AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, October 16, 2026 – 10:00am

Virginia Housing Center
4224 Cox Road Glen Allen, Virginia 23260

I. Roll Call **(TAB 1)**

II. Approval of September 18, 2026 Minutes **(TAB 2)**

III. Public Comment

IV. Appeal Hearing **(TAB 3)**

In Re: Todd Ferguson
Appeal No 26-03

V. Appeal Hearing **(TAB 4)**

In Re: 1321 Porter St. LLC (Emily Pinchbeck)
Appeal No 26-10

VI. Appeal Hearing **(TAB 5)**

In Re: 1321 Porter St. LLC (Emily Pinchbeck)
Appeal No 26-11

VII. Appeal Hearing **(TAB 6)**

In Re: Brian McCormack (MHC Meadows of Chantilly LLC)
Appeal No 26-12

VIII. Interpretation Request No. 08-26 **(TAB 7)**

In Re: Kris Bridges (City of Martinsville)

*2021 VCC 119*

**Question 1:** Is an appeal application considered to be properly submitted by VCC Section 119.5 if the requisite fee allowed in VCC Section 119.1 has not been paid?

IX. Secretary's Report

a. November 20, 2026 meeting update
b. Legal updates from Board Counsel

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

**James R. Dawson, Chair**
(Virginia Fire Chiefs Association)

**W. Shaun Pharr, Esq., Vice-Chair**
(The Apartment and Office Building Association of Metropolitan Washington)

**Vince Butler**
(Virginia Home Builders Association)

**J. Daniel Crigler**
(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

**Alan D. Givens**
(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

**Christina Jackson**
(Commonwealth at large)

**Joseph A. Kessler, III**
(Associated General Contractors)

**R. Jonah Margarella, AIA, NCARB, LEED AP**
(American Institute of Architects Virginia)

**Eric Mays**
(Virginia Building and Code Officials Association)

**Joanne D. Monday**
(Virginia Building Owners and Managers Association)

**James S. Moss**
(Virginia Building and Code Officials Association)

**Elizabeth C. White**
(Commonwealth at large)

**Aaron Zdinak, PE**
(Virginia Society of Professional Engineers)

**Vacant**
(Electrical Contractor)

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**STATE BUILDING CODE TECHNICAL REVIEW BOARD**
**MEETING MINUTES**
**September 18, 2026**
**Virtual Meeting**
**https://teams.microsoft.com/meet/252907045883684?p=kLr6ZfH93o7CqJExM0**

| Members Present | Members Absent |
|---|---|
| Mr. James R. Dawson, Chair | Mr. Vince Butler |
| Mr. Daniel Crigler | Mr. Alan Givens |
| Ms. Christina Jackson | Mr. R. Jonah Margarella |
| Mr. Joseph Kessler | Ms. Joanne Monday |
| Mr. Eric Mays, PE | Mr. W. Shaun Pharr, Esq., Vice-Chair |
| Mr. James S. Moss | Ms. Elizabeth White |
| Mr. Aaron Zdinak, PE | |

| | |
|---|---|
| Call to Order | The virtual meeting of the State Building Code Technical Review Board ("Review Board") was called to order at approximately 10:00 a.m. by Secretary Luter. |
| Roll Call | The roll was called by Mr. Luter and a quorum was present. Mr. Justin I. Bell, legal counsel for the Review Board from the Attorney General's Office, was also present. |
| Approval of Minutes | The draft minutes of the August 21, 2026 meeting in the Review Board members' agenda package were considered. Mr. Moss moved to approve the minutes as presented. The motion was seconded by Mr. Zdinak and passed with Messrs. Crigler and Kessler abstaining. |
| Interpretation | Approval of Interpretation 06/2026:<br><br>After review and consideration of Interpretation 06/2026, presented in the Review Board members' agenda package, Mr. Mays moved to approve Interpretation 06/2026 as presented. The motion was seconded by Mr. Zdinak and passed with Mr. Crigler abstaining. |
| Public Comment | Chair Dawson opened the meeting for public comment. Secretary Luter advised that no one had signed up to speak. Chair Dawson closed the public comment period. |
| Secretary's Report | Mr. Luter informed the Review Board of the current caseload for the upcoming meetings scheduled for October 16, 2026 and November 20, 2026. |

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| | |
|---|---|
| | Mr. Bell had no legal updates to provide the Review Board members. |
| Adjournment | There being no further business, the meeting was adjourned by proper motion at approximately 10:13 a.m. |

Approved: October 16, 2026

_____

Chair, State Building Code Technical Review Board

_____

Secretary, State Building Code Technical Review Board

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Todd Ferguson
Appeal No. 26-03

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Todd Ferguson
Appeal No. 26-03

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On April 3, 2024, Todd Ferguson (Ferguson) applied for a building permit to install a used manufactured home on the property located at 5405 Whitmill School Road, in Pittsylvania County (County), to replace the manufactured home that burned on December 17,2023. The County denied his application for building permit citing excavation of the septic system distribution box, submittal of a Safe, Adequate, and Proper (SAP) Report from the Virginia Department of Health (VDH), and payment of all delinquent property taxes.

2. Ferguson requested an appeal to the local appeals board for the inaction of the County to issue his requisite building permit in May of 2024. The appeal was administratively denied by the County based on the requirements listed in Item #1 above and payment of the $200 local appeals fee. Ferguson informed the County that he was indigent and could not afford the fee. Ferguson requested an indigent waiver or good cause exception for the local appeals fee which was denied by County.

3. On May 15, 2026, after *"the 25-month delay, shifting county demands, and arbitrary enforcement barriers"* Ferguson further appealed to the Review Board.

4. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the

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staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the appeals hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether the appeal fee is required to be paid in order for the appeal to be considered as filed, processed, and heard by the local appeals board.

2. Whether excavation of the septic system distribution box and submittal of a SAP Report from the Virginia Department of Health (VDH) is required to issue the requisite permit.

3. Whether a building permit can be denied due to delinquent property taxes.

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# Basic Documents

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**COMMONWEALTH OF VIRGINIA**
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
**State Building Codes Office and Office of the State Technical Review Board**
**Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219**
**Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov**

# APPLICATION FOR ADMINISTRATIVE APPEAL

**RECEIVED**
**May 15, 2026** WTZ
**OFFICE OF THE REVIEW BOARD**

Regulation Serving as Basis of Appeal (check one):

- ☑ Uniform Statewide Building Code
  - ☑ Virginia Construction Code
  - ☐ Virginia Existing Building Code
  - ☐ Virginia Maintenance Code
- ☐ Statewide Fire Prevention Code
- ☐ Industrialized Building Safety Regulations
- ☐ Amusement Device Regulations

Appealing Party Information (name, address, telephone number and email address):

Todd Ferguson (See Attachment 1)

Opposing Party Information (name, address, telephone number and email address of all other parties):

Pittsylvania County See Attachment 2)

Additional Information (required by the applicable code to be submitted with this application)

- Copy of enforcement decision being appealed See Exhibit A and B
- Copy of the decision of local government appeals board (if applicable) N/A

Additional Information (to be submitted with this application)

- Statement of specific relief sought (See Attachment 3)

Statement of FACTS (Attachment 4)

CERTIFICATE OF SERVICE

I hereby certify that on the 18TH day of MAY, 2026 a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

**Note:** This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

Name of Applicant: Todd Ferguson
(please print or type)

# TYPED ATTACHMENTS

- **ATTACHMENT 1: APPEALING PARTY INFORMATION**
  - *Contains Appellant contact details and pro se status.*
- **ATTACHMENT 2: OPPOSING PARTY INFORMATION**
  - *Lists current and former Pittsylvania County building officials and legal counsel.*
- **ATTACHMENT 3: STATEMENT OF SPECIFIC RELIEF SOUGHT**
  - *Outlines the 5 formal orders requested from the State Technical Review Board.*
- **ATTACHMENT 4: COMPREHENSIVE STATEMENT OF FACTS & ADMINISTRATIVE ABUSE**
  - *Chronological narrative detailing the 25-month delay, shifting county demands, and arbitrary enforcement barriers.*

**ATTACHMENT 1: APPEALING PARTY INFORMATION**

## 1. Appellant Details

- **Full Name:** Todd Ferguson
- **Legal Status:** Pro Se Litigant / Property Owner
- **Subject Property Address:** 5405 Whitmill School Road, Dry Fork, VA 24549
- **Mailing Address:** 5405 Whitmill School Road, Dry Fork, VA 24549
- **Primary Telephone:** 540-355-9770
- **Email Address:** twferguson11@gmail.com

## 2. Designated Representative

- **Representative Name:** N/A (Appellant is proceeding *pro se*)

## ATTACHMENT 2: OPPOSING PARTY INFORMATION

### 1. Local Government Agency

- **Agency Name:** Pittsylvania County Department of Community Development & Building Inspections
- **Physical Address:** 11 Court Place, Chatham, VA 24531
- **Mailing Address:** P.O. Box 426, Chatham, VA 24531
- **Main Office Telephone:** 434-432-7755

### 2. Named Local Officials (Current & Former)

- **Current Building Official:** Otis Vaughan, Building Official
  *(Responsible for current administration, continued enforcement of unauthorized septic triggers, and ongoing failure to act from mid-2025 to present.)*
- **Former Building Official:** Jason Inman, Former Building Official
  *(Responsible for initial application obstruction, shifting requirements, and interception/denial of the May 2024 local appeal.)*
- **Former Community Development Director:** Emily Ragsdale, Former Director
  *(Responsible for oversight and administrative obstruction during the initial 2024 appeal attempts.)*

### 3. Local Legal Counsel

- **Agency Entity:** Office of the County Attorney, Pittsylvania County
  *(Served as the continuous legal entity responsible for advising the department during the 25-month administrative delay.)*
- **Former County Attorney:** Vaden Hunt, Esq.
  *(County Attorney of record during the initial 2024–2025 permit actions and appeal blockage.)*
- **Mailing Address for Service:** P.O. Box 426, Chatham, VA 24531
- **Telephone:** 434-432-7755

**From:** todd ferguson
**To:** Luter, Travis (DHCD)
**Date:** Friday, May 15, 2026 1:54:04 PM
**Attachments:** Jason"s first letter to me june.pdf
Second letter from Jason Inum.pdf

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Preview attachment Mr. Todd Ferguson 5-1-2026.pdfPreview attachment Mr. Todd Ferguson 5-1-2026.pdf

Mr. Todd Ferguson 5-1-2026.pdf
81 KB

**Dear Mr. Luter,**

I am Todd Ferguson, a pro se litigant, formally requesting that the State Building Code Technical Review Board (SBCTRB) assume jurisdiction over my building permit application for 5405 Whitmill School Road. This request is based on a 25-month "Failure to Act" by Pittsylvania County and the imposition of unauthorized financial barriers to my due process.

**1. Timeline of Administrative Failure to Act** The local building department has maintained a state of "incomplete" status on my permit for over two years, spanning two different administrations:

- **April 3, 2024:** Permit application initiated with **Jason Inman** for a like-for-like mobile home replacement following a December 2023 fire.
- **May 2024:** I hand-delivered a formal appeal to the local office. Under **Jason Inman's** watch, this appeal was intercepted and ignored.
- **Mid-2025: Otis Vaughan** assumed the role of Building Official and has continued the policy of inaction and obstruction regarding the original appeal and permit.
- **May 2026:** The permit remains unissued, and no local board hearing has been convened.

**2. Misapplication of Septic "Triggers"** The county is withholding my permit by demanding a destructive "Safe, Adequate, and Proper" (SAP) report. However, my project does not pull any legal "trigger" for Health Department intervention:

- **Vested Rights (Va. Code § 15.2-2307):** As a fire victim, I have a vested right to rebuild on my existing footprint.
- **No Nexus:** There is no increase in sewage flow and no change in the building footprint. Under the USBC, a building official lacks the authority to demand septic excavation for purely structural replacements (similar to replacing rafters or windows).
- **Standard of Inspection (12 VAC 5-610-350):** The county is demanding excavation of a distribution box without evidence of failure, violating the "visual" inspection standard for existing systems.

**3. Constitutional Barrier to Appeal** The county has blocked my access to the Local Board of Building Code Appeals by demanding a $200 fee. As a fire victim with documented losses of

**$47,500**, the refusal to provide an indigent waiver or a "good cause" exception is a **Constitutional Procedural Due Process violation**. A local fee schedule cannot be used to extinguish a state-mandated right to appeal.

**4. Documented Financial Waste** The county's failure to act has caused significant financial injury:

- **Alternative Housing (Rent):** $7,500 (  $00/  mo x 25).
- **Land Carrying Costs:** $7,50  0 ($00/  mo x 25).
- **Mobile Home Storage:** $2,500 (  $00/  mo x 25).

My home is currently deteriorating in storage while the local office refuses to perform a simple site visit.

Sincerely,

**Todd Ferguson** 540-355-9770

Documents Submitted
by
Todd Ferguson

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**ATTACHMENT 4: COMPREHENSIVE STATEMENT OF FACTS & ADMINISTRATIVE ABUSE**

**1. The Triggering Event and Vested Property Rights** In December 2023, the residential structure located at 5405 Whitmill School Road was destroyed by an accidental fire. Under **Va. Code § 15.2-2307(F)**, this disaster established the Appellant's immediate vested right to replace the structure with a like-for-like mobile home on the exact same footprint.

**2. Chronology of Arbitrary and Capricious Hurdles ("Moving the Goalposts")** Rather than processing a routine structural replacement permit for a displaced citizen, the Pittsylvania County Department of Building Inspections initiated a 25-month campaign of shifting, unauthorized administrative requirements:

- **The Contractor/Affidavit Barrier:** Upon the initial application on **April 3, 2024**, the building official (Jason Inman) arbitrarily halted the process. The department claimed the Appellant could not pull the permit as a *pro se* owner-developer, forcing unnecessary delays regarding licensing and specialized affidavits.
- **The Septic Overreach:** Once the Appellant met the initial structural demands, the county completely changed its requirements. The building department refused to review the application further until the Health Department intervened, demanding a destructive and invasive "Safe, Adequate, and Proper" (SAP) septic evaluation **(See Exhibit A: June 2024 County Letter, and Exhibit B: August 2024 County Letter)**.
- **Exemption from Septic Triggers:** The county's demand for septic excavation lacks any legal basis or nexus under **12 VAC 5-610-350**. The replacement structure features an identical footprint and zero increase in sewage flow or occupancy. The existing system is fully functional with documented pump-out records. The county treated a structural replacement like a brand-new development, imposing an unnecessary financial and physical burden on a fire victim.

**3. The Interception of Due Process and the $200 Fee Barrier** In **May 2024,** seeking to halt these moving targets, the Appellant hand-delivered a formal local administrative appeal to Emily Ragsdale and the building department staff. The county handled this appeal in an entirely capricious manner:

- The agency failed to log, process, or forward the paperwork to convene a Local Board of Building Code Appeals (LBBCA) hearing.
- The county conditioned the Appellant's statutory right to an appeal on a $200 local fee, while simultaneously failing to provide a standard indigent waiver process—effectively creating a "pay-to-play" barrier to due process **(See Exhibit C: May 2024 Local Appeal Declaration)**.

**4. Documented Pattern of Clerical Incompetence** The county's defense that the Appellant "failed to follow procedures" or that internal records are missing is completely dismantled by their own administrative chaos. Recently, when a structural permit was processed for a garage on this exact parcel of land, the county issued the legal permit under the name **'Vance Burnett'** instead of the actual deed-holder and applicant, Todd Ferguson **(See Exhibit D: Garage Permit)**. This severe clerical error proves that the Department of Building Inspections does not maintain accurate ownership, application, or administrative records.

**5. 2026 Administration Shifting Targets and Unauthorized Denials** In early 2026, the Appellant contacted current Building Official Otis Vaughan to request the issuance of the building permit and a temporary electrical power connection hookup **(See Exhibit E: 2026 Appellant Request)**. In response, Official Vaughan created entirely new, extra-statutory barriers to avoid issuing the permit **(See Exhibit F: 2026 Vaughan Denial)**:

- **The Timeliness Pretext:** Official Vaughan claimed the Appellant was barred because "two years" had passed since the fire. This assertion ignores the fact that the application has been pending since April 3, 2024, and the 25-month delay is a direct result of the county's own failure to act and illegal fee barriers.
- **The Tax Pretext:** Official Vaughan further claimed the permit could not be reviewed due to alleged delinquent property taxes. Under the Virginia

USBC, a building official has no legal authority to enforce local tax collection or condition a safety/structural permit on tax status.

**6. Continuous Failure to Act** In mid-2025, Otis Vaughan assumed the role of Building Official and inherited this unfinalized permit and blocked appeal. Rather than correcting the file, the department maintained its policy of inaction. Internal personnel turnover does not absolve the agency of its continuous liability. For 25 months, the county has used unauthorized, shifting demands to freeze the Appellant's application, resulting in a textbook **Failure to Act** under **USBC § 119.5**.

# MASTER LIST OF SUPPORTING EXHIBITS

- **EXHIBIT A:** County Department of Building Inspections Demand Letter (Dated June 2024).

- **EXHIBIT B:** County Department / Health Department Joint Demand Letter (Dated August 2024).

- **EXHIBIT C:** Sworn Written Declaration of May 2024 Hand-Delivered Local Appeal Attempt.

- **EXHIBIT D:** Certified Copy of Structural Garage Permit #XXXX erroneously issued to Vance Burnett for Parcel ID #XXXX.

- **EXHIBIT E:** Copy of 2026 Written Request to Official Otis Vaughan for Permit Issuance and Temporary Power Hookup.

- **EXHIBIT F:** Copy of 2026 Written Denial Letter from Official Otis Vaughan citing tax delinquency and timeliness pretexts.

A

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

June 4, 2024

Todd Ferguson
749 F C Beverly Road
Dry Fork, VA 24549

Sent Certified: 7022 2410 0003 0316 0768, also by USPS.

**RE:** Property GPIN # 1480-73-2976
5405 Whitmell School Road
Dry Fork, VA 24549

To Whom It May Concern:

This letter is to serve as notice that building permit number S24-04-31820 will be approved for a temporary source of power as stated in the 2018 International Residential Code (IRC) Section R107.3. A 100-amp temporary power supply shall be constructed to 2017 National Electrical Code (NEC) Article 590 and its use shall comply with 2017 NEC Article 590.3 (A)(D). This temporary power supply shall be active for the 180 days the building permit is valid per International Residential Code (IRC) Section R105.5. This permit was obtained on April 08, 2024, and will expire on Saturday October 5, 2024. Because temporary wiring installations may not meet all the requirements for a permanent installation due to the modifications permitted by Article 590, all temporary wiring not only must be disconnected but also removed from the building, structure, or other location on or before October 5, 2024. This permit may be suspended or revoked per 2018 International Residential Code (IRC) Section R105.6 if there exists any violation of any ordinance or regulation or any of the provisions of the building code. This shall also extend to the disconnection of temporary power if it is used for any other purpose than what is intended per 2017 NEC Article 590.3(A). Please also be aware that per the Pittsylvania County Code § 35-74. Accessory and Temporary Buildings, accessory structures are only allowed as an accessory to a principle use in residential districts.

An application was also submitted on April 03, 2024, for the installation of a 1991 singlewide manufactured home. Per International Residential Code (IRC) Section R105.3.2, the application will expire on September 30, 2024. If you would like to pursue this application, please recheck the VIN# you provided (NCFLM41A22054VO). This VIN number does not show as valid with the Department of Motor Vehicles. If this number is correct, please provide this office with the title stating this. You will also need to provide this office with a copy of the permit for a safe, adequate, and proper (SAP) to ensure that sewage treatment is available per Code of Virgina (COV) Title 32.1. Health, Chapter 6. Environmental Health Services. The SAP can be obtained from the Virgina Department of Environmental Health located at located at 200 H.G. McGhee Drive, Chatham, VA 245431. You may also contact them at (434) 433-3544.


Jason Inman, Code Official
jason.inman@pittgov.org

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PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

Dr. Scott Spillmann and Wesley Marshall with the Virginia Department of Health are willing to make the following concessions regarding the SAP:

1. Waive the $150.00 application fee for the Safe, Adequate, and Proper (SAP) septic system inspection.
2. They will allow you to have your septic tank open for inspection, without having to have it pumped, and uncover and open the Distribution Box for inspection. This would allow them to examine the Tank to determine the likelihood of there being a leak. If it is leaking for any reason, the effluent level would be low, or the effluent would be gone from the tank leaving only sludge and solids in the bottom. Effluent standing in the Distribution Box would be an indication of a failing septic field or a blockage, either of which would require correction.

If there is no indication of failure or damaged components to the septic system, they would issue the SAP report, thus allowing for the county to issue your building permit.

Once you have obtained this building permit, the inspection schedule is listed below and has been modified to accommodate your request for permanent electrical service at the location.

1. This first inspection will consist of footings, blocking and anchors of the dwelling and permanent electrical service.
2. Plumbing installation. This shall consist of waste line connections from the dwelling to the approved waste collection system. Water lines can also be inspected at this time if completed.
3. Deck footings. Deck framing can also be inspected at this time if construction has begun.
4. Any other inspection that may be required by code.
5. Final
    a. Driveway installation must meet Pittsylvania County Ordinance.
    b. All disturbed areas of soil must be covered in seed and straw.
    c. All construction debris must be removed from the property.
    d. Structure must be ready of occupancy.
        i. All lights and receptacles will be inspected to ensure they are working properly.
        ii. All smoke detectors will be checked.
        iii. All plumbing connections, drains, and water lines will be checked to ensure there are no leaks.
        iv. The heating system will be inspected.
        v. The structural integrity of the dwelling will be checked.
        vi. Decks will be checked for structural integrity.
        vii. Any other inspection that may be required by code.

2018 IRC SECTION R105.3.2 TIME LIMITATION OF APPLICATION. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.


Jason Inman, Code Official
jason.inman@pittgov.org

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PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

2018 IRC SECTION R105.5 EXPIRATION. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance or after commencement of work if more than 180 days pass between inspections. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

2018 IRC SECTION R105.6 SUSPENSION OR REVOCATION. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

2018 IRC SECTION R107.3 TEMPORARY POWER. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in NFPA 70.

2017 NEC ARTICLE 590.3 (A) DURING THE PERIOD OF CONSTRUCTION. Temporary electric power and lighting installations shall be permitted during the period of construction, remodeling, maintenance, repair, or demolition of buildings, structures, equipment, or similar activities. (D) REMOVAL. Temporary wiring shall be removed immediately upon completion of construction or purpose for which the wiring was installed.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-74. ACCESSORY AND TEMPORARY BUILDINGS. (1) Intent. Special requirements are designed for accessory and temporary buildings to ensure ample access for emergency vehicles, maintain the effectiveness of rear and side yard requirements and insure accessory structures remain secondary in function to the main building. (2) Accessory Buildings. The location of accessory buildings and uses in residential districts must meet the following restrictions: a. Where an accessory building is attached to the main building, a substantial part of one (1) wall of the accessory building shall be an integral part of the main building or such accessory building shall be attached to the main building in a substantial manner by a roof; and therefore, such attached accessory building shall comply in all respects with the requirements applicable to the main building. b. A detached accessory building shall not be closer than fifteen (15) feet to the main building or rear lot line. Accessory building shall not be closer to a lot line than the setback Line for side yards for the district in which the lot is located. Additionally, no building housing livestock shall be placed within two hundred (200) feet of a lot line located within or abutting any institutional, residential, or business district. c. A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard and not to exceed maximum lot coverage (by percent) per the district involved. d. No detached accessory building may be located in the front yard or a lot.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-81. SITE REQUIREMENTS FOR OFF-STREET PARKING. All off-street parking shall be laid out, constructed, and maintained in accordance with the following requirements: (4) Access to off-street parking facilities from public streets shall meet requirements of Section 33.1-198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of Entrances to State Highways and be approved by the Resident Engineer of the Virginia Department of Transportation.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-184. MINIMUM OFF-STREET PARKING SPACES. PARKING REQUIREMENTS FOR ALL DISTRICTS. Two (2) off-street parking spaces shall be required on each building lot. Parking space shall be rectangular with one (1) dimension at least ten (10) feet in length and the other dimension at least twenty (20) feet length and/or a total of two hundred (200) square feet.


Jason Inman, Code Official
jason.inman@pittgov.org

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PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

If you have any questions, please contact me.

Respectfully,

Jason Inman
Code Official

c: Dave Arnold, Assistant County Administrator
Emily S. Ragsdale, Director of Community Development
Dr. Scott Spillmann, Director VDH
Jessica Pearce, Environmental Health Supervisor
Wesley Marshall, Environmental Health Manager Sr, VDH
Kelly Waller, Environmental Health Supervisor

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PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

August 23, 2024

Todd Ferguson
749 F C Beverly Road
Dry Fork, VA 24549

Sent Certified: 7022 2410 0003 0316 0874, also by USPS.

**RE:** Property GPIN # 1480-73-2976
5405 Whitmell School Road
Dry Fork, VA 24549

Mr. Ferguson:

This letter is to serve as notice that building permit number S24-04-31820 will be approved for a temporary source of power as stated in the 2018 International Residential Code (IRC) Section R107.3. A 100-amp temporary power supply shall be constructed to 2017 National Electrical Code (NEC) Article 590 and its use shall comply with 2017 NEC Article 590.3 (A)(D). This temporary power supply shall be active for the 180 days the building permit is valid per International Residential Code (IRC) Section R105.5. This permit was obtained on April 08, 2024, and will expire on Saturday October 5, 2024. Because temporary wiring installations may not meet all the requirements for a permanent installation due to the modifications permitted by Article 590, all temporary wiring not only must be disconnected but also removed from the building, structure, or other location on or before October 5, 2024. This permit may be suspended or revoked per 2018 International Residential Code (IRC) Section R105.6 if there exists any violation of any ordinance or regulation or any of the provisions of the building code. This shall also extend to the disconnection of temporary power if it is used for any other purpose than what is intended per 2017 NEC Article 590.3(A). Please also be aware that per the Pittsylvania County Code § 35-74. Accessory and Temporary Buildings, accessory structures are only allowed as an accessory to a principle use in residential districts.

An application was also submitted on April 03, 2024, for the installation of a 1991 singlewide manufactured home. Per International Residential Code (IRC) Section R105.3.2, the application will expire on September 30, 2024. If you would like to pursue this application, please recheck the VIN# you provided (NCFLM41A22054VO). This VIN number does not show as valid with the Department of Motor Vehicles. If this number is correct, please provide this office with the title stating this. You will also need to provide this office with a copy of the permit for a safe, adequate, and proper (SAP) to ensure that sewage treatment is available per Code of Virgina (COV) Title 32.1. Health, Chapter 6. Environmental Health Services. The SAP can be obtained from the Virgina Department of Environmental Health located at located at 200 H.G. McGhee Drive, Chatham, VA 245431. You may also contact them at (434) 433-3544.


Jason Inman, Code Official
jason.inman@pittgov.org

B

PITTSYLVANIA COUNTY, VIRGINIA

**COMMUNITY DEVELOPMENT**
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

You have the right to appeal this Building Official's decision to the Local Board of Building Code Appeals as provided for in Section 119 of the Virginia Construction Code, and in Chapter 4, Article 3, of the Pittsylvania County Code. A written request for such an appeal shall be made to the County Building Official (address contained in the letterhead) and filed with this Office within thirty (30) calendar days from the date of this notice. At the time of filing, a fee of two hundred dollars ($200.00) shall accompany the appeal request. The decision of the Building Official shall be final and unappealable if not appealed within 30 (thirty) days.

Dr. Scott Spillmann and Wesley Marshall with the Virginia Department of Health are willing to make the following concessions regarding the SAP:

1. Waive the $150.00 application fee for the Safe, Adequate, and Proper (SAP) septic system inspection.
2. They will allow you to have your septic tank open for inspection, without having to have it pumped, and uncover and open the Distribution Box for inspection. This would allow them to examine the Tank to determine the likelihood of there being a leak. If it is leaking for any reason, the effluent level would be low, or the effluent would be gone from the tank leaving only sludge and solids in the bottom. Effluent standing in the Distribution Box would be an indication of a failing septic field or a blockage, either of which would require correction.

If there is no indication of failure or damaged components to the septic system, they would issue the SAP report, thus allowing for the county to issue your building permit.

Once you have obtained this building permit, the inspection schedule is listed below and has been modified to accommodate your request for permanent electrical service at the location.

1. This first inspection will consist of footings, blocking and anchors of the dwelling and permanent electrical service.
2. Plumbing installation. This shall consist of waste line connections from the dwelling to the approved waste collection system. Water lines can also be inspected at this time if completed.
3. Deck footings. Deck framing can also be inspected at this time if construction has begun.
4. Any other inspection that may be required by code.
5. Final
    a. Driveway installation must meet Pittsylvania County Ordinance.
    b. All disturbed areas of soil must be covered in seed and straw.
    c. All construction debris must be removed from the property.
    d. Structure must be ready of occupancy.
        i. All lights and receptacles will be inspected to ensure they are working properly.
        ii. All smoke detectors will be checked.
        iii. All plumbing connections, drains, and water lines will be checked to ensure there are no leaks.
        iv. The heating system will be inspected.
        v. The structural integrity of the dwelling will be checked.
        vi. Decks will be checked for structural integrity.
        vii. Any other inspection that may be required by code.


Jason Inman, Code Official
jason.inman@pittgov.org

B

PITTSYLVANIA COUNTY, VIRGINIA

**COMMUNITY DEVELOPMENT**
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

2018 IRC SECTION R105.3.2 TIME LIMITATION OF APPLICATION. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

2018 IRC SECTION R105.5 EXPIRATION. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance or after commencement of work if more than 180 days pass between inspections. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

2018 IRC SECTION R105.6 SUSPENSION OR REVOCATION. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

2018 IRC SECTION R107.3 TEMPORARY POWER. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in NFPA 70.

2017 NEC ARTICLE 590.3 (A) DURING THE PERIOD OF CONSTRUCTION. Temporary electric power and lighting installations shall be permitted during the period of construction, remodeling, maintenance, repair, or demolition of buildings, structures, equipment, or similar activities. (D) REMOVAL. Temporary wiring shall be removed immediately upon completion of construction or purpose for which the wiring was installed.

CODE OF VIRGINIA § 32.1-165. Prior approval required before issuance of building permit; approved sewage system or nonconforming system.
A. No county, city, town, or employee thereof shall issue a permit for a building designed for human occupancy without the prior written authorization of the Commissioner or his agent. The Commissioner or his agent shall authorize the issuance of such permit upon finding that safe, adequate, and proper sewage treatment is or will be made available to such building, or upon finding that the issuance of such permit has been approved by the Review Board. "Safe, adequate, and proper" means a treatment works that complies with applicable regulations of the Board of Health that are in effect at the time of application.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-74. ACCESSORY AND TEMPORARY BUILDINGS. (1) Intent. Special requirements are designed for accessory and temporary buildings to ensure ample access for emergency vehicles, maintain the effectiveness of rear and side yard requirements and insure accessory structures remain secondary in function to the main building. (2) Accessory Buildings. The location of accessory buildings and uses in residential districts must meet the following restrictions: a. Where an accessory building is attached to the main building, a substantial part of one (1) wall of the accessory building shall be an integral part of the main building

B

PITTSYLVANIA COUNTY, VIRGINIA

**COMMUNITY DEVELOPMENT**
P.O. Drawer D • 53 N. Main Street
Chatham, Virginia 24531
Phone (434) 432-7754

or such accessory building shall be attached to the main building in a substantial manner by a roof; and therefore, such attached accessory building shall comply in all respects with the requirements applicable to the main building. b. A detached accessory building shall not be closer than fifteen (15) feet to the main building or rear lot line. Accessory building shall not be closer to a lot line than the setback Line for side yards for the district in which the lot is located. Additionally, no building housing livestock shall be placed within two hundred (200) feet of a lot line located within or abutting any institutional, residential, or business district. c. A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard and not to exceed maximum lot coverage (by percent) per the district involved. d. No detached accessory building may be located in the front yard or a lot.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-81. SITE REQUIREMENTS FOR OFF-STREET PARKING. All off-street parking shall be laid out, constructed, and maintained in accordance with the following requirements: (4) Access to off-street parking facilities from public streets shall meet requirements of Section 33.1-198 of the Code of Virginia, 1950, as amended, and the Minimum Standards of Entrances to State Highways and be approved by the Resident Engineer of the Virginia Department of Transportation.

PITTSYLVANIA COUNTY CODE CHAPTER 35 SECTION 35-184. MINIMUM OFF-STREET PARKING SPACES. PARKING REQUIREMENTS FOR ALL DISTRICTS. Two (2) off-street parking spaces shall be required on each building lot. Parking space shall be rectangular with one (1) dimension at least ten (10) feet in length and the other dimension at least twenty (20) feet length and/or a total of two hundred (200) square feet.

If you have any questions, please contact me.

Respectfully,

Jason Inman
Code Official

c: Dave Arnold, Assistant County Administrator
Emily S. Ragsdale, Director of Community Development
Dr. Scott Spillmann, Director VDH
Jessica Pearce, Environmental Health Supervisor
Wesley Marshall, Environmental Health Manager Sr, VDH
Kelly Waller, Environmental Health Supervisor

C

# DECLARATION OF MAY 2024 LOCAL APPEAL SUBMISSION

I, Todd Ferguson, do hereby declare and state as follows:

1. I am the owner of the real property located at 5405 Whitmill School Road, Dry Fork, VA 24549, and I am the applicant for the like-for-like residential structure replacement building permit filed on April 3, 2024.
2. In May 2024, following continuous verbal delays, conflicting directions, and shifting requirements from local building officials, I executed a formal local administrative appeal to challenge these arbitrary enforcement hurdles before the Local Board of Building Code Appeals (LBBCA).
3. In May 2024, I physically walked into the Pittsylvania County Department of Community Development & Building Inspections office located at 11 Court Place, Chatham, VA 24531.
4. I hand-delivered the completed physical copy of my local administrative appeal directly to Emily Ragsdale and the building department staff on duty.
5. Upon delivery, the department staff refused to log, process, or forward my paperwork to convene an LBBCA hearing. Instead, the agency intercepted my due process by demanding a $200 local processing fee while failing to provide any administrative path or form for an indigent waiver, effectively freezing my statutory right to an appeal.
6. The 25-month delay in this matter is a direct result of the local agency's failure to process this hand-delivered appeal and their ongoing failure to act on the underlying application.

I declare under penalty of perjury under the laws of the Commonwealth of Virginia that the foregoing statement is true and correct to the best of my knowledge, information, and belief.

Executed on this _____ day of May, 2026.

**Todd Ferguson, Appellant Pro Se**

C-1

Todd Ferguson
749 f c Beverly
Dry fork, Virginia
Fergusont844@gmail.com
(540)-355-9770
Friday September 27 2024

Building and Zoning Department
Pittsylvania County, Virginia
53 Banks St.
Chatham Virginia 24531

Re: Appeal for Denial of Building Permit and Request for Fee Waiver

To Whom It May Concern,

I am writing to formally appeal the denial of my building permit application and to request a waiver of the $200 appeal fee. This letter also serves to express my deep concern regarding violations of my due process rights under the law.

Despite submitting the necessary corrections for my building permit application on multiple occasions, I have been denied approval for the following reasons:
1. Initially, a contractor to move the modular home was required.
2. Second, I was asked to provide an affidavit for electrical and plumbing connections.
3. Third, it was stated that a 'Safe, Adequate, and Proper' approval from the health department was required, although I am replacing a three-bedroom mobile home with another three-bedroom mobile home on the same site, causing no increase in flow or signs of septic system failure.

This process has been ongoing for over six months, significantly impacting my financial stability. During this period, I have incurred the following costs:
- $700 per month in rent.
- $700 per month on the property mortgage.
- $500 per month in storage costs for the mobile home.

Currently, the accumulated extra expenses total approximately $7,200, severely straining the budget initially allocated for setting up the mobile home. The delay in issuing the building permit has exacerbated these costs, highlighting the urgency and necessity of resolving this matter promptly.

Further, when I inquired about filing an appeal and requested an indigent form, I was informed that no such form existed, and I would need to pay the $200 fee to proceed. As I understand my right to an administrative appeal, this fee should not be a barrier, especially given my current financial hardship.

Therefore, I am requesting the following:
1. Immediate processing of my appeal without the $200 fee due to financial hardship.
2. A thorough review and expedited resolution of my building permit application.

I firmly believe that the requirement to pay the $200 fee for exercising my right to an appeal constitutes a denial of due process, thus directly affecting my rights under the law.

Thank you for your prompt attention to this urgent matter. I look forward to a favorable resolution and the opportunity to move forward with my housing project.

Sincerely,

Todd Ferguson

D

# PITTSYLVANIA COUNTY BUILDING PERMIT

Chatham, VA Telephone: (434) 432-7755

**THIS PERMIT EXPIRES 180 DAYS AFTER ISSUANCE**

**Permit Number:** S24-04-31820

**Issuance Date:** 04/17/2024

**Permit Type:** Structure Permit - Residential Remodel

**Zoning Permit:**

**Health Permit:**

**Applicant:** GEORGE V BURNETTE
**Address:** 716 CONSTELLATION DR
AXTON, VA 24054

**Telephone** ( ) -

**Owner:** GEORGE V BURNETTE
**Address:** 716 CONSTELLATION DR
AXTON, VA 24054

**Telephone** ( ) -

**Applicant Signature:** _____

**Authorized Signature:** Jason Inmanll

**Property No:** 1480-73-2976
**Location of Job:** 5405 WHITMELL SCHOOL RD
DRY, FORK VA
CHATHAM, VA 24531

**Directions:**

**Scope of Work:**
**Property Type:** Not Defined
**Cost of Job (Estimated):** $2000

**Description of Job:** REPAIR BLOCK WALL AND BOXING AND REPLACE WINDOWS AND DOORS ON GARAGE ONE

**Remarks:** DOUBLE ENTRANCE AND THE END WALL WHICH I MAY CLOSE IT BACK OFF IT WAS THAT

**Building Size:** W 20 L 30 H 30 Total Sq Ft.
W L H

**Cost of Structure:** 2000

**Sign Size:** W L
**Porch,Patio,Deck:** W L
**Finished Basement Size:**
**Unfinished Basement Size:**

Total Sq Ft.
Size:
Carport Size:
Garage Size: 600

Fireplaces:
Bdrm Window Size:
Floor Joist Size:
Rafter Size or Trusses:

**No. of Amps:** **Phase:** **Volts**

**Cost of Electrical:**

**Type of Heat:** **Size of Heating:**
**Type of A/C** **Size of Cooling:**

Cost of Heat:
Cost of A/C:

**No. of Bathrooms:** **Plb. Fixtures:** 0 **Public Water:** N **Public Sewer:** N
**No. of Bedrooms:** **Plb. Fixtures - Basement:**

Cost of Plumbing:

-- Tanks --
Inground/Above Ground:
Type of Fuel:
Tank Size:

-- Manufactured/Modular Homes --
Wind Zone/Thermal Zone:
Year/Model
Type of Exterior:

Pool Size:

Fire Sprinkler System:
Cost of Fire Suppression:

**Approvals:**

| | |
|---|---|
| Permit Fee: | $56.00 |
| Levy: | $1.12 |
| Total: | $57.12 |

***POST THIS CARD SO THAT IT IS VISIBLE AT THE JOBSITE***

E

Gmail todd ferguson <fergusont844@gmail.com>

# Notice of Housing Displacement and Request for Written Determination Regarding Electrical Service

**todd ferguson** <fergusont844@gmail.com> Fri, Apr 10, 2026 at 10:52 AM

To: vincent.shorter@pittgov.org, otis.vaughan@pittgov.org

Mr. Vaughn,
I am following up on my previous email and our prior conversation regarding my property and the status of restoring electrical service.

When we spoke, you indicated you would look into the situation. Since that time, I have not received any response, and my follow-up email has also gone unanswered.
As of now, I am still residing on my property without electrical service and relying on generator power, which is not a safe or sustainable condition.

I am again requesting clear guidance on what is required to restore power to the existing meter base. I am willing to obtain any necessary electrical permit, schedule inspections, and make any required corrections to bring the system into compliance.

At this stage, I am not requesting approval of the full building permit. I am specifically asking for a path forward to safely re-energize electrical service.
If there is a reason this cannot be done, I ask that you provide that determination in writing.

Please respond at your earliest convenience so this matter can be addressed.

Sincerely,
Todd Ferguson
[Quoted text hidden]

F

PITTSYLVANIA COUNTY, VIRGINIA

53 Main St.
Chatham, Virginia 24531
Phone (434) 432-7754

May 1, 2026

Mr. Todd Ferguson
5405 Whitmell School Road
Dry Fork, VA 24549

Re: Power Connection
5405 Whitmell School Road
Dry Fork, VA 24549

Mr. Todd Ferguson,

Concerning your email and the power to 5405 Whitmell School Road, we cannot connect the power to this property. There is no official dwelling on this site for power to be connected to.

There was a fire on this property that destroyed the existing single-wide mobile home on December 17, 2023. At the time of the fire, you were not the owner of the property. By the deed recorded, you recorded this property in your name on February 27, 2024.

On April 8, 2024, you applied for a permit to move a mobile home to the above property to replace the previously destroyed mobile home. At the time of the application, NO SAP was provided from the VA Health Department. Pursuant to the Code of Virginia § 32.1-165, prior approval is required before issuance of building permit; approved sewage system or nonconforming system. Without a SAP, the permit could not be approved. The fees for the permit were never received also due to this. This property also has delinquent taxes owed to the Treasurer Office. No permits can be issued with taxes owed on a parcel.

With regards to providing power to run the camper, that is not permitted. Pursuant to Pittsylvania County Zoning Code, Sec.35-87, section B, subsection 2) Such temporary residential use shall be allowed for a period not to exceed six (6) months with an active building permit issued to make the necessary repairs to the permanent residential structure damaged beyond the control of the owner. Unfortunately, this does not apply in this situation as you were not the owner at the time of the fire per the timeline.

The only path that I see to legally remedy this issue is:
* Obtain a SAP permit from the Health Department providing proof of a functional sewer system and the capacity of the system for bedrooms.
* Pay all delinquent taxes or fees owed to Pittsylvania County.
* Submit a new complete application for the single-wide that you intend to place on the property and include all contractors that shall be performing the work.

Otis Vaughan Chief Building Official
Otis.vaughan@pittgov.org

F

PITTSYLVANIA COUNTY, VIRGINIA

53 Main St.
Chatham, Virginia 24531
Phone (434) 432-7754

* Submit a zoning application showing the location of the home on the property.
* Pay all fees associated with the building permit and zoning permit
* Complete the work and pass all inspections for set-up of the mobile home
* Power can be connected at that time

In addition, I need to inform you of the nonconformities of this situation. The parcel of land located at 5405 Whitmell School Road (GPIN # 1480-73-2976), is zoned R-1. The previous existing single-wide mobile home was there and had no Special Use Permit provided for it. Pittsylvania County Zoning Code Sec. 35-223 requires a Special Use Permit for the placement of a single-wide manufactured/mobile home in a R-1 zoned area. Due to this being nonconforming, Pittsylvania County Zoning Code Sec. 35-161 states that: Any such use, activity or structure which is discontinued for more than two (2) years shall be deemed abandoned and shall thereafter conform to the provisions of this Ordinance relating to the district in which the same is situated.

Please provide the County with the process that you intend to move forward with.

Should you have any questions or wish to discuss this matter, please contact me at the following email:

Sincerely,

Otis Vaughan, CBO-Chief Building Official, Pittsylvania County, VA

Otis Vaughan Chief Building Official
Otis.vaughan@pittgov.org

## AMENDMENT TO COMPLAINT

Virginia Judicial Inquiry and Review Commission
P.O. Box 367, Richmond, Virginia 23218

Complainant: Todd Ferguson, Pro Se
Property Address: 5405 Whitmills School Road, Dry Fork, Virginia 24549
Original Complaint Filed: May 18 2026

## NOTICE OF AMENDMENT AND SUPPLEMENTAL STATEMENT

Complainant Todd Ferguson hereby amends his previously filed complaint with the Virginia Judicial Inquiry and Review Commission to include additional evidence and to clarify the procedural history of the building permit matter at 5405 Whitmills School Road, Dry Fork, Virginia 24549.

This amendment is submitted to provide the Commission with a complete and accurate record of the conduct complained of, including newly identified evidence of a functioning septic system predating the permit denial, and the dispositive procedural history of Complainant's Writ of Mandamus proceeding in Pittsylvania County Circuit Court.

Regarding the Health Department: The Virginia Department of Health was named as a respondent in Complainant's Writ of Mandamus proceeding. Prior to resolution of that matter, the Health Department filed an order with the Circuit Court withdrawing from the proceeding entirely. It is Complainant's position that the Health Department's withdrawal reflects its recognition that its involvement in the permit denial lacked legal authority and exposed it to significant liability. Having seen the weight of the evidence and the legal exposure, the Health Department wanted no further part in this matter.

Regarding Pittsylvania County: Unlike the Health Department, Pittsylvania County refused to acknowledge the impropriety of its conduct. Despite the Health Department's withdrawal removing the sole predicate for the permit denial, the County continued to obstruct Complainant's right to a building permit. The Circuit

Court thereafter dismissed Complainant's Writ of Mandamus against the County with prejudice — an outcome that, on these facts, served to shield the County from accountability rather than resolve the matter on its merits. A dismissal with prejudice, following the Health Department's own retreat from this matter, is not a neutral procedural outcome. It is a substantive ruling that permanently bars Complainant from pursuing mandamus relief against the County — relief to which Complainant was entitled.

This amendment attaches the following exhibits in support:

Exhibit 1 — Declaration of Todd Ferguson (signed and dated)
Exhibit 2 — Receipt, George Burnett, Septic System Service (2022)
Exhibit 3 — Receipt, Septic System Pumped (2024)
Exhibit 4 — Circuit Court Order, Withdrawal of Health Department from Writ of Mandamus Proceeding
Exhibit 5 — Circuit Court Order, Dismissal with Prejudice of Writ of Mandamus Against Pittsylvania County

C

# DECLARATION OF MAY 2024 LOCAL APPEAL SUBMISSION

I, Todd Ferguson, do hereby declare and state as follows:

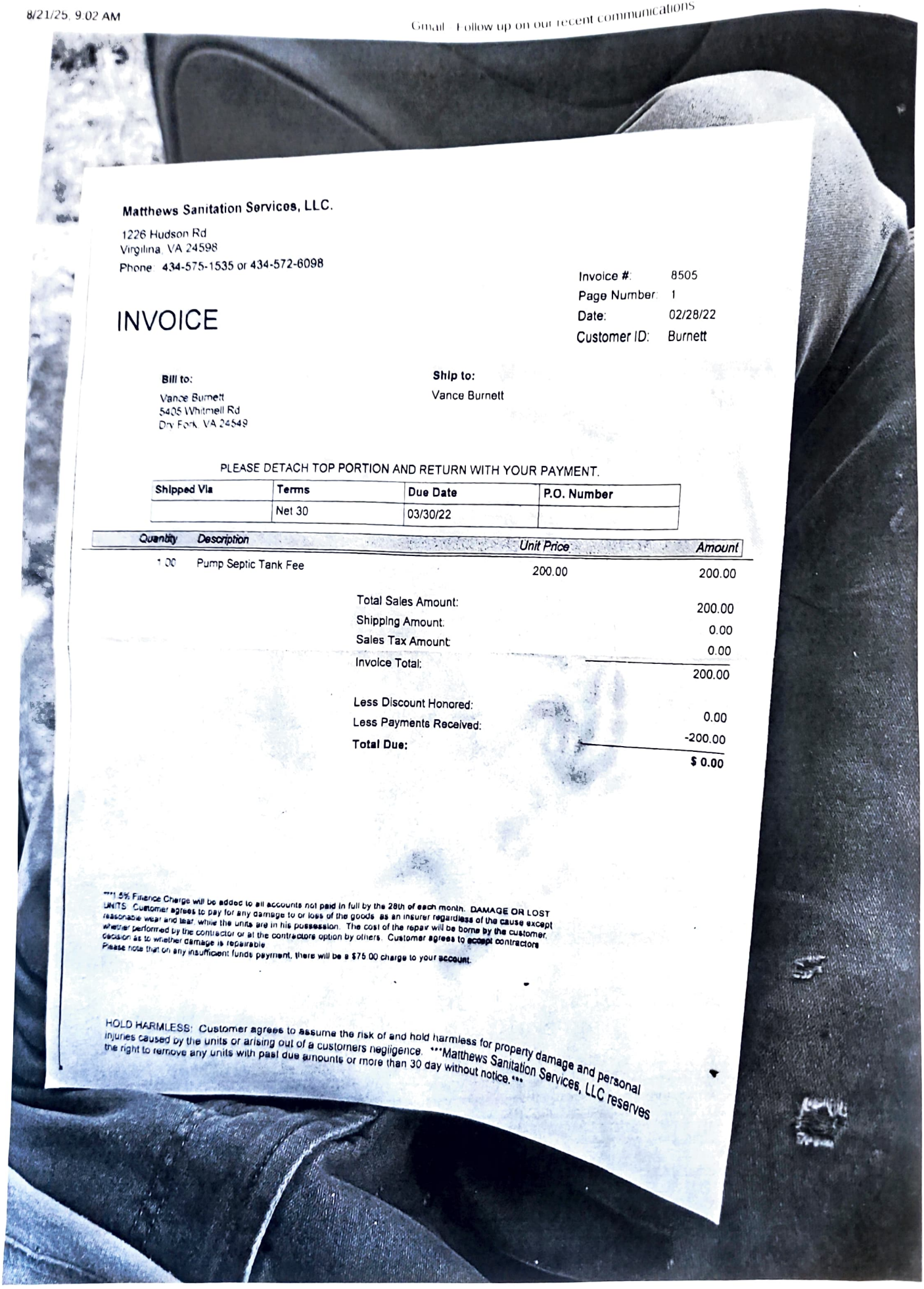
1. I am the owner of the real property located at 5405 Whitmill School Road, Dry Fork, VA 24549, and I am the applicant for the like-for-like residential structure replacement building permit filed on April 3, 2024.
2. In May 2024, following continuous verbal delays, conflicting directions, and shifting requirements from local building officials, I executed a formal local administrative appeal to challenge these arbitrary enforcement hurdles before the Local Board of Building Code Appeals (LBBCA).
3. In May 2024, I physically walked into the Pittsylvania County Department of Community Development & Building Inspections office located at 11 Court Place, Chatham, VA 24531.
4. I hand-delivered the completed physical copy of my local administrative appeal directly to Emily Ragsdale and the building department staff on duty.
5. Upon delivery, the department staff refused to log, process, or forward my paperwork to convene an LBBCA hearing. Instead, the agency intercepted my due process by demanding a $200 local processing fee while failing to provide any administrative path or form for an indigent waiver, effectively freezing my statutory right to an appeal.
6. The 25-month delay in this matter is a direct result of the local agency's failure to process this hand-delivered appeal and their ongoing failure to act on the underlying application.

I declare under penalty of perjury under the laws of the Commonwealth of Virginia that the foregoing statement is true and correct to the best of my knowledge, information, and belief.

*Executed on this* 18th *day of May, 2026.*

***Todd Ferguson, Appellant Pro Se***





**Matthews Sanitation Services, LLC.**

1226 Hudson Rd
Virgilina, VA 24598
Phone: 434-575-1535 or 434-572-6098

# INVOICE

Invoice #: 8505
Page Number: 1
Date: 02/28/22
Customer ID: Burnett

**Bill to:**
Vance Burnett
5405 Whitmell Rd
Dry Fork, VA 24549

**Ship to:**
Vance Burnett

PLEASE DETACH TOP PORTION AND RETURN WITH YOUR PAYMENT.

| Shipped Via | Terms | Due Date | P.O. Number |
|---|---|---|---|
| | Net 30 | 03/30/22 | |

| Quantity | Description | Unit Price | Amount |
|---|---|---|---|
| 1.00 | Pump Septic Tank Fee | 200.00 | 200.00 |

| | |
|---|---|
| Total Sales Amount: | 200.00 |
| Shipping Amount: | 0.00 |
| Sales Tax Amount: | 0.00 |
| Invoice Total: | 200.00 |
| Less Discount Honored: | |
| Less Payments Received: | 0.00 |
| **Total Due:** | -200.00 |
| | **$ 0.00** |

***1.5% Finance Charge will be added to all accounts not paid in full by the 28th of each month. DAMAGE OR LOST UNITS. Customer agrees to pay for any damage to or loss of the goods as an insurer regardless of the cause except reasonable wear and tear while the units are in his possession. The cost of the repair will be borne by the customer, whether performed by the contractor or at the contractors option by others. Customer agrees to accept contractors decision as to whether damage is repairable.
Please note that on any insufficient funds payment, there will be a $75.00 charge to your account.

HOLD HARMLESS: Customer agrees to assume the risk of and hold harmless for property damage and personal injuries caused by the units or arising out of a customers negligence. ***Matthews Sanitation Services, LLC reserves the right to remove any units with past due amounts or more than 30 day without notice.***

**Matthews Sanitation**
1226 Hudson Rd.
Virgilina, VA 24598
(434) 572-6098
matthews.sanitation03@gmail.com

# Receipt

| | |
|---|---|
| Date | May 29, 2024 |
| Paid | $250.00 |
| Payment Method | Visa *2128 |
| Confirmation # | 150710039033 |

**Billing Address**
Todd Ferguson
5405 Whitmell School Rd
Dry Fork, VA 24549

| # | Invoice | Invoice Date | P.O. | Clerk | Payments | Outstanding Balance |
|---|---|---|---|---|---|---|
| 1 | I2297 | May 29, 2024 | | MF | $250.00 | $0.00 |

**Site: S918,** 5405 Whitmell School Rd , Dry Fork , VA 24549

| # | Item | Qty | Description | Rate | Amount | Tax | Amount w/ Tax |
|---|---|---|---|---|---|---|---|
| 1 | Pumped Septic Tank Fee | 1 | Pumped Septic Tank Fee | $250.00 | $250.00 | $0.00 | $250.00 |

| | |
|---|---|
| **Subtotal** | **$250.00** |
| **Tax** | $0.00 |
| **Total** | **$250.00** |

**From**
Todd Ferguson
5405 Whitmell School Rd
Dry Fork, VA 24549

**To**
Matthews Sanitation
1226 Hudson Rd.
Virgilina, VA 24598

| | |
|---|---|
| Subtotal | $250.00 |
| Tax | $0.00 |
| **Payments** | **$250.00** |
| Remaining Payment Balance | $0.00 |

**VIRGINIA:**

**IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY, VIRGINIA**

| | | |
|---|---|---|
| TODD FERGUSON, | : | |
| Petitioner, | : | |
| v. | : | Case No.: CL24000802-00 |
| PITTSYLVANIA COUNTY VIRGINIA, *Et al.* | : | |
| Respondents. | : | |

**MOTION AND CONSENT ORDER OF DISMISSAL WITHOUT PREJUDICE**

COMES NOW, Petitioner, Todd Ferguson and Respondents, Virginia Department of Health ("VDH") and Wesley Marshall, in his official capacity as an employee of VDH, and advise the Court that these parties have come to a resolution and therefore wish to voluntarily dismiss this matter against VDH and Wesley Marshall. Accordingly, Petitioner, Todd Ferguson and respondents VDH and Wesley Marshall move this Honorable Court to dismiss this action with regard to VDH and Wesley Marshall *without prejudice*.

**UPON CONSIDERATION WHEREOF AND FOR GOOD CAUSE SHOWN,** the Court is of the opinion that the motion should be granted.

**WHEREFORE,** it is hereby ORDERED, ADJUDGED and DECREED that any and all claims raised or contemplated in the above-captioned matter against respondents, Virginia Department of Health and Wesley Marshall, in his official capacity as an employee of VDH, are hereby DISMISSED WITHOUT PREJUDICE.

This matter shall remain active with regard to the remaining Respondents. Each party shall be responsible for payment of its own attorney's fees generated as part of the entry of this Order. The Clerk is further Ordered to provide a copy hereof to all counsel of record.

**IT IS SO ORDERED:**

12-23-24

**Judge**

**I ask for this:**

**Todd Ferguson**
**749 FC Beverly Road**
**Dry Fork, Virginia 24549**
**(540) 355-9770**
**Fergusont844@gmail.com**
***Pro se – Petitioner***

**I ask for this:**

**Darrell W. Kuntz, III (VSB: 95491)**
**Office of Attorney General**
**202 North 9th Street**
**Richmond, VA 23219**
**(804) 371-5207**
**dkuntz@oag.state.va.us**

IN TESTIMONY, that the foregoing is a true copy taken from the records of said Court, I, Angie R. Harris, Clerk thereof set my hand and affix the Seal of said Court This the 2nd day of January 20 25

Clerk
Circuit Court, County of Pittsylvania, VA.

Seen and No objection :

Christopher S. Dadak, Esq.
Guynn Waddell, P.C.
415 S. College Avenue
Salem, VA 24153
(540) 387-2320
chrisopherd@guynnwaddell.com
*Counsel for Pittsylvania County Board of Supervisors, Emily Ragsdale, Jason Inman, J. Vaden Hunt, Esq., Vincent Shorter, and Dave Arnold*

VIRGINIA:

IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY, VIRGINIA

| | | |
|---|---|---|
| TODD FERGUSON, | ) | |
| | ) | |
| Petitioner, | ) | |
| | ) | |
| v. | ) | Case No. CL24000802-00 |
| | ) | |
| PITTSYLVANIA COUNTY | ) | |
| BOARD OF SUPERVISORS, et al. | ) | |
| | ) | |
| Respondents. | ) | |

**ORDER**

On February 5, 2025, the parties to this action appeared to be heard on the demurrer and motion craving oyer filed on behalf of the respondents.

Having reviewed the pleadings, considered the authorities cited to the Court by counsel, considered the argument presented to the court at the hearing, and it appearing proper so to do, the Court is of the opinion and concludes that the respondents' demurrer should be sustained.

Accordingly, the Court does hereby ADJUDGE and ORDER that:

1. The respondents' motion craving oyer shall be and it hereby is GRANTED, and exhibits A and B to the motion are incorporated into the petition for a writ of mandamus;

2. The respondents' demurrer shall be, and it hereby is, SUSTAINED; and

3. The petition for a writ of mandamus shall be and hereby is DISMISSED WITH PREJUDICE.

The petitioner's objections are noted and preserved. The Clerk is directed to furnish a certified copy of this Order to the pro se petitioner and to counsel of record for the respondents and shall strike this action from the active docket.

(00561310.DOCX )

Enter this 7th day of February 2025.

Judge

We request the entry of this Order:

Christopher S. Dadak, Esquire (VSB No. 83789)
GUYNN WADDELL, P.C.
415 S. College Ave.
Salem, Virginia 24153
Telephone: 540-387-2320
Facsimile: 540-389-2530
ChristopherD@guynnwaddell.com

*Counsel for Respondents*

IN TESTIMONY, that the foregoing is a true copy taken from the records of said Court, I, Angie R. Harris, Clerk thereof set my hand and affix the Seal of said Court This the 7th day of Feb 2025

Clerk
Circuit Court, County of Pittsylvania, VA.

Seen and objected:

_____/signature waived pursuant to Rule 1:13_____

Todd Ferguson
749 FC Beverly Road
Dry Fork, Virginia 24549
Phone: 540-355-9770
Email: Ferguson844@gmail.com

*Pro se*

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# Documents Submitted
# By
# Pittsylvania County

(Page left blank intentionally)

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
53 Main St.
Chatham, Virginia 24531
Phone (434) 432-7754

**W. Travis Luter, Sr., CBO**

Secretary to the State Building Code Technical Review Board

Code and Regulation Specialist

Virginia Department of Housing and Community Development (DHCD)

804-371-7163

travis.luter@dhcd.virginia.gov

RE: Appeal No. 26-03(Ferguson)

To: State Building Code Technical Review Board

Mr. Travis Luter, Sr.

This letter is in response to Appeal No. 26-03 that was filed on May 15, 2026, by Mr. Todd Ferguson. Mr. Ferguson filed an appeal with the State Board for denial of a building permit, and he states that he was denied an appeal on the local level with the Board of Building Appeals.

I am currently the Chief Building Official for Pittsylvania County, VA. I, however, was not employed with the County at the time of the building permit process for Mr. Ferguson. I have gathered information concerning this case and I am providing such information as found not to duplicate existing materials that are currently provided to the Review Board.

Mr. Ferguson states that he was separated from his home and has not been allowed to move forward with a replacement. I have put together the timeline and information that is available to me concerning this process.

Mr. Ferguson filed an application on April 3, 2024, for the replacement of a mobile home destroyed by fire. A permit was started in the system, permit no. S24-04-31770. Mr. Ferguson was asked to provide a Virginia Health Department SAP (Safe, Adequate, and Proper) Permit verifying the septic system capacity and the functionality of the system. It is my understanding, also identified on June 4, 2024, letter from Jason Inman, that the local Health Department agreed to waive the $150.00 fee for the SAP permit (**Exhibit A in Ferguson documents**). Mr. Ferguson refused to obtain a SAP permit. **Code of Virginia Section 32.1-165 requires prior approval before issuance of a building permit for a building designed for human occupancy.** The previous home was destroyed by a fire on December 17, 2023. A copy of that fire report is included in this documentation (**Exhibit I**). Per the fire report, the home was owned by Mr. Vance Burnette at the time and was occupied by Mr. Charles Powell, wife, and two children. This report does not reference Mr. Ferguson or give cause that he was displaced from his home due to the fire. Due to the total loss of the home and the response of fire department, there is no way to determine the number of bedrooms in the dwelling at the time and if there was any damage to the septic system. A SAP permit would verify this requirement.

Mr. Ferguson references being displaced from his home due to the fire and not obtaining a building permit. I have attached a copy of the deed **(Exhibit II)** made on February 27, 2024, in which Mr. Ferguson did take ownership of the property located at 5405 Whitmell School Road, Dry Fork, VA 24549. The fire report and the deed appear to clearly show Mr. Ferguson was not the owner of the property on December 17, 2023, at the time of the fire. All records point to Mr. Ferguson, residing at 749 F C Beverly Road, Dry Fork, VA 24549 at the time.

In the Appeal package was a copy of a Declaration of May 2024 Local Appeal Submission **(Exhibit C in Ferguson documents)**. The declaration was dated May 2026. The declaration states that Mr. Ferguson hand delivered an appeal request to the Pittsylvania County Department of Community Development, specifically to Emily Ragsdale, the Director at the time. A copy of the appeal letter **(Exhibit C-1 in Ferguson documents)** was presented to the State by Mr. Ferguson. Careful examination of the letter shows the origination date of Friday, September 27, 2024, as to the letter being written. This would be four (4) months after the time that Mr. Ferguson allegedly stated he delivered this letter to the Community Development Department. It should be noted that Mr. Ferguson's September 27, 2024 letter would have been more than thirty (30) days after the August 23, 2024 letter sent to him from then Code Official, Jason Inman.

Mr. Ferguson chose not to avail himself of the appeal process within the appropriate timeframe. Since that time, Mr. Ferguson has continued to not avail himself of the appeal process. However, Mr. Ferguson did file a Petition for Writ of Mandamus in the Pittsylvania County Circuit Court relating to this issue (which was eventually dismissed with prejudice – Exhibit IV).

More recently, Mr. Ferguson reached out again to see if I would move forward in a different direction. I provided the legal path that I see as the only way to move forward:

1. Obtain a SAP permit from the Health Department
2. Submit a new application with the correct information including contractors performing the work
3. Submit a zoning permit providing the location of the proposed new dwelling
4. Pay all delinquent taxes or fees that are owed the County. Code of Virginia 15.2-2286 Section B:Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, **including building permits** and erosion and sediment control permits, or prior to the issuance of final approval, **the authorizing body may require the applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid, unless otherwise authorized by the treasurer.** County requires proof of payment before issuing permits.
5. Pay all fees associated with the building and zoning permits
6. Complete the work and pass all inspections
7. Power can be connected
8. Certificate of Occupancy can be obtained

Mr. Ferguson has also served as a notice of intent to file Federal Civil Action against the County **(Exhibit III)** if his demands were not met:

1. $1,000,000.00 Cash
2. Immediate Electrical Release & Building Permit Issued
3. Permanent clearance of all tax and tag blocks


Otis Vaughan Chief Building Official
Otis.vaughan@pittgov.org

PITTSYLVANIA COUNTY, VIRGINIA

COMMUNITY DEVELOPMENT
53 Main St.
Chatham, Virginia 24531
Phone (434) 432-7754

This entire process could have been avoided simply by providing the proper, required documentation to obtain a building permit. As stated earlier, the Health Department had agreed to waive the fee for the SAP permit. The tank would have needed to be opened for inspection and upon approval, a SAP permit would have been provided. Along with the approved SAP and an approved building permit, this process could be completed by now. I was not an employee at the time of this process for Pittsylvania County, but I have assumed the role of Chief Building Official effective July 15, 2025.

The facts that I have included are to the best of my knowledge including documents and statements.

Respectfully,

Otis Vaughan

Chief Building Official

Pittsylvania County, VA

C: Vincent Shorter, County Administrator

Dave Arnold, Deputy County Administrator

Matt Evans, County Attorney

PITTSYLVANIA COUNTY, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY
P.O. Box 426
Chatham, Virginia 24531
Phone (434) 432-7920

**Pittsylvania County Fire Marshal Incident / Fire Report**

| | |
|---|---|
| Location of Incident | 5405 Whitmell School Rd, Dry Fork Va 24549 |
| Incident / CAD number | 2023-047964 |
| Date and Time of Incident | 12/17/2023 08:56:54 |
| Type of Incident | Structure Fire involving a mobile home |
| Investigator | Scott Hutcherson, PS2 |
| Date & Time of Investigation | 12/17/2023 10:32:16 |
| Initial Fire Dept on scene & time | Tunstall Fire and Rescue 09:04:39 |
| Officer in Charge | Chief Troy Talley |

Firefighter Observations

The first firefighters arrived at 09:04:39 and reported a single wide mobile home fully involved in fire with exposures to a building and an automobile. Chief Troy Talley of the Tunstall Volunteer Fire and Rescue was in command of the scene. All occupants were out of the home and safe. The home was occupied by two adults and two children.

Owner Information

Vance Burnette

Address:

716 Constellation Dr, Axton Va 24054

Phone Number 434-836-2174

Insurance information:

Loudoun Mutual Insurance Co

Occupant Information

Charles Powell, wife and two Children

Address: Same as above

No renter's insurance

General Observations

When the firefighters arrived, they noted a fully involved single wide mobile home with two exposures, a garage building and an automobile. The occupant of the home was Charles Powell, he stated him, and his wife were asleep in the living room when they woke up to one of the chairs on fire. He stated that he and his wife got the children and escaped the home. He then stated that he had to run to one of the neighbor's homes to call 911. By the time he got back to his home it was fully involved in fire.



EXHIBIT I

1 of 2

PITTSYLVANIA COUNTY, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY
P.O. Box 426
Chatham, Virginia 24531
Phone (434) 432-7920

Causation Observations

We as the Fire Marshal's office completed our investigation on 12/17/2023, After interviewing the occupants getting their account of the events, we feel confident the fire started in one of the living room chairs. By their account they were asleep in the living room and woke up to one of the chairs being heavily involved in fire. The occupant stated that he was very concerned that one of the children could have been playing with a cigarette lighter causing the fire. The fire marshal's office sees this as a possible cause and origin, but we cannot scientifically prove it. The extreme damage to the home prevents us from pinpointing an exact cause or area of origin. Judging by the mass loss and damage we do feel strongly that the origin of the fire was in the living room area. There is no way of doing any arc mapping or electrical circuit tracing due to the damage. This fire is being ruled undetermined and unintentional.

Evidence Collected

We took numerous photos to document the scene and the evidence noted above during our investigation, but no physical evidence was taken.

Report Completed by

Scott Hutcherson, Deputy Director/ Fire Marshal

Pittsylvania County Public Safety

Phone 434-713-8777

Scott.hutcherson@pittgov.org



- EXHIBIT I

CLR240000815

R. E. Tax Prcl Nos. 1480-73-2976 & 1480-74-4175 $40,000.00 consid; $41,000.00 assd

Prepared by: Jeffrey S. Smith, Attorney-at-Law VSB #28096

Given to: Jeffrey S. Smith

Mail tax bills to: 5405 Whitmell School Road, Dry Fork, VA 24549

The existence of title insurance as to this property is unknown to the draftsman. TITLE NOT EXAMINED BY DRAFTSMAN.

THIS DEED, made this 27th day of February, 2024, between George Vance Burnette, married (Grantor), and Todd W. Ferguson, ~~un~~ married (Grantee),

-WITNESSETH-

That for and in consideration of TEN DOLLARS ($10.00) cash paid by Grantee to Grantor, and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby bargain, sell, grant and convey, with GENERAL WARRANTY and ENGLISH COVENANTS of Title, except as hereinafter set forth, unto Grantee, all those certain lots or parcels of land, with improvements thereon, lying and being in Pittsylvania County, Virginia, and more particularly described as follows (the Property):

> PARCEL NO. 1: LOT NO. 1A, CONTAINING 1.15 ACRES, more or less, fronting 200 feet, more or less, on the northeastern margin of Whitmell School Road (State Road No. 750), and more particularly described as follows: BEGINNING at a point on the northeastern margin of Whitmell School Road (State Road No. 750) at a point designated old iron, as shown on Plat Showing Property of A. M. Perkins to be conveyed to W. H. Gibson, dated June 7, 1972,



EXHIBIT II

made by E. L. Moore, C.L.S., thence a line N. 41 degrees 06' E. 258 feet, more or less, to a point in the rear; thence a new line S. 51 degrees 27' E. 200 feet to a point; thence a new line S. 41 degrees 06' W. 250 feet to a point on the northeastern margin of Whitmell School Road (State Road No. 750); thence a new line along the northeastern margin of Whitmell School Road (State Road No. 750) N. 52 degrees 38' W. 27.18 feet to a point, thence continuing along the northeastern margin of Whitmell School Road (State Road No. 750) N. 51 degrees 16' W. 172.82 feet to a point, the point and place of beginning, and being substantially as shown as Lot No. 1A on Map of Lands for A. M. Perkins, dated February 21, 1974, made by Shanks & Wilmarth, Engineers - Surveyors, recorded in the Clerk's Office of the Circuit Court of Pittsylvania County, Virginia (the "Clerk's Office"), in Deed Book 586, at page 728, to all of which reference is hereby made for a more specific description;

PARCEL NO. 2: LOT NO. 1B, containing 2.10 acres, fronting 30 feet on the northeastern margin of Whitmell School Road (State Road No. 750), as shown on Map of Lands for A. M. Perkins, dated February 21, 1974, made by Shanks & Wilmarth, Engineers - Surveyors, recorded in the Clerk's Office in Deed Book 586, at page 728, to which reference is hereby made for a more specific description.

Parcels No. 1 and 2 BEING the same property conveyed to George Vance Burnette from Keith James Flinchum, unmarried, by deed dated April 9, 2021, recorded in the Clerk's Office on April 9, 2021, at page 0121, as instrument no. 21-02273.

This conveyance is made subject to all easements, conditions, restrictions and reservations appearing of record, or apparent on the ground, which affect the Property, and any judgments against Keith J. Flinchum.



EXHIBIT II

2 OF 3

This conveyance is being made to a Bona Fide Purchaser as defined in Virginia Code Section 64.2-100 et seq. and the Property is not to be included in any augmented estate of the Grantor.

WITNESS the following signature and seal:

George Vance Burnette (SEAL)
GEORGE VANCE BURNETTE

COMMONWEALTH/STATE OF VIRGINIA:

COUNTY OF PITTSYLVANIA:

The foregoing instrument was acknowledged before me this 27th day of February, 2024, by George Vance Burnette, married, Grantor.

My commission expires: September, 30, 2027.

Notary Registration No.: 158408

Notary Public

JEFFREY S. SMITH
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #158408
My Commission Expires 9/30/2027

INSTRUMENT 240000815
RECORDED IN THE CLERK'S OFFICE OF
PITTSYLVANIA COUNTY CIRCUIT ON
FEBRUARY 27, 2024 AT 03:49 PM
$41.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802 OF THE VA. CODE
STATE: $20.50 LOCAL: $20.50
ANGIE R. HARRIS, CLERK
RECORDED BY: JCR



EXHIBIT II

3 of 3

**Subject: URGENT: NOTICE OF INTENT TO FILE FEDERAL CIVIL ACTION - PRE-FILING SETTLEMENT OFFER**

**To: vince.shorter@pittgov.org CC: kaylyn.mccluster@pittgov.org, christopherd@guynnwaddell.com, contact@fiskgregorylaw.com, coby@warrenlawva.com, michael.taylor@pittgov.org, robin.goard@pittgov.org**

**Ms. McCluster: As Clerk to the Board, please ensure this formal notice is distributed to Chairman Robert Tucker and all Board members immediately.**

**Mr. Shorter:**

**Since you are new to your position, you need to understand the history of the legal and financial liability you have inherited. This letter is formal notice of my intent to file a Federal Lawsuit (42 U.S.C. §§ 1983, 1985, 1988) in the Danville Division this Monday morning, January 19, 2026.**

**I am fully aware of the Special Performance Review meeting and the subsequent departures of Vaden Hunt and others. While I accept these resignations as a necessary step for the County, they do not settle the damages I have suffered. The record of these events speaks for itself.**

**The Facts of the Case:**

- **Void Orders & Color of Law: My rights were stripped using Void Orders from the General District Court. Mary Scott Swyers and James Osborne were the attorneys for Elkhorn who initiated these void orders and continued to have them enforced under the Color of Law, despite a clear lack of jurisdiction.**
- **False Imprisonment: I was illegally detained and imprisoned without lawful justification, a direct violation of my Fourth and Fourteenth Amendment rights.**

EXHIBIT III

1 OF 3

- **Illegal Eviction & $40,000 Loss (2021): These jurisdictional violations and the actions of Swyers and Osborne resulted in the theft of $40,000 in personal property and 40 days of forced homelessness. These events were not a mistake.**
- **Attorney Misconduct: My former counsel, Coby Warren, sat by and allowed these void orders to be used against me. Furthermore, Nancy Gregory and her firm (Frisk & Gregory) participated in these violations of due process.**
- **Property Tax & Tag Harassment: Commissioner of Revenue Robin Goard and the County continue to ignore standing judicial orders regarding my tax debt. By maintaining incorrect records and placing illegal blocks on my vehicle tags, the County is in ongoing defiance of the court.**
- **Permit Harassment: For 20 months, the County has illegally blocked my building permit at 5405 Whitmell School Road. This block is preventing me from having heat as I move into my residence.**
- **Sheriff Non-Enforcement: The Sheriff's Office has failed to enforce valid court orders in my favor while actively enforcing documentation issued without jurisdiction.**

**Settlement Demand: To avoid a public federal trial and the full exposure of these records, I will settle all claims for:**

1. **$1,000,000 cash.**
2. **Immediate Electrical Release & Building Permit Issued.**
3. **Permanent clearance of all tax and tag blocks.**

**The Deadline: To "stop the clock" on this filing, you must contact me by the close of business Friday, January 16, 2026. I am open to a logical discussion and a mutual understanding if you wish to work out an agreement before this hits the Federal Court system. If I do not hear from you by Friday at 5:00 PM, the offer is withdrawn and I will file Monday morning.**

**Sincerely,**

EXHIBIT III

2 OF 3

**Todd Ferguson**

**749 fc beverly rd**
**Dry fork va. 24549**
**540 355 9770**

EXHIBIT III
3 OF 3

VIRGINIA:

IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY, VIRGINIA

| | | |
|---|---|---|
| TODD FERGUSON, | ) | |
| | ) | |
| Petitioner, | ) | |
| | ) | |
| v. | ) | Case No. CL24000802-00 |
| | ) | |
| PITTSYLVANIA COUNTY BOARD OF SUPERVISORS, et al. | ) | |
| | ) | |
| Respondents. | ) | |

**ORDER**

On February 5, 2025, the parties to this action appeared to be heard on the demurrer and motion craving oyer filed on behalf of the respondents.

Having reviewed the pleadings, considered the authorities cited to the Court by counsel, considered the argument presented to the court at the hearing, and it appearing proper so to do, the Court is of the opinion and concludes that the respondents' demurrer should be sustained.

Accordingly, the Court does hereby ADJUDGE and ORDER that:

1. The respondents' motion craving oyer shall be and it hereby is GRANTED, and exhibits A and B to the motion are incorporated into the petition for a writ of mandamus;

2. The respondents' demurrer shall be, and it hereby is, SUSTAINED; and

3. The petition for a writ of mandamus shall be and hereby is DISMISSED WITH PREJUDICE.

The petitioner's objections are noted and preserved. The Clerk is directed to furnish a certified copy of this Order to the pro se petitioner and to counsel of record for the respondents and shall strike this action from the active docket.



EXHIBIT IV

Enter this 7th day of February 2025.

Judge

We request the entry of this Order:

Christopher S. Dadak, Esquire (VSB No. 83789)
GUYNN WADDELL, P.C.
415 S. College Ave.
Salem, Virginia 24153
Telephone: 540-387-2320
Facsimile: 540-389-2530
ChristopherD@guynnwaddell.com

*Counsel for Respondents*

IN TESTIMONY, that the foregoing is a true copy taken from the records of said Court, I, Angie R. Harris, Clerk thereof set my hand and affix the Seal of said Court This the 7th day of Feb. 2025

Clerk
Circuit Court, County of Pittsylvania, VA.

Seen and objected:

_____/signature waived pursuant to Rule 1:13_____

Todd Ferguson
749 FC Beverly Road
Dry Fork, Virginia 24549
Phone: 540-355-9770
Email: Ferguson844@gmail.com

*Pro se*

{00561310.DOCX }

EXHIBIT IV
2 OF 9

RECEIVED
OCT 18 2024
OFFICE OF
COUNTY ATTORNEY

# IN THE CIRCUIT COURT OF PITTSYLVANIA COUNTY, VIRGINIA

**TODD FERGUSON,**

**Petitioner,**

**v.**

**PITTSYLVANIA COUNTY VIRGINIA,**

**Re: Community Development,** Emily Ragsdale, **Building Inspections,** Jason Inman, Health **Department, Wesley Marshall County Attorney,** Vaden hunt **County Administrator,** Vincent Shorter **Assistant administrator,** Dave Arnold

**Respondent(s).**

Case No. CL24000608-00

## ## PETITION FOR WRIT OF MANDAMUS ##

**COMES NOW** the Petitioner, Todd Ferguson, by and through himself (pro se) and petitions this Honorable Court for a Writ of Mandamus to be issued against the Respondent(s), and in support thereof states as follows:

### 1. **PARTIES**

- Petitioner: Todd Ferguson, residing at 749 FC Beverly Road, Dry Fork, Virginia 24549.
- Respondent: Pittsylvania County,

re: Community development, Building inspections, Health department

Filed in the Clerk's Office of the Circuit Court of Pittsylvania County 8:05
the 18 day of October 2024 at am/pm.
Angie R. Harris, Clerk
By: Crystal Powell Deputy Clerk

EXHIBIT IV

## 2. **JURISDICTION AND VENUE**

- This Court has jurisdiction to issue a Writ of Mandamus pursuant to Va. Code § 17.1-513.

- Venue is proper in this Court as the Respondent is located and the acts in question occurred in Pittsylvania County, Virginia.

## 3. **FACTUAL BACKGROUND**

- On or about the 3rd day of April 2024 Petitioner submitted a building permit application to place a three-bedroom mobile home on his property located at 5405 Whitmill school Rd. Dr. Ford VA 24549

- The new mobile home would replace an existing three-bedroom mobile home, resulting in no increase in bedroom count or expected sewage flow.

- The existing mobile home has been removed due to a fire in December of 2023

- There are no signs of failure in the existing sewage disposal system on the property.

- Petitioner is not proposing any change to the location of the existing sewage disposal system.

- Respondent denied the building permit application, citing a need for a "safe, adequate, and proper" certification from the Health Department under Virginia Code § 35.1-165.

- Petitioner contends this requirement is misapplied based on the provisions of Va. Code § 35.1-165(C), which explicitly exempts his situation from requiring a SAP (safe adequate and proper) **(Exabit A)**

- Petitioner has made multiple attempts over [6-7] months to resolve this issue through meetings and a formal appeal letter. **(Exabit B)**

- Respondent failed to issue a formal denial in writing within the statutorily required timeframe, which is usually within 30 to 60 days, thus should have resulted in an automatic approval of the permit. **(Exabit C)**

- Respondent has threatened Petitioner with fines if he proceeds with the work.

- As a result of the denial, Petitioner has incurred significant financial hardship, including approximately $700 per month in additional rent and $500 per month in storage fees for the new mobile home, 20 hours of time @80 per hr., travel expenses at $100 totaling approximately $10,100.00 to date.

EXHIBIT IV
4 OF 9

**4. **GROUNDS FOR MANDAMUS****

- Respondent has a clear legal duty to issue building permits that comply with applicable laws and regulations, including Va. Code § 35.1-165.

- Petitioner has a clear legal right to the issuance of the building permit because:

a. The permit application complies with all applicable laws and regulations.

b. Under Va. Code § 35.1-165(C), no safe adequate and proper is required for the replacement of a dwelling when:

i. There is no increase in flow,

ii. There is no change in the location of the existing sewage disposal system, and you are not building anything that would encroach upon the septic system.

iii. There are no signs of failure of the existing sewage disposal system.

c. Petitioner's replacement of a three-bedroom mobile home with another three-bedroom mobile home does not result in an increase in flow.

d. Petitioner is not changing the location of the existing sewage disposal system.

e. There are no signs of failure in the existing sewage disposal system on the property.

f. The existing mobile home was burned and has been removed from the property.

g. Respondent failed to deny the permit within the required timeframe, which should result in automatic approval.

- Petitioner has no other adequate remedy at law, as administrative appeals have been exhausted or made impossible due to financial constraints.

- The issuance of the permit is a ministerial act, not a discretionary one, once all legal requirements are met.

**5. **PRAYER FOR RELIEF****

**WHEREFORE,** Petitioner respectfully requests that this Honorable Court:

a. Issue a Writ of Mandamus ordering the Respondent to immediately issue the requested building permit for the placement of the new three-bedroom mobile home;

b. Declare that, pursuant to Va. Code § 35.1-165(C), no additional sewage disposal system permit or certification is required in this case, as there is no increase in flow, no change in system location, and no signs of system failure;

c. Order Respondent to cease any threats of fines or penalties related to this matter;

d. Award Petitioner damages in the amount of $10,100 Dollars to compensate for the additional costs incurred due to the improper permit denial;

e. Award Petitioner costs and fees associated with bringing this action;

f. Grant such other relief as the Court deems just and proper.

**#### LEGAL AUTHORITIES ####**

The following authorities support this Court's power to issue a Writ of Mandamus and to provide the relief requested by the Petitioner:

**1. **Jurisdiction and Power to Issue Writ of Mandamus****

a. Va. Code § 17.1-513 - Jurisdiction of circuit courts

- Provides circuit courts with authority to issue writs of mandamus

b. Gannon v. State Corp. Comm'n, 243 Va. 480, 416 S.E.2d 446 (1992)

- Establishes that mandamus is the proper remedy to compel performance of a ministerial act

**2. **Building Permit Issuance****

a. Va. Code § 36-105 - Enforcement of Building Code; appeals from decisions of local department

- Outlines the process for building permit issuance and appeals

EXHIBIT IV

b. Va. Code § 35.1-165 - Permits for septic tanks and other sewage disposal systems

- Specifically, subsection (C), which exempts certain dwelling replacements from requiring new permits

**3. **Due Process in Administrative Proceedings****

a. U.S. Const. amend. XIV, § 1 - Due Process Clause

- Guarantees due process in state actions

b. Va. Const. art. I, § 11 - Due process of law; obligation of contracts; taking or damaging of private property

- Ensures due process rights under Virginia law

c. Goldberg v. Kelly, 397 U.S. 254 (1970)

- Establishes the right to a hearing before deprivation of certain property interests

**4. **Access to Courts and Appeals****

a. Boddie v. Connecticut, 401 U.S. 371 (1971)

- Holds that due process prohibits a state from denying access to its courts solely because of inability to pay court fees

b. M.L.B. v. S.L.J., 519 U.S. 102 (1996)

- Reaffirms that access to judicial processes cannot be limited by ability to pay in certain fundamental rights cases

**5. **Ministerial Duties of Government Officials****

a. Richlands Medical Ass'n v. Commonwealth, 230 Va. 384, 337 S.E.2d 737 (1985)

EXHIBIT IV

7 OF 9

- Defines ministerial acts as those which officials are required to perform in a prescribed manner without regard to his own judgment

**6. **Damages in Mandamus Actions****

a. Va. Code § 8.01-644 - How judgment awarded in mandamus proceedings

- Allows for damages to be awarded in mandamus proceedings

These authorities collectively establish this Court's power to issue a Writ of Mandamus, compel the issuance of a building permit, address due process violations, and award damages in this case.

Respectfully submitted,

Todd Ferguson

749 FC Beverly Road

Dry Fork, Virginia 24549

5403559770

Fergusont844@gmail.com

Date:10/17/2024

EXHIBIT IV

## VERIFICATION

I, Todd Ferguson, hereby state under oath that I have read the foregoing Petition for Writ of Mandamus and that the factual allegations contained therein are true and correct to the best of my knowledge, information, and belief.

Todd Ferguson

Sworn to and subscribed before me this 17 day of October, 2024.

Notary Public

EXHIBIT IV

Additional Documents
Submitted By
Todd Ferguson

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| | |
|---|---|
| **From:** | todd ferguson |
| **To:** | Luter, Travis (DHCD) |
| **Cc:** | Otis C. Vaughan; Rou, Brandon (DHCD); Scott, Christopher (DHCD); Vincent.Shorter@pittgov.org; Dave.Arnold@pittgov.org; matt@gravittlaw.com; Heidi L. Jones |
| **Subject:** | Appeal No. 26-03 (Ferguson) — Petitioner"s Written Objection to Evidence |
| **Date:** | Tuesday, June 23, 2026 12:35:54 PM |

Mr. Luter,

Please see Petitioner's Written Objection to Irrelevant and Unauthenticated Evidence Submitted by Respondent, below, regarding Appeal No. 26-03.

---

PETITIONER'S WRITTEN OBJECTION TO IRRELEVANT AND UNAUTHENTICATED EVIDENCE SUBMITTED BY RESPONDENT

VIRGINIA: BEFORE THE STATE BUILDING CODE TECHNICAL REVIEW BOARD
IN RE: Appeal of Todd Ferguson — Appeal No. 26-03

Todd W. Ferguson, Pro Se
5405 Whitmell School Road
Dry Fork, Virginia 24549
Phone: 540-355-9770
Email: Fergusont844@gmail.com

Date: June 23, 2026

To: W. Travis Luter, Sr., CBO
Secretary to the State Building Code Technical Review Board
Virginia Department of Housing and Community Development (DHCD)

INTRODUCTION

Petitioner Todd Ferguson respectfully submits this written objection to certain evidence submitted by Respondent Pittsylvania County in connection with Appeal No. 26-03. The Staff Document identifies three specific issues for resolution by this Board: (1) whether the local appeal fee was required; (2) whether excavation of the septic distribution box and a SAP report were required; and (3) whether a building permit may be denied for delinquent property taxes. Petitioner objects to portions of Respondent's submitted exhibits as irrelevant to these three issues, and separately objects to the authenticity of one exhibit Respondent has relied upon.

OBJECTION 1: IRRELEVANT EVIDENCE NOT PERTAINING TO THE THREE ISSUES FOR RESOLUTION

Respondent's Response includes attached materials, including the Writ of Mandamus petition filed by Petitioner in the Circuit Court of Pittsylvania County (Case No. CL24000802-00) and the subsequent order dismissing that petition with prejudice. Petitioner does not object to the Board's awareness that this prior proceeding occurred, as it is part of the relevant procedural history. However, Petitioner objects to the extent Respondent offers this material, or argues

from it, for any purpose beyond establishing that the proceeding occurred and concluded as reflected in the order itself. The substantive merits of the building permit denial were never adjudicated in that proceeding, as set forth in Petitioner's Reply, and the circuit court's procedural ruling on a discretionary writ of mandamus is not evidence relevant to whether Respondent properly applied Virginia Code Section 32.1-165 or the Virginia Uniform Statewide Building Code to Petitioner's permit application. To the extent Respondent intends for this material to suggest that the substance of Petitioner's claims has already been judicially rejected, Petitioner objects, as that is not an accurate characterization of what the circuit court actually decided.

Petitioner further notes that Respondent's submission of the dismissal order, without including the related motion and order reflecting the Virginia Department of Health's withdrawal from that same proceeding, presents an incomplete procedural record. The Health Department was a named respondent in the Writ of Mandamus. An Assistant Attorney General of Virginia raised the prospect of withdrawing the Health Department from the proceeding, prepared the motion to do so, and sent it to Petitioner. Petitioner signed that motion, and the Assistant Attorney General filed it with the court. The Health Department was withdrawn without prejudice as a result. Petitioner is including that motion and order in his own update to the factual record before this Board, so that the Board has the complete procedural sequence: the Health Department's withdrawal without prejudice, initiated by the Commonwealth's own counsel, followed by the dismissal of the remaining claim against the county with prejudice. Petitioner objects to any reliance on the dismissal order in isolation, without the context of how and why the Health Department came to be withdrawn from that same case.

OBJECTION 2: UNAUTHENTICATED DOCUMENT REPRESENTED AS THE OFFICIAL FIRE MARSHAL INCIDENT REPORT

Respondent's Response identifies an attached document as the official Pittsylvania County Fire Marshal Incident Report concerning the fire at Petitioner's property on December 17, 2023, labeling it as Exhibit I. Petitioner objects to the authenticity of this document. The document bears no signature line for the investigating officer, the Fire Marshal, or any other county official, and does not bear any certification indicating it is a true and complete copy of an official record.

Petitioner has submitted a formal public records request to the county specifically requesting a certified copy of this report. Petitioner respectfully requests that this Board decline to rely on the document submitted as Exhibit I for any factual finding regarding the circumstances of the fire, the prior ownership or occupancy of the property, or Petitioner's standing to pursue this appeal, until and unless Respondent produces a properly authenticated, certified copy of this record.

RELEVANCE TO THE THREE ISSUES FOR RESOLUTION

None of the material addressed in this objection bears on the three issues the Staff Document has identified for the Board's resolution: the appeal fee waiver, the SAP and excavation requirement, and the delinquent tax basis for denial. Petitioner respectfully requests that the Board's consideration of this appeal be confined to evidence that is both authenticated and relevant to those three issues, and that the Board disregard or give no weight to the materials addressed above unless and until the deficiencies identified in this objection are cured.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Board:

1. Decline to give weight to Respondent's dismissal order from Case No. CL24000802-00 as evidence bearing on the merits of the permit denial, in light of the incomplete procedural record presented;
2. Decline to rely on the document submitted as Exhibit I as an authenticated Fire Marshal Incident Report until Respondent produces a certified copy; and
3. Limit its consideration of the evidentiary record to matters relevant to the three issues identified in the Staff Document.

Respectfully submitted,

Todd W. Ferguson, Pro Se
5405 Whitmell School Road
Dry Fork, Virginia 24549
Phone: 540-355-9770
Email: Fergusont844@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Written Objection has been served upon the following parties via electronic mail (email) on the date indicated above:

- Otis Vaughan, Chief Building Official, Pittsylvania County Community Development — Otis.vaughan@pittgov.org
- W. Travis Luter, Sr., CBO, Secretary, State Building Code Technical Review Board, Virginia Department of Housing and Community Development — travis.luter@dhcd.virginia.gov
- Brandon Rou, Virginia Department of Housing and Community Development — Brandon.Rou@dhcd.virginia.gov
- Christopher Scott, Virginia Department of Housing and Community Development — Christopher.Scott@dhcd.virginia.gov
- Vincent Shorter, County Administrator, Pittsylvania County — Vincent.Shorter@pittgov.org
- Dave Arnold, Deputy County Administrator, Pittsylvania County — Dave.Arnold@pittgov.org
- Matt Evans, County Attorney — matt@gravittlaw.com
- Heidi Jones, Pittsylvania County — Heidi.jones@pittgov.org

Todd W. Ferguson, Pro Se

# COMMONWEALTH of VIRGINIA

*Department of Health*

Marissa J. Levine, MD, MPH, FAAFP
State Health Commissioner

P O BOX 2448
RICHMOND, VA 23218

TTY 7-1-1 OR
1-800-828-1120

September 1, 2017

**MEMORANDUM**

**TO:** District Health Directors
Environmental Health Managers
Office of Environmental Health Services Staff
Onsite Soil Evaluators
Professional Engineers
Onsite System Operators and Installers

**GMP #2017-03**

**THROUGH:** Marissa J. Levine, MD, MPH, FAAFP
State Health Commissioner

**THROUGH:** Allen Knapp, Director
Office of Environmental Health Services

**FROM:** Dwayne Roadcap, Director
Division of Onsite Sewage and Water Services, Environmental Engineering and Marina Programs

**SUBJECT:** GUIDANCE MEMORANDA AND POLICY (GMP) 2017-03
Safe, Adequate, and Proper Reviews

**PURPOSE:** This policy establishes the procedure for processing a building official request for safe, adequate, and proper determination pursuant to Va. Code § 32.1-165.

**SCOPE:**

This policy identifies the minimum review and paperwork needed to process a request from a local building official pursuant to Va. Code § 32.1-165. The referenced Code section requires building officials to seek and obtain authorization from local health departments prior to issuing a building permit. Authorization to issue those permits rests upon a health department determination the existing or proposed onsite sewage system is safe, adequate, and proper for the subject building designed for human occupancy. Exceptions to this policy will require approval and consultation with the Office of Environmental Health Services (OEHS).

The Virginia Department of Health (VDH) receives numerous types of requests for onsite sewage inspections and some situations fall outside the scope of this policy. For example, this policy would not apply to multiple requests from a building official for a community-wide need, perhaps because of a natural disaster (flooding, tornado, or hurricane). Another possible example could be when multiple sewage systems are located close together as found in a mobile home park and there is a long history of failing sewage systems at the location. In these types of situations, processing an individual request from the building official may not protect public health or groundwater supplies unless historical failures were addressed on a community-wide scale. This policy also does not address evaluation procedures for a sewage system being sold through a real estate transfer or a sewage system being evaluated as part of a revised subdivision plat.

For pools, decks, garages, pole barns, sidewalk installations, and other structures not designed for human occupancy, the local building official may ask VDH to determine whether proposed construction will interfere with the existing sewage system's function. For these situations, VDH lacks authority to determine whether the sewage system is safe, adequate, and proper as contemplated by the Code. However, as a courtesy to the building official, and by request (see attachments 2a and 2b), VDH may process the request (see attachment 3b).

**AUTHORITY:**

Va. Code § 32.1-165, as amended and effective as of July 1, 2016, provides authority for the procedures outlined in this policy (see attachment 4). Va. Code § 32.1-165 states, "No county, city, town, or employee thereof shall issue a permit for a building designed for human occupancy without the prior written authorization of the Commissioner or his agent." "Safe, adequate, and proper" means a treatment works that complies with the Board of Health's currently effective regulations. VDH may approve an older sewage system that does not comply with current regulations provided the sewage system (1) complies with the regulatory requirements in effect at the time of its installation, (2) is not failing, and (3) can be expected to function properly given its design and construction for the sewage flow and strength.

Additionally, Va. Code § 32.1-165 allows VDH to accept a certified evaluation from qualified private sector professionals. VDH may perform an inspection of the private sector professional's work, but is not required to do so. The law also allows an owner to voluntarily upgrade an existing onsite sewage system.

In accordance with Va. Code §§ 36-98 et seq., 32.1-12, and 32.1-163, VDH and the Virginia Department of Housing and Community Development (VDHCD) agreed to coordinate respective jurisdictional responsibilities through a memorandum of agreement (MOA). The current MOA states when a local building official asks VDH for a determination of "safe, adequate, and proper," VDH will apply the standards required by current regulations to evaluate the request (see Attachment 8). Current regulations represent the minimum standards necessary to adequately protect public health, the environment, and groundwater supplies.

Va. Code § 32.1-164.1:1 allows owners with failing sewage systems, or those who want to voluntarily upgrade their sewage system the option to request a waiver from

additional treatment and/or pressure dosing. The Commissioner shall grant any request for such waiver, unless the Commissioner finds the failing system was installed illegally without a permit. Any such waivers shall be recorded in the land records of the clerk of the circuit court in the jurisdiction in which the property on which the relevant onsite sewage system is located.

**BACKGROUND:**

When a property owner wants to construct a building for human occupancy, such as replace a mobile home, construct an addition to an existing dwelling, or replace a damaged or destroyed home, the owner must first obtain a building permit from the local building official. The local building official will ask VDH whether the existing sewage system is acceptable (or "safe, adequate, and proper"). In many cases, the sewage system does not comply with current health department regulations as the sewage system installation was completed under prior, less stringent requirements.

As a result, some property owners could spend considerable money to upgrade the existing sewage system to comply with current regulations, even though the owner could continue using the old sewage system (without change) but for the request for a new building permit. The amendments to Va. Code § 32.1-165 provide VDH discretion to approve an older sewage system as nonconforming to the current regulatory standards, provided the status quo remains the same (i.e., there is no change in sewage flow or strength; the sewage system was installed in accordance with regulations in effect at the time of installation; the sewage system is not failing; and the sewage system can be expected to function properly).

**PROCEDURAL OUTLINE:**

Staff is encouraged to work with respective local building departments to ensure excellent customer service and proper implementation of the Code and this policy. See attachment 1 for a business flow path for processing requests pursuant to Va. Code § 32.1-165; requests are expected to be processed within 15 business days of receipt as follows:

1. The local health department (LHD) receives a request from the local building official for a review pursuant to Va. Code § 32.1-165. See attachment 2a.

    a. Upon receipt of the request, if unaccompanied by an application from the property owner, LHD must contact the property owner to obtain the owner's permission for review. See attachment 2b.

2. LHD receives an application from the property owner for a review pursuant to Va. Code § 32.1-165. See attachment 2b.

    a. The request from the building official and the application from the property owner (or agent) provides authority for review pursuant to Va. Code § 32.1-165 and grants permission for staff to enter the property and perform required evaluation.

b. If the application is incomplete, staff must deny the application by notifying the owner in writing. The denial must explain the reasons why the application is incomplete and provide an opportunity to appeal. The owner can resubmit a new application at any time. See attachment 5.

c. If the request and application indicates a subject structure is not designed for human occupancy, staff should contact the local building official. In the event the building official confirms the proposed structure is not designed for human occupancy, staff can use attachment 3b for the response.

3. After receiving the request from the building official and the property owner (or agent), staff should complete a review of paper and electronic records within two business days of receiving a complete application. Staff must also request copies of septic tank pumping records or operation and maintenance (O&M) records for the onsite sewage system, if available.

   a. If the application is complete and does not contain supporting work from a licensed private sector professional, staff must schedule a site visit at a date and time acceptable to the property owner (or agent). As best practice, office support staff should schedule the site visit when the property owner (or agent) submits the completed application to the local health department.

   b. If the application is complete and contains a certified private sector evaluation as authorized by the Code[1], VDH may perform a field inspection of the private sector work before issuing an approval, but an inspection is not required. Review of private sector work should be consistent with guidelines established in GMP #2017-01 or successor policy, meaning at least 10% of each licensee's work will be evaluated by completing a Level 2 (field) review. Staff is expected to process requests and complete applications within 5 business days of receipt when accompanied by a supporting private sector certified evaluation, unless the property owner (or agent) agrees to a different timeframe. Completion of attachment 3a constitutes a certified evaluation.

      For commercial and multi-family dwellings greater than 1,000 gallons per day in design flow, the property owner must submit a certified evaluation from a private sector professional; otherwise, the application is incomplete.

   c. For conventional onsite sewage system requests without supporting work from the private sector, at a minimum, the property owner must uncover the septic tank and

[1] In accordance with Va. Code § 32.1-165, staff may accept certified evaluations from (i) a professional engineer licensed pursuant to Chapter 4 of Title 54.1; (ii) an onsite soil evaluator, onsite sewage system operator, or onsite sewage system installer licensed pursuant to Chapter 23 of Title 54.1; (iii) or other individual with an appropriate certification from the National Sanitation Foundation, or equivalent for "safe, adequate and proper."

distribution box for inspection, unless the property owner requests and receives a waiver from this policy expectation using the application provided in Attachment 2b. If the owner believes uncovering the septic tank and distribution box would create a financial or other hardship, the property owner may request an exemption. If the owner has a licensed private sector professional assist with locating and uncovering the system they can submit a private sector evaluation as previously mentioned and a VDH site visit may not be needed.

The EH Manager, Supervisor, Technical Consultant or EHS Senior may grant a waiver from uncovering components on a case-by-case basis. Staff may consider an exemption for the following reasons:

1. The owner has O&M records within the past 5 years of the request for a building permit.
2. The owner reports uncovering system components would likely cause damage to system components or would be too costly.
3. The owner has accurate field measurements for the location of the septic tank and distribution box.
4. Other hardships outweigh the benefit of an inspection of the system components.
5. Other facts indicate an inspection of the system components is not necessary (e.g., the sewage system is less than 5 years old; the tank was recently pumped; accurate records exist, etc.).

Prior to the site visit, staff should make reasonable efforts to locate and obtain any previous records for the sewage system. Staff should provide any records found to help the owner locate system components. When a record of approval exists for the sewage system, that approval and permit remains effective until the system fails or there is a change in effluent flow or strength.

Lack of records does not automatically indicate the sewage system was installed without a permit and should not be used as the sole reason for denying a request pursuant to Va. Code § 32.1-165.

If the sewage system is more than five years old and the owner has no inspection or septic tank pumping records, staff should recommend the owner pump the septic tank, unless other facts dictate pumping is unnecessary.

4. If the owner uncovers the septic tank and distribution box for inspection, staff shall observe the septic tank and distribution box's condition and require repairs or recommend voluntary upgrades using best practices and professional judgment. Staff must notify the owner in writing if a repair is required (see attachment 6).

    a. During the site visit, staff must create an accurate field sketch with "triangulated" measurements to locate system components (see attachments 3a and 3b) to the extent possible. Staff may, but is not required to, perform a site and soil evaluation to

determine the depth to soil-limiting features. All field measurements, soil evaluation observations, and site sketches shall be provided to the owner with the agency's case decision to approve or deny the request.

Using attachment 3a or 3b, depending whether the request is associated with a structure designed for human occupancy, staff must estimate the number and length of percolation trenches and update electronic records in the Virginia Environmental Information System (VENIS) database for the property (see attachment 7).

b. If prior records document compliance with current regulations for dispersal of septic tank effluent and staff determines (1) the sewage system is not failing,[2] (2) was installed in accordance with the regulation in effect at the time of its installation, (3) there is no increase in effluent strength or flow, and (4) the sewage system can be expected function properly, then staff shall approve the request as "safe, adequate and proper" (complies with current regulations) using Attachment 3a (for requests associated with human occupancy) or Attachment 3b (for requests not associated with human occupancy).

c. If sufficient information to determine whether the sewage system complies with current regulations is unavailable (i.e., unknown depth to limiting features, unknown depth of system installation, etc.), or where staff determines the sewage system does not comply with current regulations, then staff must approve the request as "non-conforming," provided (1) the sewage system is not failing, (2) was installed in accordance with the regulation in effect at the time of its installation, (3) there is no increase in effluent strength or flow, and (4) the sewage system can be expected function properly. Approval should be documented by using Attachment 3a (for requests associated with human occupancy) or Attachment 3b (for requests not associated with human occupancy).

    i. With respect to horizontal separation distances to structures already installed at the time of the site visit (shed, gazebo, sidewalk, playground set, or other landscaping feature over the footprint of the dispersal field), staff must note whether those structures could potentially have a negative impact on the proper function or ability to perform O&M. However, these features would not normally result in a denial (see paragraph 4.d below), and staff could approve the sewage system as "nonconforming" to the current regulations.

---

[2] 12VAC5-610-350. Failure of a sewage disposal system. For the purpose of requiring correction of a malfunctioning sewage disposal system the presence of raw or partially treated sewage on the ground's surface or in adjacent ditches or waterways or exposure to insects, animals or humans is prima facie evidence of such system failure and is deemed a violation of these regulations. Pollution of the groundwater or backup of sewage into plumbing fixtures may also indicate system failure.

ii. If staff finds an existing (unpermitted, prior to 1990) well is insufficiently offset from the existing sewage system, staff should note the horizontal separation, and make appropriate recommendations with respect to testing or relocating the drinking water source. Unless a regulatory violation exists (see paragraph 4.d below), then staff may approve the use as nonconforming.

iii. A property owner may voluntarily upgrade the sewage system if desired.

d. If staff determines facts warrant denial of the request for "safe, adequate and proper," staff must issue a Notice of Alleged Violation (NOAV) accurately describing and explaining why observations indicate the property owner may be violating applicable regulation and law, and provide the property owner with a right to appeal. The owner may file a new application to repair or replace the existing sewage system, or appeal the adverse decision, in accordance with the NOAV and denial for safe, adequate and proper pursuant to Va. Code § 32.1-165.

Upon approval of a repair, staff may provide a copy of the construction permit to the local building official and issue an approval using Attachment 3a or 3b. The property owner may also request the system be evaluated according to current regulations. For systems without documentation, this requires a new site and soil evaluation.

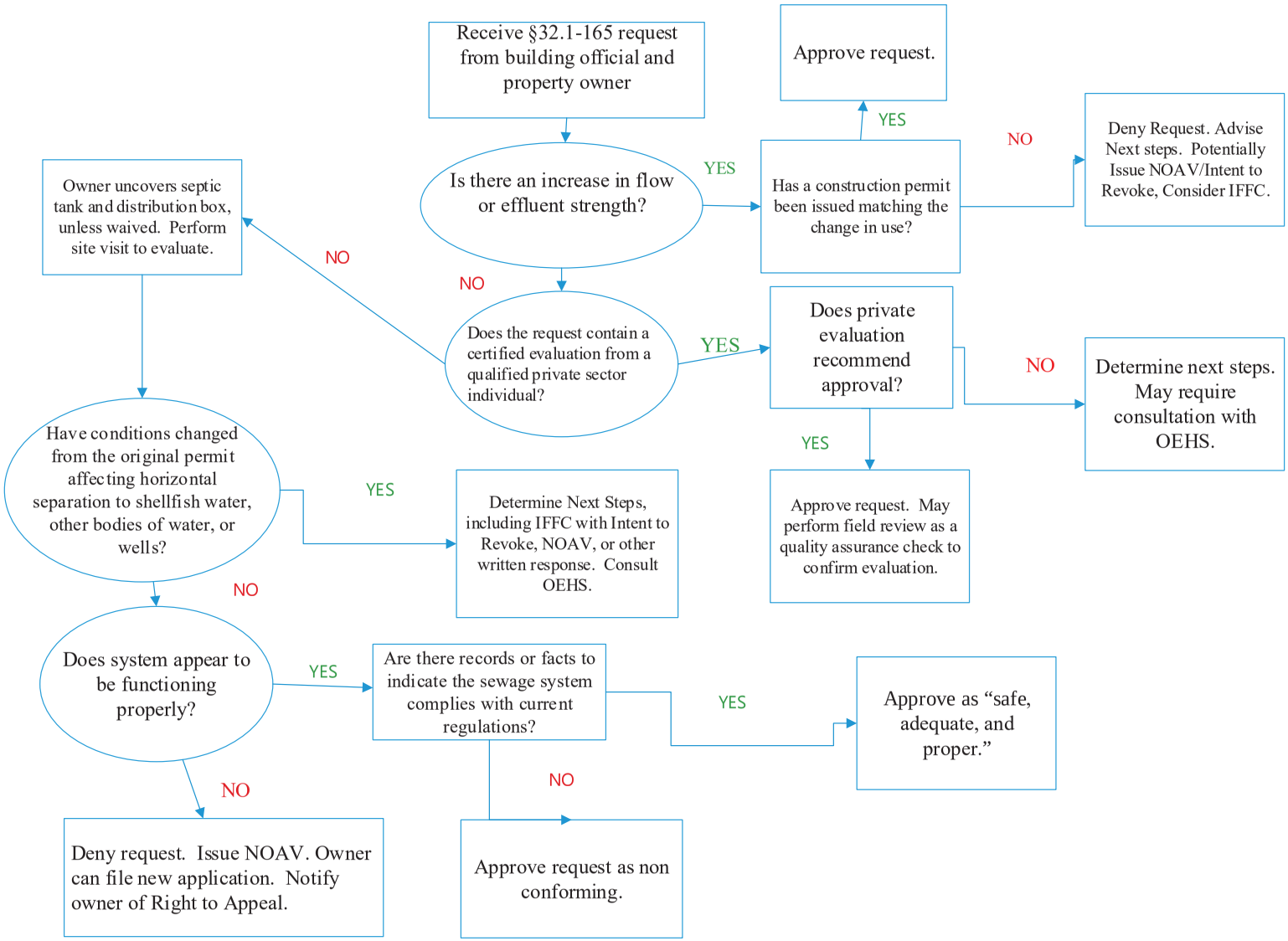
5. For an alternative discharging sewage system or an alternative onsite sewage system (AOSS), the owner should supply the most recent O&M records. If the request is within 12 months of the most recent operator report indicating the system is functioning properly, a site visit by VDH staff is not necessary. Staff should perform a site visit in accordance with guidelines established in GMP #2017-01or successor policy, meaning at least 10% of each licensee's work will be evaluated by completing a Level 2 (field) review. Upon review, staff may approve the system, either as "non-conforming," or meeting current regulations, depending on the facts gathered from the files.

   If no current operator report for the alternative discharging system or alternative onsite sewage system is available, staff must deny the request and provide the owner with a NOAV.

- Attachment 1 - Flow Chart: SAP Review of an Existing System
- Attachment 2a - Request from local building official
  2b - Application from property owner
- Attachment 3a - Evaluation Form (designed for human occupancy)
  3b – Evaluation Form (not designed for human occupancy)
- Attachment 4 - Virginia Code § 32.1-165
- Attachment 5 - Denial letter
- Attachment 6 - NOAV letter
- Attachment 7 - Screenshot of data entry requirements for VENIS
- Attachment 8 - MOA between VDHCD and VDH

Attachment 1

**Flow Chart: Review of Existing Systems**




06

Attachment 2a: **Application for Health Department Review from Building Official**

**COUNTY SEAL HERE**

## Request for Health Department Review

**Building/Zoning Department Use Only:**

The _____ (County/City) Building and/or Zoning Department hereby requests that the Virginia Department of Health evaluate the onsite sewage system and/or water supply on the property described below to determine whether:

The existing onsite sewage disposal system is safe, adequate and proper (SAP) for the proposed use (see §32.1-165 of the *Code of Virginia*). Note: This block can only be marked if the structure is designed for human occupancy.

The proposed use will encroach upon the existing onsite sewage disposal system and/or water supply.

Other or Comments:

_____
_____
_____
_____
_____
_____

Attachments (sketch, building plans, plat)

Building/Zoning Official Signature: _____

Date:_____

**Note: This written application is not required if an electronic process is already in place for the local building official to request a SAP evaluation from the local health department.**

Attachment 2b: Request for Health Department Review
**To Be Completed By Property Owner Or Agent:**

Owner Name: _____ Home Telephone: _____
Mailing Address: _____ Office Telephone: _____
_____ Cell Phone: _____
e-mail address: _____

Agent Name: _____ Home Telephone: _____
Mailing Address: _____ Office Telephone: _____
_____ Cell Phone: _____
e-mail address: _____

Property Location (provide directions from local health department):
_____
_____

Tax Map: _____ PIN # _____
Subdivision Name (if applicable):_____ Lot # _____

Current Use (include # of Bedrooms):_____
Proposed Use (include # of Bedrooms):_____
Please attach any recent records of onsite system (Pump-outs, or Operation and Maintenance Reports).
Has property been occupied during previous 30 day period: Y or N
The septic tank and distribution box are uncovered for inspection: Y or N Components will be uncovered by _____ (date).
(To prevent potential damage to the system VDH recommends homeowners first contact Miss Utility for marking any underground utilities. The septic tank and distribution box should be carefully excavated by hand.)
Uncovering the septic tank and distribution box would cause an undue hardship: Y or N If Y reasons for hardship:
_____
(Examples of hardship: system is relatively new, recently pumped, accurate records exist, or excavation would likely damage components.)

Related Building Permit #:_____ Health Department I.D.#: _____

PLEASE *READ CAREFULLY:*

**This report is only intended to address the above referenced request and does not address evaluation procedures for sewage systems being sold through real estate transfers, or systems and water supplies being re-used as part of a subdivision process. This document specifically addresses VDH's implementation of § 32.1-165 of the Code of Virginia and is not to be used for any unauthorized use.**

**The property boundaries and building locations are clearly marked or identified at the property. I give permission to the Virginia Department of Health to enter the property described, if necessary, for the purpose of processing this application. An accurate sketch of the property, existing structures, wells, sewage disposal systems, and proposed structure(s) is attached.**

**Owner/Agent Signature:_____ Date:_____**

Attachment 3a:

## Findings:
## Review pursuant to Va. Code § 32.1-165

**Name: _____**

**Phone Number: _____**

**Subdivision: (If Applicable) _____ Section: _____ Lot: _____**

**Physical Address: _____**

**Is the existing onsite sewage system safe, adequate and proper or approvable as nonconforming for the proposed use?**

_____ (**YES)** Comments: _____

_____

_____ (**NO)** Comments: _____

_____

**Other Comments:**

_____

_____

_____

_____

_____

**Please note that each evaluation is based on a case by case basis and may or may not include a Department site visit. There is no guarantee given or implied that this sewage disposal system will continue to function properly in the future. In the event of a sewage disposal malfunction, the owner will be responsible for any repairs or other actions deemed necessary by the Department to correct the situation.**

**Turn Document Over for Site Sketch and Signature.**

## Site Sketch:

SIGNATURE: _____
DATE:_____

An owner may challenge a denial by requesting an Informal Fact-Finding Conference (IFFC) within 30 days of receipt of a decision. All requests for an IFFC must be sent in writing to the District Health Director and cite the reason or reasons for the request.

Attachment 3b: **Findings and Worksheet for a Courtesy Review of Building Plans not designed for Human Occupancy**

**Name:** _____

**Phone Number:** _____

**Subdivision: (If Applicable)** _____ **Section:** _____ **Lot:** _____

**Physical Address:** _____

**Section 1 Courtesy Review:**

For pools, decks, garages, pole barns, sidewalk installations, and other structures not designed for human occupancy, the local building official may ask VDH to consider whether proposed construction could impact the existing sewage system's function. For these situations, VDH lacks authority to determine whether the sewage system is safe, adequate, and proper as contemplated by the Code. However, as a courtesy to the building official, and by request (see attachments 2a and 2b), VDH may process the request.

**Comments:**_____

_____

_____

_____

_____

_____

**There is no guarantee given or implied that the proposed construction will not interfere with any components of the sewage disposal system and/or water supply. The Department is simply performing a courtesy review for the locality to try and identify any potential conflicts based on information available. In the event of damage to a sewage disposal system or well during construction, the owner will be responsible for any repairs or other actions deemed necessary by the Department to correct the situation.**

**Turn Document Over for Site Sketch and Signature.**

## Site Sketch:

## Health Department Official Signature:

NAME: _____ SIGNATURE: _____

DATE: _____

Attachment 4: **Copy of Va. Code § 32.1-165**

"§ **32.1-165**. Prior approval required before issuance of building permit; approved sewage system or nonconforming system.

A. No county, city, town, or employee thereof shall issue a permit for a building designed for human occupancy without the prior written authorization of the Commissioner or his agent. The Commissioner or his agent shall authorize the issuance of such permit upon finding that safe, adequate, and proper sewage treatment is or will be made available to such building, or upon finding that the issuance of such permit has been approved by the Review Board. "Safe, adequate, and proper" means a treatment works that complies with applicable regulations of the Board of Health that are in effect at the time of application.

B. The Commissioner shall develop an application and procedure for evaluating an installed treatment works and to determine whether to authorize issuance of a permit for a building designed for human occupancy.

C. Nothing in this section shall be construed to prevent the Commissioner or his agent from approving the use of a nonconforming treatment works, provided the treatment works was installed in accordance with the Board of Health's applicable regulations in effect at the time of its installation, is not failing, and is designed and constructed for the sewage flow and strength expected from the building.

D. Nothing in this section shall be construed to prevent an owner of real property from receiving a voluntary upgrade pursuant to § **32.1-164.1:3**, or other permit, as a condition of approval as a nonconforming treatment works.

E. The Board, Commissioner, and Department may accept a certified evaluation from (i) a professional engineer licensed pursuant to Chapter 4 of Title 54.1; (ii) an onsite soil evaluator, onsite sewage system operator, or onsite sewage system installer licensed pursuant to Chapter 23 of Title 54.1; (iii) or other individual with an appropriate certification from the National Sanitation Foundation, or equivalent. The Department may perform an inspection of the certified evaluation but shall not be required to perform a field check prior to the issuance of the written authorization in subsection A."

Attachment 5: Denial Letter



<LHD address>

<Date>

<owner>
<owner address>

**Certified Mail** _____

RE: <property address>

Dear <owner>:

This letter is to inform you that _____has evaluated your request for a Safe, Adequate, and Proper (SAP) review pursuant to Va. Code § 32.1-165 filed on _____. Unfortunately, we are not able to approve the request for the following reason(s):

{INSERT REASONS, i.e.,

The onsite system is not designed for the expected flows.
The proposed building plan does not meet setback requirements for the septic system.
The existing onsite system appears to be failing.}

This decision is based on the information filed with your application and the request from the local building official. You have the right to appeal this decision. If you wish to appeal, you can submit your request to _____ at _____ within **thirty (30) days** from the date you receive this letter. Please include any facts or other data that would support your appeal.

If you have any questions or if this office may be of further service, please let us know.

Sincerely,

Environmental Health Specialist

CC: Building Official

Attachment 6: **Draft NOAV Letter**

**COMMONWEALTH OF VIRGINIA**
***VIRGINIA DEPARTMENT OF HEALTH***
***<LHD address>***
**<Today>**

**NOTICE OF ALLEGED VIOLATION**

<OwnerName>
<OwnerMailingAddress>
<OwnerMailingCity>, <OwnerMailingState> <OwnerMailingZip>

Re: (Physical Address, Location, Lot#, Tax Map #, ect) **Certified Mail**

Dear <OwnerName>:

This Notice is to inform you that the <FacilityLocationCounty> County Health Department ("local health department") has observed certain conditions on your property that may constitute threats to public health and the environment. The following observations form the basis for the issuance of this notice:

On (**insert date**), _____, Environmental Health Specialist with the local health department conducted an inspection of your sewage treatment system ("system") _____.
The inspection revealed:

- The system appeared to discharge untreated or partially treated sewage effluent into the waters of the Commonwealth and not operating in accordance with the effluent limitation set forth in your general permit.
- Aerator appeared to not be functioning properly.
- Aerator missing.
- No disinfectant tablets were provided in the chlorinator.
- etc.
- Your current operation permit appears to have expired on _____.
- It appears that a valid monitoring contract is not provided.
- It appears that a valid maintenance contract is not provided.
- The local health department has not received required monitoring and maintenance reports.

These observations, if verified, constitute real or potential threats to public health and to the ground and surface waters of the Commonwealth.

This notice is to remind you that it is your responsibility, as owner of your property, to operate the facilities in accordance with the applicable laws and regulations of the State Board of Health

("Board"). The Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq., the "*Regulations*") and the Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings Regulations (12 VAC 5-640-20 et seq., "*Discharging Regulations*") which contain the following provisions:

**12 VAC 5-610-80. Sewerage systems and/or treatment works required**.

*A. The discharge of untreated sewage onto the land or into the waters of the Commonwealth is prohibited.*
*B. No owner, person, or occupant shall discharge treated or untreated sewage onto the land, into the soil or into the waters of the Commonwealth without a valid permit from the commissioner or, as appropriate, a certificate issued by the Department of Environmental Quality in accordance with Title 62.1 of the Code of Virginia.*

*C. All buildings, residences, and structures designed for human occupancy, employment or habitation and other places where humans congregate shall be served by an approved sewerage system and/or treatment works. An approved sewerage system or treatment works is a system for which a certificate to operate has been issued jointly by the department and the Department of Environmental Quality or a system which has been issued a separate permit by the commissioner.*

**12 VAC 5-610-350. Failure of a sewage disposal system**. *For the purpose of requiring correction of a malfunctioning sewage disposal system the presence of raw or partially treated sewage on the ground's surface or in the adjacent ditches or waterways or exposure to insects, animals or humans is prima facie evidence of such system failure and is deemed a violation of these regulations. pollution of the groundwater or backup of sewage into plumbing fixtures may also indicate system failure.*

**12 VAC 5-640-430.A. Performance requirements.** *Discharge limits. All systems operated under this chapter shall meet the effluent limitations set forth by the State Water Control Board in the General Permit.*

**12 VAC 5-640-220.B. Permits; general.** *Operation permit required. Except as provided in 12 VAC 5-640-310, no person shall place a discharging system in operation, or cause or allow a discharging system to be placed in operation, without obtaining a written operation permit.*

**12 VAC 5-640-220.D. Permits; general**. *Operation permit validity. Except as provided for in 12 VAC 5-640-280, operation permits shall be valid for a period of time not longer than the General Permit and the maintenance contract required pursuant to 12 VAC 5-640-500 B or the monitoring contract required pursuant to 12 VAC 5-640-490 F, whichever expires first. The operation permit may be renewed upon written proof of a new or renewed maintenance contract or monitoring contract provided they are all valid for not less than 24 months. The period of renewal shall coincide with the expiration date of the document with the shortest period of validity.*

**12 VAC 5-640-490.A. Monitoring.** *General. Discharging systems that discharge improperly treated effluent can endanger public health and threaten environmental resources. All discharging*

*systems shall be routinely inspected and the effluent sampled to determine compliance with the effluent limitations set forth by the State Water Control Board in the General Permit. All testing requirements contained in this chapter are the responsibility of the system owner to have collected, analyzed, and reported to the department.*

**12 VAC 5-640-490.F**. **Monitoring.** *Monitoring contract. In order to assure monitoring is performed in a timely and competent fashion, the owner of each system shall have a contract for the performance of all mandated sampling with a person capable of performing the sampling and analysis of the samples. This requirement may be met by including the performance of all testing and monitoring as part of the maintenance contract in accordance with 12 VAC 5-640-500 C 1. Failure to obtain or renew a monitoring contract shall result in the suspension or revocation of the operation permit as described in 12 VAC 5-640-280. When the district health director or the sanitarian manager find that the homeowner is capable of collecting and transporting samples to an approved laboratory in compliance with this chapter, the requirement for having a valid monitoring contract may be waived. Waiving of this requirement shall be done only on an individual basis and shall reflect the competency of the individual based on prefessional, training, or other educational experience. In the event the individual for whom this section is waived fails to collect three or more of any of the required samples in any five-year period, the district sanitarian or the health director may reinstate the requirement for a monitoring contract.*

**12 VAC 5-640-500.A. Maintenance.** *General. Due to the potential for degrading surface water and ground water quality or jeopardizing the public health, or both, routine maintenance of discharging systems is required. In order to assure maintenance is performed in a timely manner a maintenance contract between the permit holder and a person capable of performing maintenance is required.*

**12 VAC 5-640-500.B. Maintenance.** *Maintenance contract. A maintenance contract shall be kept in force at all times. Failure to obtain or renew a maintenance contract shall result in the suspension or revocation of the operation permit as described in 12 VAC 5-640-280. The operation permit holder shall be responsible for ensuring that the local health department has a current copy of a valid maintenance agreement. When a maintenance contract expires or is canceled or voided, by any party to the contract, the owner shall report the occurrence to the local health department within 10 work days.*

**12 VAC 5-640-510. Information to be reported.**

*A. Who is responsible for reporting. All owners issued an operation permit for a discharging system are responsible for reporting the results of all mandated testing to the department.*

*B. What must be reported. All formal compliance testing, informal testing, repairs, modifications, alterations, expansions and routine maintenance must be reported.*

*C. When reports are due. All reports and test results must be submitted within 15 working days of the sample collection.*

*D. Where to report results. All reports and test results shall be submitted to the local or district office of the health department. When formal testing indicates a discharge limit established in the General Permit is being exceeded or when informal testing indicates a discharging system may be in violation of the General Permit requirements, the maintenance provider shall be notified by the owner within 24 hours.*

**12 VAC 5-640-520. Failure to submit information.** *Failure to conduct mandatory monitoring or to report monitoring results as required in 12 VAC 5-640-490 and 12 VAC 5-640-510 may result in the suspension or revocation of the owner's operation permit.*

Violations of the Regulations and Discharging Regulations may result in enforcement actions provided under Title 32.1 of the ***Code of Virginia***.

The local health department recommends that you take the following steps within the timeframes described to mitigate the effects of potential sewage discharge:

Immediately cease discharging untreated or partially treated sewage onto the ground or water of the Commonwealth.

Immediately contract with an individual who holds a valid Sewage Handling Permit from the Virginia Department of Health to pump and haul out the sewage system and dispose of the contents on an emergency basis in accordance with section 12 VAC 5-610-599.1 of the *Regulations*.

Immediately treat the ground surface that has been exposed to raw or partially treated sewage with a layer of lime in order to destroy any remaining pathogenic microorganisms and to reduce odors.

I should advise you that, while the Virginia Department of Health ("VDH") and the State Health Commissioner ("Commissioner") has not made a decision on whether to initiate enforcement action against you at this time, your failure to institute the recommendations above may affect further investigation and potential enforcement by the Commissioner and VDH.

This notice sets forth the local health department's observations and recommendations, but it is not a case decision as defined in §2.2-4001 of the *Code of Virginia*. If you have additional facts that you believe bear on this situation and you would like to schedule an informal-fact finding conference pursuant to §2.2-4019 of the *Code of Virginia,* please contact <manager>, Environmental Health Manager at <phone number> within fifteen (15)days of the receipt of this notice. Bear in mind should you fail to attend any scheduled IFFC absent good cause, the Health Director may issue an adverse case decision.

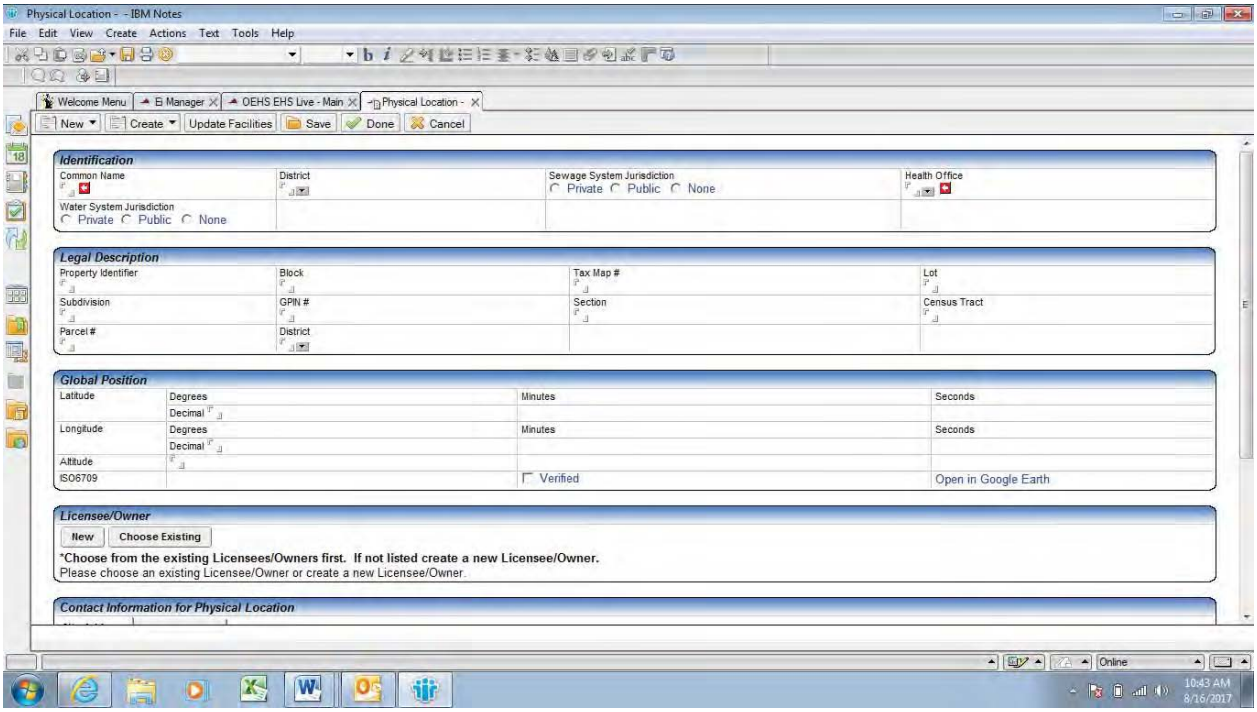
Sincerely,

<EHS>
Environmental Health Specialist
CC: <FacilityLocationCounty> County Commonwealth Attorney
<Director>Director Health District

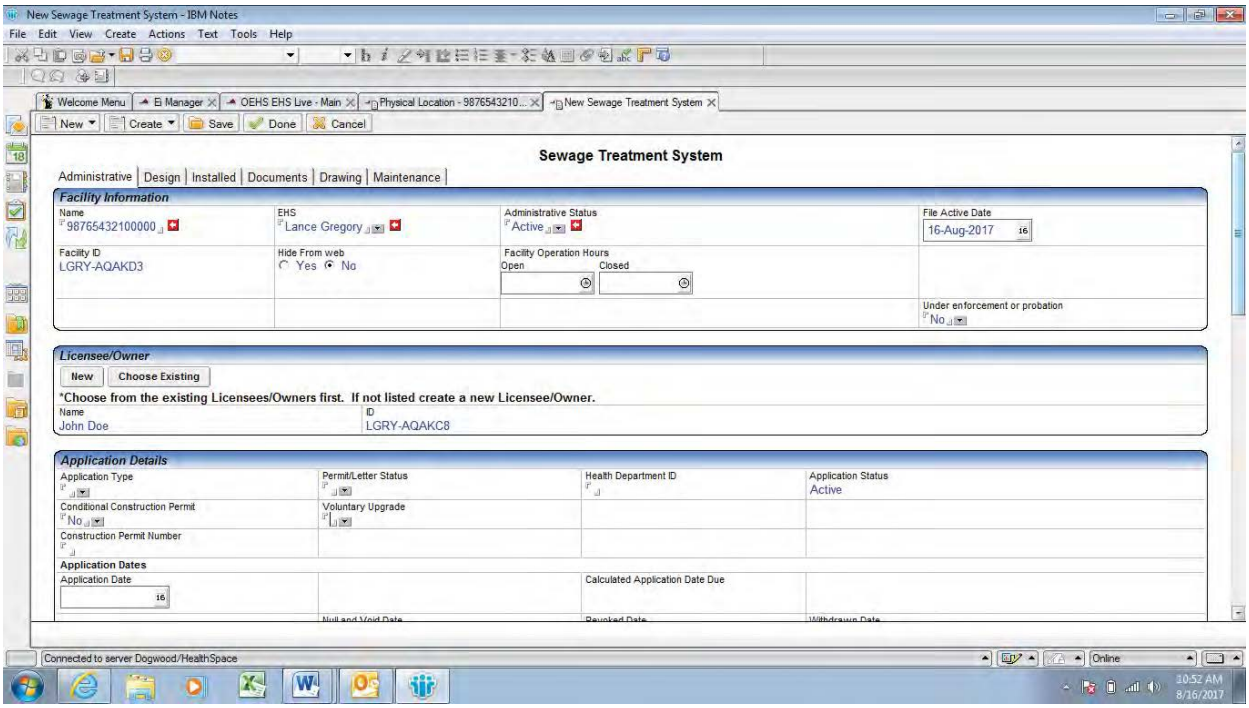
**Attachment 7: Data entry requirements for VENIS.**

For entry of SAP request where no system information is currently in VENIS, complete all the steps below. For entry of SAP request with current information in VENIS, skip to number 3.

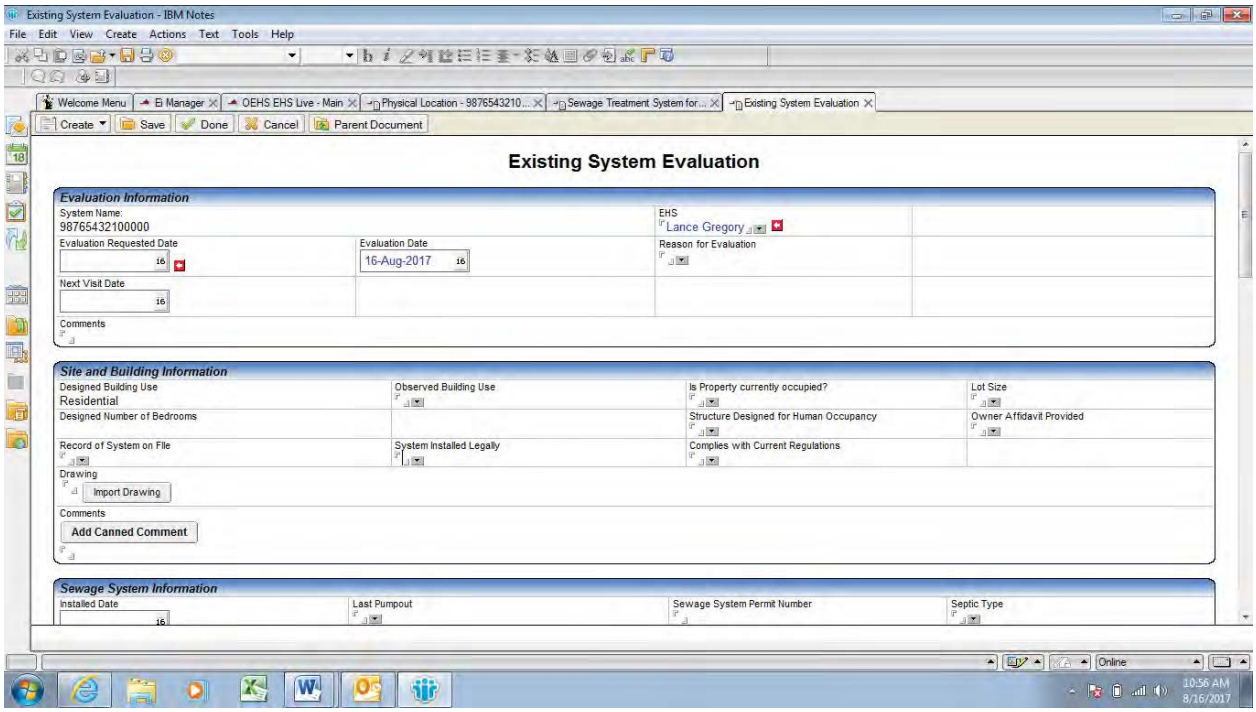
1. Create a physical location for the onsite sewage system. Use the same process as creating a new physical location for a construction permit application.



2. Create a new sewage system. Enter available information for the existing onsite sewage system based on the permit on file, if available. The data entry must include the number of bedrooms for which the existing system was sized, as this information transfers to the existing system evaluation page.



3. Create an existing system evaluation.




When filling out the existing system evaluations:

- Evaluation Requested Date = Date request for HD review is received from building official.

- Evaluation Date = Date LHD staff perform their review (site visit date for bare applications, Level I/Level II review for private sector applications).

- Reason for Evaluation = Building Permit.

- Observed Building Use = Residential or Non-residential as appropriate.

- Is Property Currently occupied? = Yes, if owner noted that property has been occupied during previous 30 day period. No, if owner noted that property has not been occupied during previous 30 day period.

- Structure Designed for Human Occupancy = Yes, if the application was submitted pursuant to 32.1-165. No, if the application is for a courtesy review for a structure not designed for human occupancy.

- Owner Affidavit Provided = Yes, if an application was also received from the owner. No, if an application was not received from the owner.

- Record of System on File = as applicable.

- System Installed Legally = Yes, unless a NOAV will be issued for illegal installation.

- Complies with Current Regulations = Yes, if system will be approved as SAP. No, if system will be approved as non-conforming. Leave blank if system was installed illegally and NOAV will be issued.

- Drawing = Insert a scanned copy of the site sketch for the SAP review.

- For the "Sewage System Information" fields, enter information as applicable from records review and site visit. For "System properly functional?" enter "Yes" unless an NOAV will be issued for a failing system. For "Sewage Evaluation Results" only enter "Denied" when an NOAV will be issued for the existing system because: 1) the system does not comply with the regulatory requirements in effect at the time of its installation; 2) the system is failing; or 3) the system is not expected to function properly given its design and construction for the sewage flow and strength.

- For "Evaluation Conclusion", under the "Summary" section, only enter "Denied" when an NOAV will be issued for the existing system because: 1) the system does not comply with the regulatory requirements in effect at the time of its installation; 2) the system is failing; or 3) the system is not expected to function properly given its design and construction for the sewage flow and strength.

Attachment 8:

MEMORANDUM OF AGREEMENT

June 27, 2013

Between the Virginia Department of Housing and Community Development (VDHCD) and the Virginia Department of Health (VDH)

In accordance with Va. Code §§ 36-98 et seq., 32.1-12, and 32.1-163 et seq., the VDH and the VDHCD agree to coordinate their jurisdictional responsibilities set forth in the Virginia Uniform Statewide Building Code (13 VAC 5-62, the "building code") and applicable VDH regulations ("VDH regulations")[1] as follows:

Codes and Regulations: Adoption and Enforcement

1. VDHCD adopts and promulgates the building code. The local jurisdiction's building department enforces the building code.

2. The Board of Health adopts and promulgates VDH regulations. The Board of Health and VDH jointly enforce VDH regulations.

Definitions:

"Alternative Discharging System" means a treatment works that requires a permit from VDH pursuant to 12 VAC5-640.

"Onsite Sewage System" means a conventional or alternative onsite sewage system as defined in Va. Code § 32.1-163, which requires a permit from VDH pursuant to 12 VAC5-610 or 12 VAC5-613.

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment.

"Graywater system" means a treatment works that disperses untreated wastewater from bathtubs, showers, lavatory fixtures, wash basins, washing machines, and laundry tubs. A graywater system does not include wastewater from toilets, urinals, kitchen sinks, dishwashers, or laundry water from soiled diapers.

[1] VDH implements the Sewage Handling and Disposal Regulations (12 VAC 5-610); Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings (12 VAC 5-640); Regulations for Alternative Onsite Sewage systems (12 VAC5-613); and Private Well Regulations (12 VAC5-630).

## Treatment works applicability

1. The VDHCD and VDH agree on the following interpretation of their relevant regulations: The building code will apply to all internal service plumbing components of a treatment works up to the point of connection of the building drain to the building sewer.

2. The building code will apply to electrical and structural components of a treatment works, except as provided below.

    a. The VDH regulations will apply to control panels for the treatment works and its functional treatment components, including electrical devices for pump stations, master disconnect switches, manual override switches, motor control panels, and separate motor control centers when specified by the designer or required by VDH.

    b. VDH regulations and policies do not consider cord and plug connections associated with a treatment works. If allowed by the building code, cord and plug connections for the treatment works must be located in a weather proof box when outside of the wet well to prevent exposure to weather conditions.

3. The VDH regulations will apply to the treatment and functional components of a treatment works regardless of location (inside or outside of the building or structure), except as provided below.

    a. The building code will apply to graywater systems not regulated by VDH, such as buildings or structures connected to a public sewer system.

4. The VDH regulations will apply to components of a treatment works that are external to the building or structure. External components include the septic tank, pump station, distribution box or mechanism, piping, or additional treatment devices such as blowers and associated electrical devices.

