

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, April 20, 2018

Virginia Housing Center
4224 Cox Road, Glen Allen, Virginia

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

- II. Approval of January 19, 2018 Minutes **(TAB 2)**

- III. Approval of Final Order **(TAB 3)**

In Re: Appeal of Joshua and Makiba Gaines
Appeal No. 17-11

- IV. Approval of Final Order **(TAB 4)**

In Re: Appeal of Harvey Dupree (A...H Variety)
Appeal No. 17-10

- V. Public Comment

- VI. Appeal Hearing (For Determination of Whether to Dismiss as Moot) **(TAB 5)**

In Re: Appeal of William Wiehe, Jr. - Vice Versa Corporation
Appeal No. 17-9

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

In Re: Appeal of Quantico City LLC and Joel Rhoades
Appeal No. 17-8

- VIII. Appeal Hearing **(TAB 7)**

In Re: Appeal of Edward Mays (US Customs and Border Protection)
Appeal No. 17-14

- IX. Secretary's Report **(TAB 8)**

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

James R. Dawson - Vice Chairman
(Virginia Fire Chiefs Association)

W. Keith Brower, Jr.
(Commonwealth at large)

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)

Joseph A. Kessler, III
(Associated General Contractors)

Eric Mays, PE
(Virginia Building and Code Officials Association)

E.G. "Rudy" Middleton
(Electrical Contractor)

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

Patricia S. O'Bannon
(Commonwealth at large)

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

Richard C. Witt
(Virginia Building and Code Officials Association)

Aaron Zdinak, PE
(Virginia Society of Professional Engineers)

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**STATE BUILDING CODE TECHNICAL REVIEW BOARD
DRAFT MEETING MINUTES
January 19, 2018
Glen Allen, Virginia**

Members Present

Mr. W. Keith Brower
Mr. Vince Butler
Mr. Alan D. Givens
Mr. Joseph Kessler
Mr. Eric Mays, PE
Mr. E. G. Middleton, III
Ms. Joanne Monday
Ms. Patricia S. O'Bannon
Mr. W. Shaun Pharr, Esq.
Mr. Aaron Zdinak, PE
Mr. Richard C. Witt

Members Absent

Mr. James R. Dawson, Vice Chairman
Mr. Daniel Crigler

Call to Order

The meeting of the State Building Code Technical Review Board ("Review Board") was called to order at approximately 10:00 a.m. by the Acting Secretary Mr. Vernon W. Hodge, since no other officers were present.

Roll Call

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

Mr. Hodge welcomed new member Richard C. Witt, appointed to represent the Virginia Building and Code Officials Association as a replacement for long-time board member and chairman, J. Robert Allen. Mr. Witt provided a brief introduction of himself and indicated he was honored to serve. Board members welcomed him.

Election of Chairman
Pro Tem

Mr. Hodge advised board members that in instances where the Chairman and Vice-Chairman were absent, the customary procedure is to elect a chairman pro tem to serve as chairman for the meeting. After discussion, Mr. Mays nominated Mr. Pharr as chairman pro tem for the meeting. The motion was seconded by Mr. Kessler and passed unanimously with Mr. Pharr abstaining from the vote.

Election of Officers,
Generally

Mr. Hodge advised that the officers serve for a term of two years and the last election of officers was on May 20, 2016; however in June of 2017, there was an appointment of an acting secretary until January of 2018, so action needed to be taken on the acting secretary position. Mr. Hodge suggested since he was not retiring until June 1, 2018, that the acting secretary position be extended to coincide with the normal terms of the officers (May 20, 2018). Ms. O'Bannon moved to extend

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the acting secretary position to coincide with the terms of the chairman and vice-chairman positions, at which time a permanent secretary would be elected, if appropriate. The motion was seconded by Mr. Witt and passed unanimously.

Approval of Minutes

The draft minutes of the November 17, 2017 meeting in the Review Board members' agenda package were considered. Ms. O'Bannon moved to approve the minutes as presented. The motion was seconded by Mr. Zdinak. Mr. Pharr then offered a substitution motion to change the last sentence under the heading, "Decision: Appeal of Deborah Caldwell-Bono and Benny Bono; Appeal No. 17-6:" to read, "Mr. Mays expressed his concerns with the decision, as did Mr. Pharr." Mr. Mays seconded the substitute motion and a vote was taken. The motion passed with Messrs. Butler, Middleton and Witt abstaining from the vote.

Final Orders

Appeal of Deborah Caldwell-Bono and Benny Bono; Appeal No. 17-6:

After consideration of the final order presented in the agenda package, Mr. Mays moved to approve the final order with the following rewrite of the last paragraph in the "Findings of the Review Board" section:

"The remaining issue raised by the Bonos is a claim that the building in question is unsafe based on their engagement of an architect to contact the building commissioner with his concerns. The farm building on the adjacent property in question is more than fifty feet (50') from the Bono's property line. Additionally, the Bonos have no existing structures in proximity to the property line. Therefore, while it is true that there are no standards for farm buildings due to the statutory exemption from the state building code, the issue of safety is more applicable to building occupants than to the Bonos. Consequently, that issue does not make the Bonos aggrieved by the building commissioner's decision."

Ms. O'Bannon seconded the motion and it passed unanimously with Messrs. Butler, Middleton and Witt abstaining from the vote.

Subsequent to the approval of the final order, Mr. Kessler raised the issue of the Attorney General's Opinion concerning farm buildings which was made part of the record in the Bono appeal and whether the Review Board could request an updated opinion. Mr. Bell advised that it may be possible, but noted that the law has not changed since the current opinion was issued. After further discussion, Mr. Kessler moved to have staff and legal counsel look into it further and report

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back at the next meeting. The motion was seconded by Mr. Brower and passed unanimously.

Public Comment

Chairman Pro Tem Pharr opened the meeting for public comment. Mr. Hodge advised that no one had signed up to speak. With no one coming forward, Mr. Pharr closed the public comment period.

New Business

Preliminary Hearing (as to whether timely) – Appeal of Joshua and Makiba Gaines; Appeal No. 17-11:

Mr. Middleton informed the board members that he would be recusing himself from this case as he is on the City of Norfolk local board of building code appeals, which heard the appeal prior to it being appealed to the Review Board.

A preliminary hearing convened with Chairman Pro Tem Pharr serving as the presiding officer. The issue to be resolved is whether the Gaines filed a timely appeal of enforcement action under Part III of the Virginia Uniform Statewide Building Code (the Virginia Maintenance Code) by the City of Norfolk Department of Neighborhood Development concerning the Gaines' rental property at 2410 West Avenue.

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

Josh Gaines
Makiba Gaines
Sherry Johnson; for the City of Norfolk

Also present was:

Cynthia Hall, Esq.; legal counsel for the City of Norfolk

There was consideration of a late submittal by the Gaines. Mr. Hodge advised the board members that the Gaines' submittal was essentially a reply brief to the City of Norfolk's brief, but due to time constraints between the informal fact-finding conference and the hearing date, only one submittal date was established staff and not a reply brief schedule.

After discussion, Mr. Mays moved to exclude the late submittal. The motion was seconded by Mr. Kessler. After further discussion concerning that the information in the reply brief could be submitted

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through testimony, Mr. Mays withdrew his motion. Chairman Pro Tem Pharr then ruled to accept the late submittal as Appellant Exhibit A.

Testimony was then presented concerning whether the Gaines had filed a timely appeal to the City of Norfolk Local Board of Appeals from both parties.

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

Decision: Appeal of Joshua and Makiba Gaines; Appeal No. 17-11:

After deliberation of the preliminary issue of the timeliness of the Gaines' appeal, Mr. Mays moved to overturn the decision of the City of Norfolk Local Board of Appeals and hold that the Gaines' appeal was timely since the February 15, 2017 notice of placarding issued by the City of Norfolk was not served by personal service and did not contain a statement of right of appeal. The motion was seconded by Ms. Monday and passed unanimously.

Mr. Mays further moved that since the merits of the appeal had not been heard by the City of Norfolk Local Board of Appeals, that the appeal be remanded to the local board for a hearing on the merits. The motion was seconded by Mr. Givens and passed unanimously.

Appeal of Harvey and Ann Dupree (A...H Variety); Appeal No. 17-10:

A hearing convened with Chairman Pro Tem Pharr serving as the presiding officer. The appeal involved citations under the Virginia Statewide Fire Prevention Code by the State Fire Marshal's Office at a warehouse and merchandise sales facility owned by the Duprees and located at 456-554 Piney Pond Road in Brunswick County.

The following persons representing the Virginia State Fire Marshal's Office were sworn in and given an opportunity to present testimony:

Dee Madsen
Ron Reynolds

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Brian M. McGraw

Mr. Hodge informed the Review Board members that the Duprees had been properly notified of the hearing and that they had also not been present at an informal fact-finding conference scheduled for the appeal. In addition, the State Fire Marshal's Office had issued a third set of violations for the property after the Board's agenda package had been distributed and a copy was provided to supplement the record in the agenda package.

Prior to testimony, State Fire Marshal McGraw asserted that the issues for resolution in the Review Board staff summary were too broad. Mr. Hodge informed the Review Board members that the issues in the staff summary were based on the Duprees filing a notice of appeal and not attending the informal fact-finding conference to clarify the extent of their appeal. Chairmen Pro Tem Pharr stated based on the absence of the Duprees at the hearing, the appeal would be limited to those issues identified for resolution by the Duprees in a handwritten note submitted along with the appeal application identifying the notice to be invalid because Ms. Dupree was not notified of the notice and the notice concerning the back door was invalid because the back door is only used as a loading dock and not as an entrance or exit.

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

Decision: Appeal of Harvey and Ann Dupree (A...H Variety); Appeal No. 17-10:

After deliberation of whether the notices were valid due to the lack of notification of Ms. Dupree, Mr. Kessler moved that there was adequate notice. The motion was seconded by Mr. Butler and passed unanimously.

After deliberation of whether there was a violation relative to the back door leading to the loading dock, Mr. Mays moved to uphold the citation. The motion was seconded by Mr. Middleton and passed with Mr. Kessler voting in opposition.

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After deliberation of whether there was a violation relative to the loading dock itself, Mr. Butler moved to uphold the citation. The motion was seconded by Mr. Witt and passed unanimously.

Secretary's Report

Mr. Jeff Brown, Associate Director of the State Building Codes Office, provided the Review Board members with an update on the effective date of the 2015 editions of the agency's building and fire codes. He also acknowledged the hiring of three new employees to the State Building Codes Office: Holly Squares, an administrative assistance to replace Jane Terry, who moved to the DHCD's Director's Office and Terry Steen and Casey Littlefield, technical staff, who were present at the meeting.

Mr. Hodge informed the Review Board members that the next meeting would be either March or April.

Adjournment

There being no further business, Mr. Middleton moved to adjourn the meeting at approximately 1:45 p.m.

Approved: April 20, 2018

Vice-Chairman, State Building Code Technical Review Board

Acting Secretary, State Building Code Technical Review Board

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
(For Determination of Timeliness)

IN RE: Appeal of Joshua and Makiba Gaines
Appeal No. 17-11

DECISION OF THE REVIEW BOARD

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).

Case History

Joshua and Makiba Gaines, a married couple who own rental property in the City of Norfolk, appeal action by the City taken against them under Part III of the Virginia Uniform Statewide Building Code, the Virginia Maintenance Code, or VMC.

In February of 2017, the City issued a notice of violation under the VMC, listing a number of violations concerning the Gaines' rental house located at 2410 West Avenue.

Later in February, the City issued an additional notice of violation identifying the property as unsafe or unfit for human habitation.

In March of 2017, the Gaines filed an appeal to the City of Norfolk Local Board of Building Code Appeals (City Appeals Board). The City Appeals Board heard the Gaines' appeal on June 28, 2017 and ruled to dismiss the appeal as untimely.

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The Gaines then furthered appealed to the Review Board. Review Board staff met with the parties for an informal fact-finding conference and established a schedule for the submittal of written arguments and additional documents for the record. A hearing was then held before the Review Board.

Findings of the Review Board

The action under review is dated February 15, 2017 and states that it is a notice of violation. It states that the Gaines' building may not be occupied until authorized by the City's VMC official.

While not exactly matching the administrative language in the VMC for a notice of unsafe structure or structure unfit for human occupancy, that does appear to be the action the City was taking. As such, the VMC requires such notices to be issued by personal service to the owner, the owner's agent or the person in control of such structure.

The Gaines agree they received personal service of the February 15, 2017 notice on March 20, 2017, while at a meeting with City officials.

The City argues that the Gaines had actual notice of the February 15, 2017 action by the City, evidenced by filings in the City of Norfolk Circuit Court. The Review Board members find that the VMC requires personal service and the timeframes for filing an appeal of the City's action would be within 14 days of personal service, irrespective of whether actual notice had occurred earlier.

Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the Gaines' appeal of the February 15, 2017 notice to be, and hereby by is, timely. In addition, since the City Appeals Board did not hear the Gaines' appeal on its merits,

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the Review Board members order the Gaines' appeal to be, and hereby is, remanded to the City Appeals Board for a hearing on its merits.

Vice-Chairman, State Building Code Technical Review Board

Date entered: _____

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 Vernon Hodge, Acting 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.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Harvey Dupree (A...H Variety)
Appeal No. 17-10

DECISION OF THE REVIEW BOARD

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).

Case History

The State Fire Marshal's Office (SFMO) is responsible for the enforcement of the Statewide Fire Prevention Code in those localities which do not enforce the code through a local enforcing agency. Appeals concerning the application of the SFPC by the SFMO are filed directly with the Review Board.

In August of 2017, the SFMO conducted an inspection at a flea market-type assembly of structures at 456-554 Piney Pond Road in Brunswick County, known as A...H Variety, owned by Harvey and Ann Dupree.

The inspection resulted in the issuance of seven inspection notices and twelve cited violations of the SFPC.

Harvey Dupree filed an appeal to the Review Board within the required timeframe under the SFPC.

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Review Board staff conducted an informal fact-finding conference in September of 2017, which was attended by representatives of the SFPC, but was not attended by the Duprees.

Review Board staff then developed a staff summary of the appeal, distributed it to all the parties and scheduled an appeal hearing before the Review Board.

The Duprees did not attend the hearing before the Review Board.

Findings of the Review Board

Based on the written application for appeal by the Duprees, since they were not at the Review Board hearing, the Review Board members find three issues under appeal; whether the cited violations should be overturned and found invalid due to lack of proper notification of Ms. Dupree, and whether two cited violations addressing the use of the rear door and loading dock are valid. The remaining citations are not under appeal.

With respect to all the citations being invalid since Ms. Dupree was not notified, the SFPC addresses the service of citations in Section 111.2, as follows:

111.2 Service. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or, in the case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access. Such procedure shall be deemed the equivalent of personal notice.

The inspection notices issued by the SFMO plainly say they were issued to Harvey M. Dupree. Mr. Dupree is at the very least an “other person responsible for the conditions under violation[,]” and he was given a copy of the inspection notices. The Review Board members therefore find service of the inspection notices to be in accordance with the requirements of the SFPC.

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With respect to the cited violations addressing the use of the rear door and loading dock, the Review Board members find there was ample pictorial evidence and testimony from the SFMO representatives to establish that the rear door serves as an exit door and it must be maintained in working condition and the area of exit discharge from the door to a public way must be maintained in a safe condition.

Final Order

The appeal having been given due regard, and for the reasons set out herein, the Review Board members order the inspection notices issued by the SFMO to be, and hereby are, valid procedurally and the citations for the rear door and loading dock to be, and hereby are, upheld.

Vice-Chairman, State Building Code Technical Review Board

Date entered: _____

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 Vernon Hodge, Acting 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.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of William Wiehe, Jr. - Vice Versa Corporation
Appeal No. 17-9

CONTENTS

<u>Section</u>	<u>Page No.</u>
Review Board Staff Document	31
Documents Submitted by Both Parties in Chronological Order	35
Additional Documents and Written Arguments from Vice Versa Corporation	191
Additional Documents and Written Arguments from Fairfax County	209

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
(REVIEW BOARD)
(For Determination of Whether to Dismiss as Moot)

IN RE: Appeal of William Wiehe, Jr. – Vice Versa Corporation
Appeal No. 17-9

REVIEW BOARD STAFF DOCUMENT

Suggested Summary of the Disposition of the Appeal

1. William Wiehe, Jr., President of Vice Versa Design Build Corporation (VVDBC), a building construction company, while originally filing an appeal of enforcement action under the Virginia Uniform Statewide Building Code, Part I, Construction (VCC), by the Fairfax County Department of Land Development Services (FCDLDS) relative to a home constructed for Scott and Donna Voelkel at 6488 Lake Meadow Drive, now seeks the nullification of a notice of violation and the vacating of an adverse decision by the Fairfax County Board of Building Code Appeals (County appeals board) as a result of FCDLDS's acceptance of a testing report indicating compliance with the VCC for the remaining outstanding issue. FCDLDS representatives have indicated that rescinding the notice of violation is unnecessary and VVDBC's efforts to draft and submit a mutually agreed upon consent order to the Review Board to resolve the appeal have been unsuccessful¹.

2. The original notice of violation included a number of citations, of which all but one were effectively resolved subsequent to the County appeals board's hearing and decision. The remaining issue involved the guardrail system installed on an outside deck.

¹ Review Board staff provided legal counsel of VVDBC copies of prior consent orders approved by the Review Board in similar cases.

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3. VVDBC arranged to have the configuration of the deck guardrail system tested by an independent testing agency resulting in FCDLDS acknowledging that the system complied with the VCC². However, VVDBC believes that further action by FCDLDS is necessary to resolve the situation to its satisfaction.

4. Due to VVDBC's determination that it cannot withdraw the appeal originally filed with the Review Board, an appeal hearing before the Review Board is scheduled to determine how to dispense with the appeal. This staff summary and relevant documents will be distributed to the parties and opportunity given for the submittal of corrections, objections or additions to the staff summary and the submittal of additional documents and written arguments, which will be compiled and distributed to the Review Board members and to the parties in preparation for the hearing.

5. Copies of prior decisions of the Review Board concerning whether an appeal is moot due to approvals issued by an enforcing agency subsequent to an appeal being filed will be provided to the parties and will be available at the appeal hearing.

Suggested Issue for Resolution by the Review Board

1. Whether VVDBC's appeal to the Review Board should be dismissed as moot, or whether the notice of violation issued to VVDBC relative to the deck guardrail system should be determined to be invalid or be rescinded and whether the decision of the County appeals board in the matter should be vacated.

² The system configuration was tested twice; however, FCDLDS did not accept the first test due to differences between the actual configuration and the test configuration.

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DOCUMENTS SUBMITTED BY
BOTH PARTIES IN
CHRONOLOGICAL ORDER

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County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

NOTICE OF VIOLATION Virginia Uniform Statewide Building Code

DATE OF ISSUANCE: June 8, 2017

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: William Wiehe Jr., Owner
Vice Versa Design/Build

ADDRESS: 12321 Popes Head Road
Fairfax, VA 22030

LOCATION OF VIOLATION: 6488 Lake Meadow Drive
Burke, VA 22015

TAX MAP REFERENCE: 0783 24 0005A

PROPERTY OWNER: Scott A. Voelkel
Donna L. Voelkel
6488 Lake Meadow Drive
Burke, VA 22015

PERMIT NUMBER: 150780024

ISSUING AGENT: Guy Tomberlin, 703-324-1611

*POSTED on
DOOR
6/12/17 A.M.
Sometime before 11:30 am.*

A March 9, 2017 inspection by County staff revealed violations of the 2009 Virginia Uniform Statewide Building Code (USBC) and 2009 Virginia Residential Code at the referenced location. The cited violations must be corrected within 30 calendar days from receipt of this notice.

Explanation: Through the County inspection, staff discovered construction pertaining to the outside decks have been performed without the required inspections and approvals. The related scope of work and approved permit include:

- Rear deck: construction of new deck with landing and stairs on the rear of the home.
- Side deck: alterations to existing deck on the side of home.

The approved plans as designed and as reviewed by the County reference the 2009 Fairfax County Typical Deck Details for portions of the deck construction and alterations.

Land Development Services
12055 Government Center Parkway, Suite 444
Fairfax, Virginia 22035-5503
Phone 703-324-1780 • TTY 711 • FAX 703-653-6678
www.fairfaxcounty.gov



Violations: In accordance with the USBC Section 115.2, the following violations have been found:

1. **The beams of the landing assembly are supported solely by the fasteners to the post in violation of the Fairfax County Typical Deck Details and Virginia Residential Code Section R502.6.**

Figure 9 on Page 7 of the deck detail specifically prohibits beam to post connections with fasteners only. Section R506.2 requires the end of each joist, beam or girder to bear on 1.5 inches of wood or metal.

2. **Carriage-bolt washers at bolt head are not installed in violation of the Fairfax County Typical Deck Details, USBC Section 112.3 and Virginia Residential Code Section R301.2.**

General Note 6 on Page 3 of the deck detail states that as an alternate, carriage-bolts may substitute the required through-bolts provided cut washers with square holes are installed at the bolt head. While not prescribed in the building code, carriage bolts are permitted per USBC Section 112.3 as an alternate method and material provided such design is in accordance with Virginia Residential Code Sections R301.1 and R502.2 and the American Wood Council (formally the AF&PA) National Design Specifications. Such designs requires washer at the bolt head to resist bolt withdrawal and structural failure when code-required structural load is applied.

3. **Guard posts are not installed in accordance with listing in violation of the USBC Section 112.3, the referenced research report from the associated listing and the Fairfax County Typical Deck Detail.**

Per USBC Section 112.3 as an alternate method and material and per Section 14 of the deck detail, the use of a guard system is permitted. Such installations shall require and comply with a valid evaluation or research report from a nationally recognized listing agency for the product specified. Section 6.1 of Report CCRR-0163 from Intertek (formally Architectural Testing, Inc.) requires the installation to comply with the provisions of the report, the manufacturer's installation instructions and the applicable code. In the event of conflict, the provisions of the report govern. Missing from the subject installation are brackets, supports and connections as depicted in the illustrated requirements provided by the testing company. This violation is applicable to all installations of the Westbury rail system.

Order: Pursuant to the USBC Section 113 you are directed to correct the cited violations and obtain the required inspections and approvals for the work described at the referenced location.

Corrective Action Required: Within 30 calendar days of receipt of this notice, correct and abate the three cited code violations as noted herein, obtain inspection approvals for the scope of work. Failure to do so will result in the immediate initiation of legal action to bring the referenced property into compliance with the USBC. You may schedule your inspection online at www.fairfaxcounty.gov/fido

William Wiehe Jr., Owner
Vice Versa Design/Build
June 8, 2017
Page 3

or by calling 703-631-5101, TTY 711. This notice shall be made available for the County inspector throughout the inspections process.

RIGHT TO APPEAL THIS NOTICE: As provided by the USBC Section 119.5, *Right to appeal; filing of appeal application*, you have the right to appeal this decision to the Local Board of Building Code Appeals within 30 calendar days of receipt of this notice. You may call the secretary to the Board at 703-324-1960, TTY 711 for more information about the appeals process. Appeal application forms may be obtained by contacting:

Fairfax County Local Board of Building Code Appeals
Attention: Secretary to the Board
Land Development Services
12055 Government Center Parkway, Suite 334
Fairfax, VA 22035-5504
Telephone: 703-324-1960

Information and forms can also be obtained at:

http://www.fairfaxcounty.gov/dpwes/publications/codemods_appeals.htm

Failure to submit an application for appeal within the time limit established shall constitute acceptance of the code official's decision.

If you have any questions, please contact me directly at 703-324-1611, TTY 711 or the main office at 703-631-5101, TTY 711.

Notice Issued By:



Signature

Guy Tomberlin, Chief
Residential Branch, LDS
Guy.tomberlin@fairfaxcounty.gov

CC: Case File
Brian Foley, Building Official, Fairfax County, LDS

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 member (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 recipient, 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 recipient not found).
- Served on a Secretary of the Commonwealth.
- Not found.

SERVING OFFICER
for _____

DATE _____

PERSONAL SERVICE _____

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SERVING OFFICER
for _____

DATE _____

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SERVING OFFICER
for _____

DATE _____

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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 recipient not found).
- Served on a Secretary of the Commonwealth.
- Not found.

SERVING OFFICER
for _____

DATE _____



Building Code Appeal Request

PROJECT INFORMATION

Project Name: VOELKEL Project
 Project Address: 6488 Lake Meadow Drive, Burke, VA 22015
 Permit or case number: 150780024 Tax map number: 0783 24 0005A

APPLICANT INFORMATION

Applicant Name: William Wiehe Jr., President, Vice Versa Corp. Owner Owner's agent
 Address: 12321 Popes Head Road
 City: Fairfax State: VA ZIP: 22030
 Phone: 571-238-4759 Email: sunster6691@gmail.com

OWNER INFORMATION

See applicant information
 Owner Name: Scott A. & Donna L. Voelkel
 Address: 6488 Lake Meadow Drive
 City: Burke State: VA ZIP: 22015
 Phone: 571-926-7638 Email: sdoamms@hotmail.com

APPEAL INFORMATION

Appealing decision made on the date of by Building Official Fire Official Property Maintenance Official rendered on the following date: -
 Code(s) (IBC, IMC, IPMC, etc.) and year-edition: -
 Section(s): -

REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision:
 The applicant and agent for permit #150780024 (William Wiehe Jr., President, Vice Versa Design/Build) is requesting that the Fairfax County Local Board of Building Code Appeals dismiss the June 8, 2017 Notice of Violation on the following grounds:

A. First and foremost, Agent does not have permission to access private property in order to fulfill the demands of Fairfax County Building Department officials. Demand for compliance would appear to be, in this case, a demand for trespass.

B. Second, Building Officials have not responded nor given clear and relevant guidance to both property owner and building agent with respect to final building permit inspection irregularities and code compliance as related to approved set of plans and manufacturer's installation instructions. In this respect, the alleged violations appear to be an interpretative matter.

Please return the completed form and any supporting documentation to the address or email below.

Chairman, Fairfax County Board of Building Code Appeals -
 12055 Government Center Parkway, Suite 334 -
 Fairfax, VA 22035-5504 -
 Attention: Secretary to the Board -
buildingofficial@fairfaxcounty.gov



County of Fairfax, Virginia

MEMORANDU

STAFF MEMORANDUM TO THE LOCAL BOARD OF BUILDING AND FIRE CODE APPEALS

HEARING DATE: August 9, 2017

APPELLANT: William Wiehe, Jr. 170629.0AP
Vice Versa Design/Build 6488 Lake Meadow Drive

SUBJECT PROPERTY: 6488 Lake Meadow Drive
Burke, VA 22015

CODE: 2009 Virginia Uniform Statewide Building Code

ISSUING AGENT: Guy Tomberlin, Chief *GT*
Residential Branch, Building Division, LDS

PERMIT #: 150780024

Staff respectfully recommends that the Fairfax County Board of Building and Fire Code Appeals uphold the determination cited in the Notice of Violation which describes that the referenced property is in violation of the 2009 Virginia Uniform Statewide Building Code.

Staff Position

In response to contractor/owner inspection requests, several inspections of the referenced property have been conducted. During the inspections, Residential Branch staff observed and cited violations pertaining to the following sections of the Virginia Uniform Statewide Building Code (USBC):

- *VA USBC, Section 112.3, Documentation and approval.*
- *VA Residential Code, Section 301.1.2, Construction systems.*
- *VA Residential Code, Section, 502.6, Bearing.*

No corrective action has been taken to abate the violations and subsequently a Notice of Violation, dated June 8, 2017, was issued. A copy of the Notice of Violation and supporting documentation is attached.

Appellant Position

The appellant's appeal application is attached.



RESOLUTION

WHEREAS, the Fairfax County Board of Building Code Appeals (the Board) is duly appointed to resolve disputes arising out of the enforcement of the USBC Code/ 2009 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. 170629.0AB
In RE: 6483 LAKE MEADOW DRIVE
BUKKE, VA 22015

The appeal is hereby Denied for the reasons set out below.

THE PROJECT WAS NOT CONSTRUCTED IN ACCORDANCE WITH
THE APPROVED PERMIT PLANS & FAIRFAX COUNTY REQUIREMENTS.
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. No significant adverse conditions to life safety will result from this action.
4. All of the conditions listed are to be observed.

Date: 8/11/2017

Signature: 
Michael F. LeMay
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 23210 - Tel: (804) 771-7160

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
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: TASO@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 Statewide Fire Prevention Code
 Industrialized Building Safety Regulations
 Amusement Device Regulations



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

William Wiehe Jr. - Vice Versa Corporation
12321 Popes Head Road
Fairfax, VA 22030

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

#1 Fairfax Cty. Land Div. Services / #2 Fairfax Cty. Board of Bldg. Code Appeals
Guy Tomberlin, Chief / Secretary of the Board
12055 Gov. Center Pky., #444 / 12055 Gov. Center Pkwy., #300
Fairfax, VA 22035 / Fairfax, VA 22035

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed *see ex. 1 Tab 1*
- Copy of record and decision of local government appeals board (if applicable and available) *see ex. 1*
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of August, 2017 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:


By Counsel, Purnell, McKennett & Menke, PC

Name of Applicant: William Wiehe Jr. for Vice Versa Corporation
(please print or type)

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
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: TASO@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

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

William Wiehe Jr. - Vice Versa Corporation
12321 Popes Head Road
Fairfax, VA 22030

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

#1 Fairfax Cty. Land Div. Services / #2 Fairfax Cty. Board of Bldg. Code Appeals
Guy Tomberlin, Chief / Secretary of the Board
12055 Gov. Center Pky., #444 / 12055 Gov. Center Pkwy., #300
Fairfax, VA 22035 / Fairfax, VA 22035

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 201_, 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: 
by Counsel, Purnell, McKennett & Menke, PC

Name of Applicant: William Wiehe Jr. for Vice Versa Corporation
(please print or type)

Board of Code Appeals
and
Building Department Request:

TAB: Appeal Request
Statement

I am respectfully requesting that the Fairfax County Board of Building Code Appeals uphold Mr. Wiehe's appeal in case #170629.0AP on August 9th, 2017 and additionally request that the Fairfax County Building Department issue final building permit approval for Building Permit #150780024 effective immediately.

VIRGINIA

IN THE STATE BUILDING CODE TECHNICAL REVIEW BOARD

VICE VERSA DESGN BUILD CORPORATION by,)
William Wiehe, Member)
)
vs.)
)
COUNTY OF FAIRFAX VIRGINIA)
)
Home owner:)
Scott A. Voelkel and)
Donna L. Voelkel)
6488 Lake Meadow Drive)
Burke, Virginia 22015)
)

Statement of Appeal and Specific Relief Sought

COMES NOW the appellant Vice Versa Design Build Corporation, by counsel, and for its appeal to the ruling of the Fairfax Board of Building Code Appeals, states as follows:

Facts as Alleged

1. On or about August 11, 2017, the Fairfax County Board of Building Code Appeals, denied the Appellants appeal of an alleged building code Notice of Violation dated June 8, 2017, based upon a so called inspection occurring on March 9, 2017, the results of which initially stated no reasoning, no basis, no code section support, and stated only that “the project was not constructed in accordance with the approved permit plans and Fairfax County Requirements.” See Exhibit 1 which is attached and made a part hereof.

2. However, as was noted in the initial appeal, there was never an actual violation of the Fairfax Building Code, and or the Virginia Uniform Statewide building Code, as incorporated thereby.

3. A copy of the full appeal binder submitted to the Fairfax County Board of Building Code Appeals is attached hereto and made a part hereof as Exhibit 2.

4. A copy of Mr. William Wiehe, Jr.'s (the President of the Appellant) testimony at the initial appeal is attached hereto and made a part hereof as Exhibit 3.

5. Similarly, on March 20, 2017, a Residential Final inspection was scheduled and failed for the strangely vague reason that "No framing inspection on decks, Need to verify ledger, guardrail connections, lateral bracing stair lighting, no handrails. CSST okay." Previously, on March 9, 2017 a final inspection had been failed noting only --"need to bond CSST gas piping." No mention at that time was made of any deck issue which had already been completed at that time. See Exhibit 2, Pages 18-20, as noted on the bottom right of Tab Inspection Reports.

6. No further explanation was provided until the Violation Notice in question, dated June 8, 2017, still based on the March 9, 2017 inspection, was subsequently served on Mr. Wiehe and alleged three "violations." See Exhibit 2, tab "Notice of Violation." It may be of note that Mr. Wiehe, the permit holder did not schedule this inspection and was not present therefore.

7. The first alleged violation claims that, "1. The beam of the landing assembly are supported solely by the fasteners to the post in violation of the Fairfax County Typical Deck Details and the Virginia Residential Code Section R502.6."

8. The second alleged violation was described as “Carriage-bolt washers at bolt head are not installed in violation of the Fairfax County Deck Details, USBC Section 112.3 and the Virginia Residential Code Section R301.2.”

9. The third alleged violation was that, “Guard Posts are not installed in accordance with listing in violation of the USBC Section 112.3, the referenced research report from the associated listing and the Fairfax County Typical Deck Detail.”

10. Fairfax County has, on almost the same timeline as the appellant, approved the installation of another Westbury C-10 “Tuscany” style railing produced by Digger Specialties, Inc. exactly as installed by the appellant. This job was designed by Schroeder Design/Build, Inc. and was located at 4948 Sabra Lane, Annandale Virginia. See Exhibit 2; “Schroeder Deck” tab. Schroeder Design Build, Inc. is owned and operated by one of the board members of the Fairfax County Board of Building Code Appeals, Mr. Tom Schroeder, who voted against Vice Versa Corporation while he was obtaining the same exact approval as sought by Vice Versa Corporation and using the same exact attachment method as that used by the Appellant.

11. None of these alleged situations constitute a violation of the Virginia Uniform Statewide Building Code or the Fairfax County Building Code as it is incorporated therein.

12. It is also important to note that the home owner, at 64888 Lake Meadow Drive, Burke, Virginia, has refused to allow the Appellant to make any changes to the property since completion of the deck, and therefore, the Plaintiff would be trespassing if it attempted to make any changes to the property as requested by Fairfax County. The idea that the home owner is estopped from such a refusal to allow the plaintiff to work on

their property (as suggested by Fairfax County) is simply incorrect as permission to enter real property can always be easily revoked, despite contractual provisions or previous permission (the assumed basis of alleged estoppel), as has occurred in this matter.

Therefore, the Appellant notes that regardless of this Body's findings on the merits of the alleged deficiencies, the Appellant is the incorrect party in this matter as his authority to comply with any violation notice has been terminated by the homeowner, who is now the effectual party in control of the permit. Though this is not the focus of this appeal, the appellant hereby specifically raises the issue herein and preserves the same for further appeal if necessary.

Specific Violations

As each of the alleged violations are with regard to a different issue, each must be upheld or overturned with specificity on its own merits and not as a single issue. Therefore, the Appellant will address them in order of their severity and importance.

Guard Posts – USB112.3 and Fairfax Deck Details

Additional Facts

13. Fairfax County does admit in its notice of violation that Under USBC Section 112.3 an alternate method and material may be used as a guard system (as is also noted in Section 14 of the Fairfax County Deck Detail), if a valid evaluation or research report from a nationally recognized listing agency is provided for the product. The violation notice tacitly admits that such a report was provided and/or exists.

14. The guard used was a Westbury C-10 “Tuscany” style railing produced by Digger Specialties, Inc. The Deck and guard were installed in February of 2017, and were first inspected on March 9th, 2017.

15. The Westbury railing system has been tested by Intertek Testing Services NA, Inc. and a copy of the Scope of Recognition; the Code of Compliance Research Report for the Westbury Railing System (CCRR-0163); and the underlying Test Report can be found in Exhibit 4 which is attached and made a part hereof. A subsequently revised CCRR-0163 can be found behind Exhibit 2, Tab “Westbury Documentation, Tab 1, Tab 2, and Tab 3 respectively. The revisions to the report were incorporated into CCRR-0163 and published on March 30, 2017, and do not apply to the inspection of this deck as they were published later in time.

16. Page 2 of CCRR-0163 as originally issued (and as was in effect on the inspection date at issue herein) at Section 7.3.1 states that A minimum of four anchor bolts must be used and located in the four pre-drilled holes in the structural post base plate, 7.3.2. The Anchors must have a minimum nominal diameter equal to 3/8 inch. 7.3.3 When the supporting structure is a wood framing deck, installation must include anchorage to suitable structural framing...”. There was no test report incorporated into CCRR-0163 before March 30, 2017. See Exhibit 4.

17. Page 3, section 6 of research report CCRR-0163 as revised on March 30, 2017, which Fairfax County bases its alleged violation upon, repeats the exact language of the previous iteration of CCRR-0163 and states that installation of the Westbury railing system must meet the following requirements “6.5.1 A minimum of four anchor bolts must be used and located in the four pre-drilled holes in the structural post base

plate, 6.5.2. The Anchors must have a minimum nominal diameter equal to 3/8 inch.

6.5.3 When the supporting structure is a wood framing deck, installation must include anchorage to suitable structural framing.” See Exhibit 2, Tab “Westbury Documentation.”

18. There is no claim by Fairfax County that the testing and structural soundness of the Westbury Railing did not meet code requirements as the test load clearly exceeds code levels See Exhibit 2, Tab 3, pages 7-9 as marked on the bottom right.

19. Instead Fairfax County bases its entire allegation of violation on a single picture in the Test Report (which was not then even incorporated into the CCRR report), see Exhibit 2, Tab 3, pages 23 as marked on the bottom right, which shows that to test the railing system a backer plate was installed on the underside of a simulated wood deck. See the Notice of Violation.

20. This “backer plate” was never specified in any version of CCRR-0163, the test report where the pictures and figures are found was not incorporated into CCRR-0163 until the revisions, after March 30, 2017, nor was it included in the material kit as purchased. In fact, this backer plate was not even a commercially available item supplied by the manufacturer at the time of purchase. Further, it was not required in the Code Compliance Report sections 7.0 CONDITIONS OF USE as in effect before March 30, 2017. In fact, such a backer plate was still not required after the revisions to the Code Compliance Report 6.0 CONDITIONS OF USE which the appellant has also fully met. The installation was and is exactly as described by the conditions of use in CCRR-0163 (both before and after the revision) and the manufacturer’s instructions based thereupon. See Exhibit 5 for installation instructions which are attached hereto. (See also Exhibit 2

Westbury Documentation Tab 4.) Note the date of the instructions on the bottom right of the page as February 25, 2015, not the revision at the end of May of 2017.

21. Article 1 § 9 of the United States Constitution prohibits any state from passing or applying an ex post facto law or regulation. This means that all laws and regulations must be applied as they were in effect at the time the events occurred, and a subsequent change in the law, regulations, or the facts to be applied must be ignored and the facts and law then in affect must be applied to the situation. The Virginia Constitution code also prohibits ex-post facto application of laws and regulations and as a matter of simple human fairness and justice one can see the need to not change the rules midstream.

22. The Constitutional provisions prohibiting application of ex-post facto laws and facts are relevant because, somewhat confusingly, Digger Specialties, Inc. did begin offering a Westbury Rail System with amended instructions that included a metal backer plate on May 30, 2017 and the CCRR-0163 was revised on March 30, 2017. Neither of these revisions can be applied to this matter under the constitutional provisions noted above See Exhibit 6 which is attached and made a part hereof.

23. However, the inspections and code section, instructions, and code compliance reports applied under the U.S. and Virginia Constitutions, must be those in effect at the time of the construction and initial inspection.

Guard Posts – USB112.3 and Fairfax Deck Details

Argument

Under the facts noted above, there is no question that the Appellant was not in violation of the code; that the Westbury Railing should have been approved; and that the portion of the Fairfax County Notice of Violation regarding this issue must be overturned.

Specifically, Fairfax County bases its entire violation notice on the idea that the installation of the Westbury Railing system was in violation of the installation instructions set out in CCRR-0163. This of course tacitly admits that the railing system is acceptable under the County building code if installed as directed by the manufacturer and the independent testing laboratory in CCRR-0163.

Inexplicably, however, Fairfax County does not require the installation to be as set out in CCRR-0163, as was in effect when the property was initially inspected on March 9, 2017, which states specifically that “7.3.1. A minimum of four anchor bolts must be used and located in the four pre-drilled holes in the structural post base plate, 7.3.2. The Anchors must have a minimum nominal diameter equal to 3/8 inch. 7.3.3 When the supporting structure is a wood framing deck, installation must include anchorage to suitable structural framing.” See Exhibit 4 which is attached and made a part hereof (the same language is used in the revision to CCRR-0163 in place after March 30, 2017). This requirement clearly intends and anticipates that installation of the system will be into wood and that four (4) anchor bolts will be installed into solid wood structural framing. All of these requirements were met by the Appellant who specifically and meticulously followed the manufacturer’s requirements and installed the system with anchor bolts of 3/8 inch diameter and 4” long into solid wood. See Exhibit 5 for the then applicable instructions. The County has not alleged otherwise. Additionally, as noted

above Mr. Schroeder (a member of the appeal board himself) obtained the same exact approval, with the same exact attachment method. Failing to approve the Appellant in this situation brings up all sorts of questions regarding self-dealing, discrimination, preference and impropriety which will be raised if this matter proceeds to appeal before the Courts of the Commonwealth and are raised here for preservation purposes.

Instead, however, Fairfax County bases its alleged violation on a picture and drawing of the testing method as described in the Test Report for the railing Exhibit 2, Westbury Documentation, Tab 3, presumably Pages 17, 20 and 23, which shows that Inertek used a metal backer plate when testing the rail system. First, this picture and the drawings in question were not part of CCRR-0163 and were inappropriately applied as they were not incorporated into CCRR-0163 until March 30, 2017, and the failure of the project based thereupon is simply incorrect and legally untenable.

Nevertheless, and in the alternative, the reason for the use of this plate for testing purposes only is obvious. The railing system was already known by in-house testing to easily exceed the code required 200 lbs of resistance, but rather the use of a metal backer plate was necessary as described in the Test Report as a means toward discovering the ultimate load capacity of the welded post components. However, such an extreme method of attachment to deck framing was never a condition of CCRR-0163 as issued on October 19th, 2016 with respect to compliance of the 2012 International Residential Code (IRC) nor required to meet 2009 IRC guard rail code which the approved plans dictate. Instead CCRR-0163, which is accepted by the County as the basis of its alleged violation, simply requires four (4)- 3/8" diameter x 4" long anchor bolts into solid wood as was specifically done by the Appellant per manufacturer's instructions.

However, all that truly matters at this time is that the tests applied by Fairfax County were never a part of CCRR-0163 and the pictures relied upon by Fairfax County were not even a part of CCRR-0163 at the time of the inspection and therefore cannot be used as a basis for an alleged violation.

Therefore, as the testing requirements cited by Fairfax County were 1. Incorrectly cited, 2, propounded after the inspection in question and 3. Incorrectly applied, and as the same railing and attachment method has already been approved by the County for one of the appeal board members, the Notice of Violation must be overturned with regard to the Westbury Railing and the said railing should be approved as built, just as as the Schroeder railing was

Landing Beams of Landing Assembly supported Solely by Fasteners to the Post
USBC § 112.3 and VRC § R301-2

Fairfax County alleges that the Appellant has violated “Figure 9, on page 7 of the Fairfax County Typical Deck Detail specifically prohibits beam to post connections with fasteners only. Section R506.2 requires the end of each joist, beam or girder to bear on 1.5 inches of wood or metal.” However, Fairfax, does not provide the full details of the applicable regulations nor all of the facts in question, and those facts and details are the most important facts to this matter. Interestingly the alleged statements supposedly violated by the Appellant, do not appear in Figure 9, on Page 7 of the Deck Details and neither sections applies to this construction. Therefore, this violation should be overruled and the construction deemed to have passed inspection.

Specifically, Fairfax fails to note or recognize that the deck plans were created and sealed by an engineer. (See Applicable sealed plans in Exhibit 2, Tab Approved Plans and Site Photos at S1, A2, and A1). These approved plans show a framing plan that was sealed by a professional engineer and clearly show the rear deck landing beams fastened to the supporting posts. These sealed engineered and approved plans supersede and presumption that appellant is, by default, somehow obligated to follow the guidelines of Fairfax County Typical Deck Details which would be impossible under the approved set of framing plans. The said sealed plans specifically show the posts attached inside of the joist framing which clearly have to be attached with fasteners in some manner. There is an observable difference between the locations of the beams at the stair landing with respect to their posts vs. the location of the main beam with respect to their posts which do bear on notched posts. (See Applicable sealed plans in Exhibit 2, Tab Approved Plans and Site Photos at S1, A2, and A1).

At the third inspection on April 17, 2016 of the same (as the first and second inspection reports showed no deficiencies), Fairfax suggests that some joists and beams required full and direct bearing of joists onto posts down to the footing. However, Mr. Tomberlin on May 11, 2017, suggested that the joists and/or beams only required adding two foot (minimum) sections of 2"x4" posts below the bearing point of each joist or beam with at least 2 carriage bolts). The appellant has not accepted this suggestion by Mr. Tomberlin as this type of connection is redundant of the type specifically prohibited by the Fairfax County Typical Detail (FCTDD). See figure 18 on page 13 of FCTDD for this detail.

The simple facts are that the Engineered and Sealed plans do not show any notching on landing posts and that cannot be required after approval of the plans by the County and construction according thereto.

Additionally, it is of note that there appears to be no such statement in Figure 9 of Page 7 of the Fairfax County Deck Detail as that alleged by the Fairfax County notice of violation (though it would not apply even if it did). It is of particular note that the approved engineered plans specifically note where the FCTDD are to be incorporated; for example, "P.T Railing System per Fairfax County Details" and no such statement is made with regard to the posts and joists.

The Appellant has constructed the deck in accordance with the approved and sealed plans and Fairfax County cannot now attempt to "change the rules" after the project is constructed in exact conformity thereto.

Therefore, this board should overturn the decision of Fairfax County and approve the post and joists as built.

Carriage-bolt washers at bolt head are not installed in violation of Fairfax County Typical Deck Details, USBC Section 112.3 and Virginia Residential Code Section 301.2

First, as with the previous alleged violation none of the stated provisions apply as this construction is subject to an approved and sealed set of engineered plans. Therefore, as construction is in accordance with those plans, this claim should be overruled, the Notice of Violation dismissed, and the construction deemed to have passed inspection. Nevertheless even if the deck details were/are applicable to this portion of the deck the section in question does not apply to the carriage bolts in question.

While the Deck Details do contain a broad and general note requiring carriage through bolts to be installed with square opening washers at their bolt heads, this is applicable to through-bolt connections that are subjected to “pull out” axial loads such as can be found at ledger attachments. In fact, this bolt head washer is referenced specifically under Section 6 of the Deck Details labeled “Ledger Attachment.” (Fairfax County Deck Details, Tab 1, page 16 of 24). This ledger through-bolt notation reads, in part, “Bolts should be tightened six to twelve months after construction due to drying and wood shrinkage” This makes it clear that this requirement is specific to ledgers and should not be applied broadly to every condition. This requirement makes particular sense for washers to be used on carriage bolt heads used in band board framing conditions because these fastener ends are often hidden behind a drywall ceiling and cannot be prevented from turning when tightening up the nut on the outside end of carriage-through bolts.

However, in this case, the approved engineered and approved plans did not call for carriage bolt ledgers and they were not used in that condition. Carriage bolts were only used to build composite action between double 2x12 girders and for attaching them to 6x6 posts. These carriage bolt connections are all permanently exposed for inspection, can all be periodically tested for adequate torque, and are not subject to appreciable “pull out” type axial loads when the deck is fully loaded. They are mainly subject to shear type loads across the bolt diameter which means that the addition of bolt headed washers would add no structural consequence to the applicable through-bolt conditions.

For these reasons this Board should overturn the decision of Fairfax County and approve the carriage type through bolts as installed.

WHEREFORE the Appellant hereby asks this body to overturn the decision of the Fairfax County Board of Building Code Appeals dated August 11, 2017, and to order Fairfax County to issue an approved final inspection of the Appellant, herein.

Respectfully Submitted
Vice Versa Corporation
By Counsel



David G. McKennett, Esquire VSB #71257
PURNELL, MCKENNETT & MENKE, PC
9214 Center Street, Suite 101
Manassas, Virginia 20110
Phone 703-368-9196; Fax 703-361-0092
Counsel for the Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing "Statement of Appeal and Specific Relief Sought" has this 31st day of August, 2017, been mailed and faxed/e-mailed if possible to:

Fairfax County
Board of Building Code Appeals and
Land Division Services
12055 Government Center Parkway, Suite 300
and Suite 444
Fairfax, Virginia 22035


David G. McKennett, Esq.

Sonny Wiehe

TAB: Westbury
Compliance Letter

From: Sonny Wiehe [sonny@vbuild.com]
Sent: Wednesday, June 07, 2017 8:46 PM
To: 'Tomberlin, Guy'
Cc: 'Family Voelkel'; 'Sulzen, Caleb'; 'Schnare, Marlae'; 'Foley, Brian'; 'McMahon, Debra K.'; 'Springfield BOS Email'; 'Dan Hardy (SPFD)'
Subject: FW: Voelkel Westbury Railing Installation Method
Attachments: Schroeder deck final Bergey.jpg; Schroeder deck permit.jpg; Post Installation Method.doc

Dear Mr. Tomberlin,

Attached are documents and an e-mail below forwarded from my material supplier regarding the Westbury rail system installed at the Voelkel residence (Building Permit # 150780024).

This documentation attests to the fact that our rail posts were installed per manufacturer specifications which were valid at the time of installation in February of 2017. I learned just yesterday from my supplier that Digger Industries updated their installation instructions provided with this product as of May 30th, 2017. I am happy to send you a copy of these updated installation instructions upon request. It appears that these **new instructions** closely resemble the testing documentation which you sent me regarding your violation concern.

However, these instructions were not the version provided with our product. I do not see how I can be held accountable for installing different and additional hardware that was not required nor available through the manufacturer at the time of installation. I suspect this recent change by the manufacturer may be the source of confusion with your safety concern. Anyhow, please let me know if this documentation satisfies your code violation concern with the Voelkel deck railing system.

Also, please know that I continue trying to work with the property owners in order to satisfy your other code safety concerns regarding square opening washers and rear deck framing. **However, I still do not have permission from the owner to access the property in order to make any changes to their deck.** I trust that a mutually acceptable resolution can be reached between you and the homeowner in the near future.

Regards,

William "Sonny" Wiehe Jr.

President,

Vice Versa Builders

O: 703-818-9181

C: 571-238-4759

F: 703-562-9041

or visit us @ www.vbuild.com

From: Dan Hardy (SPFD) [<mailto:Dan.Hardy@LansingBP.com>]
Sent: Wednesday, June 07, 2017 7:28 PM
To: 'sonny@vvbuild.com'
Subject: Voelkel Westbury Railing Installation Method

Sonny,

I spoke with Gary Kauffman the Product Manager for Digger Specialties Inc. the manufacturer of the Westbury railing product installed at the Voelkel project. He specified that the installation method you used at the Voelkel residence was the recommended installation method from Digger Specialties Inc. for the Westbury C-10 railing system at the time of installation in Feb. 2017. It is in the letter attached discussing the installation method.

I would also like to point out that this installation method has been recommended and used on many of the installations for the product installed throughout Northern Virginia.

I can also verify that on a recent project in Annandale, using the same installation method recommended by Digger Specialties, was approved in the plans and passed inspection within the last several weeks by Fairfax County. The description used for the installation method is to use a scrap piece of 2x10 and lags for post installation. This is on the plans and has been approved by Fairfax County. I have attached the screen shots from FIDO.

Please let me know if there is anything else I can do to try and help. This is the first I have heard of any issues with Fairfax County and the installation method you used for the Westbury Railing.

Best regards,

Dan

DANIEL HARDY

Branch Manager

office 703-440-5896 / fax 703-339-9816

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RE: 6488 Lake Meadow Dr. permit #150780024

Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>

TAB: Building Dept.
Emails

Fri 6/2/2017 2:40 PM

To: sonny@vbuild.com <sonny@vbuild.com>;

Cc: 'Family Voelkel' <sdoamms@hotmail.com>; Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>; Schnare, Marlae <Marlae.Schnare@fairfaxcounty.gov>; Foley, Brian <Brian.Foley@fairfaxcounty.gov>; McMahon, Debra K. <Debra.Mcmahon@fairfaxcounty.gov>; Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>;

1 attachments (6 MB)

6488 Lake Meadow Dr pt1.pdf;

Mr. Wiehe,

I have responded to each of your questions below in red. I want this record to reflect that I have not made any allegations, implications or assumptions in reference to you or your intentions. As far as I am aware, I have never talked with you directly and do not know you personally. My involvement with this project is solely focused on the Fairfax County Building Division's responsibility and obligations pertaining to code enforcement. **Your willingness or unwillingness for that matter, to do anything is completely unknown to me and therefore I have not and will not speculate what I think your intentions are or what they are based upon.** My comments both verbal and written are based on information I have been provided or particular actions that have occurred or not occurred.

This office has exhausted all the available resources to assist with getting the subject project into code compliance. As the residential branch chief, I personally have taken ownership of and **vehemently apologized for any all errors that may have occurred** on the County's behalf. I have taken immediate action in **to prevent any future errors**, by way of training, one-on-one discussions and staff meeting discussions with the entire residential branch staff of 40. I have talked with the staff who visited your jobsite. I have enlisted the assistance our staff professional engineers to find cost effective, time saving methods to remedy the structural issues on your project, that we identified as non-code compliant. I have had our supervisory staff and Code Specialist II's (certified combination inspection/plan review staff) review the plans again and the cited code violations to ensure we have provided you with accurate information in both the identification of the violations and the alternate methods/options to correct them.

I have been **completely transparent** throughout this entire process. The time has come where my involvement is minimal and completion of this project is up to you. If you have alternate solutions, other than what we have offered, I will be happy to review them prior to implementation. If you would like to appeal our position, I have provided you the link to the process. In full disclosure, I would like to share with you that you now have the County's position and the supporting information that would be used in an appeal case. Please be sure and review everything you and Mr. Voelkel have been provided, including the contents of this email. I will be the designated representative to present our position at the Appeals hearing. Just a point of information, the appeals board that would hear your case will be **63**

charged to determine if the County has accurately and appropriately interpreted and applied the requirements of the USBC. They are not authorized to waive code requirements. ?

Then Why was violation of Section 110.5 waived on Notice of Violation.

I feel very confident that the applicable codes have been identified, explained thoroughly, and interpreted exactly as intended. With that said, I am obligated to move forward with carrying out the Notice of Violation (NOV) provisions set forth in Section 115 of the USBC. Mr. Voelkel is our customer and he has expressed that this construction project needs to be completed in a timely manner. There has been far too many emails, phone calls, and resources extended towards this job and its cited violations with no resolve. The needed alterations are not costly, complicated or time consuming to abate, probably not more than a few hours of labor. I respectfully request that you to let me know if you are going to make the needed corrections or pursue your other options by next Wednesday June 7, 2017. By no means are you required to respond to me but I will consider "no response" an election on your part to explore other options and I will proceed with the NOV process on Thursday June 8th, 2017. However, if you indicate that you intend to make the required corrections I can delay the NOV process for a defined period of time, reasonable enough to allow you to get the items into code-compliance.

Sincerely,

Guy Tomberlin, Chief
Residential Branch, BD-LDS
12055 Government Center Pkwy., Suite 307
Fairfax VA, 22035
703-324-1611



**BUILDING
DIVISION**

From: Sonny Wiehe [mailto:sonny@vbuild.com]

Sent: Tuesday, May 30, 2017 8:33 AM

To: Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>

Cc: 'Family Voelkel' <sdoamms@hotmail.com>; Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>; Schnare, Marlae <Marlae.Schnare@fairfaxcounty.gov>; Foley, Brian <Brian.Foley@fairfaxcounty.gov>; McMahon, Debra K. <Debra.Mcmahon@fairfaxcounty.gov>

Subject: RE: 6488 Lake Meadow Dr. permit #150780024

Dear Mr. Tomberlin,

Thank you for specifying in your May 26th e-mail the code statutes that you feel I am in violation of with regard to building permit #150780024. This is the first date on which any specific building permit code violations have been conveyed to me by a building official or entered into the FIDO system as public information. While I do not automatically accept these violations as fact, the Voelkel family and I will take your recent allegations under consideration and let you know our position on them in a timely manner.

Meanwhile, there are other aspects of your e-mail that appear vague in inference and I wish to ask for clarification on the following points alluded to in your May 26th correspondence:

1. Are you implying that the 2012 Fairfax County Typical Deck Details (which I understand to be an electable and prescriptive code interpretation) applies to our approved set of plans for the Voelkel project despite the fact that the approved plans are sealed by a professional engineer and approved by your office as 2009 IRC code compliant?

No. I am clearly stating that in conjunction with the approved plans, the Fairfax County Deck Details are in fact applicable to the deck construction at the subject property covered by permit #150780024. Please refer to the 2 PDF attachments titled 6488 Lake Meadow Dr pt 1 and p2. I had to send pt 2 in a separate email due to its size. And I apologize for the copy quality but most of the pictures are of the approved plans and you already have them.

Page 1 is the cover sheet of the Fairfax County approved plans you submitted for the subject project.

Page 2 is the required Fairfax County cover sheet attached to your plans which clearly indicates that for the deck construction details not provided within the submitted plans, compliance with the Fairfax County Deck Detail is required. Please note the 1st and 3rd checked boxes on the left column. These checked boxes are specific to the cited code violations as the details for the particular items not shown on the approved plans.

Page 3 further reflects and supports that the project shall be constructed in compliance with the VA USBC.

Westbury rail system not provided w/ submitted plans, but allowed per pg. 19 of FCTDD under guard systems w/ valid evaluation report.

Page 4 is a note from the registered design professional clearly printed on page A1 of the approved plans which incorporates the Fairfax County Deck Detail into the deck's construction design.

Page 5 is another note from the registered design professional clearly printed on page A6 of the approved plans which again incorporates the Fairfax County Deck Detail into the deck's construction design.

Page 6 is a note on the approved plans cover sheet that clearly indicates manufacture's specifications and installation procedures shall be followed at all times. This is the approved plans/designer of record, reinforcing the cited violation that the handrail installation must be installed according with its listing.

Page 7 is a copy of the listing requirements for the guardrail system that you provided, illustrating the additional brackets and mounting hardware that is required to be installed. USBC Section 112.3.1 addresses "Conditions of Listings" and prescribes that the most restrictive provision shall be applicable between the code, listing and/or installation instructions.

2. Are you implying the our approved set of plans for building permit #15780024 were not valid at the time of final inspection(s) due to the fact that the rear deck stair landing was built at a 5'x5' size instead of 4'x4' size and that 4"x4" nominal posts were used to support this framed landing area?

No. Throughout the many correspondences that have been delivered from my office, pertaining to the inspections at subject address, there has never been any implication whatsoever that the subject plans are not valid.

The mention of the size of the landing was for 2 reasons. The first was to illustrate another example that the subject deck was not built according to the approved plans. Secondly, to illustrate how the Fairfax County staff have been continually trying to work with this project and have not made a huge issue out of small items, even though this change in size required a new joist spacing layout and increased the structural load, and again was not constructed according to the approved plan (which this item alone is commonly issued as a rejection item).

Page 8 of the PDF attachment clearly shows the referenced 4'X4' dimension located on page A6 of the approved plan.

Page 9 of the PDF attachment clearly shows the referenced 6"X6" post. I sent an email back on May 11, 2017 with an alternate method to achieve the structural requirements for the beam support that the code prescribes while allowing the 4"X4" post to remain in place. I also indicated that you and the owner can submit other alternatives for consideration. For example, you can replace the undersized post with the 6"X6" post that the plans call for and make the approved post to beam connection as shown in the deck detail if you like.

Page 10 is an image of the required washers that need to be installed on each of the carriage bolts. You can also use through-bolts and standard washers instead.

3. Are you implying that I willfully ignored any applicable building codes with respect to building the Voelkel project deck according to permit #15780024?

No. Repeated notifications have been made of the violations that need attention. To date, no attempt to correct the cited code violations has occurred and no re-inspections have been approved. Rather each time this office has tried to assist in a detailed resolution path the homeowner has demanded that we finalize the permits with no adjustments to the non-code compliant construction. One reason identified was because the deck was "built according to plan." Please see the response to question #1.

4. Are you implying that I, at any time, willfully or intentionally endangered the life safety of the Voelkel family and/or any of their potential guests?

No. County staff have identified code violations related to the subject deck construction and rejected the inspection approval request. The deficiencies have not been corrected. The occupancy of the structure is prohibited until a final inspection is approved, per USBC Section 113.8.

Your clear responses to my questions would be much appreciated and will, perhaps, allow The Voelkel family and I to better understand your position and reach an agreeable resolution to our final inspection(s). Thank you for your time and consideration.

Regards,

William "Sonny" Wiehe Jr.
President,
Vice Versa Builders

O: 703-818-9181

C: 571-238-4759

F: 703-562-9041

or visit us @ www.vvbuild.com

From: Tomberlin, Guy [mailto:Guy.Tomberlin@fairfaxcounty.gov]
Sent: Friday, May 26, 2017 3:33 PM
To: sonny@vbuild.com
Cc: Family Voelkel; Sulzen, Caleb; Schnare, Marlae; Foley, Brian; Tomberlin, Guy; McMahon, Debra K.
Subject: RE: 6488 Lake Meadow Dr. permit #150780024

Good afternoon Mr. Wiele, the homeowner of the subject property has made request that the building division, specifically me, waive the provisions in the code that are applicable to the subject permitted construction. Aside from the code violations that I/we have repeatedly identified, the legal reason that this cannot happen is the building code is adopted and its enforcement is mandated in the Commonwealth of VA by Section 36-99 of the Code of Virginia. "Waiving" code requirements is specifically strictly prohibited for me, or any one on our staff, to allow by **Section 103 of the Uniform Statewide Building Code (USBC)**. More to the intent, we cannot and will not compromise his or his family's (or anyone that occupies your deck), life safety and put them at risk by "looking the other way."

Wasn't this just done by you by waiving USBC Section 110.5 (outlined below) in Notice of Violation?
 You are a licensed contractor through the VA Department of Professional Occupation and Regulation (DPOR), therefore, aware that the work you perform must be code compliant. In addition, we have a statement at the bottom of our permit applications that reiterates the DPOR requirements and the applicant attest they will build in accordance with the code, which was signed when the subject permit was obtained.

In attempt to try and assist with getting this project into compliance, Inspection Field Supervisor, Caleb Sulzen met with Mr. Voelkel on 4/17/17 onsite on and showed him each of the specific violations on the deck itself, in the VA Residential Code, on the plans, in the Fairfax County Deck Details and with the associated paperwork for products that the code requires installation instructions and manufactures testing reports to be followed. I further explained Caleb's findings, in great detail, and what remediation is needed to be performed in an email dated 5/11/2017, which you received. I included options that were simplistic cost effective resolution measures.

Does this not constitute speculation as referenced in 6/2 email?
 As I understand the situation you have elected to ignore our cited violations and recommendations. Rather you have requested the specific code sections of the violations and the method available to appeal them. Information on the appeals process can be found at the following site: http://www.fairfaxcounty.gov/dpwes/publications/codemods_appeals.htm

Also you can find a copy of the Fairfax County Deck Detail publication at:
<http://www.fairfaxcounty.gov/dpwes/publications/decks/details.pdf>

In addition to the comments found online resulting from field visits from our staff at <http://www.fairfaxcounty.gov/fido/> the specific cited violations are as follows:

- 1. Post to beam support, this is a violation of the USBC Section 112.3.** See page 13 of 24 of the Deck Detail. Figure 16 clearly prohibits the beam from being connected with bolts carrying the structural load (shows a picture with an X through it). Figure 18 shows the proper method but to do the proper method will require that the entire post be changed and 6"X6" post be used in place just as the approved plans reflect. This violation occurs at 2 beams and 4 post that are supporting the landing.
- 2. The deck is not built to approved plan or typical County Deck Detail, this is a violation of the USBC Section 110.5.** The approved plans show 6"X6" post and the subject deck actually has 4"x4" post installed at 4 problematic locations. In addition, the approved plans show a 4'X4' landing but it actually measures 5'X5'. We are not

asking this to be changed but again, illustrating that we are continually attempting to be as flexible and creative in assisting with this projects completion to the extent the code allows.

- 3. Washers not installed at the head-end of the carriage bolts, this is a violation of the USBC Section 112.3. The correct washers that are required to be installed on the carriage bolts are identified on page 3 of 24 in the Deck Detail, right hand column #5. Otherwise the code does not permit the use of carriage bolts for this application.
- 4. The attachment of the guardrail, this is a violation of the USBC Section 112.3. You ha elected to utilize a guard system that has specific provisions that must be followed in addition to the installation instructions as designated by the Nationally Recognized Testing Laboratory (NRTL) that approved them (you have the paperwork and details onsite). In order to comply with the strength capability the code requires the testing shows additional brackets and connections, which must installed.

The subject deck is not approved as code compliant and is not authorized for occupancy. The entire Building Division has been very accommodating on this project and I am confident this is not an interpretive matter. I feel compelled to let you know that notwithstanding your actions or lack thereof, we will begin the corrective work process that the code provides in order to achieve the level safety that is expected and entitled by the residents of Fairfax County. ??

Sincerely,

Guy Tomberlin, Chief
Residential Branch, BD-LDS
12055 Government Center Pkwy., Suite 307
Fairfax VA, 22035
703-324-1611

1. I read this to mean I am getting a notice of violation no matter what if demands are not met.

2. Why was this "level" of safety not expected or entitled to the residents of 4948 SARA LANE on 5/12/17?



**BUILDING
DIVISION**

Sonny Wiehe

From: Family Voelkel [sdoamms@hotmail.com]
Sent: Thursday, April 13, 2017 1:29 PM
To: sonny@vbuild.com
Subject: Fwd: Voelkel - Final Inspection Resolution

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From: Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>
Sent: Thursday, April 13, 2017 11:57:44 AM
To: Family Voelkel
Cc: Sulzen, Caleb; Scott Voelkel; Tomberlin, Guy
Subject: RE: Voelkel - Final Inspection Resolution

Mr. Voelkel, let me start by saying it is unfortunate that this has spawned into something other than a few building code violations that need attention, and for that I sincerely apologize. As branch chief I am the responsible County representative for the residential branch actions.

It is factual that our staff inspector failed to enter written comments he saw pertaining to your deck construction, that occurred during your final inspection on 3/9/2017. However, the next inspector did identify the code violations and verbally discussed them with the personnel onsite and subsequently, did craft a summary of the inspection, detailing the violations on 3/20/17. He then entered those comments in our online FIDO computer system available for public viewing, the same day, and I have provided those to you previously.

4948 SABRA LN. WAS INSPECTED FOR FRAMING ON 4/25/17 AND FINALED (by Dustin Barsey) ON 5/12/17!

I am not making excuses, just attempting to explain, we are performing somewhere on the order of 450-500 inspections each day and occasionally we have identified, as in your case, that inspection staff do not always enter complete inspection results. This is truly shortfall and a disservice on our part but honestly it is sometimes a direct result of the demanding environment we operate within. I want you to know that I have implemented training programs that stress the importance of clear, complete and concise communication. Ironically, we just provided another class on writing skills and entering comments in the FIDO system this past Tues. and Wed. for all inspectors and plan reviewers alike. I assure you we are continually striving to get better and improve customer service.

What Violations?

I understand you have contacted Supervisor Herity's office and I will keep them updated on your project's progress. As I tried to express in my last email, we are not legally permitted to pass inspections when known code violations exist and we cannot finalize your permits until the violations noted on 3/20/17 are corrected and brought into code compliance. It has been nearly 4 weeks since the code violations were identified and in my opinion they did not look like complex items to abate. I would like inspection field supervisor, Caleb Sulzen, to work directly with you to get these items resolved. He is well seasoned and can explain anything that is unclear. He will personally manage the inspections to try and meet your important time demands in attempt finalize your permits as quickly as possible. His contact information is highlighted below, I might suggest you speak directly with him vis phone, in lieu of emails.

