

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, September 14, 2018

Virginia Housing Center
4224 Cox Road, Glen Allen, Virginia

- I. Roll Call **(TAB 1)**

- II. Approval of August 17, 2018 Minutes **(TAB 2)**

- III. Approval of Final Order **(TAB 3)**

In Re: Appeal of KEBCO Enterprises, Inc. (Kenneth Bullock)
Appeal No 18-03

- IV. Approval of Final Order **(TAB 4)**

In Re: Appeal of Joshua and Makiba Gaines
Appeal No 18-05

- V. Public Comment

- VI. Appeal Hearing **(TAB 5)**

In Re: Appeal of Harvey Dupree (A...H Variety)
Appeal No. 18-06

- VII. Appeal Hearing **(TAB 6)**

In Re: Appeal of Jack D. Singleton
Appeal No. 18-09

- VIII. Appeal Hearing **(TAB 7)**

In Re: Appeal of Anthony Grant Jr.
Appeal No. 18-10

- IX. Secretary's Report

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

James R. Dawson, Chairman
(Virginia Fire Chiefs Association)

W. Shaun Pharr, Esq., Vice-Chairman
(The Apartment and Office Building Association of Metropolitan Washington)

Vince Butler
(Virginia Home Builders Association)

J. Daniel Crigler
(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

Alan D. Givens
(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

Christina Jackson
(Commonwealth at large)

Joseph A. Kessler, III
(Associated General Contractors)

Eric Mays
(Virginia Building and Code Officials Association)

E.G. “Rudy” Middleton
(Electrical Contractor)

Joanne D. Monday
(Virginia Building Owners and Managers Association)

Patricia S. O’Bannon
(Commonwealth at large)

J. Kenneth Payne, Jr., AIA, LEED AP BD+C
(American Institute of Architects Virginia)

Richard C. Witt
(Virginia Building and Code Officials Association)

Aaron Zdinak, PE
(Virginia Society of Professional Engineers)

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**STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING MINUTES
August 17, 2018
Henrico, Virginia**

Members Present

Mr. W. Shaun Pharr, Esq., Vice-Chairman
Mr. Daniel Crigler
Mr. Alan D. Givens
Mr. Joseph Kessler
Mr. Eric Mays, PE
Ms. Joanne Monday
Ms. Patricia S. O'Bannon
Mr. J. Kenneth Payne, Jr.
Mr. Richard C. Witt
Mr. Aaron Zdinak, PE

Members Absent

Mr. James R. Dawson, Chairman
Mr. Vince Butler
Mr. E. G. Middleton, III

Call to Order

The meeting of the State Building Code Technical Review Board ("Review Board") was called to order at approximately 10:00 a.m. by Secretary Travis Luter.

Roll Call

The roll was called by Mr. Luter and a quorum was present. Mr. Justin I. Bell, legal counsel for the Board from the Attorney General's Office, was also present.

Approval of Minutes

The draft minutes of the June 15, 2018 meeting in the Review Board members' agenda package were considered. Ms. O'Bannon moved to approve the minutes as presented. The motion was seconded by Mr. Witt and passed unanimously with Ms. Monday and Messrs. Mays and Kessler abstaining.

Final Orders

Appeal of Unity Building, LLC. (Pooya Jamalreza)
Appeal No. 17-12:

After review and consideration of the final order presented in the agenda package, Mr. Witt moved to conditionally approve the final order with the editorial change presented by Mr. Payne to remove "*it is unreasonable to believe the homeowner hired a different contractor to perform the work which was listed in the Unity Building LLC contract and on the paid invoices*" and replace it with "*there was no evidence or testimony demonstrating otherwise.*" Ms. Monday seconded the motion and it passed unanimously with Ms. Monday and Messrs. Mays and Kessler abstaining.

A subsequent motion was made by Mr. Witt to give the Attorney General representative, Justin I. Bell, approval to proceed to federal court for relief from the federal bankruptcy stay for Appeal No. 17-12

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for Unity Building, LLC. The motion was seconded by Ms. Monday and approved unanimously.

Appeal of Dr. J. Matthew Hogendobler
Appeal No. 17-13:

After consideration of the final order presented in the agenda package, Mr. Crigler moved to approve the final order as written. Mr. Witt seconded the motion and it passed unanimously with Ms. Monday and Messrs. Mays and Kessler abstaining.

Public Comment

Vice-Chairman Pharr opened the meeting for public comment. Mr. Luter advised that Anthony and Ashley Grant had pre-registered to speak. The Grants opted to wait to speak as a party to the KEBCO Enterprises, Inc. appeal during the hearing for that appeal. The Secretary reported no one else had pre-registered. The Vice-Chairman closed the public comment period.

New Business

Appeal of (Timeliness) KEBCO Enterprises, Inc. (Kenneth Bullock);
Appeal No. 18-03

A hearing convened with Vice-Chairman Pharr serving as the presiding officer. The issue to be resolved was whether KEBCO Enterprises, LLC. (Kenneth Bullock) filed a timely appeal of enforcement action under Part I of the Virginia Uniform Statewide Building Code (the Virginia Construction Code) by the City of Suffolk concerning the structure located at 4281 Cole Avenue in the City of Suffolk.

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

Stanley Skinner
Susan A. Gardner

Also present was:

Kalli Jackson, Esq., legal counsel for the City of Suffolk

Mr. Luter informed the Review Board members that KEBCO Enterprises, Inc. had been properly notified of the hearing; however, they were not in attendance.

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Grant spoke at the conclusion of testimony and reiterated the fact that violations due exist on the home located at 4281 Cole Avenue in the City of Suffolk.

After testimony concluded, Vice-Chairman Pharr 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 (Timeliness) KEBCO Enterprises, Inc. (Kenneth Bullock); Appeal No. 18-03

After deliberations, Mr. Payne moved to dismiss the appeal as untimely. The motion was seconded by Mr. Crigler and passed unanimously.

Appeal Joshua and Makiba Gaines; Appeal No. 18-05:

A request for a continuance by the City of Norfolk was presented to Vice-Chairman Pharr. Vice-Chairman Pharr denied the request and proceeded with the hearing.

A hearing convened with Vice-Chairman Pharr serving as the presiding officer. The appeal involved citations under Part III of the Virginia Uniform Statewide Building Code (the Virginia Maintenance Code) related to the home owned by Joshua and Makiba Gaines located at 2410 West Avenue in the City of Norfolk.

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

Joshua Gaines
Makiba Gaines
Sherry Johnson
Rick Fortner

Also present was:

Adam Melita, Esq., legal counsel for the City of Norfolk

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The following exhibit was submitted by Joshua and Makiba Gaines, without objection, to supplement the Review Board member's agenda package.

Appellant Exhibit A – Invoice from Michael and Sons indicating why they would not enter the property.

After testimony concluded, Vice-Chairman Pharr 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 Joshua and Makiba Gaines; Appeal No. 18-05:

After deliberation Mr. Witt moved to uphold the Notice of Violation by the Building Official and the decision of the local board on the placarding of the property due to the cited violations to VMC sections 603.1 and 605.1, the City unwillingness to re-inspection, and the decision to require the installation of the heating system. The motion was seconded by Mr. Mays.

After further deliberation Mr. Witt agreed to withdraw his earlier motion and to separate the motions for clarity. Mr. Witt then moved to Remand the placarding of the property back to the local board to re-issue the placard in full conformance with Section 105 of the Virginia Maintenance Code with a strong suggestion to add the following language to the placard: *"After a structure is placarded, entering the structure shall be prohibited except as authorized by the code official to make inspections, to perform required repairs or to demolish the structure."* The motion was seconded by Mr. Mays and passed with Ms. Monday and Messrs. Crigler and Zdinak voting in opposition.

Mr. Witt moved to uphold the Building Official and the local board on the issuance of the Notice of Violation for the cited violations to VMC sections 603.1 and 605.1 and the decision to require the installation of the heating system. The motion was seconded by Mr. Mays and passed unanimously.

Mr. Mays moved the item #2 of the Gaineses specific statement of relief sought which read: *"the City of Norfolk failed to officially re-inspect the property and issue a new notice of violation and correction notice after the Gaineses ameliorated defects previously*

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cited under §§ 603.1 and 605.1” was moot. The motion was seconded by Mr. Witt and passed unanimously.

Interpretations

An interpretation request from William C. Yeager of Montgomery County was considered concerning the use of a farm building for a brewery.

Mr. Luter advised the Board of their policy of not hearing an interpretation when a pending appeal or potential appeal situation is possible.

After a brief discussion, the board decided not to issue an interpretation due to potential for an appeal situation.

Secretary’s Report

Mr. Luter informed the board members that a letter and certificate of appreciation had been assembled for Mr. Keith Brower who had resigned from the Review Board earlier this year. Mr. Luter further stated that the letter and certificate would be mailed to Mr. Brower.

Mr. Luter informed the board members that Ms. Cindy Davis, Deputy Director of The Division of Building and Fire Regulation, had tasked him with researching the historical minutes of the Review Board in search of the policies the Review Board had established in the past with the intent to put the policies into a formal written policy format. The Board agreed it was a great idea and directed Mr. Luter to proceed with drafting all of the Board policies found during his research and bringing them to the Board for review and approval. Mr. Luter indicated he planned to have them ready by the September 14, 2018 meeting if possible, but certainly no later than the November 16, 2018 in an effort to have them in place for the start of 2019. The board members agreed that was a good plan.

Mr. Luter informed the Board that the next meeting would be September 14, 2018 and currently there were three cases on the docket.

Mr. Justin Bell, legal counsel from the Attorney General’s office, gave the Review Board members an overview of the status of appeals further appealed to court.

Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 3:30 p.m.

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Approved: September 14, 2018

Chairman, State Building Code Technical Review Board

Secretary, State Building Code Technical Review Board

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
(REVIEW BOARD)
(For Determination of Whether or not to Dismiss as Untimely)

IN RE: Appeal of KEBCO Enterprises, Inc. – Kenneth Bullock
Appeal No. 18-03

DECISION OF THE REVIEW BOARD

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 (§ 2.2-4000 et seq. of the Code of Virginia).

Case History

Kenneth Bullock, of KEBCO Enterprises, Inc. (KEBCO), a building construction company filed an appeal of enforcement action under the Virginia Uniform Statewide Building Code, Part I, Virginia Construction Code (VCC), by the City of Suffolk Department of Planning and Community Development (City), the department responsible for code enforcement, relative to the home constructed at 4281 Cole Avenue Suffolk.

The notice of violation (NOV) dated May 23, 2017 listed twelve violations. On June 16, 2017, KEBCO appealed the NOV to the City of Suffolk Board of Building Code Appeals (local appeals board). The local appeals board hearing was conducted on November 13 2017 and upheld the enforcement action by the City. KEBCO received a copy of the local appeals board resolution

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on February 7, 2018. KEBCO further appealed to the State Building Code Technical Review Board (Review Board) on March 2, 2018.

Appearing at the Review Board hearing for the City of Suffolk were Kalli Jackson, legal counsel; Stanley Skinner, Assistant Director of Community Development; and Susan Gardner, Inspector. No one appeared at the Review Board hearing for KEBCO; however, KEBCO was properly notified of the hearing by Review Board staff.

Findings of the Review Board

I. Whether or not to dismiss the appeal as untimely.

The City argued that KEBCO received the resolution of the local appeals board on February 7, 2018 and that in order to comply with the 21 day requirement for appeal, KEBCO needed to file the appeal by February 28, 2018. The City further argued that the application for appeal to the Review Board made on March 2, 2018 was outside the 21 day period given to further appeal to the Review Board; therefore the appeal should be dismissed as untimely. The Review Board agreed with the City's argument. It is untimely.

Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders this appeal to be, and hereby is, dismissed.

Chairman, State Building Code Technical Review Board

Date entered: _____

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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 Hodge, Acting 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.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Joshua and Makiba Gaines
Appeal No. 18-05

DECISION OF THE REVIEW BOARD

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 (§ 2.2-4000 et seq. of the Code of Virginia).

Case History

Joshua and Makiba Gaines (Gaines), a married couple who own rental property in the City of Norfolk (City), appeal action by the City taken against them under Part III of the Virginia Uniform Statewide Building Code, the Virginia Maintenance Code, or VMC.

In February of 2017, the City issued a notice of violation under the VMC, listing a number of violations concerning the Gaines' rental house located at 2410 West Avenue. Later in February, the City issued an additional notice of violation identifying the property as unsafe or unfit for human habitation for the lack of a functioning heating system subsequently placarding the property. The tenant was relocated sometime between the issuance of the first and second NOVs.

In March of 2017, Gaines obtained a permit from the City to install a gas space heater. An inspection was conducted by the City on March 20, 2017; the installation was disapproved due to the use of an unvented heater for the sole source of heat. Gaines received a copy of the placard on

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March 20, 2017. The Gaines filed an appeal to the City of Norfolk Local Board of Building Code Appeals (local appeals board). The local appeals board heard the Gaines' appeal on June 28, 2017 and ruled to dismiss the appeal as untimely.

Gaines then furthered appealed to the Review Board. In January of 2018, the Review Board, at a preliminary hearing, found the appeal of the February 15, 2017 notice to be timely and remanded the appeal back to the local appeals board for a hearing on the merits of the appeal.

The local appeals board conducted a hearing on the merits of the appeal on May 14, 2018 and denied the Gaines' appeal. Gaines filed a new application for appeal to the Review Board after receipt of the local appeals board decision.

Findings of the Review Board

A. Whether the City lawfully or unlawfully placarded the property under cited violations of VMC Sections 603.1 (Mechanical appliances), 605.1 (Installation), and 202 (Definitions)

Gaines argued the City unlawfully placarded the property because the property did not fit the definition of unsafe or unfit due to it being vacant at the time the placard was posted. Gaines further argued not having a heating system in place was not a threat to the public. Lastly, Gaines argued they were unable to get the cited violations corrected due to the language on the placard. Gaines further stated that contractors were not willing to enter the property as long as the placard remained in place.

The City argued that the property did fit the description of unfit or unsafe according to the definitions in section 202 of the VMC. The city further argued that according to section 105.6 of the VMC, the City is obligated to placard a property once it is found to be unsafe or unfit for habitation. The City further argued that the lack of a heating system in the property was a threat to the public. Lastly, the City argued that the placard does allow authorized persons to enter the

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property; therefore, had a contractor pulled a permit to make the needed repairs or replacement of the heating system or had a contractor contacted the City with a request to enter the property they would have been considered authorized to enter the property and permission would have been granted by the City to enter the property. The Review Board agrees with the City's placarding of the structure; however, the Review Board did not agree with the language on the placard.

B. Whether or not to overturn the decision of the Property Maintenance Official and the local appeals board that violations of the VMC Sections 603.1 (Mechanical appliances), 605.1 (Installation) exist and further that the installation of a heating system is required.

Gaines argued the violations no longer existed due to the removal of the existing heating system. Gaines also argued the VMC did not require the existence of a heating system in the property. The City argued that the violations cannot be satisfied by the removal of the existing heating system and that a heating system is required to be in place according to the VMC. The Review Board agree with the City that both violations exist and the installation of the heating system is required.

C. Whether or not the City should re-inspected the property related to the cited violations of the VMC Sections 603.1 (Mechanical appliances), 605.1 (Installation)

Gaines argued that the City refused to re-inspect the property even though they made multiple requests for the City to do so. The City argued that they made several attempts to re-inspect the property and each time the cited violations still existed. The Review Board felt the re-inspection was a non-issue since the NOV was upheld.

Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders as follows:

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A. The decision of the City and the local appeals board to placard the structure to be, and hereby by is, upheld. In addition the Review Board orders the placard to be, and hereby is, remanded to the City to be re-issued in full conformance with Section 105 of the VMC with a strong suggestion to add the following language to the placard: *“After a structure is placarded, entering the structure shall be prohibited except as authorized by the code official to make inspections, to perform required repairs or to demolish the structure.”*

B. The decision of the City, confirmed by the City appeals board, that violations of Section R603.1 and 605.1 of the VMC exists and that the installation of a heating system is required, to be, and hereby is, upheld..

C. The decision of the City, confirmed by the City appeals board not to re-inspect the property to be, and hereby is dismissed as moot.

Chairman, State Building Code Technical Review Board

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 Hodge, Acting 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.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Harvey Dupree (A...H Variety)
Appeal No. 18-06

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VIRGINIA:

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

IN RE: Harvey Dupree (A...H Variety)
Appeal No. 18-06

REVIEW BOARD STAFF DOCUMENT

Suggested Summary of the Appeal

1. In May of 2018, a representative of the State Fire Marshal's Office (SFMO) conducted an inspection at 456-554 Piney Pond Road in Brunswick County. The buildings at that address are used to sell merchandise under the business name of A...H Variety, owned by Harvey and Ann Dupree.

2. The inspection resulted in the issuance of a notice of violation, dated May 10, 2018, under the Virginia Statewide Fire Prevention Code (SFPC). Thirty one (31) violations of the SFPC were cited.

3. Mr. Dupree filed an appeal to the Review Board on May 25, 2018. In Mr. Dupree's submittals he indicated that he was appealing some of the previously cited violations stating that the previously cited violations had been corrected; however, the SFMO re-cited the violations in the May 10, 2018 notice. Mr. Dupree also outlined which of the newly cited violations he was appealing.

4. Review Board staff added numbering next to each cited violation on the notice making it easier to identify the thirty one (31) cited violation. The numbering was also used to identify the cited violations being appealed in the Issues for Resolution.

5. This staff summary was distributed to the parties along with all documents received from the parties and opportunity was given for the submittal of additions, corrections or objections to the summary and for submittal of additional documents, pictures or written arguments.

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Suggested Issues for Resolution by the Review Board

1. Whether to overturn or uphold the decision of the SFMO that a violation (#7) of SFPC Section 605.6 (Unapproved Conditions) exists.
2. Whether to overturn or uphold the decision of the SFMO that a violation (#8) of SFPC Section 605.6 (Unapproved Conditions) exists.
3. Whether to overturn or uphold the decision of the SFMO that a violation (#9) of SFPC Section 605.6 (Unapproved Conditions) exists.
4. Whether to overturn or uphold the decision of the SFMO that a violation (#10) of SFPC Section 605.6 (Unapproved Conditions) exists.
5. Whether to overturn or uphold the decision of the SFMO that a violation (#11) of SFPC Section 605.6 (Unapproved Conditions) exists.
6. Whether to overturn or uphold the decision of the SFMO that a violation (#12) of SFPC Section 605.6 (Unapproved Conditions) exists.
7. Whether to overturn or uphold the decision of the SFMO that a violation (#13) of SFPC Section 605.6 (Unapproved Conditions) exists.
8. Whether to overturn or uphold the decision of the SFMO that a violation (#14) of SFPC Section 605.6 (Unapproved Conditions) exists.
9. Whether to overturn or uphold the decision of the SFMO that a violation (#16) of SFPC Section 605.6 (Unapproved Conditions) exists.
10. Whether to overturn or uphold the decision of the SFMO that a violation (#17) of SFPC Section 605.6 (Unapproved Conditions) exists.
11. Whether to overturn or uphold the decision of the SFMO that a violation (#18) of SFPC Section 605.3 (Working space and clearance) exists.

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12. Whether to overturn or uphold the decision of the SFMO that a violation (#19) of SFPC Section 110.1 #1 (General) exists.

13. Whether to overturn or uphold the decision of the SFMO that a violation (#22) of SFPC Section 901.6 (Inspection, testing, and maintenance) exists.

14. Whether to overturn or uphold the decision of the SFMO that a violation (#26) of SFPC Section 603.5.2 (Heating appliance installation and maintenance) exists.

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Basic Documents

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Michael Reilly
Executive Director

Brian M. McGraw, P.E.
State Fire Marshal



Central Regional Office
State Fire Marshals Office
1005 Technology Park Drive
Glen Allen, VA 23059-4500
Phone: (804) 371-0220
Fax: (804) 371-3367
Dee Madsen
Fire Marshal Supervisor

**Commonwealth Of Virginia
Department of Fire Programs
State Fire Marshal's Office
Inspection Notice**

Date of Inspection:

05/10/2018

Owner/Occupant: Harvey M. Dupree & Ann N Dupree Building Name: BRUNSWICK - A & H Variety and Flea Market Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	File Number: C-1270-001 Occ/Use Code: OTHER
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The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

Code Section	Violation(s)	Correct By	Previous Violation
1030.2	Reliability. Required exit accesses, exits or exit discharges shall be continuously maintained free from obstructions or impediments to full instant use in the case of fire or other emergency when the building area served by the means of egress is occupied. An exit or exit passageway shall not be used for any purpose that interferes with a means of egress.	6/11/2018	
1	Exit double doors to the outside on the west side in the west warehouse was barricaded on the inside slide barrel latch on the inside to prevent the doors from being opened in the direction of egress. This condition restricted egress from inside the building to the public way.		
2	Exit door to the outside at the southwest side of the west warehouse was barricaded with a metal bar on the inside that had a chain and lock around the bar and the metal bar that is attached to the door. In addition, that was a hasp that is attached to the doorframe and door that is locked with a key paddle lock to prevent the doors from being opened in the direction of egress. This condition restricted egress from inside the building to the public way.		
3	The required egress lighting is not provided for all egress paths when the building is occupied. The egress lighting is		
4			

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: Harvey Dupree

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Inspected By: Dee Madsen, Chief Deputy State Fire Mars

Date: 5/10/2018

Michael Reilly
Executive Director

Brian M. McGraw, P.E.
State Fire Marshal



Central Regional Office
State Fire Marshals Office
1005 Technology Park Drive
Glen Allen, VA 23059-4500
Phone: (804) 371-0220
Fax: (804) 371-3367
Dee Madsen
Fire Marshal Supervisor

**Commonwealth Of Virginia
Department of Fire Programs
State Fire Marshal's Office
Inspection Notice**

Date of Inspection:

05/10/2018

Owner/Occupant: Harvey M. Dupree & Ann N Dupree Building Name: BRUNSWICK - A & H Variety and Flea Market Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	File Number: C-1270-001 Occ/Use Code: OTHER
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The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

- | | | |
|---|--|---|
| 5 | not lit when entering the warehouse. Exit doors shall be unlocked to allow occupants to exit the west warehouse when the building is occupied.

Exit double doors to the outside on the west side in the west warehouse was barricaded on the inside slide barrel latch on the inside to prevent the doors from being opened in the direction of egress. This condition could restrict egress from inside the building to the public way.

Exit door to the outside at the southwest side of the west building that has a hasp that is attached to the doorframe and door that could be locked with a key paddle lock or other device to prevent the doors from being opened in the direction of egress.
The egress path is not provided with the required egress lighting in the building on Piney Pond Road and buildings fronting Main Street. | 1 - Again

2 - Again

3 - Again |
| 6 | Egress was obstructed with storage by a door that had a bar across the door that goes from the main street building to the next south building on Main Street.

Exit doors shall be unlocked to allow occupants to exit to | 5 - Again |

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: Harvey Dupree

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Inspected By: Dee Madsen, Chief Deputy State Fire

Date: 5/10/2018

Michael Reilly
Executive Director

Brian M. McGraw, P.E.
State Fire Marshal



Central Regional Office
State Fire Marshals Office
1005 Technology Park Drive
Glen Allen, VA 23059-4500
Phone: (804) 371-0220
Fax: (804) 371-3367
Dee Madsen
Fire Marshal Supervisor

**Commonwealth Of Virginia
Department of Fire Programs
State Fire Marshal's Office
Inspection Notice**

Date of Inspection:

05/10/2018

Owner/Occupant: Harvey M. Dupree & Ann N Dupree Building Name: BRUNSWICK - A & H Variety and Flea Market Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	File Number: C-1270-001 Occ/Use Code: OTHER
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The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

the buildings when the building is occupied.

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: **Harvey Dupree**

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Inspected By: **Dee Madsen, Chief Deputy State Fire**

Date: 5/10/2018

Michael Reilly
Executive Director

Brian M. McGraw, P.E.
State Fire Marshal



Central Regional Office
State Fire Marshals Office
1005 Technology Park Drive
Glen Allen, VA 23059-4500
Phone: (804) 371-0220
Fax: (804) 371-3367
Dee Madsen
Fire Marshal Supervisor

**Commonwealth Of Virginia
Department of Fire Programs
State Fire Marshal's Office
Inspection Notice**

Date of Inspection:

05/10/2018

Owner/Occupant: Harvey M. Dupree & Ann N Dupree Building Name: BRUNSWICK - A & H Variety and Flea Market Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	File Number: C-1270-001 Occ/Use Code: OTHER
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The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

Code	Description	Date	Category
605.6	Unapproved conditions. Open junction boxes and open-wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes.	6/11/2018	Previous Violation
7	There are florescent light fixtures that are suspended from the ceiling grid that the cover is missing and there is open wiring in the south middle of the west warehouse.		
8	There are open junction boxes that contain wire splices that are not closed above the ceiling grid in the south center of the west building.		
9	There is a splice in non-metallic wiring that is not in a junction box, spliced together, and covered with electrical tape in the southern area of the west building and in Main Street Buildings.		
10	The panel cover that was installed on the main electrical panel in the Main Street building is not listed for the electrical panel and the door is screws shut to prevent access to the breakers.		
11	There is open wiring, junction boxes missing covers, openings in panel boxes, disconnects and junction boxes that are not closed in the west building and Main Street buildings that were observed in the 8/29/17 inspection.		
12, 13, & 14			

Handwritten note:
 → This is wrong. Panel boxes were not inspected on this site.

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: Harvey Dupree
 Inspected By: Dee Madsen, Chief Deputy State Fire

Page 4 of 12
 Date: 5/10/2018



Michael Reilly
Executive Director

Brian M. McGraw, P.E.
State Fire Marshal



Central Regional Office
State Fire Marshals Office
1005 Technology Park Drive
Glen Allen, VA 23059-4500
Phone: (804) 371-0220
Fax: (804) 371-3367
Dee Madsen
Fire Marshal Supervisor

**Commonwealth Of Virginia
Department of Fire Programs
State Fire Marshal's Office
Inspection Notice**

Date of Inspection:

05/10/2018

Owner/Occupant: Harvey M. Dupree & Ann N Dupree Building Name: BRUNSWICK - A & H Variety and Flea Market Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	File Number: C-1270-001 Occ/Use Code: OTHER
--	--

The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

Code	Description	Time Limit	Previous Violation
605.5	Extension cords. Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.	6/11/2018	Previous Violation
15	There are extension cords being used that were observed during the inspection conducted on 8/29/17 were observed in the Main Street buildings.		
605.6	Unapproved conditions. Open junction boxes and open-wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes.	6/10/2018	
16	There is an electrical panel cover missing and there is exposed wiring, buss bars in the south Main street building. There is open wiring to a water heater where the power is fed from the west building and not from the Main Street building		
17			

Handwritten note: This is INCURRED (circled) 1/10

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: Harvey Dupree
Inspected By: Dee Madsen, Chief Deputy State Fire

Page 5 of 12
Date: 5/10/2018

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The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

605.3	Working space and clearance. A working space of not less than 30 inches in width, 36 inches in depth and 78 inches in height shall be provided in front of electrical service equipment. Where the electrical service equipment is wider than 30 inches, the working space shall not be less than the width of the equipment. No storage of any materials will be located within the designated working space. (2 exceptions)	6/11/2018
18	There is storage located in the clear working space in front of electrical panels and fire alarm panel in the south buildings on Main Street.	
110.1 #1	General. The fire official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC: 1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure, or to endanger the occupants thereof.	6/11/2018
19	There is damaged wooden roof structure, roof supports, floors and floor supports that was caused by leaking water that would be hazardous to fire fighters and occupants in the building.	

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: Harvey Dupree

Page 6 of 12

Inspected By: Dee Madsen, Chief Deputy State Fire

Date: 5/10/2018

Michael Reilly
Executive Director

Brian M. McGraw, P.E.
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1005 Technology Park Drive
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Dee Madsen
Fire Marshal Supervisor

**Commonwealth Of Virginia
Department of Fire Programs
State Fire Marshal's Office
Inspection Notice**

Date of Inspection:

05/10/2018

Owner/Occupant: Harvey M. Dupree & Ann N Dupree Building Name: BRUNSWICK - A & H Variety and Flea Market Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	File Number: C-1270-001 Occ/Use Code: OTHER
--	--

The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

110.1 #3	General. The fire official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC: 3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, which are liable to interfere with egress of occupants or operation of the fire department in case of fire.	6/11/2018
20	Egress to the exits and public way are obstructed by storage, construction and doors are equipped with locking devices not approved by the building official.	
315.3	Storage in buildings. Storage of combustible materials in buildings shall be orderly and stacks shall be stable. Storage of combustible materials shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur.	6/11/2018
21	There is combustible storage that is not orderly in the south buildings on Main Street.	

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: **Harvey Dupree**

Page 7 of 12

Inspected By: **Dee Madsen, Chief Deputy State Fire**

Date: 5/10/2018

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05/10/2018

Owner/Occupant: Harvey M. Dupree & Ann N Dupree Building Name: BRUNSWICK - A & H Variety and Flea Market Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	File Number: C-1270-001 Occ/Use Code: OTHER
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The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

901.6	Inspection, testing and maintenance. To the extent that equipment, systems devices, and safeguards, such as fire detection, alarm and extinguishing systems, which were provided and approved by the building official when constructed, shall be maintained in an operative condition at all times. And where such equipment, systems, devices, and safeguards are found not to be in an operative condition, the fire officials shall order all such equipment to be rendered safe in accordance with the USBC.	6/11/2018
22	There is a fire alarm system that is not in operation.	

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: **Harvey Dupree**

Page 8 of 12

Inspected By: **Dee Madsen, Chief Deputy State Fire**

Date: 5/10/2018

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Executive Director

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Department of Fire Programs
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Date of Inspection:

05/10/2018

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--	--

The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

1030.2	Reliability. Required exit accesses, exits or exit discharges shall be continuously maintained free from obstructions or impediments to full instant use in the case of fire or other emergency when the building area served by the means of egress is occupied. An exit or exit passageway shall not be used for any purpose that interferes with a means of egress.	6/11/2018
23	There is construction and storage that is obstructing the egress to exits in the Main Street buildings.	
24	There are battery power emergency lights that are not working in the Main Street buildings.	
1030.4	Exit signs. Exit signs shall be installed and maintained in accordance with Section 1011. Decorations, furnishings, equipment or adjacent signage that impairs the visibility of exit signs, creates confusion or prevents identification of the exit shall not be allowed.	6/11/2018
25	There is exit signs that is not working in the Main Street Buildings.	

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: **Harvey Dupree**

Page 9 of 12

Inspected By: **Dee Madsen, Chief Deputy State Fire**

Date: 5/10/2018

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Department of Fire Programs
State Fire Marshal's Office
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Date of Inspection:

05/10/2018

Owner/Occupant: Harvey M. Dupree & Ann N Dupree Building Name: BRUNSWICK - A & H Variety and Flea Market Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	File Number: C-1270-001 Occ/Use Code: OTHER
--	--

The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

603.5.2	Heating appliance installation and maintenance. Heating appliances shall be installed and maintained in accordance with the manufacturer's instructions, the International Building Code, the International Mechanical Code, the International Fuel Gas Code and NFPA 70.	6/11/2018
26	There is gas unit heaters in the Main Street buildings where the single wall flues that do not maintain the required clear distance to combustible materials.	
605.3.1	Labeling. Doors into electrical control panel rooms shall be marked with a plainly visible and legible sign stating ELECTRICAL ROOM or similar approved wording. The disconnecting means for each service, feeder or branch circuit originating on a switchboard or panelboard shall be legibly and durably marked to indicate its purpose unless such purpose is clearly evident.	6/11/2018
27	The panel cover that was installed on the panel in the west building does not have a panel schedule to note what circuit and locations the breakers supply power too.	

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: **Harvey Dupree**

Page 10 of 12

Inspected By: **Dee Madsen, Chief Deputy State Fire**

Date: 5/10/2018

Michael Reilly
Executive Director

Brian M. McGraw, P.E.
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State Fire Marshals Office
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Dee Madsen
Fire Marshal Supervisor

**Commonwealth Of Virginia
Department of Fire Programs
State Fire Marshal's Office
Inspection Notice**

Date of Inspection:

05/10/2018

Owner/Occupant: Harvey M. Dupree & Ann N Dupree Building Name: BRUNSWICK - A & H Variety and Flea Market Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	File Number: C-1270-001 Occ/Use Code: OTHER
--	--

The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

308.1.5	Location near combustibles. Open flames such as from candles, lanterns, kerosene heaters and gas-fired heaters shall not be located on or near decorative material or similar combustible materials.	6/11/2018
28	There was signs that a candle has been lit in the shower area of the main street building.	
310.6	Ash trays. Where smoking is permitted, suitable noncombustible ash trays or match receivers shall be provided on each table and at other appropriate locations.	6/11/2018
29	There were cigarette butts that were on the floor and an ashtray was not provided near the water heater in Main Street Building.	

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: **Harvey Dupree**

Page 11 of 12

Inspected By: **Dee Madsen, Chief Deputy State Fire**

Date: 5/10/2018

Michael Reilly
Executive Director

Brian M. McGraw, P.E.
State Fire Marshal



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State Fire Marshals Office
1005 Technology Park Drive
Glen Allen, VA 23059-4500
Phone: (804) 371-0220
Fax: (804) 371-3367
Dee Madsen
Fire Marshal Supervisor

**Commonwealth Of Virginia
Department of Fire Programs
State Fire Marshal's Office
Inspection Notice**

Date of Inspection:

05/10/2018

*1005
Technology
Park Dr
Glen
Allen
VA
23059*

Owner/Occupant: Harvey M. Dupree & Ann N Dupree	File Number: C-1270-001
Building Name: BRUNSWICK - A & H Variety and Flea Market	Occ/Use Code: OTHER
Address: 484 Piney Pond Rd. Address Line 2 Brodnax, 23920	

The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned property. You are responsible for correcting these violation(s) within the specified time limit.

906.2	Portable fire extinguishers shall be selected, installed and maintained in accordance with this Section and NFPA 10. (8 exceptions)	6/11/2018
30	There are signs noting the location of fire extinguishers and there are no fire extinguishers installed beneath the signs,	
31	The fire extinguisher is past due for the annual inspection and the tag last annual inspection date was 12/98	

Failure to correct violations within the time limit specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the State Fire Marshal to the State Building Code Technical Review Board within fourteen (14) days from receipt of this notice.

Notice Issued To: Harvey Dupree

Page 12 of 12

Inspected By: Dee Madsen, Chief Deputy State Fire

Date: 5/10/2018

Application For Administrative Appeal

Uniform state building code

Appeal party info
AH stores/HARVEY DUPREE
Ph. 434-865-3725
sootyharvey@gmail.com



I hereby certify that on the 25th day of
May, 2018. A copy of this application
was mailed

SIGNATURE *Harvey Dupree*
PRINT NAME HARVEY DUPREE

FROM; ATT... STORE / HARVEY DUPREE / OWNER
484 PINEY FORD RD. / BRADY VA
TO; STATE CODE TECH. REVIEW BOARD

RE: APPEAL

- 1) Request A REINSPECTION WITH A DIFFERENT INSPECTOR, BECAUSE MR. MADSEN IS BIASED, UNPROFESSIONAL UNREASONABLE, HAS LIED, VIOLATED DUE PROCESS, DISRUPTED MY FAMILY AND BUSINESS, CAME TO THE STORE DRUNK.
- 2) WHILE AN APPEAL WAS STILL PENDING (APRIL 10) I RECEIVED CRIMINAL CHARGES, VIOLATING DUE PROCESS
- 3) DURING THE LAST VISIT (MAY 9), MR. MADSEN DIDN'T OPEN ANY PANEL BOXES, ENTERED CLOSED SECTIONS OF STORAGE WAREHOUSING, CITED UNRELATED VIOLATIONS, DIDN'T CONDUCT A PROPER INSPECTION. HE WALKED IN A UNIT WAREHOUSE WITHOUT PROPER INSPECTION TOOLS.
- 4) UNREASONABLE DEMANDS AFTER REPAIRS WERE MADE, UNREASONABLE DEMANDS FOR A WORK PERMIT, WITH COST OF REPAIRS LESS THAN \$300.00
- 5) MR. MADSEN ENTERED THE BUSINESS ON SEVERAL OCCASIONS WITHOUT A PROPER SEARCH WARRANT.
- 6) REPAIRS MADE. THEN, CITED FOR THE SAME VIOLATIONS
- 7) OUR ELECTRICIAN IS A PAST BUILDING CODE INSPECTOR, HAS INFORMED ME OF PAST INCIDENTS SIMILAR TO THIS, AND HAS A LIST OF IMPROPER WORK BY MR. MADSEN'S
- 8) EXPRESS REPAIRS MADE, YET STILL CITED.

9) MR. MADSEN ONCE AGAIN VIOLATED DUE PROCESS by citing the BUSINESS ON MAY 10TH, yet delivered the paperwork ten days later.

10) SURROUNDING PROPERTIES DIRECTLY BY ME, HAVEN'T RECEIVED NOTICES, NAMELY A CLOSED COTTON MILL, WITH RAOV, FLAMMABLE MATERIALS WAREHOUSE.

11) MR. MADSEN HAS SHOWN NO COMMUNICATION WITH US, DOESN'T ANSWER OUR QUESTIONS, PROVIDES NO SUPPORT OR ADVICE.

12) I ASK THIS BE ACCEPTED, AS STATED ABOVE, THE CURRENT LIST WASN'T DELIVERED IN A TIMELY, RIGHTFUL MANNER. THIS THE LATE APPEAL APPLICATION.

13) MR. MADSEN WROTE VIOLATIONS THAT ARE INCORRECT FOR STORAGE WAREHOUSE (DIFFERENT CODES), NAMELY, THE SINKLEER SYSTEM.

We agree with the majority of the
needed repairs. However, as a long time
business owner, we cannot deal or
communicate with Mr. Madson.

Court case will be appealed to a
jury due process violation is
vailed. I ask for the above,
in order to put money into a closed,
warehouse.

Sincerely,
Harry Lufan
MAY 24 2018



Front of business card

PLEASE CONTACT THIS
PERSON. He is a building
code officer from Portsmouth
(previously) Thanks.

Back of business card

Att Store
Pitney Bowes Funded
BroadAX VA
23920

Commonwealth of Virginia
Dept. of Housing & Community Development
STATE Building Codes Office
STATE Technical Review Board
Main Street Center
600 E. MAIN ST.
Suite 300
Richmond, Virginia

ph 804
371-7150



Application of Appeal
statewide Fire protection code
Harvey Dupree: PH 434 865
3725
email: sootyharvey@gmail.com
484 Pinyon Pond Rd, Beach VA

opposing
DEC madsen
CASE pending in court
I certify on 26th of
May 2018, a completed copy
of this application, including
additional info, was
mailed to State Tech Review
Board. Agreed (AD)
Signed: Harvey Dupree
Harvey Dupree

Harvey Dupree
Owner
sootyharvey@gmail.com

AH...Store(buy&sale)

USA Hwy.58
Brodax Va

Additional info
for an appeal mailed
5-22-2018

RE: Appeal Application

BATEMAN
ELECTRIC & PLUMBING
Class "A" Licensed & Insured
434.532.6335
3959 GOVERNOR HARRISON PKWY. • BRODNAX, VA 23920



Reasons For Appeal;

#1) due process violated
Madsen brought CRIMINAL
charges while appeal pending

#2) Request for a different
inspector. Madsen is not
COMMUNICATIVE, COOPERATIVE,
And, doesn't address our
concerns and questions
properly.

#3) We now have reports under
the FOIA Act that brings
to question Madsen's con-
tinued training education/
proper certification.

#4) As of this mailing,
a case is pending in
Brunswick County Court
concerning this matter,
then, will be under further
appeal processes.

#5) I am very upset with
Madsen's uncooperative,
detached attitude. We
feel he listed violations
a year later, to cover
his mistakes, and, doesn't
want to talk with Mr.
Bateman the Portsmouth
building inspector (past)

MR. BATEMAN HAS EXPERIENCED
PAST PROBLEMS, AND AGREES
WITH OUR LONG TIME BUSINESS.
HE HAS CONDEMNED 65
MILLION DOLLARS OF PROPERTY.
HE HAS PROPER LICENSES.

