



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street, Suite A
Post Office Box 849
Burlington, VT 05402-0849
802.863.9094 VOICE
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www.burlingtonvt.gov/dpw

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

MEMORANDUM

TO: PUBLIC WORKS COMMISSION
FM: CHAPIN SPENCER, DIRECTOR
DATE: MARCH 10, 2016
RE: PUBLIC WORKS COMMISSION MEETING

Enclosed is the following information for the meeting on March 16, 2016 at 6:30 PM at
645 Pine St – Main Conference Room

1. Agenda
2. Residential Parking Implementation
3. 66 South Union St- Appeal
4. 41 South Willard St – Appeal
5. 40-42 Colchester Ave - Appeal
6. Draft Minutes of 2-17-16

Non-Discrimination

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at 865-7145.



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Chapin Spencer
DIRECTOR OF PUBLIC WORKS

M E M O R A N D U M

To: Hannah Cormier, Clerks Office
From: Chapin Spencer, Director
Date: March 10, 2016
Re: Public Works Commission Agenda

Please find information below regarding the next Commission Meeting.

Date: **March 16, 2016**
Time: 6:30 – 9:00 p.m.
Place: **645 Pine St – Main Conference Room**

A G E N D A

ITEM

- 1 Call to Order – Welcome – Chair Comments
- 2 Agenda
- 3 10 Min Public Forum
- 4 10 Min Residential Parking Implementation Update
 - A Communication, N. Losch & D. Roy
 - B Commissioner Discussion
 - C Public Comment
 - D Action Requested – None

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- 5 20 Min 66 South Union St - Appeal
A Staff Oral Presentation to Commission, N Baldwin
B Oral Presentation, Appellant
C Communication, W. Ward
D Commissioner Discussion
E Public Comment
F Action Requested – Vote
- 6 20 Min 41 South Willard St - Appeal
A Staff Oral Presentation to Commission, N Baldwin
B Oral Presentation, Appellant
C Communication, W. Ward
D Commissioner Discussion
E Public Comment
F Action Requested – Vote
- 7 20 Min 40-42 Colchester Ave - Appeal
A Staff Oral Presentation to Commission, N Baldwin
B Oral Presentation, Appellant
C Communication, W. Ward
D Commissioner Discussion
E Public Comment
F Action Requested – Vote
- 8 5 Min Draft Minutes of 2-17-16
- 9 10 Min Director's Report
- 10 10 Min Commissioner Communications
- 11 Executive Session For Appeals
- 12 **Adjournment & Next Meeting Date – April 20, 2016**



Memo

Date: March 8, 2016

To: Public Works Commission

From: Nicole Losch, Senior Planner
Damian Roy, Engineering Technician

Subject: Residential Parking Plan Implementation

The Residential Parking Management Plan identifies strategies that should be implemented in 0-1 years, 1-3 years, and 3+ years. This is a brief summary of the near-term implementation plan.

Task / Implementation Strategy	Staff involved	Schedule
Amend the ordinance to clarify eligibility for residential permits within existing RPP streets and for corner lots.	Damian Roy, DPW John King, BPD Gene Bergman, Asst. City Attorney	April: First set of ordinance changes will be proposed for Commission consideration. BPD to determine what forms of proof are acceptable to establish proof of primary frontage for a corner lot.
Revise the petition process. Include removal or modification of existing RPP restrictions.	Damian Roy, DPW	April update to the Commission. Require 51 percent of property owners' signatures on petition. Petitioners will have the option to specify time periods for resident-only parking. Current RPP requests do not have complete petitions and will follow the revised process.
Clarify the parking assessment process.	Damian Roy, DPW	April update to the Commission. Current requests for new RPPs will follow the revised process.
Parking meters/pay stations and parking time limits will be	Damian Roy, DPW	On-going change to the RPP / Traffic Request program.

considered by DPW in addition to or in place of new residential permit parking requests.		A neighborhood improvement fund will be considered.
Stripe parking stalls / reduce blocked driveways	Damian Roy, DPW Billy Burns, DPW John King, BPD Gene Bergman, Asst. City Attorney	A Driveway Encroachment Pilot consisting of regulatory changes will begin in 2016 to minimize the potential for blocking driveways and evaluate the need for future striping.
Evaluate existing requests (RFS's) to adjust parking time periods in RPP areas and for new RPP requests.	Damian Roy, DPW	March/April review of RFS list to identify schedule for Commission consideration. Coordinate with residents and the Public Works Commission to communicate the rationale for any changes.
Evaluate parking areas as new RPP requests are received.	Damian Roy, DPW	On-going change to the RPP / Traffic Request program. Will include parking assessment and collaboration with the neighborhood and Commission.
Draft a written document (SOPs) detailing revised procedures for residents interested in the RPP program and for consistent assessments by staff.	Damian Roy, DPW	May presentation to Commission. Upload guidance to City websites.

Before DPW can begin to process RPP requests under the new program, the petition process needs to be very clear. Through April/May 2016, DPW will work with the Department of Planning & Zoning to identify the resources available and the process residents should follow to acquire property owner information and work with the Burlington Policy Department to create a revised petition form. Following the May update to the Public Works Commission, this process will be defined and RPP requests can be processed in June.

Future implementation:

1. Install downloadable RPP Application and Renewal Forms online and work with Champlain College to establish a mechanism for accessing the College's student database for permit verification. (Lead: John King, BPD)
2. Incorporate a fee structure and allocate a maximum number of permits per dwelling unit. Include Identify a specific date at which point all new applications for residential permits, including renewals, will be subject to the new rules. (Lead: John King, BPD. Identify implementation steps and plan throughout summer 2016.)

3. Amend City Ordinances to reduce parking on lawns (Lead: John King, BPD; Bill Ward, Code Enforcement. DPW liaison: Damian Roy, DPW)
 - a. BPD should revoke residential parking permits for the remainder of the year for dwelling units that receive three or more parking ban fines per year in an RPP area. If it remains a significant issue, the BPD will consider raising the fine from \$75 to \$125.
 - b. Remove Chapter 20 Section 55(f), which defines areas that prohibit lawn parking and which is enforced by Code Enforcement. Chapter 20 Section 156, which prohibits parking on lawns or yards in all residential districts, could then be enforced citywide.
4. Mirror the shared parking arrangement process that is recommended in the 2015 Downtown Parking and Transportation Plan. (Lead: CEDO and DPW)
5. Improve Sustainable Transportation Modes (Lead: Nicole Losch, DPW; John King, BPD; CAO and others)
 - a. Discuss directing a portion of ticket revenues towards TDM or sustainable transportation solutions
6. Expand satellite parking and incentivize parking in remote lots (Lead: Nicole Losch, DPW, with Institutions and CCRPC)
 - a. Evaluate Park & Ride progress and new opportunities
 - b. The City should work with the institutions to explore public access to the intercept lots and to campus shuttles traveling between intercept lots and campus.
 - c. The City and the institutions should explore the feasibility of closing central areas of campus to cars to discourage SOV trips around campus.
7. Improve signage and wayfinding – 5 year review (Lead: Damian Roy, DPW; Billy Burns, DPW)
8. Improve enforcement and technology with License Plate Reader consideration. (Lead: John King, BPD)

Attachment: Residential Parking Management Plan Implementation Matrix

Residential Parking Management Plan Implementation Matrix

		Description	Responsible City Department / Agency		Requires Additional Public Process & Commission / Council Action Prior to Implementation
			Lead	Supporting	
General Parking Management Approaches	Strategic Approaches	Improve Sustainable Transportation Modes	DPW	CEDO, Planning, CATMA, CCTA, CCRPC, CarShare VT, Institutions	
		Expand Satellite Parking and Incentivize Parking in Remote Lots	DPW	CEDO, Planning, CATMA, Institutions, CCTA	X
		Improve Signage and Wayfinding	DPW		
	Tactical Approaches	Install Parking Meters / Paystations	DPW	BPD	X
		Implement Parking Time Limits in Non-RPP Areas	DPW		X
		Stripe Parking Stalls	DPW	BPD	
		Improve Lawn Parking Ban Enforcement	BPD	Code Enforcement, DPW	X
		Share Off-Street Parking	DPW	CEDO	

Short-Term Residential Permit Program Strategies					
0-1 year	1	Provide Online Resources: Downloadable Application and Renewal Documents	BPD	DPW	
	2	Establish Residential Parking Permit Periods Based on Supply and Demand	DPW	BPD	X
	3	Evaluate Residential Parking Areas Rather Than Streets	DPW	BPD	X
	4	Streamline the Petition Process	DPW	BPD	
	5	Establish a Process for Removing or Reallocating Residential Permit Parking	DPW	BPD	X
Mid-Term Residential Permit Program Strategies					
1 – 3 years	(1)	Provide Online Resources: Comprehensive Program Information	BPD	DPW	
	6	Revise Program to Incorporate Fee Structure and Allocate Maximum number of Permits per Dwelling Unit	BPD	DPW	X
	7	Establish Construction Permits	BPD	DPW	X
Long-Term Residential Permit Program Strategies					
>3 years	(1)	Provide Online Resources: Online Payment of Permits and Fines	BPD	DPW	
	8	Improve Enforcement and Technology	BPD	DPW	X



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Chapin Spencer
DIRECTOR OF PUBLIC WORKS

Norman J. Baldwin, P.E.
*CITY ENGINEER/ASS'T DIRECTOR OF PUBLIC
WORKS*

March 10, 2016

TO: Public Works Commission

FROM: Norman Baldwin, P.E. *NJB*
Assistant Director-Technical Services

RE: Appeal of Code Enforcement Orders related to Life Safety Requirements for three properties

- 66-68 South Union Street,
- 41 South Willard Street,
- 40-42 Colchester Avenue

Mr.Kwan is the owner of a three properties, 66-68 South Union Street, 41 South Willard Street and 40-42 Colchester Avenue. Mr.Kwon through his attorney Mr.William Towle has sought to appeal Code Enforcements Orders related to Life Safety Requirements for the three properties identified, attached is the request for the appeal to be heard, addressed to Director Spencer dated February 24, 2016. Below is the list of items for each of the properties and each property will be addressed as its own separate appeal.

- Appeal #1 66-68 South Union Street, Code Enforcement Order dated February 19, 2016
 - Item 7-BCO 18-95 Means of Egress
- Appeal #2 41 South Willard Street, Code Enforcement Order dated January 8, 2016
 - Item 10-BCO 18-96 Accumulation and Storage
 - Item 31-BCO 18-99 Smoke Detectors
 - Item 32-BCO 18-95 Means of Egress
- Appeal #3 40-42 Colchester Avenue, Code Enforcement Order dated January 4, 2016
 - Item 2-BCO 18-95 Means of Egress
 - Item 3-BCO 18-95 Means of Egress
 - Item 6-BCO 18-95 Means of Egress

- Item 7-BCO 18-95 Means of Egress
- Item 8-BCO 18-96 Accumulation and Storage
- Item 9-BCO 18-95 Means of Egress
- Item 13-BCO 18-99 Smoke Detectors
- Item 19-BCO 18-98 Fire Protection Systems

Since receiving the appeal I have attempted to schedule this appeal to be heard at the March 16, 2016 Commission meeting. In doing so I have sent notice of the hearing via email, certified mail, as well as hand delivered hard copy notices to Mr.Kwon, and Mr.Towle as legal counsel to Mr.Kwon, all documents were issued and sent on March 7, 2016.

Since issuing the notice I had received an email from Mr.Towle, on the evening of Wednesday March 9, 2016 seeking a request for an alternative date given Mr.Towle had a conflicting deposition. I explained to Mr.Towle that this would be a hardship for our Commission given the Commission had made a point to clear their agenda to accommodate and provide a timely response to this appeal given it relates to life safety requirements. It was at that time that I had committed to Mr.Towle that I would follow up with the Chair of the Commission, Jeff Padget, whom ultimately would decide as to whether or not this appeal would be heard at the March 2016 Commission Meeting or to postpone to another future meeting.

After consulting with Public Works Commission Chair Jeff Padget it was decided Mr.Kwon's appeal would continue to be heard at our March 2016 meeting, and it would be placed later on the agenda, from 6:30 p.m. Time Certain to 6:50 p.m. Time Certain. I have sent via email to Mr.Towle notice the hearing would continue to be heard at our March 16, 2016 meeting.

It is the responsibility of Mr.Kwon and his representatives attend given there was adequate advance notice of the hearing.

I will be serving as staff to the Public Works Commission at the meeting and will introduce the two parties Code Enforcement as the administrators of the Ordinance and Mr.Kwon as the Appellant.

Andy Macilwaine, will serve as legal counsel to the Commission as well.

WARD & BABB

ATTORNEYS-AT-LAW

A Trade Name for a Professional Corporation

EUGENE J. WARD, III
GUY L. BABB
WILLIAM B. TOWLE
CYNTHIA R. AMRHEIN (VT, NY)
AMBER L. THIBEAULT
DAVID R. WEIGEL (VT, MA)

REGISTERED LAW CLERK:
HETHBA FATNASSI
CATHERINE M. COLT

www.wardandbabb.com
Sender's e-mail: towle@wardandbabb.com

CLOSING COORDINATOR:
DEBRA DENNY

LEGAL ASSISTANTS:
TIFFANY R. PEZZIMENTI
ELAINE M. SARKISIAN

PARALEGAL:
JO RICHER

February 24, 2016

Chapin Spencer
Director of Public Works
Department of Public Works
PO Box 849
Burlington, VT 05402-0849

**RE: 66-68 South Union Street
41 South Willard Street
40-42 Colchester Avenue
34 Colchester Avenue**

Dear Mr. Spencer:

This letter serves as notice that Mr. Kwon appeals any fire safety issues raised in:

- 1) the recent re-inspection at 66-68 South Union Street, including but not limited to inspection number 299422 and/or any subsequent inspection report for this location;
- 2) the recent re-inspection at 41 South Willard Street, including but not limited to inspection number 296531 and/or any subsequent inspection report for this location;
- 3) the recent re-inspection at 40-42 Colchester Avenue, including but not limited to inspection number 295388 and/or any subsequent inspection report for this location;
- 4) the recent re-inspection at 34 Colchester Avenue, including but not limited to inspection number 296523 and/or any subsequent inspection report for this location.

The basis for the appeal is: (1) inaccurate factual allegations; (2) allegations that are unrelated to the minimum housing code, and therefore are outside the jurisdiction of the housing inspector; and (3) any alleged violations related to lead paint are barred by res judicata as these alleged violations are subject to a separate enforcement action by the State of Vermont.

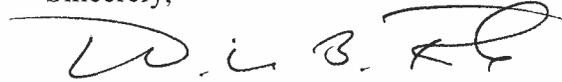
Mr. Kwon requests a determination that these location are not in violation of any

applicable fire safety issues.

These appeals are taken under objection.

As indicated in the enclosed letter to the Housing Board of Review dated February 24, 2016, which is adopted by reference, we believe that these appeals lie correctly with the Housing Board of Review. Mr. Kwon therefore adopts by reference the appeals filed in those pending actions before the Board of Review.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. B. Towle', with a large, stylized flourish at the end.

William B. Towle

Enclosure: letter to the Housing Board of Review dated February 24, 2016

cc: Client
Bill Ward (without enclosure)
Gene Bergman (without enclosure)

WARD & BABB
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A Trade Name for a Professional Corporation

EUGENE J. WARD, III
GUY L. BABB
WILLIAM B. TOWLE
CYNTHIA R. AMRHEIN (VT, NY)
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CLOSING COORDINATOR:
DEBRA DENNY

LEGAL ASSISTANTS:
TIFFANY R. PEZZIMENTI
ELAINE M. SARKISIAN

PARALEGAL:
JO RICHER

February 24, 2016

William Ward
Director of Code Enforcement
Burlington Code Enforcement Office
P.O. Box 849
Burlington, VT 05402-0849

Eugene Bergman, Esq.
Assistant City Attorney
City Attorney's Office
149 Church Street, Room 11
Burlington, VT 05401

RE: 66-68 South Union Street

Dear Gentlemen:

This letter serves as notice that Mr. Kwon appeals the recent re-inspection at 66-68 South Union Street, including but not limited to inspection number 299422 and/or any subsequent inspection report for this location.

The basis for the appeal is: (1) inaccurate factual allegations; (2) allegations that are unrelated to the minimum housing code, and therefore are outside the jurisdiction of the housing inspector; and (3) any alleged violations related to lead paint are barred by res judicata as these alleged violations are subject to a separate enforcement action by the State of Vermont.

Mr. Kwon requests a determination that 66-68 South Union Street is not in violation of the minimum housing standards.

Sincerely,


William B. Towle

cc: Client
Chapin Spencer, Department of Public Works

WARD & BABB

ATTORNEYS-AT-LAW

A Trade Name for a Professional Corporation

EUGENE J. WARD, III
GUY L. BABB
WILLIAM B. TOWLE
CYNTHIA R. AMRHEIN (VT, NY)
AMBER L. THIBEAULT
DAVID R. WEIGEL (VT, MA)

REGISTERED LAW CLERK:
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DEBRA DENNY

LEGAL ASSISTANTS:
TIFFANY R. PEZZIMENTI
ELAINE M. SARKISIAN

PARALEGAL:
JO RICHER

February 24, 2016

Lisa Jones
Board Clerk
Housing Board of Review
City of Burlington
149 Church St. Room 11
Burlington, VT 05401

Dear Ms. Jones:

I write in response to your letter of February 19, 2016.

My client does intend to appeal the 66-68 South Union order of February 19, 2016. For the record, we will issue a notice of appeal to Bill Ward on that matter.

I have reviewed your suggestion that certain provisions of the appeal related to fire safety must be appealed to the Public Works Commission. Although I do ask that you transfer those matters to the Public Works Commission as cross-appealed – and we will file our own notices as well -- we do so under objection.

We believe under the controlling state statute this entire appeal is correctly before the Housing Board of Review.

The current Minimum Housing Standards Ordinance of the City of Burlington were passed in 1986. Although based on an earlier ordinance, it is clear that the updated ordinances were passed under 24 V.S.A. Chapter 123, specifically 24 V.S.A. § 5003, and were not passed under the older municipal code statute, 24 V.S.A. Chapter 83. As proof, we point out that Division 2 of the ordinance establishes a housing board of review pursuant to 24 V.S.A. § 5005, which is solely authorized under ordinances established under 24 V.S.A. § 5003. We conclude that the current Ordinance Chapter 18, the Minimum Housing Standards Ordinance of the City of Burlington, was passed under authority of 24 V.S.A. Chapter 123.

All of the items referenced in the reports under appeal reference violations under Ordinance Chapter 18 (or are silent on their basis). I also note that there is no warning in the violation notice that appeal might be due to Public Works. Also, the split appeal is unnecessarily

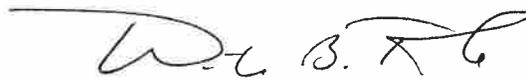
confusing.

I recognize that Ordinance 18-94 purports to make violations of Division 5 (18-94 through 18-101) appealable to "the appeals board under the rules established in Chapter 8 of this Code of Ordinances." It appears the Ordinance anticipates that certain fire related appeals are to be heard by the older appeals board, which is how older municipal codes under ordinances passed under the older 24 V.S.A. Chapter 83 (§3101-3120) handled appeals. The Ordinance explains the reason is for "consistent enforcement."

