

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of William and Valerie Beverley
Appeal No. 05-4

Decided: November 18, 2005

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 the Virginia Uniform Statewide Building Code ("USBC") and other regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. Enforcement of the USBC in other than state-owned buildings is by local city, county or town building departments. See § 36-105 of the Code of Virginia. An appeal under the USBC is first heard by a local board of building code appeals and then may be further appealed to the Review Board. See § 36-105 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

This dispute arises from the construction of a single-family dwelling located at 315 Oak Ridge Drive in Newport News. The dwelling was constructed by William P. Duguay, Inc. ("Duguay") and sold to William and Valerie Beverley (the "Beverleys").

In October of 2004, the City of Newport News USBC official (the "building official") was asked by the Beverleys to review a home inspection report and make determinations concerning whether there were USBC violations present.

The building official found three violations and notified Duguay. The Beverleys believed other violations were present and filed an appeal to the City of Newport News Board of Building Code Appeals ("City USBC board").

The City USBC board conducted several proceedings on the matter and issued an order in June of 2005 upholding the building official's determination that no other violations were present.

The Beverleys further appealed to the Review Board.

In processing the appeal, Review Board staff conducted an informal fact-finding conference in September of 2005. Representatives of Duguay, the Beverleys and the building

official were present. The conference resulted in the stipulation of six issues for resolution by the Review Board.

The hearing before the Review Board was then conducted in November of 2005 and all parties were in attendance.

III. FINDINGS OF THE REVIEW BOARD

With respect to the issue of whether the flashing of the front porch roof where it meets the brick wall is a USBC violation, the Review Board finds that flashing is present and there is no evidence of leakage or failure of the flashing.

With respect to the issue of whether a USBC violation is present due to the lack of flashing at the base of the brick veneer or due to the brick ledge on the foundation not being filled solid, the Review Board finds that evidence was presented substantiating that a vinyl flashing was present at the base of the brick veneer and that insufficient evidence was presented to establish a USBC violation relative to the brick ledge.

With respect to the issue of whether the presence of mold constitutes a violation of the USBC, the Review Board finds that the presence of mold suggests that there are problems with the construction of the dwelling, however, the mold itself does not constitute a violation of the USBC.

With respect to the issue of whether the termination of the foundation drain pipe is in violation of the USBC, the Review

Board finds that (i) the pipe is terminated at a sufficient distance and grade from the dwelling so as to function properly and (ii) insufficient evidence was presented to establish that it was not otherwise functioning properly.

With respect to the issue of whether the grading of the lot is in violation of the USBC, the Review Board finds the pictorial evidence submitted establishes that the slope of the exterior grade adjacent to certain portions of the dwelling does not meet the required fall and therefore a USBC violation exists.

With respect to the issue of whether the thickness of the mortar joints constitutes a USBC violation, the Review Board finds that there is no minimum or maximum thickness specified in the USBC for the mortar joints in brick veneer wall covering construction and that the brick veneer installed appears to meet standards of accepted practice.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of the City USBC board to be, and hereby is, upheld except with respect to the issue of the grading of the lot, for which the Review Board orders the decision of the City USBC board to be,

