

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Anthony T. Grant, Jr.
Appeal No. 21-03

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

In May of 2015, the City of Suffolk Planning and Community Development Office (City building official), the agency responsible for the enforcement of Part 1 of the 2009 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), issued a final inspection and a subsequent Certificate of Occupancy for a single-family dwelling at 4281 Cole Avenue in the City of Suffolk which was purchased by Ashley and Anthony T. Grant Jr. (Grant) in June of 2015¹.

Due to the lack of action by the City appeals board, on July 27, 2020 Grant, through his attorney, filed a Show Cause Order or Enforcement of Decision of the State Building Code Technical Review Board against the City appeals board, in the City of Suffolk Circuit Court. In January of 2021, the City appeals board again ruled to uphold the decision of the City building

¹ This case is not the first time the Review Board has seen these parties. Please see Review Board Appeal Case 18-10 which is attached as a supplement.

official that the heating and cooling system was sized properly. Grant further appealed to the Review Board stating that the City appeals board had not complied with the Review Board Remand Order dated January 11, 2019.

A virtual Review Board hearing was held May 21, 2021. Appearing at the Review Board hearing for the City of Suffolk were Michael Robinson, Jeff Sadler, Carl Stevens, and Sean Dolan, legal counsel for the city. Anthony and Ashley Grant attended the hearing on their behalf.

III. Findings of the Review Board

A. Whether the City appeals board complied with the Remand Order dated January 11, 2019

Grant argued the City appeals board did not comply with the Remand Order dated January 11, 2019, to provide the Manual S, J, and D calculations and other requisite information within 60 days. Grant further argued that he made many attempts via telephone calls and emails to discuss the matter with the City building official. Grant also argued that only after the filing of the Show Case Order, did the City building official respond. Grant further argued that the HVAC contractor, utilized by the City building official to conduct the required testing on his home, did not properly evaluate his home.

The City, through legal counsel, argued that following the recommendation of the Review Board, the City retained a third party contractor to evaluate the sizing of the HVAC system in its as built condition to provide the City appeals board additional information to be used to evaluate the HVAC system. The City further argued that all of the information the City acquired from the third party contractor indicated the HVAC was properly sized.

The Review Board agrees with Grant that the City appeals board did not comply with the Remand Order dated January 11, 2019. The Review Board further finds that there is still insufficient information present to make an informed decision and remands the appeal back to the

City building official to provide specific information and documentation for a better evaluation of the HVAC system.

IV. Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders as follows:

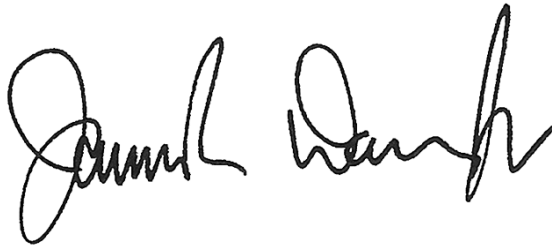
A. Whether the City appeals board complied with the Remand Order dated January 11, 2019

The City appeals board did not comply with the Remand Order dated January 11, 2019 and that the decision by the City building official and City appeals board that HVAC system is sized properly remains overturned.

Remand Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders this matter to be, and hereby is, remanded to the City building official to provide complete manual J, and D calculations based on the original plans with corrected orientation, and adjustments made for missing and new windows applied to them. The City building official is also to provide all the backup documentation including, but not limited to, wall construction type, glazing and door details, insulation validating the data contained in the new Manual J and D calculations of the home not on the as built as this could require destructive testing. Once the accurate manual J and D calculations are completed, then see, in particular, if the system meets these requirements by testing air flow to each room, and if the BTU values of the current system meets the requirements of the structure. The City building official should also issue NOV's for the other issues contributing to the comfort issues that were identified such as but not limited to sealing registers, and vapor barrier issues in the crawl space. The City building official shall also provide

all of the supporting documents and completed manual J and D calculations to the State Technical Code Review Board.

A handwritten signature in black ink, appearing to read "James D. Luter". The signature is fluid and cursive, with the first name "James" and last name "Luter" clearly distinguishable.

Chair, State Building Code Technical Review Board

Date entered ____September 17, 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.