

VIRGINIA HOUSING COMMISSION

2015 Annual Report

Virginia Housing Commission

Daniel W. Marshall, III, Chair	House of Delegates
Mamie E. Locke, Vice-chair	Senate of Virginia
George L. Barker	Senate of Virginia
John C. Watkins	Senate of Virginia
David L. Bulova	House of Delegates
Betsy Carr	House of Delegates
Barry D. Knight	House of Delegates
Christopher K. Peace	House of Delegates
Mark K. Flynn	Governor Appointee
T. K. Somanath	Governor Appointee
Laura D. Lafayette	Governor Appointee
Elizabeth A. Palen	Executive Director

Affordable Housing, Real Estate Law, & Mortgages

Christopher Peace, Chair	House of Delegates
Betsy Carr	House of Delegates
Barry Knight	House of Delegates
Daniel Marshall	House of Delegates
Mamie Locke	Senate of Virginia
George Barker	Senate of Virginia
Mark Flynn	Gubernatorial Appointee /Advantus Strategies
Laura Lafayette	Gubernatorial Appointee
T.K. Somanath	Gubernatorial Appointee
Neal J. Barber	Community Futures
Steve Baugher	Virginia Association Mortgage Brokers
Robert N. Bradshaw	Independent Insurance Agents of Virginia
Paul Brennan	Virginia Housing Development Authority
J.G. Carter	TowneBank Mortgage
Tyler Craddock	Manufactured & Modular Housing Association
Heather M. Crislip	President and CEO of HOME
Chip Dicks	Virginia Association of Realtors
Andrew M. Friedman	Virginia Beach Dept. Housing & Neighborhood Preservation
Brian Gordon	Northern Virginia Apartment Builders Association
Kelly Harris-Braxton	Virginia First Cities
Kelly King Horne	Homeward
Ralston King	Whitehead Consulting
Erik Johnston	Virginia Association of Counties
Katherine Payne	Williams Mullen
Shaun Pharr	Apartment and Office Building Association
Renee Pulliam	Virginia Apartment Management Association
Jay Speer	Poverty Law Center
Elizabeth Steele	Stewart Title
Chris Thompson	Dept. of Housing and Community Development
Michael Toalson	Home Builders Association of Virginia
William Walton	Real Property, Inc.
Michele Watson	Virginia Housing Development Authority

Housing and Environmental Standards

John Watkins, Chair	Senate of Virginia
George Barker	Senate of Virginia
David Bulova	House of Delegates
Betsy Carr	House of Delegates
Daniel Marshall	House of Delegates
Barry Knight	House of Delegates
Mark Flynn	Gubernatorial Appointee/Advantus Strategies
Brian Buniva	Environmental Health & Safety; Sequa Corporation
Ron Clements	Virginia Building & Code Officials Association
Michael Congleton	Fairfax County Planning Commission
Tyler Craddock	Manufactured & Modular Housing Association
Cindy Davis	Building Codes/Dept. of Housing & Community Development
James R. Dawson	Virginia Fire Prevention Association
Chip Dicks	Virginia Association of Realtors
Sean P. Farrell	Virginia Building & Code Officials Association
Erik Johnston	Virginia Association of Counties
Ralston King	Whitehead Consulting
Art Lipscomb	Independent Firefighters
Katherine Payne	Williams Mullen
Shaun Pharr	Apartment and Office Building Association
Ed Rhodes	Virginia Fire Chiefs Association
Emory Rodgers	Building Codes/Dept. of Housing & Community Development
Neal Rogers	Virginia Housing Development Authority
Michael L. Toalson	Home Builders Association of Virginia
Cal Whitehead	Whitehead Consulting
Jerry M. Wright	Central Virginia Chapter-Community Association Institute

Common Interest Communities

David Bulova, Chair	House of Delegates
Betsy Carr	House of Delegates
Barry Knight	House of Delegates
Christopher Peace	House of Delegates
George Barker	Senate of Virginia
Laura Lafayette	Gubernatorial Appointee
Sarah Broadwater	CIC Resident
Janice Burgess	Virginia Housing Development Authority
Michelle Casciato	Community Association Institute
Tyler Craddock	Manufactured & Modular Housing Association
Chip Dicks	Virginia Association of Realtors
Chet Hahne	Virginia Association of Community Managers
Heather Gillespie	Common Interest Communities Ombudsperson
Dale Goodman	Virginia Resort Development Association
Trisha Henshaw	Common Interest Community, Executive Director
Joseph Hudgins	Independent Insurance Agents of Virginia
Mike Inman	Community Association Institute
Erik Johnston	Virginia Association of Counties
Phillip W. Richardson	Eck, Collins & Richardson
Chandler Scarborough	Green Run Homes Association
Scott Sterling	Common Interest Communities Board
Michael Toalson	Home Builders Association of Virginia
Pia Trigiani	Common Interest Communities Board
Jerry Wright	Community Association Institute

Neighborhood Transitions & Residential Land Use

Mamie Locke	Senate of Virginia
David Bulova	House of Delegates
Betsy Carr	House of Delegates
Daniel Marshall	House of Delegates
Mark Flynn	Gubernatorial Appointee/Virginia Municipal League
Laura Lafayette	Gubernatorial Appointee
T.K. Somonath	Gubernatorial Appointee
Neal J. Barber	Community Futures
Anthony Burfoot	City of Norfolk, Treasurer
Bernard Caton	City of Alexandria, Legislative Director
Tyler Craddock	Manufactured & Modular Housing Association
Cindy Davis	Building Codes/Dept. of Housing & Community Development
Chip Dicks	Virginia Association of Realtors
Chris Freund	Family Foundation of Virginia
Brian Gordon	Apartment and Office Building Association
Kelly Harris-Braxton	Virginia First Cities
John H. Jordan	Manufactured Housing Communities
Erik Johnston	Virginia Association of Counties
Ted Koebel	Center for Housing Research at Virginia Tech
Barry Merchant	Virginia Housing Development Authority
A. Vaughn Poller	Hampton Roads Housing Consortium
Elizabeth Rafferty	Department of Housing & Community Development
Earl Reynolds	City of Danville, Community Development Director
Michael Toalson	Home Builders Association of Virginia
Cal Whitehead	Whitehead Consulting

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Executive Summary

The Virginia Housing Commission was established 45 years ago by the Virginia legislature to study housing-related issues and create legislative, regulatory, and creative solutions to the Commonwealth's housing needs. It remains a vital and active Commission, forming legislative solutions to improve housing and living conditions in the Commonwealth.

During the 2015 interim the Commission chose to put strong focus on blight eradication; national speakers, as well as local experts and local government representatives gave their opinions and input to the Commission. "Land banking," a tool used throughout the country, was one mechanism chosen by the Commission to combat blight, because it creates an entity dedicated to the purchase, assembly, rehabilitation, and distribution of previously undesirable land. Both rural and urban areas, including the cities of Danville and Richmond, are in favor of using land banks. Legislation allowing localities the permissive ability to create a land bank authority was approved by the Commission to be presented to the 2016 General Assembly.

The much-studied topic of the Housing Trust Fund (SJ 235, J. Watkins, 2015) was another area the Commission emphasized again this year. The Commission heard from the Center for Housing Research at Virginia Tech about the far-reaching economic impact of the Housing Trust Fund on the Commonwealth's economy, and unanimously endorsed legislation that would set a threshold amount for the state coffers to collect and then dedicate 20% of the excess amount of the recordation tax to the Housing Trust Fund. The need for a dedicated funding source for the Housing Trust Fund was found to be great, and members of the Commission in the House and Senate will carry the bi-partisan legislation.

Additional areas of study included the amendment of the Fair Housing Law as it relates to veterans and as it relates to sexual orientation. Stalking and the effect on rental agreements was studied. Recurrent flooding as it applies to home buyers was identified as an issue; the Commission reviewed a non-legislative solution crafted by the Virginia Housing Development Authority, which would provide information and training to first-time home buyers on the topic of flooding and flood insurance. The Commission also discussed making information available to home buyers about abandoned oil tanks and septic systems, using information held by localities.

Several in-depth meetings were dedicated to learning about ex-offenders and housing need. No legislation was proposed for this session.

Legislation was endorsed to add information about asbestos safety when asbestos removers get their permits.

As building code issues are frequently addressed by the Commission, bedbug eradication in buildings with adjoining walls was discussed. The issue will remain with the Commission into the next interim.

This year the workload of the Commission was divided into three workgroups: Neighborhood Transitions and Residential Land Use, Affordable Housing and Real Estate Law, and Housing and Environmental Standards. Workgroups are formed by Commission members with stakeholders from entities such as the Realtor Association, the Virginia Homebuilders, nonprofit groups, mortgage lenders, local government, and others. Workgroups study issues, hear speakers (representing different perspectives on issues), and decide which issues should be heard by the full Commission.

Full Commission meetings were dedicated to topics of importance to the Commission, such as the economic and housing forecast, presented by a speaker from the Federal Reserve Bank of Richmond.

Summaries for all meetings are available online, and a Twitter feed with current housing articles appears on the Housing Commission website.

The Virginia Housing Commission staff actively follows all housing legislation during the legislative session to determine the work plan for the following interim; meetings of the Commission for 2016 will resume after the conclusion of the legislative session.

COMMONWEALTH OF VIRGINIA

DELEGATE DANIEL MARSHALL, III, Chair
SENATOR MAMIE LOCKE, Vice-chair
ELIZABETH A. PALEN, Executive Director



GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 224
(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

AGENDA

Virginia Housing Commission April 14, 2015, 1 PM House Room C, GAB

I. Welcome and Discussion of Work Plan

✚ Delegate Danny Marshall, *Chair*

II. Housing Economic and Forecast

✚ Sonya Waddell
Regional Economist; The Federal Reserve Bank of Richmond

III. Land Banks

1. Local Prospective

✚ J. Lee Vogler, *City Council Member; Danville*
✚ Daniel Cohen, *Senior Project Manager;
Department of Economic and Community Development; City of
Richmond*

2. National Prospective

✚ Kim Graziani, *Vice President and Director;
National Technical Assistance for the Center for Community Progress*

3. Land Trusts/Land Banks

✚ Robert Adams, *Executive Director; Housing Virginia*

IV. Public Comment and Adjournment

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR GEORGE L. BARKER

MARK K. FLYNN
LAURA D. LAFAYETTE
T.K. SOMANATH

COMMONWEALTH OF VIRGINIA

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GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 259
(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

SUMMARY

Virginia Housing Commission
April 14, 2015, 1:00 PM
House Room C, General Assembly Building

I. Call to Order

Delegate Daniel Marshall, *Chair*, called the meeting to order at 1:00 PM.

Members in attendance: Delegate Daniel W. Marshall, III, *Chair*; Senator Mamie E. Locke *Vice-chair*; Senator George L. Barker; Senator John C. Watkins; Delegate David L. Bulova; Delegate Rosalyn R. Dance; Delegate Barry D. Knight; Delegate Christopher K. Peace; Mark K. Flynn, *Governor Appointee*; T.K. Somanath, *Governor Appointee*; and Laura D. Lafayette, *Governor Appointee*.

Staff: Elizabeth Palen, *Executive Director of VHC*

II. Housing and Economic Forecast

- **Sonya Waddell**, *Regional Economist, The Federal Reserve Bank of Richmond*: The Virginia housing market has been growing slower than the overall U.S. market; existing home sales are above 1990's levels and new home sales are not. Housing starts have fallen at a rate similar to U.S. averages, however the U.S. is trending up while Virginia is not; and building permits have declined since 2014.
- **Mark Flynn**, *Governor Appointee*: How much of the building permit downturn was weather related?
 - **Waddell**: Both of these are seasonally adjusted, but that does not mean they are not weather related. We are certainly hearing that weather has played a negative role.
- **Waddell**: Construction employment was severely depleted in the recession and has not rebounded. It is increasing slowly, but is nowhere near pre-recession numbers. The House Price Index shows a continued increase in house prices. There is stronger house price growth in Richmond and Winchester, but there is slow growth in most MSAs.
 - Recently distressed prices are falling more rapidly, such that now total price growth is in line with distressed sales. The foreclosure inventory rate is still in decline. There is a high level of inventory of foreclosures. In the fourth quarter of 2014, 0.9% of mortgages in Virginia were in foreclosure, which correlates to 12,000 loans in the foreclosure process.

- Virginia's foreclosure inventory rate is still lower than the national average, as is the foreclosure starts rate.
- **Senator Watkins:** Doesn't Maryland have more loans in foreclosure because their system is judicial, not regulatory?
 - **Waddell:** Maryland is not technically a judicial state, but, yes, this is because of the way their system is set up.
- **Watkins:** But you have to go to court to put a loan in Maryland under foreclosure. What percentage of our foreclosures is under USDA?
 - **Waddell:** I don't know. Maryland does not technically require loans to go through the judicial process but in practice they often do.
- **Delegate Marshall:** Do you know the number of states that are judicial versus regulatory?
 - **Waddell:** No, but I can get that information.
- **Laura Lafayette, Governor Appointee:** Are we almost back to pre-recession foreclosure starts?
 - **Waddell:** Yes and no. We are returning to pre-recession levels, but we are not quite there yet.
- **Waddell:** Regarding the distribution of types of loans, the share of FHA and VA loans are becoming larger, like in the pre-recession market. We are not yet at the new normal. In the fourth quarter of 2012, 1.8% of mortgage inventory was 90 days delinquent. Cure rates for 90-day delinquency are high.
 - In February, we gained over 11,000 jobs. While employment is increasing, Virginia is lagging behind the national average in employment growth. One drag on the Virginia economy is the reliance on the government contracting sector.
- **Watkins:** It looks like Virginia took a downturn in employment in 2013. Is that due to sequestration?
 - **Waddell:** I believe it was 2012, and yes. There is some not fully concrete work on the sequestration; the decision is that it definitely had an effect but generally the effect is not felt for a few years.
- **Waddell:** The Virginia unemployment rate has gone down and is steadily below the national average. While a number of foreclosures were generally seen in the Northern Virginia area, they still have low rates of unemployment.
 - The Virginia housing market is still improving, but slowly. House prices are rising, though the increase is tapering off. The inventory of distressed property is declining. New home sales and construction are not coming back in Virginia. Virginia labor markets are struggling, particularly in the important professional and business services sector. This is at least in part due to the role of the federal government in Virginia's economy. The labor market affects the Virginia housing market.
- **Watkins:** How do you classify multi-family?

