



**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 6/1/22

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara  
Josh O'Hara  
Board Chair

cc: Cherylyn Ramos (via email & US mail)  
William Ward & Patti Wehman (via email)  
Robert Meijers (via email & US mail)

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

**In re: Request for Hearing of CHERLYN            )**  
**RAMOS Regarding Rental Property at    ) Appeal of Minimum Housing Order**  
**239 South Union Street, Apt. 3            )**

**DECISION AND ORDER**

The above-named hearing came before the Housing Board of Review on May 16, 2022. The meeting was conducted remotely via Zoom. Board Chair Josh O’Hara presided. Board Members Betsy McGavisk, Charlie Gliserman, Olivia Taylor and Evan Litwin were also present. Petitioner Cherylyn Ramos was present and testified. Also present were William Ward, Director of Permitting and Inspections; Patti Wehman, Housing Division Manager for Permitting and Inspections; Ita Meno-Baker, Health and Housing Inspector; Adele Dienno; Robert Meijers; Josh Reagan; Dan Reagan; and Sara Valinsky.

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. Robert Meijers is the owner of a rental unit, 239 South Union Street, Apt. 3, in the City of Burlington which is the subject of these proceedings.
2. Petitioner Cherylyn Ramos is the tenant residing in apartment 3 at the property. Petitioner has appealed several actions of the Department of Permitting and Inspections (“DPI”), including inspection reports and orders. The issues identified at the hearing were the refrigerator, the bathroom sink and the ceiling in the kitchen.

## **Refrigerator**

3. Petitioner's issues with the refrigerator date back to November 16, 2021 when respondent replaced the refrigerator in petitioner's apartment with a reconditioned refrigerator from ReSource. At that time, petitioner complained that the refrigerator was not clean and there was water pooling in it; she appealed DPI's determination that the refrigerator was in compliance with the minimum housing standards.

4. On January 12, 2022, this Board issued an order requiring DPI to reinspect the refrigerator and to make a determination about whether or not it was in good working condition and to address its general cleanliness.

5. On January 27, 2022, Inspector Ita Meno-Baker issued a report noting that the refrigerator was in good working order. However, they noted that in some spots the gasket was not flush with the door and that were some small areas that needed to be cleaned. Inspector Meno-Baker scheduled a reinspection for March 4, 2022. ReSource did not have anyone available for an inspection on March 4 so it was rescheduled for March 14, 2022. A copy of the orders was provided to petitioner.

6. On March 14, 2022, Inspector Meno-Baker, another inspector and Chad from ReSource (designated as the property owner's agent for purposes of the inspection) went to the unit for the reinspection. Inspector Meno-Baker knocked on the door several times to announce themselves. When there was no reply, Chad used the key to the apartment to unlock it in order to conduct the inspection. Petitioner was at home and barred access to the unit. Although petitioner acknowledged that she received notice of the inspection, she would not let anyone into

the apartment to inspect the refrigerator stating that it was not an emergency. At the hearing, petitioner testified that she told DPI she would not be at home on March 14.

7. At the hearing, Inspector Meno-Baker testified that they believed the refrigerator met the minimum housing standards. Inspector Meno-Baker considered the issue to be closed.

8. Although petitioner did not appeal any determinations made by DPI, she believed the issue with the refrigerator was not resolved.

**Bathroom sink**

9. On March 22, 2022, William Ward, Director of Permitting and Inspections, received an email from petitioner complaining that the bathroom sink was leaking. Mr. Ward and petitioner agreed that he would be there at 3pm to investigate the complaint.

10. Bill Ward and James Sarfaty (a staff member at DPI) arrived at the property at 3pm on March 22. Mr. Ward had to go back to his truck to retrieve a mask and when he arrived back at the property, some minutes later, petitioner asked repeatedly, “you’re just showing up?” Bill Ward explained that he could send another email and try to arrange another time, but petitioner kept repeating, “you’re just showing up?” Mr. Ward said he would come back another day and left.

11. On April 6, 2022, Bill Ward spoke to petitioner and they agreed he would inspect the bathroom sink on April 7 at 11:30 a.m. Mr. Ward inspected the sink on April 7 and located the source of the leak coming from the bathroom sink. Mr. Ward told petitioner he would issue a report giving the property owner 7 days to comply with it. Petitioner expressed her concern that the property owner would be granted an extension. Bill Ward indicated he would not grant an extension as long as petitioner allowed a plumber into the apartment to make the repair.

12. Bill Ward issued an inspection report with a comply by date of April 15, 2022. Mr. Ward sent the report to petitioner and the property owner.

13. On April 8, 2022, Bill Ward received an email from petitioner stating she was available from 10:30 a.m. to 4:30 p.m. on April 8, 9, 10, 11 and 12. Mr. Ward called petitioner and told her the property owner arranged for a plumber to make the repair right away and that he and the plumber would be at the property on April 8 at 11 a.m. Petitioner hung up on Mr. Ward saying she needed the information to come from the property manager.

