new CHALLENGES *new* INITIATIVES

Virginia Housing
Study Commission

1998 ANNUAL REPORT

VIRGINIA HOUSING STUDY COMMISSION

GENERAL ASSEMBLY OF VIRGINIA

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Newport News

The Honorable James F. Almand
Virginia House of Delegates
47th Legislative District
Arlington

The Honorable Franklin P. Hall
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69th Legislative District
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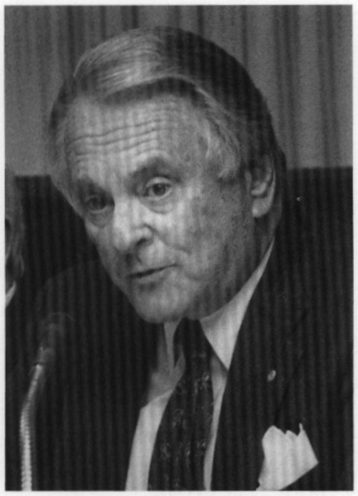


DELEGATE ALAN A. DIAMONSTEIN,
COMMISSION CHAIRMAN

INTRODUCTION

BACKGROUND

Established by the 1970 Virginia General Assembly, the Virginia Housing Study Commission was originally mandated "to study the ways and means best designed to utilize existing resources and to develop facilities that will provide the Commonwealth's growing population with adequate housing." The Commission was further directed to determine if Virginia laws "are adequate to meet the present and future needs of all income levels" in Virginia, and to recommend appropriate legislation to ensure that such needs are met.

The Commission is comprised of eleven members, including five members of the Virginia House of Delegates, three members of the Virginia State Senate, and three gubernatorial appointees. Delegate Alan A. Diamonstein of Newport News has served as the Commission's Chairman since soon after its establishment.

The Commission has long been recognized as a forum for new ideas in housing and community development, and as a focal point for developing consensus for such ideas in the form of landmark statutory, regulatory, and non-governmental initiatives. Nationally, the Commission is the only such entity that works closely with the public and private sectors, nonprofit organizations, and private citizens to develop workable and sustainable responses to housing and community development challenges and advocates for the implementation of those initiatives. Commission recommendations have led to homeownership for thousands of Virginians, job creation and retention in localities large and small, enhanced fire safety and building code consumer protection, and neighborhood revitalization across the Commonwealth.

1971–1987

From 1971 throughout the early 1980s, the Commission introduced numerous legislative initiatives, subsequently passed by the Virginia General Assembly, to further its goal of ensuring safe, sound, affordable housing for every Virginian. Commission accomplishments during that time period include:

- establishment of a state office of housing, now the Virginia Department of Housing and Community Development
- establishment of the Virginia Housing Development Authority
- passage of the Uniform Statewide Building Code, and establishment of the State Technical Review Board and local boards of building appeals
- passage of the Virginia Residential Landlord and Tenant Act
- passage of the Virginia Manufactured Home Lot Rental Act
- promulgation of design standards to ensure accessibility by disabled persons to public buildings
- passage of numerous legislative initiatives to foster effective operation, management, and creativity of Virginia redevelopment and housing authorities
- passage of the Virginia Condominium Act
- passage of the Virginia Real Estate Cooperative Act
- passage of the Virginia Timeshare Act
- passage of legislation coordinating fire safety programs in Virginia.

Following a period of dormancy, the Housing Study Commission was reactivated in 1987. That year, the Commission proposed the creation and capitalization of the landmark Virginia Housing Partnership Fund. In 1988, at the Commission's recommendation, the General Assembly established the Fund and increased state allocations for housing programs from $400,000 to $47.5 million for the 1989-90 biennium. Other successful 1987-88 recommendations include the establishment of a Virginia income tax voluntary contribution program for housing programs, the Virginia Housing Foundation (now the Virginia Community Development Corporation), and the annual Governor's Conference on Housing.

Commission recommendations embraced by the 1989 General Assembly include: a state low-income housing tax credit program; state authorization of such flexible zoning techniques as planned unit developments, mixed unit developments, and density bonuses; and exemption of nonprofit housing organizations from tangible personal property tax on materials purchased for the development of affordable housing.

In 1990, the General Assembly approved additional Commission initiatives, including: creation and capitalization of the landmark Indoor Plumbing Program; a tax credit program for landlords providing rent discounts to low-income elderly or disabled tenants; a legislative mandate that localities study affordable housing needs in preparing their comprehensive plans; and legislation requiring localities to provide for the placement of double-wide manufactured housing in districts zoned primarily for agricultural purposes.

Commission recommendations passed by the 1991 General Assembly include: amendments to the Virginia Fair Housing law to ensure that Virginia law is substantially equivalent to federal law; amendments to the Virginia Residential Landlord and Tenant Act reducing the exemption for single family rental housing from ten to four units held by owners of such property (and thereby ensuring that some sixty percent of such rental units in the state are covered by the Act); and establishment of a Virginia Manufactured Housing Licensing and Transaction Recovery Fund.

The 1992 General Assembly approved the following Commission recommendations: comprehensive consumer protection language in the Virginia Mobile Home Lot Rental Act; a one-time right of redemption of tenancy prior to an action for eviction or unlawful detainer; expansion of the Virginia tax credit program fostering rent discounts to low-income elderly or disabled tenants; and restoration of the Virginia Housing Partnership Fund to the Virginia General Fund Budget.

In its 1993 Session, the General Assembly approved comprehensive Commission recommendations related to the operation and management of condominium, cooperative, and property owners' associations. The Assembly also approved the Commission's landmark legislation designed to assert the responsibility of localities to consider the affordable housing needs of a more broadly defined community, as well as its recommendations to extend the innovative state tax check-off for housing and rent reduction tax credit programs.

Commission recommendations have led to homeownership for thousands of Virginians, job creation and retention in localities large and small, enhanced fire safety and building code consumer protection, and neighborhood revitalization across the Commonwealth.

In 1994, the General Assembly approved these Commission recommendations in the area of homeless prevention: banning self-help evictions in the case of all residential leases, and allocating additional funding for the Virginia Homeless Intervention Program, originally a Commission initiative, to ensure service to additional households needing temporary assistance to prevent homelessness.

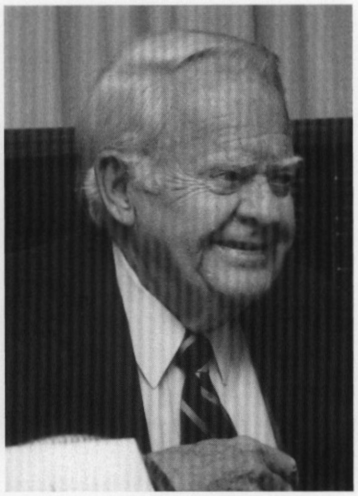
In the area of blighted housing, the Assembly approved Commission recommendations which authorize localities to: acquire and rehabilitate or clear individual properties which constitute "spot blight" in a community; require the issuance of certificates of compliance with current building regulations after inspections of residential buildings, located in conservation and rehabilitation districts, where rental tenancy changes or rental property is sold; and control the growth of grass and weeds on vacant property as well as property on which buildings are located.

The 1994 General Assembly also approved the following Commission recommendations: authorization for all Virginia localities to develop affordable dwelling unit (ADU) ordinances; authorization for VHDA to issue adjustable rate mortgage loans; and legislation to ensure efficient and effective administration of the Manufactured Housing Licensing and Transaction Recovery Fund Law.

In its 1995 Session, the General Assembly approved two Commission recommendations relating to landlord-tenant law in Virginia. In response to requests by tenants seeking to make their neighborhoods more safe, the Commission initiated expedited eviction proceedings where a tenant has committed a non-remediable criminal or willful act which poses a threat to health or safety. In response to requests to help prevent eviction-related homelessness, the Commission initiated reform of Virginia removal bonds, fostering removal of eviction actions from general district to circuit court in cases not involving nonpayment of rent.

The 1995 General Assembly also approved the Commission's comprehensive package of legislation addressing blighted and deteriorated housing as follows.

- To address violations of the Virginia Uniform Statewide Building Code, the Commission clarified that every Virginia circuit court has jurisdiction to award injunctive relief in cases involving USBC violations. The Commission also mandated that the local building department enforce Volume II (Building Maintenance Code) of the USBC where the department finds that there may be a violation of Volume II, Section 105 (Unsafe Buildings).
- To help localities combat the growing problem of drug gang-related graffiti, the Commission also initiated legislation fostering local government removal of graffiti from public or private structures.
- To assist localities in identifying and locating owners of blighted properties, the Commission initiated legislation which provides that the name and address of the owner of real property must be included in local land book records.
- To address concerns of localities that, by paying one year of delinquent taxes, owners may effectively preclude tax sale of such property indefinitely, the Commission initiated legislation authorizing localities to enter into a lien agreement with the owner of tax-delinquent property, prior to the date of a



SENATOR STANLEY C. WALKER

tax sale of such property by the locality, in which such owner agrees to pay all delinquent taxes, penalties, interest, and costs on same.

- To foster additional local revitalization efforts, the Commission initiated legislation which authorizes localities without redevelopment and housing authorities to engage in "experiments in housing," e.g., homesteading programs.

The Commission's 1995 study agenda and subsequent 1996 legislation focused on expansive soils, building code matters, and community land trusts. Its landmark legislation on soils and related building code issues set new standards in providing localities, the homebuilding industry, and homeowners a framework for addressing problem soils found statewide.

In 1996, the Commission addressed a spectrum of housing issues in a climate characterized, nationally and in the Commonwealth, by changes in the housing industry. The 1997 General Assembly approved the Commission's package of legislation relating to such issues as preservation of affordable housing subsidized under federal programs and with subsidy contracts expiring; homeless children; common interest communities; and the composition of the state Board of Housing and Community Development.

