

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Edward J. Taborek
Appeal No. 15-3

Hearing Date: June 19, 2015

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

II. CASE HISTORY

Mr. Taborek appeals a citation under Part III of the Virginia Uniform Statewide Building Code, known as the Virginia Maintenance Code (VMC), asserting that the partial demolition of the side and top of the concrete, cinder block and brick front porch of his home is still structurally sound and not in need of maintenance.

In November of 2014, acting on a complaint, the Fairfax County Department of Code Compliance conducted a site visit at Taborek's home, located at 6200 Wayles Street, in Springfield, Virginia, within Fairfax County. The visit resulted in the issuance of a notice of violation under the VMC, dated November 17, 2014. The notice cited sections of the code which had been violated and directed Taborek to take certain actions to correct the violations.

Taborek filed an appeal of the notice to the Fairfax County Board of Building Code Appeals (local appeals board), which conducted a hearing in December of 2014 and ruled to uphold the citation concerning the porch.¹ Taborek further appealed the local appeals board's decision to the Review Board.

III. FINDINGS OF THE REVIEW BOARD

Taborek testified that he deconstructed the side of the porch using a sledge hammer a number of years ago to be able to see underneath the poured concrete porch top and to be able to check the portion of the foundation of his home behind the porch. He did not fill in the hole in the side of the porch or repair the edge of the porch top as he believed the porch was still structurally sound.

¹Two additional violations were in question before the local appeals board, which ruled to uphold one and overturn the other, but Taborek only appeals the citation concerning the front porch to the Review Board.

The pictures of the porch provided by the County and the testimony of the County inspectors clearly show and evidence exposed, rusted reinforcement in the exposed broken edge of the concrete porch top. The edge of the top is also crumbling. The support for the concrete top on the edge is also missing due to the hole created by Taborek.

Taborek argues that it is the burden of the County to provide an engineering evaluation to show that the porch is not structurally sound. The Review Board disagrees. The plain wording of the VMC, in § 103.2 requires buildings to be maintained and kept in good repair. In addition, § 304.10 of the International Property Maintenance Code, the nationally recognized model code incorporated into the VMC, and the section of the VMC cited by the County, states as follows:

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

In this case, there is a lack of repair and maintenance of the porch at the very least, and the deteriorated reinforcing in the exposed broken edge of the concrete porch top and the lack of support under the top caused by the hole Taborek created raises a question of whether it may collapse on that side.

In lieu of restoring the porch to its original condition, Taborek could have it analyzed by a professional engineer to

determine whether it has been structurally compromised, but even if determined to be capable of supporting the imposed loads, the porch still lacks the necessary maintenance to comply with the VMC.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the County's issuance of the notice of violation for Taborek's front porch, and the local appeals board's ratification of the citation, to be, and hereby are, upheld.

s/s

Chairman, State Technical Review Board

August 21, 2015

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.