



# Virginia Housing Commission

**2024 Annual Report**

## 2024 Virginia Housing Commission Executive Summary

The Virginia Housing Commission, an independent legislative commission, had a productive year and studied and made recommendations on a wide variety of housing related issues that affect the Commonwealth.

The 11-member Commission saw changes in membership both among legislators, (Senator Bill Stanley re-joined the Commission) and the addition of new gubernatorial appointees. Senator Mamie Locke continued to ably lead the Commission as Chair and will continue to do so until her tenure ends next December 2025.

The Commission staff benefited from the strong policy and research skills Policy Analyst Jessica Hoff provided as well as the expertise from Molly Bowers who joined the Commission as an Assistant Policy Analyst. The Commission staffed 11 public meetings and numerous mediated small group discussions during the 2024 interim.

Affordable housing solutions, zoning and landlord /tenant concerns were the most important topics discussed. In April the Commission began by approving the workplan that included twenty-two bills referred to the Commission during the prior legislative session. (Please see the [bill matrix](#) for a full listing and description of the bills.)

Each bill was thoroughly discussed by representatives from each side of the issue. Commissioners were also provided with many topical and pertinent updates on the housing arena. Some topics of particular interest to members included an overview of the Real Estate Settlement and the impact it may have on Virginia's housing market (Lisa Sturtevant, Chief Economist Bright MLS ) and a joint presentation about the impact of Virginia's shifting demographics and the economy on the housing market (Hamilton Lombard, University of Virginia Weldon Cooper Center for Public Policy and Ryan Price

Two law professors, Riley Keenan from the University of Richmond and Richard Schragger, from The University of Virginia, separately addressed the full Commission at meetings. Keenan spoke about constitutional issues to weigh when religious institutions provide affordable housing through benefiting from special incentives while Schragger addressed Charlottesville's inclusive zoning impacts to neighborhoods.

Eviction prevention continued to be an issue of importance to the Commission. The progress of the Eviction Diversion Court Pilot program (created by the Commission) continued to be tracked, and the monitoring showed some success. The Commission decided to make the program available to all courts who wish to implement it throughout the Commonwealth.

The Commission has traditionally supported programs related to low-income housing tax credits and supported housing growth through federal and state programs, and this interim was no exception. Bills on real estate disclosures were also discussed, both dealing with fly-over zones and noise and flood zones. The fly-over zone issue resulted in a bill being endorsed by the Commission for the 2025 legislative session.

In the landlord/tenant area, a piece of legislation which offers protections to victims of domestic violence and victims of human trafficking was proposed. The bill allows victims to safely move by allowing them to break a lease before the end of its term.

The Commission had a workgroup discuss ADU's (accessory dwelling units) and using ADU's as a method of providing both additional housing as well as affordable housing was debated. A compromise was reached to create legislation mandating the consideration of ADU's to be placed in each locality's Comprehensive Plan.

Bills to supersede localities' authority concerning zoning and building exceptions were heard in several topic areas including religious properties to be re-purposed and drug recovery houses. Each topic had many speakers offer their perspective and input. There was no consensus on these issues.

All topics that were studied are outlined on the Commission's comprehensive website. The actual meetings, summaries and materials from each meeting are available to view at [VHC.Virginia.gov](https://VHC.Virginia.gov).

Ultimately, six pieces of legislation were endorsed by the Commission ([see December 17 meeting](#).) The Commission will support the legislation during the 2025 legislative session as well as tracking all housing related legislation.

The Commission will meet again in April to approve topics to study in 2025. All are welcome to attend Virginia Housing Commission meetings.

A handwritten signature in black ink, appearing to read "Elizabeth A. Palen", is written over a light yellow rectangular background.

Elizabeth A. Palen

Executive Director, Virginia Housing Commission

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## Virginia Housing Commission Membership 2024

### **Senate Members**

Senator Mamie E. Locke, *Chair*

Senator Ghazala F. Hashmi

Senator William M. Stanley Jr.

### **House Members**

Delegate Carrie E. Coyner, *Vice Chair*

Delegate David L. Bulova

Delegate Daniel W. Marshall III

Delegate Adele Y. McClure

Delegate Briana D. Sewell

### **Governor Appointed Members**

Joshua Goldschmidt

Martin K. Johnson

Ashley Welburn

## Virginia Housing Commission Staff 2024

Elizabeth A. Palen  
*Executive Director*

Jessica Hoff  
*Policy Analyst*

Molly Bowers  
*Assistant Policy Analyst*

**Local Land Use and Community Living Workgroup**  
**2024 Membership**

**House Members**

Delegate David L. Bulova, *Chair*

Delegate Carrie E. Coyner

Delegate Daniel W. Marshall III

Delegate Briana D. Sewell

**Senate Members**

Senator William M. Stanley, Jr.

**Governor Appointed Members**

Joshua Goldschmidt

Martin Johnson

Ashley Welburn

**Stakeholder Members**

Bismah Ahmed, *Apartment and Office Building Association of Metropolitan Washington*

Laura Bateman, *Virginia First Cities*

Andrew Clark, *Home Builders Association of Virginia*

Michelle Gowdy, *Virginia Municipal League*

**Stakeholder Members (*continued*)**

Troy Garrett, *Virginia Association of Housing & Community Development Officials*

Randy Grumbine, *Virginia Manufactured and Modular Housing Association*

Bryan Horn, *Virginia Department of Housing and Community Development*

Joseph Hudgins, *Independent Insurance Agents of Virginia*

Erin Kormann, *Virginia Realtors*

Brian Koziol, *Virginia Housing Alliance*

Joe Lerch, *Virginia Association of Counties*

Christie Marra, *Poverty Law Center*

Scott Matties, *Architect*

Anna Salzberg, *Environmentalism*

Pia Trigiani, *Common Interest Communities Attorney*

Jeff Quann, *Virginia Housing*

Jerry Wright, *Community Associations Institute*

**Affordable Housing and Landlord Tenant Law**  
**2024 Membership**

**Senate Members**

Senator Ghazala F. Hashmi, *Chair*

Senator Mamie E. Locke

Senator William M. Stanley, Jr.

**House Members**

Delegate David L. Bulova, *Chair*

Delegate Daniel W. Marshall III

Delegate Adele Y. McClure

**Governor Appointed Members**

Joshua Goldschmidt

Martin Johnson

Ashley Welburn

**Stakeholder Members**

Bismah Ahmed, *Apartment and Office Building Association of Metropolitan Washington*

Robert Bradshaw, *Independent Insurance Agents of Virginia*

Andrew Clark, *Home Builders Association of Virginia*

Tom Fitzpatrick, *Housing Opportunities Made Equal*

**Stakeholder Members (continued)**

Troy Garrett, *Virginia Association of Housing & Community Development Officials*

Michelle Gowdy, *Virginia Municipal League*

Randy Grumbine, *Virginia Manufactured and Modular Housing Association*

Kelly Harris-Braxton, *Virginia First Cities*

Kelly King Horne, *Homeward*

Monique Johnson, *Virginia Housing*

Erin Kormann, *Virginia Realtors*

Brian Koziol, *Virginia Housing Alliance*

Joe Lerch, *Virginia Association of Counties*

Christie Marra, *Poverty Law Center*

Scott Matties, *Architect*

Renee Pulliam, *Thalhimer Realty*

Elizabeth Steele, *GRS Title Services*

Henry Watkins, *Virginia Association of Bankers*

**Special ADU Workgroup**  
**2024 Membership**

**House Members**

Delegate Carrie E. Coyner, *Chair*

Delegate Briana D. Sewell

Delegate Adele Y. McClure

**Senate Members**

Senator Ghazala F. Hashmi

**Governor Appointed Members**

Joshua Goldschmidt

**Stakeholder Members**

Robert Bradshaw, *Independent Insurance Agents of Virginia*

Andrew Clark, *Home Builders Association of Virginia*

Alana Creinin, *City of Arlington*

Jessica Dennis, *City of Norfolk*

Michelle Gowdy, *Virginia Municipal League*

**Stakeholder Members (*continued*)**

Paul Grossman, *Town of Cape Charles*

Randy Grumbine, *Virginia Manufactured and Modular Housing Association*

Mindy Hall-Sexton, *Virginia Housing*

Kristen Kanaskie, *Fairfax County*

Erin Kormann, *Virginia Realtors*

Brian Koziol, *Virginia Housing Alliance*

Joe Lerch, *Virginia Association of Counties*

Alexander Macauley, *Macauley, Jamerson, Satterlund, and Sessa P.C.*

Natalie Spillman, *County of Chesterfield*

Sarah G. Taylor, *City of Alexandria*

Pia Trigiani, *Common Interest Communities Attorney*

Kevin Vonck, *City of Richmond*

David C. Wescott Jr., *City of Chesapeake*



Special Workgroup on Local Government Actions Related to Comprehensive Plans – HB 1236  
(Marshall, D., 2024)

**House Members**

Delegate Carrie E. Coyner, *Chair*

Delegate Daniel W. Marshall, III

**Senate Member**

Senator Ghazala Hashmi

**Gubernatorial Appointee**

Joshua Goldschmidt

**Stakeholder Members**

Laura Bateman, *Virginia First Cities*

Andrew Clark, *Home Builders Association of Virginia*

Michelle Gowdy, *Virginia Municipal League*

Randy Grumbine, *Virginia Manufactured and Modular Housing Association*

Andrew Hopewell, *Virginia Chapter of the American Planning Association*

Bryan Horn, *Virginia Department of Housing and Community Development*

Erin Kormann, *Virginia Realtors*

Brian Koziol, *Virginia Housing Alliance*

Joe Lerch, *Virginia Association of Counties*

# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair  
DELEGATE CARRIE E. COYNER, Vice-Chair  
ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

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### AGENDA

Virginia Housing Commission  
Tuesday, April 16, 2024; 2:00 p.m.  
Senate Room C, the General Assembly Building

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- I. Welcome and Call to Order  
*Senator Mamie Locke, Chair*
  - II. Brief Overview of the Structure and Topics for 2024 Interim  
*Elizabeth A. Palen, Director Virginia Housing Commission*
  - III. Affordable Housing on Religious Property  
*Riley T. Keenan, J.D., Assistant Professor of Law University of Richmond School of Law*
  - IV. Brief Comments  
*Terrie Suit, CEO Virginia Association of REALTORS®*
  - V. The Recent Real Estate Settlement and the Impact on the Virginia Housing Market  
*Lisa Sturtevant, Ph.D, Chief Economist Bright MLS*
  - VI. Public Comment
  - V. Adjourn
-

# COMMONWEALTH OF VIRGINIA

DELEGATE DANIEL W. MARSHALL, III  
SENATOR MAMIE E. LOCKE  
ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

### Meeting Summary

Virginia Housing Commission

Tuesday, April 16, 2024, 2:00 PM

Senate Room C (Room 311), The General Assembly Building

### Introduction:

Senator Mamie Locke, Chair, called the meeting to order at 2:00 p.m.

Members present: Senator Mamie Locke, Senator Ghazala Hashmi, Delegate David Bulova, Delegate Carrie E. Coyner, Delegate Briana Sewell, Delegate Adele McClure, Laura Lafayette, Gubernatorial Appointee, Joshua Goldschmidt, Gubernatorial Appointee, Elizabeth Palen, Executive Director

Members absent: Delegate Danny Marshall, James Forest Hayes, Gubernatorial Appointee

The meeting began with introductions and opening remarks followed by presentations and discussion/consideration of affordable housing on religious property, the recent proposed NAR real estate settlement and its impact on the Virginia housing market.

Materials presented at the meeting are accessible through the [Commission's website](#).

### **Presentations:**

#### **Affordable Housing on Religious Property**

*Riley T. Keenan, J.D., Assistant Professor of Law University of Richmond School of Law*

Riley T. Keenan, J.D., Assistant Professor of Law at University of Richmond School of Law, discussed the constitutional aspects of affordable housing on religious property and how they relate to the Faith in Housing for the Commonwealth Act ([SB233](#)).

Keenan discussed four main items before providing his conclusions and suggestions for constitutionally strengthening the Faith in Housing for the Commonwealth Act:

1. He gave a general overview of the religion clauses of the first amendment.
2. He spoke about the Supreme Court's cases that deal with religious exemptions.
3. He discussed the Faith in Housing bill from the 2024 Session, SB 233 (Hashmi, G., 2024).
4. He compared the interaction between the Faith in Housing bill and the Federal Fair Housing Act.

He provided a general overview of the religion clauses of the first amendment.

Keenan explained the religion clauses in the first amendment come from the first sentence "congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof," This is divided into two clauses, the Establishment Clause, and the Free Exercise Clause.

- The establishment clause prohibits the government from establishing a state religion or acting in a way that looks too much like establishing a state religion.
- The free exercise clause forbids the government from interfering in religious practices.

Keenan said there are benefits a state may not give because of the Establishment Clause and benefits they must give because of the Free Exercise Clause. There are other benefits that fall in a middle area that he terms "playing in the joints."

### **Keenan discussed Supreme Court cases that deal with religious exemptions from generally applicable laws:**

Keenan explained that the Free Exercise Clause does not require the government to provide exemptions from generally applicable laws.

- He provided an example from Oregon: The Supreme Court decided Oregon can enforce a ban on the drug peyote because it is a generally applicable law. However, in a different case, the Court decided the state can't create a law that is designed to target a specific religious practice. In that case, the state couldn't create a law banning "animal killing," because it was targeted to prevent religious animal sacrifice.

Keenan explained the Establishment Clause comes into play when the state voluntarily creates a religious exemption from otherwise generally applicable law - like the Faith in Housing bill creating exemptions from zoning laws.

- When the Court is evaluating these laws, they consider four questions. Keenan listed these four questions.
  - 1) Does the law apply only to religious organizations, or does it also apply to some secular non-profit organizations?
  - 2) Does it lift a state-imposed burden on free exercise of religion?
  - 3) Does it unduly burden those who do not benefit from the law?
  - 4) Does it support suspect activity, like proselytization?

Professor Keenan said all of this indicates that the Faith in Housing Act is in the middle, in the "play in the joints area." A state may or may not give a particular benefit to religion. It doesn't have to, but it may do so.

### **Keenan explained what this discussion means for the Faith in Housing Act:**

He explained the bill would allow religious organizations to construct affordable housing on their existing property notwithstanding local zoning. This makes the Act an exemption from an otherwise generally applicable law. It is an Establishment Clause question.

- To answer the question, Keenan used the four-part question framework mentioned above.

Keenan said the bill only applying to religious organizations is not necessarily fatal, but it does not help the establishment clause question. He added the Virginia bill lifts a state-imposed burden on freedom of exercise because many religious organizations would argue that providing affordable housing is part of their faith mission. The Supreme Court does not want to get involved and decide if this is a sincerely held religious belief, so the Court allows the states to create these categorical exemptions as long as it's not exempting for-profit activity.

### **The Interaction Between the Faith in Housing Bill and the Federal Fair Housing Act:**

Keenan explained that the Federal Fair Housing Act makes it unlawful to refuse to sell a dwelling to individuals due to religion, but the act also exempts a religious organization that owns or operates housing for other than commercial uses. Keenan posed the question - could a development under the Faith in Housing Act discriminate based on religion? He explained a nonprofit basis is not a commercial basis, which means it would fall in the exemption area of the Faith in Housing Act and that is the problem.

### **Keenan shared his conclusions and suggestions for the Faith in Housing in the Commonwealth Act:**

Keenan reiterated that the Faith in Housing Act probably falls between the two religious clauses mapped out at the beginning of the discussion, and the bill would probably survive a constitutional challenge. However, he explained the legislature could strengthen the bill from a constitutional standpoint with the following provisions:

- Extend it to nonprofit organizations like California's recently passed legislation.
- Expressly prohibit religious discrimination against tenants.

### **Questions:**

*Senator Hashmi* asked if in terms of what other states and localities have done, have any significant legal challenges emerged in the courts?

*Professor Keenan* answered it has not, but believes it is still too early to determine if significant challenges will emerge.

*Delegate Bulova* believes most of these projects would require some sort of public private partnership, and asked how you factor in the fact that the private partner is going to want to make a profit. How does that factor into the nonprofit constitutional aspect of the bill?

*Keenan* answered that this is less of an issue if it is a private actor brought in, but it is complicated when it comes to the relationship of the religious organization and the private actor. However, his understanding of the bill is that the property manager must be nonprofit, so the bill as written might avoid a lot of that concern. The core of the issue is making sure the religious organization is not making a profit, so the government is not creating a benefit in a competitive economic environment.

### **Brief Comments on the National Association of Realtors Settlement**

*Terrie Suit, CEO Virginia Association of Realtors*

Terrie Suit, CEO Virginia Association of Realtors gave brief comments on the interest in the recent National Association of Realtors (NAR) Settlement.

She began by providing background information explaining that the real estate industry in 1984-85 had what were called “sub-agencies”. When a licensee listed a sale and negotiated a compensation amount with a seller, the licensee would then share that information on the multiple listing service (MLS), and they would offer to share their compensation with a sub-agent.

The NAR created a rule that said that any realtor on the MLS required when a property was listed, that the listing broker offer an amount of compensation to be shared with any potential buyer agents or brokers. Because of that rule there was a perception in this lawsuit that the buyers weren’t negotiating their own compensation amount with the buyer agent. The premise of the lawsuit was that the plaintiffs wanted to have the ability to negotiate compensation for their broker.

Code of Virginia Chapter 21, Article 3, Section 54.1-2132 ([Section 54.1-2132](#)) put the requirement for a buyer compensation agreement in the law. However, even though the buyer’s compensation was negotiated in that agreement, if the sellers, through their listing agent negotiated an amount that was different, then that was the amount that the buyer’s agent would receive.

On March 15, 2024, the NAR entered into a proposed settlement agreement saying they will reverse that rule, thus prohibiting offers of compensation being listed on the multiple listing service and will now require that all agents working with a buyer have a written buyer agency agreement. In that agreement they will include the actual amount of the compensation.

The difference is the buyer has their compensation agreement but would like the seller to cover that cost, then that listing agent and that buyer agent would have a conversation asking if the sellers are willing to help with closing costs or offer closing assistance. It’s an added step that won’t be seen in the MLS.

One of the things the NAR is discussing with its members is making sure the sellers understand the law of supply and demand. The more demand, the more favorable terms of a sale they’re going to see. If they want to increase demand, then they may want to be more open to helping with things like closing costs, compensation to the buyer broker, etc.

## **The Recent Real Estate Settlement and the Impact on the Virginia Housing Market**

*Lisa Sturtevant, Ph.D., Chief Economist Bright MLS*

Lisa Sturtevant, Ph.D., Chief Economist Bright MLS explained that regarding this proposed settlement, there are still issues that are being decided, and we will not know the outcome until later this year.

She began her presentation by explaining that the multiple listing service (MLS) is the centralized database where property listings are entered by sellers’ agents.

She stated that:

- All homebuyers have access to all available listings.
- Data is made available to public online real estate portals such as Zillow.
- Property data entered in the MLS is consistent and accurate.

She provided additional information regarding the current housing market:

- Home prices have been rising faster than incomes and price appreciation in Virginia outpaces the nation.
- Housing affordability is a growing challenge due to rapid price growth and elevated mortgage rates make buying a home more difficult.
- The income needed to afford a home in Virginia has increased by 76% between 2020 and 2024.
- It is a challenging market, particularly if you are a moderate-income buyer or a first-time home buyer.
- First-time home buyers have a challenge because they are competing with people who have equity.
- Low inventory has been a constraint on the market and buyers have few options and a lot of competition.
- Mortgage rates drive both supply and demand.
- Rates are not particularly high by historic standards, but home prices are higher, and affordability is more challenging.
- Homeownership rates are higher in Virginia than in the U.S. overall, however racial gaps in homeownership rates persist.

*Sturtevant* emphasized that the homeownership gap in Virginia and the U.S. is almost the same as it was when the Fair Housing Act was passed in 1968. Research from the Urban Institute shows that 70% of the new homeowners over the next 20 or 30 years are going to be Hispanic or Latino.

#### **What does the NAR settlement do?**

- It ends most of the lawsuits.
- The NAR covers most of the settlement payments.
- It creates new MLS rules.
- It emphasizes the role negotiations have always played in the transaction.

*Sturtevant* said that this case should not be called the NAR settlement, but the “proposed” NAR settlement. She added that it has started people thinking about how this will affect the real estate market. Homebuyers and sellers are hearing misleading, and in some cases, inaccurate information about the real estate industry, real estate commissions, and multiple listing services (MLSs) in the wake of the recent class action litigation.

Bright MLS conducted research to help clarify how home sales transactions work and to show how Realtors® and the MLS bring value to consumers. They collected data on one million home sale transactions over a four-year period across six states and the District of Columbia and came to a few different conclusions:

Fact #1: Agents do not “steer” buyers to homes with higher buyer agent commissions.

Fact #2: Commissions are not driving up home prices.

Fact #3: Listing a home on the MLS creates an open and fair housing marketplace.

Fact #4: Homebuyers highly value a knowledgeable, professional buyer's agent.

*Sturtevant* offered a possible timeline for the proposed NAR settlement:

Q2 2024:

- A consolidation of class action lawsuits will be completed.
- There will be a "Fairness" hearing and preliminary approval of settlement.

Q3 2024:

- New rules will be in effect.
- The MLS systems will be updated.
- The forms will be updated.

Q4 2024 or later:

- Comments to the court on settlement will be heard.
- Some plaintiffs may "opt out" of the settlement.
- The Court will give its final approval.
- Most cases will be dismissed.

**The Settlement's Potential Impact on the Housing Market in Virginia and More Broadly Across the U.S.**

Moderate-income, first-generation, young, and veteran homebuyers could have a harder time in this competitive housing market for several reasons:

- The need to pay buyer representation out of pocket could be difficult.
- There is the possibility of buyers going without representation.
- The sellers could offer closing cost assistance.
- There could be fewer listings available via the MLS.
- There likely will not be an impact on the overall number of home sales transactions in Virginia, but there could be shifts in timing.
- Higher-income buyers or cash buyers could be better positioned to purchase homes.
- Supply and demand could drive housing market activity.

*Lisa Sturtevant* added that there may be ways that we could help homebuyers at the state level.

**Potential Areas for State Government Involvement**

- By offering homebuyer assistance for representation (like downpayment assistance programs that already exist).
- By having the requirement that listings represented by a licensed real estate agent be listed on an MLS.
- By having continued and increased attention on fair housing and access to homeownership, particularly among minority homebuyers.

**Questions:**



*Laura Lafayette* asked if Bright MLS has been tracking any migratory patterns. In the Richmond area she stated that people who are remote workers are still coming to Richmond from D.C. They are making cash offers on homes because they receive higher wages. Because of this they are crowding out low- to medium- income home buyers in the Richmond region.

