

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Walter Stanley Jennings
Appeal No. 11-11

Hearing Date: November 18, 2011

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

Walter S. Jennings, M.D., a retired medical professional and owner of a number of properties in the South Norfolk area of the City of Chesapeake brings this action. One of Dr. Jennings properties is a vacant house located at 1315 Seaboard Avenue, used by Dr. Jennings to store furniture from his closed antique shops.

In March of 2011, the City of Chesapeake USBC department, acting under Part III of the USBC, the Virginia Maintenance Code, inspected the property and determined that the house was sufficiently damaged and deteriorated to need to be demolished.

Dr. Jennings was issued a Notice of Unsafe Structure (Demolition) by the City USBC department in May of 2011 and the City published a notice in various newspapers indicating that the City would cause the demolition of the building if Dr. Jennings did not demolish it.

Dr. Jennings filed an appeal of the actions of the City after seeing the notice in the newspaper. The City of Chesapeake Local Board of Building Code Appeals (City appeals board) heard Dr. Jennings' appeal in July of 2011 and ruled to uphold the City USBC department's actions.

Dr. Jennings then further appealed to the Review Board. The hearing before the Review Board was attended by

representatives of the City of Chesapeake USBC department. Dr. Jennings was not present, however, he submitted written arguments which included a statement indicating his health prevented him from attending the hearing.

III. FINDINGS OF THE REVIEW BOARD

The Virginia Maintenance Code, in Section 105.4, authorizes the local USBC department to determine whether a structure is unsafe and needs to be demolished. In this case, the City USBC department found that severe water damage caused by a roof leak and termite infestation in the structural members of Dr. Jennings' building caused the building to be unsafe and in need of demolition due to the amount of deterioration present.

The Review Board agrees with the USBC department's assessment of the building and determines the building to be approximately seventy-five percent deteriorated. Therefore, the decision of the City USBC department to require demolition of the building is reasonable and appropriate.

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 of Chesapeake USBC department, that Dr. Jennings'

building located at 1315 Seaboard Avenue needs to be demolished,
to be, and hereby is, upheld.

/s/*
Chairman, State Technical Review Board

March 16, 2012
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.