

STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING

November 21, 2014

VIRGINIA HOUSING CENTER  
GLEN ALLEN, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman  
Mr. Vince Butler  
Mr. J. Daniel Crigler  
Mr. James R. Dawson  
Mr. John H. Epperson  
Mr. Joseph A. Kessler, III  
Mr. John A. Knepper, Jr.  
Ms. Joanne D. Monday

Members Absent

Mr. Matthew Arnold  
Mr. W. Keith Brower, Jr.  
Mr. Eric Mays  
Ms. Patricia S. O'Bannon

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, Mr. Vernon W. Hodge. Mr. James M. Flaherty, Assistant Attorney General in the Office of the Attorney General, was present and serving as the Board's legal counsel.

Election of Officers

The Chairman opened the floor for nominations of the Office of Vice-Chairman to fill the remaining term of the office due to a resignation. Mr. Crigler nominated Mr. Dawson. As no other nominations came forth, the Chairman closed the nominations and a vote was taken. The vote to elect Mr. Dawson to fill the remaining term of the Office of Vice-Chairman was approved unanimously.

Approval of Minutes

After consideration of the June 20, 2014 draft minutes in the agenda package, Mr. Epperson moved to approve the minutes as presented. The motion was seconded by Ms. Monday and passed unanimously with Messrs. Dawson, Kessler and Knepper abstaining from the vote.

Public Comment

The Chairman opened the floor for public comment. Mr. Hodge reported that no one was preregistered. The Chairman closed the public comment period.

Final Orders

Appeal of John A. Parrish and Maria P. Tungol; Appeal No. 13-8:

After consideration of the final order, Mr. Epperson moved to approve the order as presented in the agenda package. The motion was seconded by Mr. Crigler and passed unanimously with Messrs. Dawson, Kessler and Knepper abstaining from the vote.

New Business

Appeal of Poplar Place Homeowners Association; Appeal No. 14-11:

A preliminary hearing as to jurisdiction convened with the Chairman serving as the presiding officer. The preliminary hearing concerned whether the Review Board had jurisdiction to hear an appeal of a citation under Chapter 62 of the Fairfax County Code by the Fairfax County Office of the Fire Marshal requiring the Poplar Place Homeowners Association, in McLean, to provide a fire lane on the road serving its subdivision. The citation was first appealed by the homeowners association to the Fairfax County Board of Building Code Appeals, which ruled to uphold the citation.

The following person was sworn in and given an opportunity to present testimony:

George Hollingsworth, for Fairfax County

Also present were:

Paul Emerick, Esq., legal counsel for Fairfax County  
Cherie Halyard, Esq., co-legal counsel for Fairfax County

No exhibits were submitted to supplement the documents in the Review Board members' agenda package.

After testimony concluded, the Chairman closed the preliminary 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 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.

New Business

Decision – Appeal of Poplar Place Homeowners Association; Appeal No. 14-11:

After deliberation, Mr. Dawson moved to dismiss the appeal due to lack of jurisdiction. The motion was seconded by Mr. Kessler and passed unanimously.

Appeal of Anchor Homes, LLC; Appeal No. 14-3:

The Secretary informed the Review Board members that the appeal had been withdrawn subsequent to the agenda package being distributed. After discussion, Mr. Kessler made a motion to place the appeal among the ended causes of the Review Board. The motion was seconded by Mr. Crigler and passed unanimously.

Appeal of Gregory S. Mercer; Appeal No. 14-7:

An appeal hearing convened with the Chairman serving as the presiding officer. Mr. Mercer, owner of a townhome at 3114 Borge Street, in Oakton, was appealing citations under the Virginia Maintenance Code issued by the Fairfax County Department of Code Compliance (FCDCC) for the lack of maintenance of several areas on the outside of the townhome. The appeal was a further appeal from a decision of the Fairfax County Board of Building Code Appeals (County appeals board), which upheld the citations but granted Mr. Mercer an additional 60 days to correct the violations.

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

Greg Mercer  
Elizabeth Perry, for Fairfax County

Also present were:

Paul Emerick, Esq., legal counsel for Fairfax County  
Cherie Halyard, Esq., co-legal counsel for Fairfax County

No exhibits were submitted to supplement the documents in the Review Board members' agenda package.

New Business

Appeal of Gregory S. Mercer; Appeal No. 14-7 (continued):

Testimony was taken concerning subpoena requests submitted by Mr. Mercer, after which the hearing was closed for deliberation. Mr. Epperson made a motion that the subpoenas were not necessary. The motion was seconded by Mr. Dawson and passed unanimously.

The Chairman reopened the hearing for testimony on the merits of the appeal. Mr. Mercer read a prepared statement, copies of which were submitted for the Review Board members and FCDCC.

Representatives of FCDCC testified that an extension of the compliance deadline to May 1, 2015 would be acceptable due to the winter season making it difficult to do repairs on the outside of the townhome.

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 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 Gregory S. Mercer; Appeal No. 14-7:

After deliberation, Mr. Epperson moved to uphold the citations issued by FCDCC and the upholding of the citations by the County appeals board, but to further modify the extension for compliance granted by the County appeals board to May 1, 2015. Mr. Epperson further motioned that no other issues were properly before the Review Board. The motion was seconded by Mr. Crigler and passed unanimously.

Secretary's Report

The Secretary informed Review Board members of training opportunities for the 2012 building and fire regulations of the Department and there was discussion concerning training for the International Existing Building Code as used in the Virginia Rehabilitation Code.

Secretary's Report

In addition, the Secretary advised that the proclamation commending former Vice-Chairman Oglesby's service to the Review Board had been professionally framed and combined with a certificate of service from the Department and delivered to his home.

Adjournment

There being no further business, the meeting was adjourned by motion of Ms. Monday at approximately 12:15 p.m.

Approved: March 20, 2015

/s/

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Chairman, State Building Code Technical Review Board

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Secretary, State Building Code Technical Review Board