The 1998 General Assembly approved legislation resulting from the Commission's 1997 focus on the following broad areas of study: strategies to foster installation of indoor plumbing; residential rental security deposit returns and interest rates; condemnation by public housing authorities; common interest community association issues; education and licensure issues relating to the multifamily residential housing industry; assisted living for the elderly; and allocations and production data for the Virginia Housing Partnership Fund.

1998 WORK PROGRAM

In 1998, the Commission addressed three diverse and complex issues: fire sprinkler systems in multifamily residential buildings; establishment of an entity to foster the preservation of affordable housing; and affordable assisted living options for Virginia's elderly residents. After reviewing public comment, issue papers, and Subcommittee recommendations, the Commission reached unanimous consensus on the recommendations published in this report.

In addition to legislative and study activities, the Commission responded to hundreds of inquiries regarding housing and community development policy, finance, and regulatory issues. Its Executive Director met regularly with board members and key staff of the Virginia field offices of the U. S. Department of Housing and Urban Development and the U. S. Department of Agriculture/Rural Development, Department of Housing and Community Development, Virginia Housing Development Authority, Virginia Community Development Corporation, Virginia Interagency Action Council for the Homeless, and Virginia Housing Coalition, as well as housing advocates, government officials, and industry representatives from around the Commonwealth. The Director also played an active role in the national housing and community development arena, serving as a member of the Board of Directors of the National Housing Conference; as Chair of the American Bar Association Forum on Affordable Housing and Community Development Law/Committee on State and Local Programs; and as a representative to the ABA Commission on Homelessness and Poverty.

EXECUTIVE SUMMARY

Following is a brief summary of Virginia Housing Study Commission unanimous recommendations to the Governor and the 1999 General Assembly of Virginia.

House Joint Resolution 208 requests the Virginia Housing Study Commission to study the feasibility of establishing a foundation or nonprofit corporation to preserve affordable housing. The Resolution recites the fact that the preservation of the current inventory of affordable multifamily units remains one of the major housing issues facing the Commonwealth, and that more than 13,000 such units in Virginia face conversion to market-rate rentals in the near future as federally subsidized mortgages are repaid and owners opt-out of federal rental subsidy contracts.

The Virginia Housing Study Commission unanimously recommends the establishment of an entity to provide, at the outset, a $30 million source of debt financing for and — secondarily — investment in the preservation and rehabilitation of existing affordable multifamily housing. Such housing units likely would not be preserved in the affordable housing inventory without the entity-provided pre-development and gap-closing financing.

The entity could be created as a nonprofit, 501(c)(3) organization which could receive government, corporate, foundation, or private funding and could also borrow funds. Revolving, low-interest loans from private financial institutions were initially contemplated as the primary source of entity funds. Secondary sources might include project fees, foundation loans or grants, and proceeds from sales of 501(c)(3) bonds. More recently CDFI funds have been identified as a possible key funding source.

In its first year of operation, the Commission-recommended entity could establish a goal of lending to or investing in ten (or fewer) projects. With a loan cap of $1 million per project, the average loan might total $750,000. A subordinated, highly-leveraged, cash flow-supported debt position could be assumed under the loan terms, and the entity could take a minority equity position in a project in consideration of its investment in the same. Over time, such loans and investments would revolve both for reinvestment in other projects and, through project participation, produce returns for the same purpose.

Senate Joint Resolution 115 requests that the Commission and the Virginia Department of Housing and Community Department study whether apartment buildings should be required to have sprinklers in attics and other areas currently exempted under the provisions of the Uniform Statewide Building Code (USBC) for structures relying on National Fire Protection Association (NFPA) Standard 13R sprinkler systems. Although sufficient information from all available data sources appeared to be lacking to support a definitive conclusion, in general the Commission agreed that NFPA 13R systems appear to be succeeding in meeting the intentions of those who developed the standard. Such systems have offered an increased degree of protection against loss of life in low-rise multifamily dwellings. As recent Virginia fires have indicated, however, NFPA 13R standards offer a lesser degree of protection against property loss.

The Commission unanimously recommends that no legislative action modifying the current sprinkler requirements for apartment buildings be taken at this time. The Commission is of the opinion that the appropriate venue for the consideration of any future modifications to the provisions of the Uniform Statewide Building Code with respect to sprinkler requirements lies with the code development process.

The Commission also found that faulty sprinkler system designs and subsequent modifications to existing systems are serious problems that can result in an unsatisfactory response in case of a fire incident. Assuring that sprinkler designs and specifications are competently prepared may help reduce overall fire casualties and property losses. Therefore, the Commission unanimously recommends that the Virginia General Assembly request that the Virginia Board for Contractors study the need for, and, if required, issue regulations establishing a licensing or certification program for sprinkler system designers and installers. The Commission further recommends that the Board include in its regulations for tradesmen provisions for testing or guidance in the principles and installation of fire stopping, fire protection assemblies, and other related fire safety aspects of apartment building construction.

In 1997 the Virginia Housing Study Commission initiated a two-year study of **affordable assisted living options for the elderly.** Nationally and in the Commonwealth, the concept of assisted living has emerged in recent years as an important link in the continuum of care for the elderly. The burgeoning assisted living industry is market driven, evolving in response to consumer demand for personal ability to maintain maximum independence while receiving quality services, as needed, in a secure environment. While assisted living services may be provided in one's home, an assisted living facility is generally defined as a residential setting where appropriate personal care services, 24-hour supervision, and assistance are provided in an environment which fosters maximum independence and promotes individual dignity.

Although numerous assisted living facilities are operating in the Commonwealth (particularly in urban areas) and many more are in the planning or construction phases, the cost of residency in most such facilities lies beyond the reach of a majority of seniors. Nationally, the concept of affordable assisted living facilities is emerging as a cutting edge issue, and a discussion of the need for such facilities in the Commonwealth is timely.

The Commission study brought together, for the first time, key players in the public, private, and nonprofit sectors and initiated a dialogue on complex assisted living housing and service issues of interest individually and collectively. The study resulted in nearly 40 recommendations to foster affordable assisted living options for Virginia's seniors. Following is an abbreviated summary of the recommendations, which are categorized into three sections:

- land development, building code, and finance issues,
- work force issues, and
- regulatory and resource issues.

Land Development, Building Code, and Financing Issues

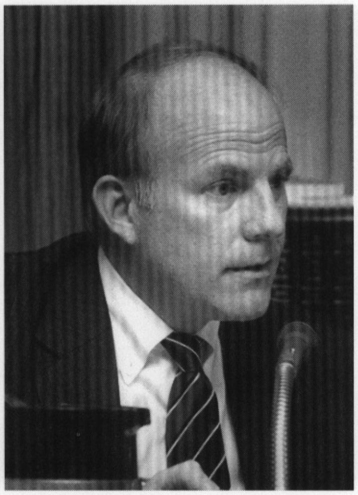
- Seek favorable capitalization opportunities from the Virginia Housing Development Authority.
- Reinvigorate the Virginia Housing Partnership Fund Congregate Living Program.
- Request the Virginia Community Development Corporation to foster the development of affordable assisted living facilities.
- Request the Virginia State Office of the U.S. Department of Housing and Urban Development (HUD) to foster the provision of affordable assisted living units and/or services in HUD projects for the elderly.
- Request local governments and local redevelopment and housing authorities to foster the development of affordable assisted living services, units, and facilities.
- Identify foundations to partner with developers of affordable assisted living facilities.

Work Force Issues

- Foster the availability of well-trained long-term care professionals.
- Address the role of case managers in meeting the needs of seniors.

Regulatory and Resource Issues

- Meet the service needs of the population that has aged in place.
- Foster financing of affordable assisted living facilities and care for residents.
- Reconcile requirements for assisted living housing and services programs.



DELEGATE JAMES F. ALMAND

HOUSE JOINT RESOLUTION 208: PRESERVATION OF AFFORDABLE HOUSING

ISSUE

House Joint Resolution 208, patroned by Delegate James M. Scott, requests the Virginia Housing Study Commission to study the feasibility of establishing a foundation or nonprofit corporation to preserve affordable housing. The Resolution recited the fact that the preservation of the current inventory of affordable multifamily units remains one of the major housing issues facing the Commonwealth, and that there are more than 13,000 such units in Virginia that face conversion to market-rate rentals in the near future as federally subsidized mortgages are repaid and owners opt-out of federal rental subsidy contracts. Commission Chairman Delegate Alan A. Diamonstein appointed Delegate Scott to chair the Commission Subcommittee addressing HJR 208. Committee members included a broad spectrum of interested parties, including representatives of the public sector, private sector, trade associations, and nonprofit housing developers.

BACKGROUND

At the first meeting of the Commission Subcommittee, members reviewed an issue paper on point and during general discussion agreed that, particularly given the lack of Virginia Housing Partnership Fund allocations, there remains a critical need for resources to preserve the inventory of affordable multifamily housing units in the Commonwealth. Subcommittee members also agreed that, as a first step in the study process, the initial concept should be refined and a three-year operating budget for the proposed entity developed. In addition, the Subcommittee agreed that the following issues required resolution prior to submitting recommendations to the Commission:

- Are there potential investors supportive of preservation-related activity?
- Is it necessary to create a new entity to solicit and receive such investment funds, or might those roles be played by an existing agency or organization?

Immediately following the first Subcommittee meeting, Delegate Scott appointed a five-member task force to address issues raised by the Subcommittee. The task force met several times and agreed in principle on outlines of an organizational concept, a business plan, and a three-year operating budget.

The task force also met as a group with the Executive Directors of the Virginia Department of Housing and Community Development, Virginia Housing Development Authority, and Virginia Community Development Corporation to solicit their perspective regarding the creation of an entirely new statewide housing preservation entity or the establishment of such an entity under the auspices and structure of an already existing entity. Following extensive discussions, the task force presented information relating to investor interest and structural options for a preservation-focused entity at the second meeting of the Subcommittee.

