

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of John and Sonia Ferraro
Appeal No. 07-6

Hearing Date: April 17, 2009

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

In July of 2004, John and Sonia Ferraro (the "Ferraros") began the construction of an addition and renovations to their home located at 9212 Portner Ave in Manassas. The Ferraros contracted with Architectural Design and Construction, Inc. ("ADCI"), as the general contractor. ADCI contracted with JRW Contracting Company, Inc. ("JRW") for the installation of a new air-conditioning system.

Subsequent to the installation of the new air-conditioning system, the Ferraros requested the City of Manassas USBC official (the "building official") to investigate problems with the system. The building official conducted a site visit in April of 2007 resulting in a USBC notice of violation being issued to JRW.

ADCI appealed the notice of violation to the Manassas City Board of Building Code Appeals ("City USBC board") on behalf of JRW stating that JRW's owner was deceased and the company was no longer in business.

The City USBC board heard the appeal over objections from the Ferraros that ADCI was not a proper party and ruled that the three USBC violations cited by the building official were invalid; the first, concerning a system check, due to there being inadequate substantiation; the second, concerning the

return air configuration, due to the citation being issued to the wrong party; and the third, concerning the distance between the branch connections on the ductwork, due to ambiguities in the manufacturer's installation instructions.

The Ferraros further appealed to the Review Board. Subsequent to the Ferraros filing the appeal to the Review Board, the building official rescinded the USBC notice of violation; partially due to the ruling of the City USBC board and also due to the receipt of additional information from the manufacturer of the air-conditioning system. The Ferraros did not appeal the rescission of the notice.

A hearing was conducted before the Review Board pursuant to the Ferraros appeal with the Ferraros, a representative of ADCI and a representative of the building official present. The Ferraros again raised the issue of whether the appeal to the City USBC board was improper as it was filed by ADCI rather than JRW. However, in discussions it was noted that since the USBC notice of violation was currently rescinded and that rescission had not been appealed by the Ferraros, if the appeal to the City USBC board was dismissed, the rescission of the USBC notice of violation would stand unchallengeable. Therefore, the Ferraros withdrew the issue of whether the Review Board should find the appeal to the City USBC board to be invalid and to order the City USBC board's decision to be vacated.

III. FINDINGS OF THE REVIEW BOARD

With respect to the issue of the installation of the branch connections to the ductwork the Review Board finds that neither the USBC, nor the manufacturer's installation instructions prohibit the configuration used. The manufacturer's installation instructions only require a minimum of eighteen (18) inches between the fan coil unit and any branches or tees in the plenum duct, which was not the case in the Ferraros installation. Therefore, the City USBC board's decision that no USBC violation exists relative to the branch connections on the ductwork is upheld.

With respect to the citations for failure to run a start-up and system check and the installation of the return air configuration, the Review Board finds that there was no evidence presented that a start-up and system check was ever performed and the manufacturer's installation instructions clearly require the start-up and system check and give detailed procedures to be followed for the start-up and system check. The documents submitted for the configuration of the return air system evidences that a wall return air opening was used and that it is inline with the return air box and the fan coil unit. This configuration is clearly prohibited by the manufacturer's installation instructions. Therefore, the City USBC board's

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.