As always, I am available to assist if you have any questions or comments.

Thank you,

Guy Tomberlin, Chief
Residential Branch, BD-LDS
12055 Government Center Pkwy., Suite 307
Fairfax VA, 22035
703-324-1611



From: Family Voelkel [mailto:sdoamms@hotmail.com]
Sent: Wednesday, April 12, 2017 2:37 PM
To: Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>
Cc: Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>; Scott Voelkel <sdoammss@gmail.com>
Subject: Re: Voelkel - Final Inspection Resolution

Mr. Tomberlin,

The disconnect is that Dustin noted one deficiency and it was corrected. He did not point out verbally other deficiencies. My contractor and my wife were witness to his inspection of the deck. He had the plans, he asked questions about the deck, and he did not indicate that any deficiencies existed with the deck.

I understand what is on the website, but this does not accurately reflect what happened on site.

With this in mind, please final our entire project.

Thank you.
Scott Voelkel

From: Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>
Sent: Wednesday, April 12, 2017 1:55 PM
To: Family Voelkel
Cc: Tomberlin, Guy; Sulzen, Caleb
Subject: RE: Voelkel - Final Inspection Resolution

Mr. Voelkel, I have been cced on all these emails and your response below indicates there is still a disconnect. As Caleb described below, one inspector visited your project and pointed out several deficiencies but unfortunately only entered a portion of the items in the FIDO online system on 3/9. Fortunately, he conveyed the information to the next inspector and the information was conveyed to you again verbally and then the complete comments were entered in the FIDO online system on 3/20. See the attachment for a copy of your inspections.

I sincerely apologize but we are unable to finalize any permit when known non-code compliant issues remain in place. I can offer that you can apply to separate your deck permits from the original house project and they will remain open as unresolved with the issues shown in the attachment. We should be able final the original house permits if no other violations are associated with the house permit.

I don't know if that helps your situation? I am just trying to provide options to meet your demands that we final your project. Below is the public website link to view your permit status. At this point the pending final is held up due to violations from 3/9 and 3/20.

This is the link to access the permits in LDI:

<http://ldip.fairfaxcounty.gov/>

Search for Address 6488 Lake Meadow Dr.

Permit #150780024

Guy Tomberlin, Chief
Residential Branch, BD-LDS
12055 Government Center Pkwy., Suite 307
Fairfax VA, 22035
703-324-1611



**BUILDING
DIVISION**

From: Family Voelkel [<mailto:sdoamms@hotmail.com>]
Sent: Tuesday, April 11, 2017 3:12 PM
To: Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>
Cc: Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>
Subject: Re: Voelkel - Final Inspection Resolution

Caleb,

The point is that Dustin did not indicate any other deficiencies while on site. He indicated that we passed final inspection with only the CSST bonding issue. I don't think there was a lapse in communication.

Please approve the final inspection since the CSST has been completed and approved.

Thank you
Scott Voelkel

From: Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>
Sent: Tuesday, April 11, 2017 2:39 PM

To: Family Voelkel
Cc: Tomberlin, Guy
Subject: RE: Voelkel - Final Inspection Resolution

Mr. Voelkel,

I talked with Aaron and Dustin again this morning to get some clarification on the inspections. It seems that I was not totally clear initially on what they were conveying to me. Thank you for providing your feedback as it indicated that I needed a better understanding of the situation.

Dustin stated that on his inspection he pointed out items that needed to be corrected on the deck, but he forgot to enter them in his inspection comments. When Aaron did the follow-up inspection, he contacted Dustin and Dustin relayed the information on the deck that he had forgotten to note on the initial inspection.

I apologize for the lapse in communicating the correction items to you in writing at the time of the initial inspection. This has been addressed with our staff.

Please correct the items that were verbally conveyed at the first inspection and recorded in the second inspection results. Once the corrections are made, please schedule a final inspection so that we can confirm the completion of the items listed. With the approved final inspection, we will be able to close the permit and get you on your way to getting your bond released.

Please let me know if you have any further questions about the inspection process.

Respectfully,

This is not even possible.

Caleb Sulzen, MCP
Residential Inspection Supervisor
Residential Branch – Building Division
Fairfax County
Office (703) 324-8465
Cell (703) 295-2928
Caleb.Sulzen@fairfaxcounty.gov

From: Family Voelkel [<mailto:sdoamms@hotmail.com>]
Sent: Monday, April 10, 2017 2:09 PM
To: Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>
Subject: Re: Voelkel - Final Inspection Resolution

Caleb,
Dustin inspected the deck with my contractor with the plans in hand.
The first final inspection was complete except for the CSST, that was corrected, so the inspection should be closed.
Please correct the final inspection note and close the permit.
Thank you.
Scott Voelkel

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From: Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>

Sent: Monday, April 10, 2017 12:52:34 PM

To: Family Voelkel

Cc: Scott Voelkel; Tomberlin, Guy

Subject: RE: Voelkel - Final Inspection Resolution

Mr. Voelkel,

Thank you for your email this morning. I just left you a voicemail this afternoon as well. I apologize for not getting back with you last week, I am currently working to catch up on my voicemails and emails.

I checked the inspection history for 6488 Lake Meadow Dr., and I do not see an approved final inspection for permit #150780024. I do see the two failed inspections that you referenced that took place on 3/9 and 3/20. In talking with Dustin Bergey about the inspection on 3/9, he indicated that he had not inspected the deck as part of his inspection. He also indicated that he conveyed that information to Aaron Morgan prior to Aaron's inspection on 3/20. The comments that Aaron entered on 3/20 reflect items that need to be corrected on the deck as well as confirming that the CSST bonding was corrected. Once these items noted on 3/20 have been corrected, please schedule an inspection to verify their completion and we will gladly approve the final and close the permit.

I did approve the framing inspection for this permit today since the only remaining item to verify on that inspection was that the plumbing needed to be passed and the plumbing permit has passed final inspection. The framing inspections that were performed do not reference the deck as having been inspected. I did pass the framing; however, because the comments on the final include verifying the deck framing.

Respectfully,

Caleb Sulzen, MCP

Residential Inspection Supervisor

Residential Branch - Building Division

Fairfax County

Office (703) 324-8465

Cell (703) 295-2928

Caleb.Sulzen@fairfaxcounty.gov

From: Family Voelkel [<mailto:sdoamms@hotmail.com>]

Sent: Monday, April 10, 2017 8:33 AM

To: Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>

Cc: Family Voelkel <sdoamms@hotmail.com>; Scott Voelkel <sdoammss@gmail.com>

Subject: Voelkel - Final Inspection Resolution

Mr. Sulzen,

I am requesting that you close out our permit (#150780024) immediately. Final inspections were approved in the field on 3/20/17.

Keeping the status "open" in the system makes it impossible for us to recover our \$2000.00 environmental site deposit.

1. Mr. Morgan asked me on 3/20 who the inspector was for 3/9 final. Why would he ask me this if Mr. Bergey conveyed information on deck prior to 3/20 inspection?
2. Mr. Morgan asked me on 3/20 if the decks were inspected.

A full final inspection was completed on 3/9/2017 by Dustin Bergey. This inspection noted one deficiency which was corrected, re-inspected and approved on 3/20/17 by Aaron Morgan. At this point, our county inspections should be passed and approved so that our project can be concluded.

Please confirm that you have closed our permit by Thursday, April 13th so that I can apply to receive the return of my deposit. I will schedule a meeting with County Supervisor Herrity for Friday to ask for his assistance if our permit is not resolved by Thursday.

I look forward to hearing from you this week.

Thank you.

Scott Voelkel
6488 Lake Meadow Dr.
Burke, VA 22015
571-926-7638

Sonny Wiehe

From: Tomberlin, Guy [Guy.Tomberlin@fairfaxcounty.gov]
Sent: Thursday, May 11, 2017 3:40 PM
To: sonny@vbuild.com
Cc: Family Voelkel; Tomberlin, Guy; Sulzen, Caleb; Schnare, Marlae; Foley, Brian
Subject: 6488 Lake Meadow Dr. permit #150780024

Mr. Wiehe, I have been emailing information to the homeowner (Mr. Voelkel) at the subject property, about the inspections that have taken place and the code violations that remain. As you are the permit holder and the responsible party I thought I would reach out to you directly and explain exactly what is needed to complete the project in order to gain the necessary final inspections. There is really only 3 outstanding items that require your attention.

1. **The guardrail system.** After extensive research we were able to determine approvability of the guardrail system you have in place. However, the testing (you provided us), which confirms code compliance, requires a few more bracing and structural attachments than shown in the installation instructions. The specifications as shown in the testing report must be installed.
2. **The beams.** Some beams have been installed which do not rest on adequate bearing points, rather fully supported on carriage bolts. The approved plans call for 6X6 post and you installed 4X4. **These beams and post may remain in place, but additional bolts are required to secure the beam to the post and 2X4 material will need to be added directly below, on each post, to a minimum point 24" below the bearing point at the bottom of the beam. The 2X4 material will need at least 2 carriage-bolts secured through the post (depending on the length).**
3. **The carriage bolts.** Where ever carriage bolts are installed, they are required to have square shaped openings in the washers on the head-end and regular cut washers on the nut-end.

As you can see, these are not what I would determine as "major" issues but rather a few adjustments needed to get this project completed and into code compliance. These are just suggested alternatives that we came up with to assist in resolution, which I felt would be most cost effective and least labor intensive. As the permit holder and responsible party, you certainly have other options to consider. Please let me know how you intend to proceed as soon as possible.

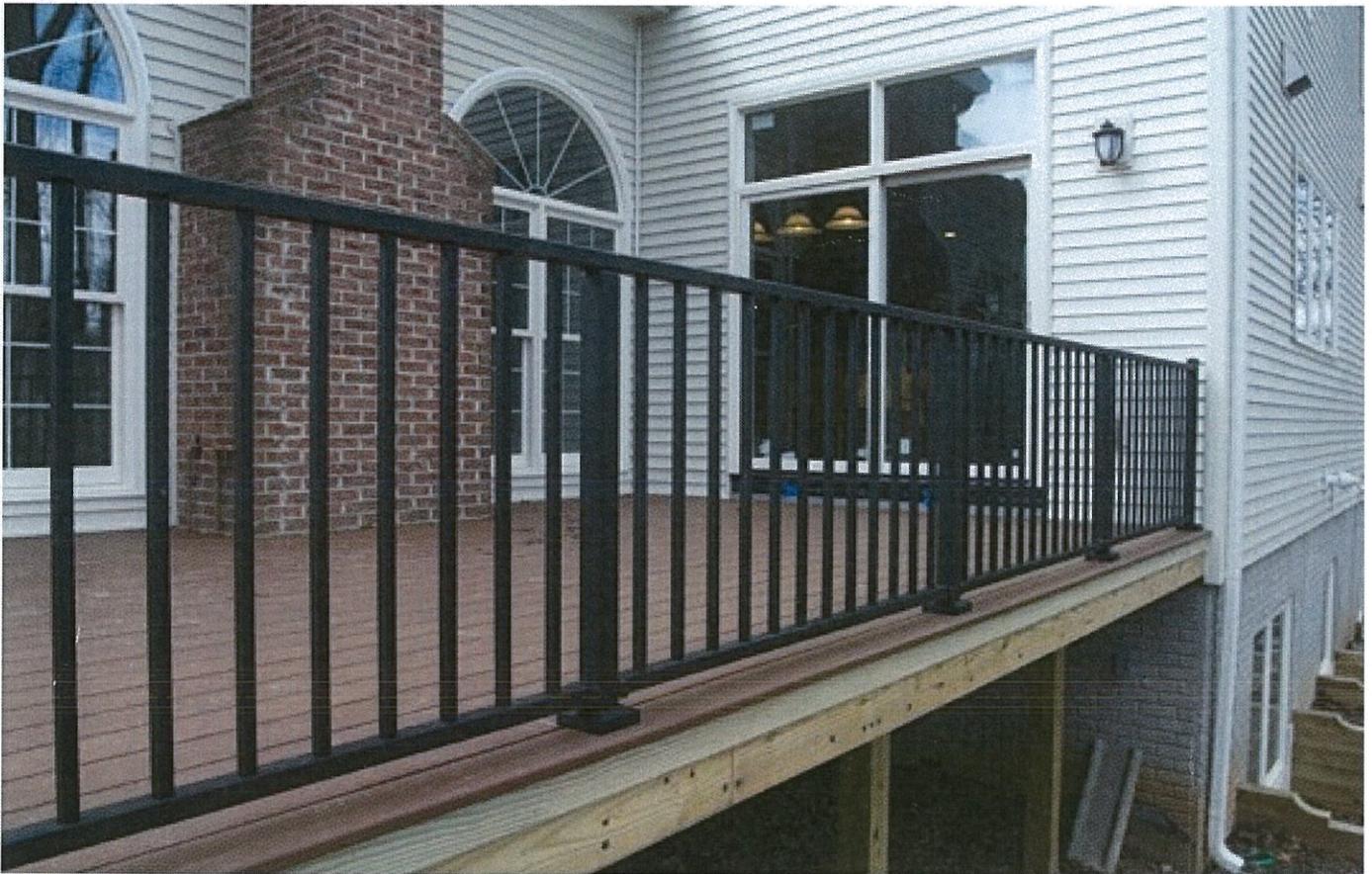
I fully understand that our staff did not enter his inspection results completely back on 3/9/2017 and for that I take responsibility and sincerely apologize. However, even in light of the notation omission, the VA Uniform Statewide Building Code does not provide me or anyone in my office the authority to approve the subject deck with the code violations identified above in place. Just so you will know, I have addressed the comment entry issue with the particular staff member and then I addressed the issue with the entire residential staff the very week this was brought to my attention. Notwithstanding this one experience, I hope you have seen that the residential branch is committed to continuously increasing the level of customer service quality we deliver. I firmly believe that working together with you on this project, as I have attempted to do, is the best approach to get our customer to the completion stage of his project.

Let me know if I can be of further assistance or if you have any questions. Thank you,

Guy Tomberlin, Chief
Residential Branch, BD-LDS
12055 Government Center Pkwy., Suite 307
Fairfax VA, 22035
703-324-1611



**BUILDING
DIVISION**



Voelkel Project

6488 Lake Meadow Dr., Burke VA

William Wiehe Jr.'s
Supporting Documentation for:

VA State Building Code Technical
Review Board

Appeal Case # 17-9

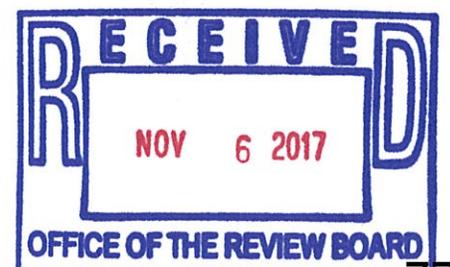


Table of Contents

Appeal Case 17-9, *Vice Versa Design Build Corporation vs. County of Fairfax Virginia* Amended Statement of Appeal and Specific Relief Sought

- A. Inspection Records**
- B. Applicable Code Standards and Enforcement**
 - 1. Published Fairfax County evaluation report guidelines
 - 2. IRC table 301.5 guidelines
 - 3. VA USBC section 112 guidelines for conditions of listing for code compliance reports
- C. Westbury Guardrail Code Compliance (VA USBC and IRC) Documentation**
 - 1. CCRR-0163
 - 2. Manufacturer's Installation Instructions for Westbury C-10 Guardrail system
 - 3. NTA test report for guardrail posts
 - 4. Letter from manufacturer clarifying effective dates for applicable code compliance documents and installation instructions
 - 5. Manufacturer's installation follow-up letter
- D. Conflict of Interest by board member during FFX County Board of Building Code appeal hearing Case #170629.0AP**

VIRGINIA

IN THE STATE BUILDING CODE TECHNICAL REVIEW BOARD

VICE VERSA DESIGN BUILD CORPORATION by,)
William Wiehe, Member)

vs.)

Appeal Case 17-9

COUNTY OF FAIRFAX VIRGINIA)

Home owner:)
Scott A. Voelkel and)
Donna L. Voelkel)
6488 Lake Meadow Drive)
Burke, Virginia 22015)

Amended Statement of Appeal and Specific Relief Sought

COMES NOW the appellant Vice Versa Design Build Corporation, by counsel, and for its appeal to the ruling of the Fairfax Board of Building Code Appeals, states as follows:

Facts as Alleged

1. On or about August 11, 2017, the Fairfax County Board of Building Code Appeals, denied the Appellants appeal of an alleged building code Notice of Violation dated June 8, 2017, based upon a so called inspection occurring on March 9, 2017, the results of which initially stated no reasoning, no basis, no code section support, and stated only that “the project was not constructed in accordance with the approved permit plans and Fairfax County Requirements.” See the enclosed exhibit book Tab A, which is attached and made a part hereof.

LAW OFFICES
PURNELL,
MCKENNETT
& MENKE, PC
P.O. Box 630
MANASSAS, VIRGINIA 20108
703-368-9196
FAX 703-361-0092

2. However, as was noted in the initial appeal, there was never an actual violation of the Fairfax Building Code, and or the Virginia Uniform Statewide building Code, as incorporated thereby.

3. A copy of the full appeal binder submitted to the Fairfax County Board of Building Code Appeals was attached to the initial appeal submission to this body, was made a part thereof as Exhibit 2, and is incorporated hereto.

4. A copy of Mr. William Wiehe, Jr.'s (the President of the Appellant) brief statement and a table of contents for the revised exhibit book are attached following this statement and before the exhibits set out behind Tabs A-D herein.

5. Similarly, on March 20, 2017, a Residential Final inspection was scheduled and failed for the strangely vague reason that "No framing inspection on decks, Need to verify ledger, guardrail connections, lateral bracing stair lighting, no handrails. CSST okay." Previously, on March 9, 2017 a final inspection had been failed noting only "need to bond CSST gas piping." No mention at that time was made of any deck issue. The deck had already been completed at that time. See the Amended Exhibit binder attached and made a part hereof. Specifically the violation documents following Tab A.

6. No further legal action was taken by the County until the Violation Notice in question, which is dated June 8, 2017, still based on the March 9, 2017 inspection, was subsequently served on Mr. Wiehe and alleged three "violations." See Tab A "Notice of Violation." It may be of note that Mr. Wiehe, the permit holder, did not schedule this inspection and was not present therefore. (Take note that code statutes were cited for the March 20, 2017 inspections by Mr. Tomberlin, via e-mail on May 26 2017. This is a violation of Va. USBC 113.6. See Tab A).

7. The only remaining alleged violation claims that, “3. The connections of the guard posts to the deck framing are not in compliance with 112.3. Needs to meet live load requirements in table 301.5 VRC.” See Violation e-mail dated September 17, Tab A.

8. All other issues and alleged violations have been resolved and are no longer at issue in this Appeal.

9. Fairfax County has, on almost the same timeline as the appellant, approved the installation of another Westbury C-10 “Tuscany” style railing produced by Digger Specialties, Inc. exactly as installed by the appellant. This job was designed by Schroeder Design/Build, Inc. and was located at 4948 Sabra Lane, Annandale Virginia. See Tab D; Schroeder Design Build, Inc. is owned and operated by one of the board members of the Fairfax County Board of Building Code Appeals, Mr. Tom Schroeder, who voted against Vice Versa Corporation’s appeal while he was obtaining the same exact approval as sought by Vice Versa Corporation and using the same exact attachment method as that used by the Appellant.

10. The allegations of Fairfax County do not constitute a violation of the Virginia Uniform Statewide Building Code or the Fairfax County Building Code as it is incorporated therein.

12. It is also important to note that the home owner, at 64888 Lake Meadow Drive, Burke, Virginia, has been documented as refusing the Appellant access to the private property to make changes to the guardrail system (changes to the other issues were eventually authorized), and therefore, the Plaintiff would be trespassing if it attempted to make any changes to the rail system as requested by Fairfax County. The

County's assertion that the home owner is estopped from such a refusal to allow the plaintiff to work on their property (as suggested by Fairfax County) is simply incorrect as permission to enter real property can always be easily revoked, despite contractual provisions or previous permission (the assumed basis of alleged estoppel), as has occurred in this matter. Therefore, the Appellant notes that regardless of this Body's findings on the merits of the alleged deficiencies, the Appellant is the incorrect party in this matter as his authority to comply with any violation notice has been terminated by the homeowner, who is now the effectual party in control of the permit. Though this is not the focus of this appeal, the appellant hereby specifically raises the issue herein and preserves the same for further appeal if necessary.

13. Fairfax County does admit in its initial notice of violation that under USBC Section 112.3 an alternative to the Fairfax County Typical Deck Detail wood railing may be used as a guardrail system (as is also noted in Section 14 of the Fairfax County Deck Detail), if a valid evaluation or research report from a nationally recognized listing agency is provided for the product. The violation notice tacitly admits that such a report was provided and/or exists.

14. The guardrail used was a Westbury C-10 "Tuscany" style railing produced by Digger Specialties, Inc. The deck and guardrails were installed on or about February of 2017, and were first inspected on March 9, 2017.

15. The Westbury railing system has been tested by Intertek Testing Services NA, Inc. and a copy of the Code Compliance Research Report (CCRR-0163) for the Westbury Railing System; the guardrail post Test Report can be found behind Tab C(1) which is attached and made a part hereof.

16. The effective CCRR-0163 at the time of initial inspection states in Section 7.3.1 s that: “ A minimum of four anchor bolts must be used and located in the four pre-drilled holes in the structural post base plate, 7.3.2. The Anchors must have a minimum nominal diameter equal to 3/8 inch.” 7.3.3 states: “When the supporting structure is a wood framing deck, installation must include anchorage to suitable structural framing...”. See Tab C(1)

17. Page 3, section 6 of research report CCRR-0163 as revised on March 30, 2017, which Fairfax County bases its alleged violation upon, repeats the exact language of the previous iteration of CCRR-0163 and states that installation of the Westbury railing system must meet the following requirements “6.5.1 A minimum of four anchor bolts must be used and located in the four pre-drilled holes in the structural post base plate, 6.5.2. The Anchors must have a minimum nominal diameter equal to 3/8 inch. 6.5.3 When the supporting structure is a wood framing deck, installation must include anchorage to suitable structural framing.”

18. There is no claim by Fairfax County that the testing and structural soundness of the Westbury Railing system did not meet code requirements as the test load clearly exceeds code levels. See Tab B herein.

19. Instead Fairfax County based its entire initial allegation of violation on a single picture in an ex post facto CCRR-0163 report which showed that an alternative post anchorage system using machine bolts and an aluminum backer plate was suggested to be used on a simulated wood deck. See the Notice of Violation.

20. The test results of the backer plate option were not incorporated into the CCRR-0163 until after the revisions on March 30, 2017: nor were the backer plates even

a commercially available item until after this date. Further, it was not required in the Code Compliance Report sections 7.0 CONDITIONS OF USE as in effect before March 30, 2017. In fact, such a backer plate was still not required after the revisions to the Code Compliance Report 6.0 CONDITIONS OF USE which the appellant has also fully met. The installation was and is exactly as described by the conditions of use in CCRR-0163 (both before and after the revision) and the manufacturer's instructions based thereupon. See Tab C(2) for installation instructions which are attached hereto. (Note the date of the instructions on the bottom right of the page as February 25, 2015, not the revision at the end of May, 2017). See Tab C(5) for letter setting out dates of applicable code compliance documents, and test effect dates from manufacturer.

21. Article 1 § 9 of the United States Constitution prohibits any state from passing or applying an ex post facto law or regulation. This means that all laws and regulations must be applied as they were in effect at the time the events occurred, and a subsequent change in the law, regulations, or the facts to be applied must be ignored and the facts and law then in affect must be applied to the situation. The Virginia Constitution code also prohibits ex-post facto application of laws and regulations and as a matter of simple human fairness and justice one can see the need to not change the rules midstream.

22. The Constitutional provisions prohibiting application of ex-post facto laws and facts are relevant because, somewhat confusingly, Digger Specialties, Inc. did begin offering a Westbury Rail System with amended instructions that included a metal backer plate on May 30, 2017 and the CCRR-0163 was revised on March 30, 2017. Neither of

these revisions can be applied to this matter under the constitutional provisions noted above.

23. Regardless, the inspections and code section, instructions, and code compliance reports applied under the U.S. and Virginia Constitutions, must be those in effect at the time of the construction and initial inspection.

24. Following the informal fact finding conference with this Board on October 4, 2017, it was suggested by this Board's representatives that a Virginia professional engineer test and seal the guard rail post installation method of attachment, namely four leg screws for each post, into solid wood, which attachment method was acknowledged by the Fairfax County representatives to be the only remaining dispute with Fairfax County, might take care of the dispute between the parties if the test was above the ultimate 200 pound live load test requirement for the railing.

25. Upon the Appellants request, Digger Specialties (the railing's manufacturer) retained NTA, Inc., a nationally recognized testing laboratory, and Eric J. Tompos a Virginia Professional Engineer, to test the four lag screw attachment method. Upon performing the said test, the method of attachment with a 42" railing did not begin to fail until 500 pounds of pressure was applied (2½ times the required load). See Tab C(3) for Testing Report and Architectural Seal.

26. The railing in question is only 36" and the blocking used is solid wood meaning that there is less live load stress on the retailing in question than that produced by the 42" version of the railing tested by NTA, Inc.

27. Upon being presented this incontrovertible proof that the railing and installation method are code compliant, Fairfax County, instead of providing final

approval, responded with an e-mail not really denying the permit, but suggesting that the test method might not be exactly the same as that in the testing report and suggesting that some additional remediation might be necessary to bring the deck into the exact condition as in the test report described in Tab C(3). See October 25, 2017 letter following Tab A.

28. No reason or code section for refusing approval was provided in the pseudo violation letter of October 25, 2017, in violation of the VA Uniform Statewide Building Code, and no response was provided by the building department when he made an additional request final approval or reference to the USBC section that serves as the basis for the failure or defect.. See Mr. Wiehe's response following Tab A.

29. DSI, upon being asked about the attachment methods used by the Appellant has responded that "Other mounting methods can be used as long as they meet or exceed these standards." See letter from DSI attached and made a part hereof as Tab C(4)."

Argument

Under the facts noted above, there is no question that the Appellant was never in violation of the code; that the Westbury Railing should have been approved; and that the portion of the Fairfax County Notice of Violation regarding this issue must be overturned and the permit approved.

Specifically, Fairfax County bases its entire violation notice on the idea that the installation of the Westbury Railing system was in violation of the installation instructions set out in CCRR-0163. This, of course, tacitly admits that the railing system

is acceptable under the County building code if installed as directed by the manufacturer and the independent testing laboratory in CCRR-0163, and now in the new testing report Modified ASTM D7032.

Inexplicably, however, Fairfax County does not require the installation to be as set out in CCRR-0163, as was in effect when the property was initially inspected on March 9, 2017, which states specifically that “7.3.1. A minimum of four anchor bolts must be used and located in the four pre-drilled holes in the structural post base plate, 7.3.2. The Anchors must have a minimum nominal diameter equal to 3/8 inch. 7.3.3 When the supporting structure is a wood framing deck, installation must include anchorage to suitable structural framing.” See Tab C(1) which is attached and made a part hereof (the same language is used in the revision to CCRR-0163 in place after March 30, 2017). This requirement clearly intends and anticipates that installation of the system will be into wood and that four (4) anchor bolts will be installed into solid wood structural framing. All of these requirements were met by the Appellant who specifically and meticulously followed the manufacturer’s requirements and installed the system with anchor bolts of 3/8 inch diameter and 4” long into solid wood. See Tab C(2) for the then applicable instructions. The County has not alleged otherwise. Additionally, as noted above Mr. Schroeder (a member of the appeal board himself) obtained the same exact approval, with the same exact attachment method. Failing to approve the Appellant in this situation brings up all sorts of questions regarding self-dealing, discrimination, preference and impropriety which will be raised if this matter proceeds to appeal before the Courts of the Commonwealth and are raised here for preservation purposes.

Instead, however, Fairfax County based its alleged violation on a picture and drawing of the testing method as described in the Test Report for the railing Exhibit 2, Westbury Documentation, Tab 3, presumably Pages 17, 20 and 23 of the Exhibits to the initial Appeal, which shows that Inertek used a metal backer plate when testing the rail system. First, this picture and the drawings in question were not part of CCRR-0163 and were inappropriately applied as they were not incorporated into CCRR-0163 until March 30, 2017, and the failure of the project based thereupon is simply incorrect and legally untenable.

Such an extreme method of attachment to deck framing was never a condition of CCRR-0163 as issued on October 19, 2016 with respect to compliance of the 2012 International Residential Code (IRC) nor required to meet 2009 IRC guard rail code which the approved plans dictate. Instead CCRR-0163 simply requires four (4)- 3/8" diameter x 4" long anchor bolts into solid wood as was specifically done by the Appellant per manufacturer's instructions. This method of installation is not disputed by the county.

However, all that truly matters at this time is that the requirements applied by Fairfax County were never a part of CCRR-0163 and the pictures relied upon by Fairfax County were not even a part of CCRR-0163 at the time of the inspection and therefore cannot be used as a basis for an alleged violation.

Therefore, as the testing requirements cited by Fairfax County were 1. incorrectly cited, 2. propounded after the inspection in question and 3. incorrectly applied, and as the same railing and attachment method has already been approved by the County for one of the appeal board members, the Notice of Violation must be overturned with regard to the

Westbury Railing and the said railing should be approved as built, just as the Schroeder railing was.

Intervening Sealed Test of Attachment Method

More important still, since the initial appeal to this Board was filed, the Appellant has managed to obtain a third party lab test of the method of attachment used on the deck in question. Specifically, the testing of four leg screws into solid wood, which was performed by a nationally recognized testing laboratory and sealed by a licensed Virginia Professional Engineer as resisting a live load of up to 500 pounds. This exceeds the code required resistance by 300 pounds.

The County acknowledges in its October 25, 2017 letter to the Appellant that the test is viable and the County appears to accept its validity and applicability. However, the County suggests that the attachment method used by the Appellant and materials must now be exactly the same as those used in the test report and that some remediation must now take place (though the County does not state exactly what remediation must take place) to make the deck installation identical in all matters to the test. This suggestion by the County is simply untrue. For one thing, the test clearly used untreated lag screws which would not meet code for exterior use, and the tested railing was 42" as opposed to the shorter 36" railing installed by the Appellant. Nevertheless, the Appellant has used equivalent or superior code complaint screws and solid wood blocking, and other hardware that are in all aspects equal to or stronger than that of the tested method and materials. This includes using treated leg screws of equivalent length instead of interior grade leg screws, using solid wood blocking instead of single scrap board blocking, using Simpson type framing clips instead of single wood screws, etc.).

There can be little doubt that the railing installed by the Appellant tests in excess of 500 pounds live load. The County's claim which it cannot change herein, is "3. The connections of the guard posts to the deck framing are not in compliance with 112.3. Needs to meet live load requirements in table 301.5 VRC."

Though, this is not exactly a correct recitation of the Code, the Code requires that the railing meet a live load of 200 pounds, the railing incontrovertibly meets code as it tests up to 500 pounds before failure. See Tab C(3). This compliance has not only been sealed by a professionally licensed engineer in Virginia but also has been thoroughly tested by a Nationally Recognized Testing Laboratory specifically meant to address the issues set out in this appeal. These facts not only demonstrate, without question, that the Westbury Railing System, as attached, is code compliant, but goes so far above and beyond the call of duty as to make it clear that Fairfax County's continued denials are improper.

WHEREFORE the Appellant hereby asks this body to overturn the decision of the Fairfax County Board of Building Code Appeals dated August 11, 2017, and to order Fairfax County to issue an approved final inspection of the Appellant's permit as set out herein.

Respectfully Submitted
Vice Versa Corporation
By Counsel,



David G. McKennett, Esquire VSB #71257
PURNELL, MCKENNETT & MENKE, PC
9214 Center Street, Suite 101
Manassas, Virginia 20110
Phone 703-368-9196; Fax 703-361-0092
Counsel for the Plaintiffs

LAW OFFICES
PURNELL,
MCKENNETT
& MENKE, PC
P.O. Box 530
MANASSAS, VIRGINIA 20108
703-368-9196
FAX 703-361-0092

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing "Amended Statement of Appeal and Specific Relief Sought" has this 21st day of November, 2017, been mailed and faxed/e-mailed if possible to:

Fairfax County
Board of Building Code Appeals and
Land Division Services
12055 Government Center Parkway, Suite 300
and Suite 444
Fairfax, Virginia 22035



David G. McKennett, Esq.

Sonny Wiehe

TAB: A

From: Sonny [sunster6691@gmail.com]
Sent: Monday, March 20, 2017 7:25 PM
To: 'Family Voelkel'
Subject: FW: Fairfax County Inspection Status Notification: Inspection Result

-----Original Message-----

From: Fairfax County Government [<mailto:DoNotReply@FairfaxCounty.gov>]
Sent: Thursday, March 09, 2017 12:52 PM
To: SUNSTER6691@GMAIL.COM
Subject: Fairfax County Inspection Status Notification: Inspection Result

This is a notification from Fairfax County of your recent inspection result for:

Permit Number: **150780024**
Address: 6488 LAKE MEADOW DR BURKE VA 22015-3930
Inspection Number: 6741331
Type of Inspection: (RESIDENTIAL FINAL)

Result of Inspection: **FAILED** * → *Inspection Result in violation of VAUSBC 113.6*
Inspection Date: 03-09-2017

The following deficiencies were noted and must be corrected prior to inspection approval:

-Need to bond CSST gas piping.

G2411.1.1 (310.1.1) CSST. → *plumbing code deficiency only - not building code permit*

Corrugated stainless steel tubing (CSST) gas piping systems shall be bonded to the electrical service grounding electrode system. The bonding jumper shall connect to a metallic pipe or fitting between the point of delivery and the first downstream CSST fitting. The bonding jumper shall be not smaller than 6 AWG copper wire or equivalent. Gas piping systems that contain one or more segments of CSST shall be bonded in accordance with this section.

Inspected By: DUSTIN BERGEY

For additional information or to schedule additional inspections, please visit the FIDO web site at www.fairfaxcounty.gov/FIDO . For questions regarding this particular inspection please contact 703-631-5101, TTY 711 for residential inspections or 703-324-1910, TTY 711 for commercial inspections.

Sonny Wiehe

From: Fairfax County Government [DoNotReply@FairfaxCounty.gov]
Sent: Monday, March 20, 2017 3:34 PM
To: SUNSTER6691@GMAIL.COM
Subject: Fairfax County Inspection Status Notification: Inspection Result

This is a notification from Fairfax County of your recent inspection result for:

Permit Number: 150780024
Address: 6488 LAKE MEADOW DR BURKE VA 22015-3930
Inspection Number: 7453247
Type of Inspection: (RESIDENTIAL FINAL)

Result of Inspection: **FAILED** ✖ → *Inspection Result in violation of VA USBC 113.6*
Inspection Date: 03-20-2017

The following deficiencies were noted and must be corrected prior to inspection approval:

No framing inspection on decks. Need to verify ledger, gurdrail connections, lateral bracing, stair lighting, no handrails

CSST okay

Inspected By: AARON MORGAN

For additional information or to schedule additional inspections, please visit the FIDO web site at www.fairfaxcounty.gov/FIDO . For questions regarding this particular inspection please contact 703-631-5101, TTY 711 for residential inspections or 703-324-1910, TTY 711 for commercial inspections.

Please do not reply to this email.



Doing Business Visiting Departments & Agencies

homepage > fairfax inspections database online_fido > dynamic portal > status

Permit Status by Permit Number

▶ Inspection Information for Permit Number: 150780024

Inspection Type: RESIDENTIAL ROUTINE

Inspection #: 7494248

Inspection Name: CALEB SULZEN

Date of Inspection: 04/20/2017

General Comments: 1. As noted on the March 20th inspection (guardrail connections), the aluminum guardrail system on the deck and stairs needs to be verified as having been tested and approved by a Nationally Recognized Testing Laboratory (NRTL). If this verification is provided, then the system will need to be installed in accordance with the specifications included in the installation instructions along with the requirements provided by the testing agency. If NRTL verification is not provided, the railing system will need to be replaced with an approved system. 2. As noted on the March 20th inspection, which stated no framing inspection on decks, the following framing items need correction. The landing must have all beams and joists fully supported down to the footing with direct bearing. All carriage bolts require washers with square openings behind the bolt heads.

PRINTABLE PAGE Previous

* -> INSPECTION RESULT IN VIOLATION of both YA USBC 113.6 & 113.7

Sonny Wiehe

From: Fairfax County Government [DoNotReply@FairfaxCounty.gov]
Sent: Wednesday, September 27, 2017 2:21 PM
To: SUNSTER6691@GMAIL.COM
Subject: Fairfax County Inspection Status Notification: Inspection Result

This is a notification from Fairfax County of your recent inspection result for:

Permit Number: 150780024
Address: 6488 LAKE MEADOW DR BURKE VA 22015-3930
Inspection Number: 7462382
Type of Inspection: (RESIDENTIAL FINAL)

Result of Inspection: **FAILED** → Inspection result in violation of VA USBC 113.7
Inspection Date: 09-27-2017

The following deficiencies were noted and must be corrected prior to inspection approval:

- 1: Deck landing framing is not in compliance with the bearing requirements in 502.6 (The proposed beam connections using mechanical brackets has not been submitted to plan review for verification and approval of the engineer's proposed design). 109.3 Revised plan requires engineered design to be reviewed and approved.
 2. Cut washers have been installed on all carriage bolt heads.
 3. The connections of the guard posts to the deck framing are not in compliance with 112.3. Needs to meet live load requirements in table 301.5 in the VRC.
- (This electronic inspection report is a typed data entry of the written report left on site).

Inspected By: CALEB SULZEN

For additional information or to schedule additional inspections, please visit the FIDO web site at www.fairfaxcounty.gov/FIDO . For questions regarding this particular inspection, please call 703-631-5101, TTY 711.

Please do not reply to this email.



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

October 25, 2017

Mr. William Wiehe Jr., President
Vice Versa Design/Build
12321 Popes Head Road
Fairfax VA, 22030

Subject: 6488 Lake Meadow Drive
Building Permit Number 150780024
Violation Issued June 8, 2017, Item 3, Guard Post Connections

Reference: NTA, Inc. Test Report DIG082217-55

Review/Response in Violation of VA USBC 113.7

Dear Mr. Wiehe:

decisive response

We are in receipt of the referenced NTA, Inc. report, entitled "Modified ASTM D7032, Section 6.2.4 Concentrated Load at the Post (Testing for a Single Guard Post)," submitted to our office by Digger Specialties, Inc. on October 16, 2017. Upon review we are pleased to find that the report's data indicates an acceptable path towards code compliance for the deck located at the subject address. In order to align the field conditions to those that NTA, Inc. used in the laboratory, the following modifications must be made to the deck at the subject address.

→ ? why?

- The blocking, as listed in Table 3 on Page 3 of the report, shall be #1 Southern Yellow Pine 2x lumber, with a minimum depth of 5½ inches attached to the adjacent joists with a minimum of 3-#10-13x3½ inch wood screws as listed in Table 4, also on Page 3. See Figures 8, 9, 11 and 12 of the report.
- The rim board shall be attached to the joist-ends with a minimum of 4-#10-13x3½ inch wood screws as listed in Table 4. See Figures 8 and 10.
- Lag screws which attach the post assembly to the deck superstructure shall have a minimum embedment length of 4 inches into the blocking, rim-board and/or joists.

? why?

As you proceed forward to remediate the existing conditions to match those in the report, please contact me directly to schedule an inspection of the alterations. We look forward to hearing from you.

Sincerely,

Guy Tomberlin, Chief
Guy.tomberlin@fairfaxcounty.gov



Sonny Wiehe

From: Sonny Wiehe [sonny@vbuild.com]
Sent: Thursday, October 26, 2017 1:24 PM
To: 'Tomberlin, Guy'
Cc: 'Sulzen, Caleb'; 'Foley, Brian'; sdoamms@hotmail.com; 'David Mckennett'; 'Coddling, Hayden'; 'Grace, Richard'; 'Luter, Travis (DHCD)'; 'Hodge, Vernon (DHCD)'; DelThugo@house.virginia.gov; 'Springfield BOS Email'; 'Jeff Wiehe'; 'Keith R. Moser, P.E.'; 'Steven Szymanski'
Subject: RE: Inspection Update for 6488 Lake Meadow Dr. - Permit #150780024
Attachments: DIG082217-55, Final Report (VA Seal).pdf; Report_Response_10-25-17.pdf

Dear Mr. Tomberlin,

I am in receipt of your October 25th, 2017 response (see attached) to NTA testing report for Digger Specialties received by you on October 16th, 2017. It appears that your untimely response is unacceptably indecisive according to the requirements of VA Uniform Statewide Building for Inspections under section 113.7, paragraph "J", which states, in part, that "*The building official shall approve the report from such approved individuals or agencies unless there is cause to reject it. Failure to approve a report shall be in writing within two working days of receiving it stating the reason for the rejection.*"

It is not required by code that I precisely align my field conditions with those of the NTA test report. I simply need to meet or exceed them; which is what I have done and which your staff has verified since the first final inspection of March 9, 2017. The NTA report (see attached) is a testing supplement for Diggers Specialties CCRR (code compliance research report) #0163 and is sealed by a professional VA engineer. The effective date of CCRR-0163 (under which the Voelkel deck was built and inspected as of March 9th, 2017) is 4/06/216 and the manufacturer's installation instructions were effective as of 2/25/15. My installation is in harmony with the code compliance report, the manufacturer's installation instructions, and the testing report. I will remind you that the test report is for a 42" post model and the testing capacity was 500 lbf of concentrated load. The Voelkel project deck rail model is only 36" high and the code requirement is that it only resist 200 lbf of concentrated load. So the testing parameters far exceed the code requirement. There is no code requirement that dictates that I must modify any built structure on the Voelkel deck to exactly replicate the test report mock up. No remedial action is necessary and I request that you approve the building permit for final upon receipt of this letter.

You or your staff has reviewed the existing guardrail conditions on the Voelkel deck over the past 7 months. In fact, you have had 5 inspectors (including yourself) review this rear deck on 4 separate occasions over the same time period. During your last visit Mr. Sulzen took detailed photos and measurements of every aspect of the guard rail structure. You have all the information you need to verify the Voelkel guardrail as code compliant based on numerous and lengthy site inspections, possession of a valid code compliance research report, and possession of a professionally sealed, 3rd party testing document. Thus, I once again, request that you

approve building permit # 150780024 for final inspection or specifically cite the alleged code deficiency of the guard rail system installed at the Voelkel residence.

Regards,

William "Sonny" Wiehe Jr.

President,

Vice Versa Builders

O: 703-818-9181

C: 571-238-4759

F: 703-562-9041

or visit us @ www.vvbuild.com

From: Tomberlin, Guy [mailto:Guy.Tomberlin@fairfaxcounty.gov]

Sent: Wednesday, October 25, 2017 10:29 AM

To: sonny@vvbuild.com

Cc: Sulzen, Caleb; Foley, Brian; sdoamms@hotmail.com; 'David Mckennett'; Tomberlin, Guy; Coddling, Hayden; Grace, Richard; Luter, Travis (DHCD); Hodge, Vernon (DHCD)

Subject: RE: Inspection Update for 6488 Lake Meadow Dr. - Permit #150780024

Mr. Wiehe, please see the attachment for my response to your email below.

Thanks,

Guy Tomberlin, Chief
Residential Branch, BD-LDS
12055 Government Center Pkwy., Suite 307
Fairfax VA, 22035
703-324-1611



From: Sonny Wiehe [mailto:sonny@vvbuild.com]

Sent: Friday, October 20, 2017 11:04 AM

To: Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>

Cc: Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>; Foley, Brian <Brian.Foley@fairfaxcounty.gov>; sdoamms@hotmail.com; Springfield BOS Email <springfieldbosemail@fairfaxcounty.gov>; 'Tim Hugo' <DelTHugo@house.virginia.gov>; 'David Mckennett' <dmckennett@manassasalawyers.com>

Subject: FW: Inspection Update for 6488 Lake Meadow Dr. - Permit #150780024

Dear Mr. Tomberlin,

Please find attached testing documentation for the Westbury C-10 guard posts that have been sealed by a licensed VA Professional Engineer. This provides further documentation that the guard rail meets the provisions of VA USBC 112.3 and additionally proves that the guard post not only meets minimum live load standards set forth in table R301.5 of the 2009 IRC for guardrails, but exceed it by 2.5 times.

With these additional facts in mind I, once again, ask that you immediately post final approval of building permit #150780024.

Regards,

William "Sonny" Wiehe Jr.
President,
Vice Versa Builders

From: Sonny Wiehe [<mailto:sonny@vvbuild.com>]
Sent: Friday, September 29, 2017 3:43 PM
To: 'Sulzen, Caleb'
Cc: sdoamms@hotmail.com; 'Tomberlin, Guy'; 'David Mckennett'
Subject: RE: Inspection Update for 6488 Lake Meadow Dr. - Permit #150780024

Dear Mr. Sulzen,

You are certainly entitled to your opinion and I respect that.

For the record, the framing clips we added to the rear landing were installed as part of clarification of set of approved plans that pre-date all inspections. Further, I submitted CCRR-0163 with issue date 12/17/2014 to you and Mr. Tomberlin on site this past Wed. and this report is in compliance with approved set of plans and VA USBC guidelines. Specifically, Section 4.1. of this reports states compliance with design loading requirements “*in Chapter 16 of both the IBC and the FBC and Section R301 of the IRC when tested in accordance with ICC-ES AC273*”. In my opinion, your stated basis for failure of this item is written in error on your report of 9/27/17 is in violation of both VA USBC Sections 113.6 and 113.7.

Once again, I am requesting that you immediately post final approval of building permit #150780024.

Regards,

William "Sonny" Wiehe Jr.
President,
Vice Versa Builders
O: 703-818-9181
C: 571-238-4759

F: 703-562-9041

or visit us @ www.vvbuild.com

From: Sulzen, Caleb [<mailto:Caleb.Sulzen@fairfaxcounty.gov>]
Sent: Friday, September 29, 2017 8:42 AM
To: sonny@vvbuild.com
Cc: sdoamms@hotmail.com; Tomberlin, Guy
Subject: Inspection Update for 6488 Lake Meadow Dr. - Permit #150780024

Dear Mr. Wiehe,

As we offered during our inspection on 9-27-17, we have submitted your proposed engineered design for the brackets installed at the deck landing, posts to beam connections, to our residential plan review section. They have reviewed and approved the proposed design.

As indicated onsite on Wednesday we not only expedited the review, we have waived the plan amendment/revision review fee on the permit. As a result of the approved plan revision and the field verification of the bracket installation, we are now approving item #1 from the inspection report dated 9-27-17.

This results in item #3, regarding the guardrail connection to the deck framing, as the only remaining correction that is required to achieve "final" completion status for permit #150780024.

For any future inspection requests, please contact me directly to schedule the inspection.

Respectfully,

Caleb Sulzen, MCP
Residential Inspection Supervisor
Residential Branch – Building Division
Fairfax County
Office (703) 324-8465
Cell (703) 295-2928
Caleb.Sulzen@fairfaxcounty.gov



TAB: B

TAB: 1

2/14
ST
AS
16

Home Living Here Doing Business Visiting Departments & Agencies Sea

Index

homepage > building permits > residential construction:

Evaluation Reports

- Contacts/Directions
- DPWES Home
- Calendar of Events
- Complaints
- e-Services
- FAQs
- Forms
- Publications

Online Services

Our Government

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Maps, Facts & Stats

State & Federal

The Virginia Construction Code (Sections 112 and 1703) allows the use of a product or material not recognized by the code provided designers submit research and evaluation data during the permit application phase to support the product or material's use.

Such data must include an evaluation report from an accredited evaluation service such as the International Code Council - Evaluation Service (ICC-ES). Evaluation reports are a technical review of a product or material's compliance to code requirements. The evaluation service will publish an evaluation report after reviewing technical information and testing data from the manufacturer and assessing the product or material's equivalency to the provisions of the current building code.

Evaluation reports give direction to designers, code officials and contractors on design, installation, plan review and inspection requirements for a product or material. Therefore, when using an unrecognized product or material, you must ensure the following when submitting plans during permit application.

- Thoroughly read the evaluation report; pay particular attention to plan submission requirements.
- Ensure plan submission requirements are followed. Some may include specific notes or details to be incorporated into the construction documents and/or structural calculations to be submitted with the plans.
- Look for conditions of use and ensure your use of the product or material falls within the specified limitations.
- Be certain that the evaluation report references the current building code or, at a minimum, the previous code.
- Attach a copy of the evaluation report to each set of the building plans submitted to the county.

Fairfax County provides direct access to evaluation reports for plastic decking and rail and fiberglass columns. However, you may search the Web sites of evaluation services such as ICC-ES for approved evaluation reports.



ICC Evaluation Service, Inc.
www.icc-es.com

ESR-1051*
Revised June 1, 2003
This report is subject to re-examination in two years.

DIVISION: 05-WOOD AND PLASTICS
SECTION: 0505-Structural Plastics

REPORT HOLDER:
ROYAL CROWN LIMITED
PO BOX 760
MELBURN, VICTORIA 3120-AUSTRALIA
(61) 3 948-9442
www.royalcrown.com.au

EVALUATION SERVICE:
DECK LAMBECKING AND STAIR TREAD

1.0 EVALUATION SCOPE

Compliance with the following codes:

- 2003 International Building Code® (IBC)
- 2003 International Residential Code® (IRC)
- 1997 Uniform Building Code® (UBC)

Products evaluated:

- Decking
- Surface-burning characteristics

2.0 USES

Deck LAM™ is used as railing and stair treads for exterior balconies, porches, stairs and decks, and shall be evaluated for use in surface applications in accordance with Table 1 of the evaluation report. The allowed loads are based on use at a maximum air temperature of 120°F (49°C).

Deck LAM™ is not permitted to be used as surface burning applications, such as trim, awnings, or as posts, railings, stairs, treads, balustrades or posts.

Deck LAM™ from seven tests will be evaluated to meet the requirements of the schedule in Section 1.0. The report will include the following and temperature from 20°F (20°C) to 120°F (49°C) at ambient conditions. Any tests higher than those listed in the applicable codes are outside the scope of this report.

1.1 DESCRIPTION

1.1 General

Deck LAM™ is composed of 90 percent polypropylene (PP), which is a decking board made of polypropylene decking board. Deck LAM™ decking is 1/2 inch thick, 1/2 inch wide, 1/2 inch deep and 1/2 inch wide. Decking board is designed with an embossed longitudinal groove joint. The Deck LAM™ system also includes PVC Coated Railings.

Deck LAM™ from seven tests will be evaluated to meet the requirements of the schedule in Section 1.0. The report will include the following and temperature from 20°F (20°C) to 120°F (49°C) at ambient conditions. Any tests higher than those listed in the applicable codes are outside the scope of this report.

1.2 Fasteners

Deck LAM™ decking board is an installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.3 CONDITIONS OF USE

The Deck LAM™ decking described in this report complies with the conditions of use as specified in the conditions listed on the back of this report, subject to the following conditions:

1.4 Installation

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.5 Decking

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.6 Surface-burning characteristics

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.7 Railing

Deck LAM™ railing is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The railing is fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.8 Stair Treads

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.9 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.10 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.11 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.12 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.13 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.14 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.15 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.16 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.17 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.18 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.19 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.20 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.21 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.22 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.23 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.24 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.25 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.26 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.27 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.28 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.29 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

1.30 Fasteners

Deck LAM™ decking board is installed independent to the supporting construction and shall be limited to a maximum spacing of 24 inches (610 mm) on center. The boards are fastened in the joint with a No. 4 by 2 inch (10 mm) minimum blank post head wood screws with a groove along the length of the groove. The fasteners are installed at the following locations:

Contact Fairfax County: Phone, Email or Twitter | Main Address: 12000 Government Center Parkway, Fairfax, VA 22035
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Website Feedback Language Translations

TABLE R301.5
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)

USE	LIVE LOAD
Attics with limited storage ^{b, g, h}	20
Attics without storage ^b	10
Decks ^c	40
Exterior balconies	60
Fire escapes	40
Guardrails and handrails^d	200ⁱ
Guardrails in-fill components ^f	50 ^l
Passenger vehicle garages ^a	50 ^a
Rooms other than sleeping rooms	40
Sleeping rooms	30
Stairs	40 ^c

For SI: 1 pound per square foot = 0.0479 kPa, 1 square inch = 645 mm², 1 pound = 4.45 N.

- a. Elevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20-square-inch area.
- b. Attics without storage are those where the maximum clear height between joist and rafter is less than 42 inches, or where there are not two or more adjacent trusses with the same web configuration capable of containing a rectangle 42 inches high by 2 feet wide, or greater, located within the plane of the truss. For attics without storage, this live load need not be assumed to act concurrently with any other live load requirements.
- c. Individual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.
- d. A single concentrated load applied in any direction at any point along the top.**
- e. See Section R502.2.1 for decks attached to exterior walls.
- f. Guard in-fill components (all those except the handrail), balusters and panel fillers shall be designed to withstand a horizontally applied normal load of 50 pounds on an area equal to 1 square foot. This load need not be assumed to act concurrently with any other live load requirement.
- g. For attics with limited storage and constructed with trusses, this live load need be applied only to those portions of the bottom chord where there are two or more adjacent trusses with the same web configuration capable of containing a rectangle 42 inches high or greater by 2 feet wide or greater, located within the plane of the truss. The rectangle shall fit between the top of the bottom chord and the bottom of any other truss member, provided that each of the following criteria is met:
 1. The attic area is accessible by a pull-down stairway or framed opening in accordance with Section R807.1; and
 2. The truss has a bottom chord pitch less than 2:12.
- h. Attic spaces served by a fixed stair shall be designed to support the minimum live load specified for sleeping rooms.
- i. Glazing used in handrail assemblies and guards shall be designed with a safety factor of 4. The safety factor shall be applied to each of the concentrated loads applied to the top of the rail, and to the load on the in-fill components. These loads shall be determined independent of one another, and loads are assumed not to occur with any other live load.

TABLE R301.6
MINIMUM ROOF LIVE LOADS IN POUNDS-FORCE
PER SQUARE FOOT OF HORIZONTAL PROJECTION

ROOF SLOPE	TRIBUTARY LOADED AREA IN SQUARE FEET FOR ANY STRUCTURAL MEMBER		
	0 to 200	201 to 600	Over 600
Flat or rise less than 4 inches per foot (1:3)	20	16	12
Rise 4 inches per foot (1:3) to less than 12 inches per foot (1:1)	16	14	12
Rise 12 inches per foot (1:1) and greater	12	12	12

For SI: 1 square foot = 0.0929 m², 1 pound per square foot = 0.0479 kPa, 1 inch per foot = 83.3 mm/m.

TABLE R301.7
ALLOWABLE DEFLECTION OF STRUCTURAL MEMBERS^{a,b,c,d}

STRUCTURAL MEMBER	ALLOWABLE DEFLECTION
Rafters having slopes greater than 3/12 with no finished ceiling attached to rafters	L/180
Interior walls and partitions	H/180
Floors and plastered ceilings	L/360
All other structural members	L/240
Exterior walls with plaster or stucco finish	H/360
Exterior walls—wind loads ^a with brittle finishes	L/240
Exterior walls—wind loads ^a with flexible finishes	L/120
Veneer masonry walls	L/600

Note: L = span length, H = span height.

- a. The wind load shall be permitted to be taken as 0.7 times the Component and Cladding loads for the purpose of the determining deflection limits herein.
- b. For cantilever members, L shall be taken as twice the length of the cantilever.
- c. For aluminum structural members or panels used in roofs or walls of sunroom additions or patio covers, not supporting edge of glass or sandwich panels, the total load deflection shall not exceed L/60. For sandwich panels used in roofs or walls of sunroom additions or patio covers, the total load deflection shall not exceed L/120.
- d. Deflection for exterior walls with interior gypsum board finish shall be limited to an allowable deflection of H/180.

R301.8 Nominal sizes. For the purposes of this code, where dimensions of lumber are specified, they shall be deemed to be nominal dimensions unless specifically designated as actual dimensions.

13VAC5-63-120. Section 112 Workmanship, Materials and Equipment.

A. Section 112.1 General. It shall be the duty of any person performing work covered by this 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. Damage to regulated building components caused by violations of this code or by the use of faulty materials or installations shall be considered as separate violations of this code and shall be subject to the applicable provisions of Section 115.

B. Section 112.2 Alternative methods or materials. In accordance with § 36-99 of the Code of Virginia, where practical, the provisions of this code are stated in terms of required level of performance so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, this section and other applicable requirements of this code provide for acceptance of materials and methods whose performance is substantially equal in safety to those specified on the basis of reliable test and evaluation data presented by the proponent. In addition, as a requirement of this code, the building official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device, assembly or method of construction.

C. Section 112.3 Documentation and approval. In determining whether any material, equipment, device, assembly or method of construction complies with this code, the building official shall approve items listed by nationally recognized testing laboratories, when such items are listed for the intended use and application, and in addition, may consider the recommendations of RDPs. Approval shall be issued when the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code and that the material, equipment, device, assembly or method of construction offered is, for the purpose intended, at least the equivalent of that prescribed by the code. Such approval is subject to all applicable requirements of this code and the material, equipment, device, assembly or method of construction shall be installed in accordance with the conditions of the approval and their listings. In addition, the building official may revoke such approval whenever it is discovered that such approval was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC.

D. Section 112.3.1 Conditions of listings. Where conflicts between this code and conditions of the listing or the manufacturer's installation instructions occur, the provisions of this code shall apply.

Exception: Where a code provision is less restrictive than the conditions of the listing of the equipment or appliance or the manufacturer's installation instructions, the conditions of the listing and the manufacturer's installation instructions shall apply.

E. Section 112.4 Used material and equipment. Used materials, equipment and devices may be approved provided they have been reconditioned, tested or examined and found to be in good and proper working condition and acceptable for use by the building official.

F. Section 112.5 Defective materials. Notwithstanding any provision of this code to the contrary, where action has been taken and completed by the BHCD under subsection D of § 36-99 of the Code of Virginia establishing new performance standards for identified defective materials, this section sets forth the new performance standards addressing the prospective use of such materials and establishes remediation standards for the removal of any defective materials already installed, which when complied with enables the building official to certify that the building is deemed to comply with the edition of the USBC under which the building was originally constructed with respect to the remediation of the defective materials.

G. Section 112.5.1 Drywall, performance standard. All newly installed gypsum wallboard shall not be defective drywall as defined in Section 112.5.1.1.1.

H. Section 112.5.1.1 Remediation standards. The following provisions establish remediation standards where defective drywall

10/29/2017



Code Compliance Research Report

CCRR-0163

Subject to Renewal: 10/13/2016
Visit www.ati-es.com for current status

Issued: 12/17/2014
Revised: 04/06/2016
Page 1 of 16

Digger Specialties, Inc.
3446 US 6 East
Bremen, Indiana 46506
(574) 546-5999
www.diggerspecialties.com

1.0 Subject

Westbury® Aluminum Railing

- Tuscany Series* (Style C10, C101)
- Riviera Series* (Styles C30, C301, C30R, C301R, C31, C311, C32, C321, C33, C331, C34 and C341)
- Veranda Series* (Style C70)
- VertiCable Series* (Style C80)

2.0 Research Scope

2.1. Building Codes:

- 2012 International Building Code (IBC)
- 2012 International Residential Code (IRC)
- 2009 International Building Code (IBC)
- 2009 International Residential Code (IRC)
- 2010 Florida Building Code (FBC):
 - including High Velocity Hurricane Zone (HVHZ) for *Tuscany* and *Riviera Series*;
 - excluding High Velocity Hurricane Zone (HVHZ) for *Veranda Series*

2.2. Properties:

Structural Performance

3.0 Description

3.1. General – The *Westbury®* Aluminum Railing system is a guardrail under the definitions of the referenced codes. It is intended for use at or near the open sides of elevated walking areas of buildings and walkways as required by the codes.

3.2. Guardrail Assemblies – Guardrails are provided as level guardrails for level walking areas such as decks, balconies, and porches. Level guardrails are provided with rail lengths up to 96 inches in length (measured between the inside of support posts) and an installed height of

36 inch
configur

3.3. Me
Aluminu
extruded

inserts, tempered glass panels, austenitic (300 series) stainless steel fasteners, and cast Zamak 3 bracket materials.

3.3.1. The system is available in various colors and architectural grade powder coated finishes.

3.4. Components - The guardrail system includes a top rail, a mid-rail (*Riviera Series*), a bottom rail, vertical balusters, a structural aluminum post, rail-to-post brackets, a support block, and decorative moldings and post caps.

3.4.1. Rails - Each of the top, mid, and bottom aluminum rails are routed to accept various infill components described in Section 3.4.2 for the various railing systems as shown in Figure 1 through 10.

3.4.1.1. The *Tuscany, Riviera and Veranda* top rails are extruded 6005-T5 aluminum rails with internal longitudinal ribs, and dimensions of 1.74 inches wide by 1.38 inches tall. The *Tuscany* and *Riviera Series* use a PVC rail insert as a baluster retainer. The *Veranda Series* uses a rubber insert as a glass infill retainer. See Figure 15.

3.4.1.2. The *VertiCable* top rail is an extruded 6005-T5 aluminum rail with internal longitudinal ribs, dimensions of 1.74 inches wide by 1.38 inches tall and a 0.14 inch x 1-3/16 inch wide 6005-T5 aluminum plate that is drilled for the cable and baluster infills. See Table 2 for the cable fastening schedule and Figure 23 for cross sections of the *VertiCable* top rail sections.

3.4.1.3. The mid-rail is an extruded 6005-T5 aluminum rail with internal longitudinal ribs, dimensions of 1.74 inches wide by 1.25 inches tall. A PVC rail insert is used as a baluster retainer. See Figure 13.

3.4.1.4. The *Tuscany, Riviera and Veranda* bottom rails are extruded 6005-T5 aluminum rails with internal longitudinal ribs and are 1.74 inches wide by 1.25 inches tall. A PVC rail insert is used as a baluster retainer. See Figure 12.

TAB : 1

3.4.1.5. The *VertiCable* bottom rail is an extruded 6005-T5 aluminum rail with internal longitudinal ribs and is 1.74 inches wide by 1.25 inches tall. A 11/16 inch high x 1-1/2 wide x 0.09 inch thick U-profile, made from 6005-T5 aluminum is inserted into the bottom rail. This insert is drilled for the retaining of the cable and round baluster infills. See Table 2 for the cable fastening of the infills. See Figure 25 for a cross section of the *VertiCable* bottom rail.

3.4.2. The guardrail infills vary by guardrail style.

3.4.2.1. The *Tuscany Series* (Style C10 and C101) utilizes a square and round profile, 6063-T6 aluminum balusters in various lengths. See Figure 16 and Table 1 for applicable assemblies.

3.4.2.2. The *Veranda Series* (Style C70) infill area of the railing system (see Figure 8) utilizes a 1/4 inch thick tempered glass panel in various sizes.

3.4.2.3. The *Riviera Series* (Styles C30, C301, C30R, C301R, C31, C311, C32, C321, C33, C331, C34 and C341) infill area of the railing system is configured with 6063-T6 aluminum balusters, square and round profiles and with tabbed 6063-T6 aluminum rings between the top and mid-rail. See Figure 3 through Figure 7, Figure 16 and Table 1 for applicable assemblies.

3.4.2.4. The *VertiCable* (Style C80) infill area utilizes 1/8" diameter, 1x19, S31600 stainless steel cables spaced at 3.75 inches (See Figure 9). Also, see Table 2 for cable fastening methods.

3.5. Structural Aluminum Posts:

3.5.1. *Power Posts* are a 2-1/2 inch square by 0.125 inch wall extruded 6005-T5 aluminum tube with internal screw slots. The tube is connected to a 4-1/2 inch square, 1/2 inch thick 6061-T6 aluminum base plate via both a 1/4 inch continuous fillet weld and six #14 by 2 inch flat-head screws. For the standard *Power Post*, see Table 2 and Figure 20. For the *Power Post* crossover assembly, see Table 2 and Figure 20.

3.5.2. The 4x4 aluminum post is a 4 inch square by 0.125 inch wall extruded 6063-T6 aluminum tube. The tube is permanently attached to a 6 inch square, 1/2 inch thick 6061-T6 aluminum base plate by a 1/4 inch continuous fillet weld. See Table 2 and Figure 22.

3.5.3. 2 inch Alum Support Posts are a 2 inch square by 0.09 inch wall extruded 6005-T5 aluminum tube with internal screw slots. The tube is connected to a 3-7/8 inch square, 1/2 inch thick 6061-T6 aluminum base plate via both a 1/4 inch continuous fillet weld and two #14-14 by 2 inch flat-head screws. For the Alum Support Post, see Table 2 and Figure 23. For the 2" Post crossover assembly, see Table 2 and Figure 20.

3.5.4. A support block is installed between the lower rail and the deck surface midway between supports, with the exception of Westbury C-10 Tuscany railings that are 72 inches or less between posts. See Figure 18.

4.0 Performance Characteristics

4.1. The guardrail system described in this report has demonstrated the capacity to resist the design loadings specified in Chapter 16 of both the IBC and the FBC and Section R301 of the IRC when tested in accordance with ICC-ES AC273.

5.0 Installation

The guardrail system shall be installed in accordance with the Digger Specialties, Inc.'s installation instructions and this report. Where differences occur between this report and Digger Specialties, Inc.'s installation instructions, this report shall govern.

5.1. The top and bottom rails are attached directly to structural posts utilizing cast Zamak 3 mounting brackets via mechanical fasteners. See Figure 19 and Table 2.

5.2. Guardrails may be assembled in various configurations. Refer to Figure 1 through Figure 10 for overall assembly and Table 2 for the fastening schedule.

5.3. Infill components (aluminum balusters and aluminum rings) are inserted into routed holes in the aluminum rails and secured via PVC rail inserts that are installed internally to the rails. See Figure 14.

5.4. The infill component for the *Veranda Series* (Style C70) consists of a glass panel which is inserted into the top rail and slides up, to clear bottom rail. The glass panel is aligned with the bottom insert and pushed down into that insert.

5.5. The cable infill for the VertiCable consists of both 1/8 inch diameter stainless steel cables and 9/16 inch diameter aluminum balusters. The steel cables must be installed with the Zamak 3 cable tensioner below the bottom rail tensioned to 40 in-lbs of torque.

5.6. Two shim plates are utilized under the base of the structural post. Each shim plate is oriented so that its length is parallel with the line of the rail. The hardware used to anchor the base of the 2" Alum Support Post, the 2-1/2" Power Post and 4x4 aluminum post to the supporting structure is installed so that it passes through the holes in the shim plates.

5.7. Power Post shim plates are 4-1/2 inches long by 3/4 inch wide by 1/16 inch thick austenitic (300 series) stainless steel plates. The 4x4 aluminum post shim plates are 6 inches long by 3/4 inch wide by 0.06 inch thick austenitic (300 series) stainless steel plates.

6.0 Supporting Evidence

6.1. Drawings and installation instructions submitted by Digger Specialties, Inc.

6.2. Reports of testing demonstrating compliance with the performance requirements of ICC-ES AC273, Acceptance Criteria for Handrails and Guards, effective March 1, 2008 with additional testing including increased test loads to address IBC and FBC Section 2407.1.1 for assemblies that utilize a glass in-fill panel.

6.3. A quality control manual that is in accordance with the ICC-ES AC10, Acceptance Criteria for Quality Documentation, approved June 2011.

7.0 Conditions of Use

The guardrail assemblies identified in this report are deemed to comply with the intent of the provisions of the referenced building codes subject to the following conditions.