INTEREST OF POTENTIAL INVESTORS

Already, three national financial institutions — NationsBank, Capital One, and Fannie Mae — have expressed interest in investing in a preservation foundation entity such as that contemplated under HJR 208. Two of the three have responded with specific terms and levels of investment. NationsBank, for example, has expressed interest in investing $5 to $7 million at four percent annual interest with a fee of one-half to one percent. NationsBank would invest as a 20 to 25 percent partner, and would prefer to invest in an entity that has been designated a Community Development Financial Institution (CDFI) by the U.S. Treasury. (Such entities — which may be banks, credit unions, loan funds, or venture capital funds — provide mortgage loans, commercial loans, loans for community facilities, or financial services in markets that may not have been adequately served by traditional financial institutions.)

ESTABLISHMENT OF AN ENTITY

Given that there is definitive interest on the part of at least three leading financial institutions in a preservation-focused entity, what are the options for establishing the same?

CDFI Status

Subcommittee members agreed that structuring the entity so that it would be eligible to receive CDFI status could be useful, if not essential, given the interest of NationsBank and possible other investors in placing funds with a CDFI-designated organization. In addition, the CDFI Fund itself is an excellent source of funds for the new entity. In a competitive application process, the Fund has allocated to any one applicant loans or grants of up to $2.5 million for a one-year time frame and up to $5 million over three years.

Under federal regulations, a CDFI organization must have as its primary activity that of lending. Further, the board of directors of a CDFI may not have as a majority of voting members persons who are governmentally-appointed. For example, CDFI regulations would require at least six non-governmental appointees on a board of ten members.

Structural Options

The Subcommittee also discussed the feasibility and desirability of the following options, among others, in the context of CDFI requirements.

- Establish an entity under the auspices of a state agency, the Virginia Department of Housing and Community Development (DHCD).
- Establish an entity under the auspices of a quasi-state agency, the Virginia Housing Development Authority (VHDA).
- Establish an entity under the auspices of an agency created by the Commonwealth of Virginia but now self-governing, the Virginia Community Development Corporation (VCDC).
- Establish a new entity that may seek to qualify for CDFI designation and include as board members appointees of the Governor and the General Assembly of Virginia.

The entity would be created to provide, at the outset, a $30 million source of debt financing for and — secondarily — investment in the preservation and rehabilitation of existing affordable multifamily housing. Such housing units likely would not be preserved in the affordable housing inventory without the entity-provided pre-development and gap-closing financing.

Entity Under Virginia Department of Housing and Community Development

The DHCD (together with VHDA) is the state agency charged with administering the Virginia Housing Partnership Fund and myriad other federal and state housing and community development programs. In recent years, the agency's staff has been reduced by attrition, state personnel buy-outs, and re-organizations, and thus its overall capacity is somewhat diminished, particularly in the housing arena. However, under the leadership of a new director knowledgeable in housing and community development matters, DHCD is currently in the process of rebuilding.

From the perspectives of oversight, office space, and very limited support services, DHCD could be a logical home for a new preservation-focused entity. On the other hand, from the standpoint of CDFI requirements, DHCD's advisory board structure (a majority of members are appointed by the Governor) would preclude the agency itself from serving as a home to an entity with CDFI status.

Entity Under Virginia Housing Development Authority

The VHDA is another potentially obvious home for an entity such as that contemplated under HJR 208. With tremendous national reputation, fiscal resources, and staff capacity, VHDA could well serve as a launching pad for such an entity as it did for the Virginia CDC in 1988. (Prior to the CDC's reorganization from its predecessor, the Virginia Housing Foundation, VHDA provided the Foundation $375,000 in seed funds together with office space at below-market rent and limited support services.) However, office space at the Authority is now in short supply and, like the DHCD board, the VHDA governing board composition (with all members gubernatorially appointed) would effectively preclude the Authority itself from receiving CDFI status.

Entity Under Virginia Community Development Corporation

The Virginia CDC may be the entity currently operating which is the most compatible for a new preservation-focused effort. The establishment of the nonprofit CDC was recommended by the Virginia Housing Study Commission in its 1987 report to the Governor and General Assembly, and Governor Gerald Baliles appointed the organization's first board of directors in December 1989. In December 1997 the board amended the CDC by-laws to provide that the board would be self-perpetuating, thereby severing ties to state government and effectively terminating state oversight of the organization.

The focus of the CDC is to attract private sector investment in affordable housing development in the Commonwealth through the syndication of federal Low-Income Housing Tax Credits (LIHTC). To date, the CDC has raised some $20 million in equity from such investors and placed it in housing projects. The CDC also provides technical assistance to nonprofit developers — many of which are relatively small organizations located in non-metropolitan areas — in structuring and managing their LIHTC-eligible projects.

At its second meeting, the CDC board approved the establishment of a new entity — the Virginia Community Development Fund (CD Fund) — that would facilitate development of CDC tax credit projects. The stated goal of the CD Fund is to provide low-interest, gap-closing and pre-development loans for the CDC's tax credit projects. To make these loans, the CDC staff proposes to secure for the Fund at least $5 million from Virginia financial institutions, which sum could then potentially be matched with federal CDFI funds.

On its face, the new CD Fund may appear to be an appropriate home or conduit for funds leveraged by the entity contemplated under HJR 208. However, the entities would significantly differ in at least three key respects. First, the CD Fund is being created and capitalized to facilitate only CDC tax credit projects, whereas the entity contemplated under HJR 208 would facilitate other projects, as well. Second, the CD Fund would finance a variety of housing projects, whereas the entity contemplated under HJR 208 would focus on preserving the inventory of affordable multifamily housing units. Third, the fund contemplated under HJR 208 would be substantially larger and more complex than that of the CDC. (The current CDC staff also would likely require additional assistance to build and manage a fund of the sort contemplated under HJR 208.)

New Entity

If the DHCD, VHDA, or VCDC options do not provide adequate and/or appropriate structure for a preservation-focused, CDFI-eligible entity, an alternative option is to create an entirely new entity. However, already there are two housing agencies — DHCD and VHDA — operating under the Executive Branch of state government, as well as the Virginia CDC. In recent years, there has been discussion (which discussion continues among housing agency leaders) focusing on the importance of streamlining complementary programs administered by DHCD and VHDA, and improvements are continually coming on line. Therefore, it is important to point out that the new entity contemplated would indeed complement and enhance — rather than duplicate in any real way — the goals and activities of housing-focused agencies and organizations in the Commonwealth.

TASK FORCE MEETING WITH ENTERPRISE FOUNDATION OFFICIAL

In concluding the full Subcommittee's second meeting, Delegate Scott noted that he and Subcommittee task force members would seek to meet with senior executives of The Enterprise Foundation and/or national LISC (Local Initiatives Support Corporation) to request their perspective and gauge their potential interest in establishing a partnership with the entity contemplated by the Subcommittee. Following such meeting(s), final recommendations would be formulated and submitted to the Virginia Housing Study Commission at its annual legislative work session.

A senior executive of The Enterprise Fund with whom task force members subsequently met was extremely enthusiastic about the possibility of a funding source specifically designated for affordable housing preservation in Virginia and encouraged those present to move forward with dispatch in recommending the establishment of the same. The official clarified that a partnership with a nationally recognized organization such as Enterprise would not be necessary to ensure investor participation in the new Virginia entity, and pointed to interest of leading financial institutions as strong evidence of the potential of the Virginia entity to attract national investors. In addition, he noted that Enterprise already has reached its three-year, $5 million cap for CDFI grant purposes.

In the context of entity governance, the official discussed at length the new Denver Neighborhood Housing Fund, an innovative partnership among Enterprise, Fannie Mae Foundation, the City of Denver, the Denver Housing Authority, and the Colorado Housing Finance Authority (VHDA's counterpart). The Fund is governed by its investors, each of which invests at least $250,000 in the Fund in the form of grants, securities, or equity.

In addition, the Enterprise official offered two suggestions to facilitate the implementation of a program, such as that contemplated under HJR 208, in the Commonwealth. First, Virginia nonprofits and other owners of affordable housing could seek funding from Enterprise in 1999 while the formation of the Virginia fund is underway. Second, Enterprise — with its expertise in both fundraising from financial institutions and in underwriting and monitoring equity-like loans — could manage or assist in managing the Virginia fund.

RECOMMENDATIONS

After reviewing information presented on behalf of the Subcommittee, the Virginia Housing Study Commission unanimously recommended the establishment of an entity to preserve and rehabilitate existing affordable multifamily housing, which entity would be structured according to the following outline.

Purpose

The entity would be created to provide, at the outset, a $30 million source of debt financing for and — secondarily — investment in the preservation and rehabilitation of existing affordable multifamily housing. Such housing units likely would not be preserved in the affordable housing inventory without the entity-provided pre-development and gap-closing financing, which would consist of highly leveraged, subordinate, low-interest, equity-like loans. Such investments would be the "last" component of the financing package for intended preservation projects.

Structure and Governance

The entity could be created as a nonprofit, 501(c)(3) organization which could receive government, corporate, foundation, or private funding and could also borrow funds. Although the entity was initially conceived as one "statutorily chartered" and a creation of the Governor and General Assembly, such structure may not be appropriate if CDFI-certified status is to be sought. As previously noted, such certification guidelines would preclude majority board of directors appointments by the Governor and General Assembly. However, such guidelines would not preclude a board of directors comprised of representatives of the Housing Study Commission, DHCD, VHDA, investors, and other interested parties.

DELEGATE FRANKLIN P. HALL

Relationship with DHCD,VHDA, and the Commission

To maximize productivity and efficiency and to avoid duplication or conflict of efforts, close working relationships among the entity, DHCD, VHDA, and the Housing Study Commission are essential. It may be desirable to involve the agencies in administration (i.e., board representation, whether voting or *ex officio* non-voting) and, in the case of VHDA, possible underwriting and investment consulting services. At a minimum, it is important that the Executive Directors of VHDA, DHCD, and the Commission remain involved in launching the entity.

Sources of Funds

Revolving, low-interest loans from private financial institutions were initially contemplated as the primary source of entity funds. Secondary sources might include project fees, foundation loans or grants, and proceeds from sales of 501(c)(3) bonds. More recently, CDFI funds have been identified as a possible key funding source.

