



HOUSING BOARD OF REVIEW

City of Burlington

149 Church Street Room 11
Burlington, Vermont 05401
(802) 865-7122

**HOUSING BOARD OF REVIEW
CITY OF BURLINGTON**

NOTICE OF DECISION

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

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

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

DATED 4/7/18

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

Josh O'Hara
Board Vice Chair

cc: Vincent Bassett
Kim Ianelli
William Ward
Patricia Wehman

**STATE OF VERMONT
CHITTENDEN COUNTY, SS.**

**In re: Request for Hearing of VINCENT)
 BASSETT Regarding the Rental) CITY OF BURLINGTON
 Property at 20-22 Decatur Street) HOUSING BOARD OF REVIEW**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on October 15, 2018. Board Vice Chair Josh O'Hara presided. Board Members Patrick Kearney and Steven Goodkind were also present. Petitioner Vincent Bassett was represented at the hearing by Will Howard, the property manager, who testified. Minimum Housing Inspector Kim Ianelli and William Ward, Director Code Enforcement Office, were also present and testified.

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

FINDINGS OF FACT

1. Petitioner Vincent Bassett is the owner of property, 20-22 Decatur Street, in the City of Burlington which is the subject of these proceedings; there are 3 rental units at the property. Will Howard manages the property.
2. On September 12, 2018, Minimum Housing Inspector Kim Ianelli conducted an inspection of the property and issued an order. In that Order, Ms. Ianelli noted the lack of a window opening to the outdoors in one of the bedrooms at 22 Decatur Street.
3. The Minimum Housing Code requires that each habitable room have 1 window opening to the outdoors that can be opened; the minimum ventilation of the opened window area must be 4 percent of the floor area. Minimum Housing Code Sec. 18-84(a). In this case, the window in the bedroom identified as bedroom 2 opens to an enclosed, 3 season porch. The purpose of the ordinance is to ensure that all habitable rooms have sufficient lighting and ventilation so as to not endanger health and safety.

4. Petitioner requested a variance from the ordinance requirement related to the window. Petitioner purchased the property in 2016 and the 3 rental units were in existence at that time. The porch was also enclosed at that time. Past inspections did not note a problem with the window. Opening the porch would result in the loss of that space for storage and the loss of an additional usable space for the tenant. Will Howard was unsure of the cost to open the porch or to remove it. He was also unsure of what effect removing the porch would have on the building.

5. The Code Enforcement Office did not oppose granting a variance with certain conditions to ensure that there was sufficient ventilation in the bedroom. (The Code Enforcement Office believed there was sufficient light in the bedroom.)

CONCLUSIONS OF LAW

6. To grant petitioner a variance from the strict application of the Code, the Board must determine that

by reason of an extraordinary and exceptional situation unique to the property or circumstances involved, the requirements of this chapter would result in peculiar and exceptional difficulties to, or exceptional and undue hardship upon, the person to whom the order has been issued...

Minimum Housing Code, Sec. 18-42(c). Petitioner has met this standard.

7. Once this standard is met, the Board's discretion to grant a variance is further circumscribed by another provision of Section 18-42(c):

[P]rovided, however, that the Board shall have the power to vary from the strict application of the requirements of this chapter only to the least extent necessary to relieve the difficulties or hardships involved, and only if such variance will not cause substantial detriment to the health, safety, morals and general welfare of the persons residing in the dwelling or dwelling units involved or to the general public and will not cause substantial impairment of the intent and purpose of this chapter....

See also, 24 V.S.A. Sec. 5005(c)(2). The Board concludes this standard can be met if the conditions enumerated below are met.

ORDER

Accordingly, it is hereby ORDERED:

8. The request of petitioner Vincent Bassett for a variance from Section 18-84 regarding the window in bedroom 2 of 22 Decatur Street is GRANTED, subject to the following conditions:

a) The openable portion of the bedroom window and the porch window shall be equipped with a window screen.

b) The use of the porch for storage shall be limited in order to prevent either window from being blocked in a manner that prevents ventilation to the bedroom.

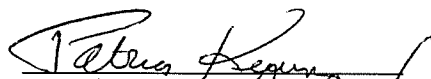
c) Future leases for the unit must include notice to the tenant that a variance was granted for the bedroom.

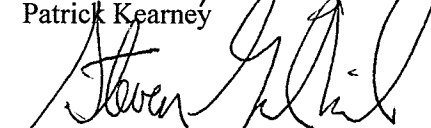
d) To ensure that any subsequent purchaser of the property has notice of the conditions placed by this Board in granting a variance, petitioner shall cause a copy of these Findings of Fact, Conclusions of Law, and Order to be recorded and indexed in the Land Records of the City of Burlington.

Dated at Burlington, Vermont this 7th day of November, 2018.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Josh O'Hara


Patrick Kearney


Steven Goodkind