



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

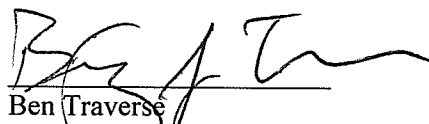
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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
Matthew Perry
William Ward
Patricia Wehman

upon inquiry, the window company informed him that it does not produce an openable window of the size and type Petitioner requires. Petitioner estimated the cost to vent the toilet room with a fan is \$300-\$400. Petitioner also believes he could put the window on hinges so that it could be propped open.

5. When the Board inquired as to the purpose of an openable window in a toilet room without a shower or bath, Matthew Perry and William Ward discussed the importance of ventilating odors. There is no evidence of any moisture in the toilet room.

CONCLUSIONS OF LAW

6. As noted above, Sec. 18-84(c) of the Minimum Housing Code requires a window of sufficient size “to prevent the buildup of moisture.” This qualifying statement indicates to the Board that the City Council’s intent was to mitigate moisture. To the extent the Council was concerned with odors or other bathroom-related pleasantries, it could have included such in the ordinance or omitted a qualifying statement altogether.

7. Petitioner’s toilet room does not include a shower or bath. At the time of the inspection, there was no evidence of moisture buildup. This is not to say that a toilet room without a shower or bath will, as a general matter, never present moisture issues. However, here, the Board specifically asked Code Enforcement whether it cited this toilet room as violation because it did not have a window of sufficient size “to prevent the buildup of moisture,” and Code Enforcement answered in the negative. Rather, Code Enforcement testified that a window is necessary to mitigate odors.

8. Whereas the Board agrees that elimination of odors is a commendable goal, and recommends that Petitioner act to better ventilate his toilet room for that purpose, it is unable to conclude that the absence of a window of sufficient size to prevent odors is a violation of the Minimum Housing Code.

9. Should Code Enforcement be able to present sufficient evidence indicating that a window is necessary in Petitioner’s toilet room “to prevent the buildup of moisture,” it may recite this issue at the time of a future inspection. Without such evidence, the Board is unable to affirm the inspection order as it relates to this issue.

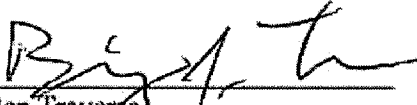
ORDER

Accordingly, it is hereby ORDERED:

10. The Minimum Housing Order dated February 26, 2016 regarding 395 College Street, Unit 1, is **REVERSED** with respect to the issue of ventilating the first floor toilet room. The Order otherwise remains in full force and effect and is not affected by this decision.

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

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse


Patrick Kearney


Jason L'Ecuyer