Investments

In its first year of operation, the entity could establish a goal of lending to or investing in ten (or fewer) projects. With a loan cap of $1 million per project, the average loan might total $750,000. A subordinated, highly-leveraged, cash flow-supported debt position could be assumed under the loan terms, and the entity could take a minority equity position in a project in consideration of its investment in the same. Over time, such loans and investments would revolve both for reinvestment in other projects and, through project participation, produce returns for the same purpose. (Prospective borrowers could also seek funds from The Enterprise Foundation CDFI prior to the operational launch of the new entity.)

Start-Up

Start-up funding for the entity is needed for two purposes: administration and "bricks and mortar."

Administration Funds

Assuming certain in-kind contributions such as office furnishings and perhaps office space, a first-year start-up administration budget would likely total $350,000 or less. Sources of grant or loan "seed money" for start-up might include the Fannie Mae or Freddie Mac foundations, other foundations or financial institutions, or the Commonwealth of Virginia or one of its agencies (e.g., VHDA).

"Bricks and Mortar" Funds

Assuming a maximum loan of $1 million to each of ten projects, $10 million is a reasonable first-year investment goal. As previously noted, NationsBank, Capital One, and Fannie Mae have expressed interest in investing in the new entity. Other bricks and mortar investors might include Freddie Mac and such financial institutions such as Merrill Lynch, which recently announced $10 million in affordable homeownership loans as part of a larger $77 million southern California financial opportunities program.

SENATE JOINT RESOLUTION 115: APARTMENT SPRINKLER SYSTEMS

COMMISSION MEMBER F. GARY GARCZYNSKI

ISSUE

Senate Joint Resolution 115, patroned by Senator John C. Watkins following a series of destructive fires in apartment complexes located in Chesterfield County and Danville, was adopted by the 1998 General Assembly. The resolution requests that the Virginia Housing Study Commission and the Virginia Department of Housing and Community Department study whether apartment buildings should be required to have sprinklers in attics and other areas currently exempted under the provisions of the Uniform Statewide Building Code (USBC) for structures relying on National Fire Protection Association (NFPA) Standard 13R sprinkler systems. Commission Chairman Delegate Alan A. Diamonstein in turn referred the study to a joint Commission/Department Subcommittee and requested that the Subcommittee be chaired by Mr. Oliver P. Farinholt, Vice Chairman of the Board of Housing and Community Development. Subcommittee members included representatives of the fire safety industry, state and local government fire safety officials, and representatives of the apartment, realty, homebuilding, sprinkler system, and insurance industries.

BACKGROUND

The 1996 edition of the USBC requires automatic sprinkler protection in all multifamily structures except for certain two and three story structures. Buildings exceeding four stories must meet the NFPA 13 standard, which requires sprinklers in all areas. With the exception of inaccessible, non-combustible concealed spaces, NFPA 13 requires sprinkler protection for attics, exterior storage spaces, breezeways, walkways, and similar spaces if they are of combustible construction or are a site where combustible materials are stored. Designers of apartment buildings and similar residential structures that do not exceed four stories have the option of using either the NFPA 13 or the NFPA 13R standard. The primary issue addressed by the SJR 115 Subcommittee was whether this option should continue to be offered to building designers and owners.

During the first Subcommittee meeting, members examined the evolution of NFPA sprinkler standards, giving particular attention to the origins and underlying intent for the creation of the 13R standard. (The Subcommittee benefited from a review of the history of the development of the 13R Standard presented by retired Virginia State Fire Marshal Howard Summers, who was involved in testing undertaken by the NFPA committee that developed the original standard.) Subcommittee members also reviewed available summaries of national fire information reports covering structures similar to those involved in the Chesterfield and Danville fires. The review focused on variables such as the room of origin, fire deaths and other casualties, and property losses.

Members of the Commission agreed that the appropriate venue for the consideration of any future modifications to the provisions of the Uniform Statewide Building Code with respect to sprinkler requirements lies with the code development process.

The Subcommittee also considered the following related topics:

- factors other than the type of sprinkler installation that affect the outcome of apartment fires
- technical distinctions, water supply and equipment requirements, and installation and maintenance cost comparisons for 13 and 13R systems in similar structures
- effects of various types of sprinkler systems on insurance underwriting practices and premiums for fire and casualty insurance
- the degree to which those who design and install fire suppression systems are subject to regulation focused on professional competency.

Prior to adjournment the Subcommittee requested that the Virginia State Fire Marshal survey other states and that the Virginia Department of Fire Programs review data from the Virginia Fire Information Reporting System to identify any relevant experiences. Members sought more specific information about the impact of NFPA 13 and 13R systems on fires and fire casualties.

On behalf of the Subcommittee, the Virginia State Fire Marshal requested information from the state Fire Marshal or state fire authority in each of the fifty states and the District of Columbia. Twenty states responded, of which only nine were able to offer full or partial statistics relating to apartment fires in structures under five stories in height. The results of this survey were not sufficient to demonstrate a pattern different from that shown in the aggregated national data the Subcommittee had previously reviewed. (The responses suggested that many states have clearly not given attention to the issues raised in SJR 115.) Perhaps the most significant finding was positive: of the 186 lives reported tragically lost in recent apartment fires in the responding states, only one fatality occurred in a structure protected by a sprinkler system—in this case an NFPA 13 system.

SUBCOMMITTEE CONCLUSIONS

Although sufficient information appeared to be lacking to support a definitive conclusion, in general the Subcommittee agreed at its final meeting that NFPA 13R systems appear to be succeeding in meeting the intentions of those who developed the standard. Such systems have offered an increased degree of protection against loss of life in low-rise multifamily dwellings. As recent Virginia fires have indicated, however, NFPA 13R standards offer a lesser degree of protection against property loss. Members of the Subcommittee differed in their opinions of the benefits and detriments that might be associated with requiring attic sprinklers. However, they were in full accord in reaching recommendations relating to the process for determining the structures and areas of structures subject to sprinkler installation and on the need for a thorough review of requirements relating to the qualifications of those who design and install sprinkler systems or other fire safety features of residential structures.

RECOMMENDATIONS

The Subcommittee unanimously recommended that the Virginia Housing Study Commission consider recommending to the General Assembly that no legislative action modifying the current sprinkler requirements for apartment buildings be taken at this time. Members of the Subcommittee agreed that the appropriate venue for the consideration of any future modifications to the provisions of the Uniform Statewide Building Code with respect to sprinkler requirements lies with the code development process. At the national level, this would involve the development of standards for sprinkler installations by the NFPA and through the model code development process used by the Building Officials and Code Administrators (BOCA) and similar organizations. At the same time, the code development process of the Board of Housing and Community Development affords the opportunity to give a more exhaustive and thorough consideration to all the ramifications of any possible changes in the standards applicable to low-rise multifamily properties.

The Subcommittee also unanimously recommended that the Virginia Housing Study Commission consider recommending that the Virginia General Assembly adopt a joint resolution requesting that the Virginia Board for Contractors study the need for, and if required, issue regulations establishing a licensing or certification program for sprinkler system designers and installers. The Subcommittee further recommended that the Virginia Housing Study Commission request in such joint resolution that the Board for Contractors include in its regulations for tradesmen provisions for testing or guidance in the principles and installation of fire stopping, fire protection assemblies, and other related fire safety aspects of apartment building construction.

The Subcommittee noted that in several states the insurance commissioner or contractor licensing agency is responsible for developing and enforcing licensing or certification requirements for sprinkler designers. Faulty designs and subsequent modifications to existing systems are serious problems that can result in an unsatisfactory response in case of a fire incident. Assuring that sprinkler designs and specifications are competently prepared may help reduce overall fire casualties and property losses. Other construction features and their proper maintenance may also be critical factors in limiting or controlling fires in multifamily residential properties. The Subcommittee, therefore, recommended a thorough review of the role of professional regulation in this area.

The Virginia Housing Study Commission in turn unanimously adopted the recommendations of the Joint Subcommittee on SJR 115.[1]

[1]The Virginia Housing Study Commission and its Executive Director gratefully acknowledge the assistance of the following individuals in its study relating to Senate Joint Resolution 115: Mr. C. Edward Altizer, Virginia State Fire Marshal, Virginia Department of Housing and Community Development (DHCD); Dr. William J. Ernst, Associate Director, DHCD; Mr. Jack A. Proctor, Deputy Director, DHCD; and Mr. William C. Shelton, Director, DHCD.

SENATOR JANE H. WOODS

AFFORDABLE ASSISTED LIVING

ISSUE

Nationally and in the Commonwealth, the concept of assisted living has emerged in recent years as an important link in the continuum of care for the elderly. The burgeoning assisted living industry is market driven, evolving in response to consumer demand for personal ability to maintain maximum independence while receiving quality services, as needed, in a secure environment. While assisted living services may be provided in one's home, an assisted living facility is generally defined as a residential setting where appropriate personal care services, 24-hour supervision, and assistance are provided in an environment which fosters maximum independence and promotes individual dignity. (Indeed, long-term care may be provided to persons in a variety of settings, ranging from a private home (whether it be single family or multifamily in character) to small congregate facilities providing some assistance with activities of daily living (such as adult care residences) to larger nursing homes providing significant medical care.)

Although numerous assisted living facilities are operating in the Commonwealth (particularly in urban areas) and many more are in the planning or construction phases, the cost of residency in most such facilities lies beyond the reach of a majority of seniors. Nationally, the concept of affordable assisted living facilities is emerging as a cutting edge issue, and a discussion of the need for such facilities in the Commonwealth is timely.

In 1997, the Virginia Housing Study Commission initiated a two-year study of affordable assisted living facilities for the elderly. Commission Chairman Delegate Alan A. Diamonstein referred the matter to a Commission Subcommittee chaired by Senator Stanley C. Walker, who at the time was serving a term as Chairman of the Joint Commission on Health Care. Senator Jane H. Woods, currently Vice Chair of the Health Care Commission, and Senator William C. Mims were appointed to chair Subcommittee task forces on services and on "bricks and mortar," respectively.

