

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

Summary

Neighborhood Transitions, Local Land Use and Community Living Workgroup Meeting
Thursday May 22, 2025; 1:00 p.m.
Senate Room C, the General Assembly Building

Introduction:

Delegate David Bulova, Chair, called the meeting to order at 1:05 p.m.

Members present: Delegate David Bulova, Delegate Carrie Coyner, Delegate Daniel Marshall (virtual), Senator Ghazala Hashmi, Ashley Welburn, *Gubernatorial Appointee*, Director Elizabeth Palen, Bismah Ahmed, *Apartment and Office Building Association of Metropolitan Washington*, Andrew Clark, *Home Builders Association of Virginia*, Fabrizio Fasulo, *Virginia Housing*, Troy Garrett, *Virginia Association of Housing & Community Development Officials*, Randy Grumbine, *Virginia Manufactured and Modular Housing Association*, Kelly Harris-Braxton, *Virginia First Cities*, Joseph Hudgins, *Independent Insurance Agents of Virginia*, Erin Kormann, *Virginia Association of Realtors*, Christie Marra, *Virginia Poverty Law Center*, Pia Trigiani, *Common Interest Communities Attorney*.

Staff present: Molly Bowers, Jesseca Hoff

Speakers Present: Delegate Michelle Maldonado, Delegate Holly Seibold, Teresa Birkhead, *resident at Captain's Cove*, Mark Bumgartner, *Pender & Coward*, Ben Hoffstadter, *licensed amateur radio operator*, Steve Radloff, *President of Selma Estates and ham radio operator*.

Members absent: Senator William Stanley, Joshua Goldschmidt, *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](#).

HB 2542 (Seibold, 2025) Common Interest Communities; Amateur Radio Antennas Permitted

Delegate Holly Seibold presented [HB 2542](#) from the 2025 General Assembly Session, stating it aimed to prevent Homeowners Associations (HOAs) from prohibiting amateur radio antennas, citing constituent needs. She provided materials from a national ham radio association, noting the Federal Communications Commission's (FCC) stance on private land use and the importance of amateur radio for STEM education and as critical emergency infrastructure. She referenced Over-the-Air Reception Devices ([OTARD](#)) rules and the Telecommunications Act of 1976. She expressed a desire for Virginia to lead on this initiative, highlighting what she termed amateur radio's key responsibilities, its consideration as critical infrastructure, and its contributions to STEM education. She provided visual examples of legally permitted antennas (TV, satellite dishes, flagpoles)

contrasted with what she presented as a minimal example of a ham radio antenna, suggesting its installation would not be obstructive.

Ben Hoffstadter, a constituent and licensed amateur radio operator since approximately 1998, described amateur radio as a STEM-learning hobby and a community service during communication failures, highlighting its use by mass communications partners and the Skyward spotter network. He emphasized the necessity of effective outdoor antennas and said that nearly a quarter of Virginians live in HOAs with restrictive covenants.

Pia Trigiani, a Common Interest Communities attorney, stated that federal law does not preempt common interest community (CIC) covenants on this matter. She referenced the Telecommunications Act of 1996, which she claimed disallowed large satellite dishes but permitted smaller ones under certain conditions, arguing that restrictions on antenna placement on common elements apply to all residents and relate to purchase expectations. **Trigiani** argued that **Delegate Seibold's** bill, as drafted, problematically applied to POAs, condominiums, and co-ops. She noted that installing antennas on common elements in condominiums (which she described as owned in undivided interest by all unit owners) or co-ops raises significant issues regarding property rights and maintenance (e.g., roof integrity), different from single-family lots. She stated her view that restrictive covenants are for the benefit of all owners, creating an expectation of protection from certain installations on neighboring properties or common areas. She expressed that communities should have the freedom to decide their aesthetic and operational standards through their architectural review process. She presented data which she said indicated a declining trend in the number of active ham radio operators nationally and in Virginia.

