

COMMONWEALTH OF VIRGINIA

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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 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

DELEGATE CARRIE E. COYNER
DELEGATE DAVID L. BULOVA
DELEGATE DANIEL W. MARSHALL II
DELEGATE ADELE Y. MCCLURE
DELEGATE BRIANA D. SEWELL

SENATOR MAMIE E. LOCKE
SENATOR GHAZALA F. HASHMI
SENATOR WILLIAM M. STANLEY

JOSHUA GOLDSCHMIDT
MARTIN JOHNSON
ASHLEY WELBURN

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 detainer 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

Jessica 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.

Jessica 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.