from all portions of the dwelling to the exterior of the dwelling at the required egress door without requiring travel through a garage.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Work to be Performed: Establish unobstructed egress throughout dwelling unit so as to be in substantial conformance with VMC 702.1.

All repairs, alterations, and/or additions must be made in accordance with applicable laws. Any additional violations that may appear as work progresses will require correction.

Information about obtaining any necessary permits required by other Fairfax County agencies may be obtained by calling (703) 222-0801, TTY 711 and requesting the appropriate department.

Per Sect. 107.5 of the Virginia Maintenance Code, any person aggrieved by the application of the code may appeal to the Local Board of Building Code Appeals (LBBCA), which is the Fairfax County Board of Building and Fire Prevention Code Appeals. The request for an appeal must be submitted in writing within 14 calendar days of receipt of the decision being appealed along with a \$208 fee. Failure to submit an application for appeal within the time limit established shall constitute acceptance of the Code Official's decision.

Karen E. Hobbs
October 10, 2018
SR 155372
Page 3

You may call the secretary of the LBBCA for more information about the appeals process, and/or appeal application forms:

Secretary to the Fairfax County Local Board of Building Code Appeals
Attention: Secretary to the Fairfax County Local Board of Building Code Appeals
Land Development Services
12055 Government Center Parkway, Suite 334
Fairfax, VA 22035-5504
Telephone: (703) 324-5175, TTY 711

Information and forms can also be obtained at:
<https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals>

A follow-up inspection will be made at the expiration of the time period outlined in this Notice.

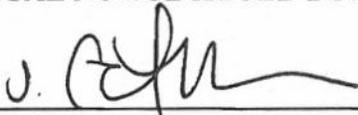
Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Virginia Maintenance Code which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$100.00 for each violation cited herein for the first violation and \$150.00 for each subsequent violation cited herein per day totaling up to \$4,000.00 in accordance with Fairfax County Code § 61-7-1(B).

Civil penalties entered by the General District Court shall be paid to the Office of the County Attorney. Investigators may not accept any payments, including those associated with fines and fees.

In accordance with the code, the owner or person to whom this notice of violation has been issued is responsible for contacting me within the time frame established for any re-inspections to assure the violations have been corrected.

If you have any questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703) 324-4374. For any other questions, contact our main office at (703) 324-1300, TTY 711.

LEGAL NOTICE ISSUED BY:



Signature

S. C. Lunsford
Code Compliance Investigator
Ph: (703) 324-4374
catherine.lunsford@fairfaxcounty.gov

PERSONAL SERVICE _____

Being unable to make personal service a copy was delivered in the following manner:

- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

T. Ayoub 0771
SERVING OFFICER
10-10-18 Stacey A. Kincaid, Sheriff
DATE Fairfax County, VA

PERSONAL SERVICE _____

Being unable to make personal service a copy was delivered in the following manner:

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Not found.

SERVING OFFICER
for _____

DATE

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Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

SERVING OFFICER
for _____

DATE



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

FILE COPY

NOTICE OF VIOLATION Virginia Maintenance Code

DATE OF ISSUANCE: October 10, 2018

METHOD OF SERVICE: CERTIFIED MAIL # 7018 0360 0001 8610 5008

LEGAL NOTICE ISSUED TO: Karen E. Hobbs
ADDRESS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

LOCATION OF VIOLATIONS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212.

TAX MAP REF: 0261 19120002B

CASE #: 201806838 **SR #:** 155372

ISSUING INVESTIGATOR: S. C. Lunsford, Ph: (703) 324-4374

POTENTIAL CIVIL PENALTIES PURSUANT TO FAIRFAX COUNTY

CODE § 61-7-1(B):	Maintenance Code Violation(s)	First Offense	Each Subsequent Offense
	§ VMC 305.1	\$ 100.00	\$ 150.00
	§ VMC 308.1	\$ 100.00	\$ 150.00
	§ VMC 702.1	\$ 100.00	\$ 150.00
TOTAL:		\$ 300.00	\$ 450.00

Dear Responsible Party:

In accordance with the Virginia Maintenance Code (Part III of the Uniform Statewide Building Code-2015 Edition), an inspection on October 5, 2018 revealed violations as listed below at the referenced location. The cited violations must be corrected within thirty (30) days from receipt of this notice unless otherwise indicated.

Violation: INTERIOR STRUCTURE GENERAL VMC 305.1. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-653-9459 TTY 711
www.fairfaxcounty.gov/code

Work to be Performed: Restore interior of dwelling to sanitary condition so as to be in substantial conformance with VMC 305.1.

Violation: ACCUMULATION RUBBISH GARBAGE VMC 308.1. Accumulation of rubbish or garbage. The interior of every structure shall be free from excessive accumulation of rubbish or garbage.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Work to be Performed: Remove excessive rubbish and garbage from interior of dwelling so as to be in substantial conformance with VMC 308.1.

Violation: MEANS OF EGRESS GENERAL VMC 702.1. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.

[F] 1001.1- Building or portions thereof shall be provided with a means of egress system as required by this chapter. The provisions of this chapter shall control the design, construction, and arrangement of means of egress components required to provide an approved means of egress from structures and portions thereof. Sections 1003 through 1029 shall apply to new construction. Section 1030 shall apply to existing buildings.

Exception - Detached one and two family dwelling and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with separate means of egress and their accessory structures shall comply with the International Residential Code.

[R] 311.1 Means of Egress - All dwellings shall be provided with a means of egress as provided in this sections. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress from all portions of the dwelling to the exterior of the dwelling at the required egress door without requiring travel through a garage.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Work to be Performed: Establish unobstructed egress throughout dwelling unit so as to be in substantial conformance with VMC 702.1.

All repairs, alterations, and/or additions must be made in accordance with applicable laws. Any additional violations that may appear as work progresses will require correction.

Information about obtaining any necessary permits required by other Fairfax County agencies may be obtained by calling (703) 222-0801, TTY 711 and requesting the appropriate department.

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Karen E. Hobbs
October 10, 2018
SR 155372
Page 3

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A follow-up inspection will be made at the expiration of the time period outlined in this Notice.

Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Virginia Maintenance Code which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$100.00 for each violation cited herein for the first violation and \$150.00 for each subsequent violation cited herein per day totaling up to \$4,000.00 in accordance with Fairfax County Code § 61-7-1(B).

Civil penalties entered by the General District Court shall be paid to the Office of the County Attorney. Investigators may not accept any payments, including those associated with fines and fees.

In accordance with the code, the owner or person to whom this notice of violation has been issued is responsible for contacting me within the time frame established for any re-inspections to assure the violations have been corrected.

If you have any questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703) 324-4374. For any other questions, contact our main office at (703) 324-1300, TTY 711.

LEGAL NOTICE ISSUED BY:



Signature

S. C. Lunsford
Code Compliance Investigator
Ph: (703) 324-4374
catherine.lunsford@fairfaxcounty.gov



Building Code Appeal Request

18 1022.0AP

OCT 22 2018

PROJECT INFORMATION

Project Name: Hunters Woods Village Condominium
Project Address: 11812 Breton Ct, #2 Reston, VA 20191
Permit or case number: ~~201806888~~ 201806838 Tax map number: _____

APPLICANT INFORMATION

Applicant Name: Karen Hobbs Owner Owner's agent
Address: 11812 Breton Ct #2
City: Reston VA State: VA ZIP: 20191
Phone: 703 608-2605 Email: keh357@aol.com

OWNER INFORMATION

See applicant information
Owner Name: Same
Address: _____
City: _____ State: _____ ZIP: _____
Phone: _____ Email: _____

APPEAL INFORMATION

Appealing decision made on the date of by Building Official Fire Official Property Maintenance Official
rendered on the following date: 10/10/18
Code(s) (IBC) IMC, IPMC, etc. and year-edition: 2015 edition
Section(s): VMC 305.1, 308.1, 702.1 / Notice of Structure
unit for Human Occupancy

REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision:

Please return the completed form and any supporting documentation to the address or email below. A \$208 fee is required at the time of submittal. The application will not be further processed until this fee has been collected.

