

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, May 16, 2025 - 10:00am

Virginia Housing Center
4224 Cox Road Glen Allen, Virginia 23260

- I. Roll Call **(TAB 1)**
- II. Approval of April 18, 2025 Minutes **(TAB 2)**
- III. Approval of Final Order **(TAB 3)**
 - In Re: Bruce Henry
Appeal No. 25-02
- IV. Approval of Final Order **(TAB 4)**
 - In Re: George Karsadi
Appeal No. 24-09
- V. Approval of Interpretation 01/2025 **(TAB 5)**
 - In Re: Corian Carney (York County)
Interpretation Request No 02-25
- VI. Public Comment
- VII. Appeal Hearing **(TAB 6)**
 - In Re: Victor Valdez
Appeal No. 25-03
- VIII. Appeal Hearing **(TAB 7)**
 - In Re: Stanley Martin Homes and Beazer Homes
Appeal No. 24-11 (Merits)
- IX. Secretary's Report
 - a. July 18, 2025 meeting update
 - b. Legal updates from Board Counsel

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

James R. Dawson, Chair

(Virginia Fire Chiefs Association)

W. Shaun Pharr, Esq., Vice-Chair

(The Apartment and Office Building Association of Metropolitan Washington)

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)

David V. Hutchins

(Electrical Contractor)

Christina Jackson

(Commonwealth at large)

Joseph A. Kessler, III

(Associated General Contractors)

R. Jonah Margarella, AIA, NCARB, LEED AP

(American Institute of Architects Virginia)

Eric Mays

(Virginia Building and Code Officials Association)

Joanne D. Monday

(Virginia Building Owners and Managers Association)

James S. Moss

(Virginia Building and Code Officials Association)

Elizabeth C. White

(Commonwealth at large)

Aaron Zdinak, PE

(Virginia Society of Professional Engineers)

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1 **STATE BUILDING CODE TECHNICAL REVIEW BOARD**
2 **MEETING MINUTES**
3 **April 18, 2025**
4 **Virginia Housing Center**
5 **4224 Cox Road Glen Allen, Virginia 23060**
6

Members Present

Mr. James R. Dawson, Chairman (Arrived during
Karsadi hearing)
Mr. Daniel Crigler
Mr. David V. Hutchins
Ms. Christina Jackson
Mr. Joseph Kessler
Mr. R. Jonah Margarella
Mr. Eric Mays, PE
Ms. Joanne Monday
Mr. James S. Moss (Arrived after approval of the
Stanley Homes and Beazer Homes Final Order)
Mr. W. Shaun Pharr, Esq., Vice-Chairman
(served as Chair for the meeting)
Ms. Elizabeth White
Mr. Aaron Zdinak, PE

Members Absent

Mr. Alan D. Givens
Mr. Vince Butler

7
8 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
Vice-Chair Pharr.

11
12 Roll Call

The roll was called by Mr. Luter and a quorum was present. Mr. Justin
I. Bell, legal counsel for the Review Board from the Attorney General's
Office, arrived after approval of the Stanley Homes and Beazer Homes
Final Order.

16
17 Approval of Minutes

The draft minutes of the January 17, 2025 meeting in the Review Board
members' agenda package were considered. Ms. Monday moved to
approve the minutes as presented. The motion was seconded by Ms.
Jackson and passed with Mr. Kessler and Ms. White abstaining.

21
22 Final Order

Stanley Homes and Beazer Homes: Appeal No. 24-11:

23
24 After review and consideration of the final order presented in the
25 Review Board members' agenda package, Mr. Mays moved to approve
26 the final order as presented. The motion was seconded by Ms. Monday
27 and passed with Mr. Kessler and Ms. White abstaining.
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Public Comment

Vice-Chair Pharr opened the meeting for public comment. Mr. Luter advised that no one had signed up to speak. With no one coming forward, Vice-Chair Pharr closed the public comment period.

New Business

Reconsideration for Susan Frazier: Appeal 24-02:

A request to amend the language in the Final Order for Susan Frazier (Appeal No. 24-02) by Fairfax County Attorney Patrick Foltz was presented in the Review Board members' agenda package.

After discussion, Ms. Monday moved that the Board, having received and considered the request, finds that the deadline for reconsideration had passed at the time of Mr. Foltz's request; therefore, no action will be taken by the Board for this request. Ms. Monday further moved the final order stands as originally written and approved. The motion was seconded by Mr. Mays and passed unanimously

Bruce Henry: Appeal No. 25-02:

A preliminary hearing convened with Vice-Chair Pharr serving as the presiding officer. The preliminary hearing was related to a criminal summons issued to Bruce Henry by the Frederick County Fire Official for several violations related to an outside fire in the 300 block of Oates Road, in Frederick County.

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

Bruce Henry, appellant

Note: Vice-Chair Pharr accepted an email sent to the Review Board Secretary on the evening of April 17, 2025 by Austin Cano, Attorney for Frederick County, as evidence and read the email into the record as an opening statement from Mr. Cano because he was unable to attend the hearing at the last minute due to his required attendance to Frederick County Circuit Court the morning of the hearing.

After testimony concluded, Vice-Chair 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.

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76 Decision: Bruce Henry: Appeal No. 25-02:

77
78 After deliberations, Ms. Monday moved that in accordance with
79 VSFPC Section 111.1.1 an appeal only applies to a Notice of Violation
80 (NOV) issued by the local fire official. Ms. Monday further moved
81 that exception one (1) of that code section allows a fire official to issue
82 a summons in lieu of a NOV; therefore, the appeal is dismissed as not
83 properly before the Board. The motion was seconded by Mr. Kessler
84 and passed unanimously.

85
86 George Karsadi: Appeal No. 24-09:

87
88 An appeal hearing convened with Vice-Chair Pharr serving as the
89 presiding officer. The hearing was related to a Corrective Work Order
90 issued to GLK Construction Services Inc., George Karsadi, registered
91 agent, related to 11 cited violations for a deck located at 8418 Master
92 Court, in Fairfax County.

93
94 The following persons were sworn in and given an opportunity to
95 present testimony:

96
97 George Karsadi, Contractor
98 Theresa Cruttenden, property owner
99 Don Weyant, Fairfax County Inspections Supervisor

100
101 Also present was:

102
103 Patrick Foltz, Attorney for Fairfax County

104
105 After testimony concluded, Vice-Chair Pharr closed the hearing and
106 stated a decision from the Review Board members would be
107 forthcoming and the deliberations would be conducted in open session.
108 It was further noted that a final order reflecting the decision would be
109 considered at a subsequent meeting and, when approved, would be
110 distributed to the parties, and would contain a statement of further right
111 of appeal.

112
113 Decision: George Karsadi: Appeal No. 24-09:

114
115 Motion #1:

116 After deliberations, Mr. Mays moved to uphold the violation listed as
117 Item #3 in the CWO which reads: "*Landing at bottom of stairs requires*
118 *guard post and railing on patio side. Fairfax County Detail pg. 20,*
119 *Guard Construction R312.1 Guards, R312.1.1 Where Required*"
120 because the height of the landing exceeds the maximum allowable of
121 30" from grade. The motion was seconded by Mr. Kessler and passed
122 with Mr. Dawson abstaining.

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Motion #2:

After deliberations, Mr. Mays moved to uphold the violation listed as Item #4 in the CWO which reads: “*All footings and footing connections need to be verified, Fairfax County Detail, Post to Footing Detail, pg.13, R507.8.1 Deck Post To Deck Footings, R507 .1 Decks*” for all new footing discovered during the required inspection of all footings. (Note: The top of all footings are to be exposed; if determined to be a new footing the contractor shall expose the entire footing. This decision does not apply to any existing footing discovered during the inspection.) The motion was seconded by Mr. Kessler and passed with Mr. Dawson abstaining.

Motion #3:

After deliberations, Mr. Mays moved to uphold the violation listed as Item #6 in the CWO which reads: “*Need to use correct joist hangers at end joist and stair stringers, etc., Fairfax County Detail, Joist hangers, pg. 9 and Stringer Bearing, pg. 24, R507.7 Deck Joist and Deck Beam Bearing, R502.6 Bearing*”. Mr. Mays further moved to uphold the violation listed as Item #11 in the CWO which reads: “*Stair stringer bearing incorrect, Fairfax County Detail, Stringer Bearing, Pg. 24, figure 4, R502.6 Bearing*” because during the hearing all parties confirmed that the violations exist. The motion was seconded by Mr. Zdinak and passed with Mr. Dawson abstaining.

Motion #4:

After deliberations, Mr. Mays moved to uphold the violation listed as Item #9 in the CWO which reads: “*All Guard Post connections need to be constructed per Fairfax County Detail, Guard Post Connections, Pages 20,21,24, Figures 37,38,40 (hold down brackets missing in some areas, missing blocking, joist not long enough to attach band board) R312.1 Guards, R301.5 Live Loads, Table R301.5 Minimum uniformly Distributed Live Loads*” based on the evidence provided by the testimony of the County during the hearing that the guard post connections were not properly installed. The motion was seconded by Ms. Jackson and passed with Mr. Dawson abstaining.

Motion #5:

After deliberations, Mr. Mays moved to uphold the violation listed as Item #10 in the CWO which reads: “*New deck extensions (blocking) are not per code. Need to be a min. 3 to 1 ratio at deck cantilever. R502.3.3 Floor Cantilevers, Table R502.3.3(2), Table R301.5*” because the guard system may not be properly supported due to the cantilever being constructed improperly. The motion was seconded by Ms. Jackson and passed with Mr. Dawson abstaining.

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170 Motion #6:
171 After deliberations, Mr. Mays moved to grant an extension of 90 days
172 from the date of the final order to correct Items #3, #4, #6, #9, #10, and
173 #11 in the CWO. The motion was seconded by Mr. Moss and passed
174 with Mr. Dawson abstaining.
175
176 Motion 7:
177 After deliberations, Mr. Mays moved that Items #1, #2, #5, #7, and #8
178 of the CWO were not appealed; therefore, not before the Board. The
179 motion was seconded by Ms. Jackson with Mr. Dawson abstaining.
180
181 Request for Interpretation of Corian Carney (York County):
182 Interpretation Request No. 02-25:
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184 An interpretation request from Corian Carney of York County was
185 considered concerning the following:
186
187 Question #1:
188 Would the provision in VRC Section R322.3.6 prohibit the installation
189 of an elevator shaft enclosure in Coastal A and Coastal High Hazard
190 Areas?
191
192 Mr. Dawson moved that the answer is “Yes”. The motion was
193 seconded by Mr. Mays and passed unanimously.
194
195 Question #2:
196 If walls are constructed below required flood elevation on three (3)
197 sides of a structure, would that be considered “enclosed” for the
198 purposes of VRC Section R322.3.6?
199
200 Mr. Dawson moved that the answer is “No”. The motion was seconded
201 by Mr. Mays and passed unanimously.
202
203 *Note: Ms. Monday left before the vote for this request for interpretation*
204 *was held.*
205
206 Secretary’s Report Mr. Luter informed the Review Board of the current caseload for the
207 upcoming meeting scheduled for May 16, 2025.
208
209 Mr. Bell provided legal updates to the Review Board members.
210
211 Adjournment There being no further business, the meeting was adjourned by proper
212 motion at approximately 4:00 p.m.
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217 Approved: May 16, 2025

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Vice-Chair, State Building Code Technical Review Board

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Secretary, State Building Code Technical Review Board

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1 VIRGINIA:

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3 BEFORE THE
4 STATE BUILDING CODE TECHNICAL REVIEW BOARD
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7 IN RE: Appeal of Bruce Henry
8 Appeal No. 25-02
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10 DECISION OF THE REVIEW BOARD
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12 I. Procedural Background
13

14 The State Building Code Technical Review Board (Review Board) is a Governor-
15 appointed board established to rule on disputes arising from application of regulations of the
16 Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of
17 Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process
18 Act (§ 2.2-4000 et seq. of the Code of Virginia).

19 II. Case History

20 On April 20, 2024, the Frederick County Fire and Rescue Department (County), the agency
21 responsible for the enforcement of the 2021 Virginia Statewide Fire Prevention Code (VSFPC),
22 issued a summons to Bruce Henry (Henry) for an outside fire in the 300 block of Oates Road, in
23 Frederick County, related to violations of several Frederick County codes.

24 Henry filed an appeal to the Frederick County Local Board of Appeals (local appeals
25 board). The local appeals board denied the appeal finding that "*...they do not have jurisdiction*
26 *over this case as it is in the court system.*" On February 3, 2025, Henry further appealed to the
27 Review Board.

28 While initially processing the appeal application, Review Board staff found that the appeal
29 application was related to a summons issued by the County and filed in Frederick County General
30 District Court. No other decision by the County was submitted; therefore, in accordance with

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Review Board Policy #9, Review Board staff prepared the case for a preliminary hearing as to whether the appeal is properly before the Board.

Appearing at the Review Board meeting for Henry was Bruce Henry. No one appeared at the Review Board meeting for Frederick County; however, Austin Cano, Acting County Attorney for the County, submitted, via email to the Board Secretary on April 17, 2025, an opening statement because he was unexpectedly required to be present in Frederick County Circuit Court at 8:30 a.m. on April 18, 2025; the date of the Review Board hearing. The Secretary presented the Vice-Chair, who served as Chair for the April 18, 2025 meeting, a copy of the email from Mr. Cano. The Vice-Chair accepted Mr. Cano's email as evidence (labeled Evidence 01) and read the email into the record of the appeal. Mr. Henry objected to the acceptance of the email as evidence and the email being read into the record of the appeal.

III. Findings of the Review Board

A. Whether the appeal is properly before the Board.

Henry argued that his inability to cross exam the County, the document labeled Evidence 01, was "against the constitution" and violated his due process rights. Mr. Henry further argued that document labeled Evidence 01 should be stricken from the record. Henry argued that the signature on the summons was not legible and therefore, "should be out." Henry also argued that Eric Rinker, Frederick County Fire Inspector, was not qualified to write a criminal summons based on his lack of qualifications and certifications. Henry further argued that he requested proof of Mr. Rinker's qualifications and certifications from the County which was denied. Lastly, Henry argued that he should not have been criminally charged rather should have been administratively charged.

The County argued, via document labeled Evidence 01, that Mr. Henry "has no right to an appeal, and this Board has no jurisdiction to hear this appeal, as the appealed cases were

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instituted by criminal complaint and summons.” The County further argued that “as stated in Section 111.1.1(1) of the Virginia Statewide Fire Prevention Code, there is an exception to the usual appeals right when a “*summons is issued in lieu of a notice of violation,*” meaning that no such appeals right exists when a case is instituted by criminal summons.” Additionally, the County argued that “the record shows that the Frederick County Fire Marshal’s office sought out criminal complaints to a magistrate who, as a neutral judicial official, issued two criminal summonses for Mr. Henry related to alleged burning violations, as permitted under Section 111.5 of the Fire Prevention Code. At no point was Mr. Henry issued a notice of violation: the charges were solely instituted by criminal summons, and therefore, under the jurisdiction of the Frederick County Court system.” Lastly the County argued that “To that end, on September 13, 2024, Mr. Henry was found not guilty of the local charge in the record as the second summons with no listed case number, additionally, on April 11, 2025, Mr. Henry was found guilty in the Frederick County Circuit Court, by a jury, of the charge in the record as summons reading case number GC24-4506. As such, not only does this Board not have jurisdiction as the appealed cases were instituted by summons, not notice of violation, but the appeal is mooted, as both cases have already been adjudicated by the Frederick County Courts.”

The Review Board found that in accordance with VSFPC Section 111.1.1 an appeal only applies to a Notice of Violation (NOV) issued by the local fire official and that exception one (1) of that code section allows a fire official to issue a summons in lieu of a NOV; therefore, the appeal should be dismissed as not properly before the Board.

IV. Conclusion

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

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A. Whether the appeal is properly before the Board.

The appeal is dismissed as not properly before the Board because in accordance with VSFPC Section 111.1.1 an appeal only applies to a Notice of Violation (NOV) issued by the local fire official and that exception one (1) of that code section allows a fire official to issue a summons in lieu of a NOV.

Chair, State Building Code Technical Review Board

Date entered May 16, 2025

As required by VCC 119.9: “As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with W. Travis Luter, Sr., Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.”

As required by Rule 2A:2(C): “Any party appealing from a regulation or case decision shall file with the agency secretary, within 30 days after adoption of the regulation or after service of the final order in the case decision, a notice of appeal signed by the appealing party or that party's counsel. With respect to appeal from a regulation, the date of adoption or readoption shall be the date of publication in the Register of Regulations. In the event that a case decision is required by § 2.2-4023 or by any other provision of law to be served by mail upon a party, 3 days shall be added to the 30-day period for that party. Service under this Rule shall be sufficient if sent by registered or certified mail to the party's last address known to the agency.” See Rule 2A:2(A) of the Rules of the Supreme Court of Virginia.

