

## CASH PROFFER PAYMENT DELAY PASSES SENATE COMMITTEE

### “Vested Rights Update Advances”

**Senate Bill 632, by Senator Mark Obenshain and the Companion Bill to HB 374, by Delegate John Cosgrove of Chesapeake**, was approved by the Senate Committee on Local Government this Tuesday by a 15 to 0 vote. The measure, which would “temporarily” delay collection or acceptance of a per lot cash proffer by a locality until after final inspection and before the residential property has been issued a certificate of occupancy by said locality, advanced in the state legislative process this week. If approved by both houses of the state legislature, the measure would apply statewide and would be effective until July 1, 2014.

Senate Bill 632 was vigorously opposed by Fairfax County, who has very few per lot cash proffers. The Virginia Association of Counties (VACO) and the Coalition of former High Growth Localities spoke against the bill, but with less vigor than Fairfax County. They seem to get the fact that the 70% downturn in annual housing starts in Virginia, since 2005, is affecting local economies and local revenue gathering. Also speaking against SB 632 were Prince William County, Chesterfield County and the Piedmont Environmental Council. SB 632 will be considered by the full 40-member State Senate early next week.

The passage of SB 632 by the Senate Committee will help with the passage of HB 374 in upper chamber of the State Legislature. HB 374 passed the House of Delegates last week on a vote of 72 to 26.

**House Bill 374** will be considered by the Senate Committee on Local Government for consideration the week after the traditional Crossover Date, February 16<sup>th</sup>.

Senate Bill 632 and House Bill 374 are designed to temporarily eliminate a major impediment to the recovery of the new housing industry in many markets. Such “UPFRONT” required cash payments to local governments, in the current building and banking environment, stifle job production by the housing industry. HBAV believes it is now appropriate to “temporarily” delay this costly upfront payment of cash proffers or impediment to the production of new housing in many areas of Virginia.

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## VESTED RIGHTS ADDITION ADVANCES IN HOUSE CC&T SUBCOMMITTEE

On Thursday morning of this week, Subcommittee No. 2 of the House CC&T Committee approved House Bill 1250, by Delegate Barry Knight on an 11 to 0 vote.

**House Bill 1250** would add to the list of Significant Affirmative Governmental Acts (now 7 in total) in the Vested Rights Statute the issuance of any written order, requirement, decision or determination made by the zoning administrator or other administrative officer regarding the permissibility of a specific use or density of the landowner's property, after the appeals period.

In 1998, at the request of HBAV, the Virginia General Assembly codified a Vested Rights Statute. At the time, the Act was hailed by national land use attorney organizations as the most progressive property rights legislation that had been approved by a state legislature in over 20 years.

With little exception, the basis for the Act was a series of Supreme Court of Virginia decisions. The purpose of the bill in 1998 was to draw "brighter" lines for local governments and landowners on what actions by local governments and, what actions by landowners created vested rights in Virginia. Most agree that the passage of the Act has brought much clarity to issue of vested rights in Virginia. It is now time for a small, but important update to the Virginia Vested Rights Act to be adopted. The 2010 amendment will create more certainty for property owners in Virginia.

In many cases, prior to beginning improvements or construction on property in Virginia, lenders require and property owners obtain, a "Determination" from a Zoning Administrator to insure the intended use or density intended for the property is allowed by the underlying zoning classification. In most localities, such a "Determination" is a formal process. This measure will simply protect the property rights and add a layer of certainty for landowners who have acquired a Zoning Determination from a local government.

It will be considered by the full 22-member House CC&T Committee on Monday night.

## SUSPENSION OF STORMWATER REGULATION ADVANCES IN STATE SENATE - HOUSE OF DELEGATES

**House Bill 1220**, by Delegate Tim Hugo of Fairfax County and **Senate Bill 395**, by Senator Frank Wagner of Virginia Beach both advanced this week. Both measures would suspend the controversial Stormwater regulation of the Department of Conservation and Recreation (DCR) until 280 days after the completion of the Virginia Total Maximum Daily Loads (TMDL)

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Implementation Plan for the Chesapeake Bay Nutrient and Sediment TMDL is approved by the United States Environmental Protection Agency, but no later than December 1, 2011.