- **Waddell:** There are some indicators we look at that could be single- or multi-family.
- **T.K. Somanath, Governor Appointee:** Moving forward we need to pay attention to demographics. There will be more millennials not attached to single-family housing. I'd like to see the report capture multi-family residences as the population increases. I believe that the trend in urban sectors is towards multi-family.
 - **Waddell:** Regarding permit activity for five or more units, I don't know about change in that activity. But there certainly has been a trend towards multi-family.
- **Somanath:** Non-residential may not be the right category for multi-family. It may be more useful to use the residential category.
 - **Waddell:** We usually look separately at non-residential areas and the residential areas. I'll see what we can pull together.
- **Flynn:** I would like to look into urban areas that lack transit opportunities and are not seeing the same growth as those areas with transportation.
- **Lafayette:** The housing market is a bit uneven. In the metropolitan area, we are up 18% in pending sales and 18% in sales. Sale price is up 3.5%. We have had a strong first quarter. The condo market is soft. There has been upward pressure on rental prices.
- **Mike Toalson, Homebuilders Association of Virginia:** Our business was booming through 2007 and 2008. It peaked at 55,000 and fell to between 9,000 and 11,000 in 2009 and stayed there through 2012; 2013 was a better year than 2014; 2015 continues to be spotty, but we've seen some improvement. We hope for the continuation of buying season, and that we continue moving towards previous levels.
 - Starts are now 45% of average market, which are at 2002 levels. The nation is at about 53% of average market. We are optimistic for the remainder of this year.
- **Marshall:** Has any one segment of the single-family homebuyer done better?
 - **Toalson:** In our experience the high end has done much better. The middle market is dependent on the move up. We are seeing some movement in the first-time homebuyer range, but it is about half what we would expect to see in a normal market.
- **Brian Gordon, Virginia Apartment and Management Association:** We are starting to see multi-family activity reach its apex at this point. We are seeing rents start to drop and vacancies occur. The local economy is slowing and the sequestration is impacting us. The supply of multi-family units is starting to outpace their demand. The Northern Virginia market is seeing this and we expect to start seeing it across the state.
- **Somanath:** Does your association include localities with an affordable housing requirement?
 - **Gordon:** Yes. A number of our members provide affordable housing. There are also jurisdictions where affordable housing is created through the proffer agreement process.
- **Somanath:** Have any of the localities adopted ordinances to require affordable housing?

- **Gordon:** Yes.

III. Land Banks

1. Local Perspective

- **J. Lee Volger, City Council Member, Danville:** First, let me thank you all for allowing me to speak today and especially the Chair and our Delegate Danny Marshall. Folks from my part of the Commonwealth are very familiar with him and feel fortunate to have him represent us in the House of Delegates.
 - I just wanted to take a few minutes to outline the blight situation that my city, Danville, is facing and how we've dealt with it, how we're continuing to deal with it and what we hope to do in the future, and how you all may be able to help in that regard.
 - Danville was once a bustling city known for its textile mills and robust tobacco markets. But globalization, demographic changes, and, ultimately, a national recession caused our city to substantially shrink in population between 1990 and 2010. Now in the past five years, we've stabilized that population decline and even seen some encouraging signs of future growth. As mentioned earlier in this meeting, millennials and empty nesters are flocking to more urban environments with walkability factors. We've seen this in Danville with our downtown River District. In the past few years, the population in that district has gone from 200 people to over 2,000 and growing. With that being said, we are still faced with a critical problem: blight.
 - We have far more homes than we do people ready to move into them. In addition to this, we have a rapidly aging housing stock. Over 50% of the homes in Danville are 50 years old or older. Many of these are old mill houses that are not suited for modern use. Some homes, however, are still desirable to those who are willing to put the time and effort into bringing them back to life. Often times, though, they are discouraged by the amount of red tape, tax liens, and other hurdles that stand between them and restoration.
 - In the past few years, Danville has taken an aggressive approach to combatting this blight issue plaguing our city. More than \$5 million has been spent on Danville's blight eradication program since 2012. Of the 2,000 blighted structures in our city, we are only able to demolish roughly 100 per year. Clearly, we cannot demolish our way out of this problem. That is why we've embarked on a number of other solutions, among them being a full-time attorney that was hired to move demolition and maintenance code cases through the multiple steps they must take to be approved by a court. A rental inspection program was set up—and has already been expanded once—to force landlords to bring deteriorating buildings up to code. A program also was set up to help landlords get low-interest loans to make the repairs.
 - More recently, a receivership program was set up, allowing the Danville Redevelopment and Housing Authority to purchase derelict houses to either demolish or repair, as well as any adjacent vacant lots. These were the first steps towards a Land Banking program, and the reason why I am so pleased to see this issue being discussed today. A Land Bank Authority in Danville can help achieve a range of

smart growth goals—such as facilitating infill development, spurring economic investment, and preserving open space.

- Where the state can come in and help us in this regard is by creating a framework that gives localities the flexibility to craft a solution that is best suited for them. Because what works for parts of Hampton Roads may not be applicable in Northern Virginia, and what is best for Northern Virginia may not be feasible in Danville. But by creating legislation for Land Banks and Land Trusts in Virginia, you would be giving localities the tools they need to combat blight and ultimately turn some of these properties back over to the private sector for beneficial use.
- One of the things I've envisioned for the city I represent is the creation of an online auction system that allows for some of these blighted properties to be up for sale to the public to the highest bidder, predicated upon conditions being met, such as having the property up to code within a certain amount of time and actively seeking a tenant, as a way to prevent these properties from being bought and held, which is what led many of them to this condition in the first place. Programs such as this would help the taxpayers save money, while helping to eliminate blight at the same time.
- In closing, I'd ask that you seriously consider joining the 13 other states that have passed some form of Land Banking legislation that allows the flexibility to overcome many of the financial and legal barriers that might discourage responsible, private investment in neglected properties, such as clouded titles, years of back taxes, and costly repairs. It would be a great benefit to the City of Danville and, I imagine, many localities across our Commonwealth.
- **Delegate Barry Knight:** Do you know of a state that has a land bank piece of legislation that could be applicable to Virginia?
 - **Volger:** Some of the programs in Michigan would be applicable to Danville. New York looks applicable, too.
- **Daniel Cohen, Senior Project Manager, Department of Economic and Community Development, City of Richmond:** Fifteen percent of Richmond's housing stock is tax delinquent and of that, 67% is vacant. More than 25% can be sold directly by the city, and 11% can be sold to nonprofit community development corporations.
 - There are 2,600 existing homeowners earning less than 30% AMI (\$21,900 per year for a family of four) paying greater than 50% of their income on housing. Richmond is comprised of 55% renters and 45% owners, with an increase of 5% during the last five years; median income for owners is \$62,414, and HUD's median income for a family-of-four-HUD is \$72,900.
- **Toalson:** The five percent increase relates to what?
 - **Cohen:** It's an increase in the ratio that used to be 50:50.
- **Cohen:** The median home sales price in late 2014 was \$215,000. Average home sales price in 2014 was \$252,000. Seventeen percent of single-family dwellings are renter occupied, and 31% of housing stock is more than 70 years old. The cost of rehabilitation for an old building is very high.

- The cost to acquire and rehabilitate existing homes ranges from \$200,000 to \$280,000. New infill construction ranges from \$180,000 to \$235,000, while market prices range from \$130,000 to \$180,000. The result is current subsidies for affordable homeownership run between \$50,000 and \$100,000.
- **Marshall:** In 2014, how much infill construction and how many houses were sold?
 - **Cohen:** I don't know but I can get back to you on that information.
- **Cohen:** In order to qualify for appointment of a special commissioner under § 58.1-3970.1 of the Code of Virginia, the percentage of taxes and liens or percentage of taxes alone must exceed 20 percent and 10 percent, respectively, or the assessed value of the parcel or parcels must be \$100,000 or less. Property is not an occupied dwelling. The locality enters into an agreement for sale of the parcel to a nonprofit organization to renovate or construct a single-family dwelling on a parcel for sale to a person or persons to reside in the dwelling whose income is below the area median income.
 - The mayor's Anti-Poverty Commission is engaging in talks with Richmond Metropolitan Habitat for Humanity regarding the expansion of the Community Land Trust. They are also developing a mechanism (LLC) to transfer vacant city-owned houses to interested CDCs. Partnership for Housing Affordability is also developing a community land trust to support long-term affordable housing.
 - Community land trusts are designed to ensure long-term housing affordability. The trust acquires land and maintains ownership of it permanently. Prospective homeowners enter into a long-term, renewable lease instead of a traditional sale.
 - When the homeowner sells, the family earns only a portion of the increased property value. The remainder is kept by the trust, preserving affordability for the future. This provides low- and moderate-income people with the opportunity to build equity through homeownership, and ensures residents are not displaced due to speculation and gentrification.
 - Foreclosure rates for land trusts have been as much as 90% less than conventional home mortgages. Typically at least one-third of a land trust's board is composed of community residents, allowing for local control of local assets. Many land trusts are involved in a range of initiatives including commercial development projects and community greening efforts.
- **Marshall:** What is the city's plan for how many houses to rehabilitate versus houses that are leveled and made new?
 - **Cohen:** The goal is to take 200 units a year through the tax process. Demolitions may be problematic in historic areas so that number can vary.
- **Marshall:** What do you do in historic areas to houses that are beyond fixing?
 - **Cohen:** Nothing happens in those units. That's a hard issue for a city that prides itself on history.
- **Cohen:** I think it's important to cluster units by market and by title. You will get a higher value on those properties.

- **Knight:** How soon can a property be transferred from tax delinquent into this system?
 - **Cohen:** If the property is assessed at \$100,000 or more, it is two years from the date the taxes were originally due. Technically, the property can be used right away, but in practice the issue is not addressed as quickly.
- **Watkins:** The property values in this legislation probably need to be indexed.
- **Somanath:** There is a need to find sources of funding to address the concentration of poverty. Tax abatement would provide an incentive for someone to invest in these places.

2. National Perspective

- **Kim Graziani, Vice President and Director, National Technical Assistance for the Center for Community Progress:** A land bank is a public authority or a nonprofit that focuses on the conversion of vacant, abandoned, tax-delinquent and foreclosed properties into productive use.
 - The difference between land banks and redevelopment authorities include that redevelopment authorities have a redevelopment mission, eminent domain powers, and strict disposition requirements.
 - The difference between land banks and community land trusts is that land banks have an affordability mission and a legal structure and do not hold onto ownership.
 - Common community triggers that lead to development of a land bank include: Weak economic conditions and properties with little market value, population loss and high rates of vacancy and abandonment, inequitable/inefficient tax foreclosure systems, restrictive public property disposition requirements, and sudden “shocks.”
 - The core power of a land bank is to acquire, maintain, and transfer these problem properties to responsible ownership, all according to priorities and land use goals of the jurisdictions. Land banks also need to work with preventative systems.
 - Creation of a land bank would require state enabling legislation.
 - Common funding sources include land sales revenue, Federal (HOME, CDBG), State and Local (National Mortgage Settlement, HHF), Tax Recapture (5/50), Foundation/Philanthropy, and Tax Foreclosure Fees (DTAC), in-kind services, and Developer Fees.
- **Marshall:** Do these tax foreclosure fees come from a state or local level? In Virginia, property tax is a local tax.
 - **Graziani:** It’s a county tax.
- **Graziani:** Findings in a 2013 Michigan Land Institute Study suggest that land bank activities have a significant positive impact on the regional economy. A 2013 Cleveland study showed that REO properties acquired by a public entity (land bank, nonprofit, CDC, etc.) were three times more likely to have a beneficial outcome.

3. Land Trusts/Land Banks

- **Robert Adams, Executive Director, Housing Virginia:** I am working with the only operating land trust in Virginia: Thomas Jefferson Community Land Trust. A

community land trust is a nonprofit corporation that is a developer and a steward of permanently affordable housing on behalf of a community. The community land trust owns the land and leases the land to the homebuyer who owns the improvements.

- One of the issues is financing.
- **Marshall:** What do the lots cost in Charlottesville?
 - **Adams:** Land can cost \$40-60 000. The improvements cost \$140,000 for the house. Without the last trust, the house could cost from \$180,000.
- **Adams:** The tradeoff for the affordability is a share of the appreciation of the house value. In Charlottesville, the homebuyer is only allowed to retain 25% of the appreciated value.
- **Marshall:** The homeowner pays property tax on the improvement, but what about the lot?
 - **Adams:** The homeowner is responsible for all of the property tax, including that of the lot. In some areas, tax abatement has been provided for the land.
- **Delegate Bulova:** So the lot is not tax exempt?
 - **Adams:** It depends on the jurisdiction, but that is not the case in Charlottesville.
- **Bulova:** If they pay in all cash are they able to pull any of that out like a reverse mortgage? What happens if the homeowner wants to make improvements to the home?
 - **Adams:** The community land trust in Charlottesville has to approve any significant improvements made to the home. In theory, the homeowner would get access to some equity created from that.
- **Bulova:** Would that note holder have priority over the trust because it's related to the structure itself?
 - **Adams:** The issue of financing is the biggest challenge. The Thomas Jefferson Land Trust agreed to subordinate the leasehold interest so that in the event of a foreclosure the lending institution would get the property back.
- **Adams:** Income has not been rising as fast as housing prices, causing the affordability problem. Traditionally a subsidy is based on the buyer, a family buys a house and gets some additional assistance. When the homebuyer sells the house, the subsidy is then returned to the nonprofit for further use for a new homebuyer. Even though you are recycling that money, subsidy needs grow over time.
 - The land trust controls the purchase price of that house in perpetuity. The front-end subsidy is significant. With a community land trust house, it gets more and more affordable as it's sold and resold in the future.
- **Bulova:** What if the business model fails or priorities change and the community no longer wants to focus on a particular area, how do you legally unwind it? Is that difficult?
 - **Adams:** No, I don't think that would be difficult. A community land trust is a 501(c)(3) organization and plays by those rules.

IV. Public Comment

- **Delegate Marshall** asked for any public comment.

V. Adjourn

- Upon hearing no request to comment, **Delegate Marshall** adjourned the meeting at 3:00 PM.

COMMONWEALTH OF VIRGINIA

DELEGATE DANIEL MARSHALL, III, Chair
SENATOR MAMIE LOCKE, Vice-chair
ELIZABETH A. PALEN, Executive Director



GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 210
(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

AGENDA

Virginia Housing Commission October 6, 2015, 2 p.m. House Room C, GAB

- I. Welcome and Call to Order
 - ✚ Delegate Danny Marshall, *Chair*
- II. Land Banking
 - A. Topical Overview:
 1. Successful land banks
 2. Challenges
 - ✚ Jennifer Giovannitti, *Regional Community Development Manager, Community Development, The Federal Reserve Bank of Richmond*
 - B. Cleveland's Land Bank Story
 - ✚ Thomas J. Fitzpatrick IV, *AVP, Credit Risk Management, Federal Reserve Bank of Cleveland; Board of Directors-Cuyahoga County Land Reutilization Corporation (commonly known as the Cuyahoga Land Bank)*
 - C. Defining Problems relating to blight; when land banking is most successful; need to address other critical systems impacting blight
 - ✚ Kim Graziani, *Vice President and Director, National Technical Assistance for the Center for Community Progress*
- III. Workgroup Up-dates
 - A. Affordable Housing Real Estate Law and Mortgages
 - B. Neighborhood Transitions and Residential Land Use
 - C. Housing and Environmental Standards
 - D. Common Interest Communities
- IV. Public Comment and Adjournment

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR GEORGE L. BARKER

MARK K. FLYNN
LAURA D. LAFAYETTE
T.K. SOMANATH

COMMONWEALTH OF VIRGINIA

SENATOR MAMIE LOCKE, Chair
DELEGATE DANIEL MARSHALL, III, Vice-chair
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VIRGINIA HOUSING COMMISSION

SUMMARY

Virginia Housing Commission
October 6, 2015, 2:00 PM
House Room C, General Assembly Building

I. Call to Order

Delegate Danny Marshall, *Chair*, called the meeting to order at 2:00 PM.