Chairman, Fairfax County Board of Building Code Appeals
12055 Government Center Parkway, Suite 334
Fairfax, VA 22035-5504
Attention: Secretary to the Board
buildingofficial@fairfaxcounty.gov



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF STRUCTURE UNFIT FOR HUMAN OCCUPANCY

DATE OF ISSUANCE: October 10, 2018

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Karen E. Hobbs (Property Owner)
ADDRESS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

**LOCATION OF VIOLATION/
SUBJECT PROPERTY:** 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

TAX MAP REF: 0261 19120002B

CASE #: 201806838 **SR#:** 155372

ISSUING INVESTIGATOR: S. C. Lunsford, Ph: (703) 324-4374

Dear Responsible Party:

In accordance with the Virginia Maintenance Code (Part III of the Uniform Statewide Building Code - 2015 Edition), an inspection of the condominium unit located on the above-referenced subject property was conducted on October 5, 2018. The inspection found that this structure is unfit because of lack of sanitation and obstructed egress on the interior. Therefore, the Fairfax County Maintenance Code Official (Code Official) has deemed this structure to be a Structure Unfit for Human Occupancy, which is defined in Section 202 of the Virginia Maintenance Code as:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY:

An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because (i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Karen E. Hobbs
October 10, 2018
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equipment or (ii) the required plumbing, and sanitary facilities are inoperable.

A Field Notice of Structure Unfit for Human Occupancy was issued to you and/or posted to the subject property on October 5, 2018 because the property condition required immediate attention; and, pursuant to the provisions of Section 106.6 of the Virginia Maintenance Code, a placard stating the following has been posted to the entrance to the structure:

THIS STRUCTURE IS UNFIT FOR HUMAN OCCUPANCY AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL

The subject structure must remain vacant. No person shall enter the structure except upon the authorization of the Code Official for one of the following purposes: (a) to make the required repairs, (b) to demolish the structure, or (c) to make inspections. The placard shall not be removed until the structure is determined by the Code Official as safe to occupy.

You are hereby directed to abate the conditions found at the subject property by complying with the attached Notice of Violation.

Pursuant to Section 106.9 of the Virginia Maintenance Code, the Code Official may authorize emergency repairs to make the structure temporarily safe, whether or not legal action to compel compliance has been instituted. You will be billed if such work is done.

Per Sect. 107.5 of the Virginia Maintenance Code, any person aggrieved by the application of the code may appeal to the Local Board of Building Code Appeals (LBBCA), which is the Fairfax County Board of Building and Fire Prevention Code Appeals. The request for an appeal must be submitted in writing within 14 calendar days of receipt of the decision being appealed along with a \$208 fee. Failure to submit an application for appeal within the time limit established shall constitute acceptance of the Code Official's decision.

You may call the secretary of the LBBCA for more information about the appeals process, and/or appeal application forms:

Secretary to the Fairfax County Local Board of Building Code Appeals
Attention: Secretary to the Fairfax County Local Board of Building Code Appeals
Land Development Services
12055 Government Center Parkway, Suite 334
Fairfax, Virginia 22035-5504
Telephone: (703) 324-5175, TTY 711

Information and forms can also be obtained at:
<https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals>.

Please give this matter your immediate attention and should you have any questions, please contact me at (703) 324-4374.

Karen E. Hobbs
October 10, 2018
SR 155372
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LEGAL NOTICE ISSUED BY:



Signature

S. C. Lunsford
Code Compliance Investigator
Ph: (703) 324-4374
catherine.lunsford@fairfaxcounty.gov





County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

NOTICE OF VIOLATION Virginia Maintenance Code

DATE OF ISSUANCE: October 10, 2018

METHOD OF SERVICE: OFFICE OF THE SHERIFF

**LEGAL NOTICE ISSUED TO:
ADDRESS:** Karen E. Hobbs
11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

LOCATION OF VIOLATIONS: 11812 Breton Court, Unit 2
Reston, Virginia 20191-3212

TAX MAP REF: 0261 19120002B

CASE #: 201806838 **SR #:** 155372

ISSUING INVESTIGATOR: S. C. Lunsford, Ph: (703) 324-4374

POTENTIAL CIVIL PENALTIES PURSUANT TO FAIRFAX COUNTY

CODE § 61-7-1(B):	Maintenance Code Violation(s)	First Offense	Each Subsequent Offense
	§ VMC 305.1	\$ 100.00	\$ 150.00
	§ VMC 308.1	\$ 100.00	\$ 150.00
	§ VMC 702.1	\$ 100.00	\$ 150.00
TOTAL:		\$ 300.00	\$ 450.00

Dear Responsible Party:

In accordance with the Virginia Maintenance Code (Part III of the Uniform Statewide Building Code-2015 Edition), an inspection on October 5, 2018 revealed violations as listed below at the referenced location. The cited violations must be corrected within thirty (30) days from receipt of this notice unless otherwise indicated.

Violation: INTERIOR STRUCTURE GENERAL VMC 305.1. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-653-9459 TTY 711
www.fairfaxcounty.gov/code

Work to be Performed: Restore interior of dwelling to sanitary condition so as to be in substantial conformance with VMC 305.1.

Violation: ACCUMULATION RUBBISH GARBAGE VMC 308.1. Accumulation of rubbish or garbage. The interior of every structure shall be free from excessive accumulation of rubbish or garbage.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Work to be Performed: Remove excessive rubbish and garbage from interior of dwelling so as to be in substantial conformance with VMC 308.1.

Violation: MEANS OF EGRESS GENERAL VMC 702.1. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.

[F] 1001.1- Building or portions thereof shall be provided with a means of egress system as required by this chapter. The provisions of this chapter shall control the design, construction, and arrangement of means of egress components required to provide an approved means of egress from structures and portions thereof. Sections 1003 through 1029 shall apply to new construction. Section 1030 shall apply to existing buildings.

Exception - Detached one and two family dwelling and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with separate means of egress and their accessory structures shall comply with the International Residential Code.

[R] 311.1 Means of Egress - All dwellings shall be provided with a means of egress as provided in this sections. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress from all portions of the dwelling to the exterior of the dwelling at the required egress door without requiring travel through a garage.

Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

Work to be Performed: Establish unobstructed egress throughout dwelling unit so as to be in substantial conformance with VMC 702.1.

All repairs, alterations, and/or additions must be made in accordance with applicable laws. Any additional violations that may appear as work progresses will require correction.

Information about obtaining any necessary permits required by other Fairfax County agencies may be obtained by calling (703) 222-0801, TTY 711 and requesting the appropriate department.

Per Sect. 107.5 of the Virginia Maintenance Code, any person aggrieved by the application of the code may appeal to the Local Board of Building Code Appeals (LBBCA), which is the Fairfax County Board of Building and Fire Prevention Code Appeals. The request for an appeal must be submitted in writing within 14 calendar days of receipt of the decision being appealed along with a \$208 fee.

Failure to submit an application for appeal within the time limit established shall constitute acceptance of the Code Official's decision.

Karen E. Hobbs
October 10, 2018
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You may call the secretary of the LBBCA for more information about the appeals process, and/or appeal application forms:

Secretary to the Fairfax County Local Board of Building Code Appeals
Attention: Secretary to the Fairfax County Local Board of Building Code Appeals
Land Development Services
12055 Government Center Parkway, Suite 334
Fairfax, VA 22035-5504
Telephone: (703) 324-5175, TTY 711

Information and forms can also be obtained at:
<https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals>

A follow-up inspection will be made at the expiration of the time period outlined in this Notice.

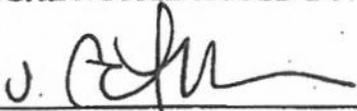
Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Virginia Maintenance Code which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$100.00 for each violation cited herein for the first violation and \$150.00 for each subsequent violation cited herein per day totaling up to \$4,000.00 in accordance with Fairfax County Code § 61-7-1(B).

Civil penalties entered by the General District Court shall be paid to the Office of the County Attorney. Investigators may not accept any payments, including those associated with fines and fees.

In accordance with the code, the owner or person to whom this notice of violation has been issued is responsible for contacting me within the time frame established for any re-inspections to assure the violations have been corrected.

If you have any questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703) 324-4374. For any other questions, contact our main office at (703) 324-1300, TTY 711.

LEGAL NOTICE ISSUED BY:



Signature

S. C. Lunsford
Code Compliance Investigator
Ph: (703) 324-4374
catherine.lunsford@fairfaxcounty.gov

Work to be Performed: Restore interior of dwelling to sanitary condition so as to be in substantial conformance with VMC 305.1.

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Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

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Location: 11812 Breton Court, Unit 2, Reston, Virginia- Interior of dwelling unit.

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Karen E. Hobbs
October 10, 2018
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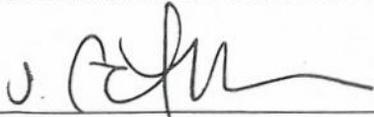
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If you have any questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703) 324-4374. For any other questions, contact our main office at (703) 324-1300, TTY 711.

