

**REPORT OF THE
JOINT SUBCOMMITTEE
EXAMINING**

The Commonwealth's Role in the Provision of Housing for Migrant Workers

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



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REPORT OF THE JOINT SUBCOMMITTEE EXAMINING
THE COMMONWEALTH'S ROLE IN THE PROVISION
OF HOUSING FOR MIGRANT WORKERS

to

The Governor and General Assembly of Virginia
Richmond, Virginia
January, 1989

To: Honorable Gerald L. Baliles, Governor of Virginia,
and
The General Assembly of Virginia

EXECUTIVE SUMMARY

This study was undertaken in accordance with House Joint Resolution No. 117 of the 1988 General Assembly, which requested the establishment of a joint subcommittee to examine the Commonwealth's role in the provision of housing for migrant workers. The resolution called for the joint subcommittee to examine the housing situation for migrant workers and determine the advisability and feasibility of a state role in funding for migrant camps used by the agricultural community.

The study was requested because of concern over the lack of adequate housing for migrant workers who contribute significantly to the high standards of diet and nutrition of the citizens of this Commonwealth but who may suffer from malnutrition and live in substandard housing. The availability of decent, safe and sanitary housing for these migrant workers is essential to the economic health of the state as well as the personal health and welfare of the farmworkers, and without them the state's agricultural industry would suffer.

In completing its work, the joint subcommittee toured some of the migrant housing and held public hearings in various parts of the state to see for themselves some of the housing and to afford growers, migrant workers and their advocates, and other concerned parties the opportunity to voice their concerns about migrant housing. The joint subcommittee found, and were informed by most interested parties, that the housing conditions for migrant workers have improved considerably in recent years. The greatest improvements were found on the Eastern Shore where, in the past, most of the housing had been substandard.

Although many of the problems reported to the subcommittee were unique to a particular geographic area, such as the problem of strong local opposition to the construction of practically any new migrant housing on the Eastern Shore, many of the same problems were found to exist across the state. Primarily, growers reported that they are overburdened with what they view as excessive and confusing regulations and paperwork requirements and that their costs of doing business have

increased considerably because of the increased costs of complying with such regulations and maintaining the housing for their workers. They indicated that they realize that in order to continue to attract good workers, they must provide adequate housing and thus are doing all they can financially to upgrade it. A number admitted that improvements are still needed, yet they cannot do them all on their own.

Other common concerns reported by growers included pressures from migrant advocacy groups to improve their housing and the continued availability of good workers. Migrant workers are critical to the harvesting of Virginia's crops yet they are becoming increasingly difficult to find because of the Immigration Reform and Control Act of 1986, which has allowed many migrant workers to gain citizenship and thus find better jobs.

Migrant advocacy groups on the Eastern Shore reported that although housing conditions have improved, "deplorable conditions" continue to exist, and without assistance from the state, such conditions will continue.

After carefully considering all of the information provided to it, the joint subcommittee determined that because migrant workers are essential to the agricultural community of the Commonwealth and that the ability of Virginia growers to continue to attract good workers depends on their ability to provide adequate housing for them, the state should coordinate its efforts in assisting growers in financing the construction of new or rehabilitation of existing migrant housing. It recommends that:

I. The Department of Housing and Community Development devote \$1,000,000, with up to \$500,000 to be used as matching grants and the remainder being used for revolving low-cost loans, to assist growers in the construction of new and the rehabilitation of existing migrant housing. The Department, however, shall provide that the loans or grants for the rehabilitation of housing should be available only once to a grower for a particular unit.

II. The Virginia Housing Development Authority use its resources to assist growers in their migrant housing endeavors.

III. The Virginia Housing Study Commission (i) monitor the efforts of the Department of Housing and Community Development and the Virginia Housing Development Authority in assisting the growers of this Commonwealth in financing the construction of new or the rehabilitation of existing housing for migrant workers; (ii) identify migrant housing as one of its priority items; and (iii) include it as a separate agenda item for future study.

The joint subcommittee believes that through this coordination of efforts, the housing conditions of migrant workers will improve.

INTRODUCTION

An estimated seven to eight thousand migrant farmworkers are needed each year by Virginia growers to harvest crops. The major crops requiring such workers for harvesting include white potatoes, sweet potatoes, snap beans, cucumbers and tomatoes on the Eastern Shore; various fruit trees in Winchester and Marion; and tobacco and cabbage in Southside. The migrant workers on the Shore are mostly poor blacks and Hispanics from Texas, Florida, Haiti and Mexico. In the Shenandoah Valley and Southside, the labor force is comprised primarily of foreign or alien workers including Jamaicans, Hispanics, and Mexicans

This migrant labor force is vital to the state's economic well-being as it is essential to an industry that is a major component of the state's economy. Although such workers contribute significantly to the high nutrition standards of the citizens and the agriculture industry of the Commonwealth, there are some who suffer from malnutrition and live in substandard housing.

As a result of a study of migrant farmworkers on Virginia's Eastern Shore, the Virginia Advisory Committee to the U.S. Commission on Civil Rights found and reported in 1983 that migrant housing on the Eastern Shore was "deplorable with housing structures ranging from chickenhouses to barns." Some of the problems commonly cited included "mosquito infestation, overflowing privies and septic tanks, lack of hot water for bathing, rotten ceilings and roofs, and walls with holes." Since the original hearings of this Committee, considerable progress had been made in improving the housing conditions.

In 1984, migrant advocacy groups estimated that seventy-five percent of Virginia's migrant camps were operating with serious violations of health and safety codes yet there was a significant improvement in the camps in 1985 as only twenty-five percent were found deficient. Much of this improvement was attributable to a number of growers' upgrading their housing because of changes in federal and state laws which placed the responsibility for complying with the housing and wage regulations on them as well as crewleaders. Previously, such laws had held only the crewleaders responsible. Also contributing to these improvements were pressures from migrant advocacy groups and the ability of local health departments to maintain more regular inspections of camps by hiring additional sanitarians who were trained and assigned solely the duties of migrant camp inspections. Additional improvements in migrant housing have since been reported.

For over forty years, governmental agencies, human service organizations, researchers and individual advocates have attempted to solve the problems of migrant farmworkers in the "Eastern Migrant Stream." In the past, most of the governmental resources devoted to helping migrant farmworkers have been federal. At the federal level, the Migrant and Seasonal Agricultural Worker Protection Act (MSAP) provides that each person or organization which owns or controls real property

used for the housing of migrant workers must comply with federal and state safety and health standards and that a written statement of the terms and conditions of occupancy must either be posted in a conspicuous place at the housing site or given to the workers. Occupancy of a migrant camp is prohibited unless it has been certified to have met the safety and health standards and a certificate has been issued. Violations of the requirements of the Act can result in the assessment of civil money penalties.

