

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
(For Preliminary Hearing as to Timeliness)

IN RE: Appeal of Clifford and Khristina Hammill
Appeal No. 22-13

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 October 28, 2021, the County of Albemarle Community Development Department; Building Inspections, Management Team (County), the agency responsible for the enforcement of the 1996 Virginia Uniform Statewide Building Code (USBC), informed Clifford and Khristina Hammill (Hammill), via email, their permits were expired for the structure, located at 6591 Blenheim Road, in the Albemarle County.

On April 27, 2022, the County offered to grant Hammill a one year extension with the understanding the project had to be completed and receive the certificate within that one year time limit.

Hammill filed an appeal to the Albemarle County Board of Building Code Appeals (local appeals board) on July 26, 2022 which was denied on August 22, 2022. Hammill further appealed to the Review Board on September 13, 2022. A Review Board hearing was held November 18,

2022. Appearing at the Review Board hearing for the Hammills were Clifford and Khristina Hammill. Appearing at the hearing for Albemarle County were Michael Dellinger and Andy Herrick; legal counsel.

III. Findings of the Review Board

A. Whether to uphold the decision of the County Building Official and the local appeals board that the appeal is untimely.

Hammill argued that their appeal was timely because the edition of the code in effect when the permit was issued, 1996 Virginia Uniform Statewide Building Code, was the appropriate code to apply related to the timeframe for filing an appeal. Hammill further argued that the 1996 Virginia Uniform Statewide Building Code provided a 90 calendar day timeframe to file the appeal of the application of the code.

The County, through legal counsel, argued that the appeal was untimely because the current edition of the code was the appropriate code to apply related to the timeframe for filing the appeal; therefore, Hammill was required to file their appeal within 30 calendar days of application of the code.¹

The Review Board finds that the appeal is untimely and that the current edition of the code is the appropriate code to apply related to the timeframe for filing the appeal; therefore, the appeal had to be filed within 30 days of the application of the code.

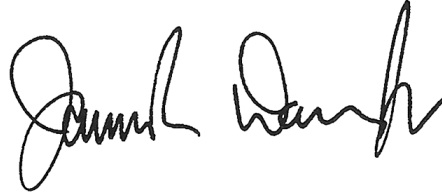
IV. Final Order

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 the local appeals board that the appeal is untimely.

¹ See Review Board Case No. 98-10

The decision of the County and local appeals board that the appeal was untimely is upheld because the current edition of the code is the appropriate code to apply related to the timeframe for filing the appeal; therefore, the appeal had to be filed within 30 days of the application of the code.



Chair, State Building Code Technical Review Board

Date entered _____ February 17, 2023 _____

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.