

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

Manufactured Housing

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 22

**COMMONWEALTH OF VIRGINIA
RICHMOND
1985**

MEMBERS OF COMMITTEE

Lewis W. Parker, Jr., Chairman
Richard J. Holland, Vice Chairman
Glenn B. McClanan
John Watkins
Kevin G. Miller

STAFF

Legal and Research

R. J. Austin, Research Associate
C. M. Conner, Jr., Senior Staff Attorney
Tammy M. Presnell, Secretary

Administrative and Clerical

Office of Clerk, House of Delegates

**Report of the Joint Subcommittee
Studying Manufactured Housing
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1985**

To: Honorable Charles S. Robb, Governor of Virginia
and
The General Assembly of Virginia

This Joint Subcommittee was established pursuant to House Joint Resolution 146 of the 1984 General Assembly, which directed that a study be made of the relationship between local land use regulations and taxation policies and the availability of "manufactured housing" to the citizens of the Commonwealth. In fact, the study focused upon the form of housing more commonly known as the "mobile home."

The Subcommittee heard testimony and received documentation from State officials, industry spokespersons, local government representatives and concerned citizens at three meetings held in Richmond on September 27, October 25, and November 16. At the initial meeting, Delegate Lewis W. Parker, Jr., was elected Chairman and Senator Richard J. Holland was elected Vice Chairman.

**MOBILE HOMES
AND OTHER MANUFACTURED HOUSING**

The current definition of a "mobile home" in the Code of Virginia (§ 36-71(4)) was adopted by the General Assembly in 1983. Since it is relatively new, and since there appears to be a lack of uniformity among local ordinances in defining a mobile home, the definition is here set out:

"Mobile home" means a structure, transportable in 1 or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

This definition of a mobile home parallels the definition of a "manufactured home" in the Federal Manufactured Home Construction and Safety Standards (42 U.S.C. § 5402). The United States Congress, in Title VI of the Housing and Community Development Act of 1974, declared that it was necessary to establish federal construction and safety standards for mobile homes and directed the Secretary of Housing and Urban Development to establish appropriate standards. The standards which were adopted became effective in 1976 (See 24 C.F.R. § 3280.1 et seq.). In 1980, Congress adopted amendments which replaced "mobile home" with the term "manufactured home" but did nothing to alter the definition to which the term applies. Virginia adopted the definition in 1983 but continued to use the term "mobile home." Mobile homes manufactured since 1976 thus have been built to the preemptive federal standards, which are commonly referred to as the "HUD Code." Federal regulations require each mobile home to bear a certification label, which is a two inch by four inch aluminum plate.

The term "manufactured home" potentially creates some confusion with other forms of housing that are not constructed on-site. This latter type of housing - whether shell, component, panelized, modular, sectional or some other nomenclature - is manufactured according to national or regional model codes or state building codes rather than the HUD Code. Such housing generally seems to be accepted by Virginia localities and was not a part of the study. At the other end of the scale, there also is still some tendency in the popular mind and apparently in some local ordinances to confuse the modern residential mobile home with the "travel trailer" and the like.

MOBILE HOMES
AS A SOURCE OF HOUSING

Testimony from officials of the State Department of Housing and Community Development and others clearly indicates that the mobile home is a significant and increasingly important component in meeting the housing needs of Virginia citizens. Particularly is this true for low and moderate income families and younger families just entering the housing market. Due to high interest rates, the rising cost of land, and other familiar factors the rise in the cost of a site-built home over the last decade or more has significantly outstripped growth in income for the same period, thus pricing more and more citizens out of the conventional home market. The mobile home offers an affordable alternative to these citizens.

The product offered by the mobile home industry has changed considerably from that of ten to twenty years ago, both in esthetic appearance and in the living space and amenities it offers. This is particularly true for the newer so-called "double-wide" homes. These units increasingly are intended solely to be mounted on a permanent foundation as a place of residence and are "mobile" only in the sense of their transport from manufacturer to permanent site. The federal construction standards have also ensured that the newer mobile homes are safe and no more prone to fire or other accident than site-built homes, a matter which in the past was of some concern.