*Sturtevant* answered that they have continued reporting it primarily in the Richmond market and in the Shenandoah Valley market. About 31% of jobs in the Washington, D.C. area are held by people working from home, but that number has plateaued. She thinks that will change if the federal government requires workers to come back to work in person.

*Delegate McClure* asked if there is any data on whether the cash buyers are single individuals, families, or companies.

*Sturtevant* replied that we hear about investors, but they are not the big source of cash buyers in Virginia. While there are institutional investors in Virginia, Washington, D.C., and Northern Virginia, Richmond has not seen players in that market. Charlotte, Orlando, and Atlanta are where we are seeing a large concentration of investors.

*Joshua Goldschmidt, Gubernatorial Appointee* asked if in Bright MLS' research on home building they looked at the cost of regulation or the scarcity of labor, or availability of materials and how that impacts these homes.

*Lisa Sturtevant* replied that in this study they did not but reiterated that data indicates that due to state and local regulations, there is a 34% increase to the end user cost of a single-family home.

## **Conclusion:**

*Elizabeth Palen, Executive Director Virginia Housing Commission* asked the members of the commission who have not already let her know which workgroups they would like to work, please let her know within the next couple of days.

*Senator Locke* added that workgroups will begin meeting in May.

*Elizabeth Palen* provided the list of future meetings to be held over the coming months:

- ~ May 20, 2024; Special ADU Workgroup meeting.
- ~ June 5, 2024; Local Land Use and Community Living Workgroup meeting.
- ~ June 5, 2024; Affordable Housing, Landlord and Tenant Law Workgroup meeting.
- ~ July 15, 2024; Full Virginia Housing Commission meeting.

All the next meetings will be held in Senate Room C (Room 311) of the General Assembly Building.

The meeting adjourned at 3:14 PM.

# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair  
DELEGATE CARRIE E. COYNER, Vice-Chair  
ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

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### AGENDA

Accessory Dwelling Unit Workgroup  
Monday, May 20, 2024; 10:00 a.m.  
Senate Room 3, the Virginia State Capitol Building

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- I. Welcome and Call to Order  
*Delegate Carrie Coyner, Chair*
  - II. Structure and Topics for Meeting  
*Elizabeth Palen, Director, Virginia Housing Commission*
  - III. Presentation of Policy Brief, Literature Review, and Exploration of Regulations in State Laws Concerning ADUs  
*Jessica Hoff, Research and Policy Analyst, Virginia Housing Commission*
  - IV. Brief Comments  
*Joe Lerch, Virginia Association of Counties, Director of Local Government Policy*
  - V. Locality Perspectives on ADUs  
*Dylan Nicely, County Planner, Rockingham County*
  - VI. Locality Perspectives on ADUs  
*Jesse Smith, Deputy County Administrator, Chesterfield County*
  - VII. Discussion  
*Workgroup Members*
  - VIII. Public Comment
  - VI. Adjourn
-

# COMMONWEALTH OF VIRGINIA

DELEGATE DANIEL W. MARSHALL, III  
SENATOR MAMIE E. LOCKE  
ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

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Meeting Summary  
Accessory Dwelling Unit Workgroup  
Virginia Housing Commission  
Monday, May 20, 2024, at 10:00 a.m.  
Senate Room 3, Virginia Capitol Building Annex

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### **Introduction**

Delegate Carrie E. Coyner, Chair, called the meeting to order at 10:00 a.m.

Members present: Delegate Briana D. Sewell, Laura Lafayette, Gubernatorial Appointee, Joshua Goldsmith, Gubernatorial Appointee, Andrew Clark, Jessica Dennis, Michelle Gowdy, Paul Grossman, Randy Grumbine, Mindy Hall-Sexton, Kristen Kanaskie, Erin Kormann, Joe Lerch, Stephanie Showalter, Pia Trigiani, Kevin Vonck, and David C. Wescott Jr.

Members absent: Delegate Adele Y. McClure, Senator Ghazala F. Hashmi, Robert Bradshaw, Ilana Creinin, Brian Koziol, Natalie Spillman and Sarah G. Taylor

The meeting began with introductions and opening remarks followed by presentations and discussion of potential legislative drafts.

### **Opening Remarks**

*Elizabeth A. Palen, Executive Director, Virginia Housing Commission*

Elizabeth Palen gave an overview of housing being built in the United States. Key facts included:

- Five million homes have been added in the U.S. since 2020; this is the most housing built since 2007 and is at a rate of over one million built annually.
- A 2022 to 2023 census study on construction indicates apartments are being built at the highest rate since 1987.
- A Harvard University's Joint Center of Housing Study states that housing should continue to be built at a strong pace nationally, although not necessarily for low- and moderate-income people.

## **Presentations**

### ***Policy Brief, Literature Review, and Exploration of Regulations in State Laws Concerning ADUs***

*Jessica Hoff, Research and Policy Analyst, Virginia Housing Commission*

Reports and references are available at <https://vhc.virginia.gov/reports.asp>

**Jessica Hoff** gave a two-part presentation to provide members and workgroup participants with information gathered and analyzed to facilitate this discussion.

#### **I. Definitions: Accessory Dwelling Unit vs. Affordable Dwelling Unit**

An accessory dwelling unit (ADU) does not have to be affordable; it is a smaller housing unit that is an accessory to a primary single-family dwelling unit. They can be an internal ADU attached to the primary dwelling unit or detached from the primary dwelling unit and are most often considered a separate living space.

- States that have passed legislation broadly allowing ADUs have not included any required affordability parameters or definitions within their ADU code sections.
- In SB 305, ADU is defined as an independent dwelling unit on a residential dwelling lot with its own living, bathroom, and kitchen spaces.
- Evidence shows ADUs increase housing stock in neighborhoods with fewer rental options. ADUs have not been proven to rent at below-market rates or be affordable for households at or below area median income (AMI).
- The rental cost of an ADU is unpredictable but mostly determined by the owner's relationship with the tenant, location, and size of the ADU. Affordable rent is usually provided to acquaintances and family members.
- Many localities and research groups find additional intervention may be necessary to generate affordable ADUs.
- ADUs generate wealth for the homeowner but are commonly built in more affluent communities with more financing options compared to low- or moderate-income communities.
- ADUs can be used for a variety of purposes outside of housing, but most are used for that purpose.
- ADUs have less of a negative environmental impact compared to standard single-family homes.
- Insurance requirements could serve as an additional barrier to using a detached ADU to provide housing to a non-family member.
- Results of statewide ADU permitting vary across both states and localities.

#### **II. Exploring Statewide ADU Regulation**

ADUs are defined differently throughout the United States. The relevant state laws concerning ADUs vary widely.

- Nine states have passed statewide legislation broadly allowing ADUs use.
- Several other states are considering ADU legislation during their pending 2024 legislative sessions. VHC's research on ADUs will be updated to include any passed legislation.
- In 2023 bills in Colorado, Arizona, and Rhode Island failed to pass.
- By-Right permitting: Should there be a discretionary review process for ADU construction, or should it be by-right?
  - California, Vermont\*, Montana, Oregon, and Connecticut each have some form of by-right permitting for ADU construction.
  - New Hampshire, Vermont\*, Maine, Utah, and Washington do not require by-right permitting of ADUs. New Hampshire, Maine, Utah and Washington allow localities the authority to decide ADU permitting processes.
- Environmental Concerns:
  - Should there be special environmental considerations or prohibitions?
  - Should owner occupancy be required?
  - What should be the minimum/maximum size of ADUs? Should there be lot size requirements? All state statutes studied contain size regulation for ADUs.
  - Short-Term Rentals: Should there be restrictions on short term rentals of ADUs? Every state studied gives localities the ability to restrict the use of ADUs for short term rentals.
  - Separate sale of ADU: Should the sale of an ADU separate from the primary dwelling be allowed?
- Additional studied state regulations include application fees, parking, CIC exemptions, fire sprinklers, occupancy restrictions, number of ADUs, separate water, sewer and septic systems, setbacks, utilities, and neighborhood aesthetics.

## **Brief Comments**

*Joe Lerch, Virginia Association of Counties (VACO), Director of Local Government Policy*

**Joe Lerch** commented that VACO, the Virginia Municipal League (VML) and others were part of a workgroup that worked with the Department of Housing and Community Development (DHCD) on a report about ADUs in 2021.

Items discussed by that workgroup included exploring grant opportunities for constructing and, or maintaining ADUs, and the importance of ADUs being utilized as an affordable housing resource.

*Lerch* also commented on a discussion he had with DHCD in Washington, D.C because they have a pilot program established to explore this topic.

- The D.C. pilot program was established in the spring of 2022 with \$2.5M in grant funds.
- They will fund the renovation or creation of an ADU for residents of all incomes. However, residents with incomes above 120% of the median family income or Area Median Income (AMI), must rent their ADU to households with incomes below 60% of the AMI.
- An individual who currently owns a property, and whose income is below 120% of the AMI, can obtain 100% grant funds for the hard cost of construction. The proposed renter must have a limited income.

- There have been 10 applications preliminarily approved; two have permits for construction and one is under construction.
- They are limiting to \$120,000 per grant application which is only for converting basements.
- The proposed renter must have a limited income.
- In order to create more ADUs, D.C. is looking to standardize the design process for ADUs.

*Lerch* added that in 2021 there were certain building code restrictions in place that raised the cost of adding internal units. Those have since been amended to include the firewall separation and allow for HVAC systems to be shared. DHCD can provide additional information on the building code restrictions.

### **Questions:**

*Laura Lafayette, Gubernatorial Appointee* inquired if the Washington, D.C. pilot program allows the owner of the primary dwelling whose income is over 120% of the AMI to build an ADU and rent to a tenant whose income is below 60% of the AMI.

*Joe Lerch* confirmed they can build an ADU, but if they wish to avail themselves of a 100% grant program, they must rent out to somebody at 60% of the AMI or lower.

*Lafayette* asked if grant money is available to cover renovating a basement, versus building a standalone ADU in a backyard.

The response was yes, and there is a sliding scale on what the D.C.'s program is willing to grant, but the average has been about \$89,000 per unit.

### ***Rockingham County Presentation: Locality Perspectives on Accessory Dwelling Units***

*Dylan Nicely, County Planner, Rockingham County*

Presentation is available at <https://vhc.virginia.gov/meetings.asp>

**Dylan Nicely** was accompanied by Stephen Kinger, County Administrator, Sally Wolf Garrison, Board Member and Rachel Salton, Deputy Director of Community Development.

Items discussed in the presentation included:

- The zoning ordinance definition of ADU is: "Accessory Dwelling: A complete, detached dwelling unit located on the same parcel as a primary single family detached dwelling".
- The zoning ordinance definition for Duplex is: "Duplex: Two (2) dwelling units constructed as side-by-side units, which may be on separate lots, or upper and lower units. Each dwelling unit shall be occupied by one (1) family. Also known as two-unit attached dwellings".
- The zoning ordinance definition for Single-Family with Independent Living Quarters is: "A separate living unit located within a single-family dwelling and having direct interior access to the primary living unit".
- These local definitions are based on local conditions for Rockingham County.

- ADUs have an impact on infrastructure, property values and affordable housing.
- An example was given under the formerly proposed SB 304 in 2024.
- What financial considerations are there for the developer and what barriers are there for ADU construction?

*Nicely* said that affordable housing is a top priority for all localities and ADUs factor into this larger issue. Localities address affordable housing in many other ways that are in line with their unique needs and priorities. He added there are currently 860 ADUs in Rockingham County.

### **Questions:**

*Delegate Coyner, Chair* asked what made Rockingham County make the decision in 2014 to allow detached ADUs.

*Nicely* replied it was in response to the presence of ADUs in the marketplace. Rockingham County in response to developer and homeowner concerns, defined ADU parameters.

*Erin Kormann, Virginia Association of Realtors* asked the speaker to clarify the definitions of ADUs used by Rockingham County and inquired whether the definition included both attached and detached ADUs.

The response was that a basement conversion into a separate dwelling can be called a duplex if it's in a by-right zoning district and it has the Health Department's approval.

A discussion took place concerning what data the Department of Housing and Community Development (DHCD) tracks for ADUs.

*Delegate Coyner* asked if based on the 860 detached ADUs in the county there is any data on the increase in duplexes.

*Nicely* responded that he did not have the information available, but he could provide it to her.

*Andrew Clark, Home Builders Association of Virginia (HBAV)* commented that what other localities are doing would be important data for DHCD to track since they have the statutory authority to do so.

*Lerch* said that DHCD is already tracking this data.

*Chase Sawyer, DHCD* confirmed DHCD completed gathering permit fee revenue data in the spring of this year. The data is being finalized and DHCD is going back to localities to collect the different iterations of information on ADUs. A second-round survey including policy implications is in progress. DHCD will include each locality's local housing policy changes including information from last year's housing surveys. DHCD would welcome comments from localities.

*Elizabeth Palen, Director, Virginia Housing Commission* asked if the survey would be finished by early summer and available to present to the Commission at the July 15<sup>th</sup> meeting.

*Sawyer* replied that DHCD will have it ready by this summer and will present it at the meeting.

*Stephanie Showalter, Macauley Jamerson Satterlund & Sessa, PC* asked about legislation addressing septic and stormwater usage based on Section 28, subsection D.6 in the engrossed SB 304 bill, and whether that was something Rockingham County had considered.

The response was that the language in section D.6 of SB 304 (Salim, S., 2024) was good, but additional language along with requirements and regulations addressing the overall impact on infrastructure such as roads and school capacity might be better than site specific regulations.

*Showalter* asked about manufactured home parks and if Rockingham County thinks there is an availability in those districts for ADUs.

The response was it would be very difficult to build an attached accessory dwelling in a manufactured home park based on lot lines, etc.

*Delegate Coyner* asked if the county is looking at the potential impact on infrastructure or capacity to new housing developments since they are allowing by-right ADUs.

*Nicely* replied that for recent newer development, the district plan for multi-family units didn't allow ADUs. A planning district that does allow ADUs needs to obtain a proffered maximum density or capacity on a given development. The idea is to ensure those proffered density caps limiting the number of units built are maintained.

*Delegate Coyner's* follow-up was to confirm that the density cap for a new zoning case would be considered regardless of the type of dwelling unit.

The response was, yes, they have density requirements that are flexible in which a builder can request as many units as desired. Builders usually proffer a development not to exceed a specific number of units.

*Coyner* asked if there is data on the percentage of new projects and new construction of single-family homes and what was incorporated as existing primary dwelling units built since passing the district plan.

*Nicely* replied there is little data, but most of those dwellings are in the more rural and agricultural areas. He said more than 50% are in those districts rather than in suburban residential areas.

### ***Chesterfield County Presentation: Locality Perspectives on Accessory Dwelling Units***

*Jesse Smith, Deputy County Administrator, Chesterfield County*

Presentation is available at <https://vhc.virginia.gov/meetings.asp>

Topics discussed in presentation included:

- Chesterfield County's definitions of the categories "Accessory Dwelling Units", "Accessory Structure permitted By-Right" and "Accessory Dwelling for Conditional Use" and whether are permitted.
- The general guidelines for family ADUs, infrastructure, zoning conditions and the nexus with affordability were discussed.



*Smith* said that allowing by-right ADU development could present some infrastructure challenges. Chesterfield County has approximately 25,000 homes on septic systems. If they were to convert all 25,000 of those homes to the county's wastewater system, it would require approximately half a billion dollars in upgrades, both to the lines and the treatment plant. From an affordability standpoint the county does not view this as a viable solution to this problem. The ADUs are being built on very large homes with pools and other outdoor buildings.

*Laura Lafayette* asked if an aging parent were to move into their family's ADU, in a backyard, leaving a former home vacant, that then would create a solution for affordable housing. She added that it would be interesting to track the average cost of backyard ADUs and the census data to see who is living in these units as of today and 10 years from now.

*Smith* replied he would compile the information for the Virginia Housing Commission.

*Showalter* asked how Chesterfield County defines family.

*Smith* replied there is a legal definition for family and there are state code definitions. Family is defined by blood, marriage, adoption, etc.

*Kormann* requested clarification on how a unit is considered an ADU and at what point is a kitchen considered a full kitchen. She asked if items such as a stove, refrigerator, and sink need to be included to qualify as a kitchen.

The response was in Chesterfield County a full kitchen only needs to include a stove. There are ways to get around that regulation by adding a large countertop oven or appliance.

*Paul Grossman, Town of Cape Charles* asked if Chesterfield County has any restrictions on short-term rentals.

*Smith* said the county does not have ordinances related to short-term rentals. Such ordinances are required to go through a conditional use process.

*Delegate Coyner* asked the workgroup members to discuss what was heard during the meeting.

*Coyner* said that SB 304 did not pass; the goal of this workgroup is to come to a consensus on whether having an ADU bill is needed. She would like an ADU to be defined. She asked if the localities should decide their own definitions.

*Michelle Gowdy, Virginia Municipal League* stated localities prefer to create their own definitions of ADUs. Many localities have now permitted by-right allowances of ADUs in certain districts within their localities due to market demand.

*Kormann* asked how the workgroup would address this issue if the localities were defining ADUs themselves.

*Randy Grumbine, Virginia Manufactured & Modular Housing Association* commented that the bigger question is regarding the next section of the bill. The building code does not say you can or cannot build

tiny homes. It just says if you're going to build a tiny home, which is really an ADU, then it must be built based on the building code for tiny homes. Whether a locality allows tiny homes or ADUs must be addressed.

*Kevin Vonck, City of Richmond* commented that within each of the sections of bill 304 referenced, the dwelling units are either attached or detached. The dwelling units are either run through the utilities' principal unit or there's a separate utilities connection. He added that an argument can be made that those that share utilities or run through a single point of water/sewer or electricity are, by definition, accessory. If the primary dwelling didn't exist, then you couldn't add an ADU. He suggested this is something that should also be taken into consideration aside from size and other potential regulations.

*Delegate Coyner* said it appeared everybody agreed that an ADU is not the only building on the lot and there must be a primary dwelling unit. However, there are some differences in what an ADU will contain such as a living space, bathroom, and kitchen, depending on how it is being treated and who it is serving. The current definition used in this proposed legislation is quite specific. She asked if there should be an overriding or umbrella definition of an ADU and requested suggestions on a way to determine a clear definition.

Suggestions offered by the workgroup included:

- Exploring the definition of a detached structure.
- Building a majority consensus to move the legislation forward based on localities' respective parameters.
- Outlining some of the challenges and differences between localities.

*Pia Trigiani, Common Interest Communities Attorney* commented that homeowners' associations (HOAs) are also impacted by this bill. There is a concern that walkout basements are becoming apartments not necessarily permitted either by the HOA or by the local zoning ordinances. This has created a compliance issue, and a component should be added to upcoming legislation to ensure the localities have the authority to enforce their requirements.

### **Public comments:**

*Sally Wolf Garrison, Rockingham County Board of Supervisors* posed several questions: What is it you're trying to solve? Are you looking to solve a housing issue, an income issue, an affordable issue or a land-use issue? All these issues have a different answer and none of them can be solved universally across the board in the Commonwealth. She suggested the workgroup decide whether those questions are being addressed.

*Eldon James, Virginia Chapter of American Planning Association* agreed with the previous questions regarding the purpose of the bill and suggested that these issues be considered.

### **Conclusion:**

*Delegate Coyner* asked if everyone agreed that looking at ADU's inclusion in each locality's comprehensive plan rather than having an ordinance would be a good first step.

There was majority agreement.

A small workgroup comprised of volunteer members from this workgroup will meet at the Virginia Housing Commission to create language suggestions for ADU inclusion in each locality's comprehensive plan. *Stephanie Showalter, Andrew Clark, Michelle Gowdy, Randy Grumbine and Joe Lerch* volunteered to be part of the workgroup.

The meeting adjourned at 12:04 p.m.

# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair

DELEGATE CARRIE E. COYNER, Vice-Chair

ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

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### AGENDA

Local Land-Use and Community Living Workgroup

Wednesday, June 5, 2024; 10:00 a.m.

Senate Room C, the General Assembly Building

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#### **I. Welcome and Call to Order**

*Delegate David Bulova, Chair*

#### **II. Property Owners' Associations and Managed Conservation Landscaping - HB 528 (Krizek, P., 2024)**

*Delegate Paul Krizek*

*Renee Grebe, Nature Forward (formerly Audubon Naturalist Society)*

*Melinda Soltys, Northern Virginia Chapter of Wild Ones*

*Kathleen Machado, Community Associations Institute*

#### **III. Entering Adjoining Property for Repair, Maintenance - SB 123 (VanValkenberg, S., 2024)**

*Senator Schuyler VanValkenberg*

*Lizzie Drucker-Basch, Nophika, LLC, Historic Real Estate Developer (Invited)*

#### **IV. Presentation: Existing Blight Tools to Promote Housing Access**

*Kelly Harris-Braxton, Executive Director, Virginia First Cities*

#### **V. Public Comment**

#### **VI. Adjourn**

# COMMONWEALTH OF VIRGINIA

DELEGATE DANIEL W. MARSHALL, III  
SENATOR MAMIE E. LOCKE  
ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

### Meeting Summary

Local Land-Use and Community Living Workgroup  
Wednesday, June 5, 2024, 10:00 AM  
Senate Room C (Room 311), The General Assembly Building

#### Introduction:

Delegate David Bulova, Chair, called the meeting to order at 10:00 a.m.

Members present: Delegate David Bulova, Delegate Carrie Coyner, Delegate Danny Marshall, Joshua Goldschmidt, Gubernatorial Appointee, Elizabeth Palen, Executive Director

Members absent: Senator Bill Stanley, Delegate Briana Sewell, Laura Lafayette, Gubernatorial Appointee

The meeting began with introductions and opening remarks followed by presentations and discussion/consideration of property owners' associations and managed conservation landscaping, entering adjoining property for repair, and existing blight tools to promote housing access.

Materials presented at the meeting are accessible through the [Commission's website](#).

#### Presentations:

#### **Entering Adjoining Property for Repair, Maintenance – SB 123 (VanValkenberg, S., 2024)**

*Senator Schuyler Van Valkenberg*

**Senator VanValkenberg** said he was accompanied by Terence Graves, the attorney who represented one of his constituents in a lawsuit. He discussed how the constituent's case led to this legislation regarding zero-lot-line properties. He explained that a zero-lot-line property is a piece of residential real estate in which the structure comes up to, or extremely near to, the edge of the property line leaving little to no room between the house and the boundary.

In most homes built after the 1900s the property deed will have an access easement allowing the homeowner to access their neighbor's property to perform maintenance or make repairs. However, in a few of the older neighborhoods in Richmond, Norfolk, or Alexandria they do not have easements in the property deeds making it difficult to comply with code regulations because a homeowner cannot enter the neighbor's property to make repairs on their own property.

