

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of John and Sonia Ferraro
Appeal No. 09-8

Hearing Date: November 20, 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

John and Sonia Ferraro (the "Ferraros") appeal a determination of the City of Manassas Board of Building Code Appeals ("City USBC board"), which held that the heating system modifications in their home were in compliance with the USBC.

In January of 2008, in responding to a complaint by the Ferraros concerning a recently constructed addition to their home at 9212 Portner Avenue, City of Manassas USBC department representatives (the "building official") issued a USBC notice of violation to Michael Friedrichs, the President of Architectural Design and Construction, Inc. ("ADCI"), the general contractor constructing the addition to the Ferraros home.

One of the USBC violations cited in the notice was that the baseboard convection heating devices installed in the addition were not installed in accordance with the manufacturer's installation instructions, evidenced by the fact that the heating system was not providing adequate heat and was connected into the heating system of the original house which used cast iron radiators causing balancing problems with the heating system. In addition, the notice stated that one of the existing cast iron radiators had been disconnected.

ADCI appealed the citation to the City USBC board, which heard the appeal in March of 2008 and ruled to overturn the building official's citation on the basis that the USBC did not specify criteria for the performance of the heating system.

The Ferraros appealed the City USBC board's decision to the Review Board.

III. FINDINGS OF THE REVIEW BOARD

The requirements of the USBC for additions to existing buildings and alterations in existing buildings are set out in §§ 103.4 and 103.5 respectively and state in pertinent part as follows:

103.4 Additions. Additions to buildings and structures shall comply with the requirements of this code for new construction and an existing building or structure plus additions shall comply with the height and areas provisions of Chapter 5. Further, this code shall not require changes to the design or construction of any portions of the building or structure not altered or affected by the addition, unless the addition has the effect of lowering the current level of safety.

103.5 Reconstruction, alteration or repair. The following criteria is applicable to reconstruction, alteration or repair of buildings or structures:

1. Any reconstruction, alteration or repair shall not adversely affect the performance of the building or structure, or cause the building or structure to become unsafe or lower existing levels of health or safety.

2. Parts of the building or structure not being reconstructed, altered or repaired shall not be required to comply with the requirements of this code

applicable to newly constructed buildings or structures.

3. The installation of material or equipment, or both, that is neither required nor prohibited shall only be required to comply with the provisions of this code relating to the safe installation of such material or equipment.

4. Material or equipment, or both, may be replaced in the same location with material or equipment of a similar kind or capacity.

As evidenced by the testimony and documents submitted, the heating system of the addition was connected to the heating system in the original home. Several heating system consultants advised against this arrangement for numerous reasons.

Combining the systems and disconnecting the one cast iron radiator in the original home resulted in the lowering of existing levels of health and safety in the original home, clearly prohibited by §§ 103.4 and 103.5 of the USBC.

Therefore, the installation is in violation of the USBC.

In addition, the criteria for heating systems in residential occupancies under the USBC is set out in § R303.8 of the International Residential Code, a nationally recognized model code incorporated by reference into the USBC for technical requirements for construction. Section R303.8 requires the heating system to be capable of maintaining a minimum room temperature of 68^o Fahrenheit. This criteria should be used by the building official for determining the extent of work necessary to correct the USBC violation.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of the City USBC board to be, and hereby is, overturned and the USBC violations for the inadequacy of the heating system and the removal of the one cast iron radiator, to be, and hereby is, reinstated.

/s/*

Chairman, State Technical Review Board

Jan. 22, 2010

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.**