Included in Subcommittee membership were assisted living facility and senior housing developers and administrators; federal, state, and local government officials; and legislative counsel for trade associations representing nursing homes, assisted living facilities, and continuing care retirement communities. In sum, the study brought together, for the first time, key players in the public, private, and nonprofit sectors and initiated a dialogue on complex assisted living housing and services issues of interest individually and collectively.

In 1997, the Subcommittee reviewed the current status of assisted living facilities, including licensure and public payment levels; demographics of Virginia's elderly population and the related need for affordable, quality care facilities; funding sources for developing and operating such facilities; other resources for providing assisted living care; and public policy issues relating to assisted living in the Commonwealth. Subcommittee members also participated in a day of site visits to assisted living facilities in the Richmond area, and identified major issues and trends to be monitored and studied in 1998.

BACKGROUND

Demographics of Virginia's Elderly Population

According to the 1990 U. S. Census, Virginia had nearly 870,000 persons over the age of 60, of whom nearly 60,000 were over the age of 85. These numbers are projected to increase to 1.038 million persons over the age of 60 by the year 2000, of whom nearly 90,000 will be over the age of 85, and to 1.3 million over age 60, of whom more than 117,000 will be over age 85, in 2010.

Factors to consider in determining the need and affordability of assisted living facilities for the aging population are the number of older persons, the number living alone with mobility and self care needs, and the number living in poverty. Of the nearly 870,000 persons over 60 in 1990, more than 218,000 lived alone and 15,000 had limitations with mobility and self care. Of the 218,000-plus persons over 60 living alone, over 108,000 had incomes of less than $10,000; over 81,000 had incomes between $10,000 and $30,000; and over 29,000 had incomes above $30,000. The median income was $10,382; the mean income was $16,567.

Current Status of Assisted Living Facilities in Virginia

Virginia recognizes two levels of assisted living care: regular and intensive assisted living services. The former relates to individuals who are dependent in two or three activities of daily living (ADLs) or in behavior patterns; the latter refers to individuals who are dependent in four or more ADLs or a combination of ADLs and cognitive or behavior impairments. Virginia licenses facilities providing each level of care as Adult Care Residences and the Department of Social Services Standards and Regulations include additional requirements for the intensive assisted living facilities.

The Department of Social Services indicates that there are 612 licensed adult care residences with a total of some 27,500 beds. Assisted living is provided in 494 of the adult care residences. Facility size ranges from 4 to 635 beds with the average facility having 45 beds. Seventy-one percent of the residences accept Auxiliary Grant residents; all residents are Auxiliary Grant recipients in 35 percent of the facilities.

The Commonwealth provides for two levels of payment for publicly funded residents of assisted living facilities. For regular assisted living, payment includes the maximum Auxiliary Grant amount of $725 ($799 in Planning District 8) and an additional $90 per resident per month. Intensive assisted living services are reimbursed at $160 per month by Medicaid in addition to the Auxiliary Grant.

A 1997 telephone survey of four randomly selected assisted living facilities in Richmond revealed private pay charges that range from $1,310 to $2,185 per month. In addition, some facilities require deposits and others have significant deposits for life care, with varying arrangements for a return of such fees.

Assisted living facilities are located around the Commonwealth, although facilities available to the Auxiliary Grant population or private pay individuals are not located in every locality. Some areas, such as southwest Virginia, have a significant number of localities without facilities.

Funding Sources

A variety of federal, state, and local funding sources are designed to foster development of assisted living facilities and provision of services therein. Sources for facility development have included but are not limited to the U. S. Department of Housing and Urban Development (HUD), the U. S. Department of Agriculture/ Rural Development (formerly Farmers' Home), federal Low-Income Housing Tax Credits, Virginia Housing Development Authority (VHDA) financing, the Virginia Housing Partnership Fund, private sector financing, foundations, faith communities, and local government partnerships.

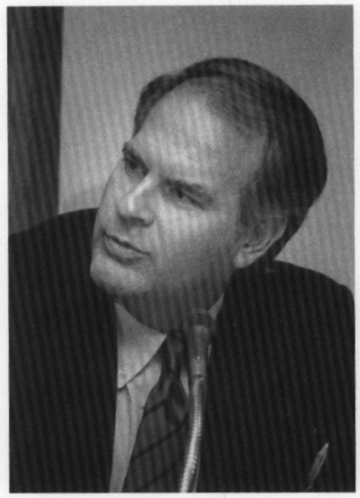
Government funding for services provided in assisted living facilities includes Supplemental Security Income (SSI), Auxiliary Grants, Medicaid, and Veterans Administration opportunities. Certain facilities, especially those that do not accept public funding, provide limited full and partial scholarships for residents in need of financial assistance.

Some individuals are able to pay for their own care in assisted living facilities, either through available cash resources or through strategies such as sale of certain assets to invest in a life care facility that provides a comprehensive range of services. Other individuals pay for assisted living as well as other levels of care through the purchase of long term care insurance.

Following is a summary of recommendations of the Virginia Housing Study Commission 1998 Subcommittee on Affordable Assisted Living for fostering affordable assisted living opportunities for Virginia's elderly residents, together with a report of full Commission action on the same. The discussion and recommendations are categorized into three sections:

- land development, building code, and financing issues,
- work force issues, and
- regulatory and resource issues.

LAND DEVELOPMENT, BUILDING CODE, AND FINANCING ISSUES



SENATOR WILLIAM C. MIMS

Seek favorable capitalization opportunities from the Virginia Housing Development Authority (VHDA).

The VHDA currently offers two programs under which developers of assisted living facilities may apply for financing: the Assisted Living Loan Program and the Virginia Housing Fund.

VHDA Assisted Living Loan Program: Background

The VHDA Assisted Living Loan Program was initially recommended by the Multifamily New Products Focus Group convened by VHDA to respond to market needs and foster increased multifamily loan production. Focus group members include multifamily developers, lenders, managers, and mortgage bankers. The Program, funded through taxable bond sales, was approved by the Authority Board in late 1997 and announced publicly in March 1998. Announcement of the new Program was made to mortgage bankers and the VHDA Nonprofit Advisory Committee. No general press release or other mailings were issued.

Eligible program activity includes new construction and substantial rehabilitation projects or repairs and improvements for projects insured by HUD's Section 232 Mortgage Insurance Program for Nursing Homes and Assisted Living Facilities. Loans are not originated through VHDA, but rather through a VHDA/HUD-approved mortgage banker, as is the case with all VHDA multifamily bond-financed programs.

The current loan rate for permanent financing for projects with a 15-month delivery under the program as of November 3, 1998, would range from 7.83 percent to 8.03 percent. Rates are adjusted on a daily basis. Maximum loan terms are 40 years for new construction and substantial rehab, and 35 years for existing projects without rehab. In all cases, loan terms are identical to the term provided by the HUD mortgage insurance. A first deed of trust is required. Tenant incomes may not exceed 150 percent of area median income.

Since the Program announcement, VHDA has received no applications for Program loans. The VHDA considers the lack of applicants to be a function of low interest in affordable assisted living products on the part of the development community. Such low interest, according to VHDA, likely stems from various federal program requirements which render such projects exceedingly difficult to undertake as affordable ventures. Under the federal constraints imposed by current financing vehicles, it is very difficult to produce a financially feasible proposal. The HUD insurance requirement may also serve as a disincentive to potential Assisted Living Loan Program applicants, according to VHDA.

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendations:

- Request that VHDA, with participation from DHCD and the senior housing industry, analyze its Assisted Living Loan Program to determine specific reasons for its lack of applicants to date. The analysis should focus not only on why the program has no applicants, but also on the issue of how the program could be re-structured to attract applicants. Following such analysis, VHDA could be asked to consider amendments to the program's regulations that would foster program production. At a minimum and as a first step, additional publicity could be generated and "How To Apply" workshops could be conducted, together with the provision of technical assistance from VHDA staff.
- Recognizing that the complexity of securing HUD mortgage insurance may present a barrier to developers of affordable assisted living facilities, request that VHDA consider creating an assisted living loan product that would not require HUD mortgage insurance.
- Request that VHDA consider a more favorable interest rate to finance new construction or rehabilitation of units for use as assisted living facilities with preference for occupants with incomes at, e.g., 60-80 percent of area median.

VHDA Virginia Housing Fund: Background

The Virginia Housing Fund, capitalized using VHDA bond reserves, is the largest such state housing finance authority fund in the nation. The Fund was established by the Authority in 1987 to provide a financing source for projects with greater risk than those permitted by federal law for financing through tax-exempt and taxable bond revenues. To date, VHDA has infused new monies and loan repayments totaling more than $100 million into the Fund, and provided financing for projects ranging from emergency shelters to single family owner-occupied homes.

Assisted living facilities are eligible for financing under the Virginia Housing Fund Multifamily Loan Program, capitalized by VHDA at $7 million annually through FY 2001. However, an eligible facility must "look like a multifamily rental project." In other words, the facility must be a "housing" project offering primarily housing rather than a "services" project offering primarily services.

Eligible loan applicants include nonprofits, minority developers, or developers of projects in rural areas. Permanent loans are available for new construction, rehabilitation, or refinancing with rehab. The loan rate is five percent for a maximum term of 30 years and a maximum loan amount of $750,000. A first deed of trust is required. Facility occupants must have an income at or below 150 percent of area median, but preference will be given to projects where occupants of 40 percent of the units have incomes at or below 60 percent of area median.

The Virginia Housing Fund, capitalized using VHDA bond reserves, is the largest such state housing finance authority fund in the nation. The Fund was established by the Authority in 1987 to provide a financing source for projects with greater risk than those permitted by federal law for financing through tax-exempt and taxable bond revenues. To date, VHDA has infused new monies and loan repayments totaling more than $100 million into the Fund.