## Reviews pursuant to Va. Code § 32.1-165

The VDHCD and VDH commit to ensure no county, city, town or employee thereof shall issue a building permit for the construction of a new building designed for human occupancy without the prior written notification of the State Health Commissioner or the Commissioner's designated agent that safe, adequate, and proper sewage treatment is or will be made available to such building.

1. VDH approves a treatment works three ways; by issuing: (1) a certification letter that recognizes a treatment works can be designed sometime in the future, which does not expire; (2) a subdivision letter that describes future treatment works for each subdivision lot, which also does not expire; or (3) a construction permit,

which describes the actual construction of the treatment works and is valid for 18 months with one 18 month renewal under certain conditions.

2. **Pursuant to Va. Code § 32.1-165**, the local building official may use the certification letter, subdivision letter, or construction permit to issue a building permit. The local building official understands that a treatment works cannot be constructed until the local health department issues a construction permit. The footprint of the building or structure cannot interfere with the setbacks required by the VDH regulations.

3. **Pursuant to Va. Code § 32.1-165**, the local building official will contact the local health department as provided by local and routine processes, which might differ in various jurisdictions, upon finding that issuance of the building permit might have an impact on the function of an existing treatment works already installed. If VDH requests an application for review of the installed treatment works, then the application must be completed before VDH can determine whether the treatment works is acceptable.

    a. If the wastewater flow, capacity, or effluent strength increases for the existing treatment works, then **pursuant to Va. Code § 32.1-165,** the building official must rely on a valid construction permit from VDH before issuing the building permit. A certification letter or subdivision approval will not be sufficient.

4. VDH will only approve a treatment works if it complies with VDH regulations and associated policies. VDH will notify the local building official as soon as practical whether a treatment works was installed correctly, by issuance of an operation permit. **Pursuant to Va. Code § 32.1-165,** the local building official will not issue a certificate of occupancy until after VDH has issued the operation permit.

**Conflict Resolution**

Both VDH and VDHCD will cooperate in resolving any technical conflicts between VDH regulations and the building code. The agencies will develop and implement procedures as needed to ensure collaboration between local building officials and local health departments. Appropriate amendments, edits, additions, or deletions will be made to the VDH regulations and the building code when necessary. This MOA is a statement of the intentions of VDHCD and VDH to coordinate their efforts in order to carry out their statutory duties. It is not a contract and it is not enforceable in any judicial or administrative forum: it does not create any rights or duties of any third party. It does not purport to modify the statutory duty of either signatory agency.

This Agreement is effective as of the date written above and is in effect until terminated either by mutual written consent of the parties or by one signatory party with 60 days' written notice to the other party. This Agreement may be amended by mutual written consent of the parties.

The undersigned agree to the Conditions of this Agreement.

William, C. Shelton, Director
Department of Housing and
Community Development

Cynthia Romero, MD, FAAFP
State Health Commissioner
Department of Health

# STATE BUILDING CODE TECHNICAL REVIEW BOARD

COMMONWEALTH OF VIRGINIA

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**IN RE: Appeal of Todd Ferguson — Appeal No. 26-03**

**PETITIONER'S REPLY TO RESPONDENT'S RESPONSE AND RESPONSE TO STAFF DOCUMENT ISSUES FOR RESOLUTION**

Todd W. Ferguson, Pro Se | 5405 Whitmell School Road, Dry Fork, Virginia 24549
Phone: 540-355-9770 | Email: Fergusont844@gmail.com

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## I. INTRODUCTION

Petitioner Todd Ferguson respectfully submits this Reply to the Response filed by Pittsylvania County Chief Building Official Otis Vaughan on behalf of Respondent Pittsylvania County, Virginia, and further responds to the three Issues for Resolution identified in the Review Board Staff Document. The Staff Document correctly frames the central questions before this Board. Petitioner addresses each issue directly and in turn, and further responds to the mischaracterizations of law and fact contained in Respondent's Response.

## II. PRELIMINARY OBSERVATION: THE RESPONDING OFFICIAL WAS NOT PRESENT DURING THE EVENTS AT ISSUE

Mr. Vaughan states that he was not employed by Pittsylvania County at the time of the building permit process and that he gathered information concerning this case. His response is not based on firsthand knowledge of the events giving rise to this appeal. It is a reconstruction from secondhand records whose accuracy and completeness are in dispute. The Board should weigh his representations accordingly.

## III. PETITIONER'S RIGHT TO REBUILD THE FIRE-DESTROYED HOME VESTED WITH THE PROPERTY UNDER VA. CODE SECTION 15.2-2307 AND PASSED TO PETITIONER UPON CONVEYANCE

Respondent's Response attempts to undermine Petitioner's standing by noting that the Pittsylvania County Fire Marshal's Incident Report does not reference Petitioner and that Petitioner did not take title to the property until February 27, 2024, more than two months after the December 17, 2023 fire. This argument misunderstands Virginia law governing vested rights and nonconforming uses.

Virginia Code Section 15.2-2307 governs the right to rebuild a structure damaged or destroyed by fire. The statute provides that owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Where a residential building is damaged or destroyed by an act of God and cannot be repaired, rebuilt, or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so, subject to applying for a building permit and complying with the Uniform Statewide Building Code.

Critically, the statute speaks in terms of "the owner" — it does not require that the owner seeking to exercise the right to rebuild be the same person who owned the property at the moment the fire occurred. The right to rebuild a nonconforming structure attaches to the property itself and passes to whoever holds title at the time the right is exercised. This is consistent with the established principle that a deed conveying land includes all the estate, right, title, and interest of the grantor in the land, and with the long-recognized rule that benefits and burdens attached to real property pass to successive owners upon conveyance.

This principle is further confirmed by Section 15.2-2307's treatment of nonconforming manufactured homes specifically: the owner of a valid nonconforming manufactured home may replace that home with a newer manufactured home meeting current HUD code, and any such replacement home retains the valid nonconforming status of the prior home. The statute does not extinguish or reset this right upon a transfer of ownership. The nonconforming status, and the right to rebuild that accompanies it, is a property right that runs with the land.

Petitioner took title to 5405 Whitmell School Road by deed from George Vance Burnette dated February 27, 2024, recorded in the Clerk's Office of the Circuit Court of Pittsylvania County as Instrument No. 240000B15 (Exhibit B). Upon recordation of that deed, Petitioner became the owner of the property and stepped into all rights appurtenant to it, including the statutory right under Section 15.2-2307 to rebuild the fire-destroyed manufactured home in its prior nonconforming configuration. The fact that Petitioner did not personally own the property on the date of the fire is legally immaterial. The right to rebuild is a property right, not a personal right limited to whoever happened to hold title at the moment of the casualty loss.

Respondent's suggestion that the fire report's silence as to Petitioner, or the timing of Petitioner's acquisition of title, somehow defeats Petitioner's right to a building permit is contrary to the plain language of Section 15.2-2307 and the underlying purpose of the vested rights doctrine in Virginia, which the Court of Appeals of Virginia recently reaffirmed carries broad protective scope for property owners. See Board of Supervisors of Prince Edward County v. Bowman (Va. Ct. App., April 8, 2025).

Petitioner further notes that Respondent, in his own Response (Exhibit M), affirmatively represents to this Board that the document attached as Respondent's Exhibit I (reproduced and addressed herein as Exhibit N) is "that fire report," identifying it specifically as the official Pittsylvania County Fire Marshal Incident Report concerning the December 17, 2023 fire. Having made that representation to a state administrative board, Respondent bears responsibility for the reliability of the document he submitted. Yet the document so identified bears no signature line for the investigating officer, the Fire Marshal, or any other official, and does not appear on its face to be a certified copy of an official record. Petitioner has been unable to obtain a signed, certified copy of the original incident report despite contacting the relevant fire department. Respondent cannot represent a document to this Board as the official fire report and rely upon it to challenge Petitioner's standing, while that same document lacks the basic indicia of authenticity that would be expected of the record Respondent claims it to be. Petitioner reserves the right to request that the Board require production of the original, signed incident report from Pittsylvania County Public Safety to confirm the authenticity and completeness of the record relied upon.

## IV. RESPONDENT MISCHARACTERIZES TWO SEPARATE AND UNRELATED DOCUMENTS AS INCONSISTENT

Respondent's Response points to a letter bearing an origination date of September 27, 2024, and suggests that this date undermines Petitioner's account of having hand-delivered a local appeal to Emily Ragsdale, then Director of Community Development, in May 2024. This argument rests on a mischaracterization of the record. The May 2024 submission to Emily Ragsdale was Petitioner's local appeal, hand-delivered on the county's own official appeal form, the same form that was at that time available on the county's website and has since been removed. The September 27, 2024 letter is a separate and unrelated document: a letter Petitioner drafted independently, on his own paper, addressed to the State rather than to the county, for a distinct purpose at a later stage of this matter.

These two documents were sent to two different recipients, for two different purposes, four months apart. The existence of the September letter to the State says nothing about whether the May appeal to Emily Ragsdale occurred, and does not contradict it. Respondent's attempt to use the later document to cast doubt on the earlier one is not a sound basis for questioning whether Petitioner's May 2024 local appeal took place.

Petitioner further notes that the official local appeal form referenced above, which was available on the county's website at the time Petitioner submitted his May 2024 appeal, is no longer published on the county's website. Petitioner has submitted a formal public records request seeking a copy of that form as it existed in 2024. The county's removal of the very form Petitioner used to submit his appeal does not erase the fact that the appeal was submitted on that form, in the manner the county itself required at the time.

## V. STAFF ISSUE NO. 1 — WHETHER THE $200 LOCAL APPEAL FEE WAS REQUIRED: THE DENIAL OF PETITIONER'S INDIGENT FEE WAIVER VIOLATED DUE PROCESS

The Staff Document identifies as Issue No. 1 whether the local appeal fee is required to be paid in order for the appeal to be considered as filed, processed, and heard by the local appeals board. On this issue, the undisputed facts are as follows:

- Petitioner requested an appeal to the local Board of Building Appeals in May 2024 following the county's inaction on his permit application.
- The county administratively denied the appeal based on the permit requirements and the $200 local appeal fee.
- Petitioner informed the county that he was indigent and could not afford the fee.
- Petitioner requested an indigent waiver or good cause exception to the fee requirement.
- The county denied that request.

The county's denial of Petitioner's indigent fee waiver request violated his constitutional right of access to the administrative appeal process. The United States Supreme Court held in Boddie v. Connecticut, 401 U.S. 371 (1971), that due process prohibits a state from denying access to its processes solely because a person cannot pay the required fee when a fundamental interest is at stake. Petitioner's ability to rebuild and occupy his primary residence on his own property following a fire is precisely such a fundamental interest.

Furthermore, the county's denial of the fee waiver effectively foreclosed Petitioner's ability to exhaust local administrative remedies. A party cannot be faulted for failure to exhaust administrative remedies when the government's own fee demand made exhaustion financially impossible. The 25-month delay in this matter is attributable in substantial part to the county's improper denial of Petitioner's indigent waiver request, which blocked the local appeal process entirely.

This point bears directly on the constitutional analysis. The Department of Housing and Community Development, which administers this Board, has described the governing appeal scheme as follows: an appeal must generally first be made to a local government appeals board, and only thereafter to this Review Board if relief is not granted at the local level. Local board review is therefore not one option among several; it is the mandatory gateway through which a permit applicant must pass before any further appeal, including the appeal now before this Board, may proceed. The Department of Housing and Community Development's own Local Building or Fire Prevention Code Boards of Appeals Manual describes the local board of appeals as a quasi-judicial board providing a first tier due process right of adjudication of decisions of

local government building officials under the USBC. The local board is therefore not merely a first administrative step; it is expressly characterized by the agency that oversees this Board as the first tier of due process itself. A $200 fee that blocks an indigent applicant from accessing that first tier due process right does not merely foreclose one administrative option. It forecloses the entire avenue of review, including this very proceeding and any judicial review that might follow it. This is precisely the kind of fee-based barrier to a required process that Boddie v. Connecticut found constitutionally impermissible: a party cannot be required to exhaust a remedy as a precondition to further relief while simultaneously being denied any means of accessing that remedy due to inability to pay.

## VI. STAFF ISSUE NO. 2 — WHETHER EXCAVATION OF THE SEPTIC DISTRIBUTION BOX AND SAP REPORT ARE REQUIRED: THEY ARE NOT

The Staff Document identifies as Issue No. 2 whether excavation of the septic system distribution box and submittal of a SAP Report from the Virginia Department of Health is required to issue the requisite permit. The answer is no, for the following reasons.

### A. Virginia Code Section 32.1-165(C) Authorizes Approval Without a SAP Permit

Virginia Code Section 32.1-165(A) requires prior Health Department approval before a building permit issues for a structure designed for human occupancy. However, Section 32.1-165(C) provides that nothing in that section shall be construed to prevent the Commissioner or his agent from approving the use of a nonconforming treatment works, provided: (1) the treatment works was installed in accordance with the Board of Health's applicable regulations in effect at the time of its installation; (2) it is not failing; and (3) it is designed and constructed for the sewage flow and strength expected from the building.

Petitioner's system satisfies all three conditions. The existing septic system was installed under applicable Board of Health regulations, served the home for years without recorded objection, and was functioning as recently as 2024. The replacement home is a three-bedroom manufactured home identical in bedroom count and sewage flow to the home destroyed by fire. The Commissioner had full statutory authority under Section 32.1-165(C) to approve the existing nonconforming system without requiring a new SAP permit. The county applied Section 32.1-165(A) as though Section 32.1-165(C) did not exist.

### B. The County Had No Factual Basis to Invoke Health Department Involvement

The county's invocation of Section 32.1-165(A) as a blanket requirement was made without any site visit, without any documented findings, and without any factual determination that the conditions requiring Health Department involvement were

present. No county official ever inspected the property at 5405 Whitmell School Road. No sign of septic system failure was ever documented by any authority. The system was serviced in 2022 and pumped in 2024 (Exhibits C and D).

The county's interpretation of Section 32.1-165(A) would require Health Department approval for every building permit issued for human occupancy regardless of the nature of the work — replacing windows, installing handrails, building a deck — none of which implicate sewage disposal in any way. That is not what the statute requires and it is not what the legislature intended.

**C. The County Cannot Rely on Its Own Recordkeeping Failures**

To the extent the county contends that records of the existing septic permit cannot be located, that institutional failure cannot be converted into a burden on Petitioner. Petitioner provided affirmative evidence that the system was functioning: service records from 2022 and a pump receipt from 2024. The county conducted no inspection and produced no evidence of failure. The burden of establishing a basis for invoking the Health Department rested with the county. It did not meet that burden. It is a violation of due process under the Fourteenth Amendment to the United States Constitution and Article I, Section 11 of the Virginia Constitution to require a citizen to reprove compliance with requirements the government failed to document.

**D. Neither Party Ever Filed a SAP Application With the Health Department, and the County Improperly Shifted Its Own Administrative Burden Onto Petitioner**

Neither Petitioner nor the county ever filed a SAP application or referral with the Virginia Department of Health concerning this property. No such filing exists in the record because none was ever made. If Pittsylvania County Building Inspections genuinely believed a SAP evaluation was warranted under Section 32.1-165(A), the proper administrative procedure was for Building Inspections itself to submit the referral or request directly to the Health Department, identifying the specific concern that triggered the need for evaluation.

Instead, the county instructed Petitioner to obtain the SAP application himself and deliver it to Building Inspections. This procedure improperly shifted the county's own administrative burden onto Petitioner and mischaracterized the nature of the request. Under this approach, any SAP evaluation would appear in the Health Department's records as having been requested by Petitioner, rather than as a referral initiated by Building Inspections based on a specific, documented concern. The Health Department never contacted Petitioner directly to request access to the property for purposes of conducting a site evaluation, which is the procedure that would be expected if Building Inspections had properly referred the matter and the Health Department had independently determined that a site visit was warranted.

This matters because the absence of any actual filing by either party confirms that the SAP requirement was never substantiated through the proper administrative channel.

The county cannot impose a Health Department requirement as a condition of permit issuance while simultaneously failing to follow the administrative procedure necessary to invoke that requirement in the first place.

**E. The Health Department's Withdrawal Is Dispositive**

Petitioner filed a Petition for Writ of Mandamus in the Circuit Court of Pittsylvania County (Case No. CL24000802-00) naming both Pittsylvania County and the Virginia Department of Health as respondents. An Assistant Attorney General of Virginia contacted Petitioner by telephone, explained the doctrine of sovereign immunity, and asked whether Petitioner wished to withdraw the Health Department from the proceeding. Petitioner was advised that withdrawing the Health Department would not affect the mandamus proceeding against the county. The Health Department was subsequently withdrawn without prejudice (Exhibit E).

The Health Department's withdrawal from active litigation is a substantive concession. The agency whose authority the county invoked to block Petitioner's permit examined the record, evaluated its legal exposure under Section 32.1-165(C), and chose to remove itself from the case. The county now stands alone defending a requirement that the responsible agency itself abandoned. The Board should give this fact substantial weight.

**F. The Health Department Was Subject to Its Own Deemed Approval Obligation**

Virginia Code Section 32.1-163.5 requires the Health Department to act on a site evaluation submission within 15 working days. Virginia Code Section 32.1-163.6 requires the Department to either issue approval or provide written reasons for denial within 21 calendar days for treatment works sized at 1,000 gallons per day or smaller, which includes a standard residential septic system serving a three-bedroom manufactured home. Both statutes provide that failure to act within the specified timeframe results in deemed approval by operation of law. The Health Department never issued a formal written denial of any application by Petitioner with specific findings. Its obligation under these statutes was never fulfilled.

**G. The Department's Own Guidance Memorandum and Policy 2017-03 Confirms No Excavation or New Application Was Required**

The Virginia Department of Health's own Guidance Memoranda and Policy 2017-03, "Safe, Adequate, and Proper Reviews," issued September 1, 2017, establishes the procedure governing exactly this situation and confirms that Petitioner was never required to excavate his septic system or submit a new SAP application.

First, GMP 2017-03 expressly states that "lack of records does not automatically indicate the sewage system was installed without a permit and should not be used as the sole reason for denying a request pursuant to Va. Code § 32.1-165." (Exhibit O, p.

5). The county's inability to produce installation records for Petitioner's septic system is therefore not a lawful basis to deny approval.

Second, GMP 2017-03 establishes a mandatory hardship exemption from the requirement to excavate the septic tank and distribution box. The policy provides that "if the owner believes uncovering the septic tank and distribution box would create a financial or other hardship, the property owner may request an exemption," and identifies as a qualifying basis for exemption that "the sewage system is less than 5 years old; the tank was recently pumped." Petitioner had his septic tank pumped in 2024 (Exhibit E). Petitioner was never informed of this exemption or given the opportunity to request it before excavation was demanded (Exhibit O, GMP 2017-03, p. 5).

Third, the policy's own flow chart (Exhibit O, Attachment 1, p. 9) confirms that where there is no increase in flow or effluent strength and the system shows no signs of changed conditions, the result is approval, either as compliant with current regulations or as nonconforming. Nothing in the flow chart leads to a requirement that a functioning, non-failing system be excavated as a precondition to approval. This is consistent with the Memorandum of Agreement between the Virginia Department of Housing and Community Development and the Virginia Department of Health (Exhibit O, Attachment 8, p. 26), which provides that a building official must rely on a valid VDH construction permit before issuing a building permit only "if the wastewater flow, capacity, or effluent strength increases for the existing treatment works." Petitioner's proposed replacement dwelling does not increase flow; if anything, Petitioner informed Vaden Hunt in October 2024 of his intent to reduce the dwelling from three bedrooms to two (Exhibit A), which would further reduce expected flow below what the destroyed structure produced.

Fourth, GMP 2017-03 (Exhibit O, Attachment 2a, p. 10) requires that any request for Health Department review be initiated by the local building official through a written or electronic application identifying the specific basis for the request, signed and dated by the building official. No such application was ever submitted by Pittsylvania County Building Inspections in this case. The absence of that threshold application means the SAP review process required by the county's own governing policy was never properly invoked in the first place.

## VII. STAFF ISSUE NO. 3 — WHETHER A BUILDING PERMIT CAN BE DENIED FOR DELINQUENT PROPERTY TAXES: NOT UNDER THE FACTS OF THIS CASE

The Staff Document identifies as Issue No. 3 whether a building permit can be denied due to delinquent property taxes. The county invokes Virginia Code Section 15.2-2286, which permits a locality to require satisfactory evidence of payment of delinquent real estate taxes before issuing certain permits. This provision does not support the county's position for two independent reasons.

**First, Petitioner was current on all property taxes at the time of his permit application on April 3, 2024 and at the time of the formal denial on June 4, 2024.**

The county's own tax records will confirm this fact. No valid tax delinquency existed at the time the permit was denied. The delinquent tax requirement was therefore not a valid basis for denial at the time it was imposed.

**Second, any tax delinquency that may exist was caused by an improper assessment by Commissioner of Revenue Robin Goard.** The manufactured home at 5405 Whitmell School Road was destroyed by fire on December 17, 2023, as documented in Pittsylvania County Fire Marshal Incident Report No. 2023-047964. Despite the total loss of that structure, the county has continued to assess real estate taxes that include an approximately $11,000 valuation for the destroyed manufactured home, a structure that no longer exists and that Petitioner is attempting to replace through the very permit application at issue in this appeal. Virginia Code Section 58.1-3360 requires that when an improvement is destroyed, the locality shall provide prorated tax relief for the portion of the tax year during which the improvement no longer existed. No real estate tax assessment may lawfully include the value of a structure that has been destroyed and no longer exists on the property. Commissioner Goard has continued to assess taxes against this non-existent structure in violation of Section 58.1-3360. To be direct: at no point relevant to this appeal, including the date of application and the date of denial, did a lawful tax delinquency exist on this property. A tax delinquency arising from an unlawful assessment cannot serve as a valid basis for withholding a building permit.

## VIII. THE CIRCUIT COURT'S DISMISSAL WITH PREJUDICE DOES NOT BAR THIS APPEAL AND DOES NOT CONSTITUTE AN ADJUDICATION ON THE MERITS OF THE PERMIT DENIAL

The Circuit Court of Pittsylvania County dismissed Petitioner's Writ of Mandamus with prejudice on February 14, 2025 (Case No. CL24000802-00) (Exhibit F) after sustaining the county's demurrer. When Petitioner appeared in court and raised the substance of the permit denial, the court stated that the Writ of Mandamus was not the appropriate procedural vehicle — without identifying what the correct vehicle was or directing Petitioner to the appropriate forum.

This Board is that forum. The State Building Code Technical Review Board has independent statutory authority to review local building permit decisions and to direct a locality to issue a permit when the denial is found to be contrary to applicable law or the Virginia Uniform Statewide Building Code. That authority is separate from and independent of the circuit court's jurisdiction over writs of mandamus.

The circuit court's ruling on a discretionary writ of mandamus does not constitute an adjudication on the merits of whether Pittsylvania County correctly applied the building code. The demurrer was sustained on procedural grounds. No court has ever examined and ruled on the substantive question of whether the county properly applied Virginia

Code Section 32.1-165 to Petitioner's permit application. That is precisely the question before this Board.

## IX. SUMMARY OF UNDISPUTED FACTS

The following material facts are not in dispute:

- The manufactured home at 5405 Whitmell School Road was destroyed by fire on December 17, 2023 (Fire Marshal Incident Report No. 2023-047964).
- Petitioner is the owner of record, having received title from George Vance Burnette by deed recorded February 27, 2024 (Instrument No. 240000B15, Pittsylvania County Circuit Court).
- Petitioner's right to rebuild the fire-destroyed structure vested in the property under Va. Code Section 15.2-2307 and passed to Petitioner upon conveyance of title.
- Petitioner filed a building permit application on April 3, 2024 (Permit No. S24-04-31770) to place a three-bedroom manufactured home on the same property.
- The replacement home has the same bedroom count as the destroyed home and results in no increase in sewage flow.
- Petitioner proposed no change to the location of the existing septic system.
- No county official, Health Department representative, or other authority ever inspected the property or documented any sign of failure in the existing septic system.
- The septic system was serviced in 2022 and pumped in 2024.
- Petitioner was current on all property taxes at the time of the permit application and the formal denial.
- Petitioner informed the county he was indigent and requested a fee waiver for the local appeal. The county denied that request.
- The Virginia Department of Health withdrew from the related mandamus proceeding without prejudice following contact by an Assistant Attorney General of Virginia.
- The Circuit Court dismissed the Writ of Mandamus with prejudice on February 14, 2025, on procedural grounds, without adjudicating the merits of the permit denial.
- As of the date of this filing, more than 25 months after Petitioner's application, the county has not issued the building permit. Petitioner has been living on his property without power or basic utilities as a direct result.

## X. PRAYER FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that the State Building Code Technical Review Board:

1. Find that Petitioner's right to rebuild the fire-destroyed manufactured home vested in the property under Va. Code Section 15.2-2307 and passed to Petitioner upon his acquisition of title, regardless of whether he owned the property at the time of the fire;
2. Find that Petitioner's indigent fee waiver request for the local appeal was improperly denied in violation of due process, and that this appeal is properly before the Board;
3. Find that Virginia Code Section 32.1-165(C) authorizes the Commissioner to approve Petitioner's existing nonconforming treatment works without a new SAP certification, and that the county's SAP requirement and excavation demand were not lawfully imposed;
4. Find that the Health Department's withdrawal from the mandamus proceeding constitutes a substantive concession that the SAP requirement was improperly applied;
5. Find that no valid tax delinquency existed at the time of the permit denial on June 4, 2024, and that any current delinquency arising from an improper assessment of a destroyed structure cannot serve as a valid basis for withholding the building permit;
6. Find that Pittsylvania County's denial of the building permit was contrary to applicable Virginia law and the Virginia Uniform Statewide Building Code;
7. Direct Pittsylvania County to immediately issue the requested building permit for placement of a three-bedroom manufactured home at 5405 Whitmell School Road, Dry Fork, Virginia 24549; and
8. Grant such other and further relief as the Board deems appropriate and just.

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Respectfully submitted,



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**Todd W. Ferguson, Pro Se**

5405 Whitmell School Road

Dry Fork, Virginia 24549

Phone: 540-355-9770

Email: Fergusont844@gmail.com

Date: June 23 2026

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petitioner's Reply has been served upon the following parties via electronic mail (email) on the date indicated above:

- Otis Vaughan, Chief Building Official, Pittsylvania County Community Development, 53 Main St., Chatham, Virginia 24531 — Otis.vaughan@pittgov.org
- W. Travis Luter, Sr., CBO, Secretary, State Building Code Technical Review Board, Virginia Department of Housing and Community Development — travis.luter@dhcd.virginia.gov
- Matt Evans, County Attorney, Pittsylvania County — contact@pittgov.org

Todd W. Ferguson, Pro Se

# DECLARATION OF TODD W. FERGUSON

In Support of Petitioner's Reply, Appeal No. 26-03

Before the State Building Code Technical Review Board, Commonwealth of Virginia

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I, Todd W. Ferguson, declare as follows:

## OWNERSHIP AND BACKGROUND

1. I am the Petitioner in Appeal No. 26-03 before the State Building Code Technical Review Board. I am the owner of record of the property located at 5405 Whitmell School Road, Dry Fork, Virginia 24549, having received title by deed from George Vance Burnette dated February 27, 2024, recorded in the Clerk's Office of the Circuit Court of Pittsylvania County as Instrument No. 240000B15 (Exhibit C).
2. The manufactured home previously located on this property was destroyed by fire on December 17, 2023. I did not own the property at that time, but I became the owner approximately five weeks before submitting my building permit application, and I am informed and believe that the right to rebuild a fire-destroyed structure attaches to the property and passed to me upon my acquisition of title.

## THE PERMIT APPLICATION AND LOCAL APPEAL

3. On or about April 3, 2024, I submitted a building permit application (Permit No. S24-04-31770) to Pittsylvania County to replace the manufactured home destroyed by fire.
4. In May 2024, I traveled to the Pittsylvania County building and attended an in-person meeting with county officials regarding my permit application. During that visit, I also hand-delivered a local appeal, on the county's own official appeal form then available on its website, to Emily Ragsdale, who was at that time the Director of Community Development (Exhibit B).
5. During that May 2024 meeting and in subsequent communications, I informed county representatives that I was indigent and could not afford the $200 local appeal fee. I requested that the fee be waived. No written fee waiver process was offered or provided to me, and I never received a written decision explaining the denial of my request. I do not have a written copy of my verbal request or of any written denial, because none was ever provided to me despite my repeated requests.
6. On or about June 4, 2024, the county issued a formal written denial of my building permit application, citing the need for a Safe, Adequate, and Proper

A 1

(SAP) certification from the Virginia Department of Health and excavation of the septic distribution box.

## COMMUNICATIONS WITH COUNTY OFFICIALS

7. In June 2024, I had a telephone conversation with the county attorney regarding my application and the denial (Exhibit K).
8. In September 2024, I had a second telephone conversation with the county attorney regarding the same matter. During that same month, I personally visited Pittsylvania County Building Inspections and the Health Department to attempt to resolve the matter directly. On September 27, 2024, I drafted and submitted my own appeal letter, on my own paper, to the State, separate and apart from the local appeal form I had hand-delivered to Emily Ragsdale in May 2024.
9. In October 2024, during a telephone call, the county attorney terminated the call without resolving the matter. On October 18, 2024, I filed a Petition for Writ of Mandamus in the Circuit Court of Pittsylvania County (Case No. CL24000802-00), naming Pittsylvania County and the Virginia Department of Health as respondents.
10. In October 2024, I also informed Vaden Hunt that I intended to change the configuration of the replacement dwelling from three bedrooms to two bedrooms, so that the third room could be used as an office rather than a bedroom (Exhibit J). A two-bedroom configuration results in less expected sewage flow than the three-bedroom home that was destroyed by the fire, not more, further confirming that no increase in flow would result from the replacement structure.
11. I have separate written correspondence addressing constitutional issues related to this matter with Daryl Dalton (Exhibit I), and separate communications with Wesley Marshall, County Attorney, regarding the permit matter (Exhibit L). I also corresponded with the State Building Code Technical Review Board in May 2024 (Exhibit M).

## THE WRIT OF MANDAMUS AND ITS DISPOSITION

12. In late 2024, an Assistant Attorney General of Virginia contacted me by telephone regarding the Writ of Mandamus. He explained the doctrine of sovereign immunity, asked whether I intended to pursue claims against the Commonwealth, and offered to prepare a motion to withdraw the Virginia Department of Health from the proceeding, advising me that doing so would not affect the remainder of my case against the county. I signed that motion, and the Health Department was withdrawn from the case without prejudice (Exhibit F).
13. On February 14, 2025, the Circuit Court of Pittsylvania County dismissed my Writ of Mandamus with prejudice after sustaining the county's demurrer (Exhibit G).

made by E. L. Moore, C.L.S., thence a line N. 41 degrees 06' E. 258 feet, more or less, to a point in the rear; thence a new line S. 51 degrees 27' E. 200 feet to a point; thence a new line S. 41 degrees 06' W. 250 feet to a point on the northeastern margin of Whitmell School Road (State Road No. 750); thence a new line along the northeastern margin of Whitmell School Road (State Road No. 750) N. 52 degrees 38' W. 27.18 feet to a point, thence continuing along the northeastern margin of Whitmell School Road (State Road No. 750) N. 51 degrees 16' W. 172.82 feet to a point, the point and place of beginning, and being substantially as shown as Lot No. 1A on Map of Lands for A. M. Perkins, dated February 21, 1974, made by Shanks & Wilmarth, Engineers - Surveyors, recorded in the Clerk's Office of the Circuit Court of Pittsylvania County, Virginia (the "Clerk's Office"), in Deed Book 586, at page 728, to all of which reference is hereby made for a more specific description;

PARCEL NO. 2: LOT NO. 1B, containing 2.10 acres, fronting 30 feet on the northeastern margin of Whitmell School Road (State Road No. 750), as shown on Map of Lands for A. M. Perkins, dated February 21, 1974, made by Shanks & Wilmarth, Engineers - Surveyors, recorded in the Clerk's Office in Deed Book 586, at page 728, to which reference is hereby made for a more specific description.

Parcels No. 1 and 2 BEING the same property conveyed to George Vance Burnette from Keith James Flinchum, unmarried, by deed dated April 9, 2021, recorded in the Clerk's Office on April 9, 2021, at page 0121, as instrument no. 21-02273.

This conveyance is made subject to all easements, conditions, restrictions and reservations appearing of record, or apparent on the ground, which affect the Property, and any judgments against Keith J. Flinchum.



B2

EXHIBIT B

This conveyance is being made to a Bona Fide Purchaser as defined in Virginia Code Section 64.2-100 et seq. and the Property is not to be included in any augmented estate of the Grantor.

WITNESS the following signature and seal:

George Vance Burnette (SEAL)
GEORGE VANCE BURNETTE

COMMONWEALTH/STATE OF VIRGINIA:

COUNTY OF PITTSYLVANIA:

The foregoing instrument was acknowledged before me this 27th day of February, 2024, by George Vance Burnette, married, Grantor.

My commission expires: September, 30, 2027.

Notary Registration No.: 158408

Notary Public

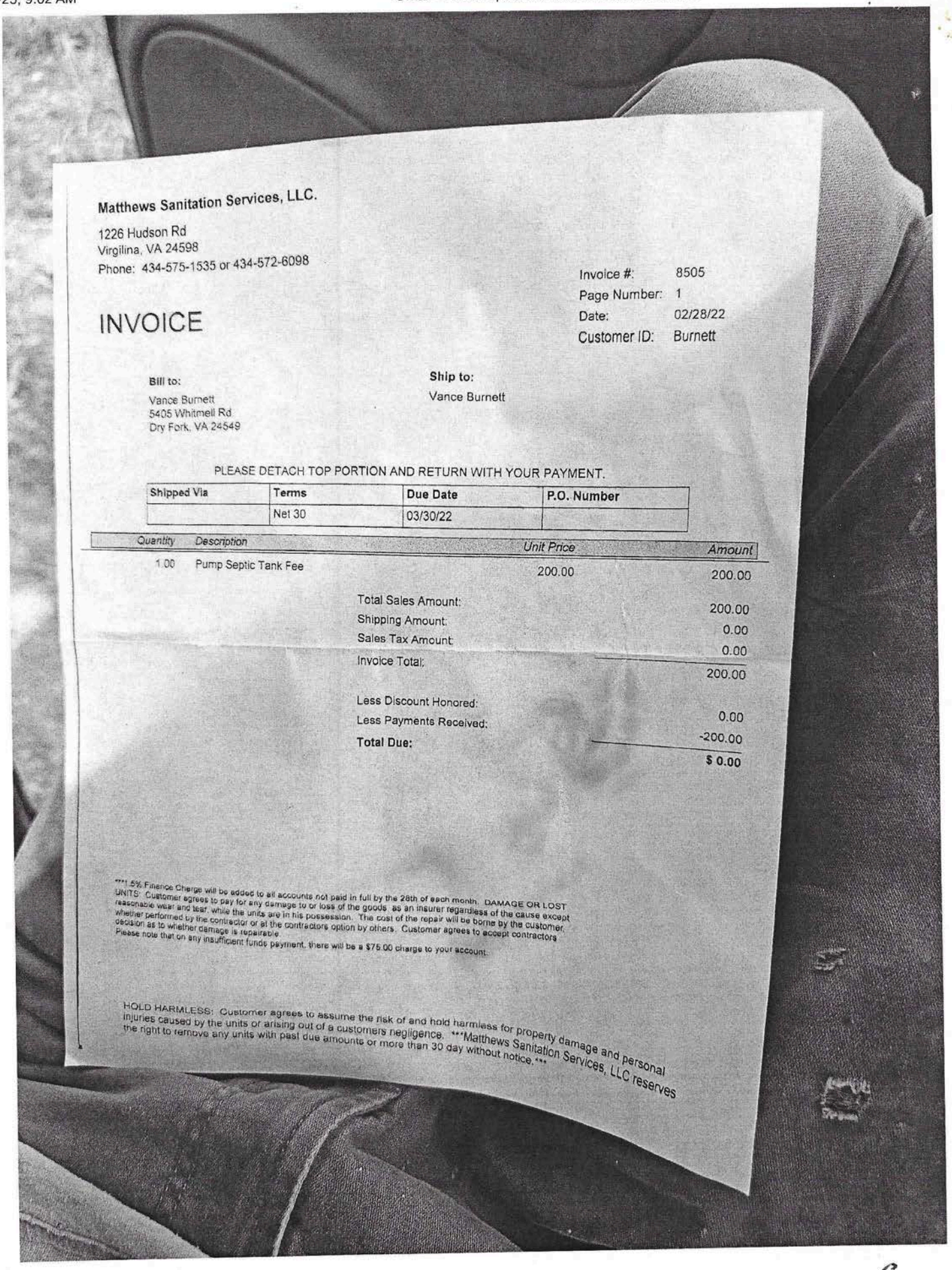
JEFFREY S. SMITH
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #158408
My Commission Expires 9/30/2027

INSTRUMENT 240000815
RECORDED IN THE CLERK'S OFFICE OF
PITTSYLVANIA COUNTY CIRCUIT ON
FEBRUARY 27, 2024 AT 03:49 PM
$41.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802 OF THE VA. CODE
STATE: $20.50 LOCAL: $20.50
ANGIE R. HARRIS, CLERK
RECORDED BY: JCR

3

B3

EXHIBIT



**Matthews Sanitation Services, LLC.**

1226 Hudson Rd
Virgilina, VA 24598
Phone: 434-575-1535 or 434-572-6098

# INVOICE

Invoice #: 8505
Page Number: 1
Date: 02/28/22
Customer ID: Burnett

**Bill to:**
Vance Burnett
5405 Whitmell Rd
Dry Fork, VA 24549

**Ship to:**
Vance Burnett

PLEASE DETACH TOP PORTION AND RETURN WITH YOUR PAYMENT.

| Shipped Via | Terms | Due Date | P.O. Number |
|---|---|---|---|
| | Net 30 | 03/30/22 | |

| Quantity | Description | Unit Price | Amount |
|---|---|---|---|
| 1.00 | Pump Septic Tank Fee | 200.00 | 200.00 |

| | |
|---|---|
| Total Sales Amount: | 200.00 |
| Shipping Amount: | 0.00 |
| Sales Tax Amount: | 0.00 |
| Invoice Total: | 200.00 |
| Less Discount Honored: | 0.00 |
| Less Payments Received: | -200.00 |
| **Total Due:** | **$ 0.00** |

***1.5% Finance Charge will be added to all accounts not paid in full by the 28th of each month. DAMAGE OR LOST UNITS: Customer agrees to pay for any damage to or loss of the goods as an insurer regardless of the cause except reasonable wear and tear, while the units are in his possession. The cost of the repair will be borne by the customer, whether performed by the contractor or at the contractors option by others. Customer agrees to accept contractors decision as to whether damage is repairable.
Please note that on any insufficient funds payment, there will be a $75.00 charge to your account.

HOLD HARMLESS: Customer agrees to assume the risk of and hold harmless for property damage and personal injuries caused by the units or arising out of a customers negligence. ***Matthews Sanitation Services, LLC reserves the right to remove any units with past due amounts or more than 30 day without notice.***

C

**Matthews Sanitation**
1226 Hudson Rd.
Virgilina, VA 24598
(434) 572-6098
matthews.sanitation03@gmail.com

# Receipt

| | |
|---|---|
| Date | May 29, 2024 |
| Paid | $250.00 |
| Payment Method | Visa *2128 |
| Confirmation # | 150710039033 |

**Billing Address**
Todd Ferguson
5405 Whitmell School Rd
Dry Fork, VA 24549

| # | Invoice | Invoice Date | P.O. | Clerk | Payments | Outstanding Balance |
|---|---|---|---|---|---|---|
| 1 | I2297 | May 29, 2024 | | MF | $250.00 | $0.00 |

**Site: S918,** 5405 Whitmell School Rd , Dry Fork , VA 24549

| # | Item | Qty | Description | Rate | Amount | Tax | Amount w/ Tax |
|---|---|---|---|---|---|---|---|
| 1 | Pumped Septic Tank Fee | 1 | Pumped Septic Tank Fee | $250.00 | $250.00 | $0.00 | $250.00 |
| | | | | | | **Subtotal** | **$250.00** |
| | | | | | | **Tax** | $0.00 |
| | | | | | | **Total** | **$250.00** |

**From**
Todd Ferguson
5405 Whitmell School Rd
Dry Fork, VA 24549

**To**
Matthews Sanitation
1226 Hudson Rd.
Virgilina, VA 24598

| | |
|---|---|
| Subtotal | $250.00 |
| *Tax* | $0.00 |
| **Payments** | **$250.00** |
| Remaining Payment Balance | $0.00 |

D

# Additional Documents Submitted By Pittsylvania County

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**VIRGINIA:**

**BEFORE THE**
**STATE BUILDING CODE TECHNICAL REVIEW BOARD**

**IN RE: Appeal of Todd Ferguson**
**Appeal No. 26-03**

**MEMORANDUM OF ARGUMENT**
**REGARDING ISSUES FOR RESOLUTION**

## I. APPEALS OF DECISIONS OF LOCAL DEPARTMENT

### a. NO FINAL DETERMINATION BY THE LOCAL BOARD

Enforcement of the provisions of the Building Code for construction and rehabilitation are expressly the responsibility of the local building department. **(VA Code § 36-105A)**. As required by the Code of Virginia, Pittsylvania County has established "a local board of Building Code appeals" whose express purpose is to hear appeals of "[a]ny person aggrieved by the local building department's application of the Building Code." **Id.** "No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals." **Id.** In this matter, no final determination has been made by the local board of Building Code appeals. Consequently, Mr. Ferguson's appeal to this Board is premature and not ripe for determination by this Board.

### b. NO TIMELY APPEAL

The local department of Pittsylvania County issued multiple, relevant decisions to Mr. Ferguson regarding his property and his request for a building permit: on June 4, 2024, and August 23, 2024. Mr. Ferguson appealed neither of them. Any person aggrieved by the local building department's application of the USBC may appeal to the local board of Building Code. **(USBC §119.5).** USBC §119.5 requires that:

> "[T]he applicant shall submit a written request for appeal to the LBBCA *within 30 calendar days of the receipt of the decision being appealed…A copy of the building official's decision* shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. *Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision." (emphasis added).*

Mr. Ferguson maintains that he attempted to appeal some determination of the local department in-person during May 2024, before any actual decisions were issued by the local department. Mr. Ferguson's sworn "Declaration of May 2024 Local Appeal Submission" is suspect on its face and does not actually articulate the specific date of that "attempted" appeal or what decision he was even attempting to appeal.

Mr. Ferguson's assertions after the fact regarding his attempted appeal are even more suspect, given his timeline and summary of facts submitted to this Board. He erroneously states that there was an original denial (possibly in April 2024) because he was applying "pro se," of which there is no evidence provided. He also implies that there was no disagreement regarding the VDH until at least June 2024, after he supposedly already tried to appeal a decision of the local department.

The June 4, 2024, letter from the Code Official Jason Inman clearly articulates the local department's decision and determinations regarding the permit application and is the first instance of the local department doing so. Thus, submitting an application for appeal, or attempting to do so, in May 2024 would have been nonsensical and would have had no effect.

Mr. Ferguson's letter referencing a potential appeal of the denial of the permit is dated September 27, 2024. In this letter, Mr. Ferguson makes no mention of already delivering an application for appeal back in May 2024, or any other time, and states that he has only "inquired about filing an appeal." **(Ferguson Ex. C-1).** In the September 27,2024 letter, Mr. Ferguson does request a waiver of the fee but makes no mention of having his application rejected previously.

Mr. Ferguson has, at best, shown that he made attempts to appeal the local department decisions in May 2024 and September 27, 2024. The May 2024 attempt was prior to the determinations of the local department issued in June and August 2024. The September 27, 2024, attempt was beyond the appeal timeline as set forth in the USBC.

Mr. Ferguson has refused and continues to refuse to meet the requirements to appeal any of the decisions of the local department. Since his appeal has been pending before this Board, Mr. Ferguson has rejected Pittsylvania County's attempts to assist him in getting before the local board of Building Code appeals. His failure to comply with appeal timelines should be grounds for the dismissal of this appeal, as "[f]ailure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision." **(USBC §119.5).**

## II. APPEAL FEE

The Code of Virginia authorizes the levying of fees by "the local governing body in order to defray the cost of such enforcement and appeals." **(VA Code § 36-105C.7.)**. The Pittsylvania County Board of Supervisors has established fees as anticipated by the Code of Virginia and as referenced by Mr. Ferguson in his documents provided to this Board.

Mr. Ferguson has not provided any information to support his claim of indigency (other than alleging he is a "fire victim" as a result of a fire that occurred prior to his purchasing the property at issue) or the need for a waiver to be considered. Nonetheless, there is no provision in Pittsylvania County Code regarding a waiver of said fees. There is no express authority granted to the State Building Code Review Board to determine whether a waiver of fees should be granted.

## III. SAP REPORT REQUIREMENT

The Code of Virginia requires "prior written authorization" by the Virginia Department of Health (VDH) for the issuance of a building permit for a building designed for human occupancy. **(VA Code § 32.1-165A).** Said written authorization requires a "finding that safe, adequate, and proper sewage treatment is or will be made available to such building." **Id.** The local department has determined that such written authorization is needed prior to the issuance of a building permit for Mr. Ferguson.

VDH administers the process and requirements of the issuance of Safe, Adequate and Proper (SAP) Reports. To the extent the VDH has communicated to Mr. Ferguson that excavation of the septic system distribution box is required as part of the SAP assessment process, neither Pittsylvania County nor this Board has the authority to overturn that requirement or to address that issue on appeal.[1]

As to the necessity of a SAP Report generally, it is not in contention that the property owned by Mr. Ferguson that is the subject of this appeal experienced a structure fire involving a mobile home in December 2023, prior to the transfer of the property to Mr. Ferguson in February 2024. The nature of the fire as described in the Incident/Fire Report was significant. The home on the property at the time was "fully involved in fire", with "exposure to [another] building and an automobile."

Given the extent of the fire and the destruction of the home, there is no reasonable argument against the requirement for the requested SAP Report as anticipated by the Code of

[1] It should be noted, and is extremely telling, that during his involvement, previous Pittsylvania County Code Official Jason Inman offered to go out himself on a Saturday to excavate the distribution box for Mr. Ferguson. Mr. Ferguson refused. It should also be noted that Mr. Inman also negotiated a waiver of the VDH fee for Mr. Ferguson and a simplification of the process. Mr. Ferguson refused to proceed with the SAP.

Virginia. Both the local department and the VDH have gone above and beyond to assist Mr. Ferguson in moving the SAP assessment process forward.

## IV. DELINQUENT TAXES

The Code of Virginia expressly grants authority to the local authorizing body to require a property owner "to produce satisfactory evidence that any delinquent real estate taxes…that are owed to the locality and have been properly assessed against the subject property, have been paid" prior to "the initiation of an application by the owner" for a building permit. **(VA Code § 15.2-2286B)**. No exception to the payment of real estate taxes has been granted to Mr. Ferguson. No authorization for non-payment has been granted by the treasurer. Although the matter of delinquent taxes was not initially at issue in the denial of the requested permit, Mr. Ferguson's failure to pay real estate taxes since obtaining the property would constitute a separate bar to his permit application, until he produces evidence that said delinquent taxes have been paid.

## V. NUISANCE

Mr. Ferguson's appeal before this Board represents a continued pattern of actions taken by Mr. Ferguson which are not well grounded in fact, warranted by existing law, or constituting good faith arguments. The local department has tried repeatedly to assist and work with Mr. Ferguson to resolve any legitimate concerns. In response, Mr. Ferguson has filed frivolous matters in Circuit Court against Pittsylvania County and VDH (which have all been dismissed), filed vexatious motions and appeals with no legal merit, filed numerous and duplicative FOIA requests, and sent a number of threats and demands for millions of dollars to Pittsylvania County.

## VI. CONCLUSION

The local department is committed to continuing to assist Mr. Ferguson to secure the requested permit, within the bounds of law. Nevertheless, Mr. Ferguson's appeal before this Board should be dismissed for the reasons stated herein.

PITTSYLVANIA COUNTY
By Counsel

GRAVITT LAW GROUP, PLC
Pittsylvania County Attorney

By_____
Matthew W. Evans, VSB #82081
75 Maple Ave.
P.O. Box 999
Halifax, Virginia 24558
TEL (434) 476-6518
FAX (434) 476-7784
E-Mail: matt@gravittlaw.com

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of 1321 Porter St. LLC (Emily Pinchbeck)
Appeal No. 26-10

CONTENTS


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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of 1321 Porter Street LLC
Appeal No. 26-10

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On March 11, 2024 the City of Richmond Department of Community Development (City), the agency responsible for the enforcement of Part I of the 2021 Virginia Uniform Statewide Building Code (VUSBC or VCC), issued a Notice of Violation (NOV) and placarded the third floor and rear first floor units of the structure located at 1321 Porter Street, in the City of Richmond owned by 1321 Porter Street LLC (1321 Porter St.) and managed by Emily Pinchbeck. The NOV cited the following:

- *"Construction of a 3rd floor and renovation of a 1st floor rear unit to change occupancy from a 2 family to a multifamily building*
- *Section 108.1 of the Virginia Uniform Statewide Building Code- Working prior to issuance of a building permit"*

In an email dated March 17, 2026, the City further clarified that the structure was unsafe for use and/or occupancy because of the change of use from a two-family to a multi-family.

2. 1321 Porter St. filed an appeal application to the City of Richmond Local Board of Building Code Appeals (local appeals board) in April 2026. On May 20, 2026, the local appeals board "Upheld" the appeal finding that *"A Notice of Violation was issued on March 11th, 2026 noting 13VAC5-63-80; section 108.1; working without a permit. No permits were issued for work noted in the violation. The Local Board of Code Appeals finds that the intent of the Code was properly applied by the Code Official"*. The local appeals board decision was received by 1321

(Page left blank intentionally)

Porter St. on June 9, 2026. On June 26, 2026, 1321 Porter St. further appealed to the Review Board seeking to have the NOV rescinded, all placards removed, and cessation of all enforcement actions lacking a lawful factual basis.

3. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn the decision of the City and local appeals board that a violation of VCC Section 108.1 exists.

2. Whether to overturn the decision of the City and local appeals board to issue the NOV.

3. Whether to overturn the decision of the City and local appeals board that the first-floor rear and third floor units are unsafe for use and/or occupancy.

4. Whether to overturn the decision of the City and local appeals board to post an unsafe placard on first-floor rear and third floor units restricting the access/use of the first-floor rear and third floor units.

5. Whether to overturn the decision of the City to seek and obtain the inspection warrant, charged by the property manager to be in violation of the USBC.

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# Basic Documents

# Enforcement Decisions Being Appealed (1)

## B-02-2026-3-11-26-SWO

**CITY OF RICHMOND**
DEPARTMENT OF COMMUNITY DEVELOPMENT
BUREAU OF PERMITS AND INSPECTIONS
900 EAST BROAD STREET, ROOM 110
RICHMOND, VA 23219 (804) 646-4169

# ☑ Notice of Violation ☐ Stop Work Order

**Issue Date:** 3/11/2026 **Date of Inspection:** 3/11/2026

**Location:** 1321 Porter St

**Owner:** 1321 Porter St LLC Emily Pinchbeck (manager)

**Responsible Party:** Owner

**Contractor's Name:** unknown

**Permit Holder:** none

**Specific Work Being Cited:**

Construction of a 3rd floor and renovation of a 1st floor rear unit to change occupancy from a 2 family to a multifamily building

This building has been inspected and the following violations of the Code of Virginia, Title 36, The Virginia Uniform Statewide Building Code and the Code of the City of Richmond have been found:

- ☐ Section 110.5 of the Virginia Uniform Statewide Building Code- Working without a valid permit posted
- ☑ Section 108.1 of the Virginia Uniform Statewide Building Code- Working prior to the issuance of a building permit
- ☐ Section 109.5 of the Virginia Uniform Statewide Building Code – Failure to have approved construction plans available on site
- ☐ Section 113.3 of the Virginia Uniform Statewide Building Code – Failure to obtain inspections
- ☐ Section 14-81 of Chapter 14 - City of Richmond Ordinances: Working without a contractor's license
- ☐ Section 114-930.6 of the Code of Ordinance of the City of Richmond: Certificate of Appropriateness
- ☐ Other _____

All activities involved in the work cited above must cease immediately. Permitted activities not involved in the cited work above may continue as long as they do not conceal or otherwise affect the work cited above. Correction of all of the above conditions shall be made by 4/3/2026. If the notice is not complied with, the property owner, his agent, permit holder and/or contractor shall be subject to the penalties prescribed in the Code of Virginia, Title 36-Section 106; Section 105 of the Virginia Uniform Statewide Building Code and Ordinances of the City of Richmond. The following action shall be taken before any work resumes:

- ☑ Obtain a Building Permit
- ☑ Obtain an Electrical Permit
- ☑ Obtain a Mechanical permit
- ☑ Obtain a Plumbing Permit
- ☐ Obtain a Plumbing/Gas Permit
- ☐ Obtain a report by a registered Virginia professional engineer
- ☐ Post valid permit on site
- ☐ Keep approved plans on site and available for inspectors
- ☐ Obtain C. A. R. (Commission of Architectural Review) approval
- ☐ Other _____

Inspector: Rick Paul Telephone No. 804-646-6694

**A fee payment of $400 is required *before* you may return to work on any permit for which a Stop Work Order has been issued.**
**You have the right to appeal this notice under Section 119 of the Virginia Uniform Statewide Building Code.**
**Please contact us, (804) 646-4169, if you wish to appeal this decision.**

11090 (01/26) 40773-1

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Friday Follow Up

**Alley, David L. - PDR** <David.Alley@rva.gov> Tue, Mar 17, 2026 at 5:37 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

Emily,

The 3rd floor unit and the 1st floor rear unit are still under violation for being unsafe for use and/or occupancy because of the change of use from a two-family to a multi-family. No permission was granted by me for the use and/or occupancy of the 3rd floor unit and the 1st floor rear unit. You have not obtained a certificate of occupancy in your name establishing a multi-family use. Therefor no use and/or occupancy can be allowed. The placards will remain in place.

[Quoted text hidden]

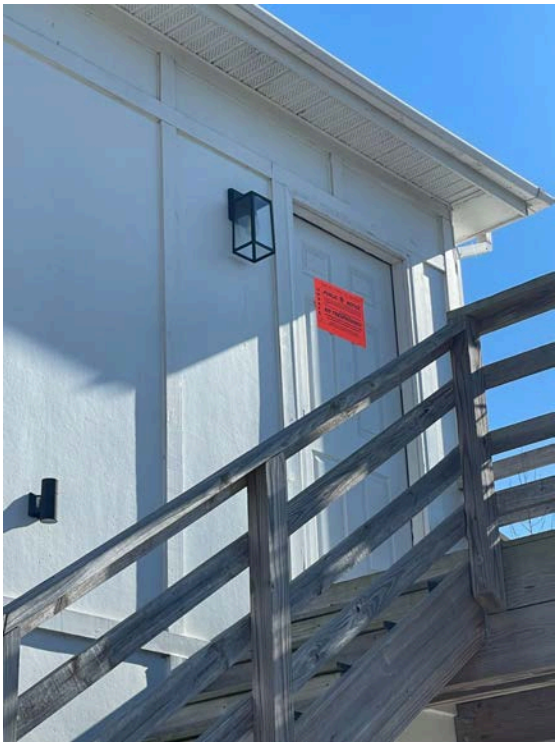
DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

**image001.png**
261K

March 11, 2026 Placarding of third floor and rear first floor unit





## AFFIDAVIT FOR BUILDING INSPECTION WARRANT

Commonwealth of Virginia VA CODE § 36-105

The undersigned Applicant states under oath that:

1. To determine compliance with the Building Code or regulations and standards adopted pursuant thereto, an inspection warrant is requested for an inspection of a building or structure, subject to the Building Code, located at and as described below:
1321 Poeter St. Richmond, VA 23214 Parcel # S0000121019 And is described as a three story structure with the Numbers 1321 affixed to the right side of the door Next to front window.

[ ] CONTINUED ON ATTACHED SHEET

2. The inspection is to be done to gather evidence of a particular suspected violation of the Building Code on regulations and standards adopted pursuant thereof.

3. The material facts constituting probable cause that the search should be made are that the inspection is necessary to investigate a suspected violation of the Building Code that poses an immediate and imminent threat to the health and safety of the owner, tenant, or occupants of the building or structure, or the owner, occupant, or tenant of a nearby building or structure based on the following evidence of a violation of such code:
Inspection of property found UNSafe violations Code 106.1-US - UNSafe. Building Inspectors have been denied Access to the Structure at least sixteen times And cease and deceased emails From the manager of 1321 Poeter St. LLC. Entry is Needed to verify the third Floor and back structure is Vacant And Not being lived in. There is also a crypt/cellar that needs to be verified as to what it is And if permits are needed. The crypt / Cellar is possibly too close to the original structure.

[ ] CONTINUED ON ATTACHED SHEET

FORM DC-390 (MASTER. PAGE ONE OF TWO) 07-14

## AFFIDAVIT FOR BUILDING INSPECTION WARRANT

APPLICANT:
George Paul
NAME
Operational Manager Building Inspection
TITLE (IF ANY)
906 E Broad Street Room 108
Richmond, VA 23219
ADDRESS

Certified to Clerk of
Richmond City
CITY OR COUNTY
Circuit Court
on 3/11/2026
DATE
TITLE SIGNATURE

Original Delivered [ ] in person [ ] by certified mail
[ ] by electronically transmitted facsimile
[ ] by use of filing/security procedures defined in the Uniform Electronic Transactions Act
to Clerk of
CITY OR COUNTY WHERE EXECUTED
Circuit Court
on
DATE
TITLE SIGNATURE

Complete only if different than above:
Original Delivered [ ] in person [ ] by certified mail
[ ] by electronically transmitted facsimile
[ ] by use of filing/security procedures defined in the Uniform Electronic Transactions Act
to Clerk of
CITY OR COUNTY OF ISSUANCE
Circuit Court
on
DATE
TITLE SIGNATURE

In addition to the above, the following situation exists:

4. [✓] Consent to inspect has been sought and refused by Emily Pinchbeck, who is Manager of 1321 Poeter St. LLC

5. [✓] I have personal knowledge of the facts set forth in this affidavit AND/OR

[ ] I was advised of the facts set forth in this affidavit, in whole or in part, by one or more other person(s). The credibility of the person(s) providing this information to me and/or the reliability of the information provided may be determined from the following facts:

The statements above are true and accurate to the best of my knowledge and belief.

Program Operations Manager Inspection
TITLE OF APPLICANT

[signature]
APPLICANT

Subscribed and sworn to before me this day.

3/11/2026 12:08 PM
DATE AND TIME

[signature]
[ ] JUDGE [✓] MAGISTRATE

Material Facts Attachment

Entry is also necessary to placard third floor addition and first floor unit. Placards are needed since the placards have been removed by property management owner. Entry needed to verify evidence that third party engineering inspections were performed.

1639832

# VIRGINIA UNIFORM SUMMONS

**RICHMOND POLICE DEPARTMENT, RICHMOND, VA.**

CASE NO. _____

YOU ARE SUMMONED TO APPEAR IN THE (CITY OF / COUNTY OF)

**CITY OF RICHMOND**

☐ **GENERAL DISTRICT COURT (JOHN MARSHALL DIVISION), 646-6431**
**( ) 400 N. NINTH STREET**

☐ **GENERAL DISTRICT COURT (MARSH DIVISION AT MANCHESTER), 646-6677**
**( ) 920 HULL ST.**

☐ **JUVENILE & DOMESTIC RELATIONS DISTRICT COURT**
**( ) 1600 OLIVER HILL WAY**

ON September 24, 20 25 AT 1:30 ☐ A.M. ☐ P.M.

FOR VIOLATION OF ☐ VA CODE 108.1 ☐ LOCAL CODE _____

DESCRIBE CHARGE: Building w/o a permit

| | | |
|---|---|---|
| COMMERCIAL MOTOR VEHICLE | ☐ YES | ☒ NO |
| HAZARDOUS MATERIALS | ☐ YES | ☒ NO |
| RESULTED IN FATALITY | ☐ YES | ☒ NO |
| HIGHWAY SAFETY CORRIDOR | ☐ YES | ☐ NO |

**I PROMISE TO APPEAR AT THE TIME AND PLACE SHOWN ABOVE. SIGNING THIS SUMMONS IS NOT AN ADMISSION OF GUILT. I CERTIFY THAT MY CURRENT MAILING ADDRESS IS AS SHOWN BELOW.**

Emily Pinchbeck
SIGNATURE

**YOU MUST APPEAR AT TRIAL (JUVENILES MUST APPEAR WITH PARENT/ LEGAL GUARDIAN).**

☐ YOU MAY AVOID COMING TO COURT ONLY IF THIS BLOCK IS CHECKED AND ALL INSTRUCTIONS ON **DEFENDANT'S COPY** ARE FOLLOWED.

ONLY CALL _____ IF MORE HELP IS NEEDED.

MAILING ADDRESS: ☐ SAME AS ABOVE AT RIGHT ☐ CHANGE FROM D. L.

P. O. BOX/STREET | CITY/TOWN | STATE | ZIP

| | | | |
|---|---|---|---|
| NAME: LAST | FIRST | MIDDLE | |
| Pinchbeck | Emily | Elizabeth | |
| RES. ADDRESS: | | | RES. JURIS. |
| [redacted] 9169 W. State St. #652 | | | |
| CITY/TOWN | STATE | ZIP | |
| Garden State | ID | 83714 | |

| RACE | SEX | D.O.B. MO. | DAY | YR. | HT. FT. | IN. | WGT. | EYES | HAIR |
|---|---|---|---|---|---|---|---|---|---|
| W | F | 7 | 8 | 01 | 5 | 7 | 200 | BLU | BLON |

DL / CDL # (IF CRIMINAL OFFENSE OR NO LICENSE, USE SSN) | STATE
CDL HOLDER ☐ YES ☒ NO | 225 91 7137 | VA

| VEH | YEAR | MAKE | TYPE | LICENSE NO. | YEAR | STATE |
|---|---|---|---|---|---|---|
| | | | | | | |

| JURISDICTION OF OFFENSE | DATE OF OFFENSE | DAY OF WEEK | TIME A.M. / P.M. |
|---|---|---|---|
| 120 | 11/24/24 | Thurs | 1200 |

| DIRECTION | ACCIDENT YES | ACCIDENT NO | WEATHER | ROUTE NUMBER / STREET |
|---|---|---|---|---|
| X | | X | CLR | 1321 |

LOCATION OF OFFENSE: 1321 Porter St

| ARREST DATE | ARREST LOCATION |
|---|---|
| 7/18/25 | 4224 Cox Rd |

| OFFICER | CODE / BADGE NO. |
|---|---|
| M. J. McHugh | 2904 |

**IMPORTANT: READ NOTICE ON REVERSE SIDE.**

## WAIVER OF A TRIAL (PLEA OF GUILTY)

BY SIGNING BELOW, I CERTIFY THAT I HAVE READ THE NOTICE AND I AM ENTERING MY WRITTEN RATHER THAN PERSONAL APPEARANCE IN THE COURT CASE RESULTING FROM THE VIOLATION CHARGED ON THIS SUMMONS. I UNDERSTAND THAT I HAVE A RIGHT TO A TRIAL, WHICH I AM GIVING UP. I ALSO UNDERSTAND THAT MY PLEA OF GUILTY WILL HAVE THE SAME FORCE AND EFFECT AS A FINDING OF GUILTY BY A JUDGE AND THAT A RECORD OF MY GUILTY PLEA TO AN OFFENSE PERTAINING TO THE OPERATION OF A MOTOR VEHICLE WILL BE SENT TO THE VIRGINIA DEPARTMENT OF MOTOR VEHICLES (OR TO THE LICENSING AUTHORITY WHICH ISSUED MY LICENSE). I FURTHER UNDERSTAND THAT IF ANY OF THE BLOCKS TO THE RIGHT LABELED "COMMERCIAL MOTOR VEHICLE", "HAZARDOUS MATERIALS", "RESULTED IN FATALITY", "HIGHWAY SAFETY CORRIDOR" OR "CDL HOLDER" ARE CHECKED "YES", MY PLEA IS AN ADMISSION THAT, AT THE TIME OF THE VIOLATION CHARGED, I WAS OPERATING A COMMERCIAL MOTOR VEHICLE, CARRYING HAZARDOUS MATERIALS, DRIVING IN A HIGHWAY SAFETY CORRIDOR, WAS A CDL HOLDER, AND/OR THE VIOLATION RESULTED IN A FATALITY, AS INDICATED BY THE "YES" CHECK MARKS. UNDERSTANDING ALL THIS, I PLEAD GUILTY TO THE VIOLATION CHARGED, WAIVE MY RIGHT TO A TRIAL, AND ENCLOSE THE FINE, COSTS AND FEES PRESCRIBED.

_____
SIGNATURE

_____
DATE

## IF ACCUSED IS A JUVENILE

IF ACCUSED IS UNDER 18 YEARS OF AGE, THE ACCUSED'S PARENT OR LEGAL GUARDIAN MUST ALSO SIGN, IN PERSON AT THE COURT, OR IF THE FORM IS MAILED TO THE COURT, PARENT'S OR LEGAL GUARDIAN'S SIGNATURE MUST BE NOTARIZED.

_____
SIGNATURE OF PARENT / GUARDIAN DATE

SWORN AND SUBSCRIBED TO BEFORE ME THIS DATE.

_____
☐ NOTARY PUBLIC ☐ CLERK ☐ MAGISTRATE DATE

_____
CITY / COUNTY STATE

MY COMMISSION EXPIRES:

*IF PREPAYMENT IS MADE, ATTACH PAYMENT HERE.*

## PRETRIAL WAIVER AND PREPAYMENT INSTRUCTIONS

1. CALCULATE THE AMOUNT OWED FROM **PREPAYABLE FINES, COSTS AND FEES SCHEDULE** IF GIVEN A COPY BY THE ARRESTING OFFICER, OTHERWISE:
   A. PROMPTLY CALL THE TELEPHONE NUMBER LISTED ABOVE.
   B. IF YOU HEAR A PRE-RECORDED MESSAGE, LISTEN TO THE ENTIRE MESSAGE, OTHERWISE, TELL THE PERSON ANSWERING THE TELEPHONE THAT YOU WISH TO WAIVE TRAIL AND "PREPAY" THE FINE, COSTS AND FEES. STATE THE EXACT CHARGE DESCRIPTION AND LAW SECTION NUMBER (IF ANY) WRITTEN ON THE SUMMONS. DISTRICT COURTS ACCEPT PERSONAL CHECKS AND CREDIT CARDS BUT, IF YOU WISH TO PAY BY CREDIT CARD, YOU SHOULD ASK THE COURT WHICH TYPE OF CREDIT CARD IT ACCEPTS.
   C. WRITE DOWN THE AMOUNT TO BE PAID AND ANY SPECIAL INSTRUCTIONS.
2. SIGN AND DATE THE **WAIVER OF A TRIAL** ON THIS SUMMONS. ALSO COMPLETE PROCEDURE "IF ACCUSED IS A JUVENILE" IF YOU ARE CHARGED WITH A MOTOR VEHICLE OFFENSE AND ARE UNDER AGE 18.
3. PROMPTLY MAIL OR DELIVER TO THE COURT THIS SUMMONS WITH PAYMENT ATTACHED. PAYMENT MUST BE RECEIVED BY THE COURT BEFORE THE TRIAL DATE. TIMELY DELIVERY BY MAIL IS AT THE SENDER'S RISK.

**READ NOTICE ON REVERSE.**

**DEFENDANT'S COPY-PG. 2**

VUSPD (07-01-24)

VUS REV.07-01-24

151

1640201

# VIRGINIA UNIFORM SUMMONS

**RICHMOND POLICE DEPARTMENT, RICHMOND, VA.** CASE NO. _____

**WAIVER OF A TRIAL (PLEA OF GUILTY)**

BY SIGNING BELOW, I CERTIFY THAT I HAVE READ THE NOTICE AND I AM ENTERING MY WRITTEN RATHER THAN PERSONAL APPEARANCE IN THE COURT CASE RESULTING FROM THE VIOLATION CHARGED ON THIS SUMMONS. I UNDERSTAND THAT I HAVE A RIGHT TO A TRIAL, WHICH I AM GIVING UP. I ALSO UNDERSTAND THAT MY PLEA OF GUILTY WILL HAVE THE SAME FORCE AND EFFECT AS A FINDING OF GUILTY BY A JUDGE AND THAT A RECORD OF MY GUILTY PLEA TO AN OFFENSE PERTAINING TO THE OPERATION OF A MOTOR VEHICLE WILL BE SENT TO THE VIRGINIA DEPARTMENT OF MOTOR VEHICLES (OR TO THE LICENSING AUTHORITY WHICH ISSUED MY LICENSE). I FURTHER UNDERSTAND THAT IF ANY OF THE BLOCKS TO THE RIGHT LABELED "COMMERCIAL MOTOR VEHICLE", "HAZARDOUS MATERIALS", "RESULTED IN FATALITY", "HIGHWAY SAFETY CORRIDOR" OR "CDL HOLDER" ARE CHECKED "YES", MY PLEA IS AN ADMISSION THAT, AT THE TIME OF THE VIOLATION CHARGED, I WAS OPERATING A COMMERCIAL MOTOR VEHICLE, CARRYING HAZARDOUS MATERIALS, DRIVING IN A HIGHWAY SAFETY CORRIDOR, WAS A CDL HOLDER, AND/OR THE VIOLATION RESULTED IN A FATALITY, AS INDICATED BY THE "YES" CHECK MARKS. UNDERSTANDING ALL THIS, I PLEAD GUILTY TO THE VIOLATION CHARGED, WAIVE MY RIGHT TO A TRIAL, AND ENCLOSE THE FINE, COSTS AND FEES PRESCRIBED.

_____
SIGNATURE

_____
DATE

YOU ARE SUMMONED TO APPEAR IN THE (CITY OF / COUNTY OF)

**CITY OF RICHMOND**

☐ **GENERAL DISTRICT COURT (JOHN MARSHALL DIVISION), 646-6431**
**( ) 400 N. NINTH STREET**

☐ **GENERAL DISTRICT COURT (MARSH DIVISION AT MANCHESTER), 646-6677**
**( ) 920 HULL ST.**

☐ **JUVENILE & DOMESTIC RELATIONS DISTRICT COURT**
**( ) 1600 OLIVER HILL WAY**

ON September 24, 20 25 AT 1:30 ☐ A.M. ☐ P.M.

FOR VIOLATION OF ☐ VA CODE 106.1 ☐ LOCAL CODE _____

DESCRIBE CHARGE: _____

Ex Cap Structure

| | | |
|---|---|---|
| COMMERCIAL MOTOR VEHICLE | ☐ YES | ☐ NO |
| HAZARDOUS MATERIALS | ☐ YES | ☐ NO |
| RESULTED IN FATALITY | ☐ YES | ☐ NO |
| HIGHWAY SAFETY CORRIDOR | ☐ YES | ☐ NO |

**I PROMISE TO APPEAR AT THE TIME AND PLACE SHOWN ABOVE. SIGNING THIS SUMMONS IS NOT AN ADMISSION OF GUILT. I CERTIFY THAT MY CURRENT MAILING ADDRESS IS AS SHOWN BELOW.**

_____
SIGNATURE

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ONLY CALL _____ IF MORE HELP IS NEEDED.

MAILING ADDRESS: ☐ SAME AS ABOVE AT RIGHT ☐ CHANGE FROM D. L.

P. O. BOX/STREET CITY/TOWN STATE ZIP

NAME: LAST FIRST MIDDLE

RES. ADDRESS: 4119 [illegible] RES. JURIS

CITY/TOWN STATE ZIP

Goochland VA

| RACE | SEX | D.O.B. MO. | DAY | YR. | HT. FT. | IN. | WGT. | EYES | HAIR |
|---|---|---|---|---|---|---|---|---|---|
| W | F | 7 | 26 | 01 | 5 | 7 | 141 | BRO | BLK |

DL / CDL # (IF CRIMINAL OFFENSE OR NO LICENSE, USE SSN) STATE

CDL HOLDER ☐ YES ☐ NO

| VEH | YEAR | MAKE | TYPE | LICENSE NO. | YEAR | STATE |
|---|---|---|---|---|---|---|
| | | | | | | |

| JURISDICTION OF OFFENSE | DATE OF OFFENSE | DAY OF WEEK | TIME |
|---|---|---|---|
| 120 | 11/24/24 | Th | A.M. / P.M. |

| DIRECTION | ACCIDENT YES | ACCIDENT NO | WEATHER | ROUTE NUMBER / STREET |
|---|---|---|---|---|
| X | | X | CLR | 1321 |

LOCATION OF OFFENSE: 1321 Porter St

| ARREST DATE | ARREST LOCATION |
|---|---|
| 9/24/25 | 1321 Porter St |

| OFFICER | CODE / BADGE NO. |
|---|---|
| M. Mortimer | 2[illegible] |

**IMPORTANT: READ NOTICE ON REVERSE SIDE.**

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_____
SIGNATURE OF PARENT / GUARDIAN DATE

SWORN AND SUBSCRIBED TO BEFORE ME THIS DATE.

_____
☐ NOTARY PUBLIC ☐ CLERK ☐ MAGISTRATE DATE

_____
CITY / COUNTY STATE

MY COMMISSION EXPIRES:

*IF PREPAYMENT IS MADE, ATTACH PAYMENT HERE.*

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**READ NOTICE ON REVERSE.**

**DEFENDANT'S COPY-PG. 2**

VUSPD (07-01-24)

VUS REV.07-01-24

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ov.richmondgov.com/energov_prod/selfservice#/plan/b84ee660-cf83-4e8c-a580-c8d595997e8c?tab=holds

Existing Holds | Next Tab | Plan Details | Main Menu

**Existing Holds**

Sort Description

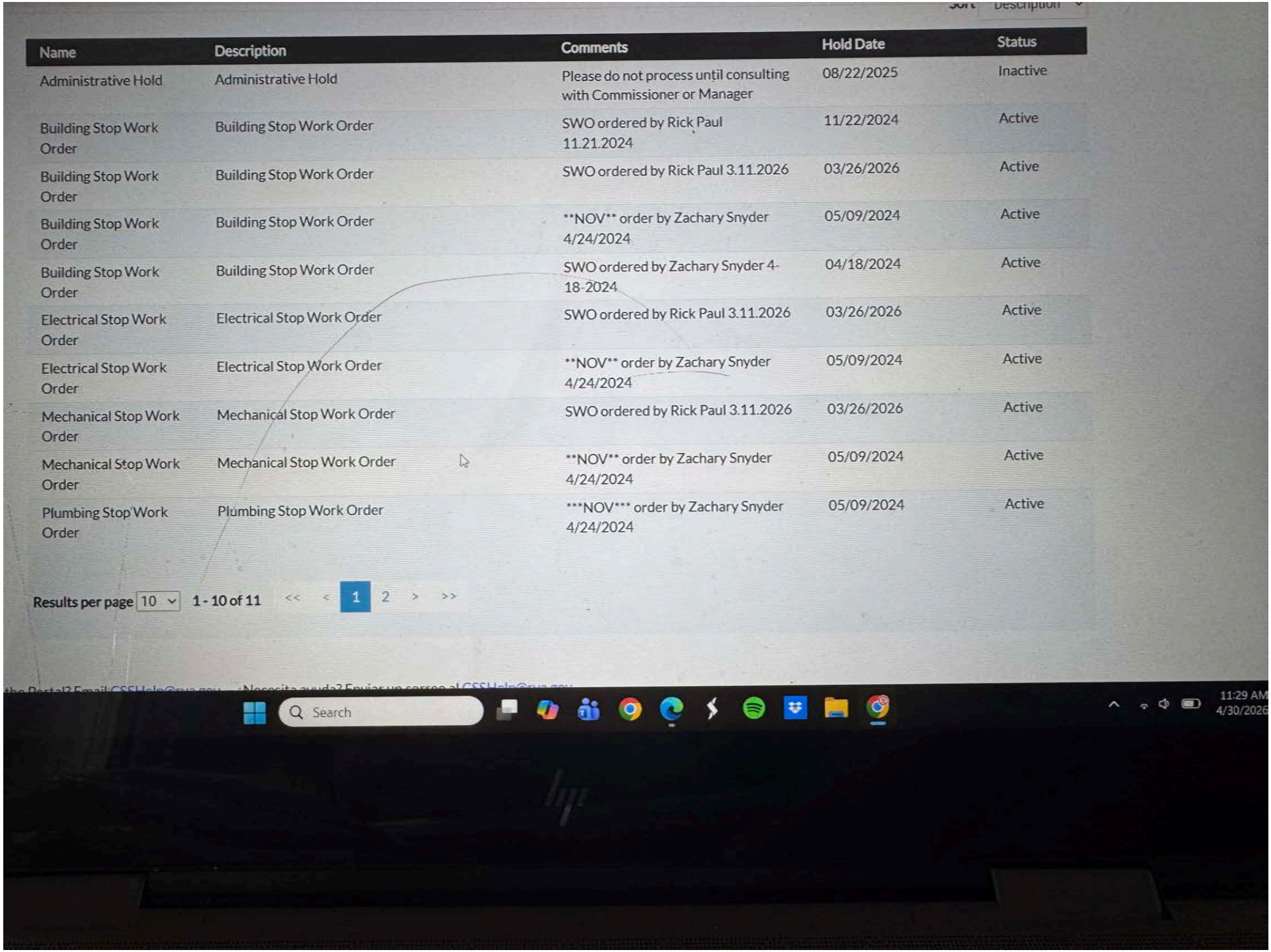
| Name | Description | Comments | Hold Date | Status |
|---|---|---|---|---|
| Administrative Hold | Administrative Hold | Hold on permit processing per Rick Paul while he and PMCE investigate property. | 04/25/2024 | Inactive |
| Administrative Hold | Administrative Hold | See Karen Paquette or David Alley before processing any P&I applications | 12/23/2024 | Inactive |
| Building Stop Work Order | Building Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Inactive |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Zachary Snyder 4-18-2024 | 04/18/2024 | Inactive |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Rick Paul 11.21.2024 | 11/22/2024 | Inactive |
| Electrical Stop Work Order | Electrical Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Inactive |
| Mechanical Stop Work Order | Mechanical Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Inactive |
| Plumbing Stop Work Order | Plumbing Stop Work Order | ***NOV*** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Inactive |

Results per page 10 1 - 8 of 8 << < 1 > >>

e Portal? Email CSSHelp@rva.gov ¿Necesita ayuda? Enviar un correo al CSSHelp@rva.gov

Search

9:09 AM
10/9/2025



| Name | Description | Comments | Hold Date | Status |
|---|---|---|---|---|
| Administrative Hold | Administrative Hold | Please do not process until consulting with Commissioner or Manager | 08/22/2025 | Inactive |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Rick Paul 11.21.2024 | 11/22/2024 | Active |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/26/2026 | Active |
| Building Stop Work Order | Building Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Active |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Zachary Snyder 4-18-2024 | 04/18/2024 | Active |
| Electrical Stop Work Order | Electrical Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/26/2026 | Active |
| Electrical Stop Work Order | Electrical Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Active |
| Mechanical Stop Work Order | Mechanical Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/26/2026 | Active |
| Mechanical Stop Work Order | Mechanical Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Active |
| Plumbing Stop Work Order | Plumbing Stop Work Order | ***NOV*** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Active |

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DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW

CITY OF RICHMOND
LOCAL BOARD OF BUILDING CODE APPEALS (LBBCA)

Appeal No. _____

**Application for Appeal**

Richmond
Locality

I (we) 1321 Porter St LLC. (Name) of 9169 W. State St. #652 Garden State, ID 83714 (Mailing address)

Contact Number: Email Email: 1321PorterStLLC@Gmail.com

Respectively request that the Local Board of Building Code Appeals review the decision made on March 11 & 17, 20 26 by the code official.

Description of Decision Being Appealed: See Attached

Location of Property Involved: 1321 Porter St. Richmond VA, 23224

What is the applicant's interest in the property?

__X__ Owner

___ Contractor

___ Owner's Agent

___ Other (explain) _____

Relief Sought: Removal of the placards, rescission of the March 11, 2026 Notice of Violation, and cessation of all enforcement actions lacking a lawful factual basis, as required by the USBC and the Code of Virginia.

Attach the Decision of the Code Official and any other pertinent documents.

1321 Porter St. LLC
Signature of Applicant (Emily Grabbeck, manager)

Filed at Richmond, Virginia, the _____ day of April, 20 26

Note: In order for this appeal to be processed a Non-refundable fee of $184.00 must be paid.

Decision being appealed:

Placards were placed on the Property alleging an "immediate and imminent threat to health and safety" without a lawful factual basis. These actions were predicated on a purported April 26, 2024 inspection, a Certificate of Occupancy that the City has since acknowledged does not exist, and the removal of placards of which the City has been aware since November 21, 2024. All of this occurred following the City's express authorization of the Property's use on July 24, 2025, and despite the City's knowledge that the Property had been fully occupied for more than two years pursuant to an R-2 multi-family Certificate of Occupancy issued in 1970.

Further, a Notice of Violation was issued under USBC § 108.1 without a lawful factual basis, relying on the same non-existent Certificate of Occupancy and alleged construction that the City knew was neither performed by the current owner nor occurred within the statutory period set forth in Va. Code § 19.2-8.

On March 17, 2026, after being again informed of the same multi-family Certificate of Occupancy—of which he had been aware since at least May 13, 2024—and the City's express approval for use on July 24, 2025, during a meeting he attended, David Alley, the Commissioner of Buildings, stated in writing: "The 3rd floor unit and the 1st floor rear unit are still under violation for being unsafe for use and/or occupancy because of the change of use from a two-family to a multi-family. No permission was granted by me for the use and/or occupancy of the 3rd floor unit and the 1st floor rear unit. You have not obtained a certificate of occupancy in your name establishing a multi-family use. Therefore, no use and/or occupancy can be allowed. The placards will remain in place," thereby reasserting the same safety concerns alleged by Rick Paul before, during, and after the execution of the inspection search warrant.

The City of Richmond knowingly and intentionally violated, and continues to violate, the USBC, the Code of Virginia, and the civil and constitutional rights of Richmond citizens and businesses.

# Local Board of Building Code Appeals
## Written Decision

The Local Board of Building Code Appeals (LBBCA) is duly appointed to hear and resolve disputes arising out of enforcement under the Virginia Statewide Building Code (USBC), § 36-105 of the Code of Virginia.

**Appeal No.** B-02-2026-3-11-26-SWO **Date of Hearing:** May 20th, 2026

**IN RE:** 1321 Porter Street **V.** City of Richmond

## The appeal is hereby Upheld, for the reasons set out below:

A Notice of Violation was issued on March 11th, 2026 noting 13VAC5-63-80; section 108.1: working without a permit. No permits were issued for work noted in the violation. The Local Board of Code Appeals finds that the intent of the Code was properly applied by the Code Official.

**The vote was: Uphold** 3 **Reverse** _____ **Modify** _____

**Signature:** Justin White Digitally signed by Justin White Date: 2026.06.01 08:36:59 -04'00' **Date:** 6-1-2026

***(Chair of Local Board of Building Code Appeals)***

Note: Any person who was party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board. https://www.dhcd.virginia.gov/sites/default/files/Docx/sbctrb/file-appeal/appeal- application-may.pdf. Or call (804) 371-7150 for more information.

**ID:** 4480396

**Sender:**
CITY OF RICHMOND
DEPARTMENT OF PLANNING &
DEVELOPMENTAL REVIEW
PROPERTY MAINTENANCE DIVISION

**Address:** 900 EAST BROAD ST, TOOM G-12

**City:** RICHMOND

**Region:** VA, US 23219

**Date Received:** 06/09/2026 09:08 MDT

**Note Added:** No

**Content Pages:** N/A

**Sender Blocked:** No

**Shredded:** No

**Forwarded:** No

**Location:** Boise

**Folder:** Inbox

**Size(LxWxH):** 9in x 0in x 4in

**Weight:** 0.40 ozs

Envelope | Content | Notes / Log

Envelope Scans Remaining: 49 / Content Scans Remain

CERTIFIED MAIL

CITY OF RICHMOND
DEPARTMENT OF PLANNING & DEVELOPMENT REVIEW
PROPERTY MAINTENANCE DIVISION
900 EAST BROAD STREET, ROOM G-12
RICHMOND, VIRGINIA 23219

7020 1810 0001 6105 3005

1321 Porter St LLC.
9169 W State St #652
Garden City, ID 83714

FIRST-CLASS

US POSTAGE

ZIP 23219 $ 010.44⁰

83714S1733 R033

**COMMONWEALTH OF VIRGINIA**
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
**State Building Codes Office and Office of the State Technical Review Board**
**Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219**
**Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov**

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

☒ Uniform Statewide Building Code
Virginia Construction Code
Virginia Existing Building Code
Virginia Maintenance Code

☐ Statewide Fire Prevention Code

☐ Industrialized Building Safety Regulations

☐ Amusement Device Regulations

RECEIVED
June 26, 2026 WTZ
OFFICE OF THE REVIEW BOARD

Appealing Party Information (name, address, telephone number and email address):

1321 Porter St LLC. (Emily Pinchbeck, manager

9169 W State St #652 Garden City ID 83714

Phone: (804)-912-3115

Email: 1321PorterStLLC@gmail.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

David Alley (Code Official) City of Richmond

900 E Broad St Room 110 Richmond VA 2321

Phone: (804)-646-3439

Email: David.Alley@RVA.gov

Additional Information (required by the applicable code to be submitted with this application)
- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)

Additional Information (to be submitted with this application)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 25 day of June, 2026, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

**Note:** This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: 1321 Porter St. LLC (Emily Pinchbeck, manager)

Name of Applicant: 1321 Porter St. LLC.
(please print or type)
(Emily Pinchbeck, Manager

Explanation of  "Enforcement Decisions Being Appealed (1)” and Relief Sought:

I am appealing the following USBC violations committed by the Code Official of the City of Richmond and I seek the following relief:

1.  I am appealing the Code Official's March 11, 2026 arbitrary decision to replace the placards on and restrict access to the third floor and rear unit nearly two years after authorizing the removal of the placards and eight months after the City expressly authorized the use of those areas. The decision violated and exceeded the authority granted by the USBC (VCC § 118). I respectfully request that the Board reverse the decisions to replace the placards and restrict access to the third floor and rear unit.

2.  I am appealing the Code Official's decision to execute a sworn inspection affidavit on March 11, 2026, containing materially false or misleading statements or material omissions, and allegations of imminent and immediate threats to health and safety based on conditions the City had known about for months or years and had not previously identified as inconsistent with lawful use and occupancy. The decision violated the requirements of the USBC (VCC § 104), exceeded the authority granted by the Code, and resulted in an inspection warrant being sought through a sworn affidavit that raises substantial Fourth and Fourteenth Amendment concerns. I respectfully request that the Board reverse the Code Official's decision to seek and obtain the inspection warrant and find that the decision was made in violation of the USBC.

3.  I am appealing the Code Official's decision to issue the March 11, 2026 Notice of Violation, as it is unsupported by fact or law. The NOV materially duplicates notices issued on three occasions to three different parties over a five-year period, all alleging construction that the City discovered no later than January 7, 2021. The NOV was issued in violation of the USBC (VCC § 115) and the Code of Virginia (§ 19.2-8). I respectfully request that the Board rescind the Notice of Violation.

4. I am appealing the Code Official's March 17, 2026 decision to not remove the placards on the third floor and rear unit, re-alleging that the spaces were unsafe despite his authorization to remove the placards on May 28, 2024, the City's actual knowledge of those conditions for nearly two years, and reliance on a non-existent 1983 "one- and two-family" Certificate of Occupancy, despite the City's actual knowledge that it had expressly authorized use of those areas on July 24, 2025. The decision violated and exceeded the authority granted by the USBC (VCC § 118) and the federal due process requirement that a government may not knowingly continue depriving a person of liberty or property based on a materially false factual premise. I respectfully request that the Board reverse the decision to maintain the placards after receiving evidence demonstrating that the enforcement action violated the USBC and contradicted the City's own prior representations

5.  I am appealing the Code Official's decision to continue enforcement action contrary to his prior representations and predicated on a November 21, 2024 NOV that he deactivated and represented to be completed to the SBCTRB Secretary and me in order to elicit a rescission of

an appeal on August 25, 2025, upon which I reasonably relied. Although the original summons was not null processed, a second summons was issued predicated on the same deactivated NOV. After again representing that both summonses would be null processed, the Code Official instead obtained a continuance on March 11, 2026, thereby maintaining enforcement predicated upon a non-existent NOV. This decision violates and exceeds the authority granted by the USBC (VCC § 115) and the due process guarantees of the Virginia and United States Constitutions. I respectfully request that this Board reverse the Code Official's decision.

6. I am appealing the Code Official's arbitrary decision to reactivate Notices of Violation that had been deactivated and ceased to exist no less than six months earlier. The decision violated the requirements of the USBC (VCC § 115). I respectfully request that the Board reverse the decision to reactivate the Notices of Violation and declare them void and unenforceable as of the date they were deactivated.

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# Documents Submitted
# By
# City of Richmond

(Page left blank intentionally)

## Table of Contents

**Address:** 1321 Porter St

**Appeal Number:** 26-10

Summary
Local Board application for appeals
NOV's
Email
Engineers report
1970 BOCA code reference
1970 Certificate of Occupancy application
1970 Certificate of Occupancy
Building Inspection Warrant
Photos

# Case History
# 1321 Porter St

**Previous Case History (2021)**

(BOCA 1970 BASIC BUILDING CODE)

- An existing two-family dwelling- per the assessor's record

- The Permits and Inspections Bureau received a complaint of working without a valid permit on 1/7/2021. Building Inspector Zachary Snyder investigated the complaint and issued a Notice of Violation/Stop Work Order for the construction of a new 3rd story addition without permits

- The NOV/SWO was directly handed to the admitted person in charge Sophia Oliveri, building Inspector statement

- A building permit BLDR-084675-2021 was submitted to the permits office on 1/8/2021-description- Add/replace roof plywood, TPO, shingles, windows and rebuild stairs. The submittal didn't address the 3rd floor addition. Comments were sent via email to the applicant without response. The submittal was killed after 6 months for no action

- The applicant was Sophia Oliveri, supporting documents available for review. Including owner affidavit signed by Sophia Oliveri as agent

**Case History (2024)**

- The Permits and Inspections Bureau received another complaint of working without a valid permit on 4/18/2024. Building Inspector Zachary Snyder investigated the complaint and issued a Notice of Violation/Stop Work Order for the construction of a new root cellar in the back yard

- While at the site the building inspector (Zachary Snyder) remembered issuing a previous NOV/SWO for the 3rd story addition and wondered if permits were ever issued for the work. City records show that the building permit was not issued

- A follow-up site inspection was scheduled with Sophia Oliveri and conducted on Friday 4/26/2024 by Rick Paul (Program and Operations Manager for Inspections), Walter Jackson (PMCE), Rashad Gresham (Zoning) and Donald Drummond (Field Building Supervisor) I was currently out of the office on vacation. A NOV was issued, and 19 pictures taken

- On the following Monday 4/29/2024 I was informed by Rick Paul (Program and Operations Manager for Inspections) of the situation. I was provided with an engineer report from Carl Duncan dated 2/2/2021.The address on the report was incorrect and the report itself was lacking content.

- Mr. Carl Duncan was contacted to discuss the report. He was very cooperative-however could not remember much about the project. Since the inspection was conducted back in 2021. I specifically questioned if he evaluated the existing footing and foundations for the additional loads being transferred and/or draft stopping, fire blocking and fire separation, he responded no. I also asked him if any permit and/or approved plans had been provided to him to conduct the inspection or did he obtain any authorization from the Permits and Inspections Bureau prior to conducting the inspection and his response was no! He stated he thought it was a renovation-not new work.

**Based on the previous history and the following facts: I determined the structure to be unsafe for occupancy and ordered the tenants to be relocated immediately for their own safety.**

- On 4/26/2024 a Notice of Violation (Unsafe Notice) was issued to RVA Home LLC, Sophia Oliveri.

- New construction of the 3rd floor addition (Unit C)

- No approved Building permit and/or plans authorized for the new 3rd floor addition. (Unit C)

- No approved trade permits were issued for the plumbing and mechanical work for the new 3rd-floor addition. An electrical permit was issued for (Unit C) and a rough in inspection was conducted.

- No inspections were ever conducted by the Permits and Inspections Bureau for the new 3rd floor addition for building, plumbing or mechanical.

- All interior structural work has been concealed

- Wall and ceiling separation problems identified within 3rd floor new addition

- Incorrect and Insufficient information provided on the (Carl Duncan) engineer's report, additional information was added to the original report twice.

- Non-code compliant alterations to existing exterior egress stairs and decks

- Non-code compliant new egress stairs to 3rd floor addition

- Non-compliant structural load points bearing on roof above the occupied unit on the 1st floor

- Non-compliant structural load points bearing on 4x4 post above the occupied unit on the 2nd floor porch area

- Changing the Use without authorization. 2 family dwelling to a Multifamily 4 Units, 4 mailboxes SUP and Certificate of Occupancy required.

**Case History Continued**

- On 5/21/2024 I received an engineer report from Engineer Design Associates (Robert F Nelson) for the rear stairs, I found the report to be sufficient. A building permit is still required to make the repairs.

- On 5/28/2024 I authorized the tenants to reoccupy the 1st and 2nd floor units only. No use and/or occupancy allowed for the 3rd floor (Unit C) or 1st floor rear unit (unit D). These units are still unsafe to occupy because of the illegal change of use, permits not obtained, inspections conducted or approvals.

- On 8/21/2024 the Local Board of Building Code Appeals (LBBCA) upheld the decision of the code official.

- On 8/28/2024 an amended Notice of violation (Unsafe Notice) was issued to 1321 Porter St LLC, Emily Pinchbeck.

- On 9/12/2024 RVA further appealed to the State Technical review Board (TRB)

- On 11/15/2024 the State Technical Review Board (TRB) ruled that the appeal was not properly in front of the board since Sophia Oliveri RVA LLC was no longer the manager for the property. The NOV is moot and the NOV was rescinded.

- On 12/23/2024 the Notice of violation (Unsafe Notice) was appealed by Emily Pinchbeck.

- On 3/19/2025 the Local Board of Building Code Appeals (LBBCA) upheld the decision of the code official.

- On 7/18/2025 the case was scheduled to be heard at the State Technical Review Board (TRB). However, the attorney for Emily Pinchbeck, Mr. Bruce Arkema

asked if I would be willing to work with his client, if so, would I agree to postpone the hearing for two months. I agreed.

- On 7/24/2025 We met with Emily Pinchbeck and her attorney Mr. Bruce Arkema to discuss her permitting needs. The following city staff members were present. Daniel Mouer, Michelle Dickson, Hivi Canter, Rick Paul and David Alley.

- On 11/21/2025 the case was heard by the State Technical Review Board (TRB) and upheld the decision of the code official.

- On 2/18/2026 the case was further appealed to the Circuit Court.

- On 3/11/2026 a Building Inspection warrant was obtained by the Bureau of permits and Inspections after receiving 17 emails for (Formal Demand to Cease Harassment). The inspection warrant was executed in conjunction with RPD. See search warrant file.

DEPARTMENT OF
**PLANNING AND DEVELOPMENT REVIEW**

CITY OF RICHMOND
LOCAL BOARD OF BUILDING CODE APPEALS (LBBCA)

Appeal No. _____

**Application for Appeal**

Richmond
Locality

I (we) 1321 Porter St LLC. (Name) of 9169 W. State St. #652 Garden State, ID 83714 (Mailing address)

Contact Number: Email Email: 1321PorterStLLC@Gmail.com

Respectively request that the Local Board of Building Code Appeals review the decision made on March 11, 20 26 by the code official.

Description of Decision Being Appealed: See Attached

Location of Property Involved: 1321 Porter St. Richmond VA, 23224

What is the applicant's interest in the property?

X Owner

___ Contractor

___ Owner's Agent

___ Other (explain) _____

Relief Sought: Removal of the placards, rescission of the March 11, 2026 Notice of Violation, and cessation of all enforcement actions lacking a lawful factual basis, as required by the USBC and the Code of Virginia.

Attach the Decision of the Code Official and any other pertinent documents.

1321 Porter St. LLC
Signature of Applicant (Emily Jacobek, manager)

Filed at Richmond, Virginia, the 9 day of April, 2026

* written on application not actual date should be filed

Note: In order for this appeal to be processed a Non-refundable fee of $184.00 must be paid.

**CITY OF RICHMOND**
DEPARTMENT OF COMMUNITY DEVELOPMENT
BUREAU OF PERMITS AND INSPECTIONS
900 EAST BROAD STREET, ROOM 110
RICHMOND, VA 23219 (804) 646-4169

# ☑ Notice of Violation ☐ Stop Work Order

**Issue Date:** 3/11/2026 **Date of Inspection:** 3/11/2026

**Location:** 1321 Porter St

**Owner:** 1321 Porter St LLC Emily Pinchbeck (manager)

**Responsible Party:** Owner

**Contractor's Name:** unknown

**Permit Holder:** none

**Specific Work Being Cited:**

Construction of a 3rd floor and renovation of a 1st floor rear unit to change occupancy from a 2 family to a multifamily building

This building has been inspected and the following violations of the Code of Virginia, Title 36, The Virginia Uniform Statewide Building Code and the Code of the City of Richmond have been found:

- ☐ Section 110.5 of the Virginia Uniform Statewide Building Code- Working without a valid permit posted
- ☑ Section 108.1 of the Virginia Uniform Statewide Building Code- Working prior to the issuance of a building permit
- ☐ Section 109.5 of the Virginia Uniform Statewide Building Code – Failure to have approved construction plans available on site
- ☐ Section 113.3 of the Virginia Uniform Statewide Building Code – Failure to obtain inspections
- ☐ Section 14-81 of Chapter 14 - City of Richmond Ordinances: Working without a contractor's license
- ☐ Section 114-930.6 of the Code of Ordinance of the City of Richmond: Certificate of Appropriateness
- ☐ Other _____

All activities involved in the work cited above must cease immediately. Permitted activities not involved in the cited work above may continue as long as they do not conceal or otherwise affect the work cited above. Correction of all of the above conditions shall be made by 4/3/2026. If the notice is not complied with, the property owner, his agent, permit holder and/or contractor shall be subject to the penalties prescribed in the Code of Virginia, Title 36-Section 106; Section 105 of the Virginia Uniform Statewide Building Code and Ordinances of the City of Richmond. The following action shall be taken before any work resumes:

- ☑ Obtain a Building Permit
- ☑ Obtain an Electrical Permit
- ☑ Obtain a Mechanical permit
- ☑ Obtain a Plumbing Permit
- ☐ Obtain a Plumbing/Gas Permit
- ☐ Obtain a report by a registered Virginia professional engineer
- ☐ Post valid permit on site
- ☐ Keep approved plans on site and available for inspectors
- ☐ Obtain C. A. R. (Commission of Architectural Review) approval
- ☐ Other _____

Inspector: Rick Paul Telephone No. 804-646-6694

**A fee payment of $400 is required *before* you may return to work on any permit for which a Stop Work Order has been issued.**
**You have the right to appeal this notice under Section 119 of the Virginia Uniform Statewide Building Code.**
**Please contact us, (804) 646-4169, if you wish to appeal this decision.**

11090 (01/26) 40773-*

# NOTICE OF VIOLATION - UNSAFE STRUCTURE

**Amended**

**City of Richmond**
**Department of Planning & Development Review**
**Property Maintenance Division**
**900 E. Broad Street, Room G-12**
**Richmond, Virginia 23219**

August 28, 2024

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 Porter St, LLC & Emily Pinchbeck
9169 W State St
# 652
Garden City, ID 83714 - 1733

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the City may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**

106.1 US - Unsafe Structures

This section shall apply to existing structures which are classified as unsafe. All conditions causing such structures to be classified as unsafe shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured agains public entry or demolished. Vacant and secured structres shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure constitutes such a hazard that it should be demolished, then the code official shall be permitted to order the demolition of such structures in acordance with applicable requirement s this code.

**This property has been inspected and found to be unsafe due to the following conditions:**

1. **Lack of Approved Building Permits and Plans:** No approved building permits or plans were ever authorized for the new third-floor addition.

2. **Lack of Trade Permits:** No approved trade permits were authorized for electrical, plumbing, or mechanical work related to the new third-floor addition.

3. **Absence of Inspections:** No inspections were ever conducted by the Permits and Inspections Bureau for the new third-floor addition. This includes inspections for building, electrical, plumbing, mechanical, fire stopping, draft stopping, fire separation, and insulation.

4. **Concealed Interior Work:** All interior work associated with the third-floor addition is concealed, making it impossible to verify compliance with safety and building codes.

5. **Wall Separation Issues:** Wall separation problems have been identified within the third-floor addition.

6. **Deficient Engineering Report:** The engineering report submitted by Carl Duncan contains incorrect and insufficient information, failing to meet the required standards for safety and code compliance.

7. **Non-Code Compliant Alterations to Existing Structures:** Alterations to existing exterior egress, stairs, and decks are not compliant with building codes.

8. **Non-Code Compliant New Egress Stairs:** The new egress stairs to the third-floor addition are not compliant with safety standards.

9. **Structural Load Issues (First Floor):** Non-code compliant structural load points are bearing on the roof above the occupied unit on the first floor, creating a potential safety hazard.

10. **Structural Load Issues (Second Floor):** Non-compliant structural load points are bearing on 4x4 posts above the occupied unit on the second-floor porch area, raising concerns about structural integrity.

Note: Change of use from a Two-family
Sprinkler System Required

**11. Unauthorized Change of Use:** The property's use has been changed from a single-family residence to a multi-family residence with three units without proper authorization or approval (see attached photos of mailboxes).

**Required Actions to Abate Violation:**

**These issues pose a significant safety risk to the inhabitants, neighboring structures, and the public at large.**

**To Rectify These Violations:**

1. **Follow the "City of Richmond Permit Process" to obtain all necessary approvals, including building, electrical, plumbing, and mechanical permits for the third-floor addition.**
2. **Ensure that all required inspections are completed by the Permits and Inspections Bureau.**
3. **Submit a revised and accurate engineering report that meets code requirements.**
4. **Correct all structural issues and ensure that all alterations comply with building codes.**
5. **Revert the unauthorized change of use or obtain the necessary approvals for the multi-family conversion.**

**Failure to comply with this notice by the abatement date may result in criminal court action.**

If permits are required to correct the conditions cited in this notice, this document or a copy thereof will be needed to obtain them. Permits can be obtained from: Permits and Inspections Division, 900 E. Broad Street, Room 110, Richmond, Virginia 23219

**Additional responsibilities as a property owner:**

Approximately 3,300 properties are in the City Old and Historic District. To determine whether or not your property falls within a City Old and Historic District, go to http://www.richmondgov.com/richhistory and click on the link "ViewMap of City Old & Historic Districts".

A *Certificate of Appropriateness* is required when any proposed work alters the exterior appearance of the property as it is viewed from a public street or alley. Certificates must be obtained before work can begin. For work requiring a building permit, no permit will be issued without a Certificate. This review procedure is required not only for the main structure on a lot but also accessory buildings, fences, exterior lighting, driveways and walks, and any other features visible to the public.

As in any review process some preplanning is necessary. Please direct any questions or requests to: Secretary, Commission of Architectural Review, Department of Planning & Development Review, 900 East Broad Street, Richmond, VA 23219.

Sincerely,

Walter Jackson
(804) 385-0703
Property Maintenance Inspector

Gmail

Sophia Oliveri <sophia.s.oliveri@gmail.com>

# 4th Engineer's Report for 1321 Porter St

**Alley, David L. - PDR** <David.Alley@rva.gov> Tue, May 28, 2024 at 2:27 PM
To: Sophia Oliveri <sophia.s.oliveri@gmail.com>
Cc: "Paul, IV, Rick F. - PDR" <Rick.Paul@rva.gov>, "Jackson, Walter E. - PDR" <Walter.Jackson@rva.gov>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

***Sophia Oliveri,***

***Good Afternoon! I hope today finds you well. Thank you for the Engineer report from Engineer Design Associates (Robert F Nelson). The existing Certificate of Occupancy for the building located at 1321 Porter St is a two family dwelling. I found the report to be sufficient-please see the following conditions.***

- ***The existing Certificate of Occupancy for the building located at 1321 Porter St is for a two family dwelling -occupancy shall be re-instated for the 1st and 2nd floors only.***
- ***No other occupancy shall be allowed for the 3rd floor or the rear 1st floor unit at this time until all permits, inspections and a final Certificate of Occupancy has been issued for a multi-family building.***
- ***No un-permitted construction work shall be performed prior to an approved permit from the Permits and Inspections Bureau.***
- ***You are authorized to remove the placards.***
- ***Failure to comply with above conditions shall result in the Permits and Inspections Bureau taking additional actions as needed.***

***Feel free to contact me directly should you have any other questions or concerns.***

***Best Regards,***

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW

David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov

900 E Broad St Room 110 Richmond Va 23219-1907

Visit Our Website at https://www.rva.gov/planning-development-review/permits-and-inspections

**From:** Sophia Oliveri <sophia.s.oliveri@gmail.com>
**Sent:** Wednesday, May 22, 2024 10:25 AM

EXHIBIT

202

**Louisa Engineering, Inc.**
**1065 Jouett School Road**
**Mineral, Virginia 23117**

**Cell: 804.512.4865** **Email: john@louisaengineering.com**

April 3, 2026

Mr. David L. Alley, lll
Commissioner of Buildings
900 E. Broad Street, Room 110
Richmond, VA 23219

Email: David.Alley@rva.gov

**RE: 1321 Porter St., Richmond, VA**
**Modification to Letter Dated November 14, 2024**

**Purpose**
The purpose of this letter is to modify the conclusion of the above captioned letter and to discuss potential safety risks in this structure.

We have taken reasonable care to make statements and conclusions.

**Discussion:**
A third story was added to the existing 2-story structure, all without a building permit. Louisa Engineering, LLC was hired by the owners property manager, to look at the structures both new and old to see if the building was safe to be inhabited. One can read the observations and discussions included in the November 14th letter. The statements we made at the time were to the best of our belief true, based on the information at hand.

Further Investigation
However, since the November 14, 2024 letter, we performed further investigation of the structure. What prompted this was the requirement by the City of Richmond to prepare a framing plan of the unpermitted third story. To do this we had the property manager cut additional observation holes in the ceiling of the second floor to observe the floor joists of the third. Other observation holes were cut.

Third Story Floor Joists
The floor joists that we observed were 2 x 10, @16" on center. There are 2 spans of 14'-8" and 10'-0". We assume the grade to be Southern Yellow Pine #2. We did not find any grade stamps. The 14'-8" span does not meet the current code requirement of 14'-0" maximum for 40 PSF live load plus 10 PSF dead load. However, it does meet the code requirement for bedroom loads at 30 PSF.

A positive parameter that we observed was that the 10' span extended approximately 5'-6' into the 14'-8" span which if connected properly to the longer span could provide the additional strength to the 14'-8" floor joists. This is considered an unanalyzed condition and needs to be addressed by a professional engineer.

Bearing Walls

We also found that the 2 walls, either side of the bathrooms were bearing walls for the roof. We performed a calculation of the 2 joists in the third floor that support these walls. Based on that calculation we determined that the (2) 2 x 10 joists under these walls are not adequate to support the roof loads. Therefore, there shall be added (2) 1.75" x 9.25" LVL's, 2.0 E min. to the floor under these walls. Another option is to add these beams as header beams at the top of the walls. This option would probably we easier because the floor would not have to opened. Also, adequate numbers of jack studs would be required to support the beams at either end. An engineered drawings shall be prepared by a registered professional engineer licensed to do business in Virginia, to show construction details of such beam and jack studs prior to installing these beams. Permits are required.

**Conclusion**

At this time Louisa Engineering LLC rescinds the entire conclusion made in the November 14, 2024 letter.

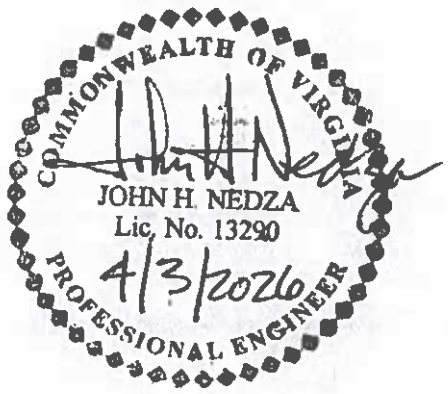
Also, since the time of the November 14, 2024 letter, we have found a couple structural discrepancies with the third-floor framing as discussed in the aforesaid paragraphs entitled "Third Story Floor joists" and "Bearing Walls", that could be detrimental to the health, safety and welfare of the occupants.

Louisa Engineering, LLC recommends that the drywall be removed from all the interior walls and ceiling so that a thorough and complete review can be performed of the structural framing. Also, the floor should be removed to observe floor joists and connections to the exterior walls and the center bearing wall.

Let me know if I can answer any questions you may have on this project!

Sincerely,

John H. Nedza PE



theatrical stage other than a raised platform; and principally used without permanent seating facilities, including art galleries, exhibition halls, museums, lecture halls, libraries, restaurants other than night clubs, and recreation centers; and buildings designed for other similar assembly purposes including passenger terminals.

**208.4 Use Group F-4 Structures** shall include all buildings used as churches, schools, colleges and for similar educational and religious purposes.

**208.5 Use Group F-5 Structures** shall include grandstands, bleachers, coliseums, stadiums, drive-in theatres, tents and similar structures for outdoor assembly use and shall comply with the provisions of the Basic Code for special uses and occupancies. (see article 4.)

### Section 209.0 Use Group H, Institutional Buildings

All buildings and structures or parts thereof shall be classified in the institutional use group in which people suffering from physical limitations because of health or age are harbored for medical or other care or treatment, or in which people are detained for penal or correctional purposes, or in which the liberty of the inmates is restricted.

**209.1 Use Group H-1** shall include all buildings designed for the detention of people under restraint including among others jails, prisons, reformatories, insane asylums and similar uses.

**209.2 Use Group H-2** shall include all buildings used for housing people suffering from physical limitations because of health or age, including among others day nurseries, hospitals, sanitariums, clinics, infirmaries, orphanages, homes for aged and infirm; and buildings designed for prosecuting public or civic services and activities of emergency character, including among others fire houses, police stations and similar uses.

### Section 210.0 Use Group L, Residential Buildings

All buildings and structures or parts thereof shall be classified in the residential use group, in which families or households live or in which sleeping accommodations are provided for individuals with or without dining facilities, excluding those that are classified as institutional buildings.

**210.1 Use Group L-1 Structures** shall include all hotel buildings, lodging houses, boarding houses and dormitory buildings arranged for the shelter and sleeping accommodation of more than twenty (20) individuals.

**210.2 Use Group L-2 Structures** shall include all multiple-family dwellings having more than two dwelling units; and shall also include all dormitories, boarding and lodging houses arranged for shelter and sleeping accommodation of twenty (20) individuals or less.

**210.3 Use Group L-3 Structures** shall include all buildings arranged for



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the use of one- or two-family dwelling units including not more than five (5) lodgers or boarders per family.

Mobile homes may be used as single-family dwellings when complying with the requirements of section 425.0.

### Section 211.0 Use Group M, Miscellaneous Uses

Structures and buildings of a temporary character and miscellaneous structures not classified in any specific use group shall be constructed, equipped and maintained to meet the requirements of the Basic Code commensurate with the fire and life hazard incidental to their use. Miscellaneous uses shall include all accessory buildings and structures used as private garages, sheds, fences and similar purposes.

### Section 212.0 Doubtful Use Classification

When a building or structure is proposed for a use not specifically provided for in the Basic Code or the classification of which is doubtful, such building or structure shall be included in the use group which it most nearly resembles in respect to the existing or proposed life and fire hazard and it shall be so classified by the building official.

### Section 213.0 Mixed Use and Occupancy

213.1 **Two or More Uses:** In case a building is occupied for two (2) or more uses not included in the same use group, the provisions of the Basic Code applying to each use shall apply to such parts of the building as come within that group; and if there are conflicting provisions, the requirements securing the greater public safety shall apply.

213.2 **Incidental Uses:** Where the higher hazard use is supplemental to the main use of the building and the area devoted to such use is constructed and segregated by fireresistive construction as required in article 4, the building shall be classified according to the main use.

213.3 **Fire Divisions:** When mixed uses are completely separated horizontally and vertically from adjoining occupancies by fire divisions of the highest fire grading prescribed in table 16 for the separated uses, each part of the building shall be separately classified as to use.

### Section 214.0 Construction Classification

All buildings and structures erected or to be erected, altered or extended in height or area shall be classified in any one or in a combination of the four (4) construction types herein defined: Type 1, Fireproof Construction; Type 2, Noncombustible Construction; Type 3, Exterior Masonry Wall Construction; and Type 4, Frame Construction.

214.1 **False Designation:** No building shall be designated a given type



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CS260406

# APPLICATION FOR CERTIFICATE OF OCCUPANCY

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION
ROOM 124, 501 NORTH 9TH STREET

Date 3/16/1970

WRITE WITH INK

The undersigned owner or lessee hereby applies for a certificate of occupancy in accordance with provisions of the Zoning Ordinance and the Building Code for the following use and hereby agrees to fully conform to all terms of any permit which may be issued on account of the application.

Name Mrs. Wayne Goddard

Location 1321 Porter St.

Number of Employees None

Number of Occupants 10

To be Used as Rooming House 2 apts + H Keeper

Last Used as Rooming

Material of Building Brick Number of Stories 2 Which Floor will be Used? Both

Owner of Building (or Agent) Mrs. Wayne Goddard

Address 1321 Porter St.

Signature of Proposed Occupant Mrs. Wayne Goddard

ature of Owner or Agent Mrs. Wayne Goddard

ress to which Certificate is to be mailed 1321 Porter St.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to install or erect any kind of Signs, Boilers, Motors or Machinery.

RECEIVED
MAR 16 1970
Bureau of Building Inspection

TO BE FILLED IN BY INSPECTOR

Date Approved March 27, 1970 Date Disapproved

Zone R-6 Multiple Family Dw. Building Inspector R. C. Coghill

Remarks:

POOR
ORIGINAL

26-4-17
CS260401

# Certificate of Occupancy

CITY OF RICHMOND, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY

BUREAU OF BUILDING INSPECTION

Richmond, Va., March 27, 19 70

The applicant having complied with the provisions of an ordinance approved June 11, 1960, as amended, commonly known as the Zoning Ordinance, permission is hereby granted to

Wayne Goddard
(Owner or Lessee)

to use the two floor or floors of the building situated at

No. 1321 Porter Street
for the following purpose:

Use Rooming House - 2 apts. & 1 rooms

Height Two Story

District R-6 Multiple Family Dw.

Maximum Occupancy

POOR ORIGINAL

*No alterations are authorized by the issuance of this Certificate.*

This certificate does not take the place of any license which may be required by law, nor does it authorize the use of boilers, motors or machinery.

This certificate does not authorize the painting or erection of any sign.

Any change in the use or occupancy of this building shall require a new certificate.

Violation of the provisions of this certificate will necessitate revocation of the certificate.

Leo J. Cantor
COMMISSIONER OF BUILDINGS

## CERTIFICATE OF OCCUPANCY

Owner Wayne Goddard

Lessee Wayne Goddard

LOCATION

Street Porter

No. 1321

DATE GRANTED

3/27/70, 19.....

# AFFIDAVIT FOR BUILDING INSPECTION WARRANT

Commonwealth of Virginia VA. CODE § 36-105

The undersigned Applicant states under oath that:

1. To determine compliance with the Building Code or regulations and standards adopted pursuant thereto, an inspection warrant is requested for an inspection of a building or structure, subject to the Building Code, located at and as described below:
1321 Poeter St. Richmond, VA 23224 Parcel # S0000121019
And is described as a three story structure with the Numbers 1321 affixed to the right side of the door next to front window

[ ] CONTINUED ON ATTACHED SHEET

2. The inspection is to be done to gather evidence of a particular suspected violation of the Building Code on regulations and standards adopted pursuant thereof.

3. The material facts constituting probable cause that the search should be made are that the inspection is necessary to investigate a suspected violation of the Building Code that poses an immediate and imminent threat to the health and safety of the owner, tenant, or occupants of the building or structure, or the owner, occupant, or tenant of a nearby building or structure based on the following evidence of a violation of such code:
Inspection of property found UNSafe violations Code 106.1-US - UNsafe. Building Inspectors have been denied Access to the Structure at least sixteen times And cease and deceased emails From the manager of 1321 Poeter St. LLC. Entry is Needed to verify the third floor and back structure is vacant And not being lived in. There is also a crypt/cellar that needs to be verified as to what it is And if permits are needed. The crypt / Cellar is possibly too close to the original structure.

[ ] CONTINUED ON ATTACHED SHEET

184

FORM DC-296(MASTER) PAGE ONE OF TWO(02/07) FI

## AFFIDAVIT FOR BUILDING INSPECTION WARRANT

APPLICANT
George Paul (NAME)
Operational Manager Building Inspector (TITLE OF APPLICANT)
900 E. Broad Street Room 108 (ADDRESS)
Richmond, VA 23219

Certified to Clerk of
Richmond City (CITY OR COUNTY) Circuit Court
on 3/11/2026 (DATE)
(TITLE) (SIGNATURE)

Original Delivered [ ] in person [ ] by certified mail
[ ] by electronically transmitted facsimile
[ ] by use of filing security procedures defined in the Uniform Electronic Transactions Act
to Clerk of (CITY OR COUNTY WHERE EXECUTED) Circuit Court
on (DATE)
(TITLE) (SIGNATURE)

Complete only if different than above
Original Delivered [ ] in person [ ] by certified mail
[ ] by electronically transmitted facsimile
[ ] by use of filing security procedures defined in the Uniform Electronic Transactions Act
to Clerk of (CITY OR COUNTY OF ISSUANCE) Circuit Court
on (DATE)
(TITLE) (SIGNATURE)

In addition to the above, the following situation exists:

4. [X] Consent to inspect has been sought and refused by Emily Pinchbeck, who is Manager of 1321 Porter St. LLC

5. [X] I have personal knowledge of the facts set forth in this affidavit AND/OR

[ ] I was advised of the facts set forth in this affidavit, in whole or in part, by one or more other person(s). The credibility of the person(s) providing this information to me and/or the reliability of the information provided may be determined from the following facts:

The statements above are true and accurate to the best of my knowledge and belief.

Program Operations Manager Inspection
TITLE OF APPLICANT

[signature]
APPLICANT

Subscribed and sworn to before me this day.

3/11/2026 12:08PM
DATE AND TIME

[signature]
[ ] JUDGE [X] MAGISTRATE

# BUILDING INSPECTION WARRANT

Commonwealth of Virginia, VA Code § 36-105

To: Any Authorized Officer

You are hereby commanded in the name of the Commonwealth to forthwith inspect

1321 Porter St, Richmond VA 23224

(the "Property" or "Premises" to be inspected)

Parcel # S000-1210/9

for the purpose of determining whether violations of the Building Code exist that would pose an immediate and imminent threat to the health and safety of the owner, tenant, or occupants of the building or structure or the owner, occupant, or tenant of a nearby building or structure.

---

I, the undersigned, have found probable cause and believe that, based on statements contained in the attached affidavit sworn to by Cooley, Paul, Operations Manager, Inspections

(the "Affidavit"), which is hereby incorporated by reference:

1. The inspection is necessary to insure compliance with the Building Code for the protection of life and property of the owner, tenant, or occupants of the building or structure or the owner, occupant, or tenant of a nearby building or structure.

2. The local building official or his agent has made reasonable effort to obtain consent from the owner, occupant, or tenant of the subject building or structure prior to seeking issuance of this warrant.

3/11/2026 12:09pm

(DATE AND TIME)

(MAGISTRATE) (JUDGE)

# BUILDING INSPECTION WARRANT

## COMMONWEALTH OF VIRGINIA

*In re:* Property

Exterior Inspection Warrant

1321 Porter Street, Richmond VA 23224

Executed on the within-described location on

(DATE)

(SIGNATURE)

(AM/PM TIME)

Returned to Clerk of

Circuit Court

(RECORDED CERTIFIED OR FILED)

On

(DATE)

(SIGNATURE)

(AM/PM TIME)

# INVENTORY OF SAMPLES TAKEN

**The following samples were taken, and no others:**

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

11.

12.

13.

14

15.

**Date:**

SIGNATURE

NAME AND TITLE



FORMDOC-SOP-MASTER-PAGE-[WordCount-[WordCount]]

Material Facts Attachment

Entry is also necessary to placard third floor addition and first floor unit Placards are needed since the placards have been removed by property management owner. Entry needed to verify evidence that third party engineering inspections were performed.


2/26/2


067279-2024 (1321 Porter St) 3-11-2026 3rd Floor
Gym-Office area
03.11.2026


067279-2024 (1321 Porter St) 3-11-2026 3rd Fl
Gym-Office area
03 . 11 . 2026


067279-2024 (1321 Porter St) 3-11-2026 3rd Floor
Gym-Office area
03.11.2026


067279-2024 (1321 Porter St) 3-11-2026 3rd Floor
Gym-Office area
03 . 11 . 2026

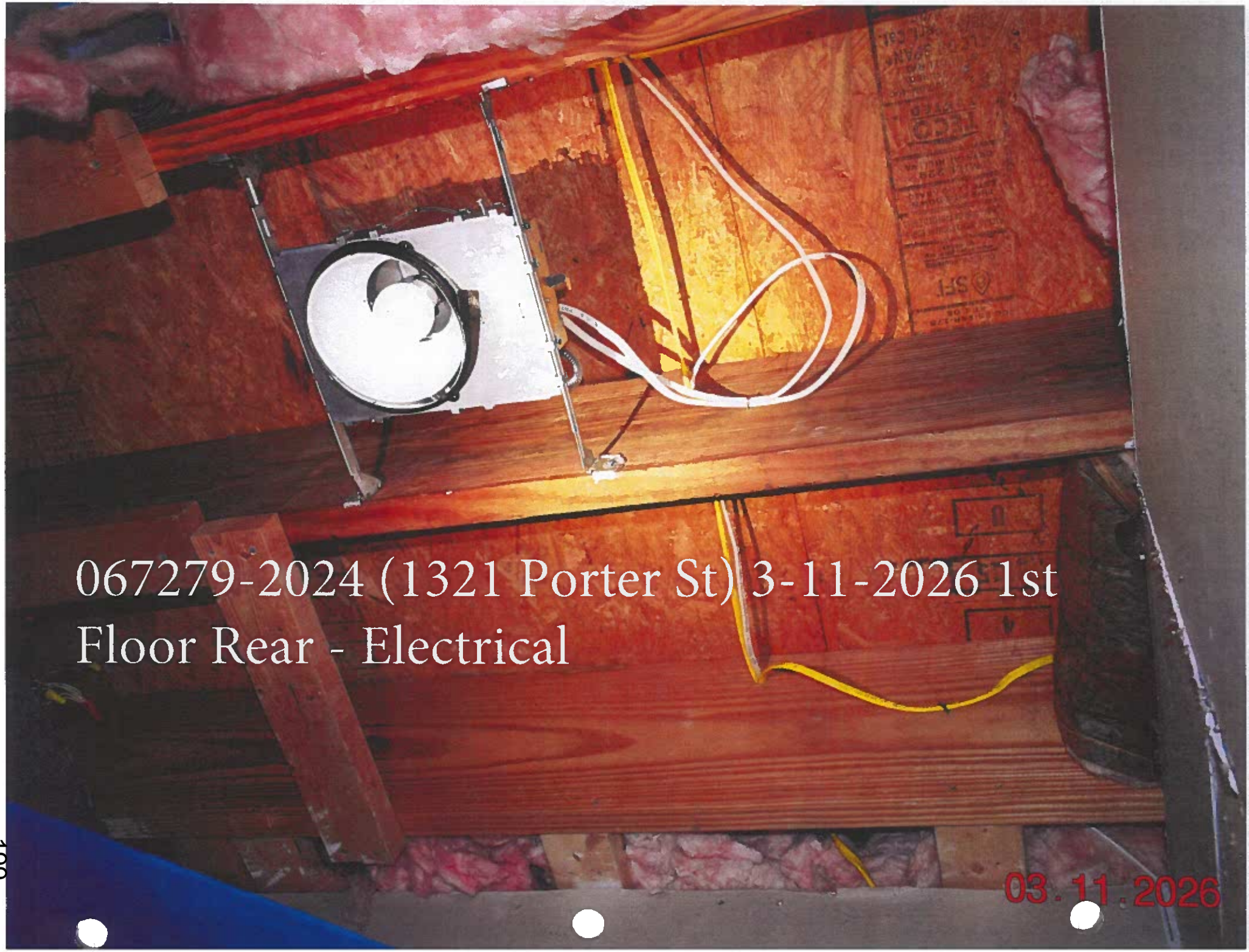

067279-2024 (1321 Porter St) 3-11-2026 3rd Floor
Gym-Office area
03.11.2026

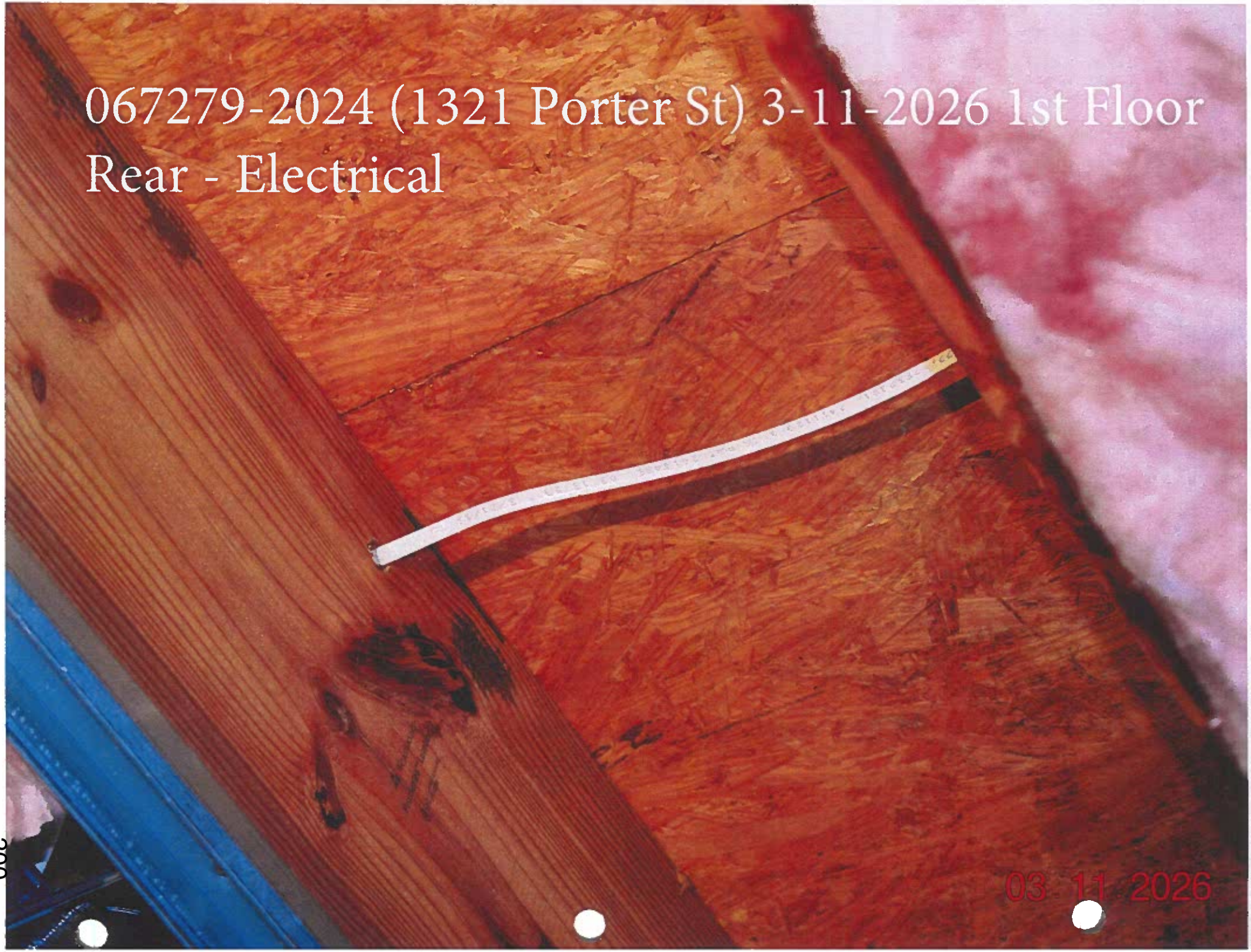

067279-2024 (1321 Porter St) 3-11-2026 3rd Floor Gym-Office area
03.11.2026

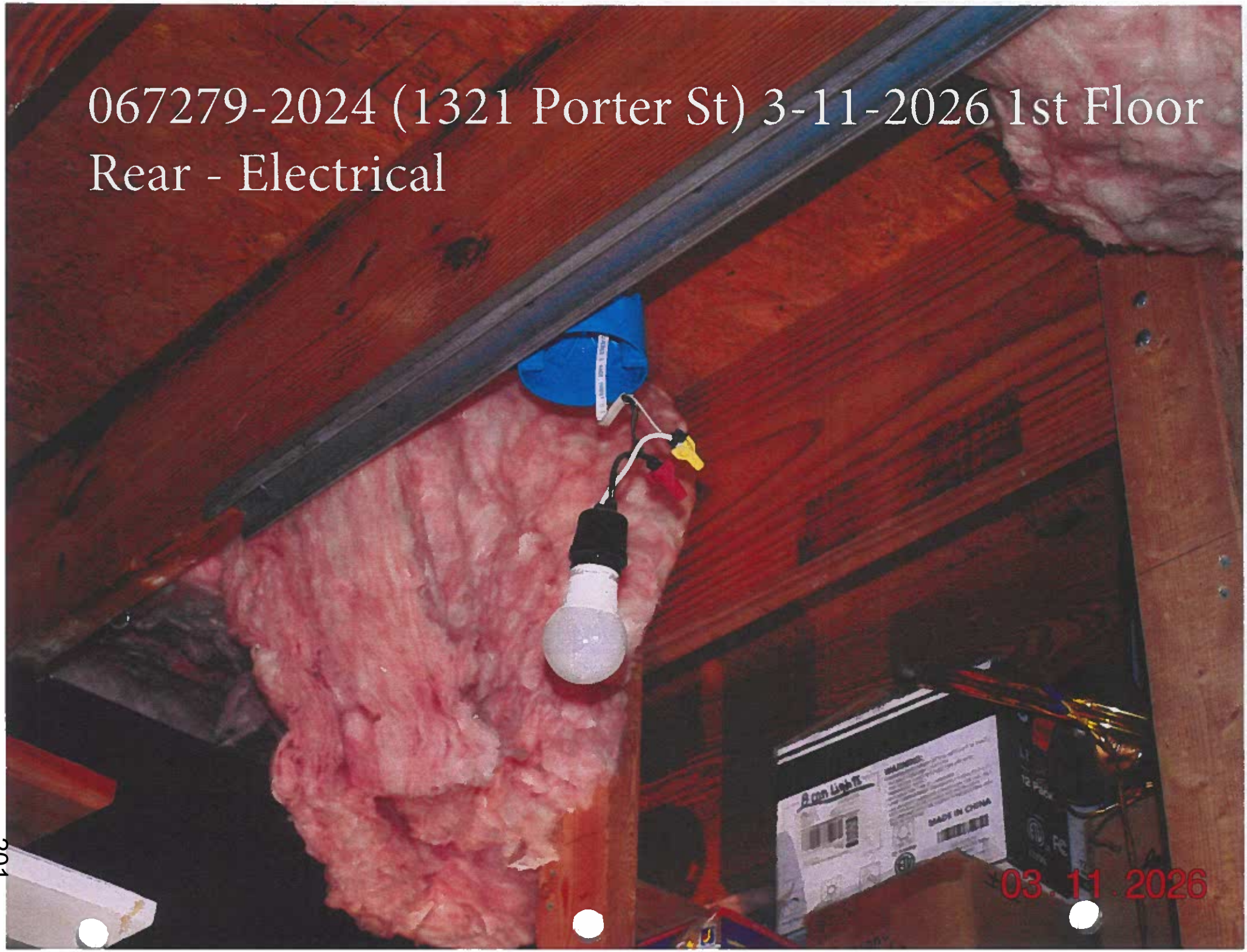

067279-2024 (1321 Porter St) 3-11-2026 Cellar
03 11 2026

03 . 11 . 2026
67279-2024 (1321 Porter St) - 3-11-2026
ellar


067279-2024 (1321 Porter St) 3-11-2026 1st Floor Rear - built-in
03 . 11 . 2026


067279-2024 (1321 Porter St) 3-11-2026 1st Floor Rear - Electrical
03.11.2026

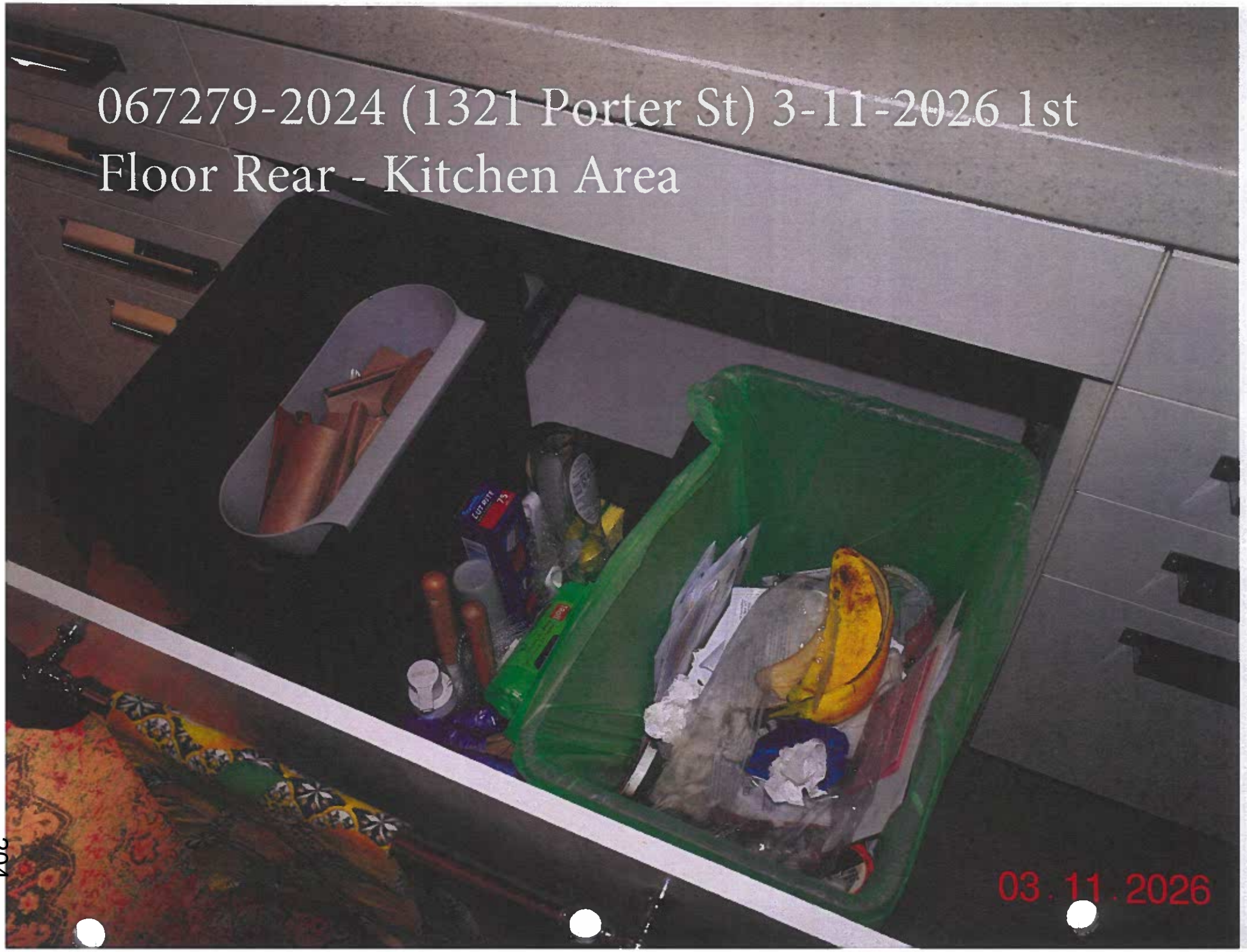

067279-2024 (1321 Porter St) 3-11-2026 1st Floor Rear - Electrical
03 11 2026


067279-2024 (1321 Porter St) 3-11-2026 1st Floor Rear - Electrical
MADE IN CHINA
03 11 2026

201


067279-2024 (1321 Porter St) 3-11-2026 1st Floor
Rear - Front Room
03.11.2026


067279-2024 (1321 Porter St) 3-11-2026 1st Floor Rear - Kitchen Area
03.11.2026


067279-2024 (1321 Porter St) 3-11-2026 1st Floor Rear - Kitchen Area
03.11.2026

Documents Submitted
By
1321 Porter St. LLC
(Emily Pinchbeck)

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# State Building Code Technical Review Board Appeal 26-10

**Appeal of Enforcement Beginning March 11, 2026**

## THE CITY'S ENFORCEMENT ACTIONS EXCEEDED THE AUTHORITY GRANTED BY THE USBC, WERE UNDERTAKEN UPON UNLAWFUL PROCEDURE, AND ARE UNSUPPORTED BY THE ADMINISTRATIVE RECORD

Chapter one of the Uniform Statewide Building Code ("USBC") defines both the Building Official's authority and the limits of that authority. The State Building Code Technical Review Board ("SBCTRB") is empowered to review the City of Richmond's (the "City") application of those requirements and the facts relied upon. The City cannot exercise authority the Code does not grant, bypass procedures the Code makes mandatory, or sustain an enforcement action the administrative record cannot support.

The City's decisions cannot be sustained because they:

- **exceeded the authority granted by the USBC;**
- **were undertaken upon unlawful procedure;**
- **are unsupported by the administrative record; and**
- **are arbitrary and capricious.**

As demonstrated below, the City's enforcement actions, including the March 11, 2026 Notice of Violation ("NOV"), the revival and alteration of other NOVs, including the November 21, 2024 NOV, the sworn affidavit asserting probable cause that 1321 Porter St., Richmond, Virginia (the "Property") presented an immediate and imminent threat to health and safety on March 11, 2026, the inspection warrant, the determination that portions of the Property were unsafe, the prohibition of lawful use and occupancy, and the placarding and condemnation of the Property, each violated separate and independent mandatory provisions of the USBC.

## I. THE CITY'S MARCH 11, 2026 ENFORCEMENT ACTIONS VIOLATED FIFTEEN MANDATORY PROVISIONS OF THE UNIFORM STATEWIDE BUILDING CODE AND CANNOT BE SUSTAINED UNDER THE CODE

### A. The March 11, 2026 Notice of Violation Exceeded the City's Statutory Authority and Was Unsupported by Competent, Material, and Substantial Evidence.

USBC § 115.1 provides:

> *"In accordance with § 36-106 of the Code of Virginia,* ***it shall be unlawful*** *for any owner or any other person, firm or corporation, on or after the effective date of any code provisions,* ***to violate any such provisions****."*

USBC § 115.2 further provides:

> *"If the violations, directives, or orders involve work without a permit, the notice of violation* ***shall be issued to the responsible party****."*

Both of these provisions **limit enforcement to the person or entity that committed the violation.** Nothing in the USBC authorizes a building official to issue a NOV against a subsequent purchaser after determining that the purchaser neither performed nor was responsible for the alleged construction, particularly where the City had already identified the party responsible for that construction. ***(Exhibit 29).***

The administrative record establishes that the alleged violation arose from construction completed no later than March 2021 by a prior owner's contractor. ***(Exhibit 32)***. On December 21, 2024 and again on December 7, 2025, the City expressly acknowledged that the owner, 1321 Porter St., LLC ("1321"), did not perform the work and was not responsible for its performance. ***(Exhibits 3, 39)***. On February 18, 2025, Rick Paul, the issuing inspector, confirmed that the City possessed no evidence that 1321 Porter St., LLC performed any construction or that any construction had occurred after March 2021 ***(Exhibit 4)***. The administrative record identifies no subsequent construction that altered that determination.

