

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Oscar and Olga Marroquin  
Appeal No. 19-04

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

Oscar and Olga Marroquin (Marroquin), owners of the property located at 105 Reedville Court in the Town of Stephens City, which is located in Frederick County, appealed the enforcement action by the Frederick County, Office of the Building Official (County) under Part I of the 2012 Uniform Statewide Building Code (Virginia Construction Code or VCC).

On October 27, 2017 Marroquin was issued a certificate of occupancy for the property. Marroquin filed a complaint on February 12, 2018, related to the heating, ventilation, and air conditioning system (HVAC), and an inspection of the property was performed by the County. On February 13, 2018, the County, in enforcement of the Virginia Construction Code, issued a Corrective Order for the property citing three violations: (1) Furnace installed 88,000 BTU input – Design load requires 110,000 BTU input; (2) Draft hood of the water heater needs to be secured; (3) Vent connector needs 1” clearance from combustibles.

On February 27, 2018 an air flow balance test was performed by Southern Maryland Heating and Air Inc.

On July 10, 2018, the County, in enforcement of the Virginia Construction Code, issued a notice of violation (NOV) to Dan Ryan Builders for the property. The notice outlined nine (9) violations of the Virginia Construction Code and contained a statement of right of appeal.

On March 15, 2019 a second air flow balance test was performed. The HVAC Parameters report was dated March 28, 2019 and was stamped/sealed by professional engineer William Wiles. On April 3, 2019, after reviewing the report, the County accepted the report and considered the NOV satisfied. On May 6, 2019, a third air flow balance test was performed by Annadale Balancing Company Inc., a contractor hired by Marroquin, which, according to Marroquin, failed.

Marroquin filed an appeal to the local appeals board which was heard on May 28, 2019, where the local appeals board denied the appeal. Marroquin subsequently filed an application for appeal to the Review Board in June of 2019.

#### Findings of the Review Board

- A. Whether to overturn the decision of the County and the local appeals board to accept the stamped/sealed HVAC Parameters report and that a violation of VCC Section M1401.3 does not exist.

Marroquin argued that the air flow of the HVAC system was not adequate due to insufficient sizing of the duct and lack of volume dampers, in each duct, to properly balance the HVAC system. Marroquin further argued that multiple manual J documents were filed with the County with conflicting information. Marroquin also argued that the County should not have accepted the HVAC Parameters report dated March 28, 2019 which was stamped/sealed by professional engineer William Wiles because the previous air flow test failed.

The County argued that the air flow for the HVAC system was adequate based on the HVAC Parameters report dated March 28, 2019 which was stamped/sealed by professional engineer William Wiles. The County further argued that floor registers are an acceptable means to balance a HVAC system. The County concurred that two manual J documents were submitted; however, clarified that the contractor erroneously submitted the wrong manual J document in the first submittal making a subsequent submittal necessary to provide the County with the proper manual J document.

The Review Board agreed with the County and the local appeals board in the acceptance of the engineer's report. The Review Board finds that the acceptance of the engineer's report satisfies the NOV and no violations remain.

#### Final Order

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

- A. Whether to overturn the decision of the County and the local appeals board to accept the stamped/sealed HVAC Parameters report and that a violation of VCC Section M1401.3 does not exist.

The decision of the local appeals board and the County to accept the engineer's report and that there is no violation of the VCC is upheld.



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Chairman, State Building Code Technical Review Board

Date entered: \_\_\_\_\_November 15, 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.