STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING
July 17, 2009

VIRGINIA HOUSING CENTER, GLEN ALLEN, VIRGINIA

Members Present	Members Absent
Mr. J. Robert Allen, Chairman	Mr. Joseph A. Kessler, III
Mr. R. Schaefer Oglesby, Vice-Chairman	Mr. John A. Knepper, Jr.
Mr. John W. Ainslie, Jr.	Mr. James N. Lowe
Mr. Matthew Arnold	Mr. Eric Mays
Mr. J. Daniel Crigler	Ms. Joanne D. Monday
Mr. James R. Dawson	
Mr. John H. Epperson	
Ms. Patricia S. O'Bannon	

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 of the State Office of the Attorney General, and the Board's legal counsel, was also present.

Approval of Minutes

Mr. Oglesby moved to approve the minutes of the June 19, 2009 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Epperson and passed unanimously.

Final Orders

Appeal of Thomas Gilbert; Appeal No. 08-9:

After discussion, Mr. Oglesby 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.

Appeal of David Cover (Cover's Chimney Service); Appeal 08-11:

After discussion, Mr. Epperson moved to approve the final order as presented in the Review Board members' agenda package. After further discussion, Mr. Dawson moved an amendment to the motion to clarify that no definitive determination was made concerning whether the construction of the rebuilt chimney was consistent with the original construction. After further discussion, Ms. O'Bannon

Final Orders

Appeal of David Cover (Cover's Chimney Service); Appeal 08-11 (continued):

moved a further amendment to the motion for the sentence in question to read: "There is neither an indication that its use is inconsistent with the original construction of the chimney nor that the existing level of safety has been compromised." The motion as further amended was seconded by Mr. Crigler and passed unanimously.

New Business

Appeal of Richard Clayton; Appeal No. 08-2:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned a determination by the City of Alexandria building official that no violations of the Virginia Uniform Statewide Building Code (USBC) existed relative to cigarette smoke migration issues in a condominium owned by Richard Clayton and located at 120 Roberts Lane.

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

Richard Clayton
John Catlett, building official, City of Alexandria
Russell Furr, City of Alexandria
Marcia Tiersky, Fort Ellsworth Condominium Association

Also present was:

Michael L. Zupan, Esq., for Fort Ellsworth Condo. Assoc.

During the course of testimony, Mr. Clayton submitted several exhibits consisting of copies of excerpts of email correspondence. After review, the Chairman ruled the exhibits out of order as all the documents except a list of code references were already in the record.

A preliminary issue of whether an appeal of a decision of the building official relative to fire safety violations was properly before the Review Board was considered.

New Business

Appeal of Richard Clayton; Appeal No. 08-2 (continued):

After testimony concerning the preliminary issue concluded, Mr. Epperson moved that the issue of firestopping was properly before the Review Board insofar as it related to the application of Part III of the USBC for lack of maintenance or unsafe conditions and not Part I of the USBC for new construction due to the statute of limitations. The motion was seconded by Ms. O'Bannon.

After further deliberation, Mr. Epperson moved as an amendment to his prior motion that the issue of firestopping was properly before the Review Board insofar as it related to the application of Part III of the USBC for lack of maintenance or unsafe conditions and all other fire safety issues were not properly before the Review Board. Ms. O'Bannon reconfirmed her seconding of the motion and the amended motion passed unanimously.

The Chairman then reopened the hearing. 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 Richard Clayton; Appeal No. 08-2:

After deliberation of the issue of whether to overturn the building official's decision that no USBC violation exists relative to the firestopping, Mr. Dawson moved to uphold the building official and City of Alexandria USBC board's decision that the lack of firestopping did not rise to the level of imminent hazard to constitute a violation of Section 105 of Part III of the USBC. The motion was seconded by Mr. Oglesby and passed with all Board members voting to affirm the motion except Mr. Epperson, who voted in opposition.

New Business

Decision: Appeal of Richard Clayton; Appeal No. 08-2 (continued):

After deliberation of the issue of whether to overturn the building official's decision that no USBC violation exists relative to the migration of cigarette smoke into Mr. Clayton condominium, Mr. Arnold moved to uphold the building official and City of Alexandria USBC board's decision that no USBC violation existed. The motion was seconded by Mr. Dawson and passed with all Board members voting to affirm the motion except Mr. Epperson, who voted in opposition.

Secretary's Report

Mr. Hodge discussed the Department's move to the Main Street Centre and the use of the Virginia Housing Center as the continued meeting location for the Review Board until the conference facilities are completed at the Main Street Centre. A brief update of the Department's development of the 2009 building and fire regulations was provided by Mr. Hodge.

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Allen at approximately 2:45 p.m.

Approved: September 18, 2009

Chairman, State Building Code Technical Review Board

Vernon W. Hodge

Secretary, State Building Code Technical Review Board