LOCAL LAND USE REGULATIONS
AND MOBILE HOMES

The evidence presented to the Subcommittee indicates that many of the local governments in Virginia, through their land use policies, have made it difficult for citizens in many localities to avail themselves of housing by means of the purchase of a mobile home. Zoning policies bar mobile homes from some areas, impose greater setbacks and other restrictions on mobile homes, or restrict mobile homes to mobile home "parks." Testimony also indicates that some localities will grant nothing more than "hardship" or other conditional use permits for mobile homes. It apparently is common, for example, to grant a conditional use permit to locate a mobile home on one's property for a limited number of years only while constructing a site-built home on the property. This approach clearly does not allow the use of a mobile home as a permanent housing solution, nor is it always realistic to demand that the property owner, who often will have a low to moderate income, finance both the cost of the mobile home and new home construction and also run the risk of either having to find another site for his mobile home if the site-built home is not constructed or of selling the mobile home upon moving into the constructed home. Likewise, according to testimony, hardship exceptions may force individuals into substandard conventional housing or the economic cost of removing the mobile home when the hardship condition terminates.

The Subcommittee is well aware of reactions of neighboring property owners to the siting of mobile homes, of the tenor of public opinion which a local governing body may face, and of the governing body's desire to retain a housing balance in its jurisdiction. The Subcommittee believes that to an extent these concerns are based on older stereotypes of the mobile home which are being changed by the federal manufacturing standards and by innovations in the manufactured housing industry. At the same time, the Subcommittee finds that the practical exclusion of mobile homes in some cases is contrary to state policy and the interest of the Commonwealth in providing safe and affordable housing to all citizens.

The Subcommittee also is aware that land use policies traditionally have been decided at the local level. It is reluctant to recommend state mandates on local treatment of mobile homes in land use and zoning regulations, but concludes that some state guidelines are necessary.

RECOMMENDATION NO. 1
ZONING AND SUBDIVISION ORDINANCES

The recommendation of the Subcommittee, as contained in the appended proposed legislation, is that mobile homes built since 1976 to the HUD Code be allowed on the same basis as site-built homes in rural areas. We have defined the areas to which this rule applies as those

that are zoned rural or agricultural. We recognize that several counties have not adopted zoning ordinances but are required by law to have a subdivision ordinance and a comprehensive plan to give some guidance to development. Nevertheless, these localities presently are permitted by § 15.1-466.1 of the Code of Virginia to adopt ordinances controlling the location of individual mobile homes and mobile home parks. We recommend that ordinances adopted in those localities to regulate the location of individual mobile homes be in accord with the same "equal treatment" rule we propose where zoning ordinances are in effect. That is, in areas devoted to rural or agricultural uses, an individual should be permitted to locate a HUD-Code mobile home on the same basis as a site-built home.

The recommended changes in state law will not prevent localities from continuing to prohibit or restrict the location of mobile homes in their more developed residential areas, or interfere with existing authority to regulate the location of mobile home parks. Nor will it prohibit a locality from allowing the location of a mobile home in such areas if that is the local choice. What it will do is to require that no more restrictive conditions be placed on the siting of newer mobile homes in rural, undeveloped areas than is imposed on a site-built home. Thus, excessive setback, minimum acreage, or similar conditions may not be imposed.

The Subcommittee recognizes the concern of other property owners about the appearance of mobile homes. While we believe that this attitude to an extent carries over from the older stereotype of the "trailer," and the appearance of mobile homes has been improved significantly under the federal standards, the recommended legislation would allow localities to impose reasonable regulations to ensure that the esthetic appearance and maintenance of mobile homes and lots are compatible with surrounding uses.

It also should be noted that the prohibition against discriminatory treatment of mobile homes will apply only to the newer mobile homes built to the HUD Code. Mobile homes built before 1976 still may be prohibited.

Adoption of this legislation will not place Virginia in a unique position. At least eleven other states have enacted such "non-discrimination" laws, which are generally broader than that proposed here, and judicial decisions have had a similar effect in a few other states.