He stated the bill ([SB 123](#)) was introduced to offer homeowners the right to access a neighbor's property to make repairs or maintain their property if no easement is present.

### Questions:

*Joseph Hudgins, Independent Insurance Agents of Virginia* asked if there should be some thought given to who has liability in these zero-lot-line situations because with homeowner and commercial policies there might be some issues with respect to who is going to be responsible for damage if there is an occurrence in which a homeowner needs to enter the neighbor's property.

*Senator VanValkenberg* replied that in lines 23 to 25 of ([SB 123](#)) (VanValkenberg, S., 2024), the last sentence describes how no such entry shall be deemed a trespass, and the licensee will be liable to the adjoining owner for damages occurring because of the entry.

*Delegate Bulova* asked if there was a particular concern as this bill was going through the regular session that stopped it or if it was because they wanted more time to study it.

*VanValkenberg* said there were several issues that made it more complicated and suggested it be discussed further by the Virginia Housing Commission.

*Bulova* asked if there could also be a legal issue in which the homeowner should need to not only be liable but also be able to demonstrate that he or she would have the means to fix whatever damage may occur to the neighbor's property during the repair.

*VanValkenberg* reiterated that the bill had been sent to the Commission because he thinks adding language addressing these issues on the last line of the bill would make sense and does not want the complicated legal issues to hold up the bill. He explained these are very rare circumstances in which people cannot make the repairs they need to make, so there needs to be a mechanism in place that allows them to access a neighbor's property.

*Delegate Coyner* said her concern is the broadness of the scope of the bill. Her first concern is the definition of what a repair or maintenance might be versus making an improvement such as adding a pool, and second, the legal and insurance issues it could present.

*Pia Trigiani, Common Interest Communities Attorney* suggested that the issue is more complicated and added it might be possible to address in the same manner common party walls in apartments, condominiums, and townhouses are handled.

*Terence Graves, Attorney* gave additional information on the litigation surrounding the bill.

*Joseph Hudgins, Independent Insurance Agents of Virginia* explained that the insurance issue is very important because policies will only cover damage caused by negligence but will not cover damage that might occur in the normal course of making a repair or performing maintenance.

*Joe Lerch, Virginia Association of Counties* suggested that the language in the bill could be limited to repairs and maintenance specific to code violations and not include improvements to narrow the scope of the bill.

*Delegate Coyner* said that even by narrowing the scope and using Code restrictions, she still has concerns about imposing a law on other private property owner's rights.

*Delegate Bulova* asked for confirmation that this bill refers to exterior repairs or maintenance to a property and does not include interior work.

The answer was, yes, this refers to exterior access only and the bill language should be drafted to assure this item.

*Bulova* suggested forming a smaller work group to discuss the issues that came to the forefront such as maintenance and repair and not new improvements. He said other financial assurance other than insurance such as bonding should be considered. There needs to be more discussion regarding making sure that contractors are covered. Delegate Coyner, Jerry Wright, Andrew Clark and Michelle Gowdy volunteered to be part of the small workgroup.

## **Property Owner's Associations and Managed Conservation Landscaping – HB 528 (Krizek, P., 2024)**

*Renee Grebe, Nature Forward (formerly Audubon Naturalist Society)*

**Renee Grebe**, Northern Virginia conservation advocate for Nature Forward, formerly known as the Audubon Naturalist Society spoke about how homeowners' associations (HOAs) can work with their boards to get conservation landscaping on their common property.

She said that she was not going to talk about conservation landscaping in common areas, just about [HB 528](#) (Krizek, P., 2024). The intent of the bill is to provide HOA residents the right to install managed conservation landscaping on their private property. Conservation landscaping is the practice of modifying the visible features of turf grass or bare soils, to an area of land that incorporates environmentally sensitive design, low impact development, non-invasive native plants, and/or integrated pest management.

She explained that six other states have already passed similar laws which ensure that common interest communities and HOAs cannot unreasonably restrict homeowners from installing conservation landscaping. In Florida, California, Texas, and Colorado these laws are focused on water conservation and low-water usage gardening. In Maryland and Maine, the laws are focused on rain retention, low-impact landscaping, and habitat.

The National Association of Realtors unveiled their sustainability survey on May 23, 2024, suggesting that the industry is right at the beginning of a "green revolution" noting that half of their clients expressed interest in sustainability which reflects a broader societal shift towards eco-conscious living.

She noted that although eco-conscious living is trending, there are still instances in which the HOAs do not approve of managed conservation landscaping which could lead to costly lawsuits and added that this is important because of the number of communities in Virginia with HOAs.

She went on to explain how flash floods have increased in Virginia and how this will impact infrastructure which could affect HOAs. She added that by passing this bill ([HB 528](#)) homeowners could be part of the solution to this problem.

Nature Forward worked in collaboration with the Community Associations Institute and agreed that managed conservation landscaping should meet the following criteria:

- It should not include turf grass lawns left unattended for the purpose of returning to a natural state.
- It should not adversely affect drainage on neighboring properties.
- It should not impede public rights-of-way such as sidewalks or roads.
- It should be routinely maintained.

The key takeaways were:

- Nearly one in four Virginia residents live in an HOA.
- Virginia would not be the first state to pass a similar law supporting HOA managed conservation landscaping.
- Virginia is seeing a trend in wetter weather, bringing excess stormwater, which causes economic impacts.
- Managed conservation landscaping is not just beautiful, it is practical and can help us clean our drinking water, enhance biodiversity, and help support our economy.
- HOA residents need legislative support to allow them to pursue conservation landscaping projects on their private property.

### **Questions:**

*Delegate Bulova* asked what major operational parts of the Maryland and Maine legislation were used as a guideline to draft the bill for Virginia.

*Renee Grebe* replied that they looked at the Maryland legislation as a good template for Virginia and learned Maryland's legislation is vastly different than Virginia's. She noted they realized the language that passed in Maryland would never pass in Virginia, so they used that legislation as an inspiration for the bill using language that was more appropriate for Virginia.

### ***Melinda Soltys, Northern Virginia Chapter of Wild Ones***

**Melinda Soltys**, President of the Northern Virginia chapter of Wild Ones said that her experience with her HOA inspired her to cofound her local chapter of Wild Ones, which is a national non-profit organization. She shared why legislation allowing managed conservation landscaping would have helped her and her HOA.

She explained how she spent seven years creating a pollinator garden which was very popular with the residents. However, she received a violation letter from her HOA saying she had to replace the entire



garden with turf grass. She was told she had to apply for permission to plant her garden. Her application was denied on the grounds that the gardens must be harmonious and well maintained. After nine months of meetings and intense negotiations she finally reached a compromise with the HOA.

She concluded by saying that the good news is legislation works and gave the example of how her HOA began receiving multiple applications to install solar panels on homes in her community and thanks to legislation many families were able to install them on their homes.

***Kathleen Machado, Community Associations Institute (CAI)***

**Kathleen Machado** is a licensed Virginia attorney, and her practice is devoted exclusively to representing common interest communities. She added she was at this meeting to voice the interest of CAI which represents thousands of common interest communities in the U.S. and internationally.

She explained that while they support the use of conservation landscaping and although the concept is simple, the implications of this bill are far reaching for both those looking to install and maintain conservation landscaping as well as for the neighbors within a community and the volunteers who govern any applicable common interest covenants or declarations.

Delegate Krizek and representatives of Nature Forward discussed two concerns:

- The protection of restrictive covenants and the expectations of persons who bind themselves to these covenants within a common interest community.
- The ability to enforce these covenants and how to enforce them is one of the main concerns.

She suggested the workgroup consider the following items:

- Determine a clear definition of managed conservation landscaping.
- Ensure that associations are not exceeding their authorities and overregulating.
- Create language that applies to distinct types of communities, such as being in a rural setting versus an urban setting or having large or small lot sizes.
- Include language that allows for reasonable restrictions to assist associations with writing their covenants.

**Questions:**

*Delegate Bulova* asked for clarification for when Community Associations Institute assists with writing restrictive covenants or declarations. He said they are using a very broad definition of managed conservation landscaping.

*Kathleen Machado* replied that many of the restrictive covenants will include a general obligation for an association and for a homeowner to maintain and take care of their lot. This varies between communities and that is why there needs to be a clear definition of what maintenance means in the bill.

Several members of the workgroup offered comments on how broad the language in bill HB 528 ((Krizek, P., 2024) is expressing their concerns on how difficult it could be to create language that covers all the diverse types of neighborhoods for the purpose of writing restrictive covenants.

## **Presentation: Existing Blight Tools to Promote Housing Access**

*Kelly Harris-Braxton, Executive Director, Virginia First Cities*

**Kelly Harris-Braxton**, Executive Director, Virginia First Cities explained that she was there to discuss one of two budget amendments that Delegate Bulova introduced during the 2024 session for Virginia First Cities, which is the Housing Revitalization Zone Fund ([Section 36-167](#)) found in the Code of Virginia.

She gave an overview of Virginia First Cities. It was founded in 2000 to advocate for increased state funding for the Commonwealth's older cities. It consists of seventeen of the state's oldest and most historic cities, and its mission is to support them.

She explained that the organization's focus has been the following:

- Ameliorating conditions that result in urban blight has been VFC's main concern.
- Work to create a state housing trust fund to support the development and retention of affordable housing.
- Provide incentives for workforce housing so workers can live in communities where they work.
- Fund Virginia's existing Housing Revitalization Zone Program and target implementation to urban areas to support housing development and focused revitalization activities.

She added that the Housing Revitalization Zone Program was never funded and that is the purpose of her presentation to the workgroup. Virginia First Cities believes the statute needs to be revised since it was passed in 2000 and has not had any revisions in over 20 years.

She discussed blight and housing and explained that in 2023 Virginia First Cities conducted a housing survey among members with workforce and blight housing questions. These are some of the results of the survey:

- Blighted properties decrease the availability of safe, solid housing that is needed at all levels of affordability.
- Infrastructure such as water, sewage, natural gas, and electricity are needed for redevelopment.
- The lack of landlords who would accept housing choice vouchers could increase.
- There need to be incentives for developers to build market rate homes.

The bottom line is that Virginia First Cities has been looking to use tools already in the Code of Virginia that would be helpful for our cities in need of redevelopment for housing. VFC's seventeen members all said they need a state funding partner as they undertake holistic measures to redevelop areas of concentrated poverty. She declared these cities are desperate for infrastructure and removal costs.

### **Questions:**

*Michelle Gowdy, Virginia Municipal League* asked if this statute still requires work and would this workgroup discussion be looking more thoroughly into the regulatory process and the content of the regulations.

*Kelly Harris-Braxton* confirmed that regulations have not been established yet and she believes that the requirement by code is that the Virginia Department of Housing and Community Development (DHCD) would be creating those regulations.

*Andrew Clark, Homebuilders Association of Virginia* commented that instead of having DHCD promote regulations perhaps it could offer the localities more flexibility to create their own zones.

*Harris-Braxton* explained that the housing revitalization zone program says the applicants can decide some of the local incentives themselves as part of the application in combination with state incentives.

*Christie Marra, Poverty Law Center* asked if there had been conversations about creating limitations regarding the use of those funds since individuals or corporations can apply for funding. She expressed her concern that the funds would be used to redevelop housing that is not affordable.

*Harris-Braxton* answered that there have not been many conversations regarding the program and that's where VFC thinks it would be good for DHCD and workgroups such as this one to come together and have these conversations to make sure there are set parameters.

*Delegate Bulova* asked how far along VFC has gotten with the revisions to their metrics. He mentioned there were workgroup members who would be willing to look at the revisions and asked for an estimated timeframe.

*Harris-Braxton* confirmed that over the summer would be a great time to do it and would be open to working with this group.

*Delegate Coyner* commented that she would like to see the program coupled with other programs allowing individuals to purchase property and take advantage of those incentives. That would be helpful and would increase the opportunity for homeownership to individuals of a certain income level.

*Harris-Braxton* agreed that coupling these programs would be beneficial to individuals who do not have access to funding for improvements to their existing homes or for purchasing property.

*Delegate Bulova* asked if VFC's assessment of the Urban Public-Private Partnership Redevelopment Fund ([Code of VA Chapter 24.1](#)) is that it's not useful or needs to be removed, or is the Housing Revitalization Zone Program Virginia First Cities priority.

*Harris-Braxton* said they thought that the Housing Revitalization Zone Program should be the first.

*Delegate Bulova* mentioned that there were individuals in the workgroup interested in helping work through the revisions. Andrew Clark, Michelle Gowdy, Christie Marra and Joe Lerch offered their assistance.

**Public comments:**

*Jimmy Blackford, VA Progressives* expressed his grave concerns regarding the two million Virginians who live under prohibitions imposed by homeowners' associations regarding turf grass. He wants the grass to be allowed to grow to return to its natural state. He asked that lines 22 through 24 of bill ([HB 528](#)) be eliminated.

The meeting adjourned at 11:46 AM.

# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair

DELEGATE CARRIE E. COYNER, Vice-Chair

ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

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### AGENDA

Affordable Housing and Landlord/Tenant Law Workgroup

Wednesday, June 5, 2024; 1:00 p.m.

Senate Room C, the General Assembly Building

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**I. Welcome and Call to Order**

*Delegate David Bulova, Chair*

**II. Property Owners' Associations and Managed Conservation Landscaping - HB 528 (Krizek, P., 2024)**

*Delegate Paul Krizek*

*Renee Grebe, Nature Forward (formerly Audubon Naturalist Society)*

*Melinda Soltys, Northern Virginia Chapter of Wild Ones*

*Kathleen Machado, Community Associations Institute*

**III. Entering Adjoining Property for Repair, Maintenance - SB 123 (VanValkenberg, S., 2024)**

*Senator Schuyler VanValkenberg*

*Lizzie Drucker-Basch, Nophika, LLC, Historic Real Estate Developer (Invited)*

**IV. Presentation: Existing Blight Tools to Promote Housing Access**

*Kelly Harris-Braxton, Executive Director, Virginia First Cities*

**V. Public Comment**

**VI. Adjourn**

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# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

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### Meeting Summary

Affordable Housing and Landlord/Tenant Law Workgroup  
Wednesday, June 5, 2024; 1:00 p.m.  
Senate Room C, the General Assembly Building

---

#### **Introduction:**

Senator Ghazala Hashmi, Chair, called the meeting to order at 1:02pm.

Members present: Senator Ghazala Hashmi, Delegate David Bulova, Senator Mamie Locke, Delegate Daniel Marshall, Delegate Adele McClure, Bismah Ahmed, Brian Koziol, JD Bondurant, Robert Bradshaw, Andrew Clark, Troy Garret, Michelle Gowdy, Randy Grumbine, Kelly Harris-Braxton, James Forest Hayes, Jesseca Hoff, Laura Lafayette, Joe Lerch, Elizabeth Palen, Renee Pulliam, Christie Marra, Scott Matties, Maggie Scott, Elizabeth Steele, Henry Watkins.

The meeting began with introductions and opening remarks followed by presentations and discussion/consideration of flood related disclosure, disclosures specifically related to fly-over zones and affordable housing to be built on religious property.

Materials presented at the meeting are accessible through the [Commission's website](#).

#### **Presentations:**

**Flood-Related Disclosure - HB 863 (Hernandez, P., 2024)**

[Dept. of Conservation and Recreation Presentation](#)

*Director Mathew Wells, Department of Conservation and Recreation*

Mathew Wells explained that the Virginia Department of Conservation and Recreation (DCR) is the state's lead natural resource conservation agency. DCR protects what Virginians care about which is natural habitat, parks, clean water, dams, open spaces and access to the outdoors.

He provided an overview of Virginia's flood risk that highlighted types of flooding (rainfall-driven, coastal, storm surge, riverine) and their impacts across the state. These flood risks can be chronic which is what we would see in coastal areas, or it can be acute due to unpredictable rainfall events which can lead to flash floods. He added that many people think of coastal flooding being the main concern in Virginia, however, it is a statewide issue as demonstrated on the map of reported flooding events from 1950-2023 that shows that the most impacted areas in Virginia were in the Shenandoah Valley. The cost of flood damage to crops and property between 1950-2021 has been estimated at \$900 million dollars, \$110 million dollars of that are since 2015. These estimates are based on insurance claims and do not capture lost economic value.

Wells provided flood risk data and discussed the National Risk Index and the Virginia Flood Risk Information System (V-Forest), emphasizing its importance in helping communities assess flood risk. Virginia has 110,000 structures in the regulatory floodplain, covering about 9% of the state's landmass and 2.3 million acres of land in the Special Flood Hazard Area, affecting about 4-6% of the population. Wells added the regulatory floodplain should not be confused with FEMA's Special Flood Hazard Areas. On average 40% of the National Flood Insurance Program (NFIP) flood insurance claims occur outside the high-risk flood areas.

He said the Commonwealth is working to understand the future risk and a key element to understanding it was the release of the Coastal Resilience Master Plan, Phase I in December 2021 which examines the partial flood risk assessment for coastal Virginia. It assesses the impacts of tidal and storm surge coastal flooding on coastal Virginia. It establishes a database of example projects. It also identifies where the Commonwealth can provide support and builds a foundation for planning and partnership.

Wells discussed the resources available to property owners and communities. The most recognized one is the National Flood Insurance Program (NFIP) which offers protection for private property. Communities can participate in the NFIP only if they adopt and enforce a floodplain ordinance. NFIP participation by localities makes federally backed flood insurance available to all their residents. Virginia has 292 participating communities and 19 non-participating communities. There is also a program called CRS where a community can obtain discounts on insurance if they adopt and enforce a floodplain ordinance.

He added that DCR's role involves:

- Compliance audits
- Ordinance assistance
- Technical support
- Training for officials
- Awareness outreach

He provided some quick facts about NFIP insurance saying it can be purchased through an insurance agent of NFIP directly. The rates are risk based on several factors such as the type of flooding, the construction type and elevation, the distance to flooding source and the replacement cost. He added 75% of policies in VA include storm surge as a risk factor.

## Questions and Discussions

*Randy Grumbine, Virginia Manufactured & Modular Housing Association* asked if when FEMA updates their maps homeowners must go back and update their loans adding flood insurance.

*Angela Davis, Dept. of Conservation and Recreation* confirmed the lenders must review FEMA changes to the floodplain maps and notify the homeowners, so they can update their loans which is a mandatory purchase requirement.

*Andrew Clark, Homebuilders Association of Virginia* said it is his understanding that as a part of the flood insurance program localities are incentivized through and required to adapt certain ordinances, building codes, and zoning standards and there are tiers and asked if DCR knows how many localities have reached those different tier levels.

*Davis* said there are two ways to answer that question:

1. There are five different levels of ordinance requirements that a community may have based on the flood zones. Coastal communities will have more stringent requirements.
2. If a community goes above and beyond those levels, then they could request a discount on flood insurance. The regulatory issue and the insurance issue are separate, but they correlate with one another.



A question was asked about if there any resources or thoughts being given to advance mitigation for those communities that are at risk that are not prepared and don't have the resources to mitigate potential flooding disasters.

*Matthew Wells* answered that the Community Flood Preparedness Fund was created for that purpose; to help prepare communities for future flooding versus recovery from a flood that already occurred. DCR provides several benefits for low-income geographic areas and distressed communities. That fund is meant for communities to prepare and hopefully avoid flooding disasters.

*Delegate Bulova* asked about the 19 non-participating communities in the program that don't have regulations or ordinances and what are the ramifications.

*Davis* explained that out of the 19 communities that are not currently participating in the NFIP, two of them are in queue to be participants which means they have initiated the application process, and they also have an improved ordinance in place. The other 17 communities are much smaller and are in a County that does have more stringent requirements that usually does cover their flood risk in some way.

*Delegate Bulova* asked if Virginia does not require in the state code ordinance that all communities participate in the program. Is it discretionary versus mandatory?

*Davis* confirmed it is discretionary.

*Delegate Bulova* asked if DCR has a system that offers homeowners an easy way to look up flood zone information using their address.

*Davis* said the Virginia Flood Risk Information Service (VFRIS) system does not provide a report for an individual property, but it does allow a homeowner to check to see if their address is in or out of the flood zone and additional information regarding who the flood zone administrator is, and other characteristics.

*Robert Bradshaw, Independent Insurance Agents of Virginia* said he was finding it difficult to reconcile the percentages of homeowners with flood insurance based on two separate reports. One report stated only 3% of Virginia homeowners have flood insurance, and the other states 47% have insurance.

*Angela Davis* explained that 47% is the percentage of a smaller subset of the population which are considered to be in the flood hazard zone that covers 9% of the Commonwealth's land area. If you look at the population in the entire Commonwealth land area it comes down to 3%.

### Environmental Defense Fund Presentation

*Grace Rodgers, Environmental Defense Fund and Mary Carson Stiff, Executive Director, Wetlands Watch*

**Grace Rodgers** highlighted the increasing flood risks due to climate change and the need for transparency in property transactions. They discussed the limitations of existing flood disclosure laws and proposed improvements, emphasizing the financial and health impacts of inadequate flood risk disclosure on Virginians. Comparing Virginia's policies with successful flood disclosure policies in other states, they advocated for stronger legislation in Virginia.

Rogers and **Mary Carson Stiff** highlighted how climate change has stressed the insurance industry, leading to companies pulling out from covering certain areas, which can have cascading economic effects. They noted Virginia's laws are behind other states like Texas, New York, New Jersey, Florida, Maine, and Vermont, which have robust flood disclosure laws. They emphasized the importance of improving the V-Forest system to make flood risk information more accessible and suggested legislative actions to address gaps in current disclosure laws.

Stiff explained that the lack of flood risk disclosures is causing homeowners that purchased property within a floodplain or flood risk zone without being aware of it due to the lack of mandatory flood risk disclosure. This has led to homeowners having to purchase expensive flood insurance they were not prepared for. It has also caused the housing market in those areas to decline.

She added that they had worked with Delegate Hernandez, the realtors and other partners to increase flood related disclosures for homebuyers and renters. She talked about past action taken on flood disclosures, but they think the disclosure on the books now is very limited and it only covers a FEMA past flood history. She mentioned the challenges of current flood disclosure:

- It considers past flood insurance claims and not actual flood history.
- The enforcement of FEMA data privacy rules is almost impossible.
- The clock resets every 10 years and can be lost with property turnover.
- A waiver to disclose full flood risk and information is still difficult to access.

She mentioned a few key elements of [\(HB 863\)](#) (Hernandez, P., 2024) that would have disclosed the following:

- Whether or not a property is located within a FEMA flood zone

- Whether or not a seller has knowledge of the history of the property
- Whether there is insurance involved or any flood claims have been filed

### Questions and Discussions:

*Joe Lerch, Virginia Association of Counties* asked if out of the states that have passed disclosure legislation, which one most resembles [\(HB 863\)](#)?

