

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Vallerie Holdings of Virginia LLC
Appeal No. 22-04

DECISION OF THE REVIEW BOARD

I. Procedural Background

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

II. Case History

On January 14, 2022, the County of Louisa Department of Community Development (County Building Official), the agency responsible for the enforcement of Part 1 of the 2018 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), performed an inspection of the structure located at 349 Pleasants Landing Road, in Louisa County, owned by Vallerie Holdings of Virginia LLC (Vallerie).

The inspection resulted in the issuance of a Notice of Unsafe Building or Structure (Notice) dated January 24, 2022. In the Notice the County Building Official cited the following code violations, related to an exterior stairway structure, and required the violations be made safe through compliance with the VCC or be removed, if deemed necessary by the County Building Official, pursuant to VCC Section 118.2:

- a. *“Stair Riser Height: is 8" inches in height, per Section 1011.5.2, Riser height shall be a maximum of 7" inches and a minimum of 4" inches.”*

- b. *“Guard Height: on the stairs is 36" inches in height, per Section 1015.3, the Guards height shall be 42" inches in height, on stairs, landings, ramps and decks.”*
- c. *“Handrails: no handrails installed, per Section 1014.2, a graspable handrail shall be installed at a height of 34" -38" inches measuring from the nosing of the tread.”*
- d. *“Floor Joist and Stair Hangers: Not installed on the landing or the lower section of stairs, which are required per Section 2304.10.3”*
- e. *“Stairway Fire Separation Distance from the Building: is 23" inches, per Sections 1027.5 and 1027.6 ex. (1), Exterior exit stairways and ramps shall have a minimum fire separation distance of 10' feet measured at right angles from the exterior edge of the stairway, ramp, or landing to: Adjacent lot lines, and other portions of the building.”*
- f. *“Footings: Could not be verified because the footers were poured and covered up a while ago. Will need a structural engineer to verify the footings for code compliance.”*

Vallerie filed an appeal to the Louisa County Local Board of Building Code Appeals (local appeals board) for the Notice. The local appeals board upheld the decision of the County Building Official. Vallerie further appealed to the Review Board. A Review Board hearing was held November 18, 2022. Appearing at the Review Board hearing for Vallerie were Michael Vallerie and Clark Lemming, legal counsel. Appearing at the hearing for Louisa County were John Grubbs, Michael Guidry, Jennifer Carter, and Kyle Eldridge, legal counsel.

III. Findings of the Review Board

A. Whether to uphold the decision of the County and local appeals board to issue the Notice of Unsafe Building or Structure pursuant to VCC Section 118 Unsafe Buildings or Structures.

Vallerie, through legal counsel, argued that the upper level of the structure was Group R-3 occupancy not Group R-1 occupancy. Vallerie further argued that, if the upper level of the structure was properly deemed Group R-3 occupancy, items a, b, c, and e would no longer be considered violations. Vallerie also argued that the owner and his wife were the only occupants utilizing the upper level of the structure and did so throughout the boating season, identified by

Vallerie as April through October. Vallerie further clarified that the upper level of the structure was not being used by transient individuals. During cross examination, Vallerie confirmed that he built the stairway structure without the required permits and inspections.

The County, through legal counsel, argued that the structure was properly deemed unsafe due to its lack of compliance with 2018 VCC for Group R-1 occupancy which the County further argued was the correct occupancy classification based on the plans submitted by Vallerie identifying the upper level as a studio apartment and the definitions found in the VCC. The County further argued that the certificate of occupancy was not granted for the upper level of the structure due to the lack of proper fire rating between the upper and lower levels of the structure, thus, no one should have been occupying the upper level of the structure. The County confirmed the certificate of occupancy was issued for the Group B occupancy on the first floor. The County also argued that Vallerie built the stairway structure for the second time after applying for the necessary permits in 2019; however, the permits were never issued. The County provided a point of clarification that Vallerie had previously built a deck and stairway structure adjacent to the same structure without the required permits and inspections which he subsequently removed after an unsuccessful appeal in 2017.

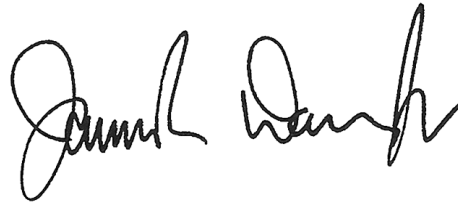
The Review Board finds that a violation of VCC Section 118 Unsafe Buildings or Structures exists, agrees with the issuance of the Notice, and adds another violation to the Notice listed as (g) occupancy of the upper floor without the required certificate of occupancy.

IV. Final Order

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

A. Whether to uphold the decision of the County and local appeals board to issue the Notice of Unsafe Building or Structure pursuant to VCC Section 118 Unsafe Buildings or Structures.

The decision of the County and local appeals board that a violation of VCC Section 118 Unsafe Buildings or Structures exists is upheld and adds another violation to the Notice listed as (g) occupancy of the upper floor without the required certificate of occupancy.



Chair, State Building Code Technical Review Board

Date entered ____February 17, 2023____

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.