Nevertheless, on March 11, 2026, the City issued a Notice of Violation alleging that 1321 committed those same historic permitting violations, despite actual knowledge and written acknowledgement to the contrary. ***(Exhibit 34).***

The March 11, 2026 NOV therefore violated USBC §§ 115.1 and 115.2 by being issued to a party the City's own administrative record established had neither committed nor was responsible for the alleged violations. By issuing the Notice despite its prior factual determinations, the Building Official **exceeded the authority granted by the USBC, acted upon unlawful procedure, committed an error of law, rendered a decision unsupported by competent, material, and substantial evidence, and acted arbitrarily and capriciously**. The March 11, 2026 enforcement action therefore must be reversed.

## B. The City's March 11, 2026 Unsafe-Building Enforcement Was Made Upon Unlawful Procedure and Exceeded the Authority Granted by USBC §§ 115 and 118.

Though the NOV cites Virginia Construction Code ("VCC") § 108, § 118 is the only statutory authority governing unsafe-building enforcement under the VCC. § 118 prescribes the mandatory procedures and substantive findings that must precede a determination that a building is unsafe, an order prohibiting occupancy or use, a vacate order, or placarding and condemnation. Both §§ 115 and 118 establish a sequential enforcement process in which each step is a statutory prerequisite to the next. A building official may not bypass those

prerequisites and proceed directly to declaring a building unsafe, prohibiting occupancy, or placarding a structure.

### 1. The Building Official Bypassed the Mandatory Enforcement Procedures Required by USBC §§ 115.2, 118.2, and 118.3 Before Exercising Unsafe-Building Authority

USBC § 115.2 provides:

> *"The building official shall issue a written notice of violation…**if any violations of this code or any directives or orders of the building official have not been corrected or complied with within a reasonable time.**"*

USBC § 118.2 provides:

> *"The building official **shall issue a correction notice** that describes the condition of the structure that is the basis for the determination that a violation of Section 118 exists. The correction notice shall state what is required to correct the violation and provide a reasonable time to correct the violation."*

USBC § 118.3 provides:

> *"**When the violation has not been corrected in accordance with the correction notice,** the building official shall issue a notice of violation in accordance with Section 115."*

These provisions establish a mandatory enforcement sequence. Before a Building Official may exercise authority to declare a structure unsafe, prohibit use and occupancy, or placard and condemn a property, the VCC requires:

1. issuance of a correction notice identifying the alleged violation and in this instance, a real and existing unsafe physical condition;
2. identification of the corrective action necessary to remedy that physical condition;
3. a reasonable opportunity to correct or repair the physical condition;
4. issuance of a Notice of Violation to only the responsible party and only if a lawfully issued correction notice has not been complied with; and
5. continued enforcement only after the recipient has again failed to comply with directives within the authority granted to the Code Official by the USBC.

The repeated use of the word **"shall"** throughout these provisions reflects that each step is mandatory. Collectively, these procedures ensure that a property owner receives notice of the alleged unsafe condition, understands the corrective action necessary to fix it, and has a meaningful opportunity to cure the violation before being deprived of property interests through unsafe-building enforcement. These statutory protections also implement the procedural due process guaranteed by the United States and Virginia Constitutions before the government may deprive a person of property interests.

The administrative record establishes that the Building Official bypassed every mandatory procedural safeguard prescribed by USBC §§ 115.2, 118.2, and 118.3 before exercising unsafe-building authority. He:

- documented his **premeditated intent and plan to declare portions of the Property unsafe** before providing any notice to the owner;
- issued no correction notice as required by USBC § 118.2;
- identified no newly discovered physical condition that allegedly rendered the Property "immediately and imminently" unsafe;
- identified no corrective action necessary to remedy the alleged unsafe condition;
- afforded no reasonable opportunity to correct or repair the alleged violation;
- issued the March 11, 2026 Notice of Violation simultaneously with the determination that portions of the Property were unsafe;
- prohibited previously authorized lawful use and occupancy despite no change in physical conditions or newly emergent unsafe condition; and
- simultaneously placarded, condemned, and denied access to portions of the Property.

The March 11, 2026 NOV directed 1321 Porter St., LLC to obtain permits associated with construction completed years earlier by a prior owner while simultaneously declaring portions of the Property dangerous and abruptly reversing the City's prior authorization of continued use ***(Exhibits 16, 21)*** without any intervening change in conditions. The NOV did not identify a physical condition that allegedly rendered the Property "immediately and imminently" unsafe as stated in its sworn affidavit ***(Exhibit 14)***, or a corrective action necessary to remedy that condition. The administrative record further establishes that the City had permitted the same conditions to coexist with occupancy for years. ***(Exhibit 23).***

The inadequacy of the NOV was further confirmed by the issuing inspector's subsequent admission that he could not identify the corrective action necessary to resolve the alleged dangerous conditions listed in the NOV. ***(Video 5)*** If the issuing official could not identify either the allegedly "immediate and imminent" unsafe condition requiring correction or the corrective action necessary to remedy it, the statutory enforcement process prescribed by USBC §§ 115.2, 118.2, and 118.3 could not have been satisfied.

Rather than following the mandatory sequence of correction notice, opportunity to cure, NOV, and continued opportunity to comply prescribed by the USBC, the Building Official proceeded directly to the final enforcement actions that deprived Appellant of lawful use of the Property. By bypassing each mandatory procedural safeguard prescribed by USBC §§ 115.2, 118.2, and 118.3, the Building Official **exceeded the authority granted by the USBC, acted upon unlawful procedure, committed errors of law, acted arbitrarily and capriciously, deprived Appellant of the procedural protections guaranteed by both the Uniform Statewide Building Code and the Due Process Clauses of the United States and Virginia Constitutions before depriving Appellant of significant property interests, and exercised unsafe-building authority without competent, material, and substantial evidence establishing the statutory prerequisites for doing so.** The March 11, 2026 enforcement action therefore must be reversed.

**2. The Notice of Violation Violated USBC § 115.2 by Failing to Reference the Code Section Upon Which the Notice Was Based.**

USBC § 115.2 provides, in relevant part:

*"The notice of violation **shall** reference the code section upon which the notice is based..."*

The use of the word **"shall"** imposes a mandatory procedural requirement ***(Exhibit 53)***. That requirement ensures that the NOV recipient receives notice of the specific functional code provision allegedly violated, enabling the recipient to understand what physical condition constitutes a violation of the USBC, and in this case, a dangerous condition.

The March 11, 2026 NOV failed to satisfy that requirement. It cited only USBC § 108.1, an administrative provision governing permit requirements for a person intending to perform construction, *before* construction begins. Section 108.1 does not identify any physical condition that constitutes a violation of the USBC, a requirement for an owner who did not perform construction several years after the alleged construction was completed, or an immediate and imminent unsafe condition. The NOV therefore failed to identify the substantive functional code provision allegedly violated by the Property's physical conditions or any provision authorizing the Building Official to require a subsequent purchaser to obtain permits for construction allegedly completed years earlier by another owner. Nor did it identify USBC § 118, despite simultaneously declaring portions of the Property unsafe, prohibiting previously authorized use, and placarding the Property under VCC authority derived exclusively from that section. ***(Videos 1, 2)*.**

By failing to identify the substantive functional code provisions allegedly violated, and by failing to identify the statutory authority governing the enforcement actions actually taken, **the March 11, 2026 Notice of Violation deprived 1321 Porter St., LLC of meaningful notice of both the factual and legal basis for the City's actions**. Without that information, Appellant could not determine whether the alleged physical conditions actually violated the Uniform Statewide Building Code, whether the Building Official possessed statutory authority to undertake the enforcement actions exercised, or what action, if any, was necessary to fix the dangerous condition.

The March 11, 2026 Notice of Violation therefore violated USBC § 115.2 by failing to identify the code sections upon which the Notice was based. By failing to satisfy this mandatory notice requirement, the Building Official **exceeded the authority granted by the Uniform Statewide Building Code, acted upon unlawful procedure, committed an error of law, and deprived Appellant of the procedural protections guaranteed by the USBC and the Due Process Clauses of the United States and Virginia Constitutions before depriving Appellant of significant property interests.** The March 11, 2026 enforcement action must be reversed.

**3. The Notice of Violation Violated USBC § 115.2 by Failing to Direct the Correction of the Alleged Violations.**

USBC § 115.2 further provides that a Notice of Violation **shall**:

> *"...direct the correction of the violation or violations..."*

This requirement ensures that a property owner is informed of the actions necessary to remedy an existing physical condition in violation of the USBC.

The March 11, 2026 NOV identified no corrective action that would remedy the alleged unsafe condition or result in removal of the placards. Instead, it conflated an alleged historic permitting deficiency, which it had previously determined could safely coexist with occupancy ***(Exhibits 21, 23, Audio 1)***, with a separate determination that the Property had become "immediately and imminently" physically unsafe and required immediate placarding and prohibition of use.

**The Notice of Violation failed, on its face, to direct the correction of the alleged unsafe condition as required by USBC § 115.2**. Rather than identifying the action necessary to remedy the allegedly unsafe physical condition and restore lawful use, the Notice merely directed Appellant to obtain permits for construction completed years earlier by another owner.

The issuing inspector's subsequent admission that he could not identify the corrective action necessary to resolve the alleged dangerous condition simply confirms what is already apparent from the face of the Notice itself. ***(Video 5).*** The Notice necessarily failed to direct the correction of the alleged violation as required by USBC § 115.2.

The March 11, 2026 Notice of Violation therefore violated USBC § 115.2 by failing to direct the correction of the alleged "immediate and imminent" unsafe condition. By failing to satisfy this mandatory statutory requirement, the Building Official **exceeded the authority granted by the Uniform Statewide Building Code, acted upon unlawful procedure, committed an error of law, and deprived Appellant of the procedural protections guaranteed by the USBC and the Due Process Clauses of the United States and Virginia Constitutions** before depriving Appellant of significant property interests. The March 11, 2026 enforcement action therefore must be reversed.

### 4. The Notice of Violation Violated USBC § 115.2 by Failing to Specify a Reasonable Time Within Which Compliance Could Be Achieved.

USBC § 115.2 further provides that a Notice of Violation **shall**:

> *"...specify a reasonable time period within which the corrections or repairs shall be completed to establish compliance with the code."*

A reasonable period for compliance presupposes that the recipient has been informed of the existing violation and the corrective action necessary to remedy it, including, in this case, the corrective action necessary to eliminate the alleged "immediate and imminent" unsafe condition and restore lawful use.

Because the March 11, 2026 NOV failed to identify either the physical condition allegedly rendering the Property dangerous or the corrective action necessary to remedy that condition, it necessarily failed to provide 1321 Porter St., LLC with a meaningful opportunity to achieve compliance within the prescribed period.

The March 11, 2026 Notice of Violation therefore violated USBC § 115.2 by failing to specify a reasonable time within which compliance could be achieved. By imposing a compliance deadline without identifying what had to be corrected to achieve compliance, the Building Official **exceeded the authority granted by the Uniform Statewide Building Code, acted upon unlawful procedure, committed an error of law, and deprived Appellant of the procedural protections guaranteed by the USBC and the Due Process Clauses of the United States and Virginia Constitutions** before depriving Appellant of significant property interests. The March 11, 2026 enforcement action therefore must be reversed.

**5. The Notice of Violation Violated USBC § 115.2.1 by Being Issued After Enforcement Had Become Time-Barred.**

USBC § 115.2.1 provides, in relevant part:

> *"**When violations are discovered more than two years after** the certificate of occupancy is issued or **the date of initial occupancy**… a notice of violation shall only be issued upon advice from the legal counsel of the locality that action may be taken to compel correction of the violation. ... **When compliance can no longer be compelled by prosecution under § 36-106 of the Code of Virginia, the building official, when requested by the building owner, shall document in writing the existence of the violation**...."*

Code § 36-106 provides:

> *"Any prosecution under this section **shall** be commenced within the period provided for in § 19.2-8."*

Code § 19.2-8 provides:

> *"Prosecution of Building Code violations under § 36-106 **shall commence within one year of discovery** of the offense by the building official, **provided that such discovery occurs within two years of the date of initial occupancy or use after construction of the building or structure**, or the issuance of a certificate of use and occupancy for the building or structure, whichever is later."*

The third floor had been occupied for more than two years before the City's April 26, 2024 inspection and **discovery of the unoccupied third floor**. The City's discovery occurred outside the two-year period specified in Code § 19.2-8 as a prerequisite to prosecution under § 36-106. **The one-year prosecution period therefore could not be invoked to compel compliance through prosecution upon discovery in April 2024 and necessarily remained expired in 2026.**

Even if this Board were to suspend reality for purposes of argument and disregard the City's documented 2021 discovery ***(Exhibit 29)*** and the statutory two-year period between occupancy and discovery that had expired before the April 26, 2024 inspection, the City still would not have had a lawful basis to prosecute the alleged

2021 construction violation in 2026. The one-year limitations period would still have expired before the owner's May 1, 2025 request for documentation under USBC § 115.2.1. ***(Exhibit 55)***. Once that period expired, compliance could no longer be compelled through prosecution, and § 115.2.1 limited the Building Official's authority to document the alleged violation upon the owner's request. The City itself acknowledged this limitation before this Board. ***(Exhibit 36, Audio 4).***

The administrative record establishes that the alleged violations arose from construction completed no later than March 2021 ***(Exhibit 4)*** and from a dwelling unit the City discovered completed and occupied no later than January 7, 2021. ***(Exhibits 30, 37, Audio 1).*** The administrative record identifies no subsequent construction, alteration, or other event that restarted the statutory limitations period. The March 11, 2026 Notice of Violation therefore concerned only historic construction discovered years earlier.

The administrative record contains no evidence that the Building Official obtained the advice of the locality's legal counsel required by USBC § 115.2.1 before issuing the March 11, 2026 Notice of Violation. Nor does the administrative record identify any legal basis upon which the City could lawfully compel correction years after expiration of the applicable limitations period. Instead, after refusing Appellant's request that he comply with USBC § 115.2.1 in 2025, the Building Official proceeded with enforcement contrary to the limitations imposed by that section almost a year later in March 2026.

The March 11, 2026 Notice of Violation therefore violated USBC § 115.2.1 because it was issued after the Building Official's statutory authority to compel compliance had expired and without satisfying the statutory prerequisites for continued enforcement. By doing so, the Building Official **exceeded the authority granted by the Uniform Statewide Building Code, acted upon unlawful procedure, committed an error of law, and deprived Appellant of the procedural protections guaranteed by the USBC and the Due Process Clauses of the United States and Virginia Constitutions** before depriving Appellant of significant property interests. The March 11, 2026 enforcement action therefore must be reversed.

### 6. The Building Official Improperly Continued Enforcement Against a Subsequent Owner in Violation of USBC § 115.5

USBC § 115.5 provides:

> *"In accordance with § 36-105 of the Code of Virginia, if the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner."*

Section 115.5 establishes the only circumstance identified by the USBC in which a pending enforcement action may continue following a transfer of ownership. Specifically, the General Assembly authorized continued enforcement only where the violating owner transfers the property to an entity in which that owner retains an ownership interest greater than fifty percent.

This statutory limitation is consistent with the canon of statutory construction *expressio unius est exclusio alterius*, the expression of one circumstance implies the exclusion of others. By expressly identifying the circumstance in which a pending enforcement action may continue following a transfer of ownership, the General Assembly did not authorize continuation of enforcement under materially different circumstances.

This interpretation is further compelled by Dillon's Rule. When the General Assembly has prescribed the circumstances under which governmental authority may be exercised, a local official may not extend that authority beyond those circumstances absent additional statutory authorization. **Dillon's Rule is applicable to determine, in the first instance, whether the power exists at all; if the power cannot be found, the inquiry is at an end.** *Lawless v. County of Chesterfield*, 21 Va. App. 495, 499, 465 S.E.2d 153, 155 (1995) (quoting *Commonwealth v. County Board of Arlington County*, 217 Va. 558, 575, 232 S.E.2d 30, 41 (1977)). **Moreover, any reasonable doubt whether the General Assembly has granted the claimed authority must be resolved against the local governing body.** *Board of Supervisors v. Reed's Landing Corp.*, 250 Va. 397, 400, 463 S.E.2d 668, 670 (1995); *Sinclair v. New Cingular Wireless PCS, LLC*, 283 Va. 567, 576, 727 S.E.2d 40, 45 (2012).

The administrative record identifies no provision of the Uniform Statewide Building Code authorizing the Building Official's enforcement action against 1321 Porter St., LLC.

The administrative record establishes that 1321 Porter St., LLC did not acquire the Property through the type of ownership transfer described in USBC § 115.5, the City acknowledged 1321 is a new and different owner, and the City likewise acknowledged that 1321 Porter St., LLC neither performed nor was responsible for performing construction. ***(Exhibits 3, 4, 29, 30, 32, 34, 37, 38, & 39).*** The alleged construction predated the LLC's ownership, was investigated while prior owners held title, and was attributed by the City to the prior owner ***(Exhibit 29)***. Nevertheless, the Building Official issued a new Notice of Violation alleging that 1321 Porter St., LLC committed those same violations despite the City's acknowledgment that the LLC played no role in the alleged construction.

Nothing in the administrative record establishes that the prior owner retained an ownership interest in 1321 Porter St. ***(Exhibit 32)***, that a pending enforcement action continued under the circumstances described in § 115.5, or that the statutory requirements for continued enforcement following a transfer of ownership were otherwise satisfied.

The March 11, 2026 enforcement action therefore violated USBC § 115.5. By initiating enforcement against a subsequent purchaser outside the only circumstance in which the Uniform Statewide Building Code authorizes continuation of enforcement following a transfer of ownership, the Building Official **exceeded the authority granted by the Uniform Statewide Building Code, acted upon unlawful procedure, committed an error of law, and deprived Appellant of the procedural protections guaranteed by the USBC and the Due Process Clauses of the United States and Virginia Constitutions** before depriving Appellant of significant property interests. The March 11, 2026 enforcement action therefore must be reversed.

## C. The City's March 11, 2026 Unsafe-Building Enforcement Exceeded the Authority Granted by USBC § 118 and Was Unsupported by Competent, Material, and Substantial Evidence.

### 1. The City's Unsafe-Building Enforcement Violated USBC § 118.3.1.

VCC Definition:

*DANGEROUS. Any building, structure or portion thereof that meets any of the conditions described below shall be deemed dangerous:*

1. *1.The building or structure **has collapsed**, has partially collapsed, has moved off its foundation or lacks the necessary support of the ground.*
2. *2.There exists a **significant risk of collapse,** detachment or dislodgment of any portion, member, appurtenance or ornamentation of the building or structure under permanent, routine, or frequent loads; under actual loads already in effect; or under snow, wind, rain, flood, earthquake, or other environmental loads when such loads are imminent.*

USBC § 118.3.1 provides:

> *"If the building official determines there is **actual and immediate danger** to the occupants or public, or **when life is endangered** by the occupancy of an unsafe building or structure, the building official shall order the occupants to vacate the building or structure forthwith. The building or structure shall not be used until the specified unsafe conditions have been corrected and the building official has approved reoccupancy of the building or structure."*

Section 118.3.1 authorizes a building official to prohibit occupancy only upon a determination that an **actual and immediate danger** exists to the occupants or the public. The exercise of that authority therefore requires competent evidence establishing that continued occupancy presents an immediate threat to life and safety.

The administrative record does not contain competent evidence supporting that determination. The City identified no newly discovered condition or material change between its July 24, 2025 authorization of continued use and occupancy and its March 11, 2026 order prohibiting that same use and occupancy. Instead, the City relied upon substantially the same conditions that had existed for years and were known to the City when it previously authorized continued use and occupancy of the Property.

The administrative record establishes that:

- the City observed the completed rear first-floor dwelling in use no later than January 7, 2021 and did not identify its completed condition or occupancy as a violation at that time. ***(Exhibits 29, 37)***;
- the April 24, 2024 NOV taped directly to the door of Apt C, identifying the occupant as the responsible party, did not identify the completed condition or occupancy of the rear first-floor dwelling as a violation. ***(Exhibits 30, 37)***;

- on May 13, 2024, the Building Commissioner identified only a single deck support post as presenting a safety concern and advised that use of Unit C would be acceptable. ***(Exhibit 24)***;
- the Building Commissioner subsequently accepted the findings of a Virginia-licensed Professional Engineer and authorized reoccupancy of the other affected first and second floor units. ***(Exhibits 20, 21, 23, Audios 3, 4)***;
- on July 24, 2025, the same inspector who later issued the March 11, 2026 Notice of Violation expressly authorized continued use and occupancy. ***(Exhibit 16, Audio 1)***; and
- despite approximately twenty (20) inspections or site visits, the City identified no newly discovered unsafe condition, material deterioration, or other changed circumstance before prohibiting occupancy on March 11, 2026. ***(Exhibit 27)*.**

**The City's own representations further confirm that no actual and immediate danger existed.** On November 15, 2024, the City represented to the SBCTRB that the City did not deem the property unsafe, it was not condemned, and that occupancy had not been prohibited. Nevertheless, approximately sixteen (16) months later, the Building Official reached the opposite conclusion without identifying any newly discovered condition or material change in the Property.

The March 11, 2026 Notice of Violation likewise identified no newly discovered unsafe condition or intervening event that could provide a lawful and factual basis for declaring conditions previously authorized for continued use an "actual and immediate danger." The issuer was repeatedly asked to identify the lawful and factual basis for his March 11 actions and repeatedly failed to do so. ***(Exhibit 54)*. The City later admitted that there is not a single piece of evidence supporting a lawful factual basis for those actions.** ***(Exhibit 34)***.

The City's March 11, 2026 order prohibiting use and occupancy therefore violated USBC § 118.3.1 because the administrative record does not contain competent, material, and substantial evidence establishing an actual and immediate danger to the occupants or the public. The City later admitted that not a single piece of evidence supported a lawful factual basis for its actions exists. By exercising the extraordinary authority conferred by USBC § 118.3.1 without competent evidence satisfying its statutory prerequisites, the Building Official **exceeded the authority granted by the Uniform Statewide Building Code, committed an error of law, rendered the enforcement action unsupported by competent, material, and substantial evidence, acted arbitrarily and capriciously, and deprived Appellant of the procedural protections guaranteed by the USBC and the Due Process Clauses of the United States and Virginia Constitutions** before depriving Appellant of significant property interests. The March 11, 2026 enforcement action therefore must be reversed.

**2. The City's Unsafe-Building Enforcement Violated USBC § 118.4.**

**USBC § 118.4 provides, in relevant part:**

> *"The notice **shall** be sent by registered or certified mail to the last known address of the responsible party **and** a copy of the notice **shall** be posted in a conspicuous place on the premises."*

The repeated use of the word **"shall"** imposes mandatory notice requirements that ensure the owner receives formal notice before being deprived of significant property interests through unsafe-building enforcement.

The administrative record establishes that the City neither posted the required notice in a conspicuous place on the Property nor sent the notice by registered or certified mail to the last known address of 1321 Porter St., LLC. Instead, after determining to declare portions of the Property unsafe, prohibit lawful use and occupancy, and placard the Property, the City hand-delivered the Notice of Violation to a manager whom it knew was not acting on behalf of the owner at that time. The City's March 11, 2026 enforcement action violated the mandatory notice requirements of USBC § 118.4. By disregarding those mandatory procedures, the Building Official **exceeded the authority granted by the Uniform Statewide Building Code, acted upon unlawful procedure, committed an error of law, and deprived Appellant of the procedural protections guaranteed by the USBC and the Due Process Clauses of the United States and Virginia Constitutions** before depriving Appellant of significant property interests. The March 11, 2026 enforcement action must be reversed.

### 3. The Building Official Exercised Placarding Authority Before Satisfying the Conditions Required by USBC § 118.5

USBC § 118.5 provides:

> *"If the notice is not complied with, the building official shall post the building or structure with a placard reading 'Unsafe Building' and shall prohibit occupancy until the unsafe condition has been corrected."*

Absent imminent and immediate danger, § 118.5 authorizes placarding only after the responsible party has failed to comply with the notices required by the preceding provisions of § 118. The Building Official's authority to placard a building is therefore contingent upon compliance with the mandatory enforcement sequence established by §§ 118.2 and 118.3.

**The Building Official bypassed every mandatory step required** by § 118 before placarding the Property. He issued no correction notice under § 118.2, afforded no opportunity to correct the alleged unsafe condition, and did not issue a NOV after a failure to comply with a correction notice as required by § 118.3. Instead, the administrative record establishes that the Building Official documented his intention to declare portions of the Property unsafe, prohibit occupancy, and placard the Property before providing any notice to the owner. The Building Official therefore exercised the authority granted by § 118.5 before satisfying any of the statutory conditions authorizing its exercise.

The City's placarding of the Property therefore violated USBC § 118.5 because it occurred without satisfying the statutory conditions authorizing placarding. By declaring the Property an "Unsafe Building," prohibiting occupancy, and placarding the Property before complying with the mandatory procedures prescribed by USBC §§ 118.2 and 118.3, the Building Official **exceeded the authority granted by the Uniform Statewide Building Code, acted upon unlawful procedure, committed an error of law, and deprived Appellant of the procedural protections guaranteed by the USBC and the Due Process Clauses of the United States and**

**Virginia Constitutions before depriving Appellant of significant property interests.** The March 11, 2026 enforcement action therefore must be reversed.

## D. The City's Placarding and Occupancy Restrictions Were Unsupported by the Record and Contrary to Its Prior Authorization of Use

After the March 11 placarding, the City was provided additional evidence confirming its prior knowledge and authorization, including evidence concerning occupancy and use of the building, the age of the construction, the identity of the responsible party, and the absence of any newly occurring unsafe condition. ***(Exhibits 3, 4, 6, 16, 18, 20, 21, 22, 23, 24, 25, 27, 29, 32, 34, 35, 38, Audio 1).*** On March 13, 2026, the City was specifically asked to reconsider and withdraw the enforcement action in light of that evidence. The City nevertheless continued the placards and occupancy restrictions on March 17, 2026. *(See **"Basic Documents"**)*.

Virginia law recognizes that property owners are entitled to reasonably rely upon governmental determinations. In *Board of Supervisors of Prince Edward County v. Bowman*, the Court recognized the protection afforded to property owners who reasonably and in good faith rely upon official governmental approval. Appellant did so here, reasonably and in good faith relying upon the City's determinations and representations from April 28, 2024, through March 11, 2026. Likewise, an agency acts arbitrarily and capriciously when it disregards material evidence contradicting the factual basis for its decision or fails to articulate a rational connection between the facts and the action taken. *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 43 (1983).

The March 17, 2026 decision to continue the occupancy restrictions, and the City's continued enforcement of those restrictions through the present, remain **unsupported by the administrative record, arbitrary and capricious, and without the statutory authority required for emergency enforcement.** These decisions therefore cannot be sustained under the USBC or Code of Virginia § 2.2-4027.

## E. The March 11, 2026 Notice of Violation and Unsafe-Building Enforcement Must Be Reversed Under Code of Virginia § 2.2-4027

The foregoing establishes **fifteen (15) separate and independent violations of the Uniform Statewide Building Code and the Code of Virginia in the issuance of the March 11, 2026 Notice of Violation** and the Building Official's exercise of "imminent and immediate" dangerous building enforcement authority. Each violation independently rendered the Notice of Violation and the resulting enforcement actions unlawful. Collectively, they demonstrate a pervasive failure to comply with the mandatory procedural and substantive requirements governing enforcement under the USBC.

Each of these violations independently establishes that the Building Official exceeded the statutory authority granted by the Uniform Statewide Building Code, acted upon unlawful procedure, committed an error of law, or rendered decisions unsupported by competent, material, and substantial evidence in the administrative record within the meaning of Code of Virginia § 2.2-4027. The cumulative effect of these violations confirms that **the**

**March 11, 2026 enforcement actions cannot be sustained under any applicable standard of judicial or administrative review.**

We ask the Board to vacate the March 11, 2026 Notice of Violation in its entirety, reverse the Building Official's decisions declaring portions of the Property dangerous, prohibiting lawful use and occupancy, and placarding the Property.

## II. THE CITY'S ADMINISTRATIVE INSPECTION WARRANT EXCEEDED STATUTORY AUTHORITY UNDER THE USBC, WAS ISSUED UPON UNLAWFUL PROCEDURE, AND WAS UNSUPPORTED BY COMPETENT, MATERIAL, AND SUBSTANTIAL EVIDENCE

### A. The City Invoked VCC § 108.1, Which Does Not Authorize an Inspection Warrant or Search

The City's asserted authority for the March 11, 2026 inspection was **VCC § 108.1** ***(Videos 1, 2)***. That provision governs when an application for a permit is required *before* construction. It does not authorize an inspection warrant, administrative search, or forcible entry. **VCC § 108.1 grants permitting authority prior to construction; it does not grant search warrant authority.**

The distinction is material. The authority to obtain an inspection warrant for enforcement of the Building Code is separately addressed by Code of Virginia § 36-105(C)(3). Mr. Paul nevertheless asserted that the City had authority to obtain the warrant because renovation had occurred approximately twelve (12) years earlier. ***(Video 2).*** That assertion does not supply warrant authority and does not transform § 108.1 into a warrant provision twelve (12) years later.

The City's own characterization of the warrant also matters. Mr. Paul distinguished the March 11 warrant as having been obtained by the **Building Department**, rather than the Property Maintenance Department. ***(Video 1).*** But the Building Department's authority to enforce the VCC does not permit it to obtain a warrant at all when the local government has established a separate Maintenance Department to enforce the VPMC.

VCC §106.2, provides that:

> *"the building official may delegate powers and duties* ***except where such authority is limited by the local government****,"*

and VCC §106.2 requires the building official to remain responsible for assuring that delegated powers and duties **of the VCC** are carried out:

> *"in accordance with the provisions of* ***this code****."*.

Mr. Paul exceeded his authority as a Programs and Operations manager in the Building Department by making a sworn affidavit for a warrant that could only be obtained by the Code Official or his agents in the Property

Maintenance Department. The warrant authority must come from an actual statutory grant of inspection warrant authority, and the prerequisites for that authority must be satisfied. Neither Section 108.1 nor any other provision of the VCC can create inspection warrant authority that the General Assembly did not grant by statute, nor can a code provision expand the statutory authority granted by the General Assembly.

## B. The Administrative Inspection Warrant Exceeded the City's Statutory Authority Because the Sworn Affidavit Failed to Establish Probable Cause

On March 11, 2026, the City obtained an administrative inspection warrant through a sworn affidavit that failed to establish probable cause of an imminent and immediate threat to health and safety. Rather than identifying newly discovered facts supporting emergency administrative entry, the affidavit relied upon historical conditions already known to the City, speculation regarding conditions the affiant did not know to exist, and repeated requests to **"verify"** assumptions rather than facts establishing probable cause. Most significantly, the affidavit omitted material information that would have substantially altered the issuing magistrate's determination of probable cause.

### 1. The affidavit omitted material facts that directly negated probable cause.

The affidavit ***(Exhibit 14)*** alleged that emergency inspection was necessary because unsafe conditions posed an imminent and immediate threat to health and safety. It did not disclose that the City had first identified those same alleged conditions nearly two years earlier and had subsequently acknowledged, through its own written representations, official actions, and failure to pursue emergency enforcement, that any actual or potential conditions previously identified were compatible with continued occupancy of the first and second floors and continued use of the third floor. ***(Exhibits 21, 23, 27).***

The affidavit further omitted that the City already knew:

- The City authorized the removal of placards on May 28, 2024 and knew they had been removed on May 30, 2024. ***(Exhibits 21, 27)***;
- City inspectors had visited the property no less than twenty (20) times between the removal of placards and March 11, 2026. **(Exhibit 27)**;
- the City had never observed separate occupancy of the third floor or first-floor rear unit;
- the City had given express permission for use of the rear unit and third floor on July 24, 2025. ***(Exhibit 16, Audio 1)***;
- the City possessed actual knowledge that neither area was separately occupied outside of the City's two (2) family limitation when the affidavit was submitted. ***(Exhibit 16, Audio 1)***.

Those omissions were material because they directly contradicted the affidavit's assertion that an imminent and immediate threat required emergency judicial intervention. Had those facts been disclosed, the affidavit would not have established probable cause for issuance of the warrant.

**2. The affidavit created a misleading impression that lawful inspection requests had been refused.**

The affidavit relied upon sixteen cease-and-desist notices to suggest that the City had attempted to obtain access before seeking judicial authorization at the time of discovery of an emergency. It omitted that those notices arose from unrelated incidents, including complaints concerning repeated surveillance of the Property, inspectors remaining on or near the Property without authorization, reports from tenants who felt intimidated by repeated surveillance, and complaints from neighboring property owners regarding inspectors entering or remaining on their private property. ***(Exhibit 17, Video 6).*** The latest cease-and-desist notice was issued on January 16, two (2) months before the City's materially misleading statements indicating that the City had complied with VCC § 104 and alleging that consent had been denied by the manager, Ms. Pinchbeck, before the City had communicated with her that day. ***(See "Basic Documents").***

**None of those incidents involved the City's identification of an emergency need to "verify" the materially unchanged third floor or first-floor rear unit, and the City never requested access to verify the conditions it later relied upon as the basis for probable cause.** By omitting that context, the affidavit created the false impression that the owner had refused lawful requests for access to investigate an emergency existing on March 11, when no such requests had been made.

**3. The affidavit repeatedly sought authority to "verify" assumptions rather than establish probable cause.**

Rather than identifying facts establishing that violations presently existed, the affidavit repeatedly asserted that entry was necessary to **"verify"** conditions. It sought authority to:

- verify whether the third floor and first-floor rear unit remained unoccupied;
- verify that third-party engineering inspections had been performed; and
- verify the condition of a detached crypt or cellar.

**Verification is not probable cause.**

The City acknowledged that it assumed the property was being used in compliance with prior City directives while simultaneously requesting judicial authorization to determine whether those assumptions were correct. **The Fourth Amendment does not authorize administrative inspection warrants to confirm assumptions or investigate possibilities. It requires facts establishing probable cause that a violation presently exists**.

The affidavit similarly sought authority to inspect a detached crypt or cellar despite the City's prior knowledge of its existence for approximately two (2) years. ***(Exhibit 9, 56)***. Even assuming such an inspection were otherwise authorized, the affidavit identified no facts establishing that an unoccupied detached structure posed an imminent and immediate threat to occupants of the principal building. Moreover, VCC § 108.2 exempts certain structures from inspection, including crypts and cellars, further undermining the asserted necessity for emergency entry.

The affidavit also asserted that entry was necessary to verify that third-party engineering inspections had been performed. The City already knew engineering inspections had concluded approximately one year earlier. The affidavit identified no facts establishing probable cause that inspection evidence would still exist on the premises or that any such evidence was necessary to determine whether an imminent emergency existed. The City's own testimony before the SBCTRB on November 21, 2025 confirms the speculative nature of this assertion: the City testified that it relied upon an engineering report dated April 26, 2024, in evaluating structural stability while acknowledging that it had neither reviewed nor accepted any other engineering report concerning the third floor. ***(Exhibit 43)*.**

#### 4. The Warrant Application Reflects a Predetermined Enforcement Decision and Material Procedural Irregularities

The material-facts attachment accompanying the affidavit stated that entry was necessary not only to inspect the third floor and first-floor rear unit, but also to placard those areas.

By identifying placarding as an intended outcome of the inspection before the warrant had been executed, the warrant application reflects that the City had already determined those areas would be declared unsafe and their use terminated. Yet the affidavit simultaneously represented that entry was necessary to **"verify"** whether the areas were occupied and whether third-party engineering inspections had been performed. Those representations are fundamentally inconsistent.

If the sworn affidavit was made in good faith and the City genuinely believed that verification of the conditions identified in the affidavit was necessary before determining whether an imminent and immediate threat to health and safety existed, then the decision to placard the third floor and first-floor rear unit could not logically have been made before the warrant was executed. **The warrant application therefore presents two irreconcilable positions: it asserts that additional verification was necessary before emergency enforcement could be justified, while simultaneously reflecting that the decision to implement that emergency enforcement had already been made.**

Compounding that inconsistency, the affidavit does not indicate that the material facts continued onto an attached sheet, as the portion of the form identifying the existence of a continuation was left blank. The record therefore leaves unresolved whether the issuing magistrate considered the attachment containing the City's predetermined enforcement action in making the probable-cause determination. That uncertainty is material because it bears directly on the documents upon which the magistrate relied in issuing the warrant.

## The City's Administrative Inspection Warrant Exceeded the Authority Granted by the USBC and Was Obtained Upon Unlawful Procedure

The Fourth Amendment requires that a neutral magistrate determine probable cause based upon a complete and truthful presentation of material facts. A warrant obtained through intentional or reckless material omissions or misrepresentations is constitutionally invalid when the omitted information is necessary to the probable-cause determination. *Franks v. Delaware*, 438 U.S. 154, 155-56 (1978). The United States Court of Appeals for the

Fourth Circuit has likewise recognized that **material omissions may invalidate a warrant where inclusion of the omitted information would defeat probable cause**. *United States v. Colkley*, 899 F.2d 297, 300-02 (4th Cir. 1990).

Had the warrant application disclosed the City's prior inspections, prior knowledge, authorization of use, the unrelated nature of the cease-and-desist notices, the absence of newly discovered facts supporting emergency action, the affiant's predetermined decision to placard the third floor and first-floor rear unit, and the procedural irregularity concerning the material-facts attachment, the issuing magistrate would have been presented with materially different information bearing directly on probable cause. **Those omissions were particularly significant because the City was simultaneously bypassing the mandatory USBC procedures governing unsafe-building enforcement. The warrant cannot supply authority that the Building Official had not first lawfully acquired under the USBC.** Because the omitted and inconsistent representations were material to the probable-cause determination, and because the City had not satisfied the mandatory Code procedures authorizing the underlying enforcement action, the administrative inspection warrant was not lawfully obtained.

The administrative inspection warrant:

- **Was obtained upon unlawful procedure** because the City sought the warrant while disregarding the mandatory enforcement procedures prescribed by USBC §§ 115.2, 118.2, 118.3, and 118.3.1, including the requirements for notice, identification of the alleged violation and unsafe condition, corrective action, and an opportunity to comply before exercising unsafe-building authority;
- **Was unsupported by the administrative record** because the evidence relied upon by the City did not establish the statutory predicates for emergency enforcement or an actual and immediate danger warranting administrative entry;
- **Exceeded the authority granted by the General Assembly** because the City had not satisfied the USBC prerequisites for exercising unsafe-building and emergency enforcement authority;
- **Was arbitrary and capricious** because the affidavit omitted material facts, relied upon internally inconsistent representations, and sought judicial authorization to verify assumptions rather than presenting facts establishing an actual and immediate danger; and
- **Violated the Fourth and Fourteenth Amendments** because the issuing magistrate was deprived of material information necessary to make an informed and independent probable-cause determination.

## C. The City's Execution of the Warrant Corroborates That No Imminent and Immediate Threat Existed

Although the legality of the execution of the administrative inspection warrant is not before the Board, the inspectors' contemporaneous conduct is relevant in evaluating whether the City's assertion that an imminent and immediate threat to health and safety existed on March 11, 2026 is consistent with the objective evidence.

The affidavit represented that emergency entry was necessary to verify whether the third floor and first-floor rear unit were occupied and whether third-party engineering inspections had been performed. Those limited objectives were accomplished in a matter of minutes.

Video evidence demonstrates[1] Building Inspector Rick Paul completed those verification activities in approximately thirty seconds on the third floor and approximately fifteen seconds in the first-floor rear unit. Rather than promptly exiting areas the City had represented under oath required immediate placarding and termination of use because they allegedly posed an imminent and immediate threat to health and safety, Mr. Paul remained while a second inspector from a different department conducted an unauthorized prolonged secondary evidentiary search, capturing more than one hundred photographs unrelated to the warrant's stated verification objectives. Mr. Paul further directed the second inspector to photograph additional areas and items unrelated to determining whether the spaces were occupied or whether third-party engineering inspections had been performed. He also left the premises to retrieve a tape measure from his vehicle before returning to obtain measurements of the bathroom and entryway, activities likewise unrelated to the limited purposes presented to the issuing magistrate.

Whether those activities exceeded the scope of the warrant is not an issue before the Board. They are relevant because they provide objective evidence of how City personnel assessed the conditions they encountered. City staff remained within the areas they had represented under oath posed an imminent and immediate threat to health and safety for substantially longer than was necessary to complete the warrant's stated verification objectives, while conducting extensive documentation and unrelated measurements. That conduct is difficult to reconcile with the assertion that the areas presented a danger requiring immediate governmental intervention and termination of use.

The inspectors' contemporaneous conduct therefore corroborates the other objective evidence before the Board that no imminent and immediate threat to health or safety existed on March 11, 2026.

## III. THE CITY'S RELIANCE UPON INVALID NOTICES OF VIOLATION AND STOP WORK ORDERS EXCEEDED ITS STATUTORY AUTHORITY

The City exceeded its enforcement authority by knowingly creating, restoring, maintaining, and relying upon NOVs and Stop Work Orders (“SWO”) that it knew either never existed or were no longer legally effective. This included nonexistent enforcement documents, enforcement actions previously terminated and deactivated by the City, notices issued to unrelated parties, and notices barred by the applicable statute of limitations. Because Code of Virginia § 36-106 authorizes enforcement only upon the existence of a valid violation and legally effective notice, none of the purported documents could lawfully support the City's continued enforcement actions.

The repeated appearance of these invalid enforcement actions was not an isolated clerical error. The administrative record reflects a recurring pattern in which the City listed nonexistent SWOs and NOVs, repeatedly restored previously deactivated enforcement actions to the City’s online portal after removing them,

[1]The complete video recording of the warrant's execution is preserved. Selected portions are provided for reference to the applicable USBC requirements and the factual predicates relied upon by the City in taking the enforcement actions at issue. No request is made for the Board to make factual findings outside the administrative record.

and continued to represent each as an active enforcement action despite actual knowledge that it lacked any legal or factual basis. By knowingly maintaining this false administrative record, the City created the appearance of continuing enforceable violations where none legally existed, relied upon those entries during its continuing enforcement, and imposed substantial barriers to compliance by preventing the property from being treated as free of outstanding enforcement actions. In doing so, the City exercised enforcement authority that the Virginia Uniform Statewide Building Code and the Code of Virginia did not confer.

### A. Void Enforcement Actions Cannot Support Administrative Enforcement

**The permit portal identified and relied upon the following enforcement actions:**

- A March 11, 2026 Plumbing SWO **that never existed**;
- A March 11, 2026 Electrical SWO **that never existed**;
- A March 11, 2026 Mechanical SWO **that never existed**;
- An April 24, 2024 Electrical SWO **that never existed**;
- An April 24, 2024 Mechanical SWO **that never existed**;
- An April 24, 2024 Plumbing SWO **that never existed**;
- A November 21, 2024 NOV ***(Exhibit 7)***, which the City **deactivated** on August 25, 2025 ***(Exhibits 5, 9)***, **no longer exists** ***(Exhibit 10)***, and is now time-barred by Code of Virginia § 19.2-8;
- A March 11, 2026 SWO alleging construction the City had actual knowledge did not occur within the applicable statutory period, could not be attributed to the current owner, and asserted noncompliance with a purported 1983 two-family Certificate of Occupancy the City had actual knowledge **never existed** ***(Exhibits 1, 2, 35)***;
- A **deactivated** April 24, 2024 NOV issued to an unrelated party ***(Exhibit 30)***, which **no longer exists** and is time-barred by Code of Virginia § 19.2-8; and
- A **deactivated** April 18, 2024 NOV ***(Exhibit 56)*** improperly issued to 1321 Porter St., LLC, despite the alleged responsible party identifying themselves as responsible, and which **no longer exists** and is time-barred by Code of Virginia § 19.2-8.

Under Code of Virginia § 36-106, administrative enforcement presupposes the existence of a valid enforcement action authorized by the Virginia Uniform Statewide Building Code. Enforcement actions that never existed, had been terminated, became time-barred, were issued to unrelated parties, or relied upon factual predicates known by the City to be nonexistent are legally incapable of creating or continuing administrative enforcement authority. Neither the City's Online portal nor any subsequent administrative action can revive or confer legal effect upon enforcement actions that are void or without legal force.

### B. Time-Barred and Deactivated Enforcement Actions Could Not Be Revived

The Virginia Uniform Statewide Building Code provides no mechanism for reinstating an enforcement action once it has been withdrawn, deactivated, or otherwise terminated. Likewise, Code of Virginia § 19.2-8 provides no authority for reviving an enforcement action after the applicable limitations period has expired. USBC § 115

establishes the authority and procedures for issuing and enforcing Notices of Violation; it does not authorize a Building Official to revive a terminated NOV.

Once the City deactivated the NOVs identified above, it could not create continuing enforcement authority simply by restoring entries to its Online portal. ***(Exhibit 11)***. To commence enforcement lawfully, the City is required to discover an existing violation and proceed under the enforcement procedures prescribed by the USBC.

Sections 115.2 and 115.3 establish when a Notice of Violation may be issued and when further enforcement may proceed. Neither provision authorizes the Building Official to revive an NOV after the City has terminated or deactivated it. Under Dillon's Rule, a local official may exercise only the authority delegated by the General Assembly and may not expand that authority by administrative action. **The City's deactivation of these NOVs therefore terminated those enforcement actions; the USBC provides no authority for the Building Official to revive them thereafter.**

### C. Enforcement Actions Issued to Unrelated Parties Are Void as to 1321 Porter St, LLC

The enforcement actions identified above also included Notices of Violation issued to individuals and entities other than 1321 Porter St., LLC. Such enforcement actions cannot establish enforcement authority against a party to whom they were never directed. Administrative enforcement must rest upon a valid enforcement action directed to the legally responsible party at the time of discovery, as required by USBC §§ 115.1 and 115.2, not upon arbitrary enforcement actions against unrelated parties in violation of the procedural and due process protections guaranteed by the USBC and the Constitution.

### D. The City's Continued Reliance Upon Invalid Enforcement Actions Exceeded the Authority Granted by the USBC and the SBCTRB

The City restored and maintained those enforcement actions in its Online portal and relied upon them as continuing violations. The administrative record does not establish a valid chain of enforcement authority supporting the City's subsequent actions. The City cannot create or revive enforcement authority that the USBC does not otherwise confer.

The SBCTRB's precedent establishes that when a municipality rescinds, deactivates, or otherwise represents that an NOV no longer exists, it removes the underlying **application of the Code itself**. That principle necessarily applies to the municipality's enforcement authority: **once the application of the Code has been removed, the municipality cannot continue enforcing that same application as though it remained in effect.** The City identified the NOVs as inactive on its citizen-facing portal and then removed them. Having represented that the enforcement actions no longer existed, the City cannot later revive those same NOVs and treat them as continuously operative or valid enforcement actions.

The City's renewed reliance upon those enforcement actions therefore cannot be sustained under the standards governing the Board's review. Specifically, the record establishes that the City's attempt to renew enforcement:

- **Exceeded the authority granted by the USBC** because the City relied upon enforcement actions that did not constitute legally effective enforcement against 1321 Porter St., LLC;
- **Was undertaken upon unlawful procedure** because the City restored and relied upon enforcement actions that had never existed, had been deactivated or terminated, were time-barred, or were issued to unrelated parties;
- **Is unsupported by the administrative record** because those enforcement actions cannot establish the factual or legal predicate for renewed enforcement where the record establishes that they were nonexistent, ineffective, expired, or directed to other parties; and
- **Was arbitrary and capricious** because the City treated those enforcement actions as active despite information in its own administrative record demonstrating that they lacked legal or factual effect.

We respectfully request that the Board reverse any enforcement action to the extent the City relies upon these invalid enforcement actions as authority or as the factual predicate for continued enforcement. The USBC does not permit enforcement authority to be created or extended by maintaining an administrative record that represents legally void enforcement actions as active.

**E. The City Improperly Revived and Relied Upon a Deactivated Notice of Violation to Enforce Personally Against 1321's Manager, Ms. Pinchbeck, in Her Individual Capacity**

The City's conduct concerning the November 21, 2024 Notice of Violation went far beyond maintaining an inaccurate Online portal record. The alleged violation was **abated on December 3, 2024**, and the City was notified of that abatement. ***(Exhibit 48).*** The City's decision to continue enforcing the November 21, 2024 NOV after the alleged violation had been abated was itself challenged before this Board.

On August 25, 2025, 1321 Porter St., LLC withdrew its appeal to this Board after Building Commissioner David Alley represented to both the LLC and this Board that the NOV was complete, physically deactivated the November 21, 2024 NOV, and agreed to null process the summons issued against the owner's manager, Emily Pinchbeck. ***(Exhibit 5)***. The owner relied on those representations and withdrew its appeal. ***(Exhibits 5 & 6)***.

After the appeal was withdrawn, Mr. Alley issued Ms. Pinchbeck a second summons for the same deactivated NOV, citing November 21, 2024 as the offense date. ***(Exhibit 8).*** The City therefore continued to enforce an NOV that it had represented to the owner and this Board was completed and deactivated, almost a year after the underlying alleged violation had already been abated.

That sequence is legally significant. **The City was not enforcing an unresolved violation. It was continuing to enforce an NOV after the alleged violation had been abated, after that continued enforcement had been appealed to this Board, and after the Building Commissioner later deactivated the NOV and represented that the matter was completed.**

The significance became even clearer on September 18, 2025, when the City issued the second summons to Ms. Pinchbeck identifying November 21, 2024 as the offense date. At that time, the summons necessarily identified the November 21, 2024 NOV, not the August 28, 2024 NOV. In October 2025, DHCD confirmed that issuance occurs when the NOV is written and receipt occurs when it is received. ***(Exhibit 52).*** That interpretation

confirms that the August 28, 2024 NOV was already more than one year old when the September 18, 2025 summons was issued. Nevertheless, in August 2026, the City represented to a General District Court judge that the September 18, 2025 summons issued to Ms. Pinchbeck was actually for the August 28, 2024 NOV.

Code of Virginia § 19.2-8 provides:

> *"However, prosecutions under § 36-106 relating to the maintenance of existing buildings or structures as contained in the Uniform Statewide Building Code shall commence* ***within one year of the issuance of a notice of violation for the offense*** *by the building official."*

The August 28, 2024 NOV was therefore subject to a one-year limitations period running from its issuance. A summons issued on September 18, 2025 could not lawfully have commenced a prosecution based upon that August 28, 2024 NOV because more than one year had elapsed.

The November 21, 2024 NOV, by contrast, was still within that one-year period on September 18, 2025. The offense date on the summons therefore was legally significant. **A summons identifying November 21, 2024 could not later be transformed into a summons for the August 28, 2024 NOV and circumvent the statute of limitations simply by telling a court that it meant something different.**

Additionally, the **August 28, 2024 NOV identifying 1321 Porter St., LLC and Sophia Oliveri as the parties the NOV was issued to, had already been appealed to this Board in 2025.** The Board's decision was based upon the City's factually inconsistent representations and the owner subsequently appealed the Board's decision to the Circuit Court, where the matter remains pending. ***(Exhibit 26).***

While that NOV was pending before the Circuit Court, the City altered the document by changing Ms. Oliveri's name to Ms. Pinchbeck's name in the August 28, 2024 NOV. ***(Exhibit 33).*** The City then presented that altered document to a General District Court judge and represented that Ms. Pinchbeck was the owner and that the City had directed her, in her individual capacity, to comply with that NOV, when it had never even been issued to her.

The City did not disclose to the General District Court that the August 28, 2024 NOV, issued to two parties that were not Ms. Pinchbeck, was already the subject of a pending appeal before a higher court.

There were therefore only two possibilities: if the September 18, 2025 summons was for the November 21, 2024 NOV, its offense date was accurate; if it was for the August 28, 2024 NOV, the prosecution was time-barred. The City could not treat the summons as identifying one NOV for purposes of the offense date and later assert that it identified a different NOV for purposes of avoiding the statute of limitations.

Nor could the City avoid that consequence by later altering the August 28, 2024 NOV, adding Ms. Pinchbeck's name, and presenting the altered document to another court as though it were an enforceable notice against her personally. **The City could not rely upon an NOV that was already pending before the Circuit Court without disclosing that pending appeal, nor could it create a separate enforcement obligation against Ms. Pinchbeck when she was not the party to whom the original NOV was issued.**

The City's representations therefore created a direct conflict between the face and history of the enforcement documents, the statutory limitations period, and the status of the August 28, 2024 NOV in the appellate process. **The City cannot simultaneously represent that the November 21, 2024 NOV was completed and deactivated, use that representation to obtain withdrawal of an appeal, and later treat that same NOV as active for prosecution, only to recast the summons as an August 28, 2024 NOV when the City's original position becomes untenable because that NOV is time-barred and pending before the Circuit Court.**

On February 5, 2026, Mr. Alley acknowledged that he had previously represented to 1321 that it had an active permit, which the owner relied upon for six months, claimed it was an error, apologized for his misrepresentation, and again agreed to null process the summonses against Ms. Pinchbeck relating to the November 21, 2024 NOV. ***(Exhibit 12)*.**

On March 11, 2026, Ms. Pinchbeck appeared at court in reliance upon those representations. Instead of resolving the matters as represented, the City continued both cases and served her with an administrative inspection warrant concerning the Property. ***(Exhibit 15)*.**

The administrative record therefore establishes more than an inaccurate Online portal entry. It establishes a continuing enforcement action based upon an NOV whose underlying violation had already been abated, whose continued enforcement had been brought before this Board, and which the City later represented was completed and deactivated in order to obtain the withdrawal of that appeal. Yet the City continued to enforce it personally against the owner's manager, Ms. Pinchbeck, in her individual capacity.

**The Board is being asked not to sustain any enforcement action that depends upon treating an inactive NOV as an active and legally effective enforcement action.**

## IV. CONCLUSION

The administrative record and the Code do not support any of the City’s March 11, 2026 enforcement actions.

The City issued the Notice of Violation to a party it knew was not responsible for the alleged construction. It proceeded after the applicable enforcement period had expired. It bypassed the mandatory correction and notice procedures required by USBC §§ 115 and 118. It failed to identify the substantive Code provisions allegedly violated, failed to identify the unsafe physical condition, failed to direct its correction, and exercised placarding authority when no statutory prerequisites for doing so existed.

The City then invoked emergency authority without competent evidence of an actual and immediate danger, despite its own prior authorization of continued use and the absence of any material change in the Property. It continued those restrictions even after receiving evidence contradicting the factual basis for its decision.

The administrative inspection warrant suffers from the same fundamental defects. The City sought judicial authorization based upon historical conditions, assumptions requiring verification, material omissions, and a

warrant application reflecting a predetermined decision to placard the Property, while simultaneously claiming that inspection was necessary to determine whether emergency enforcement was warranted.

These are not technicalities. **They are the limits the General Assembly placed on the City's enforcement authority.**

The City cannot exercise authority the USBC does not grant, bypass procedures the USBC makes mandatory, or sustain enforcement that the administrative record cannot support.

And these violations are not dependent upon one disputed fact or one disputed interpretation. **More than fifteen separate and independent violations are established by the record.** Each independently requires reversal; together, they demonstrate that the March 11 enforcement action cannot be sustained.

For those reasons, **1321 Porter St., LLC respectfully requests that the Board:**

1. **Vacate the March 11, 2026 Notice of Violation** as having been issued and enforced upon unlawful procedure and without satisfaction of the statutory prerequisites governing the City's enforcement authority;
2. **Reverse the Building Official's determinations that the Property, or portions thereof, were unsafe**, and reverse the resulting decisions prohibiting lawful use and occupancy and placarding the Property;
3. **Determine that the City's application of VCC § 108.1 and its asserted authority for the inspection warrant were inconsistent with the Virginia Uniform Statewide Building Code**, including the limitations imposed by the Code on the authority to conduct administrative inspections;
4. **Rescind the November 21, 2024 Notice of Violation**, based upon the Building Official's prior representations that the NOV had been completed and was no longer active, and because the City cannot simultaneously represent that the NOV was completed and thereafter rely upon it as an active enforcement instrument;
5. **Determine that the City may not treat as active or operative any Notice of Violation that does not exist, was never issued, was issued to a different party, was represented by the Building Official to have been completed or no longer active, is time-barred, or remains pending before another tribunal**, and reverse any Building Official determination to the contrary to the extent it constitutes an application of the USBC; and
6. **Reverse any Building Official determination that relies upon any such nonexistent, invalid, inactive, time-barred, or otherwise inoperative Notice of Violation as an operative basis for current enforcement**, including enforcement against 1321 Porter St., LLC or its property manager where the underlying notice was never issued to that party, does not exist, was represented by the City as completed or no longer active, is time-barred, or remains subject to judicial review.

26-4-17
68260401

# Certificate of Occupancy

CITY OF RICHMOND, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY

BUREAU OF BUILDING INSPECTION

Richmond, Va., March 27, 19 70

The applicant having complied with the provisions of an ordinance approved June 11, 1960, as amended, commonly known as the Zoning Ordinance, permission is hereby granted to

Wayne Goddard
(Owner or Lessee)

to use the two floor or floors of the building situated at

No. 1321 Porter Street

for the following purpose:

2 Dwelling units AND 4 Sleeping units

Use Rooming House - 2 apts. & 4 rooms

POOR ORIGINAL

Height Two Story

District R-6 Multiple Family Dw.

USBC Definition: ROOMING HOUSE.
A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

Maximum Occupancy

No alterations are authorized by the issuance of this Certificate.

This certificate does not take the place of any license which may be required by law, nor does it authorize the use of boilers, motors or machinery.

This certificate does not authorize the painting or erection of any sign.

Any change in the use or occupancy of this building shall require a new certificate.

Violation of the provisions of this certificate will necessitate revocation of the certificate.

Leo J. Cantor
COMMISSIONER OF BUILDINGS

CS260406

# APPLICATION FOR CERTIFICATE OF OCCUPANCY

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION
ROOM 124, 501 NORTH 9TH STREET

Date 3/16/1970

WRITE WITH INK

The undersigned owner or lessee hereby applies for a certificate of occupancy in accordance with provisions of the Zoning Ordinance and the Building Code for the following use and hereby agrees to fully conform to all terms of any permit which may be issued on account of the application.

Name Mrs. Wayne Goddard

Location 1321 Porter St.

RECEIVED
MAR 16 1970
Bureau of Building Inspection

Number of Employees None

Number of Occupants 10

To be Used as Rooming House. 2 apts + 4 Rooms

Last Used as Rooming

Material of Building Brick Number of Stories 2 Which Floor will be Used? Both

Owner of Building (or Agent) Mrs. Wayne Goddard

Address 1321 Porter St.

Signature of Proposed Occupant Mrs. Wayne Goddard

Signature of Owner or Agent Mrs. Wayne Goddard

Address to which Certificate is to be mailed 1321 Porter St.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to install or erect any kind of Signs, Boilers, Motors or Machinery.

TO BE FILLED IN BY INSPECTOR

Date Approved March 27, 1970 Date Disapproved

Zone R-6 Multiple Family Dwg. Building Inspector R. C. Coghill

Remarks:

USBC Definition:

[A] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

[A] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

POOR ORIGINAL

26-4-17

# Certificate of Occupancy

CITY OF RICHMOND, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY

BUREAU OF BUILDING INSPECTION

Richmond, Va., January 10, 19 66

The applicant having complied with the provisions of an ordinance approved June 11, 1960, as amended, commonly known as the Zoning Ordinance, permission is hereby granted to

Harvey J. Burnette
(Owner or Lessee)

This CO is for the second floor only (see application)

to use the two floor or floors of the building situated at

No. 1321 Porter Street

for the following purpose:

Use Bed Rooms - Rooming House - 4 Roomers

Height 2 Story

District R-6 Multiple Family Dwelling

Maximum Occupancy

POOR ORIGINAL

This certificate does not take the place of any license which may be required by law, nor does it authorize the use of boilers, motors or machinery.

This certificate does not authorize the painting or erection of any sign.

Any change in the use or occupancy of this building shall require a new certificate.

Violation of the provisions of this certificate will necessitate revocation of the certificate.

COMMISSIONER OF BUILDINGS

[redacted]TION FOR CERTIFICATE OF OCCUPANCY

Date .

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION

WRITE WITH INK

The undersigned owner or lessee hereby applies for a certificate of occupancy in accordance with the provisions of an ordinance approved June 1, 1960 commonly known as the Zoning Ordinance, for the following use, on the hereinafter described building, and hereby agrees to fully conform to all the terms of any permit which may be issued on account of the application.

RECEIVED
JAN 30 1962
OFFICE
Bureau of Building Inspection

Name Harvey J. Burnette

Location 1321 Porter St

Number of Employees

Number of Occupants 4

To be Used as Rooming House - 4 rooms Bed Rooms (4 persons)

Last Used as PRT home.

Material of Building Brick Number of Stories 2 Which Floor will be Used? ~~Upper~~ two

Owner of Building (or Agent) owner

Address 1321 Porter St

Signature of Proposed Occupant Harvey J. Burnette

Signature of Owner or Agent

Address to which Certificate is to be mailed 1321 Porter St.

Four sleeping units in rooming house on second floor only.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to install or erect any kind of Signs, Boilers, Motors or Machinery.

TO BE FILLED IN BY INSPECTOR

Date Approved Date Disapproved

Zone R-6 Multiple fam. dw. Building Inspector

Remarks:

cc: Luisa C

With the 4 sleeping units definitively existing only on the 2nd floor, the 2 dwelling units have necessarily legally existed on the 1st floor for more than 55 years

POOR ORIGINAL

Gmail

1321PorterStLLC <1321porterstllc@gmail.com>

## 7th Request to Update City's CO Information

**Alley, David L. - PDR** <David.Alley@rva.gov> Sun, Dec 7, 2025 at 10:11 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "msherman@sandsanderson.com" <msherman@sandsanderson.com>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Paul, IV. Rick F. - PDR" <Rick.Paul@rva.gov>

*Emily Pinchbeck,*

*Good Morning. I hope today finds you well.*

*The 1970 Certificate of occupancy is superseded by the 1983 certificate of occupancy (Two-family dwelling) A change of use is required to legally establish and obtain a new certificate of occupancy for a 3 or 4 unit multi-family structure.*

*Heavy alterations and structural changes have been completed to the accessory structure (rear of building) by the previous owners. No permits were authorized or inspections conducted. See attached pics.*

*New third floor addition was completed by the previous owner. No permits were authorized or inspections conducted. See attached pic.*

*The Bureau of Permits and Inspections only intent is to achieve code compliance for this unpermitted work completed and to establish the use legally.*

*Best Regards,*

City relied on non-existent 1983 CO and acknowledged construction was performed by prior owner years prior

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

David L Alley III

Commissioner of Buildings

804-513-6939

david.alley@rva.gov

900 E. Broad St., Room 110, Richmond, Va. 23219-1907

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# April and May 2024 Stop Work Orders/NOV's

**Paul, IV. Rick F. - PDR** <Rick.Paul@rva.gov> Tue, Feb 18, 2025 at 3:44 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Alley, David L. - PDR" <David.Alley@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

Good afternoon,

Please see responses to your comments, below.

Sincerely,

Rick Paul, CBO

City responses in RED below
City acknowledged no knowledge of work performed after ownership change

Program and Operations Manager: Inspections

Department of Planning and Development Review

Office (804) 646-6694

Cell (804) 240-9672

**From:** 1321PorterStLLC <1321porterstllc@gmail.com>
**Sent:** Tuesday, February 18, 2025 10:08 AM
**To:** Paul, IV. Rick F. - PDR <Rick.Paul@rva.gov>
**Subject:** April and May 2024 Stop Work Orders/NOV's

**CAUTION:** This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

Hello Rick Paul,

I was also unaware that there was a Stop Work Order or a NOV for 1321 Porter St, LLC pertaining to a root cellar, which is separate from the structure of 1321 Porter St, and I will address that in a separate email after I see it. This was issued to 1321 Porter St LLC. Please see attached. Sophia Oliveri applied for a permit after the cellar had the SWO/NOV issued. She applied as the owner/applicant. The SWO/NOV was given to Sophia Oliveri because she stated to me that she was "in charge of the maintenance" of the property.

The rest of this email only applies to the dwelling structure of 1321 Porter St. To make sure that we are in agreement about the facts, I have written a list of facts that pertain to 1321 Porter St:

- Rick Paul and 2 other City of Richmond inspectors entered the dwelling structure at 1321 Porter St on April 26, 2024 and found that no work was being done.

Work had been done without proper permits and inspections. There is no Certificate of Occupancy for a multi family dwelling (3 or more units). There was a NOV issued on 4-24-2024, to 1321 Porter St LLC.

-Rick Paul and 2 other inspectors from the City of Richmond were given unrestricted access to the 3rd floor of 1321 Porter St on April 26, 2024 to inspect and they left the premises that day without issuing any Stop Work Order or Notice of Violation.

There was a NOV issued on 4-24-2024 to 1321 Porter St LLC. No need to issue another one that close to the last one.

-The Department of Permits and Inspections issued a Stop Work Order to a prior owner in 2021 for a 3rd floor addition that had been constructed before January 7, 2021.

A picture of the work taking place, was taken on 1-7-2021. A SWO/ NOV was issued that same day.

-All Stop Work Orders and Notices of Violation issued for 1321 Porter St dated April and May, 2024 pertain to work that was performed by a prior owner in 2021.

Possibly. Not sure what work was performed after the owner change, if any.

-On Tuesday, May 28, 2024 at 2:27 PM David Alley stated that he found the engineer's report to be sufficient for occupancy for the first and second floor dwelling units.

My understanding of this is, occupancy was finally allowed after multiple attempts from multiple engineers, to address the Building Commissioners concerns, on the structural integrity of the building.

-David Alley and Rick Paul have knowledge that the property at 1321 Porter St is being occupied by 2 families at present and they have additionally been informed on no less than 4 separate occasions.

I have not been informed of any occupancy, other than the tenant on the first floor stating she doesn't associate with the 3rd floor tenants. This was approximately 2 weeks ago. There also is 2 vehicles that are registered to Sophia Oliveri on the property. These are registered under 1321 Porter St D.

-Rick Paul and David Alley have knowledge that there is an engineer's report that is less than a year old, that verifies the health, safety, and welfare of occupants and explicitly states that the structure at 1321 Porter St is safe as well as multiple inspections from qualified trade professionals verifying safety. Regardless of any engineers reports or trade professionals opinions, this property has not been permitted or inspected for the work performed on it, per requirements of the Virginia Construction Code. As the owner, you, as the listed agent for 1321 Porter St LLC, are responsible for the property per Virginia law. You acquired a SUP from zoning, but have yet to apply for any building or trade permits, that are required by law. I shared the code references on my earlier email to try to help you understand.

As you know I came into this situation in May of 2024. If you disagree with any of these statements that I believe are facts, please explain what you disagree with and why, so I can have a better understanding.

Work is not deemed safe, permitted, and inspected just because of an owner change. If you feel you were misled by the previous owner, that becomes a civil matter between you and the previous owner. Permits and inspections are still required.

Please let me know when the FOIA request has been completed and send me what you have pertaining to 1321 Porter St from April and May of 2024 at that time. The FOIA request was sent to the FOIA team. You should be receiving a communication from them shortly.

Sincerely,

Emily Pinchbeck, Mgr

1321 Porter St. LLC.

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**1321 PORTER ST SWO cellar structure.PDF**
78K

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Appeal to the Review Board for 1321 Porter St. LLC (Emily Pinchbeck) (Appeal No. 25-12)

**Alley, David L. - PDR** <David.Alley@rva.gov> Fri, Aug 22, 2025 at 7:34 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Luter, Travis (DHCD)" <Travis.Luter@dhcd.virginia.gov>, "Brown, Jeff (DHCD)" <Jeff.Brown@dhcd.virginia.gov>, "Moldovan, Florin (DHCD)" <Florin.Moldovan@dhcd.virginia.gov>, "Messplay Iv, Paul (DHCD)" <Paul.MessplayIV@dhcd.virginia.gov>

*Emily Pinchbeck,*

*Good Morning. I hope today finds you well. I appreciate your quick response and I see you have indeed submitted a building permit application for the deck and stair repairs.*

*Note: In reference to Appeal # 25-08- Since you have submitted the permit application and once the invoice is paid the Stop Work Order/Notice of Violation will be considered completed. No need for me to rescind.*

*I did speak with Bruce Arkema briefly via phone-However, we did not discuss any additional continuation.*

[Quoted text hidden]

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW **image001.png** 261K

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Appeal to the Review Board for 1321 Porter St. LLC (Emily Pinchbeck) (Appeal No. 25-12)

**Alley, David L. - PDR** <David.Alley@rva.gov> Mon, Aug 25, 2025 at 12:08 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Luter, Travis (DHCD)" <Travis.Luter@dhcd.virginia.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

*Emily Pinchbeck,*

*Good Morning. Note: In reference to Appeal # 25-08- Since you have submitted the permit application and the invoice has been paid , the permit issued , the Stop Work Order will be considered completed. There is no reason for me to rescind as stated previously in this email chain. The summons will be null processed at the scheduled court date.*

[Quoted text hidden]

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW **image001.png** 261K

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Appeal to the Review Board for 1321 Porter St. LLC (Emily Pinchbeck) (Appeal No. 25-12)

**1321PorterStLLC** <1321porterstllc@gmail.com> Mon, Aug 25, 2025 at 12:34 PM
To: "Luter, Travis (DHCD)" <Travis.Luter@dhcd.virginia.gov>
Cc: "Alley, David L. - PDR" <David.Alley@rva.gov>

Hello Travis,

I am aware you're on the email chain but want to reiterate what I am understanding.

Since a permit to add boards has been applied for the 11/21/2024 NOV no longer exists. The summons connected to that NOV will be null processed.

Based on that understanding I would like to rescind the 25-08 Appeal.

Thank you,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

City represented twice that:
Invoice Payment = Completed NOV

Based on City's representation of completed NOV, 1321 Porter St LLC rescinded appeal to TRB

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Sep 2, 2025 at 8:10 AM
To: "Alley, David L. - PDR" <david.alley@rva.gov>

Mr. Alley,

A permit was obtained and my engineer has already been hired and scheduled based on your comments to my lawyer and offer during our meeting that you would accept what my engineer has written, so that you are not intrusive to tenants and I accepted that offer from you. He will be providing me his final inspection of those few boards based on me trusting your word during our meeting.

I have kept my word in good faith and am asking you to do the same especially since USBC § 36-105 allows you to waive inspection for this completely, § 36-99 states that health safety and welfare will be protected at the least possible cost, 3 engineers have confirmed stairs and deck safety, and you have accepted inspections from engineers not on that list before.

Sincerely,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

**1321PorterStLLC** <1321porterstllc@gmail.com> Wed, Sep 10, 2025 at 11:05 AM
To: "Alley, David L. - PDR" <david.alley@rva.gov>

Mr. Alley,

I have kept my word, and here is an engineers inspection of the boards and reaffirming the safety of the deck and stairs for continued use by tenants.

Thank you,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

**Final Third-Party Inspection Report 9-8-2025.pdf**
793K

# Final Third-Party Inspections Report

Department of Planning & Development Review, Bureau of Permits and Inspections
900 East Broad Street, Room 108
Richmond, Virginia 23219
**Office: (804) 646-4169**
https://www.rva.gov/planning-development-review/permits-and-inspections

Permit Number: BLDR-171309-2025 Date: 9-8-2025 Time: 10:30 AM

Address: 1321 Porter St. Richmond VA 23224

Inspection Type: Final

**Location:**

1321 Porter St. Richmond VA 23224

☑ **Inspection Approved** ☐ **Inspection Rejected**

**Comments:** Replaced boards removed in November 2024, reinspected September 8, 2025. With suggested changes properly implemented I believe deck and stairs are safe for use by tenants.

| **Third Party Inspector's Information** | |
|---|---|
| Engineer's Firm: LOUISA ENGINEERING LLC. | COMMONWEALTH OF VIRGINIA<br>JOHN H. NEDZA<br>Lic. No. 13290<br>9/9/25<br>PROFESSIONAL ENGINEER<br>Seal and Signature |
| Inspector: John H. Nedza | |
| Date of Report: 9/9/2025 | |

**CITY OF RICHMOND - FOR OFFICIAL USE ONLY**

Received By: _____ Date: _____

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Third Party Review of Boards

1 message

**1321PorterStLLC** <1321porterstllc@gmail.com> Fri, Sep 12, 2025 at 3:36 PM
To: "Alley, David L. - PDR" <david.alley@rva.gov>
Cc: "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

Mr. Alley,

This is the third time since our meeting that you have made a false or contradictory statement and created controversy that has resulted in a negative and costly effect for 1321 Porter St, LLC. Attached is the email that you wrote to Travis Luter and myself clearly stating that the permit was issued and that is why you will null process the summons and that the NOV is "completed". I withdrew my appeal against the City based on what you put in writing. I have also provided this documentation to Judge Hicks.

In our meeting you stated to me and my attorney that you would be able to use my engineering and that you would work with me as best you can as long as it was satisfying the code. You are now refusing to accept my engineer's signed stamped statements about the deck and stairs from November 2024, which he reiterated and signed and stamped again on September 8, 2025 in spite of Code section 36-105 that allows you to waive inspection for something costing less than $2500 completely. Those boards cost less than $100 and you are using your discretionary power to make this more expensive. This is a violation of good faith as well as Code 36-99 which states that health safety and welfare will be protected at the least possible cost.

It is quite frustrating that you have chosen to be arbitrary in the application of subjective powers and to go back on your word and not accept an engineer's review of a few boards from me when I know for a fact that you have accepted a signed stamped report from an engineer that is not on the City of a Richmond Approved 3rd party inspectors list for something much larger than these boards.

I will take a look at the companies on the "Approved 3rd Party Plan Review & Inspection Agencies" list and decide the best path forward for the property.

Best,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.



**Email from David Alley Aug 25 12.08 PM .png**
143K

**CITY OF RICHMOND**
DEPARTMENT OF COMMUNITY DEVELOPMENT
BUREAU OF PERMITS AND INSPECTIONS
900 EAST BROAD STREET, ROOM 110
RICHMOND, VA 23219 (804) 646-4169

☑ **Notice of Violation** ☑ **Stop Work Order**

**Issue Date:** 11/21/2024 **Date of Inspection:** 11/21/2024

**Location:** 1321 Porter St

**Owner:** 1321 Porter St LLC (Emily Pinchbeck)

**Responsible Party:** OWNER

**Contractor's Name:** NA

**Permit Holder:** Not Active permits

**Specific Work Being Cited:** Structural Framing to 2ND Floor rear stairs to 3rd Floor, adding addition bracing prior to an Approved building permit

This building has been inspected and the following violations of the Code of Virginia, Title 36, The Virginia Uniform Statewide Building Code and the Code of the City of Richmond have been found:

- ☑ Section 110.5 of the Virginia Uniform Statewide Building Code - Working without a valid permit posted
- ☑ Section 108.1 of the Virginia Uniform Statewide Building Code - Working prior to the issuance of a building permit
- ☐ Section 109.5 of the Virginia Uniform Statewide Building Code - Failure to have approved construction plans available on site
- ☐ Section 113.3 of the Virginia Uniform Statewide Building Code - Failure to obtain inspections
- ☐ Section 14-81 of the Code of Ordinances of the City of Richmond: Working without a contractor's license
- ☐ Section 114-930.6 of the Code of Ordinances of the City of Richmond: Certificate of Appropriateness
- ☐ Other:

All activities involved in the work cited above must cease immediately. Permitted activities not involved in the cited work above may continue as long as they do not conceal or otherwise affect the work cited above. Correction of all of the above conditions shall be made by 12/10/2024. If the notice is not complied with, the property owner, his agent, permit holder and/or contractor shall be subject to the penalties prescribed in the Code of Virginia, Title 36-Section 106; Section 105 of the Virginia Uniform Statewide Building Code and Ordinances of the City of Richmond. The following action shall be taken before any work resumes:

- ☑ Obtain a Building Permit
- ☐ Obtain an Electrical Permit
- ☐ Obtain a Mechanical Permit
- ☐ Obtain a Plumbing Permit
- ☐ Obtain a Plumbing/Gas Permit
- ☐ Obtain a report by a registered Virginia professional engineer
- ☑ Post valid permit on site
- ☑ Keep approved plans on site and available for inspectors
- ☐ Obtain C.A.R. Approval
- ☐ Other:

Inspector: Rick Paul Telephone No.: 804-646-6694

**A fee payment of $400 is required *before* you may return to work on any permit for which a Stop Work Order has been issued. You have the right to appeal this notice under Section 119 of the Virginia Uniform Statewide Building Code. Please contact us, (804) 646-4169, if you wish to appeal this decision.**

11060 (07/24) 407773-1

1640201

# VIRGINIA UNIFORM SUMMONS

RICHMOND POLICE DEPARTMENT, RICHMOND, VA.

CASE NO. GC2504058

HEARIN AND

☐ PROSECUTING ATTORNEY (NAME)

☐ DEFENDANT'S ATTORNEY (NAME)
☐ NO ATTORNEY
☐ ATTORNEY WAIVED
☐ NO ATTY JAIL WAIVED BY CT

THE ACCUSED WAS THIS DAY
☐ TRIED IN ABSENCE
☐ PRESENT
☐ CERTIFIED PURSUANT TO §19.2-190.1

THE ACCUSED PLEADED
☐ NOT GUILTY
☐ NOLO CONTENDERE
☐ GUILTY ☐ PREPAYMENT

AND WAS TRIED AND FOUND BY ME:
☐ FINDING SUFFICIENT — DEFERRED §
☐ NOT GUILTY
☐ GUILTY AS CHARGED
☐ GUILTY OF
☐ COMPLIED WITH LAW UNDER §

IN ADDITION I FIND THE ACCUSED WAS:
☐ DRIVING A COMMERCIAL M.V.
☐ CARRYING HAZARDOUS MAT.
☐ A CDL HOLDER

AND THE OFFENSE:
☐ RESULTED IN A FATALITY
☐ WAS IN A HWY. SAFETY COR.

☐ I ORDER THE CHARGE DISMISSED

☐ I ORDER A NOLLE PROSEQUI ON COMMONWEALTH'S MOTION

I IMPOSE THE FOLLOWING SENTENCE:

YOU ARE SUMMONED TO APPEAR IN THE (CITY OF / COUNTY OF)

CITY OF RICHMOND

☐ GENERAL DISTRICT COURT (JOHN MARSHALL DIVISION), 646-6431
( ) 400 N. NINTH STREET

☒ GENERAL DISTRICT COURT (MARSH DIVISION AT MANCHESTER), 646-6677
( ) 920 HULL ST.

☐ JUVENILE & DOMESTIC RELATIONS DISTRICT COURT
( ) 1600 OLIVER HILL WAY

ON September 24, 2025 AT 1:30 ☐ A.M. ☐ P.M.

FOR VIOLATION OF ☒ VA CODE 106.1 ☐ LOCAL CODE

DESCRIBE CHARGE: Unsafe Structure

| | | | YCC: |
|---|---|---|---|
| COMMERCIAL MOTOR VEHICLE | ☐ YES | ☐ NO | |
| HAZARDOUS MATERIALS | ☐ YES | ☐ NO | |
| RESULTED IN FATALITY | ☐ YES | ☐ NO | |
| HIGHWAY SAFETY CORRIDOR | ☐ YES | ☐ NO | |

I PROMISE TO APPEAR AT THE TIME AND PLACE SHOWN ABOVE. SIGNING THIS SUMMONS IS NOT AN ADMISSION OF GUILT. I CERTIFY THAT MY CURRENT MAILING ADDRESS IS AS SHOWN BELOW.

X Emily Pinchback
SIGNATURE

YOU MUST APPEAR AT TRIAL (JUVENILES MUST APPEAR WITH PARENT/ LEGAL GUARDIAN).

☐ YOU MAY AVOID COMING TO COURT ONLY IF THIS BLOCK IS CHECKED AND ALL INSTRUCTIONS ON DEFENDANT'S COPY ARE FOLLOWED.

ONLY CALL _____ IF MORE HELP IS NEEDED.

MAILING ADDRESS: ☐ SAME AS ABOVE AT RIGHT ☐ CHANGE FROM D. L. — P. O. BOX/STREET — CITY/TOWN — STATE — ZIP

| NAME LAST | FIRST | MIDDLE |
|---|---|---|
| Pinchback | Emily | Elizabeth |

RES. ADDRESS: 9169 W. State St. — RES. JURIS. 652 120

CITY/TOWN: Garden — STATE — ZIP: 83714

| RACE | SEX | D.O.B. MO | DAY | YR. | HT. FT | IN | WGT. | EYES | HAIR |
|---|---|---|---|---|---|---|---|---|---|
| W | F | 7 | 8 | 01 | 5 | 7 | 200 | Blu | Brn |

DL / CDL # (IF CRIMINAL OFFENSE OR NO LICENSE, USE SSN): 225-91-7137 — STATE: VA

CDL HOLDER ☐ YES ☒ NO

VEH: YEAR | MAKE | TYPE | LICENSE NO. | YEAR | STATE

| JURISDICTION OF OFFENSE | DATE OF OFFENSE | DAY OF WEEK | TIME A.M. / P.M. |
|---|---|---|---|
| 120 | 11/21/24 | Thur | 1200 PM |

| DIRECTION | ACCIDENT YES | ACCIDENT NO | WEATHER | ROUTE NUMBER / STREET |
|---|---|---|---|---|
| X | | ✓ | CLR | 1321 |

LOCATION OF OFFENSE: 1321 Porter St

| ARREST DATE | ARREST LOCATION |
|---|---|
| 9/19/25 | 4224 Cox Rd |

OFFICER: M. McHugh — CODE / BADGE NO.: 2904

FINE ☐ CIVIL PENALTY OF $ _____ WITH $ _____ SUSPENDED

JAIL SENTENCE OF _____ WITH _____ SUSPENDED. CONDITIONED UPON BEING OF GOOD BEHAVIOR AND KEEPING THE PEACE.

REPORT _____ ☐ WEEKENDS PERMITTED

☐ ON PROBATION FOR _____

☐ DRIVER'S LICENSE SUSPENDED _____
CONSECUTIVE SUSPENSION UNDER §46.2-301 ☐ YES ☐ NO

☐ RESTITUTION ORDER INCORPORATED

☐ OTHER: _____

DATE _____ JUDGE _____

| | | | |
|---|---|---|---|
| 110/201 FINE | $ | 121 TIA FEE | $ |
| 114/129/237 CIVIL PENALTY | $ | 244 C.H. SECURITY FEE | $ |
| 460 FIXED TRAFFIC INFRACTION FEE | $ | 120/217 CT. APPT. ATTY. | $ |
| 461 FIXED MISDEMEANOR FEE | $ | 113 WITNESS FEE | $ |
| 462 FIXED MISDEMEANOR FEE - DRUGS | $ | | |
| | $ | | |
| APPEAL BOND | $ | TOTAL | $ |
| ☐ APPEAL NOTED ON | | 109 INTEREST CHARGE | |
| ☐ APPEAL WITHDRAWN | | TOTAL WITH INTEREST | $ |

YUSPD (07-01-24) — COURT COPY-PG. 1 — VUS REV

246

Exhibit 8

v.richmondgov.com/energov_prod/selfservice#/plan/b84ee660-cf83-4e8c-a580-c8d595997e8c?tab=holds

xisting Holds | Next Tab | Plan Details | Main Menu

**Existing Holds**

Sort Description

| Name | Description | Comments | Hold Date | Status |
|---|---|---|---|---|
| Administrative Hold | Administrative Hold | Hold on permit processing per Rick Paul while he and PMCE investigate property. | 04/25/2024 | Inactive |
| Administrative Hold | Administrative Hold | See Karen Paquette or David Alley before processing any P&I applications | 12/23/2024 | Inactive |
| Building Stop Work Order | Building Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Inactive |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Zachary Snyder 4-18-2024 | 04/18/2024 | Inactive |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Rick Paul 11.21.2024 | 11/22/2024 | Inactive |
| Electrical Stop Work Order | Electrical Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Inactive |
| Mechanical Stop Work Order | Mechanical Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Inactive |
| Plumbing Stop Work Order | Plumbing Stop Work Order | ***NOV*** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Inactive |

Results per page 10 1 - 8 of 8 << < 1 > >>

e Portal? Email CSSHelp@rva.gov ¿Necesita ayuda? Enviar un correo al CSSHelp@rva.gov

Search

9:09 AM
10/9/2025

10/9/2025

Exhibit 9

247

| | | | | | |
|---|---|---|---|---|---|
| IVR Number: | 1220109 | Applied Date | 08/21/2025 | Expiration Date: | |
| District: | OS-1 | Assigned To: | Dickson, Michelle | Completion Date: | |
| Square Feet: | 0.00 | Valuation: | $0.00 | | |

Description: Add exterior deck/stairs bracing/support elements to improve lateral stability. Abandoned no response from theapplicant for 6months.

Summary | Locations | Fees | Reviews | Attachments | Contacts | Sub-Records | Holds | More Info

Existing Holds | Next Tab | Plan Details | Main Menu

**Existing Holds**

Sort: Description

| Name | Description | Comments | Hold Date | Status |
|---|---|---|---|---|
| Administrative Hold | Administrative Hold | Please do not process until consulting with Commissioner or Manager | 08/22/2025 | Inactive |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/26/2026 | Active |
| Electrical Stop Work Order | Electrical Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/25/2026 | Active |
| Mechanical Stop Work Order | Mechanical Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/25/2026 | Active |
| Plumbing Stop Work Order | Plumbing Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/26/2026 | Active |

Results per page 10 | 1-5 of 5 | << < 1 > >>

ing the Portal? Email CSSHelp@rva.gov ¿Necesita ayuda? Enviar un correo al CSSHelp@rva.gov

Search

1:51 PM
4/3/2026

4/3/2026

Exhibit 10

148

| Name | Description | Comments | Hold Date | Status |
|---|---|---|---|---|
| Administrative Hold | Administrative Hold | Please do not process until consulting with Commissioner or Manager | 08/22/2025 | Inactive |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Rick Paul 11.21.2024 | 11/22/2024 | Active |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/26/2026 | Active |
| Building Stop Work Order | Building Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Active |
| Building Stop Work Order | Building Stop Work Order | SWO ordered by Zachary Snyder 4-18-2024 | 04/18/2024 | Active |
| Electrical Stop Work Order | Electrical Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/26/2026 | Active |
| Electrical Stop Work Order | Electrical Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Active |
| Mechanical Stop Work Order | Mechanical Stop Work Order | SWO ordered by Rick Paul 3.11.2026 | 03/26/2026 | Active |
| Mechanical Stop Work Order | Mechanical Stop Work Order | **NOV** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Active |
| Plumbing Stop Work Order | Plumbing Stop Work Order | ***NOV*** order by Zachary Snyder 4/24/2024 | 05/09/2024 | Active |

Results per page 10 1 - 10 of 11 << < 1 2 > >>

4/30/2026

Search

11:29 AM
4/30/2026

Exhibit 11

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Applicable Code and Active Permit Verification

**Alley, David L. - PDR** <David.Alley@rva.gov> Thu, Feb 5, 2026 at 2:41 PM
To: "Dickson, Michelle L. - PDR" <Michelle.Dickson@rva.gov>, 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Mouer, Daniel K. - PDR" <Daniel.Mouer@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>, "Paul, IV. Rick F. - PDR" <Rick.Paul@rva.gov>

*Emily Pinchbeck,*

*Good Afternoon. Clarification: It appears there was a typing error within the email attached, it should have stated once the permit is issued. Thank you for bringing this error to my attention. I apologize for the confusion and will honor my intent to null prosequi the NOV/SWO even though the permit has not yet been issued.*

*Your building permit submittal (BLDR-171309-2025) current status requires a resubmittal and is still required. Please continue to work with Michelle Dickson (Senior Plans Examiner) to obtain the permit, inspections shall be scheduled with the Bureau of Permits and Inspections for code compliance and completion.*

*Mr. Lukanuski.*

*Please move forward with my request to null prosequi the NOV/SWO issued on 11/21/2024.*

*Thanks. Best Regards,*

City again represented null process of summonses for non-existent 11-21-24 NOV

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov
900 E. Broad St., Room 110, Richmond, Va. 23219-1907

**CITY OF RICHMOND**
DEPARTMENT OF COMMUNITY DEVELOPMENT
BUREAU OF PERMITS AND INSPECTIONS
900 EAST BROAD STREET, ROOM 110
RICHMOND, VA 23219 (804) 646-4169

☑ **Notice of Violation** ☐ **Stop Work Order**

**Issue Date:** 3/11/2026 **Date of Inspection:** 3/11/2026

**Location:** 1321 Porter St

**Owner:** 1321 Porter St LLC Emily Pinchbeck (manager)

**Responsible Party:** Owner

**Contractor's Name:** unknown

**Permit Holder:** none

**Specific Work Being Cited:**

Construction of a 3rd floor and renovation of a 1st floor rear unit to change occupancy from a 2 family to a multifamily building

This building has been inspected and the following violations of the Code of Virginia, Title 36, The Virginia Uniform Statewide Building Code and the Code of the City of Richmond have been found:

- ☐ Section 110.5 of the Virginia Uniform Statewide Building Code- Working without a valid permit posted
- ☑ Section 108.1 of the Virginia Uniform Statewide Building Code- Working prior to the issuance of a building permit
- ☐ Section 109.5 of the Virginia Uniform Statewide Building Code – Failure to have approved construction plans available on site
- ☐ Section 113.3 of the Virginia Uniform Statewide Building Code – Failure to obtain inspections
- ☐ Section 14-81 of Chapter 14 - City of Richmond Ordinances: Working without a contractor's license
- ☐ Section 114-930.6 of the Code of Ordinance of the City of Richmond: Certificate of Appropriateness
- ☐ Other _____

All activities involved in the work cited above must cease immediately. Permitted activities not involved in the cited work above may continue as long as they do not conceal or otherwise affect the work cited above. Correction of all of the above conditions shall be made by 4/3/2026. If the notice is not complied with, the property owner, his agent, permit holder and/or contractor shall be subject to the penalties prescribed in the Code of Virginia, Title 36-Section 106; Section 105 of the Virginia Uniform Statewide Building Code and Ordinances of the City of Richmond. The following action shall be taken before any work resumes:

- ☑ Obtain a Building Permit
- ☑ Obtain an Electrical Permit
- ☑ Obtain a Mechanical permit
- ☑ Obtain a Plumbing Permit
- ☐ Obtain a Plumbing/Gas Permit
- ☐ Obtain a report by a registered Virginia professional engineer
- ☐ Post valid permit on site
- ☐ Keep approved plans on site and available for inspectors
- ☐ Obtain C. A. R. (Commission of Architectural Review) approval
- ☐ Other _____

Inspector: Rick Paul Telephone No. 804-646-6694

**A fee payment of $400 is required *before* you may return to work on any permit for which a Stop Work Order has been issued.**
**You have the right to appeal this notice under Section 119 of the Virginia Uniform Statewide Building Code.**
**Please contact us, (804) 646-4169, if you wish to appeal this decision.**

11/96 (01/26) 49773-1

## AFFIDAVIT FOR BUILDING INSPECTION WARRANT

Commonwealth of Virginia VA CODE § 36-105

The undersigned Applicant states under oath that:

1. To determine compliance with the Building Code or regulations and stardards adopted pursuant thereto, an inspection warrant is requested for an inspection of a building or structure, subject to the Building Code, located at and as described below:
1321 Poeter St. Richmond, VA 23224 Parcel # S000012019 And is described as a three story structure with the Numbers 1321 affixed to the right side of the door Next to front window.

[ ] CONTINUED ON ATTACHED SHEET

2. The inspection is to be done to gather evidence of a particular suspected violation of the Building Code or regulations and standards adopted pursuant thereof.

3. The material facts constituting probable cause that the search should be made are that the inspection is necessary to investigate a suspected violation of the Building Code that poses an immediate and imminent threat to the health and safety of the owner, tenant, or occupants of the building or structure, or the owner, occupant, or tenant of a nearby building or structure based on the following evidence of a violation of such code:
Inspection of property found UNSAFE violations Code 106.1-US - UNSAFE. Building Inspectors have been denied Access to the Structure at least sixteen times And cease and desisted emails from the manager of 1321 Poeter St LLC. Entry is Needed to verify the third floor and back structure is vacant And not being lived in. There is also a crypt/cellar that needs to be verified as to what it is And if permits are needed. The crypt / Cellar is possibly too close to the original structure.

[ ] CONTINUED ON ATTACHED SHEET

FORM DC-390 (MASTER PAGE ONE OF TWO) 07-14

## AFFIDAVIT FOR BUILDING INSPECTION WARRANT

APPLICANT: George Paul
NAME
Operational MANAGER Building Inspection
TITLE (IF ANY)
906 E Broad Street Room 108
Richmond, VA 23219
ADDRESS

Certified to Clerk of Richmond City Circuit Court
CITY OR COUNTY
on 3/11/2026
DATE

TITLE _____ SIGNATURE

Original Delivered [ ] in person [ ] by certified mail
[ ] by electronically transmitted facsimile
[ ] by use of filing/security procedures defined in the Uniform Electronic Transactions Act

to Clerk of Circuit Court
CITY OR COUNTY WHERE EXECUTED

on
DATE

TITLE _____ SIGNATURE

Complete only if different than above:

Original Delivered [ ] in person [ ] by certified mail
[ ] by electronically transmitted facsimile
[ ] by use of filing/security procedures defined in the Uniform Electronic Transactions Act

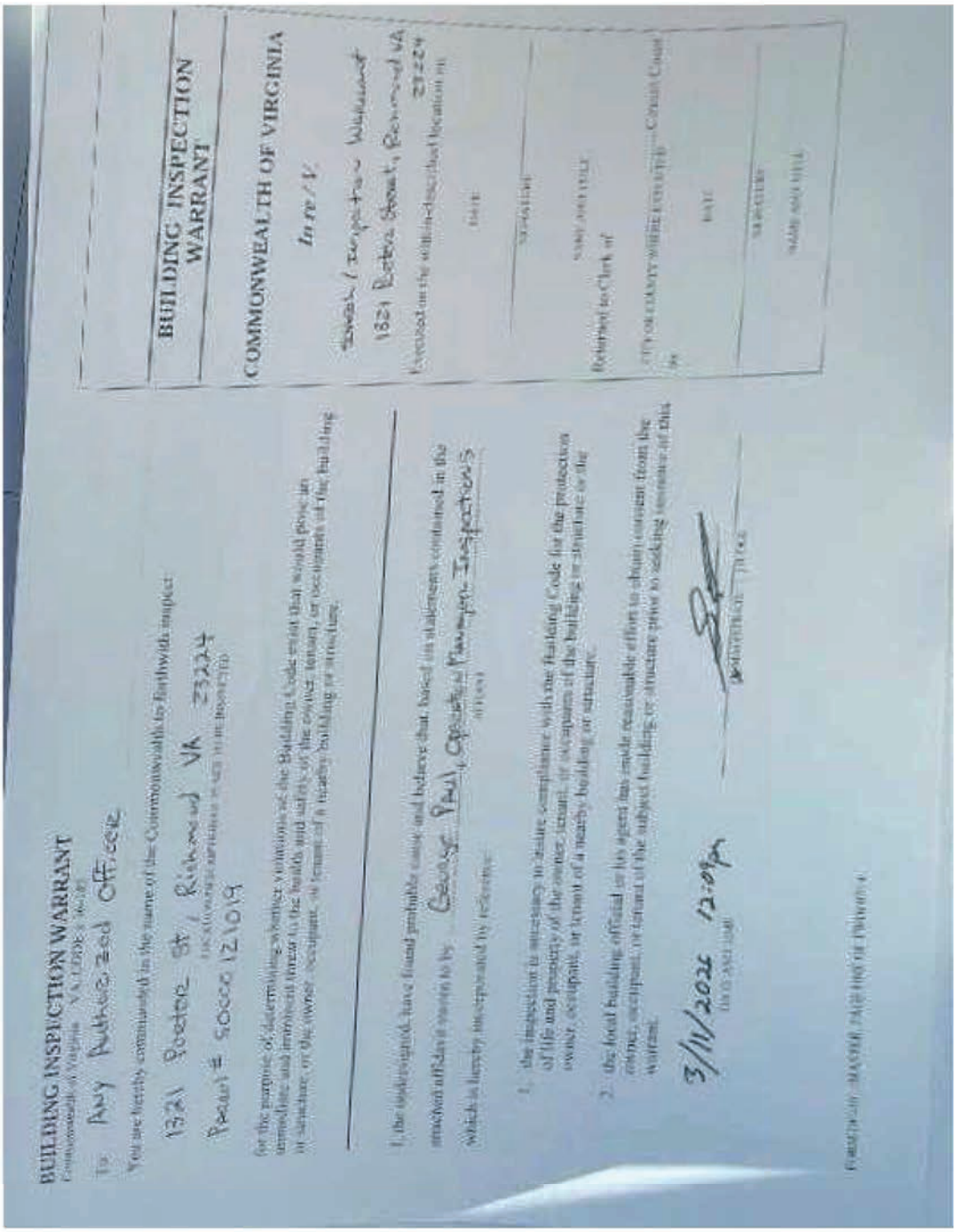
to Clerk of Circuit Court
CITY OR COUNTY OF ISSUANCE

on
DATE

TITLE _____ SIGNATURE

Material Facts Attachment

Entry is also necessary to placard third floor addition and first floor unit. Placards are needed since the placards have been removed by property management owner. Entry needed to verify evidence that third party engineering inspections were performed.



BUILDING INSPECTION WARRANT

To: Any Authorized Officer

You are hereby commanded in the name of the Commonwealth to forthwith inspect

1321 Porter St, Richmond VA 23224

Parcel # S000 121019

for the purpose of determining whether violations of the Building Code exist that would give an immediate and imminent threat to the health and safety of the owner, tenant, or occupants of the building or structure, or the owner, occupants, or tenants of a nearby building or structure.

I, the undersigned, have found probable cause and believe that based on statements contained in the attached affidavit sworn to by George Paul, Chesterfield Planning Inspections which is hereby incorporated by reference.

1. the inspection is necessary to secure compliance with the Building Code for the protection of life and property of the owner, tenant, or occupants of the building or structure or the owner, occupants, or tenant of a nearby building or structure.

2. the local building official or his agent has made reasonable effort to obtain consent from the owner, occupant, or tenant of the subject building or structure prior to seeking issuance of this warrant.

3/11/2022 12:09pm

BUILDING INSPECTION WARRANT

COMMONWEALTH OF VIRGINIA

In re: /

Owner / occupant / Williams

1321 Porter Street, Richmond VA 23224

Executed on the within described location at

Returned to Clerk of

CITY/COUNTY OF ... Circuit Court

See: Video #1 VCC not VPMC as warrant authority
Video #2 VCC 108.1 relied on for warrant authority
Video #3 Paul tape measure from vehicle outside warrant scope
Video #4 Discussion of prior use authorization and limits of 108.1
Video #5 Paul asserted 1983 CO and non-existent occupancy as placard authority

CITY HALL
CITY OF RICHMOND
900 EAST BROAD STREET
RICHMOND, VIRGINIA 23219

Friday, July 25, 2025

Attendees:
David Alley
Michelle Dickson
Daniel Mouer
Hivi Faraj
Rick Paul
Emily Pinchbeck
Bruce Arkema



Excerpt 1

MR. ALLEY: Is it 4 units or is it 3 units?

MS. PINCHBECK: So, we are at 4 units, but it is -- I mean, we are talking about having it function as that. If not, we've had the building as 3 units since before Aly Hawash, that old owner that did the third story. It was set at 3 units from that buy. And then that fourth addition that they built was the fourth that was added on.

City acknowledged existing three-unit since 1980s

MR. ALLEY: And that's what I've pretty much perceived.

MR. MOUER: Okay, so we have two units in the original structure, a third unit in the garage or addition --

MS. PINCHBECK: In the back, as far as I know, the third -- I guess you could call it an addition. It's been there for over 100 years.

MR. MOUER: It was probably a garage when it was converted.

MR. ALLEY: It was a garage by the pictures.

MS. PINCHBECK: From what I understand, it's like servant quarters of what it would be. Again, I am not 100%, but I've not known anything to be -- I've not had a garage come across it at all.

MR. ALLEY: Accessory structure… I'll give it that. Because there's pictures that go back in Google all the way that show when somebody was doing some renovation,



Exhibit 16

they was scaffold up the accessory building, which I thought it was a garage at one time. It showed it was very dilapidated, then it was brought back up.

City acknowledged rear first floor renovation 12 years prior. Not considered violation or emergency

Excerpt 2

MS. DICKSON: I'm not sure if that fourth unit on the first floor, is it already finished out?

MS. PINCHBECK: So it's being used. It's not been functioning as a unit by any means. It's mostly, it's an office/storage space as of right now. As of what I've been having it used for since coming into management.

City knew of rear unit use since May 2024. Not a violation or emergency

MS. DICKSON: And so if you already have bathrooms in there, then do you have a shower or a tub in it?

MS. PINCHBECK: It does have a showerhead, but no tub.

MS. DICKSON: Yeah, so right now, if it looks like a dwelling unit, then it's a dwelling unit. And you would have to --

MR. ARKEMA: Unless you state that you're not going to use it as a dwelling unit.

MR. PAUL: Mmm.

MS. DICKSON: Yeah. That's where, like, I look at it, I call a duck a duck, and then these guys are higher than me, so we have to talk to someone about it saying if --



MR. ARKEMA: So if you put in your plans and your application, and have a CO that's going to be something other than a dwelling unit?

MS. DICKSON: Like an office.

MR. ARKEMA: Why would there be a problem? If she violates that, she violates that…

MR. PAUL: In the future, if she were to sell the space, someone's going to come in there and say, oh, it's a dwelling unit. I'm going to use it as a dwelling unit but it's not a dwelling unit.

MR. ALLEY: All right, I'm going to jump in because I agree with him. As long as it's stated on the plans and it's labeled, we can't police the future. That's where we step in, and we give the proper notice for it.

City understands that notice was require if a violation exists, not comdemnation

MR. PAUL: The only reason I brought up what I brought up is because we see it a lot of things. Somebody will do something to a structure. And like Michelle said, it looks like a duck, so it must be a duck, right, when a new owner comes in. So they're going to try to use it like a duck, but it's not a duck.

MR. ARKEMA: Well, I would assume that there will be an appraisal or something done, when somebody buys it. They'll see the CO.

MR. PAUL: Yeah, but still.

Excerpt 3

MR. ALLEY: That's great information. I didn't see that. It's in one of our packages. Like I said, we are going to be able to use some of your engineering that you have, if not all of it, along with trying to do some site visits ourselves to do key things. Again, we're going to be -- I'm going to try to work with you as best I can as long as we're satisfying the code. And we do not want to be doing it in a way that's intrusive.

City understood current use and acknowledged occupancy is owners' decision, not City's

Excerpt 4

MR. ALLEY: Get with your design a professional. Give them the packet, that we put together here. And I think you should really consider that. I know there's a lot of ideas, but let's not do this or that. Let's not do the third floor. But, I mean, really look at what it costs for a sprinkler system. Because you're going to get more return off of three units than you are, I'm just saying.

MS. PINCHBECK: I know, I definitely, if it were my way, wanted to keep everything functioning. But whatever is the best, feasibly, as well as the timeliness, of course, is what I would like to figure out.

Excerpt 5

MR. PAUL: I didn't get a chance to ask. I just want to make sure so that we're all - that nobody is living on the third floor or in that back unit.

MS. PINCHBECK: Got it.

MR. PAUL: Awesome, thank you. I don't want to see anybody get into trouble on this one.



MS. PINCHBECK: That's no problem at all.

City expressly approved use of third floor and rear first floor unit

MR. PAUL: Thank you, I appreciate that.

MS. PINCHBECK: Yeah. I do, I mean it is, the other tenants and I will say my neighbors, there is -- they have access, but there is no residence in those areas.

MR. PAUL: Sure. And there can be a home office back there, I mean, if it's attached, if you're utilizing it for your residents and your own home office. That's fine. I don't have a problem with that.

MS. PINCHBECK: Yeah. Storage is the main thing; we keep a lot of, like, that property's like, resources for whatever paint and whatever.

MR. PAUL: Thank you. Appreciate it.

MS. PINCHBECK: No problem. Thanks for clarifying.

MR. PAUL: Yep. Take care, very nice to see y'all again.

MS. PINCHBECK: Good to see you.

Exhibit 17

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## 17th Formal Demand to Cease Harassment 1.16.26

**1321PorterStLLC** <1321porterstllc@gmail.com> Fri, Jan 16, 2026 at 3:51 PM
To: "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>
Cc: "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Donald, Odie - CAO" <odie@rva.gov>, "Alley, David L. - PDR" <david.alley@rva.gov>
Bcc: "Robertson, Ellen F. - City Council" <ellen.robertson@rva.gov>

To: Department of Planning and Development Review

City of Richmond, Virginia

Cc: City Attorney's Office; Office of the Chief Administrative Officer

This letter serves as formal notice and demand that the City of Richmond Department of Planning and Development Review (PDR) and its agents immediately cease all harassment, surveillance, and trespass involving the private residential property located at 1321 Porter Street, Richmond, Virginia, as well as its tenants and neighboring residents.

### Prior Notices and Willful Continuation of Harassment

Please be advised that this is not an initial notice. To date, no less than sixteen (16) separate notices to cease harassment and unlawful conduct have already been issued to the City and/or its agents regarding this property and related conduct. Despite these repeated notices, the behavior described below has continued unabated.

Harassment and surveillance after explicit notice constitutes knowing, willful, and bad-faith conduct, materially increasing exposure to individual liability, municipal liability, enhanced damages, injunctive relief, and sanctions. Continued conduct after notice eliminates any claim of mistake, misunderstanding, or good-faith enforcement activity.

For nearly two years, PDR staff members have been repeatedly observed circling the property, lingering for extended periods without lawful purpose, positioning themselves behind tenant vehicles, and engaging in conduct that is intimidating, disruptive, and wholly inconsistent with legitimate inspection activity. These actions have been documented and evidence has been preserved.

Additionally, PDR personnel have entered neighboring private properties without consent, notice, warrant, or legal authority for the apparent purpose of observing, photographing, and monitoring 1321 Porter Street. Such conduct constitutes unlawful trespass and has caused ongoing distress to tenants and neighbors who are not subject to any inspection or enforcement action.

This pattern of conduct cannot reasonably be characterized as routine code enforcement. It reflects targeted, sustained, and punitive monitoring of a specific property and its occupants, exceeding statutory authority and infringing upon clearly established rights.

Video #6 1/16/2026 surveillance from neighboring property

C. E. Duncan & Associates, Inc.
2609 Rocky Oak Road
Powhatan, Virginia 23139
(804) 598-8240

April 26, 2024

Sophia Blystone
1321 Porter Street, Apt A
Richmond, VA. 23224

RE: Third floor addition

Dear Sophia,

This letter is to confirm that we inspected the framing for the third floor addition at 1312 Porter Street. No exceptions were noted with the framing. The work was performed in a good workmanship manner. The work has no structural effect upon the lower 2 floors. We inspected all the lower levels and into the crawlspace to verify that the third floor modification and framing did not affect the structural integrity of the structure. No exceptions or concerns were noted during our inspection.

Sincerely,

Carl E. Duncan, P.E., L.S.






Placard and Posting

Pictures were taken by Walter Jackson
Property Maintenance Inspector










Pictures were taken by Walter Jackson
Property Maintenance Inspector

City accepted 4/26/2024 C.E. Duncan report for structural safety and 2nd and 1st floor occupancy

was on, I'm sorry I'm going fast but on page 167 for the second note, second revision. Does everybody see that? And then the last revision on page 66, so they finally got it right.

MS. JACKSON: I'm sorry, did you mean 68? 168 1 68. You mean 1 68?

MR. ALLEY: Is it 168 for the final, am I getting them back, sorry, it's a lot of paperwork here. I apologize.

CHAIRMAN DAWSON: Got 10 minutes left Mr. Alley.

MR. ALLEY: Thank you. Appreciate it sir. 66. Alright, so this is the first one. So, 168 was the final. At that time, I accepted that report. I also received another report from Mr. Robert Nelson for the rear stairs and the deck that I found to be appropriate since there were some egress coming from the second floor. At that point on May 28th, I went ahead and reinstated the occupancy for the first and second floor tenants only, because it is a two-family dwelling. The other parts of the building, the third and fourth units and the third floor are still unsafe for use and occupancy. I can't put anybody in those sections because one, they don't have a CO to be there for multifamily. Two, there's no sprinkler system to do that, I'm putting people in danger from all the units.

This case was then went before the board. Well, I'll

Gmail

Sophia Oliveri <sophia.s.oliveri@gmail.com>

## 4th Engineer's Report for 1321 Porter St

**Alley, David L. - PDR** <David.Alley@rva.gov> Tue, May 28, 2024 at 2:27 PM
To: Sophia Oliveri <sophia.s.oliveri@gmail.com>
Cc: "Paul, IV, Rick F. - PDR" <Rick.Paul@rva.gov>, "Jackson, Walter E. - PDR" <Walter.Jackson@rva.gov>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

***Sophia Oliveri,***

***Good Afternoon! I hope today finds you well. Thank you for the Engineer report from Engineer Design Associates (Robert F Nelson). The existing Certificate of Occupancy for the building located at 1321 Porter St is a two family dwelling. I found the report to be sufficient-please see the following conditions.***

- ***The existing Certificate of Occupancy for the building located at 1321 Porter St is for a two family dwelling -occupancy shall be re-instated for the 1st and 2nd floors only.***
- ***No other occupancy shall be allowed for the 3rd floor or the rear 1st floor unit at this time until all permits, inspections and a final Certificate of Occupancy has been issued for a multi-family building.***
- ***No un-permitted construction work shall be performed prior to an approved permit from the Permits and Inspections Bureau.***
- ***You are authorized to remove the placards.***
- ***Failure to comply with above conditions shall result in the Permits and Inspections Bureau taking additional actions as needed.***

***Feel free to contact me directly should you have any other questions or concerns.***

***Best Regards,***

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW

David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov
900 E. Broad St., Room 110, Richmond, Va 23219-1907

Visit Our Website at: https://www.rva.gov/planning-development-review/permits-and-inspections

**From:** Sophia Oliveri <sophia.s.oliveri@gmail.com>
**Sent:** Wednesday, May 22, 2024 10:25 AM

5/29/24

Tenants of 1321 Porter St Apt A & Apt B:

So...that was a wild month, right?! I can't tell you enough how sorry I am that you were seen as so unimportant that multiple grown men didn't think twice about making you collateral damage in their completely pointless fishing expedition and grossly negligent abuse of power. You are important, you didn't deserve that, and none of what happened to you in the past month was okay, on any level.

Thank you guys so much for being so understanding while we navigated the idiotic and/or pointlessly cruel bureaucracy that appears to be running rampant in the City of Richmond Department of Permits and Inspections. I'm also happy to announce that, in agreement with the first 3 engineering reports that I showed you on April 29th, prior to the city's decision to condemn the building, multiple other engineers have done site visits and have reassured me that they see nothing leading them to believe that your home is not structurally sound and safe. I know that none of you were actually worried about that but I figured I'd throw it out there anyway.

After reporting them to their director, our councilwoman, state code enforcement, and various tenants' rights groups, they have now shifted their attack to alleged zoning issues. Though the building has definitely been a 3-unit multifamily home since at least the 80's, the city appears to have it in their system as a duplex. So, while we're navigating that, there's no reason you and your guests and invitees shouldn't be able to use the empty space!

In addition to the code to the back one-story portion of the building that you already have, I'll be giving you the code to the 3rd floor apartment as well, and that will become common space for the building, effective immediately. Feel free to work on art (don't mess up the floors), do yoga, practice cartwheels (remember the indemnification clause in your lease), blast music & dance (between the hours of 8am-10pm), whatever you may need a big open space for (except parties and anything else prohibited by your lease). Enjoy!

Again, I am so so so sorry that this city tolerates people in positions of power who treat tenants as subhuman and who have no problem sacrificing you to their completely f[redacted] personal agendas.

-Sophia Oliveri, property manager

[redacted]

Tenant

The administrative record before the SBCTRB on 11/15/2024 retroactively alleged the 11 below conditions to be the reason for the 4/29/2024 tenant displacement. City then admitted in writing that those conditions could safely co-exist with 1st and 2nd floor occupancy

Exhibit 23

- On the following Monday 4/29/2024 I was informed by Rick Paul (Program and Operations Manager for Inspections) of the situation. I was provided with an engineer report from Carl Duncan dated 2/2/2021.The address on the report was incorrect and the report itself was lacking content.

- I decided to contact Mr. Carl Duncan directly to discuss the report. He was very cooperative-however could not remember much about the project. Since the inspection was conducted back in 2021. I specifically questioned if he evaluated the existing footing and foundations for the additional loads being transferred and/or draft stopping, fire blocking and fire separation, he responded no. I also asked him if any permit and/or approved plans had been provided to him to conduct the inspection or did he obtain any authorization from the Permits and Inspections Bureau prior to conducting the inspection and his response was no! He stated he thought it was a renovation-not new work.

**Based on the previous history and the following facts: I determined the structure to be unsafe for occupancy and ordered the tenants to be relocated immediately for their own safety.**

- New construction of the 3rd floor addition

- No approved Building permit and/or plans authorized for the new 3rd floor addition.

- No approved trade permits were ever authorized for electrical, plumbing, mechanical work for the new 3rd floor addition.

- No inspections were ever conducted by the Permits and Inspections Bureau for the new 3rd floor addition for building, electrical, plumbing or mechanical. Including fire blocking, draft stopping, fire separation, insulation and building and zoning finals.

- All interior structural work is concealed

- Wall and ceiling separation problems identified within 3rd floor new addition

- Incorrect and Insufficient information provided on the (Carl Duncan) engineer's report, additional information was added to the original report twice.

- Non-code compliant alterations to existing exterior egress stairs and decks

- Non-code compliant new egress stairs to 3rd floor addition

- Non-compliant structural load points bearing on roof above the occupied unit on the 1st floor

- Non-compliant structural load points bearing on 4x4 post above the occupied unit on the 2nd floor porch area

- Changing the Use without authorization. 2 family to Multifamily. 3 residents, 4 mailboxes SUP and Certificate of Occupancy required.

**Other concerns**

- What other alterations have been conducted in the existing units without permits?

- Why would I believe the work concealed was done any better than the work I can see?

- Why is the owner stalling to apply for the permits, she obviously new about it since 2001 when she was the applicant for the previous owner Aly Hawash. She has been involved with the last 3 transfers of the property from 1321 Porter St LLC (she is agent) to Sophia Oliveri then back to 1321 Porter St LLC.

**Final Summary**

This case is a prime example of why Permits and Inspections Bureau's exist.
To protect the health, safety and welfare of the residents of Virginia from owners like Sophia Oliveri who apparently by her actions-believes she can build whatever she wants with total disregard for her tenants safety, building codes regulations and Zoning Ordinances.

The decision to relocate occupants from their home is never taken lightly, as the building official for the City of Richmond I will always air on the side of caution as necessary.

Note: A second engineer report from Engineer Design Associates (Robert F Nelson) was submitted to me on May 21st, I found the report to be sufficient and I have allowed the tenants to reoccupy the 1st and 2nd floor units only. No occupancy of the 3rd floor.

Note: A summons was issued and served for failure to comply, this case is currently active within the courts.

Members of the Board-thank you for your time and consideration.

Gmail

Sophia Oliveri <sophia.s.oliveri@gmail.com>

# 4th Engineer's Report for 1321 Porter St

**Sophia Oliveri** <sophia.s.oliveri@gmail.com> Tue, May 21, 2024 at 2:05 PM
To: "Alley, David L. - PDR" <david.alley@richmondgov.com>

Mr. Alley,

Per our conversation Monday, 5/13/24, you stated that you would be comfortable with the back single story portion of the building being re-entered but that you did not feel comfortable granting access to the front 3 story portion of the building until you received load information regarding the 4x4 posts on the back deck, supported by the 6x6 column, beneath the 3rd floor (photo below). I have had another engineer come out and review the deck and posts. Attached is a letter from the engineer, with an engineer's seal, stating that the 3rd floor load is adequately supported, the deck in its entirety is suitable for use by tenants, and that no conditions were observed that require immediate attention or deem the structure to be unsafe.

At this time you have been provided with a 4th engineer's report, with an engineer's seal, stating that the property is safe, structurally sound, and that no exceptions were noted. As the final concern of yours has now been satisfied, I am requesting that the property be released for the first and second floor tenants to re-enter their homes, effective immediately.

-Sophia Oliveri, property manager
1321 Porter St, LLC
804-437-2227

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Jul 16, 2024 at 1:28 PM
To: "Wilson, Madison E. - PDR" <Madison.Wilson@rva.gov>, "Brown, Jonathan W. - PDR" <Jonathan.brown@rva.gov>, rashad.gresham@gmail.com

Good Morning,

The third floor studio is just an art studio, not a studio apartment living space. The first floor rear apartment on the first page of floor plans has been a one bedroom one bath apartment for more than a decade, from what I know. After the city reduced dwelling to two units that apartment has been opened up to the tenants as office and storage space. Please refer to our initial application for clarification on prior use and intended use for the SUP.

I also want to make sure the safety of my tenants are taken into account during this process. The written floor plans that were asked of us, have clear indications of bedroom locations and entries of tenants dwelling, I want to ensure that these floor plans are not shared as public domain. There are clear floor plans found from the city of Richmond property search webpage, with no description of what/ where each room is. I am happy to go onto the website myself and send those floor plans instead if you need them for public documentation.

Best,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

**Wilson, Madison E. - PDR** <Madison.Wilson@rva.gov> Tue, Jul 16, 2024 at 1:37 PM

To: 1321PorterStLLC <1321porterstllc@gmail.com>, "Brown, Jonathan W. - PDR" <Jonathan.Brown@rva.gov>, "rashad.gresham@gmail.com" <rashad.gresham@gmail.com>, "Ebinger, Matthew J. - PDR" <Matthew.Ebinger@rva.gov>

Emily,

Is the office going to remain an office or be turned back into a dwelling? We have to know if there are four total dwellings or three. In the application, four total dwellings is what is being sought.
Per your letter, : "The intended use for the property located at 1321 Porter St is to continue as 4 unit affordable housing, with rents beginning where they are now, between $1485- $1605/month for the three 2 bedroom, 2 bathroom units, and $900 for the 1 bedroom, 1 bath unit. The plan is to continue using the existing 4 units without making any changes."

The floor plans and use of the property has to match with what we are describing in the ordinance. Because this property is in breech of zoning, all of this information must be documented properly so that you do not run into more issues in the future.

As it stands with the floor plans you provided, this property will be described as a mixed-use building with an office and three apartments. Is this how you intend for it to operate?

This will mean that first floor office/storage space cannot be a dwelling. Is this how you would like to proceed?

Best,

*Madison Wilson (she/her)*
Planner - Land Use Administration
Department of Planning and Development Review
City of Richmond
Madison.Wilson@RVA.gov
804-646-7436

**From:** 1321PorterStLLC <1321porterstllc@gmail.com>
**Sent:** Tuesday, July 16, 2024 1:28 PM
**To:** Wilson, Madison E. - PDR <Madison.Wilson@rva.gov>; Brown, Jonathan W. - PDR <Jonathan.Brown@rva.gov>; rashad.gresham@gmail.com <rashad.gresham@gmail.com>
**Subject:** Re: Floor Plans of 1321 Porter St.

[Quoted text hidden]

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Notice of Appeal- 1321 Porter St, LLC, Case #25-07

**1321PorterStLLC** <1321porterstllc@gmail.com> Thu, Feb 19, 2026 at 12:40 PM
To: "Luter, Travis (DHCD)" <travis.luter@dhcd.virginia.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Alley, David L. - PDR" <david.alley@rva.gov>

Mr. Luter and Mr. Lukanuski,

The City of Richmond, Virginia has failed to rescind the August 28, 2024 Notice of Violation by the deadline provided, notwithstanding that the Notice was defective at issuance pursuant to USBC § 115. The City's continued reliance on this Notice constitutes knowing enforcement of an invalid administrative action.

The Technical Review Board's decision to uphold the Notice rests exclusively on perjured testimony presented by the City regarding a non-existent CO. The City's failure to rescind Notice despite actual notice of this defect evidences bad faith and a willful disregard for applicable law and due process.

Accordingly, absent immediate rescission from the City of Richmond, we will proceed with an appeal to the Circuit Court. All rights, claims, defenses, and remedies—whether legal or equitable—are expressly reserved, including but not limited to claims arising from bad-faith enforcement, abuse of process, and any associated damages.

Pursuant to USBC § 119.9 and Rule 2A this correspondence constitutes formal notice and is being transmitted to Travis Luter, secretary of the State Building Code Technical Review Board and to Greg Lukanuski, City Attorney, both via email and certified mail.

Sincerely,

1321 Porter St. LLC

**Notice of Appeal — 1321 Porter St, LLC 2.19.26.pdf**
873K

1321 Porter St LLC initiated appeal of TRB decision based solely on city testimony materially inconsistent with the administrative record

Exhibit 27

## CASE AND INSPECTION(S) DETAILS FOR CASE 067279-2024

### Inspection(s)

**630742-2024**
**Case Type:** Defective Maintenance **Scheduled:** 04/26/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 04/26/2024 Richmond, VA 23224
**Attached Images:**

**630743-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 04/29/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 04/29/2024 Richmond, VA 23224
**Attached Images:**

**630780-2024**
**Case Type:** Unsafe/Unfit **Scheduled:** 04/26/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 04/26/2024 Richmond, VA 23224
**Attached Images:**

**631040-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 04/29/2024 **Address:** 1321 Porter St
**Status:** In Compliance **Actual Date:** 04/29/2024 Richmond, VA 23224
**Attached Images:**

**637765-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 05/30/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 05/30/2024 Richmond, VA 23224
**Attached Images:**

**637777-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 06/12/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 06/12/2024 Richmond, VA 23224
**Attached Images:**

**642465-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 08/02/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 08/02/2024 Richmond, VA 23224
**Attached Images:**

**651128-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 08/21/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 08/21/2024 Richmond, VA 23224
**Attached Images:**

**656481-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 08/28/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 08/28/2024 Richmond, VA 23224
**Attached Images:**

**656674-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 12/05/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 12/05/2024 Richmond, VA 23224
**Attached Images:**

**675935-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 01/21/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 01/21/2025 Richmond, VA 23224



## CASE AND INSPECTION(S) DETAILS FOR CASE 067279-2024

**Attached Images:**

**683823-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 01/31/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 01/31/2025 Richmond, VA 23224
**Attached Images:**

**685942-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 02/27/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 02/27/2025 Richmond, VA 23224
**Attached Images:**

**691061-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 03/19/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 03/19/2025 Richmond, VA 23224
**Attached Images:**

**695991-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 04/16/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 04/16/2025 Richmond, VA 23224
**Attached Images:**

**702509-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 05/21/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 05/21/2025 Richmond, VA 23224
**Attached Images:**

**711255-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 07/21/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 07/21/2025 Richmond, VA 23224
**Attached Images:**

**731251-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 09/19/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 09/19/2025 Richmond, VA 23224
**Attached Images:**

**735893-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 09/24/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 09/24/2025 Richmond, VA 23224
**Attached Images:**

**736458-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 10/29/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 10/29/2025 Richmond, VA 23224
**Attached Images:**

**744277-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 11/12/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 11/12/2025 Richmond, VA 23224
**Attached Images:**

**749401-2025**

The City preformed approximately 20 site inspections of the Property after placard removal on 5/28/2024

Exhibit 27

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Appeal to the Review Board for 1321 Porter St. LLC (Emily Pinchbeck) (Appeal No. 25-08)

**1321PorterStLLC** <1321porterstllc@gmail.com> Thu, Apr 9, 2026 at 12:02 PM
To: "Alley, David L. - PDR" <david.alley@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

Dear Mr. Alley,

While reviewing materials related to the potential appeal and our ongoing consideration of whether to submit one, I identified the attached documentation. This evidence shows that as of May 15, 2025, at the latest, you knew the placards had been removed prior to being personally informed of the property's use, and the City's express authorization for that use on July 24, 2025. Additionally, it reflects that you knowingly transmitted photographic evidence of that condition to the Virginia State Technical Review Board approximately six months before your sworn testimony before that Board, demonstrating that you were aware of the removal and did not believe it presented a safety concern, yet you later asserted the opposite in your testimony. Further, this predates by roughly ten months the City's submission of a sworn inspection warrant affidavit alleging an immediate and imminent threat associated with the placard removal.

In light of this record, it is difficult to reconcile the documented evidence of your prior knowledge and actions with the subsequent sworn statements and representations made in official proceedings. Continuing to maintain a position inconsistent with this evidence may create unnecessary exposure.

Moreover, this documentation, combined with the admitted non-existence of a two-family Certificate of Occupancy and the City's express permission to use the space prior to alleging an immediate and imminent threat to health and safety, further undermines any claim that such a threat existed. Given these facts, I respectfully renew my request that you authorize the removal of the placards without further delay.

Please advise promptly how you intend to proceed.

Sincerely,

1321 Porter St, LLC

Emily Pinchbeck, mgr
[Quoted text hidden]

Building Commissioner, David Alley, transmitted evidence of placard removal to the TRB 6 months prior to testifying to the contrary

**2 attachments**




**image002.png**
261K

**Appeal 25-08 1321 Porter St.pdf**
421K

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Appeal to the Review Board for 1321 Porter St. LLC (Emily Pinchbeck) (Appeal No. 25-08)

**Alley, David L. - PDR** <David.Alley@rva.gov> Thu, May 15, 2025 at 1:56 PM
To: "Luter, Travis (DHCD)" <Travis.Luter@dhcd.virginia.gov>, "1321PorterStLLC@gmail.com" <1321PorterStLLC@gmail.com>
Cc: "Brown, Jeff (DHCD)" <Jeff.Brown@dhcd.virginia.gov>, "Moldovan, Florin (DHCD)" <Florin.Moldovan@dhcd.virginia.gov>, "Messplay Iv, Paul (DHCD)" <Paul.MessplayIV@dhcd.virginia.gov>

*Travis,*

*Good Afternoon! I hope today finds you well. Please see the attached documents for Appeal # 25-08*

*Best Regards,*

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

David L Alley III

Commissioner of Buildings

804-513-6939

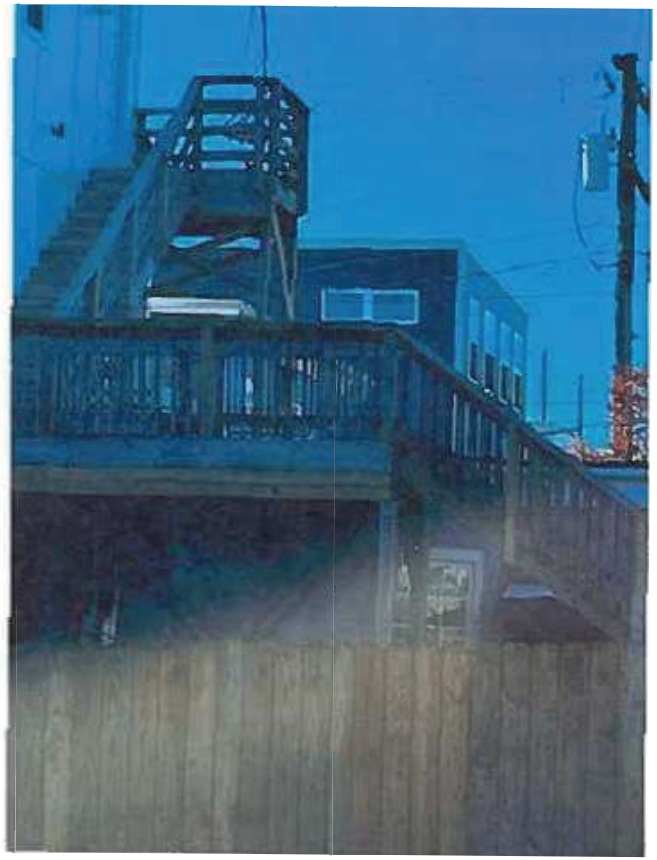
david.alley@rva.gov

900 E. Broad St., Room 110, Richmond, Va. 23219-1907

Visit Our Website at: https://www.rva.gov/planning-development-review/permits-and-inspections

**From:** Luter, Travis (DHCD) <Travis.Luter@dhcd.virginia.gov>
**Sent:** Wednesday, May 7, 2025 11:24 AM
**To:** 1321PorterStLLC@gmail.com; Alley, David L. - PDR <David.Alley@rva.gov>
**Cc:** Brown, Jeff (DHCD) <Jeff.Brown@dhcd.virginia.gov>; Moldovan, Florin (DHCD) <Florin.Moldovan@dhcd.virginia.gov>; Messplay Iv, Paul (DHCD) <Paul.MessplayIV@dhcd.virginia.gov>
**Subject:** Appeal to the Review Board for 1321 Porter St. LLC (Emily Pinchbeck) (Appeal No. 25-08)





November 21, 2024
Taken by: Rick Paul
1321 Porter St back stairs to 3rd floor

# City of Richmond

**Department of Planning and Development Review**
**Bureau of Permits and Inspections**
**900 East Broad Street Room 110**
**Richmond, VA 23219 (804) 646-4169**

## ☒ Notice of Violation ☒ Stop Work Order

**Issue Date:** 1/7/2021 **Date of Inspection:** 1/7/2021

**Location:** 1321 PORTER ST

**Owner:** –

**Responsible Party:** OWNER

**Contractor's Name:** –

**Permit Holder:** NONE

**Specific Work Being Cited:** CONSTRUCTION OF NEW 3RD STORY ADDITION

This building has been inspected and the following violations of the Code of Virginia, Title 36, The Virginia Uniform Statewide Building Code and the Code of the City of Richmond have been found:

- ☒ Section 110.5 of the Virginia Uniform Statewide Building Code- Working without a valid permit posted
- ☒ Section 108.1 of the Virginia Uniform Statewide Building Code- Working prior to the issuance of a building permit
- ☒ Section 109.5 of the Virginia Uniform Statewide Building Code – Failure to have approved construction plans available on site
- ☒ Section 113.3 of the Virginia Uniform Statewide Building Code – Failure to obtain inspections
- ☐ Section 14-81 of Chapter 14 - City of Richmond Ordinances: Working without a contractor's license
- ☐ Section 114-930.6 of the Code of Ordinance of the City of Richmond: Certificate of Appropriateness
- ☐ Other

All activities involved in the work cited above must cease immediately. Permitted activities not involved in the cited work above may continue as long as they do not conceal or otherwise affect the work cited above. Correction of all of the above conditions shall be made by 1/15/2021. If the notice is not complied with, the property owner, his agent, permit holder and/or contractor shall be subject to the penalties prescribed in the Code of Virginia, Title 36-Section 106; Section 105 of the Virginia Uniform Statewide Building Code and Ordinances of the City of Richmond. The following action shall be taken before any work resumes:

- ☒ Obtain a Building Permit
- ☐ Obtain an Electrical Permit
- ☐ Obtain a Mechanical permit
- ☐ Obtain a Plumbing Permit
- ☐ Obtain a Plumbing/Gas Permit
- ☐ Obtain a report by a registered Virginia professional engineer
- ☐ Post valid permit on site
- ☐ Keep approved plans on site and available for inspectors
- ☐ Obtain C. A. R. (Commission of Architectural Review) approval
- ☐ Other

**Inspector:** ZACHARY SNYDER **Telephone No.** 804 668 6417

A fee payment of $200 is required ***before*** you may return to work on each permit for which a Stop Work Order has been issued.
You have the right to appeal this notice under Section 119 of the Virginia Uniform Statewide Building Code.
Please contact us, 804 646-4169, if you wish to appeal this decision.

Exhibit 30

**CITY OF RICHMOND**
DEPARTMENT OF COMMUNITY DEVELOPMENT
BUREAU OF PERMITS AND INSPECTIONS
900 EAST BROAD STREET, ROOM 110
RICHMOND, VA 23219 (804) 646-6955

# ☒ Notice of Violation ☐ Stop Work Order

**Issue Date:** 4/24/2024 **Date of Inspection:** 4/24/2024

**Location:** 1321 PORTER ST

**Owner:** 1321 PORTER ST LLC

**Responsible Party:** SOPHIA OLIVERI

**Contractor's Name:** -

**Permit Holder:** NO ACTIVE PERMITS

**Specific Work Being Cited:** AFTER 3RD STORY NEW CONSTRUCTION! STOP WORK ORDER ISSUED ON 1/7/2021, PERMIT WAS APPLIED FOR BUT KILLED AFTER NO ACTION TAKEN!. 3RD STORY CONSTRUCTION CONTINUED AND IS NOW COMPLETED WITHOUT ANY ACTIVE PERMITS OR INSPECTIONS. BUILDING IS OCCUPIED BY FOUR SEPARATE TENANTS/UNITS MAKING IT A COMMERCIAL WHILE BEING RESI

This building has been inspected and the following violations of the Code of Virginia, Title 36, The Virginia Uniform Statewide Building Code and the Code of the City of Richmond have been found:

- ☒ Section 110.5 of the Virginia Uniform Statewide Building Code - Working without a valid permit posted
- ☒ Section 108.1 of the Virginia Uniform Statewide Building Code - Working prior to the issuance of a building permit
- ☒ Section 109.5 of the Virginia Uniform Statewide Building Code - Failure to have approved construction plans available on site
- ☒ Section 113.3 of the Virginia Uniform Statewide Building Code - Failure to obtain inspections
- ☐ Section 14-81 of the Code of Ordinances of the City of Richmond: Working without a contractor's license
- ☐ Section 114-930.6 of the Code of Ordinances of the City of Richmond: Certificate of Appropriateness
- ☐ Other: _____

All activities involved in the work cited above must cease immediately. Permitted activities not involved in the cited work above may continue as long as they do not conceal or otherwise affect the work cited above. Correction of all of the above conditions shall be made by 5/8/2024. If the notice is not complied with, the property owner, his agent, permit holder and/or contractor shall be subject to the penalties prescribed in the Code of Virginia, Title 36-Section 106; Section 105 of the Virginia Uniform Statewide Building Code and Ordinances of the City of Richmond. The following action shall be taken before any work resumes:

- ☒ Obtain a Building Permit
- ☒ Obtain an Electrical Permit
- ☒ Obtain a Mechanical Permit
- ☒ Obtain a Plumbing Permit
- ☐ Obtain a Plumbing/Gas Permit
- ☐ Obtain a report by a registered Virginia professional engineer
- ☒ Post valid permit on site
- ☒ Keep approved plans on site and available for inspectors
- ☐ Obtain C.A.R. Approval
- ☐ Other: _____

Inspector: ZACHARY SNYDER Telephone No.: 804 658 6447

**A fee payment of $200 is required *before* you may return to work on any permit for which a Stop Work Order has been issued.**
**You have the right to appeal this notice under Section 119 of the Virginia Uniform Statewide Building Code.**
**Please contact us, (804) 646-6955, if you wish to appeal this decision.**

11090 (02/21) 102722-1

Gmail

Sophia Oliveri <sophia.s.oliveri@gmail.com>

# Re: summons 06/12/2024

**Alley, David L. - PDR** <David.Alley@rva.gov> Mon, Mar 10, 2025 at 8:30 AM
To: Sophia Oliveri <sophia.s.oliveri@gmail.com>
Cc: "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>, "Paul, IV. Rick F. - PDR" <Rick.Paul@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

*Sophia Oliveri,*

*Good Morning! I hope today finds you well. Your case will be null-processed since you are no longer associated with the property.*

*Best Regards,*

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

David L Alley III

Commissioner of Buildings

804-513-6939

david.alley@rva.gov

900 E. Broad St., Room 110, Richmond, Va. 23219-1907

Visit Our Website at: https://www.rva.gov/planning-development-review/permits-and-inspections

**From:** Sophia Oliveri <sophia.s.oliveri@gmail.com>
**Sent:** Friday, March 7, 2025 11:55 AM
**To:** Alley, David L. - PDR <David.Alley@rva.gov>
**Subject:** Re: summons 06/12/2024

This letter is to confirm that when I first viewed the property at 1321 Porter St in Richmond VA in 1985, it consisted of 3 separate units, one in the front on the first floor, one in the back on the first floor, and one on the second floor, all with kitchens and bedrooms and bathrooms. I purchased the property in 1989 and repairs and work were done over the years but no units or structural walls of the building were changed or removed.

When the partial 3rd floor addition was added in 2020 I had no knowledge that the contractors performing the work did not have all of the proper permitting and I have had no ownership interest in the property since March 2021.

Sign Print Date

Acknowledgment Notary Certificate (Only for use in AR, AZ, CO, CT, DC, DE, GA, ID, IA, IL, KS, KY, MA, MD, ME, MN, MO, MT, NH, NJ, NM, NY, NV, NC, OH, OK, OR, PA, RI, SC, TX, UT, VA, WA)

Document Name: This letter is to confirm that when I first viewed the property at 1321 Porter St in Richmond VA in 1985

STATE OF Virginia
COUNTY OF Richmond
(County where notarization occurred)

This record was acknowledged before me on 21st day of March, 2026, by _____ (name(s) of signer(s)), who personally appeared before me and (is personally known to me or whose identity was proved on the basis of satisfactory evidence) to be the person whose name is subscribed to in this document.

DANA SWEID
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES APRIL 30, 2029

(Signature of notary public)

Dana Sweid, Notary Public
(Name of notary public)

Official Seal

My commission expires: April 30 2029

Personally known _____ OR
Produced identification ✓ Type of identification produced: VA DL

**NOTICE OF VIOLATION - UNSAFE STRUCTURE**
**Amended**
**City of Richmond**
**Department of Planning & Development Review**
**Property Maintenance Division**
**900 E. Broad Street, Room G-12**
**Richmond, Virginia 23219**
**August 28, 2024**

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 Porter St. LLC & Emily Pinchbeck
9169 W State St
# 652
Garden City, ID 83714 - 1733

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the City may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**
106.1 US - Unsafe Structures

**NOTICE OF VIOLATION - UNSAFE STRUCTURE**
**Amended**
**City of Richmond**
**Department of Planning & Development Review**
**Property Maintenance Division**
**900 E. Broad Street, Room G-12**
**Richmond, Virginia 23219**
**August 28, 2024**

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 Porter St, LLC & Sophia Oliveri
1321 Porter St Apt C
Richmond Va 23224

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the City may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**
106.1 US - Unsafe Structures

City altered the 8/28/2024 NOV pending in the circuit court and enforced it against Emily Pinchbeck in her individual capacity in a lower court

Exhibit 33

## Request #FOIA-2026-260 Click here to scroll down and download your records.

*All FOIA submissions are mandated to be facilitated through the JustFOIA software. Records as reflected in the attachment entitled, "6-9-2026 FOIA".*

**You have 1 fee due for this request. Please click the "Pay Fee" button to make a payment, or you may contact the organization to pay this fee.**

### Details

**Submitted**
Wed, Jun 17, 2026

**Status**
Completed

**Name of Requestor**
Emily Pinchbeck, Manager - 1321 Porter ST, LLC

**Email**
1321porterstllc@gmail.com

**Phone**
8044372227

**Address**
1321 Porter ST

**City**
Richmond

**State**
Virginia

**Zip**
23234

***Please check this box if you are making a Media Request.***

false

**Department Requesting Records From**

Planning & Development Review

**Description of Request** (Be as specific as possible, including name, dates, case numbers, etc., if known.)
Records as reflected in the attachment entitled, "6-9-2026 FOIA".

