

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Aaron Harcrow
Appeal No. 08-7

Hearing Date: June 18, 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

Aaron Harcrow ("Harcrow"), the owner of a existing house located at 412 S. Armistead Avenue, in the City of Hampton, appeals the application of the USBC¹ by the City of Hampton Department of Codes Compliance (the "code official").

Harcrow acquired the house in 1990 and lived there until moving to Georgia in the early 2000s. The house was then rented. At some point, either while Harcrow was living there, or subsequently, the house was divided into two apartments. There is no record of any approval from the City of Hampton USBC department for the conversion of the house from a single-family dwelling to a two-family dwelling.

Harcrow was cited under the USBC for violations relating to the maintaining the exterior of the house as far back as 1997 and the house was included in a list of properties by the City which were considered to be public nuisances.

In 2001, after Harcrow had completed some repairs, the code official informed Harcrow that they would consider temporarily removing the property from the public nuisance file and that Harcrow was authorized to lease the property.

In 2006, the code official issued a notice of unsafe structure to Harcrow for the house and garage informing Harcrow

¹The enforcement action under appeal in this matter is concerning Part III of the USBC, the Virginia Maintenance Code.

that the house was unfit for human habitation and that the house and garage needed to be either brought into compliance with the USBC or demolished within 30 days. The notice included a non-specific or generalized list of USBC violations categorized by the chapters of the USBC addressing different building components, such as structural, exterior, interior, plumbing, etc.

Harcrow appealed the notice to the City of Hampton USBC appeals board ("City appeals board"), which heard the appeal in December of 2006 and ruled to permit Harcrow to make the repairs necessary for the code official to approve occupancy of the house so Harcrow could obtain rent money to continue with the repairs.

Between 2006 and 2008, the code official issued numerous inspection reports outlining USBC violations still outstanding at Harcrow's house. In May of 2008, the City appeals board met again to consider the situation and after hearing testimony from both the code official and Harcrow, the City appeals board issued a ruling to revoke the approval given for Harcrow to rent the portion of the house identified as the front apartment, or Apartment 1, and further ruled to give Harcrow 30 days to correct all USBC violations cited by the code official, and if not corrected, the City would be authorized to proceed with the

demolition of the house with no further action by the City appeals board.

Harcrow further appealed the City appeals board's ruling to the Review Board.

The hearing of Harcrow's appeal before the Review Board was attended by Harcrow and the code official.

III. FINDINGS OF THE REVIEW BOARD

Harcrow argues that the USBC citations were not specific enough to determine what needed to be corrected and that he did not find any health or safety problems associated with the house.

Harcrow acknowledged that he rented the portion of the house considered to be a second apartment without the approval of the code official.

The Review Board finds the citations listed in the notices dated February 17 and May 14, 2007 and April 29, 2008 to be sufficiently clear for Harcrow to understand what USBC violations are present and given the testimony and pictures submitted, all citations appear to be valid.

The Review Board further finds that Harcrow has been given ample time to address the violations and has instead been somewhat evasive, non-cooperative, disingenuous and

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.