

2023 ANNUAL REPORT

LOCAL BOARD OF BUILDING CODE APPEALS

December 19, 2023

1. Current Members and Terms

i *Tommy Davis- Chair, Robert Easter, Jeremy Davis, Justin White, and Charles Field*

2. By-Laws

i *Include/attach a copy of the body's most recent by-laws or rules of procedure. (See Attachment)*

3. Attendance Records

i *Include a 2023 attendance record here or fill out the spreadsheet provided separately and attach to report. (See Attachment)*

4. Dates of Meetings

i *February 15, 2023 and January 17, 2024*

5. Expectations and Responsibilities of Board/Commission Members

i *The Local Board of Building Code Appeals primary duty is to participate in appeal hearings when appeals are filed to the local boards to render decisions on such appeals. The role of the Board Member is to listen to the testimony and review the evidence presented by the parties in an appeal and to ultimately decide on the outcome of the case. Board Members are to also meet as necessary to assure a duly constituted board, appoint officers as necessary, and receive such training as may be appropriate from the staff of the locality.*

6. 2022 Projects

i *No Projects performed*

7. Legislation and Policy Recommendations

i *No Changes recommended*

Attendance Record 2023

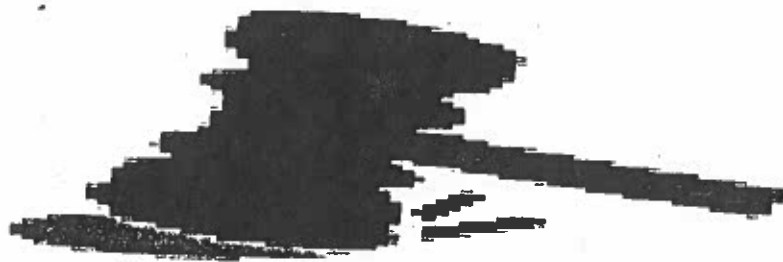
Local Board of Building Code Appeals

X = Present

	NAME	1/18/2023	2/15/2023	3/15/2023	4/19/2023	5/17/2023	6/21/2023	7/19/2023	8/16/2023	9/20/2023	10/18/2023	11/15/2023	12/20/2023	#	%
1	Thomas Davis		X											1	9.1%
2	Robert Easter													0	0.0%
3	Jeremy Davis		X											1	9.1%
4	Justin White		X											1	9.1%
5	Charles Field		X											1	9.1%
6														0	0.0%
7														0	0.0%
8														0	0.0%
9														0	0.0%
10														0	0.0%
11														0	0.0%
12														0	0.0%
13														0	0.0%
14														0	0.0%
15														0	0.0%
16														0	0.0%
17														0	0.0%
18														0	0.0%
19														0	0.0%
20														0	0.0%
21														0	0.0%
22														0	0.0%
23														0	0.0%
24														0	0.0%
25														0	0.0%
# in Attendance:		0	4	0	0	0	0	0	0	0	0	0	0	0	0.0%

Local Board of Building

Code Appeals



BY LAWS & PROCEDURES

City of Richmond
Department of Community Development
2002



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BYLAWS

Local Board of Building Code Appeals (BBCA)

Article 1. Officers

- 1-1 The BBCA shall consist of eight regular members. Three alternate members may be appointed to serve in the absence of any regular member. Alternate members shall have the full power and authority of the regular members.
- 1-2 Members will be appointed by the City Council for a two-year term with unlimited reappointments.
- 1-3 The members of the BBCA shall be selected on their ability to render fair and competent decisions regarding the application of the Virginia Uniform Statewide Building Code (USBC).
- 1-4 The members of the BBCA should represent different occupational or professional fields. This should include an experienced builder, licensed architect, professional engineer and an experienced property manager.
- 1-5 A chairman shall be selected annually at the first board meeting in October.
- 1-6 In the absence of the chairman at a hearing, the members present shall elect an acting chairman.
- 1-7 The Building Commissioner shall designate the secretary of the board.
- 1-8 The chairman shall preside at meetings and hearings, shall decide points of order or procedure, shall appoint any committees that are found to be necessary and seek advice from any other established board.
- 1-9 The secretary shall handle correspondence subject to these rules and at the direction of the board; shall send out notices required by these rules; shall keep the minutes of the board's proceedings; and shall keep a file on each appeal, which comes before the board.