RECOMMENDATION NO. 2 **LOCAL ASSESSMENT AND TAXATION OF MOBILE HOMES**

The second area upon which the Subcommittee focused was the taxation of mobile homes at the local level. A reason frequently given by localities for restricting mobile homes is that they do not pay their way in taxes. A mobile home commonly will not have the same value as a site-built home on the same lot. However, the assessment and taxation of mobile homes is such that most local governments do not achieve the existing tax revenue potential from mobile homes. The Subcommittee feels that the reluctance to permit the location of mobile homes at least partly could be overcome if this situation were changed.

Under state law, mobile homes are a separate class of tangible personal property for local taxation. As such, they are to be assessed and taxed at the rates applicable to real property (§ 58.1-3506).

The problem in many localities lies in the method of valuing mobile homes. The evidence is that mobile homes, particularly the newer, "double-wide" models intended to be put on a permanent foundation, do appreciate in value when permanently sited. If assessed individually in the same manner and by the same methods as applied to real property, these homes would hold their value or even appreciate. However, many local assessors have chosen to apply a "book" value to mobile homes rather than individually assess them. The testimony was that this "book" value is significantly below the actual resale value of a home.

The Subcommittee believes that mobile homes, if they are to be assessed and taxed at the same rate as real property, should likewise have their value for such purposes established in the same manner and method as real estate. The local assessing official now has the authority to do so under § 58.1-3503(B) and in a few counties mobile homes are so assessed. Since it is the locality's revenue which is at stake, however, we do not believe that this decision should be left

solely to the discretion of the local assessing official. The appended legislation therefore specifies in § 58.1-3503 that mobile homes may be valued on the same basis as is real property and permits the governing body by ordinance to specify that mobile homes will be so valued in that locality.

Note that this is not the same as removing mobile homes from the tangible personal property list and converting them to real property. The local assessing official may take a mobile home out of the tangible personal property classification and reclassify it as real property on a case by case basis to be determined by a number of indicia of the intent of parties to annex the personal property to the realty on which it is sited (Opinions of the Attorney General 1983-84, p. 402).

Also, the evidence presented to the Subcommittee is that the financing of mobile home purchases is diverse. Traditionally, mobile homes have been financed through the installment purchase method. Under these circumstances, the lending institutions would prefer that the mobile home be classified as personal property. On the other hand, there is a growing trend towards the long-term land-home mortgage financing of the larger and more expensive homes which lends itself to treatment of the mobile home as real property. The desirability of personal or real property classification is also complicated by the sale of mobile homes for location on property owned by another party.

For these reasons the Subcommittee thought it wise not to attempt to move mobile homes as a class from tangible personal to real property class. We feel that the avenues presently are available to value mobile homes at a value which is the "actual fair market value" required by § 58.1-3503 without this step.

Respectfully submitted,

Lewis W. Parker, Jr., Chairman
Richard J. Holland, Vice Chairman
Glenn B. McClanan
John Watkins
Kevin G. Miller

APPENDIX

SENATE BILL NO. HOUSE BILL NO.

A BILL to amend and reenact §§ 15.1-466.1 and 58.1-3503 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 15.1-486.3, the amended and added sections relating to the application of subdivision and zoning ordinances to mobile homes and the basis for valuing mobile homes for taxation.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1-466.1 and 58.1-3503 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.1-486.3 as follows:

§ 15.1-466.1. Applicability of subdivision ordinance to mobile homes.—Any county, city, or town may designate by ordinance the areas within its jurisdiction in which mobile homes may be located or mobile home parks may be established, notwithstanding the absence of a zoning ordinance in such county, city, or town. *Any such ordinance applying to the location of individual mobile homes shall conform to the policies and provisions of § 15.1-486.3.* Such ordinance may also apply any of the provisions of § 15.1-466 in the regulation and governing of the location, establishment, and operation of mobile homes or mobile home parks. The ordinance may apply to any park or portion thereof licensed as a campground pursuant to Title 35.1 of this Code. In the event of irreconcilable conflict between the ordinance and ~~State~~ *state* law, the ~~State~~ *state* law shall supersede the ordinance.

