

COMMONWEALTH OF VIRGINIA

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



701 EAST FRANKLIN STREET, SUITE
704, RICHMOND, VIRGINIA 23219

vhc.virginia.gov

(804) 967 - 3994

VIRGINIA HOUSING COMMISSION

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 or 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 tears 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 4th. 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.