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendations:

- Request that VHDA consider amending its relevant Virginia Housing Fund guidelines to provide for the financing of assisted living facilities. Preference could be given to loans financing projects where the maximum possible number of occupants have incomes at or below 60 percent of area median.
- Request that VHDA consider increasing its maximum loan amount for projects to be funded under the Housing Fund either in the current Multifamily category (as primarily housing projects but offering assistance with activities of daily living) or as assisted living facilities, as recommended above. (This recommendation is made in consideration of increased development costs due to building code regulations that ensure the health and safety of residents of such projects, as well as other project facilities, such as kitchens and expanded common areas, that meet the needs of facility residents.)

COMMISSION MEMBER TRACEY S. DEBOISSIERE

Other VHDA Multifamily Programs

Assisted living projects are currently eligible for loan financing under the Authority's tax-exempt bond program (with an October 27, 1998, interest rate at 6.49 percent for acquisition and rehab loans and 6.34 percent for construction and permanent loans). However, U.S. Treasury regulations governing the use of tax-exempt bond proceeds render most assisted living proposals infeasible. Those regulations require that living facilities must be independent, fully equipped with kitchens and bathrooms. Dormitory-style units with shared living spaces are not permitted. The one exception to this rule involves the use of 501(c)(3) bonds, which require the project ownership to be a certified 501(c)(3) nonprofit entity. According to VHDA, few nonprofits possess the capital or expertise to undertake such a development.

Assisted living projects are also eligible for financing under the federal Low-Income Tax Credit Program (LIHTC), the major federal program driving multifamily production today. The VHDA administers the LIHTC program in Virginia. However, federal LIHTC program regulations also prohibit dormitory-style units and restrict unit rents such that fees for services and meals cannot be included in rent structures. Such services and meals must be offered to tenants as an option, thereby effectively requiring project developers to provide services not knowing if residents will utilize them.

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendations:

- Encourage nonprofit and for-profit developers interested in production of affordable assisted living facilities to work with their statewide and national trade associations to foster amendment and reconciliation of federal housing program regulations to stimulate the development of such facilities. Clearly, such amendments will come only with national impetus drawing on support from large numbers of developers and other interested parties nationwide.
- Request the Director of the Virginia Liaison Office to work with the Virginia Congressional delegation to address tax-exempt bond regulations relating to the financing of assisted living facilities. With a goal of fostering the availability of more assisted living units, such recommendation is submitted recognizing that, notwithstanding the size or amenities of a rental housing unit, e.g., whether it includes a full kitchen and private bathroom, if the unit is designed primarily for residential rather than health services purposes, it is the home of the resident and as such should be considered residential housing for purposes of federal tax-exempt bond financing.
- In addition to the above-stated recommendations regarding VHDA multifamily programs and in recognition of the fact that most seniors would prefer to remain in their own homes rather than relocate to congregate facilities, support the VHDA initiative to expand availability of single family home rehabilitation loans to foster "aging in place." Further, while such loans are helpful to those seeking to remain at home, grants are also needed for those persons unable to repay loans and/or interest on the same.

Reinvigorate the Virginia Housing Partnership Fund (VHPF) Congregate Living Program.

VHPF Congregate Loan Program: Background

The Virginia Housing Partnership Fund, recommended by the Virginia Housing Study Commission, was created and initially capitalized at a biennial rate of $44.2 million by the 1988 General Assembly of Virginia. As conceived, the Fund would serve as a flexible revolving loan and grant program to leverage other monies and meet the Commonwealth's affordable housing needs ranging from homelessness to homeownership. The Fund was to be capitalized annually in the amount of $20 million for a period of ten years, after which time it would be self-supporting.

To date, the Fund has received $68.4 million in General Fund appropriations, as well as $44.6 million in loan principle and interest repayments and investment income. General Fund allocations for the Partnership Fund diminished gradually after the first biennial allocation (1989-90) to a point of zero new allocations by the 1998 General Assembly.

Loan terms of the Partnership Fund, which is administered by DHCD and VHDA, differ somewhat from those of the VHDA Housing Fund. For example, VHDA requires first position; the Partnership Fund does not. In addition, Partnership Fund interest rates are somewhat lower, and categories more flexible for eligible projects.

Assisted living projects, once eligible for financing under a special Partnership Fund "Congregate" category, remain eligible for Fund financing, but in competition with larger multifamily rental projects since the termination of the Congregate Program as a discreet program in FY96. Current interest rates are two percent for a maximum term of 20 years with a loan cap of $350,000.

Since its inception, the Congregate Program received allocations of $10 million and fostered the development of 1,070 beds, most of them in three- to four-unit "Mom and Pop" projects located in non-metropolitan areas. Clients are elderly (over 55) and/or medically or physically disabled persons. Despite the fact that the Congregate Program has not been funded as an individual loan entity in two years, the Program administrator continues to receive some three telephone calls per week expressing interest in financing for such projects.

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendations:

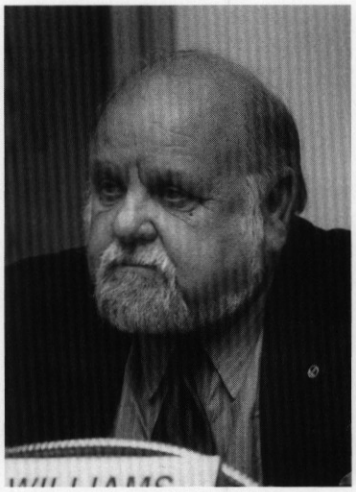
- Request that the 1999 General Assembly allocate $3 million to DHCD for the Virginia Housing Partnership Fund to finance new construction or rehabilitation of projects for use either as assisted living facilities or as multifamily projects offering units and/or services for residents needing assistance with activities of daily living. In addition, request adequate funding to provide for DHCD staffing of a Partnership Fund Multifamily/Congregate Program.
- Request that DHCD, with assistance from VHDA, the Virginia Department of Social Services (DSS), and the Virginia Department for the Aging, consider offering through the DHCD/VHDA Housing Training Center training in the development of affordable assisted living facilities, including information on innovative projects, both in and out of the Commonwealth, and such issues as financing available, building code requirements, and social services requirements.
- Request that DHCD, in conjunction with the 1999 Governor's Conference on Housing, convene panel discussions and/or tutorials on the development of affordable assisted living facilities, such as those training sessions contemplated in the previous recommendation.
- Request that DHCD provide pertinent information on affordable assisted living on its Internet Web site, and that such information be linked to the Web sites of VHDA, DSS, and the Department for the Aging. Such information should be available through a single Web point of entry. (In addition, VHDA could provide such information in its comprehensive housing directory, published bi-annually. For those without Internet access, other avenues for hard copy dissemination also should be explored.) Because agencies in different Secretariats would be working together on this project, it may be appropriate to request that the Secretaries of Commerce and Trade and Health and Human Resources work cooperatively together to foster project success.

Request the Virginia Community Development Corporation (CDC) To Foster the Development of Affordable Assisted Living Facilities.

The Virginia CDC: Background

The establishment of the Virginia CDC (originally the Virginia Housing Foundation) was initially recommended by the Virginia Housing Study Commission in 1987, and the entity's first Board of Directors was appointed by Governor Gerald Baliles. The CDC was created to leverage private sector investment in affordable housing in the Commonwealth, and to date it has syndicated tax credits under the LIHTC for net equity of some $20 million. In December 1997 the CDC Board amended the corporate By-Laws to provide that the Board be self-perpetuating rather than comprised of gubernatorial appointees.

The CDC has specialized in providing development technical assistance and raising equity for smaller multifamily projects, many of them in non-metropolitan areas. A CDC "spin-off," the Virginia Community Development (CD) Fund, in September 1998 received a substantial grant from the U.S. Treasury Community Development Financial Institutions (CDFI) Fund to develop its CD Fund. The CD Fund will be used to provide gap-closing and pre-development loans for VCDC projects.



DELEGATE DONALD L. WILLIAMS

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendations:

- Request that, because of its experience in fostering the development of small, multifamily tax credit projects across the Commonwealth, the Virginia CDC work with project sponsors to develop affordable assisted living facilities. Although, as previously discussed, it is extremely difficult to undertake such projects under federal tax credit regulations, judging from experience in other jurisdictions it is not impossible. It is also requested that the CDC work with potential affordable assisted living project developers via its new CD loan fund.
- Request that, given its expertise in syndicating tax credits as well as its positive working relationships with developers and financial institutions, the CDC consider serving as a mortgage loan conduit for affordable assisted living projects. During the last five years, many LIHTC syndicators have affiliated mortgage loan conduits to provide loan financing for such projects. Such conduits do not actually loan the funds, but rather originate the loan application for transmission to a financial institution. That lender in turn provides the financing through funds raised by issuance of mortgage-backed securities or other capital raised through the financial markets.

Request the Virginia State Office of the U.S. Department of Housing and Urban Development (HUD) to Foster the Provision of Affordable Assisted Living Units and/or Services in HUD Projects for the Elderly.

HUD Programs (Section 202): Background

Several HUD programs, particularly the Section 202 capital advance program for seniors, the Section 221(d)(4) FHA mortgage insurance program for independent living projects, and the Section 8 rental subsidy program for low-income persons lend themselves as a financing mechanism, credit enhancement, or operating subsidy, respectively, for affordable assisted living projects. Indeed, several administrators of Section 202 projects in various jurisdictions report the cooperation and support of HUD state offices in working with them to add services or rehab units to meet the increasing needs of elderly project residents as they age in place.

Administrators experienced with such expansion of services or addition or rehab of units report that HUD settings are extremely cost-effective for several reasons: no marketing is involved, because of residents aging in place; HUD project reserves can be used to cover the cost of such basic rehab features as hard wiring of heat and smoke detectors; some services already are in place through the work of a HUD-funded services coordinator; and staff approved by HUD for the project operating budget already perform many management and service duties for all residents of the complex. Perhaps most importantly, residents benefit from being able to live independently as long as possible while remaining with those project staff and neighbors who, in many cases, are their primary "family."