Members in attendance: Delegate Daniel W. Marshall, III, *chair*; Senator Mamie E. Locke, *vice chair*; Senator George L. Barker; Delegate Betsy Carr; Delegate Barry D. Knight; Delegate Christopher K. Peace; Mark K. Flynn, *Governor Appointee*; T.K. Somanath, *Governor Appointee*; and Laura D. Lafayette, *Governor Appointee*.

Staff: Elizabeth Palen, *Executive Director of VHC*

Meeting Objective:

Hear best practices from other states concerning land banks and learn applicability of those practices to Virginia's localities.

II. Land Banking

Note: These are the questions asked by the members concerning the presentations of **Thomas J. Fitzpatrick (Land Banking in Ohio)** and **Kim Graziani (Land Banking: One Tool to Address Blight in Virginia)**. Both presentations with supplemental materials are available at the following link: <http://dls.virginia.gov/commissions/vhc.htm?x=mtg>.

Thomas J. Fitzpatrick, *AVP, Credit Risk Management, Federal Reserve Bank of Cleveland; Board of Directors, Cuyahoga County Land Reutilization Corporation (commonly known as Cuyahoga Land Bank)*: For information on this presentation please check under "materials."

- **Jennifer Giovannitti**, *Regional Community Development Manager, Community Development, The Federal Reserve Bank of Richmond*: Regarding the issue of under-used and troubled properties, we see states using land banking to achieve better results. There has been a rapid increase in interest in land banks. It is important to recognize that Virginia communities may not fit the traits for the best-known land bank areas.
- **Delegate Christopher K. Peace**: Can you talk more specifically about brownfield communities.
 - **Fitzpatrick**: There have been a couple ways this was done in Ohio; the land bank could literally act as a holding company.

- **Peace:** I believe some of those brownfield grants have a cap for remediation. If so, would you have to put a funding stream together in addition to those grants?
 - **Fitzpatrick:** Like any other large scale remediation, a project like this requires careful consideration, ideally with a partner on the back end and some funding on the front end.
- **Delegate Peace:** I think you could also mitigate some of the costs of remediation with structured parking, etc.
 - **Fitzpatrick:** What you need is a partner to coordinate all these moving pieces.
- **Laura D. Lafayette, Governor Appointee:** When there is a disposition of the property, do you enter into a development agreement with the nonprofit or have you already made a decision to send it out the door?
 - **Fitzpatrick:** It depends on the relationship. Better having a development agreement is the ability to cut them off in the future. Through that ability, we are also to ensure we hold true to what we were promised.
- **Lafayette:** In the enabling legislation, did it speak to the nature of the tax lien? Is the land bank held responsible for that?
 - **Fitzpatrick:** Everything comes to us clean. The land bank has the ability to direct tax foreclosures. The ability to direct those is related to the selection process. That way the properties selected come through foreclosure with everything wiped.
- **Lafayette:** Do you have a sense of the real estate income that has accrued to the jurisdiction since you started to land bank since putting these properties back on the tax rolls?
 - **Fitzpatrick:** We estimate, based on the properties that have passed through the land bank and their known area of impact and the taxed assessed values, that \$150 million in taxable value is preserved. That results in \$5-6 million in tax revenue.
- **Marshall:** In Ohio, is it mostly residential or commercial?
 - **Fitzpatrick:** It depends on each county. In the south, it's been mostly all commercial. In my county, it has been mostly all residential. It depends on the need of the county.
- **Marshall:** When the legislation started, were there any tax advantages that the state gave to the developers?
 - **Fitzpatrick:** Not explicitly. The real advantage is that they are able to wipe these back taxes.
- **Marshall:** Ohio chooses whether or not to give a discount on the property. Is there a set of guidelines on this?
 - **Fitzpatrick:** There are not. It's important in these cases to know the neighborhoods and the market.
- **Marshall:** Did the Ohio legislation set up a statewide oversight committee or provide oversight by locality?

- **Fitzpatrick:** Everything is done by county. The closest thing to state oversight is the state auditor.
- **Lafayette:** What percentages of properties have been disposed of for nonprofits versus the private sector?
 - **Fitzpatrick:** I would say the vast majority of properties go to nonprofits. As for private sector business, those numbers have grown substantially, too.
- **T.K. Somanath, Governor Appointee:** Is there a model to determine the cumulative effect of a land bank on a particular area?
 - **Fitzpatrick:** There is a spatial hedonic model to measure the impact of activity on surrounding areas. The problem with any empirical study is sample size. When you start looking for critical mass and add in other private rehabs, you get fewer observables and it's hard to do an empirical study.
- **Marshall:** How do you sell these properties?
 - **Fitzpatrick:** Most of these properties are not MLS. The vast majority we advertise on our website. We have mailing lists. We work with nonprofits to get the message out. Working with our chamber of commerce, we put commercial properties on their website.
- **Marshall:** Are you getting developers from the area or outside your area?
 - **Fitzpatrick:** In my county, we have not had developers from outside the region. A lot of the individual end users come from partnerships with local government and nonprofits. In general, they are in region end users.
- **Marshall:** What percentage of properties are either sold or rehabbed?
 - **Fitzpatrick:** The vast majority are demolished and then sold as vacant lots. We've done maybe 400 rehabs, and we've handled a total of 2,700 properties since 2009.
- **Marshall:** You will sell a property that still has "good bones" at a discount. Is there a timeframe for the individual who purchases the house to renovate the property?
 - **Fitzpatrick:** From the point of marketing to the point of acquisition of a rehabber, we will give six months to rehabilitate the property. If no one shows interest in that time, the property with its "good bones" will be slated for demolition. Once you acquire, usually six month to a year is given to bring it up to code.
- **Lafayette:** Is this property available to "flippers"?
 - **Fitzpatrick:** We sell both to private sector rehabbers and to owner occupiers. You can flip as long as it brings the property up to code and you have a good reputation.
- **Marshall:** Are they defined? What do you look at to determine a qualified buyer?
 - **Fitzpatrick:** A qualified buyer is not defined in the legislation itself, but on our website there are steps to become a qualified buyer.

Kim Graziani, *Vice President and Director, National Technical Assistance for the Center for Community Progress*: For further information on her presentation, please see the section titled “materials.”

- **Delegate Marshall:** With regard to established dedicated funding mechanism, state law does not require that but do they mention it?
 - **Graziani:** In the template legislation, we have a section that allows the state to decide the revenue stream. It is not required. Outside of Ohio, the only dedicated funding source is the tax recapture.
- **Marshall:** Do most localities need to put up seed money to get the ball rolling?
 - **Graziani:** It’s a combination of seed funding and in kind in-kind services.
- **Delegate Marshall:** Can you discuss some other funding options, other than seed funding, as opposed to just appropriating funds in the budget?
 - **Graziani:** In order of percentages: most communities get their funding from their local units of government; second, the property sales; third, the property tax recapture, which is in most all recent legislation; fourth, philanthropic funding; last, revenue from actual services provided.
- **Marshall:** Do you see most land banks as public authorities or are most an arms’ length away from local government?
 - **Graziani:** Recently, they are definitely nongovernment in their corporate structure.
- **Marshall:** Why is that, and what are the advantages and disadvantages?
 - **Graziani:** The primary advantage is to have an independent entity that is solely focus focused on the properties that no one else wants to focus on. The ability to have a more nimble, responsive nature is another advantage. Having an independent entity allows some further funding mechanisms that could not go to local government.
- **Lafayette:** In your resources, is there a list of dedicated funding streams? Do you all compare which communities have land trusts operating in tandem with land banks and then housing authorities?
 - **Graziani:** Yes and no. To having the list of dedicated funding streams, that is located in two areas: one, in the back of the land banks, and land banking book is a comparison of the last 10 states that passed legislation; two, in the take-it-to-the-banks book, we give percentages of funding sources used by each land bank.
 - To the second question about the overlap of land banks and land trusts and housing authorities, we just put together a map of land bank and land trust overlap. We do not have it for housing authorities. There is a lot of overlap and there will be more information on this posted on our website in a month or so.

III. Work Group Updates

- **Housing and Environmental Standards**

- **Elizabeth Palen**, *Executive Director of VHC*: The Housing and Environmental Standards Work Group heard from Senator Adam Ebbin about his asbestos bill, and he would like to speak on November 5 to the whole commission. We also discussed abandoned oil tanks and septic systems and decided we would not have legislation going forward this session on those issues.
- **Neighborhood Transitions and Residential Land Use**
 - **Palen**: The Neighborhood Transitions and Residential Land Use Work Group met in July and discussed the early termination of rental agreements when a court has determined stalking has taken place. An outside work group is preparing legislation to bring this issue to the next full commission meeting. The Work Group was scheduled to hear from Delegate Morris on the preapproval of site plans, but he was unable to attend the last meeting and the issue was not discussed.
 - The City of Portsmouth gave a presentation on recurrent flooding. Because there is a Joint Subcommittee dedicated to the study of recurrent flooding, it will handle legislation on that topic.
- **Affordable Housing, Real Estate Law, and Mortgages**
 - **Palen**: The Affordable Housing, Real Estate Law, and Mortgages Work Group discussed offender reentry and will continue to discuss that issue in our meeting on October 20. The Work Group will also discuss the Virginia Housing Trust Fund and will likely have legislation coming forward at that time concerning those issues.
 - The Work Group also discussed fair housing and status as a veteran and decided that was not an issue going forward and discussed fair housing in relation to sexual orientation, which was put on hold to possibly discuss at the end of this year.
- **Common Interest Communities**
 - **Palen**: The Common Interest Communities Work Group plans to meet before the October 5 meeting to discuss rights and responsibilities of owners and common interest communities.

IV. Public Comment

- **Delegate Marshall** asked for any public comment.
- **Donna Sayegh**, *Citizen of Portsmouth*: She spoke out against sustainable policy and development. There would be a more even distribution of property and less poverty if the federal government would act within the natural laws and not use government sanctioned monopolies.

V. Adjourn

- Upon hearing no further request to comment, **Delegate Marshall** adjourned the meeting at 3:45 PM.

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(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

AGENDA

Virginia Housing Commission December 17, 2015, 2 p.m. House Room C, GAB

- I. Welcome and Call to Order
 - Delegate Danny Marshall, *Chair*
- II. Housing Economic and Forecast; Current Housing Conditions in Virginia
 - Sonya R. Waddell, *Regional Economist;
The Federal Reserve Bank of Richmond*
- III. Realtor's Forecast for 2016
 - Chip Dicks
Virginia Association of Realtors
- IV. Workgroup Reports
 - Affordable Housing Real Estate Law and Mortgages
 - Delegate Christopher Peace
 - Neighborhood Transitions and Residential Land Use/Housing and Environmental Standards
 - Senator Mamie Locke
 - Common Interest Communities
 - Delegate David Bulova
- V. Proposed Legislation
 - Landbanking (draft in binder)
 - Mark K. Flynn
 - Housing Trust Fund (draft in binder)
 - Delegate Christopher Peace
 - Asbestos Signage (draft in binder)
 - Senator Mamie Locke
- VI. Public Comment and Adjournment

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR GEORGE L. BARKER

MARK K. FLYNN
LAURA D. LAFAYETTE
T.K. SOMANATH

COMMONWEALTH OF VIRGINIA

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(PHONE) 804-786-3591 ext. 259
(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

SUMMARY

Virginia Housing Commission
December 17, 2015, 2:00 P.M.
House Room C, General Assembly Building

I. Call to Order

Delegate Daniel W. Marshall, III, Chair, called the meeting to order at 2:00 P.M.

Members in attendance: Delegate Daniel W. Marshall, III, *Chair*; Senator Mamie E. Locke, *Vice-chair*; Senator George L. Barker; Delegate David L. Bulova; Delegate Betsy Carr; Delegate Barry D. Knight; Delegate Christopher K. Peace; Mark K. Flynn, *Governor Appointee*; T.K. Somanath, *Governor Appointee*; and Laura D. Lafayette, *Governor Appointee*.

Staff: Elizabeth Palen, *Executive Director of VHC*

II. Housing Economic and Forecast; Current Housing Conditions in Virginia

- **Sonya R. Waddell**, *Regional Economist, The Federal Reserve Bank of Richmond*: Presentation is available to view on the website under “materials.”
- **Questions:**
- **Delegate Christopher Peace:** There’s been a lot of talk recently about the federal rate, I was wondering your thoughts how the rate change would affect these foreclosure numbers?
 - **Waddell:** I haven’t heard anything to indicate that rising rates will impact the foreclosure process. Related to mortgage origination, there are many more regulations that financial institutions are required to take care of, and we talked to banks getting out of the mortgage process altogether. On the other hand, technology provides wonders to getting information out there in areas less populated, so it would be progressively easier for banks to continue to originate mortgages.
- **Mark Flynn**, *Governor Appointee*: Is this information available electronically?
 - **Waddell:** Yes. Ms. Palen should have it available on the website.

III. Realtor’s Forecast for 2016

- **Chip Dicks**, *Virginia Association of Realtors*: The difficulty of people getting housing loans occurs because of regulatory issues and with consumers having debt. The consumer

finance agencies have just implemented a new settlement plan. It has changes and potential to delay settlement on homes.

- We've had a general tick-up in housing sales, though it varies by locality.
- There is also an issue with affordable housing. There are more people paying a larger portion of their disposable income on housing.

