

VIRGINIA HOUSING COMMISSION

2007 ANNUAL REPORT

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Virginia Housing Commission

April 3, 2007

**General Assembly Building
House Room C**

Meeting Summary

Members Present:

Delegate Terrie Suit, Chair
Senator John Watkins, Vice Chair
Senator Mamie Locke
Senator Mary Margaret Whipple
Delegate John Cosgrove
Delegate Bob Hull
Delegate Danny Marshall
Delegate Melanie Rapp
Mr. Gary Garczynski
Mr. Andy Heatwole
Mr. T.K. Somanath

Delegate Terrie Suit called the meeting to order at 10:12 A.M.

Speakers included Susan Dewey, Executive Director of the Virginia Housing Development Authority (VHDA); Bill Shelton, Director of the Department of Housing and Community Development (DHCD); Jay DeBoer, Director of the Department of Professional and Occupational Regulation (DPOR); Cheri Hainer from the City of Virginia Beach; Frank Eck, representing the Virginia Resort Development Association; and Elizabeth Palen, Commission Coordinator.

Susan Dewey began by giving an overview of the Virginia Housing Development Authority. VHDA serves approximately 30% of the overall housing market, with their primary focus being on the specific needs of low and moderate-income Virginians. They offer affordable, secure alternatives to high-risk loans by offering only long-term and fixed-rate loans. The VHDA does not offer sub-prime loans, which are 3% higher than a standard rate loan. Their mortgage loans continue to perform well; Virginia's foreclosures remain below the national average. Looking ahead, VHDA faces two challenges: capital capacity and affordability. Regarding capital capacity, VDHA has maintained a high loan volume despite the volume cap; however, recycling of loan prepayments is being reduced and reliance on reallocations from unused set asides makes

program volume difficult to manage. Regarding affordability, the ratio of housing cost-to-income remains extremely high, despite healthy income growth. The main factors impacting cost are shortages of developable residential land, constraints on residential densities, and local regulatory fees and proffers. Financing and subsidy programs cannot fully address this issue. VHDA has also expanded its focus to include building strong, sustainable communities, and they are focusing on property management in order to do so. VHDA is also working with developers and localities to support new development models that will help in producing affordable housing. They are taking the lead in financing mixed-use and mixed-income developments to support neighborhood revitalization. Even in a difficult market environment, VHDA is exceeding expectations.

Bill Shelton, Department of Housing and Community Development, provided the commission with an overview of his agency's work. DHCD's role in housing is expanding home ownership options, addressing gaps in affordable housing, decreasing the level of substandard housing, building the capacity of not-for-profit housing developers, and intervening to prevent homelessness by providing shelter and services to those individuals.

Besides housing, DHCD also plays a role in building and fire regulations, where they strive to achieve uniformity in the implementation of the state building and fire codes through training, technical assistance and the appeals process. Developments this year with building and fire codes include updating the codes with an expected effective date of March 2008. The inspection function of the State Fire Marshal was transferred from DHCD to the Department of Fire Programs, effective July 1, 2008.

The DHCD also plays a role in community and economic development. They revitalize distressed areas, foster entrepreneurship, develop community infrastructure, and build more livable communities. Efforts to extend broadband to the Eastern Shore, Northern Neck and Middle Peninsula received increased funding, and the budget conference report transfers \$17 million in funding for Water Quality Improvement Fund.

And finally, developments in housing include an additional \$2.5 million for indoor plumbing assistance and study of IPR program, and the Livable Home Tax Credit was expanded to allow tax credits for new residential construction that will take effect January 1, 2008. After Mr. Shelton's presentation, there were many questions about the cost of indoor plumbing. The cost is usually \$50,000 or more per unit because of the need to put in a well and septic system, and Mr. Shelton stated it is usually more cost effective to build a new home.

Jay De Boer, Department of Professional and Occupational Regulation, gave a presentation on three specific areas within his agency: Common Interest Communities, Fair Housing, and Alternative Onsite Sewage Systems.

The Common Interest Community Management Information Fund promotes the improvement and efficient operation of communities through research and education. The Fund supports various education initiatives, including: "Meet Your Liaison"

Regional Public Meetings, where citizens have a question and answer session with the DPOR liaison; "Before You Buy" Brochure, a guide to homeowner associations; and Property Owner Associations of Virginia Seminars. The liaison position was established by the Virginia General Assembly in 2001, and serves as a resource on issues relating to governance, administration, and operation of common interest communities. In 2006, condominium registration filings decreased by almost 20%. This year, only twenty-eight applications have been received, compared to 180 that were received in 2006.

The Fair Housing Act, established in 1968, offers federal protections for individuals and groups based on race, color, religion, national origin, sex, familial status, or handicap. Virginia takes it one step further by prohibiting discrimination against the elderly; elderly being defined as a person over the age of 55. The Fair Housing Office is the investigative arm of the Fair Housing Board and the Real Estate Board. They investigate complaints and provide training throughout Virginia. The Office has received 162 complaints since the beginning of this fiscal year. The Board found reasonable cause to issue charges in eight of those complaints, and conciliated 17. Legislation was offered this year to amend the composition of the Fair Housing Board. The Board will have one of the two residential property management reps be a member of either a Property Owners' Association or a Condominium Association. The board will be increased to 12 members.

Regarding alternative onsite sewage systems, DPOR is required to license onsite soil evaluators. The regulatory program was originally run by the Health Department, but DPOR will take over as of July 1, 2009, and will add Onsite Sewage System Professionals to the existing Board for Waterworks and Wastewater Works Operators. The board will be expanded to 11 members, adding a citizen member, and onsite soil evaluator, and two onsite sewage system professionals. DPOR is in discussion to resolve some conflicts with the Department of Health over who is qualified to design residential onsite sewage treatment systems.

Finally, an update was given on the Receivership Association Management Fund. Koger Management Group was found to be embezzling funds for the past two years. The Real Estate Board was notified and a motion of injunctive relief was filed. This was possible through § 54.1-2108 of the Code of Virginia, because Koger had a real estate license and posed a danger to his clients. The decision was made that an attorney would be assigned to serve as a monitor to see that compensation payments would be made to the Homeowner's Association.

Cheri Hainer discussed HB 2554 (Ebbin, 2007) which requires all new commercial, industrial, institutional, and multifamily buildings to be constructed or equipped so that emergency public safety personnel may send and receive emergency communications from within them. Currently, the Board of Housing and Community Development is directed to promulgate regulations as part of the Statewide Building Code to require that commercial, industrial, and multifamily structures be so designed or equipped. Emergency communication equipment includes two-way radio communications, signal booster, bi-directional amplifiers, radiating cable systems or internal multiple antenna. This bill requires emergency communication equipment be provided in new buildings

and structures as to allow public safety personnel to send and receive communications. The concern is that the state will not be able to tap into the locality equipment because the equipment may not be the same. A decision was made to notify the Joint Commission on Technology and Science about this bill.

Frank Eck gave a presentation on Time-Share Ownership. In 1975 time shares began to emerge as a form of vacation. In 2006, there were 1,607 timeshare resorts nationwide; there are 6.2 million timeshare intervals owned by individuals. The average age of a timeshare holder is 59, with an income of \$82,500. Of timeshare holders, 84% are married and 78% do not have children living in the household; and over 50% have achieved an education level of Bachelor's degree or higher. The industry itself creates 565,000 jobs and creates \$21 billion in salaries. Virginia is a 60 million person market, and we have 39 projects in the Commonwealth, the 12th largest timeshare market in the country.

Elizabeth Palen briefly discussed the outcome of the bills from the previous session, and went over the bills that might be discussed this coming year. She also touched on the organizational plan for the interim. Currently, there will be five policy areas to study: Residential Land Use and Development, Housing Subsidies and Mortgage Financing, Common Interest Communities, Housing and Environmental Standards, and Coordination of Housing and Community Services, but this is still subject to change. In addition there will be a sub-work group on Onsite Sewerage Issues.

Delegate Suit asked the Commission and audience members to request which work group assignment(s) they would like for the 2007 interim. She also briefly spoke on the organization of the policy areas (established October 2006) and what bills will be studied by what work group.