Article 2. Meetings

- 2-1. Regular meetings of the local board of appeals for the hearing of cases shall be held on the third Wednesday of each month at 10:00am, unless no cases are pending in which instance no meeting shall be held.
- 2-2 The BBCA shall meet within 30 calendar days after receipt of the application for appeal, or a longer period of time if agreed to by all parties to the appeal.

- 2-3 Notice indicating the time and place of the hearing shall be sent to the parties in writing at least 14 calendar days prior to the date of the hearing.
- 2-4 The chairman, may call special meetings provided at least five (5) days written notice of such meeting is given each member.
- 2-5 Five (5) members of the board shall be required to constitute a quorum. A majority vote of those present will be required to render a decision.
- 2-6 If a quorum is not present at any meeting, those present may adjourn the meeting to another day. An applicant can choose to have the case heard in the absence of a quorum, but no official action can be taken by the BBCA until a quorum is present at a subsequent meeting.
- 2-7 Business conducted at meetings of the board shall follow Robert's Rules of Order, unless otherwise indicated in these rules or in state law/regulations.
- 2-8 The board may adjourn a meeting if all applications or appeals cannot be disposed of on the meeting day, and no further notice shall be necessary for a continuation of such meeting.

Article 3. Procedures for Hearing Appeals

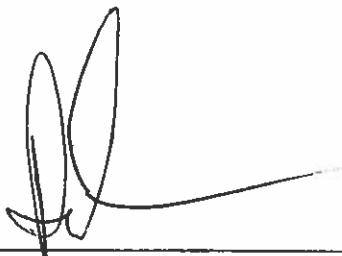
- 3-1 Appeals to the local board of appeals shall be filed with the secretary of the BBCA on a form provided by the board along with all papers and exhibits constituting the record of action upon which the appeal is based.
- 3-2 All appeals must be received within twenty-one (21) calendar days from the applicant's receipt of the decision to be appealed pursuant to Part III of the USBC and ninety (90) calendar days for appeals filed pursuant to Part II of the USBC.
- 3-3 The board of appeals is open to the public. All persons whose interests are affected by the appeal shall have an opportunity to be heard, as provided in these rules of procedures and as determined by the chairman.
- 3-4 Nine copies of all supporting documentation must be submitted no later than 14 days prior to the scheduled hearing in order for the documentation to be considered for review by the board.
- 3-5 The applicant shall provide the secretary with all information supporting the appeal on the form provided by the board and any such additional information and data as may be required to advise the board fully with reference to the application for appeal.


- 3-6 Each appeal application must state clearly the reason for the appeal by (1) detailing how the application of the USBC was not correctly applied and/or, (2) detailing how the applicant's requested modification to the provisions of the USBC was improperly refused. All applicable code sections must be specifically cited in the appeal.
- 3-7 The cost of appeals shall be set forth in an ordinance adopted by the City Council.
- 3-8 An application for an appeal filed according to the above shall be assigned an appeal number within five (5) days. The chairman will determine the order in which appeals will be heard.
- 3-9 The secretary of the board shall schedule the appeal. It will be heard within 30 calendar days after receipt of the completed application and fee. She will then notify all interested parties at least 14 calendar days prior to the date of the hearing and give notice including the time, date and place of the meeting to anyone requesting such information.
- 3-10 The appeal will be conducted according to the following procedures and as further provided herein:
- The secretary reads the appeal request; jurisdictional matters are determined by the BBCA; appellant presents their appeal; staff and/or BBCA may then ask questions of the appellant or its witnesses; city presents its case; appellant and/or BBCA may then ask questions of the city and its witnesses; testimony ceases; discussion among board members lead by chairman, chairman closes board discussion, board reviews case and makes its decision with the secretary recording the vote.
- 3-11 The final decision on any appeal to the local board of appeals shall be in the form of a resolution approved by a majority vote, and in compliance with the USBC section on appeals.
- 3-12 The board resolution shall state that the board (1) upholds, reverses or modifies the code official's decision concerning application of the USBC, or (2) that it upholds, reverses or modifies the code official's decision to refuse to grant a modification to the provisions of the USBC. Any modification of the code official's decision by the BBCA should be stated clearly in the resolution.
- 3-13 The board shall notify the interested parties and the code official of the decision within seven (7) days after signing of the resolution by the chairman, and in any event, within fourteen (14) days after the meeting in which the decision is made and within sixty (60) days of the date on which the application for appeal was filed.
- 3-14 Detailed procedures are provided on pages 6-7 and are fully incorporated herein.

