

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

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

**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

Harvey Dupree of A...H Variety (Dupree), current owner of a commercial building located at 456-554 Piney Pond Road, Brodnax, Virginia, which is a building used to sell merchandise under the business name A...H Variety, appeals determinations by a representative of the State Fire Marshal's Office (SFMO) for the enforcement of the Virginia Uniform Statewide Fire Prevention Code (SFPC).

In May of 2018 SFMO conducted an inspection of the above referenced property. The inspection resulted in the issuance of a notice of violation, dated May 10, 2018, under the SFPC where 31 violations of the SFPC were cited.

A hearing before the Review Board was held on November 16, 2018 where Dupree appealed 14 of the 31 cited violations. Appearing at the Review Board hearing for SMFO were

Calvin Dee Madsen and Steven Sites. Harvey Dupree and Lerma Ydel appeared at the hearing on the behalf of Mr. Dupree and A...H Variety.

### Findings of the Review Board

SFMO argued that items A through H<sup>1</sup> had already been dealt with by the Review Board and were subject to court action. Mr. Dupree did not dispute. The Board finds no action is needed for items A-H.

- I. Whether to overturn or uphold the decision of the SFMO that a violation (#16) of SFPC Section 605.6 (Unapproved Conditions) exists.

SFMO argued that this violation existed. Mr. Dupree did not dispute. The Board finds the violation to exist and gives Mr. Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

- J. Whether to overturn or uphold the decision of the SFMO that a violation (#17) of SFPC Section 605.6 (Unapproved Conditions) exists.

SFMO argued that this violation existed. Mr. Dupree did not dispute. The Board finds the violation to exist and gives Mr. Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

- K. Whether to overturn or uphold the decision of the SFMO that a violation (#18) of SFPC Section 605.3 (Working space and clearance) exists.

SFMO argued that this violation existed. Mr. Dupree disagreed stating the violation had been corrected, but the correction had not been verified by SFMO. The Board finds the violation to exist and gives Mr. Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

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

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<sup>1</sup> See Appendix List

SFMO acknowledged that this was not a violation but rather an administrative note and withdrew the cited violation. The Board acknowledged that the SFMO withdrew the cited violation.

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

SFMO argued that this violation existed. Mr. Dupree did not dispute. The Board finds the violation to exist and gives Mr. Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

N. 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.

SFMO argued that this violation existed. Mr. Dupree disagreed stating that the heating units were disconnected and the chimneys were taken out of service and condemned. The Board finds the violation to exist and gives Mr. Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

#### Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board members take no action on items A through H<sup>2</sup>.

I. Whether to overturn or uphold the decision of the SFMO that a violation (#16) of SFPC Section 605.6 (Unapproved Conditions) exists.

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the decision of the SFMO that a violation of SFPC Section 605.6 (Unapproved Conditions) to be, and hereby is, upheld and give Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

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<sup>2</sup> See Appendix List

- J. Whether to overturn or uphold the decision of the SFMO that a violation (#17) of SFPC Section 605.6 (Unapproved Conditions) exists.

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the decision of the SFMO that a violation of SFPC Section 605.6 (Unapproved Conditions) to be, and hereby is, upheld and give Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

- K. Whether to overturn or uphold the decision of the SFMO that a violation (#18) of SFPC Section 605.3 (Working space and clearance) exists.

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the decision of the SFMO that a violation of SFPC Section 605.3 (Working space and clearances) to be, and hereby is, upheld and give Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

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

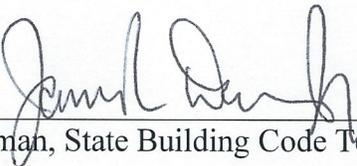
The appeal having been given due regard, and for the reasons set out herein, the Review Board members acknowledge the SFMO withdrew this cited violation and no action was needed or taken.

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

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the decision of the SFMO that a violation of SFPC Section 901.6 (Inspection, testing, and maintenance) to be, and hereby is, upheld and give Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

- N. 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.

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the decision of the SFMO that a violation of SFPC Section 603.5.2 (Heating appliance installation and maintenance) to be, and hereby is, upheld and give Dupree 60 additional days to comply by making the needed repairs and have the re-inspection performed.

  
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Chairman, State Building Code Technical Review Board

Date entered: January 11, 2019

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.

## Appendix

- A. Whether to overturn or uphold the decision of the SFMO that a violation (#7) of SFPC Section 605.6 (Unapproved Conditions) exists.
- B. Whether to overturn or uphold the decision of the SFMO that a violation (#8) of SFPC Section 605.6 (Unapproved Conditions) exists.
- C. Whether to overturn or uphold the decision of the SFMO that a violation (#9) of SFPC Section 605.6 (Unapproved Conditions) exists.
- D. Whether to overturn or uphold the decision of the SFMO that a violation (#10) of SFPC Section 605.6 (Unapproved Conditions) exists.
- E. Whether to overturn or uphold the decision of the SFMO that a violation (#11) of SFPC Section 605.6 (Unapproved Conditions) exists.
- F. Whether to overturn or uphold the decision of the SFMO that a violation (#12) of SFPC Section 605.6 (Unapproved Conditions) exists.
- G. Whether to overturn or uphold the decision of the SFMO that a violation (#13) of SFPC Section 605.6 (Unapproved Conditions) exists.
- H. Whether to overturn or uphold the decision of the SFMO that a violation (#14) of SFPC Section 605.6 (Unapproved Conditions) exists.