



HOUSING BOARD OF REVIEW

City of Burlington

149 Church Street Room 11

Burlington, Vermont 05401

(802) 865-7122

HOUSING BOARD OF REVIEW

CITY OF BURLINGTON

NOTICE OF DECISION

Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

Please note that a person aggrieved by a decision of the Housing Board of Review is entitled to appeal to the Chittenden Superior Court. (See Housing Code Section 18-59 and Vermont Statutes Annotated, Title 24, Section 5006.) The court rules may require that such an appeal be commenced within thirty (30) days of the Board's Order.

Unless an appeal is taken, the Board's Order should be complied with before expiration of the thirty (30) day period.

DATED 12/17/19

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

Josh O'Hara
Board Chair

cc: Soon Kwon
William Ward
Patti Wehman
Kim Ianelli
Ita Meno

**CITY OF BURLINGTON, VERMONT
HOUSING BOARD OF REVIEW**

In re: Request for Hearing of SOON KWON)
Regarding the Rental Property at) Appeal from action of
66-68 So. Union Street) Code Enforcement Office

DECISION AND ORDER

The above-named hearing came before the Housing Board of Review on December 2, 2019. Board Chair Josh O’Hara presided. Board Members Patrick Kearney, Patrick Murphy, Olivia Pena and Betsy McGavisk were also present. Petitioner Soon Kwon was present and testified. William Ward, Director of Permitting and Inspections; Patricia Wehman, Housing Manager, Code Enforcement Office at Permitting and Inspections; and Minimum Housing Inspectors Kim Ianelli and Ita Meno were also present and testified.

Upon consideration of the evidence and the applicable law, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

Findings of Fact

1. Petitioner Soon Kwon is the owner of a rental unit, 66-68 South Union Street, in the City of Burlington which is the subject of these proceedings.
2. Petitioner brings this action to appeal the denials of his request for extensions to make repairs in units 3 and 4 at the subject property. In addition, petitioner complained about the lack of notice of the inspections conducted at the property and what he believed was a general lack of communication between the Code Enforcement Office and himself. Petitioner argued in his letter of appeal to the Board that the Orders issued by Code Enforcement are invalid because he was not notified of the initial inspections.

3. On June 5, 2019, the Code Enforcement Office received a complaint from the tenant in unit 4 about multiple issues in the apartment. Ita Meno inspected the premises on June 18, 2019, found violations in the unit and sent an Order to petitioner on June 20, 2019. The Order required petitioner to fix the violations by July 23, 2019 and a re-inspection of the unit was set for that date.

4. On June 19, 2019, the Code Enforcement Office received a complaint from the tenants in unit 3 regarding issues in their apartment. Minimum Housing Inspector Kim Ianelli conducted an inspection of the unit on June 21, 2019, found violations in the unit and sent an Order to petitioner. The Order required petitioner to make repairs by July 23, 2019 and a re-inspection of the property was set for that date.

5. On July 1, 2019, petitioner requested an extension for the re-inspection and date for compliance for unit 4 because he would be out of the country from July 10-26, 2019; Mr. Kwon requested the re-inspection be set for the third or fourth week of August.

6. On July 23, 2019, Inspector Kim Ianelli conducted a re-inspection of unit 3 and Inspector Ita Meno conducted a re-inspection of unit 4. No one was present for petitioner; the tenants in the units allowed the inspectors access for the re-inspection. The inspectors found violations in both units and sent follow up orders on August 8, 2019. Each inspector ordered compliance by September 9, 2019 and each scheduled a second re-inspection for September 9, 2019.

7. A second re-inspection for both properties was conducted on September 9, 2019; petitioner was not present for the inspections.

8. The units were inspected again on October 7, 2019. Petitioner complained that he had no notice of the inspection. Despite his claim that he did not know about the inspections, on

October 18, 2019, petitioner requested an extension from the orders resulting from the inspections based on the fact that he would be out of the country again November 1-10, 2019.

9. Petitioner does not dispute the findings of the Code Enforcement Orders. He has appealed the denials of his requests for extensions and he complains about the lack of communication from the Code Enforcement Office. In addition, petitioner argues that the Orders do not outline violations, but merely state that there are conditions in the units that are not in compliance with the ordinance. The Board finds petitioner's argument is nonsensical. The Orders sent to petitioner clearly outline violations of the minimum housing code found on inspection.

10. The Code Enforcement Office requests that both properties be brought into compliance with the minimum housing standards within 30 days. Code Enforcement points out that petitioner has had almost 6 months since the initial inspections to bring the property into compliance, but has not done so even though he has had time to take 2 vacations during that time period.

Conclusions of Law

11. The Board has the power to reverse or affirm, in whole or in part, any order or other action of the inspector and to make such order, requirement, decision or determination as ought to be made. Minimum Housing Code, Sec. 18-42(d).

12. At the hearing, the Board confirmed that petitioner's request is limited to an extension of time to complete the repairs at the property, not the existence of the violations. Under Sec. 18-25 of the Minimum Housing Code, an Order may require minimum housing code violations to be corrected within 60 days or less. Within 15 business days after the date on which required repairs are to be completed, but no later than 30 days after the order is posted or

received, the Code Enforcement Office shall determine if the order has been complied with; if the order has not been complied with and a written extension has not been granted or an appeal to this Board taken, a report and order will be issued. Minimum Housing Code Sec. 18-27. It is the practice of the Code Enforcement Office to grant extensions for no more than 30 days.

13. Petitioner has requested an extension to complete the repairs at the property. As the Code Enforcement Office correctly points out, petitioner has had almost 6 months to bring the units into compliance. The Board concludes petitioner has had an ample time to make the necessary repairs and denies petitioner's request for extensions.

14. Petitioner argued that he did not receive any letters noting violations at the property. The Board has already determined that petitioner's argument was not convincing. All of the Orders issued by the Code Enforcement Office were sent to petitioner. The fact that the Orders refer to conditions in the apartment as not in compliance with the minimum housing standards does not change the fact that those conditions are violations of the Code. Petitioner's claim that he does not understand that is not believable.

15. Petitioner also argued that the inspections were not valid because he was not notified of them. Sec. 18-24 of the Minimum Housing Code tasks the Code Enforcement Office with investigating complaints of minimum housing code violations. The name of the complainant is considered confidential information. Where any inspection of a property indicates the existence of violations, the minimum housing inspector issues a written order which is sent to the property owner. Minimum Housing Code, Sec. 18-25. In this case, the inspection of each property was based upon a complaint received by the Code Enforcement Office. Therefore, the Code Office was not required to notify petitioner of the inspections. Consequently, petitioner's claim is meritless.

Order

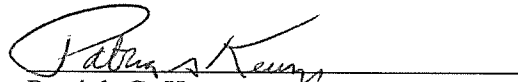
Accordingly, it is hereby ORDERED:


16. The Minimum Housing Orders issued in June, July and August, 2019 with respect to 66-68 South Union Street, Units 3 and 4, are AFFIRMED. Petitioner has 15 days from the date of this Order to make the repairs cited in those orders.


DATED at Burlington, Vermont this 17th day of December, 2019.


CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Josh O'Hara


Patrick G. Kearney


Olivia Pena


Betsy McGavisk


Patrick Murphy