



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

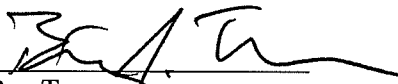
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

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 4/20/16

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Ben Traverse
Board Chair

cc: Jon & Jennifer Woods
Tim Ahonen, Code Enforcement Office
Patricia Wehman, Code Enforcement Office

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

**In re: Request for Hearing of JON and)
 JENNIFER WOODS Regarding the) CITY OF BURLINGTON
 Rental Property at 20 School St, Apt. 1) 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 4, 2016. Board Chair Ben Traverse presided. Board Members Kirstin Daigle, Jason L'Ecuyer and Patrick Kearney were also present. Petitioners Jon and Jennifer Woods were present and testified. Minimum Housing Inspector Tim Ahonen 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. Petitioners Jon and Jennifer Woods are the owners of a rental unit, 20 School Street, Apt. 1, in the City of Burlington.
2. On January 7, 2016, Minimum Housing Inspector Tim Ahonen conducted an inspection of the premises. In his Order of January 11, 2016, Mr. Ahonen noted that the bathroom in apartment 1 did not have a window or fan in it. Section 18-84(c) of the Minimum Housing Code requires every bathroom or toilet room to have 1 window of sufficient size opening to the outdoors or a fan or mechanical device vented to the outdoors to prevent the buildup of moisture.
3. On January 25, 2016, petitioners requested a variance from the code standard related to the bathroom. The bathroom is located in the original part of the house which was built more than a century ago. Petitioners testified that it would be difficult, if not impossible, to install a window that would open to the outdoors. In addition, petitioners conferred with a contractor who indicated it would be prohibitively expensive to install a fan. Currently, there is a gap in a cabinet door located between the bathroom and the kitchen which provides a bit of ventilation. There has never been a problem with mold

in the bathroom; Tim Ahonen confirmed that there was no evidence of mold when he inspected the bathroom. In addition, the lack of ventilation has never been identified as a problem on previous inspections.

CONCLUSIONS OF LAW

4. 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 met this standard; there is no way to add a window to the bathroom and it would be cost prohibitive to install a fan.

5. Once this standard is met, the Board's discretion to grant a variance is further circumscribed by another provision of Section 18-42(c):

[P]rovided, however, that the Board shall have the power to vary from the strict application of the requirements of this chapter only to the least extent necessary to relieve the difficulties or hardships involved, and only if such variance will not cause substantial detriment to the health, safety, morals and general welfare of the persons residing in the dwelling units involved or to the general public and will not cause substantial impairment of the intent and purpose of this chapter....

See also, 24 V.S.A. Sec. 5005(c)(2). Accordingly, the Board will grant petitioners a variance to the extent that they may keep the bathroom in apartment 1 in its current condition, as long as it continues to prevent the buildup of moisture and associated mold and mildew. If a subsequent inspection reveals existing conditions that are detrimental to the occupants' health or safety, code officials may still rely on Section 18-84(c) of the Minimum Housing Code. Furthermore, should petitioners or any subsequent owner(s) undertake renovations that render the cost of compliance less prohibitive, they will be expected to conform the bathroom to Section 18-84(c) as part of said renovations.

ORDER

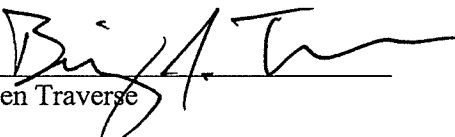
Accordingly, it is hereby ORDERED:

6. The request of petitioners Jon and Jennifer Woods for a variance from Section 18-84(c) related to ventilation in the bathroom is **GRANTED** as set forth herein and subject to the following condition:

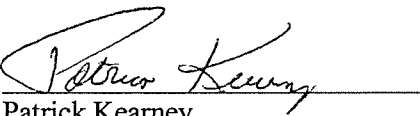
(a) To ensure that any subsequent purchaser of the property has notice of the conditions placed by this Board in granting a variance, petitioners shall cause a copy of these Findings of Fact, Conclusions of Law, and Order to be recorded and indexed in the Land Records of the City of Burlington.


DATED at Burlington, Vermont this 20th day of April, 2016.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW


Ben Traverse


Kirstin Daigle


Patrick Kearney


Jason L'Ecuyer