7.1. Attachment of guardrail systems described herein to conventional wood supports is outside the scope of this report.

7.2. Shim plates must be used for all structural post installations as described in Section 5.6.

7.3. Anchorage of the structural post is not within the scope of this report and is subject to evaluation and approval by the building official. Anchors must satisfy the design load requirements specified in Chapter 16 of the

building code and must meet the following minimum requirements:

7.3.1. A minimum of four anchor bolts must be used and located in the four pre-drilled holes in the structural post base plate.

7.3.2. The anchors must have a minimum nominal diameter equal to 3/8 inch.

7.3.3. When the supporting structure is a wood-framed deck, installation must include anchorage to suitable structural framing. Decking is not considered structural framing, and anchorage to decking alone is not an approved installation method.

7.3.4. Where required by the building official, engineering calculations and details shall be provided. The calculations shall verify that the anchorage and supporting structure complies with the building code for the type and condition of the supporting construction.

7.4. The glass infill panel of guardrails is considered a hazardous location as defined by Sections 2406.4 of the IBC and 2406.3 of the FBC. Glass must be identified by permanent etching as required by Sections 2406.3 of the IBC and 2406.2 of the FBC. Each section of glass must bear the manufacturer's name or mark and the applicable test standard. (Class A of ANSI Z97.1 and Category II of 16 CFR 1201).

7.5. Guardrails utilizing glass infill are not approved for use in wind-borne debris regions as defined by the IBC in accordance with Section 2407.1.4. Thus, glass balusters are also not approved for use in the High Velocity Hurricane Zone (HVHZ) under the FBC.

7.6. Digger Specialties, Inc. manufactures the Westbury® Aluminum Railing system in Bremen, Indiana in accordance with an approved quality control system that includes independent third party inspections by NTA, Inc. (IAS AA-682).

8.0 Identification

The Westbury® Aluminum Railing guardrail assemblies that are described in this report shall be identified with labeling on the individual components and/or the packaging such that the product is identifiable at the point of use. The label shall include at least the following information:

8.1. Name and/or trademark of Digger Specialties, Inc.

8.2. The name and/or identifying mark of the independent inspection agency (NTA Inc.).

8.3. For 36" high guardrail systems, the label shall also include the phrase, "For Use in One- and Two-Family Dwellings Only."

8.4. The Architectural Testing Code Compliance Research Report mark and number (CCRR-0163).

9.0 Code Compliance Research Report Use

9.1. Approval of building products and/or materials can only be granted by a building official

having legal authority in the specific jurisdiction where approval is sought.

9.2. Code Compliance Research Reports shall not be used in any manner that implies an endorsement of the product by Architectural Testing.

9.3. Reference to the Architectural Testing internet web site address at www.ati-es.com is recommended to ascertain the current version and status of this report.

Table 1 – Guardrail Systems and Use Categories

<u>Westbury® Aluminum Railing System</u>	<u>Guardrail Type</u>	<u>Code Occupancy Classification</u> ¹			
		<u>IBC</u> ⁵	<u>IRC</u> ⁶	<u>FBC</u> ⁵	<u>FBC-Residential</u> ⁶
<i>Tuscany Series⁷ & Riviera Series⁷</i>	Level	8' x 42"	8' x 36" ² , 8' x 42"	8' x 42"	8' x 36" ^{2,4} , 8' x 42"
<i>Tuscany⁷ (no center support under bottom rail)</i>	Level	6' x 42"	6' x 36" ² , 6' x 42"	6' x 42"	6' x 36" ² , 6' x 42"
<i>VertiCable Series</i>	Level	6' x 42"	8' x 36" ² 6' x 42"	6' x 42"	8' x 36" ² 6' x 42"
<i>Veranda Series</i>	Level	6' x 42" ³	6' x 36" ^{2,3} 6' x 42" ³	6' x 42" ^{3,4}	6' x 36" ^{2,3,4} 6' x 42" ^{3,4}

¹ Guardrails are qualified up to and including the listed maximum guardrail system dimensions for use in the referenced Code Occupancy Classification.

² The use of this product shall be limited to exterior use as a guardrail system for balconies and porches for one- and two-family dwellings of Type V-B (IBC, FBC) construction in accordance with the IRC or FBC-Residential.

³ Excluding wind-borne-debris regions

⁴ Excluding High-Velocity-Hurricane-Zone (HVHZ)

⁵ Can use either the 2-1/2" *Power Post* or the 4" *Square Aluminum Post*

⁶ Can use either the 2" *Square Aluminum Post*, 2-1/2" *Power Post*, or the 4" *Square Aluminum Post*

⁷ Can use either round or square balusters

Table 2 – Fastener Schedule

<u>Connection</u>	<u>Fastener</u>
All Rail Brackets to Post	Two #10-16 x 5/8 in pan-head, self-drilling, 18-8, 300 Series screws ²
Crossover Assemblies to Top Rail	
Top Rail and Mid-Rail Bracket to Rail	Two #10-15 x 1 in flat-head, self-drilling, 18-8, 300 Series screws ² (one through each side hole)
C80 Only - Bottom Rail Bracket to Rail	
Bottom Rail Bracket to Rail	No mechanical fastener
Westbury Riviera Square Baluster to Rails	Inserted into 0.8 inch square routed hole and held snug with PVC Rail Insert
Westbury Tuscany Square Baluster to Rails	Inserted into 0.8 inch square routed hole and held snug with PVC Rail Insert
Westbury Riviera Round Baluster to Rails	Inserted into 0.79 inch diameter routed hole and held snug with PVC Rail Insert
Westbury Tuscany Round Baluster to Rails	Inserted into 0.79 inch diameter routed hole and held snug with PVC Rail Insert
Westbury Veranda Glass Panel to Rails	EPDM gasket retaining glass panel in slotted top and bottom rails
Westbury VertiCable Aluminum Baluster to Rails	Inserted into 9/16 round routed hole
Cable Infill to Top Rail Insert	One 0.23 in diameter (OD) hollow 18-8 stainless steel cable stop sleeve, crimp fit to each cable
Cable Infill to Bottom Rail Insert	One 0.23 in diameter (OD) hollow 18-8 stainless steel cable stop sleeve, crimp fit to each cable and one 3/8 in wide by 7/8 in long threaded (20 TPI) Zamak 3 cable tensioner with 1/2 in 18-8 stainless steel nut per cable
Support Block Screw to Bottom Rail	One #8-18 x 3/4 in pan-head, self-drilling, zinc-plated 18-8, 300 Series screw ²
Power Post Base Plate to 2-1/2" Structural Post Tube	Six #14-14 x 2 in flat-head, self-drilling, 18-8, 300 Series screws ^{1, 2}
Base Plate to 2" Alum Support Post	Two #14-14 x 2 in trim head, Phillips-drive, 18-8, 300 Series screws ^{1, 2}

¹ Power Posts and 2" Alum Support Posts are supplied with fasteners pre-installed.

² Permissible grades of the 300 Series stainless steel material include: 304, 305, 316, 384, and/or XM7 (30430), which are all Austenitic Stainless Steel – Cold Worked materials.

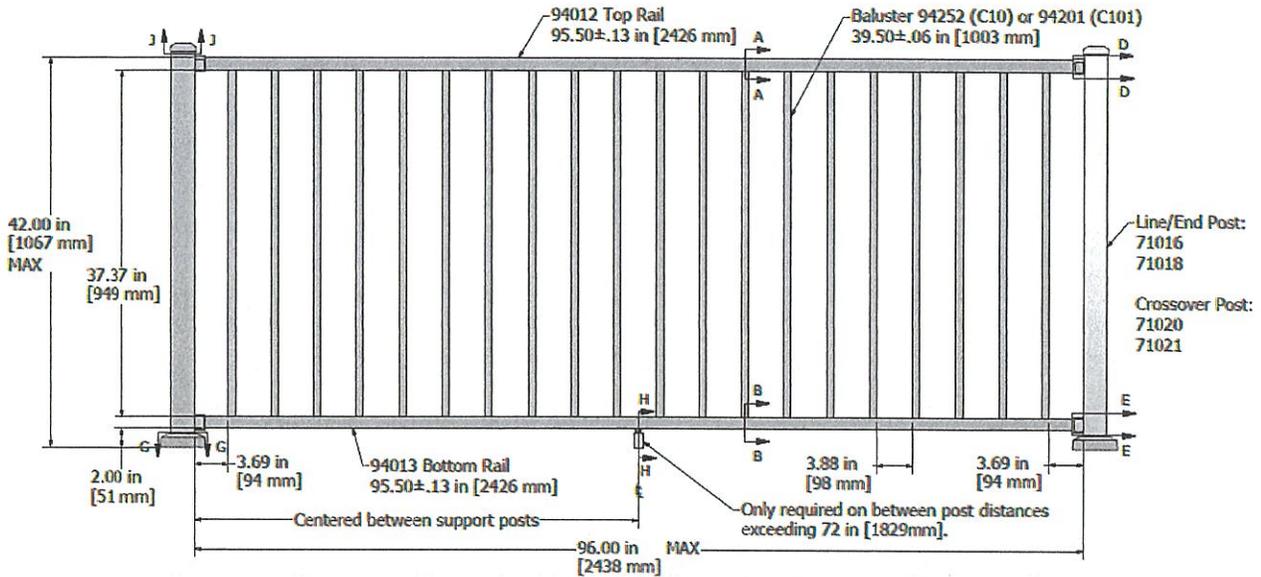


Figure 1
Westbury® Tuscan Series Style C10/C101 Aluminum Railing System

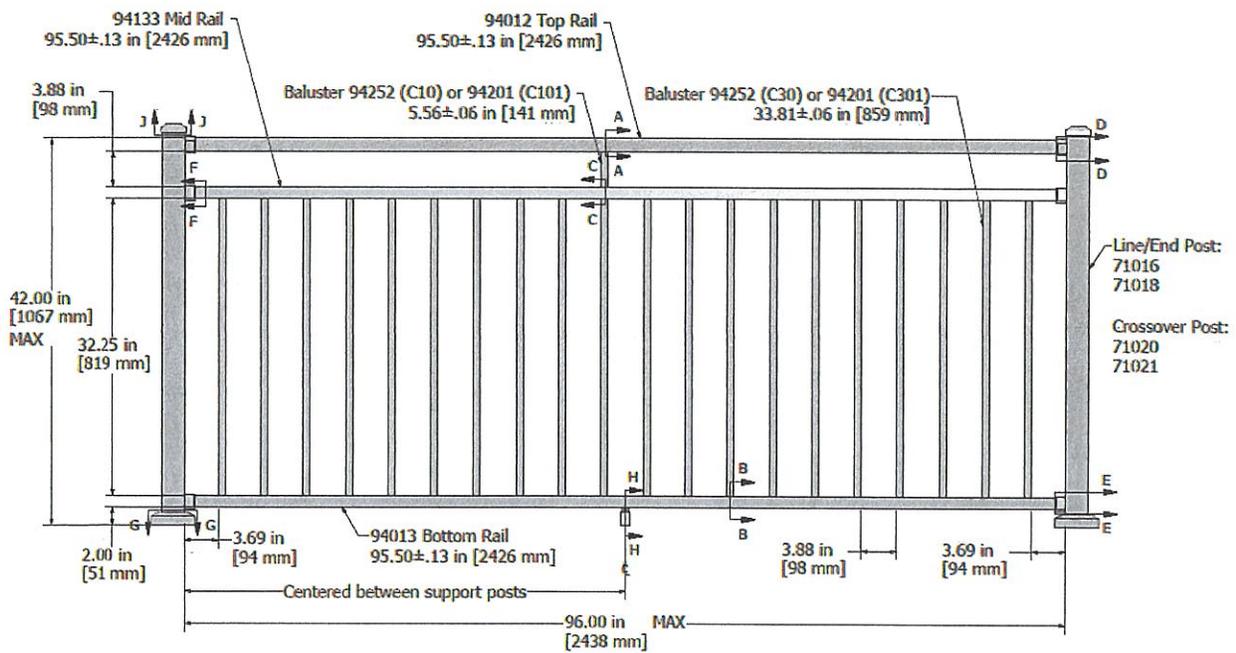


Figure 2
Westbury® Riviera Series Style C30/301 Aluminum Railing System

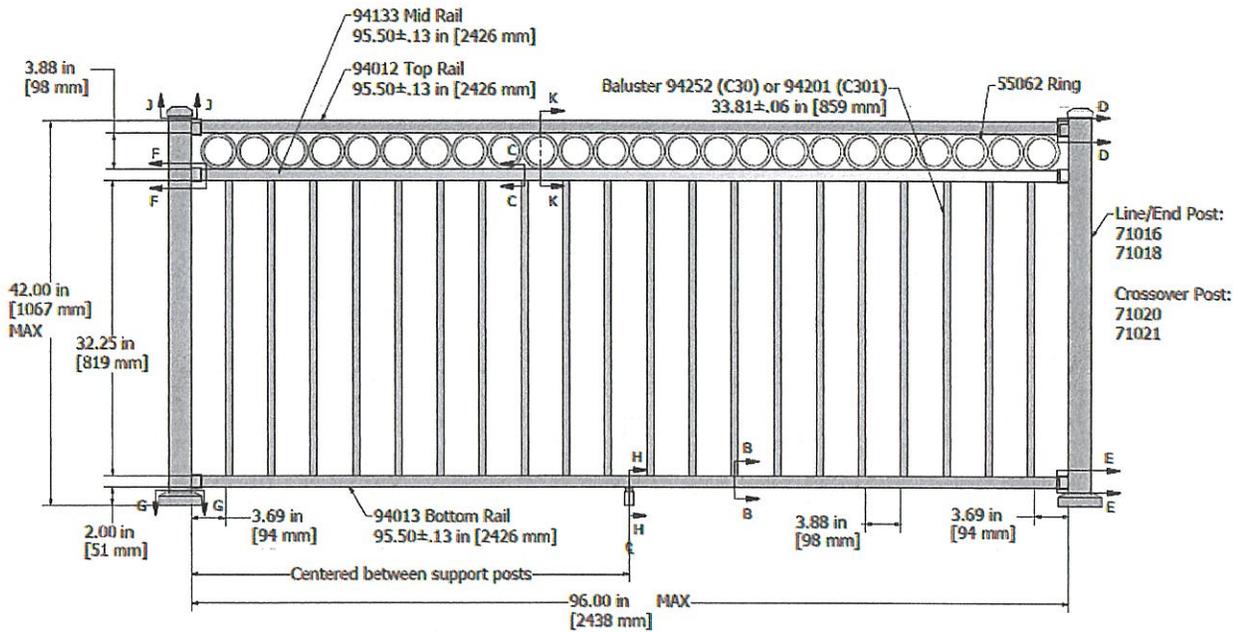


Figure 3
Westbury® Riviera Series Style C30R/C301R Aluminum Railing System

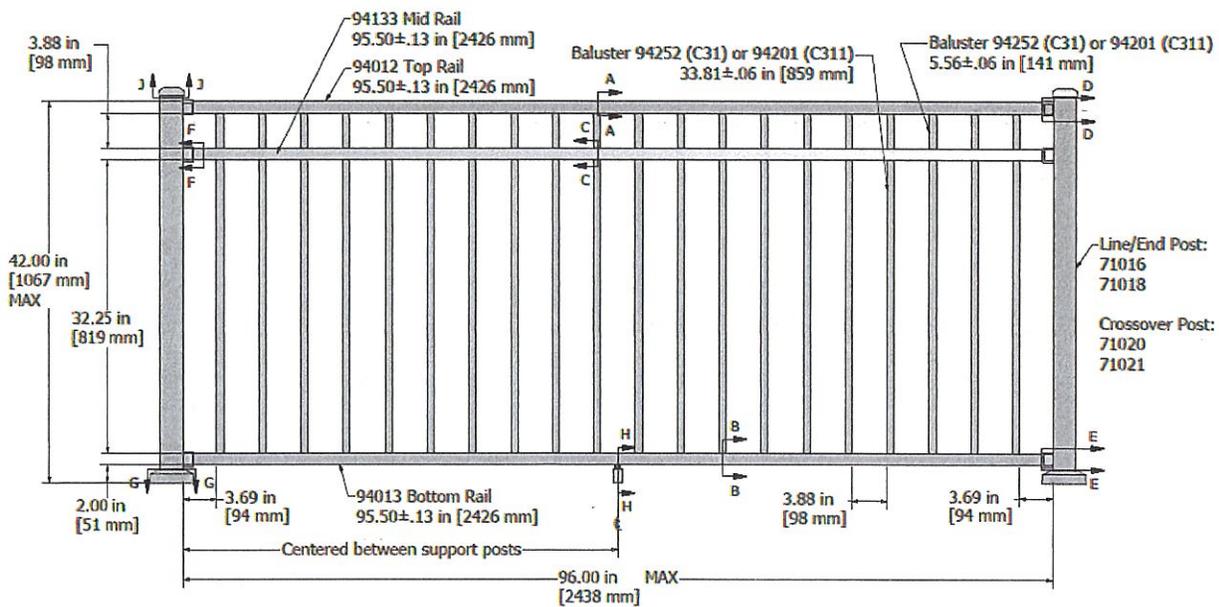


Figure 4
Westbury® Riviera Series Style C31/C311 Aluminum Railing System

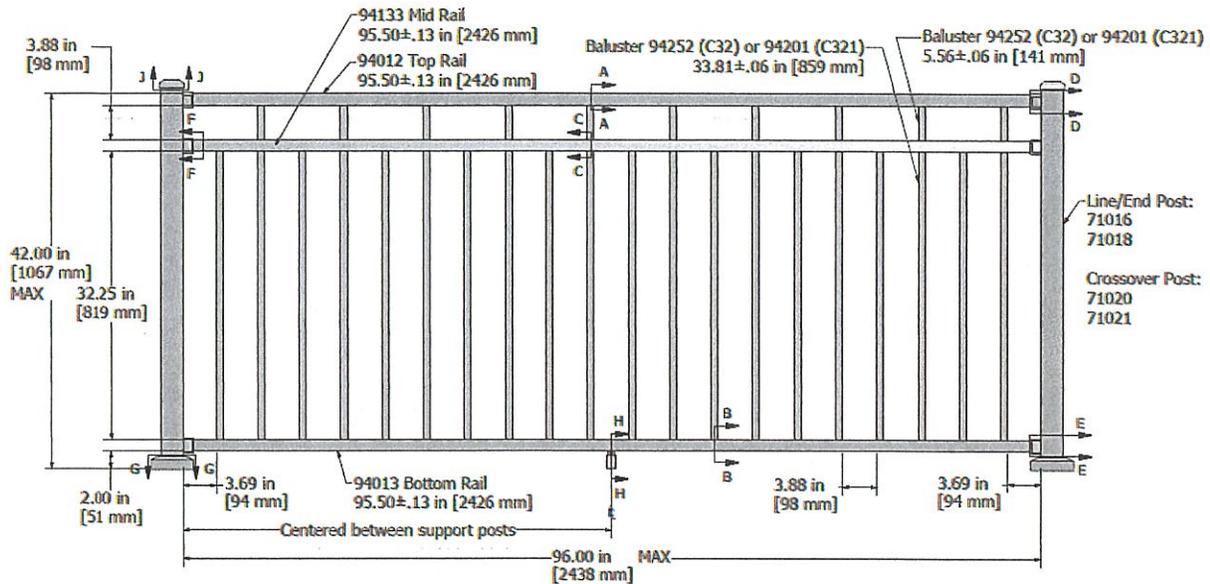


Figure 5
Westbury® Riviera Series Style C32/C321 Aluminum Railing System

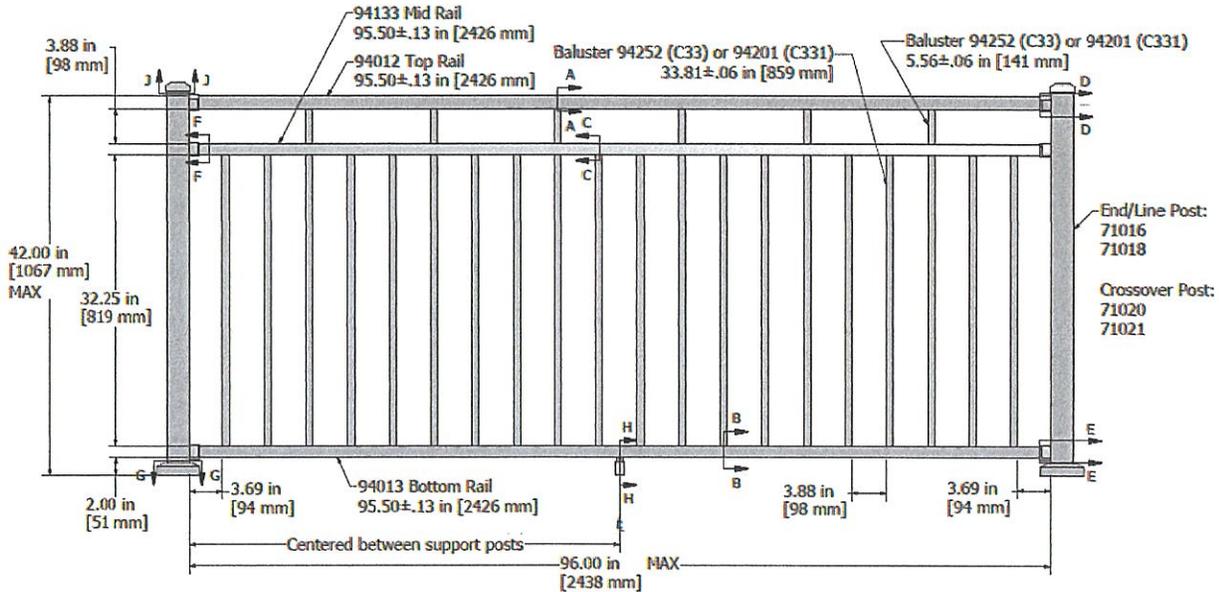


Figure 6
Westbury® Riviera Series Style C33/C331 Aluminum Railing System

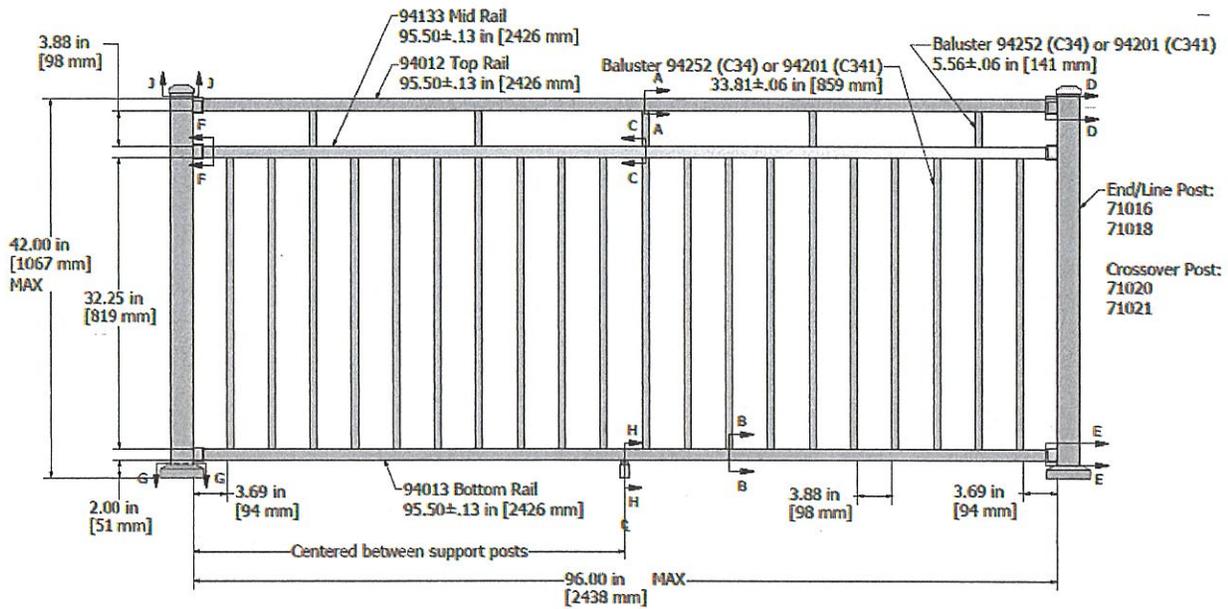


Figure 7
Westbury® Riviera Series Style C34/C341 Aluminum Railing System

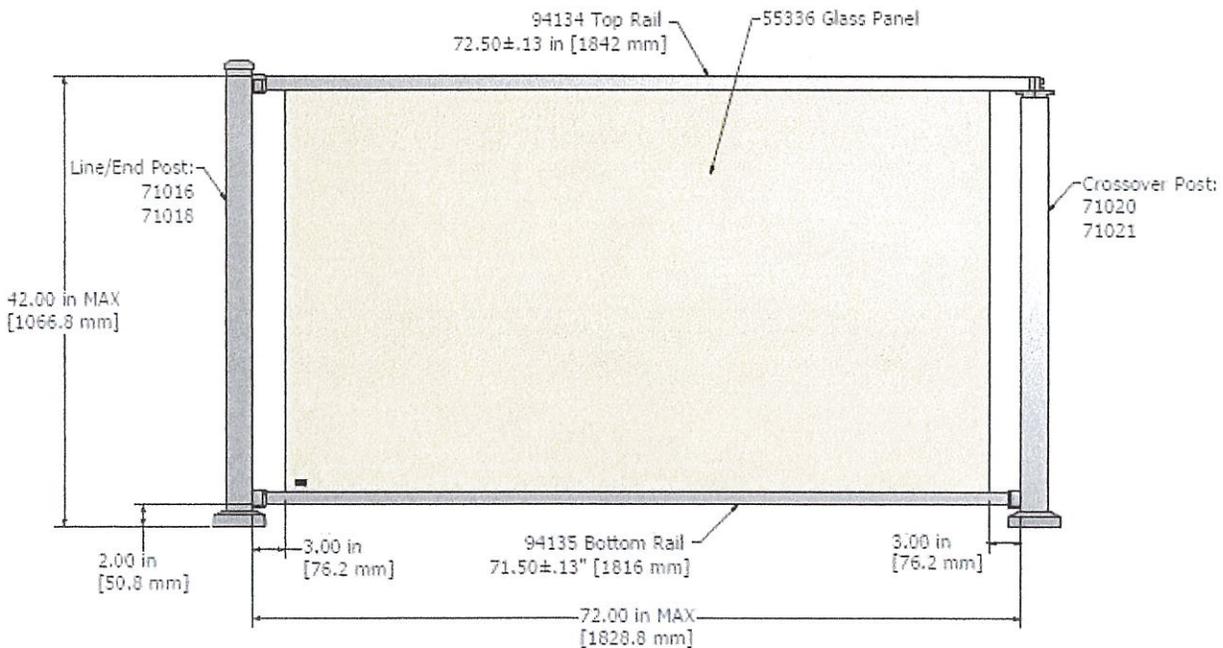


Figure 8
Westbury® Veranda Series Style C70 Glass Railing System

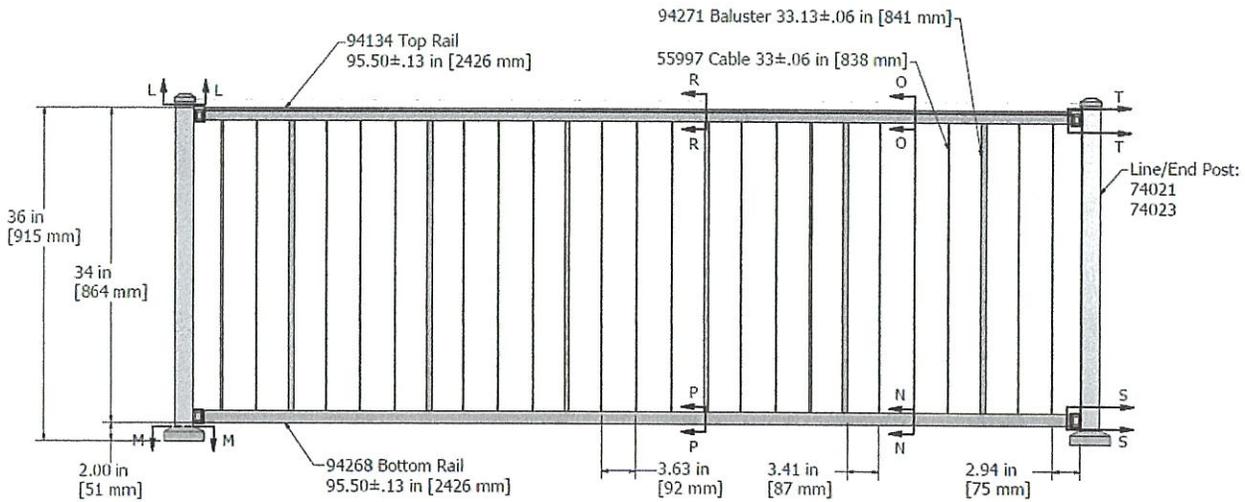


Figure 9
Westbury® VertiCable Series Style C80 Aluminum Railing System (36" tall)

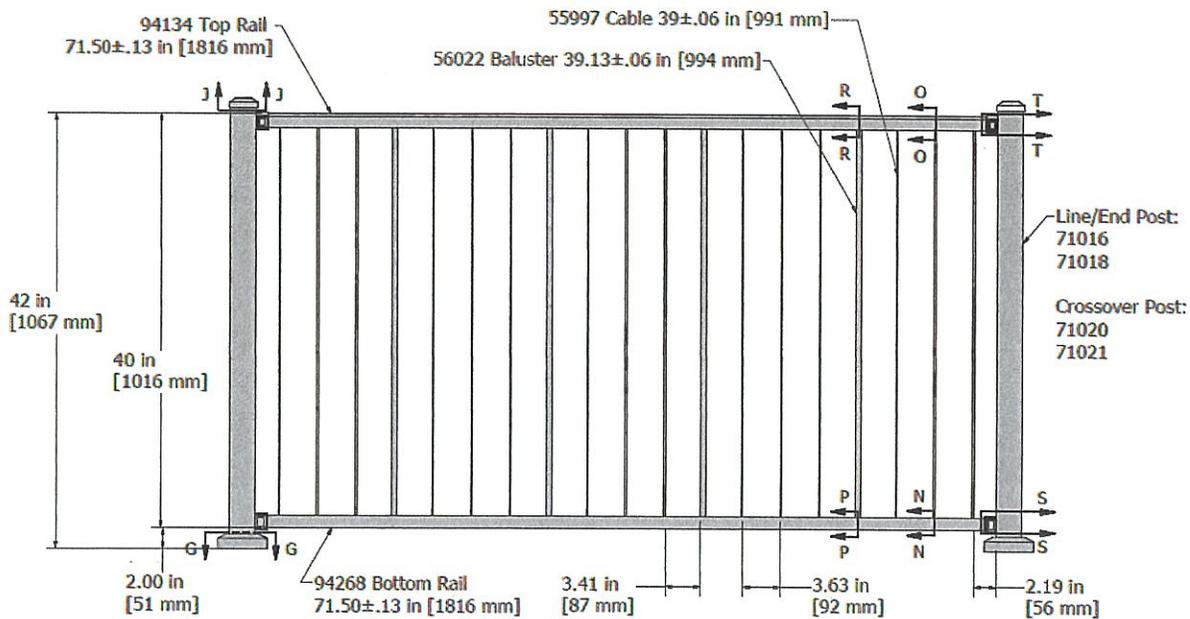
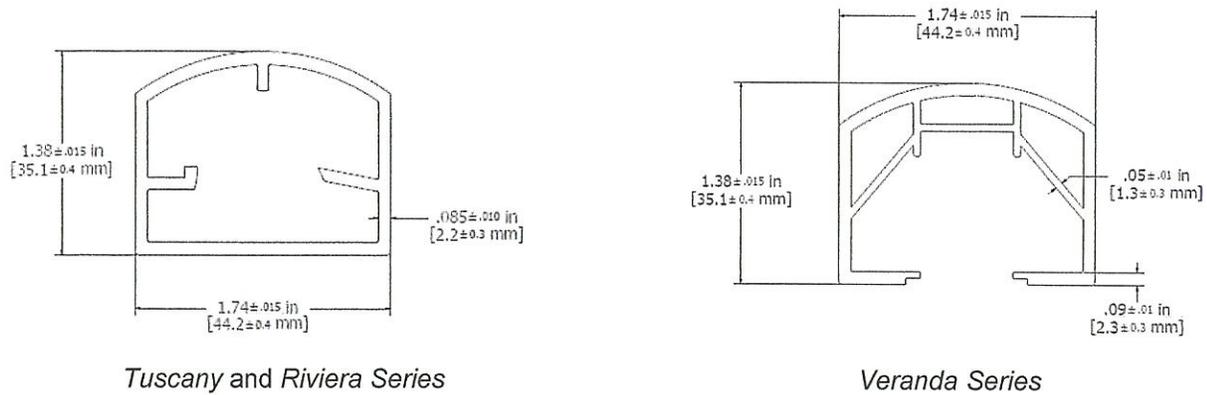
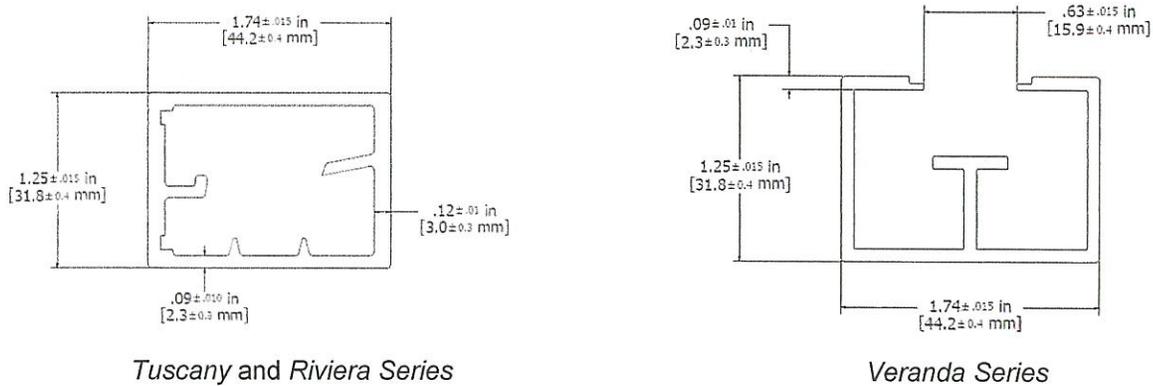
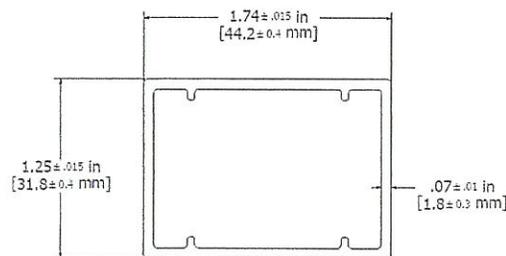
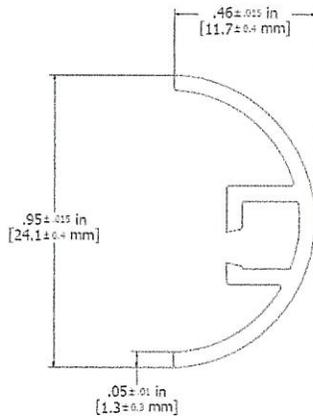
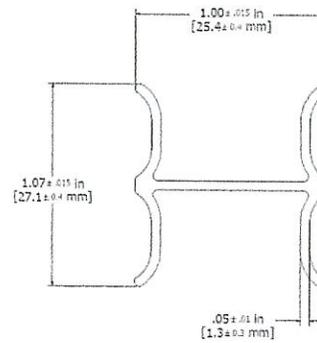


Figure 10
Westbury® VertiCable Series Style C80 Aluminum Railing System (42" tall)


Figure 11 – Top Rail profiles

Figure 12 – Bottom Rail profiles

Figure 13 – Mid-Rail profile (*Riviera Series* only)

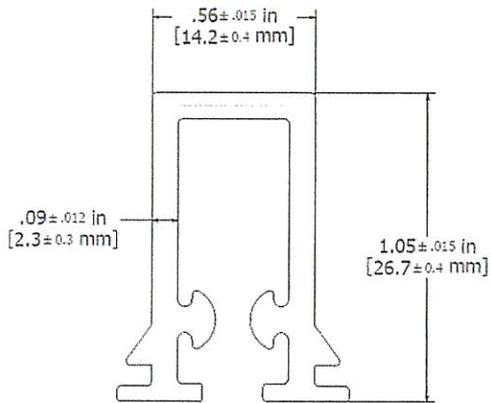


for Top and Bottom Rails

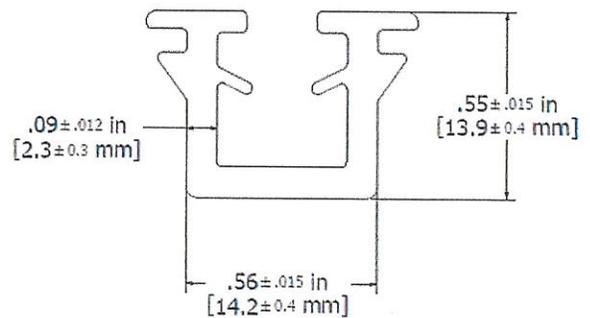


for Mid-Rail

Figure 14 – Tuscany and Riviera Series PVC Inserts for aluminum balusters

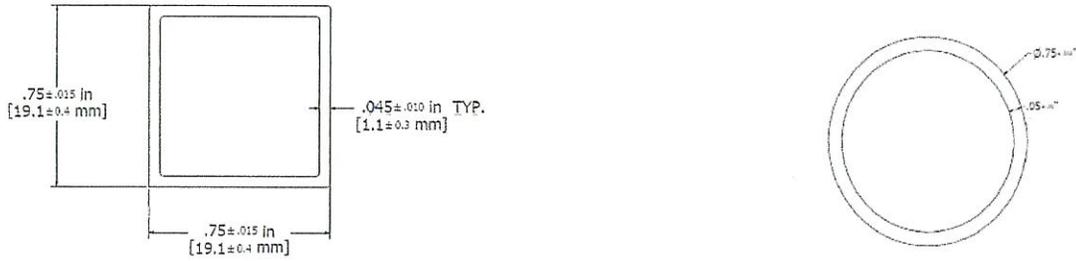
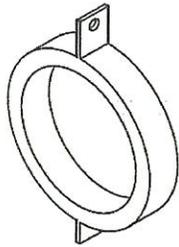
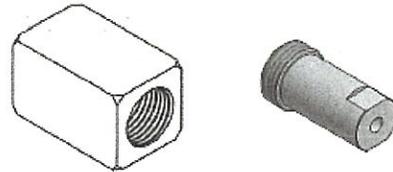
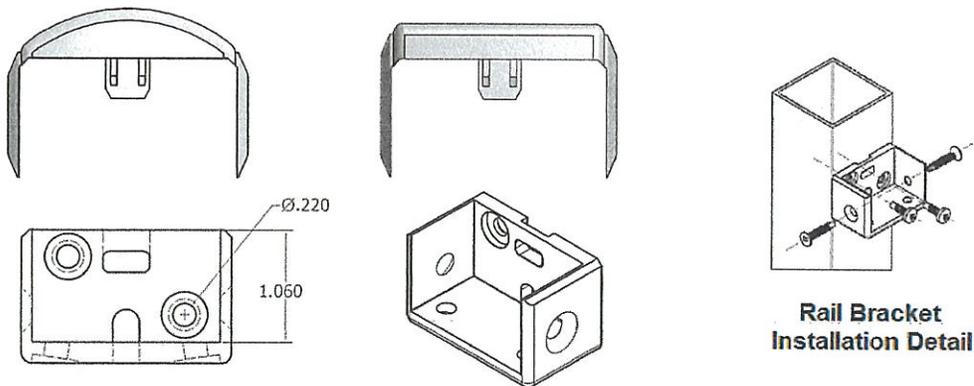


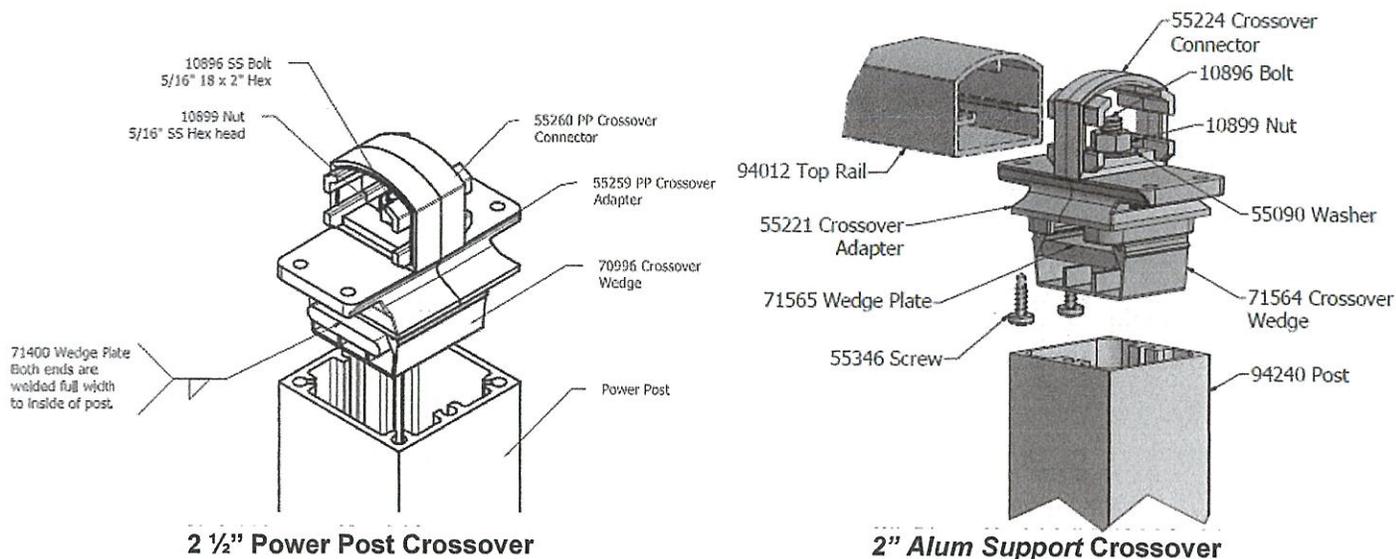
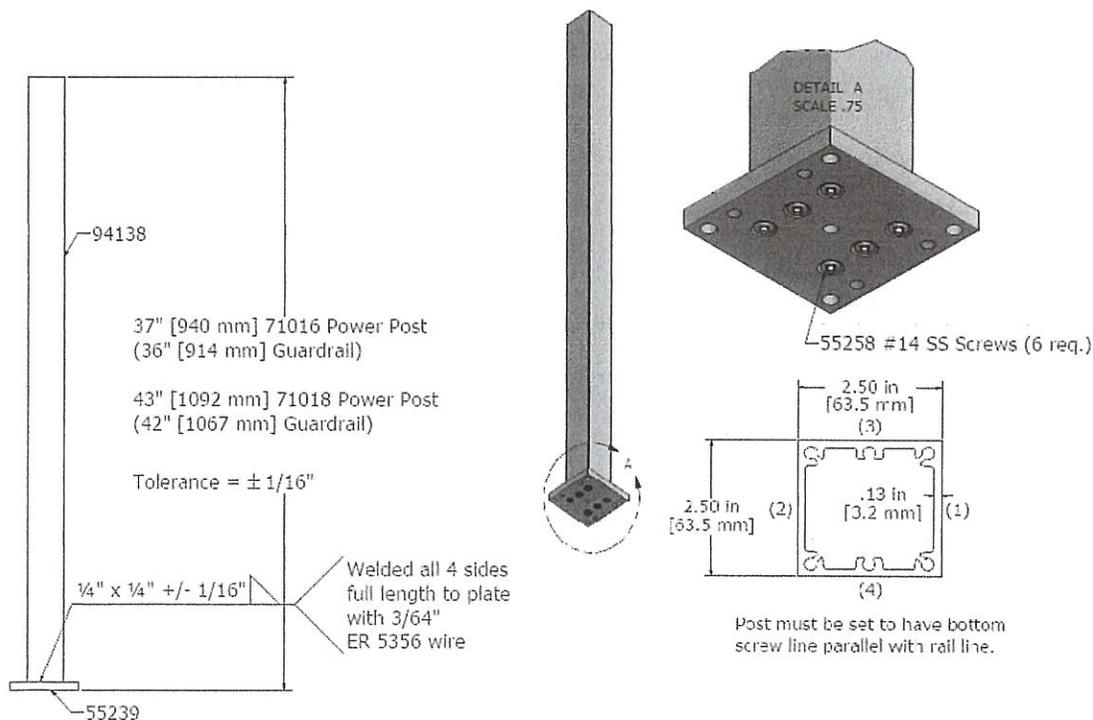
for Top Rails

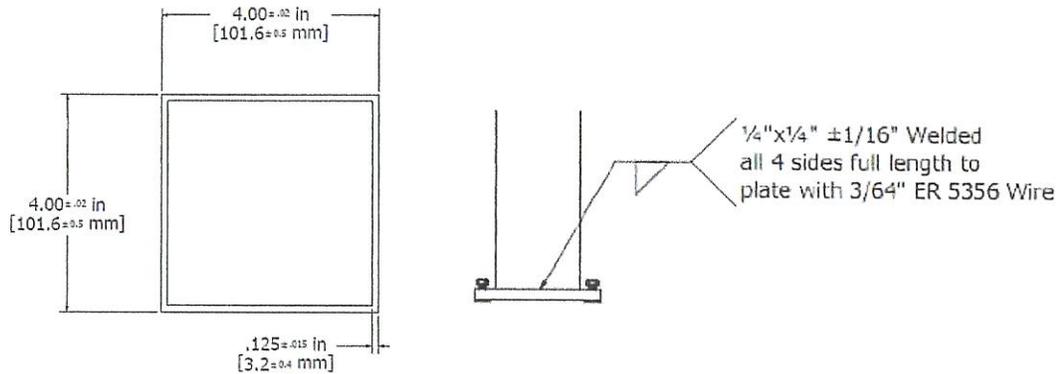
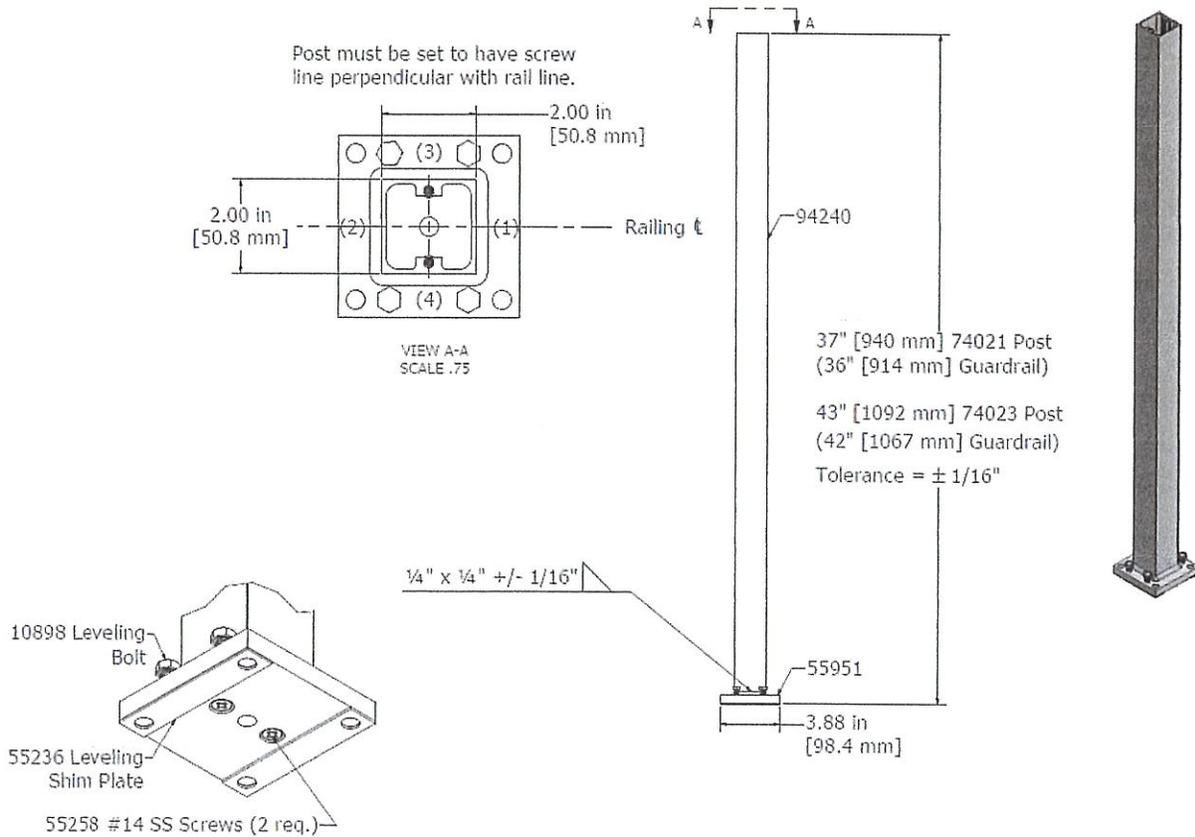


for Bottom Rails

Figure 15 – Veranda Series Rubber Inserts for glass infill


Figure 16 – Aluminum Balusters

Figure 17 – Tabbed Ring (*Riviera Series*)

Figure 18 - Support Block Component

Figure 19 – Zamak 3 Cast Bracket Components


Figure 20 –Crossover Assemblies

Figure 21 – 2-1/2" Power Post Assembly


Figure 22 – 4x4 Aluminum Post Assembly

Figure 23 – 2" Aluminum Support Post Assembly

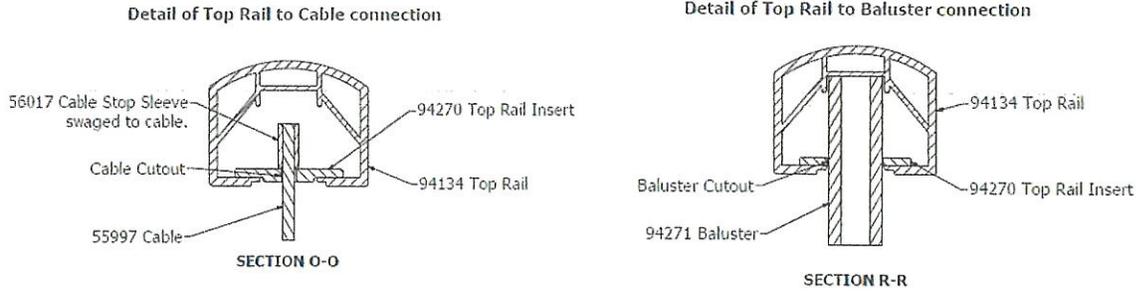

Figure 24 – Westbury VertiCable Series C80 Top Rail Profiles

Figure 25 – Westbury VertiCable Series C80 Bottom Rail Profiles

Tuscany Series & Montego Series

(Style C10, C101 and C20)

Installation Instructions

TAB : 2

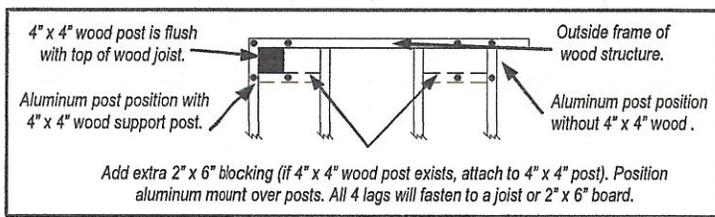
- These instructions must be followed exactly as written and the materials used must be exactly as shown variation in the materials used/installed may result in an unsuccessful installation.
- When core drilling any post product where water can build up, the installer is responsible to drill a 1/4" hole at base to the bottom of the post. If there is no weep hole, you may have damage from moisture build up and freezing thus potentially voiding the powder coating warranty.

Installing Alum. Post w/ Adjustable Plate

NOTE: The installer is responsible to have the substructure strong enough to support the post for what it is rated.

1. Place the (2) stainless steel strips below the plate under the leveling bolts.
2. **For concrete installation**, fasten aluminum post to concrete using (4) 3/8" x 3" or longer concrete anchors (anchors not included).

For wood surface installation, fasten aluminum post to wood surface using (4) 3/8" x 4" or longer stainless steel lags (lags not included). **WARNING: When installing the Aluminum Post on top of a wood structure, the 4" lags MUST be lagged into at least 3" of solid wood! It will not be strong enough if it is fastened into a 5/4" or a 1 1/2" thick deck board!** Below is an example of how to design the wood structure to accept the Aluminum Post. Any other way must meet or exceed these qualifications.



3. Use a 1/2" open end wrench to level aluminum post with the leveling bolts on the welded plate. **If using a 6" post attach one-piece flair now.**
4. Attach caps. Lightly tap with rubber mallet if needed.

Angle (Swivel) Mount

1. a. Position bottom swivel mount base so the bottom of the rail has no more than a 2" clearance. **NOTE: A 1 1/8" spacer may be placed on the welded 3/8" plate of the post to reach the 2" clearance. 1 1/4" spacer for 1/2" plate.**
b. Measure up 32 5/8" (for 36" tall railing) or 38 5/8" (for 42" tall railing) from top of bottom mount to top of top mount.
2. Keeping base of mount centered and pin hole turned down, fasten base to post with pan head self-tapping screws (provided).
3. Angle the swivel mount after it is installed on post. Measure from back of cup at one end to back of cup at other end to determine rail length. Cut rails.
4. Assemble sections as specified in Standard (Level) railing steps 4-7.



Pan Head

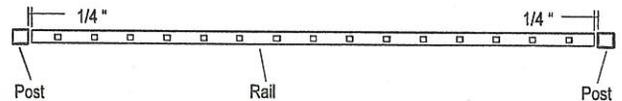


Flat Head

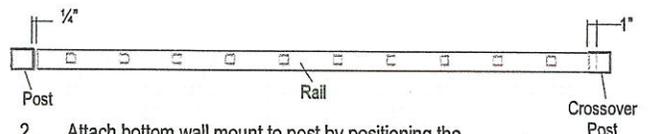
Standard (Level) Railing

Note: Top rail is 1" longer on each end to accommodate Crossover

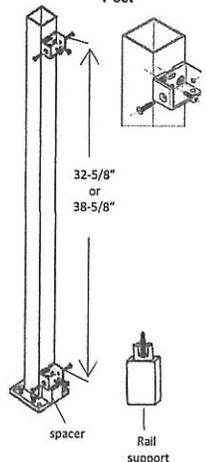
1. Cut the rails to length by holding rails against posts. Position so there will be the same baluster spacing on each end of the rails **if possible**. Mark rails where they are to be cut. **Make sure rail is cut 1/2" shorter on each end to allow for mounts.** Cut rails.



Crossover railing- Cut bottom rail same as above. For top rail, make end spacing exactly 1" longer on all ends connecting to the crossover post.



2. Attach bottom wall mount to post by positioning the bottom rail so there is no more than 2" clearance. Keeping mount centered on post, fasten mount to post with pan head self-tapping screws (provided). A 1-3/8" spacer may be placed on the welded 3/8" plate of the post to reach the 2" clearance. Use a 1-1/4" spacer for posts with 1/2" plate.
3. Attach top wall mount to post by measuring up 32-5/8" (for 36" tall railing) or 38-5/8" (for 42" tall railing) from the top of the bottom mount to the top of the top mount. Keeping mount centered on post, fasten mount to post with self-tapping pan head screws (provided).
4. Fasten rail support to bottom side of bottom rail by inserting pan head self-tapping screw (provided) through center of threaded portion of support. This applies to all sections over 6ft long.
5. Place bottom rail in mounts and fasten with flat head self-tapping screws provided. On sections without a rail support, place a 2" block under the bottom rail before inserting balusters. Using a rubber mallet, tap balusters into routed holes making sure balusters are seated all the way into the rail. Hold top rail at an angle above the balusters. Align with mounts. Starting at one end, feed first baluster into rail and tap lightly. Feed remaining seated balusters into rail, tapping lightly as you move to the other end making sure all balusters are against the top rib. Fasten top rail through side of mount with flat head screw provided. **Crossover railing-** Fasten top rail to crossover adaptor with pan head screws provided.
6. Snap covers on all mounts.
7. Attach 2 piece flair to all posts.



Tuscany Series & Montego Series

(Style C10, C101 and C20)

Installation Instructions

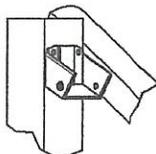
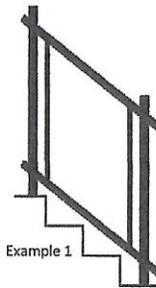


- These instructions must be followed exactly as written and the materials used must be exactly as shown in the instructions. Any deviation from the instructions or variation in the materials used/installed may result in an unsuccessful installation.
- When core drilling any post product where water can build up, the installer is responsible to drill a 1/4" hole as close to the bottom of the post by concrete as possible. If there is no weep hole, you may have damage from moisture build up and freezing thus potentially voiding the powder coating warranty.

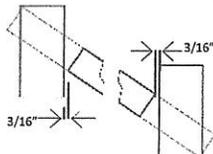
Stair Railing

Important: Rails have to be positioned in the correct direction prior to cutting. If rails are not in the correct position they may be cut incorrectly and balusters will not line up. Rails will have a small hole at one end that indicates the lower end of the stairs.

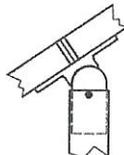
1. Identify top and bottom stair rails.
2. Lay bottom rail beside posts with approximately 1" clearance (use 1" spacer) between the rail and nose of step. Insert a baluster into the last hole on each end. Place top rail on these balusters.
3. Position rails against posts and even the end spacing on each end, **if possible**, with balusters parallel to the post. Clamp rails to post (Example 1.) Mark rails for cutting. Mark posts for each mount position See (Example 2). Cut rails 3/16" shorter than mark on each end. See (Example 3). If using 6" post attach one-piece flair now.
4. **Crossover Railing:** For crossover stairs set stair crossover kit next to rails that are fastened to post to determine what height to cut post. Mark post and cut. Make a small countersink in side of post with 3/8" bit so flair will fit over flat head screw. Set crossover connector in post and fasten at proper height with self-tapping flat head screws provided. Set correct angle for crossover connector to match railing and tighten nut. Cut bottom rails same as above in step 3 (Example 3). Mark top rails to cut making sure it fits snug into the crossover connector (Example 4).



Example 2



Example 3

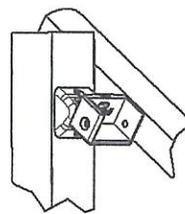


Example 4

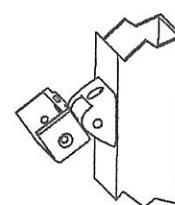
5. Attach mounts to post with pan head self-tapping screws (provided). Attach bottom rail to mounts with flat head self-tapping screws (provided).
6. Cut balusters at angle of stairs on both ends. (Overall length of baluster will not change.)
7. Insert balusters into bottom rail. Seat completely into bottom rail by tapping with rubber mallet.
8. Hold top rail at an angle above balusters. Insert balusters into top rail starting at the top end and working towards the bottom of the stairs. Tap lightly with rubber mallet making sure the balusters are fully seated into top rail.
9. Attach top rail to mounts by inserting flat head self-tapping screws (provided) through the side of the mounts. Lightly tap mount covers onto mounts. (Use caution when installing covers by applying pressure directly on top of the cover tab.)
10. Attach 2-piece flairs to all posts.

Swivel Stair Mount

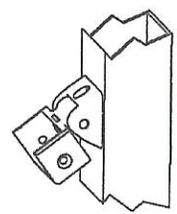
1. Identify top and bottom rails, top swivel mount and bottom swivel mount.
2. Lay bottom rail (with approximately 1" clearance from the nose of the steps) beside the posts. Determine where the end holes will be on each end and place a baluster in those holes. Place top rail on these balusters. Holding rails against posts, determine end spacing making sure end spacing is even between post and balusters. Clamp rails to post (Example 1). Hold swivel stair mounts up against posts and beside the rail to determine where rails are to be cut to fit inside the swivel stair mounts. Mark posts for each stair swivel mount position (Example 5). NOTE: This will vary depending on angle of stairs. Cut rails. Cut top rail at same length as bottom rail unless using crossover application.
3. Attach bottom swivel mount base so the bottom rail has approximately 1" clearance from the nose of the step. (NOTE: A 1" spacer may be placed on the nose of the step to reach the 1" clearance.) Fasten base to post with pan head self-tapping screws (provided).
4. Attach top swivel mount base to post using pan head self-tapping screws (provided).
5. Attach bottom rail to bracket using flat head self-tapping screws (provided) on each side of rail.
6. Follow Stair Railing steps 6-9 for assembly of section.
7. Attach top rail to bracket using flat head self-tapping screws (provided) on each side of rail.
8. Attach 2-piece flairs to all posts.



Example 5



Top Stair Swivel Mount



Bottom Stair Swivel Mount

Video Installation Instructions
on YouTube

Scan the link or visit
www.youtube.com/diggerspecialtiesinc





TESTING
LISTING
EVALUATION

257 EAST RANDOLPH STREET • NAPPANEE, INDIANA 46550
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PHONE: 574-773-7975
FAX: 574-773-2260

TAB: 3

MODIFIED ASTM D7032, SECTION 7.1.1
CONCENTRATED LOAD AT THE POST (TESTING A SINGLE GUARDRAIL POST):
DIGGER SPECIALTIES' 2-IN. POST MOUNT IRC ASSEMBLY

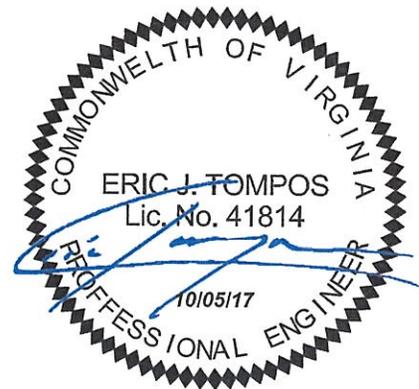
Prepared for:
Digger Specialties
3639 Destiny Drive
Bremen, IN 46506

Phone: (574)546-2811
Fax: (574) 546-2467
Web: www.diggerspecialties.com

Test Report: DIG082217-55
Issued: October 4, 2017

Prepared By:
Brad Wear
Test Engineer

Reviewed By:
Eric Tompos, P.E.
Vice President



This report contains only findings and results arrived at after employing the specific test procedures listed herein. It does not constitute a recommendation for, endorsement of, or certification of the product or material tested. NTA, Inc. makes no warranty, expressed or implied, except that the test has been performed, and a report prepared, based upon the specimen furnished by the client. Extrapolation of data, from the test data provided herein, to the batch or lot from which the specimens were obtained may not correlate and should be interpreted with extreme caution. NTA, Inc. assumes no responsibility for variations in quality, composition, appearance, performance, or other features of similar materials produced by the client, other persons, or under conditions over which NTA, Inc. has no control. NTA, Inc. has issued this report for the exclusive use of the client to whom it is addressed. Any use or duplication of this report shall not be made without their consent. This report shall only be reproduced in its entirety.

NTA, Inc. holds the following Certificates of Authorization to offer engineering services under the name of a corporation: AL CA-3760-E; AK AECC1245; AZ 15478-0; AR 1953; CT 1385; DE 3112; FL 8463; GA 2527; ID C-589; IL 184.00567; KS 1454; KY 2925; LA 2393; MD 48065; MS 2056; MO 2009010402; MT 969; NE CA1981; NV 6285; NH 1822; NJ 24GA28140400; NC C-3412; ND 330PE; OH 3274; OK CA3705PE; RI PE.0005644-COA; SC 3977; SD C-2655; TX F-10672; VA 407005528; WA 2638; WI 3330-11; WV C00381-00; WY E-1097; Alberta, Canada, 13314; Ontario, Canada 100503403.

1. INTRODUCTION

Digger Specialties retained NTA, Inc. to perform testing on a single post in accordance with modified procedures in ASTM D7032, Section 6.2.4. All testing herein was performed at the NTA lab facility located in Nappanee, Indiana. The client's stated objective was to see if the post would hold a load of 200 lbf.

Table 1: Test Parameters

Parameter	Value or Description
Load Applied	Continuous load to failure or 1000 lbf
Load Location	42-in. from the bottom of the post
Deflection	Recorded and reported at 200 lbf

2. TEST PROGRAM

2.1. DEVIATIONS FROM TEST STANDARD

Modifications to the requirements of the applicable test standards, as requested by the client, are detailed in Table 2 below.

Table 2: Test Method Deviations

Test / Standard	Standard Requirement	Deviation
ASTM D7032, Section 6.2	<ol style="list-style-type: none"> 1. (3) Complete wood-plastic composite or plastic guardrail assemblies are to be tested. 2. Each assembly is to be subjected to the in-fill load test, followed by the uniform load tests, and finally the concentrated load tests. 3. A 500 lbf load is to be applied. 	<ol style="list-style-type: none"> 1. Only (1) metal post and its attachment to wood framing was tested. 2. Only the concentrated load test at the top of the post was performed. 3. Loading was performed at a continuous rate until ultimate load occurred.

2.2. DESCRIPTION OF TEST SPECIMENS

The client provided the guardrail post assembly, lumber, and fasteners which were received in good condition by NTA on September 1, 2017. Photographs of materials received are provided in Figures 2 through 9 and descriptions are provided in Table 3. Photographs of the specimen during construction are shown in Figures 10 through 15 and attachment details are given in Table 4.

It must be noted that NTA did not oversee or verify the sampling procedure used by the client when selecting the sample materials.

Table 3: Materials

Material	Description
Rim Board	2x8 #2 SYP
Joists	2x8 #2 SYP at 16-in. oc
Blocking	2x8 #1 SYP, Ripped Down to 1-1/2-in. x 5-1/2-in. Located 3-1/8-in. oc from Rim Board (See Figures 10 through 12)
Post	Post Part #94240, Post Plate Part #55951 provided by the client welded together on all four sides and fastened with (2) #14 Stainless Steel Screws (Part #55258) forming: 2-in. Post Mount IRC Assembly (Part #74021/74023), which was provided with (2) Leveling Shim Plates (Part #10898) (See Figures 1 through 6, and 14)

Table 4: Fastening Schedule

Connection	Fastener	Quantity or Spacing
Rim Board-to-Joists	#10-13 x 3-1/2-in. Wood Screw <u>Measured Dimensions:</u> Minor Diameter: 0.134-in. Major Diameter: 0.190-in. Overall Length: 3.469-in. Head Diameter: 0.354-in. Head Thickness: 0.236-in. Head Type: #2 Phillips Threaded Length: 2.339-in. Shank Length: 0.968-in.	4 (See Figures 8 and 10)
Blocking-to-Joists	#10-13 x 3-1/2-in. Wood Screw (Same Measurements as Above)	3 (See Figures 8 and 11)
Post-to-Framing	3/8-in. Lag Screw Installed in a 0.268-in. Diameter Pre-Drilled Hole <u>Measured Dimensions:</u> Minor Diameter: 0.268-in. Major Diameter: 0.368-in. Threads per Inch: 7 Overall Length: 4.193-in. Head Diameter: 0.550-in. Head Thickness: 0.236-in. Head Type: 9/16-in. Hex Drive Threaded Length: 3.009-in. Shank Length: 0.948-in.	4 (2 at rim board, 1 at joist, and 1 at blocking) (See Figure 7, 13, and 15)
Framing-to-Fixture	Counter balance weights were set on top of the framing at the side opposite where the post was attached. Additionally, a 2x10 piece of lumber was also used between the rim board and column to prevent sliding during the test. See Figure 16	1100 lbs of counter balance weight

^a Given as edge / field spacing.

2.3. TEST PROCEDURE

Testing was performed by loading the top of the guardrail post via the test apparatus shown in Figure 16. Load was applied in a continuous manner until ultimate load occurred. At ultimate load the mode of failure was observed and recorded.