State agencies have established their own regulations for migrant farm labor in accordance with the federal standards for the MSAP and for other federal programs such as the Occupational Safety and Health Act (OSHA). Pursuant to an agreement between OSHA and the Commonwealth concluded in 1982, OSHA does not initiate concurrent enforcement with regard to any matter covered in the State Plan. OSHA standards are included in Virginia's laws and regulations governing the construction and maintenance of migrant labor camps.

The three state agencies primarily involved with migrant housing issues include the Department of Health, the Department of Labor and Industry and the Virginia Employment Commission. The Department of Health is responsible for conducting pre-occupancy housing inspections on the quality of environmental sanitation, issuing permits to construct and operate migrant labor camps, and maintaining bi-weekly inspection of labor camps. Local health departments make the bi-weekly inspections to determine compliance with the Department's regulations. In 1984, the Department entered into a cooperative agreement with the Virginia Employment Commission in which the VEC delegated its responsibility for conducting pre-occupancy camp inspections of water and sewage facilities to the Department. This assures the availability of inspectors competent to judge the quality of environmental sanitation in migrant camps and that efforts are not duplicated since the Department is responsible for the bi-weekly inspections.

The Virginia Employment Commission, as explained above, delegated its responsibility for conducting pre-occupancy housing inspections of water and sewage facilities to the Department of Health. Federal law requires that growers provide rent-free or public housing that meets federal standards for all migrant workers recruited through the VEC under the provisions of the Wagner-Peysner Act and that the housing must be inspected by the VEC. The U.S. Department of Labor's Employment Training Administration has delegated this inspection authority to the VEC. Representatives of the VEC provide advice to growers on how to meet the housing requirements.

The Department of Labor and Industry (DOLI) has the authority to make routine inspections of camps and carries out the appropriate enforcement actions. It also handles the complaints submitted by employees through the Virginia Occupational Safety and Health (VOSH) program and carries out investigations relating to fatalities/catastrophes that may occur. The Department became involved in the inspection of migrant housing in 1976 through the approval of its State Plan for VOSH. Its initial duties

were to make general scheduled inspections, cite violations, and cause compliance with occupational safety and health standards yet, in 1978, DOLI reached an agreement with the Department of Health whereby the Department of Health would conduct the inspections. It was agreed the DOLI would investigate complaints on referrals from local health department sanitarians.

In recent years, two state groups have been focusing considerable attention on migrant issues. The Migrant and Seasonal Farmworkers Board, which was established in 1978 to serve as an advisory body on migrant issues to the Governor, General Assembly and service deliveries, consists of fifteen members who represent grower communities, migrant and seasonal farmworkers and crew leaders, public and private agencies and interest groups or citizens concerned with these farmworkers. It has provided a forum for the airing of diverse views on the issues of concern to both the migrant farmworkers and growers. The Interagency Migrant Worker Policy Committee was established in October 1986 to coordinate the activities of the numerous state agencies currently providing services to growers and migrant workers. The Interagency Committee, chaired by Secretary of Human Resources Eva Teig, has been working to streamline the current regulations relating to migrant farmworkers.

The attention drawn to the migrant housing situation by these groups led the 1988 General Assembly to enact legislation which, effective July 1, 1988, conformed Virginia law to federal law by providing that all migrant labor camps which house one or more migrants are subject to regulation. Prior to July 1, 1988, only those migrant labor camps which housed more than ten people, at least one of whom was a migrant worker, were licensed and regulated by the state. Federal regulations covered all camps; however, inspections had been infrequent and little emphasis had been placed on enforcement. Much of the migrant housing, therefore, escaped the scrutiny of the local health departments. Additionally, advocacy groups have indicated that the number of migrant inhabitants in these camps may have been misrepresented in order to evade regulation.

The legislation has resulted in the Department of Health regulating and permitting three times the number of migrant labor camps previously regulated. In 1987, the Department regulated 135 camps and, as of October 31, 1988, a total of 403 camps had been identified. Attached as Appendix 1 is an illustration of the effects of the new legislation. It is estimated that the 403 camps provide housing for over 6,500 migrants. Regarding the suitability of the additional camps for habitation by migrants, the Department estimated that of the 268 additional camps, possibly as few as two percent are not able to meet the minimum requirements without major upgrading. More than fifty percent of the camps will require minor corrections to comply with the requirements and some of the previously unregulated housing will not be used as migrant labor camps. For example, on the Eastern Shore, of the forty-six migrant houses which were required to be permitted for the first time after July 1, only twenty-eight have been upgraded as required. The Health Department has reported that as more growers are informed of the new requirements less unsuitable housing is being used. It also reported

that as growers become more aware of the need for constant maintenance, the problem of unsuitable housing is less likely.

Although the housing conditions have improved in recent years, substandard conditions still exist and need to be addressed as good housing is essential to attracting good workers. There have been reports that on the Eastern Shore some people still spend the season sleeping in vans and going to the bathroom in the woods. Even some who live in the camps are obliged to go to the bathroom in the woods because of inadequate sanitary facilities and overcrowding in the camps. The problems of growers who must provide such housing, however, must also be recognized as although they need the workers to harvest their crops, they are faced with economic uncertainty regarding such crops and thus are reluctant to invest scarce capital resources in improvements for migrant housing which is used only a few months of the year.

Concern over the continued existence of substandard housing for migrant workers who are essential to the economic health of the state's agricultural community led to the introduction and passage of House Joint Resolution No. 117 by the 1988 General Assembly. The resolution established a joint subcommittee to "examine the Commonwealth's role in the provision of housing for migrant workers." It requested that the joint subcommittee "examine the housing situation for migrant workers and determine the advisability and feasibility of a state role in funding for migrant camps used by the state's agricultural community." A copy of the resolution appears as Appendix 2 to this report.

Delegate Alson H. Smith, Jr., of Frederick, patron of the study resolution, served as chairman of the joint subcommittee. Other members of the House of Delegates appointed to serve were Robert S. Bloxom of Accomack, Jerrauld C. Jones of Norfolk, and Alan E. Mayer of Fairfax.

Senator William E. Fears of Accomack served as vice chairman of the joint subcommittee. Other members of the Senate appointed to serve were Madison E. Marye of Montgomery and William A. Truban of Shenandoah.

Two citizen members were also appointed to serve, Mr. P. C. Kellam of Exmore, a farmer, and Mr. H. Delmar Robinson of Winchester, an apple grower.

Terry Mapp Barrett, Research Associate, and C. William Cramme' III, Senior Attorney, of the Division of Legislative Services, served as research and legal staff to the joint subcommittee. Bettie T. Jacobsen and Jill Stevens with the House Clerk's Office provided the administrative and clerical services.