Regardless, Public Works is a misplaced destination for an appeal for an updated ordinance, such as Burlington's. 24 V.S.A. § 5010 specifically states that ordinances adopted pursuant to the newer 24 V.S.A. Chapter 123 are not subject to the provisions of the older 24 V.S.A. Chapter 83 ("The provisions of this chapter and ordinances and regulations adopted under its authority, shall not be subject to limitations, requirements or provisions contained in said chapter 83"). We find that by passing an ordinance under 24 V.S.A. Chapter 123 and setting up an enforcement scheme under that chapter, Burlington has removed statutory basis for an appeal to the appeal board as per the older statute. Instead, 24 V.S.A. § 5005.(b)(2) states that "[a]ny person aggrieved by an order issued by the enforcing officer may appeal to the [housing] board."

We believe under 24 V.S.A. § 5005.(b)(2), the Board is the only permissible review of any alleged violation under Ordinance Chapter 18.

Sincerely,

A handwritten signature in black ink, appearing to read "W. B. Towle". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

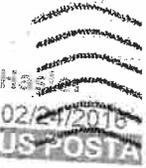
William B. Towle

cc: Client
Bill Ward
Eugene Bergman
Chapin Spencer

WARD & BABB
ATTORNEYS-AT-LAW
3069 WILLISTON ROAD
SOUTH BURLINGTON, VERMONT 05403-6044

BURLINGTON VT 054

24 FEB 2016 PM 1 L



RECEIVED
FEB 26 2016
City Of Burlington
Department Of Public Works

Chapin Spencer
Director of Public Works
Department of Public Works
PO Box 849
Burlington, VT 05402-0849

Norm Baldwin

From: Norm Baldwin
Sent: Thursday, March 10, 2016 2:08 PM
To: 'Will Towle'
Cc: jeffpadgett10@gmail.com; Chapin Spencer; Valerie Ducharme; Eileen Blackwood; William Ward; Eugene Bergman; Andy MacIlwaine
Subject: RE: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

Mr.Towle,

The Public Works Commission was first notified of this appeal as a result of your letter dated February 24, 2016 addressed to Director Chapin Spencer. The Department responded in a timely manner to your clients appeal request, and has provided reasonable advance notice of the meeting, date, time and location.

I have spoken with the Chair of the Commission and it was his decision, which I support, to move ahead with these series of appeals at the March Commission meeting. I would note to provide further accommodation, the Chair of the Commission rescheduled this item to be heard at 6:50 p.m., versus the original time certain of 6:30 p.m..

Please confirm both yours and your clients ability to attend.

From: Will Towle [mailto:towle@wardandbabb.com]
Sent: Thursday, March 10, 2016 12:04 PM
To: Eugene Bergman <EBergman@burlingtonvt.gov>; Andy MacIlwaine <amacilwaine@DINSE.COM>; Norm Baldwin <nbaldwin@burlingtonvt.gov>
Cc: jeffpadgett10@gmail.com; Chapin Spencer <cspencer@burlingtonvt.gov>; Valerie Ducharme <vducharme@burlingtonvt.gov>; Eileen Blackwood <eblackwood@burlingtonvt.gov>; William Ward <wward@burlingtonvt.gov>
Subject: RE: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

Mr. Baldwin:

The scheduling problems with the deposition are significant – as Andy can confirm we tried to wrap up yesterday's deposition at 4:30 PM but the lawyer for the deponent refused, and the deposition continued until about 6:30 when all lawyers were satisfied with their examination. Most of the depositions in this case have run past 5 pm. It is the nature of this case so I am not as optimistic as Andy that we will be out of there on time.

There are no other lawyers in this firm who are familiar with the Kwon matter pending before the Board so it is not fair to Mr. Kwon to force him acquire backup counsel for this matter.

We appealed the first of these matters on January 27, 2016 and were only just notified on Monday, March 7 about the Wednesday, March 16 hearing, and duly made a timely request for a rescheduled date.

Most of the allegations against Mr. Kwon involve construction lumber and similar being stored in locked basements or locked closets so I do not believe there are any pressing life safety issues which require an expedited hearing.

I appreciate your consideration of our request for a rescheduled time.

Will

William B. Towle, Esq.
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<http://www.wardandbabb.com>
<http://www.linkedin.com/in/willtowle>
WBNoEncrypt

From: Eugene Bergman [<mailto:EBergman@burlingtonvt.gov>]
Sent: Thursday, March 10, 2016 9:05 AM
To: Andy MacIlwaine; Norm Baldwin
Cc: jeffpadgett10@gmail.com; Chapin Spencer; Valerie Ducharme; Eileen Blackwood; Will Towle; William Ward
Subject: RE: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

I'm all for accommodating my brothers and sisters of the bar but do not believe justice would be done to delay this to the next commission meeting in April. I'm sure a special meeting of the commission to hear this appeal in the next week would be ok. I have a conflict on Wed. the 23rd but other than that I am free, including on the 17th. I'd need to check with Bill on his availability once we have a proposed date.

Gene

From: Andy MacIlwaine [<mailto:amacilwaine@DINSE.COM>]
Sent: Wednesday, March 09, 2016 8:28 PM
To: Norm Baldwin <nbaldwin@burlingtonvt.gov>
Cc: jeffpadgett10@gmail.com; Chapin Spencer <cspencer@burlingtonvt.gov>; Valerie Ducharme <vducharme@burlingtonvt.gov>; Eugene Bergman <EBergman@burlingtonvt.gov>; Eileen Blackwood <eblackwood@burlingtonvt.gov>
Subject: Re: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

Folks,

For what it's worth, I am actually involved in the same case as Will and will be in the same deposition next Wednesday. I was planning on ending the deposition by 5-5:30 in light of this hearing and assumed Will would do the same. The deposition will be at my office on Battery. That said, if it's not too burdensome to postpone the hearing I don't have a particular concern about doing so (to the extent I have a say).

WAM/iPhone
www.dinse.com | [Bio](#)
[tel: 802-654-5751](tel:802-654-5751)

On Mar 9, 2016, at 8:19 PM, Norm Baldwin <nbaldwin@burlingtonvt.gov> wrote:

I would have to consult with the chair of the commission and their legal counsel.

The Commission has made arrangements to clear their agenda and to provide a timely appeal hearing, I would further note other business has been put aside, for what is routinely a very busy commission

agenda, and at this stage staff would not be in a position to prepare other items to be heard in time for the agenda and packet to be reissued.

I would ask that you to consider finding other legal counsel to represent your client, in your place if at all possible.

Sent from my iPhone

On Mar 9, 2016, at 7:03 PM, Will Towle <towle@wardandbabb.com> wrote:

Mr. Baldwin:

I am scheduled to be in a deposition Wednesday March 16 in a multi-party case which has been plagued with great scheduling difficulties and a Court ordered March 31, 2015 fact discovery deadline. It would a great difficulty or impossibility for me to reschedule this deposition. Given the number of parties in the case, the deposition is reasonably expected to go past 5 pm (indeed, I have just now concluded a deposition in the same case at about 6:30 pm).

Would it possible to have the Public Works Commission hearing re-scheduled? (Please note that I am also scheduled to be out of state March 31-April 4)

Thank you for your consideration.

Will

William B. Towle, Esq.
Ward & Babb
3069 Williston Road
South Burlington, VT 05403
Phone 802/863-0307 ext. 18
Fax 802/863-4587
<http://www.wardandbabb.com>
<http://www.linkedin.com/in/willtowle>
WBNoEncrypt

From: Norm Baldwin [<mailto:nbaldwin@burlingtonvt.gov>]
Sent: Monday, March 07, 2016 4:11 PM
To: soonkkwon@gmail.com
Cc: jeffpadgett10@gmail.com; Chapin Spencer; Valerie Ducharme; William Ward; Eugene Bergman; Will Towle
Subject: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

NOTICE OF HEARING

Pursuant to Burlington Code of Ordinances Chapter 18, Article III, Division 5, please take notice that the **Public Works Commission** will hold a hearing related to an appeal of a minimum housing code order regarding the fire safety division of the minimum housing code associated for the following properties.

- Appeal #1 66-68 South Union Street, Code Enforcement Order dated February 19, 2016
 - Item 7-BCO 18-95 Means of Egress

- Appeal #2 41 South Willard Street, Code Enforcement Order dated January 8, 2016
 - Item 10-BCO 18-96 Accumulation and Storage
 - Item 31-BCO 18-99 Smoke Detectors
 - Item 32-BCO 18-95 Means of Egress

- Appeal #3 40-42 Colchester Avenue, Code Enforcement Order dated January 4, 2016
 - Item 2-BCO 18-95 Means of Egress
 - Item 3-BCO 18-95 Means of Egress
 - Item 6-BCO 18-95 Means of Egress
 - Item 7-BCO 18-95 Means of Egress
 - Item 8-BCO 18-96 Accumulation and Storage
 - Item 9-BCO 18-95 Means of Egress
 - Item 13-BCO 18-99 Smoke Detectors
 - Item 19-BCO 18-98 Fire Protection Systems

Each Property will be addressed as individual Appeals. The three appeals will be heard starting at **6:30 p.m. on Wednesday, March 16, 2016 in the Front Conference Room at the Central Maintenance Facility at 645 Pine Street in Burlington, Vermont. Testimony will close at time certain of 8:30 p.m., and if required another subsequent hearing will be scheduled as a continuance.**

In order to expeditiously hear this appeal, the Commission needs and hereby notifies you as the appellant to provide it with a short and concise statement outlining the specific items to be heard and addressed by the Commission. This statement must also specify the factual or legal basis of the appeal.

Each party will be given the opportunity to present the facts, as they believe them to be, and to make legal arguments. The Commission will hear testimony and take documentary evidence in support of each party's position.

You are welcome to provide supporting documentary evidence in advance of the hearing. **Witnesses must be present**; the Commission will not accept written statements from absent witnesses, even in affidavit form. The Commission will resolve disputed questions of fact and apply the law governing the situation to those facts. If you intend to present documentary evidence, please bring 9 copies of each document to the hearing.

If you are the person who requested the hearing and you fail to appear, your case will be dismissed. If there are special circumstances as to why you cannot appear in person for a hearing, please call 863-9094. Postponement of your case will be permitted only for good cause. If settlement is reached, please notify the Commission immediately.

If you have any questions, please call 863-9094.

Norman J. Baldwin, P.E.
City Engineer/Ass't Director
Burlington Public Works Department
645 Pine Street
Burlington, Vermont 05401

V: 802.865.5826

F: 802.863.0466

EMAIL: nbaldwin@burlingtonvt.gov



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street
Post Office Box 849
Burlington, Vermont 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

Norman J. Baldwin, P.E.
*ASSISTANT DIRECTOR OF PUBLIC WORKS
CITY ENGINEER*

March 7, 2016

CERTIFIED MAIL, Hard Copy

Mr. Soon Kwon
20 Highland Terrace
Burlington, Vermont 05401

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If you have any questions, please call 863-9094.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman J. Baldwin". The signature is stylized and cursive, with a large, sweeping flourish at the end.

Norman J. Baldwin, P.E.
Assistant Director of Public Works

cc: Jeff Padgett, Chair of the Public Works Commission
Eugene Bergman, Assistant City Attorney
William Ward, Director of Code Enforcement
Chapin Spencer, Director of Public Works
Valerie Ducharme, Customer Service Representative

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March 10, 2016 , 1:03 pm

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March 10, 2016 , 5:28 am

Arrived at Unit

BURLINGTON, VT 05401

March 9, 2016 , 1:08 pm

Departed USPS Facility

ESSEX
JUNCTION, VT 05452

March 8, 2016 , 7:36 pm

Arrived at USPS Facility

ESSEX
JUNCTION, VT 05452

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CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

February 19, 2016

Soon K. Kwon
PO Box 9492
South Burlington, VT 05407-9492

RE: Re-Inspection of 66-68 South Union Street, Inspection 299422

Dear Owner(s):

Thank you for your cooperation with the routine inspection I conducted on Friday, November 20, 2015 at 10:00:00 AM. My findings are included with this re-inspection report and Order. A re-inspection fee invoice in the amount of \$240.00 is enclosed.

A second re-inspection has been scheduled for Friday, March 11, 2016 at 10:00:00 AM. Tenants must be notified at least 48 hours in advance. All areas of the property must be accessible. Please contact me at , at least 24 hours in advance, sooner if possible, if this needs to be rescheduled for any reason.

You may submit a written request for an extension of compliance date(s) if you need more time to complete repairs for a valid reason. Extension requests must include the reason the request is necessary and the extended compliance date requested for each item. **Requests must be submitting in writing on our extension request form; verbal requests will not be accepted.** You may obtain an extension request form by phone, at our Office, or on the web at www.burlingtonvt.gov under the Code Enforcement Office, Extension Request Form. The completed extension request, with all required information, must be approved by our office prior to the compliance date in order to avoid re-inspection fees. For this reason, and because application for an extension does not guarantee that it will be granted, you are encouraged to apply for an extension as early as possible if you anticipate difficulties with the Order compliance date(s).

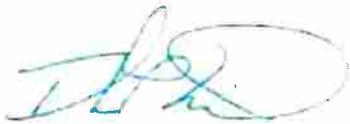
If this office cannot verify compliance with the Order at the second re-inspection and a written extension has not been granted by our office, a re-inspection fee of \$100.00 per unit will be charged.

You may also be ticketed for the Minimum Housing Standards violations found at re-inspections. Furthermore, failure to comply with this Order is a criminal offense punishable by a fine up to \$500.00 and/or imprisonment; each day's failure to comply constitutes a separate offense. You may also be subject to provisions on suspension and revocation of Certificates of Compliance pursuant to Burlington Code of Ordinances section 18-20 if you fail to comply with this order or fail to get an extension.

Decisions stated in this Order and report relative to new findings at the re-inspection may be appealed in writing within thirty (30) days of the date of this correspondence, addressed to the Director of the Code Enforcement Office.

Please feel free to contact me at if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ted Miles', with a large, stylized flourish at the end.

Ted Miles
Minimum Housing Inspector

Unit/Area

(Item 1 of 18)

Finding: Unsound or unsanitary roof condition. Roof leaks into bathroom of unit 4 upstairs.

Remedy: Repair and maintain roof conditions to be structurally sound and sanitary to code.

Code Section: Foundation, exterior walls and roofs

18-71 Every roof shall be maintained structurally sound and in a sanitary condition. Every roof shall be structurally sound, tight, and not have defects which might admit rain and roof drainage; and roof drainage shall be prevented from causing dampness in the walls or interior portions of the building.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney’s fees incurred by the plaintiff or so much thereof as the court finds reasonable.

(Item 2 of 18)

Finding: Deteriorated painted surfaces found on more than 1 square foot (sf)(aggregate). Exterior trim needs painting

Remedy: Promptly and safely repair and/or stabilize deteriorated surfaces using lead safe work practices; do not use prohibited work practices; record repair on EMP compliance statement.

Code Section: Paint

18-112 (a) (1), (2) The interior and exterior of pre-1978 rental housing shall be free from deteriorated painted surfaces more than 1 square foot (sf) in the aggregate;

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney’s fees incurred by the plaintiff or so much thereof as the court finds reasonable.

basement (Item 3 of 18)

Finding: Rubbish, junk, refuse, garbage, metal or recyclables in basement area.

Remedy: Clean trash and straighten construction materials in basement area per Fire Marshall inspection on 11/20/2015

Code Section: Premises to be kept clean and sanitary

18-106 Every owner or his agent shall maintain the shared or public areas of the dwelling unit or units or yard in a clean and sanitary condition.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

Basement (Item 4 of 18)

Finding: Plumbing drain with obstruction, leak or defect in basement

Remedy: Repair obstruction, leak or defect in plumbing drain and maintain in good working order to code.

Code Section: Plumbing connections

18-79 Supply lines, plumbing fixtures, vents and drains shall be connected and maintained in good working order and kept free from obstructions, leaks and defects.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

basement (Item 5 of 18)

Finding: Electrical appliance installed or maintained incorrectly. plug missing from junction box.

Remedy: Repair or replace electrical appliance. Install and maintain all appliances in compliance with codes. replace missing plug from junction box as per fire marshall visit on 11/20/2015

Code Section: Electrical facilities

18-85 All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with applicable laws.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney’s fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Basement (Item 6 of 18)

Finding: Plumbing facilities and fixtures not provided and maintained. Plumbing leak on south side of basement that owner has stated is from a leaking shower unit in the unit above.

Remedy: Install and maintain all required plumbing facilities and fixtures to code.

Code Section: Toilet and plumbing facilities

18-78 All plumbing fixtures and facilities shall comply with the requirements. The owner of the structure shall provide and maintain plumbing facilities and fixtures in compliance with the requirements.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney’s fees incurred by the plaintiff or so much thereof as the court finds reasonable.

IN: 299422

Inspection Detail for: 66-68 South Union Street

Inspection Date: Nov 20, 2015 Inspector: Ted Miles

Page 4 of 9

Unit/Area

Basement steps (Item 7 of 18)

Finding: Path of egress is obstructed or otherwise unsafe debris at top of stairs to basement not allowing door to open fully as per fire marshal inspection on 11/20/2015

Remedy: Remove obstructions behind door to basement and maintain safe path of egress at all times

Code Section: Means of egress

18-95 Each first and second floor dwelling unit shall have one safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open space or area at grade. Dwelling units on the third floor and above shall have at least two safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open area at grade.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Front door (Item 8 of 18)

Finding: Exterior door not constructed and maintained weather-tight. Door sweep at front door to units 1 worn or missing

Remedy: Repair or replace exterior door, install weather-stripping if necessary, and maintain door weather-tight, in sound condition and good repair to code.

Code Section: Exterior windows and doors

18-73 Every exterior door and frame shall be constructed and maintained to prevent wind and water from entering the dwelling or structure. Each exterior door shall be fitted reasonably in its frame and weather-tight. Weather-stripping shall be used to prevent wind or rain from entering the dwelling and shall be kept in sound condition and good repair.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Date Printed 2/19/2016 10:14:27 AM

Rear porch (Item 9 of 18)

Finding: Garbage, trash, recycling or debris in the yard at rear porch.

Remedy: Remove garbage, trash, recycling and debris from yard. Maintain exterior common free of accumulations.

Code Section: Accum of trash, inoper. vehicles, appliances and furn prohibited

18-111 Rubbish, junk, refuse, garbage, scrap metal, tin cans and recyclables shall only be allowed to remain outdoors and in plain view in the front yard of any property for the purpose of recycling and solid waste pickup for disposal and only if they are neatly kept, stored, maintained, or deposited in accordance with all minimum housing, health and solid waste ordinances and regulations.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense **without** substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit (Item 10 of 18)

Finding: No evidence of compliance with lead paint essential maintenance practices

Remedy: Comply with all requirements of Vt Lead Paint Regs. Provide written documentation to this office of required lead safety training. Perform EMPs as required.

Code Section: Premises to be kept clean and sanitary

18-106 Every owner or his agent shall maintain the shared or public areas of the dwelling unit or units or yard in a clean and sanitary condition.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

Unit 2 (Item 11 of 18)

Finding: Roof conditions or defects might admit rain or roof drainage. Roof leak into unit 2 at bedroom and bathroom

Remedy: Repair roof to be structurally sound and impervious to water. Maintain roof conditions to code.

Code Section: Foundation, exterior walls and roofs

18-71 Every roof shall be maintained structurally sound and in a sanitary condition. Every roof shall be structurally sound, tight, and not have defects which might admit rain and roof drainage; and roof drainage shall be prevented from causing dampness in the walls or interior portions of the building.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit 2 rear door (Item 12 of 18)

Finding: Exterior door pane cracked, broken or absent. rear door panel has crack in panel exposing light and air

Remedy: Replace exterior door pane and maintain in weatherproof, in sound condition and good repair to code.