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of George Karsadi (GLK Construction Services Inc.)
 Appeal No. 24-09

DECISION OF THE REVIEW BOARD

I. Procedural Background

The State Building Code Technical Review Board (Review Board) is a Governor-appointed board established to rule on disputes arising from application of regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

II. Case History

1. On April 9, 2024, the Fairfax County Department of Land Development Services (County), the agency responsible for the enforcement of Part 1 of the 2015 Virginia Uniform Statewide Building Code (VUSBC), issued a Corrective Work Order (CWO) to George Karsadi, registered agent for GLK Construction Services Inc. (Karsadi), for a deck on the property located at 8418 Masters Court, in Fairfax County, owned by Theresa Cruttenden (Cruttenden). The CWO cited 11 violations; however, Karsadi only appeals six (6) of the 11 cited violations while also requesting an extension of time for compliance from 30 days to 90 days. The six (6) cited violations being appealed by Karsadi are listed by item number, which correlates with the item numbers on the attached NOV, and are as follows:

- **Item 3:** *Landing at bottom of stairs requires guard post and railing on patio side. Fairfax County Detail pg. 20, Guard Construction R312.1 Guards, R312.1.1 Where Required*

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- **Item 4:** *All footings and footing connections need to be verified, Fairfax County Detail, Post to Footing Detail, pg.13,R507.8.1 Deck Post To Deck Footings, R507 .1 Decks*
- **Item 6:** *Need to use correct joist hangers at end joist and stair stringers, etc., Fairfax County Detail, Joist hangers, pg. 9 and Stringer Bearing, pg. 24, R507.7 Deck Joist and Deck Beam Bearing, R502.6 Bearing*
- **Item 9:** *All Guard Post connections need to be constructed per Fairfax County Detail, Guard Post Connections, Pages 20,21,24, Figures 37,38,40 (hold down brackets missing in some areas, missing blocking, joist not long enough to attach band board) R312.1 Guards, R301.5 Live Loads, Table R301.5 Minimum uniformly Distributed Live Loads*
- **Item 10:** *New deck extensions (blocking) are not per code. Need to be a min. 3 to 1 ratio at deck cantilever. R502.3.3 Floor Cantilevers, Table R502.3.3(2), Table R301.5*
- **Item 11:** *Stair stringer bearing incorrect, Fairfax County Detail, Stringer Bearing, pg. 24, figure 4, R502.6 Bearing*

Karsadi filed an appeal to the Fairfax County Building Code Board of Appeals (local appeals board). The local appeals board found that “The items identified as non-code compliant and the subject of the appeal were determined to be accurate and in need of further work to bring them, and the subject deck, handrail and stair/landing construction, into compliance with the code. One clarification was noted to the list of items, specifically that only new footings (not existing footings from the previous deck, were to be subject to the corrective work order).” On October 8, 2024, Karsadi further appealed to the Review Board.

Appearing at the Review Board meeting for Karsadi was George Karsadi. Appearing at the Review Board meeting for the County was Don Weyant, Building Inspector, and Patrick Foltz, County Attorney. Also appearing at the Review Board meeting was property owner Theresa Cruttenden.

III. Findings of the Review Board

A. **(Item #3) Whether to uphold the decision of the County and the local appeals board that a violation of R312.1 Guards and R312.1.1 Where Required exists.**

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B. (Item #9) Whether to uphold the decision of the County and the local appeals board that a violation of R312.1 *Guards*, R301.5 *Live Loads*, and Table R301.5 *Minimum uniformly Distributed Live Loads* exists.

Karsadi argued that during the initial inspection of the County two violations were cited. Karsadi argued that over several years the owner requested multiple inspections and ultimately the County conducted five inspections and each time an inspection was conducted additional violations were cited. Karsadi further argued that he has not been allowed on the property by the owner for four years. Karsadi also argued that the owner paid him in full for the deck acknowledging her approval of the deck as constructed. Karsadi further argued that Cruttenden used the County inspections department as a method of forcing him to construct a middle landing on the deck, which was not a part of the contract. Additionally, Karsadi argued that the deck was 32"-33" above grade and he intended to raise the grade to come into compliance.

The County argued that Karsadi did not provide a deck plan rather was utilizing the *Fairfax County Typical Deck Detail* as his plan. The County also argued that the violation existed because the landing was more than 30" from grade at 36" from the landing and there was more than 4" between the post and the guard. Lastly, the County argued that the County has not provided fixes to Karsadi for the cited violations.

Cruttenden argued that did sign or receive a contract for the project. Cruttenden further argued that a design of the deck to be constructed was never provided to her. Cruttenden also argued that no building permit for the deck was secured from Fairfax County.

The Review Board found that a violation of R312.1 *Guards* and R312.1.1 *Where Required* exists because the height of the landing exceeds the maximum allowable of 30" from grade.

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The Review Board found that a violation of R312.1 *Guards*, R301.5 *Live Loads*, and Table R301.5 *Minimum uniformly Distributed Live Loads* exist based on evidence provided by the testimony of the County that the guard post connections were not properly installed.

C. **(Item #4)** Whether to uphold the decision of the County and the local appeals board that a violation of R507.8.1 *Deck Post To Deck Footings* and R507 .1 *Decks* exists

Karsadi argued that he used the existing footings from the original deck. He further argued that he did not add any new footings for the new deck.

The County argued that the design of the new deck was different from the original deck; therefore, new footings must have been installed and the posts attached without the required inspections.

Cruttenden made no direct argument to this cited violation.

The Review Board found that a violation of R507.8.1 *Deck Post To Deck Footings* and R507 .1 *Decks* exists for all new footing discovered during the required inspection of all footings. *(Note: The top of all footings are to be exposed; if determined to be a new footing the contractor shall expose the entire footing. This decision does not apply to any existing footing discovered during the inspection.)*

D. **(Item #6)** Whether to uphold the decision of the County and the local appeals board that a violation of R507.7 *Deck Joist and Deck Beam Bearing* and R502.6 *Bearing* exists

E. **(Item #11)** Whether to uphold the decision of the County and the local appeals board that a violation of R502.6 *Bearing* exists.

Karsadi argued that Item #11 should not be on the NOV as it is a restatement of Item #6. Karsadi also argued that the stringer bears on the landing, which has a beam that is bearing on a post, and the post is bearing on the footing; therefore, the stringer has bearing.

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The County argued that the heel of the stringer is where the load bearing begins and extends to the front toe of the stringer. The County further argued that the heel of the stringer did not have bearing for at least 1 ¾” which is where the major bearing point is located.

Cruttenden made no direct argument to this cited violation.

The Review Board found that a violation of R507.7 *Deck Joist and Deck Beam Bearing* and R502.6 *Bearing* exist because during the hearing all parties confirmed that the violations exist.

F. (Item #10) Whether to uphold the decision of the County and the local appeals board that a violation of R502.3.3 *Floor Cantilevers*, Table R502.3.3(2), and Table R301.5 exists.

Karsadi argued that blocking met the 3:1 ratio required.

The County argued that Karsadi extended the deck 16”. The County further argued that the blocking was 16” and is supporting the band and guard post connections. The County further argued that the blocking only had four fasteners attaching the blocking. The County also argued that the blocking was not sufficient for the load imposed, and did not meet the 3:1 ratio required.

Cruttenden made no direct argument to this cited violation.

The Review Board found that a violation of R502.3.3 *Floor Cantilevers*, Table R502.3.3(2), and Table R301.5 exist because the guard system may not be properly supported due to the cantilever being constructed improperly.

G. Whether to grant the requested extension for compliance from 30 days to 90 days to complete the necessary repairs to the deck.

Karsadi argued that he needed more time to correct the cited violations.

The County did not object to the request for an extension.

Cruttenden made no direct argument to this cited violation; however, did agree to allow Karsadi to return to the property to make the needed corrections to the deck.

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The Review Board found that the requisite 90-day extension to correct Items #3, #4, #6, #9, #10 and #11 was reasonable and grants the extension from the date of the final order.

H. Whether Items #1, #2, #5, #7, and #8 are properly before the Board.

Karsadi confirmed that he was not appealing Items #1, #2, #5, #7, and #8.

Cruttenden made no direct argument to the matter.

The County acknowledged and concurred Karsadi was not appealing Items #1, #2, #5, #7, and #8.

The Review Board found that Items #1, #2, #5, #7, and #8 were not appealed (withdrawn); therefore, were not properly before the Board.

IV. Conclusion

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

A. (Item #3) Whether to uphold the decision of the County and the local appeals board that violation of R312.1 *Guards* and R312.1.1 *Where Required* exists.

The decision of the County and local appeals board that a violation of R312.1 *Guards* and R312.1.1 *Where Required* exists, is upheld, because the height of the landing exceeds the maximum allowable of 30” from grade.

B. (Item #4) Whether to uphold the decision of the County and the local appeals board that a violation of R507.8.1 *Deck Post To Deck Footings* and R507 .1 *Decks* exists.

The decision of the County and local appeals board that a violation of R507.8.1 *Deck Post To Deck Footings* and R507 .1 *Decks* exists, is upheld, for all new footing discovered during the required inspection of all footings. (Note: The top of all footings are to be exposed; if determined to be a new footing the contractor shall expose the entire footing. This decision does not apply to any existing footing discovered during the inspection.)

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C. (Item #6) Whether to uphold the decision of the County and the local appeals board that a violation of R507.7 *Deck Joist and Deck Beam Bearing* and R502.6 *Bearing* exists.

D. (Item #11) Whether to uphold the decision of the County and the local appeals board that a violation of R502.6 *Bearing* exists.

The decisions of the County and local appeals board that a violation of R507.7 *Deck Joist and Deck Beam Bearing* and R502.6 *Bearing* exist, is upheld, because during the hearing all parties confirmed that the violations exist.

E. (Item #9) Whether to uphold the decision of the County and the local appeals board that a violation of R312.1 *Guards*, R301.5 *Live Loads*, and Table R301.5 *Minimum uniformly Distributed Live Loads* exists.

The decision of the County and local appeals board that a violation of R312.1 *Guards*, R301.5 *Live Loads*, and Table R301.5 *Minimum uniformly Distributed Live Loads* exists, is upheld, based on evidence provided by the testimony of the County that the guard post connections were not properly installed.

F. (Item #10) Whether to uphold the decision of the County and the local appeals board that a violation of R502.3.3 *Floor Cantilevers*, Table R502.3.3(2), and Table R301.5 exists.

The decision of the County and local appeals board that a violation of R502.3.3 *Floor Cantilevers*, Table R502.3.3(2), and Table R301.5 exists, is upheld, because the guard system may not be properly supported due to the cantilever being constructed improperly.

G. Whether to grant the requested extension for compliance from 30 days to 90 days to complete the necessary repairs to the deck.

The Review Board hereby grants the requisite 90-day extension from the date of the final order to correct Items #3, #4, #6, #9, #10 and #11.

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H. Whether Items #1, #2, #5, #7, and #8 are properly before the Board.

The Review Board hereby finds that Items #1, #2, #5, #7, and #8 were not appealed (withdrawn); therefore, are not properly before the Board.

Chair, State Building Code Technical Review Board

Date entered _____ May 16, 2025 _____

As required by VCC 119.9: “As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with W. Travis Luter, Sr., Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period”.

As required by Rule 2A:2(C): “Any party appealing from a regulation or case decision shall file with the agency secretary, within 30 days after adoption of the regulation or after service of the final order in the case decision, a notice of appeal signed by the appealing party or that party's counsel. With respect to appeal from a regulation, the date of adoption or readoption shall be the date of publication in the Register of Regulations. In the event that a case decision is required by § 2.2-4023 or by any other provision of law to be served by mail upon a party, 3 days shall be added to the 30-day period for that party. Service under this Rule shall be sufficient if sent by registered or certified mail to the party's last address known to the agency”. See Rule 2A:2(A) of the Rules of the Supreme Court of Virginia.

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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

CORRECTIVE WORK ORDER (CWO) Virginia Construction Code

DATE OF ISSUANCE: April 9, 2024
METHOD OF SERVICE: Certified Mail: 7021 1970 0001 1504 5162
LEGAL NOTICE ISSUED TO: GLK Construction Services Inc.
George Karsadi, Registered Agent
REGISTERED AGENT ADDRESS: 8356 Wagon Wheel Road
Alexandria, Virginia 22309 - 0000, USA
CONTRACTOR LICENSE#: 2705085865
LOCATION OF VIOLATION: 8418 Masters Court
Alexandria, VA 22308
TAX MAP REF: 102310080013
CASE #: LDSCOMP-2024-00119

Per authority granted by the Virginia Construction Code, inspections were made on June 21, 2023 regarding the above referenced property. Violations of the 2015 Virginia Residential Code, effective September 4, 2018 the applicable building code were found. You have 30 days from the date this CWO to abate the violations.

	Code	Violation
2015 VRC - INSP	Item #1	Hidden fasteners require 2x6 bracing at underside of deck, Per Fairfax County Detail, Using hidden Deck Fasteners, Pg.5, R507.3.5 Installation of Plastic Composites
2015 VRC - INSP	Item #2	Post to beam connections at top and bottom landings not attached correctly, Fairfax County Detail, Post to Beam connection, pg.14, figure18 (bottom of post at top landing appears to be notched) R507.7.1 Deck Beam To Deck Post, Figure R507.7.1 Deck Beam To Deck Post
2015 VRC - INSP	Item #3	Landing at bottom of stairs requires guard post and railing on patio side. Fairfax County Detail pg. 20, Guard Construction R312.1 Guards, R312.1.1 Where Required
2015 VRC - INSP	Item #4	All footings and footing connections need to be verified, Fairfax County Detail, Post to Footing Detail, pg.13, R507.8.1 Deck Post To Deck Footings, R507.1 Decks
2015 VRC - INSP	Item #5	New top landing cannot be attached to overhang of house, Fairfax County Detail, Prohibited Ledger Attachments, Pg.16, R507.2.2 Band Joist Detail
2015 VRC - INSP	Item #6	Need to use correct joist hangers at end joist and stair stringers, etc., Fairfax County Detail, Joist hangers, pg.9 and Stringer Bearing, pg.24, R507.7 Deck Joist and Deck Beam Bearing, R502.6 Bearing

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2015 VRC - INSP	Item #7	Need ES Report and installation instructions for Guard Railings and decking to verify proper length and installation, also spacing of stringers for material used. R507.3.5 Installation of Plastic Composites
2015 VRC - INSP	Item #8	Spacing between guard post at top of stairs is more than 4 inches, need to secure stair treads properly. R312.1.3 Opening Limitations, R507.3.5 Installation of Plastic Composites
2015 VRC - INSP	Item #9	All Guard Post connections need to be constructed per Fairfax County Detail, Guard Post Connections, Pages 20,21,24, Figures 37,38,40 (hold down brackets missing in some areas, missing blocking, joist not long enough to attach band board) R312.1 Guards, R301.5 Live Loads, Table R301.5 Minimum uniformly Distributed Live Loads
2015 VRC - INSP	Item #10	New deck extensions (blocking) are not per code. Need to be a min. 3 to 1 ratio at deck cantilever. R502.3.3 Floor Cantilevers, Table R502.3.3(2), Table R301.5
2015 VRC - INSP	Item #11	Stair stringer bearing incorrect, Fairfax County Detail, Stringer Bearing, Pg. 24, figure 4, R502.6 Bearing

Failure to correct these defects within the time limits specified shall result in the issuance of a Notice of Violation being issued under the applicable State and County Codes.

You are directed to notify Donald Weyant, Combination Inspector, by return correspondence to 12055 Government Center Parkway, Suite 334, Fairfax, VA 22035 or by telephone at 571-221-6393. Failure to do so shall result in the immediate initiation a Notice of Violation and eventual legal action to bring the above referenced property into compliance.

If you have any questions, you may contact Donald Weyant at 571-221-6393.

Order Issued By: Donald Weyant
Technical Assistant to the Building Official
Land Development Services
Email: douglas.veyant@fairfaxcounty.gov

Signature:



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VIRGINIA STATE BUILDING CODE TECHNICAL REVIEW BOARD

I N T E R P R E T A T I O N

Interpretation Number: 1/2025

Code: USBC, Part I, Virginia Construction Code/2021

Section No: Section R322.3.6

R322.3.6 Enclosed areas below required elevation.

Enclosed areas below the design flood elevation required in Section R322.3.2 are prohibited in Coastal A Zones and Coastal High Hazard Areas.

QUESTION: Would the provision in this section prohibit the installation of elevator shaft enclosures in Coastal A and Coastal High Hazard Areas?

ANSWER: Yes.

QUESTION: If walls are constructed below required flood elevation on three (3) sided of a structure, would that be considered "enclosed" for the purpose of this section?

ANSWER: No.

This Official Interpretation was issued by the State Building Code Technical Review Board at its meeting of April 18, 2024.

Chair, State Building Code Technical Review Board

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Victor Valdez
 Appeal No. 25-03

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Victor Valdez
Appeal No. 25-03

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On December 11, 2024, the Fire Chief for the Virginia Beach Fire Department (City), the agency responsible for the enforcement of the 2021 Virginia Statewide Fire Prevention Code (VSFPC), distributed a transfer memo to the department announcing that Victor Valdez (Valdez) would no longer be serving as the City Fire Official, effective January 14, 2025. Valdez was appointed City Fire Official effective April 6, 2023. Valdez asserts that he was removed as the City Fire Official without cause or being afforded an opportunity to be heard on any specific and relevant charges by and before the appointing authority in accordance with VSFPC Section 105.1.1 Appointment. Valdez wishes to remain the City Fire Official.

2. Valdez filed an appeal to the City of Virginia Beach Building Code Board of Appeals (local appeals board). The local appeals board denied the appeal finding that “*Based on jurisdiction*”. No other explanation was provided in the written decision.

3. On March 14, 2025, Valdez further appealed to the Review Board.

4. 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

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the information distributed to the Review Board members for the appeals hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn the Fire Chief and local appeals board on the transfer of Victor Valdez and removing him as the City Fire Official without case or being afforded an opportunity to be heard on any specific and relevant charges by and before the appointing authority in accordance with VSFPC Section 105.1.1 Appointment.

