

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Harvey Dupree (A...H Variety)
Appeal No. 18-11

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

Harvey Dupree of A...H Variety (Dupree), current owner of a commercial building(s) located at 456-554 Piney Pond Road, Brodnax, Virginia, used to sell merchandise under the business name A...H Variety, appeals determinations by a representative of the Brunswick County Department of Building/Fire Inspections and Code Enforcement (Brunswick) for the enforcement of the Part I of the Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC).

In May of 2018 Brunswick conducted an inspection of the above referenced property. The inspection resulted in the issuance of a notice of violation, dated May 10, 2018, under the VCC where eleven (11) violations of the VCC were cited.

Mr. Dupree filed an appeal to the Crater Regional Building Code Appeals Board (local appeals board) on June 4, 2018. The local appeals board heard the appeal on June 26, 2018 and upheld all of the violations listed on the Notice of Violation (NOV) issued by Brunswick.

Mr. Dupree filed an appeal to the Review Board with a certificate of service date of July 19, 2018.

In a letter dated September 14, 2018, Brunswick and Dupree acknowledged resolution of seven (7) of the eleven (11) cited violations listed on the NOV, subsequently Brunswick withdrew those seven (7) cited violations leaving the remaining four (4) cited violations as the basis for Dupree's appeal.

A hearing before the Review Board was held on November 16, 2018 where Dupree appealed the remaining four (4) cited violations. Appearing at the Review Board hearing for Brunswick was Harrison Jamison, Brunswick County Building Official. Harvey Dupree and Lerma Ydel appeared at the hearing on the behalf of Mr. Dupree and A...H Variety.

Findings of the Review Board

A. Whether or not to overturn the decision of the Building Official that a violation of VCC Section 103.3 (Change of Occupancy) exists.

Brunswick argued that a portion of the building(s) were being used for residential purposes; thus, a change of occupancy was needed. Dupree argued that he only stayed overnight at the building(s) on weekends during extended hours of the busy season. Dupree testified that his electric bill was only \$120 per month for over 20,000 square feet of buildings and that provided proof that he did not live at the building. The Review Board finds that the violation of VCC Section 103.3 (Change of occupancy) exists.

B. Whether or not to overturn the decision of the Building Official that a violation of VCC Section 103.6 (Reconstruction, alteration, and repair in other occupancies) exists.

Brunswick argued that repairs were needed in the building(s) including egress windows for the residential sleeping area, multiple electrical issues, roof leaks, and damaged floors. Brunswick acknowledged that some repairs had been performed; however, the repairs were neither code compliant nor adequate. Dupree argued that there were no electrical issues in the building as he had an electrical contractor make all of the needed repairs to the electrical panels and wiring throughout the building(s). Brunswick, through photographic documentation of the water heater, showed that electrical issues still existed in the building(s). Dupree concurred additional electrical repairs were needed. The Review Board finds that the violation of VCC Section 103.6 (Reconstruction, alteration, and repair in other occupancies) exists.

C. Whether or not to overturn the decision of the Building Official that a violation of VCC Section 108.1 (Where applications are required) exists.

Brunswick argued that permits were needed for the change of occupancy as well as for the needed repairs to the building related to the egress windows, electrical, roofing, and flooring. Dupree did not dispute. The Review Board finds that the violation of VCC Section 108.1 (Where applications are required) exists.

D. Whether or not to overturn the decision of the Building Official that a violation of VCC Section 112.1 (General) exists.

Brunswick argued that the work performed thus far did not comply with the code and was inadequate as the roof still leaked, electrical issues still existed, and the change of occupancy for the residential use area of the building had not been addressed. Dupree did not dispute. The Review Board finds that the violation of VCC Section 112.1 (General) exists.

Final Order

A. Whether or not to overturn the decision of the Building Official that a violation of VCC Section 103.3 (Change of Occupancy) exists.

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the decision of the local appeals board that a violation of VCC Section 103.3 (Change of Occupancy) related to Dupree using the building for residential purposes to be, and hereby is, upheld.

B. Whether or not to overturn the decision of the Building Official that a violation of VCC Section 103.6 (Reconstruction, alteration, and repair in other occupancies) exists.

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the decision of the local appeals board that a violation of VCC Section 103.6 (Reconstruction, alteration, and repair in other occupancies) related to the need for electrical, roofing, and flooring repairs as well as the need to address the change of occupancy for the residential use area of the building to be, and hereby is, upheld.

C. Whether or not to overturn the decision of the Building Official that a violation of VCC Section 108.1 (Where applications are required) exists.

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the decision of the local appeals board that a violation of VCC Section 108.1 (Where applications are required) related to the need for permits for the needed repairs and the need to address the change of occupancy for the residential use area of the building to be, and hereby is, upheld.

D. Whether or not to overturn the decision of the Building Official that a violation of VCC Section 112.1 (General) exists.

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the decision of the local appeals board that a violation of VCC Section 112.1 (General) related to the work performed that is neither code compliant nor adequate to be, and hereby is, upheld.



Chairman, State Building Code Technical Review Board

Date entered: January 11, 2019

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.