WORK OF THE SUBCOMMITTEE

In carrying out its responsibilities as directed by the study resolution, the joint subcommittee met six times. Public hearings were held in the three major agricultural areas of the state, the Winchester area, the Eastern Shore, and Southside, in order to afford the growers, migrant workers and their advocacy groups, and other interested parties across the state an opportunity to voice their concerns regarding the overall issue of migrant housing. Additionally, the joint subcommittee toured some of the housing in Albemarle County, Winchester and on the Eastern Shore.

The joint subcommittee heard a large amount of oral testimony during its meetings and public hearings from a number of organizations and groups, including the Secretary of Human Resources, the Department of Labor and Industry, the Department of Health, the Virginia Employment Commission, the Virginia Housing Development Authority, the Department of Housing and Community Development, the Virginia Housing Study Commission, Telamon Corporation, the Frederick County Fruit Growers' Association, Peninsula Legal Aid, the Eastern Shore and Danville Health Departments, the Catholic Migrant Ministry, the Virginia Council of Churches, Eastern Shore Community Development Group, Delmarva Rural Ministries, the Virginia Agriculture Growers' Association, members of the Migrant and Seasonal Farmworkers Board, growers, a former migrant worker, and concerned citizens.

At its organizational meeting, the joint subcommittee was presented an overview of the laws and regulations affecting the health and housing of migrant farmworkers and the role of each of the agencies involved. The major portion of this overview was in the form of a videotape which was prepared by Virginia Polytechnic Institute and State University and the Virginia Cooperative Extension Service to educate farmers about their responsibilities under the laws relating to migrant farmworkers and to inform workers of their rights. Attached to this report as Appendix 3 is a summary of the material relating to migrant housing that was covered in the tape. It was pointed out that legislation enacted by the 1988 General Assembly and effective July 1988 conformed Virginia law to federal law by providing that all migrant labor camps which provide housing for one or more migrants are subject to regulation. As explained earlier, previously, only those camps which housed more than ten persons, one of whom was a migrant, were regulated and that under the federal regulations, inspections had been infrequent and it appeared to many that little emphasis had been placed on enforcement.

Additionally, a representative of the Virginia Employment Commission reported that the VEC licenses crew leaders, advises growers on how to meet the housing requirements, and receives job orders for approximately 3,000 to 3,500 foreign or alien workers each year. These workers are used primarily for harvesting tobacco, apples, and cabbage and growers must prove to the VEC that there is an insufficient supply of other workers before the job orders are approved. The VEC reported that it has

received only two complaints regarding housing and they were very minor. A representative of the Department of Housing and Community Development informed the joint subcommittee that although it had received funding from the 1988 General Assembly for the 1988-90 biennium which could be used for migrant housing, the Department had been awaiting the recommendations of the joint subcommittee before adopting any regulations for such. The joint subcommittee was also presented a brief history and description of the cooperative migrant camp operated by the Frederick County Fruit Growers' Association, which is described later in this report.

The program on the videotape which was shown to the joint subcommittee had been telecast live in January 1988 to forty-one extension areas, and tapes were sent to the local extension service offices to be shown to farmers who missed the telecast. The program, as mentioned above, was developed to help farmers because of reported confusion about or lack of knowledge of their responsibilities under the law. Confusion over their responsibilities was one of the problems common to growers across the state which were reported to the joint subcommittee. Much of this confusion has been caused by the difference between the state and federal laws regarding migrant housing, yet with the passage of the legislation by the 1988 General Assembly, this confusion should be eliminated.

The joint subcommittee found that the growers' problems tended to be unique to the particular geographic area within which they were located, yet there were some problems common to growers in all of the areas visited. Growers generally reported that they are overburdened with what they view as excessive regulations and paperwork requirements and that their costs of doing business have increased because of the increased costs of complying with such regulations and maintaining the housing for their migrant workers.

Another common concern was over the continued availability of good workers. Migrant farmworkers are critical to the agricultural community of the Commonwealth and they are becoming increasingly difficult to find because of the Immigration Reform and Control Act of 1986, which has allowed many migrant workers to gain citizenship and thus find better jobs. Under the Act, growers were given a two-year grace period before having to comply with the new law which carries stiff penalties for hiring illegal aliens. This amnesty period ended in December 1988 and growers will have to have proper documentation for all of their workers. Most of the farmworkers, however, do not have this documentation. Since a large portion of the migrant workers who pass through Virginia each year are illegal aliens, this law will affect a number of growers. Those projected to be most severely affected are vegetable growers who require a large number of workers. The growers indicated to the joint subcommittee that they realize that in order to continue to attract good workers they must provide adequate housing and thus are doing all they can financially to upgrade it. It was pointed out repeatedly that the housing provided by Virginia growers is far superior to that provided by

growers in North Carolina and other states and to the homes of such workers. One grower reported that some of his workers had never seen an indoor shower before coming to his camp.

An additional problem noted by a number of growers was that of being "hassled" by migrant advocacy groups, primarily Legal Aid. It was explained that these advocacy groups and the schools, social services departments, and Virginia Employment Commission have access to the camps all hours of the day and night. Some of the growers reported that an open-door policy with such groups has considerably improved their relationships and that often the groups have pointed out problems that they have been able to correct prior to the inspections by the health department.

A two-day tour of migrant housing in Albemarle County and the Winchester area was held in conjunction with the Interagency Committee on Migrant Policy. Migrant housing consisting of a cinder-block barracks and a Head Start Migrant Child Care Center in Albemarle County, and the Frederick County Fruit Growers' Association's camp, an apple orchard, other migrant housing, an apple packing house, and a health clinic, all in the Winchester area, were toured. A public hearing was also held.

In Albemarle County, the fruit growers reported that they are under considerable financial pressure and are doing all they can to upgrade their housing, but admitted that they have a long way to go. They indicated that among the stumbling blocks to improvements are the regulations that are difficult to understand and even more difficult to follow. In addition, the growers are facing increasing competition from overseas producers which makes them even more dependent on the cheap and reliable migrant workers. Good workers are particularly important to fruit growers. For example, it is the worker's skills that often determine whether a case of apples sells for \$14 or \$5. Crew leaders were noted as the key ingredient to getting good workers.

In Winchester, migrant housing was not a problem for most growers as a number of them belong to the Frederick County Fruit Growers' Association, which has a cooperative migrant labor camp that can house up to 1,035 people. Membership and service charges are based on the units picked and the growers pick up the same crew each day. The camp is located on 200 acres of land, part of which is used as a buffer, near the fruit packing houses in Winchester. The camp has two sides, one for families and one for individual workers, with each having a manager to act as a liaison between the growers and the workers. The camp manager reported that there has been no problem with local opposition to the camp and that the workers are there to work and those who do not are not allowed to stay. The joint subcommittee toured and had lunch at this camp and toured another camp owned by an individual grower which consisted of both modular units and a renovated farm house.