LEGAL NOTICE ISSUED BY:



Signature

S. C. Lunsford
Code Compliance Investigator
Ph: (703) 324-4374
catherine.lunsford@fairfaxcounty.gov

Date	Activity	Outcome
October 4, 2018	Responded to the property with Fairfax County Animal Protection Police (APP) Officer J. McLemore. The property is a condominium located at 11812 Breton Court. Investigation in response to complaints of potent, noxious odor originating from the property and permeating neighboring units and the building common area.	I and Officer McLemore noted a potent odor while walking from the parking lot area to the condo unit.
October 4, 2018	While walking towards the building Officer McLemore and I observed an adult female exiting the property. The individual was positively identified as the property owner, Ms. Karen Hobbs.	Officer McLemore and I approached Ms. Hobbs, who had just exited the unit to walk her dog. We introduced ourselves and explained that the County had received a complaint about the conditions inside her unit, which could constitute life safety risk for her and her animals. We asked Ms. Hobbs for permission to do an interior inspection. Ms. Hobbs stated that she was on her way to an appointment and had left a note on the door for the Animal Protection Police. We advised her that we would return to the property later in the afternoon to talk with her so that she would not miss her appointment.
October 4, 2018	Officer McLemore and I proceeded to the property door to retrieve the "note" Ms. Hobbs advised she left for the APP.	The odor, which was ammonia in nature, became stronger as we approached the unit. The odor was strongest at the unit entrance, indicating that the unit was the source of the smell.
October 4, 2018	Follow-up inspection attempt. Officer McLemore and I returned to the subject property in the late afternoon, as we had previously advised Ms. Hobbs.	Officer McLemore and I knocked on the door to the subject property but received no answer.
October 4, 2018	Contacted property manager Keith Elliott, from Legum & Norman.	Mr. Elliott reached out to association counsel who advised that under emergent circumstances, management may make entry to a unit. Association counsel determined that the alleged circumstances, including the potent ammonia odor described, did constitute an

Date	Activity	Outcome
October 4, 2018	Waiting for Mr. Elliott and the locksmith to respond to the property, Ms. Hobbs returned home.	emergent situation and advised Mr. Elliott to respond to the property with a locksmith. The decision to request a locksmith was made by the condo management company.
October 4, 2018	Ongoing discussions with Ms. Hobbs	<p>Ms. Hobbs returned home. Officer McLemore and I approached Ms. Hobbs and explain that we had received a complaint and needed to do an inspection to determine that the conditions inside her unit were safe for both her, her animals, and the occupants of the neighboring units. Ms. Hobbs immediately became verbally combative. We advised Ms. Hobbs that due to the severity of the concern, management had hired a locksmith, who was en route to the property. Repeatedly, we explained to Ms. Hobbs that our intention to ensure that the conditions inside her property were safe for her, her animals, and the occupants of neighboring units in her building.</p> <p>Officer McLemore and I explained that a potent ammonia odor was coming from her unit and could be observed from the right-of-way. We also explained that in plain view from the rear of the property, it appeared that the interior of the dwelling was heavily cluttered with junk and debris. The patio located on the rear of the property also contained a substantial amount of junk and debris. Ms. Hobbs stated that the odor was coming from the trash room located across the hall from her unit or from a drain located in the floor in the common area. Officer McLemore and I, along with Ms. Hobbs and a second DCC Investigator (W. Moncure) walked to both the trash room and the drain in the floor to observe what Ms. Hobbs claimed was the cause of the odor. No odor was noted in either location. Of note, another resident in the building had installed a plug-in air freshener next to Ms. Hobbs front door because the odor was so noxious.</p> <p>Mr. Elliott explained to Ms. Hobbs that management was responding to the property because the odor originating from her unit, and that he believed conditions constituted an emergent situation. He requested that she allow him access to the unit so that he could determine the conditions. Ms. Hobbs refused. For a significant period of time, Mr.</p>
October 4, 2018	Arrival of Mr. Elliott and a locksmith.	

Date	Activity	Outcome
		Elliott and County personnel tried to reason with Ms. Hobbs about the need to ensure that her condo was not a danger. Eventually, Mr. Elliott summoned the locksmith to gain entry to the unit. Ms. Hobbs physically placed her body in front of the entry to the dwelling preventing the locksmith from making entry.
October 4, 2018	Continuing negotiations with Ms. Hobbs	After several hours of discussion, Ms. Hobbs agreed to provide management and County personnel photographs of the interior. Ms. Hobbs entered her unit and provided five photographs of things such as a wall, a television set, etc. The photographs provided no information about the conditions of the interior of the property.
October 4, 2018	Agreement to schedule an interior inspection reached	Ms. Hobbs agreed to authorize an interior inspection the following morning at 0900 hours.
October 5, 2018	Inspection	I, Department of Code Compliance Investigator Matt Stenger, and Keith Elliott arrived at the Property. Ms. Hobbs granted us access to her unit but advised that the bathroom and bedroom areas were “off limits.” No entry was made to either area. The ammonia odor within the dwelling was so potent that it was difficult to breathe. The unit was found to be heavily cluttered with miscellaneous junk and debris. Urine and feces were observed on the living room floor—Ms. Hobbs claimed at the time that the items were “disintegrated cardboard” but states in this appeal that they were “chips in the tile.” The dining room area was so filled with miscellaneous junk and debris that access was unobtainable. Kitchen facilities were severely unsanitary. Due to the volume of debris in the kitchen area the ability to utilize the facilities as designed was significantly compromised. Access to the patio egress door was significantly compromised by accumulated debris. Photographs were collected of the interior—though Ms. Hobbs alleges that she was unaware, she was advised at the start of the inspection that photographs would be taken to document the conditions inside the unit.
October 5, 2018	Unit placarded as unfit for human occupancy. The cause for	Placards were placed on the front and rear entries to the dwelling. Ms. Hobbs was advised that she may enter the dwelling for the purpose of

Date	Activity	Outcome
	<p>placarding was specifically related to the severe lack of sanitation and obstructed egress inside the dwelling.</p>	<p>repairs during daylight hours only. Ms. Hobbs contested and explained that due to the nature of her employment, she needed to be able to access the dwelling in the evening hours. I advised Ms. Hobbs that if she needed to briefly access the property when she returned from work to retrieve items, etc. that would be okay but reiterated that she could not be in the property overnight or for living purposes. Attachment 1 – Photographs taken by Lunsford</p>
October 7, 2018	Call from a FCPD officer.	<p>Police Officer reported that Ms. Hobbs was in her condo, and he was prepared to take her to the Fairfax County Adult Detention Center for violating the placard. I advised the officer that Ms. Hobbs must have been confused about the terms of the placard and that I would make contact with her the following morning. I requested that he not transport Ms. Hobbs to the ADC and he obliged.</p>
October 7, 2018	Attempt to visit Ms. Hobbs.	<p>We were unable to make contact with Ms. Hobbs. In order to avoid future confusion, placards were reissued allowing access to the property between 0700 and 2000 hours, daily. A voice mail was left for Ms. Hobbs and in a subsequent telephone conversation Ms. Hobbs was advised of the specific parameters outlined on the posted placards.</p>
Ongoing	Ongoing attempts to gain compliance.	<p>County personnel and management plead with Ms. Hobbs to work with them to make progress in clearing the cited violations so that the placards can be removed so that she can occupy her condo. Ms. Hobbs continues to argue that there is no issue with her unit.</p>

Date	Activity	Outcome
November 15, 2018	Follow-up inspection.	<p>Ms. Hobbs authorized a voluntary inspection to determine the status of repairs to the cited violations. I and a second member of DCC staff (C. Fitzhugh) inspected the property and found significant improvement towards compliance had been made. An ammonia odor was still noted but was not as potent. Egress had been established throughout. Conditions warranted removal of the placard. No photographs were taken of the interior of the property at the Ms. Hobbs' request. Ms. Hobbs did authorize photographs to be taken of the front and rear entrances to the unit documenting that the placards had been removed. Attachment 2- Exterior Photographs</p>















USE PROHIBITED - EVACUATION NOTICE
THIS STRUCTURE IS UNSAFE/UNFIT FOR HABITATION

ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE City Marshal Building Official Commonwealth Code Official
 FOR THE Virginia Statewide Fire Prevention Code Virginia Construction Code
 Virginia Existing Building Code Virginia Maintenance Code

No person shall enter, occupy or use this structure, except as authorized by the code official or engineer, to avoid compliance, to protect personal property or to conduct the business. Any person who enters this structure in violation of this notice may be arrested for violation of the Virginia Uniform Statewide Building Code, the Virginia Statewide Fire Prevention Code (VSFPC), (VSBC) and/or for occupancy.

