



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 2/24/16

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse
Board Chair

cc: Orchard Terrace Assoc.
Bill Ward
Kim Ianelli
Patti Wehman

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

In re: Request for Hearing of ORCHARD)
TERRACE ASSOCIATES LLP Regarding) CITY OF BURLINGTON
the Rental Property at 24-28 Orchard) HOUSING BOARD OF REVIEW
Terrace, Unit 26B)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on January 19, 2016. Board Chair Ben Traverse presided. Board Members Kirstin Daigle, Jason L'Ecuyer and Patrick Kearney were also present. Petitioner Orchard Terrace Associates LLP was represented at the hearing by Rick Sharp. William Ward, Director of the Code Enforcement Office, was 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 Orchard Terrace Associates LLP is the owner of a rental unit, 24-28 Orchard Terrace, in the City of Burlington. Rick Sharp manages the property.
2. On December 11, 2015, Minimum Housing Inspector Kim Ianelli conducted a follow up inspection of the premises. In her Order dated December 28, 2015, Ms. Ianelli noted several minimum housing code violations at the premises, including allegedly insufficient ventilation in the bathroom of Unit 26B (Item 5 of the order). Section 18-84 of the Minimum Housing Code requires every bathroom or toilet room to have 1 window opening to the outdoors or a fan or mechanical device vented to the outdoors of sufficient size to prevent the buildup of moisture. The section goes on to provide that for a window to be of sufficient size, it must be not less than 2 square feet.
3. On December 30, 2015, Rick Sharp appealed Item 5 of the order of December 28. Mr. Sharp argued that the bathroom is in compliance with the code standard because it has a sufficiently sized window that opens to the outdoors.

4. The window in the bathroom of Unit 26B measures 29 inches by 17 inches; consequently, it is approximately 3.44 square feet and meets the minimum window size for a bathroom window. The window is openable, but the bottom of the window is 5.5 feet off the ground. In addition, the window is recessed approximately 2 feet from the wall. Therefore, in order to open the window, a tenant either needs to stand on the vanity or a step ladder provided by petitioner. In order for the window to stay open, there is a chain and hook attached to the window that then needs to be hooked to a vent on the ceiling above the window. According to petitioner, the bathroom's small size prohibits the installation of some kind of pulley system to make opening the window easier. Additionally, petitioner contends that there is no way to install a built-in step to reach the window due to the size of the bathroom. The apartment has a dehumidifier in it.¹ Petitioner denied that there was any mold in the bathroom, despite the claims of a tenant who was recently evicted. There was evidence of some mold on the bathroom floor when it was inspected, but petitioner claimed the floor was damaged by the tenant who deliberately allowed the floor to get wet. After the inspection, the linoleum floor in the bathroom was replaced with tile and any mold was cleaned up. The parties agreed that the bathroom is free of mold at this time.

5. The Code Enforcement Office requested that the Board uphold the order and require that either a fan be installed in the bathroom or the window be made more easily openable. William Ward argued that the window is not easily opened since it requires either standing on the vanity (not a safe option in his opinion) or getting the step ladder from the other room in order to open it.

CONCLUSIONS OF LAW

6. The Board has the power to reverse or affirm, in whole or in part, any order of the minimum housing inspector, and to make such order, requirement, decision or determination as ought to be made. Minimum Housing Code, Section 18-42(d).

7. As regarding ventilation via a bathroom or toilet room window, the express language of Section 84 of the Minimum Housing Code is limited to merely requiring that the window be openable to

¹ As a condition of a variance granted in 1987, allowing the rental unit in the cellar, the landlord is required to have a dehumidifier in the apartment.

the outdoors and not less than 2 square feet. Viewed in the context of that limited language, the Board concludes the basement apartment is not in violation of the Code: it measures 3.44 square feet and opens to the outdoors. The Board acknowledges, however, that there are issues related to the ease of opening the bathroom window and, while not requiring that a fan be installed at this time, the Board strongly recommends that this course of action be followed.

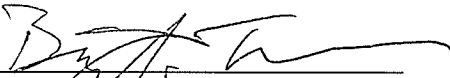
ORDER

Accordingly, it is hereby ORDERED:


8. Item 5 of the Minimum Housing Order dated December 28, 2015 related to ventilation in the bathroom of the basement apartment (Unit 26B) is hereby REVERSED.

DATED at Burlington, Vermont this 24th day of February, 2016.


CITY OF BURLINGTON
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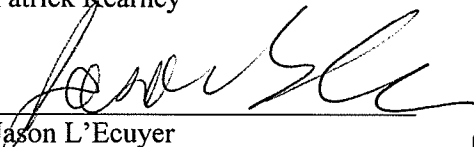
Ben Traverse



Kirstin Daigle



Patrick Kearney



Jason L'Ecuyer