



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

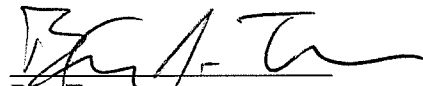
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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 5/17/16

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse
Board Chair

cc: Chris Khamnei
Ita Meno
William Ward
Patricia Wehman

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

**In re: Request for Hearing of CHRIS)
 KHAMNEI Regarding the Rental) CITY OF BURLINGTON
 Property at 233-235 St. Paul 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 April 18, 2016. Board Chair Ben Traverse presided. Board Members Jason L’Ecuyer and Patrick Kearney were also present. Petitioner Chris Khamnei was present and testified. Kim Ianelli and Ita Meno, Minimum Housing Inspectors, and William Ward, Director of the 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 Chris Khamnei is the owner of a rental property, 233-235 St. Paul Street, in the City of Burlington which is the subject of these proceedings. There are 11 units in the building.

2. On February 5, 2016, Minimum Housing Inspector Ita Meno conducted a routine inspection of the property. The parties agreed that after the inspection, Ms. Meno reviewed violations with Petitioner’s property manager. In her order dated February 18, 2016, Ms. Meno noted 23 minimum housing code violations at the property. On March 28, 2016, petitioner appealed the order.

3. Ita Meno cited the windows in units 1, 3, 4, 5, 6, 7, 8, 9 and 10 as lacking required inserts. Section 18-112(g) requires window wells in pre-1978 rental housing units to have vinyl or metal inserts. Ms. Meno noted that several windows throughout the building were missing inserts; however, she did not check every window in each unit and she was unable to identify the specific windows in each unit that were missing inserts. The Code Enforcement Office did not present any documentary evidence of the cited windows. Petitioner disputed that there were missing inserts in the units cited.

4. Ita Meno also cited the windows in units 1, 2, 5, 6 and 7 as not easily held in position by window hardware. Section 18-73(c) of the Minimum Housing Code requires every openable window to be easily opened and held in position by window hardware; further, all window hardware must be maintained in good condition. Ita Meno and Kim Ianelli noted there were some windows which would not stay up when opened. Neither Ms. Meno nor Ms. Ianelli were able to say specifically which windows in which unit would not stay open. Again, the Code Enforcement Office did not present any documentary evidence of the cited windows. Petitioner argued that all the windows stayed open with the use of a peg system, which the inspectors did not know how to use.

5. Section 18-74 of the Minimum Housing Code requires every inside and outside stair, porch, railing and any appurtenance to be safe to use and capable of supporting the load that normal use may cause to be put thereon and to be kept in sound condition and good repair. The exterior stairway on the St. Paul Street side of the building does not have a graspable handrail. At hearing, Petitioner speculated that if he is required to install a graspable handrail, he will also be required to bring the entire stairway into conformance with current building standards.

6. Section 18-104 of the Minimum Housing Code requires every plumbing fixture to be constructed and installed so that it will function safely and effectively, and must be kept in sound working condition. The faucet in the kitchen of unit 0 is taped so that it works. The kitchen faucet in unit 4 leaks and the kitchen faucet in unit 6 drips.

7. Section 18-72 of the Minimum Housing Code requires interior walls and ceilings to be maintained in sound condition and good repair: deteriorated or damaged surface conditions must be eliminated. The bathroom ceiling in unit 1 is soft in two spots.

8. Section 18-73 of the Minimum Housing Code requires every exterior window to be constructed and maintained to prevent wind and water from entering the dwelling or structure. In addition, every window must be weathertight and every window pane must be fully and properly glazed. The exterior window pane in the dining room window of unit 5 is broken.

9. Section 18-85 of the Minimum Housing Code requires all electrical equipment, wiring and appliances to be installed and maintained in a safe manner in accordance with applicable laws. At the time of the inspection, there was tape over a circuit breaker panel located in the living room of unit 1. The light cover in the bathroom of unit 8 was broken.

CONCLUSIONS OF LAW

10. Section 18-42(d) of the Minimum Housing Code 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.

11. The minimum housing order cited windows throughout the building as lacking the required inserts and as not being held in position by window hardware. The inspectors were unable to identify which windows in each of the units did not meet the minimum standards. The Board concludes there is insufficient evidence to conclude the windows cited do not meet the standards. However, the Board concludes the windows at the property should be subject to a new inspection so that any windows which do not meet the minimum requirements can be more easily identified.

12. With respect to items 1, 2, 3, 5, 7, 12, 16 and 21 of the minimum housing order, the Board affirms the order. Those items must be repaired and corrected. As regarding the requirement that Petitioner install a graspable handrail, the Board notes that Petitioner is effectively requesting a variance. Petitioner is merely speculating, though, when he expresses concern that he may also be required to modify the remainder of the staircase. The Board may not base a variance on speculation; rather, the Petitioner must demonstrate that “[b]y 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). Based on the evidence, the Board is unable to determine that Petitioner would, in fact, be required to modify the entire staircase; let alone that such a modification would warrant a variance.

ORDER

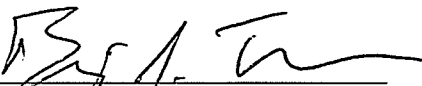
Accordingly, it is hereby ORDERED:

13. The Minimum Housing Order dated February 18, 2016 regarding 233-235 St. Paul Street is **AFFIRMED** with respect to items 1, 2, 3, 5, 7, 12, 16 and 21.

14. The Minimum Housing Order dated February 18, 2016 regarding 233-235 St. Paul Street is **REVERSED** with respect to items 6, 8, 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 22, and 23. However, the Board directs the Code Enforcement Office to conduct a new inspection of the windows at the property within 30 days of the Board's decision.

DATED at Burlington, Vermont this 17th day of May, 2016.


CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Ben Traverser



Jason L'Ecuyer



Patrick Kearney