During testing a dial gauge measured the deflection of the post at the point of loading to the nearest 0.001-in.; once the load reached 200 lbf the deflection was recorded, compared to the allowable deflection, and reported. The allowable deflection for the post is calculated by dividing the effective post height by 12. The effective post height is defined as the distance from the top of the post to the first point of support or first connector of the post to the supporting rim joist.

3. TEST RESULTS

Results for each test are summarized in Table 5, below. Photographs of the specimen after ultimate load are provided in Figures 17 through 19. Additional test data is provided in the Appendix.

Table 5: Test Results

Specimen Number	Actual Deflection at 200 lbf (in.)	Allowable Deflection at 200 lbf (in.)	Ultimate Load (lbf)	Failure Mode
94500	2.366	3.583	500	<i>The specimen was loaded at a constant rate until failure occurred at 500 lbf. The blocking between the joists split and tensile failure transpired of the lag screw installed in the joist.</i>

4. CONCLUSION

Digger Specialties retained NTA, Inc. to perform testing on a single post in accordance with modified procedures in ASTM D7032, Section 6.2.4, as described herein. Conclusions from this testing are provided in Table 6 below.

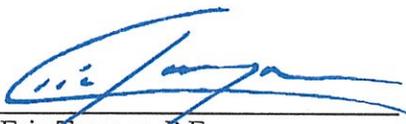
Table 6: Conclusion Summary

Specimen	Deflection Criteria ^a	Ultimate Load (lbf)
(1) 2-in. Post Mount IRC Assembly (Post Only) Attached with 3/8-in. lag bolts into a wood framing assembly consisting of 2x8 joists, a 2x8 rim board, and a 2x8 (ripped to 1-1/2-in. x 5-1/2-in.) blocking between the joists, as described herein	Pass	500

^a A deflection passes if the actual deflection at 200 lbf is less than the allowable deflection.

PREPARED BY: 
 Brad Wear
 Test Engineer

10/04/17
 Date

REVIEWED BY: 
 Eric Tompos, P.E.
 Vice President

10/04/17
 Date

REFERENCES



1. ASTM D7032, *Standard Specification for Establishing Performance Ratings for Wood-Plastic Composite and Plastic Lumber Deck Boards, Stair Treads, Guards, and Handrails*. ASTM International, West Conshohocken, PA, 2017, www.astm.org.

FIGURES

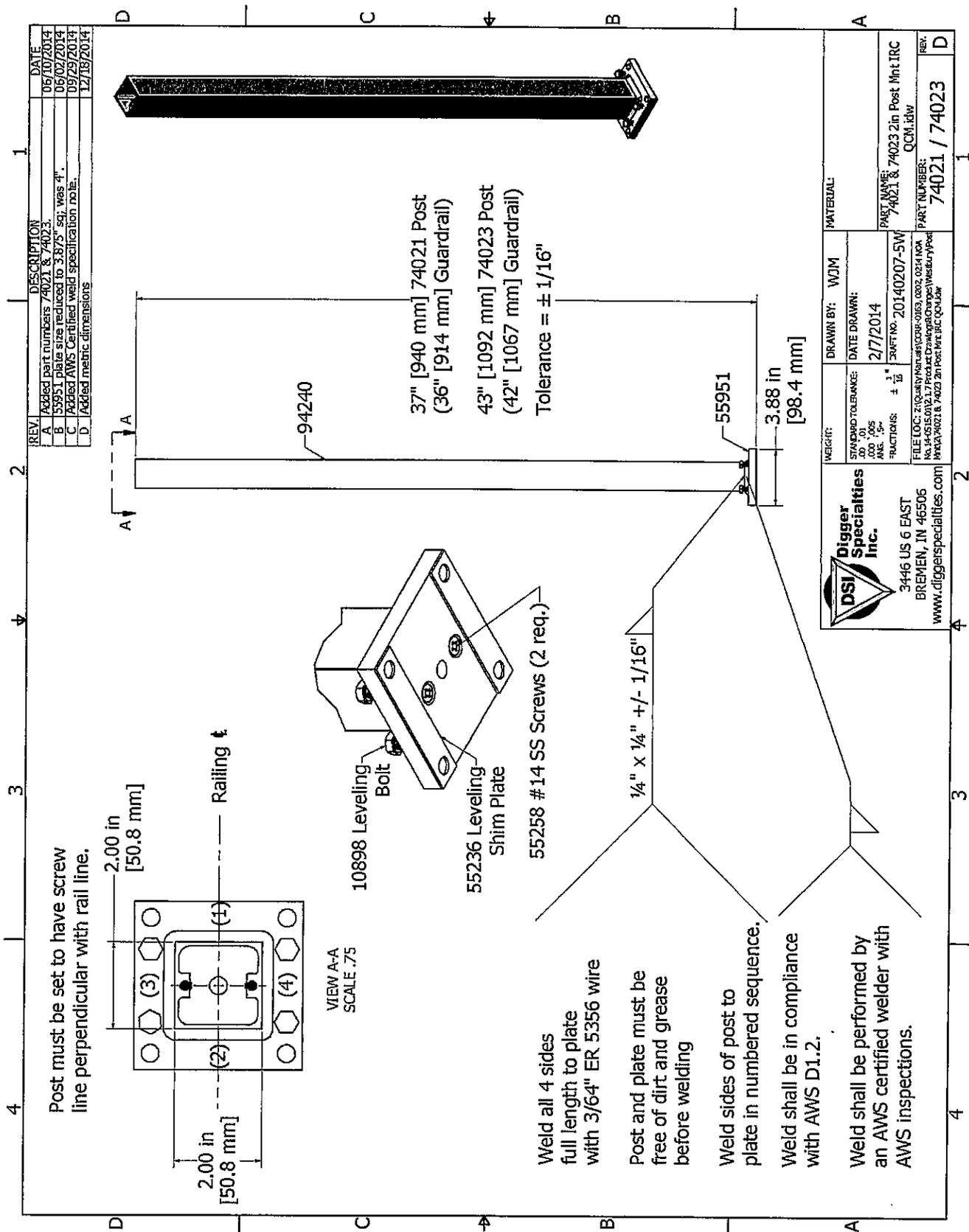


Figure 1: Post Assembly Dimensions and Details



Figure 2: Label on the Post Assembly Received for Testing

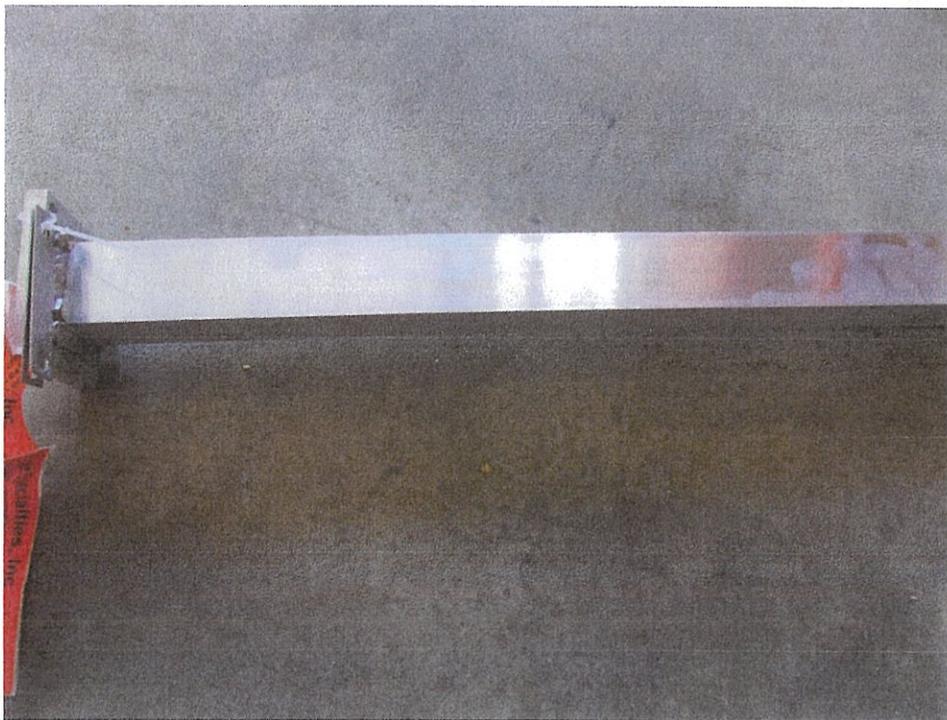


Figure 3: Post Assembly Received for Testing

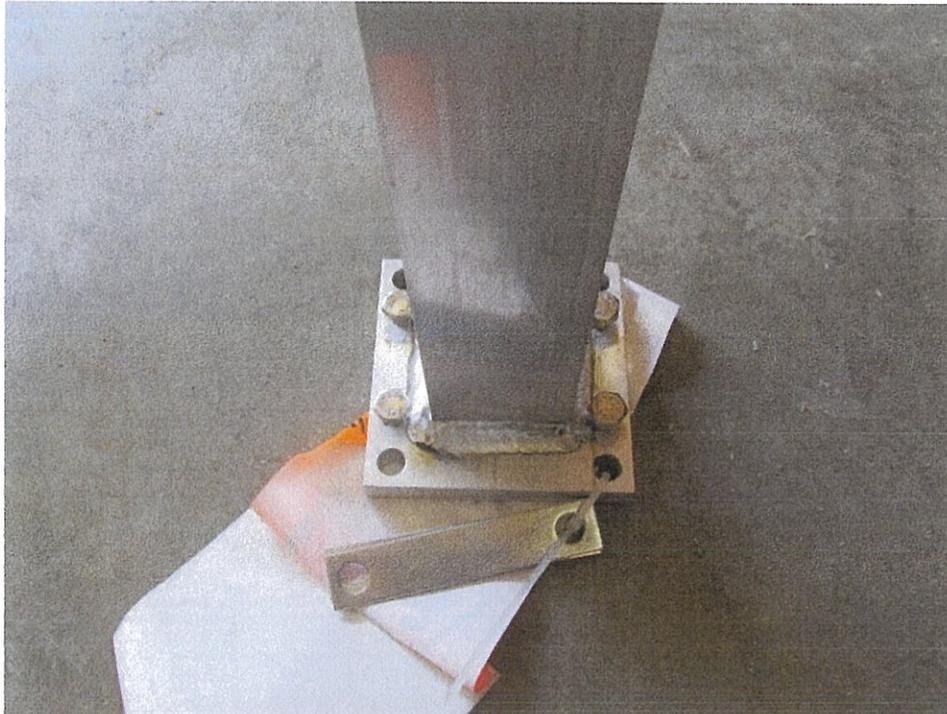


Figure 4: Additional View of the Post Assembly Received for Testing

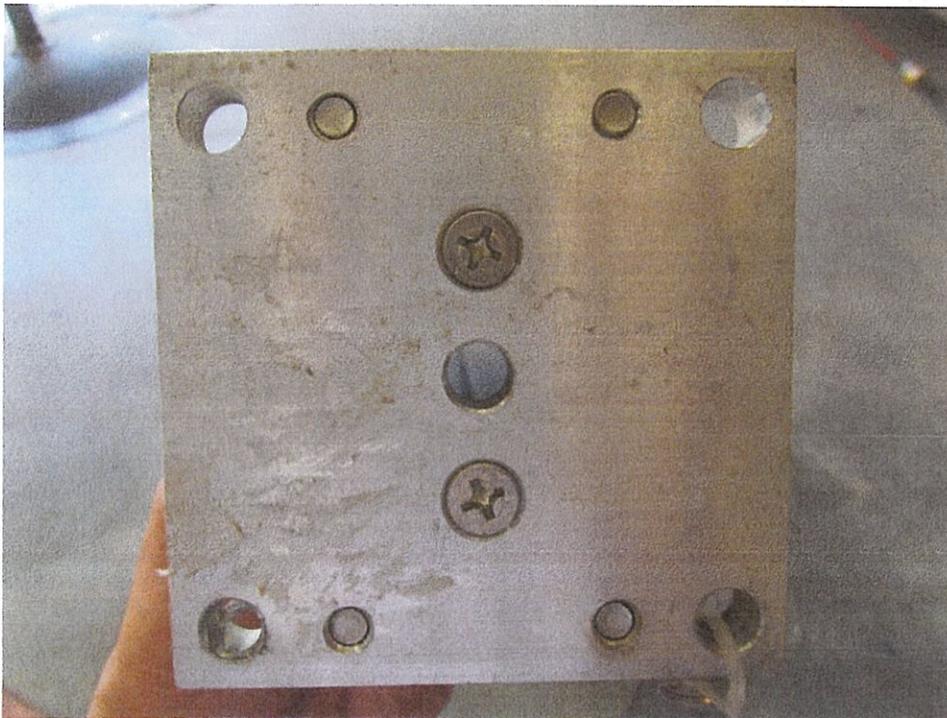


Figure 5: Additional View of the Post Assembly Received for Testing



Figure 6: Additional View of the Post Assembly Received for Testing



Figure 7: Lag Received for Specimen Assembly



Figure 8: Wood Screw Received for Specimen Assembly

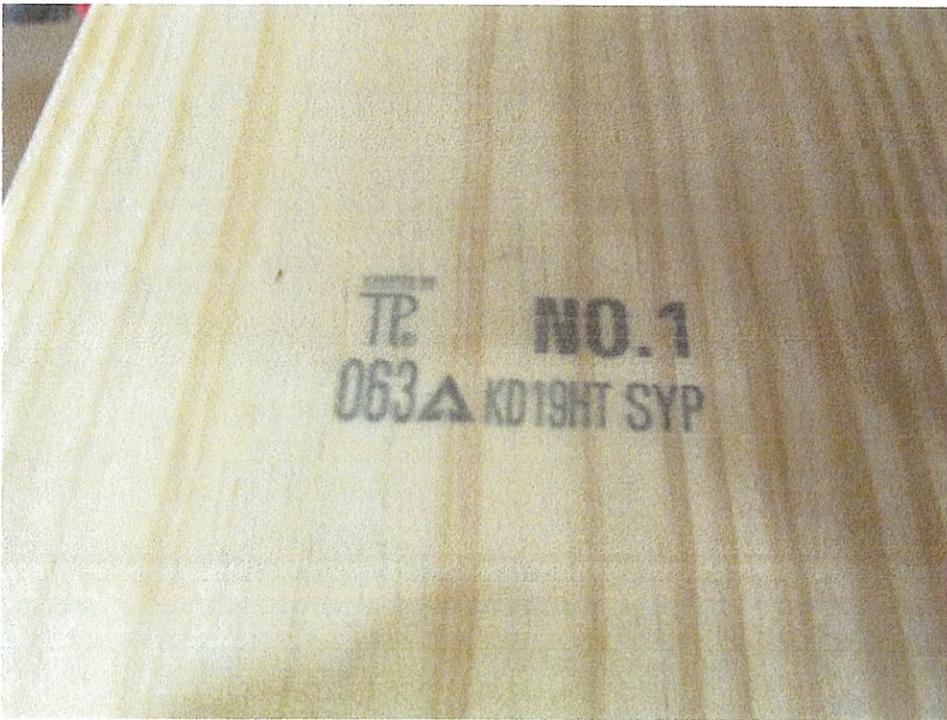


Figure 9: 2x8 #1 SYP Received for Specimen Assembly



Figure 10: Wood Framing Assembled



Figure 11: Additional View of Wood Framing of Blocking-to-Joist Connection



Figure 12: Additional View of Wood Framing of Blocking

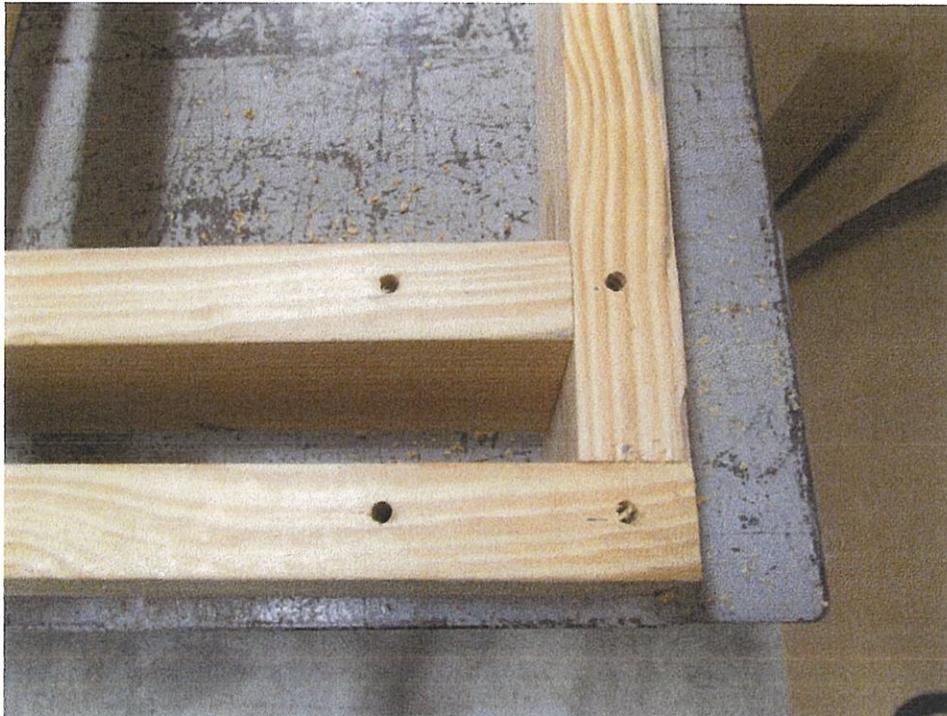


Figure 13: Holes Pre-Drilled for Lags



Figure 14: Leveling Shim Plates

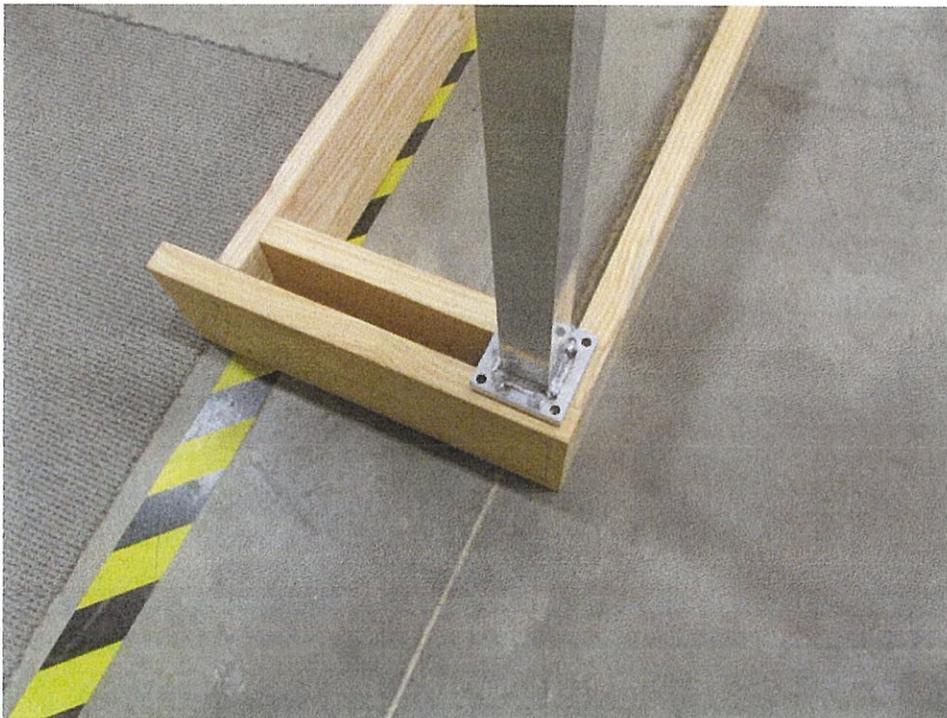


Figure 15: Preparation to Attach Post Assembly to Wood Framing

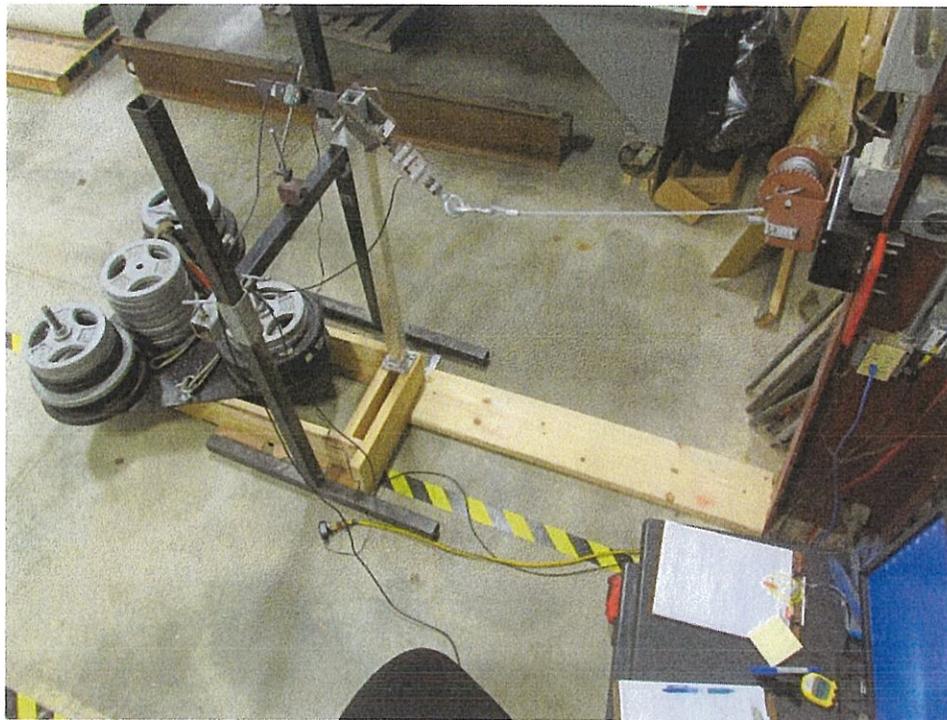


Figure 16: Test Setup



Figure 17: Failure Mode – View of Split Blocking

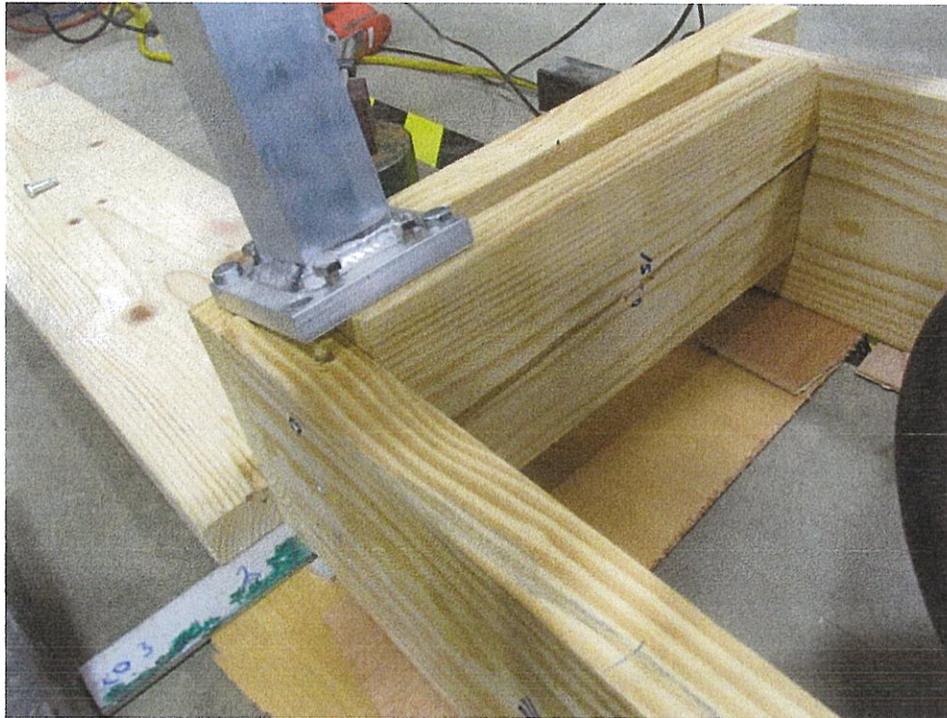


Figure 18: Failure Mode – View of Failed Lag



Figure 19: Failure Mode – Additional View of Failed Lag

APPENDIX



DIG082217-55, ASTM D7032-17.6.2 Con Load (Post Only) (FINAL)
Summary Out Data

NTA, Inc.

Uniform Load Tests:

These tests were not performed per the client's request.

Concentrated Load Tests:

Loading at Mid-Span of Top Rail between Posts

This test was not performed per the client's request.

Loading at Top of a Single Post:

Direction of Loading: Away from dwelling, perpendicular to rim joist, inline with #14 stainless screws in base plate (42-in. up from base, mid-width of post)

Spec. No.	Applied Load (lbf)	Time to Load (min.)	Load Duration (min.)	Pass / Fail	Failure Mode
94500	500	1.27	0.00	Pass	Specimen loaded at constant rate until failure occurred at 500 lbf. Blocking between joists split. Tensile failure of the lag screw in the joist.
Only (1) specimen was tested per the client's request					

Spec. No.	Net Deflection (in.) at 200 lbf
94500	2.366

Calculated Maximum Allowable Deflections

Post: 3.583 in.

Net Deflection is the deflection at the top of a single post.

Loading at Top Rail Adjacent to a Single Post:

This test was not performed per the client's request.

This summary contains only data arrived at after employing the specific test procedures listed herein. This summary data might not include all reporting requirements of the test standard. The data herein does not constitute a recommendation for, endorsement of, or certification of the product or material tested. NTA, Inc. makes no warranty, expressed or implied, except that the test has been performed, and data prepared, based upon the specimen furnished by the client. Extrapolation of data, from the test data provided herein, to the batch or lot from which the specimens were obtained may not correlate and should be interpreted with extreme caution. NTA, Inc. assumes no responsibility for variations in quality, composition, appearance, performance, or other features of similar materials produced by the client, other persons, or under conditions over which NTA, Inc. has no control. NTA Inc. has issued this data summary for the exclusive use of the client to whom it is addressed. Any use or duplication of this summary shall not be made without their consent. This summary shall only be reproduced in its entirety.

Sonny Wiehe

TAB : 4

From: Gary Kauffman [gkauffman@diggerspecialties.com]
Sent: Friday, August 11, 2017 7:59 AM
To: Guy.Tomberlin@fairfaxcounty.gov
Cc: sonny@vbuild.com
Subject: 6488 Lake Meadow Dr. permit #150780024
Attachments: FW: Release of CCRR-0163 (2.00 MB); CCRR-0163 History Log.pdf; CCRR Revision Notification (2017-03-30).pdf

Dear Mr. Tomberlin,

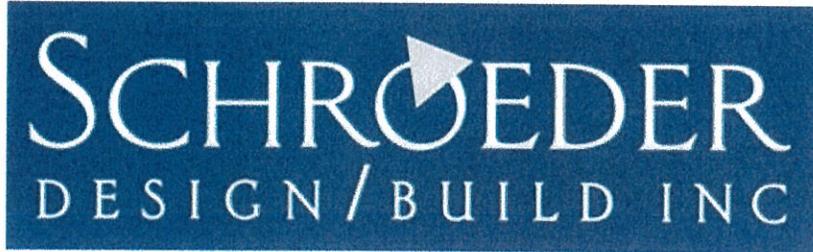
I am writing you today at the request of Sonny Wiehe, to send further documentation of the change made to the CCRR-0163 and when it took place. I have added 3 attachments for verification. First, the email from our testing agency telling our representative in the R&D department that the CCRR-0163 is ready for release to the public. This email is dated April 3, 2017. Second, the History log that shows changes that have been made to the CCRR-0163 and when those changes took place. Third, is the revision notice which is dated March 30, 2017.

The testing for this update about the post mounting method took place in late 2016 but was not made available for public use until we had it updated on the CCRR-0163 at the end of March. There is much work that is done before we can test something. Detail drawings are one of those. That is why the drawings on the structural test report on dated July 2016. We must also get a cost quote, schedule a testing date, and have parts sampled by a third party so we can send them to the test agency. Once the testing is done there is a peer review process that takes place. The peer review process of the testing results and then writing the additions into the CCRR-0163 take a few months to get done.

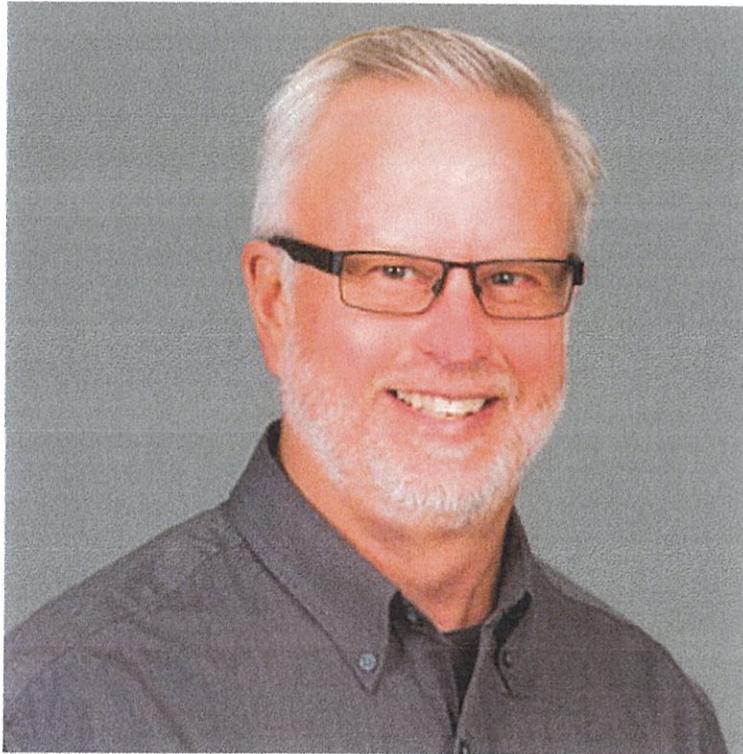
I hope this helps clarify the timeline of change that took place on the CCRR-0163. When you respond please include Mr. Sonny Wiehe for his reference. He is CC on this email as well.

Kind Regards,

Gary Kauffman
Product Manager
Digger Specialties Inc.
Office: 1-800-446-7659
Cell: 574-209-1214
gkauffman@diggerspecialties.com



TOM SCHROEDER | Founder and Engineer, Certified Remodeler



TOM SCHROEDER | Founder and Engineer, Certified Remodeler. Tom co-founded SDB in 1986 and is proud to be called a “Remodeler”. Today, he serves as SDB’s technical specialist, structural reviewer and troubleshooter. Tom earned a degree in Civil Engineering from the University of Wisconsin and his Certified Remodeler certificate from NARI. When he’s not busy on projects, Tom volunteers at a local battered women’s shelter and **serves on the Fairfax County Board of Building Code Appeals.** With his infectious sense of humor and insatiable love of life, Tom is more than just SDB’s cornerstone.

I. GENERAL REQUIREMENTS

1. All construction is to be in compliance with the following code: International Residential Code 2012 & VUSBC 2012
2. Use of these documents and the information they contain without written permission of Schroeder design build, is forbidden.

II. STRUCTURAL SPECIFICATIONS

A. General Requirements

1. The conditions and assumptions stated in these specifications shall be verified by the Contractor for conformance to local codes and conditions, the contractor shall notify the Architect in writing of the discrepancy and special engineering requirements shall be applied to insure the building's structural integrity.
 2. These requirements may be superseded by more stringent information contained within the drawings. The more stringent shall be followed.
 3. Soil conditions shall conform to the following conditions.
Bearing Capacity: Min. 1500 psf, field verify, under all footings and slab on grade.
Water Table: Min. 2'-0" below bottom of all concrete slabs and footings. Footings, foundations, walls, and slabs shall not be placed on or in Marine Clay or Peat and other organic materials.
 4. Load Assumptions:
Roof: 30 psf live load (ground snow load)
Living Areas: 40 psf
Bedroom Areas: 30 psf
Exterior Balconies: 60 psf live load
Wind Load: 15 psf
 5. Bottom of all footings shall extend below frost line of the locality and minimum 2'-0" below existing grade where required, step footing in ratio of 2 horizontal to 1 vertical.
 6. Free draining granular backfill shall be used against foundation walls. Equivalent fluid pressure of backfill not to exceed 30 psf. If backfill pressure exceeds 30 psf, then walls must be designed for actual pressures by structural engineer.
 7. All foundation wall backfill under slabs where distance from edge of wall to edge of undisturbed soil exceeds 16", but is less than 4'-0", shall be clean, porous, soil compacted in 8" layers to 95% density or provide #4 rebar at 2'-0" oc, 1'-0" beyond edge of undisturbed soil and 1'-0" into foundation wall.
 8. At intersections between new and existing walls, step new footing to match existing. Drill and grout 2#4 bars x 1'-6" long into existing footing 4".
- ### B. Concrete
1. All exposed exterior concrete shall be 6+1% air entrained.
 2. Welded wire mesh shall conform to ASTM 185.
 3. Maximum slump 5".
 4. All concrete work shall be in accordance with ACI 318-95.
 5. Reinforcing steel shall conform to ASTM A-615, new billet, grade 60.
 6. All poured in place concrete shall develop a 28 day compressive strength of 3000 psi. Exterior slabs and garage slab shall develop a 28 day compressive strength of 3500 psi.
- ### C. Steel
1. All required steel anchors, straps, caps, joist hangers, etc. shall be constructed of code approved galvanized steel.
 2. All connections shall be AISC Standard.
 3. All structural steel specified in these documents shall conform to ASTM A-36.
 4. All welds shall comply with AWS D1.1-80.
 5. Pipe columns shall conform to ASTM A-500.
 6. Flitch Beams shall have a minimum $f=1500$, $E=1.4$ and, unless otherwise noted, shall be assembled with 2 rows of 1/2" carriage bolts top and bottom; top row @12"oc, bottom row @24"oc. Stagger rows 6". There shall be a bolt top and bottom 8" from each end.
 7. Steel Columns: Adjustable steel columns shall be in compliance with BOCA International Evaluation Report (Research report #21-31) manufactured by the AFCO Manufacturing corporation or equal approved by Architect.
 8. All reinforcing steel to meet ASTM-A-615 Grade 60.
 9. Provide clear distance to outermost reinforcing as follows:
-Beams 2" exposed to weather
-Footings 3" (bottom)

D. Wood

1. All structural wood joists and headers shall unless noted as #2 Spruce Pine Fir #2 South All wood joists and headers shall comply to the

#2 Hem Fir, 19% M.C.

- F Min.: 975 psi repetitive member use
850 psi single member use
E Min.: 1,300,000 psi
F Min.: 75 psi
F Min.: 1300 psi
F Min.: 1300 psi
F Min.: 405psi

#2 Spruce Pine Fir, 19% M.C. (#2 S.P.F.)

- Min.: 1,000 psi repetitive member use
850 psi single member use
E Min.: 1,400,000 psi
Min.: 70 psi
Min.: 1150 psi
Min.: 425 psi

#2 Southern Pine, K.D. (#2 S.Y.P.)

- F Min.: 1120 psi repetitive member use
975 psi single member use
E Min.: 1,600,000 psi
F Min.: 90 psi
F Min.: 1450 psi
F Min.: 565 psi
Note: Pressure treated lumber shall be #2 Southern Pine treated to .40 pcf chemical retention and shall

- F Min.: 2600 psi
E Min.: 1,900,000 psi
F Min.: 285 psi
F Min.: 2500 psi
F Min.: 1750 psi

Micro Lam LVL (Grade 1.9E)

All studs in bearing walls shall conform to the following specifications:

Stud grade Spruce Pine Fir, 19% M.C.

- F Min.: 675 psi single member use
E Min.: 1,200,000 psi
F Min.: 70 psi
F Min.: 725 psi
F Min.: 425 psi

2. All manufactured wood trusses and truss headers shall be installed per manufacturer according to TPI-1-95 and other recommendations of the local building authority. Manufacturer shall submit drawings and calculations sealed by a professional engineer in the governing jurisdiction. Erection shall be in accordance with the manufacturer's recommendations. Roof Trusses and all bridging required for structural integrity of roof truss system shall be installed per Manufacturer's drawings and specifications.
3. All structural wood exposed to outside unprotected concrete shall be pressure treated with approved preservative and infestation by termites and moisture.

stress graded #2 Hem Fir, Pine, K.D., or Micro Lam. following specifications:

4. All wall sill plates shall be min. 2x4 and shall be anchored into foundation walls with approved galvanized steel anchors min. 8" into poured in place concrete and 15" into grouted cmu. Minimum 2 anchors per section of plate. Maximum spacing of anchors 6'-0", and anchors placed 12" from end of each plate.
5. All bearing partitions shall be 2x4 studs at 16"oc or as noted. U.N.O. Non-bearing frame walls shall be framed with 2x4 studs at 24" O.C. No window and door headers are to be installed in non-bearing walls.
6. All wood framed exterior corners shall be laterally braced 4'-0" each direction from the corner with 1/2" exterior plywood or other approved structural membrane or approved galvanized steel corner bracing.
7. Provide solid blocking at 4'-0"oc between rim joist and first interior parallel joist.
8. All exterior wood framework supported on approved foundation walls shall be minimum 8" above finish grade.
9. Provide blocking between all joists 2x12 or greater, at intervals not to exceed 8'-0".
10. Provide continuous double top plate at all bearing stud walls.
11. All structural wood posts under beams and headers over 4'-0" span shall be min. 2-2x4 unless noted otherwise.
12. All framing shall be detailed and installed in accordance with NFOPA Manual for House Framing, Dec., 1979.
13. Exterior wall sheathing shall be 7/16 (1/2) thick APA rated wood structural panels. Fasten panels to studs with 8d nails at 6 inches on center at panel edges and at 12 inches on center at panel edges and at 12 inch on center at intermediate supports.
14. Floor sheathing shall be 23/32(3/4) inch APA rated sturd-1-floor, tongue and groove, plywood. Panels shall have long dimension oriented across three or more joists and shall be fastened with construction adhesive and 10d nails at 6 inches on center at panel edges and 12 inches on center at intermediate supports.
15. Provide in-floor squash block under all posts to ensure proper load transfer.
16. Prefab joist and beam hangers shall be sized and attached per manufacturers recommendation.
17. All prefabricated trusses shall be designed for the following loads unless noted otherwise:
 Roof: Live load - 30 psf
 Dead load top chord -
 Dead load bottom chord - 7psf

1 Pine K10-15 pressure treated as (P.T.)

ing minimum

shall be designed by elements specified by Architect, shop engineer registered in accordance with TPI for lateral bracing be designed by

or bearing directly on materials to resist decay

18. All roof rafters and trusses shall be connected at each bearing point with one prefabricated galvanized metal connector. Each anchor shall be 18 gage minimum thick and shall be attached to have a capacity to resist a 450# uplift loading unless shown otherwise on drawings.

19. Roof sheathing shall be 15/32 (1/2) inch APA rated wood panels w/ span rating of 24/0 or better. Fasten panels to framing w/ 8d nails at 6 inches on center at panel edges and 12 inches on center at intermediate supports. Orient long dimensions of panels across three or more joists.

COUNTY COPY

FAIRFAX COUNTY REVIEWED

APR 04 2017

STRUCTURAL

B.P.R.

SCHROEDER
DESIGN/BUILD INC

3318 PROSPERITY AVE, SUITE 100, FAIRFAX, VA 22031

PROPOSED DECK

Anne D'Aleo

4948 Sabra Lane, Annadale, VA 22003

Revisions

Presentation 3/20/2017

Trade Walk

Contract 3/27/2017

Permits 3/30/2017

Construction Docs

Designer:

Ton Le
3918 Prosperity Ave.
Fairfax, VA 22031
703-449-1700

CONTRACT

COVER SHEET

1

E. Masonry

1. Materials

Mortar:	Type "S" ASTM C270
Hollow CMU:	ASTM C-90
Face Brick:	ASTM C-216
Solid Fill:	Same as Mortar

2. All masonry shall be protected from freezing for not less than 48 hours after installation and shall not be constructed below 35°F without precautions necessary to prevent freezing. No antifreeze admixtures shall be added to the mortar.
3. Brick veneer shall be attached to wood frame with minimum #22 galvanized sheet gage corrosion-resistive corrugated metal ties min. 7/8" wide at vertical intervals min. 16" and horizontal intervals min. 16". Provide weep holes at 2'-0" oc.
4. All masonry work shall conform to the applicable requirements or BIA and NCMA.
5. All masonry to have joint reinforcing @ 16" o.c. horizontally.
6. All epoxy anchor bolts, expansion bolts or sleeve anchors in masonry walls shall be placed in grouted solid masonry.
7. All vertical reinforcing shall be grouted in place with mortar or PEA gravel concrete.

III. DOORS AND WINDOWS

1. Unless otherwise noted, window sizes define intended aesthetic size and type by indicating sash opening in feet and inches. Contractor shall verify that windows to be installed comply with local code and FHA/VA standards for egress, light, ventilation and safety. IRC Sec R311.

IV. THERMAL AND MOISTURE PROTECTION

1. All slabs on grade in habitable spaces shall be insulated with min. R5 rigid insulation from top of slab downward to 24" below slab or inward 24" from exterior face of slab at all slab perimeter areas in habitable areas.
2. Waterproof all exterior foundation walls below grade enclosing habitable spaces as specified by code at exterior face of wall.
3. Damp proof all exterior foundation walls below grade enclosing basements and crawl spaces with damp proofing as specified by code at exterior face of wall.
4. Flashing: Code approved corrosion resistive flashing shall be provided at top and sides of all exterior window and door openings in such manner as to be leakproof. Similar flashing shall be installed at the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings; under and at the ends of masonry wood or metal copings and sills; continuously above all projecting wood trim; at wall and roof intersections; built-in gutters; at junctions of
5. Building paper: When veneer of brick, clay tile, concrete, or natural or artificial stone are used, 15 pound felt or paper shall be attached to the sheathing with flashing wherever necessary to prevent moisture penetration behind the veneer.

ABBREVIATIONS

- AFF- above finished
- ALU- aluminum
- ASF- above sub floor
- BOJ- bottom of joist
- CMU- concrete masonry unit
- COL- column
- CONC- concrete
- CONT- continuous
- CO- cased opening
- DBL- double
- DH- double hung
- DO- drywall opening
- ELEV- elevation
- EX- existing
- EWC- exterior wall corner
- FD- french door
- FNDN- foundation
- FTG- footing
- GALV- galvanized
- GPDW- gypsum board
- HC- hollow core
- INSUL- insulation
- IWC- interior wall corner
- LIN- linen
- MAX- maximum
- MW- microwave
- NTS- not to scale
- OC- on center
- OPT- optional
- PREFAB- prefabricate
- PT- pressure treated
- REIN- reinforce
- REF- refrigerator
- R/A- return air
- RO- rough opening
- SC- solid core
- SHWR- shower
- SIG- Snap-In-Grills
- SIM- similar
- S&P- shelf and pole
- STL- steel
- TBD- to be determined
- TYP- typical
- UNO- unless noted otherwise
- VIF- verify in field
- WIC- walk in closet
- WP- weather protected

SCHROEDER
DESIGN/BUILDING

3918 PROSPERITY AVE., SUITE 100, FAIRFAX, VA 22031

PROPOSED DECK

Anne D'Aleo

4948 Sabra Lane, Annadale, VA 22003

Revisions

Presentation 3/20/2017

Trade Walk

Contract 3/27/2017

Permits 3/30/2017

Construction Docs

Designer:

Ton Le
3918 Prosperity Ave.
Fairfax, VA 22031
703-449-1700

CONTRACT

COVER SHEET CONT.

2

DRAWING INDEX

Sheet Number	Sheet Name
1	COVER SHEET
2	COVER SHEET CONT.
A100	PROPOSED DECK PLAN
A101	PROPOSED RAILING PLAN
A201	PROPOSED LEFT&RIGHT ELEVATION
A202	PROPOSED BACK ELEVATION
EX100	EXISTING REAR DECK
EX200	DEMO REAR DECK PLAN
EX201	Unnamed
S100	PROPOSED FOOTING PLAN
S101	PROPOSED REAR DECK FRAMING PLAN
S102	SECTIONS

**COUNTY OF FAIRFAX, VIRGINIA
RESIDENTIAL PLAN REVIEW**

THESE PLANS ARE APPROVED FOR PERMIT ISSUANCE SUBJECT TO CORRECTIONS NOTED HEREIN. APPROVAL DOES NOT PREVENT COUNTY INSPECTORS FROM REQUIRING FURTHER CORRECTIONS IN THE FIELD. COMPLIANCE WITH ELECTRIC, MECHANICAL, OR PLUMBING ELEMENTS WILL BE EVALUATED DURING INSPECTIONS.
NO INSPECTIONS WILL BE MADE UNLESS THESE PLANS ARE ON THE JOB SITE AND AVAILABLE TO THE INSPECTOR. NO CHANGES SHALL BE MADE TO THESE PLANS WITHOUT PRIOR APPROVAL FROM THE COUNTY.
CALL MISS UTILITY AT 811, TTY 771 BEFORE YOU DIG.

PERMIT NO: 170940068

PLAN NO: W-17-2491

CODE STD: IR12

TAX MAP #: 0694 12 0102

PROJECT NAME:

PROJECT ADDRESS:

4948 Sabra La
BLDG: N/A SUITE: N/A FLOOR: N/A

CONTACT INFORMATION

NAME: TRISH K SCHROEDER
9514 B Lee Highway
Fairfax, Va 22031

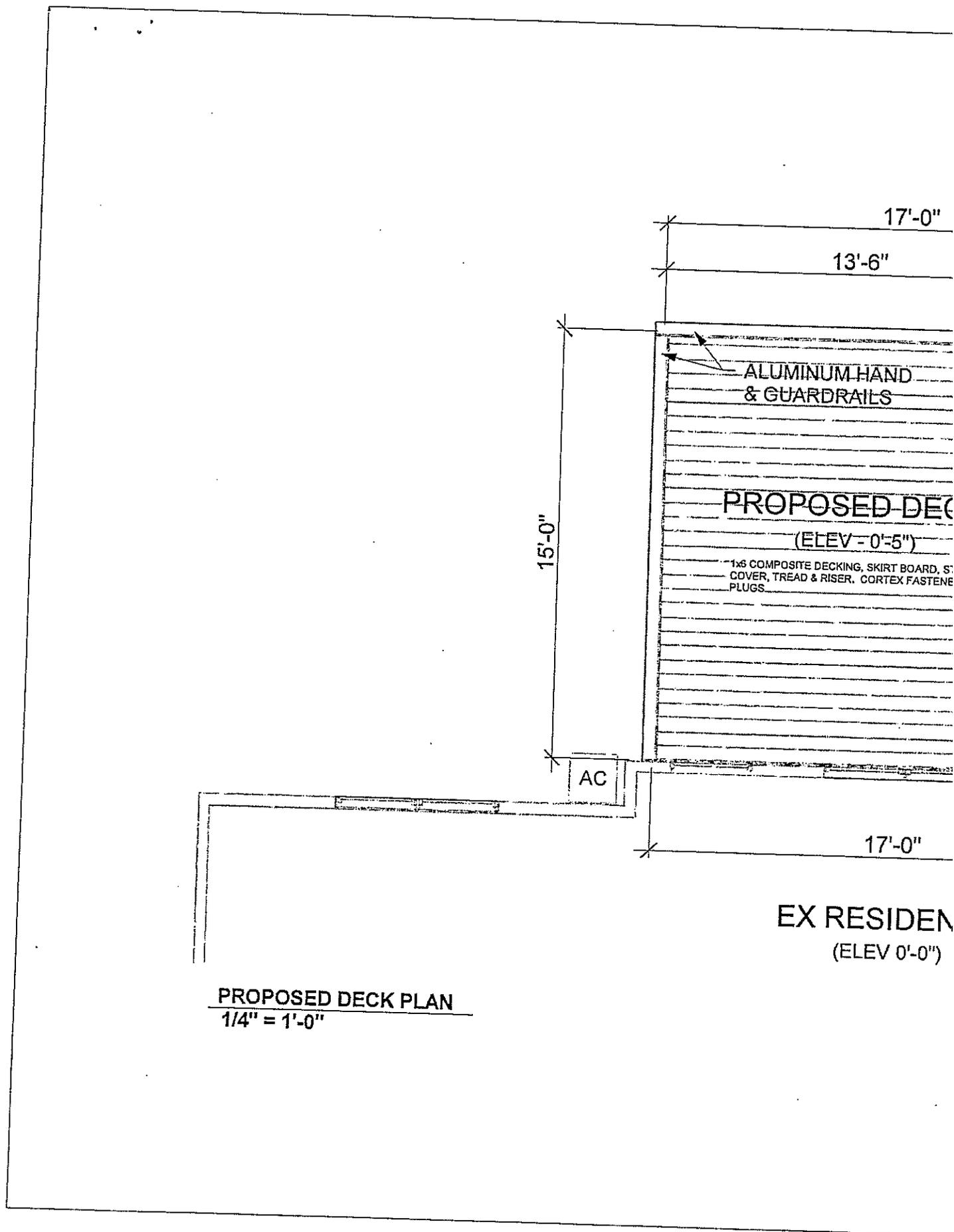
PHONE: (703)449-1700 x

FAX: N/A

For Status of Plan Review Visit:
WWW.FAIRFAXCOUNTY.GOV/FIDO

FAIRFAX COUNTY
REVIEWED
APR 04 2017
STRUCTURAL
B.P.K.

COUNTY COPY



ALUMINUM HAND
& GUARDRAILS

PROPOSED DECK
(ELEV = 0'-5")

1x6 COMPOSITE DECKING, SKIRT BOARD, 5/8"
COVER, TREAD & RISER, CORTEX FASTENERS
PLUGS

AC

EX RESIDENCE
(ELEV 0'-0")

PROPOSED DECK PLAN
1/4" = 1'-0"

2
A101

3'-6"

CONC PAD TO CODE

UP

9'-0"

15'-0"

6'-0"

1'-7"

ER
TH

ET

COUNTY COPY

FAIRFAX COUNTY
REVIEWED
APR 6 2017
STRUCTURAL
B.P.R.

SCHROEDER
DESIGN/BUILD INC

3918 PROSPERITY AVE, SUITE 100, FAIRFAX, VA 22031

PROPOSED DECK

Anne D'Aleo

4948 Sabra Lane, Annadale, VA 22003

Revisions

Presentation 3/20/2017

Trade Walk

Contract 3/27/2017

Permits 3/30/2017

Construction Docs

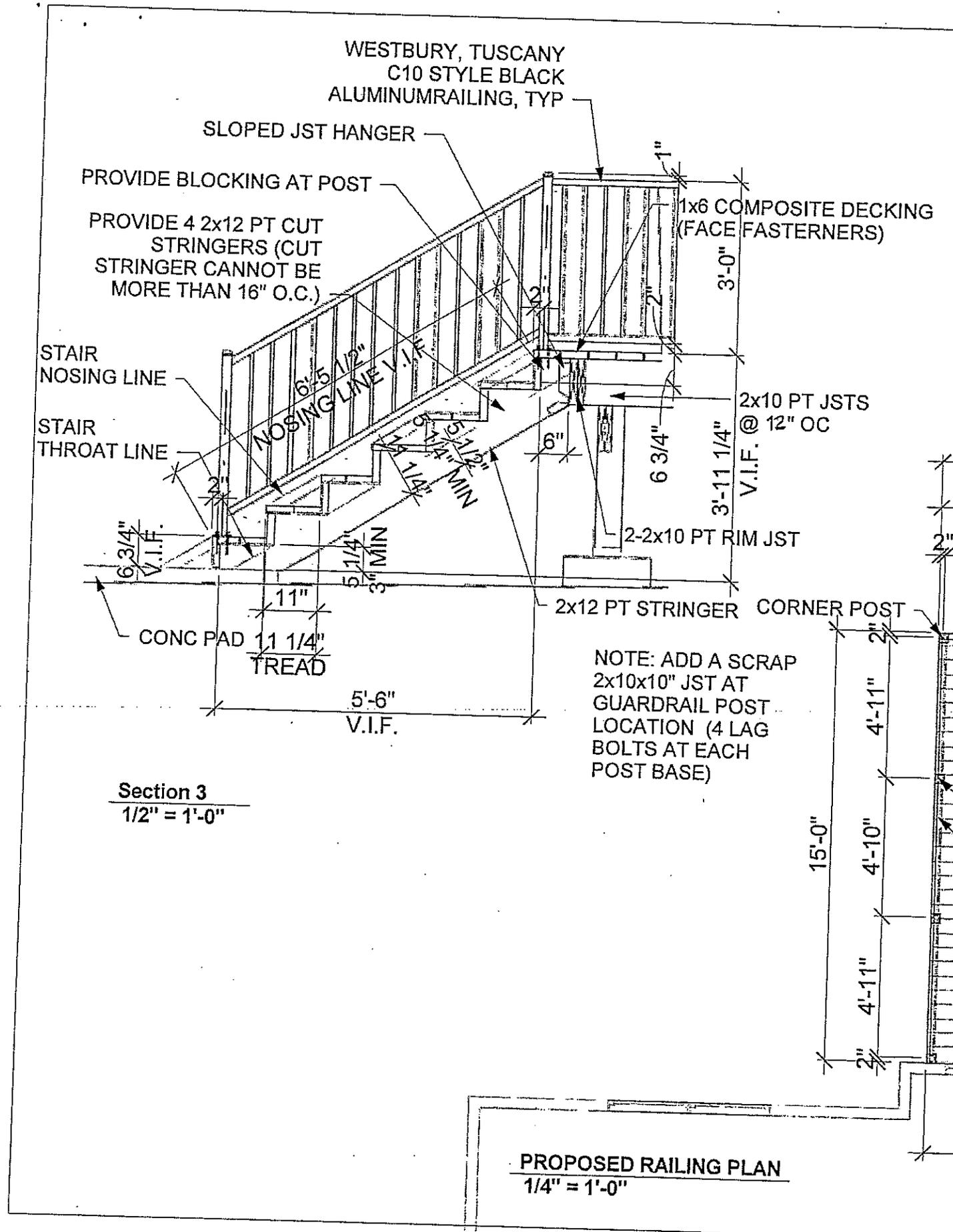
Designer:

Ton Le
3918 Prosperity Ave.
Fairfax, VA 22031
703-449-1700

CONTRACT

PROPOSED
DECK PLAN

A100



WESTBURY, TUSCANY
C10 STYLE BLACK
ALUMINUM RAILING, TYP

SLOPED JST HANGER

PROVIDE BLOCKING AT POST

PROVIDE 4 2x12 PT CUT
STRINGERS (CUT
STRINGER CANNOT BE
MORE THAN 16" O.C.)

STAIR
NOSING LINE

STAIR
THROAT LINE

6'5 1/2"
NOSING LINE V.I.F.

5'5 1/2"
1 1/4" MIN

6 3/4"
V.I.F.

CONC PAD 11"
1 1/4" TREAD

5'-6"
V.I.F.

1x6 COMPOSITE DECKING
(FACE FASTENERS)

3'-0"

2x10 PT JSTS
@ 12" OC

3'-11 1/4"
V.I.F.

6 3/4"

2-2x10 PT RIM JST

2x12 PT STRINGER CORNER POST

NOTE: ADD A SCRAP
2x10x10" JST AT
GUARDRAIL POST
LOCATION (4 LAG
BOLTS AT EACH
POST BASE)

Section 3
1/2" = 1'-0"

PROPOSED RAILING PLAN
1/4" = 1'-0"

15'-0"
4'-11"
4'-10"
4'-11"
2"

**SCHROEDER
DESIGN/BUILD INC**

3318 PROSPERITY AVE, SUITE 100, FAIRFAX, VA 22031

PROPOSED DECK

Anne D'Aleo

4948 Sabra Lane, Annadale, VA 22003

Revisions

Presentation 3/29/2017

Trade Walk

Contract 3/27/2017

Permits 3/30/2017

Construction Docs

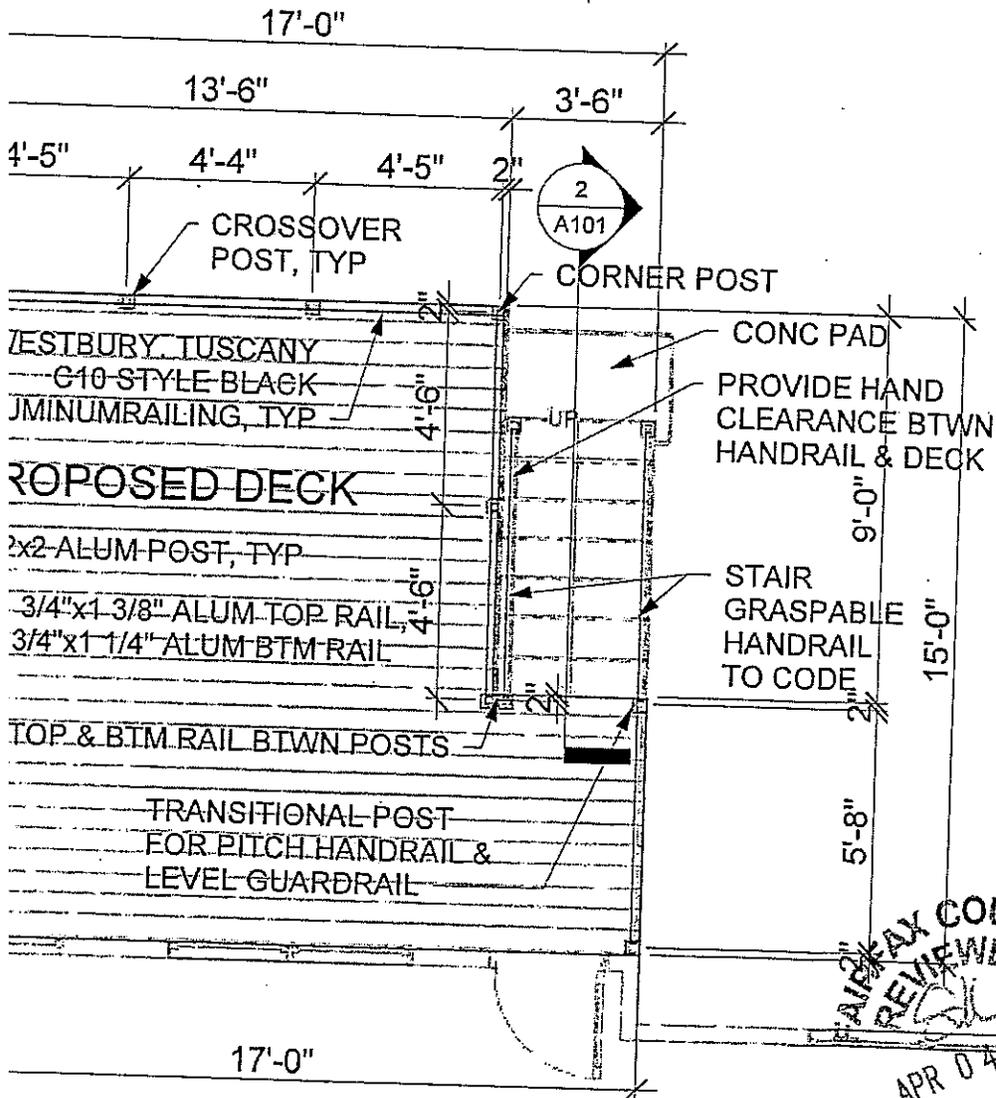
Designer:

Ton Le
3918 Prosperity Ave.
Fairfax, VA 22031
703-449-1700

CONTRACT

PROPOSED
RAILING
PLAN

A101



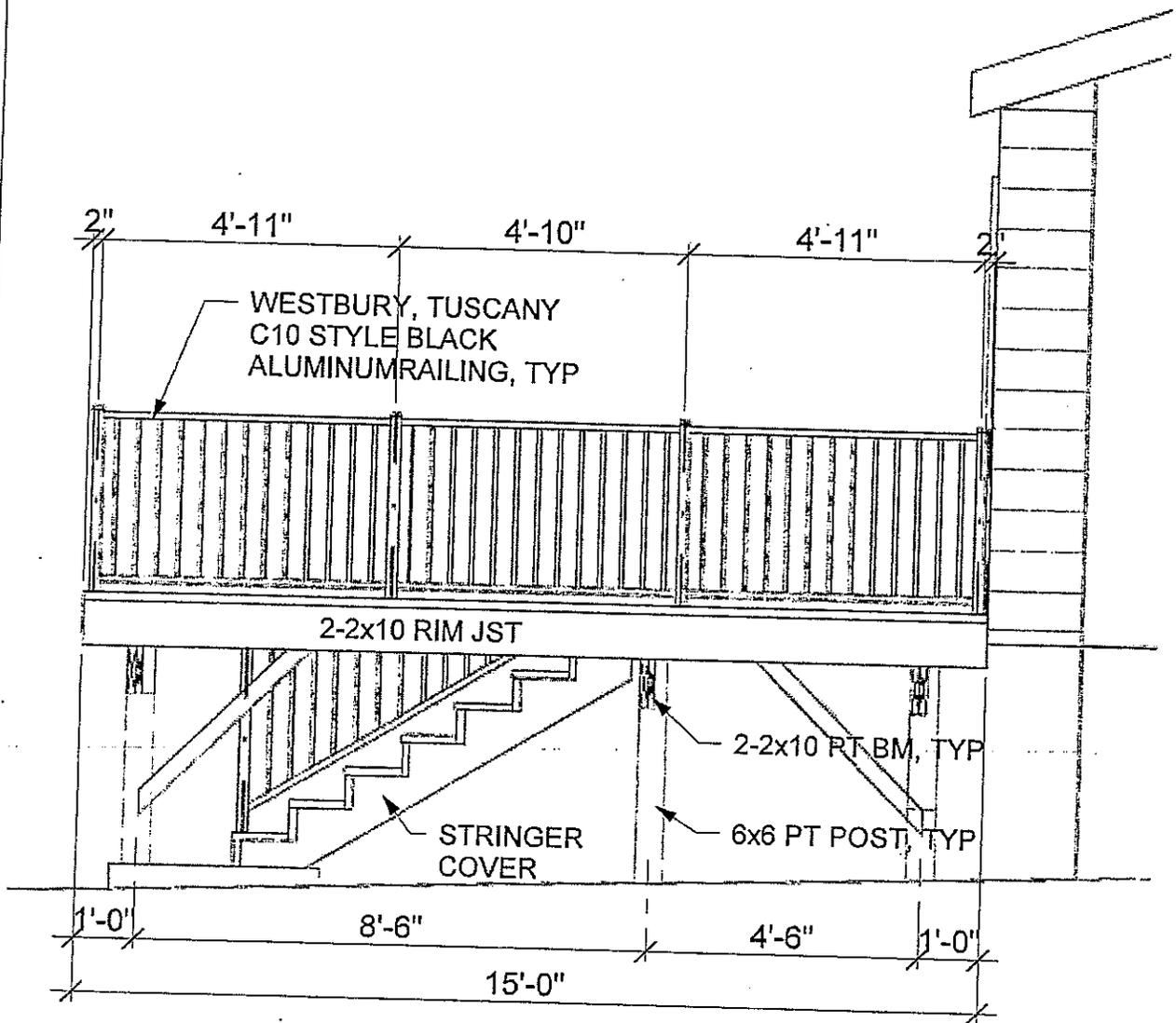
FAIRFAX COUNTY
REVIEWED

APR 04 2017

STRUCTURAL
B.P.M.

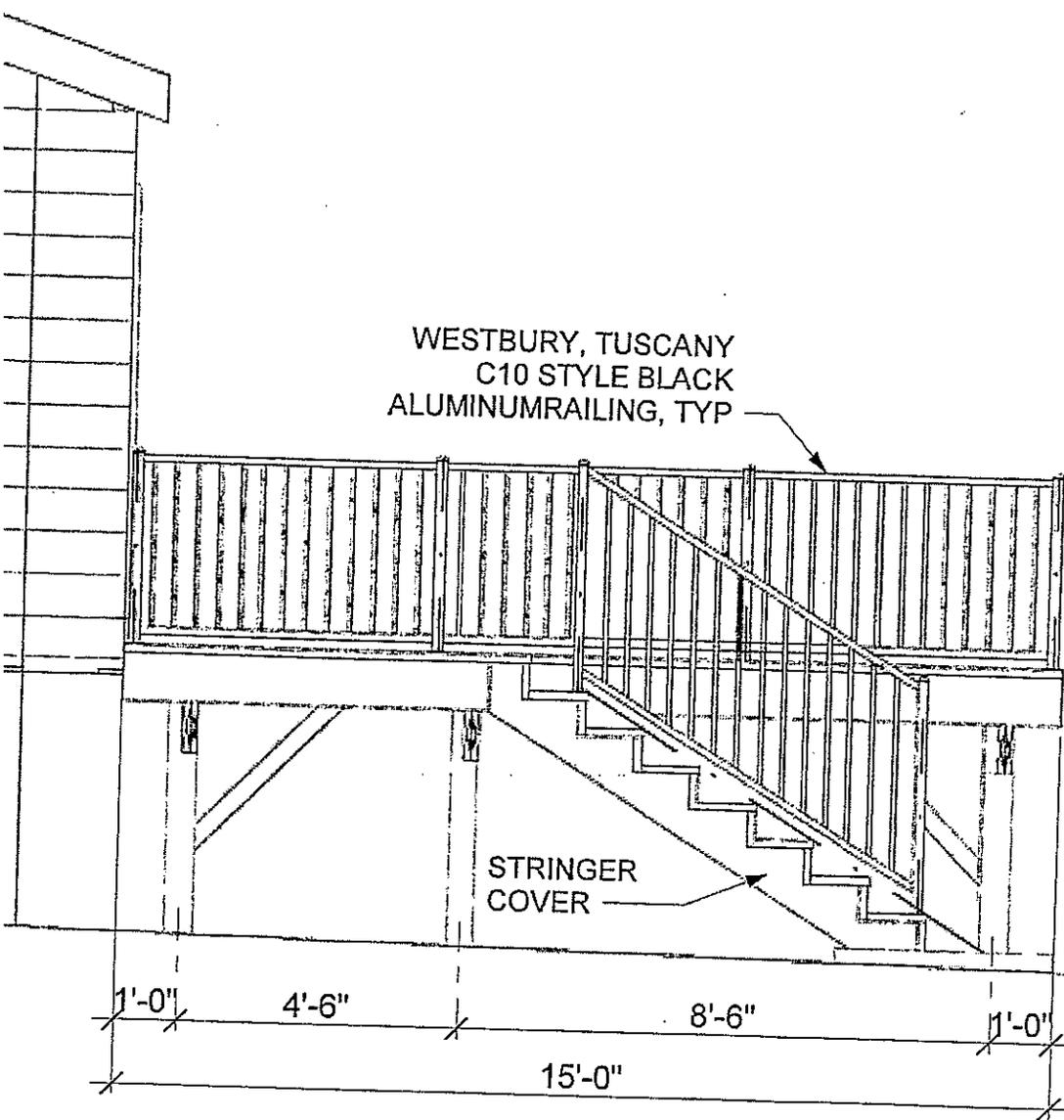
EX RESIDENCE

COUNTY COPY



PROPOSED LEFT SIDE VIEW

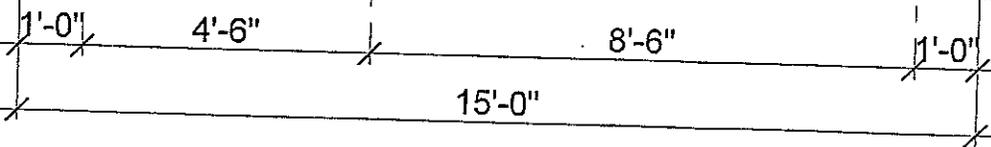
$\frac{3}{8}'' = 1'-0''$



PROPOSED RIGHT SIDE VIEW
 3/8" = 1'-0"

WESTBURY, TUSCANY
 C10 STYLE BLACK
 ALUMINUM RAILING, TYP

STRINGER
 COVER



FAIRFAX COUNTY
 REVIEWED
 APR 04 2017
 STRUCTURAL
 B.P.R.