During the public hearing it was pointed out that the localized camp makes it easier for the service providers to find the workers. It was also pointed out that one of the reasons growers do not want to have

their own migrant camps is because Legal Aid, the VEC, social services agencies and schools all have access to the camps all hours of the day and night and they do not want to have to deal with them.

Additionally, a representative of Telamon Corporation, which is involved in efforts to stabilize the agricultural employee and improve the living and working conditions of farmworkers who remain in agriculture, pointed to the housing problems on the Eastern Shore for both migrant and seasonal workers but noted that although he had seen a number of improvements much work remains to be done. He testified that even with the new law which regulates all migrant camps, he doubted that the Health Department had the resources to find and inspect all of them. A representative of the Health Department reported that they have fifty-four sanitarian positions with five targeted to working in the migrant camps. Two or three are assigned to the Eastern Shore and one each is assigned to the Winchester area and Southside. It was suggested that although they now have enough sanitarians on the Shore, additional sanitarians may be needed in Southside to find the smaller camps and in Winchester to keep up with the growth in the number of camps.

The Telamon representative pointed out that the Virginia Housing Development Authority has the resources to assist in financing the housing for low-income people. The representative from VHDA indicated that the Authority has placed advertisements in magazines and on television about the availability of funds, asking farmers to come to them with their problems, yet has never received an application. It was pointed out that VHDA cannot give the money away but can provide the necessary leverage.

On the Eastern Shore, the joint subcommittee toured a relatively new camp and a renovated farmhouse which are owned by Six Ls Corporation, one of the largest growers on the Shore. Other camps which were viewed but not toured consisted of a converted motel, a camp consisting of a number of small houses, and an old farmhouse which is no longer being used to house migrant farmworkers because of its poor condition. A public hearing was held thereafter.

All groups testifying before the joint subcommittee indicated that housing conditions for migrant farmworkers on the Shore have improved dramatically in recent years yet much work remains to be done. The subcommittee learned that when these farmworkers first went to the Shore during World War II, they were housed in stables, barns, chickenhouses and the like as this was all the growers could afford to provide. After the war, the Farm Bureau purchased an internment camp to be used as a cooperative migrant labor camp; however, the growers did not like this arrangement and the camp was forced to close. Since then other attempts have been made to encourage the growers to work together. Delegate Smith reported that a few years ago he had indicated to a group of growers that if they could come up with a plan for a cooperative camp there was a very good chance the state could assist in the financing. The growers, however, did not show any interest in this. Growers on the Shore have typically pursued farming in the historical way, as individual farmers,

and want to have their crews easily accessible.

Today, there are basically three types of growers on the Shore - large growers, many of which are corporations, which are able to spend a considerable amount of money on the housing for their migrant farmworkers; medium-sized growers who own their own camps and are doing all they can to keep them in good repair; and small farmers who have no housing and do not want to borrow the money to build it. Some of the growers believe that since the housing must be provided to migrant farmworkers, the state should build it.

The growers reported that they have been under considerable pressure in the last several years from regulatory agencies and advocacy groups to improve their housing yet they cannot do it all on their own. Their costs of doing business have increased considerably because of the additional costs of complying with the regulations and maintaining the housing. Additionally, for three of the last five years, the two counties on the Shore have been declared disaster areas. The growers indicated that they are overburdened with the laws and paperwork and need help. They pointed out that small farmers cannot compete with the larger ones in attracting workers because the large growers are able to invest more money in their housing and that this might become a serious problem because of the Immigration Control Act. Since seventy-five percent of the Commonwealth's vegetable crop is grown on the Eastern Shore, the growers need a large number of workers.

Another problem brought to the joint subcommittee's attention was that of growers having difficulty finding locations for their new housing. The Eastern Shore Community Development Group, which has secured financing from the Farmers' Home Administration (FmHA) to build a model project one and one-half miles outside a town to provide decent housing for local farmworkers, has run into considerable opposition from the local residents. Part of the problems have resulted from the project's initially being labeled by FmHA as a migrant project. Because of the local opposition, the Community Development Group has been unable to get a variance from the local zoning board. Other instances of local opposition to migrant projects were cited. One of the citizen members of the subcommittee who is a farmer reported that he had difficulty in having migrant housing which he planned to build on his own land approved by the Board of Supervisors and he is a member of the Board. Throughout the study, Senator Fears called such local opposition the "NIMBY, 'not in my back yard,' complex." A representative of one of the advocacy groups for the migrant farmworkers pointed out that one way around the zoning problems is to renovate existing housing.

Representatives of a number of advocacy groups on the Eastern Shore that are attempting to improve the lives of migrant farmworkers testified at the public hearing. The coordinator for the Catholic Migrant Ministry reported that through frequent visits to the labor camps they have become aware of the housing problems. In the past some of the housing has escaped the scrutiny of the health department because there were supposedly fewer than eleven individuals housed in a camp and thus no

requirement for inspection by state inspectors. The Ministry coordinator reported that this led to much abuse since the number of inhabitants was often misrepresented in order to evade the regulations which would have required substantial renovations and improvements to have been made to such housing. She suggested that there is an insufficient number of health department inspections to ensure that the housing meets the regulations. It was pointed out that the goal of the OSHA regulations is to assure that the workers have decent places to live without placing excessive financial burdens on growers. The Ministry coordinator indicated that her group has never reported any violations to the health department even if such violations are serious enough to close a camp because the workers have no place else to go.

The need for adequate housing, not only for migrant farmworkers but also low-income people on the Shore, was stressed repeatedly throughout the hearing. It was pointed out that little rental property is available at any price and practically none is available "for the poor and black or those who speak another language."

A representative of Legal Aid informed the joint subcommittee that without assistance from the state, the housing situation for farmworkers will continue in the "deplorable condition" it is in now. She reported that a few individual large growers are able to make improvements but for many of the farmworkers, the housing problems have persisted virtually unchanged for decades and that only with the assistance of the state can such conditions be alleviated. Another migrant advocate noted that on a recent visit to some farmworkers, he was able to see his breath inside their house. One of the other problems cited was that of housing located next to fields which are routinely sprayed with pesticides.

A number of suggestions were made by the various groups regarding what the state can do to assist growers in the financing of migrant housing. This financial assistance not only would relieve the growers of some their financial burdens but also improve the overall housing conditions for migrant workers coming to Virginia. Those suggestions supported by all groups included:

1. Funds should be allocated to growers on a sliding scale basis so that those less able to afford to build their own camps would obtain more assistance from the state;
2. Funding should be provided for family or single units;
3. Funding should be attractive with low interest rates and provisions should be made to allow growers to make smaller or no payments in the winter months or in the case of a natural catastrophe; and
4. All low-income housing should be eligible for housing financed with public money.

