

STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING

November 19, 2010

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. John H. Epperson  
Mr. Joseph A. Kessler, III  
Mr. John A. Knepper, Jr.  
Mr. James N. Lowe  
Mr. Eric Mays  
Ms. Joanne D. Monday  
Ms. Patricia S. O'Bannon

Member Absent

Mr. James R. Dawson

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, and the Board's legal counsel, was also present.

Approval of Minutes

Mr. Oglesby moved to approve the minutes of the October 15, 2010 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Epperson and passed unanimously with Messrs. Arnold, Knepper and Lowe and Ms. O'Bannon abstaining from the vote.

Final Orders

Appeal of Leonard Harris; Appeal No. 09-16:

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. Crigler and passed unanimously with Messrs. Arnold, Knepper and Lowe and Ms. O'Bannon abstaining from the vote.

New Business

Appeal of Sukhwinder S. Ruprai; Appeal No. 10-9:

Ms. Monday arrived at approximately 10:10 a.m.

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned property located at 4346 Lee Highway owned by Sukhwinder S. Ruprai (Ruprai) and containing several buildings. The County of Arlington department for the enforcement of the Virginia Uniform Statewide Building Code (USBC) issued a violation notice to Ruprai for making alterations to the buildings without first obtaining a USBC building permit. Ruprai appealed the notice to the Arlington County Building Code Board of Appeals, which, after hearing, upheld the issuance of the notice.

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

Sukhwinder S. Ruprai  
Gary Greene, for Arlington County  
Kevin Woodward, for Arlington County  
Lorenzo Harris, for Arlington County

During testimony, the following exhibit was submitted by Arlington County without objection:

Exhibit A – Larger Photos of Property

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 Sukhwinder S. Ruprai; Appeal No. 10-9:

After deliberation, Mr. Lowe moved to uphold the decisions of the Arlington County USBC department and appeals board. The motion was seconded by Mr. Oglesby and passed unanimously.

New Business

Appeal of Ray Pylant, Building Official; Appeal No. 10-11:

Mr. Hodge informed the Chairman and Board members that the appeal had been withdrawn subsequent to the distribution of the agenda packages.

Appeal of Capital Investments, LLC; Appeal No. 10-12:

Mr. Arnold recused himself from the matter stating that he served on the appeals board which heard the case at the local government level.

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned a notice issued by the Fairfax County USBC department to Capital Investments, LLC (Capital) for making alterations to an existing house located at 7001 Catlett Street, in Springfield, without first obtaining a USBC permit. Capital appealed the citation to the Fairfax County Board of Building Code Appeals, which, after hearing, upheld the issuance of the notice.

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

Mike Thuot, witness for Capital  
Ray Pylant, building official for Fairfax County  
Melissa Smarr, for Fairfax County

Also present were:

Michelle Rosati, Esq., counsel for Capital  
Beth Teare, Esq., counsel for Fairfax County

During testimony, the following exhibits were submitted:

Appellant Exhibit A – Letter Affidavit  
Appellee Exhibit A – Real Estate Listing

New Business

Appeal of Capital Investments, LLC; Appeal No. 10-12 (continued):

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 Capital Investments, LLC; Appeal No. 10-12:

After deliberation, Mr. Mays moved to uphold the decisions of the Fairfax County USBC department and appeals board. The motion was seconded by Ms. O'Bannon. A vote was taken and the motion passed with only Messrs. Crigler and Lowe voting in opposition to the motion.

Appeal of Capital Investments, LLC; Appeal No. 10-14:

Prior to the convening of a hearing in this matter, Capital requested a continuance to the next meeting of the Review Board to have company representatives available to attend the hearing. The Fairfax County building official voiced an initial objection to the continuance request, but after discussion, withdrew the objection. The Chairman called for consideration of the continuance request by Board members and after discussion, Mr. Oglesby moved to approve the continuation request. The motion was seconded by Mr. Epperson and passed with only Mr. Brower voting in opposition.

Interpretations

An interpretation request from the City of Richmond was considered concerning the application of Sections 230.40 and 230.70 of the National Electrical Code (NEC). At a prior Review Board meeting where the request was considered, staff was directed to contact the National Fire Protection Association (NFPA), the organization responsible for the NEC, for a staff opinion concerning the issue. Mr. Hodge distributed correspondence from a senior electrical engineer with NFPA concerning the request. After discussion, Mr. Allen moved to issue the following interpretation:

Interpretations

GIVEN: When you have multiple tenants in a building such as apartments or retail shops, there will be one service drop coming to the building and it will connect to a row of meters. Often each meter will feed one disconnect or panel located at the individual tenant space as long as all of the service conductors are located on the exterior of the building. Each space will have fire separation. If there are ten tenant spaces then each would have its own disconnect located on the exterior of its space. This is more economical for the owners and tenants. All wiring ahead of the service disconnecting means is on the outside of the building.

QUESTION: Do all of the disconnects have to be grouped at the meters which will limit you to six disconnects at one location, or can one set of service conductors be run from each meter to each tenant space?

ANSWER: One set of service conductors may be run from each meter to each tenant space provided the service entrance conductors are on the outside of the building with disconnects in accordance with Section 230.70(A).

The motion was seconded by Mr. Epperson and passed unanimously. The interpretation will be designated as Interpretation No. 7/2006.

Secretary's Report

Board members reconsidered a draft letter to parties in appeals and a schedule giving timeframes for processing appeal cases prepared by staff and modified based on previous discussions. After consideration, Mr. Oglesby moved to approve the letter and schedule. The motion was seconded by Mr. Crigler and passed unanimously. The schedule giving timeframes for processing appeals will be included as an attachment in the minutes.

Mr. Hodge discussed future meeting dates and locations and briefed the Board members on the adoption of the 2009 building and fire regulations. In addition, there was discussion of the necessity for outlining the findings of the Review Board in the deliberation portion of appeal proceedings to assist staff in drafting final orders.



State Building Code Technical Review Board  
Timeframes for Processing Appeals

| Activity   | Number of Days from Receipt of Appeal Application if Informal Fact-Finding Conference is not Necessary | Number of Days from Receipt of Appeal Application if Informal Fact-Finding Conference is Necessary |
|--|--|--|
| Letter goes out to parties to provide additional information.  | 7 days   | 7 days   |
| Parties send in (or staff obtains) additional needed information.  | 21 days (14 days from last step)   | 21 days (14 days from last step)   |
| Staff review of case to determine whether informal fact-finding conference is necessary or whether appeal can be processed with just a staff document. | 35 days (14 days from last step)   | 35 days (14 days from last step)   |
| Informal fact-finding conference held.   | N/A  | 56 days (21 days from last step)   |
| Staff document sent to parties.  | 49 days (14 days from last step)   | 77 days (21 days from last step)   |
| Parties respond with objections, corrections or additions to staff document and submit written arguments and additional documents.                     | 70 days (21 days from last step)   | 98 days (21 days from last step)   |
| Hearing before Review Board held.  | 90 days (20 days from last step)   | 120 days (22 days from last step)  |

Notes:

- 1) The above timeframes for processing appeals are subject to the Review Board continuation policy which permits the parties to agree to continue appeal proceedings.
- 2) The above timeframes for processing appeals may not be able to be met if multiple appeals are received by the Office of the Review Board within a short span of time. In that case, processing will be in the order of the receipt of the appeals.