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Basic Documents

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TRANSFER MEMO

DATE: December 11, 2024
TO: All Personnel
FROM: Deputy Chief Vance Cooper
SUBJECT: TRANSFERS

The following transfers are in effect as follows:

A SHIFT				
NAME	FROM	END DATE	TO	REPORT DATE
Garo, Noel	Capt.E2A	1/7/2025	Act. BC/B2A	1/10/2025
Eason, Derek	MFF/E12A	1/7/2025	Act. Capt./E2A	1/10/2025
Fulgham, Fletcher	BC/B3A	1/7/2025	BC/RM	1/9/2025
Zimba, Lawrence	BC/B2A	1/7/2025	BC/B3A	1/10/2025

B Shift				
NAME	FROM	END DATE	TO	REPORT DATE
Beauchaine, Scott	Act. BC/B2B	1/8/2025	Capt./E16B	1/9/2025
Degges, Derek	Capt./E14B	1/8/2025	Capt./RAP Bureau-TDA	1/9/2025
Mitchell, David	Capt./E12B	1/8/2025	Capt./E15B	1/9/2025
Pittman, Matthew	BC/B1B	1/8/2025	BCB2B	1/9/2025
Raftery, William	BC/B2B (no duty)	1/8/2025	BC/B2A (no duty)	1/10/2025
Roenker, Paul Jr.	Act. Capt./E16B	1/8/2025	Capt./E21B	1/9/2025
White, Andrew	Capt./E21B	1/8/2025	Capt./E12B	1/9/2025

C Shift				
NAME	FROM	END DATE	TO	REPORT DATE
Cifelli, Paul	Capt./E22C	1/6/2025	Capt./E14B	1/9/2025
Compton, David	BC/B2C	1/6/2025	BC/CRR	1/9/2025
Derrick, Greyson	FF/L22C	1/6/2025	FF/E3C	1/8/2025
Jeffries, Kevin	MFF/L21C	1/6/2025	Act. Capt./E22C	1/8/2025
Jurgens, Michael	MFF/R1C	1/6/2025	MFF/E17C	1/8/2025
Milliner, Bradford	MFF/E3C	1/6/2025	MFF/R1C	1/8/2025

Services				
NAME	FROM	END DATE	TO	REPORT DATE
Probst, Jason	BC/RM	1/8/2025	BC/B1B	1/11/2025
Valdez, Victor	BC/CRR	1/8/2025	BC/B2C	1/14/2025



Chief Pravetz,

A transfer memo disseminated to the Virginia Beach Fire Department on December 11, 2024, has me listed as being transferred to Battalion 2 C-Shift effective January 14, 2025. I did not request or agree to relinquish my authority or position as Fire Official. As such, this transfer is in violation of Statewide Fire Prevention Code (SFPC) section 105.1.1, Appointment. I am requesting an official ruling from the Virginia Beach City Attorney.

105.1.1 Appointment. *The fire official shall be appointed in a manner selected by the local government having jurisdiction. After permanent appointment, the fire official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority.*

As you are aware, Michael Revette, from Human Resources, recently completed an investigation regarding a complaint against me by the members of fire investigations. This investigation was deemed unsubstantiated, and no relevant charges or discipline were imposed on me. During my briefing with Michael Revette, he advised that lack of communication amongst all parties involved seemed to be the cause for the complaint. He specifically pointed out two main fire investigator concerns were focused on my weapon removal inquiry and request for assistance in conducting fire inspections.

The weapon removal inquiry was due to a lack of fire investigator policies and procedures, especially one outlining procedures in the event a response to resistance (formerly known as use of force) is initiated by a fire investigator. In addition, due to the continued challenge of being short staffed in the Fire Prevention Bureau, resulting in only 30 percent of our nearly 14,000 businesses receiving a fire inspection, I requested fire investigators assist with conducting fire inspections when they had a lull in their work activities. It should be noted this is not a new request or expectation for members of fire investigations.

Furthermore, according to a conversation with my supervisor, Assistant Chief (AC) Joshua Goyet, on Friday, December 6, 2024, you mentioned making a mistake allowing the current supervisor lineup for the Fire Prevention Bureau (FPB) due to my spouse being the Deputy Chief (DC) over the FPB and me being the Fire Official. It should also be noted this was a



discussion amongst all VBFD Senior Staff members prior to my appointment as the Fire Official and the decision was made to move forward with my appointment because of the trust you have in your leadership team. In addition, there is no City or department policy that prohibits our current supervisor lineup, which also makes a strong case for unfair treatment due to the positions my spouse and I hold, as well as hampering career opportunities. This decision to transfer and remove me from my appointed Fire Official position without cause is solely based on the feelings and perceptions of a handful of members that feel they cannot trust current leadership despite the fact there has been no evidence or proof to demonstrate that DC Amy Valdez or I, acted outside the chain of command or without the best interest of the City or department in mind, which you have witnessed and confirmed to be true as well.

On the contrary, my trustworthiness and positive influence is evidenced by my performance evaluations and the outpouring support from FPB and Fire Operations members, which includes tenured members that have witnessed the ongoing challenges with members of fire investigations, the positive changes and impact I have made as the Fire Official, and the positive working relationships built with city agencies such as code enforcement, permits and inspection, and VBPD.

In closing, due to the performance of my duties as a Fire Official within my authority as outlined in City code section 12-25; fire marshal, deputies, and assistants, this unsubstantiated complaint has led to, without cause, a transfer, intended to remove me from office and my appointed Fire Official position and is in violation of SFPC section 105.1.1, Appointment.

Thank you for your attention in this important matter and I look forward to your response and official ruling from the Virginia Beach City Attorney.

Respectfully,

Victor Valdez
Battalion Chief/Fire Marshal

Written Decision

Appeal No. 25-001

IN RE: Victor Valdez, Appellant v. Fire Chief Kenneth Pravetz, Appellee

The appeal is hereby Denied, for the reasons set out below:

Based on Jurisdiction

Date: 2/26/25

Signature

 Emery Chacko
Chair of Local Board of Appeals

Note: Any person who was a party to the appeal my 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, or <https://www.dhcd.virginia.gov/sites/default/files/Docx/sbctrb/file-appeal/appeal-application-may-19.pdf>.

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
- ☐ Virginia Construction Code
- ☐ Virginia Existing Building Code
- ☐ Virginia Maintenance Code
- ☒ Statewide Fire Prevention Code
- ☐ Industrialized Building Safety Regulations
- ☐ Amusement Device Regulations



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

Fire Marshal Victor Valdez
2408 Courthouse Drive, Bldg 21
Virginia Beach, VA 23456
757-435-2209 vvaldez@vbgov.com

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

Fire Chief Kenneth Pravetz
Virginia Beach Fire Department
4817 Columbus Street
Virginia Beach, VA 23462
757-385-8510 kpravetz@vbgov.com

Additional Information (required by the applicable code to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)

Additional Information (to be submitted with this application)

- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of March, 2025, 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: Victor Valdez
(please print or type)

To Whom It May Concern:

The specific relief I am seeking is to retain my authority and position as the Fire Official for the City of Virginia Beach. There was no cause or due process provided for my removal as outlined in SFPC 105.1.1 Appointment.

Please advise if you require additional information.

Thank you in advance for your assistance in this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Victor Valdez", written in a cursive style.

Victor Valdez

Documents Submitted
by
Victor Valdez

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CITY OF VIRGINIA BEACH
**Fire
Department**

May 24, 2023

Director Sandi Morris
Virginia Building Code Academy
Department of Housing and Community Development
600 East Main Street, Suite 300
Richmond, VA 23219

Dear Director Morris,

This is a formal notification of the change of Fire Official for the city of Virginia Beach. On March 23, 2023, Fire Marshal Lorna Trent was promoted to Assistant Chief and was removed as the Fire Official for the city.

Victor Valdez was appointed as the Fire Marshal for the city of Virginia Beach effective April 6, 2023. The contact information is as follow:

Victor Valdez
2408 Courthouse Dr, Building 21
Virginia Beach, VA 23456
(757) 385-8584 (office)
(757) 385-5676 (fax)
vvaldez@vbgov.com

If you have any questions, please contact Assistant Chief Joshua Goyet 757-515-5940 or email:
jgoyet@vbgov.com


Sincerely,

Kenneth Pravetz
Fire Chief

VIRGINIA: IN THE VIRGINIA BEACH CIRCUIT COURT CLERK'S
OFFICE

OATH

I, Victor Valdez, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as Fire Marshal, to the best of my ability, (so help me God).



Signature of Person Taking Oath

Oath taken and subscribed to before me on Jan. 22, 2024.

Tina E. Sinnen, Clerk



By: Deputy Clerk

From: [Kenneth A. Pravetz](#)
To: [Amy J. Valdez](#); [Joshua Goyet](#)
Subject: FW: Admin Investigation Report-Fire Prevention Bureau
Date: Monday, December 2, 2024 9:45:14 AM
Attachments: [Administrative Investigation Report.pdf](#)
[image001.png](#)

Folks,

HR has finished their investigation and report for the FPB. I received my copy on Wednesday and debriefed with Michael this morning. **Perso** and Victor will be receiving a call from Michael telling them the report has been closed out. During the debrief it is clear that we cannot restore any level of trust or make any progress with the spousal relationship involved. It is time to make a change in leadership at the FPB and work on the recommendations. Please coordinate on the transfers and best timeline.

The opinion/interpretation of the Virginia Beach City attorney regarding the SFPC code section **105.1.1 Appointment.** *The fire official shall be appointed in a manner selected by the local government having jurisdiction. After permanent appointment, the fire official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority, specifically focused on “permanent appointment”.*

§ 27-6.1. Establishment of fire department; chief, officers, and employees.

The governing body of any county, city, or town may establish a fire department as a department of government and may designate it by any name consistent with the names of its other governmental units. The head of such fire department shall be known as "the chief." As many other officers and employees may be employed in such fire department as the governing body may approve.

§ 27-30. Appointment of fire marshal.

An officer, who shall be called a "fire marshal," may be appointed for each county, city or town, by the governing body thereof, whenever, in the opinion of such body, the appointment shall be deemed expedient. The term "fire marshal" as used in this chapter may include the local fire official and local arson investigator when appointed pursuant to this section.

Sec. 12-21. - Created; composition.

There is hereby created a fire department, which shall be composed of the fire companies located throughout the city, headed by a fire chief. The fire department is an all-hazards response agency and is a fundamental component to emergency services, disaster planning, and emergency management.

Sec. 12-25. - Fire marshal, deputies and assistants.

(a) The fire chief or his designee shall be the fire marshal.

https://library.municode.com/va/virginia_beach/codes/code_of_ordinances?nodeId=CO_CH12FIPR_ARTIIDEFIPR_S12-25FIMADEAS

Sec. 12-42. - Definitions.

The following words and terms, as used in the fire prevention code adopted by section 12-41, shall have the meanings ascribed to them below:

(1) Wherever the words "name of jurisdiction" are used, they shall mean this city. (2) Wherever the term "fire official" is used, it shall mean the chief of the fire department of the city or his duly authorized representative. (3) Wherever the term "legal counsel of the municipality" is used, it shall mean the city attorney of the city.

Sec. 2-75. - Service divided into nonmerit and merit services; composition of nonmerit service.

(a) The service of the city is divided into nonmerit service and merit service. (b) The nonmerit service shall consist of: (1) Members of the city council and all other elected officials or persons appointed to fill vacancies in elective offices. (2) The city manager; and deputy city managers, assistants to the city manager, all heads of departments or offices, assistant or deputy directors and division managers who are appointed by the city manager. (3) Constitutional officers and their employees. (4) All appointees of the city council. (5) Employees of the health department. (6) Employees of the school board. (7) Judges and associate judges of the circuit courts, general district courts and juvenile and domestic relations district courts, law clerks, and employees of such courts. (8) Employees of the agriculture department compensated by the state. (9) The general registrar and all assistant registrars. (10) Employees of juvenile probation. (11) Members of boards and commissions. (12) Any individual whose relationship with the city arises from or under any express contractual agreement to which such individual is a party or whose position is created by such contract.

Chapter 4. City Manager.

§ 4.01. Appointment and qualifications.

The council shall appoint a city manager who shall be the executive and administrative head of the city government. He shall be chosen solely on the basis of his executive and administrative qualifications and shall serve at the pleasure of the council. (1962, c. 147)

§ 4.02. Powers and duties.

The city manager shall have the power and it shall be his duty:

(a) To appoint all officers and employees of the city and to remove such officers and employees, except as he may delegate such power to appoint and remove to his subordinates and except as otherwise provided in this charter.

(b) To perform such other duties and to exercise such other powers as may be imposed or conferred upon him by the council. (1962, c. 147)

§ 4.03. Council not to interfere in appointments or removals.

Neither the council nor any of its members shall direct the appointment of any person to or his removal from any office or employment by the city manager or by his subordinates. (1962, c. 147)

Local Board of Building Code Appeals

2/26/2025

Dana R. Harmeyer, Esq.
for the Fire Chief

Issue 1: Jurisdiction

- “[t]he **owner** of a structure, the owner’s agent or any other person involved in the maintenance of the structure or activity, may appeal a decision of the fire official concerning the application of the SFPC or the fire official’s refusal to grant modification under Section 106.5 to the provisions of the SFPC.” Section 112.5 SFPC (“Application for appeal”)
- Is this board being asked to weigh in on a personnel matter?

Issue 2: Substantive Issue

- The fire official shall be appointed in a manner selected by the **local government** having jurisdiction. After permanent appointment, the fire official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. Section 105.1 SFPC ("Appointment")
- What are the choices?
 - **105.1.2 Notification of appointment.** The appointing authority of the local governing body shall notify the Department of Housing and Community Development (DHCD) and the State Fire Marshal's Office (SFMCO) within 30 days of the appointment or release of the permanent or acting fire official.
 - **105.2 Certification.** The permanent or acting fire official shall obtain certification from the BHCD in accordance with the Virginia Certification Standards (13VAC5-21) within one year after permanent or acting appointment.

What has City Council done?

- Section 12-25 of the City Code designates the Fire Chief as the Fire Marshal.
- Section 12-42 of the City Code designates the Fire Chief as the Fire Official.
- Both ordinances authorize the Fire Chief to appoint a designee or duly authorized representative.
- Does the Fire Chief have a permanent appointment?
 - No. The Fire Chief serves at the pleasure of the City Manager.
 - City Code 2-75 divides employees into “merit” and “nonmerit” service. “The nonmerit services shall consist of....[t]he city manager...all heads of departments or offices....who are appointed by the city manager.”
- Does the Fire Chief have the ability to confer permanent appointment to one of his employees?
 - Not without the approval of the City Council, which is not set forth in the City Code or elsewhere.
- What is the choice other than permanent? **“Acting”**



CITY OF VIRGINIA BEACH
INTER-OFFICE CORRESPONDENCE

In reply, please refer to Opinion 0092272.

CONFIDENTIAL
ATTORNEY/CLIENT PRIVILEGED MATERIAL
DO NOT RELEASE

TO:	Mark D. Stiles	DATE:	December 18, 2024
FROM:	Dana Harmeyer <i>DH</i>	DEPT:	City Attorney
RE:	Appointment of Fire Official	DEPT:	City Attorney

INQUIRY

Has the City Council provided for the permanent appointment of the City's "fire official"?

SUMMARY CONCLUSION

No. The City Charter and the City Code provide for the appointment of a fire chief by the City Manager. This appointment is nonmerit and at-will. The Virginia Statewide Fire Protection Code (VSFPC) allows a local government to determine the manner of appointment of the "fire official," and the VSFPC describes two possibilities: permanent or acting. By designating the fire chief to be the "fire official," the City Council indicated a desire to appoint an at-will officer to the position of fire official. To the extent necessary to construe the applicable provisions of the VSFPC, the appointment of the fire chief is as an "acting fire official," and any delegation of responsibilities by the fire chief would be similarly in an acting and not permanent capacity.

BACKGROUND/DISCUSSION

The Fire Chief is the head of a department of approximately 590 employees providing comprehensive fire protection and prevention for the City of Virginia Beach.¹ In this role, the City Council have adopted ordinances that designate the Fire Chief as the Fire Marshal² and the Fire

¹ City Code §12-21 ("There is hereby created a fire department, which shall be composed of the fire companies located throughout the city, headed by a fire chief. The fire department is an all-hazards response agency and is a fundamental component to emergency services, disaster planning, and emergency management."). See also, Virginia Code §27-6.1.

² City Code §12-25; Virginia Code §27-30.

Official.³ Both ordinances authorize the Fire Chief to appoint a designee or duly authorized representative.

The City Charter empowers the City Manager “to appoint all officers and employees of the city and to remove such officers and employees, except as he may delegate such power to appoint and remove to his subordinates and except as otherwise provided in this Charter.”⁴ The City Code provides a delineation between those employees that are merit and nonmerit, and as the head of the Fire Department, the Fire Chief is nonmerit and at-will.⁵

Section 105.1.1 of the VSFPC provides, “The fire official shall be appointed in a manner selected by the local government having jurisdiction.” The VSFPC provides for two possibilities of appointment: permanent or acting.⁶ The City Council has not adopted an ordinance providing for the permanent appointment of the “fire official.” Rather, the appointment as “fire official” is derivative of his appointment as the fire chief, and the City Charter and City Code indicate a department head, such as the fire chief, serves in an at-will capacity.

The Fire Chief has from time to time used his delegation authority to appoint members of the department to serve as the fire marshal and/or fire official, as applicable.⁷ In reviewing the practices of the Fire Department and the current Fire Chief, there is no indication that he has made such appointment on other than an interim and acting basis. This role is filled for a duration and rotated to other roles within the Department. For example, in May 2023, Fire Marshal Lorna Trent was removed from her role as fire official when she was promoted to Assistant Chief. This movement of personnel is entirely consistent with the Fire Chief’s oversight of the employees within the Fire Department.

CONCLUSION

The City Council has not provided for the permanent appointment of the fire chief as the fire official for purposes of the VSFPC. Rather, the City Council has chosen an at-will employee for this role. In the absence of the City Council making such an appointment on a permanent basis or otherwise desiring to limit the City Manager’s discretion in making removal decisions, one must conclude that the City Council intended the appointment as fire official to be an acting capacity, which is one of two options expressly contemplated by the VSFPC.

³ City Code §12-42.

⁴ City Charter §4.02(a).

⁵ City Code §2-75(b)(2).

⁶ See VSFPC §§105.1.2; 105.2; 105.2.1; and 105.3.3.

⁷ In addition to the City Code language on delegation, the VSFPC authorizes the fire official to “delegate duties and powers subject to any limitations imposed by the local governing body. The fire official shall be responsible that any powers and duties delegated are carried out in accordance with this code.” VSFPC §106.2

VIRGINIA BEACH BUILDING CODE APPEALS BOARD

Victor Valdez, Appellant

v.

