



Virginia Housing Coalition

2010 Virginia General Assembly Legislative Outcomes Report

Priority Bills

Enabling Legislation for Local and Regional Trust Funds

House Bill 960: Delegate Riley Ingram (R-Hopewell)

Summary: This legislation would have created clear authority for cities, counties and towns to establish local housing trust funds that would be funded and administered at the local or regional level. Virginia does not have any uniform enabling legislation that clearly grants localities the power to create such funds and which enumerates how these may be funded and what activities they may engage in. This has contributed to uncertainty in some localities and has hindered local housing advocacy.

Background: Local trust funds encourage local involvement and commitment to addressing housing issues. Local governments are closest to the problem and may be in the best position to design creative solutions. While there are 39 other states in the US that have state housing trusts funds, there are hundreds of funds that have been created at the city, county or regional level. These funds make up the vast majority of all housing trust funds in the US.

The bill allows for assistance to housing developers and housing organizations to carry out a wide range of activities that will facilitate the development of affordable, owner-occupied and rental housing – including the acquisition, rehabilitation of existing housing as well as the construction of new housing. Assistance may also be provided directly to low to moderate income families to help them afford ownership or rental housing.

Moreover, this bill would not have done any harm to existing local housing trust funds. In Virginia, there are a handful of funds that are already operating – Albemarle, Arlington, Alexandria, Charlottesville, Richmond, Norfolk, Fairfax, and other localities each have different mechanisms for replenishing their funds. HB960 specifies that locally administered housing fund adopted prior to July 1, 2010, shall continue in full force and effect.

Process: One of the most significant challenges on this bill was getting it drafted. Many weeks went by, including the first few of session, without a hard draft from Legislative Services. But once we had a correct version, broad advocacy began. As chairman of the House Counties, Cities, and Towns Committee, Delegate Ingram helped shepherd HB960 easily through the House.

However, once on the Senate side, some last minute amendments requested by the Home Builders and Bankers ultimately sidetracked the bill. The Home Builders wanted to be sure that local housing trust funds wouldn't be another mechanism to collect cash proffers from developers. And lobbyists from localities in the Northern Virginia region weren't completely assured that the bill held their existing funds harmless. When that compromise was finally worked out in the closing weeks of session, the Bankers came with a request just a few hours before the final meeting of the Senate Local Government Committee. They complained about the section of the bill that would have allowed localities to make *loans* from their housing trust funds, and wanted language that showed preference to local banks to do such lending. As with the week before, representatives from the Northern Virginia contingent were worried that the Bankers' request would adversely affect their existing funds.

Outcome: Passed the House, but was referred to the Virginia Housing Commission by the Senate Local Government Committee.

Next Steps: It is imperative that we help work out some of the unexpected "wrinkles" that arose last minute with this bill. That means we'll have to actively participate in the Housing Commission, as well as continue to reach out to stakeholders around the state.

Affordable Housing and Real Property Tax Assessments

House Bill 430: Delegate Morgan Griffith (R-Salem)

House Bill 233: Delegate Roslyn Dance (D-Petersburg)

Senate Bill 273: Senator Margaret Whipple (D-Arlington)

Summary: All three of these bills establish clear and fair standards that all assessors must follow when assessing affordable housing, which will guarantee a fair tax bill for property owners. Moreover, HB430 contains additional protections for all property owners that helps level the playing field and create clearer recourse when assessments might be unfairly inflated.

Background: The existing special real estate assessment procedures for affordable housing with long-term use restrictions are not handled uniformly by local assessors in Virginia. Accordingly, assessments vary widely from locality to locality. In many cases, assessors aren't taking the rent and income restrictions of affordable housing units into consideration, and are sending property owners a larger tax bill than appropriate. This threatens existing affordable housing stock. One owner of 18 affordable housing units in the Jackson Ward neighborhood of Richmond noted that his tax bill has gone from \$256,000 in 2004 all the way up to \$2,000,000+ in 2009. He has proclaimed that his company will never build affordable housing in Richmond again.

Process: 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. SB273 and HB233 were both endorsed pre-session by the Virginia Housing Commission. However, one of the most important components of those bills was removed from the version that passed. We supported the provision that extended

protections to less than four unit properties, known as “scattered site.” Successful deconcentration of poverty requires that affordable units are mixed in with market rate units. This leads to some developments where only one or several units are affordable. Under current law, those units are not required to be assessed as affordable housing. HB233 and SB273 sought to change this, but ultimately were rebuffed by an erroneous argument about property classification (single family v. multi-family).

HB430, with its six additional provisions (plus the requirement to assess affordable housing appropriately), met with fiercer opposition from local governments. Because this was expected, several stakeholder meetings were convened early, and all parties were able to work out a compromise. Here are the highlights of the final bill:

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.

Outcome: All three bills passed both chambers almost unanimously and are one their way to the Governor’s desk for his signature. The only nay votes were from Senator Watkins (R-Chesterfield) and Senator Smith (R-Roanoke).

Next Steps: The scattered site protection was dropped in the GA, however, Gov. McDonnell added it back and it was approved during the veto session. We should also

celebrate this very significant victory! You can help spread the word to owners of affordable housing that they can now expect and demand a fair property assessment.