COUNTY COPY

SCHROEDER
 DESIGN/BUILDING

3918 PROSPERITY AVE, SUITE 100, FAIRFAX, VA 22031

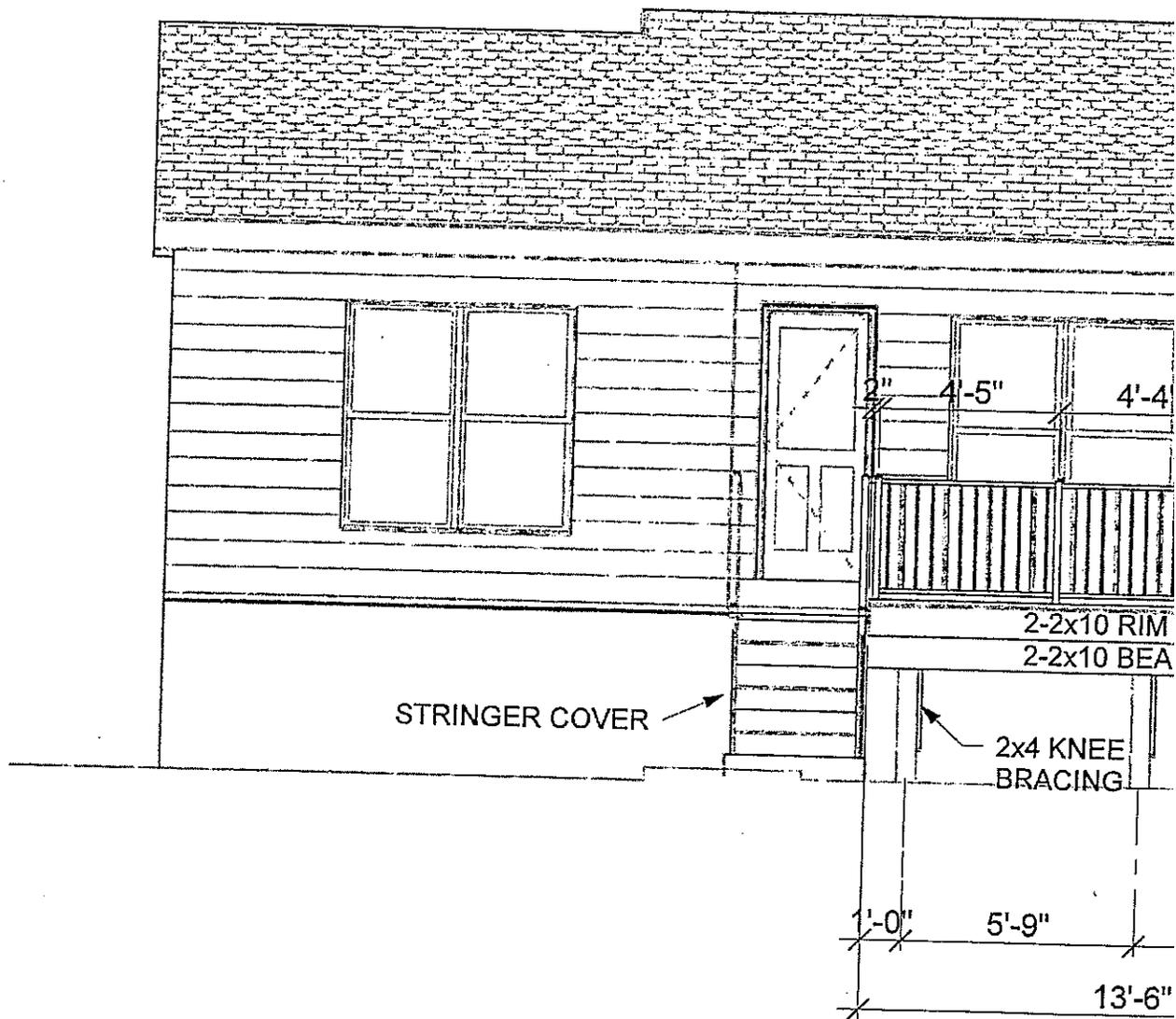
PROPOSED DECK

Anne D'Aleo
 4948 Sabra Lane, Annadale, VA 22003

Revisions
Presentation 3/20/2017
Trade Walk
Contract 3/27/2017
Permits 3/30/2017
Construction Docs
Designer: Ton Le 3918 Prosperity Ave. Fairfax, VA 22031 703-449-1700

CONTRACT
 PROPOSED
 LEFT & RIGHT
 ELEVATION

A201



PROPOSED BACK
ELEVATION
1/4" = 1'-0"

SCHRÖEDER
DESIGN/BUILDING

3918 PROSPERITY AVE, SUITE 100, FAIRFAX, VA 22031

PROPOSED DECK

Anne D'Aleo

4948 Sabra Lane, Annadale, VA 22003

Revisions

Presentation 3/20/2017

Trade Walk

Contract 3/27/2017

Permits 3/30/2017

Construction Docs

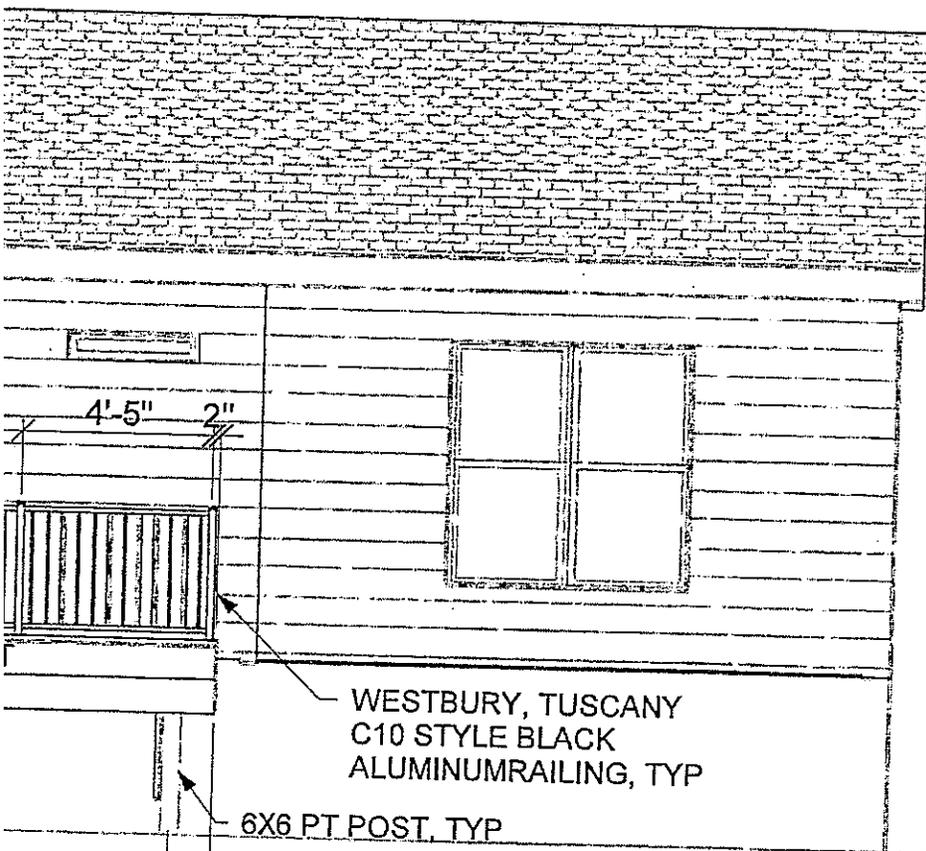
Designer:

Ton Le
3918 Prosperity Ave.
Fairfax, VA 22031
703-449-1700

CONTRACT

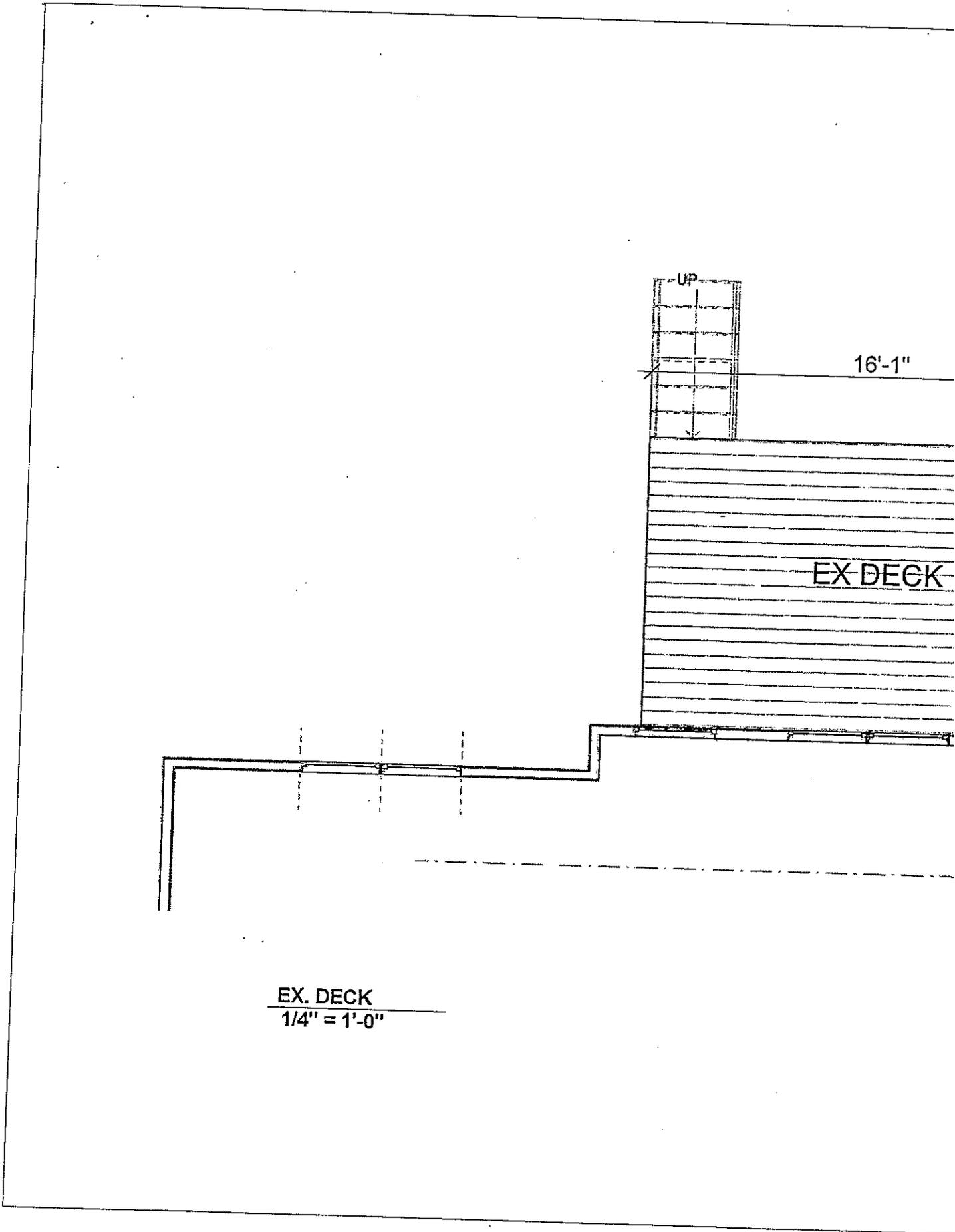
**PROPOSED
BACK
ELEVATION**

A202



FAIRFAX COUNTY
REVIEWED
APR 04 2017
STRUCTURAL
B.P.H.

COUNTY COPY



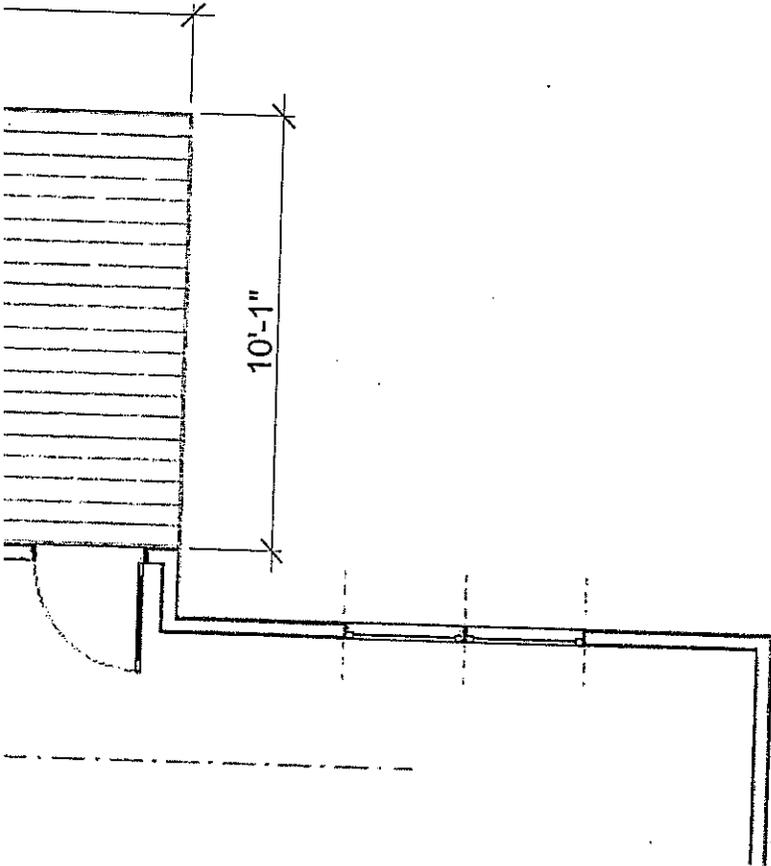
UP

16'-1"

EX DECK

EX. DECK

1/4" = 1'-0"



COUNTY COPY

FAIRFAX COUNTY
 REVIEWED
[Signature]
 APR 12 2017
 STRICKLAND
 B.F.

SCHROEDER
 DESIGN/BUILD INC

3918 PROSPERITY AVE. SUITE 100, FAIRFAX, VA 22031

PROPOSED DECK

Anne D'Aleo
 4948 Sabra Lane, Annadale, VA 22003

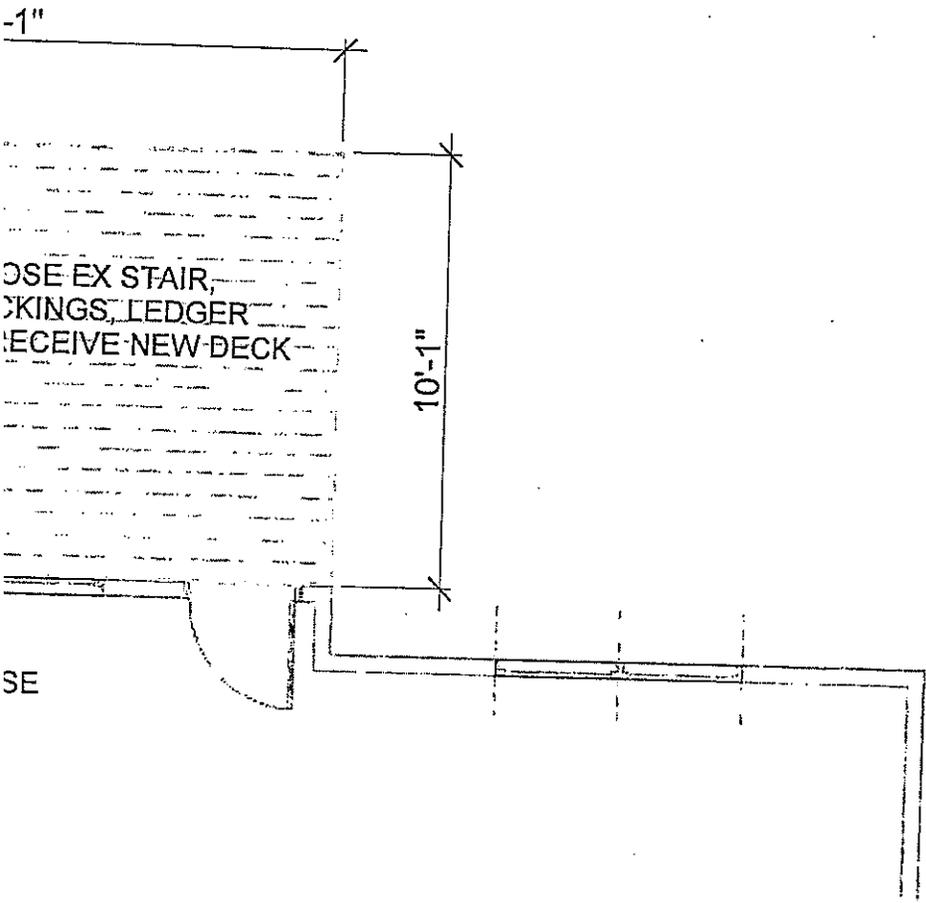
Revisions
Presentation 3/20/2017
Trade Walk
Contract 3/27/2017
Permits 3/30/2017
Construction Docs

Designer:
 Ton Le
 3918 Prosperity Ave.
 Fairfax, VA 22031
 703-449-1700

CONTRACT

EXISTING
 REAR
 DECK

EX100



REMOVE EX STAIR,
SKINGS, LEDGER
RECEIVE NEW DECK

10'-1"

SE

COUNTY COPY

FAIRFAX COUNTY
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APR 04 2017
STRUCTURAL
B.P.H.

SCHROEDER
DESIGN/BUILD INC

3518 PROSPERITY AVE., SUITE 104, FAIRFAX, VA 22031

PROPOSED DECK

Anne D'Aleo

4948 Sabra Lane, Annandale, VA 22003

Revisions

Presentation 3/20/2017

Trade Walk

Contract 3/27/2017

Permits 3/30/2017

Construction Docs

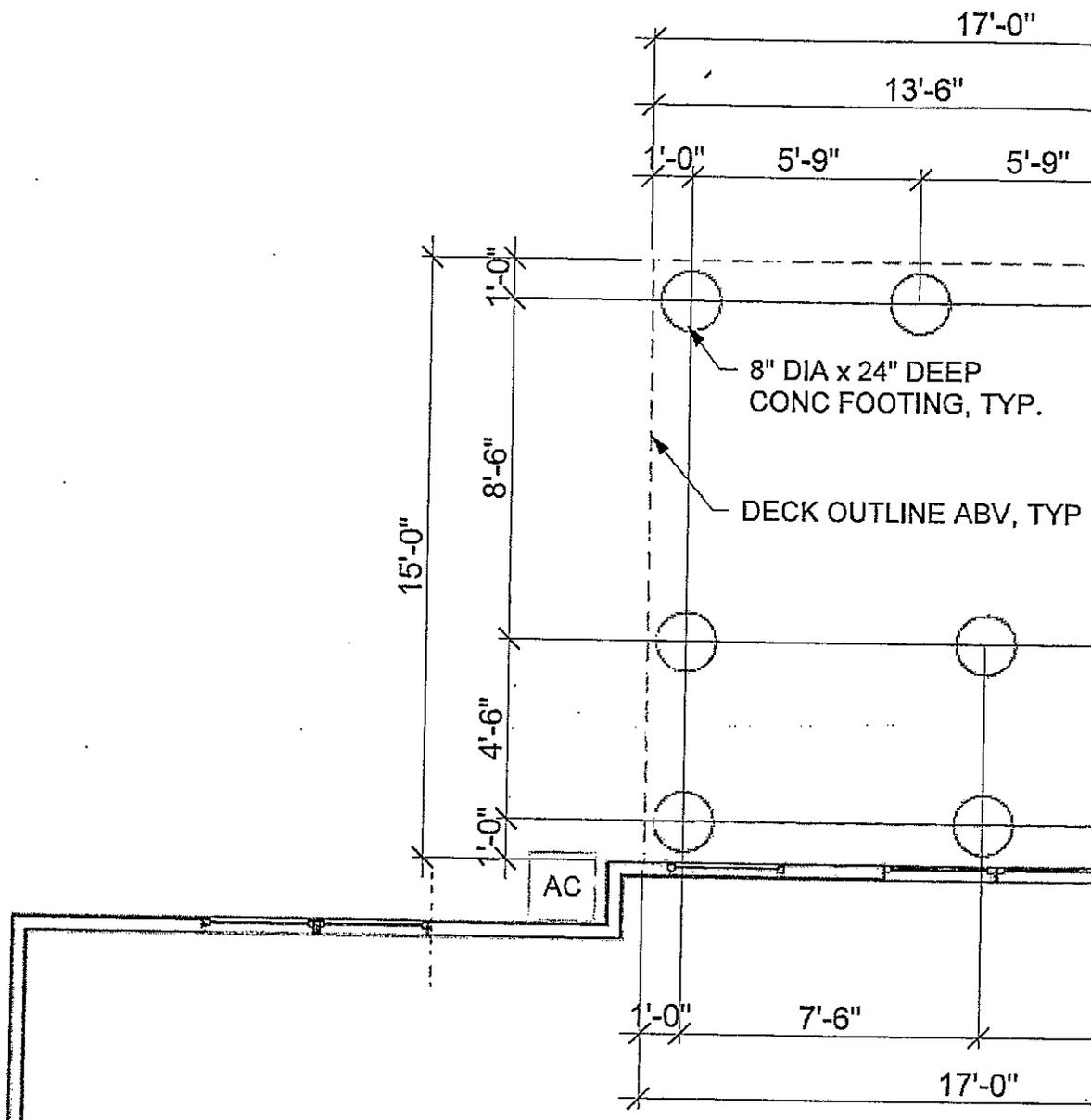
Designer:

Ton Le
3918 Prosperity Ave.
Fairfax, VA 22031
703-449-1700

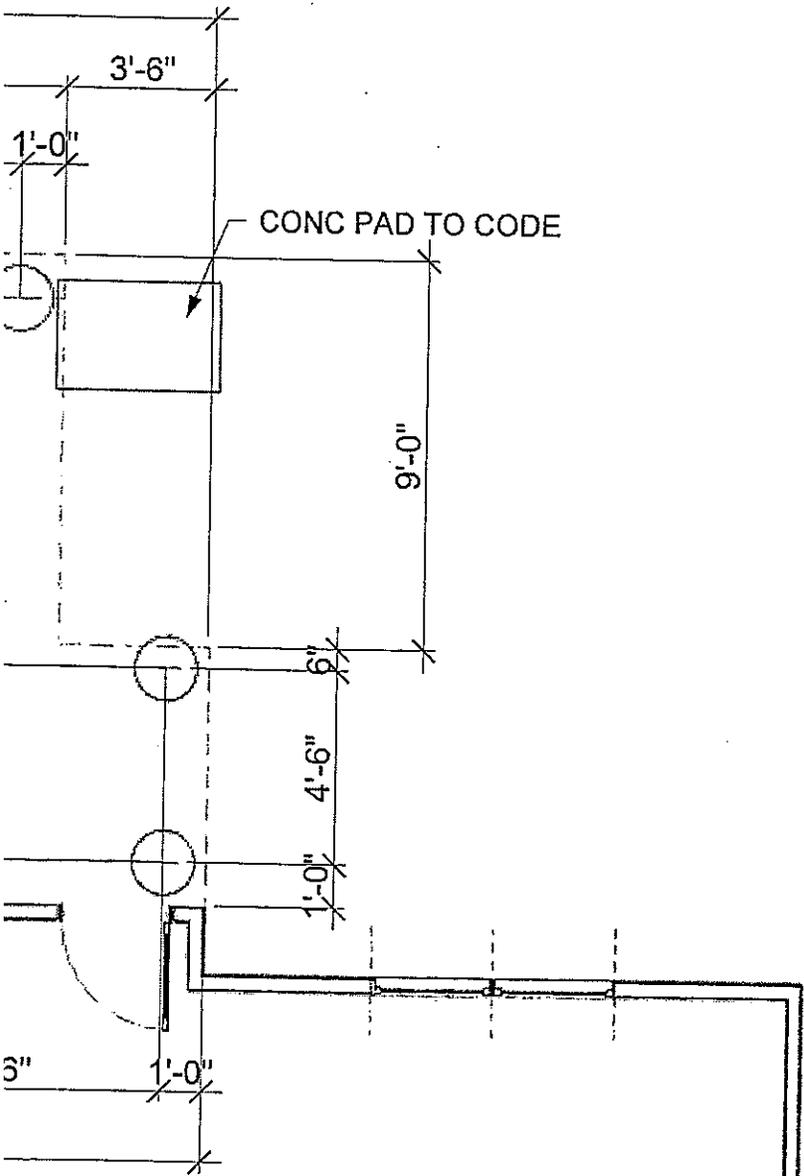
CONTRACT

DEMO
REAR
DECK PLAN

EX200



PROPOSED DECK FTG
 1/4" = 1'-0"



COUNTY COPY

FAIRFAX COUNTY
 REVIEWED
 APR 14 2017
 STRUCTURAL
 B.P.H.

SCHROEDER
 DESIGN/BUILD INC
 3918 PROSPERITY AVE, SUITE 100, FAIRFAX, VA 22031

PROPOSED DECK

Anne D'Aleo
 4948 Sabra Lane, Annadale, VA 22003

Revisions

Presentation 3/20/2017
Trade Walk
Contract 3/27/2017
Permits 3/30/2017
Construction Docs

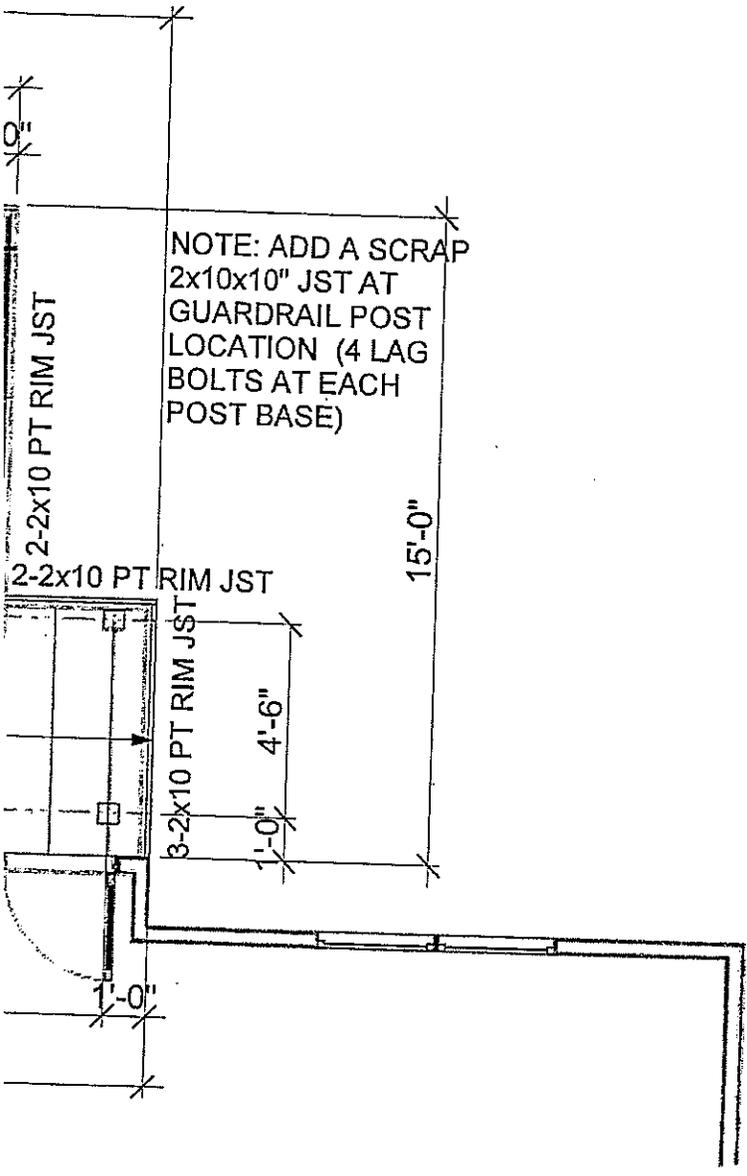
Designer:

Ton Le
 3918 Prosperity Ave.
 Fairfax, VA 22031
 703-449-1700

CONTRACT

PROPOSED
 FOOTING
 PLAN

S100



NOTE: ADD A SCRAP
2x10x10" JST AT
GUARDRAIL POST
LOCATION (4 LAG
BOLTS AT EACH
POST BASE)

2-2x10 PT RIM JST
2-2x10 PT RIM JST
3-2x10 PT RIM JST

15'-0"

4'-6"
1'-0"

1'-0"

COUNTY COPY

FAIRFAX COUNTY
RECEIVED
SL
APR 04 2017
STRUCTURAL
B.P.H.

SCHROEDER
DESIGN/BUILDING
3511 PROSPERITY AVE., SUITE 100, FROEDDO, VA 22031

PROPOSED DECK
Anne D'Aleo
4948 Sabra Lane, Annadale, VA 22003

Revisions

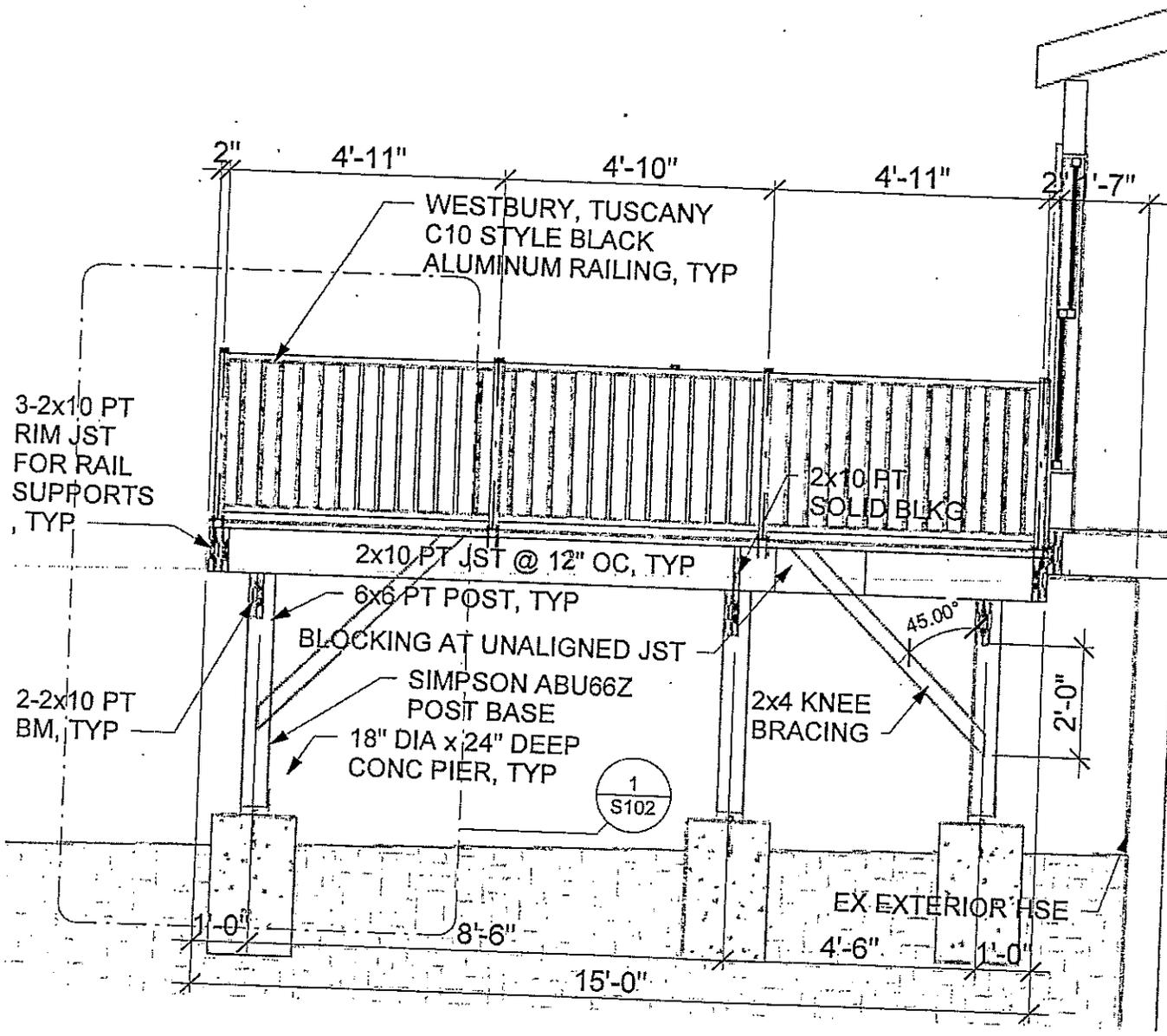
Presentation	3/20/2017
Trade Walk	
Contract	3/27/2017
Permits	3/30/2017
Construction Docs	

Designer:

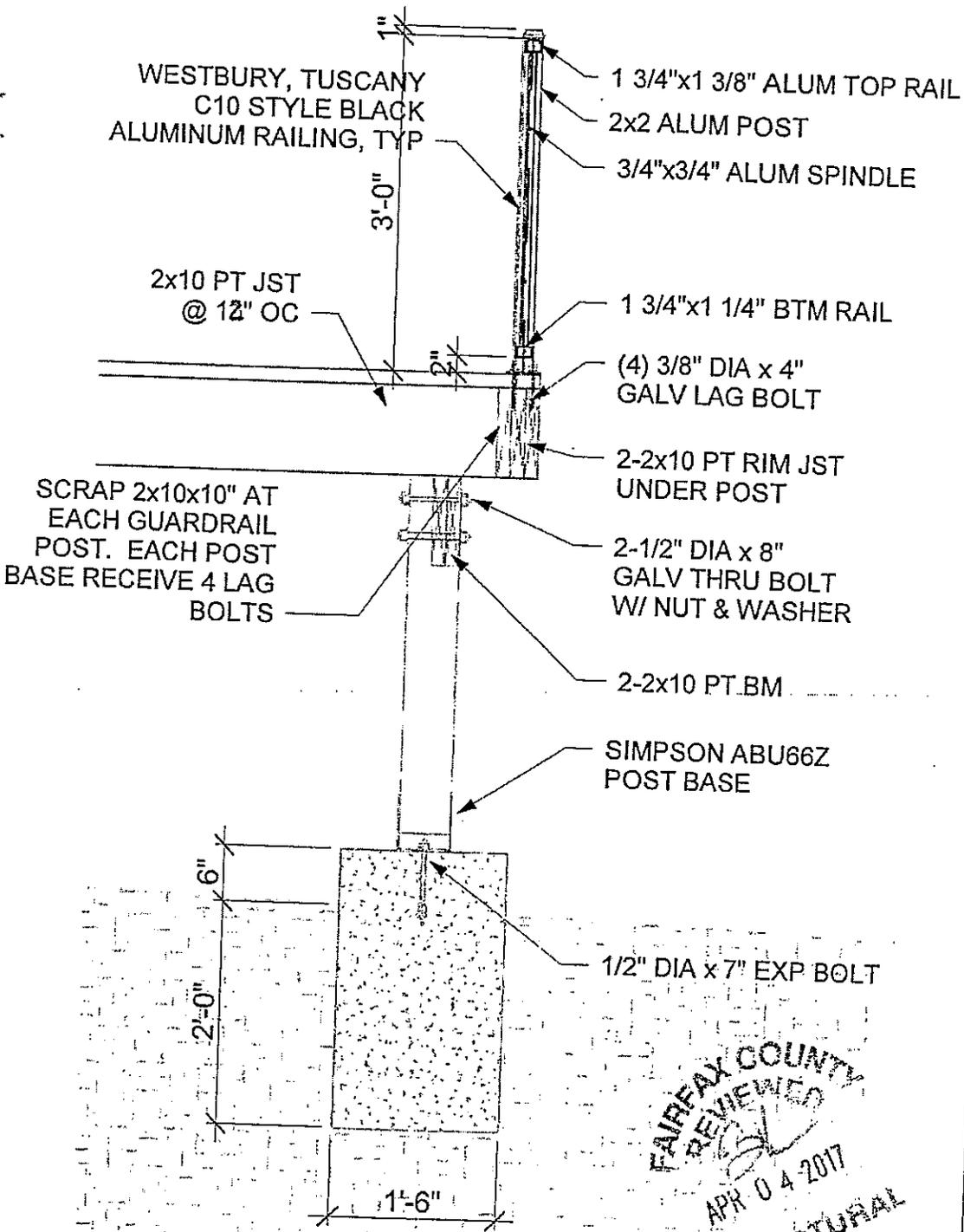
Ton Le
3918 Prosperity Ave.
Fairfax, VA 22031
703-449-1700

CONTRACT

PROPOSED
REAR
DECK
FRAMING
PLAN
S101



Section 2
 3/8" = 1'-0"



WESTBURY, TUSCANY
C10 STYLE BLACK
ALUMINUM RAILING, TYP

1 3/4"x1 3/8" ALUM TOP RAIL
2x2 ALUM POST
3/4"x3/4" ALUM SPINDLE

2x10 PT JST
@ 12" OC

1 3/4"x1 1/4" BTM RAIL
(4) 3/8" DIA x 4"
GALV LAG BOLT

SCRAP 2x10x10" AT
EACH GUARDRAIL
POST. EACH POST
BASE RECEIVE 4 LAG
BOLTS

2-2x10 PT RIM JST
UNDER POST
2-1/2" DIA x 8"
GALV THRU BOLT
W/ NUT & WASHER

2-2x10 PT.BM

SIMPSON ABU66Z
POST BASE

1/2" DIA x 7" EXP BOLT

FAIRFAX COUNTY
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APR 04 2017
STRUCTURAL
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Section 1 - Callout 1
3/4" = 1'-0"

COUNTY COPY

SCHROEDER
DESIGN/BUILD INC

3918 PROSPERITY AVE, SUITE 200, FAIRFAX, VA 22031

PROPOSED DECK

Anne D'Aleo
4948 Sabra Lane, Annadale, VA 22003

Revisions

Presentation 3/20/2017
Trade Walk
Contract 3/27/2017
Permits 3/30/2017
Construction Docs

Designer:

Ton Le
3918 Prosperity Ave.
Fairfax, VA 22031
703-449-1700

CONTRACT

SECTIONS

S102

Luter, Travis (DHCD)

From: David Mckennett <dmckennett@manassaslawyers.com>
Sent: Wednesday, December 20, 2017 3:12 PM
To: Luter, Travis (DHCD)
Subject: Supplement to Wiehe matter 17-9
Attachments: Supplement to Revised Statement of Appeal 12.20.17 Wiehe.Voelkel matter.pdf

Mr. Luter:

My client has obtained a second professional engineer test, to test the "as built" post connections exactly as constructed, because Fairfax County had not approved the deck based on the previous national testing laboratory's test report (also commissioned by my client) of the connection method, which my clients initial amended statement noted. the second PE test was done with the exact building materials and methods and also tested at 500 pounds as you can see herein.

Please include and file the attached Supplement to the Revised Statement of Appeal in this matter and add to the relevant documents which sets out the additional facts.

You will receive a Federal Express tomorrow with the same documentation. If you do not receive the same, please advise.

The only documents you recommended for removal, which I noted do remain relevant were the e-mails between my client and Mr. Tomberline from June 2-7, 2017 and May 11, 26, and 30, and April 13. The remainder of the removed documents are no longer relevant.

If you have any questions or if this is not sufficient to supplement the file, please let me know. I will also provide this document to the County Attorney in this matter.

Have a wonderful Christmas.

David G. McKennett, Esq.
Purnell, McKennett & Menke PC
9214 Center Street, Suite 101
Manassas, VA 20110
703/368-9196
Fax 703/361-0092
dmckennett@manassaslawyers.com

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VIRGINIA

IN THE STATE BUILDING CODE TECHNICAL REVIEW BOARD

VICE VERSA DESIGN BUILD CORPORATION by,)
William Wiehe, Member)

vs.)

Appeal Case 17-9

COUNTY OF FAIRFAX VIRGINIA)

Home owner:)
Scott A. Voelkel and)
Donna L. Voelkel)
6488 Lake Meadow Drive)
Burke, Virginia 22015)

Supplement to Amended Statement of Appeal and Specific Relief Sought

COMES NOW the appellant, Vice Versa Design Build Corporation, by counsel, and for its Supplement to its Amended Statement of Appeal and Specific Relief Sought, states as follows:

Facts as Alleged

1. The Facts set out in the Appellant's Amended Statement of Appeal and Specific Relief Sought are incorporated herein and this is attached thereto.

2. As noted previously, the only remaining alleged violation in this matter claims that, "3. The connections of the guard posts to the deck framing are not in compliance with 112.3. Needs to meet live load requirements in table 301.5 VRC." See Violation e-mail dated September 17, Tab A of Appellant's Amended Statement of Appeal and Specific Relief Sought.

3. As noted previously, following the informal fact finding conference with this Board on October 4, 2017, it was suggested by this Board's representatives that a Virginia professional engineer test and seal the guard rail post installation method of attachment, namely four leg screws for each post, into solid wood, which attachment method was acknowledged by the Fairfax County representatives to be the only remaining dispute with Fairfax County, might take care of the dispute between the parties if the test was above the ultimate 200 pound live load test requirement for the railing.

4. Also as noted previously, upon the Appellant's request, Digger Specialties (the railing's manufacturer) retained NTA, Inc., a nationally recognized testing laboratory, and Eric J. Tompos, a Virginia Professional Engineer, to test the four lag screw attachment method. Upon performing the said test, the method of attachment with a 42" railing did not begin to fail until 500 pounds of pressure was applied (2½ times the required load). See Tab C(3) for Testing Report and Architectural Seal in Appellant's Amended Statement of Appeal and Specific Relief Sought.

5. The railing in question is only 36" and the blocking used is solid wood meaning that there is less live load stress on the railing in question than that produced by the 42" version of the railing tested by NTA, Inc.

6. Upon being presented this incontrovertible proof that the railing and installation method are code compliant, Fairfax County, instead of providing final approval, responded with an e-mail not really denying the permit, but suggesting that the test method might not be exactly the same as that in the testing report and suggesting that some additional remediation might be necessary to bring the deck into the exact condition

as in the test report described in Tab C(3). See October 25, 2017 e-mail attached hereto as Exhibit 1.

7. As previously pointed out, no reason or code section for refusing approval was provided in the pseudo violation letter of October 25, 2017, in violation of the VA Uniform Statewide Building Code, and no response was provided by the building department when he made an additional request for final approval or reference to the USBC section that serves as the basis for the failure or defect.. See Mr. Wiehe's response following Tab A of Appellant's Amended Statement of Appeal and Specific Relief Sought.

8. Though it should have been unnecessary due to the test report and architect's seal approving the attachment method used as described above, the Appellant, in an attempt to satisfy Fairfax County's alleged inconsistencies with the installation and test report, has retained a Virginia Professional Engineer to certify a test of the Plaintiff's exact installation method. See Exhibit 2 which is attached and made a part hereof.

9. In creating the attached report of compliance and test report, Mr. Keith R. Moser, professional engineer, License Number 031973, of Geomo, Enterprises, Inc., conducted an on sight inspection of the deck in question. He then supervised, and witnessed a test of the attachment method in question built exactly as installed on the Voelkel deck (which is confirmed by the report itself). The exact same lumber was used, the same screws, the same construction method, the same posts; everything was built identically to the deck in question. See Exhibit 2 which is dated December 14, 2017.

10. The results of the "as built" test were that the attachment method used by the Appellant never failed. Instead after numerous tests of stress weights up to 500

pounds, the weld on the railing itself failed after several 500 pound tests. Nevertheless, the Appellant's attachment method never failed after numerous tests up to and including 500 pounds. See Exhibit 2.

11. The professional engineer also performed the appropriate stress calculations and noted that Fairfax County was making numerous mistakes in their calculations and the formulas used, which was in turn causing their inappropriate denial, and which was giving them the wrong final numbers.

12. In sum, the professional Virginia engineer has found that the post attachment method at issue "as built" not only meets the Virginia code requirement of 200 pounds but exceeds it by over two and a half times, and further finds that the same post attachment method, and the deck itself, is in compliance with both the letter and spirit of the building code, and that the deck should be approved.

13. This finding has been tested exactly as built and has been certified and sealed by a licensed Virginia Professional Engineer.

Argument on Intervening "As Built" Test

Under the facts noted above, there is no question that the Appellant was never in violation of the code; that the Westbury Railing should have been approved; and that the portion of the Fairfax County Notice of Violation regarding this issue, and now as narrowed to the post attachment method, must be overturned and the permit approved "as built."

At this point, there can be little doubt that the railing, and post attachment method installed by the Appellant, tests in excess of 500 pounds live load. The County's claim which it cannot change herein, is "3. The connections of the guard posts to the deck

framing are not in compliance with 112.3. Needs to meet live load requirements in table 301.5 VRC.”

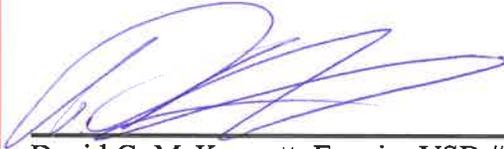
Though, this is not exactly a correct recitation of the Code, the Code requires that the railing meet a live load of 200 pounds, the railing incontrovertibly meets code as the attachment method tests up to 500 pounds before failure. Fairfax’s response to this test, suggesting that the test performed by the national laboratory was not “exactly” as built by the Appellant (citing different screws, the existence of decking, etc.) clearly shows a bias and intentional obstructionism.

Regardless, the appellant has subsequently had an “as built” test certified, performed, and sealed by a professional Virginia engineer, who not only tested the attachment method to 500 pounds live load before failure (of the post welds. The attachment method never failed), but found that Fairfax County’s calculations were not only wrong in the field, but they were based on mistaken assumptions and the use of incorrect numbers. The engineer went so far as to say that “Vice Versa Builders installed the deck guard-rails in such a way that they meet or exceed the requirements of VSUBC.... Certainly, given the overall quality of the work performed by Vice Versa and observed by Geomo, such work clearly being above the standard-of-care exhibited by other contractors performing similar work in Fairfax County does indeed satisfy the functional intent of the code, and Geomo sees no reason other than obstinacy for Fairfax County to continue rejecting the completed work.”See Exhibit 2.

These facts not only demonstrate, without question, that the Westbury Railing System, as attached, is code compliant, but goes so far above and beyond the call of duty as to make it clear that Fairfax County’s continued denials are improper.

WHEREFORE the Appellant hereby asks this body to overturn the decision of the Fairfax County Board of Building Code Appeals dated August 11, 2017, and to order Fairfax County to issue an approved final inspection of the Appellant's permit as set out herein.

Respectfully Submitted
Vice Versa Corporation
By Counsel,

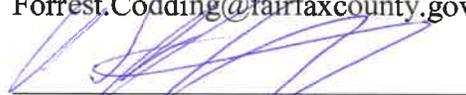


David G. McKennett, Esquire VSB #71257
PURNELL, MCKENNETT & MENKE, PC
9214 Center Street, Suite 101
Manassas, Virginia 20110
Phone 703-368-9196; Fax 703-361-0092
Counsel for the Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing "Supplement to Amended Statement of Appeal and Specific Relief Sought" has this 20th day of December, 2017, been mailed and faxed/e-mailed if possible to:

Fairfax County
C/O F. Hayden Coddling, Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
(703) 324-2421
Fax: (703) 324-2665
hayden.coddling@fairfaxcounty.gov
Forrest.Coddling@fairfaxcounty.gov



David G. McKennett, Esq.



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

October 25, 2017

Mr. William Wiehe Jr., President
Vice Versa Design/Build
12321 Popes Head Road
Fairfax VA, 22030

Subject: 6488 Lake Meadow Drive
Building Permit Number 150780024
Violation Issued June 8, 2017, Item 3, Guard Post Connections

Reference: NTA, Inc. Test Report DIG082217-55

Dear Mr. Wiehe:

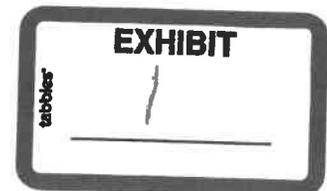
We are in receipt of the referenced NTA, Inc. report, entitled "Modified ASTM D7032, Section 6.2.4 Concentrated Load at the Post (Testing for a Single Guard Post)," submitted to our office by Digger Specialties, Inc. on October 16, 2017. Upon review, we are pleased to find that the report's data indicates an acceptable path towards code compliance for the deck located at the subject address. In order to align the field conditions to those that NTA, Inc. used in the laboratory, the following modifications must be made to the deck at the subject address.

- The blocking, as listed in Table 3 on Page 3 of the report, shall be #1 Southern Yellow Pine 2x lumber, with a minimum depth of 5½ inches attached to the adjacent joists with a minimum of 3-#10-13x3½ inch wood screws as listed in Table 4, also on Page 3. See Figures 8, 9, 11 and 12 of the report.
- The rim board shall be attached to the joist-ends with a minimum of 4-#10-13x3½ inch wood screws as listed in Table 4. See Figures 8 and 10.
- Lag screws which attach the post assembly to the deck superstructure shall have a minimum embedment length of 4 inches into the blocking, rim-board and/or joists.

As you proceed forward to remediate the existing conditions to match those in the report, please contact me directly to schedule an inspection of the alterations. We look forward to hearing from you.

Sincerely,

Guy Tomberlin, Chief
Guy.tomberlin@fairfaxcounty.gov



Land Development Services
12055 Government Center Parkway, Suite 444
Fairfax, Virginia 22035-5503
Phone 703-324-1780 • TTY 711 • FAX 703-653-6678
www.fairfaxcounty.gov





December 14, 2017

Sonny Wiehe
Vice Versa Builders, Inc.
12321 Popes Head Rd.
Fairfax, VA 22033

Subject: Code Compliance Review
6488 Lake Meadow Drive
Building Permit Number 150780024

Dear Sonny:

Geomo is providing this letter to provide technical support validating your claim against Fairfax County regarding existing deck guard-rail posts. This letter includes response to Fairfax County's calculation of deck guard-rail connection capacity showing that the as-built conditions exceed the minimum building code requirements. Also, though review of Fairfax County's calculation shows that the guard-rail connection capacity exceeds the requirements of VSUBC R301.5, Vice Versa performed and Geomo supervised a load test on a guard-rail post built at your home shop using the exact detailing of the as-built guard-rail. The load test was performed in accordance with VSUBC 1710, and results proved that the connection detail meet the requirements of VSUBC R301.5.

Calculation done by Fairfax County has several notable omissions or assumptions, the results of which cause the calculation to show inadequate capacity. They are as follows:

- 21% error due to incorrect post-base dimension> Post-base moment-arm is 2.85 inches, whereas Fairfax County uses 2.25 inches. The resulting couple, for a 200-pound load located 36 inches above deck surface, is $200 \times 36 / 2.85 = 2,526$ pounds, whereas Fairfax County computed the couple as 3,200 pounds. For two lag-screws, the total load per screw is 1,263 pounds.
- 25-60% error due to omission of load duration factor, C_D . Fairfax County uses no load duration factor (i.e. $C_D = 1.0$), whereas a higher factor of C_D is justified. Per *Wood Frame Construction Manual* (WFCM) incorporated by reference in R301.1.1, C_D can be applied to the live load based on the cumulative time duration that the load is applied over the life of the structure (Figure 1). Though R301.5 refers to the load as a live-load, which WFCM specifies $C_D = 1.0$, it is reasonable to consider it as a special case: few if any residential railings are continuously loaded for ten years, so it depends on the nature of the loading, and ASCE 7, *Minimum Design Loads for Buildings and Other Structures*, does not provide commentary on the nature of that load. Using data published by CDC, Centers for Disease Control, the average US person weighs 183 pounds. Assuming a crowded deck with persons standing side-by-side approximately eight inches offset from railing and leaning on the guard-rail, the resulting railing load for posts spaced at five feet on-center (per subject property) is approximately 70 pounds. That leads a reasonable person to assume that the load is something else, and likely that would be an impact load. ASCE 7 does not allow for use of $C_D > 1.6$ for connections, so $C_D = 1.6$ would be the upper limit. At the other extreme would be load duration of seven cumulative days with $C_D = 1.25$.



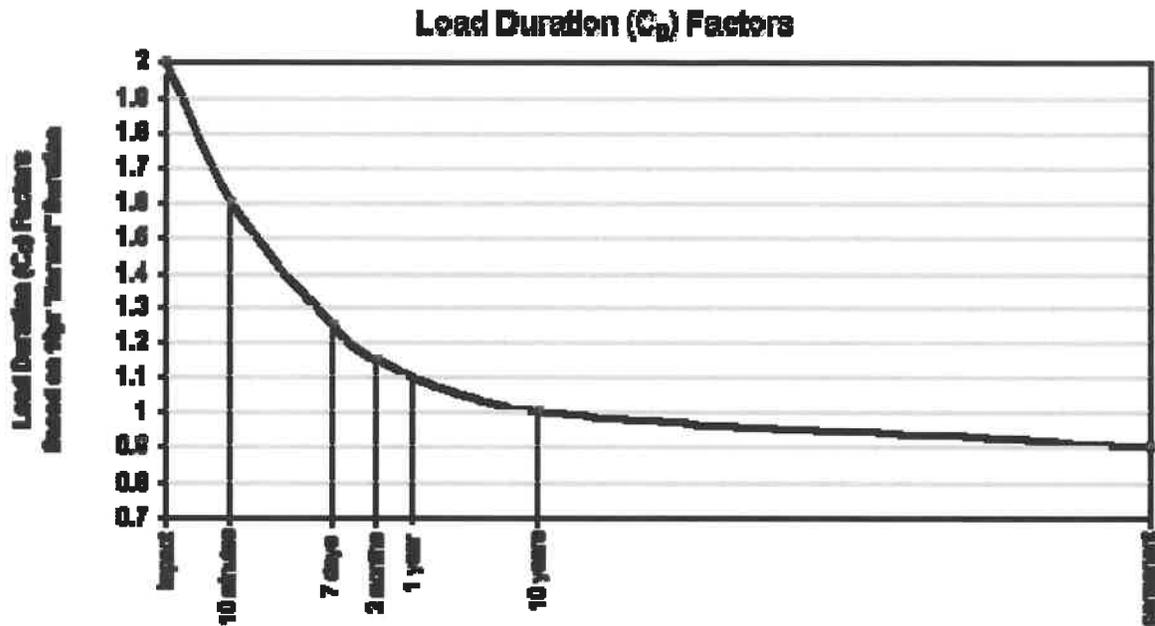


Figure 1

- 43% error due to use of wet service factor, C_M . Fairfax County used $C_M = 0.7$, whereas a factor of $C_M = 1.0$ is appropriate where wood is used in service conditions that maintain moisture content below 19%. It is normal for pressure-treated (PT) wood to equilibrate to moisture content of 10-15% in Fairfax County when the wood members are protected from repeated wetting and drying cycles. This is confirmed by moisture readings of 15% taken on PT wood Vice Versa and verified by Geomo. Vice Versa Builders used flashings to protect all joists in the deck at the subject property from repeated wetting and drying cycles (Figure 2).

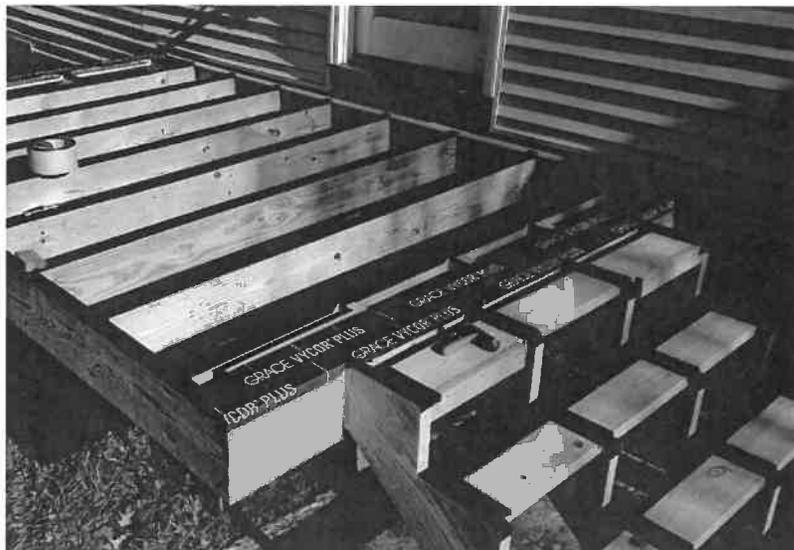


Figure 2

- Corrected calculation for lag pullout – 200-pound impact load:
Load = 1,263 pounds
Withdrawal length = 2.78 inches
Capacity = 352 pounds per inch
Capacity = $352 \times 2.78 \times C_D \times C_M \geq 1,263$ pounds
Capacity = $352 \times 2.78 \times 1.6 \times 1.0 = \underline{1,566} \geq 1,263$ pounds OK
- Alternate calculation for lag pullout, 70-pound live-load:
Load = $1,263 / 200 \times 70 = 442$ pounds
Withdrawal length = 2.78 inches
Capacity = 352 pounds per inch
Capacity = $352 \times 2.78 \times C_D \times C_M \geq 1,263$ pounds
Capacity = $352 \times 2.78 \times 1.25 \times 1.0 = \underline{1,223} \geq 442$ pounds OK
- Alternate calculation for lag pullout, 200-pound live-load:
Load = 1,263 pounds
Withdrawal length = 2.78 inches
Capacity = 352 pounds per inch
Capacity = $352 \times 2.78 \times C_D \times C_M \geq 1,263$ pounds
Capacity = $352 \times 2.78 \times 1.6 \times 1.0 = 1,223 \geq 1,263$ pounds NG
 $1223 / 1263 = 0.97 < 1.0$ CDR (required Capacity Demand Ratio)
However, the variance is minimal and it would be reasonable to consider additional information or alternative analysis.

Finally, as allowed by VSUBC 1710 Vice Versa conducted a load test on a guard-rail post that was built exactly per the as-built construction at the subject property. The load test was conducted to a load of 500 pounds, which is equal to 2.5 times the design load of 200 pounds. Geomo observed this load test on November 27, 2017. The test load was applied and removed several times with no discernable damage or displacement of the connection. At the completion of the test, the weld holding the post to the base ultimately failed, but the lagged connections did not fail in any way (Figure 3).

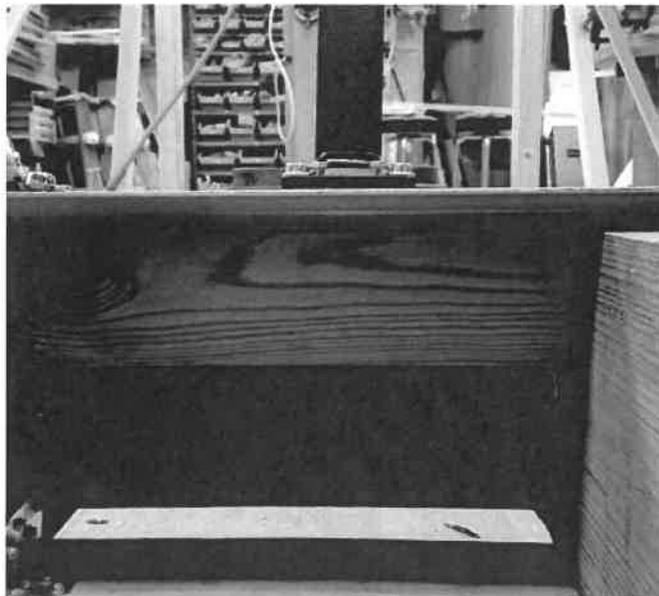
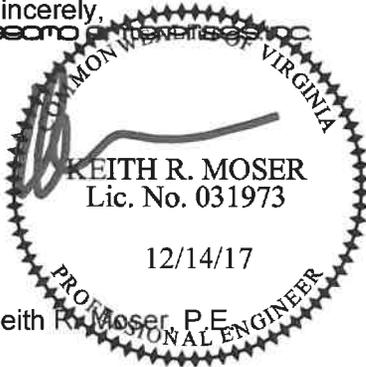


Figure 3

Based on the information and analysis provided in this letter, it is Geomo's professional opinion that Vice Versa Builders installed the deck guard-rails in such a way that they meet or exceed the requirements of VSUBC. According to IRC 106.3, the building official may approve modifications that satisfy "the functional intent of the code." Further, according to IRC 106.3.1 the building official may require or consider statements from an RDP that support such modification. Certainly, given the overall quality of the work performed by Vice Versa and observed by Geomo, such work clearly being above the standard-of-care exhibited by other contractors performing similar work in Fairfax County, the completed construction does indeed satisfy "the functional intent of the code," and Geomo sees no reason other than obstinacy for Fairfax County to continue rejecting the completed work.

We trust that this letter satisfies your needs to provide multiple supporting statements, any of which alone would be seen by a reasonable professional engineer that the deck guard-rail posts installed at 6488 Lake Meadow Drive are code-compliant, and no further modifications are required.

Sincerely,


The seal is circular with a serrated edge. The outer ring contains the text "COMMONWEALTH OF VIRGINIA" at the top and "PROFESSIONAL ENGINEER" at the bottom. Inside the ring, the name "KEITH R. MOSER" is written in a larger font, with "Lic. No. 031973" below it. The date "12/14/17" is centered at the bottom of the inner circle. A signature is written across the seal.

Keith R. Moser, P.E.

From: Tomberlin, Guy
To: [Luter, Travis \(DHCD\)](#)
Cc: sonny@vvybuild.com; "David Mckennett"; [Foley, Brian](#); [Tomberlin, Guy](#); [Coddling, Hayden](#); sdoamms@hotmail.com; [Hodge, Vernon \(DHCD\)](#)
Subject: Vice Versa Design Build Corp-Appeal Case
Date: Thursday, November 09, 2017 3:12:18 PM
Attachments: [image005.jpg](#)
[image006.png](#)

Dear Mr. Luter,

We respectfully request that the State Technical Review Board (TRB) consider hearing the appeal case of Vice Versa Corp. v. Fairfax County as soon as possible, and that it be placed on the next available docket. I recognize that Mr. Hodge recommended that the appellant resubmit a revised appeal based on the fact that he has corrected 2 of the 3 violations but as of today we have not been made aware of any such resubmittal. Mr. Hodge also suggested the appellant obtain an engineered evaluation of the guard post connections necessary to withstand the load required by the VA Residential Code, which he has done. However, the third violation specifically pertaining to the guard post connections, still remains unresolved.

The County can readily revise our submittal package to support our position if you can schedule this appeal on the next available date. We will remove references to the corrected items and place sole focus on the one outstanding issue, the guard post connections. This request is made in light of the impact this case has had on all of the parties and our commitment to seek a code compliant resolution. Our goal is to present this matter to the TRB without further delay, as the project currently remains at a standstill in spite of the decision rendered by the local board of appeals. We stand ready to make our presentation and take any necessary action as determined by the state board.

Respectfully,

Guy Tomberlin, Chief
Inspections Branch, BD-LDS
12055 Government Center Pkwy., Suite 307
Fairfax VA, 22035
703-324-1611



Luter, Travis (DHCD)

From: Codding, Hayden <Forrest.Codding@fairfaxcounty.gov>
Sent: Thursday, December 21, 2017 3:29 PM
To: Hodge, Vernon (DHCD)
Cc: Luter, Travis (DHCD); dmckennett@manassaslawyers.com; Foley, Brian; Tomberlin, Guy
Subject: Vice Versa Design Build Appeal Case; Appeal Case 17-9

Mr. Hodge:

Following the meeting with Mr. Luter and you at the TRB's informal fact-finding conference on October 4th, the appellant submitted two separate test reports on the subject guard system. The County has accepted the second test report, which reflected the actual field conditions of the particular deck and which a professional engineer stamped and approved. The County has approved the final inspection for the permit for the subject deck. Since obtaining final approval of the deck was the purpose of the appeal, the issues raised in the appeal are now moot. Please remove the appeal from the TRB's January 26, 2018, docket.

Please let me know if you have any questions.

Thanks, Hayden

F. Hayden Codding, Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
(703) 324-2421, Fax: (703) 324-2665

THIS COMMUNICATION CONTAINS CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS AND IS NOT TO BE RELEASED TO THE PUBLIC. THIS COMMUNICATION IS EXEMPT FROM THE DISCLOSURE PROVISIONS OF THE VIRGINIA FREEDOM OF INFORMATION ACT, PURSUANT TO VA. CODE ANN. § 2.2-3705.1(2) (2011).

Luter, Travis (DHCD)

From: David Mckennett <dmckennett@manassasalawyers.com>
Sent: Friday, January 05, 2018 1:01 PM
To: Hodge, Vernon (DHCD)
Cc: Sonny Wiehe; Luter, Travis (DHCD); Codding, Hayden
Subject: Re: Withdrawal of the Vice Versa Appeal to the Review Board (17-9)
Attachments: OLE & FIDO report detail.pdf

Dear Mr.Hodge:

I have reviewed the Fairfax “approval notice” and discussed with my client. Unfortunately, there are several problems that do not allow my client to withdraw its appeal.

First, nothing has been done to modify the Voelkel guard rail as it has always been code compliant since the initial inspection of March 9th, 2017, which includes an erroneous period with an active notice of violation for this guardrail from the Fairfax County Building Dept. extending from June 8th, 2017 and up to Dec. 20th, 2017. Since the rail has never been modified in any way since initial installation, this notice of violation was clearly written in error. Correspondingly, my client feels that the local board erroneously upheld the notice of violation in a resolution dated August 11th, 2017. Thus, he has properly appealed to the TRB as of August 31st, 2017 to consider the evidence of its appeal case and continues to ask that the TRB overturn the local board’s resolution as requested.

Further, though an unequivocal reversal of the board’s decision might make the matter moot, the request of the appellant in asking the VA Technical Review Board to overturn the August 11th, 2017 resolution of the Fairfax County Board of Building Code Appeals is not a moot point with respect to the Dec. 20, 2017 final approval of building permit #150780024. The “final approval” referred to by Fairfax County is officially listed within the FIDO inspection system as being based on an OLE (Official Letter of Explanation) from Mr. Foley of Fairfax County ascribing provisions which are not germane to applicable building codes (including VA Uniform Statewide Building Code section 112.3) and reside outside of local code enforcement authority. Additionally, the “approval” contains at least two conditions which make the said approval conditional and by definition not final and unequivocal (see attached FIDO print out and OLE). Therefore, due to the lack of an unconditional approval that clearly rescinds or overrides the Notice of Violation and/or the Fairfax appeal board’s resolution, my client does not agree that the matter is moot and asks that the VA State Technical Review Board review the evidence of his appeal and overturn the Fairfax appeal board decision along with issuing an order for an unconditional final approval.

Respectfully submitted.

David G. McKennett, Esq.
Purnell, McKennett & Menke PC
9214 Center Street, Suite 101
Manassas, VA 20110
703/368-9196
Fax 703/361-0092
dmckennett@manassasalawyers.com

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Be advised that this firm is a debt collector and any information you provide may be used for that purpose.

On Wed, Jan 3, 2018 at 2:02 PM, Hodge, Vernon (DHCD) <Vernon.Hodge@dhcd.virginia.gov> wrote:

Mr. McKennett:

We need to decide whether anything needs to be done with your client's appeal to the Review Board for the January 19, 2018 Review Board meeting. If your client is withdrawing the appeal, we just need confirmation through an email or letter and the case will be considered dispensed with and no further action need be taken. However, if for any reason your client is not willing to withdraw the appeal, then we would have the Review Board consider whether to dismiss the appeal as moot since Fairfax County has approved the installation in question.

If you would let us know one way or the other by close of business on Friday, January 5, 2018, that would assist us in finalizing the preparations for the January Review Board meeting. If I don't hear from you, I will attempt to call your office in case you are on extended holiday.