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendations:

- Request that the Virginia State Office of HUD cooperate supportively and expeditiously with experienced administrators and developers seeking to expand the inventory of affordable assisted living services and units in the Commonwealth.
- Request the Director of the Virginia Liaison Office to work with the Virginia Congressional delegation to increase federal funding for Section 202 projects and other financing programs for senior housing.

Request Local Governments and Local Redevelopment and Housing Authorities (RHAs) to Foster the Development of Affordable Assisted Living Services, Units, and Facilities.

Some localities in certain jurisdictions other than Virginia are playing an important role in the land development and financing processes for affordable assisted living options. Indeed, local governments can play many roles to foster the development of such options. While localities may provide favorable gap-closing financing through grants, advances, loans, property tax exemptions or reductions, they can also give or long-term lease land and/or surplus structures, such as schools; expedite zoning and building code approvals; and waive or reduce water and sewer connection fees. All such partnerships would, assumably, stipulate that all or a portion of units developed would carry income limits for residents.

However, representatives of localities point out that, from the standpoint of many, if not most, Virginia localities, development of affordable assisted living facilities within their boundaries is, financially speaking, a liability rather than an asset. At a time when many Virginia localities, particularly the urban and rural venues, are fiscally stressed, such facilities could arguably take more from a locality than they would give back — at least from a strictly financial accounting. For instance, although a new facility would not bring in residents whose children require education, localities would argue that it would likely attract persons from neighboring jurisdictions who would in turn require other services. Also, a non-profit facility would not produce tax-related revenues for the locality.

As a matter of public policy, Virginia localities may determine that — like many other non-revenue-producing ventures in response to a need so great — fostering the development of affordable assisted living options is simply the right thing to do. Should they reach this decision, federal and state programs and their own RHAs (in localities with RHAs) can help to foster local development of such options.

DELEGATE JACKIE T. STUMP

HUD HOME and CDBG Programs

At least two major HUD programs — the HOME loan program and the Community Development Block Grant (CDBG) program — in addition to those HUD programs noted above may also be used to finance construction or rehab for affordable assisted living projects or infrastructure, such as land acquisition or development or water and sewer construction, for the same. These programs are operated basically as entitlement programs in most larger cities and by the Virginia DHCD for smaller jurisdictions.

The statewide HOME funds currently are blended with remaining Partnership Fund dollars, and as such previous recommendations relating to the Fund would refer to the DHCD administration of HOME funds, as well. The statewide CDBG funds tend to be used primarily for water- and sewer-related projects.

Although numerous assisted living facilities are operating in the Commonwealth (particularly in urban areas) and many more are in the planning or construction phases, the cost of residency in most such facilities lies beyond the reach of a majority of seniors.

In addition to providing for loans, the CDBG program — under Section 108 — also provides for HUD guarantees for issuance of local taxable bonds to finance eligible housing-related community development activities such as those noted above. Section 108 guarantees are not widely utilized in the Commonwealth; notably, the Fairfax County RHA may be the only such local government entity utilizing them for housing-related development.

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendations:

- Suggest that entitlement localities in the Commonwealth consider utilization of HOME and CDBG funds for the development of affordable assisted living facilities.
- Suggest that localities consider issuing Section 108 bonds to finance the same.
- Suggest that statewide associations, such as the Virginia Municipal League and the Virginia Association of Counties, representing localities apprise their members of the need for affordable assisted living options, the public policy rationale for supporting their development and operation, and the myriad opportunities available to localities for supporting their development and operation. Such information could be provided on organizational Internet Web sites and also as hard copy.

Local RHAs

While local RHAs (there are fewer than 30 in Virginia) are for the most part funded contractually directly through HUD, their permitted activities in the Commonwealth are set forth under Virginia state statutes. In some jurisdictions, the RHA is governed by the local governing body. In others, the local governing body appoints the board of the RHA. In still others, the local housing office and RHA are effectively the same entity. In any event, RHA policy and programs represent an extension of those of their local government, and in this regard local governments can foster the provision of assisted living options without sacrificing revenue sources.

Local RHAs are well positioned to foster the provision of services for low-income seniors aging in place in the housing projects they manage. In addition, in this time of local RHA deregulation by HUD and the challenges incumbent upon RHAs to identify new sources of income, partnerships with developers of affordable assisted living units may be a natural source of such income. (The Santa Barbara (California) Housing Authority, for example, has partnered with a developer of such housing in a sale-leaseback deal in which the Housing Authority leases back and operates the property built by the developer.) Finally, where RHAs administer multifamily residential projects — and many, if not most, do — residents in such housing will not be moving into the jurisdiction; rather, they will instead be aging in what are already their homes.

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendations:

- Request local RHAs in the Commonwealth to cooperate supportively and expeditiously with experienced administrators and developers seeking to expand the inventory of affordable assisted living services and units in their respective regions.
- Request local RHAs to consider initiating the provision of services as well as developing units and/or facilities in which assisted living services could be offered.
- Request the Virginia Association of Housing and Community Officials (VAHCDO) at its annual conference to convene panels providing information and training on the development of affordable assisted living facilities utilizing pre-existing HUD/RHA properties as well as new construction or rehab of other properties.

COMMISSION MEMBER
WALTER J. PARKER

Identify Foundations to Partner with Developers of Affordable Assisted Living Facilities.

Sunrise and Westminster-Canterbury: Background

Sunrise Assisted Living Foundation — the affordable facility development arm of Sunrise Corporation, a national leader in assisted living — is to be saluted for its leadership in developing affordable facilities. Sunrise notes several key benefits to both parties in partnerships with nonprofits, such as churches or hospitals. Such partnerships can provide nonprofit, tax-exempt status for the developer, donated land for the development, a pool of volunteers for facility residents, an experienced development and management partner and equity for the nonprofit, revenue-producing (formerly unused) land for the nonprofit, excellent positioning for the seniors market for a hospital, excellent hospital bond rating for a corporate developer, and, for both parties, an opportunity to serve their community.

Westminster-Canterbury Richmond, a large nonprofit continuing care retirement community (CCRC) recently named one of the top 20 such facilities in the nation, also is to be recognized for its foundation efforts in providing "scholarships" for a portion of its residents who otherwise would be unable to afford its expensive entrance and monthly fee structure. Westminster-Canterbury annually contributes a percentage of its proceeds to this scholarship fund, and also solicits contributions from the community and certain Episcopal and Presbyterian congregations.

Recommendation

In addition to affordability strategies advanced by corporations such as Sunrise and Westminster-Canterbury, such national foundations as Robert Wood Johnson also are involved in demonstration programs that seek to foster the development of affordable assisted living options. The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendation:

Request that the Secretary of Commerce and Trade and Secretary of Health and Human Resources identify and disseminate through appropriate agencies information on other foundations — particularly those, such as Robert Wood Johnson, with a history of relationships in the Commonwealth — that could partner with nonprofit and for-profit developers of affordable assisted living facilities, perhaps through model demonstration programs, in Virginia.

Foster the Availability of Well-Trained Long-Term Care Professionals.

Residents of assisted living facilities receive care from a variety of individuals who have different levels of training and expertise. These caregivers include certified nursing assistants (CNAs), licensed practical nurses, registered nursed, registered nurses certified in geriatrics, as well as numerous therapists and physicians. The most intimate and consistent care needed by residents of assisted living facilities is provided, for the most part, by certified nursing assistants. These caregivers, at the entry level of the long-term care profession, receive the least compensation.

To qualify as a certified nursing assistant, a candidate must attend an eighty-hour course and pass a competency examination. However, financial resources to assist candidates with tuition costs for the required training are limited. Options include the Job Training Partnership Act, Welfare to Work funds, Temporary Assistance to Needy Families, federal block grants, Administration on Aging funds, and some foundation funding. Training may be received at high schools, community colleges, technical schools and at some long-term care facilities.

Certified nursing assistants are also required to obtain twelve hours of continued education annually, and the availability of such continuing education courses varies, as well. If CNAs are employed by a facility, they have the opportunity to participate in continuing education courses offered by the facility. For those CNAs employed by a home health care agency the opportunities for continued education may be limited.

The challenge of maintaining a solid pool of CNAs and care managers must be addressed if staffing needs of assisted living facilities are to be resolved. This staffing challenge impacts the entire long-term care industry — home care as well as residential care. A quality certified nursing assistant is well trained, dependable, and caring. However, low unemployment rates have limited the number of persons available to work in this capacity. Indeed, the number of individuals interested in working in the helping professions is even more limited. In addition, the unattractive pay scale is arguably a disincentive to potential CNA candidates, and a CNA can work in the hospital environment and receive higher compensation. The mean hourly wage for Virginia CNAs in long-term care facilities in August 1997 was $7.07; the mean hourly wage for Virginia CNAs in hospitals in March 1998 in the Richmond area was $8.15.

Address the Role of Case Managers in Meeting the Needs of Seniors.

Facilities that have traditionally focued on housing and residential communities now find their residents aging in place. This development of "naturally occurring retirement communities" is creating the need for assisted living services and, with that need, potentially the related need for case management and care coordination. Although funding for such services has been in place for decades, funding for case management, care coordination, and assessments traditionally, if reimbursed at all, has been absorbed by the service provider and included in the cost of services.

The value of the case manager now is being more widely understood; however, reimbursement for the services provided by such managers still is limited. Individuals hesitate to pay for case management services because they believe they can review lists of service agencies in numerous directories of services (some of which information may not be entirely accurate) and select a service. Problems arise when individuals or families wait until there is a crisis to locate such services. Once a person reaches that level of incapacity requiring services, it is difficult for the individual to manage a service plan and stressful for the family of the individual needing services.