#6) WRONG DATES ARE ON
THE RECENT NOTICES. ANOTHER
EXAMPLE OF MADSON'S POOR
WORK.

COO.S.3 → STATED UNDER OATH
THAT OUR STORE WAS VERY
MUCH CLEANED, THEN SAID
HE WOULD COOPERATE, BUT,
DID'NT.

#7) 110.1 → THIS IS
UNDOCUMENTED, ALLEGED
REPORT DONE BY DAVID
TUCKER/BUILDING INSPECTOR
BRUNSWICK, VA.

WE'VE DISCOVERED THIS PERSON
IS UNCERTIFIED TO DO THIS
REPORT.

#8) 110.1 → NO OCCUPANTS
USED AS STATED ON
DEED. STORAGE WAREHOUSE.

#9) TOO VAGUE. THIS IS A
Flea MARKET. HE MUST BE
MORE SPECIFIC (ESPECIALLY
IN A 22,000 FOOT BUILDING
HE DIDNT LOOK FOR CONTENTS.
61

#10) stated (Again) Under
OATH, that the property
was very clean.

He wrote this while in
A dark, unlit, storage room
How can He see this?
He didn't even carry a
Flashlight (AS witnesses
well know).

I ask for pictures and
proof!

#11) 603 → the heat units
are disconnected, unflued,
tanks (propane), NOAE.
unheated storage.

#12) I agree with;

906.2	315.3
310.6	110.1#3
305.1.5	605.5
605.3.1	605.6
1030.4	
1030.2	

I agree to provide proof
of the corrections and
necessary repairs.
Mr. Bateman will be
the contractor, and will
verify.

#13) I disagree;
110.11#1 → AS stated,
this is from a
un-certified building
inspector.

603.5.2 → UN-Valved,
UNCONNECTED

901.6 → from a 1905-
SD's sewing room

605.6 → Madsen didn't
look. REPAIRS ARE
MADE.

#14) Request;

I Agree to MAKE
the, provide proper
PROOF, submit that
to you, ON CONDITIONS,
ONCE REPAIRS ARE
submitted and approved
by you. (#1) CRIMINAL
charges dropped.

#2) A REINSPECTION
BY A DIFFERENT
INSPECTOR. (#3) After I
secure the services of Mr.
BAKEMAN, will Madsen agree
to look at the degree of

#14) continued
Professionalism, be professional.

#4) Agreed that, David
Tucker was unauthorized,
unlicensed, yet accompanied
by Madsen, without
verifying Tucker's
qualifications.

#5) Ask for extended
timeframe. The property
is currently listed for
sale, as is. I need that
time to change the
documents. My Realtor
is elderly, hard to reach

#4.
#5) I agree to NOT
MAKE COMPLAINTS CONCERNING
THIS, OR TAKE ANY ACTION.

Sincerely,

Sandy Lyndee

email: sootyharvey@
gmail.com.

Note: I'm a 20 year plus
chimney sweep. Trust me,
the hosters are disconnected.
ph # 434.865.3725

called on a citizen
complaint. What exactly
should the inspector,
inspect?

What's the difference
of storage warehouse
to retail commercial

I've got to get
this answered.

Jill Stoe
40 Harvey Drive
York River Ponds
Brooklyn VA
23915

Commonwealth of Virginia
Dept. Housing (AHD) Tech Review Board
State Building Codes Office
Main St. Ct.
600 E. Main St.
Suite 300
Richmond VA 23219

RICHMOND VA 23219
30 MAY 2018 PM 4 L



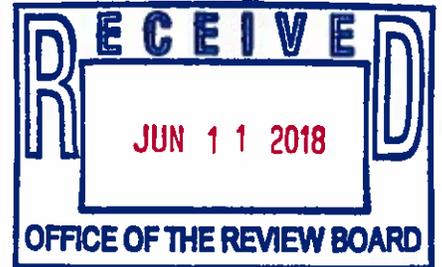
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations

Appeal application requested by Review Board staff for clerical purposes. Appeal received May 30, 2018.



Appealing Party Information (name, address, telephone number and email address):

HARVEY DUPREE
484 Piney Pond Rd Brooklyn VA 23920
sootyhaevy@gmail.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

Calvin Joe Anderson
Chief Deputy STATE Fire Marshall

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 4 day of JUNE, 2018 a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: Harvey Dupree

Name of Applicant: HARVEY DUPREE
(please print or type)

Statement of Relief Sought;
dismissal of the notices, ON
conditions;

Repairs to be made, then submitted
to proper office.

Additional reason for dismissal;
MR. MADSEN brought criminal charges
while AN appeal was still pending,
failed to notify ALL parties, was called
on a citizens complaint (NO reason for a
full building inspection)
MR. MADSEN HAS VIOLATED DUE PROCESS.
mailed 4 day of JUNE 2018,

Signature: Harvey Duprez
Harvey Duprez

Harvey Dorse
184 King Road
Fayetteville Va
23330

RICHMOND
VA 230
04 JUN '88
PM 11



Commonwealth of Virginia
Dept. of Housing & Community Development
State Building (idea office of the state
Technical Review Board)
Main St. Corridor
6000 ~~15th~~ Main St
Richmond, Va 23219
Suite 300

2321982430 0003

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Jack D. Singleton
Appeal No. 18-09

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VIRGINIA:

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

IN RE: Appeal of Jack D. Singleton
Appeal No. 18-09

REVIEW BOARD STAFF DOCUMENT

Suggested Summary of the Appeal

1. Jack D. Singleton (Singleton), owner of the property located at 190 West Jefferson Street in the Town of Wytheville, appeal enforcement action by the Town of Wytheville, Office of the Building Official (Town of Wytheville) under Part III of the Uniform Statewide Building Code (Virginia Maintenance Code).

2. On March 26, 2018, the Town of Wytheville, in enforcement of the Virginia Maintenance Code, issued a notice of violation to Mr. Singleton for his property located at 190 West Jefferson Street. The notice outlined fifty seven (57) violations of the Virginia Maintenance Code and contained a statement of right of appeal.

3. The Town of Wytheville affixed a placard on the property, near the building, on January 29, 2018. The placard identified the building as unsafe or unfit for human habitation. On March 27, 2018, the Town of Wytheville drafted and affixed a copy of the Notice of Violation on the building.

4. Mr. Singleton filed an appeal to the Town of Wytheville Local Board of Appeals (local board) on April 11, 2018.

5. The local board conducted a hearing in May of 2018. On June 13, 2018, Mr. Singleton was served a copy of the local board resolution and subsequently filed an application for appeal to the Review Board with a certification of service date of June 22, 2018.

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6. This staff document along with a copy of all documents submitted will be sent to the parties and opportunity given for the submittal of additions, corrections or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the appeal hearing before the Review Board.

Suggested Issue for Resolution by the Review Board

1. Whether or not to overturn the decision of the Property Maintenance Official and the local appeals board that violations of the Virginia Maintenance Code Section 105 (Unsafe structures or structures unfit for human occupancy) exist and that the placarding of the structure was proper.

2. Whether or not to overturn the decision of the Property Maintenance Official and the local appeals board that violations of the Virginia Maintenance Code Section 105 (Unsafe structures or structures unfit for human occupancy) exist and that the securing of the structure was required.

3. Whether or not to overturn the decision of the Property Maintenance Official and the local appeals board that all of the remaining violations of the Virginia Maintenance Code listed on the March 26, 2018 Notice of Violation exist.

4. Whether or not to overturn the decision of the Property Maintenance Official and the local appeals board that violations of the Virginia Maintenance Code Section 105 (Unsafe structures or structures unfit for human occupancy) exist and that the demolition of the structure was required.

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Basic Documents

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NOTICE OF VIOLATION

TOWN OF WYTHEVILLE

P.O. DRAWER 533 - WYTHEVILLE, VA 24382

OFFICE OF THE BUILDING OFFICIAL

OWNER/OCCUPANT Jack Dennis Singleton
BUILDING 1&2 Dwelling
ADDRESS 190 West Jefferson Street
Wytheville VA ZIP 24382

DATE March 26 2018
TIME certified mail AM PM
PERMIT NO. n/a
OCCU/USE GROUP n/a

The following violation(s) of the Virginia Uniform Statewide Building Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

ITEM NO.	CODE SECTION	VIOLATION
1 1	2012 VMC 105	Structure unsafe or unfit for human occupancy. Placard since January 29, 2016
2 2	2012 VMC 105	Structure must be secured against public entry. Must obtain a building permit detailing the type of barrier around the structure.
3 3	2012 VMC 301.2	The owners shall maintain the structure and exterior property in compliance with these requirements.
4 4	2012 VMC 301.2	All vacant structures and premises or vacant land shall be maintained in a clean, safe, secure, safe, sanitary condition as not to cause a blight problem or public health or safety.
5 5	2012 VMC 302.2	All premises shall be graded and maintained to protect the foundation wall or slab of the structure from accumulation and drainage surface or stagnant water.
6 6	2012 VMC 302.3	All sidewalks, walkways, stairs, driveways, parking spaces and similar shall be kept in proper state of repair and maintained free from hazardous conditions.
7 7	2012 VMC 304.1-2	All exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare
8 8	2012 VMC 304.3	Building shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property.

Failure to correct violation(s) within 30 days from receipt of this notice may result in penalties as noted in Section 36-106, Code of Virginia. You may appeal this order to the Town Building Code Appeals Board by written request within 14 days.

This Notice given to certified mail

Reinspected _____, 20 ____ Results _____

charlesv@wytheville.org (276) 223-3339 150 East Monroe Street, Wytheville VA 24382

Issued by: Charles Vannatter Date: March 26, 2018



NOTICE OF VIOLATION

TOWN OF WYTHEVILLE

P.O. DRAWER 533 - WYTHEVILLE, VA 24382

OFFICE OF THE BUILDING OFFICIAL

OWNER/OCCUPANT Jack Dennis Singleton

DATE March 26 2018

BUILDING 1&2 Dwelling

TIME certified mail AM PM

ADDRESS 190 West Jefferson Street

PERMIT NO. n/a

Wytheville VA ZIP 24382

OCCU/USE GROUP n/a

The following violation(s) of the Virginia Uniform Statewide Building Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

ITEM NO.	CODE SECTION	VIOLATION
9 1	2012 VMC 304.4	All structure members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.
10 2	2012 VMC 304.5	All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept such conditions so as to prevent the entry of rodents and other pets.
11 3	2012 VMC 304.6	All exterior wall shall be free from holes,breaks,and loose or rotting materials and maintained weatherproof and properly surface coated where required to prevent deterioration.
12 4	2012 VMC 304.7	The roof and flashing shall be sound,tight and not have defects that admit rain.
13 5	2012 VMC 304.13(1-2)	Every window, skylight,door and frame shall be kept in sound condition, good repair and weather tight.
14 6	2012 VMC 304.15	All exterior doors,door assemblies,operator and hardware shall be maintained in good condition.
15 7	2012 VMC 305	All interior of a structure and equipment shall be maintained in good repair, structurally sound and in a sanitary condition.
16 8	2012 VMC 305.2	All structural members shall be maintained structurally sound and be capable of supporting the imposed loads.

Failure to correct violation(s) within 30 days from receipt of this notice may result in penalties as noted in Section 36-106, Code of Virginia. You may appeal this order to the Town Building Code Appeals Board by written request within 14 days.

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charlesv@wytheville.org (276) 223-3339 150 East Monroe Street, Wytheville VA 24382

Issued by: Charles Vannatter Date: March 26, 2018



NOTICE OF VIOLATION

TOWN OF WYTHEVILLE

P.O. DRAWER 533 - WYTHEVILLE, VA 24382

OFFICE OF THE BUILDING OFFICIAL

OWNER/OCCUPANT Jack Dennis Singleton

DATE March 26 2018

BUILDING 1&2 Dwelling

TIME certified mail AM PM

ADDRESS 190 West Jefferson Street

PERMIT NO. n/a

Wytheville VA ZIP 24382

OCCU/USE GROUP n/a

The following violation(s) of the Virginia Uniform Statewide Building Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

ITEM NO.	CODE SECTION	VIOLATION
17 1	2012 VMC 305.3	All interior surfaces, including windows and doors, shall be maintained in good clean and sanitary conditions.
18 2	2012 VMC 305.6	Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks.
19 3	2012 VMC 401.2	The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements.
20 4	2012 VMC 402.1	Every habitable space shall have at least one window or approved size facing directly to the outdoors or to a court.
21 5	2012 VMC 403.1	Every habitable space shall have at least one openable window.
22 6	2012 VMC 403.2	Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1.
23 7	2012 VMC 404.3	Habitable spaces, hallways, corridors, laundry areas, bathroom, toilet rooms and habitable basement areas shall have a minimum clear ceiling height. Exceptions 1-3
24 8	2012 VMC 404.4(1)	Every bedroom 70 sq.ft and living room 120 sq.ft.

Failure to correct violation(s) within 30 days from receipt of this notice may result in penalties as noted in Section 36-106, Code of Virginia. You may appeal this order to the Town Building Code Appeals Board by written request within 14 days.

This Notice given to certified mail

Reinspected _____, 20 ____ Results _____

charlesv@wytheville.org (276) 223-3339 150 East Monroe Street, Wytheville VA 24382

Issued by: Charles Vannatter Date: March 26, 2018



NOTICE OF VIOLATION

TOWN OF WYTHEVILLE

P.O. DRAWER 533 - WYTHEVILLE, VA 24382

OFFICE OF THE BUILDING OFFICIAL

OWNER/OCCUPANT Jack Dennis Singleton
BUILDING 1&2 Dwelling
ADDRESS 190 West Jefferson Street
Wytheville VA ZIP 24382

DATE March 26 2018
TIME certified mail AM PM
PERMIT NO. n/a
OCCU/USE GROUP n/a

The following violation(s) of the Virginia Uniform Statewide Building Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

ITEM NO.	CODE SECTION	VIOLATION
25 1	2012 VMC 404.4.3	Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.
26 2	2012 VMC 404.4.5	Bedrooms shall comply with the applicable provision of this code including but not limited to the light, ventilation, room area, ceiling height and room width requirements of this chapter, the plumbing facilities and water heating facilities requirements of Chapter 5; heating facilities and electrical receptacle requirements of Chapter 6; smoke detector and emergency escape requirements of Chapter 7.
27 3		
28 4	2012 VMC 404.7	All spaces to be occupied for food preparation purpose shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage.
29 5		
30 6	2012 VMC 501.2	The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements.
31 7	2012 VMC 502.2	Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition.
32 8	2012 VMC 503.1	Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other spaces or to the exterior.

Failure to correct violation(s) within 30 days from receipt of this notice may result in penalties as noted in Section 36-106, Code of Virginia. You may appeal this order to the Town Building Code Appeals Board by written request within 14 days.

This Notice given to certified mail

Reinspected _____, 20____ Results _____

charlesv@wytheville.org (276) 223-3339 150 East Monroe Street, Wytheville VA 24382

Issued by: Charles Vannatter Date: March 26, 2018



NOTICE OF VIOLATION

TOWN OF WYTHEVILLE

P.O. DRAWER 533 - WYTHEVILLE, VA 24382

OFFICE OF THE BUILDING OFFICIAL

OWNER/OCCUPANT Jack Dennis Singleton DATE March 26 2018
 BUILDING 1&2 Dwelling TIME certified mail AM PM
 ADDRESS 190 West Jefferson Street PERMIT NO. n/a
Wytheville VA ZIP 24382 OCCU/USE GROUP n/a

The following violation(s) of the Virginia Uniform Statewide Building Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

ITEM NO.	CODE SECTION	VIOLATION
33 1	2012 VMC 504.1	All plumbing fixtures shall be properly installed and maintained in working order and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which plumbing fixtures are designed.
34 2		
35 3	2012 VMC 504.3	Where it is found that a plumbing system in a structure constitute a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection,
36 4		backinphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.
37 5	2012 VMC 505.1	Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixtures shall be properly connected to either a public water system or to an approved private water system.
38 6	2012 VMC 505.2	The water supply shall be maintained free from contamination and all water inlets for plumbing fixtures shall be located above the flood level rim of the fixture.
39 7	2012 VMC 505.3	Water heating facilities shall be properly installed, maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate
40 8		to enable the fixtures to function properly, safely and free from defects and leaks.

Failure to correct violation(s) within 30 days from receipt of this notice may result in penalties as noted in Section 36-106, Code of Virginia. You may appeal this order to the Town Building Code Appeals Board by written request within 14 days.

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Reinspected _____, 20 ____ Results _____

charlesv@wytheville.org (276) 223-3339 150 East Monroe Street, Wytheville VA 24382

Issued by: Charles Vannatter Date: March 26, 2018



NOTICE OF VIOLATION

TOWN OF WYTHEVILLE

P.O. DRAWER 533 - WYTHEVILLE, VA 24382

OFFICE OF THE BUILDING OFFICIAL

OWNER/OCCUPANT Jack Dennis Singleton
BUILDING 1&2 Dwelling
ADDRESS 190 West Jefferson Street
Wytheville VA ZIP 24382

DATE March 26 2018
TIME certified mail AM PM
PERMIT NO. n/a
OCCU/USE GROUP n/a

The following violation(s) of the Virginia Uniform Statewide Building Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

ITEM NO.	CODE SECTION	VIOLATION
41 1	2012 VMC 506.1	All plumbing fixtures shall be properly connected to a public sewer system or to an approved sewage disposal system.
42 2	2012 VMC 506.2	Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks, and defects.
43 3	2012 VMC 507.1	Drainage of roofs and paved areas, yards and courts and other open areas on the premises shall be discharged in a manner to protect the building and structure from accumulation of overland water runoff.
44 4	2012 VMC 601.2	The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements.
45 5	2012 VMC 602.2	Every owner on terms, either expressed or implied to furnish heat thereof shall supply heat during the period of October 15 to May 1 to maintain a temperature of not less than 65 degrees fahrenheit in all habitable rooms, bathrooms, and toilet rooms.
46 6		
47 7	2012 VMC 603.1	All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working conditions, and shall be capable of performing the intended function.
48 8		

Failure to correct violation(s) within 30 days from receipt of this notice may result in penalties as noted in Section 36-106, Code of Virginia. You may appeal this order to the Town Building Code Appeals Board by written request within 14 days.

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Reinspected _____, 20____ Results _____

charlesv@wytheville.org (276) 223-3339 150 East Monroe Street, Wytheville VA 24382

Issued by: Charles Vannatter Date: March 26, 2018



NOTICE OF VIOLATION

TOWN OF WYTHEVILLE

P.O. DRAWER 533 - WYTHEVILLE, VA 24382

OFFICE OF THE BUILDING OFFICIAL

OWNER/OCCUPANT Jack Dennis Singleton DATE March 26 2018
 BUILDING 1&2 Dwelling TIME certified mail AM PM
 ADDRESS 190 West Jefferson Street PERMIT NO. n/a
Wytheville VA ZIP 24382 OCCU/USE GROUP n/a

The following violation(s) of the Virginia Uniform Statewide Building Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

ITEM NO.	CODE SECTION	VIOLATION
49 1	2012 VMC 604.1	Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and section 605
50 2	2012 VMC 604.2	Dwelling units shall be serviced by a three-wire, 120/240 volts, single phase electrical service having a minimum rating of 60 amperes.
51 3	2012 VMC 605.1	All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.
52 4	2012 VMC 605.2	Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Laundry room one GFCI. Bathrooms one receptacle. All receptacle outlets shall have appropriate covers.
53 5	2012 VMC 701.2	The owner of the premises shall provide and maintain such fire safety equipment in compliance with these requirements.
54 6	2012 VMC 702.1	A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way.
55 7	2012 VMC 702.4	Required emergency escape opening shall be maintained in accordance with the code in effect at the time of construction and shall be operational from the inside of the room
56 8		without the use of a key or tool or force greater than that which is required for normal operation of the escape and rescue opening.

Failure to correct violation(s) within 30 days from receipt of this notice may result in penalties as noted in Section 36-106, Code of Virginia. You may appeal this order to the Town Building Code Appeals Board by written request within 14 days.

This Notice given to certified mail

Reinspected _____, 20____ Results _____

charlesv@wytheville.org (276) 223-3339 150 East Monroe Street, Wytheville VA 24382

Issued by: Charles Vannatter Date: March 26, 2018



NOTICE OF VIOLATION

TOWN OF WYTHEVILLE

P.O. DRAWER 533 - WYTHEVILLE, VA 24382

OFFICE OF THE BUILDING OFFICIAL

OWNER/OCCUPANT Jack Dennis Singleton
BUILDING 1&2 Dwelling
ADDRESS 190 West Jefferson Street
Wytheville VA ZIP 24382

DATE March 26 2018
TIME certified mail AM PM
PERMIT NO. n/a
OCCU/USE GROUP n/a

The following violation(s) of the Virginia Uniform Statewide Building Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

ITEM NO.	CODE SECTION	VIOLATION
57 1	2012 VMC 704.2(1-3)	Smoke alarms shall be installed on the ceiling or all outside of each separate sleeping area in the immediate vicinity of bedrooms. In each room used for sleeping purpose.
2	Town Ordin Sec 16-37	The owner of each house or building, where the sanitary sewer system of the town is made available by the town to the property shall connect the premises with such sewer.
3	Town Ordin Sec 16-93	The owner of each house or building, where the water system of the town is made available by the town to the property shall connect the premises with such water.
4		Note: No record of water/sewage or electrical service since 1997.
5		
6		
7		
8		

Failure to correct violation(s) within 30 days from receipt of this notice may result in penalties as noted in Section 36-106, Code of Virginia. You may appeal this order to the Town Building Code Appeals Board by written request within 14 days.

This Notice given to certified mail

Reinspected _____, 20____ Results _____

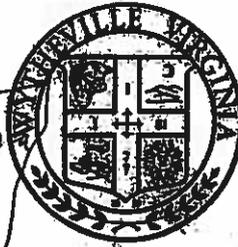
charlesv@wytheville.org (276) 223-3339 150 East Monroe Street, Wytheville VA 24382

Issued by: Charles Vannatter Date: March 26, 2018

WYTHEVILLE PUBLIC SAFETY

COUNCIL-MANAGER FORM OF GOVERNMENT SINCE 1924

DIRECTOR OF PUBLIC SAFETY
ALBERT L. NEWBERRY, JR.
276-223-3340



BUILDING/FIRE OFFICIAL
CHARLES VANNATTER
276-223-3339

Vernon Hodges @ dhcd.virginia.gov
Building of fire code overruled 908

150 East Monroe Street
WYTHEVILLE, VIRGINIA 24382

Vernon Hodges @ dhcd.virginia.gov
Technical Review

March 27, 2018

USE GROUP?

Mr. Jack Singleton
260 W. Jefferson Street
Wytheville, Virginia 24382

Re: Notice of Violation at 190 W. Jefferson

Dear Mr. Singleton,

This is a letter informing you that your property at 190 W. Jefferson has been determined to be an unsafe structure pursuant to the Virginia Uniform Statewide Building Code. Please see the enclosed notices with the specific code references.

You are required to obtain a demolition permit from the Town Building Department and demolish the structure at 190 W. Jefferson to the ground. You have until April 30th 2018 to demolish the structure and fourteen (14) calendar days from receipt of this notice to file an appeal with the Building Code Appeals Board. If demolition has not occurred within the designated time frame, the Town will proceed to demolish the structure.

Sincerely,

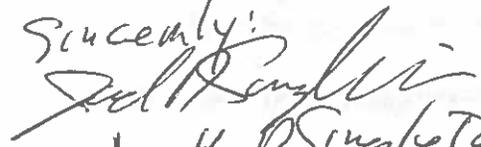
Christopher R. Menerick, Esq.
Town Attorney

Appeal: from Town of Wytheville
Building Code Officials decision.

TO: Town of Wytheville LBBCA
David Harrison Chairman

FROM: Jack Singleton appellant owner of 190 W. Jefferson
260 W. Jefferson St
Wytheville Va 24382

SIN: Now comes your appellant aggrieved by
a decision of Wytheville Town's Code
official's application of the USBC.

Sincerely:

Jack D. Singleton

Enclosed: Copy of Code Officials decision
on property at 190 W. Jefferson St.

RESOLUTION

WHEREAS, the Wytheville Local Board of Appeals is duly appointed to resolve disputes arising out of enforcement of the Virginia Maintenance Code; and

WHEREAS, an appeal has been filed and brought to the attention of the Board of Appeals; and

WHEREAS, a hearing has been held to consider the aforementioned appeal; and

WHEREAS, the Board has fully deliberated this matter; now, therefore, be it

RESOLVED, that in the matter of Jack Dennis Singleton, a motion was made, seconded, and unanimously approved by the Board of Building Code Appeals to uphold the decision made by the Town of Wytheville Building Official ruling the structure located at 190 West Jefferson Street as unsafe and needs to be removed.

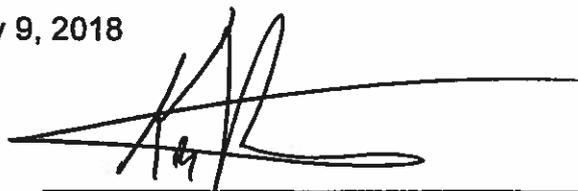
IN RE: Town of Wytheville v. Jack Dennis Singleton

The appeal is hereby denied for the vacant structure located at 190 West Jefferson Street, for the reasons set out below:

1. This structure is in an unsafe condition and unfit for human occupancy.
2. The structure is not securely enclosed to prevent unauthorized entry.
3. It would be more cost effective to demolish the structure and rebuild.
4. The Board finds that, as evidenced by Mr. Singleton's neglect of the property for over two decades, he has shown no intent and continues to show no intent to substantially maintain, fix, or remedy the property in any meaningful way.
5. Other items as identified in the Building Official's Notices of Violations dated March 26, 2018.

Date: May 9, 2018

Signature:



Chairman of Wytheville Board of Appeals

Note: Any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, VA 23219, 804-371-7150

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 State Building Codes Office and Office of the State Technical Review Board
 Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
 Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Jack Singleton
260 W. Jefferson St Wytheville Va 24382
276-613-4476 diamondjacksing@gmail

Opposing Party Information (name, address, telephone number and email address of all other parties):

Town of Wytheville Va 150 E. Monroe St. Wytheville Va 24382

Party 1. Charles Vannatter Building Official (276-223-3339) charles@wytheville.org

Party 2. Chris Menerick, Esq (276-223-3393) CHRIS.MENERICK@WYTHEVILLE.ORG

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of June, 2018, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: Jack D. Singleton

Name of Applicant: Jack D. Singleton
 (please print or type)

Statement of Specific Relief Sought:

1. I seek relief from my building being determined to be an unsafe structure by the misadministration of VMC 105 proceeding to order demolition without issuing the required reports of VMC 105.2 or the corrective to be specified in VMC 105.4
2. I seek relief from from the Notice of Violation (multiple citations of the VMC) not supported by "findings" by the code official as required by VMC 104.5.4
3. I seek relief from the allegation that my structure is not secured against public entry as was done before the time of Mr. Menerich's letter noticing the determining of the structure to be unsafe.
4. I seek relief from the placard ^(notice) to keep out which is not a part of the VMC either under 105.4.1 OR 105.6.
5. I seek relief from the time to ~~correct~~ correct violations of the VMC and NSF PC (30 days) as unreasonable considering the number of ~~potential~~ alleged violations, and the magnitude of demolition.

6 I seek relief from the "stocking" of multiple unfounded alleged violations as enforcement of the codes in actions not of good faith and Misadministration of the codes, using the codes not as the intended shield of public safety but as a sword to poke at individuals.

Sincerely:

Jack D. Singleton
Jack D. Singleton

Documents Submitted
By The Town of Wytheville

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WYTHEVILLE PUBLIC SAFETY

COUNCIL-MANAGER FORM OF GOVERNMENT SINCE 1924

DIRECTOR OF PUBLIC SAFETY
ALBERT L. NEWBERRY, JR.
276-223-3340



BUILDING/FIRE OFFICIAL
CHARLES VANNATTER
276-223-3339

150 East Monroe Street
WYTHEVILLE, VIRGINIA 24382

July 13, 2018

W. Travis Luter Sr., C.B.C.O.
Department of Housing & Community Development
State Building Codes Office
600 East Main Street, Suite 300
Richmond, Virginia 23219

Re: Appeal to the Review Board for Jack Singleton (Appeal No. 18-09)

Dear Mr. Luter,

Please find enclosed documents relating to Mr. Singleton's appeal. Please let us know if there is anything additional you may need.

In regards to the timeframe for appeal to the local Wytheville Building Code Appeals Board, the Notice of Violation letter was posted on Mr. Singleton's residence on March 27, 2018, and sent by certified mail the same day. Delivery was attempted on March 29, 2018, with notice left by the mail carrier. Being unclaimed at the post office, the letter was returned to sender and arrived back at the Town Office on April 17, 2018. Mr. Singleton filed his appeal to the Building Code Appeals Board by FedEx package arriving at the Town Office on April 11, 2018. I discussed with the Wytheville Town Council these timing issues. An appellant has 14 days from receipt of notice to file an appeal. If March 27, 2018, is the "date of receipt," then he missed his appeal by 2 days (16 days difference). If March 29, 2018, is the "date of receipt," then his appeal is timely, albeit barely (14 days exactly). Although I felt we had an argument for denying his appeal as untimely, Town

Council feared being the target of yet another lawsuit from Mr. Singleton if we did not grant the appeal.

In regards to the timeframe for appeal to DHCD, the Town sent Mr. Singleton a copy of the Wytheville Building Codes Appeals Board's resolution by certified mail on May 17, 2018. Delivery was attempted on May 19, 2018, and May 24, 2018, with notices left at his residence. The letter was held at the post office for Mr. Singleton to pick up by June 2, 2018. On June 4, 2018, the letter was still unclaimed so it was sent back to sender and was received by the Town Office on June 7, 2018. On June 13, 2018, Mr. Singleton visited the Town Office and was served with a copy of the resolution in person. Mr. Singleton filed his appeal to DHCD on June 22, 2018.

I would like to take this opportunity to respond to each of the numbered paragraphs in Mr. Singleton's appeal.

1. Mr. Singleton did receive a report, per VMC 105.2, from Building Official Charles Vannatter. Enclosed is a copy of a report dated March 5, 2018, concerning Mr. Singleton's 190 W. Jefferson St. property. Any deficiency argued by Mr. Singleton is insignificant, as Mr. Singleton had reasonable notice as to the condition of his property. In *Lee v. City of Norfolk*, 281 Va. 423 (2011), the Virginia Supreme Court held that a deficiency in a notice of demolition was insignificant because the property owner had reasonable notice and an opportunity to appeal. Furthermore, the Court held that the city's abatement of a public nuisance was a police power which did not require due process in the first place. Secondly, a list of corrections is not required under VMC 105.4 since the Town ordered his property to be demolished.
2. The Notice of Violation of March 27, 2018, is supported by findings, namely, Building Official Vannatter's inspections and multiple photographs.
3. Mr. Singleton claims that his structure is secure against public entry. There is no fencing or barrier at all preventing animals, children or others from entering the property and climbing on or into the structure. See enclosed Mr. Singleton's handwritten notes dated March 2, 2018, in which he states trespassers have climbed into the structure to steal items and have thrown trash into the structure.
4. Mr. Singleton claims that the "keep out" placard is not a part of the VMC 105.4.1 or 105.6. Of course, these are the two VMC sections that require keep out placards. VMC 105.4.1 is for unsafe structures and 105.6 is for inhabitable structures. Mr. Singleton's comment does not make sense.

5. Mr. Singleton claims the time to demolish is unreasonable given the number of violations. Again, Mr. Singleton misses the point that the Town is asking him to demolish the structure, which has been in its current state since 2004 (and deteriorating since), and not to correct every VMC violation. Mr. Singleton was given over a month to initiate demolition, which is only estimated around \$5,000 (see enclosed estimate).
6. Mr. Singleton claims that “stacking” multiple violations is unfair and the Town’s use of the VMC against him is also unfair. However, it is the duty of the Building Official to enforce the entirety of the Virginia Maintenance Code and cite every applicable violation. The purpose of the VMC is to protect the public by prosecuting violators.

Please understand that the condition of Mr. Singleton’s properties has been issues with the Town for many years. In 2004, the then-Building Official Stan Massie was able to obtain a court order for Mr. Singleton to raze the top portion of the house that stood on this property, 190 W. Jefferson Street. A copy of the summons is enclosed. It is unknown to me or anyone with Town staff why it was not ordered to be razed all the way down to the foundation. In any case, the structure has remained in the same condition since 2004. I have enclosed pictures taken from Google Earth and from Town staff through the years 2006 to 2018 which show the condition of the property has not changed. Although Mr. Singleton boasts that this proves the soundness of the structure, it shows that trees have been allowed to grow in, around, under, and through the structure. It also shows Mr. Singleton’s continuous neglect for the property. It is hard for Town staff to believe that, after having received notice to demolish his structure, that he is suddenly committed to building it back up at substantial cost. By his own engineer’s report, the cost to rebuild this structure would outweigh the cost to demolish and start over. We have enclosed an estimate from a local demolition crew of \$5,000 to demolish this property. We are only asking Mr. Singleton to take the least costly approach.

Please feel free to reach out to me by phone (276-223-3393) or email (chris.menerick@wytheville.org), if you have any comments or need any additional information.

Sincerely,



Christopher R. Menerick, Esq.
Town Attorney
VSB #91994

USPS Tracking®

FAQs > (<http://faq.usps.com/?articleId=220900>)

Tracking History of Notice of Violation/Demolition mailed to Mr. Singleton.

-Chris Menech

Track Another Package +

Tracking Number: 70170190000082419197

Remove X

Your item has been delivered to the original sender at 9:57 am on April 17, 2018 in WYTHEVILLE, VA 24382.

Delivered

April 17, 2018 at 9:57 am
Delivered, To Original Sender
WYTHEVILLE, VA 24382

Tracking History

April 17, 2018, 9:57 am
Delivered, To Original Sender
WYTHEVILLE, VA 24382

Your item has been delivered to the original sender at 9:57 am on April 17, 2018 in WYTHEVILLE, VA 24382.

April 17, 2018, 9:03 am
Available for Pickup
WYTHEVILLE, VA 24382

April 17, 2018, 9:03 am
Arrived at Unit
WYTHEVILLE, VA 24382

April 16, 2018, 10:49 pm
Departed USPS Regional Facility
ROANOKE VA DISTRIBUTION CENTER

April 16, 2018, 1:38 pm
Arrived at USPS Regional Facility
ROANOKE VA DISTRIBUTION CENTER

April 16, 2018
In Transit to Next Facility

April 15, 2018, 3:07 pm
Arrived at USPS Regional Facility
GREENSBORO NC DISTRIBUTION CENTER

April 13, 2018, 12:41 pm
Unclaimed/Being Returned to Sender
WYTHEVILLE, VA 24382

Reminder to Schedule Redelivery of your item

March 29, 2018, 1:10 pm
Notice Left (No Authorized Recipient Available)
WYTHEVILLE, VA 24382

March 29, 2018, 8:28 am
Distribution to PO Box in Progress
WYTHEVILLE, VA 24382

March 29, 2018, 8:18 am
Sorting Complete
WYTHEVILLE, VA 24382

March 29, 2018, 7:39 am
Arrived at Unit

WYTHEVILLE, VA 24382

March 28, 2018
In Transit to Next Facility

March 27, 2018, 5:04 pm
Departed Post Office
WYTHEVILLE, VA 24382

March 27, 2018, 4:06 pm
USPS picked up item
WYTHEVILLE, VA 24382

Product Information



See Less ^

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- See images* of incoming mail.
- Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions™ for your mail carrier.

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/entreg

*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

RegistrationAction_input?app=UspsTools&



Pictona taken by Charles Vannatter
on March 27, 2018 at 3:22 pm



Pictures taken by Charles Vannatta
on March 27, 2018 at 3:22 pm

* Notice of Violations posted on his door (front) at
his residence on 260 West Jefferson Street, Wytheville
VA



Pictures was taken by Charles Vannatter
On MARCH 27, 2018 At 3:24 pm

* Notice of violation was posted At the residence of Jack Singleton
Front Door on 260 West Jefferson Street, Wytheville VA



Sign In

780436933910

Tracking History of Mr. Singleton's Building Code Appeal filing.

Delivered
Wednesday **4/11/2018** at 1:09 pm

DELIVERED

Signed for by: L.TAYLOR

[GET STATUS UPDATES](#)

[OBTAIN PROOF OF DELIVERY](#)

FROM

SCOTTSDALE, AZ US

TO

WYTHEVILLE, VA US

Travel History

Shipment Facts

4/11/2018 - Wednesday

1:09 pm

Delivered

WYTHEVILLE, VA

[Expand History](#)

4/09/2018 - Monday

10:51 am

Shipment information sent to FedEx

OUR COMPANY

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Sign In

Ask FedEx

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earthsmart
 FedEx carbon-neutral
 envelope shipping

ORIGIN ID: SCFA (480) 483-0700
 MAILING CENTER
 7119 E SHEA BLVD
 SCOTTSDALE, AZ 85254
 UNITED STATES US

TO **ATTN: DONNA**
TOWN OF HYTEVILLE VALBBCA
150 E MONROE ST

HYTEVILLE VA 24382
 (270) 423-3354
 REF: JACK SIMMONS
 AS

SHIP DATE: 04PRR18
 ACTIVITY
 CRO: 112848667/48X13300
 BILL SENDER



TRKH 7804 3693 3910
 (0281)
SH TRIA
 WED - 11 APR 4:30P
 ** 2DAY **
 DSR
 24382
 VA-US TYS



Town of Wythouille Va LBBCA
 150 E. Monroe St.
 Wythouille Va 24382

Attn: Donna

Attn. Donna

260w. deterson ST
 24382

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FAQs > (<http://faq.usps.com/?articleId=220900>)

Track Another Package +

*Tracking History of copy of
Wytheville Building Code Appeals
Board resolution mailed
to Mr. Singleton
- Chris Meneick*

Tracking Number: 70170190000082418985

Remove X

Your item has been delivered to the original sender at 11:40 am on June 7, 2018 in WYTHEVILLE, VA 24382.

Delivered

June 7, 2018 at 11:40 am
Delivered, To Original Sender
WYTHEVILLE, VA 24382

Tracking History

June 7, 2018, 11:40 am

Delivered, To Original Sender

WYTHEVILLE, VA 24382

Your item has been delivered to the original sender at 11:40 am on June 7, 2018 in WYTHEVILLE, VA 24382.

June 7, 2018, 11:00 am

Available for Pickup

WYTHEVILLE, VA 24382

June 6, 2018, 6:19 pm

Departed USPS Regional Facility

ROANOKE VA DISTRIBUTION CENTER

June 6, 2018, 3:06 pm
Arrived at USPS Regional Facility
ROANOKE VA DISTRIBUTION CENTER

June 6, 2018
In Transit to Next Facility

June 5, 2018, 5:06 pm
Arrived at USPS Regional Facility
GREENSBORO NC DISTRIBUTION CENTER

June 4, 2018, 1:16 pm
Unclaimed/Being Returned to Sender
WYTHEVILLE, VA 24382

Reminder to Schedule Redelivery of your item

May 19, 2018
In Transit to Next Facility

May 19, 2018, 11:23 am
Notice Left (No Authorized Recipient Available)
WYTHEVILLE, VA 24382

*2nd Notice left on May 24
See carrier's note on front
of envelope.*

May 18, 2018, 10:03 pm
Departed USPS Regional Facility
ROANOKE VA DISTRIBUTION CENTER

May 18, 2018, 8:54 am
Arrived at USPS Regional Facility
ROANOKE VA DISTRIBUTION CENTER

May 18, 2018, 3:43 am
Departed USPS Regional Facility
GREENSBORO NC DISTRIBUTION CENTER

May 17, 2018, 9:23 pm
Arrived at USPS Regional Facility
GREENSBORO NC DISTRIBUTION CENTER

Product Information



See Less ^

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FAQs (<http://faq.usps.com/?articleId=220900>)

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- Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions[™] for your mail carrier.

