

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Charles R. Dalton
Appeal Nos. 09-14 and 09-15

Hearing Date: April 16, 2010

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board ("Review Board") is a Governor-appointed board established to rule on disputes arising from application of the Virginia Uniform Statewide Building Code ("USBC") and other regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. Enforcement of the USBC in other than state-owned buildings is by local city, county or town building departments. See § 36-105 of the Code of Virginia. An appeal under the USBC is first heard by a local board of building code appeals and then may be further appealed to the Review Board. See § 36-105 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

Charles R. Dalton ("Dalton"), owner of a home located at 196 Deer Path Drive, in Appomattox County, appeals decisions of the Appomattox County USBC department (the "building official") concerning the construction of his home by Dunn-Rite Construction Company ("Dunn-Rite"), a licensed building contractor.

In early 2009, after the completion of the construction of Dalton's home, Dalton complained to the building official that a concrete patio/porch with an unfinished basement room under it was leaking. Dunn-Rite was notified and subsequently sealed and coated the patio/porch. After an additional complaint from Dalton that the patio/porch was leaking, the building official issued a letter to Dunn-Rite indicating the patio/porch was in violation of the USBC.

Dunn-Rite appealed the building official's determination to the Appomattox County Board of Building/Fire Code Appeals ("County appeals board"), which heard the appeal and ruled to overturn the decision of the building official finding that not enough evidence was submitted that the patio/porch was leaking.

Dalton further appealed the County appeals board's decision to the Review Board.

In a separate matter concerning additional problems identified by Dalton, the building official informed Dalton by letter in June of 2009 that changes to the construction of Dalton's home that were not shown on the plans, the installation of the doors and the venting of the attic were not USBC violations. Dalton appealed the building official's decisions and the County appeals board heard Dalton's appeal in September of 2009 and ruled to uphold the building official's decisions.

Dalton further appealed the decision of the County appeals board to the Review Board.

Review Board staff combined Dalton's appeals for procedural purposes while maintaining separate appeal numbers. A staff document outlining the particulars of the appeals was drafted and distributed to the parties for comment and an opportunity given to the parties for the submittal of corrections, additions or objections to the staff document and the submittal of additional documents for the record and written arguments. A hearing before the Review Board was then scheduled.

III. FINDINGS OF THE REVIEW BOARD

With respect to the issue in Appeal No. 09-14, the Review Board finds that no evidence was submitted substantiating that the patio/porch is not watertight. In addition, the patio/porch is on the exterior of the building and only covers an unfinished

concrete room separated from the basement of the dwelling, which, while of poor design and will require maintenance to keep watertight, does not constitute a violation of the USBC.

With respect to the issue in Appeal No. 09-15 of the construction of the home not matching the plans submitted, the Review Board finds that there are only minor differences between how the home was constructed and the plans submitted. Section 109.1 of the USBC provides that construction documents do not need to be submitted for work of a minor nature. In addition, the testimony indicated that Dalton provided the construction documents and initiated the changes in configuration of the home; therefore, Dalton would have been responsible for providing any amended plans, if determined necessary by the building official.

With respect to the issue in Appeal No. 09-15 of whether the doors in question comply with the USBC, the Review Board finds that no evidence was submitted identifying any problems with the doors which are regulated by the USBC. The fact that some doors needed more than normal pressure to latch is not addressed by the USBC.

With respect to the issue in Appeal No. 09-15 of whether the roof ventilation is in compliance with the USBC, the Review Board finds that the necessary ventilation openings have been provided. The fact that additional roof vents were provided

which were installed within the upper portion of the roof does not constitute a violation of the USBC.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decisions of the building official and County USBC board to be, and hereby are, upheld as outlined in the "Findings of the Review Board" section of this decision.

/s/*

Chairman, State Technical Review Board

June 18, 2010

Date Entered

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 W. Hodge, 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.

***Note: The original signed final order is available from Review Board staff.**