Fire Chief Kenneth Pravetz, Appellee

Comes, now, the Virginia Beach Fire Chief, by counsel, to provide his position statement regarding this matter.

1. Who appeals to the Board?

Section 112.5 of the Statewide Fire Protection Code (the "SFPC") (Application for appeal) states "[t]he **owner** of a structure, the owner's agent or any other person involved in the maintenance of the structure or activity, may appeal a decision of the fire official concerning the application of the SFPC or the fire official's refusal to grant modification under Section 106.5 to the provisions of the SFPC." (emphasis added) That section then, appears to contemplate appeals only as they relate to building structures or activities the code prescribes/proscribes. Furthermore, Section 101.3 states that the "purposes of the SFPC are to provide for the statewide standards to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, materials and devices, including explosives and blasting agents, wherever located." The purpose of the SFPC is not to provide a method through which employees/officials who enforce the SFPC can appeal employment decisions.

2. Is this Board being asked to opine on a personnel matter?

Virginia Code 15.2-1506 provides the method through which local government employees can file grievances to address disputes involving their employment. Under Virginia Code 15.2-1506, local governments are authorized to create grievance procedures "for its employees that affords an immediate and fair method for the resolution of disputes which may arise between the public employer and its employees." As such, the City of Virginia Beach has a grievance procedure laid out by HR Policy 4.04.

3. What does 105.1.1 say?

The section of the SFPC (Section 105.1.1) that governs the appointment of the "fire official" is as follows:

The fire official shall be appointed in a manner selected by the **local government** having jurisdiction. After permanent appointment, the fire official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority." (emphasis added)

In reference to the fire official, there are four places - 105.1.2, 105.2, 105.2.1, and 105.3 - where the SFPC refers to "permanent or acting fire official." Thus, it seems the possibilities available to the City Council are either permanent or acting.

4. What has the City Council done?

Mr. Valdez has already placed the memorandum prepared by my office before the Board. I would like to go through the logical steps presented in that memorandum.

Section 12-25 of the City Code designates the Fire Chief as the Fire Marshal. Section 12-42 of the City Code designates the Fire Chief as the Fire Official. Both ordinances authorize the Fire Chief to appoint a designee or duly authorized representative.

The Fire Chief is a department head, so his appointment is in an "at-will" capacity. This is consistent with the City Charter providing the City Manager with appointment power and the City Code's provision of employees that do not serve in a "merit" capacity.

In tying these ordinances together, we cannot find an indication of the City Council expressing a desire for the Fire Chief to serve in a permanent capacity. We cannot find anything in the appointment of the Fire Chief as Fire Marshal or Fire Official to be in a permanent capacity. The delegation language regarding Fire Marshal and Fire Official contains no indication that the City Council wants such a delegation to be in a permanent capacity.

If the SFPC provides two possibilities of appointment – permanent and acting – we cannot conclude that the City Council – the legislative body for the "local government having jurisdiction" – intended to create a permanent Fire Marshall or Fire Official. Rather, the City Council appointed an "at-will" employee and allowed that employee to delegate responsibilities. It stands to reason that by appointing an at-will employee, the City Council did not intend to create a permanent appointment. The remaining possibility is that the Fire Marshal or Fire Official serves in an acting capacity, which would be consistent with the actions of Chief Pravetz in this matter.

WHEREFORE, the Fire Chief respectfully requests that this Board deny the request of Appellant to reinterpret the actions of the City Council as creating a permanent fire official.

Submitted by counsel

A handwritten signature in blue ink, appearing to read 'D. Harmeyer', with a long horizontal line extending to the right.

Dana R. Harmeyer, Esq.
Deputy City Attorney

From: Victor Valdez <vvaldez@vbgov.com>
Subject: RE: Fire Official Removal
Date: December 13, 2024 at 9:56:55 AM EST
To: "Kenneth A. Pravetz" <kpravetz@vbgov.com>

Chief Pravetz,

Thank you for your response.

This is not only about my desire to stay and continue to move this Bureau forward and ensure the safety of our members and citizens. As the Fire Official, I am also required to enforce the Statewide Fire Prevention Code. This is why I have pointed out the code section in violation due to the transfer memo.

In my previous attachment and email below, I have provided an excerpt of the code to ensure you were aware of it. This is also why I was requesting a City Attorney review this code and provide their interpretation, legal opinion, and if in fact there is a code violation.

Victor Valdez
FIRE DEPARTMENT
Fire Marshal/Battalion Chief

O: (757) 385-8584 | vvaldez@VBgov.com
<https://fire.VirginiaBeach.gov/fire-prevention>

Fire Prevention Bureau, Bldg.21
2408 Courthouse Dr. | Virginia Beach, VA 23456



From: Kenneth A. Pravetz <kpravetz@vbgov.com>
Sent: Friday, December 13, 2024 9:22 AM

To: Victor Valdez <vvaldez@vbgov.com>
Subject: RE: Fire Official Removal

Chief Valdez,
I have received your communication. I understand your desire to stay. However, in my opinion what is best for the organization is for you to change assignments.

From: Victor Valdez <vvaldez@vbgov.com>
Sent: Friday, December 13, 2024 8:25 AM
To: Kenneth A. Pravetz <kpravetz@vbgov.com>
Subject: Re: Fire Official Removal

Good morning,

I am following up on this email.

Please see attachment with additional information.

Respectfully,

Victor

On Dec 11, 2024, at 9:47 AM, Victor Valdez
<vvaldez@vbgov.com> wrote:

Chief Pravetz,

During our CRR management meeting yesterday afternoon with BC Marzitello and Administrative Assistant Marisa Rifenburgh (taking notes) present, AC Goyet spoke about your decision to transfer me back to fire operations due to my spouse, Deputy Chief Amy Valdez, and I, being supervisors for the Fire Prevention Bureau, and a perception by a handful of members that feel they cannot trust leadership.

I have mentioned to AC Goyet several times, to include yesterday during the meeting, that I am not agreeing to relinquish my authority and position as Fire Official, is in direct violation of the Statewide Fire Prevention Code section 105.1.1, Appointment.

105.1.1 Appointment. *The fire official shall be appointed in a manner selected by the local government having jurisdiction. After permanent appointment, the fire official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority.*

I am not sure if AC Goyet has brought this information forward to you since he has not stated that he has, so I wanted to bring it to your attention so that you can investigate it further with the City Attorney and receive the appropriate and official legal ruling on the code before officially sending the transfer memo to the department.

Please let me know if you have any questions or need to discuss further.

Thank you for your attention in this important matter.

Victor Valdez
FIRE DEPARTMENT
Fire Marshal/Battalion Chief

O: (757) 385-8584 | vvaldez@VBgov.com
<https://fire.VirginiaBeach.gov/fire-prevention>

Fire Prevention Bureau, Bldg.21
2408 Courthouse Dr. | Virginia Beach, VA 23456
<image001.png>

From: Victor Valdez <vvaldez@vbgov.com>
Subject: Re: Code Interpretation
Date: February 13, 2025 at 10:50 AM
To: Dana R. Harmeyer <DHarmeye@vbgov.com>



That is correct. I am still unclear on the order from the Fire Chief I disobeyed.

On Feb 13, 2025, at 10:40 AM, Dana R. Harmeyer <DHarmeye@vbgov.com> wrote:

There was a transfer memo.

From: Victor Valdez <vvaldez@vbgov.com>
Sent: Thursday, February 13, 2025 10:39 AM
To: Dana R. Harmeyer <DHarmeye@vbgov.com>
Subject: Re: Code Interpretation

Dana,

It is unfortunate that you see my inquisitive emails as argumentative. I assure you that my intent has always been to seek information for clarity on an important matter that has never been navigated. This matter has a global impact on many people, currently and in the future.

You have also now raised another question and concern for me. I have had several conversations with the Fire Chief and he has never given me any orders that I did not obey. What direct order from the Fire Chief did I disobey? I can also assure you that I do not disobey orders. This can be verified by my performance evaluations since my employment with the City in 2003.

Respectfully,

Victor

On Feb 13, 2025, at 10:09 AM, Dana R. Harmeyer <DHarmeye@vbgov.com> wrote:

Victor:

I won't engage in the argumentative nature of your email. Suffice it to say, you have disobeyed a direct order of the Fire Chief, who by City Code (an ordinance adopted by the City Council) is the head of the Fire Department. My office will represent the Fire Department, and in the instant case, the Fire Chief.

Dana

From: Victor Valdez <vvaldez@vbgov.com>
Sent: Thursday, February 13, 2025 9:11 AM
To: Dana R. Harmeyer <DHarmeye@vbgov.com>
Subject: Re: Code Interpretation

Dana,

Unfortunately, it does not clear my confusion.

The premise of this appeal has always been based on my capacity as the Fire Marshal enforcing the Statewide Fire Prevention Code. In this case, the Fire Chief violated SFPC 105.1.1, Appointment. While he may have the authority to transfer a member of the fire department, he does not have the authority to remove the appointed Fire Marshal's authority. As such, the code is in place to protect the appointed fire official from removal without cause. Again, there has been no cause for removal. I have also not agreed to relinquish my Fire Marshal position or authority.

Can you please explain how you view this as a personal capacity?

As the Fire Marshal, I sought assistance from your office, specifically, Donna Hernandez, regarding this code violation. She eventually replied and provided your memo with your opinion on whether City Council provided for permanent appointment of the fire official. It should be noted that your interpretation focuses on the verbiage of permanent and acting in SFPC 105.2, Certification, in which you are posing that the Virginia Beach Fire Marshal/Fire Official position has always only been an acting and not permanent position. However, I do not believe your interpretation and application of this code correct, which is also evidenced by my appointment letter provided by the Fire Chief to DHCD and my Oath before the clerk of court.

To date, it has always been common practice for the Fire Marshal and members of the fire prevention bureau, to reach out to a City Attorney for any legal guidance and assistance needed. I was never advised by anyone that I could not seek assistance from the City Attorney's office or that I would not be represented by the City Attorney.

Can you please explain how the City and/or your office determines which City employee they will represent when it involves two City employees, in this case, the Fire Marshal and the Fire Chief?

Respectfully,

Victor

On Feb 12, 2025, at 10:24 PM, Dana R. Harmeyer

<DHarmeye@vbgov.com> wrote:

Victor:

You have appealed your removal from the position of fire marshal. This appeal is in your personal capacity. The counter party in such appeal is the Fire Chief.

My office represents the Fire Chief in the appeal.

Hopefully that clears your confusion.

Dana

From: Victor Valdez <vvaldez@vbgov.com>
Sent: Wednesday, February 12, 2025 9:33:11 PM
To: Dana R. Harmeyer <DHarmeye@vbgov.com>
Subject: Re: Code Interpretation

Dana,

I greatly appreciate your reply; however, I am confused by it.

What would you consider personal use?

What personal legal advice are you suggesting that I am asking for?

What request are you referring to that should come from the Fire Chief?

I want to make sure you know I am a city employee and I was only seeking information as a city employee, and more specifically as the Fire Marshal.

Respectfully,

Victor

On Feb 12, 2025, at 8:47 PM, Dana R. Harmeyer <DHarmeye@vbgov.com> wrote:

Personal use or official business of the City? If it's the former, I cannot give you personal legal advice. If it's the latter, the request should come from the Fire Chief.

From: Victor Valdez <vvaldez@vbgov.com>
Sent: Wednesday, February 12, 2025 7:22:03 PM
To: Dana R. Harmeyer <DHarmeye@vbgov.com>
Subject: Re: Code Interpretation

Good evening, Dana.

Thank you for the reply.

This memo was shared with me by Donna Hernandez because I asked for her interpretation on December 18, 2024. She replied and copied you on the email with the memo you provided.

I have been asking since then, if I could share it since it stated, "ATTORNEY/CLIENT PRIVILEGED MATERIAL DO NOT RELEASE".

Are you stating that it can be shared with anyone, or only with the local board of appeals?

Thank you,

Victor

On Feb 12, 2025, at 6:52 PM, Dana R. Harmeyer <DHarmeye@vbgov.com> wrote:

Victor:
If the intended recipient is the local board of building code appeals, I sent the memo to the staff liaison who, presumably, will be sharing with you and the board.
Dana

From: Victor Valdez <vvaldez@vbgov.com>
Sent: Wednesday, February 12, 2025

Sent: Wednesday, February 12, 2025
5:24:47 PM
To: Dana R. Harmeyer
<DHarmeye@vbgov.com>
Subject: Re: Code Interpretation

Good evening,

I am following up on this email to
request permission to share your
memo.

Thank you,

Victor

On Jan 28, 2025, at
6:05 AM, Victor Valdez
<vvaldez@vbgov.com>
wrote:

Good morning,

I am following up to see if
I have permission to
share your memo.

Thank you,

Victor

On Jan 14,
2025, at
8:36 AM,
Victor Valdez
<vvaldez@vbgov.com>
wrote:

Good morning,

Just circling
back on this.

Thank you,

Thank you,

Victor

From: Victor Valdez
<vvaldez@vbgov.com>
Sent: Thursday, January 9, 2025 9:36 AM
To: Dana R. Harmeyer
<DHarmeye@vbgov.com>
Subject: Re: Code Interpretation

Good morning, Dana.

Thank you for the reply and assistance in trying to provide clarity for my understanding.

Will your memo (attached) with interpretation be officially filed for future reference, and can I share this memo?

Thank you,

Victor

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outlined in the excerpt below from the City's website?

The City of Virginia Beach strives to make certain that all hiring, promotions, and other employment decisions

comply with federal, state, and local equal opportunity laws, regulations, and City policies. We comply with federal, state, and local requirements in rep

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requirements in addressing Americans with Disabilities Act (ADA) requests for reasonable accommodation in the workplace.

Additionally, the City of Virginia a Re

Each is committed to fair treatment and respect for all members regardless of race, color, religion, gender, national origin, age, disability, sexual orientation, vet

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simple place to address employee concerns and can be used by all* City Members

Outline below are some of the processes we have in place to address member concerns

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Thank you in advance for your assistance in this important matter.

Victor Valdez
FIRE DEPARTMENT
Fire Marshal

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From: Victor Valdez
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attached the memo he drafted, which I reviewed as well. If you have any questions

, please reach out to him.

Thanks, and happy holidays!

Donna

Donna E.

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Fire Prevention Bureau

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City of Virginia Beach

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Victor Valdez
 Appeal No. 25-03

Comes, now, the Virginia Beach Fire Chief, by counsel, to provide his position on the above captioned appeal.

Scope of review

State administrative code provides that “[t]he State Review Board shall have the power to uphold, reverse, or modify the decision of the LBBCA by a concurring vote of a majority of those present.” 13 VAC 5-63-190(I).

The Virginia Beach Board of Building Code Appeals (VBBBCA) decision was solely based on that Board declining to take jurisdiction of this appeal. The State Review Board’s decision in this matter should be limited to whether it upholds, reverses, or modifies the local appeals board’s declination.

The Decision of the VBBBCA

The Fire Chief’s position is that the VBBBCA properly declined to take jurisdiction of this matter. The VBBBCA heard Mr. Valdez’s concerns regarding his treatment by management. The VBBBCA heard the Fire Chief’s concerns about his ability to manage his department and deliver services. The VBBBCA heard argument from counsel regarding whether it wants to be put in the position that is properly held by a personnel board.

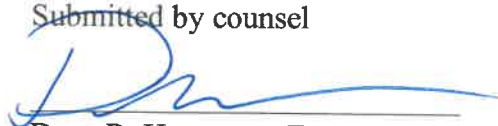
It is not a matter in dispute that Mr. Valdez is not the owner of a structure. He is not the owner’s agent or any other person involved in the maintenance of the structure or activity. He is not a person that Section 112.5¹ of the Statewide Fire Protection Code (SFPC) authorizes to appeal to the VBBBCA.

Furthermore, Section 101.3 of the SFPC states that the “purposes of the SFPC are to provide for the statewide standards to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, materials and devices, including explosives and blasting agents, wherever located.” The purpose of the SFPC is not to provide a method through which employees/officials who enforce the SFPC can appeal employment decisions. Therefore, the VBBBCA acted appropriately in this matter.

¹ “[t]he **owner** of a structure, the owner’s agent or any other person involved in the maintenance of the structure or activity, may appeal a decision of the fire official concerning the application of the SFPC or the fire official’s refusal to grant modification under Section 106.5 to the provisions of the SFPC.” (emphasis added)

WHEREFORE, the Fire Chief respectfully requests that this Board uphold the decision of the VBBBCA.

Submitted by counsel

A handwritten signature in blue ink, appearing to read 'D. Harmeyer', is written over a horizontal line.

Dana R. Harmeyer, Esq.
Deputy City Attorney

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Victor Valdez
 Appeal No. 25-03

Comes, now, the Virginia Beach Fire Chief, by counsel, to provide his objection to the "Suggested Issues for Resolution by the Review Board."


The suggested issue is described as "[w]hether to overturn the Fire Chief and local appeals board on the transfer of Victor Valdez and removing him as the Chief Fire Official without case [sic] or being afford an opportunity to be heard on any specific and relevant charges by and before the appointing authority in accordance with VSFPC Section 105.1.1 Appointment."

The appropriate issue on appeal should be focused on the Virginia Beach Board of Building Code Appeals' (VBBBCA) decision to decline to hear the merits of the appeal based on a jurisdictional issue.¹ State administrative code provides that "[t]he State Review Board shall have the power to uphold, reverse, or modify the decision of the LBBCA by a concurring vote of a majority of those present." 13 VAC 5-63-190(I).

Because the decision of the local board of building code appeals, the VBBBCA, in this case was to deny the appeal based on a jurisdictional issue, the State Review Board's review should be limited to that issue, and it must decide whether to "uphold, reverse, or modify" that specific ruling. Accordingly, it is suggested that the issue on appeal be framed as: "Should the State Review Board uphold, reverse, or modify the local appeals board denial of the appeal for lack of jurisdiction?"

