

2010 LEGISLATIVE AGENDA

HOME BUILDERS ASSOCIATION OF VIRGINIA

STORMWATER MANAGEMENT

HOUSE BILL 1220, by Delegate Hugo, and its Senate companion, **SENATE BILL 395**, by Senator Wagner. Both measures would delay the implementation of the Kaine/DCR Stormwater Management Regulation until 280 days after the completion of the Virginia Total Maximum Daily Loads (TMDL) Implementation Plan for the Chesapeake Bay Nutrient and Sediment TMDL is approved by the US-EPA, but no later than December 1, 2011.

The legislation would allow time for the DCR regulation to be changed to be consistent with the completion of the Virginia Total Maximum Daily Loads (TMDL) Implementation Plan for the Chesapeake Bay Nutrient and Sediment TMDL approved by the United States Environmental Protection Agency. 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.

The measure is a **COMPROMISE** between an HBAV led coalition of business organizations and local governments with the Chesapeake Bay Foundation, the James River Association and the Nature Conservancy.

HBAV has consistently asserted that the previous DCR proposed Stormwater regulation was not based on sound science, and would have significantly increased the cost of land development in every part of Virginia. HBAV also asserted that the regulation would have done very little to improve the water quality of the Chesapeake Bay and its waters. Late in the DCR regulatory process, the EPA also disclosed that the current Stormwater Management Regulation has brought Virginia very close to its current Phosphorous Goal.

House Bill 1220 has been signed into law by Governor McDonnell

PROFFER PAYMENT DELAY/JOB CREATION

HOUSE BILL 374, by Delegate Cosgrove and its Senate companion **SENATE BILL 632**, by Senator Obenshain. Both measures would delay the collection or acceptance of a cash proffer by a locality until the completion of the final inspection of the subject property and prior to the time of the issuance of any certificate of occupancy.

Among the impediments to the recovery of the new housing industry and job growth in many markets in Virginia, is the requirement that Per Lot Cash Proffers and other fees must be paid to localities "UPFRONT". In most circumstances the Per Lot Cash Proffers, which range from \$15,000 in the Richmond area to as high as \$55,000 Per Lot in Loudon County, must be paid in conjunction with an Application for a Building Permit. In some cases the Per Lot Cash Proffers must be paid prior to that point in the development or construction process.

The required Per Lot Cash Proffers are in addition to the thousands (\$\$\$) of dollars that must be paid “UPFRONT” in most cases for water and sewer connection fees, and the substantial amount other fees that are required to be paid to a locality in connection with the Application for a Building Permit.

Such “UPFRONT” required cash payments to local governments, in the current building and banking environment, stifles job production by the housing industry. In the acquisition, financing and production of every new home in Virginia, over 50 local companies go back to work.

VESTED RIGHTS UPDATE

HOUSE BILL 1250, by Delegate Knight. The measure provides that the issuance of any written order, requirement, decision, or determination by the zoning administrator regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to change, modification, or reversal shall be considered a significant affirmative governmental act for purposes of determining vested rights.

In 1998, 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.

WATER & SEWER DELINQUENT PAYMENT

HOUSE BILL 407, by Delegate Oder. Among the measures numerous Landlord/Tenant changes, the measure includes a provision that allows a landlord to withhold a portion of the security deposit until final settlement of utility bills.

Many localities or their Water and/or Sewer Authorities have the ability to place liens on property (owners) for delinquent water and sewer charges. That same authority applies to rental units. Meaning, many property owners are being required to pay the delinquent water and sewer

bills for tenants that vacate their rental property. Often such bills are received long after an apartment or rental home is vacated and the delinquent charges can be substantial (\$\$). The members of HBAV believe such a balanced approach to this statewide problem will allow landlords protection from such charges and will allow for the payment of the same by the appropriate responsible party.

For Information please contact:

Michael L. Toalson
Executive Vice President
Home Builders Association of Virginia
Phone: 804-644-0317
Email: mltoalson@habv.com