

STATE BUILDING CODE TECHNICAL REVIEW BOARD  
MEETING

February 19, 2016

RICHMOND, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman  
Mr. W. Keith Brower  
Mr. Vince Butler  
Mr. J. Daniel Crigler  
Mr. James R. Dawson  
Mr. John H. Epperson, PE  
Mr. Alan D. Givens  
Mr. Eric Mays  
Ms. Joanne D. Monday  
Ms. Patricia S. O'Bannon  
Mr. W. Shaun Pharr, Esq.

Members Absent

Mr. Matthew Arnold  
Mr. Joseph A. Kessler, III  
Mr. John A. Knepper

- 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 the Secretary, Alan W. McMahan, Secretary, and constituted a quorum. Mr. Justin I. Bell, Assistant Attorney General in the Office of the Attorney General, was present and serving as the Board's legal counsel.
- Approval of Minutes              After consideration and a few editorial corrections, Mr. Epperson moved to approve the minutes of the October 16, 2015 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Dawson and passed unanimously with Mr. Butler abstaining from the vote.
- Public Comment                      The Chairman opened the floor for public comment. The Secretary reported that no one was preregistered. The Chairman closed the public comment period.

Final Orders

Appeal of International Technology Industry, Inc.; Appeal No. 15-10

After consideration and two editorial corrections, Mr. Epperson 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 Mr. Butler abstaining from the vote.

Ms. Monday and Ms. O'Bannon arrived at approximately 10:15 a.m.

New Business

Appeal of Starr Construction, Inc.; Appeal No. 15-6:

An appeal hearing convened with the Chairman serving as the presiding officer. The appeal concerned alleged violations of the 2009 Virginia Uniform Statewide Building Code (USBC) issue as it relates to the installation of composite siding on a home in Fairfax County.

Before testimony began, the members discussed whether to hear the appeal in the absence of the appellant. After consideration, Mr. Dawson moved to hear the appeal because of the due diligence efforts of the Review Board staff to notify the appellant of the hearing. The motion was seconded by Mr. Mays and passed unanimously with Ms. Monday and Ms. O'Bannon abstaining due to their arrival subsequent to the discussion.

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

James Makely, for Fairfax County  
Melissa Smarr, for Fairfax County

Also present were:

Paul Emerick, Esq., counsel for Fairfax County

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision

Appeal of Starr Construction, Inc.; Appeal No. 15-6 (cont'd.):

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 Starr Construction, Inc.; Appeal No. 15-6:

After deliberation, Mr. Mays moved to uphold the decision of the building official and the local appeals board that USBC violations exist concerning the installation of the composite siding and the porch ceiling. The motion was seconded by Mr. Dawson and passed with Mr. Pharr voting in opposition.

Mr. Givens arrived at approximately 11:00 a.m.

Appeals of the City of Richmond; Appeal Nos. 15-12 and 15-13:

An appeal hearing convened with the Chairman serving as the presiding officer. The appeal concerned alleged violations of the 2006 Virginia Maintenance Code (VMC) as it relates to the alleged lack of maintenance to heating facilities in two manufactured homes.

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

Mark Bridgman, for the City of Richmond  
Doug Murrow, for the City of Richmond  
John Walsh, for the City of Richmond

Also present were:

Phillip T. Storey, Esq., counsel for the Appellee

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision

Appeals of the City of Richmond; Appeal Nos. 15-12 and 15-13  
(cont'd.):

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 – Appeals of the City of Richmond; Appeal Nos. 15-12 and 15-13;

After consideration of both appeals, Mr. Mays moved to overturn the local appeals board and uphold the Notice and direct the city's property maintenance officer to reissue the notice with a provision that the citation regarding a performance standard for heat be removed as it relates only to rental units. The motion was seconded by Mr. Dawson.

After discussion, and prior to a vote on the motion, Mr. Mays made the following motion:

“Mr. Chairman, I move that this meeting be recessed and that the Board immediately reconvene in executive session for the purpose of consultation with legal counsel and/or briefings by staff members and attorneys pertaining to actual and/or potential litigation and other legal matters within the jurisdiction of the Board as permitted by Section A, Paragraph (7) of Section 2.2-3711 of the Code of Virginia. This motion is made with respect to the cases identified as the Appeal of the Appeals of the City of Richmond; Appeal Nos. 15-12 and 15-13.”

The motion was seconded by Ms. O'Bannon and passed unanimously. Subsequently, Ms. O'Bannon moved for the Review Board to reconvene in open session. The motion was seconded by Mr. Dawson and passed unanimously. Mr. Justin I. Bell, Assistant Attorney General and the Board's legal counsel was present.

The Chairman made the following statement:

Decision – Appeals of the City of Richmond; Appeal Nos. 15-12 and 15-13 (cont'd.):

“The Board will now reconvene in open session with a roll call to acknowledge those present. By answering “Yes” to the roll call, Board members will be certifying that to the best of their knowledge only public business matters lawfully exempted from open meeting requirements were discussed or considered and that only such public business matters as were identified in the motion by which the executive closed meeting was convened were heard, discussed or considered in the closed meeting. Any member who believes that there was a departure from the aforementioned conditions shall so state prior to the roll call, indicating the substance of the departure that, in his judgment, has taken place.”

The Secretary called the roll and all members responded with “Yes.”

Prior to a vote on the preceding motion, Mr. Mays offered a substitute motion to overturn to local appeals board because VMC Section 105.1 applies to owner-occupied dwellings. The motion was seconded by Dawson. The motion failed with five members voting “yea” and the rest of the board members voting “nay.” Then, Mr. Pharr moved to uphold the local appeals board due to insufficient evidence that the homes under appeal lacked heating facilities. The motion was seconded Mr. Butler and passed with six members voting “yea” and five members voting “nay.”

Secretary’s Report

The Secretary reviewed the proposed meeting dates for 2016 and Mr. Epperson moved to accept the proposed dates. The motion was seconded by Mr. Crigler and passed unanimously. The Secretary also shared a framed certificate of appreciation which will be presented to

the Board's past secretary, Vernon N. Hodge. The Secretary also informed Board members that Cindy Davis was recently hired as the new Deputy Director of the Division of Building & Fire Regulation. Mr. Bell provided Review Board members with an update concerning recent circuit court decisions.

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Allen at approximately 3:00 p.m.

Approved: May 20, 2016

/s/

Chairman, State Building Code Technical Review Board

/s/

Secretary, State Building Code Technical Review Board