Last week HBAV announced that an HBAV led coalition of business organizations and local governments has reached a tentative Agreement with the Chesapeake Bay Foundation, the James River Association and the Nature Conservancy on a measure to “Temporarily” suspend the Kaine Administration and DCR proposed Stormwater regulation which would have significantly increased the cost of land development in every part of Virginia, and will do very little to improve the water quality of the Chesapeake Bay.

The EPA-TMDL is forecast to be completed by December, 2010. That will give Virginia’s Department of Conservation and Recreation nearly 12 months to adopt a new Stormwater regulation that will meet the allocations to be set out by the EPA-TMDL.

**House Bill 1220** was approved by a Subcommittee of the House AG Committee this Wednesday morning on an 8 to 0 vote, and will be considered by the full House AG Committee next week.

**Senate Bill 395** was approved by the Senate Ag Committee on Monday of this week 15 to 0, and the full 40-member State Senate on Thursday on a 40 to 0 vote.

HBAV has consistently asserted that the new Stormwater regulation was attempted to be rushed to the finish line by the Kaine Administration, with their full knowledge that the current Stormwater Management Regulation, has brought Virginia very close to its current Phosphorous Goal, and the FACT, that the EPA is in the process of revising the current phosphorous loading limits for Virginia.

## THIS WEEK THE STATE LEGISLATURE ALSO.....

**Killed Senate Bill 419, by Senator Jill Vogel** in the Senate Committee on General Laws. SB 419 would have required that a declaration may provide for declarant (developer) control of an association and its board of directors until (i) three months after 80 percent of all lots that the declarant has reserved the right to develop in all phases of development have been conveyed to a person other than a declarant or builder and (ii) the number of lots not yet developed is less than 200.

**Killed House 808, by Delegate Vivian Watts** in House Transportation Subcommittee No. 4. HB 808 would have required for coordination of local transportation planning with not only the Virginia Department of Transportation, but the Virginia Department of Rail and Public Transportation as well.

HBAV asserted that the measure would nearly double the time and cost of traffic analysis in conjunction with a rezoning or subdivision or site plan approval.

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**Killed House Bill 132, by Delegate Albert Pollard** in HWI Subcommittee No. 3. HB 132 would have Prohibited the Department of Health from issuing permits from alternative onsite sewage systems that are located in a wetland, (ii) setback less than 50 feet from any impaired waters, (iii) within one foot vertically of any groundwater resource, or (iv) discharging directly into a groundwater resource if located in the watershed of any impaired waters. Allows localities that include impaired waters to require maintenance standards and requirements for onsite sewage systems that exceed those established by the State Board of Health.

**Killed Senate Bill 448, by Senator Richard Stuart** in the Senate Committee on Local Government. SB 448 would have allowed any locality to enact an ordinance prohibiting the use of alternative onsite sewage systems that have been approved by the Virginia Department of Health for use in the particular circumstances and conditions in which the proposed system is to be operating when sewers or sewerage disposal facilities are not available.

**Advanced House Bill 1064, by Delegate Clay Athey.** HB 1064 would require that the fee for filing an appeal to the board of zoning appeals by a person aggrieved by any decision of the zoning administrator shall not exceed the costs of advertising the appeal for public hearing and shall be refunded to the appellant if the decision is overturned by the board of zoning appeals.

**Approved House Bill 579, by Delegate Sal Iaquinto on a vote of 86 to 13.** HB 570 would **change** the burden of proof from the taxpayer to the assessor when a taxpayer appeals the assessment of real property to a board of equalization or to a circuit court.

## THIS COMING WEEK, THE STATE LEGISLATURE WILL...

Consider the remaining legislation on the 2010 HBAV Legislative Agenda.

**House Bill 407, by Delegate Glenn Oder of Newport News** allows a landlord to withhold a portion of the security deposit until final settlement of water and sewer bills.

