

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Esther B. Coleman and Beverly A. Bell
Appeal No. 11-14

Hearing Date: November 18, 2011

DECISION OF THE REVIEW BOARD

I. 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. 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. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

Esther B. Coleman and Beverly A. Bell are sisters and co-owners of a house located at 2304 North Main Street in the town of South Boston. The house had been vacant for a number of years and needed repair.

In February of 2010, town officials informed Ms. Bell that the house needed to be made safe and secure or demolished. During the next year or so, Mses. Coleman and Bell corresponded with the town officials attempting to resolve the situation by selling the property or performing repairs. A building permit under the USBC was obtained in May of 2011 to perform repairs.¹

In June of 2011, citing the lack of compliance with town ordinances, the town officials initiated a condemnation action to demolish the house. Mses. Coleman and Bell contacted the town officials seeking to appeal the condemnation action.

Based on a provision in the town ordinances, an appeal hearing was scheduled before the County of Halifax Board of Building Code Appeals. The appeal was heard in July of 2011 and the Halifax board gave Mses. Coleman and Bell a month or so to begin repairs and three months to complete them after beginning.

Mses. Coleman and Bell appealed to the Review Board in August of 2011.

III. FINDINGS OF THE REVIEW BOARD

¹The town of South Boston has deferred the enforcement of the USBC to the County of Halifax, so the permit was a County permit.

The Review Board raises the issue of whether the appeal is within its purview since the action taken here by the town is under a local condemnation ordinance.

Under its statutory authority in § 36-114 of the Code of Virginia, the Review Board is limited to only hearing appeals concerning the application of the USBC and other specified state building and fire regulations. There is no authority to hear appeals involving provisions of, or enforcement actions taken under, local ordinances.

A review of the town's ordinances and its history of enforcement of the USBC indicates that at one time the town had city status and did enforce the USBC. However, later there was a reversion back to town status and the town elected to defer USBC enforcement to the County of Halifax. The town apparently did retain a condemnation and unsafe building ordinance under the statutory authority granted in Chapter 9 of Title 15.2 of the Code of Virginia, or similar authority. The changing of the town's status and its related ordinances concerning USBC enforcement accounts for the confusion and conflicting language in the town's ordinances concerning the right of appeal.

While due to the inconsistencies in the town's ordinances, it is not clear what due process rights Mes. Coleman and Bell may have to challenge the action taken against their property by the

Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.