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*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

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7017 0190 0000 8241 8985

U.S. Postal Service™
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OFFICIAL USE

Certified Mail Fee	\$ 3.45
Extra Services & Fees (check box, add fee as appropriate)	\$ 2.15
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postmark Here
5/17/18

Postage \$ 0.47
Total Postage and Fees \$ 6.67

Sent To Mr. Jack Singleton
Street and Apt. No., or PO Box No. 260 W. Jefferson St.
City, State, ZIP+4 WYTHEVILLE, VA 24382
PS Form 3826, April 2016 PSN 7530-02-000-9047 See Reverse for Instructions



7017 0190 0000 8241 8985

Return Receipt Requested

MR. JACK SINGLETON
260 WEST JEFFERSON
WYTHEVILLE, VA 24382

NIXIE
RC: 243826
VAC

5/17/18
6/20/18

24382601260

TOWN OF WYTHEVILLE
Post Office Box 533
Wytheville, Virginia 24382-0533

WNC

WYTHEVILLE PUBLIC SAFETY

COUNCIL-MANAGER FOR OF GOVERNMENT SINCE 1924

DIRECTOR OF PUBLIC SAFETY
ALBERT L. NEWBERRY, JR.
276-223-3340



BUILDING/FIRE OFFICIAL
CHARLES VANNATTER
276-223-3339

150 East Monroe Street
WYTHEVILLE, VIRGINIA 24382

March 5, 2018

Jack Dennis Singleton
260 West Jefferson Street
Wytheville VA 24382

Dear Mr. Singleton,

On March 2, 2018, an unscheduled meeting was held in my office to discuss the derelict issues on property located at 190 West Jefferson Street. As noted, the property previously owned by Gaspar Mendoza Ortiz and now currently owned by you, the first Notice of Violation was issued January 26, 2016. The second Notice of Violation was issued on September 16, 2016. Both notices were sent with no response. The structure is vacant and appears to be made from cinder block with four walls, no roof or floors, no heating source, electrical, sewer or water. The structure has been declared and placard by this office "Unsafe Structure" on January 26, 2016. The structure appears to have substantial damage to the walls and possibly the foundation due to the growth of the trees and subject to weather damages. It appears that no records indicate any person(s) living in the house or any activity of water, sewer or electric since the year 1997. The structure violates the majority, if not all, of the 2012 Virginia Property Maintenance Code.

Jack Dennis Singleton
260 West Jefferson Street
Page Two

The following must be provided prior to any work or permits to be issued:

1. Submittal of construction documents in accordance with the Virginia Residential Code Section 109.1.
2. A plat of the property with detail measurements of lot lines. Site plan with details of grading and specifications in accordance with the Virginia Residential Code Section 109.2
3. Engineering detail adequate drawing of structural, mechanical, plumbing and electrical in accordance with the Virginia Residential Code Section 109.3.
4. All documents must be sealed by a Register Design Professional in accordance with Virginia Residential Code 109.3.
5. Must develop a comprehensive construction plan with time lines and phases of completion of the projects. "Work Plan"
6. Letter from a financial institution that you have the resources to complete the project.

In accordance with Section 115.5 of the Virginia Residential Code regarding "Transfer of Ownership," this should serve as a notice to you and past conversations with this office that you bear all responsibility of any issues to this structure.

If you have any inquiries, please do not hesitate to call me.

Sincerely,



Charles Vannatter,
Building Official

Wright Engineering
245 Greymont Lane
Wytheville, VA 24382
(276) 698-7526 (Cell)

May 10, 2017
Job No. 940

Mr. Jack Singleton
260 W. Jefferson Avenue
Wytheville, VA-24382

Subject: Foundation Inspection

Dear Mr. Singleton:

I met with you yesterday, to inspect an old foundation that is adjacent to your home at 260 W. Jefferson Avenue, Wytheville, VA. It is my understanding that the Town of Wytheville has condemned, or is considering condemning, the foundation as unsafe. A picture of the foundation is below:



You have asked me to determine if the foundation, as inspected, is in danger of imminent failure. At this point in time, the structure is not in danger of failure. It should be noted, however, that the foundation, in its current state, is not suitable for use as the foundation

Mr. Jack Singleton
May 10, 2017
Job No. 940
Page 2

of a structure without considerable repair. I noted several conditions that, as a minimum, will need to be addressed before you can consider building any type of structure on the foundation. These findings include:

1. There are a number of trees growing inside the foundation walls. It is obvious that the roots have grown beneath the foundation footings. These trees will have to be removed from the interior of the structure and the roots that have grown beneath the footings will have to be removed and the subsoil beneath the footings will have to be properly filled and compacted after the removal of all biological material to prevent further subsidence of the foundation walls.
2. One corner of the structure has experienced differential settlement, resulting in cracks in the wall. It is possible to repair the wall by hydraulically lifting the walls and grouting beneath the footing by a specialist, however it would likely be more cost effective to remove portions of the wall and associated foundation and rebuild the damaged portions of the foundation and walls.
3. The foundation has been constructed of un-grouted 10" concrete masonry units. During our discussions, you mentioned that, assuming that you decide to build a structure on the foundation; you would likely back fill against the foundation to an unbalanced height of six feet, or more. According to the Virginia Residential Code, backfilling to this height would require that the walls be grouted and be reinforced with vertically embedded reinforcement, something that would be difficult to achieve, after the fact.
4. The foundation is not complete, having a number of openings. There is wood framing that is rotting and would need to be removed and rebuilt with pressure treated wood.
5. The site is poorly graded, at this time. In order to prevent further damage to the structure, the site must be graded or otherwise protected from runoff near the foundation, in accordance with the Code. If this is not accomplished in near term, the foundation will continue to degrade, making it more difficult to affect repairs to the foundation, in the future.
6. The soil within the confines of the foundation contains considerable organic material, which must be removed prior to preparing the sub-grade for any type of floor structure.

It is my professional opinion that the foundation is capable of being utilized as the foundation structure of a building, however considerable work will be required. Any attempt to restore the foundation should be done under the direction of a design professional to help ensure that the foundation comes up to acceptable standards. The repairs will be costly and, in fact, may amount to a higher cost than demolishing the structure and starting over with a new foundation. Should you decide to pursue the

Mr. Jack Singleton
May 10, 2017
Job No. 940
Page 3

possibility of repairing the foundation and building upon it, I would recommend that you develop a comprehensive construction plan, which is time phased, that can be presented to the building official. In its current state, the foundation is not in jeopardy of imminent failure; however, if left in its current condition it may represent a safety hazard which is a separate issue. Should you elect to continue with the plans to build a structure upon the foundation, I would be glad to consult with you about the necessary measures required to bring the foundation and site up to acceptable conditions.

Sincerely,



Gordon G. Wright, P.E.

Wright Engineering
245 Greymont Lane
Wytheville, VA 24382
(276) 698-7526 (Cell)

May 10, 2017
Job No. 940

Mr. Jack Singleton
260 W. Jefferson Avenue
Wytheville, VA 24382

Subject: Foundation Inspection

INVOICE

The following invoice is for engineering services rendered to inspect, analyze, and report on the old foundation located adjacent to 260 W. Jefferson Ave., Wytheville, VA

2.87 hrs	Engineering services rendered @ \$ 75.00/hr.	\$ 215.00
----------	--	-----------

Total Due:		\$ 215.00
------------	--	-----------

Rec'd Pmt	=	250.00
Overpayment	=	35.00
		<hr/>

Thanks for the opportunity to serve.

Refund check # 1120
payed 2/15/18
\$ 35.00
See copy Attached

Wright Engineering
245 Greymont Lane
Wytheville, VA 24382
(276) 698-7526 (Cell)

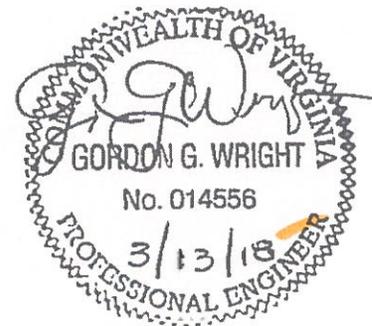
May 10, 2017
Job No. 940

Mr. Jack Singleton
260 W. Jefferson Avenue
Wytheville, VA 24382

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Mr. Jack Singleton
May 10, 2017
Job No. 940
Page 2

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3. The foundation has been constructed of un-grouted 10" concrete masonry units. During our discussions, you mentioned that, assuming that you decide to build a structure on the foundation; you would likely back fill against the foundation to an unbalanced height of six feet, or more. According to the Virginia Residential Code, backfilling to this height would require that the walls be grouted and be reinforced with vertically embedded reinforcement, something that would be difficult to achieve, after the fact.
4. The foundation is not complete, having a number of openings. There is wood framing that is rotting and would need to be removed and rebuilt with pressure treated wood.
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Mr. Jack Singleton
May 10, 2017
Job No. 940
Page 3

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Sincerely,



Gordon C. Wright, P.E.

WORK DESCRIPTION -

3-2-2018 @ 2:30pm

enb-jurd

1. Remove Items of Submitted by
That make STRUCTURE Jack Singler TOR.
CORRECTIONS NECESSARY FOR COMPLIANCE WITH
105.4 will be made when the structure is demolished.

The sole entrance to the structure
to my knowledge has never had posted at it
any notice described in 105.4.1. This
STRUCTURE has never been inhabited
OR OCCUPIED. The previous neighbors
did come and go and steal items from
within the STRUCTURE and rubbish and trash
into the STRUCTURE was cast by them.

Code official has not to my knowledge determined
an immediate danger of any portion
of the structure falling or collapsing.
no authorized emergency repairs
to same Maintenance code 105.9

See attached report Gordon Wright PE No. 014556
STRUCTURE NOT presently unsafe

2. Remove cracked Block south and north
of "A" on footer drawing site plan



Picture taken by Charles Vannatta
At 3:01 pm on 4-13-2018



Picture taken by Charles Vannatter
At 3:04 pm on 4-13-2018



Picture taken by Charles Vannatta
at 3:04 pm on 4-13-2018



Picture taken by Charles Varnatta
At 3:04 pm on 4-13-2018



Picture taken by Charles Vannatta
At 3:04pm on 4-13-2018



*Picture taken by Charles Vannatter
At 3:06pm on 4-13-2018*



Picture taken by Charles Vannatter
At 3:06pm on 4-13-2018



Pictures taken by Charles Vannatta
At 3:06 pm on 4-13-2018



Picture taken by Charles Vannatter
At 3:07pm on 4-13-2018



Picture taken by Charles Vannatter
At 3:07pm on 4-13-2018



Picture taken by Charles Vannatter
At 3:09pm on 4-13-2018



Pictures taken by Charles Varnatten
At 3:10pm on 4-13-2018



Picture taken by Charles Vannatta
At 3:11 pm on 4-13-2018



*Picture taken by Charles Vannatter
at 3:12 pm on 4-13-2018*



Picture taken by Charles Vannatten
At 3:12 pm on 4-13-2019



Picture taken by Charles Vannatta
at 3:15 pm on 4-13-2018



Picture taken by Charles Vannatter
At 3:15 pm on 4-13-2008



House to right.

Safety hazard for all
neighborhood children

There are at least 7 children
under the age of 9 years
within site of these properties

Photo taken Feb 13, 2003



House to the right w/ 15 year
old building inspection.

Feb 13, 2003 Photo taken



1/31/2006



1/31/2011



10/2012

190 W. Jefferson - 8/25/15 - Rubens Akros













EMPIRE SALVAGE & RECYCLING, INC.

P.O. Box 300 • Bluefield, West Virginia 24701
(304) 425-6046 • 1-800-525-7602

PROJECT QUOTE SHEET

Client: Town of Wytheville **Date:** November 9, 2016
Representative: Charles Vannatter
Phone: 276-223-3333
E-mail: charlesv@wytheville.org
Address: 150 E. Monroe Street, Wytheville, Virginia 24382
Project Location: 190 West Jefferson Street/Wytheville/Virginia
Project Start Date: After acceptance and submittal of notifications
Responsible Party for Billing: Same **Billing Address:** Same

EMPIRE SALVAGE & RECYCLING, INC.

RE: Quotation for the asbestos inspection and the demolition of the structure located at 190 West Jefferson Street located in Wytheville, Virginia.

Empire Salvage & Recycling, Inc. will then demolish, load, transport and dispose of all debris into a permitted C/D landfill.

***** PLEASE NOTE: THIS QUOTE DOES NOT INCLUDE ABATEMENT IF ASBESTOS WOULD BE FOUND DURING THE ASBESTOS INSPECTION.**

TOTAL ESTIMATED COST:

\$5,000.00

Thank you for allowing Empire Salvage & Recycling, Inc. to be able to provide the Town of Wytheville with this quotation. Should you have any questions or concerns on this quotation or any other matter, please do not hesitate to contact myself.

Sincerely,

A handwritten signature in cursive script that reads "Mark Brewer".

Mark Brewer/Project Manager

User Name: Christopher Menerick

Date and Time: Thursday, May 3, 2018 3:49:00 PM EDT

Job Number: 66108079

Document (1)

1. [Lee v. City of Norfolk, 281 Va. 423](#)

Client/Matter: -None-

Search Terms: 281 va. 423

Search Type: Natural Language

Narrowed by:

Content Type
Cases

Narrowed by
Virginia



Lee v. City of Norfolk

Supreme Court of Virginia

March 4, 2011, Decided

Record No. 092385

Reporter

281 Va. 423 *; 706 S.E.2d 330 **; 2011 Va. LEXIS 55 ***

JOSEPH C. LEE v. CITY OF NORFOLK

Prior History: [***1] FROM THE CIRCUIT COURT OF THE CITY OF NORFOLK. Junius P. Fulton, III, Judge.

[Lee v. City of Norfolk, 2010 Va. LEXIS 185 \(Va., Apr. 19, 2010\)](#)

Disposition: Affirmed.

Core Terms

notice, circuit court, due process, plea in bar, demolition, inverse condemnation claim, inverse condemnation, demurrer, deprivation, days, public nuisance, argues, due process claim, regulations, due process of law, abatement, pleadings, requires, second amended complaint, equal protection claim, sustaining a demurrer, sovereign immunity, due process right, property damage, trial court, post-deprivation, UNSAFE, inverse condemnation action, property damage claim, nuisance abatement

Case Summary

Procedural Posture

Appellant property owner brought an action against appellee City following the demolition of his property. The property owner claimed deprivation of his due process rights under 42 U.S.C.S. § 1983, inverse condemnation, in violation of [Va. Const. art. I, § 11](#), and common law property damages. The Circuit Court of the City of Norfolk (Virginia) dismissed the claims upon demurrer and pleas in bar. The property owner appealed.

Overview

The City's demolition of the property was not a taking, but rather the abatement of a nuisance for which no compensation was due. Consequently, the property owner was not entitled to a post-deprivation hearing because there was no compensable taking. The trial court, therefore, erred in sustaining the demurrer to the due process count on that basis. However, that error was harmless. Further, the property owner's constitutional due process rights to notice and opportunity to object were not violated by any deficiencies in his notice letter. During the 107 days that elapsed from receipt of the notice until demolition, the property owner made no inquiries about his appeal rights and took no actions to avail himself thereof. The property owner's failure to exhaust his administrative remedies barred any claim for inverse condemnation under [Va. Code Ann. § 8.01-187](#). Finally, the City was immune for exercising its police power to abate the public nuisance that it deemed the property owner's building to pose. Furthermore, the demolition of the building entailed the exercise of the City's discretionary authority and, therefore, the City enjoyed sovereign immunity for its actions.

Outcome

The court affirmed the judgment.

LexisNexis® Headnotes

Civil Procedure > Judgments > Pretrial Judgments > Judgment on Pleadings

[HN1](#) [↓] **Pretrial Judgments, Judgment on Pleadings**

Where no evidence is taken in support of a plea in bar, the trial court, and the appellate court upon review,

consider solely the pleadings in resolving the issue presented. The facts as stated in the plaintiff's pleadings are taken as true for the purpose of resolving the special plea.

Civil Procedure > Appeals > Standards of Review > De Novo Review

Civil Procedure > ... > Responses > Defenses, Demurrers & Objections > Demurrers

[HN2](#) Standards of Review, De Novo Review

An appellate court reviews de novo a circuit court's sustaining of a demurrer, observing familiar principles: The purpose of a demurrer is to determine whether a motion for judgment states a cause of action upon which the requested relief may be granted. A demurrer tests the legal sufficiency of facts alleged in pleadings, not the strength of proof.

Civil Rights Law > ... > Section 1983
Actions > Scope > Due Process in State Proceedings

[HN3](#) Scope, Due Process in State Proceedings

The United States Constitution guarantees that no State shall deprive any person of life, liberty, or property, without due process of law. *U.S. Const. amend. XIV*. In procedural due process claims, the deprivation by State action of a constitutionally protected interest in life, liberty, or property is not in itself unconstitutional; what is unconstitutional is the deprivation of such an interest without due process of law. The constitutional violation actionable under 42 U.S.C.S. § 1983 is not complete when the deprivation occurs; it is not complete unless and until the State fails to provide due process. While the Supreme Court of the United States usually holds that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property, in some circumstances, however, the Court holds that a statutory provision for a post-deprivation hearing, or a common-law tort remedy for erroneous deprivation, satisfies due process.

Civil Rights Law > ... > Section 1983
Actions > Scope > Due Process in State Proceedings

Real Property Law > Inverse
Condemnation > Constitutional Issues

[HN4](#) Scope, Due Process in State Proceedings

Because aggrieved property owners may file an inverse condemnation action pursuant to Virginia's declaratory judgment statute, they are afforded procedural due process as a matter of law. The availability of post-deprivation procedures bars a landowner's procedural due process claim.

Real Property
Law > ... > Nuisance > Remedies > Summary Abatement

[HN5](#) Remedies, Summary Abatement

The abatement of a nuisance often requires prompt and summary proceedings, and where the abatement is authorized under the police power of the State and due process of law has been observed, the owner of the property destroyed for the public good has no constitutional rights beyond those provided in the statute under which the abatement is made.

Civil Rights Law > ... > Section 1983
Actions > Scope > Due Process in State Proceedings

[HN6](#) Scope, Due Process in State Proceedings

It is only when an agency's disregard of its rules results in a procedure which in itself impinges upon due process rights that a federal court should intervene in the decisional processes of State institutions.

Civil Procedure > Remedies > Forfeitures > Notice Requirement

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > Scope of Protection

[HN7](#) Forfeitures, Notice Requirement

An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the

281 Va. 423, *423; 706 S.E.2d 330, **330; 2011 Va. LEXIS 55, ***1

circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. The notice must be of such nature as reasonably to convey the required information, and it must afford a reasonable time for those interested to make their appearance. Due process does not require actual notice in a forfeiture proceeding, but only notice reasonably calculated to inform those affected.

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > Scope of Protection

[HN8](#) [↓] **Procedural Due Process, Scope of Protection**

Significant departures from stated procedures of government and even from isolated assurances by governmental officers which have induced reasonable and detrimental reliance may, if sufficiently unfair and prejudicial, constitute procedural due process violations.

Civil Procedure > ... > Defenses, Demurrers & Objections > Affirmative Defenses > General Overview

[HN9](#) [↓] **Defenses, Demurrers & Objections, Affirmative Defenses**

A plea in bar presents a distinct issue of fact which, if proven, creates a bar to the plaintiff's right of recovery.

Real Property Law > Inverse Condemnation > Procedures

Real Property Law > ... > Elements > Involuntary Acquisition & Diminution of Value > Takings

[HN10](#) [↓] **Inverse Condemnation, Procedures**

The Constitution of Virginia guarantees that the General Assembly shall not pass any law whereby private property shall be taken or damaged for public uses, without just compensation. *Va. Const. art. I, § 11*. The General Assembly has afforded those aggrieved by a taking with a statutory remedy for inverse condemnation. *Va. Code Ann. § 8.01-187*.

Real Property
Law > ... > Nuisance > Remedies > Summary Abatement

Real Property Law > ... > Elements > Involuntary Acquisition & Diminution of Value > Takings

[HN11](#) [↓] **Remedies, Summary Abatement**

The law is well settled that the abatement of a nuisance by a public body is not a compensable taking. The abatement of a nuisance for the public safety comes under the police power of the State, and is not a taking of private property for a public use in the sense contemplated by the constitution, for which compensation must be allowed.

Torts > ... > Liability > State Tort Claims Acts > Procedural Matters

Torts > Public Entity
Liability > Immunities > Sovereign Immunity

[HN12](#) [↓] **State Tort Claims Acts, Procedural Matters**

Va. Code Ann. § 15.2-209(A) requires that every claim cognizable against any county, city, or town for negligence shall be forever barred unless the claimant has filed a written statement of the nature of the claim within six months after such cause of action accrued.

Civil Procedure > Appeals > Standards of Review > De Novo Review

Torts > Public Entity
Liability > Immunities > Sovereign Immunity

Civil Procedure > Judgments > Pretrial Judgments > Judgment on Pleadings

[HN13](#) [↓] **Standards of Review, De Novo Review**

Where no evidence is taken in support of a plea, the trial court, and the appellate court upon review, must rely solely upon the pleadings in resolving the issue presented. The existence of sovereign immunity is a question of law that is reviewed de novo.

Real Property
Law > ... > Nuisance > Remedies > Summary
Abatement

Torts > Public Entity
Liability > Immunities > Sovereign Immunity

[HN14](#) Remedies, Summary Abatement

Sovereign immunity protects municipalities from tort liability arising from the exercise of governmental functions, which include exercises of the police power. The abatement of a public nuisance is an exercise of the police power.

Torts > Public Entity
Liability > Immunities > Sovereign Immunity

[HN15](#) Immunities, Sovereign Immunity

A function is governmental if it entails the exercise of an entity's political, discretionary, or legislative authority. When a municipality plans, designs, regulates or provides a service for the common good, it performs a governmental function. On the other hand, if the function is a ministerial act and involves no discretion, it is proprietary. For example, routine maintenance or operation of a municipal service is proprietary. The underlying test is whether the act is for the common good of all without the element of special corporate benefit, or pecuniary profit. If it is, there is no liability, if it is not, there may be liability. That it may be undertaken voluntarily not under compulsion of statute is not of consequence.

Counsel: Thomas S. Carnes (Sarah Davis Harrison; Roy, Larsen, Carnes & Romm, on brief), for appellant.

Adam D. Melita, Deputy City Attorney (Wayne Ringer, Chief Deputy City Attorney, on brief), for appellee.

Judges: PRESENT: Kinser, C.J., Lemons, Goodwyn, Millette, and Mims, JJ., and Carrico and Koontz, S.JJ. *
OPINION BY JUSTICE WILLIAM C. MIMS.

* Justice Koontz presided and participated in the hearing and decision of this case prior to the effective date of his retirement on February 1, 2011; Justice Kinser was sworn in as Chief Justice on February 1, 2011.

Opinion by: WILLIAM C. MIMS

Opinion

[331] [*427]** OPINION BY JUSTICE WILLIAM C. MIMS

In this appeal, we review the circuit court's dismissal, upon demurrer and pleas in bar, of a property owner's claims for compensation and damages following the demolition of a residential building by the City of Norfolk.

FACTS

The circuit court dismissed the case below on demurrer and pleas in bar without taking evidence. [HN1](#)  "Where no evidence is taken in support of a plea in bar, the trial court, and the appellate court upon review, consider solely the pleadings in resolving the issue presented." [Lostrangio v. Laingford, 261 Va. 495, 497, 544 S.E.2d 357, 358 \(2001\)](#). **[***2]** The facts as stated in the plaintiff's pleadings are taken as true for the purpose of resolving the special plea. *Id.*

Joseph C. Lee ("Lee") owned a duplex ("the building") in Norfolk. On June 2, 2006, the City of Norfolk ("the City") issued a building permit to Lee to repair damage **[**332]** caused by an accidental fire. On August 25, 2006, the permit was revised to include authorization for elevation of the building out of a floodplain to prevent water intrusion.

On or about September 5, 2006, while repairs were ongoing, the City's Occupancy Inspector inspected the building. According to the City, Lee's duplex was observed with most of the roof missing, an unsecured roof gable, shattered brickwork (some of which was falling off), glass windows pulled loose from their frames, rotten portions along the base of certain walls, some walls raised off the foundation with improperly used jacks, dangling electric wires at the point where the service was connected to the house, and piles of dangerous debris strewn about.

[*428] The next day, Lee received a telephone call from a City employee who informed him that his building permits had been revoked because he had exceeded the "50 percent rule." This rule limits **[***3]** repairs to non-conforming structures, such as Lee's duplex, to 50% of the value of the structure. Lee never was informed in writing that his permits had been revoked.

On September 20, 2006, Lee received a letter by

certified mail, dated September 12, 2006, from James A. Rogers ("Rogers"), the Acting Chief of the Division of Neighborhood Preservation for the City. The letter informed Lee that the building

was inspected and found to be open providing a haven for undesirable & criminal activities. THE STRUCTURE HAS BEEN RENDERED UNSAFE BY ATTEMPTED REPAIRS. The property is in violation of health and safety regulations of Section 130.0 of the Virginia Uniform Statewide Building Code (USBC) and Article I, Chapter 27, Section 27-8 of the Code of the City of Norfolk. Therefore it has been declared UNSAFE AND A PUBLIC NUISANCE.

Rogers directed Lee to board and secure the property by September 20 and to have the building demolished by September 27. Rogers then stated: "If there are sound reasons why this limit cannot be met, or you are not in agreement with the interpretation or application of the code, you must contact me immediately." [***4] Later in the letter, Rogers outlined Lee's right of appeal:

Any owner who is aggrieved by the Code Official's decision concerning the application of the USBC or refusal to grant modification to the provisions of the USBC may appeal that decision pursuant to Section 106.5 of the USBC. The appeal must be filed with the appropriate authority in writing, with a filing fee within twenty-one (21) days of this notice.

Lee promptly retained counsel. One week later, on September 27, Lee and his attorney met with the Assistant City Attorney and several other City employees to discuss the issues raised in the September 12 letter. At the meeting, Lee agreed to make certain changes requested by the City to alleviate the safety concerns. The record does not indicate any questions or discussions by Lee or his attorney [*429] at this meeting or subsequently regarding his right to appeal the public nuisance finding or the demolition directive.

Following the September 27 meeting, Lee made some efforts to comply with the City's requirements. However, the City deemed them to be unsatisfactory. Lee also hired a structural engineer to evaluate the building, who filed a report with the City on November 10, 2006. The [***5] report concluded that the building was not in danger of immediate collapse and recommended the reissuance of the permits. The City requested additional information from Lee's engineer, who declined to provide it or work further on the matter. Lee then hired a

second engineer, who provided some but not all requested information to the City six weeks after the initial engineer's report, on December 21, 2006.

However, on December 19, 2006, Rogers had mailed another letter to Lee. In it, Rogers reiterated the deficiencies in Lee's proposed engineering plan and informed Lee that "[t]he extensions to date have expired, and no further extensions will be granted. The City of Norfolk will be demolishing the structure under the emergency provisions of the Uniform Statewide Building Code." He explained that "[t]his action is a continuum of the certified letter to you dated September [***333] 12, 2006, declaring the structure UNSAFE AND A PUBLIC NUISANCE." The City demolished the building 17 days later, 107 days after Lee received the initial letter that gave notice it was a public nuisance, directed the demolition, and outlined the right of appeal.

During those 107 days, Lee did not file an appeal. The [***6] record does not reflect any inquiries or other communications from him or his attorney regarding his right to do so.

PROCEEDINGS BELOW

Lee filed suit against the City in the Circuit Court of the City of Norfolk. His complaint consisted of three counts. First, he claimed deprivation of his federal due process rights under 42 U.S.C. § 1983 (2006 & Supp. I 2007). Second, he brought a state claim for violation of his due process rights under [Article I, Section 11 of the Constitution of Virginia](#), alleging that the City had taken his property for public use without just compensation by inverse condemnation. Third, he brought a common law claim sounding in tort for property damages.

[*430] The City demurred to count one and filed pleas in bar to counts two and three. In its demurrer, the City argued that "the availability of the inverse condemnation procedure, *per se*, provide[d] Lee with due process of law in satisfaction of the U.S. Constitution." In its pleas in bar, the City argued that Lee did not have a viable inverse condemnation claim because he never appealed the City's determination that the property was a nuisance. On count three, the City argued that Lee did not give timely notice to the [***7] City as required by [Code § 15.2-209](#). It further argued that, under the doctrine of sovereign immunity, the City is immune from liability for all acts or omissions made by City personnel engaged in the governmental function. The circuit court sustained the demurrer to count one with leave to amend, and deferred judgment on the inverse condemnation and property damage counts so the

record could be more fully developed.

The court's order also stated that "[t]he demurrer is sustained with respect to . . . count two of the Complaint." Since the Court in the same ruling deferred a ruling on the inverse condemnation claim in count two, apparently the court interpreted count two as including a distinct state due process claim in addition to the inverse condemnation claim and therefore sustained the demurrer as to both federal and state due process claims based on the availability of the inverse condemnation remedy.

Lee subsequently filed an amended complaint, alleging federal claims in count one that the City violated 42 U.S.C. § 1983, and his "constitutionally guaranteed property and civil rights." He stated that the City's conduct violated both due process and equal protection guarantees: [***8] it was "arbitrary, unreasonable, irrational, and without legitimate basis or purpose" and it "intentionally regulated and treated the subject property differently from other similarly-situated properties . . . without legitimate reason or rational basis." Specifically, he pointed to his active negotiations with the City and the engineering reports that concluded the property was not in danger of collapse.

In his amended complaint, Lee alleged numerous defects with the notice provided by the September 12, 2006 letter, as follows: the letter cited a provision of law that did not exist and omitted required elements of proper notice; the letter or a similar notice was not sent to the lienholder on the property and the City did not publish notice in a newspaper of general circulation once a week for two consecutive weeks, both as required by *Code § 15.2-906*; and the letter did [*431] not contain a statement requiring the person receiving it to accept or reject the terms of the notice as is required by § 118.3 of the Virginia Construction Code.

Lee did not modify his claims for inverse condemnation or property damage, except to include the Constitution of the United States as additional authority [***9] for his inverse condemnation claim. The City again filed a demurrer and pleas in bar relying on the same grounds as previously. However, the demurrer now stated that it was encompassing the due process and equal protection claims.

The circuit court, from the bench, sustained the demurrer as to the equal protection [***334] claim with leave to amend. Later, the court issued a letter opinion sustaining the demurrer to the due process claims without leave to amend. In the letter, the court stated

that Lee "cannot, as a matter of law make a case for due process deprivation while he is entitled to postdeprivation relief under his Count II claim for relief for inverse condemnation."

Lee then filed a second amended complaint consisting of a renewed equal protection claim, as well as restating the existing claims for inverse condemnation and property damage. It also continued to include federal and state due process allegations and claims. In response to the second amended complaint, the City filed an answer with affirmative defenses, including that Lee had failed to exhaust his administrative remedies. The City also filed an "Objection to Second Amended Complaint and Motion to Dismiss" in which it argued [***10] that Lee failed to replead his equal protection claim within 14 days, and that Lee had again alleged violations of due process after the court denied Lee leave to do so. The court heard argument and, ruling from the bench, denied the motion to dismiss. However, the order denying the motion to dismiss stated:

it appearing to the Court that [Lee], without waiving and while expressly reserving his exception and objection to the Court's prior ruling dismissing [his] due process claims, acknowledges and agrees that as the result of said prior ruling of the Court Count One of the Second Amended Complaint states only an equal protection claim.

The City subsequently filed a revised answer to the second amended complaint and a demurrer to Lee's equal protection claim. The circuit court heard argument on the demurrer and reserved its [*432] ruling. Later, the circuit court heard argument on the pending pleas in bar, initially filed in response to the first amended complaint, to the inverse condemnation and property damage claims. From the bench, the court granted the City's plea as to the property damage claim and reserved ruling on the inverse condemnation claim.

By letter opinion dated June 25, 2009, [***11] the circuit court granted the plea in bar to Lee's inverse condemnation claim and also analyzed in detail the due process "notice and appeal" issues that are pleaded in conjunction with the inverse condemnation claim and that underlie Lee's first assignment of error.¹

Lee appeals the various adverse rulings and assigns

¹The court later issued a letter opinion overruling the outstanding demurrer to Lee's only remaining claim, alleging violation of his equal protection right. However, Lee then consulted that claim.

error, without elaboration as to the nature of the error, as follows (verbatim):

1. The trial court erred in dismissing Lee's due process claim.
2. The trial court erred in dismissing Lee's inverse condemnation claim.
3. The trial court erred in dismissing Lee's property damage claim.

DISCUSSION

A. DUE PROCESS

HN2[↑] We review de novo the circuit court's sustaining of the demurrer, observing familiar principles:

The purpose of a demurrer is to determine whether a motion for judgment states a cause of action upon which the requested relief may be granted. A demurrer tests the legal sufficiency of facts alleged in pleadings, not the strength of proof.

Augusta Mut. Ins. Co. v. Mason, 274 Va. 199, 204, 645 S.E.2d 290, 293 (2007) [***12] (internal citations and quotation marks omitted).

On brief, Lee argues that he stated a cause of action for a violation of his due process rights because of the defects he listed in the September 12 letter. These defects, Lee argues, resulted in the denial of his constitutional right to notice and an opportunity to be heard prior to the demolition of the building.

[*433] First, Lee notes that the letter, while alleging violation of the Uniform Statewide Building Code ("USBC"), erroneously cited § 130.0 of the USBC, a section that does not exist. Second, he argues that the letter stated [**335] that he had a 21-day window to appeal under the Maintenance Code of the USBC,² but that the appeal period should have been controlled by the Construction Code of the USBC,³ which provides for a 90-day appeal period. Third, Lee argues that § 118.3 of the Construction Code requires that an inspection report be prepared and filed in the records of the local building department, and that the notice to him should have contained "a statement requiring the person receiving the notice to determine whether to accept or reject the terms of the notice." Finally, Lee argues that Code § 15.2-906 requires notice to be given [***13] to the owner and lienholder of the affected property, and be published once a week for two successive weeks in a newspaper of general circulation

² The Maintenance Code is set out in Part III of the USBC.

³ The Construction Code is set out in Part I of the USBC.

in the locality before demolition may occur. Such notice to lienholder and publication were not done.

The City responds that, regardless of any notice deficiencies, a demolition of private property for public use cannot constitute a due process violation because of the availability of a post-deprivation action for inverse condemnation. The City further responds that the alleged defects in the notice are unrelated to the question of whether due process was provided, relying upon *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S. Ct. 652, 94 L. Ed. 865 (1950) (requiring notice calculated to apprise parties of the pending action and an opportunity to present objections).

HN3[↑] The United States Constitution guarantees that no state shall "deprive any person of life, liberty, or property, without due process of law." *U.S. Const. amend. XIV*. "In procedural due process claims, the deprivation by state action of a constitutionally protected interest in [***14] 'life, liberty, or property' is not in itself unconstitutional; what is unconstitutional is the deprivation of such an interest without due process of law." *Zinermon v. Burch*, 494 U.S. 113, 125, 110 S. Ct. 975, 108 L. Ed. 2d 100 (1990) (emphasis in original). "The constitutional violation actionable under § 1983 is not complete when the deprivation occurs; it is not complete unless and until the State fails to provide due process." *Id.* at 126.

[*434] While the Supreme Court of the United States "usually has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property," *Id.* at 127, "[i]n some circumstances, however, the Court has held that a statutory provision for a postdeprivation hearing, or a common-law tort remedy for erroneous deprivation, satisfies due process." *Id.* at 128.

The Fourth Circuit Court of Appeals has found that **HN4**[↑] because "aggrieved property owners may file an inverse condemnation action pursuant to Virginia's declaratory judgment statute," they are afforded procedural due process as a matter of law. *Presley v. City of Charlottesville*, 464 F.3d 480, 490 (4th Cir. 2006) (citing *Richmeade, L.P. v. City of Richmond*, 267 Va. 598, 594 S.E.2d 606 (2004)); see [***15] also *Tri-County Paving v. Ashe*, 281 F.3d 430, 438 (4th Cir. 2002) (availability of post-deprivation procedures bars landowner's procedural due process claim).

We do not address whether, as a general principle,

upon a taking for public use the availability of a post-deprivation inverse condemnation action by statute affords an aggrieved landowner due process of law. See Presley, 464 F.3d at 490. The circuit court concluded that the availability of an inverse condemnation action by statute afforded Lee due process of law per se, despite also finding that Lee could not avail himself of an inverse condemnation action because there was no taking but only the abatement of a nuisance.

As discussed below, we agree with the circuit court that the City's demolition of Lee's property was not a taking, but rather the abatement of a nuisance for which no compensation is due. Keystone Bituminous Coal Ass'n v. DeBenedictis, 480 U.S. 470, 492, 107 S. Ct. 1232, 94 L. Ed. 2d 472 (1987). Consequently, even if a post-deprivation hearing would satisfy due process, Lee was not entitled to such a hearing because there was no compensable taking. The circuit court therefore erred in sustaining the demurrer [**336] to count one of the amended complaint [***16] on that basis. However, for reasons discussed below, that error was harmless.

This Court has previously explained:

HN5 [↑] The abatement of a nuisance often requires prompt and summary proceedings, and where the abatement is authorized under the police power of the State and due process of law has been observed, the owner of the property destroyed for the public good has no constitutional rights beyond those provided in the statute under which the abatement is made.

[*435] Stickley v. Givens, 176 Va. 548, 562, 11 S.E.2d 631, 638 (1940). Lee does not contest that the demolition was "authorized under the police power of the State." Likewise he does not challenge the constitutionality of the statute, regulations, or municipal ordinances under which the City acted. Id. Rather, on brief his only contention is that, by its September 12 letter and subsequent conduct, the City did not observe due process of law because it provided "insufficient" notice. In doing so, Lee conflates unrelated regulatory deficiencies with the alleged constitutional violation of his right to be notified of the City's decision and to present his objection. It is possible for a state agency to fail to adhere strictly to its regulations [***17] without violating the constitutional right to due process. See Bates v. Sponberg, 547 F.2d 325, 329-30 (6th Cir. 1976) (**HN6** [↑]) "it is only when the agency's disregard of its rules results in a procedure which in itself impinges upon due process rights that a federal court should

intervene in the decisional processes of state institutions").

The circuit court specifically addressed in detail the "notice and hearing" grounds for Lee's assignment of error in its June 25, 2009 letter opinion, which granted the plea in bar to the inverse condemnation claim that was grounded upon due process principles. The circuit court stated: "The September letter represented the notice to demolish under § 118.3 and it stipulated the time period in which the building needed to be demolished and gave a 21 day time period during which Lee could appeal the unsafe designation. . . . Lee's due process rights were safeguarded by the opportunity to appeal the decision of the City that his property constituted a public nuisance."

Based upon Lee's own pleadings and the record, we agree with the circuit court that Lee's constitutional due process rights to notice and an opportunity to object were not violated by the deficiencies [***18] of the September 12 letter. In Mullane, the Supreme Court of the United States explained the notice required to satisfy due process:

HN7 [↑] An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. The notice must be of such nature as reasonably to convey the required [*436] information, and it must afford a reasonable time for those interested to make their appearance.

339 U.S. at 314. ⁴

The September 12 letter incorrectly cited the controlling section of the USBC, ⁵ and we take as true Lee's

⁴ More recently, the United States Supreme Court reiterated the core principle of Mullane, holding that due process did not require actual notice in a forfeiture proceeding, but only notice "reasonably calculated" to "inform those affected." Dusenbery v. United States, 534 U.S. 161, 170, 122 S. Ct. 694, 151 L. Ed. 2d 597 (2002). See also United Student Aid Funds, Inc. v. Espinosa, 559 U.S. . . . 130 S.Ct. 1367, 1378, 176 L. Ed. 2d 158 (2010) (no due process violation where a failure to hold an adversary proceeding and serve notice through summons and complaint did not deprive creditor of adequate notice that its interest will be adversely [***19] affected).

