



Ralph S. Northam
Governor

R. Brian Ball
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

July 12, 2019

MEMORANDUM

TO: Board of Housing and Community Development Members
FROM: Kyle Flanders
SUBJECT: July 22, 2019 Board of Housing and Community Development Meeting

Enclosed is the agenda and information package for the Board of Housing and Community Development meeting to be held on Monday, July 22, 2019. **There will be a public hearing beginning at 10:00 a.m.** The public hearing does not have a detailed agenda other than to hear public comment on the regulations. This will include a joint hearing with the Virginia Fire Services Board regarding the Statewide Fire Prevention Code (SFPC). The Housing and Community Development committee will meet at 11:00 a.m. (or upon conclusion of the public hearing), followed by the regular meeting of the Board.

The Board meeting will be held at the **Virginia Housing Center** located in Innsbrook at 4224 Cox Road in Glen Allen, Virginia. Lunch will be provided during the meeting.

If you will not be able to attend the Board meeting, please contact me as soon as possible. I can be reached by e-mail at kyle.flanders@dhcd.virginia.gov or by telephone at 804-786-6761.

Please let me know if you have any questions or if I can be of assistance. I look forward to seeing you at the meeting.

Enclosure

Partners for Better Communities



www.dhcd.virginia.gov

AGENDA
BOARD OF HOUSING and COMMUNITY DEVELOPMENT
Housing and Community Development Committee
Monday, July 22, 2019
Glen Allen, VA
11:00 a.m. or upon conclusion of the public hearing

- | | | |
|-------|---|---------------|
| I. | OPENING | |
| | a. Call to Order | Chair |
| | b. Roll Call | Kyle Flanders |
| II. | CONSENT AGENDA | Chair |
| | o <i>Approval of Minutes: May 13, 2019</i> | |
| III. | RESIDENTIAL EXECUTORY REAL ESTATE
CONTRACTS (Rent-to-own) BEST PRACTICES | DHCD Staff |
| | o <i>Action Item</i> | |
| IV. | COMMUNITIES OF OPPORTUNITY TAX CREDIT | DHCD Staff |
| | o <i>Action Item</i> | |
| V. | PORT HOST COMMUNITIES REVITALIZATION
FUND GUIDELINES | DHCD Staff |
| | o <i>Action Item</i> | |
| VI. | UNFINISHED BUSINESS | Board members |
| VII. | NEW BUSINESS | Board members |
| VIII. | ADJOURNMENT | Chair |

AGENDA

BOARD OF HOUSING and COMMUNITY DEVELOPMENT

Monday, July 22, 2019

Glen Allen, VA

To begin at the conclusion of the Housing and Community Development Committee

- I. OPENING
 - a. Call to Order Chairman
 - b. Roll Call Kyle Flanders
 - c. Public Comment Chairman

- II. CONSENT AGENDA Chairman
 - o *Approval of Minutes: May 13, 2019*

- III. ANNUAL ELECTIONS Erik Johnston

- IV. REPORT OF THE HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE Helen Hardiman
 - Action Items*
 - o *Residential Executory Real Estate Contracts (Rent-to-own) Best Practices*
 - o *Communities of Opportunity Guidelines*
 - o *Port Host Communities Revitalization Fund Guidelines*

- V. CODE CYCLE UPDATE Cindy Davis

- VI. PUBLIC PARTICIPATION GUIDELINES Kyle Flanders
 - Action Item*

- VII. REPORTS AND INFORMATION
 - a. VHDA Report Susan Dewey
 - b. Report of the Virginia Fire Services Board Andrew Friedman
 - c. Report of the Director Erik Johnston

- VIII. UNFINISHED BUSINESS Board members

- IX. NEW BUSINESS Board members

- X. BOARD MATTERS Board members

- XI. FUTURE BOARD MEETING DATES Erik Johnston
 - o *Monday, September 16, 2019*
 - o *Monday, December 16, 2019*

XII. ADJOURNMENT

Chairman

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
Housing and Community Development Committee
MEETING
10:05 A.M., May 13, 2019
Glen Allen, Virginia

Members Present

Sonny Abbasi
J.P. Carr
Susan Dewey
Mimi Elrod (arrived late)
Andrew Friedman
Richard Gregory
Abby Johnson
Earl Reynolds
Steve Semones

Members Absent

Helen Hardiman
Keith Johnson

Call to Order

Mr. Andrew Friedman, Vice-Chairman of the Housing and Community Development Committee, called the meeting to order at 10:05 a.m.