Code Section: Exterior windows and doors

18-73 Every exterior door shall be maintained to prevent wind and water from entering the dwelling or structure. Every door shall be weather-tight. Every door pane shall be fully and properly glazed.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

Unit 3 (Item 13 of 18)

bathroom

Finding: Plumbing facilities and fixtures not provided and maintained. Toilet tank cover broken.

Remedy: Install and maintain all required plumbing facilities and fixtures to code.

Code Section: Toilet and plumbing facilities

18-78 All plumbing fixtures and facilities shall comply with the requirements. The owner of the structure shall provide and maintain plumbing facilities and fixtures in compliance with the requirements.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit 3 (Item 14 of 18)

Bedroom

Finding: Exterior door pane cracked, broken or absent. Glass on bedroom door to unit 3 cracked and is a potential hazard to the tenant.

Remedy: Replace exterior door pane and maintain in weatherproof, in sound condition and good repair to code.

Code Section: Exterior windows and doors

18-73 Every exterior door shall be maintained to prevent wind and water from entering the dwelling or structure. Every door shall be weather-tight. Every door pane shall be fully and properly glazed.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit 3 (Item 15 of 18)

kitchen

Finding: Defective heating equipment. Cover on baseboard heat unit missing in kitchen

Remedy: Repair or replace heating equipment. Maintain in sound condition and good repair to code.

Code Section: Heating and cooking equipment

18-86 All cooking and heating equipment, components, and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health and accident hazards. All mechanical equipment shall be properly installed and safely maintained in good working condition and be capable of performing the function for which it was designed and intended.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

Unit 3 (Item 16 of 18)

living room

Finding: Electrical wiring installed or maintained incorrectly. Outlets in living room not working

Remedy: Repair defective electrical wiring.

Code Section: Electrical facilities

18-85 All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with applicable laws.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit 4 (Item 17 of 18)

Hallway

Finding: Roof conditions or defects might admit rain or roof drainage. Potential roof leak at rear, causing water protrusion into unit 4 upper hallway

Remedy: Repair roof to be structurally sound and impervious to water. Maintain roof conditions to code.

Code Section: Foundation, exterior walls and roofs

18-71 Every roof shall be maintained structurally sound and in a sanitary condition. Every roof shall be structurally sound, tight, and not have defects which might admit rain and roof drainage; and roof drainage shall be prevented from causing dampness in the walls or interior portions of the building.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit 4 (Item 18 of 18)

living room

Finding: Electrical equipment installed or maintained incorrectly. Outlet cover missing from side of heating unit in living room to unit 4

Remedy: Replace missing electrical plate cover

Code Section: Electrical facilities

18-85 All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with applicable laws.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Code Enforcement DPW appeal

66-68 South Union Street



Code Enforcement Timeline of inspections at this property

DATE	ACTION	INSPECTOR	DEFICIENCIES
10/6/2015	Routine Housing Inspection	Ted Miles/Bill Ward	15
10/8/2015	Order Sent	Sybil Thomas	
11/20/2015	Follow-up Inspection	Ted Miles/Bill Ward	18
12/28/2016	Complaint inspection -Heat	Ted Miles	
1/5/2016	Heat complaint closed	Ted Miles	
1/27/2016	Appeal received on for future inspections		
2/18 2016	Order Sent for Inspection on November 6, 2015	Under Appeal	18
3/11/2016	Date set for compliance with 2/18/16 Order		

There were 18 deficiencies at the November 20, 2015 inspection

1 of those deficiencies was from Division 5 of the housing ordinance
and is subject to appeal review by the Public Works Commission

➤ Item #7 of 18 – Obstructed egress

Unit/Area Basement steps (Item 7 of 18)

Finding: Path of egress is obstructed or otherwise unsafe. debris at top of stairs to basement not allowing door to open fully as per fire marshal inspection on 11/20/2015

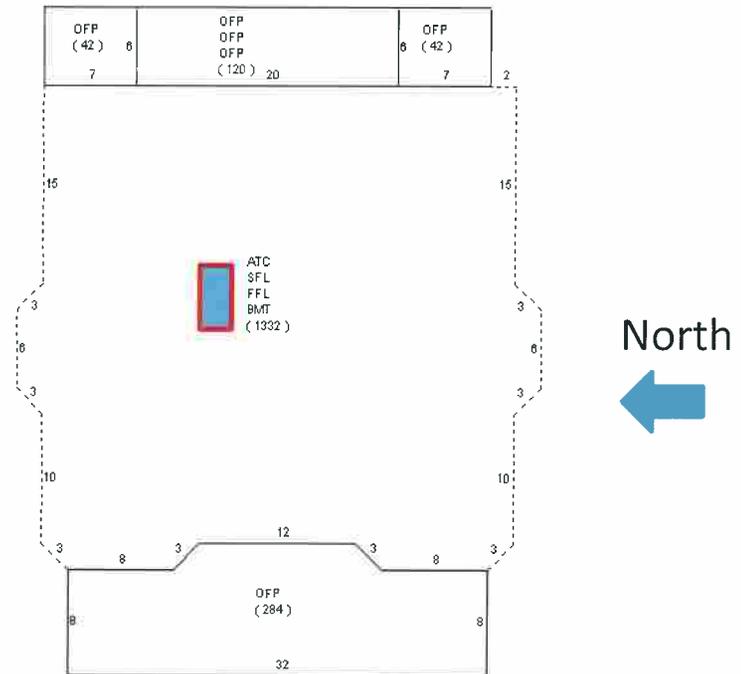
Remedy: Remove obstructions behind door to basement and maintain safe path of egress at all times

Code Section: Means of egress

18-95 Each first and second floor dwelling unit shall have one safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open space or area at grade. Dwelling units on the third floor and above shall have at least two safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open area at grade.

11-20-15 Inspection STATUS: Non Complied –Violation not corrected

Basement door indicated by red rectangle. Door leads from ground floor into the basement. This door would not open fully. It was partially blocked by stored debris.



Floor plan sketch of 66-68 South Union Street

Requested action from the Public Works Commission

1. Uphold the Code Enforcement decision that the deficiencies ordered to be corrected were valid.
2. Require that the order be complied with and the deficiencies that have not been corrected be corrected to meet code requirements.



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street
Post Office Box 849
Burlington, Vermont 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

Norman J. Baldwin, P.E.
*CITY ENGINEER/ASS'T DIRECTOR OF PUBLIC
WORKS*

March 10, 2016

TO: Public Works Commission

FROM: Norman Baldwin, P.E. *NJB*
Assistant Director-Technical Services

RE: Appeal of Code Enforcement Orders related to Life Safety Requirements for three properties

- 66-68 South Union Street,
- 41 South Willard Street,
- 40-42 Colchester Avenue

Mr.Kwan is the owner of a three properties, 66-68 South Union Street, 41 South Willard Street and 40-42 Colchester Avenue. Mr.Kwon through his attorney Mr.William Towle has sought to appeal Code Enforcements Orders related to Life Safety Requirements for the three properties identified, attached is the request for the appeal to be heard, addressed to Director Spencer dated February 24, 2016. Below is the list of items for each of the properties and each property will be addressed as its own separate appeal.

- Appeal #1 66-68 South Union Street, Code Enforcement Order dated February 19, 2016
 - Item 7-BCO 18-95 Means of Egress
- Appeal #2 41 South Willard Street, Code Enforcement Order dated January 8, 2016
 - Item 10-BCO 18-96 Accumulation and Storage
 - Item 31-BCO 18-99 Smoke Detectors
 - Item 32-BCO 18-95 Means of Egress
- Appeal #3 40-42 Colchester Avenue, Code Enforcement Order dated January 4, 2016
 - Item 2-BCO 18-95 Means of Egress
 - Item 3-BCO 18-95 Means of Egress
 - Item 6-BCO 18-95 Means of Egress

- Item 7-BCO 18-95 Means of Egress
- Item 8-BCO 18-96 Accumulation and Storage
- Item 9-BCO 18-95 Means of Egress
- Item 13-BCO 18-99 Smoke Detectors
- Item 19-BCO 18-98 Fire Protection Systems

Since receiving the appeal I have attempted to schedule this appeal to be heard at the March 16, 2016 Commission meeting. In doing so I have sent notice of the hearing via email, certified mail, as well as hand delivered hard copy notices to Mr.Kwon, and Mr.Towle as legal counsel to Mr.Kwon, all documents were issued and sent on March 7, 2016.

Since issuing the notice I had received an email from Mr.Towle, on the evening of Wednesday March 9, 2016 seeking a request for an alternative date given Mr.Towle had a conflicting deposition. I explained to Mr.Towle that this would be a hardship for our Commission given the Commission had made a point to clear their agenda to accommodate and provide a timely response to this appeal given it relates to life safety requirements. It was at that time that I had committed to Mr.Towle that I would follow up with the Chair of the Commission, Jeff Padget, whom ultimately would decide as to whether or not this appeal would be heard at the March 2016 Commission Meeting or to postpone to another future meeting.

After consulting with Public Works Commission Chair Jeff Padget it was decided Mr.Kwon's appeal would continue to be heard at our March 2016 meeting, and it would be placed later on the agenda, from 6:30 p.m. Time Certain to 6:50 p.m. Time Certain. I have sent via email to Mr.Towle notice the hearing would continue to be heard at our March 16, 2016 meeting.

It is the responsibility of Mr.Kwon and his representatives attend given there was adequate advance notice of the hearing.

I will be serving as staff to the Public Works Commission at the meeting and will introduce the two parties Code Enforcement as the administrators of the Ordinance and Mr.Kwon as the Appellant.

Andy Macilwaine, will serve as legal counsel to the Commission as well.

WARD & BABB

ATTORNEYS-AT-LAW

A Trade Name for a Professional Corporation

EUGENE J. WARD, III
GUY L. BABB
WILLIAM B. TOWLE
CYNTHIA R. AMRHEIN (VT, NY)
AMBER L. THIBEAULT
DAVID R. WEIGEL (VT, MA)

REGISTERED LAW CLERK:
HETHBA FATNASSI
CATHERINE M. COLT

www.wardandbabb.com
Sender's e-mail: towle@wardandbabb.com

CLOSING COORDINATOR:
DEBRA DENNY

LEGAL ASSISTANTS:
TIFFANY R. PEZZIMENTI
ELAINE M. SARKISIAN

PARALEGAL:
JO RICHER

February 24, 2016

Chapin Spencer
Director of Public Works
Department of Public Works
PO Box 849
Burlington, VT 05402-0849

**RE: 66-68 South Union Street
41 South Willard Street
40-42 Colchester Avenue
34 Colchester Avenue**

Dear Mr. Spencer:

This letter serves as notice that Mr. Kwon appeals any fire safety issues raised in:

- 1) the recent re-inspection at 66-68 South Union Street, including but not limited to inspection number 299422 and/or any subsequent inspection report for this location;
- 2) the recent re-inspection at 41 South Willard Street, including but not limited to inspection number 296531 and/or any subsequent inspection report for this location;
- 3) the recent re-inspection at 40-42 Colchester Avenue, including but not limited to inspection number 295388 and/or any subsequent inspection report for this location;
- 4) the recent re-inspection at 34 Colchester Avenue, including but not limited to inspection number 296523 and/or any subsequent inspection report for this location.

The basis for the appeal is: (1) inaccurate factual allegations; (2) allegations that are unrelated to the minimum housing code, and therefore are outside the jurisdiction of the housing inspector; and (3) any alleged violations related to lead paint are barred by res judicata as these alleged violations are subject to a separate enforcement action by the State of Vermont.

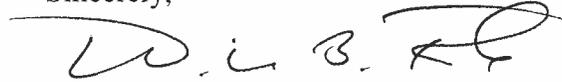
Mr. Kwon requests a determination that these location are not in violation of any

applicable fire safety issues.

These appeals are taken under objection.

As indicated in the enclosed letter to the Housing Board of Review dated February 24, 2016, which is adopted by reference, we believe that these appeals lie correctly with the Housing Board of Review. Mr. Kwon therefore adopts by reference the appeals filed in those pending actions before the Board of Review.

Sincerely,

A handwritten signature in black ink, appearing to read "W. B. Towle". The signature is fluid and cursive, with a large initial "W" and a stylized "T" at the end.

William B. Towle

Enclosure: letter to the Housing Board of Review dated February 24, 2016

cc: Client
Bill Ward (without enclosure)
Gene Bergman (without enclosure)

WARD & BABB
ATTORNEYS-AT-LAW
A Trade Name for a Professional Corporation

EUGENE J. WARD, III
GUY L. BABB
WILLIAM B. TOWLE
CYNTHIA R. AMRHEIN (VT, NY)
AMBER L. THIBEAULT
DAVID R. WEIGEL (VT, MA)

REGISTERED LAW CLERK:
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Sender's e-mail: towle@wardandbabb.com

CLOSING COORDINATOR:
DEBRA DENNY

LEGAL ASSISTANTS:
TIFFANY R. PEZZIMENTI
ELAINE M. SARKISIAN

PARALEGAL:
JO RICHER

February 24, 2016

William Ward
Director of Code Enforcement
Burlington Code Enforcement Office
P.O. Box 849
Burlington, VT 05402-0849

Eugene Bergman, Esq.
Assistant City Attorney
City Attorney's Office
149 Church Street, Room 11
Burlington, VT 05401

RE: 66-68 South Union Street

Dear Gentlemen:

This letter serves as notice that Mr. Kwon appeals the recent re-inspection at 66-68 South Union Street, including but not limited to inspection number 299422 and/or any subsequent inspection report for this location.

The basis for the appeal is: (1) inaccurate factual allegations; (2) allegations that are unrelated to the minimum housing code, and therefore are outside the jurisdiction of the housing inspector; and (3) any alleged violations related to lead paint are barred by res judicata as these alleged violations are subject to a separate enforcement action by the State of Vermont.

Mr. Kwon requests a determination that 66-68 South Union Street is not in violation of the minimum housing standards.

Sincerely,


William B. Towle

cc: Client
Chapin Spencer, Department of Public Works

WARD & BABB

ATTORNEYS-AT-LAW

A Trade Name for a Professional Corporation

EUGENE J. WARD, III
GUY L. BABB
WILLIAM B. TOWLE
CYNTHIA R. AMRHEIN (VT, NY)
AMBER L. THIBEAULT
DAVID R. WEIGEL (VT, MA)

REGISTERED LAW CLERK:
HETHBA FATNASSI
CATHERINE M. COLT

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Sender's e-mail: towle@wardandbabb.com

CLOSING COORDINATOR:
DEBRA DENNY

LEGAL ASSISTANTS:
TIFFANY R. PEZZIMENTI
ELAINE M. SARKISIAN

PARALEGAL:
JO RICHER

February 24, 2016

Lisa Jones
Board Clerk
Housing Board of Review
City of Burlington
149 Church St. Room 11
Burlington, VT 05401

Dear Ms. Jones:

I write in response to your letter of February 19, 2016.

My client does intend to appeal the 66-68 South Union order of February 19, 2016. For the record, we will issue a notice of appeal to Bill Ward on that matter.

I have reviewed your suggestion that certain provisions of the appeal related to fire safety must be appealed to the Public Works Commission. Although I do ask that you transfer those matters to the Public Works Commission as cross-appealed – and we will file our own notices as well -- we do so under objection.

We believe under the controlling state statute this entire appeal is correctly before the Housing Board of Review.

The current Minimum Housing Standards Ordinance of the City of Burlington were passed in 1986. Although based on an earlier ordinance, it is clear that the updated ordinances were passed under 24 V.S.A. Chapter 123, specifically 24 V.S.A. § 5003, and were not passed under the older municipal code statute, 24 V.S.A. Chapter 83. As proof, we point out that Division 2 of the ordinance establishes a housing board of review pursuant to 24 V.S.A. § 5005, which is solely authorized under ordinances established under 24 V.S.A. § 5003. We conclude that the current Ordinance Chapter 18, the Minimum Housing Standards Ordinance of the City of Burlington, was passed under authority of 24 V.S.A. Chapter 123.

All of the items referenced in the reports under appeal reference violations under Ordinance Chapter 18 (or are silent on their basis). I also note that there is no warning in the violation notice that appeal might be due to Public Works. Also, the split appeal is unnecessarily

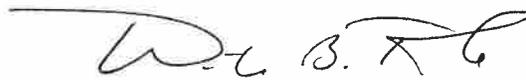
confusing.

I recognize that Ordinance 18-94 purports to make violations of Division 5 (18-94 through 18-101) appealable to "the appeals board under the rules established in Chapter 8 of this Code of Ordinances." It appears the Ordinance anticipates that certain fire related appeals are to be heard by the older appeals board, which is how older municipal codes under ordinances passed under the older 24 V.S.A. Chapter 83 (§3101-3120) handled appeals. The Ordinance explains the reason is for "consistent enforcement."

Regardless, Public Works is a misplaced destination for an appeal for an updated ordinance, such as Burlington's. 24 V.S.A. § 5010 specifically states that ordinances adopted pursuant to the newer 24 V.S.A. Chapter 123 are not subject to the provisions of the older 24 V.S.A. Chapter 83 ("The provisions of this chapter and ordinances and regulations adopted under its authority, shall not be subject to limitations, requirements or provisions contained in said chapter 83"). We find that by passing an ordinance under 24 V.S.A. Chapter 123 and setting up an enforcement scheme under that chapter, Burlington has removed statutory basis for an appeal to the appeal board as per the older statute. Instead, 24 V.S.A. § 5005.(b)(2) states that "[a]ny person aggrieved by an order issued by the enforcing officer may appeal to the [housing] board."

We believe under 24 V.S.A. § 5005.(b)(2), the Board is the only permissible review of any alleged violation under Ordinance Chapter 18.

Sincerely,

A handwritten signature in black ink, appearing to read "W. B. Towle". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

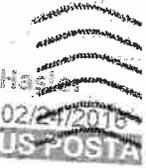
William B. Towle

cc: Client
Bill Ward
Eugene Bergman
Chapin Spencer

WARD & BABB
ATTORNEYS-AT-LAW
3069 WILLISTON ROAD
SOUTH BURLINGTON, VERMONT 05403-6044

BURLINGTON VT 054

24 FEB 2016 PM 1 L



RECEIVED
FEB 26 2016
City Of Burlington
Department Of Public Works

Chapin Spencer
Director of Public Works
Department of Public Works
PO Box 849
Burlington, VT 05402-0849

Norm Baldwin

From: Norm Baldwin
Sent: Thursday, March 10, 2016 2:08 PM
To: 'Will Towle'
Cc: jeffpadgett10@gmail.com; Chapin Spencer; Valerie Ducharme; Eileen Blackwood; William Ward; Eugene Bergman; Andy MacIlwaine
Subject: RE: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

Mr.Towle,

The Public Works Commission was first notified of this appeal as a result of your letter dated February 24, 2016 addressed to Director Chapin Spencer. The Department responded in a timely manner to your clients appeal request, and has provided reasonable advance notice of the meeting, date, time and location.

I have spoken with the Chair of the Commission and it was his decision, which I support, to move ahead with these series of appeals at the March Commission meeting. I would note to provide further accommodation, the Chair of the Commission rescheduled this item to be heard at 6:50 p.m., versus the original time certain of 6:30 p.m..

Please confirm both yours and your clients ability to attend.