IV. Workgroup Reports

- **Affordable Housing Real Estate Law and Mortgages**

- **Delegate Christopher Peace:** One issue we took up was **offenders re-entering society**. It does not appear that there should be a change in the Code of Virginia, but there was a good dialogue. I did not have a motion from the workgroup to take any action on this issue.
 - We also studied several **fair housing issues** and possible changes to the Commonwealth's fair housing law. The first concerned a status issue related to **veterans**. The statistics don't support action at this time. The workgroup declined to make recommendation.
 - We also discussed **sexual orientation** and fair housing. The private sector is taking some steps in aiding fairness in receiving housing. The work group decided this would be a private sector issue.
 - We discussed the **Housing Trust Fund**, which is a well-established issue with this Commission.
 - We need a designated form of revenue for the trust fund. There are some funds appropriated from the general fund. A portion of the recordation tax would be contributed to the Trust Fund, but a threshold first must be met first.
- **Senator Barker:** By having a threshold, if housing prices go up, you make a larger amount of money and are removing it from general fund purposes. You could also base it on projected numbers.
 - **Peace:** There is an argument for both sides. There is a good point of setting at the past years recordation tax. We are still not going to get the number to adequately fund this effort. We may have to coddle together sources and funds to get what we need. The workgroup recommended is the proposed legislation is in your folder (When the amount deposited into the state treasury exceeds \$325 million--20% of the excess revenue shall be transferred to the Housing Trust Fund.)
- **T.K. Somanath, Governor Appointee:** I think the cap is a good idea. Is it advisable to look at 2015 as the forecast for the next year?
 - **Peace:** Is the actual number or the forecasted number to be the cap every year? I don't know.
- **Somanath:** My concern is we will be in an area where interest rates are rising.
- **Barker:** I am sure we are aware there are other ways to address this issue.

- **Laura D. Lafayette, Governor Appointee:** I'm concerned about the 20%.
 - **Peace:** We discussed it a length, but we had to come up with a number.
- **Peace:** Another topic we studied is **land banking**, the issue is how to deal with blight. Land banking is a permissive tool, and some localities may want to add this to their toolbox. There is a general consensus this is a good idea.
- **Flynn:** A land bank is an entity that acquires derelict properties, and then rehabilitates them. This bill allows a locality to create a public authority or to create a 501(C)(3) or work with an existing nonprofit, which then becomes the land bank. It cannot use the power of eminent domain. The locality can set priorities for the type of property to be working on saving from blight. I recommend this bill include the owner be able to convey the property to a land bank entity created pursuant to this proposed legislation.
- **Marshall:** And there is no objection to adding this element to the legislation?
- **No objection.**
- **Delegate Barry Knight:** Regarding that amended legislation, sometimes a deed in lieu of foreclosure would work, too.
 - **Flynn:** Land banking does not eliminate any of the processes that are already in existence.
- **Neighborhood Transitions and Residential Land Use/Housing and Environmental Standards**
- **Senator Mamie Locke:** The issue of mandated disclosure to potential homebuyers when there has been **recurrent flooding** was resolved by VHDA incorporating this into their training for first-time homebuyers (encouraging the potential buyer to ask if the property had previously flooded, was currently in a floodplain to the best of the seller's knowledge, etc...).
 - **Preapproval of site plans** was never addressed, as Delegate Morris chose not to pursue this issue or have the Commission do so.
 - Regarding **undisclosed underground septic systems prior to 1982**, we learned their records are widely divergent, which is a huge cost burden regarding records. We did not come to a solution.
 - Dealing with **asbestos signage**, we have legislation we will address later.
 - The final issue dealt with **stalking and the early termination of rental agreements**. We looked at the statistics Elizabeth Palen presented from the Sentencing Commission and learned that there are not many felony stalking convictions; most are misdemeanors- as a result we will not move forward with legislation.
- **Common Interest Communities**
- **Delegate David Bulova:** We started with two potential bills. The first dealt with procedures for amending declarations and bylaws. The second was a broad study that

went to rules regarding HOA governance. Both the patrons decided not to run for re-election to the legislature and subsequently both declined to move forward with working on legislation. We chose not to meet when it was unnecessary to do so.

V. Proposed Legislation

- **Land banking**
 - **There was a motion and a second to move the bill forward.**
 - **The motion passed.**
 - **Delegate Marshall will carry the legislation in the House , Senator Barker in the Senate**
- **Housing Trust Fund**
 - **There was motion and a second to pass the legislation.**
 - **The motion passed.**
 - **Senator Locke will carry the legislation in the Senate, Delegate Peace in the House**
- **Asbestos Signage**
- **Senator Mamie Locke:** It includes notification of safety procedures for all employees.
 - **There was a motion and second to move the legislation forward.**
 - **The motion passed.**
 - **Senator Ebbin will carry the legislation in the Senate**

VI. Public Comment

- **Bob Adams, Virginia Housing Coalition:** I just wanted to thank the Commission and Delegate Peace for putting forward legislation on the Housing Trust Fund.

VII. Adjourn

- Upon hearing no request to comment, **Delegate Marshall** adjourned the meeting at 3:15 P.M.

COMMONWEALTH OF VIRGINIA

DELEGATE DANIEL MARSHALL, III, Chair
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VIRGINIA HOUSING COMMISSION

AGENDA

Affordable Housing Real Estate Law and Mortgages Work Group

**June 3, 2015, 10 AM
House Room C, GAB**

I. Welcome and Call to Order

✚ Delegate Christopher Peace, *Chair*

II. Virginia Housing Trust Fund

(SJ 235; Virginia Housing Trust Fund; revenue source; Watkins; 2015)

✚ Senator John Watkins

✚ Bill Shelton, *Director*

Department of Housing & Community Development

✚ Allison Bogdanovic, *Executive Director*

Virginia Supportive Housing

III. Fair Housing Law

✚ Lizbeth Hayes, *Director, Virginia Department of Professional and Occupational Regulation, Fair Housing Program*

A. Status as a Veteran

✚ Delegate Alfonso Lopez

✚ Christie Marra, *Attorney*

Virginia Poverty Law Center

B. Sexual Orientation

✚ Heather Crislip, *President and CEO*
HOME

IV. Public Comment

V. Adjournment

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
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VIRGINIA HOUSING COMMISSION

SUMMARY

Affordable Housing, Real Estate Law, and Mortgages Work Group June 3, 2015, 10:00 A.M. House Room C, General Assembly Building

I. Call to Order - Affordable Housing, Real Estate Law, and Mortgages Work Group

Delegate Christopher Peace, *Chair*, called the meeting to order at 10:00A.M.

Work Group members in attendance: Delegate Christopher Peace; Delegate Betsy Carr; Delegate Daniel Marshall; Delegate Barry Knight; Senator Mamie Locke; Senator George Barker; Mark Flynn, *Governor Appointee/Virginia Municipal League*; Laura Lafayette, *Governor Appointee*; T.K. Somanath, *Governor Appointee*; Neal J. Barber, *Community Futures*; Steve Baugher, *Virginia Association of Mortgage Brokers*; Paul Brennan, *Virginia Housing Development Authority*; Robert N. Bradshaw, *Independent Insurance Agents of Virginia*; Tyler Craddock, *Manufactured & Modular Housing Association*; Heather Crislip, *HOME*; Chip Dicks, *Virginia Association of Realtors*; Andrew M. Friedman, *Virginia Beach Department of Housing & Neighborhood Preservation*; Brian Gordon, *Northern Virginia Apartment Builders Association*; Kelly Harris-Braxton, *Virginia First Cities*; Kelly King Horne, *Homeward*; Erik Johnston, *Virginia Association of Counties*; Erik Johnston, *Virginia Association of Counties*; Katharine Payne, *Williams Mullen*; Renee Pulliam, *Virginia Apartment Management Association*; Jay Speer, *Poverty Law Center*; Elizabeth Steele, *Stewart Title*; Chris Thompson, *Department of Housing and Community Development*; Michael Toalson, *Home Builders Association of Virginia*; William Walton, *Real Property, Inc.*; Michele Watson, *Virginia Housing Development Authority*

Staff: Elizabeth Palen, *Executive Director of VHC*

II. Virginia Housing Trust Fund (SJ 235; Virginia Housing Trust Fund; revenue source; Watkins; 2015)

- **Senator John Watkins:** For many years, we have been trying to appropriate funds into a trust fund used to augment the skyrocketing costs of rents. I recognize that this is a perennial favorite, but we have got to come up with a permanent revenue stream.
- **Bill Shelton**, *Director, Department of Housing & Community Development*: Presentation on the Housing Trust Funds, which is available under the “materials” section on the VHC website.
- **Delegate Peace:** What are the criteria given for the grants and awards? Are they developed internally or legislatively?

- **Shelton:** There is some guidance in legislation. The grants were very prescriptive. For loans, we tied it back to working state policy through the governor’s executive order.
- **Peace:** Were they weighted or equally allotted?
 - **Shelton:** Allotted. We were letting the market dictate.
- **Peace:** For the lack of a better term, these were “shovel-ready” projects?
 - **Shelton:** Correct.
- **Peace:** Are we able to measure the impact of those in a dynamic way?
 - **Shelton:** I don’t have that for you today. I have self-reported information from the recipients, and I expect that to be very positive. We also have a study independently commissioned to have a research community look into this, which is underway as we speak.
- **Kelly King Horne, *Homeward*:** I have an anecdotal report. When our homeless service provider received news they were to become a recipient of the Housing Trust Fund, they immediately doubled the amount of families they could serve.
- **Chip Dicks, *Virginia Association of Realtors*:** Was there a thought to create a related 501(c)(3) nonprofit entity to coordinate with the Virginia Housing Trust Fund?
 - **Shelton:** No, not directly tied to the Virginia Housing Trust Fund. We’ve had homeless assistance, which pulls in a modest amount, which did not require a separate 501(c)(3).
- **Renee Pulliam, *Virginia Apartment Management Association*:** The quality of life of the residents in Hopewell with Community Housing Partners is vastly improved with the assistance of this fund.
- **Watkins:** Could some partners sit down with some of Mr. Shelton’s folks and come up with some metrics?
 - **Shelton:** The current status is that we have surveyed. Before I come back to you, I hope to have that in a more complete framework.
- **Peace:** There was a Model Block project that Project Homes did, is that the kind of thing you would be foreseeing?
 - **Shelton:** The projects we have been discussing with communities are gateway projects.
- **Laura Lafayette, *Governor Appointee*:** I hope we appreciate the leading role the state can play here. It would be a powerful gesture by the state to encourage similar activity at the local level.
- **Allison Bogdanovic, *Executive Director, Virginia Supportive Housing*:** Presentation, which is available under “materials” on the VHC website.

- **Peace:** Has any state looked at building fees or permits at the local level? It seems like the common denominator is transfer tax, recordation tax, and escrow. Has anyone looked at sources of fees that are taxes that have a nexus to real estate?
 - **Bogdanovic:** States like Pennsylvania match local recording fees. Lots of states use anything from unclaimed property to tobacco tax. Mostly the nexus between housing and the housing trust fund is the document recording fee and real estate transfer tax.
- **Watkins:** Clearly, recordation is the bellwether. We could come up with a formula within the recordation tax revenue that after we get to a certain revenue level, a percentage above that would be dedicated to the Housing Trust Fund. That doesn't count as a dedicated source every single year like Ms. Bogdanovic suggested, but it's an indication of the marketplace. I think it should be able to come up and down with the market. Maybe we should come up with some models.
 - This received changes from an investment type operation. DHCD does a good job investing. It would be a good idea to reinstate that piece so they could benefit from a critical mass. When you have high recordation tax years and have more money for the Housing Trust Fund, you could put that in the investment and just use the principal. This makes a statement that we need something specific do deal with this issue.
- **Dicks:** Looking at how Senate Finance and House Appropriations consider dedicated sources of revenue, a dedication source by statute can be overridden by budget process. Do you have any ideas why the two money committees might take a different look at the dedicated revenue when it hasn't looked favorably in the past?
 - **Watkins:** I think the economy is changing. I think the reliance on federal dollars is tapering down. The current Governor has made a strong statement for changing the economy, and housing is a big opportunity to shape that. I hope the Virginia Tech study will help show that.
- **Dicks:** Do you have a perspective on the affiliated nonprofit entity?
 - **Watkins:** I don't have a problem with it, but I think the tricky piece is going to be getting some of the other related organizations to buy into a 501(c)(3). It would represent a unique opportunity. You also must deal with using state funds in a setting that can be for-profit.
- **Dicks:** The General Assembly passed legislation to create a charitable trust entity. There are a number of companies in the Richmond area operating under that structure. The nonprofit takes all the profits and reinvests them back in the company, which allows a new thought process. We could look into this and encourage reinvestment in that area. I don't know if we would get enough public funds without significant private funds as well.
 - **Watkins:** If we had that in place six to eight years ago, we probably wouldn't have had to move the investment into the treasury.
- **Bogdanovic:** I encourage everyone to keep in mind the people who can have their lives positively affected by a dedicated revenue source.

- **Peace:** I don't know if the Virginia Tech study will show the trickle-down effects and how it would positively influence the economy.
- **Delegate Alfonso Lopez:** I really appreciate you taking the time to discuss this issue.

III. Fair Housing Law

- **Lizbeth Hayes, Director, Virginia Department of Professional and Occupational Regulation, Fair Housing Program:** The only locality whose ordinance covers sexual orientation is Arlington. Now, two counties protect veteran status.

- **Peace:** Are there any complaints of veterans being discriminated against because of sexual orientation?
 - **Hayes:** This year, we haven't received any formal complaints alleging either sexual orientation or veteran status. Just because we do not receive those complaints does not mean it does not happen.

Status as a Veteran

- **Delegate Lopez:** We put in HB 1910 last year, which would provide discrimination against one's status as a veteran or assistance as a veteran is unlawful. We had conversations with those on the Commission, where we decided that fair housing is not the best approach. I ask the Commission to empower a Commission workgroup to discuss the better way to achieve this. This is part of a larger issue we're trying to address.
- **Peace:** We have someone in the executive branch who is responsible for veteran's affairs. Has their attention been brought to this issue?
 - **Lopez:** We have discussed it with the administration, but we want to discuss it more with them as part of this process.
- **Christie Marra, Attorney, Virginia Poverty Law Center:** In terms of the tax credit program, I think looking at those veterans who are hard to house is most helpful.

Sexual Orientation

- **Heather Crislip, President and CEO, HOME:** Presentation, which is available on the VHC website under "materials."
- **Lafayette:** How do you distinguish whether discrimination is based on orientation or expression versus race?
 - **Crislip:** It would largely be which classes you identify with and whether you experienced discrimination. It's largely statistical.
- **Mark Flynn, Governor Appointee/Virginia Municipal League:** Does anybody know what percentage of renters report evictions?
 - **Crislip:** That is an excellent question. We can look into that.
- **Dicks:** There is no data that normal evictions occurred because they didn't pay rent versus discrimination.