Article 4. Records and Miscellaneous

- 4-1. The secretary shall keep a complete file on each appeal as part of the records of the local board of appeals.
- 4-2. All records of the board shall be public records as determined by the Virginia Freedom of Information Act.
- 4-3. Proposed amendments to these by-laws and procedures may be adopted by the board by a majority vote.
- 4-4. The by-laws and procedures are hereby adopted pursuant to section 122.0 of the Virginia Uniform Statewide Building Code.

Attest: Jan 20



Chairman


Secretary

Date: 6.19.02

Recorded Vote: 6 0 0
Yes No Abstain

Procedures

Many of the specific requirements are contained in the USBC. In addition procedures may be established by the bylaws of the board and others are standard practice for all quasi-judicial boards. Typically there are two separate parties involved; the appealing party, and the code official. An overview of a proceeding is set out below:

- (1) Once an appeal has been requested in *writing*, with the applicable *fee* the board must meet within 30 days to take action on the appeal.
- (2) Notice of the meeting date is sent to those involved at least two weeks before the day of the meeting.
- (3) Order of events for hearing an appeal is as follows:
 - a. The chairman or another member of the board should serve as a presiding officer at the appeal hearing and opens the hearing. A quorum (five members) of the board must be present to conduct business.
 - b. Jurisdictional issues may be raised by those involved or by members of the board and should be dispensed with prior to hearing an appeal on its merits. *Jurisdictional issues are as follows:*
 1. *Whether the appealing party has a right to appeal under the regulation.*
 2. *Whether the time frame for submitting an appeal has been met.*
 3. *Whether the issue in question is appealable under the applicable regulation.*
 - c. Objections by those involved in the appeal to any proceeding or documents may be ruled on by the chairman.
 - d. If the board determines that the appeal is properly before the board, the appealing party and the City will be given an opportunity for oral argument on their positions in the appeal. Each party may also have witnesses testify to the board. The chairman shall determine the order in which the parties witnesses testify. The chairman has the discretion to determine whether testimony is repetitious or irrelevant and may rule that it should cease or be limited. *No additional documents will be allowed to be submitted to the board (except visual aids that are too large to be copied).* Any person who testifies shall limit their testimony to no more than 20 minutes.
 - e. After the testimony of any person the board and/or the opposing party may ask questions of that person under the direction of the chairman.

- f. **Brief summary comments may be permitted by the chairman if warranted and the hearing then closed. No additional testimony will be taken. Board deliberations will follow, and the parties will be notified of the decision of the board through a written resolution.**

- h. **The vote of each member will be taken by the secretary and recorded.**

Administrative Responsibilities

What are the administrative responsibilities of the Local Board of Building Code Appeals (BBCA)?

The BBCA shall:

- (1) Hear appeals when properly presented;
- (2) Keep minutes of its proceedings, which include the vote of each member on each question, and records of its deliberations and other official actions;
- (3) File its records in the office of the board and maintain them as a public record;
- (4) Hold meetings that are open to the public at the call of the chairman and at such other times as the board may determine; and
- (5) Annually elect a chairman to preside over appeals hearings.

The Virginia Conflict of Interests Act (*§ 2.2-3100 et seq of the Code of Virginia*) provides standards of conduct for members of the BBCA.

Board members should refer questions in writing to the board's legal counsel if a member is concerned that a particular matter before the board may create a conflict of interest for that member.

Frequently Asked Questions

1. What is the Local Board of Building Code Appeals (BBCA)?

A quasi-judicial body *established under state law* to rule on disagreements between the local enforcers of the Virginia Uniform Statewide Building Code and those persons being regulated under the code.

Code of Virginia Chapter 6 §36-105

2. Why does the BBCA exist?

Disagreements inevitably arise in the enforcement of any regulation. The board of appeals is established to provide a means of having a decision of a code official reviewed by an independent body to assure that the applicable code is being properly interpreted.