From: Will Towle [mailto:towle@wardandbabb.com]
Sent: Thursday, March 10, 2016 12:04 PM
To: Eugene Bergman <EBergman@burlingtonvt.gov>; Andy MacIlwaine <amacilwaine@DINSE.COM>; Norm Baldwin <nbaldwin@burlingtonvt.gov>
Cc: jeffpadgett10@gmail.com; Chapin Spencer <cspencer@burlingtonvt.gov>; Valerie Ducharme <vducharme@burlingtonvt.gov>; Eileen Blackwood <eblackwood@burlingtonvt.gov>; William Ward <wward@burlingtonvt.gov>
Subject: RE: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

Mr. Baldwin:

The scheduling problems with the deposition are significant – as Andy can confirm we tried to wrap up yesterday's deposition at 4:30 PM but the lawyer for the deponent refused, and the deposition continued until about 6:30 when all lawyers were satisfied with their examination. Most of the depositions in this case have run past 5 pm. It is the nature of this case so I am not as optimistic as Andy that we will be out of there on time.

There are no other lawyers in this firm who are familiar with the Kwon matter pending before the Board so it is not fair to Mr. Kwon to force him acquire backup counsel for this matter.

We appealed the first of these matters on January 27, 2016 and were only just notified on Monday, March 7 about the Wednesday, March 16 hearing, and duly made a timely request for a rescheduled date.

Most of the allegations against Mr. Kwon involve construction lumber and similar being stored in locked basements or locked closets so I do not believe there are any pressing life safety issues which require an expedited hearing.

I appreciate your consideration of our request for a rescheduled time.

Will

William B. Towle, Esq.
Ward & Babb
3069 Williston Road
South Burlington, VT 05403
Phone 802/863-0307 ext. 18
Fax 802/863-4587
<http://www.wardandbabb.com>
<http://www.linkedin.com/in/willtowle>
WBNoEncrypt

From: Eugene Bergman [<mailto:EBergman@burlingtonvt.gov>]
Sent: Thursday, March 10, 2016 9:05 AM
To: Andy MacIlwaine; Norm Baldwin
Cc: jeffpadgett10@gmail.com; Chapin Spencer; Valerie Ducharme; Eileen Blackwood; Will Towle; William Ward
Subject: RE: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

I'm all for accommodating my brothers and sisters of the bar but do not believe justice would be done to delay this to the next commission meeting in April. I'm sure a special meeting of the commission to hear this appeal in the next week would be ok. I have a conflict on Wed. the 23rd but other than that I am free, including on the 17th. I'd need to check with Bill on his availability once we have a proposed date.

Gene

From: Andy MacIlwaine [<mailto:amacilwaine@DINSE.COM>]
Sent: Wednesday, March 09, 2016 8:28 PM
To: Norm Baldwin <nbaldwin@burlingtonvt.gov>
Cc: jeffpadgett10@gmail.com; Chapin Spencer <cspencer@burlingtonvt.gov>; Valerie Ducharme <vducharme@burlingtonvt.gov>; Eugene Bergman <EBergman@burlingtonvt.gov>; Eileen Blackwood <eblackwood@burlingtonvt.gov>
Subject: Re: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

Folks,

For what it's worth, I am actually involved in the same case as Will and will be in the same deposition next Wednesday. I was planning on ending the deposition by 5-5:30 in light of this hearing and assumed Will would do the same. The deposition will be at my office on Battery. That said, if it's not too burdensome to postpone the hearing I don't have a particular concern about doing so (to the extent I have a say).

WAM/iPhone
www.dinse.com | [Bio](#)
[tel: 802-654-5751](tel:802-654-5751)

On Mar 9, 2016, at 8:19 PM, Norm Baldwin <nbaldwin@burlingtonvt.gov> wrote:

I would have to consult with the chair of the commission and their legal counsel.

The Commission has made arrangements to clear their agenda and to provide a timely appeal hearing, I would further note other business has been put aside, for what is routinely a very busy commission

agenda, and at this stage staff would not be in a position to prepare other items to be heard in time for the agenda and packet to be reissued.

I would ask that you to consider finding other legal counsel to represent your client, in your place if at all possible.

Sent from my iPhone

On Mar 9, 2016, at 7:03 PM, Will Towle <towle@wardandbabb.com> wrote:

Mr. Baldwin:

I am scheduled to be in a deposition Wednesday March 16 in a multi-party case which has been plagued with great scheduling difficulties and a Court ordered March 31, 2015 fact discovery deadline. It would a great difficulty or impossibility for me to reschedule this deposition. Given the number of parties in the case, the deposition is reasonably expected to go past 5 pm (indeed, I have just now concluded a deposition in the same case at about 6:30 pm).

Would it possible to have the Public Works Commission hearing re-scheduled? (Please note that I am also scheduled to be out of state March 31-April 4)

Thank you for your consideration.

Will

William B. Towle, Esq.
Ward & Babb
3069 Williston Road
South Burlington, VT 05403
Phone 802/863-0307 ext. 18
Fax 802/863-4587
<http://www.wardandbabb.com>
<http://www.linkedin.com/in/willtowle>
WBNoEncrypt

From: Norm Baldwin [<mailto:nbaldwin@burlingtonvt.gov>]
Sent: Monday, March 07, 2016 4:11 PM
To: soonkkwon@gmail.com
Cc: jeffpadgett10@gmail.com; Chapin Spencer; Valerie Ducharme; William Ward; Eugene Bergman; Will Towle
Subject: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

NOTICE OF HEARING

Pursuant to Burlington Code of Ordinances Chapter 18, Article III, Division 5, please take notice that the **Public Works Commission** will hold a hearing related to an appeal of a minimum housing code order regarding the fire safety division of the minimum housing code associated for the following properties.

- Appeal #1 66-68 South Union Street, Code Enforcement Order dated February 19, 2016
 - Item 7-BCO 18-95 Means of Egress

- Appeal #2 41 South Willard Street, Code Enforcement Order dated January 8, 2016
 - Item 10-BCO 18-96 Accumulation and Storage
 - Item 31-BCO 18-99 Smoke Detectors
 - Item 32-BCO 18-95 Means of Egress

- Appeal #3 40-42 Colchester Avenue, Code Enforcement Order dated January 4, 2016
 - Item 2-BCO 18-95 Means of Egress
 - Item 3-BCO 18-95 Means of Egress
 - Item 6-BCO 18-95 Means of Egress
 - Item 7-BCO 18-95 Means of Egress
 - Item 8-BCO 18-96 Accumulation and Storage
 - Item 9-BCO 18-95 Means of Egress
 - Item 13-BCO 18-99 Smoke Detectors
 - Item 19-BCO 18-98 Fire Protection Systems

Each Property will be addressed as individual Appeals. The three appeals will be heard starting at **6:30 p.m. on Wednesday, March 16, 2016 in the Front Conference Room at the Central Maintenance Facility at 645 Pine Street in Burlington, Vermont. Testimony will close at time certain of 8:30 p.m., and if required another subsequent hearing will be scheduled as a continuance.**

In order to expeditiously hear this appeal, the Commission needs and hereby notifies you as the appellant to provide it with a short and concise statement outlining the specific items to be heard and addressed by the Commission. This statement must also specify the factual or legal basis of the appeal.

Each party will be given the opportunity to present the facts, as they believe them to be, and to make legal arguments. The Commission will hear testimony and take documentary evidence in support of each party's position.

You are welcome to provide supporting documentary evidence in advance of the hearing. **Witnesses must be present**; the Commission will not accept written statements from absent witnesses, even in affidavit form. The Commission will resolve disputed questions of fact and apply the law governing the situation to those facts. If you intend to present documentary evidence, please bring 9 copies of each document to the hearing.

If you are the person who requested the hearing and you fail to appear, your case will be dismissed. If there are special circumstances as to why you cannot appear in person for a hearing, please call 863-9094. Postponement of your case will be permitted only for good cause. If settlement is reached, please notify the Commission immediately.

If you have any questions, please call 863-9094.

Norman J. Baldwin, P.E.
City Engineer/Ass't Director
Burlington Public Works Department
645 Pine Street
Burlington, Vermont 05401

V: 802.865.5826

F: 802.863.0466

EMAIL: nbaldwin@burlingtonvt.gov



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street
Post Office Box 849
Burlington, Vermont 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

Norman J. Baldwin, P.E.
*ASSISTANT DIRECTOR OF PUBLIC WORKS
CITY ENGINEER*

March 7, 2016

CERTIFIED MAIL, Hard Copy

Mr. Soon Kwon
20 Highland Terrace
Burlington, Vermont 05401

NOTICE OF HEARING

Pursuant to Burlington Code of Ordinances Chapter 18, Article III, Division 5, please take notice that the **Public Works Commission** will hold a hearing related to an appeal of a minimum housing code order regarding the fire safety division of the minimum housing code associated for the following properties.

- Appeal #1 66-68 South Union Street, Code Enforcement Order dated February 19, 2016
 - Item 7-BCO 18-95 Means of Egress

- Appeal #2 41 South Willard Street, Code Enforcement Order dated January 8, 2016
 - Item 10-BCO 18-96 Accumulation and Storage
 - Item 31-BCO 18-99 Smoke Detectors
 - Item 32-BCO 18-95 Means of Egress

- Appeal #3 40-42 Colchester Avenue, Code Enforcement Order dated January 4, 2016
 - Item 2-BCO 18-95 Means of Egress
 - Item 3-BCO 18-95 Means of Egress
 - Item 6-BCO 18-95 Means of Egress
 - Item 7-BCO 18-95 Means of Egress
 - Item 8-BCO 18-96 Accumulation and Storage
 - Item 9-BCO 18-95 Means of Egress
 - Item 13-BCO 18-99 Smoke Detectors
 - Item 19-BCO 18-98 Fire Protection Systems

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You are welcome to provide supporting documentary evidence in advance of the hearing. **Witnesses must be present**; the Commission will not accept written statements from absent witnesses, even in affidavit form. The Commission will resolve disputed questions of fact and apply the law governing the situation to those facts. If you intend to present documentary evidence, please bring 9 copies of each document to the hearing.

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If you have any questions, please call 863-9094.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman J. Baldwin". The signature is stylized and cursive, with a large, sweeping flourish at the end.

Norman J. Baldwin, P.E.
Assistant Director of Public Works

cc: Jeff Padgett, Chair of the Public Works Commission
Eugene Bergman, Assistant City Attorney
William Ward, Director of Code Enforcement
Chapin Spencer, Director of Public Works
Valerie Ducharme, Customer Service Representative

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March 10, 2016 , 5:28 am

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BURLINGTON, VT 05401

March 9, 2016 , 1:08 pm

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JUNCTION, VT 05452

March 8, 2016 , 7:36 pm

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JUNCTION, VT 05452

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CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

January 8, 2016

Soon K. Kwon
PO Box 9492
South Burlington, VT 05407-9492

RE: Re-Inspection of 41 South Willard Street, Inspection 296531

Dear Owner(s):

I conducted a follow up inspection at this property on Friday, November 13, 2015 at 10:00:00 AM. My findings are included with this re-inspection report and Order. A re-inspection fee invoice in the amount of \$400.00 for the November 13, 2015 re-inspection is enclosed.

The items on the attached report that are noted as non-complied will be inspected for compliance on February 11, 2016 at 11:00 AM. Tenants must be notified at least 48 hours in advance. All areas of the property must be accessible. Please contact me at 802-863-0442, at least 24 hours in advance, sooner if possible, if this needs to be rescheduled.

You may submit a written request for an extension of compliance date(s) if you need more time to complete repairs for a valid reason. Extension requests must include the reason the request is necessary and the extended compliance date requested for each item. **Requests must be submitting in writing on our extension request form; verbal requests will not be accepted.** You may obtain an extension request form by phone, at our Office, or on the web at <https://www.burlingtonvt.gov/CodeEnforcement/Minimum-Housing> under Extension Request Form. The completed extension request, with all required information, must be approved by our office prior to the compliance date in order to avoid re-inspection fees. For this reason, and because application for an extension does not guarantee that it will be granted, you are encouraged to apply for an extension as early as possible if you anticipate difficulties with the Order compliance date(s).

If this office cannot verify compliance with the Order at this re-inspection and a written extension has not been granted by our office, a re-inspection fee of \$200.00 per unit will be charged.

You may also be ticketed for the Minimum Housing Standards violations found at re-inspections. Furthermore, failure to comply with this Order is a criminal offense punishable by a fine up to \$500.00 and/or imprisonment; each day's failure to comply constitutes a separate offense. You may also be subject to provisions on suspension and revocation of Certificates of Compliance pursuant to Burlington Code of Ordinances section 18-20 if you fail to comply with this order or fail to get an extension.

Information available in alternative media forms for people with disabilities.
For disability access information call (802) 863-0450 TTY.
An Equal Opportunity Employer

Decisions stated in this Order and report relative to new findings at the re-inspection may be appealed in writing within thirty (30) days of the date of this correspondence, addressed to the Director of the Code Enforcement Office.

Please feel free to contact me at 802-863-0442 if you have any questions or concerns.

Sincerely,



Tim Honen
Minimum Housing Inspector

INVOICE

City Of Burlington
645 Pine Street
Burlington, VT 05401

INVOICE TO: Soon K. Kwon

20 Highland TER
South Burlington VT 05403

PROJECT LOCATION: 41 South Willard ST

PROJECT DESCRIPTION:

INVOICE NO.: 176890

INVOICE DATE: Nov 19, 2015

PERMIT #: 15 211813 000

PAID
SPRINT 8, 2016
WILLARD



0000000176890

FEE DESCRIPTION	AMOUNT
Reinspection Fee	\$400.00
TOTAL:	\$400.00
PAYMENT RECEIVED:	\$0.00
BALANCE:	\$400.00

IN: 296531

Inspection Detail for: 41 South Willard Street

Inspection Date: November 13, 2015 Inspector: Tim Ahonen

Page 1 of 18

Unit/Area

(Item 1 of 12)

Finding: Bathroom floor not constructed and maintained impervious to water first floor unit rear

Remedy: Repair and maintain floor to be impervious to water, in sound condition and good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition. Bathroom and kitchen floors shall be constructed and maintained so as to be substantially impervious to water.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

(Item 2 of 12)

Finding: Interior equipment not maintained sound, sanitary and in good repair many replacement doors not painted or stained.

Remedy: Repair or replace, and maintain all interior equipment in sound and sanitary condition, and good repair to code. must have cleanable surfaces, not raw wood.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Date Printed 1/7/2016 2:29:00 PM

(Item 3 of 32)

Finding: Stairway not maintained in sound condition in rear porch. Rough, splintered wood on handrails in rear porch

Remedy: Repair, sand and maintain stairway in safe and sound condition and good repair to code.

Code Section: Stairways and porches

18-74 Every inside and outside stair, porch, railing and any appurtenance thereto shall be kept in sound condition and good repair.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

(Item 4 of 32)

Finding: Electrical equipment installed or maintained incorrectly; outlets damaged, broken covers, Duct taped.

Remedy: Repair defective equipment/installation.

Code Section: Electrical facilities

18-85 All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with applicable laws.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Item 5 of 32

Finding: Deteriorated painted surfaces found on more than 1 square foot (sf)(aggregate)

Remedy: Promptly and safely repair and/or stabilize deteriorated surfaces using lead safe work practices; do not use prohibited work practices; record repair on EMP compliance statement.

Code Section: Paint

18-112 (a) (1), (2) The interior and exterior of pre-1978 rental housing shall be free from deteriorated painted surfaces more than 1 square foot (sf) in the aggregate;

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney’s fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Item 5 of 32

Finding: Finding. Lead Paint responsibility not met under Burlington City Ordinance: Chapter 18 -112 available online @ www.burlingtonvt.gov/cedo **Remedy:** Please forward to this office a copy of your most recently completed EMP certification form that you filed with the State Lead Program as required by law. Compliance Statements can be filed on-line at <https://secure.vermont.gov/VDH/emp/> For information on the EMP/lead law contact the State Lead program at 1-800-439-8550.

Remedy: Please forward to this office a copy of your most recently completed EMP certification form that you filed with the State Lead Program as required by law. For information on the EMP/lead law contact the State Lead program at 1-800-439-8550.

Code Section: Paint

18-112 (h) Owners of pre-1978 rental housing shall have continuing disclosure, education, and cleaning obligations

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the

IN: 296531

Inspection Detail for: 41 South Willard Street

Inspection Date: November 13, 2015 Inspector: Tim Ahonen

Page 4 of 18

Unit/Area

Continued:

plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

(Item 7 of 32)

Finding: Garbage, trash, recycling or debris in the yard. Garbage bags swarming with flies. Old Xmas tree, dead potted plants, broken glass, wrappers, cups scattered all over. bicycle chain, broken grill parts, broken furniture.

Remedy: Remove garbage, trash, recycling and debris from yard. Maintain exterior common free of accumulations.

Code Section: Accum of trash, inoper. vehicles, appliances and furn prohibited
18-111 Rubbish, junk, refuse, garbage, scrap metal, tin cans and recyclables shall only be allowed to remain outdoors and in plain view in the front yard of any property for the purpose of recycling and solid waste pickup for disposal and only if they are neatly kept, stored, maintained, or deposited in accordance with all minimum housing, health and solid waste ordinances and regulations.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

(Item 8 of 32)

second floor bedroom front

Finding: Interior equipment not maintained sound, sanitary and in good repair Splintered door jamb in bedroom on second floor north, of first floor unit.

Remedy: Repair or replace, and maintain all interior equipment in sound and sanitary condition, and good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

all areas

(Item 9 of 32)

Finding: Unsanitary condition in dwelling unit cobwebs, dirty window wells Not cleaned at turn over per EMP law.

Remedy: Clean and maintain dwelling unit clean and sanitary to code.

Code Section: Premises to be kept clean and sanitary

18-106 Every owner or his agent shall maintain the shared or public areas of the dwelling unit or units or yard in a clean and sanitary condition. Every occupant of a dwelling unit shall maintain in a clean and sanitary condition that part of the dwelling unit and yard which he occupies and controls.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

IN: 296531

Inspection Detail for: 41 South Willard Street

Inspection Date: November 13, 2015 Inspector: Tim Ahonen

Page 6 of 18

Unit/Area

cellar (Item 10 of 32)

Finding: Unreasonable quantities of accumulated and stored materials on premises. Cellar packed with disordered heaps of hoarded goods.

Remedy: Reduce accumulations of stored materials. Maintain premises free of excessive accumulations.

Code Section: Interior accumulations and storage

18-96 Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible refuse, such as wastepaper, boxes and rags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal residential use.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

EMP lead paint law. (Item 11 of 32)

Finding: Interior wall/ceiling with peeling paint Peeling paint in bedroom at first floor south east corner and first floor bathroom pipes.

Remedy: Repair, paint and maintain walls in good repair to code. Follow Vermont lead paint regulation guidelines when repairing and maintaining painted surfaces.

Code Section: Floors, interior walls and ceilings

18-72 Interior walls and ceilings shall be maintained in sound condition and good repair. Peeling paint and other deteriorated or damaged surface conditions shall be eliminated.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Date Printed 1/7/2016 2:29:00 PM

IN: 296531

Inspection Detail for: 41 South Willard Street

Inspection Date: November 13, 2015 Inspector: Tim Ahonen

Page 7 of 18

Unit/Area

exterior wall (Item 14 of 32)

Findings: Exterior wall condition admits rain or dampness, siding rotting on southwest corner where gable joins wall.

Remedy: Repair exterior wall to be weather-tight and impervious to moisture. Maintain exterior walls to code.

Code Section: Foundation, exterior walls and roofs

18-71 Every exterior wall shall be maintained structurally sound and in a sanitary condition. Every exterior wall shall be free of holes, breaks, loose or rotting boards, or timbers, and any other conditions that admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

IN: 296531

Inspection Detail for: 41 South Willard Street

Inspection Date: November 13, 2015 Inspector: Tim Ahonen

Page 8 of 18

Unit/Area

First floor (Item 12 of 12)

Finding: Floor not maintained sound, sanitary, or in good repair. Rear front and rear doors are worn out with ragged edges at rear.