Affordable Housing in Urban Development Areas (UDAs)

House Bill 1071: Delegate Clifford L. Athey, Jr. (R-Front Royal)

Senate Bill 420: Senator Jill Vogel (R-Winchester)

Summary: Urban Development Areas are the designated growth areas that certain fast growing localities must designate and plan for as a result of the comprehensive transportation act passed during the 2007 legislative session. Since then, some localities have asked the General Assembly for some clarification. So for the past three sessions, members of the Joint Subcommittee Studying Development and Land Use Tools (see below) have worked on detail-oriented bills. The Virginia Housing Coalition wanted a provision about affordable housing included to the effect of: “The urban development areas shall provide for mixed-use neighborhoods, including a mix of residential housing types with affordable housing to meet the projected family income distributions of future residential growth.”

Background: Housing, transportation and employment are directly connected. Our planning processes in Virginia need to recognize this reality. Future development in Virginia should ensure that all employees (including lower wage earners) have opportunities to live close to work. Better planning that includes workforce housing will prevent sprawl and traffic congestion while reducing infrastructure costs and improving quality of life. Families should not have to face the choice of affordable housing or a long commute to work. Requiring the creation of affordable housing in the highest-growth areas will assure equal access to these parts of the state.

Process: 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. Senator Vogel, who carried a bill last session to do just this, wanted to be sure that the House version, carried by her friend Delegate 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, though they did not explain the expected source of such opposition. At that point, the Home Builders claimed they “were building affordable housing anyway,” and so the amendment was unnecessary. Delegate Athey was sufficiently worried and rejected our amendment request. Not wanting to put her bill at odds with Delegate Athey's, Senator Vogel declined to include the affordable housing amendment.

Outcome: Both bills passed their respective chambers nearly unanimously and in identical form, which will avoid a conference committee. But the affordable housing requirement was never included.

HJ135 and SJ89, which passed unanimously, will continue this work.

“Continues the Joint Subcommittee to Study Development and Land Use Tools in Virginia’s Localities for one year to examine and monitor the transition to channeling development into Urban Development Areas, and determine if additional legislation is needed to help localities as they transition to Urban Development Areas. The joint subcommittee shall also continue to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.”

Next Steps: To the extent that some people, including legislators, saw the inclusion of affordable housing as a threat to the bill, it remains our responsibility to educate decision makers about the BENEFITS of affordable housing. Keep spreading the word that affordable housing is good for families, good for communities, and overall positive for economic development.

Joint Subcommittee Studying Development and Land Use Tools

Senate Members

Jill Holtzman Vogel
L. Louise Lucas
Mark Herring

House Members

Clifford Athey Jr.
Robert Orrock Sr.
Glenn Oder
Paula Miller
David Toscano

Anti-NIMBY

House Bill 1280: Delegate Jennifer McClellan (D-Richmond)

Summary: The “Not in My Back Yard” or NIMBY syndrome is found in just about every community. NIMBYs come out in full force at local zoning hearings, and quite frequently they are successful in persuading government officials to deny new developments just because they intend to include affordable housing. This bill would help local governments overcome this fierce NIMBYism by outlawing discrimination against affordable housing. This bill adds a ninth protected class to Virginia Fair Housing law – affordable housing (defined as “intended for occupancy by families or individuals with incomes at or below eighty percent of the area median income”).

Background: Families at all income levels deserve a safe, decent, affordable place to call home in a community that offers quality of life enhancing opportunities like good schools, healthy food, jobs, and transportation. Unfortunately, however, there is a notable lack of such affordable housing choices around Virginia. And too often,

NIMBYism drives the debate over whether and where to build affordable housing units.

Process: The idea for this bill came to us late in the game, so we had to hustle to find a patron before the filing deadline. After session started, Delegate McClellan (D-Richmond), a long time supporter of affordable housing, agreed to carry the bill.

We highlighted HB1280 at the 3rd annual Housing Advocacy Day, where about 75 advocates got training on the issue and talked to their legislators to urge support. Moreover, our keynote speaker at Advocacy Day, Bob Sledd, Senior Advisor to the Governor on Economic Development, noted the severe challenge of NIMBYs in trying to overcome some of the most significant housing problems in the Commonwealth. We were on a roll!

As the weeks of session passed, HB1280 was just sitting in the House General Laws Committee. In other words, it was NOT being referred to one of the four subcommittees, including the Housing Subcommittee, which was the natural fit. At first, we believed because the bill dropped so late, it was just taking extra time to work its way through the process. But several weeks before crossover, we became very worried. If the bill didn't get vetted in a subcommittee, it was highly unlikely that the full House General Laws Committee would hear it. Advocates, partner lobbyists, and the patron all went to ask Delegate C. Jones, chair of House General Laws, about the hold up.

Delegate C. Jones generally agreed to go ahead and refer the Anti-NIMBY bill to the Housing Subcommittee. But then when we started asking the chairman of the subcommittee, Delegate Oder, when it was going to be heard, he wasn't able to say for sure. Finally, we got to the last Wednesday before crossover – the very last day on which the bill could be heard. We were desperate and re-contacted Bob Sledd to see if he had any advice. Apparently, after Housing Advocacy Day, he had presented several of HOME's priority bills to the Governor's policy team, and the one that gave them the most pause was HB1280. So it seems heartburn in the Administration is ultimately what held the bill up.