WHEREFORE, the Virginia Beach Fire Chief respectfully requests that this Board revise its suggested issue for resolution by the Review Board.

Submitted by counsel



Dana R. Harmeyer, Esq.
Deputy City Attorney for the City of Virginia Beach

¹ Notwithstanding the limited detail regarding the jurisdictional issue in the order of the VBBBCA, the transcript and written materials provide the relevant discussion, which includes a review of the plain language of Section 112.5 of the SFPC limiting such appeals "to owners of a structure, the owner's agent or any other person involved in the maintenance of the structure or activity....."

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City of Virginia Beach
Local Appeals Board
Transcript
February 26, 2025
Meeting

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Emery Chickey

Alright, 1230. Do we want to get started? Build application building code of appeals. I believe we've just got some matters in hand that we need to do for because we had a form last time, we didn't have a form. Voting president and

Scott Steen

Chair and vice chair

Emery Chickey

Chair and vice chair. Okay, well I guess I was nominated last time, it's kind of weird for me to announce him for myself laid out there, and then Steve Sonkin for vice chair. He's not here today, but he has stated he will accept if appointed. Anybody else would like alright so for chair, all in favor.

Trish McIntosh

I

Jonathan Speight

I

David Anderson

I

Jeffery Scott

I

Dalton Davidson

I

Richard (Tuck) Bowie

I

Robert (Bob) Stern

I

Emery Chickey

Vice chair, all in favor of Steve

Trish McIntosh

I

Jonathan Speight

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David Anderson

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Jeffery Scott

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Dalton Davidson

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Richard (Tuck) Bowie

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Robert (Bob) Stern

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Emery Chickey

I

Scott Steen

Hey Emery

Emery Chickey

Sir

Scott Steen

someone would have to make the motion and second it.

Jeffery Scott

I motion

Dalton Davidson

Second

Jeffery Scott

For Chair Emery

Trish McIntosh

I

Jonathan Speight

I

David Anderson

I

Jeffery Scott

I

Dalton Davidson

I

Richard (Tuck) Bowie

I

Robert (Bob) Stern

I

Jeffery Scott

I motion for Vice-Chair

Dalton Davidson

Second

Trish McIntosh

I

Jonathan Speight

I

David Anderson

I

Jeffery Scott

I

Dalton Davidson

I

Richard (Tuck) Bowie

I

Robert (Bob) Stern

I

Emery Chickey

I

Emery Chickey

Alright, matter at hand, application for building code appeals Valdez and his removal as stated in said case. So I guess (?) evidence, we're gonna doing appellant opening statement testimony by the witness and appellant for 20 min for that. Yeah. This is a new role for us too, so if anybody wants to guide us along feel free.

Attorney Andrew Meyer

Honestly, if you don't mind if you, if someone would take roll call of everyone here so we can

Emery Chickey

Ok, sure. Do we do roll call for everyone that's here? Or just at our table?

Scott Steen

I would say is it just the board that needs to be?

Attorney Andrew Meyer

Just the board

Emery Chickey

Yeah, ok.

Dalton Davidson-Board Member

Jeffery Scott-Board Member

Emery Chickey-Board Member

Robert Stern-Board Member

David Anderson-Board Member

Jonathan Speight-Board Member

Trisha McIntosh-Board Member

Richard (Tuck) Bowie-Good morning board member

Attorney Andrew Meyer

Good morning. But it sounds like you do have a forum. If you don't mind, it's just it sounds like there's no objection to the consent of the chair and vice chair as previously noted, so if you wanna move to do that again, just real quick.

Emery Chickey

Sure. We will move again to vote on chair and vice chair.

Jeffery Scott

I Motion

Dalton Davidson

Second all in favor

Trish McIntosh

I

Jonathan Speight

I

David Anderson

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Jeffery Scott

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Dalton Davidson

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Richard (Tuck) Bowie

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Robert (Bob) Stern

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Emery Chickey

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Emery Chickey

Vice Chair

Jeffery Scott

Motion

Dalton Davidson

Motion, second all in favor

Trish McIntosh

I

Jonathan Speight

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David Anderson

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Jeffery Scott

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Dalton Davidson

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Richard (Tuck) Bowie

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Robert (Bob) Stern

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Emery Chickey

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Attorney Andrew Meyer

That's fine, I don't know if this was handed out because it looked like there's traditionally an open statement. So if the board keeps it (?).

Emery Chickey

Please do.

Richard (Tuck) Bowie

Yeah.

Victor Valdez

Okay, so my name is Victor Valdez Battalion Chief for the Virginia Beach Fire department, been with the department for twenty two years. So what I want to put out there that, you know, we have a good working relationship. The reason we're here is because there seems to be a misinterpretation of the fire code. I was and technically I would say that I still am the Fire Official Fire Marshall for the City of Virginia Beach, and again why are we here? It's due to a transfer from me in the fire prevention bureau which is a division within the fire department.

Attorney Andrew Meyer

I apologize, I apologize, I don't think I don't think people have been sworn in. So is there someone here who traditionally swears them in or you don't normally ok.

Victor Valdez

So here is due to a transfer from the fire prevention bureau where that's where I held my title and authority of fire Marshall or fire prevention. There is a code in the statewide fire prevention code section 105.1.1. which is appointments and that's where basically states that the fire official shall be appointed in a manner selected by the local government having jurisdiction and at the permanent appointment the fire official shall not be removed from the office except for a cause after having been afforded a full opportunity to be heard on specifics and relevant charges by and before the appointive authority. So where that brings me back to

is what I feel was the cause of the transfer right and the cause of the transfer from what I can see was in the performance of my duties as the fire official, a couple things that I had asked some of my staff members from the specifically was we are like most city employees understaffed. So I asked for them to assist in performing fire inspections. That was not well received apparently, but it was never communicated. So there were some people that were upset about them having to perform fire inspections.

As part of their duties. The other part was that we have had basically a long standing operation without guidance or policy and procedures, for example a policy against something like use of force, right?

Fire investigators have law enforcement powers. With that, what that means is you have a lot of responsibilities. We're basically fireman with guns, and we do some training, we do a basic law enforcement academy with with the state, the state of Virginia Department of Fire Programs.

But it's basic and it's not to the level of 26 weeks of the police department. So what that means is again it comes with the great level of responsibility and to not have one the policies to back what we do and in the case where something of we've had a couple incidents where there was.

Basically hands on police department wants the problem policies and procedures it is you at that time you would do what is called a (?) and they'd have to be written statements. There's a process for it. We don't have anything like that.

This is my 3rd, I'll call it tour in the fire prevention bureau. I started the 1st time as an assistant fire marshal, which is basically a fire inspector at that time. Going through the ranks, I became a deputy fire marshal.

That's why I became the supervisor of both inspectors and the investigators to now being the fire Marshall overseeing the entire office as inspectors and investigators and their supervisors. The challenges that I've noticed is exactly that the lack of.

Policies and procedures to guide and protect not only them but our department and the city and the citizens. So with that getting to the 2nd part of what they did not receive well, and that's the fact that.

I did reach out to another city, Fairfax to inquire about how we went about and why they went about to remove the fire arms for their fire investigators. Not that I was going to do it, but I felt that again in the protection of everyone involved.

That it was in everyone's interest, best interest to inquire on what they did, why they did it and their process, because I felt that that maybe something that we need to do in the interim until we settle things and get some clarification and get a policy in place.

In the event that something happened where they had an actual use deadly force or even use force that are not regulate Those two are some of the main examples that have been provided and given as far as why they were upset.

And which led to a complaint that went to human resources. The complaint came back as unsubstantiated, which the way I look at it, when you go back and you read the code.

Based on the fact that it was unsubstantiated and based on the fact that I was basically operating within the scope of my authority, there was no reason/means for my removal as fire Marshall.

Now, the other reason that I was given, my wife is a deputy fire chief or deputy chief in the department. This is where I think they try to highlight the fact that, and again the only other reason I got is it's a spousal relationship issue.

That people are not comfortable with. This was a known challenge that was there from the very beginning before I was appointed it was discussed.

And there was no issue at the time everyone knew including the fire chief that it was we can all operate professionally and act accordingly with the ranks in mind and the spousal relationship. And now it's become apparently an issue.

It should be noted also that there is no city code or policy that also prevents the spouse (?).

A little bit on the process and history of the fire official appointment, really what it becomes it's initially a relinquishment of authority from the current fire marshal. It's usually what happens is current fire marshal, either by retirement or promotion or seeking a different opportunity inside the department that's when they relinquish their authority and say I no longer want to be the fire official.

The selection appointments of the new fire marshals that's the next thing, the next step, kind of what happened with me is they discussed it and said we're comfortable and we would like time to think about this to be the next fire official fire marshal.

So I get transfer from what we call fire operations to fire Marshall position which is administrative position. I have to go before the city clerk to take a oath, which I did.

a letter to DHCD advising of my appointment (?) as well. Training and certification as stated before, I maintain all my certifications since 2007 when I went there as assistant fire Marshall so that was already covered. I didn't have to do that again.

And then all documents that are provided, you know, in, in all these documents, they've referenced fire Marshall being an appointments and rather do not reference it as being an acting appointments or acting (?).

If there was such a case where I was there as an acting or a transfer memo states that it's an acting, but nothing states such. There was an example given of the previous fire marshal now assistant chief Lorna Trent. Her move or removal if you want to call it that, was due one it voluntary and it was due to a promotion she got promoted to assistant chief fire Marshall position was her title at the time. She got promoted to assistant chief and decided to take that position and voluntarily moved from the position as a fire official.

So where we're at, I've tried numerous occasions to, you know, to be open and transparent with everyone involved in my departments and in my chain of command to advise them on the code. It's, as you're all aware, this is new for you all, it's new for us as well. We've never been down this road before now. In this process, but I wanted to make sure that we were all under the same understanding and there was some clarification and understanding of the code how it reads and what the intent was and I don't think that clarity is there. So I have reached out and talked to my supervisor at a couple accounts that I noted was when the issues surfaced from the investigators back on May 29 2024, and December 10 during the fire prevention bureau meeting with all supervisors on the 7th. The policy, the code was provided and I made sure that they acknowledge that there was a policy and procedure in the code that basically protected the fire official from removal. Reaching out to city attorneys for opinion clarification on the code.

As early as 1st week of September through the 1st week of February. Communications on December 11 to December 14 with fire chief Pravetz. What I found is a delay in responses to emails.

And then eventually there was a stop in responding to emails. My entire intent was nothing more than to seek clarification again because this is new for all of us. And it's something that will set presence in the future not only for this position, but.

For others I get selected in a similar manner, for example the building official and housing code enforcement official. They get selected in the same manner.

So for someone to say that we can just say nope don't like you and your out. I don't think that's correct and I don't think that's the intent of the code or how it is set up.

The City attorney, if I mispronounced Dana Meyer, was that correct?

Attorney Dana Harmeyer
Harmeyer

Victor Valdez

Harmeyer sorry. My communications with City Attorney Harmeyer. He pointed out in a memo basically that, you know, there were the main focus on the acting with permanent (?) assignment or for delineation of the code the state wide fire prevention code. I think this again is a misinterpretation of how it intention or what's it(?)Mr. Harmeyer and may need further clarification by DHCD. It states in there, that the fire chief is an at will employee While that is true, I am not (?), which in my opinion again (?) and that's because the code states that the fire chief orders designee shall be the fire Marshall. The fire chief has elected not to take the position of fire Marshall and assigned me designated me to be as the fire Marshall. There's nothing in state city or department policy the codes that states the fire Marshall position is an acting position.

Referencing the removal versus the transfer process that we're talking about. So a transfer just for your knowledge purposes, a transfer by our chief it's within his right to within the department transfer a member

from one let's just say assignments being that a operational assignment or a station to an administrative assignment that's within his authority. However, transfer does not fulfill the official removal in my case of the fire official requirements.

The removal also requires as per the code a reason for the removal, which has not occurred. So, in closing because there was no cause or due process for my removal is outlined in the code. I don't believe there was a justifiable ground from my removal, and which is why I requested that I remain fire official.

Emery Chickey

Thank you.

Attorney Dana Harmeyer

These are duplicated of what was previously provided, but it's a little bit easier to read. Well as we sit here today (2 and 3?) I think that the board needs to wrestle with it. First one really is, is this appeal within the scope of application for appeal that's provided in the statewide fire prevention? I provided to you. It's all focusing on the owner of a structure, the owner's agent, it doesn't describe someone making this boarded to a grant (?) and so we sent Mr. Valdez is a merit employee which means he can do grievance, right? So if anyone's in the personnel board, they would hear very similar arguments to what you've heard before. So the personnel board's for, a grievance process. In essence. You have been thrust into that role by this appeal. So, it would seem that would be the 1st thing that that you guys should decide is, do you even want to hear this case to the extent that it exceeds the authority for application for appeal and the statewide fire prevention?

You want to take up that issue I'd like to preserve my time but it would seem as a threshold matter that you would at least answer that question.

Emery Chickey

Valid question.

Emery Chickey

What's the intent to vote on this or could we hear any more arguments from city attorney or somebody else whether we are a personnel board or not? I don't believe we are.

Jeffery Scott

Yeah, can we discuss that amongst ourselves?

Attorney Dana Harmeyer

Please

David Anderson

Can we ask questions as well to either party?

Attorney Dana Harmeyer

(?)

Emery Chickey

I think, I think council whether we are should be sitting here listening, weighing judgment on this appeal because originally the intent of this

board is for building code of appeals and then fire protection came underneath of it as just the new. This is the new adoption, correct?

Scott Steen

No fire maintenance and building have all been one.

Emery Chickey

Fire maintenance

Scott Steen

Property maintenance and fire and building.

Emery Chickey

So we're kind of de facto on that, but I think it centrally focuses on building right construction, things of that nature that, that are typical with building department. Not necessarily personnel matters. I think the board should discuss this.

Richard (Tuck) Bowie

I'll be the 800 pound gorilla in the room.

Emery Chickey

Please

Richard (Tuck) Bowie

When I first got this, I reached out to Melissa and asked why are we even involved with this? It appears to be a personal issue. Now I've got it and say, who councils city employees? Because I guess I'm gonna ask you, is he considered a city employee?

Attorney Dana Harmeyer

So we answered the question in general terms of what we thought (?) state wide fire protection code but it says that the local governing body can do and then we track through everything we think the local government body has done on this issue and then provided it to both the fire chief and Mr. Valdez. I understand Mr. Valdez doesn't like the conclusions, but we are open look as far as what we think the code says and why we think that.

Richard (Tuck) Bowie

Well, that's the case of how did we get as far as to get to us.

Attorney Dana Harmeyer

Respectfully I believe Mr. Valdez didn't like the opinion that that we wrote for him and he may dispute it but like to the extent that we're trying to opine on what did the local governing body do, that's city council. We gave him what the city council did. He just thinks that there should be things read into that, words added to those ordinances that would provide a status that we just don't get into city council's stuff.

Richard (Tuck) Bowie

So your, your interpretation Of the code is that this shouldn't be addressed by this board it should be HR.

Attorney Dana Harmeyer

So I'm providing the option to the board to take up (?)

Richard (Tuck) Bowie

The problem that's not what I ask.

Attorney Dana Harmeyer

So I guess I would have to direct you to council that would be a different (?)

Richard (Tuck) Bowie

I just, you know, now we're, in the middle of this thing and if we're not the right people to do it, then I'm concerned as to why got as far as it got to be here. So my question is if a city employee wants to file a complaint, who does the city employee get counsel from? Maybe not legal council but for direction. I mean can I ask (pointing at Mr. Valdez), did you go to the human resource and personnel to ask them what direction you should go relative to this matter?

Victor Valdez

So we'll go back to the position that I was in when this occurred and before it took place and that was the fire official. That was my position my title and I had the authority to operate and enforce the statewide fire prevention code. Now hinds up what I did ask is I had actually reached out to see and I got information on how the process works, right? And this is new for every one of us, but because the fire prevention code is a maintenance code, but it is basically we get our authority and our enforcement power from the DHCD, development House of Code development, Department of House of Code development in there basically states that we have to bring this before a local board first which is what you all are. So it comes through here first because it is a fire code which is basically all that through DHCP and there it talks about appointment. Now one can argue that roles could be reversed, and that would not be the (?). Fire Chief Pravetz (?) because what could have had happened and potentially and I tried not to go that route, as I could have had issued by code to Fire Chief Pravetz a Notice of violation because of the code in essence he violated, ok? I would also have speaking of being a city employee, well, the same process would have been done had it been any other fire code violation and I would have sought (?) if I had any question with the code, same process went through our city attorney to ask for guidance as any one of our members in the fire prevention would do. So this is kind of weird, right? Because we're both fire officials. ut the representation went to fire chief Pravetz and I have none, other than myself, right? So, what I'm basically saying this is not a matter of, as Mr. Harmeyer put it in a personnel matter, it's a fire code matter and that's why I'm here, not a personnel manner, not because I don't like the decision. It's because there's implications on what occurred here for other people that are in my position as well as other department officials, as I stated those officials of housing enforcement official that kind of gets selected in the same manner. Again, there's a difference between what our chief Pravetz can do, what the fire chief can do and how he can transfer someone. Transferring me doesn't mean removal and of my position or authority. It's simply transfer, you're no longer in this office, you're going back to fire operations. That's not a formal process that's just a, a transfer from one location to another. So not an argument of it's a personnel issue. It's an argument of a fire code issue that was violated and that's what we are here for. (?) delegation of the building code DHCD.