*Grace Rogers* replied that although their code is different, she would refer to New York, New Jersey and Texas legislation because they refer to homebuyers and renters.

*Delegate Bulova* said he thinks that the way the current statute is laid out on line 183 of the bill the language is vague and subject to interpretation and asked how they would define it.

*Mary Carson-Stiff* answered that the issue was brought up during the general assembly process and a substitute bill was entered that removed that language.

*Christie Marra, Poverty Law Center* said the presentation referenced the Virginia Flood Risk Information System (VFRIS) and asked how easy it is for homebuyers or renters to access information on that system.

*Rogers* replied that there is language in the bill that references flood insurance information available through FEMA's National Flood Insurance Program as well as the VFRIS system but thinks it could be made clearer. It would be helpful if those systems were easier to use for homebuyers and renters.

*Marra* asked if there is a map of lower income areas that are at higher risk of flooding.

*Rogers* explained that the tool that Director Wells mentioned in his presentation, the [Coastal Resilience Web Explorer](#) does have a data viewer where you can look at socio-economic vulnerability and flood risk. She said she thinks there is a way to overlay the structure data as well.

### Mary Lawson, Virginia Association of Realtors

Mary Lawson said she wanted to focus on SB 1389 (Lewis, L., 2023) and the two things that bill achieved. The first part of it was the buyer-beware language.

1. It directs buyers to the Virginia flood risk information website.
2. It created a buyer-beware information form which provides information on flood risk and flood insurance and is housed on the DPOR website.

The second part of the bill talked about the repetitive loss mandatory disclosure. Without a full and clear definition of what a flood is, home sellers are going to find it difficult disclosing if a flood may have existed.

She added that another important element is that flood plains change every five years. This also makes it difficult for home sellers to know whether they need to disclose whether the home is in a flood plain or not. The difficulty in obtaining flood plain information on the FEMA website and not disclosing whether the home is in a flood plain could lead to giving homebuyers a false sense of security and they could decide not to purchase flood insurance.

*Joe Lerch* mentioned that other presenters had referenced the Florida Association of Realtors and that Florida law. He asked if the Virginia Association of Realtors is familiar with that law and how comfortable they are with the language in that bill.

*Mary Lawson* answered that it was some of their Florida Association of Realtors colleagues who looked at what they did with the repetitive loss mandatory disclosure and found it to be a much more accurate description, knowing that it's a FEMA issue. She clarified that she is not that familiar with the Florida bill but said they had received multiple calls from Florida and Texas, asking them to send them the language from the 2021 bill.

*Michelle Gowdy, Virginia Municipal League* asked if the Virginia Association of Realtors knows what the common definition is across the states that have passed flood disclosure legislation, or does it know what tools they used to draft the language in their bills.

*Lawson* answered that she does not believe there is a common definition, and she would look up that information.

*Christie Marra* commented that these disclosures sound very familiar to the lead-based paint disclosures and asked if it is a fair comparison in that the seller must disclose that if they have knowledge of the issue.

*Lawson* replied yes, they would have to disclose if they had actual knowledge of the issue.

*Andrew Clark* referenced the fact that flood zone maps are updated every five years and asked if there are states that proactively give notice to their residents once their flood zone maps have been updated.

*Lawson* said she was not aware if there are other states or localities that send out letters to residents. She said it is most likely homebuyers or owners do the research on their own using the tools available online.

*Senator Hashmi* concluded the flood-related disclosure portion of the meeting saying there will be more work done on this topic and the workgroup will be reconvening on September 4<sup>th</sup>. In the interim there are opportunities for the key stakeholders to continue to work on this with Delegate Hernandez and is sure there are resources available from the Virginia Housing Commission if necessary.

*Delegate Bulova* addressed Director Wells with the Department of Conservation and Recreation and said it might be useful to look at the resources needed to make the [VFRIS](#) system easier to use for both homebuyers and sellers, as well as the realtors community by making it as simple as entering an address for a specific property and producing a report.

## **Disclosures Specifically Related to Fly-Over Zones - SB 354 (Locke, M., 2024)**

### **Metropolitan Washington Airports Authority Presentation**

*Michael Cooper, Manager State and Local Government Affairs, Metropolitan Washington Airports Authority*

*Richard Golinowski, Vice President and Airport Manager, IAD/Metropolitan Washington Airports Authority*

**Michael Cooper** and **Richard Golinowski** emphasized the necessity for real estate disclosures to inform homebuyers about the proximity to Dulles Airport. They highlighted the airport's significant economic impact, rapid growth, and plans for future expansions, including the construction of a fifth runway. Dulles Airport is a critical hub for Northern Virginia, handling 25 million passengers annually with the potential to accommodate up to 55 million passengers. United Airlines has notably invested \$6.8 billion in the Silver Line, along with state grants to keep costs down.

Cooper and Golinowski discussed the airport impact overlay district established in 1993 by Loudoun and Fairfax Counties, which was updated with new noise contour maps in 2019. They argued for a legislative amendment to Virginia Code Section 55.1-704 to include real estate disclosure requirements for properties near Dulles Airport, underscoring the need for transparency and consumer awareness regarding noise impact zones.

Cooper explained that after an intense series of noise complaints in the 1980's the Federal Aviation Administration ([FAA](#)) imposed nighttime noise restrictions between 10:00 p.m. and 6:59 a.m., which became known as the DCA Nighttime Noise Rule. This rule effectively limits the weights of aircraft that can arrive and depart at night. Dulles airport serves the largest and heaviest commercial airplanes in the country, operating on a 24-hour basis.

He emphasized how restricting large aircraft operations in the evening, night, and early morning would have an immediate and adverse effect on Dulles' long-term economic potential for Virginia and the region. He said attempts to restrict flights at Dulles are already underway. The Loudoun County Board of Supervisors voted to move forward with a process to propose mitigation options to the FAA

### [Loudoun County Presentation](#)

***Jonathan Freeman, Legislative Liaison***  
***Courtney Sydnor, Senior Deputy County Attorney***

**Jonathan Freeman and Courtney Sydnor** provided an overview of the airport impact overlay district (AOD) in Loudoun County, explaining its role in regulating land use and requiring noise disclosures. They discussed the 2023 updates to the AOD, which were based on new noise contours provided by Dulles Airport. These updates included enhanced disclosure requirements for developers and subsequent homeowners to ensure that buyers are fully informed about potential noise impacts. Freeman and Sydnor expressed support for amending state law to require noise disclosures for properties near Dulles Airport, emphasizing the need for consumer transparency and the protection of future airport growth.

### **Questions and Discussions:**

***Renee Pulliam*** asked about the practical outcomes of the proposed disclosure requirement and its potential to lead to lawsuits against property owners.

Sydnor emphasized that the goal is consumer transparency and hopes the disclosure provides necessary information without leading to lawsuits.

*Delegate Bulova* inquired why the focus is only on federal facilities and not all airports, mentioning the Leesburg airport's noise impact zones.

*Michael Cooper* clarified that the amendment targets federal facilities like Dulles due to their unique federal ownership and significant economic impact.

*Courtney Sydnor* emphasized that Loudoun County's goal is consumer transparency and ensuring homebuyers are adequately informed about airport noise.

*Delegate Bulova* suggested that instead of focusing solely on federal facilities, a broader approach could be considered for noise disclosures at other airports.

*Courtney Sydnor* responded that the immediate focus is on Dulles Airport due to recent updates and the need for specific legislation to address its unique situation.

*Michael Cooper* supported the idea of broader noise disclosures but emphasized the immediate need for clarity and consistency in disclosures around Dulles Airport.

## **Affordable Housing on Religious Property - SB 233 (Hashmi, G., 2024), HB 1124 (Carr, B., 2024)**

[VHC Presentation: Affordable Housing on Religious Property - SB 233 \(Hashmi, G., 2024\), HB 1124 \(Carr, B., 2024\)](#)

*Jessica Hoff, Policy Analyst, Virginia Housing Commission*

**Jessica Hoff** provided a comparative analysis of Virginia's proposed legislation (SB 233 and HB 1124) with similar laws in other states. California and Oregon grant by-right development for religious properties used for affordable housing, while Maryland and Washington offer density bonuses and streamlined zoning processes. She highlighted differences in zoning exemptions, tax exemptions, and development regulations across states like California, Oregon, Maryland, and Washington. Hoff also discussed common opposition from local governments and environmental advocates, as well as constitutional questions related to the establishment clause.

[Better Housing Coalition Case Studies: Two Proposed Affordable Housing Projects to be Built on Religious Properties](#)

*Lynn McAteer, Better Housing Coalition*

**Lynn McAteer** presented case studies of successful and challenged affordable housing projects on religious properties in Richmond and Petersburg.

**Richmond Project:** This project involved the redevelopment of a long-vacant building into 52 affordable apartments. The project faced significant design opposition due to historic district regulations.

**Petersburg Project:** In partnership with Tabernacle Baptist Church, this project created 47 units of senior housing on church-owned land through a land lease agreement.

**Short Pump Project:** Despite initial support from the church, this project faced strong opposition from the local supervisor and community, leading to the project's withdrawal.

McAteer emphasized the key challenges in these projects, such as navigating zoning processes, community opposition, and the financial burden of pre-development costs. She advocated for by-right zoning as a potential solution to reduce obstacles and provide greater confidence for faith communities considering affordable housing projects.

#### **Questions and Discussions:**

*Delegate Bulova* inquired about potential programs to offset pre-development costs for faith communities and other nonprofits.

*Lynn McAteer* discussed the financial burden of pre-development costs and suggested the need for grants instead of loans to help faith communities navigate zoning processes.

*Laura Lafayette, Gubernatorial Appointee* highlighted the lengthy development process faith communities undergo and the importance of providing confidence through by-right zoning.

*Lynn McAteer* emphasized the difficulties in the development process and the potential benefits of by-right zoning to reduce obstacles for faith communities.

*Brian Koziel, Virginia Housing Alliance* mentioned successful case studies in Arlington and suggested learning from these examples to improve future legislation.

*Lynn McAteer* highlighted the importance of successful case studies and their potential to inform and improve future legislative efforts.

*Henry Watkins* asked if the states that allow religious properties to develop affordable housing include language in their laws preventing proselytization.

*Jesseca Hoff* responded that language regarding proselytization is not specifically included, but that issue is typically addressed in Constitutions and Fair Housing laws.

Senator Hashmi concluded the meeting. The meeting was adjourned at 3:45 p.m.

# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair  
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## VIRGINIA HOUSING COMMISSION

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### AGENDA

Virginia Housing Commission  
Monday, July 15, 2024; 10:00 a.m.  
Senate Room C, the General Assembly Building

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**I. Welcome and Call to Order**  
*Senator Mamie Locke, Chair*

**II. Brief Overview of the Status of Workgroup Issues**  
*Elizabeth A. Palen, Virginia Housing Commission*

**III. Housing: Economy and Demographics**

Examining the Shift in Virginia's Population Trends Since 2020  
*Hamilton Lombard, Estimates Program Manager, Demographics Research Group*  
*Weldon Cooper Center for Public Services, University of Virginia*

Virginia's Economy & Housing Market: 2024 Temperature Check  
*Ryan Price, Chief Economist, Virginia Association of Realtors*

**IV. Upzoning in Charlottesville**

Charlottesville Underdevelopment  
*Richard C. Schragger, Walter L. Brown Professor of Law, University of Virginia*  
*Director, Program in Law, Communities and the Environment*  
*Senior Fellow, Miller Center*

**V. Evictions Update**

Eviction Diversion Pilot Program and Analysis of Recent Eviction Numbers in Virginia  
*Jessica Hoff, Policy and Research Analyst, Virginia Housing Commission*

How Funding Makes Eviction Prevention Tools Operate  
*Christie Marra, Director of Housing Advocacy, Virginia Poverty Law Center*

**VI. Public Comment**

**VII. Adjourn**



# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

---

### Meeting Notes

Virginia Housing Commission  
Monday, July 15, 2024; 10:00 a.m.  
Senate Room C, the General Assembly Building

---

#### Introduction:

Senator Mamie Locke, Chair, called the meeting to order at 10:07 a.m.

Members present: Senator Mamie E. Locke, Senator Ghazala F. Hashmi, Delegate Daniel W. Marshall III, Delegate Adele Y. McClure, Delegate Briana D. Sewell, Joshua Goldschmidt, Martin Johnson, Ashley Welburn.

Members absent: Delegate Carrie E. Coyner, Senator William M. Stanley Jr., Delegate Bulova.

Staff and Speakers present: Molly Bowers, Jesseca Hoff, Hamilton Lombard, Christie Marra, Elizabeth Palen, Ryan Price, Richard C. Schragger.

The meeting began with introductions and opening remarks and general updates from Executive Director of the Commission Elizabeth Palen followed by presentations and discussion.

Materials presented at the meeting are accessible through the [Commission's website](#).

#### Presentations

##### **Examining the Shift in Virginia's Population Trends Since 2020**

*Hamilton Lombard, Estimates Program Manager, Demographics Research Group*

*Weldon Cooper Center for Public Services, University of Virginia* Overview of their presentation/points.

*Hamilton Lombard* presented an overview of Virginia's population trends since 2020. He highlighted that Virginia's population has been recovering from pandemic lows and in decreasing deaths since 2021. Although, rising in migration, and births continue to decline. Lombard noted that the strongest population growth is in large metro areas, particularly the urban crescent, while many rural communities in the commonwealth, as well as Fairfax County and Virginia Beach have seen declines in population. He shared

that there is increased migration to rural counties and the Richmond Metro Area, while out migration continues in Hampton Roads and Northern Virginia.

Lombard emphasized that high housing prices in Northern Virginia are driving migration trends. The persistence of remote work is increasing flexibility of workers and leading to growth in smaller metro and rural areas in the commonwealth. Additionally, Lombard pointed out that new business creation is rising, especially outside the urban crescent, and more new households are being formed among younger Virginians, driving housing demand. The number of Virginians aged 18 to 34 living alone has risen by over one third from the years 2019 to 2022.

### **Virginia's Economy & Housing Market: 2024 Temperature Check**

*Ryan Price, Chief Economist, Virginia Association of Realtors*

*Ryan Price* presented on Virginia's economy and its housing market. He noted that while the economy continues to grow, the pace has slowed compared to 2023, with the national GDP forecasted to increase by 1.4% and Virginia's by 2.1%. The job market remains resilient but is decreasing, with Virginia adding 8,800 jobs monthly and experiencing strong growth in sectors like health care and construction. Unemployment in Virginia is very low at 2.7%, compared to the national rate of 4.0%. Inflation is decreasing nationally but remains above target levels, suggesting potential conditions for a decrease in the Effective Federal Funds Rate (EFFR).

Mortgage rates have more than doubled in less than 12 months, reaching 6.89% as of July 11, 2024, the highest since October 2000. Despite an increase in residential real estate listings, inventory remains tight, contributing to higher home prices in the commonwealth. Virginia's median home sales price rising by 5.3% year-to-date. The residential real estate market remains highly competitive, with sellers often getting above asking prices and homes selling quickly with the average time on the market being one week. Price also noted that young homebuyers are being priced out of the residential real estate market.

Price provided information about the supply of housing available. While the months of supply in the housing market have increased across the state, the real estate market is still unbalanced with more demand available than supply available to purchase. As of May 2024, Virginia has 2.1 months of supply of houses for sale compared to 1.6 last year. Price pointed out that while this is an improvement, anything below three months of housing supply indicates a sellers' market. Virginia has not had more than three months of supply since 2019. Many cities in Virginia, including Richmond, have less than two months of supply.

### **Questions**

*Elizabeth Palen* asked about how many buyers without mortgages purchase homes.

*Price* responded saying that individuals that are buying homes without mortgages are referred to as cash buyers but that he does not have a percentage readily available. He added additional information saying that the areas people are moving to tend to have a lot of equity and that cash buyers are often buying second homes or vacation homes

*Senator Hashmi inquired* about corporate entities buying up land and turning those properties into vacation homes and rental properties and if that is something Virginians should find concerning.

*Price responded* that yes there are large scale investors in Virginia but corporate buyers in Virginia are not as plentiful as elsewhere in the United States. He noted the small percentage, about 5%, of properties being bought by corporate buyers in Northern Virginia and Hampton Roads. Comparatively, areas such as Atlanta, Miami, Arizona and Texas have about 30% of residential properties being purchased being bought by corporate entities.

*Delegate McClure* asked how Virginia compares to some of our neighboring states in terms of housing inventory.

*Price responded* saying that other states such as North Carolina, South Carolina, and Tennessee have growing inventory because of more new home construction but they also have limited inventory although Virginia has even fewer homes.

### **Underdevelopment Despite Upzoning**

*Richard C. Schragger, Walter L. Brown Professor of Law, University of Virginia Director, Program in Law, Communities and the Environment, Senior Fellow, Miller Center*

*Richard Schragger* presented a study focused on Charlottesville, VA, analyzing whether zoning laws significantly impact housing supply and if upzoning can increase housing availability and reduce costs. Charlottesville and Albemarle County have seen significant rises in housing costs over the past few decades. The study identified several types of housing that were underdeveloped. In Charlottesville, four percent of residential parcels are vacant, which could potentially accommodate 1,816 new dwelling units if they were built upon using current allowable zoning regulations. If oversized parcels making up 37% of underdeveloped land were subdivided, they could add 3,787 new residential dwelling units. Only 54.6% of two-family and multi-family zones are utilized, showing unused capacity. Additionally, only 2% of parcels with the option to build accessory dwelling units (ADUs) have built them.

Despite upzoning efforts in the past few years, many parcels remain underutilized. Factors contributing to this under development include geographic constraints, market and landowner preferences, economic conditions, and additional city regulations like road frontage requirements.

**Schragger concluded that upzoning alone does not necessarily lead to increased development.** He suggested that larger or better-targeted land use reforms are needed to effectively increase housing supply. Their findings align with other studies showing limited uptake and modest price effects from upzoning, indicating that comprehensive approaches are necessary to address housing shortages and affordability issues in high-demand areas like Charlottesville.

### **Questions**

*Senator Hashmi asked* about the increased demand for student housing and transient residents and its effect on long-term residents getting pushed out.

*Schragger responded* that the goal is to increase density for student areas to take pressure off permanent residents. He has seen large scale developers build new market rate luxury apartments which are very expensive but also increases student housing. He shared that the University may be considering expanding housing options for 2<sup>nd</sup> year students.

## **Evictions Update**

### **Eviction Diversion Pilot Program and Analysis of Recent Eviction Numbers in Virginia**

*Jesseca Hoff, Policy and Research Analyst, Virginia Housing Commission*

*Jesseca Hoff* gave an update on the Eviction Diversion Pilot Program. Since November, seven more people have used the court pilot program bringing the overall total to 27 cases. Overall, the program has been successful, with only one recent case resulting in a writ of eviction being executed. Most recent cases have taken place in the Petersburg courts and have been in the last few months, indicating an increase in program use. The most recent reasons for unpaid rent provided by participating tenants have included car troubles and loss in hours at work. This is consistent with the intent of the program.

Hoff also provided an update and analysis on eviction filings in Virginia. In 2023, total eviction filings reached around 88% of pre-pandemic filings, which is consistent with the Final Report provided to the Commission in November 2023. So far in 2024, eviction filings have reached 87.3% of pre-pandemic filings. While there are many ways to analyze the data, eviction filings are hovering at around 85-88% when compared to the pre-pandemic year 2019. While filings are increasing, the increase remains gradual and has not yet reached pre-pandemic levels. Hoff pointed out that the findings reached in the Final Update and this most recent update are consistent with analysis done by the Legal Services Corporation.

Each of the localities participating in the Eviction Diversion Pilot Program encountered similar fluctuations in eviction filings that can be attributed to pandemic related eviction moratoria and prevention programs. In Hampton and Richmond, eviction filings have not reached pre-pandemic levels but remain close to doing so. In the smaller cities, Petersburg and Danville, filings rose to surpass pre-pandemic levels completely in 2023.

The most recently collected data in 2024 may indicate some changes from the 2023 trends. In Richmond, findings support conclusions made based on 2023 data saying that eviction filings continue to rise in Richmond in post-pandemic years but remain under pre-pandemic levels. In Hampton, filings so far in 2024 are under the level reported in 2023 within the same period, the same is true in Petersburg. Petersburg's filings in 2023 surpassed pre-pandemic numbers for the entirety of 2023 and for the three months selected for analysis. In the three months data has been collected in 2024, filings have only reached 88% of pre-pandemic filings. Based on this data, eviction filings in Hampton and Petersburg may experience a decline in 2024 compared to 2023, but a conclusion cannot be reached until more 2024 data is available this year. In Danville, it appears eviction filings continue to rise and remain higher than pre-pandemic levels.

Hoff will continue to provide the Commission with Pilot Program and Eviction Filing updates.

### ***Questions***

*Elizabeth Palen* asked if the Commission should consider permanently establishing the program. Hoff answered that yes, the program is worth consideration due to the successful diversion of evictions and low-cost.

*Senator Locke* asked if diversion is working and Hoff answered yes, based on this program it appears diversion efforts have been successful.

### **How Funding Makes Eviction Prevention Tools Operate**

*Christie Marra, Director of Housing Advocacy, Virginia Poverty Law Center*

*Christie Marra* highlighted efforts to increase housing stability in Virginia. She noted that federal rental assistance provided Virginia with \$227 million from January to June 2021, and the Virginia Eviction Reduction Program allocated \$1.65 million in early 2024 to help Virginians pay rent. Despite this, evictions are increasing, with 2024 filings averaging 11,521 per month. Marra emphasized the shortage of rental assistance and housing vouchers. There are 32,498 people on the waiting list for housing vouchers but only 27,781 households receiving vouchers. Marra noted that 90-95% of evictions are for unpaid rent and wanted to reiterate that the evictions she is focusing on are for individuals being evicted due to lack of funds not those who overstay their lease or break the law.

Median rents have risen significantly, with Richmond's rent increasing from \$1,100 in 2019 to \$1,400 in 2024. The Virginia Housing Trust Fund is now at \$87.5 million per year and has been crucial in leveraging \$2.3 billion from other sources in FY2023. The affordable units funded through the Virginia Housing Trust Fund grants in 2018-2019 have been completed and contributed to Virginia's affordable housing stock, but not enough units have been built. Most of these types of projects are financed partially with Federal Low Income Housing Tax Credits (LIHTC). Marra said that because LIHTC rents are tied to the average median income (AMI) rather than the individual renter's income, people are still struggling to pay rent and that there are not enough LIHTC units available to those making less than 50% AMI. She also spoke about a new \$5 million pilot program that provides low interest loans to non-profits to purchase mobile home parks and increased relocation assistance for mobile homeowners citing the success of Bermuda Estates Manufactured Housing Community in Chesterfield County under the ownership of the non-profit project: HOMES.