Should you have any questions or concerns, please do not hesitate to contact me.

Vernon Hodge, CBO, Acting Secretary, State Technical Review Board

State Building Codes Office

Division of Building and Fire Regulation

Va. Department of Housing and Community Development

Direct Dial: [\(804\) 371-7174](tel:8043717174)

Email: Vernon.Hodge@DHCD.virginia.gov



Dear Mr. Wiehe and Family Voelkel,

We are in receipt of the testing and product certification report for the guard attachment on the Voelkel property at [6488 Lake Meadow Dr.](#) It is my determination that the submitted documents are acceptable to approve the final inspection for this address and close the deck permit provided the Voelkel family is satisfied with the engineer's findings even though the construction conditions do not meet the manufacturer's current recommendations. The approved final inspection will be based on the calculations signed and sealed by Keith R. Moser of Geomo Enterprises, Inc. which will be retained in the permanent file for the subject property. Hereby, Mr. Moser accepts full responsibility for the future performance of the guard-to-deck attachment.

This approval is site and address specific, not precedent setting.

Respectfully,

Fairfax County Building Official, Brian Foley

View Plan Status By

- Permit #
- Applicant Name
- Address
- Project Name
- View Review Comments
- Mechanical Certification Status

View Inspection Status By

- Permit #
- Applicant Name
- Address
- Project Name
- View Permits By

Permit Status by Permit Number

Inspection Information for Permit Number: 150780024

Inspection Type: RESIDENTIAL FINAL

Inspection #: 7671545

Inspection Name: CALEB SULZEN

Date of Inspection: 12/20/2017

General Comments: Final approval for permit 150780024 is per the report attached to this permit in OLE. The referenced report was dated December 14, 2017 by Georno Enterprises, Inc. and has been accepted by the building official in accordance with 112.3 of the USBC.

PRINTABLE PAGE Previous

Permit #

Applicant Name

Address

Project Name

Schedule, Modify or Cancel an Inspection



Type here to search



Luter, Travis (DHCD)

From: Coding, Hayden <Forrest.Coding@fairfaxcounty.gov>
Sent: Wednesday, January 10, 2018 3:23 PM
To: Hodge, Vernon (DHCD); 'David Mckennett'
Cc: Luter, Travis (DHCD); Tomberlin, Guy
Subject: RE: Withdrawal of the Vice Versa Appeal to the Review Board (17-9)

Mr. Hodge/Mr. Mckennett:

For the record, since the issue of the Notice of Violation came up in regard to whether the County's action was final, this is to clarify that the Notice of Violation has been resolved. Three issues were raised in the Notice. The first two were then satisfactorily addressed by the appellant and were removed from the appeal. The third issue – the guardrail - was resolved after the appellant submitted a signed and sealed engineer's report addressing that issue and the County accepted the report. The County then approved the final inspection for the permit for the subject deck. Final approval would not have been granted if the Notice of Violation had been unresolved.

The County's case is closed. Please let me know if you have any further questions.

Thanks, Hayden

F. Hayden Coding, Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
(703) 324-2421, Fax: (703) 324-2665

THIS COMMUNICATION CONTAINS CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS AND IS NOT TO BE RELEASED TO THE PUBLIC. THIS COMMUNICATION IS EXEMPT FROM THE DISCLOSURE PROVISIONS OF THE VIRGINIA FREEDOM OF INFORMATION ACT, PURSUANT TO VA. CODE ANN. § 2.2-3705.1(2) (2011).

From: Hodge, Vernon (DHCD) [mailto:Vernon.Hodge@dhcd.virginia.gov]
Sent: Monday, January 08, 2018 1:16 PM
To: 'David Mckennett' <dmckennett@manassasl原因.com>
Cc: Coding, Hayden <Forrest.Coding@fairfaxcounty.gov>; Luter, Travis (DHCD) <Travis.Luter@dhcd.virginia.gov>
Subject: RE: Withdrawal of the Vice Versa Appeal to the Review Board (17-9)

Mr. McKennett:

Attached is a document containing copies of several consent orders approved by the Review Board in the past.

With your client's appeal containing hundreds of pages of documents and a Review Board staff summary addressing only the merits of the appeal, I determined it was not appropriate or necessary to clutter the Review Board's January meeting agenda with irrelevant documents now that the status of the appeal has changed. In addition, we did not have time to pare the documents down and revise the staff summary to only address whether the appeal should be dismissed as moot as the board's agenda package needs to go out in the next day or so. Therefore, I made the decision to take the appeal off of the docket for the January meeting.

The next anticipated Review Board meeting is on March 16, 2018 and if appeal needs to go to the board, I see no problem having everything ready for that meeting.

Please let me know if you have questions or concerns, or if I may be of any immediate assistance. Otherwise, please keep us informed of any progress with the County towards the resolution of the appeal.

Vernon Hodge, CBO, Acting Secretary, State Technical Review Board
State Building Codes Office
Division of Building and Fire Regulation
Va. Department of Housing and Community Development
Direct Dial: (804) 371-7174
Email: Vernon.Hodge@DHCD.virginia.gov

From: David McKennett [<mailto:dmckennett@manassasalawyers.com>]
Sent: Monday, January 08, 2018 11:31 AM
To: Hodge, Vernon (DHCD)
Cc: Coddling, Hayden; Luter, Travis (DHCD)
Subject: Re: Withdrawal of the Vice Versa Appeal to the Review Board (17-9)

Dear Mr. Hodge

Thank you for the update. My client remains willing and able to be present for the Jan. 19th TRB meeting (and would prefer to do so) as scheduled. Should this rescheduling be absolutely necessary (a brief explanation from the Secretary, you, or the proper party, may be helpful to us in understanding why as it would seem that the time is already scheduled and set aside for this matter), then I respectfully request that my client's appeal be confirmed for the next available hearing date as soon as possible in order to avoid future scheduling conflicts.

I would also like to accept your offer of copies of consent orders previously approved by the board; particularly any that bear similarities to our case, as that may be a potential manner in which we can address all parties concerns in a final manner. In the interim, my client remains hopeful that a mutually acceptable resolution can be reached between my client and FFX Co rescinding the local board's decision of August 11 thereby making an eventual hearing before the TRB a moot point.

Thank you for your attention to the matter.

Sincerely

David G. McKennett, Esq.
Purnell, McKennett & Menke PC
9214 Center Street, Suite 101
Manassas, VA 20110

703/368-9196
Fax 703/361-0092
dmckennett@manassasalawyers.com

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On Fri, Jan 5, 2018 at 2:35 PM, Hodge, Vernon (DHCD) <Vernon.Hodge@dhcd.virginia.gov> wrote:

Mr. McKennett:

At this late date, I believe the appropriate action is to remove the appeal from the January 19, 2018 meeting docket. There are a number of ways to proceed after that. If the County is willing to change its approval to the satisfaction of your client, then a withdrawal could be forthcoming. If it is believed that the local board decision needs to be rescinded, the parties could mutually submit a consent order to the Review Board for consideration. I can provide copies of consent orders previously approved by the Review Board. If the parties cannot agree on how to proceed, then we can schedule a hearing before the Review Board at the next scheduled meeting to consider how to dispense with the appeal.

This email is notice to both parties that the appeal will not be on the docket for the January 19, 2018 meeting.

Vernon Hodge, CBO, Acting Secretary, State Technical Review Board

State Building Codes Office

Division of Building and Fire Regulation

Va. Department of Housing and Community Development

Direct Dial: [\(804\) 371-7174](tel:(804)371-7174)

Email: Vernon.Hodge@DHCD.virginia.gov

From: David McKennett [mailto:dmckennett@manassaslawyers.com]
Sent: Friday, January 05, 2018 1:01 PM
To: Hodge, Vernon (DHCD)
Cc: Sonny Wiehe; Luter, Travis (DHCD); Codding, Hayden
Subject: Re: Withdrawal of the Vice Versa Appeal to the Review Board (17-9)

Dear Mr.Hodge:

I have reviewed the Fairfax “approval notice” and discussed with my client. Unfortunately, there are several problems that do not allow my client to withdraw its appeal.

First, nothing has been done to modify the Voelkel guard rail as it has always been code compliant since the initial inspection of March 9th, 2017, which includes an erroneous period with an active notice of violation for this guardrail from the Fairfax County Building Dept. extending from June 8th, 2017 and up to Dec. 20th, 2017. Since the rail has never been modified in any way since initial installation, this notice of violation was clearly written in error. Correspondingly, my client feels that the local board erroneously upheld the notice of violation in a resolution dated August 11th, 2017. Thus, he has properly appealed to the TRB as of August 31st, 2017 to consider the evidence of its appeal case and continues to ask that the TRB overturn the local board’s resolution as requested.

Further, though an unequivocal reversal of the board’s decision might make the matter moot, the request of the appellant in asking the VA Technical Review Board to overturn the August 11th, 2017 resolution of the Fairfax County Board of Building Code Appeals is not a moot point with respect to the Dec. 20, 2017 final approval of building permit #150780024. The “final approval” referred to by Fairfax County is officially listed within the FIDO inspection system as being based on an OLE (Official Letter of Explanation) from Mr. Foley of Fairfax County ascribing provisions which are not germane to applicable building codes (including VA Uniform Statewide Building Code section 112.3) and reside outside of local code enforcement authority. Additionally, the “approval” contains at least two conditions which make the said approval conditional and by definition not final and unequivocal (see attached FIDO print out and OLE). Therefore, due to the lack of an unconditional approval that clearly rescinds or overrides the Notice of Violation and/or the Fairfax appeal board’s resolution, my client does not agree that the matter is moot and asks that the VA State Technical Review Board review the evidence of his appeal and overturn the Fairfax appeal board decision along with issuing an order for an unconditional final approval.

Respectfully submitted.

David G. McKennett, Esq.
Purnell, McKennett & Menke PC
[9214 Center Street, Suite 101](http://www.purnellmckennett.com)
Manassas, VA 20110
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On Wed, Jan 3, 2018 at 2:02 PM, Hodge, Vernon (DHCD) <Vernon.Hodge@dhcd.virginia.gov> wrote:

Mr. McKennett:

We need to decide whether anything needs to be done with your client's appeal to the Review Board for the January 19, 2018 Review Board meeting. If your client is withdrawing the appeal, we just need confirmation through an email or letter and the case will be considered dispensed with and no further action need be taken. However, if for any reason your client is not willing to withdraw the appeal, then we would have the Review Board consider whether to dismiss the appeal as moot since Fairfax County has approved the installation in question.

If you would let us know one way or the other by close of business on Friday, January 5, 2018, that would assist us in finalizing the preparations for the January Review Board meeting. If I don't hear from you, I will attempt to call your office in case you are on extended holiday.

Should you have any questions or concerns, please do not hesitate to contact me.

Vernon Hodge, CBO, Acting Secretary, State Technical Review Board

State Building Codes Office

Division of Building and Fire Regulation

Va. Department of Housing and Community Development

Direct Dial: [\(804\) 371-7174](tel:8043717174)

Email: Vernon.Hodge@DHCD.virginia.gov

Luter, Travis (DHCD)

From: Codding, Hayden <Forrest.Codding@fairfaxcounty.gov>
Sent: Tuesday, February 20, 2018 11:13 AM
To: Luter, Travis (DHCD); David Mckennett
Cc: Hodge, Vernon (DHCD); Tomberlin, Guy
Subject: RE: Appeal of William Wiehe - Vice Versa Appeal to the Review Board (Appeal No. 17-9)

Travis:

Nothing further needs to be done regarding this case in our opinion. Mr. Wiehe has satisfactorily addressed all issues raised in the Notice of Violation and those issues are now moot. The County has approved the final permit for the deck and the owner has full use of it. The County's case is closed.

Please let me know if you need any further information.

Thanks, Hayden

F. Hayden Codding, Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
(703) 324-2421, Fax: (703) 324-2665

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From: Luter, Travis (DHCD) [mailto:Travis.Luter@dhcd.virginia.gov]
Sent: Tuesday, February 20, 2018 9:59 AM
To: David Mckennett <dmckennett@manassaslawyers.com>; Codding, Hayden <Forrest.Codding@fairfaxcounty.gov>
Cc: Hodge, Vernon (DHCD) <Vernon.Hodge@dhcd.virginia.gov>
Subject: [Caution: Message contains Redirect URL content] Appeal of William Wiehe - Vice Versa Appeal to the Review Board (Appeal No. 17-9)

Messrs. McKennett and Codding:

The next meeting of the Review Board will be on April 20, 2018. Please let us know if we need to do anything with the above-referenced appeal for that meeting.

W. Travis Luter Sr., C.B.C.O.

Assistant Secretary to the State Building Code Technical Review Board
Senior Construction Inspector II
Department of Housing & Community Development
Division of Building & Fire Regulation
State Building Codes Office
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Richmond, Virginia 23219

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travis.luter@dhd.virginia.gov

Code Connection Blog <http://dhdcodeconnection.wordpress.com>

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Luter, Travis (DHCD)

From: David Mckennett <dmckennett@manassasalawyers.com>
Sent: Tuesday, February 20, 2018 5:51 PM
To: Luter, Travis (DHCD)
Cc: Codding, Hayden; Hodge, Vernon (DHCD)
Subject: Re: Appeal of William Wiehe - Vice Versa Appeal to the Review Board (Appeal No. 17-9)

Mr. Luter:

My client does not believe that the matter is moot. A violation notice and a finding against him remains on the Fairfax County records and with the Fairfax County Appeal board. That is not a minor issue to my client. And, while Fairfax County has agreed that the deck is in compliance (despite no changes being made thereto), it has not acknowledged in any way that the violation was in error, that the code was misapplied, misinterpreted, or even that later information showed that the initial violation was incorrect, so that my client can insure that his business reputation, and future interactions within the county, are not tainted.

For those reasons my client still requests and, as is his right, requires that the appeal proceed, (unless the County is willing to present an agreed order, acceptable to my client, which acknowledges the mistaken application of code to this project, which includes an erroneous resolution by Local Building Code Appeals board, and the ultimate reversal/revocation of the violation notice).

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On Tue, Feb 20, 2018 at 9:58 AM, Luter, Travis (DHCD) <Travis.Luter@dhcd.virginia.gov> wrote:

Messrs. McKennett and Codding:

The next meeting of the Review Board will be on April 20, 2018. Please let us know if we need to do anything with the above-referenced appeal for that meeting.

W. Travis Luter Sr., C.B.C.O.

Assistant Secretary to the State Building Code Technical Review Board

Senior Construction Inspector II

Department of Housing & Community Development

Division of Building & Fire Regulation

State Building Codes Office

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**ADDITIONAL DOCUMENTS
AND WRITTEN ARGUMENTS
SUBMITTED BY
VICE VERSA CORPORATION**

(Page left blank intentionally)

Luter, Travis (DHCD)

From: David Mckennett <dmckennett@manassasalawyers.com>
Sent: Wednesday, March 14, 2018 3:50 PM
To: Luter, Travis (DHCD)
Cc: Coddling, Hayden; Family Voelkel; Tomberlin, Guy; Foley, Brian; Hodge, Vernon (DHCD)
Subject: Re: Submittal of Written Arguments and Request for Continuance (Appeal No. 17-9)

Mr. Luter:

My client objects to any further continuance. My understanding is that this objection is sufficient at this time (if that is incorrect, please inform me as soon as possible). A statement of my client's full reasoning and a response to Mr. Tomberlin's positions will be included and incorporated in my client's forthcoming "Corrections and Objections to Staff Summary and Brief on Issues not being Mool" which is made a part hereof."

Thank you.

David G. McKennett, Esq.
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703/368-9196
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VIRGINIA

IN THE STATE BUILDING CODE TECHNICAL REVIEW BOARD

VICE VERSA DESIGN BUILD CORPORATION by,)
William Wiehe, Member)

vs.)

Appeal Case 17-9

COUNTY OF FAIRFAX VIRGINIA)

Home owner:)
Scott A. Voelkel and)
Donna L. Voelkel)
6488 Lake Meadow Drive)
Burke, Virginia 22015)

**Corrections and Objections to Staff Summary and
Brief on Issues not being Moot and Objection to Continuance**

COMES NOW the appellant, Vice Versa Design Build Corporation, by counsel,
and for its Corrections, and Objections to the Staff Summary and its additional
arguments, on the lack of mootness and objections to continuance, before the State
Building Code Technical Review Board, states as follows:

Specific Objections to Staff Summary

1. The Suggested Summary states in Paragraph 1. "FCDLDS representatives
have indicated that rescinding the notice of violation is unnecessary and VVDBC's
efforts to draft and submit a mutually agreed upon consent order to the Review Board to
resolve the appeal have been unsuccessful." –VVDBC notes that they have made
attempts at an agreed resolution but there have been absolutely no attempts by FXDLDS
to submit or negotiate a mutually agreed upon consent order.

2. Paragraph 2 of the Suggested Summary States, “The original notice of violation included a number of citations, of which all but one were *effectively resolved* subsequent to the county appeals board’s hearing and decision. – This is incorrect as *there was never a legitimate code violation to resolve*. Therefore there can be no effective resolution of a non-existent violation.

3. Paragraph 3 of the Staff Summary states that the VVDBC arranged to have the configuration of the deck guardrail system tested by an independent testing agency resulting in FCDLDS acknowledging that the system complied with the VCC. – If this statement was accurate, there would likely be no additional dispute. However, the County did not acknowledge that the deck is now, and has always been, code compliant or that the initial violation was mistaken, in error, or void. Instead, FCDLDS simply did not address, rescind, or vacate the violation notice and appeal decision, and simply approved the final inspection. Additionally, the County attached a number of caveats. Specifically, Mr. Foley, of FCDLDS, stated that “

it is my determination that the submitted documents are acceptable to prove the final inspection for this address and close the deck permit provided the Voelkel family is satisfied with the engineer’s findings even though the construction conditions do not meet with the manufacturer’s current recommendations. The approved final inspection will be based on the calculations signed and sealed by Keith R. Moser of Geomo Enterprises, Inc. which will be retained in the permanent file for the subject property. Hereby, Mr. Moser accepts full responsibility for the future performance of the guard-to-deck attachment. This approval is site specific, not precedent setting.

The “approval” is highly conditional, it clearly ascribes numerous provisions which are not germane to applicable building codes and which are clearly outside local building code authority. Specifically, the OLE contains two conditions (see the FIDO notice and conditions “approval” letter attached as Exhibit 1 hereto.). This lack of

unconditional approval, which does not rescind or override the Notice of Violation and/or the Fairfax appeal board's resolution, means that Fairfax County has not unconditionally acknowledged that the "system complied with the VCC." Rather the County has made a clear attempt to keep from making an unconditional approval, and has even made an attempt to shift liability to an engineer (which it clearly has no authority or legal ability to do). It is also worth noting that the code test verification report was never "submitted" to Fairfax County Plan Review or Inspection Department but rather was simply attached to communications in this appeal.

At this point it is absolutely clear that the violation notice was simply wrong, was issued in error and/or was based upon incorrect calculations. The guardrail has always been code compliant and FCDLDS had no cause within the VAUSBC to fail the initial guardrail system. Thus, as FCDLDS has not unconditionally "acknowledged that the system complied with the VCC," this statement in the board summary is in error.

4. The Suggested Issues for Resolution by the Review Board, paragraph 1 suggests that the Board should determine if the matter should be dismissed as moot. This is not a determination which the board should make as the violation has clearly not been vacated, absolutely no remediation or change has been made to the rail, the County continues to maintain and/or modify conditions to its approval, and for all of the other reasons set out herein.

Response to Fairfax County Representative (Tomberlin) E-mail

The Fairfax County Inspections Branch Chief, has provided an argument/brief by e-mail, setting forth the County position at this time. The County states that it believes

that the matter is moot because the county believes that (1) three “code violations” were identified and a Notice of Violation was issued on June 8, 2017. (2) that “VVDBC filed an appeal of those violations to the Fairfax County Local Board of Building Code Appeals (LBBCA) and was heard on August 11, 2017” and that (3) the LBBCA simply upheld the alleged “code violations” because the “the project was not constructed in accordance with the approved permit plans & Fairfax County requirements”.

Each of these statements is factually incorrect for the simple reason that there was never a code violation. The Notices were issued in error. This is absolutely certain with regard to the only remaining issue, that of the railing attachment method. No changes have ever been made to the railing attachment method, and even the County now acknowledges that an independent lab test (separate from any VVDBC test) demonstrates that the attachment method meets code. As there has been no change to that attachment method, it is a tautology to point out that the attachment method has always met code, hence the violation notice was, and has always been, incorrect and improper.

The County, however, does not acknowledge this impropriety and, therefore bases its additional contentions on an inherently flawed position. This leads to predictably false statements by FCDLDS such as the “appellant abated all three written violations by ay of the actions described below.... (c) VVDBC had testing done on a simulated test deck built exactly as he constructed onsite. He then had an engineer recalculate the loads and determine that the required strength had been met in his professional opinion. The engineer sealed the report and certified compliance.”

VVDBC has not abated any flaw or violation with regard to the attachment method as demanded by the notice of violation and as claimed by the County. Rather

VVDBC has proven, unequivocally, that the violation notice was, and always has been, incorrect, improper and simply wrong. It has also proven that the calculations used by FCDLDS to “prove non-compliance” were incorrect. If the County had acknowledged this impropriety and vacated the violation notice, the issue might be moot. However, the County did not do so. Instead it issued a conditional approval as described herein, and has refused to vacate the violation finding against the appellant. The County has already attempted to use this “past violation” against the Plaintiff, and its overturn is extremely important to VVDBC’s continued good reputation and business.

The County suggests finally that, “The building permit now has a final inspection recorded in the County’s public record system. A final inspection provides the approval to occupy the structure and cannot be revoked unless some action occurs to violate the USBC, exactly the same parameters as with any structure constructed within the County or State.” Unfortunately, this is not what the County’s final inspection states. Instead, it appends the approval with a conditional description letter which creates conditions for approval which are extra-legal, which make the approval open to revision, and which create the ability for the county to re-visit the issue at any time and after the Appellant’s appeal right has expired. Therefore, the allegation that the matter is moot is simply Fairfax County making additional claims based upon a false premise.

With regard to the Fairfax county request for a continuance, it is entirely too late as the matter has already been continued outside the normal time frame required for hearing and no good cause has been shown as to why an exception should be made. Additionally, Fairfax County is the party to this action, not any one individual.

Regardless of Mr. Tomberlin’s scheduling conflict, legal counsel can still make all legal

arguments, as there is no real factual dispute. Mr. Foley wrote the alleged “approval letter” and therefore Mr. Tomberlin’s presence is really not relevant to the remaining issues of “mootness” before this body. Therefore, there is truly no basis for continuance.

Therefore, this Body should hear this matter, overturn the Fairfax County Board of Building Code Appeals ruling dated August 11, 2017 and vacate the violation notices issued by Fairfax County Inspection Department, and declare the permits to be unconditionally approved and closed.

Brief on Mootness

Under the facts noted above, there is no question that the Appellant was never in violation of the building code; that the Westbury Railing attachment method should have been initially approved; and that the portion of the Fairfax County Notice of Violation regarding this issue, as well as the Fairfax County Board’s decisions, should be overturned and the permit approved “as built.”

The only issue being asserted at this time by FCDLDS, is that the matter is “moot” as Fairfax has conditionally approved the deck rail attachment method. Fairfax does not claim that there is any remaining “violation” but says that their conditional approval of the deck attachment method, based upon the engineering tests supplied by the Appellant for use in this appeal, makes this appeal moot. Therefore, there is no question that the appeal, if this body finds that the matter is not moot, should be granted; the Fairfax Appeal Board’s decision should be overturned; that the violation notice was/is improper and should be vacated, and a final inspection granted. Of this fact there can be no further argument.

The violation notice as it applies to the rail post attachment method, is and has always been wrong. The guard rail and attachment method has not been changed and is as code compliant today as it was when it was initially installed. All of the previous pleadings, and the County's current position, make this fact absolutely and undeniable clear. Additionally, the code compliance of the rail attachment method, and the County's discrimination against VVDBC, is further shown by the County's approval of the same attachment on a deck built by Schroeder Design Build, Inc. whose principal sat on the Fairfax County Board of Building Code Appeals during the appellant's local appeal hearing. See Schroeder Bio attached as Exhibit 2 hereto and IFF binder of Appeal No.17-9 distributed October 4, 201, pgs. 165 through 189 for Schroeder deck plan and inspections approvals.

Regardless, the only issue raised by the County at this time is suggesting that the issue before this Board is moot.

Mootness, is a legal term of art that has a very specific definition as set out by the United State Supreme Court. The complicated basic description is "the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs. (TOC), Inc., 528 U.S. 167, 189, 120 S. Ct. 693, 709 (2000). However, if the alleged "mootness" has been caused by the actions of one of the parties, the Supreme Court and other courts are quick to point out that:

a defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice." *City of Mesquite*, 455 U.S. at 289. "If it did, the courts would be compelled to leave 'the defendant . . . free to return to his old ways.'" 455 U.S. at 289, n. 10 (citing *United*

States v. W. T. Grant Co., 345 U.S. 629, 632, 97 L. Ed. 1303, 73 S. Ct. 894 (1953)). In accordance with this principle, the standard we have announced for determining whether a case has been mooted by the defendant's voluntary conduct is stringent: "A case might become moot if subsequent events made it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *United States v. Concentrated Phosphate Export Assn., Inc.*, 393 U.S. 199, 203, 21 L. Ed. 2d 344, 89 S. Ct. 361 (1968). [****42] The "heavy burden of persuading" the court that the challenged conduct cannot reasonably be expected to start up again lies with the party asserting mootness. *Id.* at. 189. Emphasis added.

In sum, a matter is not moot if 1. the alleged mootness is caused by the voluntary cessation or actions of the party claiming mootness (as they could immediately resume such actions) or 2. if it is capable of repetition and evades review (meaning that the issue could happen again but it is hard or impossible to complete a case in the time-frame required for an appeal. See *Id.*

In the case before this board, the alleged mootness is entirely based upon the voluntary actions of Fairfax County and its approval of the rail attachment method, despite no change to that method of attachment. This intentional "mooting" of an issue is a textbook example of the voluntary cessation exception to mootness. Therefore, even if this Body found that the County's late hour approval made the matter moot, it should still hear the matter as failing to do so leaves the County open to continuing such practices in the future at any time.

Regardless, the matter is not moot from a factual basis. Fairfax County clearly has not closed their file on VVDBC as earlier contended. The County continues to reference the Fairfax County Appeal board resolution as a negative strike against VVDBC and the County now seeks to continue this matter further burdening VVDBC. An example of this burden can be seen in the County's recent e-mail where the County continues to refer, to

the alleged “corrected” issues in a negative manner and to allege unsubstantiated (beyond the local board resolution which was appealed) claims. This is despite the agreement made during the Oct. 4th, 2017 Informal Fact Finding Conference (IFFC) that only the guardrail would remain germane and/or relevant to this appeal. VVDBC can and will continue to contest such negative use of the record in this appeal, but allowing the Fairfax Board decision to remain on the record is an ever present and continuing damage to VVDBC.

Additionally, the alleged approval is highly conditional setting conditions on the said approval and suggesting that it is in some way sub-standard and not fully compliant. These provisions include acknowledgment of the Voelkel family’s satisfaction, which is of course not required by the building code nor part of any record. It is highly subjective and leaves the approval open to being rescinded or reviewed at any time. The provisions also include statements that an independent engineering firm, separate from one referenced in the approved CCRR documents, is now accepting liability for the connections (which is again not something the County has the legal power to do and which is clearly not part of the building code). The dicta also suggests that the attachment method does not meet the manufacturer’s current standards and that the approval is somehow substandard and must remain site specific. To the contrary, the valid CCRR documentation shows the same type of lag connections allowed by code, and this type of code compliant connection is further evidenced by the Schroeder deck approval which was issued after the Voelkel deck was failed. See the conditions letter attached to the “approval” attached as Exhibit 1 hereto.

In sum, any condition to the approval, as is present here, inherently overcomes any allegation that the matter is moot and creates a means whereby the county may re-open the issue. This is a clear example of voluntary cessation. Whereas the damage of the negative resolution caused by the local board and continued false allegations by Fairfax County Inspections Department is causing financial and reputation damage to VVDBC and whereas the County continues to use them against VVDBC, the matter is also clearly not moot.

Finally, all of the TRB precedents for mootness suggest that a code deficiency was remediated by correction or repair. This is not that situation for the Voelkel deck rail as installed by VVDBC because no code deficiency existed, no repairs have occurred, and no remediation has taken place. The attachment method of the guardrail remains identical to that addressed by the County over nine months ago. Thus, the installation is identical to when the violation was issued and the violation should be rescinded as it was clearly issued in factual error.

WHEREFORE, as the facts and the law clearly demonstrate that the violation notice at issue in this matter was factually incorrect, and that the deck attachment method was and has always been code compliant; and as this matter is not moot as conditions remain in the "approval notice"; as no changes have been made to the attachment method rendering the conditions different; as any alleged mootness is only due to the voluntary cessation of Fairfax County, and is capable of reputation and evading review; and is therefore, regardless of the facts, an exception to the mootness doctrine; and as the VVDBC continues to be damaged by the existence of the violation notice, and the

negative findings of the Fairfax Appeal Board: this Body should overturn or reverse the decision of the Fairfax County Board of Building Code Appeals dated August 11, 2017, and order Fairfax County to issue an unconditional approved final inspection of the Appellant's permit as set out herein; and to grant such other relief as the Board deems reasonable and proper.

Respectfully Submitted
Vice Versa Corporation
By Counsel,



David G. McKennett, Esquire VSB #71257
PURNELL, MCKENNETT & MENKE, PC
9214 Center Street, Suite 101
Manassas, Virginia 20110
Phone 703-368-9196; Fax 703-361-0092
Counsel for the Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing "Corrections and Objections to Staff Summary and Brief on Issues Not Being Moot and Objection to Continuance" has this 23rd day of March, 2018, been mailed and faxed/e-mailed if possible to:

Fairfax County
C/O F. Hayden Coddling, Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
(703) 324-2421
Fax: (703) 324-2665
hayden.coddling@fairfaxcounty.gov
Forrest.Coddling@fairfaxcounty.gov



David G. McKennett, Esq.



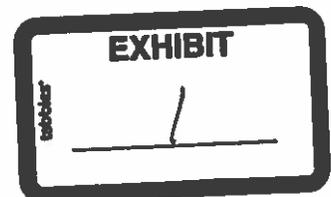
Dear Mr. Wiehe and Family Voelkel,

We are in receipt of the testing and product certification report for the guard attachment on the Voelkel property at 6488 Lake Meadow Dr. It is my determination that the submitted documents are acceptable to approve the final inspection for this address and close the deck permit provided the Voelkel family is satisfied with the engineer's findings even though the construction conditions do not meet the manufacturer's current recommendations. The approved final inspection will be based on the calculations signed and sealed by Keith R. Moser of Geomo Enterprises, Inc. which will be retained in the permanent file for the subject property. Hereby, Mr. Moser accepts full responsibility for the future performance of the guard-to-deck attachment.

This approval is site and address specific, not precedent setting.

Respectfully,

Fairfax County Building Official, Brian Foley



Permit Status by Permit Number

Permit #
Applicant Name
Address
Project Name
View Review Comments
Mechanical Certification Status
View Inspection Status By

Permit #
Applicant Name
Address
Project Name
Schedule, Modify or Cancel an Inspection

Inspection Information for Permit Number: 160780024
Inspection Type: RESIDENTIAL FINAL
Inspection #: 7871545
Inspection Name: CAL EB SULZEN
Date of Inspection: 12/20/2017
General Comments: Final approval for permit 160780024 is per the report attached to this permit in OLE. The referenced report was dated December 14, 2017 by Geoema Enterprises, Inc. and has been accepted by the building official in accordance with 112.3 of the USBC.

[PRINTABLE PAGE](#)
[Previous](#)





TOM SCHROEDER | Founder and Engineer, Certified Remodeler



TOM SCHROEDER | Founder and Engineer, Certified Remodeler. Tom co-founded SDB in 1986 and is proud to be called a “Remodeler”. Today, he serves as SDB’s technical specialist, structural reviewer and troubleshooter. Tom earned a degree in Civil Engineering from the University of Wisconsin and his Certified Remodeler certificate from NARI. When he’s not busy on projects, Tom volunteers at a local battered women’s shelter and serves on the Fairfax County Board of Building Code Appeals. With his infectious sense of humor and insatiable love of life, Tom is more than just SDB’s cornerstone.

**ADDITIONAL DOCUMENTS
AND WRITTEN ARGUMENTS
SUBMITTED BY
FAIRFAX COUNTY**

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Luter, Travis (DHCD)

From: Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>
Sent: Monday, March 12, 2018 2:30 PM
To: Luter, Travis (DHCD)
Cc: Hodge, Vernon (DHCD); Codding, Hayden; Foley, Brian; dmckennett@manassasalawyers.com
Subject: 6488 Lake Meadow Dr. Appeal 17-9

Travis, I request postponement of Technical Review Board (TRB) case #17-9 set for April 20, 2018. Unfortunately, that state TRB hearing date is scheduled during the International Code Council (ICC) code development hearings, which will be held in Columbus Ohio. Ironically, I have submitted code changes to the ICC and will be testifying as a result of a previous TRB appeals case held last June on pipe system relining. As shown in the attached schedule, the IPC/IRC hearing dates are to be held through Friday April 20, 2018: <https://cdn-web.iccsafe.org/wp-content/uploads/2018-Group-A-CAH-hearing-schedule.pdf>.

A continuance of the April 20th TRB hearing would not prejudice the appellant, Vice-Versa Design Build Corporation (VVDBC), since the permit was approved by Fairfax County months ago and the owner will continue to have full use of his deck before and after the TRB appeal.

In regard to the current appeal, I want to submit that I fully believe this a moot case and that's the position our legal counsel will be presenting. In preparation for any technical issues of this case that might arise, I would like the record to incorporate the following facts:

1. Three code violations were identified and issued in a Notice of Violation by my office dated June 8, 2017.
2. VVDBC filed an appeal of those violations to the Fairfax County Local Board of Building Code Appeals (LBBCA) and was heard on August 11, 2018.
3. VVDBC's LBBCA appeal was denied because "the project was not constructed in accordance with the approved permit plans & Fairfax County requirements."
4. The appellant abated all three of the written violations by way of actions described below, after the direction to do so was issued by the local board.
 - a. VVDBC physically installed the required washers on all carriage "thru-bolts."
 - b. VVDBC physically installed additional support connections (brackets) on the landing and then had an engineer certify the specific installation details.
 - c. VVDBC had testing done on a simulated test deck built exactly as he constructed onsite. He then had an engineer recalculate the loads and determine that the required strength had been met in his professional opinion. The engineer sealed the report and certified compliance.

The building permit now has a final inspection recorded in the County's public record system. A final inspection provides the approval to occupy the structure and cannot be revoked unless some action occurs to violate the USBC, exactly the same parameters as with any structure constructed within the County or State.

Respectfully submitted,

Guy Tomberlin, Chief
Inspections Branch, BD-LDS
12055 Government Center Pkwy., Suite 307
Fairfax VA, 22035
703-324-1611



VIRGINIA:

IN THE STATE BUILDING CODE TECHNICAL REVIEW BOARD

VICE VERSA DESIGN BUILD CORPORATION by, :
William Wiehe, Member, :

Appellant, :

vs. : **Appeal Case 17-9**

COUNTY OF FAIRFAX, VIRGINIA, :

Appellee, :

Homeowners: :
Scott A. Voelkel :
Donna L. Voelkel :
6488 Lake Meadow Drive :
Burke, Virginia 22015 :

**THE COUNTY OF FAIRFAX’S MEMORANDUM IN OPPOSITION TO VICE
VERSA DESIGN BUILD CORPORATION’S APPEAL**

The County of Fairfax states that the violations cited in the County’s notice of violation have been resolved and the issues raised in this appeal are moot. There are no enforcement activities pending by the County against the contractor, Vice Versa Design Build Corporation (VVDBC), in this case. The County has written VVDBC multiple times and repeated each time that the permit for the subject of this appeal, the Voelkel’s deck, has been approved. Over the County’s objections, VVDBC insists on bringing this appeal to this tribunal and demands that the County again reaffirm the County’s approvals of the deck. Following are VVDBC’s past demands and the corresponding efforts by the County to resolve this case:

1. VVDBC asked that the County grant final inspection approval for his deck . . . the Building Official approved the deck on December 20, 2017, and the owners have had full and free use of the deck since that time.
2. VVDBC asked that the issues in the Notice of Violation be declared resolved . . . by approval of the permit and ensuing confirmations by both the Building Official and the County Attorney's Office, the County officially acknowledged that all issues in the Notice of Violation have been resolved.
3. VVDBC asked that the County accept its engineer's report representing that the deck's guardrail system is acceptable . . . the County accepted the engineer's report and approved the deck on December 20, 2017.
4. VVDBC asked that no conditional language be included in the County's approval . . . the County Attorney's Office, on behalf of the Building Official, wrote the four attached e-mails stating that all issues in the Notice of Violation have been resolved.
5. VVDBC continued to state that there were still remaining issues in the case . . . the County Attorney's Office in the attached e-mails wrote repeatedly that the County's "Case is closed".

There is nothing left to argue. The arguments presented in VVDBC's brief almost appear to be conspiracy theories. VVDBC continues to argue that the County could possibly take action against it in the future in this case despite the repeated statements by the County that the case is closed and all issues have been resolved. This scenario presented by VVDBC is completely unfounded.

In this case, the County issued a valid Notice of Violation containing three separate violations. Then, VVDBC, after the local board of building appeals denied its appeal, made modifications to the deck that, in the County's determination, sufficiently addressed the first two of the three issues in the Notice of Violation. Finally, after VVDBC's engineer tested the guardrail system on the deck for a second time (the first time did not match the field conditions), the County agreed that VVDBC had sufficiently addressed the third issue. The County then approved the final inspection for the deck on December 20, 2017.

Since all issues have been resolved, the contractor should have withdrawn his appeal to save all parties (and the TRB) from spending their time on issues that have been satisfactorily addressed. Because all issues have been addressed and resolved, the issues in this case are moot and there is no need for further adjudication. *See* In RE: TRB Appeal of James Lapinsky (2000). In *Lapinsky*, a notice of violation, in addition to a condemnation order, was issued to Lapinsky for violations of the USBC. Lapinsky then cleared all of the violations, including those set forth in the Notice of Violation. The code official subsequently requested that the TRB determine that the issues on appeal were moot. The TRB, in a written opinion, dismissed the case as moot because the code official had "acknowledge[d]" that the cited violations had been corrected. Fairfax County in the present case has repeatedly *acknowledged* that the cited violations have been corrected. Thus, this case should be dismissed as moot.

We will be available at the hearing to address any further issues, to support the original issuance of the Notice of Violation, and to emphasize that all issues in Notice of Violation have now been resolved. The County also maintains that the decision of the

Fairfax County Local Board of Building Code Appeals to uphold the Notice of Violation was correct. County staff will be available to address any technical issues raised in regard to the issuance of the Notice of Violation at the hearing.

Respectfully submitted,

THE COUNTY OF FAIRFAX, VIRGINIA

By *F. Hayden Codding*
Counsel

ELIZABETH D. TEARE
COUNTY ATTORNEY

By *F. Hayden Codding*
F. Hayden Codding (VSB No. 39785)
Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064
(703) 324-2421 / (703) 324-2665 (fax)
hayden.codding@fairfaxcounty.gov
Counsel for Appellee the County of Fairfax, Virginia

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Brief was sent by U.S. mail and electronic mail on the 30th day of March 2018 to:

David G. McKennett
Purnell, McKennett & Menke, PC
9214 Center Street, Suite 101
Manassas, Virginia 20110

F. Hayden Codding
F. Hayden Codding

Codding, Hayden

From: Codding, Hayden
Sent: Wednesday, December 20, 2017 2:44 PM
To: 'dmckennett@manassasalawyers.com'
Cc: Foley, Brian; Tomberlin, Guy; Sulzen, Caleb
Subject: FW: 6488 Lake Meadow Dr - Engineer Report -Final Inspection Approval

David:

Per your request, the Building Official's rationale for accepting the engineer's report is below. The permit has been approved and logged into FIDO. So, all the issues have been resolved. As we discussed, please let me know when you inform the TRB that the issues have been worked out and your client's appeal has been withdrawn.

Thanks, Hayden

F. Hayden Codding, Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
(703) 324-2421, Fax: (703) 324-2665

THIS COMMUNICATION CONTAINS CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS AND IS NOT TO BE RELEASED TO THE PUBLIC. THIS COMMUNICATION IS EXEMPT FROM THE DISCLOSURE PROVISIONS OF THE VIRGINIA FREEDOM OF INFORMATION ACT, PURSUANT TO VA. CODE ANN. § 2.2-3705.1(2) (2011).

From: Tomberlin, Guy
Sent: Wednesday, December 20, 2017 2:10 PM
To: Codding, Hayden <Forrest.Codding@fairfaxcounty.gov>
Cc: Foley, Brian <Brian.Foley@fairfaxcounty.gov>; Sulzen, Caleb <Caleb.Sulzen@fairfaxcounty.gov>; Tomberlin, Guy <Guy.Tomberlin@fairfaxcounty.gov>
Subject: 6488 Lake Meadow Dr - Engineer Report -Final Inspection Approval

Hayden below is the information Mr. McKennett requested. The permit has been finalized in our FIDO system.

Guy Tomberlin, Chief
Inspections Branch, BD-LDS
12055 Government Center Pkwy., Suite 307
Fairfax VA, 22035
703-324-1611



Dear Mr. Wiehe and Family Voelkel,

We are in receipt of the testing and product certification report for the guard attachment on the Voelkel property at 6488 Lake Meadow Dr. It is my determination that the submitted documents are acceptable to approve the final inspection for this address and close the deck permit provided the Voelkel family is satisfied with the engineer's findings even though the construction conditions do not meet the manufacturer's current recommendations. The approved final inspection will be based on the calculations signed and sealed by Keith R. Moser of Geomo Enterprises, Inc. which will be retained in the permanent file for the subject property. Hereby, Mr. Moser accepts full responsibility for the future performance of the guard-to-deck attachment.

This approval is site and address specific, not precedent setting.

Respectfully,

Fairfax County Building Official, Brian Foley

Codding, Hayden

From: Codding, Hayden
Sent: Thursday, December 21, 2017 3:29 PM
To: 'Hodge, Vernon (DHCD)'
Cc: 'Travis.Luter@dhcd.virginia.gov'; 'dmckennett@manassasalawyers.com'; Foley, Brian; Tomberlin, Guy
Subject: Vice Versa Design Build Appeal Case; Appeal Case 17-9

Mr. Hodge:

Following the meeting with Mr. Luter and you at the TRB's informal fact-finding conference on October 4th, the appellant submitted two separate test reports on the subject guard system. The County has accepted the second test report, which reflected the actual field conditions of the particular deck and which a professional engineer stamped and approved. The County has approved the final inspection for the permit for the subject deck. Since obtaining final approval of the deck was the purpose of the appeal, the issues raised in the appeal are now moot. Please remove the appeal from the TRB's January 26, 2018, docket.

Please let me know if you have any questions.

Thanks, Hayden

F. Hayden Codding, Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
(703) 324-2421, Fax: (703) 324-2665

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Codding, Hayden

From: Codding, Hayden
Sent: Wednesday, January 10, 2018 3:23 PM
To: 'Hodge, Vernon (DHCD)'; 'David Mckennett'
Cc: Luter, Travis (DHCD); Tomberlin, Guy
Subject: RE: Withdrawal of the Vice Versa Appeal to the Review Board (17-9)

Mr. Hodge/Mr. Mckennett:

For the record, since the issue of the Notice of Violation came up in regard to whether the County's action was final, this is to clarify that the Notice of Violation has been resolved. Three issues were raised in the Notice. The first two were then satisfactorily addressed by the appellant and were removed from the appeal. The third issue – the guardrail - was resolved after the appellant submitted a signed and sealed engineer's report addressing that issue and the County accepted the report. The County then approved the final inspection for the permit for the subject deck. Final approval would not have been granted if the Notice of Violation had been unresolved.

The County's case is closed. Please let me know if you have any further questions.

Thanks, Hayden

F. Hayden Codding, Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
(703) 324-2421, Fax: (703) 324-2665

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From: Hodge, Vernon (DHCD) [mailto:Vernon.Hodge@dhcd.virginia.gov]
Sent: Monday, January 08, 2018 1:16 PM
To: 'David Mckennett' <dmckennett@manassasl原因.com>
Cc: Codding, Hayden <Forrest.Codding@fairfaxcounty.gov>; Luter, Travis (DHCD) <Travis.Luter@dhcd.virginia.gov>
Subject: RE: Withdrawal of the Vice Versa Appeal to the Review Board (17-9)

Mr. McKennett:

Attached is a document containing copies of several consent orders approved by the Review Board in the past.

With your client's appeal containing hundreds of pages of documents and a Review Board staff summary addressing only the merits of the appeal, I determined it was not appropriate or necessary to clutter the Review Board's January meeting agenda with irrelevant documents now that the status of the appeal has changed. In addition, we did not have time to pare the documents down and revise the staff summary to only address whether the appeal should be dismissed as moot as the board's agenda package needs to go out in the next day or so. Therefore, I made the decision to take the appeal off of the docket for the January meeting.

The next anticipated Review Board meeting is on March 16, 2018 and if appeal needs to go to the board, I see no problem having everything ready for that meeting.

Codding, Hayden

From: Codding, Hayden
Sent: Tuesday, February 20, 2018 11:13 AM
To: 'Luter, Travis (DHCD)'; David Mckennett
Cc: Hodge, Vernon (DHCD); Tomberlin, Guy
Subject: RE: Appeal of William Wiehe - Vice Versa Appeal to the Review Board (Appeal No. 17-9)

Travis:

Nothing further needs to be done regarding this case in our opinion. Mr. Wiehe has satisfactorily addressed all issues raised in the Notice of Violation and those issues are now moot. The County has approved the final permit for the deck and the owner has full use of it. The County's case is closed.

Please let me know if you need any further information.

Thanks, Hayden

F. Hayden Codding, Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
(703) 324-2421, Fax: (703) 324-2665

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From: Luter, Travis (DHCD) [mailto:Travis.Luter@dhcd.virginia.gov]
Sent: Tuesday, February 20, 2018 9:59 AM
To: David Mckennett <dmckennett@manassasalawyers.com>; Codding, Hayden <Forrest.Codding@fairfaxcounty.gov>
Cc: Hodge, Vernon (DHCD) <Vernon.Hodge@dhcd.virginia.gov>
Subject: [Caution: Message contains Redirect URL content] Appeal of William Wiehe - Vice Versa Appeal to the Review Board (Appeal No. 17-9)

Messrs. McKennett and Codding:

The next meeting of the Review Board will be on April 20, 2018. Please let us know if we need to do anything with the above-referenced appeal for that meeting.

W. Travis Luter Sr., C.B.C.O.

Assistant Secretary to the State Building Code Technical Review Board
Senior Construction Inspector II
Department of Housing & Community Development
Division of Building & Fire Regulation
State Building Codes Office
600 East Main Street, Suite 300
Richmond, Virginia 23219
(804) 371-7163 - phone

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Quantico City LLC and Joel Rhoades
Appeal No. 17-8

CONTENTS

<u>Section</u>	<u>Page No.</u>
Review Board Staff Document	225
Basic Appeal Documents	231
Additional Documents Submitted in Chronological Order	247
Additional Documents Submitted by Prince William County	302A

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of Quantico City LLC and Joel Rhoades
Appeal No. 17-8

REVIEW BOARD STAFF DOCUMENT

Suggested Summary of the Appeal

1. The appeal involves property owned by Quantico City LLC and located at 320 Fourth Avenue in the Town of Quantico. The property was purchased by Quantico City LLC in March of 2017. The primary structure on the property is a cinderblock storage building, approximately 2500 square feet in area, with a wood-framed roof.

2. Town representatives had communicated with a prior owner of the property in February of 2017 that a Town Unsafe Structure Committee was recommending to the Town Council that the building was unsafe and needed to be demolished.

3. Joel Rhoades, the president of JSCH, Inc., a company affiliated with Quantico City LLC, was notified of the Town committee's recommendation.

4. At some point prior to the Town Council meeting in March of 2017 to consider the Town committee's recommendation, roof and wall repairs to the building were commenced by Quantico City LLC.

5. After notification by Town officials, the Prince William County building inspections department, which enforces the Virginia building code for the Town, issued a stop work order requiring a building permit to be obtained for the repairs to the building. Quantico City LLC obtained a building permit from the County shortly thereafter.

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6. At a meeting in April of 2017, the Town Council approved a resolution requiring the building to be demolished. Quantico City LLC has since entered negotiations with the Town concerning the status of the property and is seeking approval to make repairs to the building.

7. In May of 2017, after notification by Town officials that Quantico City LLC had not obtained zoning approval from the town, the County building inspections department issued a letter revoking Quantico City LLC's building permit. In addition, the County building inspections department issued a violation notice under the Virginia building code for undergoing construction activities without a permit.

8. In June of 2017, through legal counsel, Quantico City LLC filed an appeal of the County building inspections department's actions to the Prince William County Building Code Board of Appeals.

9. The Building Official rescinded the violation notice for constructing work without a permit prior to the County appeals board hearing.

10. The County appeals board heard the appeal the same month and ruled to uphold the County building inspections department's revocation of the building permit and stop work order based on the fact the Town of Quantico had not issued a Zoning Approval for the project.

11. Review Board staff, in reviewing the documents submitted and determining the appeal appeared to involve whether there was zoning approval, forwarded copies to the parties of prior Review Board decisions involving the recension of, or refusal to, issue a building permit if there was no zoning approval. This staff summary of the appeal was then drafted to be distributed to the parties and opportunity given for the submittal of objections, corrections or additions to the staff summary and written arguments and additional documents to be submitted by the parties in preparation for the hearing before the Review Board.

Suggested Issue for Resolution by the Review Board

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Whether to reverse, set aside and vacate the May 4, 2017 revocation of the building permit issued by the Prince William County building inspections department.

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BASIC APPEAL DOCUMENTS

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Wade A. Hugh
Director

COUNTY OF PRINCE WILLIAM

5 County Complex Court, Suite 120, Prince William, Virginia 22192-5308
(703) 792-6930 Metro 631-1703 Fax: (703) 792-4155

DEPARTMENT OF
DEVELOPMENT
SERVICES
Division of
Building Development

Mail received on May 10, 2017 | Signed Certified
Mail, Attached Envelope.

May 4, 2017

Joel Rhoades
320 4th Avenue
Quantico VA 22134

RE: Notification of Permit Revocation BLD2017-04742 & BLD2017-04595

To Whom It May Concern:

A review of our records indicates that the above-referenced construction permits were issued in error. The issued permits were subject to local ordinance requirements for the Town of Quantico which was not provided. Based on the lack of the Towns of Quantico Zoning approval these permit should have not been processed/issued. Therefore, in accordance with VUSBC - VCC §110.8 the following permits are here by revoked.

No further work is authorized under these permits. All work previously performed under these permits is now considered to be in violation of the VUSBC. Legal action to compel abatement may be initiated if corrective actions have not been pursued within 30 days of this notice. Any future commencement of work for this project must be authorized under reinstated permits.

Any person aggrieved by this decision has the right of appeal in accordance with VUSBC - VCC §119.5. A written request for appeal shall be submitted to the Secretary of the Local Board of Building Code Appeals at 5 County Complex Court, Suite 120, Prince William VA 22192 within 30 calendar days of the date on this notification.

If you require additional information, please contact the Building Construction Services Branch at (703) 792-6924.

Sincerely,

Chad Roop
Construction Services Branch Chief



COUNTY OF PRINCE WILLIAM
 Department of Development Services
 Building Development Division
 5 County Complex Court, #120
 Prince William, VA. 22192-9201

CERTIFIED



7016 3010 0000 8377 4308

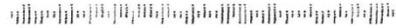


UNITED STATES MAIL
 \$ 006.56⁰

RETURN SERVICE REQUESTED

JOEL RHOADES
 417 LEE ST.
 ALEXANDRIA, VA 22314

22314-384517





Eric M. Mays, P.E.
Building Official

COUNTY OF PRINCE WILLIAM

5 County Complex Ct, Prince William, VA 22192-5308
(703) 792-6931 Fax: (703) 792-4155 <http://www.pwcgov.org/BDD>

DEPARTMENT OF
DEVELOPMENT SERVICES
Division of
Building Development

Mail received on May 10, 2017 | Signed
Certified Mail, Attached Envelope.

VIOLATION NOTICE

PREMISE IN VIOLATION: 320 4TH AVE
RESPONSIBLE PARTY: QUANTICO CITY LLC
ATTN: JOEL RHOADES
417 N LEE ST
ALEXANDRIA VA 22314

CASE #: BCE2017-00413
VIOLATION DATE: May 08, 2017
NOTICE DATE: May 08, 2017

INSPECTOR: Andrew Kellerman

CONTACT # / EMAIL: 703-792-5687 /
AKellerman@pwcgov.org

An investigation of the premises above has revealed violation(s) of the Virginia Uniform Statewide Building Code (VUSBC). You are directed to bring the violation(s) described below into compliance within the specified compliance deadline on this notice. Failure to comply with the requirement of the VUSBC may result in criminal prosecution. Under the Code of Virginia Title 36-106 any such violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of such a violation shall be punished by a fine of not more than \$2,500, per offense.

VUSBC Code Year	VUSBC Code Section	VIOLATION	CORRECTIVE ACTION NECESSARY	Compliance Date
2012	108.1.1 Revoked Permit	Construction Under a Revoked Permit - Construction that requires permits and inspections has been documented. The permits authorizing the documented work have been revoked.	Immediately Stop all work and Obtain All Required Permits and Inspections	6/7/17

You have the right of appeal in accordance with Chapter 1 section 119.5 of the VUSBC. A written request for appeal shall be submitted to the Local Board of Building Code Appeals within 30 calendar days of receipt of this notice. Contact the inspector if you have any questions or require assistance in bringing this project into compliance with the VUSBC. Helpful information and guidance on how to correct violations may be found at www.pwcgov.org/UnpermittedWork.

BUILDING CODE ENFORCEMENT INSPECTOR

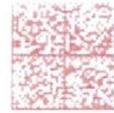


COUNTY OF PRINCE WILLIAM
 Department of Development Services
 Building Development Division
 5 County Complex Court, #120
 Prince William, VA. 22192-9201

CERTIFIED MAIL



7016 3010 0000 8375 8629

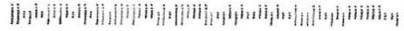


U.S. POSTAGE
 ZIP PERMIT
 02-18
 \$ 006.56⁰
 0001452912 MAIL PERMIT

RETURN SERVICE REQUESTED

QUANTICO CITY LLC
 ATTN: JOEL RHOADES
 417 N LEE ST
 ALEXANDRIA VA 22314

22314-230117



By Courier

June 2, 2017

Prince William County Board of Building Code Appeals
Attn: Secretary to the Appeals Board
5 County Complex Court
Prince William, Virginia, 22192

Re: Appeal of Notice of Permit Revocation, dated May 4, 2017
(BLD 2017-04742 & BLD 2017-04595)

Appeal of Violation Notice, dated May 8, 2017
(BCE 2017-004123)

Dear Sir/Madam:

This firm represents Quantico City, LLC with respect to the referenced Notice of Permit Violation (the "Revocation") and the Violation Notice (the "Violation"). The Revocation was addressed to Joel Rhoades and the Violation was addressed to Quantico City, LLC to the attention of Joel Rhoades. Joel Rhoades is the President of JSCH, Inc., the General Partner of JSCH, LP that, in turn, is the Managing Member of Quantico City, LLC. Copies of the Revocation and the Violation are attached hereto.

The Revocation, dated May 4, 2017 and Violation Notice dated May 8, 2017 were both received by Quantico City, LLC on May 10, 2017 in separate envelopes but both envelopes were mailed from Prince William County on the same date as evidenced by the post-marks of May 8, 2017.

Quantico City, LLC, in its capacity of Owner of the property, hereby appeals both the Revocation and the Violation. Quantico City, LLC will be referred to herein as "Applicant".

1. Appeal of the Revocation.

The owner and address of the owner of the building is as follows:

Quantico City, LLC
417 North Lee Street
Alexandria, Virginia 22314

Prince William County Board of Building Code Appeals
Attn: Secretary to the Appeals Board
June 2, 2017
Page 2

Applicant requests that the Prince William County Board of Building Code Appeals reverse the Revocation. The Revocation purported to revoke the building permits referenced therein. The building permits had been duly issued based on complete applications and work had commenced. The Revocation was issued after the Mayor of the Town of Quantico complained to Mr. Chad Roop, Construction Services Branch Chief. The Mayor asserted to Mr. Roop that zoning approval of the Town was necessary for the work encompassed by the permits. The Applicant disagrees with this legal position; however, Mr. Roop nevertheless issued the Revocation, apparently siding with the Mayor in this legal dispute.

Regardless of who is right about this legal issue, Mr. Roop's reliance on VCC § 110.8 as the basis for the Revocation is both procedurally and substantively without basis. First, as a matter of procedure, the Applicant notes that, while the Revocation was dated May 4, 2017, it was not delivered to Joel Rhoades until May 10, 2017 and mailed by the County at the same time as the Notice of Violation. Thus, there was no actual notice to Applicant that the permit was revoked before the Violation alleging work on a revoked permit was also delivered. Simply put, the Applicant had no notice that the permit was revoked before being accused of working on a revoked permit. The failure of the County to provide adequate notice constitutes a violation of Applicant's and Mr. Rhoades' rights to Constitutional substantive and procedural due process.

In addition to Constitutional Due Process infirmities arising from the untimely issuance of the Revocation, the Revocation is facially deficient because of its failure to state a violation of VCC § 110.8. Section 110.8 provides as follows

110.8 Revocation of Permit. The building code official may revoke a permit or approval issued under this code in the case of any false statement, misrepresentation of fact, abandonment of work, failure to complete construction as required by Section 110.7 or incorrect information supplied by the applicant in the application or construction documents on which the permit or approval was based.

There is no allegation in the Revocation that the Mr. Rhoades or the Applicant, or anyone else, for that matter, made any false statement or misrepresentation of fact or that the Applicant either abandoned work or failed to complete construction. Nor is there a statement in the Notice that Mr. Rhoades or the Applicant supplied any incorrect information in the application for the permit or the construction documents upon which the permit or approval was based. All that the Notice states is that "[t]he issued permits were subject to local ordinance requirements for the Town of Quantico that were not provided." As stated above, the Applicant takes issue with this assertion that Zoning Approval is necessary but there was no false or incorrect statement in the

Prince William County Board of Building Code Appeals
Attn: Secretary to the Appeals Board
June 2, 2017
Page 3

building permit application that zoning approval by the Town had been secured. Thus the Revocation fails to state a claim for violation of VCC § 110.8 and should be reversed.

II. Appeal of the Violation

The owner and address of the owner of the building is as follows:

Quantico City, LLC
417 North Lee Street
Alexandria, Virginia 22314

For the reasons set forth in paragraph I hereinabove, the permit was not properly revoked under VCC § 110.8 and the Applicant's rights to procedural and substantive due process were violated by lack of notice that the permits were revoked before the County issued the Violation accusing applicant of working under a revoked permit. Also, the permits were not properly revoked because the Revocation fails to state a violation of VCC § 110.8 for the reasons set forth in Paragraph I.

The Violation sets forth VCC § 108.1.1 as the basis for the violation. Section 108.1.1, however, only requires a building permit before undertaking work. Applicant complied with Section 108.1.1 by securing the building permits before it commenced work. Therefore, the Violation fails to state a violation of VCC § 108.1.1.

Thank you for your kind consideration of these Appeals. Please contact me with any questions.

Sincerely,



Gifford R. Hampshire

GRH/mlw
Enclosures: As stated.

cc: Mr. Joel Rhoades, Quantico City, LLC

PRINCE WILLIAM COUNTY
BUILDING CODE BOARD OF APPEALS
Resolution

WHEREAS, the Prince William County Building Code Board of Appeals is duly appointed to resolve disputes arising out of enforcement of the Virginia Uniform Statewide *Building Code*; and

WHEREAS, an appeal has been filed and brought to the attention of the Board of Appeals; and

WHEREAS, a hearing was held on June 27, 2017 to consider the aforementioned appeal; and

WHEREAS, the board has fully deliberated this matter; now, therefore, be it

RESOLVED, That in the matter of

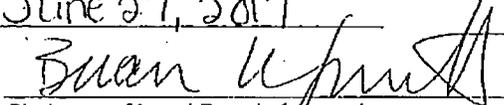
Appeal No. API.2017-00013

IN RE: Joel Rhoades v. Prince William County Building Official

The decision of the Building Official is hereby *upheld*, for the reasons set out below:

1. The decision of the Building Official to revoke the permit is the correct action based upon the facts presented, and the appeal is dismissed.

Date: June 27, 2017

Signature: 
Chairman of Local Board of Appeals

Note: Any person who was a 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, 600 East Main Street, Richmond, VA 23219, (804) 371-7150.

ZELNICK & ASSOCIATES, P.C.

ATTORNEYS AT LAW

12610 LAKE RIDGE DRIVE
WOODBIDGE, VIRGINIA 22192

www.zelnicklaw.com

TELEPHONE (703) 494-7171
FACSIMILE (703) 494-0434

ROBERT J. ZELNICK

ADRIENNE R. ZELNICK
MARTA J. BORINSKY*

* ALSO ADMITTED IN SC

July 20, 2017

BY EMAIL ONLY

Commonwealth of Virginia
State Building Code Technical Review Board
Main Street Centre
600 E. Main Street, Suite 300
Richmond, VA 23219

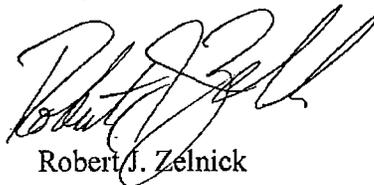
Re: Appeal From Prince William County Building Code
Board of Appeals, Appeal No. APL2017-00013

Dear Sir or Madam:

The administrative appeal in the above-referenced matter was filed with the State Building Code Technical Review Board on July 17, 2017. On July 18, 2017, appellant's former counsel received another Resolution from the Prince William County Building Code Board of Appeals correcting the name of the appellant. A copy of the new Resolution is attached. As this Resolution is dated July 17, 2017, Quantico City LLC wishes to make it clear that it appeals the July 17, 2017 Resolution.

Thank you for your consideration.

Very truly yours,



Robert J. Zelnick

RJZ/bkv

Enclosure

cc: Quantico City LLC
Chad Roop, Prince William County Building Construction Services Branch Chief
Eric M. Mays, Building Code Official

PRINCE WILLIAM COUNTY
BUILDING CODE BOARD OF APPEALS
Resolution

WHEREAS, the Prince William County Building Code Board of Appeals is duly appointed to resolve disputes arising out of enforcement of the Virginia Uniform Statewide Building Code; and

WHEREAS, an appeal has been filed and brought to the attention of the Board of Appeals; and

WHEREAS, a hearing was held on June 27, 2017 to consider the aforementioned appeal; and

WHEREAS, the board has fully deliberated this matter; now, therefore, be it

RESOLVED, That in the matter of

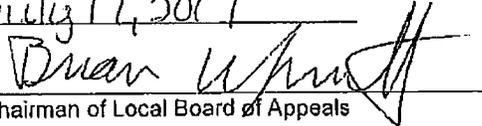
Appeal No. APL2017-00013

IN RE: Quantico City, LLC v. Prince William County Building Official

The decision of the Building Official is hereby *upheld*, for the reasons set out below:

1. The decision of the Building Official to revoke the permit is the correct action based upon the facts presented, and the appeal is dismissed.

Date: July 17, 2017

Signature: 
Chairman of Local Board of Appeals

Note: Any person who was a 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, 600 East Main Street, Richmond, VA 23219, (804) 371-7150.

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
 Statewide Fire Prevention Code
 Industrialized Building Safety Regulations
 Amusement Device Regulations

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

Quantico City LLC and Joel Rhoades

417 N. Lee Street

Alexandria, VA 22314

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

Chad Roop, Prince William County Building Construction Services Branch Chief

5 County Complex Court, Suite 120, Prince William, VA 22192; croop@pwcgov.org;
703-792-6930.

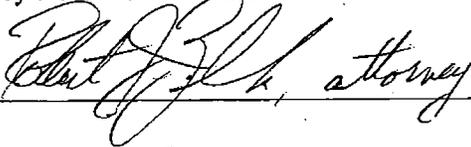
Eric M. Mays, Building Code Official, 5 County Complex Court, Prince William, VA 22192
Additional Information (to be submitted with this application) emays@pwcgov.org; 703-792-6930.

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 17 day of JULY, 2017, 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:  attorney

Name of Applicant: QUANTICO CITY LLC & JOEL RHOADES

(please print or type)

ZELNICK & ASSOCIATES, P.C.

ATTORNEYS AT LAW

ROBERT J. ZELNICK

12610 LAKE RIDGE DRIVE

TELEPHONE (703) 494-7171

WOODBIDGE, VIRGINIA 22192

FACSIMILE (703) 494-0434

ADRIENNE R. ZELNICK

www.zelnicklaw.com

MARTA J. BORINSKY*

* ALSO ADMITTED IN SC

July 17, 2017

BY EMAIL ONLY

Commonwealth of Virginia
State Building Code Technical Review Board
Main Street Centre
600 E. Main Street, Suite 300
Richmond, VA 23219

Re: Appeal of Resolution Dated June 27, 2017 by the Prince
William County Building Code Board of Appeals
Appeal No. APL2017-00013

Dear Sir or Madam:

This firm represents Quantico City LLC and Joel Rhoades which file this administrative appeal to the above-referenced Resolution. Although the underlying appeal was brought by Quantico City LLC, the June 27, 2017 Resolution by the Prince William County Building Code Board of Appeals incorrectly listed the name of the appellant as Joel Rhoades. The County Board of Appeals was notified on June 28, 2017 that the name of the appellant was incorrect, but to date no corrected Resolution has been issued by the County Board. Accordingly, the Application for Administrative Appeal identifies both Quantico City LLC and Joel Rhoades as the appealing party. An email chain between Gifford Hampshire (Quantico City's former counsel) and the Prince William County Building Code Board of Appeals concerning this issue is attached.

Two enforcement decisions are appealed, namely: (1) Notice of Permit Revocation (the Revocation) dated May 4, 2017; and (2) Violation Notice dated May 8, 2017, Case No. BCE2017-00413. Copies are attached.

A copy of the record filed with the Prince William County Building Code Board of Appeals and the June 27, 2017 Resolution are also attached.

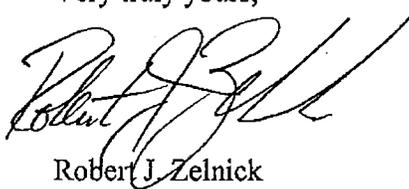
The appellant seeks the following relief:

Commonwealth of Virginia
State Building Code Technical Review Board
July 17, 2017
Page Two

1. That the Notification of Permit Revocation dated May 4, 2017 be reversed, set aside and vacated.
2. That the Violation Notice dated May 8, 2017 be reversed, set aside and vacated.

Thank you for your consideration. Please advise if you need any additional information.