Public Comment:

Ed Ware, from the Norfolk Redevelopment and Housing Authority, spoke about National Association of Housing and Redevelopment Officials (NAHRO). From March 21 - April 9, 2007, affordable housing advocates will be participating in a campaign through sponsoring events designated to highlight affordable housing issues. Nine out of 10 Americans say that affordable housing is an important issue, and 75% say that this issue will affect how they vote in the Presidential election in 2008. He asked interested parties to visit www.nahro.org for more information.

The meeting was adjourned at 12:00 P.M.

COMMONWEALTH OF VIRGINIA

DELEGATE TERRIE L. SUIT, CHAIR

ELIZABETH A. PALEN, Commission Coordinator



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VIRGINIA HOUSING COMMISSION

Commission Meeting Summary December 6, 2007 General Assembly Building Senate Room B 10:00 A.M.

Members Present: Delegate Terrie Suit, Senator John Watkins, Senator Mamie Locke, Senator Mary Margaret Whipple, Delegate John Cosgrove, Delegate Robert Hull, Delegate Danny Marshall, and F. Gary Garzynski.

Staff Present: Elizabeth Palen and Patrick Regan.

Approximately 70 members of the public were present.

I. Welcome and Call to Order, Delegate Terrie Suit, Chair

II. Presentations

Tuck Reed, Executive Vice-President, SunTrust Mortgage Secondary Marketing Division

- Risk and risk taking are an element of our economy.
- The last 9 years have been extraordinary.
- Treasury rates were declining, but mortgage rates were decreasing at an even faster rate.
- Essentially, home owners borrowed from the future, people who would ordinarily save for awhile before purchasing a home didn't need to because banks were willing to give loans for low house purchase down payments.
- Sub-prime loans began to increase losses for the banks' investments.
- Hedge funds that are losing money began to sell prime jumbo loans, so in the capital markets investors began liquidating their investments and the banks didn't see it coming.
- Dealers just stopped buying the investments because they were getting inundated with these products that they were unsure of.
- Banks became unable to predict their losses because of this which then collided with other small effects to create a major problem.
- Currently, the outlook for sub-prime mortgages is very weak. There is no liquidity for that product.

- Government sponsored entities are offering products that are similar to sub-prime to assist, but we may never see sub-prime mortgages again, at least not in the near future.
- A sub-prime borrower is typically a borrower with a credit score of 620-640 and below. Prime borrowers have credit scores above that.
- The average credit score in the US is a little above 720.
- Sub-prime loans typically are fixed for three years and then adjust for 27 years-1 to 2% higher interest rate than prime loans.

John McClain, Senior Fellow and Deputy Director, Center for Regional Analysis, School of Public Policy, George Mason University

- The Center for Regional Analysis conducts research on the Washington area economy for businesses and the government.
- Delegate Hull asked them to analyze the Virginia housing market.
- They have worked with the Virginia Association of Realtors to get information from the entire state.
- The Office of Housing Policy Research was created within the Center.

Lisa A. Fowler, Director, Office of Housing Policy Research, School of Public Policy, George Mason University

- Please see packet - online; charts showing default rates.

III. Work Group Reports

A. Housing and Environmental Standards, Senator Watkins-Chair

HB 2297-deals with sprinklers and the requirement of automatic sprinkler systems in residential buildings.

- Survey results are available.
- Buildings over 75' or six stories would be required to be equipped with an automatic sprinkler system within 10 years.
- There is a provision for a tax credit as well, but it is only credible at the time the construction is complete and authenticated.

Delegate McClellan

- This bill was first introduced as a result of a fatal fire at a retirement community, the Imperial Plaza in Richmond.
- The work group expanded it to all residential buildings, not just senior citizens.
- Opponents to the legislation bring up the cost issues, however it affects very few buildings and is proven to save lives.

Dorothy Jefferson's oldest daughter is here to speak; she lost her mother in the Imperial Plaza Fire

- Ask that preventive measures be taken to prevent accidents.

Pat O'Hare-Home Builders Association of Virginia

- Affordable housing will not be possible if this is done.
- Residents will have to leave their buildings for the retrofitting and then they won't be able to afford the rent once they want to move back in.

- Please defer action until findings of the International Code Commission (ICC) are available.

Sean Pharr-Virginia Department of Management Association

- A letter outlining the members' concerns was delivered to the Commission.
- Eventually responding is better than never and the market is responding to the sprinkler issue. Buildings can be required to retrofit as they are renovated.
- Tenants are really bearing the costs of sprinkler retrofitting.
- Incentives are a great idea, but the actual cost of sprinkler retrofitting is more than just the cost of materials, there is no predictability for the costs and it is unknown when those costs would kick in.

Emory Rodgers

- ICC has rehabilitation code incentives and will be coming out with a draft soon.

Sen. Watkins-The work group recommends that we go forward. The legislation provides the Building Codes Board at DHCD with the ability to promulgate these rules, it allows for evolving technologies.

- Motion to move the bill to a vote by Senator Watkins. Motion seconded by Delegate Cosgrove.
- There is a substitute motion by Delegate Hull to delay for 1 year pending ICC committee. The motion fails, 4-3.
- Original motion carries, 5-2. The recommendation goes forward to the full General Assembly.
- There was not a consensus or unanimous recommendation.

SB 1077-Carbon Monoxide (CO) detectors

- A tenant shall not be allowed to remove a CO detector that is installed by the landlord, and gives the tenant the ability to install their own devices.
- Motion by Sen. Watkins, no opposition, the motion passes.

B. Common Interest Communities, Senator Whipple-Chair

Common Interest Community Management Board

- Common Interest Community Board Draft created and presented to:
- Establishes a Common Interest Communities Board, creates a Common Interest Management Information Fund and allows for a certification process for Common Interest Association managers.
- It also puts into place a licensing scheme for managers of common interest communities.
- Motion by Sen. Whipple, second by Del. Hull.
- Unanimous adoption, the motion passes.

HB 1771-Virginia Real Estate Time-Share Act. This bill was patroned during the 2007 session by Delegate Cosgrove.

- No action taken.

SB 844-Condominium and Property Owner's Association Acts; resale certificates packets

- Discussed and the Commission would not take up legislation.
- Delegate Suit will address during session in an individual capacity.

C. Housing Affordability, Delegate Cosgrove-Chair

HB 1825-Establishes a housing trust fund.

- Motion by Del. Cosgrove and second by Sen. Locke.
- Delegate Hull wanted to know the status of federal legislation addressing a Housing Trust Fund with matching state funds.
- The motion passes with no opposition.

HB1789-Landlord and Managing Agent immunity for mold claims.

Chip Dicks, Virginia Association of Realtors

- The section addressing immunity is a separate bill. The bill before the Commission addresses the process for a move in inspection and for remediation.
- The immunity section is not part of the bill before the VHC because an agreement could not be reached between the Virginia Association of Realtors and the Virginia Trial Lawyers Association (VTLA).

Steve Pearson, Virginia Trial Lawyers Association

- The two sides have not been able to reach an agreement on the immunity issue. Immunity is a drastic remedy that should only be a last resort, insurance is a better option
- There is agreement on the bill for the notice provisions, move in procedures and remedies available, however.
- Delegate Kilgore was the original patron, but Delegate Cosgrove will carry this forward if the VHC does not endorse it.
- Technical amendments made by Steve Pearson and Chip Dicks would be included in the current draft.
- There is a motion to include the amendments. The motion passes.
- Motion to move the bill forward, without the immunity section. The motion passes.

SJR 366-State Incentives for targeted affordable housing development.

- Work group recommends that it be continued to 2008.

HB 2117-Community Investment Corporation Development Commission.

- Recommended that if this bill was to be taken up again it should be recommended that it go to Finance.
- The Chair will recommend to the patron that it go to Finance.

HB 2927-Affordable Dwelling Units.

- Work group recommends that it be continued to 2008.

D. Residential Land Use, Delegate D. Marshall-Chair

HB 3033-Transfer of Development Rights.

- Recommended that no action be taken at this time.

HB 2009-Exercise of eminent domain authority; compensation for land owners.