Some additional suggestions of the representative of Legal Aid included that (i) no grants be provided since more would have to be appropriated each year and instead, revolving loans should be issued with a quick and simple application process; (ii) grants should be awarded

only to organizations that propose construction of new housing open to all farmworkers, not just workers employed by a particular grower or group of growers who form a nonprofit organization; (iii) priority in allocating loans to growers should be given for off-farm, new housing projects, rather than rehabilitation of old or construction of new, on-farm housing; and (iv) licensed or bonded contractors should be required to ensure that the housing meets the state's building code.

The growers suggested that (i) grants or low-cost loans be provided, (ii) support be provided for nonprofit groups working on projects, and (iii) assistance be provided in overcoming opposition in getting projects approved.

During the public hearing in Danville, the growers did not report any real problems regarding migrant housing as they realize that if they do not provide housing that meets the standards they will not get the H-II workers they need through the Virginia Employment Commission. The growers reported that most of their housing is for six to ten workers and that although they are capable of funding the housing themselves, they could use some financial assistance in maintaining it. Their biggest concern was over the effects of the change in the law which subjects all of their housing which was previously inspected only by federal inspectors to the scrutiny of the local health department. Representatives of the health department explained to the growers that the change in the law conformed Virginia law to federal law and that the state inspectors would use the same standards as the federal inspectors had used. They indicated that the growers, therefore, should see no additional restrictions unless the federal inspectors had not been strictly enforcing the regulations. Additionally, the health department representatives indicated that their willingness to work with the growers on this.

After having heard the concerns of growers, migrant advocacy groups, and others across the state, the joint subcommittee held two work sessions during which it made its recommendations as to the role the Commonwealth should play in the provision of housing for migrant workers.

RECOMMENDATIONS

After thorough review of the information it has received and considerable discussion of the issues involved, the joint subcommittee makes the following recommendations to the 1989 General Assembly:

THE STATE SHOULD COORDINATE ITS EFFORTS TO ASSIST GROWERS IN FINANCING THE CONSTRUCTION OF NEW OR THE REHABILITATION OF EXISTING MIGRANT HOUSING. THIS COORDINATED EFFORT SHALL INCLUDE:

1 - THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT DEVOTING \$1,000,000, WITH UP TO \$500,000 BEING USED AS MATCHING GRANTS AND THE REMAINDER BEING USED FOR REVOLVING LOW-COST LOANS, TO ASSIST GROWERS IN THE CONSTRUCTION OF NEW AND THE REHABILITATION OF EXISTING MIGRANT HOUSING. THE DEPARTMENT, HOWEVER, SHALL PROVIDE THAT THE LOANS OR GRANTS FOR THE REHABILITATION OF HOUSING SHOULD BE AVAILABLE ONLY ONCE TO A GROWER FOR A PARTICULAR UNIT.

2 - THE VIRGINIA HOUSING DEVELOPMENT AUTHORITY USING ITS RESOURCES TO ASSIST GROWERS IN THEIR MIGRANT HOUSING ENDEAVORS.

3 - THE VIRGINIA HOUSING STUDY COMMISSION (i) MONITORING THE EFFORTS OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE VIRGINIA HOUSING DEVELOPMENT AUTHORITY IN ASSISTING THE GROWERS OF THIS COMMONWEALTH IN FINANCING THE CONSTRUCTION OF NEW OR THE REHABILITATION OF EXISTING HOUSING FOR MIGRANT WORKERS; (ii) IDENTIFYING MIGRANT HOUSING AS ONE OF ITS PRIORITY ITEMS; AND (iii) INCLUDING IT AS A SEPARATE AGENDA ITEM FOR FUTURE STUDY.

REASONS FOR RECOMMENDATIONS

Recognizing the important contributions migrant workers make to the agricultural sector of the Commonwealth and that the ability of Virginia growers to continue to attract good workers depends on their ability to provide adequate housing for them, the joint subcommittee determined that the state should coordinate its efforts in assisting growers in financing the construction of new or rehabilitation of existing migrant housing. As mentioned earlier, a number of growers reported to the subcommittee that they are doing all they can financially to provide better housing but cannot do it all on their own. Their costs of doing business have increased considerably because of the additional costs of complying with the housing regulations and maintaining it. Additionally, in the past few years drought conditions have contributed to the financial problems of some growers. Growers realize that in order to continue farming they must provide adequate housing for their migrant workers, yet they are reluctant to invest scarce capital resources in housing that is used only a few months of the year and which is often damaged by its occupants.

In addition, small growers are finding it increasingly difficult to compete with larger growers for workers as the larger growers have more money to spend on their migrant housing and thus can more easily attract workers. With the passage of the Immigration Reform and Control Act of 1986 there may be a shortage of migrant farmworkers as early as 1989.

At the first of the joint subcommittee's work sessions, both the Department of Community Development and the Housing Development Authority indicated that they have funds available to assist growers in the construction of new or rehabilitation of migrant housing. The Director of the Department of Housing and Community Development reported that the Department was appropriated funds by the General Assembly in 1988 to provide assistance in the financing of low-income housing and that they had been waiting for the recommendations of the joint subcommittee regarding the appropriateness of the Commonwealth's assisting in the financing of housing for migrant workers prior to making any loans for such. The Department will have \$17 million available during 1989 for the rehabilitation of multi-family housing and \$6 million for new construction for which migrant housing projects are eligible. The majority of the money, however, is for loans. A representative of the Housing Development Authority reported that although VHDA cannot give any money away, it can provide leverage for growers.

The subcommittee members discussed at length whether farmers would be interested in loans. It was suggested that the availability of low-cost loans would not be enough incentive to encourage growers to build or renovate migrant housing. The joint subcommittee, therefore, determined that matching grants, as well as low-cost loans, should be available to growers for the construction of new or rehabilitation of existing migrant housing. The Department of Housing and Community Development was requested to set aside \$1,000,000 for this, with up to \$500,000 for matching grants, and the remainder for low-cost revolving loans.

Revolving loans were recommended since these would assure a source of continuing assistance to growers whereas the proceeds from nonrevolving loans would go back into the general fund. Although the Department indicated that its funding was restricted to loans, Delegate Smith said that he would amend the budget bill to provide that the Department could make grants to growers.

There was considerable discussion over whether grants should be made for the rehabilitation of migrant housing; however, it was pointed out that in Southside, there are a number of old farmhouses which, with some renovations, would be excellent for migrant housing. Growers in that part of the state thus have no need for new housing for their workers. The joint subcommittee determined that grants or loans for the rehabilitation of housing should be allowed yet should be provided to a grower only once for a particular unit to ensure that growers are properly maintaining the housing and not allowing it to fall into disrepair and later seeking grants or loans to bring it back up to the standards. Additionally, the joint subcommittee determined that the Department of Housing and Community Development should have flexibility in making the determinations as to whether loans or grants should be given in each individual case.