- **Crislip:** That's something you would determine in an investigation. These were only self-reported numbers.
- **Dicks:** One of the concerns is the issue of what happens when a complaint is filed and treated as a civil rights action. It is a liberal construction. There is an investigation, and the respondent has to produce data for the last three years for all apartments. The burden to the housing provider is huge. What the housing industry would like to see is a standard, and then we all can comply with the law.
 - **Crislip:** I agree; we would all like to see uniform standards.
- **Dicks:** The average Fair Housing investigation takes a year. What we see on the tenant side is a Fair Housing investigation filed based on a landlord-tenant dispute, nothing to do with fair housing, and they effectively get a free lawyer. If there are ways to address the issue without being in the process of Fair Housing Law, then the housing providers are all ears.
 - **Crislip:** I think your discussion has to do with larger issues regarding how Fair Housing cases are handled, and maybe we can discuss this another time.
- **Dicks:** How would a landlord know if two males were roommates or in a relationship?
 - **Crislip:** This study used a phone call test, where a child called on behalf of a parent. The initial point of inquiry was the test subject before getting into the intricacies of filing an application.
- **Dicks:** What if the two male applicants did not disclose that they were a homosexual couple or heterosexual couple? Is there any data showing they were discriminating against two male applicants with undisclosed sexual orientation versus a situation where a homosexual couple is exposed?
 - **Crislip:** They chose the methodology, so they could control the situation. They could present this as their parent and same-sex partner.
- **Peace:** Are you calling the same five management companies? Same script? The human variables are huge.
- **Crislip:** The perennial question is that we haven't seen this as an issue in Virginia. Has anyone filed a complaint? We try to get at the question: Is this a problem? We looked at the Richmond metro region, looked at large housing providers, and would do a matched-pair test. It is important to remember that our industry has a very low rate of response to email inquiries.
 - **Crislip:** We only counted it as a test if somebody got a response.
- **Peace:** Obviously this data would be different in different areas of the state.
 - **Crislip:** Yes, the rate can go up and down in different areas. We are just trying to show this is a problem.
- **Lafayette:** The value in the email testing is that you can hone in on this particular issue. This is what is causing the differential treatment, not any of the other protected classes. It would be interesting if we knew more about the folks responding. Is there an age

differential? There were nine negative responses and five positive responses to same-sex couples. Your positive and equal treatment equals the positive treatment?

IV. Public Comment

- **Delegate Peace** asked for any public comment.

V. Adjourn

- Upon hearing no request to comment, **Delegate Peace** adjourned the meeting at 11:45 A.M.

COMMONWEALTH OF VIRGINIA

DELEGATE DANIEL MARSHALL, III, Chair
SENATOR MAMIE LOCKE, Vice-chair
ELIZABETH A. PALEN, Executive Director



GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 210
(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

AGENDA

Affordable Housing Real Estate Law and Mortgages Work Group

**September 2, 2015, 10 AM
House Room C, GAB**

I. Welcome and Call to Order

✚ Delegate Christopher Peace, *Chair*

II. ✚ Senator Donald McEachin

Housing for reentering former offenders (SJ 299; McEachin, 2015)
providing safe, decent, affordable housing to people reentering society from
prisons and jails. (Incorporating (HJ 647; Rasoul, 2015))

Offender Reentry in Virginia/recent history

✚ Lawrence D. "Larry" Wilder, Jr., *Advisor for Social Entrepreneurism
and Innovation of the Virginia Department of Small Business and
Supplier Diversity*

✚ Sara Conlon, *Executive Director
OAR of Richmond, Inc.*

✚ Ann Fisher, *Executive Director
Virginia CARES*

✚ John G. "Chip" Dicks
Virginia Association of Realtors

III. Public Comment

IV. Adjournment

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR GEORGE L. BARKER

MARK K. FLYNN
LAURA D. LAFAYETTE
T.K. SOMANATH

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201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 259
(FAX) 804-371-0169
epalen@dls.virginia.gov
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VIRGINIA HOUSING COMMISSION

SUMMARY

Affordable Housing, Real Estate Law, and Mortgages Work Group September 2, 2015, 10:00 A.M. House Room C, General Assembly Building

I. Call to Order - Affordable Housing, Real Estate Law, and Mortgages Work Group

Delegate Christopher Peace, *Chair*, called the meeting to order at 10:00 A.M.

Work Group members in attendance: Delegate Christopher Peace; Delegate Betsy Carr; Delegate Daniel Marshall; Delegate Barry Knight; Senator Mamie Locke; Senator George Barker; Mark Flynn, *Governor Appointee/Virginia Municipal League*; Laura Lafayette, *Governor Appointee*; T.K. Somanath, *Governor Appointee*; Neal J. Barber, *Community Futures*; Paul Brennan, *Virginia Housing Development Authority*; Robert N. Bradshaw, *Independent Insurance Agents of Virginia*; J.G. Carter, *SunTrust*; Tyler Craddock, *Manufactured & Modular Housing Association*; Heather Crislip, *HOME*; Chip Dicks, *Virginia Association of Realtors*; Andrew M. Friedman, *Virginia Beach Department of Housing & Neighborhood Preservation*; Brian Gordon, *Northern Virginia Apartment Builders Association*; Kelly Harris-Braxton, *Virginia First Cities*; Kelly King Horne, *Homeward*; Erik Johnston, *Virginia Association of Counties*; Katharine Payne, *Williams Mullen*; Renee Pulliam, *Virginia Apartment Management Association*; Jay Speer, *Poverty Law Center*; Elizabeth Steele, *Stewart Title*; Chris Thompson, *Department of Housing and Community Development*; Michael Toalson, *Home Builders Association of Virginia*; William Walton, *Real Property, Inc.*; Michele Watson, *Virginia Housing Development Authority*.

Staff: Elizabeth Palen, *Executive Director of VHC*

II. Senator Donald McEachin: Housing for reentering former offenders (SJ 299; McEachin; 2015) providing safe, decent, affordable housing to people reentering society form prisons and jails. (Incorporating (HJ 647; Rasoul;2015))

Offender Reentry in Virginia/Recent History

- **Senator Donald McEachin:** We need to review what laws we have on the books that govern people who are leaving jails. What barriers are there in the law about where they can reside? What options are there for emergency housing when they come out of jail? How can we improve the laws on the books?
- **Delegate Peace:** I don't believe this is a new issue. I thank you for bringing this up to the Commission.

- **Lawrence D. “Larry” Wilder, Jr.,** *Advisor for Social Entrepreneurism and Innovation of the Virginia Department of Small Business and Supplier Diversity*
 - Executive Order 11: In May 2010, Governor McDonnell directed the Office of the Secretary of Public Safety to amend and alter the Virginia Prisoner Reentry Policy Academy, originally established pursuant to Executive Order 97(October 2009) which was set to expire December 31, 2010. The Virginia Prisoner Reentry Policy Academy shall be renamed the Virginia Prisoner and Juvenile Offender Reentry Council with the aim of promoting reentry strategies for adult and juvenile offenders.
 - The Council was chaired by the Secretary of Public Safety and was comprised of many of the cabinet secretaries as well as the heads of many of the stakeholder agencies.
 - The Council was charged with:
 - Identifying barriers that exist in each member’s department or agency that may impede successful transition of offenders returning to their communities as well as developing and implementing procedures to overcome such barriers, to include job training, education, housing, and substance abuse treatment.
 - Improving collaboration and coordination of transitional services, including providing cross training; sharing information among state agencies; and developing policies, procedures, and programs with well-defined, performance-based outcomes that enhance reentry management.
 - Establishing partnerships between community colleges and the business sector to promote employment and transitional jobs for released offenders.
 - Engaging local agencies, community-based social service providers, community organizations, faith-based organizations, and other stakeholders in promoting successful reentry policies and programs.
 - Submitting a status report of actions taken to improve offender transitional and reentry services to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than December 15 of each year.

- In addition, the Prisoner Reentry Coordinator, in working with the Council, was charged with developing a long-term strategic plan for achieving the goal of reducing offender recidivism for those released from incarceration. The plan set out comprehensive strategies to be employed while offenders were incarcerated and to continue following their release.
- Structure: The Council convened seven work groups and three special focus area committees. The groups covered the topics of mental health and substance abuse, local/regional jails, offender preparation, health and family reintegration, employment/education and workforce development, financial obligations, and housing.
- The focus committees addressed three populations: juveniles, veterans, and women.
- Housing Work Group: In the meetings held in 2010, the Housing Work Group reviewed the report of the previous committee and analyzed housing activities and accomplishments and remaining reentry barriers/service gaps, analyzed input from constituent groups and reviewed research, and reviewed final recommendations from other work groups for overlap, duplication, and synergy.
 - Legislative/Regulatory Barriers: “One Strike Policy” [allows public housing authorities (PHAs) to evict/ refuse to house people whose friends/relatives are suspected of using drugs], residency restrictions on sex offenders, exclusionary zoning (concentration of poverty), ex-offenders not a protected class in terms of housing discrimination, “one-size-fits-all” categories within sex offender registry, and public housing enabling legislation (geographic constraints on public housing).
 - Marketplace Barriers: lack of employment skills/opportunities of ex-offenders, land use, lack of funding for housing and supportive services, risks outweigh benefits for private investors in developing transitional housing, landlord policies, landlord and institutions' liability insurance, use of restrictive standardized rental housing applications, and lack of shared infrastructure/transportation demand for housing assistance by nonoffenders.
 - Community Barriers: Fear of perceived public safety risks, lack of understanding, NIMBY syndrome, depersonalization, focus on crime and not individual and organized opposition.

- Housing Work Group Recommendations: The Housing Work Group made an educational panel presentation to the Virginia Association of Housing and Community Development Officers (VAHCDO) at its January 2011 meeting regarding Virginia PHA’s utilization of discretion in carrying out the one-strike policy on a case-by-case basis. The presentation addressed the impact of the one-strike policy, as currently implemented, on reentry of ex-offenders and the unintended consequences, including the prevention of family unification and the reduction of public housing options for adjudicated juveniles.
 - The Housing Work Group, working alongside community-based housing and other social services providers, identified best practices in the use of individual housing barrier assessments and other models to be used by the Department of Corrections (DOC) in preparing for an ex-offender’s reentry.
 - The Reentry Council supported the work of the Governor’s Homeless Advisory Council and the recommendations of the Homeless Advisory Council were fully considered by the Reentry Council.
 - Related actions:
 - As a result of the Reentry Council and Homelessness advisory Council’s recommendations, DOC convened a discharge subcommittee to examine housing issues as they related to institutionalized persons.
 - Expected residence/homelessness upon release was added to the new DOC Correctional Offender Information System (VACORIS) to be tracked for state-involved inmates in the future.
 - The Virginia Adult Reentry Initiative Strategic Plan (VARI) outlines the use of the DOC Reentry Specialist to assist with transitional housing for subpopulations of reentering offenders that may be difficult to place (i.e., violent and sexual offenders).
- **Delegate Peace:** What if there was a focus on the juvenile reentry? Are we discussing issues with adults here?
 - **Wilder:** With juveniles, there was a reorganization of the education facilities. This was DOC, and that was where the focus was at that time. I think that’s ultimately been disbanded.
- **Peace:** Do we have any data on the issue?

- **Wilder:** I don't have it today, but we do have that data.
- **Peace:** What is the current administration doing on this issue? Is the Council operational, or did it expire?
 - **Wilder:** The Governor formed a children's cabinet. We are not working on the pipeline-to-prison issue. We are also looking at place-based offenders, not just looking at juveniles.
- **Kelly King Horne, Homeward:** There is data from the DOC on the number of returning offenders who have home plans. There is a significant improvement. DOC has added reentry staff. On homelessness, we've learned a lot since 2010. There is a big difference between those coming from DOC and jail.
- **Senator George Barker:** Did I hear correctly that homelessness is more prevalent among those coming out of jail than DOC?
 - **Horne:** Yes, part of that is due to a definitional issue.
- **Barker:** Would that be because those coming out of DOC have had time to make plans?
 - **Horne:** That is a factor.
 - **Wilder:** That can also depend on the jail.

Barker: Have you done a survey of public housing authorities to see the differences in their policies? Are there any best practices out there?

- **Wilder:** We did no survey. There were best practices we looked at other places; HUD would be a good source.
- **Peace:** I don't know if our work group is an appropriate conduit for such a survey.
- **Ann Fisher, Executive Director, Virginia CARES:** [Presentation, which is available under the Materials section on the VHC website.]
- **Peace:** A criminal record is not always the main issue for an individual trying to attain sustainable housing, and deal with daily living. There are substance abuse issues and mental health issues. How can you go in and provide a healing place for recovery and daily living? How can various groups work together to create your model within another context without creating a new program?
 - **Fisher:** It would require a lot of collaboration.
- **Peace:** How can the state help implement that, or is that facilitated by the nonprofit sector? How many people on the voucher list are also offenders? I'd be interested to know that.
- **Horne:** Housing is not a silver bullet to solve the issue. Individuals in vulnerable situations do not have the tools readily available to them to help navigate through housing. Having a combination of services are important. If we only look at the housing piece, that is very shortsighted. You only allow \$200 per person?
 - **Fisher:** Yes, we allot \$200 per person per year. Our client's service dollars are very limited.

- Horne: Where is your funding stream coming from?
 - **Fisher:** We receive the largest portion of our fund from the General Assembly from the general fund. We receive a flow-through from community service block grant funds.
- **Senator Barker:** Virginia has the second lowest recidivism rate in the country. A lot of that is due to preparations taken before people reenter society. I believe with help from this and more stability, we can reduce recidivism even more.
 - **Fisher:** Concerning the continuum of services offered in an institution, our staff has been trained in that.
- **Barker:** Have you estimated the number of folks who would be eligible for or participate in such a program? Have you estimated a cost associated with that? What would be a suitable demonstration for such a program?
 - **Fisher:** I don't have any number for you, as this was just a rough idea. However, the planning committee is meeting to address those issues. We currently serve over 3,000 individuals in a year.
- **Laura Lafayette, Governor Appointee:** The best practice is you house people first from the housing advocacy position. I'd like to hear some data on the scale of the challenge. How many people have an opportunity to go back to housing with relatives versus those in SRO or getting a voucher? I'm trying to understand scale so we can have a strategic response.
- **Peace:** How do we identify that? Who is doing that? I agree with Laura Lafayette that the scale is very important.
- **Lafayette:** Where are investments currently in reentry? Can we align those investments with what's working? What seems to be working is wraparound services and a holistic approach.
- **Sharon Murphy, Community Engagement Coordinator, OAR of Richmond, Inc.:** Our clients all share a stigma. The cycle of ending up back in jail usually includes mental health problems and substance abuse problems. With the DOC, they have an opportunity to work, and our clients then get job experience. We are trying to treat our clients holistically as human beings. Unfortunately, housing is an area of concern.
 - The folks that come out from the jail, we make sure their mental health and substance abuse problems are addressed. We create resumes and help them with their job interviews. We offer GED classes. None of our clients are mandated to come. Everyone wants to make a positive, but scary change. In the last year we doubled the amount of stable employment.
 - When most of our clients find housing it is in boarding houses. Once they have an income, they usually earn less than \$10 an hour. They often have fines to pay in the thousands of dollars.
- **Chip Dicks, Virginia Association of Realtors:** I was asked to give perspective from the housing providers. Concerning sex offenders, we are a "buyer beware" state, where the buyer has to find the information regarding sex offenders. With respect to tenancies and

sex offenders, you cannot allow them to live in a public housing community. It is not unlawful for the landlord to decline tenancy for anyone who provides a threat of present harm. The rental application may require a disclosure of a criminal record. It is a topic of debate whether someone with a record provides a threat of present harm. The property manager is also at risk of liability if there is another crime.