⁵ Section 105.1 of the Virginia Maintenance Code states, in

allegations that the City failed to send notice to lienholders or publish the notice in a newspaper of general circulation. Nonetheless, it cannot be said that the letter failed to apprise Lee "of the pendency [***337] of the action" or to "afford [him] an opportunity to present [his] objections." *Id.* The letter informed Lee that the City had found the property to be "unsafe and a public nuisance" in violation of the USBC, and that Lee had a right to appeal that determination. It is clear that Lee actually received the notice and appreciated its gravity, since he immediately retained counsel and met with City officials to discuss the condition of the property. Upon these specific facts, it is immaterial whether the appeal period was 21 days or 90 days, since during the 107 days that elapsed from receipt of the notice until demolition Lee made no inquiries about his appeal rights and took no actions to avail himself thereof.

Lee next argues, relying on *Jones v. Board of Governors*, 704 F.2d 713, 717 (4th Cir. 1983), that he was deprived of due process as a result of the City's deviation from its own procedures and previous assurances. In *Jones*, the Fourth Circuit Court of Appeals recognized that *HN8* [↑] "significant departures from stated procedures of government and even from isolated assurances by governmental officers which have induced reasonable and detrimental reliance may, if sufficiently unfair and prejudicial, constitute procedural due process violations." *Id.* (citing *United States v. Caceres*, 440 U.S. 741, 752-53, 99 S. Ct. 1465, 59 L. Ed. 2d 733 & n.15 (1979)) (secret audio recordings admissible despite being made in [*437] violation of IRS regulations, as taxpayer had no reason to rely on those regulations).

Here Lee neither alleged in his pleadings nor asserted in his assignments of error or on brief that he "reasonably relied on agency regulations promulgated for his guidance or benefit and has suffered substantially because of [***21] their violation by the agency." *Caceres*, 440 U.S. at 752-53. Likewise, Lee neither alleged nor argued that he relied on the "assurances [of] governmental officers which have induced reasonable and detrimental reliance." *Jones*, 704 F.2d at 717. See also *Cox v. Louisiana*, 379 U.S.

part: "[W]hen the code official determines that an unsafe structure or a structure unfit for human [***20] occupancy constitutes such a hazard that it should be razed or removed, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirements of this code."

559, 571, 85 S. Ct. 476, 13 L. Ed. 2d 487 (1965) (individual could not be punished for demonstrating near courthouse where the highest police officials of the city had advised the demonstrators that they could meet where they did). While Lee stated that he met with the City and "agreed to make certain changes requested by the [City] to alleviate [its] safety concerns," he did not allege that the City told him that doing so in any way vitiated his obligation to appeal within the required time-frame (whether 21 days or 90 days), or that the City induced him not to appeal.

Accordingly, we agree with the circuit court in its June 25, 2009 letter opinion that Lee actually received constitutionally adequate notice and an opportunity to appeal. Lee's due process claims therefore fail to state a cause of action upon which the requested relief may be granted. *Augusta Mutual Ins. Co.*, 274 Va. at 204, 645 S.E.2d at 293.

B. INVERSE CONDEMNATION

Lee assigns [***22] error to the circuit court granting the City's plea in bar to his claim for inverse condemnation for failure to exhaust administrative remedies. *HN9* [↑] "A plea in bar presents a distinct issue of fact which, if proven, creates a bar to the plaintiff's right of recovery." *Station #2, LLC v. Lynch*, 280 Va. 166, 175, 695 S.E.2d 537, 542 (2010) (internal quotation marks omitted).

HN10 [↑] The Constitution of Virginia guarantees that "the General Assembly shall not pass any law . . . whereby private property shall be taken or damaged for public uses, without just compensation." *Va. Const. art. I, § 11*. The General Assembly has afforded those aggrieved by a taking with a statutory remedy for inverse condemnation. See *Code § 8.01-187*.

By letter opinion, the circuit court found that Lee's failure to exhaust his administrative remedies, i.e. appeal to the local administrative [*438] body, barred his inverse condemnation claim. Lee does not dispute the legal effect of his failure to appeal. Rather, he argues that, in the absence of proper notice, an appeal period cannot begin to run.

As discussed above, the City's September 12 letter constituted sufficient notice to apprise Lee of his right to be heard by way of an appeal [***23] to the Board of Building Code [***338] Appeals. See *Code § 36-105*. Having failed to appeal the City's determination that the property was a nuisance, Lee acquiesced in that determination as a "thing decided." *Lily v. Caroline County*, 259 Va. 291, 296, 526 S.E.2d 743, 745 (2000)

(dismissal of declaratory judgment action based on failure to file appeal with board of zoning appeals) (internal quotation marks omitted).

HN11^[↑] The law is well settled that the abatement of a nuisance by a public body is not a compensable taking. *Keystone Bituminous Coal*, 480 U.S. at 492 ("the State has not 'taken' anything when it asserts its power to enjoin the nuisance-like activity."); *Stickley*, 176 Va. at 561, 11 S.E.2d at 638 ("In the abatement of a public nuisance, it is not necessary to provide any compensation to the owner of the property which creates the nuisance."); *Jeremy Improvement Co. v. Commonwealth*, 106 Va. 482, 490, 56 S.E. 224, 227 (1907) ("The abatement of such a nuisance for the public safety comes under the police power of the State, and is not a taking of private property for a public use in the sense contemplated by the constitution, for which compensation must be allowed."). Therefore, the circuit *****24** court properly granted the City's plea in bar to Lee's inverse condemnation claim.

C. PROPERTY DAMAGE

Lee argues that the trial court erred in granting the City's plea in bar to his property damage claim. The City's plea in bar consisted of two grounds: the application of *Code § 15.2-209* and the doctrine of sovereign immunity. Because no evidence was taken in support of the plea in bar, we review Lee's claim taking all material factual allegations as true. *Station # 2, LLC*, 280 Va. at 169, 695 S.E.2d at 539.

HN12^[↑] *Code § 15.2-209(A)* requires that "[e]very claim cognizable against any county, city, or town for negligence shall be forever barred unless the claimant . . . has filed a written statement of the nature of the claim . . . within six months after such cause of action accrued." In his amended complaint and second amended complaint, Lee alleged that his counsel notified the City Attorney, in writing, of **[*439]** the time, place, and location of the demolition on or about May 2, 2007, less than six months after the demolition. Taking that allegation as true, and in the absence of an evidentiary hearing, *Code § 15.2-209* could not serve as the basis for sustaining the plea in bar.

Lee further argues *****25** that sovereign immunity could not serve as a bar to his property damage claim against the City. We have previously explained the standard of review in a sovereign immunity case:

HN13^[↑] Where no evidence is taken in support of the plea, the trial court, and the appellate court

upon review, must rely solely upon the pleadings . . . in resolving the issue presented. The existence of sovereign immunity is a question of law that is reviewed de novo.

City of Chesapeake v. Cunningham, 268 Va. 624, 633, 604 S.E.2d 420, 426 (2004) (internal citation omitted). In *City of Chesapeake*, we explained that **HN14**^[↑] "[s]overeign immunity protects municipalities from tort liability arising from the exercise of governmental functions," *id.* at 634, 604 S.E.2d at 426, which include exercises of the "police power." *Id.* at 638, 604 S.E.2d at 429. See also *Edwards v. City of Portsmouth*, 237 Va. 167, 171, 375 S.E.2d 747, 749, 5 Va. Law Rep. 1531 (1989) (city immune for exercise of police power).

We have long recognized that the abatement of a public nuisance is an exercise of the police power. See, e.g., *Stickley*, 176 Va. at 562, 11 S.E.2d at 638 (abatement authorized under the police power of the state); *Bunkley v. Commonwealth*, 130 Va. 55, 68, 108 S.E. 1, 5 (1921) *****26** (abatement of nuisance proper exercise of Commonwealth's police power).

In *City of Chesapeake*, we explained that **HN15**^[↑] "[a] function is governmental if it entails the exercise of an entity's political, discretionary, or legislative authority." 268 Va. at 634, 604 S.E.2d at 426. "[W]hen a municipality plans, designs, regulates or provides a service for the common good, it performs a governmental function." *Id.* at 634, 604 S.E.2d at 426. On the other hand, "[i]f the function is a ministerial act and involves no discretion, it is proprietary." *Id.* For example, "routine maintenance or operation *****339** of a municipal service is proprietary." *Id.* at 634, 604 S.E.2d at 427. In *Fenon v. Norfolk*, 203 Va. 551, 556, 125 S.E.2d 808, 812 (1962), we explained:

[*440] The underlying test is whether the act is for the common good of all without the element of special corporate benefit, or pecuniary profit. If it is, there is no liability, if it is not, there may be liability. That it may be undertaken voluntarily not under compulsion of statute is not of consequence.

Applying the foregoing principles to this case, it is clear that the City is immune for exercising its police power to abate the public nuisance that it had deemed *****27** Lee's building to pose. See *Stickley*, 176 Va. at 562, 11 S.E.2d at 638. Furthermore, the City's demolition of Lee's building was not a ministerial act or routine maintenance of a municipal service. See *City of Chesapeake*, 268 Va. at 633, 604 S.E.2d at 426.

Rather, the demolition entailed the exercise of the City's discretionary authority, *id. at 634, 604 S.E.2d at 426*, and was performed "without the element of special corporate benefit, or pecuniary profit." *Fenon, 203 Va. at 556, 125 S.E.2d at 812*.

Accordingly, we find that the City's demolition of Lee's building was an exercise of the governmental function and that the City enjoyed sovereign immunity for its actions. Therefore, the circuit court did not err in granting the plea in bar to Lee's claim for property damage.

CONCLUSION

For the reasons stated above, the judgment of the circuit court will be affirmed.

Affirmed.

End of Document

In *Lee v. City of Norfolk*, 281 Va. 423, 706 S.E.2d 330 (2011), the city sent a property owner a notice of demolition of a structure on the grounds that the structure was unsafe because of numerous Maintenance Code violations. The property owner failed to demolish the structure so the city proceeded with the demolition. The owner sued the city alleging a violation of his federal and state due process rights on the grounds that the notice of demolition contained certain deficiencies and did not satisfy the requirements of the Maintenance Code. In upholding the dismissal of the owner's lawsuit, the Supreme Court held that even though there were some deficiencies in the notice of demolition, it was sufficient to put the owner on notice and did not violate his due process rights. See also *Clark v. Va. Dep't of Hous. & Cmty. Dev. State Bd. Code*, No. 1537-16-4 (Va. Ct. App. Aug. 15, 2017) (unpubl.) (when notice informed appellants of their rights and appellants availed themselves of those rights, notice was constitutionally adequate).

The time given to repair or demolish a structure must be reasonable. In a 1995 case, *Appeal of Mr. Tom Sotos*, Appeal No. 95-9, the City of Emporia ordered two buildings to be demolished within thirty days or repaired within sixty days on the grounds that they were a public nuisance and could not be economically repaired – i.e., the cost of the repairs would exceed the value of the buildings. The State Technical Review Board found that the order to demolish the buildings was inconsistent with the provisions of the Maintenance Code. The buildings were reasonably secure against entry, were structurally sound and were not unhealthy. Given these circumstances, the buildings did not meet the criteria for demolition. Also, the Board found that the sixty-day limit set for the repair of the buildings was unreasonable due to the extent of the repairs needed.

In the case of *McGary v. City of Portland*, 386 F.3d 1259 (9th Cir. 2004), the court held that the Americans With Disabilities Act required city officials to give a homeowner additional time to clean his yard because of his disability. City officials ordered the homeowner to remove the trash and debris from his yard within fifteen days. The homeowner advised the city that he suffered from AIDS and that the disability limited his ability to work in his yard; he requested additional time to remove the trash and refuse. The city denied the homeowner's request for additional time, cleaned up the yard, billed the homeowner for the removal costs and placed a lien on his home to pay for the cleanup. The court held that the Americans With Disabilities Act required the city to make a reasonable accommodation for the homeowner by giving him additional time to clean his yard.

22-3.10(b) On Whom and How Notice Issued

The USBC requires that notice of a violation must be "communicated promptly in writing" to the owner or the person responsible for the maintenance of the building or structure but does not specify how a notice of correction or notice of violation is to be delivered. USBC, Part III, § 104.5.4.2. However, the provisions of the USBC provide that when dealing with unsafe structures or structures that are unfit for human occupancy a copy of the notice "shall be issued by personal service to the owner, the owner's agent or the person in control of such structure." USBC, Part III, § 105.4. If the code official is unable to deliver the notice in person "then the notice shall be sent by registered or certified mail to the last known address of the responsible party and a copy of the notice shall be posted in a conspicuous place on the premises." USBC, Part III, Section 105.5.

The code official may wish to follow these same procedures when issuing a correction notice or notice of violation. However, since the USBC does not give specific instructions on issuing a correction notice or notice of violation it is possible to take the position that such notices may be issued by mail. Sending notice by mail to the proper address with the postage prepaid creates a presumption that the addressee received the notice, but this presumption is rebuttable. Sending a notice by a registered/certified letter generates a receipt that proves the notice was received. However, some people will not accept a registered/certified letter, suspecting that it is something they do not want. One alternative is to send the notice by both methods. The uncertainty of service by mail is a good reason

§ 15.2-900. Abatement or removal of nuisances by localities; recovery of costs

In addition to the remedy provided by § 48-5 and any other remedy provided by law, any locality may maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the locality may abate, raze, or remove such public nuisance, and a locality may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

The term "nuisance" includes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of the occupants thereof or the public. The term "responsible party" includes, but is not limited to, the owner, occupier, or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

1990, c. 674, § 15.1-29.21; 1997, c. 587.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 15.2-1115. Abatement or removal of nuisances

A. A municipal corporation may compel the abatement or removal of all nuisances, including but not limited to the removal of weeds from private and public property and snow from sidewalks; the covering or removal of offensive, unwholesome, unsanitary or unhealthy substances allowed to accumulate in or on any place or premises; the filling in to the street level, fencing or protection by other means, of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; the raising or draining of grounds subject to be covered by stagnant water; and the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public. If after such reasonable notice as the municipal corporation may prescribe the owner or owners, occupant or occupants of the property or premises affected by the provisions of this section shall fail to abate or obviate the condition or nuisance, the municipal corporation may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state or local taxes.

B. Every charge authorized by this section in excess of \$200 which has been assessed against the owner of any such property and which remains unpaid shall constitute a lien against such property. Such liens shall have the same priority as liens for other unpaid local real estate taxes and shall be enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

Code 1950, § 15-77.31; 1958, c. 328; 1962, c. 623, § 15.1-867; 1997, c. 587; 2004, cc. 533, 968; 2017, cc. 118, 610.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Accused was this day:
 tried in absence present

PROSECUTING ATTORNEY PRESENT (NAME)
 DEFENDANT'S ATTORNEY PRESENT (NAME)
 NO ATTORNEY ATTORNEY WAIVED
 If convicted, no jail sentence will be imposed
 Translation/Interpreter present: _____
 NAME

Plea of Accused:
 not guilty witness sworn
nolo contendere
 guilty Plea voluntarily and
 intelligently entered after defendant was
 apprised of his right against compulsory self-
 incrimination and right to confront the witnesses
 against him.
 Plea Bargain Plea and Recommendation
 And was TRIED and FOUND by me:
 not guilty guilty as charged
 facts sufficient to find guilt but defer
 adjudication/disposition and place accused on
 probation, §§ 4.1-305, 18.2-57.3, 18.2-251 or
 19.2-303.2. Costs imposed upon defendant.
 And was FOUND by me to be:
 driving a commercial motor vehicle
 carrying hazardous materials
 I ORDER a nolle prosequi on prosecution's motion
 I ORDER the charge dismissed
 conditioned upon payment of costs (accord and
 satisfaction), § 19.2-151
 conditioned upon payment of costs and
 successful completion of traffic school § 16.1-
 69.481
 under §§ 4.1-305, 18.2-57.3, 18.2-251 or 19.2-
 303.2.

I impose the following Sentence:
 FINE CIVIL PENALTY of \$ 2,000
 with \$ 2,000 suspended
 JAIL sentence of 30 days imposed with 30 days
 suspended conditioned upon being of good behavior and
 keeping the peace, and paying fines and costs, [] of which
30 days mandatory minimum. Pursuant to §
 53.1-187, credit is granted for pre-trial detention.
 Serve jail sentence beginning _____
 on weekends only
 Work release authorized if eligible required
 not authorized
 Public workforce authorized
 on PROBATION for _____
 VASAP judicial community-based probation program
 DRIVER'S LICENSE suspended _____
 Restricted Driver's License per attached order _____
 Ignition Interlock for _____
 RESTITUTION of \$ _____
 due by _____ payable
 to _____
 with interest thereon from _____
 as condition of suspended sentence
 _____ hours of community service to be performed
 for _____
 to be credited against fines and costs
 Contact prohibited between defendant and victim/victim's
 family or household members
 Reimburse Commonwealth for investigatory medical fees
 Pay \$50 fee to the Court for Trauma Center Fund
 Other: Pay \$50 fee to the Court for Trauma Center Fund
and the property to my
on 9-19 and 10-27 2004 (1/2004)
 Bail of Appeal \$ _____
 Remanded for CCRF Report
 DRIVER'S LICENSE PRIVILEGE TO DRIVE IN VIRGINIA
 SUSPENDED EFFECTIVE IN 15 DAYS IF FINES, COSTS,
 FORFEITURES, PENALTIES OR RESTITUTION ARE NOT PAID.
 Va. Code § 46.2-395

FINE LOCALITY \$ _____
 COSTS
 461 FIXED MISD FEE _____
 463 FIXED DRUG MISD FEE _____
 400 FIXED TRAFFIC
 INFRACTION FEE _____
 113 WITNESS FEE _____
 113 IGNITION INTERLOCK _____
 113 DUI FEE _____
 113 _____
 120 CT. APPT. ATTY _____
 125 WEIGHING FEE _____
 133 BLOOD TEST FEE _____
 137 TIME TO PAY _____
 192 TRAUMA CENTER FEE _____
 223 LIQUIDATED DAMAGES _____
 234 JAIL ADMISSION FEE _____
 244 COURTHOUSE
 SECURITY FEE _____
 243 LOCAL TRAINING
 ACADEMY FEE _____
 OTHER (SPECIFY) _____
 TOTAL \$ 500

DATE 7/23/04 JUDGE 1/14

FORM DC-319 (REVERSE) REVISED 07/04

Vs. Code § 19.2-73 Rule 3A04

CASE NO. 04 15164 HEARING DATE AND TIME 07/23/2004 08:00 AM

ACCUSED:
Singleton, Jack
 LAST FIRST MIDDLE NAME
260 W. Jefferson St.
 ADDRESS LOCATION
Wytheville, VA

To be completed upon service
 Mailing address Same as above

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	HT.	WT.	HAIR
W	M	62	197	61

 393-46-2935

Commonwealth of Virginia
 CITY COUNTY TOWN of
Wythe

SUMMONS
 CLASS II MISDEMEANOR
 EXECUTED by delivering a true copy of this
 summons to the Accused in person today.
 For legal entities other than individuals, service
 pursuant to Va. Code § 19.2-76.
 The Accused certified to me the above mailing
 address.
07-15-04 9:15AM
 DATE AND TIME OF SERVICE
B.E. BOBBS SERVING OFFICER
81 WPD 098
 BADGE NO., AGENCY AND JURISDICTION
 for _____ SHERIFF
 Attorney for the Accused: _____

WAJ/SUM
 182CC-10/2004/11/10

City or County
 General District Court
245 S. 4th St., Suite 205 Wytheville, VA 24382-2595
 STREET ADDRESS OF COURT
 Juvenile and Domestic Relations District Court
 STREET ADDRESS OF COURT

THE ACCUSED:
 you are hereby commanded to appear before this Court on
07/23/2004 08:00 AM to answer the charge that on or about 06/08/2004 to 07/14/2004
 DATE AND TIME OF HEARING
 this in Town of Wythe CITY COUNTY you did unlawfully
 violate or maintain a nuisance (350 W. Jefferson St. Wytheville, VA).

Violation of Sections 9-19 Code of Virginia (OR)
 Ordinances of this City, County or Town

you must appear in court at the time and place shown above and to appear at all other times and
 places and before any court or judge to which this case may be rescheduled, continued, transferred or
 called.

WARNING TO THE ACCUSED: You may be tried and convicted in your absence if you fail to
 appear in response to this summons. Willful failure to appear for a misdemeanor charge is a separate
 offense.

I, undersigned, have found probable cause to believe that the Accused committed the offense
 charged, based on the sworn statements of:
Stan
 Complainant
Proddie L. Sweet, Jr. CLERK MAGISTRATE JUDGE
 Proddie L. Sweet, Jr., Magistrate

DATE AND TIME ISSUED 07/14/2004 03:05 PM
 DC-514 (FORM) REVISED 06/02 (1143-008 04/04)

Additional Documents
Submitted By the Owner
Jack D. Singleton

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TRAVIS.LUTOR@dhsd.virginia.gov

Fax (804) 371-7092



Jack Singleton
"Review Board" Appeal 18-09

↑
 Refused to give Jack
 anything in writing on
 this property.

 Stan
 8/26/16

Many verbal requests to
 enter 190, clean, fix
 have been refused ~~by~~ by
 Code Official Vainmatten
 Joel D. Smith
17 Aug 2018

To Stan Massee acting Building Inspector
Town of Wytheville Va for Charles Vanatter

Dear Sir,

After viewing the file for ~~1900W~~ ~~officer~~
for which no outstanding violations are
recorded. I am proposing to enter
the placarded structure, placarded
without the Notice of unsafe structure
being evident in the file Va Maintenance
code 105.5 Posting of notice card.

To satisfy Va Maintenance code 105.8

To protect the public safety by
securing the structure against entry
by the public. I am proposing to

enter the structure to retrieve
personal property and to ~~remove~~
~~certain trash cast out to the structure~~
by ~~Mr. Dave Bodwell~~ "reportedly"

~~cast with the permission of~~ ~~Mr. Doug~~
~~ment of Mr. Charles Vanatter~~

1 of 2
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I find it difficult to believe Mr Belwells being encouraged to trash the property of another by a Town official, nevertheless Belwells actions read true to his belief of Mr Van Allen's encouragement. I am requesting that a Town official do the right thing regarding the Dumping ongoing at 190 W. Jefferson St as my verbal Requests have brought no ceasing of the dumping. Please make the notice 105.5 public. Many of the TRASH items I know to have been at ~~200~~ 200 W. Jefferson before being carted to 190. Also many Items of my personal property have been lifted by Belwell and brought to 200 W. Jefferson. Several months of verbal requests to return these items to 190 and to stop trucking 190 have not been successful.

Sincerely,

Jed Dingle

Wright Engineering
245 Greymont Lane
Wytheville, VA 24382
(276) 698-7526 (Cell)

August 14, 2018
Job No. 940

Mr. Jack Singleton
260 W. Jefferson Avenue
Wytheville, VA 24382

Subject: Foundation concerns and hearing summary

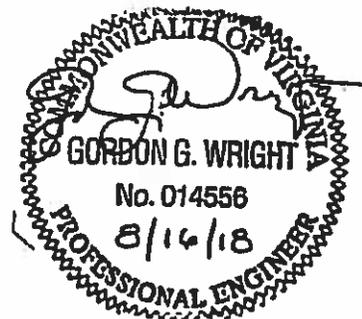
Dear Mr. Singleton:

On May 9th, I attended a hearing that you had with the Town of Wytheville, Virginia. The purpose of the meeting, as I understand it, was an attempt, on your part, to overturn a ruling by the Wytheville Building Official's requiring that a foundation belonging to you be demolished, as he considered it to be an unsafe structure.

On March 27, 2018, you were sent a letter by Mr. Christopher Menerick, Esq., the Town Attorney, stating that the structure had been determined to be an unsafe structure. He indicated that you were required to obtain a demolition permit from the Town Building Department. His letter included a Notice of Violation which listed in excess of fifty (50) Code violations. The letter also stated that you could file an appeal with the Building Code Appeals Board.

Reviewing the Notice of Violations, it is obvious that the list was either an attempt to intimidate, or was generated without an understanding of the current state of the structure. There is no structure, other than the basic foundation which has been left unattended for approximately 20 years. The Notice of Violations cited, for example, that there were no smoke alarms installed on the ceilings.

The fact is that the foundation does not have any ceilings but is open to the sky, above. A later violation stated that habitable spaces, hallways, corridors, laundry areas, bathroom, toilet rooms and habitable basement areas shall have a minimum clear ceiling height. It further stated that all spaces to be occupied for food preparation purposes shall contain suitable space and



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equipment to store, prepare, and serve foods in a sanitary manner... The structure in question is a foundation without any structure above. Many of the cited violations have no meaning until a structure can be built.

The May 9th hearing, referenced above, was the result of your request for appeal. During the hearing, the Chairman of the Board suggested that a 15 minute limit be allowed for your presentation. His motion was approved by the Board Members. In essence you were given less than 20 seconds to address each cited violation. This 20 second allocation of time does not include any time for discussion, or questions. You called me up as an expert witness and before you could say a word, the Board Chairman told me to start, without you even asking me any questions or developing a line of questioning that supported your appeal. Your presentation was side railed. No technical questions pertaining to the structural integrity of the foundation and proposed repair methodology were asked. Later, after I returned to my seat, the Chairman asked me how much I estimated that it would cost to repair the foundation. I told him that it had been years since I had done any estimating and I was not qualified to offer an estimate. He pressed for an estimate and I responded with a figure that a large contractor would likely quote, assuming high overhead, heavy equipment expenses and profit. I later realized that should it become necessary for you to demolish the foundation, you would probably serve as you own general contractor, significantly reducing demolition costs.

When you were told that your time limit was up, the Town Building Official presented his case, explaining what actions he had taken in the process of declaring the foundation as an unsafe structure. The Board took some time to discuss the matter, citing the fact that the foundation had been left in a derelict condition for approximately 20 years and that they had no reason to believe that you had any intentions of repairing the foundation and subsequently constructing any type of structure on the foundation. This reasoning disregarded the fact that a letter sent to you on March 5th, 2018 by Mr. Charles Vannatter, the Wytheville Building Official, clearly stated that the property had previously been owned by a Mr. Gaspar Mendoza Ortiz and was now currently owned by you. Therefore, you had not owned the property for the full 20 years.

The Chairman went into a monolog stating that he was a registered contractor and that if he were to have any rental properties that were unsafe, he would immediately make any repairs necessary. He further went into an economic analysis about how it would be cheaper to demolish the foundation and rebuild it, than it would be to try to repair the existing foundation, based on my shot in the dark estimate.

There was concern about the safety of the structure because there was no roof on the foundation. It was suggested that a child could climb over the existing walls, or fenced in

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areas, and get hurt. The same could be said for the municipal swimming pool and sewage treatment plant.

The ultimate result was that the Committee upheld the Town's position requiring the demolition of the foundation.

Section 202 – General Definitions of the 2012 Virginia Maintenance Code defines an unsafe structure as follows:

“UNSAFE STRUCTURE. An existing structure (i) determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public, (ii) that contains unsafe equipment, or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely. A vacant existing structure unsecured or open shall be deemed to be an unsafe structure.”

It is my understanding that the definition describes three different scenarios which are the points of contention.. The first scenario requires that the structure “be dangerous to the health, safety and welfare of the occupants of the structure or the public. The second scenario requires that the structure is “so damaged, decayed, dilapidated, structurally unsafe or of faulty construction or unstable foundation that partial or complete collapse is likely”. The third scenario requires, “A vacant existing structure unsecured or open shall be deemed an unsafe structure”.

The foundation has been in place for approximately 20 years and is still sound. It is not in a condition in which partial, or complete, collapse is likely. It does, however, need to be repaired before further construction can proceed. Furthermore, I am unaware of any harm that has occurred to any person, or property, over the last 20 years and it is highly unlikely that there is any reason to suspect that there is now an immediate serious and imminent threat to the life and safety of the occupants, or public. In fact, the structure is currently unoccupied and all openings have been secured with cattle fencing to prevent entry into the structure.

I now understand that you are in the process of appealing the decision to a higher level. Accordingly, I have re-inspected the site and found that that some of my preliminary findings were based on a basic overview of the foundation's condition. There are three places where the masonry is in need of repair. Three sides of the foundation were apparently reinforced and grouted, to some level. The fourth side exhibits a hump in the wall, presumably from organic roots that have jacked up the wall. The total variation of the level of the top course, of that wall, is approximately 1 inch. It is likely that a portion of this wall will need to be removed and reconstructed, after removal of any organic material in the sub-grade. There are two other places where a couple of masonry blocks

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have come loose and need to be re-laid. The remainder of the footing needs to be checked for organic material beneath the footings and one area, which may be a ground hog hole, will need to be reworked, to provide adequate soil bearing. The openings in the walls had been previously fenced off with cattle fencing, precluding the entry into the foundation, except by scaling the height of the foundation walls.

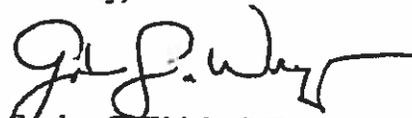
The site is in need of regrading once the foundation is backfilled. In the meantime, the area directly adjacent to the foundation walls has been locally graded to help prevent the ponding of runoff. The remains of the trees that are in the interior of the foundation still need to be removed and the site needs to be cleaned up, however, it is my understanding that you have been restricted from entering the site to perform these duties, as a result of the posting of placards preventing entry to the property.

It is still my professional opinion that the foundation can be repaired and made capable of supporting a habitable structure. This opinion is based solely upon a structural analysis and has not considered the economics involved, something that you are better to ascertain than I am. I have personally worked on several projects with structural issues that were considerably more damaged than your foundation.

At this time, I would advise you to develop your construction plan including the items that the Building Official has requested, before he can issue a permit. Until you can demonstrate that you have definitive plans for the foundation, once repaired, there is little incentive for the issuance of a foundation repair permit. Once you can show an appeals board that you have specific plans for the foundation and that those plans are capable of being implemented, it may be hard to justify your request. These items include, but may not be limited to, the six items that Mr. Vannatter requested in his March 5th, 2018 letter.

Should you have any questions, or require additional information, please do not hesitate to contact me at the telephone number listed, above.

Sincerely,



Gordon G. Wright, P.E.

Received 3/21/18 by Christopher Menecke, Town Attorney

MECHANIC'S LIEN AGENT

NAME _____

ADDRESS _____

CITY/ST/ZIP _____

PHONE _____

TOWN OF WYTHEVILLE
 150 EAST MONROE STREET
 P.O. BOX 533
 WYTHEVILLE, VA 24382
 276-223-3339

DATE ISSUED _____ PERMIT NO. _____

WORK MUST BEGIN WITHIN 6 MONTHS OF THIS DATE. PERMITS MAY EXPIRE OR BE REVOKED DUE TO INACTIVITY OR NO INSPECTIONS IN A 6-MONTH PERIOD.

APPROVED BY _____

I. LOCATION OF BUILDING

911 Physical Address 260 W. Jefferson Subdivision/Lot _____

S E W side of Jefferson S W from intersection of 2nd & W. Jefferson

Zone _____ YARD REQUIRED/ACTUAL: Front 1 Left 1 Right 1 Rear 1

II. TYPE AND COST OF BUILDING (All applicants complete Parts A-D)

A. TYPE OF IMPROVEMENT

1. New Building

2. Addition

3. Renovation

4. Excavation, grading drching

5. Demolition (indicate most recent use In Part C)

6. Other Foundation EXPLOR

REPAIR VCC109.6

B. OWNERSHIP

7. Private (individual, corporation, non-profit institution, etc.)

8. Public (federal, state, or local government)

C. PROPOSED OR CURRENT USE

RESIDENTIAL

One family

10. Two or more families (Enter number of units _____)

11. Hotel, motel, or dormitory (No. of rooms _____)

12. Other (Specify _____)

NON-RESIDENTIAL

13. Church, other religious

14. Industrial

15. Medical (hospital, physician, etc.)

16. Office, bank, professional

17. Restaurants

18. Stores, retail

19. School, library, other educational

20. Service station, repair garage

21. Signs **DECAL NO.** _____

22. Other _____

D. COST (Omit cents)

	ESTIMATED COST OF WORK	PERMIT FEE	SURCHARGE	TOTAL PERMIT FEES
23. Cost of construction (PM08) To be installed but not included in above cost	\$ <u>1503</u>	\$ _____	\$ _____	\$ _____
a. Electrical (PM10)	\$ _____	\$ _____	\$ _____	\$ _____
b. Plumbing (PM12)	\$ _____	\$ _____	\$ _____	\$ _____
c. Mechanical (PM29)	\$ _____	\$ _____	\$ _____	\$ _____
d. Sign, other _____ (PM35)	\$ _____	\$ _____	\$ _____	\$ _____
24. Total estimated value of improvements (including all costs and value of materials and/or labor furnished without cost)	\$ _____	\$ _____	\$ _____	\$ _____

III. FOR NEW BUILDINGS AND ADDITIONS (Complete E-K)

E. PRINCIPAL TYPE OF FRAME

25. Masonry (wall bearing)

26. Wood frame

27. Structural steel

28. Reinforced concrete

29. Other (specify) _____

G. PRINCIPLE TYPE OF HEATING FUEL

33. Gas

34. Oil

35. Electricity

36. Other (specify) _____

I. TYPE OF SEWAGE DISPOSAL

39. Public

40. Individual (septic tank, etc.)

Application No. EXISTING

J. TYPE OF WATER SUPPLY

41. Public

42. Individual (well, etc.)

Application No. EXISTING

K. OFF-STREET PARKING

43. Enclosed _____

44. Outdoors _____

F. DIMENSIONS

30. Number of stories _____

31. Total square feet of all floor areas based on exterior dimensions 1204

32. Total land area sq.ft. 12.04

H. RESIDENTIAL BUILDINGS ONLY

37. Number of bedrooms _____

38. Number of bathrooms _____

Full _____

Partial _____

IV. IDENTIFICATION

1. Owner name JACK SINGLETON Phone 613-44-76

Mailing address 260 W. JEFFERSON ST

City, State, Zip Wytheville Va

2. Contractor name SELF Phone _____

Mailing address _____

City, State, Zip _____

CLASS _____ EXPIRATION DATE _____

LICENSE NO. _____

3. Architect/Engineer Gordon Wright Phone 276-698-7526

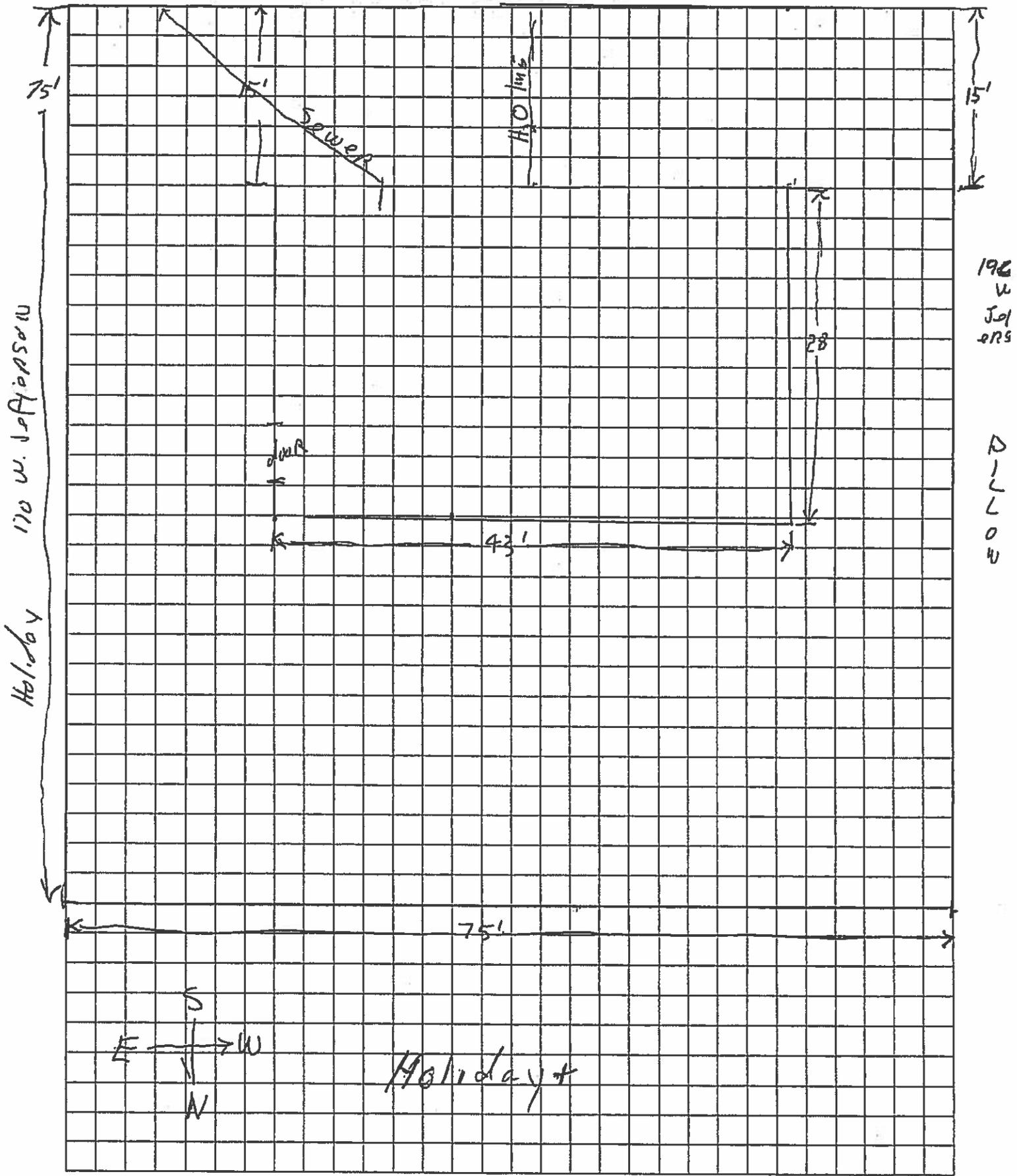
Mailing address 245 Grey Mount

City, State, Zip Wytheville Va 24382

The owner of this building and the undersigned agree to conform to all applicable codes and ordinances of the Town of Wytheville. NOTES: 1. Call for inspection before pouring any concrete. 2. A Certificate of Occupancy may be necessary and will be issued upon completion of construction provided compliance is made with terms of approved application.