Remedy: Repair and maintain floor in sound and sanitary condition and good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition. Floors shall be kept in sound condition and good repair.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

First floor (Item 14 of 12)

Finding: Defective heating equipment: baseboard in bathroom, rear of first floor unit is heavily damaged.

Remedy: Repair or replace heating equipment. Maintain in sound condition and good repair to code.

Code Section: Heating and cooking equipment

18-86 All cooking and heating equipment, components, and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health and accident hazards. All mechanical equipment shall be properly installed and safely maintained in good working condition and be capable of performing the function for which it was designed and intended.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

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Inspection Detail for: 41 South Willard Street

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First floor unit (Item 15 of 32)

Finding: Heating to adequate temperature in all rooms causes overheating of some areas; first reported last winter, this was never addressed by you Mr. Kwon. The rear bedroom, first floor unit (west) gets down to 50 degree range while the front side gets above 80. Your heating system appears to be cobbled together by an inept plumber with hot water boilers attached to old steam pipe system.

Remedy: Repair or replace heating system so that all areas in all rooms meets the requirement for minimum temperature of 65 degrees F, without overheating any other room.

Code Section: Heating and cooking equipment

18-86 Every dwelling unit and rooming unit shall be provided with heating facilities capable of maintaining a room temperature of sixty-five degrees Fahrenheit at a point three feet above the floor and three feet from an exterior wall in all habitable rooms and bathrooms at all times. The minimum capacity shall be obtained without overheating any other room.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

First floor unit (Item 16 of 32)

Finding: Interior wall/ceiling not maintained sound, sanitary and in good repair. Raw plywood patches layered on interior hallway in first floor unit. Not only is the plywood ugly, unpainted and dirty it has now got holes of it's own.

Remedy: Repair any structural defects, cracked or loose plaster, peeling paint and maintain all interior surfaces in sound and sanitary condition and good repair to code. Remove plywood patches and finish the hallway in a workmanlike manner suitable to a residence.

Code Section: Floors, interior walls and ceilings

18-72 Interior walls and ceilings shall be maintained in sound condition and good repair. Cracked or loose plaster, peeling paint, decayed wood, and other deteriorated or damaged surface conditions shall be eliminated.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

First floor unit (Item 17 of 32)

dryer closet

Finding: Interior wall/ceiling not maintained sound, sanitary and in good repair. Dryer closet back wall sheetrock not attached to studs, not painted or finished.

Remedy: Repair any structural defects, cracked or loose plaster, peeling paint and maintain all interior surfaces in sound and sanitary condition and good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 Interior walls and ceilings shall be maintained in sound condition and good repair. Cracked or loose plaster, peeling paint, decayed wood, and other deteriorated or damaged surface conditions shall be eliminated.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

First floor unit (Item 18 of 32)

dryer closet

Findings: Floor not in sound condition and repair. Uneven, damaged or unsanitary gaps/holes under dryer closet that lead to cellar. A properly installed floor does not have holes.

Remedy: Repair uneven, damaged or unsanitary surface conditions. Maintain floors in sound and sanitary condition, and in good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition. Floors shall be in kept in sound condition and good repair.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney’s fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

First floor unit (Item 19 of 32)

kitchen

Findings: kitchen floor not constructed and maintained impervious to water in first floor rental unit.

Remedy: Repair and maintain floor to be impervious to water, in sound condition and good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition. Bathroom and kitchen floors shall be constructed and maintained so as to be substantially impervious to water.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney’s fees incurred by the plaintiff or so much thereof as the court finds reasonable.

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First floor unit (Item 20 of 32)

Kitchen cabinets

Finding: Kitchen counters/cabinets falling apart, damaged surfaces.

Remedy: Repair or replace, and maintain all interior equipment in sound and sanitary condition, and good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

First floor unit (Item 21 of 32)

rear door

Finding: Exterior door pane cracked, broken or absent: rear door to first floor rental missing glass pane.

Remedy: Replace exterior door pane and maintain in weatherproof, in sound condition and good repair to code.

Code Section: Exterior windows and doors

18-73 Every exterior door shall be maintained to prevent wind and water from entering the dwelling or structure. Every door shall be weather-tight. Every door pane shall be fully and properly glazed.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

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Unit/Area

Front steps (Item 22 of 32)

Finding: Unsafe condition of stairway-front porch steps out sagging and separating from porch.

Remedy: Repair unsafe stairway condition. Maintain stairway in safe and sound condition and good repair to code.

Code Section: Stairways and porches

18-74 Every inside and outside stair, porch, railing and any appurtenance thereto shall be safe to use and kept in sound condition and good repair.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Heating unit (Item 23 of 32)

Finding: No inspection tag on unit. All fuel burning heating systems must be inspected every 2 years and serviced and certified with a tag issued to the verified contractor by the Department of Public Works.(DPW). MR Kwon you did not provide access to this area.

Remedy: Have a certified technician inspect and certify that system is functioning and operating in a safe manner, with proof of inspection stated on tag issued by DPW and placed in a conspicuous place on the unit

Code Section: Heating and cooking equipment

18-86 All cooking equipment shall be maintained so as to be free from fire, health and accident hazards.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

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Interior Walls (Item 24 of 32)

Finding: Interior wall/ceiling with cracked or loose plaster virtually every room in both rental units has cracks, holes, and other damage.

Remedy: Repair any cracked or loose plaster, paint and maintain all interior surfaces smooth and in good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 Interior walls and ceilings shall be maintained in sound condition and good repair. Cracked or loose plaster and other deteriorated or damaged surface conditions shall be eliminated.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

Rear Porch (Item 25 of 32)

Finding: Dwelling infested with insects, rodents or other pests. Pigeons living in spaces inside rear stair tower

Remedy: Provide licensed exterminator. Provide this office with written documentation from exterminator of work completed. Maintain dwellings free of insects, rodents and pests.

Code Section: Extermination of vermin

18-107 Every owner or his agent shall be responsible for the extermination of any insects, rodents, or other pests whenever any such infestation exists, except when the infestation is in one dwelling unit only and is the sole result of a single occupant's action as determined by the code official.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

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rear stairs (Item 2 of 2)

Finding: a damaged, unstable or otherwise unsafe Section of handrail for rear stairs is broken off of building.

Remedy: Replace handrail. Install new handrail to code.

Code Section: Stairways and porches

18-74 Every inside and outside stair, railing and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be put thereon and shall be kept in sound condition and good repair.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

rear stairs (Item 2 of 2)

Finding: Stair treads or risers worn, broken, warped or loose 4 split stair treads on rear stairway, 1 loose and a fifth damaged. All are fall hazards.

Remedy: Repair or replace broken, worn or loose stair treads or risers. Maintain in sound condition and good repair to code.

Code Section: Stairways and porches

18-74 All stairs and other exit facilities of every structure shall be maintained in sound condition and good repair by replacing treads and risers that are worn, broken, warped or loose.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

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Unit/Area

Second floor (Item 28 of 32)

Finding: Exterior wall condition and in repair in progress: unpainted plywood exterior walls around entrance door to second floor unit.

Remedy: Repair exterior wall to be weather-tight and impervious to moisture; add tyvek and siding. Maintain exterior walls to code.

Code Section: Foundation, exterior walls and roofs

18-71 Every exterior wall shall be maintained structurally sound and in a sanitary condition. Every exterior wall shall be free of holes, breaks, loose or rotting boards, or timbers, and any other conditions that admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Second floor (Item 29 of 32)

floors

Finding: Floors not in sound condition and repair, surface uneven, damaged or unsanitary. Uneven floors where different materials meet.

Remedy: Repair uneven, damaged or unsanitary surface conditions. Maintain floors in sound and sanitary condition, and in good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition. Floors shall be in kept in sound condition and good repair.

11-13-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

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second floor unit (Item 30 of 32)

Finding: Exterior window does not fit frame and is not weather-tight Storm window second floor bedroom north side

Remedy: Repair and maintain window weather-stripping to code.

Code Section: Exterior windows and doors

18-73 Every exterior window shall be constructed and maintained to prevent wind and water from entering the dwelling or structure. Each window shall be fitted reasonably in its frame and be weather-tight. Weather-stripping shall be used to prevent wind or rain from entering the dwelling and shall be kept in sound condition and good repair.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

Smoke alarms (Item 31 of 32)

Finding: Smoke/CO detector does not meet required standards. all units seen were too old and should be replaced. Units older than 5 years should be replaced

Remedy: Replace smoke/CO detector to code. Carbon monoxide detectors must be UL 2034 listed or approved by a nationally recognized independent testing laboratory. Installation must be in the vicinity off sleeping areas and on every floor of the dwelling, in accordance with the manufacturer's instructions and State law. City of Burlington electrical permit required for electrical work.

Code Section: Smoke detectors

18-99 Smoke detectors/alarms shall be properly installed and shall be maintained in good working condition.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

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third floor (Item 32 of 32)

east bedroom

Finding: Path of egress is obstructed or otherwise unsafe; third floor east side bedroom egress window has broken off crank, can't be opened

Remedy: Repair window

Code Section: Means of egress

18-95 Each first and second floor dwelling unit shall have one safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open space or area at grade. Dwelling units on the third floor and above shall have at least two safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open area at grade.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Code Enforcement DPW appeal hearing

41 South Willard Street



Code Enforcement Timeline of inspections at this property

DATE	ACTION	INSPECTOR	DEFICIENCIES
8/24/2015	Routine Housing Inspection	Tim Ahonen/ Bill Ward	39 Items
8/26/2015	Order Sent	Sybil Thomas	
9/23/2015	Follow-up Inspection	Tim Ahonen/ Bill Ward	37 Items
9/29/2015	Order Sent	Sybil Thomas	
10/22/2015	2nd Follow-up Inspection	Tim Ahonen/ Bill Ward	35 Items
10/27/2015	Order Sent	Sybil Thomas	
11/13/2015	3rd Follow-up Inspection	Tim Ahonen/ Bill Ward	31 Items
1/8/2016	Order Sent for Inspection on November 13, 2015	Sybil Thomas	UNDER APPEAL
1/27/2016	Appeal received on 1/8/16 order for November 2015 inspection		
2/8/2016	Inspection rescheduled to 2-18-2016 at request of Attorney Will Towle	Bill Ward	
2/11/2016	Compliance date from January 8, 2016 order		
2/18/2016	Inspection for compliance date 2-11-16	Tim Ahonen/ Bill Ward	

There were 32 deficiencies at the November 2015 inspection

3 of those deficiencies are from Division 5 of the housing ordinance and are subject to appeal review by the Public Works Commission

- Item #10 of 32 – Excessive interior accumulations
- Item #31 of 32 – Expired Smoke/CO detectors
- Item #32 of 32 – Obstructed escape/egress

Unit/Area
cellar (Item 10 of 32)

Finding: Unreasonable quantities of accumulated and stored materials on premises. Cellar packed with disordered heaps of hoarded goods.

Remedy: Reduce accumulations of stored materials. Maintain premises free of excessive accumulations.

Code Section: Interior accumulations and storage

18-96 Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible refuse, such as wastepaper, boxes and rags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal residential use.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Conditions observed
on 11-12-15–
Photo taken by
William Ward



Unit/Area

Smoke alarms (Item 31 of 32)

Finding: Smoke/CO detector does not meet required standards: all units seen were too old and should be replaced. Units older than 5 years should be replaced.

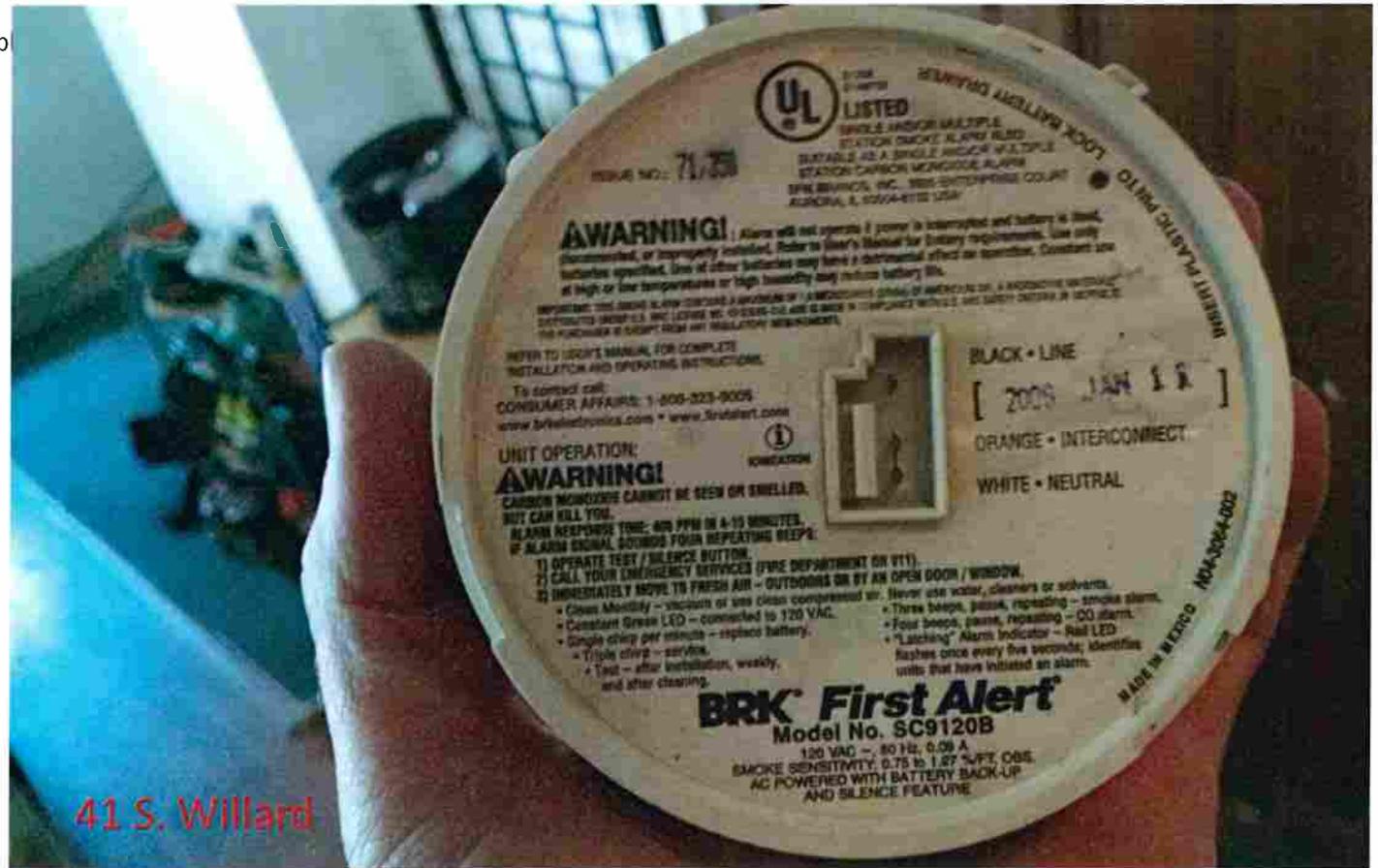
Remedy: Replace smoke/CO detector to code. Carbon monoxide detectors must be UL 2034 listed or approved by a nationally recognized independent testing laboratory. Installation must be in the vicinity of sleeping areas and on every floor of the dwelling, in accordance with the manufacturer's instructions and State law. City of Burlington electrical permit required for electrical work.

Code Section: Smoke detectors

18-99 Smoke detectors/alarms shall be properly installed and shall be maintained in good working condition.

11-13-15 Inspection STATUS: Non Comp

Conditions observed
on 11-12-15 –
Photo taken by
William Ward



Manufacturer information about BRK Smoke/CO detectors

The screenshot shows the BRK website interface. At the top left is the BRK logo with the tagline 'THE PROFESSIONAL STANDARD'. To the right are navigation links for 'Home', 'Contact Us', and a search bar containing 'Product, SKU, Keyword' with a 'GO' button. Below the search bar is a horizontal menu with 'View catalog', 'Products', 'FAQs/Troubleshooting', and 'Register your products'. On the left side, there is a vertical navigation menu with 'BRK Professionals' as a main category, including sub-links for 'New Construction', 'Products', 'Downloads', 'Cross Reference List', 'Codes', 'Legislation Map', and 'Listing cards'. Below this are sections for 'MRO Professionals' and 'OEMs'. Underneath is an 'Other Links:' section with links to 'Company Profile', 'Rep locator', 'Customer Service Numbers', 'News / Press', and 'Become a Distributor'. The main content area features a banner with the title 'How long do CO and CO/Smoke combo alarms last?' and a 'First Alert' logo. Below the banner, the article text discusses ANSI/UL2034 specifications and provides detailed information about the end-of-life feature of BRK CO alarms.

BRK
THE PROFESSIONAL STANDARD

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BRK Professionals

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 - » Products
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 - » Cross Reference List
 - » Codes
 - » Legislation Map
 - » Listing cards
- ▶ MRO Professionals
- ▶ OEMs

Other Links:

- » [Company Profile](#)
- » [Rep locator](#)
- » [Customer Service Numbers](#)
- » [News / Press](#)
- » [Become a Distributor](#)

How long do CO and CO/Smoke combo alarms last?

ANSI/UL2034 specifications have changed to require all CO alarms and combination smoke/CO alarms to have an end of life feature. This is an industry wide change. This requirement went into effect for any production beginning on August 1, 2009. All BRK/First Alert carbon monoxide alarms manufactured on or after this date meet this requirement. This information is stated on the original packaging, label on the alarm and the manuals.

Recent breakthroughs in CO sensor technology and alarm design improvements allow most BRK CO alarms and combination smoke and CO alarms to have a 10-year alarm life, a 10-year CO sensor life, and a 10-year warranty. Many also have batteries that last for 10 years. The end of life timer built into the alarm is a simple counter that begins working once the unit is activated either by plugging it in, hardwiring or inserting the battery. Then after approximately 120 months of operation (or other timing as coded in the alarm which may be 60 or 72 months) the unit will begin to sound 5 chirps. See the individual CO product on the BRK website and click on the "sounds" tab to hear this alert. This silence feature can temporarily quiet the End of Life warning "chirp" for up to 2 days. You can silence the End of Life warning "chirp" by pressing the Test/Silence button. The horn will chirp, acknowledging that the End of Life feature has been activated. After approximately 2 days, the End of Life "chirp" will resume. After approximately 2-3 weeks the End of Life warning cannot be silenced

[»Return to New Construction FAQs/Troubleshooting](#)

6

third floor (Item 32 of 32)
east bedroom

Finding: Path of egress is obstructed or otherwise unsafe; third floor east side bedroom egress window has broken off crank. can't be opened.