- Referred to Courts of Justice Committee and was not discussed.

HB 1824-Use of Eminent Domain.

- Referred to Courts of Justice Committee and was not discussed.

E. On-Site Sewage Issues, Delegate Suit-Chair

HB1950-Professional Engineering design of onsite treatment works.

- Alan Knapp-VA Department of Health
- Bill refers to onsite sewers, Health Department used to give permits for septic systems
- 1994 Onsite Soil Evaluators created, and at 1999 they were given ability to make designs, but they also could not practice without engineering degrees
- Bill introduced last year and referred to VHC
- Jay DeBoer, Director DPOR-both sides have worked hard to get a result
- DPOR has licensure programs for engineers
- New category of licensed onsite soil evaluators
- Legislation is proposed as 3 bills
- Motion unanimous with caveat that Delegate Hull propose new language choices.

IV. Votes on Legislation to endorse were held, following draft descriptions, during each of the Work Group summaries.

V. Commission Meeting Adjourned at 12:25 pm.

COMMONWEALTH OF VIRGINIA

DELEGATE TERRIE L. SUIT, CHAIR

ELIZABETH A. PALEN, Commission Coordinator



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VIRGINIA HOUSING COMMISSION

Common Interest Communities Work Group

June 5, 2007, 1:00 PM

House Room 1, State Capitol

Meeting Summary

Members Present:

I. Welcome and call to order

- Delegate Suit called the meeting to order at 1:45 P.M.

II. Virginia Real Estate Time-Share Act (HB 1771, 2007)

- Delegate Cosgrove introduced Frank Eck of Eck and Collins and Virginia Resort Development Association
- Resale is proving to be a problem due to the youth of the industry.
- However, multiple listing services used to be done by small services, and now big corporations are taking over and making it more accessible to the public.
- There is a resale movement, but it is not moving at the pace people would like. People are struggling to get rid of their time shares.
- Another problem is maintenance fees, which can approach \$1,000 a year.

III. Department of Professional Regulation (DPOR)

A. Director Jay DeBoer

- Please see posted document addressing protection for association funds, community association regulation in other states, real estate receivership and recovery fund, and HJR 686 (2005) real estate board study.

B. Protection for Association Funds: **HB 2016** amends the Condominium Act and the Property Owners' Association Act to give additional protection for Association funds.

C. Community Association Regulation in Other States: In 2005, during the Real Estate Board Study, there were no other state licensed Associations or professional managers. The Association of Real Estate License Law Officials is surveying states to see if jurisdictions license Associations and/or community management companies.

D. Real Estate Receivership and Recovery Fund: The Real Estate Board is considering petitioning the court for appointment of receiver when a licensee holds escrow or other funds and the Board believes the licensee is unable to protect the interest of people involved.

E. HJR 686: Real Estate Board Study: Reviewed management contract provisions. This review indicated most management company employees who handle Association

DELEGATE JOHN A. COSGROVE
DELEGATE ROBERT D. HULL
DELEGATE DANIEL W. MARSHALL, III
DELEGATE TERRIE L. SUIT

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
F. ANDREW HEATWOLE
T. K. SOMANATH

monies are required to be insured; monies must be deposited into an account in the name of the Association; management companies keep records of all income and expenses, and provide a monthly summary to the Association; and investments are made at the direction of the Association.

- F. Certain members of the Commission felt the management system is not properly qualified. It was discussed that there is a lack of education, and that management standards of practice need to be looked at to impose different regulations. There is also no enforcement mechanism. A possible aide would be to look at professional management certification or maybe receivership. DPOR, however, cannot be that enforcing agent.

IV. Public Comment

- There is none.

V. Adjourn

- The meeting was adjourned at 2:40 P.M.

Common Interest Communities Work Group

Summary

September 20, 2007

10:00 AM

General Assembly Building, House Room D

Present:

Senator Mary Margaret Whipple (Chair)

Delegate Terrie Suit

Delegate John Cosgrove

Jay DeBoer

Chip Dicks

Dale Goodman

Ron Kirby

Tom Perry

Cynthia Schrier

Pia Trigiani

I. Welcome and Call to Order, Senator Whipple

II. Delegate Suit on Association Disclosure Packets (HB 2016, 2007)

1. HB 2016 was the result of compromised legislation between Virginia Association of Realtors and Virginia Association of Community Managers. It was drafted by Jack Rust.
2. A buyer must be given a resale package from the seller, so that the buyer can understand the rules of the association where they are purchasing the property.
3. The state had set the price that can be charged for a packet at \$100.
4. Community Managers Association and Realtors Association decided that the actual cost of the packets was greater than \$100. The bill in discussion, co-patoned by Delegate Suit and Senator Devolites Davis raised maximum fee to \$325, but, it has to be the true cost of the packet, and it has to be a negotiated cost, among many other caveats.
5. There was debate on the implementation of the fee and asked for feedback from Association of Realtors.

A. Ron Kirby-Virginia Association of Community Managers

1. There have been implementation problems.
2. They are meeting with the Virginia Association of Realtors to discuss issues.
3. Many issues have nothing to do with resale disclosure packets.
4. One issue is that this would be a transaction based cost. Associations should get this money up front.
5. There will be different views; they have not had one complaint from a seller, or buyer or association. Complaints only have come from Realtors.
6. The meeting will be held at the end of this month.

B. Chip Dicks-Virginia Association of Realtors

1. There are some implementation problems.
2. Change in the law was supposed to take the realtor out of the equation.
3. Seller's were supposed to get the packet to the buyer through the association, pay the fee up front in order to get the package.

4. Most seller agents want to get the package in advance. Most associations won't let them have the packet unless there is a live contract and the packets are only good for 30 days.
5. Realtor is forced to be in the transaction and the association company is not following the law as it was passed.
6. There is no regulatory board for associations. This has created a body that has the ability to impose fees on citizens that are taxed without any regulation and there is nowhere for the consumer to go.
7. Maybe there is a regulatory scheme that can help this situation.
8. This could also help the realtors find an outlet to deal with licensing issues.
9. Also prevents lawsuits over junk fees, instead have a board that takes up issues.
10. Both the Virginia Association of Community Managers and Virginia Association of Realtors met last year and came up with a good solution, but associations are not following through and realtors are still involved.
11. There are implementation problems, but beyond that there are structural problems.
12. Most likely going to recommend a licensing scheme for association managers.

C. Summarized Comments on Disclosure Packets

1. **Mr. Kirby**, VA Association of Community Managers-*Management companies don't establish move in fees, associations do. Some of the problems are with who is really making the fees. There appears to be a lack of understanding between what management companies do and associations do.*
2. **Mr. Dicks**, VA Association of Realtors-*Often the management company implements what the association has imposed in way of fees. Responsibility of the management company to prevent violations of law.*
3. **Ms. Trigiani**-*Associations cannot charge transfer fees unless they have that authority in their governing documents. One exception with condominiums is a reasonable user fee.*
4. **Mr. Dicks**-*Association attorneys have said they believe they have the general authority to impose fees. Public policy question is when you look at something that in many ways looks like a local government, can they charge transfer fees? Associations are charging fees that won't apply to the current members. Is that proper? Association attorneys seem to be confused.*
5. **Ms. Trigiani** -*Special assessment authority in documents is usually tied to capital improvements. There is special assessment authority in Community Association Act, but it is so narrowly construed that it is hard to do. There are many sets of documents and they are all different. Must look at specific documents to determine the associations authority. Developers are creating authority in the governing documents at the outset.*
6. **Del. Suit**-*In her experience, there was a community association vote to charge a fee to new owners. Charges new owner for move-in fees, closing fees, and a 2-3 month capitalization charge and if you move out you must also pay a move-out fee, even if the space was fully furnished and there is no actual moving. Can this be done if the association voted to change its governing documents?*
7. **Ms. Trigiani** -*Capitalization fees are permitted if the bylaws are amended to permit them, which would require a super majority vote. A set up charge is what management companies charge. Move-out fee is understandable when you are using an elevator etc.*
8. **Del. Suit**-*Can fees be charged if there is no imposition on the association during the move out?*
9. **Ms. Trigiani** -*It depends on the governing documents.*