Marra spoke on the success of Eviction Diversion Pilot Program but emphasized the potential for more tenants to use the program. In the program a tenant must come to court with 25% of the rent owed and pay the remainder over three months. Marra said this program would work better with funding, like funding through the Virginia Eviction Reduction Program (VERP). According to Marra, the VERP program is ideally suited for the types of events the Pilot Program intends to support, like car troubles or job loss. Marra believes eviction levels in Virginia could be reduced if VERP was fully funded to help the existing laws work better. Marra also mentioned the Redemption Tender option for tenants, where they can come to court with a promise to pay rent provided by a non-profit organization (NPO) and receive a continuance.

**Public Comment:**

*There was no public comment.*

**Conclusion:**

The meeting was adjourned at 12:06 p.m.

*The Local Land Use and Community Living Work Group will meet August 20, 2024, at 10 a.m. in Senate Room C of the General Assembly Building.*

*The Affordable Housing and Landlord/Tenant Law Work Group will meet September 4, 2024, at 10 a.m. in Senate Room C of the General Assembly Building.*

*The Full Commission will meet on December 3, 2024, at 10 a.m. in Senate Room C of the General Assembly Building.*

# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair  
DELEGATE CARRIE E. COYNER, Vice-Chair  
ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

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### AGENDA

Local Land-Use and Community Living Workgroup  
Tuesday August 20, 2024; 10:00 a.m.  
Senate Room C, the General Assembly Building

- 
- I. Welcome and Call to Order**  
*Delegate David Bulova, Chair*
  - II. Low Income Housing Tax Credit (LIHTC) Extension - Susan Gaston [30 minutes]**  
*Stephanie Flanders, Virginia Housing*  
*Tom Simplot, Housing Policy Director at Sugar Creek Capital*
  - III. Property Owners' Associations and Managed Conservation Landscaping - HB 528 (Krizek, P., 2024) [15 minutes]**  
*Delegate Paul Krizek*
  - IV. Entering Adjoining Property for Repair, Maintenance - SB 123 (VanValkenberg, S., 2024) [15 minutes]**  
*Jessica Hoff, Virginia Housing Commission*  
*Joseph Hudgins, Independent Insurance Agents of Virginia*
  - V. Local Government Actions related to Comprehensive Plans - SB 721 / HB 1236 (Mulchi, T., 2024) / (Marshall, D., 2024). [30 minutes]**  
*Bryan Horn, Director of Virginia Department of Housing and Community Development*  
*Andrew Hopewell, AICP, President, Virginia Chapter of the American Planning Association, Director, Town of Culpeper Department of Planning & Community Development*  
*Will Cockrell, AICP, Land Use Education Program (LUEP) Director at Virginia Commonwealth University; Senior Planner with EPR, PC; Adjunct Faculty with UVA*  
*Andrew Clark, Home Builders Association of Virginia*
  - VI. Zoning; Certified Recovery Residence - HB 646 (Coyner, C., 2024) [30 minutes]**  
*Brenda Castañeda, Deputy Director of Advocacy at H.O.M.E.*  
*Joe Lerch, Virginia Association of Counties*  
*Anthony Grimes, Executive Director, Virginia Association of Recovery Residences (VARR), Co-Founder of Willing Addicts Recovering (WAR)*  
*David Rook, Former President at VARR, Former Director of Operations Manager at McShin Foundation, Former President at True Recovery RVA*
  - VII. Public Comment**
  - VIII. Adjourn**

# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair  
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## VIRGINIA HOUSING COMMISSION

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### Summary

Local Land-use and Community Living Workgroup  
Tuesday, August 20, 2024; 10:00 a.m.-12:26 p.m.  
Senate Room C, the General Assembly Building

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### Introduction:

Delegate David Bulova, Chair, called the meeting to order at 10:00 a.m.

Workgroup members present: Delegate David Bulova, Delegate Carrie E. Coyner, Delegate Daniel W. Marshall (virtually), Delegate Briana Sewell, Martin Johnson, Gubernatorial Appointee, Ashley Welburn, Gubernatorial Appointee, Director Elizabeth Palen, Bismah Ahmed, Laura Bateman, Andrew Clark, Troy Garret, Michelle Gowdy, Randy Grumbine, Bryan Horn, Erin Kormann, Brian Koziol, Joe Lerch, Pia Trigiani, Henry Watkins, Jerry Wright.

Staff present: Molly Bowers, Jesseca Hoff.

The meeting began with introductions and opening remarks followed by presentations and discussion.

Materials presented at the meeting are accessible through the [Commission's website](#).

### Presentations

**Property Owners' Associations and Managed Conservation Landscaping – HB 528 (Krizek, P., 2024)**

*Pia Trigiani, Common Interest Communities Attorney*

**Pia Trigiani** provided an update on the ongoing discussions surrounding HB 528, that focuses on alternative types of landscaping within property owners' associations. She reported that while proponents of the bill and various property owners' associations have been actively negotiating to find a compromise, they have yet to reach a consensus. Trigiani noted that the proposals remain under review, and discussions will continue between common interest communities and legislators to explore potential solutions.

**Entering Adjoining Property for Repair, Maintenance – SB 123 (VanValkenberg, S., 2024)**

*Jesseca Hoff, Virginia Housing Commission*

**Jesseca Hoff** mentioned several provisions from laws in other states that may be worth consideration for potential inclusion in Virginia legislation concerning property access. Those provisions are

- Requiring owners requesting entry to adjoining property to restore the adjacent land to its condition prior to entry;
- Requiring the owner requesting access to adjacent property to file a bond to ensure payment to the adjacent landowner if damages occur;
- Expressly prohibiting entry into buildings that may be on adjoining property, meaning access is limited to exterior adjacent land;
- Limiting approved work requiring entry to adjacent land to necessary repairs and maintenance while excluding improvements to property; and
- Requiring owners requesting entry to adjacent land to make a good faith effort to obtain permission prior to filing a court order

*Joseph Hudgins, Independent Insurance Agencies*

*As Joseph Hudgins could not attend the meeting in person, Elizabeth Palen, the Director of the Housing Commission, read his prepared statement.*

**Joseph Hudgins** highlighted concerns regarding the assumption that insurance would cover damages resulting from accessing a property through a neighboring one, as proposed in SB123. He pointed out that properties often insured by surplus lines carriers—such as those requiring rehabilitation or being vacant—may have restrictive coverage terms not regulated by the Virginia Bureau of Insurance. Hudgins emphasized that common insurance policies, including homeowner, general liability, personal liability, and commercial auto insurance, typically exclude coverage for damages that are "expected or intended," which is likely in scenarios where property access causes damage. He also noted that while a bond could be considered as an alternative, it is not equivalent to insurance and would require repayment if it responds to a claim, potentially not covering expected or intended damages.

### ***Questions and Discussions***

*Pia Trigiani suggested to limit potential expenses by putting the cases in general district courts rather than circuit courts. She explained that common interest communities seek abatement orders in general district courts because they are quicker, less expensive and accrue lower legal fees.*

*Delegate Bulova emphasized the importance of incorporating five key aspects from Jesseca Hoff's presentation into the Commission's bill.*

**Local Government Actions related to Comprehensive Plans – HB 1236 / SB 721 (Marshall, D., 2024) / (Mulchi, T., 2024).**

*Bryan Horn, Director of Virginia Department of Housing and Community Development*

**Bryan Horn** elaborated that the bill was crafted to expedite actions by a specific deadline, emphasizing that time is a critical factor in development. He highlighted that SB 296, which pertains to residential plat review, operates at the same standard as residential projects but incorporates clearly defined deadlines. Horn underscored the consensus on the need for increased housing and expressed that accelerating the permitting and approvals process would directly contribute to the construction of more homes, thereby addressing the housing shortage.

*Andrew Hopewell, AICP, President, Virginia Chapter of the American Planning Association, Director, Town of Culpeper Department of Planning & Community Development*



*Will Cockrell, AICP, Land Use Education Program (LUEP) Director at Virginia Commonwealth University; Senior Planner with EPR, PC; Adjunct Faculty*

The presentation by the Virginia Chapter of the American Planning Association (APA) to the Virginia Housing Commission highlighted concerns about recent legislative changes (SB 721 / HB 1236) that could significantly impact local land-use and community living. The APA focused on three main issues: the potential invalidation of ordinances that incorporate Comprehensive Plans, the removal of an applicant's ability to petition the Circuit Court, and the automatic approval of plats if not acted upon within a set timeframe. **Andrew Hopewell** and **Will Cockrell** said that these changes could lead to conflicts with existing Virginia law, increase the burden on local governments, and result in forced application denials due to insufficient time for revisions.

Additionally, The APA suggested that the legislation could complicate rezoning processes by reducing the time available for localities to process applications, potentially leading to higher costs, delays, and transparency issues. The APA expressed concerns that these changes might undermine local planning efforts and hinder the effective development of communities across Virginia. The APA agreed that they want the process to be timely, but they also want to protect communities and have sufficient time to check potential hazards before issues arise.

*Andrew Clark, Home Builders Association of Virginia*

**Andrew Clark** proposed several key improvements to the development approval process, including a four-month review period and a 45-day resubmission timeline. He stressed the importance of restricting ministerial acts and establishing clear, objective criteria for project approval. Clark highlighted the frequent misunderstanding of Comprehensive Plans, noting that while they may be discussed in broad terms at the General Assembly, they carry significant influence at the local level, even if they do not hold the same legal status as zoning ordinances. He also pointed out the challenges posed by community opposition to land use changes, emphasizing that without adequate protections in the Comprehensive Plan, decisions can become more subjective. Additionally, Clark referenced the Healthy Communities Bill, questioning whether developments effectively address issues like food deserts and noting the difficulty of advancing projects that align with zoning but lack Comprehensive Plan support. He advocated for a balanced approach that expedites the approval process, increases predictability, and ensures both efficiency and community protection.

### ***Questions and Discussions***

**Andrew Clark** asked if the Code of Virginia imposes limits on when resubmissions can be made. **Andrew Hopewell** responded, explaining that the decision on resubmission timelines is left to localities and is not governed by the Code of Virginia.

**Clark** then provided an example where minor modifications or adjustments to proposals might accidentally omit a small detail, requiring the project to wait an additional 45 days and incur a \$1,500 fee. He emphasized that he was not advocating for a comprehensive overhaul of Comprehensive Plans but rather seeking a more efficient process to address minor issues.

**Martin Johnson** stressed the urgent need for more housing in the Commonwealth and asked the APA to propose solutions that could help meet this need, instead of simply opposing the proposed legislation. **Hopewell** suggested that one possible solution could be to limit the number of iterations allowed in the revision process. However, he noted that because each locality has its own unique circumstances, a statewide mandate might not be practical.

*Clark agreed with Hopewell's suggestion to limit the number of revision iterations and pointed out that many localities, such as Prince William County, do not have the staff capacity to meet expedited timelines, making it difficult to adhere to a strict 10-day timeline.*

*Delegate Marshall requested the formation of a workgroup to address this issue, and the Chair, Delegate Bulova approved the request.*

*Director Palen asked that all who were interested in taking part in the workgroup email her at [epalen@vhc.virginia.gov](mailto:epalen@vhc.virginia.gov).*

## **Zoning; Certified Recovery Residence - HB 646 (Coyner, C., 2024)**

*Brenda Castañeda, Deputy Director of Advocacy at Housing Opportunities Made Equal (H.O.M.E.)*

**Brenda Castañeda**, Deputy Director of Advocacy at H.O.M.E., provided an overview of the ongoing legal case involving Tri-Hope Life Ministries and Powhatan County. Tri-Hope, a local non-profit organization operating recovery homes for individuals recovering from substance use disorders, encountered significant challenges when attempting to obtain a conditional use permit from Powhatan County to open a new recovery residence. The County's zoning ordinances, which categorize recovery homes as halfway houses requiring a conditional use permit, were criticized for being discriminatory and for treating individuals with disabilities differently.

Castañeda highlighted that despite Tri-Hope's efforts to comply with the County's requirements and their requests for reasonable accommodations under the Fair Housing Act, Powhatan County failed to engage in the legally mandated interactive process. She stated that public opposition was rooted in prejudice and discriminatory attitudes, and that she stated played a significant role in the County's decision-making process, ultimately leading to the denial of the conditional use permit application by the Board of Supervisors. Despite meeting the necessary definitions, Powhatan County has never granted a conditional use permit for recovery homes, reflecting discriminatory practices influenced by public opposition rooted in negative stereotypes rather than objective criteria.

Castañeda referenced a joint statement issued by the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Justice (DOJ) in November 2016, which provided guidance on the Fair Housing Act (FHA) and its specific application to zoning and land-use laws. She emphasized that the FHA is very specific in prohibiting discrimination based on protected classes, including individuals with disabilities, and highlighted that the denial of the conditional use permit in this case was a violation of these protections. Castañeda argued that legislation could provide clearer guidance and protections for recovery residences, beyond what litigation alone can achieve.

*Joe Lerch, Virginia Association of Counties*

**Joe Lerch** explained that addiction is not currently recognized as a disability under Virginia law concerning housing. He shared that some localities are concerned about the implications of by-right zoning for recovery residences, particularly in relation to how these residences are certified and whether they fall under HIPAA regulations. Lerch highlighted the need for more information on the certification process to ensure recovery residences are not improperly categorized.

Sarah Scarbrough and David Rook both with VARR spoke in favor of HB 646. There were 32 members of their organizations in the audience who identified as being present in support of this legislation. Scarbrough outlined the standards of VARR certified recovery residences and how they are federally

adopted by SAMHSA and inspected every year by VARR staff to ensure safe and supportive environments that meet their standards.

*Sarah Scarbrough, Chair of the Virginia Association of Recovery Residences (VARR) and founder of REAL LIFE, which operates 11 recovery houses, clarified several points about the proposed legislation. She emphasized that the bill is not intended to circumvent existing laws but to align Virginia's laws with federal FHA standards. Scarbrough highlighted the stringent standards VARR enforces, including annual inspections to ensure safe and supportive environments. She also pointed out the complexities of adhering to federal guidelines and the challenges recovery residences face due to zoning laws and public opposition.*

*David Rook, former President of VARR and current leader at Frontier Recovery, shared his experience in operating recovery homes in Henrico County. He discussed the challenges of navigating single-family zoning ordinances and the backlog of individuals who are in institutions and in need of recovery housing. Rook stressed the importance of proper certification and oversight to ensure recovery residences provide legitimate and effective services, and he raised concerns about the potential misuse of local government authority to block recovery homes under the guise of zoning issues.*

### ***Questions and Discussions***

*Delegate Bulova inquired if there was a need for new legislation given the ongoing lawsuit that might address the issue, but Castañeda responded that while case-by-case litigation is important, a legislative approach would offer more consistent and clear protections.*

*Delegate Coyner reasserted the necessity of the bill by adding that while people in recovery are a protected class at the federal level, they are not at the state level and also because localities reached out to her about the concerns regarding the certification of recovery residences. She emphasized that this legislation is about the certification process of DBHDS as a state process to certify recovery residences.*

*There was also a discussion about the maximum occupancy of recovery residences. Delegate Bulova inquired about the maximum number of residents allowed, as there appeared to be conflicting information. Castañeda clarified that single-family zoning does not impose a maximum number of residents, and recovery residences should be treated similarly.*

*Delegate Bulova asked Delegate Coyner to clarify the certification process for recovery residences in Virginia, specifically whether the process is governed by state law or regulation. He also inquired about who is responsible for certifying these residences, the extent of oversight that is provided over time, and what safeguards exist to ensure the quality of these certifications. Additionally, Bulova questioned what actions the state could take if the organizations responsible for certification were not fulfilling their duties effectively. Delegate Coyner responded by explaining that the certification process is based on national standards and is not directly managed at the state level.*

*Delegate Bulova reiterated concerns regarding the lack of maximum occupancy standards in the bill and suggested coming up with language to address a maximum number of allowable residents.*

*Delegate Bulova requested Delegate Coyner to convene a workgroup in her capacity as a legislator and report back to the Commission.*

### **Low Income Housing Tax Credit (LIHTC) Extension**

*Stephanie Flanders, Virginia Housing; Tom Simplot, Housing Policy Director at Sugar Creek Capital*

**Stephanie Flanders** from Virginia Housing provided a comprehensive update on the Housing Opportunity Tax Credit (HOTC) program. Flanders provided an overview of the program's performance from 2021 to 2023, highlighting the allocation and utilization of tax credits to support affordable housing developments across Virginia. For the 2024 HOTC application round, Virginia Housing received 24 applications requesting a total of \$24,255,871 in annual tax credits. However, only \$5,694,017 in annual credits were available for allocation, illustrating the high demand for affordable housing funding within the state. Flanders provided updates on various projects funded in previous years, with many in construction or finalizing funding sources. In total, those projects represent 1,303 affordable housing units with a combined annual HOTC allocation of \$27,305,983, underscoring Virginia Housing's commitment to expanding affordable housing options throughout the state.

**Tom Simplot** highlighted the role that Low Income Housing Tax Credits (LIHTC) and HOTC programs play in supporting affordable housing development in Virginia as well as financial strategies employed to make these projects successful and advocated for the extension of the HOTC program. He explained that 9% LIHTC's cover approximately 70% of project costs and is awarded through a competitive process, making it crucial for new construction and substantial rehabilitation projects. In contrast, the 4% LIHTC's, often paired with tax-exempt bonds, cover about 30% of project costs. It is used for both new construction and acquisition/rehabilitation projects. Simplot emphasized the importance of extending the program and combining state credits with federal credits to fill financing gaps to make these affordable housing projects financially viable. He also mentioned how state credits can serve to fill gaps in funding, particularly in rural areas, where he suggested 33% of the credits as a set aside for rural areas.

### ***Questions and Discussion***

**Delegate Bulova** Raised concerns about extending the tax credit and suggested that any extension should be reviewed by both the House and Senate Appropriations Committees. He also called for a clearer definition of what constitutes "rural" versus "urban" areas in the context of credit allocation.

**Andrew Clark** Recalled discussions from 2019-2020 regarding affordable dwelling units and noted that there is strong support for the ideas presented. He mentioned that Sugar Creek has remained committed to Virginia and expressed his approval of the suggested strategies for affordable housing.

**Brian Koziol** Inquired about the differences between the first and second years of the program. Stephanie Flanders clarified that the first year's allocation was \$50 million. Koziol also asked whether other states had implemented similar programs, to which Tom Simplot responded that while it hasn't been widely adopted, there are ongoing discussions surrounding extending HOTC's.

*The discussion touched on the high costs associated with building affordable housing, particularly due to stringent regulations. It was noted that zoning delays can lead to increased costs, which affordable housing providers cannot offset by raising rents, further emphasizing the need for efficient and effective financial strategies to support these projects.*

### **Public Comment:**

*There was no public comment.*

### **Conclusion:**

The meeting was adjourned at 12:26 p.m.

The workgroup will meet on November 25 at 1:00 pm, 2024 in Senate Room C of the General Assembly Building.

COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair  
DELEGATE CARRIE E. COYNER, Vice-Chair  
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VIRGINIA HOUSING COMMISSION

AGENDA

Affordable Housing and Landlord/Tenant Law Work Group  
Wednesday September 4, 2024; 10:00 a.m.  
Senate Room C, the General Assembly Building

- I. **Welcome and Call to Order**  
*Senator Ghazala F. Hashmi, Chair*
- II. **Section 55.1 -1236; Landlord and Tenant laws; Early Termination of Rental Agreements by Victims of Family Abuse**  
*Senator Russet Perry*
- III. **Updates**
  - **Disclosures Specifically Related to Fly-Over Zones - SB 354** (Locke, M., 2024)  
*Dave Albo, Williams Mullen Government Relations Attorney Representing Metropolitan Washington Airports Authority*
  - **Flood Related Disclosure -HB 863** (Hernandez, P., 2024)  
*Delegate Phil Hernandez*
  - **Virginia Residential Landlord and Tenant Act; Noncompliance with Rental Agreement. – SB 596** (Ebbin, A., 2024)  
*Elizabeth Palen, Virginia Housing Commission*
  - **Affordable Housing on Religious Property - SB 233** (Hashmi, G., 2024), **HB 1124** (Carr, B., 2024)  
*Laura Dobbs, Housing Opportunities Made Equal of Virginia (H.O.M.E.)*  
*Joe Lerch, Virginia Association of Counties*
- IV. **Real Property Tax Assessment for Affordable Housing – HB 1446** (Coyner, C., 2024)  
*Jamie Timberlake, Powhatan Office of the Revenue Commissioner*  
*Isabel McLain, Virginia Housing Alliance*  
*Deidra Kelly (tentative), Virginia Association of Assessing Officers*
- V. **Eviction Diversion Pilot Program – SB 50** (Locke, M., 2024) **HB 477** (Coyner, C., 2024)  
*Elizabeth Palen, Virginia Housing Commission*  
*Jessica Hoff, Virginia Housing Commission*
- VI. **Public Comment**
- VII. **Adjourn**

# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

### Meeting Summary

Affordable Housing and Landlord/Tenant Law Work Group  
Wednesday September 4, 2024; 10:00 a.m.  
Senate Room C, the General Assembly Building

#### Introduction:

Senator Hashmi called the meeting to order at 10:06 a.m.

Members present: Senator Ghazala F. Hashmi (Chair), Senator William M. Stanley, Jr., Delegate David L. Bulova, Delegate Adele Y. McClure, Director Elizabeth Palen, Martin Johnson, Ashley Welburn, Bismah Ahmed, (Apartment and Office Building Association of Metropolitan Washington), Robert Bradshaw (Independent Insurance Agents of Virginia), Tom Fitzpatrick (Housing Opportunities Made Equal), Troy Garret (Virginia Association of Housing & Community Development Officials), Michelle Gowdy (Virginia Municipal League), Randy Grumbine (Virginia Manufactured and Modular Housing Association), Kelly Harris-Braxton (Virginia First Cities), Kelly King Horne (Homeward), Erin Kormann (Virginia Association of Realtors), Brian Koziol (Virginia Housing Alliance), Joe Lerch (Virginia Association of Counties).

Members absent: Senator Mamie E. Locke, Delegate Daniel W. Marshall III

Staff present: Molly Bowers, Jesseca Hoff.

The meeting began with introductions and opening remarks followed by presentations and discussion.

Materials presented at the meeting are accessible through the [Commission's website](#).