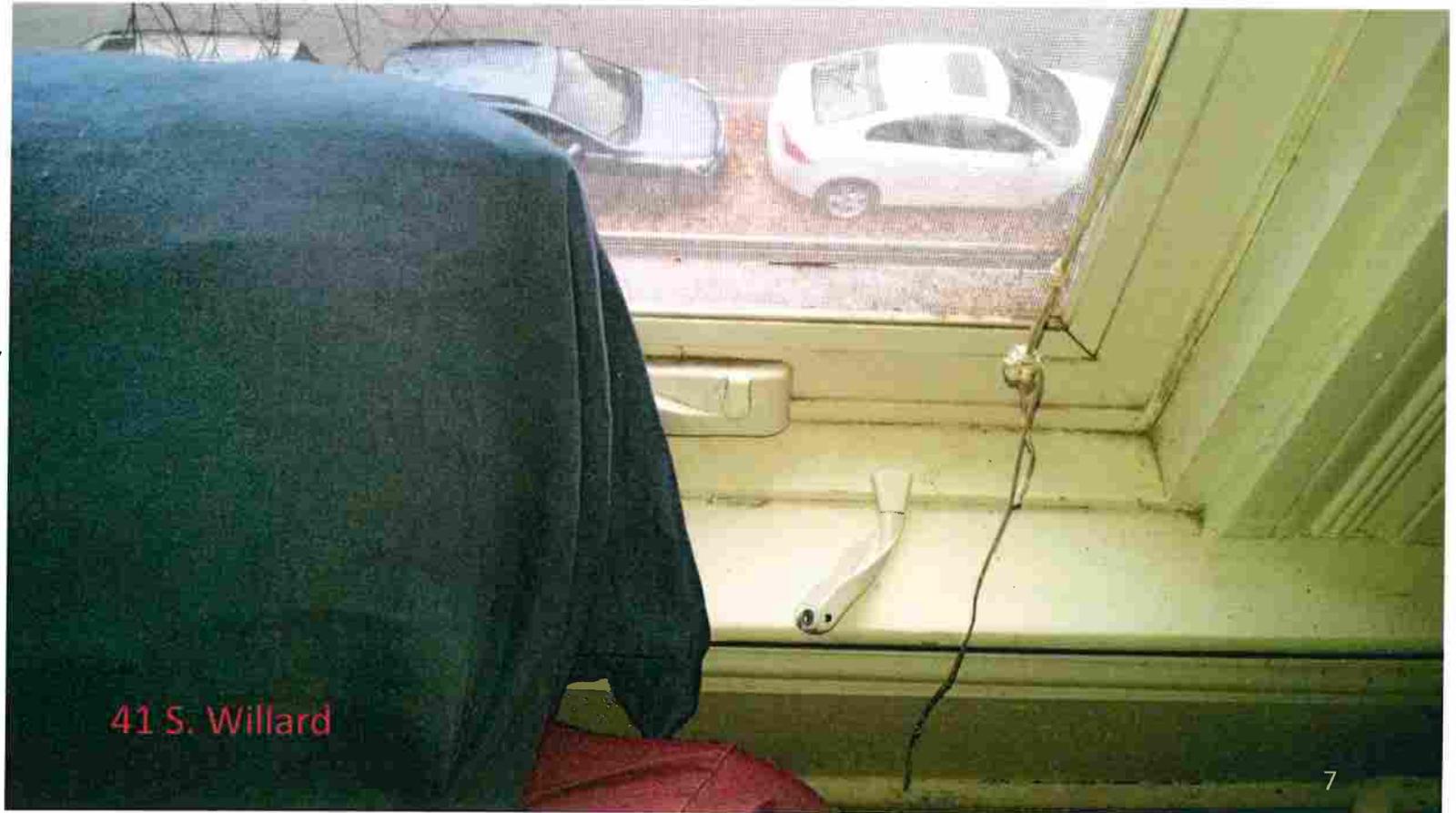
Remedy: Repair window

Code Section: Means of egress

18-95 Each first and second floor dwelling unit shall have one safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open space or area at grade. Dwelling units on the third floor and above shall have at least two safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open area at grade.

11-13-15 Inspection STATUS: Non Complied –Violation not corrected

Conditions
observed on
11-12-15–
Photo taken by
William Ward





41 S. Willard

Conditions observed on
11-12-15—
Photo taken by William Ward



41 S. Willard

2016/2/18_12:23

Conditions observed on 2-18-16
Photo taken by William Ward



41 S. Willard

Conditions observed on
2-18-16

Photo taken by William Ward (close up of previous photo)

Requested action from the Public Works Commission

1. Uphold the Code Enforcement decision that the deficiencies ordered to be corrected were valid.
2. Require that the order be complied with and the 3 deficiencies be corrected to meet code requirements.



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street
Post Office Box 849
Burlington, Vermont 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

Norman J. Baldwin, P.E.
*CITY ENGINEER/ASS'T DIRECTOR OF PUBLIC
WORKS*

March 10, 2016

TO: Public Works Commission

FROM: Norman Baldwin, P.E. *NJB*
Assistant Director-Technical Services

RE: Appeal of Code Enforcement Orders related to Life Safety Requirements for three properties

- 66-68 South Union Street,
- 41 South Willard Street,
- 40-42 Colchester Avenue

Mr.Kwan is the owner of a three properties, 66-68 South Union Street, 41 South Willard Street and 40-42 Colchester Avenue. Mr.Kwon through his attorney Mr.William Towle has sought to appeal Code Enforcements Orders related to Life Safety Requirements for the three properties identified, attached is the request for the appeal to be heard, addressed to Director Spencer dated February 24, 2016. Below is the list of items for each of the properties and each property will be addressed as its own separate appeal.

- Appeal #1 66-68 South Union Street, Code Enforcement Order dated February 19, 2016
 - Item 7-BCO 18-95 Means of Egress
- Appeal #2 41 South Willard Street, Code Enforcement Order dated January 8, 2016
 - Item 10-BCO 18-96 Accumulation and Storage
 - Item 31-BCO 18-99 Smoke Detectors
 - Item 32-BCO 18-95 Means of Egress
- Appeal #3 40-42 Colchester Avenue, Code Enforcement Order dated January 4, 2016
 - Item 2-BCO 18-95 Means of Egress
 - Item 3-BCO 18-95 Means of Egress
 - Item 6-BCO 18-95 Means of Egress

- Item 7-BCO 18-95 Means of Egress
- Item 8-BCO 18-96 Accumulation and Storage
- Item 9-BCO 18-95 Means of Egress
- Item 13-BCO 18-99 Smoke Detectors
- Item 19-BCO 18-98 Fire Protection Systems

Since receiving the appeal I have attempted to schedule this appeal to be heard at the March 16, 2016 Commission meeting. In doing so I have sent notice of the hearing via email, certified mail, as well as hand delivered hard copy notices to Mr.Kwon, and Mr.Towle as legal counsel to Mr.Kwon, all documents were issued and sent on March 7, 2016.

Since issuing the notice I had received an email from Mr.Towle, on the evening of Wednesday March 9, 2016 seeking a request for an alternative date given Mr.Towle had a conflicting deposition. I explained to Mr.Towle that this would be a hardship for our Commission given the Commission had made a point to clear their agenda to accommodate and provide a timely response to this appeal given it relates to life safety requirements. It was at that time that I had committed to Mr.Towle that I would follow up with the Chair of the Commission, Jeff Padget, whom ultimately would decide as to whether or not this appeal would be heard at the March 2016 Commission Meeting or to postpone to another future meeting.

After consulting with Public Works Commission Chair Jeff Padget it was decided Mr.Kwon's appeal would continue to be heard at our March 2016 meeting, and it would be placed later on the agenda, from 6:30 p.m. Time Certain to 6:50 p.m. Time Certain. I have sent via email to Mr.Towle notice the hearing would continue to be heard at our March 16, 2016 meeting.

It is the responsibility of Mr.Kwon and his representatives attend given there was adequate advance notice of the hearing.

I will be serving as staff to the Public Works Commission at the meeting and will introduce the two parties Code Enforcement as the administrators of the Ordinance and Mr.Kwon as the Appellant.

Andy Macilwaine, will serve as legal counsel to the Commission as well.

WARD & BABB

ATTORNEYS-AT-LAW

A Trade Name for a Professional Corporation

EUGENE J. WARD, III
GUY L. BABB
WILLIAM B. TOWLE
CYNTHIA R. AMRHEIN (VT, NY)
AMBER L. THIBEAULT
DAVID R. WEIGEL (VT, MA)

REGISTERED LAW CLERK:
HETHBA FATNASSI
CATHERINE M. COLT

www.wardandbabb.com
Sender's e-mail: towle@wardandbabb.com

CLOSING COORDINATOR:
DEBRA DENNY

LEGAL ASSISTANTS:
TIFFANY R. PEZZIMENTI
ELAINE M. SARKISIAN

PARALEGAL:
JO RICHER

February 24, 2016

Chapin Spencer
Director of Public Works
Department of Public Works
PO Box 849
Burlington, VT 05402-0849

**RE: 66-68 South Union Street
41 South Willard Street
40-42 Colchester Avenue
34 Colchester Avenue**

Dear Mr. Spencer:

This letter serves as notice that Mr. Kwon appeals any fire safety issues raised in:

- 1) the recent re-inspection at 66-68 South Union Street, including but not limited to inspection number 299422 and/or any subsequent inspection report for this location;
- 2) the recent re-inspection at 41 South Willard Street, including but not limited to inspection number 296531 and/or any subsequent inspection report for this location;
- 3) the recent re-inspection at 40-42 Colchester Avenue, including but not limited to inspection number 295388 and/or any subsequent inspection report for this location;
- 4) the recent re-inspection at 34 Colchester Avenue, including but not limited to inspection number 296523 and/or any subsequent inspection report for this location.

The basis for the appeal is: (1) inaccurate factual allegations; (2) allegations that are unrelated to the minimum housing code, and therefore are outside the jurisdiction of the housing inspector; and (3) any alleged violations related to lead paint are barred by res judicata as these alleged violations are subject to a separate enforcement action by the State of Vermont.

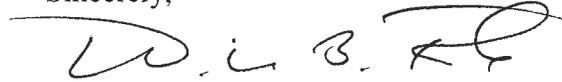
Mr. Kwon requests a determination that these location are not in violation of any

applicable fire safety issues.

These appeals are taken under objection.

As indicated in the enclosed letter to the Housing Board of Review dated February 24, 2016, which is adopted by reference, we believe that these appeals lie correctly with the Housing Board of Review. Mr. Kwon therefore adopts by reference the appeals filed in those pending actions before the Board of Review.

Sincerely,

A handwritten signature in black ink, appearing to read "W. B. Towle". The signature is fluid and cursive, with a large initial "W" and a stylized "T" at the end.

William B. Towle

Enclosure: letter to the Housing Board of Review dated February 24, 2016

cc: Client
Bill Ward (without enclosure)
Gene Bergman (without enclosure)

WARD & BABB
ATTORNEYS-AT-LAW
A Trade Name for a Professional Corporation

EUGENE J. WARD, III
GUY L. BABB
WILLIAM B. TOWLE
CYNTHIA R. AMRHEIN (VT, NY)
AMBER L. THIBEAULT
DAVID R. WEIGEL (VT, MA)

REGISTERED LAW CLERK:
HETHBA FATNASSI
CATHERINE M. COLT

www.wardandbabb.com
Sender's e-mail: towle@wardandbabb.com

CLOSING COORDINATOR:
DEBRA DENNY

LEGAL ASSISTANTS:
TIFFANY R. PEZZIMENTI
ELAINE M. SARKISIAN

PARALEGAL:
JO RICHER

February 24, 2016

William Ward
Director of Code Enforcement
Burlington Code Enforcement Office
P.O. Box 849
Burlington, VT 05402-0849

Eugene Bergman, Esq.
Assistant City Attorney
City Attorney's Office
149 Church Street, Room 11
Burlington, VT 05401

RE: 66-68 South Union Street

Dear Gentlemen:

This letter serves as notice that Mr. Kwon appeals the recent re-inspection at 66-68 South Union Street, including but not limited to inspection number 299422 and/or any subsequent inspection report for this location.

The basis for the appeal is: (1) inaccurate factual allegations; (2) allegations that are unrelated to the minimum housing code, and therefore are outside the jurisdiction of the housing inspector; and (3) any alleged violations related to lead paint are barred by res judicata as these alleged violations are subject to a separate enforcement action by the State of Vermont.

Mr. Kwon requests a determination that 66-68 South Union Street is not in violation of the minimum housing standards.

Sincerely,


William B. Towle

cc: Client
Chapin Spencer, Department of Public Works

WARD & BABB

ATTORNEYS-AT-LAW

A Trade Name for a Professional Corporation

EUGENE J. WARD, III
GUY L. BABB
WILLIAM B. TOWLE
CYNTHIA R. AMRHEIN (VT, NY)
AMBER L. THIBEAULT
DAVID R. WEIGEL (VT, MA)

REGISTERED LAW CLERK:
HETHBA FATNASSI
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CLOSING COORDINATOR:
DEBRA DENNY

LEGAL ASSISTANTS:
TIFFANY R. PEZZIMENTI
ELAINE M. SARKISIAN

PARALEGAL:
JO RICHER

February 24, 2016

Lisa Jones
Board Clerk
Housing Board of Review
City of Burlington
149 Church St. Room 11
Burlington, VT 05401

Dear Ms. Jones:

I write in response to your letter of February 19, 2016.

My client does intend to appeal the 66-68 South Union order of February 19, 2016. For the record, we will issue a notice of appeal to Bill Ward on that matter.

I have reviewed your suggestion that certain provisions of the appeal related to fire safety must be appealed to the Public Works Commission. Although I do ask that you transfer those matters to the Public Works Commission as cross-appealed – and we will file our own notices as well -- we do so under objection.

We believe under the controlling state statute this entire appeal is correctly before the Housing Board of Review.

The current Minimum Housing Standards Ordinance of the City of Burlington were passed in 1986. Although based on an earlier ordinance, it is clear that the updated ordinances were passed under 24 V.S.A. Chapter 123, specifically 24 V.S.A. § 5003, and were not passed under the older municipal code statute, 24 V.S.A. Chapter 83. As proof, we point out that Division 2 of the ordinance establishes a housing board of review pursuant to 24 V.S.A. § 5005, which is solely authorized under ordinances established under 24 V.S.A. § 5003. We conclude that the current Ordinance Chapter 18, the Minimum Housing Standards Ordinance of the City of Burlington, was passed under authority of 24 V.S.A. Chapter 123.

All of the items referenced in the reports under appeal reference violations under Ordinance Chapter 18 (or are silent on their basis). I also note that there is no warning in the violation notice that appeal might be due to Public Works. Also, the split appeal is unnecessarily

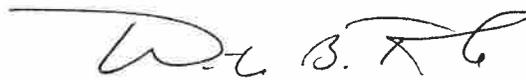
confusing.

I recognize that Ordinance 18-94 purports to make violations of Division 5 (18-94 through 18-101) appealable to "the appeals board under the rules established in Chapter 8 of this Code of Ordinances." It appears the Ordinance anticipates that certain fire related appeals are to be heard by the older appeals board, which is how older municipal codes under ordinances passed under the older 24 V.S.A. Chapter 83 (§3101-3120) handled appeals. The Ordinance explains the reason is for "consistent enforcement."

Regardless, Public Works is a misplaced destination for an appeal for an updated ordinance, such as Burlington's. 24 V.S.A. § 5010 specifically states that ordinances adopted pursuant to the newer 24 V.S.A. Chapter 123 are not subject to the provisions of the older 24 V.S.A. Chapter 83 ("The provisions of this chapter and ordinances and regulations adopted under its authority, shall not be subject to limitations, requirements or provisions contained in said chapter 83"). We find that by passing an ordinance under 24 V.S.A. Chapter 123 and setting up an enforcement scheme under that chapter, Burlington has removed statutory basis for an appeal to the appeal board as per the older statute. Instead, 24 V.S.A. § 5005.(b)(2) states that "[a]ny person aggrieved by an order issued by the enforcing officer may appeal to the [housing] board."

We believe under 24 V.S.A. § 5005.(b)(2), the Board is the only permissible review of any alleged violation under Ordinance Chapter 18.

Sincerely,

A handwritten signature in black ink, appearing to read "W. B. Towle". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

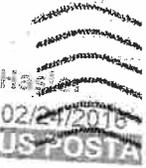
William B. Towle

cc: Client
Bill Ward
Eugene Bergman
Chapin Spencer

WARD & BABB
ATTORNEYS-AT-LAW
3069 WILLISTON ROAD
SOUTH BURLINGTON, VERMONT 05403-6044

BURLINGTON VT 054

24 FEB 2016 PM 1 L



RECEIVED
FEB 26 2016
City Of Burlington
Department Of Public Works

Chapin Spencer
Director of Public Works
Department of Public Works
PO Box 849
Burlington, VT 05402-0849

Norm Baldwin

From: Norm Baldwin
Sent: Thursday, March 10, 2016 2:08 PM
To: 'Will Towle'
Cc: jeffpadgett10@gmail.com; Chapin Spencer; Valerie Ducharme; Eileen Blackwood; William Ward; Eugene Bergman; Andy MacIlwaine
Subject: RE: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

Mr.Towle,

The Public Works Commission was first notified of this appeal as a result of your letter dated February 24, 2016 addressed to Director Chapin Spencer. The Department responded in a timely manner to your clients appeal request, and has provided reasonable advance notice of the meeting, date, time and location.

I have spoken with the Chair of the Commission and it was his decision, which I support, to move ahead with these series of appeals at the March Commission meeting. I would note to provide further accommodation, the Chair of the Commission rescheduled this item to be heard at 6:50 p.m., versus the original time certain of 6:30 p.m..

Please confirm both yours and your clients ability to attend.

From: Will Towle [mailto:towle@wardandbabb.com]
Sent: Thursday, March 10, 2016 12:04 PM
To: Eugene Bergman <EBergman@burlingtonvt.gov>; Andy MacIlwaine <amacilwaine@DINSE.COM>; Norm Baldwin <nbaldwin@burlingtonvt.gov>
Cc: jeffpadgett10@gmail.com; Chapin Spencer <cspencer@burlingtonvt.gov>; Valerie Ducharme <vducharme@burlingtonvt.gov>; Eileen Blackwood <eblackwood@burlingtonvt.gov>; William Ward <wward@burlingtonvt.gov>
Subject: RE: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

Mr. Baldwin:

The scheduling problems with the deposition are significant – as Andy can confirm we tried to wrap up yesterday's deposition at 4:30 PM but the lawyer for the deponent refused, and the deposition continued until about 6:30 when all lawyers were satisfied with their examination. Most of the depositions in this case have run past 5 pm. It is the nature of this case so I am not as optimistic as Andy that we will be out of there on time.

There are no other lawyers in this firm who are familiar with the Kwon matter pending before the Board so it is not fair to Mr. Kwon to force him acquire backup counsel for this matter.

We appealed the first of these matters on January 27, 2016 and were only just notified on Monday, March 7 about the Wednesday, March 16 hearing, and duly made a timely request for a rescheduled date.

Most of the allegations against Mr. Kwon involve construction lumber and similar being stored in locked basements or locked closets so I do not believe there are any pressing life safety issues which require an expedited hearing.

I appreciate your consideration of our request for a rescheduled time.

Will

William B. Towle, Esq.
Ward & Babb
3069 Williston Road
South Burlington, VT 05403
Phone 802/863-0307 ext. 18
Fax 802/863-4587
<http://www.wardandbabb.com>
<http://www.linkedin.com/in/willtowle>
WBNoEncrypt

From: Eugene Bergman [<mailto:EBergman@burlingtonvt.gov>]
Sent: Thursday, March 10, 2016 9:05 AM
To: Andy MacIlwaine; Norm Baldwin
Cc: jeffpadgett10@gmail.com; Chapin Spencer; Valerie Ducharme; Eileen Blackwood; Will Towle; William Ward
Subject: RE: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

I'm all for accommodating my brothers and sisters of the bar but do not believe justice would be done to delay this to the next commission meeting in April. I'm sure a special meeting of the commission to hear this appeal in the next week would be ok. I have a conflict on Wed. the 23rd but other than that I am free, including on the 17th. I'd need to check with Bill on his availability once we have a proposed date.