10. **Ms. Schrier**-*They have heard complaints that associations are charging new fees without negotiations. When are the fees for the packets supposed to be paid? When can the association charge the fee?*
11. **Del. Suit**-*The intent was to treat it as an assessment that is paid at closing. This has not been made clear. Many associations are requiring online payments, which is not practicable for many people.*
12. **Mr. Kirby**-*In some cases the law allows some associations that are not managed by professionally managed companies to charge a fee up front, which might be the confusion. The fee for the packet only applies to professionally managed associations.*
13. **Ms. Schrier**-*Some communities are concerned about paying at settlement. What happens if the transaction doesn't go to settlement?*
14. **Del. Suit**-*When the actual transaction goes to closing there is a conversation with the association to determine what fees are due before closing. If the transaction doesn't go to closing it is an assessment against the unit and should go against the seller. There were good intentions with this bill and because there is no regulatory body people have to come to the Commission and General Assembly. Concern is that we are not going to be able to get regulation in place quick enough. How long will it take to have an oversight board? Should legislation be rescinded until a board is in place or amend it as it exists now?*
15. **Sen. Whipple**-*Growing pains with new legislation happens. Property associations and management companies should educate their members as to what the law says. Some changes may need to be made on the sticking points. Some other issues have been raised that may lead to longer discussions and some ancillary legislation. She is pleased that everyone is communicating and the Commission should work out as much as possible without proposing new legislation.*

III. Licensure of Management Companies

- A. **Jay DeBoer**-Director of Department of Professional and Organizational Regulation (DPOR)
 1. Defer time to Pia Trigiani-Community Associations Institute.
 2. Conceptual summary has been distributed.
 3. Jack Rust and Pia Trigiani looked at legislative models along with Northern Virginia lawyers that represent community associations.
 4. Conception was to create a separate regulatory board.
 5. Board would take responsibility for property registration program.
 - a) Regulation of condo and time share sales.
 - b) Real estate board has been in charge until now.
 - c) Makes sense to keep all of these issues in the same place.
 6. Function of the common interest ownership fund-requires an annual registration from associations. Community Association liaison created through this, currently Cynthia Schrieir.
 7. Regulation of community management firms would include certification.
 8. Hand out on Firm Licensure.
- B. Summarized Comments on Licensure of Management Companies
 1. **Del. Suit**-*Concept would need to address the case of a real estate broker that sells property and acts as an association manager. Need to address the dual license so they aren't duplicating education through real estate.*

2. **Jay DeBoer**-Only providing technical assistance, cannot bind the agency with any proposal. May not be able to express any opinions.
 - a) History of how regulatory programs come into being and how they are implemented.
 - b) Board for Professional and Occupational Regulation-will conduct a study on need for regulation and the level of regulation.
 - c) DPOR is the home of the Real Estate Board.
 - d) They are made aware of the desire for oversight over community associations from a governmental entity.
 - e) The closest analogue is the Real Estate Board which has been discussed by Ms. Trigiani.
 - f) The Real Estate Board is currently meeting and they would probably have comments.
 - g) The default for a new regulatory board is 5 members by Code; common practice is to have citizen members.
 - h) All regulatory programs have to be self-funded in Virginia.
 - i) Cost per program has to be borne exclusively from those that are regulated.
 - j) Initial cost of licensure potentially very high.
 - k) Understanding the terms is important. Certification of individuals is a voluntary program, many professions are called certified but they are really licensed. If you can't do the activity without approval, it is a license.
 - l) Would need to address other things such as grandfathering current managers.
 - m) Many times the legislature has missed things which hurt new regulatory boards.
 - n) Those that are in favor of this want a full and as complete a set of guidelines as possible. Violations and remedies should be determined right away.
 - o) Personal recommendation that Commission not put the minimal amount in the Code, and dump the rest into the Virginia Administrative Code (VAC); VAC regulation is taking three years for non-fast track regulations.
 - p) However, the VAC permits agencies to repair things on an ongoing basis, unlike statutes which must wait for the General Assembly.
3. **Del. Suit**-*How would the commission get a handle on the cost? There is a fee for all the associations, \$25 and there is a firm license fee and quasi-certification licensure. Perhaps testing should not be required, instead require that managers be certified from one of the other bodies that exist. (see handout)*
4. **Mr. Kirby**-*The number of associations is less than 200, 65-70% are very small.*
5. **Mr. DeBoer**-*One regulatory board has 47 regulants. Personal opinion that it would be very difficult to have board online by July 1 as suggested by Ms. Trigiani.*
6. **Del. Suit**-*Would certification of managers include managers that work directly for the association, and not for a professional management company?*
7. **Ms. Trigiani**-*There is some debate, but it seems there would be an exemption for them.*
8. **Del. Suit**-*Personal preference is that anyone that has the title of manager must have certification. There are some large associations and some large ramifications from this.*
9. **Mr. Kirby**-*Many managers are employees of the association. Perhaps there should be a contract with an individual manager and the association, just like there is between the management company and association.*

10. **Sen. Whipple**-*Such a solution would allow the association to terminate an employee since they would have an employer-employee relationship. One story was that a manager was giving contracts to her husband for inflated prices. They should have some recourse to fire that person.*
11. **Del. Suit**-*The issue is someone like that would go to another association and the new association would call for a reference and no one would give one because they don't want to get sued for giving a bad reference.*

IV. Public Comment

- a) There is none.

Meeting adjourned at 11:29 am.

Common Interest Communities
November 8, 2007
10:30 AM
House Room 1, Capitol Building
Meeting Summary

Members Present: Senator Whipple, Delegate Suit, Jay DeBoer, Frank Eck, Ron Kirby, Cynthia Schrier, Pia Trigiani and Thomas Perry

I. Welcome and Call to Order-Senator Whipple

II. Licensure of Management Companies-Jack Rust

1. Please refer to the Proposed Legislation (attached).
2. A group of people including Pia Trigiani, of this work group, worked on the language, although there is not a complete consensus on the content. However, the basic concepts are in place and the proposed bill works fairly well.
3. The bill creates a Common Interest Community Board which will be supervised by the Department of Professional and Occupational Regulation (DPOR).
4. It transfers the registration process for several entities into this one board.
5. It provides for a certification scheme for managers of common interest communities and creates a recovery fund from which to collect if there is a deficiency.
6. It also establishes a complaint system and a way to register those complaints with DPOR.
7. The complaint process would be internal to the associations themselves, but then allows the complainant, if not satisfied with the local association, to seek relief through DPOR.
8. VA Association of Realtors asks for two specific changes:
 - a. Resale Disclosure Act corrections would stand on its own and;
 - b. Real estate licensees would be certified with the real estate board.
9. Certification would be a requirement for individual managers as well as firm managers, but it would not be a licensure requirement.
10. Reviewed Proposed Legislation
 - a. **Del. Suit**-*Can the Common Interest Community Board revoke a certification of an individual? And is there a responsibility of the firm to report an employee that has been fired for inappropriate action affecting certification?*
 - b. Yes, the board can revoke the certification, but there is currently no mention of a requirement to report inappropriate action.
 - c. **Sen. Whipple**-*Should close that loop hole so rogue agents can't keep getting hired.*
 - d. **Del. Suit**-*If someone is terminated from a direct employment position, can there be a question on the certification asking about termination?*
 - e. **Sen. Whipple**-*Proper to leave association employees out of this requirement for certification, but should publicize to them that they can get the certification if they wish.*
 - f. There would be no limitation on who could get certified. It is voluntary and as long as you meet the requirements you are permitted to receive it.
 - g. **Del. Suit**-*Would like to see two citizen members added to the board.*

- h. **Jay DeBoar**-*Time line will have to be moved back. DPOR won't be able to get a board in place under this time frame.*
- i. **Sen. Whipple**-*Would like to see draft incorporating the changes discussed prior to the December 6th meeting.*

III. Contents of Association Disclosure Packets-Delegate Suit
This will be handled in a separate bill and was not discussed.

