

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Paul and Colleen Driscoll  
Appeal No. 05-3

Decided: July 15, 2005

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board ("Review Board") is a Governor-appointed board established to rule on disputes arising from application of the Virginia Uniform Statewide Building Code ("USBC") and other regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. Enforcement of the USBC in other than state-owned buildings is by local city, county or town building departments. See § 36-105 of the Code of Virginia. An appeal under the USBC is first heard by a local board of building code appeals and then may be further appealed to the Review Board. See § 36-105 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

## II. CASE HISTORY

The appeal involves the construction of single family home in Stafford County. The home is owned by the appellants and was constructed by Ridgewood Homes, Inc., a licensed builder. The home was completed and a certificate of occupancy issued under the USBC in June of 2003.

Subsequent to the completion of the home, the Driscolls identified a number of concerns with the construction of the home and contacted the Stafford County building official. There was a meeting on site with the building official, the Driscolls and representatives of Ridgewood Homes in December of 2004.

In a letter subsequent to the site meeting, the building official informed the Driscolls that Ridgewood Homes had agreed to correct all the identified problems with the home and no further action would be taken, except for inspections of the completed work.

By letter in December of 2004 and application in January of 2005, the Driscolls appealed to the Stafford County Building Code Board of Appeals ("County USBC board"). The County USBC board heard the appeal in February of 2005 and ruled that the issues on appeal were contractual rather than involving the USBC.

The Driscolls then further appealed to the Review Board by application in March of 2005.

Staff of the Review Board conducted an informal fact-finding conference in April of 2005 attended by all parties. A Review Board Staff Document was developed subsequent to the conference outlining the issues for resolution by the Review Board. The staff document was distributed to the parties and the parties were given opportunity to submit corrections, objections or additions to the staff document.

The Review Board heard the Driscolls appeal at its July 15, 2005 meeting. Representatives of all parties were present.

### III. FINDINGS OF THE REVIEW BOARD

Subsequent to the informal fact-finding conference conducted by Review Board staff, in May of 2005, an engineering report was submitted to the building official addressing a number of issues in the appeal. As a result of the engineering report, the building official issued a USBC notice of violation to Ridgewood Homes dated June 7, 2005. An additional engineering report dated July 11, 2005 was submitted at the hearing before the Review Board.

The parties agreed at the hearing that all issues before the Review Board were disposed of based on the June 7, 2005

notice of violation, except whether a notice of violation should be issued for (i) the finished grade adjacent to the exterior wall of the study and garage, (ii) the footing depth on portions of the foundation wall, and (iii) the dryer vent length.

With respect to the finished grade and footing depth issues, the Review Board finds that sufficient evidence was available to the building official prior to the issuance of the June 7, 2005 notice of violation to determine that violations of the USBC did exist; therefore those violations should have been included in the notice of violation.

With respect to the dryer vent length, the parties agree that the length of the dryer vent is over 25 feet. The USBC under which the Driscolls' home was constructed is the 1996 edition, which incorporates by reference the 1995 edition of the CABO Code, a nationally recognized model residential construction code. Section 1801.3 of the CABO Code limits the length of a dryer vent to less than 25 feet unless the dryer provided is listed for use with a longer vent. Ridgewood Homes did not provide a dryer with the home. The Driscolls' dryer is not listed for use with a vent exceeding 25 feet, therefore, the dryer vent is in violation of the USBC and should have been cited as such.

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of the building official in not issuing a USBC notice of violation relative to the finished grade adjacent to the exterior wall of the study, the garage footing depth on portions of the foundation wall and the length of the dryer vent length to be, and hereby is, overturned.

The appeal is granted in part.

/s/\*

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Vice Chairman, State Technical Review Board

Oct. 21, 2005

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Date Entered

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Vernon W. Hodge, Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

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