- Most landlords use a “tenant selection criteria.” What we suggest is that a clear and present threat is within the timeframe of five to seven years. People with substance abuse issues are also handled with an entirely different section of the law.
- **Peace:** Does the five to seven years apply across the board, or is someone with their rights restored by the Governor taken into account?
 - **Dicks:** Our advice is five to seven years, but other factors are taken into account. For Fair Housing Law, there needs to be some consistency. If it were included in the tenant selection criteria, then that would be fair.
- **Dicks:** Most housing providers do not do a background check but include a question asking whether you have been convicted of a felony or a charge of moral turpitude. This covers the sale and Fair Housing.
 - Regarding the one-strike rule, it is a HUD term that if you screw up and commit a crime on a property, you don’t have a right to come back. In Virginia Law, we have a nonremediable violation. If they commit a social violation or even some low-level criminal offense, then you get a 21- to 30-day notice. If the landlord then confirms the violation didn’t occur within that period, it goes away. If it reoccurs, there is a 30-day repeat notice. Thus, it is a two-strike system. If someone commits an act that is a serious criminal act and compromises health or safety in that community, then they can serve a three-day notice and then go to court of the law of detainer.
- **Senator Barker:** When the landlord has the ability not to accept someone, it puts the landlord in a difficult situation, as there are liability issues. It also makes it difficult for the tenant to get housing. Is there a better approach?
 - **Dicks:** This issue is not resolvable with the General Assembly as it’s rooted in Virginia Fair Housing Law.
- **Barker:** What about approaching it from the other side that would limit the liability?
 - **Dicks:** I think we could have an interesting conversation with the Virginia Trial Lawyers Association about that issue. Any kind of limitation of liability, we usually end up bonding with that association. Defining the liability in that area could be something to look at, but I don’t know if that would affect the federal interpretation that may be broader.
- **Lafayette:** This is a complex issue, even as sympathetic as we want to be concerning the issue.
- **Dicks:** One of the problems private landlords and housing authorities share is that if your policy says everyone over 18 must apply as a tenant or occupant, the problem is

that tenants have rental applications and background checks and an occupant is just allowed to move in. Often, someone moves a relative in who has gotten out of jail, and does not get authorized by the landlord. Citizens in housing authorities are allowed to have guns. That situation is a huge issue.

- **Peace:** It's often guests who are the problem.

The discussion concluded for this meeting with the caveat that it would be discussed again at a future meeting.

III. Public Comment

- **Delegate Peace** asked for any public comment.

IV. Adjourn

- Upon hearing no request to comment, **Delegate Peace** adjourned the meeting at 11:45 A.M.

COMMONWEALTH OF VIRGINIA

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SENATOR MAMIE LOCKE, Vice-chair
ELIZABETH A. PALEN, Executive Director



GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 210
(FAX) 804-371-0169
epalen@dls.virginia.gov

VIRGINIA HOUSING COMMISSION

AGENDA

Affordable Housing Real Estate Law and Mortgages Work Group

**October 20, 2015, 1 PM
House Room C, GAB**

- I. Welcome and Call to Order
 - ✚ Delegate Christopher Peace
Chair
- II. Economic Impact of the Housing Trust Fund
 - ✚ Mel Jones
Virginia Center for Housing Research at Virginia Tech
- III. Discussion on Suggested Trust Fund Legislation
- IV. Discussion on Legislation for Land Banks
- V. Housing and the Reentry of Former Offenders
 - ✚ Scott Richeson
*Director of Re-entry and Programs
Virginia Department of Corrections*
- VI. Public Comment
- VII. Adjournment

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR GEORGE L. BARKER

MARK K. FLYNN
LAURA D. LAFAYETTE
T.K. SOMANATH

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RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 259
(FAX) 804-371-0169
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VIRGINIA HOUSING COMMISSION

SUMMARY

Affordable Housing, Real Estate Law, and Mortgages Work Group October 20, 2015 1:00 P.M. House Room C, General Assembly Building

I. Call to Order: Affordable Housing, Real Estate Law, and Mortgages Work Group

Delegate Christopher Peace, *Chair*, called the meeting to order at 1:00 P.M.

Work Group members in attendance: Delegate Christopher Peace, *Chair*; Delegate Betsy Carr, Senator George Barker; Mark Flynn, *Governor Appointee/Virginia Municipal League*; T.K. Somanath, *Governor Appointee*; Neal J. Barber, *Community Futures*; Paul Brennan, *Virginia Housing Development Authority*; Robert N. Bradshaw, *Independent Insurance Agents of Virginia*; Tyler Craddock, *Manufactured & Modular Housing Association*; Chip Dicks, *Virginia Association of Realtors*; Kelly Harris-Braxton, *Virginia First Cities*; Shea Hollifield, *Department of Housing and Community Development*; Kelly King Horne, *Homeward*; Erik Johnston, *Virginia Association of Counties*; Renee Pulliam, *Virginia Apartment Management Association*; Michael Toalson, *Home Builders Association of Virginia*; William Walton, *Real Property, Inc.*; Michele Watson, *Virginia Housing Development Authority*.

Staff: Elizabeth Palen, *Executive Director of VHC*

II. Economic Impact of the Virginia Housing Trust Fund

Mel Jones, *Research Associate, Virginia Center for Housing Research, Virginia Tech*

Please see presentation under materials: <http://dls.virginia.gov/commissions/vhc.htm?x=mtg>

Suggested Housing Trust Fund Legislation

Elizabeth Palen presented a sheet with the Commonwealth of Virginia's financial projections.

The group considered what the threshold amount of the general fund should be in order that a portion of the recordation tax in excess of that threshold may be established as the amount dedicated for the Housing Trust Fund.

The group was in agreement that there should be a dedicated revenue stream for the Housing Trust Fund.

The Workgroup agreed that when the amount deposited in the general fund exceeds \$325 million, 20% of the recordation tax revenue in excess of \$325 million should go into the Housing Trust Fund.

A vote was taken and there was unanimous agreement to move this piece of proposed legislation forward to the full Commission.

III. Landbanking

As a full discussion of landbanking took place at the prior full Commission meeting, an update was given by staff to let the Work Group know that legislation is currently being drafted to reflect the needs of small towns and larger cities with blight within the Commonwealth.

IV. Housing and Reentry of Former Offenders

Scott Richeson, Department of Corrections (VADOC)

Ms. Richeson spoke of how she directs the VADOC reentry initiative through offender programming and services and serves as the VADOC liaison to the Governor's Office to meet executive and legislative mandates related to offender reentry. She spoke about developing plans for each former offender upon release and the difficulty of obtaining housing.

No legislative initiatives on housing and reentry of former offenders were offered at this time.

V. Public Comment

Delegate Peace asked for any public comment.

VI. Adjournment

Upon hearing no request to comment, **Delegate Peace** adjourned the meeting at 3:30 P.M.

COMMONWEALTH OF VIRGINIA

DELEGATE DANIEL MARSHALL, III, Chair
SENATOR MAMIE LOCKE, Vice-chair
ELIZABETH A. PALEN, Executive Director



GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 224
(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

AGENDA

Housing & Environmental Standards Work Group

**April 21, 2015, 10 AM
Senate Room A, GAB**

- I. Welcome and Call to Order
 - ✚ Senator John Watkins, *Chair*
- II. Asbestos (*SB 299; Asbestos, Lead and Home Inspectors; A. Ebbin, 2014*)
 - ✚ Senator Adam Ebbin
- III. Underground Abandoned Oil Tanks and Septic Systems
 1. Department of Health Perspective
 - ✚ Lance Gregory, *Environmental Health Coordinator;
Office of Environmental Health, Virginia Department of Health*
 2. Localities Perspective
 - ✚ Joe Lerch, *Director of Environmental Policy;
Virginia Municipal League*
 3. Realtor's Perspective
 - ✚ Chip Dicks, *Virginia Association of Realtors
(by letter)*
- IV. Public Comment
- V. Adjournment

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR GEORGE L. BARKER

MARK K. FLYNN
LAURA D. LAFAYETTE
T.K. SOMANATH

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GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 259
(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

SUMMARY

Housing and Environmental Standards Work Group April 21, 2015, 10:00 AM Senate Room A, General Assembly Building

I. Call to Order - Housing and Environmental Standards Work Group

Senator John Watkins, *Chair*, was absent. **Delegate Barry Knight** called the meeting to order at 10:00 AM.

Work Group members in attendance: Senator George Barker; Delegate David Bulova; Delegate Daniel Marshall; Delegate Barry Knight; Delegate Chris Peace; Mark Flynn, *Governor Appointee/Virginia Municipal League*; Brian Buniva; Ron Clements, *Virginia Building & Code Officials Association*; Michael Congleton, *Fairfax County Planning Commission*; Tyler Craddock, *Manufactured & Modular Housing Association*; James R. Dawson, *Virginia Fire Prevention Association*; Sean P. Farrell, *Virginia Building & Code Officials Association*; John Hastings, *Virginia Housing Development Authority*; Erik Johnston, *Virginia Association of Counties*; John H. Jordan, *Manufactured Housing Communities of Virginia*; Ralston King, *Whitehead Consulting*; Art Lipscomb, *Virginia Professional Fire Fighters*; R. Schaefer Oglesby, *Virginia Association of Realtors*; Shaun Pharr, *Apartment and Office Building Association*; Ed Rhodes, *Virginia Fire Chiefs Association*; Emory Rodgers, *Department of Housing & Community Development*; Neal Rogers, *Virginia Housing Development Authority*; Michael L. Toalson, *Home Builders Association of Virginia*; Cal Whitehead, *Whitehead Consulting*; Jerry M. Wright, *Central Virginia Chapter-Community Association Institute*.

Staff: Elizabeth Palen, *Executive Director of VHC*

II. Asbestos (SB 299; Asbestos, Lead, and Home Inspectors; A. Ebbin, 2014)

- **Senator Adam Ebbin:** Two provisions in the bill are (i) that there be signage in both Spanish and English detailing how to complain about unsafe conditions and (ii) that there be a notice on asbestos mailed with certification cards written in both Spanish and English.
- **Charlie Jackson**, *Laborers Mid-Atlantic Region Organizing Coalition*: We support the recommendations and look forward to having additional protection for the asbestos workers.

- **Ebbin:** There is less onerous paperwork for this version, only requiring the employer to put up signage.
- **Senator George Barker:** Can you give a brief history of the bill?
 - **Ebbin:** This has passed the Senate unanimously for four years, and in the House for at least one year prior to that time. The primary objection was about the employers keeping the notice—now only the sign is required from the employer. The written notice comes from DPOR.
- **Barker:** This bill got referred out of committee to the Housing Commission?
 - **Ebbin:** Correct.
- **Mike Toalson, Home Builders Association of Virginia:** Have Associated General Contractors, Associated Builders and Contractors, or any home improvement contractors been notified this was on our agenda. Did they want to provide comments?
 - **Elizabeth Palen, Executive Director, VHC:** The meeting topic was posted online on the Legislative Calendar as well as the Virginia Housing Commission website. We also had a subcommittee meeting on this topic last year. The employer would only have to provide the signage, which would be developed by DPOR. I thought DPOR had agreed to put their signs in Spanish and English. Were they going to start implementing now?
 - **Ebbin:** I don't believe DPOR does the signage. There was no conclusion about putting signs in Spanish last year, but the overwhelming majority of workers speak Spanish as their first language.
- **Delegate Chris Peace:** Senate Bill 299 is from the 2014 Session. Do you have draft legislation that reflects the recommendations of the sub-work group?
 - **Ebbin:** I do not have draft legislation yet. I would make it very simple: signage is to be developed by the Department of Labor and Industry.
- **Peace:** The simplified version would meet with greater favor; Legislative Services could put together a draft that reflects what the sub-work group put together and what the patron requests.
 - **Ebbin:** Depending how long the meeting is, I can come up with some language now.
 - **Palen:** We will be here for a while.
 - **Ebbin:** I'll be back in an hour or so.
- **Toalson:** Is this only for employers who know of a presence of asbestos?
 - **Ebbin:** This would be for asbestos removal.

III. Underground Abandoned Oil Tanks and Septic Systems

Department of Health's Perspective

- **Lance Gregory, Environmental Health Coordinator, Office of Environmental Health, Virginia Department of Health:** The purpose of my presentation is to address concerns the Housing Commission has received regarding the ability of property owners, realtors,

and other stakeholders to locate records for the onsite sewage systems, or “septic systems,” and private wells.

- Section 32.1-164 of the Code of Virginia provides the Board of Health with control over the safe and sanitary collection and disposal of sewage by onsite sewage systems, and § 32.1-176.4 of the Code provides the Board with regulatory oversight for the location and construction of private wells, which includes collection of numerous records.
- Records for onsite sewage systems and private wells installed since 1982 are typically very well kept at local health departments; however, identifying records for every system installed prior to 1982 will require a significant investment in resources.
- Using U.S. Census data and information from VDH’s Virginia Environmental Information System (VENIS), more than one million homes are estimated to use both conventional onsite sewage systems and alternative onsite sewage systems (AOSS). Nearly 700,000 homes are served by private wells in the Commonwealth. VDH estimates that there are 2.75 million hard copy records on file at local health departments, which include files for installed systems, permit denials, subdivision approvals, etc.
- Record quality is related to the timeframe in which the record was created. The pre-1982 records account for 58% of installed onsite sewage systems and 67% of installed private wells. However, records from this timeframe can be very difficult to find and will typically only include the general location of where the system was proposed to be installed. Regulations for onsite sewage systems were not promulgated until around 1968.
- Records from 1982 through 2003 account for about 25% of installed onsite sewage systems and 22% of installed private wells. There was a vast improvement in recordkeeping for onsite sewage systems and private wells after the Board of Health revised regulations in 1982. These files can typically be found, and onsite sewage system records include property identification, inspection records, and a location map of the system. Private well records prior to 1990 will include only the proposed location and proposed well class, but records from 1990 and later will include a Uniform Well Water Completion Report.
- Records from 2003 to present account for 17% of installed onsite sewage systems and 11% of installed private wells, and all records are readily accessible in the VENIS database. Onsite sewage system records will include extensive property identification, a scale construction permit drawing and “as-built” drawing, an inspection record, and records to identify the capacity of the system. Well records will have a Uniform Well Water Completion Report.
- The agency’s goal is to have at least the general location of every onsite sewage system and private well in a publicly available database, along with the critical system component information. One option would be for VDH staff to enter all hard copy records into the VENIS database; however, this would require 850,000 staff hours and \$15 million in staff cost.