14. On April 8, 2022 at 11 a.m., Bill Ward and a plumber went to the unit to repair the leak. Petitioner did not answer the door so they were unable to gain access to the unit. The plumber informed Mr. Ward he was out of the state the following week, and thus, unavailable.

15. As the plumber was unable to access the unit on April 8 and was unavailable the following week, Bill Ward granted the property owner's request for an extension to make the repairs. Mr. Ward informed petitioner in an email that an extension was granted until such time as she allowed the plumber into the apartment to repair the sink.

16. At the time of the hearing, there was no appointment for a plumber to go to the unit to repair the bathroom sink.

### **Kitchen Ceiling**

17. On April 13, 2022, William Ward and Patti Wehman went to the property after receiving a complaint from petitioner that the kitchen ceiling had fallen in. On the way to petitioner's apartment, a tenant from the commercial space on the first floor asked to speak with Mr. Ward and Ms. Wehman when they were finished upstairs. Mr. Ward and Ms. Wehman indicated they would stop by when they were finished, and they continued to petitioner's apartment. Petitioner told Patti Wehman she was supposed to be alone. Ms. Wehman explained

DPI's policy to have 2 people present at the inspection which she had conveyed to petitioner in several emails.

18. After putting on shoe coverings and a face mask, Patti Wehman entered the apartment while Bill Ward waited outside the unit on the stairs. Ms. Wehman took several photos of the hole, noted the lath was intact and there were no obvious leaks; Ms. Wehman also noted that it appeared the ceiling had been repaired before. At some point during Ms. Wehman's inspection, petitioner closed the door (which had been left open) and Ms. Wehman became concerned with petitioner's conduct and headed toward the apartment door to leave. At that point, petitioner told Ms. Wehman she was just being a drama queen. Patti Wehman indicated to petitioner that she saw what she needed to see. When petitioner commented that she hadn't even touched the wood to see if it was wet, Ms. Wehman said she had but petitioner just didn't see her; nonetheless, Ms. Wehman went back to the kitchen, touched the wood and said she was all set. Petitioner expressed her dissatisfaction with the length of the inspection. When Patti Wehman asked petitioner if there was anything else she wanted her to do, petitioner did not respond.

19. Bill Ward and Patti Wehman went downstairs to see the commercial tenant while petitioner yelled from the stairs. Even after Mr. Ward and Ms. Wehman entered the commercial tenant's office and closed the door, petitioner continued to yell.

20. When Bill Ward and Patti Wehman were finished talking with the commercial tenant (Josh Reagan) they looked at the property from the outside to see if there was any indication of a problem with the roof or flashing that would have caused the hole in petitioner's ceiling. They were unable to identify any suspect areas.

21. On April 13, 2022, Bill Ward issued an inspection report noting the damage to the ceiling and the need to repair it. The inspection report was sent to the property owner and to petitioner. The property owner was ordered to repair the ceiling by May 11, 2022. A reinspection was set for May 12, 2022 at 11:00 a.m.

22. Petitioner testified that on April 25, 2022, the ceiling fell in again. Petitioner called the Burlington Fire Department. Petitioner did not require medical attention and the Fire Department indicated she needed to call the landlord to have the ceiling repaired. Petitioner showed the Fire Department photos of the ceiling after it had initially fallen in. The Fire Department's report of the incident indicates they observed that the hole in the ceiling was much larger than it was when the ceiling initially fell. Petitioner told the Fire Department that the increased damage occurred just prior to their arrival.

23. On April 29, 2022, petitioner submitted a request to this Board to review the current situation in her apartment, specifically mentioning the hole in the ceiling. Petitioner provided several photos of the damage.

24. On May 4, 2022, the Board scheduled a hearing for May 16, 2022 to hear petitioner's request. Notice of the hearing was sent to petitioner, the property owner, Bill Ward and Patti Wehman. The notice of hearing included petitioner's request and the photos submitted by her.

25. On May 5, 2022, while reviewing photos petitioner had attached to her hearing request, Patti Wehman noted a significant change to the hole in the ceiling than what she observed on April 13. She also noted the concern raised in petitioner's request that there was asbestos in the ceiling and fallen debris. Patti Wehman called petitioner and asked to view and document the change in the hole; petitioner refused. Given the seriousness of the problem, Patti Wehman decided to visit the property in hopes that petitioner would let her in if she made a

request in person. Ms. Wehman and Kim Ianelli (one of the city's building inspectors) went to the property, but petitioner would not let them into the apartment. Patti Wehman informed petitioner that the unit was unfit for habitation and she posted it as such. Immediately upon posting the notice, petitioner opened the door and ripped it down. Ms. Wehman tried to repost the torn sign next to the door of the apartment and petitioner ripped it down. Patti Wehman and Kim Ianelli left the property.

26. After going to the property on May 5, Patti Wehman contacted Chris Kinnick and Amy Danielson at the Vermont Department of Health regarding the possibility of asbestos in the unit caused by the hole in the ceiling. Ms. Wehman indicated that she had posted the unit as unfit for habitation, though the posting was ripped down by petitioner. She also informed Mr. Kinnick and Ms. Danielson that she was unable to independently verify the presence of asbestos since petitioner would not let her into the apartment.