THIS NOTICE SHALL NOT BE ALTERED, REMOVED OR REPEATED UNDER PENALTY OF LAW WITHOUT APPROVED AUTHORIZATION.

Street address (Building or specific portion thereof): 1012 BOSTON CT, UNIT 2, RESTON VA 20191
 Description and extent of violation: VIOLATION OF SANITATION (VMC 205.1 - INTERIOR SURFACES)
OBSTRUCTED EGRESS (VMC 702.1 - MEANS OF EGRESS)

Agency	Address	Phone
City of Reston	10000 Sunrise Valley Drive, Reston, VA 20191	703-441-4000
Stafford County	10000 Sunrise Valley Drive, Reston, VA 20191	703-441-4000
Stafford County	10000 Sunrise Valley Drive, Reston, VA 20191	703-441-4000
Stafford County	10000 Sunrise Valley Drive, Reston, VA 20191	703-441-4000
Stafford County	10000 Sunrise Valley Drive, Reston, VA 20191	703-441-4000

10/05/2018 09:46



USE PROHIBITED - EVACUATION NOTICE
THIS STRUCTURE IS UNSAFE/UNFIT FOR HABITATION

USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE: Fire Marshal Building Official Maintenance Code Official

FOR THE: Virginia Statewide Fire Prevention Code Virginia Construction Code Virginia Existing Building Code

No person shall enter, occupy or use this structure, except as authorized by the code official, or designers, to make inspections, to perform repairs, repairs or to demolish the building. Any person who enters this structure in violation of this notice may be prosecuted for violation of the Virginia Uniform Statewide Building Code, the Virginia Statewide Fire Prevention Code §§ 130.1, 120.11 and/or for trespassing.

THIS PLACARD SHALL NOT BE ALTERED, REMOVED OR DEFACED UNDER PENALTY OF LAW WITHOUT APPROPRIATE AUTHORIZATION

Nearest address (building or specific portion thereof): 11812 BRISTON CT, UNIT 2, RESTON, VA 20191

Description and scope of conditions: LACK OF SANITATION (VMC 305.1) - INTERIOR SURFACES
OBSTRUCTED EGRESS (VMC 702.1) - MEANS OF EGRESS

Agency Name	Address	Telephone
<input type="checkbox"/> Fire and Rescue Department Fire Marshal or Designer	12001 Government Center Plaza, Suite 600 Fairfax, VA 22035	703-244-8000 / 774-787
<input type="checkbox"/> Land Development Services Building Official or Designer	12001 Government Center Plaza, Suite 600 Fairfax, VA 22035	703-244-5274 / 703-244-5275
<input checked="" type="checkbox"/> Department of Code Compliance Maintenance Official or Designer	12001 Government Center Plaza, Suite 600 Fairfax, VA 22035	703-244-2386 / 774-787

Printed by this office on 10/05/2018 09:48

WHICH MAY BE REMOVED WITHOUT NOTICE BY THE PROPERTY OWNER OR ANY OTHER PARTY AT ANY TIME.

10/05/2018 09:48







Additional Documents
and Written Arguments
Submitted by
Karen Hobbs

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Luter, William <travis.luter@dhcd.virginia.gov>

Appeal 18-21

Karen Hobbs <keh357@aol.com>

Fri, Feb 15, 2019 at 4:46 PM

To: William Luter <travis.luter@dhcd.virginia.gov>

My response to the brief From Fairfax county department of code compliance:

I did not request inspector Lunsford to come into my home. It was only under much duress due to Keith Elliot, the HOA property manager instructing a locksmith, Who he had brought with him, to go ahead and unlock /change the locks on my doors In order to enter my home that I allowed Ms Lunsford and Mr. Elliot to come in. And It was only so that they could tell that the older they described out in the hall was not coming from my condo.

However once inside, Ms Lunsford began wanting to go all over my home, Which did not Seem to have anything to do with odor In the hall outside my condo's Front door.

I stopped her Stating that she did not have a warrant. It was not until I got the results of FOIA requests that I had made when I saw photographs that I realized she had taken photographs - without asking! I was and am very angry about this and plan to explore if I have any legal recourse for that.

I have already submitted photographs of what my home usually looks like and while it is unfortunate that this Fairfax County dept of code compliance employee bulldozed her way in to my home at a time when I was not expecting company and had several projects going on so that my home was not as neat as it normally is. However there was nothing that rose to the level of violating property maintenance codes. There was nothing obstructing a path to the door that was not at best temporary, for example in the hallway - Once I put the vacuum and the floor cleaner in that closet and put away the brooms that were standing in the corner - there wouldn't be any issue, would there?

In the living room there were several baskets of laundry that I was working on which weren't going to be there for long. The Sliding glass door was not obstructed - there was merely one chair near the path to it which isn't usually there - it only had been moved there briefly.

None of these things are permanent and who is to say that if you didn't go into my neighbors condo there would not be similar Situations?

Moving these items probably took 15 minutes and were things I would've done anyway. They do not rise to the level of violating building codes.

As to her claims of unsanitary surfaces- they are not true. In the picture in which she implies that there is urine and feces that is not true. That was an area where I had some remodeling surprise supplies kept and that is clay powder, grayish in color which I had attempted to mop and was still damp. And the brown spots are merely chips in the tile. When might be a little piece of cardboard. But it was definitely not urine and feces! So this is another violation for which there is no evidence.

And there was no rubbish or garbage in my home those are my personal belongings.

I notice that after Miss Lunsford was at my property the day after my appeal at the local level she notes that the egress is improved, I believe. She does not mention the other violations so what does that mean?

There may be occasional odors in the hall however they come from the trash room. They do not emanate from my unit. Please note the inspection report which was done about a year earlier by Faith Price the homeowners association property manager which would be the equivalent of Keith Elliot. In it she states That inside you can tell there are pets however there is no odor outside which is coming from the unit.

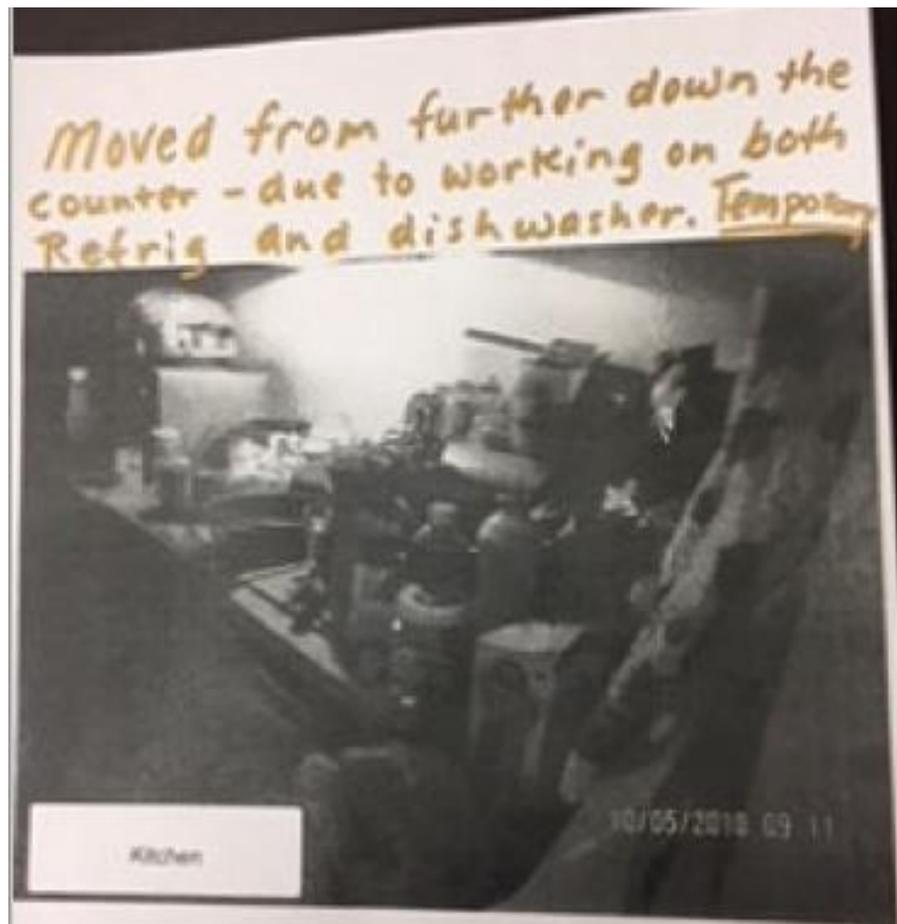
So again Miss Lunsford gained the assistance of Keith Elliott to force me into allowing them into my unit based on the false claim that odor was coming from my unit!