- A second option would be to hire a third party to scan all records. This would still make it difficult to identify records prior to 1982, as identifying information would not be added as part of the scanning process. The cost is also an issue at a projected \$1,375,000.
- A third option would be to create a property transfer inspection and reporting program. If a mandate was established to provide an inspection at the time of sale from someone qualified to perform the work, then that record could be provided to VDC, trusted, and entered into the electronic database for future use and consideration for buyers and sellers. One hurdle is cost to the consumer, who would have to pay for the inspection. Second would be finding enough adequately trained persons to provide such work. And third, dealing with the policy issues related to accepting older, nonconforming systems would be profound.
- A fourth option would be to ask localities to share any information they receive regarding onsite sewage systems or private wells. Many localities within the Chesapeake Bay Watershed require a five-year pump out of conventional onsite sewage systems.
- **Mark Flynn, Governor Appointee:** Are the pump-out records done by a septic company? Do they provide a report on the systems?
 - **Gregory:** They can do a pump-out, inspect the system, or both.
- **Flynn:** So a five-year pump-out does not necessarily require a septic system and compliance report?
 - **Gregory:** Correct.
- **Toalson:** Is there a requirement for records from a pump out to be sent to the Virginia Health Department? Reports of the general area of the pump out may be a way to update records.
 - **Gregory:** With conventional systems there is no reporting requirement, but there is a requirement for alternate systems. In the Chesapeake Bay Watershed, the pump out would be reported but not the location.
- **Knight:** Does the Health Department have any suggestions? Getting the funds required for some of your options seems challenging.
 - **Gregory:** These were some options we feel are available, but we are open to suggestions.
- **Knight:** Is there anything mandated to the state from the federal government like, say, the EPA on the Chesapeake Bay model?
 - **Gregory:** We need to know the location and need to report on any BMP's that are installed.
- **Palen:** Chip Dicks could not be here today, but in his letter he discussed abandoned tanks. Searching for permits for septic tanks and oil tanks can be very challenging, and the realtors would like there to be a uniform search method for these permits across the state.

- **Gregory:** We don't have regulatory authority regarding reporting on those. Abandoned tanks generally have older records, which are difficult to identify.
- **Joe Lerch, Director of Environmental Policy, Virginia Municipal League:** Dealing with Chip Dick's letter: Abandoned septic tanks are a pre-1982 issue. Option three, regarding property transfer inspection, the realtors want no more disclosure requirements in these deed transfers. Regarding option four, with local government reporting, we would love to work more with VDH and local governments. A clearer understanding of the scope of the problem identified by the realtors is needed.
 - In terms of Chesapeake Bay modeling, there was a problem with information not being up to date. Information gathered from localities and VDH can help give better information to the model.

Realtors' Perspective

- **Gordon Dixon, Hampton Roads Realtors Association:** Realtors are concerned about the abandoned tanks but also recognize cost constraints. How the abandoned tanks are identified is the problem. The realtors hope to use a universal method of identification, like a tax ID number, going forward.
- **Toalson:** I see complications from a mandatory inspection of a septic system as part of a sales transaction. Comments on how that could complicate real estate sales?
 - **Dixon:** That would be problematic. Deciding who should perform the inspection is a huge issue. There is a huge liability issue if that person makes a mistake. There is the public disclosure statement, which does address septic systems. It is up to the buyers to perform their due diligence to inspect what is on their property, and it is not up to the agent.
- **Toalson:** Records of five-year pump-outs go to the locality, which are shared with the Health Department. Is the location of the tank included in that?
 - **Gregory:** No, typically with pump out the health department only gets a record of the bill; the actual location of the tank and components are not included. An inspection in lieu of a pump out may include that information.
- **Erik Johnston, Virginia Association of Counties:** A homeowner may ask the health department for the history of pump-out record, and from that information determine if a system has been well maintained. Is that the case in areas that have that pump-out requirement?
 - **Gregory:** It depends on where those records are maintained. In some areas those records are with the health department and in others it is with the county or is shared between local government and the local health department.
- **Toalson:** This pump-out information may help us identify abandoned tanks in the future.
- **Knight:** A buyer can ask the seller to do whatever he wants. The buyer can ask the seller for a septic tank inspection at his discretion.
- **Flynn:** Don't most lending institutions require a report on a septic system before you can buy a house?

Proposed legislation discussed earlier was brought forward from Senator Ebbin.

- **Knight:** We'll look at this again at our next meeting.

IV. Public Comment

- **Delegate Knight** asked if there was anyone who wished to offer any public comment.

V. Adjourn

- Upon hearing no request to comment, **Delegate Knight** adjourned the meeting at 11:00 AM.

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GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 210
(FAX) 804-371-0169
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VIRGINIA HOUSING COMMISSION

AGENDA

Neighborhood Transitions and Residential Land Use Work Group

**July 15, 2015, 10 A.M.
Senate Room A, GAB**

- I. Welcome and Call to Order
 - + Senator Mamie Locke, *Chair*

- II. Stalking; Early Termination of Rental Agreements
(HB 1902; Patron Lopez; 2015)
 - + Susheela Varky
Virginia Poverty Law Center

- III. Local Planning Commissions; Preapproval of Site Plans
(HB 2262; Patron Morris; 2015)
 - + Delegate Rick Morris

- IV. Mandated Disclosure; Recurrent and Nuisance Flooding
 - + Fred Brusso, *Director*
Neighborhood Advancement, City of Portsmouth

- V. Public Comment

- VI. Adjournment

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
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GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 210
(FAX) 804-371-8705
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

SUMMARY

Neighborhood Transitions and Residential Land Use Work Group July 15, 2015, 10 A.M. Senate Room A, General Assembly Building

I. Welcome and Call to Order

- **Senator Mamie Locke**, *chair*, called the meeting to order at 10AM.
- **Work Group Members in attendance:** Delegate David Bulova; Delegate Betsy Carr; Delegate Daniel Marshall; Mark Flynn, *Gubernatorial Appointee*; Laura Lafayette, *Gubernatorial Appointee*; T.K. Somonath, *Gubernatorial Appointee*; Neal J. Barber, *Community Futures*; Bernard Caton, *City of Alexandria, Legislative Director*; Tyler Craddock, *Manufactured and Modular Housing Association*; Cindy Davis, *Building Codes/Dept. of Housing and Community Development*; Chip Dicks, *Virginia Association of Realtors*; Chris Freund, *Family Foundation of Virginia*; Brian Gordon, *Apartment and Office Building Association*; Kelly Harris-Braxton, *Virginia First Cities*; John H. Jordan, *Manufactured Housing Communities*; Erik Johnston, *Virginia Association of Counties*; Ted Koebel, *Center for Housing Research at Virginia Tech*; Barry Merchant, *Virginia Housing Development Authority*; A. Vaughn Poller, *Hampton Roads Housing Consortium*; Elizabeth Rafferty, *Department of Housing and Community Development*; Earl Reynolds, *City of Danville, Community Development Director*; Michael Toalson, *Homebuilders Association of Virginia*; Cal Whitehead, *Whitehead Consulting*
- **Staff:** Elizabeth Palen, *Executive Director of VHC*

II. Stalking; Early Termination of Rental Agreements (HB 1902; Patron Lopez; 2015)

- **Susheela Varky**, *Virginia Poverty Law Center*: This is a bill to allow early lease termination for victims of stalking. The first iteration of the bill had both an improvement to the stalking definition as well as this early termination provision. The stalking definition change was removed.
 - In the proposed legislation, the victim of stalking is added to the list of tenants who may exercise early termination of rental agreements. They must either have a two-year family abuse protective order or a conviction of stalking.

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- In 2013, a bill passed to allow early lease termination for sexual and domestic violence victims. To qualify, the tenant must obtain either a family abuse protective order or an order convicting the abused of sexual assault, sexual abuse, or family abuse.
- Certain limitations were placed upon this, including serving written notice 30-days prior to the next rent due date to the landlord which must include a copy of the order or conviction with the notice. In addition, the protective order must be in effect when the termination notice is given and the tenant can only use the conviction order twice to terminate no more than two leases.
- There was a consensus that a stalking conviction to be used to terminate the lease early within 90 days of the date of conviction order.
- **Chip Dicks, Virginia Association of Realtors:** The bill from 2013 was a difficult compromise in the industry. Some of these events do not have any direct connection to the landlord tenant relationship. The real estate industry is still committed to the compromise, provided more energy is spent on the expanded definition of stalking.
 - **Varky:** In this bill, the improvement to the stalking definition was removed.
- **Locke:** Without the stalking legislation in place, what is the likelihood of this legislation going forward?
 - **Varky:** If the bill had passed, it would have just focused on the definition of stalking as it exists today.
- **Michael Toalson, Homebuilders Association of Virginia:** Is there a requirement in the statute for stalking having occurred at the place of residence?
 - **Varky:** That was part of the discussion for this bill and that from 2013.
- **Delegate Bulova:** Without change to the stalking definition, it sounds like you had a compromise worked out. Is it likely that the change to the stalking definition will move forward? If the stalking definition is in flux, what would need to be changed to get this to pass?
 - **Dicks:** I think there will be advocacy in changing the stalking definition. The bipartisan nature of that indicates that enough constituents feel that is an issue. We tried to take the stalking definition out of Delegate Lopez's bill and let it be handled by Delegate Miller and Senator McEachin's bill, and let the General Assembly decide what to do with that. I think the offence should have some nexus with the property. We don't want to expand the existing statute the way it is.
- **Bulova:** Are we going to have another version that this body can view prior to session?
 - **Dicks:** I think the purpose of this is to create the forum discussion to occur, so it need not happen during session.
 - **Varky:** I agree.
- **Dicks:** We will create some language and share it with industry partners and others. We can let the Housing Commission look at it.

III. Mandated Disclosure; Recurrent and Nuisance Flooding

- **Fred Brusso**, *Director, Neighborhood Advancement, City of Portsmouth*: Flooding is the single largest cause of property loss in the United States. Some events occur slowly, allowing time to prepare, while others are rapid. Frequency and intensity of storms have increased over the past decade.
 - We are also a community that sees a large turnover of residents due to the number of military installations in the city. We have a large amount of flyers and pamphlets to try to keep residents prepared.
 - Portsmouth is very active in trying to reach out to citizens. However, as soon as each outreach project is mailed, it's ineffective. We need new methods and partners. Real Estate Agents, Lending Institutions, Insurance Agents, Churches, Civic Leagues, Youth Sports Groups, and Business Associations are some new suggestions.
 - We request that the General Assembly review the issue of mandatory disclosure. We request the following to be disclosed at the time of a property listing: disclosure of building being located in a special Flood Hazard Zone, and a statement from the owner on the length of time they have owned the property and number of times flood damages have occurred during that period.
 - Providing information benefits the locality. Many states already have mandatory disclosure. Methods of disclosure could include a map or a seller affidavit. With sea level rise, concerns for mandatory disclosure will only increase.
- **Dicks**: If this had already been proposed to the flood commission then is it because the flood commission rejected your proposal?
 - **Brusso**: We felt the original bill was modified during its passage and did not provide the information needed to a homeowner.
- **Dicks**: I understand someone presented this to the flood study commission last year. What happened after you presented the proposal for mandatory disclosure? The flood commission recommended the bill and not the approach you proposed, correct?
 - **Brusso**: Correct.
- **Dicks**: So you're here today because the flood commission did not propose what you felt it should, and so you're asking the Housing Commission to take a second look and something the flood commission did not recommend.
 - **Brusso**: Correct.
- **Toalson**: Would it be appropriate with all your outreach to wait to see if the new legislation is effective?
 - **Brusso**: With FEMA's new map service, we felt that massive improvement could be given at the listing. We've done a tremendous amount of research to discover if there has been damage done to a piece of property.
 - **Toalson**: Should we wait and see if the recommendation passed will do some good?

- **Brusso:** We do not think it has the necessary components to help individuals purchasing a house. We have had a tremendous change in flood insurance premiums. If you don't know you're in a flood zone, you're moving towards foreclosures for those with high flood insurance.
- **Toalson:** "We" is the city of Portsmouth.
 - **Brusso:** Yes.
- **Toalson:** This is the approach the General Assembly chose to take, and I believe we should see if this approach works before we take another step.
 - **Brusso:** I disagree.
- **Dicks:** The purpose of this is to protect a buyer from buying property in a flood zone.
 - **Brusso:** And has had flood damage.
- **Dicks:** I am alerted that I may be in a flood zone by the new legislation and it is my responsibility to determine if I am in a flood zone. I that correct.
 - **Brusso:** Yes.
- **Dicks:** I find out I am in a flood zone. How does the seller begin to know that part of the property being in a flood zone affects the buyer's decision? What does the buyer get that they cannot already find out about?
 - **Brusso:** I agree in some communities you can go on a website and find this information. The rest may or may not.
- **Dicks:** I agree there is an absence of information available. The seller often times doesn't know either.
 - **Brusso:** Most people do not know where to go look to determine if they are in a flood zone. We have done mailings and maps and constantly have people calling asking if they are in a flood zone. Dealing with disclosure if there was prior flooding, the individual can only ask the seller for that information.
- **Dicks:** Sellers, buyers, and localities all care about flooding. The dialogue between us indicates a disagreement about mandatory disclosure. Part of the problem is that flood maps are always changing, and we would not impose that burden on sellers. However, is the house has had undisclosed flood damage, the buyer can sue the seller under existing law. There are protections for the buyer without burdening the seller.
- **Bulova:** How does an average buyer know where to look in order to get that information? What is the professional obligation of a realtor who has a client who wants to know if a property is in a flood zone? I expect a real estate agent would know how to get that information.
 - **Dicks:** For the realtors, there is a code of ethics. For real estate licensee does not. Licensing statues impose a duty upon a buyer agent to assist their client with all these issues set out in the statute. They would check for sex offenders, etc. There are professional obligations.
- **Toalson:** The large majority of new homes require financing. In conjunction, the buyer hires a real estate lawyer to conduct the closing. The first thing the real estate lawyer will to is determine whether the property is in a flood zone and the costs. There are other safeguards in the process.