IV. Public Comment
No one in the audience had further comment.

V. Meeting adjourned at 11:50 am.

COMMONWEALTH OF VIRGINIA

DELEGATE TERRIE L. SUIT, CHAIR

ELIZABETH A. PALEN, Commission Coordinator



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VIRGINIA HOUSING COMMISSION

HOUSING AND ENVIRONMENTAL STANDARDS

WORK GROUP

June 5, 2007, 9:00 AM

House Room 1, Capitol Building

Meeting Summary

Members present: Senator Watkins (Chair), Delegate Cosgrove, Delegate Hull, Delegate D. Marshall, Gary Garczynski, T. K. Somanath, Delegate McClellan, Scott Sterling, Michael Congleton, James Dawson, John Hastings, Neal Rogers, Art Lipscomb, Ted McCormack, Ed Rhodes, Emory Rodgers, Mike Toalson and Rick Witt.

I. Welcome and Call to Order, Senator Watkins (Chair)

- Meeting called to order at 9:15 AM.

II. Sprinklers

A. Mary Jo Fields, Virginia Municipal League (VML)

- The sprinkler survey was distributed this past spring and 38 localities responded.
- Of the 38 responses, only 15 localities have buildings over 75 feet.
- Of those 15; seven are sprinkled, two of the jurisdictions are not, and in five jurisdictions half are sprinkles and half are not.
- It was discussed that all state buildings 75 feet and higher are already sprinkled.
- A reason that buildings are not sprinkled is the cost and access to water, which potentially comes from wells in more rural areas.
- The Commission wants VML to survey the localities again to get a more thorough response and determine if sprinkling would hinder economic development.

B. Rick Witt, Virginia Building and Code Officials

III. Carbon Monoxide Detectors

- There were three proposed code changes in 2007.
- All were rejected because technology is not where it should be. There are many false alarms, and there is conflicting information on where carbon monoxide detectors should be placed in the home.

DELEGATE JOHN A. COSGROVE
DELEGATE ROBERT D. HULL
DELEGATE DANIEL W. MARSHALL, III
DELEGATE MELANIE L. RAPP
DELEGATE TERRIE L. SUIT

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
F. ANDREW HEATWOLE
T. K. SOMANATH

- Members would support this issue if alarms were more reliable and newer technology is developed.

IV. Overcrowding of Residential Dwelling Units (HJR 696)

- Delegate Jackson Miller was not present to discuss HJR 696.
- The Commission discussed three previous bills (2007) on overcrowding.
- First, Delegate Rust's bill was covered which increased penalties for zoning violations.
- Second, Senator Cucinelli's bill was discussed which deals with zoning inspections. The inspectors have to be invited in, and there can be no more than four unrelated people living in an establishment that is zoned single-family residential.
- And third, Delegate Hull's bill which deals with the violation of maintenance codes.
- All of these bills deal with the landlords responsibilities.

V. Public comment

- There was none.

VI. Adjourn

- Meeting Adjourned at 10:30 AM.

Housing and Environmental Standards Work Group

Summary

General Assembly Building, House Room C

September 19, 2007

10:00 am

Present:

Senator John Watkins

Delegate John Cosgrove

Michael Congleton

James Dawson

Mark Flynn

John Hastings

Neal Rogers

Art Lipscomb

Ted McCormack

Ed Rhodes

Emory Rodgers

Shaun Pharr

Mike Toalson

Rick Witt

I. Welcome and Call to Order by Senator Watkins (Chair)

II. Leadership in Energy and Environmental Design System (LEEDS) Presentation

A. PPT Presentation, Bryna Dunn, Green Building Organization

1. The US Green Building Organization is a national nonprofit which was created in the mid to late 1990s.
2. Seeks to start a dialogue of topics.
 - a. Stored market transformation.
 - b. Educate the industry.
 - c. Compare standards.
 - d. Create tools that everyone can use without reinventing the wheel.
 - e. Offer expertise to those in the field.
3. **Del. Cosgrove**-*Asked Ms. Dunn to support her facts with more information.*
4. Ms. Dunn explained that both California and Washington have done studies on the positive effects LEEDS buildings have on children's learning.
5. **Del. Cosgrove**-*Reminded Ms. Dunn that her facts can be viewed in different ways and the Commission must be careful about accepting facts at face value. He asked her to be careful with how she words and presents statistics.*
6. **Sen. Watkins**-*The power point presentation and the handouts will be posted on the Housing Commission website.*
7. **Del. Cosgrove**-*Asked which third party conducts inspections for LEEDS certification?*
8. The Green Council has independent auditors that it hires to do so. They are teams of professionals such as architects and engineers.
9. **Mr. McCormack**-*Is there something for residential buildings with LEEDs certification?*
10. There is a pilot program called LEEDS for Homes. The proper certification standards and process are still being developed.
11. **Mr. Toalson**-*In September of last year, the Home Builders Association developed the Earth Craft System and Virginia became the first state to adopt this system. Developers are trained in green building design and buildings are made with help from Earth Craft. Several developments going up, one in Charlottesville.*

12. **Mr. Toalson**-*Home Craft operates on a point system. Developers receive points for things such as recycling materials rather than just throwing them away. The hope is that the public will start to ask for these types of houses. Multi-family housing is difficult to develop right now for the LEEDS standards. They are still waiting for home standards to be developed by LEEDS.*
13. **Del. Cosgrove**-*There are many benefits to Earth Craft Homes, but the many benefits must also be discussed along with the additional costs that are incurred by the builders.*
14. **Sen. Watkins**-*The Commission has the responsibility to make sure things are not done that put an undue burden on others. More statistics of the actual cost would be helpful. After the next work group session, the Commission should hear from someone on the residential side.*

B. Move to item III on the agenda, Carbon Monoxide Detectors

III. Carbon Monoxide Detectors

A. Emory Rodgers- Virginia Department of Housing and Community Development

1. The International Code Council will be making changes to the 2009 Building and Residential Code for Carbon Monoxide (CO) Detectors. Changes to the Code will be made in September 2008 and will go into effect in 2009.
2. The Council is trying to get information from universities on their use of carbon monoxide detectors. William and Mary has carbon monoxide detectors in most residential dorms.

B. Ed Rhodes, Rhodes Consulting

1. Defers his time to Lt. Stan Tinsley of the Henrico County Division of Fire.
2. Lt. Tinsley has spent 25 years as a fireman. He wrote the Carbon Monoxide (CO) response guidelines for Henrico County. CO has the same weight as air, it can be anywhere in a residence. It has a half life of 5 hours and attacks the red blood cells. Constant exposure to even low levels of CO can be deadly.
3. Safe levels are determined by how fast your body can cycle out the poison.
4. CO poisoning can result from any faulty fossil fuel burning device.
5. It effects the very young, the very old and people with heart and lung problems.
6. There are between 200-500 deaths every year due to accidental carbon monoxide poisoning. It is a silent killer that may go undiagnosed. Symptoms of poisoning resemble flu like symptoms that progressively get worse.
7. There were a lot of false alarms with the original CO detectors. More advanced detectors were metal oxide semi-conductors that plugged into the wall, however some would not give proper readings.
8. The newest detectors are electro-chemical sensors. They test for a chemical reaction and they are highly sensitive and accurate.
9. Underwriters Laboratories wanted to eliminate false alarms, so they are developing devices that detect long-term low levels of CO and short-term high levels.
10. There were instances in the past where fire departments would respond to CO alarms as Priority 2, no lights or sirens. Many times it was too late, so Henrico County now responds Priority 1, with lights and sirens.
11. There are many reasons for false alarms, but the real problem is with improper training or education and citizens or the fire department thinking there is a false alarm when really it is not.

12. Individual localities have been left to determine their own procedures for responding to alarms. There is a lack of training for responders and dispatchers. Dispatchers used to tell people to open all the windows in their house and then get out, but then the fire department would arrive and there wouldn't be any sign of CO, so it was marked as a false alarm.

