

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Wesley Stewart
Appeal No. 00-14

Decided: November 16, 2001

DECISION OF THE REVIEW BOARD

I. CASE HISTORY

In enforcing the Virginia Uniform Statewide Building Code ("USBC"), the City of Suffolk USBC official ("code official") issued a notice of violation directing Wesley Stewart ("Stewart"), owner of property at 213 Turlington Road, to remove all obstructions from the rear door of his house and to paint and repair a detached garage.

Stewart filed an appeal to the City of Suffolk Board of Building Code Appeals ("City USBC board") requesting the board to nullify the notice, refund appeal fees, provide compensation for lost time and expenses and additional demands and stated in the appeal submission that there were no obstructions blocking the rear door of the house and that the garage was an old farm structure and therefore exempt from the USBC.

The City USBC board met and determined Stewart's garage was not a farm structure.

Stewart then filed an appeal to the Review Board.

Review Board staff conducted an informal fact-finding conference attended by Stewart and the code official resulting in the stipulation of issues for resolution by the Review Board. A subsequent hearing was held before the Review Board attended by Stewart and the code official. At the hearing, in addition to presenting arguments on the merits of his appeal, Stewart informed the Review Board members that he had not been properly notified of the City USBC board's hearing and was not in attendance at the meeting. Stewart requested the Review Board to issue an order directing the City USBC board to rehear the appeal with all parties present.

II. FINDINGS OF THE REVIEW BOARD

The Review Board finds the issue of whether the USBC notice of violation should have been issued for Stewart's garage/shed to be a proper issue for appeal. Since there is disagreement over whether Stewart was present at the hearing before the City USBC board and minutes of the City USBC board meeting are not provided as part of the record of the appeal to the Review Board, the Review Board finds Stewart's request for this issue

to be remanded to the City USBC board for a proper hearing with all parties present to be appropriate.

The Review Board finds the issue of whether to overturn the issuance of the USBC notice of violation ordering Stewart to remove obstructions from the rear door of the house to be moot as the code official states there is no current USBC violation present. Stewart's appeal of this issue is therefore dismissed.

The Review Board finds the issues of whether to impose sanctions, punitive actions, disciplinary action, award the reimbursement of costs and any other issues raised by Stewart other than whether the issuance of the USBC notice of violation for the garage/shed is a correct application of the USBC are outside the purview of the USBC appeals process and are therefore dismissed.

III. REMAND/DISMISSAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the appeal of whether the USBC notice of violation should have been issued for Stewart's garage/shed to be, and hereby is, remanded to the City USBC board for a proper hearing with all parties present. In addition, and for the reasons set out herein, the Review Board orders all issues in Stewart's appeal other than the proceeding remanded issue, to be, and hereby are, dismissed.

The appeal is remanded in part with the remainder dismissed.

Michael A. Bonner, Sr.

Chairman, State Technical Review Board

01-25-2002

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 W. Hodge, Secretary of the State Building Code Technical Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.