



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

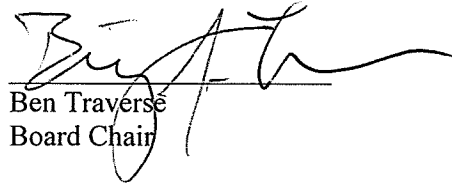
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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 4/18/17

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse
Board Chair

cc: Rick Bove
Ita Meno
Patricia Wehman

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

In re: Request for Hearing of RICK BOVE)
Regarding the Rental Property at) CITY OF BURLINGTON
3-11 George 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 March 20, 2017. Board Chair Ben Traverse presided. Board Members Patrick Kearney, Steven Goodkind, Alec Bauer and Josh O'Hara were also present. Petitioner Rick Bove was present and testified. Minimum Housing Inspector Ita Meno and Patricia Wehman, Case Manager for the Code Enforcement Office, were also present.

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. The property, 3-11 George Street, in the City of Burlington which is the subject of these proceedings, is owned by 3-11 ½ George Street LLC. Rick Bove helps manage the property.
2. On January 13, 2017, Minimum Housing Inspector Ita Meno conducted a re-inspection of the property. In her Order dated January 30, 2017, Ms. Meno noted 38 minimum housing code violations still existed at the property. The order directed the property owner to make repairs by February 24, 2017 when the property was scheduled for a second re-inspection. Ms. Meno was unable to inspect one of the units, apartment 3A, at the time of the re-inspection, as well as at the initial inspection, so it is unknown whether or not there are violations in that unit.
3. On March 6, 2017, Rick Bove appealed the re-inspection order. The basis of Mr. Bove's appeal is that he plans to redevelop the property and is loath to put money into the property when it is going to be completely renovated beginning in mid-June.¹ Mr. Bove did not dispute that the condition of

¹ Mr. Bove's argument is the same one the Board considered in a case brought by him in April, 2014 related to the same property.

the property is as noted on the minimum housing order. According to Mr. Bove, all life safety issues have been resolved.²

4. As a result of Rick Bove's request for an extension to make repairs, the Code Enforcement Office identified 18 items from the January 30, 2017 order which needed immediate follow-up, and which would not be granted an extension:

Item 2: plumbing fixture incorrectly installed or maintained; drip at sink. 11 ½ George St

Item 3: interior wall/ceiling not maintained in sound and sanitary condition and in good repair; failed caulking around tub, and tub surround pulling away from wall. 11 ½ George St

Item 6: electrical equipment installed or maintained incorrectly; broken outlet. 11 George St

Item 7: electrical appliance installed or maintained incorrectly; missing switch plates and outlet covers. 11 George St

Item 10: defective cooking equipment; right rear burner not igniting. 11 George St

Item 12: exterior windowpane cracked, broken or absent. 3 George St

Item 13: kitchen spout not repaired in skilled manner; gorilla tape used to hold spout together. 3 George St

Item 14: interior equipment not maintained in sound and sanitary condition and in good repair; broken door not repaired. 3 George St

Item 16: exterior windowpane cracked, broken or absent; multiple broken windows throughout building, visible from exterior. 3-11 George St

Item 18: lead paint responsibility not met; annual cleaning of common area does not appear to have been completed. 3-3A George St

Item 20: all or part of rental property unavailable for scheduled inspection; unable to access unit 3A.

Item 21: equipment or device incorrectly installed or maintained; broken/cracked toilet seat.

² The Board notes that there was 1 fire safety issue (item 35) cited in the January 30 order. The Board does not have authority to hear appeals on fire safety issues; appeals of fire safety issues must go to the Public Works Commission.

7 George St

Item 31: equipment or device incorrectly installed or maintained; cracked/broken toilet seat.

9 George St

Item 32: plumbing fixture incorrectly installed or maintained; cracked/broken sink. 9 George St

Item 35³: path of egress is obstructed or otherwise unsafe; locking hasp on door that must be removed. 9 George St

Item 36: defective cooking equipment; existing oven is non-operational. 9 George St

Item 37: plumbing drain with leak or defect. 9 George St

Item 38: electrical appliance installed or maintained incorrectly. 9 George St

The Code Enforcement Office ordered the above-numbered items to be repaired by March 6, 2017.

5. The Code Enforcement Office is strongly in favor of the property being renovated; however, Rick Bove has talked about redeveloping and renovating the property for at least 3 years. Consequently, the Code Office feels the property should be vacated if petitioner is not going to make repairs. Thus far, there have been no permits issued for the renovation/redevelopment of the property. Although the Code Office is willing to grant an extension for some repairs, they identified 18 critical items (outlined above) that need to be repaired immediately.

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 argues that the situation is unique because he is on the verge of totally renovating the property so that it does not make sense to put money into the property.

³ The appeal of this item must be directed to the Public Works Commission.

However, petitioner has talked about renovating and/or redeveloping the property for years with nothing changing, and currently, there are no permits for work at the property so it is difficult to conclude that the situation is unique.

7. Even if the above-stated 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 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 has not been met, and therefore, denies petitioner's request for a variance. Additionally, the Code Enforcement Office identified 18 items that need immediate action so that the tenants' welfare is not harmed; consequently the Board will order that these items be repaired within 15 days of the Board's decision. However, with respect to the other items cited in the Order, the Board will grant petitioner an extension of time to comply. If the building has been demolished by then, or it is vacant, this portion of the Order will be moot.

ORDER

Accordingly, it is hereby ORDERED:

8. The findings and required remedies for items 2, 3, 6, 7, 10, 12, 13, 14, 16, 18, 20, 21, 31, 32, 35, 36, 37 and 38 as set forth in the minimum housing order dated January 30, 2017 are hereby incorporated into this decision and Order. The Code Enforcement Office shall schedule these items for reinspection no earlier than 15 days from the date of this Order.

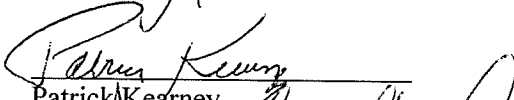
9. The findings and required remedies for items 1, 4, 5, 8, 9, 11, 15, 17, 19, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33 and 34 as set forth in the minimum housing order dated January 30, 2017 are hereby incorporated into this decision and Order, except with respect to the compliance date. The Code Enforcement Office shall schedule these items for reinspection no earlier than June 30, 2017.

Dated at Burlington, Vermont this 18th of April, 2017.

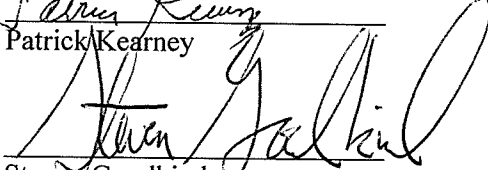
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