

VIRGINIA:

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

IN RE: Appeal of John Kania Mitchell Vogel and Karen Anne Mitchell-Smith  
Appeal No. 17-7

**Decision of the Review Board**

Background

The appeal is a further appeal from the City of Alexandria's Building Code Board of Appeals, which upheld a decision of the City that Mr. Vogel and Ms. Mitchell-Smith's rental property was in violation of Va. Admin. Code 13VAC5-63-450 et seq., known as the Virginia Maintenance Code.

The appellants were present for the hearing before the City board, but did not attend the hearing before the Review Board, notwithstanding proper notification of the hearing. Mr. Vogel corresponded that he was in China and in the process of returning home to receive medical treatment resulting from a rappelling incident and Ms. Mitchell-Smith corresponded that she lived in Georgia and did not have electrical power due to hurricane damage.

The Review Board notes that the appellants had an opportunity to submit written arguments and chose to stand on the record produced at the City appeals board hearing.

Findings

The violations cited by the City are very clear and noncontroversial, with pictorial evidence to substantiate the conditions cited. The Virginia Maintenance Code requires existing buildings to be properly maintained to prevent deterioration and unsafe conditions (Va. Admin. Code 13VAC5-63-470 B (Section 103.2)), which states in pertinent part that "[b]uildings and structures shall be maintained and kept in good repair in accordance with the requirements of this code and

when applicable in accordance with the [ Virginia Uniform Statewide Building Code ] under which such building or structure was constructed.” Further provisions of the code address specific aspects of construction and the City found the appellants’ building to be in violation of §§ 304.2 and 304.7 of the International Property Maintenance Code, incorporated into the Virginia Maintenance Code in § 101.2 (Va. Admin. Code 13VAC5-63-450 B). The provisions of these sections are set out below:

304.2 Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall be discharged in a manner to protect the foundation or slab of buildings and structures from the accumulation of roof drainage.<sup>1</sup>

The paint on the exterior wood on the building was flaking and chipping to the point of providing no weather resistance and there were signs of deterioration of the wood. There was no evidence of the exterior wood being of a decay-resistant wood species. Therefore, the Review Board finds that the City was correct in citing the violations of § 304.2.

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<sup>1</sup> Section 304.7 includes a Virginia amendment set out in Va. Admin. Code 13VAC5-63-520 H.

There was a significant hole in the roof of the building and missing flashing at the roof edge and where the roof adjoined windows and walls. Therefore, the Review Board finds that the City was correct in citing the violations of § 304.7.

The appellants submitted written arguments in the proceedings before the City appeals board alleging that the cited violations were invalid since the problems were merely decorative or did not present a health or safety issue to the general public or to neighboring property.

The Review Board disagrees and finds, as stated above, that the lack of maintenance is not merely decorative, and that the code applies equally to all buildings, irrespective of whether a lack of maintenance affects only a building in question or adjoining buildings. See Va. Admin. Code 13VAC5-63-460 A and 13VAC5-63-470 B (Sections 102.1 and 103.2).

Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the notice of violation issued by the City of Alexandria Department of Code Administration relative to the appellants' property at 23 East Linden Street, and the decision of the City of Alexandria's Building Code Board of Appeals concurring with the issuance of that notice, to be, and hereby are, upheld.

  
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Chairman, State Building Code Technical Review Board

Date entered: Nov. 17, 2017