Steve Radloff, President of Selma Estates and a ham radio operator, discussed practical aspects of antenna use, including improvised and concealed antennas. He contrasted common fears of large, obtrusive towers with more discreet options. He emphasized his belief that antenna performance is key but acknowledged the need for trade-offs. He shared his observation that some ham antennas resemble authorized TV antennas, and satellite dishes can be converted. At his own home, despite what he stated are HOA prohibitions, he said he uses nine antennas, mostly concealed (e.g., using his front gutter, hidden behind bushes, or in his attic – including an 8.5ft VHF pole and a 40ft HF dipole). He stated these alternatives, while allowing him to make over 18,000 contacts worldwide, are not as efficient as ideally placed outdoor antennas. He showcased other discreet options like wires run to trees, antennas integrated into Martin birdhouses or flagpoles, fold-over/pivot-down antennas, and "flower pot" antennas suitable for apartments/condos. He expressed his opinion that there is no fire hazard at typical 100W power levels. He concluded that while operators improvise, and he understands the importance of community decision-making.

Questions:

Senator Ghazala Hashmi asked Mr. Radloff if the decreased capacity with his alternative antennas was impeded. Mr. Radloff replied that it was a workaround and not an optimum solution. **Hofstadter** added his view that for reliable communication, especially in potential life-or-death situations or poor atmospheric conditions ("propagation"), effective outdoor antennas with height and rotation are often necessary.

Chair Bulova asked Delegate Seibold about the bill's scope regarding common elements versus individually owned property. **Delegate Seibold** said she recalled a DLS suggestion to keep language covering condos/co-ops due to a concern that its removal might inadvertently affect single-family homes, but stated her recollection was not precise.

Chair Bulova then asked **Pia Trigiani** if there was any legal impediment to amending the Property Owners' Association Act while leaving the Condominium Act unaddressed. **Trigiani** opined there was not, but noted the bill as drafted specifically addressed installations on roofs and sides, which she considered particularly problematic for condominiums.

Delegate Carrie Coyner questioned if anything currently prevents homeowners from applying to their HOA's architectural review committee to use an antenna. **Hofstadter** replied that his HOA's covenants explicitly prohibit

all antennas except TV antennas, so an application would be futile. **Radloff** added that his HOA's covenants permit only "receive" antennas and prohibit "transmit" and ham radio antennas.

Delegate Coyner commented that while no state law prevents such applications, an HOA may have legally binding restrictive covenants. She suggested pathways for change within HOAs (e.g., running for the board, amending covenants, or choosing a community without such restrictions). She expressed concern about the state interfering with private contracts, drawing an analogy to her own hobby of gardening, which is also subject to HOA rules.

During discussion, **Mr. Hoffstadter** reiterated the need for effective outdoor antennas for reliable emergency communication. **Delegate Bulova** asked about the bill's scope regarding property types and Department of Legislative Services (DLS) recommendations. It was stated that no other states are known to have similar legislation at this time.

Declarant Control of Residential Developments and the Process for Transitioning Control to Lot Owners (DeSteph and Bloxom)

Director Elizabeth Palen provided an overview, defining "declarant" colloquially as the developer and explaining that Virginia law, unlike its condominium act, does not specify a timeframe for the cessation of declarant control in other common interest communities. She noted Delaware and Pennsylvania have tiered step-down laws.

*** The Virginia Housing Commission Workgroup will study declarant control throughout the Commonwealth. No decisions will be made regarding particular HOA issues currently under litigation.***

Teresa Birkhead, a resident of Captain's Cove, presented extensive concerns regarding prolonged declarant control in her community. She recounted a history of issues spanning decades, including: the current declarant (CCG Note, LLC, associated with Tim Hearn) maintaining control for 13 years; disputes over road completion and common area transfers; a \$3M declarant-financed loan with a balloon payment impacting the association; and the declarant allegedly using association dues for infrastructure development that she stated should be the declarant's responsibility. **Birkhead** asserted the community had successfully self-managed for 39 years prior to the current extended declarant control and reported intimidation against members who questioned the declarant. She requested legislative intervention, including laws for transitioning control and protecting member property rights, and provided handouts with specific issues and recommendations. Her [presentation](#) and [handouts](#) are posted at vhc.virginia.gov/meetings.