Roll Call

The roll was called by Mr. Kyle Flanders of the Department of Housing and Community Development's (DHCD) Policy Office. Mr. Flanders reported that a quorum was present.

Approval of Minutes

A motion was made and properly seconded to approve the minutes of the March 18, 2019, meeting of the Committee; the motion passed.

Annual Action Plan

Mr. Erik Johnston, Director of DHCD, presented background information on the Annual Action Plan being considered by the Board.

Ms. Pam Kestner, Deputy Director of Housing within DHCD, outlined the Consolidated Planning and Annual Action Plan process and the proposed appropriation of funding for the federal funds considered by the plan. Ms. Kestner presented the allocation breakdown for the Home Investments Partnership (HOME) program funds. Mr. Jay Grant, Deputy Director of Community Development within DHCD outlined the proposed appropriation of funding for the Community Development Block Grant (GDBG) program funds.

Ms. Susan Dewey, Executive Director of the Virginia Housing Development Authority (VHDA), requested clarification regarding

the carry over funds within the CDBG allocation. Mr. Grant and Mr. Johnston clarified where the funds originated from and how they would be deployed.

A motion was made and properly seconded to adopt the Annual Action Plan as presented. The motion passed.

Enterprise Zone Changes

Mr. Flanders provided a brief overview of the proposed Enterprise Zone changes and the regulatory process for adopting the statutory and technical changes.

Ms. Rebecca Rowe, Program Manager for the Enterprise Zone program explained that two changes had occurred with respect to Enterprise Zones. The first change noted was that the number of renewals that a zone could receive went up to a total of 25 years of eligibility. The second change that she noted was that solar energy projects now have a lower threshold for qualification for the Real Property Investment Grant (RPIG).

Mr. Carr requested clarification on the five-year extension. Ms. Rowe noted that this is a single extension of five years for any given zone. Ms. Rowe indicated that applications for new zones were not being accepted, therefore, the extensions would not be coinciding with an increased number of zones.

A motion was made and properly seconded to approve the changes to the Enterprise Zone regulations. The motion passed.

Unfinished Business

There was no unfinished business to be discussed.

New Business

Mr. Johnston noted that future meetings of the committee would include discussion of the Port Host Cities Program, the Communities of Opportunity Program, and the development of rent-to-own best practices.

Adjournment

Upon a motion duly made and seconded, the meeting was adjourned.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
Regular Meeting
MEETING
10:35 A.M., May 13, 2019
Glen Allen, Virginia

Members Present

Sonny Abbasi
J.P. Carr
Susan Dewey
Mimi Elrod
Sean Farrell
Andrew Friedman
Richard Gregory
Abby Johnson
Earl Reynolds
Jeff Sadler
Steve Semones
Patty Shield

Members Absent

Helen Hardiman
Keith Johnson

Call to Order

Mr. J.P. Carr, Chairman of the Board of Housing and Community Development, called the meeting to order at 10:35 a.m.

Roll Call

The roll was called by Mr. Kyle Flanders of the Department of Housing and Community Development's (DHCD) Policy Office. Mr. Flanders reported that a quorum was present.

Public Comment

There was no public comment.

Approval of Minutes

A motion was made and properly seconded to approve the minutes of the March 18, 2019, meeting of the Board; the motion passed.

Report of the Housing and
Community Development
Committee

Mr. Andrew Friedman, Vice-Chairman of the Housing and Community Development Committee presented the recommendation of the committee that the Annual Action Plan be approved by the Board. There was no discussion on the item. The recommendation of the committee passed.

Mr. Friedman presented a recommendation of the Housing and Community Development committee that changes to Enterprise Zone regulations be adopted by the Board. There was no discussion on the item. The recommendation of the committee passed.

Regulation Reviews

Mr. Flanders gave a brief overview of the periodic reviews of regulation being considered by the Board.

There was no discussion on the periodic review of the Virginia Standards for Individual and Regional Code Academies. A motion was made and properly seconded to retain the regulation without amendment. The motion passed.