Very truly yours,



Robert J. Zelnick

RJZ/bkv
Enclosures

cc: Quantico City LLC
Joel Rhoades
Chad Roop, Prince William County Building Construction Services Branch Chief
Eric M. Mays, Building Code Official

(Page left blank intentionally)

ADDITIONAL DOCUMENTS
IN CHRONOLOGICAL ORDER

(Page left blank intentionally)

Quantic City LLC

Permit Revocation Appeal

Table of Contents

1. 10/25/2016 – Email: Chief of Police Clair to Mayor Brown stating “structure savable”
2. 02/13/2017 – Town Letter Gasser, Subject: Removal Unsafe Structure at 320 Fourth Ave
3. 03/09/17 – PWC Legal Notice Stop Work Order (First)
4. 03/15/2017 – Mr. Rhoades Letter, Subject: Removal Unsafe Structure at 320 Fourth Avenue, and Envelope – 02/13/2017 (duplicate of Gasser Letter, mailed 03/13/2017)
5. 03/24/2017 – PWC Commercial Sales Verification Form
6. 03/30/2017 – PWC Permit for Roof
03/30/2017 – PWC Permit (Revised) Wall Replacement,
& Drawing - Stamped 04/24/17 & 04/27/17
7. 04/10/2017 – Letter to Ms. Frazier, Response to Removal Unsafe Structure with Questions Answered by Colleen Begin
8. 04/11/2017 – PWC Legal Notice Stop Work Order (Second)
04/11/2017 – PWC Violation Notice: Construction without permit
9. 04/12/2017 – Rhoades Letter to Mayor Brown and Town Council – sent via email and post, Subject: Explanation of work done and future plans for the building
10. 04/19/2017 – Email: Joel Rhoades to Rita Frazier, Town Clerk; Subject: Not ‘altering’ structure
11. 04/20/2017 – Town Council Resolution – Ordering remove structure no later than 10/12/2017
12. 05/04/2017 – (dated 05/04/17, but mailed 05/08/17) - PWC Notification of Permit Revocation, Received 05/01/17 from Postal Service same date/time as Violation Notice
13. 05/08/2017 – PWC Violation Notice and Envelope – 05/08/2017, Construction under a revoked permit. Envelope post-marked: 05/08/2017 (Recently rescinded by Mr. Mays)
14. 05/05/2017 – Emails: Mayor Brown and Chief Clair emails with Chad Roop; Subject: Violation at 320 4th Avenue
15. 05/08/2017-B – Emails: Chad Roop and Mayor Kevin Brown; Subject: Permits revoked as of May 5th (letter was addressed May 4th)

16. 05/24/2017 – Misdemeanor Summons from Town; date issued: 04/18/17, delivered: 05/24/17
17. 05/31/2017 – Permit Application Roof Repair to Town
05/31/2017 – Permit Application Wall Repair to Town with Architectural Drawings
18. 06/01/2017 – Town Clerk email, Subject: Can't locate in code book attendance requirement for Planning Commission meeting
19. 06/05/2017 – Memo for Record (CB): Quantico Planning Committee Meet Re: 320 Fourth Ave
06/05/2017 – Draft of Minutes of Planning Commission Meeting
20. 06/08/2017 – Memo for Record (CB): Quantico Council Meeting Re: 320 Fourth Ave
06/08/2017 – Draft of Minutes of Regular Town Council Meeting Public Hearing

Olaun Simmons

From: jclair@townofquantico.org
Sent: Thursday, May 04, 2017 12:03 AM
To: Olaun Simmons
Cc: Kevin Brown
Subject: [FWD: 320 4th Ave.]

Chief John P. Clair
Town of Quantico Police Department
(703) 640-7500
jclair@townofquantico.org
Town of Quantico PD
 [Facebook](#)

Notice: This email and any files transmitted with it may be law enforcement sensitive and intended solely for the use of the individual or entity to whom they are addressed. All communication regarding governmental activities, with certain exceptions, are subject to the provisions of the Freedom of Information Act.

----- Original Message -----

Subject: [FWD: 320 4th Ave.]
From: <jclair@townofquantico.org>
Date: Wed, May 03, 2017 11:58 pm
To: "Kevin Brown" <mayor@townofquantico.org>

The below is from October 2016

Chief John P. Clair
Town of Quantico Police Department
(703) 640-7500
jclair@townofquantico.org
Town of Quantico PD
 [Facebook](#)

Notice: This email and any files transmitted with it may be law enforcement sensitive and intended solely for the use of the individual or entity to whom they are addressed. All communication regarding governmental activities, with certain exceptions, are subject to the provisions of the Freedom of Information Act.

----- Original Message -----

Subject: 320 4th Ave.
From: <jclair@townofquantico.org>
Date: Tue, October 25, 2016 11:44 am
To: "Kevin Brown" <mayor@townofquantico.org>, "Brown Kevin" <kevin.p.brown@usmc.mil>

Kevin,

I spoke with the realtor for 320 4th Ave. Pat 540-788-4767, who informed me she is assembling offers to move that property. According to her, Mr. Gasser now realizes it just needs to go.

I thought the town might consider an offer? It could solve some storage issues? Kayaks? Emergency management? Who knows. The primary structure is savable (it doesn't seem any worse than out current maint. area), but the rear structure would need to be demolished.

Mr. Gasser might also be sentimentally receptive to giving the Town a deal perhaps?

Just thoughts.

Respectfully,

Chief John P. Clair
Town of Quantico Police Department
(703) 640-7500

jclair@townofquantico.org

Town of Quantico PD

 [Facebook](#)

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P.O. Box 152
Quantico, VA 22134
February 13, 2017

Mr. Roger Gasser
107 Pine Street, Apt #2
Montclair, NJ 07042

Dear Mr. Gasser,

On February 13, 2017, the town's Unsafe Structures Committee held a meeting to consider if the structure located on your property at 320 Fourth Ave, Lot 18; Blk 13 Sec A; Acct. #8287-85-6062; RPC #051492 is an unsafe structure.

The Unsafe Structure Committee has determined that the above-mentioned address is unsafe and should be removed for the following reasons:

- (1) A large portion of the roof is damaged and in ill repair causing an unsafe condition.
- (2) The structure appears to have an unauthorized sewer connection. Several witnesses have indicated observing the presence of a toilet flange connection within the structure. However, the town clerk has confirmed that there is no record of this building having approved connections to the town water or sewer services. This unauthorized sewer connection should be removed immediately to remove the risk to the town's water system.
- (3) The structure has no active utility servers
- (4) Several witnesses have observed a large amount of debris and property piled within the structure which poses a fire risk.
- (5) The structure contains standing water which presents a health risk and a breeding ground for disease spreading pests.
- (6) The current condition of the structure provides a breeding and nesting ground for varmint.

The report from the Unsafe Structures Committee's report will be considered by the Town Council at its next regularly scheduled meeting being held at 7PM EST on March 9, 2017 at the Lillian Carden Community Center 222 3rd Ave Quantico, VA 22134. Per Section 18-37 of the town code you have the right to be heard at the meeting before the town council makes a decision on this matter. The town's Unsafe Structures Committee is governed by Section 18-37 of the town code. A copy of Section 18-37 is being provided with this correspondence.

Sincerely,


Rita Frazier
Clerk

P.O. BOX 152 QUANTICO, VIRGINIA 22134
OFFICE (703) 640-7411 FAX (703) 640-7413
CLERK@TOWNOFQUANTICO.ORG



LEGAL NOTICE

STOP WORK ORDER



It is **HEREBY ORDERED** that all work being carried out, in Violation of the 2012 Edition of the Virginia Uniform Statewide Building Code (USBC), per Section 114, **STOP WORK ORDER**, at the following premises is to cease: 320 4TH AVE

This section states that "the affected work shall stop immediately." This scope of work is as follows: Construction Without Permit - Construction that requires permits and inspections has been documented. No permits were approved for the documented work.

Section 114 USBC also identifies the "condition under which such work may be resumed." Those conditions are as follows: Immediately Stop all work and Obtain All Required Permits and Inspections

The responsible person that allows work to continue is in violation of this order and may be subject to prosecution under Section 115.2 and 115.4 of the USBC as set forth in Section 36-106 of the Code of Virginia. Also, Section 115.2 requires a "NOTICE OF VIOLATION" outlining these code sections be mailed to the responsible person(s), or their agent.



Building Code Enforcement Inspector
Department of Development Services
Prince William County

03/09/2017

Date

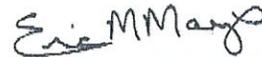


Prince William County, Virginia

Department of Development Services
Building Development Division
Building Code Enforcement Branch

5 County Complex Court Phone: 703-792-6931
Suite 120 Fax: 703-792-5285
Prince William, VA 22192

Email: BDD@pwcgov.org
Web: www.pwcgov.org/BDD



Eric M. Mays
Building Official
Building Development Division
Prince William County, Virginia



Received 3/15/17

P.O. Box 152
Quantico, VA 22134
February 13, 2017

→ Postage marked 3/13/17
(see following page)

Mr. Joel Rhoades
417 North Lee Street
Alexandria, VA 22134

Dear Mr. Rhoades

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- (3) The structure has no active utility servers
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Sincerely,

Rita Frazier

Clerk

P.O. BOX 152 QUANTICO, VIRGINIA 22134
OFFICE (703) 640-7411 FAX (703) 640-7413
CLERK@TOWNOFQUANTICO.ORG

Town of Quantico
P.O. 152
Quantico, VA 22134

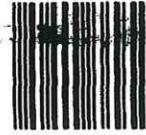
CERTIFIED MAIL



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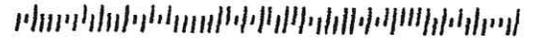
22314

U.S. POSTAGE
QUANTICO, VA
22134
MAR 13, 17
AMOUNT
\$6.59
R2304E106620-02

Mr. Joel Rhoades
417 North Lee Street
Alexandria, VA ~~22314~~ 22314

**RETURN RECEIPT
REQUESTED**

22314-230117





Michelle Atreed
Director of Finance

COUNTY OF PRINCE WILLIAM

4379 Ridgewood Center Drive, Prince William, Suite 203, Virginia 22192-5308
Real Estate Assessments Office (703) 792-6780. Metro: 631-1703 Ext. 6780
FAX: (703) 792-6775 <http://www.pwcgov.org/realestate>

FINANCE
DEPARTMENT

March 24, 2017

QUANTICO CITY LLC
417 N LEE ST
ALEXANDRIA, VA 22314

Premise Address: **320 FOURTH AVE QUANTICO, VA 22134**

RPC: **051492** Nbhd: **04003** BA Use Code: **150**
Sale Date: **03/02/2017** Sale Price: **25,000**
Other accounts:

Dear Property Owner:

Pursuant to §58.1-3201 VA Code Ann., the Prince William County Office of Real Estate Assessments must assess properties at fair market value. An important component of determining accurate market values is an analysis of property sales.

We want to ensure that our information about the sale of the above property is correct. Please assist us by completing this questionnaire and returning it to us by **April 14, 2017**.

If you have any questions regarding this questionnaire, please contact Bridget Affeldt at (703) 792-7412, between 8:00am- 4:30pm Monday thru Friday. (e-mail: baffeldt@pwcgov.org)

Commercial Sales Verification

Marketing Information

- Should the sale be considered a private sale? Yes ___ No If yes, please explain. _____
- What, if any, is the relationship between buyer and seller? (e.g., subsidiary, family member) _____
- Was the property listed in the open market? Yes No ___
- Was/Were buying and seller broker/s involved? Yes No ___
Broker name/s and contact info: PAT Huppert 703-283-7567
- Was the sale price based on an appraisal on the property? Yes ___ No
If so, what was the date of appraisal and appraised value? _____
(Please provide a copy of the appraisal.)

Terms of Sale

6. Was the sale paid in CASH? Yes No Was it financed by the seller? Yes No
 If yes, what were the terms of seller-financing? _____
7. Was the sale financed by a bank or other lenders? Yes No
 If yes, please provide loan data, as follows: Down Payment \$ _____
- | | | | |
|-----------------------------|----------|-----------------------------|--|
| 1 st Loan Amount | \$ _____ | Yearly Int Rt _____ % (APR) | Principal & Interest Payments \$ _____ per mo/year |
| 2 nd Loan Amount | \$ _____ | Yearly Int Rt _____ % (APR) | Principal & Interest Payments \$ _____ per mo/year |
| 3 rd Loan Amount | \$ _____ | Yearly Int Rt _____ % (APR) | Principal & Interest Payments \$ _____ per mo/year |
- *please circle applicable terms (if interest only payments, if both principal & interest payments, and if monthly or yearly payments).
8. Did the purchase price include any other property or value (e.g., personal property, business value, exchange of property)? Yes No If yes, please provide data _____
9. Were there other conditions of sale that may have influenced the sale price (e.g. bankruptcy, relocation, competitive bidding)? Yes No If yes, please provide data _____

Property Data

10. Please provide ACTUAL or PROFORMA Annual Income and Expense data considered in the sales negotiations. (or complete enclosed Annual Income and Expense page).
11. Please provide rent roll at sale date (or complete enclosed Lease Summary page). NA
12. Are there any physical or economic deficiencies? yes - full of debris
13. Were capital improvements/additions incurred immediately after the sale? Yes No NO NEW ROOF
 Please supply cost breakdown & est'd # of yrs before these improvements will need replacement.
14. Will the use of the property at time of sale be continued in the short term? Yes No
15. What use of the property is intended for the long term? STORAGE

NOTE: Information submitted will not be considered valid unless certification is signed & dated below:

All information supplied on this form, including accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief are true, correct, and complete.

Owner/Management Firm Joel Rhomey Phone 203-323-2374
 Address 417 N. Lee
 Signature [Signature] Title _____
 Name _____ Date _____

(Please print or type name of person completing this form)

For Office Use Only			
NBHD: 04003	Account#: 051492	Sale Price: 25,000	USE: 150—
Name of Person Contacted: _____		Date: _____	
Method of Contact:	On-Site Visit <input type="checkbox"/>	Phone <input type="checkbox"/>	Mail <input type="checkbox"/>
Determination of Sale:	Valid <input type="checkbox"/>	Invalid <input type="checkbox"/>	
Give Reason: _____			
Appraiser: _____		Date: _____	

BUILDING

PERMIT

PERMIT NO: BLD2017-04595

DATE ISSUED: 03/30/2017

MASTER NO: BLD2017-04595

IVR PIN #: 523934

THIS PERMIT IS ISSUED FOR CONSTRUCTION IN ACCORDANCE WITH THE PROVISIONS OF THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE, ADOPTED BY THE BOARD OF COUNTY SUPERVISORS OF PRINCE WILLIAM COUNTY, VIRGINIA.

THIS DOCUMENT IS REQUIRED TO BE POSTED AT THE CONSTRUCTION SITE DURING THE ENTIRE PERIOD OF CONSTRUCTION UNTIL ALL WORK IS COMPLETE. THIS PERMIT EXPIRES IN SIX MONTHS IF CONSTRUCTION HAS NOT BEGUN OR IF WORK IS SUSPENDED OR ABANDONED FOR SIX MONTHS AFTER THE TIME OF COMMENCING THE WORK.

***** NOTICE AND WARNING *****
THIS PERMIT DOES NOT SUPERCEDE COVENANTS APPLICABLE TO THE PROPERTY. CONTACT YOUR PROPERTY OWNERS ASSOCIATION AND REVIEW YOUR DEED PRIOR TO CONSTRUCTION TO DETERMINE WHETHER RESTRICTIVE COVENANTS APPLY TO YOUR PROPERTY.

PERMIT NAME: GARAGE ROOF REPLACEMENT - A/R

OWNER: QUANTICO CITY LLC

PERMIT HOLDER: ARLINGTON RIDGE CONSTRUCTION GROUP INC

PREMISE ADDRESS: 320 4TH AVE

GPIN: 8287-85-6062

SUBDIVISION: QUANTICO TOWN OF

MAP PAGE: 6228

MAP GRID: D7

PLAN WORK CODE: C - Alteration/Repair

CODE BOOK/CODE PAGE: IBC 2012

REMARKS: 2500 SQ FT REROOFING PROJECT

EROSION CONTROL DEVICES: INDIVIDUAL PERIMETER NONE

EROSION CONTROL DEVICES FOR LAND DISTURBED BY BUILDING ACTIVITY MUST BE MAINTAINED THROUGHOUT THE ENTIRE PERIOD OF CONSTRUCTION AS SHOWN ON THE APPROVED GRADING PLAN. IF AN INDIVIDUAL GRADING PLAN WAS NOT SUBMITTED FOR THE CONSTRUCTION UNDER THIS PERMIT, INDIVIDUAL EROSION CONTROL MEASURES FOR THIS LOT MAY STILL BE REQUIRED IF DETERMINATION IS MADE BY COUNTY INSPECTORS OR ENGINEERS THAT EROSION/SEDIMENTATION IS NOT BEING PROPERLY CONTROLLED FOR THIS SITE.



Eric M May

Sarah Hawkins

BUILDING OFFICIAL

ISSUING AGENT

INSPECTION REQUEST CENTER: WWW.PWCGOV.ORG/EPORTAL or 1-866-457-5280 (IVR).
INSPECTIONS REQUESTED BEFORE 3:00 PM MAY BE SCHEDULED FOR THE FOLLOWING WORKDAY UNLESS THE INSPECTION WORKLOAD IS FULL FOR THAT DAY. FOR THE EPORTAL WEBSITE, YOU MUST HAVE A LOGIN AND PASSWORD. FOR THE IVR, YOU MUST HAVE YOUR PERMIT PIN NUMBER, WHICH IS LOCATED AT THE TOP OF THIS PERMIT.

NO INSPECTIONS ARE MADE UNLESS THE APPROVED PLANS ARE ON THE JOB SITE. YOU MUST HAVE THE PREMISE ADDRESS OR THE LOT NUMBER POSTED AND CLEARLY VISIBLE FROM THE STREET.

Inspections performed by the Building Inspections Branch.

LIEN AGENT NAME: NONE DESIGNATED
LIEN AGENT ADDRESS:
LIEN AGENT PHONE:

BUILDING PERMIT

Revised - April 29, 2017
DATE ISSUED: 03/30/2017 (See followon drawing w/sk)
IVR PIN #: 524884

PERMIT NO: BLD2017-04742
MASTER NO: BLD2017-04742

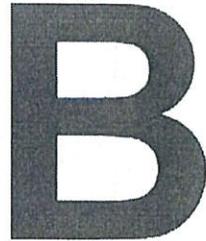
THIS PERMIT IS ISSUED FOR CONSTRUCTION IN ACCORDANCE WITH THE PROVISIONS OF THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE, ADOPTED BY THE BOARD OF COUNTY SUPERVISORS OF PRINCE WILLIAM COUNTY, VIRGINIA.

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Revised to include wall

PERMIT NAME: GARAGE ROOF RAFTER REPLACEMENT - AVR
OWNER: QUANTICO CITY LLC
PERMIT HOLDER: ARLINGTON RIDGE CONSTRUCTION GROUP INC
PREMISE ADDRESS: 320 4TH AVE
GPIN: 8287-85-6062 SUBDIVISION: QUANTICO TOWN OF
MAP PAGE: 6228 MAP GRID: D7
PLAN WORK CODE: C - Alteration/Repair



CODE BOOK/CODE PAGE: IBC 2012
REMARKS: REPLACEMENT OF SEVERAL ROOF RAFTERS NO CHANGE IN SIZE/SPAN

EROSION CONTROL DEVICES: INDIVIDUAL PERIMETER NONE

EROSION CONTROL DEVICES FOR LAND DISTURBED BY BUILDING ACTIVITY MUST BE MAINTAINED THROUGHOUT THE ENTIRE PERIOD OF CONSTRUCTION AS SHOWN ON THE APPROVED GRADING PLAN. IF AN INDIVIDUAL GRADING PLAN WAS NOT SUBMITTED FOR THE CONSTRUCTION UNDER THIS PERMIT, INDIVIDUAL EROSION CONTROL MEASURES FOR THIS LOT MAY STILL BE REQUIRED IF DETERMINATION IS MADE BY COUNTY INSPECTORS OR ENGINEERS THAT EROSION/SEDIMENTATION IS NOT BEING PROPERLY CONTROLLED FOR THIS SITE.

Eric M. May
BUILDING OFFICIAL

Sarah Hawkins
ISSUING AGENT

INSPECTION REQUEST CENTER: WWW.PWCGOV.ORG/EPORTAL or 1-866-457-5280 (IVR).
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NO INSPECTIONS ARE MADE UNLESS THE APPROVED PLANS ARE ON THE JOB SITE. YOU MUST HAVE THE PREMISE ADDRESS OR THE LOT NUMBER POSTED AND CLEARLY VISIBLE FROM THE STREET.

Inspections performed by the Building Inspections Branch.

LIEN AGENT NAME: NONE DESIGNATED
LIEN AGENT ADDRESS:
LIEN AGENT PHONE:

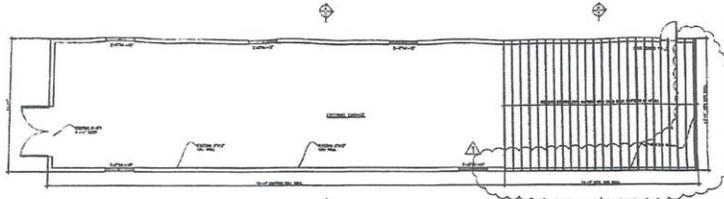
NO INSPECTION WILL BE MADE UNLESS AN APPROVED SET OF PLANS IS ON JOB SITE

DRAWING INDEX	
SCALE	SHEET TITLE
A-1	FLOOR & FRAMING
A-2	ELEVATIONS & SECTIONS
A-3	STRUCTURAL CALCULATIONS

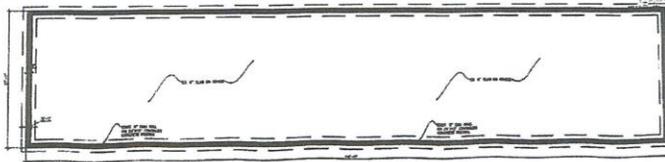
VCC 2012 DESIGN CRITERIA	
Floor live load	40 psf
Floor dead load	30 psf
Ground snow load	30 psf
Wind speed exposure	115 mph
Seismic design category	B
Weathering	severe
Frost line depth	24"
Terrace area	moderate to heavy
Decay area	slight to moderate
Winter design temperature	13 degrees
Ice shield underlayment	yes, required
Floor hazard	July 2, 1979
Air freezing index	300
Mean annual temperature	55 degrees
Framing lumber	SPPF2



ARCHITECT:
 LUIS GUTIERREZ
 3358 BROKEN KNIFE CT
 ANNANDALE, VA 22003
 703-625-4988



FLOOR AND FRAMING PLAN 1/8"=1'-0"



EXISTING FOUNDATION 1/8"=1'-0"

Rev	Description
01	ISSUE FOR PERMIT
02	ISSUE FOR PERMIT
03	ISSUE FOR PERMIT
04	ISSUE FOR PERMIT
05	ISSUE FOR PERMIT
06	ISSUE FOR PERMIT
07	ISSUE FOR PERMIT
08	ISSUE FOR PERMIT
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46	ISSUE FOR PERMIT
47	ISSUE FOR PERMIT
48	ISSUE FOR PERMIT
49	ISSUE FOR PERMIT
50	ISSUE FOR PERMIT

RECEIVED
 04/20/17

REVISIONS ON 04/20/17

Revision to: 042017-0455

CUSTOMER COPY

Quantico City LLC
417 North Lee Street
Alexandria, VA 22314

The Town of Quantico
P.O. Box 152
Quantico, VA 22134

Town Of Quantico, VA

APR 12 2017

RECEIVED

April 10, 2017

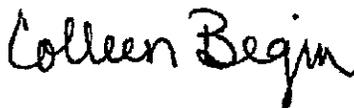
Dear Ms. Frazier,

On March 15, 2017 we received a letter from you citing 6 reasons why the structure located on our property at 320 Fourth Ave, Lot 18; Blk 13 Sec A; Acct. #8287-85-6062; RPC #051492 is an unsafe structure. It was an exact duplicate of the letter we received a month earlier. However, I attended and represented the company at the last town meeting in February as well as our agent, Ms. Pat Hupp, to explain what our plans were for the structure. We see no need to attend another meeting and we assume there has been a mistake in a duplicate mailing of the same letter since we addressed all of the issues listed in the letter. In addition, since the last meeting:

1. The roof has been replaced with a new roof.
2. There is no toilet in the structure currently. If we decide to install one, we will pay the town water and sewer service connection fees for it.
3. Once it is determined what the property will be used for, utility services will be activated accordingly.
4. All debris has been removed.
5. Standing water is no longer present.

With debris removed, roof replaced, and the walls enclosed, varmint will have to look elsewhere to breed and nest. We look forward to owning property in Quantico and being an active member of the community.

Sincerely,



Colleen Begin
Property Manager

Rita Frazier

From: jclair@townofquantico.org
Sent: Monday, April 10, 2017 4:37 PM
To: Brown Kevin; Kevin Brown
Cc: Rita Fraizer; Debra Kidwell
Subject: 320 4th Ave.

Mayor Brown,

I've filed another complaint to have the work in the rear re-inspected for permit violations.

A "general information hold" has been added to their account stating - "Before any more permits are issued the owner must provide approval from the Quantico Planning Commission". This has been added to the parcel.

A similar hold was added to the last violation but "expired" when the violation was abated.

We should get a call from now on, hopefully...

Rita, please follow up with Jean Patterson - 703-792-6924 on this when you get back.

Respectfully,

Chief John P. Clair
Town of Quantico Police Department
(703) 640-7500
jclair@townofquantico.org
Town of Quantico PD
 Facebook

Notice: This email and any files transmitted with it may be law enforcement sensitive and intended solely for the use of the individual or entity to whom they are addressed. All communication regarding governmental activities, with certain exceptions, are subject to the provisions of the Freedom of Information Act.



LEGAL NOTICE

STOP WORK ORDER



It is **HEREBY ORDERED** that all work being carried out, in Violation of the 2012 Edition of the Virginia Uniform Statewide Building Code (USBC), per Section 114, **STOP WORK ORDER**, at the following premises is to cease: 320 4TH AVE

This section states that "the affected work shall stop immediately." This scope of work is as follows:
Construction Without Permit - Construction that requires permits and inspections has been documented.
No permits were approved for the documented work.

Section 114 USBC also identifies the "condition under which such work may be resumed." Those conditions are as follows: Immediately Stop all work and Obtain All Required Permits and Inspections

The responsible person that allows work to continue is in violation of this order and may be subject to prosecution under Section 115.2 and 115.4 of the USBC as set forth in Section 36-106 of the Code of Virginia. Also, Section 115.2 requires a "NOTICE OF VIOLATION" outlining these code sections be mailed to the responsible person(s), or their agent.



 Building Code Enforcement Inspector
 Department of Development Services
 Prince William County

04/11/2017

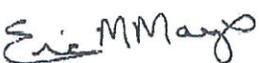
 Date



Prince William County, Virginia
 Department of Development Services
 Building Development Division
 Building Code Enforcement Branch

5 County Complex Court Suite 120 Prince William, VA 22192	Phone: 703-792-6931 Fax: 703-792-5285
---	--

Email BDD@pwegov.org
 Web www.pwegov.org/BDD



 Eric M. Mays
 Building Official
 Building Development Division
 Prince William County, Virginia



Eric M. Mays, P.E.
Building Official

COUNTY OF PRINCE WILLIAM
5 County Complex Ct, Prince William, VA 22192-5308
(703) 792-6931 Fax: (703) 792-4155 <http://www.pwcgov.org/BDD>

DEPARTMENT OF
DEVELOPMENT SERVICES
Division of
Building Development

VIOLATION NOTICE

PREMISE IN VIOLATION: 320 4TH AVE
OWNER: QUANTICO CITY LLC
417 N LEE ST
ALEXANDRIA VA 22314

CASE #: BCE2017-00371
VIOLATION DATE: April 11, 2017
NOTICE DATE: April 11, 2017

INSPECTOR: Andrew Kelleman

CONTACT # / EMAIL: 703-792-5687 /
AKelleman@pwcgov.org

An investigation of the premises above has revealed violation(s) of the Virginia Uniform Statewide Building Code (VUSBC). You are directed to bring the violation(s) described below into compliance within the specified compliance deadline on this notice. Failure to comply with the requirement of the VUSBC may result in criminal prosecution. Under the Code of Virginia Title 36-106 any such violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of such a violation shall be punished by a fine of not more than \$2,500, per offense.

VUSBC Code Year	VUSBC Code Section	VIOLATION	CORRECTIVE ACTION NECESSARY	Compliance Date
2012	108.1.1 No Permit	Construction Without Permit - Work to reconstruct rear walls of structure without required permit(s).	Immediately Stop all work and Obtain All Required Permits and Inspections	5/11/17

You have the right of appeal in accordance with Chapter 1 section 119.5 of the VUSBC. A written request for appeal shall be submitted to the Local Board of Building Code Appeals within 30 calendar days of receipt of this notice. Contact the inspector if you have any questions or require assistance in bringing this project into compliance with the VUSBC. Helpful information and guidance on how to correct violations may be found at www.pwcgov.org/UnpermittedWork.

BUILDING CODE ENFORCEMENT INSPECTOR

17 APR 17 Called + Lm 159 for Mr. Kelleman - explained situation.

JSCH

Mayor Kevin Brown and the Town Council,
Town of Quantico, Virginia
April 12, 2017

Reference: Property at 320 Fourth Ave, Quantico, VA

As you know, we attended the March Town Council meeting and explained what we are doing at the property. We thought we received another invitation in error to return to the April meeting. Regardless, we have other commitments and consequently are not in a position to attend another meeting/the meeting tomorrow night. In lieu of our attendance in person, we request that this letter be read at the April Town Council Meeting.

We are somewhat baffled by the apparent bureaucracy that we are confronting in trying to restore a building in your town that was in an extremely blighted condition and an eyesore to the community. We started work by hauling off numerous loads of debris from the building, then began work on the roof – we did not believe at the time that we needed a permit for a new roof. Someone notified Prince William County that we were working without a permit, and a "Stop Work Order" was issued. After obtaining a permit, we returned to work, only to be stopped shortly thereafter when a Town Official visited the property and contacted Prince William County once again.

We have since been advised that, prior to beginning this project, we should have obtained Planning Committee approval to answer questions regarding planned use, zoning, etc. We do not understand, nor do we agree that we would need to obtain Planning Committee approval to clean up a property and restore it to its original condition. Please be assured that we have no plans to change the zoning of the property from its current Commercial General Business use. Should we ever desire to do that, we will submit a formal request to the Planning Committee. As to the current project, if you continue to maintain that it is necessary for us to involve the Planning Committee, we respect your position and hereby request that the Planning Committee give us the "greenlight" to complete our in-progress clean up and restoration.

We have also been advised by Ms. Frazier, the Town Clerk, that we need approval to place a fence on the adjacent vacant lot at 318 Fourth Avenue. We are asking that we be allowed to do that in this letter. If this is not the appropriate format to submit that request, please advise on the process. Thank you for your consideration and we look forward to your response.

Respectfully,



Joel Rhoades,
President of JSCH Inc. as
General Partner

Roop, Chad A.

From: Roop, Chad A.
Sent: Wednesday, April 19, 2017 5:48 PM
To: Mays, Eric M.
Subject: Fwd: 320 Fourth Ave Permit

Eric,
Do we have a written agreement?

Thanks
Chad

Sent from my iPhone

Begin forwarded message:

From: Joel Rhoades <Joel.Rhoades@jsch-tp.com>
Date: April 19, 2017 at 4:40:58 PM EDT
To: "Roop, Chad A." <croop@pwegov.org>
Subject: RE: 320 Fourth Ave Permit

Mr. Roop,

Since the Quantico Code is clearly not the basis of my permit request, I assume that there is a written PW County code/Ordinance/or ? that states the County defers to the "opinion" of the municipality; in this case Quantico Town.

Thanks,

Joel R. Rhoades
703-373-2333 (O)
2334 (M)

-----Original Message-----

From: Roop, Chad A. [<mailto:croop@pwegov.org>]
Sent: Wednesday, April 19, 2017 4:22 PM
To: Joel Rhoades <Joel.Rhoades@jsch-tp.com>
Subject: Re: 320 Fourth Ave Permit

Joel,

Please consult with the Town Clerk. The Town must provide you with Zoning approval prior to us issuing or revising your permits.

Sincerely,
Chad Roop

Sent from my iPhone

Rita Frazier

From: Rita Frazier <clerk@townofquantico.org>
Sent: Thursday, April 20, 2017 9:57 AM
To: 'Joel Rhoades'
Subject: RE: 320 Fourth Ave - Revision of Permit
Attachments: Planning Commission Building Application.pdf

GM Mr. Rhoades,

Nice to hear from you. Attached you will find the application for the Building permit. The Planning Commission next meeting will be held on Monday, May 8, 2017 at 7:00pm at 222 3rd Avenue in the Lillian Carden Community Center. You will need to have your application in to me no later than Friday, April 28, 2017 by 12:00noon to go on the agenda. The cost for the plans and paper work is \$35.00 and you may pay with check, cash or money order. I have also attached a copy of the codes.

Sincerely,

Rita V. Frazier, Clerk
Town of Quantico
P.O. Box 152
Quantico, VA 22134
703-640-7411 Phone
703-640-7413 Fax
clerk@townofquantico.org

From: Joel Rhoades [mailto:Joel.Rhoades@jrsch-tp.com]
Sent: Wednesday, April 19, 2017 8:49 PM
To: Clerk@TownofQuantico.org
Cc: Roop, Chad A. <croop@pwcgov.org>
Subject: 320 Fourth Ave - Revision of Permit

Hello Ms. Frazier,

I think you are aware that we have a permit for repairs for the roof, and we have requested a revised permit for wall work. However, Mr. Roop at Prince William County Permits Branch asked that we consult with you regarding revision of the permit we have for the roof work at 320 Fourth Ave. Mr. Roop states that the "Town" is claiming that a permit is required in accordance with Quantico Code 110-7 because we are "Altering" the structure. I don't know who in the town is making the incorrect determination that we are altering the structure, but we would like to resolve this and complete the repairs as soon as possible.

I assume we may be able to resolve this if you simply confirm to Mr. Roop that we are not altering the building. He can then issue us a revised permit. If this is not possible, we request the name of the Official or Officials responsible for the decision.

Thank You,



Resolution

BE IT RESOLVED by the Town Council of the Town of Quantico, Virginia, as follows:

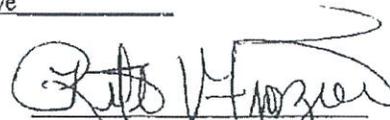
Kuhns motioned, Thomas second to approve this Resolution as follow:

- (1) That the structure located at 320 4th Ave Quantico, Virginia 22134 Lot 18-Block 13-Section A in the Town of Quantico, owned by Joel Rhoades, is in such condition as to represent a danger to the public health, or to the safety of residents of the town other than the owner, or to the general public; and
- (2) That the town clerk, in accordance with Section 18-38 (a) and (b), properly notified the owner that said property was placed on the March 9, 2017 and April 13, 2017 town council meeting agendas as a possible unsafe structure; and
- (3) That said owner, after being notified, failed to be appear before the town council at either the March 9, 2017 and April 13, 2017 town council meetings to be heard regarding the condition of the structure and the necessity of the specific measures recommended by the committee to remove, repair or secure the structure; and
- (4) That said owner, in accordance with Section 18-41, in the absence of submitting and acceptable plan to the town council to address the identified safety concerns, should be and hereby is ordered to remove the structure located at 320 4th Ave Quantico, Virginia 22134 Lot 18-Block 13-Section A no later than October 12, 2017, and
- (5) That this matter shall be placed on the agenda of the town council for the meeting scheduled to be held on October 12, 2017 for the purpose of reviewing compliance with this order and of determining whether any further action by the town council is required in this matter.

ADOPTED by the Town Council of the Town of Quantico, Virginia at its Special Meeting held on October 12, 2017 at 5:00pm EST.

Actual
Date of meeting: April 20, 2017
(added to document)
By Colleen Beggs

R. Kuhns	<u>Aye</u>
E. Clinton	<u>Nay</u>
T. Davis	<u>Abstained</u>
R. Langham	<u>Absent</u>
J. Thomas	<u>Aye</u>


Rita Frazier, Town Clerk

Olaun Simmons

From: Roop, Chad A. <croop@pwcgov.org>
Sent: Friday, May 05, 2017 10:22 AM
To: Kevin P. Brown; Clair, John
Cc: clerk@townofquantico.org; Mays, Eric M.; Hugh, Wade; Russel Kuhns; Olaun Simmons
Subject: RE: Request for Phone Call - Continued violation at 320 4th Ave.

Mr. Brown,

I would more than happy to speak with you this afternoon. I have a field meeting that may last until 2:00, once I return to the office I will reach out to you.

Sincerely,
Chad Roop
Building Construction Services Branch Chief
Building Development Division
Prince William County, VA
(703) 792-7162
croop@pwcgov.org

Please let us know how we are doing by completing the Development Services Customer Satisfaction Survey at www.pwcgov.org/DDSSurvey

From: Kevin P. Brown [mailto:mayor@townofquantico.org]
Sent: Friday, May 05, 2017 10:18 AM
To: Clair, John <jclair@townofquantico.org>; Roop, Chad A. <croop@pwcgov.org>
Cc: clerk@townofquantico.org; Mays, Eric M. <emays@pwcgov.org>; Hugh, Wade <whugh@pwcgov.org>; Russel Kuhns <rkuhns@townofquantico.org>; Olaun Simmons <osimmons@vfnlaw.com>
Subject: Request for Phone Call - Continued violation at 320 4th Ave.

Mr. Roop,

Can you please let me now if you have time for a quick phone call this afternoon to discuss the continued code violations at 320 4th Ave in the Town of Quantico?

This property was being processed through the town's Unsafe Structures process when it was sold to the current owner.

The new owner was contacted and was informed about the status of the property.

Our clerk is OOO today so I do not have access to the letter sent to Mr. Rhoades but I have provided the letter sent to the previous owner (see attachment "Unsafe Structures Owner Notice...").
The content is the same in both letters...

He was also informed that any work requiring a permit needed to be submitted to the town's Planning Committee before a town zoning approval letter could be issued by the town clerk and permits could be pulled from PWC.

To date, Mr. Rhoades has failed to properly participate in the town's current Unsafe Structure process regarding 320 4th and has also failed to submit the required documentation to the town's Planning Committee.

In fact, he has submitted the attached letter to the town claiming he doesn't need to present his proposed changes to the Planning Committee (see attachment "Letter from Mr. Rhoades...").

Since purchasing the property the town has had to call PWC to ask them to stop the unapproved work at 320 4th.. which they have done twice. Earlier this week more work was being done at the property, to include installing a roof over the unapproved framing in the rear of the building.

We have been informed that he was able to pull a permit to repair the roof... however this work was neve

Below are the items I would like to discuss with you:

- 1) How was Mr. Rhoades and/or his contractor able to pull building permit to repair the roof at 320 4th without a town zoning letter?
- 2) How is Mr. Rhoades and/or his contractor able to do structural repair (see attached picture "Unapproved framing...") under a roof repair permit?
- 3) Mr. Rhoades is claiming that his property is zoned Commercial General Use but our town clerk has confirmed that our approved Zoning Map shows this property as Residential. This is a significant discrepancy since all Residential properties in town are required to have space at the rear of the building for parking and trash containers which would not be possible if the unapproved framing is allowed to continue. A second issue related to zoning is that it is the town's understanding that Mr. Rhoades intends to use the property as commercial/rental storage... which is not an approved use in the town's Residential Zone. If he in fact does intend to use the property for commercial/rental storage he would need to submit a variance request to the town and have the variance approved. There are additional concerns with issuing a variance for a commercial/rental use in a Residential Zone due to the fact that the parking on the 300 block of 4th Ave is Residential Only.
- 4) The town has identified that the property has an unapproved sewer (and possibly water) connection to the town sewer system. This is one of the issues that was identified in the Unsafe Structures process. It is the town's position that this unapproved sewer line needs to be properly removed and inspected or brought up to code and inspected before an occupancy permit is issued or his permits are closed out.
- 5) The town has received a FOIA request from a law firm who is apparently representing Mr. Rhoades in this matter.

Until Mr. Rhoades decides to abide by the town code and Planning Committee processes and procedures I am requesting that PWC put a hold on all active permit and withhold from issuing any new permits until this matter is resolved.

Kevin Brown
Mayor
Town of Quantico

Kevin P. Brown
Mayor
Town of Quantico
mayor@townofquantico.org
Office: 703.640.7411
Cell: 571.334.3432

----- Original Message -----

Subject: RE: Attn: Inspector Mays - Continued violation at 320 4th Ave.
From: <jclair@townofquantico.org>
Date: Tue, May 02, 2017 6:21 pm
To: "Roop, Chad A." <croop@pwccgov.org>
Cc: "clerk@townofquantico.org" <clerk@townofquantico.org>, "mayor@townofquantico.org" <mayor@townofquantico.org>, "Mays, Eric M." <emays@pwccgov.org>, "Hugh, Wade" <whugh@pwccgov.org>

Mr. Roop,

It would seem work has commenced on the roof of 320 4th Ave. specifically over the portion of the building which was torn down and reconstructed.

Considering their permit was denied for that portion of the work, does this constitute a violation?

If it does, could you please have a building inspector address it.

Respectfully,

Chief John P. Clair
Town of Quantico Police Department
(703) 640-7500
jclair@townofquantico.org
Town of Quantico PD
 Facebook

Notice: This email and any files transmitted with it may be law enforcement sensitive and intended solely for the use of the individual or entity to whom they are addressed. All communication regarding governmental activities, with certain exceptions, are subject to the provisions of the Freedom of Information Act.

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----- Original Message -----

Subject: RE: Attn: Inspector Mays - Continued violation at 320 4th Ave.
From: "Roop, Chad A." <croop@pwccgov.org>
Date: Tue, April 18, 2017 1:14 pm
To: "Clair, John" <jclair@townofquantico.org>
Cc: "clerk@townofquantico.org" <clerk@townofquantico.org>, "mayor@townofquantico.org" <mayor@townofquantico.org>, "Mays, Eric M." <emays@pwccgov.org>, "Hugh, Wade" <whugh@pwccgov.org>, Rita Fraizer <clerk@townofquantico.org>

Chief Clair,

Thank you for this guidance, I will inform this customer to contact the Town Clerk to obtain a zoning permit prior to the issuance of Building permit.

Sincerely,
Chad Roop
Building Construction Services Branch Chief
Building Development Division
Prince William County, VA
(703) 792-7162
croop@pwccgov.org

Please let us know how we are doing by [completing](#) the Development Services Customer Satisfaction Survey at www.pwccgov.org/DDSSurvey

From: clair@townofquantico.org [<mailto:clair@townofquantico.org>]
Sent: Tuesday, April 18, 2017 12:54 PM
To: Roop, Chad A. <croop@pwccgov.org>
Cc: clerk@townofquantico.org; mavor@townofquantico.org; Mays, Eric M. <emays@pwccgov.org>; Hugh, Wade <whugh@pwccgov.org>; Rita Fraizer <clerk@townofquantico.org>
Subject: RE: Attn: Inspector Mays - Continued violation at 320 4th Ave.

Mr. Roop,

Town Code 110-7 states in part (a) before a building maybe altered a zoning permit must be obtained from the town.

The contractor currently stands, in the estimation of the Town, in violation of this code by first removing the back half of the building without a permit, and by replacing it, again without a permit.

The town has not failed to notice, that to this point all of the work conducted on this building has been initiated without either construction or zoning permits.

The owner should contact the Town Clerk to make arrangements to obtain a zoning permit.

Respectfully,

Chief Clair

Sec. 110-7. - Zoning permits.

(a)

Buildings or structures shall be started, reconstructed, *enlarged or altered only after a zoning permit has been obtained from the administrator.*

(b)

Each application for a zoning permit shall be accompanied by three copies of a scale drawing. The drawing shall show the size of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of the parcel of land and to the right-of-way of any street or highway adjoining the parcel of land. Any other information which the administrator may deem necessary for consideration of the

proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of the parcel of land and to the right-of-way of any street or highway adjoining the parcel of land. Any other information which the administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator. One copy of the drawing shall be returned to the applicant with the permit.

Chief John P. Clair
Town of Quantico Police Department
(703) 640-7500

jclair@townofquantico.org

Town of Quantico PD

[Facebook](#)

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----- Original Message -----

Subject: Attn: Inspector Mays - Continued violation at 320 4th Ave.

From: "Roop, Chad A." <croop@pwccgov.org>

Date: Tue, April 18, 2017 10:44 am

To: "Clair, John" <jclair@townofquantico.org>

Cc: "clerk@townofquantico.org" <clerk@townofquantico.org>, "mavor@townofquantico.org" <mavor@townofquantico.org>, "Mays, Eric M."

<emays@pwccgov.org>, "Hugh, Wade" <whugh@pwccgov.org>

Chief Clair,

The County has issued a Notice Of Violation to owner of the structure at 320 4th Ave, in the Town of Quantico for work without permits. The owner of the property has since contacted me and wishes to obtain the required permits to abate the violation and continue with construction. This email is following up on the phone conversation you had with Ms. Jean Patterson and myself in regards of not issuing the permits for this address related to the Town Code of 110-7. Can you please provide me, exactly what this customer needs from the Town in order for him to pull these necessary permits to abate our NOV. I would like to give this customer all information on what is needed to obtain these permits.

Sincerely,
Chad Roop
Building Construction Services Branch Chief
Building Development Division
Prince William County, VA
(703) 792-7162
croop@pwccgov.org <mailto:croop@pwccgov.org>

Please let us know how we are doing by completing the Development Services Customer Satisfaction Survey at
www.pwccgov.org/DDSSurvey <blocked::http://www.pwccgov.org/DDSSur

[yesy](#)>

From: Chief John Clair [<mailto:jclair@townofquantico.org>]
Sent: Monday, April 10, 2017 4:49 PM
To: Building Development Division <BDD@pwccgov.org>
Cc: Kevin P. Brown <mavor@townofquantico.org>;
kevin.p.brown@usmc.mil; Rita Frazier <clerk@townofquantico.org>
Subject: Attn: Inspector Mays - Continued violation at 320 4th Ave.
Inspector Mays,

Please see the attached pictures of continuing violations at 320 4th Ave.
In Quantico.

The original violation was for unpermitted roof work which has been
resolved. Since that time the rear of the building has been demolished
and reconstructed.

Respectfully,
Chief Clair

Olaun Simmons

From: Roop, Chad A. <croop@pwcgov.org>
Sent: Monday, May 08, 2017 8:44 AM
To: Kevin P. Brown; Clair, John
Cc: clerk@townofquantico.org; Mays, Eric M.; Hugh, Wade; Russel Kuhns; Olaun Simmons
Subject: RE: Request for Phone Call - Continued violation at 320 4th Ave.

Mr. Brown,

The permits were revoked as of May 5th, we will be on site today to post the stop work order and issue a new NOV.

Sincerely,
Chad Roop
Building Construction Services Branch Chief
Building Development Division
Prince William County, VA
(703) 792-7162
croop@pwcgov.org

Please let us know how we are doing by completing the Development Services Customer Satisfaction Survey at www.pwcgov.org/DDSSurvey

From: Kevin P. Brown [mailto:mayor@townofquantico.org]
Sent: Monday, May 08, 2017 8:38 AM
To: Roop, Chad A. <croop@pwcgov.org>; Clair, John <jclair@townofquantico.org>
Cc: clerk@townofquantico.org; Mays, Eric M. <emays@pwcgov.org>; Hugh, Wade <whugh@pwcgov.org>; Russel Kuhns <rkuhns@townofquantico.org>; Olaun Simmons <osimmons@vfnlaw.com>
Subject: RE: Request for Phone Call - Continued violation at 320 4th Ave.

GM Mr. Roop,

Thanks for taking my call on Friday.

Can your team please let the own know when the permits are revoked for 320 4th and the stop work order is posted to the property?

There was work being conducted at the property all weekend.
Thanks

Kevin P. Brown
Mayor
Town of Quantico
mayor@townofquantico.org
Office: 703.640.7411
Cell: 571.334.3432

**SUMMONS OF CORPORATION OR LEGAL ENTITY
MISDEMEANOR OR FELONY**

COMMONWEALTH OF VIRGINIA Va. Code § 19.2-76; Rule 3A:4

Prince William General District Court
 Juvenile and Domestic Relations District Court
 CITY OR COUNTY
9311 Lee Avenue, 2nd Floor Manassas, VA 20110
 STREET ADDRESS OF COURT

TO THE ACCUSED:

The accused is commanded to appear before this Court
 on Jun 15, 2017 09:00 AM to answer the charge that on or about 04/10/2017
DATE AND TIME OF HEARING DATE
 the accused did unlawfully and feloniously
 alter building without obtaining a zoning permit from the administrator of Zoning, Town of Quantico Clerk

in violation of Section _____, Code of Virginia.
 in violation of Section 110-7, _____, Code or Ordinances of this city, county, or town.

The accused must appear in court at the time and place shown above and appear at all other times and places and before any court or judge to which this case may be rescheduled, continued, transferred or appealed.

I, the undersigned, have found probable cause to believe that the accused committed the offense charged,
 Based on the sworn statements of CHIEF J.P. CLAIR TOPD, Complainant.

04/18/2017 02:29 PM
DATE AND TIME ISSUED

Gary L. Talbot
 CLERK MAGISTRATE JUDGE
 Gary L. Talbot

FORM DC 321 MASTER 10/09

11 18
5/24/17

CASE NO.	Hearing Date/Time
ACCUSED: <u>JSCH INC</u> NAME OF LEGAL ENTITY <u>[OWNER JOEL RHOADES]</u> 417 NORTH LEE ST. ADDRESS/LOCATION Alexandria, VA 22314	Jun 15, 2017 09:00 AM
CLASS <u>U</u> MISDEMEANOR CLASS _____ FELONY	
Service was made on a representative of the legal entity pursuant to Va. Code § 19.2-76. <u>5-24-17</u> <u>1116 hrs</u> DATE AND TIME OF SERVICE <u>Deputy K.J. Crocker</u> OFFICER <u>Gary L. Talbot</u> BADGE NO., AGENCY AND JURISDICTION for <u>Deputy Sheriff</u> SHERIFF <input checked="" type="checkbox"/> EXECUTED by service on an officer, director, manager, or employee of the accused legal entity. <input type="checkbox"/> EXECUTED by service on a registered agent. <u>JOEL RHOADES</u> NAME OF REPRESENTATIVE <u>OWNER</u> TITLE OF REPRESENTATIVE <u>417 North Lee St</u> ADDRESS	
Short Offense Description: ZONING PERMITS	
Offense Tracking Number: 153GM1700013613	
FOR ADMINISTRATIVE USE ONLY Virginia Crime Code: 999-9999-99	





TOWN OF QUANTICO
P.O. BOX 152
QUANTICO, VA 22134
703-640-7411

Date: 5/31/17

**APPLICATION FOR BUILDING PERMIT, ELECTRICAL, MECHANICAL,
PLUMBING, OR DEMOLITION & Repair of Roof**

Applicant:

Owner or Business Name:

Quantico City LLC

Site Address: 320 Fourth Avenue

Phone Number: 703-373-4000

Email Address: mgr@jsch-lp.com

Description of work to be completed: 1. Demo rotted roof

2. Replacement of several roof rafters: no change in size/span

+ 2500 Sq. Ft. re-roofing project

3. Repair by re-roofing 2500 Sq. ft.

BUILDING:

Height: 11' ft. **Type of Material:** _____

Total 2599 square feet building will cover. Please provide pictures or sample of material to be used. Also provide 5 copies of plans.

Estimated cost of project/work: \$ 4,000 —

Fee charged for plans, back-up paperwork \$ _____

Contractor(s) to perform work:

Name: Self- Quantico City LLC Phone 703-373-4001
Address 417 N Lee Street Email mgr@jisch-lp.com
Alexandria, VA 22314
Est. Of work 10 days Type Repairs VA License # NA

By: (electrical, plumbing, mechanical)

Name Colleen S. Begin Applicant Signature Colleen S. Begin
(please print)

I hereby certify that I have the authority to make the forgoing application that the information given is correct, that I have read and I understand the applicable zoning ordinances for the zoning district, and that this project will comply with all applicable Codes and Ordinances of Town of Quantico and the State of Virginia.

DATE/received by office personnel: _____

Date: Application Zoning Paper work approved _____

TOTAL FEE OWED TO TOWN \$ 35⁰⁰



TOWN OF QUANTICO
P.O. BOX 152
QUANTICO, VA 22134
703-640-7411

Date: 5/31/17

**APPLICATION FOR BUILDING PERMIT, ELECTRICAL, MECHANICAL,
PLUMBING, OR DEMOLITION & Repairs**

Applicant:

Owner or Business Name:

Quantico City LLC

Site Address: 320 Fourth Avenue

Phone Number: 703-373-4000

Email Address: mgr@jisch-1p.com

Description of work to be completed: 1. Demo rotted wall boards

2. Repair wall by replacing rotted boards with new ones (approximately
3. Haul away trash as required.
4. We will continue the current use of the building as storage as it has
- been for a number of years.
5. We have no plans to alter the exterior appearance of the building. We
- will only paint the building and add siding to the repaired wall.
6. We have no plans to change the existing structure, the floor area,

BUILDING:

Height: 11' ft. **Type of Material:** 90% Concrete Block & 10% wood frame

Total 2599 square feet building will cover. Please provide pictures or sample of material to be used. Also provide 5 copies of plans.

Estimated cost of project/work: \$ 2500⁰⁰/₁₀₀

Fee charged for plans, back-up paperwork \$ _____

Contractor(s) to perform work:

Name: Self- Quantico City LC Phone 703-373-4001

Address 417 N Lee Street Email mgr@jisch-1p.com
Alexandria, VA 22314

Est. Of work 10 days Type Repairs VA License # NA

By: _____ (electrical, plumbing, mechanical)

Name Colleen S Begin Applicant Signature Colleen S Begin
(please print)

I hereby certify that I have the authority to make the forgoing application that the information given is correct, that I have read and I understand the applicable zoning ordinances for the zoning district, and that this project will comply with all applicable Codes and Ordinances of Town of Quantico and the State of Virginia.

DATE/received by office personnel: _____

Date: Application Zoning Paper work approved _____

TOTAL FEE OWED TO TOWN \$ 35⁰⁰

DRAWING INDEX	
PAGE NO.	DESCRIPTION
A-1	FLOOR & FRAMING
A-2	ELEVATIONS & SECTIONS
A-3	STRUCTURAL CALCULATIONS

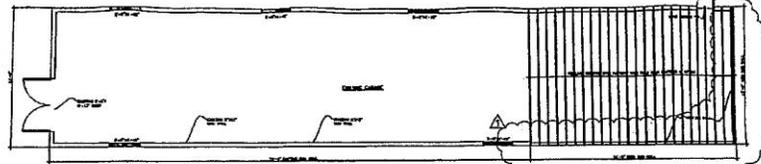
VCC 2012 DESIGN CRITERIA	
Floor live load	40 psf
Floor dead load	30 psf
Ground snow load	30 psf
Wind speed exposure	115 mph
Seismic design category	B
Weathering	severe
Frost free depth	24"
Termites area	moderate to heavy
Decay area	slight to moderate
Winter design temperature	13 degrees
Ice shield underlayment	yes, required
Floor hazard	July 2, 1979
Air freezing index	300
Mean annual temperature	55 degrees
Framing lumber	SFF#2

NO INSPECTION WILL BE MADE UNLESS AN APPROVED SET OF PLANS IS ON JOB SITE

NO CHANGES SHALL BE MADE TO THE APPROVED SET OF PLANS WITHOUT PRIOR APPROVAL FROM THE OFFICE OF ARCHITECTURAL SERVICES



ARCHITECT:
LUIS GUTIERREZ
3388 BROKEN KNIFE CT
ANNANDALE, VA 22003
703-625-4898



FLOOR AND FRAMING PLAN 1/8"=1'-0"



EXISTING FOUNDATION 1/8"=1'-0"

REV	DESCRIPTION	DATE
01	ISSUE FOR PERMITS	04/20/17
02	ISSUE FOR PERMITS	04/20/17
03	ISSUE FOR PERMITS	04/20/17
04	ISSUE FOR PERMITS	04/20/17
05	ISSUE FOR PERMITS	04/20/17
06	ISSUE FOR PERMITS	04/20/17
07	ISSUE FOR PERMITS	04/20/17
08	ISSUE FOR PERMITS	04/20/17
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50	ISSUE FOR PERMITS	04/20/17

RECEIVED
APR 24 2017
PERMITS
DIVISION

A1

Revised to: A-02017-0455 REVISIONS ON 04/20/17

CUSTOMER

From: Rita Frazier [mailto:clerk@townofquantico.org]
Sent: Thursday, June 1, 2017 11:59 AM
To: Colleen Begin <Colleen.Begin@jsch-lp.com>
Subject: RE: Repair and Replace Roof and Wall as Necessary

Colleen,

I could not find in the code book where it states you have to attend the Planning Commission meeting, but if the commission has any questions about your application, it would be helpful if a representative was present to answer any questions they may have.

Thanks,

Rita V. Frazier, Clerk
Town of Quantico
P.O. Box 152
Quantico, VA 22134
703-640-7411 Phone
703-640-7413 Fax
clerk@townofquantico.org

Memorandum for Record
06/05/2017 Quantico Planning Committee Meeting
Regarding the 320 Fourth Avenue Building

In attendance:

Planning Committee Members: Robert Sunday, Russell Kuhns, Jennifer Jack, and Rita Frazier.

Others: Daniel Song, Earlene Clinton (Council Member), Tom Davis (Council Member), two other gentlemen seeking permits, and myself.

After Vice Mayor Russel Kuhns asked me a few questions about the property (concerning the toilet that had been there, if there was a well, if there was electricity, and what we intended to do with the property once it was finished), Jennifer Jack stated that she disagreed the permits should be approved and she felt the building should be torn down. Vice Mayor Kuhns asked if there were any other comments, none were made, then Vice Mayor Kuhns made a motion to approve the permits and asked Jennifer to second the motion. She did so reluctantly and the motion was passed by vote. Vice Mayor Kuhns told me afterwards that my being in attendance at the Town Meeting on Thursday, June 8, 2017 was merely a formality and we should have our permits.

Note: I was told after the meeting that Jennifer Jack lives across the street from the property at 320 Fourth Avenue.

TOWN OF QUANTICO MINUTES OF PLANNING COMMISSION MEETING DRAFT

DATE: June 5, 2017

TIME: 7:00 P.M.

PLACE: TOWN OF QUANTICO MUNICIPAL OFFICE

PRESIDING OFFICER: CHAIRMAN ROBERT J. SUNDAY

The Planning Commission Meeting was called to Order by Chairman Robert J. Sunday at 7:00 P.M.

Roll Call answered by Members of the Planning Commission Robert J. Sunday, Russell Kuhns, Rita Frazier and Jennifer Jack. Georgia Raftelis was absent.

Sunday motioned, Jack second to approve the Minutes of the Planning Commission meeting April 6, 2017. Sunday, Kuhns, Frazier and Jack all voted aye. Motion carried.

Kuhns motioned Jack second to approve the request of Daniel Song "Poco Loco" at 517 Broadway Street for a sign permit. The new sign will be a 3 Ft x 4 Ft, color red and green vinyl board over the entrance door and a 6 Ft x 3 Ft black and white vinyl sign along the exterior sidewall. Contingent on all permits being received from Prince William County before work is performed and copies delivered to the town office. Sunday, Kuhns, Frazier and Jack voted aye. Motion carried.

Kuhns motioned Jack second to approve sending the request of "Domino's Pizza" at 338 Potomac Avenue interior remodel to the council for approval at the June 8, 2017 meeting. The remodel will take about nine weeks and the store will close in August for three weeks. Contingent on all permits being received from Prince William County before work is performed and copies delivered to the town office. Sunday, Kuhns, Frazier and Jack voted aye. Motion carried.

Kuhns motioned Jack second to approve sending the request of "Quantico City LLC." To the regular council meeting for approval on June 8, 2017 for a permit to repair the roof and back wall of the garage. The garage will only be approved to be used as a storage unit and should not have any electric, water or plumbing. Contingent on all permits being received from Prince William County before work is performed and copies delivered to the town office. Sunday, Kuhns, Frazier and Jack voted aye. Motion carried.

At 7:20pm Kuhns motioned, Jack second to adjourn. Sunday, Kuhns, Jack and Frazier all voted aye. Motion carried.

Rita V. Frazier, Clerk, Planning Commission

Memorandum for Record
06/08/2017 Quantico Town Meeting
Regarding the 320 Fourth Avenue Building

In attendance:

Mayor Kevin Brown; Vice Mayor Russell Kuhns; Council Members: Earlene Clinton, Robin Langham, Jerri Thomas, Tom Davis; Treasurer Debra Kidwell; Town Clerk Rita Frazier; Chief of Police John Clair; and 4 townspeople, including myself and Pat Hupp.

- **Mayor Brown** stated that, per the 1985 zoning map – our lots, and those around them on Fourth Street, were **zoned as residential**. However, he said we can request an exemption from the Town if we desire to have an office or other business on the property.
- **Mayor Brown** stated that, even though the County has the property zoned as Commercial, the **Town has authority over the County**. Prior to the recent purchase of the property, the building was owned by a private citizen and **used as a warehouse**. Mayor Brown acknowledged that, in the 1960's it was a Dry Cleaning business but the zoning was changed in the 1980's to residential.
- **Vice Mayor Kuhns** stated that examination of the building was done, he commented that there's no meter on the building right now so if we require electricity, we will have to go through the Town before installing a meter or any electrical work.
- **Vice Mayor Kuhns** commented that a toilet was seen on the property at one time. He asked if the sewer line that was used for that toilet had been capped. He also noted that there is no sewer hook-up on record with the Town or the County. Again, contact the Town Office before doing so in the future.
- **Vice Mayor Kuhns** asked if there might possibly be a well on the property?
- **Mayor Brown** stated that, if there is a well, it needs to be examined to make sure it's not contaminating other water sources in the Town.
- **Mayor Brown** commented that a lot of money has been spent on time discussing this case with the Town lawyer and **they would be seeking reimbursement from the owner of the property**.
- **Mayor Brown** **made a motion to table the approval of permits** until the court date on June 15, 2017 regarding Joel Rhoades' misdemeanor charge. He further **stated that the Council will need to reconvene for approximately 15 minutes to approve the permits, and that the matter is not currently approved contingent on the resolution** of the court case regardless of whether it is resolved in court or out of court.
- When I mentioned that our architect submitted the permit application to the County, in good faith that it would cover the requirement of both the County and the City, as we've always done with other properties and had no issues – **Jerri Thomas, Council Member**, stated - So he had no idea that he was supposed to submit an application for the permits to the City?
- **Chief of Police, John Clair**, talked to me for a little while after the meeting. He said it appeared to him that you were refusing to do something the Town was requesting you to do (get the permits through the Town) and that is what brought the charge. If someone refuses to do something that the Town asks them to do, going to court is how the Town handles it. Had someone gone to the Town and just tried to 'make it right', we wouldn't have to go to court.

Other Notes:

I had previously requested that the Town Clerk, Rita Frazier, provide a reference that required an owner to present an application for a permit in person. She later stated to me she was unable to locate any documentation showing that someone was required to be at the meeting to have a permit approved.

Town of Quantico Minutes of Regular Town Council Meeting

DRAFT

DATE: June 08, 2017

TIME: 6:30 P.M.

PLACE: Burrito House at 246 Potomac Avenue

Presiding Officer: Mayor Kevin Brown

The Public Hearing on the Proposed 2017-2018 General Fund and Utility Fund Budget was presented first and was held at 6:30 P.M.

The Public Hearing on the proposed 2017-2018 General Fund and Utility Fund Budget closed at 6:45 P.M.

The Public Hearing on the proposed 2017 Real Estate Tax Rate, Penalty and Interest was held at 6:46 P.M.

The Public Hearing on the proposed 2017 Real Estate Tax Rate, Penalty and Interest closed at 6:59 P.M.

Kuhns motioned Davis second to except Gilberto Pietri the water meter reader proposal for FY18 not to exceed \$4000.00 annually. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Table item #3 consider the proposal of Donna A. Culbertson, CPA for FY18.

The Regular Town Council Meeting was convened at 7:00 P.M.

Invocation was given by Mayor Kevin Brown

Pledge of Allegiance was led by Mayor Kevin Brown.

Roll call answered by Council members Clinton, Davis, Kuhns, Langham, Thomas and Mayor Brown.

Chief John Clair and Treasurer's Debra Kidwell attended the meeting.

***Note the meeting was held at the "Burrito House" because the community center was being painted.**

Clinton motioned Kuhns second to approve the May 11, 2017 minutes. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Kuhns motioned Clinton second to approve the May 16, 2017 special meeting minutes. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Clinton motioned Kuhns second to approve the May 25, 2017 special budget meeting minutes. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Treasurer's report: Mayor Brown gave the treasurer's report. Copy of reports attached.

Kuhns motioned, Davis second to approve the general fund schedule of expenditures for United Bank May 1, 2017 – May 31, 2017 for \$38,960.05. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Clinton motioned, Thomas second to approve the utility fund expenditures for United Bank May 1, 2017 – May 31, 2017 for \$16,095.16. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Clerk Report: The clerk reported the paint should be finished in the community center today. Also, the Virginia voter primary will be held on Tuesday, June 13, 2017.

Davis motioned Kuhns second to approve the request of Domino's Pizza at 338 Potomac Avenue for interior remodel. The remodel will take about nine weeks and the store will close in August for three weeks. Contingent on all permits being received from Prince William County before work is performed and copies delivered to the town office. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Table item # 7 consider application for "Quantico City LLC." At 320 Fourth Avenue to demo rotted back wall of building and replace roof and rafters of building.

Police Report: No report

Committee Report: No report

Mayor Report: Mayor Brown reported he asked the owners of My Deli to move their dumpster to a new location because the dumpster company truck keeps destroying the stop sign next to their dumpster when the dumpster is emptied. VDOT is working on the new residential parking signs. VDOT has also been asked to install a sound barrier wall on C street to block the noise caused from the removal of the trees near the railroad tracks. The Memorial Day event was successful. Mayor Brown also informed everyone they would be working on the leaking water line in the alley of fourth Avenue and will be cutting off the water on that line to determine if anyone else is connected to that line and repair the broken water line. Grass seed will be planted in the park in the area the scrubs were removed. Mayor also informed the town residents that a high school in the area was looking for a place to put their boat house because they would like to start a rowing team and may consider the park. He will be speaking to them at the boat house. The town will be hosting the CIV Mil on June 14, 2017 and on Saturday, June 17, 2017 they will start the repairs for the broken storm drain at 235 Fourth Avenue.

Council Member Time: Council member Earlene Clinton asked if Linda Wilson was responsible for spraying the weeds in the alleys.

Kuhns motioned, Clinton second to approve the FY 2017-2018 General Fund Revenues Budget and General Fund Expenditures Budget in the amount of \$510,462.00 Revenues and \$502,695.00 Expenditures. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Kuhns motioned, Davis second to approve the FY2017-2018 Utility Fund Revenues Budget and Utility Fund Expenditures Budget in the amount of \$148,080.00 Revenues and \$209,554.00 Expenditures. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

PAGE 3 – REGULAR TOWN COUNCIL MEETING JUNE 08, 2017

Kuhns motioned, Thomas second to approve the 2017 Real Estate Tax Rate of twenty cents (\$.20) per hundred-dollar value. A penalty of 10% for late payment. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Kuhns motioned, Davis second to approve the request of Lorenzo Parnell of Kings Highway Media Solution, LLC to use “Raftelis Potomac River Park” on Sunday June 25, 2007 from 3:00pm-6:00pm. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Kuhns motioned, Davis second to approve date of December 2, 2017 for the Town of Quantico Christmas Parade and approve John Clair, Rita Frazier and Debra Kidwell the parade coordinators. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Table item #6 consider repairing three larger potholes in alleys between Potomac and Fourth Avenue.