House Bill 407 has been assigned to the House General Laws Committee – Housing subcommittee for review. They will meet on Wednesday evening of this week.

## HBAV LEGISLATIVE COMMITTEE

The HBAV Legislative Committee, chaired by HBA of Richmond past President Bill Garrett, will continue to meet during each week of the 2010 Session of the Virginia General Assembly. The committee sets HBAV policy on matters before each session of the State Legislature. The committee meets by Conference Call on every Friday of each week. As of this writing, the HBAV Legislative Committee has directed action by the HBAV Lobbying Team on 104 Senate Bills,

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House Bills and Resolutions. The State Legislature meets Monday through Friday of each week for 60 days this year, and does not pause for federal holidays or bad weather.

## GENERAL ASSEMBLY ADJOURNS FOR SNOW STORM

For the first time in memory of veteran legislators and Capitol Lobbyist, the State Legislature adjourned on Thursday afternoon, until Monday at 12:00 noon. It is a welcome day of relief for many, but does extend the 2010 legislative session by one (1) day to March 14<sup>th</sup>. It also means the State Legislature will plan to work next Saturday to allow each House to finish its work on its bills. After Tuesday, February 16<sup>th</sup>, the House can only consider Senate Bills and the Senate can only consider House Bills.

## IMPORTANT DATES TO REMEMBER

Among the major rules adopted by each General Assembly is a schedule of dates that manages the flow of legislation. Following are the dates of the important deadlines for consideration of legislation during the 2010 Session of the General Assembly:

<b>January 22, 2010</b>	<b>Deadline to Introduce Bills</b>
<b>February 16, 2010</b>	<b>Deadline to Consider Bills in the House of Origin</b>
<b>March 11, 2010</b>	<b>Deadline to Put Bills in Conference</b>
<b>March 14, 2010</b>	<b>Adjournment</b>

## HBAV FOR HAITI ORPHANAGE

### “Past President Flynn Urges Your Support”

For the past ten (10) years, HBAV Past President Bob Flynn of the Roanoke Regional Home Builders Association has used his annual personal vacation days to travel to Haiti to help make improvements to the “Quality of Life” for “The Home of the Daughters of God” Orphanage in

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Port-au-Prince. The orphanage provides food, clothing shelter and education for 70 Haitian orphan girls.

On Wednesday, January 13<sup>th</sup>, Bob was due to fly into Haiti for a 7 day work-visit to the girl's orphanage/home. The earthquake hit on Tuesday, January 12<sup>th</sup>.

The orphanage is located in Port-au-Prince. It is a maze of connecting buildings, some as high as 3 stories. The orphanage was severely damaged during the quake, and is now uninhabitable. The 70 girls that use to call the orphanage home, are now living in the street in front of the orphanage in tents donated to them by UNICEF. Three of the girls and the orphanage's cook's wife and his 3 children lost their lives on that Tuesday.

**HBAV PRESIDENT MIKE NEWSOME AND HBAV PAST PRESIDENT BOB FLYNN URGES ALL HBAV MEMBERS TO MAKE A CONTRIBUTION TO THE ORPHANAGE AND THE GIRLS. PAST PRESIDENT FLYNN HAS ASSURED US THAT 100% OF ALL MONIES CONTRIBUTED WILL GO DIRECTLY TO THE ORPHANAGE!!!!** As of this date, no decent food, water or medical supplies have reached the girls.

The surviving girls are in need now, more than ever!!! Please consider making a Donation. Every dollar will help the girls through this tragedy.

PLEASE MAKE YOU PERSONAL OR BUSINESS CHECK PAYABLE TO RESURRECTION CATHOLIC CHURCH, and mail it to HBAV, 707 East Franklin Street, Richmond, Virginia 23219. HBAV will bundle all Donations and deliver them directly to Past President Flynn in Roanoke. All contributions are 100% tax deductible.

Please send your personal or business contribution today. **As President Newsome said when approving this request, "Yes, this is about humanity"!!!!**