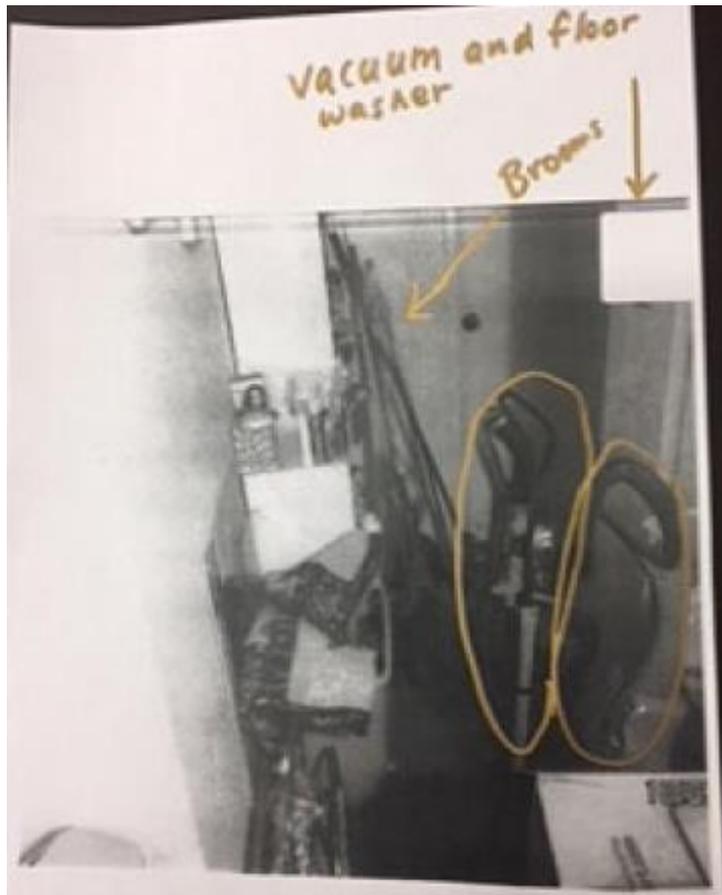
I also will be faxing some photographs. Thank you,

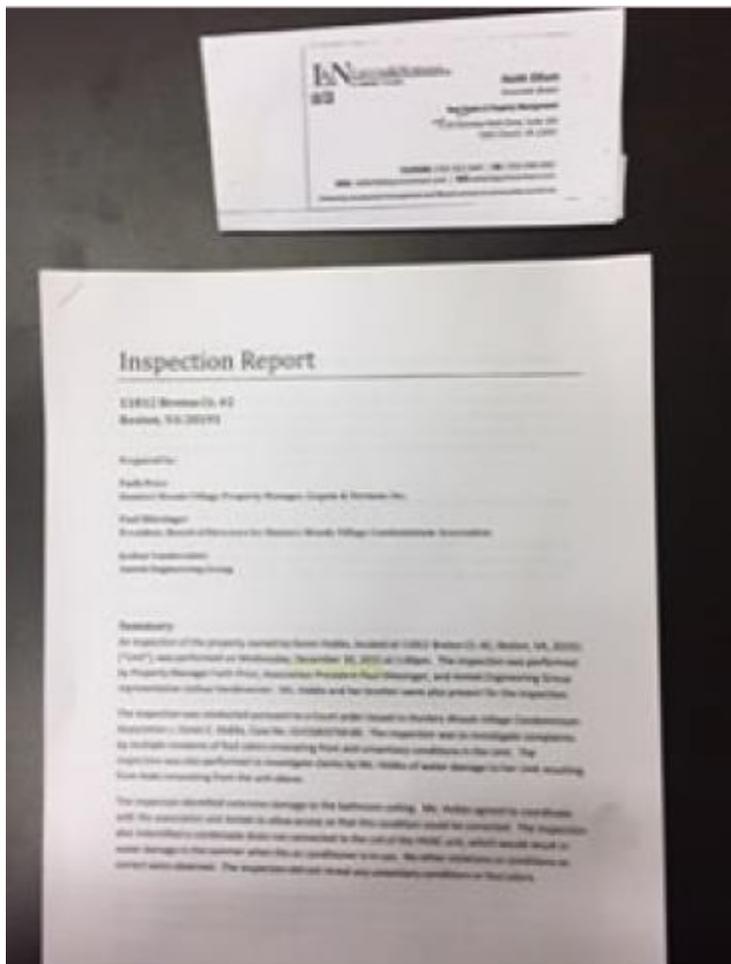
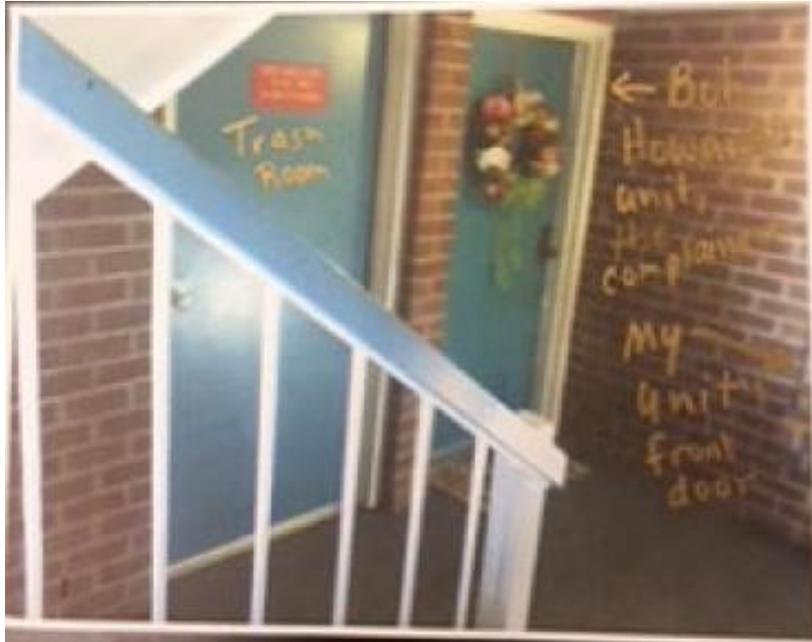
Karen Hobbs

Sent from my iPhone









1) Living Room, Dining Room, Hallway

The Living Room, Dining Room and hallway were inspected. No violations were observed, however, visible water damage to the ceiling in the living room was observed (Figure 1).

There was a noticeable smell of animals being present in the unit. However, there was no indication of animal urine, feces, or other condition that would be unsanitary. The smell was not noticeable from the outside the unit. The living room and dining rooms were arranged such that there was a clear path to move safely from room to room. There was no significant damage observed to the vinyl flooring, or walls.

2) Kitchen

The Kitchen was inspected. No violations were observed, however, visible water damage to the ceiling in the kitchen was observed (Figure 2).

The water damage was observed directly above the washer and dryer, possibly from the washer of the unit above, assuming the layout is the same. The appliances appeared to be in acceptable condition and the room was clear from any tripping hazards. There was no significant damage observed to the vinyl flooring or walls.

3) Bathroom

The Bathroom floor was inspected. One condition to correct was observed.

The Bathroom has significant visible water damage to the ceiling. There is an open hole directly above the shower revealing a repair that was done to the hot water supply pipe for the shower (Figure 3).

Since the unit above is vacant, it is not possible at this time to tell if the drain for their tub is leaking also causing water damage to the ceiling. Ms. Hobbie agreed to coordinate with Amtrak and the Association to allow access to the unit so that this condition could be corrected.

4) Bedrooms

The master bedroom and second bedroom were briefly inspected. No violations or conditions to correct were observed.

The second bedroom appeared to be used as a storage area. There was a noticeable smell of animals being present, however, there was no indication of animal urine, feces, or other condition that would be unsanitary.

5) Utility Closet

The utility closet was inspected. One condition to correct was observed.

An HVAC unit was present, but it was observed that the condensate drain is not connected to the unit which will lead to water damage in the summer time when the unit is in use. There is also damage to the main condensate line that all the HVAC units connect to in that line (Figure 4).