**I request (*select one*):**
Electronic Copies through the JustFOIA Public Portal

**Requested Documents**

| Folder Location | File | Description | Size | Uploa |
|---|---|---|---|---|
| | 1321 Porter ST - NOV 20260311.pdf | | 44.97 KB | 06/23/ |

Rows per page: 5 1-1 of 1

DOWNLOAD ALL

### Fees



The City admitted that no record exists supporting the 3/11/2026 enforcement action other than the 3/11/2026 NOV itself

Exhibit 34




This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

ACCESSIBILITY POWERED BY JUSTFOIA

June 9, 2026

Mr. Isaac Marks
Freedom of Information Act Officer
City of Richmond
Department of Planning and Development Review
900 E. Broad Street
Richmond, Virginia 23219

Dear Mr. Marks,

Pursuant to the Virginia Freedom of Information Act, Va. Code § 2.2-3700 et seq., access to and copies of the following public records are hereby requested.

For purposes of this request, the term "records" includes, without limitation, emails, text messages, instant messages, memoranda, notes, reports, inspection records, field notes, photographs, videos, correspondence, draft documents, calendar entries, permit records, metadata, electronically stored information, and records maintained on personal devices or accounts if used for public business. Unless otherwise specified, the term "City" includes all City departments, employees, officials, contractors, consultants, agents, and representatives acting on behalf of the City of Richmond.

**Please identify each responsive record by the specific request or requests to which it corresponds. If a record is responsive to more than one request, it may be identified as responsive to multiple request numbers.**

1. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City of Richmond and in its possession on April 10, 2026, at or around 9:00 a.m. supporting a lawful factual basis for enforcement action taken on that date under 13VAC5-63-490 § 106.1, which states: "Structures which become unsafe during construction are regulated under the VCC."

2. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the existence of a real and known unsafe condition relied upon on April 10, 2026, that did not become unsafe during construction, including records reflecting the specific date and time the building official determined the structure to be unsafe.

3. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City and in its possession on April 10, 2026, at or around 9:00 a.m. supporting a lawful factual basis for enforcement action taken on that date under 13VAC5-63-180 § 118.3.1, which states: "If the building official determines there is actual and immediate danger to the occupants or public, or when life is endangered by the occupancy of an unsafe building or structure, the building

official shall be authorized to order the occupants to immediately vacate the unsafe building or structure."

4. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the existence of a real and known condition that constituted an "actual and immediate danger to the occupants" on April 10, 2026, at 9:00 a.m.

5. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting an unsafe condition allegedly newly discovered on April 10, 2026, which had not previously been identified by the City as compatible with continued first- and second-floor occupancy.

6. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting its representation that the building structure was unsafe for occupancy on April 10, 2026, but not between April 3, 2026 and April 9, 2026.

7. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting its determination that the building structure was unsafe for occupancy on April 10, 2026, including all records supporting the City's determination that such conditions warranted restriction of occupancy while simultaneously permitting continued access to the building by tenants for entry, exit, and ongoing use.

8. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting any condition that the City continues to rely upon as constituting an actual and immediate danger to occupants sufficient to deny displaced tenants access to their homes and personal belongings.

9. On August 21, 2024, and again on November 15, 2024, the City represented the conditions identified in the attached document to be compatible with continued first- and second-floor occupancy. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting its subsequent determination that those same conditions became incompatible with occupancy as of April 10, 2026.

10. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City that support, relate to, contradict, qualify, undermine, or call into question the determination that any condition allegedly constituting an immediate and imminent threat to health and safety on April 10, 2026 was newly emergent, newly discovered, materially changed, or otherwise different from conditions known to the City before April 10, 2026.

11. On May 13, 2024, July 16, 2024, and July 24, 2025, the City was informed of the continued use of the rear first-floor unit, and on August 21, 2024, November 15, 2024, and July 24, 2025 expressly authorized its continued use. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City and in its possession on March 11, 2026, at 12:09 p.m. supporting a lawful factual basis for discontinuing that previously authorized use.

12. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting a newly emergent condition that constituted an immediate and imminent threat to health and safety on March 11, 2026.

13. Please produce all records created, generated, transmitted, or issued by the City prior to 12:09 p.m. on March 11, 2026 reflecting any request made to the owner, the owner's agent, tenants, occupants, or any other person to verify occupancy of the rear first-floor unit or third floor, including all records identifying the date, time, recipient, and method of each such request.

14. Please produce all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City reflecting unsafe conditions identified during the April 26, 2024 inspection that were not relied upon to deny use of the third floor and rear first-floor unit when access was authorized by the City on July 24, 2025, but were subsequently relied upon to deny access or use on March 11, 2026.

15. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting an immediate and imminent threat to the health and safety of occupants that allegedly existed on March 11, 2026, but did not constitute such a threat between July 24, 2025 and March 10, 2026.

16. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City, and in its possession prior to 12:09 p.m. on March 11, 2026, supporting the material facts and probable cause asserted in the warrant affidavit as the basis for verifying that the third floor and rear first-floor unit were "not being lived in", including all records supporting the City's determination of an immediate and imminent threat to the health and safety of occupants. This request includes all records identifying the specific condition or conditions relied upon, the factual basis for asserting a need to verify occupancy, and the exact date and time the City first became aware of such condition or conditions.

17. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City, and in its possession prior to 12:09 p.m. on March 11, 2026, demonstrating the factual basis and probable cause asserted in support of the need to verify the alleged "crypt/cellar" identified in the warrant affidavit, including all records supporting the City's determination that it constituted an immediate and imminent threat to the health and safety of occupants in an

unattached building structure. This request includes all records identifying the specific condition relied upon and the exact date and time the City first became aware of that condition.

18. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City identifying any immediate and imminent threat to health and safety allegedly resulting from placard removal on May 28, 2024, which the City relied upon as probable cause on March 11, 2026, but which did not constitute an immediate and imminent threat to health and safety when City personnel photographed and documented the third floor and rear first-floor unit on November 21, 2024, and February 26, 2025, including specific locations where the City observed that the previously posted placards had been removed.

19. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City, and in its possession prior to 12:09 p.m. on March 11, 2026, demonstrating the factual basis and probable cause asserted in support of the need to verify engineering inspections identified in the warrant affidavit, including all records supporting the City's determination that verification of those engineering inspections constituted an immediate and imminent threat to the health and safety of occupants. This request includes all records identifying the specific condition or conditions relied upon, the factual basis for asserting a need to verify engineering inspections that had been performed months or years earlier, and the exact date and time the City first became aware of such condition or conditions.

20. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City, and in its possession prior to 12:09 p.m. on March 11, 2026, in support of each factual assertion identified as a "material fact" in the sworn affidavit submitted in support of the March 11, 2026 inspection warrant, including all records supporting the existence of probable cause, all records supporting the existence of an immediate and imminent threat to health and safety, all records supporting the need for immediate inspection or verification of any condition identified in the affidavit, and all records identifying the specific condition or conditions relied upon and the exact date and time the City first became aware of such condition or conditions.

    To the extent the City contends that any material fact, condition, threat, or basis for probable cause identified in the affidavit was supported by information not reflected in documentary records, please identify all records reflecting the source, date, and substance of such information.

21. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City that support, relate to, contradict, qualify, undermine, or call into question any material fact, probable cause determination, immediate and imminent threat determination, or safety-related assertion contained in the March 11, 2026 warrant affidavit.

22. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the existence of a physical condition that changed between July 24, 2025 and June 5, 2026, including all records identifying the specific condition or conditions relied upon, the factual basis for the determination that such condition or conditions had changed, the exact date and time the City first became aware of such change, and the exact date and time the City determined that the change was relevant to any enforcement action, occupancy restriction, unsafe structure determination, or denial of access relating to 1321 Porter St.

23. Please identify and provide all Notices of Violation naming 1321 Porter St, LLC as the responsible party that have never been deactivated and removed from the City of Richmond Online Permit Portal.

24. Please identify and provide all Notices of Violation naming 1321 Porter St, LLC as the responsible party that correspond to violations alleged to have occurred within one year prior to issuance and remain legally enforceable pursuant to Va. Code § 19.2-8.

25. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting a lawful factual basis for any Notice of Violation issued to 1321 Porter St, LLC that has not been deactivated, rescinded, or otherwise rendered unenforceable.

26. Please produce the photograph or photographs taken on or about April 24, 2024, by Zachary Snyder depicting a Notice of Violation affixed to the door of Apt. C and identifying Sophia Oliveri as the responsible party.

27. Please produce the written notice of unsafe structure issued to the owner, the owner's agent, or the person in control of the structure, together with all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City identifying the specific unsafe condition or conditions discovered during the April 26, 2024 inspection, the exact date and time the code official determined that 1321 Porter St constituted an unsafe structure based upon those conditions, and the factual basis supporting that determination, as required by 13VAC5-63-490 § 106.3, which states: “When a structure is determined by the code official to be an unsafe structure, a written notice of unsafe structure shall be issued by personal service to the owner, the owner's agent, or the person in control of such structure.”

    This request includes all records identifying the date and time the unsafe condition or conditions were first discovered, the date and time the determination of unsafety was made, and the date, time, and method by which the required notice was issued.

28. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City identifying the provisions of the Uniform Statewide Building Code, Virginia Maintenance Code, or any other law, regulation, ordinance, policy, or authority relied upon by the City to prohibit, restrict, or deny access to a residential dwelling unit by an occupant, tenant, resident, owner, or lawful user of the property, including all records identifying whether such authority is predicated upon the existence of an unsafe condition, emergency condition, or actual and immediate danger. This request further includes all records identifying the specific condition or conditions, if any, relied upon by the City in connection with the April 29, 2024 occupancy restrictions, the inspection from which such condition or conditions were identified, the exact date and time the City first became aware of such condition or conditions, and all records reflecting the City's awareness of the affected residential occupancies prior to imposing such restrictions.

29. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the determination that 1321 Porter St was unsafe for occupancy on April 29, 2024, but was not determined to be unsafe for occupancy on April 18, 2024, April 24, 2024, or April 26, 2024, including all records identifying the specific condition or conditions relied upon, the factual basis for that determination, the exact date and time the City first became aware of such condition or conditions, the exact date and time the code official determined the structure to be unsafe for occupancy, and all records reflecting any change in conditions occurring between April 18, 2024 and April 29, 2024.

30. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the existence of a real and known unsafe condition on April 29, 2024 that did not become unsafe during construction, including all records identifying the specific condition or conditions relied upon, the factual basis for the determination, the exact date and time the City first became aware of such condition or conditions, and the exact date and time the building official determined the structure to be unsafe.

31. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City that support, relate to, contradict, qualify, undermine, or call into question the determination that an immediate and imminent threat to health and safety existed on April 29, 2024, including any records reflecting that the same conditions were known to the City before April 29, 2024 or were previously determined to be compatible with continued occupancy.

32. Please produce any and all emails, text messages, instant messages, memoranda, notes, correspondence, meeting records, calendar entries, draft documents, and other records discussing, recommending, authorizing, approving, directing, implementing, or questioning the April 29, 2024 occupancy restrictions, the March 11, 2026 warrant application and enforcement actions, or the April 10, 2026 tenant displacement and occupancy restrictions.

33. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City that support, relate to, contradict, qualify, undermine, or call into question the determination that the physical conditions of the existing building at 1321 Porter St on April 29, 2024, March 11, 2026, or April 10, 2026 were materially different from the physical conditions that existed during periods when the Property was occupied and such occupancy was known to, observed by, permitted by, or otherwise accepted by the City.

**To the extent any request seeks records that do not exist, please identify the specific request and state that no responsive records exist rather than producing nonresponsive records in lieu of a response.**

To the extent any requested records are withheld, please identify the specific statutory exemption relied upon for withholding each record, as required by Va. Code § 2.2-3704(B). To the extent any responsive records previously existed but have been deleted, destroyed, removed, modified, archived, superseded, or otherwise disposed of, please identify the record, the approximate date of disposition, the individual authorizing the disposition, and the authority under which the disposition occurred.

If the cost of fulfilling this request will exceed $200, please notify me in advance with an itemized estimate.

**To avoid unnecessary production and expense, please limit the response to records that are reasonably responsive to the scope of each request. Records known by the City to fall outside the scope of a particular request need not be produced.**

Please preserve all records potentially responsive to this request, including electronically stored information, emails, text messages, photographs, notes, drafts, metadata, and other communications, pending completion of production and resolution of related proceedings. Thank you for your prompt attention to this request. Please provide the response in electronic format whenever practicable.

As required by Va. Code § 2.2-3704, a response is due within five (5) working days. Thank you for your prompt attention to this matter.

Sincerely,

1321 Porter St, LLC
Emily Pinchbeck, mgr.

**From:** Marks, Wirt P. - City Attorney <Wirt.Marks@rva.gov>
**Subject:** RE: Virginia FOIA Request – Legal and Factual Basis for March 11, 2026 Notice of Violation
**To:** Vonck, Kevin J. - PDR <Kevin.Vonck@rva.gov>
**Cc:** Marks, Isaac R. - PDR <Isaac.Marks@rva.gov>; OSC FOIA <osc.foia@rva.gov>; Daniel-Thiem, Kristina M. - PDR <Kristina.Daniel-Thiem@rva.gov>; Bowman, Sherri M. - PDR <Sherri.Bowman@rva.gov>; Alley, David L. - PDR <David.Alley@rva.gov>; Paul, IV. Rick F. - PDR <Rick.Paul@rva.gov>; Lukanuski, Greg A. - City Attorney <Greg.Lukanuski@rva.gov>; Donald, Odie - CAO <odie@rva.gov>
**Sent:** April 10, 2026 1:20 PM (UTC+00:00)
**Attached:** Untitled attachment

We are under no obligation under FOIA to create records that do not exist so that is a legitimate response.

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**From:** Vonck, Kevin J. - PDR <Kevin.Vonck@rva.gov >
**Sent:** Thursday, April 9, 2026 4:36 PM
**To:** Marks, Wirt P. - City Attorney <Wirt.Marks@rva.gov >
**Cc:** Marks, Isaac R. - PDR <Isaac.Marks@rva.gov >; OSC FOIA <osc.foia@rva.gov >; Daniel-Thiem, Kristina M. - PDR <Kristina.Daniel-Thiem@rva.gov >; Bowman, Sherri M. - PDR <Sherri.Bowman@rva.gov >; Alley, David L. - PDR <David.Alley@rva.gov >; Paul, IV. Rick F. - PDR <Rick.Paul@rva.gov >; Lukanuski, Greg A. - City Attorney <Greg.Lukanuski@rva.gov >; Donald, Odie - CAO <odie@rva.gov >
**Subject:** RE: Virginia FOIA Request – Legal and Factual Basis for March 11, 2026 Notice of Violation

Understood. We will continue to do so. Also with the understanding that some of these records do not exist. \\ kjv



Kevin J. Vonck, Ph.D.
Director
(o) 804-646-3741 (c) 804-292-4854
(e) kevin.vonck@rva.gov
(w) rva.gov/planning-development-review
(m) 900 E. Broad St., Room 511, Richmond, Va. 23219-1907

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**From:** Marks, Wirt P. - City Attorney < Wirt.Marks@rva.gov >
**Sent:** Thursday, April 9, 2026 1:52 PM
**To:** Vonck, Kevin J. - PDR < Kevin.Vonck@rva.gov >
**Cc:** Marks, Isaac R. - PDR < Isaac.Marks@rva.gov >; OSC FOIA < osc.foia@rva.gov >; Daniel-Thiem, Kristina M. - PDR < Kristina.Daniel-Thiem@rva.gov >; Bowman, Sherri M. - PDR < Sherri.Bowman@rva.gov >; Alley, David L. - PDR < David.Alley@rva.gov >; Paul, IV. Rick F. - PDR < Rick.Paul@rva.gov >; Lukanuski, Greg A. - City Attorney < Greg.Lukanuski@rva.gov >; Donald, Odie - CAO < odie@rva.gov >
**Subject:** RE: Virginia FOIA Request – Legal and Factual Basis for March 11, 2026 Notice of Violation

Kevin,

You still need to process and respond to all FOIA request from her under normal FOIA law and protocol. If you could email me any responsive records that would be great. Thanks.

Wirt

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# FOIA Request - Verbal - 1321 Porter

**PDR FOIA** <pdr.foia@rva.gov> Fri, Mar 20, 2026 at 4:05 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Daniel-Thiem, Kristina M. - PDR" <Kristina.Daniel-Thiem@rva.gov>, "Bowman, Sherri M. - PDR" <Sherri.Bowman@rva.gov>, "Paquette, Karen - PDR" <Karen.Paquette@rva.gov>

March 20, 2026

https://studio.bluebeam.com/share/$TFpkUkxncFN6emJ -- 1321 Porter ST – Property File Contents (FULL)

**Emily Pinchbeck**
Citizen
1321 Porter ST

**RE: CO-179899-2026 (1321 Porter St Richmond, VA 23224) – Property File Contents**

Dear Ms. Pinchbeck:

Pursuant to the matter listed above, and in accordance with the ***Code of Virginia § 2.2-3704*** *of the Virginia Freedom of Information Act,* please find contained herein document(s) as presented by me, the custodian of records on behalf of the Department of Planning and Development Review – Bureau of Permits and Inspections for the City of Richmond.

Be advised, while time will vary the appearance of multifunctional applications, the requirements of the core qualifiers will not, particularly with respect to a Certificate of Occupancy and its approval. While item 5 in the archived materials is a multifunctional application (dated, as 10/3/1983), its use in that instance was related to trade work (electrical), and not as a Certificate of Occupancy to sanction its habitation as a completed project. At that stage in time, this iteration of document was utilized by Zoning, Building and Trades, as well as other ancillary uses. For that document to render a declaration as a Certificate of Occupancy, there were very specific items which would have been in place, none of which were reflective in this document. We took the liberty of providing the entirety of the property file contents to deliver as succinct a chronology of events at the site as possible, over time. It is very important to us that you have as much as access as we have to your property's information. Hence, we've imaged the archives and provided it in its entirety.

As always, we welcome this opportunity to assist you.

Sincerely,

City admitted 1983 Certificate of Occupancy does not exist

Isaac Marks

Freedom of Information Officer

Bureau of Permits and Inspections

The City admitted the statute of limitation had run

that have been added. They cannot be occupied because they do not have any permits, any inspections, any approval. They don't have the proper requirements as the sprinkler and so they can't be occupied. I would like to go to, how many minutes do I have left sir?

CHAIRMAN DAWSON: Five.

MR. ALLEY: Limitation of the prosecutions. I will say this, under Virginia code 19.2-8, the city feels like the, it's a different charge, it's a different circumstance. When the NOV was written for in 2021, I can agree that the statute of limitations had ran out on that. but that was just for not getting a permit at that time. Stop the construction, stop the work. They never followed through, somehow we missed it. And then when we came back to this location, we seen that they had finished the floor and occupied it. They made it a totally different situation. It is no longer under construction, therefore we feel that it is a property maintenance issue and that the unsafe was the right way to go. And therefore, our time started when we wrote that notice when it was discovered on 4/26 of 2024 and that is where we are today. That's all I have at this point.

CHAIRMAN DAWSON: Thank you Mr. Alley. Back to the appealing party. Do you have any questions?

MR. SHERMAN: I do, yes sir.

**Alley, David L. - PDR**

**From:** Snyder, Zachary C. - PDR
**Sent:** Wednesday, June 12, 2024 8:21 AM
**To:** Alley, David L. - PDR
**Subject:** 1321 Porter St

To who it may concern,

I; Zachary Snyder City of Richmond Building Inspector, issued a NOV/SWO to Sofia Oliveri on January 7th 2021. The NOV/SWO was handed directly to Sofia Oliveri on the side of the Residence while Contractors were still working on the addition to the 3rd Floor.

Zachary Snyder
Building Code Enforcement Inspector 1

City admitted to discovery of rear first floor unit, completed and occupied, no later than 1/7/2021

City of Richmond
Department of Planning and Development Review
900 East Broad Street, Room 110
Richmond, Virginia 23219
Cell: 804-658-6447
Zachary.Snyder@RichmondGov.com
Zachary.Snyder@RVAGov.com

September 27, 2024

Members of the Building Code Technical Review Board,

Sophia Oliveri has a 0% ownership interest in 1321 Porter St. LLC and a 0% ownership interest in the property at 1321 Porter St., Richmond VA 23224 and that was true on April 26, 2024 and January 7, 2021 as well. In January of 2021, Aly Hawash was the sole owner of 1321 Porter St. and he also has a 0% ownership interest in 1321 Porter St, LLC.

In April of 2024, Sophia Oliveri was actually a tenant who attempted to help the other tenants and the Department of Permits and Inspections, outside of the scope of her job, and then was permanently removed from her home of 10 years, by the Department of Permits and Inspections.

The facts are that the building is and always was safe, there were zero stress indicators per 5 engineers, the building has been occupied again since May 28, 2024, and, as the manager for the owner since it became an active business in May of 2024, I learned about the 3rd floor addition and I began the retroactive permitting process for the prior owner on June 7, 2024.

Emily Pinchbeck, Manager

1321 Porter Street LLC.

**Individual Acknowledgement**

State/ Commonwealth of Virginia

County of Chesterfield

On this the 27th day of September 2024

Day Month

Meagan Danielle Thorpe

Name of Notary Public

MEAGAN DANIELLE THORPE
NOTARY PUBLIC
REG. #8057216
MY COMMISSION EXPIRES
06/30/2027
COMMONWEALTH OF VIRGINIA

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# N.O.V. Request

**Alley, David L. - PDR** <David.Alley@rva.gov> Sat, Dec 21, 2024 at 12:23 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

*Emily Pinchbeck,*

*Good Afternoon. Thank you for the quick response. I'm very sympathetic for you as an the agent and for the owner of the property because it appears you have inherited this issue from others, I'm also trying very hard to assist you in moving this project to permitting. A couple of quick questions- Do you have your plans ready and prepared by an architect for the 3rd floor and stairs? When do you plan to submit this documentation for the building permit? And Why do you feel the NOV's are holding you up from submitting?*

[Quoted text hidden]

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

**image001.png**
261K

The Building Commissioner, David Alley, acknowledged that 1321 Porter St LLC was a new and different owner that did not perform construction.

Exhibit 40



RICK PAUL: Gentlemen, Madam Secretary, Mr. Chairman. I'm Rick Paul. I'm the Program Operations Manager for Inspections for the City of Richmond Building Inspections. I'm just going to give some facts here real quick. 1321 Porter Street is a two-family R-5 dwelling. Third story of this building was built without permits or inspections, including all trades for a building unit, electrical, plumbing, and mechanical. The rear first floor behind the actual original structure was renovated without permits or inspections. There has also been cellar constructed without permits or inspections. There have been alterations to the staircase in the rear without permits or inspections. The building has also been used in a multi-family while previously it was a one and two-family dwelling. The building was placarded as unsafe on 4-26-2024, and no occupancy was allowed for the above violations. On 5-28-2024, Building Commissioner Alley allowed occupancy back for the first and second floor of the main structure with an email listed as Exhibit G. Stating no other occupancy shall be allowed for the third floor or rear first floor unit at this time until all permits, inspections, and final certificate of occupancy has been issued for a multi-family building. No permits have been issued as of this date. On March 11, 2026, a new notice of violation and Administrative Search Warrant was issued for 1321 Porter Street, LLC, Emily Pinchbeck. This was done because we have 17 cease-and-desist emails from Miss Pinchbeck stating we weren't allowed in the property. The search warrant was to verify no occupancy for the third floor and the rear first floor and subsequent cellar. This was also done to re-placard these areas, as they had been re-occupied without permits or inspections from the City of Richmond nor express permission from Commissioner Alley. And these placards were upheld by the original local board of appeals hearing and the state board of appeals hearing. And that's really all we have to present on this at this point. Thank you.

On 5/20/2026 Rick Paul testified to the local board that the SBCTRB "upheld" the City's decision to placard the building on 3/11/2026

**NOTICE OF VIOLATION - UNSAFE STRUCTURE**
Amended from Original Notice Dated August 28, 2024
City of Richmond
Department of Planning & Development Review
Property Maintenance Division
900 E. Broad Street, Room G-12
Richmond, Virginia 23219
April 10, 2026

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 PORTER ST LLC
9169 W STATE ST #652
GARDEN CITY ID 83714

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000171019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the city may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**
106.1 US - Unsafe Structures

This section shall apply to existing structures which are classified as unsafe. All conditions causing such structures to be classified as unsafe shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or demolished. Vacant and secure structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure constitutes such a hazard that it should be demolished, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirement s this code.

**This Notice of Violation – Unsafe Structures is being amended effective April 10, 2026, and addresses additional unsafe conditions on the property.**

On November 24, 2024, an engineer's report was submitted that indicated that the conditions on the 3rd floor were structurally sound therefore would not have affected the safety of the occupants on 1st and 2nd floor. Based on that report, enforcement actions were initiated accordingly, and the 1st and 2nd floor units were allowed to be occupied. While the 3rd floor unit was placarded as unsafe for the unpermitted work that was done.

On April 3, 2026, this office received a Modification Letter to the Engineer's Report dated November 24, 2024. This report modifies the original conclusions regarding the structural integrity of the building. Based on the updated findings it has been determined that the unsafe conditions identified on the third floor may adversely impact the structural integrity of both the 1st and 2nd floor, thereby rendering it unsafe.

**As a result of these updated findings, this notice hereby amends the original Notice of Violation -Unsafe Structures dated August 28, 2024, as follows:**

- The 1st floor and 2nd floor are hereby declared unsafe for occupancy and ordered to be vacated **effective April 10, 2026 @ 9:00am.**
- This structure will be placarded, and permission will be needed from the City of Richmond to access the property.
- Occupancy of these floors is prohibited until all unsafe conditions have been properly addressed and verified.

**Requirements for Re-Occupancy:**



Exhibit 41

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Nov 4, 2025 at 3:18 PM
To: "Alley, David L. - PDR" <David.Alley@rva.gov>
Cc: "Kyle, Kimberly J. - City Council Office" <Kimberly.Kyle2@rva.gov>, "Robertson, Ellen F. - City Council" <Ellen.Robertson@rva.gov>, "Donald, Odie - CAO" <odie@rva.gov>

Hello Mr. Alley,

Based on the 2 pages of the 1970 Certificate of Occupancy provided to you and knowledge you now have regarding the 55-140 year existence and legal construction of the multifamily property at 1321 Porter St prior to the 1973 adoption of the Building Code, please provide me with a CO that accurately reflects the 3 units that were legally constructed.

Since your department has no documentation to show a permit application and building permit issued to remove one of the existing units in 1983, and due to confirmation from a prior owner that the 3 units continued to exist, we know with certainty that 1321 Porter St was never converted to 2 units. Please provide me with the corrected record that reflects all 3 legally constructed units within 5 days as required by Code.

Sincerely,

Emily Pinchbeck, Mgr
1321 Porter St LLC.

On Mon, Oct 27, 2025 at 11:47 AM 1321PorterStLLC <1321porterstllc@gmail.com> wrote:
[Quoted text hidden]

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Nov 11, 2025 at 11:16 AM
To: "Alley, David L. - PDR" <David.Alley@rva.gov>
Cc: "Kyle, Kimberly J. - City Council Office" <Kimberly.Kyle2@rva.gov>, "Robertson, Ellen F. - City Council" <Ellen.Robertson@rva.gov>, "Donald, Odie - CAO" <odie@rva.gov>

Hello Mr. Alley,

I am reaching out for the 5th time and am requesting the correction of the Certificate of Occupancy to reflect the 3 dwelling units constructed prior to 1970 which I have not yet received.

Sincerely,

Emily Pinchbeck, Mgr
1321 Porter St LLC.

[Quoted text hidden]



Gmail **1321PorterStLLC <1321porterstllc@gmail.com>**

## 7th Request to Update City's CO Information

11 messages

**1321PorterStLLC** <1321porterstllc@gmail.com> Mon, Nov 24, 2025 at 8:47 AM
To: "Alley, David L. - PDR" <david.alley@rva.gov>
Cc: msherman@sandsanderson.com

Hello Mr. Alley,

I am again attempting to move forward and I am requesting for the 7th time that you update the Building Certificate of Occupancy for 1321 Porter St to reflect what the 1970 CO shows has been legally constructed. We now have confirmation from 1970, 1985, and 2015 that this property has existed as a multi-family with more than 2 dwelling units and Occupancy Classification of R-2 since it was legally constructed more than 55 years ago.

On July 24, 2025 you stated to me that a building can have permission from zoning to change but that doesn't make the building legally built in accordance with the zoning change if it was not done with plans, permits, and inspections. We know that there are no plans, permits, and inspection to reduce the number of units to two in 1983

This is my 7th request for you to please assist us in documenting what was indisputably legally constructed prior to Virginia's adoption of the Building Code so that we are able to move on to the 3/4 third floor addition that was allegedly illegally constructed by a prior owner and initially occupied in 2020 and 2021.

Thank you,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.

**Alley, David L. - PDR** <David.Alley@rva.gov> Mon, Nov 24, 2025 at 9:33 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "msherman@sandsanderson.com" <msherman@sandsanderson.com>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

Emily Pinchbeck,

Good Morning. The Bureau of Permits and Inspections in conjunction with Zoning are currently reviewing the records associated with 1321 Porter St, we should have an official response by 12/5/2025.

Thank you for your patience. Best Regards,

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW
David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov
900 E. Broad St., Room 110, Richmond, Va. 23219-1907

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## 7th Request to Update City's CO Information

**1321PorterStLLC** <1321porterstllc@gmail.com> Sun, Dec 7, 2025 at 6:13 PM
To: "Alley, David L. - PDR" <david.alley@rva.gov>
Cc: "msherman@sandsanderson.com" <msherman@sandsanderson.com>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

Mr. Alley,

Even if the application had been approved and a 1983 CO existed, the 1981 building code used in 1983 did not require a CO for legal occupancy nor did it prevent continued use of dwelling units that were not subject to the USBC when constructed, including the rear dwelling unit at 1321 Porter St, which we know has been in use since 1970 at the latest. No change of use is occurring in this unit, which you have known since January 7, 2021 at the latest.

No structural change or heavy alteration was made to the rear unit, which you know due to the 8/12/25 signed stamped PE letter, verifying the original brick frame, window and door lentils, plumbing, and fireplaces. The structure has not changed since it was originally constructed 140 years ago.

The rear first floor unit has the legal right to occupancy per current zoning code, 1981 building code, and most importantly the building code under which it was originally constructed.

Thank you,

Emily Pinchbeck, Mgr.
1321 Porter St LLC.

**Alley, David L. - PDR** <David.Alley@rva.gov> Sun, Dec 7, 2025 at 10:11 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "msherman@sandsanderson.com" <msherman@sandsanderson.com>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Paul, IV. Rick F. - PDR" <Rick.Paul@rva.gov>

*Emily Pinchbeck,*

*Good Morning. I hope today finds you well.*

*The 1970 Certificate of occupancy is superseded by the 1983 certificate of occupancy (Two-family dwelling) A change of use is required to legally establish and obtain a new certificate of occupancy for a 3 or 4 unit multi-family structure.*

*Heavy alterations and structural changes have been completed to the accessory structure (rear of building) by the previous owners. No permits were authorized or inspections conducted. See attached pics.*

*New third floor addition was completed by the previous owner. No permits were authorized or inspections conducted. See attached pic.*

*The Bureau of Permits and Inspections only intent is to achieve code compliance for this unpermitted work completed and to establish the use legally.*

*Best Regards,*

December 5, 2025

Dear Tenants,

This letter is to notify you that the current 1970 Certificate of Occupancy for the property has been identified and attached for your records.

In order to maintain continuity between the governing Certificate of Occupancy and current tenancy documentation, this notice shall serve as an amendment and clarification to your existing lease. You may continue to use and list your address as "Apartment A" for mailing and identification purposes. However, under the original Certificate of Occupancy, your dwelling is technically classified as a rooming house consisting of four sleeping rooms.

This clarification does not change your tenancy, your rights under your lease, or the manner in which you use your home. It is solely an administrative and occupancy-classification clarification intended to maintain consistency with the existing Certificate of Occupancy.

Because the occupants are unrelated individuals residing in separate sleeping rooms with shared kitchen and bathroom facilities, the use is consistent with the 1966 Certificate of Occupancy that establishes a rooming house with four rooms on floor "upper (two)" and the 1970 Certificate of Occupancy, which establishes two apartments on the first floor and the same rooming house with four rooms on the second floor. We have requested that the City update their record to reflect your unit as an apartment but they have declined to do so. The use as a rooming house or apartment is permitted under the City of Richmond Zoning Ordinance 2024-282 adopted December 9, 2024, which allows up to four dwelling units.

Although Virginia did not adopt a statewide building code until September 1, 1973, approximately three and one-half years after issuance of the current and governing Certificate of Occupancy, the current occupancy classification would now fall within Group R-2 occupancy under modern code terminology, defined as sleeping units or buildings containing more than two dwelling units where occupants are primarily non-transient.

No action is required from you at this time. Thank you for your patience and cooperation as we work to ensure that all property records remain accurate and consistent.

Sincerely,

Emily Pinchbeck, mgr.
1321 Porter St LLC

[redacted], RM-1

BEFORE THE

STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of 1321 Porter St. LLC.

Appeal No. 25-07

Board Members:

Vince Butler

J. Daniel Crigler

James R. Dawson, Chairman

Alan D. Givens

David V. Hutchins

Christina Jackson

Joseph A. Kessler III

Robert Jonah Margarella, AIA, NCARB, LEED AP

Eric Mays, PE, CBO

Joanne Monday

James S. Moss

W. Shaun Pharr, Esq., Vice Chairman

Elizabeth C. White

Aaron L. Zdinak, PE

W. Travis Luter Sr., CBO, Secretary

BY: Michael Marciniak, CET



MR. ALLEY: I have not accepted any of those reports yet. These are reports I have not received. If they came in they would've had to come in with the permit, the building permit for us to review. There's a lot of discrepancies in those.

MS. JACKSON: So, I have a question for you.

MR. ALLEY: Yeah.

MS. JACKSON: On page 176 that's described in this report, if you received that, would that require what's described in this on this page 176 on photo number four, would that description require a permit under the Virginia Construction Code?

MR. ALLEY: Yes ma'am.

MS. JACKSON: And on page 178, under photo number seven, would the additional posts that's described in this report, would that require a permit?

MR. ALLEY: Yes ma'am.

MS. JACKSON: And would that be construed as faulty construction since it's already been done in the building?

MR. ALLEY: Yes ma'am.

MS. JACKSON: All right. That's all the questions I have Mr. Chair.

CHAIRMAN DAWSON: Thank you. Mr. Pharr.

MR. PHARR: Mr. Sherman, the Virginia Maintenance

approval doesn't matter here.

MS. PINCHBECK: This is for the building itself having three units.

MR. MAYS: Is it in the record and can you give me a page number?

MS. PINCHBECK: It is not on the record, I have the certificate of occupancy. I did a FOIA request after the final submission.

MR. MAYS: If I can ask the city, is there anything in the record in here that gives us the CO you referred to?

MR. ALLEY: It is there was a document submitted by the owner in 1978 I believe to change back to a two family. What she's referencing there is that if we could see the CO then I can expand on it a little bit more.

MR. MAYS: Well, it's not in the record, so I'm not sure that's okay or not.

MR. ALLEY: We do not recognize that as a valid CO at this point because a CO is issued later.

MR. MAYS: Okay. I'm sorry, I'm going to jump here. So, it's your testimony, even though it's not in the record here, that the existing CO is for a one and two-family dwelling?

MR. ALLEY: Correct.

MR. MAYS: Okay. So going back to Mr. Sherman,



MR. MAYS: Okay. Well, the notice of violation is for an unsafe and we, I'm going to advocate it is unsafe because you've done an illegal change of use.

MR. SHERMAN: I understand your position.

MR. MAYS: Now going to the city though, in fairness to your argument, why didn't you issue a Virginia construction code violation for the unpermitted work?

MR. ALLEY: I brought that up with the city attorney and was advised to take the action that I did.

MR. MAYS: Okay. And the city would've been better served to issue separate violations under both codes because the argument he's making on its surface appears to be valid. You have unpermitted work that is controlled by the VCC, which you have not issued a violation it is for. So that creates confusion. So, I'm just, y'all get to respond in closing arguments.

MR. ALLEY: Can I just respond on my end?

MR. MAYS: Yes, go ahead. That was a long-winded question and both of you can respond if you like.

MR. ALLEY: It had been mentioned that we keep saying that it's new work if it has been totally completed and there was not work being done and the time restraints as he says has ran out, wouldn't it now be existing property?

MR. MAYS: No. The definition of an existing

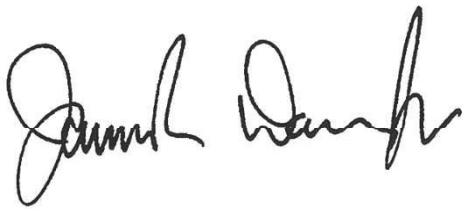
Code (VRC) to a multi-family structure under the VCC, creating an increase in safety requirements and a more hazardous condition; therefore, the structure was unsafe.

## IV. Conclusion

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

A. Whether to rescind the Notice of Violation-Unsafe Structure.

The decision of the City and local appeals board to issue the Notice of Violation-Unsafe Structure, is upheld, because the work performed on the structure constituted a change of use from an existing one-and-two-family dwelling structure under the VRC to a multi-family structure under the VCC creating an increase in safety requirements and a more hazardous condition; therefore, the structure is unsafe.



Chair, State Building Code Technical Review Board

Date entered _____January 16, 2026_____

As required by VCC 119.9: "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".

**Louisa Engineering, LLC.**
**1065 Jouett School Road**
**Mineral, Virginia 23117**

**Cell: 804.512.4865** **Email:** john@louisaengineering.com

August 12, 2025

Ms. Emily Pinchbeck – Property Manager
1321 Porter Street
Richmond, VA

**RE: 1321 Porter Street, Richmond, VA**

**Ascertaining The Time of Construction of Unit C**

I performed a visual inspection of 1321 Porter St, Richmond VA 23224, and documented my observations and findings in a letter that was VA PE sealed and dated November 14, 2024. During this review I also looked at the rear one-story dwelling (Unit C) and have concluded that it was constructed on or around the same time period as the original structure.
Reasons for this are as follows:

1. The courses of brick-and-mortar match those of the front portion of the building.

2. I observed original doorways, window openings and lentils as well as metal plumbing drain pipes in the floor indicating them to be of similar age. I further observed a terracotta flue that indicates the period of construction. Also observed is a larger fireplace in this unit with construction and detailing that matches the time frame and style in which the rest of the structure was built.

3. We believe that Unit C was intended to be used as a separate dwelling unit for domestic help in the late 1800's.

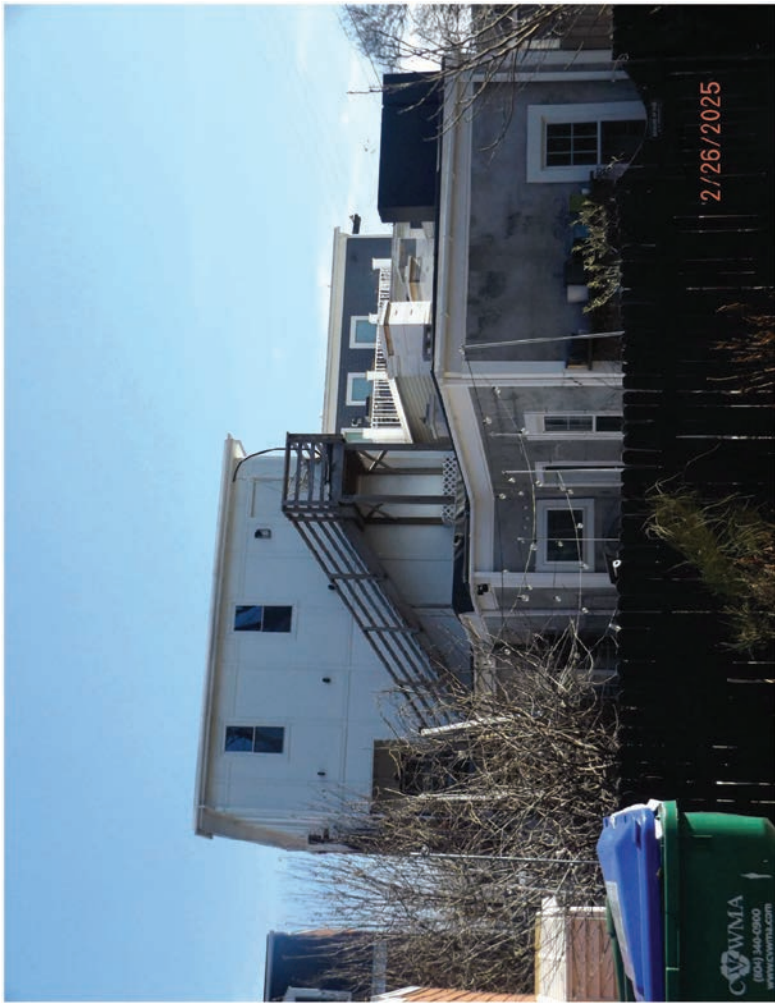
4. There is a property plat derived from city records that shows rear dwelling Unit C.

Conclusion
Since dwelling Unit C predates the Building Code of Virginia and City of Richmond Occupancy Permits, documentation of it could not be found. However, due to similar construction types it can be reasonably concluded that the rear unit was constructed on or around the time of the original building construction.
Note that the 3rd story addition built in 2020 does not affect the existing units nor the occupancy that existed prior to the introduction of the building code.

Sincerely,

John H. Nedza, PE
Structural Engineer

COMMONWEALTH OF VIRGINIA
JOHN H. NEDZA
Lic. No. 13290
8/12/25
PROFESSIONAL ENGINEER










2/26/2025 City records prove they knew 3rd floor was not placarded and was being used.

4/26/2024 inspection alleged the 150-year-old "Apt. C" was an addition and did not identify the unsafety or any violation at the time of discovery

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Follow Up on Ord. 2024-282 Application

1 message

**1321PorterStLLC** <1321porterstllc@gmail.com> Fri, Sep 12, 2025 at 3:33 PM
To: "Alley, David L. - PDR" <david.alley@rva.gov>

Mr. Alley,

I have submitted the permit application to comply with Ord. 2024-282. I wanted to reach out to you personally to let you know that this is not instead of getting the as-built plans that you have stated you need but it is addressing what legally needs to be addressed so that there is no confusion or conflation in the future. An architect is working on those plans and my Design Professional and I will review them hopefully before the end of September as my attorney stated to you in our meeting.

Sincerely,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Stop Work Order -Notice of Violation

2 messages

**Alley, David L. - PDR** <David.Alley@rva.gov> Thu, Nov 21, 2024 at 4:14 PM
To: "1321PorterStLLC@gmail.com" <1321PorterStLLC@gmail.com>
Cc: "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

*Emily Pinchbeck,*

*Good Afternoon! I hope today finds you well. It was brought to my attention today that work has continued on the rear stairs to the 3rd floor unit. Please see the attached Notice of violation and Stop work order. All construction work requiring a permit shall cease immediately until you have received a valid permit. Your cooperation in this matter is greatly appreciated.*

*Best Regards,*

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov
900 E. Broad St., Room 110, Richmond, Va. 23219-1907

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Dec 3, 2024 at 3:32 PM
To: "Alley, David L. - PDR" <David.Alley@rva.gov>

Mr. Alley,

No construction has been done to the existing rear stairs to the 3rd floor unit. No changes were made to the existing stairs and no existing framing or structural elements or egress were impacted by screwing a few boards to the stair posts.

I do have a copy of the structural engineer's report from Robert Nelson from May 21, 2024 stating "I did not observe any conditions that I feel require immediate attention or deem the deck unsafe." and "I feel the deck is suitable for the continued use by the few residents as an entry/exit to/from the second and third floors" so I do understand that the deck and stairs were determined to be safe for use before the 4 boards were added.

For that reason I have had someone take 5 minutes to remove the few non-essential boards in question in order to avoid any further confusion and potential spread of misinformation.The stairs are exactly as they have been for 4 years. Please confirm that Rick Paul has rescinded his notice of violation since no construction was done and the boards that he incorrectly referred to as "structural framing" have been removed and in no way affected the structural framing or the stairs at all. Following the SUP we can get on the same page regarding what constitutes construction and I will incorporate whatever is needed when we get to permitting.

Also I was outside and I watched the inspector in the City of Richmond car ignore every other property and slowly go around my house and then drive at a normal speed again toward Cowardin. It makes me very uncomfortable and it feels very much like I am being targeted when he is making a special trip just to my property. This notice of violation seems retaliatory and not based in the spirit of the building code.

Best,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.

Gmail

1321PorterStLLC <1321porterstllc@gmail.com>

# N.O.V. Request

**Alley, David L. - PDR** <David.Alley@rva.gov> Fri, Dec 20, 2024 at 2:20 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

*Emily Pinchbeck,*

*Good Afternoon and Happy Holidays to you and your family. Thank you for your response. I have considered your request and provided my response along with code references as follows-*

- **Your Response: The November 21, 2024 notice is inaccurate and the 4 boards have been removed.**

My Response Item 1 above: The NOV issued on 11/21/2024 was applied accurately, the 4 boards as stated above are actual structural members for bracing the new stairs. This work was performed that required a permit prior to commencement in accordance with 36-99 of the code of Virginia, see next section for the related code sections-

In accordance with 36-99 of the Code of Virginia, the purpose of the USBC is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent and insect infestations, and garbage accumulation.

## Don't send- FOIA request for April 24, 2024 NOV

**Alley, David L. - PDR** <David.Alley@rva.gov> Wed, Mar 19, 2025 at 6:49 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Paul, IV, Rick F. - PDR" <Rick.Paul@rva.gov>

*Emily Pinchbeck,*

*Good Morning! I have deactivated (1) administrative Hold and (1) SWO/NOV issued on 4/18/2024. There are (4) remaining Notices of Violation for Building, Plumbing, Mechanical and Electrical issued on 4/24/2024. There is also (1) Stop Work Order (Repairs to the rear stair) that you have appealed and will be heard today at the hearing.*

*Best Regards,*

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW
David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov
900 E. Broad St., Room 110, Richmond, Va. 23219-1907

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Summons

**1321PorterStLLC** <1321porterstllc@gmail.com> Sat, Oct 4, 2025 at 1:23 PM
To: "Robertson, Ellen F. - City Council" <ellen.robertson@rva.gov>, "Alley, David L. - PDR" <david.alley@rva.gov>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

Councilwoman Robertson, Mr. Alley, and Mr. Vonck,

It is in very bad faith that Mr. Alley did not keep his word and null process the case against Emily Pinchbeck personally after he put in writing that he would. It is in even more bad faith that Mr. Alley and Mr. Vonck instructed and allowed Rick Paul and a police officer to issue a second summons to Emily Pinchbeck personally and now you have claimed that the 4 deck boards are unsafe even though you have a letter from an engineer saying the opposite. This is very far outside of the scope and spirit of the Code and it is additional evidence of targeted harassment and acts outside of your scope of employment after you have been asked at least 13 times in writing to stop.

I am respectfully requesting that you null process all summonses against Emily Pinchbeck for the alleged violation from November 21, 2024 since she is not personally responsible, you stated in writing that we have done exactly as you requested, and the summonses are an unnecessary expense for the City acting improperly.

If you are not understanding how the Code prevents you from issuing summonses in the way that you have, I would be open to a conference call with a Code Specialist at the State level to provide you a better understanding of USBC Section 115 and why your actions are not in the scope or spirit of the Building Code.

I also requested an opinion from a Code and Regulation Specialist at the Virginia State DHCD regarding the NOV written to a separate party being applied to 1321 Porter St and used against us and they agreed with us that it was improper and further improper to fabricate and apply 3 NOV's that do not exist. I am again requesting that you rescind and remove the 4/24/24 NOV from the permit portal and the 3 that do not exist from that date as well.

If you feel that the State is incorrect in their assessment, I would be open to a conference call with all of us. Or, as the Building Official, Mr. Alley you are able to make a formal request to the State Technical Review Board to interpret USBC Section 115 and determine if those 4 NOV's dated 4/24/24 were properly applied to 1321 Porter St, LLC.

Sincerely,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.

**2 attachments**

**David Alley- null process summons statement.pdf**
140K

**1321 Porter Inspection Report (1).pdf**
869K

Exhibit 51

**From:** Lukanuski, Greg A. - City Attorney <Greg.Lukanuski@rva.gov>
**Subject:** Court Wednesday 11 March
**To:** Jackson, Walter E. - PDR <Walter.Jackson@rva.gov>; Paul, IV. Rick F. - PDR <Rick.Paul@rva.gov>; Snyder, Zachary C. - PDR <Zachary.Snyder@rva.gov>; Dobson, Latoya C. - PDR <Latoya.Dobson@rva.gov>; Smith, Andre L. - PDR <Andre.Smith@rva.gov>; Dabney, Tanya M. - PDR <Tanya.Dabney@rva.gov>; Brooks, Gabriel - PDR <Gabriel.Brooks@rva.gov>
**Cc:** Vonck, Kevin J. - PDR <Kevin.Vonck@rva.gov>; Alley, David L. - PDR <David.Alley@rva.gov>; Coward, Michelle Y. - PDR <Michelle.Coward@rva.gov>; Williams, Russell L. - PDR <Russell.Williams@rva.gov>
**Sent:** March 10, 2026 10:37 AM (UTC+00:00)
**Attached:** Untitled attachment

Good Morning Walt, Rick, Zach, Latoya, Andre, Tanya, Gabriel –

Below please see the list of code enforcement cases we have scheduled for tomorrow Wednesday 11 March 1:30pm in Manchester General District Court. The list shows 21 addresses, which ties our record for the most addresses in court on a single day. We can handle this, but talking tomorrow morning for prep will be even more important than usual.

So I have cleared my calendar for tomorrow morning, and look forward to your calls to review case status.

Thanks

Luke
646-7949

March 11 – Manchester General District Court
3307 North Avenue Benitez Mauricio Avalos / W Jackson capias from June 24 abated as of Nov 25
1325 Hodges Road Jeffrey and Theresa Brown / W Jackson & Paul
504½ St James Street Zhang Chen / W Jackson & Paul
6000 Warwick Road Aurora Contreras / W Jackson and Snyder
6020 Warwick Road Jessica C. Contreras / W Jackson and Snyder
1321 Mechanicsville Turnpike Mohamed Ghaleb & Hamzah Hizam Mohamed / W Jackson & Paul
306 West Broad Street Bayan A Gillard & John Lee Pettaway IV / W Jackson
2025 Selden Street Cosmin Harris / Dobson
1706 Mechanicsville Turnpike James Lawson Jr / Dobson
5740 Hull Street Road Rafael C Martinez / W Jackson
6323 Elkhardt Lane Oscar Monroy / Snyder
2318 4th Avenue Moshen Ahmed Nagi / W Jackson
308 North Adams Street Moshen Ahmed Nagi / W Jackson
415 East Broad Rock Boulevard Moshen Ahmed Nagi / W Jackson
1321 Porter Street Emily Elizabeth Pinchbeck / Paul
6 West Cary Street Shawn Stahr and Brandon White Jr. / W Jackson & Paul
810 Edgehill Road David J Stith Jr / Smith
4006 Midlothian Turnpike Unit 202 Navoshia Wynn / Dabney
4006 Midlothian Turnpike Unit 302 Navoshia Wynn / Gabriel Brooks
4010 Midlothian Turnpike Unit 304 Navoshia Wynn / Gabriel Brooks
4022 Midlothian Turnpike Unit 101 Navoshia Wynn / Gabriel Brooks

Greg Lukanuski
Deputy City Attorney
900 East Broad Street, Room 400
Richmond, Virginia 23219
(804) 646-7949

Exhibit 50

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## 115.2 Question

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Sep 2, 2025 at 8:11 AM
To: SBCO <sbco@dhcd.virginia.gov>

Hello Chris,

Thank you. Since 1321 Porter St, LLC is the legal owner of the property, 1321 Porter St , LLC can request that the violation (which is indisputable because it was put into writing by the City of Richmond in an NOV from January 7, 2021- attached) and the Code at the time (which was factually 2015- https://up.codes/viewer/virginia/ibc-2015) shall be documented in writing by the Code Official.

And there are no exceptions to 115.2.1 that allow the Code Official to choose not to comply with this Code correct?

Thank you,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.

[Quoted text hidden]

**2021 Stop Work Order for 1321 Porter St.pdf**
790K

**SBCO** <sbco@dhcd.virginia.gov> Tue, Sep 2, 2025 at 3:58 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Good afternoon Emily.

There does not appear to be an exception to Section 115.2.1 that I have seen. In general, when a code section uses the word "shall", as Section 115.2.1 of the 2021 Virginia Construction Code does, that is understood to be a requirement.

I hope this simplifies any confusion.

*Chris Scott, P.E.*

Code and Regulation Specialist
Virginia Department of Housing and Community Development (DHCD)
804-489-6384

christopher.scott@dhcd.virginia.gov



Exhibit 53

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## 115.2 Question

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Sep 23, 2025 at 9:23 AM
To: SBCO <sbco@dhcd.virginia.gov>

Goodmorning Chris,

Thank you. I did also communicate with Travis yesterday and he did say that the issuance date is the date written on the NOV and that the receipt date is when it is received separately, when each party receives it. So unless you feel that is incorrect, I just have the top 4 questions still.

Sincerely,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

**SBCO** <sbco@dhcd.virginia.gov> Wed, Sep 24, 2025 at 8:08 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Good morning Emily.

I agree with Travis' response as stated in your email. Just to confirm as I did not speak with Travis today, are the following questions the ones that you are still seeking answers to?

-Does an NOV have to be issued before enforcement action is taken by the building department?
-Does the Code require the code violation to be listed on the NOV? For example, if I receive an NOV for 108.1, can enforcement action be taken for 106.1 even though 106.1 was not listed on the NOV and safety was not mentioned?
-If property maintenance and inspections are 2 separate divisions, does the code allow someone in inspections to enforce maintenance and vice versa?
-Can enforcement action be taken against someone who is not listed on the NOV?

***Chris Scott, P.E.***

Code and Regulation Specialist
Virginia Department of Housing and Community Development (DHCD)
804-489-6384

christopher.scott@dhcd.virginia.gov

Exhibit 52

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Formal Request for Rescission of Notice of Violation Dated March 11, 2026

2 messages

**1321PorterStLLC** <1321porterstllc@gmail.com> Wed, Mar 25, 2026 at 4:34 PM
To: "Paul, IV. Rick F. - PDR" <Rick.Paul@rva.gov>

Dear Mr. Paul,

I am writing to formally request the rescission of the Notice of Violation issued on March 11, 2026 (the “2026 Notice”), as it was issued outside the scope of applicable law.

The relevant facts are as follows:

- A Notice of Violation relating to the construction of a third-floor addition was issued to the then owner on January 7, 2021.
- A subsequent Notice of Violation concerning the same 2021 construction and subsequent occupancy of the third-floor addition was issued to a then manager on April 24, 2024.
- The subject property has at all times lawfully maintained an occupancy classification of multi-family.
- Neither the City nor the property owner has any knowledge of renovations to the first-floor rear unit occurring within the past ten (10) years.

In light of the above, the issuance of the March 11, 2026 Notice appears to be inconsistent with the limitations and enforcement provisions set forth under Section 115 of the Uniform Statewide Building Code (USBC) and Virginia Code § 19.2-8.

Accordingly, the 2026 Notice is not legally enforceable.

If the City disagrees with any of the foregoing facts or conclusions, please provide the specific legal and factual basis supporting the issuance of the March 11, 2026 Notice, including citations to applicable statutes, code provisions, and any evidence relied upon.

If no such basis exists, I respectfully request that the March 11, 2026 Notice of Violation be promptly rescinded.

I trust that this matter can be resolved efficiently and without the need for further action. Please confirm receipt of this correspondence and advise as to the City’s position at your earliest convenience.

Thank you for your attention to this matter.

Sincerely,

Emily Pinchbeck, Mgr

1321 Porter St. LLC.

**1321PorterStLLC** <1321porterstllc@gmail.com> Fri, Apr 3, 2026 at 3:20 PM
To: "Paul, IV. Rick F. - PDR" <Rick.Paul@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

Dear Mr. Paul,

I write to follow up on my prior correspondence regarding the Notice of Violation issued on March 11, 2026 (the “2026 Notice”) alleging violation of USBC Section 108.1, in which I requested that the Notice be rescinded as it was issued outside the scope of applicable law.

To date, I have not received a response addressing the factual and legal issues raised in my initial letter. As previously outlined, the 2026 Notice appears to be time-barred under Section 115 of the Uniform Statewide Building Code and Virginia Code § 19.2-8, and there has been no identified basis to support its issuance.

Accordingly, I again respectfully request that the City either:

1. Provide the specific legal and factual basis for the issuance of the March 11, 2026 Notice of Violation, including all supporting documentation and applicable code provisions; or
2. Confirm in writing that the Notice of Violation has been rescinded.

Please provide a response no later than Monday, April 6, 2026. In the absence of a timely and sufficient response, we will consider all available options to protect our rights and interests.

I remain willing to resolve this matter promptly and without escalation and would appreciate your immediate attention.

Thank you for your cooperation.

Sincerely,

1321 Porter St, LLC

Emily Pinchbeck, mgr

[Quoted text hidden]

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Request for Written Documentation

8 messages

**1321PorterStLLC** <1321porterstllc@gmail.com> Thu, May 1, 2025 at 4:01 PM
To: "Alley, David L. - PDR" <david.alley@rva.gov>

Mr. Alley,

In compliance with Section 115.2.1, 1321 Porter St, LLC is requesting that you document in writing the existence of a building code violation for "construction of new 3rd story addition" at 1321 Porter St, Richmond VA, 23224 under USBC 2015, which was discovered by the City of Richmond Department of Permits and Inspections on or before January 7, 2021, and further discovered on or before February 23, 2021, before the 3rd floor was occupied for more than 2 years.

This appears to have already been done and made public on the City of Richmond website in 2021 (https://apps.richmondgov.com/applications/propertysearch/Detail.aspx?pin=S0000121019), but this is a formal, documented request from 1321 Porter St, LLC.

This is not a refusal to work with you regarding your concerns.

Sincerely,

1321 Porter St. LLC.

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**Alley, David L. - PDR** <David.Alley@rva.gov> Fri, May 2, 2025 at 10:46 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Marks, Isaac R. - PDR" <Isaac.Marks@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

*Dear 1321 Porter St LLC,*

*Good Morning! I hope today finds you well. Thank you for reaching out to me with your inquiry. Hopefully I'm interpreting your request correctly-please see the following comments:*

- *Code section 115.2.1 of the Virginia Code would not apply in this case since the third floor addition was not permitted. Therefor no certificate of occupancy, inspections and/or permission to initially occupy was granted by the Permits and Inspections Bureau.*

- *The* https://apps.richmondgov.com/applications/propertysearch/Detail.aspx?pin=S0000121019 *link provided in your email is for the City Real Estate Assessor and there is a note on the Sketches section that states 3rd floor addition added in 2021. This note was entered by the assessor office after an property assessment was completed by their office. Meaning-the 3rd floor existed when they did their assessment regardless if it was permitted or not.*

- *I have also included Isaac Marks (FOAI Officer) on this email should you be requesting documents from the Permits and Inspections Bureau as related to the Notices of Violation for 1321 Porter St that have been issued.*

*I hope that I have answered your inquiry to your satisfaction. The Permits and Inspections Bureau welcomes you to*

Hello Mr.Alley,

I do not need to do a FOIA request because as you know Rick Paul already did 2 and proved that 3 NOV's on my Permit Portal do not exist. Isaac Marks has now confirmed this for you for a third time.

We welcome you to stop all harassment and interference with business expectancy and to partner with us by taking the necessary first step to move forward productively which I initiated 6 months ago. Please remove the 1 NOV issued to an unrelated party and the 3 non-existent ones from April 24, 2024 from the 1321 Porter St, LLC Permit Portal so that I can move forward.

Best,
Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

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**1321PorterStLLC** <1321porterstllc@gmail.com> Mon, May 5, 2025 at 11:16 AM
To: "Marks, Isaac R. - PDR" <Isaac.Marks@rva.gov>

Hello Mr. Marks,

Thank you for confirming for Mr. Alley that the 4 NOV's from April 24, 2024 are not correctly placed on 1321 Porter St, LLC's Permit Portal. Hopefully now that he has been told 9 times, by 4 different people, he will address the issue promptly.

Best,
Emily Pinchbeck, Mgr
1321 Porter St. LLC.

[Quoted text hidden]

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**1321PorterStLLC** <1321porterstllc@gmail.com> Thu, May 8, 2025 at 11:50 AM
To: "Alley, David L. - PDR" <David.Alley@rva.gov>

Mr. Alley,

I have not received a response from you. In addition to removing the 1 improperly placed NOV and 3 non-existent NOV's from my permit portal, (which you have now been asked to do 11 times over the past 2 months after receiving proof of your error from 4 different people and 3 FOIA requests), please point me to where exactly in Section 36-106 you found the explanation that you provided me for the reason you are choosing not to comply with my request per Section 115.2.1? I am not seeing that exception to the law.

This is a 12TH REQUEST for you to cease all harassment and operation outside of the scope of your authority and to comply with 115.2 and a 2nd request to comply with 115.2.1.

Best,

Emily Pinchbeck, Mgr.
1321 Porter St. LLC.
[Quoted text hidden]

---

**Alley, David L. - PDR** <David.Alley@rva.gov> Thu, May 8, 2025 at 2:03 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Paul, IV. Rick F. - PDR" <Rick.Paul@rva.gov>

*Emily Pinchbeck,*

*Good Afternoon. Good Afternoon-Let me be clear-You have stated that you are the Manager for 1321 Porter St LLC*

Gmail Sophia Oliveri <sophia.s.oliveri@gmail.com>

## BLDC-146857-2024 (1321 Porter St Richmond, VA 23224)

4 messages

**Bradley, Kelly L. - PDR** <Kelly.Bradley@rva.gov> Tue, Apr 30, 2024 at 10:26 AM
To: "sophia.s.oliveri@gmail.com" <sophia.s.oliveri@gmail.com>

Good morning,

The above cited location is residential and needs a residential building permit. Please submit a new residential building permit on the portal. I will void this commercial application.

Thanks.


Kelly Bradley

Planning Specialist

City of Richmond

Planning and Development Review

Bureau of Permits and Inspections

900 East Broad Street, Room 110

Richmond, Virginia 23219

Kelly.Bradley@rva.gov

804.646.7653


Permits and Inspections | Richmond (rva.gov)

**Sophia Oliveri** <sophia.s.oliveri@gmail.com> Tue, Apr 30, 2024 at 10:28 AM
To: "Bradley, Kelly L. - PDR" <Kelly.Bradley@rva.gov>

Oh ok, sorry about that. Thanks so much for the info!

-Sophia

Exhibit 57


CITY OF R
DEPARTMENT OF COMMUNITY DEVELOPMENT
BUREAU OF PERMITS AND INSPECTIONS
900 EAST BROAD STREET, ROOM 110
RICHMOND, VA 23219 (804) 646-6955


☒ **Notice of Violation** ☒ **Stop Work Order**

**Issue Date:** 4/18/2024 **Date of Inspection:** 4/18/2024

**Location:** 1321 PORTER ST

**Owner:** 1321 PORTER ST LLC

**Responsible Party:** OWNER

**Contractor's Name:** -

**Permit Holder:** NO ACTIVE PERMITS

**Specific Work Being Cited:** CONSTRUCTION OF NEW UNDERGROUND STRUCTURE IN THE REAR OF PROPERTY. STRUCTURE IS APPROXIMATELY 7-8 FEET IN DEPTH BELOW GRADE WITH CMU WALLS FULLY GROUTED AND IS ABOUT 12 FT X 12 FT IN SIZE.

This building has been inspected and the following violations of the Code of Virginia, Title 36, The Virginia Uniform Statewide Building Code and the Code of the City of Richmond have been found:

- ☒ Section 110.5 of the Virginia Uniform Statewide Building Code - Working without a valid permit posted
- ☒ Section 108.1 of the Virginia Uniform Statewide Building Code - Working prior to the issuance of a building permit
- ☒ Section 109.5 of the Virginia Uniform Statewide Building Code - Failure to have approved construction plans available on site
- ☒ Section 113.3 of the Virginia Uniform Statewide Building Code - Failure to obtain inspections
- ☐ Section 14-81 of the Code of Ordinances of the City of Richmond: Working without a contractor's license
- ☐ Section 114-930.6 of the Code of Ordinances of the City of Richmond: Certificate of Appropriateness
- ☐ Other:

All activities involved in the work cited above must cease immediately. Permitted activities not involved in the cited work above may continue as long as they do not conceal or otherwise affect the work cited above. Correction of all of the above conditions shall be made by 5/3/2024. If the notice is not complied with, the property owner, his agent, permit holder and/or contractor shall be subject to the penalties prescribed in the Code of Virginia, Title 36-Section 106; Section 105 of the Virginia Uniform Statewide Building Code and Ordinances of the City of Richmond. The following action shall be taken before any work resumes:

- ☒ Obtain a Building Permit
- ☐ Obtain an Electrical Permit
- ☐ Obtain a Mechanical Permit
- ☐ Obtain a Plumbing Permit
- ☐ Obtain a Plumbing/Gas Permit
- ☐ Obtain a report by a registered Virginia professional engineer
- ☒ Post valid permit on site
- ☒ Keep approved plans on site and available for inspectors
- ☐ Obtain C.A.R. Approval
- ☐ Other:

Inspector: ZACHARY SNYDER Telephone No.: 804 658 6447

**A fee payment of $200 is required *before* you may return to work on any permit for which a Stop Work Order has been issued.**
**You have the right to appeal this notice under Section 119 of the Virginia Uniform Statewide Building Code.**
**Please contact us, (804) 646-6955, if you wish to appeal this decision.**

11090 (02/21) 102722-1

Exhibit 56

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of 1321 Porter St. LLC (Emily Pinchbeck)
Appeal No. 26-11

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of 1321 Porter Street LLC
Appeal No. 26-11

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On April 10, 2026, the City of Richmond Department of Planning and Development Review (City), the agency responsible for the enforcement of Part III of the 2021 Virginia Uniform Statewide Building Code (VUSBC or VMC), amended a Notice of Violation – Unsafe Structure for the structure located at 1321 Porter Street, in the City of Richmond owned by 1321 Porter Street LLC (1321 Porter St.), originally issued August 28, 2024. The amended NOV cited the following:

*"This Notice of Violation - Unsafe Structures is being amended effective April 10, 2026, and addresses additional unsafe conditions on the property.*

- *On November 24, 2024, an engineer's report was submitted that indicated that the conditions on the 3rd floor were structurally sound therefore would not have affected the safety of the occupants on 1st and 2nd floor. Based on that report, enforcement actions were initiated accordingly, and the 1st and 2nd floor units were allowed to be occupied. While the 3rd floor unit was placarded as unsafe for the unpermitted work that was done.*
- *On April 3, 2026, this office received a Modification Letter to the Engineer's Report dated November 24, 2024. This report modifies the original conclusions regarding the structural integrity of the building. Based on the updated findings it has been determined that the unsafe conditions identified on the third floor may adversely impact the structural integrity of both the 1st and 2nd floor, thereby rendering it unsafe.*

*As a result of these updated findings, this notice hereby amends the original Notice of Violation -Unsafe Structures dated August 28, 2024, as follows:*

- *• The 1st and 2""floor are hereby declared unsafe for occupancy and ordered to be vacated effective April 10, 2026 @ 9:00am.*

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- *This structure will be placarded, and permission will be needed from the City of Richmond to access the property.*
- *Occupancy of these floors is prohibited until all unsafe conditions have been properly addressed and verified".*

The original (and amended) NOV cited the following:

- *"Report of Unsafe Conditions*
  *106.1 US - Unsafe Structure*

  *This section shall apply to existing structures which are classified as unsafe. All conditions causing such structures to be classified as unsafe shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured agains public entry or demolished. Vacant and secured structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines a that an unsafe structure constitutes such a hazard that it should be demolished, then the code official shall be permitted to order the demolition of such structures in accordance with the applicable requirement s this code.*

  *This property has been inspected and found to be unsafe due to the following conditions:*

  1. ***Lack of Approved Building Permits and Plans:*** *No approved building permits or plans were ever authorized for the new third-floor addition.*
  2. ***Lack of Trade Permits:*** *No approved trade permits were authorized for electrical, plumbing, or mechanical work related to the new third-floor addition.*
  3. ***Absence of Inspections:*** *No inspections were ever conducted by the Permits and Inspections Bureau for the new third-floor addition. This includes inspections for building, electrical, plumbing, mechanical, fire stopping, draft stopping, fire separation, and insulation.*
  4. ***Concealed Interior Work:*** *All interior work associated with the third-floor addition is concealed, making it impossible to verify compliance with safety and building codes.*
  5. ***Wall Separation Issues:*** *Wall separation issues have been identified with the third-floor addition.*
  6. ***Deficient Engineering Report:*** *The engineering report submitted by Carl Duncan contains incorrect and insufficient information, failing to meet the required standards for safety and code compliance.*

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7. ***Non-Code Complaint Alterations to Existing Structures:*** *Alterations to existing exterior egress, stairs, and decks are not compliant with building codes.*
8. ***Non-Code Compliant New Egress Stairs:*** *The new egress stairs to the third-floor addition are not compliant with safety standards.*
9. ***Structural Load Issues (First Floor):*** *Non-code compliant structural load points are bearing on the roof above the occupied unit on the first floor, creating a potential safety hazard.*
10. ***Structural Load Issues (Second Floor):*** *Non-compliant structural load points are bearing on 4X4 posts above the occupied unit on the second-floor porch area, raising concerns about structural integrity.*
11. ***Unauthorized Change of Use:*** *The property's use has been changed from a single-family residence to a multi-family residence with three units without proper authorization or approval (see attached photos of mailboxes)."*

1321 Porter St. acknowledged receiving the NOV on April 20, 2026.

2. 1321 Porter St. filed an appeal application to the City of Richmond Local Board of Building Code Appeals (local appeals board) on April 30, 2026. On May 20, 2025, the local appeals board "Upheld" the appeal finding that "*A Notice of Violation was issued May 11th, 2026 noting 13VAC5-63-409, section 106.1: Unsafe Structure. This also referenced the requirement for permits per 13VAC5-63-80, section 108.1. The property was found unsafe due to non-permitted alterations. An Amendment to the violation was issued on April 3rd, 2026 related to an Engineer's letter. The Local Board of Building Code Appeals finds that the intent of the Code was properly a."* The local appeals board decision was received by 1321 Porter St. on June 9, 2026. On June 26, 2026, 1321 Porter St. further appealed to the Review Board seeking to have the unsafe placards removed, cease all enforcement actions inconsistent with the USBC and the Code of Virginia including removal of tenants from their homes, and discontinue any and all actions that

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lacks a lawful basis in fact or law and admit that tenant removal and the amended 8/28/24 NOV were inconsistent with fact and law.

3. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn the decision of the City and local appeals board to issue the amended NOV thus reviving the initial cited violations of the August 28, 2024 NOV.

2. Whether to overturn the decision of the City and local appeals board that the structure is unsafe for use and/or occupancy.

3. Whether overturn the decision of the City and local appeals board to post an unsafe structure placard on the structure.

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# Basic Documents

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# Enforcement Decisions Being Appealed (2)

## P-03-2026-067279-2024

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# NOTICE OF VIOLATION - UNSAFE STRUCTURE

Amended from Original Notice Dated August 28, 2024

**City of Richmond**
**Department of Planning & Development Review**
**Property Maintenance Division**
**900 E. Broad Street, Room G-12**
**Richmond, Virginia 23219**
**April 10, 2026**

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 PORTER ST LLC
9169 W STATE ST #652
GARDEN CITY ID 83714

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the city may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**

106.1 US - Unsafe Structures

This section shall apply to existing structures which are classified as unsafe. All conditions causing such structures to be classified as unsafe shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or demolished. Vacant and secure structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure constitutes such a hazard that it should be demolished, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirement s this code.

**This Notice of Violation – Unsafe Structures is being amended effective April 10, 2026, and addresses additional unsafe conditions on the property.**

On November 24, 2024, an engineer's report was submitted that indicated that the conditions on the 3rd floor were structurally sound therefore would not have affected the safety of the occupants on 1st and 2nd floor. Based on that report, enforcement actions were initiated accordingly, and the 1st and 2nd floor units were allowed to be occupied. While the 3rd floor unit was placarded as unsafe for the unpermitted work that was done.

On April 3, 2026, this office received a Modification Letter to the Engineer's Report dated November 24, 2024. This report modifies the original conclusions regarding the structural integrity of the building. Based on the updated findings it has been determined that the unsafe conditions identified on the third floor may adversely impact the structural integrity of both the 1st and 2nd floor, thereby rendering it unsafe.

**As a result of these updated findings, this notice hereby amends the original Notice of Violation -Unsafe Structures dated August 28, 2024, as follows:**

- The 1st floor and 2nd floor are hereby declared unsafe for occupancy and ordered to be vacated **effective April 10, 2026 @ 9:00am.**
- This structure will be placarded, and permission will be needed from the City of Richmond to access the property.
- Occupancy of these floors is prohibited until all unsafe conditions have been properly addressed and verified.

**Requirements for Re-Occupancy:**

Prior to re-occupancy of the 1st and 2nd floor, the property owner must:

1. Obtain all required permits for all unpermitted work.
2. Ensure that all work complies with applicable building codes and regulations.
3. Complete all required inspections to verify compliance.
4. Obtain final approval confirming that the structure is safe for occupancy.

Failure to comply with this may result in additional enforcement action, including but not limited to legal proceedings.

Please find attached the engineer's report dated April 3, 2026, indicating the unsafe conditions for your review and reference.

If you have any questions regarding this matter or the steps required to achieve compliance, please contact our office.

**This property has been inspected and found to be unsafe due to the following conditions:**
**1.Lack of Approved Building Permits and Plans: No approved building permits or plans were ever authorized for the new third-floor addition.**

**2. Lack of Trade Permits: No approved trade permits were authorized for electrical, plumbing, or mechanical work related to the new third-floor addition.**

**3.Absence of Inspections: No inspections were ever conducted by the Permits and Inspections Bureau for the new third-floor addition. This includes inspections for building, electrical, plumbing, mechanical, fire stopping, draft stopping, fire separation, and insulation.**
**4.Concealed Interior Work: All interior work associated with the third-floor addition is concealed, making it impossible to verify compliance with safety and building codes.**

**5.Wall Separation Issues: Wall separation problems have been identified within the third-floor addition (see attached photos).**

**6.Deficient Engineering Report: The engineering report submitted by Carl Duncan contains incorrect and insufficient information, failing to meet the required standards for safety and code compliance.**

**7.Non-Code Compliant Alterations to Existing Structures: Alterations to existing exterior egress, stairs, and decks are not compliant with building codes.**

**8.Non-Code Compliant New Egress Stairs: The new egress stairs to the third-floor addition**

**are not compliant with safety standards.**

**9.Structural Load Issues (First Floor): Non-code compliant structural load points are bearing on the roof above the occupied unit on the first floor, creating a potential safety hazard.**

**10.Structural Load Issues (Second Floor): Non-compliant structural load points are bearing on 4x4 posts above the occupied unit on the second-floor porch area, raising concerns about structural integrity.**

**11.Unauthorized Change of Use: The property's use has been changed from a single-family residence to a multi-family residence with three units without proper authorization or approval (see attached photos of mailboxes).**

**Required Actions to Abate Violation:**

**These issues pose a significant safety risk to the inhabitants, neighboring structures, and the public at large.**

**To Rectify These Violations:**

1. **Follow the "City of Richmond Permit Process" to obtain all necessary approvals, including building, electrical, plumbing, and mechanical permits for the third-floor addition.**
2. **Ensure that all required inspections are completed by the Permits and Inspections Bureau.**
3. **Submit a revised and accurate engineering report that meets code requirements.**
   **Correct all structural issues and ensure that all alterations comply with building codes.**
4. **Revert the unauthorized change of use or obtain the necessary approvals for the multi-family conversion.**

**Failure to comply with this notice by the abatement date may result in criminal court action.**

If permits are required to correct the conditions cited in this notice, this document or a copy thereof will be needed to obtain them. Permits can be obtained from: Permits and Inspections Division, 900 E. Broad Street, Room 110, Richmond, Virginia 23219

**Additional responsibilities as a property owner:**

Approximately 3,300 properties are in the City Old and Historic District. To determine whether or not your property falls within a City Old and Historic District, go to http://www.richmondgov.com/richhistory and click on the link "ViewMap of City Old & Historic Districts".

A *Certificate of Appropriateness* is required when any proposed work alters the exterior appearance of the property as it is viewed from a public street or alley. Certificates must be obtained before work can begin. For work requiring a building permit, no permit will be issued without a Certificate. This review procedure is required not only for the main structure on a lot but also accessory buildings, fences, exterior lighting, driveways and walks, and any other features visible to the public.

As in any review process, some preplanning is necessary. Please direct any questions or requests to: Secretary, Commission of Architectural Review, Department of Planning & Development Review, 900 East Broad Street, Richmond, VA 23219.

Sincerely,

Waler Jackson
(804) 385-0703
Property Maintenance Inspector


UNSAFE
A
ADDRESS 1321 Porter St.
PUBLIC NOTICE
RICHMOND VIRGINIA
TO _____, LAST KNOWN OWNER, AND TO THE GENERAL PUBLIC,
IN ACCORDANCE WITH SECTION 106.1 OF THE VIRGINIA MAINTENANCE CODE, PART III OF THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE, THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL.
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NO TRESPASSING!
VIOLATORS ARE SUBJECT TO CRIMINAL PROSECUTION
CALL 646-6398 FOR ADDITIONAL INFORMATION
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DEPARTMENT OF PLANNING &
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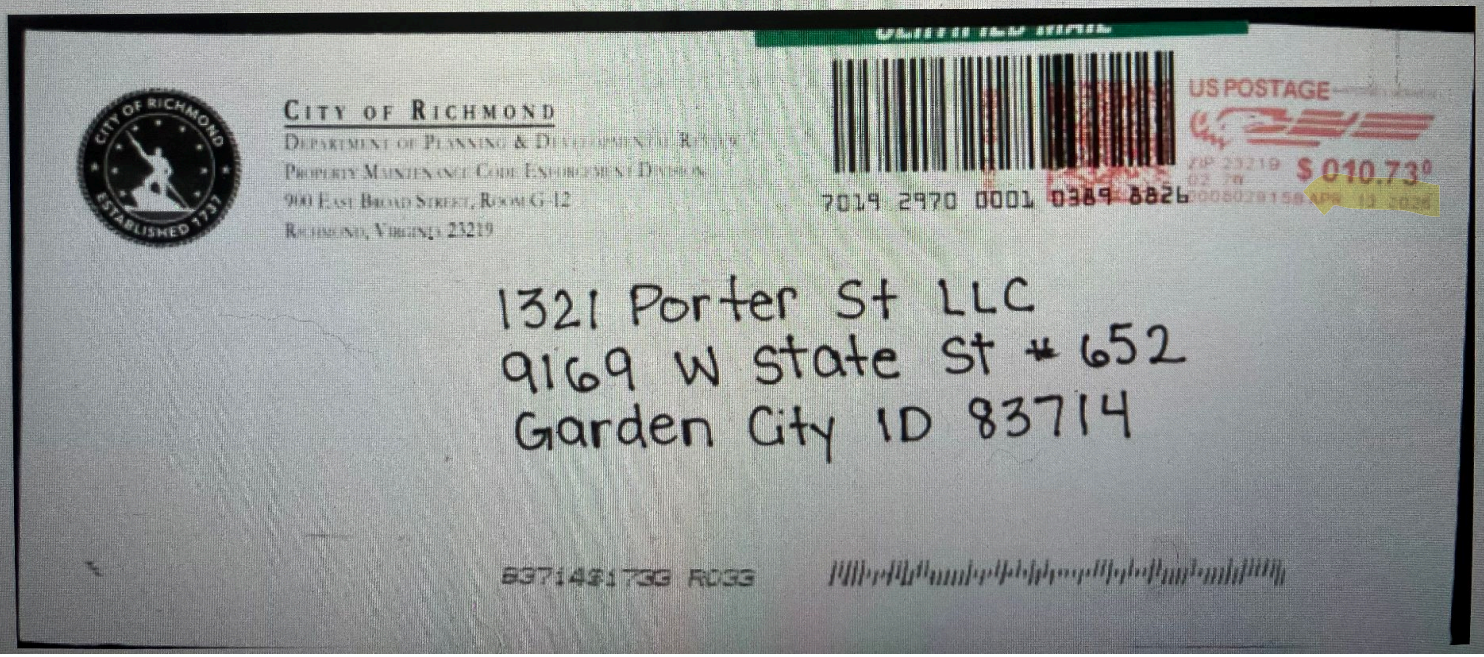
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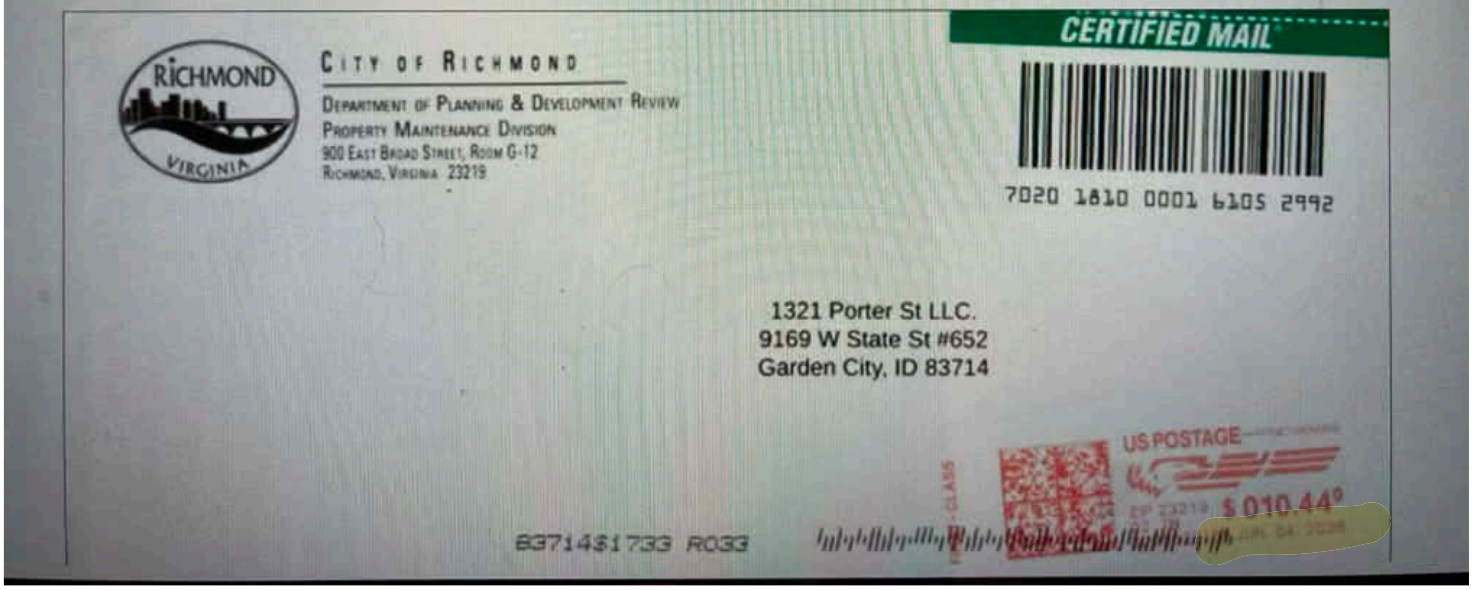
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DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW

CITY OF RICHMOND
LOCAL BOARD OF BUILDING CODE APPEALS (LBBCA)

Appeal No. _____

**Application for Appeal**

City of Richmond
Locality

I (we) 1321 Porter St LLC (Name) of 9169 W State St. #652 Garden State, ID 83714 (Mailing address)

Contact Number: Email Email: 1321PorterStLLC@Gmail.com

Respectively request that the Local Board of Building Code Appeals review the decision made on April 10 & 13, 2026 by the code official.

Description of Decision Being Appealed: Owner received Amended August 28, 2024 NOV on April 20, 2026 - tenants were removed from their homes on April 10, 2026

Location of Property Involved: 1321 Porter St. Richmond VA 23224

What is the applicant's interest in the property?

__X__ Owner

___ Contractor

___ Owner's Agent

___ Other (explain) _____

Relief Sought: Remove placards, cease all enforcement actions inconsistent with the USBC and the Code of Virginia including removal of tenants from their homes, discontinue any and all actions that lack a lawful basis in fact or law, and admit that tenant removal and the "Amended 8/28/24 NOV" were inconsistent with fact and law.

Attach the Decision of the Code Official and any other pertinent documents.

1321 Porter St. LLC.
Signature of Applicant (Emily Fischbach, manager)

Filed at Richmond, Virginia, the 30 day of April, 2026

Note: In order for this appeal to be processed a Non-refundable fee of $184.00 must be paid.

# Local Board of Building Code Appeals
# Written Decision

The Local Board of Building Code Appeals (LBBCA) is duly appointed to hear and resolve disputes arising out of enforcement under the Virginia Statewide Building Code (USBC), § 36-105 of the Code of Virginia.

**Appeal No.** P-03-2026-067279-2024 **Date of Hearing:** May 20th, 2026

**IN RE:** 1321 Porter Street **V.** City of Richmond

## The appeal is hereby Upheld, for the reasons set out below:

A Notice of Violation was issued on May 11th, 2026 noting 13VAC5-63-409, section 106.1; Unsafe Structure. This also referenced the requirement for permits per 13VAC5-63-80, section 108.1. The property was found unsafe due to non-permitted alterations. An Amedment to the violation was issued on April 3rd, 2026 related to an Engineer's letter. The Local Board of Code Appeals finds that the intent of the Code was properly a

**The vote was: Uphold** 3 **Reverse** _____ **Modify** _____

**Signature:** Justin White Digitally signed by Justin White Date: 2026.06.01 08:47:20 -04'00' **Date:** 6-1-2026

***(Chair of Local Board of Building Code Appeals)***

Note: Any person who was party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board. https://www.dhcd.virginia.gov/sites/default/files/Docx/sbctrb/file-appeal/appeal- application-may.pdf. Or call (804) 371-7150 for more information.

**COMMONWEALTH OF VIRGINIA**
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
**State Building Codes Office and Office of the State Technical Review Board**
**Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219**
**Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov**

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- [x] Uniform Statewide Building Code
  - [ ] Virginia Construction Code
  - [ ] Virginia Existing Building Code
  - [x] Virginia Maintenance Code
- [ ] Statewide Fire Prevention Code
- [ ] Industrialized Building Safety Regulations
- [ ] Amusement Device Regulations

RECEIVED
June 26, 2026 WTZ
OFFICE OF THE REVIEW BOARD

Appealing Party Information (name, address, telephone number and email address):

1321 Porter St LLC. (Emily Pinchbeck, manager
Phone: (804)-912-3115
9169 W State St #652 Garden City ID 837144
Email: 1321PorterStLLC@gmail.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

David Alley ( Code Official) City of Richmond
Phone: (804)-646-3439
900 E Broad St Room 110 Richmond VA 2321
Email: David.Alley@RVA.gov

Additional Information (required by the applicable code to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)

Additional Information (to be submitted with this application) :

- [redacted]

CERTIFICATE OF SERVICE

I hereby certify that on the 25 day of June, 2026, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

**Note:** This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: 1321 Porter St. LLC (Emily Pinchbeck, manager)

Name of Applicant: 1321 Porter St. LLC.
(please print or type)
(Emily Pinchbeck, Manager

Explanation of "Enforcement Decisions Being Appealed (2)" Document-

I am appealing the following violations of the USBC committed by the Code Official of the City of

Richmond and seek the following relief:

1. I am appealing the Code Official's April 10, 2026 decision to placard two dwelling units and remove tenants from their homes based on an alleged potential condition that he had known about for no less than one week before taking enforcement action. The decision improperly invoked the emergency enforcement provisions of the USBC (VPMC § 106, VCC § 118), despite the absence of circumstances warranting the bypass of the Code's ordinary notice procedures, exceeded the authority delegated by the General Assembly, and raises substantial Fourteenth Amendment due process concerns. I respectfully request that the Board reverse the decision to placard the dwelling units and order the removal of the placards.

2. I am appealing the Code Official's decision to wait until April 13, 2026, to issue a Notice of Violation regarding a condition the City claimed "may" have an adverse impact, a Notice that was not received until April 20, 2026, after the City had already taken enforcement action on April 10, 2026. The decision was contrary to the terms of the Notice of Violation itself, violated the notice requirements prescribed by the USBC (VPMC § 106), exceeded the authority delegated by the General Assembly, and raises substantial Fourteenth Amendment due process concerns. I respectfully request that the Board reverse the decision and declare the Notice of Violation procedurally defective and unenforceable.

3. I am appealing the Code Official's arbitrary decision to allege that conditions previously determined by the City to be non-existent, or affirmatively determined to be compatible with lawful occupancy of the first and second floors, suddenly became incompatible with occupancy on April 10, 2026, without any identified change in the conditions themselves. The decision violated the requirements of the USBC (VPMC § 106), exceeded the authority delegated by the General Assembly, and raises substantial Fourteenth Amendment due process concerns. I respectfully request that the Board reverse this determination.

# Documents Submitted
# By
# City of Richmond

(Page left blank intentionally)

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# Appeal #26-11

Summary
Amended Notice of Violation-Unsafe-2026
Tenants removed from 1st and 2nd floor (A, B units)
Pictures
Engineer Reports (3rd floor)
Engineer Report Original (Carl Duncan)
Engineer Report Revision 1 (Carl Duncan)
Engineer Report Revision 2 (Carl Duncan)

Engineer Report Original (Robert Nelson)
Engineer Report Modification/Rescinded Letter (Robert Nelson)
Certificate of Occupancy Information

- 1983
- 1974
- 1970
- 1966

1970 Building Code (The Boca Basic Building Code)
Zoning Ordinance

Supporting Documents

- Assessor's records and parcel Information
- Permit records (2014-2024)
- Special Use Permit (SUP)

# Case History
# 1321 Porter St

## Previous Case History (2021)

- An existing two-family dwelling- per the assessor's record
- The Permits and Inspections Bureau received a complaint of working without a valid permit on 1/7/2021. Building Inspector Zachary Snyder investigated the complaint and issued a Notice of Violation/Stop Work Order for the construction of a new 3rd story addition without permits
- The NOV/SWO was directly handed to the admitted person in charge Sophia Oliveri, building Inspector statement
- A building permit BLDR-084675-2021 was submitted to the permits office on 1/8/2021-description- Add/replace roof plywood, TPO, shingles, windows and rebuild stairs. The submittal didn't address the 3rd floor addition. Comments were sent via email to the applicant without response. The submittal was killed after 6 months for no action
- The applicant was Sophia Oliveri, supporting documents available for review. Including owner affidavit signed by Sophia Oliveri as agent

## Case History (2024)

- The Permits and Inspections Bureau received another complaint of working without a valid permit on 4/18/2024. Building Inspector Zachary Snyder investigated the complaint and issued a Notice of Violation/Stop Work Order for the construction of a new root cellar in the back yard
- While at the site the building inspector (Zachary Snyder) remembered issuing a previous NOV/SWO for the 3rd story addition and wondered if permits were ever issued for the work. City records show that the building permit was not issued
- A follow-up site inspection was scheduled with Sophia Oliveri and conducted on Friday 4/26/2024 by Rick Paul (Program and Operations Manager for Inspections), Walter Jackson (PMCE), Rashad Gresham (Zoning) and Donald Drummond (Field Building Supervisor) I was currently out of the office on vacation. A NOV was issued, and 19 pictures taken

- On the following Monday 4/29/2024 I was informed by Rick Paul (Program and Operations Manager for Inspections) of the situation. I was provided with an engineer report from Carl Duncan dated 2/2/2021.The address on the report was incorrect and the report itself was lacking content.

- Mr. Carl Duncan was contacted to discuss the report. He was very cooperative-however could not remember much about the project. Since the inspection was conducted back in 2021. I specifically questioned if he evaluated the existing footing and foundations for the additional loads being transferred and/or draft stopping, fire blocking and fire separation, he responded no. I also asked him if any permit and/or approved plans had been provided to him to conduct the inspection or did he obtain any authorization from the Permits and Inspections Bureau prior to conducting the inspection and his response was no! He stated he thought it was a renovation-not new work.

**Based on the previous history and the following facts: I determined the structure to be unsafe for occupancy and ordered the tenants to be relocated immediately for their own safety.**

- On 4/26/2024 a Notice of Violation (Unsafe Notice) was issued to RVA Home LLC, Sophia Oliveri.

- New construction of the 3rd floor addition (Unit C)

- No approved Building permit and/or plans authorized for the new 3rd floor addition. (Unit C)

- No approved trade permits were issued for the plumbing and mechanical work for the new 3rd-floor addition. An electrical permit was issued for (Unit C) and a rough in inspection was conducted.

- No inspections were ever conducted by the Permits and Inspections Bureau for the new 3rd floor addition for building, plumbing or mechanical.

- All interior structural work has been concealed

- Wall and ceiling separation problems identified within 3rd floor new addition

- Incorrect and Insufficient information provided on the (Carl Duncan) engineer's report, additional information was added to the original report twice.

- Non-code compliant alterations to existing exterior egress stairs and decks

- Non-code compliant new egress stairs to 3rd floor addition

- Non-compliant structural load points bearing on roof above the occupied unit on the 1st floor

- Non-compliant structural load points bearing on 4x4 post above the occupied unit on the 2nd floor porch area

- Changing the Use without authorization. 2 family dwelling to a Multifamily 4 Units, 4 mailboxes SUP and Certificate of Occupancy required.

**Case History Continued**

- On 5/21/2024 I received an engineer report from Engineer Design Associates (Robert F Nelson) for the rear stairs, I found the report to be sufficient. A building permit is still required to make the repairs.

- On 5/28/2024 I authorized the tenants to reoccupy the 1st and 2nd floor units only. No use and/or occupancy allowed for the 3rd floor (Unit C) or 1st floor rear unit (unit D). These units are still unsafe to occupy because of the illegal change of use, permits not obtained, inspections conducted or approvals.

- On 8/21/2024 the Local Board of Building Code Appeals (LBBCA) upheld the decision of the code official.

- On 8/28/2024 an amended Notice of violation (Unsafe Notice) was issued to 1321 Porter St LLC, Emily Pinchbeck.

- On 9/12/2024 RVA further appealed to the State Technical review Board (TRB)

- On 11/15/2024 the State Technical Review Board (TRB) ruled that the appeal was not properly in front of the board since Sophia Oliveri RVA LLC was no longer the manager for the property. The NOV is moot and the NOV was rescinded.

- On 12/23/2024 the Notice of violation (Unsafe Notice) was appealed by Emily Pinchbeck.

- On 3/19/2025 the Local Board of Building Code Appeals (LBBCA) upheld the decision of the code official.

- On 7/18/2025 the case was scheduled to be heard at the State Technical Review Board (TRB). However, the attorney for Emily Pinchbeck, Mr. Bruce Arkema

asked if I would be willing to work with his client, if so, would I agree to postpone the hearing for two months. I agreed.

- On 7/24/2025 We met with Emily Pinchbeck and her attorney Mr. Bruce Arkema to discuss her permitting needs. The following city staff members were present. Daniel Mouer, Michelle Dickson, Hivi Canter, Rick Paul and David Alley.

- On 11/21/2025 the case was heard by the State Technical Review Board (TRB) and upheld the decision of the code official.

- On 2/18/2026 the case was further appealed to the Circuit Court.

- On 3/11/2026 a Building Inspection warrant was obtained by the Bureau of permits and Inspections after receiving 17 emails for (Formal Demand to Cease Harassment). The inspection warrant was executed in conjunction with RPD. See search warrant file.

- On Friday 4/3/2026 (Holiday) the rescinded engineer report/letter from John Nedza was received via email. The date was observed to be wrong on the report/letter and had to be corrected by Mr. Nedza.

- On Sunday 4/5/2026 the corrected engineer report/letter from John Nedza was sent via email.

- On Monday 4/6/2026 I reviewed the engineer report/letter and contacted the City Attorney's office to meet.

- On Tuesday 4/7/2026 I met with Greg Lukanuski (Deputy City Attorney) and Wirt Marks (City Attorney) to discuss the engineer report/letter and the appropriate actions needed moving forward.

- On Wednesday 4/8/2026 I met with Michelle Coward (Deputy Director for PMCE) to amend the Unsafe Notice of Violation.

- On Thursday 4/9/2026 the appropriate staff were assigned from PMCE, Building and the Richmond Police Department.

- On Friday 4/10/2026 the team went to 1321 Porter St and the occupants in units A and B were vacated for their safety, the units where placarded, the amended notice was posted and pictures were taken.

- On 5/11/2026 the 4/10/2026 amended notice of violation was amended because a section of the notice did not print correctly. This issue was observed by the LBBCA secretary.

- On 5/20/2026 the appeal was heard by The Local Board of Building Code Appeals (LBBCA), the board upheld the Code Officials decision. The appellant did not show for the hearing. However, sent a person to record the hearing.

## Alley, David L. - PDR

**From:** John Nedza <john@louisaengineering.com>
**Sent:** Monday, June 29, 2026 2:25 PM
**To:** Alley, David L. - PDR
**Subject:** RE: 1321 - Porter Street, Richmond, VA 23224

**CAUTION:** This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

Good Afternoon Mr. Alley,

Was wondering if we could talk about Porter Street on the phone at your convenience.

Ms. Pinchbeck has been pressuring me to rescind the April letter based on redacted letters from an engineer and a contractor. Both letters have their names blackened out. They could be from anyone. It is my requirement and I believe APELSA'S requirement that I see the situation in question first hand and make up my own mind as to the safety of the structure.

Also I had a couple questions:

1. Can another engineer override my thoughts as documented in the April letter. If so, then they wouldn't need me anymore. And I'd like to stay out of it at present.
2. Has Pinchbeck or any other representative of the property contacted you as to the City of Richmond's requirements?
3. At the end of last year the City had a number of questions ( like 2 pages) that myself and architect Martin Hedrick were answering, But were stopped by Pinchbeck. There was a requirement of a framing plan that I was trying to prepare. Have you ever gotten that.

Please let me know when we can talk!
Respectfully!
John Nedza PE

**From:** Alley, David L. - PDR <David.Alley@rva.gov>
**Sent:** Sunday, April 5, 2026 12:26 PM
**To:** John Nedza <john@louisaengineering.com>
**Subject:** RE: 1321 - Porter Street, Richmond, VA 23224

*Mr. Nedza,*
*Good afternoon. I hope today finds you well. Thank you for the letter-your explanation is very thorough. Note: I believe you have the wrong date in your conclusion you stated November 14, 2026. Please correct and send me an updated report.*
*Much appreciated.*
*Best Regards,*

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW

David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov
900 E. Broad St., Room 110, Richmond, Va. 23219-1907

Visit Our Website at: https://www.rva.gov/planning-development-review/permits-and-inspections

**From:** John Nedza <john@louisaengineering.com>
**Sent:** Friday, April 3, 2026 10:56 AM
**To:** Alley, David L. - PDR <David.Alley@rva.gov>
**Subject:** RE: 1321 - Porter Street, Richmond, VA 23224

You don't often get email from john@louisaengineering.com. Learn why this is important

**CAUTION:** This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

David, Hope you are having a Good Friday!
Here is my letter to you about the structural integrity of this building.
Please call me with any questions.
Have nice Easter!

John Nedza PE
804 512 4865

**From:** Alley, David L. - PDR <David.Alley@rva.gov>
**Sent:** Thursday, April 2, 2026 2:41 PM
**To:** John Nedza <john@louisaengineering.com>
**Subject:** RE: 1321 - Porter Street, Richmond, VA 23224

*John,*
*Good afternoon. I hope today finds you well. Thank you for the update.*
*Happy Easter!*
*Best Regards,*

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW

David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov
900 E. Broad St., Room 110, Richmond, Va. 23219-1907

Visit Our Website at: https://www.rva.gov/planning-development-review/permits-and-inspections

**From:** John Nedza <john@louisaengineering.com>
**Sent:** Thursday, April 2, 2026 12:22 PM
**To:** Alley, David L. - PDR <David.Alley@rva.gov>
**Subject:** 1321 - Porter Street, Richmond, VA 23224

You don't often get email from john@louisaengineering.com. Learn why this is important

**CAUTION:** This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

Mr. Alley,
This is to let you know I have completed the letter to you. However it's a good idea to let it sit here a day for proof reading and review before I issue to you.
I will definitely email it to you tomorrow.
Happy Easter!
John Nedza PE

**Existing Use and Occupancy**

One-and-two family dwelling (R5) Residential

- A copy of the assessor's information was provided in the submittal documents for each appeal case. No individual certificate of occupancy was noted or provided.
- All permit submittals and code enforcement cases being processed are checked to verify the existing use and occupancy prior to proceeding.
- The existing use and occupancy stated by the assessor's office is consistent with the Bureau of Permits and Inspections archived records for 1321 Porter St.

Note: Supporting testimony will be provided today by the Assessor's office.

**Archived Records:**

Certificate of Occupancy: 1966,1970,1974

Certificate of Occupancy Application: 1983

- All archived certificates of occupancy were issued for an existing One-and-Two Family Dwelling, that are two stories in height, with two Units.
- They are all issued to the owner of record to operate a rooming house in an existing one-and two- family dwelling in accordance with the Local Zoning Ordinance.
- The certificate of occupancy is not transferable for a rooming house.
- The certificate of occupancy is not a building permit.
- Note: Any alterations, additions or other construction work would have required a building permit.
- 1321 Porter St LLC has no certificate of occupancy in their name.
- A new certificate of occupancy can be requested for a change of ownership for the One- and Two-family dwelling. The certificate of occupancy cannot be issued until VMPC violations have been completed/closed.
- Supporting documentation and testimony today will be provided to show that the 1321 Porter St LLC knows they are a one-and Two-family Dwelling (R5).
- The current owner purchased 1321 Porter St Listed as a two-family dwelling.
  Let's look at other supporting documentation:

Note: Supporting testimony will be provided today by the Zoning Administrator.

**1970 Building Code**

The 1970 certificate of occupancy was reviewed and issued under The Boca Basic Building Code/1970 section 210.3 Use Group L-3 Structures shall include all buildings arranged for the use of a one or two-family dwelling units including not more than (5) lodgers or boarders per family. This is consistent with the max occupancy allowed on the certificate of occupancy.

**Unsafe**

**Change of Use and Occupancy**

One-and-two family dwelling (R5) Residential (2 units) converted to a 4-unit apartment building (R2) Commercial.

Certificate of Occupancy (required)

Virginia Residential Code 116.1. Prior to occupancy or change of occupancy of a building or structure, a certificate of occupancy shall be obtained.

Note: No use or occupancy shall be allowed for the change of use and occupancy areas.

- 3rd floor addition (Unit C) (New)
- 1st floor rear (Unit D) (Gut Rehab)

Note: A sprinkler system is required for the change of use to higher hazard.

**USBC Section 102 Purpose and Scope**

In accordance with 36-99 Code of Virginia, the purpose of the USBC is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia

**Unpermitted Work**

Unpermitted work constitutes a threat to health, safety and welfare of the occupants and may also constitute a threat to the adjacent neighbors.

Unpermitted work is **unsafe** for use and/or occupancy.

Permits are necessary to ensure that the proposed work has been reviewed and approved to meet applicable buildings codes and zoning ordinances to protect the health, safety and welfare of the residents of the Commonwealth of Virginia.

The new construction work performed at 1321 Porter St was not permitted, authorized, the work was performed without approved plans or inspections, concealed, completed, and occupied for the third story addition (unit-C) and Rear Unit (Unit D)

**Structurally: Unsafe**

Framing work is concealed and the following elements have not been inspected to verify installation meets building code compliance.

- Size and type (species) of structural members.
- Span limitations of structural members.
- Load calculations for structural beams and bearing points.
- Notching or boring limitations of structural members.
- Attachment of structural members, nails, hangers, bolts.
- Fire blocking and draft stopping.
- Fire separation exterior walls and unit separation.
- Insulation R values and air barrier installation.

Engineer framing inspection report provided by Carl Duncan pertaining to the 3rd floor only. The inspection was conducted with no building permit, plans, load calculations for beams or allowable spans for structural members. Mr. Duncan had to revise his report several times to correct errors. (3) reports for the same inspection.

Engineer report provided by Blue Nest for exterior of building only, no finishes were removed and no testing or analysis was provided as part of the report.

Engineer report provided by John H Nezda has been rescinded. His rescinded report contains information that contradicts Carl Duncan's original inspection report on the structural framing. Based on this new information the Bureau of Permits and Inspections has determined that the 1st and 2nd floor tenants should be removed immediately for their own safety.

**Plumbing: Unsafe**

Plumbing work is concealed and the following elements have not been inspected to verify installation meets code compliance or if the installation compromised the structural framing members.

- Type of Piping, fittings, primer and glue used.
- Size of piping
- Slope of piping
- Venting
- Fire blocking and draft stopping requirements.
- Bacteria test required. (Health Hazard)

Plumbing Letter from Davis & Green: This letter is not an engineer report. A Plumbing Comfort Check performed by a certified plumber. Note: A certified plumber is not certified by the Department of Housing and Community Development (DHCD) to perform inspections under the USBC.

**Mechanical: Unsafe**

Concealed work: City has no way of knowing if the installation meets code compliance or if the installation compromised the structural framing members.

No reports were submitted.

**Electrical: Unsafe**

An electrical permit was obtained for the new 3rd floor (Unit C) a rough in inspection was conducted.

No final inspection was conducted or approved; the permit has since expired.

Electrical Letter from FH Furr: This letter is not an engineer report. A home inspection check performed by a certified electrician. Note: A certified electrician is not certified by the Department of Housing and Community Development (DHCD) to perform inspections under the USBC.

**Exterior Stairs: Unsafe**

New Exterior stairs to 3rd floor:

- Open stair risers
- No attachment to 1st floor roof. (Load calculations required)
- Engineer report provided by Blue Nest pertaining to Insufficient Post Connections.
- Additional unpermitted work performed-bracing installed (SWO issued)

**Existing Stairs to second floor: Unsafe**

Engineer report provided by Robert F. Nelson has several concerns related to the adequate size of girders and lateral stability which should be addressed in a timely manner.

- Additional unpermitted repair work was performed according to the engineer report above. A SWO will be issued for this work.

**Water and sewer service connections for building: DPU**

The change of use may require larger service connections for a 4-unit apartment building through The Department of Public Utilities (DPU). A back flow preventer may also be required. This will need to be addressed with DPU through the permitting process.

**Other reports:**

Final Third-Party Inspection report provided by John Nedza is not valid for the following reasons.

- Not approved or authorized by the Bureau of Permits and Inspections to perform the inspection.
- Third-Party inspections can only be conducted by an approved Third-Party Agency by the Bureau of Permits and Inspections written policy.
- No building or trade permits have been issued to conduct a final building inspection.

**NOTICE OF VIOLATION - UNSAFE STRUCTURE**

**AMENDED from Unsafe Notice of Violation Dated April 11, 2026**

**City of Richmond**
**Department of Planning & Development Review**
**Property Maintenance Division**
**900 E. Broad Street, Room G-12**
**Richmond, Virginia 23219**
**May 11, 2026**

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 Porter St, LLC
9169 W State St #83714
Garden City, ID 83714

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2015 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the City may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**

106.1 US - Unsafe Structures

This section shall apply to existing structures which are classified as unsafe. All conditions causing such

structures to be classified as unsafe shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or demolished. Vacant and secure structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure constitutes such a hazard that it should be demolished, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirement s this code.

# AMENDED

**An Engineer's Letter dated April 3, 2026, was received by the Building Commissioner indicating that the original Engineer's Letter dated November 14, 2024, was incorrect and, based upon further investigation, is hereby rescinded.**

**Based on the findings and conclusions documented in the Engineer's Letter dated April 3, 2026, the Building Commissioner has determined that the first and second floors of the structure are unsafe for occupancy. Therefore, both floors are hereby ordered to be vacated immediately.**

**Prior to re-occupancy of the first and second floors, the property owner must:**

1. **Obtain all required permits for any unpermitted work.**
2. **Ensure that all work complies with all applicable building codes and regulations.**
3. **Complete all required inspections to verify compliance with applicable codes and permit requirements.**
4. **Obtain final approval confirming that the structure is safe for occupancy.**

**Failure to comply with this order may result in additional enforcement actions, including, but not limited to, legal proceedings.**

**Please find attached the Engineer's Letter dated April 3, 2026, outlining the identified unsafe conditions for your review and reference. If you have any questions regarding this matter or the steps required to achieve compliance, please contact this office.**

**This property has been inspected and found to be unsafe due to the following conditions:**
**1. Lack of Approved Building Permits and Plans: No approved building permits or plans were ever authorized for the new third-floor addition.**
**2. Lack of Trade Permits: No approved trade permits were authorized for electrical, plumbing, or mechanical work related to the new third-floor addition.**
**3. Absence of Inspections: No inspections were ever conducted by the Permits and Inspections Bureau for the new third-floor addition. This includes inspections for building, electrical, plumbing, mechanical, fire stopping, draft stopping, fire separation, and insulation.**
**4. Concealed Interior Work: All interior work associated with the third-floor addition is concealed, making it impossible to verify compliance with safety and building codes.**
**5. Wall Separation Issues: Wall separation problems have been identified within the**

**third-floor addition (see attached photos).**

**6. Deficient Engineering Report: The engineering report submitted by Carl Duncan contains incorrect and insufficient information, failing to meet the required standards for safety and code compliance.**

**7. Non-Code Compliant Alterations to Existing Structures: Alterations to existing exterior egress, stairs, and decks are not compliant with building codes.**

**8. Non-Code Compliant New Egress Stairs: The new egress stairs to the third-floor addition are not compliant with safety standards.**

**9. Structural Load Issues (First Floor): Non-code compliant structural load points are bearing on the roof above the occupied unit on the first floor, creating a potential safety hazard.**

**10. Structural Load Issues (Second Floor): Non-compliant structural load points are bearing on 4x4 posts above the occupied unit on the second-floor porch area, raising concerns about structural integrity.**

**11. Unauthorized Change of Use: The property's use has been changed from a single-family residence to a multi-family residence with three units without proper authorization or approval (see attached photos of mailboxes).**

**Required Actions to Abate Violation:**

**These issues pose a significant safety risk to the inhabitants, neighboring structures, and the public at large.**

**To Rectify These Violations:**

- **Follow the "City of Richmond Permit Process" to obtain all necessary approvals, including building, electrical, plumbing, and mechanical permits for the third-floor addition.**
- **Ensure that all required inspections are completed by the Permits and Inspections Bureau.**
- **Submit a revised and accurate engineering report that meets code requirements.**
- **Correct all structural issues and ensure that all alterations comply with building codes.**
- **Revert the unauthorized change of use or obtain the necessary approvals for the multi-family conversion.**

**Failure to comply with this notice by the abatement date may result in criminal court action.**

If permits are required to correct the conditions cited in this notice, this document or a copy thereof will be needed to obtain them. Permits can be obtained from: Permits and Inspections Division, 900 E. Broad Street, Room 110, Richmond, Virginia 23219

**Additional responsibilities as a property owner:**

Approximately 3,300 properties are in the City Old and Historic District. To determine whether or not your property falls within a City Old and Historic District, go to http://www.richmondgov.com/richhistory and click on the link "ViewMap of City Old & Historic Districts".

A *Certificate of Appropriateness* is required when any proposed work alters the exterior appearance of the property as it is viewed from a public street or alley. Certificates must be obtained before work can begin. For work requiring a building permit, no permit will be issued without a Certificate. This review procedure is required not only for the main structure on a lot but also accessory buildings, fences, exterior lighting, driveways and walks, and any other features visible to the public.

As in any review process, some preplanning is necessary. Please direct any questions or requests to: Secretary,

Commission of Architectural Review, Department of Planning & Development Review, 900 East Broad Street, Richmond, VA 23219.

Sincerely,

Walter Jackson
(804) 385-0703
Property Maintenance Inspector

# NOTICE OF VIOLATION - UNSAFE STRUCTURE

Amended from Original Notice Dated August 28, 2024

City of Richmond
Department of Planning & Development Review
Property Maintenance Division
900 E. Broad Street, Room C-12
Richmond, Virginia 23219

April 10, 2026

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias poster ores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 PORTER ST LLC
9169 W STATE ST #652
GARDEN CITY ID 83714

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the city may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

Prior to re-occupancy of the 1st and 2nd floor, the property owner must:

1. Obtain all required permits for all unpermitted work.
2. Ensure that all work complies with applicable building codes and regulations.
3. Complete all required inspections to verify compliance.
4. Obtain final approval confirming that the structure is safe for occupancy.

Failure to comply with this may result in additional enforcement action, including but not limited to legal proceedings.

Please find attached the engineer's report dated April 3, 2026, indicating the unsafe conditions for your review and reference.

If you have any questions regarding this matter or the steps required to achieve compliance, please contact our office.

**This property has been inspected and found to be unsafe due to the following conditions:**
**1.Lack of Approved Building Permits and Plans: No approved building permits or plans were ever authorized for the new third-floor addition.**

**2. Lack of Trade Permits: No approved trade permits were authorized for electrical, plumbing, or mechanical work related to the new third-floor addition.**

**3.Absence of Inspections: No inspections were ever conducted by the Permits and Inspections Bureau for the new third-floor addition. This includes inspections for building, electrical, plumbing, mechanical, fire stopping, draft stopping, fire separation, and insulation.**
**4.Concealed Interior Work: All interior work associated with the third-floor addition is concealed, making it impossible to verify compliance with safety and building codes.**

**5.Wall Separation Issues: Wall separation problems have been identified within the third-floor addition (see attached photos).**

**6.Deficient Engineering Report: The engineering report submitted by Carl Duncan contains incorrect and insufficient information, failing to meet the required standards for safety and code compliance.**

**7.Non-Code Compliant Alterations to Existing Structures: Alterations to existing exterior egress, stairs, and decks are not compliant with building codes.**

**8.Non-Code Compliant New Egress Stairs: The new egress stairs to the third-floor addition**

Approximately 3,300 properties are in the City Old and Historic District. To determine whether or not your property falls within a City Old and Historic District, go to http://www.richmondgov.com/richhistory and click on the link "ViewMap of City Old & Historic Districts".

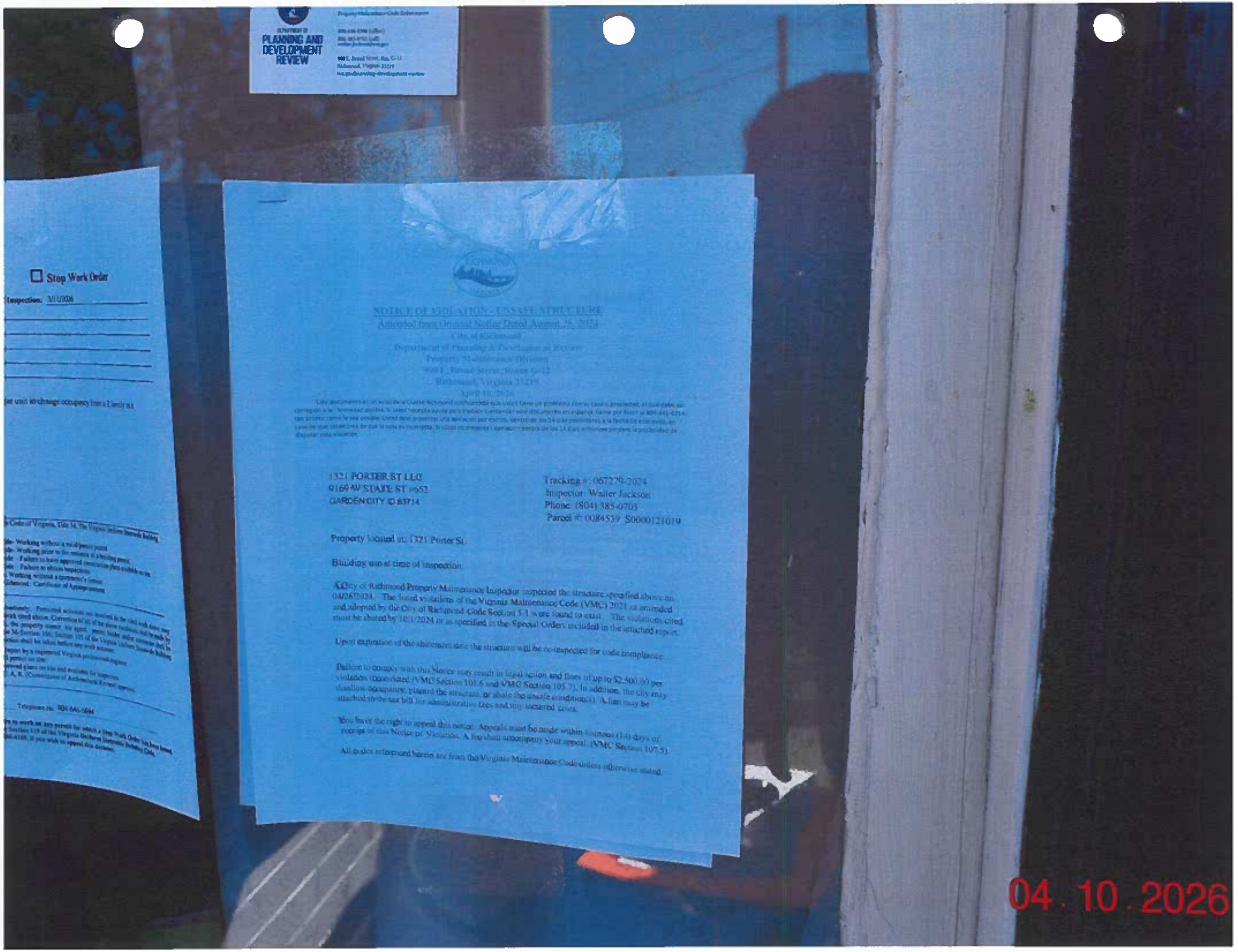
A *Certificate of Appropriateness* is required when any proposed work alters the exterior appearance of the property as it is viewed from a public street or alley. Certificates must be obtained before work can begin. For work requiring a building permit, no permit will be issued without a Certificate. This review procedure is required not only for the main structure on a lot but also accessory buildings, fences, exterior lighting, driveways and walks, and any other features visible to the public.

As in any review process, some preplanning is necessary. Please direct any questions or requests to: Secretary, Commission of Architectural Review, Department of Planning & Development Review, 900 East Broad Street, Richmond, VA 23219.

Sincerely,

Waler Jackson
(804) 385-0703
Property Maintenance Inspector

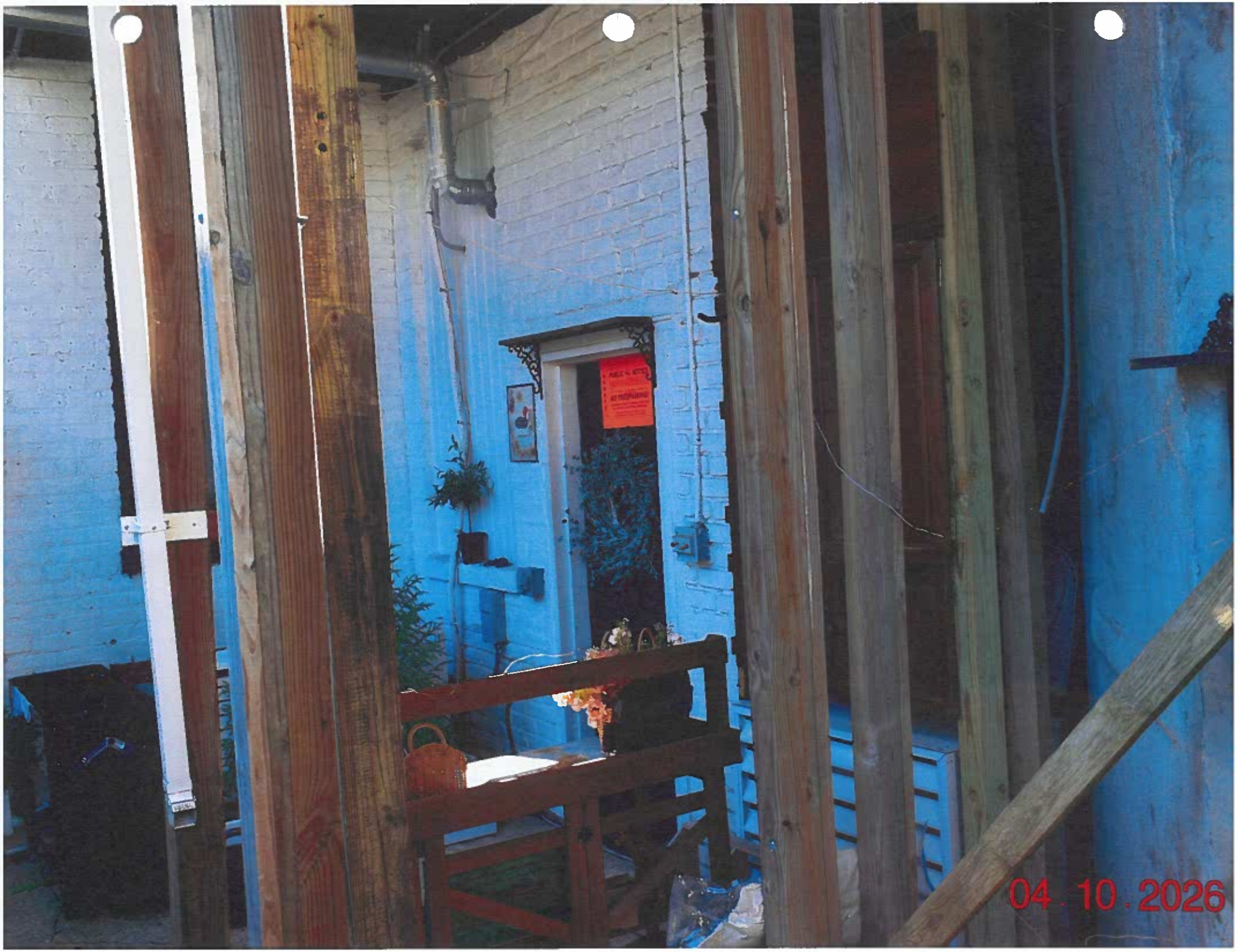

ADDRESS 1521 Porter St.
UNSAFE
PUBLIC NOTICE
TO LAST KNOWN OWNER AND TO THE GENERAL PUBLIC
IN ACCORDANCE WITH SECTION 116.1 OF THE VIRGINIA MAINTENANCE CODE, PART III OF THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE, THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL.
EFFECTIVE 4/10/2026
AUTHORIZING OFFICIAL
434 385-0703
NO TRESPASSING!
VIOLATORS ARE SUBJECT TO CRIMINAL PROSECUTION
CALL 646-6398 FOR ADDITIONAL INFORMATION
UNDER PENALTY OF LAW, THIS PLACARD SHALL NOT BE REMOVED WITHOUT THE APPROVAL OF THE CODE OFFICIAL
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04.10.2026


PLANNING AND DEVELOPMENT REVIEW
Stop Work Order
NOTICE OF VIOLATION - UNSAFE STRUCTURE
Amended from Original Notice Dated August 28, 2024
City of Richmond
Department of Planning & Development Review
Property Maintenance Division
900 E. Broad Street, Room 6-12
Richmond, Virginia 23219
April 10, 2026
1321 PORTER ST LLC
9169 W STATE ST #652
GARDEN CITY ID 83714
Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019
Property located at: 1321 Porter St.
Building use at time of inspection:
A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/02/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.
Upon expiration of the abatement date the structure will be re-inspected for code compliance.
Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation (convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the city may disallow occupancy, demand the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.
You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).
All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.
04.10.2026


ADDRESS 1321 Porter St.
PUBLIC NOTICE
TO _____ LAST KNOWN OWNER AND TO THE GENERAL PUBLIC.
IN ACCORDANCE WITH SECTION 106.1 OF THE VIRGINIA MAINTENANCE CODE, PART III OF THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE, THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL.
EFFECTIVE 4/10/2026 W. Jackson AUTHORIZING OFFICIAL
804.385.0703
NO TRESPASSING!
VIOLATORS ARE SUBJECT TO CRIMINAL PROSECUTION
CALL 646-6398 FOR ADDITIONAL INFORMATION
UNDER PENALTY OF LAW, THIS PLACARD SHALL NOT BE REMOVED WITHOUT THE APPROVAL OF THE CODE OFFICIAL
UNSAFE
A
Walter Jackson
PLANNING AND DEVELOPMENT REVIEW
04.10.2026

358


ADDRESS 1321 Porter st
PUBLIC NOTICE
TO _____, LAST KNOWN OWNER, AND TO THE GENERAL PUBLIC.
IN ACCORDANCE WITH SECTION 106.1 OF THE VIRGINIA MAINTENANCE CODE, PART III OF THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE, THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL.
EFFECTIVE 4.10.2026 W Jackson AUTHORIZING OFFICIAL
804.385.0203
NO TRESPASSING!
VIOLATORS ARE SUBJECT TO CRIMINAL PROSECUTION
CALL 646-6398 FOR ADDITIONAL INFORMATION
UNDER PENALTY OF LAW, THIS PLACARD SHALL NOT BE REMOVED WITHOUT THE APPROVAL OF THE CODE OFFICIAL
UNSAFE
X
Walter Jackson
PLANNING AND DEVELOPMENT REVIEW
04.10.2026

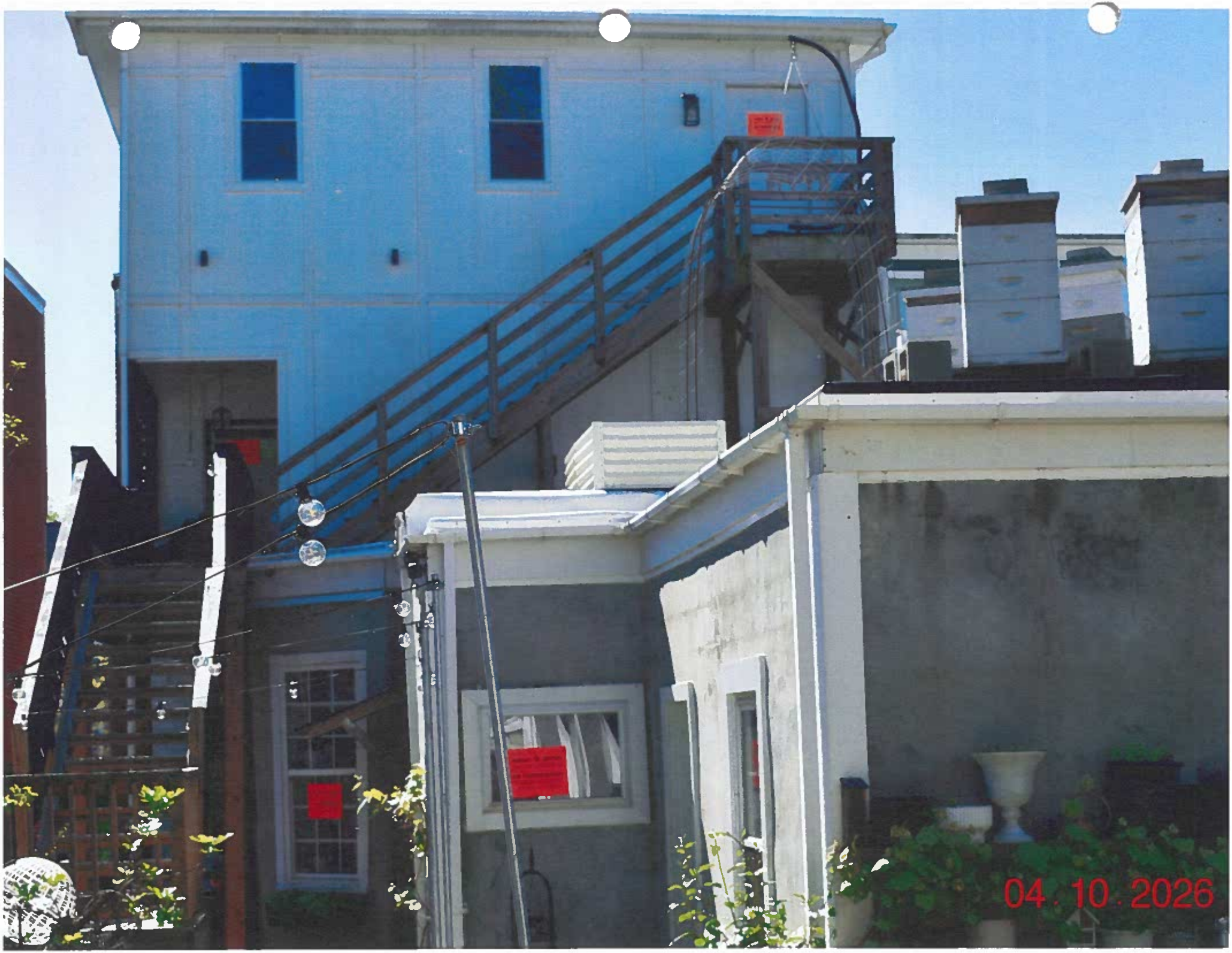



360


UNSAFE
PUBLIC NOTICE
NO TRESPASSING!
04.10.2026


UNSAFE
PUBLIC NOTICE
NO TRESPASSING!
VIOLATORS ARE SUBJECT TO CRIMINAL PROSECUTION
04 . 10 . 2026


04.10.2026


04.10.2026

# C. E. Duncan & Associates, Inc.

2609 Rocky Oak Road
Powhatan, Virginia 23139
(804) 598-8240


February 2, 2021

# 1st

Sophia Blystone
1321 Porter Street, Apt A
Richmond, VA. 23224

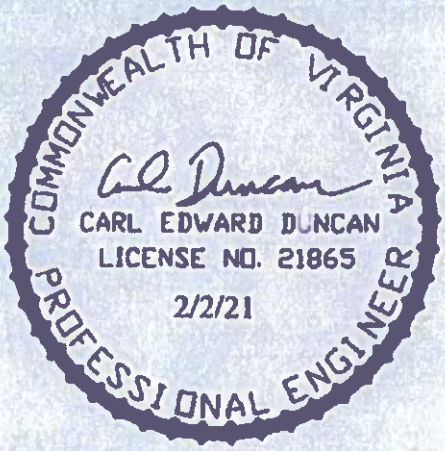
RE: Third floor addition

Dear Sophia,

This letter is to confirm that we inspected the framing for the third floor addition at 1312 Porter Street. No exceptions were noted with the framing. The work was performed in a good workmanship manner.

Sincerely,

Carl E. Duncan, P.E., L.S.




CODE SECTION

J:\Jobs 20\20-2882 Porter Street 1321\PDF\20-2882 framing inspection.docx

C. E. Duncan & Associates, Inc.
2609 Rocky Oak Road
Powhatan, Virginia 23139
(804) 598-8240

February 2, 2021

#2882

Sophia Blystone
1321 Porter Street, Apt A
Richmond, VA. 23224

RE: Third floor addition

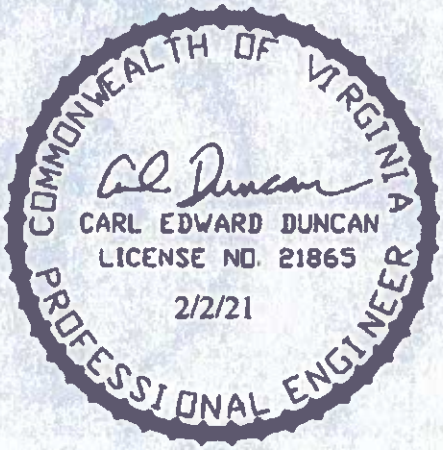
Dear Sophia,

This letter is to confirm that we inspected the framing for the third floor addition at 1312 Porter Street. No exceptions were noted with the framing. The work was performed in a good workmanship manner. The work has no structural effect upon the lower 2 floors.

Sincerely,

Carl Duncan

Carl E. Duncan, P.E., L.S.



C. E. Duncan & Associates, Inc.
2609 Rocky Oak Road
Powhatan, Virginia 23139
(804) 598-8240

April 26, 2024

# 3rd

Sophia Blystone
1321 Porter Street, Apt A
Richmond, VA. 23224

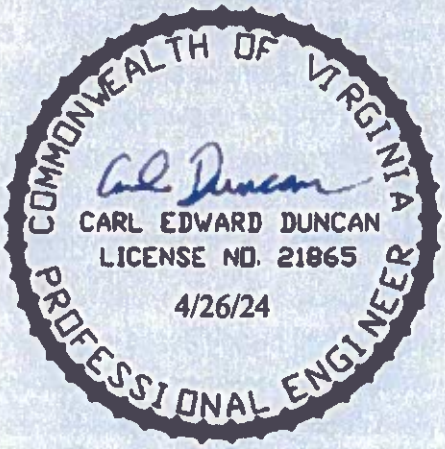
RE: Third floor addition

Dear Sophia,

This letter is to confirm that we inspected the framing for the third floor addition at 1321 Porter Street. No exceptions were noted with the framing. The work was performed in a good workmanship manner. The work has no structural effect upon the lower 2 floors. We inspected all the lower levels and into the crawlspace to verify that the third floor modification and framing did not affect the structural integrity of the structure. No exceptions or concerns were noted during our inspection.

Sincerely,

Carl E. Duncan, P.E., L.S.



**Louisa Engineering, Inc.**
**1065 Jouett School Road**
**Mineral, Virginia 23117**

**Cell: 804.512.4865** **Email: john@louisaengineering.com**

November 14, 2024

Emily Pinchbeck, Mgr.
1321 Porter St. LLC.
Phone (804)-912-3115

**RE: 1321 Porter Street**

At your request I made a site visit to the above property to see if the third story addition was structural sound. The reason for the review is due to the fact that a building permit was not acquired from the City of Richmond for the construction of the third floor. Therefore, the city requested that a VA Professional engineer review the building and the decks/ staircases for structural integrity.

This house was originally a 2 -story wood frame structure over a crawl space. The age is approximately 100 years. A third story was added approximately 5 years ago. See photo #1

Reasonable care was taken to make observations and offer recommendations which are based on visual observations only. We did not test the soil. However, we did do some soil excavations to observe footings. Also, we used a borescope and removed dry wall in a few places to observe the third-floor ceiling joists.

**Observations and Discussion**

Crawl Space and Footings

We checked on the footings to see if they were competent to bear the additional weight of the third story. We observed that the foundation walls are 3 wythes of brick, approximately 11.5" wide. In addition, to the exterior walls there is a longitudinal center foundation wall. The bottom of the foundation wall is corbelled as follows: the wall goes down 5 bricks, steps out one and down 2, out 1, down 2 more, out another. The total width of the corbelled footing is approximately 30" which is adequate.
See photo's #1,2,3.

Exterior Staircases and Decks (No permit)

We made a number of upgrades on the exterior decks. See photos 4-7. A summary of upgrades can be seen from the photos. We scabbed 2x PT (pressure treated) wood to the side of the columns. We also added a new column. Also, a new beam was added to support the deck above and we anchored the posts to the base material.

However, additional upgrades need to be implemented on the staircases and third floor deck support columns. On the staircase the existing newel posts will need to be replaced with 4 x 4 PT posts at 4' OC max. See the attached drawing S1 of 1. Also, we need to add additional 2 posts and a beam at the center line of the uppermost staircase as shown on the drawing. And lastly, we need to brace the 2 columns supporting the uppermost third floor landing. Also see drawing S1 of 1.

**Exterior Ceiling/Roof of the third floor**

We removed some sheet rock and also used a borescope to obverse the rafters of the third floor. The rafters are 2 x 8's at 16" on center spanning less than the code allowable of 17'-1". Therefore, the ceiling joists / rafters appear to be adequate. See photo's 8 & 9.

Also, we looked at the lateral load resisting capability of the building and determined that the existing shear walls are adequate to resist wind and seismic loading.

**Conclusion**

After performing a reasonable due diligence effort to determine the as-built construction of the building I believe that the third-floor structure is structurally sound and appears to meet building code requirements.

I also believe, after the aforesaid investigation, that the building "as a whole" is a safe structure and to the best of my belief there are no unsafe issues dangerous to the health safety and welfare of occupants. I believe that the foundation is stable and that complete collapse is not likely.

As of the writing of this letter, the structural issues on the rear stairs and decks have been remediated as recommended by this letter and drawing S1.




Sincerely,

John H. Nedza, PE

Structural Engineer

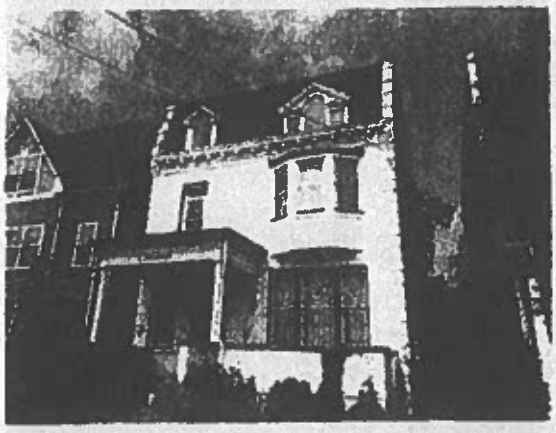


Photo #1 Front of house approximately 100 years old

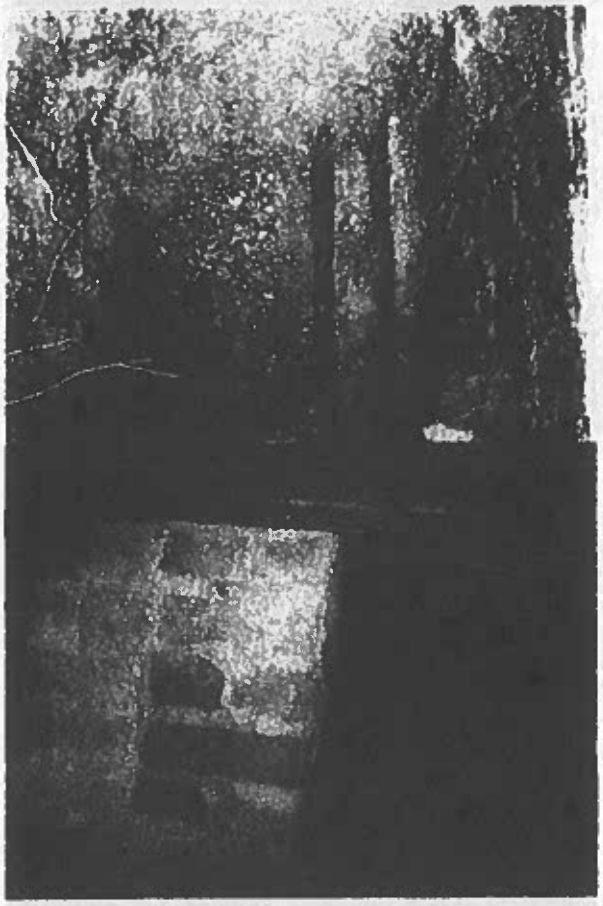


Photo #2 – Corbelled foundation. These are all taken below the house. The 2x10's are almost 2x11. The foundation wall is 3 courses thick around the perimeter, with another wall from front to back in the center of the house (photo 1). Pillars are 18x18. There are also (4) 4 brick by 4 brick thick pillars between the foundation walls & the center wall floor.



Photo #3 Center foundation wall- long direction of house

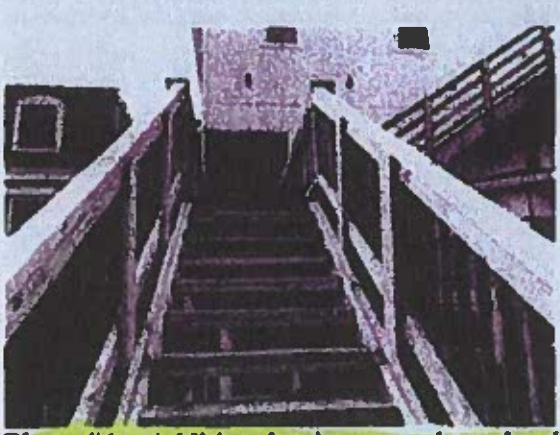


Photo #4 – Additional stringers and treads added. Newel post to be replaced with 4 x 4 posts per attached drawing.

