

Virginia:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of Harry & Catherine Rowson
Appeal No. 15-17

Hearing Date: March 22, 2016

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 & 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. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

In October of 2014, the City of Chesapeake's Department of Development and Permits (local building department), the agency responsible for the enforcement of Part III of the Virginia Uniform Statewide Building Code (the Virginia Maintenance Code or VMC), conducted an inspection of a property located at 813 Mullen Road, owned by Harry and Catherine Rowson (hereafter collectively referred to as "Rowson").

Consequently, the local building department issued a notice of unsafe structure (demolition) to Rowson in December of 2014 for violations of VMC Section 105 (Unsafe Structures or Structures Unfit for Human Occupancy). The locality sent the notice to Rowson by certified mail, posted the notice on the front of the house and had it published in a local newspaper in December of 2014.

In December of 2014, Rowson filed an appeal to the City of Chesapeake's Local Board of Building Code Appeals (local appeals board) which heard the appeal in January of 2015 and continued it for ninety days allowing Rowson time to obtain the necessary permits to correct the code violations.

Subsequently, the local building department issued a building permit to Rowson for exploratory demolition of the front porch and for the repair of one sill plate. The permit was valid for fourteen days.

In May of 2015, the local appeals board granted Rowson an additional ninety days to repair the structure. Then the local building department issued a building permit to Rowson for the repair of porch railings only.

In September of 2015, the local appeals board re-heard Rowson's appeal and ruled to deny it.

Rowson further appealed to the Review Board and a hearing was held before the Review Board with Rowson, his witnesses, the city code official and his witnesses, present.

III. FINDINGS OF THE REVIEW BOARD

During the hearing, the local building department provided testimony to demonstrate the unsafe condition of Rowson's home. The testimony, supplemented by the color photographs and documents provided in the board package, showed multiple violations of VMC Section 105 VMC (Unsafe Structures or Structures Unfit for Human Occupancy) to the interior and exterior of the home, including water and termite damage that with the resultant peeling paint and rotten wood. In its testimony, the local building department referenced an independent structural engineer's evaluation (included in the agenda package) that indicated structural damage to the home's wall and floor framing. Rowson argued that the report was

incomplete because the engineer was unable to fully evaluate the condition of the floor due to the amount of debris and personal items covering the floor, and because the engineer did not evaluate the floor's structural system from the crawl space during the inspection. Rowson conceded that despite several extensions of time by the city, his recent medical issues and a lack of funding, due to being incapacitated, have prevented him from personally completing the repairs required by the local building department.

The Review Board finds that VMC Section 105 requires that structures be vacated and secured against public entry or razed and removed when determined to be unsafe or unsafe for occupancy, as was determined by the local building department in this case. However, the Review Board finds that a complete structural evaluation is necessary to accurately determine the extent of damage present in the home.

IV. FINAL ORDER

The appeal hearing has been given due regard, and for the reasons set out herein, the Review Board modifies the decision of the local building official and the local appeals board to grant one 90-day extension from the approval date of the final order to allow the appellant to: 1.) remove debris to make a

is served on you by mail, three (3) days are added to that period.