Recommendations

The Subcommittee recommended the following actions, which recommendations will be conveyed, at the unanimous request of the Virginia Housing Study Commission, to the appropriate parties by Senator Stanley C. Walker, Subcommittee Chairman, and Senators Jane H. Woods and William C. Mims, Task Force Chairmen:

- To acknowledge the quality care provided by families, friends, and professional care givers, recommend that the General Assembly proclaim a "Week of the Long-Term Care Giver." Such acknowledgment would give credit to and focus on the unique contributions of those individuals who work diligently to provide care and assure a safe and secure environment for persons needing help with basic daily activities.
- In recognition of the possibility that, with more competitive compensation packages, assisted living facilities and providers will likely have a better opportunity to attract and retain the best staff, request that the Joint Commission on Health Care initiate a comparative review of public pay rates for services provided in assisted living facilities. The goal of the review would be to make the rates paid more competitive with those of the private market. Such review should include payment schedules for programs funded by the Department of Medical Assistance Services, the Auxiliary Grant, and the care managers funded by the Department of Social Services. The review should also consider the benefit packages available to service providers as well as salary. In addition, to determine consistency of the DSS Adult Protective Services function statewide, the review should include funding available for oversight responsibilities for the same.
- Encourage DSS in its Welfare to Work efforts actively to encourage clients to pursue career opportunities in the long-term care field.
- Recommend state funding for loans to students enrolled in state-certified CNA training courses offered by state community colleges and long-term care facilities. (Given the success of some facilities in attracting and retaining workers in the over-age 55 work force, it may be appropriate to target these loans to such potential employees.)
- Recommend support for the Joint Commission on Health Care recommendation for an additional $1.25 million in state general funds for FY 2000 for case management/care coordination services. Such funding would be allocated to the Department for the Aging, and in turn allocated to local Area Agencies on Aging.

REGULATORY AND RESOURCE ISSUES

Numerous regulatory and resource issues impact the development of affordable assisted living options in Virginia. These factors may create barriers to building a facility with a fee structure affordable to low- and middle-income individuals. Such factors may also create barriers to the provision of services needed by a population that has grown older and more frail in their own homes.

If the Commonwealth is to ensure the provision of safe, sound housing for its increasingly frail, older population, certain public policy issues must be addressed. More specifically, regulations and eligibility criteria must be adjusted and creative funding models must be developed to meet the increasing need for such housing.

Meet the Service Needs of the Population that Has Aged in Place.

The population of our nation, our Commonwealth, and our neighborhoods has "aged in place," grown older and more frail in both single family and multifamily residences, condominiums, and publicly funded housing units. As the need for services begins, the individual in need is faced with choices: move to a facility that is licensed to provide care such as an adult care residence, assisted living facility, or nursing home; obtain care in the current residence; or go without care.

However, funding for services can be tied to a type of facility, such as an adult care residence or nursing home, and eligibility criteria also can be linked to the age, level of frailty, and economic status of the person in need. Thus, an unintended outcome of such requirements is that some individuals who live in multifamily senior housing developments (many of which developments were federally financed) and who now need assistance with some activities of daily living may not receive care. If such housing does not meet the licensure requirements for adult care residences and if the housing is not so licensed, then services technically may not be provided by the facility staff, and residents (or their families) therefore may have to arrange for their own care or go without assistance.

The supportive services that may be needed by individuals residing in such housing are designed to assist a person needing help with two to three activities of daily living. Such services may include case management, personal care, grooming, transportation, meals, housekeeping, laundry, counseling, non-medical supervision, wellness programs, preventive health screenings, and monitoring of medications. These services, which allow an individual to remain as independent as possible for as long as possible, should arguably be made available to one in need who meets the various eligibility criteria regardless of where that individual resides.

Adult care residence regulations (applicable to facilities which provide housing and care for four or more adults who may be elderly or disabled) were developed to address the services, housing, and safety needs of older adults who are not frail enough to need nursing home care. At the same time, federal financing has been used in other jurisdictions to provide housing opportunities for independent older persons who now have become less independent and in need of some level of assistance. If a goal of the Commonwealth is to foster the reasonable "aging in place" of those Virginia seniors who desire the same, then the needs of this segment of the population must be addressed to allow such consumers to live at the places they consider their homes while receiving the services they need to do so.

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendations:

- Request the Virginia Board of Social Services to consider addressing the issue of flexibility in regulations to meet the changing needs of the consumer as the Board initiates its regular three-year review of the regulations of Adult Care Residences. Specifically, the Board should be requested to identify ways the regulations can be adapted to assure core services can be made available to persons as they age in place at their current residences.
- Recommend that the Board of Housing and Community Development consider requesting DHCD staff to review the national model building and safety codes for a category for health and safety features at a midpoint between those required by the I-1 and I-2 designations for possible inclusion in the 1999 Uniform Statewide Building Code review process. Such category could foster the development of affordable assisted living facilities.

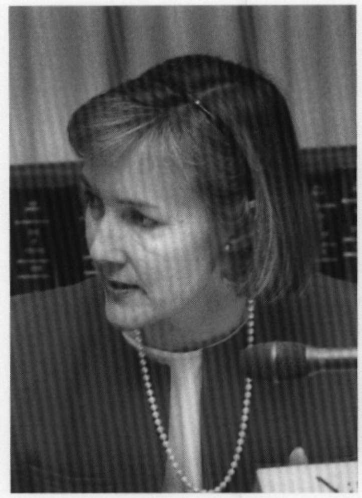
Foster Financing of Affordable Assisted Living Facilities and Care for Residents.

As noted, financing the development of affordable assisted living units and the services for individuals who live there is a complex task. Certain developers have constructed creative financing packages — using funding from corporations, foundations, religious organizations, federal and state government, and in-kind contributions from local governments — designed to utilize the resources and address the needs of the particular localities where the facilities are to be built. Such creative approaches should be reviewed and compiled as "creative best practices" to stimulate other creative designs.

One source of funding for services and room and board, as noted in the Background section of this Report, is the state Auxiliary Grant, a funding source for public pay residents of adult care residences. (Auxiliary Grant payments supplement income of qualified residents whose income typically is provided through Supplemental Security Income (SSI)). Auxiliary Grant payments are low — averaging only $210 — and regulations will not allow family members to supplement the Grant as such funds, which then become an asset for the recipient, may affect the recipient's Grant eligibility. Consideration should be given to designing a way for family members to contribute some financial assistance without creating a situation where the recipient loses the Grant support.

Annually, the General Assembly is requested to increase the amount of the Auxiliary Grant. The Joint Commission on Health Care is now developing recommendations on the Grant amount, which recommendations should provide some relief to recipients and providers of care if the proposal is adopted by the General Assembly.

Another source of financing for services, also as noted in the Background section, is long-term care insurance. The Subcommittee discussed this option at length, as it did the Auxiliary Grant.



COMMISSION EXECUTIVE DIRECTOR AND COUNSEL NANCY M. AMBLER

Recommendations

The Subcommittee recommended and the Virginia Housing Study Commission unanimously adopted the following recommendation:

- Request that the Department of Housing and Community Development, with assistance from the Virginia Department for the Aging and the Department of Social Services, develop a "Creative Best Practices Handbook" which describes local initiatives that blend funding and adapt regulations to create an environment conducive to developing affordable assisted living facilities or providing services to residents aging in place.

The Subcommittee also recommended the following actions, which recommendations will be conveyed, at the unanimous request of the Virginia Housing Study Commission, to the appropriate parties by Senator Walker and Senators Woods and Mims:

- Endorse the recommendations of the Joint Commission on Health Care to increase the Auxiliary Grant rates while not increasing the cost to local governments.
- Request that the Joint Commission on Health Care consider evaluating the impact of allowing family members to provide for services for Auxiliary Grant recipients without jeopardizing the eligibility status of the recipient. Such provision of services should include allowing the family of the recipient to pay for medical care, including health insurance premiums.

- Request that the Joint Commission on Health Care consider studying the effectiveness of adult foster care residence programs in other states.
- Encourage the Joint Commission on Health Care to continue its study of viable long-term care insurance products and options.
- Encourage the Virginia Retirement System (VRS) and the Virginia Bureau of Insurance (BOI), in conjunction with private industry, to market long-term care insurance to adult children for purchase on behalf of and to provide care for their parents. In addition, encourage the marketing of long-term care products to those individuals holding life insurance policies with minor children as named beneficiaries. Such products could, in effect, replace such portion of the life insurance policies holders may determine is no longer needed as their children reach majority.
- Recommend that BOI disseminate information on long-term care insurance.

Reconcile Requirements for Housing and Services Programs.

One of the most confounding issues to resolve relates to the many and varied eligibility criteria imposed by the programs designed to provide services to older persons in need of the same. Reconciling these requirements would simplify the application process for services and make it easier for the consumer to access the service delivery system. With services, older persons may be able to live safely in their private homes or public housing and delay or defer the need for more expensive care. Indeed, the goal of most older Virginians is to remain in their own homes as long as reasonably possible; Subcommittee recommendations recognize and are supportive of this goal.

The complexity of reconciling requirements cannot be overstated. Programs such as those funded by the Older Americans Act, Medicaid, and HUD and the Auxiliary Grant may be controlled by regulations from the federal, state, and local levels of government. In addition, attempts to change eligibility criteria can create havoc in the arena of special interest groups, providers, and public officials. Some pilot projects such as PACE recognize the need to have existing public funds follow the individual rather than molding the individual to meet criteria of several programs. The success of this blending of Medicare/ Medicaid funds should be studied to determine the potential for replication.

Recommendation

The Subcommittee recommended the following action, which recommendation will be conveyed, at the unanimous request of the Virginia Housing Study Commission, to the appropriate parties by Senator Walker and Senators Woods and Mims:

- Encourage the Joint Commission on Health Care to consider continuing its analysis of PACE and other blended funding stream programs and to study the potential for other blending of funds currently available to provide services for frail, older individuals. The goal of this study could be to allow older persons to receive services for which they are eligible regardless of where they reside.[1]

[1]The Virginia Housing Study Commission and its Executive Director gratefully acknowledge the assistance of Ms. Wilda M. Ferguson, Director, Canterbury Club, Westminster-Canterbury Richmond, and President, Care Options, Inc., for her assistance in the Commission study relating to affordable assisted living.

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