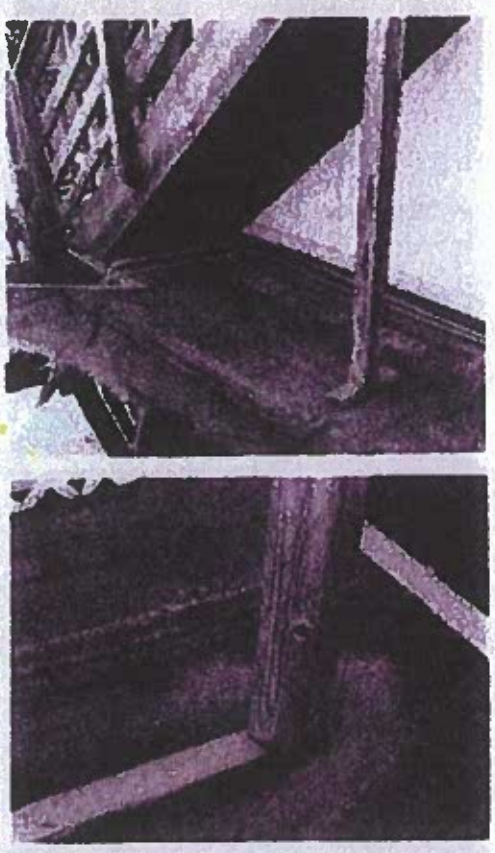


Photo #5 – Add posts and beam at center of star stringer per drawings Also Add bracing to (2) existing posts supporting the third story deck per S1 of 1 drawing.

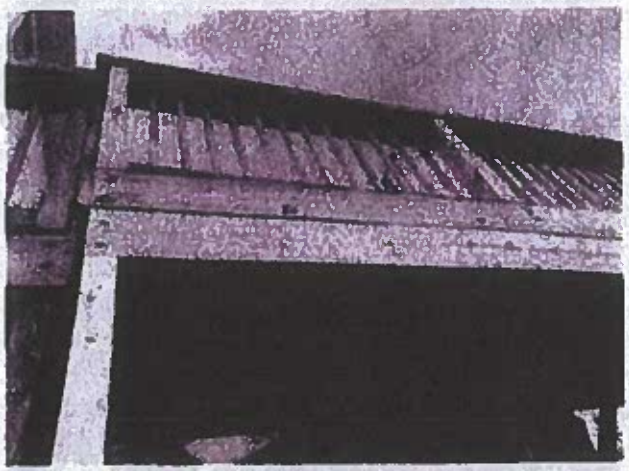


Photo #6 – Additional beam already added.



Photo #7 - Additional posts added post base anchorage added. Additional 2x's added to existing posts. Screw 2x's better to posts with 2-7/8" head lock screws at 16" on center.

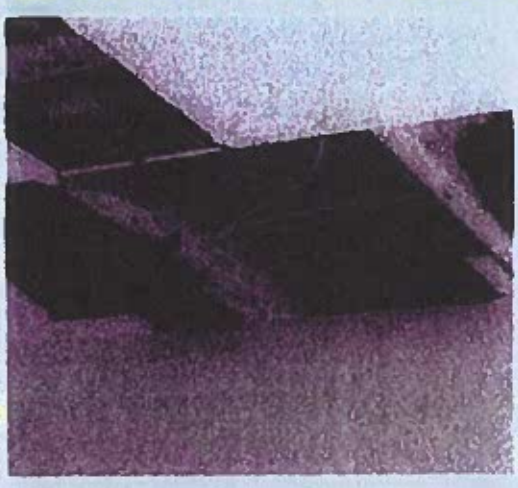
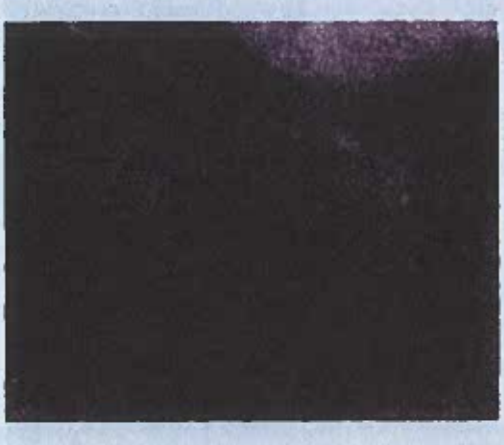


Photo #8 – Ceiling/Roof joists 2 x 8" at 16" OC - Third Floor



NEED A CLEARER PICTURE

Photo #9 – Third floor ceiling rafters with borescope- Third Floor

**Louisa Engineering, Inc.**
**1065 Jouett School Road**
**Mineral, Virginia 23117**

**Cell: 804.512.4865** **Email: john@louisaengineering.com**

April 3, 2026

Mr. David L. Alley, lll
Commissioner of Buildings
900 E. Broad Street, Room 110
Richmond, VA 23219

Email: David.Alley@rva.gov

**RE: 1321 Porter St., Richmond, VA**

**Modification to Letter Dated November 14, 2024**

**Purpose**
The purpose of this letter is to modify the conclusion of the above captioned letter and to discuss potential safety risks in this structure.

We have taken reasonable care to make statements and conclusions.

**Discussion:**
A third story was added to the existing 2-story structure, all without a building permit. Louisa Engineering, LLC was hired by the owners property manager, to look at the structures both new and old to see if the building was safe to be inhabited. One can read the observations and discussions included in the November 14th letter. The statements we made at the time were to the best of our belief true, based on the information at hand.

Further Investigation
However, since the November 14, 2024 letter, we performed further investigation of the structure. What prompted this was the requirement by the City of Richmond to prepare a framing plan of the unpermitted third story. To do this we had the property manager cut additional observation holes in the ceiling of the second floor to observe the floor joists of the third. Other observation holes were cut.

Third Story Floor Joists
The floor joists that we observed were 2 x 10, @16" on center. There are 2 spans of 14'-8" and 10'-0". We assume the grade to be Southern Yellow Pine #2. We did not find any grade stamps. The 14'-8" span does not meet the current code requirement of 14'-0" maximum for 40 PSF live load plus 10 PSF dead load. However, it does meet the code requirement for bedroom loads at 30 PSF.

A positive parameter that we observed was that the 10' span extended approximately 5'-6' into the 14'-8" span which if connected properly to the longer span could provide the additional strength to the 14'-8" floor joists. This is considered an unanalyzed condition and needs to be addressed by a professional engineer.

Bearing Walls

We also found that the 2 walls, either side of the bathrooms were bearing walls for the roof. We performed a calculation of the 2 joists in the third floor that support these walls. Based on that calculation we determined that the (2) 2 x 10 joists under these walls are not adequate to support the roof loads. Therefore, there shall be added (2) 1.75" x 9.25" LVL's, 2.0 E min. to the floor under these walls. Another option is to add these beams as header beams at the top of the walls. This option would probably we easier because the floor would not have to opened. Also, adequate numbers of jack studs would be required to support the beams at either end. An engineered drawings shall be prepared by a registered professional engineer licensed to do business in Virginia, to show construction details of such beam and jack studs prior to installing these beams. Permits are required.

**Conclusion**

At this time Louisa Engineering LLC rescinds the entire conclusion made in the November 14, 2026 letter.

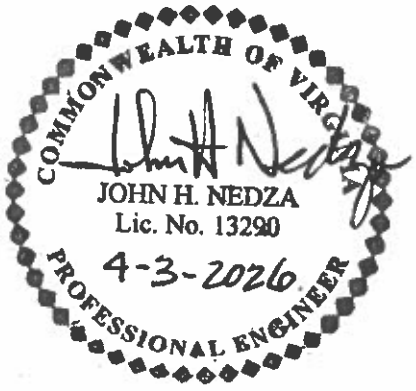
Also, since the time of the November 14, 2024 letter, we have found a couple structural discrepancies with the third-floor framing as discussed in the aforesaid paragraphs entitled "Third Story Floor joists" and "Bearing Walls", that could be detrimental to the health, safety and welfare of the occupants.

Louisa Engineering, LLC recommends that the drywall be removed from all the interior walls and ceiling so that a thorough and complete review can be performed of the structural framing. Also, the floor should be removed to observe floor joists and connections to the exterior walls and the center bearing wall.

Let me know if I can answer any questions you may have on this project!

Sincerely,

John H. Nedza PE



RECEIVED
OCT 3 1983
Building Inspection
Richmond, Virginia

# CERTIFICATE OF OCCUPANCY APPLICATION

City of Richmond
Department of Public Safety - Bureau of Building Inspection
Room 126 - 501 North 9th Street, Richmond, Virginia 23219
804 • 780-8751

OCT 1983 ZONING ADMINISTRATION

Date 10/3/83

1. Location: 1321 PORTER STREET (No) (Street) 706 E. BROOKLAND PK BLVD (Zip Code)
2. Owner-in-fee: EDWARD L CHRISTIAN (Name) RICHMOND, VA 23222 (Address) 329-4390 (Telephone no.)
3. Occupant: TENANTS (Name)
4. Applicant: Edward L Christian (Signature of Owner-in-fee/or owner's agent) 329/4390 (Telephone no.)

OFFICE USE ONLY:
LOCATION: (Number) (Street)

5. USE OF PROPERTY (Indicate Existing and Proposed):

| | EXISTING | PROPOSED | |
|---|---|---|---|
| RESIDENTIAL | ☐ | ☐ | Single Family |
| | ☑ | ☑ | Two Family |
| | ☐ | ☐ | Multiple Family (Less than 10 units) # ____ |
| | ☐ | ☐ | Multiple Family (More than 10 units) # ____ |
| | ☐ | ☐ | Other Multiple Family Specify: ____ |
| | ☐ | ☐ | Home Occupation |
| NON RESIDENTIAL | ☐ | ☐ | Child Care |
| | ☐ | ☐ | Office (Non-Medical) |
| | ☐ | ☐ | Office (Medical) |
| | ☐ | ☐ | Hospital, Institutional |
| | ☐ | ☐ | Restaurant |
| | ☐ | ☐ | Night Club |
| | ☐ | ☐ | Hotel, Motel |
| | ☐ | ☐ | Warehouse, Distribution Center |
| | ☐ | ☐ | Manufacturing |
| | ☐ | ☐ | Retail |
| | ☐ | ☐ | Other ____ |

7. TYPE OF STRUCTURE
   - ☐ Frame
   - ☑ Masonry
   - ☐ Structural Steel
   - ☐ Reinforced Concrete
   - ☐ Other (Specify)

DEC 1983 ZONING ADMINISTRATION

8. FLOOR AREA OF THE BUILDING ____ (Square ft.)
9. NUMBER OF STORIES: ~~2~~
10. FLOOR(S) USED IN CONNECTION WITH THIS USE: ____
11. TOTAL OCCUPANTS 2 families
12. NUMBER OF EMPLOYEES ____
13. OFF-STREET PARKING:
    No. of spaces on site ____
    No. of spaces off-site ____
    *COPY OF LEASE MUST BE ATTACHED.*
14. PLANS ATTACHED
    ☐ Yes ☐ No
15. LOT SIZE:
    Frontage ____ Depth ____

6. ENTER STATEMENT DESCRIBING PROPOSED USE ABOVE:
Install 2 meters for utilities - Vepco
Gas is currently on two meters

NO PERMIT ISSUED NO WORK DONE MDE
12-6-83

Revised January 2, 1981
CS 260456

FOR OFFICE USE ONLY

** REVIEWS AND APPROVALS BY CITY AGENCIES **

15. Zoning: (a) District R-53

(b) ☐ Conforming ☐ Non conforming

(c) ☐ Affidavit filed to support non-conformance

(d) ☐ Board of Zoning Appeals variance or exception Case No. _____

(e) ☐ Special Use Permit, Ordinance No. _____

(f) ☐ Community Unit Plan, Ordinance No. _____

Adopted on _____

(g) ☐ Investigation and Background Data

Central File No. _____

Board of Zoning Appeal File Nos. _____

(h) ☐ Field Inspection Made on _____

By: _____
Inspector

16. BUILDING PERMIT WORK FINAL CONSTRUCTION:

(a) ☐ New ☐ Alteration No.

This permit work has been inspected by the respective city agency of their pertinent administrative responsibility and action taken as noted below

| AGENCY | APPROVED | REJECTED | BY | DATE | COMMENTS |
|---|---|---|---|---|---|
| (b) Public Works | | | | | |
| (c) Public Health | | | | | |
| (d) Planning | | | | | |
| (e) Utilities | | | | | |
| (f) Bureau of Fire | | | | | |
| (g) Bureau of Air Pollution | | | | | |
| (h) | | | | | |
| (i) | | | | | |

17. EXISTING BUILDINGS, No Building permit involved;

The following agencies as required whereas others are to be indicated as N/A if not applicable.

| AGENCY | APPROVED | REJECTED | BY | DATE | COMMENTS |
|---|---|---|---|---|---|
| (a) Public Works | | | | | |
| (b) Public Health | | | | | |
| (c) Planning | | | | | |
| (d) Utilities | | | | | |
| (e) Bureau of Fire | | | | | |
| (f) Bureau of Air Pollution | | | | | |
| (g) Dir. of Safety | | | | | |
| (h) | | | | | |
| (i) | | | | | |

18. FINAL APPROVAL BY COMMISSIONER OF BUILDINGS

Leo J. Cantor, P.E.

(a) ☐ APPROVED BY _____ on _____
(Building Inspector)

(b) ☐ REJECTED BY _____ on _____
(Building Inspector)

COMMENTS: (State reasons for rejection or special conditions of approval _____

_____

_____

_____

19. COPIES TRANSMITTED TO: ☐ Applicant ☐ City Assessor ☐ Licen. ☐ Works ☐ Health

☐ Planning ☐ Utilities ☐ Fire ☐ Air Pol. ☐ Other _____

(DO NOT FILL IN THIS PORTION)

CERTIFICATE OF OCCUPANCY

Street Porter

Number 1321

Owner Wayne Goddard

Lessee/Occupant Lawrence B. Goddard, Jr.

Approved on 4-29-74
under provisions of Building Code Ordinance adopted March 26, 1968, and Zoning Ordinance adopted June 1, 1960.

LEO J. CANTOR
Commissioner of Buildings

(Signed) W. E. Crews

Conforming (✓); Nonconforming ( )

Copies to (Checked by Off. Supervisor)
- City Planning
- License
- Mr. Emison, Utilities
- ✓ Electrical Inspection
- Fire Prevention
- Police
- Traffic Engineering
- Health Department
- Plumbing Inspection
- Food Division
- Environmental Health
- Other

B. Z. A. Case No.
Council Sp. Use Ord.

APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date Submitted 29 APR 74

Please fill in completely in Ink or Type.

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION
ROOM 124, 501 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219

(1) Name LAWRENCE B. GODDARD JR.
(Owner or Lessee/Occupant)

(2) Location 1321 PORTER ST (3) Floor or Floors to be Used 1

(4) Dwelling Data: Lot Size 35-100 No. of Families ROOMING HOUSE

(5) If Business Usage, No. of Employees MAILING ADDRESS & PHONE

(6) Maximum Occupancy

(7) Proposed or/Present Use ROOMING HOUSE and Mailing & Telephone Address for Painting Contracts

(8) Previous or/Last Use SAME

(9) Facility Is: Existing (✓); To Be Constructed ( ); To Be Altered ( )

(10) Signature of Owner (or duly authorized agent) (This applies to owner or agent of building, not owner of business) Wayne Goddard

(11) Name and Address of Person to Receive Certificate Lawrence B Goddard Jr

RECEIVED
APR 29 1974
OFFICE
Bureau of Building Inspection

TO BE FILLED IN BY INSPECTOR

| Street and Number | City | State | Zip Code |
|---|---|---|---|
| | | | |

Zone R-6 Conforming (✓) Nonconforming ( ) Exception ( )
Family Dwelling

Approved 4-29-74 LJ (Date and Initials) Disapproved (Date and Initials)

Inspection of Premises made on _____ By: _____ (Inspector)

Comments: A public office is not authorized by this application. Storage of equipment and materials is not permitted at this location; no signs; no employees other than member of family residing on premises.

Note: No alterations or signs painted/erected are authorized by this Certificate; it does not take the place of any license or permit required by law. ANY CHANGE IN USE OR OCCUPANCY SHALL REQUIRE A NEW CERTIFICATE. VIOLATION OF THE PROVISIONS OF THIS CERTIFICATE SHALL RESULT IN REVOCATION.

378

RECEIVED
OFFICE
Bureau of Building Inspection

A public office is not authorized by this certificate. Storage of equipment and materials is not permitted at this location; no signs; no employees other than member of family residing on premises.

City of Richmond, Virginia
Department of Public Safety
Bureau of Building Inspection
Room 124- Ninth and Clay Streets

(Do not fill in this portion)
CERTIFICATE OF OCCUPANCY

Street Porter St.

Number 1321

Owner Wayne Goddard

Lessee/Occupant Margaret M. Goddard

Approved on Aug 5-70

under provisions of Building Code Ordinance adopted March 26, 1968, and Zoning Ordinance adopted June 1, 1960.

LEO J. CANTOR
Commissioner of Buildings

(Signed) John Fulcher
Building Inspector

Zone R-6 Multi family.

Conforming ( ~ ); Nonconforming ( )

Copies to:
( ) City Planning
( ~ ) License
( ) Mr. Emison, Utilities
( ) Electrical Inspection
( ) Health Department (plumbing)
( ) Fire Prevention
( ) Police
( ) Food and Milk Division Health Department
( ) Environmental Health

APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date Submitted 1/4/70

Please fill in completely in Ink or Type

Margaret Anna Goddard
Name of Owner or Lessee/Occupant

1321 Porter st — 30' + 120"
Location of Occupancy — Size of Lot

Floor or floors to be used First Floor

Number of Employees 0 Number of Occupants 4

To be used as Dwelling & telephone Address only for Painting Contractor (If dwelling, give number of families)

Last used as 1 fam. dw. (No. of families if dwelling)

Existing ~ To be constructed _____ To be altered _____

SIGNATURE OF OWNER(or duly authorized agent Mrs. Wayne Goddard

Name and Address of person to receive Certificate Wayne Goddard

1321 Porter St.
Street and Number 1321 Porter City Richmond State Va. Zip Code

NOTE: No alterations or signs painted/erected are authorized by this certificate; it does not take the place of any license or permit required by law. ANY CHANGE IN USE OR OCCUPANCY SHALL REQUIRE A NEW CERTIFICATE. VIOLATION OF THE PROVISIONS OF THIS CERTIFICATE SHALL RESULT IN REVOCATION.

DO NOT WRITE BELOW THIS SPACE. TO BE FILLED IN BY INSPECTOR

ZONE R-6 Multi family Conforming (~); Nonconforming ( )

Approved Aug 5-70 JFW Disapproved _____
Date and Initials — Date and Initials

Comments ~~A public office is not authorized by this~~ certificate. Storage of equipment and materials is not permitted at this location; no signs no employees other than member of family residing on premises.

380

(DO NOT FILL IN THIS PORTION)

CERTIFICATE OF OCCUPANCY

Street Porter

Number 1321

Owner Wayne Goddard

Lessee/Occupant Lawrence B. Goddard, Jr.

Approved on 4-29-74
under provisions of Building Code Ordinance adopted March 25, 1968, and Zoning Ordinance adopted June 1, 1960.

LEO J. CANTOR
Commissioner of Buildings

(Signed) W. E. Crews

Conforming (✓); Nonconforming ( )

Copies to (Checked by Off. Supervisor)

City Planning
License
Mr. Emison, Utilities
✓ Electrical Inspection
Fire Prevention
Police
Traffic Engineering
Health Department
Plumbing Inspection
Food Division
Environmental Health
Other

B. Z. A. Case No.
Council Sp. Use Ord.

APPLICATION FOR CERTIFICATE OF OCCUPANCY

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION
ROOM 124, 501 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219

Date Submitted 29 APR 74

Please fill in completely in Ink or Type.

(1) Name LAWRENCE B. Goddard, Jr.
(Owner or Lessee/Occupant)

(2) Location 1321 PORTER ST (3) Floor or Floors to be Used 1

(4) Dwelling Data: Lot Size 35-100 No. of Families Rooming House

(5) If Business Usage, No. of Employees Applicant and Phone

(6) Maximum Occupancy

(7) Proposed or/Present Use Rooming House and Mailing & Telephone Address for Painting Contractor

(8) Previous or/Last Use SAME

(9) Facility is: Existing (✓); To Be Constructed ( ); To Be Altered ( )

(10) Signature of Owner (or duly authorized agent) (This applies to owner or agent of building, not owner of business) Wayne Goddard

(11) Name and Address of Person to Receive Certificate Lawrence B. Goddard

RECEIVED
APR 29 1974
OFFICE
Bureau of Building Inspection

TO BE FILLED IN BY INSPECTOR

Street and Number City State Zip Code

Zone R-6 (Conforming (✓) Nonconforming ( ) Exception ( )

Approved 4-29-74 LJ (Date and Initials) Disapproved (Date and Initials)

Inspection of Premises made on By: (Inspector)

Comments: A public office to be used in connection with this activity. Owners of the property and no employees other than owner of family residing on premises.

Note: No alterations or signs painted/erected are authorized by this Certificate; it does not take the place of any license or permit required by law. ANY CHANGE IN USE OR OCCUPANCY SHALL REQUIRE A NEW CERTIFICATE. VIOLATION OF THE PROVISIONS OF THIS CERTIFICATE SHALL RESULT IN REVOCATION.

POOR ORIGINAL

# 1970

# Certificate of occupancy

theatrical stage other than a raised platform; and principally used without permanent seating facilities, including art galleries, exhibition halls, museums, lecture halls, libraries, restaurants other than night clubs, and recreation centers; and buildings designed for other similar assembly purposes including passenger terminals.

208.4 Use Group F-4 Structures shall include all buildings used as churches, schools, colleges and for similar educational and religious purposes.

208.5 Use Group F-5 Structures shall include grandstands, bleachers, coliseums, stadiums, drive-in theatres, tents and similar structures for outdoor assembly use and shall comply with the provisions of the Basic Code for special uses and occupancies. (see article 4.)

### Section 209.0 Use Group H, Institutional Buildings

All buildings and structures or parts thereof shall be classified in the institutional use group in which people suffering from physical limitations because of health or age are harbored for medical or other care or treatment, or in which people are detained for penal or correctional purposes, or in which the liberty of the inmates is restricted.

209.1 Use Group H-1 shall include all buildings designed for the detention of people under restraint including among others jails, prisons, reformatories, insane asylums and similar uses.

209.2 Use Group H-2 shall include all buildings used for housing people suffering from physical limitations because of health or age, including among others day nurseries, hospitals, sanitariums, clinics, infirmaries, orphanages, homes for aged and infirm; and buildings designed for prosecuting public or civic services and activities of emergency character, including among others fire houses, police stations and similar uses.

### Section 210.0 Use Group L, Residential Buildings

All buildings and structures or parts thereof shall be classified in the residential use group, in which families or households live or in which sleeping accommodations are provided for individuals with or without dining facilities, excluding those that are classified as institutional buildings.

210.1 Use Group L-1 Structures shall include all hotel buildings, lodging houses, boarding houses and dormitory buildings arranged for the shelter and sleeping accommodation of more than twenty (20) individuals.

210.2 Use Group L-2 Structures shall include all multiple-family dwellings having more than two dwelling units; and shall also include all dormitories, boarding and lodging houses arranged for shelter and sleeping accommodation of twenty (20) individuals or less.

210.3 Use Group L-3 Structures shall include all buildings arranged for



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the use of one- or two-family dwelling units including not more than five (5) lodgers or boarders per family.

Mobile homes may be used as single-family dwellings when complying with the requirements of section 425.0.

### Section 211.0 Use Group M, Miscellaneous Uses

Structures and buildings of a temporary character and miscellaneous structures not classified in any specific use group shall be constructed, equipped and maintained to meet the requirements of the Basic Code commensurate with the fire and life hazard incidental to their use. Miscellaneous uses shall include all accessory buildings and structures used as private garages, sheds, fences and similar purposes.

### Section 212.0 Doubtful Use Classification

When a building or structure is proposed for a use not specifically provided for in the Basic Code or the classification of which is doubtful, such building or structure shall be included in the use group which it most nearly resembles in respect to the existing or proposed life and fire hazard and it shall be so classified by the building official.

### Section 213.0 Mixed Use and Occupancy

213.1 **Two or More Uses:** In case a building is occupied for two (2) or more uses not included in the same use group, the provisions of the Basic Code applying to each use shall apply to such parts of the building as come within that group; and if there are conflicting provisions, the requirements securing the greater public safety shall apply.

213.2 **Incidental Uses:** Where the higher hazard use is supplemental to the main use of the building and the area devoted to such use is constructed and segregated by fireresistive construction as required in article 4, the building shall be classified according to the main use.

213.3 **Fire Divisions:** When mixed uses are completely separated horizontally and vertically from adjoining occupancies by fire divisions of the highest fire grading prescribed in table 16 for the separated uses, each part of the building shall be separately classified as to use.

### Section 214.0 Construction Classification

All buildings and structures erected or to be erected, altered or extended in height or area shall be classified in any one or in a combination of the four (4) construction types herein defined: Type 1, Fireproof Construction; Type 2, Noncombustible Construction; Type 3, Exterior Masonry Wall Construction; and Type 4, Frame Construction.

214.1 **False Designation:** No building shall be designated a given type



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1321 Porter Street Zoning History

December 11, 1961 - January 1, 1975 zoned R-6

January 1, 1975 - June 1, 1976 zoned R-6

June 1, 1976 - April 1, 1979 zoned R-53

April 1, 1979 – February 1, 1986 zoned R-53

February 1, 1986 – March 22, 2010 zoned R-53 (as far as I can tell the zoning district never changed during those years)

March 22, 2010 – current zoned R-8

- R-6 zoning district permitted boardinghouses, lodging houses and rooming houses unit March 1, 1976. At that time the use became nonconforming.
- June 1, 1976 the property was rezoned to R-53. In the zoning ordinance adopted March 1, 1976 R-53 allowed lodging houses as a permitted principal use.
- July 28, 1997 lodging houses are removed as a permitted principal use in the R-53 zoning district (Ord. No. 97-226-253)

CS260406

# APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date 3/16/1970

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION
ROOM 124, 501 NORTH 9TH STREET

WRITE WITH INK

The undersigned owner or lessee hereby applies for a certificate of occupancy in accordance with provisions of the Zoning Ordinance and the Building Code for the following use and hereby agrees to fully conform to all terms of any permit which may be issued on account of the application.

Name Mrs. Wayne Goddard

Location 1321 Porter St.

Number of Employees None

Number of Occupants 10

To be Used as Rooming House. 2 apts + 4 Rooms

Last Used as Rooming

Material of Building Brick Number of Stories 2 Which Floor will be Used? Both

Owner of Building (or Agent) Mrs. Wayne Goddard

Address 1321 Porter St.

Signature of Proposed Occupant Mrs. Wayne Goddard

Signature of Owner or Agent Mrs. Wayne Goddard

Address to which Certificate is to be mailed 1321 Porter St.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to install or erect any kind of Signs, Boilers, Motors or Machinery.

RECEIVED
MAR 16 1970
Bureau of Building Inspection

TO BE FILLED IN BY INSPECTOR

Date Approved March 27, 1970 Date Disapproved

Zone R-6 Multiple Family, Dw. Building Inspector R. C. Coghill

Remarks:

POOR
ORIGINAL

26-4-17
CS260401

# Certificate of Occupancy

CITY OF RICHMOND, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY

BUREAU OF BUILDING INSPECTION

Richmond, Va., March 27, 19 70

The applicant having complied with the provisions of an ordinance approved June 11, 1960, as amended, commonly known as the Zoning Ordinance, permission is hereby granted to

Wayne Goddard
(Owner or Lessee)

to use the two floor or floors of the building situated at

No. 1321 Porter Street
for the following purpose:

Use Rooming House - 2 apts. & 1 rooms

Height Two Story

District R-6 Multiple Family Dw.

Maximum Occupancy

*No alterations are authorized by the issuance of this Certificate.*

This certificate does not take the place of any license which may be required by law, nor does it authorize the use of boilers, motors or machinery.

This certificate does not authorize the painting or erection of any sign.

Any change in the use or occupancy of this building shall require a new certificate.

Violation of the provisions of this certificate will necessitate revocation of the certificate.

Leo J. Cantor

COMMISSIONER OF BUILDINGS

POOR ORIGINAL

## CERTIFICATE OF OCCUPANCY

Owner ..... Wayne Goddard .....

Lessee ..... Wayne Goddard .....

LOCATION

Street ..... Porter .....

No. ..... 1321 .....

DATE GRANTED

..... 3/27/70 ....., 19.....

# ...ATION FOR CERTIFICATE OF OCCUPANCY

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION

Date .

WRITE WITH INK

The undersigned owner or lessee hereby applies for a certificate of occupancy in accordance with the provisions of ordinance approved June 1, 1960 commonly known as the Zoning Ordinance, for the following use, on the hereinafter described building, and hereby agrees to fully conform to all the terms of any permit which may be issued on account of the application.

RECEIVED
JUL 10 1962
OFFICER
Bureau of Building Inspection

Name Harvey J. Burnette

Location 1321 Porter St

Number of Employees

Number of Occupants 4 Rooming Houses - 4 rooms

To be Used as Bed Rooms (4 persons)

Last Used as PRT. home.

Material of Building Brick Number of Stories 2 Which Floor will be Used? ~~Upper~~ two

Owner of Building (or Agent) owner

Address 1321 Porter St

Signature of Proposed Occupant Harvey J. Burnette

Signature of Owner or Agent

...ess to which Certificate is to be mailed 1321 Porter St.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to install or erect any kind of Signs, Boilers, Motors or Machinery.

TO BE FILLED IN BY INSPECTOR

Date Approved Date Disapproved

Zone R-6 Multiple fam. dw. Building Inspector

Remarks:

cc: Lessee (C)

POOR
ORIGINAL

# Certificate of Occupancy

CITY OF RICHMOND, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY

BUREAU OF BUILDING INSPECTION

Richmond, Va., January 10, 1966

The applicant having complied with the provisions of an ordinance approved June 11, 1960, as amended, commonly known as the Zoning Ordinance, permission is hereby granted to

Harvey J. Burnette
(Owner or Lessee)

to use the two floor or floors of the building situated at

No. 1321 Porter Street

for the following purpose:

Use Bed Rooms - Rooming House - 4 Rooms

Height 2 Story

District R-6 Multiple Family Dwelling

Maximum Occupancy

POOR ORIGINAL

This certificate does not take the place of any license which may be required by law, nor does it authorize the use of boilers, motors or machinery.

This certificate does not authorize the painting or erection of any sign.

Any change in the use or occupancy of this building shall require a new certificate.

Violation of the provisions of this certificate will necessitate revocation of the certificate.

COMMISSIONER OF BUILDINGS

...TION FOR CERTIFICATE OF OCCUPANCY

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION

Date

WRITE WITH INK

The undersigned owner or lessee hereby applies for a certificate of occupancy in accordance with the provisions of an ordinance approved June 1, 1960 commonly known as the Zoning Ordinance, for the following use, on the hereinafter described building, and hereby agrees to fully conform to all the terms of any permit which may be issued on account of the application.

Name Harvey J. Burnette

Location 1321 Porter St

Number of Employees

Number of Occupants

To be Used as Rooming House (4 rooms)

Last Used as SFD home

Material of Building Brick Number of Stories 2 Which Floor will be Used? Entire

Owner of Building (or Agent)

Address 321 Porter St

Signature of Proposed Occupant Harvey J. Burnette

Signature of Owner or Agent

Address to which Certificate is to be mailed 1321 Porter St.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to install or erect any kind of Signs, Boilers, Motors or Machinery.

TO BE FILLED IN BY INSPECTOR

Date Approved Date Disapproved

Zone R-6 Multiple family dw. Building Inspector

Remarks:

RECEIVED
OFFICE
Bureau of Building Inspection

POOR
ORIGINAL

# Supporting Documents

Richmondgov.com
CITY OF RICHMOND

# Assessor of Real Estate - Records

393

NUMBER STORIES 2 | NUMBER OF ROOMS UP 8 DOWN | NUMBER OF BATHS UP 2 DOWN 1-shower

## PERMIT DATA

PERMIT NUMBER | DATE

ESTIMATED COST | INSP

CONTRACTOR

AFFIDAVIT | DATE

BY

## REMARKS

checked 11-29-60

1 Bath added

W.B.

9/64 EW 2 mi hot - 10/66 Furn Fuel - Wall Heater

7-25-73 Con good cond, Barbara Hoffman -

4/19/78 Jim out Vacant

Owner Jim Ambrose

For sale - 837-4372

12/19/80 V&V - MDR

12/1/83 apparently some work being done but not yet habitable - check in 89 - MDR

'87 - boarded up

## TYPE OF STRUCTURE

- 01 DWELLING
- 02 DUPLEX
- 03 FLATS
- 04 APARTMENTS
- 05 STORE
- 06 RESTAURANT
- 07 SERVICE STATION
- 08 CHURCH
- 09 FACTORY
- 10 WAREHOUSE
- 11 OFFICE BUILDING
- 12 PUBLIC BUILDING
- 13 BANK
- 14 HOTEL
- 15 THEATRE
- 16 GARAGE

OTHER (SPECIFY)

## CONSTRUCTION

- 01 BRICK
- 02 CONCRETE
- 03 CINDER BLOCK
- 04 STONE
- 05 STUCCO CINDER BLOCK
- 06 METAL
- 07 FRAME
- 08 ASBESTOS SHINGLES
- 09 STUCCO FRAME
- 10 NOVELTY SIDING

OTHER (SPECIFY)

## ROOF

- 1 ASBESTOS
- 2 SLATE
- 3 METAL
- 4 TILE
- 5 BUILT UP
- 6 SLAG

OTHER (SPECIFY)

## FLOORS

- 1 HARDWOOD
- 2 PINE
- 3 CONCRETE
- 4 TERRAZZO
- 5 ASPHALT
- 6 PLASTIC TILE
- 7 RUBBER TILE
- 8

AIR CONDITIONING

UTILITY ROOM

## HEAT

- 1 HOT WATER
- 2 HOT AIR
- 3 RADIANT
- 4 STEAM
- 5 SUSPENDED UNIT
- 6 FLOOR FURNACE
- 7 STOVE
- 8 FIRE PLACE

OTHER (SPECIFY)

## ATTIC

- 1 PULL STAIRS
- PERMANENT STAIRS
- 2 FINISHED
- 3 UNFINISHED

## GARAGE & OUTBUILDG.

- 1 BRICK
- 2 FRAME
- 3 CINDER BLOCK
- 4 METAL
- 5
- 6

CAR PORT

OUTBUILDINGS

OTHER (SPECIFY)

## BASEMENT

FINISHED
- 1 FULL
- 2 PART

UNFINISHED
- 3 FULL
- 4 PART

## FUEL

- 1 OIL
- 2 COAL
- 3 GAS
- 4
- 5
- 6

OTHER (SPECIFY)

ELEVATOR

AUTO SPRINKLER

## ZONING

R6-6

- A - Single family
- B - Single family
- C - Single family 4693
- D - Two family
- E - Multiple family R-6
- E1 - Multiple family
- G - Local business
- H - Commercial
- I - Central business
- J - Light industry
- K - Heavy industry
- T - Transition

ZONING CHANGES

| DATE | ORDINANCE |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |

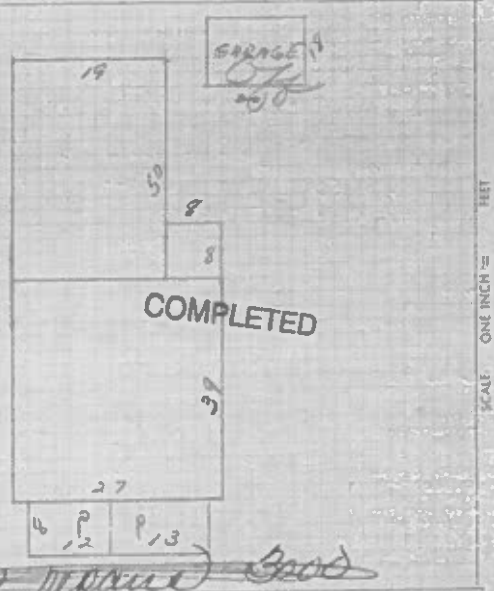
## ALTERATIONS

| DATE | PERMIT NO. | NATURE | EST. COST | AMT. ADDED |
|---|---|---|---|---|
| 1/11/56 | 39444 | Fire Damage | 5000 | NA |
| 7-60 | Verbal | 1 Bath added | | 440 |
| 6/1/69 | Verbal | 1 W.C. - 1 Sink | | cancelled |
| 6/1/60 | Verbal | 1 shower - 1 sink | — | 200 |
| 9/24/70 | 5964 | Demo Garage | | NC |
| 10-10-79 | 85472A | REPAIRS | 3000 | NOT DONE 12/80 - VH |
| 8-28-81 | 202568A | GEN. ALTS | 350— | NC |
| 7-26-83 | VERBAL | (2 FIXTURES | | |

1-2003#

T-4006#

P1-64#




10/10/79 ~~8472A~~ REPAIRS 3000



GROUND FLOOR AREA COMPUTATION IN SQ. FT.

| | | | |
|---|---|---|---|
| 305 | | X | = |
| | | X | = |
| | | X | = |
| | | X | = |
| | | X | = |
| | | X | = |
| | | X | = |

OFFICE OF THE
# ASSESSOR OF REAL ESTATE
CITY HALL
RICHMOND, VA.

19 19

5 803834 00001000 1321 30X157 N PORTER 13TH & 14TH S 121

BURNETTE H J & VIOLA C
1321 PORTER ST 24

5 121 19
SUBDIVISION
SECTION BLOCK LOT 60
LAND 600 IMPROVEMENTS 10100 AREA TAX 1 SPEC ASSMT 1 YEAR 56

| DEED REFERENCE DATE – AMOUNT – ETC. | CARD | ACCOUNT NUMBER | PARCEL NUMBER | AGENCY NUMBER | FIELD -A- NAME OF OWNER PROPERTY LOCATION & DESCRIPTION | FIELD -B- ADDRESS OF OWNER OVERFLOW ADDRESS & DESCRIPTION | ASSESSMENT RECORD LAND | IMPROVEMENTS | AREA TAX | SPEC ASSMT | YEAR |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | REASSESSED NO CHANGE—60 | REASSESSED NO CHANGE—59 | | REASSESSED NO CHANGE | 58 |
| | 3 | 803834 00 001 | 5 | | | | 1140 | 9560 | | | 61 |
| | 3 | 803834 00 001 | 5 | | | | 1140 | 10000 | | | 61 |
| | 320 | 803834 00 01 | 5 | | | | 1100 | 7900 | | | 66 |
| | 320 | 803834 00 01 | 5 | | | | 1500 | 6000 | | | 69 |
| | 320 | 803834 00 01 | 5 | | | | 1500 | 6200 | | | 70 |
| 803834 00 01 5 | 1 | 814350 00 01 | 5 | | GODDARD WAYNE E & MARY A | 1321 PORTER ST 23224 | | | | | |
| ~~DB 353-331 SURV.~~ | 2 | | | | | | | | | | |
| 12-19-69 $14,500 | 7 | | | | 1321 30X156.44 | N PORTER 13TH & 14TH | | | | | |
| | 9 | | | | | S000-0121/019 | | | | | |
| | C20 | | | | | | 1500 | 6200 | | | 70 |
| | C20 | 814350 00 01 | 5 | | H 1321 PORTER ST | K 30.00X 156.44 | 1500 | 10000 | | | 73 |
| | | | | | | | 2100 | 10900 | | | 76 |
| DB 0494 0243 | | | | | A SECRETARY OF HOUSING & URBAN | B DEVELOPMENT OF WASHINGTON DC | 2100 | 4900 * | | | 81 |
| 09-21-76 11000X | | | | | D WASHINGTON DC 20413 | | 4700 | 2300 | | | 82 |
| FORECLOSURE | | | | | | | 4700 | 5300 | | | 83 |
| 11/2/77 $8000 | | | | | RIGGS, JOSEPH R. | | | | | | |
| DB 522-486 | | | | | | | | | | | |
| | | | | | S000-0121/019 | | | | | | |
| | | | | | CHRISTIAN EDWARD L & MARIE T | | | | | | |
| | | | | | DB 0585 2010 $10,000 | | | | | | |
| | | | | | 07/26/82 | | | | | | |

REASSESSED NO CHANGE 77
REASSESSED NO CHANGE 75
REASSESSED NO CHANGE 74
REASSESSED NO CHANGE 72
REASSESSED NO CHANGE 71
REASSESSED NO CHANGE 70
REASSESSED NO CHANGE 68
REASSESSED NO CHANGE 67
REASSESSED NO CHANGE 65
REASSESSED NO CHANGE 64
REASSESSED NO CHANGE 63
REASSESSED NO CHANGE 62

PIN: S0000121019
As of: 2/6/2026 9:39:02 PM

PID: 40586

395

# City of Richmond, VA Report

## Property Owner

| | |
|---|---|
| **Name:** | 1321 PORTER ST LLC |
| **Mailing Address:** | 9169 W STATE ST # 652<br>GARDEN CITY, ID 83714 |
| **Parcel Use:** | R Two Family Converted |
| **Neighborhood:** | 352 |

## Property Information

| | |
|---|---|
| **Property Address:** | 1321 Porter St |
| **PIN** | S0000121019 |
| **Size:** | 0.108 Acres, 4693.200 Square Feet |
| **Property Description:** | 0030.00X0156.44 0000.000 |

## Current Assessment

| Year | Land | Improvements | Total |
|---|---|---|---|
| 2026 | $108,000 | $414,000 | $522,000 |

## Deed Transfers

| Recordation Date | Book | Page | Deed Type | Consideration | Grantee |
|---|---|---|---|---|---|
| 6/14/2022 | ID2022 | 13993 | DG | $0 | 1321 PORTER ST LLC |
| 5/16/2022 | ID2022 | 11608 | DG | $0 | OLIVERI SOPHIA |
| 3/10/2021 | ID2021 | 6907 | BS | $198,000 | 1321 PORTER ST LLC |
| 1/24/1989 | 00191 | 1380 | N/A | $15,000 | HAWASH ALY |
| 7/26/1982 | 000585 | 02010 | N/A | $10,000 | Not Available |
| 11/2/1977 | 000522 | 00466 | N/A | $8,000 | Not Available |
| 9/21/1976 | 000494 | 00243 | N/A | $11,000 | Not Available |
| 1/1/1900 | 000494 | 00243 | N/A | $11,000 | Not Available |

## Residential Card 1 Details

| Story | Style | Total Liv | Year Built |
|---|---|---|---|
| 3.0 | DuplexTriplexQuad | 4,515 | 1921 |

| | | | |
|---|---|---|---|
| **Model:** | RESIDENTIAL | **Rooms:** | **Beds:** 2 |
| **Interior Wall:** | Drywall | **Bathrooms:** | **Full:** 2 **Half:** 0 |
| **Interior Wall 2:** | | **Central AC:** | Central air |
| **Exterior Wall:** | Common Brick | **Heat/Cool:** | Forced Air |
| **Exterior Wall 2:** | | **Floor Cover:** | Softwood |
| **Roof Type:** | Flat or Shed | **Floor Cover 2:** | Allowance |
| **Roof Cover:** | Composition shingle | **Floor Cover 3:** | N/A |

## Building Sub-Areas (sq ft)

| Code | Description | Gross Area | Living Area |
|---|---|---|---|
| 1SBR | 1 Story Brick - Fin | 1,053 | 1,053 |
| 1SBRUP | 1 Story Brick - Upper - Fin | 1,053 | 1,053 |
| 1SFR | 1 Story Frame - Fin | 2,041 | 2,041 |
| 1SFRUP | 1 Story Frame - Upper - Fin | 368 | 368 |
| C | Crawl Space | 2,041 | 0 |
| OFP | Porch - Open - Frame | 64 | 0 |
| OFP | Porch - Open - Frame | 64 | 0 |
| OMP | Porch - Open - Masonry | 84 | 0 |
| **Totals** | | **6,768** | **4,515** |

# 2014

# Permit

# Records

(2014)

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW
BUREAU OF PERMITS AND INSPECTION
900 E. BROAD STREET, ROOM 110
RICHMOND, VA 23219
OFFICE: (804) 646-4169
AUTOMATED INSPECTION: (804) 646-0770

| TYPE | SP. NUMBER |
|---|---|
| ZONING COMPLIANCE | [redacted] |

STRUCTURE LOCATION

1321 PORTER ST

INSP: BAKER, JANELL (804) 646-6701
MAP-REF-NO S000-0121/019

| FLS OCCUPIED | PERMIT FEE | DATE ISSUED |
|---|---|---|
| | $50.00 | 12/09/2014 |

| ZONING | SQ.FT.OCCUPY |
|---|---|
| R8 | |

| OWNER OF PROPERTY | APPLICANT |
|---|---|
| HAWASH ALY<br>1321 PORTER ST<br>RICHMOND VA 23224<br>WK:(804)437-2227 HM: | 703 1/2 CATHERINE ST., LLC<br>SOPHIE BLYSTONE<br>1321 PORTER ST. APT. A<br>RICHMOND VA 23224<br>PH#(804)437-2227 |

| PARKING: ONSITE | OFFSITE | LEASE REQUIRED | SUP # | VARIANCE # |
|---|---|---|---|---|
| 0 | 0 | | | |

SPECIAL TERMS AND CONDITIONS

PURPOSE: NO WORK AUTHORIZED — TWO FAMILY DETACHED UNDER

ZONING — HOME OCCUPATION: HOME OFFICE ONLY FOR PROPERTY MANAGEMENT.NO GROUP ASSEMBLY, COMMERCIAL VEHICLES OR OUTSIDE STORAGE UNDER THIS APPROVAL. SUBJECT TO ALL RULES AND REGULATIONS AS PER SIGNED AGREEMENT.

POOR ORIGINAL

APPROVAL OF THIS CERTIFICATE ACKNOWLEDGES COMPLIANCE WITH CHAPTER 114, ZONING OF THE CODE OF ORDINANCES OF THE CITY OF RICHMOND, VIRGINIA, AND CONFERS NO RIGHTS WITH RESPECT TO THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE.

COMMISSIONER OF BUILDINGS

ALSO SEE GENERAL TERMS AND CONDITIONS ON BACK

INSPECTOR'S COPY

Department of Planning and Development Review
Division of Zoning Administration
room 110 City Hall
900 e. Broad Street
Richmond, virginia 23219
phone (804) 646-4169
fax (804) 646-6948

# Certificate Of Zoning Compliance application

Permit no. Z-14120512
reviewer

5

This is an application only. It is not Authorization for use of premise. no use shall start until a certificate is issued.

**Property Information**

b Property Address (Street & Number): 1321 Porter St.
c Floor/room no.: Apt. A
d Property owner's name (Print Clearly): Aly Hawash
e Property owner's Address/ZIP: 1321 Porter St., Richmond, VA, 23224
f Property owner's or Authorized Agent signature: AH
g Property owner's daytime telephone no.: (804) 437-2227
h describe current structure use (in detail) if currently vacant, indicate last use & year it was last used: 2 family home-2 separate units
i describe proposed structure use (in detail): home/small office to hold documents, stating that the property at 703 1/2 Catherine St., is owned by an LLC in it's name sake, rather than being owned by Sophie Blystone, for liability reasons

j

| ownership change | tenant change | home occupation | name change | other (specify) |
|---|---|---|---|---|
| M | M | M | M | M |

**I. residential uses**

M one family
(M) two family
M three or more family
no. of units _____
M condo unit
unit _____
M baby sitting

**II. commercial uses**

M bank/loan office
M beauty/barber shop
M clinic (medical/dental)
M contractor shop/storage
M Furniture store
M grocery/convenience store
M w/Fuel service
M hardware or appliance store
M laundry/laundromat/dry cleaner
M manufacturing facility
no. of employees _____
M motor vehicle repair/sales/service
(M) office
what type document storage for 703 1/2 Catherine St., LLC
M parking area, lot or deck
M pawn shop/payday/auto loans
M pet shop/veterinary clinic
M repair shop
what type _____
M retail store/shop
M shopping center
M travel Agency
M warehouse/storage facility
no. of employees _____
no. of company vehicles ____
M other (specify): _____

**III. Other Uses**

10 square Footage to be used: 10 square Feet
11 Are Floor Plans Attached? M yes (M) no
12 no. of on-site parking spaces: 0 parking spaces
13 Are parking spaces leased off-site? M yes (M) no
If yes, Attach lease & site plan _____ parking spaces
14 Is Asst An Attached? M yes (M) no

**IV. Contact Information**

15 Applicant's name (Print Clearly): Sophie Blystone
16 business And/or trade name: 703 1/2 Catherine St., LLC
17 Applicant's Address: 1321 Porter St., Apt. A, Richmond, VA
ZIP code: 23224
18 Applicant's daytime Phone no.: (804) 437-2227
19 Applicant's Fax no.: none
20 Applicant's email: sophie.blystone@gmail.com
21 Applicant's signature: Sophie Blystone
22 contact Person (if different than Applicant)
23 contact Person daytime Phone no
24 contact Person Address
ZIP code
25 do you want to be Called to Pick up Permit when issued? M yes (M) no
name
Phone no.

| Are district | historical district | violation on Property | case number | corresponding co |
|---|---|---|---|---|
| M yes M no | M yes M no | M yes M no | | |

| delinquent taxes due? | Amount owed $ | tax map no. |
|---|---|---|
| M yes M no | | |

| existing use group | Proposed use group | Zoning district |
|---|---|---|
| | | |

# 2021

# Permit

# Records

Manage Plan Search

BLDR-084675-2021 (1321 Porter St Richmond, VA 23224)

NEW PLAN

- Summary
- Details
- Location
- Additional Info
- Workflow
- Linked Records
- Holds (9)
- Contacts (4)
- Fees (4)
- Plan Clock
- Bonds
- Activities
- Files (8)
- Print Documents
- Conditions (2)
- Tasks
- Internal Notes (5)
- Inspection Cases
- Communication

Plan Type *: Building (R)

Project:

Apply Date: 01/08/2021

Work Class *: Alter/Remodel Light

District *: OS-1

Expire Date:

Status *: Killed

Assigned To: Sandra Escorcia

Complete Date:

IVR Number: 1059501

Square Feet: 0

Approval Expire Date:

Elapsed Days: 0

START CLOCK

Valuation: $20,570.00

Description: Add/replace roof plywood, trim, tpo, shingles, windows; rebuild stairs.

## Paquette, Karen - PDR

**From:** Paquette, Karen - PDR
**Sent:** Friday, January 8, 2021 4:59 PM
**To:** 'sophia.s.oliveri@gmail.com'
**Subject:** 1321 Porter St BLDR-084675-2021
**Attachments:** Building Permit Owner Affidavit docx.docx

Hi -

I am working on your permit application cited above. Please address the following:

- SCOPE – The description of the work being done needs to be more explicit:
  - Will there be any structural work or will you be reframing anything? What work are you doing on the stairs?
  - Not including the roof and windows, provide square footage of the area affected by this permit.

- STOP WORK ORDER – The fees for the Stop Work Order will be added to this applications's fees.

- AFFIDAVIT – The affidavit you provided was not signed by the owner. I will need the owner to complete and return the attached affidavit before I can proceed. If you are the owner's agent, please state that on the affidavit.

You can attach the documents to the application in the portal, however, **let me know when you've done so as I will get no notification.**

To attach the plans in the portal:

- Log in to the portal
- Select View My Plans
- Search for and select the plan
- Select the Attachments button under the Plan Details screen
- Select the + on the Attachments box (Don't worry if it only gives you the "Affidavit" option; it will work.)
- Upload your document
- Select Submit

PLEASE NOTE: This works best from a computer. In addition, the file needs to be in your device storage, not a cloud drive.

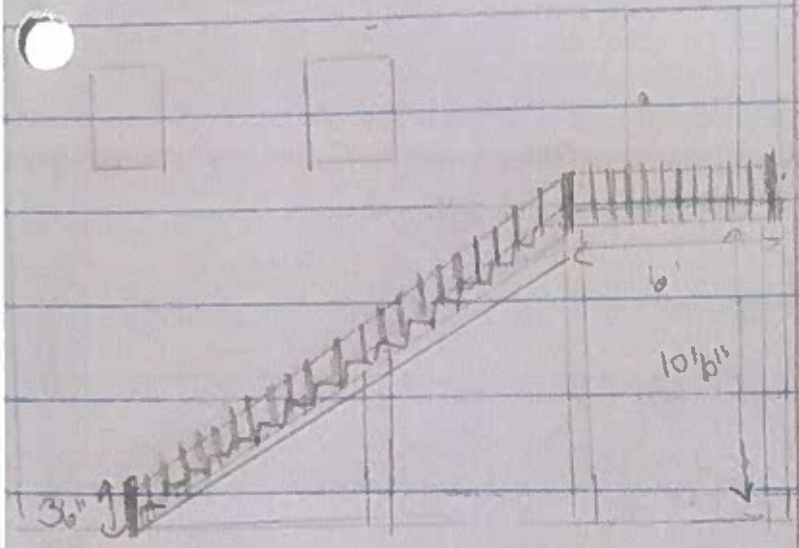
Let me know if you have any questions.

Thank you!

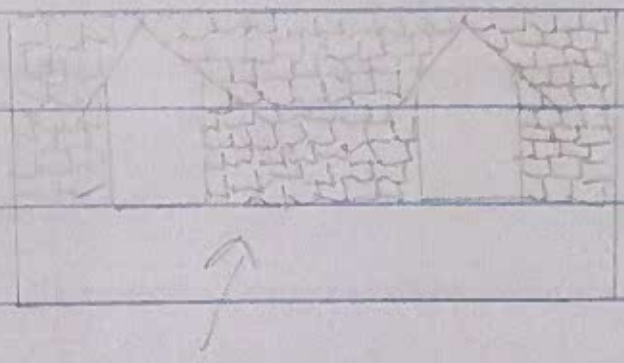
Karen

Karen Paquette
Permit Technician

Stairs




16 steps run- 10" rise 7.65"

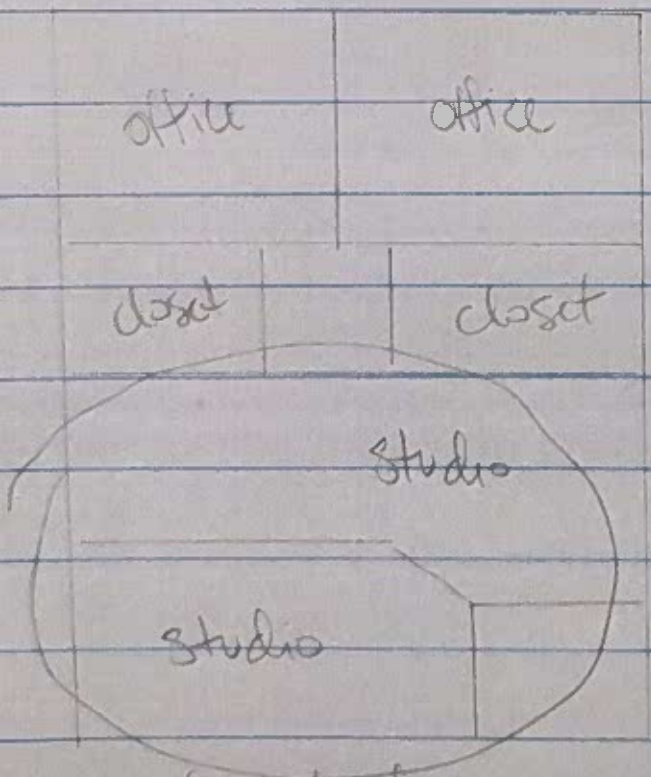


front facade- replace slate with shingles

Please submit a construction details for the proposed stairs, landing footing.

Please submit dimensions for the proposed roof area, is this a replacement of an existing roof? or are you proposing new walls, an addition? vertical expansion?

**Please submit pictures of existing conditions.**




roof extending over this space - covered with tpo

Richmondgov.com
CITY OF RICHMOND

# 2020 - 2021 Electrical Permits

# ELECTRICAL (R) PERMIT

City of Richmond
Department of Planning & Development Review
Bureau Of Permits & Inspections

PDRPermitsAndInspections@Richmondgov.com
To Request an inspection, call (804) 646-0770

**ISSUE DATE: 11/20/2020**

# ELER-077313-2020

***SITE ADDRESS:*** 1321 Porter St
Richmond, VA 23224

PARCEL NUMBER:S0000121019

***PERMIT DESCRIPTION:*** Change two 100 amp service panels for two 200 amp service panels.

TYPE OF IMPROVEMENT: Alter/Remodel Light
COST OF WORK: $100.00
USE GROUP: R5A - Single Family Attached (Under 4 Stories)
CONSTRUCTION TYPE:
INSPECTOR NAME: James Howard
INSPECTOR PHONE:804-297-7474
INSPECTOR EMAIL ADDRESS:james.howard@richmondgov.com

***PERMIT CONTACT INFORMATION***

OWNER NAME: Aly Hawash
OWNER PHONE:
CONTRACTOR NAME:owner - contractor
CONTRACTOR PHONE: 00000000000000000
CONTRACTOR LICENSE NUMBER:9999999911

***FEE INFORMATION***

| | | | |
|---|---|---|---|
| Permit Fee | $50.14 | Administrative Handling | $25.00 |
| State Levy | $1.51 | | |
| ***TOTAL FEES*** | $76.65 | | |

Jason Carangelo

**Jason Carangelo**
**Commissioner of Buildings**
**Approved By:**

# ELECTRICAL (R) PERMIT

City of Richmond
Department of Planning & Development Review
Bureau Of Permits & Inspections

PDRPermitsAndInspections@Richmondgov.com
To Request an inspection, call (804) 646-0770

**ISSUE DATE: 1/28/2021**

# ELER-080269-2021

***SITE ADDRESS:*** 1321 Porter St
Richmond, VA 23224

PARCEL NUMBER:S0000121019

***PERMIT DESCRIPTION:*** Add 100 amp subpanel and lights, switches, and receptacles to 700 sq ft area of house.

TYPE OF IMPROVEMENT: Alter/Remodel Heavy
COST OF WORK: $800.00
USE GROUP: R5C - Single Family Detached (Under 4 Stories)
CONSTRUCTION TYPE:
INSPECTOR NAME: James Howard
INSPECTOR PHONE:804-297-7474
INSPECTOR EMAIL ADDRESS:james.howard@richmondgov.com

***PERMIT CONTACT INFORMATION***

OWNER NAME: Aly Hawash
OWNER PHONE:
CONTRACTOR NAME:owner - contractor
CONTRACTOR PHONE: 00000000000000000
CONTRACTOR LICENSE NUMBER:9999999911

***FEE INFORMATION***

| | | | |
|---|---|---|---|
| Permit Fee | $38.00 | Administrative Handling | $25.00 |
| State Levy | $1.26 | | |
| ***TOTAL FEES*** | $64.26 | | |

**Jason Carangelo**
**Commissioner of Buildings**
**Approved By:**

# 2024

# Permit

# Records

# City of Richmond, Virginia – Zoning Administration

900 East Broad Street • City Hall - Room 110 • Richmond, Virginia 23219
• https://www.RVA.gov/Planning-Development-Review/Zoning-Administration
E-mail: PDRZoningAdministration@rva.gov Phone: (804) 646-6340

## Request for Letter of Zoning Confirmation

**Permit No. (For Office Use Only)** ZCLR-147292-2024 **Date:** 5/6/2024

A Zoning Confirmation Letter (ZCL) is a written document verifying conformance with City zoning regulations. A Zoning Confirmation Letter may typically be requested by lenders, title companies, attorneys and/or prospective purchasers of properties. They may also be requested when properties are undergoing re-financing. **(NOTE: Response time may be up to 30 calendar days). If you wish to have a letter EXPEDITED, please remit an additional $600 for processing within five (5) business days from the date of entry.[NOTE: EXPEDITING a request is at the discretion of the Zoning Administrator based on the complexity of the request, current workload and/or current staffing level of the office.** Please contact the Zoning Administration Office **prior to** remitting an expedited fee with your request.**]**

☐ EXPEDITED FEE - $600

**PROPERTY INFORMATION (TYPE OR PRINT LEGIBLY):**

Property Address: 1321 Porter St
Tax Map Number: Parcel ID:
Owned By: 1321 Porter St, LLC
Existing Use: current use- 4 unit, listed as 2 unit
Proposed Use: 4 unit
Existing Number of Residential Units: 4

**INFORMATION REQUESTED BY:**

Name/Firm: Sophia Oliveri
Attention:
Address: 1321 Porter St
City: Richmond
Zip Code: 23224
Contact Telephone: work
cell 804-437-2227
E-mail Address: sophia.s.oliveri@gmail.com

**A zoning confirmation letter may include the following:**

- Description of current zoning
- Summary of uses allowed by zoning
- List of applicable land use history
- Current zoning requirements
- Number of units and square footage requirements for multi-family dwellings
- Descriptions of zoning requirements and zoning history
- Details of building permit and land use history
- Responses to specific questions
- Development analysis
- Parking and landscaping requirements
- Non-conforming use and feature status

**Residential Uses**

☐ Home occupation - $75
☐ One & Two-family dwelling - $75
☐ Private elementary or secondary school - $75
☐ Day nursery - $75
☐ Buildable Lot/"Lot Split" - $150
☐ Adult day care facility - $75
☒ Multi-Family: 3 – 10 units $150
☐ Multi-Family: 11-50 units $300
☐ Multi-Family: more than 50 units $500
☐ Lodginghouse: $300

**Commercial or Industrial Uses**

☐ Commercial space equal to or less than 5,000 square feet - $150
☐ Use not specified - $150
☐ Commercial space greater than 5,000 square feet - $300
☐ Adult care residence - $300
☐ Lot Line Adjustment - $150

**Additional Comments:**

**(For Office Use Only)** Use Group: R2B # of units/sq. footage: 4 units Fee: $ 150

**INCOMPLETE APPLICATIONS MAY BE RETURNED.**

REVISED: August 17, 2021

Manage Plan Search

ZCLR-147292-2024 (1321 Porter St Richmond, VA 23224)

NEW PLAN

- Summary
- Details
- Location
- Additional Info
- Workflow
- Linked Records
- Holds (8)
- Contacts (3)
- Fees (1)
- Plan Clock
- Bonds
- Activities
- Files (1)
- Print Documents
- Conditions
- Tasks
- Internal Notes (1)
- Inspection Cases
- Communication

Plan Type *: Zoning Confirmation Letter

Project:

Apply Date: 05/06/2024

Work Class *: Residential

District *: OS-1

Expire Date: 08/04/2024

Status *: Pending Review

Assigned To: Amanda Madden

Complete Date:

IVR Number: 1175681

Square Feet: 0

Approval Expire Date:

Elapsed Days: 0 START CLOCK

Valuation: $0.00

Description: Multi-family: 3-10 units. Please see attached.

Manage Plan Search

BLDR-171309-2025 (1321 Porter St Richmond, VA 23224)

NEW PLAN

- Summary
- Details
- Location
- Additional Info
- Workflow
- Linked Records
- Holds (1)
- Contacts (3)
- Fees (4)
- Plan Clock
- Bonds
- Activities
- Files (9)
- Print Documents
- Conditions (2)
- Tasks
- Internal Notes (3)
- Inspection Cases
- Communication

MD BLDR-171309-2025 • Building (R) • Michelle Dickson

| Location | Project | Application Date | Work Class | Plan Status |
|---|---|---|---|---|
| 1321 Porter St Richmond, VA 23224 | | 08/21/2025 | Alter/Remodel Light | Awaiting Revisions |

$ 0.00

PAY FEES

## Recent Workflow Activity

Last Completed Action: 143 days ago

**Building (R) v.1 (Receive Submittal)**

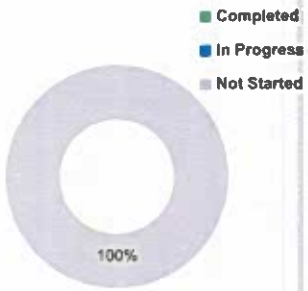
Submittal Status: Requires Resubmittal

Completed On: 09/18/2025

Next Action:

**Building (R) v.2 (Receive Submittal)**

## Workflow Completion Summary




EP **Pinchbeck, m...**

1321 Porter St, L...

ID-000093017

Applicant

Phone

Email 1321porterstllc@gma...

Main address 1321 Porter St. Richmond, VA 23224

Title Manager

## Plan Description

Add exterior deck/stairs bracing/support elements to improve lateral stability.

## Tasks

No Tasks Attached



411

(2024)

412

Manage Plan Search

BLDR-146635-2024 (1321 Porter St Richmond, VA 23224)

NEW PLAN

- Summary
- Details
- Location
- Additional Info
- Workflow
- Linked Records
- Holds (8)
- Contacts (2)
- Fees (5)
- Plan Clock
- Bonds
- Activities
- Files
- Print Documents
- Conditions
- Tasks
- Internal Notes (2)
- Inspection Cases
- Communication

HC BLDR-146635-2024 • Building (R) • Hivi Canter

| Location | Project | Application Date | Work Class | Plan Status |
|---|---|---|---|---|
| 1321 Porter St Richmond, VA 23224 | | 04/22/2024 | Alter/Remodel Light Void | |

$ 464.26

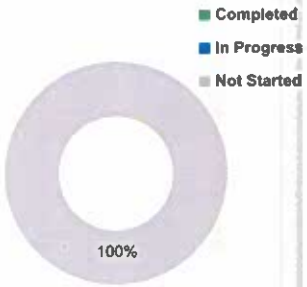
PAY FEES

## Recent Workflow Activity

Next Action:
**Building (Plan Activity)**

Next Action:
**Building (R) (Receive Submittal)**

## Workflow Completion Summary




## Plan Description

VOIDED FOR NON RESPONSE- Root cellar

SO **Oliveri, Sophia**

ID-000041825

Owner Applicant

Mobile Phone
(804) 437-2227

Email
sophia.s.oliveri@gmail.com

Main address
1321 Porter St Richmond, VA 23224

Title

## Tasks

No Tasks Attached

Manage Plan Search

BLDR-146635-2024 (1321 Porter St Richmond, VA 23224)

NEW PLAN

- Summary
- Details
- Location
- Additional Info
- Workflow
- Linked Records
- Holds (8)
- Contacts (2)
- Fees (5)
- Plan Clock
- Bonds
- Activities
- Files
- Print Documents
- Conditions
- Tasks
- Internal Notes (2)
- Inspection Cases
- Communication

## VOID

Added By
Hivi Canter • 05/30/2025 3:24 PM

Note
VOIDED FOR NON RESPONSE

## NOTE

Added By
Hivi Canter • 04/25/2024 11:49 AM

Note
Need plans, site plans, OS or contractor. Need to address previous SWO for 3rd story addition and new SWO for cellar. NOV was issued for unpermit...

(2024)

414

Manage Plan Search

ZCLR-147292-2024 (1321 Porter St Richmond, VA 23224)

NEW PLAN

- Summary
- Details
- Location
- Additional Info
- Workflow
- Linked Records
- Holds (8)
- Contacts (3)
- Fees (1)
- Plan Clock
- Bonds
- Activities
- Files (1)
- Print Documents
- Conditions
- Tasks
- Internal Notes (1)
- Inspection Cases
- Communication

AM ZCLR-147292-2024 • Zoning Confirmation Letter • Amanda Madden

| Location | Project | Application Date | Work Class | Plan Status |
|---|---|---|---|---|
| 1321 Porter St Richmond, VA 23224 | | 05/06/2024 | Residential | Pending Review |

$ 150.00

PAY FEES

## Recent Workflow Activity

Current Action: 643 days ago

**Zoning Confirmation Letter (Receive Submittal)**

Due: 06/05/2024

Waiting On:

1. Zoning Administration (Amanda Madden)

Next Action:

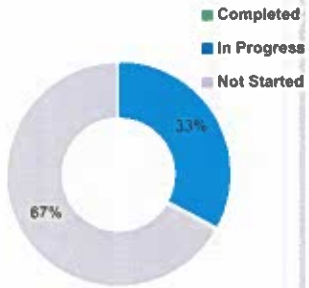
**Zoning Confirmation Letter (Plan Activity)**

Next Action:

**Issue Approval Letter (Create Report)**

Report: LUA 1 Approval Letter

## Workflow Completion Summary




EP **Pinchbeck, m...**

1321 Porter St, L...

ID-000093017

Contact ... Applicant

Phone

Email

1321porterstllc@gma...

Main address

1321 Porter St. Richmond, VA 23224

Title

Manager

## Plan Description

Multi-family. 3-10 units. Please see attached.

## Tasks

No Tasks Attached

# Special

# Use Permit

Ordinance No. 2024-282

Issued on 12/9/2024

Applicant's Report 6/5/24

Hello! The intended use for the property located at 1321 Porter St is to continue as 4 unit affordable housing, with rents beginning where they are now, between $1485- $1605/month for the three 2 bedroom, 2 bathroom units, and $900 for the 1 bedroom, 1 bath unit. The plan is to continue using the existing 4 units without making any changes. Per zoning, though this use is permitted in R-8 zones, the following conditions require special zoning:

Sec. 30-413.12. Principal uses permitted by conditional use permit, Section 1. Multifamily dwellings, not to exceed four dwelling units, located on lots of not less than 1,500 square feet in area for each dwelling unit. *The total square footage of the lot is 4,692.6, providing 1,173.15 sqft of lot space per unit.*

Sec. 30-413.15. Yards, Section 2a. There shall be side yards of not less than three feet in width except where buildings are attached or where the zero-lot-line option is utilized. *One side of the property has a 2.7 foot side yard and the other has less than 1 foot, which has been the footprint for 100 years. The condition is met when considering the space between houses, with 6' between this property and each of the neighboring properties.*

When 1321 Porter St, LLC purchased the 4 unit property in 2021, we were unaware of the zoning violations and since we cannot reasonably alter the building to meet such conditions, we seek to rectify them through a SUP.

Since this side of the 1300 block of Porter St exclusively consists of buildings with multiple units and this property has held tenants in all 4 units for the past several years, residents in the area are already very familiar with navigating the streets and alleys under the current conditions. As nothing will change, this zoning change will not adversely affect or interfere with transportation or other public requirements, conveniences, or improvements. Furthermore, the neighborhood is not at risk for overcrowding, as the property lies within a Richmond 300 priority growth node.

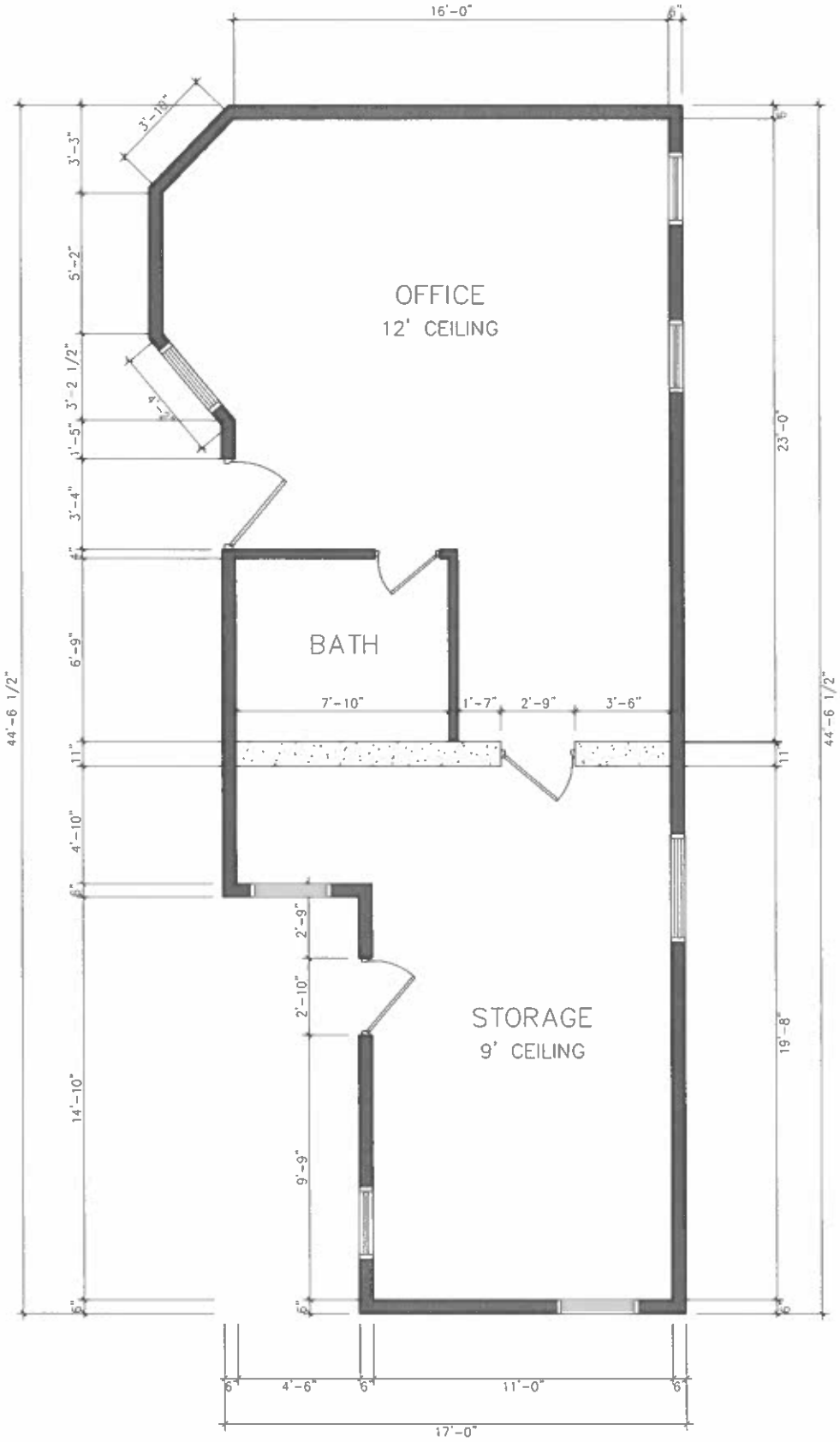
There are also 4 parking spaces located behind the property, which are available to tenants. Multiple bike racks have been installed on the property for individuals who do not have cars or choose not to use them.

Due to the unique urban farming methods that tenants are implementing, there is no concern for adequate light or air. In fact, there is likely improved air quality as a result of the tenants' fresh fruit and veggie growing.

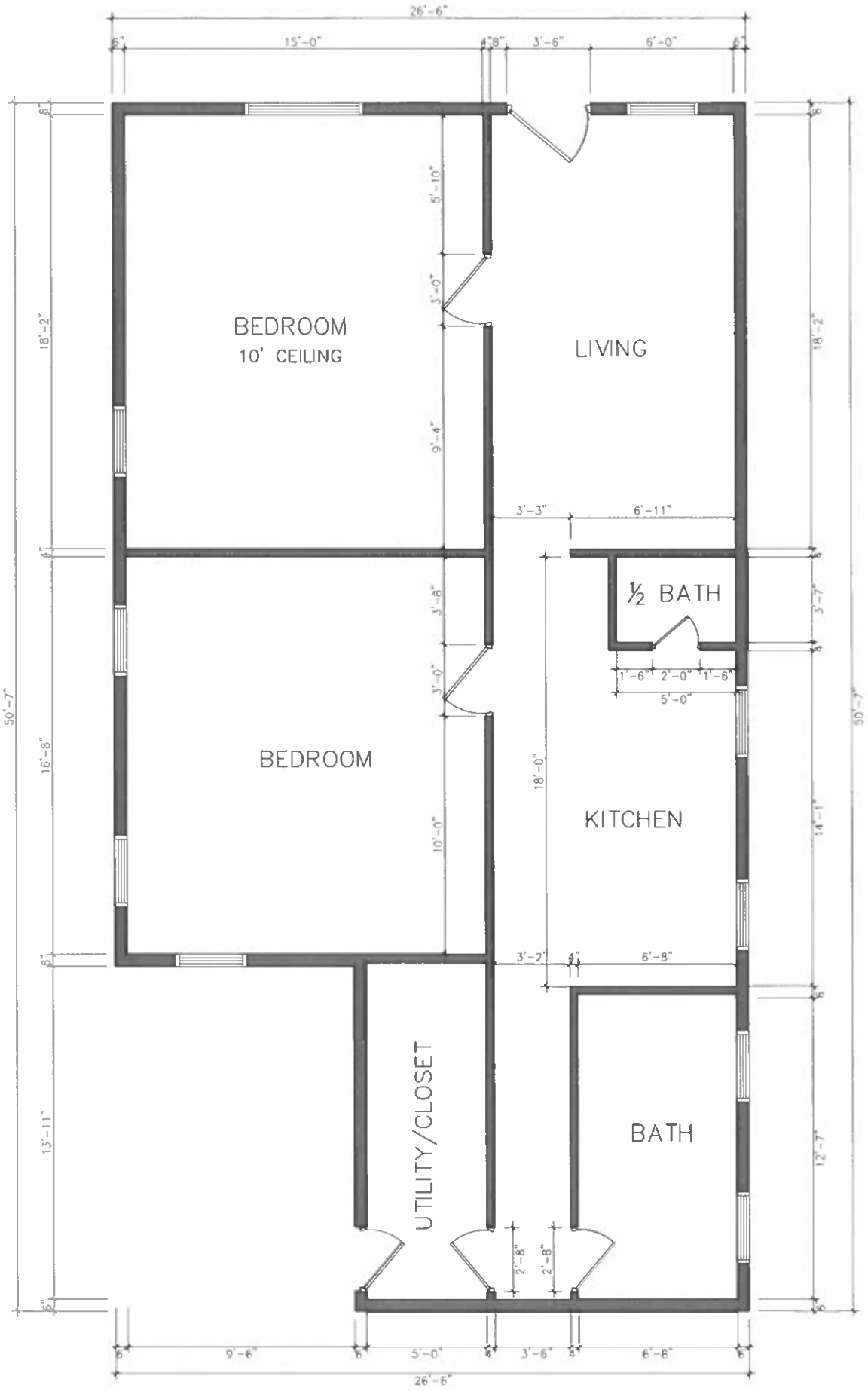
Thank you for taking the time to review this report.

Sincerely,

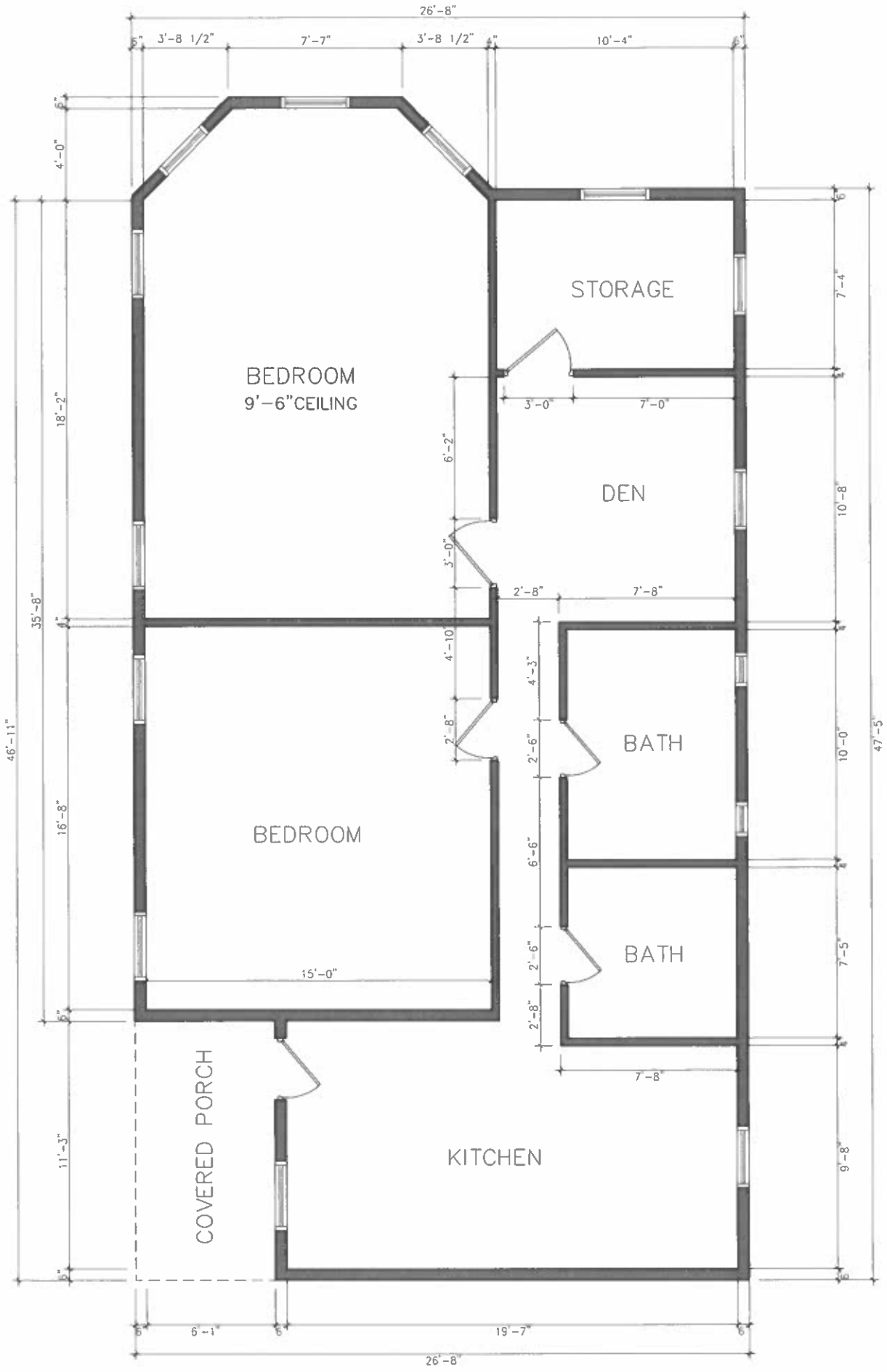
Emily Pinchbeck, manager
1321 Porter St, LLC



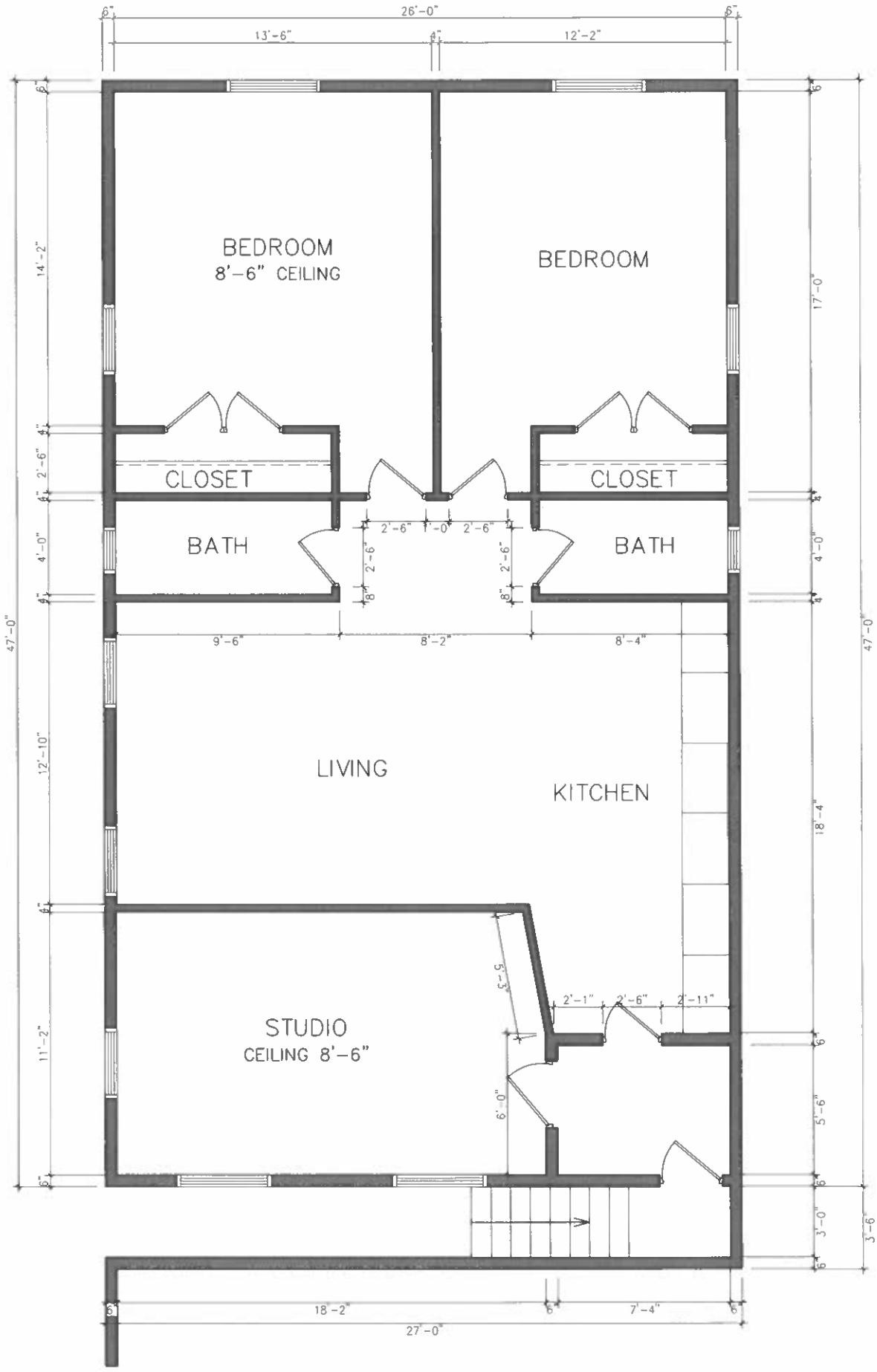

# 1321 PORTER ST. REAR 1ST FLOOR EXISTING




1321 PORTER ST. 1ST FLOOR EXISTING




1321 PORTER ST 2nd FLOOR EXISTING




1321 PORTER ST. 3rd FLOOR EXISTING

Fire Department Checklist

*This zoning permit is only to address side yard and lot size conditions of an existing structure, that are not met under the current R-8 zoning. No construction or physical changes will be performed in relation to this zoning permit

Project Summary

1. Is this new construction or a rehabilitation project? no
2. What is the height of the building(s)? How many stories? n/a
3. Is there an accessory parking garage or parking garage levels? n/a
4. Are any levels below street level or below grade? n/a

Building Occupant Egress

5. Provide locations of roof access points on the plans. n/a
6. If there is a basement or floors below street level, provide locations for egress on the plans. n/a
7. For projects with 6 stories or more, stairways must be noted with compass directions (North, South, etc.) and the inside of stairwells must note each floor number. n/a
8. If a fire escape is part of the structure, it must be inspected by a design engineer and necessary repairs or replacements must be made before a Certificate of Occupancy can be issued. n/a

Suppression Systems

9. A temporary standpipe is required on site during construction. Its operative should be on the finished floor below the next floor being constructed. Provide the location on the plans. n/a
10. Alarm panel box. This must be in the first floor lobby area on the street address side of the building. Provide location on the plans. n/a
11. Knox-Box® Rapid Entry System. One is required on any new construction or renovated enclosed multi-story building. Provide the location on the plans. n/a
12. Fire pump(s). Provide the location on the plans. n/a
13. Command Center. This needs to be clearly marked outside of the door. Provide the location on the plans. n/a
14. Sprinkler shut off valve. Provide the location on the plans. n/a
15. Sprinkler connections. Provide the FDC location on the plans – in red ink please. n/a

Hydrants & Fire Department Connections

16. More than one hydrant may be required to support the project. How many existing hydrants are near the project? How many are proposed? Provide the locations on the plans. n/a
17. The dedicated hydrant should be public. Special circumstances may allow for a private hydrant if an ISO Class 1 Rating can be maintained and the Department of Public Utilities approves of it. A private hydrant must also be maintained in accordance with NFPA 291 and the current Virginia Statewide Fire Prevention Code. n/a
18. The FDC for each building. Provide the location on the plans. Signage is required around it (i.e. FDC Connection, No Parking) and curbing before it must be painted yellow. We highly recommend a Knox FDC secure system to safeguard the sprinkler system. n/a
19. The FDC should be at least 50 feet from its dedicated hydrant, but no more than 100 feet. n/a

Emergency Vehicle Access to Site

20. New construction projects require at least (2) two roads for emergency vehicles to access the site and shall comply with Chapter 5 of Statewide Virginia Fire Prevention Code Fire Service Features. n/a
21. Proposed or improved road surfaces used for emergency access must be able to support a minimum weight of 75,000 lbs. n/a
22. Proposed or improved road surfaces used for emergency access must be at least 20 feet in width. In some cases, 27 feet may be required. n/a
23. Curb cuts into and around the site for emergency access must support a fire apparatus turning radii of 36' inside and 52' outside. n/a
24. New construction projects may require access to all sides of the building for emergency vehicles.

Environmental Concerns

25. Are you aware of any underground storage tanks (USTs) or above ground storage tanks (ASTs) which currently hold, or may have at one time held, flammable or combustible substances? If any are discovered during land disturbance, excavation, or construction activities, they must be immediately reported to the Fire Marshal's Office. A permit is required before removal or abandonment. All documents pertaining environment reports shall be forwarded to the Fire Marshal's Office. n/a
26. Are you aware of any environmental concerns that need to be mitigated before construction, i.e. leaks, spills, etc.? n/a
27. Will this project involve any rock blasting? A rock blasting permit shall be obtained from the Fire Marshal's Office. n/a

INTRODUCED: October 15, 2024

AN ORDINANCE No. 2024-282

To authorize the special use of the property known as 1321 Porter Street for the purpose of a multifamily dwelling containing up to four dwelling units, upon certain terms and conditions.

Patrons – Mayor Stoney (By Request) and Ms. Robertson

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: NOV 12 2024 AT 6 P.M.

WHEREAS, the owner of the property known as 1321 Porter Street, which is situated in a R-8 Urban Residential District, desires to use such property for the purpose of a multifamily dwelling containing up to four dwelling units, which use, among other things, is not currently allowed by sections 30-413.12, concerning principal uses permitted by conditional use permit, and 30-413.15, concerning yards, of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: DEC 9 2024 REJECTED: _____ STRICKEN: _____

congestion in streets, roads, alleys and other public ways and places in the area involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air; and

WHEREAS, (i) the City Planning Commission has conducted a public hearing to investigate the circumstances and conditions upon which the Council is empowered to authorize such use, (ii) the City Planning Commission has reported to the Council the results of such public hearing and investigation and its recommendations with respect thereto, and (iii) the Council has conducted a public hearing on this ordinance at which the person in interest and all other persons have had an opportunity to be heard;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. **Finding.** Pursuant to section 30-1050.1 of the Code of the City of Richmond (2020), as amended, the Council hereby finds that the special use set forth in and subject to the terms and conditions of this ordinance will not (i) be detrimental to the safety, health, morals and general welfare of the community involved, (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, (iii) create hazards from fire, panic or other dangers, (iv) tend to overcrowding of land and cause an undue concentration of population, (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, or (vi) interfere with adequate light and air.

§ 2. **Grant of Special Use Permit.**

(a) Subject to the terms and conditions set forth in this ordinance, the property known as 1321 Porter Street and identified as Tax Parcel No. S000-0121/019 in the 2024 records of the City Assessor, being more particularly shown on a survey entitled "Physical Improvement Survey of #1321 Porter Street, Richmond, Virginia," prepared by Deitz, Land Surveying PLLC, and dated May 9, 2024, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as "the Property," is hereby permitted to be used for the purpose of a multifamily dwelling containing up to four dwelling units, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "1321 Porter St.," undated, and prepared by an unknown preparer, and "Physical Improvement Survey of #1321 Porter Street, Richmond, Virginia," prepared by Deitz, Land Surveying PLLC, and dated May 9, 2024, and hereinafter referred to, collectively, as "the Plans," copies of which are attached to and made a part of this ordinance.

(b) The adoption of this ordinance shall constitute the issuance of a special use permit for the Property. The special use permit shall inure to the benefit of the owner or owners of the fee simple title to the Property as of the date on which this ordinance is adopted and their successors in fee simple title, all of which are hereinafter referred to as "the Owner." The conditions contained in this ordinance shall be binding on the Owner.

§ 3. **Special Terms and Conditions.** This special use permit is conditioned on the following special terms and conditions:

(a) The Special Use of the Property shall be as a multifamily dwelling containing up to four dwelling units, substantially as shown on the Plans.

(b) No fewer than two off-street parking spaces shall be provided for the Special Use, substantially as shown on the Plans.

(c) No fewer than two bicycle parking spaces shall be provided on the Property.

(d) The height of the Special Use shall not exceed three stories.

(e) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.

(f) The application for the building permit shall be made in compliance with the Code of Virginia (1950), as amended, and the Virginia Statewide Building Code.

§ 4. **Supplemental Terms and Conditions.** This special use permit is conditioned on the following supplemental terms and conditions:

(a) All required final grading and drainage plans, together with all easements made necessary by such plans, must be approved by the Director of Public Utilities prior to the issuance of the building permit.

(b) Storm or surface water shall not be allowed to accumulate on the land. The Owner, at its sole cost and expense, shall provide and maintain at all times adequate facilities for the drainage of storm or surface water from the Property so as not to adversely affect or damage any other property or public streets and the use thereof.

(c) Facilities for the collection of refuse shall be provided in accordance with the requirements of the Director of Public Works. Such facilities shall be located or screened so as not to be visible from adjacent properties and public streets.

(d) Any encroachments existing, proposed on the Plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws.

(e) In all other respects, the use of the Property shall be in accordance with the applicable underlying zoning regulations.

§ 5. **General Terms and Conditions.** This special use permit is conditioned on the following general terms and conditions:

(a) No permit implementing this special use permit shall be approved until satisfactory

evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the Property have been paid.

(b) The Owner shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the Property, except as otherwise expressly provided in this ordinance.

(c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 30-1220 of the Code of the City of Richmond (2020), as amended, unless the context clearly indicates that a different meaning is intended.

(d) Notwithstanding any other provision of law, this special use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; consequently, if any portion of this ordinance is determined to be invalid for any reason by a final, non-appealable order of any Virginia or federal court of competent jurisdiction, the invalidity shall cause the entire ordinance to be void and of no further effect from the effective date of such order.

(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of Richmond (2020), as amended, and all future amendments to such law, or any other applicable laws or regulations.

(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Commissioner of Buildings is authorized to issue a building permit substantially in accordance with the Plans for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the building permit shall be made within 1,096 calendar days following the date on which this ordinance becomes effective. If either the application for the building permit is not made within the time period stated in the previous sentence or the building permit terminates under any provision of the Virginia Statewide Building Code, this ordinance and the special use permit granted hereby shall terminate and become null and void.

§ 7. **Effective Date.** This ordinance shall be in force and effect upon adoption.

APPROVED AS TO FORM:

_____
CITY ATTORNEY'S OFFICE

**A TRUE COPY:**
**TESTE:**

**City Clerk**

Application for **SPECIAL USE PERMIT**
Department of Planning and Development Review
Land Use Administration Division
900 E. Broad Street, Room 511
Richmond, Virginia 23219
(804) 646-6304
http://www.richmondgov.com/

Application is hereby submitted for: (check one)

- ☒ **special use permit, new**
- ☐ **special use permit, plan amendment**
- ☐ **special use permit, text only amendment**

## Project Name/Location

Property Address: 1321 Porter St, Richmond VA 23224 Date: 6/5/24

Parcel I.D. #: S0000121019 Fee: $1,800.00

Total area of affected site in acres: 0.108

(See ***page 6*** for fee schedule, please make check payable to the "**City of Richmond**")

## Zoning

Current Zoning: R-8

Richmond 300 Land Use Designation: priority growth node

## Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)

Existing Use: 4 unit affordable housing

Is this property subject to any previous land use cases?

Yes ☐ No ☒ If Yes, please list the Ordinance Number:

**Applicant/Contact Person:** Emily Pinchbeck

Company: 1321 Porter St, LLC

Mailing Address: 9169 W State St #652

City: Garden City State: ID Zip Code: 83714

Telephone: (804) 912-3115 Fax: ( )

Email: 1321PorterStLLC@gmail.com

**Property Owner:** 1321 Porter St, LLC

If Business Entity, name and title of authorized signee: Emily Pinchbeck, manager

(The person or persons executing or attesting the execution of this Application on behalf of the Company certifies that he or she has or have been duly authorized and empowered to so execute or attest.)

Mailing Address:

City: State: Zip Code:

Telephone: ( ) Fax: ( )

Email:

**Property Owner Signature:** Emily Pinchbeck

The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. **Faxed or photocopied signatures will not be accepted.**

**NOTE:** Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)



https://mail.google.com/mail/u/0/#inbox/FMfcgzQVwwwMXjptXvpthDMCSSCMCJnM?projector=1&messagePartId=0.4 1/1

**Call between Emily Pinchbeck and Arianna Poindexter**

**Emily Pinchbeck (Speaker 1):**
So I just wanted to— I understand, like, I get this is a very stressful situation. They are intentionally going to be using intimidation tactics to make you feel like this is… like, just stress you out. Make this feel like an emergency.
This is kind of the same situation that happened the other day, when I came around the back and had talked to you, or came to the front and talked to you for a moment. Yeah, when I mentioned the city was being there in the first place.
I would appreciate if you will send me just a photo of any of the most recent papers that they gave you all, when you get a chance after the phone call. I'm actively online talking with multiple landlords. It is going to take me—
It's going to be… I have to find somebody who does monthly as well as within, like, those accommodations. And so getting somebody in who's willing to do like a two-month span, it's just— it's going to take me a second. I do believe that you're fine through this weekend, to be able to, like, utilize your spaces.
I would not be hanging out really on the porch at this time. But of course, as soon as I have the accommodation for you, I will be getting y'all set up and moved over.

**Arianna Poindexter (Speaker 2):**
I don't think you're understanding, like, how serious— the police came this morning. The police were here this morning telling us that we could only be here from eight to 6 p.m. I don't think it's a matter of, "Oh, we can stay in our spaces."
No, they need us to leave. Like, we have to go. I'm not understanding why you're not having a sense of urgency about this or seriousness.
Like— we're getting kicked out of our house.

**Emily Pinchbeck (Speaker 1):**
I can look for accommodations. I understand it's serious. That is not the case that— I mean, I've dealt with this before.
The people upstairs are also dealing with the same thing. They are going to be doing the same as you, which is staying through the weekend. And then the accommodations, of course— they will not be coming back around after six.

**Arianna Poindexter (Speaker 2):**
So everybody? Or are you just saying the city isn't coming back at six? Around six?

**Emily Pinchbeck (Speaker 1):**
You will not— yeah. That is not something you should be stressed about.

**Arianna Poindexter (Speaker 2):**

Have you talked to them at all yet?

**Emily Pinchbeck (Speaker 1):**
I have. I've been in contact with the city on and off. But for this situation, I know the procedure of it. We're just dealing with it.

**Arianna Poindexter (Speaker 2):**
So you haven't talked to anybody about this specific situation? Today?

**Emily Pinchbeck (Speaker 1):**
No, I have not contacted specifically Walter Jackson over phone. I have emailed everybody with documentation that they are needing.

**Arianna Poindexter (Speaker 2):**
Okay, well, I don't have anything else to say.

**Emily Pinchbeck (Speaker 1):**
I will let you all know as soon as I have the replacement apartment and when y'all can start moving into there.

**Arianna Poindexter (Speaker 2):**
And— so you're saying it's okay if we just stay the weekend here?

**Emily Pinchbeck (Speaker 1):**
Yes.

**Arianna Poindexter (Speaker 2):**
All right.

**Emily Pinchbeck (Speaker 1):**
Okay. Again, if y'all have questions, if y'all want to reach out, feel free.

**Arianna Poindexter (Speaker 2):**
I will.

**Emily Pinchbeck (Speaker 1):**
I'm going to continue talking with these individuals, and then once I find a fit for y'all, I will then go ahead and get y'all set up.

**Arianna Poindexter (Speaker 2):**
All right.

**Emily Pinchbeck (Speaker 1):**

But that'll be— it will take me at least like a day.

**Arianna Poindexter (Speaker 2):**
All right.

**Emily Pinchbeck (Speaker 1):**
But I would— I would say I wouldn't be lingering outside on the front, but y'all will be okay inside. I don't know if y'all want to go ahead and go collect some of y'all's main items, clothes and stuff that you would want to transport over with you, so it's just like an easier transition.

**Arianna Poindexter (Speaker 2):**
Okay.

**Emily Pinchbeck (Speaker 1):**
I would say that's probably the best first steps. But I will do what I can do as soon as possible, and then of course let you know right away.

**Arianna Poindexter (Speaker 2):**
All right.

**Emily Pinchbeck (Speaker 1):**
All right, guys.

**Arianna Poindexter (Speaker 2):**
Okay.

**Emily Pinchbeck (Speaker 1):**
Sorry for the stress. I understand that y'all are very anxious right now.

**Arianna Poindexter (Speaker 2):**
All right. Well, I don't have anything else to add, so I'm done.

**Emily Pinchbeck (Speaker 1):**
Okay. Well, do you just make sure to send me over that letter?

**Arianna Poindexter (Speaker 2):**
Yeah.

**Emily Pinchbeck (Speaker 1):**
Thank you.

**Arianna Poindexter (Speaker 2):**
All right.

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Additional Documents
Submitted By
1321 Porter St. LLC
(Emily Pinchbeck)

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# State Building Code Technical Review Board Appeal 26-11

## Appeal of 4/10/26 "Amended 8/28/24 NOV" ("Amended 4/2[9]/24 NOV")

This appeal does not ask the Board to make a de novo determination of whether 1321 Porter St. (the "Property") was structurally safe. The dispositive question is whether, based upon the factual basis the City of Richmond (the "City") actually relied upon when it acted on April 10, 2026, the statutory prerequisites for invoking emergency enforcement authority under the Virginia Property Maintenance Code ("VPMC") §§ 105 and 106 were satisfied. The City was required to establish those prerequisites before exercising the extraordinary authority to displace lawful occupants and prohibit occupancy; it cannot establish them retroactively through subsequent or alternate enforcement theories not identified in the Notice of Violation ("NOV"), amended notices, or post hoc explanations. **As the administrative record demonstrates, the factual predicates stated in the April 10, 2026 NOV were materially misrepresented, and the City has since abandoned the engineering assessment upon which it claimed those predicates were based.** A **possible** condition alleged to have existed for years does not and cannot satisfy the statutory standard for emergency enforcement. As demonstrated below, the administrative record establishes that the prerequisites for the City's April 10 action were not satisfied when the City acted.

## I. Material Misrepresentations in the NOV

The April 10, 2026 "Amended August 28, 2024 NOV" ***(See "Basic Documents")*** asserts that enforcement actions were predicated on an April 26, 2024 inspection and initiated based on a November 24, 2024 engineer's report, and further claims that, based on that report: *"the 1st and 2nd floor units were allowed to be occupied. While the 3'" floor unit was placarded as unsafe"*.

The record demonstrates that the City asserted those representations as the factual basis and justification for its enforcement actions despite actual knowledge that those representations were false or materially misleading at the time they were made.

- Placards were removed on May 28, 2024 and contrary to the City's testimony before the State Building Code Technical Review Board ("SBCTRB") on November 21, 2025, the City had actual knowledge of their removal no later than May 30, 2024. The City thereafter visited the property on approximately twenty (20) occasions and photographed the areas of the removed placards on November 21, 2024, seven (7) days after the referenced report. ***(Exhibits 7, 8, 50)***.
- Contrary to its testimony before the SBCTRB on November 21, 2025, the City had actual knowledge that the entire building had been in use ***(Exhibit 51)*** and had expressly authorized its continued use. ***(Exhibit 54, Audio 1)***.

- In sworn testimony before the SBCTRB on November 21, 2025, in reference to engineering reports, including Mr. Nedza's, the City stated: *"I have not accepted any of those reports yet. These are reports I have not received."* ***(Exhibit 10)***.
- The City further testified before the SBCTRB that it had accepted and relied upon the CE Duncan engineering report dated April 26, 2024 to determine that the property was structurally safe for occupancy as of May 2024 ***(Exhibits 28, 29, 30)***.

These representations cannot be reconciled with the City's own prior actions and testimony. Rather than accurately reflecting the factual basis upon which the City acted, the April 10, 2026 NOV presents a materially different narrative of the underlying events than the one established by the administrative record.

The City's subsequent conduct further confirms the problem with that factual predicate. After the deficiencies in Mr. Nezda's assessment were brought to the City's attention, Mr. Alley, through counsel, represented that he would no longer rely upon the assessment. The City subsequently failed to identify or produce that assessment in response to a FOIA request specifically seeking the records supporting any condition upon which the City continued to rely as constituting an "actual and immediate danger." ***(Exhibit 39).*** **The City therefore no longer relies upon the very assessment it claimed supported its April 10 emergency enforcement action.**

Because an administrative enforcement action must be evaluated on the factual basis asserted when the decision was made, the City's reliance upon a materially false factual predicate is fatal to the April 10, 2026 NOV. **The City cannot sustain an enforcement action on a factual predicate that was false when the action was taken, nor can subsequent revisions, amended notices, or post hoc explanations transform a false factual basis into a valid one.** ***(Exhibit 37).***

## II. <u>Improper "Amendment" of a Prior NOV</u>

The April 10, 2026 notice improperly attempts to revive the August 28, 2024 "Amended April 2[9], 2024 NOV".

The August 28, 2024 NOV:

- Was also predicated on the April 26, 2024 inspection, despite the fact that the April 29, 2024 NOV arising from that inspection remained pending on appeal when the August 28, 2024 Amended NOV was issued without new findings, as required by VPMC 105.2;
- Relied on unknown or non-existent conditions that the Code Official had previously admitted were compatible with occupancy of the first and second floors ***(Exhibit 14).***

The City later:

- Approved use of the entire building in July 2025 ***(Exhibit 54)***;
- Admitted to acceptance of the April 26, 2024 CE Duncan engineering report to determine structural safety in May 2024 ***(Exhibit 29)***.

While judicial review of the August 28, 2024 NOV remained pending, the City fabricated not one, but two altered enforcement documents purporting to simultaneously be the operative NOV, using those newly created documents to supply revised and materially false factual predicates for enforcement.

- **August 28, 2024 NOV:** On or before May 7, 2026, the City altered the Notice pending before the Circuit Court by changing the responsible party to **1321 Porter St LLC & Emily Pinchbeck.** The City thereafter presented the altered document to the Local Building Code Board of Appeals and a General District Court as the operative NOV, despite it differing from the notice that remained before the Circuit Court. ***(Exhibit 18).***
- **May 11, 2026 NOV:** After receiving Appellant's May 11, 2026 appeal submission, the City again amended the Notice. The amended version identified no new unsafe conditions, no new inspection, and no newly discovered evidence. Instead, it revised the factual basis of the City's enforcement action by removing and editing materially false statements identified by Appellant, including acknowledging that the engineering information upon which the City relied identified **only the possibility of an unsafe condition** rather than concluding that an unsafe condition actually existed. ***(Exhibit 37).***

Neither amendment reflects newly discovered facts supporting the City's enforcement decisions when they were made. Rather, both reflect attempts to revise enforcement documents after their factual and legal deficiencies had been identified by the Appellant.

**An agency's decision must stand or fall on the factual and legal grounds upon which it acted at the time of its decision.** It may not rehabilitate that decision through subsequent revisions, altered enforcement documents, or post hoc rationalizations developed during administrative or judicial review. *Virginia Real Estate Commission v. Bias*, 226 Va. 264 (1983); *Johnston-Willis, Ltd. v. Kenley*, 6 Va. App. 231 (1988); *Jordan v. Lyng*, 659 F. Supp. 1403, 1416 (E.D. Va. 1987); *May v. Virginia Department of Environmental Quality*, 33 Va. App. 55, 67 (2000).

## III. Improper Invocation of Emergency Authority Under VCC § 118.3.1

The City's actions are governed not by the Virginia Property Maintenance Code ("VPMC"), but by the Virginia Construction Code ("VCC"). VPMC § 106.1 expressly provides:

> *"Structures which become unsafe during construction are regulated under the VCC."*

The City consistently alleged that the conditions underlying its enforcement action originated during the construction process. Even assuming, solely for the sake of argument, that those allegations are accepted, the governing code is therefore the VCC rather than the VPMC.

This issue was expressly raised before the SBCTRB on November 21, 2025. In response, the Board acknowledged that conditions alleged to have arisen during construction are governed by the VCC rather than the VPMC.

The City therefore could not rely upon provisions of the VPMC while avoiding the statutory prerequisites imposed by VCC § 118.3.1.

Under VCC § 118.3.1:

> The building official may order occupants to vacate **only** if there is an ***"actual and immediate danger*** *to the occupants or public, or when* ***life is endangered*** *by the occupancy of an unsafe building."*

This standard was not met.

First, no unsafe condition was identified. The engineer's letter relied upon by the City did not conclude that the structure was unsafe, but only suggested a **possibility** that **"could be"** detrimental, and expressly lacked structural analysis.

Second, even assuming, solely for the sake of argument, that the alleged conditions existed, they were asserted to have originated during construction more than five years prior. A condition that has existed for years during continuous occupancy without symptoms or incident **cannot, as a matter of law or logic, constitute an "actual and immediate danger."**

Third, **the City's own conduct and the undisputed facts confirm the absence of any genuine emergency**. At the latest, the City learned of the alleged condition on April 2, 2026, took no immediate action, permitted continued occupancy for more than a week, ordered the building vacated on April 10, and thereafter continued to permit occupants access to the building.

The administrative record demonstrates that:

- The alleged potential condition would have existed for more than five years;
- The building remained continuously occupied throughout that period;
- No incident occurred, no structural failure was reported, no new evidence emerged suggesting that the condition had changed, and thirty (30) days before the April 10 enforcement action, the City was present on the third floor and identified nothing indicating a material change in conditions or any unsafe condition warranting the removal of tenants from their homes on the first and second floors ***(Exhibit 11)***;
- The City allowed continued occupancy after it learned of the **possible** condition and delayed enforcement for more than a week;
- Tenants were permitted continued access to the building after the vacate order;

- Since the vacate order, no portion of the structure has exhibited any material structural change; and
- The City knew that the condition of the building remained materially unchanged for two (2) years prior to placarding and identified no intervening event that could support an emergency determination.

These facts are irreconcilable with a determination that an "actual and immediate danger" existed on April 10, 2026. If the City itself did not consider the alleged condition to require immediate action when it first became aware of it, the administrative record does not support a conclusion that emergency enforcement became justified more than a week later in the absence of any identified change in circumstances.

**By permitting continued access to the building while simultaneously prohibiting residential occupancy, the City effectively acknowledged that the conditions did not present an immediate hazard requiring exclusion from the premises.**

The City failed to establish the statutory pre and post requisites for invoking VCC § 118.3.1. Because those requisites were not satisfied, the City's emergency enforcement actions exceeded the authority delegated by the Virginia Uniform Statewide Building Code.

## IV. Enforcement Actions Made Upon Unlawful Procedure

The City's April 10, 2026 enforcement action was made upon unlawful procedure because the City failed to comply with the mandatory requirements governing the exercise of its delegated enforcement authority under the Virginia USBC. These requirements are not discretionary administrative formalities. As confirmed by a Virginia Department of Housing & Community Development ("DHCD") Code and Regulation Specialist, "**shall**" signifies a USBC requirement ***(Exhibit 56)***; violation of a mandatory provision is therefore a violation of the USBC. These requirements establish the process by which the General Assembly authorized Code Officials to determine that a real violation exists, identify the physical condition constituting that violation, identify the applicable code requirement, direct the correction required, and provide a reasonable opportunity to correct. **The City cannot bypass those requirements simply by invoking the emergency authority of VCC § 118.3.1 without satisfying the statutory emergency standard.** A **possible** condition alleged to have existed for years does not and cannot satisfy that standard.

### A. The Virginia Construction Code Prescribes a Mandatory Enforcement Process

The following separate and independent requirements were violated by the Code Official:

1. **VCC § 118.2 - Correction Notice:** The building official "***shall*** *issue a correction notice*" describing the real and existing physically unsafe condition that is the basis for the

violation. No correction notice was issued. Instead, the City proceeded directly to enforcement and removed lawful occupants, alleging a **possibility** of unsafety without first issuing the required correction notice.

2. **VCC § 118.2 - Corrective Action:** The correction notice **shall** state "*what is required to correct the violation*." No correction notice identified the action required to correct any specific physically dangerous condition. Instead, the City sought to compel resolution of historical permitting without identifying any corrective work necessary to make a dangerous condition safe again.
3. **VCC § 118.2 - Reasonable Time:** The correction notice **shall** provide "*a reasonable time to make the corrections*." The City provided no correction period before enforcement. Instead, occupants were displaced on April 10, 2026 before the owner received any notice identifying a dangerous condition that could be fixed.
4. **VCC § 118.3 - Failure to Correct:** Only when the violation "*has not been corrected in accordance with the correction notice issued per Section 118.2*" is the building official authorized to issue a Notice of Violation under § 115. No violation had first been the subject of a § 118.2 correction notice, and therefore there had been no failure to correct following such notice. Instead, the City proceeded directly to displacement of tenants.
5. **VCC § 115.2 - Written Notice:** The building official "***shall** issue a written notice of violation*" when violations have not been corrected within a reasonable time. The City removed lawful occupants on April 10 before issuing the NOV to the owner; the NOV was not mailed until April 13, and not received until April 20, ten (10) days after the enforcement action had already occurred.
6. **VCC § 115.2 - Identify the Code Section:** The Notice of Violation "***shall** reference the code section upon which the notice is based*." The City's Notice cited a Chapter 1 enforcement provision but failed to identify the substantive code sections governing the physical conditions it alleged rendered the Property unsafe.
7. **VCC § 115.2 - Direct Correction:** The Notice "***shall** direct the correction of the violation* or the compliance with the applicable directive or order." The City's Notice did not identify the corrective action necessary to correct a specific physical condition constituting a substantive code violation. Instead, it sought to compel resolution of historical permitting.
8. **VCC § 115.2 - Reasonable Time to Correct:** The Notice **shall** "*specify a reasonable time period within which the corrections or compliance must occur*." The City provided no reasonable period for correction before removing the occupants and prohibiting occupancy. Instead, enforcement preceded the notice.
9. **VCC § 115.2 - Right of Appeal:** The Notice **shall** indicate the right of appeal by referencing the applicable appeals section.
10. **VCC § 115.2.1 - Older Violations:** Where a violation is discovered more than two years after a certificate of occupancy or initial occupancy, a Notice of Violation "***shall** only be issued upon advice from the legal counsel of the locality that action may be taken to*

*compel correction of the violation*." The City relied upon alleged conditions that it contends originated more than five (5) years earlier, yet the record does not establish that the required legal advice was obtained before the City issued the 2026 NOV.

11. **VCC § 115.2.1 - Documentation Upon Request:** When compliance with the violation can no longer be compelled by prosecution under § 36-106, the building official, "*upon request of the building owner, **shall** document in writing the existence of the violation*." Rather than providing the documentation required by § 115.2.1 when requested ***(Exhibit 53)***, the City continued to treat historical and disputed matters as active enforcement violations and relied upon them as predicates for current enforcement.
12. **Code of Virginia § 36-106 - Prosecution Must Comply With the Statutory Limitations Period:** Section 36-106 provides the statutory basis for prosecution of violations and expressly makes such prosecution subject to the limitations period prescribed by law. The City's own April 2026 Notice identifies the April 26, 2024 inspection and the conditions allegedly discovered during that inspection as the basis for the enforcement action.
13. **Code of Virginia § 19.2-8 - Statute of Limitations:** Section 19.2-8 expressly provides that "*Prosecution of Building Code violations under § 36-106 **shall commence within one year of discovery of the offense by the building official**,*" subject to the statutory conditions stated therein. It further provides that prosecutions under § 36-106 relating to maintenance of existing buildings or structures under the USBC "*shall commence within one year of the issuance of a notice of violation for the offense by the building official.*" The City identifies April 26, 2024 as the date on which the conditions underlying its April 2026 enforcement action were discovered and April 29, 2024 as the date the NOV was issued based on that discovery. ***(Exhibits 16, 27, 45)***. The City cannot reset the limitations period by issuing a later "amended" NOV based upon the same April 26, 2024 discovery, recharacterizing the same historical conditions as newly actionable violations, or repeatedly amending the enforcement documents. The April 26, 2024 discovery and the April 29, 2024 NOV triggered the applicable limitations period, and the April 2026 "amendment" was outside that period.
14. **VCC § 118.3.1 - Emergency Exception:** Only where there is "***actual and immediate danger** to the occupants or public*" or "***life is endangered** by the occupancy of an unsafe building or structure*" may the building official order occupants to immediately vacate. The City invoked this extraordinary authority without identifying any material change in conditions, or other event establishing an actual and immediate danger, despite having known of the alleged **possible** condition for more than a week before ordering the occupants to vacate.
15. **VCC § 118.3.1 - Prohibition on Occupancy After Vacate Order:** The placard shall state, "*This Building (or Structure) is Unsafe and its Occupancy (or Use) is Prohibited by the Building Official.*" After posting, "*occupancy or use of the unsafe building or structure **shall** be prohibited except when authorized to enter to conduct inspections,*

*make required repairs, or as necessary to demolish the building or structure*." The City immediately acted contrary to these mandatory restrictions by allowing tenants continued and ongoing entry to the Property. ***(Exhibit 55)***. The City's own conduct therefore contradicted the purported determination that the Property was unsafe and that its occupancy presented an actual and immediate danger.

16. **VCC § 118.4 - Notice to Responsible Party:** The required notice "***shall** be sent by registered or certified mail to the last known address of the responsible party*." The City did not provide the required notice to the owner before enforcement; the April 2026 NOV was not mailed to the owner until April 13, three (3) days after the occupants had been displaced.
17. **VCC § 118.5 - Placarding:** "*If the notice is not complied with,*" the building official shall post the unsafe-building placard and prohibit occupancy until the unsafe condition has been corrected. The City placarded the Property before the owner had received the Notice, before any real and existing dangerous condition was identified, before reasonable compliance period had expired, and before any failure to comply with that Notice could have occurred.

Seventeen (17) separate and independent Code requirements were violated by the Code Official. The only identified requirement that was not violated on its face was the requirement that the Notice indicate the right of appeal. Even that protection, however, was repeatedly undermined by the City's subsequent conduct. Rather than respecting the administrative appeal process that 1321 Porter St., LLC invoked, the City repeatedly issued summonses against managers who were exercising or attempting to exercise that protected right; issued and simultaneously enforced five (5) different "amended" notices arising from the same April 26, 2024 inspection ***(Exhibits 15, 16, 18, 37);*** and pursued enforcement in General District Court based upon an NOV that was already subject to judicial review in a higher court and, in any event, was outside the applicable statute of limitations.

Thus, while the Notice may have contained the formal statement of the right to appeal, the City's subsequent conduct repeatedly frustrated the very appellate process that right was intended to protect. The statutory right to appeal cannot meaningfully protect an appellant if the City simultaneously attempts to circumvent, nullify, or render that appeal ineffective through successive amended notices and collateral prosecution.

**B. Even If the VPMC Applied:**

1. **VPMC § 105.2 - Finding of a <u>Real and Existing</u> Violation:** "***<u>Upon findings</u>** by the code official **<u>that violations of this code exist</u>***,**," the code official shall issue the prescribed correction notice, Notice of Violation, or notice of unsafe structure. The City did not identify a finding of a real and existing violation of a specific VPMC provision. Instead, it relied upon admittedly unanalyzed conditions, allegations concerning historical

permitting, and a **possibility** of adverse structural impact based on conditions that, if they existed, would have been in existence for years, since initial construction, and required Notice under the VCC, not the VPMC.

2. **VPMC § 105.2 - A Notice of Violation for the Findings:** VPMC § 105.2 further provides that, upon the code official's finding that violations exist, the code official shall issue **a** correction notice, Notice of Violation, or notice of unsafe structure. The singular Notice of Violation contemplated by § 105.2 is tied to the violation the code official has found to exist. The General Assembly did not contemplate using successive NOVs to create, modify, or replace the factual basis for that finding. The City has repeatedly relied upon the same April 26, 2024 inspection while creating multiple different amended versions of NOVs, without identifying a new inspection that could result in new physical findings supporting each successive notice. The City instead used successive notices to supply or revise the factual basis for enforcement after the original basis proved deficient.
3. **VPMC § 105.3 - Identify Defective Condition:** The correction notice "***shall** be a written notice of the defective conditions*." No correction notice identifying any defective physical conditions was issued before enforcement. Instead, the City proceeded directly to displacement and placarding based on the **possibility** of the existence of a condition that they knew could not have been an emergency.
4. **VPMC § 105.3 - Corrective Action:** The correction notice "***shall** require correction of the violation*." The City did not provide a correction notice identifying a real physically unsafe condition that was alleged to be in violation of the Code or the work necessary to fix it.
5. **VPMC § 105.3 - Reasonable Time:** Correction shall be required "*within a reasonable time **unless an emergency condition exists***" under § 106. The City alleged only **possible** unsafety based on conditions its own actions had treated as non-emergency thirty (30) days earlier. ***(Exhibit 11).*** It therefore had no basis to invoke the emergency exception to the reasonable-time requirement before determining whether a real violation existed and, if so, allowing it to be corrected.
6. **VPMC § 105.3 - Identify Code Basis:** Upon request, the correction notice must reference "*the code section serving as the basis for the defects*." Despite numerous requests ***(Exhibit 38)***, the City declined to identify the substantive VPMC provision allegedly violated by a real and existing physical condition.
7. **VPMC § 105.4 - Identify Code Sections in NOV:** A Notice of Violation *"**shall** provide the section numbers for the code provisions cited*." Despite numerous requests ***(Exhibit 38)***, neither the City nor its NOV identified any operative substantive VPMC provision allegedly violated by any physical condition. Instead, it relied upon an incorrect VPMC Chapter 1 enforcement provision and an allegation of **possible** unsafety that **may** have occurred during construction years prior.
8. **VPMC § 105.4 - Corrective Action and Time:** The Notice *"**shall** require correction of the violation within a reasonable time"*. The City removed the occupants before

identifying an action that would fix the alleged **possible** unsafe condition or providing the owner a reasonable period to verify the existence of and, if necessary, correct the alleged **possible** violation.

9. **VPMC § 105.4 - Right of Appeal:** The Notice must indicate the right of appeal. The City technically included the right of appeal in the NOV, but subsequently undermined that protection by issuing multiple successive amended notices, pursuing them simultaneously, and pursuing prosecution while the underlying administrative appeal remained pending.
10. **VPMC § 106.1 - Unsafe Conditions Must Be Remedied:** Conditions *"causing a structure to be classified as unsafe **shall** be remedied"*. The City was provided evidence that the alleged **possible** unsafe condition identified in the April 3, 2026 engineering letter did not exist ***(Exhibits 1, 2, 3, 4, 5, 19, 20, 21, 22, 23, 24, Audio 2, 3)***. Rather than address the discrepancy, the City refused multiple attempts to discuss it ***(Exhibit 38)*** and abandoned that previously alleged physical condition as the basis for enforcement. Through his defense attorney, Building Commissioner David Alley then represented that he would no longer rely upon the individual whose information had been used to remove tenants from their homes. The City subsequently confirmed that position in its June 17, 2026 FOIA response ***(Exhibit 39)***, which did not identify the April 3, 2026 engineering letter as a document upon which the City continued to rely to displace tenants from their homes. The City instead returned to its original theory from the now rescinded April 29, 2024 NOV, that the Property could be treated as unsafe based upon historical permitting issues dating back years, despite no material change in the physical condition of the Property. Thus, after abandoning the alleged **possible** physical condition identified in April 2026, the City reverted to the same historical-permitting theory that had previously formed the basis of its 2024 enforcement action.
11. **VPMC § 106.1 - Unsafe Conditions Regulated By VCC:*"Structures which become unsafe during construction are regulated under the VCC."*** The City treated alleged **possible** initial construction-related conditions as though they were subject to the VPMC while simultaneously relying upon its own assertion that the **possible** conditions originated during construction, circumstances that § 106.1 and the General Assembly expressly place under the VCC.
12. **VPMC § 106.3 - Written Notice of Unsafe Structure:** When a structure is determined to be unsafe, a written notice of unsafe structure *"**shall** be sent by registered or certified mail to the last known address of the responsible party"*. No such notice was provided before the City ordered the occupants to vacate and placarded the Property. The April 2026 NOV was not mailed to the owner until April 13, three (3) days after the April 10 enforcement action.
13. **VPMC § 106.3 - Identify Code Sections:** The notice *"**shall** specify the section numbers for any code provisions cited"*. The City did not identify the substantive VPMC provisions allegedly **possibly** violated by the physical conditions it claimed rendered the

Property so unsafe on April 10, 2026 that tenants had to immediately be removed from their homes.

14. **VPMC § 106.3 - Identify Corrections:** The notice **shall** specify "*the corrections necessary to comply with this code*." The City did not identify the specific corrective work necessary to fix a real, existing physical condition in violation of the VPMC. Instead, its enforcement sought resolution of historical permitting, rather than correction of an identified physical condition. The City's own entry onto the third floor thirty (30) days earlier identified no new physical condition, no material change, and no condition requiring emergency correction, and provided no basis to conclude that any longstanding condition had materially changed or become an emergency requiring displacement of first and second floor tenants from their homes 30 days later.
15. **VPMC § 106.4 - Vacate Order:** *"When an unsafe structure is ordered to be vacated or prohibited from occupancy, the code official **shall** include the order in the notice of unsafe structure"*. The City displaced the occupants on April 10 before mailing the Notice of Violation on April 13 and without first providing the notice required to accompany or establish the vacate order. *(See **"Basic Documents")***
16. **VPMC § 106.5 - Placarding:** *"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 City placarded the Property on the morning of April 10, 2026, then later that same day permitted those same displaced tenants to continue entering the Property for an extended period of time for purposes other than inspection, required repairs, or demolition. ***(Exhibit 55).*** The City's immediate departure from the mandatory restrictions governing a placarded unsafe structure further demonstrates that the City did not genuinely treat the Property as an unsafe structure requiring the exclusion of its occupants and that the purported safety determination was not the actual basis for the enforcement action.

### C. The City's Subsequent Amendments Could Not Cure These Procedural Defects

The mandatory procedural requirements prescribed by the General Assembly are requisites to the lawful exercise of delegated enforcement authority. They cannot be bypassed or satisfied retroactively after enforcement has already occurred.

Likewise, amendments issued after administrative and judicial review exposed deficiencies cannot transform an originally defective Notice into one that complied with the statutory requirements at the time the City exercised its enforcement authority.

Because the City failed to comply with its own legal requirements and identify the operative legal requirements allegedly violated, the specific physical conditions constituting those violations, the corrective action necessary to correct those conditions, and failed to follow the mandatory notice procedures prescribed by the Code before exercising its enforcement authority,

the April 10, 2026 enforcement action was made upon unlawful procedure within the meaning of the USBC and the Administrative Process Act and cannot be sustained.

## V. Unsupported by Substantial Evidence

Under the Virginia Administrative Process Act, an administrative decision must be supported by competent, reliable, and substantial evidence contained in the administrative record. Administrative findings may not rest upon speculation, conjecture, or unsupported factual assumptions. *Johnston-Willis, Ltd. v. Kenley*, 6 Va. App. 231 (1988); *School Bd. v. Nicely*, 12 Va. App. 1051 (1991). **Agency action based upon speculative or unsupported factual predicates cannot be sustained.** *Murphy v. Fairfax County*, 259 Va. 17 (2000). Likewise, **speculative conclusions are insufficient as a matter of law**. *Tittsworth v. Robinson*, 252 Va. 151 (1996).

The City's emergency enforcement action is unsupported by competent or substantial evidence because neither the March 3, 2026 engineering letter nor the City's own Notice of Violation establishes the statutory prerequisites required by the USBC before declaring a dangerous emergency displacing residents.

### 1. The City's determination was unsupported by its own factual findings.

The administrative record demonstrates:

- The engineer's first alleged condition: He later acknowledged that he had never visually inspected the condition before opining that it existed or suggesting that it *“could be”* detrimental.
- The engineer's second alleged condition: His own letter expressly acknowledged that it had not been structurally analyzed.
- The City's Notice of Violation: The City itself acknowledged its understanding of the speculative nature of the engineer’s letter in its own NOV, stating only that the alleged conditions **"may"** have an adverse impact.

These facts are significant because VCC § 118.3.1 authorizes emergency enforcement only upon a determination that an **actual and immediate danger** exists or that **life is endangered** by the occupancy of an unsafe building. **Neither the engineer nor the City made that determination**.

### 2. Internal inconsistencies

The letter simultaneously acknowledges that the necessary structural analysis had not been performed while nevertheless suggesting that the unanalyzed conditions **could be** unsafe. That conclusion lacks a reliable analytical foundation because it assumes the very facts that remained unverified.

3. **Departure from prior conclusions**

At the time of the engineer's final observation of the Property, the building was fully in use. No condition was identified or reported as posing a threat to tenant safety.

If such a condition had existed, the engineer would have had a professional obligation to identify it and take appropriate action. The absence of any such finding, concern, or action at that time confirms that no life-safety hazard was present.

The subsequent assertion, **the better part of a year later**, that the structure "*could be"* detrimental for tenants below, without any new inspection, structural analysis, or changed condition, cannot be reconciled with that prior absence of concern and lacks a reliable factual basis.

4. **Absence of new inspection or data**

No new inspection or analysis was performed, leaving no factual basis for different conclusions.

The engineer later acknowledged that he had not visually inspected one alleged condition before expressing concern regarding it, while another alleged condition remained admittedly and entirely unanalyzed. No intervening inspection identified deterioration, movement, settlement, collapse, or any other changed condition supporting a different conclusion.

The later assessment therefore rests entirely upon recharacterization rather than new evidence.

5. **Recommendations unsupported by engineering analysis**

The assessment further recommends broad exploratory demolition without identifying a specific structural deficiency or demonstrating why destructive investigation was necessary.

Under accepted engineering practice, destructive investigation is performed to evaluate a substantiated condition, not as a means of determining whether one exists. Recommendations of this nature lack a reliable analytical foundation and therefore cannot constitute competent evidence supporting governmental enforcement. *Aetna Casualty & Surety Co. v. Price*, 206 Va. 749 (1966).

6. **The record does not contain substantial evidence supporting emergency enforcement.**

Taken together, these deficiencies establish that the March 3, 2026 engineering letter does not constitute substantial evidence. Substantial evidence is *"such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Consolidated Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938).

Although the City ultimately concluded that the first and second floors were "unsafe," its own Notice demonstrates that this conclusion rested only on a determination that the alleged

third-floor conditions **"may adversely impact"** the building's structural integrity. A possibility of adverse impact is not competent evidence that structural integrity has been compromised, nor is it substantial evidence establishing that the building presented an "actual and immediate danger" or that "life [was] endangered by the occupancy of an unsafe building" as required by VCC § 118.3.1.

The City's determination that the Property was unsafe is unsupported by competent and substantial evidence. Because the administrative record does not contain evidence sufficient to establish the statutory prerequisites for invoking VCC § 118.3.1, the April 10, 2026 emergency enforcement action cannot be sustained.

## VI. Arbitrary and Capricious Enforcement Action

An administrative action is arbitrary and capricious when it reflects an unreasonable or unexplained departure from prior factual determinations, fails to articulate a rational connection between the facts found and the decision reached, or otherwise represents the willful and unreasonable exercise of delegated authority. See *Johnston-Willis, Ltd. v. Kenley*, 6 Va. App. 231 (1988); *Virginia Alcoholic Beverage Control Commission v. York Street Inn, Inc.*, 220 Va. 310 (1980); *Mazloumi v. Department of Environmental Quality*, 80 Va. App. 721 (2025).

The City's April 10, 2026 enforcement action reflects precisely that type of arbitrary decision-making.

1. **The City acknowledged the assessment lacks a reliable factual foundation and no longer relies on it.**

In May 2026, after the City became aware of those deficiencies, Mr. Alley, through counsel, represented that he would no longer rely upon Mr. Nezda's engineering assessment. A subsequent FOIA request specifically sought:

> *"Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting any condition that the City continues to rely upon as constituting an actual and immediate danger to occupants sufficient to deny displaced tenants access to their homes and personal belongings."*

The City did not produce Mr. Nezda's April 3, 2026 letter in response to that request. ***(Exhibit 39)*** Thus, when specifically asked to identify the records supporting any condition upon which the City continued to rely as constituting an actual and immediate danger, the City did not identify or produce the engineering letter that had purportedly supplied the factual basis for the April 10 emergency enforcement action. Together, the City's representation through counsel and its subsequent FOIA response establish that the City no longer relies upon Mr. Nezda's assessment as a factual basis for concluding that an actual and immediate danger existed.

### 2. Unexplained Departure from Prior Engineering Determinations

The City previously accepted and relied upon the April 26, 2024 CE Duncan engineering report in determining that the Property could safely remain occupied ***(Exhibit 28, 29, 30)*** and thereafter expressly authorized continued occupancy of the building on July 24, 2025. ***(Exhibit 54, Audio 1).***

Despite those prior determinations, the City later concluded that the Property was unsafe and invoked emergency enforcement authority without identifying any material change in the building, any intervening structural event, or any newly verified condition that justified abandoning its prior position.

An agency may change its position, but it must provide a reasoned explanation for departing from its prior determinations. An unexplained departure from prior agency practice constitutes arbitrary and capricious action.

### 3. Inconsistent Application of the City's Own Standards

The City's treatment of Mr. Nedza as a source of engineering information was internally inconsistent. Between November 2024 and March 2026, the City declined to rely upon Mr. Nedza's opinions when they supported continued occupancy of the Property ***(Exhibits 6, 31, 40)***. Later, however, the City relied upon Mr. Nedza's subsequent opinions to justify the emergency displacement of every tenant in the building, even though those opinions still did not conclude that the building was unsafe and expressly acknowledged significant limitations in the underlying analysis.

The City identified no material change in the building that would explain this reversal. Instead, it reached fundamentally different enforcement decisions based upon materially unchanged conditions.

The City has offered no reasoned explanation for why the same source was insufficient when it supported continued occupancy, yet later became sufficient to justify the extraordinary exercise of emergency displacement and condemnation. Such inconsistent application of the City's own standards, absent any corresponding change in the underlying conditions, reflects arbitrary and capricious decision-making rather than the reasoned exercise of delegated authority.

### 4. Selective Consideration of the Administrative Record

Rather than evaluating the record as a whole, the City selectively relied upon isolated statements suggesting a potential concern while disregarding the engineer's express acknowledgment that certain conditions had not been analyzed, his failure to conclude that the building was unsafe, its prior acceptance and reliance upon the CE Duncan engineering report in determining that the Property could safely remain occupied, and its previous authorization of occupancy. An agency acts arbitrarily when it selectively disregards uncontradicted evidence in the administrative record or reaches a conclusion without accounting for materially contrary evidence. *Palmer v. Commonwealth Marine Resources Commission*, 48 Va. App. 78, 87 (2006); *Mazloumi v. Department of Environmental Quality*, 55 Va. App. 204, 209 (2009).

### 5. Inconsistent Exercise of Enforcement Authority

The City became aware of the potential structural concerns no later than April 2, 2026. Rather than immediately determining that the Property presented an "actual and immediate danger," the City continued communicating internally and with Mr. Nedza regarding the alleged conditions for more than one week. During that period, the City identified no material change in conditions, or other changed circumstance that would explain why emergency enforcement became necessary on April 10 when it had not been necessary on April 2.

Only after this extended period of continued evaluation and communication did the City invoke the extraordinary emergency authority provided by VCC § 118.3.1 and order the immediate displacement of every tenant.

The City's own course of conduct is irreconcilable with its later determination that the Property presented an "actual and immediate danger." Had such a danger existed when the City first became aware of the alleged conditions, immediate emergency action would reasonably have been expected, not continued investigation and communication over the following week. The City has identified no change in circumstances between April 2 and April 10 that explains why emergency enforcement suddenly became necessary.

Administrative action is arbitrary and capricious when it is "willful and unreasonable and taken without consideration or in disregard of facts or law or without determining principle." *School Board of the City of Norfolk v. Wescott*, 254 Va. 218, 224 (1997); *Virginia Alcoholic Beverage Control Commission v. York Street Inn, Inc.*, 220 Va. 310, 315 (1979).

### 6. Shifting Factual Justifications

Rather than defending the factual basis of its April 10, 2026 enforcement action as originally issued, the City revised its enforcement document after its deficiencies had been identified.

Since the April 26, 2024 inspection, the City has issued five amended Notices of Violation. It altered the August 28, 2024 Notice while judicial review remained pending and later amended the April 10, 2026 Notice after receiving Appellant's appeal identifying factual inaccuracies.

The City identified no newly discovered evidence, no changed conditions, and no intervening inspection supporting those revisions. Instead, each amendment altered the factual narrative supporting the City's enforcement action.

An agency may not retroactively alter the factual basis for its decision through shifting factual justifications or post hoc rationalizations. The validity of administrative action must be evaluated on the facts and rationale that existed when the agency acted, not on explanations developed afterward to justify that action. Accordingly, the City's evolving factual justifications cannot retroactively change the underlying facts or supply a factual basis that did not exist when emergency authority was invoked. Such post hoc rationalizations further demonstrate arbitrary and capricious decision-making. *Virginia Alcoholic Beverage Control Commission v. York Street Inn, Inc.*, 220 Va. 310, 315 (1979); *Johnston-Willis, Ltd. v. Kenley*, 6 Va. App. 231, 243-44 (1988); *May v. Virginia Department of Environmental Quality*, 33 Va. App. 55, 67 (2000).

*"Under well-established principles of administrative law, the Court may not accept counsel's post hoc rationalizations for agency action. Rather, the Court must determine the validity of agency action solely on the basis articulated by the agency itself in the administrative record." Jordan v. Lyng*, 659 F. Supp. 1403, 1416 (E.D. Va. 1987).

Taken together, the City's unexplained departure from its prior engineering determinations, inconsistent treatment of materially unchanged conditions, selective consideration of the administrative record, inconsistent exercise of its enforcement authority, and shifting post hoc factual justifications demonstrate that the decision to invoke emergency authority was not the product of reasoned administrative judgment. Rather, the record reflects arbitrary and capricious decision-making that cannot be sustained under the Virginia Administrative Process Act.

The timing of enforcement, less than twenty-four (24) hours after the City became aware that a separate appeal might be filed pertaining to material inconsistencies before the SBCTRB, further demonstrates that the action was not driven by any emergent life-safety concern. ***(Exhibit 26)***.

## VII. Unauthorized Administrative Search

In carrying out the April 10, 2026 enforcement action, the City exceeded the authority delegated by the Virginia Uniform Statewide Building Code by conducting an unauthorized administrative search of the non-public rear portion of the Property.

Although the City asserted that its emergency enforcement action was based upon the April 3, 2026 engineering letter, a maintenance inspector nevertheless entered the protected rear portion of the Property without consent, without an administrative inspection warrant, and without statutory authority authorizing such entry. Rather than utilizing the established line of communication with the property manager, the inspector entered through a latched rear gate to access an area not open to the public.