C. Comments on Carbon Monoxide Detectors Presentation

1. **Mr. Toalson**-*How long have the electro-chemical alarms been around?*
2. 1998.
3. **Mr. Toalson**-*After training for dispatchers had been corrected, what percentage are still false alarms?*
4. 39% attributed to false alarms. 38% CO was detected, and 23% nothing was detected.
5. **Mr. Toalson**-*How many residential units have CO alarms currently?*
6. 30%.
7. **Mr. Lipscomb**-*What is the accuracy of the new detectors?*
8. It was 90% in testing, and they cost between \$25-\$50.
9. **Mr. Dawson**-*What is the balance of training in Virginia?*
10. Most localities do little or nothing. A lot of false alarms are due to poor training, not actual false alarms.
11. **Mr. Pharr**-*The Consumer Product Safety Commission would not support CO monitors legislation without some sort of liability protection being addressed. Is your data being given to other counties?*
12. Yes. I have been asked for it from several localities including Chesterfield and Richmond. Henrico County has a list of questions that are asked when responding to a CO alarm to ensure that there are no improper false alarms.
13. **Sen. Watkins**-*The lack of education in public and the response mechanisms that are used are key to solving this problem with false alarms. Cutting down on false alarms will save the counties and cities money because it costs around \$2,400 to respond to an alarm.*
14. **Mr. Lipscomb**-*Fire Department Programs should establish standards for responding to CO alarms. Perhaps the Commission could send out a letter.*
15. **Mr. Toalson**-*Has there been any loss of life when there was a CO alarm and it did not go off?*
16. Not that we know of.
17. **Mr. Rhodes**-*There are UL code sections for CO detectors, specifically UL 2075. Early next year UL will approve a system with a span of life alarm within the CO alarm.*
18. **Sen. Watkins**-*Are there any homes in Henrico that have hardwired CO alarms?*
19. Yes, there is an optional mechanism.
20. **Mr. Rhodes**-*There are also combination CO and fire alarms that can be hardwired.*

D. Chip Dicks-Virginia Association of Realtors

1. There is a process for residents to request landlords to install CO detectors in the Virginia Residential Act, Va. Code § 55-248.18.
2. It is a voluntary process and it is also included in Va. Code § 55-248.16. The Commission could add a requirement that residents are not permitted to tamper with the devices.

E. Joel Saltzman from National Electrical Manufacturers Association

1. NEMA Issue Brief Handout.

2. Smoke and CO alarms cost between \$25-\$50.
3. Both NFPA and UL set performance standards. Some states set their own standards and have to constantly update their code sections as technology advances. Better to delegate or adopt standards set by UL.
4. **Mr. Toalson**-*The International Code Council's (ICC) technology council found the effectiveness of alarms is not dependable.*
5. ICC is using mosaic studies with pre-1998 data. UL and others are certifying detectors, and they would not put their seal of certification on something that is not dependable.
6. New studies must be done and the ICC will eventually catch up once new studies are completed.
7. **Mr. Toalson**-*Asked Mr. Saltzman to address the EPA's position?*
8. The EPA was also using old data from 1998. When it was told about it they changed its website and it now directs you to the American Gas Association's website which has more recent information.
9. **Sen. Watkins**-*The work group would like to hear from Mr. Rodgers in the next year to report back on the ICC's new position.*
10. **Mr. Rodgers**-*CPSC and the EPA have wanted to mandate something in the Code, they just haven't given it the mandate tag yet.*

F. Christian Webber, a Richmond homeowner, advocates the adoption of CO alarm legislation. He stated it took 20 years to get smoke alarm legislation and now it is commonplace. Eleven states have CO legislation. The Virginia General Assembly should talk with legislators of the other states to see why they passed legislation on this issue.

IV. Sprinklers

A. Mark Flynn-Virginia Municipal League

1. Surveys were sent out to all cities and counties and some towns with tall buildings.
2. Surveyed buildings were those 75 feet and taller. Several have not responded to the survey. See Excel spreadsheet for responses.
3. **Sen. Watkins**-*Would like to send out a letter to those that did not respond requesting they complete the survey.*

B. Proceed to the issue of overcrowding, which is not on the agenda.

V. Overcrowding

A. Michael Congleton, Fairfax County Planning and Zoning

On June 1, Fairfax created a 15 member strike force to address overcrowding in residences. The Legislature passed laws strengthening enforcement of the building codes.

B. Final Comments will be addressed before the meeting adjourns.

VI. Final Comments

- A.** Senator Watkins-*Recommends educating the public about CO poisoning, however he is hesitant to suggest legislation without consulting how it would overlap with other agencies.*
- B.** Mr. Toalson-*Residential LEED standards are coming. In the meantime Earth Craft sets the standards for residences. It has not moved faster because there are not many inspectors.*
- C.** Mr. Witt-*ICC is working with AFA on incorporating those efforts into the Building Code.*

VII. Meeting Adjourned at 12:10 pm.

Housing and Environmental Standards
November 8, 2007
House Room 1, Capitol Building
1:00 pm
Meeting Summary

Members Present: Senator Watkins, Senator Whipple, Michael Congleton, James Dawson, Mark Flynn, John Hastings, Ted McCormack, Ed Rhodes and Emory Rodgers

1. Welcome and Call to Order, Senator Watkins

2. Sprinklers; Final Survey, Mark Flynn, Virginia Municipal League

A. Please see attachment - the survey results spreadsheet.

B. Bob Duffus-Richmond Fire Department Chief

- a. There is not a huge financial impact, especially because we want all of these buildings to be safe.
- b. We would like the jurisdiction to be able to adopt these standards, but not necessarily as a state mandate.
- c. The fire department is looking for enabling legislation addressing residential units 75 feet and over that house senior citizens.
- d. Legislation would address residential units only and not office buildings.
- e. **Senator Watkins**-*The issue is how to define residential units as senior or non-senior complexes or buildings.*
- f. There is other technology which could take precedent over sprinklers, such as foam systems and other chemicals.
- g. Chip Dicks and Elizabeth Palen will put a draft bill together and get it to the group before the December 6th meeting.
- h. There were no negative comments from the group on the issue however; no one was present from the Homeowners Association, Apartment and Office Building Association and other housing industry personnel.
- i. The legislation will phase in the requirements, but it will provide incentives for those that act retroactively.

3. Carbon Monoxide Detectors, Chip Dicks, Virginia Association of Realtors

- a. The regulations must be consistent throughout the state and it should be in the building code and not the Virginia Code.
- b. Residents would not be permitted to tamper or remove smoke and carbon monoxide detectors and they can request carbon monoxide detectors to be put in by the landlord just as they can do with smoke detectors.
- c. Tenants themselves can install whatever product they feel is appropriate.
- d. **Senator Whipple**-*If the tenant is installing the device themselves why can't they tamper with them?*
- e. Perhaps language should be added to state "installed by landlord" and make smoke detector and carbon monoxide detectors different subsections.

4. Green Building Rating, Randy Bush, Virginia Forest Products Association

- a. Concerned with a singular system for determining what a green building is.
- b. The LEED program doesn't address the wood source, which he has a problem with and he feels LEED discriminates against wood certification programs, specifically the sustainable forestry industry.
- c. It is an exclusive membership and one program is not good because it eliminates competition with programs that identify broad standards.

5. Public Comment

There was no public comment.

6. Meeting adjourned at 2:12 pm.

COMMONWEALTH OF VIRGINIA

DELEGATE TERRIE L. SUIT, CHAIR

ELIZABETH A. PALEN, Commission Coordinator



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VIRGINIA HOUSING COMMISSION

Residential Land Use and Development Work Group

June 19, 2007, 10:00 AM

House Room 1, State Capitol

Meeting Summary

Members Present: Del. Danny Marshall (Chair), Del. John Cosgrove, Del. Bob Hull, Senator Maime Locke, Gary Garczynski, Andy Heatwole, Chip Dicks, Bill Ernst, Mark Flynn, Ted McCormack, Barry Merchant, Mike Toalson, Roger Wiley, and T.K. Somanath.

There were 18 audience members for the meeting.

I. Welcome and Call to Order, Delegate Danny Marshall (Chair)

- The meeting was called to order at 10:02 A.M.

