VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Keystone-RM, LLC (Keystone Builders)
Appeal No. 09-3

Hearing Date: September 18, 2009

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.

drainage problems on a lot are outside of the purview of the USBC.

The building official relies on the wording in the first sentence of § R401.3 of the IRC[1] which states that "[s]urface drainage shall be diverted to a storm sewer conveyance or other approved point of collection so as to not create a hazard."

Keystone argues that § 401.3 of the IRC is part of the overall section of the IRC regulating foundation construction, and therefore, unless the drainage problem can be shown to affect the foundation of the house, no violation is present.

No evidence was submitted to indicate that the drainage problems had any adverse effect on the foundation of the home as the standing water was well away from the home.

The Review Board finds that the purpose of both the USBC, in § 102.1, and the use of the IRC as part of the USBC, is to regulate the construction of buildings and structures. Therefore, for the language in § R401.3 of the IRC to be applicable under the USBC, it must be shown that the hazard created by the lack of diverting the surface water is detrimental to the foundation of the home. This was not shown.

Further, § R401.1 of the IRC addresses the application of the entire section (R401), of which § R401.3 is a part, and the

[1] The 2003 edition of the IRC was effective when the house was constructed; however, the wording in both the 2003 edition and the current (2006) edition is the same.

entire chapter (Chapter 4, Foundations) of the IRC, and states that "[t]he provisions of this chapter shall control the design and construction of the foundation and foundation spaces for all buildings."

In addition, to the extent that it may be argued that the language in the IRC could be read to apply to areas of the lot which cannot be shown to affect a building, §101.6 of the USBC states that the administrative provisions of the USBC, which would include the purpose statement in § 102.1, supersede any conflicting provisions of the codes and standards referenced.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decisions of the building official and the County USBC board that a USBC violation exists relative to the drainage on the lot in question to be, and hereby are, overturned.

/s/*
Chairman, State Technical Review Board

11/20/2009
Date Entered

*Note: The original signed final order is available from Review Board staff.

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