Signature of applicant Jack Singleton Address _____ Date 1 Mar 2018

Jefferson SU

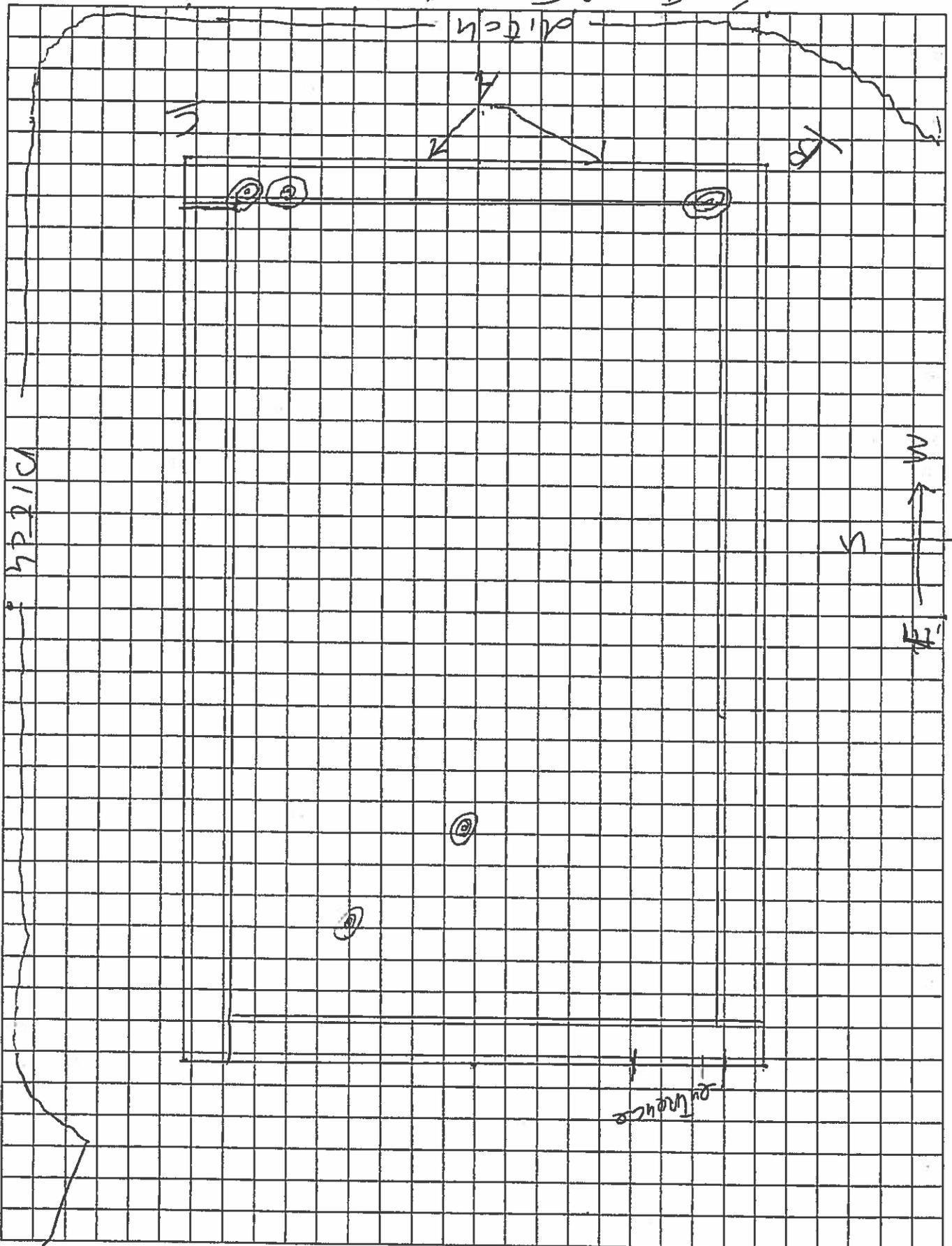


196
W
Jeff
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W

Site plan 190 W. Jefferson
 Lot size 75' x 75' scale 1/4" = 2.5' 176

EXISTING FOOTING 22" X 6" 10' BLOCK LAD



WORK DESCRIPTIONS

print-graph-paper.com

I. Remove items of imminent failure that make STRUCTURE unsafe to enter. Corrections necessary to comply with code 105.4 will be made when I am notified. The sole entrance to this STRUCTURE to my knowledge has never had posted at it any notice described in 105.4.1. This STRUCTURE has never been inhabited or occupied. The previous neighbors did come and go and steal items from within the STRUCTURE and rubbish and trash into the STRUCTURE was cast by them.

Code official has not to my knowledge determined an immediate danger of any portion of the structure falling or collapsing. ~~more~~ authorized emergency repairs to some Maintenance Code 105.9. See attached report Gordon Wright PE No. 014556
STRUCTURE NOT presently unsafe

II. Remove cracked Block south and north of "A" on footer drawing site plan

WORK DESCRIPTION cont.

3. Ditch & grade to channel water away from 'A' and C ITEM 5 of engineer report
4. Remove footer from 'A' to 'B' engineer report ITEM 2
5. Remove trees engineer report ITEM 1
6. Remove non pressurized wood that is not part of structure security ITEM 4 of engineer report.
7. Inspection will be called for before pouring any concrete to repair footer

Note: VCC 109.2 Site plan NOTE:

Site plan are not generally necessary for Repairs

HOWEVER site plan helps explain work description and may help later if permit is amended.

8. ITEM 1 will be done first when I am notified of specific correctable unsafe conditions.

Handed to Singleton by Code official by Code Official in Menenick OFF.

TOWN OF WYTHEVILLE

3/2/2018



WORK PLAN

Address of Derelict Structure: _____ Name of Property Owner: _____

Owner Address: _____ Contact Number: _____

Date of Initial Inspection by the Building Official of the Structure: _____

Did the owner apply for building permit for the following: Boarding up Y or N Repairs Y or N Demolition Y or N

Plan for repairs to derelict structure and other deficiencies requiring remedy:

Plumbing: _____ Electrical: _____ Mechanical: _____

Structural: _____ Exterior: _____ Interior: _____

Other: _____

Date of obtained building permits: _____ Date of deadline to the project to be completed: _____

Signature of Owner: _____ Date: _____

To be completed by the Building Official and Director of Public Safety:

Does the above work plan match the extent of the work performed by the owner? Yes or No. _____

Work Plan: Approved or Disapproved Date: _____

Building Official Signature: _____ Director of Department of Public Safety: _____

handed to me 2 Mon 2018

Notice of Violation

Town of Wytheville
150 East Monroe Street
PO Drawer 533, Wytheville VA 24282
Office of the Building Official
(276) 223-3339

1st **2nd** 3rd Notice

Issued by: Charles Vannatter

Owner/Occupant Name: Gaspar Mendoza Ortiz Date: September 16, 2016 Time: AM PM

Certified mail

Address: 190 West Jefferson Street Use Group: A , B, E, F, H , I , M, R 5

Building: (1&2 Dwelling) (Apartment) (Assembly) (Business) (Mercantile) (Institutional) (Other)

The following violation(s) of the Virginia Maintenance Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

Exterior Property Areas

- 301.3** Vacant Structure & Land
- 302.2** Grading & Drainage
- 302.3** Sidewalks & Driveways
- 302.5** Rodent Harborage
- 302.6** Exhaust Vents
- 302.7 Accessory Structures
- Swimming Pools, Spas, Hot Tubs
- 303.1 Swimming Pools
- 303.2 Enclosures
- Exterior Structure
- 304.1** General-Good Condition
- 304.2** Protective Treatment
- 304.3** Premise Identification
- 304.4** Structural Members
- 304.5** Foundation Walls
- 304.6** Exterior Walls
- 304.7** Roof & Drainage
- 304.8 Decorative Features
- 304.9 Overhang Extension
- 304.10 Stairways, decks, porch, balconies
- 304.11 Chimney & Towers
- 304.12 Handrails & Guards
- 304.13 Window, skylight, door frames
- 304.14 Insect screens
- 304.15** Doors
- 304.16 Basement hatchways
- 304.17 Guards for basement window
- 304.18 Gates
- Interior Structure
- 305.1** General

305.2 Structural Members

- 305.3** Interior Surfaces
- 305.4 Stairs & walking surfaces
- 305.5 Handrails & guards
- 305.6** Interior doors
- 305.7 Carbon monoxide
- Rubbish & Garbage
- 308.1 Accumulation of rubbish
- 308.2 Disposal of rubbish
- 308.2.1 Owner responsibility
- 308.2.2 Refrigerators
- 308.3 Disposal of garbage
- 308.4 Garbage facilities
- 308.5 Containers
- Pest Elimination
- 309.1 Infestations
- 309.2 Owner
- 309.3 Single occupant
- 309.4 Multiple occupancy
- 309.5 Occupant
- Lead Based Paint
- 310.1 General
- Light
- 402.1** Habitable spaces
- 402.2** Common Hall & Stairways
- Ventilation
- 403.1** Habitable spaces
- 403.2** Bathrooms/Toilets
- 403.3** Looking Facilities
- 403.4 Process Ventilation
- 403.5 Clothes dryer exhaust

Occupancy Limitations

- 404.1 Privacy
- 404.2 Min. room widths
- 404.3 Min. ceiling height
- 404.4 Bedroom/Living Rm
- 404.4.3 Water closet
- 404.4.4 Prohibited (Kitchen)
- 404.5 Overcrowding
- 404.5.1 Sleeping area
- 404.6 Efficiency unit
- 404.7 Food Prep
- Plumbing Facilities/Fixtures
- 502.1** Dwelling units
- 502.2 Rooming houses
- 502.3 Hotels
- 502.4 Employee Facilities
- 502.5 Public toilet
- Plumbing System/Fixtures
- 504.1** General
- 504.3 Plumbing system hazards
- Water System
- 505.1** General
- 505.2 Contamination
- 505.3** Supply

Mechanical/Electrical

- 602.1** Facilities required
- 602.2** Heat supply
- 602.2.1 Prohibited use
- 602.3 Occupied work use
- 602.4 Cooling supply
- Mechanical Equipment
- 603.1 Mech. Appliance
- 603.2 Removal combustion
- 603.4 Safety control
- 603.5 Combustion Air
- Electrical Facilities
- 604.2** Service
- 604.3 Electrical hazards
- 604.3.1 Abatement water
- 604.3.1.1 Elec. Equipment
- 604.3.2 Abatement fire
- Electrical Equipment
- 605.1 Installation
- 605.2 Receptacles
- 605.3 Luminaries
- 605.4 Wiring
- 606.1 Elevator
- 701.1 Fire safety
- Other: VMC 301.2

Failure to correct violation(s) within 10 days from receipt of this Notice may result in penalties as noted in Code of Virginia, Section 36-106. You may appeal this order to the Town Building Code Appeals Board by written request within 3 days

Note: No Record of Water/Sewer - Electrical Service since 1997

Handwritten notes at top of page

Handwritten date: Handed me 2 Mar 2018

Notice of Violation

1st 2nd 3rd Notice

Town of Wytheville

150 East Monroe Street

PO Drawer 533, Wytheville VA 24282

Office of the Building Official

(276) 223-3339

Issued by: Charles Vannatter

Code Official handed to Singleton 3/2/18 Menepicks Office

Owner/Occupant Name: Gaspar Mendoza Ortiz Date: January 26, 2016 Time: AM PM

Address: 190 West Jefferson Street Use Group: A , B, E, F, H , I , M, R

Building: (1&2 Dwelling) (Apartment) (Assembly) (Business) (Mercantile) (Institutional) (Other)

The following violation(s) of the Virginia Maintenance Code were observed during an inspection of the above referenced property. You are responsible for taking action to correct violation(s) immediately.

Exterior Property Areas

301.3 Vacant Structure & Land

302.2 Grading & Drainage

302.3 Sidewalks & Driveways

302.5 Rodent Harborage

302.6 Exhaust Vents

302.7 Accessory Structures

Swimming Pools, Spas, Hot Tubs

303.1 Swimming Pools

303.2 Enclosures

Exterior Structure

304.1 General-Good Condition *delete*

304.2 Protective Treatment

304.3 Premise Identification

304.4 Structural Members

304.5 Foundation Walls

304.6 Exterior Walls

304.7 Roof & Drainage

304.8 Decorative Features

304.9 Overhang Extension

304.10 Stairways, decks, porch, balconies?

304.11 Chimney & Towers

304.12 Handrails & Guards

304.13 Window, skylight, door frames

304.14 Insect screens

304.15 Doors

304.16 Basement hatchways

304.17 Guards for basement window

304.18 Gates

Interior Structure

305.1 General

305.2 Structural Members

305.3 Interior Surfaces

305.4 Stairs & walking surfaces

305.5 Handrails & guards

305.6 Interior doors

305.7 Carbon monoxide

Rubbish & Garbage

308.1 Accumulation of rubbish

308.2 Disposal of rubbish

308.2.1 Owner responsibility

308.2.2 Refrigerators

308.3 Disposal of garbage

308.4 Garbage facilities

308.5 Containers

Pest Elimination

309.1 Infestations

309.2 Owner

309.3 Single occupant

309.4 Multiple occupancy

309.5 Occupant

Lead Based Paint

310.1 General

Light

402.1 Habitable spaces

402.2 Common Hall & Stairways

Ventilation

403.1 Habitable spaces

403.2 Bathrooms/Toilets

403.3 Cooking Facilities

403.4 Process Ventation

403.5 Clothes dryer exhaust

Occupancy Limitations

404.1 Privacy

404.2 Min. room widths

404.3 Min. ceiling height

404.4 Bedroom/Living Rm

404.4.3 Water closet

404.4.4 Prohibited (Kitchen)

404.5 Overcrowding

404.5.1 Sleeping area

404.6 Efficiency unit

404.7 Food Prep

Plumbing Facilities/Fixtures

502.1 Dwelling units

502.2 Rooming houses

502.3 Hotels

502.4 Employee Facilities

502.5 Public toilet

Plumbing System/Fixtures

504.1 General

504.3 Plumbing system hazards

Water System

505.1 General

505.2 Contamination

505.3 Supply

Mechanical/Electrical

602.1 Facilities required

602.2 Heat supply *had heat supply*

602.2.1 Prohibited use

602.3 Occupied work use

602.4 Cooling supply

Mechanical Equipment

603.1 Mech. Appliance

603.2 Removal combustion

603.4 Safety control

603.5 Combustion Air

Electrical Facilities

604.1 Service ? *where*

604.3 Electrical hazards

604.3.1 Abatement water

604.3.1.1 Elec. Equipment

604.3.2 Abatement fire

Electrical Equipment

605.1 Installation

605.2 Receptacles

605.3 Luminaries

605.4 Wiring

606.1 Elevator

701.1 Fire safety

Other: 301.2 *where*

Failure to correct violation(s) within 10 days from receipt of this Notice may result in penalties as noted in Code of Virginia, Section 36-106. You may appeal this order to the Town Building Code Appeals Board by written request within 3 days

Note: No Record of Water/Sewage & Electrical Service since 1977

Code Official handed to Jack Singleton 3/2/18 Mennerick Office

DANGER – KEEP OUT

**THIS STRUCTURE IS UNSAFE FOR HABITATION AND
ITS USE OR OCCUPANCY HAS BEEN PROHIBITED
BY THE CODE OFFICIAL.**

**IT IS UNLAWFUL FOR ANY PERSON TO USE OR
OCCUPY THIS BUILDING AFTER
January 26, 2016**

**ANY UNAUTHORIZED PERSON REMOVING OR ALTERING THIS SIGN
WILL BE PROSECUTED**

190 West Jefferson Street January 26, 2016 Charles Vannatter
Address of Building Date of Posting Code Official

USBC _____ IPMC Section 105.4.1 LOCAL _____

AUTHORITY: §36-106, IT SHALL BE UNLAWFUL FOR ANY OWNER OR ANY OTHER PERSON, FIRM OR CORPORATION, ON OR AFTER THE EFFECTIVE DATE OF ANY CODE PROVISION, TO VIOLATE ANY SUCH PROVISIONS. ANY SUCH VIOLATION SHALL BE DEEMED A CLASS I MISDEMEANOR AND IF CONVICTED OF SUCH A VIOLATION SHALL BE PUNISHED BY A FINE OF NOT MORE THAN \$2,500.

NOTE: AFTER A BUILDING IS PLACARDED, ENTERING THE BUILDING SHALL BE PROHIBITED EXCEPT AS AUTHORIZED BY THE CODE OFFICIAL TO MAKE INSPECTIONS, TO PERFORM REQUIRED REPAIRS, OR TO DEMOLISH THE BUILDING.

Re: Appeal of Jack Singleton No 1809

Corrections on objections to Staff

By Doc numbers

CORRECTION → 3.a. I have no knowledge of dates Placard were placed. Plagard does not identify building as "THIS STRUCTURE IS UNSAFE AND ITS OCCUPANCY (OR USE) IS PROHIBITED BY THE CODE OFFICIAL AS Required by the "shell post a not 105.4.1

VMC Sect 105 NOTE: The disjunctive "OR" clearly makes separate "UNSAFE
 CORRECTION → b. The Plagard does not identify the building as "THIS STRUCTURE UNFIT FOR HABITATION AND ITS USE OCCUPANCY HAS BEEN PROHIBITED CODE OFFICIAL." VMC 105.6
 Copy of PLACARD enclosed

CORRECTION c. No notice of Violation was affe ~~ix~~ on the building.

CORRECTION d. The Plagard is the same plagard the since before owned the property dated Jan 26 2016 maybe Jan 29 2018 15 P.M. Plagard has returned. in the ...

RE: Appeal of [unclear] 7/11/18

The (Review
Board)
Item 34

Legal Argument supporting the insufficiency
of the Mar 5, 2018 letter from
Code Official Vannatter & hea UMC Sec 105
"shall prepare a report" Report issued 2 1/2 years
after plagard
Time line

3/2/18

1. I submitted an APPLICATION for Permit
to repair foundation at 190 Jefferson St
in Phased Approval VCC 109.6
2. Code Official Vannatter refused to accept
application. Application was shoved back
& forth 3 times coming to rest on my side
of his desk. I ask for a writing that
he was refusing to accept my application.
He ~~refused~~ refused request. I asked
for a copy of my application that I
might leave my application with him
on the desk as submitted. He said "You
can leave it but you will not see it
again" I requested a writing that he
was threatening to disappear my
application. Vannatter reached for
his desk phone saying "I'm calling My
Lawyer". Don't know upset by raised voices.

2018 Mar 5, letter

3/2/18

3. Lawyer Mennerick appears, listens and wisely begs his leave to get a file. Returning quickly he accepts my application. Mennerick and I return to his office to make copies for me.

4. Code Official Vannatter enters office behind me and hands me 4 items.

(1) copy of Jan 26 2016 Plagard 190 W. Jefferson

(2) copy of Jan 26 2016 Notice of Violation to Mr. Ortiz AKA Gomez to Vannatter

(3) A blank Town of Wytheville work plan used to administer the Denilict STRUCTURE ordinance pursuant to.

The administrator of the program

(Director of Public Safety) is satisfying

The requirements of Code Va. 15.2-907.1(2)

(4) Photo of E. wall of STRUCTURE (foundation) 190 W. Jefferson

and says "Here is your report on your denilict STRUCTURE and walks out."

2018 Mar 5, Letter

2

Re: appeal 18-09 Mar 5 Letter

6. continued - Vannatten changed his demeanor saying to me "I'm not supposed to be talking to you! You have to talk to my lawyer!" I replied "Damn Charles I don't want to get you in trouble talking to me as I hurriedly arose from my chair and left. I was all the way, two blocks away, down by the Big Rental when Code Official Vannatten ran up to me from behind me shouting my name, punctuated with his panting. So then he handed me a letter letting me know he had revoked my Building Permit at another location.

7. Later I talked by phone with Vernon Hodge at Vhcd who confirmed that I was to do all my work with Building Inspector through his Lawyer, Town Attorney for Wytheville. He also confirmed that ~~the~~ any violations at 190 should be issued in my name.

Mar 5, 2018 Letter 4

Re appeal 18-09 Mar 5 Letter

Later I received the March 5, Letter
now purported to be a report
pursuant to VMC. 105.2

"~~a report shall be filed~~" shall prepare
a report to be filed in the records
of the local enforcing agency and a
copy issued to the owner. The report
shall include the use of the STRUCTURE
and a description of the ~~STRUCTURE~~ of
the nature and extent of any conditions
found."

From the face of the Mar 5 Letter:

1. no showing any reference to VMC 105
2. No inclusion of the use of the building
is stated by any VMC use codes
3. The 1st sentence characterizes
the Mar 2, 2018 meeting as unscheduled
and to discuss "air quality issues" Va Code ~~5.2-907.1~~
15.2-907.1(2) not VMC 105.

Mar 5, 2018 Letter #5

4. The letter ~~was~~ references Violation Notices issued to ORTIZ now AKA GOMEZ by Code official. Mr Vannatten Code Official previously gave public newspaper notice to demolish 190W Jefferson, stating in said notice that the STRUCTURE had been declared Derelict 15.2-907 Code Va.

5 The letter states The structure has been declared, not "determinal" as required by ~~the code~~ 105.4 ~~MC~~ MC. To be an "Unsafe STRUCTURE". No "Notice" or determination of "unsafe STRUCTURE" "OR" "STRUCTURE unfit for HUMAN Occupancy" has ever been ~~been~~ in existence for 190 W. Jefferson. There is no file copy. Mr. ORTIZ has never had a copy. Mr Gomez has never had a copy. MR Singleton has never had a copy.

6. The letter references vacant and no activity of water sewer or electric this is consistent with the provision of Derelict STRUCTURES VA CODE 15.2-907 definition of Derelict STRUCTURES. NOT
Letter Mar 5 2019 6.

Cont 6. 105 VMC UNSAFE STRUCTURES which does not deal with water, electric, or sewer issues. VMC 105 does however does address "Vacant and unsegment"

7. Last page of Mar 5 letter
(Review Items 1-6
Board)

Item 35 In my conversation w Vernon Hodge he advised me that to get my Mar 2, 2018 Permit issued I would have to follow

Items 1-6 Vernon Hodge had reviewed the letter.

Item 1. I put in application 2 Mar 2018 for VCC 109.6 but Code Official Vannatter misinformed Hodge that I applied under VCC 109.1 for unphased complete renovation per Derelict STRUCTURE Va Code 15.2-907.1 required in the WORK Plan handed me on 2 Mar 2018 in Town Attorney's office.

Item 2. Site plan 109.2 site plans are not generally necessary for repair. The requirement in Item 2 is changed by Code Official Vannatter's misinformation to Hodge Application 109.6 not 109.1 -> 109.2

2018 Letter Mar 5 7

Re: Appeal Jack Singleton No 18-09

Item 3 Code official misinformed Hodge that building permit application Mar 2 2018 was to include mechanical plumbing and electrical by misinforming Hodge that VCC 109.6 repair to foundation was a total renovation to pursue VCC 109.1 Denilict Property Va Code 15.2-907 Tax apartment.

Item 5 Code official Vannatter citing the "Work Plan" for Denilict STRUCTURES Va Code 15.2-907.1 The "work" Plan was handed to me in Town Attorney's Office 2 Mar 2018 coded with denilict issues. Mr Vannatter misinformed Hodge again

6. Letter from Financial Institution NOT required by VCC.

In a later conversation with Vernon Hodge he stated to me items 5, Work Plan, and 6 Letter from financial institution are not from the VCC but must be for the Town. Again Code Official misinformed Hodge

Letter 2018 Mar 5

8

Re: appeal Jack Singleton No 18-07

Regarding the last sentence of the
Mar 5, 2018 Letter.

"This should serve as a notice to you
and past conversations with this office"
seems nonsensical.

In previous conversations w
Alan McMahon and Vernon Hodges
go back at least to 9/26/2016
that notices should be issued to
me also reports involving my property.

In ~~regard~~ consideration of the facts
pages 1-9 of this Document
No. Resonable (Review Board), person
on court would find this letter of
Mar 5, 2018 covering up a refusal to accept
an Application for a permit to
repair the foundation to be
a "report" as required by VMC 105.2

5. Mar Letter 2018

9

Transmission Report

Date/Time
Local ID 108-17-2018
2762236057

03:20:56 p.m.

Transmit Header Text
Local Name 1

WYTHE CIRCUIT COURT

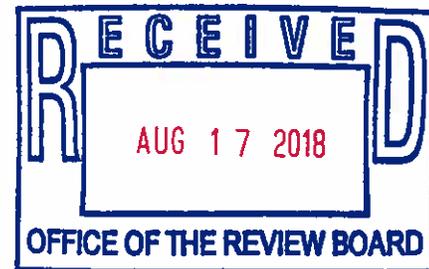
This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

ORIGINAL

TRAVIS LUTON @dohcd.virginia.gov

Fax (804) 371-7092

Jack Singleton
"Review Board" Appeal 18-09



Total Pages Scanned : 28

Total Pages Confirmed : 28

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	461	8043717092	03:11:23 p.m. 08-17-2018	00:08:38	28/28	1	EC	HS	CP21600

Abbreviations:

HS: Host send
HR: Host receive
WS: Waiting send

PL: Polled local
PR: Polled remote
MS: Mailbox save

MP: Mailbox print
RP: Report
FF: Fax Forward

CP: Completed
FA: Fail
TU: Terminated by user

TS: Terminated by system
G3: Group 3
EC: Error Correct

195

RO: Review Board appeal 18-09

Legal argument against

Review Item 17 by numbered paragraphs

1. a) Report is insufficient by pages 1-9

facts and arguments - NO REPORT preceded
Plagiarism or NOTICE

~~b~~

b) Lee v. Norfolk 281 Va. 423 (2011)

already noticed as a nuisance

This action is in the sole purview of

the VMC in an administrative appeal

c) The town has not supported its Notice

because the town never by Report VMC 105.2

determined the structure to be unsafe

b definition VMC 202 UNSAFE STRUCTURE

(i) The public is Fenced out,

~~(ii) No occupants~~

(i) there are NO OCCUPANTS IN STRUCTURE
and NO OCCUPANTS listed in Letter of
Mar 5, 2018 Letter says "vacant"

Re: Review Board appeal item 17 appeal 14-09

(ii) There is NO REPORT of unsafe equipment

(iii) There is no report of "partial or complete collapse is likely"

VMC 105.2 in the purported report Dated Mar 5 2018

2. ~~The notice of violation~~

The Letter of March 27, 2018

a. contains NO REPORT of any investigations

b. Photos Review Board items 46-49, 50-56 show the public to be fenced out

c. P.E. Wright's Letter finds NO likely partial or complete collapse

Re: Review Board Annual 18-09

3. The public is fenced out see Review Board items Photos 46-56
The hand written note refer to TRESSPASSOR before 8/26/16. In that time period or a little later I secured the building, had Code Official STAN MASSIE view and advise me that the STRUCTURE was SECURED, WAS IN HIS WORDS NOT ~~AN~~ AVACANT and UNSECURED STRUCTUR. He Advised that Wythovill Town Council had not adopted the "Addendum" to the code that addresses SECURING STRUCTURES. MR Vannatter placed a sticku note over a work Description on my PERMIT App.
4. ~~The shall~~ MR Vannatter Plagard method contains the "shall" capital wording in " of 1.5.4.1 VMC OR 105.6 thus is vague and thus begs the question Wn safe? OR UnFIT? leaving the public and owner in the dark.

Review Board Item 17

1983

Re: Review Board Appeal 18-09
Item 18

5. a If the violations are existent and not harassment by misadministration of VMC 104.5.4.2 requires "reasonable time" variation knows & do much of the work myself. 2 weeks per violation would be 14 weeks
- b The estimate is from a out of state contractor who often comes in above estimates and failed to pay friends of mine for 25 loads of soil hauled off. Reasonable time would allow me 90 days to find my own method at less expense
- 6 - many of these violations are cited but not applicable and all are only citation by VMC sec. number without identifying what is to be corrected

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Additional Documents
Submitted By
The Town of Wytheville

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Anthony Grant Jr.
Appeal No. 18-10

CONTENTS

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Anthony T. Grant
Appeal No. 18-10

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. In May of 2015, the City of Suffolk Planning and Community Development Office (City building official), the agency responsible for the enforcement of Part 1 of the 2012 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), issued a final inspection and a subsequent Certificate of Occupancy to KEBCO, Inc. (KEBCO), a licensed Class A contractor, for a single-family dwelling it built at 4281 Cole Avenue in Suffolk.

2. In June of 2015, Ashley and Anthony T. Grant Jr. (Grant) purchased the dwelling from KEBCO.

3. In July of 2016, the City of Suffolk issued a summons to KEBCO. The summons listed three violations one of which was, Section M1401.3 “Improper sizing of heating and cooling equipment and appliances, Differences between original information submitted and 2nd reevaluation submitted.”

4. In November of 2017 Grant filed an appeal to the City appeals board. In January of 2017, the City appeals board heard Grant’s appeal and ruled to uphold the City building official’s decision on several VCC Sections. The City appeals board also modified the City building official’s decision concerning VCC Section M1401.3 (*Equipment and appliance sizing*) requiring additional testing; and chose to not render a decision.

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5. Review Board staff conducted an informal fact-finding conference (IFFC) in April of 2017. At the conference it was determined that since the City appeals board had modified, and not upheld or reversed the City building official's decision on the sizing of the heating and cooling system, that issue would not be included in the issues for consideration by the Review Board. In that regard, staff explained to the parties that once the City building official made a determination on that issue, specifically whether the heating and cooling system was properly sized for the home, Grant could then choose whether to appeal the issue to the City appeals board.

6. Grant further appealed to the Review Board on March 2, 2017. The appeal was heard at the June 15, 2017 Review Board meeting; however, as agreed upon at the IFFC in April of 2017, the Review Board did not hear the issue related to M1401.3 (*Equipment and appliance sizing*) as the local board has not yet ruled on the issue.

7. On March 28, 2017, through a memorandum from the Assistant Director of Community Development to the Chairman of the City appeals board, the City determined the size of the heating and cooling system was sufficient. Grant appealed the decision to the City appeals board.

8. In November of 2017, the City appeals board heard Grant's appeal and ruled to uphold the Assistant Director of Community Development's decision that the heating and cooling system was sized appropriately. Mr. Grant did not receive notification of the meeting; therefore, the City appeals board re-heard Grant's appeal in April of 2018 and again ruled to uphold the City Assistant Director of Community Development's decision that the heating and cooling system was sized appropriately.

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9. Grant further appealed to the Review Board on June 26, 2018.

10. This staff document along with a copy of all documents submitted will be sent to the parties and opportunity given for the submittal of additions, corrections or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the appeal hearing before the Review Board.

Suggested Issue for Resolution by the Review Board

1. Whether or not the memorandum from the Assistant Director of Planning and Community Development to the Chairman of the City appeal board constitutes an enforcement decision by the City building official; and if ruling in the negative,

2. Whether or not to dismiss the Grant's appeal as not properly before the Review Board since the only action required related to the sizing of the heating and cooling system was not through a notice of violation issued by the building official, but rather through a summons issued to KEBCO for a civil penalty in the city of Suffolk General District Court, and whether or not the decision of the City appeals board should be vacated.

3. Whether or not the Grant's appeal should be dismissed as untimely and whether or not the decision of the City appeals board should be vacated; and if ruling in the negative,

4. Whether or not to overturn the decision of the City building official and the City appeals board that a violation of VCC Section M1401.3 (Equipment and appliance sizing) does not exist concerning the sizing of the heating and cooling system.

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Basic Documents

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SUMMONS FOR CIVIL PENALTY FOR BUILDING CODE VIOLATIONS
CITY OF SUFFOLK, GENERAL DISTRICT COURT, GODWIN COURTS BUILDING
150 N. MAIN STREET, SUFFOLK, VIRGINIA

TO ANY AUTHORIZED OFFICER:

You are hereby commanded to summon the Defendant(s) to appear on JULY 7, 2016

at 2:00 PM before this court to contest the alleged violation(s) at

 4281 COLF AVENUE, SUFFOLK, VIRGINIA of

VUSBC SECTION	NATURE OF VIOLATION	DATE AND TIME OF VIOLATION	AMOUNT OF CIVIL PENALTY
109.3	Complete a Structural evaluation including 2 nd floor knee wall, attic & crawl space Improper sizing of heating & cooling equipment & appliances. Differences between original information submitted and 2 nd reevaluation submittal.	4/25/16	\$100.00
M1401.3	Fail to install shield plates to protect plumbing pipes.	4/25/16	\$100.00
P2603.2.1		4/25/16	\$100.00
DATE ISSUED _____ CLERK _____			TOTAL \$300.00

NOTICE: YOU MAY ELECT TO PAY THE CIVIL PENALTY ESTABLISHED FOR THE ABOVE VIOLATION(S) OR YOU MAY ELECT TO STAND TRIAL. SEE INSTRUCTIONS ON REVERSE CASE.

DISPOSITION

Judgment that Plaintiff(s) recover against NAMED DEFENDANT _____

\$ _____ net of any credit with interest at _____ % from date of judgment until paid.

JUDGEMENT FOR NAMED DEFENDANT: _____

NON-SUIT _____ DISMISSED _____ Defendant(s) Present? Yes _____ No _____

Date Entered Judge

RETURN DATE FILE #

CITY OF SUFFOLK

PLAINTIFF

V.

DEFENDANT

KEBCO ENTERPRISES, INC

SERVE: Kenneth Bullock

ADDRESS

1332 Cambridge Way

Chesapeake, VA 23320

TELEPHONE #

757-435-4305

SUMMONS FOR HOUSING/BUILDING VIOLATION

I certify that I mailed or hand delivered a copy of this document to the defendant(s) named herein at the address shown hereon.

6/7/2016

Date Plaintiff Larry Stokes II

TO DEFENDANT: You are not required to appear; however, if you fail to appear judgment may be entered against you.

CONTESTED CASES:
 will be heard on return date: _____
 will be set for later date: _____
BILL OF PARTICULARS _____
GROUND(S) OF DEFENSE _____

ATTENTION:
IT IS IMPORTANT THAT YOU READ THESE INSTRUCTIONS CAREFULLY.

1. IF YOU ELECT TO PAY THE CIVIL PENALTY:

- Sign this summons in the space provided below.
- Determine from the front of this summons the total amount of civil penalty specified for the violation(s) for which you have been charged as well as the amount of any related costs.
- Mail this summons and a check or money order in the amount specified payable to "City of Suffolk" to the OFFICE OF THE TREASURER, P.O. Box 1583, Suffolk, Virginia 23419; or
- Pay the fine in person at the Office of the Treasurer by bringing this summons and a check or money order to 443 W Washington Street, Suffolk, Virginia 23434.

NOTE: Payment must be received by the Office of the Treasurer no later than the day prior to the return date. Timely delivery by mail is at the sender's risk. For further information concerning payment of the civil penalty contact the Office of the Treasurer at 757-514-4275.

WAIVER OF TRIAL AND ADMISSION OF LIABILITY
 By signing this form, I certify that I have read this NOTICE and I am entering my written rather than personal appearance in the court case resulting from the violation(s) charged on the front of this summons. I understand that I have a right to a trial, which I am giving up. I also understand that my signature is an admission of liability and will have the same force and effect as a finding of liability by the judge. However, I understand that an admission is not deemed to be a criminal conviction for any purpose. Understanding all this, I admit liability to the violation(s) charged, waive my right to a court hearing, and endorse to the civil penalty prescribed. Further, I agree to waive any violations within 6 months of this date.

Signature _____ Date _____

PROCEDURES IF VIOLATOR IS A PERSON UNDER A DISABILITY
 If defendant is a minor or other person under a disability pursuant to VA Code Sect. 8.01-2, any signature of such defendant must be countersigned by the defendant's parent or legal guardian as a guarantor. Such countersignature must be made in person at the court if the defendant chooses to appear in court. If payment is made by mail or in person to the Office of the Treasurer, the parent(s) or legal guardian's must be notarized.

GUARANTOR OF PAYMENTS:

SIGNATURE OF PARENT OR LEGAL GUARDIAN _____ Date _____

SWORN AND SUBSCRIBED before me this _____ day of _____, 20____.

 My Commission Expires: _____

Notary Public
SERVICE

NAME: _____

ADDRESS: _____

Personal Regular Mail Posted on Premises

Date _____

2. IF YOU ELECT TO STAND TRIAL: your case will be set on the return date appearing on the front of this summons. Trial will not be conducted on the return date; but will be scheduled for a later date provided, however, if you fail to appear, judgment may be entered against you. You have the absolute right to hire a lawyer at your own expense to assist you. A lawyer will not be appointed for you. If you intend to hire a lawyer, you should do so immediately. **NOTE:** If you are found liable in a court hearing, a judgment will be entered against you. For further information concerning the violation, contact the Department of Planning & Community Development, Building Division, 442 W Washington Street, Suffolk, Virginia 23434, 757-514-4150.

SCHEDULE OF CIVIL PENALTIES

SECTION VIOLATION	FIRST OFFENSE	SUBSEQUENT
Virginia Uniform Statewide Building Code		
109.3 - Engineering Details	\$100.00	\$350.00
M1401.3 - Equipments and Appliance Sizing	\$100.00	\$350.00
P2603.2.1 - Protection Against Physical Damage	\$100.00	\$350.00

3. **MULTIPLE VIOLATIONS:** If you have been summoned for multiple violations, you may elect to stand trial on one or more violations and pay the civil penalty on the remaining violation(s). To do so, you must indicate below on which violation(s) you have elected to stand trial and for which violation(s) you have elected to pay the civil penalty and must appear in court on the return date.

I elect to stand trial on the following violation(s) only and have read Paragraph 2, above.

I, _____, _____, _____

Signature _____ Date _____

I elect to waive trial, admit liability and pay the established civil penalty for the following violation(s) only. I have read the instructions, waiver of trial and admission of liability in Paragraph 1, above and understand that they apply only to the violation(s) I am listing below.

I, _____, _____, _____

Signature _____ Date _____



DEPARTMENT OF
PLANNING & COMMUNITY DEVELOPMENT

Division of Community Development

CITY OF SUFFOLK

442 W. WASHINGTON STREET, POST OFFICE BOX 1858, SUFFOLK, VIRGINIA 23439-1858
PHONE: (757) 514-4150 FAX: (757) 514-4199

MEMO

TO: Mitchell Wilcox, Chairman of Suffolk Board of Building Code Appeals

FROM: Stanley Skinner, Assistant Director of Community Development, MCP, CBCO 

COPY TO: Board of Building Code Appeals Members

DATE: March 28, 2017

RE: LBBCA 01-2017 - 4281 Cole Avenue, Suffolk Virginia 23434

Please be advised that the Department of Planning and Community Development revisited the HVAC Unit that was installed at 4281 Cole Avenue, Suffolk Virginia, as requested at the Board of Building Code Appeals meeting on January 25, 2017. Furthermore, this request was based on an HVAC Service Order supplied to Mr. Anthony Grant from Stokley's Service, INC., and presented to this office on June 3, 2016. Stokley's Service, INC. instructed Mr. Grant that his HVAC unit was not sized properly and that he would need at a minimum a 3 ton HVAC unit. Understand that even though this service request was not included with Mr. Grant's initial appeal, it was used as the cornerstone for his request.

As required per section M1401.3 of the 2012 Virginia Residential Code (VRC), HVAC equipment shall be sized and calculated in accordance with ACCA Manual J or other approved heating and cooling methodologies. Which to my knowledge this information has never been supplied to this office from Stokley's Service, INC. or Mr. Grant and therefore, per the above referenced code section, this invoice is unenforceable.

However, the 2.5 ton HVAC Unit installed by Wayne Ables Heating and Air Conditioning, Inc. (using calculations approved by ACCA and meeting all the requirements of the Manual J 8th Ed.), was found to meet the requirements of the 2012 VRC. Furthermore, as per your instructions to The Community Development Division to further substantiate our position as it relates to Mr. Grant's appeal, solicited the services of Suffolk Sheet Metal. Suffolk Sheet Metal, a licensed HVAC installer (using calculations approved by ACCA and meeting all the requirements of the Manual J 8th Ed.), has further corroborated that the 2.5 ton unit installed by Wayne Ables Heating and Air Conditioning, Inc. has been found to be in compliance per the VRC Chapter 14, Section M1401.3, using ACCA calculations. Additionally to further support our position, The Community Development Division, requested the HVAC Certificate Number (131341428052233091) and the AHRI Number (5358271) from the system manufacturer, which they delivered.

Please be advised that per the calculations provided to this office and as required by section M1401.3 of the VRC, the HVAC system is required to have a BTU output of not less than 23,512 (per Wayne Able) and 22,707 (per Suffolk Sheet Metal), with an average BTU output rating between the 2 units of 23,109.5. The product Certificate Ratings states that the total BTU of Outdoor Unit #GSZ13030A and Indoor Unit #ARUF30B14 produce a combine BTU rating of 27,200. Therefore this office has concluded that the HVAC unit installed at 4281 Cole Avenue, Suffolk Virginia, meets the intent of section M1401.3 of the 2012 VRC.

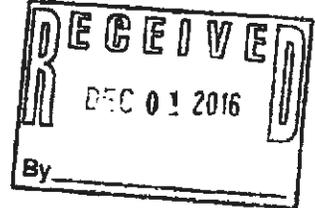
Please review attachments for additional information in supporting the City's position in this matter:

- Section M1401.3
- Stokley's Invoice
- Letter from Wayne Ables Heating & Air Conditioning, Inc.
- Second Letter from Wayne Ables Heating & Air Conditioning, Inc.
- Wayne Ables calculations
- Suffolk Sheet Metal calculations
- AHRI Certificate of Product Ratings

Should you have any further concerns, please feel free to contact me at 757-514-4152.

City of Suffolk
Community Development
Phone: 757-514-4150
Fax: 757-514-4199

Board of Building Code Appeals
c/o Community Development
442 W. Washington Street
Suffolk, VA 23434



APPLICATION FOR APPEAL

Appellant Information (Name, address and telephone number of applicant for appeal.)

Anthony T. Grant Jr. 4281 Cole Ave Suffolk, VA 23435
(757) 737-9995

Related Party Information (Name, address and telephone number of others involved.)