II. HB 3003 (2007) Transfer of Development Rights (TDR), Delegate Rob Bell

- TDR measures allow zoning rights to be transferred into receiving property to increase density.
- It recognizes separate severance packages from the complete deal packages.
- There should be a no-net loss for the local governments. If the sending parcel doesn't have the rights to the development, there is nothing that says someone can't come in and take the property rights to sell.
- TDR needs to be embraced as a growth management tool for the property right owners.
- If the locality takes up property rights to increase the density, then they lose the cash proffer.
- The best way to conserve land development is to buy the land. The main issue is the separation of the sending and receiving packages.

III. HB 2986 (2007) Development Agreements, Delegates Frank Hall and Riley Ingram

- Cash proffers are fees paid to developers during the zoning process. The intent is to provide the locality with the means to have resources to make the numbers work.
- During the last 15 years, proffers have generated lots of revenue for localities.

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SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
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T. K. SOMANATH

- However, there have been unintended consequences, such as an 81% increase in central Virginia. Slow growth has encouraged development in less populated areas.
- Local governments are trying to find a way to finance services, but they seem to be struggling.
- The idea of the bill is to start looking for solutions, but it is not necessary to find one that works for every locality.
- Farmers, teachers, etc are being driven further and further out of the areas where they need to be because of prices. It is hard to prove direct dollar for dollar the cost of a house and the cash proffers development costs.
- People expect a certain level of housing, so to get the most for their money, they are moving further out. The idea is to try to get people to live where they work, play, etc.
- Some think it's a bad idea to bond using proffers as a revenue source. The problem is the housing market is suffering so developers are using proffers as revenue.
- The commission observed that transportation doesn't drive the proffer system, but the cost of building schools drives the system because the localities fund this with real estate taxes.
- Some say it has become an affordability issue. The cost of proffers and fees goes into the base cost of the house.
- Proffers are a contributing factor to the housing slump, which is the lowest since 1991. The construction industry is the backbone for Virginia, and 50% less homes are being constructed, so less tax is being collected.

IV. Other Topics and Public Comment

- There were no speakers with public comment.

V. Adjourn

- The Commission adjourned at 12:03 P.M.

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

Meeting Summary

Residential Land Use and Development Work Group

September 19, 2007, 3:00 PM

House Room C, General Assembly Building
Richmond, Virginia

I. Welcome and Call to Order

- Delegate Danny Marshall, Chair

II. HB 3003 (2007) *Rob Bell* Transfer of Development Rights (TDR)

- Trey Adams: Maguire, Woods, Battle
 - i. Calvert County Maryland document will help resolve some of these issues.
 - ii. TDR- Own entity- 500 acres of land, do you have to have that 500 in your "possession" before you could buy land?
 - iii. Buy development rights, record like an easement, then hold until you find property or until someone contacts you.
 - iv. If someone else wants to buy farm they could see that the farmer owns the dirt but not title rights. They will also see the land is still being held.
 - v. Can you sever those rights and record them so everyone can follow the rights?
 - vi. It has to be uniform throughout the state
 - vii. Concern: TDR will not have the same kind of public comment. People who purchase homes don't know a huge development is coming in and they can not protest this issue.
 - viii. Response: Legislation that passed two years ago requires a public comment.
 - ix. Trying to make TDR more marketable.

III. PDR and TDR Discussion

A. Jack Whitney: Planning Director for Virginia Beach PDR

- i. Supports both agricultural land and non agricultural land.
- ii. Sustains economy in the Virginia Beach area.
- iii. Currently nine cents (.09) go to funding source, which is purely voluntary.
- iv. There is a goal of 20,000 acres, currently it is up to 7,200 acres.

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T. K. SOMANATH

- v. The applicant has no fees out of pocket.
- vi. There is a 25 year pay out. Pay applicants twice a year tax free.
- vii. Conduct appraisal on every property and determine fair market value. Currently about \$900 per acre, and that might be a little low.
- viii. The farmer who sells the right gets a tax credit.
- ix. This program preserves 87 million per year in agricultural land.
- x. Preserves agricultural heritage and offsets costs for sewer and waste into other parts of the city.
- xi. The easement is recorded on the property and cannot use it for anything other than agricultural purposes.

B. Discussion:

- i. Is it right for developers or home owners to develop something the public wants to preserve?
- ii. TDR's cannot be conditioned for basis of approval.
- iii. No incentives of density with PDR.
- iv. TDR encourages consolidation of density, which helps solve transportation problems.

C. Trey Adams: TDR

- i. Deal with real property value.
- ii. No net loss to local government.
- iii. Severable from real estate, but still taxable.

IV. Other Topics and Public Comment

- None were discussed.

V. Adjourn

COMMONWEALTH OF VIRGINIA

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ELIZABETH A. PALEN, Commission Coordinator



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VIRGINIA HOUSING COMMISSION

Housing Affordability Work Group June 19, 2007 1:00 PM House Room 1, State Capitol Meeting Summary

Members Present: Del. John Cosgrove, Sen. Mary Margaret Whipple, Del. Danny Marshall, T.K. Somanath, Melissa Bondi, Connie Chamberlin, Chip Dicks, M. Shea Hollifield, Judson McKellar, Jim Naggles, Jan Proctor, Bill Shelton, Candice Streett

I. Welcome and Call to Order, Delegate John Cosgrove (Chair)

- Meeting called to order at 1:03 pm.

II. HB 1789 Residential Landlord Tenant Act /mold claims (Kilgore, 2007)

- Chip Dicks, Martin Johnson (Virginia Association of Realtors) and Steve Pearson (Virginia Trial Lawyers).
- In 2003 a workgroup was formed on how to deal with the mold issue.
- The workgroup was to look at the obligations of the landlord to the tenant.
- There is a check-in inspection performed by the landlord. The tenant has five days to object to anything in the residence and provide the landlord with information to fix the problems.
- There was a section that says "visible evidence of mold." If there is evidence, the tenant can get out of the contract.
- The landlord has to maintain the residence so there is no accumulation of moisture. There was discussion that the mold statute should be modeled after the lead based paint statute since there are so many changes to that particular issue.
- One problem addressed was the fact that insurance won't provide coverage for a landlord or agent if they miss a mold issue, but the tenant does have coverage.
- There was discussion that immunity from the insurance companies is not a solution.
- Immunization of the rental agents makes problems worse because you are eliminating the people who know how to remediate the mold issue.

DELEGATE JOHN A. COSGROVE
DELEGATE ROBERT D. HULL
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III. HB 2117 Community Investment Act (Marshall, R., 2007)

- Norman Kurland
- Please see documents.
 - HB 2352 Community Investment Corporation Bill
 - HB2352 Unanimous Illinois House of Delegates
 - Metro East Citizens Land Cooperative Invitation
 - Metro East Citizens Land Cooperative Talking Points
- Delegate Cosgrove expressed the sentiment of the Work Group that this legislation would have been served more appropriately by the Appropriations Committee and not the Housing Commission.
- The Work group will not recommend further study of this bill.

IV. Other Topics and Public Comment

- There are none.

V. Adjourn

- The meeting adjourned at 2:20 P.M.

