

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Runnymede Homeowners Association
Appeal No. 06-15

Hearing Date: September 18, 2009

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board ("Review Board") is a Governor-appointed board established to rule on disputes arising from application of the Virginia Statewide Fire Prevention Code (the "SFPC") and other regulations of the Department of Housing and Community Development. Enforcement of the SFPC in other than state-owned buildings is by local city, county or town fire prevention departments, when such localities choose to enforce the code. See § 27-98 of the Code of Virginia. An appeal under the SFPC is first heard by a local board of appeals and then may be further appealed to the Review Board. (Ibid.) The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

The Runnymede Homeowners Association ("Runnymede") is a homeowners' community association for a housing development with the same name, located off of South Van Dorn Street in Fairfax County, developed in the 1980's, containing more than three hundred housing units with private streets.

From 2004 through 2006, Runnymede was in negotiation with the Fairfax County Fire and Rescue Department (the "fire official") concerning the parking of vehicles on the sides of its streets. During that time, Runnymede had received a number of citations from the fire official under a "Fire Prevention Code" for the failure to have fire lanes properly marked.

In September of 2006, Runnymede filed an appeal to the Fairfax County Board of Building Code Appeals (the "County appeals board"), the local board of appeals authorized to hear appeals arising from Fairfax County's enforcement of the Virginia Uniform Statewide Building Code and the SFPC.

The County appeals board heard Runnymede's appeal in November of 2006 over objection from the fire official that the appeal was not timely, and ruled to uphold the fire official's citations.

Runnymede then further appealed to the Review Board in December of 2006.

Review Board staff conducted an informal fact-finding conference in April of 2008, attended by representatives of Runnymede and the fire official, and their respective legal counsel. At the conference, Review Board staff identified an issue of whether the action taken by the fire official was an application of a local fire prevention regulation as opposed to enforcement of the SFPC. Prior decisions of the Review Board establishing that it did not have the authority to hear appeals of local fire prevention regulations were distributed to the parties.

As a result of the informal fact-finding conference, the parties agreed to draft a consent order dispensing with the appeal to the Review Board and that the dispute between the parties would be settled with whatever proper forum or venue was available.

In May of 2009, the Review Board received a letter from Runnymede's legal counsel requesting the Review Board to hear Runnymede's appeal as he had obtained a copy of correspondence which indicated that the County's position was that the fire official had applied the SFPC.

A preliminary hearing was scheduled before the Review Board to determine whether the Review Board had jurisdiction to hear Runnymede's appeal. The hearing was attended by

representatives of Runnymede and the fire official and their respective legal counsel.

III. FINDINGS OF THE REVIEW BOARD

The fact that the Review Board's authority is limited to hearing appeals of applications of the SFPC rather than applications of local fire prevention regulations is well established and is not questioned by the parties. The issue in this appeal is whether the enforcement action taken by the fire official was an application of the SFPC, or an application of a local fire prevention regulation.

The SFPC incorporates by reference a nationally recognized model code, the International Fire Code (the "IFC"), as the basis for its provisions. The SFPC then sets out administrative provisions for the use of the IFC provisions and technical amendments to the IFC.

The requirements for the width of fire lanes under the SFPC are set out in Section 503.2.1 and specifies an unobstructed width of not less than twenty (20) feet. Section 503.4 prohibits the parking of vehicles within that width.

Fairfax County has a provision as part of its County Code, designated as Section 503.1.1, which states, "The fire official shall designate fire lanes on public streets and on private property where necessary for the purpose of preventing parking

in front of or adjacent to fire hydrants and fire department connections and to ensure access to buildings and structures for fire fighting and rescue apparatus. Fire lanes shall have a minimum width of 18 feet (5486 mm)."

The fire official stated through testimony to the Review Board that the County Code provision authorized the use of the requirements of the County's public facilities manual, which requires a minimum width of thirty (30) feet for a two-way street used as a fire lane which will have parking on one side. Under those requirements, since Runnymede's streets are less than thirty (30) feet wide, no parking is permitted.

The Review Board finds this to be sufficient evidence that the fire official applied a local fire prevention regulation to Runnymede rather than the SFPC, and as the Review Board has no authority to rule upon the application of a local fire prevention regulation, no ruling may be made on the validity of the fire official's actions.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of the County appeals board to be, and hereby is, vacated and the appeal of Runnymede to be, and hereby is, dismissed.

/s/*

Chairman, State Technical Review Board

11/20/2009

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 Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

***Note:** The original signed final order is available from Review Board staff.