Jeffery Scott

I'd like to add, you know, so however this ends up, there's clearly some sort of HR issue between, you and the department, right? Whether that is, you know, an outstanding, inquiry into some personal matter or not, the fact that we're at this case, even if we make a decision more than the other, after that's said, there has to be some sort of path forward for you and the department. You know, so I'm curious how if we make a decision, let's just say we say, ok, you can stay in your role. How does that affect the overall department's ability to run and interact between you two guys or between you and the department, you know? Cause clearly there was some sort of riff or else it would have not gotten to this point. There would have been some sort of communication inside the department with. HR that we said we're gonna solve this here internally, and then if you don't agree with it, then to me, that's an HR complaint. There's obviously this paragraph in the code, and I think it all focuses on one word, which is permanent, right? Permanent or acting, and that's the whole debate here right now is what do we say that word means? What does the city say that word means? What does the fire department say that word mean? But even if we make a decision and we decide to move forward with it, how does the department move forward? And I guess this question is really for the department. How does how do you guys move forward knowing that this riff exists? Is this something that can continue to exist? Continue to move forward in everyone's roles, can that continue to be?

Chief Pravetz

(?) I decided who works where and I've already moved on just back in operations I've already appointed a new fire marshal, and we've moved on. So, whatever you rule, that's not gonna change where I'm putting the employees. So, this is clearly the management rights. I had my reasons for making the transfer in the organization and that's my intent. And honestly, however your rule he is staying in operations, and we will figure out what that means for the organization going forward. But I don't want to litigate why I made my decision, but it was, it was the right decision for the department to make the change.

Jeffery Scott

Yep, and is this because you delegated your role as fire marshal to another which the city council says that's the one appointed, but you can delegate. So.

Chief Pravetz

Correct. The way I interpreted it says the (?) authority (?) has the right to choose. So, I focused on the front half of the paragraph, not the bottom half and it says that we get to choose who the fire marshal and that's where I've made that decision and we've never, you know, made it a permanent decision, we've changed fire marshals a number of times. Most of them have been for promotions, but we have changed that fire marshals.

Jeffery Scott

In essence, it isn't acting. There is no permanent role for fire marshal unless the fire chief takes that role. Is that correct?

Attorney Dana Harmeyer

So, we actually think it's one step up in the sense that it says the local government we mean city county. Yeah, so we try to track through an ordinance that would provide that extra clarity on is it permanent? Like I said, we just couldn't find it.

Jeffery Scott

Yeah.

David Anderson

One thing I'll add though, if you look at like section 105.1.1, it kind of desecrates precedence that talks about the appointment authority, so although it's an appointment that may be misconstrued as permanent it says at the appointive authority desecration (?) jurisdiction we have as the code appeals as the appointing authority can now make the decision at the lower end of the paragraph to change their minds.

Jeffery Scott

Yeah I would agree, and I think this board, the intent of this board is not to make HR decisions for any department, you know, it's to interpret what the paragraph says, but this seems to be well beyond that into some other issue, in my opinion.

Richard (Tuck) Bowie

So Chief when you appointed Mr. Valdez, is there any, and I'm trying to relate, there's a big difference between being in the private sector being in the public sector, because all of us are in the private sector, and what we do doesn't dictate necessarily all of the, I guess, legal aspects of things that you have to do in the municipal cycle Mr. Valdez(?), was there any discussion with him about it all being a temporary or permanent and that it could change that it was gonna last any amount of time.

Chief Pravetz

We've never had this come up before where somebody has gotten to this level (?) so no we did not have that conversation (?). I can say I'm currently appointing you here now, you know, the code official the building official that, you know, it's total you decide to leave like we've never had to.

Dalton Davidson

I think we may need to make a decision if we should rule on this first, like this is even our jurisdiction, and then we need to go from there and start asking more questions. Then we need to make that decision and then move forward.

Trisha McIntosh

I did have a question Mr. Pravetz so you've already said that no matter what we decide on, you've already (?) even if we decided that he should stay on board as a fire marshal, that's not going to change. Is that correct?

Chief Pravetz

That's correct

Trisha McIntosh

So really we just, I don't want to use the word waste our time because (?) waste everything is valid, everybody's feelings are valid, but pretty much no matter what we say, it's not going to change his position to what he feels is the best.

Chief Pravetz

Chief Valdez and I have had that conversation and he asked about (?) pending on this outcome happens, how does he maintain his responsibility as fire marshal (?) and I sorry but I am not sure how you would do that from from operations, but my intent is not to transfer him so if the title stays with him because it is something that this board decides we'll have to work through that. That'll be on chartered territory as well.

Trisha McIntosh

Okay, I get it

Chief Pravetz

I've already notified the state and the commonwealth and they've already accepted our new appointee and (?).

Trisha McIntosh

Got it. And I understand what Mr. Scott was saying about you know the riff, you know, is, is everyone able to move forward on a friendly professional manner and not have some type of hostility or anything going forward and I kind of think that's what you were trying to say because you know it is for an organization, you have to work together, can't be, you know, hostile or you know (?). Which is what I would feel (?) and I feel like that there needs to be a specific verbiage put in some of the code (?) in the future because I'm confused just reading all of this, but you know nobody said, I mean from what I understood that he was appointed permanently, you know, even though the verbiage isn't there, there's NO verbiage saying acting as or this is a temporary position or if it's just understood, but even if it's just understood I think you know with our positions and what we do with our career (?)paper trail has to happen so maybe writing the code and making something more clear so there's no confusion or having to get to this point (?) on everybody, you know? I think yeah but you know, you want to move forward and you can have you know (?) in his position, even though our decision doesn't change things

David Anderson

One thing to consider we are the code appeals we don't decide who at all we decide whether or not (?).

Emery Chickey

And if every position is an acting position except for the ones city council points, then we really have no jurisdiction in my mind. Doesn't make it right? I don't believe so, I believe there should be some permanence and roles and the city councils could certainly take this up, I mean fire chief and fire marshal seem like pretty you know heavy duty responsibilities that should be acted on with the local government. So there is more permanency especially relationships that as these two are out in the community and with restaurant tours and everybody else that works in this business. Dalton I agree with you one hundred percent. Does anybody else have anything here?

Richard (Tuck) Bowie

Well legally what do we have to do

Emery Chickey

Yeah

Richard (Tuck) Bowie

If we wanna, if we wanna put on the table the fact that we shouldn't be addressing this

Attorney Andrew Meyer

(?) on the basis of jurisdiction or the basis of substance or both, and then it would be (?).

Dalton Davidson

I'll make a motion that we shouldn't be hearing on this due to jurisdiction. I don't think it's in our jurisdiction to hear this case.

Jeffery Scott

I agree, second.

Dalton Davidson

All in favor

Trish McIntosh

I

Jonathan Speight

I

David Anderson

I

Jeffery Scott

I

Dalton Davidson

I

Robert (Bob) Stern

I

Emery Chickey

I

Richard (Tuck) Bowie

I

Attorney Andrew Meyer

Ok you can close, the motion passes

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Stanley Martin Homes and Beazer Homes
 Appeal No. 24-11

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Stanley Martin Homes and Beazer Homes
Appeal No. 24-11

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On August 30, 2024, the Loudoun County Building and Development Department (County), the agency responsible for the enforcement of Part 1 of the 2021 Virginia Uniform Statewide Building Code (VUSBC), denied a modification request from Stanley Martin Homes and Beazer Homes (Stanley Martin and Beazer), for two (2) condominium projects named Dulles 2 over 2 Stacked Condominiums – Tessa/Julianne and Savannah/Harper and Belmont Park 2 over 2 Stack Condominiums – Monroe/Charlotte and Hepburn/Katherine, in Loudoun County, related to VCC Section 903.3.1.2 *NFPA Sprinkler Systems*.

2. Stanley Martin and Beazer filed an appeal to the Loudoun County Building Code Board of Appeals (local appeals board). The local appeals board denied the appeal finding that “*The code official applied the code correctly based on the 2021 Virginia Construction Code*”.

3. On October 25, 2024, Stanley Martin and Beazer further appealed to the Review Board.

4. While initially processing the appeal application, Review Board staff found that the appeal application did not reference a particular project location/address or permit number; therefore, in accordance with Review Board Policy #9, Review Board staff prepared the case for a preliminary hearing as to whether the appeal is properly before the Board.

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5. On January 17, 2025, the Review Board found that the appeal filed by Stanley Martin and Beazer was properly before the Board as Stanley Martin and Beazer were aggrieved by the Building Official's decision not to grant a modification request. The Board further found that a hearing on the merits of the case was warranted and scheduled the hearing for March 21, 2025.

6. 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 hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to uphold the decision of the building official and the local appeals board to deny the request by Stanley Homes and Beazer Homes for modification to VCC Section 903.3.1.2 *NFPA Sprinkler Systems*.

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Basic Documents

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Building Code Modification Request – Code Clarification

Date Rec'd - _____

File No. - _____

Assigned - _____



Applicant Information:

Name / Title: *Stanley Martin Homes*

Firm: *Pinnacle Design and Consulting Inc.*

Street Address: *11150 Fairfax Boulevard, Suite 402*

City: *Fairfax, Virginia*

Office Phone: *(703)218-3400 ext. 240*

Email Address: dalewilkowske@pdc-home.com

COUNTY OF LOUDOUN

REVIEWED

BY *AW* *01/30/24*

Name / Title: *Beazer Homes*

Firm: *Atar Design Group*

Street *2260 Waggoners Gap Road*

City: *Carlisle, PA*

Office Phone: *(717)701-9000*

Email Address: mehdi@atardesigngroup.com

DISAPPROVED
COUNTY OF LOUDOUN
BUILDING AND DEVELOPMENT

Project Information (Stanley Martin):

Name: *Dulles 2 over 2 Stacked Condominiums – Tessa / Julianne and Savannah / Harper*

Address:

Permit Number:

Code deficiency identified by (if applicable): *N/A*

Project Information (Beazer Homes):

Name: *Belmont Park 2 over 2 Stacked Condominiums – Monroe / Charlotte and Hepburn / Katharine*

Address:

Permit Number:

Code deficiency identified by (if applicable): *N/A*

Code / Section(s)

Code(s) (IBC, IMC, IPC, etc.) and year-edition: *2021 Virginia Construction Code (2021 International Building Code)*

Section(s) and/or subsection(s): *Section 903.3.1.2 NFPA Sprinkler Systems*

Request / Solution:

Describe the code or design deficiency and practical difficulty in complying with the code provision:

The 2018 IBC code section 903.3.1.2 NFPA Sprinkler System was modified as listed below:

Automatic sprinkler systems in Group R occupancies ~~up to and including four stories in height in buildings not exceeding 60 feet (18 288 mm) in height above grade plane~~ shall be permitted to be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all the following conditions:

1. Four stories or fewer above grade plane.
2. The floor level of the highest story is 30 feet (9114 mm) or less above the lowest level of fire department vehicle access.
3. The floor level of the lowest story is 30 feet (9114 mm) or less below the lowest level of fire department vehicle access.

Based on the second revised note, the 2 over 2 product Tessa / Julianne and Savanah / Harper does not comply with the floor level of the highest story is 30 feet (9114 mm) or less above the lowest level of fire department. (See attached Image #1.)

Describe the proposed equivalent method of code compliance (attaching supporting documentation):

It would be Stanley Martin Homes' and Beazer Homes' intent to allow the current Tessa / Julianne and the Savanah / Harper (Stanley Martin) and Monroe / Charlotte and Hepburn / Katharine (Beazer) to be built as currently designed with a NFPA 13R sprinkler system per the 2018 code as opposed to the newly required NFPA 13 sprinkler system per the 2021 IBC. The reasons for this proposal are the following:

1. The VDHCD (Virginia Department of Housing and Community Development) prepared clarification on this section (see attached image #2) in which the memo stated that this revision to the code was intended to address podium buildings but resulted in significant impacts on other group R-2 and R-3 occupancy buildings. It also suggests that while implementing the code for R-3 Units under the 2021 VCC (2021 IBC Code) that the 2024 IBC Code be used and that the R3 units be allowed the same exceptions as R2 unit (see same attached image #4). This would allow for the height determination to meet a less than 45' from roof assembly to required fire vehicle access road (see attached images #3 and #6). By using this method of measurement, both the Tessa / Julianne and Savanh / Harper (Stanley Martin, see attached image #3) and Monroe / Charlotte and Hepburn / Katharine (Beazer, see image 6) meet the required height limitation by measuring less than 45' to its roof eave.

Note 1: Memo was sent to all Virginia Building Officials by Jeff Brown who is the State Building Code Office Director for the VDHCD. Contact Number 804-371-7161/ jeff.brown@dhcd.virginia.gov

2. The Significant Changes for the 2021 IBC Code in which the same intent for the code revisions were podium buildings (see attached image #5) were not intended to impact R2 Use Group non-podium buildings and R3 Use Group Buildings.

Additionally, see the attached exhibit 7 from the original code change proposal noted at the end of the DHCD staff opinion letter (F117-18). The reasoning behind it was based entirely on podium buildings exploiting the NFPA 13R requirements. Furthermore, the basis for the new 30'-0" height requirement to the top of the 4th floor is based on the need for standpipes in section 905.3. This section exempts standpipes from being used in Group R-3 Occupancies.

Also note exhibit 8. F72-21 (also provided in the DHCD staff opinion letter) is the basis for changing to an exemption for R-2 Use Groups allowing a 45'-0" height limit to the underside of the roof eave in the 2024 IBC. It states that the significant differences between R-2 and R-1 Use Groups necessitates this exemption. By this line of thinking, since R-3 Occupancies differ from R-1 far greater than R-2, they should also have their own R-3 specific exemptions.

Appeal No. 2024-1

Application for Appeal

County of Loudoun

Locality

We Stanley Martin Homes located at 14200 Park Meadows drive, Suite 100, Chantilly, Virginia 20151 and Beazer Homes located at 14901 Bogle Drive, Suite 104, Chantilly, Virginia 20151 respectfully request that the Local Board of Appeals review the decision made on August 30, 2024, by the code official.

Stanley Martin Homes

Firm: *Pinnacle Design and Consulting Inc.*

Street Address: *11150 Fairfax*

*Boulevard, Suite 402 City: Fairfax,
Virginia*

Office Phone: *(703)218-3400 ext. 240*

Email Address: *dalewilkowske@pdc-home.com*

Beazer Homes

Firm: *Atar Design Group*

Street *2260*

Waggoners Gap Road

City: Carlisle, PA

Office Phone: *(717)701-9000*

Email Address: *mehdi@atardesigngroup.com*

Description of Decision Being Appealed: Proposed Modification to 2021 Virginia Construction Code (2021 International Building Code) Section 903.3.1.2 / Note 2 to be built as currently allowed under the 2018 Virginia Construction Code (2018 International Building Code) with a NFPA 13R sprinkler system as opposed to the newly required NFPA 13 Sprinkler system per the 2021 IBC.

What is the applicant's interest in the property?

☒ Owner

☐ Contractor

☐ Owner's agent

☐ Other (explain) _____

Relief Sought: It would be Stanley Martin Homes' and Beazer Homes' intent to allow the current Tessa / Julianne and the Savannah / Harper (Stanley Martin) and Monroe / Charlotte and Hepburn / Katharine (Beazer) to be built as currently designed with a NFPA 13R sprinkler system per the 2018 code as opposed to the newly required NFPA 13 sprinkler system per the 2021 IBC.

Attach the Decision of the Code Official and Any Other Pertinent Documents.



Signature of Applicant

Ryan Kenvin  Digitally signed by Ryan Kenvin
DN: E=ryan.kenvin@beazer.com, CN=Ryan Kenvin
Date: 2024.09.04 11:06:50-04'00'

Signature of Applicant

Filed at Loudoun County, Virginia, the 3rd day of September, 2024.



Written Decision

Appeal No. 2024-1

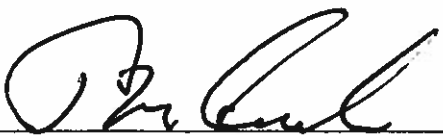
IN RE: Stanley Martin Homes and Beazer Homes

V. County of Loudoun, Department of Building and Development

The appeal is hereby, **DENIED** for the reasons set out below:


The code official applied the code correctly based on the 2021 Virginia Construction Code

Date: September 24, 2024

Signature: 

Chair of Local Board of Appeals

Any person who was a party to the appeal my 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 or:

 <https://www.dhcd.virginia.gov/sites/default/files/Docx/sbctrb/file-appeal/appeal-application-may-19.pdf>

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
- ☒ Virginia Construction Code
- ☐ Virginia Existing Building Code
- ☐ Virginia Maintenance Code
- ☐ Statewide Fire Prevention Code
- ☐ Industrialized Building Safety Regulations
- ☐ Amusement Device Regulations

RECEIVED

October 16, 2024 WTZ

OFFICE OF THE REVIEW BOARD

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

Stanley Martin Homes / Pinnacle Design and Consulting
11150 Fairfax Boulevard, Suite 402
Fairfax, Virginia
703-218-3400 ext 240
dalewilkowske@pdc-home.com

Beazer Homes / Atar Design Group
2260 Waggoners Gap Road
Carlisle, Pa
717-701-9000
mehi@atardesigngroup.com

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

Raymond Rinaldi CBO
Deputy Building Official
Department of Building and Development
Building Code Enforcement Division - Loudoun County
703-771-5449 / Raymond.Rinaldi@loudoun.gov

Additional Information (to be submitted with this application)

- ☐ Copy of enforcement decision being appealed
- ☒ Copy of the decision of local government appeals board (if applicable)
- ☐ Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October, 2024, 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: William Foliaco / Ryan J. Kenrin

Name of Applicant: William Foliaco / Ryan Kenrin
(please print or type)

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

RECEIVED

October 25, 2024 WTZ

OFFICE OF THE REVIEW BOARD

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

Stanley Martin Homes - C/o Bill Foliaco, Director of Architecture
14200 Park Meadows Drive, Suite 100
Chantilly, VA 20151
703-636-9224
foliacowg@stanleymartin.com
ryan.kervin@beazer.com

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

Raymond Rinaldi CBO, Deputy Building Official
Department of Building and Development
Building Code Enforcement Division - Loudoun County
1 Harrison St. SE, Second Floor
Leesburg, VA 20175
703-771-5449 / Raymond.Rinaldi@loudoun.gov

Additional Information (to be submitted with this application)

- ☐ Copy of enforcement decision being appealed
- ☒ Copy of the decision of local government appeals board (if applicable)
- ☐ Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October, 2024, 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.