Kuhns motioned, Clinton second to approve six residents only parking signs for Potomac Avenue pass Camp Tooth to River Road not to exceed \$1000.00. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Clinton motioned, Kuhns second to have a concert in park on August 19, 2017. Clinton, Davis, Kuhns, Langham and Thomas voted aye. Motion carried.

Clinton motioned, Kuhns second to adjourn at 8:35pm.

ATTEST: _____ APPROVED: _____
Rita V. Frazier Kevin P. Brown
Clerk Mayor



P.O. Box 152
Quantico, VA 22134
February 13, 2017

March 13, 2017

Mr. Joel Rhoades
417 North Lee Street
Alexandria, VA 22134

Dear Mr. Rhoades

On February 13, 2017, the town's Unsafe Structures Committee held a meeting to consider if the structure located on your property at 320 Fourth Ave, Lot 18; Blk 13 Sec A; Acct. #8287-85-6062; RPC #051492 is an unsafe structure.

The Unsafe Structure Committee has determined that the above-mentioned address is unsafe and should be removed for the following reasons:

- (1) A large portion of the roof is damaged and in ill repair causing an unsafe condition.
- (2) The structure appears to have an unauthorized sewer connection. Several witnesses have indicated observing the presence of a toilet flange connection within the structure. However, the town clerk has confirmed that there is no record of this building having approved connections to the town water or sewer services. This unauthorized sewer connection should be removed immediately to remove the risk to the town's water system.
- (3) The structure has no active utility servers
- (4) Several witnesses have observed a large amount of debris and property piled within the structure which poses a fire risk.
- (5) The structure contains standing water which presents a health risk and a breeding ground for disease spreading pests.
- (6) The current condition of the structure provides a breeding and nesting ground for varmint.

The report from the Unsafe Structures Committee's report will be considered by the Town Council at its next regularly scheduled meeting being held at 7PM EST on April 13, 2017 at the Lillian Carden Community Center 222 3rd Ave Quantico, VA 22134. Per Section 18-37 of the town code you have the right to be heard at the meeting before the town council makes a decision on this matter. The town's Unsafe Structures Committee is governed by Section 18-37 of the town code. A copy of Section 18-37 is being provided with this correspondence.

Sincerely,

Rita Frazier

Clerk

P.O. BOX 152 QUANTICO, VIRGINIA 22134
OFFICE (703) 640-7411 FAX (703) 640-7413
CLERK@TOWNOFQUANTICO.ORG

Quantico City LLC
417 North Lee Street
Alexandria, VA 22314

Town Of Quantico, VA

APR 12 2017

The Town of Quantico
P.O. Box 152
Quantico, VA 22134

RECEIVED

April 10, 2017

Dear Ms. Frazier,

On March 15, 2017 we received a letter from you citing 6 reasons why the structure located on our property at 320 Fourth Ave, Lot 18; Blk 13 Sec A; Acct. #8287-85-6062; RPC #051492 is an unsafe structure. It was an exact duplicate of the letter we received a month earlier. However, I attended and represented the company at the last town meeting in February as well as our agent, Ms. Pat Hupp, to explain what our plans were for the structure. We see no need to attend another meeting and we assume there has been a mistake in a duplicate mailing of the same letter since we addressed all of the issues listed in the letter. In addition, since the last meeting:

1. The roof has been replaced with a new roof.
2. There is no toilet in the structure currently. If we decide to install one, we will pay the town water and sewer service connection fees for it.
3. Once it is determined what the property will be used for, utility services will be activated accordingly.
4. All debris has been removed.
5. Standing water is no longer present.

With debris removed, roof replaced, and the walls enclosed, varmint will have to look elsewhere to breed and nest. We look forward to owning property in Quantico and being an active member of the community.

Sincerely,



Colleen Begin
Property Manager



TOWN OF QUANTICO
P.O. BOX 152
QUANTICO, VIRGINIA 22134

December 2, 2015

The Planning Commission meetings are held on the 2nd Monday of each month at the Lillian Carden Community Center located at 222 3rd Avenue at 7:00pm. If there is a request. You must submit a written letter of request describing what changes you will be making to your property to the Town Clerk no later than the last day of the prior month in order to be put on the agenda to be heard by the Planning Commission the following month. Also please check with the Town Clerk to see what processing fees will need to be paid before the meeting. The Town Clerk may be reached by email at clerk@townofquantico.org or you may call (703) 640-7411 to get more information.

Thank You,


Rita V. Frazier
Clerk Town of Quantico

3-9-17

* NOTE the next planning commission meeting will be held on Monday April 6, 2017. All paper work for this meeting & fees must be received NO LATER than MARCH 31, 2017 by 2:00pm

P.O. BOX 152 • QUANTICO, VIRGINIA 22134
703/640-7411 FAX 703/640-7413 CLERK@TOWNOFQUANTICO.ORG



TOWN OF QUANTICO
P.O. BOX 152
QUANTICO, VIRGINIA 22134

December 2, 2015

The Planning Commission meetings are held on the 2nd Monday of each month at the Lillian Carden Community Center located at 222 3rd Avenue at 7:00pm. if there is a request. You must submit a written letter of request describing what changes you will be making to your property to the Town Clerk no later than the last day of the prior month in order to be put on the agenda to be heard by the Planning Commission the following month. Also please check with the Town Clerk to see what processing fees will need to be paid before the meeting. The Town Clerk may be reached by email at clerk@townofquantico.org or you may call (703) 640-7411 to get more information.

Thank You,


Rita V. Frazier
Clerk Town of Quantico

MR. JOEL Rhoades the next planning commission meetings will be held on Monday, May 8th, 2017. Please submit \$35.00 for plans, design for you fence for 318 4th Avenue. A picture of the fence you plan to install would be OK.

P.O. BOX 152 • QUANTICO, VIRGINIA 22134
703/640-7411 FAX 703/640-7413 CLERK@TOWNOFQUANTICO.ORG

From: Spina, Mandi [mailto:MSpina@pwcgov.org]

Sent: Thursday, June 29, 2017 10:40 AM

To: Gifford Hampshire <ghampshire@bklawva.com>

Cc: Mays, Eric M. <emays@pwcgov.org>; Joel Rhoades <Joel.Rhoades@jsch-lp.com>; Rogers, Andrekia

<ARogers2@pwcgov.org>

Subject: RE: Resolution

Mr. Hampshire,

Chairman Smith has noted that the Board of Appeals follows the State suggested resolution format, and the information you are requesting in terms of the actual votes will not be added. He is willing to put the information you requested in written format, if you would like.

Thank you,

Mandi Spina
ASC II – PWC Dept. of Development Services
5 County Complex Court – Suite 120
Prince William, VA 22192
Phone: 703-792-7455
Fax: 703-792-5285

From: Gifford Hampshire [mailto:ghampshire@bklawva.com]
Sent: Thursday, June 29, 2017 9:33 AM
To: Spina, Mandi <MSpina@pwcgov.org>
Cc: Mays, Eric M. <emays@pwcgov.org>; Joel Rhoades <Joel.Rhoades@jsch-lp.com>; Rogers, Andrekia <ARogers2@pwcgov.org>
Subject: RE: Resolution

Thanks, Ms. Spina.

Did Marshall or Loveless give a reason why they did not appear? I ask because I know and have worked with both of them. It would be important for me and my client to know if they recused themselves for that reason.

Thanks, Giff

Gifford R. Hampshire
Partner

Blankingship & Keith^{PC}

Blankingship & Keith, PC.
4020 University Drive, Suite 300 ■ Fairfax, VA 22030
9214 Center Street, Suite 101 ■ Manassas, VA 20110
tel (703) 691-1235
fax (703)-691-3913

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From: Spina, Mandi [<mailto:MSpina@pwcgov.org>]
Sent: Thursday, June 29, 2017 9:01 AM
To: Gifford Hampshire <ghampshire@bklawva.com>
Cc: Mays, Eric M. <emays@pwcgov.org>; Joel Rhoades <Joel.Rhoades@jsch-lp.com>; Rogers, Andrekia <ARogers2@pwcgov.org>
Subject: RE: Resolution

Mr. Hampshire,

I heard back from Chariman Smith late yesterday. He noted that we will change the resolution to show appellant name change.

He noted that we will not add in the voting specifications. I will send this email to him so he can respond further.

In regards to who was in attendance – Brian Smith (Chairman), Alger Mockaitis and Samir Alqutri. Board Members not present – Matthew Marshall and Robert Loveless.

Thank you,

Mandi Spina
ASC II – PWC Dept. of Development Services
5 County Complex Court – Suite 120
Prince William, VA 22192
Phone: 703-792-7455
Fax: 703-792-5285

From: Gifford Hampshire [<mailto:ghampshire@bklawva.com>]
Sent: Thursday, June 29, 2017 8:57 AM
To: Spina, Mandi <MSpina@pwcgov.org>
Cc: Mays, Eric M. <emays@pwcgov.org>; Joel Rhoades <Joel.Rhoades@jsch-lp.com>
Subject: RE: Resolution

Hello Ms. Spina

Would you convey to the Chairman that I think it is important the vote of the members present be set forth on the resolution? It is important for the record on appeal to know what the vote was, including that it was not unanimous. I think it is also important for the resolution to list the names of the members who were not present. Otherwise there no accurate record of the proceedings or of whether a quorum was present.

Also, would you please email me the names of Board members, indicating which were present and which were absent?

Thanks very much, Giff Hampshire.

Gifford R. Hampshire
Partner

Blankingship & Keith^{PC}

Blankingship & Keith, PC.
4020 University Drive, Suite 300 ■ Fairfax, VA 22030
9214 Center Street, Suite 101 ■ Manassas, VA 20110
tel (703) 691-1235
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[website](#) | [vCard](#) | [map](#) | [email](#) 

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From: Spina, Mandi [<mailto:MSpina@pwcgov.org>]
Sent: Wednesday, June 28, 2017 1:10 PM
To: Gifford Hampshire <ghampshire@bklawva.com>
Cc: Mays, Eric M. <emays@pwcgov.org>
Subject: RE: Resolution

Mr. Hampshire,

I will be in contact with the Chairman in regards to the resolution and corrections you wish to see made.

In general, we do not list the votes on any resolution we've done in the past.

Thank you,

Mandi Spina
ASC II – PWC Dept. of Development Services
5 County Complex Court – Suite 120
Prince William, VA 22192
Phone: 703-792-7455
Fax: 703-792-5285

From: Gifford Hampshire [<mailto:ghampshire@bklawva.com>]
Sent: Wednesday, June 28, 2017 1:09 PM
To: Spina, Mandi <MSpina@pwcgov.org>
Cc: Mays, Eric M. <emays@pwcgov.org>
Subject: FW: Resolution

Hello Mandi

It was good meeting you yesterday. I did not look at this resolution carefully enough as I was packing up my stuff. The name of appellant is not correct. It should be "Quantico City, LLC" not "Joel Rhoades" Also, I think it should reflect the votes of the three board members present. Are you able to make those changes?

Thanks, Giff

Gifford R. Hampshire
Partner

Blankingship & Keith^{PC}

Blankingship & Keith, PC.
4020 University Drive, Suite 300 ■ Fairfax, VA 22030
9214 Center Street, Suite 101 ■ Manassas, VA 20110
tel (703) 691-1235
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This communication is privileged and exempt from disclosure under §§ 2.2--3705.1 (2) and(3) of the Virginia Freedom of Information Act.



August 14, 2017

Quantico City LLC.
320 Fourth Avenue
Quantico, Virginia 22134

Dear Ms. Colleen S. Begin:

Kindly be advised the Quantico Town Council on Thursday, August 10, 2017 denied your request for a building permit because Sec. 110-54 states each lot in the R-1 district shall have a minimum rear yard of at least 25 square feet for trash containers, in addition to the required one and one – half parking spaces.

Sincerely,

Rita V. Frazier
Town Clerk
Town of Quantico

P.O. BOX 152 QUANTICO, VIRGINIA 22134

OFFICE 703/640-7411 FAX 703/640-7413 CLERK@TOWNOFQUANTICO.ORG



August 28, 2017

P.O. Box 152
Quantico, VA 22134
clerk@townofquantico.org
Office (703) 640-7411
FAX (703) 640-7413

Quantico City, LLC
320 Fourth Avenue
Quantico, VA 22134

Dear Ms. Colleen S. Begin:

Please be advised this letter supersedes our previous letter dated August 14, 2017.

On Thursday, August 10, 2017 the town council denied your request for zoning permits to replace the roof and repair the back wall of 320 Fourth Avenue.

Sec. 110-54 (c) of the town code states "... Each lot in the R-1 district shall have a minimum rear yard of at least 25 square feet for trash containers, in addition to the required one and one-half parking spaces." The plans that were submitted to the town failed to address these requirements.

Additionally, the town was unable to verify the existence of a Quantico City LLC with the Commonwealth of Virginia State Corporation Commission.

Finally, the town has also been unable to confirm you are an authorized agent of the current property owner.

Please re-submit your zoning permit application once these items have been addressed.

Sincerely,

Rita V. Frazier
Town Clerk
Town of Quantico

P.O. BOX 152 QUANTICO, VIRGINIA 22134
OFFICE (703) 640-7411 FAX (703) 640-7413
CLERK@TOWNOFQUANTICO.ORG

**ADDITIONAL DOCUMENTS
SUBMITTED BY
PRINCE WILLIAM COUNTY**

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Prince William County, Virginia

**BEFORE THE
PRINCE WILLIAM COUNTY BUILDING CODE APPEALS BOARD**

IN RE: Appeal of Quantico City, LLC
Appeal No. 2017-00013

CONTENTS

<u>Section</u>	<u>Page No.</u>
Summary of Case History and Pertinent Facts	2
Attachment 1 Aerial Photograph 320 4 th Avenue (3/20/2015)	3
Attachment 2 Pictures of Approved Plan Revision (4/27/2017) (Reconstructed Wall)	5
Attachment 3 Appeal by Quantico City, LLC (June 1, 2017)	7

**BEFORE THE
PRINCE WILLIAM COUNTY BUILDING CODE APPEALS BOARD**

IN RE: Appeal of Quantico City, LLC
 Appeal No. 2017-00013

BUILDING OFFICIAL'S DOCUMENT

Summary Of Case History And Pertinent Facts

Background

1. A Stop Work Order Notice and Building Code Violation Notice were issued to Quantico City, LLC on March 9, 2017 for Work without Permits – Commercial Roof Replacement to include Replacing Joists and Sheathing at 320 4th Avenue.
2. Building Permit BLD2017-04595 Re-Roofing and BLD2017-04742 Replacement of Roof Rafters were issued on March 30, 2017. Therefore, the Building Code Violation was abated.
3. A second Stop Work Order Notice and Building Code Violation Notice were issued to Quantico City, LLC on April 11, 2017 for Work without Permits – Reconstructing Rear Wall.
4. On April 18, 2017 the Town of Quantico staff informed the County staff that Town Code 110-7 states in part (a) before a building maybe altered, a zoning permit must be obtained from the town. Therefore, the reconstruction work being done under Building Permit BLD2017-04595 Re-Roofing and BLD2017-04742 Replacement of Roof Rafters required the approval of the Town's Zoning Administrator.
5. On or about April 19, 2017 County staff notified by phone Mr. Joel Rhoades with Quantico City, LLC that he needed to contact the Town's Zoning Administrator to obtain any required approvals.
6. Building Permit Application BLD2017-04742 was revised on April 24, 2017 and approved on April 27, 2017 for reconstructing 57 feet of exterior wall. Therefore, the Building Code Violation was abated. However, Mr. Rhoades failed to obtain an approval from the Town of Quantico; and the Building Permit BLD2017-04595 and BLD2017-04742 were revoked on May 4, 2017. Mr. Rhoades received the Revocation Letter on May 10, 2017.
7. Concurrent with the Revocation Letter, a Building Code Violation Notice BCE2017-00413 was issued on May 4, 2017 for the work continuing without a valid Building Permit.

Current Situation

1. Mr. Gifford Hampshire, Esquire, filed an Appeal of the Revocation Letter and the Building Code Violation Notice BCE2017-00413 issued on May 4, 2017 on behalf of Quantico City, LLC. The Appeal was submitted June 1, 2017 and was timely.
2. Based on the arguments presented in the Appeal, the Building Code Violation Notice was rescinded on June 21, 2017. Therefore, the Appeal of the Building Code Violation Notice BCE2017-00413 is moot.
3. The Virginia Uniform Statewide Building Code/2012, Section 110.1 Approval and Issuance of Permits states in part:

“The building official shall examine or cause to be examined all applications for permits or amendments to such applications with-in a reasonable time after filing. If the applications or amendments do not comply with the provisions of this code or all pertinent laws and ordinances, the permit shall not be issued and the permit applicant shall be notified in writing of the reasons for not issuing the permit.”

4. The Virginia Uniform Statewide Building Code/2012, Section 110.8 Revocation of a Permit states:

“The building official may revoke a permit or approval issued under this code in the case of any false statement, misrepresentation of fact, abandonment of work, failure to complete construction as required by Section 110.7 or incorrect information supplied by the applicant in the application or construction documents on which the permit or approval was based.”

5. Mr. Rhoades presented the project as an Alteration/Repair Permit that did not require the Town Zoning Administrator’s approval. The County accepted Mr. Rhoades’ representation. However, the Town staff notified the County staff to the contrary on April 18, 2017.
6. The Appeal advocates that the Building Official should ignore the requirements of the Virginia Uniform Statewide Building Section 110.1 Approval and Issuance of Permits and should allow the construction and inspection process to continue without regard to the Town’s legal requirement for Quantico City, LLC to obtain a Zoning Approval for the project.

ATTACHMENT 1

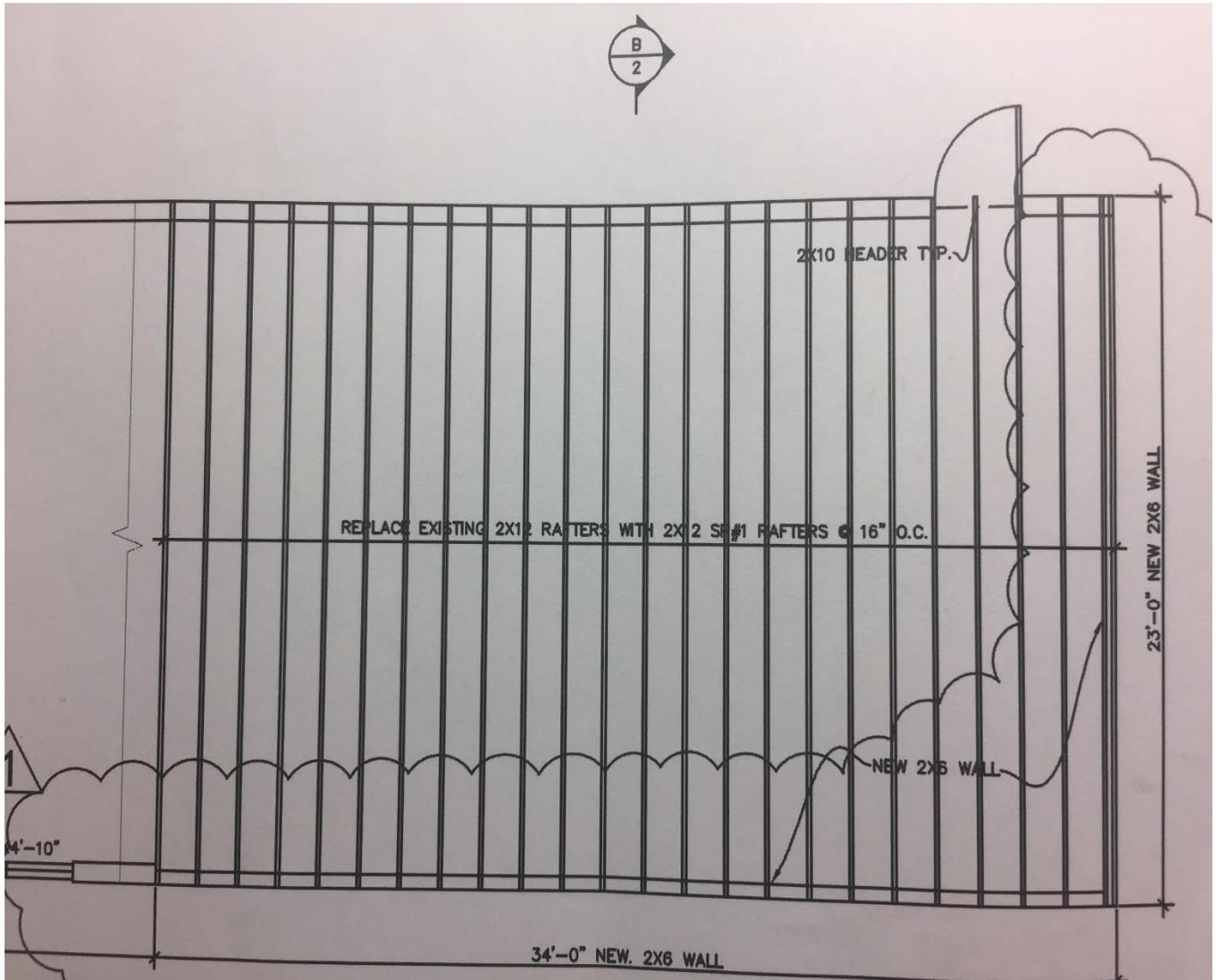
Aerial Photograph 320 4th Avenue (3/27/2015)



Picture of Approved Plan Revision (Extract)

BLD2017-04595 Re-Roofing

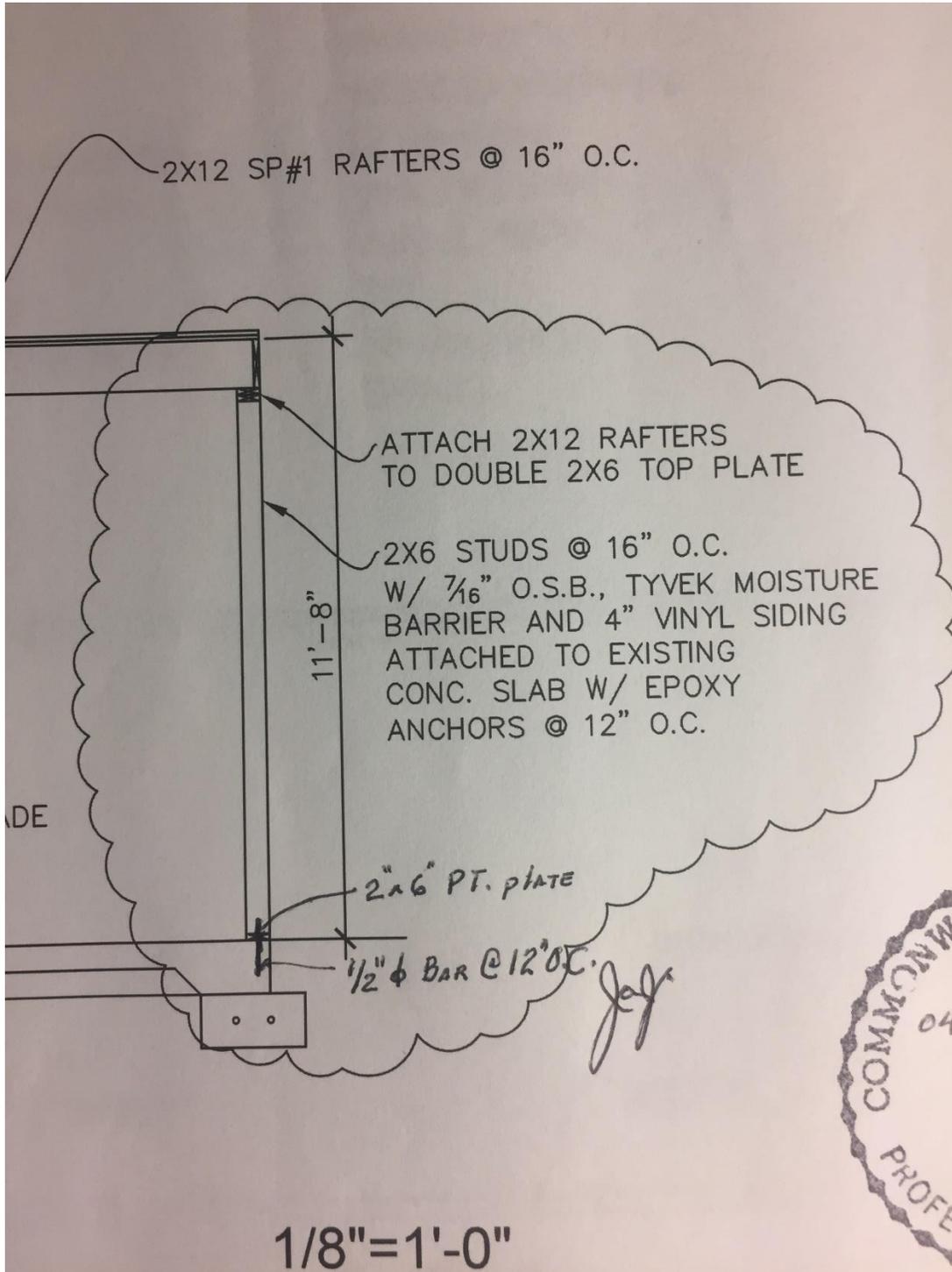
BLD2017-04742 Replacement of Roof Rafters



Picture of Approved Plan Revision (Extract)

BLD2017-04595 Re-Roofing

BLD2017-04742 Replacement of Roof Rafters





COUNTY OF PRINCE WILLIAM

5 County Complex Court, Suite 120, Prince William, Virginia 22192-5308
(703) 792-6930 Metro 631-1703 Fax: (703) 792-5285

DEPARTMENT OF
DEVELOPMENT
SERVICES
Division of
Building Development

Wade A. Hugh
Director

June 21, 2017

Quantico City, LLC
Attn: Joel Rhoades
417 N. Lee St.
Alexandria, VA 22314

RE: Building Code Violation – BCE2017-00413
320 4th Avenue
Quantico, VA

Mr. Rhoades:

This letter is to notify you that Prince William County, Building Development Division, is hereby rescinding the Violation Notice dated May 8, 2017. Given the limited amount of time allotted to address the issues related to these revoked permits, it has been determined that rescission of the Violation Notice is the appropriate measure at this time. In 60-90 days, County Staff will conduct a review to decide whether re-issuance of the notice is necessary. However, as stated in the Notice, the associated building permits, BLD2017-04742 and BLD2017-04595 remain in their current "revoked" status and the posted "Stop Work Order" remains in effect.

You have the right of appeal in accordance with Chapter 1 section 119.5 of the VUSBC. A written request for appeal shall be submitted to the Local Board of Building Code Appeals within 30 calendar days of receipt of this notice.

Sincerely,

Andrew Kellerman
Code Compliance Inspector
Building Development Division
5 County Complex Court
Prince William, VA 22192
Phone: (703) 792-5687
Fax: (703) 792-4155

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Edward Mays (US Customs and Border
Protection)
Appeal No. 17-14

CONTENTS

<u>Section</u>	<u>Page No.</u>
Review Board Staff Document	305
Documents Submitted by Both Parties in Chronological Order	309

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Edward Mays (US Customs and Border Protection)
Appeal No. 17-14

REVIEW BOARD STAFF DOCUMENT

Suggested Summary of the Appeal

1. Edward Mays, a representative of the US Customs and Border Protection (US-CBP), as a tenant in a leased building used as an emergency operations center located at 7681 Boston Boulevard in Springfield, appeals the denial of a modification request under Part I of the Uniform Statewide Building Code (Virginia Construction Code or VCC).

2. US-CBP obtained building permits from Fairfax County Land Development Services (FCLDS), the County agency responsible for enforcement of the VCC, to perform interior alterations to the fire suppression system to add 18 sprinkler heads to a pre-action system for the new equipment curtains in its data center and removing three rooms from the pre-action system and making them part of the normal wet system.

3. After construction, a hydrostatic test was performed on the expanded wet system, which inadvertently allowed water to enter the pre-action system causing several leaks. The leaks were repaired and the systems separated properly. No subsequent hydrostatic test was performed on the pre-action system.

4. When the Fairfax County Fire Marshal (the office delegated authority under the VCC to approve sprinkler systems) conducted inspections, it was noted that the pre-action system needed to be hydrostatically tested.

(Page left blank intentionally)

5. US-CBP then requested a modification under the VCC to approve the work without a hydrostatic test of the pre-action system since the area also has a halon suppression system. The halon system is a non-required system.

6. FCLDS denied the modification request and US-CBP appealed the denial to the Fairfax County Building Code Board of Appeals (County appeals board), which upheld the denial. US-CBP further appealed to the Review Board.

7. There are no jurisdictional or timeliness issues in the appeal and the appeal was processed without an informal fact-finding conference being conducted by Review Board staff. 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 appeal hearing before the Review Board.

Suggested Issue for Resolution by the Review Board

1. Whether to overturn FCLDS's denial of the modification request and the County appeals board's upholding of the denial and rule that the modification request is to be approved.

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DOCUMENTS SUBMITTED BY
BOTH PARTIES IN
CHRONOLOGICAL ORDER

(Page left blank intentionally)



Fairfax County, Virginia

BUILDING PERMIT

INTERIOR ALTERATION COMMERCIAL

Permit Number: 170380249 **Issued Date:** 03/20/2017
Job Address: 7681 Boston Bv **Tax Map ID:** 099-1 / 12 / / 0015
 Springfield, VA 22153-3137 **Plan No.:** Q-17-1342
Tenant: GSA **Bldg.:** N/A **Floor:** 1 **Suite:** N/A
Owner/Tenant: **Contractor:**
 BOSTON PROPERTIES HBW PROPERTIES INC
 2200 Pennsylvania Ave Nw 1055 First Street Suite 200
 #200W Rockville, Md 20850-0000
 Washington, Dc 20037 (301) 424-2900
Structure: OFFICE **Code:** IEBC 2012
Group: B **Type of Construction:** IIB
 S1 IIB

Has permission, according to approved plans, applications and restrictions of record to:

INTERIOR ALTERATIONS TO EXISTING TENANT

Commercial Interior Alterations Details

The scope of work on this permit does not require the issuance of a new Occupancy Permit.

Sprinklered: F Monitored: N Code Modification: N

BUILDING OFFICIAL *Brian J. Joley*

- A copy of this permit must be posted at the construction site for the duration of the permit.
- This permit does not constitute approval from your homeowners' association and its related covenants.
- This permit will expire if work does not commence in six months, or if work is suspended for six months.
- This permit holder is responsible to contact the county when stages of construction are reached that require inspections.
- To schedule inspections call our Inspection office at 703-631-5101, TTY 711 during business hours. Inspection may also be scheduled online at www.fairfaxcounty.gov/fido.
- For questions regarding this permit call the Permit Application Center at 703-222-0801, TTY 711.
- Call Miss Utility before you dig at 811.

311
4

Report Date 12/05/2016 01:29 PM

Submitted By

Page 1

Act # 2574624 A/P #162500134 Act Type F SPRINKLR FPD - SPRINKLER REVIEW 2

Property Information

Address 7681 BOSTON BV
SPRINGFIELD VA 22153-3137

Location

Application Information

Type F COMMERCIAL FPD COMMERCIAL SPRINKLER SYSTEM Priority IB12 Type of Work F 13 Dept of Commerce OFFICE
Square Footage 0.00 Declared Valuation 8965.00 A/P Name US CUSTOMS MCSB DATA CENTER
Desc of Work Add 18 sprinkler heads to pre action sprinkler system for new equipment curtains.

Initial Review

Issued Date/Time 09/20/2016 10:19 Issued By System Generated
Scheduled Date/Time Scheduled By Waived
Department FPD Assigned To

Review Results

Reviewed By SSING5 Approved Suspense Date
Start Date/Time 12/05/2016 12:34 Completed Date/Time 12/05/2016 12:35 Actual Time 1.50

Comments

No Comments

Activity/Review Details

Detail F COMMERCIAL REVIEW DETAIL Modified By SSING5 Modified Date/Time 12/05/2016 12:35

Comments

No Comments

Reviewers Details

Project Status

Sprinkler File ID

FPD Inspections Needed

Inspection Estimates

Location

F 13 SYS

Additional Info

Specific Location Information

Town of Herndon? N

Building #

Floor

Suite

Building Status

343

Report Date 06/29/2017 09:10 AM

Submitted By

Page 1

Act # 2656225 A/P #171800040 Act Type F SPRINKLR FPD - SPRINKLER REVIEW # 1

Property Information

Address 7681 BOSTON BV
SPRINGFIELD VA 22153-3137

Location

Application Information

Type F COMMERCIAL FPD COMMERCIAL SPRINKLER SY Priority IB12 Type of Work F 13 Dept of Commerce OFFICE
Square Footage 0.00 Declared Valuation 17000.00 A/P Name GSA - INTERIOR RENOVATION
Desc of Work removing preaction system and adding wet system for new coverage

Initial Review

Issued Date/Time 06/29/2017 09:04 Issued By FPD CASHIER3 System Generated
Scheduled Date/Time 06/29/2017 09:10 Scheduled By BWILL6 Waived
Department FPD Assigned To

Review Results

Reviewed By BWILL6 Approved Suspense Date
Start Date/Time 06/29/2017 09:10 Completed Date/Time 06/29/2017 09:10 Actual Time 1.00

Comments

No Comments

Problems

No Problems

Activity/Review Details

Detail F COMMERCIAL REVIEW DETAIL Modified By BWILL6 Modified Date/Time 06/29/2017 09:10

Comments
No Comments

Reviewers Details

Project Status

Sprinkler File ID

FPD Inspections Needed

Inspection Estimates

Inspection type Location

F 13 SYS

Report Date 02/06/2018 08:12 AM Submitted By Page 1

Inspection # 7559171 A/P # 170800126 Insp Type F 13 SYS F NFPA 13 HYDRO TEST/FOLLOWUP # 6

Property Information

Address 7681 BOSTON BV
 SPRINGFIELD VA 22153-3137
 Location

Application Information

Type F COMMERCL FPD COMMERCIAL SPRINKLER SYS Priority IB12 Square Footage 0.00
 Type of Work F 13 Dept of Commerce OFFICE A/P Name GSA - INTERIOR RENOVATION
 Desc of Work add & relocate sprinkler heads

Initial Inspection

Call Date/Time 07/25/2017 10:51 System Generated Assigned To TCANN3
 Schedule Date/Time 08/29/2017 00:00 Order/Group 0 Preference
 Waived
 Location FINAL WALK

Inspection Results

Inspected By TCANN3 Same Trip as Insp # 0 Actual Time 0.00
 Start Date/Time 08/29/2017 12:00 Odometer Start 0 Partial Inspection
 Completed Date/Time 08/29/2017 12:20 Odometer Stop 0 Status Failed

Comments

FINAL WALK OF WET SYSTEM CHANGES. ALL - OK STICKER ISSUED. NOTE: PREACTION WORK SEPEERATED ON #171800040. - TC 08/29/17 - ****
 REVIEWED BY CWH 9/12/17****

Code Violations

Violation	FIN09 GENRA	Description	Status	Status Date
		1. BLANK NO PREPRINTED TEXT		
Violation Date	05/02/2017			
Location				
Comments	RE-SCHEDULE HYDRO			

Code Violation Text

Inspection Details

Detail FPD INSP/TEST TIME ENTRY Modified By TCANN3 Modified Date/Time 08/29/2017 13:19
 Comments
 No Comments



Code Modification Request

COUNTY USE ONLY

Date Rec'd. 8/18/17
File No. 17-08-18.43.0FD
Assigned Walton

APPLICANT INFORMATION

Name/Title: Edward Mays - Executive Director, EDME Date: 8/10/2017
Firm: Customs and Border Protection, Office of Information and Technology
Street address: 7681 Boston Boulevard
City: Springfield State: VA ZIP: 22153
Office phone: 571-468-0450 Cell phone: _____
Email address: Edward.J.Mays@cbp.dhs.gov

PROJECT INFORMATION

Name: GSA/CBP Enterprise Operation Center (EOC)
Address: 7681 Boston Blvd, Springfield VA 22153
Permit number: 170380249 Plan number: _____
Code deficiency identified by (if applicable): NFPA 25

CODE/SECTION(S)

Code(s) (IBC, IMC, IPC, PFM, etc.) and year-edition: NFPA 25
Section(s) and/or subsection(s): _____

REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision:

During the work in the Emergency Operations Center (EOC), three (3) existing rooms had to be removed from the data center pre-action sprinkler system and converted to a wet system. As result, the pre-action sprinkler system in the data center (which was tied to the 3 aforementioned rooms) required (8) sprinkler heads to be removed and the pipes plugged as part of the separation. Customs and Border Protection (CBP) is seeking a waiver for a requested hydro test in the Data Center due to the sensitive nature of the room as well as there being no redundancy for the servers located within the room. The National Data Center 1 (NDC1) located at 7681 Boston Blvd., Springfield, VA, 20598 is the main IT Production data center for DHS / CBP. All the Production IT equipment, network infrastructure, applications, and services residing in this facility are mission critical infrastructure supporting the National Security of the United States and its borders, airports and seaports. Permitting hydro testing of the pre-action sprinkler system over live production equipment in the data centers could result in catastrophic and irreparable damage to the IT infrastructure and security of the United States. The impact to the Federal Government will be the loss of hundreds of millions of dollars in daily revenue as well stoppage of travelers and goods entering and exiting the United States.

It is important to note that the Data Center is also augmented by a Halon Fire Suppression system.

Describe the proposed equivalent method of code compliance (attach supporting documentation):

Please submit the completed form and any supporting documentation to either of the addresses below.

Code Modification Review Committee
12055 Government Center Parkway, Suite 216
Fairfax, VA 22035-5504
buildingofficial@fairfaxcounty.gov

received
8/18/17 FPD 316



COUNTY OF FAIRFAX
 OFFICE OF THE FIRE MARSHAL
 FIRE PREVENTION DIVISION
 10700 PAGE AVENUE
 FAIRFAX, VIRGINIA 22030
 www.fairfaxcounty.gov/fr/prevention

12-2

Phone (703) 246-4849 Fax (703) 246-6042
 FIRE INSPECTIONS: 246-4849 246-6042
 ACCEPTANCE TESTING: 246-4821 246-6041
 RETESTING: 246-4830 246-6041
 FIRE & HAZMAT INVESTIGATIONS: 246-4741 246-6045



REPORT OF INSPECTION NOTICE OF VIOLATION TEST BILLING FORM

1 of 1

A/P#	170800126	Inspection #	7559171	Scheduled Inspection Date/Time	8/29/17 000	
Work Type	F NFPA 13 FIRE SPRINKLER SYS			Inspection Type	F NFPA 13 HYDRO TEST/FOLLOWUP	
Project Address	7681 Boston Bv Springfield				Suite	N/A
Project/Business Name	GSA - INTERIOR RENOVATION		BLD #	N/A	FLR #	N/A
Contact Name	PHOENIX FIRE PROTECTION INC			ID	298231	
Contractor	7901 PENN RANDALL PLACE UPPER MARLBORO, MD 20772-0000			Phone #	(301)669-7066 x	
Address						
Non RUP#	Usage Codes					
Number of Inspectors	1	Start Time	1200	Stop Time	1230	
		Total Time	20min	Total Fees	78.00	
Additional Inspection/Test required	YES	<input checked="" type="radio"/> NO	Pass	<input checked="" type="checkbox"/>	Partial Pass	<input type="checkbox"/>
			Fail	<input type="checkbox"/>	Closed	<input type="checkbox"/>
Inspector	T. CANNON		Where to Report			
	FINAL WALK					

FINAL WALK OF WET SYSTEM CHANGES,
 ALL - OK STICKER ISSUED.
 NOTE: PREACTION WORK SEPERATED ON # 171800040

Please call 703-246-4821 8 a.m. - 3 p.m.

FOLLOW UP INSPECTION DATE

Approved	Approved with P/L	Rejected	<input checked="" type="radio"/> Sticker Issued	Approved Pending System Final	FPCP Issued	Other
Evacuation Order Issued:	Yes	No	Violation Corrected:	Yes	No	Spot Check: Yes No

RIGHT OF APPEAL. The owner of this building or structure, the owner's agent, or any other person involved in the use of this building or structure has the right to appeal this notice of violation. Virginia Construction Code appeals must be filed within 30 days and Virginia Fire Prevention Code appeals within 14 days from the date you receive this notice. Appeal information and forms may be obtained from the Secretary to the Local Board of Building Code Appeals (703) 324-1780 or at http://www.fairfaxcounty.gov/dpwes/publications/codemods_appeals.htm. Failure to submit an application for appeal within the specified timeframe shall constitute acceptance of the notice of violation written by the Code Official. Appeal of any listed violation does not relieve responsibility for immediately, or as specified, correcting all other violations noted.

****No occupancy inspections will be made until all deficiencies regarding the Fire Protection Systems have been corrected.****

By the order of T. CANNON, FM# 435, Assistant Fire Marshal.

James Decker CUSTOMER PRINTED NAME James Decker TITLE / POSITION [Signature] SIGNATURE **317**



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

September 5, 2017

Edward Mays
Customs and Border Protection, Office of Information and Technology
7681 Boston Boulevard
Springfield, VA 22153

Subject: GSA/CBP Enterprise Operation Center (EOC)
7681 Boston Boulevard
170380249, Q#17-1342

Code Reference: 2012 Virginia Construction Code (VCC)

File Reference: 170818.2AD/17- 08-18.43.0FD

Dear Mr. Mays:

This is in response to your request for a modification of the 2012 VCC, Section 901.5 *Acceptance tests*, which requires fire protection systems to be tested in accordance with the requirements of the VCC and the International Fire Code. Sprinkler systems installed per the VCC, Section 903.3.1.1 *NFPA 13 sprinkler systems*, are required to be installed in accordance with the 2010 edition of NFPA 13 *Automatic Sprinkler System Handbook*. Section 24.2 *Acceptance Requirements* of NFPA 13 requires all piping and attached appurtenances to be hydrostatically tested.

Your request is to omit the water pressure test. In converting three existing rooms from a pre-action fire sprinkler system to a wet system, work was performed in the facility at Boston Boulevard where the existing pre-action fire sprinkler system was modified: eight heads were removed from the pre-action system, and the pipes were plugged. Due to the sensitive nature of the work that is conducted in the area served by the pre-action system, you are asking to waive the required test of the fire sprinkler system.

After due consideration, your code modification request is denied since your proposal fails to provide an equivalent level of safety meeting the spirit and intent of the code.

The referenced NFPA standard typically requires an acceptance test of fire sprinkler systems to be conducted at 200 psi. In the case of the changes done at this facility, the test can be conducted at system working pressure, in compliance with Section 24.2.1.4.

This test is important to ensure the system will withstand the pressures should the system activate. A failure at the time of activation could cause the system to not properly distribute water to the area of the fire. The standard does not allow for testing of water based systems with gas only, for reasons of safety. Also, this system is installed where future tenants would be left with a system that has not been tested in a compliant manner.



Edward Mays
7681 Boston Boulevard
September 5, 2017
Page 2 of 2

You have the right to appeal this decision to the Board of Building Code Appeals within 30 days from the date you receive this letter. You may arrange an appeal or obtain information on the appeals process by visiting the county website at www.fairfaxcounty.gov/dpwes/publications/codemods_appeals.htm or by contacting the secretary to the board, Carla Guerra-Moran, at 703-324-1780, TTY 711 or Carla.Guerramorán@fairfaxcounty.gov.

This response is project specific and applies to 7681 Boston Boulevard only. Should you have any questions or need more information on this matter, please contact John Walser at 703-246-4889, TTY 711 or at john.walser@fairfaxcounty.gov.

Sincerely,



for
Brian F. Foley, P.E.
Building Official

cc: Code Modification Review Committee
Dan Willham, Deputy Building Official
John L. Walser, Battalion Chief, Fire Prevention Services
William C. Aceto, P.E., Chief Engineer, Office of the Fire Marshal
Advisory Files

\\ffxsharev01\dpwes\lds\administration\advisory\aaa code modification\boston boulevard\7681\170818.2ad\170818.2ad letter.docx

U.S. Customs and Border Protection Office of Information and Technology (OIT)

**Fairfax County Building Code Modification Review committee
CBP Building Code Appeal**

November 2017



Systems and Applications at NDC 1

The critical systems and applications at NDC 1 are essential to carrying out CBP's mission. For example, **TECS** and **ACE** make it possible for CBP Officers to seamlessly process and inspect incoming travelers and shipments, whereas systems such as **E3** make it possible to track individuals intercepted at the border from apprehension to detention at ICE. CBP also uses systems such as **ATS** to aggregate data on passengers and shippers from source systems to effectively target and prevent future bad actors or illegitimate shippers from entering the U.S.

<p style="text-align: center;">Trade</p> <ul style="list-style-type: none"> • Automated Commercial Environment (ACE) • Automated Commercial System (ACS) • Multi-Modal Manifest System (Air, Land, Rail, Sea) • Automated Export System (AES) • International Trade Data System (ITDS) 	<p style="text-align: center;">Travel</p> <ul style="list-style-type: none"> • TECS/TECS Mod • Advanced Passenger Information System (APIS) • Global Entry (GE) • Automated Passport Control (APC) • Electronic System for Travel Authorization (ESTA) • Land Border Integration (LBI) • Arrival and Departure Information System (ADIS) • Electronic Visa Update System (EVUS) • Biometric Exit (new initiative)
<p style="text-align: center;">Targeting</p> <ul style="list-style-type: none"> • Automated Targeting System (ATS) • Analytical Framework for Intelligence (AFI) • Customs-Trade Partnership Against Terrorism (C-TPAT) • Enterprise Management Information System (EMIS) 	<p style="text-align: center;">Border Enforcement</p> <ul style="list-style-type: none"> • E3 The Next Generation of ENFORCE • Enterprise Geospatial Information System (eGIS) • Enforcement Support Systems (ESS) • Intelligent Computer Assisted Detection (ICAD) • Tasking, Operations, & Mgmt Information System (TOMIS) • BigPipe • Seized Assets and Case Tracking System (SEACATS)
<p style="text-align: center;">Management and Administration</p> <ul style="list-style-type: none"> • Systems Applications Product (SAP) – Financial, Procurement, Asset • TRIGRIA – real property • Canine Tracking System (K9TS) – Canine Asset • CBP Overtime & Scheduling System (COSS) • Joint Integrity Case Management System (JICMS) • Firearms and Credentials Tracking System (FACTS) • CBPnet, CBPnet Collaboration (Sharepoint) • Remedy 	

This document is incomplete without accompanying discussion. 4

CBP Mission

CBP's mission is to safeguard America's borders, facilitate legitimate trade and travel by protecting our nation from dangerous people and materials while enhancing the Nation's global economic competitiveness.

PILLARS OF THE CBP STRATEGIC MISSION

 <p>SAFGUARD AND MANAGE THE U.S. BORDERS</p>	 <p>PROTECT THE AMERICAN PEOPLE</p>	 <p>PROTECT THE NATIONAL ECONOMY</p>
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A DAY IN THE LIFE*

<p>PROCESSED</p> <ul style="list-style-type: none"> • 1,069,266 passengers and pedestrians • 74,417 truck, rail, and sea containers • 282,350 incoming privately owned vehicles <p>COMMERCE</p> <ul style="list-style-type: none"> • Process \$6.3 Billion worth of imported products and supporting over \$1 Trillion in annual revenue for the US <p>CONDUCTED</p> <ul style="list-style-type: none"> • 1140 apprehensions between U.S. ports of entry • 752 refusals of inadmissible persons at U.S. ports of entry • 22 arrests of wanted criminals at U.S. ports of entry 	<p>EMPLOYED</p> <ul style="list-style-type: none"> • 59,221 CBP employees <p>SEIZED</p> <ul style="list-style-type: none"> • 7,910 pounds of drugs • \$289,609 in undeclared or illicit currency • \$3.8 million dollars' worth of products with Intellectual Property Rights violations <p>CONDUCTED OPERATIONS AT</p> <ul style="list-style-type: none"> • 51 countries with more than 911 CBP employees working internationally • 328 ports of entry within 20 field offices • 135 Border Patrol stations and six substations within 20 sectors, with 35 permanent checkpoints. • 14 Air and Marine branches, 5 National Security Operations, and 1 Air and Marine Operations Center 	
--	--	--

*FY16 Data

Waiver Request

Request

- CBP is seeking a waiver for a requested hydrostatic pressure test in the NDC1 Data Center due to the sensitive nature of the room as well as there being limited redundancy for the Legacy equipment located within the room.
- NDC 1 is the main Information Technology Production data center for DHS/CBP.
- All the Production IT equipment, network infrastructure, applications, and services residing at NDC1 are mission critical infrastructure supporting the National Security of the United States and its borders, airports, and seaports.

Risk and Impact

- While CBP understands the risk of not performing a live hydro test, permitting the testing of the pre-action sprinkler system over live production IT equipment in the data centers could result in catastrophic and irreparable damage to the IT infrastructure of billions of dollars in daily revenue. This would also result in stoppage of travelers and goods entering and exiting the United States.
- The data center has an adequate underfloor and overhead gaseous suppression system using Halon 1301. The system at NDC1 receives semi-annual (March) and annual (September) testing and verification conducted by Baltimore Fire Protection Equipment (BFPE). There have been no defects found in the gaseous system since the latest inspection conducted in September 2017.
- The pre-action sprinkler system is also maintained and serviced by BFPE. The pre-action system has maintained consistent air pressure without constant cycling of the air compressor. The National Data Center has two methods of fire suppression, the gaseous system (Halon 1301) and the pre-action sprinkler system.

Note: A few sections of the pre-action sprinkler pipe burst when the hydro testing was conducted for the EOC. The defective sections were replaced 6/6/17. Since the repairs the pre-action dry sprinkler system is maintaining consistent air pressure. (the entire Fire Detection system at NDC1 was replaced in 2012).

This document is incomplete without accompanying discussion. 5

National Data Center 1 (NDC 1) – Quick Facts

National Critical Infrastructure

Our Infrastructure & Data
Bringing information to CBP and beyond
The numbers speak for themselves. The information and data that is stored at NDC is critical to keeping the country safe. It not only enables CBP to decide if people and cargo pose an economic or national security threat to the country, but it also enables other Federal Agencies to execute their missions.

Capacity
We operate the largest server environment of its kind in North America at NDC1. Over 7,200 servers dispersed across the globe store our data.

<p>Users</p> <p>40,000,000,000</p> <p>Daily data exchanges with other government agencies, passenger carriers, cargo brokers, and trade users.</p>	<p>10,000,000,000</p> <p>Transactions daily, the highest transaction volume against a Datacom database in the world, sometimes reaching as many as 13,000,000,000.</p>	<p>1,500,000</p> <p>Emails processed across the entire agency in a single day.</p>
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Importance

<p><i>Communications and awareness on the border</i></p> <p>The 911 commission stressed the importance of interoperability on the border, and CBP set out to accomplish just that. Our communications infrastructure supports hundreds of law enforcement agencies and first responders.</p>	<p><i>Information sharing to combat terrorism</i></p> <p>CBP shares data with the Department of State, the FBI, Department of Treasury, Department of Defense, and hundreds of other law enforcement organizations to ensure the people entering the U.S. are safe.</p>	<p><i>Connecting data sources to increase efficiency</i></p> <p>CBP has developed the Automated Commercial Environment (ACE), which is the single source of data for 48+ Federal Agencies involved in trade, customs, and regulation of goods and food in the U.S.</p>
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This document is incomplete without accompanying discussion. 3

Testing of Fire Protection Systems

Virginia Construction Code
 NFPA 13, *Standard for the Installation
 of Sprinkler Systems*

NFPA 13 2010

Chapter 1, Administration

1.1* Scope.

1.1.1 This standard shall provide the minimum requirements for the design and installation of automatic fire sprinkler systems and exposure protection sprinkler systems covered within this standard.

Virginia Construction Code, 2012 edition

103.1 General.

In accordance with Section 36-99 of the Code of Virginia, the USBC shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein.

901.2 Fire protection systems.

Fire protection systems shall be installed, repaired, operated and maintained in accordance with this code and the International Fire Code.

NFPA 13 2010

Chapter 24, Systems Acceptance

24.1 Approval of Sprinkler Systems and Private Fire Service Mains. The installing contractor shall do the following:

- (1) Notify the authority having jurisdiction and the property owner or the property owner's authorized representative of the time and date testing will be performed
- (2) Perform all required acceptance tests (see Section 24.2)

Virginia Construction Code, 2012 edition

VCC, 901.5 Acceptance tests.

Fire protection systems shall be tested in accordance with the requirements of this code and the International Fire Code. When required, the tests shall be conducted in the presence of the building official. Tests required by this code, the International Fire Code and the standards listed in this code shall be conducted at the expense of the owner or the owner's representative.

NFPA 13 2010

Chapter 24, Systems Acceptance

24.2 Acceptance Requirements.

24.2.1* Hydrostatic Tests.

24.2.1.1 Unless permitted by 24.2.1.2 through 24.2.1.8, all piping and attached appurtenances subjected to system working pressure shall be hydrostatically tested at 200 psi (13.8 bar) and shall maintain that pressure without loss for 2 hours.

24.2.1.4 Modifications affecting 20 or fewer sprinklers shall not require testing in excess of system working pressure.

Acceptance Testing

- Confirm the basic requirements of NFPA 13 are met.
 - Ensure piping integrity and absence of leaks.
 - Work was completed in an acceptable manner.
 - System works as intended.
-
- Accomplished by visual inspection and hydrostatic pressure.



Building Code Appeal Request

PROJECT INFORMATION

Project Name: GSA/CBP Data Center - Enterprise Operation Center
 Project Address: 7681 Boston Boulevard
 Permit or case number: 170380249 Tax map number: Q#17-1342

APPLICANT INFORMATION

Applicant Name: Edward Mays Owner Owner's agent
 Address: 7681 Boston Boulevard
 City: Srpingfield State: va ZIP: 22153
 Phone: 571-468-0450 Email: edward.j.mays@cbp.dhs.gov

OWNER INFORMATION

See applicant information
 Owner Name: Boston Properties Limited Partnership
 Address: 2200 Pennsylvania Avenue, NW, Suite 200W
 City: Washington State: DC ZIP: 20037
 Phone: 202-585-0800 Email: mdiakite@bostonproperties.com

APPEAL INFORMATION

Appealing decision made on the date of by Building Official Fire Official Property Maintenance Official rendered on the following date: -
 Code(s) (IBC, IMC, IPMC, etc.) and year-edition: -
 Section(s): -

REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision:

During the work in the Emergency Operations Center (EOC), three (3) existing rooms had to be removed from the data center pre-action sprinkler system and converted to a wet system. As result, the pre-action sprinkler system in the data center (which was tied to the 3 aforementioned rooms) required (8) sprinkler heads to be removed and the pipes plugged as part of the separation. Customs and Border Protection (CBP) is seeking a waiver for a requested hydro test in the Data Center due to the sensitive nature of the room as well as there being no redundancy for the servers located within the room. The National Data Center 1 (NDC1) located at 7681 Boston Blvd., Springfield, VA. 20598 is the main IT Production data center for DHS / CBP. All the Production IT equipment, network infrastructure, applications, and services residing in this facility are mission critical infrastructure supporting the National Security of the Unites States and its borders, airports and seaports. Permitting hydro testing of the pre-action sprinkler system over live production equipment in the data centers could result in catastrophic and irreparable damage to the IT infrastructure and security of the United States. The impact to the Federal Government will be the loss of hundreds of millions of dollars in daily revenue as well stoppage of travelers and goods entering and exiting the United States.

+

Please return the completed form and any supporting documentation to the address or email below.

Chairman, Fairfax County Board of Building Code Appeals -
 12055 Government Center Parkway, Suite 334 -
 Fairfax, VA 22035-5504 -
 Attention: Secretary to the Board -
buildingofficial@fairfaxcounty.gov

RESOLUTION

WHEREAS, the Fairfax County Board of Building Code Appeals (the Board) is duly appointed to resolve disputes arising out of enforcement of the VCC Code/ 2012 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. 1710060 AP
In RE: ~~THE~~ BOSTON PROPERTIES LP v. FAIRFAX COUNTY

The appeal is hereby DENIED for the reasons set out below.

THE VCC REQUIREMENT FOR SPRINKLER ACCEPTANCE TESTING SHOULD BE APPLIED TO THE SUBJECT PROPERTY

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. N/A
- b. _____
- c. _____

Date: 11-8-17

Signature: [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, 600 East Main Street, Suite 300, Richmond, VA 23219 or by calling 804.371.7150.

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
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations

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

Edward J. Mays

7681 Boston Blvd., Springfield, VA. 20598, 571-468-0450

edward.j.mays@cbp.dhs.gov

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

John Walser, Battalion Chief, Fire and Rescue Department

10700 Page Avenue, Fairfax, VA. 22030, 703-246-4753

john.walser@fairfaxcounty.gov

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of November, 2017, 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: Edward J. Mays

(please print or type)



**U.S. Customs and
Border Protection**
7681 Boston Boulevard
Springfield, VA 20598

November 28, 2017

MEMORANDUM FOR: Commonwealth of Virginia
Department of Housing and Communications Development
State Building Code Technical Review Board (SBCTRB)

FROM: Edward J. Mays
Executive Director, Enterprise Data Management & Engineering
Office of Information and Technology
U.S. Customs and Border Protection (CBP)

SUBJECT: GSA/CBP National Data Center – 7681 Boston Boulevard
Code Modification Denial Appeal

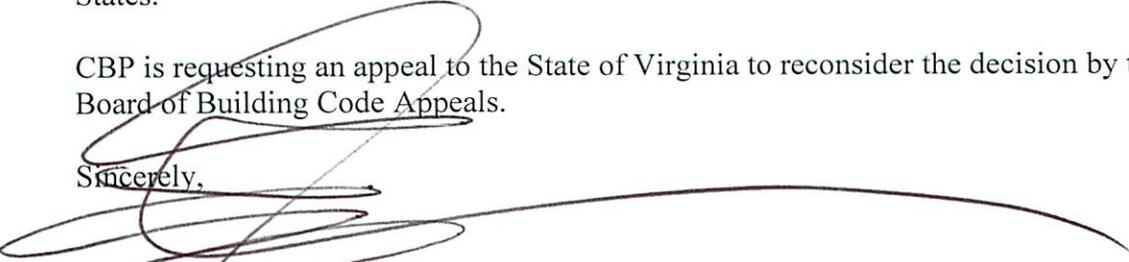
U.S. Customs and Border Protection's (CBP) mission is to safeguard America's borders, facilitate legitimate trade and travel by protecting our nation from dangerous people and materials while enhancing the Nation's global economic competitiveness.

There was a requirement to construct an Emergency Operations Center (EOC) at the National Data Center 1 in Springfield, VA. During this construction three (3) existing rooms had to be removed from the data center pre-action sprinkler system and converted to a wet system. As a result, the pre-action sprinkler system in the data center (which was tied to the 3 rooms mentioned) required eight (8) sprinkler heads to be removed and the pipes capped as part of the separation. CBP sought a waiver with Fairfax County for a requested hydro test in the Data Center due to the sensitive nature of the room as well as there being limited redundancy for the equipment located within the room. The waiver was denied by the Fairfax County Board of Building Code Appeals on November 8, 2017.

The National Data Center 1 (NDC1) located at 7681 Boston Blvd., Springfield, VA. 20598 is the main IT Production data center for DHS / CBP. All the Production IT equipment, network infrastructure, applications, and services residing in this facility are mission critical infrastructure supporting the National Security of the United States and its borders, airports and seaports. Permitting hydro testing of the pre-action sprinkler system over live production equipment in the data centers could result in catastrophic and irreparable damage to the IT infrastructure and security of the United States. The impact to the Federal Government will be the loss of hundreds of millions of dollars in daily revenue as well stoppage of travelers and goods entering and exiting the United States.

CBP is requesting an appeal to the State of Virginia to reconsider the decision by the Fairfax County Board of Building Code Appeals.

Sincerely,



Edward J. Mays
Executive Director, Enterprise Data Management & Engineering
U.S. Customs and Border Protection (CBP)



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

January 2, 2018

W. Travis Luter

Assistant Secretary to the State Building Code Technical Review Board
600 East Main Street, Suite 300
Richmond, VA 23219

Dear Mr. Luter:

During a required fire protection inspection at 7681 Boston Boulevard, a Fire Inspector noticed a modification to an existing sprinkler system. That modification was not included in the scope of permitted work approved by the Building Official and the Office of the Fire Marshal.

It was determined that the modification to the sprinkler system was not documented, performed, or tested under the auspices of the Building Official as required by the Virginia Construction Code, 2012 edition (Section 103.1, General). This inspection requires that building regulations in the Code “be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein.” The tenant of the property, Customs and Border Protection refused to conduct the required testing of the fire sprinkler system, after the system had been modified.

The Virginia Construction Code, 2012 edition (Section 901.2, Fire Protection Systems) requires that, “fire protection systems be installed, repaired, operated, and maintained in accordance with this Code and the International Fire Code.”

The Virginia Construction Code, 2012 edition (Section 901.5, Acceptance Tests) requires that, “fire protection systems shall be tested in accordance with the requirements of this Code and the International Fire Code.”

The appellant, Mr. Edward Mays representing Customs and Border Protection, requested a Building Code Modification to eliminate the testing requirements for the fire protection system. There was no affordance offered, merely a request to waive the hydrostatic testing requirement. This request was denied. Mr. Mays appealed the decision to the Fairfax County Board of Building and Fire Prevention Code Appeals. The local board upheld the denial of the modification request on November 8, 2017.

**Proudly Protecting and
Serving Our Community**

**Fire and Rescue Department
Fire Prevention Division**
12099 Government Center Pkwy
Fairfax, Virginia 22035
703-246-4800
www.fairfaxcounty.gov/fire



Customs and Border Patrol Administrative Appeal
January 2, 2018

Please accept this response that Fairfax County intends to dispute the Administrative Appeal submitted by Mr. Mays to the Department of Community and Housing Development.

Sincerely,

A handwritten signature in black ink, appearing to read 'John L. Walser', with a long horizontal flourish extending to the right.

John L. Walser
Battalion Chief

§ 2.2-505. Official opinions of Attorney General

A. The Attorney General shall give his advice and render official advisory opinions in writing only when requested in writing so to do by one of the following: the Governor; a member of the General Assembly; a judge of a court of record or a judge of a court not of record; the State Corporation Commission; an attorney for the Commonwealth; a county, city or town attorney in those localities in which such office has been created; a clerk of a court of record; a city or county sheriff; a city or county treasurer or similar officer; a commissioner of the revenue or similar officer; a chairman or secretary of an electoral board; or the head of a state department, division, bureau, institution or board.

B. Except in cases where an opinion is requested by the Governor or a member of the General Assembly, the Attorney General shall have no authority to render an official opinion unless the question dealt with is directly related to the discharge of the duties of the official requesting the opinion. Any opinion request to the Attorney General by an attorney for the Commonwealth or county, city or town attorney shall itself be in the form of an opinion embodying a precise statement of all facts together with such attorney's legal conclusions.

Code 1950, § 2-86; 1966, c. 677, § 2.1-118; 1968, c. 414; 1971, Ex. Sess., c. 155; 1976, c. 715; 1999, c. 14; 2001, c. 844.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

OPINIONS
OF THE
ATTORNEY GENERAL
AND
REPORT
TO THE
GOVERNOR OF VIRGINIA

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From July 1, 1974 to June 30, 1975

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supplies
Richmond
1975

"(18) 'Structure' means an assembly of materials forming a construction for occupancy or use . . . provided, however, that farm structures not used for residential purposes shall be exempt from the provisions of the Uniform Statewide Building Code. . . ." (Emphasis added.) (Chapter 394 of the 1975 Acts of Assembly.)

Since farm buildings and structures are exempt from the provisions of the Uniform Statewide Building Code, it is my opinion that the Basic Plumbing Code and the Basic Electrical Code do not apply to such construction.

UNIFORM STATEWIDE BUILDING CODE—Farm Buildings Not Used as Residences, Exempt from Code, Except for Flood Proofing or Mud-slide Regulations.

November 7, 1974

THE HONORABLE RICHARD CRAWFORD GRIDLARD
Commonwealth's Attorney for Southampton County

This is in reply to your recent letter in which you asked whether farm buildings used not as residences but as storage sheds, where persons must go several times a week, are exempt from the provisions of the Uniform Statewide Building Code. It is my opinion that the answer to your question is in the affirmative except for flood proofing or mud-slide regulations, if applicable. Section 36-97(12) of the Code of Virginia (1950), as amended, provides in pertinent part that:

" . . . farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from the provisions of the Uniform Statewide Building Code, but such buildings lying within flood plain or in a mud-slide prone area shall be subject to flood proofing regulations or mud-slide regulations, as applicable. The word 'building' shall be construed as though followed by the words 'or part of parts thereof' unless the context clearly requires a different meaning."

UNIFORM STATEWIDE BUILDING CODE—Private Person May Not Appeal Issuance of Building Permit by County.

October 1, 1974

THE HONORABLE E. A. RAGLAND, Secretary
State Building Code Technical Review Board
Division of State Planning and Community Affairs

This is in reply to your recent letter in which you posed the following questions:

"1. Under Section 127.1 [of the Uniform Statewide Building Code] may a private person (unrelated to any governmental entity and who has no demonstrated legal interest in or privity to the contemplated development) appeal an affirmative issuance of a building permit by the Fairfax County Building Official to the Fairfax County Board of Appeals?

"2. If any such appeal by a private person can be legally heard by the Board of Appeals, to what degree and to what specificity must such appeal, on its face, address the particular sections of the Basic Code or rules legally adopted thereunder claimed to be a misstatement of the true intent or proper interpretation."

It is my opinion that the answer to your first question is in the negative. Section 127.1 of the Uniform Statewide Building Code reads as follows:

"The owner of a building or structure or any other person may appeal from a decision of the building official *refusing to grant a modification of the provisions of the Basic Code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure to the board of appeals.* Application for appeal may be made when it is claimed that: the true intent of the Basic Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the Basic Code do not fully apply, or an equally good or better form of construction can be used." (Emphasis added.)

Where there is no refusal by the building official to grant a modification of the provisions of the Basic Code no right of appeal exists, nor where there is an affirmative issuance of a building permit by a building official does any provision within the Uniform Statewide Building Code authorize an appeal. In addition, it should be pointed out that the Basic Code Interpretation Service of BOCA International (which compiles the BOCA Basic Building Code and subsequent amendments thereto) has interpreted § 127 of the Basic Building Code as follows:

"The intent of the appeal procedure indicated in § 127 of the Basic Building Code is to provide an administrative review and remedy to the regulated party aggrieved by application of the building code. A 'private person' may turn to judicial review which is available to the individual in any event for criticism, reversal and approval of administrative acts." (Code interpretation No. 011/127 prepared July 29, 1974, at the inquiry of the building official for Fairfax County, Virginia).

Since the answer to your first question is in the negative, it is unnecessary to respond to your second question.

~~UNIFORM STATEWIDE BUILDING CODE—Sewer Systems; Floodproofing—Responsibility of local building department.~~

~~October 1, 1974~~

~~THE HONORABLE H. WOODROW CROOK
Commonwealth's Attorney for Isle of Wight County~~

~~Your recent letter poses the following questions:~~

- ~~[1] "[W]hether . . . sewer systems are included under the requirements for flood-proofing within the 100-year flood plain under Section 873.5 of [the Uniform Statewide Building] Code."~~
- ~~[2] "[W]hether th[e] last amendment to [§ 873.5 of] the Virginia Uniform Statewide Building Code . . . makes a change as to who is to determine the 100-year flood plain from the local governmental body to some other agency."~~

~~Section 36-99, Code of Virginia (1950), as amended, provides that the Uniform Statewide Building Code shall prescribe compliance standards for construction of buildings. Section 36-97(12) defines "building" as:~~

~~" . . . a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property. . . . The word 'building' shall be construed as though followed by the word 'part or parts thereof' unless the context clearly requires a different meaning." (Emphasis added.)~~