6) Miscellaneous

During the inspection, 2 dogs and 3 cats were observed in the unit.

REQUEST FOR INTERPRETATION

TO: OFFICE OF THE STATE BUILDING CODE TECHNICAL REVIEW BOARD
VIRGINIA DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT
Main Street Centre
600 E. Main Street, Suite 300
Richmond, Virginia 23219-1321
Tel: (804) 371-7150 Fax: (804) 371-7092
Email: sbco@dhcd.virginia.gov

From: David W. Dunivan, CBO, Powhatan County

Phone Number : 804-598-5649

Email Address: ddunivan@powhatanva.gov

Applicable Code: Section 102 Purpose and Scope

Code Section(s): 102.3 Exemptions #1 & #2

Submitted by (signature):  Date: 2/7/2019

QUESTION(S):

1. Are utility companies regulated by NERC exempt from permits regarding solar farms when the land is owned by the utility company and they are supplying power back to the grid? This does not include prefabricated structures used to house the equipment or wiring that exceed 150 square feet. (Example: Dominion Energy owns Dominion Power, regulated by NERC)
2. Are utility companies that lease land to supply power back to the grid exempt from permits, other than the buildings that house the equipment and wiring that exceed 150 square feet and are prefabricated? This would be shown in a contract agreement for the use of land and include all right of ways. The lease agreement would also state that the land will be returned to the original condition that it was prior to any construction or addition of materials to supply power back to the grid at the termination of the lease agreement.

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REQUEST FOR INTERPRETATION

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Main Street Centre
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Email: sbco@dhcd.virginia.gov

From: David W. Dunivan

Phone Number : 804-598-5649

Email Address: ddunivan@powhatanva.gov

Applicable Code: 2015 Virginia Construction Code

Code Section(s): 102.3

Submitted by (signature):  Date: 2/28/2019

QUESTION(S):

This request concerns Section 102.3 of the 2015 Virginia Construction Code, which provides as follows:
102.3 Exemptions. The following are exempt from this code:

1. Equipment and wiring used for providing utility... service in accordance with all of the following conditions:

1.1. The equipment and wiring are located on either rights-of-way or property for which the service provider has rights of occupancy and entry.

1.2. Buildings housing exempt equipment and wiring shall be subject to the USBC.

1.3. The equipment and wiring exempted by this section shall not create an unsafe condition prohibited by the USBC.

Specifically, I request a determination from the Board as to whether the phrase "used for providing utility... service", as used in Section 102.3 of the 2015 Virginia Construction Code, would exempt from the provisions of the VCC the construction of an electricity generation facility that is owned and operated by a publicly regulated utility, such as Virginia Electric and Power Company, where such facility is built at the utility's direction by its third-party general contractor, and where the other requirements of Subparts 1.1, 1.2 and 1.3 of Section 102.3 are met. The analogous exemption from the old 2012 VCC covered "[equipment] installed by a provider of publicly regulated utility service", which may have been somewhat ambiguous as to whether a general contractor working on behalf of a regulated utility could benefit from the exemption. However, under the current VCC, a general contractor performing work directly for a regulated utility seems to be covered by the clear language of the Section 102.3 exemption.

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VIRGINIA:

BEFORE THE STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: AMcL, LLC.
Appeal No. 18-14

**MOTION OF HOMEOWNER AMcL, LLC
IN OPPOSITION TO ENTRY OF AN UNSEEN ORDER DISMISSING THIS CASE,
FOR RECONSIDERATION AND FOR REVIEW OF THE BOARD'S HEARING ON F
EBRUARY 15, 2019**

This case was on the Board's docket for hearing on February 15, 2019. Since that date, the homeowner has received the audio recording of that hearing. Homeowner has also been told that the order from that hearing has not been entered and is to be on the Board's docket at the next hearing, on March 15th.

For the reasons set forth herein, Homeowner moves that the Board give reconsideration, ...and conduct a meaningful deliberation of the facts and the applicable rules and regulations (i.e., the law), ...to its actions on February 15th before entering any order.

BOARD PROCEEDINGS ON FEBRUARY 15TH

On February 15th, the case was not heard on its merits. Those merits in a nutshell are as follows:

Henrico County issued a plumbing code violation against the Homeowner because a tenant did not pay its water bill and so the County cut off the water supply. It is undisputed that tenant agreed in its written lease to pay its utilities and this specifically listed the water utility. Tenant continued to live in the house with 4 children and 2 adults without water. During this time, the County failed to condemn the house as unlivable based on health and sanitary reasons, as it was urged to do and as provided for in the Code. Instead, the County cited the Homeowner for violating the plumbing code section of the Virginia Maintenance Code (VMC). Homeowner opposed. The plumbing code has nothing to do with a water supply being cut off when the tenant does not pay its water bill.

The tenants were eventually removed from the house by the Sheriff's department. (One of the tenants has since been jailed on criminal charges). After this case was filed with this Board, the County sent a letter on Oct 4, 2018 to the

Board saying that it had rescinded the violation. No motion was made, or action requested, by the County based on that letter.

The first thing at the February 15th hearing was the Board raising the issue of dismissal of the case based on the County's Oct 4th letter. The Board refers to this as the case being "moot" when the County rescinds the violation at any time before the Board hearing.

Homeowner appeared at the hearing through its agent, Michael Morrissey, and he addressed this at the outset by moving that this was not a proper issue before the Board because the County had filed no motion and had made no request that the case be dismissed. The Board cannot be an advocate for any party and is to act only on what is filed before it. For this reason, Homeowner argued that there was no motion on this pending before the Board and the case should proceed to a hearing on its merits.

Homeowner pointed out that in its filed pre-hearing brief, that all Board members had receive a copy of well in advance of the hearing, it addresses the separate issue of whether a dismissal of the case is proper based on the violation being rescinded while the case is pending before, and prior to it being heard by, this Board. For the reasons given in that brief, the answer is clear that dismissal is inappropriate and is contrary to the law that was extensively cited and discussed in the brief.

However, as Homeowner pointed out, before even getting to the presentation of its case on the "rescission" issue, there is the issue now being raised that there is no motion pending for dismissal. This last minute rescission of the violation was obviously made by the County to avoid having to defend its conduct on the merits. But no action was asked of the Board by the County. Homeowner moved accordingly that the issue of whether the case is "moot" is not properly before the Board and should not be injected by the Board when a party has not injected it itself. The case should proceed with a hearing on its merits.

The Chairman then initiated further discussion that involved the County and some Board members. That discussion evolved into a less than clear discussion of what issue was being considered as inputs varied somewhat broadly without any direction as to the issues before the Board being given by the chairman or the AG rep sitting next to the Chairman. When the homeowner tried to speak to the question of first deciding if the "moot" issue was property before the Board, the chairman launched into an attack of sorts that he was only going to give the Homeowner 30 seconds more, and that's it. This 30 seconds limit now imposed, right in the midst of a confused hearing that had not direction of what issue it was considering, stand in stark contrast to the 30 minutes delay in the start of the hearing that the Homeowner and everyone else in the room had to wait until Board

members arrived, late, in order to have a quorum to proceed with. This was reached when the AG rep on the Board casually walked in 25 minutes late causing a 9 a.m. meeting to not get started until 9:30. This was noted as a repeat of the previous month's meeting when the same AG rep on the Board held up the start of that meeting with a similar late arrival.

Thus for the Chairman to suddenly limit a party's "one day in court" to a 30 second segment when seeking clarity that was not there in the discussion, is in violation of fundamental Due Process, reflects the chairman's lack of awareness of procedure and what issue is before the Board for voting on, and is hypocritical given his arms-over-the-shoulders affection given in the open room upon the AG rep's tardy arrival that delayed the hearing much longer than 30 seconds.

After being thus "silenced" by the chairman, the chairman then, in disregard of any proper procedure, announced for a vote on whether the case was "moot" and therefore should be dismissed. Homeowner protested that the issue has not been ruled on for the case to proceed to hearing on the merits as there is not motion to dismiss pending before the Board. If the Board is going to hear the "moot" issue raised by the "rescind" letter, then Homeowner wants to be heard on it. Homeowner notified the Board that it had prepared handouts, in accordance with Board procedure (20 copies of each brought to the hearing, as per the Board's Secretary), that distinguish the present case from other so-called "moot" cases, and summarized the facts and authorities that support hearing this on its merits. That plea too was disregarded.

The AG rep then spoke out that he wanted to address a few things. His statement had something to do about this Board being an island. This metaphor was hard to follow so its point was not clear. It may be suggested by the AG rep's statement that amounted to, from Homeowner's standpoint, for the Board to disregard the law and make its own decision.