Administrative inspections are not exempt from constitutional or statutory limitations. In *Camara v. Municipal Court*, 387 U.S. 523 (1967), the United States Supreme Court held that administrative inspections generally require either consent or a warrant absent a recognized exception. The Supreme Court of Virginia likewise has recognized that administrative inspections remain subject to constitutional constraints and may not be conducted solely upon the unreviewed discretion of the inspecting official. *Mosher Steel-Virginia v. Teig*, 229 Va. 95 (1985). Moreover, the Fourth Amendment protects the curtilage of a residence to the same extent as the residence itself. *Patler v. Commonwealth*, 211 Va. 448, 457 (1970); *Wellford v. Commonwealth*, 227 Va. 297, 301 (1984); *Robinson v. Commonwealth*, 47 Va. App. 533 (2006).

The administrative record identifies no consent, no administrative inspection warrant, and no objectively established emergency requiring immediate warrantless entry into the fenced, non-public rear portion of the Property. The City's entry exceeded the authority delegated by the Virginia Uniform Statewide Building Code and constituted an unauthorized administrative search.

## VIII. Unlawful Displacement of Tenants

The Virginia Uniform Statewide Building Code authorizes the immediate vacating of an occupied building only when the building official determines that an actual and immediate danger exists or that life is endangered by occupancy of an unsafe building. VCC § 118.3.1. As demonstrated throughout this appeal, the administrative record does not contain competent evidence supporting such a determination.

By placarding the occupied dwelling units and directing the occupants to vacate, the City deprived tenants of their lawful possessory interests without first satisfying the statutory prerequisites for emergency enforcement. The authority to order occupants from their homes exists only to the extent granted by the General Assembly. A Notice of Violation cannot create authority that the Virginia Uniform Statewide Building Code does not confer.

The tenants' possessory interests are protected under Virginia law. See Va. Code § 55.1-1243. Those interests may not be involuntarily terminated except as authorized by law. See *Greene v. Lindsey*, 456 U.S. 444, 449-56 (1982); *Lynchburg Division of Social Services v. Cook*, 276 Va. 465, 483-84 (2008).

Because the City lacked statutory authority to invoke VCC § 118.3.1, it likewise lacked authority to compel the immediate displacement of the occupants. The resulting vacate order therefore exceeded the authority delegated by the General Assembly.

## IX. Violation of Constitutional & USBC Due Process

The Fourteenth Amendment prohibits the government from depriving any person of life, liberty, or property without due process of law. By invoking emergency enforcement authority without satisfying the statutory prerequisites of the Virginia Uniform Statewide Building Code and by failing to comply with the procedures prescribed by Chapter 1 of the USBC, the City deprived the owner and lawful occupants of protected property interests without the process required by law.

The procedural safeguards incorporated throughout Chapter 1 of the Virginia Uniform Statewide Building Code are not mere administrative formalities. They exist to ensure that code enforcement is exercised consistently with due process by requiring notice to the proper responsible party; identifying the applicable code provisions, the specific physical conditions alleged to constitute the violation, and the corrective action necessary to remedy those conditions; affording affected persons a meaningful opportunity to understand, respond to, and, where applicable, correct the alleged violations before enforcement; providing notice of appeal rights; and limiting the exercise of extraordinary emergency authority to the narrow circumstances expressly authorized by the General Assembly. The City's failure to comply with those statutory safeguards frustrated the fundamental purpose of Chapter 1 and deprived both the owner and lawful occupants of the procedural protections the General Assembly incorporated into the USBC.

Those procedures exist to ensure that enforcement is based upon identified code violations and substantiated physical conditions requiring correction, not to impose emergency remedies for longstanding administrative or historical permitting issues unsupported by the statutory prerequisites governing emergency enforcement.

**Procedural due process ordinarily requires notice and an opportunity to be heard before the government deprives an individual of a protected liberty or property interest, except in the narrow circumstances where a genuine emergency justifies immediate action.** *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). **Likewise, the Supreme Court of Virginia has recognized that governmental deprivation of protected liberty or property interests must comport with the requirements of due process.** *Lynchburg Division of Social Services v. Cook*, 276 Va. 465, 483-84 (2008).

As demonstrated above, the City neither established the statutory basis for invoking extraordinary emergency authority nor complied with the procedural requirements governing enforcement under Chapter 1 of the USBC. The resulting placarding of occupied dwelling units, displacement of lawful occupants, and deprivation of the owner's property interests therefore occurred without the process required by both the Virginia Uniform Statewide Building Code and the Fourteenth Amendment.

Although the Technical Review Board need not resolve the constitutional questions presented by this appeal, it should interpret and apply the procedural requirements of the Virginia Uniform Statewide Building Code consistently with the due process principles they implement. Because the City failed to comply with those statutory requirements before exercising extraordinary emergency authority, the April 10, 2026 enforcement action exceeded the authority delegated by the General Assembly and cannot be sustained.

## X. Conclusion

The April 10, 2026 "Amended August 28, 2024 Notice of Violation," together with the placarding of the property and displacement of lawful occupants, was undertaken in the absence of any actual and immediate life-safety condition, is unsupported by competent and substantial evidence, and was implemented in violation of the procedural and substantive requirements of the Virginia Uniform Statewide Building Code and the Code of Virginia.

The record establishes that the City:

- Exceeded the authority delegated by Va. Code § 36-105 and the Virginia Uniform Statewide Building Code;
- Invoked emergency vacatur authority without satisfying the requirements of VCC § 118.3.1;
- Improperly relied upon the Virginia Property Maintenance Code while failing to satisfy the statutory prerequisites for enforcement under either the VPMC or the VCC;
- Failed to provide the notice, procedural safeguards, and opportunity to respond required by Chapter 1 of the Virginia Uniform Statewide Building Code;

- Based its enforcement action upon speculative, internally inconsistent, and unverified information rather than competent and substantial evidence;
- Attempted to revive and amend an enforcement action that was legally defective when originally issued;
- Placarded the property and displaced lawful occupants without lawful authority; and
- Engaged in arbitrary and capricious enforcement through inconsistent positions, selective reliance upon evidence, and post hoc justifications unsupported by the administrative record.

The City's April 10, 2026 enforcement actions should be reversed because they were **(1) in excess of statutory authority, (2) made upon unlawful procedure, (3) unsupported by competent and substantial evidence, and (4) arbitrary and capricious.** Each of these grounds independently warrants reversal. Collectively, they establish that the Notice of Violation, the placarding of the property, and the displacement of the tenants exceeded the authority delegated by the General Assembly and are void and unenforceable.

For these reasons, Appellant respectfully requests that the Technical Review Board:

1. **Reverse** the April 10, 2026 decision to placard the first- and second-floor dwelling units;
2. **Order** the immediate removal of the placards from the affected dwelling units; and
3. **Rescind** the April 10, 2026 "Amended August 28, 2024 Notice of Violation" and declare it unlawful and unenforceable.

## XI. Safety Conclusions

Finally, and legally irrelevant to this appeal, the property does not contain the two conditions the City alleged as the basis for its emergency enforcement actions.

The supporting engineering documents have been intentionally redacted for the following reasons:

1. The burden does not rest with a private citizen to disprove unsupported governmental allegations. T**he burden rests with the City to demonstrate that it possessed a lawful factual basis for its actions at the time those actions were taken.** The City has repeatedly declined to identify or produce such a factual basis for its actions on April 10, 2026 and has since admitted that one does not exist. ***(Exhibit 39).***
2. Due to repeated dissemination of inaccurate information and interference with existing and prospective business relationships, and in compliance with existing business agreements, identifying information has been withheld pending reversal of the enforcement actions taken without lawful authority.
3. The central issue before the Board is not whether the building can now be shown to be safe. Even assuming, solely for the sake of argument, that potential structural concerns had existed, the City still lacked legal authority to take the enforcement actions it took in the manner in which it took them. This appeal concerns the legality of the City's actions **based upon the facts and authority available at the time those actions were taken**.
4. Citizens should not be required to bear the financial and administrative burden of disproving unsupported governmental allegations made outside the limits of a municipality's lawful authority. Accepting such a standard would create a precedent under which the availability of due process depends upon a citizen's financial resources rather than the rule of law.

Nevertheless, a Virginia Class A contractor and multiple Virginia-licensed professional engineers conducted comprehensive investigations of the property, documented the existing conditions, prepared structural drawings and floor plans, performed engineering analyses and load calculations, and independently verified their conclusions. Those investigations confirm that the building remains structurally stable and are consistent with the engineering conclusions upon which the City itself relied in May 2024. ***(Exhibits 1, 2, 3, 4, 5).***

[redacted]
Class A lic. Number-[redacted]
Phone #[redacted] Email-[redacted]



March 23, 2026

1321 Porter St, LLC

1321 Porter St

Richmond, VA 23224

To Whom It May Concern,

This letter is to verify that a hole was opened in the second floor ceiling as previously designated by engineer John Nedza, beneath a third floor bathroom wall.

Upon inspection, the ceiling was carefully opened and the framing above was examined. The 2x10 @16 OC #1 grade SYP sistered joists were observed as documented by the engineer, John Nedza on November 4, 2025, and confirmed to be properly installed beneath the 3rd floor wall, consistent with the engineer's specifications and October 28, 2025 sketch.

All findings indicate that the structural elements are in place as intended and pursuant to the plans. Based on the conditions documented in the October 28, 2025 sketch from John Nedza, PE and the conclusion of the November 17, 2025 analysis and load calculation review from [redacted], PE, we do not recommend any further analysis or work to be done.

[redacted] a Class A contractor, makes no warranties or guarantees, expressed or implied.

Please feel free to contact me if any additional information is required.

Sincerely

[redacted]

Thank you for your business



[redacted]
Class A lic. Number-[redacted]
Phone #[redacted] Email-[redacted]



April 30, 2026

1321 Porter St, LLC

1321 Porter St

Richmond, VA 23224

The "possible" condition does not exist

To Whom It May Concern,

This letter is to provide clarification and updated findings regarding the structural elements within the floor at 1321 Porter St in Richmond VA.

Following a review of Mr. Nedza's letter dated April 3, 2026, a more detailed field investigation was conducted to verify conditions. During this process, it was discovered that the hole locations previously designated by Mr. Nedza or the property manager that were assumed to be beneath one of the load-bearing bathroom walls had not been accurately measured or correctly identified.

New measurements were performed to properly locate both third-floor bathroom load-bearing walls. We confirmed findings and opened portions of the ceiling beneath both bathroom walls to assess the structural framing.

We identified 2 ply full-span 2x10 properly connected 2.1E LVL beams measuring approximately 9' 8" on one side of the center brick wall and approximately 14' 4" on the other side. The beams are supported by approximately 12" thick blocking, which bears directly onto the center brick bearing wall.

Thank you for your business



We also viewed the exterior wall connections. The ledger was bearing on original 2x6 framing, which was bearing on one course of brick and going into another course of brick, as shown in Mr. Nedza's October 28, 2025 structural sketch. The ledger was also securely fastened to the brick exterior wall.

Proper joist hangers, LVL ply connection, and wall connection details were observed. No signs of damage, deficiencies, or irregularities were noted in any of the exposed areas. Based on our field verification and the conditions observed, the structural elements currently in place meet the criteria outlined by Mr. Nedza for safety. Our investigation confirmed that these conditions already exist in the correct areas.

The LVL beams, bearing conditions, and connections meet or exceed what was described as necessary for safety and we did not identify any deficiencies or concerns during our inspection. We agree with Mr. Nedza's stated requirements and the installed beams and supporting elements appear sound and perform as intended.

[redacted] a Class A contractor, makes no warranties or guarantees, expressed or implied.

Sincerely,

[redacted]

[redacted]
Class A lic. Number[redacted]
Phone #[redacted] Email-[redacted]



[redacted]

1321 Porter St, LLC

1321 Porter St

Richmond, VA 23224

**Structural conditions in Nedza's 2024 reports reinspected**

To whom it may concern,

Based on the inconsistencies discovered in reporting from November 2025 through the present, we were requested to further verify multiple additional structural elements referenced in the plans and prior engineering reports.

During our investigation, we confirmed Mr. Nedza's previously reported foundation and footing findings. Due to the exceptionally dense clay soil conditions encountered at the site, we extended our investigation and identified four additional layers of corbeled foundation beneath the previously exposed areas, with an additional span of roughly 6 inches. Further excavation was not feasible because of the extremely hard soil conditions.

We also verified that the foundation walls were consistent with Mr. Nedza's earlier reporting, including confirmation of the exterior brick load-bearing walls and the center brick load-bearing wall. Within the crawl space, we observed the original 2x10 framing members bearing on one course of brick and extending into a second course, consistent with traditional bearing construction.

Thank you for your business



Additional openings were created in the ceiling below to verify the perpendicular 2x10 joist spans beneath the studio and third-floor entry area, as well as the 2x8 roof rafters located within the third-floor ceiling assembly. All observed framing and structural conditions were consistent with the physical conditions described in Mr. Nedza's November report, with the exposed footing conditions exceeding what had originally been excavated and documented.

Although Mr. Nedza later retracted his conclusion, after reviewing the remainder of his November 2024 report that remain unrescinded, together with the signed and sealed load calculations prepared by a second engineer dated May 18, 2026, we can confirm that the structural conditions observed on site are consistent with the findings previously described and reported to be within acceptable serviceability and safety requirements.

At no point during our investigation did we identify irregularities, deficiencies, or unsafe structural conditions. Based upon the four engineering letters provided to the property manager, together with our direct field observations, we found no evidence indicating that Mr. Nedza's November 2024 reporting regarding the structural conditions of the residential dwelling structure was inaccurate.

Thank You,

[redacted]

# STRUCTURAL EVALUATION REPORT

**1321 Porter Street**
**Richmond, Virginia 23224**

**Project No.:** 1321 Porter Street Structural Verification

**Date:** May 26, 2026

**Prepared for:** 1321 Porter St. LLC (Emily Pinchbeck)

**Prepared by** [redacted]
**License No.:** [redacted]
**Firm:** [redacted]
**Email:** [redacted]
**Phone:** [redacted]

## 1 PURPOSE AND SCOPE

This Structural Evaluation Report provides a professional engineering assessment of the existing three-story residential structure at 1321 Porter Street, Richmond, Virginia, including the third-floor addition constructed approximately five years ago.

The evaluation is based on the Combined Structural Verification Report for sistered 2×10 floor joists and double 2×10 LVL wall support, prior evaluation reports (Appendices A–C), and the as-built third-floor framing plans (Appendix D). Analysis was performed in accordance with the 2021 International Building Code (IBC), ASCE 7-16/7-22, National Design Specification for Wood Construction (NDS) ASD, and applicable provisions of the Virginia Uniform Statewide Building Code.

The purpose of this report is to confirm the structural adequacy and code compliance of the third-floor addition and the overall building system under residential loading conditions.

## 2 STRUCTURAL VERIFICATION

The third-floor addition is supported by the existing second-floor framing system, which transfers loads through masonry bearing walls into a corbeled foundation. Key elements evaluated include the floor framing, LVL beam supports, masonry walls, and foundation. Framing plans are provided in Appendix D.

Recent field investigation by [redacted] (April 30, 2026) confirmed the presence of properly installed 2-ply full-span 2×10 2.1E LVL beams beneath the third-floor bathroom load-bearing walls. These beams measure approximately 9' 8" on one side and 14' 4" on the other side of the center brick wall and are supported by 12" thick blocking bearing directly onto the center brick bearing wall. Proper joist hangers, LVL ply connections, and wall connections were observed. No signs of damage or deficiencies were noted.

The load path is distributed on a tributary basis. The critical load-bearing wall line is supported by the double 2×10 LVL members, while regular 2×10 floor joists carry standard residential floor loads only.

### 2.1 Floor Joists – Sistered 2×10 Verification

- Line load: 66.7 plf (10 psf dead + 40 psf live).
- Critical span: ≈14 ft 8 in.
- With 5–6 ft sistered segments providing 15–20% additional stiffness, serviceability criteria are satisfied: L/480 ratio = 0.94 (PASS), L/360 ratio = 0.88 (PASS).
- Strength checks for bending and shear are well below allowable limits.

### 2.2 Wall Support – Double 2×10 2.1E LVL Verification

- Actual tributary line load: 214 plf.
- Span: 13 ft 1 in.
- Section: 2 plies of 1.75 in. × 9.25 in., $E = 2.1 \times 10^6$ psi.
- Bending: $f_b = 1{,}101$ psi $\leq 2{,}600$ psi (42% utilization).
- Shear: $f_v = 65$ psi $\leq 285$ psi (23% utilization).
- Deflection: $\Delta = 0.291$ in. $\leq L/480 = 0.327$ in. and $\leq L/360 = 0.436$ in. (PASS).

## 3 ADDITIONAL STRUCTURAL VERIFICATION

- **Masonry Walls and Foundation**: The exterior walls are 3-wythe (11.5") brick construction with a longitudinal center bearing wall. Field investigations confirm a corbeled footing approximately 30" wide, with additional corbeled layers observed in dense clay soil. Compressive stresses in the walls (28–36 psi) are well below allowable values.
- **Foundation Soil Bearing**: Calculated bearing pressures under full three-story gravity load range from 1,538–1,986 psf, which is acceptable relative to a conservative allowable bearing pressure of 2,000 psf.
- **Overall System**: Independent inspections confirm that the framing, connections, and load path are sound and consistent with the engineering requirements for a multi-family residential structure.

## 4 CONCLUSIONS

The third-floor addition and the overall structure at 1321 Porter Street are structurally adequate and meet the requirements of the 2021 Virginia Uniform Statewide Building Code for residential occupancy. The sistered 2×10 floor joists, double 2×10 2.1E LVL wall supports, masonry bearing walls, and corbeled foundation provide sufficient strength, stiffness, and load distribution capacity. No structural deficiencies were identified that would affect the safety or serviceability of the building.

## 5 LIMITATIONS

This evaluation is based on the provided plans, contractor-reported as-built conditions, prior engineering reports, and field observations. It does not constitute a full code compliance review of non-structural elements.

**Respectfully submitted,**

[redacted]

Virginia Professional Engineer License No. [redacted]

**Appendix A: Evaluation Report by Carl E. Duncan, P.E. (April 26, 2024)**

**Appendix B: Evaluation Report by John H. Nedza, P.E. (November 14, 2024)**

**Appendix C: Field Verification Letter by** [redacted]

**Appendix D: As-Built Third-Floor Framing Plans (November 9, 2025)**

## Detailed Calculations – Framing and Bearing Walls

### Floor Joists – Sistered 2×10 #2 Southern Pine

Reference: Combined Structural Verification Report.
Design basis: IBC 2021, NDS ASD, residential floor loading.

- Dead load = 10 psf, Live load = 40 psf, Line load $w = 66.7$ plf
- Critical span: 14 ft 8 in.
- Section properties: $b = 1.5$ in., $d = 9.25$ in., $S = 21.39$ in$^3$, $I = 98.93$ in$^4$

Bending and shear checks are satisfied. With sistering, serviceability limits L/360 and L/480 are met.

### Wall Support – Double 2×10 2.1E LVL

- Line load: 214 plf
- Span: 13 ft 1 in.
- $I = 230.8$ in$^4$, $S = 49.9$ in$^3$, $E = 2.1 \times 10^6$ psi

Bending: $f_b = 1{,}101$ psi $\leq 2{,}600$ psi Shear: $f_v = 65$ psi $\leq 285$ psi Deflection: $\Delta = 0.291$ in. (satisfies L/360 and L/480)

### Bearing Walls – Masonry Compression

Exterior walls: $\approx$28.0 psi $\leq$ 100 psi allowable Center bearing wall: $\approx$36.0 psi $\leq$ 100 psi allowable

### Corbeled Masonry Foundation / Soil Bearing

Footing width $\approx$ 30 in. Calculated bearing pressures: 1,538–1,986 psf $\leq$ 2,000 psf (acceptable)
All calculations confirm adequate capacity.

[redacted]

[redacted]

**BUILDING CONDITION, STRUCTURAL, AND MEP ASSESSMENT REPORT**

Existing Building, Rear Exterior Stair Structure, and Associated Building Systems

Property Address: 1321 Porter St. Richmond, VA 23224 - Date: June 5, 2026

Client: 1321 Porter St, LLC

## PURPOSE OF EVALUATION

At the request of the property manager, a building condition, structural, and MEP evaluation of the subject property was performed to assess the existing third floor, rear exterior stair structure, supporting structural systems, and associated plumbing and electrical systems serving the building. The purpose of this evaluation was to determine whether the reviewed systems are structurally adequate, safe for their intended use, and substantially compliant with the applicable provisions of the 2021 International Building Code (IBC), ASCE/SEI 7, the National Electrical Code (NEC), and other applicable codes and standards based upon the conditions observed during the site inspections, the information made available for review, and the engineering analyses performed.

## STRUCTURAL EVALUATION

Evaluation of the subject property was performed to assess the physical condition of the third-floor framing system, the rear exterior stair structure, and the roof framing supporting the stair structure. The assessment included observations of existing structural conditions, review of available construction documents, structural drawings, engineering reports, a three-dimensional structural model, and structural load calculations.

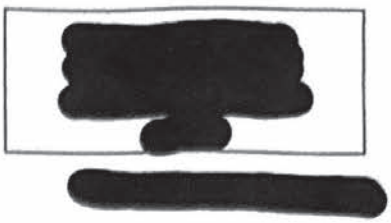
Documents reviewed include:

- CE Duncan report dated April 26, 2026
- Blue Nest report dated January 16, 2026
- [redacted]
- Architectural and structural plans dated November 9, 2025
- [redacted] Class A Contractor condition verification letters dated March 23, 2026, April 30, 2026, and May 19, 2026
- [redacted]
- Louisa Engineering reports dated October 18, 2024, September 9, 2025, and December 17, 2025

[redacted]

[redacted]

[redacted]



[redacted]

- Structural stairs drawings and 3D structural model June 3, 2026
- Structural stairs load calculations package June 3, 2026

**THIRD-FLOOR CONSTRUCTION**

Portions of the third-floor construction and supporting building systems were evaluated, including framing conditions, utility penetrations, fire-resistance features, and general construction quality.

Observations confirmed that the third-floor framing system, including the floor framing, bearing walls, LVL members, and foundation system were consistent with the plans, calculations, and supporting engineering documentation. No evidence of deflection or other conditions indicative of structural inadequacy was observed.

Draft-stopping and fire-separation were identified within the floor framing and structural assemblies were reviewed. No deficiencies, discontinuities, or exceptions were noted.

Based upon the conditions, reviewed structural documentation, engineering calculations, and supporting analyses, the third-floor is structurally adequate for its intended residential occupancy, safe for continued use, and consistent with the applicable provisions of the 2021 Virginia Uniform Statewide Building Code.

**EXTERIOR STAIRS STRUCTURE:**

After evaluation of existing conditions, review of the referenced reports, engineering calculations, structural drawings, and supporting analyses, it is our professional opinion that the rear exterior stair structure possesses adequate gravity and lateral load resistance for its intended use and occupancy. The reviewed calculations and observed conditions demonstrate that the stair framing, connections, bearing conditions, and supporting structural elements have sufficient capacity to safely resist the applicable design loads and transfer those loads through a continuous load path to the supporting structure below.

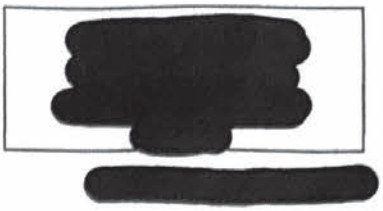
The analyses further demonstrate that loads imposed by the stair structure are adequately distributed to the roof framing and associated structural components beneath the stair without exceeding the calculated capacities of the existing supporting members. Observed field conditions were found to be generally consistent with the reviewed drawings, calculations, and engineering reports, and no evidence of structural distress, excessive deflection, instability, settlement, significant deterioration, or other conditions indicative of inadequate structural performance was observed within the scope of this assessment.

Based upon evaluation and professional engineering judgment, the third-floor framing system, the rear exterior stair structure, the roof framing supporting the stair structure, and the associated structural elements evaluated during this assessment are structurally adequate for their intended use and occupancy, safe for continued occupant use, and substantially compliant with the applicable provisions

[redacted]

[redacted]





of the 2021 International Building Code (IBC) and ASCE/SEI 7, Minimum Design Loads and Associated Criteria for Buildings and Other Structures.

**MEP EVALUATION**

Evaluation of the plumbing and electrical systems serving the inspected units C and D were also performed, and a review of available construction documents, permit records, electrical distribution equipment, accessible plumbing and electrical components, and supporting reports prepared by licensed trades professionals.

Documents reviewed include:

- Building plans and permit documents made available for review
- City of Richmond electrical inspection records 2020 & 2021
- Electrical distribution panels and visible electrical installations
- Master Plumber report dated December 30, 2024
- Master Electrician report dated March 13, 2025

The units are served by a 200-amp electrical service panel that was inspected and approved by the City of Richmond in 2020 and independently inspected in 2024. The third-floor dwelling unit is served by a 100-amp electrical subpanel that was inspected and approved by the City of Richmond in 2021 and independently inspected in 2024.

The inspected units utilize electric cooking appliances and ductless mini-split heating and cooling systems. Because no fuel-fired equipment, central mechanical systems, or associated mechanical distribution systems were present within the scope of this review, no independent mechanical engineering evaluation was performed.

The plumbing and electrical systems have reportedly remained in continuous service for approximately five to six (5–6) years without systemic failures, unsafe conditions, or operational deficiencies. During the field evaluation, breakers were observed to be properly installed, grounding and bonding systems were identified and appeared properly connected, and Ground-Fault Circuit Interrupter (GFCI) protection was located and tested in the areas where required. Accessible receptacles, switches, and lighting fixtures were evaluated and found to be functioning as intended at the time of inspection.

Accessible portions of the plumbing system, including water supply piping, drainage systems, plumbing fixtures, traps, and water heaters, were evaluated. Water distribution and sanitary drainage systems were tested and found to be operational. Accessible traps were identified and found to be properly installed in the areas reviewed. Water heaters were observed to be properly installed, operational, and serving the dwelling units as intended. No evidence of active leaks, drainage deficiencies, improper

[redacted]

[redacted]

installations, or other conditions adversely affecting the performance of the plumbing system was observed.

Utility penetrations were observed to be sealed with fire-resistant sealants where passing through framing assemblies. No deficiencies, discontinuities, or exceptions were noted within the scope of this assessment.

Following evaluation of the physical conditions, testing performed, review of the available documentation, and consideration of the referenced reports, no conditions were identified that would indicate the plumbing or electrical systems are unsafe or not functioning as intended for their current use and occupancy.

Observations, testing performed, City inspection records, and reviewed documentation indicate that the plumbing and electrical systems serving the inspected units are functioning as intended, safe for continued occupant use, and appear substantially compliant with the applicable provisions of the National Electrical Code (NEC), applicable plumbing codes, the 2021 International Building Code (IBC), and the Virginia Uniform Statewide Building Code (USBC).

**CONCLUSION**

Following the review and evaluation of conditions, reviewed reports, engineering calculations, structural drawings, construction documents, and other information made available for review, it is our professional opinion that:

1. The rear exterior stair structure possesses adequate structural capacity for its intended use and occupancy.
2. The stair framing, connections, bearing conditions, roof framing, and associated supporting structural elements provide an adequate load path for the transfer of imposed loads.
3. The third-floor framing system, masonry bearing walls, and associated supporting structural elements possess adequate structural capacity for their intended use and occupancy.
4. The primary structural systems of the building reviewed as part of this assessment are structurally adequate for their intended use and occupancy and safe for continued occupant use.
5. Fire-resistant sealants were identified at accessible plumbing penetrations, and draft-stopping and fire-separation features were identified within the reviewed third-floor framing assemblies. No deficiencies, discontinuities, or exceptions were noted within the scope of this assessment.
6. The plumbing systems reviewed are functioning as intended and show no evidence of deficiencies.

[redacted]

[redacted]

[redacted]

[redacted]

7. The electrical systems reviewed are functioning as intended and show no evidence of deficiencies with respect to the applicable provisions of the National Electrical Code (NEC).
8. Based upon the information reviewed and the observed conditions at the time of inspection, no structural, plumbing, or electrical conditions were identified that would warrant restrictions on the continued occupancy or use of the building.
9. The third-floor addition and associated supporting structural systems are safe for continued residential occupancy and use.

**LIMITATIONS**

This opinion is based upon the existing conditions observed at the time of review, together with the documents, reports, calculations, observations, and information made available and reviewed as of the date of this letter.

No destructive testing, concealed condition investigation, material testing, or comprehensive code compliance audit was performed unless specifically noted herein. This letter represents a professional engineering opinion based upon the conditions observed at the time of inspection and the information made available for review and should not be construed as a warranty or guarantee.

Respectfully submitted,

[redacted]

COMMONWEALTH OF VIRGINIA
Lic. No. [redacted]
PROFESSIONAL ENGINEER

[redacted]

[redacted]

[redacted]

**Louisa Engineering, Inc.**
**1065 Jouett School Road**
**Mineral, Virginia 23117**

**Cell: 804.512.4865** **Email:** john@louisaengineering.com

November 14, 2024

Emily Pinchbeck, Mgr.
1321 Porter St. LLC.
Phone (804)-912-3115

**RE: 1321 Porter Street**

At your request I made a site visit to the above property to see if the third story addition was structural sound. The reason for the review is due to the fact that a building permit was not acquired from the City of Richmond for the construction of the third floor. Therefore, the city requested that a VA Professional engineer review the building and the decks/ staircases for structural integrity.

This house was originally a 2 -story wood frame structure over a crawl space. The age is approximately 100 years. A third story was added approximately 5 years ago. See photo #1

Reasonable care was taken to make observations and offer recommendations which are based on visual observations only. We did not test the soil. However, we did do some soil excavations to observe footings. Also, we used a borescope and removed dry wall in a few places to observe the third-floor ceiling joists.

**Observations and Discussion**

Crawl Space and Footings

We checked on the footings to see if they were competent to bear the additional weight of the third story. We observed that the foundation walls are 3 wythes of brick, approximately 11.5" wide. In addition, to the exterior walls there is a longitudinal center foundation wall. The bottom of the foundation wall is corbelled as follows: the wall goes down 5 bricks, steps out one and down 2, out 1, down 2 more, out another. The total width of the corbelled footing is approximately 30" which is adequate.
See photo's #1,2,3.

Exterior Staircases and Decks

We made a number of upgrades on the exterior decks. See photos 4-7. A summary of upgrades can be seen from the photos. We scabbed 2x PT (pressure treated) wood to the side of the columns. We also added a new column. Also, a new beam was added to support the deck above and we anchored the posts to the base material.





However, additional upgrades need to be implemented on the staircases and third floor deck support columns. On the staircase the existing newel posts will need to be replaced with 4 x 4 PT posts at 4' OC max. See the attached drawing S1 of 1. Also, we need to add additional 2 posts and a beam at the center line of the uppermost staircase as shown on the drawing. And lastly, we need to brace the 2 columns supporting the uppermost third floor landing. Also see drawing S1 of 1.

Exterior Ceiling/Roof of the third floor

We removed some sheet rock and also used a borescope to obverse the rafters of the third floor. The rafters are 2 x 8's at 16" on center spanning less than the code allowable of 17'-1". Therefore, the ceiling joists / rafters appear to be adequate. See photo's 8 & 9.

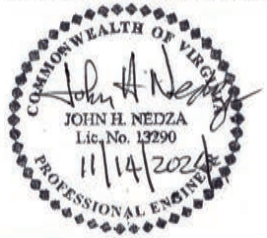
Also, we looked at the lateral load resisting capability of the building and determined that the existing shear walls are adequate to resist wind and seismic loading.

**Conclusion**

After performing a reasonable due diligence effort to determine the as-built construction of the building I believe that the third-floor structure is structurally sound and appears to meet building code requirements.

I also believe, after the aforesaid investigation, that the building "as a whole" is a safe structure and to the best of my belief there are no unsafe issues dangerous to the health safety and welfare of occupants. I believe that the foundation is stable and that complete collapse is not likely.

As of the writing of this letter, the structural issues on the rear stairs and decks have been remediated as recommended by this letter and drawing S1.




Sincerely,

John H. Nedza, PE
Structural Engineer



Exhibit 8

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Stop Work Order -Notice of Violation

2 messages

**Alley, David L. - PDR** <David.Alley@rva.gov> Thu, Nov 21, 2024 at 4:14 PM
To: "1321PorterStLLC@gmail.com" <1321PorterStLLC@gmail.com>
Cc: "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

*Emily Pinchbeck,*

*Good Afternoon! I hope today finds you well. It was brought to my attention today that work has continued on the rear stairs to the 3rd floor unit. Please see the attached Notice of violation and Stop work order. All construction work requiring a permit shall cease immediately until you have received a valid permit. Your cooperation in this matter is greatly appreciated.*

*Best Regards,*

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW
David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov
900 E. Broad St., Room 110, Richmond, Va. 23219-1907

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Dec 3, 2024 at 3:32 PM
To: "Alley, David L. - PDR" <David.Alley@rva.gov>

Mr. Alley,

No construction has been done to the existing rear stairs to the 3rd floor unit. No changes were made to the existing stairs and no existing framing or structural elements or egress were impacted by screwing a few boards to the stair posts.

I do have a copy of the structural engineer's report from Robert Nelson from May 21, 2024 stating "I did not observe any conditions that I feel require immediate attention or deem the deck unsafe." and "I feel the deck is suitable for the continued use by the few residents as an entry/exit to/from the second and third floors" so I do understand that the deck and stairs were determined to be safe for use before the 4 boards were added.

For that reason I have had someone take 5 minutes to remove the few non-essential boards in question in order to avoid any further confusion and potential spread of misinformation.The stairs are exactly as they have been for 4 years. Please confirm that Rick Paul has rescinded his notice of violation since no construction was done and the boards that he incorrectly referred to as "structural framing" have been removed and in no way affected the structural framing or the stairs at all. Following the SUP we can get on the same page regarding what constitutes construction and I will incorporate whatever is needed when we get to permitting.

Also I was outside and I watched the inspector in the City of Richmond car ignore every other property and slowly go around my house and then drive at a normal speed again toward Cowardin. It makes me very uncomfortable and it feels very much like I am being targeted when he is making a special trip just to my property. This notice of violation seems retaliatory and not based in the spirit of the building code.

Best,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.

Exhibit 7

Gmail

Sophia Oliveri <sophia.s.oliveri@gmail.com>

## 4th Engineer's Report for 1321 Porter St

Alley, David L. - PDR <David.Alley@rva.gov> Tue, May 28, 2024 at 2:27 PM
To: Sophia Oliveri <sophia.s.oliveri@gmail.com>
Cc: "Paul, IV, Rick F. - PDR" <Rick.Paul@rva.gov>, "Jackson, Walter E. - PDR" <Walter.Jackson@rva.gov>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

*Sophia Oliveri,*

*Good Afternoon! I hope today finds you well. Thank you for the Engineer report from Engineer Design Associates (Robert F Nelson). The existing Certificate of Occupancy for the building located at 1321 Porter St is a two family dwelling. I found the report to be sufficient-please see the following conditions.*

- *The existing Certificate of Occupancy for the building located at 1321 Porter St is for a two family dwelling -occupancy shall be re-instated for the 1st and 2nd floors only.*
- *No other occupancy shall be allowed for the 3rd floor or the rear 1st floor unit at this time until all permits, inspections and a final Certificate of Occupancy has been issued for a multi-family building.*
- *No un-permitted construction work shall be performed prior to an approved permit from the Permits and Inspections Bureau.*
- *You are authorized to remove the placards*
- *Failure to comply with above conditions shall result in the Permits and Inspections Bureau taking additional actions as needed.*

*Feel free to contact me directly should you have any other questions or concerns.*

*Best Regards,*

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW

David L Alley III
Commissioner of Buildings
804-510-0939
david.alley@rva.gov

900 E. Broad St., Room 110, Richmond, Va 23219-1907

Visit Our Website at: https://www.rva.gov/planning-development-review/permits-and-inspections

**From:** Sophia Oliveri <sophia.s.oliveri@gmail.com>
**Sent:** Wednesday, May 22, 2024 10:25 AM

BEFORE THE

STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of 1321 Porter St. LLC.

Appeal No. 25-07

Board Members:

Vince Butler

J. Daniel Crigler

James R. Dawson, Chairman

Alan D. Givens

David V. Hutchins

Christina Jackson

Joseph A. Kessler III

Robert Jonah Margarella, AIA, NCARB, LEED AP

Eric Mays, PE, CBO

Joanne Monday

James S. Moss

W. Shaun Pharr, Esq., Vice Chairman

Elizabeth C. White

Aaron L. Zdinak, PE

W. Travis Luter Sr., CBO, Secretary

BY: Michael Marciniak, CET



Alley represented to TRB that he had not yet received or accepted Nezda's reports

MR. ALLEY: I have not accepted any of those reports yet. These are reports I have not received. If they came in they would've had to come in with the permit, the building permit for us to review. There's a lot of discrepancies in those.

MS. JACKSON: So, I have a question for you.

MR. ALLEY: Yeah.

MS. JACKSON: On page 176 that's described in this report, if you received that, would that require what's described in this on this page 176 on photo number four, would that description require a permit under the Virginia Construction Code?

MR. ALLEY: Yes ma'am.

MS. JACKSON: And on page 178, under photo number seven, would the additional posts that's described in this report, would that require a permit?

MR. ALLEY: Yes ma'am.

MS. JACKSON: And would that be construed as faulty construction since it's already been done in the building?

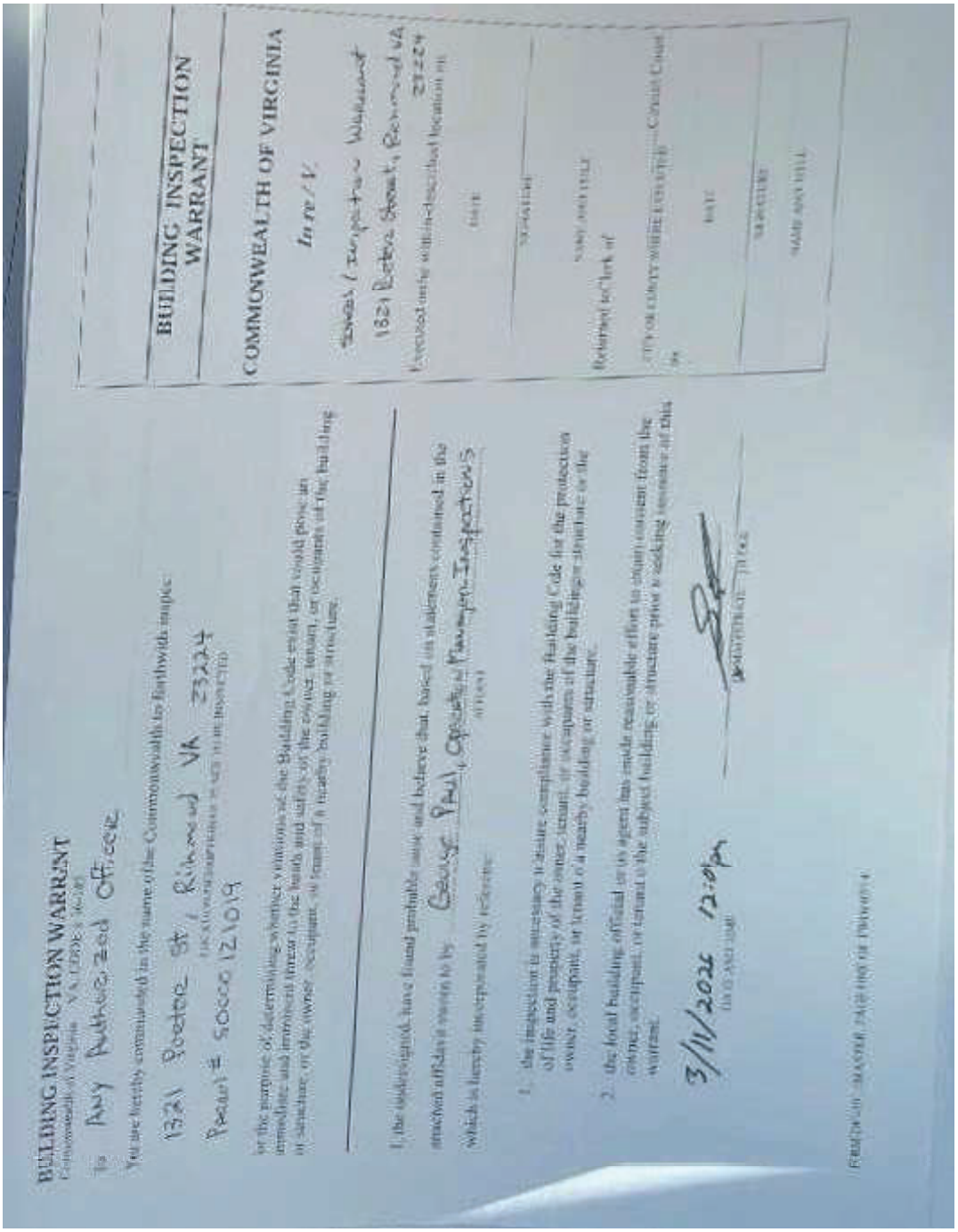
MR. ALLEY: Yes ma'am.

MS. JACKSON: All right. That's all the questions I have Mr. Chair.

CHAIRMAN DAWSON: Thank you. Mr. Pharr.

MR. PHARR: Mr. Sherman, the Virginia Maintenance

Unlawful search pursuant to 2026 warrant affidavit: Identified no changes to third floor conditions from 2024 inspection



BUILDING INSPECTION WARRANT

To: Any Authorized Officer

You are hereby commanded in the name of the Commonwealth to forthwith make

1321 Porter St, Richmond VA 23224

Record # 50000121019

or the purpose of determining whether violations of the Building Code exist that would give an immediate and imminent threat to the health and safety of the owner, tenant, or occupants of the building or structure, or the owner, occupants, or tenants of a nearby building or structure.

I, the undersigned, have found probable cause and believe that based on statements contained in the attached affidavit sworn to by George Paul, Code Enforcement Inspections which is hereby incorporated by reference.

1. the inspection is necessary to secure compliance with the Building Code for the protection of life and property of the owner, tenant, or occupants of the building or structure or the owner, occupants, or tenants of a nearby building or structure;
2. the local building official or his agent has made reasonable efforts to obtain consent from the owner, occupant, or tenant of the subject building or structure prior to seeking issuance of this warrant.

3/11/2026 12:08pm

BUILDING INSPECTION WARRANT

COMMONWEALTH OF VIRGINIA

In re: /

Seven / Stephens Walkway

1321 Porter Street, Richmond VA 23224

Location to be searched (street address or other description)

Relation to Clerk of

CITY/COUNTY WHERE ISSUED: Circuit Court

## The USBC allows the Code Official to bypass due process protections and required procedures ONLY if there is an actual emergency.

### 118.3.1 Vacating unsafe building or structure.

If the building official determines there is actual and immediate danger to the occupants or public, or when life is endangered by the occupancy of an unsafe building or structure, the building official shall be authorized to order the occupants to immediately vacate the unsafe building or structure.

### VCC DEFINITION:

**DANGEROUS.** Any building, structure or portion thereof that meets any of the conditions described below shall be deemed dangerous:

1. The building or structure has collapsed, has partially collapsed, has moved off its foundation or lacks the necessary support of the ground.
2. There exists a significant risk of collapse, detachment or dislodgment of any portion, member, appurtenance or ornamentation of the building or structure under permanent, routine, or frequent loads; under actual loads already in effect; or under snow, wind, rain, flood, earthquake, or other environmental loads when such loads are imminent.

### 105.3 Correction notice.

The correction notice shall be a written notice of the defective conditions. The correction notice shall require correction of the violation within a reasonable time unless an emergency condition exists as provided under the unsafe building provisions of Section 106. Upon request, the correction notice shall reference the code section that serves as the basis for the defects and shall state that such defects shall be corrected and reinspected in a reasonable time designated by the code official.

### VPMC DEFINITION:

**UNSAFE STRUCTURE.** An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because of, but not limited to, any of the following conditions:

1. The structure contains unsafe equipment;
2. The structure is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely;
3. The structure is unsecured or open;
4. The degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment;
5. The required plumbing and sanitary facilities are inoperable.

Exhibit 13

00:00:00 MS. PINCHBECK: So I had a contractor go into the ceiling. They went and looked in the ceiling based on your reports and stuff. And they said there's a beam in the spot that they measured. And at this point it's –

00:00:11 MR. NEDZA: Good.

00:00:12 MS. PINCHBECK: Well, I would like to also understand is there any way you can send me the measurements that you had for the hole that we originally cut? Because at this point, I'm almost positive it's in the wrong spot that we originally cut. I'm positive, but –

00:00:28 MR. NEDZA: Say it again. Do I have something for what hole?

00:00:31 MS. PINCHBECK: So I had a contractor go off of your letter and then open up the ceiling and wall, and they said that they found there's a beam –

00:00:41 MR. NEDZA: Well, that's great.

00:00:41 MS. PINCHBECK: -- for that support.

00:00:42 MR. NEDZA: But you wouldn't do that for me.

Nedza admits he didn't see the condition that he alleged "could be detrimental"

The administrative record before the SBCTRB on 11/15/2024 retroactively alleged the 11 below conditions to be the reason for the 4/29/2024 tenant displacement. City then admitted in writing that those conditions could safely co-exist with 1st and 2nd floor occupancy



- On the following Monday 4/29/2024 I was informed by Rick Paul (Program and Operations Manager for Inspections) of the situation. I was provided with an engineer report from Carl Duncan dated 2/2/2021.The address on the report was incorrect and the report itself was lacking content.

- I decided to contact Mr. Carl Duncan directly to discuss the report. He was very cooperative-however could not remember much about the project. Since the inspection was conducted back in 2021. I specifically questioned if he evaluated the existing footing and foundations for the additional loads being transferred and/or draft stopping, fire blocking and fire separation, he responded no. I also asked him if any permit and/or approved plans had been provided to him to conduct the inspection or did he obtain any authorization from the Permits and Inspections Bureau prior to conducting the inspection and his response was no! He stated he thought it was a renovation-not new work.

**Based on the previous history and the following facts: I determined the structure to be unsafe for occupancy and ordered the tenants to be relocated immediately for their own safety.**

- New construction of the 3rd floor addition

- No approved Building permit and/or plans authorized for the new 3rd floor addition.

- No approved trade permits were ever authorized for electrical, plumbing, mechanical work for the new 3rd floor addition.

- No inspections were ever conducted by the Permits and Inspections Bureau for the new 3rd floor addition for building, electrical, plumbing or mechanical. Including fire blocking, draft stopping, fire separation, insulation and building and zoning finals.

- All interior structural work is concealed

- Wall and ceiling separation problems identified within 3rd floor new addition

- Incorrect and Insufficient information provided on the (Carl Duncan) engineer's report, additional information was added to the original report twice.

- Non-code compliant alterations to existing exterior egress stairs and decks

- Non-code compliant new egress stairs to 3rd floor addition

- Non-compliant structural load points bearing on roof above the occupied unit on the 1st floor

- Non-compliant structural load points bearing on 4x4 post above the occupied unit on the 2nd floor porch area

- Changing the Use without authorization. 2 family to Multifamily. 3 residents, 4 mailboxes SUP and Certificate of Occupancy required.

**Other concerns**

- What other alterations have been conducted in the existing units without permits?

- Why would I believe the work concealed was done any better than the work I can see?

- Why is the owner stalling to apply for the permits, she obviously new about it since 2001 when she was the applicant for the previous owner Aly Hawash. She has been involved with the last 3 transfers of the property from 1321 Porter St LLC (she is agent) to Sophia Oliveri then back to 1321 Porter St LLC.

**Final Summary**

This case is a prime example of why Permits and Inspections Bureau's exist.
To protect the health, safety and welfare of the residents of Virginia from owners like Sophia Oliveri who apparently by her actions-believes she can build whatever she wants with total disregard for her tenants safety, building codes regulations and Zoning Ordinances.

The decision to relocate occupants from their home is never taken lightly, as the building official for the City of Richmond I will always air on the side of caution as necessary.

Note: A second engineer report from Engineer Design Associates (Robert F Nelson) was submitted to me on May 21st, I found the report to be sufficient and I have allowed the tenants to reoccupy the 1st and 2nd floor units only. No occupancy of the 3rd floor.

Note: A summons was issued and served for failure to comply, this case is currently active within the courts.

Members of the Board-thank you for your time and consideration.

Exhibit 15

# NOTICE OF VIOLATION - UNSAFE STRUCTURE
Amended
City of Richmond
Department of Planning & Development Review
Property Maintenance Division
900 E. Broad Street, Room G-12
Richmond, Virginia 23219
August 28, 2024

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-5314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias postriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 Porter St, LLC & Sophia Oliveri
1321 Porter St Apt C
Richmond Va 23224

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the City may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5)

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Condition**

106.1 US - Unsafe Structures

8/28/2024 NOV
Unsafe claim #8

This section shall apply to existing structures which are classsified as unsafe. All conditions causing such structures to be classified as unsafe shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured agains public entry or demolished. Vacant and secured structres shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure constitutes such a hazard that it should be demolished, then the code official shall be permitted to order the demolition of such structures in acordance with applicable requirement s this code.

**This property has been inspected and found to be unsafe due to the following conditions:**

1. **Lack of Approved Building Permits and Plans:** No approved building permits or plans were ever authorized for the new third-floor addition.

2. **Lack of Trade Permits:** No approved trade permits were authorized for electrical, plumbing, or mechanical work related to the new third-floor addition.

3. **Absence of Inspections:** No inspections were ever conducted by the Permits and Inspections Bureau for the new third-floor addition. This includes inspections for building, electrical, plumbing, mechanical, fire stopping, draft stopping, fire separation, and insulation.

4. **Concealed Interior Work:** All interior work associated with the third-floor addition is concealed, making it impossible to verify compliance with safety and building codes.

5. **Wall Separation Issues:** Wall separation problems have been identified within the third-floor addition.

6. **Deficient Engineering Report:** The engineering report submitted by Carl Duncan contains incorrect and insufficient information, failing to meet the required standards for safety and code compliance.

7. **Non-Code Compliant Alterations to Existing Structures:** Alterations to existing exterior egress, stairs, and decks are not compliant with building codes.

8. **Non-Code Compliant New Egress Stairs:** The new egress stairs to the third-floor addition are not compliant with safety standards.

9. **Structural Load Issues (First Floor):** Non-code compliant structural load points are bearing on the roof above the occupied unit on the first floor, creating a potential safety hazard.

10. **Structural Load Issues (Second Floor):** Non-compliant structural load points are bearing on 4x4 posts above the occupied unit on the second-floor porch area, raising concerns about structural integrity.

**11. Unauthorized Change of Use:** The property's use has been changed from a single-family residence to a multi-family residence with three units without proper authorization or approval (see attached photos of mailboxes).

**Required Actions to Abate Violation:**

**These issues pose a significant safety risk to the inhabitants, neighboring structures, and the public at large.**

**To Rectify These Violations:**

1. **Follow the "City of Richmond Permit Process" to obtain all necessary approvals, including building, electrical, plumbing, and mechanical permits for the third-floor addition.**
2. **Ensure that all required inspections are completed by the Permits and Inspections Bureau.**
3. **Submit a revised and accurate engineering report that meets code requirements.**
4. **Correct all structural issues and ensure that all alterations comply with building codes.**
5. **Revert the unauthorized change of use or obtain the necessary approvals for the multi-family conversion.**

**Failure to comply with this notice by the abatement date may result in criminal court action.**

If permits are required to correct the conditions cited in this notice, this document or a copy thereof will be needed to obtain them. Permits can be obtained from: Permits and Inspections Division, 900 E. Broad Street, Room 110, Richmond, Virginia 23219

**Additional responsibilities as a property owner:**

Approximately 3,300 properties are in the City Old and Historic District. To determine whether or not your property falls within a City Old and Historic District, go to http://www.richmondgov.com/richhistory and click on the link "ViewMap of City Old & Historic Districts".

A *Certificate of Appropriateness* is required when any proposed work alters the exterior appearance of the property as it is viewed from a public street or alley. Certificates must be obtained before work can begin. For work requiring a building permit, no permit will be issued without a Certificate. This review procedure is required not only for the main structure on a lot but also accessory buildings, fences, exterior lighting, driveways and walks, and any other features visible to the public.

As in any review process some preplanning is necessary. Please direct any questions or requests to: Secretary, Commission of Architectural Review, Department of Planning & Development Review, 900 East Broad Street, Richmond, VA 23219.

Sincerely,

Walter Jackson
(804) 385-0703
Property Maintenance Inspector

# NOTICE OF VIOLATION - UNSAFE STRUCTURE

City of Richmond
Department of Planning & Development Review
Property Maintenance Division
900 E. Broad Street, Room G-12
Richmond, Virginia 23219
April 26, 2024

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta i apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

4/2[9]/2024 NOV
Unsafe claim #2

Rva Home Llc
1321 Porter St Apt C
Richmond Va 23224

Tracking #: 067279 2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 4/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 4/29/202 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the City may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**

106.1 US - Unsafe Structure

A Existing structure is determined to be unsafe if it (i) determined to by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public; (ii) that contains unsafe equipment; or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely.

**This property has been inspected and found to be unsafe due to the following conditions:**
**The third-floor addition was constructed without plans, permits, or inspections.**

**These issues pose a safety risk to inhabitants, neighboring structures, and the public at large if not repaired immediately. Consequently, the building is hereby placarded as unsafe.**
**As a result of being placarded as unsafe, the property shall remain so until all necessary plans, permits, engineering reports, and inspections have been received, approved, and performed.**
**All occupants are required to vacate the premises immediately, and entry to the structure, including by the owner, tenants, contractors, etc., is prohibited until a Right to Enter Letter has been generated by the inspector. Any person(s) entering the premises without the Right to Enter Letter risk arrest for trespassing by the Richmond Police Department.**

**To rectify these violations, follow the "City of Richmond Permit Process" to completion.**
**Failure to comply with this notice by the abatement date may result in criminal court action**

If permits are required to correct the conditions cited in this notice, this document or a copy thereof will be needed to obtain them. Permits can be obtained from: Permits and Inspections Division, 900 E. Broad Street, Room 110, Richmond, Virginia 23219

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As in any review process some preplanning is necessary. Please direct any questions or requests to: Secretary, Commission of Architectural Review, Department of Planning & Development Review, 900 East Broad Street, Richmond, VA 23219.

Sincerely,

Walter Jackson
(804) 385-0703
Property Maintenance Inspector

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

**1321 PORTER STREET, LLC,**

Appellant,

v. Record No. _____ CL26001575DED

**CITY OF RICHMOND;**
**DAVID ALLEY, in his official capacity as Building Commissioner for the City of Richmond;**

**and**
**GREG LUKANUSKI, in his official capacity as Deputy City Attorney for the City of Richmond;**

Appellees.

8/28/2024 NOV pending in circuit court

**VIRGINIA STATE BUILDING CODE TECHNICAL REVIEW BOARD,**

Agency.

RECEIVED AND FILED CIRCUIT COURT 11:55 MAR 20 2026 EDWARD F. JEWETT, CLERK BY _____ D.C.

**PETITION FOR APPEAL**

On Petition for Appeal from a Final Order of the Virginia State Building Code Technical Review Board (VPMBC Case No. 25-07)

**Jurisdiction Invoked Pursuant to:**
Va. Code §§ 2.2-4026, 2.2-4027;
Va. Code § 36-114;
Rule 5:17, Rules of the Supreme Court of Virginia

**Date of Final Agency Decision:**
January 16, 2026

Code (VRC) to a multi-family structure under the VCC, creating an increase in safety requirements and a more hazardous condition; therefore, the structure was unsafe.

IV. Conclusion

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

A. Whether to rescind the Notice of Violation-Unsafe Structure.

The decision of the City and local appeals board to issue the Notice of Violation-Unsafe Structure, is upheld, because the work performed on the structure constituted a change of use from an existing one-and-two-family dwelling structure under the VRC to a multi-family structure under the VCC creating an increase in safety requirements and a more hazardous condition; therefore, the structure is unsafe.

_____
Chair, State Building Code Technical Review Board

Date entered _____January 16, 2026_____

As required by VCC 119.9: "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".

**NOTICE OF VIOLATION - UNSAFE STRUCTURE**
**Amended**
**City of Richmond**
**Department of Planning & Development Review**
**Property Maintenance Division**
**900 E. Broad Street, Room G-12**
**Richmond, Virginia 23219**
**August 28, 2024**

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 Porter St. LLC & Emily Pinchbeck
9169 W State St
# 652
Garden City, ID 83714 - 1733

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the City may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**
106.1 US - Unsafe Structures

**NOTICE OF VIOLATION - UNSAFE STRUCTURE**
**Amended**
**City of Richmond**
**Department of Planning & Development Review**
**Property Maintenance Division**
**900 E. Broad Street, Room G-12**
**Richmond, Virginia 23219**
**August 28, 2024**

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 Porter St, LLC & Sophia Oliveri
1321 Porter St Apt C
Richmond Va 23224

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2021 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

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If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**
106.1 US - Unsafe Structures

City altered the 8/28/2024 NOV pending in the circuit court and enforced it against Emily Pinchbeck in her individual capacity in a lower court



Exhibit 18

# Summary of Contradictions and Inconsistencies in April 3, 2026 Engineering Letter

Mr. Nedza's April 3, 2026 letter contains multiple inconsistencies and reversals that are not consistent with the documented record, the physical conditions observed at the property, the existing conditions at the property, or with his own prior representations. The following contradictions demonstrate substantial changes in his conclusions, despite no additional inspections or material change in conditions at the property:

- On April 3, 2026 Mr. Nedza represented that the lumber beneath the load bearing bathroom walls was insufficient, yet on May 11, 2026, Mr. Nedza admitted that he had not seen the lumber beneath the load bearing walls ***(Audio 3)***.
- Mr. Nedza's previously represented location of the third-floor bathroom walls differed from the actual wall locations by nearly two feet, as confirmed by the Class A contractor's April 30, 2026 letter ***(Exhibit 2)***.
- In November 2025, Mr. Nedza represented that the lumber grade was #1 SYP ***(Exhibit 20)***. On April 3, 2026, despite no change in conditions and nearly a year having passed since his last inspection, he represented that he assumed the lumber to be #2, without explanation for the changed assumption.
- In November 2025, Mr. Nedza represented that the sistered floor joist spans were adequate ***(Exhibit 20)***. On April 3, 2026, after no physical changes to the property, he represented that those same joist spans were insufficient and did not meet code requirements.
- In November 2025, Mr. Nedza proposed installation of beams on the bottom plate of the bathroom walls that support the roof system ***(Exhibit 22)***, despite the fact that such a proposal could not have constituted a viable structural solution if the alleged condition had existed, and would instead have been detrimental if a real condition existed.
- In November 2025, Mr. Nedza included beam addition recommendations into the "as-built" plans without having communicated with his client about them in the months following his final inspection. When asked for an explanation, he refused to provide his client with additional information necessary to properly understand what he believed the concern to be. The property manager then sought review of the floor joists under Mr. Nedza's #1 SYP assertion from another VA licensed PE ***(Exhibit 23)***. **Mr. Nedza's client immediately performed proper due diligence pursuant to what they believed the scope of his concern to be. Following contractor review of Mr. Nedza's April 3, 2026 letter, review of Nezda's concern and actual conditions was performed. At that time, additional load calculations and engineering review was done. ***(Exhibit 24)***.
- Mr. Nedza's October 28, 2025 structural sketch identified the joist sistering, center wall bearing, and exterior wall connection conditions ***(Exhibit 21)*** yet his April 3, 2026 letter claimed these conditions were unanalyzed. The conditions as reported in October were reinspected, reviewed, and findings were documented in the March 23, 2026, April 30, 2026, and May 19, 2026 contractor's letters and two separate engineering reports. ***(Exhibits 1, 2, 3, 4, 5)***.

The unexplained shifts in Mr. Nedza's conclusions, positions, and professional representations, despite no material change in conditions and no additional inspections performed at the property, raise substantial concerns regarding the objectivity, impartiality, and reliability of his analysis beginning in or around November 2025. The numerous reversals, increasingly adversarial conduct ***(Audio 2)***, and departures from prior conclusions beginning around that time create the appearance that factors unrelated to objective engineering judgment may have improperly influenced his recommendations and conclusions.

The documented inconsistencies demonstrate a lack of the neutrality, consistency, and professional objectivity required of a retained professional engineer whose opinions were relied upon by the City in taking actions affecting the property and its occupants.

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# 1321 Porter St - Exg Conditions Review Drawing

**John Nedza** <john@louisaengineering.com> Tue, Nov 4, 2025 at 11:24 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

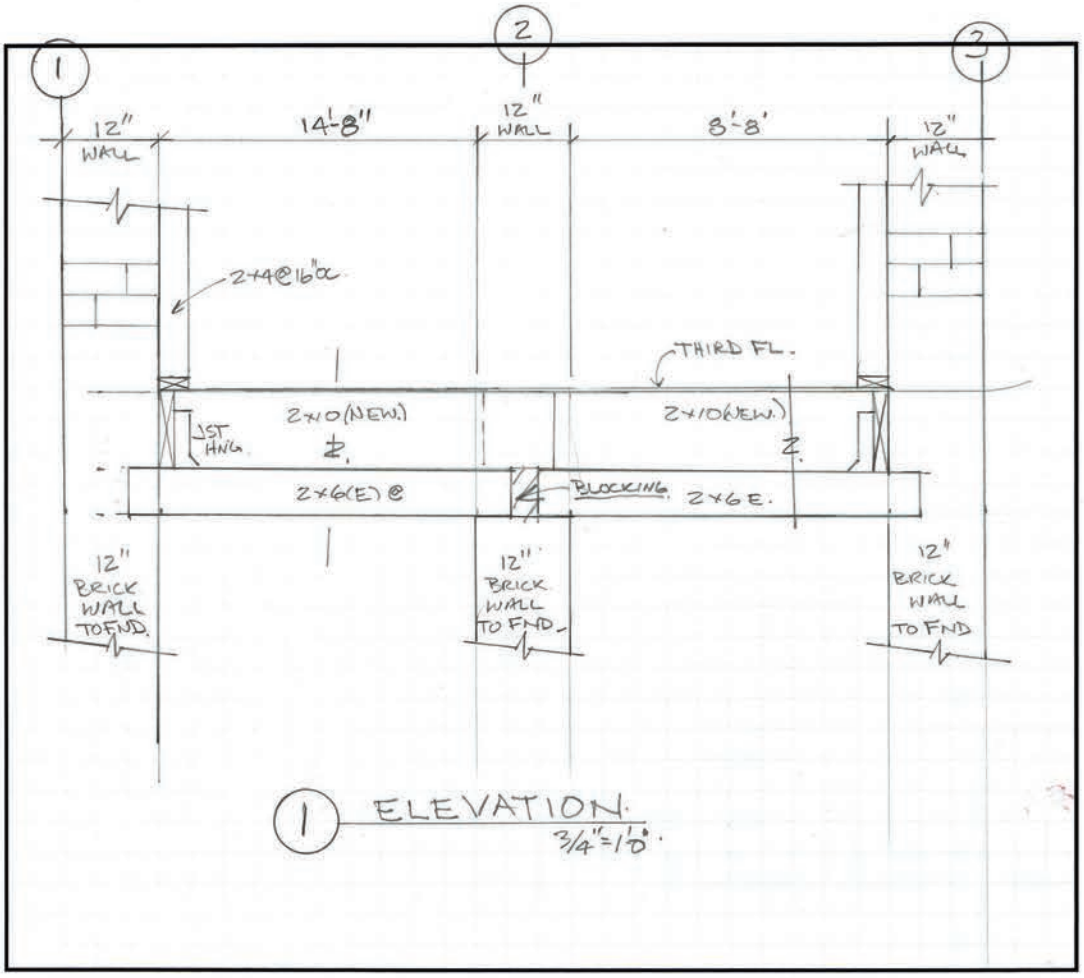
All – I have shown installing new beams under the walls either side of the bathrooms – Emily you are right -In general the 2 x 10 @ 16floor joists are alright due to the #1 grade and 6' extensions however there is no support under those walls that support the roof. Such beams could possibly go into the walls on the 3rd floors you don't have to work from below or cut the floor from above. At this point how you do it is not the concern . We just want to make the building structurally sound for code review.

[redacted] please call me to discuss the structural drawings you are doing.

I am still shooting for Thursday.

[Quoted text hidden]

In 2025 Nedza asserted #1 lumber floor joists. His April 3, 2026 letter claims to assume #2

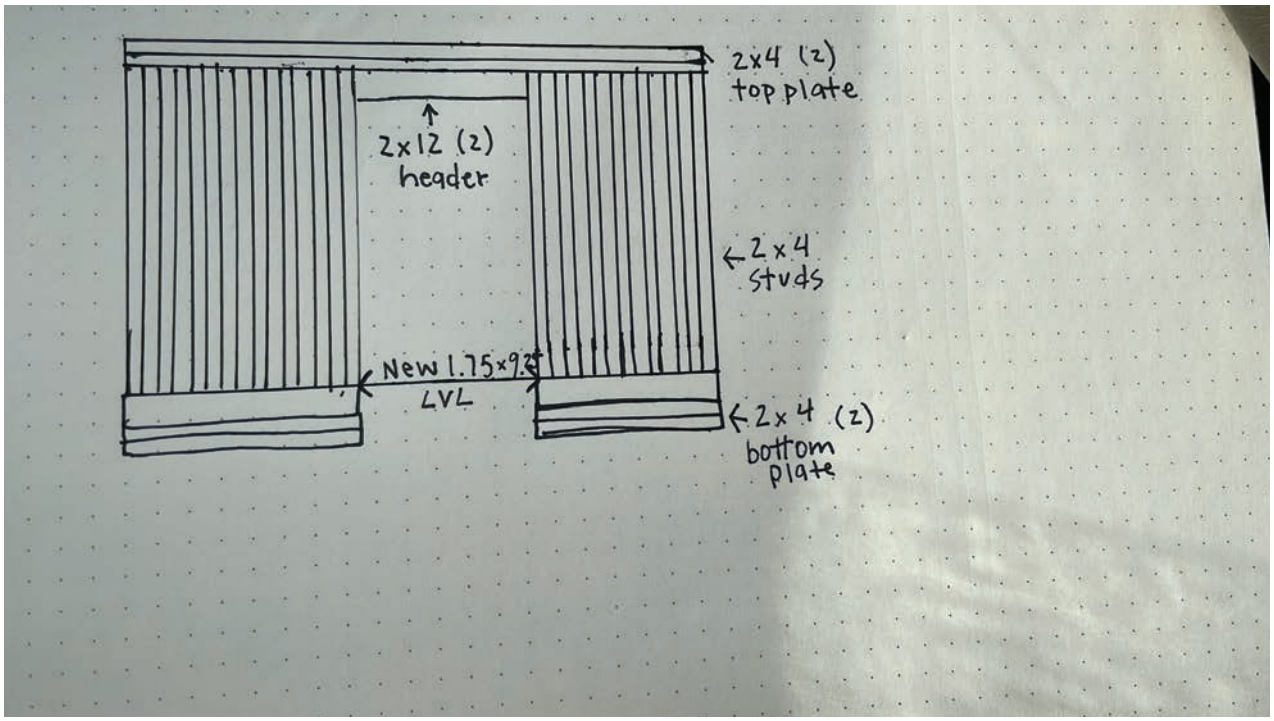



LOUISA ENGINEERING, LLC
Structural Engineers
1065 Jouett School Road
Mineral, Virginia 23117
Phone (804) 512-4865
Email john@louisaengineering.com

PROJECT 1221 PORTER ST
SUBJECT
CALCULATED BY DATE
CHECKED BY DATE
SHEET NO. OF

Structural sketch produced by Nedza in 2025. His April 3, 2026, letter claimed unanalyzed floor joists.

Exhibit 22




**1321PorterStLLC** <1321porterstllc@gmail.com> Thu, Nov 6, 2025 at 10:02 AM
To: John Nedza <john@louisaengineering.com>

Good morning John,

Could you please elaborate on your suggestion to add beams to the walls of the 3rd floor without going into the second floor apartment or the floor of the 3rd floor apartment? Are you suggesting to put these beams on top of the base plate inside of the bathroom walls?

Thank you,

Emily Pinchbeck, Mgr
1321 Porter St LLC

[Quoted text hidden]

**John Nedza** <john@louisaengineering.com> Fri, Nov 7, 2025 at 10:08 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Good Morning Emily –

Basically yes. We would have to make sure we have bearing on the brick walls so you might have to get into a small area in the ceiling of the second or the floor of the 3rd floor.

[Quoted text hidden]

Nedza suggested adding more weight to load bearing walls with no support

November 17, 2025

Mrs. Emily Pinchbeck
1321 Porter St
Richmond, VA 23224

Re: Third floor and roof framing

Dear Mrs. Pinchbeck:

Pursuant to your request, I have analyzed the drawings and calculations prepared to assess the condition of the third floor and roof added at some time after the original construction of the above-referenced dwelling. The drawing and calculations were provided by you to me, and will be attached to this report.

The original two stories of the house added a third floor and new roof. The roof rafters were checked per increased snow loading conditions of ASCE 7-22. The floor joists were checked for 40 psf live load in accordance with Virginia Residential Code 2021. All members are sufficient to support loads required.

The scope of this report is limited to the issues described above. No other warranty is either expressed or implied.

Should you have any questions regarding this report, please feel free to contact me.

Sincerely,






May 6, 2026

Mrs. Emily Pinchbeck
1321 Porter St
Richmond, VA 23224

Re: Third floor and roof framing

Dear Mrs. Pinchbeck:

Pursuant to your request, I have analyzed the drawings and calculations prepared to assess the condition of the third floor and roof added at some time after the original construction of the above-referenced dwelling. The drawing and calculations were provided by you to me, and will be attached to this report.

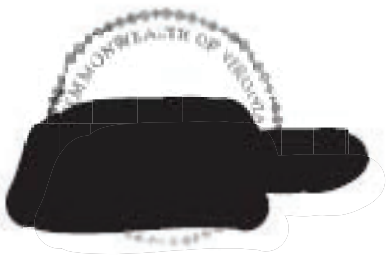
The original two stories of the house added a third floor and new roof.
The roof rafters were checked per increased snow loading conditions of ASCE 7-22. The floor joists were checked for 40 psf live load in accordance with Virginia Residential Code 2021, in addition to roof loads from above. The two LVL members with a reported elastic modulus of 2100 ksi are sufficient to support loads required.

On April 14, 2026, the issue of lumber framing was raised, and you inquired as to the adequacy if the floor framing was Southern Yellow Pine (SYP) No. 2. The initial assumption of SYP No. 1. While the No. 2 framing is of slightly lower strength and stiffness, the floor framing members are still adequate.

The scope of this report is limited to the issues described above. No other warranty is either expressed or implied.

Should you have any questions regarding this report, please feel free to contact me.

Sincerely,



Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Information Provided to City of Richmond

**1321PorterStLLC** <1321porterstllc@gmail.com> Wed, May 20, 2026 at 5:03 PM
To: John Nedza <john@louisaengineering.com>

Hello John,

These attachments were provided to the City of Richmond today.

I know you've expressed to both William and myself that this is not something you feel is mendable, and I am sorry we could not have had clearer communication last year to truly verify and conclude this review together, while remembering that the most important thing is caring for and respecting the tenants in their homes.

For whatever role I may have played in any miscalculations or lack of engineering knowledge, I truly apologize for making you as angry as I did.

Then, like now, my number one priority is my tenants. All of their belongings are still in their homes, but they have been forced out due to the unanalyzed bathroom wall and sistered joist conditions that have now been analyzed and physically verified and determined to be within serviceability and safety requirements.

This is the information I had previously spoken to you about and attempted to share. I felt it was right that you were made aware if information was being shared about you, out of respect for our once working and personal relationship, and because of the way it made me feel when you provided the April 3, 2026 report that caused harm to both me and my tenants. I am respectfully requesting now that you have this information, that you rescind your April 3, 2026 letter so that my tenants can return to their homes.

Sincerely,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.

---

**John Nedza** <john@louisaengineering.com> Thu, May 21, 2026 at 12:59 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Emily – I assume you have retained another engineer. However the attached letter has their name redacted and I have no idea who wrote this. But if it is genuine then your new engineer appears to have researched and approved the items in question. Therefore, you do not need me.

It appears that you have done the right thing to submit all documentation to the City of Richmond. So as I understand it, everything is in their court and it's up to them at this point to approve the unpermitted 3rd story addition. So see what the City of Richmond says.

Also as I have already told you I have retired and am winding down my business. I also told you that I will not be able to continue as your consultant at Porter Street .

I wish you and your clients all the best!

John Nedza PE

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Information Provided to City of Richmond

**1321PorterStLLC** <1321porterstllc@gmail.com> Thu, Jun 25, 2026 at 12:00 PM
To: John Nedza <john@louisaengineering.com>

Hello John,

I attempted to return your call but was unable to reach you.

I wanted to follow up regarding your missed call and my previous email requesting that you rescind your April 3, 2026 letter and withdraw from any further involvement with the Porter Street property.

If you were calling to discuss that request, please let me know a convenient time to speak.

Thank you,

Emily Pinchbeck, Mgr

1321 Porter St LLC.

---

**John Nedza** <john@louisaengineering.com> Fri, Jun 26, 2026 at 10:36 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Emily - The only way I'll rescind the letter is to view with my own eyes the beam and floor joists and any other structural matters I want to view. This will require:

Nedza again admits he didn't look under bathroom walls

1. A contract with your client stating scope, fee and schedule.
2. Removal of any sheet rock or other finishes, by your contractor, I need to verify structural members.
3. Cutting of the floor to view the floor joists.

[Quoted text hidden]

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Information Provided to City of Richmond

**1321PorterStLLC** <1321porterstllc@gmail.com> Sat, Jun 27, 2026 at 10:12 AM
To: John Nedza <john@louisaengineering.com>

Hello John,

As William stated in May, we have no problem signing an agreement with an agreed upon fee and deadline.

Pursuant to your April 3, 2026 letter, the only potentially unsafe condition that you have alleged to exist in contrast with multiple other engineers and a class A contractor pertains to the beams under the bathroom walls, which I would be willing to allow you inspect in a minimally invasive manner, since tenant belongings and furniture remain in the space.

Per your letter, the sistered joist condition was admittedly unanalyzed by you and has since been visually inspected, analyzed, with load calculations performed under both your November 4, 2026 #1 lumber assertion and your April 3, 2026 #2 differing assumption, with one of the other engineer's letters certifying serviceability and safety either way, provided to you and the City in May. I would be willing to share all of those reports and the final signed stamped plans with you as a term of our contract, since you already cut the ceiling below and visually inspected the joists and the center wall bearing conditions approximately a year ago.

At this point, I am not seeking further analysis from you, simply a statement of an accurate representation of existing conditions or that conditions are unknown to you following our phone call when you screamed at me and said I keep screwing things up and I didn't let you look and that I should get fired.

Sincerely,

Emily Pinchbeck, mgr

1321 Porter st. LLC.
[Quoted text hidden]

---

**John Nedza** <john@louisaengineering.com> Wed, Jul 1, 2026 at 5:18 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Emily – I wanted to get back with you and respond to your letter!

I called Mr. David Alley III, Commissioner of Buildings for the City of Richmond.

He said that neither owners, property managers of anyone dealing with the Porter St. situation has contacted his department.

I would suggest that the owners or other representative make contact with the Richmond City Building department and find out exactly what they require.

Sincerely,

[Quoted text hidden]

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Information Provided to City of Richmond

**1321PorterStLLC** <1321porterstllc@gmail.com> Fri, Jul 3, 2026 at 6:10 PM
To: John Nedza <john@louisaengineering.com>

Hello John,

Thank you for sharing that, but it does not address anything in my last email. In fact, contacting Mr. Alley is the opposite of what I requested. Rather than facilitating a review of the evidence or assisting in resolving the issues presented, your response appears to further the continuation of actions that have already caused significant harm to the tenants and others affected.

Additionally, what Mr. Alley told you was factually incorrect. He was contacted and I was advised to only communicate **through his defense attorney**. I engaged an attorney to reach out to Mr. Alley's attorney to request a meeting with him and Mr. Alley. That meeting took place on June 5, 2026. During that meeting, Mr. Alley informed us that he was unprepared and he was unable to identify or discuss the legal basis for actions taken outside of lawful authority granted under the USBC in removing tenants from their homes. As I understand it, your opinion was limited to conditions that you believed could potentially be detrimental, not determining whether the City's prior or subsequent enforcement actions were or are lawful. For that reason, I believe the issues at hand are legal in nature rather than engineering matters, and you have previously been informed that the dispute concerns the legality of the City's actions, not any continuation of engineering assessment.

My request to you remains the same. I am asking that, in light of the subsequently verified structural conditions from multiple engineers and the additional engineering evaluations, load calculations, plans, and conclusions regarding structural sufficiency, you rescind your April 3, 2026 letter. I am also requesting, for a third time, that you withdraw from any further involvement with the City of Richmond regarding the Porter Street property.

As I have previously explained, I believe your continued involvement with the City serves no engineering purpose and instead inserts you into a situation that could open up questions about a personal dynamic rather than strictly engineering. I respectfully request that you refrain from any further involvement with the City so that this matter can proceed based solely upon the verified structural evidence and the applicable law.

Thank you.

1321 Porter St. LLC

Emily Pinchbeck, Mgr

---

**John Nedza** <john@louisaengineering.com> Mon, Jul 6, 2026 at 9:10 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Emily - Please send contact information for:

1. Current owner of 1321 Porter Street.
2. William – the guy who called me.
3. Unredacted letters from your current engineer and contractor.
4. Answer question..Are you preparing to sue me?

[Quoted text hidden]

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Information Provided to City of Richmond

**1321PorterStLLC** <1321porterstllc@gmail.com> Mon, Jul 6, 2026 at 10:49 AM
To: John Nedza <john@louisaengineering.com>

Hello John,

While I am extremely disappointed, I believe your role in the harm caused by the representation that something "could be" detrimental can be substantially mitigated by withdrawing that representation. No, we are not preparing to sue you.

I also have questions:

-Before Mr. Alley called you and requested that you prepare your April 3, 2026 letter, were you informed that litigation had been initiated against Mr. Alley in his individual capacity or the City?
- Were you asked to provide opinions after you had informed the City that you were retiring or no longer wished to serve as a consultant?
-Were you asked to prepare the April 3 letter for engineering purposes, enforcement purposes, litigation purposes, or any combination?

Thank you.

1321 Porter St. LLC

Emily Pinchbeck, Mgr

[Quoted text hidden]

---

**John Nedza** <john@louisaengineering.com> Tue, Jul 14, 2026 at 10:57 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Emily

I'm retired. Please retain another engineer.

John

[Quoted text hidden]

# Information Provided to City of Richmond

**1321PorterStLLC** <1321porterstllc@gmail.com> Fri, Jul 17, 2026 at 3:03 PM
To: John Nedza <john@louisaengineering.com>

Hello John,

As I explained in 2025, I retained another engineer to review your representations following your refusal to provide clarification and/or load calculations, and I began working with another design professional to prepare plans after you represented that you would no longer be consulting on the property at 1321 Porter Street and that you would be retiring.

Because I relied on those representations in retaining other professionals in 2025 and moving the project forward, I ask that you please confirm that you will not have any further involvement with the property on behalf of any interested party. I also ask that the objective factual evidence and engineering calculations prepared by those design professionals be allowed to stand on their own, without further representations from you.

Given that your subsequent involvement was inconsistent with the representations you previously made regarding your withdrawal from this matter, I believe it is important to have a clear and unequivocal understanding moving forward. Your statements regarding your involvement have changed over time, and your renewed participation after indicating that you had withdrawn raises questions as to the basis for your decision to re-enter the matter, particularly where the opinions were provided the better part of a year after your inspection and without any material change to the conditions or the occupancy of the first- and second-floor dwelling units. Under those circumstances, your renewed involvement creates the appearance that considerations other than objective engineering analysis may have influenced your decision to participate further.

I therefore respectfully request your confirmation that your representation regarding the cessation of your involvement, as it pertains to 1321 Porter St, LLC and to any other party, is your present and final position so that I may reasonably rely upon it.

Thank you,

1321 Porter St LLC

Emily Pinchbeck, Mgr

[Quoted text hidden]

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Appeal to the Review Board for 1321 Porter St. LLC (Emily Pinchbeck) (Appeal No. 25-08)

**1321PorterStLLC** <1321porterstllc@gmail.com> Thu, Apr 9, 2026 at 12:02 PM
To: "Alley, David L. - PDR" <david.alley@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

Dear Mr. Alley,

While reviewing materials related to the potential appeal and our ongoing consideration of whether to submit one, I identified the attached documentation. This evidence shows that as of May 15, 2025, at the latest, you knew the placards had been removed prior to being personally informed of the property's use, and the City's express authorization for that use on July 24, 2025. Additionally, it reflects that you knowingly transmitted photographic evidence of that condition to the Virginia State Technical Review Board approximately six months before your sworn testimony before that Board, demonstrating that you were aware of the removal and did not believe it presented a safety concern, yet you later asserted the opposite in your testimony. Further, this predates by roughly ten months the City's submission of a sworn inspection warrant affidavit alleging an immediate and imminent threat associated with the placard removal.

In light of this record, it is difficult to reconcile the documented evidence of your prior knowledge and actions with the subsequent sworn statements and representations made in official proceedings. Continuing to maintain a position inconsistent with this evidence may create unnecessary exposure.

Moreover, this documentation, combined with the admitted non-existence of a two-family Certificate of Occupancy and the City's express permission to use the space prior to alleging an immediate and imminent threat to health and safety, further undermines any claim that such a threat existed. Given these facts, I respectfully renew my request that you authorize the removal of the placards without further delay.

Please advise promptly how you intend to proceed.

Sincerely,

1321 Porter St, LLC

Emily Pinchbeck, mgr
[Quoted text hidden]

On April 9, 2026, David Alley was informed of material inconsistencies and 1321's appeal consideration. On April 10, he decided to condemn the building

**2 attachments**




**image002.png**
261K

**Appeal 25-08 1321 Porter St.pdf**
421K

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# Appeal to the Review Board for 1321 Porter St. LLC (Emily Pinchbeck) (Appeal No. 25-08)

**Alley, David L. - PDR** <David.Alley@rva.gov> Thu, May 15, 2025 at 1:56 PM
To: "Luter, Travis (DHCD)" <Travis.Luter@dhcd.virginia.gov>, "1321PorterStLLC@gmail.com" <1321PorterStLLC@gmail.com>
Cc: "Brown, Jeff (DHCD)" <Jeff.Brown@dhcd.virginia.gov>, "Moldovan, Florin (DHCD)" <Florin.Moldovan@dhcd.virginia.gov>, "Messplay Iv, Paul (DHCD)" <Paul.MessplayIV@dhcd.virginia.gov>

*Travis,*

*Good Afternoon! I hope today finds you well. Please see the attached documents for Appeal # 25-08*

*Best Regards,*

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov
900 E. Broad St., Room 110, Richmond, Va. 23219-1907

Visit Our Website at: https://www.rva.gov/planning-development-review/permits-and-inspections

**From:** Luter, Travis (DHCD) <Travis.Luter@dhcd.virginia.gov>
**Sent:** Wednesday, May 7, 2025 11:24 AM
**To:** 1321PorterStLLC@gmail.com; Alley, David L. - PDR <David.Alley@rva.gov>
**Cc:** Brown, Jeff (DHCD) <Jeff.Brown@dhcd.virginia.gov>; Moldovan, Florin (DHCD) <Florin.Moldovan@dhcd.virginia.gov>; Messplay Iv, Paul (DHCD) <Paul.MessplayIV@dhcd.virginia.gov>
**Subject:** Appeal to the Review Board for 1321 Porter St. LLC (Emily Pinchbeck) (Appeal No. 25-08)





November 21, 2024
Taken by: Rick Pau
1321 Porter St back stairs to 3rd floor

The City admitted the statute of limitation had run

that have been added. They cannot be occupied because they do not have any permits, any inspections, any approval. They don't have the proper requirements as the sprinkler and so they can't be occupied. I would like to go to, how many minutes do I have left sir?

CHAIRMAN DAWSON: Five.

MR. ALLEY: Limitation of the prosecutions. I will say this, under Virginia code 19.2-8, the city feels like the, it's a different charge, it's a different circumstance. When the NOV was written for in 2021, I can agree that the statute of limitations had ran out on that. but that was just for not getting a permit at that time. Stop the construction, stop the work. They never followed through, somehow we missed it. And then when we came back to this location, we seen that they had finished the floor and occupied it. They made it a totally different situation. It is no longer under construction, therefore we feel that it is a property maintenance issue and that the unsafe was the right way to go. And therefore, our time started when we wrote that notice when it was discovered on 4/26 of 2024 and that is where we are today. That's all I have at this point.

CHAIRMAN DAWSON: Thank you Mr. Alley. Back to the appealing party. Do you have any questions?

MR. SHERMAN: I do, yes sir.

C. E. Duncan & Associates, Inc.
2609 Rocky Oak Road
Powhatan, Virginia 23139
(804) 598-8240

April 26, 2024

Sophia Blystone
1321 Porter Street, Apt A
Richmond, VA. 23224

RE: Third floor addition

Dear Sophia,

This letter is to confirm that we inspected the framing for the third floor addition at 1312 Porter Street. No exceptions were noted with the framing. The work was performed in a good workmanship manner. The work has no structural effect upon the lower 2 floors. We inspected all the lower levels and into the crawlspace to verify that the third floor modification and framing did not affect the structural integrity of the structure. No exceptions or concerns were noted during our inspection.

Sincerely,

Carl E. Duncan, P.E., L.S.



Alley testified to accepting and relying on 4/26/24 C.E. Duncan report for structural safety and occupancy

was on, I'm sorry I'm going fast but on page 167 for the second note, second revision. Does everybody see that? And then the last revision on page 66, so they finally got it right.

MS. JACKSON: I'm sorry, did you mean 68? 168 1 68. You mean 1 68?

MR. ALLEY: Is it 168 for the final, am I getting them back, sorry, it's a lot of paperwork here. I apologize.

CHAIRMAN DAWSON: Got 10 minutes left Mr. Alley.

MR. ALLEY: Thank you. Appreciate it sir. 66. Alright, so this is the first one. So, 168 was the final. At that time, I accepted that report. I also received another report from Mr. Robert Nelson for the rear stairs and the deck that I found to be appropriate since there were some egress coming from the second floor. At that point on May 28th, I went ahead and reinstated the occupancy for the first and second floor tenants only, because it is a two-family dwelling. The other parts of the building, the third and fourth units and the third floor are still unsafe for use and occupancy. I can't put anybody in those sections because one, they don't have a CO to be there for multifamily. Two, there's no sprinkler system to do that, I'm putting people in danger from all the units.

This case was then went before the board. Well, I'll

MR. SHERMAN: Okay. Let me ask you this, on May 28th, 2024, you allowed the two of the units to be occupied again, correct?

MR. ALLEY: To be reoccupied, yes.

MR. SHERMAN: Okay. And that means of course, that you had no questions at that point about the structural integrity of the property; Correct?

MR. ALLEY: I felt that they were not in danger from the third-floor construction as far as the loads that would put them in danger.

MR. SHERMAN: So, items 10 and 11 in your notice of violation that deal with the structural integrity, you'd acknowledge now that that is not at issue?

MR. ALLEY: I feel safe that they didn't have to worry about a collapse falling on them to the second and first floor.

MR. SHERMAN: So, it was safe?

MR. ALLEY: A portion of it was safe, that part of it was safe.

MR. SHERMAN: The part that it would have fell down on safe?

MR. ALLEY: Right.

MR. SHERMAN: Okay. Now when you talked about the engineer's reports, you said that your big concern was that the wrong address was on there; Is that right?

MR. ALLEY: Well, I said that that was an error on his documents.

MR. SHERMAN: Okay. And do you mean that it says 1312 instead of 1321?

MR. ALLEY: I do.

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Sep 2, 2025 at 8:10 AM
To: "Alley, David L. - PDR" <david.alley@rva.gov>

Mr. Alley,

A permit was obtained and my engineer has already been hired and scheduled based on your comments to my lawyer and offer during our meeting that you would accept what my engineer has written, so that you are not intrusive to tenants and I accepted that offer from you. He will be providing me his final inspection of those few boards based on me trusting your word during our meeting.

I have kept my word in good faith and am asking you to do the same especially since USBC § 36-105 allows you to waive inspection for this completely, § 36-99 states that health safety and welfare will be protected at the least possible cost, 3 engineers have confirmed stairs and deck safety, and you have accepted inspections from engineers not on that list before.

Sincerely,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

**1321PorterStLLC** <1321porterstllc@gmail.com> Wed, Sep 10, 2025 at 11:05 AM
To: "Alley, David L. - PDR" <david.alley@rva.gov>

Mr. Alley,

I have kept my word, and here is an engineers inspection of the boards and reaffirming the safety of the deck and stairs for continued use by tenants.

Thank you,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

**Final Third-Party Inspection Report 9-8-2025.pdf**
793K

In 2025 the City refused to rely on Nedza for the limited safety assertion of a few boards. In April 2026 the City arbitrability reversed course and relied on Nedza for a "possible" structural safety determination of an entire building to condemn it

# Final Third-Party Inspections Report

Department of Planning & Development Review, Bureau of Permits and Inspections
900 East Broad Street, Room 108
Richmond, Virginia 23219
**Office: (804) 646-4169**
https://www.rva.gov/planning-development-review/permits-and-inspections

Permit Number: BLDR-171309-2025 Date: 9-8-2025 Time: _____

Address: 1321 Porter St. Richmond VA 23224

Inspection Type: Final

**Location:**

☑ **Inspection Approved** ☐ **Inspection Rejected**

**Comments:** Replaced boards removed in November 2024, reinspected September 8, 2025. With suggested changes properly implemented I believe deck and stairs are safe for use by tenants.

| **Third Party Inspector's Information** | |
|---|---|
| Engineer's Firm: LOUISA ENGINEERING LLC. | COMMONWEALTH OF VIRGINIA<br>JOHN H. NEDZA<br>Lic. No. 13290<br>9/9/25<br>PROFESSIONAL ENGINEER<br>Seal and Signature |
| Inspector: JOHN H. NEDZA | |
| Date of Report: 9/9/2025 | |

**CITY OF RICHMOND - FOR OFFICIAL USE ONLY**

Received By: _____ Date: _____

# Third Party Review of Boards

1 message

**1321PorterStLLC** <1321porterstllc@gmail.com> Fri, Sep 12, 2025 at 3:36 PM
To: "Alley, David L. - PDR" <david.alley@rva.gov>
Cc: "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

Mr. Alley,

This is the third time since our meeting that you have made a false or contradictory statement and created controversy that has resulted in a negative and costly effect for 1321 Porter St, LLC. Attached is the email that you wrote to Travis Luter and myself clearly stating that the permit was issued and that is why you will null process the summons and that the NOV is "completed". I withdrew my appeal against the City based on what you put in writing. I have also provided this documentation to Judge Hicks.

In our meeting you stated to me and my attorney that you would be able to use my engineering and that you would work with me as best you can as long as it was satisfying the code. You are now refusing to accept my engineer's signed stamped statements about the deck and stairs from November 2024, which he reiterated and signed and stamped again on September 8, 2025 in spite of Code section 36-105 that allows you to waive inspection for something costing less than $2500 completely. Those boards cost less than $100 and you are using your discretionary power to make this more expensive. This is a violation of good faith as well as Code 36-99 which states that health safety and welfare will be protected at the least possible cost.

It is quite frustrating that you have chosen to be arbitrary in the application of subjective powers and to go back on your word and not accept an engineer's review of a few boards from me when I know for a fact that you have accepted a signed stamped report from an engineer that is not on the City of a Richmond Approved 3rd party inspectors list for something much larger than these boards.

I will take a look at the companies on the "Approved 3rd Party Plan Review & Inspection Agencies" list and decide the best path forward for the property.

Best,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.



**Email from David Alley Aug 25 12.08 PM .png**
143K

# CASE AND INSPECTION(S) DETAILS FOR CASE 067279-2024

**Violation Code:** 305.2 - Interior Structural Members
**Violation Status:** Violation Added in Error
**Citation Issue Date:** 04/26/2024
**Compliance Date:** 05/08/2024
**Resolved Date:**
#2

**Code Description:** Interior Structural Members

**Corrective Action:** To abate this violation, the permit process must be used to install new or repair all defective support members to be capable of safely supporting the imposed dead and live loads.

---

**Violation Code:** 106.1 US - Unsafe Structures
**Violation Status:** In Violation
**Citation Issue Date:** 04/26/2024
**Compliance Date:** 10/01/2024
**Resolved Date:**
#3

**Code Description:** Unsafe Structure

**Corrective Action:** Please contact me upon receiving this notice:
Inspector W. Jackson
Code Enforcement
Walter.Jackson@RVA.gov
804-385-0703

3 different theories of unsafety based on the same 4/26/2024 inspection

This property has been inspected and found to be unsafe due to the following conditions:
1. Lack of Approved Building Permits and Plans: No approved building permits or plans were ever authorized for the new third-floor addition.
2. Lack of Trade Permits: No approved trade permits were authorized for electrical, plumbing, or mechanical work related to the new third-floor addition.
3. Absence of Inspections: No inspections were ever conducted by the Permits and Inspections Bureau for the new third-floor addition. This includes inspections for building, electrical, plumbing, mechanical, fire stopping, draft stopping, fire separation, and insulation.
4. Concealed Interior Work: All interior work associated with the third-floor addition is concealed, making it impossible to verify compliance with safety and building codes.
5. Wall Separation Issues: Wall separation problems have been identified within the third-floor addition (see attached photos).
6. Deficient Engineering Report: The engineering report submitted by Carl Duncan contains incorrect and insufficient information, failing to meet the required standards for safety and code compliance.
7. Non-Code Compliant Alterations to Existing Structures: Alterations to existing exterior egress, stairs, and decks are not compliant with building codes.
8. Non-Code Compliant New Egress Stairs: The new egress stairs to the third-floor addition are not compliant with safety standards.
9. Structural Load Issues (First Floor): Non-code compliant structural load points are bearing on the roof above the occupied unit on the first floor, creating a potential safety hazard.
10. Structural Load Issues (Second Floor): Non-compliant structural load points are bearing on 4x4 posts above the occupied unit on the second-floor porch area, raising concerns about structural integrity.
11. Unauthorized Change of Use: The property's use has been changed from a single-family residence to a multi-family residence with three units without proper authorization or approval (see attached photos of mailboxes).
Required Actions to Abate Violation:
These issues pose a significant safety risk to the inhabitants, neighboring structures, and the public at large.

To Rectify These Violations:
- Follow the "City of Richmond Permit Process" to obtain all necessary approvals, including building, electrical, plumbing, and mechanical permits for the third-floor addition.
- Ensure that all required inspections are completed by the Permits and Inspections Bureau.
- Submit a revised and accurate engineering report that meets code requirements.
- Correct all structural issues and ensure that all alterations comply with building codes.
- Revert the unauthorized change of use or obtain the necessary approvals for the multi-family conversion.

Failure to comply with this notice by the abatement date may result in criminal court action.

---

**Violation Code:** 304.4 - Exterior Structural Members
**Violation Status:** Violation Added in Error
**Citation Issue Date:** 04/26/2024
**Compliance Date:** 05/08/2024
**Resolved Date:**
#4

**Code Description:** Exterior Structural Members

**Corrective Action:** To abate this violation, the permit process must be used to install new or repair all defective support members to be capable of safely supporting the imposed dead and live loads.

---

**Attached Images:**

**NOTICE OF VIOLATION - DEFECTIVE MAINTENANCE**

City of Richmond
Department of Planning & Development Review
Property Maintenance Division
900 E. Broad Street, Room G-12
Richmond, Virginia 23219
04/26/2024

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta

Rva Home Llc
1321 Porter St Apt C
Richmond Va 23224

Unsafe claim #5

Tracking #: 067279-2024
Inspector:Nicholas Anderson
Phone: 804-3573067
Parcel #: 0084539_S0000121019

**Subject:** Property located at 1321 Porter St

Dear Rva Home Llc:

The City of Richmond supports all efforts to revitalize and maintain healthier and safer communities. Blighted, deteriorated and poorly maintained properties not only are a threat to public health, safety and welfare, but also negatively impact on the overall vitality and enjoyment of our neighborhoods. In keeping with our mission to encourage healthy and safe neighborhoods and work places, an inspection of your property on 4/26/2024 identified the enclosed code violations. The repairs listed below are required by the Commonwealth of Virginia, Part III of the Virginia Uniform Statewide Building Code, The Virginia Maintenance Code (2021 Edition). Your assistance in reviewing this notice and cooperation in removing these defects as soon as possible, but no later than 5/8/2024 is required. If you feel this notice was sent to you in error, or if you would like to discuss any aspect of these requirements, please do not hesitate to call the direct line noted above.

Please note the law provides that failure to comply with this notice may result in criminal court action and fines of up to $2,500.00 per violation, per day, and court costs. Additionally, a lien may be placed on the property for administrative fees and any other necessary costs incurred by the City to initiate corrective action such as: the cost of correcting unsafe conditions, securing the structure from entry, or removing the structure.

You have the right to appeal this notice to the Local Board Building Code of Appeals. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation per section 107.5.

305.2 - Interior Structural Members

Structural members shall be maintained structurally sound, and be capable of supporting the imposed

**To abate this violation, the permit process must be used to install new or repair all defective support members to be capable of safely supporting the imposed dead and live loads.**

304.4 - Exterior Structural Members

Structural Members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

**To abate this violation, the permit process must be used to install new or repair all defective support members to be capable of safely supporting the imposed dead and live loads.**

If permits are required to correct the conditions cited in this notice, this document or a copy thereof will be needed to obtain them. Permits can be obtained from: Permits and Inspections Division, 900 Broad Street, Room 110, Richmond, Virginia 23219.

**Additional responsibilities as a property owner:**

Approximately 3,300 properties are in the City Old and Historic District. To determine whether or not your property falls within a City Old and Historic District, go to http://www.richmondgov.com/richhistory and click on the link "ViewMap of City Old & Historic Districts".

A *Certificate of Appropriateness* is required when any proposed work alters the exterior appearance of the property as it is viewed from a public street or alley. Certificates must be obtained before work can begin.. For work requiring a building permit, no permit will be issued without a Certificate. This review procedure is required not only for the main structure on a lot but also accessory buildings, fences, exterior lighting, driveways and walks, and any other features visible to the public. As in any review process some preplanning is necessary. Please direct any questions or requests to: Secretary, Commission of Architectural Review, Department of Planning & Development Review, 900 East Broad Street, Rm. 510, Richmond, VA 23219, (804) 646-6335.

DATE INSPECTED: 04/26/2024

Sincerely,

Nicholas Anderson
(804) 357-3067
Property Maintenance Inspector

Gmail Sophia Oliveri <sophia.s.oliveri@gmail.com>

## Re: Notice of Violation- Unsafe Structure

**Alley, David L. - PDR** <David.Alley@rva.gov> Wed, May 1, 2024 at 12:00 PM
To: "Jackson, Walter E. - PDR" <Walter.Jackson@rva.gov>, Sophia Oliveri <sophia.s.oliveri@gmail.com>, "Paul, IV. Rick F. - PDR" <Rick.Paul@rva.gov>
Cc: "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

unsafe claim #6

***Ms. Oliveri,***

***Good Afternoon! I have contacted the engineer Mr. Duncan personally and discussed this situation. The engineer reports are not acceptable by the Permits and Inspections Bureau for the following reasons-the engineer had no approved plans issued by the city to perform the inspection and/or our approval to do so. The existing footings and foundations would have to be evaluated to support the additional loads by a Virginia Licensed Engineer with actual documentation submitted along with the building permit. Therefor the structure has been significantly altered and is not safe for occupancy. A building permit shall be submitted with plans to the Permits and Inspections Bureau for the construction work performed and for a change of use from a two-family to a 4 unit multi-family building. No re-occupancy will be allowed until an approved permit has been issued and all inspections have been conducted and completed. Please feel free to contacted me directly should you have any further questions.***

***Thanks!***

***Best Regards,***

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

David L Alley III
Commissioner of Buildings
804-513-6939
david.alley@rva.gov

900 E. Broad St., Room 110, Richmond, Va. 23219-1907

Visit Our Website at: https://www.rva.gov/planning-development-review/permits-and-inspections

[Quoted text hidden]

DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW **image002.png** 261K

Gmail Sophia Oliveri <sophia.s.oliveri@gmail.com>

## 4th Engineer's Report for 1321 Porter St

**Sophia Oliveri** <sophia.s.oliveri@gmail.com> Tue, May 21, 2024 at 2:05 PM
To: "Alley, David L. - PDR" <david.alley@richmondgov.com>

Mr. Alley,

Per our conversation Monday, 5/13/24, you stated that you would be comfortable with the back single story portion of the building being re-entered but that you did not feel comfortable granting access to the front 3 story portion of the building until you received load information regarding the 4x4 posts on the back deck, supported by the 6x6 column, beneath the 3rd floor (photo below). I have had another engineer come out and review the deck and posts. Attached is a letter from the engineer, with an engineer's seal, stating that the 3rd floor load is adequately supported, the deck in its entirety is suitable for use by tenants, and that no conditions were observed that require immediate attention or deem the structure to be unsafe.

At this time you have been provided with a 4th engineer's report, with an engineer's seal, stating that the property is safe, structurally sound, and that no exceptions were noted. As the final concern of yours has now been satisfied, I am requesting that the property be released for the first and second floor tenants to re-enter their homes, effective immediately.

-Sophia Oliveri, property manager
1321 Porter St, LLC
804-437-2227

Unsafe claim #7



Exhibit 34

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW

PROPERTY MAINTENANCE CODE ENFORCEMENT DIVISION

# Notice of Violation-Unsafe Structure

**City of Richmond**
**Department of Planning & Development Review**
**Property Maintenance Code Enforcement**
**900 E Broad Street, Room G-12**
**Richmond, Virginia 23219**
**Issue Date: 2/4/2025**

Unsafe claim #9

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible.

| | |
|---|---|
| **1321 Porter St LLC** | **Tracking Number # 067279-2025** |
| **9169 W State St # 652** | **Inspector: David L Alley III** |
| **Garden City, ID 83714** | **Phone: (804) 646-3439** |
| **Manager: Emily Pinchbeck** | **Parcel # 0084539_S0000121019** |

**Property located at: 1321 Porter St**

A City of Richmond Inspector inspected the structure specified above on 2/4/2025. The listed violations of the Virginia Property Maintenance Code (VPMC) 2021 as amended and adopted by the City of Richmond Code sections 5-1 (USBC) were found to exist. The violations cited must be abated by 3/4/2025 or as specified in the Special Orders included in this report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

**2021 Virginia Property Maintenance Code**

**106.1 Unsafe Structures**
**General.** This section shall apply to existing structures which are classified as unsafe. All conditions causing such structures to be classified as unsafe shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or razed and removed. Vacant and secured structures shall still be subject to other applicable requirements of this code. Not withstanding the above, when the code official determines that an unsafe structure constitutes such a hazard that it should be demolished, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirements of this code.

In accordance with 36-99 of the Code of Virginia and the 2021 Virginia Property Maintenance Code.
The code official has determined the structure or a section of the structure to be Unsafe per the 2021 Virginia Property Maintenance Code (VPMC) code section 106.1 Unsafe Structures.

**Definition**

**UNSAFE STRUCTURE**. An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because of, but not limited to, any of the following conditions:

1. The structure contains unsafe equipment.
2. The structure is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely.
3. The structure is unsecured or open.
4. The degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment.
5. The required plumbing and sanitary facilities are inoperable.

**This structure has been inspected and found to be Unsafe for Use or Occupancy.**

- **No approved certificate of occupancy or a certificate of zoning compliance has been issued to operate your business.**

**Required actions to abate violation(s):**

- **All required permits shall be obtained through the Permits and Inspections Bureau. Including inspections, final approvals and a final certificate of occupancy prior to any re-occupancy.**

Failure to comply with this notice may result in legal action and fines up to $2,500.00 per violation if convicted (VPMC Sections 105.6 and 105.7) in addition, the City may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred cost.

If permits are required to correct the conditions cited in this notice, this document or a copy thereof will be needed to obtain them. Permits can be applied for at:
https://www.rva.gov/planning-development-review/permits-and-inspections

You have the right to appeal this notice. Appeals must be made within (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VPMC Section 107.5).

All codes referenced herein are from the Virginia Property Maintenance Code unless otherwise stated.

**Additional responsibilities as a property owner:**

Approximately 4,006 properties are in the City Old and Historic District. To determine whether or not your property falls within a City Old and Historic District, go to City Old & Historic Districts Map and click on the link "ViewMap of City Old & Historic Districts".

A *Certificate of Appropriateness* is required when any proposed work alters the exterior appearance of the property as it is viewed from a public street or alley. Certificates must be obtained before work can begin. For work requiring a building permit, no permit will be issued without a Certificate. This review procedure is required not only for the main structure on a lot but also accessory buildings, fences, exterior lighting, driveways and walks, and any other features visible to the public.

As in any review process some preplanning is necessary. Please direct any questions or requests to: Alex Dandridge (alex.dandridge@rva.govCommission) Secretary of Architectural Review, Department of Planning & Development Review, 900 East Broad Street, Richmond, VA 23219.

If you have any questions regarding the Notice of Violation, you should contact me between 8:00am and 5:00pm at (804) 646-3439.

Inspector Name: David L Alley III
Title: Commissioner of Buildings
City of Richmond
Permits and Inspections Bureau
(804) 646-3439

**From:** Jackson, Walter E. - PDR </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=256B7B98B22C414D923EC7548FC83B31-JACKSON, WA>
**Subject:** Re: 1321 Porter St Emily Pinchbeck
**To:** Alley, David L. - PDR <David.Alley@rva.gov>
**Cc:** Felton, Keisha L - PDR <Keisha.Felton@rva.gov>
**Sent:** January 14, 2025 3:18 PM (UTC+00:00)
**Attached:** image002.png

Received and standing by.

Respectfully,


# Walt Jackson
Code Enforcement Inspector
804-385-0703
Walter.Jackson@rva.gov


**To submit all City of Richmond complaints, please visitwww.RVA311.com or download the "RVA311" application.**

> On Jan 14, 2025, at 10:15\u8239 AM, Alley, David L. - PDR <David.Alley@rva.gov> wrote:
>
> *Walter,*
> *Good Morning! Please see the following Information as related to 1321 Porter St LLC:*
>
> *Contact Information for the 1321 Porter St LLC:*
>
> - *Manager-Emily Pinchbeck*
> - *Address-9169 W State St #652 Garden City ID 83714*
> - *Email Address: 1321porterstllc@gmail.com*
> - *A phone number may be available from Keisha Felton.*
>
> *I will let you know when to move forward with a summons.*
>
> *Thanks-Best Regards,*
>
> <image002.png>
> David L Alley III
>
> Commissioner of Buildings
> 804-513-6939
> david.alley@rva.gov
> 900 E. Broad St., Room 110, Richmond, Va. 23219-1907

# AFFIDAVIT FOR BUILDING INSPECTION WARRANT

Commonwealth of Virginia VA CODE § 36-105

The undersigned Applicant states under oath that:

1. To determine compliance with the Building Code or regulations and standards adopted pursuant thereto, an inspection warrant is requested for an inspection of a building or structure, subject to the Building Code, located at and as described below:
1321 Poeter St. Richmond, VA 23224 Parcel # S000012019 And is described as a three story structure with the Numbers 1321 Affixed to the right side of the door Next to Front window.

[ ] CONTINUED ON ATTACHED SHEET

2. The inspection is to be done to gather evidence of a particular suspected violation of the Building Code or regulations and standards adopted pursuant thereof.

3. The material facts constituting probable cause that the search should be made are that the inspection is necessary to investigate a suspected violation of the Building Code that poses an immediate and imminent threat to the health and safety of the owner, tenant, or occupants of the building or structure, or the owner, occupant or tenant of a nearby building or structure based on the following evidence of a violation of such code:
Inspection of property found UNSAFE violations code 106.1-US – UNSAFE. Building Inspectors have been denied Access to the structure at least sixteen times And cease and desisted emails from the manager of 1321 Poeter St LLC. Entry is Needed to verify the third floor and back structure is vacant And not being lived in. There is also a crypt/cellar that needs to be verified as to what it is And if permits are needed. The crypt/cellar is possibly too close to the original structure.

[ ] CONTINUED ON ATTACHED SHEET

FORM DC-390 (MASTER PAGE ONE OF TWO) 07/14

## AFFIDAVIT FOR BUILDING INSPECTION WARRANT

APPLICANT: George Paul
NAME
Operational MANAGER Building Inspection
TITLE (IF ANY)
906 E Broad Street Box 108
Richmond, VA 23219
ADDRESS

Certified to Clerk of Richmond City Circuit Court
CITY OR COUNTY
on 3/11/2026
DATE

TITLE _____ SIGNATURE

Original Delivered [ ] in person [ ] by certified mail
[ ] by electronically transmitted facsimile
[ ] by use of filing/security procedures defined in the Uniform Electronic Transactions Act

to Clerk of _____ Circuit Court
CITY OR COUNTY WHERE EXECUTED

on _____
DATE

TITLE _____ SIGNATURE

Compete only if different than above:

Original Delivered [ ] in person [ ] by certified mail
[ ] by electronically transmitted facsimile
[ ] by use of filing/security procedures defined in the Uniform Electronic Transactions Act

to Clerk of _____ Circuit Court
CITY OR COUNTY OF ISSUANCE

on _____
DATE

TITLE _____ SIGNATURE

Unsafe claim #10

Exhibit 36

Material Facts Attachment

Entry is also necessary to placard third floor addition and first floor unit. Placards are needed since the placards have been removed by property management owner. Entry needed to verify evidence that third party engineering inspections were performed.

**NOTICE OF VIOLATION - UNSAFE STRUCTURE**
**AMENDED from Unsafe Notice of Violation Dated April 11, 2026**
**City of Richmond**
**Department of Planning & Development Review**
**Property Maintenance Division**
**900 E. Broad Street, Room G-12**
**Richmond, Virginia 23219**
**May 11, 2026**

Este documento es un aviso de la Ciudad Richmond notificandole que usted tiene un problema con su casa o propiedad, el cual debe ser corregido a la brevedad posible. Si usted necesita ayuda para traducir o entender este documento en espanol, llame por favor al 804-646-6314 tan pronto como le sea posible. Usted deve presenter una apelacion por escrito, dentro de los 14 dias posteriores a la fecha de este aviso, en caso de que usted crea de que la nota es incorrecta. Si usted no presenta l apelacion dentro de los 14 dias, entonces perdera la posibilidad de disputar esta violacion.

1321 Porter St, LLC
9169 W State St #83714
Garden City, ID 83714

Unsafe claim #12
Based on the
4-26-2024 inspection

Tracking #: 067279-2024
Inspector: Walter Jackson
Phone: (804) 385-0703
Parcel #: 0084539_S0000121019

Property located at: 1321 Porter St

Building use at time of inspection:

A City of Richmond Property Maintenance Inspector inspected the structure specified above on 04/26/2024. The listed violations of the Virginia Maintenance Code (VMC) 2015 as amended and adopted by the City of Richmond Code Section 5-1 were found to exist. The violations cited must be abated by 10/1/2024 or as specified in the Special Orders included in the attached report.

Upon expiration of the abatement date the structure will be re-inspected for code compliance.

Failure to comply with this Notice may result in legal action and fines of up to $2,500.00 per violation if convicted (VMC Section 105.6 and VMC Section 105.7). In addition, the City may disallow occupancy, placard the structure, or abate the unsafe condition(s). A lien may be attached to the tax bill for administrative fees and any incurred costs.

You have the right to appeal this notice. Appeals must be made within fourteen (14) days of receipt of this Notice of Violation. A fee shall accompany your appeal. (VMC Section 107.5).

All codes referenced herein are from the Virginia Maintenance Code unless otherwise stated.

If you have questions regarding this Notice of Violation, you should contact me between 8:00 a.m. and 5:00 p.m. at (804) 385-0703.

**Report of Unsafe Conditions**
106.1 US - Unsafe Structures

This section shall apply to existing structures which are classified as unsafe. All conditions causing such structures to be classified as unsafe shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or demolished. Vacant and secure structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure constitutes such a hazard that it should be demolished, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirement s this code.

## AMENDED

**An Engineer's Letter dated April 3, 2026, was received by the Building Commissioner indicating that the original Engineer's Letter dated November 14, 2024, was incorrect and, based upon further investigation, is hereby rescinded.**

**Based on the findings and conclusions documented in the Engineer's Letter dated April 3, 2026, the Building Commissioner has determined that the first and second floors of the structure are unsafe for occupancy. Therefore, both floors are hereby ordered to be vacated immediately.**

**Prior to re-occupancy of the first and second floors, the property owner must:**

1. **Obtain all required permits for any unpermitted work.**
2. **Ensure that all work complies with all applicable building codes and regulations.**
3. **Complete all required inspections to verify compliance with applicable codes and permit requirements.**
4. **Obtain final approval confirming that the structure is safe for occupancy.**

**Failure to comply with this order may result in additional enforcement actions, including, but not limited to, legal proceedings.**

**Please find attached the Engineer's Letter dated April 3, 2026, outlining the identified unsafe conditions for your review and reference. If you have any questions regarding this matter or the steps required to achieve compliance, please contact this office.**

**This property has been inspected and found to be unsafe due to the following conditions:**
**1. Lack of Approved Building Permits and Plans: No approved building permits or plans were ever authorized for the new third-floor addition.**
**2. Lack of Trade Permits: No approved trade permits were authorized for electrical, plumbing, or mechanical work related to the new third-floor addition.**
**3. Absence of Inspections: No inspections were ever conducted by the Permits and Inspections Bureau for the new third-floor addition. This includes inspections for building, electrical, plumbing, mechanical, fire stopping, draft stopping, fire separation, and insulation.**
**4. Concealed Interior Work: All interior work associated with the third-floor addition is concealed, making it impossible to verify compliance with safety and building codes.**
**5. Wall Separation Issues: Wall separation problems have been identified within the**



Exhibit 37

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

# 5th Request for Designated Decision-Maker to Review Facts and Applicable Law

1 message

**1321PorterStLLC** <1321porterstllc@gmail.com> Mon, Jul 20, 2026 at 4:43 PM
To: "Robertson, Ellen F. - City Council" <ellen.robertson@rva.gov>, "Kyle, Kimberly J. - City Council Office" <kimberly.kyle2@rva.gov>, "Donald, Odie - CAO" <odie@rva.gov>, "Drewry, Laura K. - City Attorney" <Laura.Drewry@rva.gov>, "Ebert, Sharon L. - DED" <Sharon.Ebert@rva.gov>, "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>

Dear City Officials & Staff,

Following the April 10, 2026 placarding of 1321 Porter St. and the removal of its tenants from their homes, repeated efforts were made on behalf of the property to communicate directly with City staff regarding the factual and legal basis for those actions. Rather than discussing the matter, Mr. Alley declined direct communication and referred a meeting request to counsel retained to defend the City in related civil litigation.

In an effort to facilitate productive communication, an attorney was engaged for the limited purpose of meeting with the City to discuss the facts and legal authority supporting the April 10, 2026 enforcement action. Although the meeting was postponed for approximately two weeks at the City's request, it ultimately occurred on June 5, 2026. During that meeting, however, Mr. Alley advised that he was unprepared and declined to discuss either the factual basis for the City's determination or the legal authority supporting the potential conditions identified in the April 10, 2026 "Amended August 28, 2024 Notice of Violation."

Since April 10, 2026, no fewer than ten separate attempts have been made on behalf of 1321 Porter St. to obtain the factual and legal basis that existed at the time of the City's decision to placard the property and remove tenants from their homes. Many of those communications were directed to City staff and officials in an effort to elevate the matter and encourage meaningful dialogue. The objective throughout has been to understand the facts upon which the City relied at the time enforcement action was taken, identify any legitimate safety concerns, and work cooperatively toward a lawful resolution. To date, those requests have gone unanswered.

Following issuance of the April 10, 2026 Notice of Violation, which relied upon a letter identifying only the *possibility* of an unsafe condition, the City was provided with an audio recording in which that same individual acknowledged that he had never observed the condition he identified as potentially unsafe. The condition referenced in that letter, as well as a second condition that he admittedly did not analyze, were subsequently inspected, evaluated, subjected to engineering analysis and load calculations, and addressed in reports prepared by multiple Virginia-licensed Professional Engineers, each concluding that the conditions were safe and serviceable. Two of those engineering reports were provided to the City two months ago.

No request is being made for the City to formulate a new or post hoc justification for actions that have already occurred. Rather, the request is that the City identify the actual facts known to it and the legal authority upon which it relied on April 10, 2026, when it determined that tenants should be displaced from their homes. If the City relied upon legal authority permitting displacement based solely on the possibility of an unsafe condition, that authority should be identified. If that authority did not exist, that fact should be acknowledged.

For the City's convenience, additional redacted engineering reports and contractor letters are attached. The existence of these materials were previously disclosed to Mr. Alley and the City's defense counsel during the June 5, 2026 meeting and are provided today in a continued effort to address any legitimate concerns, facilitate meaningful communication, and work toward the lawful return of the first- and second-floor tenants of 1321 Porter St. to their homes.

1321 Porter St. remains willing to participate in a constructive discussion at any time. A response identifying the factual and legal basis that actually existed on April 10, 2026, rather than a retrospective justification developed after the enforcement action had already occurred, is respectfully requested. The objective throughout this process has been to understand the basis for the City's actions at the time they were taken, resolve any legitimate issues supported by competent evidence, and avoid unnecessary escalation wherever possible.

Sincerely,

1321 Porter St LLC

## Request #FOIA-2026-260 Click here to scroll down and download your records.

*All FOIA submissions are mandated to be facilitated through the JustFOIA software. Records as reflected in the attachment entitled, "6-9-2026 FOIA".*

**You have 1 fee due for this request. Please click the "Pay Fee" button to make a payment, or you may contact the organization to pay this fee.**

### Details

**Submitted**
Wed, Jun 17, 2026

**Status**
Completed

**Name of Requestor**
Emily Pinchbeck, Manager - 1321 Porter ST, LLC

**Email**
1321porterstllc@gmail.com

**Phone**
8044372227

**Address**
1321 Porter ST

**City**
Richmond

**State**
Virginia

**Zip**
23234

***Please check this box if you are making a Media Request.***

false

**Department Requesting Records From**

Planning & Development Review

**Description of Request** (Be as specific as possible, including name, dates, case numbers, etc., if known.)
Records as reflected in the attachment entitled, "6-9-2026 FOIA".

**I request (*select one*):**
Electronic Copies through the JustFOIA Public Portal

**Requested Documents**

| Folder Location | File | Description | Size | Uploa |
|---|---|---|---|---|
| | 1321 Porter ST - NOV 20260311.pdf | | 44.97 KB | 06/23/ |

Rows per page: 5 1-1 of 1

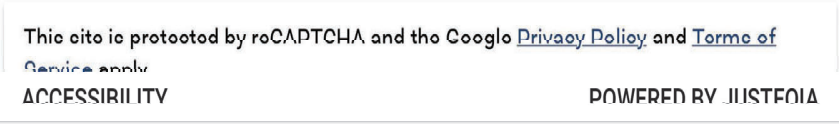
DOWNLOAD ALL

### Fees



Exhibit 39




FOIA request #8: City admitted that it no longer relies on the 4/3/2026 Nedza letter that it relied on to remove tenant from their homes on 4/10/2026





June 9, 2026

Mr. Isaac Marks
Freedom of Information Act Officer
City of Richmond
Department of Planning and Development Review
900 E. Broad Street
Richmond, Virginia 23219

Dear Mr. Marks,

Pursuant to the Virginia Freedom of Information Act, Va. Code § 2.2-3700 et seq., access to and copies of the following public records are hereby requested.

For purposes of this request, the term "records" includes, without limitation, emails, text messages, instant messages, memoranda, notes, reports, inspection records, field notes, photographs, videos, correspondence, draft documents, calendar entries, permit records, metadata, electronically stored information, and records maintained on personal devices or accounts if used for public business. Unless otherwise specified, the term "City" includes all City departments, employees, officials, contractors, consultants, agents, and representatives acting on behalf of the City of Richmond.

**Please identify each responsive record by the specific request or requests to which it corresponds. If a record is responsive to more than one request, it may be identified as responsive to multiple request numbers.**

1. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City of Richmond and in its possession on April 10, 2026, at or around 9:00 a.m. supporting a lawful factual basis for enforcement action taken on that date under 13VAC5-63-490 § 106.1, which states: "Structures which become unsafe during construction are regulated under the VCC."

2. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the existence of a real and known unsafe condition relied upon on April 10, 2026, that did not become unsafe during construction, including records reflecting the specific date and time the building official determined the structure to be unsafe.

3. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City and in its possession on April 10, 2026, at or around 9:00 a.m. supporting a lawful factual basis for enforcement action taken on that date under 13VAC5-63-180 § 118.3.1, which states: “If the building official determines there is actual and immediate danger to the occupants or public, or when life is endangered by the occupancy of an unsafe building or structure, the building

official shall be authorized to order the occupants to immediately vacate the unsafe building or structure."

4. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the existence of a real and known condition that constituted an "actual and immediate danger to the occupants" on April 10, 2026, at 9:00 a.m.

5. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting an unsafe condition allegedly newly discovered on April 10, 2026, which had not previously been identified by the City as compatible with continued first- and second-floor occupancy.

6. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting its representation that the building structure was unsafe for occupancy on April 10, 2026, but not between April 3, 2026 and April 9, 2026.

7. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting its determination that the building structure was unsafe for occupancy on April 10, 2026, including all records supporting the City's determination that such conditions warranted restriction of occupancy while simultaneously permitting continued access to the building by tenants for entry, exit, and ongoing use.

8. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting any condition that the City continues to rely upon as constituting an actual and immediate danger to occupants sufficient to deny displaced tenants access to their homes and personal belongings.

9. On August 21, 2024, and again on November 15, 2024, the City represented the conditions identified in the attached document to be compatible with continued first- and second-floor occupancy. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting its subsequent determination that those same conditions became incompatible with occupancy as of April 10, 2026.

10. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City that support, relate to, contradict, qualify, undermine, or call into question the determination that any condition allegedly constituting an immediate and imminent threat to health and safety on April 10, 2026 was newly emergent, newly discovered, materially changed, or otherwise different from conditions known to the City before April 10, 2026.

11. On May 13, 2024, July 16, 2024, and July 24, 2025, the City was informed of the continued use of the rear first-floor unit, and on August 21, 2024, November 15, 2024, and July 24, 2025 expressly authorized its continued use. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City and in its possession on March 11, 2026, at 12:09 p.m. supporting a lawful factual basis for discontinuing that previously authorized use.

12. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting a newly emergent condition that constituted an immediate and imminent threat to health and safety on March 11, 2026.

13. Please produce all records created, generated, transmitted, or issued by the City prior to 12:09 p.m. on March 11, 2026 reflecting any request made to the owner, the owner's agent, tenants, occupants, or any other person to verify occupancy of the rear first-floor unit or third floor, including all records identifying the date, time, recipient, and method of each such request.

14. Please produce all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City reflecting unsafe conditions identified during the April 26, 2024 inspection that were not relied upon to deny use of the third floor and rear first-floor unit when access was authorized by the City on July 24, 2025, but were subsequently relied upon to deny access or use on March 11, 2026.

15. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting an immediate and imminent threat to the health and safety of occupants that allegedly existed on March 11, 2026, but did not constitute such a threat between July 24, 2025 and March 10, 2026.

16. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City, and in its possession prior to 12:09 p.m. on March 11, 2026, supporting the material facts and probable cause asserted in the warrant affidavit as the basis for verifying that the third floor and rear first-floor unit were "not being lived in", including all records supporting the City's determination of an immediate and imminent threat to the health and safety of occupants. This request includes all records identifying the specific condition or conditions relied upon, the factual basis for asserting a need to verify occupancy, and the exact date and time the City first became aware of such condition or conditions.

17. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City, and in its possession prior to 12:09 p.m. on March 11, 2026, demonstrating the factual basis and probable cause asserted in support of the need to verify the alleged "crypt/cellar" identified in the warrant affidavit, including all records supporting the City's determination that it constituted an immediate and imminent threat to the health and safety of occupants in an

unattached building structure. This request includes all records identifying the specific condition relied upon and the exact date and time the City first became aware of that condition.

18. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City identifying any immediate and imminent threat to health and safety allegedly resulting from placard removal on May 28, 2024, which the City relied upon as probable cause on March 11, 2026, but which did not constitute an immediate and imminent threat to health and safety when City personnel photographed and documented the third floor and rear first-floor unit on November 21, 2024, and February 26, 2025, including specific locations where the City observed that the previously posted placards had been removed.

19. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City, and in its possession prior to 12:09 p.m. on March 11, 2026, demonstrating the factual basis and probable cause asserted in support of the need to verify engineering inspections identified in the warrant affidavit, including all records supporting the City's determination that verification of those engineering inspections constituted an immediate and imminent threat to the health and safety of occupants. This request includes all records identifying the specific condition or conditions relied upon, the factual basis for asserting a need to verify engineering inspections that had been performed months or years earlier, and the exact date and time the City first became aware of such condition or conditions.

20. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City, and in its possession prior to 12:09 p.m. on March 11, 2026, in support of each factual assertion identified as a "material fact" in the sworn affidavit submitted in support of the March 11, 2026 inspection warrant, including all records supporting the existence of probable cause, all records supporting the existence of an immediate and imminent threat to health and safety, all records supporting the need for immediate inspection or verification of any condition identified in the affidavit, and all records identifying the specific condition or conditions relied upon and the exact date and time the City first became aware of such condition or conditions.

    To the extent the City contends that any material fact, condition, threat, or basis for probable cause identified in the affidavit was supported by information not reflected in documentary records, please identify all records reflecting the source, date, and substance of such information.

21. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City that support, relate to, contradict, qualify, undermine, or call into question any material fact, probable cause determination, immediate and imminent threat determination, or safety-related assertion contained in the March 11, 2026 warrant affidavit.

22. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the existence of a physical condition that changed between July 24, 2025 and June 5, 2026, including all records identifying the specific condition or conditions relied upon, the factual basis for the determination that such condition or conditions had changed, the exact date and time the City first became aware of such change, and the exact date and time the City determined that the change was relevant to any enforcement action, occupancy restriction, unsafe structure determination, or denial of access relating to 1321 Porter St.

23. Please identify and provide all Notices of Violation naming 1321 Porter St, LLC as the responsible party that have never been deactivated and removed from the City of Richmond Online Permit Portal.

24. Please identify and provide all Notices of Violation naming 1321 Porter St, LLC as the responsible party that correspond to violations alleged to have occurred within one year prior to issuance and remain legally enforceable pursuant to Va. Code § 19.2-8.

25. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting a lawful factual basis for any Notice of Violation issued to 1321 Porter St, LLC that has not been deactivated, rescinded, or otherwise rendered unenforceable.

26. Please produce the photograph or photographs taken on or about April 24, 2024, by Zachary Snyder depicting a Notice of Violation affixed to the door of Apt. C and identifying Sophia Oliveri as the responsible party.

27. Please produce the written notice of unsafe structure issued to the owner, the owner's agent, or the person in control of the structure, together with all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City identifying the specific unsafe condition or conditions discovered during the April 26, 2024 inspection, the exact date and time the code official determined that 1321 Porter St constituted an unsafe structure based upon those conditions, and the factual basis supporting that determination, as required by 13VAC5-63-490 § 106.3, which states: “When a structure is determined by the code official to be an unsafe structure, a written notice of unsafe structure shall be issued by personal service to the owner, the owner's agent, or the person in control of such structure.”

    This request includes all records identifying the date and time the unsafe condition or conditions were first discovered, the date and time the determination of unsafety was made, and the date, time, and method by which the required notice was issued.

28. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City identifying the provisions of the Uniform Statewide Building Code, Virginia Maintenance Code, or any other law, regulation, ordinance, policy, or authority relied upon by the City to prohibit, restrict, or deny access to a residential dwelling unit by an occupant, tenant, resident, owner, or lawful user of the property, including all records identifying whether such authority is predicated upon the existence of an unsafe condition, emergency condition, or actual and immediate danger. This request further includes all records identifying the specific condition or conditions, if any, relied upon by the City in connection with the April 29, 2024 occupancy restrictions, the inspection from which such condition or conditions were identified, the exact date and time the City first became aware of such condition or conditions, and all records reflecting the City's awareness of the affected residential occupancies prior to imposing such restrictions.

29. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the determination that 1321 Porter St was unsafe for occupancy on April 29, 2024, but was not determined to be unsafe for occupancy on April 18, 2024, April 24, 2024, or April 26, 2024, including all records identifying the specific condition or conditions relied upon, the factual basis for that determination, the exact date and time the City first became aware of such condition or conditions, the exact date and time the code official determined the structure to be unsafe for occupancy, and all records reflecting any change in conditions occurring between April 18, 2024 and April 29, 2024.

30. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City supporting the existence of a real and known unsafe condition on April 29, 2024 that did not become unsafe during construction, including all records identifying the specific condition or conditions relied upon, the factual basis for the determination, the exact date and time the City first became aware of such condition or conditions, and the exact date and time the building official determined the structure to be unsafe.

31. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City that support, relate to, contradict, qualify, undermine, or call into question the determination that an immediate and imminent threat to health and safety existed on April 29, 2024, including any records reflecting that the same conditions were known to the City before April 29, 2024 or were previously determined to be compatible with continued occupancy.

32. Please produce any and all emails, text messages, instant messages, memoranda, notes, correspondence, meeting records, calendar entries, draft documents, and other records discussing, recommending, authorizing, approving, directing, implementing, or questioning the April 29, 2024 occupancy restrictions, the March 11, 2026 warrant application and enforcement actions, or the April 10, 2026 tenant displacement and occupancy restrictions.

33. Please produce any and all records reviewed, relied upon, considered, generated, referenced, or otherwise used by the City that support, relate to, contradict, qualify, undermine, or call into question the determination that the physical conditions of the existing building at 1321 Porter St on April 29, 2024, March 11, 2026, or April 10, 2026 were materially different from the physical conditions that existed during periods when the Property was occupied and such occupancy was known to, observed by, permitted by, or otherwise accepted by the City.

**To the extent any request seeks records that do not exist, please identify the specific request and state that no responsive records exist rather than producing nonresponsive records in lieu of a response.**

To the extent any requested records are withheld, please identify the specific statutory exemption relied upon for withholding each record, as required by Va. Code § 2.2-3704(B). To the extent any responsive records previously existed but have been deleted, destroyed, removed, modified, archived, superseded, or otherwise disposed of, please identify the record, the approximate date of disposition, the individual authorizing the disposition, and the authority under which the disposition occurred.

If the cost of fulfilling this request will exceed $200, please notify me in advance with an itemized estimate.

**To avoid unnecessary production and expense, please limit the response to records that are reasonably responsive to the scope of each request. Records known by the City to fall outside the scope of a particular request need not be produced.**

Please preserve all records potentially responsive to this request, including electronically stored information, emails, text messages, photographs, notes, drafts, metadata, and other communications, pending completion of production and resolution of related proceedings. Thank you for your prompt attention to this request. Please provide the response in electronic format whenever practicable.

As required by Va. Code § 2.2-3704, a response is due within five (5) working days. Thank you for your prompt attention to this matter.

Sincerely,

1321 Porter St, LLC
Emily Pinchbeck, mgr.

Job #: 2024-249

# ENGINEERING DESIGN ASSOCIATES

5625 S Labumum Ave
Richmond, Virginia 23224
(804) 236-0190
FAX (804) 236-0194

P. O. Box 515
Wilsonville Church, Virginia 23879
(804) 580-2227
FAX (804) 580-3334

May 21, 2024

Sophia Oliveri
1321 Porter St
Richmond, VA 23224

RE: 1321 Porter St
Rear Deck – Structural Review

Dear Sophia:

At your request, I met you at the residence referenced above on May 17, 2024 to complete a structural review of the existing deck off the rear of the building. The deck has been inspected by a city official who raised concerns about its structural integrity and if it is safe for use. It is my understanding they requested you have it reviewed by a structural engineer, specifically where the third floor of the main building cantilevers and is supported by a 4x4 corner post at the second level and 6x6 below at the first level. The 4x4 post supports the ends of one beam that carries approximately 5' of floor load and another beam that carries a portion of roof load. Given the applied loading, the 4x4 post supports a total load of approximately 2.6 kips. The 4x4 and 6x6 are adequate to support this load.

Upon my review of the entire deck structure, I do have several concerns such as adequate size of girders and lateral stability which should be addressed in a timely manner. I did not observe any conditions that I feel require immediate attention or deem the deck unsafe for continued limited use. You have asked us to review it in its entirety and provide plans for repair and reinforcing of the existing structure as needed. For the immediate future, until our plans are provided and suggested repairs can be completed, I feel the deck is suitable for continued use by the few residents as an entry/exit to/from the second and third floors.

Thank you for consulting with us regarding this matter. Please let me know if you have any questions in these regards.

Sincerely,

Taylor Cole, EIT
Engineering Design Associates

COMMONWEALTH OF VIRGINIA
ROBERT E. NELSON, JR.
No. 6007
5/21/24
PROFESSIONAL ENGINEER



Exhibit 41

# Final Third-Party Inspections Report

Department of Planning & Development Review, Bureau of Permits and Inspections
900 East Broad Street, Room 108
Richmond, Virginia 23219
**Office: (804) 646-4169**
https://www.rva.gov/planning-development-review/permits-and-inspections

Permit Number: _____ Date: November 14, 2024 Time: 12:35pm

Address: 1321 Porter St. Richmond VA, 23224

Inspection Type: Final

**Location:**

1321 Porter St. Richmond VA, 23224

[X] **Inspection Approved** [ ] **Inspection Rejected**

**Comments:** No work was done by the owner, inspection only. The property at 1321 Porter St has undergone a thorough review of the structural elements, opening walls and ceilings and digging out the foundation. The structure, framing, insulation, fire stopping and separation, footings, and foundation have been found to be structurally sound and appear to meet building code requirements.

As a structural engineer licensed to do business in Virginia, I also believe, after the aforesaid investigation, that the building as a whole is a safe structure and that there are no unsafe issues dangerous to the health safety and welfare of occupants.

| **Third Party Inspector's Information** | |
|---|---|
| Engineer's Firm: LOUISA ENGINEERING, LLC. | COMMONWEALTH OF VIRGINIA<br>JOHN H. NEDZA<br>Lic. No. 13290<br>1/10/2025<br>PROFESSIONAL ENGINEER |
| Inspector: John H. NEDZA PE. | |
| Date of Report: November 14, 2024 | |
| | Seal and Signature |

**CITY OF RICHMOND - FOR OFFICIAL USE ONLY**

**Received By:** _____ **Date:** _____



Exhibit 40

BLUE NEST
STRUCTURAL

313 E Broad St; Suite 322
Richmond, Virginia
804.409.6272

September 27, 2024

1321 Porter St LLC
1321 Porter St
Richmond, VA
Attention: Emily Pinchbeck

Reference: Structural Observations
1321 Porter St; Richmond, VA
Blue Nest Project #: R24.125

Dear Emily:

At your request, I provided a structural observation of the third floor and the exterior of the house at 1321 Porter St on September 3rd at 8:30a. Based on online records, the original house was constructed around 1921 and the third floor was an addition with an unknown constructed date. The exterior finishes, however, indicate it likely occurred in the last 25 years. The third-floor addition appears to be constructed of wood roof and floor framing supported by wood stud walls. The original house below appears to be wood roof and floor framing supported by brick masonry bearing walls.



Overall View of House

Most of the interior walls, roof and floor structure was covered in finishes, however, we can often see signs of cracking or deterioration that indicates structural concerns. Overall, the house was in good condition with isolated and generally minor deficiencies. The following are deficiencies we observed:

1. **Deteriorated mortar:** At the base of the northeast exterior wall, we observed soft and deteriorated mortar. This is likely due to repeated cycles of wetting and drying of the mortar. It could also be indicative of a poor batch of mortar at this location at the time of installation. We recommend engaging a mason to remove the deteriorated mortar and repoint it with new mortar. This does not appear to be a structural concern currently, but continued deterioration could become a structural issue.



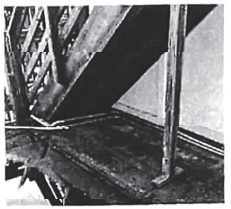
2. **Missing and deteriorated mortar:** At the screen wall at the front entrance we observed missing and deteriorated mortar. We recommend the mortar be repointed in this area.



BLUE NEST
STRUCTURAL

313 E Broad St; Suite 322
Richmond, Virginia
804.409.6272

3. **Insufficient Post Connection:** The posts for the stairs at the rear of the building that leads from the 2nd to the 3rd floor addition do not have mechanical connections to their support, they are currently sitting on top of a wood plat that is resting on the roof membrane. The posts have twisted at a couple of location, which is common for wood members. We understand a typical mechanical fastener to the roof framing below would increase the chance of a leak. As an alternative we recommend providing horizontal 2x6 or greater members that connect to the baser of each post and to the base of the stair stringer in the direction parallel to the posts. Additional 2x6 members should be connected to each post base in the perpendicular direction and fastened to the wall of the house. These members are intended to stabilize the base of the post and keep if from moving





4. **Crack in Shower:** A crack was observed in the corner of the shower at the ceiling level. This appears to caused by natural expansion and shrinkage of materials due to changes in moisture and temperature.



No finishes were removed and no testing or analysis was provided as part of this report. The deficiencies observed were limited and isolated in nature. Overall, the portions of the house observed appear to be in good structural condition and I did not observe any structural deficiencies that would indicate safety concerns for future tenants.

Garrett Braun, PE
Principal

COMMONWEALTH OF VIRGINIA
GARRETT P. BRAUN
Lic. No. 056464
PROFESSIONAL ENGINEER

26-4-17
approved

# Certificate of Occupancy

CITY OF RICHMOND, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY

BUREAU OF BUILDING INSPECTION

Richmond, Va., March 27, 19 70

The applicant having complied with the provisions of an ordinance approved June 11, 1960, as amended, commonly known as the Zoning Ordinance, permission is hereby granted to

Wayne Goddard
(Owner or Lessee)

to use the two floor or floors of the building situated at

No. 1321 Porter Street

for the following purpose:

2 Dwelling units AND 4 Sleeping units

Use Rooming House - 2 apts. & 4 rooms

POOR ORIGINAL

Height Two Story

District R-6 Multiple Family Dw.

USBC Definition: ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

Maximum Occupancy

No alterations are authorized by the issuance of this Certificate.

This certificate does not take the place of any license which may be required by law, nor does it authorize the use of boilers, motors or machinery.

This certificate does not authorize the painting or erection of any sign.

Any change in the use or occupancy of this building shall require a new certificate.

Violation of the provisions of this certificate will necessitate revocation of the certificate.

Leo J. Cantor

COMMISSIONER OF BUILDINGS

CS260406

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION
ROOM 124, 501 NORTH 9TH STREET

## APPLICATION FOR CERTIFICATE OF OCCUPANCY

Date 3/16/1970

WRITE WITH INK

The undersigned owner or lessee hereby applies for a certificate of occupancy in accordance with provisions of the Zoning Ordinance and the Building Code for the following use and hereby agrees to fully conform to all terms of any permit which may be issued on account of the application.

Name Mrs. Wayne Goddard

Location 1321 Porter St.

RECEIVED
MAR 16 1970
Bureau of Building Inspection

Number of Employees None

Number of Occupants 10

To be Used as Rooming House 2 apts + 4 Rooms

Last Used as Rooming

Material of Building Brick Number of Stories 2 Which Floor will be Used? Both

Owner of Building (or Agent) Mrs. Wayne Goddard

Address 1321 Porter St.

Signature of Proposed Occupant Mrs. Wayne Goddard

Signature of Owner or Agent Mrs. Wayne Goddard

Address to which Certificate is to be mailed 1321 Porter St.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to install or erect any kind of Signs, Boilers, Motors or Machinery.