#### Disclosures Specifically Related to Fly-Over Zones - SB 354 (Locke, M., 2024)

*David Albo, Williams Mullen Government Relations Attorney Representing Metropolitan Washington Airports Authority*

**David Albo**, a former Delegate who is now representing the Metropolitan Washington Airports Authority, provided an update on the progress of the ongoing discussion between the Authority and the Virginia Association of Realtors which took place to solve the issue regarding the impacts of SB 354, which passed in the last legislative Session. Albo reported that, despite ongoing discussions, the parties have not been able to reach a compromise regarding "buyer beware" and mandatory disclosures. He stated that the goal is to ensure that buyers are informed about potential issues, such as airport noise, without making the real estate process overly complicated for agents and sellers. The enacted legislation prohibits localities from

establishing or enforcing mandatory real estate contract disclosures for residential properties, which includes those related to fly-over zones. Previously, the locality of Loudoun County had their own mandatory disclosure rules, but as of July 1, 2024, these are no longer permitted as statewide standards must be followed.

### *Questions and Discussions*

**Tom Fitzpatrick** (*Housing Opportunities Made Equal*) then asked what the main issue was regarding these disclosures. **Erin Kormann** (*Virginia Association of Realtors*) explained that the problem is broad and complex. She stated that Virginia traditionally follows a "buyer beware" philosophy, which minimizes the seller's liability. She believes that mandating additional disclosures for specific localities could create more liability for sellers and agents, complicating matters for real estate professionals who follow state-level guidelines.

**Robert Bradshaw** (*Independent Insurance Agents of Virginia*) asked about the liability of a seller's agent when handling numerous "buyer beware" disclosures. He asked what would happen if the agent missed something critical. **David Albo** acknowledged this concern and pointed out the need for a balanced solution, where agents aren't overwhelmed by large, potentially incomplete disclosure packets. **Erin Kormann** stated that by law realtors are required to review and discuss the "buyer beware" form with their clients. She said that failure to do so is in violation of the Code of Virginia, and the form must be signed when the contract is finalized.

**Delegate David Bulova** expressed concerns about limiting disclosures to just one airport. He pointed out that new housing developments, such as the one in Chantilly, near industrial areas like airports, raise broader issues. He questioned why the discussion was limited to just one airport and suggested that a broader, more inclusive solution should be considered. **David Albo** agreed, noting that this was one of the key issues still under discussion. Currently, only two airports in Virginia—Dulles and Oceana—have completed FAA noise studies.

**Erin Kormann** added that she did not view the legislation as an "airport bill" but rather a bill focused on local real estate disclosures. She stated Loudoun County is the only locality in Virginia that requires mandatory real estate disclosures specifically for fly-over zones. She stated that she believes the intent of the bill is to centralize the disclosure process and ensure uniformity across the state. She also noted that, while only two FAA studies have been conducted, the Dulles study was privately funded by the airport, not by the FAA, though it followed FAA regulations.

***\*\*The group agreed to revisit the issue in the next meeting to continue working towards compromise.***

### **Section 55.1 -1236; Landlord and Tenant laws; Early Termination of Rental Agreements by Victims of Family Abuse**

*Senator Russet Perry*

**Senator Russet Perry** discussed updates to Section 55.1-1236, specifically the early termination of rental agreements for victims of family abuse. The bill seeks to allow tenants to terminate leases in cases of emergency protective orders, instead of only permanent protective orders, and would cover situations involving stalking and non-intimate relationships. A potential revision was suggested to ensure that only active protective orders qualify for termination. Further refinement of the bill was recommended.

### *Questions and Discussion*

**Senator Hashmi** asked how the bill would apply if both victim and perpetrator are on the same lease. **Senator Perry** confirmed that Section E in the Code of Virginia § 55.1-1236 which addresses this situation, remains unchanged in the proposed legislation.

**Delegate Adele McClure** asked for clarification regarding a previous amendment of this code section per Delegate Delaney's passed and enacted legislation from the 2024 General Assembly session. **Senator Perry** emphasized that her proposed legislation just seeks to expand protections.

**Delegate Bulova** asked about the expiration of protective orders and asked whether a lease termination would still be valid if the protective order expired, or the permanent protective order was not granted. **Senator Perry** responded that active orders would be standard but that further clarifying discussion is needed to resolve this issue.

**Senator William Stanley** asked about potential misuse of the bill and gave an example of a scenario. He suggested residents could potentially go to a local magistrate for a neighbor disagreement and receive an emergency protective order and then 48 hours later a judge may decide not to extend it. **Senator Stanley** added that he holds more confidence in a judge and a judicial review process than that of a magistrate. **Senator Perry** responded saying that she believes each case to be a value judgement. She raised concerns about what are considered non-intimate partnerships and stalking in General District Court protective orders. She suggested limiting General District Court cases to family or partner disagreements and to exclude neighbor disagreements. She believes a judge or magistrate would not give a protective order unless they believed there was a substantive reason for the order.

**Senator Stanley** raised concerns about the possibility of this legislation to be used as a loophole to break a lease. **Senator Perry** acknowledged his concern and mentioned that in her experience some situations may appear as though someone may be trying to circumvent the system but she believes there may be valid concerns for a protective order to reduce further harm.

*\*Senator Ghazala Hashmi, Chair, suggested that given that there are still matters under discussion, revisions will be heard at the following meeting on November 26, 2024, at 1:00 p.m. Stanley, Bulova, and Ahmed will work with Perry to address and refine the outstanding details.*

#### **Flood Related Disclosure -HB 863 (Hernandez, P., 2024)** *Delegate Phil Hernandez*

**Delegate Phil Hernandez** provided updates on the progress addressing flood risk disclosures, he said discussions with the Department of Conservation and Recreation (DCR) and Wetlands watch had taken place. He said that the revised bill offers a more streamlined approach, designed to equip prospective homebuyers with essential flood risk information without overburdening real estate agents. He stated that sellers would be required to disclose whether the property is currently covered by flood insurance and if any claims have been made. Additionally, the revised bill mandates disclosure if the property is within a 100- or 500-year Federal Emergency Management Agency (FEMA) floodplain, using online tools to simplify the process for buyers. He asserted that this would help homebuyers avoid surprises related to expensive flood insurance. Hernandez also highlighted DCR's collaboration with FEMA to create more user-friendly floodplain mapping tools. He suggested the possibility of generating a CARFAX-like report for homes based on these tools. Additionally, he played a video with testimonials from a Henrico homeowner and a real estate agent. He concluded by saying suggested legislation would be available at the next meeting on November 26, 2024.



**Virginia Residential Landlord and Tenant Act; Noncompliance with Rental Agreement. – SB 596** (Ebbin, A., 2024)

*Elizabeth Palen, Virginia Housing Commission*

*Bismah Ahmed, Apartment and Office Building Association of Metropolitan Washington*

**Director Elizabeth Palen** read a statement on behalf of Senator Adam Ebbin's office regarding SB 596, introduced during the 2024 General Assembly session. The bill aimed to expedite unlawful detainer hearings in emergencies by reducing the time frame for the initial hearing from 15 to 7 days and shortening the subsequent hearing timeline from 30 to 21 days. However, after input from the Office of the Executive Secretary of the Supreme Court of Virginia, it was recommended to reduce the initial hearing time to 14 days instead of 7. Concerns were raised that this would only minimally impact the initial hearing while potentially complicating subsequent hearings, particularly if parties needed more time to prepare. As a result, Senator Ebbin does not plan to pursue this legislation in the 2025 session. Stakeholders were invited to submit written comments on the matter.

**Bismah Ahmed** discussed legislation to reduce the timeline for addressing tenant noncompliance issues, specifically in instances of emergency or unlawful retainer cases. She said that these cases often involve serious criminal or safety-related issues, such as firearms being discharged, neighbors being attacked, bomb threats, or even doors being set on fire. In such dangerous situations, the unlawful detainer process can take too long, leaving residents in unsafe conditions. Shortening the timeline would address these safety concerns. However, the Supreme Court had issues with the timeline reduction. While they approved reducing the initial hearing to 14 days, changes to the subsequent hearing language in the bill (line 48) created inconsistencies that negated its intent. Bismah noted that there has been no consensus on how to resolve these timeline issues, and discussions are ongoing to find a suitable compromise that balances efficiency with safety.

**Affordable Housing on Religious Property - SB 233** (Hashmi, G., 2024), **HB 1124** (Carr, B., 2024)

*Laura Dobbs, Housing Opportunities Made Equal of Virginia (H.O.M.E.)*

*Joe Lerch, Virginia Association of Counties*

**Laura Dobbs** and **Joe Lerch** reported on efforts to enable religious organizations to offer affordable housing on their properties. They highlighted zoning barriers and the limited capacity of faith organizations to manage housing projects. Joe Lerch noted the potential benefits of utilizing the Virginia Residential Sites and Structures Locator database and inquired about progress updates from the Department of Housing and Community Development (DHCD).

*Senator Ghazala Hashmi* shared that she and *Delegate Betsy Carr* are meeting with stakeholders and will have updated legislation to share at the November 26th meeting.

**Real Property Tax Assessment for Affordable Housing – HB 1446** (Coyner, C., 2024)

*Jamie Timberlake, Powhatan Office of the Revenue Commissioner*

*Isabel McLain, Virginia Housing Alliance*

**Jamie Timberlake** outlined two primary challenges in property tax assessments: data collection and ensuring a fair tax burden. He explained that while the current law, supported by VML and VACO, meets the requirements for assessing income and earnings, there is a need for additional education to improve its application. Timberlake noted difficulties in collecting income and expense data, as assessors only have a small window between June 1 and August 1 to gather information, with many property owners failing to

comply. He emphasized that property assessments should distribute the tax burden fairly across localities, but discrepancies, especially with LIHTC properties, need to be addressed through more education and mandatory training.

**Isabel McLain** focused on the accuracy of property tax assessments for affordable housing, stressing the importance of using the income approach as mandated by The Code of Virginia. McLain noted that while many assessors are following the law correctly, some localities misinterpret the requirement, treating the income approach as optional when it is not. She suggested that this has led to inaccurate assessments that often result in costly appeals for housing providers and reduced services for tenants. She asserted that HB 1446 was introduced in response to feedback from affordable housing directors concerned that some localities are not properly incorporating income and expense data into their assessments. McLain advocated for mandatory training for assessors and changes to The Code of Virginia to improve transparency, accountability, and the application of the income approach. She also suggested holding localities accountable for covering appeal costs if they fail to apply the income approach correctly in the initial assessment, emphasizing the need for improved processes to ensure fairness and accuracy.

### *Questions and Discussion*

**Delegate Bulova** asked whether the issue stemmed from assessors failing to follow the income approach or simply interpreting the code incorrectly. **Isabel McLain** responded that both issues were present and cited examples of over-assessments in specific localities.

**Senator Hashmi** asked whether mandatory training for local assessors could resolve the issue. **Isabel McLain** agreed, but stated she did not believe that training alone would be sufficient without legislative clarification on the use of the income approach.

### **Eviction Diversion Pilot Program – SB 50 (Locke, M., 2024) HB 477 (Coyner, C., 2024)**

*Elizabeth Palen, Virginia Housing Commission*

*Jesseca Hoff, Virginia Housing Commission*

#### **Elizabeth Palen**

Director Elizabeth Palen provided an overview of the Eviction Diversion Pilot Program. Although initially set to expire in 2024, legislation has extended it until 2025, with calls to expand the program statewide. Tenants must meet specific eligibility criteria, such as paying at least 25% of the owed amount upfront and having no history of repeated late payments, to participate in the program. This plan enables tenants to pay their overdue rent in installments, thus avoiding eviction, while ensuring landlords receive full payment. The program initially launched in four localities: Danville, Hampton, Petersburg, and Richmond.

**Jesseca Hoff** provided additional comments on the Eviction Diversion Pilot Program and an overview of court-based eviction programs in other states. The Virginia Eviction Diversion Pilot Program was established in 2019 by the Virginia Housing Commission and the General Assembly of Virginia to address high eviction rates. The program allows tenants facing eviction due to one-time financial crises, such as job loss or medical bills, to enter a court-ordered payment plan. Hoff stated that the program has been successful in diverting evictions among the qualifying tenants that participate in the program and extending the program to any locality wishing to participate would likely result in an increase in successful eviction diversions. Virginia's program is unique when compared to other states because it was established prior to the impacts of the COVID-19 pandemic and was established without federal funding. Other statewide programs tend to focus on mediation that may or may not result in a payment plan and may also provide

financial assistance to participating tenants. However, it is unclear if eviction programs providing financial assistance to tenants in other states will remain funded as federal funds are depleted. Hoff emphasized that the Virginia program has no fiscal impact on the court system, as forms, processes, and annual training for judges and clerks are already in place. Hoff recommends expanding this program to more localities to help prevent evictions as they rise to pre-pandemic levels.

**Senator Hashmi** asked how tenants are informed of the program's existence. **Director Elizabeth Palen** responded that judges in some localities, such as **Richmond**, offer it as an option while the tenant is present in court.

#### **Public Comment:**

**Sheila Herlihy Hennessee**, the Director of Faith Organizing at Virginia Interfaith Center, discussed the importance of faith communities in housing and highlighted the critical role she felt the group played in developing last session's bill. She mentioned that they had spoken with dozens of faith communities, those groups have 12 housing projects already completed and 15 more in progress. However, she said that many faith communities are still hesitant to proceed due to complications with red tape and zoning processes. Herlihy Hennessee emphasized that she believes these obstacles have slowed progress and made it difficult for faith-based organizations to move forward, despite their interest in contributing to affordable housing. She also shared statements from two clergy members who wanted to emphasize their understanding that timing is critical when it comes to funding land and working with local government. Members of those congregations believe that missing even one deadline can result in significant funding loss and delays in housing development. She further noted that a study is being conducted on land availability, and a booklet outlining housing opportunities will be created.

#### **Conclusion:**

The meeting was adjourned at 11:52 a.m.

The Affordable Housing and Landlord/Tenant Law Work Group will meet on **November 26, at 1:00 p.m.** in Senate Room C (Room 311), of the General Assembly Building.

The Local Land Use and Community Living Work Group will meet on **November 26, at 10:00 a.m.** in Senate Room C (Room 311), of the General Assembly Building.

# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

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### AGENDA

Special Workgroup on Local Government Actions Related to Comprehensive Plans  
Monday October 7, 2024, 1:30 p.m.  
Senate Room C, General Assembly Building

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**I. Welcome and Call to Order**

*Delegate Carrie Coyner, Chair*

**II. Overview of the How Development Plans are Considered and Processed in the Context of Comprehensive Plans**

*Jeff Gore*

*Local Government Attorney; Hefty Wiley & Gore*

*Represented County of Loudoun, County of New Kent, County of Amelia, County of King George, King and Queen County, Surry County, City of Chesapeake, City of Petersburg*

**III. Chair Facilitated Discussion**

**IV. Public Comment**

**VII. Adjourn**

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## VIRGINIA HOUSING COMMISSION

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### Summary

Special Workgroup on Local Government Actions Related to Comprehensive Plans - HB 1236  
(Marshall, D., 2024)

Monday October 7, 2024; 1:30 p.m. - 3:03 p.m.  
Senate Room C, the General Assembly Building

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### Introduction:

Delegate Carrie Coyner called the meeting to order at 1:31 p.m.

Members present: Delegate Carrie E. Coyner, *Chair*, Delegate Daniel W. Marshall, III, Senator Ghazala Hashmi, Director Elizabeth Palen, Joshua Goldschmidt, *Governor Appointee*, Laura Bateman, *Virginia First Cities*, Andrew Clark, *Home Builders Association of Virginia*, Michelle Gowdy, *Virginia Municipal League*, Randy Grumbine, *Virginia Manufactured and Modular Housing Association*, Andrew Hopewell, *Virginia Chapter of the American Planning Association*, Bryan Horn, *Virginia Department of Housing and Community Development*, Erin Kormann, *Virginia Realtors*, Brian Koziol, *Virginia Housing Alliance*, Joe Lerch, *Virginia Association of Counties*

Staff and speakers present: Molly Bowers, Jeff Gore

The meeting began with introductions and opening remarks followed by a presentation and discussion.

Materials presented at the meeting are accessible through the [Commission's website](#).

### Overview of Development Plan Processing within Comprehensive Plans

*Jeff Gore, Local Government Attorney at Hefty Wiley & Gore*

**Jeff Gore** presented an overview of how comprehensive plans guide local development and zoning decisions. He emphasized that while comprehensive plans provide a framework for future growth and land use, zoning ordinances are the legal instruments that govern development approvals. Comprehensive plans are updated every five years and involve extensive public input, covering topics like land use, infrastructure, and environmental concerns. They serve as guides for zoning decisions but do not carry the force of law except in certain cases, such as public infrastructure projects.

**Gore** also discussed the role of Planning Commissions which are tasked with developing these comprehensive plans, and the importance of aligning them with zoning ordinances. He highlighted challenges that arise when comprehensive plans are outdated, which can create confusion in zoning and development processes. He noted that while localities rely on comprehensive plans for guiding development, the legal authority rests with zoning ordinances, and better coordination between the two is essential for smoother development approvals.

## Chair Facilitated Discussion

**Delegate Coyner** raised three main topic areas to be discussed during the meeting:

1. **Subdivision Site Plans:** There is a concern that the comprehensive plan is being referenced again after zoning approvals, which may complicate the process.
2. **Timing of Development Approvals:** There is a concern about the efficiency of the review and approval process, with a focus on streamlining and potentially shortening the timelines for approvals and resubmissions.
3. **Requirements for Subdivision Reviews:** There is a discussion around clarifying whether there are specific requirements and standards that should be reviewed during the subdivision process, focusing on what localities can and cannot include in their reviews.

The chair-facilitated discussion led by **Delegate Carrie Coyner** was centered on the intricate relationship between comprehensive plans and the zoning processes that govern development projects in Virginia localities. **Coyner** began by acknowledging that no specific guidance points had been sent before the meeting, but raised the question of how comprehensive plans are applied during the approval of site plans, especially in the context of by-right developments where rezoning may not be required.

**Jeff Gore** clarified that comprehensive plans typically influence the zoning process more during rezoning cases rather than site plan approvals for by-right developments. He said that once the rezoning is secured, the by-right zoning follows, and the comprehensive plan is often considered a background framework. He provided the example that things like site plans or land dedications are largely administrative tasks that occur after the comprehensive plan is in place with no direct legal control over those processes.

**Andrew Clark** expressed concerns about the bill's language (lines 90-95 or Section I) potentially invalidating local ordinances or expediting certain approvals which could lead to conflict with local ordinances governing public facilities. He offered the following substitute:

*I. Notwithstanding any provision in this Section to the contrary, a locality's comprehensive plan shall not constitute the basis, in whole or in part, whether directly or through incorporation into any zoning ordinance, subdivision ordinance, or other ordinance or manual, for the disapproval of a site plan, subdivision plat, or other administrative approval that is otherwise in conformity with duly adopted standards, ordinances, and statutes.*

**Delegate Coyner** responded by stating that the original bill already addressed the concerns regarding approval timelines and the role of comprehensive plans. She clarified that while comprehensive plans play a significant role in rezonings and provide a broader framework for infrastructure, the by-right process—where subdivisions and site plans don't require rezoning—is primarily focused on technical reviews. This process, she explained, does not usually invoke comprehensive plan compliance directly which had already been established in the original legislative framework.

**Andrew Hopewell** emphasized that the bill could negatively impact local infrastructure standards, particularly road classifications and improvements. He gave an example of a 450-home development where local road standards might be overridden thus affecting the locality's ability to manage infrastructure. He worried that by-right approvals might overlook these local standards, leading to issues in how roads are planned and built.

**Erin Kormann** responded to **Hopewell's** concern by asking if road issues could be addressed during the rezoning process rather than the site plan stage. **Jeff Gore** added that in complex localities larger

developments and infrastructure like roads are often discussed during the rezoning phase where proffers and other commitments are made. Once the development reaches the by-right stage, localities have less leverage to require additional infrastructure improvements unless they are tied to specific public safety or technical issues.

**Delegate Coyner** asked if there was any consensus. **Joe Lerch** suggested providing more concrete examples of the unintended consequences of by-right decisions to improve the legislative language.

**Andrew Clark** said that the bill does not limit what localities can enforce under the by-right process but instead clarifies the boundary between what is negotiated and what is required. He emphasized that site plan processes remain largely intact.

### **Timing of Development Approvals**

**Coyner** introduced the discussion on the timing of development plan approvals, referencing lines 186-206 of the bill. These lines propose changes to the approval process for site plans and subdivision plats, particularly regarding the elimination of court appeals and automatic approvals if localities fail to act within the specified timeframes. She asked participants for their thoughts on whether the current process is too slow and what changes could help streamline approvals.

**Joe Lerch** and **Michelle Gowdy** highlighted delays caused by the back-and-forth between developers and various local departments, like fire and police. These departments often submit comments at different times, prolonging the approval process. **Coyner** suggested shortening the review period for minor resubmissions and finding ways to streamline the review process. The group discussed timelines for resubmittals to be shortened, particularly for minor changes. Coyner proposed that rather than resetting the timeline with each resubmission, the bill could specify shorter periods for technical revisions. **Andrew Clark** supported this idea but noted that smaller localities with fewer resources may struggle to meet proposed deadlines.

There was also a broader discussion on the proposed legislation's potential impact on approval timelines. **Coyner** noted that the original bill already addressed the role of comprehensive plans in rezonings, but she stated that by-right processes should focus on technical reviews, not comprehensive plan compliance.

**Laura Bateman** shared feedback from medium-sized localities, explaining that while the proposed reduction of review timelines from 12 months to 4 months was appreciated, many localities need more time to handle complex zoning cases. She mentioned that after a resubmission, some localities need about 3 months to process the changes, suggesting that 6 months may be a more reasonable time frame.

### **Next Steps**

**Andrew Clark** requested that local governments gather data on how long it typically takes to respond to applicants, resubmit plans, and finalize approvals.

**Delegate Coyner** asked participants, both localities and developers, to gather more specific data on how the proposed legislative changes would affect the approval process for by-right developments. This includes identifying any concerns or benefits these changes may bring.

**Coyner** encouraged participants to consider whether a compromise could be reached between the proposed 4-month review timeline and the current 12-month process. She also asked them to revisit the language that was removed from the bill regarding an applicant's ability to take further action if the review period exceeds the deadline.

**Coyner** suggested participants evaluate whether a shorter review time is feasible for resubmitted plans, particularly when the original submission was denied. She acknowledged that the 45-day window may not provide sufficient time for public notices, planning commission reviews, and board of supervisors' approvals. One possible solution proposed was to explore the option of double advertising to expedite the resubmission process.

### **Requirements for Subdivision Review**

**Delegate Coyner** began the discussion on the topic of clear objective minimum requirements for plat reviews submittals

**Michelle Gowdy** expressed that there are always lists of things that need to be checked during the plat review process, but some requirements are site-specific. She suggested that there should be a core set of 5-10 requirements that need to be reviewed universally, but there will always be additional items that are specific to the site in question.