3. What is the legal authority for creating the BBCA?

The provisions of state law providing for the BBCA are set out in *Chapter 6 (§ 36-97 et seq.)* of the Code of Virginia.

4. What are the powers of the BBCA?

The power of the BBCA is to, *rule on the application of the USBC* by the code official. In exercising these powers, the BBCA *may reverse, or uphold, wholly or partly or modify any decision under review* as well as to determine whether an appeal is properly before them.

Code of Virginia Chapter 6 -§36-105

USBC 122.5

5. What are the consequences of the actions of the BBCA?

The board may uphold the decision of the code official in which case the appealing party has a right to further the appeal to the *State Building Code Technical Review Board*, a governor appointed board within the Virginia Department of Housing and Community Development.

USBC 122.8.1



Resolution

WHEREAS, the Local Board of Building Code Appeals is duly appointed to resolve disputes arising out of enforcement of the Virginia Uniform Statewide Building Code and the BOCA National Property Maintenance Code/1996.

WHEREAS, an appeal has been filed and submitted to the board of appeals and

WHEREAS, a hearing has been held to consider the aforementioned appeal; and

WHEREAS, the board has fully deliberated on this matter; now, therefore, be it

RESOLVED, that in the matter of

Appeal No. _____

In RE: _____

The decision of the code official is hereby _____, for the reasons set out below:

The vote was - Uphold _____ Reverse _____ Modify _____

Date _____

Signature of Chairman of the Board _____

“Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such Board within 21 calendars days.”



Resolution

WHEREAS, the Local Board of Building Code Appeals is duly appointed to resolve disputes arising out of enforcement of the Virginia Uniform Statewide Building Code and the BOCA National Property Maintenance Code/1996.

WHEREAS, an appeal has been filed and submitted to board of appeals and

WHEREAS, a hearing has been held to consider the aforementioned appeal; and

WHEREAS, the board has fully deliberated on this matter; now, therefore, be it

RESOLVED, that in the matter of

Appeal No. _____ (1) _____

In RE: _____ (2) _____

The decision of the code official is hereby _____ (3) _____, for the reasons set out below:

_____ (4) _____

The vote was - Uphold _____ Reverse _____ Modify _____

Date _____ (5) _____

Signature of Chairman of the Board _____ (6) _____

“Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such Board within 21 calendar days.”

**Instruction Sheet for Completing
Resolution**

1. **Appeal Number – As listed on the application for appeal**

2. **In RE: - Person requesting the appeal**

3. **Options:**
 - a. **Uphold – the board finds that the code official interpreted and applied the code in accordance with the intentions of the code**
 - b. **Reverse – the board finds that the decision of the code official was not applied in accordance with the intentions of the code, or**
 - c. **Modify - the board finds that the intent of the code was applied, however some modification needs to be in place with this particular case**

4. **Reasons – The board will state its reason(s) i.e.:**
 - a. **Uphold – the provisions of the code was enforced by the code official correctly**
 - b. **Reverse – the provisions of the code was not enforced or was not interpreted properly by the code official, or**
 - c. **Modify – the code official was correct however, the following provisions need to be addressed**

5. **Date – The date that the resolution is signed by the chairman.**

6. **Signature – self-explanatory**



Appeal No: _____

In order for this appeal to be processed a fee of \$25.00 must be paid. Appeal fee is non-refundable.

Application for Appeal

I (we) _____ of _____
(name) (mailing address)

respectfully request that the Local Board of Building Code Appeal review the decision made on _____ by the Code Official.
(date)

I am appealing the following code section(s): _____

Description of Decision Being Appealed: _____

Location of Property Involved: _____

What is the applicant's interest in the property?

- owner
- contractor
- owner's agent
- other (explain) _____

Relief Sought: _____

Attach the decision of the Code Official and any other pertinent documents that will be needed to support your position in the appeal. No additional information will be accepted within 14 days of the scheduled hearing. All documentation must be submitted in sets of nine (9).

Signature of Applicant

Filed at Richmond, Virginia, the _____ day of _____, 20____.



Appeal No: _____ (1)

In order for this appeal to be processed a fee of \$25.00 must be paid. Appeal fee is non-refundable.