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Signature of Applicant: William Foliaco / Ryan J. Kervin

Name of Applicant: William Foliaco / Ryan Kervin
(please print or type)

Documents Submitted
by
Stanley Martin Homes
and Beazer Homes

(Page left blank intentionally)

Addresses for Code Modification:

Stanley Martin Homes

Tuscarora IBC 2021 2o2 Addresses

Lot:	Building#:	Address:	Town	ZIP Code
317	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175
318	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175
319	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175
320	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175
321	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175
322	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175
323	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175
324	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175
325	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175
326	BLDG 317-326	1818 Abbocatto Terrace SE	Ashburn	20175

Beazer Homes

Belmont Park IBC 2021 2o2 Addresses

Lot:	Building#:	Address:	Town	ZIP Code
1	1	19661 Magenta Terrace	Ashburn	20147
2	1	19663 Magenta Terrace	Ashburn	20147
3	1	19667 Magenta Terrace	Ashburn	20147
4	1	19665 Magenta Terrace	Ashburn	20147
5	1	19671 Magenta Terrace	Ashburn	20147
6	1	19669 Magenta Terrace	Ashburn	20147
7	1	19675 Magenta Terrace	Ashburn	20147
8	1	19673 Magenta Terrace	Ashburn	20147
9	1	19679 Magenta Terrace	Ashburn	20147
10	1	19677 Magenta Terrace	Ashburn	20147
11	1	19683 Magenta Terrace	Ashburn	20147
12	1	19681 Magenta Terrace	Ashburn	20147
13	1	19687 Magenta Terrace	Ashburn	20147
14	1	19685 Magenta Terrace	Ashburn	20147
25	3	19797 Sepia Square	Ashburn	20147
26	3	19799 Sepia Square	Ashburn	20147
27	3	19793 Sepia Square	Ashburn	20147
28	3	19795 Sepia Square	Ashburn	20147
29	3	19789 Sepia Square	Ashburn	20147
30	3	19791 Sepia Square	Ashburn	20147
31	3	19785 Sepia Square	Ashburn	20147
32	3	19787 Sepia Square	Ashburn	20147
33	3	19781 Sepia Square	Ashburn	20147
34	3	19783 Sepia Square	Ashburn	20147
35	3	19777 Sepia Square	Ashburn	20147
36	3	19779 Sepia Square	Ashburn	20147
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46	4	19752 Sepia Square	Ashburn	20147
47	4	19746 Sepia Square	Ashburn	20147
48	4	19748 Sepia Square	Ashburn	20147
49	4	19742 Sepia Square	Ashburn	20147
50	4	19744 Sepia Square	Ashburn	20147
51	4	19738 Sepia Square	Ashburn	20147
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53	5	19796 Sepia Square	Ashburn	20147
54	5	19798 Sepia Square	Ashburn	20147
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56	5	19794 Sepia Square	Ashburn	20147
57	5	19788 Sepia Square	Ashburn	20147
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59	5	19784 Sepia Square	Ashburn	20147
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62	5	19782 Sepia Square	Ashburn	20147
63	5	19776 Sepia Square	Ashburn	20147
64	5	19778 Sepia Square	Ashburn	20147

DATE: 8/30/23

ME: Tessa / Julianne
Savanah / Harper

STANLEY
MARTIN

Your Life is Our Blueprint™

Image #1 /
Typical Building Section



2021 Virginia Construction Code Section 903.3.1.2 NFPA 13R Sprinkler Systems in Group R-2 and R-3 Occupancies

This document was prepared by the State Building Codes Office (SBCO), after receiving multiple requests for clarification regarding the provisions of Section 903.3.1.2 of the 2021 Virginia Construction Code (VCC), to provide additional important information and clarification on the subject.

This document contains informal SBCO staff opinion(s); however, the authority to enforce the code falls under the purview of the local building departments. As such, the local building departments should be consulted regarding requirements for any particular construction project.

Summary

Section 903.3.1.2 of the 2021 IBC includes significant changes regarding when a NFPA 13R sprinkler system is permitted to be installed in group R occupancy buildings. The changes were intended to address podium buildings, but the changes also resulted in significant impacts on other group R-2 and R-3 occupancy buildings. Additional changes are included in the 2024 IBC that provide relief to those buildings.

Background

Construction of group R-2 buildings in accordance with Section 510.2 (a.k.a. podium/pedestal construction) sometimes results in five-or six-story buildings, which raised some concerns related to the use of NFPA 13R sprinkler systems in those buildings, and resulted in the submission of code change proposals to amend the 2021 and 2024 IBC, resulting in some significant changes in both editions of the IBC. The changes in Section 903.3.1.2 of the 2021 IBC were included in the 2021 Virginia Construction Code (VCC), effective January 18, 2024.

2021 IBC Changes

In the 2018 IBC/VCC an NFPA 13R system was permitted to be installed in group R buildings not exceeding 60 feet in height above grade plane. Code change proposal F117-18 amended the 2021 IBC, limiting the use of NFPA 13R systems to group R buildings where the floor level of the highest story is 30 feet or less above the lowest level of fire department vehicle access. The reduced height of 30 feet was selected to correlate with the threshold for requiring standpipes. Testimony during code change hearings also included that the 30 feet limit was derived from

ISO standards which require a 35 feet ground ladder (with an effective height of 30 feet) to be carried on ISO certified fire trucks.

As reasoned by the code change proposal, proposal F117-18 (2021 IBC) intended to address concerns associated with Group R-2 buildings of podium construction, where a 35-foot ladder may not reach the upper stories. However, the changes to the 2021 IBC affect all group R-2 and R-3 buildings by greatly reducing the allowed building height, which in some cases, especially for buildings with ceiling heights greater than 8 feet, may limit construction to three stories.

2024 IBC Changes

Section 903.3.1.2 was further modified in the 2024 IBC via code change proposal F72-21 (which was approved as modified by public comment #3). The changes in the 2024 IBC include (1) increasing the height to 45 feet for Group R-2 occupancies; and (2) requiring that the height to be measured from the lowest level of fire department vehicle access to the roof (with three varying points of measure depending on roof configuration). Requirements *"For other than Group R-2 occupancies"* remain the same as those prescribed by the 2021 IBC.

Note: A cursory review of the Complete Monograph for the 2024 Group A proposed Changes to the I-Codes did not reveal any code change proposals with the intent to further modify the 2024 IFC/IBC Section 903.3.1.2 (for the 2027 IFC/IBC).

2024 Group A proposed Changes to the I-Codes - Complete Monograph:

<https://www.iccsafe.org/wp-content/uploads/2024-Complete-Code-Change-Monograph.pdf>

Applying the Changes to Group R-2 Buildings

Considering the above, in our opinion, under the 2021 VCC, it would be appropriate to apply the group R-2 limitations of 2024 IBC Section 903.3.1.2 to a group R-2 building, and the approval of code modifications in accordance with VCC Section 106.3, based on the provisions set forth by the 2024 IBC, are warranted.

Applying the Changes to Group R-3 Buildings

Although not required, it is common for Group R-3 buildings to be provided with a NFPA 13R system, in accordance with Section 903.3.1.2, to take advantage of the additional story allowed pursuant to Table 504.4. It is important to note that the intent of the 2024 IBC changes was not to require Group R-3 occupancies, which are normally subject to lower levels of regulatory control when compared to Groups R-1 and R-2, to comply with the requirements *"For other than Group R-2 occupancies"*. As reasoned by the proponent of public comment #3, the differentiation between *"other than Group R-2 occupancies"* and *"Group R-2 occupancies"* was

due to “recognizing the different operational, occupant and architectural attributes of R2 vs. R1 occupancies.” (excerpt from the reason statement)

Considering the above, in our opinion, under the 2021 VCC, it would be appropriate to apply the group R-2 limitations of 2024 IBC Section 903.3.1.2 to a group R-3 building, and the approval of code modifications in accordance with VCC Section 106.3, based on the provisions set forth by the 2024 IBC, are warranted.

2021 IBC Resources

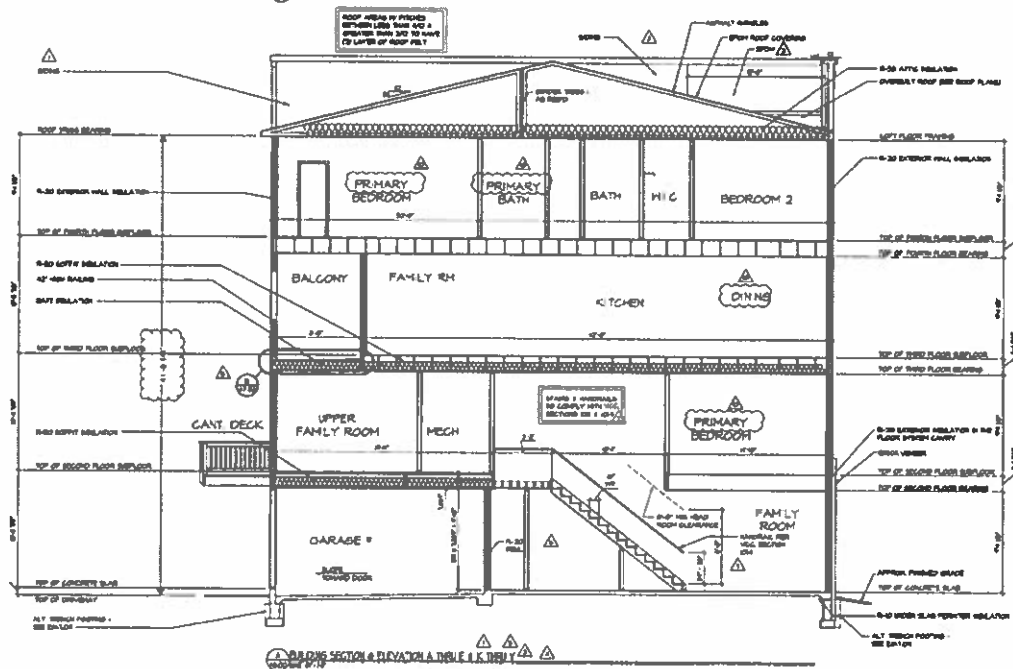
- F117-18 (including public comments): <https://media.iccsafe.org/code-development/group-a/IFC.pdf> (beginning on page 139)
- Committee Action Hearings - video recordings: <https://www.cdpaccess.com/videos/222/>
- Public Comment Hearing - video recordings: <https://www.cdpaccess.com/videos/223/>

2024 IBC Resources:

- F72-21 (including public comments): <https://www.iccsafe.org/wp-content/uploads/IFC-2021-Group-A-2021-Group-A-Aug-13.pdf> (beginning on page 73)
- Committee Action Hearings - video recordings: <https://www.cdpaccess.com/videos/3715/>
- Public Comment Hearings - video recordings: <https://www.cdpaccess.com/videos/4553/>

Please contact the State Building Codes Office with any questions or for additional information at sbco@dhcd.virginia.gov or (804) 371-7150

Image #3



DATE: 8/30/23

NAME: Tessa / Julianne
Savanah / Harper

**STANLEY
MARTIN**
Your Life is Our Blueprint®

Image #1 /
Typical Building Section

Image #4

[F] 903.3.1.2 NFPA 13R sprinkler systems.

Automatic sprinkler systems in Group R occupancies shall be permitted to be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

1. Four stories or fewer above grade plane.
2. For other than Group R-2 occupancies, the floor level of the highest story is 30 feet (9144 mm) or less above the lowest level of fire department vehicle access.

For Group R-2 occupancies, the roof assembly is less than 45 feet (13 716 mm) above the lowest level of fire department vehicle access. The height of the roof assembly shall be determined by measuring the distance from the lowest required fire vehicle access road surface adjacent to the building to the eave of the highest pitched roof, the intersection of the highest roof to the exterior wall, or the top of the highest parapet, whichever yields the greatest distance.

3. The floor level of the lowest story is 30 feet (9144 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 shall be measured from grade plane.

903.3.1.2

NFPA 13R Sprinkler Protection

CHANGE TYPE: Modification

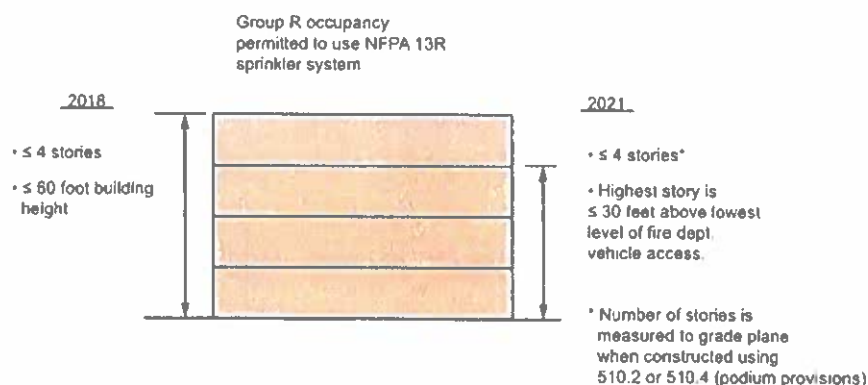
CHANGE SUMMARY: The maximum building height where an NFPA 13R sprinkler system is permitted has been reduced. In addition, where the podium provisions of Section 510 are applied, the story height measuring point has been changed to grade plane.

2021 CODE TEXT: 903.3.1.2 NFPA 13R sprinkler systems. Automatic sprinkler systems in Group R occupancies ~~up to and including four stories in height in buildings not exceeding 60 feet (18 288 mm) in height above grade plane~~ shall be permitted to be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

1. Four stories or fewer above grade plane.
2. The floor level of the highest story is 30 feet (9144 mm) or less above the lowest level of fire department vehicle access.
3. The floor level of the lowest story is 30 feet (9144 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 shall be measured from ~~the horizontal assembly creating separate buildings~~ grade plane.

CHANGE SIGNIFICANCE: An NFPA 13R sprinkler system is intended as a life safety system and is not expected to address all of the property protection concerns. As such, the sprinklers are allowed to be installed only in the occupied areas of the building and are not required to be installed within the attic or other concealed combustible spaces. While the IBC and the NFPA 13R standard both generally allow these systems to be installed in buildings "up to...four stories in height," the IBC has historically allowed measurement from the podium building's "horizontal assembly creating separate buildings." Although the overall height in feet remains consistent, counting the permitted number of stories starting at the podium deck has essentially made the residential sprinkler



Limits for using a 13R sprinkler system.

system now applicable to what is seen from the ground as being a five-or six-story building. This allowance places the unsprinklered attic area of combustible construction at a higher and more difficult level for the fire department to reach or defend. Because of these concerns, the permissible use of an NFPA 13R sprinkler system has been modified to require the story height limit for podium buildings to be made from grade plane instead of from the horizontal assembly separating the upper and lower buildings.

In addition, the 60-foot building height limitation that was measured from “grade plane,” has been replaced with a 30-foot maximum height measured to the floor level of the highest story from the lowest level of fire department vehicle access. This modification will be more restrictive than what has been previously allowed. The 30-foot floor level height and other triggers were selected based on the standpipe requirements found within Section 905.3.1. Using a single scoping limit for both the standpipe and the NFPA13 sprinkler systems makes for a logical point at which additional fire protection is warranted.



This excerpt is taken from *Significant Changes to the International Building Code®, 2021 Edition*. The Significant Changes series takes you directly to the most important changes that impact projects. Key changes are identified then followed by in-depth discussion of how the change affects real-world application. Photos, tables and illustrations are included to further clarify application. Available for the IBC, IRC, IFC, IECC and IPC/IMC/IFGC, the Significant Changes publications are very useful training and review tools for transitioning to a new code edition.

