

VIRGINIA:

CORRECTED

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

In RE: Appeal of Princeton Homes Corporation
Appeal No. 95-10

MAY 19 1995

Decided _____

STATEMENT OF THE APPEAL

Mr. R.H. Jiranek, president of Princeton Homes Corporation (referred to herein as "Princeton Homes") brings this appeal to the State Building Code Technical Review Board (referred to herein as "the Review Board") under Part One, Industrialized Buildings, of the Industrialized Building and Manufactured Home Safety Regulations (referred to herein as the industrialized building code or "the IBC"). The appeal is relative to two modular homes (one of which is referred to herein as "Connie's house" and the other as "Danny's house") sold by Princeton Homes to Joseph and Linda Patrick (referred to herein as "the owners") of Spotsylvania County, Virginia. The appeal concerns enforcement action taken by the Department of Housing and Community Development's Code Enforcement and Manufactured Housing Office (referred to herein as "the Department" or "the administrator").

FACTS

1. In addition to the administrative provisions of the IBC, the technical standards under the IBC to determine compliance for the construction in question are the 1990 editions of the BOCA National Model Codes (referred to herein as "the BOCA Code").
2. The Department, through a letter dated March 23, 1995, holds

Princeton Homes as the party responsible for three violations of the IBC in Connie's house and one violation of the IBC in Danny's house. Princeton Homes is ordered to correct the violations within 21 calendar days of the receipt of the letter and to notify the Department when the corrections are being made.

3. Princeton Homes appeals that the violations noted by the Department are not violations of the IBC and that Princeton Homes is not the party responsible for the violations noted by the Department since the owners refuse to permit Princeton Homes or an independent contractor hired by Princeton Homes to correct the violations noted by the Department.

4. Princeton Homes appeals the 21 calendar day time frame established by the Department and the order to notify the Department when the corrections are being made only to the extent that they relate to the determination of whether there are violations of the IBC present and to whether Princeton Homes is the party responsible for the violations noted by the Department.

5. Princeton Homes is a proper appellant under the IBC and meets the time frame established for appealing to the Review Board.

6. The violations the Department holds Princeton Homes responsible for in Connie's house as set out in the March 23, 1995 letter are summarized as follows:

a. The subfloor in the kitchen, in the small bedroom in the front and in the hall near the door to the master bedroom is not properly fastened and must be re-fastened as required in the May 20, 1994 letter from NTA Inc. to the

Department.

b. The joint between the top of the tub and wall in the hall bathroom must be sealed in accordance with § P-1204.4 of the BOCA Code.

c. The joint between the bottom of the tub and floor in the master bathroom must be sealed in accordance with § P-1204.4 of the BOCA Code.

7. The violation the Department holds Princeton Homes responsible for in Danny's house as set out in the March 23, 1995 letter is summarized as follows:

a. The subfloor in the kitchen and hall is not properly fastened and must be re-fastened as required in the May 20, 1994 letter from NTA Inc. to the Department.

8. The provisions of the IBC relative to the appeal are:

a. "101.2.3. Notice of violation: Where the administrator finds any violation of the provisions of these regulations, a notice of violation shall be issued. This notice of violation shall order the party responsible to bring the unit into compliance, within a reasonable time."

b. Appendix C, Recommended Fastening Schedule, of the BOCA Code:

<u>"Building Element</u>	<u>Nail size/type</u>	<u>Number/location</u>
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Plywood subflooring:

(5/8", 3/4")	8d common or 6d annular or spiral thread	6" o.c. direct and 12" o.c. intermediate"
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c. Section P-1204.4 of the BOCA Code:

"P-1204.4 Water-tight joints: Joints formed where fixtures come in contact with walls or floors shall be sealed."

FINDINGS OF THE REVIEW BOARD

1. Princeton Homes acknowledged for the record at the hearing

before the Review Board that they are not contesting the violations of § P-1204.4 of the BOCA Code in Connie's house.

2. The construction in question in both homes relates to the attachment of the subflooring to the wood floor joists.

3. Testimony and documents submitted evidenced that although attempts had been made by Princeton Homes to repair the problems, the administrator subsequently revisited the site and determined that violations still existed.

4. No evidence or testimony was submitted to indicate that any additional repair work has been undertaken to correct the violations.

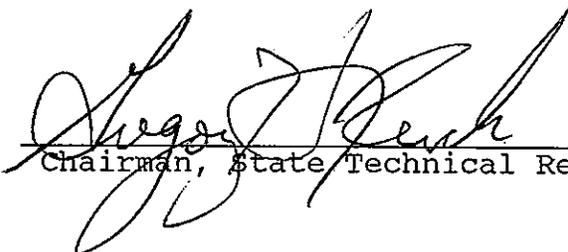
5. Princeton Homes argues that moisture under the homes may have either caused or contributed to the extent of the violations. The Review Board rejects that argument due to (i) the inspection performed by the owner at the time the homes were delivered which indicated squeaky floors, (ii) the inspection by the county building inspector shortly after the homes were installed indicating improper nailing patterns in the fastening of the subfloor and numerous nails missing joists, and (iii) the initial on-site inspection by the administrator and representative of the compliance assurance agency verifying that problems with the attachment of the subflooring exists.

6. Princeton Homes states that they are not the party responsible for the violations under § 101.2.3 of the industrialized building code since the owners refuse to permit access to the property for repairs to be made. Section 101.2.3, when read in its entirety, clearly indicates that the party

responsible is the party who violates any of the provisions of the regulation. Princeton Homes is responsible for the construction of the homes in question and for the improper attachment of the subfloor to the floor joists and is the party responsible for the violations noted by the administrator. Necessary enforcement or administrative actions to compel correction of the violations or consideration of the inability of a violator to remedy the violations are within the sound discretion of the administrator in accordance with § 101.0 of the industrialized building code.

FINAL ORDER

The appeal having been given due regard and in consideration of the "Findings of the Review Board" set out above, the Review Board hereby orders that the decision of the administrator in the March 23, 1995 letter, concerning those violations being appealed by Princeton Homes, be, and hereby is, upheld. The appeal is denied.



Chairman, State Technical Review Board

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.