



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

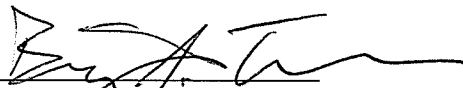
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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: Richard Rooney
Bill Ward
Tim Ahonen
Patti Wehman

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

**In re: Request for Hearing of RICHARD)
 ROONEY Regarding the Rental) CITY OF BURLINGTON
 Rental Property at 211 Church 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 January 19, 2016. Board Chair Ben Traverse presided. Board Members Kirstin Daigle, Jason L'Ecuyer and Patrick Kearney were also present. Petitioner Richard Rooney was present and testified. William Ward, Director of the Code Enforcement Office, and Minimum Housing Inspector Tim Ahonen 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 Richard Rooney is the owner of a rental unit, 211 Church Street, in the City of Burlington.
2. On December 24, 2015, Minimum Housing Inspector Tim Ahonen conducted a routine inspection of the premises. In his Order dated December 28, 2015, Mr. Ahonen noted a minimum housing code violation in the basement at the property; specifically, there is a white PVC pipe connected to the main wastewater line which acts as an overflow for waste. The pipe is open at the bottom and on the ground under the pipe is an open-topped, 55 gallon plastic drum to catch the waste. Section 18-79 of the Minimum Housing Code requires supply lines, plumbing fixtures, vents and drains to be connected and maintained in good working order and free from obstructions, leaks and defects.
3. On December 17, 2015, petitioner requested a variance from the code standard related to the plumbing.
4. Many years ago a plumber installed a WYE fixture with a one way flapper to the main wastewater line at the premises in order to divert any backup of sewage into an open 55 gallon drum in

the lower basement. The main sewer line has a history of clogging and when that first happened, the sewage overflowed into the toilet in the basement apartment and onto the floor. With the WYE in place, if the main line gets clogged, the sewage is diverted into the drum in the lower basement and an alarm goes off. The tenant in the basement apartment is expected to contact petitioner when the alarm goes off. Petitioner then has Roto Rooter auger the main line to unclog it; Roto Rooter also pumps the contents of the 55 gallon drum back into the sewer and cleans and sanitizes the entire area. Petitioner estimated that Roto Rooter augers the line approximately twice a year. Petitioner admitted the system is not perfect and could be improved; he was open to suggestions for addressing the problem. Petitioner presented no evidence indicating he has consulted a licensed plumber about fixing the problem.

5. The Code Enforcement Office was not in favor of granting a variance for petitioner's current set-up because of the potential health issues related to having exposed sewage in the drum. In addition, the system relies on the tenant contacting petitioner if the alarm goes off; however, if the tenant is not at home, no one will be aware that sewage is being diverted into the drum.

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 has not met this standard. Petitioner provided no evidence by a licensed plumber or other professional that the plumbing connection could not be fixed for a reasonable sum.

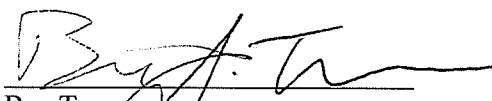
ORDER

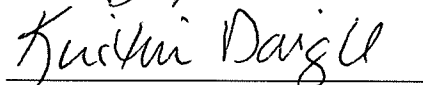
Accordingly, it is hereby ORDERED:

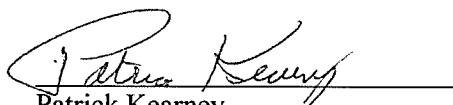
7. Petitioner's request for a variance from Section 18-79 of the Minimum Housing Code related to plumbing connections is DENIED.

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

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse


Kirstin Daigle


Patrick Kearney


Jason L'Ecuyer