Exhibit 6

Atar
Design Group
Architects - Planners
Columbia, PA 17170-1900

REV	DATE
1.0	11/09/21
2.0	07/05/21
2.1	08/15/21
3	10/17/21
3.0	12/15/21
3.1	03/09/22
3.2	08/03/22
4.0	03/01/24

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BEAZER HOMES

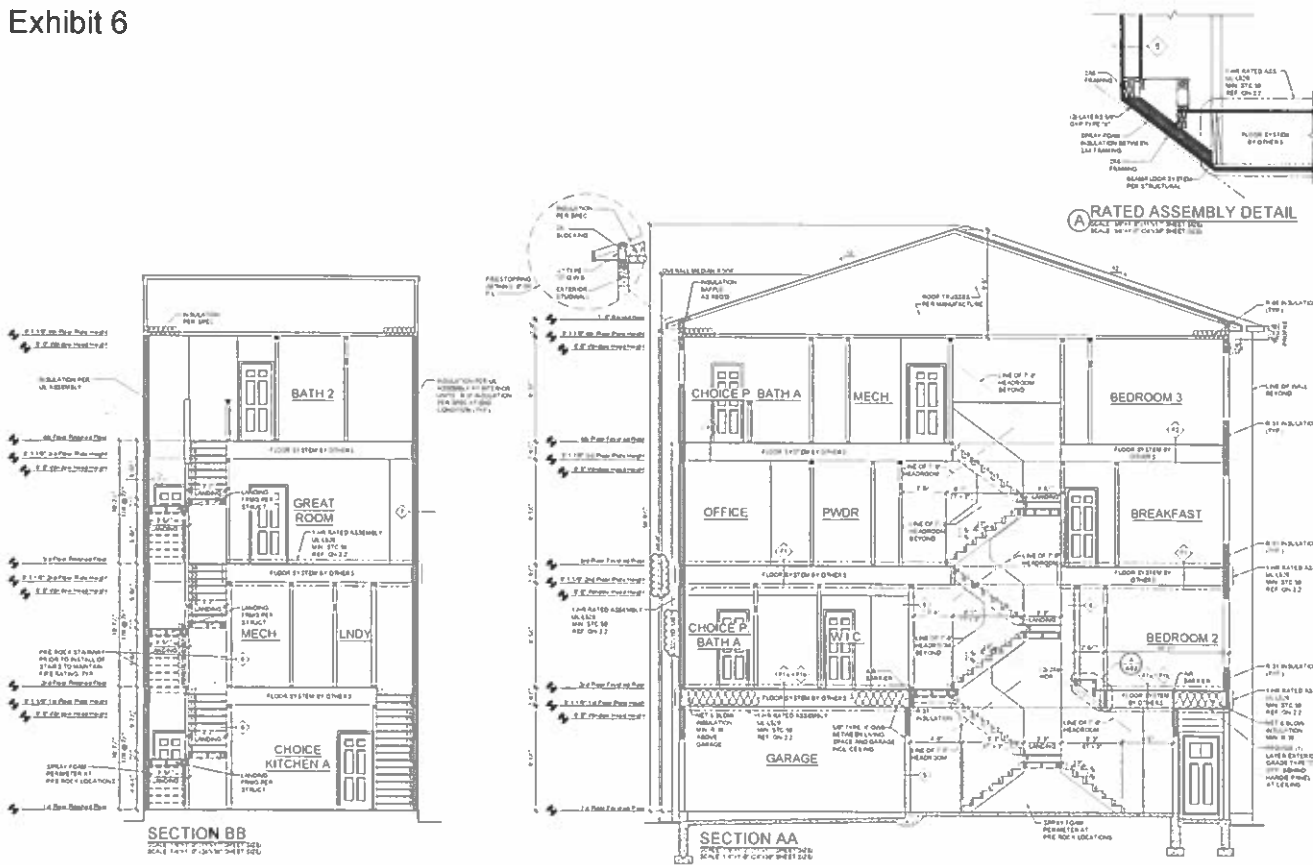
VGA C464/C463/462 4.0

Typical Sections

Sections

2 OVER 2 CONDOS AT BELMONT

Prep By: ADG
Checked By: BZH
Date: 10-08-21
Sheet Number: A-6.0



F117-18

IFC: 903.3.1.2 (IBC[F] 903.3.1.2)

Proposed Change as Submitted**Proponent:** Stephen DiGiovanni, representing self (sdigiovanni@clarkcountynv.gov)**2018 International Fire Code****Revise as follows**

903.3.1.2 NFPA 13R sprinkler systems. ~~Automatic sprinkler systems in Group R occupancies up to and including four stories in height in buildings not exceeding 60 feet (18 288 mm) in height above grade plane shall be permitted to be installed throughout in accordance with NFPA 13R. The 13R where the Group R occupancy meets all of the following conditions:~~

1. Four stories or less above grade plane.
2. The floor level of the highest story is 30 feet (9114 mm) or less above the lowest level of fire department vehicle access.
3. The floor level of the lowest story is 30 feet (9114 mm) or less below the lowest level of fire department vehicle access.

~~The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 of the International Building Code shall be measured from the horizontal assembly creating separate buildings grade plane.~~

Reason: The recent fires in Group R occupancies, both occupied and under construction, requires revisiting the applicable code requirements.

One major concern is the affect of the recent advent of podium-style buildings, and how the code has changed to allow NFPA 13R sprinkler systems to heights that exceed the original scope of NFPA 13R. The scope of NFPA 13R, 2007 edition, reads "This standard shall cover the design and installation of automatic sprinkler systems for protection against fire hazards in residential occupancies up to and including 4 stories in height". In 2013, the scope of NFPA 13R was changed to read "This standard shall cover the design and installation of automatic sprinkler systems for protection against fire in residential occupancies up to and including four stories in height in buildings not exceeding 60 feet (18 m) in height above grade plane."

This followed a change in the 2009 IBC that greatly expanded the use of the podium concept. After the expansion of the podium concept, the increase in height for NFPA 13R systems was permitted, leading us to where we are today. Today, 5 and 6 story height buildings can be created, where the separate podium building is one or two stories (measured from grade plane) and the other separate building, atop the podium building, is 4 stories as measured from the podium, all protected with NFPA 13R fire sprinklers.

There is a big difference in the protection provided between NFPA 13R and NFPA 13 systems, in the required design density and areas covered by fire sprinklers. Allowing the NFPA 13R sprinkler system for these taller podium style buildings leads to a significant decrease in the protection being provided by automatic fire sprinklers, versus what was required prior to the code changes referenced above.

When determining a suitable trigger for height to propose for this code section, a review of other parts of the code led to the requirements for when standpipe systems are required per Section 905.3.1. Philosophically, standpipe systems would be required where travel distance by responding fire fighters is long enough that hose lines fed directly from fire engines may not reach the fire, so that fire hose would need to be carried into the building, for connection to an outlet that is closer to the fire. The decision to trigger the requirement for a standpipe would represent a recognition of an increased building hazard, which in this can be adapted as a means to determine the break point between allowing a NFPA 13R sprinkler system, and requiring a NFPA 13 sprinkler system.

Cost-wise, the infrastructure, such as main pipe sizes, required to install a standpipe system, would ease the impact of requiring the sprinkler system to be NFPA 13, rather than NFPA 13R. While there would be significant argument that the pipe sizes would all have to be increased in order to change from NFPA 13R to NFPA 13, which would clearly increase costs, this increase is tempered by the fact that the pipe sizes required to comply with the standpipe system are so large that the NFPA 13 sprinkler design can very easily be accommodated with little to no increase in pipe sizing. In other words, by using the same requirement for when a standpipe system is required, the impact of requiring a NFPA 13 system, versus 13R, is substantially reduced.

For this reason, the proposal is to use the trigger for installation of a standpipe system, per existing Section 905.3.1, as the upper limit for permitting the installation of NFPA 13R systems, and by default creating the trigger for switching the sprinkler system to a NFPA 13 sprinkler system in Group R occupancies.

In summary, this proposal intends to address the recent fire history in Group R occupancies, especially those built with the podium concept, and seeks to increase the protection required in these buildings. The proposal utilizes the same trigger for requiring a standpipe system, for the point where the sprinkler system would have to change from NFPA 13R design, to NFPA 13 design. While there is still an increase in cost, this increase is greatly minimized due to the already existing requirement for standpipe systems.

Cost Impact: The code change proposal will increase the cost of construction

This proposal will increase construction costs by requiring NFPA 13 sprinkler systems in some situations where NFPA 13R sprinkler systems are currently permitted. There is no doubt that, due to the difference in water flow required, additional sprinkler requirements, and other requirements in the NFPA standards, that the cost of NFPA 13 sprinkler systems is higher than the cost of NFPA 13R sprinkler systems. Some of this cost is mitigated by aligning the new requirement to the requirement for installing a standpipe system, which already would represent greater flow capacity for the building, ostensibly requiring larger diameter mains already; however, even with this mitigating factor, there is little doubt that this code change would represent an increase in overall construction costs.

F117-18

Cost Impact: The net effect of the public comment and code change proposal will decrease the cost of construction

Requiring a NFPA 13R system instead of a 13 system for a multifamily building can save over \$2,100/unit. (*Home Innovation Research Labs, Cost Analysis of Proposed Group A Code Changes (2018-2019 ICC Code Development Cycle) – October 2018*). This would have a substantial impact on both tenant rental rates and owner-occupied units.

A detailed cost analysis is included with the original proposal.

Public Comment# 2711

Public Comment 3:

IFC: 903.3.1.2; IBC: [F] 903.3.1.2

Proponents: Jeffrey Shapiro, representing Self (jeff.shapiro@intlcodeconsultants.com) requests As Modified by Public Comment

Replace as follows:

2021 International Fire Code

903.3.1.2 NFPA 13R sprinkler systems. Automatic sprinkler systems in Group R occupancies shall be permitted to be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

1. Four stories or less above *grade plane*.
2. For other than Group R-2 occupancies, the floor level of the highest story is 30 feet (9144 mm) or less above the lowest level of fire department vehicle access.

For Group R-2 occupancies, the roof assembly is less than 45 feet (13716 mm) above the lowest level of fire department vehicle access. The height of the roof assembly shall be determined by measuring the distance from the lowest required fire vehicle access road surface adjacent to the building to the eave of the highest pitched roof, the intersection of the highest roof to the exterior wall, or the top of the highest parapet, whichever yields the greatest distance.

3. The floor level of the lowest story is 30 feet (9144 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 of the International Building Code shall be measured from *grade plane*.

2021 International Building Code

[F] 903.3.1.2 NFPA 13R sprinkler systems. Automatic sprinkler systems in Group R occupancies shall be permitted to be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

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3. The floor level of the lowest story is 30 feet (9144 mm) or less below the lowest level of fire department vehicle access.

The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 shall be measured from *grade plane*.

Commenter's Reason: When Proposal F117-18 was considered and approved last cycle, changing the limit for NFPA 13R systems to the current 30-foot value, the justification provided in the proponent's reason statement was entirely oriented towards addressing concerns with pedestal style buildings, and the chosen 30-foot threshold for triggering NFPA 13 protection was justified based on correlation with the trigger value for requiring standpipes. The logic offered was that standpipes require larger supply and riser piping, so the cost of upgrading to NFPA 13 protection would already be partially offset. While that's true, the piping cost offset versus the overall cost of increasing to NFPA 13 protection is insignificant. No specific life-safety or property protection basis or loss data justified the 30-foot threshold versus a few feet in either direction. Nevertheless, the approach of simply changing the current value to 35 feet doesn't address a bigger issue with the current provisions.

What was overlooked in selecting the current threshold is the common use of mezzanines in upper levels of Group R2 occupancies. From the

exterior, a mezzanine level in the 4th story would appear to be a 5th story, and such mezzanines often include a sleeping area. Yet, the current threshold would allow a NFPA 13R system to be used if the floor level of the 4th floor does not exceed the 30-foot limit. Meanwhile, a building not having mezzanine levels with a slightly higher 4th floor level, perhaps due to a slightly sloping lot and a lower fire-department access road, would be forced into using NFPA 13. The requirement to use a higher level of fire protection for a lesser risk condition makes no sense and is not justified.

This public comment offers a different approach modeled after what has already been approved by the ICC membership to address attic protection in NFPA 13R buildings in Section 903.3.1.2.3 in the 2018 edition. The approach triggers NFPA 13 protection based on the height of the attic, set at a threshold of 45 feet to reasonably allow a typical 4-story apartment building with 9-foot ceilings and 1-foot floor ceiling assemblies. The additional 5 feet accommodates the height of a grade-level slab and downward slope away from a building on a nearly-flat lot to accommodate drainage in the distance between the building and a fire access road, from which the lowest level of fire department vehicle access is measured.

In summary, this public comment will close the loophole that currently exists in the text that was added to the code in the 2021 edition, permitting a 13R protected building to have a 55-foot attic height with a tall 4th floor mezzanine without attic protection as long as the floor level of the highest occupied floor isn't over 30 feet above the lowest level of fire department vehicle access. In approving this proposal, the code will still strictly limit the permissible use of NFPA 13R to R2 occupancies that don't exceed 4 stories and which cannot include a combination of tall ceilings and upper level mezzanines. The proposal has been limited to R2 occupancies recognizing the different operational, occupant and architectural attributes of R2 vs. R1 occupancies.

Although I am a consultant to NFSA and NFSA supported the original proposal, this public comment is my own, based on having been involved in developing ICC's fire protection requirements for multifamily buildings for over 20 years, and it is not submitted on NFSA's behalf.

Cost Impact: The net effect of the public comment and code change proposal will not increase or decrease the cost of construction. This proposal cannot be specifically tied to increasing or decreasing the cost of construction, as its application is dependent on architectural choices that may or may not lead to a change in cost vs. the cost of compliance with the 2021 edition. In some cases, such as tall buildings with mezzanines, a cost increase could be experienced. In other cases, a cost reduction could be experienced, the proposal may have no impact on cost.

Public Comment# 2976

Documents Submitted
By
Loudoun County

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Date: September 16, 2024

To: Loudoun County Board of Building Code Appeals

From: Raymond Rinaldi, Deputy Building Official

RE: Response to Appeal Filed by Stanley Martin Homes and Beazer Homes

On 8/30/2024 the Loudoun County Building Official denied a modification request by Stanley Martin Homes and Beazer Homes. The modification request is based on requirements in the 2024 International Building Code and a staff opinion provided by the Virginia Department of Housing and Community Development.

Background

Section 903.3.1.2 of the 2018 International Building Code (IBC) allows Group R buildings to be built not exceeding 60 feet to the highest floor level above the lowest level of fire department access while utilizing a NFPA 13R sprinkler system.

The 2021 IBC 903.3.1.2 reduced the height of the floor level to 30 feet above the lowest level of fire department access while utilizing a 13R sprinkler system. Upon adoption of the 2021 IBC into the Virginia Construction Code, no further amendments or changes were made.

The 2024 IBC retains the 30 foot height requirement for Group R. However, there is an exception for Group R-2.

In early 2021 The Virginia Department of Housing and Community Development (DHCD) issued a staff opinion stating the application of IBC 2024 903.3.1.2 requirements for Group R-2 would be appropriate for Group R-3.

Basis for Denial of the Code Modification

1. The code requirements of the 2021 IBC Section 903.3.1.2 are prescriptive and codified by the Virginia Uniform Statewide Building Code effective January 18th 2024.
2. Requirements in the 2024 IBC 903.3.1.2 are not changed from the 2021 edition, except for Group R-2. Group R-3 is not separately addressed from Group R.

3. The staff opinion issued by DHCD does not carry the weight or authority of adopted code.
4. The DHCD staff opinion does not provide evidence or justification for why using Group R-2 requirements is appropriate for Group R-3.
5. A specific set of requirements or an exemption for Group R-3 was not proposed in the F117-8 ICC Code Change Proposal (2018 Code). No concerns for the building height as it relates specifically to Group R-3 and the use of a NFPA 13R sprinkler system were brought forward in the public comments.
6. The F72-21 ICC Code Change Proposal recommended a height of 35 feet above the lowest level of fire department access for Group R buildings. This change was disapproved by the committee. Ultimately, the height 30 feet was maintained for Group R buildings utilizing a NFPA 13R sprinkler system. However, an exception was approved for Group R-2 buildings. There are no public comments concerning Group R-3 specifically.

Loudoun County
Local Appeals Board
September 24, 2024
Meeting Minutes

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Loudoun County Department of Building and Development Building Code Appeals Board Minutes

Date: September 24, 2024

Appeal Number: 2024-1

Place: Loudoun County Building Code Enforcement Office, 1503 Edwards Ferry Rd.

Voting Members: Phil Mahoney (Board Chair), Tom Harbin (Vice Chair), Mike Larkin (Board member-at-large), Isa Saah (Board member-at-large), Wayne Smith (Board member-at-large), Dan Sweeney (Board member-at-large),

Staff Present: Raymond Rinaldi, Garrett Walker, Maureen Creager

Call to Order: 7:00 pm

Issue: Denial of a code modification to use the 2024 IBC code section 903.3.1.2

Beazer and Stanley Martin Homes have requested a code modification for their 2 over 2 Stacked Group R-3 condominiums using the provisions of the 2024 IBC 903.3.1.2 for Group R-2 buildings

Code Official Comments:

1. The code requirements of the 2021 IBC Section 903.3.1.2 are prescriptive and codified by the Virginia Uniform Statewide Building Code effective January 18th 2024.
2. Requirements in the 2024 IBC 903.3.1.2 are not changed from the 2021 edition, except for Group R-2. Group R-3 is not separately addressed from Group R.
3. The staff opinion issued by DHCD does not carry the weight or authority of adopted code.
4. The DHCD staff opinion does not provide evidence or justification for why using Group R-2 requirements is appropriate for Group R-3.
5. A specific set of requirements or an exemption for Group R-3 was not proposed in the F117-8 ICC Code Change Proposal (2018 Code). No concerns for the building height as it relates specifically to Group R-3 and the use of a NFPA 13R sprinkler system were brought forward in the public comments.
6. The F72-21 ICC Code Change Proposal recommended a height of 35 feet above the lowest level of fire department access for Group R buildings. This change was disapproved by the committee. Ultimately, the height 30 feet was maintained for Group R buildings utilizing a NFPA 13R sprinkler system. However, an exception was approved for Group R-2 buildings. There are no public comments concerning Group R-3 specifically.

Appellant Comments:

1. Brian Camden presented for both Beazer and Stanley Martin Homes (See exhibits)
2. Beazer and Stanley Martin Homes (Appellant) believe the staff opinion issued by DHCD should be considered as adequate for approval.
3. Brian Camden stated that the code change in 2021 is targeted toward podium buildings with R-2 built on top and the change is not applicable to R-3. R-3 construction is smaller and has less stringent requirements. Group R-3 should have its own exemption, and he has been seeking clarification from the state for some time.
4. Bill Foliaco presented significant change documentation from the ICC. (See Exhibits) Bill stated that R-3 is much safer than R-2 due to being compartmentalized and no common space. The DHCD staff opinion is not an interpretation and is stated clearly.

Board Comments:

1. Mike Larkin stated the requirements in the 2021 and 2024 codes are prescriptive and clear. If the county were to allow the construction to follow the DHCD staff opinion, the county could be held accountable if there is an incident.
2. Wayne Smith stated the code needs to be changed to exempt Group R-3 and this issue should be properly addressed by the state.
3. Isa Saah stated this would not fit into the alternative method provision in the USBC. This is a clear code requirement and not an interpretation.
4. Mike Larkin, motion to uphold the decision of the code official. Second by Wayne Smith.
5. Discussion by board members.
6. Unanimous vote by the board to uphold the decision of the code official in accordance with the BBCA bylaws. Code official applied the code correctly based on the 2021 code.

Adjournment: Preston Harbin adjourned meeting at 7:48 PM.