

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Sukhwinder S. Ruprai  
Appeal No. 10-9

Hearing Date: November 19, 2010

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 property located at 4346 Lee Highway, in Arlington County, owned by Sukhwinder S. Ruprai (Ruprai), an architect and designer of kitchens.

There are three buildings on the property; a two and a half story building, currently unoccupied, which was used as an apartment building at one time, and two single story cinderblock and frame garage-type buildings; one being used for commercial storage and the other for storage and containing Ruprai's office.

In December of 2009, the Arlington County Department of Community Planning, Housing and Development, Inspection Services Division (County building department) issued a violation notice under the USBC to Ruprai for making alterations to the buildings on the property without first obtaining USBC building permits.

In January of 2010, Ruprai filed an appeal of the violation notice to the Arlington County Board of Building Code Appeals (County USBC board), which heard the appeal in March of 2010 and ruled to uphold the violation notice.

Ruprai further appealed to the Review Board in May of 2010.

A hearing was held before the Review Board in November of 2010 and was attended by Ruprai and representatives of the County building department.

### III. FINDINGS OF THE REVIEW BOARD

The Review Board finds that the pictures submitted by the County building department showing the state of the buildings in 2007 and in 2010 clearly evidence that a door was modified, a window was added, a heat pump or air conditioning unit was added, a water heater was installed, siding was installed and a plumbing vent was altered.

No evidence was offered to substantiate that any USBC permits had been obtained to authorize this work.

Section 108.2 of the USBC permits certain work to be done without a permit; typically ordinary repair-type of work where components are only being replaced, however, none of the work documented to have taken place on Ruprai's buildings qualifies under the permit exceptions.


Ruprai stated that as an architect he was aware of the USBC requirements for permits, but argued that the work done was similar in nature to work not requiring a permit, such as being able to construct an accessory structure which is under 150 square feet without a permit being the same as installing less than 150 square feet of siding without a permit. Ruprai also stated that he is in the midst of a dispute with the County concerning the application of the County's zoning ordinance to his property, and that therefore the County may not have been

willing to issue building permits; yet the condition of the buildings was deteriorating so he needed to go ahead with the work.

The Review Board finds that the USBC does not provide for the waiving of requirements for obtaining permits; therefore, Ruprai's arguments do not have merit. The USBC does, however, provide for the granting of modifications and for permitting work to commence prior to the issuance of a permit under certain circumstances. Ruprai could have pursued those avenues for relief with the County building department rather than ignoring the permit requirements in the USBC.

#### IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders Ruprai's appeal to be, and hereby is, denied, and the decisions of the County building department and the County USBC board in question to be, and hereby are, upheld.

  
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Chairman, State Technical Review Board

Feb. 18, 2011  
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.