Ashley N. Grant 4281 Cole Ave Suffolk, VA 23435
(757) 535-8664

Additional Information (To be submitted with this application)

1. Copy of decision or action being appealed.
2. Statement of reason for appeal.
3. Statement of specific relief sought.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of November, 2016, a completed true copy of the foregoing Application for Appeal, including any additional information required above, was delivered or sent to the Board of Appeals and all related parties listed.

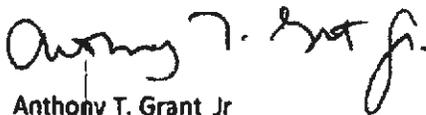
Signature of Applicant: Anthony T. Grant Jr.
Name (print or type): Anthony T Grant Jr.

November 30, 2016

To Whom It May Concern,

I would like to appeal the notice of violation for the dates of 5/18/15, 10/28/16, 5/13/16, 12/22/15, 4/25/16, and 6/24/16 regarding section N1102.4, section R-703.11, 408 and section R408. Also, VUSBC109.3, M1401.3, P2603.21, R403.1.6 and P2603.2.1. The Inspection report project number SFC2014-00187. I am unsure of the code violations for our driveway; however the builder did not have a permit to build. Our driveway and garage floor is cracking severely. I spoke to the building official on the issue; he stated that it was not his department. I would like to appeal these violations because the building official issued them, and then removed them without them being addressed. My family and I have endured a lot during our first year within the home; due to a lot of violations that were passed that should not have been. We have contacted the builder, the city of Suffolk and numerous third party vendors to address the issues with our home. We have documentation from numerous reputable companies and a structural engineer report that stated the issues with our home. My family and I have been very patient with the building official in allowing him to address the violations, which have not been addressed appropriately. In my efforts in trying to have my home fixed, I feel defeated. The city in which I live has not fully taken responsibility for their negligence and my family and I have been suffering. With my sincerest regards, I hope this appeal will look at the documentation that is being presented and help me in addressing the issues, so that my family and I can enjoy living in the home we fell in love with, and the community in which we cherish. As I conclude, I would like you all to resolve these issues by addressing the code violations that are listed above. The builder has had numerous opportunities to correct some violations; however, he has failed to do so. He has displayed poor workmanship and professionalism. Again, we would like for the violations to be addressed accordingly. We do not want the builder to come back to our home to fix the issues, due to his poor workmanship, lack of professionalism and continuous issues due to his negligence. We would like for the builder to be fined, along with DPOR being notified of the violations.

Warm Regards,


Anthony T. Grant Jr

RESOLUTION NO. 01-2017

**CITY OF SUFFOLK BOARD OF BUILDING CODE APPEALS
DECISION**

**4281 COLE AVE, SUFFOLK, VIRGINIA, ZONING MAP 13A *JAMES, PARCEL *18
LBBCA 01-2017**

WHEREAS, Mr. Anthony Grant, Jr., applicant and property owner, by letter dated November 30, 2016, requested a hearing with the City of Suffolk Board of Building Code Appeals for a certain tract of land situated in the City of Suffolk, Virginia, which land is designated on the Zoning Map of the City of Suffolk, Virginia, as Zoning Map 13A James, Parcel 18; and,

WHEREAS, the appeal hearing was held in the City of Suffolk Council Chambers on January 25, 2017, at 1:00 p.m.; and

WHEREAS, the applicant Anthony Grant was present at the hearing, and representing the City of Suffolk were Stanley I. Skinner, Susan Gardner and Larry Stokes.

NOW, THEREFORE, BE IT RESOLVED by the Board of Building Code Appeals of the City of Suffolk, Virginia, that:

The Board of Building Code Appeals

1. X UPHOLDS _____ REVERSES _____ MODIFIES the Building Official's decision with respect to appeal identified as N1102.4; and,
2. X UPHOLDS _____ REVERSES _____ MODIFIES the Building Official's decision with respect to appeal identified as R-703.11; and,
3. X UPHOLDS _____ REVERSES _____ MODIFIES the Building Official's decision with respect to appeal identified as R-408; and,
4. X UPHOLDS _____ REVERSES _____ MODIFIES the Building Official's decision with respect to appeal identified as VUSBC109.3; and,
5. _____ UPHOLDS _____ REVERSES X MODIFIES the Building Official's decision with respect to appeal identified as M1401.3; and,
6. X UPHOLDS _____ REVERSES _____ MODIFIES the Building Official's decision with respect to appeal identified as P2603.2.1; and,
7. X UPHOLDS _____ REVERSES _____ MODIFIES the Building Official's decision with respect to appeal identified as R403.1.6; and,

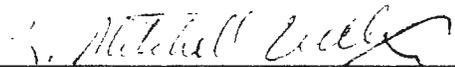
8. _____ Finds X Does not find that the request for the appeal identified as Inspection Report project number SFC2014-00187 is warranted (Public Works Department and not a building code item); and,
9. _____ Finds X Does not find that the request for the appeal identified as Driveway and Garage floor is warranted (not a building code item).

BE IT FURTHER RESOLVED that item 4 above represents outstanding violations that have not yet been resolved to the satisfaction of the Building Official.

BE IT FURTHER RESOLVED that the Building Official shall reevaluate its decision regarding the proper sizing of heating and cooling systems with respect to item 5 above.

BE IT FURTHER RESOLVED that items 8 and 9 above were not warranted for consideration because they do not involve the Building Official's application of the Uniform Statewide Building Code.

BE IT FURTHER RESOLVED that any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, and (804) 371-7150.



Chairman, Board of Building Code Appeals

**AGENDA
CITY OF SUFFOLK
BOARD OF BUILDING CODE APPEALS
NOVEMBER 13, 2017 – 1:00 P.M.
CITY COUNCIL CHAMBERS**

I. CALL TO ORDER & ROLL CALL

II. APPROVAL OF THE MINUTES

January 25, 2017 Meeting

III. BOARD HEARING

NOVEMBER 13, 2017 Meeting

LBBCA 02-2017

Kebco Enterprises Inc. c/o Kenneth Bullock

HEARING ITEMS

1. R401.3 – Drainage (perimeter)
2. R401.3 – Exception (Area in front of garage door)
3. R905.1 – Roof covering
4. R905.2.1 – Sheathing Requirements
5. R703.11.1 – Installation of vinyl siding
6. R703.8 – Flashing (front porch)
7. R502.6 – Bearing (shims)
8. R606.6.1 – Pier cap(s)
9. P2605.1 – General Piping Support
10. R602.3 – Design and Construction (repair deck)
11. R403.1.6 – Foundation Anchorage (rear wall)

IV. OLD BUSINESS

Results of the Building Official's reevaluation decision regarding the proper sizing of the heating and cooling system

V. NEW BUSINESS

VI. ADJOURNMENT

RESOLUTION NO. 02-2017

**CITY OF SUFFOLK BOARD OF BUILDING CODE APPEALS
DECISION**

**4281 COLE AVE, SUFFOLK, VIRGINIA, ZONING MAP 13A *JAMES, PARCEL *18
LBBCA 02-2017**

WHEREAS, Mr. Anthony Grant, Jr., applicant and property owner, by letter dated November 30, 2016, requested a hearing with the City of Suffolk Board of Building Code Appeals for a certain tract of land situated in the City of Suffolk, Virginia, which land is designated on the Zoning Map of the City of Suffolk, Virginia, as Zoning Map 13A James, Parcel 18: and,

WHEREAS, the appeal hearing was held in the City of Suffolk Council Chambers on November 13, 2017, at 1:00 p.m. under Old Business; and

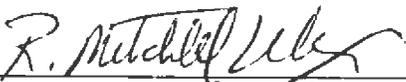
WHEREAS, the applicant Anthony Grant was not present at the hearing and representing the City of Suffolk were Michael Robinson, Susan Gardner and Sam Adams and representing the Builder were Kebeo Enterprise Inc. c/o Kenneth Bullock and Wayne Ables of Wayne Ables Heating & Air Conditioning, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Board of Building Code Appeals of the City of Suffolk, Virginia, that:

The Board of Building Code Appeals

1. X UPHOLDS REVERSES MODIFIES the Building Official's decision with respect to appeal identified as M1401.3, under Old Business; and,

BE IT FURTHER RESOLVED that any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, and (804) 371-7150.



Chairman, Board of Building Code Appeals

RESOLUTION NO. 01-2018

CITY OF SUFFOLK BOARD OF BUILDING CODE APPEALS

DECISION

**4281 COLE AVE, SUFFOLK, VIRGINIA, ZONING MAP 13A *JAMES, PARCEL *18
LBBCA 001-2017**

WHEREAS, Mr. Anthony Grant Jr., applicant and property owner, by letter dated November 30, 2016, requested a hearing with the City of Suffolk Board of Building Code Appeals for a certain tract of land situated in the City of Suffolk, Virginia, which land is designated on the Zoning Map of the City of Suffolk, Virginia, as Zoning Map 13A James, Parcel 18; and,

WHEREAS, an appeal hearing was held in the City of Suffolk Council Chambers on January 25, 2017, at which the Board MODIFIED the decision of the Building Official with respect to the appeal item identified as M1401.3, stating in Resolution No. 01-2017 that “the Building Official shall reevaluate its decision regarding the proper sizing of heating and cooling systems”; and,

WHEREAS, an appeal hearing on this matter was held in the City of Suffolk Council Chambers on November 13, 2017, at which the Board UPHELD the decision of the Building Official with respect to the appeal item identified as M1401.3 under Old Business; and,

WHEREAS, upon receiving a certified copy of Resolution No. 02-2017 reflecting the Board’s decision regarding the appeal item identified as M1401.3, the applicant, Mr. Grant, advised the City that he did not receive notice of the November 13, 2017 hearing date or time, and thus was not able to be heard on this matter; and,

WHEREAS, a rehearing on this matter was held in the City of Suffolk Council Chambers on April 25, 2018, at 1:00 p.m. under Old Business; and,

WHEREAS, the applicant Anthony Grant Jr. was present representing himself, and representing the City of Suffolk were Michael Robinson, Building Official, Samuel Adams, Building Inspector, and Kalli Jackson, Assistant City Attorney. Also present representing themselves were the builder, Kenneth Bullock on behalf of Kebco Enterprise Inc., and Wayne Ables on behalf of Wayne Ables Heating & Air Conditioning, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Board of Building Code Appeals of the City of Suffolk, Virginia, that:

The Board of Building Code Appeals

1. X UPHOLDS REVERSES MODIFIES the Building Official’s decision with respect to appeal identified as M1401.3.

BE IT FURTHER RESOLVED that this Resolution replaces in its entirety Resolution No. 02-2017 with respect to the appeal item identified as of M1401.3 under Old Business.

BE IT FURTHER RESOLVED that any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, and (804) 371-7150.

R. Mitchell Wilcox
Chairman, Board of Building Code Appeals

5-10-18
Date



CITY OF SUFFOLK
 DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
Division of Community Development
 P.O. BOX 1858, SUFFOLK, VA
 442 W. WASHINGTON STREET, SUFFOLK, VA 23450

CERTIFIED MAIL



7017 2400 0000 0099 9846



ALEXANDER H. BELL
 ATTORNEY AT LAW
 C/O ANTHONY & ASHLEY GRANT
 555 EAST MAIN ST, STE 1102
 NORFOLK, VA 23510

**RETURN RECEIPT
 REQUESTED**

23510-223777





Alexander H. Bell

June 26, 2018

VIA EMAIL ONLY

W. Travis Luter Sr., C.B.C.O.
Assistant Secretary to the State Building Code Technical Review Board
Department of Housing & Community Development
Division of Building & Fire Regulation
State Building Codes Office
600 East Main Street, Suite 300
Richmond, Virginia 23219
804-371-7163
travis.luter@dhcd.virginia.gov

**Re: Appeal of Anthony and Ashley Grant to State Review Board
Address: 4281 Cole Avenue, Suffolk, VA 23435**

Dear Mr. Luter:

Please note that I have been retained by Mr. and Mrs. Grant regarding the aforementioned matter. Enclosed please find Mr. and Mrs. Grant's Application for Administrative Appeal to affect an appeal of Resolution No. 01-2018 of the Board of Building Code Appeals of the City of Suffolk dated May 10, 2018 and the Grant's supporting documents relating the aforementioned appeal.

Do not hesitate to contact me should you have any questions.

Very truly yours,

Alexander H. Bell

AHB/
Enclosures

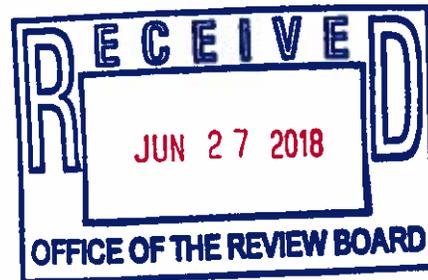
cc: Kalli L. Jackson, Esq. (via Email) [w/ Enc.]
Christopher H. Faulk, Esq. (via Email) [w/ Enc.]
Wayne Ables Heating and Air Conditioning (via Facsimile 757-547-1502) [w/ Enc.]
Clients (via Email) [w/ Enc.]

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 Statewide Fire Prevention Code
 Industrialized Building Safety Regulations
 Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Anthony Grant Jr.

c/o Alexander H. Bell, Esquire 555 E. Main St., Ste. 1102, Norfolk, VA 23510

757-651-5017 Alex@AlexBellLaw.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

Kalli L. Jackson, Esquire Assistant City Attorney

442 West Washington St., Ste. 2117, Suffolk, VA 23434

757-514-7136 kjackson@suffolkva.us

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 26 day of June, 2018, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

A handwritten signature in black ink, appearing to read "Alexander H. Bell", written over a horizontal line.

Name of Applicant: Alexander H. Bell, Esq. - Attorney for Anthony and Ashley Grant
(please print or type)

APPEAL NOTICE

CONTRACTOR: Kebco Enterprises, Inc.
c/o Christopher H. Falk, Esq.
205 S. Battlefield Blvd., Suite 100
Chesapeake, Virginia 23322
Falk@aol.com

SUBCONTRACTOR: Wayne Ables Heating & Air Conditioning
c/ Wayne Ables
1226 Executive Blvd., Suite 117
Chesapeake, VA 23320
Facsimile: 757-547-1502

LOCATION: 4281 Cole Avenue
Suffolk, Virginia 23432

TAX MAP: 13A*JAMES*18
304529700

OWNER/APPELLANT: Ashley Grant and Anthony Grant, Jr.
c/o Alexander H. Bell, Esq.
555 E. Main St., Suite 1102
Norfolk, VA 23510
Alex@AlexBellLaw.com

STATEMENT OF REASON FOR APPEAL

Ashley and Anthony Grant (“Homeowners”) object to the finding of the Board of Building Code Appeals of the City of Suffolk dated May 10, 2018 that upheld the City of Suffolk Board of Building Code Appeals decision to modify the decision of the Building Official with respect to the appeal item identified as M1401.3, stating in Resolution No. 01-2017 that “the Building Official shall reevaluate its decision regarding the proper sizing of heating and cooling systems.”

On March 5, 2017 Suffolk Sheet Metal provided an analysis of the heating and cooling systems to Sam Adams who is an inspector for the City of Suffolk. On March 28, 2017 Stanley I. Skinner, Assistant Director of Community Development for the City of Suffolk, produced a Memo to Mitchell Wilcox, Chairman of Suffolk Board of Building Code Appeals that provided false and

misleading conclusions of Suffolk Sheet Metal's findings. On December 7, 2017 Ray Cobb, Vice President of Suffolk Sheet Metal, sent a letter to the Homeowners previous attorney outlining the false and misleading conclusions that Mr. Skinner stated in his March 28, 2017 letter. In his December 7, 2017 letter Mr. Cobb stated unequivocally that the HVAC system that is the subject of this Appeal is grossly inadequate for the home.

Furthermore, a letter from Russell's Heating and Cooling dated February 24, 2016 and a letter Stokley's Services dated June 16, 2016 corroborate the exact findings of Suffolk Sheet Metal.

Due to the grossly misleading conclusions of Mr. Skinner's letter, the City should be prohibited from determining whether the subject HVAC system is adequate for the home, especially when three other reputable HVAC companies have independently stated otherwise.

SPECIFIC RELIEF SOUGHT

That the State Review Board reverse the Building Official's decision that the Grant's home contains the proper sizing of heating and cooling systems with respect to the Building Official's decision that the heating and cooling systems are of the proper size. Or, in the alternative, the State Review Board modify the aforementioned modification of M1401.3 to require a Building Official other than those who have already evaluated the HVAC system to reevaluate the proper sizing of heating and cooling systems.

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Documents Submitted
By the Grants through counsel
(Alexander Bell, Esq)

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Relevant Documents



CERTIFICATE OF OCCUPANCY

5/27/2015

3:31PM

This certificate is issued pursuant to the requirements of the Uniform Statewide Building Code, Zoning Ordinances and other applicable codes and ordinances certifying that at the time of issuance this structure is in compliance with the above mentioned codes and ordinances.

Owner or Contractor: **KEBCO ENTERPRISES INC**
1332 CAMBRIDGE WAY
CHESAPEAKE, VA 23320

NANSEMOND 1646

SUFFOLK 1742

Use Class:

NWR

SFD

Project No: **PRJ2014-02946**

Bldg. Permit No: **BPD2014-01071**

Group:

R5

Occupancy Load:

Type Construction:

5B

Building Address:

4281 COLE AV

Building Official:

John D. Wilson

Date:

5/27/2015

VAUSBC CODE
EDITION
2009

Post on the Premises in a Conspicuous Place
Shall Not Be Removed Except by Building Official

This Certificate of Occupancy is not transferrable and becomes invalid upon any change of use or occupancy, or any changes to the building or premises, or upon any violation of the Uniform Statewide Building Code.

Work Order

Russell's Heating and Cooling
916 Business Park Drive
Chesapeake, VA 23320
(757)424-1000 Fax: (757)424-2036

02/24/16
Page 1

ANTHONY GRANT
4281 COLE AVE
SUFFOLK, VA 23435

ANTHONY GRANT
4281 COLE AVE
SUFFOLK, VA 23435

Call Slip Number

88404

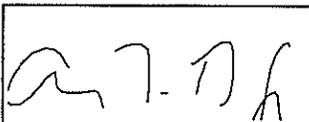
Tech Date
MIKEH 02/24/2016

ADDITIONAL DETAILS:

Free second opinion Checked unit customer was having issues with unit maintaining temp in summer checked unit it is a 2.5ton unit in a 2400sqft home if you base unit size off square footage it should be a 4ton unit. With amount of insulation and age of home with new windows my estimate would be at least a 3.5ton would be minimum for home home is not going to be able to maintain temp when it is very hot or very cold outside due to unit not being sized properly for home

Payment is due upon completion of work. Interest at the rate of 2% per month (24% annual) will be charged on any unpaid balance outstanding 30 days after completion. Attorney's fees, court costs, and any other costs incidental to the collection of monies due under this agreement will be paid for by the purchaser.

PLEASE BE AWARE that annual maintenance is a requirement for all equipment covered under an extended warranty plan. Refer to your extended warranty documents for specific requirements. Failure to perform annual maintenance will affect your ability to file a claim and may result in termination of the extended warranty plan.



02/24/2016 03:22PM

Authorized Signature



711 Falcon Ave. #C-1
Chesapeake, VA 23321
Phone: 757-857-7247

Heating, Air Conditioning, Indoor Air Quality,
Automatic Standby Generators, Duct Cleaning

Tidewater's Oldest Heating and Cooling Contractor

June 16, 2016

ATTN: Anthony Grant
4281 Cole Ave.
Suffolk, VA 23435

RE: HVAC system

Mr. Grant,

After looking at the system for your house at the above location, we have determined that your current HVAC system is too small to properly cool your house. Typically, we would recommend a system for the downstairs and a separate system for the upstairs. Unfortunately most builders will cut corners when it comes to installing a central heating and cooling system. Putting in one system instead of two is one of the corners that they cut. The ductwork will need to be addressed as well as it is not sized to handle a larger system.

My recommendations are to put in 2 separate systems with all new duct work for the best comfort. Short of that I would recommend putting in a larger system and installing a zoning system with automatic (mechanical) dampers that are controlled by separate thermostats for each zone. The appropriate duct modifications would also need to be made. I, personally, do not like zoning systems and feel that they are essentially a "cheat" but I know many HVAC contractors that swear by them

Unfortunately we are booked solid right now and we would not be able to handle a project like this for some time: therefore, I am not offering a bid to do the work.

Sincerely,

A handwritten signature in cursive script that reads "Rob Shortt".

Rob Shortt
Vice-President

**Wayne Ables Heating &
Air Conditioning, Inc.**

1226 Executive Boulevard
Suite 117
Chesapeake, VA 23320
757-547-9252
Fax 757-547-1502
Email wayneables@hvac hrcoxmail.com

5 M1401.3

2ND SUBMITTAL
AS REQUESTED.

Dear Mr. Wilson,

This is a re-do of the load calculations at 4281 Cole Ave. Cole Ave. has an outdoor unit, Model # GSZ130301 and an indoor unit, Model # ARUF30B14A. As supported by the load calculations and the expanded rating of the outdoor unit, this system is properly sized for this home.

The home inspector's feeling that the system is too small is not the proper method for sizing any heating and cooling system. It is possible that a properly sized system will run longer than an oversized system, but that is the benefit of a properly sized system. There is no such thing as a standard sized system for any home and a 3 ton system for this home is oversized and would be a code violation.

Too many home inspectors base the size of a system on a square foot per ton. This is only a guess-timation. It doesn't account for the different R values of the home, types of windows, or any other factors. No oversight was made with this system.

Thank you,

Wayne Ables



Project Rep.

General Project Information

Project Title: Kebco 4281 Cole Ave
 Project Date: Thursday, May 12, 2016

Design Data

Reference City: Norfolk, Virginia ✓
 Building Orientation: Front door faces North ✓
 Daily Temperature Range: Medium ✓
 Latitude: 36 Degrees ✓
 Elevation: 22 ft. ✓
 Altitude Factor: 0.999 ✓
 Elevation Sensible Adj Factor: 1.000 ✓
 Elevation Total Adj Factor: 1.000 ✓
 Elevation Heating Adj. Factor: 1.000 ✓
 Elevation Heating Adj Factor: 1.000 ✓

	Outdoor Dry Bulb	Outdoor Wet Bulb	Outdoor Rel.Hum	Indoor Rel.Hum	Indoor Dry Bulb	Grains Difference
Winter	22	20.45	80%	n/a	70	n/a
Summer	91	76	51%	50%	75	47

Check Figures

Total Building Supply CFM: 1,090 CFM Per Square ft. 0.473
 Square ft of Room Area: 2,303 Square ft. Per Ton 1.175
 Volume (ft³) of Cond Space: 19,333

Building Loads

Total Heating Required Including Ventilation Air:	32,142 Btuh	32.142 MBH
Total Sensible Gain	19,793 Btuh	84 %
Total Latent Gain	3,719 Btuh	16 %
Total Cooling Required Including Ventilation Air	23,512 Btuh	1.96 Tons (Based On Sensible + Latent)

Notes

Rhvac is an ACCA approved Manual J and Manual D computer program.
 Calculations are performed per ACCA Manual J 8th Edition, Version 2, and ACCA Manual D
 All computed results are estimates as building use and weather may vary.
 Be sure to select a unit that meets both sensible and latent loads.

*This house only needs 23,512 Btuh's. The system installed
 supplies 26,300 @ 95° & 35,000 @ 105°. Plenty of
 good cooling with this unit*

*Thank you,
 Wayne Ables*

DB	WB	Outdoor Ambient Temperatures															
		65°F			70°F			75°F			80°F						
		DB	WB	WBP	DB	WB	WBP	DB	WB	WBP	DB	WB	WBP				
1178	ASB	27.4	66.1	71.1	24.8	77.2	82.1	22.3	73.7	78.6	20.4	71.6	76.5	18.7	69.9	74.8	
	S/T	0.76	0.51	0.44	0.79	0.65	0.49	0.81	0.67	0.42	0.84	0.70	0.48	0.87	0.71	0.50	
	AT	16	14	11	17	14	11	17	14	11	17	14	11	17	14	11	
	W	1.98	2.02	1.68	2.13	2.17	2.24	2.25	2.30	2.37	2.37	2.42	2.49	2.46	2.52	2.60	
	Amps	7.8	7.9	8.2	8.8	8.5	8.6	9.0	8.2	8.5	8.6	9.6	9.8	10.2	10.7	10.5	
	HPR	226	246	260	257	276	282	292	314	332	333	358	379	394	404	423	
	LoPR	207	214	224	218	220	231	217	222	230	222	231	231	224	227	230	
70	1050	ASB	27.0	78.0	80.7	25.4	77.4	80.0	24.8	76.7	79.3	23.1	75.1	78.5	23.9	74.7	77.1
	S/T	0.71	0.61	0.47	0.75	0.64	0.44	0.77	0.65	0.45	0.79	0.67	0.46	0.82	0.69	0.48	
	AT	7	15	11	17	15	11	7	15	11	17	15	11	17	15	11	
	W	1.97	2.01	1.67	2.12	2.16	2.22	2.23	2.28	2.36	2.35	2.40	2.46	2.45	2.51	2.59	
	Amps	7.7	7.9	8.1	8.4	8.5	8.5	8.4	8.2	8.5	8.6	9.6	9.8	10.1	10.7	10.3	
	HPR	227	245	258	255	274	280	290	317	330	330	355	375	380	402	411	
	LoPR	205	212	222	216	218	230	216	221	229	222	231	231	224	227	230	
927	ASB	25.7	76.8	79.1	25.1	76.0	78.5	24.5	75.4	77.9	22.9	74.7	77.1	21.7	73.5	75.8	
	S/T	0.70	0.58	0.40	0.72	0.60	0.42	0.74	0.62	0.43	0.76	0.64	0.44	0.79	0.66	0.46	
	AT	13	15	12	18	15	11	18	15	11	18	15	11	18	15	11	
	W	1.94	1.99	1.64	2.08	2.14	2.20	2.11	2.16	2.24	2.23	2.28	2.34	2.31	2.36	2.44	
	Amps	7.6	7.8	8.0	8.2	8.3	8.6	8.8	9.0	9.3	9.4	9.6	9.9	10.0	10.4	10.5	
	HPR	213	240	253	250	269	274	284	308	321	324	346	366	369	414	402	
	LoPR	191	191	201	194	197	208	191	197	205	205	214	214	214	214	214	

www.fredbear.com

18 INCH

DB - Cooling Medium & Bulb Temperature
 WB - Wet Bulb Temperature
 WBP - Wet Bulb Point
 AT - Air Temperature
 W - Water Flow
 Amps - Compressor Current
 HPR - High Pressure Reading
 LoPR - Low Pressure Reading

**Wayne Ables Heating &
Air Conditioning, Inc.**

1226 Executive Boulevard
Suite 117
Chesapeake, VA 23320
757-547-9252
Fax 757-547-1502
Email. wayneables@hvac.hrcoxmail.com

11401.3

July 20, 2016

Dear Sirs,

The original load calculations submitted were the load calculations from the first floor of Kenny's 2-story house with a 2-zone system, that was the first page and the 2nd page was the actual house on Cole Ave with a 1-zone system. My office clerk mixed up the paperwork . If you look at the load calculations that say 2 story one zone, the net gain is 22,720 which is almost the same as the load calculations that say 4281 Cole Ave. Its net gain is 23,512, 792 BTUs different. Not enough difference to matter on any day @ any temperature. As evidenced by the expanded cooling data. This unit supplies 26,300 BTUs, enough to cool the house on any given day. I have included a ACCA Manuel J information sheet about the "Proper" way to size a/c equipment.

Thank you,
Wayne Ables

SSM Suffolk Sheet Metal, Inc.

Class A Registered Contractor
VIRGINIA
Mechanical & Electrical 2701 020555
NORTH CAROLINA
Mechanical 10864/Electrical 23777-U

HEATING, AIR CONDITIONING & ELECTRICAL CONTRACTORS
309 GRANBY STREET
SUFFOLK, VA 23434

Telephone
(757)-539-7484
Fax
(757) 934-0291

December 7, 2017

Gregory S. Bean
1307 Jamestown Road, Suite 201
Williamsburg, VA 23185

RE: Case #CL17-471

Dear Mr. Gregory Bean,

This letter is in response to your subpoena received on November 17, 2017 regarding the above referenced case number. According to the records on behalf of Suffolk Sheet Metal, Inc and Ray Cobb, there are no invoices, documents or correspondences in the name of Ashley Byrd n/k/a Ashley Grant or Kebeo Enterprises, Inc. I can only submit to you information to which I am assuming you are referring.

Some time before March 5, 2017, Sam Adams an inspector for the City of Suffolk, came to my office and dropped off copies of a blueprint on 8.5X11 white copy paper requesting a load calculation on a residence. I asked if I could have the address so that I could see the house. The address and the name were kept out of the conversation and never provided by the City of Suffolk. I typically like to see the house or view the house online in order to provide useful information.

On Sunday, March 5, 2017, I entered only the numbers that were provided from the blue prints in my computer program. I use a program called Wrightsoft. I have designed my program for the type of materials I use for heating and air conditioning applications such as metal duct trunk line and Rheem Manufacturing equipment. I printed a copy and provided the calculations to Sam Adams. When he came back to my office in order to pick up the copy, I attempted to show him how the program worked, inserting different numbers and how they would change the outcome of a load calculation. I exited the program saving the changes under the title "City of Suffolk." The only copy I have to share today is latter saved information. He took the original load calculations on March 5 along with his furnished copies of the blue prints. I provided him with only the Manual J and Manual D calculations. There are three calculations I can produce from my program for specific buildings; a Manual J, which provides the load calculations for heat and air conditioning; a Manual D, which calculates the specific duct sized needed and a Manual S, which are calculations used to determine the specific size of the heating and air conditioning

equipment. Again this program is designed for the equipment and materials I use in my business. I did not provide Manual S information.

A male homeowner contacted my office by phone about a letter he had receive stating that I told the city of Suffolk that a 2.5 ton system was sized properly for his home. I was not aware of this information and believed he had the wrong company or something was misprinted. I requested a copy of this letter; however, he never provided a copy.

Later, I found myself sitting in front of you Mr. Bean in my office stating the same thing as the above homeowner. I wasn't until our conversation that I was lead to believe this situation all started with the no name blue prints provided by Sam Adams, a city inspector earlier in the year. I printed off the last numbers I entered in my program under "City of Suffolk," which I later realized were altered after showing Mr. Adams how the programmed worked. I asked you then if I could get a copy of this letter.

On June 14, 2017, you emailed me a copy of a letter from Stanley Skinner, Assistant Director of Community Development for the City of Suffolk and part of the twelve page Manual J and Manual D calculations I created. If this letter was constructed from the load calculations I provided to Sam Adams on March 5, 2017, the calculations are misinterpreted and more importantly used my name and company name without my permission. It takes a licensed HVAC contractor who has gone through intensive Manual J training to interpret the calculations. I found the letter in regards to Suffolk Sheet Metal, Inc false and misappropriated.

I have included with this letter a copy of the City's letter in relation to 4281 Cole Ave Suffolk, VA 23434 in which I am referring to above, a copy of the five page calculations I gave to Sam Adams which I recognize and a copy of what I have saved in my Manual J program under "City of Suffolk." I am sorry I can not provide nor confirm any other information regarding case #CL17-471.

To this day, I have never held a conversation with Mr. Stanley Skinner. Please feel free to contact me at the office at 757-539-7484.

Sincerely,


Ray Cobb
Vice President

CITYS M J

wrightsoft Load Short Form
Entire House
 Suffolk Sheet Metal

Job:
 Date: Mar 05, 2017
 By: Ray Cobb

308 Granby St., Suffolk, Va 23434 Phone: 757-539-7484 Email: raycobb@effolkshsheetmetal.com Web: www.suffolkshsheetmetal.com License: 2701020555

Project Information

For: City of Suffolk
 VA

Design Information

	Htg	Clg	Method	Infiltration
Outside db (°F)	25	93	Construction quality	Simplified
Inside db (°F)	70	75	Fireplaces	Tight
Design TD (°F)	45	18		
Daily range	-	M		
Inside humidity (%)	50	50		
Moisture difference (gr/lb)	40	55		

HEATING EQUIPMENT

Make Sample
 Trade
 Model
 AHRI ref
 Efficiency 7.1 HSPF
 Heating input
 Heating output 17200 Btuh @ 47°F
 Temperature rise 15 °F
 Actual air flow 1035 cfm
 Air flow factor 0.051 cfm/Btuh
 Static pressure 0 in H2O
 Space thermostat
 Capacity balance point = 39 °F

Backup: Sample
 Input = 7 kW Output = 22390 Btuh, 100 AFUE

COOLING EQUIPMENT

Make Sample
 Trade
 Cond
 Coil
 AHRI ref
 Efficiency 9.8 EER, 0 SEER
 Sensible cooling 11550 Btuh
 Latent cooling 4950 Btuh
 Total cooling 16500 Btuh
 Actual air flow 1035 cfm
 Air flow factor 0.045 cfm/Btuh
 Static pressure 0 in H2O
 Load sensible heat ratio 0.78

ROOM NAME	Area (ft²)	Htg load (Btuh)	Clg load (Btuh)	Htg AVF (cfm)	Clg AVF (cfm)
First Floor p	834	7690	9687	390	449
Second Floor p	1340	12716	16084	645	731
Entire House d	2174	20408	22707	1035	1035
Other equip loads		6236	2445		
Equip. @ 0.98 RSM			24599		
Latent cooling			7269		
TOTALS	2174	26643	31867	1035	1035

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

wrightsoft Load Short Form
First Floor
 Suffolk Sheet Metal

Job:
 Date: Mar 05, 2017
 By: Ray Cobb

309 Granby St., Suffolk, Va 23434 Phone: 757-539-7494 Email: raycobb@suffolksheetmetal.com Web: www.suffolksheetmetal.com License: 2701022555

Project Information

For: City of Suffolk
 VA

Design Information

	Htg	Clg	Infiltration	Simplified
Outside db (°F)	25	93	Method	Tight
Inside db (°F)	70	75	Construction quality	
Design TD (°F)	45	18	Fireplaces	0
Daily range	-	M		
Inside humidity (%)	50	50		
Moisture difference (gr/lb)	40	55		

HEATING EQUIPMENT

Make	n/a
Trade	n/a
Model	n/a
AHRI ref	n/a
Efficiency	n/a
Heating input	
Heating output	0 Btuh
Temperature rise	0 °F
Actual air flow	0 cfm
Air flow factor	0 cfm/Btuh
Static pressure	0 in H2O
Space thermostat	n/a

COOLING EQUIPMENT

Make	n/a
Trade	n/a
Cond	n/a
Coil	n/a
AHRI ref	n/a
Efficiency	n/a
Sensible cooling	0 Btuh
Latent cooling	0 Btuh
Total cooling	0 Btuh
Actual air flow	0 cfm
Air flow factor	0 cfm/Btuh
Static pressure	0 in H2O
Load sensible heat ratio	0

ROOM NAME	Area (ft²)	Htg load (Btuh)	Clg load (Btuh)	Htg AVF (cfm)	Clg AVF (cfm)
Family Room	420	4989	5887	253	267
Dining	100	1301	3160	66	144
Living Room	230	970	650	49	30
Foyer	30	337	154	17	7
Bath 1	36	63	24	3	1
Closet	18	31	12	2	1

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

First Floor	P	834	7690	9887	390	449
Other equip loads			0	0		
Equip. @ 0.98 RSM				9668		
Latent cooling				1156		
TOTALS		834	7690	10825	390	449

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

wrightsoft Load Short Form
Second Floor
Suffolk Sheet Metal

Job:
 Date: Mar 05, 2017
 By: Ray Cobb

309 Granby St., Suffolk, Va 23434 Phone: 757-638-7484 Email: raycobb@suffolksheetmetal.com Web: www.suffolksheetmetal.com License: 2701020559

Project Information

For: City of Suffolk
 VA

Design Information

	Htg	Clg	Method	Infiltration
Outside db (°F)	25	93		Simplified
Inside db (°F)	70	75	Construction quality	Tight
Design TD (°F)	45	18	Fireplaces	
Daily range	-	M		
Inside humidity (%)	50	50		
Moisture difference (gr/lb)	40	55		

HEATING EQUIPMENT

Make	n/a
Trade	n/a
Model	n/a
AHRI ref	n/a
Efficiency	n/a
Heating input	
Heating output	0 Btuh
Temperature rise	0 °F
Actual air flow	0 cfm
Air flow factor	0 cfm/Btuh
Static pressure	0 in H2O
Space thermostat	n/a

COOLING EQUIPMENT

Make	n/a
Trade	n/a
Cond	n/a
Coil	n/a
AHRI ref	n/a
Efficiency	n/a
Sensible cooling	0 Btuh
Latent cooling	0 Btuh
Total cooling	0 Btuh
Actual air flow	0 cfm
Air flow factor	0 cfm/Btuh
Static pressure	0 in H2O
Load sensible heat ratio	0

ROOM NAME	Area (ft²)	Htg load (Btuh)	Clg load (Btuh)	Htg AVF (cfm)	Clg AVF (cfm)
Stairs	36	63	22	3	1
Masater	256	2868	3094	145	141
Utility	35	470	948	24	43
Master Clo	60	87	92	4	4
ll	36	337	177	17	8
Master Bath	151	1650	2323	84	106
Bed 2	133	1462	3084	74	140
Bed 3	205	2277	2807	115	128
Bed 4	226	2735	3023	139	137
Bath 2	70	481	270	24	12
Room22	6	104	50	5	2
Hall	126	183	194	9	9

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

Second Floor	p	1340	12716	16084	645	731
Other equip loads			0	0		
Equip. @ 0.98 RSM				15730		
Latent cooling				1438		
TOTALS		1340	12716	17168	645	731

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

Printed from my computer
Under "City of Suffolk"

wrightsoft Load Short Form
Entire House
Suffolk Sheet Metal

12 pgs.

