VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of the Cast Iron Soil Pipe Institute
Appeal No. 98-11

Decided: July 17, 1998

DECISION OF THE REVIEW BOARD

PROCEDURAL BACKGROUND

1. The Cast Iron Soil Pipe Institute, a not for profit trade association, brings this appeal to the Review Board pursuant to the Virginia Uniform Statewide Building Code ("USBC").

2. K. G. Johnson, Inc., a mechanical contracting company, requested a modification under the USBC to permit the use of cast iron plumbing pipe and fittings in a condominium project at 1641 International Drive, in Fairfax County. The supplier of the pipe and fittings was Richmond Foundry, Inc.

3. Fairfax USBC officials responded by conditionally approving the use of the pipe and fittings where it had already been installed in the first and second floors of the building. The approval was based on a test report submitted to Fairfax's USBC department. Fairfax refused to grant the modification for the installation of the pipe and fittings in the remainder of the building. Fairfax's position was that the pipe was not labeled properly in accordance with the Cast Iron Soil Pipe Institute's

standard, which is referenced by the USBC in Chapter 7 of the International Plumbing Code.

4. Richmond Foundry, Inc. filed an appeal of the partial denial of the modification request to the Fairfax County USBC appeals board. The Fairfax board heard the appeal and ruled to overturn the partial denial of the modification request and to approve the use of the pipe and fittings in the entire building.

5. The Cast Iron Soil and Pipe Institute appealed the Fairfax board's decision to the Review Board. The Review Board scheduled and conducted a preliminary hearing to decide if the Institute had standing to appeal. The hearing was attended by representatives of Fairfax County, Richmond Foundry and the Cast Iron and Soil Pipe Institute.

FINDINGS OF THE REVIEW BOARD

1. Appeals are governed by § 121.0 of the USBC. Sections 121.1 and 121.7 are applicable to the issue in question and state in pertinent part as follows:

> "121.1 Application for appeal: Appeals from the local building department concerning application of this code or refusal to grant a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a structure shall first lie to the local board of building code appeals established in this section."
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> "121.7 Appeal to the TRB: No appeal to the TRB shall lie prior to a final determination by the board of appeals."

2. In this case, K. G. Johnson, Inc, the mechanical contracting company, submitted the modification request to

Fairfax. Modification requests are permitted under the USBC, by § 106.2, and are to be submitted by the owner or the owner's representative. Richmond Foundry, Inc., the material supplier, appealed the partial refusal of the modification request to the Fairfax County USBC appeals board.

3. Both K. G. Johnson, Inc. and Richmond Foundry were acting as the owner's representatives as the modification request and appeal were to seek approval of a product the owner wanted to use in the building. The Cast Iron and Soil Pipe Institute opposes this position, holding the product to be in nonconformance with its standard.

4. The Cast Iron Soil and Pipe Institute lacks standing to appeal to the Review Board in accordance with § 121.1 of the USBC since the Institute did not submit the modification request to the County nor did it file the appeal of the refusal to grant the modification. The Institute also lacks standing to appeal to the Review Board under § 121.7 of the USBC since the Fairfax board made no final determination pursuant to an appeal by the Institute. Both §§ 121.1 and 121.7 of the USBC mirror the statutory language for appeals under the USBC in § 36-105 of the Code of Virginia.

FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the appeal of the Cast Iron and Soil Pipe Institute to be, and hereby is, dismissed

for lack of standing.

The appeal is denied.

Chairman, State Technical Review Board

10.18.98
Date Entered

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 Norman R. Crumpton, Secretary of the State Building Code Technical Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.