



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

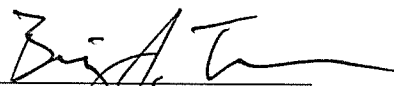
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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 10/25/17

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Ben Traverse
Board Chair

cc: William Newton for Seven Hundred Riverside Ave, LLC
Ita Meno
William Ward

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

**In re: Request for Hearing of Seven Hundred)
Riverside Ave. LLC Regarding the) CITY OF BURLINGTON
Rental Property at 700-710 Riverside) HOUSING BOARD OF REVIEW
Avenue)**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-named hearing came before the Housing Board of Review on October 2, 2017. Board Chair Ben Traverse presided. Board Members Patrick Kearney and Josh O'Hara were also present. Petitioner Seven Hundred Riverside Ave. LLC was represented at the hearing by William Newton, Appletree Bay Property Management, who testified. Minimum Housing Inspector Ita Meno and William Ward, Director 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. Respondent Seven Hundred Riverside Ave. LLC is the owner of property, 700-710 Riverside Avenue, in the City of Burlington which is the subject of these proceedings; there are 8 rental units at the property. Appletree Bay Property Management ("Appletree Bay") manages the property; William Newton is the property rental manager for Appletree Bay.

2. On May 18, 2017, Minimum Housing Inspector Ita Meno conducted an inspection of the property and issued an order. In that Order, Ms. Meno noted 16 minimum housing violations at the property.

3. On August 4, 2017, Ita Meno conducted a re-inspection of the property and noted 6 minimum housing code violations in 4 units at the property, four of which Ms. Meno alleged had been cited in the May 18 order. As 4 items were not corrected between the original inspection and re-inspection, the Code Enforcement Office assessed re-inspection fees of \$240.00 - \$60.00 per unit.

4. The Minimum Housing Code provides that fees be paid by the owner of each property for a re-inspection that is required due to the existence of violations of the Code; for the first re-inspection, \$60.00 per unit is assessed. Minimum Housing Code Sec. 18-30(b).

5. William Newton disputed the fines as being unjust, even though Respondent (unbeknownst to him) had paid the re-inspection fees. The basis of Mr. Newton's dispute is that there were additional items cited in the re-inspection and it was unfair to levy fines on new items. However, Mr. Newton misunderstands how re-inspection fees are assessed. Code Enforcement only assesses fees on items that were not corrected from the original order. In this instance, Ita Meno alleged that 4 deficiencies appearing in the original order were not corrected at the re-inspection. Therefore, the Code Enforcement Office assessed \$240.00 in re-inspection fees.

6. Item 6 in the August 4 Order found that a plumbing drain in the bathroom of Unit E was obstructed, leaking or defective. Although that item was not cited in the original Order, Ita Meno connected it to the cause of the ceiling in the bathroom of Unit D being unsound which was cited in the May 18 order. Consequently, as she connected that new item to one cited in the original order, she assessed a re-inspection fee for that item.

CONCLUSIONS OF LAW

7. The Board has 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. Minimum Housing Code, Sec. 18-42(d).

8. The Minimum Housing Code allows for the assessment of re-inspection fees when deficiencies found in an Order are not corrected when the re-inspection occurs. Respondent was assessed \$240.00 in re-inspection fees for 4 deficiencies cited in the May 18, 2017 which were not corrected at the time of the re-inspection on August 4, 2017. However, item 6 of the August 4 order was not cited in the May 18 order; therefore, the Board concludes it was not appropriate to assess a re-inspection fee for this item. Accordingly, \$60.00 should be returned to respondent.

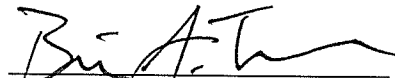
ORDER

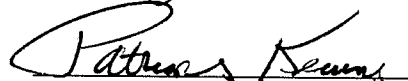
Accordingly, it is hereby ORDERED:


9. Respondent Seven Hundred Riverside Ave LLC is entitled to the return of \$60.00 from the Code Enforcement Office for a re-inspection fee improperly assessed by them.

Dated at Burlington, Vermont this 25th of October, 2017.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse


Patrick Kearney


Josh O'Hara