TO BE FILLED IN BY INSPECTOR

Date Approved March 27, 1970 Date Disapproved

Zone R-6 Multiple Family Dw. Building Inspector P C Coffee, III

Remarks:

USBC Definition:

[A] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

[A] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

POOR ORIGINAL



Exhibit 43

# Certificate of Occupancy

CITY OF RICHMOND, VIRGINIA

DEPARTMENT OF PUBLIC SAFETY

BUREAU OF BUILDING INSPECTION

Richmond, Va., January 10, 66

The applicant having complied with the provisions of an ordinance approved June 11, 1960, as amended, commonly known as the Zoning Ordinance, permission is hereby granted to

Harvey J. Burnette
(Owner or Lessee)

This CO is for the second floor only (see application)

to use the two floor or floors of the building situated at

No. 1321 Porter Street

for the following purpose:

Use Bed Rooms - Rooming House - 4 Roomers

Height 2 Story

District R-6 Multiple Family Dwelling

Maximum Occupancy

POOR ORIGINAL

This certificate does not take the place of any license which may be required by law, nor does it authorize the use of boilers, motors or machinery.

This certificate does not authorize the painting or erection of any sign.

Any change in the use or occupancy of this building shall require a new certificate.

Violation of the provisions of this certificate will necessitate revocation of the certificate.

COMMISSIONER OF BUILDINGS

[redacted]TION FOR CERTIFICATE OF OCCUPANCY

CITY OF RICHMOND, VIRGINIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF BUILDING INSPECTION

Date

WRITE WITH INK

The undersigned owner or lessee hereby applies for a certificate of occupancy in accordance with the provisions of an ordinance approved June 1, 1960 commonly known as the Zoning Ordinance, for the following use, on the hereinafter described building, and hereby agrees to fully conform to all the terms of any permit which may be issued on account of the application.

RECEIVED
JAN 10 1966
OFFICER
Bureau of Building Inspection

Name Harvey J. Burnette

Location 1321 Porter St

Number of Employees

Number of Occupants 4

To be Used as Rooming House - 4 rooms Bed Rooms (4 persons)

Last Used as Pvt. home.

Material of Building Brick Number of Stories 2 Which Floor will be Used? ~~Upper~~ two

Owner of Building (or Agent) owner

Address 1321 Porter St

Signature of Proposed Occupant Harvey J. Burnette

Signature of Owner or Agent

Address to which Certificate is to be mailed 1321 Porter St.

Four sleeping units in rooming house on second floor only.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to install or erect any kind of Signs, Boilers, Motors or Machinery.

TO BE FILLED IN BY INSPECTOR

Date Approved Date Disapproved

Zone R-6 Multiple fam. dw. Building Inspector

Remarks:

c.c: Lessee (2)

With the 4 sleeping units definitively existing only on the 2nd floor, the 2 dwelling units have necessarily legally existed on the 1st floor for more than 55 years

POOR ORIGINAL



Exhibit 44

This letter is to confirm that when I first viewed the property at 1321 Porter St in Richmond VA in 1985, it consisted of 3 separate units, one in the front on the first floor, one in the back on the first floor, and one on the second floor, all with kitchens and bedrooms and bathrooms. I purchased the property in 1989 and repairs and work were done over the years but no units or structural walls of the building were changed or removed.

When the partial 3rd floor addition was added in 2020 I had no knowledge that the contractors performing the work did not have all of the proper permitting and I have had no ownership interest in the property since March 2021.

Sign Print ALI HAWASH Date 3-25

Acknowledgment Notary Certificate (Only for use in AR, AZ, CO, CT, DC, DE, GA, ID, IA, IL, KS, KY, MA, MD, ME, MN, MO, MT, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TX, UT, VA, WA)

Document Name: This letter is to confirm that when I first viewed the property at 1321 Porter St in Richmond VA in 1985

STATE OF Virginia
COUNTY OF Richmond
(County where notarization occurred)

This record was acknowledged before me on 31st day of March, 2026, by
(name[s] of signer[s]), who personally appeared before me and (is personally known to me or whose identity was proved on the basis of satisfactory evidence) to be the person whose name is subscribed to in this document.

DANA SWEID
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES APRIL 30, 2029

(Signature of notary public)

Dana Sweid, Notary Public
(Name of notary public)

Official Seal

My commission expires: April 30, 2029

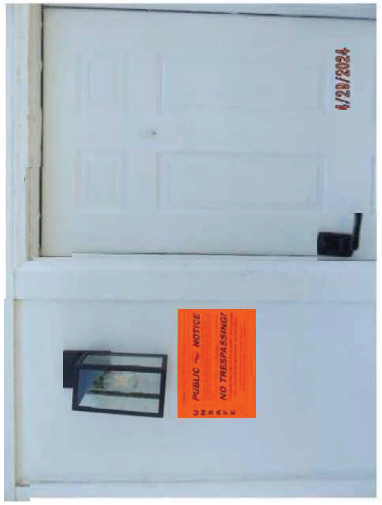
Personally known ____ OR
Produced identification ✓ Type of identification produced: VA DL

Exhibit 46




Placard and Posting

Pictures were taken by Walter Jackson
Property Maintenance Inspector










Pictures were taken by Walter Jackson
Property Maintenance Inspector

Exhibit 45

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## April and May 2024 Stop Work Orders/NOV's

**Paul, IV. Rick F. - PDR** <Rick.Paul@rva.gov> Tue, Feb 18, 2025 at 3:44 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Alley, David L. - PDR" <David.Alley@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

Good afternoon,

Please see responses to your comments, below.

Sincerely,

Rick Paul, CBO

City responses in RED below
City acknowledged no knowledge of work performed after ownership change

Program and Operations Manager: Inspections

Department of Planning and Development Review

Office (804) 646-6694

Cell (804) 240-9672

**From:** 1321PorterStLLC <1321porterstllc@gmail.com>
**Sent:** Tuesday, February 18, 2025 10:08 AM
**To:** Paul, IV. Rick F. - PDR <Rick.Paul@rva.gov>
**Subject:** April and May 2024 Stop Work Orders/NOV's

**CAUTION:** This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

Hello Rick Paul,

I was also unaware that there was a Stop Work Order or a NOV for 1321 Porter St, LLC pertaining to a root cellar, which is separate from the structure of 1321 Porter St, and I will address that in a separate email after I see it. This was issued to 1321 Porter St LLC. Please see attached. Sophia Oliveri applied for a permit after the cellar had the SWO/NOV issued. She applied as the owner/applicant. The SWO/NOV was given to Sophia Oliveri because she stated to me that she was "in charge of the maintenance" of the property.

The rest of this email only applies to the dwelling structure of 1321 Porter St. To make sure that we are in agreement about the facts, I have written a list of facts that pertain to 1321 Porter St:

- Rick Paul and 2 other City of Richmond inspectors entered the dwelling structure at 1321 Porter St on April 26, 2024 and found that no work was being done.

Work had been done without proper permits and inspections. There is no Certificate of Occupancy for a multi family dwelling (3 or more units). There was a NOV issued on 4-24-2024, to 1321 Porter St LLC.

-Rick Paul and 2 other inspectors from the City of Richmond were given unrestricted access to the 3rd floor of 1321 Porter St on April 26, 2024 to inspect and they left the premises that day without issuing any Stop Work Order or Notice of Violation.

There was a NOV issued on 4-24-2024 to 1321 Porter St LLC. No need to issue another one that close to the last one.

-The Department of Permits and Inspections issued a Stop Work Order to a prior owner in 2021 for a 3rd floor addition that had been constructed before January 7, 2021.

A picture of the work taking place, was taken on 1-7-2021. A SWO/ NOV was issued that same day.

-All Stop Work Orders and Notices of Violation issued for 1321 Porter St dated April and May, 2024 pertain to work that was performed by a prior owner in 2021.

Possibly. Not sure what work was performed after the owner change, if any.

-On Tuesday, May 28, 2024 at 2:27 PM David Alley stated that he found the engineer's report to be sufficient for occupancy for the first and second floor dwelling units.

My understanding of this is, occupancy was finally allowed after multiple attempts from multiple engineers, to address the Building Commissioners concerns, on the structural integrity of the building.

-David Alley and Rick Paul have knowledge that the property at 1321 Porter St is being occupied by 2 families at present and they have additionally been informed on no less than 4 separate occasions.

I have not been informed of any occupancy, other than the tenant on the first floor stating she doesn't associate with the 3rd floor tenants. This was approximately 2 weeks ago. There also is 2 vehicles that are registered to Sophia Oliveri on the property. These are registered under 1321 Porter St D.

-Rick Paul and David Alley have knowledge that there is an engineer's report that is less than a year old, that verifies the health, safety, and welfare of occupants and explicitly states that the structure at 1321 Porter St is safe as well as multiple inspections from qualified trade professionals verifying safety. Regardless of any engineers reports or trade professionals opinions, this property has not been permitted or inspected for the work performed on it, per requirements of the Virginia Construction Code. As the owner, you, as the listed agent for 1321 Porter St LLC, are responsible for the property per Virginia law. You acquired a SUP from zoning, but have yet to apply for any building or trade permits, that are required by law. I shared the code references on my earlier email to try to help you understand.

As you know I came into this situation in May of 2024. If you disagree with any of these statements that I believe are facts, please explain what you disagree with and why, so I can have a better understanding.

# City of Richmond

**Department of Planning and Development Review**
**Bureau of Permits and Inspections**
**900 East Broad Street Room 110**
**Richmond, VA 23219 (804) 646-4169**

## ☒ Notice of Violation ☒ Stop Work Order

**Issue Date:** 1/7/2021 **Date of Inspection:** 1/7/2021

**Location:** 1321 PORTER ST

**Owner:** -

**Responsible Party:** OWNER

**Contractor's Name:** -

**Permit Holder:** NONE

**Specific Work Being Cited:** CONSTRUCTION OF NEW 3RD STORY ADDITION

This building has been inspected and the following violations of the Code of Virginia, Title 36, The Virginia Uniform Statewide Building Code and the Code of the City of Richmond have been found:

- ☒ Section 110.5 of the Virginia Uniform Statewide Building Code- Working without a valid permit posted
- ☒ Section 108.1 of the Virginia Uniform Statewide Building Code- Working prior to the issuance of a building permit
- ☒ Section 109.5 of the Virginia Uniform Statewide Building Code – Failure to have approved construction plans available on site
- ☒ Section 113.3 of the Virginia Uniform Statewide Building Code – Failure to obtain inspections
- ☐ Section 14-81 of Chapter 14 - City of Richmond Ordinances: Working without a contractor's license
- ☐ Section 114-930.6 of the Code of Ordinance of the City of Richmond: Certificate of Appropriateness
- ☐ Other

All activities involved in the work cited above must cease immediately. Permitted activities not involved in the cited work above may continue as long as they do not conceal or otherwise affect the work cited above. Corrections of all of the above conditions shall be made by 1/15/2021. If the notice is not complied with, the property owner, his agent, permit holder and/or contractor shall be subject to the penalties prescribed in the Code of Virginia, Title 36-Section 106; Section 105 of the Virginia Uniform Statewide Building Code and Ordinances of the City of Richmond. The following action shall be taken before any work resumes:

- ☒ Obtain a Building Permit
- ☐ Obtain an Electrical Permit
- ☐ Obtain a Mechanical permit
- ☐ Obtain a Plumbing Permit
- ☐ Obtain a Plumbing/Gas Permit
- ☐ Obtain a report by a registered Virginia professional engineer
- ☐ Post valid permit on site
- ☐ Keep approved plans on site and available for inspectors
- ☐ Obtain C. A. R. (Commission of Architectural Review) approval
- ☐ Other

Inspector: ZACHARY SNYDER Telephone No. 804 668 6417

A fee payment of $200 is required ***before*** you may return to work on each permit for which a Stop Work Order has been issued.
You have the right to appeal this notice under Section 119 of the Virginia Uniform Statewide Building Code.
Please contact us, 804 646-4169, if you wish to appeal this decision.

526

Exhibit 49

September 27, 2024

Members of the Building Code Technical Review Board,

Sophia Oliveri has a 0% ownership interest in 1321 Porter St. LLC and a 0% ownership interest in the property at 1321 Porter St., Richmond VA 23224 and that was true on April 26, 2024 and January 7, 2021 as well. In January of 2021, Aly Hawash was the sole owner of 1321 Porter St. and he also has a 0% ownership interest in 1321 Porter St, LLC.

In April of 2024, Sophia Oliveri was actually a tenant who attempted to help the other tenants and the Department of Permits and Inspections, outside of the scope of her job, and then was permanently removed from her home of 10 years, by the Department of Permits and Inspections.

The facts are that the building is and always was safe, there were zero stress indicators per 5 engineers, the building has been occupied again since May 28, 2024, and, as the manager for the owner since it became an active business in May of 2024, I learned about the 3rd floor addition and I began the retroactive permitting process for the prior owner on June 7, 2024.

Emily Pinchbeck, Manager

1321 Porter Street LLC.

**Individual Acknowledgement**

State/ Commonwealth of Virginia

County of Chesterfield

On this the 27th day of September 2024

Day Month

MEGAN DANIELLE THORPE
NOTARY PUBLIC
REG. #8057216
MY COMMISSION EXPIRES
06/30/2027
COMMONWEALTH OF VIRGINIA

Megan Danielle Thorpe

Name of Notary Public

Exhibit 48

## CASE AND INSPECTION(S) DETAILS FOR CASE 067279-2024

### Inspection(s)

**630742-2024**
**Case Type:** Defective Maintenance **Scheduled:** 04/26/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 04/26/2024 Richmond, VA 23224

**Attached Images:**

**630743-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 04/29/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 04/29/2024 Richmond, VA 23224

**Attached Images:**

**630780-2024**
**Case Type:** Unsafe/Unfit **Scheduled:** 04/26/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 04/26/2024 Richmond, VA 23224

**Attached Images:**

**631040-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 04/29/2024 **Address:** 1321 Porter St
**Status:** In Compliance **Actual Date:** 04/29/2024 Richmond, VA 23224

**Attached Images:**

**637765-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 05/30/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 05/30/2024 Richmond, VA 23224

**Attached Images:**

**637777-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 06/12/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 06/12/2024 Richmond, VA 23224

**Attached Images:**

**642465-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 08/02/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 08/02/2024 Richmond, VA 23224

**Attached Images:**

**651128-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 08/21/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 08/21/2024 Richmond, VA 23224

**Attached Images:**

**656481-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 08/28/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 08/28/2024 Richmond, VA 23224

**Attached Images:**

**656674-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 12/05/2024 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 12/05/2024 Richmond, VA 23224

**Attached Images:**

**675935-2024**
**Case Type:** Site Inspection - Code **Scheduled:** 01/21/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Requirec **Actual Date:** 01/21/2025 Richmond, VA 23224



## CASE AND INSPECTION(S) DETAILS FOR CASE 067279-2024

**Attached Images:**

**683823-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 01/31/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 01/31/2025 Richmond, VA 23224

**Attached Images:**

**685942-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 02/27/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 02/27/2025 Richmond, VA 23224

**Attached Images:**

**691061-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 03/19/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 03/19/2025 Richmond, VA 23224

**Attached Images:**

**695991-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 04/16/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 04/16/2025 Richmond, VA 23224

**Attached Images:**

**702509-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 05/21/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 05/21/2025 Richmond, VA 23224

**Attached Images:**

**711255-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 07/21/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 07/21/2025 Richmond, VA 23224

**Attached Images:**

**731251-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 09/19/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 09/19/2025 Richmond, VA 23224

**Attached Images:**

**735893-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 09/24/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 09/24/2025 Richmond, VA 23224

**Attached Images:**

**736458-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 10/29/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 10/29/2025 Richmond, VA 23224

**Attached Images:**

**744277-2025**
**Case Type:** Site Inspection - Code **Scheduled:** 11/12/2025 **Address:** 1321 Porter St
**Status:** In Violation; Re-Inspection Required **Actual Date:** 11/12/2025 Richmond, VA 23224

**Attached Images:**

**749401-2025**

The City preformed approximately 20 site inspections of the Property after placard removal on 5/28/2024

5/29/24

Tenants of 1321 Porter St Apt A & Apt B:

So...that was a wild month, right?! I can't tell you enough how sorry I am that you were seen as so unimportant that multiple grown men didn't think twice about making you collateral damage in their completely pointless fishing expedition and grossly negligent abuse of power. You are important, you didn't deserve that, and none of what happened to you in the past month was okay, on any level.

Thank you guys so much for being so understanding while we navigated the idiotic and/or pointlessly cruel bureaucracy that appears to be running rampant in the City of Richmond Department of Permits and Inspections. I'm also happy to announce that, in agreement with the first 3 engineering reports that I showed you on April 29th, prior to the city's decision to condemn the building, multiple other engineers have done site visits and have reassured me that they see nothing leading them to believe that your home is not structurally sound and safe. I know that none of you were actually worried about that but I figured I'd throw it out there anyway.

After reporting them to their director, our councilwoman, state code enforcement, and various tenants' rights groups, they have now shifted their attack to alleged zoning issues. Though the building has definitely been a 3-unit multifamily home since at least the 80's, the city appears to have it in their system as a duplex. So, while we're navigating that, there's no reason you and your guests and invitees shouldn't be able to use the empty space!

In addition to the code to the back one-story portion of the building that you already have, I'll be giving you the code to the 3rd floor apartment as well, and that will become common space for the building, effective immediately. Feel free to work on art (don't mess up the floors), do yoga, practice cartwheels (remember the indemnification clause in your lease), blast music & dance (between the hours of 8am-10pm), whatever you may need a big open space for (except parties and anything else prohibited by your lease). Enjoy!

Again, I am so so so sorry that this city tolerates people in positions of power who treat tenants as subhuman and who have no problem sacrificing you to their completely f[redacted] personal agendas.

-Sophia Oliveri, property manager

[redacted]

Tenant

Exhibit 52

528

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Jul 16, 2024 at 1:28 PM
To: "Wilson, Madison E. - PDR" <Madison.Wilson@rva.gov>, "Brown, Jonathan W. - PDR" <Jonathan.brown@rva.gov>, rashad.gresham@gmail.com

Good Morning,

The third floor studio is just an art studio, not a studio apartment living space. The first floor rear apartment on the first page of floor plans has been a one bedroom one bath apartment for more than a decade, from what I know. After the city reduced dwelling to two units that apartment has been opened up to the tenants as office and storage space. Please refer to our initial application for clarification on prior use and intended use for the SUP.

I also want to make sure the safety of my tenants are taken into account during this process. The written floor plans that were asked of us, have clear indications of bedroom locations and entries of tenants dwelling, I want to ensure that these floor plans are not shared as public domain. There are clear floor plans found from the city of Richmond property search webpage, with no description of what/ where each room is. I am happy to go onto the website myself and send those floor plans instead if you need them for public documentation.

Best,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

**Wilson, Madison E. - PDR** <Madison.Wilson@rva.gov> Tue, Jul 16, 2024 at 1:37 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>, "Brown, Jonathan W. - PDR" <Jonathan.Brown@rva.gov>, "rashad.gresham@gmail.com" <rashad.gresham@gmail.com>, "Ebinger, Matthew J. - PDR" <Matthew.Ebinger@rva.gov>

Emily,

Is the office going to remain an office or be turned back into a dwelling? We have to know if there are four total dwellings or three. In the application, four total dwellings is what is being sought.
Per your letter, : "The intended use for the property located at 1321 Porter St is to continue as 4 unit affordable housing, with rents beginning where they are now, between $1485- $1605/month for the three 2 bedroom, 2 bathroom units, and $900 for the 1 bedroom, 1 bath unit. The plan is to continue using the existing 4 units without making any changes."

The floor plans and use of the property has to match with what we are describing in the ordinance. Because this property is in breech of zoning, all of this information must be documented properly so that you do not run into more issues in the future.

As it stands with the floor plans you provided, this property will be described as a mixed-use building with an office and three apartments. Is this how you intend for it to operate?

This will mean that first floor office/storage space cannot be a dwelling. Is this how you would like to proceed?

Best,

*Madison Wilson (she/her)*
Planner - Land Use Administration
Department of Planning and Development Review
City of Richmond
Madison.Wilson@RVA.gov
804-646-7436

**From:** 1321PorterStLLC <1321porterstllc@gmail.com>
**Sent:** Tuesday, July 16, 2024 1:28 PM
**To:** Wilson, Madison E. - PDR <Madison.Wilson@rva.gov>; Brown, Jonathan W. - PDR <Jonathan.Brown@rva.gov>; rashad.gresham@gmail.com <rashad.gresham@gmail.com>
**Subject:** Re: Floor Plans of 1321 Porter St.

[Quoted text hidden]

Exhibit 51

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## Request for Written Documentation

8 messages

**1321PorterStLLC** <1321porterstllc@gmail.com> Thu, May 1, 2025 at 4:01 PM
To: "Alley, David L. - PDR" <david.alley@rva.gov>

Mr. Alley,

In compliance with Section 115.2.1, 1321 Porter St, LLC is requesting that you document in writing the existence of a building code violation for "construction of new 3rd story addition" at 1321 Porter St, Richmond VA, 23224 under USBC 2015, which was discovered by the City of Richmond Department of Permits and Inspections on or before January 7, 2021, and further discovered on or before February 23, 2021, before the 3rd floor was occupied for more than 2 years.

This appears to have already been done and made public on the City of Richmond website in 2021 (https://apps.richmondgov.com/applications/propertysearch/Detail.aspx?pin=S0000121019), but this is a formal, documented request from 1321 Porter St, LLC.

This is not a refusal to work with you regarding your concerns.

Sincerely,

1321 Porter St. LLC.

---

**Alley, David L. - PDR** <David.Alley@rva.gov> Fri, May 2, 2025 at 10:46 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Marks, Isaac R. - PDR" <Isaac.Marks@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>

*Dear 1321 Porter St LLC,*

*Good Morning! I hope today finds you well. Thank you for reaching out to me with your inquiry. Hopefully I'm interpreting your request correctly-please see the following comments:*

- *Code section 115.2.1 of the Virginia Code would not apply in this case since the third floor addition was not permitted. Therefor no certificate of occupancy, inspections and/or permission to initially occupy was granted by the Permits and Inspections Bureau.*

- *The* https://apps.richmondgov.com/applications/propertysearch/Detail.aspx?pin=S0000121019 *link provided in your email is for the City Real Estate Assessor and there is a note on the Sketches section that states 3rd floor addition added in 2021. This note was entered by the assessor office after an property assessment was completed by their office. Meaning-the 3rd floor existed when they did their assessment regardless if it was permitted or not.*

- *I have also included Isaac Marks (FOAI Officer) on this email should you be requesting documents from the Permits and Inspections Bureau as related to the Notices of Violation for 1321 Porter St that have been issued.*

*I hope that I have answered your inquiry to your satisfaction. The Permits and Inspections Bureau welcomes you to*

Hello Mr.Alley,

I do not need to do a FOIA request because as you know Rick Paul already did 2 and proved that 3 NOV's on my Permit Portal do not exist. Isaac Marks has now confirmed this for you for a third time.

We welcome you to stop all harassment and interference with business expectancy and to partner with us by taking the necessary first step to move forward productively which I initiated 6 months ago. Please remove the 1 NOV issued to an unrelated party and the 3 non-existent ones from April 24, 2024 from the 1321 Porter St, LLC Permit Portal so that I can move forward.

Best,
Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

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**1321PorterStLLC** <1321porterstllc@gmail.com> Mon, May 5, 2025 at 11:16 AM
To: "Marks, Isaac R. - PDR" <Isaac.Marks@rva.gov>

Hello Mr. Marks,

Thank you for confirming for Mr. Alley that the 4 NOV's from April 24, 2024 are not correctly placed on 1321 Porter St, LLC's Permit Portal. Hopefully now that he has been told 9 times, by 4 different people, he will address the issue promptly.

Best,
Emily Pinchbeck, Mgr
1321 Porter St. LLC.

[Quoted text hidden]

---

**1321PorterStLLC** <1321porterstllc@gmail.com> Thu, May 8, 2025 at 11:50 AM
To: "Alley, David L. - PDR" <David.Alley@rva.gov>

Mr. Alley,

I have not received a response from you. In addition to removing the 1 improperly placed NOV and 3 non-existent NOV's from my permit portal, (which you have now been asked to do 11 times over the past 2 months after receiving proof of your error from 4 different people and 3 FOIA requests), please point me to where exactly in Section 36-106 you found the explanation that you provided me for the reason you are choosing not to comply with my request per Section 115.2.1? I am not seeing that exception to the law.

This is a 12TH REQUEST for you to cease all harassment and operation outside of the scope of your authority and to comply with 115.2 and a 2nd request to comply with 115.2.1.

Best,

Emily Pinchbeck, Mgr.
1321 Porter St. LLC.
[Quoted text hidden]

---

**Alley, David L. - PDR** <David.Alley@rva.gov> Thu, May 8, 2025 at 2:03 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>
Cc: "Vonck, Kevin J. - PDR" <Kevin.Vonck@rva.gov>, "Lukanuski, Greg A. - City Attorney" <Greg.Lukanuski@rva.gov>, "Paul, IV. Rick F. - PDR" <Rick.Paul@rva.gov>

*Emily Pinchbeck,*

*Good Afternoon. Good Afternoon-Let me be clear-You have stated that you are the Manager for 1321 Porter St LLC*

CITY HALL
CITY OF RICHMOND
900 EAST BROAD STREET
RICHMOND, VIRGINIA 23219

Friday, July 25, 2025

Attendees:
David Alley
Michelle Dickson
Daniel Mouer
Hivi Faraj
Rick Paul
Emily Pinchbeck
Bruce Arkema



Excerpt 1

MR. ALLEY: Is it 4 units or is it 3 units?

MS. PINCHBECK: So, we are at 4 units, but it is -- I mean, we are talking about having it function as that. If not, we've had the building as 3 units since before Aly Hawash, that old owner that did the third story. It was set at 3 units from that buy. And then that fourth addition that they built was the fourth that was added on.

City acknowledged existing three-unit since 1980s

MR. ALLEY: And that's what I've pretty much perceived.

MR. MOUER: Okay, so we have two units in the original structure, a third unit in the garage or addition --

MS. PINCHBECK: In the back, as far as I know, the third -- I guess you could call it an addition. It's been there for over 100 years.

MR. MOUER: It was probably a garage when it was converted.

MR. ALLEY: It was a garage by the pictures.

MS. PINCHBECK: From what I understand, it's like servant quarters of what it would be. Again, I am not 100%, but I've not known anything to be -- I've not had a garage come across it at all.

MR. ALLEY: Accessory structure… I'll give it that. Because there's pictures that go back in Google all the way that show when somebody was doing some renovation,



Exhibit 54

they was scaffold up the accessory building, which I thought it was a garage at one time. It showed it was very dilapidated, then it was brought back up.

City acknowledged rear first floor renovation 12 years prior. Not considered violation or emergency

Excerpt 2

MS. DICKSON: I'm not sure if that fourth unit on the first floor, is it already finished out?

MS. PINCHBECK: So it's being used. It's not been functioning as a unit by any means. It's mostly, it's an office/storage space as of right now. As of what I've been having it used for since coming into management.

City knew of rear unit use since May 2024. Not a violation or emergency

MS. DICKSON: And so if you already have bathrooms in there, then do you have a shower or a tub in it?

MS. PINCHBECK: It does have a showerhead, but no tub.

MS. DICKSON: Yeah, so right now, if it looks like a dwelling unit, then it's a dwelling unit. And you would have to --

MR. ARKEMA: Unless you state that you're not going to use it as a dwelling unit.

MR. PAUL: Mmm.

MS. DICKSON: Yeah. That's where, like, I look at it, I call a duck a duck, and then these guys are higher than me, so we have to talk to someone about it saying if --



MR. ARKEMA: So if you put in your plans and your application, and have a CO that's going to be something other than a dwelling unit?

MS. DICKSON: Like an office.

MR. ARKEMA: Why would there be a problem? If she violates that, she violates that…

MR. PAUL: In the future, if she were to sell the space, someone's going to come in there and say, oh, it's a dwelling unit. I'm going to use it as a dwelling unit but it's not a dwelling unit.

MR. ALLEY: All right, I'm going to jump in because I agree with him. As long as it's stated on the plans and it's labeled, we can't police the future. That's where we step in, and we give the proper notice for it.

City understands that notice was require if a violation exists, not comdemnation

MR. PAUL: The only reason I brought up what I brought up is because we see it a lot of things. Somebody will do something to a structure. And like Michelle said, it looks like a duck, so it must be a duck, right, when a new owner comes in. So they're going to try to use it like a duck, but it's not a duck.

MR. ARKEMA: Well, I would assume that there will be an appraisal or something done, when somebody buys it. They'll see the CO.

MR. PAUL: Yeah, but still.

Excerpt 3

MR. ALLEY: That's great information. I didn't see that. It's in one of our packages. Like I said, we are going to be able to use some of your engineering that you have, if not all of it, along with trying to do some site visits ourselves to do key things. Again, we're going to be -- I'm going to try to work with you as best I can as long as we're satisfying the code. And we do not want to be doing it in a way that's intrusive.

City understood current use and acknowledged occupancy is owners' decision, not City's

Excerpt 4

MR. ALLEY: Get with your design a professional. Give them the packet, that we put together here. And I think you should really consider that. I know there's a lot of ideas, but let's not do this or that. Let's not do the third floor. But, I mean, really look at what it costs for a sprinkler system. Because you're going to get more return off of three units than you are, I'm just saying.

MS. PINCHBECK: I know, I definitely, if it were my way, wanted to keep everything functioning. But whatever is the best, feasibly, as well as the timeliness, of course, is what I would like to figure out.

Excerpt 5

MR. PAUL: I didn't get a chance to ask. I just want to make sure so that we're all - that nobody is living on the third floor or in that back unit.

MS. PINCHBECK: Got it.

MR. PAUL: Awesome, thank you. I don't want to see anybody get into trouble on this one.



MS. PINCHBECK: That's no problem at all.

City expressly approved use of third floor and rear first floor unit

MR. PAUL: Thank you, I appreciate that.

MS. PINCHBECK: Yeah. I do, I mean it is, the other tenants and I will say my neighbors, there is -- they have access, but there is no residence in those areas.

MR. PAUL: Sure. And there can be a home office back there, I mean, if it's attached, if you're utilizing it for your residents and your own home office. That's fine. I don't have a problem with that.

MS. PINCHBECK: Yeah. Storage is the main thing; we keep a lot of, like, that property's like, resources for whatever paint and whatever.

MR. PAUL: Thank you. Appreciate it.

MS. PINCHBECK: No problem. Thanks for clarifying.

MR. PAUL: Yep. Take care, very nice to see y'all again.

MS. PINCHBECK: Good to see you.

## CASE AND INSPECTION(S) DETAILS FOR CASE 067279-2024

| | | | |
|---|---|---|---|
| 25. | Attached amended Unsafe Notice with Engineer Report - Sent certified ( 70192970000103898826) and regular mail. | Michelle Coward | 4/10/2026 9:15 am |
| 26. | Mr. Alley requested that an amended Unsafe Notice of Violation be generated and that the remaining two units be placarded as unsafe, based on the updated engineer's report.<br><br>I met with Michelle Coward to review and finalize the appropriate verbiage for the amended Unsafe Notice of Violation. Later, Russel Williams and I met with Officers McHugh and Weaver to notify the tenants, post and placard the property, and proceed with vacating the structure.<br><br>Tenants Savannah McPherson (540-223-3993) and Arianna Poindexter of Unit B were present at the time. I informed them that no one is permitted to enter the property without a Right to Enter Unsafe issued by me. Right to Enter Unsafe letters were issued to the Unit B tenants.<br><br>No occupants were present in Apartment A. I left a voicemail at the contact number provided for Ms. Pinchbeck. | Walter Jackson | 4/10/2026 1:44 pm |

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

**City of Richmond - General Records Request FOIA-2026-947: No Responsive Information**

2 messages

**1321PorterStLLC** <1321porterstllc@gmail.com> Mon, Aug 31, 2026 at 1:34 PM
To: 9f2b09c4-7dc9-4b0a-a64b-1c7a34147b96.RichmondVA@request.justfoia.com
Cc: sherri.bowman@rva.gov, kristina.daniel-thiem@rva.gov, julia.holmes@rva.gov

We are needing clarification regarding your statement that the April 10, 2026 "entry letter" does not exist. Walter Jackson acknowledged the letter in the attached document, so we are concerned about what happened to this record and where it is now. Is the City asserting that no such letter was ever created or provided to the tenant(s) on April 10, 2026 or that it is no longer in the City's possession or custody?

Also, if the City maintains that no such letter never existed, what written documentation did City personnel provide to the tenant(s) regarding their continued access to the property on April 10, 2026?

[Quoted text hidden]

**Case page- proof entry letter given.pdf**
98K

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## 115.2 Question

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Sep 2, 2025 at 8:11 AM
To: SBCO <sbco@dhcd.virginia.gov>

Hello Chris,

Thank you. Since 1321 Porter St, LLC is the legal owner of the property, 1321 Porter St , LLC can request that the violation (which is indisputable because it was put into writing by the City of Richmond in an NOV from January 7, 2021- attached) and the Code at the time (which was factually 2015- https://up.codes/viewer/virginia/ibc-2015) shall be documented in writing by the Code Official.

And there are no exceptions to 115.2.1 that allow the Code Official to choose not to comply with this Code correct?

Thank you,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.

[Quoted text hidden]

**2021 Stop Work Order for 1321 Porter St.pdf**
790K

**SBCO** <sbco@dhcd.virginia.gov> Tue, Sep 2, 2025 at 3:58 PM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Good afternoon Emily.

There does not appear to be an exception to Section 115.2.1 that I have seen. In general, when a code section uses the word "shall", as Section 115.2.1 of the 2021 Virginia Construction Code does, that is understood to be a requirement.

I hope this simplifies any confusion.

*Chris Scott, P.E.*

Code and Regulation Specialist
Virginia Department of Housing and Community Development (DHCD)
804-489-6384

christopher.scott@dhcd.virginia.gov

Gmail 1321PorterStLLC <1321porterstllc@gmail.com>

## 115.2 Question

**1321PorterStLLC** <1321porterstllc@gmail.com> Tue, Sep 23, 2025 at 9:23 AM
To: SBCO <sbco@dhcd.virginia.gov>

Goodmorning Chris,

Thank you. I did also communicate with Travis yesterday and he did say that the issuance date is the date written on the NOV and that the receipt date is when it is received separately, when each party receives it. So unless you feel that is incorrect, I just have the top 4 questions still.

Sincerely,

Emily Pinchbeck, Mgr
1321 Porter St. LLC.
[Quoted text hidden]

**SBCO** <sbco@dhcd.virginia.gov> Wed, Sep 24, 2025 at 8:08 AM
To: 1321PorterStLLC <1321porterstllc@gmail.com>

Good morning Emily.

I agree with Travis' response as stated in your email. Just to confirm as I did not speak with Travis today, are the following questions the ones that you are still seeking answers to?

-Does an NOV have to be issued before enforcement action is taken by the building department?
-Does the Code require the code violation to be listed on the NOV? For example, if I receive an NOV for 108.1, can enforcement action be taken for 106.1 even though 106.1 was not listed on the NOV and safety was not mentioned?
-If property maintenance and inspections are 2 separate divisions, does the code allow someone in inspections to enforce maintenance and vice versa?
-Can enforcement action be taken against someone who is not listed on the NOV?

***Chris Scott, P.E.***

Code and Regulation Specialist
Virginia Department of Housing and Community Development (DHCD)
804-489-6384

christopher.scott@dhcd.virginia.gov

# Staff Note

Final Order for Appeal No. 25-07
1321 Porter St. LLC
(Emily Pinchbeck)
for the Hearing on the Merits of the
Case related to the original NOV

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of 1321 Porter St. LLC (Emily Pinchbeck)
Appeal No. 25-07 (Merits)

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 (§ 2.2-4000 et seq. of the Code of Virginia).

## II. Case History

On April 26, 2024 the City of Richmond Department of Planning and Development Review (City), the agency responsible for the enforcement of Part III of the 2021 Virginia Uniform Statewide Building Code (VUSBC or VPMC), inspected the structure located at 1321 Porter Street, (Apartment C) in the City of Richmond owned by 1321 Porter Street LLC (1321 Porter St.) and subsequently issued a Notice of Violation – Unsafe Structure (NOV). The NOV was amended on August 28, 2024, citing the following VMC Sections:

- *"Report of Unsafe Conditions*
  *106.1 US - Unsafe Structure*

  > *This section shall apply to existing structures which are classified as unsafe. All conditions causing such structures to be classified as unsafe shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured agains public entry or demolished. Vacant and secured structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines a that an unsafe structure constitutes such*

*a hazard that it should be demolished, then the code official shall be permitted to order the demolition of such structures in accordance with the applicable requirement s this code.*

*This property has been inspected and found to be unsafe due to the following conditions:*

1. ***Lack of Approved Building Permits and Plans:*** *No approved building permits or plans were ever authorized for the new third-floor addition.*
2. ***Lack of Trade Permits:*** *No approved trade permits were authorized for electrical, plumbing, or mechanical work related to the new third-floor addition.*
3. ***Absence of Inspections:*** *No inspections were ever conducted by the Permits and Inspections Bureau for the new third-floor addition. This includes inspections for building, electrical, plumbing, mechanical, fire stopping, draft stopping, fire separation, and insulation.*
4. ***Concealed Interior Work:*** *All interior work associated with the third-floor addition is concealed, making it impossible to verify compliance with safety and building codes.*
5. ***Wall Separation Issues:*** *Wall separation issues have been identified with the third-floor addition.*
6. ***Deficient Engineering Report:*** *The engineering report submitted by Carl Duncan contains incorrect and insufficient information, failing to meet the required standards for safety and code compliance.*
7. ***Non-Code Complaint Alterations to Existing Structures:*** *Alterations to existing exterior egress, stairs, and decks are not compliant with building codes.*
8. ***Non-Code Compliant New Egress Stairs:*** *The new egress stairs to the third-floor addition are not compliant with safety standards.*
9. ***Structural Load Issues (First Floor):*** *Non-code compliant structural load points are bearing on the roof above the occupied unit on the first floor, creating a potential safety hazard.*
10. ***Structural Load Issues (Second Floor):*** *Non-compliant structural load points are bearing on 4X4 posts above the occupied unit on the second-floor porch area, raising concerns about structural integrity.*
11. ***Unauthorized Change of Use:*** *The property's use has been changed from a single-family residence to a multi-family residence with three units without proper authorization or approval (see attached photos of mailboxes)."*

1321 Porter St. acknowledged receiving the NOV on December 13, 2024 from a tenant of the

property.

1321 Porter St. filed an appeal application to the City of Richmond Local Board of Building Code Appeals (local appeals board) on December 23, 2024; however, did not pay the required appeal application fee until February 3, 2025. On March 19, 2025, the local appeals board *"Upheld"* the appeal finding that *"The Local Board of Building Code Appeals determined that the provisions of the code were enforced by the Code Official properly."* The local appeals board decision was received by 1321 Porter St. on April 10, 2025. On May 1, 2025, 1321 Porter St. further appealed to the Review Board seeking to have the NOV rescinded. While processing the appeal application, Review Board staff found that the appeal application to the local appeals board may have been untimely based on the date the NOV was received, when the appeal application was submitted, and when the required applicable fee was paid; therefore, Review Board staff prepared the case for a preliminary hearing as to whether the appeal was untimely to the local appeals board.

A preliminary hearing was held by the Review Board on September 19, 2025. The Review Board found that the appeal application, filed December 23, 2024, was timely because Ms. Pinchbeck made multiple attempts to pay the applicable appeal application fee but was unable to make payment due to the issues with the City of Richmond online payment portal which prevented Ms. Pinchbeck from being able to pay the applicable appeal application fee until February 3, 2025.

Appearing at the Review Board meeting for 1321 Porter St. were Emily Pinchbeck and legal counsel Moshe Sherman. Appearing at the Review Board meeting for the City of Richmond were David Alley, Building Commissioner for the City of Richmond and Rick Paul, Programs and Operations Manager for Inspections for the City of Richmond.

## III. Findings of the Review Board

A. Whether to rescind the Notice of Violation-Unsafe Structure.

1321 Porter St., through legal counsel, argued that NOV was legally deficient as the NOV should have been issued under the Virginia Construction Code (VCC) not the VPMC because the cited violations were construction actions not maintenance actions just as the Notice of Violation – Stop Work Order (SWO) issued in January 2021 to the prior owner for the construction work performed to create a third-floor addition. 1321 Porter St. argued that the structure was not unsafe in accordance with the VPMC. 1321 Porter St. also argued that the lack of having permits does not equal a structure being inherently dangerous thus being unsafe. 1321 Porter St. lastly argued that the City removed the Unsafe Structure placard and allowed tenants to re-enter the structure; therefore, the structure must be safe.

The City argued the following historical facts related to the property located at 1321 Porter Street in the City of Richmond prior to 1321 Porter St. assuming ownership of the structure:

- City received a complaint for construction work without the required permits in January 2021
- An inspection by the City found a third-floor addition being constructed and issued a Notice of Violation-Stop Work Order (SWO)
- A building permit application was submitted to the City; however, the application did not accurately reflect the work being performed and included false information; very limited plans and description of work were submitted with the application
- Plan review rejection comments were sent to the applicant
- No response was received from the applicant; therefore, after 180 days the building permit application was deemed abandoned for lack of action in accordance with the VCC
- An electrical permit was issued "over the counter" for the structure for electrical upgrade type of work; no mention of a third-floor addition was indicated on the electrical permit application or known by the permit technician issuing the permit
- A rough electrical inspection was approved by the inspector who did not know the structure was being converted into a multi-family structure
- No request was ever made by the owner for the final electrical inspection; therefore, after 180 days the electrical permit was deemed abandoned for lack of action in accordance with the VCC

The City argued that in 2024 they received another complaint for work being performed without the required permits related to a root cellar and upon inspection issued a Notice of Violation-Stop Work Order for the root cellar. The City further argued that while on site for the complaint inspection, the inspector remembered being at the location in 2021 for an unpermitted third floor addition under construction. The City also argued that at the time of the inspection the third-floor addition appeared to be complete and occupied. The City argued that after investigation of the city records by the inspector, it was found that the permits and inspections had not been secured and performed for the third-floor addition.

The City assembled a team to further investigate the property, contacted the owner, conducted another inspection on April 26, 2024 to further examine the third-floor addition, confirmed the third-floor addition was complete and occupied, and issued the NOV. The City argued that as a result of the April 26, 2024 inspection it posted the Unsafe Structure placard but later, on May 28, 2024, removed the Unsafe Structure placard allowing occupancy of the first and second floors of the existing structure after receiving an accurate and acceptable engineering reports on the structure and rear deck and steps to the second floor; however, the City did not allow occupancy of the first-floor rear and third-floor additions. The city argued that to date no permits have been issued, no inspections have been performed, and no Certificate of Occupancy has been issued for the first-floor rear and third-floor additions, apartments three and four, or for the new multi-family structure. The City argued that issuing the NOV under the VPMC was proper.

The Review Board found that the work performed on the structure constituted a change of use from an existing one-and-two-family dwelling structure under the Virginia Residential

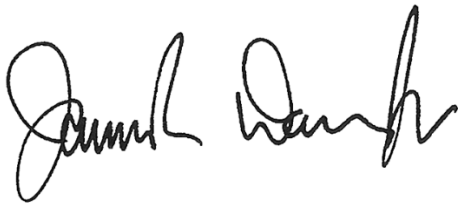
Code (VRC) to a multi-family structure under the VCC, creating an increase in safety requirements and a more hazardous condition; therefore, the structure was unsafe.

## IV. Conclusion

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

A. Whether to rescind the Notice of Violation-Unsafe Structure.

The decision of the City and local appeals board to issue the Notice of Violation-Unsafe Structure, is upheld, because the work performed on the structure constituted a change of use from an existing one-and-two-family dwelling structure under the VRC to a multi-family structure under the VCC creating an increase in safety requirements and a more hazardous condition; therefore, the structure is unsafe.



Chair, State Building Code Technical Review Board

Date entered _____January 16, 2026_____

As required by VCC 119.9: "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".

As required by Rule 2A:2(C): “Any party appealing from a regulation or case decision shall file with the agency secretary, within 30 days after adoption of the regulation or after service of the final order in the case decision, a notice of appeal signed by the appealing party or that party's counsel. With respect to appeal from a regulation, the date of adoption or readoption shall be the date of publication in the Register of Regulations. In the event that a case decision is required by § 2.2-4023 or by any other provision of law to be served by mail upon a party, 3 days shall be added to the 30-day period for that party. Service under this Rule shall be sufficient if sent by registered or certified mail to the party's last address known to the agency”. See Rule 2A:2(A) of the Rules of the Supreme Court of Virginia.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Brian McCormack (MHC Meadows of Chantilly LLC)
Appeal No. 26-12

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Brian McCormack (MHC Meadows of Chantilly LLC)
Appeal No. 26-12

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On February 19, 2026 the Fairfax County Department of Code Compliance (County), the agency responsible for the enforcement of the 2021 Virginia Uniform Statewide Building Code (Virginia Property Maintenance Code or VPMC), performed an inspection of the property located at 4275 Airline Parkway, in Fairfax County owned by MHC Meadows of Chantilly, LLC (MHC) and subsequently issued a Notice of Violation (NOV). The NOV noted that construction, alterations, and installations had occurred without the required permits, inspections, and approvals pursuant to Uniform Statewide Building Code (USBC) Sections 108.1 Failure to obtain req. permits, 113.3 Minimum inspections, and 113.8 Final inspection. The NOV cited the following:

- *"A Carport was constructed on the left side of the mobile home (manufacture home)"*

2. MHC filed an appeal application to the Fairfax County Board of Building Code Appeals (local appeals board). On June 10, 2026, the local appeals board "Denied" the appeal finding that

- *"The VCC is clear as to when a building permit is required and names the entities (owner, lessee or contractor) responsible for securing a building permit and the requisite inspections.*

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- *The DCC properly issues notices of violation to the owner of the subject property and lessee of the property/owner of the submit manufacture home/carport addition pursuant to the VCC.*
- *The owner of the subject property, through Section 7 of their rental agreement with the lessee, provide that the requirements of the VCC be satisfied by the lessee".*

On June 29, 2026, MHC further appealed to the Review Board.

3. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn the decision of the County and local appeals board that citing the property owner as a responsible party is proper.

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# Basic Documents

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# NOTICE OF VIOLATION
## Virginia Construction Code

| | |
|---|---|
| **DATE OF ISSUANCE:** | April 21, 2026 |
| **METHOD OF SERVICE:** | CERTIFIED MAIL# 7015 1730 0000 7661 8712 |
| **LEGAL NOTICE ISSUED TO:** | MHC Meadows Of Chantilly LLC (Land Owner)<br>c/o CT Corporation system, Registered Agent |
| **ADDRESS:** | 4701 Cox Rd Suite 285<br>Glen Allen, VA, 23060 |
| **LOCATION OF VIOLATION:** | 4275 Airline Pkwy<br>Chantilly, VA 20151 |
| **TAX MAP REF:** | 0343010021 |
| **INVESTIGATION #:** | UCINV-2025-00161 |
| **COMPLAINT #:** | DCCCOMP-2025-01765 |
| **ISSUING INVESTIGATOR:** | Manuel Felipe, (703) 324-1190 |

**POTENTIAL CIVIL PENALTIES UNDER CODE OF FAIRFAX § 61-7-1(B):**

| Building Code Violation(s) | First Offense | Each Subsequent Offense |
|---|---|---|
| VCC21 108.1 | $100.00 | $350.00 |
| VCC21 113.3 | $100.00 | $350.00 |
| VCC21 113.8 | $100.00 | $350.00 |
| TOTAL: | $300.00 | $1050.00 |

On February 19, 2026, County staff inspected the exterior of the above referenced residential property and discovered that (construction, alterations, and installations) have been performed without the required permit(s), inspection(s), and approvals. The construction, alteration, and installation include, but is not necessarily limited to, the following:

- A Carport was constructed on the left side of the mobile home (manufacture home)

The permits that may be required, but not limited to, are the following:

Building, Electrical, or Demolition.

**Order:** Pursuant to the USBC, ***Section(s) VCC21 113.3 MINIMUM INSPECTIONS; VCC21 108.1 FAILURE TO OBTAIN REQ PERMIT; VCC21 113.8 FINAL INSPECTION,*** you are hereby directed to apply for and obtain the required permit(s), inspections, and approvals for the work described above or for its demolition. The application is to be submitted at the Permit Application Center, referenced below.

**Department of Code Compliance**
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia, 22035-5508
Phone: 703 324-1300 Fax: 703 653-9459 TTY: 711
www.fairfaxcounty.gov/code

Apply for and obtain all necessary County permits for the work described above within twenty (20) calendar days from the date you receive this notice or obtain a County permit to demolish the work and complete the permitted demolition within the same timeframe. No requirement to meet with DCC Investigator.

In accordance with these directives:

- A copy of this notice must be submitted with any associated documents when you apply for your permit(s).
- The responsible party must provide a building/floor plan identifying the Code violation(s) and submit such plan when applying for the required permit(s).
- Contact Investigator Manuel Felipe at (703) 324-1190, TTY 711 within the timeframe established to confirm the violations have been abated.

Once all required permits have been issued, please visit our PLUS webpage to schedule all related building inspections. This notice must be available at the property for County field staff throughout the inspection process. Failure to schedule the required inspections within ten (10) calendar days will result in the initiation of the legal process.

Note:

*When work described above involves construction of an addition or an accessory structure, a certified plat must be submitted along with a building permit application to the Permit Application Center. This plat must indicate the location, dimensions, and height of all existing and proposed structures, including the distance to the respective lot lines. This plat must be prepared, sealed and signed by a professional licensed by the Commonwealth of Virginia. Permit application must be made submitted to:

Permit Application Center
The Herrity Building
12055 Government Center Parkway, 2nd Floor
Fairfax, Virginia 22035
Telephone: (703) 222-0801

*Customer service agents are available to assist you with the online permit process:

- By phone: (703) 222-0801, option 2
  Monday-Thursday 8am-4pm; Friday 9:15am-4pm
- By virtual appointment – click this link to schedule
  https://app.smartsheet.com/b/form/48c3ca9f93c440fc89b8479844894eb6
- In person: Herrity Building Customer Information Center
  12055 Government Center Parkway, 1st floor
  Fairfax, VA 22035
  Monday-Thursday 8am-4pm; Friday 9:15am-4pm

You are directed to notify Manuel Felipe in writing at 12055 Government Center Parkway, Suite 1016 Fairfax, VA 22035 or by telephone (703) 324-1190 within three (3) working days from the date you receive this Notice of Violation.

RIGHT TO APPEAL THIS NOTICE: Per Sect. 119 of the Virginia Construction Code, any person aggrieved by the local building department's application of the code or refusal to grant a modification to the provisions of the code may appeal to the Local Board of Building Code Appeals (LBBCA), which is the Fairfax County Board of Building and Fire Prevention Code Appeals. The request for an appeal must be submitted in writing within thirty (30) calendar days of receipt of the decision being appealed along with a $208 fee. Failure to submit an application for appeal within the time limit established constitutes acceptance of the Code Official's decision.

You may arrange an appeal utilizing Fairfax County's online PLUS system or obtain information on the appeals process by visiting https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals or by contacting the Secretary to the Board, Sonia Kahouei, at (703) 324-4069, TTY 711. Submitting an appeal via PLUS satisfies the requirement for a written submission per Sect. 119 of the Virginia Construction Code.

Investigators may not accept any payments, including those associated with fines and fees.

If you have any questions, would like to schedule an appointment to meet with me, or to schedule a site visit, please contact me directly at (703) 324-1190 or the main office at (703) 324-1300, or by email (preferred) at Manuel.Felipe@fairfaxcounty.gov

Notice Issued By:



Signature

Investigator, Manuel Felipe
(703) 324-1190
Manuel.Felipe@fairfaxcounty.gov
Technical Assistant to the Building Official
Department of Code Compliance

Docusign Envelope ID: 345E6B59-BDEE-84EB-814B-BF4EC9D3319E

A

# RESOLUTION

**WHEREAS** the Fairfax County Board of Building Code Appeals (the Board) is duly appointed to resolve disputes arising out of enforcement of the Virginia Construction Code (VCC) /2021 Edition.

and

**WHEREAS** an appeal has been timely filed and brought to the attention of the Board; and
**WHEREAS** a hearing has been duly held to consider the aforementioned appeal; and
**WHEREAS**, the Board has fully deliberated this matter; now, therefore, be it

**RESOLVED**, that in the matter of

**Appeal No.** CDAPPL-2026-0004
**In RE:** Fairfax County, Department of Code Compliance (DCC) **v.** MHC Meadows of Chantilly, LLC.

The appeal is hereby **Denied** (vote of 4-0-0 chairman not voting) for the reasons set out below.

1. The VCC is clear as to when a building permit is required and names the entities (owner, lessee or contractor) responsible for securing a building permit and the requisite inspections.
2. The DCC properly issued notices of violation to the owner of the subject property and lessee of the property/owner of the subject manufactured home/carport addition pursuant to the VCC.
3. The owner of the subject property, through Section 7 of their rental agreement with the lessee, provides that the requirements of the VCC be satisfied by the lessee.

**FURTHER**, be it known that:

1. This decision is solely for this case and its surrounding circumstances.
2. This decision does not serve as a precedent for any future cases or situations, regardless of how similar they may appear.

**Date:** June 10, 2026 **Signature:** Signed by: David R. Conover 6DFFDB519E374A1... Chairman, Board of Building Code Appeals

**Note:** Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board within twenty-one (21) days of receipt of this resolution. Application forms are available from the Virginia Department of Housing and Community Development, 600 East Main Street, Suite 300, Richmond, VA 23219 or by calling 804.371.7150.

Docusign Envelope ID: 345E6B59-BDEE-84EB-814B-BF4EC9D3319E

I Signed by: Cristina Idrovo Palacios 95385EFF58A04EA... hereby certify that this is a true copy of a Fairfax County Department of a

CUSTODIAN

Land Development Services record of which I am a custodian Signed by: Cristina Idrovo Palacios 95385EFF58A04EA...

CUSTODIAN

I DocuSigned by: Jay Riat FCDAF24AB966414... hereby certify that this is a true copy of a Fairfax County

SUPERVISOR OF CUSTODIAN

Department of a Land Development Services record of which Signed by: Cristina Idrovo Palacios 95385EFF58A04EA... is the

CUSTODIAN

custodian and that Signed by: Cristina Idrovo Palacios 95385EFF58A04EA... reports to me DocuSigned by: Jay Riat FCDAF24AB966414...

CUSTODIAN SUPERVISOR OF CUSTODIAN

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

# APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- ☒ Uniform Statewide Building Code
  - ☒ Virginia Construction Code
  - ☐ Virginia Existing Building Code
  - ☐ Virginia Maintenance Code
- ☐ Statewide Fire Prevention Code
- ☐ Industrialized Building Safety Regulations
- ☐ Amusement Device Regulations

**RECEIVED**
**June 29, 2026** WTZ
**OFFICE OF THE REVIEW BOARD**

Appealing Party Information (name, address, telephone number and email address):
MHC Meadows of Chantilly, LLC, c/o Brian M. McCormack, Esq.
P.O Box 3620, Oakton, VA 22124-9998
703-938-7507
bmcdmmlaw@gmail.com

Opposing Party Information (name, address, telephone number and email address of all other parties):
Jay Riat, Building Official of Fairfax County
c/o Paul Emerick, Esq. (703) 324-2421
12000 Government Center Parkway, Suite 549
Fairfax, VA 22035-0064; Paul.Emerick@fairfaxcounty.gov

Additional Information (required by the applicable code to be submitted with this application)
- Copy of enforcement decision being appealed Attached)
- Copy of the decision of local government appeals board (if applicable) (Attached)

Additional Information (to be submitted with this application)
- Statement of specific relief sought (Attached)

## CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of June, 2026, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

**Note:** This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: Brian M. McCormack

Name of Applicant: Brian M. McCormack, Attorney and Agent for MHC Meadows of Chantilly, LLC
(please print or type)

**COMMONWEALTH OF VIRGINIA**
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**
**State Building Codes Office and Office of the State Technical Review Board**
**Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219**
**Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov**

# AMENDED APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

**RECEIVED**
**July 7, 2026** WTZ
**OFFICE OF THE REVIEW BOARD**

☒ Uniform Statewide Building Code
- ☒ Virginia Construction Code
- ☐ Virginia Existing Building Code
- ☐ Virginia Maintenance Code

☐ Statewide Fire Prevention Code

☐ Industrialized Building Safety Regulations

☐ Amusement Device Regulations

Appealing Party Information (name, address, telephone number and email address):
MHC Meadows of Chantilly, LLC, c/o Brian M. McCormack, Esq.; Corporate Representative: Carlos Baez; 703-378-5677;
P.O Box 3620, Oakton, VA 22124-9998 Property Manager, Meadows of Chantilly
703-938-7507; 2500 Rambling Rd. Vienna, VA 22181 Mailing Address: 4200 Airline Parkway, Chantilly, VA 20151;
bmcdmmlaw@gmail.com Email: carlos_baez2@equitylifestyle.com

Opposing Party Information (name, address, telephone number and email address of all other parties):
Jay Riat, Building Official of Fairfax County
c/o Paul Emerick, Esq. (703) 324-2421
12000 Government Center Parkway, Suite 549
Fairfax, VA 22035-0064; Paul.Emerick@fairfaxcounty.gov

Additional Information (required by the applicable code to be submitted with this application)
- Copy of enforcement decision being appealed Attached)
- Copy of the decision of local government appeals board (if applicable) (Attached)

Additional Information (to be submitted with this application)
- Statement of specific relief sought (Attached)

## CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of July, 2026, a completed copy of this amended application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

**Note:** This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

Name of Applicant: Brian M. McCormack, Attorney and Agent for MHC Meadows of Chantilly, LLC
(please print or type)

**MHC MEADOWS OF CHANTILLY, LLC'S APPEAL OF THE JUNE 10, 2026 DECISION OF THE FAIRFAX COUNTY BOARD OF BUILDING CODE APPEALS**

**SUMMARY OF THE BASIS FOR THE APPEAL**

***BACKGROUND:***

Appellant, MHC Meadows of Chantilly, LLC (hereinafter "MHC") d/b/a "The Meadows of Chantilly" is the owner of the Meadows of Chantilly Manufactured Home Community in Chantilly, Virginia and is authorized by the Virginia State Corporation Commission to conduct business in the Commonwealth. Under the Virginia Manufactured Home Lot Rental Act (MHLRA), the Community is a "manufactured home park." As the owner of the Park, MHC leases manufactured home lots to tenants who wish to reside in the Community in their tenant-owned manufactured homes.

Under the Virginia Motor Vehicle Code (Title 46.2-100, Code of Va.), manufactured homes are defined as "vehicles." They are titled by the DMV. The manufactured homes at the Meadows of Chantilly are owned by and titled to the tenants, not to MHC.

MHC is appealing the Fairfax County Board of Building Code Appeals' June 10, 2026 denial of MHC's appeal of the Notice of Violation (NOV) issued to it by the Fairfax County Building Official's Department of Code Compliance on April 21, 2026. (Decision attached as Exhibit "A") The NOV claims Virginia Construction Code (VCC) violations in connection with "A Carport [that] was constructed on the left side of the mobile home (manufactured home)." (Exhibit "B")[1]

The NOV identifies 4275 Airline Parkway, Chantilly, VA 20151 as the "LOCATION OF THE VIOLATION." 4275 Airline Parkway is a manufactured home lot in the Meadows of Chantilly Park that at all times relevant to these proceedings was under lease to a tenant, Pedro Castro.

The NOV alleges three, and only three, violations of the VCC:

1. Violation of VCC21 § 108.1-- The requirement for an application for a building permit "prior to commencement" of construction.

2. Violation of VCC21 § 113.3-- The requirement for interim inspections of construction work prior to a final inspection.

3. Violation of VCC21 § 113.8-- The requirement for a final Inspection when the building permit holder reports to the Building Official that the construction work is completed.

---

[1] On May 21, 2026, for some unknown reason, the Fairfax County Department of Code Compliance issued a second NOV to MHC alleging the same VCC violations as the April 21, 2026 NOV. Although the May 21 NOV is redundant, out of an abundance of caution, MHC also appealed that NOV to the Local BBCA.

**It is undisputed by the Building Official that MHC's tenant, Pedro Castro, was entirely responsible for the construction of the carport. It is also undisputed by the Building Official that MHC did not intend the construction, perform the construction, or know it had taken place until it was issued the NOV. Indeed, because the construction involved attaching a carport to a manufactured home owned by a tenant on a lot under exclusive lease to the tenant, MHC lacked the legal right to enter the leasehold premises and perform the work, even if it wanted to, which it emphatically did not.**

***ARGUMENT:***

**WHY THIS APPEAL SHOULD BE GRANTED**

1. MHC WAS NOT REQUIRED TO APPLY FOR A BUILDING PERMIT, SO NEITHER WAS IT REQUIRED TO ARRANGE FOR INSPECTIONS BY THE BUILDING OFFICIAL.

The VCC requirements (VCC § 113.1.2) for interim and final inspections (alleged violations #2 and #3 under the NOV) do not apply if a building permit has not been issued.

> "113.1.2 Duty to notify. When construction reaches a stage of completion that requires an inspection, the permit holder shall notify the building official." (Emphasis added.)

No building permit was ever issued for the construction at issue, so the un-permitted construction was never legally eligible for interim and final inspections and could not become eligible until a building permit was issued.

Obviously, a building official would not perform interim or final inspections of construction that had not first been authorized by a building permit. Hence, with no VCC requirement for inspections unless a building permit has been issued, and with no building permit having been issued for the carport, MHC could not possibly violate the requirement for interim and final inspections that don't apply and can't arise without the issuance of a building permit.

Therefore, because the "failure to obtain inspections" charges of the NOV are invalid as a matter of law, the sole and pivotal issue in this appeal is whether MHC, during the period when the VCC requires building permits to be obtained ("prior to construction") was obligated to apply for a building permit for someone else's carport that it did not want, did not contemplate, or even know was contemplated by its tenant.[2]

---

[2] MHC's submitting a building permit application for a third-party's building project – a project it did not want – would have been the submission of a fraudulent application to a government agency.

The VCC refers to the "applicant" for a building permit 21 times. Multiple dictionaries define "applicant" as "a person who formally requests something." (See, for ex., *The Cambridge Dictionary of the English Language.*)

VCC § 108.6 requires the applicant for a building permit to describe "the proposed work" in the application. (Emphasis added.)

This raises the obvious question of how MHC could be either criminally or civilly liable under Title 36, § 106, Code of Va. or VCC § 108.1 for failing to "request" a building permit for construction it:

a. Did not "propose";

b. did not want;

c. could not foresee; and

d. knew absolutely nothing about.

As stated, VCC § 108.1 requires a building permit to be obtained "prior to commencement" of construction. Thus, if MHC had any legal duty to obtain a building permit for the carport, that duty arose before any construction commenced. Once the tenant commenced construction without a building permit, the violation for failure to obtain a building permit was complete.

For MHC to comply with VCC § 108.1 *prior* to the tenant's commencement of construction would have required clairvoyance to perceive its tenant's undisclosed intent to build a carport sometime in the future. It is obviously absurd to expect MHC to have been an oracle able to discern the concealed, intangible state of mind of its tenant regarding his future construction plans.

That said, even if MHC had telepathically discovered its tenant's plan, the VCC would not have imposed on MHC the burden of obtaining a building permit (and accepting the legal obligations of a permittee) for someone else's building project – a project it decidedly did not want to make its own.

2. BECAUSE NO READING OF THE VCC WOULD HAVE ALERTED MHC THAT TO AVOID PROSECUTION IT WAS REQUIRED TO OBTAIN A BUILDING PERMIT FOR SOMEONE ELSE'S UNDISCLOSED BUILDING PROJECT, THE NOV VIOLATES THE CONSTITUTIONAL DUE PROCESS REQUIREMENT THAT TO BE ENFORCEABLE, A PENAL LAW MUST GIVE FAIR NOTICE OF THE CONDUCT IT REQUIRES OR PROHIBITS.

The VUSBC of which the VCC is a part is a penal statute because it imposes fines and/or imprisonment for its violation.[3] It is an established principle of constitutional law that no one can violate a penal law that does not by its language give clear advance notice of the conduct the law either requires or prohibits.

In *Kolender v. Lawson*, 461 U.S. 352, 357 (1983), the U.S. Supreme Court held that:

> "As generally stated, the void-for-vagueness doctrine requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement."

In the same vein, the Virginia Supreme Court has held that:

> "It is a basic principle of due process that an enactment is [unconstitutional] if its prohibitions are not clearly defined." *Grayned v. City of Rockford,* 408 U.S. 104, 108, 92 S.Ct. 2294, 2298, 33 L.Ed.2d 222 (1972). "[W]e insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning." *Id.* It is elementary that an act creating a statutory offense, to be valid, must specify with reasonable certainty and definiteness the conduct which is commanded or prohibited, that is, what must be done or avoided, so that a person of ordinary intelligence may know what is thereby required of him. 14 Am.Jur., Criminal Law, § 19, pp. 773, 774; 22 C.J.S. Criminal Law § 24--a, pp. 70--72. The enactment should define the acts to be done or not to be done which constitute such offense with such certainty that a person may determine whether or not he has violated the law at the time he does or fails to do the act, which is charged to be a violation thereof. State v. Lantz, 90 W.Va. 738, 111 S.E. 766, 26 A.L.R. 894. Unless an act creating a statutory offense satisfies this requirement of certainty and definiteness it violates the Due Process Clauses of the Fourteenth Amendment and of the Virginia Constitution. Article 1, § 8,' 198 Va. at page 458, 94 S.E.2d at page 540.
>
> Because our jurisprudence favors upholding the constitutionality of properly enacted laws, we have recognized that it is possible for a statute or ordinance to be facially valid, and yet unconstitutional **as applied** in a particular case." (Emphasis added.)

VCC § 108.1 is "facially valid" because it is sufficiently clear to apprise a person of common intelligence that a building permit is required if the person intends to begin

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[3] "Penal statute. -- A statute by which punishments are imposed for transgressions of the law, civil as well as criminal; esp., a statute that defines a crime and prescribes its corresponding fine, penalty, or punishment." *Black's Law Dictionary* (11th ed.)

construction. But, "as applied" by the Building Official to MHC in this case, the VCC gave MHC no notice whatsoever that by its not applying for a building permit for someone else's *contemplated* building project-- which MHC could not know about except through mental telepathy-- it would be committing a punishable offense. A scrupulous perusal of the VCC from now until eternity would never disclose that a person's doing nothing in relation to things unknown is an offense.

Thus, the claim by the Building Official that MHC was required by VCC § 108.1 to apply for a building permit grossly violates the constitutional requirement that a penal statute give fair notice of the conduct required or prohibited. Exactly how was MHC supposed to know by reading VCC § 108.1 that it was legally required to apply for a permit to build a carport it had no desire to build, never contemplated building, and that it could not legally attach to a manufactured home it did not own located on a lot subject to a tenant's exclusive right of entry? Stated differently, how under the Building Official's interpretation of VCC § 108.1, was MHC supposed to adjust its conduct to avoid liability for failing to apply for a permit for work it could not imagine, much less honestly "propose," that it could not legally perform, and that was the undisclosed and merely *contemplated* future building project of someone else?

The Building Official's misapplication of VCC § 108.1 is unconscionable as his NOV seeks to make an innocent party guilty of violations committed by a third-party – violations it could not anticipate and knew nothing about when they occurred.

The Building Official has invented something unknown to the law, a penal offense devoid of intent!

3. <u>TO BE UPHELD, THE CHARGES AGAINST MHC REQUIRE PROOF THAT MHC DID SOMETHING PROHIBITED BY THE VCC, OR FAILED TO DO SOMETHING REQUIRED BY THE VCC. NO SUCH PROOF EXISTS</u>.

The Building Official issued the NOV pursuant to § 36-106(D), Code of Virginia, which authorizes localities such as Fairfax County to adopt ordinances to enforce provisions of the Virginia Uniform Statewide Building Code (VUSBC):

> "D. Any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the Code [VUSBC] which are not abated, or otherwise remedied through hazard control, promptly after receipt of notice of violation from the local enforcement officer."

Pursuant to § 36-106(D), Fairfax County adopted an Ordinance, § 61-7-1, that authorizes the issuance of NOVs of the kind it issued to MHC in this case. § 61-7-1 explicitly states that a violation of the Ordinance consists of doing an act prohibited by the VCC, or failing to perform an act required by the VCC:

"Section 61-7-1. Whoever violates any provisions of this chapter, by doing a prohibited act, or failing to perform a required act, or failing to perform permitted acts in the prescribed manner shall be subject to the penalties as specified in the Code of Virginia and the [V]USBC."

The VCC makes a party doing construction work without first obtaining a building permit the "responsible party" for the violation:

"If the violations, directives, or orders involve work without a permit [as does this case], the notice of violation shall be issued to the responsible party." VCC § 115.2

The phrase "responsible party" contained in a penal statute such as § 36-106(D) of the VUSBC obviously denotes some form of dereliction. In the context of this case, it means doing and act prohibited by the VCC or failing to do an act required by the VCC. This inescapably leads to the question, how did MHC violate the VCC by failing to obtain a building permit for someone else's project it knew nothing about? No rational reading of the VCC can make doing nothing in regard to unknown and unknowable matters an offense.

As a penal statute, the VCC must be strictly construed to avoid punishing conduct not unquestionably within its literal prescriptive scope. To do otherwise violates a bedrock principle of U.S. and Virginia constitutional law. As ruled by the Virginia Supreme Court:

"No man incurs a penalty unless the act which subjects him to it is clearly within the spirit and letter of the statute which imposes such penalty. There can be no constructive offenses, and before a man can be punished his case must be plainly and unmistakably within the statute."

*Sutherland v. Commonwealth*, 109 Va. 834, 65 S.E. 15.

Against the foregoing backdrop of fact and law, I ask the Building Official to state what it is my client did or didn't do that was "plainly and unmistakably" proscribed by the VCC? My question is rhetorical, because neither the Building Official nor his inspector has ever answered that question and can't candidly answer that questions without saying, "nothing." Instead, the Building Official evades the question with the diversionary argument that although MHC may not have done anything prohibited by the VCC, it is nonetheless *automatically* responsible for its tenant's violations, solely because it is the owner of the rental lot on which the violations occurred.

4. <u>THE BUILDING OFFICIAL'S CLAIM THAT A PROPERTY OWNER IS AUTOMATICALLY "THE RESPONSIBLE PARTY" FOR VIOLATIONS THE OWNER HAD NOTHING TO DO WITH IS DISPOSITIVELY REFUTED BY THE VUSBC AND VCC THEMSELVES, AND ALSO BY RULINGS OF THE VIRGINIA SUPREME COURT.</u>

Realizing the senselessness of claiming the criminal and civil liability of persons failing to apply for things they don't know about, want or intend, the Building Official scrambles to impose VCC liability on MHC for something other than its own conduct, that is, its mere ownership of the premises where the tenant's violations occurred.

MHC responds to this fallback argument by pointing out that the VCC only makes parties who do things it prohibits, or fail to do things it requires, subject to criminal and/or civil liability. It makes no one responsible for VCC violations based solely on their relationship to the violator. The VCC punishes acts or omissions, not status.

VCC § 115.2 requires the Building Official to issue a Notice of Violation to the "responsible party" for a VCC violation occurring, as here, because of a failure to obtain a building permit: "If the violations, directives, or orders involve work without a permit, the notice of violation **shall** be issued to the responsible party." (Emphasis added.)

If it is the Intent of the VUSBC and the VCC to make property owners automatically liable for their tenants' VCC violations, the VUSBC and the VCC could not possibly contain, as they do, the following provisions.

> § 36-106(F) of the VUSBC: "Nothing in this section shall be construed to prohibit a local enforcement officer from issuing a summons or a ticket for violation of any code provision to the lessor or sublessor of a residential dwelling unit, provided a copy of the notice is served on the owner.
>
> " VCC § 115.2: "When the owner of the building or structure or the tenants of such building or structure are not the party to whom the notice of violation is issued, then a copy of the notice shall also be delivered to the owner or tenants."

If the VCC requires that a NOV **shall** be issued to the responsible party, and the owner is always the responsible party, there could be no instances such as those described in § 36-106(F) of the VUSBC and § 115.2 of the VCC where a Notice of Violation is issued without also being issued to the supposedly "always responsible" owner. The Building Official's baseless theory that the VCC automatically makes the owner of property responsible for his tenant's VCC violations is utterly discredited by the VUSBC's and the VCC's provisions for the issuance of NOVs to tenants (and others) while only serving the property owners with "copies."

The Building Official is arguing from an imaginary VCC. He is not interpreting the VCC, but rewriting it.

5. THE BUILDING OFFICIAL'S CLAIM THAT LANDOWNERS AUTOMATICALLY VIOLATE THE VCC WHEN THEIR TENANTS VIOLATE THE VCC IS ALSO CONCLUSIVELY DISPROVED BY BINDING PRECEDENT OF THE VIRGINIA SUPREME COURT.

The Building Official's argument that the VCC makes landlords automatically liable for their tenants' VCC violations is not only discredited by the very wording of the VUSBC and the VCC, but by the Virginia Supreme Court's binding precedent interpreting the VUSBC in *Wohlford v. Quesenberry*, 523 S.E.2d 821, 259 Va. 259 (2000).

In *Wohlford*, the Court addressed whether a landlord could be liable under the maintenance code provisions of the VUSBC for personal injury and property damage allegedly sustained by the landlord's tenant as a result of a roof leak that caused a furnace to emit soot and fumes at the rental premises.

The common law of Virginia shifts the responsibility for leasehold maintenance from the owner of premise to the tenant at the inception of their lease agreement. Despite this, the tenant in *Wohlford* argued to the Virginia Supreme Court that the by adopting the VUSBC the General Assembly abrogated the common law and fixed the responsibility for premises maintenance on the landlord. The Supreme Court agreed that the VUSBC generally places maintenance responsibility on the "owner," but concluded that when a premises has been turned over to a tenant, the VUSBC defines the tenant, not the landlord, as the "owner."

The VUSBC's definition of "owner" is exactly the same now as it was at the time of the *Wohlford* decision: "Owner' means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or a lessee in control of a building or structure." (Emphasis added.)

In *Wohlford*, the Supreme Court concluded that the General Assembly did not intend to abrogate the common law by adopting the VUSBC, but instead, to codify it by making tenants the "owners" for purposes of VUSBC enforcement.

In the rental property context, it makes sense for the tenant occupying and in control of premises to be responsible for its building code compliance rather that the landlord who has stepped away and surrender occupancy and control of the premises.

The *Wohlford* Court unanimously held that the inclusion of "lessee in control of a building or structure" in the VUSBC's definition of "owner" evinced legislative intent by the General Assembly to preserve the common law doctrine making tenants occupying rental premises – not their landlords – responsible for building code violations. The Court ruled, therefore, that under the VUSBC, a landlord has no liability for VUSBC violations occurring on rental premises leased to a tenant:

> "The tenant's reasoning is flawed because its major premise is that the landlord has the maintenance and repair responsibilities specified in the Maintenance

> Code. As we stated earlier, the BOCA[4] and Maintenance codes impose responsibilities on the "owner" of the premises as defined in Code § 36-97 [VUSBC] and the BOCA Code. Because the tenant was the person in control of the premises, not the landlord, the tenant is the defined "owner" under the facts of this case, and the tenant has the maintenance and repair responsibilities claimed."

*Wohlford*, Id., 523 S.E.2d at 822.

6. THE BUILDING OFFICIAL'S CLAIM THAT THE VIRGINIA MANUFACTURED HOME LOT RENTAL ACT MAKES MHC RESPONSIBLE FOR ITS TENANT'S VCC VIOLATIONS HAS ALSO BEEN AUTHORITATIVELY REFUTED BY THE VIRGINIA SUPREME COURT.

At the Local BBCA, the Building Official made no attempt to prove actual VCC violations by MHC, claiming instead that the Virginia Manufactured Home Lot Rental Act (MHLRA) made MHC vicariously liable for its tenant's violations. He claimed, by counsel, that the requirement of § 55.1-1303 of the MHLRA that landlords at manufactured home parks "[c]omply with applicable laws governing health, zoning, safety, and other matters pertaining to manufactured home parks" remedies the lack of evidence that MHC, itself, violated the VCC.

While, for the reasons that follow, this legal theory is profoundly erroneous, it provokes speculation as to why the Building Official finds it necessary to resort to the MHLRA if he has proved what he has charged against MHC -- violations of the VCC? If proof of the violations alleged in the NOV depends on the MHLRA, does it follow that if there were no MHLRA the Building Official would have had no lawful basis for issuing the NOV?

It is equally curious why the Building Official would invoke a landlord/tenant statute allegedly requiring landlords to comply with the VCC, when the VCC itself already requires landlords – and everyone else -- to comply with the VCC. What is there about the merits of the Building Official's VCC case that compels him to keep looking elsewhere for support?

Further, it is mystifying why the Building Official would stretch for the MHLRA to prove MHC liable for its tenant's conduct when the *Wohlford* decision makes tenants, not landlords, responsible for VUSBC compliance. The Building Official is blindly arguing that the MHLRA implicitly makes MHC liable for its tenants violations that *Wohlford* proclaims are not, implicitly *or* explicitly, MHC's responsibility under the VUSBC.

The Building Official's excursions outside the express wording of the VCC to find MHC liable for reasons not found in the VCC like "automatically liability" or liability under the MHLRA, are gambits by the Building Official to divert from the real issues in this case: 1. Can MHC be

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[4] The BOCA Code was the building code component of the VUSBC until 2003 when it was replaced by the International Building Code. The VUSBC definition of "owner" has remained the same notwithstanding the VUSBC's incorporation over time of various "model codes."

liable for violations it did not commit; and 2. Did the VCC provide fair notice to MHC that its doing nothing, under the circumstance of this case, would be a violation?

Addressing the substance of the Building Official's novel legal theory, the Virginia Supreme Court has expressly ruled that Virginia landlord/tenant statutes requiring landlords to obey building codes do not alter the common law doctrine that tenants are exclusively responsible for keeping their leaseholds compliant with building codes during the duration of their leases.

In *Steward v. Holland Family Props., LLC*, 726 S.E.2d 251 (2012), the Virginia Supreme Court rejected the exact argument made in this case by the Building Official that a landlord's duty under landlord/tenant acts to comply with building codes renders the landlord responsible for the building code compliance of his rental premises.

The *Steward* case involved a claim that the Virginia Residential Landlord and Tenant Act (VRLTA) -a sister statute to the MHLRA applying to residential tenancies in general - abrogated the common law doctrine that makes building code compliance a tenant, not a landlord, responsibility. The VRLTA has nearly identical language to the MHLRA's requirement that the landlord shall comply with applicable laws governing health, zoning, safety, and other matters pertaining to manufactured home parks, although the VRLTA, unlike the MHLRA, explicitly requires landlords to comply with "building codes." § 55.1-1220 of the VRLTA provides that "A. The landlord shall: 1. Comply with the requirements of applicable building and housing codes materially affecting health and safety..."

In *Steward*, notwithstanding the statutory obligation to comply with building codes, a unanimous Virginia Supreme Court held that the General Assembly, by requiring landlords to comply with building codes, did not abrogate the common law doctrine of tenant responsibility for code compliance during the period of their leases. The Court held that:

> "B. The VRLTA
>
> Steward's [the tenant's] second basis for asserting that the Landlord had a tort duty to maintain the properties in compliance with BOCA is that such duty was imposed on the Landlords by the VRLTA, in Code § 55–248.13(A)(1) [predecessor to today's VRLTA 55.1-1220(A)(1)]. That subsection states that the landlord shall "[c]omply with the requirements of applicable building and housing codes materially affecting health and safety." We have previously rejected this argument in Isbell, 273 Va. at 614–15, 644 S.E.2d at 76.
>
> In Isbell, the tenant argued that the VRLTA "abrogated the common law and provided a statutory cause of action in tort allowing a tenant to recover damages for personal injuries sustained as a result of a landlord's violation of the statutory duties to '[c]omply with the requirements of applicable building and housing codes materially affecting health and safety'...." 273 Va. at 612, 644

S.E.2d at 74. In response to this argument we held that in enacting the VRLTA the General Assembly did not abrogate the common law rule that the landlord is not liable in tort for failure to repair premises under the control of a tenant. Id. at 614, 644 S.E.2d at 76. Included in the factors we relied on in reaching this conclusion were the comments to the Uniform Residential Landlord and Tenant Act, which state that the counterpart to Code § 55–248.13(A)(1) "follows the warranty of habitability doctrine." *Id.* at 615, 644 S.E.2d at 76. That warranty is a contract duty, not a duty grounded in tort.

The unequivocal holding of Isbell is that the VRLTA imposed contractual duties on landlords but it did not impose a tort duty on landlords with regard to the responsibility to maintain and repair leased premises under the enjoyment and control of the lessee. Id. Therefore, the VRLTA provides no basis for a negligence per se claim."

In sum, the holding in *Steward* is that by imposing building code responsibilities on landlords in the Landlord and Tenant Act, the General Assembly intended to create possible lease contract rights for tenants for a landlord's building code violations but did not abrogate the common law doctrine making tenants exclusively responsible for the building code compliance of their personal rental premises subject to their exclusive occupancy.

***CONCLUSION:***

A. THE BUILDING OFFICIAL'S CHARGING MHC FOR DOING NOTHING REGARDING THINGS UNKNOWN AND UNKNOWABLE – FOR DOING EXACTLY WHAT EVERY RATIONAL PERSON DOES IN REGARD TO THINGS THEY DON'T AND CAN'T KNOW -- IS A PROFOUNDLY UNCONSTITUTIONAL DENIAL OF DUE PROCESS BECAUSE THE VCC, *AS APPLIED* TO MHC BY THE BUILDING OFFICIAL, COULD NOT POSSIBLY HAVE GIVEN MHC ADVANCE NOTICE THAT ITS DOING NOTHING IN RELATION TO THINGS UNKNOWABLE WOULD BE AN OFFENSE. THIS IS NOT THE FAULT OF THE VCC AS WRITTEN, BUT THE FAULT OF THE BUILDING OFFICIAL FOR ATTEMPTING TO REWRITE IT.

B. THERE IS NO PROOF OF THE "DOING [OF] A PROHIBITED ACT, OR FAILING TO PERFORM A REQUIRED ACT" BY MHC IN VIOLATION OF THE VCC, SO THE NOV IS INVALID.

C. THE VCC REQUIRES AN APPLICANT FOR A BUILDING PERMIT TO "DESCRIBE THE PROPOSED WORK." OBVIOUSLY, A PARTY LIKE MHC, NOT INTENDING ANY CONSTRUCTION WORK, IS NOT REQUIRED TO OBTAIN A BUILDING PERMIT FOR WORK IT DOES NOT "PROPOSE."

D. ONLY A "PERMITTEE" IS RESPONSIBLE UNDER THE VCC FOR ARRANGING INTERIM AND FINAL INSPECTIONS. MHC HAS NEVER BEEN THE PERMITTEE, SO THE ALLEGED NOV VIOLATIONS # 2 AND # 3 CLAIMING THAT MHC FAILED TO OBTAIN INSPECTIONS WERE IMPOSSIBLE FOR MHC TO COMMIT AS A MATER OF LAW.

E. VCC § 108.1 REQUIRES A BUILDING PERMIT TO BE OBTAINED *BEFORE* CONSTRUCTION WORK COMMENCES. ALTHOUGH MHC WAS NOT REQUIRED TO OBTAIN A BUILDING PERMIT FOR SOMEONE ELSE'S CONSTRUCTION PROJECT, EVEN IF IT *WERE* SO REQUIRED, IT WAS IMPOSSIBLE FOR MHC TO DO SO AS ANY REQUIREMENT THAT IS OBTAIN A BUILDING PERMIT FOR ITS TENANT'S UNDISCLOSED PROJECT WAS UNFORESEEABLE BY MHC *BEFORE* THE WORK BY THE TENANT ACTUALLY STARTED AND THE VIOLATION WAS TOO LATE TO PREVENT.

F. THE BUILDING OFFICIAL'S CONTENTION THAT A LANDOWNER IS ALWAYS LIABLE FOR ITS TENANTS' VIOLATIONS IS A CONTRIVANCE DESIGNED TO CIRCUMVENT THE FACT THAT THE BUILDING OFFICIAL HAS NO ACTUAL PROOF OF A VCC VIOLATION BY MHC. THE BUILDING OFFICIAL'S CLAIM IS ENTIRELY REFUTED BY THE EXPRESS PROVISIONS OF THE VUSBC AND THE VCC THAT PROVIDE FOR THE ISSUANCE OF NOVs TO TENANTS AND OTHERS **WITHOUT** ISSUING THEM TO THE OWNERS OF THE LAND ON WHICH THE VIOLATIONS OCCUR.

G. THE BUILDING OFFICIAL'S CONTENTION THAT THE REQUIREMENT OF THE VCC THAT OWNERS (AND OTHERS) OBEY THE VCC RENDERS LANDLORDS *AUTOMATICALLY* LIABLE FOR THEIR TENANT'S VCC VIOLATIONS IS ALSO CONCLUSIVELY REFUTED BY THE VIRGINIA SUPREME COURT IN ITS *WOHLFORD V. QUESENBERRY* RULING HOLDING THAT THE VUSBC DOES NOTHING TO CHANGE THE COMMON LAW DOCTRINE THAT TENANTS, NOT LANDLORDS, ARE RESPONSIBLE FOR THEIR RENTAL PREMISES CONFORMING TO THE VUSBC.

H. SIMILARLY, THE BUILDING OFFICIAL'S CONTENTION THAT THE REQUIREMENT OF THE MANUFACTURED HOME LOT RENTAL ACT (THAT LANDLORDS OBEY THE LAWS PERTAINING TO MANUFACTURED HOME PARKS) MAKE LANDLORDS AUTOMATICALLY LIABLE FOR THEIR TENANT'S VCC VIOLATIONS WAS ALSO CONCLUSIVELY REFUTED BY THE VIRGINIA SUPREME COURT IN *STEWARD V. HOLLAND FAMILY PROPS.*, (CITING *ISBEL V. COMMERCIAL INV. ASSOCIATES, INC.,*) IN WHICH THE COURT HELD THAT LANDLORD/TENANT STATUTES REQUIRING LANDLORD COMPLIANCE WITH BUILDING CODES DO NOTHING TO CHANGE THE COMMON LAW DOCTRINE THAT TENANTS, NOT LANDLORDS, ARE RESPONSIBLE FOR THE BUILDING CODE COMPLIANCE OF THEIR PERSONAL RENTAL PREMISES.

MHC MEADOWS OF CHANTILLY, LLC
By Counsel

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Documents Submitted
by
MHC Meadows of
Chantilly, LLC

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**CDAPPL-2026-00004 – MHC MEADOWS OF CHANTILLY, LLC'S APPEAL OF THE APRIL 21, 2026 NOTICE OF VIOLATION ISSUED BYTHE DEPARTMENT OF CODE COMPLIANCE**

## SUMMARY OF THE BASIS FOR THE APPEAL

### BACKGROUND

Appellant, MHC Meadows of Chantilly, LLC ("MHC") is the owner of the Meadows of Chantilly Manufactured Home Community in Chantilly, Virginia. As the landowner, it leases manufactured home lots to tenants who wish to rent lots in the Community for the installation of manufactured homes owned by them. Under the Virginia Motor Vehicle Code (Title 46.2-100, Code of Va.), manufactured homes are defined as "vehicles." They are titled by the DMV, and at the Meadows of Chantilly, the homes are owned by and titled to the tenants, not to MHC.

MHC is appealing the Notice of Violation (NOV) (Exhibit "A") issued to it by the Department of Code Compliance (DCC) on April 21, 2026. The NOV recites Construction Code violations in connection with "A Carport [that] was constructed on the left side of the mobile home (manufactured home)"[1]

The NOV identifies 4275 Airline Parkway, Chantilly, VA 20151 as the "LOCATION OF THE VIOLATION." 4275 Airline Parkway is a manufactured home lot ("the Lot") in the Meadows of Chantilly that, at all times relevant to these proceedings, was under lease to one Pedro Castro.

The NOV alleges three, and only three, violations of the VCC:

1. Violation of VCC21 § 108.1 – The requirement for an application for a building permit.

2. Violation of VCC21 § 113.3- The requirement for interim inspections of construction work prior to a final inspection.

3. Violation of VCC21 § 113.8- The requirement for a Final Inspection when the construction work is claimed by the permittee to be completed.

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[1] On May 21, 2926, for some unknown reason, the DCC issued a second NOV to MHC alleging the same VCC violations as the April 21, 2026 NOV. MHC will also appeal the May 21st NOV to this Board and suggests that the two appeals be consolidated for hearing on June 10th as they involve exactly the same issue.

The evidence presented to the Board will be undisputed that MHC did not intend the un-permitted construction, did not perform the un-permitted construction and did not know it had taken place. Indeed, because the construction involved attaching a carport to a manufactured home owned by a tenant on a lot under lease, MHC lacked the legal right to perform the work, even if it had wanted to, which it emphatically did not.

## WHY THIS APPEAL SHOULD BE GRANTED

### 1. MHC WAS NOT REQUIRED TO APPLY FOR A BUILDING PERMIT

The VCC requirements for interim and final inspections (alleged violations 2 and 3 above) only arise after a building permit is issued. Obviously, a building official would not inspect footings, structural components, electrical, mechanical and plumbing work and energy conservation materials that were not first authorized under an issued building permit. Hence, unless Appellant MHC was legally required to obtain a building permit for the carport, it could not possibly be in violation of the requirement for interim and final work inspections that are entirely contingent on the issuance of a building permit.

Therefore, the pivotal issue in this appeal is whether MHC was obligated to apply for a building permit for someone else's carport that MHC did not want or even contemplate.

The VCC refers to the "applicant" for a building permit 21 times.

Multiple dictionaries define "applicant" as "a person who formally requests something." (See, for ex., *The Cambridge Dictionary of the English Language.*)

VCC § 108.6 requires the applicant for a building permit to describe in the application "the proposed work." (Underlining added.)

This raises the painfully obvious question of how MHC could be criminally and civilly liable under VCC21 for failing to "request" a building permit for "proposed" construction:

a. It had no desire to request;

b. It did not propose; and

c. It could not legally perform because the work was a carport addition to a manufactured home owned by a tenant on leasehold property that MHC had no right to enter or to physically alter during the duration of the lease.

The VCC violations with which MHC is charged are both criminal and civil in nature. They are penal statutes because they prescribe criminal penalties (fines or imprisonment) and civil

penalties (fines) for their violation. It is an established principle of constitutional law that no one can violate a law that does not by its language give clear advance notice of the conduct that the law either mandates or prohibits. In *Kolender v. Lawson*, 461 U.S. 352, 357 (1983), the U.S. Supreme Court held that: "As generally stated, the void-for-vagueness doctrine requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." In the same vein, the Virginia Supreme Court has held that, "A statute "is unconstitutionally vague if persons of 'common intelligence must necessarily guess at [the] meaning [of the language] and differ as to its application.' " *Vlaming v. W. Point Sch. Bd.*, 895 S.E.2d 705, 743-744, 302 Va. 504, 575 (2023) (citing *Tanner v. City of Va. Beach,* 277 Va. 432, 439 (2009)

§ 108.1 is sufficiently clear to apprise a person of common intelligence that a building permit is required if the person intends to effectuate construction. But as applied by the DCC to MHC in this case, there was no way for MHC to foresee, from reading the VCC, that by its *not applying* for a building permit to do work that it did not want and could not legally perform, it would be committing a crime.

The claim by the DCC that MHC was required by VCC21 § 108.1 to apply for a building permit grossly violates the constitutional requirement that a penal statute give fair notice of the conduct required or prohibited. Exactly how was MHC supposed to know by reading VCC21 § 108.1 that it was legally required to apply for a permit to build a carport it had no desire to build, never contemplated building, and that it could not legally attach to a manufactured home it did not own, located on a lot subject to a tenant's exclusive right of entry? Stated differently, how exactly, under the DCC's interpretation of VCC21 § 108.1, was MHC supposed to adjust its conduct to avoid liability for failing to apply for a permit for work it did not even contemplate, much less "propose," that it could not legally perform and that was (unknown to MHC) the independent venture of someone else, Pedro Castro?

The DCC's misapplication of VCC21 § 108.1 should shock the conscience as it seeks to make a party guilty of criminal and civil law violations for conduct of a third-party that it knew nothing about. It invents a crime devoid of criminal intent, or any intent at all!

2. <u>THE DCC'S ATTEMPT TO IMPOSE LIABILITY FOR CONSTRUCTION CODE VIOLATIONS ON A LANDOWNER SOLELY BY VIRTUE OF OWNERSHIP HAS BEEN CONCLUSIVELY AND DISPOSITIVELY REJECTED BY THE STATE BOARD OF BUILDING CODE APPEALS.</u>

Realizing the absurdity of its claiming the criminal and civil liability of persons failing to apply for things they don't want or intend, the DCC has previously attempted, and again attempts here, to place liability for a third-party's Code violations on the owner of the property where the violations occurred, for no reason other than the owner's status as owner. The DCC contends that in cases like this the owner of property on which a building code violation occurs is, for no reason other than his ownership of the property, the "responsible party." While Construction Code violators are indeed the parties responsible for their violations, the DCC

cannot cite any legal authority for property owners, merely on account of their property ownership, being responsible for violations they did not commit.

In the controlling 2013 Virginia State Building Code Technical Review Board case of *In re: Appeal of Fairfax County, Appeal No. 12-7*, the issue of property owner responsibility for Construction Code violations occurring on their property was squarely addressed. In that case, a married couple contracted with a building contractor to build a house in Lorton. The couple applied for and obtained the requisite building permit. The home passed final inspection in late 2011, but after the homeowners moved into the home in November 2011, they requested the County Building Department to reinspect the home. The Building Department did so, and reported 13 Construction Code Violations for which it ultimately issued a Notice of Violation to the building contractor.

The contractor appealed the Notice of Violation to the Fairfax County Board of Building Code Appeals. The County Board overruled the County Building Official by finding that, "The Contractor is not responsible for the Violations identified by the County officials since the responsible party was the owner that took out the building permit..." (Exhibit "B")

Aggrieved that the property owners had been found by the Fairfax Board to be the responsible parties, the County appealed the Fairfax Board's decision to the State Building Code Technical Review Board where, in stark contradiction of its position herein, the County argued that the party performing the work in violation of the VCC was the responsible party, not the landowners. (Exhibit "C")

The State Board reversed the County Board, specifically holding in its Decision (Exhibit "D") that:

> "VCC Section 115.1 establishes that it is unlawful for any owner or any other person, firm or corporation, to violate any provision of the VCC. Section 115.2 requires a VCC notice of violation to be issued to the party responsible for the violation.
>
> The violations cited by the County building department are for what the County building department determined to be incorrect construction of various parts of the Aminrazavis' [homeowners'] house. Guglielmi [the builder] contracted with the Aminrazavis to construct the house and did so through the use of subcontractors. The Aminrazavis obtained the VCC building permit in their name only due to a provision in the contract with Guglielmi. There was no evidence that the Aminrazavis were, or were ever intended to be, involved in the actual construction of the house. Therefore, it is Guglielmi, rather than the Aminrazavis, that would be responsible for any violations of the VCC relating to how the house was constructed."

Under § 36-116 Code of Va., the State Board "shall interpret the provisions of the Building Code ..." Further, as the reviewing authority for all decisions of local boards of building code appeals, its decisions are binding on local boards throughout the State. In light of the fact that the homeowners in *Appeal of Fairfax County* were ruled *not* to be the responsible parties despite their contracting for the construction and obtaining the building permit, it is inconceivable that under the binding precedent of *Appeal of Fairfax County* that MHC could be the responsible party for construction it did not want, did not contract for and did not know anything about until, out of the blue, it received the NOV.

Forgetting or ignoring its vigorous insistence in *Appeal of Fairfax County* that even homeowners who contract for construction work and obtain a building permit are not "responsible parties" for VCC violations, the DCC now flip-flops to tell this Board exactly the opposite of what it argued from 2011 through 2013. It now insists that property owners are automatically responsible for any VCC violation occurring on their property.

3. IN A STRIKINGLY ANALOGOUS CASE, THE DCC HAS PREVIOUSLY ATTEMPTED, AND FAILED, TO AFFIX CONSTRUCTION CODE LIABILITY ON MHC FOR UNLAWFUL CONSTRUCTION DONE BY ONE OF ITS TENANTS.

This is not the first time the DCC has issued a NOV to MHC for un-permitted construction on one of its rental lots done by a tenant. In the recent case of *Riat, Building Official for Fairfax County v. MHC Meadows of Chantilly, LLC and Misael Javier* (GV24-28841), a tenant, Misael Javier, unbeknownst to MHC, built an addition on the rear of his manufactured home without obtaining a building permit. Forgoing any consultation with MHC, the Department of Code Compliance served MHC with a NOV alleging violations of VCC21 Sections 108.1, 113.3 and 113.8 - the same VCC Sections it claims were violated in this case. When the DCC filed suit to enforce the NOV, the County Attorney argued in writing to the General District Court that, *"The Landowner is the 'responsible party' for all construction,* renovation, and repair work on the Property." At trial on January 8th of this year, the Court rejected the DCC's position and dismissed the suit against MHC while entering judgment against the tenant performing the construction, whom the Court expressly found to be the actual "responsible party." (Exhibit "E")

If the County was right from 2011 to 2013 about who is a "responsible party" for VCC violations, then it is wrong now. The fact that the County was right then and wrong now is indisputable as the State Review Board's decision in *Appeal of Fairfax County* is final and binding on all Local Boards of Building Code Appeals.

Although no additional grounds for overruling the DCC are necessary, additional grounds exist, namely:

a. The DCC's attempt to unconstitutionally punish the innocent by maliciously construing VCC § 108.1 as obligating property owners, under penalty of law, to apply for building permits for someone else's construction projects they don't want, or even contemplate, or have any idea have commenced.

b. The authority of the General District Court's decision in *Riat, Building Official for Fairfax County v. MHC Meadows of Chantilly, LLC and Misael Javier* -- a case with facts substantively identical to the facts of this case -- in which the Court sensibly rejected the DCC's baseless claim that the "owner is always the responsible party" and found instead that the party doing the construction without the benefit of a building permit (the tenant) was the actual responsible party.

c. The absurdity of the DCC's position when subjected to the slightest scrutiny.

MHC Meadows of Chantilly, LLC
By counsel

B

# RESOLUTION

**WHEREAS**, the Fairfax County Board of Building Code Appeals (the Board) is duly appointed to resolve disputes arising out of enforcement of the IBC Code/ 2003 Edition;

and

**WHEREAS**, an appeal has been timely filed and brought to the attention of the Board; and
**WHEREAS**, a hearing has been duly held to consider the aforementioned appeal; and
**WHEREAS**, the Board has fully deliberated this matter; now, therefore, be it

**RESOLVED**, That the matter of

Appeal No. 120521.BAP
In RE: DAVID GUGLIELMI v. FAIRFAX COUNTY

The appeal is hereby APPROVED for the reasons set out below.
THE CONTRACTOR IS NOT RESPONSIBLE FOR THE VIOLATIONS IDENTIFIED BY THE COUNTY OFFICIALS SINCE THE RESPONSIBLE PARTY WAS THE OWNER, THAT TOOK OUT THE BUILDING PERMIT. CONTRACTOR WAS NOT QUALIFIED TO OBTAIN PERMIT

**FURTHER**, be it known that:

1. This decision is solely for this case and its surrounding circumstances;
2. This decision does not serve as a precedent for any future cases or situations, regardless of how similar they may appear;
3. (if appropriate to the motion) No significant adverse conditions to life safety will result from this action; and
4. All of the following conditions be observed.

a. _____

b. _____

c. _____

**Date:** AUGUST 2, 2012 **Signature:** _____
Chairman, Board of Building Code Appeals

**Note:** Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board within twenty-one (21) days of receipt of this resolution. Application forms are available from the Virginia Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219 or by calling 804-371-7150.

I Carla Moran hereby certify that this is
CUSTODIAN
a true copy of a Fairfax County Department of Public Works & Environmental Services record of which I am a custodian.

Carla Moran
CUSTODIAN

I Michelle Brickner hereby certify that this is
SUPERVISOR OF CUSTODIAN
a true copy of a Fairfax County Department of Public Works & Environmental Services record of which Carla Moran is the custodian and that
CUSTODIAN
Carla Moran reports to me.
CUSTODIAN

SUPERVISOR OF CUSTODIAN

C

# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

September 14, 2012

Attn: Vernon Hodge, Secretary to the State Technical Review Board
Commonwealth of Virginia
Department of Housing and Community Development
Technical Assistance Services Office (TASO) and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300
Richmond, Virginia 23219

Re: Appeal Decision Rendered by the Fairfax County Local Board of Building Code Appeals
Appeal no. 120521.OAP
In Re: David Guglielmi

To Whom It May Concern:

Fairfax County hereby appeals the decision in the case regarding Metropolitan Investment Group, LLC, David Guglielmi, Registered Agent ("MIG"). There are two issues that the Technical Review Board should consider.

Issue #1

The Fairfax County Local Board of Building Code Appeals erred when it approved the appeal in favor of MIG. The Local Board erred when it determined that the contractor, MIC, is not responsible for the violations identified by the County officials. Further, MIG did not raise this defense in his written appeal to the Local Board and it should not have been discussed at the hearing. According to VUSBC Section 115.2 Notice of Violation: "The building official shall issue a written notice of violation to the responsible party if any violations of this code or any directives or orders of the building official have not been corrected or complied with in a reasonable time." Moreover, "{i}t shall be the duty of any person performing work covered by the code to comply with all applicable provisions of this code and to perform and complete such work so as to secure the results intended by the USBC." VUSBC Section 112.1 (emphasis added). It is the County's position that Metropolitan Investment Group, LLC, David Guglielmi, Registered Agent, is the responsible party, and therefore was the proper recipient of the Notice of Violation.

Issue #2

The Fairfax County Local Board of Building Code Appeals did not address the code violations which MIG raised in its appeal to the Local Board of Building Code Appeals.

**Department of Public Works and Environmental Services**
**Land Development Services, County Building Official**
12055 Government Center Parkway, Suite 444
Fairfax, VA 22035
**Phone:** 703-324-1780, 703-324-1980 **TTY:** 711, **Fax:** 703-324-1847
www.fairfaxcounty.gov/dpwes/lds

Fairfax County respectfully request that the Technical Review Board overturn the decision of the Local Board of Building Code Appeals and if necessary, remand this matter to the Local Board for a proper disposition of the contractor's violations, including the abatement of same.

If you have any questions, please contact Melissa Smarr at 703-324-1929.

Sincerely,

Melissa Smarr

Melissa Smarr, Code Specialist III

D

VIRGINIA:

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

IN RE: Appeal of Fairfax County
Appeal No. 12-7

Hearing Date: May 17, 2013

## 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

In September of 2008, Mehdi and Marylynn Aminrazavi, owners of property in Lorton, Virginia, in Fairfax County, contracted with Metropolitan Investment Group, LLC and its president, David Guglielmi, to construct a new house for the Aminrazavis at 6061 River Drive.

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# Documents Submitted
# By
# Fairfax County

(Page left blank intentionally)

# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Office of the County Attorney
Suite 549, 12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Phone: (703) 324-2421; Fax: (703) 324-2665
www.fairfaxcounty.gov


July 24, 2026

**BY EMAIL**
Travis Luter, Secretary
Technical Review Board
Travis.luter@dchd.va.gov

**RE: Appeal from the Fairfax County Local Board of Building Code Appeals**
**4275 Airline Parkway**
**CDAPPL-2026-0004**

Mr. Luter,

My name is Patrick Foltz and my office represents Jay Riat, the Building Official for Fairfax County. In response to the appeal filed by MHC Meadows of Chantilly, LLC ("MHC"), the Building Official submits the following, by counsel:

## Background Information

The referenced property is developed as a mobile home park land rentals with manufactured home units. MHC is the owner of the park, which is 81.1 acres located in the Sully District. The website for this park lists "MHC Property Management, L.P." as an entity connected with the park. MHC Property Management, L.P. is a Delaware limited partnership. In response to a complaint regarding unpermitted work, an inspection of the referenced property was conducted on February 19, 2026. During the inspection, DCC Investigator Manuel Felipe observed unpermitted work to the mobile home and land (photos attached), as noted below.

- An accessory structure, specifically a carport, was constructed and attached to the mobile home.

A Notice of Violation (NOV) was issued to the owner, MHC, dated April 21, 2026. Based on the February 19th inspection. The notice was addressed to MHC because MHC is a "responsible party" pursuant to §115.2 of the 2021 Virginia Construction Code.

## Appellee (County) Position

That the owner of a property is a "responsible party" is a settled concept; therefore, MHC should be inclusively held responsible for the failure to obtain a building permit. The

Attorney General opined, in an opinion dated December 14, 1978, that the owner is a responsible party and that contractors and sub-contractors may also be considered responsible parties. *See Response to The Honorable Henry Lee Carter*, 1978-79 Va. Op. Atty. Gen. 292 (Va.A.G.)(December 14, 1978). The Technical Review Board embraced this opinion when it found that the owner of a property is a responsible party. See Appeal of Patrick and Jean Satori, Appeal No. 20-04 ("[T]he property owner is always the responsible party in accordance with the Code of Virginia, which was confirmed by the Attorney General's opinion dated December 14, 1978."). While the Building Official must issue an NOV to the permit holder when a permit is pulled, the Building Official is correct to issue an NOV to a property owner if the work is unpermitted.

This conclusion is firmly in agreement with the statutory duties of a landlord. Pursuant to §55.1-1303 of the state code, which is incorporated into the lease for the Property, the owner of a manufactured home park must "comply with applicable laws governing health, zoning, safety, and other matters pertaining to manufactured home parks." The Virginia Construction Code is clearly one such law governing safety. MHC is the landlord for all the lots on its property – allowing unpermitted structures risks not only the tenant's safety but also the safety of neighbors. Finally, in the case of a mobile home, the landlord's responsibility makes logical sense. The carport, which is a structure, is appended to a mobile home, which is a vehicle. The tenant cannot take the structure with them at the end of their tenancy – the landlord will be responsible for it after that. Therefore, the landlord is necessarily a responsible party.

This conclusion is also incorporated into MHC's own lease for the property. In that least, MHC reserves the right 1) to approve or disapprove a proposed structure 2) to ensure that the structure complies with all applicable codes. Given their oversight and approval rights in their lease, MHC must be seen as a party responsible for ensuring that the carport is properly permitted and inspected.

**Appellant's Position**

To paraphrase, MHC first argues that it cannot be a responsible party because it did not know about the addition. While possible that, despite weekly inspections of the park, MHC was unaware for a time of the carport addition, this argument is not relevant. The code refers to "responsible" parties – not "culpable" parties. It is likely, though neither agreed to nor stipulated here, that the tenant added the carport without consulting MHC. However, MHC is responsible for ensuring safe conditions and requires its tenants to seek approval before construction. The rights and obligations exist independently of MHC's subjective, and frankly self-serving, account of its involvement with the carport. Even if MHC did not know, it has still set itself up as a responsible party.

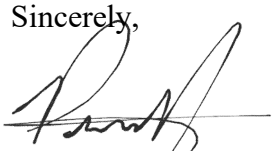
Next, MHC advances constitutional arguments. Respectfully, those arguments are not properly before this Board. Constitutional arguments, or other legal arguments beyond the scope of interpretation and application of the Building Code, are reserved for court hearing and are improper questions for this Board.

After that, MHC recites the history of decision in *In re: Appeal of Fairfax County* and misconstrues it. This decision involved an unlicensed contractor, a contractual provision designed to conceal the unlicensed contractor's involvement, and a shoddy construction job. The TRB decided, correctly, that it could look beyond the permit to identify the parties responsible for the construction violations. The TRB did not rule that owners were not responsible for unpermitted construction activities on their property – rather, the TRB ruled that other parties could be responsible besides the applicants listed on the permit.

Finally, MHC refers to a case currently in litigation as a settled authority. This case, *Riat v. MHC et al*, is not even final – the court date referred to, January 8, is not even the most recent court hearing in that proceeding. To refer to this pending case as any kind of authority, much less a decision binding on this Board, would be misleading at best.

MHC has argued, wrongly, that the Building Official's position is "absurd." In fact, MHC's position collapses under the gentlest pressure. If MHC were correct in its reasoning, a tenant who built an unpermitted structure and then moved away before enforcement could be initiated would be the only possible responsible party for the structure. The owner would have no responsibility for the structure and no duty to have it permitted or inspected – in MHC's view, they could keep it free and clear of any responsibility to ensure it was sound or safe. This line of reasoning contradicts the Building Code, basic fairness, and common sense. For these reasons, the Building Official asks that this appeal be denied.

Sincerely,



Patrick V. Foltz

# County of Fairfax, Virginia

DCC RETURN COPY

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

ACES

**NOTICE OF VIOLATION**
**Virginia Construction Code**

| | |
|---|---|
| **DATE OF ISSUANCE:** | May 21, 2026 |
| **METHOD OF SERVICE:** | OFFICE OF THE SHERIFF |
| **LEGAL NOTICE ISSUED TO:** | MHC Meadows Of Chantilly LLC (Land owner)<br>c/o CT Corporation system, Registered Agent |
| **ADDRESS:** | 4700 Airline Pwky<br>Chantilly, VA, 20151 |
| **LOCATION OF VIOLATION:** | 4275 Airline Pkwy<br>Chantilly, VA 20151 |
| **TAX MAP REF:** | 0343010021 |
| **INVESTIGATION #:** | UCINV-2025-00161 |
| **COMPLAINT #:** | DCCCOMP-2025-01765 |
| **ISSUING INVESTIGATOR:** | Manuel Felipe, (703) 324-1190 |

10

OFFICE OF THE SHERIFF
FAIRFAX COUNTY, VA

2026 MAY 20 AM 7:44

RECEIVED

**POTENTIAL CIVIL PENALTIES UNDER CODE OF FAIRFAX § 61-7-1(B):**

| Building Code Violation(s) | First Offense | Each Subsequent Offense |
|---|---|---|
| VCC21 108.1 | $100.00 | $350.00 |
| VCC21 113.3 | $100.00 | $350.00 |
| VCC21 113.8 | $100.00 | $350.00 |
| TOTAL: | $300.00 | $1050.00 |

On February 19, 2026, County staff inspected the exterior of the above referenced residential property and discovered that (construction, alterations, and installations) have been performed without the required permit(s), inspection(s), and approvals. The construction, alteration, and installation include, but is not necessarily limited to, the following:

- A Carport was constructed on the left side of the mobile home (manufacture home)

The permits that may be required, but not limited to, are the following:

Building, Electrical, or Demolition.

**Order:** Pursuant to the USBC, ***Section(s) VCC21 113.3 MINIMUM INSPECTIONS; VCC21 108.1 FAILURE TO OBTAIN REQ PERMIT; VCC21 113.8 FINAL INSPECTION,*** you are hereby directed to apply for and obtain the required permit(s), inspections, and approvals for the work described above or for its

demolition. The application is to be submitted at the Permit Application Center, referenced below.

Apply for and obtain all necessary County permits for the work described above within twenty (20) calendar days from the date you receive this notice or obtain a County permit to demolish the work and complete the permitted demolition within the same timeframe. No requirement to meet with DCC Investigator.

In accordance with these directives:

- A copy of this notice must be submitted with any associated documents when you apply for your permit(s).
- The responsible party must provide a building/floor plan identifying the Code violation(s) and submit such plan when applying for the required permit(s).
- Contact Investigator Manuel Felipe at (703) 324-1190, TTY 711 within the timeframe established to confirm the violations have been abated.

Once all required permits have been issued, please visit our PLUS webpage to schedule all related building inspections. This notice must be available at the property for County field staff throughout the inspection process. Failure to schedule the required inspections within ten (10) calendar days will result in the initiation of the legal process.

Note:

*When work described above involves construction of an addition or an accessory structure, a certified plat must be submitted along with a building permit application to the Permit Application Center. This plat must indicate the location, dimensions, and height of all existing and proposed structures, including the distance to the respective lot lines. This plat must be prepared, sealed and signed by a professional licensed by the Commonwealth of Virginia. Permit application must be made submitted to:

Permit Application Center
The Herrity Building
12055 Government Center Parkway, 2nd Floor
Fairfax, Virginia 22035
Telephone: (703) 222-0801

*Customer service agents are available to assist you with the online permit process:

- By phone: (703) 222-0801, option 2
  Monday-Thursday 8am-4pm; Friday 9:15am-4pm
- By virtual appointment – click this link to schedule
  https://app.smartsheet.com/b/form/48c3ca9f93c440fc89b8479844894eb6
- In person: Herrity Building Customer Information Center
  12055 Government Center Parkway, 1st floor

Fairfax, VA 22035
Monday-Thursday 8am-4pm; Friday 9:15am-4pm

You are directed to notify Manuel Felipe in writing at 12055 Government Center Parkway, Suite 1016 Fairfax, VA 22035 or by telephone (703) 324-1190 within three (3) working days from the date you receive this Notice of Violation.

RIGHT TO APPEAL THIS NOTICE: Per Sect. 119 of the Virginia Construction Code, any person aggrieved by the local building department's application of the code or refusal to grant a modification to the provisions of the code may appeal to the Local Board of Building Code Appeals (LBBCA), which is the Fairfax County Board of Building and Fire Prevention Code Appeals. The request for an appeal must be submitted in writing within thirty (30) calendar days of receipt of the decision being appealed along with a $208 fee. Failure to submit an application for appeal within the time limit established constitutes acceptance of the Code Official's decision.

You may arrange an appeal utilizing Fairfax County's online PLUS system or obtain information on the appeals process by visiting https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals or by contacting the Secretary to the Board, Sonia Kahouei, at (703) 324-4069, TTY 711. Submitting an appeal via PLUS satisfies the requirement for a written submission per Sect. 119 of the Virginia Construction Code.

Investigators may not accept any payments, including those associated with fines and fees.

If you have any questions, would like to schedule an appointment to meet with me, or to schedule a site visit, please contact me directly at (703) 324-1190 or the main office at (703) 324-1300, or by email (preferred) at Manuel.Felipe@fairfaxcounty.gov

Notice Issued By:

Signature

Investigator, Manuel Felipe
(703) 324-1190
Manuel.Felipe@fairfaxcounty.gov
Technical Assistant to the Building Official
Department of Code Compliance

MHC MEADOWS OF CHANTILLY

☒ **PERSONAL SERVICE** KAREN WONG - MANAGER

☐ Being unable to make personal service a copy was delivered in the following manner:

☐ Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.

☐ Delivered to family members (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of receipt, and relation of recipient to party named above.

☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (other authorized receipt not found).

☐ Served on a Secretary of the Commonwealth.

☐ Not found.

M.E. WHITED 100/10

SERVING OFFICER

for Stacey A. Kincaid, Sheriff
Fairfax County, VA

Date 5/21/26

☐ **PERSONAL SERVICE**

☐ Being unable to make personal service a copy was delivered in the following manner:

☐ Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.

☐ Delivered to family members (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of receipt, and relation of recipient to party named above.

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☐ Not found.

SERVING OFFICER

for

Date

☐ **PERSONAL SERVICE**

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☐ Served on a Secretary of the Commonwealth.

☐ Not found.

SERVING OFFICER

for

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☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (other authorized receipt not found).

☐ Served on a Secretary of the Commonwealth.

☐ Not found.

SERVING OFFICER

for

**NOTICE OF VIOLATION**
**Virginia Construction Code**

| | |
|---|---|
| **DATE OF ISSUANCE:** | April 21, 2026 |
| **METHOD OF SERVICE:** | OFFICE OF THE SHERIFF |
| **LEGAL NOTICE ISSUED TO:** | MHC Meadows Of Chantilly LLC (Land Owner)<br>c/o CT Corporation system, Registered Agent |
| **ADDRESS:** | 4275 Airline Pkwy<br>Chantilly, VA 20151 |
| **LOCATION OF VIOLATION:** | 4275 Airline Pkwy<br>Chantilly, VA 20151 |
| **TAX MAP REF:** | 0343010021 |
| **INVESTIGATION #:** | UCINV-2025-00161 |
| **COMPLAINT #:** | DCCCOMP-2025-01765 |
| **ISSUING INVESTIGATOR:** | Manuel Felipe, (703) 324-1190 |

RECEIVED

**POTENTIAL CIVIL PENALTIES UNDER CODE OF FAIRFAX § 61-7-1(B):**

| Building Code Violation(s) | First Offense | Each Subsequent Offense |
|---|---|---|
| VCC21 108.1 | $100.00 | $350.00 |
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| VCC21 113.8 | $100.00 | $350.00 |
| TOTAL: | $300.00 | $1050.00 |

On February 19, 2026, County staff inspected the exterior of the above referenced residential property and discovered that (construction, alterations, and installations) have been performed without the required permit(s), inspection(s), and approvals. The construction, alteration, and installation include, but is not necessarily limited to, the following:

- A Carport was constructed on the left side of the mobile home (manufacture home)

The permits that may be required, but not limited to, are the following:

Building, Electrical, or Demolition.

**Order:** Pursuant to the USBC, ***Section(s) VCC21 113.3 MINIMUM INSPECTIONS; VCC21 108.1 FAILURE TO OBTAIN REQ PERMIT; VCC21 113.8 FINAL INSPECTION,*** you are hereby directed to apply for and obtain the required permit(s), inspections, and approvals for the work described above or for its demolition. The application is to be submitted at the Permit Application Center, referenced below.

**Department of Code Compliance**
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia, 22035-5508
Phone: 703 324-1300 Fax: 703 653-9459 TTY: 711
www.fairfaxcounty.gov/code

Apply for and obtain all necessary County permits for the work described above within twenty (20) calendar days from the date you receive this notice or obtain a County permit to demolish the work and complete the permitted demolition within the same timeframe. No requirement to meet with DCC Investigator.

In accordance with these directives:

- A copy of this notice must be submitted with any associated documents when you apply for your permit(s).
- The responsible party must provide a building/floor plan identifying the Code violation(s) and submit such plan when applying for the required permit(s).
- Contact Investigator Manuel Felipe at (703) 324-1190, TTY 711 within the timeframe established to confirm the violations have been abated.

Once all required permits have been issued, please visit our PLUS webpage to schedule all related building inspections. This notice must be available at the property for County field staff throughout the inspection process. Failure to schedule the required inspections within ten (10) calendar days will result in the initiation of the legal process.

Note:

*When work described above involves construction of an addition or an accessory structure, a certified plat must be submitted along with a building permit application to the Permit Application Center. This plat must indicate the location, dimensions, and height of all existing and proposed structures, including the distance to the respective lot lines. This plat must be prepared, sealed and signed by a professional licensed by the Commonwealth of Virginia. Permit application must be made submitted to:

Permit Application Center
The Herrity Building
12055 Government Center Parkway, 2nd Floor
Fairfax, Virginia 22035
Telephone: (703) 222-0801

*Customer service agents are available to assist you with the online permit process:

- By phone: (703) 222-0801, option 2
  Monday-Thursday 8am-4pm; Friday 9:15am-4pm
- By virtual appointment – click this link to schedule
  https://app.smartsheet.com/b/form/48c3ca9f93c440fc89b8479844894eb6
- In person: Herrity Building Customer Information Center
  12055 Government Center Parkway, 1st floor
  Fairfax, VA 22035
  Monday-Thursday 8am-4pm; Friday 9:15am-4pm

You are directed to notify Manuel Felipe in writing at 12055 Government Center Parkway, Suite 1016 Fairfax, VA 22035 or by telephone (703) 324-1190 within three (3) working days from the date you receive this Notice of Violation.

RIGHT TO APPEAL THIS NOTICE: Per Sect. 119 of the Virginia Construction Code, any person aggrieved by the local building department's application of the code or refusal to grant a modification to the provisions of the code may appeal to the Local Board of Building Code Appeals (LBBCA), which is the Fairfax County Board of Building and Fire Prevention Code Appeals. The request for an appeal must be submitted in writing within thirty (30) calendar days of receipt of the decision being appealed along with a $208 fee. Failure to submit an application for appeal within the time limit established constitutes acceptance of the Code Official's decision.

You may arrange an appeal utilizing Fairfax County's online PLUS system or obtain information on the appeals process by visiting https://www.fairfaxcounty.gov/landdevelopment/code-interpretations-modifications-and-appeals or by contacting the Secretary to the Board, Sonia Kahouei, at (703) 324-4069, TTY 711. Submitting an appeal via PLUS satisfies the requirement for a written submission per Sect. 119 of the Virginia Construction Code.

Investigators may not accept any payments, including those associated with fines and fees.

If you have any questions, would like to schedule an appointment to meet with me, or to schedule a site visit, please contact me directly at (703) 324-1190 or the main office at (703) 324-1300, or by email (preferred) at Manuel.Felipe@fairfaxcounty.gov

Notice Issued By:



Signature

Investigator, Manuel Felipe
(703) 324-1190
Manuel.Felipe@fairfaxcounty.gov
Technical Assistant to the Building Official
Department of Code Compliance

MHC Meadows Of Chantilly LLC
c/o CT Corporation system
4/21/2026
UCINV-2025-00161
Page 4 MHC MEADOWS OF CHANTILLY LLC

☐ **PERSONAL SERVICE**

☒ Being unable to make personal service a copy was delivered in the following manner:

☐ Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.

☐ Delivered to family members (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of receipt, and relation of recipient to party named above.

☒ Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (other authorized receipt not found).

☐ Served on a Secretary of the Commonwealth.

☐ Not found.

W. E. WARNER 1896

SERVING OFFICER

Stacey A. Kincaid, Sheriff
Fairfax County, VA

for

Date 4/22/26 @ 11:50 AM

☐ **PERSONAL SERVICE**

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Date

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SERVING OFFICER

for

Date

**Department of Code Compliance**
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia, 22035-5508
Phone: 703 324-1300 Fax: 703 653-9459 TTY: 711
www.fairfaxcounty.gov/code

# County of Fairfax, Virginia

1 DCC RETURN COPY

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

**NOTICE OF VIOLATION**
**Virginia Construction Code**

| | |
|---|---|
| **DATE OF ISSUANCE:** | April 21, 2026 |
| **METHOD OF SERVICE:** | OFFICE OF THE SHERIFF |
| **LEGAL NOTICE ISSUED TO:** | Pedro Freano (manufacturer homeowner) |
| **ADDRESS:** | 4275 Airline Pkwy<br>Chantilly, VA 20151 |
| **LOCATION OF VIOLATION:** | 4275 Airline Pkwy<br>Chantilly, VA 20151 |
| **TAX MAP REF:** | 0343010021 |
| **INVESTIGATION #:** | UCINV-2025-00161 |
| **COMPLAINT #:** | DCCCOMP-2025-01765 |
| **ISSUING INVESTIGATOR:** | Manuel Felipe, (703) 324-1190 |

10

RECEIVED

**POTENTIAL CIVIL PENALTIES UNDER CODE OF FAIRFAX § 61-7-1(B):**

| Building Code Violation(s) | First Offense | Each Subsequent Offense |
|---|---|---|
| VCC21 108.1 | $100.00 | $350.00 |
| VCC21 113.3 | $100.00 | $350.00 |
| VCC21 113.8 | $100.00 | $350.00 |
| TOTAL: | $300.00 | $1050.00 |

On February 19, 2026, County staff inspected the exterior of the above referenced residential property and discovered that (construction, alterations, and installations) have been performed without the required permit(s), inspection(s), and approvals. The construction, alteration, and installation include, but is not necessarily limited to, the following:

- A Carport was constructed on the left side of the mobile home (manufacture home)

The permits that may be required, but not limited to, are the following:

Building
Electrical
Mechanical
Plumbing

**Department of Code Compliance**
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia, 22035-5508
Phone: 703 324-1300 Fax: 703 653-9459 TTY: 711
www.fairfaxcounty.gov/code

Household Appliance
or Demolition.

**Order:** Pursuant to the USBC, ***Section(s) VCC21 113.3 MINIMUM INSPECTIONS; VCC21 108.1 FAILURE TO OBTAIN REQ PERMIT; VCC21 113.8 FINAL INSPECTION,*** you are hereby directed to apply for and obtain the required permit(s), inspections, and approvals for the work described above or for its demolition. The application is to be submitted at the Permit Application Center, referenced below.

Apply for and obtain all necessary County permits for the work described above within twenty (20) calendar days from the date you receive this notice or obtain a County permit to demolish the work and complete the permitted demolition within the same timeframe. No requirement to meet with DCC Investigator.

In accordance with these directives:

- A copy of this notice must be submitted with any associated documents when you apply for your permit(s).
- The responsible party must provide a building/floor plan identifying the Code violation(s) and submit such plan when applying for the required permit(s).
- Contact Investigator Manuel Felipe at (703) 324-1190, TTY 711 within the timeframe established to confirm the violations have been abated.

Once all required permits have been issued, please visit our PLUS webpage to schedule all related building inspections. This notice must be available at the property for County field staff throughout the inspection process. Failure to schedule the required inspections within ten (10) calendar days will result in the initiation of the legal process.

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Notice Issued By:



Signature

Investigator, Manuel Felipe
(703) 324-1190
Manuel.Felipe@fairfaxcounty.gov
Technical Assistant to the Building Official
Department of Code Compliance

FREANO, PEDRO

☐ **PERSONAL SERVICE**

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☐ Served on a Secretary of the Commonwealth.
☐ Not found.

N.E. WHITED 1901/0

SERVING OFFICER

for Stacey A. Kincaid, Sheriff
Fairfax County, VA

Date 4/22/26 @ 11:50 AM

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SERVING OFFICER

for

Date




UCINV- 2025- 00161

Address: 4275 Airline Pkwy

Centreville, VA 20120

Photographer:

Investigator, Manuel Felipe
County of Fairfax, Dept. of Code Compliance




UCINV- 2025- 00161

Address: 4275 Airline Pkwy

Centreville, VA 20120

Photographer:

Investigator, Manuel Felipe
County of Fairfax, Dept. of Code Compliance




UCINV- 2025- 00161

Address: 4275 Airline Pkwy

Centreville, VA 20120

Photographer:

Investigator, Manuel Felipe
County of Fairfax, Dept. of Code Compliance

909




UCINV- 2025- 00161

Address: 4275 Airline Pkwy

Centreville, VA 20120

Photographer:

Investigator, Manuel Felipe
County of Fairfax, Dept. of Code Compliance

607

UCINV- 2025- 00161

Address: 4275 Airline Pkwy

Centreville, VA 20120

Photographer:



Investigator, Manuel Felipe
County of Fairfax, Dept. of Code Compliance

608

# County of Fairfax, Virginia

**MEMORANDUM**

**DATE:** May 22, 2026,

**TO:** Chairman and Members
Fairfax County Local Board of Building and Fire Code Appeals

**FROM:** Jay Riat
Building Code Official
Land Development Services

Manuel Felipe
Code Compliance Investigator
Department of Code Compliance

**SUBJECT:** June 10, 2026, Appeal Hearing

**REFERENCE:** Appeal of Meadows of Chantilly MHC
**c/o** CT Corporation system
4200 Airline Pkwy
Chantilly, VA 20151

**CODE:** 2021 Virginia Construction Code

Staff of the Department of Code Compliance (DCC) respectfully request that the Fairfax County Board of Building and Fire Code Appeals (Board) uphold the decision in the Notices of Violation dated April 21, 2026, and May 21, 2026, and that the referenced property is in violation of the Virginia Construction Code (VCC).

## Background Information

The referenced property is developed as a mobile home park land rentals with (manufacture home) units. The owner of record is "MHC Meadows of Chantilly, LLC", a Illinois limited partnership ("MHC"). MHC is actually the owner of the entire mobile home park, which is 81.1 acres located in the Sully District. The website for this park lists "MHC Property Management, L.P." as an entity connected with the park. MHC Property Management, L.P. is a Delaware limited partnership.

In response to a complaint regarding unpermitted work, an inspection of the referenced property was conducted on February 19, 2026.

During the inspection, DCC Investigator Manuel Felipe observed unpermitted work to the mobile home and land (photos attached), as noted below.

- An accessory structure, specifically acarport, was constructed and attached the to the mobile home.

**Notice of Violation**

A Notice of Violation (NOV) was issued to the owner, MHC, dated April 21, 2026. Based on the February 19 inspection. The notice was addressed to MHC because MHC is a "responsible party" pursuant to §115.2 of the 2021 Virginia Construction Code.

That the owner of a property is a "responsible party" is a settled concept. The Attorney General opined, in an opinion dated December 14, 1978, that the owner is a responsible party and that contractors and sub-contractors may also be considered responsible parties. *See Response to The Honorable Henry Lee Carter*, 1978-79 Va. Op. Atty. Gen. 292 (Va.A.G.)(December 14, 1978). The Technical Review Board embraced this opinion when it found that the owner of a property is a responsible party. See Appeal of Patrick and Jean Satori, Appeal No. 20-04 ("[T]he property owner is always the responsible party in accordance with the Code of Virginia, which was confirmed by the Attorney General's opinion dated December 14, 1978."). While the Building Official must issue an NOV to the permit holder when a permit is pulled, the Building Official is correct to issue an NOV to a property owner if the work is unpermitted.

This conclusion dovetails neatly with the statutory duties of a landlord. Pursuant to §55.1-1303 of the state code, the owner of a manufactured home park must "comply with applicable laws governing health, zoning, safety, and other matters pertaining to manufactured home parks." The Virginia Construction Code is clearly one such law governing safety. MHC is the landlord for all the lots on its property – allowing unpermitted structures risks not only the tenant's safety but also the safety of neighbors. Finally, in the case of a mobile home, the landlord's responsibility makes logical sense. The carport, which is a structure, is appended to a mobile home, which is a vehicle. So, since the structure represents an improvement to the land, and not to the motor home, the landlord is necessarily a responsible party.

**Appellant Position**

The MHC LLC (Owner), by and through his above-referenced attorney, is submitting this Appeal of the above- referenced Notice of Violation issued April 21, and May 21, 2026 (see attached) on the grounds that they are not the responsible party. The Carport Structure which has been allegedly constructed should be demolished or it may be permitted to remain. From a zoning point of view, the Structure may be permitted to remain pursuant to forthcoming zoning code changes. However, the structure must still be permitted and inspected.

**Recommendation**

The County respectfully requests that the Local Board of Building Code Appeals deny this appeal as MHC is a responsible party pursuant to §115.2 of the Virginia Construction Code.

**Department of Code Compliance**
12055 Government Center Parkway, Suite 1016
Fairfax, VA 22035-5508
Phone 703-324-1300 Fax 703-653-9459 TTY 711
www.fairfaxcounty.gov/code

B

MEADOWS OF CHANTILLY MANUFACTURED HOME COMMUNITY

**MANUFACTURED HOME SITE RENTAL AGREEMENT**

**TO THE RESIDENT:** This Manufactured Home Site Rental Agreement (this "Agreement") is a binding legal document. By signing this Agreement, RESIDENT and MANAGEMENT (as such terms are hereinafter defined) agree to be bound by everything it contains. RESIDENT also agrees to follow the Rules and Regulations for the COMMUNITY (as such term is hereinafter defined) in effect when RESIDENT signs this Agreement (the "Rules and Regulations"), and any amendments thereto made during the term of this Agreement. The Rules and Regulations are intended to protect the health, safety and welfare of the COMMUNITY as a whole, are as binding upon RESIDENT as this Agreement, and are hereby incorporated as a part of this Agreement. Before you sign this Agreement, make sure you read and understand both it and the Rules and Regulations. By signing this Agreement, RESIDENT acknowledges that RESIDENT has been furnished a copy of the Rules and Regulations. Upon execution of this Agreement by RESIDENT and MANAGEMENT, RESIDENT will be furnished a signed copy of this Agreement and a copy of the Act as hereinafter defined. This Agreement is governed by the Virginia Manufactured Home Lot Rental Act, Chapter 13.3, Code of Virginia (the Act ).

1. **DEFINITIONS**: As used in this Agreement, the term "MANAGEMENT" means, collectively, MHC Financing Limited Partnership, an Illinois limited partnership that is the owner of the COMMUNITY and MHC Property Management L.P., a Delaware limited partnership that is the manager of the COMMUNITY, together with their respective agents, employees and managers. MANAGEMENT is affiliated with Equity Lifestyle Properties, Inc. As used in this Agreement, the term "RESIDENT" means each occupant of the manufactured home (as such term is hereinafter defined) who signs this Agreement or is listed on the last page of this Agreement. All adult RESIDENTS must sign this Agreement. All non-adult RESIDENTS shall be listed on the last page of this Agreement. As used in this Agreement, the term "COMMUNITY" means Meadows of Chantilly Manufactured Home Community, 4200 Airline Parkway, Chantilly, Virginia 20151. The maximum number of persons permitted to reside in the manufactured home is the number of bedrooms multiplied by two (2), plus one (1).

2. **RENTAL OF THE HOME SITE**: By this Agreement, RESIDENT rents from MANAGEMENT, for a one (1) year term, Space #0397 (the "home site") in the COMMUNITY, having a mailing address of 4275 Airline PKWY, Chantilly, VA 20151. The home site is rented for installation of RESIDENT'S manufactured home described below (the "manufactured home"):

| | | | |
|---|---|---|---|
| **Make:** | **Skyline** | **Model:** | **Tanglewood** |
| **Year:** | **2008** | **Serial:** | **EE110454W** |
| **Length:** | **54** | **Width:** | **16** |

The manufactured home is financed by:

Lender: No lien
Address: _____
Loan #: _____

3. **TERM AND RENT**: The initial term of this Agreement shall commence at 12:00 noon on the **4th day of January, 2019** and end at 12:00 noon on the **31st day of January, 2020**, and thereafter shall continue on a 1 year basis until termination pursuant to the terms of this Agreement. RESIDENT shall pay **One Thousand Two Hundred Eight And 00/100 Dollars ($1,208.00)** per month to MANAGEMENT as base

home site rental, which payment to MANAGEMENT must be made on or before the first day of each month. The total annual base rental for the home site is **Fourteen Thousand Four Hundred Ninety Six And 00/100 Dollars ($14,496.00)**. RESIDENT must pay the rent at the COMMUNITY office on or before the first day of each month. If RESIDENT asks for a rent receipt upon payment of such monthly amount, MANAGEMENT shall provide one.

If the rent is not paid on or before the first day of the month, RESIDENT shall be in default under this Agreement. If the rent is not paid before the sixth day of the month, MANAGEMENT will charge and RESIDENT must pay a late fee of **Ten percent (10%)**, in addition to such rent. This late fee shall be considered additional rent, and failure to pay any such late fee may result in termination of this Agreement for non-payment of rent. RESIDENT shall pay to MANAGEMENT a fee of **Twenty Dollars ($20.00)** for any check presented by RESIDENT which is returned unpaid.

MANAGEMENT reserves the right to charge RESIDENT, as additional rent, and RESIDENT agrees to pay, RESIDENT'S pro rata share of the actual gross costs paid by MANAGEMENT. In addition to the foregoing, RESIDENT shall also pay as additional rent those charges imposed by MANAGEMENT from time to time for services actually performed by MANAGEMENT or its agents, including any such charges provided for in the Rules and Regulations, and for amounts paid by MANAGEMENT on RESIDENT'S behalf in the event that RESIDENT fails to pay when due any charges for which RESIDENT is responsible hereunder or otherwise associated with RESIDENT'S rental of the home site (provided, however, that MANAGEMENT shall have no obligation to pay any such amounts). If RESIDENT fails to pay any such additional rent amounts to MANAGEMENT, MANAGEMENT may transfer home site rental monies paid by RESIDENT towards any other charges RESIDENT may have incurred, leaving RESIDENT with a delinquent home site rent balance.

MANAGEMENT will give RESIDENT at least **sixty (60)** days prior written notice of any new charge or any increase in any charge, except for increases in utility charges not controlled by MANAGEMENT. Upon nonpayment of rent or other fees and charges due and owing to MANAGEMENT for a period of **ten (10)** days after such are due, without the prior written approval of MANAGEMENT, MANAGEMENT may notify RESIDENT'S manufactured home financing institution of such delinquency (but only if MANAGEMENT has notified RESIDENT of such delinquency and RESIDENT has failed to cure same within **five (5)** days after such notice). RESIDENT must notify MANAGEMENT in writing within **thirty (30)** days of any indebtedness or lien being filed against or secured on the manufactured home.

Notwithstanding anything to the contrary contained herein, MANAGEMENT reserves the right, upon at least **sixty (60)** days prior written notice, to require that RESIDENT pay the rent and/or other amounts payable by RESIDENT hereunder via automatic direct withdrawal from RESIDENT'S checking account. If MANAGEMENT elects to implement this procedure, RESIDENT hereby agrees to promptly complete, execute and deliver to MANAGEMENT such documentation as MANAGEMENT may reasonably require in connection therewith.

**4. UTILITIES**: As of the date of this Agreement, MANAGEMENT provides the following utility service(s) at no extra charge: **Trash Removal**. RESIDENT is responsible for arranging and paying for all other utility services provided to the home site and the manufactured home. Unless specifically provided in this Agreement, MANAGEMENT provides no utilities or other services to the homes site or the manufactured home. RESIDENT shall pay all charges for all utilities and other services provided to the home site before the same become delinquent and shall indemnify and hold harmless MANAGEMENT and the COMMUNITY with respect thereto. RESIDENT must apply to the applicable utility service providers to arrange for turn-on of service to the home site. MANAGEMENT may modify the manner of delivery and billing for all utilities

and other services it provides upon prior written notice to RESIDENT. Without limiting the generality of the foregoing, MANAGEMENT may arrange for any or all utilities or other services to be delivered directly to RESIDENT by the provider of such utilities or services, and/or arrange for such provider(s) to bill RESIDENT directly for such utilities or services.

RESIDENT must maintain and repair all water, gas, electrical and sewage connections, and shall be responsible for any malfunction occurring between the point of connection and the manufactured home. The point of connection is defined as follows for each such utility: (i) for water: at RESIDENT'S side of the meter or at the underground stop and waste valve; (ii) for gas: at RESIDENT'S side of the meter on multi-user tanks (individual tanks and connections are the responsibility of the applicable RESIDENT); (iii) for electric: from and including the meter box; and (iv) for sewage: from the manufactured home up to and including the connection point at the septic tank (if applicable). If a malfunction is reported with respect to any water and/or sewage connection, MANAGEMENT reserves the right to inspect said malfunction (at no expense to RESIDENT). If said malfunction is found to be the responsibility of RESIDENT and MANAGEMENT is unable to contact RESIDENT with respect to same, MANAGEMENT may (but shall not be obligated to) repair the same and bill RESIDENT for such repairs.

MANAGEMENT reserves the right and easement to enter upon the home site at any time for the purpose of installing, inspecting, maintaining or replacing pipes, drainage systems and facilities, sewage systems and facilities, electric lines and telephone lines, and inspecting the home site to determine whether RESIDENT is in compliance with the Rules and Regulations and the terms of this Agreement.

5. **INSTALLING OR REMOVING THE MANUFACTURED HOME**: RESIDENT must give MANAGEMENT written notice at least **forty-eight (48)** hours before RESIDENT proposes to move the manufactured home either into or out of the COMMUNITY. (THIS NOTICE IS DIFFERENT FROM THE NOTICE RESIDENT MUST GIVE TO TERMINATE THIS AGREEMENT AND END THE OBLIGATION TO PAY RENT, AS PROVIDED IN PARAGRAPH 17 OF THIS AGREEMENT.) MANAGEMENT has the right to supervise the installation or removal of the manufactured home. The Rules and Regulations contain instructions concerning installation or removal of the manufactured home in order to protect the COMMUNITY'S facilities and/or safeguard the homes of other residents, and RESIDENT must comply with such instructions. MANAGEMENT may not require RESIDENT to use MANAGEMENT'S services when RESIDENT moves the manufactured home into or out of the COMMUNITY. If MANAGEMENT and RESIDENT agree that MANAGEMENT shall install or remove the manufactured home, that agreement must be in writing, must state the charges (if any) for such services and must be signed by MANAGEMENT and RESIDENT.