Mark Baumgartner of Pender & Coward, representing CCG Note, LLC, stated that declarant control was necessary to attract investment for crucial infrastructure like the wastewater treatment facility. He described Captain's Cove (4,800 lots, platted in 1969) as fairly unique. At its inception, he said, the subdivision ordinance did not require paved roads or much of today's mandated infrastructure. By 2000, he stated only the main road and some waterfront lots were paved. The original developer (First Charter Land, Mr. Burns) held approximately 2,000 lots, with only 300-400 houses built. The community had a private water and wastewater facility regulated by the SCC, which he said lacked the critical mass of users for viability and was in severe need of improvements. In 2004, Captains Cove Group acquired under the first declarant and began infrastructure improvements. Mr. Baumgartner emphasized that actual control of the association transitioned in the 1970s. He stated the current board comprises eight members (one alternate), with four being community members and three representing the Declarant, meaning the board itself is "actually controlled by the community." He acknowledged the Declarant's 3-to-1 voting rights per lot but asserted these rights have "never changed the results of any election" to his knowledge. Following the 2008 market crash, the then-developer (Captains Cove Group) went bankrupt and stopped funding the wastewater facility. The SCC ordered its continued operation. CCG Note, LLC, then came in and, according to Mr. Baumgartner, developed a strategy to build the community to a sustainable point, which necessitated infrastructure development to support the wastewater facility and increase the number of dues-paying lots.

He presented data: in 2012, there were 800 homes and 1,700 dues-paying lots, with developer lots scattered throughout. By 2025, he reported 1,300 homes, 2,900 dues-paying members, and 26 miles of paved roads, with a much stronger association budget. This was achieved, he said, through strategies like foreclosing on lots with unpaid dues and recommended "lot swaps" (trading unbuildable lots owned by dues-paying members for buildable lots owned by the association/declarant to consolidate development and increase viable, dues-paying properties).

Mr. Baumgartner contended that without the ability to have declarant control and involvement (which he characterized as "persuasion of the Declarant with the community members that are on the board to work together"), no developer would have invested in finishing the subdivision, and the wastewater facility would not have survived.

Andrew Clark, *Home Builders Association of Virginia*, asked about who the current developers are and what the plan is going forward. **Mr. Baumgartner** said CCG Note, LLC is the current developer. Regarding the future plan, he stated the wastewater utility was built up and sold to Aqua Virginia, a significant achievement that required the developer to deed over land for future Rapid Infiltration Basins (RIBs). He mentioned that an area with wetlands presents extreme development challenges, and an association strategy has been to swap unbuildable lots (if owners are current on dues) in such areas for buildable lots elsewhere to increase viable properties and dues payers. He also noted ongoing efforts to work with national builders (one had been under contract around 2012 but pulled out; another is currently looking) and active steps being taken with the Army Corps of Engineers to gain authority to build on prime waterfront lots, many of which are owned by the association and could generate significant revenue once sold.

Delegate Bulova proposed forming a small working group to address this issue, suggesting representatives from The Virginia Housing Commission, Virginia Municipal League or Virginia Association of Counties, the Home Builders Association of Virginia, the Community Associations Institute, and Delegate Coyner.

Right of First Refusal

Chair Delegate David Bulova introduced the topic, noting it was brought to the Commission by Senator Bill Stanley and the Mayor of Alexandria for study. He also referenced Delegate Elizabeth Bennett-Parker's [HB 1973](#) from the 2025 session, which concerned a similar issue and was vetoed. **Chair Bulova** stated that the day's discussion was a starting point.

Jessica Hoff, *Virginia Housing Commission*, presented on the use of Right of First Refusal (ROFR) and other purchase opportunity policies to create and preserve affordable housing. She explained that in housing policy, a Right of First Refusal (ROFR) is a contractual right allowing an interested party (typically local governments or state agencies) the first opportunity to purchase housing units under the same terms and conditions an owner would offer to a third party. She stated that this is primarily implemented to create or preserve affordable housing units, giving local governments an exclusive period to assemble financing and make an offer, as they might otherwise struggle to compete with market-rate developers.

She distinguished ROFR from a Right of First Opportunity or Right of First Offer (ROFO), where an owner must notify the right-holder and wait a specified period before marketing the property but is under no obligation to sell to that right-holder.

Hoff outlined the general structure of ROFR policies: a triggering event (e.g., owner's decision to sell, conversion to market-rate housing, expiration of affordability provisions), a notification requirement, a time frame for exercise, and the right to match or exceed an offer. She explained if the right-holder declines, the owner can sell to a third party. She expressed that commonly, these policies aim to preserve or provide a long-term source of affordable housing. Most statewide statutes limit ROFR applicability to dedicated affordable housing, though some localities have expanded this to include unsubsidized rentals or naturally occurring affordable housing (NOAH). ROFR can also be used to combat displacement. Entities other than local governments, such as non-profits, for-profit developers, and community development associations, may also be granted ROFR.