Gene

From: Andy MacIlwaine [<mailto:amacilwaine@DINSE.COM>]
Sent: Wednesday, March 09, 2016 8:28 PM
To: Norm Baldwin <nbaldwin@burlingtonvt.gov>
Cc: jeffpadgett10@gmail.com; Chapin Spencer <cspencer@burlingtonvt.gov>; Valerie Ducharme <vducharme@burlingtonvt.gov>; Eugene Bergman <EBergman@burlingtonvt.gov>; Eileen Blackwood <eblackwood@burlingtonvt.gov>
Subject: Re: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

Folks,

For what it's worth, I am actually involved in the same case as Will and will be in the same deposition next Wednesday. I was planning on ending the deposition by 5-5:30 in light of this hearing and assumed Will would do the same. The deposition will be at my office on Battery. That said, if it's not too burdensome to postpone the hearing I don't have a particular concern about doing so (to the extent I have a say).

WAM/iPhone
www.dinse.com | [Bio](#)
[tel: 802-654-5751](tel:802-654-5751)

On Mar 9, 2016, at 8:19 PM, Norm Baldwin <nbaldwin@burlingtonvt.gov> wrote:

I would have to consult with the chair of the commission and their legal counsel.

The Commission has made arrangements to clear their agenda and to provide a timely appeal hearing, I would further note other business has been put aside, for what is routinely a very busy commission

agenda, and at this stage staff would not be in a position to prepare other items to be heard in time for the agenda and packet to be reissued.

I would ask that you to consider finding other legal counsel to represent your client, in your place if at all possible.

Sent from my iPhone

On Mar 9, 2016, at 7:03 PM, Will Towle <towle@wardandbabb.com> wrote:

Mr. Baldwin:

I am scheduled to be in a deposition Wednesday March 16 in a multi-party case which has been plagued with great scheduling difficulties and a Court ordered March 31, 2015 fact discovery deadline. It would a great difficulty or impossibility for me to reschedule this deposition. Given the number of parties in the case, the deposition is reasonably expected to go past 5 pm (indeed, I have just now concluded a deposition in the same case at about 6:30 pm).

Would it possible to have the Public Works Commission hearing re-scheduled? (Please note that I am also scheduled to be out of state March 31-April 4)

Thank you for your consideration.

Will

William B. Towle, Esq.
Ward & Babb
3069 Williston Road
South Burlington, VT 05403
Phone 802/863-0307 ext. 18
Fax 802/863-4587
<http://www.wardandbabb.com>
<http://www.linkedin.com/in/willtowle>
WBNoEncrypt

From: Norm Baldwin [<mailto:nbaldwin@burlingtonvt.gov>]
Sent: Monday, March 07, 2016 4:11 PM
To: soonkkwon@gmail.com
Cc: jeffpadgett10@gmail.com; Chapin Spencer; Valerie Ducharme; William Ward; Eugene Bergman; Will Towle
Subject: Notice of Appeal Hearing-Code Enforcement Decisions related to 66-68 S.Union, 41 S.Willard, 40-42 Colchester Ave

NOTICE OF HEARING

Pursuant to Burlington Code of Ordinances Chapter 18, Article III, Division 5, please take notice that the **Public Works Commission** will hold a hearing related to an appeal of a minimum housing code order regarding the fire safety division of the minimum housing code associated for the following properties.

- Appeal #1 66-68 South Union Street, Code Enforcement Order dated February 19, 2016
 - Item 7-BCO 18-95 Means of Egress

- Appeal #2 41 South Willard Street, Code Enforcement Order dated January 8, 2016
 - Item 10-BCO 18-96 Accumulation and Storage
 - Item 31-BCO 18-99 Smoke Detectors
 - Item 32-BCO 18-95 Means of Egress

- Appeal #3 40-42 Colchester Avenue, Code Enforcement Order dated January 4, 2016
 - Item 2-BCO 18-95 Means of Egress
 - Item 3-BCO 18-95 Means of Egress
 - Item 6-BCO 18-95 Means of Egress
 - Item 7-BCO 18-95 Means of Egress
 - Item 8-BCO 18-96 Accumulation and Storage
 - Item 9-BCO 18-95 Means of Egress
 - Item 13-BCO 18-99 Smoke Detectors
 - Item 19-BCO 18-98 Fire Protection Systems

Each Property will be addressed as individual Appeals. The three appeals will be heard starting at **6:30 p.m. on Wednesday, March 16, 2016 in the Front Conference Room at the Central Maintenance Facility at 645 Pine Street in Burlington, Vermont. Testimony will close at time certain of 8:30 p.m., and if required another subsequent hearing will be scheduled as a continuance.**

In order to expeditiously hear this appeal, the Commission needs and hereby notifies you as the appellant to provide it with a short and concise statement outlining the specific items to be heard and addressed by the Commission. This statement must also specify the factual or legal basis of the appeal.

Each party will be given the opportunity to present the facts, as they believe them to be, and to make legal arguments. The Commission will hear testimony and take documentary evidence in support of each party's position.

You are welcome to provide supporting documentary evidence in advance of the hearing. **Witnesses must be present;** the Commission will not accept written statements from absent witnesses, even in affidavit form. The Commission will resolve disputed questions of fact and apply the law governing the situation to those facts. If you intend to present documentary evidence, please bring 9 copies of each document to the hearing.

If you are the person who requested the hearing and you fail to appear, your case will be dismissed. If there are special circumstances as to why you cannot appear in person for a hearing, please call 863-9094. Postponement of your case will be permitted only for good cause. If settlement is reached, please notify the Commission immediately.

If you have any questions, please call 863-9094.

Norman J. Baldwin, P.E.
City Engineer/Ass't Director
Burlington Public Works Department
645 Pine Street
Burlington, Vermont 05401

V: 802.865.5826

F: 802.863.0466

EMAIL: nbaldwin@burlingtonvt.gov



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street
Post Office Box 849
Burlington, Vermont 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

Norman J. Baldwin, P.E.
*ASSISTANT DIRECTOR OF PUBLIC WORKS
CITY ENGINEER*

March 7, 2016

CERTIFIED MAIL, Hard Copy

Mr. Soon Kwon
20 Highland Terrace
Burlington, Vermont 05401

NOTICE OF HEARING

Pursuant to Burlington Code of Ordinances Chapter 18, Article III, Division 5, please take notice that the **Public Works Commission** will hold a hearing related to an appeal of a minimum housing code order regarding the fire safety division of the minimum housing code associated for the following properties.

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 - Item 13-BCO 18-99 Smoke Detectors
 - Item 19-BCO 18-98 Fire Protection Systems

Each Property will be addressed as individual Appeals. The three appeals will be heard starting at **6:30 p.m. on Wednesday, March 16, 2016 in the Front Conference Room at the Central Maintenance Facility at 645 Pine Street in Burlington, Vermont. Testimony will close at time certain of 8:30 p.m., and if required another subsequent hearing will scheduled as a continuance.**

In order to expeditiously hear this appeal, the Commission needs and hereby notifies you as the appellant to provide it with a short and concise statement outlining the specific items to be heard and addressed by the Commission. This statement must also specific the factual or legal basis of the appeal.

Each party will be given the opportunity to present the facts, as they believe them to be, and to make legal arguments. The Commission will hear testimony and take documentary evidence in support of each party's position.

You are welcome to provide supporting documentary evidence in advance of the hearing. **Witnesses must be present**; the Commission will not accept written statements from absent witnesses, even in affidavit form. The Commission will resolve disputed questions of fact and apply the law governing the situation to those facts. If you intend to present documentary evidence, please bring 9 copies of each document to the hearing.

If you are the person who requested the hearing and you fail to appear, your case will be dismissed. If there are special circumstances as to why you cannot appear in person for a hearing, please call 863-9094. Postponement of your case will be permitted only for good cause. If settlement is reached, please notify the Commission immediately.

If you have any questions, please call 863-9094.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman J. Baldwin". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Norman J. Baldwin, P.E.
Assistant Director of Public Works

cc: Jeff Padgett, Chair of the Public Works Commission
Eugene Bergman, Assistant City Attorney
William Ward, Director of Code Enforcement
Chapin Spencer, Director of Public Works
Valerie Ducharme, Customer Service Representative

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March 10, 2016 , 5:28 am

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March 9, 2016 , 1:08 pm

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JUNCTION, VT 05452

March 8, 2016 , 7:36 pm

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JUNCTION, VT 05452

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CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

January 4, 2016

Soon K. Kwon
PO Box 9492
South Burlington, VT 05407-9492

RE: Re-Inspection of 40-42 Colchester Avenue, Inspection 295388

Dear Owner(s):

I conducted a follow up inspection at this property on Monday, August 31, 2015 at 12:00:00 Noon. My findings are included with this re-inspection report and Order along with a letter from the Director of Code Enforcement. A re-inspection fee invoice in the amount of \$1080.00 is enclosed.

The items on the attached report that are noted as non-complied will be inspected for compliance on January 28, 2016 at 10:00 AM. Tenants must be notified at least 48 hours in advance. All areas of the property must be accessible. Please contact me at 802-863-0442, at least 24 hours in advance, sooner if possible, if this needs to be rescheduled.

You may submit a written request for an extension of compliance date(s) if you need more time to complete repairs for a valid reason. Extension requests must include the reason the request is necessary and the extended compliance date requested for each item. **Requests must be submitting in writing on our extension request form; verbal requests will not be accepted.** You may obtain an extension request form by phone, at our Office, or on the web at www.ci.burlington.vt.us under the Code Enforcement Office, Extension Request Form. The completed extension request, with all required information, must be approved by our office prior to the compliance date in order to avoid re-inspection fees. For this reason, and because application for an extension does not guarantee that it will be granted, you are encouraged to apply for an extension as early as possible if you anticipate difficulties with the Order compliance date(s).

If this office cannot verify compliance with the Order at this re-inspection and a written extension has not been granted by our office, a re-inspection fee of \$200.00 per unit will be charged.

You may also be ticketed for the Minimum Housing Standards violations found at re-inspections. Furthermore, failure to comply with this Order is a criminal offense punishable by a fine up to \$500.00 and/or imprisonment; each day's failure to comply constitutes a separate offense. You may also be subject to provisions on suspension and revocation of Certificates of Compliance pursuant to Burlington Code of Ordinances section 18-20 if you fail to comply with this order or fail to get an extension.

Decisions stated in this Order and report relative to new findings at the re-inspection may be appealed in writing within thirty (30) days of the date of this correspondence, addressed to the Director of the Code Enforcement Office.

Please feel free to contact me at 802-863-0442 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Ahonen', written in a cursive style.

Tim Ahonen
Minimum Housing Inspector

Unit/Area

(Item 1 of 25)

Light Globes/covers

Finding: Electrical appliance installed or maintained incorrectly. Ceiling fixtures missing lenses/globes throughout building. Missing light globes or covers should be replaced. (See supplemental report dated December 30, 2015 attached)

Remedy: All ceiling, wall sconces, closet lights and exterior light fixtures are to have function light bulbs and lenses in place.

Code Section: Electrical facilities

18-85 All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with applicable laws.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

40 a (Item 2 of 25)

Basement Light well

Finding: Light well for 40a has no means of escape (See supplemental report dated December 30, 2015 attached)

Remedy: Install handrail to code: 34 to 38 inches above surface of tread, 1 1/4 to 2 inches in diameter. Building permit may be required.

Code Section: Means of egress

18-95 Egress paths shall be safe to use and shall conform to the requirements of the City building code.

8-31-15 Inspection STATUS: This condition is being referred to the Fire Marshal

40 a, 42 (Item 3 of 25)

Steps to exterior Front Door

Finding: Exterior door not maintained in sound condition and good repair; cracked and loose concrete on stoops, the thresholds were improperly repaired. (See supplemental report dated December 30, 2015 attached)

Remedy: Replace or repair exterior door threshold/step. Maintain in sound condition and good repair to code.

Code Sections: Means of egress/Stairways and porches

18-95 Egress paths shall be safe to use and shall conform to the requirements of the City building code.
18-74 Stairways and porches: Every inside and outside stair, porch, railing and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be put thereon and shall be kept in sound condition and good repair. Specifically, all stairs and other exit facilities of every structure shall be maintained in sound condition and good repair by replacing treads and risers that are worn, broken, warped or loose.

8-31-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

40 b (Item 4a of 25)

Wall and ceiling in basement apt.

Finding: Exterior windows in Unit 40B on north side were leaking rainwater causing Interior ceiling and wall to be damaged (See supplemental report dated December 30, 2015 attached)

Remedy: Replace or repair the windows and maintain weather-tight to code.

Code Section: Exterior windows and doors

18-73 Every exterior window shall be constructed and maintained to prevent wind and water from entering the dwelling or structure. Each window shall be fitted reasonably in its frame and be weather-tight. Weather-stripping shall be used to prevent wind or rain from entering the dwelling and shall be kept in sound condition and good repair.

8-31-15 Inspection STATUS: Complied

No water leaks were detected during this inspection

Unit/Area

40 b (Item 4b of 25)

Wall and ceiling in basement apt.

Finding: Exterior windows in 40B on north side were leaking rainwater and Interior ceiling and wall are damaged. (See supplemental report dated December 30, 2015 attached)

Remedy: Repair all the water damage to the wall and ceiling interior surfaces. Building permit may be required.

Code Section: 18-72 Floors, interior walls and ceilings

18-72 (b) Interior walls and ceilings shall be maintained in sound condition and good repair. Cracked or loose plaster, peeling paint, decayed wood, and other deteriorated or damaged surface conditions shall be eliminated.

8-31-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

40 b (Item 5 of 25)

Basement Water Intrusion

Finding: Water intrusion into two bedrooms in basement unit on east side, causing carpeting to grow mold. (See supplemental report dated December 30, 2015 attached)

Remedy: Determine source of water intrusion: Repair and maintain floor in sound and sanitary condition and good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition. Floors shall be kept in sound condition and good repair.

8-31-15 Inspection STATUS: No Violation found this date

The wet carpet conditions were not present on August 31, 2015. Landlord's independent inspection report from Home Check Incorporated Professional Inspection Services in March 2015 "all room areas appeared to be dry and no water or elevated moisture levels were found". Landlord's independent inspection from Cardno AT in February 2015 concluded "...Cardno considers the bio aerosol data to be representative of a normal indoor environment".

40 b (Item 6 of 25)

Missing handrails on stairs

Finding: Egress stairways without handrails in 40b. (See supplemental report dated December 30, 2015 attached)

Remedy: Install handrail to code: 34 to 38 inches above surface of tread, 1 1/4 to 2 inches in diameter. Building permit may be required.

Code Section: Means of egress

18-95 Egress paths shall be safe to use and shall conform to the requirements of the City building code.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney’s fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

40 b (Item 7 of 25)

Finding: Required egress path unsafe or unusable: egress window route on east side has a hole in the ground over one foot deep. The stairs are rickety and the shed roof impedes egress by being below the required clear headroom of 6 feet 8 inches. (See supplemental report dated December 30, 2015 attached)

Remedy: Repair and maintain safe and stable egress path to code at all times.

Code Section: Means of egress

18-95 Egress paths shall be safe to use. All required fire escapes shall be structurally sound and maintained safe and useable and free of snow and ice.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney’s fees incurred by the plaintiff or so much thereof as the court finds reasonable.

IN: 295388

Inspection Detail for: 40-42 Colchester Avenue

Inspection Date: Aug 31, 2015 Inspector: Tim Ahonen

Page 5 of 15

40 b (Item 8 of 25)

Finding: Unreasonable quantities of accumulated and stored materials on premises. There is a closet in 40 b heaped with building supplies no space to walk. (See supplemental report dated December 30, 2015 attached)

Remedy: Reduce accumulations of stored materials. Maintain premises free of excessive accumulations. Storage area to be orderly and free of combustible or hazardous materials. Mr. Kwon a big pile of stuff with no order or any room to step through is not acceptable.

Code Section: Interior accumulations and storage

18-96 Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible refuse, such as wastepaper, boxes and rags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal residential use.

8-31-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

40 b (Item 9 of 25)

Finding: Path of egress is obstructed or otherwise unsafe rear exit from 40b obstructed by storage in hallways, missing light bulbs, and passes through boiler room exterior door not proper size. (See supplemental report dated December 30, 2015 attached)

Remedy: Remove obstructions and maintain safe path of egress at all times. Building permit required to replace door.

Code Section: Means of egress

18-95 Each first and second floor dwelling unit shall have one safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open space or area at grade. Dwelling units on the third floor and above shall have at least two safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open area at grade.

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8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

40A (Item 10 of 25)

Finding: Light in closet at the rear of unit 40A is hanging from the wall by the exposed wire and it does not work. (See supplemental report dated December 30, 2015 attached)

Remedy: Repair or replace electrical appliance. Install and maintain all appliances in compliance with codes. Workmanlike repair required.

Code Section: Electrical facilities

18-85 All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with applicable laws.

Status: Complied

COMPLIED

42 (Item 11 of 25)

Unfinished construction –loose plaster

Finding: Unit 42 has construction that was never completed with loose plaster or sheetrock mud present. (See supplemental report dated December 30, 2015 attached)

Remedy: Repair any structural defects, cracked or loose plaster, peeling paint and maintain all interior surfaces in sound and sanitary condition and good repair to code.

Code Section: Floors, interior walls and ceilings

18-72 Interior walls and ceilings shall be maintained in sound condition and good repair. Cracked or loose plaster, peeling paint, decayed wood, and other deteriorated or damaged surface conditions shall be eliminated.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

42 (Item 12 of 25)

Plumbing leaks

Finding: Plumbing drain not connected and maintained in good working order. Several water leaks from fixtures in unit 42 are staining the ceiling in 40B (basement). Tenants told not to use one shower stall. (See supplemental report dated December 30, 2015 attached)

Remedy: Repair plumbing drains to be connected and maintained in good working order to code. Locate and repair leaks, repair the damage they have caused, remove rotted and moldy sheetrock and replace with new. Repairs to be done in a workmanlike manner: i.e. do not simply paint over stains and allow leak to continue as you have previously done. Mr. Kwon you should hire a trained plumber to do these repairs as they seem to be beyond your skillset.

Code Section: Plumbing connections

18-79 Supply lines, plumbing fixtures, vents and drains shall be connected and maintained in good working order and kept free from obstructions, leaks and defects.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

42 (Item 13 of 25)

Finding: Alarm units in apartment 42 not talking to each other. (See supplemental report dated December 30, 2015 attached)

Remedy: Electrician needed to diagnose and repair problem so that alarms meet code. Each alarm must signal all of the others.

Code Section: Smoke detectors

18-99 AC/DC interconnected smoke detectors shall be installed inside and outside every bedroom and on every level of the dwelling unit. FINALIZED CITY OF BURLINGTON ELECTRICAL PERMIT REQUIRED.

Status: Complied

All units (Item 14 of 25)

Finding: Electrical outlets throughout the building missing cover plates. Thermostat covers missing in building in Apartment 42. (See supplemental report dated December 30, 2015 attached)

Remedy: Install outlet cover plates on outlets where they are broken or missing. Install thermostat covers where they are broken or missing. Inspect all units for these problems as this should have been done at turnover.

Code Section: Electrical facilities

18-85 All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with applicable laws.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Baseboards (Item 15 of 25)

Baseboard Heaters damaged

Finding: Hot water radiator baseboards in all three units are damaged with crushed, bent vanes, missing or damaged guard plates and louvers that no longer function, Some guard plates screwed together over existing unrepaired damage. Accumulated dirt, lint, hair, toilet paper, corrosion, dirt and detritus adhered to components (See supplemental report dated December 30, 2015 attached)

Remedy: Replace all damaged components to restore full function and efficiency. CLEAN them. Mr. Kwon I will check to make certain that you have not simply tried to cover up damage as has been done in the past. I will open louvers to check function and observe the interior to make sure that the vanes aren't crushed, missing or coated with hair, toilet paper and other detritus.

