

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Jack D. Singleton  
Appeal No. 18-09

DECISION OF THE REVIEW BOARD

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).

Case History

Jack D. Singleton (Singleton), owner of the property located at 190 West Jefferson Street in the Town of Wytheville, appealed the enforcement action by the Town of Wytheville, Office of the Building Official (Town Building Official) under Part III of the Uniform Statewide Building Code (Virginia Maintenance Code).

In March of 2018, the Town Building Official, in enforcement of the Virginia Maintenance Code (VMC), issued a notice of violation (NOV) to Mr. Singleton for his property located at 190 West Jefferson Street. The notice outlined fifty seven (57) violations of the VMC. The Town Building Official affixed a copy of the NOV on the home of Singleton located at 260 West Jefferson Street; however, the notice was never posted on the structure located at 190 West Jefferson Street. The Town Building Official re-placarded the structure at 190 West Jefferson

Street with a replacement placard. The structure was originally placarded on January 26, 2016. The placard identified the structure as unsafe for habitation.

The local appeals board heard Singleton's appeal on April 11, 2018 and ruled to uphold the decision of the Town Building Official. Singleton then further appealed to the Review Board.

Findings of the Review Board

A. Whether or not the appeal was timely to the local board.

In the Town's written submittal to the Review Board, the Town argued that the appeal was not timely to the local appeals board. The local appeals board heard the appeal and rendered its decision. The Review Board did not agree with the Town that the appeal to the local board was untimely.

B. Whether or not to overturn the decision of the Property Maintenance Official and the local appeals board that violations of the Virginia Maintenance Code Section 105 (Unsafe structures or structures unfit for human occupancy) exist and that the placarding of the structure was proper.

Singleton argued that the violations existed prior to his ownership of the property. He further argued that the Town placarded the property on January 26, 2016 when he was not the owner of the property and that no report was drafted related to the original placarding of the property. Singleton also argued that the placard was misleading and unclear.

The Town argued that the property did fit the description of unsafe structure according to the definitions in section 202 of the VMC. The Town further argued that violations of the VMC section 105 did exist and that the placarding of the structure was proper. The Review Board agreed with the Town that violations exist and the placarding of the structure was proper; however, the Review Board did not agree with the language on the placard.

C. Whether or not to overturn the decision of the Property Maintenance Official and the local appeals board that violations of the Virginia Maintenance Code Section 105 (Unsafe structures or structures unfit for human occupancy) exist and that the securing of the structure was required.

Singleton argued the violations no longer existed due to the installation of fencing on the structure subsequently restricting access to the structure rendering the structure secure. The Town argued that the violations were not satisfied by the installation of the fencing; furthermore, that access to the structure was not secured which was substantiated by Singleton's testimony of people tossing garbage into the structure and removing garbage from the structure. The Review Board agreed with the Town that violations exist and the securing of the property is required.

D. Whether or not to overturn the decision of the Property Maintenance Official and the local appeals board that the remaining violations of the Virginia Maintenance Code listed on the March 26, 2018 Notice of Violation (NOV) exist.

Singleton argued that the remaining violations did not exist as the structure was a block wall and plumbing, electrical, and mechanical violations could not exist. The Town argued that the violations did exist. The Town clarified that they issued the all inclusive NOV at the request of Singleton in an attempt to provide Singleton with a comprehensive list of violations that needed to be addressed to make the structure habitable. The Review Board did not agree with the Town that the remaining violations existed for the structure.

E. Whether or not to overturn the decision of the Property Maintenance Official and the local appeals board that violations of the Virginia Maintenance Code Section 105 (Unsafe structures or structures unfit for human occupancy) exist and that the demolition of the structure was required.

Singleton argued that the structure was secured and as such the demolition of the structure was not required. The Town argued that the structure was not secure and that the Demolition Order was proper; therefore, the structure must be demolished. The Review Board agreed with the Town that the structure was required to be secured; however the Review Board does not agree that the Demolition Order was proper or that demolition of the structure was required.

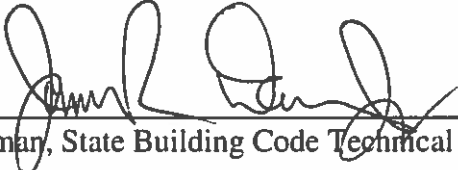
#### Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders as follows:

- A. The decision of the local appeals board that the appeal is timely to be, and hereby is, upheld.
- B. The decision of the Town Building Official and the local appeals board that violations of Section 105 exist and the placarding of the structure to be, and hereby is, upheld with a determination that the placard is improper and that a proper placard be issued. In addition, the Review Board orders the placard to be, and hereby is, remanded to the Town to be re-issued with the proper date and in full conformance with Section 105 of the VMC.
- C. The decision of the Town Building Official and the local appeals board that violations of Section 105 exist and that the structure is required to be secured to be, and hereby is, upheld.
- D. The decision of the Town Building Official and the local appeals board that all of the remaining violations of the VMC listed on the March 26, 2018 NOV exist to be, and hereby is, upheld related to items numbered one through five (1-5) and ten (10) with the determinations that item number one (1) only state unsafe structure, not unfit for human habitation, and reference the date of the new placard to be issued pursuant to Item B of this Final Order and that the notice of violation be re-issued for these items and with the specified corrections herein. The decision of the Town Building Official and the local appeals board that all of the remaining violations of the

VMC listed on the March 26, 2018 NOV exist to be, and hereby is, overturned related to items numbered six through nine (6-9) and 11-57.

E. The decision of the Town Building Official and the local appeals board that violations of Section 105 exist and that the demolition of the structure is required to be, and hereby is, overturned.

  
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Chairman, State Building Code Technical Review Board

Date entered: \_\_\_\_\_November 16, 2018\_\_\_\_\_

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.