The Virginia Housing Development Authority representative reported to the joint subcommittee that the Authority has been trying to lend money to farmers for several years but has not been able to arouse any interest in what it had to offer. He pointed out that VHDA can provide leverage for growers and is willing to work with the Department of Housing and Community Development in providing financial assistance to growers. The joint subcommittee included in its recommendations that VHDA use its resources to help growers in their migrant housing endeavors.

The joint subcommittee felt that these financing efforts need to be monitored to assure that growers and ultimately migrant farmworkers are benefiting from the state's assistance. Since the Virginia Housing Study Commission was established in 1970 to study and make recommendations on the best ways to use existing resources and to develop policies to provide adequate housing in the Commonwealth, the joint subcommittee determined that it would be appropriate for it to monitor these financing efforts. Additionally, it determined that because of the importance of assuring that adequate housing is provided to migrant workers in the future, the Virginia Housing Study Commission should identify it as one of its priority items and include it as a separate agenda item for future study.

The resolution requesting the involvement of the Department of Housing and Community Development, the Virginia Housing Development Authority and the Virginia Housing Study Commission appears as Appendix 4 to this report.

CONCLUSION

The joint subcommittee believes that significant improvements have been made in the migrant housing conditions around the state in recent years, yet recognizes that much work remains to be done. Through the passage of its resolution requesting the coordination of state efforts in financing the construction of new or rehabilitation of existing migrant housing, and thus the involvement of various state agencies in assisting growers, the joint subcommittee anticipates that the housing conditions will continue to improve, thus enabling Virginia growers to continue to attract the migrant workers who are critical elements in the agricultural process.

The joint subcommittee expresses its appreciation to all parties who participated in its study and believes that its recommendations are in the best interest of the Commonwealth, its growers, the migrant workers who come to Virginia to work, and its citizens who enjoy the locally grown produce.

Respectfully submitted,

Alson H. Smith, Jr., Chairman
William E. Fears, Vice Chairman
Robert S. Bloxom
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APPENDICES

- 1 - Map showing the change in the number of migrant labor camps regulated in Virginia with the change in legislation effective July 1, 1988
- 2 - House Joint Resolution No. 117 of 1988
- 3 - Overview of the Laws Relating to Worker Safety and Migrant Housing
- 4 - Resolution recommended by the joint subcommittee - HJR 268 of 1989

VIRGINIA

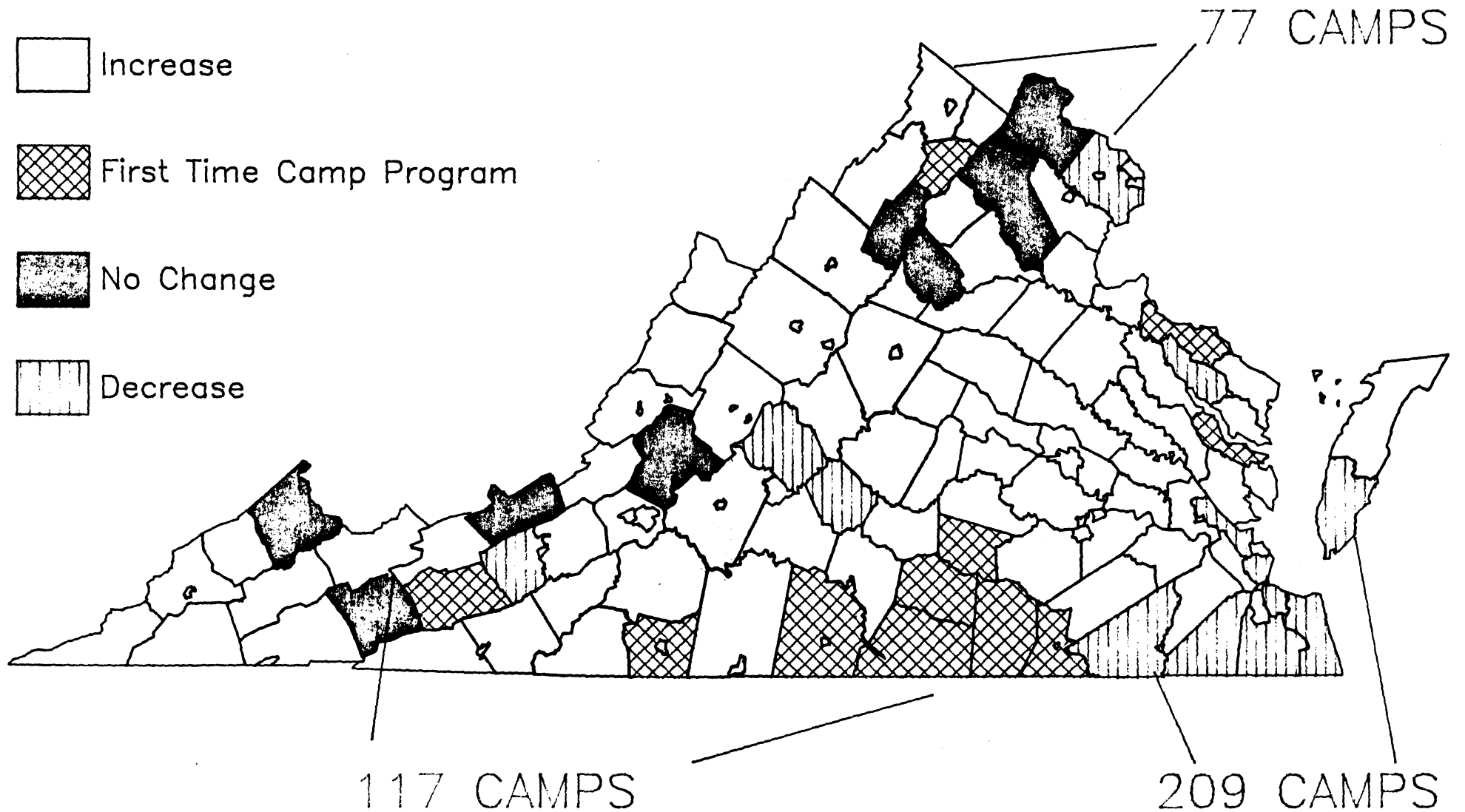
Migrant Labor Camps

□ Increase

▣ First Time Camp Program

■ No Change

▤ Decrease



GENERAL ASSEMBLY OF VIRGINIA -- 1988 SESSION
HOUSE JOINT RESOLUTION NO. 117

Establishing a joint subcommittee to examine the Commonwealth's role in the provision of housing for migrant workers.