**Andrew Clark** proposed that some minor issues don't require a full review by all departments. He pointed out that some localities simply don't have enough staff to handle multiple, in-depth reviews, citing examples of localities with only two staff members responsible for reviewing 45 plans. His recommendation was to identify minor issues that could bypass comprehensive reviews by multiple departments to streamline the process.

**Andrew Hopewell** stressed that departments need to provide clear citations when a plan is found to be insufficient. This means specifying why a particular part of the plat is problematic, including references to specific code sections. However, **Hopewell** also pointed out that it should not be the responsibility of local government staff to offer solutions for deficiencies; instead, it should be up to the private sector (developers) to address the issues.

**Joe Lerch** brought the conversation back to the distinction between housing and commercial/industrial development. He suggested that it might be easier to create a general list of requirements for residential developments. However, commercial and industrial projects are often more complex and may require input from specialized departments, such as the fire department, making it harder to have a uniform checklist for these projects.

The discussion centered on finding a balance between creating clear, universal minimum requirements for reviews and allowing flexibility for site-specific issues, especially in smaller localities with limited resources. The group also debated the role of local government versus the private sector in addressing deficiencies found during reviews.

### **Public Comment:**

*There was no public comment*

### **Conclusion:**

The meeting was adjourned at 3:03 p.m.

The discussion will be continued in the Local Land Use and Community Living Workgroup that will meet on November 26, 2024, at 10:00 a.m. in Senate Room C of the General Assembly Building.



# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

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### AGENDA

Local Land Use and Community Living Workgroup  
Tuesday November 26, 2024, 10:00 a.m.  
Senate Room C, General Assembly Building

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- I. Welcome and Call to Order**  
*Delegate David Bulova, Chair*
  - II. Overview of Agenda**  
*Elizabeth Palen, Executive Director, Virginia Housing Commission*
  - III. Presentation: Economic Development Workforce Housing Incentive Pilot Program**  
*Virginia Tobacco Region Revitalization Commission*
  - IV. Entering Adjoining Property for Repair, Maintenance**  
*Senator Schuyler VanValkenburg*
  - V. Local Government Actions Related to Comprehensive Plans, Code of Virginia § 15.2**  
*Delegate Carrie Coyner*  
*Andrew Clark, Homebuilders of Virginia*
  - VI. Code of Virginia § 58.1-439.30 Virginia Housing Opportunity Tax Credit**  
*Susan Gaston, Gaston Group*
  - VII. Urban Public Private Partnership Redevelopment Fund (UPPPRF)**  
*Laura Bateman, Virginia First Cities*
  - VIII. Zoning; Certified Recovery Residences**  
*Delegate Carrie Coyner*
  - IX. Public Comment**
  - X. Adjourn**
-

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## VIRGINIA HOUSING COMMISSION

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### Summary

Local Land Use and Community Living Workgroup Meeting  
Tuesday, November 26, 2024; 10:00 a.m.-11:30 a.m.  
Senate Room C, the General Assembly Building

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### Introduction:

Chair of this Workgroup Delegate David Bulova called the meeting to order at 10:05 a.m.

**Members present:** Delegate David L. Bulova, Delegate Carrie E. Coyner, Delegate Daniel W. Marshall III (virtually), Delegate Briana D. Sewell, Director Elizabeth A. Palen, Joshua Goldschmidt, Ashley Welburn, Bismah Ahmed (*Apartment and Office Building Association of Metropolitan Washington*), Laura Bateman (*Virginia First Cities*), Andrew Clark (*Home Builders Association of Virginia*), Mark Flynn (*Virginia Municipal League*), Troy Garrett (*Virginia Association of Housing & Community Development Officials*), Randy Grumbine (*Virginia Manufactured and Modular Housing Association*), Bryan Horn (*Virginia Department of Housing and Community Development*), Joseph Hudgins (*Independent Insurance Agents of Virginia*), Erin Kormann (*Virginia Realtors*), Brian Koziol (*Virginia Housing Alliance*), Joe Lerch (*Virginia Association of Counties*), Pia Trigiani (*Common Interest Communities Attorney*), Jeff Quann (*Virginia Housing*), Jerry Wright (*Community Associations Institute*).

Staff and speakers present: Molly Bowers, Laura Bateman, Jordan Butler, Andrew Clark, Susan Gaston

Members absent: Senator William M. Stanley, Jr., Martin Johnson (*Gubernatorial Appointee*).

The meeting began with introductions and opening remarks followed by presentations and discussion.

Materials presented at the meeting are accessible through the [Commission's website](#).

### **Presentation: Virginia Tobacco Region Revitalization Commission Presentation**

*Jordan Butler, Virginia Tobacco Region Revitalization Commission*

**Jordan Butler** presented the Economic Development Workforce Housing Incentive Pilot Program, introduced by the Virginia Tobacco Region Revitalization Commission (Tobacco Commission). He explained that the program aims to address the lack of workforce housing in Southern and Southwest Virginia—regions historically reliant on industries such as tobacco, textiles, and furniture. According to Butler, these areas face significant challenges in attracting new employers because of insufficient

housing options for employees earning 80-120% of the Area Median Income (AMI). The program, he noted, was developed with input from Virginia Housing, DHCD, and the Virginia Housing Commission, and launched in July 2024 with \$2 million in funding. Butler added that localities can apply for awards of up to \$1 million per project, requiring a 3:1 match.

Butler explained that the program ties housing development to economic initiatives, requiring collaboration among local governments, private sector partners, and employers. He stated that strong projects should demonstrate innovative support for workforce housing, achieve broader community development goals, and serve as models for addressing housing shortages. He also emphasized that applications are evaluated on a rolling basis and must include a workforce housing plan targeting households within the designated AMI range.

### **Discussion and Questions:**

- **Joe Lerch** asked about the role of zoning officials and whether coordination with local communities is essential to ensure projects align with broader community needs. **Butler** agreed, highlighting the importance of close collaboration between zoning officials and localities. He explained that successful projects depend on consistent communication with local staff to ensure alignment with community goals and zoning requirements.
- **Delegate David Bulova** asked about how the program could address aging and derelict housing stock, especially in areas affected by NAFTA-related economic declines. **Delegate Daniel Marshall** responded and acknowledged that addressing older housing stock remains a significant challenge. He noted that while the program focuses on creating new housing tied to economic development, there is potential to rehabilitate some derelict structures as part of a project's scope. He added that efforts to incorporate such renovations depend on specific project proposals and available funding.

Butler concluded by inviting communities with prospective projects to submit pre-applications. He stated that program evaluations and adjustments would occur at the Tobacco Commission's next meeting in January 2025.

### **Entering Adjoining Property for Repair and Maintenance (Senator VanValkenburg's Bill)**

*Elizabeth Palen, Virginia Housing Commission*

Elizabeth Palen presented proposed changes to Senator Schuyler VanValkenburg's bill addressing the process for entering adjoining property for repairs and maintenance. Palen explained that the changes aim to clarify and limit the scope of such entries, ensuring protections for adjoining property owners. While there is no finalized draft, the proposed changes include the following:

1. Remove the term "improvements" to limit access strictly to necessary repairs and maintenance.
2. Require service providers to be licensed and insured to ensure professionalism and accountability.

3. Mandate restoration of adjoining property to its original condition after entry, with liability for damages incurred.
4. Require the filing of a bond before access is granted to cover potential damages.
5. Prohibit entry into buildings or structures on adjoining property, restricting access to outdoor areas like driveways, patios, and sidewalks.
6. Introduce a “good faith effort” requirement for obtaining permission from adjoining property owners before filing a court order. This includes sending written requests, allowing reasonable response periods, and documenting attempts to secure voluntary permission.

### **Questions;**

**Erin Kormann** asked whether tenants (lessees) could request access under this bill. **Palen** acknowledged that this is an area requiring further clarification. The term "lessee" could complicate the legal framework and might need to be excluded to maintain consistency with other state laws. **Delegate Bulova** proposed removing the term lessee from the bill and there was no objection from the group.

**Pia Trigiani** agreed with **Erin Kormann**'s concerns and raised several questions about the bond requirement, including where the bond would be posted, who would hold it, and whether the bond amount should match the project's cost. She emphasized the need for more details, explaining that someone must enforce and manage the bond. Trigiani also noted that bonds typically require financial backing from a bank, which could be costly for smaller projects. **Delegate Bulova** suggested looking to other states for model language. **Palen** explained that in other states, the bond is often held by the sheriff, though this approach is not used in Virginia. Trigiani noted that bonds are usually handled by a locality or state agency, depending on the type of work, and added that permits may be required, which were not addressed in the proposed changes.

**Delegate Carrie Coyner** Shared that she was part of the workgroup and believed there was no consensus on the bond issue. She suggested treating the bond like an appellate bond or a similar mechanism through the circuit court. Coyner emphasized the importance of finding a balance between efficiency and adequate safeguards and asked whether the provisions align with legal precedents in other states. **Palen** confirmed that the proposed changes were modeled on frameworks used in Massachusetts, South Carolina, Illinois, and Michigan.

**Andrew Clark** asked for clarification regarding the licensure requirement for service providers.

**Joseph Hudgins** expressed concerns that insurance might not cover all expenses incurred during projects, emphasizing the need to account for gaps in liability coverage.

**Delegate Bulova** recommended sharing feedback from the discussion of the bill and sharing it with Senator VanValkenburg.

**Outcome:** After extensive discussion, the group **decided not to recommend** the legislation to the full Virginia Housing Commission at this time. Delegate Bulova emphasized the importance of Senator

VanValkenburg refining the proposal further based on the feedback provided in order to have a positive outcome during the next legislative session.

### **Local Government Actions Related to Comprehensive Plans (Code of Virginia §15.2)**

*Delegate Carrie Coyner and Andrew Clark, Homebuilders of Virginia*

**Delegate Carrie Coyner** and **Andrew Clark** led a discussion on proposed changes to how comprehensive plans can be used in local government decision-making. The bill would prevent comprehensive plan elements from being used to deny administrative approvals, such as subdivision plats or site plans, if those plans meet established zoning and ordinance requirements. **Clark** explained that the goal is to streamline administrative processes, reduce delays, and lower housing costs by ensuring that decisions are based on existing regulations rather than revisiting comprehensive plans after zoning decisions have already been made.

The group debated how the changes might impact infrastructure considerations, such as water and sewer, and whether architectural standards and district character would still receive proper review. **Coyner** clarified that these elements are addressed during the zoning and site plan review phases, not at the administrative approval stage. **Joe Lerch** expressed concerns that certain infrastructure needs might not be adequately addressed under the proposed changes.

While there was general support for the concept of reducing delays and aligning with existing ordinances, the group did not reach a consensus. **Coyner** described the proposal as a starting point for addressing inefficiencies in the planning process and acknowledged that further refinement and collaboration would be needed to move the bill forward.

**Outcome:** While consensus was not reached, the bill is seen as a potential first step toward streamlining administrative decisions. **The Workgroup decided not to recommend it to the full Commission**

### **Urban Public Private Partnership Redevelopment Fund (UPPPRF)**

*Laura Bateman, Virginia First Cities*

**Laura Bateman** presented proposed updates to the Urban Public Private Partnership Redevelopment Fund (UPPPRF), aimed at making it a more effective tool for addressing housing challenges in urban areas. The changes include expanding eligibility to include land banks and nonstock organizations, introducing revolving loans, and removing the \$500,000 cap on grants. **Bateman** emphasized that these updates would provide greater flexibility and accessibility for localities and organizations seeking to address housing and redevelopment needs.

**Bateman** noted feedback from stakeholders who suggested that the definition of "Qualifying entities" be fully incorporated into the statute, rather than referencing the Virginia Land Bank Entities Act (§ 15.2-7500) and the Virginia Stock Corporation Act (§ 13.1-603). She shared a revised definition to address these concerns, which includes private developers, local government authorities, nonprofits, land bank entities, nonstock corporations, and domestic or foreign unincorporated entities while excluding estates, trusts, and government entities.

**Revised Definition of "Qualifying Entities" (Draft Language):**

*"Qualifying entities" means private developers, local government authorities, an existing nonprofit entity, a land bank entity, any domestic or foreign unincorporated entity or a domestic or foreign nonstock corporation, a domestic or foreign corporation, and any domestic or foreign nonstock corporation, excluding estates or trusts, and any state, the United States, and any foreign government."*

The discussion also covered the need for more detailed guidelines on monetary and non-monetary contributions to match requirements. **Delegate David Bulova** supported revising the fund's framework and suggested a budget amendment to secure necessary funding. Stakeholders raised questions about including Common Interest Communities (CICs) as eligible entities, with no final decision made. The group acknowledged the importance of modernizing the program to better address fiscal stress in urban areas, but further revisions will be required to finalize the proposal.

**Outcome:** Further revisions will be made based on the feedback provided, particularly around the definition of qualifying entities and program structure. The legislation **will move forward** with the Virginia Housing Commission and be revisited on December 17th at 1:00 p.m. for further consideration.

**Zoning for Certified Recovery Residences**

*Delegate Carrie Coyner*

**Delegate Carrie Coyner** discussed proposed changes to zoning requirements for certified recovery residences. The changes would require operators to submit the name of a responsible party to DBHDS while ensuring the addresses of these residences are not publicly listed but are available to local governments for oversight. She said the goal is to balance privacy protections for residents with accountability and compliance with local zoning laws. **Coyner** emphasized that these changes focus on operational requirements rather than clinical treatment. While the group supported the general direction of the proposal, no final consensus was reached, and further refinement will be needed before moving forward.

**Outcome:** No final consensus was reached, and discussions will continue in subsequent meetings **without the Virginia Housing Commission's endorsement.**

**Virginia Housing Opportunity Tax Credit (HOTC)**

*Susan Gaston, Gaston Group*

**Susan Gaston** presented updates to the Virginia Housing Opportunity Tax Credit (HOTC), highlighting the program's critical role in addressing housing affordability across the Commonwealth. Gaston explained that the current program, tied to the federal Low-Income Housing Tax Credit (LIHTC), is set to expire in 2026, and the proposed changes aim to extend its expiration date to 2031 and improve efficiency and flexibility. The bill proposes increasing the annual allocation from \$60 million in earlier years to \$250 million starting in 2026, with a total cap of \$1.505 billion across all years. Gaston

emphasized that this increase would allow Virginia to better address its housing needs, particularly in rural and underserved areas, by creating more housing units for low- and moderate-income residents.

One significant proposal is shortening the credit period from 10 years to five years, which would help increase equity pricing by driving more upfront investor interest. **Gaston** also discussed the potential for introducing transferable tax credits, a mechanism already in use in nine states, including California, Texas, and Massachusetts. Transferable credits could expand the investor pool by allowing tax credits to be sold, making the program more attractive to industries and investors who might not otherwise participate. However, **Gaston** cautioned that safeguards must be implemented to ensure this change does not devalue the credits or reduce their overall impact.

The bill also proposes redefining rural and urban allocations to match U.S. Census definitions, which would provide a more granular understanding of community needs and ensure that 33% of annual allocations are reserved for non-urban areas. **Brian Koziol** added that the current credit structure provides roughly \$0.50 on the dollar and recommended reforms to increase equity returns, ensuring greater efficiency in generating affordable housing. There was also discussion about the program's scalability, with **Delegate David Bulova** noting that the proposed changes make the program more flexible and impactful while still requiring an appropriations bill to fund the additional credits.

Although some participants debated whether the program should move to an allocated versus certificated system, there was agreement to extend the current program for five more years while exploring these potential changes in future discussions. **Gaston** concluded by emphasizing that HOTC remains one of the fastest ways to address Virginia's housing affordability crisis, and the proposed changes would ensure the program continues to meet the evolving needs of the Commonwealth.

**Outcome:** The Workgroup recommends the program be extended for five years, with certification and allocation models revisited in 2025. **It will be discussed at the full Commission meeting on December 17<sup>th</sup> at 1 p.m.**

#### **Public Comment:**

**Panayotis Giannakouros** raised concerns about the environmental impacts of lawns and stormwater management.

**Bruce (Gardener from Shenandoah)** advocated for reducing grass dependency and promoting pollinators.

#### **Conclusion:**

The meeting was adjourned at 11:30 a.m.

The Full Virginia Housing Commission will meet on December 17, 2024, at 1:00 p.m. in Senate Room C of the General Assembly Building.

# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair  
DELEGATE CARRIE E. COYNER, Vice-Chair  
ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

### AGENDA

Affordable Housing and Landlord/Tenant Law Work Group  
Tuesday November 26, 2024; 1:00 p.m.  
Senate Room C, the General Assembly Building

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- I. **Welcome and Call to Order**  
*Senator Ghazala F. Hashmi, Chair*
  - II. **Overview of the Agenda**  
*Elizabeth Palen, Executive Director, Virginia Housing Commission*
  - III. **Overview of Greater Virginia Women's Affordable Housing Network**  
*Hope Rutter, Virginia Housing*
  - IV. **Prohibited Acquisition of Residential Land; Restrictions; Civil Penalty – (SB 693, Sturtevant, G., 2024)**
  - V. **First-Time Homebuyer Tax Credit – (SB 555, Williams Graves, A., 2024)**
  - VI. **Income Tax Credit; Adaptive Repurposing of Underutilized Structures – (SB 512, Williams Graves, A., 2024)**
  - VII. **Updates**
    - **Real Property Tax Assessments for Affordable Housing**  
*Isabel McLain, Virginia Housing Alliance*
    - **Affordable Housing on Religious Property**  
*Joe Lerch, Virginia Association of Counties*
    - **Disclosures Specifically Related to Fly-Over Zones**  
*David Albo, Williams Mullen Government Relations Attorney Representing Metropolitan Washington Airports Authority*
    - **Virginia Residential Landlord and Tenant Act; Early Termination of Rental Agreement**  
*Senator Russett Perry*
    - **Flood Related Disclosures**  
*Delegate Phil Hernandez*
    - **Eviction Diversion Program**  
*Elizabeth Palen, Virginia Housing Commission*
  - VIII. **Public Comment**
  - IX. **Adjourn**
-



# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

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### Summary

Affordable Housing and Landlord Tenant Law Workgroup Meeting  
Tuesday, November 26, 2024; 1:00 p.m.- 3:54 p.m.  
Senate Room C, the General Assembly Building

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### Introduction:

Senator Ghazala Hashmi, Chair of this Workgroup, called the meeting to order at 1:04 p.m.

Members present: Senator Ghazala F. Hashmi (Chair), Senator Mamie E. Locke, Delegate David L. Bulova, Ashley Welburn (Gubernatorial Appointee), Director Elizabeth A. Palen, Bismah Ahmed (*Apartment and Office Building Association of Metropolitan Washington*), Robert Bradshaw (*Independent Insurance Agents of Virginia*), Andrew Clark (*Home Builders Association of Virginia*), Mark Flynn (*Virginia Municipal League*), Troy Garret (*Virginia Association of Housing & Community Development Officials*), Randy Grumbine (*Virginia Manufactured and Modular Housing Association*), Kelly Harris-Braxton (*Virginia First Cities*), Monique Johnson (*Virginia Housing*), Erin Kormann (*Virginia Association of Realtors*), Brian Koziol (*Virginia Housing Alliance*), Joe Lerch (*Virginia Association of Counties*), Renee Pulliam (*Thalhimer Realty*), Elizabeth Steele (*GRS Title Services*).

Staff and speakers present: Molly Bowers, Senator Russett Perry, Senator Glen Sturtevant, Delegate Phil Hernandez, David Albo, Laura Dobbs, Isabel McLain, Hope Rutter.

Members absent: Delegate Daniel W. Marshall III, Delegate Adele Y. McClure, Joshua Goldschmidt (*Gubernatorial Appointee*), Martin Johnson (*Gubernatorial Appointee*)

The meeting began with introductions and opening remarks followed by presentations and discussion.

Materials presented at the meeting are accessible through the [Commission's website](#).

### Presentation: Overview of Greater Virginia Women's Affordable Housing Network

*Hope Rutter, Virginia Housing and Elizabeth Steele, GVA and Workgroup member*

Hope Rutter explained that the Greater Virginia Women's Affordable Housing Network (GVA WAHN) was established in 2007 in Atlanta and has since grown into a national organization supporting women

in the affordable housing industry. The Virginia chapter officially formed in January 2024, with the goal of establishing a chapter in every state to advance affordable housing through a strong network of women and allies. She noted that the current board consists of nine members, with plans to expand to 15, and emphasized that membership is free. Rutter shared that GVA WAHN provides 15 leadership positions and over 40 committee roles, offering opportunities for coaching from female industry leaders, as well as future plans for scholarships and conference attendance.

Liz Steele added further context about the challenges women face in the housing industry, citing that only 33.2% of executive roles in Virginia's housing sector are held by women, according to McKinsey & Company, even though women represent more than half of the workforce. She highlighted that GVA WAHN's initiatives, such as networking events, mentorship programs, and service-oriented committees, are designed to address these disparities and support career advancement. Steele also noted the importance of allyship and collaboration in helping women advance in their careers. Looking ahead, she shared that GVA WAHN's goals for 2025 include increasing accessibility for members statewide and continuing advocacy for affordable housing and equity within the industry.

### **Virginia Residential Landlord and Tenant Act; Early Termination of Rental Agreement**

*Senator Russett Perry*

**Senator Russett Perry** proposed amendments to the Virginia Residential Landlord and Tenant Act to allow tenants who are victims of abuse or crime to terminate their leases early under certain conditions. **Senator Perry** explained that the bill would permit tenants to provide 30 days' notice before breaking their lease if a warrant, summons, or indictment had been issued against the abuser, or if a permanent protective order had been granted. She emphasized that this would help victims escape dangerous living situations more quickly, addressing the current lengthy and financially burdensome process. Emergency protective orders, however, were excluded from the proposal due to concerns about potential fraud and lack of judicial oversight.

### **Questions and Discussion**

**Delegate Bulova** raised concerns about the possibility of older cases being used to justify lease termination, suggesting the bill should only apply to active or recent offenses.

**Senator Perry** acknowledged this concern and noted that people often return to live with their abusers, even years later, which complicates the issue.

**Erin Kormann** proposed linking the lease termination provision to incidents occurring during the lease term or while living on the property, **Senator Perry** was agreeable to adding this provision.

**Bismah Ahmed** voiced concerns about the potential for fraudulent misuse of protective orders, particularly with emergency orders, which **Perry** agreed could be problematic and agreed to the need for compromise in focusing on preliminary protective orders.

**Laura Dobbs** asked whether harassment or actions by building personnel would be covered under the legislation. **Senator Perry** clarified that such issues, like bribery or extortion, would not fall under the scope of this proposal.

Despite these concerns, **Senator Perry** noted bipartisan support from Senator Stanley, suggesting that the bill has potential for broader legislative approval.

