

VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of 1321 Porter St. LLC (Emily Pinchbeck)  
Appeal No. 25-07

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 VMC), 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, which was heard March 19, 2025 and the decision of the building official was upheld. On May 1, 2025, 1321 Porter St. further appealed to the Review Board. 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.

Appearing at the Review Board meeting for 1321 Porter St. was Emily Pinchbeck. Appearing at the Review Board meeting for the City of Richmond were Rick Paul, Programs and Operations Manager for Inspections for the City of Richmond, Keisha Felton, City of Richmond local appeals board secretary, and Walter Jackson, City of Richmond Inspector.

### III. Findings of the Review Board

#### A. Whether the appeal was untimely to the local appeals board.

1321 Porter St. argued that she emailed the City on December 20, 2024 notifying the City of her intention to appeal the NOV and inquired about payment options. 1321 Porter St. further argued that the City informed her that she could only pay with card through the City online payment portal and directed her to a staff person in a different department to assist her with the payment. 1321 Porter St. provided the following dates where attempts were made to submit the applicable appeal application fee payment.

- December 23, 2024 – called different department staff person to make payment
- December 27, 2024 – called different department staff person to make payment

- December 30, 2024 – emailed building inspections staff to make payment
- December 31, 2024 – called different department staff person to make payment
- February 2, 2025 – emailed building inspections staff to make payment
- February 3, 2025 – emailed different department staff person and building inspections staff to make payment – the payment invoice was made available and 1321 Porter St. made the payment

1321 Porter St. lastly, argued that Virginia Code §36-105 permitted a locality to establish a fee schedule for appeals but did not specify that failure to pay the applicable appeal application fee caused the appeal to not be heard and/or be dismissed.

The City argued that 1321 Porter St. was aware of the timeline to file the appeal. The City also argued that on December 20, 2025 1321 Porter St. was given the applicable appeal application fee amount and process to make the payment. The City argued that several attempts were made via email to contact 1321 Porter St. to clarify the process as she had more than one appeal application submitted. Lastly, the City acknowledged challenges with the online payment portal but argued that other payment options were available.

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.

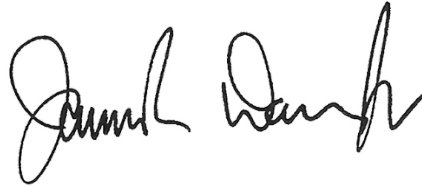
#### IV. Conclusion

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

A. Whether the appeal was untimely to the local appeals board.

The appeal is 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.



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Chair, State Building Code Technical Review Board

Date entered \_\_\_\_\_ November 21, 2025 \_\_\_\_\_

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.