

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

Meeting Summary

Joint Meeting of the Common Interest Communities Workgroup & Housing Affordability, Real Estate Law and Mortgages Workgroup House Room C General Assembly Building November 16, 2010, 1:00 P.M.

I. Welcome and call to order

- Senator Mary Margaret Whipple
 - o Called to order at 1:11 PM.

II. Common Interest Communities Workgroup, Senator Whipple

- HB 812—Virginia Condominium Act and the Virginia property Owners Association Act; rules regarding (Abbott, 2010)
 - o **Delegate Robin Abbott**—The intent of this bill was to restrict the ability of a homeowners association to be able to issue violations with regard to moving vehicles. I have reviewed the bill, and understand that in its current form it may be overly broad. The bill may be construed to limit the association's ability to tow cars that are illegally parked or take other action with regard to vehicles. The bill needs extensive revision and I hope to work with Legislative Services to narrow the language.
 - o **Delegate Cosgrove**—*Are there any court case pending on this issue?*
 - o **Delegate Abbott**—There is no case of which I am aware.
 - o **Senator Whipple**—The committee will not take action on the bill because Delegate Abbott is revising the language.
- HB 1330—Real Estate Time-Share Act; right to surrender (Cosgrove, 2010)
 - o **Amigo Wade, Division of Legislative Services**—This bill establishes a process by which a timeshare owner may surrender his ownership in the timeshare back to the development. The bill was referred to the Housing Commission, and a workgroup meeting was held in August 2010 with all interested parties and stakeholders. A discussion ensued weighing the pros and cons of the bill. At the end of the meeting it was decided that no action should be taken.
 - o **Delegate Cosgrove**—*This bill deals with mandatory requirement for developers to have a take back provision. After the meeting, I agreed not to carry the bill forward this year.*

DELEGATE JOHN A. COSGROVE
DELEGATE ROSALYN R. DANCE
DELEGATE DAVID BULOVA
DELEGATE DANIEL W. MARSHALL, III
DELEGATE G. GLENN ODER

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
T. K. SOMANATH
MELANIE S. THOMPSON

- **Senator Whipple**—At this time, we will not take any more action on the bill.
- HB 348—CIC Board; increase in annual assessments (Watts, 2010)
 - **Senator Whipple**—Delegate Watts could not be here today, but it is my understanding that her bill would raise the cap to \$3,000 so as to address an inequity that occurs for smaller homeowners association. Currently the cap on assessments is \$1,000 which may in fact result in a smaller association being charged more for assessments than a larger association.
 - **Tricia Henshaw**, *Executive Director, Common Interest Communities Board*—Delegate Watts requested information on the actual assessment payments that have been made to the Common Interest Community Board (CICB). We have gathered about four month of data related to the assessments paid, to date. The data shows that 98% of small association, which have between one and fifty lots, paid \$100 or less for assessments. A small associations never paid more than \$300 in fees based on assessments.
 - **Senator Whipple**—*Has the CICB heard from associations that are concerned about this?*
 - **Tricia Henshaw**—No, we have not heard comments or complaints related to the assessment amount.
 - **Senator Whipple**—*Does Delegate Watt’s proposal reduce the cost for the smaller units?*
 - **Pia Trigiani**—*The analysis is somewhat flawed because the assessment amount is not based on size of the association, it’s based on the association’s budget. If you have a bigger budget you are paying a higher fee. It doesn’t necessarily follow that a smaller community would pay a smaller registration fee.*
 - **Senator Whipple**—*As a practical matter doesn’t the association just incorporate the assessment cost into their budget?*
 - **Pia Trigiani**—*In my practice I have not heard a lot of concerns about the dollar figure for assessments.*
 - **Delegate Cosgrove**—*I recommend that the we lay the legislation on the table,*
 - **Senator Whipple**—*The bill will not be endorsed by the Housing Commission.*
- Developer's remaining in perpetuity in Association (Brenda Pogge)
 - **Elizabeth Palen**—An issue was raised by constituents that live in a development near Williamsburg. When owners bought into the community they signed a contract agreeing that the developer may retain voting control over the community in perpetuity. The constituents were concerned that this was occurring to other people in the Commonwealth. A remedy for the future may be to limit the developer’s ability to remain in control in perpetuity.
 - **Delegate Cosgrove**—*We cannot change the contractual agreement between those homeowners in the development and the developer. We may be able to prospectively change the developer’s ability to retain control.*
 - **Elizabeth Palen**—The housing commission may hold the bill and study the issue.