The AG rep said nothing about the lack of any procedure being followed as to the two separate issues presented before the Board. He said nothing about the Board having to rule on the first issue which determines whether the Board even gets to the second issue or not. One would expect the AG rep to advise the Board as to legal issues especially and legal procedure in particular. He did not.

The chairman then called for a vote by the Board on the issue of whether the case was "moot" and should be dismissed based on the County having "rescinded" its violation. The vote was 8 to 3 in favor of the case being moot. The chairman indicated that the case was therefore dismissed.

**AUDIO RECORDING OF THE HEARING RECEIVED;
NO PROPOSED ORDER WAS SENT FOR COMMENTS**

Subsequent to the hearing, Homeowner requested and received the audio transcript recording of the hearing. Homeowner was told that the proposed order would be presented at the March 15th hearing for approval, or disapproval, by the Board.

No proposed order was sent to Homeowner so it does not know the exact wording of the proposed order to be voted on by the Board on March 15th. Ordinarily a draft order is sent to the parties for their comment prior to it being entered. Based on what took place on Feb 15th, it is clear that the substance of the order would be that by a vote of 8 to 3, the case is dismissed without a hearing on its merits based on the county rescinding its Notice of Violation prior to the hearing by this Board.

THE RECORD DOES NOT SUPPORT DISMISSING THIS CASE

Before this Board is a case about to be dismissed, not on its merits, but on procedure alone. The question, then, is whether the procedure followed by the Board is, in both fact and law, sufficient to support the dismissal?

The Board is to be applauded "in getting it right" being one of its main objectives. In a layman's terms, this may mean doing justice, without being unnecessarily encumbered by technical details that otherwise may frustrate justice being done. The "getting it right" goal has been expressed by various board members and is a tribute to both this Board and its members.

The consequences of not getting it right are not insignificant either. The case when appealed can go through extensive Discovery, have an lengthy public record established. A trial entails subpoenaing witnesses having anything to do with error alleged at the Board level, cross-exam, a lengthy record being built; possibly going through further appeals and onto a published decision. This will take years and incur time and expense for all concerned.

Most importantly in all this, however, is the driving objective of this Board to "get it right" in a meaningful and realistic way. For this reason, the Board when necessary, has remanded cases back to the County board level to correct something that may give the "appearance of an impropriety." So too the Board is open to "remanding" or reconsidering something back to itself when it feels that its' "getting it right" goal is, or still appears to be, lacking. This laudatory and somewhat unique aspect of this Board is called into action here.

The Board and Certain of its Members Violated Fundamental Due Process Procedures

By the Board

The Board erred in taking the side of one party in opposition to, and to the detriment of, the other party by injecting a motion to dismiss on behalf of the County when the County itself had not filed any such motion and had not made any such request of the Board.

By its members

At the start of the hearing, Homeowner addressed the Board by making the motion that the issue of whether the case was "moot" was not properly before the Board and therefore should not be heard by the Board. The case should start off with a hearing on the merits as to whether there was any violation of the 3 plumbing code sections alleged to have been violated.

The actions that followed by the Board constituted the following errors as discussed herein. Because of these, the law does not support an order to dismiss the case.

By the Chairman

The chair failed to follow proper procedure by first hearing argument and having discussion on Homeowner's motion not to hear the "mootness" issue and to hear the case on its merits because there is no motion pending, no motion having been filed, no request having been made, that the case be dismissed as "moot."

The chair failed to follow proper procedure by first giving Notice to Homeowner that either

(1) Homeowner's motion not to hear the "mootness" issue and go direct to hearing the case on its merits based on there being no motion pending, no motion filed, and no request made that the case be dismissed as "moot,"

would not be heard, i.e. not considered by the Board or,

(2) that having heard Homeowner's motion, the motion was either (i) granted, and the case starts with a hearing on the merits, or it was (ii) denied, and the case starts with a hearing on whether the case should be dismissed based on the County rescinding its Notice of Violation.

Because of the above failures, the chair wrongfully denied Homeowner its "day in court" to present its case in opposition to the Board-injected issue that the case be dismissed as "moot."

The chair failed to allow Homeowner to be heard by allowing it "30 seconds" to say whatever it had to say. Significant to this "rush-to-lunch" edict are the facts that:

(1) the 9 o'clock a.m. Board hearing did not start at 9:00 a.m. because Board members had not shown up on time so there was not a quorum to start with. The last member arriving was the AG rep who casually came in at 9:25 a.m., and after all the arm hugging, the Board hearing started 30 minutes late.

(2) a first case was heard before this present case. This case was approaching or was at the lunch hour and the rush to end to adjourn for lunch was obvious.

(3) Homeowner's attempt to address the Board was to clarify the lack of proper procedure being followed and the mixed discussions getting into the "mootness" issue when the motion on the first issue of whether to hear that or not had not been ruled on. Hence the chair refused to listen to this objection.

(4) The chair's directive that Homeowner has "30 seconds" was given without regard to what Homeowner was saying in those 30 seconds as the chair was scurrying about with papers on the table and would not make eye-to-eye contact with Homeowner, even for the mere 30 seconds. T

Essentially the chair just said talk for 30 seconds and then stop. He was not listening to any of it. The chair's version of "getting it right" was talk for 30 seconds, we then take a vote, then go to lunch because we are running late already (because we started late because the AG rep arrived 25 minutes late).

By the AG rep

The constitution of the Board includes a representative of the Attorney General's office (AG rep). The duties of the AG rep is to advise and counsel the Board and its members at hearings as to Virginia law, including its rules, regulations, procedures and the Va. Code and Virginia case law, as appropriate. One main purpose for this person's presence is to insure that Board members, some of whom are not lawyers, will be guided in their decisions by the correct substantive and procedural law.

The AG rep, by both his silence and his incorrect statements, failed to inform the Board as to controlling law which, if done, could have avoided the errors complained of herein.

The AG rep failed to address the action of the Board in taking the side of one party in opposition to, and to the detriment of, the other party by injecting a motion to dismiss on behalf of the County when the County itself had not filed any such motion and had not made any such request of the Board.

The AG rep failed to speak out as to the proper procedure of first hearing argument and having discussion on Homeowner's motion not to hear the "mootness" issue and to hear the case on its merits because there is no motion

pending, no motion having been filed, no request having been made, that the case be dismissed as "moot."

The AG rep failed to speak out as to the proper procedure of first giving Notice to Homeowner that either

(1) Homeowner's motion not to hear the "mootness" issue and go direct to hearing the case on its merits based on there being no motion pending, no motion filed, and no request made that the case be dismissed as "moot,"

would not be heard, i.e. not considered by the Board or,

(2) that having heard Homeowner's motion, the motion was either (i) granted, and the case starts with a hearing on the merits, or it was (ii) denied, and the case starts with a hearing on whether the case should be dismissed based on the County rescinding its Notice of Violation.

Because of the above failures, The AG rep allowed the Board to wrongfully deny Homeowner its "day in court" to present its case in opposition to the Board-injected issue that the case be dismissed as "moot."

The AG rep failed to to speak out when the chairman limited the Homeowner to "30 seconds" to say whatever it had to say. Significant to this "rush-to-lunch" failure of the AG rep to protect basic Due Process, and instead hurry with the get-it-over-with approach, are the following facts:

(1) the 9 o'clock a.m. Board hearing did not start at 9:00 a.m. because Board members had not shown up on time so there was not a quorum to start with. In fact it was the AG rep who was the last to arrive, a lateness repeated at the Jan 2019 hearing as well by this same person. The AG rep came in at 9:25 a.m., and after all the arm hugging, the Board hearing started 30 minutes late.

(2) a first case was heard before this present case. This case was approaching or was at the lunch hour and the rush became obvious to end quickly for lunch.

(3) Homeowner's attempt to address the Board was to clarify the lack of proper procedure being followed and the mixed discussions getting into the "mootness" issue when the motion on the first issue of whether to hear that or not had not been ruled on. Hence the chair, with the AG rep's concurrence by silence, refused to listen to this objection.

(4) The AG rep's silence to the chair's giving the Homeowner "30 seconds" to say whatever he wanted to say, was a silence carried out in disregard of the AG rep's duty or purpose of his presence.

The AG rep's attitude from his silence was the same as that of his good old friend the chair (the arm hugging is an inescapable image): talk for 30 seconds, the Board votes, then we go to lunch because we are running late already.