While chairman Del. C. Jones did finally refer the bill to the Housing Subcommittee, where it got a brief hearing, Del. McClellan saw the writing on the wall and asked that instead of certain death, that HB1280 be sent to the Virginia Housing Commission to get a full vetting before the 2011 General Assembly Session.

Although we had a great showing of support (Home Builders Association of Virginia, Virginia Association of Realtors, National Alliance on Mental Illness of Virginia, Virginia Housing Coalition, and HOME all testified!), Dels. Cosgrove, Comstock, and Oder all voiced opposition.

Outcome: Referred to the Housing Commission.

Next Steps: There are a variety of tools, including mainstream research, that you can use to help demonstrate to decision makers that affordable housing is a POSITIVE thing for sustainable communities; that it creates healthy economic development; and that is it

is visually appealing! Continue to educate legislators on the need for, and importance of, affordable housing.

Quantitative Outcome Report

HB 233 - <u>Dance</u> - Affordable housing units; assessments.	Positive Outcome	1 point
HB 430 - <u>Griffith</u> - Real property tax assessment; Department of Taxation to establish qualifications for certification.	Positive Outcome	1 point
HB 960 - <u>Ingram</u> - Local or regional housing fund; locality may establish to make grants to housing sponsors, etc.	Passed House; but referred to Housing Commission (1/2 credit)	½ point
HB 1071 - <u>Athey</u> - Urban development; sets certain densities in areas according to population of locality.	Negative Outcome	0 points
HB 1280 - <u>McClellan</u> - Fair Housing Law; unlawful discriminatory housing practices.	Referred to Housing Commission, but negative outcome	0 points
SB 273 - <u>Whipple</u> - Affordable housing units; assessments.	Positive Outcome	1 point
SB 420 - <u>Vogel</u> - Urban development; sets certain densities in areas according to population of locality.	Negative Outcome	0 points
Total points earned		3.5 points
Possible points		7 points
OVERALL 50% SUCCESS RATE		

Other Bills of Interest

REALTORS LICENSE PLATE TO FUND HOUSING TRUST FUND

Senate Bill 170: Senator Edward Houck (D-Spotsylvania)

Notes: Unfortunately, this bill died because of some internal conflict, but we were happy to see it hit the system! It would have made license plates issued to members of the Association of Realtors a \$25 revenue-sharing special plate, \$15 of which will go to the Virginia Housing Trust Fund to support affordable housing options in Virginia! Thank Senator Houck for his support of this important endeavor: district17@senate.virginia.gov or (540) 786-2782!

RENTAL ASSISTANCE PILOT PROGRAM

House Bills 451: Delegate Charniele Herring (D-Alexandria)

Senate Bills 616: Senator Mamie Locke (D-Hampton)

Notes: This is the fourth session this bill has appeared. It requires the Department of Housing and Community Development to establish a three-year rental assistance pilot project and to report its findings and recommendations to the Governor and the Housing Commission. The purpose of the pilot project is to fill the gap between family income and the cost of housing for very low income working families, with priority given to recipients of assistance under Temporary Assistance for Needy Families (TANF). The pilot project would also be funded by TANF. While it passed the Senate with only 5 no votes, it met its demise in the Housing Subcommittee of House General Laws along a party line vote.

No votes:

Senators Hurt (R-Chatham), Obenshain (R-Harrisonburg), Ruff (R-Southside VA), Smith (R-Roanoke), Stuart (R-Northern Neck to Stafford)
Delegates Oder (R-Newport News), Cosgrove (R-Chesapeake), Peace (R-Hanover), Comstock (R-Fairfax)

ACCESSIBLE HOUSING

Senate Bill 262: Senator Mary Margaret Whipple (D-Arlington)

Notes: Similar to HB422, this bill requires the Department for the Aging to publicize guidelines on universal design and visitability features to make structures and dwellings accessible for older Virginians and people who develop mobility impairment. The guidelines are also required to be disseminated to the public and posted on the Department's website. Instead of actually requiring accessible housing (a difficult feat!), this bill helps promote the issue and some obvious solutions. It passed both chambers with only 4 no votes: Senators Obenshain (R-Harrisonburg), McWaters (R-Virginia Beach), and Smith (R-Roanoke) and Delegate Carrico (R-Galax).

House Bills 422: Delegate Patrick A. Hope (D-Arlington)

Notes: This bill requires the Board of the Department of Housing and Community Development (DHCD) to adopt regulations establishing standards for new construction of single-family residential buildings to meet minimum standards for accessibility for persons with disabilities. Unfortunately, this bill didn't stand a chance because both the Home Builders and DHCD noted to subcommittee members that there was no precedent to legislate the building code – rather, that's done through regulations. HB422 died in the Housing Subcommittee of House General Laws. However, we should expect to see something similar next year! Delegate Hope is a freshman legislator and very dedicated to housing and homelessness issues.