

2016 End of Session Report

The General Assembly adjourned Sine Die March 11, 2016 – a day early. It was a wild 59 days on many fronts and was not lacking in action for us as we tracked dozens of bills – lots of issues percolating and already some ideas for next session are being discussed. It was a team effort as we activated a number of you to have both in person meetings and to get the phones of specific legislators ringing. Lots of good work was done and plenty of relationship-building needs to continue in the off-season. Below are a few bills/items of note.

- **Realtor Bill.** HB 684 (Peace) was legislation requested by the Virginia Association of Realtors. We worked very hard to get “peace in the valley” on this issue prior to session beginning. We amended it heavily as it went through the process to ensure a fair and balanced approach vs. the original bill which went well beyond the items below. In most cases we feel at the end of the day the bill has a lot of moving parts but does very little harm in terms of new policies impacting our group – much of it is clarification of the existing statute or standard practice. Below are key take-aways from the bill:
 - HB 684 provides that unless expressly provided in in the Act or the recorded governing documents, an association may not:
 - condition or prohibit the rental of a unit to a tenant by a unit owner or make an assessment or impose a charge, except as provided in 55-79.42:1 of the Act;
 - charge a rental fee, application fee, or other processing fee of any kind in excess of \$50 as a condition of approval of such a rental during the term of any lease;
 - charge an annual or monthly rental fee or any other fee not expressly authorized in Section 55-79.42:1 of the Act;
 - require the unit owner to use a lease or a lease addendum prepared by the Association;
 - charge a security any deposit from the unit owner or the tenant of the unit owner; or
 - have the authority to evict a tenant of any unit owner or to require any unit owner to execute a power of attorney authorizing the unit owners' association to so evict.
 - HB 684 expressly authorizes an owner to designate a person licensed by the Real Estate Board as the owner's authorized representative with respect to any lease and requires an association to recognize such representation without a formal power of attorney (except in voting matters).
 - HB 684 clarifies definitions regarding delivery and receipt of disclosure documents.
 - Finally, the bill conforms the Property Owners' Association Act to the Condominium Act relating to provision of disclosure documents in electronic form and charges, removing a loophole created by prior amendments.
- **AirBnB.** The Housing Commission’s study is going to be vital for us to be a part of – we made a prudent amendment during the General Assembly session. We might think about anything additional/different we might want for similar legislation that surely will result from the study. The bills that were introduced but not passed (HB 812-Peace/SB 416-Vogel) would have allowed property owners to rent out their homes or portions thereof for charge for periods of less than 30 consecutive days or do so through a hosting platform, under certain circumstances. The hosting platform may (not shall) register with the Department of Taxation, in which case the hosting

platform is responsible for the collection and remittance of all applicable taxes on behalf of the property owner. Our language amendment can be found on lines 94-100.

- [Minnie Lands Wherever](#). SB 238 (Petersen) – probably our most significant bill of the session was killed in Committee with a letter to the Housing Commission to take a look at the legislation. We drafted the language of the letter for the Chairman that was sent to minimize the scope and intent of the study. Something we are clearly going to need to watch during the summer and next session.
- [Best Practices](#). HB 512 (Bulova) – Homebuilders were able to box this up and it never saw the light of day. You may recall, we helped Rep. Bulova with some ideas on this the legislation stated that a subdivision ordinance shall include the submission of a certification by the developer of a common interest community that the developer has reviewed the best practices that Rep. Bulova passed last year. Rep. Bulova recognizes this is a non-starter with the homebuilders and has some other ideas for ensuring folks at least peek at the best practices before moving ahead. To be continued.
- [Restricting Access](#). Attorney General Opinion for Sen. Reeves regarding, not allowing, access to residents who have not paid an assessment. This has the potential to be explosive if Sen. Reeves or anyone else decides to pursue. Need to monitor.
- [Cousin Eddie Camping Bill](#). SB 629 (Stanley) -- died at the hands of Riley Ingram – the Chairman of Counties, Cities and Towns in the House. We were able to put an amendment on to protect our interests but localities were fiercely opposed. As drafted it would have prohibited any locality from barring or requiring a special use permit for camping by a landowner and his family or nonpaying guests in a tent or recreational vehicle on the landowner's property for a total of no more than two months per year. Not a good bill but the good news was that Stanley accepted our amendment despite not being the biggest champion of HOAs (understatement).
- [Quorum Issues](#). SB 689 (Petersen) Common Interest Community Board (CICB) Expansion was carried over in Senate General Laws committee. This bill would have added three citizen board members to the CICB. The patron knew he did not have the votes and the arguments against were on our side. No matter, we need to watch these bills moving forward and it being used as an attempt to put disgruntled residents on it.
- [Condemnation for HOAs](#). SB 237 (Petersen) – Passed on the last day of the session with an amendment. This legislation provides that, for the purposes of condemnation, the value of a portion of a common area of a property owners' association shall be based on the common area's highest and best use as though it were free from restriction to sole use as a common area. Some localities including Virginia Beach came out against the bill but got an amendment on it at the 11th hour to ensure it did not trigger an assessment – [click here for that amendment](#). At the end of the day the bill is probably helpful to our interests.
- [Move Over for Process Servers](#). SB 76 (Wexton) – died in the Senate Courts Committee. We worked on the amendments to the bill to protect our interest in terms of restricting access. The bill as drafted would have required an employee of a common interest community to grant entry into the community to a person attempting to execute a service for a party who resides within, or is known to be, within the community.
- [Arlington Building Permits](#). HB 1146 (Hope)/SB 389 (Surrovell) these bills were amended to ensure our interests were protected. The bills are identical and SB 389 has been signed by the Governor.

The bill prohibits a locality from requiring consent of a condominium association or homeowners' association prior to the issuance of a permit, certificate, or license, including a building permit or a business license. Our amendment begins in the middle of line 15 and continues through the end.

- [Checking License Plates](#). HB 1034 (Sickles) – this bill died in the House Finance Committee. Would have required certain entities (e.g., homeowner's associations and apartment complexes), if requested, to send to the commissioner of the revenue of the county or city in which the entity is located the license plate numbers of their homeowners' or tenants' motor vehicles.

The Governor has until April 11th to amend, sign or veto all bills now on or coming to his desk prior to the reconvene session on Wednesday, April 20th. We will of course keep a watchful eye on all amendments to all regular bills and the budget bill.