

**STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING MINUTES
August 17, 2018
Henrico, Virginia**

Members Present

Mr. W. Shaun Pharr, Esq., Vice-Chairman
Mr. Daniel Crigler
Mr. Alan D. Givens
Mr. Joseph Kessler
Mr. Eric Mays, PE
Ms. Joanne Monday
Ms. Patricia S. O'Bannon
Mr. J. Kenneth Payne, Jr.
Mr. Richard C. Witt
Mr. Aaron Zdinak, PE

Members Absent

Mr. James R. Dawson, Chairman
Mr. Vince Butler
Mr. E. G. Middleton, III

Call to Order

The meeting of the State Building Code Technical Review Board ("Review Board") was called to order at approximately 10:00 a.m. by Secretary Travis Luter.

Roll Call

The roll was called by Mr. Luter and a quorum was present. Mr. Justin I. Bell, legal counsel for the Board from the Attorney General's Office, was also present.

Approval of Minutes

The draft minutes of the June 15, 2018 meeting in the Review Board members' agenda package were considered. Ms. O'Bannon moved to approve the minutes as presented. The motion was seconded by Mr. Witt and passed unanimously with Ms. Monday and Messrs. Mays and Kessler abstaining.

Final Orders

Appeal of Unity Building, LLC. (Pooya Jamalreza)
Appeal No. 17-12:

After review and consideration of the final order presented in the agenda package, Mr. Witt moved to conditionally approve the final order with the editorial change presented by Mr. Payne to remove "*it is unreasonable to believe the homeowner hired a different contractor to perform the work which was listed in the Unity Building LLC contract and on the paid invoices*" and replace it with "*there was no evidence or testimony demonstrating otherwise.*" Ms. Monday seconded the motion and it passed unanimously with Ms. Monday and Messrs. Mays and Kessler abstaining.

A subsequent motion was made by Mr. Witt to give the Attorney General representative, Justin I. Bell, approval to proceed to federal court for relief from the federal bankruptcy stay for Appeal No. 17-12

for Unity Building, LLC. The motion was seconded by Ms. Monday and approved unanimously.

Appeal of Dr. J. Matthew Hogendobler
Appeal No. 17-13:

After consideration of the final order presented in the agenda package, Mr. Crigler moved to approve the final order as written. Mr. Witt seconded the motion and it passed unanimously with Ms. Monday and Messrs. Mays and Kessler abstaining.

Public Comment

Vice-Chairman Pharr opened the meeting for public comment. Mr. Luter advised that Anthony and Ashley Grant had pre-registered to speak. The Grants opted to wait to speak as a party to the KEBCO Enterprises, Inc. appeal during the hearing for that appeal. The Secretary reported no one else had pre-registered. The Vice-Chairman closed the public comment period.

New Business

Appeal of (Timeliness) KEBCO Enterprises, Inc. (Kenneth Bullock);
Appeal No. 18-03

A hearing convened with Vice-Chairman Pharr serving as the presiding officer. The issue to be resolved was whether KEBCO Enterprises, LLC. (Kenneth Bullock) filed a timely appeal of enforcement action under Part I of the Virginia Uniform Statewide Building Code (the Virginia Construction Code) by the City of Suffolk concerning the structure located at 4281 Cole Avenue in the City of Suffolk.

The following persons were sworn in and given an opportunity to present testimony:

Stanley Skinner
Susan A. Gardner

Also present was:

Kalli Jackson, Esq., legal counsel for the City of Suffolk

Mr. Luter informed the Review Board members that KEBCO Enterprises, Inc. had been properly notified of the hearing; however, they were not in attendance.

Grant spoke at the conclusion of testimony and reiterated the fact that violations do exist on the home located at 4281 Cole Avenue in the City of Suffolk.

After testimony concluded, Vice-Chairman Pharr closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of (Timeliness) KEBCO Enterprises, Inc. (Kenneth Bullock); Appeal No. 18-03

After deliberations, Mr. Payne moved to dismiss the appeal as untimely. The motion was seconded by Mr. Crigler and passed unanimously.

Appeal Joshua and Makiba Gaines; Appeal No. 18-05:

A request for a continuance by the City of Norfolk was presented to Vice-Chairman Pharr. Vice-Chairman Pharr denied the request and proceeded with the hearing.