Application for Appeal

Richmond
(locality)

I (we) _____ (2) _____ of _____ (3) _____
(name) (mailing address)

respectfully request that the Board of Building Code Appeals review the decision made on _____ (4) _____ by the Code Official.
(date)

I am appealing the following code section(s): _____ (5)

Description of Decision Being Appealed: _____ (6)

Location of Property Involved: _____ (7)

What is the applicant's interest in the property?

- owner
- contractor
- owner's agent
- other (explain) _____ (8)

Relief Sought: _____ (9)

Attach the decision of the Code Official and any other pertinent documents that will be needed to support your position in the appeal. No additional information will be accepted within 14 days of the scheduled hearing. All documentation must be submitted in sets of nine (9). (11)

(12)
Signature of Applicant

(13) Filed at Richmond, Virginia, the _____ day of _____, 20____

Instruction Sheets for Completing

Application for Appeal

1. The secretary of the BBCA will enter the appeals number
 - a. H (Housing) 01 (number received for year) –02 (year) - and tracking number
 - b. C(CAPS) 01 (number received for year) –02 (year) -and tracking number
 - c. B (Building) 01(number received for year) – 02 (year) - and permit number if applicableEXAMPLE: H 01-02-2001020304401, H 02-02-2002030110023, H 03 – 02 - 2002030400506
2. Name: The person making application for an appeal
3. Mailing Address: The address of the applicant who is appealing. This be a current address since correspondence from the board will be mailed to this addressed.
4. Date: The date of the Notice of Violation that is being appealed.
5. Code Section: The applicant must be specific as to what is being appealed. This code section can be either from the Virginia Uniform Statewide Building Code or any of *it's referenced codes* that were used.
6. Description of Decision Being Appealed: Applicant must describe what the issue is that is being appealed.
7. Location of Property Involved: What is the address of the property that is being appealed.
8. Interest in Property - Self-Explanatory
9. Relief Sought - What is the applicant asking of the board
10. All information that the applicant will be using as evidence to substantiate the appeal must be attached to the appeal request. If pictures will be used the applicant must submit nine (9) sets to be used during the hearing.
11. Signature of Applicant - Self Explanatory this must be provided
12. Will be completed by the Secretary of the Board of Appeals
13. Verification that all delinquent real estate taxes on the property have been paid in full.

APPENDIX A

AN ORDINANCE NO. 93-112-154

ADOPTED MAY 24 1993

To amend and reordain Ordinance No. 92-235-203, adopted June 23, 1992, which established the fee schedule for building, electrical, mechanical, plumbing and elevator permits, inspections and certificates, referenced in Chapter 6.1 of the City Code, to reflect an increase in the fee charged for annual elevator inspections.

Patron - City Manager

Approved as to form and legality
by the City Attorney

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. Pursuant to authority granted in Va. Code § 36-105, the City of Richmond, in enforcing and administering the Virginia Uniform Statewide Building Code, does hereby establish as the fee schedule for the issuance of building and other enumerated permits, inspections and certificates, the following:

BUILDING PERMIT FEE SCHEDULE

BUILDING PERMITS

VALUE OF WORK		FEE
FROM	TO	
0	500	\$30.00
500.01	1000	45.00
1000.01	2000	50.00

Special Inspection (request for an on-site inspection not required at the time of the request)

Residential \$25.00
Commercial \$50.00

ELEVATOR INSPECTION[S] FEE (ANNUAL FEE):

~~[Annual-Operating-Permit-\$50.00
Annual-Inspection-----\$50.00
Five-Year-Certification--\$50.00]~~

Cable Elevators

1 - 4 Floors/openings \$150.00
5 -10 Floors/openings 175.00
> -10 Floors/openings 200.00

Cable Hydraulic

\$150.00

Hydraulic

\$150.00

Escalator

\$150.00

Miscellaneous

\$100.00

**New Work (includes
reinspection after
lock-out)**

(see New Work
Fee Schedule)

Reinspections (per visit)

\$ 50.00

APPEALS TO THE BUILDING CODE, ELECTRICAL OR PLUMBING BOARD OF APPEALS:

Appeal Fee \$25.00

TRADESMAN CERTIFICATION APPLICATION FEES

Certificate application fee \$40.00
Reissue card \$10.00

BUILDING MAINTENANCE CODE

Certificate of Occupancy \$40.00

FEE FOR AFTER HOURS INSPECTIONS

(Weekdays 5:00 p.m. to 8:00
a.m.; Weekends; Holidays) \$50.00

on" following "subsection A."
ew. — For 2000 survey of Virginia
see 34 U. Rich. L. Rev. 981 (2000).