A more honest attitude for the AG rep would have been: Due process requires that homeowner be allowed to present his arguments, and with the Board (its members and the chair) meaningfully listening to those arguments. If for no other reason such as "getting it right", we will otherwise get reversed when this gets into court. Besides we started late because I arrived 25 minutes late.

The AG rep gave the Board the incorrect legal advice and guidance when he essentially told them that the Board is "an island", an unclear metaphor around that word. In an attempt to tie that somehow to this case, the AG rep in so many words tells the Board to disregard other law including case law. The recording of the AG rep's statement is the best evidence. The deposition of Va. AG Mark Herring will certainly be evidence showing the Board was giving incorrect instruction on the law by the AG rep.

At a minimum, before an order against Homeowner is entered, a record should be established at the Board level that these statements are corroborated by the Virginia AG Mark Herring. Otherwise if the Board was given wrong instructions by the AG rep, the case gets sent back. While in this Board's jurisdiction, a retraction, or a corroboration, is an essential part of "getting it right."

Homeowner moves that the correctness of the AG rep's statements and his silence be corroborated first, since they are instructions to the Board, before any order is entered in this case.

Other Board members

Homeowner does not have the benefit of knowing the names of the Board members, although they can be visually pictured in mind. A suggestion for the future would be for the Board to hand out a sheet prior to any hearing showing a visual display of the Board members hearing the case, their positions around the table and their names. Although it appears uncertain as to what members will show up, so this information ahead of time might be a problem.

The hearing layout in this was made of tables forming four sides. On one side are the parties, generally two. Opposite to that side is the chairman and the AG rep and at this hearing there was another member who was an attorney. He was on the far left side of that row of tables as viewed from the Homeowner's position. The other two sides, that formed a 90 degree angle with the chairman's side and the parties' side, are where other Board members were seated.

The Board members can be characterized as those who participated to varying degrees in the hearing, which were members on the Homeowner's left side, and those who did not participate in the hearing, which were members on the Homeowner's right side.

It is to be noted that Homeowner filed a lengthy brief with two tables of numbered exhibits in support of its case. That brief cited to both facts and legal

authorities and VMC Code sections in support of its case on all issues. In contrast, the County filed very little, being only a few basic documents from the case.

The attorney

This member was the most informed. It was clear that he had read and understood the Homeowner's brief and its arguments. He knew the facts and the law. Among his observations, he stated this to be a landlord-tenant problem. No Board member refuted any of this attorney's statements and conclusions. Most did not even respond to them. He spoke with precise knowledge of the facts and application of the law, code sections. He cautioned against the precedent this might set for holding a landlord absolute liable for the water bill, or any utility bill for that matter, regardless of what the lease agreement says.

The suspenders

This member was seated to Homeowner's left side. He too knew the case and its facts. He pointed to specific VMC plumbing code sections and expressed views as to the "mootness" issue. He quoted language from the Code as to Homeowner being an "aggrieved party" and this being a case to be heard on its merits as per the Code language. He spoke with precise knowledge of the facts and application of the law, code sections.

The Long fence member

This member was also on Homeowner's left side, closer to the chairman's table. He injected "with a huff and a puff" that Homeowner's recitation as to an earlier Board case known as "the Long fence" case was wrong. How the "Long case" got in here is important.

Homeowner had distinguished its case from other cases the Board had dismissed in the past because there was no issue based on facts of those cases. "Long fence" was one of them. Each case was fully distinguished in Homeowner's brief and contained a summary of facts as recited directly in the Board written decision. If the Board's written decision in "Long fence" was wrong then Homeowner's summary was wrong because it copied what the Board's decision said. However, it is doubtful that the facts of the Board's decision was wrong, and so too neither was Homeowner's summary.

The significant point of this is that this member never said what was wrong. He just blurted out, the Long summary is wrong. Twice. That was his contribution.

Homeowner says "huff and puff" not lightly. Attitude is indicative. The fact it was stated with this attitude, without giving any reason, is telling as to this

member. The normal approach would be to question the Homeowner as to facts recited that may be felt to be incorrect.

This member made a point to say he had worked on that "Long fence" case. Homeowner suggests that maybe he was upset that a spreadsheet or some study that he did was not recited in the Board's decision in the Long fence case, and so was not recited (it did not give credit to this member) in Homeowner's summary.

Homeowner states in reply that we have all done studies at this stage that have not been felt significant to a Board's decision so our names and a copy of the study is not included in the Board's decision. That's life. Making just a statement that something is wrong because "I" worked on that case, gains nothing. No Board member said anything in reply. The chair did not ask as follow up question, such as why do you feel it is wrong? That attitude of trying to disparage a party but not saying why – not asking for or providing facts to back up an accusation -- has no place on the Board.

Other Board Members simply did not participate

As to the other Board members on the right side of the Homeowner, for the most part they said little or nothing. It was clear that the members had not read the papers filed in preparation for this hearing. They were not familiar with the facts nor with the law, nor the cited legal references nor the code sections. They had no reply to Mr. Suspenders who correctly quoted from the Code to establish Homeowner as an "aggrieved party" entitled to his case being heard on appeal. They had no reply to Mr. Attorney stating and showing that this is a landlord-tenant case, not a Board case.

The legal points are well documented for why this case cannot be summarily dismissed based on a one sentence letter that the County has rescinded its Notice of Violation. But you do have to read Homeowner's brief. Most of the Board members did not have any question on any of this because they had not read any of the materials. They did not know what to ask because they had not prepared for the case. It is impossible if you knew the facts and knew the legal references cited, not have one question.

Voting for Homeowner Against Dismissal

One person from the right side, although mostly quiet, was carefully listening as he voted for Homeowner. Who were the other two voting for Homeowner? Naturally, they were the only two who spoke with knowledge, skill and in detail about the case: Mr. Attorney and Mr. Suspenders.

A few members, 2-3 in this instance, prepared well for the case by knowing the facts, theories, position statements and the law. Most members had not read the materials, were not prepared and this is why they essentially did not participate

in the hearing, but did cast a seat-of-the-pants vote to get rid of the case. One member was obviously displeased that a case he had worked on did not credit him in its decision, or that summary was wrong simply because "he" worked on that case.

An Observer's View

An observation about this Board, while relevant to, and going beyond, the present case, is made here with respect to the present case and the manner it was heard.

The chairman showed no knowledge about legal procedures and the correct procedure for hearing Board issues.

The AG rep showed no knowledge of the law on the issues in this case, in both substance and procedure. The AG rep demonstrated this by both making incorrect statements to the Board which is to be guided by those statements, and by remaining silent in the face of glaring procedural violations. Plus he is tardy and condones limiting a party to 30 seconds after he held up the Board for 30 minutes.

The majority of the Board members did not do their homework. They did not prepare for this hearing by reading the materials that had been distributed to them in advance. They did not know the relevant facts, code or law. To avoid embarrassment, they did not participate.

A Proffer

Homeowner proffers to this Board an interesting point that confirms Mr. Attorney's statement and gives a nutshell caption of this case. Other lawyers familiar with this case but not present at any Board hearing, have said, right at the outset, the very same thing that Mr. Attorney here said: This is a landlord-tenant case; not a Board case. As a Board member astutely noted, the plumbing code applies irrespective of whether anyone is living in a house. It goes to the plumbing infrastructure. Not what happens when the tenant agrees to pay its water bill, does not, and the water gets cut off for non-payment.

CONCLUSION

This case record does not support an order to dismiss based on the County rescinding the Notice of Violation while the case is pending before this Board. Accordingly, Homeowner moves that the Board at its March 15th meeting not enter an order dismissing this case.

Homeowner moves further that as a correct procedural matter, it be provided with a draft copy of this and any other order in this case, prior to it being

considered by the Board, to allow time for comment to be made as to the substance and wording of any proposed order. Homeowner has not been provided with a copy of the order that is to be presented to the Board on March 15th. For this reason too, Homeowner moves that the Board at its March 15th meeting not enter an order dismissing this case.

Homeowner moves further that this case be re-heard by the Board at a later date to be set by the Board so that matters as complained of herein can be corrected or not be present in that re-hearing. This is consistent with the Board remanding cases back for hearing to correct any irregularities or other matters. The procedure insures that orders coming from the Board contain "neither an impropriety nor the appearance of an impropriety."

And for such further relief to Homeowner as the Board deems appropriate.

Respectfully submitted,

AMcL, LLC

By: _____ / s / _____
Agent

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was emailed on March 8, 2019 to Henrico County at its address of record as appears in this case.