Job:
Date: Mar 05, 2017
By: Ray Cobb

309 Granby St., Suffolk, Va 23434 Phone: 757-539-7484 Email: raycobb@suffolkshoelmetal.com Web: www.suffolkshoelmetal.com License: 2701020565

Project Information

For: City of Suffolk
VA

Design Information

	Htg	Clg	Method	Infiltration	Simplified
Outside db (°F)	20	92			Tight
Inside db (°F)	70	75	Construction quality		
Design TD (°F)	50	17	Fireplaces		
Daily range	-	M			
Inside humidity (%)	50	50			
Molsture difference (gr/lb)	43	41			

HEATING EQUIPMENT

Make Sample
Trade
Model
AHRI ref
Efficiency 7.1 HSPF
Heating input
Heating output 17200 Btuh @ 47°F
Temperature rise 15 °F
Actual air flow 1025 cfm
Air flow factor 0.046 cfm/Btuh
Static pressure 0 in H2O
Space thermostat
Capacity balance point = 38 °F

COOLING EQUIPMENT

Make Sample
Trade
Cond
Coil
AHRI ref
Efficiency 9.8 EER, 0 SEER
Sensible cooling 11550 Btuh
Latent cooling 4950 Btuh
Total cooling 16500 Btuh
Actual air flow 1025 cfm
Air flow factor 0.045 cfm/Btuh
Static pressure 0 in H2O
Load sensible heat ratio 0.81

Backup: Sample
Input = 7 kW. Output = 22390 Btuh, 100 AFUE

ROOM NAME	Area (ft²)	Htg load (Btuh)	Clg load (Btuh)	Htg AVF (cfm)	Clg AVF (cfm)
First Floor p	834	8438	9799	386	443
Second Floor p	1340	13952	16192	639	731
Entire House d	2174	22390	22537	1025	1025
Other equip loads		6856	2327		
Equip. @ 0.97 RSM			24093		
Latent cooling			5830		
TOTALS	2174	29246	29923	1025	1025

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

wrightsoft Load Short Form
First Floor
 Suffolk Sheet Metal

Job:
 Date: Mar 05, 2017
 By: Ray Cobb

309 Granby St., Suffolk, Va 23434 Phone: 757-538-7484 Email: raycobb@suffolksheetmetal.com Web: www.suffolksheetmetal.com License: 2701020555

Project Information

For: City of Suffolk
 VA

Design Information

	Htg	Clg	Method	Infiltration	Simplified
Outside db (°F)	20	92	Construction quality		Tight
Inside db (°F)	70	75	Fireplaces		
Design TD (°F)	50	17			0
Daily range	-	M			
Inside humidity (%)	50	50			
Moisture difference (gr/lb)	43	41			

HEATING EQUIPMENT

Make	n/a
Trade	n/a
Model	n/a
AHRI ref	n/a
Efficiency	n/a
Heating input	
Heating output	0 Btuh
Temperature rise	0 °F
Actual air flow	0 cfm
Air flow factor	0 cfm/Btuh
Static pressure	0 in H2O
Space thermostat	n/a

COOLING EQUIPMENT

Make	n/a
Trade	n/a
Cond	n/a
Coil	n/a
AHRI ref	n/a
Efficiency	n/a
Sensible cooling	0 Btuh
Latent cooling	0 Btuh
Total cooling	0 Btuh
Actual air flow	0 cfm
Air flow factor	0 cfm/Btuh
Static pressure	0 in H2O
Load sensible heat ratio	0

ROOM NAME	Area (ft²)	Htg load (Btuh)	Clg load (Btuh)	Htg AVF (cfm)	Clg AVF (cfm)
Family Room	420	5474	5834	251	263
Dining	100	1427	3133	65	142
Living Room	230	1064	644	49	28
Foyer	30	370	154	17	7
Bath 1	36	69	23	3	1
Closet	18	34	12	2	1

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

First Floor	p	834	8438	9799	386	443
Other equip loads			0	0		
Equip. @ 0.97 RSM				9485		
Latent cooling				1065		
TOTALS		834	8438	10561	386	443

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

Second Floor	p	1340	13952	16192	639	731
Other equip loads			0	0		
Equip. @ 0.97 RSM				15690		
Latent cooling				1276		
TOTALS		1340	13952	16966	639	731

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

wrightsoft Project Summary
Entire House
Suffolk Sheet Metal

Job:
Date: Mar 06, 2017
By: Ray Cobb

309 Granby St., Suffolk, Va 23434 Phone: 757-539-7484 Email: raycobb@suffolkshheetmetal.com Web: www.suffolkshheetmetal.com License: 2701020565

Project Information

For: City of Suffolk
VA

Notes:

Design Information

Weather: Washington R. Reagan AP, DC, US

Winter Design Conditions

Outside db	20 °F
Inside db	70 °F
Design TD	50 °F

Summer Design Conditions

Outside db	92 °F
Inside db	75 °F
Design TD	17 °F
Daily range	M
Relative humidity	50 %
Moisture difference	41 gr/lb

Heating Summary

Structure	22390 Btuh
Ducts	0 Btuh
Central vent (125 cfm)	6856 Btuh
Outside air	
Humidification	0 Btuh
Piping	0 Btuh
Equipment load	29246 Btuh

Sensible Cooling Equipment Load Sizing

Structure	22537 Btuh
Ducts	0 Btuh
Central vent (125 cfm)	2327 Btuh
Outside air	
Blower	0 Btuh

Infiltration

Method	Simplified
Construction quality	Tight
Fireplaces	0

	Heating	Cooling
Area (ft ²)	2174	2174
Volume (ft ³)	19958	19958
Air changes/hour	0.15	0.08
Equiv. AVF (cfm)	50	27

Heating Equipment Summary

Make	Sample
Trade	
Model	
AHRI ref	
Efficiency	7.1 HSPF
Heating input	
Heating output	17200 Btuh @ 47°F
Temperature rise	15 °F
Actual air flow	1025 cfm
Air flow factor	0.046 cfm/Btuh
Static pressure	0 in H ₂ O
Space thermostat	
Capacity balance point = 38 °F	
Backup: Sample	
Input = 7 kW, Output = 22390 Btuh, 100 AFUE	

Latent Cooling Equipment Load Sizing

Structure	2341 Btuh
Ducts	0 Btuh
Central vent (125 cfm)	3489 Btuh
Outside air	
Equipment latent load	5830 Btuh
Equipment total load	29923 Btuh
Req. total capacity at 0.70 SHR	2.9 ton

Cooling Equipment Summary

Make	Sample
Trade	
Cond	
Coil	
AHRI ref	
Efficiency	9.8 EER, 0 SEER
Sensible cooling	11550 Btuh
Latent cooling	4950 Btuh
Total cooling	16500 Btuh
Actual air flow	1025 cfm
Air flow factor	0.045 cfm/Btuh
Static pressure	0 in H ₂ O
Load sensible heat ratio	0.81

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

wrightsoft Project Summary
First Floor
 Suffolk Sheet Metal

Job:
 Date: Mar 05, 2017
 By: Ray Cobb

309 Granby St., Suffolk, Va 23434 Phone: 757-639-7484 Email: raycobb@suffolkshheetmetal.com Web: www.suffolkshheetmetal.com License: 2701020555

Project Information

For: City of Suffolk
 VA

Notes:

Design Information

Weather: Washington R. Reagan AP, DC, US

Winter Design Conditions

Outside db 20 °F
 Inside db 70 °F
 Design TD 50 °F

Summer Design Conditions

Outside db 92 °F
 Inside db 75 °F
 Design TD 17 °F
 Daily range M
 Relative humidity 50 %
 Moisture difference 41 gr/lb

Heating Summary

Structure 8438 Btuh
 Ducts 0 Btuh
 Central vent (48 cfm) 0 Btuh
 Humidification 0 Btuh
 Piping 0 Btuh
 Equipment load 8438 Btuh

Sensible Cooling Equipment Load Sizing

Structure 9799 Btuh
 Ducts 0 Btuh
 Central vent (48 cfm) 0 Btuh
 Blower 0 Btuh
 Use manufacturer's data
 Rate/swing multiplier 0.97ⁿ
 Equipment sensible load 9495 Btuh

Infiltration

Method Simplified
 Construction quality Tight
 Fireplaces 0
 Area (ft²) Heating 834 Cooling 834
 Volume (ft³) 7506 7506
 Air changes/hour 0.14 0.08
 Equiv. AVF (cfm) 18 10

Latent Cooling Equipment Load Sizing

Structure 1065 Btuh
 Ducts 0 Btuh
 Central vent (48 cfm) 0 Btuh
 Equipment latent load 1065 Btuh
 Equipment total load 10561 Btuh
 Req. total capacity at 0.70 SHR 1.1 ton

Heating Equipment Summary

Make n/a
 Trade n/a
 Model n/a
 AHRI ref n/a
 Efficiency n/a
 Heating input 0 Btuh
 Heating output 0 °F
 Temperature rise 0 cfm
 Actual air flow 0 cfm/Btuh
 Air flow factor 0 in H2O
 Static pressure n/a
 Space thermostat

Cooling Equipment Summary

Make n/a
 Trade n/a
 Cond n/a
 Coil n/a
 AHRI ref n/a
 Efficiency n/a
 Sensible cooling 0 Btuh
 Latent cooling 0 Btuh
 Total cooling 0 Btuh
 Actual air flow 0 cfm
 Air flow factor 0 cfm/Btuh
 Static pressure 0 in H2O
 Load sensible heat ratio 0

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.

wrightsoft Project Summary
Second Floor
Suffolk Sheet Metal

Job:
 Date: Mar 05, 2017
 By: Ray Cobb

308 Granby St., Suffolk, Va 23434 Phone: 757-539-7484 Email: raycobb@suffolkshheetmetal.com Web: www.suffolkshheetmetal.com License: 2701020555

Project Information

For: City of Suffolk
 VA

Notes:

Design Information

Weather: Washington R. Reagan AP, DC, US

Winter Design Conditions

Outside db	20 °F
Inside db	70 °F
Design TD	50 °F

Summer Design Conditions

Outside db	92 °F
Inside db	75 °F
Design TD	17 °F
Daily range	M
Relative humidity	50 %
Moisture difference	41 gr/lb

Heating Summary

Structure	13952 Btuh
Ducts	0 Btuh
Central vent (77 cfm)	0 Btuh
Humidification	0 Btuh
Piping	0 Btuh
Equipment load	13952 Btuh

Sensible Cooling Equipment Load Sizing

Structure	16192 Btuh
Ducts	0 Btuh
Central vent (77 cfm)	0 Btuh
Blower	0 Btuh
Use manufacturer's data	n
Rate/swing multiplier	0.97
Equipment sensible load	15690 Btuh

Infiltration

Method	Simplified
Construction quality	Tight
Fireplaces	0

Latent Cooling Equipment Load Sizing

Structure	1276 Btuh
Ducts	0 Btuh
Central vent (77 cfm)	0 Btuh
Equipment latent load	1276 Btuh
Equipment total load	16966 Btuh
Req. total capacity at 0.70 SHR	1.9 ton

	Heating	Cooling
Area (ft ²)	1340	1340
Volume (ft ³)	12452	12452
Air changes/hour	0.15	0.08
Equiv. AVF (cfm)	32	17

Heating Equipment Summary

Make	n/a
Trade	n/a
Model	n/a
AHRI ref	n/a
Efficiency	n/a
Heating input	
Heating output	0 Btuh
Temperature rise	0 °F
Actual air flow	0 cfm
Air flow factor	0 cfm/Btuh
Static pressure	0 in H2O
Space thermostat	n/a

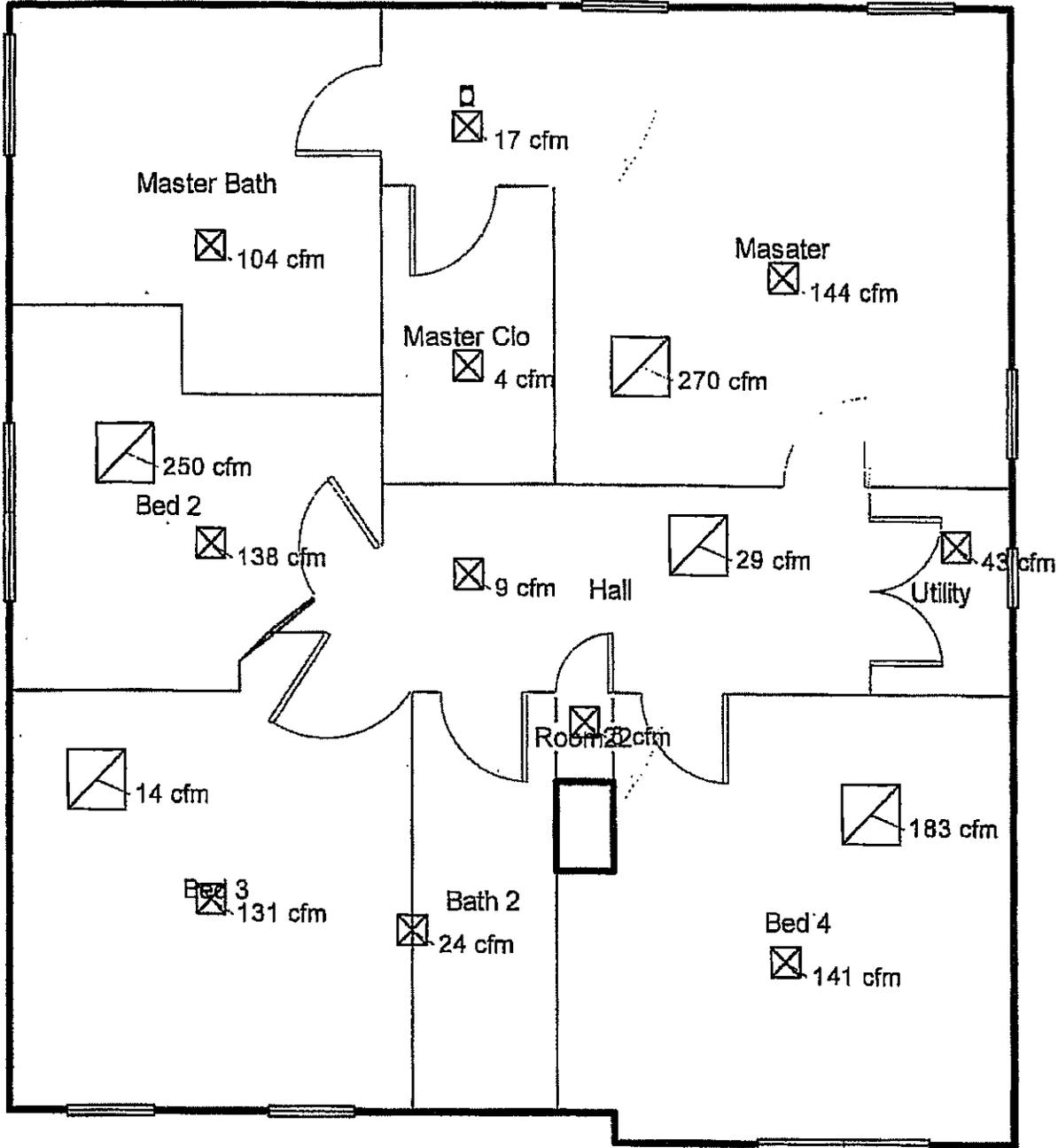
Cooling Equipment Summary

Make	n/a
Trade	n/a
Cond	n/a
Coil	n/a
AHRI ref	n/a
Efficiency	n/a
Sensible cooling	0 Btuh
Latent cooling	0 Btuh
Total cooling	0 Btuh
Actual air flow	0 cfm
Air flow factor	0 cfm/Btuh
Static pressure	0 in H2O
Load sensible heat ratio	0

Calculations approved by ACCA to meet all requirements of Manual J 8th Ed.



Level 2



Job #:
Performed by Ray Cobb for:
 City of Suffolk

VA

Suffolk Sheet Metal

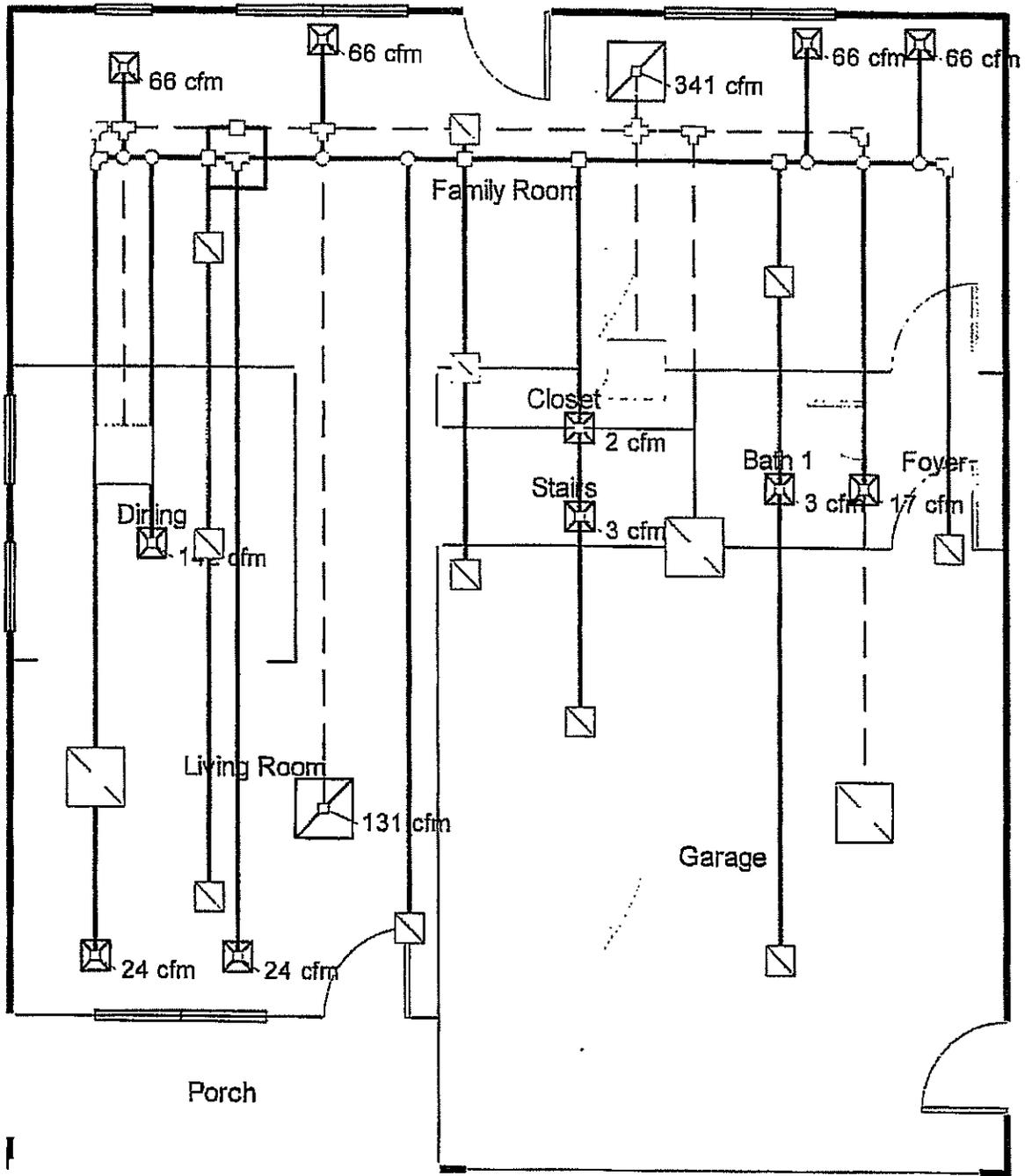
309 Granby St.
 Suffolk, Va 23434
 Phone: 757-539-7484
www.suffolksheetmetal.com raycobb@suffolksheetm...

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Page 1
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Level 1



Job #:
Performed by Ray Cobb for:
 City of Suffolk

VA

Suffolk Sheet Metal

309 Granby St.
 Suffolk, Va 23434
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Page 2
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Duct System Summary
Entire House
Suffolk Sheet Metal

Job:
 Date: Mar 05, 2017
 By: Ray Cobb

309 Granby St., Suffolk, Va 23434 Phone: 757-539-7484 Email: raycobb@suffolkshsheetmetal.com Web: www.suffolkshsheetmetal.com License: 2701020535

Project Information

For: City of Suffolk
 VA

	Heating	Cooling
External static pressure	0 in H2O	0 in H2O
Pressure losses	0 in H2O	0 in H2O
Available static pressure	0 in H2O	0 in H2O
Supply / return available pressure	0.000 / 0.000 in H2O	0.000 / 0.000 in H2O
Lowest friction rate	0 in/100ft	0 in/100ft
Actual air flow	1025 cfm	1025 cfm
Total effective length (TEL)		749 ft

Supply Branch Detail Table

Name	Design (Btuh)	Htg (cfm)	Clg (cfm)	Design FR	Diam (in)	H x W (in)	Duct Matl	Actual Ln (ft)	Ftg.Eqv Ln (ft)	Trunk
Q	h	177	17	8	0	0	0x0	8.0	205.0	st1
Bath 1	h	23	3	1	0	0	0x0	30.0	415.0	st1
Bath 2	h	270	24	12	0	0	0x0	32.0	205.0	st1
Bed 2	c	3049	73	138	0	0	0x0	14.0	190.0	st2
Bed 3	c	2900	114	131	0	0	0x0	26.0	190.0	st2
Bed 4	c	3116	137	141	0	0	0x0	46.0	415.0	st1
Closet	h	12	2	1	0	0	0x0	21.0	315.0	st1
Dining	c	3133	65	142	0	0	0x0	16.0	275.0	st2
Family Room	c	1459	63	66	0	0	0x0	7.0	205.0	st1
Family Room -A	c	1459	63	66	0	0	0x0	24.0	510.0	st1
Family Room -B	c	1459	63	66	0	0	0x0	7.0	265.0	st2
Family Room -C	c	1459	63	66	0	0	0x0	28.0	490.0	st1
Foyer	h	154	17	7	0	0	0x0	33.0	500.0	st1
Hall	h	194	9	9	0	0	0x0	22.0	205.0	st1
Living Room	h	322	24	15	0	0	0x0	27.0	95.0	
Living Room-A	h	322	24	15	0	0	0x0	32.0	200.0	st2
Master	h	3075	144	139	0	0	0x0	23.0	415.0	st1
Master Bath	c	2302	83	104	0	0	0x0	4.0	190.0	st2
Master Clo	h	92	4	4	0	0	0x0	15.0	205.0	st1
Room22	h	50	5	2	0	0	0x0	31.0	315.0	st1
Stairs	h	21	3	1	0	0	0x0	24.0	315.0	st1
USTy	c	944	24	43	0	0	0x0	38.0	425.0	st1



Supply Trunk Detail Table

Name	Trunk Type	Htg (cfm)	Clg (cfm)	Design FR	Veloc (fpm)	Diam (in)	H x W (in)	Duct Material	Trunk
st1	Peak AVF	577	585	0	0	0	8 x 0	ShtMetl	
st2	Peak AVF	423	595	0	0	0	8 x 0	ShtMetl	

Return Branch Detail Table

Name	Grille Size (in)	Htg (cfm)	Clg (cfm)	TEL (ft)	Design FR	Veloc (fpm)	Diam (in)	H x W (in)	Stud/Jolst Opening (in)	Duct Matl	Trunk
rb1	0x0	258	341	96.0	0	0	0	0x 0		ShMt	rt1
rb2	0x0	258	270	102.0	0	0	0	0x 0		ShMt	rt1
rb3	0x0	161	183	145.0	0	0	0	0x 0		ShMt	rt1
rb4	0x0	14	13	122.0	0	0	0	0x 0		ShMt	rt2
rb5	0x0	173	250	215.0	0	0	0	0x 0		ShMt	rt2
rb6	0x0	29	14	130.0	0	0	0	0x 0		ShMt	rt1
rb7	0x0	131	103	106.0	0	0	0	0x 0		ShMt	rt1

Return Trunk Detail Table

Name	Trunk Type	Htg (cfm)	Clg (cfm)	Design FR	Veloc (fpm)	Diam (in)	H x W (in)	Duct Material	Trunk
rt1	Peak AVF	838	911	0	0	0	8 x 0	ShtMetl	
rt2	Peak AVF	187	263	0	0	0	8 x 0	ShtMetl	

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Documents Submitted By the City of Suffolk

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**CITY OF SUFFOLK, VIRGINIA
OFFICE OF THE CITY ATTORNEY**

P. O. BOX 1858, SUFFOLK, VA. 23439-1858
(757) 514-7130 FAX: (757) 514-7149

HELIVI L. HOLLAND
CITY ATTORNEY

WILLIAM E. HUTCHINGS, JR.
DEPUTY CITY ATTORNEY

KARLA D. CARTER
ASST. CITY ATTORNEY

KALLI L. JACKSON
ASST. CITY ATTORNEY

MINNA SANDWICH
ASST. CITY ATTORNEY

SHONDA R. CARROLL
PARALEGAL ADMIN.

July 18, 2018

SUBMITTED VIA EMAIL to travis.luter@dhcd.virginia.gov

W. Travis Luter Sr., C.B.C.O.
Assistant Secretary to the State Building Code Technical Review Board
Department of Housing & Community Development
Division of Building & Fire Regulation
State Building Codes Office
600 East Main Street, Suite 300
Richmond, Virginia 23219
(804) 371-7163

RE: Appeal of Anthony Grant Jr. to State Review Board (Appeal No. 18-10)
Address: 4281 Cole Avenue, Suffolk

Dear Mr. Luter,

Attached are the U.S. Postal Service certified mail receipts that were sent in this matter to Anthony Grant and Alexander H. Bell. Mr. Grant received the local board decision on June 4, 2018, making his appeal deadline June 25, 2018. The appeal application in this case is dated June 26, 2018. Per VCC section 119.8, failure to submit an application within the time limit **shall constitute an acceptance of the building official's decision**. Therefore, the application for appeal is untimely and cannot proceed.

Please note that Mr. Grant was not represented by counsel in this matter at the local board hearing. Although a copy of the hearing decision was provided to Mr. Bell, the date on which Mr. Bell received the decision does not alter Mr. Grant's appeal deadline.

In the event the appeal is allowed to proceed despite the deficiency noted above, please include the attachments to this letter in the appeal record.

Sincerely,

A handwritten signature in blue ink that reads "K. Jackson" with a long horizontal flourish extending to the right.

Kalli L. Jackson
Assistant City Attorney

Attachments: U.S. Postal Service Certified Mail Receipts
Date Calculator showing 21 day Appeal Deadline of June 25, 2018
City of Suffolk Memo to Local Board dated March 28, 2017
Mechanical Permit Application dated December 31, 2014

cc: Wayne Ables for Wayne Ables Heating & Air Conditioning, Inc. (via email)
Alexander H. Bell, Esq. for Anthony Grant Jr. (via email)
Christopher H. Faulk, Esq. for Kebco Enterprises, Inc. (via email)

Date Calculator: Add to or Subtract From a Date

Enter a start date and add or subtract any number of days, months, or years.

Count Days **Add Days** Workdays Add Workdays Weekday Week No

From **Monday, June 4, 2018**
Added 21 days

Result: Monday, June 25, 2018

Calendar showing period from June 4, 2018 to June 25, 2018

June 2018						
21 days added						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

= Start date (Jun 4, 2018) = Final result date (Jun 25, 2018)

Advertising

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Time & Date Calculator
– iOS

See how long remains before a deadline or exactly when those 30 days are up. [More >](#)

CHAPTER 14

HEATING AND COOLING EQUIPMENT AND APPLIANCES

SECTION M1401 GENERAL

M1401.1 Installation. Heating and cooling *equipment and appliances* shall be installed in accordance with the manufacturer's installation instructions and the requirements of this code.

M1401.2 Access. Heating and cooling *equipment and appliances* shall be located with respect to building construction and other *equipment and appliances* to permit maintenance, servicing and replacement. Clearances shall be maintained to permit cleaning of heating and cooling surfaces; replacement of filters, blowers, motors, controls and vent connections; lubrication of moving parts; and adjustments.

Exception: Access shall not be required for ducts, piping, or other components approved for concealment.

M1401.3 Equipment and appliance sizing. Heating and cooling equipment and appliances shall be sized in accordance with ACCA Manual S or other approved sizing methodologies based on building loads calculated in accordance with ACCA Manual J or other approved heating and cooling calculation methodologies.

Exception: Heating and cooling equipment and appliance sizing shall not be limited to the capacities determined in accordance with Manual S or other approved sizing methodologies where any of the following conditions apply:

1. The specified equipment or appliance utilizes multi-stage technology or variable refrigerant flow technology and the loads calculated in accordance with the approved heating and cooling methodology fall within the range of the manufacturer's published capacities for that equipment or appliance.
2. The specified equipment or appliance manufacturer's published capacities cannot satisfy both the total and sensible heat gains calculated in accordance with the approved heating and cooling methodology and the next larger standard size unit is specified.
3. The specified equipment or appliance is the lowest capacity unit available from the specified manufacturer.

M1401.4 Exterior installations. *Equipment and appliances* installed outdoors shall be listed and labeled for outdoor installation. Supports and foundations shall prevent excessive vibration, settlement or movement of the *equipment*. Supports and foundations shall be in accordance with Section 1405.1.4.1.

M1401.5 Flood hazard. In flood hazard areas as established by Table R301.2(1), heating and cooling *equipment and appliances* shall be located or installed in accordance with Section R322.1.6.

SECTION M1402 CENTRAL FURNACES

M1402.1 General. Oil-fired central furnaces shall conform to ANSI/UL 727. Electric furnaces shall conform to UL 1995.

M1402.2 Clearances. Clearances shall be provided in accordance with the *listing* and the manufacturer's installation instructions.

M1402.3 Combustion air. *Combustion air* shall be supplied in accordance with Chapter 17. *Combustion air* openings shall be unobstructed for a distance of not less than 6 inches (152 mm) in front of the openings.

SECTION M1403 HEAT PUMP EQUIPMENT

M1403.1 Heat pumps. The minimum unobstructed total area of the outside and return air ducts or openings to a heat pump shall be not less than 6 square inches per 1,000 Btu/h (13 208 mm²/kW) output rating or as indicated by the conditions of the listing of the heat pump. Electric heat pumps shall conform to UL 1995.

M1403.2 Foundations and supports. Supports and foundations for the outdoor unit of a heat pump shall be raised at least 3 inches (76 mm) above the ground to permit free drainage of defrost water, and shall conform to the manufacturer's installation instructions.

SECTION M1404 REFRIGERATION COOLING EQUIPMENT

M1404.1 Compliance. Refrigeration cooling *equipment* shall comply with Section M1411.

SECTION M1405 BASEBOARD CONVECTORS

M1405.1 General. Electric baseboard convectors shall be installed in accordance with the manufacturer's installation instructions and Chapters 34 through 43 of this code. Electric baseboard heaters shall be listed and labeled in accordance with UL 1042.

SECTION M1406 RADIANT HEATING SYSTEMS

M1406.1 General. Electric radiant heating systems shall be installed in accordance with the manufacturer's installation instructions and Chapters 34 through 43 of this code and shall be listed for the application.



STOKLEY'S SERVICES, INC.
 Tidewater's Oldest Heating & Cooling Contractor
 Since 1938
 2500 Abbeeda Avenue #201 Norfolk, Virginia 23513
 757-857-7247

HVAC SERVICE ORDER INVOICE

53395

BILL TO
 SEE CERTIFICATE OF PRODUCT RATINGS

THIS WORK IS TO BE
 C.O.D. CHARGE NO CHARGE

MAKE GORDMAN AK	MAKE JANITROL F/coil
MODEL ESZ130301AH	MODEL ARUF30B14AC
SERIAL NUMBER 14092784H	SERIAL NUMBER 1411126477

NAME: ANTHONY GRANT
 STREET: 4281 COLE AVE DATE: 6-3-16
 CITY: SUDBURY, VA. 23435 PROMISED
 PHONE: 737-9995 CALL BEFORE: 1hr A.M. P.M.
 TECHNICIAN: BRUCE/WAYNE AUTHORIZED BY

MAKE	MAKE
MODEL	MODEL
SERIAL NUMBER	SERIAL NUMBER

COMPLAINT

DESCRIPTION OF WORK PERFORMED

QTY	MATERIALS & SERVICES	UNIT PRICE	AMOUNT
	REFRIGERANT R- LBS.		
NOTE: ACCA CALCULATIONS NOT SUPPLIED FROM STOKLEY'S SERVICES			
1	FILTERS 30 x 20 x		
	FILTERS x x		
	In _____ Out _____ AM PM TOTAL MATERIALS		

Estimate on Equipment and ductwork
 Pd w/cash on 6-3-16
 W. Hunt

WORK CHARGES	QUANTITY	UNIT PRICE	AMOUNT
1/4 HR. LABOR INCREMENTS			
LABOR - HELPER			
OT LABOR INCREMENTS			
TOTAL LABOR			

RECOMMENDATIONS
 Found system too small for the square footage. Needs at least 3 TON (36,000 BTU) SYSTEM OR A ZONING SYSTEM TO REGULATE AIR FLOW TO 1ST OR 2ND FLOOR ONLY.
 A/C UNIT 7 YRS. old A/H 5 YRS. old

TERMS
 Service work is cash/check. Use of bank card subject to 4% surcharge. Unpaid invoices subject to \$10.00 billing charge and 1.5% monthly finance charge.

TOTAL SUMMARY	
TOTAL MATERIALS	
TOTAL LABOR	125.00
TRIP & DIAGNOSTIC	
OVERTIME CHARGE	
ENVIRO CHARGE	
DISCOUNT	
TOTAL	

LIMITED WARRANTY: All materials, parts and equipment are warranted by the manufacturers' or suppliers' written warranty only. All labor performed by the above named company is warranted for 30 days or as otherwise indicated in writing. The above named company makes no other warranties, express or implied, and its agents or technicians are not authorized to make any such warranties on behalf of above named company.

I have authority to order the work outlined above which has been satisfactorily completed. I agree that Seller retains title to equipment/materials furnished until final payment is made. If payment is not made as agreed, seller can remove said equipment/materials at Seller's expense. Any damage resulting from said removal shall not be the responsibility of seller.

PRINT NAME: X Anthony Grant PHONE NO: 6-3-16
 CUSTOMER SIGNATURE: _____ DATE: _____

REGULAR WARRANTY
 SERVICE CONTRACT

4281 Cole Ave.

Rhvac - Residential & Light Commercial HVAC Loads
 Wayne Ables Heating And A/C
 Ferris, VA 23322

Elite Software Development, Inc.
 Kenny Bullock Fl 1
 Page 1

Project Report

General Project Information

Project Title: Kenny Bullock Fl 1
 Project Date: Sunday, October 19, 2014

Design Data

Reference City: Norfolk, Virginia
 Building Orientation: Front door faces West
 Daily Temperature Range: Medium
 Latitude: 36 Degrees
 Elevation: 22 ft.
 Altitude Factor: 0.999
 Elevation Sensible Adj. Factor: 1.000
 Elevation Total Adj. Factor: 1.000
 Elevation Heating Adj. Factor: 1.000
 Elevation Heating Adj. Factor: 1.000

	Outdoor Dry Bulb	Outdoor Wet Bulb	Outdoor Rel.Hum	Indoor Rel.Hum	Indoor Dry Bulb	Grains Difference
Winter:	22	20.45	80%	n/a	70	n/a
Summer:	91	76	51%	50%	75	47

Check Figures

Total Building Supply CFM:	530	CFM Per Square ft.:	0.574
Square ft. of Room Area:	924	Square ft. Per Ton:	1.247
Volume (ft ³) of Cond. Space:	8,316		

Building Loads

Total Heating Required Including Ventilation Air:	11,948 Btuh	11.948 MBH
Total Sensible Gain:	7,728 Btuh	67 %
Total Latent Gain:	1,161 Btuh	13 %
Total Cooling Required Including Ventilation Air:	8,889 Btuh	0.74 Tons (Based On Sensible + Latent)

Notes

Rhvac is an ACCA approved Manual J and Manual D computer program.
 Calculations are performed per ACCA Manual J 8th Edition, Version 2, and ACCA Manual D.
 All computed results are estimates as building use and weather may vary.
 Be sure to select a unit that meets both sensible and latent loads.

Kenny Bullock

4281 Cole

PRJ 14-02946

4281 Cole Av.

Rhvac - Residential & Light Commercial HVAC Loads
Wayne Ables Heating And A/C
Fentress, VA 23322

Elita Software Development, Inc.
Kenny Bullock 2 Story One Zone
Page 1

Load Preview Report

Scope	Net Tbn	R ² / Tbn	Area	Sen Gain	Lat Gain	Net Gain	Sen Loss	Sys Htg CFM	Sys Cig CFM	Sys Act CFM	Duct Sca
Building	1.89	1.135	2,149	19,730	2,991	22,720	29,154	950	950	550	
System 1	1.89	1.135	2,149	19,730	2,991	22,720	29,154	950	950	550	14
Duct Latent					1,226	1,226					
Zone 1			924	8,954	543	9,537	14,065	458	433	433	10
1-Living			80	2,331	89	2,420	3,590	117	112	112	1-6
2-Dining			150	971	33	1,004	1,551	64	47	47	1-4
3-Kitchen			216	2,158	99	2,257	3,432	112	104	104	1-6
4-Family			224	2,328	299	2,627	3,334	109	112	112	1-6
5-1/2 Bath			154	1,156	23	1,219	1,748	57	59	59	1-4
Zone 2			1,225	10,735	1,222	11,957	15,089	492	517	517	12
6-Bed 6			234	2,712	297	3,008	3,859	127	131	131	1-7
7-Hall Bath			113	504	22	526	1,057	35	24	24	1-4
8-Bed 3			182	3,264	273	3,543	2,914	85	109	109	1-6
9-Bed 2			156	1,226	232	1,454	1,579	55	59	59	1-4
10-Master Bath			120	935	65	1,000	1,859	62	45	45	1-4
11-WIC			129	359	18	407	597	19	19	19	1-4
12-Master Bedroom			303	2,705	303	3,008	3,334	129	130	130	1-7

2149

Total Leakage Test Depress _____ Press 25

Test Pressure: _____ (Pa)

Baseline Duct Pressure (optional): _____ (Pa)

Duct Press. (Pa)	Flow Ring Installed	Fan Press (Pa)	Flow (cfm)
25	M	25	63

Fan Model/SN: _____

Results:

Total Leakage (cfm): 63

Total Leakage as % System Airflow: _____

Total Leakage as % Floor Area: _____



Project Report

General Project Information

Project Title: Kebco 4281 Cole Ave
 Project Date: Thursday, May 12, 2016

Design Data

Reference City: Norfolk, Virginia
 Building Orientation: Front door faces North
 Daily Temperature Range: Medium
 Latitude: 36 Degrees
 Elevation: 22 ft.
 Altitude Factor: 0.999
 Elevation Sensible Adj. Factor: 1.000
 Elevation Total Adj. Factor: 1.000
 Elevation Heating Adj. Factor: 1.000
 Elevation Heating Adj. Factor: 1.000

	Outdoor Dry Bulb	Outdoor Wet Bulb	Outdoor Rel.Hum	Indoor Rel.Hum	Indoor Dry Bulb	Grains Difference
Winter:	22	20.45	89%	n/a	70	n/a
Summer:	91	76	51%	50%	75	47

Crack Figures

Total Building Supply CFM: 1,090 CFM Per Square ft.: 0.473
 Square ft. of Room Area: 2,303 Square ft. Per Ton: 1,175
 Volume (ft³) of Cond. Space: 19,333

Building Loads

Total Heating Required Including Ventilation Air:	32,142 Btuh	32,142 MBH
Total Sensible Gain:	19,793 Btuh	84 %
Total Latent Gain:	3,719 Btuh	16 %
Total Cooling Required Including Ventilation Air:	23,512 Btuh	1.96 Tons (Based On Sensible + Latent)

Notes

Rhvac is an ACCA approved Manual J and Manual D computer program.
 Calculations are performed per ACCA Manual J 8th Edition, Version 2, and ACCA Manual D.
 All computed results are estimates as building use and weather may vary.
 Be sure to select a unit that meets both sensible and latent loads.

*This house only needs 23,512 Btuh's. The system installed
 supplies 24,300 @ 95° & 25,000 @ 105°. Plenty of
 good cooling with this unit*

*Thank you
 Wayne Ables*



Certificate of Product Ratings

AHRI Certified Reference Number: 5358271 Date: 3/16/2017

Product: Split System: Heat Pump with Remote Outdoor Unit-Air-Source

Outdoor Unit Model Number: GSZ130301A*

Indoor Unit Model Number: ARUF30B14A*

Manufacturer: GODDMAN MANUFACTURING CO., LP.

Trade/Brand name: GOODMAN; JANITROL; AMANA DISTINCTIONS; EVERREST; ONE HOUR AIR CONDITIONING AND HEATING; ENERGI AIR

Series name: GSZ13

Manufacturer responsible for the rating of this system combination is GOODMAN MANUFACTURING CO., LP.

Rated as follows in accordance with AHRI Standard 210/240-2008 for Unitary Air-Conditioning and Air-Source Heat Pump Equipment and subject to verification of rating accuracy by AHRI-sponsored, independent, third party testing:

Cooling Capacity(Btuh):	27200	TOTAL
EER Rating (Cooling):	11.00	
SEER Rating (Cooling):	13.00	
Heating Capacity(Btuh) @ 47 F:	27000	TOTAL
Region IV HSPF Rating (Heating):	8.00	
Heating Capacity(Btuh) @ 17 F:	16500	

* Ratings followed by an asterisk (*) indicate a voluntary rerate of previously published data, unless accompanied with a WAS, which indicates an involuntary rerate.

DISCLAIMER

AHRI does not endorse the product(s) listed on this Certificate and makes no representations, warranties or guarantees as to, and assumes no responsibility for, the product(s) listed on this Certificate. AHRI expressly disclaims all liability for damages of any kind arising out of the use or performance of the product(s), or the unauthorized liberation of data listed on this Certificate. Certified ratings are valid only for models and configurations listed in the directory at www.ahridirectory.org.