Agreed to by the House of Delegates, March 11, 1988

Agreed to by the Senate, March 9, 1988

WHEREAS, almost every meal we eat includes food harvested and processed by farmworkers, and there are an estimated eight to nine thousand persons who perform migrant farm labor in Virginia; and

WHEREAS, these hard-working individuals contribute significantly to our high standards of diet and nutrition but they suffer themselves from malnutrition, poverty level income, long and hazardous labor, substandard living conditions, high rates of disease and an average life expectancy of 49 years; and

WHEREAS, migrant and seasonal farmworkers have been among the worst housed segment of the nations population and, since most are not homeowners, they must rely on often substandard rental housing in labor camps; and

WHEREAS, situations where migrant camps, including those substandard ones, would house approximately one-third of the workers and others had to rely on abandoned houses, converted animal sheds and the like which have been upgraded to some degree, but still are a major concern; and

WHEREAS, migrant workers are a necessity for harvesting crops, but given the economic uncertainty of agricultural products, farmers have historically been reluctant to invest in housing used only three months a year; and

WHEREAS, in some areas of the Commonwealth growers who are well established and organized have organized cooperative-type camps which pool the efforts of many to alleviate a common problem, but much more is needed; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to examine the housing situation for migrant workers and determine the advisability and feasibility of a state role in funding for migrant camps used by the state's agricultural community.

The joint subcommittee shall be composed in the following manner: one member each from the House Committees on Health, Welfare and Institutions, Appropriations, General Laws, and Labor and Commerce, to be appointed by the Speaker; one member each from the Senate Committees on Commerce and Labor, Finance and General Laws, to be appointed by the Senate Committee on Privileges and Elections; and two citizen members who shall represent growers, to be appointed by the Governor.

The joint subcommittee shall complete its work and make its recommendations to the 1989 Session of the General Assembly.

All agencies of Commonwealth will provide assistance to the study as appropriate.

The indirect costs of this study are estimated to be \$10,650; the direct costs of this study shall not exceed \$6,480.

APPENDIX 3

OVERVIEW OF THE LAWS RELATING TO WORKER SAFETY AND MIGRANT HOUSING

Department of Labor and Industry

In 1970 Congress enacted the most significant law in the nation's history regarding occupational safety and health. The purpose of this law is to assure safe and healthful working conditions for working men and women. The law requires that each employer shall (1) furnish to each of his employees employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to them; and (2) comply with occupational safety and health standards promulgated under the Act. The Act also authorizes the establishment of an enforcement agency within the Department of Labor, the Occupational Safety and Health Administration-OSHA; promulgation of standards; state participation; research, training, education, and information. Virginia is one of the states that has an approved State Plan in accordance with the provisions of the Act. The Department of Labor and Industry has been assigned primary responsibility for the enforcement and administration of the occupational safety and health activities in Virginia.

The Virginia Occupational Safety and Health Program, often referred to as "VOSH", conducts enforcement inspections and provides some training, information and technical assistance. Enforcement inspections are triggered as a result of a complaint referral from another agency, or a planned inspection scheme. If a violation of a standard is identified during the course of an inspection a citation is issued. These citations are similar to a court order requiring corrective action within a certain specified period of time. Most of the standards, enforcement efforts, and other program activities of the VOSH Program are intended and focused on general industry and construction. However, there are some aspects of the enforcement effort which focus on agricultural operations.

At the present time the standard with the greatest impact on agriculture concerns temporary labor camps. All labor camp housing constructed after April 3, 1980, must comply with the Federal Occupational Safety and Health Administration Standards. Housing constructed before that time can be covered by the Federal Department of Labor's Employment and Training Standard if the grower so chooses. The Department of Labor and Industry enforces these standards in all camps which have eleven or more workers. Effective July 1, 1988, these standards became applicable to all camps. In addition to enforcement in this area the Department of Labor and Industry has been delegated responsibility by the Virginia Employment Commission for the preoccupancy inspection of camps seeking permits to employ foreign workers under the provisions of the Job Service Agricultural Clearance System.

Department of Health

Traditionally, migrants have been among the worst housed segment of the nation's populations. Many migrant workers and their families are housed in migrant labor camps. Others live in unregulated camps consisting of converted chicken houses, horse barns, abandoned farmhouses, single-room wood cabins, or concrete houses.

Environmental factors, such as substandard housing and inadequate sanitary facilities, have been identified as contributory agents in the initiation and exacerbation of major health problems of migrants. Several studies have shown a close relationship between poor health, poor housing and low economic status. Epidemiological data supports that crowding is a significant factor in the spread of most communicable disease; inadequate heating is a significant cause of exposure; and people who live in crowded and uncomfortable housing are subjected to greater stress. This stress can cause undesirable behavioral changes which lead to poor health. Because of the health issues facing migrants living and working in Virginia, sanitarians from the Department of Health inspect and permit migrant labor camps. These camps provide living quarters for nearly 5000 migrants who work in Virginia's orchards and fields.

The Department of Health, authorized by § 32.1-12 and §§ 32.1-203 through 32.1-211 of the Code of Virginia, promulgated rules and regulations governing the construction and operation of migrant labor camps which house more than 10 persons one of which is a migrant. Effective July 1, 1988, all camps come under these regulations.

In 1984 an unusually high number of migrant dwellings were in violation of federal and state law. On the Eastern Shore the local department increased its frequency of inspections from biweekly to weekly. This change in policy resulted in the sanitarians being able to advise the grower of minor or potential violations so that they could be corrected before they became major problems.

The Health Department's regulatory program is based on public health criteria and its approach is primarily educational. When a grower's camp meets these criteria unhealthy conditions will be minimized and his efforts will be a preventive measure in maintaining a healthy workforce. When a grower contemplates constructing a camp, the local sanitarians assist him by reviewing his construction plans. As the camp is built, sanitarians inspect it to determine compliance. When the camp is operating, the Health Department's objective is to provide growers an explanation of the criteria and advise him how he can maintain sanitary housing for his workers. The sanitarian at the local health department is available to advise growers on criteria on water supplies, on-site sewage systems, camp housing and surroundings, refuse and garbage disposal, food service and the control of insects and rodents.

Health Department Procedures

The local health departments throughout Virginia have a history of cooperating with Virginia growers. At the local level they are familiar with many if not all of the growers and understand the concerns and problems facing them. The local health department is willing to work with the grower to insure that his labor housing is safe and legal. Through this cooperative effort the local departments accomplish two goals: providing safe housing for the farmworkers and protecting the health of these people. Providing housing for farmworkers can be a costly proposition and whenever workers are housed routine repairs and maintenance are needed throughout the growing season. Many growers do not have time to routinely visit their labor housing to identify maintenance problems. The local health department's bi-weekly or weekly inspections identify these problems and bring them to the grower's attention. These inspections help the grower keep his housing in compliance with the regulations. Without this routine upkeep, the housing can fall into disrepair in a relative short time. The health department identifies problems and allows the grower to correct them.

