

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of Fairfax County  
Appeal No. 12-7

Hearing Date: May 17, 2013

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 regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 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

In September of 2008, Mehdi and Marylynn Aminrazavi, owners of property in Lorton, Virginia, in Fairfax County, contracted with Metropolitan Investment Group, LLC and its president, David Guglielmi, to construct a new house for the Aminrazavis at 6061 River Drive.

The contract required the Aminrazavis to obtain the building permit to construct the house from the Fairfax County Department of Public Works and Environmental Services (County building department), which they did in April of 2009.

Guglielmi then had the house constructed utilizing various subcontractors and the final inspection and certificate of occupancy approved by the County building department under the 2006 edition of Part I of the Virginia Uniform Statewide Building Code, known as the Virginia Construction Code, or VCC, in May of 2010.

In November of 2011, in response to a complaint from the Aminrazavis, a representative of the County building department re-inspected the house and discovered a number of violations of the VCC. A corrective work order under the VCC was issued to Guglielmi in December of 2011 and after the time period for correcting the violations had expired, a notice of violation under the VCC was issued to Guglielmi in April of 2012.

Guglielmi appealed the notice of violation to the County of Fairfax Board of Building Code Appeals (County appeals board), which heard his appeal in August of 2012 and ruled that Guglielmi was not responsible for the VCC violations since the

Aminrazavis obtained the VCC building permit and Guglielmi was not qualified to obtain the permit<sup>1</sup>.

The County building department then appealed the decision of the County appeals board to the Review Board.

Review Board staff conducted an informal fact-finding conference in November of 2012, attended by the Aminrazavis, Guglielmi and representatives of the County building department. The facts and issues in the appeal were summarized in a document drafted by Review Board staff and distributed to the parties. Opportunity was given for the submittal of corrections, additions or objections to the staff document and the submittal of additional documents and written arguments and a hearing before the Review Board was scheduled.

### III. FINDINGS OF THE REVIEW BOARD

With respect to the issue of whether the County appeals erred in overturning the County building department's decision to issue the VCC notice of violation to Guglielmi, the Review Board finds that Guglielmi would be the responsible party under the VCC for any cited violations determined to be valid citations and that the County building department was correct in

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<sup>1</sup>While the County appeals board did not specify why Guglielmi was not qualified to obtain the permit, testimony at the hearing before the Review Board indicated that Guglielmi was only licensed as a Class C contractor at the time the contract was signed. At the time of the hearing before the Review Board, Guglielmi had obtained a Class A contractor's license.

issuing the notice of violation to Guglielmi, for the following reasons.

VCC Section 115.1<sup>2</sup> establishes that it is unlawful for any owner or any other person, firm or corporation, to violate any provision of the VCC. Section 115.2 requires a VCC notice of violation to be issued to the party responsible for the violation.

The violations cited by the County building department are for what the County building department determined to be incorrect construction of various parts of the Aminrazavis' house. Guglielmi contracted with the Aminrazavis to construct the house and did so through the use of subcontractors. The Aminrazavis obtained the VCC building permit in their name only due to a provision in the contract with Guglielmi. There was no evidence that the Aminrazavis were, or were ever intended to be, involved in the actual construction of the house. Therefore, it is Guglielmi, rather than the Aminrazavis, that would be responsible for any violations of the VCC relating to how the house was constructed.

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<sup>2</sup>While the Aminrazavis' house was constructed under the 2006 edition of the VCC, the Review Board has previously ruled that administrative actions are subject to edition of the VCC in effect when such administrative actions take place. In this case, the administrative provisions of the 2009 edition of the VCC are applicable.

With respect to the merits of each cited violation issued by the County building department<sup>3</sup>, the Review Board finds as follows:

**Violation 1: Fireblocking** - The house was constructed with a large vertical chase allegedly for the future installation of a dumbwaiter. However, as constructed, it creates a violation of Section R602.8 of the International Residential Code (IRC), the nationally recognized model code incorporated by reference in the VCC to provide the technical requirements for the construction of houses. Section R602.8 prohibits concealed draft openings between stories and between the top story and the roof space.

**Violation 2: Mounting of Electrical Equipment** - There was at least one electrical outlet box in the attic which was not fastened to any support. This is a violation of Section E3304.7 of the IRC which requires electrical equipment to be firmly secured to the surface on which it is mounted.

**Violation 3: Support Spacing** - There were electrical wires in the attic without proper support in violation of Table 3702.1 of the IRC.

**Violation 4: Corrugated Stainless Steel Tubing (CSST) Support** - The gas piping in the attic connecting to the furnace was unsupported in violation of Section G2418.2 of the IRC.

**Violation 5: Covers and Canopies** - Guglielmi stipulated agreement during the hearing that electrical outlet boxes in the attic did not have cover plates in violation of Section E3806.9 of the IRC.

**Violation 6: Continuity of Handrails (interior)** - The handrail on the stairs from the front door area to the great room did not extend to a point above the top riser of the stairs creating a violation of Section R311.5.6.2 of the IRC.

**Violation 7: Handrails (exterior)** - There was no handrail on the exterior main entrance stairs in violation of Section R311.5.6 of the IRC.

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<sup>3</sup>The cited violations are enumerated in accordance with the April 27, 2012 notice of violation issued by the County building department, as revised February 4, 2013.

**Violation 8: Exposed Installation Facing** - The title of this violation on the County building department's notice of violation was incorrectly worded as "Installation" rather than "Insulation;" however, the description of the violation provided in the notice of violation was sufficiently clear. Guglielmi stipulated agreement during the hearing that the paper facing on the insulation in the lower level utility room was exposed in violation of Section R3016 of the IRC.

**Violation 9: Improper Fasteners in Deck** - The testimony and evidence submitted was conclusive that the fasteners used on the exterior deck and stairs were not corrosion-resistant as required by Section R319.3 of the IRC.

**Violation 10: Deck Beam Bearing** - The deck beams were not properly supported and anchored as required by Section R501.2 and R404.1.5.1(5) of the IRC.

**Violations 11, 12 and 13** - These violations were withdrawn by the County building department prior to or during the hearing; therefore, no ruling is necessary concerning them.

#### IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of the County appeal board to be, and hereby is, overturned and the notice of violation issued by the County building department for violations numbered one through ten to be, and hereby is, upheld.

/s/\*

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Chairman, State Technical Review Board

Sept. 20, 2013

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Date Entered

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.

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