

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 against 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 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 requirements of 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

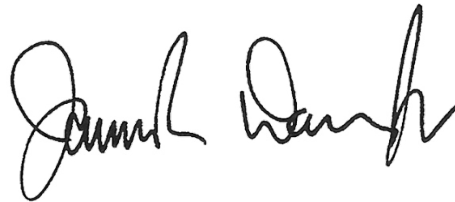
Code (VRC) to a multi-family structure under the VCC, creating an increase in safety requirements and a more hazardous condition; therefore, the structure was unsafe.

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.