§ 15.1-486.3. Zoning ordinances relating to mobile homes; declaration of policy; regulation of mobile homes; definition—A. *It is the policy of the Commonwealth, in accordance with the provisions of § 36-55.25, to encourage the production of an adequate supply of safe and sanitary residential housing at prices or rentals which persons and families of all incomes can afford. Toward this end, it is the policy of the Commonwealth not to restrict the construction of residential dwellings unless such restrictions serve the purpose of protecting the public health, safety and welfare. It is hereby declared that mobile homes constitute an increasing and substantial percentage of the new dwelling units in this State, that they provide a valuable housing resource in meeting the State's need for decent, safe and affordable housing, and that their availability as such housing should not unreasonably be limited by local zoning regulations.*

B. *Notwithstanding any other provision of law, no locally adopted zoning regulation shall disallow the location of a proposed residential structure in a rural or agricultural zone, solely because the proposed structure is a mobile home. A zoning ordinance may require that a mobile home be located and installed according to the same standards, including but not limited to, a foundation system, set-back, and minimum square footage, which would apply to a site-built, single-family dwelling on the same lot, but under no circumstances shall conditions imposed on mobile homes be more restrictive than those imposed on site-built dwellings; however, reasonable conditions may be imposed to ensure that the aesthetic appearance of the mobile home and lot shall be established and maintained so as to be compatible with other permitted uses in the zone.*

C. *As used in this section, "mobile home" means any mobile home, as defined in § 36-71 of the Code of Virginia, which has been manufactured under the authority of 42 U.S.C. § 5403 and bears as proof thereof the certification label required to be affixed by the Federal Manufactured Home Construction and Safety Standards (24 Code of Federal Regulations § 3280.8), and which is used as a place of residence, has its wheels, axles and towing apparatus removed, and is mounted on and anchored to a permanent foundation in accordance with the Virginia Statewide Building Code.*

D. *This section shall not be construed as abrogating any existing or future restrictive covenant.*

§ 58.1-3503. General classification of tangible personal property.—Tangible personal property is classified for valuation purposes according to the following separate categories which are not to

be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § 58.1-3505.
2. Farm machinery, except as exempted under § 58.1-3505.
3. Automobiles, except those described in subsections 7, 8 and 9 of this section, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
5. Trucks and other vehicles, as defined in § 46.1-1, except those described in subsections 4, and 6 through 10 of this section, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.
6. Mobile homes, as defined in § 36-71 (4), which may be valued on the basis of square footage of living space *or on the same basis as real property*.
7. Antique motor vehicles, as defined in § 46.1-1.
8. Taxicabs.
9. Motor vehicles with specially designed equipment for use by the handicapped, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.
10. Motorcycles, campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
11. Boats weighing under five tons and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
12. Boats or watercraft weighing five tons or more, which shall be valued by means of a percentage or percentages of original cost.
13. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
14. Household goods and personal effects, except as exempted under § 58.1-3504.
15. Tangible personal property used in a research and development business, which shall be valued by means of a percentage or percentages of original cost.
16. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses, which shall be valued by means of a percentage or percentages of original cost.
17. All tangible personal property employed in a trade or business other than that described in paragraphs 1 through 16 of this section, which shall be valued by means of a percentage or percentages of original cost.
18. All other tangible personal property.

B. Methods of valuing property may differ among the separate categories, so long as each method used is uniform within each category, is consistent with requirements of this section and may reasonably be expected to determine actual fair market value. *The governing body of any county, city or town by ordinance may require that mobile homes, as defined in § 36-71, be valued on the same basis as is real property.* Nothing herein shall be construed to prevent a commissioner of revenue from taking into account the condition of the property. The

commissioner of revenue shall make available to taxpayers on request a reasonable description of his valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a recognized pricing guide as provided for in the following subsections, may automatically extend the assessment if the pricing information is stored in a computer.