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CERTIFICATE VERIFICATION

The information for the model cited on this certificate can be verified at www.ahridirectory.org, click on "Verify Certificate" link and enter the AHRI Certified Reference Number and the date on which the certificate was issued, which is listed above, and the Certificate No., which is listed at bottom right.

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AIR-CONDITIONING, HEATING, & REFRIGERATION INSTITUTE

we make life better™

CERTIFICATE NO.: 131341428052233091

BUILDING PERMIT

DIMENSIONS OF STRUCTURE. LENGTH: _____ WIDTH: _____ HEIGHT _____ TOTAL SQ. FT. UNDER ROOF: _____
 NUMBER OF BEDROOMS: _____ NUMBER OF BATHROOMS: _____ NUMBER OF STORIES: _____
 FIREPLACE: YES NO, IF YES MASONRY OR PREFAB EXTERIOR FINISH: _____
 ESTIMATED VALUE OF CONSTRUCTION AT COMPLETION. (IF NEW CONSTRUCTION EXCLUDE LAND) _____
 DETAILED DESCRIPTION OF WORK BEING PERFORMED _____

PLEASE CHECK ONE: IRC CODE IBC CODE **(AS OF 5-1-2008 THE 2006 VAUSBC (VCC) WILL BE ENFORCED ON ALL PROJECTS)**

ELECTRICAL PERMIT

TEMPORARY SERVICE _____ NEW SERVICE 1Ø _____ NEW SERVICE 3Ø _____ RELOCATE METER BASE _____
 SERVICE CHANGE 1Ø _____ SERVICE CHANGE 3Ø _____ REPAIR PERMIT _____ POOL GROUNDING _____
 CIRCUITS 0-30 AMP _____ 31-60 AMPS _____ 61-100 AMPS _____ 101-200 _____ 200+ AMP _____ Other _____
 COMMENTS: _____

PLEASE CHECK THE ELECTRIC COMPANY SERVICING THIS ADDRESS: DOMINION COMMUNITY ELECTRIC FRANKLIN POWER

PLEASE CHECK ONE: IRC CODE NEC CODE ESTIMATED VALUE: _____
(AS OF 5-1-2008 THE 2006 VAUSBC (VCC) WILL BE ENFORCED ON ALL PROJECTS)

MECHANICAL PERMIT

(Must have Zoning Clearance On Any Outside Unit)

HEAT PUMP _____	GAS FURNACE _____	GAS PACK _____	AIR CONDITIONER _____
BOILER _____	GAS PIPING _____	TANKS _____	MISC HEATER _____
AIR HANDLER _____	RANGE HOOD _____	FORCED AIR _____	DUCT WORK <input checked="" type="checkbox"/>
MISC FANS _____	MISC HOODS _____	COOLER TOWERS _____	CHILLERS _____
REPAIR PERMIT _____	FIRE SUPPRESSION _____	FIRE ALARMS _____	OTHER _____

COMMENTS: _____

PLEASE CHECK ONE: IRC CODE IMC CODE ESTIMATED VALUE: 5400.00

(AS OF 5-1-2008 THE 2006 VAUSBC (VCC) WILL BE ENFORCED ON ALL PROJECTS)

PLUMBING PERMIT

SINKS _____	BATH TUBS _____	WATER CLOSETS _____	FLOOR DRAIN _____
LAVATORY _____	SHOWERS _____	DISHWASHER _____	REPAIR PERMIT _____
WATER HEATER _____	LAUNDRY TRAY _____	WATER SERVICE LINE _____	SPECIAL WASTE _____
WASHING MACHINE _____	GARBAGE DISPOSAL _____	SEWER INSPECTION _____	GAS PIPING _____
URINAL _____	OTHER _____	GREASE TRAP _____	

PLEASE LIST ANY OTHER FIXTURES/COMMENTS: _____

PLEASE CHECK ONE: IRC CODE IPC CODE ESTIMATED VALUE: _____

(AS OF 5-1-2008 THE 2006 VAUSBC (VCC) WILL BE ENFORCED ON ALL PROJECTS)

THE SIGNATURE BELOW INDICATES THAT I AGREE TO COMPLY WITH THE CURRENT EDITION OF THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE AND ALL SUPPLEMENTS AND THE EROSION AND SEDIMENT CONTROL REQUIREMENTS AS CONTAINED IN CHAPTER 34, SUFFOLK CITY CODE AND ALL OTHER CITY CODE REQUIREMENTS. THIS APPLICATION IS MADE PURSUANT TO U.S.B.C. SECTION 110. STRUCTURES ARE NOT PERMITTED TO BE PLACED ON EASEMENTS OR RIGHT OF WAYS. THE CITY WILL BE HELD HARMLESS FOR VIOLATION OF THIS POLICY. ****FENCES ONLY** - The property owner/permit holder is responsible for the easement access on the subject property as it relates to the fence associated with this fence permit. Be advised that the purchase of the permit does not allow property owner/permit holder to impede the easement holder's access. In the event access is needed, the property owner/permit holder will have to work out access with the easement holder accordingly. The City is in no way responsible for any damage or property inaccessibility that may result from any party as a result of the property owner/permit holder erecting the fence associated with this permit. If the easement is a City easement (in part or whole), issuance of the permit does not diminish the City's easement rights. Fences erected in easements may be required to be moved by the entity that has the easement rights (easement holder) and the City is not responsible for costs associated with the removal or destruction of the fence by the easement holder or anyone else. Per UDO 31-701 The "finished" side of any fence shall face outward towards surrounding properties and rights-of-way.

*** I HEREBY SWEAR OR AFFIRM THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND ACCURATE. ANY FALSIFICATION, MISREPRESENTATION OR MISLEADING INFORMATION VOIDS THIS PERMIT.**

SIGNED *Gary W. Ables* PRINT NAME GARY W. ABLES
 DATE 12-31-14 rev. 1-13-09

CITY OF SUFFOLK

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
441 MARKET STREET, SUFFOLK, VIRGINIA 23434
MAIN: 757-514-4150 FAX: 757-538-1306

Article 4, Zoning

UNIFIED DEVELOPMENT ORDINANCE 31-407 (Dimensional and Density Regulations)

(2) EXCEPTIONS AND PERMITTED ENCROACHMENTS.

A. The following features may encroach into required setbacks:

- (i) Landscaping
- (ii) Bay windows; not to exceed 3 feet;
- (iii) Chimneys, not to exceed 2 feet;
- (iv) Clothesline post (rear yard only);
- (v) Driveways, curbs and sidewalks;
- (vi) Flagpoles;
- (vii) Heating and cooling units, not to exceed 3 feet;
- (viii) Mailboxes;
- (ix) Overhanging roof, eave, gutter, cornice, or other architectural feature and awnings, not to exceed 3 feet, except that no septic system shall be permitted to encroach into the RPA or stream back buffer unless authorized by the Health Department;
- (x) Septic systems, wells and underground utilities;
- (xi) Signs (in accordance with the sign standards);
- (xii) Steps, stairs or fire escapes (non-enclosed), not to exceed 6 feet, but not closer than 3 feet to any side property line;
- (xiii) Uncovered, unenclosed terraces or porches not to exceed 6 feet, but not closer than 3 feet to any side property line;
- (xiv) Accessory buildings, within required rear setbacks only or as otherwise allowed by this Ordinance
- (xv) Fences, in accordance with Section 31-701 of this Ordinance;
- (xvi) Yard service lighting fixtures or poles; and
- (xvii) Fire escapes not to exceed 6 feet, but not closer than 3 feet to any side property line.

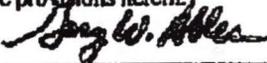
B. The administrator may permit a reduction of not to exceed twenty-five percent (25%) in the dimension of any required yard for otherwise conforming lot subject to the requirements of VC 15.2-2286.4. Any reduction by more than twenty-five percent (25%) shall require a variance from the Board of Zoning Appeals.

UNIFIED DEVELOPMENT ORDINANCE 31-701 (accessory structures)

(10) Fences or walls in single-family residential districts provided that:

- A. A fence or wall not more than six (6) feet in height may be located in any required side yard or rear yard other than a required yard adjacent to a street. A fence or wall not more than six (6) feet in height may be located in any planting screen/no access easement adjacent to a street serving a double frontage and/or reverse frontage lot. Except as allowed above, no fence or wall which creates a solid screen may exceed two and one-half (2-1/2) feet in height in any required yard adjacent to a street, except that fences having a uniform open area of fifty (50) percent or more may be erected to a maximum height of four (4) feet in such required yards. Height shall be measured from the average ground level adjacent to the fence or wall. No fence or wall shall encroach the visibility triangle.
- B. The above standards shall not be deemed to prohibit any fences or walls which may be required for screening, security or safety purposes by other sections of this Ordinance as determined by the Administrator; and
- C. The "finished" side of any fence shall face outward towards surrounding properties and rights-of-way.

I have read, understand and will comply with the exceptions and permitted encroachments provisions and the fences or walls in a single-family residential districts listed in the Unified Development Ordinance and take full responsibility for any non-compliance with the provisions herein.



Applicant's Signature

12-31-14
Date

Additional Documents
Submitted By
The Grants through counsel
(Alexander Bell, Esq.)

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1307 Jamestown Road, Suite 201
Williamsburg, Virginia 23185
757.645.9001
757.517.0693 (fax)

11815 Fountain Way, Suite 300
Newport News, Virginia 23606
757.926.5259
757.517.0693 (fax)

COLLINS & HYMAN, PLC

Richard G. Collins, Esq.
Michael A. Hyman, Esq.

Gregory S. Bean, Esq.
Melissa M. Gutridge, Esq.

February 12, 2017

VIA U.S. MAIL

City of Suffolk Board of Building Code Appeals
c/o Community Development
442 W. Washington Street
Suffolk, VA 23434

Re: 4281 Cole Ave., Suffolk VA
Our client: Anthony T. Grant, Ashley Grant
Builder: Kebco Enterprises

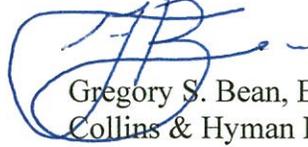
Dear Sir/Madam:

We understand that the Board of Building Code appeals held hearing on November 13, 2017, regarding Mr. Grant's appeal regarding M1401.3 as well as Kebco's appeal of multiple violations. This was certainly a surprise to myself and my clients as neither of us received any notice of this hearing. I had personally called on multiple occasions and sent correspondence attempting to determine the status of such a hearing. My client advises that he too attempted contact multiple times without success. What's more, it appears that Kebco Enterprises Inc. and the City were both present and had the benefit of providing evidence and information to the board. My clients were not afforded this opportunity, which is especially important due to the fact that the information upon which the City relied to show passage of the HVAC unit has been discredited in writing by the very individual that provided the information.

While my client will certainly appeal the issue to the State Technical Review Board, if the Board is inclined to hold a re-hearing on the issue of M1401.3 to properly hear all of the evidence, my clients would be appreciative. Otherwise, we will be happy to present the evidence to the Technical Review Board and advise how we were not afforded the opportunity to do so at the local level.

In the future, we demand that you put us on notice of any hearing relating to this matter to which representatives of parties are invited. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to be 'G.S. Bean', written over a circular stamp or watermark.

Gregory S. Bean, Esq.
Collins & Hyman PLC

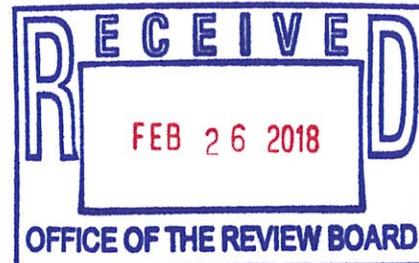
Cc: Ashley and Anthony Grant (by email)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 Statewide Fire Prevention Code
 Industrialized Building Safety Regulations
 Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):
Anthony Grant Jr.; Ashley Grant

c/o Gregory S. Bean, Esq., Collins & Hyman PLC

1307 Jamestown Road, Suite 201, Williamsburg, VA 23185 - 757-645-0827

Opposing Party Information (name, address, telephone number and email address of all other parties):
Kebco Enterprises c/o C. Faulk Esq., 205 S. Battlefield #100 Chesapeake VA 23322

City of Suffolk Board of Building Code Appeals, City of Suffolk, P.O. Box 1858

Suffolk, VA 23439

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of February, 2018, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

Name of Applicant: _____
(please print or type)

1307 Jamestown Road, Suite 201
Williamsburg, Virginia 23185
757.645.9001
757.517.0693 (fax)

11815 Fountain Way, Suite 300
Newport News, Virginia 23606
757.926.5259
757.517.0693 (fax)

COLLINS & HYMAN, PLC

Richard G. Collins, Esq.
Michael A. Hyman, Esq.

Gregory S. Bean, Esq.
Melissa M. Gutridge, Esq.

February 22, 2017

VIA OVERNIGHT MAIL AND FACSIMILE (804) 371-7092

Virginia State Technical Review Board
Main Street Centre
600 E. Main Street, Suite 300
Richmond, VA 23219

Re: 4281 Cole Ave., Suffolk VA
Our client: Anthony T. Grant, Ashley Grant
Builder: Kebco Enterprises

Dear Sir/Madam:

Please find enclosed Mr. and Mrs. Grant's appeal from a decision from the Suffolk Board of Building Code Appeals, upholding a decision by the City of Suffolk regarding the compliance of the HVAC unit at the above residence with the applicable section of the Uniform Statewide Building Code (see attached decision). Note that I will be representing the Grants in this appeal. Please direct any future correspondence to my attention.

In this appeal, the Grants request that the Technical Review Board hear all evidence on regarding the alleged violation relating to the HVAC unit and overturn the City of Suffolk's determination that the HVAC was appropriately sized and is not in need of replacement.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Gregory S. Bean, Esq.
Collins & Hyman PLC

Enc. – Appeal documents

Cc: Ashley and Anthony Grant (by email)
Chis Faulk (via U.S. Mail)
City of Suffolk (via U.S. Mail)
City of Suffolk Board of Building Code Appeals (via U.S. Mail)

RESOLUTION NO. 02-2017

**CITY OF SUFFOLK BOARD OF BUILDING CODE APPEALS
DECISION**

**4281 COLE AVE, SUFFOLK, VIRGINIA, ZONING MAP 13A *JAMES, PARCEL *18
LBBCA 02-2017**

WHEREAS, Mr. Anthony Grant, Jr., applicant and property owner, by letter dated November 30, 2016, requested a hearing with the City of Suffolk Board of Building Code Appeals for a certain tract of land situated in the City of Suffolk, Virginia, which land is designated on the Zoning Map of the City of Suffolk, Virginia, as Zoning Map 13A James, Parcel 18; and,

WHEREAS, the appeal hearing was held in the City of Suffolk Council Chambers on November 13, 2017, at 1:00 p.m. under Old Business; and

WHEREAS, the applicant Anthony Grant was not present at the hearing and representing the City of Suffolk were Michael Robinson, Susan Gardner and Sam Adams and representing the Builder were Kebco Enterprise Inc. c/o Kenneth Bullock and Wayne Ables of Wayne Ables Heating & Air Conditioning, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Board of Building Code Appeals of the City of Suffolk, Virginia, that:

The Board of Building Code Appeals

1. X UPHOLDS REVERSES MODIFIES the Building Official's decision with respect to appeal identified as M1401.3, under Old Business; and,

BE IT FURTHER RESOLVED that any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, and (804) 371-7150.


Chairman, Board of Building Code Appeals

1307 Jamestown Road, Suite 201
Williamsburg, Virginia 23185
757.645.9001
757.517.0693 (fax)

11815 Fountain Way, Suite 300
Newport News, Virginia 23606
757.926.5259
757.517.0693 (fax)

COLLINS & HYMAN, PLC

Richard G. Collins, Esq.
Michael A. Hyman, Esq.

Gregory S. Bean, Esq.
Melissa M. Gutridge, Esq.

February 27, 2018

VIA U.S. MAIL, FACSIMILE (804) 371-7092, AND E-MAIL

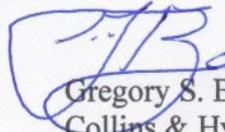
Virginia State Technical Review Board
Main Street Centre
600 E. Main Street, Suite 300
Richmond, VA 23219

Re: 4281 Cole Ave., Suffolk VA
Our client: Anthony T. Grant, Ashley Grant
Builder: Kebco Enterprises

Dear Sir/Madam:

We previously supplied an Appeal for the above referenced matter, but inadvertently sent an unsigned copy. Attached is a signed copy of the Appeal. Thanks.

Sincerely,



Gregory S. Bean, Esq.
Collins & Hyman PLC

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 Statewide Fire Prevention Code
 Industrialized Building Safety Regulations
 Amusement Device Regulations

Appealing Party Information (name, address, telephone number and email address):
Anthony Grant Jr.; Ashley Grant

c/o Gregory S. Bean, Esq., Collins & Hyman PLC

1307 Jamestown Road, Suite 201, Williamsburg, VA 23185 - 757-645-0827

Opposing Party Information (name, address, telephone number and email address of all other parties):
Kebco Enterprises c/o C. Faulk Esq., 205 S. Battlefield #100 Chesapeake VA 23322

City of Suffolk Board of Building Code Appeals, City of Suffolk, P.O. Box 1858

Suffolk, VA 23439

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of February, 2018, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____



Name of Applicant: _____

Greg Bean, Attorney for Ashley + Anthony Grant
(please print or type)

RESOLUTION NO. 02-2017

**CITY OF SUFFOLK BOARD OF BUILDING CODE APPEALS
DECISION**

**4281 COLE AVE, SUFFOLK, VIRGINIA, ZONING MAP 13A *JAMES, PARCEL *18
LBBCA 02-2017**

WHEREAS, Mr. Anthony Grant, Jr., applicant and property owner, by letter dated November 30, 2016, requested a hearing with the City of Suffolk Board of Building Code Appeals for a certain tract of land situated in the City of Suffolk, Virginia, which land is designated on the Zoning Map of the City of Suffolk, Virginia, as Zoning Map 13A James, Parcel 18; and,

WHEREAS, the appeal hearing was held in the City of Suffolk Council Chambers on November 13, 2017, at 1:00 p.m. under Old Business; and

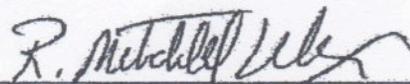
WHEREAS, the applicant Anthony Grant was not present at the hearing and representing the City of Suffolk were Michael Robinson, Susan Gardner and Sam Adams and representing the Builder were Kebco Enterprise Inc. c/o Kenneth Bullock and Wayne Ables of Wayne Ables Heating & Air Conditioning, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Board of Building Code Appeals of the City of Suffolk, Virginia, that:

The Board of Building Code Appeals

1. X UPHOLDS REVERSES MODIFIES the Building Official's decision with respect to appeal identified as M1401.3, under Old Business; and,

BE IT FURTHER RESOLVED that any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, and (804) 371-7150.



Chairman, Board of Building Code Appeals

Upstairs

Name:	Anthony Grant	Date:	11/16/16
Address:	4281 Cole ave		
City, State:	Suffolk	Zip Code:	23435
		Phone:	737-9995

Design Conditions

Winter		Summer	
Outside db *F:	22	Outside db *F:	95
Inside db *F:	70	Inside db *F:	75
Winter Design Temperature Difference:	48	Summer Design Temperature Difference:	20
Grains Difference:	48	Daily Range:	Med.

Heating Summary

Total Heat Loss for the Entire House:	17,292	Btuh
Ventilation in excess of standard values:		cfm
Heat Required for Ventilation Air:		Btuh
Total Required Heating Output Capacity:	17,292	Btuh
Sensible Heat Factor:	1.08	

Cooling Summary

Total Sensible Gain:	16,614	Btuh
Total Latent Gain:	3,355	Btuh
Total Heat Gain:	19,969	Btuh
Design Temperature Swings		
Normal 3°F:	X	4.5°F:

Equipment Summary

Its Hard to Stop a Trane

Make:	Model:	Description:

Energy Cost Estimates

SEER:	Cooling	Electricity per kWh:	Estimated annual cooling costs:
HSPF:	HP Heating	Gas cost per therm:	Estimated annual heating costs (HP):
AFUE:	Fossil Fuel Heating	Oil cost per gallon:	Estimated annual heating costs (gas):
BIN Cooling Hours:		Heat value of a therm:	Estimated annual heating costs (oil):
BIN Heating Hours:		100,000	
Btuh per cu ft (gas):	1,000	Estimates are for comparison purposes only. Actual cost of operation will depend on life style of the occupants as well as the maintained condition of the mechanical equipment.	
Btuh per gallon (oil):	140,000		
Watts per kW:	1,000		

Construction Data

Windows: Good: 1-pane, clear glass, metal frame	Ceiling: No attic insulation	Sq. Feet	Floors: Good: Slab, 1" edge insul.	Sq. Feet*
Better: 2-pane, clear glass, wood frame	Enter attic R-value		Poor: Crawl, no insulation	
Doors: Metal: Polystyrene core	R-value: 38	900	Better: R-value: 19	900
Wood: Solid core with storm	Walls: R-value:			

1	Name of Room:			Entire House		Master bedrm		master bath		Bedrm1		Bedrm2		
2	Exterior Walls:			Length	Height	Length	Height	Length	Height	Length	Height	Length	Height	
3	111	Linear Feet:			111.0	9.0	31.0	9.0	10.0	9.0	9.0	9.0	29.0	9.0
4	Exterior Walls													
5	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	
6	Good	13.7	6.7	12000	5833	3826	1860	1234	600	1111	540	3579	1740	
7	Partitions:			Length	Height	Length	Height	Length	Height	Length	Height	Length	Height	
8	Linear Feet:													
9	Partitions													
10	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	
11	Good	10.9	4.0											
12	Fenestration (Htg):			Area		Area		Area		Area		Area		
13		0.0	Sq. Feet:	124.0										
14	Windows/Glass Doors (Htg)			Good	Better	Good	Better	Good	Better	Good	Better	Good	Better	
15	Element	Htg HTM		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		
16	Good	55.4												
17	Better	22.8		2827										
18	Fenestration (Clg):													
19	Windows/Glass Doors (Clg)			Good	Better	Good	Better	Good	Better	Good	Better	Good	Better	
20	Element	Direction	Clg HTM	Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		
21	Good	N	36.0											
22	Better		28.0	1344								672		
23		48.0	Sq. Feet:	48.0								24.0		
24	Element	Direction	Clg HTM	Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		
25	Good	E & W	113.4											
26	Better		93.4	4857				1494		2242				
27		40.0	Sq. Feet:	52.0				16.0		24.0				
28	Element	Direction	Clg HTM	Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		
29	Good	S	45.4											
30	Better		48.0	1152		1152								
31		24.0	Sq. Feet:	24.0		24.0								
32	Exterior Doors:			Area		Area		Area		Area		Area		
33	Metal Door Sq Ft:													
34	Wood Door Sq Ft:													
35	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	
36	Metal	22.6	9.4											
37	Wood	22.1	9.2											
38	Block Load Sub-Totals:			14827	13186									
39	Room Load Sub-Totals:			13701	12892	3826	3012	1234	2094	1111	2782	3579	2412	
40	Skylights:			Sq Ft	Sq Ft									

41				Htg Btuh	Clg Btuh								
42			North:										
43			E & W:										
44			South:										
45	Ceilings:			Area		Area		Area		Area		Area	
46			No Insul Sq Ft:										
47			Actual R-value below										
48	900		Insul R-: 38	900	240.0	120.0	90.0	208.0					
49	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh								
50	No Insul	28.7	20.8										
51	R-Value:												
52	38	1.2	0.5	1089	468	290	125	145	62	109	47	252	108
53	Floors over crawl:			Area		Area		Area		Area		Area	
54	660		Poor Sq Ft:			120.0	90.0	208.0					
55	240		Better Sq Ft:	900	240.0								
56	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh								
57	Good	7.5				899		674		1558			
58	Better	1.5		1376	367								
59	Floors, concrete slab:			Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall	
60	Linear feet of exterior wall:												
61		Htg HTM	Clg HTM	Htg Btuh	Clg Btuh								
62		19.7											
63	Infiltration:			Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area	
64			Square feet:	124.0									
65		Htg HTM	Clg HTM	Htg Btuh	Clg Btuh								
66			11.768		1459								
67				Htg Btuh	Clg Btuh								
68	Block Load Sub-Totals:			17292	15114								
69	Room Load Sub-Totals:			20099	13360	4484	3137	2278	2157	1894	2828	5389	2520
70	Duct Loss %:												
71	Total Btuh Heat Loss (Block):			17292									
72	Total Btuh Heat Loss (Room):			20099		4484		2278		1894		5389	
73	Internal Loads:			Count	Clg Btuh								
74	People @:	300		5	1500	2	600			1	300	1	300
75	Appliances @:	1200											
76	Cooling Load Sub-Totals:				16614		3737		2157		3128		2820
77	Duct Gain %:												
78	Total Btuh Heat Gain (Block):				16614								
79	Total Btuh Heat Gain (Room):				14860		3737		2157		3128		2820

bath		Bedrm3											
Length	Height												
5.0	9.0	27.0	9.0		9.0		9.0		9.0		9.0		9.0
Htg Btuh	Clg Btuh												
617	300	3333	1620										
Length	Height												
Htg Btuh	Clg Btuh												
Area		Area		Area		Area		Area		Area		Area	
Good	Better												
Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh	
Good	Better												
Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh	
			672										
			24.0										
Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh	
Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh	
Area		Area		Area		Area		Area		Area		Area	
Htg Btuh	Clg Btuh												
617	300	3333	2292										

U-4

Htg Btuh	Clg Btuh												
Area		Area		Area		Area		Area		Area		Area	
60.0		182.0											
Htg Btuh	Clg Btuh												
73	31	220	95										
Area		Area		Area		Area		Area		Area		Area	
60.0		182.0											
Htg Btuh	Clg Btuh												
449		1363											
Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall	
Htg Btuh	Clg Btuh												
Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area	
Htg Btuh	Clg Btuh												
1139	331	4916	2387										
1139		4916											
Count	Clg Btuh												
		1	300										
	331		2687										
	331		2687										

Name:	Anthony Grant	Date:	11/16/16
Address:	4281 Cole ave.		
City, State:	Suffolk	Zip Code:	23435
		Phone:	737-9995

Design Conditions			
Winter		Summer	
Outside db *F:	22	Outside db *F:	95
Inside db *F:	70	Inside db *F:	75
Winter Design Temperature Difference:		Summer Design Temperature Difference:	
	48		20
Grains Difference:		Daily Range:	
	48		Med.

Heating Summary	
Total Heat Loss for the Entire House:	13,850 Btuh
Ventilation in excess of standard values:	cfm
Heat Required for Ventilation Air:	Btuh
Total Required Heating Output Capacity:	13,850 Btuh
Sensible Heat Factor:	1.08

Cooling Summary	
Total Sensible Gain:	13,822 Btuh
Total Latent Gain:	2,149 Btuh
Total Heat Gain:	15,972 Btuh
Design Temperature Swings	
Normal 3°F:	X
4.5°F:	

Equipment Summary		
<i>Its Hard to Stop a Trane</i>		
Make:	Model:	Description:

Energy Cost Estimates			
SEER:	Cooling	Electricity per kWh:	
HSPF:	HP Heating	Gas cost per therm:	
AFUE:	Fossil Fuel Heating	Oil cost per gallon:	
BIN Cooling Hours:		Heat value of a therm:	100,000
BIN Heating Hours:			
Btuh per cu ft (gas):	1,000		
Btuh per gallon (oil):	140,000		
Watts per kW:	1,000		
Estimated annual cooling costs: <input type="text"/> Estimated annual heating costs (HP): <input type="text"/> Estimated annual heating costs (gas): <input type="text"/> Estimated annual heating costs (oil): <input type="text"/>			
Estimates are for comparison purposes only. Actual cost of operation will depend on life style of the occupants as well as the maintained condition of the mechanical equipment.			

Construction Data			
Windows: Good: 1-pane, clear glass, metal frame	Ceiling: No attic insulation	Sq. Feet	(*Enter linear feet of ext. wall for slab floor)
Better: 2-pane, clear glass, wood frame	Enter attic R-value		Sq. Feet*
Doors: Metal: Polystyrene core	R-value: 38	900	
Wood: Solid core with storm	Walls: R-value:		
			Floors: Good: Slab, 1" edge insul. <input type="text"/>
			Poor: Crawl, no insulation <input type="text"/>
			Better: R-value: 19 <input type="text"/> 600

1	Name of Room:			Entire House		Den		Dining rm		Kitchen		bath		
2	Exterior Walls:			Length	Height	Length	Height	Length	Height	Length	Height	Length	Height	
3	85	Linear Feet:		85.0	9.0	28.0	9.0	10.0	9.0	9.0	9.0			
4	Exterior Walls													
5	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	
6	Good	13.7	6.7	8434	4100	3168	1540	1234	600	1111	540			
7	Partitions:			Length	Height	Length	Height	Length	Height	Length	Height	Length	Height	
8	Linear Feet:													
9	Partitions													
10	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	
11	Good	10.9	4.0											
12	Fenestration (Htg):			Area		Area		Area		Area		Area		
13		0.0	Sq. Feet:		108.0									
14	Windows/Glass Doors (Htg)			Good	Better	Good	Better	Good	Better	Good	Better	Good	Better	
15	Element	Htg HTM		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		
16	Good	55.4												
17	Better	22.8		2462										
18	Fenestration (Clg):			Area		Area		Area		Area		Area		
19	Windows/Glass Doors (Clg)			Good	Better	Good	Better	Good	Better	Good	Better	Good	Better	
20	Element	Direction	Clg HTM	Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		
21	Good	N	36.0											
22	Better		28.0	672										
23		24.0	Sq. Feet:	24.0										
24	Element	Direction	Clg HTM	Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		
25	Good	E & W	113.4											
26	Better		93.4	2242										
27		12.0	Sq. Feet:	24.0										
28	Element	Direction	Clg HTM	Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		
29	Good	S	45.4											
30	Better		48.0	2880		1152		1152		576				
31		60.0	Sq. Feet:	60.0		24.0		24.0		12.0				
32	Exterior Doors:			Area		Area		Area		Area		Area		
33	42.0	Metal Door Sq Ft:		42.0		21.0								
34		Wood Door Sq Ft:												
35	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	
36	Metal	22.6	9.4	948	395	474	197							
37	Wood	22.1	9.2											
38	Block Load Sub-Totals:			11844	10288									
39	Room Load Sub-Totals:			10863	9888	3642	2889	1234	1752	1111	1116			
40	S Skylights:		Sq Ft	Sq Ft										

41				Htg Btuh	Clg Btuh								
42		North:											
43		E & W:											
44		South:											
45	Ceilings:			Area		Area		Area		Area		Area	
46	No Insul Sq Ft:												
47	Actual R-value below												
48	563	Insul R-: 38		900		195.0		130.0		81.0		25.0	
49	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh								
50	No Insul	28.7	20.8										
51	R-Value:												
52	38	1.2	0.5	1089	468	236	101	157	68	98	42	30	13
53	Floors over crawl:			Area		Area		Area		Area		Area	
54	563	Poor Sq Ft:				195.0		130.0		81.0		25.0	
55	0	Better Sq Ft:		600									
56	Element	Htg HTM	Clg HTM	Htg Btuh	Clg Btuh								
57	Good	7.5				1460		973		607		187	
58	Better	1.5		917									
59	Floors, concrete slab:			Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall	
60	Linear feet of exterior wall:												
61	Htg HTM		Clg HTM	Htg Btuh	Clg Btuh								
62	19.7												
63	Infiltration:			Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area	
64	Square feet:			150.0		21.0							
65	Htg HTM		Clg HTM	Htg Btuh	Clg Btuh								
66			6.439		966		135						
67				Htg Btuh	Clg Btuh								
68	Block Load Sub-Totals:			13850	11722								
69	Room Load Sub-Totals:			15760	10451	5338	3126	2365	1820	1815	1158	217	13
70	Duct Loss %:												
71	Total Btuh Heat Loss (Block):			13850									
72	Total Btuh Heat Loss (Room):			15760		5338		2365		1815		217	
73	Internal Loads:			Count	Clg Btuh								
74	People @:	300		3	900	1	300	1	300				
75	Appliances @:	1200		1.0	1200					1	1200		
76	Cooling Load Sub-Totals:				13822		3426		2120		2358		13
77	Duct Gain %:												
78	Total Btuh Heat Gain (Block):				13822								
79	Total Btuh Heat Gain (Room):				12551		3426		2120		2358		13

Formal dining		living rm											
Length	Height	Length	Height	Length	Height	Length	Height	Length	Height	Length	Height	Length	Height
11.0	9.0	27.0	9.0		9.0		9.0		9.0		9.0		9.0
Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh
1358	660	3045	1480										
Length	Height	Length	Height	Length	Height	Length	Height	Length	Height	Length	Height	Length	Height
Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh
Area		Area		Area		Area		Area		Area		Area	
Good	Better	Good	Better	Good	Better	Good	Better	Good	Better	Good	Better	Good	Better
Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh		Htg Btuh	
Good	Better	Good	Better	Good	Better	Good	Better	Good	Better	Good	Better	Good	Better
Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh	
			672										
			24.0										
Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh	
			1121										
			12.0										
Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh		Clg Btuh	
Area		Area		Area		Area		Area		Area		Area	
			21.0										
Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh	Htg Btuh	Clg Btuh
		474	197										
1358	660	3518	3470										

Htg Btuh	Clg Btuh												
Area		Area		Area		Area		Area		Area		Area	
132.0													
Htg Btuh	Clg Btuh												
160	69												
Area		Area		Area		Area		Area		Area		Area	
132.0													
Htg Btuh	Clg Btuh												
988													
Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall		Exterior Wall	
Htg Btuh	Clg Btuh												
Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area		Door/Window Area	
21.0													
Htg Btuh	Clg Btuh												
			135										
Htg Btuh	Clg Btuh												
2506	729	3518	3605										
2506		3518											
Count	Clg Btuh												
		1	300										
	729		3905										
	729		3905										

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Prior Review Board Decisions

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Anthony T. Grant, Jr.
Appeal No. 17-3

DECISION OF THE REVIEW BOARD

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 (§ 2.2-4000 et seq. of the Code of Virginia).

Case History

Anthony T. Grant, Jr. (Grant), current co-owner of a single family dwelling located at 4281 Cole Avenue, in Suffolk, appeals determinations by the City of Suffolk's building official and inspections department for the enforcement of the Virginia Uniform Statewide Building Code, Part I, New Construction, also known as the Virginia Construction Code, or VCC. The building official and inspections department is referred to hereinafter as the "building official."

Grant's home was completed and the VCC certificate of occupancy issued in early to mid-2015 under the 2009 edition of the VCC, which incorporates the 2009 edition of the International Residential Code (IRC) for the technical requirements for home construction. By December of 2015, Grant was corresponding with the building official concerning problems with the construction of the home.

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After numerous inspections and the issuance of some notices of violation under the VCC to the builder of the home, KEBCO Enterprises, Inc., and its representative Kenneth Bullock (collectively referred to hereinafter as “Bullock”), in November of 2016, Grant filed an appeal to the City of Suffolk Board of Building Code Appeals (City appeals board), alleging that the building official had inadequately addressed the problems with the home.

The City appeals board heard Grant’s appeal in January of 2017 and upheld all determinations of the building official, with the exception of modifying a decision relating to the proper sizing of the heating and air-conditioning system and determining that two issues raised by Grant were not governed by the VCC.

Grant further appealed to the Review Board in February of 2017. Review Board staff conducted an informal fact-finding conference in April of 2017, attended by Grant, the building official and Bullock, for the purpose of clarifying the issues on appeal to the Review Board. The parties were subsequently given opportunity to supplement the record and address a summary of the appeal produced by Review Board staff.

A hearing before the Review Board was held on June 15, 2017 and attended by Grant, the building official and Bullock.

Findings

Whether there is a violation of Section N1102.4 of the IRC.

A violation of this section was cited by the building official in a notice of violation dated December 22, 2015. Section N1102.4 requires either a test of air infiltration or a visual inspection during construction to assure that all joints and penetrations through the exterior envelope are sealed to prevent air infiltration. The building official asserts that the only issue involving this code provision was inadequate insulation in the attic and a question of adequate

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attic venting, and that compliance was determined through an inspection performed on May 13, 2016, and confirmed through the testimony of the building official at the hearing before the City appeals board who testified that the attic insulation was “evened out at the location where it appeared uneven, and that the proper number of roof vents were verified.”

The Review Board finds to the contrary. Grant identified and provided evidence of excessive air infiltration along with moisture intrusion from lack of proper flashings and exterior covering installation. No test of air infiltration has been conducted and no evidence was provided that a visual inspection was performed during construction. In addition, evidence was provided of air infiltration causing lack of proper functioning of the heating and cooling system.

Whether there is a violation of Section R703.11 of the IRC
for the lack of siding.

A violation of this section was cited by the building official in a notice of violation dated December 22, 2015, citing missing siding under the cantilevered fireplace and siding pulled free in several areas. The building official testified before the City appeals board that these violations had been corrected. The Review Board agrees. Grant provided no pictorial evidence or testimony that the violations had not been corrected.

It is noted that this determination has no bearing on the general issue of proper installation of the siding, which is addressed by a new notice of violation issued by the building official in May of 2017 and which is not under appeal in this proceeding.

Whether there is a violation of Section R408 of the IRC
for the crawlspace and grade around the house.

Grant withdrew his appeal concerning debris in the crawlspace at the hearing before the Review Board, but is still challenging the building official’s decision that the exterior grade and crawlspace floor level are in compliance with the code.

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The building official testified before the City appeals board that additional fill was added to the crawlspace to achieve compliance. The Review Board finds to the contrary. Bullock added sand to the crawlspace in May of 2016. Inspections in January of 2017 by Quality Home Inspections and in April of 2017 by Michael W. Schooley, P.E. indicated the moisture issues were still present. A third party inspection report in May of 2017, at the request of the building official, stated there were wet areas under the vapor barrier on top of the sand in the crawlspace.

Adding sand in the crawlspace does not effectively raise the grade in the crawlspace to comply with Section R408.6 since sand is a porous material and will not readily block the flow of water into the foundation and crawlspace area. In addition, there is evidence of presence of a high surface water table and inadequate grading on the exterior of the home. The continued presence mold and mildew on the framing elements is also indicative of noncompliance with Section R408.6.

Whether there is a violation of Section 109.3 of the VCC relative to the requirement for a structural evaluation.

The action to require a structural evaluation was not through a notice of violation issued by the building official, but rather through a summons issued to Bullock for a civil penalty in the City of Suffolk General District Court. Therefore, the matter was not properly before the City appeals board.

Whether there is a violation of Section R403.1.6 of the IRC for the framing connections at the rear foundation wall.

Grant's engineer identified an issue with the framing of the rear wall of the house where it cantilevered over brick veneer. Bullock had an architect inspect the home and no problems were noted. Consequently, the building official determined no violation of the code existed

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relative to the rear wall construction. The City appeals board upheld the building official's determination.

Subsequent to the City appeal board's decision, Grant's engineer conducted an additional inspection and noted that the recommended correction for the rear wall framing and foundation had not been adequately implemented. Based on that report, the building official included a citation in a new notice of violation issued in May of 2017 for the rear wall framing and foundation reversing the prior determination. The new notice of violation is not under appeal in this proceeding.

Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders as follows:

1. The decision of the building official, confirmed by the City appeals board, that no violation of Section N1102.4 of the IRC exists, is hereby overturned. The violations present are delineated in the "Findings" section of this decision.

2. The decision of the building official, confirmed by the City appeals board, that the violation of Section R703.11 of the IRC for the lack of siding was corrected, is hereby upheld.

3. The decision of the building official, confirmed by the City appeals board, that the violations of Section R408 of the IRC for the crawlspace and grade around the house were corrected, is hereby overturned.

4. The appeal of whether there is a violation of Section 109.3 of the VCC relative to the requirement for a structural evaluation is hereby dismissed as not properly before the Review Board and the decision of the City appeals board on this issue is hereby vacated.

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5. The appeal of whether there is a violation of Section R403.1.6 for the framing connections to the rear foundation wall is hereby dismissed as moot due to the issuance of a new notice of violation addressing the issue.



Chairman, State Building Code Technical Review Board

Date entered: Sept. 15, 2017

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 Hodge, Acting 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.

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