

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

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

DECISION OF THE REVIEW BOARD

I. Procedural Background

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

II. Case History

On 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.

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 “*Based on jurisdiction*”. No other

explanation was provided in the written decision of the local appeals board. On March 14, 2025, Valdez further appealed to the Review Board.

Appearing at the Review Board meeting for Valdez was Victor Valdez. Appearing at the Review Board meeting for the City of Virginia Beach were Kenneth Pravetz, Fire Chief and Dana Harmeyer, legal counsel.

III. Findings of the Review Board

A. 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 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 argued 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.

The City argued what it believed was the scope of authority of the Review Board. The City also argued that Valdez lacked standing to file the appeal in accordance with VSFPC Section 112.5 *Application for appeal* because Valdez was not “the *owner* of a structure, the owner’s agent or any other person involved in the maintenance of the structure, or activity.”

Valdez argued what he believed to be the cause of his removal. The City argued that Valdez was removed from the position of City Fire Official for just cause and was given the opportunity to be heard by and before the appointing authority which is the City Fire Chief. The Review Board did not rule on whether just cause existed or whether Valdez was afforded an opportunity to be heard.

The Review Board found that the case was properly before the Review Board, the Review Board did have jurisdiction to hear the case, and according to VSFPC Section 112.5

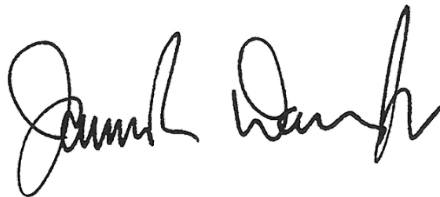
Application for appeal, Valdez lacked standing to file the appeal because appeal rights are limited to building owners pursuant to VSFPC Section 112.5 *Application for appeal*.

IV. Conclusion

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

A. 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 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.

The Review Board upholds the decision of the local appeals board while modifying the decision because the appeal is properly before the Review Board and the Review Board does have jurisdiction to hear the case. According to VSFPC Section 112.5 *Application for appeal*, Valdez lacks standing to file the appeal because appeal rights are limited to building owners pursuant to VSFPC Section 112.5 *Application for appeal*; therefore, the appeal is dismissed.



Chair, State Building Code Technical Review Board

Date entered ____ July 18, 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.