

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Patrick and Jean Sartori  
Appeal No. 20-04

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 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).

II. Case History

On August 20, 2020, the Culpeper County Building Department (County building official), the agency responsible for the enforcement of Part 1 of the 2012 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), issued a Notice of Violation (NOV) to Patrick Sartori (Sartori), owner of a single-family dwelling located at 9408 Breezewood Lane in Culpeper County. The NOV cited a violation of VCC Section R403.1.8 (Foundations on expansive soils) and required Sartori to submit an engineered evaluation of the current footing design with expansive soil conditions and repair if necessary.

In September of 2020, Sartori filed an appeal to the Joint Board of Building Code Appeals of the Town and County of Culpeper (local appeals board). The local appeals board upheld the decision of the County building official finding that as an underlining responsible party, the County Building Department is permitted to issue a code violation to the property owner.

On October 22, 2020, Sartori further appealed to the Review Board. A virtual Review Board hearing was held January 22, 2021. Appearing at the Review Board hearing for Culpeper County were Robert Orr and Bobbi Jo Alexis, legal counsel. Patrick and Jean Sartori, property owner, also attended the hearing.

### III. Findings of the Review Board

- A. Whether to uphold the decision of the County building official and local appeals board that, a code violation of VCC Section R403.1.8 (Foundations on expansive soils) can be issued to the property owner when the structure was permitted by the County and constructed by a Class A licensed contractor.

Sartori argued that the building contractor was the responsible party and that, as the owner of the property, he was not the responsible party. Sartori argued that, in accordance with VCC Section 115, to be the responsible party you must violate the code. Sartori further argued that to violate the code you must apply for, and be granted a permit. Lastly, Sartori argued that the building contractor applied for the permit and violated the code; therefore, the building contractor was the responsible party.

The County building official, through legal counsel, argued that the property owner is always the responsible party in accordance with the Code of Virginia, which was confirmed by the Attorney General's opinion dated December 14, 1978. The County building official also argued that the building contractor and Sartori were in disagreement over how the contract reads, which engineering firm should opine on the issue, or how to cure the issue, which made the situation unique and warranted issuing the NOV to both the building contractor and Sartori. The County building official further argued that Sartori did not want the building contractor to return to the property to perform work to cure the issue.

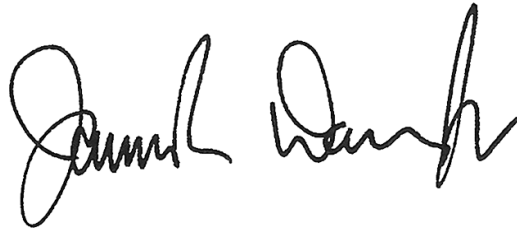
The Review Board finds that the County building official properly applied the Code of Virginia and the regulations by issuing the NOV to Sartori.

IV. 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 uphold the decision of the County building official and local appeals board that, a code violation of VCC Section R403.1.8 (Foundations on expansive soils) can be issued to the property owner when the structure was permitted by the County and constructed by a Class A licensed contractor.

The decision of the County building official and local appeals board to issue the NOV to Sartori is upheld.



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Chair, State Building Code Technical Review Board

Date entered \_\_\_\_\_March 19, 2021\_\_\_\_\_

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.