Monitoring and maintaining farmworker housing in Virginia is a big job. In 1987 there were about 5,000 migrant farmworkers in Virginia. This number was lower than normal because of the new immigration laws. Many migrants stayed in Florida to complete the legalization process.

Anyone planning to construct, substantially remodel, or enlarge a migrant labor camp or to convert a property for use as a camp must fill out a construction application for the local health department at least thirty days before the date of beginning construction. Also, any person who wishes to operate a migrant labor camp must make application to do so at least thirty days before the camp is to open. A separate application is required for each camp. This thirty-day lead time allows the local health department to make certain that the camp is in compliance with all applicable regulations. If problems are discovered, there is time for corrections to be made before occupancy.

Migrant labor camps under Virginia law are governed by two sets of standards, the ETA (Employment Training Act) regulations and the OSHA regulations. If a migrant housing facility was constructed or under construction prior to April 3, 1980 or under contract by March 4, 1980 the grower has the option to choose the ETA regulations. Otherwise the OSHA standards are applicable. Growers who have the option to use either set of regulations must indicate their choice on the application. After the completed application is received a local health department sanitarian inspects the facility. This thorough pre-occupancy inspection is conducted to indicate all areas of noncompliance with the regulations. Under the regulations, criteria have been established for use to use in evaluating the site, shelter, water supply, toilet facilities, sewage disposal facilities, lighting, refuse disposal, the construction and operation of cooking and eating facilities, insect and rodent control, first aid, and communicable diseases.

Within each of these categories standards are set for evaluating all proposed camps. Some of these standards include:

- Living areas of the camp must be located at least 500 feet from areas where livestock are kept.
- There must be sufficient area per person to allow for healthful living conditions.
- Square footage requirements were made to prevent overcrowding, and to lessen the chance of the transmission of diseases.
- Under ETA regulations there must be a 7' minimum ceiling height for at least half the floor area. Under OSHA regulations there must be a minimum ceiling height of 7' throughout.
- Beds, cots or bunks must be provided in every room used for sleeping and separate, adequate provision must be made for hanging clothing and storing personal effects.
- Floors must be constructed of rigid material and kept in good repair. Wood floors must be smooth and of tight construction.
- All outside openings must be screened.
- There must be an adequate convenient approved water supply.
- Toilet facilities must be provided in adequate numbers to serve the camp population in a ratio prescribed by the regulations and toilets are to be located within 200 feet of all living units.
- Privies must be located so that they do not create a health hazard near kitchens, sleeping units, or wells.
- Each individual living room, laundry, bedroom and toilet room or other room where people congregate must contain one ceiling or wall type light fixture and an electrical outlet.
- If the camp is to be used during times of cold weather, properly installed heating equipment must be provided.
- The regulations also define standards for refuse disposal.
- Measures must be taken to prevent infestation by insects, rodents, and other vermin. A first aid kit must be readily accessible at all times.
- Cooking and eating facilities fall into 3 general categories each with different requirements: central kitchen, community kitchen and kitchen and sleeping combined.

The sanitarian makes an on-site evaluation of all these requirements.

A copy of the preliminary inspection report is usually hand delivered to the camp owner. This allows the sanitarian and owner to discuss the camp deficiencies and plan corrective action. When the camp owner has made the necessary corrections he notifies the sanitarian, who then makes a return visit to the camp and completes a final inspection as comprehensive as the preliminary inspection. If the camp meets standards, a one year operational permit is issued and the operational permit is visibly posted in a public area. Once permitted, the camp is subject to maintenance inspections conducted by the local health department. The law requires an inspection to be made once every two weeks as long as the camp is occupied. However, because property damages and other changes occur frequently, sanitarians and growers alike have found weekly inspections to be more useful in

keeping the camps up to standards.

After an inspection is conducted a copy of the inspection report is hand delivered to the camp owner or his representatives and routine deficiencies are to be corrected before the next inspection. Any violation that poses an immediate threat to public health and safety requires immediate action. The health department continues to monitor conditions at permitted labor camps and keeps alert for illegal housing until the migrants move on.

Virginia Housing Development Authority

The Virginia Housing Development Authority was created in 1972 to provide housing to low and moderate income Virginians. They have been involved in a number of financing packages for small and large growers and growers' associations.

1989 SESSION

LD5940568

HOUSE JOINT RESOLUTION NO. 268

Offered January 17, 1989

Requesting the coordination of state efforts in assisting growers in financing the construction of new or rehabilitation of existing migrant housing.

Patrons—Smith, Bloxom, Wilson, Jones, J. C. and Mayer; Senators: Marye and Fears

Referred to the Committee on General Laws

WHEREAS, the availability of decent, safe and sanitary housing for migrant workers is essential to the economic health of the Commonwealth, as well as to the personal health and welfare of the farm workers, and without these workers the Commonwealth's agricultural industry would suffer; and

WHEREAS, although the housing conditions for such workers have improved in recent years, there are numerous improvements that still need to be made; and

WHEREAS, growers who must provide housing for their workers are faced with uncertainty regarding their crops and thus are reluctant to invest scarce capital resources in improvements for migrant housing which is used only a few months each year; and

WHEREAS, the joint subcommittee established pursuant to House Joint Resolution No. 117 of the 1988 Session of the General Assembly to determine what the Commonwealth's role should be in the provision of migrant housing found that although the problems varied across the Commonwealth, in most cases growers needed help in financing the construction or rehabilitation of housing for their migrant workers; and

WHEREAS, the joint subcommittee determined that the Department of Housing and Community Development should devote \$1 million, with up to \$500,000 to be used as matching grants and the remainder to be used for revolving low-cost loans, to assist growers in the construction of new and the rehabilitation of existing migrant housing; and

WHEREAS, the joint subcommittee also determined that the Virginia Housing Development Authority should use its resources to assist growers and that these financing efforts, as well as the entire migrant housing issue, need to be monitored; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Housing and Community Development is hereby requested to devote \$1 million, with up to \$500,000 to be used as matching grants and the remainder to be used for revolving low-cost loans, to assist growers in the construction of new and the rehabilitation of existing migrant housing. The Department shall provide that the loans or grants for rehabilitated housing should be available only once to a grower for a particular unit; and, be it

RESOLVED FURTHER, That the Virginia Housing Development Authority is requested to use its resources to assist growers in their migrant housing endeavors; and, be it

RESOLVED FINALLY, That the Virginia Housing Study Commission is requested to (i) monitor the efforts of the Department of Housing and Community Development and the Virginia Housing Development Authority in assisting the growers of this Commonwealth in financing the construction of new or the rehabilitation of existing housing for migrant workers; (ii) identify migrant housing as one of its priority items; and (iii) include it as a separate agenda item for future study.

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