A hearing convened with Vice-Chairman Pharr serving as the presiding officer. The appeal involved citations under Part III of the Virginia Uniform Statewide Building Code (the Virginia Maintenance Code) related to the home owned by Joshua and Makiba Gaines located at 2410 West Avenue in the City of Norfolk.

The following persons were sworn in and given an opportunity to present testimony:

Joshua Gaines
Makiba Gaines
Sherry Johnson
Rick Fortner

Also present was:

Adam Melita, Esq., legal counsel for the City of Norfolk

The following exhibit was submitted by Joshua and Makiba Gaines, without objection, to supplement the Review Board member's agenda package.

Appellant Exhibit A – Invoice from Michael and Sons indicating why they would not enter the property.

After testimony concluded, Vice-Chairman Pharr closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of Joshua and Makiba Gaines; Appeal No. 18-05:

After deliberation Mr. Witt moved to uphold the Notice of Violation by the Building Official and the decision of the local board on the placarding of the property due to the cited violations to VMC sections 603.1 and 605.1, the City's unwillingness to re-inspection, and the decision to require the installation of the heating system. The motion was seconded by Mr. Mays.

After further deliberation Mr. Witt agreed to withdraw his earlier motion and to separate the motions for clarity. Mr. Witt then moved to Remand the placarding of the property back to the locality to re-issue the placard in full conformance with Section 105 of the Virginia Maintenance Code with a strong suggestion to add the following language to the placard: *"After a structure is placarded, entering the structure shall be prohibited except as authorized by the code official to make inspections, to perform required repairs or to demolish the structure."* The motion was seconded by Mr. Mays and passed with Ms. Monday and Messrs. Crigler and Zdinak voting in opposition.

Mr. Witt moved to uphold the Building Official and the local board on the issuance of the Notice of Violation for the cited violations to VMC sections 603.1 and 605.1 and the decision to require the installation of the heating system. The motion was seconded by Mr. Mays and passed unanimously.

Mr. Mays moved the item #2 of the Gaineses specific statement of relief sought which read: *"the City of Norfolk failed to officially re-inspect the property and issue a new notice of violation and correction notice after the Gaineses ameliorated defects previously*

cited under §§ 603.1 and 605.1" was moot. The motion was seconded by Mr. Witt and passed unanimously.

Interpretations

An interpretation request from William C. Yeager of Montgomery County was considered concerning the use of a farm building for a brewery.

Mr. Luter advised the Board of their policy of not hearing an interpretation when a pending appeal or potential appeal situation is possible.

After a brief discussion, the board decided not to issue an interpretation due to potential for an appeal situation.

Secretary's Report

Mr. Luter informed the board members that a letter and certificate of appreciation had been assembled for Mr. Keith Brower who had resigned from the Review Board earlier this year. Mr. Luter further stated that the letter and certificate would be mailed to Mr. Brower.

Mr. Luter informed the board members that Ms. Cindy Davis, Deputy Director of The Division of Building and Fire Regulation, had tasked him with researching the historical minutes of the Review Board in search of the policies the Review Board had established in the past with the intent to put the policies into a formal written policy format. The Board agreed it was a great idea and directed Mr. Luter to proceed with drafting all of the Board policies found during his research and bringing them to the Board for review and approval. Mr. Luter indicated he planned to have them ready by the September 14, 2018 meeting if possible, but certainly no later than the November 16, 2018 in an effort to have them in place for the start of 2019. The board members agreed that was a good plan.

Mr. Luter informed the Board that the next meeting would be September 14, 2018 and currently there were three cases on the docket.

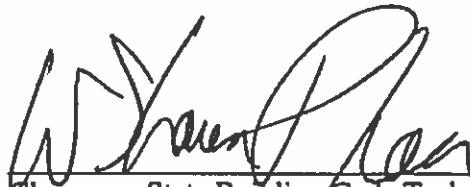
Mr. Justin Bell, legal counsel from the Attorney General's office, gave the Review Board members an overview of the status of appeals further appealed to court.

Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 3:30 p.m.

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Approved: October 12, 2018



Chairman, State Building Code Technical Review Board



Secretary, State Building Code Technical Review Board