Questions:

Christy Marra, *Virginia Poverty Law Center*, asked if the research included or planned to include ROFR for manufactured home communities. **Hoff** responded that her primary focus was on multifamily affordable properties and naturally occurring affordable housing, though she noted some states have separate provisions for manufactured housing.

Chair Bulova asked about Maryland's "fair market value" (FMV) provision and whether a developer was obligated to accept such an offer. **Hoff** confirmed this was the case and that Maryland has a process for determining FMV. She noted Rhode Island also uses an FMV approach, while other states require the right-holder to match a private buyer's offer.

Fabrizio Fasulo, *Virginia Housing*, asked about the rationale for Colorado's 2030 sunset date. **Hoff** explained it was tied to the goal of preserving over 4,000 specific units at risk of losing affordability by or before 2030, making the six-year period a targeted legislative test.

Chair Bulova expressed some hesitation regarding FMV provisions, likening them to condemnation procedures, and raised concerns about the time involved in ROFR processes. He asked if any states had notably streamlined processes. **Hoff** mentioned Maryland's relatively efficient process and noted another state with a 14-day exercise period. She contrasted this with longer periods (e.g., 120 days) in some states, while also distinguishing the two-year awareness notices in Oregon and Colorado from the shorter action-triggering notice periods. She indicated many states use periods around 60 days or two weeks, which have been reported as successful. Details on these programs in other states will be published in a paper on the Commission's website.

Feasibility of Establishing Manufactured Home Subdivisions/Zoning Ordinances in Virginia (Maldonado)

Delegate Michelle Maldonado discussed the need for better data on mobile home systems and noted that residents in such communities are often excluded from broader housing relief. As an example, she cited a bill passed the previous year to enhance transparency of fees in rental agreements under the Virginia Residential Landlord and Tenant Act, noting that a similar bill aimed at renters in mobile home communities was vetoed, illustrating what she sees as a consistent pattern of this population not being adequately covered or supported. She stated her primary request is for the workgroup to study ways to facilitate the conversion of mobile homes (currently treated as personal property) into real property. She suggested that when homes are considered personal property, residents miss out on benefits like mortgage relief (as seen during the COVID-19 pandemic) and other resources and opportunities available to real estate owners. She proposed the study explores adjustments, creation, or changes to zoning, planning, and ordinances that would grant localities the flexibility to create mobile home developments (distinct from existing communities), wherein residents who own their mobile homes could also own the land beneath them. This, she suggested, would enable access to mortgages and other opportunities. Delegate Maldonado stressed several key intentions: the proposal would not be mandatory for localities; it would not require the conversion of existing mobile home communities.

Randy Grumbine, *Virginia Manufactured and Modular Housing Association*, supported fee simple ownership for manufactured homes, citing benefits for buyers and localities such as property tax. **Grumbine** acknowledged the industry's past stigma from homes built in the 1960s-1980s with inferior materials but asserted that today's homes are built to a much higher HUD code standard, are energy-efficient (including Net Zero and Energy Star options), and are comparable in quality to other construction types. He called for significant education to combat misinformation, even within local codes. Regarding the specific proposal to expand subdivision control related to manufactured housing, **Grumbine** suggested that it might not be a "significant needle mover" for increasing affordable housing inventory, as localities, in his view, already possess the authority to permit such subdivisions if they choose.

Christy Marra, *Virginia Poverty Law Center*, described manufactured housing as the most affordable unsubsidized homeownership path but noted that land-lease structures limit owner autonomy. She advocated Code changes to prevent localities from prohibiting new manufactured homes and for considering incentives for developing manufactured home subdivisions.

Delegate Bulova referenced a Florida statute concerning manufactured homes meeting specific codes and suggested staff at Virginia Housing Commission look into that statute.

Public Comment:

Several residents from Captain's Cove spoke, reiterating concerns about prolonged declarant control, lack of board representation for dues-paying members, budget opacity, unfulfilled infrastructure promises (like canal dredging), and the financial and emotional strain on residents. Speakers included Laurence Burger, Gini Waslowski, Joyce Almond, Debbe Kitzmiller, Butler Newman and Kelly Schnider. Cathy Pules also requested assistance from Andrew Clark (HBAV).

Conclusion:

Chair Delegate Bulova adjourned the meeting at 3:20 p.m.