**Outcome:** The workgroup voted to **support this legislation** with the understanding that it will continue being worked on. It will be discussed at the full Virginia Housing Commission meeting on December 17<sup>th</sup> at 1 p.m.

## **Flood Related Disclosures**

*Delegate Phil Hernandez*

**Delegate Phil Hernandez** proposed amendments to the Virginia Residential Property Disclosure Act to improve transparency about flood risks during property transactions. The legislation requires property owners to disclose their "actual knowledge" of specific flood-related risks to potential buyers (line 168). Key provisions include the requirement to disclose if the property is:

1. A "repetitive risk loss structure," meaning it has had two or more claims exceeding \$1,000 paid by the National Flood Insurance Program within any rolling 10-year period since 1978 (line 165)
2. Located wholly or partially within the 100-year Special Flood Hazard Area (SFHA), the 500-year Moderate Risk Flood Hazard Area, or more than one floodplain (lines 169-172)

The disclosures must be made using a form provided by the Real Estate Board and accessible on its website (line 174). Buyers are encouraged to consult FEMA maps and other resources to understand the flood risk and consider purchasing flood insurance, even if not required by lenders (lines 70-75).

**Outcome:** The Workgroup **voted to recommend this legislation to the full Housing Commission**. Erin Kormann abstained.

## **Prohibited Acquisition of Residential Land; Restrictions; Civil Penalty**

*Senator Glen Sturtevant*

**Senator Glen Sturtevant** introduced a revised version of SB 693 from the 2024 General Assembly Session, which he said seeks to prohibit large investment firms, defined as "prohibited businesses," from acquiring single-family homes in Virginia. The bill defines "prohibited businesses" as entities managing pooled funds with \$50 million or more in assets under management (line 33–37). Nonprofits (501(c)(3)) and organizations engaged in constructing or rehabilitating single-family homes are excluded. The term "single-family homes" specifically excludes condominiums, townhouses, multifamily properties, unoccupied foreclosed homes, and homes used as a primary residence by individuals associated with prohibited businesses (line 38–44). The prohibition would take effect on July 1, 2025, to protect Virginia's housing market and make homes more accessible to individual buyers (line 45–48).

During the meeting, Sturtevant referenced data from Redfin showing that hedge funds and large investment firms have increasingly purchased affordable housing. For example, 11.1% of single-family

homes in Virginia Beach and 8.7% in the Washington, D.C., metro area were purchased by such entities, with Virginia Beach homes having a median price of \$125,000 and D.C. homes a median of \$471,000. Sturtevant argued that while Virginia's housing market issues are less severe than states like California, these numbers justify proactive measures to prevent the state from becoming a target for large-scale acquisitions.

## Questions and Discussion

**Delegate Bulova** asked whether the bill focuses on renting or flipping homes. **Sturtevant** clarified that it targets firms acquiring properties, holding them off the market, and using technology to optimize sales or rental prices (line 45–48). **Bulova** also raised constitutional concerns about restricting American-owned businesses. **Sturtevant** acknowledged that these concerns would need further exploration.

**Senator Hashmi** asked whether the data supported the urgency of the legislation in Virginia, given that the percentages of institutional purchases are lower compared to other states. **Sturtevant** emphasized the economic impact of the Virginia Beach and D.C. metro markets and the potential for the issue to grow if left unchecked.

**Laura Dobbs** noted racial disparities, pointing out that large investment firms disproportionately target properties in minority communities, raising equity concerns.

**Erin Kormann** asked about enforcement, such as how violations would be handled or transactions prevented from slipping through. **Sturtevant** suggested that enforcement mechanisms could be addressed in future legislative efforts.

**Andrew Clark** echoed Bulova's concerns, cautioning against overly restricting American buyers and asking about the reliability of the data used to justify the proposal.

The workgroup did not endorse the bill but suggested that Senator Sturtevant track data and refine the proposal for future consideration.

**Outcome:** The Workgroup **did not recommend the legislation for endorsement** by the Full Housing Commission.

## Real Property Tax Assessments for Affordable Housing

*Isabel McLain, Virginia Housing Alliance*

**Isabel McLain** from the Virginia Housing Alliance provided an update on efforts to simplify real property tax assessments for affordable housing by standardizing the income approach as the primary valuation method. She said that this approach focuses on the income generated by the property rather than traditional market-based assessments, which often overvalue affordable housing and create financial burdens for providers. Despite progress, **McLain** noted that no consensus has been reached among stakeholders, including VACo (Virginia Association of Counties) and VML (Virginia Municipal League). **McLain** said a significant challenge lies in obtaining accurate income and expense data from property owners, as current laws requiring this information for appeals are not consistently enforced.

Additionally, she said localities expressed concerns about liability, particularly if assessors fail to capture accurate data, which could result in costly appeals or legal disputes.

**McLain** shared that the Department of Taxation has begun developing a training module to educate assessors on the income approach, which was seen as a promising step toward improving consistency and accuracy in assessments.

### **Questions and Discussion**

**Andrew Clark** raised concerns about affordable housing providers potentially losing their property rights during the appeals process rather than focusing on deadlines for submitting income and expense forms. This issue remains unresolved, but **McLain** highlighted the need for clearer enforcement and guidance.

**Monique Johnson** praised the Department of Taxation's training modules, stating they will benefit both assessors and housing providers by ensuring a more consistent application of the income approach.

**Isabel McLain** stated that while she also thinks the training will be beneficial, the Virginia Housing Alliance believes that a legislative solution is necessary.

**Outcome:** The Workgroup **did not vote to support this legislation.**

### **Disclosures Specifically Related to Fly-Over Zones**

*David Albo, Metropolitan Washington Airports Authority (MWAA)*

**David Albo** introduced a proposed amendment to Virginia's property disclosure laws to address issues related to airport noise for properties near public-use airports. **Albo** said the bill requires sellers to disclose whether a property is located near an airport or within an aircraft noise zone. He said it mandates the Real Estate Board to provide an active internet link on its website to maps from the Department of Aviation or public-use airports, showing Day-Night Average Sound Levels (DNL) in noise zones. **Albo** said that these maps must comply with FAA modeling standards and reflect local zoning overlays where applicable. The proposal transitions from affirmative disclosures, which explicitly notify buyers, to a passive disclosure system, where buyers are encouraged to independently review noise maps provided via the link. **Albo** said this shift is intended to reduce the burden on sellers while maintaining transparency.

During the discussion, **Albo** highlighted the longstanding tension between airport operations and residential development under flight paths, noting that complaints from residents have even led to nighttime flight restrictions at some airports, such as Dulles. **Albo** said the new system would ensure buyers have access to accurate noise zone information while placing the responsibility for review on them.

### **Questions and Discussion**

**Senator Hashmi** noted potential challenges for rural residents and first-time buyers who may lack reliable internet access.

**Senator Locke** asked the difference between this proposal and affirmative disclosures required for military base zones.

**Erin Kormann** suggested refining the language to align with other sections of the statute and raised technical questions about incorporating an internet link directly into the Code. In response, **Albo** cited improvements in internet accessibility through federal funding programs like BEAD and emphasized that the passive system still empowers buyers with the tools they need to make informed decisions.

The proposal was praised by **Delegate Bulova** as a thoughtful compromise that addresses the issue uniformly across the state. Minor adjustments to clarify language about map access and functionality were suggested. Ultimately, the workgroup approved the proposal with these tweaks, with all members voting in favor except Erin Kormann, who abstained.

**Outcome:** The **Workgroup recommended this legislation** to be discussed at the Full Virginia Housing Commission meeting on December 17<sup>th</sup>.

### **Affordable Housing on Religious Property**

*Joe Lerch, VACo and Laura Dobbs H.O.M.E.*

**Joe Lerch** from the Virginia Association of Counties (VACo) and **Laura Dobbs** from Housing Opportunities Made Equal (H.O.M.E.) presented legislation concerning addressing affordable housing development on religious property. The small group coming to comprise on this legislation was made up of representatives from VACo, H.O.M.E., VML, Virginia Housing, Homebuilders, realtors and the Virginia Housing Commission. This effort stemmed from the recognition that many religious organizations own underutilized land that could be repurposed for affordable housing. The small group focused on refining the language in Senate Bill 233 from the 2024 General Assembly Session, particularly the addition of Paragraph D, which outlines permitted uses within designated overlay districts, urban development areas, or through special exceptions.

Initially, VACo opposed the bill due to concerns over granting by-right zoning authority for such projects. In response, the workgroup worked on defining key terms, including “low-income” and “religious organization,” and ensuring compatibility with localities’ plans and ordinances. **Lerch** said the revised bill aims to create clear definitions and parameters for religious organizations to develop affordable housing while respecting local zoning processes. Discussions also included relocating provisions from Title 36 to Title 15.2 to better align with existing zoning laws. While there was consideration of expanding the bill to include other nonprofits, the decision was made to retain the focus on religious organizations and maintain the existing definition of affordability.

**Senator Hashmi** reminded the workgroup that this legislation was recommended for study after she and Delegate Carr carried it in the last legislative session. She noted that she wanted no decisions to be made on the Virginia Housing Commission legislation until all related bill drafts were reviewed. Subsequently, she introduced two additional independently drafted versions on the topic of the proposed legislation. She asked that they too be part of the discussion. Members, nor the Virginia Housing Commission, had seen the proposed legislation prior to the meeting. A discussion ensued on all pieces of proposed legislation.

**Delegate Bulova** expressed concerns about the provisions in Section A of the VHC Affordable Housing on Religious Property bill, stating that it could override local zoning ordinances and comprehensive plans, granting broad by-right authority to religious organizations. He recommended removing Section A entirely, arguing it could lead to inequitable treatment of properties. **Joe Lerch** agreed, noting that such language might conflict with existing laws requiring similarly situated properties to be treated equally. Both agreed that focusing on Paragraph D would better clarify the bill's scope and intent.

**Senator Hashmi** invited **Sheila Herlihy Hennessee** to speak about one of the new drafts, referred to as "Bill No ???." Hennessee mentioned that the term "Faith in Housing" was more publicly appealing and noted that tax-exempt nonprofits could be included upon request. **Delegate Bulova** raised concerns about the condensed three-month timeline for zoning commission reviews.

**Senator Locke**, citing her position as a former mayor, expressed concerns about the use of "shall" in mandating local actions, such as expedited timelines or fee reductions for religious organizations, which could disproportionately burden already overworked zoning boards

**Joe Lerch** reiterated VACo's opposition to this version of the legislation, stating that it amounted to a mandate and could not be supported. **Senator Locke** also expressed opposition. **Delegate Bulova** warned against using special use permits in a way that overrides local authority, adding that the one-parking-space-per-unit provision in the bill would also create significant challenges.

**Monique Johnson** asked whether appropriations had been included in these discussions. **Delegate Bulova** directed the group to his proposed budget amendment for soft costs, explaining that he had spoken with Fairfax Presbyterian Church about their successful affordable housing project. The church relied on a pro bono lawyer to manage legal and zoning processes, which otherwise would have cost approximately \$100,000. **Bulova** emphasized that his amendment would cover costs for pre-development and zoning processes for all nonprofits while partnering with a 501(c)(3) due to constitutional restrictions on directly funding faith-based organizations. Funds would be available for expenses up to, but not including, construction costs, with a report on outcomes to be submitted to the General Assembly by 2026.

**Elizabeth Palen** raised a question concerning the wealth of the organization and if there should be a means test and if only entities showing need should be considered for funding.

**Outcome:** The group **did not endorse** this legislation.

### **Eviction Diversion Program**

*Elizabeth A. Palen, Executive Director of Virginia Housing Commission*

**Elizabeth Palen** discussed the Eviction Diversion Program originally created as a pilot in 2019 by the Virginia Housing Commission. She explained that it was designed to reduce evictions by offering eligible tenants an opportunity to avoid displacement through court-ordered payment plans. This program operates at the discretion of district court judges, who can refer tenants to the program if they meet specific criteria. To qualify, tenants must meet conditions such as paying 25% of the amount due at the first court hearing and showing proof of financial ability to comply with the payment plan. The

payment plan allows tenants to make structured payments, with the balance divided into three installments due over three months, while continuing regular rent payments. If the tenant complies fully, the eviction case is dismissed. If the tenant defaults, the landlord can proceed without further hearings.

**Monique Johnson** asked whether the program negatively impacts affordable developers.

**Laura Dobbs** expressed her support for the Eviction Diversion Program and emphasized the importance of extending it further to assist more vulnerable populations. She highlighted the need for broader accessibility to address the challenges faced by low-income tenants. **Elizabeth Palen** acknowledged the value of expanding such programs but clarified that the current bill represents a carefully negotiated compromise to balance the interests of landlords, tenants, and courts.

**Renee Pulliam** highlighted inconsistencies in how judges apply the program, sharing examples of judges disregarding statutory guidelines by arbitrarily adjusting timelines or crossing out parts of the payment plan. She emphasized that the bill must clarify judicial responsibilities to ensure compliance with the program's intent. **Palen** agreed and suggested changing to "may" back to "shall" in line 32 of the draft bill.

**Delegate Bulova** supported this adjustment, noting possible misinterpretations in the bill's language.

**Bismah Ahmed** reiterated concerns about judges bypassing guidelines, stressing the need for program oversight while preventing abuse.

**Delegate Bulova** moved for approval, which was seconded, with all members voting in favor except Bismah, who abstained due to lingering concerns about judicial discretion and potential abuse. The proposal reflects an effort to balance tenant protections with judicial flexibility and landlord interests.

**Outcome:** The workgroup **voted to advance the legislation to the full Commission** with a recommendation of changing the "may" on line 32 to "shall". Bismah Ahmed abstained, noting her support for these programs provided they are not subject to misuse.

#### **Public Comment:**

*Panayotis Giannakouros, Virginia Progressives*

Giannakouros proposed repealing restrictions on turf grass to open possibilities for other environmental justice tools.

#### **Conclusion:**

The meeting was adjourned at 3:54 p.m.

The Full Virginia Housing Commission will meet on December 17, 2024, at 1:00 p.m. in Senate Room C of the General Assembly Building.



# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair  
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## VIRGINIA HOUSING COMMISSION

### AGENDA

Virginia Housing Commission Meeting  
Tuesday, December 17, 2024, 1:00 p.m.  
Senate Room C, General Assembly Building

- I. Welcome and Call to Order**  
*Senator Mamie E. Locke, Chair*
- II. Overview of Meeting**  
*Director Elizabeth Palen, Virginia Housing Commission*
- III. How Light-Touch Density and Livable Urban Villages Can Initiate the Housing Abundance Sequence in Virginia**  
*Edward Pinto, Co-director, AEI Housing Center*
- IV. Innovating Mixed-Income Housing Concepts in the United States: Vienna, Austria's Approach**  
*Pamela Kestner, Chief of Staff at Global Policy Leadership Academy, Former Deputy Director at DHCD*
- V. Voting on Endorsement of Potential Legislation**

Virginia Residential Landlord Tenant Act; Early Termination of Rental Agreement
Flood Related Disclosures
Disclosures Related to Fly-Over Zones
Urban Public Private Partnership Redevelopment Fund (UPPPRF)
Virginia Housing Opportunity Tax Credit
Accessory Dwelling Unit Legislation
Eviction Diversion Program Renewal
- VI. Public Comment**
- VII. Adjourn**

# COMMONWEALTH OF VIRGINIA

SENATOR MAMIE E. LOCKE, Chair  
DELEGATE CARRIE E. COYNER, Vice-Chair  
ELIZABETH A. PALEN, Executive Director



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## VIRGINIA HOUSING COMMISSION

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### Summary

Full Virginia Housing Commission Meeting  
Tuesday, December 17, 2024; 1:00 p.m.  
Senate Room C, the General Assembly Building

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### Introduction:

Senator Mamie Locke, Chair, called the meeting to order at 1:00 p.m.

Members present: Senator Mamie Locke, Chair, Delegate Carrie Coyner, Vice Chair, Senator Ghazala Hashmi, Delegate David Bulova, Delegate Briana Sewell, Delegate Adele McClure (virtual), Director Elizabeth Palen, Joshua Goldschmidt (gubernatorial appointee), Martin Johnson (gubernatorial appointee), Ashley Welburn (gubernatorial appointee).

Staff and speakers present: Molly Bowers, Dave Albo, Pamela Kestner (Chief of Staff, Global Policy Leadership Academy), Edward Pinto (Co-Director, AEI Housing Center).

Members absent: Senator Bill Stanley, Delegate Daniel Marshall.

Senator Locke opened the meeting with a welcome. She introduced Director Elizabeth Palen, who provided an overview of housing-related statistics and trends, including declining mortgage rates, increasing housing prices, and demographic preferences for larger homes. Palen noted the Commission's focus on innovative housing solutions and legislative priorities for the 2025 session.

Materials presented at the meeting are accessible through the [Commission's website](#).

### Presentations

#### **How Light-Touch Density and Livable Urban Villages Can Initiate the Housing Abundance Sequence in Virginia**

*Edward Pinto, Co-director, AEI Housing Center*

**Edward Pinto** stated that Virginia faces significant housing challenges, emphasizing the decline in affordability and limited availability of entry-level housing for middle- and lower-income households. He argued for the need to move beyond subsidized housing models and focus on creating naturally affordable

housing by increasing supply through zoning reform. Edward proposed "Light-Touch Density" (LTD) and "Livable Urban Villages" (LUV) as key strategies to initiate a "Housing Abundance Sequence" in Virginia.

He explained that LTD involves moderate increases in housing density, such as allowing duplexes, triplexes, or townhomes in areas zoned for single-family homes, which he said would reduce costs and increase affordability without subsidies. Similarly, he said that LUV promotes higher-density development in underutilized commercial and industrial areas, creating walkable, mixed-use communities that reduce infrastructure costs and sprawl.

**Pinto** highlighted examples where increased housing density improved affordability and argued that Virginia's legislative and local policies should prioritize by-right zoning, simplified land-use rules, and streamlined permitting. He pointed to successful reforms in Montana as a model Virginia could emulate and emphasized that policies like smaller lot sizes, infill development, and more flexible zoning could significantly expand the state's housing stock and address affordability issues.

### **Innovating Mixed-Income Housing Concepts in the United States: Vienna, Austria's Approach**

*Pamela Kestner, Chief of Staff at Global Policy Leadership Academy, Former Deputy Director at DHCD*

**Pamela Kestner** presented on Vienna, Austria's housing model and how it offers an innovative framework for tackling mixed-income housing challenges in the United States, emphasizing sustainability, inclusivity, and the principle of housing as a human right. She explained that Vienna intentionally develops mixed-income communities, with the city government actively acquiring, funding, and managing housing to meet demand, producing 5,000–10,000 homes annually. She said that Vienna ensures affordability through rent restrictions, social housing zoning requirements, and tenant protection policies like rent control and eviction prevention.

She highlighted that 60% of Vienna's residents live in social housing, spending only 27% of their income on housing, with effectively no homelessness or housing insecurity. Kestner said that policies prevent displacement, foster social integration, and include pathways to homeownership. Kestner emphasized the lessons Vienna offers for U.S. cities, such as building at scale on public lands, restoring the government's role in infrastructure development, and securing permanent funding.

**Kestner** highlighted Vienna's five-pillar framework: production, preservation, equity promotion, tenant protection, and displacement prevention. She also described U.S. communities, including Montgomery County, Atlanta, and California, that have begun adopting Vienna's principles. Kestner invited the Commission to participate in a Vienna field study, emphasizing its potential for addressing Virginia's housing challenges.

### **Voting on Potential Legislation**

The Virginia Housing Commission voted on the following legislative proposals for endorsement in the 2025 General Assembly Session:

#### **1. Virginia Residential Landlord Tenant Act; Early Termination of Rental Agreement**

The Commission endorsed a bill that expands the conditions under which tenants can terminate their leases before the end of the lease date. The proposed legislation adds stalking and human trafficking offenses to the list of qualifying conditions for ending the lease. The legislation allows termination based on emergency or preliminary protective orders or issued warrants.

The bill was endorsed unanimously

**2. Flood Related Disclosures**

A proposed bill requiring property owners to disclose flood risks was not recommended by the workgroup and, therefore, was not taken up for a vote by the Commission.

**3. Disclosures Related to Fly-Over Zones**

The Commission endorsed a bill adding disclosures about proximity to public-use airports and aircraft noise to the "Buyer Beware" residential property disclosure statement. The disclosure advises purchasers to exercise due diligence by reviewing available maps depicting public-use airport aircraft noise zones and provides guidance for accessing this information. Specifically:

**Line 18:** Adds language advising that "the owner makes no representations or warranties with respect to the property's proximity to a public-use airport or aircraft noise zones."

The legislation was endorsed unanimously.

**4. Urban Public Private Partnership Redevelopment Fund (UPPPRF)**

The Commission endorsed updates to the Urban Public-Private Partnership Redevelopment Fund. Originally enacted in 2000 but never capitalized, the updated bill broadens the fund's scope to include grants, revolving loans, and other financial tools to assist localities in assembling, clearing, and remediating underutilized land. It also expands eligible partners to include nonprofits, local governments, regional authorities, and property owners' associations.

The bill was endorsed unanimously.

**5. Virginia Housing Opportunity Tax Credit**

The Commission endorsed a bill extending the sunset for the Virginia Housing Opportunity Tax Credit to 2031. Key changes include the addition of the "Balance of State Pool," as defined in §42 of the Internal Revenue Code, for allocating tax credits and amending specific language for flexibility. Key changes include:

**Line 9:** Introduces the "Balance of State Pool," aligning tax credit allocations with federally defined criteria under §42 of the Internal Revenue Code.

**Line 47:** Specifies an extended credit period for projects awarded tax credits prior to 2031, ensuring long-term funding continuity.

**Line 158:** Amends the language from "shall" to "may" to provide flexibility in prioritizing projects for federal low-income housing tax credits on a per-project basis.

The bill was endorsed unanimously.

**6. Accessory Dwelling Unit Legislation**

The Commission endorsed legislation requiring localities to consider accessory dwelling units (ADUs) in their comprehensive plans. This approach acknowledges the diversity of Virginia's localities and facilitates the inclusion of ADUs without requiring ordinances.

The bill was endorsed unanimously.

**7. Eviction Diversion Program Renewal**

The Commission endorsed a bill expanding the eviction diversion program, which allows courts to help tenants facing temporary financial challenges that have caused rent arrears. The bill provides an option for courts to implement the program at their discretion while maintaining clear parameters for its operation.

**The bill was endorsed unanimously.**

**Public Comment:**

*Panayogis Giannakouros, Statistician*

*Giannakouros* advocated for a modular approach to incorporating environmental considerations into every planning process, ensuring that green infrastructure and sustainability are prioritized. He mentioned legislation from former Delegate Emmet Hanger.

**Conclusion:**

The meeting was adjourned at 2:14 p.m.