

STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING  
April 22, 2011

GLEN ALLEN, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman  
Mr. R. Schaefer Oglesby, Vice-Chairman  
Mr. Matthew Arnold  
Mr. W. Keith Brower, Jr.  
Mr. J. Daniel Crigler  
Mr. Joseph A. Kessler, III  
Mr. John A. Knepper, Jr.  
Mr. James N. Lowe  
Ms. Joanne D. Monday  
Ms. Patricia S. O'Bannon

Members Absent

Mr. James R. Dawson  
Mr. John H. Epperson  
Mr. Eric Mays

Call to Order

The meeting of the State Building Code Technical Review Board (Review Board) was called to order by the Chairman at approximately 10:00 a.m.

Roll Call

The attendance was established by Mr. Vernon W. Hodge, Secretary, and constituted a quorum. Mr. Steven Jack, Assistant Attorney General in the Office of the Attorney General, was present and serving as the Board's legal counsel.

Approval of Minutes

Mr. Oglesby moved to approve the minutes of the February 18, 2011 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Lowe and passed unanimously with Messrs. Brower and Kessler abstaining from the vote.

Final Orders

Appeal of Walter Smith; Appeal No. 10-16:

After consideration, Mr. Oglesby moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Mr. Lowe and passed unanimously with Messrs. Brower and Kessler abstaining from the vote.

Final Orders

Appeal of Atlantic Homes, LLC; Appeal No. 10-21:

After consideration, Mr. Lowe moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Mr. Crigler and passed unanimously with Messrs. Brower and Kessler abstaining from the vote.

New Business

Mr. Hodge advised the Chairman and Board members that the parties in the Hernandez matter, which was scheduled for a preliminary hearing, agreed to continue the matter due to scheduling conflicts subsequent to the Review Board members' agenda package being distributed and is therefore stricken from the docket.

Appeal of Kimberly A. and Bryan R. Wood (603 Mansion Road); Keith and Elizabeth Berry (607 Mansion Road); Dave and Jeri Johnson (609 Mansion Road) and David and Psyche Page (102 Overlook Point); Appeal Nos. 10-17, 10-18, 10-19 and 10-20:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned a determination by the York County building official that no violations of the Virginia Uniform Statewide Building Code (USBC) were present with respect to the electrical and mechanical systems in four homes containing gypsum wallboard imported from China. The building official's decision was upheld upon appeal to the York County Board of Building Code Appeals.

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

Keith and Beth Berry, homeowners  
Psyche Page, homeowner  
Dave and Jeri Johnson, homeowners  
Marianne G. Harris, York County building official  
Ken Allen, for Atlantic Homes

Also present were:

Richard Serpe, Esq., counsel for the homeowners  
James E. Barnett, Esq., counsel for York County  
Jim Reid, Esq., counsel for Atlantic Homes

New Business

Appeal of Kimberly A. and Bryan R. Wood (603 Mansion Road); Keith and Elizabeth Berry (607 Mansion Road); Dave and Jeri Johnson (609 Mansion Road) and David and Psyche Page (102 Overlook Point); Appeal Nos. 10-17, 10-18, 10-19 and 10-20 (continued):

During testimony, the following exhibit was submitted by York County, with objection by the homeowners.

Exhibit A – CPSC report on electrical wiring

After consideration, the Chairman ruled to exclude the exhibit.

When testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board 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 Kimberly A. and Bryan R. Wood (603 Mansion Road); Keith and Elizabeth Berry (607 Mansion Road); Dave and Jeri Johnson (609 Mansion Road) and David and Psyche Page (102 Overlook Point); Appeal Nos. 10-17, 10-18, 10-19 and 10-20:

After deliberation, Mr. Allen moved to overturn the decision of the York County building official and the York County Board of Building Code Appeals and hold that the imported drywall installed in the homes created a corrosive environment damaging the electrical and mechanical components in the homes, and as such, the certificates of occupancy for the homes should be revoked. The motion was seconded by Mr. Oglesby. After further deliberation, Mr. Allen offered a substitute motion that the corrosive environment created by the installation of the drywall constituted a change of occupancy under the USBC to a hazardous classification without the proper approval and compliance with the USBC. The substitute motion was seconded by Ms. Monday and passed unanimously.

New Business

Appeal of Willie and Marguerite Dawes; Appeal No. 10-22:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned a decision by the building official of the City of Hampton that no USBC violations were present in a completed townhome owned by the Dawes and located at 1 Cannonball Circle. The building official's decision was upheld upon appeal to the City of Hampton Board of Building Code Appeals (City appeals board).

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

Willie and Marguerite Dawes, owners  
Christopher J. Mills, witness for the Dawes  
Steven Shapiro, City of Hampton building official

Also present was:

Lesa Yeatts, Esq., counsel for the City of Hampton

No exhibits were submitted by the parties to supplement the documents in the Review Board members' agenda package.

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board 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 Willie and Marguerite Dawes; Appeal No. 10-22:

After deliberation of the issue of whether a USBC violation existed relative to the grading away from the townhome, Mr. Oglesby moved to dismiss the appeal on that issue as it not been addressed by the building official or City appeals board. The motion was seconded by Mr. Crigler and passed unanimously.

New Business

Decision: Appeal of Willie and Marguerite Dawes; Appeal No. 10-22  
(continued):

After deliberation of the issue of whether USBC violations exist relative to the window and door openings, Mr. Arnold moved that the installation of the windows were in violation of the USBC due to lack of proper flashing. The motion was seconded by Mr. Kessler. After further deliberation, Mr. Arnold offered a substitute motion to specify that the window and door openings identified as numbers 2, 3, 6, 7, 8 and 10 in the picture on page 322 of the record were in violation of the USBC based on improper installation and the use of non-self-flashing windows and further that the building official is required to document the violations in accordance with Section 115.2.1 of the USBC. The substitute motion was seconded by Mr. Kessler and passed unanimously.

After deliberation of the issue of whether USBC violations exist relative to the lack of weep holes or the weep holes not extending through the masonry veneer, Mr. Lowe moved that there was a lack of functional weep holes for the windows and doors identified as numbers 3 and 4 in the picture on page 322 of the record and that the building official is required to document the violations in accordance with Section 115.2.1 of the USBC. The motion was seconded by Ms. O'Bannon and passed unanimously.

Secretary's Report

Mr. Hodge advised Review Board members that based on the discussion in the deliberations of the drywall appeal, staff would develop a proposal to be submitted to the Board of Housing and Community Development from the Review Board addressing defective materials.

Mr. Emory Rodgers, Deputy Director of DHCD's Division of Building and Fire Regulation, briefly addressed the development of remediation standards as part of the USBC for the removal of defective drywall from the buildings where it had been used. The standards would be considered by the Board of Housing and Community Development's Codes and Standards Committee in May of 2011.

Adjournment                      There being no further business, the meeting was adjourned by motion of Mr. Brower at approximately 3:05 pm.

Approved: June 17, 2011

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/S/  
Chairman, State Building Code Technical Review Board

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/S/  
Secretary, State Building Code Technical Review Board