The Board shall com-
thirty days after receipt
within 100 days thereof
is unable to complete the
complaint, the aggrieved
of the reasons for not

int filed under this chapter,
person who may have any
and to request production of
ing in the possession of any
persons shall be interviewed
es shall have the power to
appear and testify and to
pection and copying. Said
he extent and subject to the
r discovery were ordered or
alth of Virginia. In case of
ay petition for its enforce-
ond. The hearing on such
ver all cases which are not

section, the Board shall

ses;
and other contacts with the
ords;

need if additional evidence

aggrieved person and the
completion of the Board's
ation and any final inves-
c. 566, § 36-94.1; 1991, c.

one year from the receipt of the
the Board" following "reasons for

and effect. — The Board
determine, based on the
Attorney General, whether
atory housing practice has
able to do so or unless the
spect to the complaint. If
ole cause exists to believe
or is about to occur within
aggrieved person and the

respondent shall be notified in writing of the reasons therefor. (1991, c. 557
1998, c. 634.)

The 1998 amendment deleted the former
second sentence which read: "In no event, how-
ever, shall the investigation be extended be-
yond one year from the receipt of the complaint
by the Board" and added the present second
sentence.

§ 36-96.18. Civil action; enforcement by private parties.

Standing. — Fair housing organization
lacked standing to bring suit against an insurer
who discriminated on racial grounds in insur-
ing houses in Richmond, because although the
organization may have been an aggrieved per-
son, it did not suffer an injury different from
that suffered by the general public, its decision
to divert resources to investigate the insurer's

practices was made voluntarily and indepen-
dently of anything the insurer did or failed to do
with respect to minority neighborhoods in Rich-
mond, and its testers suffered no recognizable
injury where they had no interest in actually
purchasing insurance. *Nationwide Mut. Ins
Co. v. Housing Opportunities Made Equal, Inc.*
259 Va. 8, 523 S.E.2d 217 (2000).

CHAPTER 6.

UNIFORM STATEWIDE BUILDING CODE.

Article 1.

General Provisions.

- Sec.
- 36-97. Definitions.
- 36-98. Board to promulgate Statewide Code;
other codes and regulations super-
seded; exceptions.
- 36-99. Provisions of Code.
- 36-99.01. Provisions related to rehabilitation
of existing buildings.
- 36-99.3. Smoke detectors and automatic
sprinkler systems in colleges and
universities.
- 36-99.7. Asbestos inspection in buildings to be
renovated or demolished; excep-
tions.
- 36-99.11. Identification of disabled parking

Sec.

- spaces by above grade signage.
- 36-105. Enforcement of Code; appeals from
decisions of local department; in-
spection of buildings; inspector
warrants.
- 36-105.01. Elevator inspections by contract.
- 36-105.2. (Effective until July 1, 2002) Expe-
dited building plan review pro-
gram.
- 36-106. Violation a misdemeanor; civil per-
alty.

Article 2.

State Building Code Technical Review Board.

- 36-108. Board continued; members.

ARTICLE 1.

General Provisions.

§ 36-97. Definitions. — As used in this chapter, unless the context o:
subject matter requires otherwise, the following words or terms shall have th
meaning herein ascribed to them, respectively.

- "Board" means the Board of Housing and Community Development.
- "Review Board" means the State Building Code Technical Review Board.
- "Building Code" means the Uniform Statewide Building Code and buildin-
regulations adopted and promulgated pursuant thereto.
- "Code provisions" means the provisions of the Uniform Statewide Buildin-
Code as adopted and promulgated by the Board, and the amendments therec
as adopted and promulgated by such Board from time to time.
- "Building regulations" means any law, rule, resolution, regulation, ordinanc
or code, general or special, or compilation thereof, heretofore or hereafte