Code Section: Heating and cooking equipment

18-86 All cooking and heating equipment, components, and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health and accident hazards. All mechanical equipment shall be properly installed and safely maintained in good working condition and be capable of performing the function for which it was designed and intended.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

carpets (Item 16 of 25)

Finding: Tears and runs in carpets, paint stains (See supplemental report dated December 30, 2015 attached)

Remedy: Repair or replace damaged carpeting, clean stains.

Code Section: Floors, interior walls and ceilings

18-72 The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition. Floors shall be in kept in sound condition and good repair.

8-31-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Dryer ventilation systems (Item 17 of 25)

all units/all dryer vents

Finding: Electrical appliance installed or maintained incorrectly specifically the **dryer** vents are clogged with lint and flexible hose is not to accepted by code. (See supplemental report dated December 30, 2015 attached)

Remedy: Replace fire damaged dryer vent with code compliant material, clean all vents and bring all dryer ventilation to code. Building permit required. Remove the foil hose dryer vent and replace with code compliant materials, CLEAN ALL VENTS AND VENT OPENINGS.

Code Section: Electrical facilities

18-85 All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with applicable laws.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

exterior (Item 18 of 25)

Finding: Unpainted plywood on exterior. (See supplemental report dated December 30, 2015 attached)

Remedy: Paint exterior wall surface to be impervious to rain and dampness. Maintain exterior walls to code.

Code Section: Foundation, exterior walls and roofs

18-71 Every exterior wall shall be maintained structurally sound and in a sanitary condition. Every exterior wall shall be free of holes, breaks, loose or rotting boards, or timbers, and any other conditions that admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building.

8-31-15 Inspection STATUS: Complied

Unit/Area

fire alarm system (Item 19 of 25)

Finding: Fire alarm system not maintained in proper operating condition- not inspected. (See supplemental report dated December 30, 2015 attached)

Remedy: Inspect required fire alarm system and maintain in proper operating condition at all times.

Code Section: Fire protection systems

18-98 All required fire protection systems and equipment including fire alarms and fire suppression systems shall be maintained in proper operating condition.

8-31-15 Inspection STATUS: This condition is being referred to the Fire Marshal

Heater units (Item 20 of 25)

Finding: Expiring Inspection tags on units. All fuel burning heating systems must be inspected every 2 years and serviced and certified with a tag issued to the verified contractor by the Department of Public Works.(DPW). Existing tags expire August 1, 2015. (See supplemental report dated December 30, 2015 attached)

Remedy: Have a certified technician inspect and certify that system is functioning and operating in a safe manner, with proof of inspection stated on tag issued by DPW and placed in a conspicuous place on the unit prior to August 1, 2015. In other words this is a reminder to not let the tags lapse.

Code Section: Heating and cooking equipment

18-86 All cooking equipment shall be maintained so as to be free from fire, health and accident hazards.

8-31-15 Inspection STATUS: Valid as on 8-31-15 but expiring that day

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

lightwells (Item 21 of 25)

Finding: Paint chips found in outdoor areas of pre-1978 rental housing. Light wells have paint chips. (See supplemental report dated December 30, 2015 attached)

Remedy: Remove paint chips and record removal activity on EMP compliance statement.

Code Section: Paint

18-112 (a) (3) Outdoor areas of pre-1978 rental housing shall be paint chip free
8-31-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area

Sewage drain (Item 22 of 25)

Finding: Plumbing drain with obstruction, leak or defect. The drains in the basement unit are backing up, as was first reported by tenants in 2010 and on July 7, 2015 the tub was blocked again. (See supplemental report dated December 30, 2015 attached)

Remedy: Repair obstruction, leak or defect in plumbing drain and maintain in good working order to code. Have the line augured or steam cleaned or routed to clear blockages.

Code Section: Plumbing connections

18-79 Supply lines, plumbing fixtures, vents and drains shall be connected and maintained in good working order and kept free from obstructions, leaks and defects.

8-31-15 Inspection STATUS: Non Complied -Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

sheetrock interior (Item 23 of 25)

Finding: Numerous holes, cracks, gouges and dents and stains in sheetrock throughout all units in the building. (See supplemental report dated December 30, 2015 attached)

Remedy: Replace/repair deteriorated or damaged interior surfaces. Maintain interior surfaces in sound condition and good repair to code. **REPAIRS TO BE WORKMANLIKE:** holes filled, sanded level and painted to match wall. Water damaged materials to be cut out and replaced, not painted over.

Code Section: Floors, interior walls and ceilings

18-72 Interior walls and ceilings shall be maintained in sound condition and good repair. Cracked or loose plaster, peeling paint, decayed wood, and other deteriorated or damaged surface conditions shall be eliminated.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

skylights (Item 24 of 25)

Finding: Exterior windowpanes On two skylights in unit 40A appear broken, inner pane only intact. (See supplemental report dated December 30, 2015 attached)

Remedy: Replace windowpane. Maintain all windows weatherproof, in sound condition and good repair to code.

Code Section: Exterior windows and doors

18-73 Every exterior window shall be maintained to prevent wind and water from entering the dwelling or structure. Every window shall be weather-tight. Every windowpane shall be fully and properly glazed.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Unit/Area
yard (Item 25 of 25)
behind building

Finding: Garbage, trash, recycling or debris in the yard and around the dumpster. Inadequate recycling receptacle for 3 unit building. (See supplemental report dated December 30, 2015 attached)

Remedy: Remove garbage, trash, recycling and debris from yard. Maintain exterior common free of accumulations. Provide appropriately sized recycling receptacle for 3 unit building with multiple tenants. Picking up trash is not a one time exercise Mr. Kwon, you are responsible for your property being clean at all times. Do not wait for written orders to pick up trash.

Code Section: Accumulation of trash, inoperable vehicles, appliances and furniture prohibited
18-111 Rubbish, junk, refuse, garbage, scrap metal, tin cans and recyclables shall only be allowed to remain outdoors and in plain view in the front yard of any property for the purpose of recycling and solid waste pickup for disposal and only if they are neatly kept, stored, maintained, or deposited in accordance with all minimum housing, health and solid waste ordinances and regulations.

8-31-15 Inspection STATUS: Non Complied - Violation not corrected

Enforcement and penalties 18-31 (b): In addition to the penalty provisions of this section, if the enforcement officer or inspector finds that any person has failed to comply with any order issued by him/her within the time specified therein and that such person has failed to appeal such order within the time prescribed, he/she may notify the office of the city attorney who may bring suit to enforce such order. Such suit may be brought in Chittenden Superior Court and at the request of either party, the court shall advance the case so it may be heard and determined with as little delay as possible. The court may issue a temporary restraining order or preliminary or permanent injunction in any such proceedings and may exercise all the plenary powers available to such court to obtain compliance with the ordinance and any order issued pursuant thereto. The court may award costs of suit which may include, if the plaintiff prevails and the court deems the defense without substantial merit, the attorney's fees incurred by the plaintiff or so much thereof as the court finds reasonable.

Code Enforcement DPW appeal hearing

40/42 Colchester Avenue



Code Enforcement Timeline of inspections at this property

DATE	ACTION	INSPECTOR/STAFF	DEFICIENCIES
7/7/2015	Routine Housing Inspection	Tim Ahonen /Patti Wehman	24 Items
7/16/2015	Order Sent	Sybil Thomas	
7/24/2015	Follow-up Inspection	Tim Ahonen/Bill Ward	25 Items
7/29/2015	Order Sent	Sybil Thomas	
8/12/2015	2nd Follow-up Inspection	Tim Ahonen/Bill Ward	25 Items
8/14/2015	Order Sent	Sybil Thomas	
8/31/2015	3rd Follow-up Inspection	Tim Ahonen/Bill Ward	19 Items
1/8/2016	Order Sent for November	Sybil Thomas	UNDER APPEAL
1/27/2016	Appeal received on 1/8/16 order		
1/28/2016	Inspection for compliance date 1-28-16		

There were 25 deficiencies at the November 2015 inspection

6 of those deficiencies are from Division 5 of the housing ordinance and are subject to appeal review by the Public Works Commission

- Item #6 of 25 –Missing handrails on stairs
- Item #7 of 25 –Unsafe egress path –hole in the ground in window well
- Item #8 of 25 –Unreasonable/excessive accumulations in storage closet
- Item #9 of 25 –Path of egress obstructed
- Item #13 of 25 –Smoke/CO detectors not interconnected – COMPLIED
- Item #19 of 25 – Fire alarm system tested with deficiencies – COMPLIED by Fire Marshall -2016

40 b (Item 6 of 25)
Missing handrails on stairs

Finding: Egress stairways without handrails in 40b. (See supplemental report dated December 30, 2015 attached)

Remedy: Install handrail to code: 34 to 38 inches above surface of tread, 1 1/4 to 2 inches in diameter. Building permit may be required.

Code Section: Means of egress

18-95 Egress paths shall be safe to use and shall conform to the requirements of the City building code.

Non Complied –Violation not corrected



Conditions observed
on 12-30-15–
Photo taken by
William Ward

William Ward Co.

Unit/Area

40 b (Item 7 of 25)

Finding: Required egress path unsafe or unusable: egress window route on east side has a hole in the ground over one foot deep. The stairs are rickety and the shed roof impedes egress by being below the required clear headroom of 6 feet 8 inches. (See supplemental report dated December 30, 2015 attached)

Remedy: Repair and maintain safe and stable egress path to code at all times.

Code Section: Means of egress

18-95 Egress paths shall be safe to use. All required fire escapes shall be structurally sound and maintained safe and useable and free of snow and ice.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Conditions observed
on 8-31-15 –
Photo taken by
William Ward

Photo depicts the view of the escape
window well on Northeast side of the
building



Conditions observed on 10-6-14
Photos taken by William Ward



Photos depict the interior of the escape window well on the northeast side of the building and a close up of the hole in the ground

40 b (Item 8 of 25)

Finding: Unreasonable quantities of accumulated and stored materials on premises; There is a closet in 40 b heaped with building supplies no space to walk. (See supplemental report dated December 30, 2015 attached)

Remedy: Reduce accumulations of stored materials. Maintain premises free of excessive accumulations. Storage area to be orderly and free of combustible or hazardous materials. Mr. Kwon a big pile of stuff with no order or any room to step through is not acceptable.

Code Section: Interior accumulations and storage

18-96 Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible refuse, such as wastepaper, boxes and rags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal residential use.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Conditions observed
on 7-24-15 -
Photo taken by
William Ward



40 b (Item 9 of 25)

Finding: Path of egress is obstructed or otherwise unsafe rear exit from 40b obstructed by storage in hallways, missing light bulbs, and passes through boiler room exterior door not proper size. (See supplemental report dated December 30, 2015 attached)

Remedy: Remove obstructions and maintain safe path of egress at all times. Building permit required to replace door.

Code Section: Means of egress

18-95 Each first and second floor dwelling unit shall have one safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open space or area at grade. Dwelling units on the third floor and above shall have at least two safe, continuous and unobstructed means of egress from the interior of the unit to the exterior at a street or to a public open area at grade.

8-31-15 Inspection STATUS: Non Complied –Violation not corrected

Conditions observed
on 8-31-15 -
Photo taken by
William Ward



40-42 Colchester Avenue

42

(Item 13 of 25)

Finding: Alarm units in apartment 42 not talking to each other. (See supplemental report dated December 30, 2015 attached)

Remedy: Electrician needed to diagnose and repair problem so that alarms meet code. Each alarm must signal all of the others.

Code Section: Smoke detectors

18-99 AC/DC interconnected smoke detectors shall be installed inside and outside every bedroom and on every level of the dwelling unit.

FINALIZED CITY OF BURLINGTON ELECTRICAL PERMIT REQUIRED.

Status: Complied on 8-31-15

Conditions observed
on 7-24-15 –
Photo taken by
William Ward



This issue was found in compliance on
8-31-15



Conditions observed on 8-31-2015 - Photo taken by William Ward

Unit/Area
fire alarm system (Item 19 of 25)

Finding: Fire alarm system not maintained in proper operating condition- not inspected. (See supplemental report dated December 30, 2015 attached)

Remedy: Inspect required fire alarm system and maintain in proper operating condition at all times.

Code Section: Fire protection systems

18-98 All required fire protection systems and equipment including fire alarms and fire suppression systems shall be maintained in proper operating condition.

8-31-15 Inspection STATUS: This condition is being referred to the Fire Marshal

Conditions observed
on 8-31-2015
Photo taken by
William Ward



Close up of previous photo of the fire alarm panel

Conditions observed on 8-31-2015
Photo taken by William Ward



Requested action from the Public Works Commission

1. Uphold the Code Enforcement decision that the deficiencies ordered to be corrected were valid.
2. Require that the order be complied with and the deficiencies that have not been corrected be corrected to meet code requirements.

Burlington Department of Public Works Commission Meeting
Draft Minutes, 17 February 2016
645 Pine Street
(Meetings can be viewed at www.cctv.org)

Commissioners Present: Tiki Archambeau (Vice Chair); Jim Barr; Chris Gillman; Solveig Overby; Jeff Padgett (Chair). **Commissioners Absent:** Robert Alberry; Tom Simon.

Item 1 – Call to Order – Welcome – Chair Comments

Chair Padgett calls meeting to order at 6:34pm and recognizes Assistant Director of Water Resources Laurie Adams for 33 years of service to the city; Director Chapin Spencer and Assistant Director Adams also speak on recognition.

Item 2 – Agenda

Commissioner Barr makes motion to approve agenda and is seconded by Vice Chair Archambeau.

Action taken: motion approved;
“Ayes” are unanimous.

Item 3 – Recognition of Service – Laurie Adams, Assistant Director Water Resources

Item 4 – Public Forum

Item 5 – Consent Agenda

- A. Accessible Space on Lake St
- B. State of Traffic Request Backlog
- C. Haswell Street Parking

Vice Chair Archambeau makes motion to accept staff’s recommendation in Consent Agenda and is seconded by Commissioner Barr.

Action taken: motion approved.
“Ayes” are unanimous.

Item 6 – 199 South Union St – Appeal

A) Staff Presentation introduced by Assistant Director of Technical Services Norm Baldwin and given by Code Enforcement Director William Ward who presents the city’s case concerning Appealed Items 2, 4, and 5 of the Inspection Report for Appellant’s 199 South Union St rental property, and introduces Code Enforcement’s appeal packet, returned and signed certified mail label, and copies of email correspondence between Director Ward and the Appellant for the record; Appellant Presentation by Chris Khamnei who responds to the city’s case and introduces the Kidde Combination Photoelectric Smoke and Carbon Monoxide Alarm manual for the record.

B) Commission Questions

Chair Padgett and Vice Chair Archambeau ask questions concerning staff’s presentation with Director Ward answering; the commission asks questions concerning Appellant’s presentation with Mr. Khamnei answering.

C) Public Comment

D) Commissioner Discussion

E) Motion made by N/A.

Seconded by N/A.

Discussion

Action taken: no action taken – vote on appeal takes place in Executive Session following Commission Meeting adjournment.

Item 7 – FY’16 Workplan Progress Report

A) Staff Presentation by Director Spencer who speaks on the city’s progress concerning key DPW initiatives the Commission approved in June 2015 for FY’16.

B) Commission Questions

Chair Padgett, Vice Chair Archambeau, and Commissioner Overby ask questions about the FY’16 Workplace Progress Report with Director Spencer answering.

C) Public Comment

D) Commissioner Discussion

E) Motion made by N/A.

Seconded by N/A.

Discussion

Action taken: no action taken.

Item 8 – Annual Schedule of Commission Meetings

A) Staff Presentation by Director Spencer who speaks on staff’s prepared list, in response to a commission request, for Annual Commission Meeting Schedules and associated items.

B) Commission Questions

Chair Padgett and Vice Chair Archambeau ask questions about the Annual Schedule of Commission Meetings with Director Spencer answering.

C) Public Comment

D) Commissioner Discussion

E) Motion made by Commissioner Barr to approve Annual Schedule of Commission Meetings.

Seconded by Commissioner Gillman.

Discussion

Action taken: motion approved;

“Ayes” are unanimous.

Item 9 – Draft Minutes of 1-20-16

Director Spencer, Assistant City Attorney Gene Bergman, Chair Padgett, Vice Chair Archambeau, and Commissioners Barr and Overby engage in a discussion on the Draft Minutes of 1-20-16 with Vice Chair Archambeau requesting one, a breakout of Vice Chair Padgett’s friendly amendments in Agenda Item 5; two, take “(see video)” out of minutes altogether; and three, include Commissioner Overby’s paragraph on the Residential Parking Management Plan as an online document.

Commissioner Barr makes motion to accept minutes of 1-20-16 with Vice Chair Archambeau’s changes and is seconded by Vice Chair Archambeau.

Action take: motion approved;

“Ayes” are unanimous.

Item 10 – Director’s Report

Director Spencer gives thanks to Assistant Director Adams for her service to the city. Chair Padgett asks about city’s salt budget with Director Spencer answering it’s good. Commissioner Overby asks about comments she’s heard about ice buildup on sidewalk in front of Edmund’s Middle School with Director Spencer answering that Assistant Director of Right-of-Way Rob Green is aware of it and DPW has been dealing with it.

Item 11 – Commissioner Communications

Vice Chair Archambeau comments on the elections occurring before next Commission Meeting and expresses support for the North Avenue Pilot Project. Commissioner Overby comments on watching the City Council Meeting and is excited about the permit reform effort with Assistant Director Baldwin discussing it with her.

Item 12 – Adjournment & Next Meeting Date – March 16, 2016

Motion to adjourn made by Commissioner Barr and seconded by Commissioner Gillman.

Action taken: motion approved;

“Ayes” are unanimous.

Meeting adjourned at 8:15pm.



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

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Burlington, VT 05401
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www.burlingtonvt.gov/dpw

To: DPW Commissioners
Fr: Chapin Spencer, Director
Re: **Director's Report**
Date: March 10, 2016

ASSISTANT DIRECTOR UPDATES:

- Laurie Adams' last day was March 5th. Water Resources Engineer Steve Roy has taken over as Interim Assistant Director – Water Resources. Thank you Steve! The position is currently posted and the application deadline is March 18.
- Pat Cashman, our new Assistant Director – Parking & Traffic, will be starting at the end of March. We will have him attend the April Commission meeting.

PROJECT UPDATES

- There will be a public meeting for the **Champlain Elementary Pedestrian Improvement Project** March 17, 7pm at DPW, 645 Pine Street. The project will include new sidewalk on Birchcliff Parkway and intersection improvements on Locust Street and Birchcliff Parkway. More information at: <https://www.burlingtonvt.gov/DPW/Champlain-Elementary-Pedestrian-Improvements>
- Cleared final hurdle before putting the **Manhattan Drive slope failure** out to bid. Project construction will occur this season.
- Staff continues to take advantage of the warm winter to catch up on deferred maintenance (continued some construction projects, cleaned up soil storage area, etc). We will begin roadway sweeping this Sunday.
- Installed **new pedestrian signal at Park & Manhattan** – request from IAA parents who walk to school.
- **Permit reform effort** is fully underway. Lead consultant Matrix is currently interviewing key stakeholders. Public engagement will occur this spring and summer.
- Staff is continuing to advance preparations for the **North Avenue pilot project**. In an effort to address public concern in the New North End after the Town Meeting Day vote, staff is updating the performance metrics to establish clear thresholds that need to be met in order to continue with the pilot once it is underway. Agendas, minutes and materials from the North Avenue Task Force meetings are at: <https://www.burlingtonvt.gov/node/1074>.

As always, feel free to reach out with any questions. See you next Wednesday.