COMMONWEALTH OF VIRGINIA

DELEGATE TERRIE L. SUIT, CHAIR

ELIZABETH A. PALEN, Commission Coordinator



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VIRGINIA HOUSING COMMISSION

Housing Affordability Work Group September 19, 2007, 1:00 PM House Room C, General Assembly Building Meeting Summary

Members Present:

I. Welcome and Call to Order

- Delegate John Cosgrove (Chair)

II. HB 1789 Residential Landlord Tenant Act /mold claims (Kilgore, 2007)

Chip Dicks
Steve Pearson

III. Current Mortgage Overview

Susan Dewey, Executive Director Virginia Housing Development Authority

Susan Dewey: VHDA Mortgage overview

- Bond Burning- Taking advantage of low income tax credits. Issuing more bonds than needed during construction of multi-family projects
 - VHDA tries to pay them off over 30 years
- VHDA refinancing but not on first time tax exempt home loans
- Going to see foreclosures like we've never seen before. If one house goes up for sale w/foreclosure it will affect the price on many other homes.
- Unrealistic to expect the state or feds to step in and fix the foreclosure problem because the money just isn't there

Del. Suit: Mortgage changes in past month

- Secondary market stopped purchasing sub-prim and a-minus and agency loans (Fannie May, Freddie Mac)
- The sub-prime market is basically gone
- Major lenders have closed or changed to secondary loans
- 100% loans have to have mortgage insurance
- Interest only loans must qualify buyer on interest principal
- Jumbo pricing is 1% higher than conforming

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- FHA has a higher loan limit approved
- Federal reserve action cut means possibly more inflation and mortgage prices will go up
- Rates at 6.5%, compared to 10-14% ten years ago

Chip Dicks: ADU's

HB2010

- Increase availability of percentages of ADU's
- Deals with high rise buildings- provide flexibility to allow ADU's in elevator buildings
- Local affordable housing fund, but don't know how to get the funding
- Developer has no economic loss provision- mandatory that they suffer no loss

Cash in Lieu of ADU's

- Good public policy to allow developers to provide option of cash?
- What if cash isn't used towards affordable housing unit? It's hard to make sure that's how the money is used and have consistency with the guidelines

2305 vs. 2304

- Real estate community said clean up 2305 and possibly merge with 2304

ADU Process

- From existing zoning, ask for bonus density at administrative level
- To have to go back through entire zoning process is bad/crippling because people don't want to do it

- **Karen Harwood**- process is zoning to admin. Give localities certain process to follow

- ADU's cannot be done for this session

Connie Chamberlin

- Local problem is understated
- 500,000 people spending 30% of income on housing
- Look for ways to encourage workouts
- Suitability and yield spread premiums is becoming a problem
- Look at pre-payment penalties. Should expire 90 days before the arm resets and pre-paid loans should have 2 years.

Susan Hancock/Del. Suit

- Why pre-payment penalties? Never had these before
- Data on VA loans serviced by non-agency services. Susan will try to get information on this.
- Outlaw yield spread premium, broker has to change fees, how do we get rid of these charges?

Give incentive to lower priced loans

- Education- 1 page statement of whole process. We need people to know what you're getting into

IV. Other Topics and Public Comment

V. Adjourn

**Housing Affordability Work Group
November 8, 2007
House Room 1, Capitol Building
9:00 am
Meeting Summary**

Members Present: Delegate Marshall, Delegate Suit, Delegate Hull, T.K. Somanath, Melissa Bondi, Connie Chamberlin, Chip Dicks, Mark Flynn, M. Shea Hollifield, Judson McKellar, Michele Watson, Jim Naggles, Jan Proctor, Bill Shelton and Candice Streett

I. Welcome and Call to Order-Delegate Suit

II. HB 1789 Residential Landlord Tenant Act/mold claims (Kilgore, 2007)

A. Chip Dicks-Virginia Association of Realtors

1. There are three basic landlord tenant schemes, the Virginia Landlord Tenant Act, Virginia Residential Landlord Tenant Act and Virginia Manufactured Home Lot Rental Act. The mold remedy would be reflected in all three.
2. Landlords should know how to deal with mold issues when they arise and lessees should be protected from becoming injured due to mold.
3. This bill would create a new chapter 13.4 to Title 55 to follow the three landlord schemes.
4. The bill will provide for an inspection scheme for all rental properties and will require the real estate agents and lessors to inspect the units; (apartments, single family homes or manufactured housing) for mold damage.
5. This inspection will create a rebuttable presumption that the home is mold free and therefore will protect landlord and lessors; it will also create parameters for the removal of mold to ensure the safety of the lessee.
6. See Draft Mold Immunity/Presumption Legislation.

B. Steve Pearson-Virginia Trial Lawyers Association

1. Tenants in these properties can be seriously injured by mold and if you immunize the owners and landlords it will fail to protect the tenant.
2. So the rental agent should act as the guard at the gate to recognize mold issues and let them notify the tenants and notify the owner that they need to correct a problem.
3. Insurance is the ultimate answer. If an insurance product could be developed to handle these situations it could handle this balance.
4. Immunity is not a good fix, yet we have worked with Chip Dicks to develop this bill, however we have not had an opportunity to review the current proposed bill.

III. Housing Trust Fund-Delegate Suit

1. This would be revitalizing the Trust Fund Bill which was proposed last year although this is a difficult session to get funding. Funding for the current proposed bill will come from a percentage of the real estate recordation tax.
2. **Delegate Hull-***We should determine the status of the federal housing trust fund?*

3. **Delegate Marshall**-*We should determine what the costs projections would be 10 years out if this had been implemented already.*

IV. Other Topics and Public Comment

No objections to moving mold bill and housing trust fund to the full commission meeting in December.

V. Meeting Adjourned at 10:20 am.

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VIRGINIA HOUSING COMMISSION

On-Site Sewer Sub-Work Group

July 11, 2007, 1:00 PM

Senate Room 3, State Capitol

Meeting Summary

Members Present: Delegate Terrie Suit (Chair), Richard Blackwell, Roger Cooley, Mark Courtney, Robert Hicks, Ted McCormack, Christopher McQuale, Curtis Moore, John Neel, Pat O'Hare, Joel Pinnix, David Rigby, Robert E. Lee, Dennis O. Childress, W.R. "Bob" Willoughby, Jr., Neal P. Spiers, Jason E. Fulbright, and Quinn P. Zimmerman.

8 members of the public were present.

I. Welcome and Call to Order

- Delegate Terrie Suit (Chair) called the meeting to order at 1:10 PM.

II. 2007 Bills

- A. SB 1270 - Sewage disposal; certification of certain workers (Herring)
- B. HB 3134 - Onsite sewage systems; operation and maintenance program (Morgan)

III. Review Process

- A. Mark Courtney - Department of Professional and Occupational Regulation
- B. Bob Hicks - Department of Health

IV. Discussion and Public Comment

- A. Beginning July 1, 2009, the regulatory process will be transferred from the Department of Health to DPOR. They will need to look into the maintenance and operations of all systems and the impact of these regulations. It was discussed that things need to be done in the interest of the homeowners. If the system is a private operating system, this needs to be disclosed at the time of sale, but if the homeowner chooses to operate their own system, there should be a licensure process.
- B. The next portion of the meeting dealt with AOSE's and engineers, and their role in the onsite sewage process. A line needs to be drawn as to the duties of the AOSE's and the engineers. Engineer's feel they should be the sole designers of these systems. AOSE's feel they should be able to make recommendations to customers as to what parts to use for their onsite system. It was brought up that maybe distinguishing between a level one and a level two AOSE would be something to look into. The level ones could be introductory level, and level twos could potentially make

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recommendations and mix and match different manufactured parts. The idea was that we are trying to provide residential homes with a state wide plan that is a reasonable cost for these design systems. The problem is that every site is different. Designers need to scale each site, so having a standard may be difficult. Finally, it was discussed that we are not trying to force AOSE's to get an engineering license. This issue of designing systems is purely on a residential basis when it comes to AOSE's and engineers. Anything beyond residential is an engineers position, but there needs to be a line for residential systems. There also needs to be more educational programs for AOSE's, since they work with these design systems.

V. Adjourn

- The meeting adjourned at 3:05 P.M.

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VIRGINIA HOUSING COMMISSION

On-Site Sewer Sub-Work Group Meeting Summary October 9, 2007 1:00 PM House Room 1, State Capitol

Members Present: Delegate Suit, Chair Richard Blackwell, Roger Cooley, Mark Courtney, Robert Hicks, Ted McCormack, Christopher McQuale, Curtis Moore, John Neel, Pat O'Hare, Joel Pinnix, David Rigby, Robert E. Lee, P.E., Dennis O. Childress, W.R. "Bob" Willoughby, Jr., Neal P. Spiers, Jason E. Fulbright, Quinn P. Zimmerman and Elizabeth Palen (staff).

I. Welcome and Call to Order

Delegate Terrie Suit, Chair

II. HB 936

Allan Knapp - Department of Health

Mark Courtney- Department of Professional and Occupational Regulation

III. HB 1950

Joel Pinnox- Obsidian, Inc

IV. Discussion and Public Comment

V. Adjourn

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