- **Brusso:** I disagree. Much of that occurs after the listing and a contract has been signed.
- **Toalson:** That is certainly a reason to cancel the contract. I suggest that is a safeguard for the buyer.
 - **Brusso:** The issue for the premium costs occurs late in the closing process. If you are informed at the listing, then you can make a qualified decision.
- **Toalson:** You disagree that the lawyer telling you that you are in a flood zone is not a safeguard?
 - **Brusso:** I think it occurs at too late a time. There are too many times that the buyer is using the seller's attorney.
- **Laura Lafayette, Gubernatorial Appointee:** The public policy in place today allows to buyer to make all these determinations before they ever start looking. The buyer has every right to go on the website and do all that analysis by themselves. There is no reason to go near the closing table without having looked all this through.
- **Sherry Neil, Intergovernmental Affairs Director, City of Portsmouth:** I purchased a home in Hampton, not in a flood zone. I got flood insurance anyway. We had a hurricane and had some flooding. None of this would have been disclosed because we do not live in a flood zone. If the seller provides a form to give some information on the property while they lived there, that would provide very valuable information.
- **Lafayette:** The law already requires that the seller make that indication. This would be redundant.
 - **Neil:** I did all due diligence and found this information on my own.
- Is there anything there preventing the buying agent from asking the listing agent if there has been any flooding? If there is any misrepresentation there they are then in violation of the law.
 - **Dicks:** That is correct. If that information was requested as part of the contract and there was a misrepresentation by the seller, then that would be actionable. I wouldn't begin to guess whether a property is in a flood zone based on the changes. Somebody needs to get a survey and determine those things. We encourage all buyers to research this information pre-contract.
- **Barry Merchant, Virginia Housing Development Authority:** For those rights to be effectively exercised, it requires an informed buyer. I suspect this concern is greatest among first-time buyers without the knowledge base. I suggest another alternative is homebuyer education to ensure these things are addressed.
- **Kelly Harris-Braxton, Virginia First Cities:** It does not seem like this is a tremendous burden to ask a seller whether or not something happened while they owned the property. Of course, that affects how much they can get for the property. To say that you do not have to be that savvy to get that information is not accurate. How does this compare to a lead paint analysis? You have to expose if there is lead paint on your property versus having to explain if there has been flooding on the property? Is that a tremendous burden?

- **Dicks:** The law is that after a problem is fixed, you no longer have to disclose the issue. So if there were some flood damage, after the damage is repaired you would not have to disclose the flooding, unless it was repetitive damage. With regards to lead paint, there is a federal law that requires an EPA disclosure and acknowledgment of a tenant. Once the lead based paint is remediated, there is no further disclosure obligation under federal law.
- **Erik Johnston, Virginia Association of Counties:** We do not have a position on this issue. I thought the idea on homeowner education was very interesting.
- **Brusso:** Regarding what Mr. Dicks said about surveys given at closings-- today, maybe 25% of properties included a survey as part of closing papers. At the time of a loss, you are looking at trying to fix your home. Instead of waiting and reacting to an event, we hope to have the knowledge and the beginning.
- **Locke:** We should not decide whether or not to move forward with this issue.
- **There was a motion and a second to not move forward on this issue.**
- **There was a substitute motion to move the issue forward.**
 - **The motion did not receive a second.**
- **The main motion to not move it forward was passed.**

IV. **Public Comment**

- **Senator Locke** asked for public comment

V. **Adjournment**

- Upon hearing none, **Senator Locke** adjourned the meeting at 11:30 AM.

COMMONWEALTH OF VIRGINIA

DELEGATE DANIEL MARSHALL, III, Chair
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201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 210
(FAX) 804-371-8705
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VIRGINIA HOUSING COMMISSION

AGENDA

Neighborhood Transitions and Residential Land Use Work Group

**December 9, 10 AM
Senate Room A, GAB**

- I. Welcome and Call to Order
 - + Senator Mamie Locke, *Chair*
- II. Stalking; Early Termination of Rental Agreements
(HB 1902; Patron Lopez; 2015)
 - + Christy Marra
Virginia Poverty Law Center
 - + Chip Dicks
Virginia Association of Realtors
- III. Shared Walls with Insect Infestation
(Senator Adam Ebbin)
 - + Bernard Caton
City of Alexander, Legislative Director
 - + Cindy Davis, *Deputy Director*
Building Codes/Dept. of Housing & Community Development
- IV. Asbestos (SB 299; Asbestos, Lead and Home Inspectors; A. Ebbin, 2014)
 - + Senator Adam Ebbin
- V. FY 2015 Cash Proffer Report
 - + J. David Conmy, *Senior Policy Analyst*
Virginia Department of Housing and Community Development
- VI. Richmond Housing Authority; East End Initiative
 - + Lane Pearson
- VII. Public Comment and Adjournment

DELEGATE DANIEL W. MARSHALL, III
DELEGATE DAVID L. BULOVA
DELEGATE BETSY CARR
DELEGATE BARRY D. KNIGHT
DELEGATE CHRISTOPHER K. PEACE

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR GEORGE L. BARKER

MARK K. FLYNN
LAURA D. LAFAYETTE
T.K. SOMANATH

COMMONWEALTH OF VIRGINIA

SENATOR MAMIE LOCKE, Chair
DELEGATE DANIEL MARSHALL, III, Vice-chair
ELIZABETH A. PALEN, Executive Director



GENERAL ASSEMBLY BUILDING
201 NORTH 9th STREET, SECOND FLOOR
RICHMOND, VIRGINIA 23219
(PHONE) 804-786-3591 ext. 259
(FAX) 804-371-0169
epalen@dls.virginia.gov
<http://dls.virginia.gov/commissions/vhc.htm>

VIRGINIA HOUSING COMMISSION

SUMMARY

Virginia Housing Commission

Neighborhood Transitions and Residential Land Use Workgroup

December 9, 2015, 10:00 AM

Senate Room A, General Assembly Building

I. Call to Order

Senator Mamie Locke, *Chair*, called the meeting to order at 10:00 AM.

Members in attendance: Senator Mamie E. Locke, *Chair*; Delegate David Bulova; Delegate Betsy Carr; Delegate Danny Marshall; Mark K. Flynn, *Governor Appointee*; T.K. Somanath, *Governor Appointee*; Laura D. Lafayette, *Governor Appointee*; Neal J. Barber, *Community Futures*; Bernard Caton, *Legislative Director, City of Alexandria*; Tyler Craddock, *Manufactured & Modular Housing Association*; Cindy Davis, *Building Codes, Department of Housing and Community Development*; Chip Dick, *Virginia Association of Realtors*; Chris Freund, *Family Foundation of Virginia*; Brian Gordon, *Apartment and Office Building Association*; Kelly Harris-Braxton, *Virginia First Cities*; John H. Jordan, *Manufactured Housing Communities*; Barry Merchant, *Virginia Housing Development Authority*; Elizabeth Rafferty, *Department of Housing and Community Development*; Earl Reynolds, *Community Development Director, City of Danville*; Michael Toalson, *Home Builders Association of Virginia*; Cal Whitehead, *Whitehead Consulting*.

Staff: Elizabeth Palen, *Executive Director of VHC*

** Note this meeting has members of both the Housing and the Environmental Law and Neighborhood Transitions and Residential Land Use Workgroups as the topics were covered by both groups*

II. Shared Walls with Insect Infestation (Senator Adam Ebbin)

- **Bernard Caton**, *Legislative Director, City of Alexandria*: We have a resident who bought a townhouse, which is not part of a homeowners' association. Once he moved in he has had an issue with cockroaches and bedbugs. We have had exterminators come to deal with the issue regularly, and they now believe the issue comes from the adjacent townhome, who are renters. We don't know any way we can deal with this.
 - Amigo Wade has drafted a bill, which authorizes a building inspector to get an inspection if a complaint is issued. It directs the Board of Housing and Community Development to amend the section of the statewide building

code to require all structures to be kept free from infestation and require those with a problem to promptly deal with it.

- **Locke:** So this would become a statewide policy?
 - **Caton:** Correct.
- **Michael Toalson, Home Builders Association of Virginia:** Who has determined it's insects from an adjoining home?
 - **Caton:** No one can go into the home where the problem seems to be coming from, but the neighbors all seem to believe that is where the issue is from.
- **Toalson:** Do you know if it's built on a slab or is there a crawl space?
 - **Caton:** I believe all these houses have basements, but I'm not positive. The inspector said it was unusual, but in these older homes there are cracks where insects can get from one home to another.
- **Ron Clement, Assistant Director, Chesterfield County: Building Inspector:** Have you explored avenues through the state health department?
 - **Caton:** We did, and they don't believe they have any authority.
- **Chip Dicks, Virginia Association of Realtors:** Concerning the enactment clause, perhaps it would be better perceived if it were permissive. I believe the building code work group should look at the issue.
 - **Caton:** Senator Ebbin would be open to this.
- **Toalson:** This is the year the Board for Housing and Community Development will begin consideration to changes of code. It would be timely to have this matter referred to them.
- **Cindy Davis, Deputy Director, Building Codes, Department of Housing and Community Development:** The Department of Housing and Community Development is indeed in the process of updating from one code edition to the next. Related to this legislation, the current amendment in the infestation section to be removed is based on the definition of building regulation, which is currently in the statute. It is specific to the extent it affects the structure.
 - **Clement:** Has this type of issue ever occurred in your experience?
 - **Davis:** No, not until now.
 - **Caton:** The issue is how to establish an infestation.
- **Locke:** How prevalent is this issue statewide?
 - **Davis:** This is the first time I have heard of it.
- **Dicks:** Does the health department or the Department of Agriculture deal with pests?
 - **Davis:** I am not familiar with the agriculture department, but the health department does have a section that deals with infestation of bedbugs, etc. They suggest you consult a professional, but are not regulated by them.

- **Dicks:** In the Virginia Residential Landlord Tenant Act, there is a provision requiring the tenant maintain the dwelling free of pests and insects. That may be a place to look for a solution.
- **Locke:** Are we ready to push this forward to the full commission?
- **There was a consensus to keep the issue within the work group.**

III. Stalking; Early Termination of Rental Agreements (HB 1902; Lopez; 2015)

- **Christy Marra, Virginia Poverty Law Center:** There were issues raised in a stakeholder meeting that providing the same protection for stalking victims as for domestic abuse may go too far for stalking victims, but the new legislation is confusing. We determined at this time to recommend you not go forward with this legislation.
- **Chip Dicks, Virginia Association of Realtors:** I concur and suggest no legislation go forward.
- **The work group decided to pass through no legislation.**

IV. Asbestos (SB 299; Asbestos, Lead and Home Inspectors; Ebbin; 2014)

- **Charles Jackson (on behalf of Senator Ebbin):** In this legislation, when workers file for their license they will also receive a packet describing their rights and how to file a complaint.
 - **Elizabeth Palen, Executive Director, VHC:** I would like everyone to note this is a Section 1 bill.
 - **Dicks:** The language doesn't deal with the size of the signs. Has there been consensus on that?
 - **Jackson:** The legislation in front of you does not include an additional sign. The workers do not usually view the signs on site; they are to warn the public of asbestos work sites, so we took that out of the legislation. We do have a second version that includes the sign, but we are supporting this first version.
 - **Toalson:** Are these motions part of training?
 - **Jackson:** I defer to DPOR [the Department of Professional and Occupational Regulation].
 - **Trisha Henshaw, Executive Director, Board for Asbestos, Lead, and Home Inspectors:** There are specific things that need to be covered in workers' training.
 - **Toalson:** Is where you go to file a complaint part of training?
 - **Henshaw:** No, that specific item is not required in training.
- **It was moved and seconded that the work group recommend the legislation to the full committee.**
- **Motion passed.**

V. FY 2015 Cash Proffer Report

- **J. David Conmy**, *Senior Policy Analyst, Virginia Department of Housing and Community Development*: (Presentation, which is available under the Materials section on the VHC website.)
 - **Senator George Barker**: If you have the right to accept proffers because you achieve five percent growth in a decade, do you lose that right if you do not see that growth in that time period?
 - **Conmy**: My understanding is no, but I will confirm that.
 - **Barker**: In recent years revenues were much higher than expenditures, is there an explanation for that change?
 - **Conmy**: I do not have a specific cause.
 - **Toalson**: I appreciate the report and the fact that most localities are adhering to the requirements. Sooner or later there will be a change in this act that will allow the development sector to fully recover. I believe the proffer system is out of control.
 - **Barker**: I think we need more information on revenues collected that have not been spent. If developers are putting money into the proffer for a thing that is never done, we need to look into this issue.
 - **Toalson**: Do you have information on the distribution among the localities? Are the majority of revenues collected from select localities and where are they?
 - **Conmy**: I do have some additional information in our report.
 - **Toalson**: For the most part it's in Loudoun County, with some in Fairfax.
 - **Laura Lafayette**, *Governor Appointee*: I agree with Mr. Toalson. This issue burdens housing costs and affordable housing.
 - **Toalson**: We feel the current proffer situation supports the higher end of the housing market. The starter home market is struggling.
 - **Mark Flynn**, *Governor Appointee*: I think it's interesting that 26 of the 36 cities don't use cash proffers. Sixty-two or the 80-some counties don't use proffers. Regarding having a cash proffer schedule, larger developers like the predictability associated with it. We have previously tried to address the length of time proffers could be held onto. Promoters are supporting a shift to impact fees.

VI. Portsmouth Flooding

- **Barry Merchant**, *Virginia Housing Development Authority*: We discussed the need for more educational opportunities for the first-time homebuyer with regard to flooding. When the curriculum gets updated this year, that will be included.
 - This will include: an emphasis on flooding in coastal areas being a significant risk, the need for buyers to find out whether flood insurance is necessary and whether their home is in a flood hazard area, and how to access up-to-date flood hazard information.

VII. Richmond Redevelopment and Housing Authority (RRHA); East End Initiative

- **Lane Pearson, (RRHA):** We are hoping to revitalize some low-income public housing complexes we own. In the past there was the Hope 6 program, which revitalized communities. We no longer have access to these big piles of money, however.
 - HUD [the U.S. Department of Housing and Urban Development] has come up with the Choice Neighborhoods Initiative. This allows fewer numbers of housing authorities to receive rather sizeable amounts of money to be used to leverage other funds to revitalize low-income public housing. This is a competitive process.
 - How do we move forward? One new tool is called the Rental Assistance Demonstration Program, which allows housing authorities to convert their public housing units into project-based voucher units. Again, this is very competitive.
- **Marcia Davis, (RRHA):** We committed to Creighton Court as the first complex. We used some early RAD allocation and did a one-to-one replacement and a few units. We look for housing placement offsite, and are in the process of rebuilding an old school building.
 - We have elected to do a public-private partnership with our nonprofit, Community Builders. The first phase we got funded with our partners is the Armstrong site. A third will be replacement units, a third will be workforce housing, and a third will be market rate. The city of Richmond provided the gap funding to help make this work.
 - The next part of the Armstrong site is a 45-unit complex dedicated to seniors. This is hopefully a leg up on the competition, having a plan set.
 - The overall goal is continuing down this corridor and addressing other projects in the long term.
- **Pearson:** This is a high priority statewide. We've been working closely with the state to determine which housing communities should be targeted.

VIII. Public Comment

- **Roger Wiley, Loudoun County:** When proffers came before the Housing Commission previously, Loudoun came down to show we have a well-thought-out capital improvements program. I think that would alleviate many of your concerns. Loudoun has seen growth and development even during the recession, especially when dealing with school-age children. I request to have the folks come back from Loudoun County, so they can assure you they're not just hoarding this money.

IX. Adjourn

- Upon hearing no further comment, **Senator Locke** adjourned the meeting at 11:30 AM.