

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Dr. Eric W. Bond, Superintendent for Augusta County Public Schools
Appeal No. 18-04

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

The State Fire Marshal's Office (SFMO) is responsible for the enforcement of the Statewide Fire Prevention Code (SFPC) in those localities which do not enforce the code through a local enforcing agency. Appeals concerning the application of the SFPC by the SFMO are filed directly with the Review Board.

In April of 2018, a representative of the SFMO conducted inspections at Cassell and Rivershead Elementary Schools located at 1301 Rockfish Road and 239 Don Hanger Circle respectively in Augusta County.

The inspections resulted in the issuance of six inspection notices and six cited violations of the SFPC. Cassell and Rivershead Elementary Schools were each cited for violations of the SFPC Section 1030.2.1 (Security devices and egress locks) concerning the installation of security devices; Section 401.2 (Approval) concerning the fire safety plan, emergency procedures, and

employee training program; and Section 404.2.3.1 (Lockdown plan contents) pertaining to the lockdown plans.

Dr. Eric W. Bond filed an appeal to the Review Board within the required timeframe under the SFPC based on receiving a modification from the Building Official for the installation of the door hardware to be utilized only in an “active shooter” event.

Review Board staff developed a staff summary of the appeal, distributed it to all the parties and scheduled an appeal hearing before the Review Board.

Findings of the Review Board

- A. Whether to overturn or uphold the decision of the State Fire Marshal that a violation of the SFPC Section 1030.2.1 (Security devices and egress locks) concerning the installation of security devices exists.

Dr. Bond argued that the installation of the Nightlock devices were approved during construction of Cassell and Rivershead Elementary Schools through a modification of Section 1008.1.9 of the Virginia Construction Code (VCC) by the County Building Official. Dr. Bond further argued that because this was new construction and the installation of the devices were approved by the County Building Official under the VCC, that the SFPC should not be interpreted and applied in a manner that was more restrictive than was applied by the County Building Official pursuant to Section 102.6 the SFMO.

The SFMO argued that the Nightlock devices are security devices addressed under Section 1030.2 of the SFPC and are not locks or latches addressed under Section 1008.1.9 of the VCC . The SFMO further argued that the Building Official’s modification did not meet the spirit and intent of the code rather was a waiver of the code.

The Review Board agrees with Dr. Bond that the installation of the devices falls under the purview of the VCC Section 1008.1.9 and not under the jurisdiction of the SFPC and that the authority to grant the modification was the Building Official's.

- B. Whether to overturn or uphold the decision of the State Fire Marshal that a violation of the SFPC Section 401.2 (Approval) concerning the fire safety plan, emergency procedures, and employee training program exists.

This issue was continued by the Board because the parties indicated they were working towards resolving this issue.

- C. Whether to overturn or uphold the decision of the State Fire Marshal that a violation of the SFPC Section 404.2.3.1 (Lockdown plan contents) pertaining to the lockdown plans exists.

This issue was continued by the Board because the parties indicated they were working towards resolving this issue.

Final Order

(A) This item of the appeal having been given due regard, and for the reasons set out herein, the Review Board orders this item of the appeal to be, and hereby is, overturned. Because the parties indicated to the Review Board that the remaining issues can be resolved without further action from the Review Board, the Review Board will hold its ruling in abeyance until the other items have been resolved or the parties indicate that the issues cannot be resolved.

(B) Continued

(C) Continued

The parties will have until December 31, 2018 to provide an update to the Review Board staff. If the parties fail to update Review Board staff or fail to resolve the remaining issues the Review Board will call this matter for additional hearings as necessary.



Chairman, State Building Code Technical Review Board

Date entered: ___November 16, 2018___

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 W. Travis Luter, Sr., 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.