6. **SECURITY DEPOSIT**: As security for the performance of this Agreement, RESIDENT shall deposit with MANAGEMENT Zero (0) Month's base home site rental, in the amount of **Zero And 00/100 Dollars ($0.00)**, as a security deposit upon signing this Agreement. The security deposit is not an advance payment of rent. Upon request by RESIDENT, MANAGEMENT shall give RESIDENT a written receipt for the security deposit.

Upon termination of this Agreement, RESIDENT must give MANAGEMENT a forwarding address, and within **forty-five (45)** days after RESIDENT leaves the COMMUNITY, MANAGEMENT shall either (i) refund RESIDENT'S security deposit to RESIDENT'S last known address; or (ii) send written notice to RESIDENT at RESIDENT'S last known address stating that MANAGEMENT is keeping some or all of the security deposit and explaining why.

MANAGEMENT will keep security deposit money only if RESIDENT has failed to pay rent or other charges, has damaged the home site or other property within the COMMUNITY, or has failed to leave the home site clean and free of debris. MANAGEMENT shall not hold RESIDENT responsible for ordinary wear and tear or for damage due to extreme weather or other unusual causes beyond the control of RESIDENT.

7. **USE OF THE HOME SITE**: RESIDENT may use the home site only for residential purposes. RESIDENT may not build improvements on the home site or put a different manufactured home on the home site unless MANAGEMENT first agrees in writing, and then solely in conformity with the Rules and Regulations and any applicable state or county ordinances, regulations or codes governing such construction or improvement. RESIDENT must not allow the land or improvements to become subject to any mechanics', laborers' or materialmens' liens.

8. **VEHICLES**: RESIDENT must register with the COMMUNITY office all vehicles regularly kept in the COMMUNITY, and all such vehicles must have valid, current license plates. All vehicles owned or regularly used by RESIDENT as of the date RESIDENT signs this Agreement must be listed on the last page of this Agreement. RESIDENT must deliver written notice to MANAGEMENT within thirty (30) days after any change in the vehicles owned or regularly used by RESIDENT.

9. **RESIDENT RESPONSIBILITIES**: RESIDENT must maintain the home site in accordance with the Rules and Regulations. If RESIDENT fails to do any home site improvement or maintenance work required by this Agreement or by the Rules and Regulations, MANAGEMENT may notify RESIDENT in writing that the work must be done. If RESIDENT does not do the work within the time specified after receiving such written notice, MANAGEMENT may do the work and charge RESIDENT for the reasonable costs thereof. MANAGEMENT must advise RESIDENT in writing of any such charge. In addition to the foregoing, the provisions of Section 55-248.44 of the Act (Tenant's Obligations) are by reference hereby incorporated as a part of this Agreement.

**MANAGEMENT RESPONSIBILITIES**: MANAGEMENT shall maintain the streets and common areas of the COMMUNITY and obey all health, safety and building code regulations which apply to the COMMUNITY. In addition to the foregoing, the provisions of Section 55-248.43 of the Act (Landlord's Obligations) are by reference hereby incorporated as a part of this Agreement.

**EMERGENCY MAINTENANCE WORK**: If emergency maintenance work is required to respond to an immediate danger to COMMUNITY facilities or to the health or safety of other residents, MANAGEMENT may do the work and charge the reasonable costs to the applicable RESIDENT in a written statement.

12. **PRIVACY**: No representative of MANAGEMENT may enter the manufactured home except if invited, unless entry is necessary to respond to an emergency or prevent damage to the COMMUNITY. Representatives of MANAGEMENT may come onto the home site, at reasonable times, to contact RESIDENT, inspect the home site, make necessary or agreed upon repairs or improvements, supply necessary or agreed upon goods or services, or show the home site to prospective or actual buyers, residents, workers, contractors or mortgagees.

13. **STORAGE AREA**: Before storing any property in the COMMUNITY'S storage area (if any), RESIDENT must register the property with MANAGEMENT, and a signed storage agreement must be kept current on file in the COMMUNITY office. MANAGEMENT shall not be liable for any damage to stored property except damage caused by MANAGEMENT'S gross negligence or willful misconduct. Any unregistered property found by MANAGEMENT in the storage area will be removed. A separate fee may be charged

for each space in the storage area, as provided in the storage agreement. RESIDENT is responsible for maintaining RESIDENT'S space in the storage area.

**14. ABANDONED PROPERTY**: Except as provided in Section 55-248.50:02 of the Act, if RESIDENT vacates the COMMUNITY and leaves behind personal property (including the manufactured home) without MANAGEMENT'S prior written permission, MANAGEMENT may consider the property abandoned and may remove the property and store it. If MANAGEMENT does remove and store the property, RESIDENT shall be responsible for the costs involved, and such costs shall constitute a lien on the property. **Thirty (30)** days after it reasonably appears that RESIDENT has abandoned the property, if RESIDENT has not claimed said property, MANAGEMENT may take appropriate steps to take title to the manufactured home (if applicable) and/or sell the property, in accordance with state law. If, prior to such sale of the property, RESIDENT requests the return of the property which has been removed and stored, RESIDENT must first pay MANAGEMENT for the removal and storage costs and all other amounts owing to MANAGEMENT.

**15. SUBLETTING**: **RESIDENT may not sublet the home site or assign this Agreement or the home site to anybody without MANAGEMENT'S prior written permission**. RESIDENT does not have to inform MANAGEMENT of overnight visitors or other short term guests who stay less than **fourteen (14)** days in any **six (6)** month period. Any person occupying the manufactured home and/or the home site for more than **fourteen (14)** days within a **six (6)** month period shall be considered a RESIDENT and must have the prior written consent of MANAGEMENT, and if an adult approved by MANAGEMENT in writing as a RESIDENT, must sign this Agreement.

**16. CHANGES TO THE RULES AND REGULATIONS**: MANAGEMENT will give RESIDENT at least **sixty (60)** days written notice of any changes to the Rules and Regulations; no such changes shall substantially modify the terms of this Agreement or the Rules and Regulations. MANAGEMENT may increase the rent payable hereunder, at the end of the lease term only. **If MANAGEMENT and RESIDENT agree to make an exception to a provision of this Agreement or the Rules and Regulations, that agreement must be in writing; provided, however, that any such exception shall be limited to the event or circumstances described in such agreement and such agreement shall not be deemed or construed as a waiver of MANAGEMENT'S right to subsequently enforce the same or any other provision.**

**17. TERMINATION OF THIS AGREEMENT BY RESIDENT**: Rental periods under this Agreement begin on the first day of the then-current rental year and end on the last day of the then-current rental year. If RESIDENT wishes to terminate this Agreement and leave the COMMUNITY, RESIDENT must notify MANAGEMENT in writing at least **sixty (60)** days prior to the termination of the then-current yearly rental period. In such event, this Agreement and RESIDENT'S obligation to pay rent will end as of the end of the then-current annual rental period, even if RESIDENT moves out of the COMMUNITY earlier. If RESIDENT does move out of the COMMUNITY before this Agreement ends, RESIDENT must still pay rent through the end of the then-current annual rental period; provided, however, if a new resident approved by MANAGEMENT rents the home site, then RESIDENT'S obligation shall be reduced by any amounts paid by the new resident attributable to the remainder of RESIDENT'S rental period. Except as otherwise expressly provided in this Agreement, upon the termination of this Agreement, RESIDENT must remove the manufactured home from the COMMUNITY, at RESIDENT'S expense.

**18a. TERMINATION OF THIS AGREEMENT BY MANAGEMENT - EVICTION**: MANAGEMENT may not unilaterally terminate this Agreement before it expires without due cause. Due cause means any of the following:

a. Substantial non-compliance with any provision(s) of this Agreement;

b. Non-payment of rent;

c. Evidence that RESIDENT has violated the Rules and Regulations or any provisions of the Act; or

d. Change in use of the land containing the COMMUNITY pursuant to Section 55-248.46(B) of the Act.

MANAGEMENT may, at any time after rent is overdue longer than **five (5)** days, demand payment thereof and notify RESIDENT in writing that unless payment is made within a time specified in the notice, not less than **five (5)** days after receipt thereof, this Agreement shall be terminated. If RESIDENT remains in default, MANAGEMENT may thereafter terminate this Agreement and bring any proper legal action or suit for recovery of rent due and bring a summary proceeding for possession of the home site.

If RESIDENT breaches any rule or agreement which is material to this Agreement, MANAGEMENT shall notify RESIDENT of such breach and shall allow **twenty-one (21)** days after such notice for the remedy or correction of such breach. Such notice shall substantially specify the rule or agreement allegedly breached and advise RESIDENT that if the violation continues after not less than **twenty-one (21)** days after RESIDENT's receipt of such notice, on the **thirtieth (30th)** day after receipt of such notice, MANAGEMENT may terminate this Agreement and bring summary proceedings for possession of the home site.

**18b. TERMINATION OF THIS AGREEMENT BY MANAGEMENT - DEFAULT**: If the manufactured home being placed on the home site is being purchased by RESIDENT pursuant to a Conditional Sales Contract with Realty Systems, Inc., RESIDENT agrees that any default under the terms of such Conditional Sales Contract will be a default under the terms of this Agreement which will allow MANAGEMENT to terminate this Agreement.

**19. TERMINATION OF THIS AGREEMENT**: Both parties hereby expressly agree that this Agreement shall automatically terminate and be of no further force or effect **sixty (60)** days following delivery by either party to the other party of written notice declaring such termination. RESIDENT shall remove the manufactured home from the COMMUNITY within **sixty (60)** days following the delivery of any such notice by either party.

**20. RIGHTS AND DUTIES RESERVED**: Nothing in this Agreement or in the Rules and Regulations can change or take away any of the rights which either MANAGEMENT or RESIDENT may have under any law, ordinance or other government regulation. Nothing in this Agreement or in the Rules and Regulations can authorize either MANAGEMENT or RESIDENT to disobey any law, ordinance or other government regulation. Failure by MANAGEMENT or RESIDENT to enforce any right under this Agreement does not mean that such party has waived or given away that right.

**21. NOTICES**: RESIDENT may give any notice required by this Agreement, by the Rules and Regulations or by any law either by personally delivering such notice to the COMMUNITY office or by mailing such notice the COMMUNITY office via regular, first class mail (with postal certification of mailing).

MANAGEMENT may give any notice required by this Agreement, by the Rules and Regulations or by any law either by personally delivering such notice to RESIDENT at the home site or by mailing such notice to RESIDENT at the home site via regular, first class mail (with postal certification of mailing)

22. **RULES AND REGULATIONS**: The Rules and Regulations are a part of this Agreement. They contain provisions, limitations, rights and duties of MANAGEMENT and of RESIDENT which are as important as the provisions of this Agreement and are hereby incorporated by reference.

23. **PRIOR ENCUMBRANCE**: The real estate on which the COMMUNITY is located is, or may now or in the future be, subject to a mortgage encumbrance.

24. **INSURANCE**: RESIDENT must carry adequate "Fire and Extended Coverage" insurance on the manufactured home and must also maintain reasonable general public liability insurance, as determined by MANAGEMENT in its reasonable discretion. RESIDENT must provide suitable evidence of insurance to MANAGEMENT upon request.

25. **EMINENT DOMAIN:** If the home site or any portion thereof is (i) taken by eminent domain proceedings (condemnation) instituted by any governmental agency or other public authority, or (ii) sold to any governmental agency or other public authority, RESIDENT'S leasehold rights hereunder shall be deemed terminated as of the time of such taking or sale. The foregoing shall not terminate or affect in any way any rights RESIDENT may have with respect to any property of RESIDENT which may be taken in connection with any such eminent domain proceedings or sale, and all right to recover the value of any such property of RESIDENT shall remain with RESIDENT. RESIDENT shall have no right to recover amounts paid to MANAGEMENT as damages to MANAGEMENT'S property in connection with any such eminent domain proceedings or sale.

26. **HOLDOVER:** Upon the expiration of this Agreement, such Agreement shall be automatically renewed for a term of one (1) year with the same terms unless MANAGEMENT provides written notice to RESIDENT of any change in the terms of the Agreement at least sixty (60) days prior to the termination date.

27. **RESIDENT CERTIFICATE**: I/We find this Agreement and the Rules and Regulations to be reasonable, and I/we agree to abide by all provisions thereof. I/We understand that any breach of this Agreement or the Rules and Regulations by myself/ourselves, members of my/our family, or my/our guests may result in the termination of my/our tenancy upon written notice. I/We represent and warrant to MANAGEMENT that the information set forth on the last page of this Agreement is true, complete and correct as of the date set forth below, and I/we agree that any error or omission regarding such information shall constitute a breach of this Agreement. I/We further agree to update such information as necessary to keep the same true, complete and correct at all times throughout the term of this Agreement.

28. **RESIDENT ACKNOWLEDGEMENTS:** This Agreement shall be binding upon the parties hereto. By signing this Agreement, I/we acknowledge that I have received copies of the following and have read and understand the same:

Chapter 13.3, Code of Virginia
This Agreement; and
The Rules and Regulations.

**ACCEPTED AND AGREED TO:**

**RESIDENT:**

01/04/10, 2019
Date

Resident's Signature



(Resident's Initials)
**Meadows of Chantilly Site Rental Agreement**

**6/02**
**Rev. 11/02**

_____, 201__
Date

_____
Resident's Signature

**MANAGEMENT:**

**MHC PROPERTY MANAGEMENT L.P.**

1/4, 2019
Date

By: _____
Authorized Signature

**ALL AGREEMENTS BETWEEN MANAGEMENT AND RESIDENT MUST BE IN WRITING.**

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Patrick and Jean Sartori
Appeal No. 20-04

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 (§ 2.2-4000 et seq. of the Code of Virginia).

## II. Case History

On August 20, 2020, the Culpeper County Building Department (County building official), the agency responsible for the enforcement of Part 1 of the 2012 Virginia Uniform Statewide Building Code (Virginia Construction Code or VCC), issued a Notice of Violation (NOV) to Patrick Sartori (Sartori), owner of a single-family dwelling located at 9408 Breezewood Lane in Culpeper County. The NOV cited a violation of VCC Section R403.1.8 (Foundations on expansive soils) and required Sartori to submit an engineered evaluation of the current footing design with expansive soil conditions and repair if necessary.

In September of 2020, Sartori filed an appeal to the Joint Board of Building Code Appeals of the Town and County of Culpeper (local appeals board). The local appeals board upheld the decision of the County building official finding that as an underlining responsible party, the County Building Department is permitted to issue a code violation to the property owner.

On October 22, 2020, Sartori further appealed to the Review Board. A virtual Review Board hearing was held January 22, 2021. Appearing at the Review Board hearing for Culpeper County were Robert Orr and Bobbi Jo Alexis, legal counsel. Patrick and Jean Sartori, property owner, also attended the hearing.

## III. Findings of the Review Board

### A. Whether to uphold the decision of the County building official and local appeals board that, a code violation of VCC Section R403.1.8 (Foundations on expansive soils) can be issued to the property owner when the structure was permitted by the County and constructed by a Class A licensed contractor.

Sartori argued that the building contractor was the responsible party and that, as the owner of the property, he was not the responsible party. Sartori argued that, in accordance with VCC Section 115, to be the responsible party you must violate the code. Sartori further argued that to violate the code you must apply for, and be granted a permit. Lastly, Sartori argued that the building contractor applied for the permit and violated the code; therefore, the building contractor was the responsible party.

The County building official, through legal counsel, argued that the property owner is always the responsible party in accordance with the Code of Virginia, which was confirmed by the Attorney General's opinion dated December 14, 1978. The County building official also argued that the building contractor and Sartori were in disagreement over how the contract reads, which engineering firm should opine on the issue, or how to cure the issue, which made the situation unique and warranted issuing the NOV to both the building contractor and Sartori. The County building official further argued that Sartori did not want the building contractor to return to the property to perform work to cure the issue.

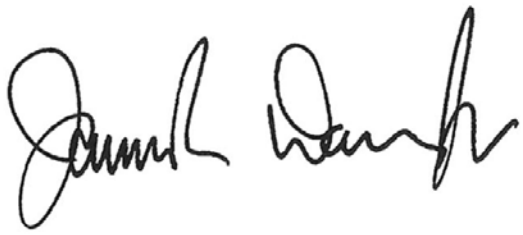
The Review Board finds that the County building official properly applied the Code of Virginia and the regulations by issuing the NOV to Sartori.

## IV. Final Order

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

A. Whether to uphold the decision of the County building official and local appeals board that, a code violation of VCC Section R403.1.8 (Foundations on expansive soils) can be issued to the property owner when the structure was permitted by the County and constructed by a Class A licensed contractor.

The decision of the County building official and local appeals board to issue the NOV to Sartori is upheld.



_____
Chair, State Building Code Technical Review Board

Date entered _____March 19, 2021_____

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.

# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Office of the County Attorney
Suite 549, 12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Phone: (703) 324-2421; Fax: (703) 324-2665
www.fairfaxcounty.gov


September 8, 2026

**BY EMAIL**
Travis Luter, Secretary
Technical Review Board
Travis.luter@dchd.va.gov

**RE: Appeal from the Fairfax County Local Board of Building Code Appeals**
**4200 Airline Parkway**
**CDAPPL-2026-0004**

Mr. Luter,

Please find attached this email additional documents for inclusion in this case.

1. Lease of 14615 Icelandic Place

I am available at the above information if anything further is required.

Sincerely,

Patrick V. Foltz

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# MEADOWS OF CHANTILLY MANUFACTURED HOME SITE RENTAL AGREEMENT


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## WITNESSETH:

THIS MANUFACTURED HOME SITE RENTAL AGREEMENT (hereinafter "Rental Agreement" or "Agreement") is between "LANDLORD" and "TENANT" as identified in Section 93 hereof, "Rental Agreement Particulars."

TO THE TENANT:

This Manufactured HOME SITE Rental Agreement is a binding legal document. By signing this Agreement, LANDLORD and TENANT (as such terms are hereinafter defined) agree to be bound by everything it contains. Before you sign this Agreement, make sure you read and understand it. By signing this Agreement, TENANT acknowledges that TENANT has been furnished a copy of this fully executed Agreement and the Virginia Manufactured Home Lot Rental Act, Title 55.1, Chapter 13, §1300, et seq., 1950 Code of Virginia, as amended (the "VMHLRA").

In consideration of the mutual promises and covenants set forth below, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS:

"COMMUNITY" means the realty and improvements known as the Meadows of Chantilly Manufactured Home Community in Chantilly, Virginia (Fairfax County Tax Map # 0342-01-0021).

"COMMUNITY OFFICE" means the office designated as such in Section 93 of this Agreement.

"MANUFACTURED HOME SITE" or "HOME SITE" means the Space in the COMMUNITY identified in Section 93 as rented to TENANT for occupancy pursuant to this Rental Agreement.

"LANDLORD" means the owner of the PREMISES identified in Section 93, "Rental Agreement Particulars."

"MANAGEMENT" means the entity identified as such in Section 93, "Rental Agreement Particulars." MANAGEMENT is the agent for "LANDLORD" and has all the authority of LANDLORD for purposes of exercising LANDLORD'S rights under this Agreement and under the applicable landlord-tenant law of the Commonwealth of Virginia, including the enforcement of this Agreement in its name, or that of LANDLORD, or jointly. It is agreed by TENANT that MANAGEMENT may enforce this Agreement, and seek its legal interpretation, including, by way of Section 35, infra, by the institution of litigation, in its name or that of LANDLORD, or in both names.

"MANUFACTURED HOMES" means a structure, transportable in one or more sections, that in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

"MINORS" means all persons less than eighteen (18) years of age who resides at the HOME SITE with the permission of TENANT.



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"OCCUPANCY LIMIT" means the number of bedrooms in the manufactured home multiplied by two (2), plus one (1), as calculated and set forth for the specific purpose of this Rental Agreement in Section 93.

"PREMISES" mean the "MANUFACTURED HOME SITE" or "HOME SITE" rented to TENANT and additionally, all LANDLORD'S real property set aside as common areas, including parking areas, storage areas, roadways, clubhouse, swimming pool, athletic courts and other common areas within the "COMMUNITY," although TENANT shall have no right to reside in areas of the PREMISES other than the TENANT'S individual "MANUFACTURED HOME SITE" and TENANT'S right to use the common areas is not exclusive and is shared with other TENANTS, MANAGEMENT and LANDLORD.

"RENT" means all payments made by TENANT to LANDLORD for use of the HOME SITE and other facilities or services provided to TENANT by LANDLORD. The base RENT for the HOME SITE is identified in Section 93 hereof.

"RENTAL AGREEMENT" means this Agreement. For purposes of this Agreement, RENTAL AGREEMENT is synonymous with and interchangeable with "Agreement."

"RENTAL AGREEMENT TERM" or "TERM" means the period from the "RENTAL AGREEMENT START DATE" to the "RENTAL AGREEMENT END DATE" and any extension thereof, as all such phrases are identified, for the specific purposes of this Rental Agreement, in Section 93.

"RESIDENT" means, collectively, all those who are TENANTS or MINORS as those terms are defined herein.

"TENANT" means each person eighteen years of age or older identified in SECTION 93 as "TENANT" or expressly added in writing - to this Agreement as a TENANT after the effective date of this Agreement.

2. RENTAL AGREEMENT:

LANDLORD hereby rents the "PREMISES" to "TENANT" for the TERM beginning on the RENTAL AGREEMENT START DATE and ending on THE RENTAL AGREEMENT END DATE as specified in Section 93.

**TENANT represents and warrants that title to the manufactured home described below is in the name of TENANT and acknowledges that this warranty is a material inducement for LANDLORD to rent the PREMISES to TENANT. TENANT agrees that TENANT will provide MANAGEMENT with a copy of the title to TENANT'S manufactured home before entering into this Agreement, and immediately upon MANAGEMENT'S request. TENANT FURTHER WARRANTS THAT THE HOME SITE IS BEING RENTED FOR OCCUPANCY OF TENANT'S MANUFACTURED HOME DESCRIBED IN SECTION 93 (THE "MANUFACTURED HOME").**

3. DELAYING POSSESSION:

If LANDLORD is unable to deliver possession of the "PREMISES" to TENANT on the RENTAL AGREEMENT START DATE for any reason, LANDLORD shall not be in default under this Agreement or liable to TENANT for such delay and this Agreement shall remain in force subject to the following:

a. "RENT" shall abate on a daily basis during the delay; and

b. If the delay in possession extends for more than 5 days, TENANT may terminate this Agreement by giving written notice to LANDLORD no later than the 10th day after the RENTAL AGREEMENT START DATE.

c. If TENANT terminates the Agreement pursuant to this Section, TENANT shall only be entitled to a refund of the SECURITY DEPOSIT and any pre-paid RENT and this Agreement shall be null and void. TENANT shall not have the right to abate RENT or terminate this Agreement because of delays which do not prevent occupancy by TENANT. If LANDLORD provides a RENT concession or abatement (in the month of initial occupancy or thereafter) with respect to the condition of the HOME SITE or otherwise, the same shall not be a waiver by LANDLORD of its right to collect the full RENT due under this Agreement for any other month.

**4. USE OF PREMISES:**

The PREMISES will be used by TENANT as a private residential dwelling for the TENANT and "MINORS" who are identified in Section 93 or added thereafter pursuant to the methods required by this Agreement, and no other purpose, including business purposes, or as a day care facility, unless otherwise permitted by MANAGEMENT, in writing. The maximum number of persons permitted to reside in the manufactured home ("OCCUPANCY LIMIT") as defined above is the number of bedrooms multiplied by two (2), plus one (1), or the maximum number permitted by the Virginia Uniform Statewide Building Code, whichever number is less.

**5. RENT:**

TENANT agrees to pay "RENT" in advance, without notice, demand, reduction or offset, in monthly installments in the amount provided in Section 93, unless TENANT makes a valid TENANTS Assertion pursuant to Chapter 13 of Title 55 of the Virginia Residential Landlord and Tenant Act (VRLTA) of the 1950 Code of Virginia, as amended. However, it is understood by TENANT that a TENANT'S Assertion places TENANT'S right to remain in possession of the PREMISES at risk should TENANT, in connection with a TENANT'S Assertion, fail to pay the RENT, or reduce TENANT'S rent payment or make a deduction from the RENT without TENANT'S having the right to do so under Virginia law.

If the RENTAL AGREEMENT START DATE is a day other than the first day of a calendar month, RENT for the first month shall be prorated according to the number of days during which TENANT will have the right to occupy the PREMISES during such month.

TENANT shall pay RENT as base HOME SITE rental, which payment to MANAGEMENT must be made on or before the first day of each month. TENANT must pay the RENT at the "COMMUNITY OFFICE," identified in Section 93, during its normal business hours, at such other place as LANDLORD or MANAGEMENT may from time to time designate in writing, on or before the first day of each month.

RENT for the first month, as well as the "SECURITY DEPOSIT" described in Section 93, are due when TENANT signs this Agreement.

All RENT payments shall be applied first to past due RENT, then to other charges owing under this Agreement. The remaining portion of such payments, if any, shall be applied to current RENT.





If there are two or more natural persons constituting TENANT, LANDLORD shall have the option of requiring one payment for each monthly installment of RENT. Failure to pay the RENT pursuant to the terms of this Agreement, including the failure to pay RENT on or before the 1st of the month when due, is a default under this Agreement.

Notwithstanding anything to the contrary contained herein, MANAGEMENT reserves the right, upon at least sixty (60) days prior written notice, to require that TENANT pay the RENT and/or other amounts payable by TENANT hereunder via automatic electronic transfer. If MANAGEMENT elects to implement this procedure, TENANT hereby agrees to promptly complete, execute and deliver to MANAGEMENT such information and documentation as MANAGEMENT may reasonably require in order to effectuate such electronic transfers.

In addition to the foregoing, TENANT shall also pay as additional rent those charges imposed by LANDLORD from time to time for services actually performed by MANAGEMENT or its employees, contractors or agents, including any such charges provided for in any reasonable Rules and Regulations adopted by MANAGEMENT and for amounts paid by LANDLORD on TENANT'S behalf in the event that TENANT fails to pay when due any charges for which TENANT is responsible hereunder or otherwise associated with TENANT'S rental of the HOME SITE (provided, however, that LANDLORD shall have no obligation to pay any such amounts). If TENANT fails to pay any such additional rent amounts to LANDLORD, LANDLORD may transfer HOME SITE rental monies paid by TENANT towards any other charges TENANT may have incurred, leaving TENANT with a delinquent HOME SITE rent balance.

**6. LATE CHARGE:**

If RENT is not received by the 6th day of a calendar month, TENANT shall pay as additional RENT a Late Charge (identified in Section 93) for all such RENT not paid before the 6th day of the month. The Late Charge may only be paid at the "COMMUNITY OFFICE," identified in Section 93, during normal business hours, by electronic transfer, or at such other place or in such other manner as LANDLORD or MANAGEMENT may from time to time designate in writing." Failure to pay any such late fee may result in termination of this Agreement for non-payment of RENT.

**7. BAD PAYMENTS:**

TENANT agrees to pay as additional RENT a "BAD PAYMENT CHARGE" as identified in Section 93, for each payment returned unpaid by TENANT'S bank or stopped by TENANT without just cause. This charge will be in addition to any late fee that may be due and may only be paid at the "COMMUNITY OFFICE," identified in Section 93, during normal business hours, by electronic transfer, or at such other place or in such other manner as LANDLORD or MANAGEMENT may from time to time designate in writing."

If any of TENANT'S payments are returned to LANDLORD unpaid by TENANT'S bank, or for having been stopped by TENANT without just cause, LANDLORD shall thereafter at any time have the option of requiring that all subsequent payments due from TENANT under this Agreement, for the remainder of the Term or any extension thereof, be made by certified funds or electronic funds transfer.

**8. REPEATED LATE PAYMENT:**

In the event the RENT is late three (3) or more times during the TERM, or any extension thereof, the parties to this Agreement agree that this constitutes a material breach of this Agreement and shall be grounds for termination of this Agreement. TENANT agrees that upon notice from LANDLORD that





TENANT has been late with the payment of RENT two (2) or more times during any six (6) month period of the Term or any extension thereof, and that LANDLORD demands the return of the PREMISES, TENANT shall immediately vacate and surrender possession of the PREMISES to LANDLORD.

Notwithstanding anything to the contrary contained herein, MANAGEMENT reserves the right, upon at least sixty (60) days prior written notice, to require that TENANT pay the RENT and/or other amounts payable by TENANT hereunder via automatic direct withdrawal from TENANT'S bank account. If MANAGEMENT elects to implement this procedure, TENANT hereby agrees to promptly complete, execute and deliver to MANAGEMENT such documentation as MANAGEMENT may reasonably require in connection therewith.

**9. USE OF THE HOMESITE:**

TENANT may use the HOME SITE only for residential purposes. TENANT may not build improvements on the HOME SITE or put a manufactured home on the HOME SITE other than the one designated in Section 93 unless MANAGEMENT first agrees in writing, and then solely in conformity with this Agreement and any applicable state or county ordinances, regulations or codes governing such construction or improvement. TENANT must not allow the land or improvements to become subject to any mechanics', laborers' or materialmens' liens.

**10. ENTRY OF HOME SITE:**

LANDLORD'S and MANAGEMENT'S representatives may enter the Manufactured Home and HOME SITE when entry is necessary to respond to an emergency or prevent damage or injury to the HOME SITE, COMMUNITY or its residents. Representatives of LANDLORD and MANAGEMENT may come onto the HOME SITE, at reasonable times, to contact TENANT, inspect the HOME SITE, make necessary or agreed upon repairs or improvements, supply necessary or agreed upon goods or services, to show the HOME SITE to prospective or actual tenants or buyers, workers, contractors or mortgagees and to serve any notice permitted under the VMHLRA or the VRLTA or any other provision of Virginia law.

**11. ASSIGNMENT, SUBLET OR SUBSTITUTION:**

TENANT shall not assign TENANT'S interest in this Agreement nor sublet the PREMISES, nor add or substitute any TENANT or TENANTS to this Agreement without first applying to do so in a written application to MANAGEMENT, and then only after obtaining MANAGEMENT'S written consent. If TENANT wishes to assign or sublet his interest in this Agreement, or add additional TENANTS or occupants to this Agreement, TENANT agrees to pay LANDLORD a "Modification Fee," as defined in Section 93, to cover the LANDLORD'S administrative expenses processing TENANT'S modification request. Any unauthorized assignment or sublet shall be void ab initio.

No assignment, sublease, or addition of a TENANT will release TENANT from his continuing responsibility for the full performance of the terms and conditions of this Agreement unless LANDLORD signs a written statement releasing TENANT from such liability or recognizing, in writing, a substitute TENANT for TENANT. LANDLORD may accept or reject the written application to assign, sublet or add or substitute TENANTS or occupants within ten (10) business days after receipt of such application. Failure to accept or reject such application within ten (10) business days shall constitute rejection of such application. Consent to an assignment, sublease or addition or substitution of TENANTS may be withheld by LANDLORD in its sole discretion.





LANDLORD may assign this Agreement or sell or transfer the PREMISES without obtaining TENANT'S consent. In any such event, TENANT will attorn to any such assignee, transferee or purchaser and all of TENANT'S obligations to LANDLORD under this Agreement shall continue, but then be owed to the assignee, transferee, or purchaser who shall be recognized by TENANT as the LANDLORD under this Agreement.

**12. VISITORS:**

TENANT must inform MANAGEMENT in writing of overnight visitors or guests who stay overnight for more than three consecutive calendar days in or on the HOME SITE.
Any person over the age of eighteen (18) years occupying the Manufactured Home and/or the HOME SITE for more than fourteen (14) days within a six (6) month period must apply to become a TENANT and must agree to be a TENANT under this Agreement, subject to MANAGEMENT'S written approval of his application. If the application is approved by MANAGEMENT, in writing, the applicant must sign this Agreement and be thereby added to this Agreement as a TENANT and be bound by all terms binding TENANTS under this Agreement.

If TENANT'S visitor or other guest over the age of eighteen (18) years occupies the Manufactured Home and/or HOME SITE for more than fourteen (14) days within a six (6) month period, whether that fact is known to TENANT or not, the visitor/guest occupant's failure to quit the Premises after being directed to quit the Premises, or the visitor/guests occupant's failure to successfully apply to become a TENANT, shall be a material breach of this Agreement by TENANT. If MANAGEMENT notifies TENANT that in good faith MANAGEMENT suspects that a person over the age of eighteen (18) years has occupied the Manufactured Home and/or HOME SITE for more than fourteen (14) days within a six (6) month period without that person applying to become a TENANT, it shall create a rebuttable presumption that the person suspected of such occupancy has occupied the Manufactured Home and/or HOME SITE for more than fourteen (14) days within a six (6) month period without application to become a TENANT. If the presumption is not overcome by a preponderance of the evidence presented by TENANT, the TENANT shall be in material breach and default under this AGREEMENT.

If any person under the age of eighteen (18) years occupies the Manufactured Home and/or the HOME SITE for more than fourteen (14) days within a six (6) month period, TENANT must notify MANAGEMENT of that fact and must apply, in writing, to have the occupant added to this Agreement as a "MINOR." Whether to recognize the occupant as a MINOR and add the occupant to the Agreement shall be determined by MANAGEMENT using the same criteria it would have applied to determine if the MINOR was suitable to be recognized in the Agreement as a "MINOR" at the commencement of the Agreement. Should MANAGEMENT refuse to approve TENANT'S application to make the occupant a MINOR for purposes of this Agreement, the occupant must immediately vacate the Premises, or TENANT shall be in material breach and default under this Agreement.

If MANAGEMENT notifies TENANT that in good faith MANAGEMENT suspects that a person under the age of eighteen (18) years has occupied the Manufactured Home and/or HOME SITE for more than fourteen (14) days within a six (6) month period without the TENANT applying to add such person to this Agreement as a "MINOR," this shall create a rebuttable presumption that the person suspected of such occupancy is under the age of eighteen (18) years and has occupied the manufactured home and/or HOME SITE for more than fourteen (14) days within a six (6) month period without TENANT'S applying to MANAGEMENT to have the minor added to this Agreement as a "MINOR." If the presumption is not overcome by a preponderance of the evidence presented by the TENANT, the TENANT shall be in material breach and default under this AGREEMENT.

**13. ABANDONED PROPERTY:**

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If TENANT vacates the COMMUNITY and leaves behind personal property (including the manufactured home) without LANDLORD'S prior written permission, LANDLORD may consider the property abandoned and may remove the property and store it in a storage facility that may be, in the sole discretion of LANDLORD, the manufactured home or the HOME SITE. If MANAGEMENT does remove and/or store the property, TENANT shall be responsible for the costs involved, and such costs shall constitute a storage lien on the property. Thirty (30) days after it reasonably appears that TENANT has abandoned the property (other than the manufactured home), if TENANT has not claimed said property, LANDLORD may dispose of the property in any way Landlord deems proper, in LANDLORD'S sole discretion. If, thirty (30) days after it reasonably appears that TENANT has abandoned the manufactured home, LANDLORD may take appropriate steps to take title to the manufactured home or sell, demolish or scrap the manufactured home, in accordance with the Abandoned Vehicle Process of Title 46.2-1200, et seq., 1950 Code of Virginia, as amended.

If, prior to the thirty (30) day period described in this Section, the TENANT requests the return of the property (including the manufactured home) which has been removed and/or stored, TENANT must first pay LANDLORD for the removal and storage costs and all other amounts owing to LANDLORD under this Agreement, including amounts secured by a LANDLORD'S lien, or other relevant codes, statutes or ordinances.

**14. LANDLORD'S OBLIGATIONS:**

LANDLORD shall obey all health, safety and building code regulations which apply to "Common Areas" of the COMMUNITY as well as the provisions of Section 55.1-1303 of the VMHLRA ("LANDLORD'S Obligations") which are hereby incorporated by reference as a part of this Agreement.

**15. TENANT'S OBLIGATIONS:**

In addition to the provisions of this Agreement, the TENANT shall:

a. Comply with applicable laws affecting manufactured homeowners and tenants;

b. Keep and maintain the exterior of his manufactured home and the HOME SITE as clean and safe as conditions permit;

c. Place all garbage and other waste in the appropriate receptacles, which shall be provided by TENANT when door to door garbage and waste pickup is provided;

d. Use in a reasonable and orderly manner all facilities and appliances in the COMMUNITY, and require other persons on the PREMISES with his consent to do so;

e. Conduct himself and require other persons on the PREMISES with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the PREMISES;

f. Abide by all reasonable rules and regulations imposed by LANDLORD, and in the absence of express written agreement to the contrary, occupy his manufactured home only as a dwelling unit.

**16. TERMINATION OF THIS AGREEMENT BY MANAGEMENT - EVICTION:**

MANAGEMENT may terminate this Agreement and evict the TENANT for:



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a. Nonpayment of RENT;

b. Violation of the applicable building and housing code caused by a lack of reasonable care by TENANT or a member of his household or a person on the PREMISES with his consent;

c. Violation of a federal, state or local law or ordinance that is detrimental to the health, safety and welfare of other tenants in the COMMUNITY;

d. Violation of any rule or provisions of this Agreement materially affecting the health, safety and welfare of himself or others; or

e. Two or more violations of any rule or provision of this Agreement occurring within a six-month period.

**17. TERMINATION OF THIS AGREEMENT BY NON-RENEWAL:**

Either party may terminate this Agreement if it is for a term of 60 days or more by giving written notice to the other at least 60 days prior to the RENTAL AGREEMENT END DATE or its anniversary, if the Agreement has been automatically renewed. If the termination is due to rehabilitation or a change in the use of all or any part of the COMMUNITY by LANDLORD, a 180-day written notice is required to terminate this Agreement. Changes shall include, but not be limited to, conversion to hotel, motel, or other commercial use; planned unit development; rehabilitation; demolition; or sale to a contract purchaser. This 180-day notice requirement shall not be waived; however, a period of less than 180 days may be agreed upon by both the LANDLORD and TENANT in a written agreement separate from the rental agreement or Agreement executed after such notice is given and applicable only to the 180-day notice period.

**18. MANUFACTURED HOMES - QUALITY STANDARDS:**

General Requirements: The location and installation of all manufactured homes must comply with all applicable governmental laws, codes and regulations.

a. Condition and Approval: No manufactured home may be moved into the COMMUNITY, or be transferred to a new TENANT within the COMMUNITY, unless the size, age, condition, appearance and design thereof have been approved in writing by MANAGEMENT in accordance with the quality standards set forth in this Agreement.

MANAGEMENT may reject any manufactured home if the same does not meet the requirements of MANAGEMENT as to its size, quality, appearance, material specifications, construction and safety conditions, design, location and compatibility with the COMMUNITY and other manufactured homes therein. TENANT is responsible for any damage to other manufactured homes in the COMMUNITY caused by TENANT or the mover in moving-in or installing the manufactured home. Wheels and axles must be removed from the manufactured home and the HOME SITE within thirty (30) days of set up. Hitches must be removed from the manufactured home and stored beneath the home within thirty (30) days of set up.

b. Continuing Compliance of Home: All manufactured homes must continue to meet all applicable laws, codes and regulations as such may be amended from time to time. Under state law, TENANT'S tenancy may be terminated for failure of TENANT to comply with this Agreement and with local ordinances and state and federal laws and regulations relating to manufactured homes. To assure individual upgrades are aesthetically compatible and in accordance with the COMMUNITY Standards



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and these Quality Standards, all additions, improvements, and/or alterations, including but not limited to other appurtenances, such as porches, decks, screened-in areas, utility buildings, and replacement of existing air conditioning, must have the written approval of LANDLORD prior to installation. Each TENANT is responsible for the submission of complete designs, plans and/or permits for anticipated alterations showing compliance with COMMUNITY Standards, applicable building and zoning codes, set back and separation requirements, local laws, and other restrictions of record. Building permits must be displayed and all contractors must be licensed by appropriate governmental agencies, bonded, and approved by LANDLORD. All improvements must be completed within thirty (30) days. **LANDLORD reserves the right to require the removal of any unapproved alteration(s) at the TENANT'S sole expense.** In addition, any such structure requiring a building permit may not be built or erected without a building permit, and interim inspections, and an occupancy permit first being obtained from the Building Officials having jurisdiction.

c. Street Numbers: All homes must have the street number displayed as to facilitate emergency services locating the Premises if an emergency arises. MANAGEMENT will provide TENANT with a proper location for the street number, so that some level of uniformity exists.

d. Foundations: All Homes must have appropriate underpinning which includes but is not limited to the home manufacturer's recommendations for proper blocking, tie downs, insulation, skirting, etc. Underpinning must meet Virginia Uniform Statewide Building Code requirements and recommendations.

e. Access and Storage: There must be access to underneath the home available for work on utility connections, maintenance, etc. No items (other than the hitch) are permitted to be stored underneath the home. The area under the home must remain clean and clear of all debris. If, after 72-hours' notice to TENANT, an item or items remains under the Home in violation of these requirements, the item(s) will be removed and become LANDLORD'S property. LANDLORD reserves the right to remove such items and charge TENANT for removal. Non-payment of the charges will result in the amount becoming additional rent due with the next due RENT payment. Skirting and all other underpinning must be maintained and in good repair or MANAGEMENT will require them to be replaced. The space immediately under a deck, porch, and/or other addition, must not be used for storage of any objects and/or materials which present a fire and/or health hazard and/or interfere with access to utilities. Stored items shall not be visible from outside the home. Patios may not be used for storage. Item(s) stored on the HOME SITE will be tagged for removal within 72 hours after notice. If the item remains in violation of these covenants after the 72 hours, the item(s) will be removed and become LANDLORD'S property. MANAGEMENT reserves the right to remove such items and charge TENANT for removal. Non-payment of the charges will result in the amount becoming additional rent due with the next due RENT payment.

f. Permits and Approvals: All permits and approvals from LANDLORD or government authorities required for the installation or removal of a manufactured home must be obtained by TENANT in advance of such installation or removal.

g. Roofs: No materials or items of any nature may be used to add to or replace the roof of a manufactured home without the prior written approval of MANAGEMENT, and the same must be installed in compliance with all applicable laws, codes and regulations. "Tie-downs" satisfactory to MANAGEMENT must be installed within thirty (30) days of set up.

h. Siding and Roof Materials: Homes in the COMMUNITY, and all incoming homes, must be gable and shingle roofed, and wood or vinyl lap sided to the ground, and must have shutters for all windows. MANAGEMENT may require that any such manufactured home not in compliance with the requirements of this Agreement (i) be removed from the COMMUNITY, or (ii) be brought into



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compliance with this Agreement to the extent feasible under the Virginia Uniform Statewide Building Code as a condition to the manufactured home being permitted to remain in the COMMUNITY.

i. Windows: All drapes, shades, and blinds installed by TENANT should be lined in white to present a uniform exterior appearance. Only materials specifically intended for window coverings should be used. No aluminum foil, reflective tint, plastic sheeting, flags, sheets and/or other non-window covering is to be placed in windows. Broken or damaged windows are to be repaired or replaced promptly. All windows and window coverings are to be maintained in good condition.

j. Carports: Carports are not permitted without MANAGEMENT'S written approval. If a carport is installed without MANAGEMENT' written approval, removal of such will be the financial responsibility of TENANT.

k. Air Conditioning: All new homes must have central air conditioning. No window or roof air conditioning is permitted for any home, so any existing window or rooftop air conditioners must be removed. Any exceptions will require the written approval of MANAGEMENT.

l. Exterior Home Surfaces: The exterior surface of the home and including the eaves and/or trim shall be kept free of mildew and/or discoloration. Peeling and/or fading paint, and/or damaged exterior surfaces must be restored to the original new condition. MANAGEMENT reserves the right to require additional repairs and/or replacement of exterior home surfaces which do not meet any of the requirements of this Agreement, at TENANT'S expense.

m. Obsolescence: As the home's appearance ages, the home shall be resurfaced, re-sided, re-skirted, re-roofed, and/or replaced as necessary to maintain the home in compliance with the standards and requirements of this Agreement. Exterior materials shall be in conformity with new homes delivered into the COMMUNITY. Any necessary work shall be performed in accordance with this Section. MANAGEMENT reserves the right to require additional repairs at TENANT'S expense. If a home is older than ten (10) years or is less than 980 square feet of living space and/or the home's roof is less than a 3/12 ratio roof, and/or the home otherwise fails to meet the standards and requirements of this Agreement at the time the home is up for sale or undergoes any other form of title transfer, MANAGEMENT reserves the right to deny approval of such transfer and require that the home be removed from the COMMUNITY.

n. Antennas: Only one (1) satellite dish, not to exceed one (1) meter in diameter may be installed per HOME SITE, per type of reception service. No TV antenna over twenty- four (24) inches in height may be installed on the HOME SITE, and guy wires with respect to any antenna may be attached only to the home's roof. The installation and location of such must be in accordance with the reasonable requirements of MANAGEMENT and all applicable laws, codes and regulations. Antenna masts must be mounted at least twenty-five (25) feet back from the road in front of the home. No antennas may be installed except upon the prior written approval of MANAGEMENT, which shall be granted in conformity with all applicable FCC Rules and Regulations. Any transmitting, signal reception or equipment which interferes with the reception of other tenants is strictly prohibited.

o. Signs and Flags: One "For Sale" sign no larger 300 square inches is allowed in the home window only at the time a home is actually being offered for sale. No signs are allowed in yards or common areas without prior written permission from MANAGEMENT. All signs in violation of this standard will be removed by MANAGEMENT. A flag's maximum permitted size is 30 inches x 48 inches and must be in good condition. Flags with tears, holes or fading, are not permitted. MANAGEMENT reserves the right to require any such flags to be removed at TENANT'S expense.

MANAGEMENT also reserves the right to require the removal of any sign or flag which MANAGEMENT in its sole discretion and with reason, believes is sufficiently controversial or offensive to any full-time residents of the COMMUNITY as to risk a breach of the peace in the COMMUNITY or to render the COMMUNITY an undesirable place to reside for at least a significant minority of the residents of the COMMUNITY.

**19. MAINTENANCE:**

a. Generally: To make the COMMUNITY and the homes of the tenants in the COMMUNITY attractive and to protect and enhance the monetary value of the COMMUNITY and its manufactured homes and other structures and common areas, TENANT shall maintain the Manufactured Home in good condition and repair at all times. TENANT will remove snow and ice from all walks, steps and drives, and clean gutters, downspouts and drains as needed. TENANT shall, at TENANT'S own expense, keep up and preserve in good condition, the HOME SITE'S fences and walls, if any, in good repair, normal wear and tear excepted.

The exterior of the home shall be kept clean, neat and properly painted at all times. TENANT must maintain the HOME SITE and all sheds, carports and improvements thereon at TENANT'S sole expense in a clean, litter-free, neat and attractive condition, as determined by MANAGEMENT in its sole discretion which shall control as to all TENANT'S maintenance obligations, unless plainly without any reasonable basis.

In the event TENANT fails to perform the maintenance required by this Agreement , MANAGEMENT, in addition to any other remedy it may enjoy under this Agreement or by law, upon fifteen (15) days prior written notice, may take such steps as are necessary to provide the necessary maintenance, and all expenses incurred by MANAGEMENT in so doing must be paid by TENANT on the next rental payment date after submission of a statement for such charges by MANAGEMENT to TENANT.

b. Trash, Debris and Vermin: All trash, debris, brooms, ladders, building materials and similar items must be kept out of sight. Trash shall be removed at regularly scheduled intervals as specified by MANAGEMENT. Trash must be placed in containers satisfactory to MANAGEMENT. With the exception of trash pick-up days, trash cans must be stored behind the HOME SITE or within the storage shed located on the HOME SITE. This subsection applies to reasonable amounts of household trash; TENANT, at TENANT'S sole expense, must arrange for the removal of large items. TENANT shall be responsible for the disposal of any large items, including appliances and furniture. MANAGEMENT and TENANT realize that such a standard is necessarily to some extent subjective, so MANAGEMENT, in its sole discretion, shall determine what are "large items" required to be removed by TENANT unless the determination is plainly without any reasonable basis. TENANT shall cause, at TENANT'S sole expense, the elimination and extermination any insect or animal vermin found on TENANT'S HOME SITE.

c. Access: TENANT must not permit the contents of the HOME SITE to interfere with LANDLORD'S and LANDLORD'S agents, employees and contractors safe and unimpeded access to and movement within the PREMISES for the purposes of implementing LANDLORD'S rights under this Agreement. TENANT is prohibited from placing furnishings or other obstacles in front of windows and doors when the window or door is a means of ingress or egress from the home in case of fire or other emergency, or when so doing would be a violation of applicable fire, housing or maintenance codes.

d. Bicycles, Tricycles and Toys: All bicycles, tricycles and toys must be kept in neat order on the HOME SITE. If any such items are found on the HOME SITES or on the streets, they may be picked





up by MANAGEMENT and, unless claimed by the applicable TENANT within fifteen (15) days, may be distributed by MANAGEMENT to charities, or otherwise disposed of at MANAGEMENT'S option.

e. Landscaping: TENANT shall not remove any trees, shrubs or landscaping from the PREMISES or negligently or intentionally damage any trees, shrubs or landscaping. Additional landscaping and shrubs may be planted with MANAGEMENT'S prior written approval as to type and location. If written approval is not obtained, MANAGEMENT reserves the right to require the removal of such landscaping. MANAGEMENT is not responsible for damage to homes or HOME SITES resulting from acts of nature. Trees, shrubs and landscaping may not be removed without the written consent of MANAGEMENT. Once planted, TENANT is responsible for ongoing maintenance of landscaping. However, after installation, all trees and large shrubs become the property of LANDLORD. TENANT shall be responsible for removing fallen trees and tree limbs. TENANT shall also be responsible for lawn (exclusive of mowing) and landscape maintenance of the HOME SITE at TENANT'S sole expense. TENANT shall repair by re-seeding or sodding bare patches in lawns and other grassy areas of the HOME SITE. TENANT shall rake and bag all leaves and grass cuttings. All lawns, shrubs, trees, fences, paving and other landscaping installed by TENANT shall become LANDLORD'S property and must remain upon the HOME SITE at the termination of TENANT'S occupancy, unless TENANT obtains MANAGEMENT'S prior written approval to remove the same. MANAGEMENT must approve all HOME SITE landscaping plans and any digging, in order to protect the appearance and monetary value of the COMMUNITY, protect underground utility lines, pipes and cables and protect TENANT'S and other persons' safety. All tree trimming, pruning, and removal of vegetative debris at the HOME SITE shall be the sole responsibility of TENANT. TENANT must immediately notify MANAGEMENT of any tree limbs that are dead or decaying.

MANAGEMENT and TENANT realize that landscaping standards are necessarily to some extent subjective, so MANAGEMENT, in its sole discretion, shall determine the sufficiency of landscaping unless the determination is plainly without any reasonable basis.

f. Vegetable Gardens: No vegetable gardens are allowed at TENANT'S HOME SITE or elsewhere on the PREMISES or within the COMMUNITY.

g. Watering: It is the responsibility of TENANT to water his HOMESITE to keep it well maintained. Sprinklers and hoses are not to be left running unattended and TENANT shall not water to the extent that run-off occurs from the HOME SITE. MANAGEMENT has the right to enter the HOME SITE and turn off water in the event of over-watering.

h. Equipment: Lawn care equipment, trash containers, tools, toys, and/or other items must be stored so they are not visible from outside the home when not in use. Stored items must not restrict access to utilities and/or present a fire and/or health hazard. MANAGEMENT reserves the right to enter the HOME SITE to remove any equipment and/or any other items not in good repair and/or authorized by these covenants. MANAGEMENT reserves the right to require sheds at the HOME SITE.

i. Outdoor Furniture: Only furniture specifically designed for outside use is allowed outside the home. Outdoor furniture must be maintained clean and in good repair. MANAGEMENT reserves the right to enter TENANT'S HOME SITE to remove any outdoor furniture not in good repair and/or authorized by this Agreement.

j. Laundry Lines: No one is permitted to hang any items, including, but not limited to, towels, rugs, rags, and/or any wearing apparel on the home, awning, portable rack, or other device on the HOME SITE. Laundry lines, specifically, are not permitted on the HOME SITE at any time. MANAGEMENT reserves the right to enter the HOME SITE to remove any such unauthorized lines, devices or other items and charge TENANT for their removal.





k. Fencing: Privacy fences are allowed within the COMMUNITY with the prior written approval of MANAGEMENT. Fences must be constructed of white, vinyl (PVC) and the style of such fence must be approved in advance by MANAGEMENT. Any fences installed without MANAGEMENT'S prior written approval shall be removed at the sole expense of TENANT. All such fences must conform with the requirements of the Zoning Ordinance regardless of whether those ordinance provisions apply *de jure*, to the HOME SITE.

l. Posts, Poles, and Stakes: No posts, poles, stakes, or the like are to be driven into the ground without the prior written consent of MANAGEMENT due to the danger of interfering with and/or damaging underground utilities and other safety issues. TENANT will be liable for all expenses incurred by MANAGEMENT resulting from violation of this requirement.

**20. ALTERATIONS:**

All construction on, and any alterations and/or modifications to the HOME SITE (excluding routine maintenance), including driveways, landscaping, and/or items that will affect the exterior appearance of the residence or the site, such as any change to the exterior color of the home or appurtenant structures, including, but not limited to, additions, utility buildings, porches, steps and skirting must be approved prior to commencement of work in writing by MANAGEMENT.

Alterations to the appearance of the HOME SITE which are prohibited without MANAGEMENT'S prior written consent shall include, without limitation, the addition of swing sets, trampolines, pools, sandboxes, basketball goals, doghouses, and the like. TENANT may be required to remove, at the TENANT'S expense, any alteration and/or improvement made without written approval from MANAGEMENT which changes the appearance of the HOME SITE. MANAGEMENT reserves the right to remove alterations not removed, after written notice, and the expense thereof will be charged to the TENANT and will be due as RENT at the time of the next scheduled RENT payment. No digging is permitted before underground utilities are properly located and marked. TENANT will be responsible for any damage TENANT causes to utilities.

TENANT is responsible for the submission of complete plans and any necessary permits for anticipated alterations showing compliance with the requirements of this Agreement, applicable county building and zoning codes, and other restrictions of record. Any approved alteration becomes the property of LANDLORD if and when TENANT'S tenancy ends.

Portable basketball units must be located at the back of the HOME SITE, near the grass line, facing the HOME SITE. No permanent basketball units may be installed at the HOME SITE.

No construction company or building trade contractor may perform at the request of TENANT any service within the COMMUNITY unless it has reported in writing to MANAGEMENT for clearance. All contractors and repair, maintenance and landscaping personnel must have proper worker's compensation, automobile, liability and performance bonding insurance coverages, as determined by MANAGEMENT in its sole discretion. TENANT may not and shall not have the power or authority to allow the COMMUNITY or any improvements therein to become subject to any mechanics', laborers' or materialmen's liens.

**21. DAMAGE OR DESTRUCTION OF HOME:**

If the Manufactured Home is substantially damaged by fire, windstorm or other cause, TENANT shall repair or remove same; and if TENANT shall fail to do so, MANAGEMENT may do so at TENANT'S expense. If TENANT elects to repair the damaged home, such repairs shall be commenced





immediately after the damage has occurred. All loose debris shall be removed immediately. All damage must be repaired within fifteen (15) days after the date of damage. If the damage cannot be repaired within fifteen (15) days, MANAGEMENT, in its sole discretion, may require that the home be removed from the COMMUNITY for repair, and failure of TENANT to do so shall constitute a material breach of this Agreement and constitute grounds for termination of this Agreement.

**22. SALE OF MANUFACTURED HOMES:**

In the event TENANT elects to sell TENANT'S Manufactured Home, one (1) "For Sale" sign not to exceed a total area of three hundred (300) square inches may be installed on the inside of a window, but shall not be installed in the ground of the HOME SITE. No other "For Sale" sign or any other sign of any nature, whether relating to the sale of the home or for any purpose, shall be permitted on the HOME SITE. TENANT ACKNOWLEDGES THAT THE SALE OR OTHER TRANSFER OF THE HOME DOES NOT INCLUDE A TRANSFER OF THE HOME SITE TO THE BUYER OR OTHER TRANSFEREE UNLESS TENANT NOTIFIES MANAGEMENT IN WRITING AT LEAST THREE (3) WEEKS PRIOR TO THE PROPOSED TRANSFER OF THE MANUFACTURED HOME SITE RENTAL AGREEMENT AND/OR TRANSFER OF TITLE TO THE MANUFACTURED HOME, GIVING THE NAME AND ADDRESS OF THE PROPOSED BUYER OR OTHER TRANSFEREE IN SUCH NOTICE AND THE PROPOSED BUYER OR OTHER TRANSFEREE (i) IS APPROVED BY MANAGEMENT AS A TENANT IN ACCORDANCE WITH MANAGEMENT'S PRE-QUALIFICATION PROCEDURES AND STANDARDS, (ii) SIGNS A MANUFACTURED HOME SITE RENTAL AGREEMENT, (iii) MEETS ALL OTHER CONDITIONS AND REQUIREMENTS AS SET FORTH IN THE MANUFACTURED HOME SITE RENTAL AGREEMENT, AND (iv) THE MANUFACTURED HOME COMPLIES WITH THE STANDARDS FOR PLACEMENT OR RETENTION IN THE COMMUNITY AS SET FORTH IN SECTION 18 ABOVE. ANY ATTEMPTED TRANSFER OF TITLE TO THE TENANT'S MANUFACTURED HOME - TO A BUYER INTENDING TO LIVE IN THE COMMUNITY - WITHOUT FIRST NOTIFYING AND OBTAINING MANAGEMENT'S CONSENT AS HEREIN PROVIDED, IS AGREED BY TENANT TO BE VOID *AB INITIO* AND A MATERIAL BREACH OF THIS AGREEMENT.

**23. VEHICLES:**

The COMMUNITY is maintained as a private enterprise and as such all streets and roadways within the COMMUNITY shall be considered the property of LANDLORD and private and shall not be used as public thoroughfares. In the interest of the safety and wellbeing of all residents, and for maintenance purposes and traffic control, MANAGEMENT may, at its sole discretion, restrict traffic on designated streets, and restrict delivery of certain products and services. Any violation of these motor vehicle provisions shall result in a written warning from MANAGEMENT and may cause the vehicle to be removed from the COMMUNITY at the sole expense and liability of the vehicle's owner. Further violation of these motor vehicle provisions shall be considered grounds for termination of this Agreement.

a. All drivers must observe speed limits and stop signs as posted within the COMMUNITY. Careless or reckless driving may result in the termination of this Agreement. COMMUNITY streets shall be kept clear at all times to allow for access by emergency vehicles as needed in accordance with the applicable Fire Code.

b. No motor vehicle without current license tags and a current State safety inspection sticker affixed thereto may be parked or operated on the PREMISES or in the COMMUNITY.

c. Only vehicles registered with MANAGEMENT in the COMMUNITY OFFICE are allowed within the COMMUNITY. TENANT must register each vehicle kept within the COMMUNITY, including commercial vehicles used by TENANT for business purposes. TENANT must not store any motor vehicle which is in a state of disrepair and therefore incapable of being moved under its own power, or that has not possessed a current valid registration for more than twenty- four (24) hours, and any such vehicle within the COMMUNITY may be removed, at the risk and expense of the vehicle's owner, without prior notice. All vehicle repairs must be completed within twenty-four (24) hours of the commencement of said repairs.

d. No trailer or motor vehicles larger than a pick-up truck may be parked on the PREMISES. No parking space may be used to store (as opposed to park) motor vehicles.

e. All motor vehicles parked on the PREMISES must be in good running condition. Any motor vehicle, boat or trailer parked on the PREMISES in violation of the "Parking" provisions of this Agreement and any rules and regulations subsequently adopted by LANDLORD or MANAGEMENT to implement those provisions, may be towed, in MANAGEMENT'S sole discretion, or otherwise removed from the PREMISES at TENANT'S or owner's expense (if TENANT is not the owner) including towing and storage fees, if any. MANAGEMENT may also have unauthorized or illegally parked vehicles towed from the COMMUNITY at TENANT'S expense or owner's expense (if TENANT is not the owner) when authorized by ordinance or statute.

A vehicle is unauthorized or illegally parked in the COMMUNITY if it:

1. Has a flat tire or other condition rendering it inoperable; or

2. is on jacks, blocks or has wheel(s) missing; or

3. has no current license or no current inspection sticker; or

4. takes up more than one parking space; or

5. belongs to a TENANT or MINOR not licensed to drive by the DMV; or

6. who has abandoned the PREMISES; or

7. is parked without authorization in a handicap space; or

8. is parked in a space marked for manager, staff, or guest at the COMMUNITY OFFICE; or

9. blocks another vehicle from exiting; or

10. is parked in a fire lane or designated a "no parking" area; or

11. is parked in a space marked for other tenants); or

12. is parked on grass, a sidewalk, or a patio; or

13. blocks a garbage truck from access to a dumpster.

f. Repair of motor vehicles, or any part thereof, anywhere on the PREMISES is strictly prohibited and is a breach of this Agreement. Oil changes and lubrication of any kind, including changing of radiator fluid, brake fluid, transmission fluid, or any type or kind of fluid in a motor vehicle (except windshield





washer fluid) is strictly prohibited on the PREMISES and is a breach of this Agreement. Outdoor painting of vehicles or painting of industrial equipment is prohibited within the COMMUNITY.

g. Vehicles such as wreckers and similar "on call" vehicles may not be operated from TENANT'S HOME SITE. MANAGEMENT reserves the right to tow any service vehicle(s) at the expense of the owner and is not responsible for any damage caused by any independent contractor towing service.

h. No motorized or self-propelled vehicle of any kind, including, but not limited to, dirt bikes, mini-bikes, motorcycles, mopeds and go-carts, shall be operated in any area of the COMMUNITY, unless such vehicle is duly registered by the Virginia Department of Motor Vehicles for operation on public roads or highways. All such vehicles must be registered with the COMMUNITY OFFICE and shall be operated only by a person duly licensed to operate such vehicles.

i. No vehicle shall be operated in the COMMUNITY in areas other than those designated for roadways and parking.

**24. PARKING:**

a. Parking is limited in the COMMUNITY. Therefore, TENANT and MINORS with drivers' licenses may not park on the PREMISES more than the "Vehicle Limit" specified in Section 93. All other vehicles for TENANT'S household members, guests and invitees must park off PREMISES. A violation of this provision is a breach of this Agreement. Any vehicle that TENANT may wish to park on the PREMISES must be designated as one of "TENANT'S Vehicles" in Section 93 or registered with LANDLORD if acquired by TENANT after the RENTAL AGREEMENT START DATE.

b. Two (2) vehicles are permitted to each HOME SITE within the COMMUNITY, with the exception of those HOME SITEs that are designed to accommodate three (3) vehicles per driveway. The number of "VEHICLES" permitted is designated in Section 93 of this Agreement. Vehicles must be parked in assigned HOME SITE driveways or specific areas as designated by MANAGEMENT, but in no instance on any street in the COMMUNITY. No structure, addition, improvement or any part of the manufactured home shall be permitted to encroach on existing parking areas within the HOME SITE.

c. Guest and visitor vehicles must be parked in the areas designated by MANAGEMENT. TENANT is responsible for ensuring that his guests and visitors comply with this requirement.

d. No vehicles may be parked in or on common areas except as specifically authorized in writing by MANAGEMENT in advance. Vehicles parked in unauthorized areas may be removed, without prior notice at the risk and expense of the vehicle's owner, or the TENANT whose guest or invitee has parked the vehicle in an unauthorized area.

e. Impermissibly parked vehicles may be removed, at MANAGEMENT'S discretion, at the risk and expense of the vehicle's owner or the TENANT whose guest or invitee has parked the vehicle in an unauthorized area.

f. On-street parking is prohibited at all times within the COMMUNITY.

g. Only drivers with valid driver's licenses may operate motor vehicles within the COMMUNITY.

h. No excessively noisy vehicles are allowed within the COMMUNITY. MANAGEMENT and TENANT realize that such a standard is necessarily to some extent subjective, so MANAGEMENT, in its sole discretion, shall determine what are "excessively noisy vehicles" unless that determination is plainly without any reasonable basis.





i. There may be no overnight sleeping within the COMMUNITY except within TENANT'S home. No overnight sleeping is allowed in any motor vehicle, RV, camper or camping trailer.

j. No vehicle over seventy-five hundred pounds (7,500 lbs.) gross vehicle weight, tow trucks, trucks (other than standard pick-up trucks 7,500 lbs. or less), construction or farm equipment may be stored, parked or kept within the COMMUNITY, except within the designated storage area. MANAGEMENT may remove any prohibited vehicles from the COMMUNITY if TENANT fails to do so, and all expenses incurred by MANAGEMENT in so doing must be paid by TENANT with the next Rental payment after submission of a statement for such charges by MANAGEMENT to TENANT.

k. Any vehicle which drips or leaks oil, gasoline, or any other fluid must be repaired immediately by TENANT, and any damage caused by such dripping fluid must be cleaned and/or repaired by TENANT.

l. The immobilization of any vehicle for major repairing or overhauling is prohibited everywhere within the COMMUNITY, unless otherwise authorized in writing by MANAGEMENT in advance.

m. Recreational vehicles and boats kept in the COMMUNITY must be parked in the COMMUNITY storage area designated for those units (to the extent space is available within such storage area), except as otherwise authorized in writing by MANAGEMENT in advance. No person may sleep or live in any type of recreational vehicle within the COMMUNITY, and under no circumstances may a recreational vehicle be attached to water, electrical or sewer connections.

n. Any vehicle parked on the streets during a snowfall will be considered a safety hazard. Any such vehicle may be towed at the vehicle owner's risk and expense without prior notice to the owners. Vehicles parked on or about the PREMISES in violation of the "Parking" provisions of this Agreement or in violation of local zoning ordinances, or of signs placed by LANDLORD governing parking on the PREMISES, may be towed and stored at the owner's expense, or otherwise disposed of as permitted by Virginia law or local ordinance.

**25. STORAGE AREA:**

Before storing any property in the COMMUNITY'S storage area, TENANT must register the property with MANAGEMENT and sign a storage agreement that must be kept current and on file in the COMMUNITY office. MANAGEMENT shall not be liable for any damage to stored property except damage caused by MANAGEMENT'S gross negligence or willful misconduct. Any unregistered property found by MANAGEMENT in the storage area will be removed and disposed of by MANAGEMENT as it, in its sole discretion, deems appropriate. A separate fee may be charged for each space in the storage area, as provided in the storage agreement. Such a fee is additional rent. TENANT is responsible for maintaining TENANT'S space in the storage area.

**26. UTILITIES:**

a. MANAGEMENT-Provided Utilities: As of the date of this Agreement, MANAGEMENT provides the following utility service(s) to the individual PREMISES at no extra charge: grass mowing and snow removal from roadways. MANAGEMENT shall provide trash removal, and those charges shall be included as separately charged additional rent at the current rate as stated in Section 93 of this Agreement. During the term of this rental agreement and any renewal thereof pursuant to § 55.1-1302(B), Code of Va., MANAGEMENT reserves the right to modify its charges for trash removal, effective immediately, to reflect rate increases charged to MANAGEMENT (or similar cost increases to MANAGEMENT) for providing trash removal services to the Community. TENANT is responsible





for arranging and paying for all other utility services provided to the HOME SITE and TENANT'S home. TENANT shall pay all charges for all utilities and other services provided to the HOME SITE before the same become delinquent and shall indemnify and hold harmless MANAGEMENT and LANDLORD with respect thereto. It is agreed that TENANT'S failure to pay any utility bill when due is a material breach of this Agreement.

b. Tenant-Provided Utilities: TENANT must apply to the applicable utility service providers to arrange for turn-on of service to the HOME SITE. MANAGEMENT may modify the manner of delivery and billing for all utilities and other services it provides upon prior written notice to TENANT. Without limiting the generality of the foregoing, MANAGEMENT may arrange for any or all utilities or other services to be delivered directly to TENANT by the provider of such utilities or services, and/or arrange for such provider(s) to bill TENANT directly for such utilities or services.

c. Repair and Maintenance: TENANT must maintain and repair all water, gas, electrical and sewage connections, and shall be responsible for any malfunction occurring between the point of connection and TENANT'S home. The "point of connection" is defined as follows for each such utility: (i) for water: at TENANT'S side of the meter or at the underground stop and waste valve; (ii) for gas: at TENANT'S side of the meter; (iii) for electric: from and including the meter box; and (iv) for sewage: from the home up to and including the connection point at the sewer main. If a malfunction is reported with respect to any water, electrical gas and/or sewage connection, MANAGEMENT reserves the right to inspect said malfunction (at no expense to TENANT). If said malfunction is found to be the responsibility of TENANT and MANAGEMENT is unable to contact TENANT with respect to same, MANAGEMENT may (but shall not be obligated to) repair or arrange the repair of same and bill TENANT for such repairs. TENANT shall be solely responsible for any charges related to repairs, cleaning or unclogging of a clogged sewer line, other than an obstruction of the main sewer line, due to improper disposal of such items as paper towels, sanitary supplies, disposable diapers and cat litter. Disposal of these items through use of the sewage system is strictly prohibited.

TENANT shall be solely liable and responsible for ensuring that TENANT'S water and sewer connection do not freeze and shall arrange for any necessary repairs to such connections.

Tampering with any utility connections is strictly prohibited.

d. Contractors: All electrical, water, sewer and gas plumbing connections must be done by Commonwealth of Virginia licensed and MANAGEMENT-approved service personnel. Any fees for installation or connection of utilities will be the responsibility of TENANT.

e. Maintenance and Repair Off Premises: Electrical, gas, water or sewer repairs required outside the HOME SITE must be reported to MANAGEMENT, if and when they come to the attention of TENANT. The expense for repairs made without notifying MANAGEMENT, including any damages incurred, will be TENANT'S responsibility. Such charges will be considered additional rent and will be due with the next-due RENT payment. MANAGEMENT is not responsible for the failure, default, improper act, and/or omission by any utility provider of such services.

f. Utility Devices: Each home is required to be equipped with backflow preventers (BFPs) for sewer lines and a pressure relief valve (PRV) for water lines. Damage resulting from pressure jumps from the utility provider or sewer backups are the responsibility of TENANT. TENANT is responsible to be sure TENANT'S water heater has a check valve. The COMMUNITY is not responsible for damage done to water heaters caused by a lack of water in the system.

g. Easement: MANAGEMENT reserves the right and easement to enter upon the HOME SITE at any time for the purpose of installing, inspecting, maintaining or replacing pipes, drainage systems and

facilities, sewage systems and facilities, electric lines and telephone lines, and inspecting the HOME SITE to determine whether TENANT is in compliance with the terms of this Agreement.

**27. INSTALLING OR REMOVING THE MANUFACTURED HOME:**

TENANT must give MANAGEMENT written notice at least seventy-two (72) hours before TENANT begins to move TENANT'S home either into or out of the COMMUNITY. (THIS NOTICE IS DIFFERENT FROM THE NOTICE TENANT MUST GIVE TO TERMINATE THIS AGREEMENT AND END THE OBLIGATION TO PAY RENT, AS PROVIDED IN SECTION 17 OF THIS AGREEMENT.

MANAGEMENT may not require TENANT to use MANAGEMENT'S services when TENANT moves TENANT'S home into or out of the COMMUNITY. If MANAGEMENT and TENANT agree that MANAGEMENT shall install or remove TENANT'S home, that agreement must be in writing, must state the charges (if any) for such services and must be signed by MANAGEMENT and TENANT.

**28. ANIMALS:**

a. Permission Required: If TENANT is permitted to have dogs or cats, such pets must be registered with MANAGEMENT as identified in Section 93. No animal may be permitted to visit on the PREMISES for any period of time (regardless of how short the visit may be). No dog or cat is permitted in or to remain in the COMMUNITY if it has a propensity to bite or attack persons or other animals. LANDLORD, in its sole, subjective discretion may, at any time during the term of this Agreement or any extension thereof, require any pet to be permanently removed from the PREMISES and the COMMUNITY. If a TENANT'S dog or cat dies or is otherwise removed from the PREMISES, TENANT must first obtain additional permission from LANDLORD before bringing another dog or cat onto the PREMISES.

b. Dogs and Cats and the Security Deposit: The SECURITY DEPOSIT may be applied to any property damage or personal injury caused by TENANT'S dogs or cats. TENANT shall be strictly liable, without proof of negligence by TENANT, for all physical injuries and/or property damage caused by TENANT'S pet(s). TENANT agrees to indemnify and hold LANDLORD harmless from any liability or damages arising from or caused by TENANT keeping a pet or pets on the PREMISES.

c. Restraint and Inoculation: Dogs and cats must be inoculated and licensed according to all applicable laws and regulations, and must wear license tags, if required by applicable law. Dogs must be leashed and under the control of its owner or kept within the confines of TENANT'S HOME SITE. Dogs are allowed in common areas of the COMMUNITY only on a leash, cord, chain, or in a privacy enclosure when off the HOME SITE of TENANT, or the dog's custodian. Under no circumstances are dogs or cats allowed in common areas of the COMMUNITY specifically posted against pets, such as swimming pools, clubhouses and similar facilities as designated by MANAGEMENT.

d. Size: No animal whose height exceeds eighteen (18) inches at the shoulder at full maturity or whose weight exceeds twenty-six (26) pounds at full maturity may be kept in the COMMUNITY.

e. Sanitation: TENANT is responsible for the immediate removal of all pet excrement from TENANT'S HOME SITE or any other location within the COMMUNITY where it has occurred. TENANT is responsible for any damage caused by TENANT'S animals.

f. Noisy Animals: Noisy cats and dogs that interfere with tenants' peaceful enjoyment of their PREMISES are prohibited.





g. Pet Fee: The "Pet Fee" specified in Section 93 will be assessed to TENANT each month and shall be additional RENT. Any dog or cat, regardless of breed, whose temperament and disposition are considered to be dangerous or vicious, is not allowed within the COMMUNITY under any circumstances. MANAGEMENT and TENANT realize that such a standard is, necessarily, to some extent subjective, so MANAGEMENT, in its sole discretion, shall determine what are "dangerous or vicious" dogs and cats unless that determination is plainly without any reasonable basis.

h. Limit on Number: No more than two (2) dogs or two (2) cats or one (1) dog and one (1) cat may be kept per HOME SITE. All dogs and cats must be approved by MANAGEMENT in writing before the pet's owner moves into the COMMUNITY, or before TENANT obtains a dog or cat after move-in. Dogs or cats belonging to TENANT or TENANTS' authorized TENANT family members, must be confined to the applicable TENANT'S HOME SITE except when physically restrained as described in Subsection "c" above and must comply with all provisions of this Agreement regulating animals. Dogs and cats may not be left outside at night. Dogs may not be left outside in the daytime unless someone is home to supervise and control the dog pet. No doghouses or other outside animal shelters are permitted.

i. Support Animals: Assistive animals and service animals are not pets for purposes of this Agreement. Pursuant to federal and state fair housing law, where the disability of TENANT or TENANT'S MINORS requiring the animal is not obvious or otherwise known to MANAGEMENT, MANAGEMENT may request reliable documentation evidencing the disability and disability-related need for the specific assistive animal at issue. Assistive animals must (unless a reasonable accommodation is required related to any provision) comply with all behavioral and clean-up provisions regarding animals in the COMMUNITY.

**29. PRIOR ENCUMBRANCE:**

The real estate on which the COMMUNITY is located may now, or in the future be, subject to a mortgage encumbrance.

**30. BEFORE POSSESSION INSPECTION:**

TENANT acknowledges that TENANT has been given an opportunity examine and inspect the PREMISES and TENANT'S signing of this Agreement is conclusive evidence that at the time of the pre-Agreement inspection the PREMISES (not including TENANT'S home) were in good, safe and sanitary condition, in good order and repair and in fully tenantable condition. TENANT acknowledges that he accepts the condition of the PREMISES in their "AS IS" condition.

**31. NO WARRANTIES:**

LANDLORD makes no warranties, express or implied, about the condition of the PREMISES or of the common areas, if any, of LANDLORD'S real property or improvements located on the PREMISES.

**32. COMPLIANCE WITH GENERAL LAWS:**

TENANT will comply with all local, state and federal laws, ordinances, building, zoning, housing, sign, noise, occupancy and health codes, statutes and regulations pertaining to the PREMISES and the COMMUNITY, but if the requirements of this Agreement are more restrictive than these requirements of law, the requirements of this Agreement shall be enforceable in addition to the said requirements of law.





**33. DISRUPTIVE, DANGEROUS OR DEFAMATORY BEHAVIOR:**

TENANT will conduct himself and cause his household members, guests, visitors and invitees on the PREMISES with TENANT'S consent, whether the presence of the guest or invitee on the PREMISES is known to TENANT or not, or whether TENANT was aware of the household member's or guest's or visitor's or invitee's conduct at the time it occurred, to conduct themselves in a manner that will not disturb TENANT'S neighbors' peaceful enjoyment of their residences, or disturb or threaten the rights, comfort, health, safety, business operations or convenience of others including neighbors and the agents, employees and contractors of LANDLORD, either on the PREMISES, or near the PREMISES, including but not limited to tampering with utilities or telecommunications, bringing hazardous materials, including explosives or highly flammable materials, onto the PREMISES, using windows for entry or exit, heating TENANT'S home with a gas-operated cooking stove or portable grill or oven, or using space heaters that have not been approved in advance by LANDLORD, using sterno logs in fireplaces, using candles for lighting, or injuring LANDLORD'S reputation by making false or bad faith allegations against LANDLORD or LANDLORD'S employees or agents.

**34. COMMON AREAS:**

a. COMMUNITY Center: The clubhouse is provided for the use of all tenants. At least one adult must supervise everyone present under the age of eighteen (18). TENANT may reserve the facilities for private activities after leaving the deposit and usage fee with the COMMUNITY Office. Private parties reserving the clubhouse may NOT use the swimming pool or fitness center. TENANT is encouraged to make all reservations through the COMMUNITY Manager well in advance of the planned activity. It is TENANT'S responsibility to clean the area after use and to pay for any damage to equipment and/or facilities. MANAGEMENT reserves the right to inspect the Clubhouse after such functions to determine if the deposit will be returned. TENANT agrees to hold MANAGEMENT harmless for any injury to TENANT and/or TENANT'S guests while using the facilities that did not result from MANAGEMENT'S gross negligence or intentional wrongdoing.

b. Swimming Pool: TENANT and his household members, guests and invitees SWIM AT THEIR OWN RISK. Pool rules are posted in the pool area and a copy is available at the COMMUNITY office. Failure to comply with all pool rules will result in the suspension of pool privileges. No glass containers of any type are allowed in the pool area. MANAGEMENT reserves the right to close the pool as needed for cleaning, inspections, health concerns, epidemic or pandemic shutdowns and/or weather changes.

c. Weight Room Facilities: TENANT and his household members, guests and invitees USE THE WEIGHT ROOM FACILITIES AT THEIR OWN RISK. TENANT and his household members, guests and invitees must use the equipment in the appropriate manner. Weight room rules are posted in the weight room and are available in the COMMUNITY OFFICE. All MINORS under the age of fourteen (14) are not permitted in the weight room. An adult must supervise all MINORS between the ages of fourteen (14) and seventeen (17). No one is permitted to play on the equipment. TENANT agrees to hold MANAGEMENT harmless for any injury to TENANT and/or TENANT'S MINORS, guests and invitees while using the weight room that did not result from MANAGEMENT'S gross negligence or intentional wrongdoing.

**35. COMMON AREA DECORUM AND CONDUCT:**

In addition to the foregoing conditions of Clubhouse, Swimming Pool and Weight Room usage, MANAGEMENT has established separate rules and guidelines for behavior and conduct of TENANTS, MINORS, guests and invitees within common areas such as swimming pools, clubhouses





and recreation facilities. These rules and guidelines are posted in each common area where they are applicable, and after reasonable notice may be changed from time to time by MANAGEMENT and if changed, are hereby incorporated into and made a part of this Agreement by this reference. TENANT is responsible for the behavior and conduct of all minor children residing with or visiting TENANT, and for the conduct of TENANT'S guests, visitors and invitees. Minor children must be accompanied by and supervised by an adult at all times when using the clubhouse. Violations of these conditions applicable to common areas by TENANT, his family, MINORS, guests or invitees are grounds for termination or non-renewal of this Agreement or for denial of use of that facility to TENANT, his family, guests or invitees, at the sole discretion of MANAGEMENT.

Consumption of alcoholic beverages in the COMMUNITY's common areas, including the clubhouse, the pool area and surrounding common areas, is strictly prohibited, with the exception of MANAGEMENT sponsored events.

Smoking is prohibited in any common areas, including the clubhouse, the pool area and surrounding common areas unless otherwise posted.

**36. DRUG AND OTHER CRIMINAL ACTIVITY:**

TENANT will conduct himself, and cause his household members, guests, visitors and invitees and other persons under TENANT'S control on the PREMISES with TENANT'S consent, whether the presence of the guest, visitor or invitee on the PREMISES is known to TENANT, or whether TENANT was aware of the household member's, guest's, visitor's, and invitees or other person's conduct at the time it occurred, to conduct themselves in a manner that does not constitute criminal or delinquent activity (misdemeanors, felonies, delinquent acts, the violation of any ordinance, statute, municipal, county, state or federal code or regulation having the force of law) or constitute attempted criminal activity, including but not limited to drug related criminal activity defined as the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use of a controlled substance as defined by § 54.2-3400, Code of Va.), or possessing illegal drug paraphernalia (as defined by §18.2-265.1, Code of Va.), or possession with intent to manufacture, sell, distribute or use of a controlled substance, on or off the PREMISES, not just on or near the PREMISES, engaging in or threatening violence, possessing a weapon prohibited by State or Federal law, discharging a firearm on the PREMISES, or near the PREMISES, or brandishing or possessing a gun, knife, or other weapon or fireworks in any common area in a way that may alarm others.

Conviction of a Class 1 misdemeanor or any felony during the term of TENANT'S tenancy which caused or threatened to cause irreparable harm to any person or property shall be considered independent grounds for termination or non-renewal of this Agreement. Immoral conduct, intoxication, or the use of loud or profane language shall also be grounds for termination or non-renewal of this Agreement for cause as distinct from termination by non-renewal without cause under Section 17.

**37. NO HARASSMENT OF LANDLORD OR LANDLORD'S PERSONNEL:**

It shall be a breach of this Agreement for TENANT, any member of TENANT'S household, or any invitee or guest of TENANT to assault or batter or physically threaten or otherwise harass or verbally curse or verbally abuse LANDLORD or MANAGEMENT, or their respective agents, employees or contractors. TENANT should not give instructions to, or make requests of, the COMMUNITY's maintenance personnel. All requests should be made in writing directly to MANAGEMENT at the COMMUNITY Office.

**38. ALCOHOL MISUSE:**

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TENANT will conduct himself and cause his household members, guests and invitees on the PREMISES with TENANT'S consent, whether the presence of the guest on the PREMISES is known to the TENANT or not, or whether the TENANT was aware of the household member's or guest's conduct at the time it occurred, to conduct themselves so as to avoid any alcohol abuse determined by MANAGEMENT, in MANAGEMENT'S sole discretion, to interfere with the health, safety, or right to peaceful enjoyment of other residents of the COMMUNITY.

**39. ALCOHOL CONTROL:**

TENANT will refrain and cause his household members, guests and invitees on the PREMISES with TENANT'S consent, whether the presence of the person on the PREMISES is known to the TENANT or not, or whether the TENANT was aware of the person's conduct at the time it occurred, to refrain from the use, consumption, sale or serving of a cohol beverages in any common area.

**40. LANDLORD'S RIGHT TO EXCLUDE PERSONS:**

LANDLORD reserves the right to control the entry into the COMMUNITY by TENANT'S guests, visitors or invitees. LANDLORD reserves the right to exclude any such guests or visitors or invitees by directing them to leave or to not enter the COMMUNITY, when in MANAGEMENT'S sole, good faith, discretion, they are thought to be involved in illegal drug-related activities, or in any activity which may be harmful to other tenants or neighbors in the vicinity of the PREMISES or in the COMMUNITY, or who, in MANAGEMENT'S sole, good faith, discretion, cause disturbances at the PREMISES or within the COMMUNITY which disrupt the livability of the PREMISES or the COMMUNITY or interfere with the MANAGEMENT of the COMMUNITY or the quiet enjoyment of any TENANT in the tenant's home; or whose activities on or near the PREMISES or the COMMUNITY are in violation of any laws.

LANDLORD may exclude anyone who previously has been evicted by LANDLORD for a RENTAL AGREEMENT default. TENANT'S guests, visitors and invitees who have been notified by LANDLORD not to return to the PREMISES may be arrested for criminal trespass if they return to and enter the COMMUNITY. If TENANT invites or permits a person whose presence on the PREMISES or grounds of the PREMISES is a violation of this Section, TENANT shall be in violation of this Agreement. If TENANT does not cure such violation within 21 days after receipt of said written notice from LANDLORD or MANAGEMENT, this Agreement shall terminate 30 days after TENANT'S receipt of said written notice to cure. If after making a cure, TENANT again violates this Section, LANDLORD or MANAGEMENT may immediately terminate this Agreement. If such a violation may cause imminent harm to any person or property (as determined in LANDLORD'S sole discretion), then TENANT shall cure the violation immediately upon oral or written notice from LANDLORD or MANAGEMENT, and if a cure is not immediately effected, LANDLORD or MANAGEMENT may immediately terminate this Agreement.

**41. DAMAGE OR WASTE TO PREMISES:**

TENANT will not (1) intentionally or negligently destroy, damage or remove any part of the PREMISES, (2) permit any person to intentionally or negligently destroy, damage or remove any part of the PREMISES.

**42. LIABILITY FOR DAMAGE:**

TENANT agrees to pay all costs and damages resulting from the intentional or negligent destruction, damage or removal of any part of the PREMISES by TENANT or his household members, MINORS, guests, visitors and invitees on the PREMISES with TENANT'S consent, whether TENANT was aware of the person's conduct at the time it occurred. Any damage caused by any TENANT, or by any invitee, guest, visitor agent or representative of TENANT, or by any of their property (storage shed, TV antenna, etc.) to the person or property of another shall be the sole legal responsibility of TENANT.

**43. STORAGE SHEDS:**

TENANT, at TENANT'S expense, shall construct and maintain in good condition and repair a gabled storage shed on TENANT'S HOME SITE. The location and size of such storage shed must be approved in writing by MANAGEMENT in advance of the construction, delivery or installation of the storage shed. Installation of storage sheds must not violate applicable home/entrance setback rules. For purposes of this Section, TENANT agrees that the setback rules for sheds shall be the same as those in the County Zoning Ordinance, regardless of whether those Ordinance provisions apply de jure, to the HOME SITE. In addition to the foregoing restrictions, shed size may not exceed ten (10) feet long by ten (10) feet wide by eight (8) feet high or the size permitted under the Zoning Ordinance, whichever is less. The storage shed must be constructed of the same type of materials as the home and the siding, trim and roof materials must match the home in color. Storage sheds must be aesthetically compatible with other like structures in the COMMUNITY. Storage sheds must be anchored to a concrete pad or to a wood framed floor which is securely anchored to the ground. MANAGEMENT reserves the right to require additional repairs to and/or removal of storage sheds at the TENANT'S expense, which do not meet the requirements of this Agreement.

a. There may be only one (1) shed per HOME SITE. MANAGEMENT may give written approval in certain cases, in its sole discretion, for an additional shed.

b. There may be no sleeping facilities within the storage shed.

c. Any damage caused by storage sheds or their construction or removal shall be the sole responsibility of TENANT.

**44. NOISE; FIREARMS; GUTTING OF GAME and LOITERING:**

TENANT must not be unreasonably noisy. Radios, stereos, musical instruments, televisions and conversation must be kept at a level low enough not to disturb any other tenants. Vehicle engines shall not be unnecessarily raced or "gunned" at any time. TENANT shall observe quiet hours within the COMMUNITY between the hours of 10:00 p.m. to 7: 00 a.m. daily. TENANT shall comply with any County Noise Ordinance.

No firearms, bb rifles, bb pistols, air guns, sling shots, arrows or the like shall be discharged within the COMMUNITY at any time. No open fires are allowed within the COMMUNITY (charcoal and gas grills do not constitute open fires for purposes of this requirement). Fireworks are prohibited within the COMMUNITY. The gutting and/or bleeding of game animals on the HOME SITE or outside the home are prohibited within the COMMUNITY. Loitering in COMMUNITY Common Areas is prohibited.

**45. COMMERCIAL ENTERPRISES:**

No commercial enterprise or business of any nature may be conducted by TENANT in the COMMUNITY without the prior written approval of MANAGEMENT, nor may advertising materials be distributed or posted within the COMMUNITY without MANAGEMENT'S prior written approval. This restriction applies to the delivery of handbills of any nature, although MANAGEMENT may distribute written materials to tenants.



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However, COMMUNITY recreational and social or news organizations may distribute written materials of a non-commercial nature provided such written materials are also given to MANAGEMENT.

**46. SIGNS:**

TENANT shall comply with the County Sign Ordinance, except that to the extent said Ordinance conflicts with or is inconsistent with the requirements elsewhere in this Agreement, the more restrictive and stringent standards (as between the Ordinance and this Agreement) shall apply.

**47. PRE-QUALIFICATION OF PROSPECTIVE TENANTS:**

Applicants for COMMUNITY residency are required to complete a Rental application and obtain MANAGEMENT'S prior written approval to become a tenant of the COMMUNITY.

**48. CONDUCT OF MINOR CHILDREN:**

TENANTS with minor children must supervise the outside play and conduct of such minor children so as not to disturb or annoy any other TENANTS. Failure of a TENANT to supervise the conduct of such TENANT'S minor children under this rule will be grounds for termination or non-renewal of this Agreement. Games of any nature, including basketball and skateboarding, may not be played on the COMMUNITY'S streets. Children under the age of sixteen (16) must obey the COMMUNITY'S curfew of 10:00 p.m., after which time all children under the age of sixteen (16) must not be on the COMMUNITY'S streets or in the COMMUNITY'S common areas.

**49. SNOW REMOVAL:**

MANAGEMENT shall remove snowfall from the COMMUNITY streets, if and when necessary and practical. TENANT shall be responsible for the removal of snow and ice from the walkways and driveways of TENANT'S HOME SITE. TENANT, and not MANAGEMENT or LANDLORD, shall be solely responsible for any claims for damages resulting from TENANT'S failure to properly maintain TENANT'S HOMESITE.

**50. SALES:**

No patio or yard sales or similar sales are allowed at the HOME SITE other than COMMUNITY-sponsored sales.

**51. TRESPASSING:**

Trespassing on other tenants' home sites is strictly prohibited.

**52. OTHER AGREEMENTS:**

ALL AGREEMENTS BETWEEN MANAGEMENT AND TENANT MUST BE IN WRITING.

**53. CONDITION OF PREMISES AT END OF OCCUPANCY:**

Upon the expiration or termination of this Agreement, TENANT shall deliver the PREMISES in the same condition TENANT received the PREMISES on the RENTAL AGREEMENT START DATE, ordinary wear and tear excepted.



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**54. NOTICE OF DEFECTS:**

During the Term, TENANT shall give LANDLORD notice, as soon as reasonably practicable in the most reasonably practicable manner, of any defects in or damage to the PREMISES or to any equipment, appliances or fixtures attached to the PREMISES. In the event that further damage occurs between the time that TENANT discovers a defect and the time that TENANT notifies LANDLORD of such defect, TENANT shall pay the cost to repair such damage, unless such damage could not have been avoided had TENANT promptly notified LANDLORD of the defect.

**55. SETTLEMENT AFTER TERMINATION OF AGREEMENT:**

If (1) LANDLORD gives TENANT notice that this Agreement is terminated based on a breach of the Agreement by TENANT, or (2) if LANDLORD files an unlawful detainer action against TENANT to recover possession of the PREMISES and the court awards possession to LANDLORD, and then, after either of both of the two said occurrences, LANDLORD and TENANT reach a settlement by which TENANT is permitted to remain in possession of the PREMISES, this Agreement shall be revived, without the need to execute a new Rental Agreement, and thereafter be in full force and effect as if this Agreement had never been terminated, and TENANT shall be estopped from claiming that this Agreement is no longer effective.

**56. PERSONAL PROPERTY UPON DEATH:**

a. Upon the termination of this Agreement because of the death of all TENANTS, LANDLORD may store all of TENANT'S personal property not claimed by a duly qualified and appointed personal representative (Administrator or Executor) of any TENANT deceased for 5 days after LANDLORD becomes aware of a TENANTS' deaths, and (b) release it to "TENANT(S)' Emergency Contact" as designated in Section 93 of this Agreement, provided that such Contact or the estate of TENANT agrees to pay LANDLORD all storage costs, and if TENANT'S personal property is not claimed within such 5 days, it shall be deemed abandoned, or (b) if a TENANT has not designated an "Emergency Contact," or that Contact refuses to act as Emergency Contact or is otherwise unable to do so, then, unless directed by court order (within such 5 days) to release the personal property to a specific person, and if not claimed within 10 days after LANDLORD becomes aware of TENANT'S death, it shall be deemed abandoned.

b. If, after the death of a TENANT, another TENANT remains living, LANDLORD may treat all of the personal property located on the PREMISES as belonging to any living TENANT, unless otherwise directed by a court order.

c. LANDLORD is not required to select among competing claims to personal property.

**57. TENANT TO VACATE PREMISES WHEN AGREEMENT ENDS:**

Upon the termination or expiration of this Agreement, TENANT shall remove all personal property from the PREMISES and deliver possession of the PREMISES in the condition the TENANT received the PREMISES, ordinary wear and tear excepted. TENANT shall compensate LANDLORD for any damage sustained by LANDLORD due to TENANT'S failure to surrender the PREMISES in the required condition, including lost RENT from prospective tenants.

**58. MOVE-OUT INSPECTION:**

Upon the termination or expiration of this Agreement, LANDLORD may inspect the PREMISES to determine whether TENANT has properly maintained the PREMISES and has left the PREMISES in

the condition TENANT received the PREMISES. An inspection shall be made by LANDLORD to determine (a) the portion of the SECURITY DEPOSIT to be used for restoration and the portion of the SECURITY DEPOSIT that will be returned to TENANT, if any, and (b) whether TENANT may be liable for damages exceeding the amount of the SECURITY DEPOSIT.

**59. ABANDONMENT OF PREMISES OR PROPERTY:**

If TENANT will be absent from the PREMISES for a continuous period of more than seven (7) days, TENANT must give LANDLORD written advance notice of the anticipated absence, and if TENANT fails to do so, LANDLORD may recover actual damages from TENANT During any absence of TENANT in excess of seven days, the LANDLORD may enter the dwelling unit at times reasonably necessary to protect TENANT'S possessions and property. This Agreement is deemed to be terminated by LANDLORD as of the date of abandonment by TENANT. If LANDLORD cannot determine whether the PREMISES have been abandoned by TENANT, LANDLORD shall serve written notice on TENANT in accordance with § 55.1-1202, Code of Va., requiring TENANT to give written notice to LANDLORD within seven days that TENANT intends to remain in occupancy of the PREMISES. If TENANT gives such written notice to LANDLORD, or if LANDLORD otherwise determines that TENANT remains in occupancy of the PREMISES, LANDLORD shall not treat the PREMISES as having been abandoned. Unless LANDLORD receives written notice from TENANT or otherwise determines that TENANT remains in occupancy of the PREMISES, upon the expiration of seven days from the date of LANDLORD'S notice to TENANT, there shall be rebuttable presumption that the PREMISES have been abandoned by TENANT and this Agreement shall be deemed to terminate on that date.

If, in response to said notice by LANDLORD, TENANT denies TENANT'S intent to abandon, LANDLORD may still elect to recover possession of the PREMISES based on TENANT'S default in failing to give the aforesaid advance notice of absence of the PREMISES for more than seven (7) days. If LANDLORD deems the PREMISES to be abandoned, then LANDLORD may reenter the PREMISES and may re-let the PREMISES, however, this Agreement will continue in effect and TENANT will remain liable for RENT and all damages sustained by LANDLORD during the remainder of the Term and for loss or diminution of RENT received from a new tenant's rental of the PREMISES for any part of the remaining term of this Agreement.

**60. DAMAGE OR DESTRUCTION OF PREMISES:**

In the event the PREMISES are damaged or destroyed by fire or other cause, TENANT shall notify LANDLORD immediately. Should the PREMISES be damaged or destroyed, to the extent that the PREMISES may no longer be lawfully occupied by TENANT and LANDLORD decides not to rebuild the PREMISES, or to demolish them, LANDLORD may, at LANDLORD'S option, give TENANT a notice in writing of such decision and thereby the tenancy shall be terminated and liability for the RENT thereunder shall cease upon payment by TENANT of any RENT due to the date of the damage or destruction to the PREMISES.

If the PREMISES are damaged or destroyed to the extent that TENANT'S enjoyment is substantially impaired, TENANT may immediately vacate the PREMISES, and within seven (7) days thereafter, give written notice to LANDLORD of TENANT'S intent to terminate this Agreement. In such case, this Agreement will terminate as of the date that TENANT vacates the PREMISES, and LANDLORD shall return the SECURITY DEPOSIT and any prepaid RENT for the period after TENANT vacates the PREMISES, subject to any setoff for charges or damages TENANT owes to LANDLORD under the collective provisions of this Agreement.





In the event the PREMISES are damaged to the extent that TENANT'S enjoyment is somewhat impaired, though not substantially impaired, and LANDLORD does not elect to terminate this Agreement, LANDLORD shall have a reasonable period to repair the PREMISES. LANDLORD'S duty to repair shall not arise until TENANT gives LANDLORD written notice of the damage to the PREMISES. If LANDLORD fails to repair the PREMISES within a reasonable period of time after receipt of such notice from TENANT, TENANT shall be entitled to a reduction in RENT for the period beginning after notice was given to LANDLORD and ending on the date LANDLORD completes the repair of such damage to the PREMISES.

In the event the PREMISES are damaged or destroyed due to the fault or negligence of TENANT, a member of TENANT'S household, or a guest or invitee of TENANT, TENANT shall not be entitled to terminate this Agreement and shall remain liable for RENT for the Term, unless LANDLORD elects to release TENANT from such liability.

In any dispute concerning TENANT'S right to terminate this Agreement or receive a RENT abatement under this Section, TENANT shall bear the burden of establishing that the condition of the PREMISES justifies such relief, and that the amount or duration of any RENT abatement by LANDLORD is unreasonable.

**61. LIABILITY:**

LANDLORD shall not be liable for any damage to or injury to TENANT, his family, invitees, employees or other persons on the PREMISES or for any damage to goods, or personal property of any kind thereon, arising from any cause other than LANDLORD'S or MANAGEMENT'S gross negligence or intentional tortious misconduct, and TENANT releases MANAGEMENT and LANDLORD from liability for and agrees to indemnify MANAGEMENT and LANDLORD against all losses incurred by MANAGEMENT and/or LANDLORD as a result of (a) TENANT'S failure to fulfill any condition of this Agreement; (b) any damage or injury happening in or about the HOME SITE to TENANT'S invitees or licensees or such person's property unconnected with MANAGEMENT'S or LANDLORD'S gross negligence or intentional tortious misconduct; (c) TENANT'S failure to comply with any requirements imposed by any governmental authority; and (d) any judgment, lien or other encumbrance filed against MANAGEMENT and/or LANDLORD, the COMMUNITY or the HOME SITE as a result of TENANT'S actions. Said indemnification and hold-harmless shall include any attorney's fees and/or other litigation costs incurred by MANAGEMENT and/or LANDLORD in defense of said losses. MANAGEMENT and LANDLORD strongly recommend that TENANT secure adequate insurance to protect TENANT against such occurrences.

TENANT hereby agrees to indemnify and hold LANDLORD and MANAGEMENT harmless from all claims arising from causes other than LANDLORD'S or MANAGEMENT'S gross negligence or intentional tortious misconduct. This indemnification agreement shall not require any obligation to hold harmless or indemnification from TENANT that is prohibited by the Virginia Residential Landlord and Tenant Act.

LANDLORD will not be liable to TENANT or TENANT'S guests, visitors or invitees for any damages or losses to person or property caused by other persons, including theft, burglary, assault, vandalism, or other crimes. LANDLORD will not be liable to TENANT or TENANT'S guests, visitors or invitees for personal injury or for damage to or loss of their personal property (furniture, jewelry, clothing, etc.) from fire, flood, water leak, rain, hail, ice, snow, smoke, lightning, wind, explosion, or interruption of utilities other than those due to LANDLORD'S and/or MANAGEMENT'S acts or omissions sufficient to create LANDLORD liability as landlords' duties and liability have been articulated in the case law of the Virginia Supreme Court and in the statutory law of Virginia.





**62. BODILY INJURY AND PROPERTY DAMAGE:**

LANDLORD is not an insurer of TENANT'S person or property or security. Except to the extent as may be required by law, LANDLORD shall not be liable to TENANT for any bodily injury or property damage suffered by TENANT or TENANT'S family members, guests, visitors or invitees in, on or near the PREMISES including but not limited to public streets and public or private parking places, except to the landlords' duties and liability have been articulated in the case law of the Virginia Supreme Court and in the statutory law of Virginia. TENANT is responsible for his own and his children's, MINOR'S, guest's and invitee's security and property.

**63. NO REAGREEMENT UNLESS IN WRITING:**

TENANT shall not be released from liability for RENT or other obligations and charges due under this Agreement unless LANDLORD signs a written statement in which LANDLORD agrees to release TENANT from such liability.

**64. RENTAL AGREEMENT TERMINATION AND HOLDOVER:**

This Agreement will automatically renew for one year at the end of the Term, unless the party wishing to terminate the Agreement gives the other party or parties to the Agreement at least sixty (60) days written notice, before the RENTAL AGREEMENT END DATE (or its anniversary if the Agreement has been automatically renewed for a year) of intent to terminate the Agreement.

Any termination of this Agreement will end TENANT'S right to occupy the PREMISES but will not extinguish any claims arising under this Agreement that TENANT or LANDLORD may have arising from events occurring during the Term, or any Term extension.

In the event LANDLORD delivers a renewal or extension agreement to TENANT signed by LANDLORD, payment of RENT by TENANT thereafter shall constitute acceptance of such renewal or extension agreement notwithstanding TENANT'S failure to sign such renewal or extension.

If TENANT wishes to terminate this Agreement and leave the COMMUNITY, TENANT must notify MANAGEMENT in writing at least sixty (60) days prior the RENTAL AGREEMENT END DATE. In such event, this Agreement and TENANT'S obligation to pay RENT will end on the RENTAL AGREEMENT END DATE, OR ITS ANNIVERSARY, IF EXTENDED, even if TENANT moves out of the COMMUNITY earlier. If TENANT does move out of the COMMUNITY before the RENTAL AGREEMENT END DATE OR ANNIVERSARY, TENANT must still pay RENT through the RENTAL AGREEMENT END DATE OR ANNIVERSARY; provided, however, if a new tenant approved by MANAGEMENT rents the HOME SITE, then TENANT'S obligation shall be reduced by any amounts paid by the new tenant attributable to the remainder of TENANT'S TERM. Except as otherwise expressly provided in this Agreement, upon the termination of this Agreement, TENANT must remove TENANT'S home from the COMMUNITY, without damage to the HOME SITE, at TENANT'S expense.

**65. BREACH OR DEFAULT BY TENANT:**

All terms, conditions, covenants, obligations and undertakings contained in this Agreement are material to this Agreement. All "TENANT Obligations" and "LANDLORD Remedies" under the VMHLRA and the VRLTA, or any modifications or amendments thereto after the effective date of this Agreement, are incorporated herein by reference as if fully set forth in this Agreement, verbatim. The





incorporation of the "TENANT Obligations" and "LANDLORD Remedies" of the VMHLRA and the VRLTA is merely an incorporation of the wording of these Articles by reference and not a representation by either party hereto that any other provisions of the VRLTA are incorporated herein or applicable, unless expressly made applicable by § 55.1- 1311 of the VMHLRA.

**66. LANDLORD REMEDIES:**

Upon any default, LANDLORD, at his option, shall have all "LANDLORD'S remedies of this Agreement, and of the VMHLRA and the VRLTA, and the following rights and remedies (jointly and severally) in addition to all rights and remedies provided by common law or statute, whether legal or equitable. (a) Terminate this Agreement, evict TENANT and recover all damages, including consequential and incidental damages, arising from TENANT'S breach of this Agreement; (b) allow TENANT to remain in possession and institute appropriate proceedings for the collection of accrued monthly RENT and other charges under this Agreement; (c) if the property is abandoned, retake possession of the PREMISES, re-let the PREMISES to a third party and institute proceedings for the collection of all sums owed by TENANT to LANDLORD; or (d) perform any covenant or obligation of TENANT and charge all amounts paid by LANDLORD against TENANT and recover same from the SECURITY DEPOSIT and then from TENANT, should the SECURITY DEPOSIT be insufficient to cover the amount owed.

All rights and remedies of LANDLORD contained herein are cumulative and are in addition to, any rights or remedies that LANDLORD may otherwise have by law.

**67. FAILURE TO ENFORCE RENTAL AGREEMENT NOT A WAIVER:**

No waiver of any default(s) or delay in exercising any right or remedy by LANDLORD shall operate as a waiver of such right or remedy for defaults occurring before or after the waived default(s), and the terms and provisions of this Agreement shall remain in full force and effect.

**68. DAMAGES:**

In the event TENANT breaches any provision of this Agreement or violates the Manufactured Home Lot Rental Act or the Virginia Residential Landlord and Tenant Act, LANDLORD may pursue the rights and remedies set forth above, or any of them. In such event, TENANT shall be liable for payment of the following:

a. All past due RENT and other charges due under the terms of this Agreement.

b. All expenses incurred repairing the PREMISES due to TENANT'S failure at the end of the Term to leave the PREMISES in the condition in which the TENANT received them, ordinary wear and tear excepted.

c. Any reasonable court costs and litigation expenses incurred by LANDLORD, including attorneys' fees, filing fees, expert witness fees, court reporter's fees, transcription fees, photocopying fees, and delivery service fees.

d. All other costs and damages, consequential or incidental, resulting from TENANT'S breach of this Agreement.

e. Reasonable attorneys' fees occasioned by the breach(es) or violation(s) as more specifically described in Section 90, infra.

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**69. EMINENT DOMAIN:**

If the HOME SITE or any portion thereof is taken as eminent domain instituted by any governmental agency or other public authority for any public or quasi-public use and thereby renders the HOME SITE uninhabitable, TENANT'S rights hereunder shall be deemed terminated as of the time the exercise of eminent domain requires the physical surrender by LANDLORD of the HOME SITE, or any portion thereof causing the HOME SITE to be uninhabitable, and the remaining RENT due hereunder shall be proportionately adjusted to the effective date of such termination.

In the event of any such termination, TENANT shall not be entitled to any portion of the compensation or damages paid to LANDLORD or awarded for the condemnation or taking of the PREMISES, or for the loss or diminution of the TENANT'S interest in this Agreement as a result of any such condemnation or taking.

**70. NOTICES:**

LANDLORD and TENANT may give any notice required or permitted by this Agreement, or by law, in any manner permitted by § 55.1-1202. of the VRLTA as provided on the effective date of this Agreement or as hereafter amended by statute, except that Notices may not be given in electronic form. Any notice to LANDLORD required or permitted by this Agreement or other applicable law shall be delivered to "MANAGEMENT" as identified in Section 92 at the address there stated, or at such other address as LANDLORD may designate from time to time in writing by notice given in accordance with the terms of this Section, or such notice will be presumed not to have been delivered, nor to have been received by LANDLORD.

Any notice to TENANT required or permitted by this Agreement or other applicable law shall be delivered to TENANT'S last known address which shall be conclusively deemed the PREMISES, unless TENANT has given the LANDLORD written notice of a different address for such Notice purposes and regardless of whether TENANT has vacated or abandoned the PREMISES.

**71. HEADINGS:**

The headings of the sections of this Agreement are inserted for convenience only and do not alter or amend the provisions hereof, but may be considered if necessary to construe the intent of the pertinent terms of this Agreement, if the plain meaning of those terms is not apparent.

**72. GOVERNING LAW:**

This Agreement shall be interpreted, construed, and applied under the laws of the Commonwealth of Virginia. If any of the terms of this Agreement are deemed by a court of competent jurisdiction to be unlawful because inconsistent with any of the terms of the Virginia Residential Landlord and Tenant Act (VRLTA) or the Virginia Manufactured Home Lot Rental Act (VMHLRA) or Virginia case law or common law, then this Agreement shall be deemed amended, both retroactively to the commencement of the Agreement, as well as prospectively, so as to make this Agreement at all times compliant with all such Virginia law including the said Acts, Chapters 12 and 13 of Title 55.1 of the Code of Virginia.

**73. SEVERABILITY:**

Any provision of this Agreement that is prohibited by, or unlawful or unenforceable under Virginia law shall be ineffective only to the extent of such prohibited, unlawful or unenforceable provision without invalidating the remaining provisions of this Agreement.



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**74. NON-LIABILITY OF LANDLORD'S ASSOCIATES:**

It is understood and agreed by TENANT that all provisions of this Agreement regarding LANDLORD'S non-liability is; now duty to TENANT apply equally to all employees, agents, and management companies employed by or contracting with LANDLORD or MANAGEMENT.

**75. GENDER, CONTEXT:**

Where the context of this Agreement requires, the words in the singular shall be substituted for the plural and vice versa, and words in the masculine gender shall be substituted for any other gender or for the neuter.

**76. FORCE MAJEURE:**

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war, insurrection, terrorism, terrorist activities, foreign invasion, inability to obtain services, labor, or materials or reasonable substitutes therefore, governmental actions, civil commotions, fire, flood, earthquake epidemics, pandemics, or other casualty or causes beyond the reasonable anticipation and control of the party obligated to perform (collectively, a "Force Majeure") shall, except with respect to the obligations imposed with regard to RENT and other charges to be paid by TENANT pursuant to this Agreement, excuse the performance of such party for a period equal to the duration of any such prevention, delay or stoppage.

**77. JOINT AND SEVERAL LIABILITY:**

If more than one person constitutes TENANT, all persons signing as TENANT shall be jointly and severally liable for all TENANT'S obligations set forth in this Agreement.

**78. FORWARDING ADDRESS:**

TENANT agrees that upon vacating the Premise, each TENANT will provide LANDLORD with a written address to which LANDLORD may direct any Notices which must or may be given by LANDLORD to TENANT under the terms of this Agreement or the VRLTA or the VMHLRA, if applicable. Should any TENANT fail to provide such a forwarding address, in the absence of actual knowledge of TENANT'S new address, LANDLORD may mail or deliver such Notices to the PREMISES address shown in Section 93.

**79. CONTACT INFORMATION:**

No later than the full execution of this Agreement, TENANT will provide LANDLORD with the "TELEPHONE NUMBER:" and "EMAIL ADDRESS:" if any, principally used by TENANT for inclusion in Section 93.

**80. PERSONAL PROPERTY OF TENANT:**

All personal property or valuables placed on or about the PREMISES by TENANT, or TENANT'S, MINORS invitees or guests shall be at the sole risk of TENANT or the parties owning same and LANDLORD shall not under any circumstances be liable for its loss, destruction, theft or damage. LANDLORD, as stated supra, strongly advises TENANT to obtain homeowner's or renters' insurance as LANDLORD does not guarantee or insure against loss or theft of TENANT'S personal property on or about the PREMISES.



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**81. CREDIT REPORT:**

TENANT authorizes LANDLORD, or its agents, employees, attorneys or assigns to order and review one or more consumer reports relating to TENANT (including credit history, criminal history and rental history), including other properties owned by property owners affiliated with LANDLORD).

TENANT authorizes LANDLORD, or its agents, attorneys or assigns to order or prepare, and review, investigative consumer reports relating to TENANT. TENANT authorizes LANDLORD, or its agents, attorneys or assigns to continue to obtain or prepare consumer reports and investigative consumer reports on TENANT for the duration of this Agreement and at any time thereafter, including for the purposes of collection of amounts TENANT may owe under this Agreement.

TENANT further authorizes and directs all employers, financial institutions, banks, creditors, and rental property managers and landlords to release any and all information relating to TENANT to LANDLORD or LANDLORD'S agent, attorney or assign. The provisions of this section shall survive the termination of this Agreement for the purpose of LANDLORD pursuing remedies against the TENANT for breach of this Agreement.

TENANT acknowledges and agrees that to the extent permitted by law, LANDLORD may request an investigative consumer report containing information obtained through personal interviews with TENANT'S landlords, employers or others with whom TENANT is acquainted. This inquiry may include information as to TENANT'S character, general reputation, personal characteristics, mode of living and credit history and credit reputation. The Federal Fair Credit Reporting Act requires LANDLORD to provide TENANT with additional information about the nature and scope of the investigation if TENANT gives a written request to LANDLORD within a reasonable time. In addition, upon written request, LANDLORD will notify TENANT if an investigative consumer report has been obtained relating to TENANT and provide TENANT with the name and address of the consumer reporting agency that prepared the report. TENANT also may request a copy of any consumer report or investigative consumer report relating to TENANT directly from the consumer-reporting agency.

**82. SECURITY DEPOSIT:**

LANDLORD will charge a Security Deposit in the amount specified in Section 93 in accordance with and for the purposes of Section 55.1-1226, Code of Virginia.

**83. REPRESENTATIONS TO LANDLORD:**

TENANT has made certain representations to LANDLORD and MANAGEMENT about TENANT'S credit history, rental history, financial affairs, and other relevant information, in order to induce LANDLORD to rent the PREMISES to TENANT. This Agreement has been entered into in reliance by LANDLORD on this information, and all representations of TENANT in his rental application are material and have been relied upon by LANDLORD in deciding to accept the applicant as a TENANT. In the event any of that information is untrue or misleading or incomplete, then the LANDLORD reserves the right to cancel this Agreement upon thirty (30) days' notice to the TENANT. Under this circumstance, and after said thirty (30) days' notice, TENANT will be obligated to immediately vacate the PREMISES and shall be liable to LANDLORD for all costs, expenses and damages that LANDLORD may suffer by reason of TENANT'S misrepresentation, including LANDLORD'S reasonable attorney's fees incurred and lost RENT.

**84. WAIVER OF RIGHT TO COURT OR JURY TRIAL:**



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THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY A JURY IN RESPECT OF ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), ACTIONS, OMISSIONS OR FAILURES OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LANDLORD AND TENANT ENTERING INTO THIS AGREEMENT.

**85. ARBITRATION:**

TENANT AND LANDLORD ( AND LANDLORD ON BEHALF OF ITS PAST, PRESENT OR FUTURE MANAGEMENT COMPANIES, AFFILIATES, SUBSIDIARIES, SHAREHOLDERS, PARTNERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS [THE "LANDLORD PARTIES"]) HEREBY AGREE THAT ANY AND ALL CLAIMS , CONTROVERSIES AND DISPUTES OF ANY KIND ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT, THE INTERPRETATION OR ENFORCEMENT THEREOF, THE HOME SITE, SERVICES, FACILITIES, OR MAINTENANCE IN OR ABOUT THE COMMUNITY, AND ANY DISPUTE RESPECTING THESE MATTERS BETWEEN TENANT AND THE LANDLORD PARTIES (COLLECTIVELY " DISPUTES") SHALL BE RESOLVED SOLELY BY BINDING ARBITRATION BEFORE A SINGLE, NEUTRAL ARBITRATOR. DISPUTES THAT ARE SUBJECT TO THIS AGREEMENT INCLUDE NOT ONLY DISPUTES BETWEEN TENANT AND LANDLORD BUT ALSO DISPUTES BETWEEN TENANT AND ANY OF THE LANDLORD PARTIES. (TENANT, LANDLORD, AND THE LANDLORD PARTIES ARE SOMETIMES REFERRED TO HEREIN AS THE "PARTIES".) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS ARBITRATION AGREEMENT, THE TERM "DISPUTES" DOES NOT INCLUDE THE FOLLOWING MATTERS AND THE FOLLOWING MATTERS SHALL BE EXEMPT FROM ARBITRATION:

1. UNLAWFUL DETAINER, FORCIBLE DETAINER AND EJECTMENT ACTIONS;

2. ACTIONS FOR UNPAID RENT AND OTHER CHARGES; AND

3. ACTIONS FOR INJUNCTIVE RELIEF; PROVIDED, HOWEVER, THAT ACTIONS FOR INJUNCTIVE RELIEF SHALL BE ABATED OR STAYED PENDING RESOLUTION OF ANY ISSUES REQUIRED BY THIS ARBITRATION AGREEMENT TO BE ARBITRATED EXCEPT TO THE EXTENT NECESSARY TO AFFORD THE PARTIES THE RIGHT TO OBTAIN AND ENFORCE PROVISIONAL INJUNCTIVE RELIEF (SUCH AS TEMPORARY RESTRAINING ORDERS AND PRELIMINARY OR TEMPORARY INJUNCTIONS).

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE SUBSTANTIVE AND PROCEDURAL PROVISIONS OF THE FEDERAL ARBITRATION ACT (9 U.S.C. § 1, ET SEQ.) SHALL APPLY TO AND GOVERN THIS ARBITRATION AGREEMENT IN ALL RESPECTS. IN ADDITION, ANY ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH THE TERMS SET FORTH HEREIN AND THE APPLICABLE RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA"). ANY JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN AND BE ENFORCEABLE BY ANY COURT OF COMPETENT JURISDICTION.

EXCEPT TO THE EXTENT PROHIBITED BY FEDERAL LAW, DISPUTES COVERED BY THIS ARBITRATION AGREEMENT MUST BE BROUGHT ON AN INDIVIDUAL BASIS ONLY, AND ARBITRATION ON AN INDIVIDUAL BASIS IS THE EXCLUSIVE REMEDY. THE PARTIES

HEREBY WAIVE ANY RIGHT TO ASSERT OR SUBMIT A MULTI-PLAINTIFF, CLASS, COLLECTIVE OR REPRESENTATIVE ACTION ENCOMPASSING DISPUTES THAT ARE COVERED BY THIS ARBITRATION AGREEMENT, AND NO ARBITRATOR HAS AUTHORITY TO PROCEED WITH ARBITRATION ON SUCH A BASIS. ANY DISPUTES CONCERNING THE VALIDITY OF THIS MULTI-PLAINTIFF, CLASS, COLLECTIVE AND REPRESENTATIVE ACTION WAIVER WILL BE DECIDED BY A COURT OF COMPETENT JURISDICTION, NOT BY THE ARBITRATOR. IN THE EVENT A COURT DETERMINES THIS WAIVER TO BE UNENFORCEABLE OR INVALID WITH RESPECT TO ANY DISPUTE, THEN, AFTER ANY APPEALS HAVE BEEN EXHAUSTED WITHOUT SUCH DETERMINATION HAVING BEEN REVERSED OR VACATED, THIS WAIVER SHALL NOT APPLY TO THAT DISPUTE, THAT DISPUTE MUST BE SUED IN A COURT OF COMPETENT JURISDICTION, AND SUCH COURT SHALL BE THE EXCLUSIVE FORUM FOR THAT DISPUTE.

ALL FEES AND EXPENSES OF ARBITRATION (EXCLUSIVE OF ATTORNEYS' FEES AND COSTS CONTROLLED BY SECTION 90, INFRA) SHALL BE BORNE BY EACH SIDE EQUALLY; PROVIDED, HOWEVER, THAT EACH SIDE SHALL BEAR THE EXPENSE OF ITS OWN EXPERTS, WITNESSES, AND PRESENTATION OF PROOFS. THE PREVAILING PARTY OR PARTIES IN ANY SUCH ARBITRATION PROCEEDING SHALL BE ENTITLED TO RECOVER FROM ANY NON-PREVAILING PARTY OR PARTIES ALL REASONABLE ATTORNEYS' FEES AND COSTS ASSOCIATED THEREWITH.

NOTWITHSTANDING THE FOREGOING, PRIOR TO ANY PARTY OR PARTIES' INITIATING ARBITRATION PROCEEDINGS FOR ANY REASON (AND AS A CONDITION PRECEDENT THERETO), SUCH INITIATING PARTY OR PARTIES SHALL GIVE TO THE PARTY OR PARTIES AGAINST WHOM THE DISPUTES ARE BEING ASSERTED NINETY DAYS WRITTEN NOTICE OF THE CHARACTER OF INITIATING PARTY'S OR PARTIES' CLAIMS AND A REASONABLE OPPORTUNITY TO NEGOTIATE A RESOLUTION OF SAME.

A COURT MAY NOT DECLINE TO ENFORCE THIS AGREEMENT ON THE GROUND THAT A PARTY TO THE AGREEMENT ALSO IS A PARTY TO A PENDING COURT ACTION OR SPECIAL PROCEEDING WITH A THIRD PARTY ARISING OUT OF THE SAME TRANSACTION OR SERIES OF RELATED TRANSACTIONS AND THERE IS A POSSIBILITY OF CONFLICTING RULINGS ON A COMMON ISSUE OF LAW OR FACT.

THIS SECTION IS A MATERIAL INDUCEMENT FOR LANDLORD AND TENANT ENTERING INTO THIS AGREEMENT.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES TO NEUTRAL ARBITRATION AS SET FORTH ABOVE.

**86. SUBORDINATION:**

This Agreement is subject to all present and future mortgages, deeds of trust, and security agreements put in place by LANDLORD, which affect the PREMISES. TENANT shall execute and deliver, upon the request of LANDLORD, any and all necessary documents to subordinate this Agreement to any such mortgage, deed of trust, or security agreement.

**87. DIPLOMATS:**

In the event TENANT or any Guarantor under this Agreement is considered a person entitled to the protection of the Vienna Convention on Diplomatic Relations as adopted by the United States, then





TENANT and his family, acknowledge that, under the provisions of said Convention, TENANT is subject to a suit for possession in the courts of the Commonwealth of Virginia. In furtherance thereof, TENANT waives any immunity conferred by applicable diplomatic immunity laws as to all of LANDLORD'S claims, if any, for unpaid RENTS and/or damages arising from breach of this Agreement. TENANT expressly waives the benefits and protection of any applicable laws on diplomatic immunity that confer immunity against executing upon any judgment for possession, namely eviction. TENANT also waives the benefits and protection of such laws against suit to obtain a money judgment or against execution to collect a money judgment for RENTs or damages by reason of breach of this Agreement, and all homestead and other exemptions from execution, including but not limited to levy, attachment and garnishment as may be lawfully waived under the law of Virginia.

**88. EXEMPTIONS:**

TENANT waives the benefit of all debtor's exemptions legally waivable under Title 34 of the 1950 Code of Virginia, as amended.

**89. NO RECORDATION:**

This Agreement shall not be recorded by TENANT.

**90. ENTIRE AGREEMENT:**

This Agreement and any applicable Rules and Regulations and any adopted subsequent hereto by LANDLORD or MANAGEMENT constitute the entire agreement between LANDLORD and TENANT. No oral statements made by either party shall be binding on such party to the extent inadmissible under the Parol Evidence Rule.

**91. ATTORNEYS' FEES AND LITIGATION EXPENSES:**

In the event that a default or breach of this Agreement by TENANT results in LANDLORD securing the services of a licensed attorney-at-law to commence collection or litigation efforts (including submitting any controversy to arbitration as required by Section 86, supra), then LANDLORD shall be entitled in any such proceedings to a judgment or award against TENANT for reasonable attorneys' fees incurred by LANDLORD in connection with its enforcement or interpretation of this Agreement, including expenses incurred in the preparation of any notices such as "Five- Day Pay or Quit Notices" and termination notices prerequisite to the commencement of an unlawful detainer action.

It is agreed by TENANT and LANDLORD that any of the foregoing fees and expenses that by written declaration, certificate, verification, or statement of LANDLORD'S attorneys-at-law pursuant to § 8.01-4 3, 1950 Code of Virginia, as amended, are affirmed as having been incurred by LANDLORD and to be reasonable, shall be presumed in any litigation, including arbitration, to have been actually incurred by LANDLORD in the reasonable and proper enforcement of its rights under this Agreement and to be reasonable in amount, unless the presumption is overcome by a preponderance of admissible evidence presented by TENANT.

**92. TENANT CERTIFICATE:**

TENANT finds this Agreement to be reasonable and agrees to abide by all provisions hereof. Tenant understands that any breach of this Agreement may result in the termination of this Agreement. TENANT represents and warrants to LANDLORD and to MANAGEMENT that the information set forth in Section 93 of this Rental Agreement is true, complete and correct as of the effective date of this Agreement and Tenant agrees that any error or omission by TENANT regarding such information





shall constitute a breach of this Agreement. TENANT further agrees to update such information as necessary to keep the same true, complete and correct at all times throughout the term of this Agreement.

**93. RENTAL AGREEMENT PARTICULARS:**

BAD PAYMENT CHARGE: $25.00

TRASH RATE: $26.87

COMMUNITY OFFICE: 4200 Airline Parkway, Chantilly, VA 20151

DEALER WHO SOLD HOME TO TENANT (if sold by Dealer) & ADDRESS:

LANDLORD: MHC Meadows of Chantilly, LLC

LATE CHARGE: 10% OF AMOUNT OF MONTHLY RENT NOT TIMELY PAID

RENTAL AGREEMENT START DATE: 02/01/2024

RENTAL AGREEMENT END DATE: 01/31/2025

MODIFICATION FEE (See Section 111): $200.00

No lien.
LIENHOLDER ON HOME (if any), and Lienholder's address and phone number

MANAGEMENT: MHC Property Management, L.P. c/o: Community Manager, Meadows of Chantilly Manufactured Home Community Office, 4200 Airline Parkway, Chantilly, VA 20151

*MANUFACTURED HOME SITE IS: 14615 Icelandic Pl. Chantilly, VA 20151

MINORS (print names):
_____ D.O.B. ___

OCCUPANCY LIMIT: 2 persons (number of bedrooms, multiplied by 2, plus one.)

PET FEE: $40.00

PETS:

1st Pet: Cat [__] or Dog[__]

Name: _____ Breed _____ Height _____ Weight _____

2nd Pet: Cat [__] or Dog[__]

Name: _____ Breed _____ Height _____ Weight _____

RENT: $1,655.00

SECURITY DEPOSIT: One month's rent: $1,655.00





TENANT(S)' VEHICLES:
Year: _____ Make: _____ Model: _____ Tags: _____ VIN: _____

TENANT(S) (all persons over age 18):

Printed Name: Misael Javier Leiva

TENANT(S)' EMAIL ADDRESSES (List for each Tenant): misaeljv7@gmail.com

TENANT(S)' TELEPHONE NUMBERS (List for each Tenant): (240) 501-1833

TENANT(S)' EMERGENCY CONTACT:

Name: _____
Address: _____
Phone Number: _____
Email Address: _____

VEHICLE LIMIT is # 1

**** Signatures to follow on the next page****

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WHEREFORE, THE FOLLOWING SIGNATURES REPRESENT AGREEMENT BY THE PARTIES EXECUTING THIS AGREEMENT TO ALL ITS TERMS.

**AGREED:**

**LANDLORD:** MHC Meadows of Chantilly, L.L.C.

By: MHC Property Management, L.P.

By: Carlos Baez — 3/19/2024 | 8:08 AM PDT

Carlos Baez, Meadows of Chantilly — Date

**AGREED:**

**TENANT:**

3/18/2024 | 9:23 PM EDT

Resident - Mihail Javier Elanor — Date



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Sale or rental of manufactured home in the park:
A landlord shall not unreasonably refuse or restrict the sale or rental of a manufactured home in the park. (§55.1-1310)

Fit and Habitable Manufactured Home Park:
A tenant has the right to a fit and habitable manufactured home park in accordance with laws about health, safety, and zoning in manufactured home parks. The landlord must make all repairs needed to keep the manufactured home park fit and habitable. (§55.1-1303) To enforce the right to get repairs, a tenant must be current in rent, give the landlord written notice and wait a reasonable period. If repairs are not made, a tenant can file a Tenant's Assertion in General District Court. This must be filed no later than five days after rent is due. There is no rent withholding in Virginia, except under repair and deduct. (§55.1-1311, §55.1-1245)

Repair and Deduct:
If an issue on the property affects life, health, safety, or seriously affects habitability, and a landlord has not begun to address it within 14 days after written notice from the tenant, the tenant may contract to have the repair done by a licensed contractor at a cost of not more than $1,500, or one month's rent, whichever is more. The tenant may deduct the actual cost of the repair from the rent. The tenant must send the landlord an itemized invoice and a receipt for payment to the contractor for the work, along with any payment of remaining rent owed. (§55.1-1311, §55.1-1244.1)

Evictions:
A landlord may not evict a tenant without following the court eviction process. The landlord first sends a written notice and next the landlord files an unlawful detainer lawsuit. The landlord must get a court order of possession, followed by a Writ of Eviction that is served by the Sheriff. (§55.1-1311, §55.1-1245, 1252). A tenant not getting paid due to a federal shutdown of 14 or more days can get an eviction lawsuit for nonpayment of rent postponed for 60 days. (§44-209)

Reasons for Eviction:
A landlord may evict a tenant only for nonpayment of rent; violation of a building or housing code; violation of the lease or law affecting health, safety, or welfare; or two or more lease violations in a 6 month period. (§55.1-1315)

Unlawful Exclusion, Interruption of Essential Services, and Unlivable Premises:
A Landlord may not unlawfully exclude a tenant from the premises, interrupt an essential service, or make the unit unlivable. If this happens, the tenant may sue the landlord in General District Court and get an initial court hearing in five calendar days. At this hearing, a court may order the landlord to give the property back to the tenant, restore the essential service, or fix the conditions that make the unit unlivable. The court may also hold a second hearing 10 days after the first hearing and may find that the tenant is entitled to actual damages, statutory damages, and reasonable attorney's fees. (§ 55.1-1311, §55.1-1243.1)

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## Virginia Statement of Tenant Rights and Responsibilities under the Virginia Manufactured Home Lot Rental Act as of July 1, 2023

[redacted]

Coverage:
The Virginia Manufactured Home Lot Rental Act (VMHLRA) applies to manufactured home parks upon which five or more manufactured homes are located on a continual, nonrecreational basis. It governs the relationship between Manufactured Home Park Operators and Manufactured Homeowners who rent land in a park. If you rent your manufactured home, please refer to the Virginia Statement of Tenant Rights and Responsibilities under the Virginia Residential Landlord Tenant Act. (§55.1-1300)

Tenant Rights
Written lease:
Under the VMHLRA, a landlord is required to provide a tenant a written lease of not less than one year. The lease will automatically renew for one year unless the landlord gives written notice to the tenant of any change in the terms of the lease at least 60 days before the lease ends. (§55.1-1301, 1302)

Disclosure:
A landlord must reveal certain information to the tenant, including the name and address of the owner or property manager (§55.1-1311, §55.1-1216) and notice of sale or foreclosure of the property. (§55.1-1311, §55.1-1216, 1237).

Security Deposit:
A landlord may require a security deposit of up to two month's rent. (§55.1-1302, §55.1-1226)

Fees:
A landlord shall not demand or collect an entrance fee; a commission on the sale of a manufactured home in the park (unless the tenant employs the landlord to perform a service in connection with the sale); a fee for cable, internet, or satellite service unless the landlord is the service provider; or an exit fee. (§55.1-1306)

Access:
A landlord must allow a guest or invitee of the tenant free access to the tenant's manufactured home site without charge or registration. (§55.1-1306)

Notice of Intent to Sell:
A landlord who wants to sell the park must give 90 days' advance notice to each tenant and to the Department of Housing and Community Development (DHCD). If the landlord receives an offer to purchase, the landlord must give 60 days' advance notice to each tenant and to DHCD, and consider offers from group of at least 25% of park residents. (§55.1-1308.2)

Notice of Intent to Sell to Buyer who will Change its Use:
A landlord who wants to sell the park to a buyer who will change its use must give 180 days' advance notice to each tenant. Within the 180-day period, the landlord must give each resident $2,500 in relocation expenses (except in Planning District 8 – most of northern Virginia- this amount is $3,500). Relocation expenses are stipulated on a written agreement between the landlord and the resident to remove the home from the park. (§55.1-1308.1)

Tenant Responsibilities
Charges:
Under the written lease, the charges the tenant must pay are limited to fixed rent, utilities supplied by the landlord, and other reasonable services and facilities supplied by the landlord. (§55.1-1301)

Maintain Fit and Habitable Exterior and Home Lot:
The tenant must keep the exterior of the manufactured home and the manufactured home lot as clean and safe as conditions allow and in accordance with laws affecting manufactured home owners and tenants. (§55.1-1309)

Fair Housing: The tenant may have a right to file a fair housing complaint if the landlord or property manager violates the Virginia Fair Housing Act. (§36-96.1-61.86). [HUD FHEO-2020-1)

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## Acknowledgement of Receipt of Statement of Tenant Rights and Responsibilities

In accordance with §55.1-1303 of the Code of Virginia, the Landlord has provided to the Tenant and the Tenant has received the Statement of Tenant Rights and Responsibilities developed by the Virginia Department of Housing and Community Development and posted on its website (www.dhcd.virginia.gov/landlord-tenant-resources) pursuant to §36-150 Code of Virginia.

The statement of the tenants' rights and responsibilities was provided to the tenant on:

The tenant:

[X] Signed this acknowledgment of receipt of the statement of tenants' rights and responsibilities

[ ] Did not sign this acknowledgement of receipt of the statement of tenants' rights and responsibilities

Carlos Baez — 1/18/2024 | 8:00 AM PST

Landlord Signature - Carlos Baez — Date

Landlord Agent (if applicable) — Date

1/18/2024 | 9:13 PM CST

Tenant Signature - Misael Javier Llanos — Date

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**REQUEST FOR INTERPRETATION**

TO: OFFICE OF THE STATE BUILDING CODE TECHNICAL REVIEW BOARD
VIRGINIA DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT
Main Street Centre
600 E. Main Street, Suite 300
Richmond, Virginia 23219-1321
Tel: (804) 371-7150 Fax: (804) 371-7092
Email: sbco@dhcd.virginia.gov

**RECEIVED**
**September 1, 2026** WTZ
**OFFICE OF THE REVIEW BOARD**

From: Kris Bridges, MCP, CBO, CZA

Phone Number : (276)403-5171

Email Address: kbridges@martinsvilleva.gov

Applicable Code: Uniform Statewide Building Code, parts I, II & III

Code Section(s): VCC section 119, VMC section 119, VSFPC section 112

Submitted by (signature): _____ Date: 08/31/2026

QUESTION(S):

1. Is an appeal application considered to be properly submitted by section 119.5 if the requisite fee allowed in 119.1 has not been paid?

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# SECTION 119
# APPEALS

**119.1 Establishment of appeals board.**

In accordance with § 36-105 of the Code of Virginia, there shall be established within each *local building department a local board of building code appeals (LBBCA)*. Whenever a county or a municipality does not have such a *LBBCA*, the local *governing body* shall enter into an agreement with the *local governing body* of another county or municipality or with some other agency, or a state agency approved by *DHCD* for such appeals resulting therefrom. Fees may be levied by the *local governing body* in order to defray the cost of such appeals. In addition, as an authorization in this code, separate *LBBCAs* may be established to hear appeals of different enforcement areas such as electrical, plumbing or mechanical requirements. Each such *LBBCA* shall comply with the requirements of this section. The *locality* is responsible for maintaining a duly constituted *LBBCA* prepared to hear appeals within the time limits established in this section. The *LBBCA* shall meet as necessary to assure a duly constituted board, appoint officers as necessary, and receive such training on the code as may be appropriate or necessary from staff of the *locality*.

**119.2 Membership of board.**

The *LBBCA* shall consist of at least five members appointed by the *locality* for a specific term of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the *locality*. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any 1-year period.

**119.3 Officers and qualifications of members.**

The *LBBCA* shall annually select one of its regular members to serve as chairman. When the chairman is not present at an appeal hearing, the members present shall select an acting chairman. The *locality* or the chief executive officer of the *locality* shall appoint a secretary to the *LBBCA* to maintain a detailed record of all proceedings. Members of the *LBBCA* shall be selected by the *locality* on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall to the extent possible, represent different occupational or professional fields relating to the construction industry. At least one member should be an experienced builder; at least one member should be an *RDP*; and at least one member should be an experienced property manager. Employees or officials of the *locality* shall not serve as members of the *LBBCA*.

**119.4 Conduct of members.**

No member shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq. of the Code of Virginia). Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.

**119.5 Right of appeal; filing of appeal application.**

Any person aggrieved by the *local building department's* application of the USBC or the refusal to grant a modification to the provisions of the USBC may appeal to the *LBBCA*. The applicant shall submit a written request for appeal to the *LBBCA* within 30 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the *owner* of the *building* or *structure* and, in addition, the name and address of the person appealing, when the applicant is not the *owner*. A copy of the building official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the *LBBCA* to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision.

**Note:** To the extent that a decision of a building official pertains to amusement devices there may be a right of appeal under the *VADR*.

**119.6 Meetings and postponements.**

The *LBBCA* shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a period of up to 45 calendar days shall be permitted where the *LBBCA* has regularly scheduled monthly meetings. A longer time period shall be permitted if agreed to by all the parties involved in the appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application if requested or by electronic means at least 14 calendar days prior to the date of the hearing unless a lesser time period is agreed to by all the parties involved in the appeal. When a quorum of the *LBBCA* is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The *LBBCA* shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties

involved in the appeal.

**119.7 Hearings and decision.**

All hearings before the *LBBCA* shall be open meetings and the appellant, the appellant's representative, the *locality's* representative and any person whose interests are affected by the building official's decision in question shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The *LBBCA* shall have the power to uphold, reverse or modify the decision of the official by a concurring vote of a majority of those present. Decisions of the *LBBCA* shall be final if no further appeal is made. The decision of the LBBCA shall be explained in writing, signed by the chairman and retained as part of the record of the appeal. Copies of the written decision shall be sent to all parties by certified mail. In addition, the written decision shall contain the following wording:

"Any person who was a party to the appeal may appeal to the *State Review Board* by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this decision. Application forms are available from the Office of the *State Review Board*, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150."

**119.8 Appeals to the State Review Board.**

After final determination by the *LBBCA* in an appeal, any person who was a party to the appeal may further appeal to the *State Review Board*. In accordance with § 36-114 of the Code of Virginia, the *State Review Board* shall have the power and duty to hear all appeals from decisions arising under the application of the USBC and to render its decision on any such appeal, which decision shall be final if no appeal is made therefrom. In accordance with § 36-98.2 of the Code of Virginia for state-owned *buildings* and *structures*, appeals by an involved state agency from the decision of the building official for state-owned *buildings* or *structures* shall be made directly to the *State Review Board*. The application for appeal shall be made to the *State Review Board* within 21 calendar days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the building official's decision. For appeals from a *LBBCA*, a copy of the building official's decision and the written decision of the *LBBCA* shall be submitted with the application for appeal to the *State Review Board*. Upon request by the office of the *State Review Board*, the *LBBCA* shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned *buildings* or *structures*, the involved state agency shall submit a copy of the building official's decision and other relevant information with the application for appeal to the *State Review Board.* Procedures of the *State Review Board* are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia.

**119.9 Hearings and decision.**

All hearings before the *State Review Board* shall be open meetings and the chair shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The *State Review Board* shall have the power to uphold, reverse, or modify the decision of the *LBBCA* by a concurring vote of a majority of those present. Proceedings of the Review Board shall be governed by the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that an informal conference pursuant to § 2.2-4019 of the Code of Virginia shall not be required. Decisions of the *State Review Board* shall be final if no further appeal is made. The decision of the *State Review Board* shall be explained in writing, signed by the chair and retained as part of the record of the appeal. Copies of the written decision shall be sent to all parties by certified mail. In addition, the written decision shall contain the following wording:

"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 the 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."