VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Jonathan Frank
Appeal No. 98-9

Decided: September 18, 1998

DECISION OF THE REVIEW BOARD

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 and § 103.1 of the USBC. 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 and § 121.1 of the USBC.

This appeal to the Review Board is from a decision of the County of Isle of Wight USBC Inspections Department ("code official"). The decision being appealed was a determination

that a proposed addition to an existing Econo-Lodge Motel would have to connect its plumbing drain pipes to a public forced sewer main instead of to an existing septic system.

The appeal was first brought to the County of Isle of Wight Board of Building Code Appeals by Jonathan Frank, the architect for the project. The County appeals board denied Frank's appeal An appeal to the Review Board was then filed by Frank.

FINDINGS OF THE REVIEW BOARD

The code official argues § 701.2 of the 1995 edition of the International Plumbing Code ("IPC"), a nationally recognized model code incorporated for use as part of the USBC, requires the drainage piping to be connected to a public sewer, where available. The code official states the Hampton Roads Sanitation District's forced sewer main, which is adjacent to the Econo-Lodge property is available for connection to the addition to the motel.

The Review Board finds the determination by the code official that § 701.2 of the IPC is applicable is incorrect. The IPC, as a referenced standard under the USBC, must be used in conjunction with USBC requirements. Section 102.4 of the USBC states, "Where differences occur provisions of this code and referenced standards, the provisions of this code apply." Section 2901.1 of the USBC, which addresses plumbing systems, states in pertinent part: "Water supply sources and sewage

disposal systems are regulated and approved by the Virginia Department of Health. Plumbing fixtures shall be connected to an approved water supply source and to an approved sanitary sewer or private sewage disposal system."

Therefore, the USBC permits connection to either a public sewer or private disposal system without mandating which. However, in this case, the County of Isle of Wight's County Attorney has submitted a letter indicating that there is a local ordinance which requires connection to the public sewer and that the County of Isle of Wight Board of Supervisors has looked at this particular project and determined the ordinance would require connection to the public sewer.

The USBC addresses this situation under § 108.1, which governs when a permit is to be issued and states as follows: "If the code official is satisfied that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, the code official shall issue a permit therefor as soon as practicable."

The action of the code official to deny the issuance of the permit due to the planned use of the septic system rather than connecting to the public forced sewer main is therefore correct, but the controlling provisions is § 108.1 of the USBC, not § 701.2 of the IPC.[1]

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[1] Review Board member Cantor opposed the vote to uphold the code official's decision to deny the permit stating connection to the private sewage disposal system satisfies USBC requirements.

FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of the code official to reject the permit application due to the drainage piping being proposed for connection to the septic system instead of the public forced sewer main to be, and hereby is, upheld.

The appeal is denied.

Michael A. Bonner, Sr.
Vice-Chairman, State Technical Review Board

10-16-98
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.