27. In addition, on May 5, 2022, Patti Wehman emailed petitioner and the property owner that petitioner's apartment was posted unfit for human habitation. In her email to petitioner, Ms. Wehman also informed petitioner that she might qualify for relocation services under the city's ordinance. In her email to the property owner, Ms. Wehman also informed him of the possibility of asbestos from the fallen ceiling and provided contact information for the Health Department's Division of Lead and Asbestos.

28. On May 5, 2022, Patti Wehman amended her order of April 18, 2022 to include a finding of "[a]n unsanitary condition in the dwelling unit. Assumed asbestos containing material disturbed." Further, Ms. Wehman ordered, "[c]lean and maintain dwelling unit clean and sanitary to code. Licensed asbestos professional to determine if the material poses a health risk; remediate and repair according to licensed professional."



29. At the scheduled follow-up inspection date of May 12, 2022, petitioner would not allow Patti Wehman into the unit.

30. Adele Dienno, the property owner's wife, testified that petitioner has not allowed them to access the apartment to make repairs. Ms. Dienno described the situation as untenable for everyone.

31. It is clear that there is tension between petitioner and the property owner, as well as between petitioner and staff at DPI. Petitioner claims that her complaints about conditions in the unit are not addressed by DPI and that the property owner fails to make needed repairs. Petitioner also complains that the property owner's manager, identified as Nathaniel Merrill in a separate civil matter, never responds to her calls. Petitioner is under the impression that only Nathaniel Merrill is allowed (under a court order) to be the property manager. However, that order states that petitioner and the property owner, Robert Meijers, may communicate about landlord-tenant issues through Mr. Merrill or another property manager designated by Mr. Meijers or Mr. Merrill.

32. On numerous occasions petitioner has not allowed city inspectors or repair people to enter her apartment. Yet, petitioner complains that repairs are not being made and that DPI grants extensions to the property owner. Petitioner's request for hearing also included a request for compensation for damages.

### **Conclusions of Law**

33. Section 18-42(d) of the Burlington Code of Ordinances (BCO) grants the Housing Board of Review the power to reverse or affirm, in whole or in part, any order or other action of the inspector and to make such order, requirement, decision or determination as ought to be made. The Board has no authority to award compensation or damages.

34. BCO Section 18-22(a) gives DPI the authority to enter any rental unit in the city for inspections at any reasonable time between the hours of 8:00 a.m. and 5:00 p.m.; the tenant must be provided with notice of an inspection not less than 48 hours prior to the inspection. If an inspector has reason to believe an emergency situation exists that creates an immediate danger to the health, welfare or safety of the tenant of the unit or the safety of other tenants or the general public, they may enter and inspect the unit at any time. BCO Section 18-22(b). In addition, state law provides that a tenant must allow a landlord to enter a dwelling unit on no less than 48 hours' notice in order to make repairs. 9 V.S.A. Sec. 4460(b)(2).

35. Petitioner and the property owner, as well as petitioner and DPI, have a long, contentious history. It is clear to this Board that petitioner's refusal to allow DPI and repair people to enter the apartment has resulted in repairs being delayed and extensions granted. Petitioner received prior notice of inspections, but denied access to the inspectors. Similarly, petitioner has not allowed some repair people into the apartment to make repairs. There is no dispute that repairs need to be made.

### **Order**

Accordingly, it is hereby ORDERED:

36. The Board affirms all the orders of the Department of Permitting and Inspections with respect to the refrigerator, the bathroom sink, and the kitchen ceiling.

37. The Department of Permitting and Inspections shall reinspect the unit for assessment of the extent of damage to the ceiling and bathroom sink within 14 days of the issuance of this decision. Notice of the reinspection date shall be provided to the property owner and the tenant in accordance with BCO Sec. 18-22(a). Further, the Department shall issue a report to petitioner and the property owner with their findings pursuant to BCO Sec. 18-24. The Department shall

further issue an order to include the repairs needed, date by which they must be completed, and whether the unit remains safe for habitation pending completion of the repairs pursuant to BCO Sec. 18-25.

38. Pursuant to BCO Sec. 18-22(a), petitioner Cherylyn Ramos shall cooperate with DPI and allow access to the unit for the reinspection.

39. Pursuant to 9 V.S.A. Sec. 4460(b)(2), petitioner shall allow the property owner's agent to enter the unit in order to make repairs. The property owner's agent shall provide no less than 48 hours' notice to petitioner of the date repairs are scheduled.

DATED at Burlington, Vermont this 1<sup>st</sup> day of June, 2022.

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara  
Josh O'Hara

/s/ Betsy McGavisk  
Betsy McGavisk

/s/ Charlie Gliserman  
Charlie Gliserman

/s/ Evan Litwin  
Evan Litwin

/s/ Olivia Taylor  
Olivia Taylor