III. Housing Affordability, Real Estate Law & Mortgages Workgroup, Delegate Cosgrove

- HB 1085—Manufactured Home Lot Rental Act (Crockett-Stark, 2010)
 - **Delegate Crockett-Stark**—This is a bill I brought forth last session in attempt to create a fair balance between a landlord and a tenant. The bill would amend the

current obligations placed on a landlord of a manufactured home park. Some changes made include: removing the requirement that the landlord prove a copy of the Manufactured Home Lot Rental Act to the renter at the time of contract since the Code is available to the public online; have all parties sign a copy of the rental agreement, not just the tenant; provisions for trash pick-up; and allow landlords to require that residents' guests be registered. The bill also reduces the automatic renewal period from one year to 30 days and reduces the notice of termination of the rental agreement from 60 days to 30 days.

- **Senator Whipple**—*Suppose a tenant gets notice that the rental agreement will be changed and those changes are unacceptable to the tenant. Does thirty days give him enough time for the tenant to move?*
 - **Delegate Cosgrove**—*Thirty days is not enough notice.*
 - **Delegate Cosgrove**—*The bill would make tenants responsible for the cost of garbage pickup?*
 - **Senator Whipple**—*My concern with having the tenants pay for garbage removal, is that some of them may choose not to pay and garbage will pile up as a result.*
 - **Delegate Crockett-Stark**—*Currently landlords do all snow removal and maintain the common yard. Renters pay \$120 for water, sewer and rent. Each additional person in the household is \$20 extra. It is not unreasonable to have the tenant pay for garbage pickup.*
 - **Senator Whipple**—*Instead of adding a registration requirement for guests, is there other language we could use?*
 - **Delegate Crockett-Stark**—*Landlords want to be able to ask who the invitee is that is staying with the tenant. They may not necessarily need to register, landlords are just having an issue with guests who stay, but do not leave.*
 - **Delegate Cosgrove**—*I don't think we can give the landlord the right to pick and choose who should be registered.*
 - **Senator Whipple**—*As for the provision that allows landlords to require a certain "age" of the manufactured home, I would suggest using the word "condition" rather than "age."*
 - **Chip Dicks, Virginia Realtor's Association** —*Condition or quality is not defined in Code. It may be better to use language such as "in compliance with statewide building code"*
 - **Delegate Cosgrove**—*The problem with using the statewide building code is that mobile homes built more than five years ago wouldn't be up to the building standards. The bill needs revision, the housing commission will not endorse the bill at this time.*
- Chinese Drywall
 - o **Chip Dicks**—*The Housing Commission has been looking at Chinese drywall problem. One question that has arisen is what can be done for existing victims? This legislation is intended to prevent the creation of a second class of victims. There are under 400 properties in Virginia that are contaminated with Chinese drywall. This bill would create a registry of all the homes and property that contain the defective drywall.*

- o The bill attempts to increase the disclosure requirements for properties with Chinese drywall. If a real estate agent hired by seller has actual knowledge of the presence of Chinese drywall, they are required to disclose that information to the buyer. If the agent for the buyer has actual knowledge of the presence of the Chinese drywall, they must disclose that information to their client.
- o The same disclosure requirements apply to rental property. If an agent who represents the landlord has actual knowledge of the presence of Chinese drywall, they must disclose that information to the renter. If an agent for the tenant had actual knowledge, they would have to disclose that information to their client.
- o Property managers who have actual knowledge of the presence of Chinese drywall must disclose that information to the owner of the property. The bill also tries to give some benefits to existing victims. An owner whose property contains Chinese drywall can go to a real estate assessor and get the assessment of the property reduced to reflect the existence of the drywall. The building code has the capability of determining if the structure is unsafe. If it found to be unsafe, the assessment would be reduced to one dollar.
- o **Delegate Cosgrove**—*Chip, make some revisions and then bring the bill to the Housing Commission meeting on December 7, 2010 and we will consider the bill again then.*

IV. Adjourn