



Wednesday, February 17th, is “Crossover” day in the General Assembly. Any bill that does not pass the chamber of origination, House or Senate, is dead for the year. Following is a quick summary of the status of the Virginia Housing Coalition’s priority bills for the 2010 General Assembly session.

Local Housing Trust Fund HB960 (Ingram) –

After a very long delay from Legislative Services, the enabling legislation for local and regional housing trust funds was crafted into a solid bill. It passed subcommittee and the full Counties, Cities, and Towns committee easily because of the beneficial combination of having the Committee Chairman patron the bill as well as a notable lack of opposition.

Just after the bill passed subcommittee, the Homebuilders expressed their concern that the bill would open another door to cash proffers, which they believe coerce developers to pay for rezoning allowances. We should expect an amendment from the Homebuilders to prohibit cash proffer proceeds from being allocated to local housing trust funds when the bill reaches the Senate Local Government Committee.

Affordable Housing Assessment HB430 (Griffith), HB233 (Dance), SB273 (Whipple) –

HB 233 and SB 273 provide that the preferred assessment procedures for affordable apply to all projects regardless of size.

This set of bills went through many hours of negotiations between multiple local government representatives, and both for-profit and non-profit housing developers and providers. The component of most relevance to VHC members is almost identical in all 3 bills. It requires assessors to use the income-based approach in assessing affordable housing. It is a fair approach that should result in more accurate and reasonable tax bills for owners of affordable housing stock across the Commonwealth. Specially, it reads:

D. Notwithstanding any other provision in this section or other law, the real property governed by this section that is generating income as affordable housing shall be assessed using the income approach based on: the property's current use, income restrictions, provisions of any arms length contract including but not limited to restrictions on the transfer of title or other restraints on alienation of the real property, the requirements of subsection B, and all other provisions of this section.

HB 430 has several other provisions that approve the assessment process overall (for both affordable and market-rate housing alike):

1. It directs the Department of Taxation to include new requirements for certification of assessors, including guidance on affordable housing assessments as well as minimum levels of experience.
2. Currently, a taxpayer can very easily appeal an assessment that falls below an accepted range for any given locality (specifically if it is less than 70%) – as enumerated in the Department of Taxation’s annual sales ratio study. This bill provides a ceiling to complement the existing floor in the code. It notes that an assessment greater than 130% of the sales ratio study value will also result in prima facie evidence that the assessment is incorrect.

3. It requires assessors to share, upon request from a taxpayer, the methodology they used in the assessment including the capitalization rate used, a list of comparable properties or sales figures considered, and any other factors considered in determining the value of the property. If the taxpayer decides to appeal and assessor does not provide information about the methodology within 5 days, none of the information contained in the methodology can be used in the appeal process for that piece of property.
4. It sets out professional standards for members of boards of equalization. Specifically, any panels in localities whose population exceeds 100,000 and who consider commercial or multi-family assessments must be comprised of at least 30% professionals with relevant real estate or financial industry experience.
5. Upon appeal, if a taxpayer can show that the assessment was out of compliance with general accepted practices, that is enough to meet the burden of proof that the assessment over values the property.
6. In cases where an appeal results in yet an even higher assessment for commercial, industrial, or multifamily residential property, the assessor must provide a 14-day notice to the property owner. If said owner contests the increase, the board must pay for an independent third-party appraisal to corroborate the higher assessment.

All of these bills passed their respective finance committees and full chamber floors easily.

Affordable Housing in Urban Development Areas (UDA) SB420 (Vogel), HB1071 (Athey) – These complicated bills went through much iteration over the course of the year after close scrutiny by a group of about 15 stakeholders. At the beginning of session, one amendment was requested (again, amongst multiple requests): that UDAs shall provide for a mix of housing types, including affordable housing. Representatives from VACo, VML, and the Homebuilders all agreed to sign off on the amendment. Sen. Vogel, who carried a bill last session to do just this, wanted to be sure that the House version, carried by her friend Del. Athey, mirrored her Senate version.

The day before her bill was set to be heard in the Senate Local Government committee, Loudoun County and the High Growth Coalition, indicated that despite VACo's previous support, the affordable housing requirement would generate significant opposition. Del. Athey was sufficiently worried and rejected our amendment request. Not wanting to put her bill at odds with Del. Athey's, Sen. Vogel declined to include the affordable housing amendment.

Both bills passed their respective chambers nearly unanimously and in identical form, which will avoid a conference committee.

Anti-NIMBY Bill HB1280 (McClellan) –

This bill was laid on the table (=killed) in the Housing Subcommittee of General Laws. The silver lining is that the subcommittee will send a letter to the Virginia Housing Commission to consider it in the off-session for a recommendation to the 2011 session, so to the extent that we get to continue to have a conversation, that is a victory!