There was no discussion on the periodic review of the Solar Energy Criteria for Tax Exemption. A motion was made and properly seconded to retain the regulation without amendment. The motion passed.

Mr. Flanders advised the Board that while there had not been comment provided regarding the Public Participation Guidelines, there was a change to state code that should be incorporated into the regulations. Mr. Flanders advised that the change would not affect existing processes and could be accomplished via the Fast Track process. A motion was made and properly seconded to recommend proceeding with amending the regulation to incorporate the legislative change. The motion passed.

Amusement Technical Board Advisory Committee Vacancy

Mr. Jeff Brown, Director of the State Building Codes Office, reported that there was a vacancy on the Amusement Device Technical Advisory Committee. He noted that two resumes had been received for this vacancy: Mr. David Bowie of Busch Gardens and Mr. Wayne Fuqua of Kings Dominion. Mr. Brown stated that staff supported the committee's recommendation of selecting Mr. Fuqua to fill the vacancy.

Mr. Sonny Abbasi inquired about the rationale for choosing Mr. Fuqua over Mr. Bowie. Mr. Brown offered that both applicants were well qualified for the position and had similar resumes. Mr. Fuqua was recommended by the departing committee member of whom he would be replacing.

A motion was made and properly seconded to approve the appointment of Mr. Wayne Fuqua to the vacant position. The motion passed.

Code Cycle Update

Ms. Cindy Davis, Deputy Director of Building and Fire Regulation at DHCD noted that several workgroup meetings had been consolidated due to the low number of submissions to consider. Ms. Davis noted that there had been approximately 20 submissions to cdpVA (online code development forum) to this point. Mr. Carr inquired as to when the Board could expect to receive these submissions for consideration. Ms. Davis stated that staff hopes to have these changes ready for Board consideration by September or October.

Mr. Erik Johnston, Director of DHCD, informed the Board that the emergency regulation on cooling that the Board adopted in the previous meeting was now awaiting approval at the Governor's Office.

Mr. Flanders informed the Board that the Notices of Intended Regulatory Action considered in March were now out for public comment.

VHDA Report

Ms. Susan Dewey, Executive Director of the Virginia Housing Development Authority (VHDA), reported that the VHDA was investigating ways to incorporate various innovative housing solutions into their programs. These solutions will be explored at the upcoming HousingX Conference.

VFSB Report

Mr. Friedman noted that there had been no new meeting for the Virginia Fire Services Board (VFSB) since the last Board meeting.

Mr. Carr noted that Mr. Friedman would be stepping away from the Fire Services Board and asked Board members to contact him if they were interested in serving in this role

Report of the Director

Mr. Johnston introduced the new Legislative and Board Affairs Coordinator at the DHCD, Cody Anderson. He offered a thank you to all staff and board members in accordance with Public Service Month, Community Development Month, Business Appreciation Month, and Building Safety Month. Mr. Johnston announced to the Board that the DHCD had recently launched its new website, and thanked staff for the considerable work done on the project.

Mr. Johnston announced that the DHCD had recently partnered with Virginia Community Capital on the Virginia Opportunity Zone Marketplace. Mr. Johnston announced to the Board an increase in funding to the Virginia Telecommunication Initiative (VATI), up to \$19 million.

Mr. Johnston thanked Chairman Carr for his service as Chair of the Board, noting that he was subject to term limits and that a new chair would need be elected at the next meeting.

Unfinished Business

Ms. Dewey asked if the DHCD had done any research into remote attendance options for future Board meetings.

Mr. Johnston and Mr. Flanders responded that the DHCD had explored remote meeting options with the GO Virginia Board and the Commission on Local Government. Mr. Johnston and Mr. Flanders noted that were a number of additional requirements in order to allow remote participation in Board meetings.

Mr. Sean Farrell inquired about the system for electing a new chair for the Board. Mr. Johnston relayed that, as Secretary to the Board, he would open the next meeting, at which point, he would open the floor for nominations for the next chairman.

New Business

There was no new business to be discussed.

Adjournment

Upon a motion duly made and seconded, the meeting was adjourned.

Public Comment

Comment Submitted May 13, 2019 from David Sacks of Henrico County

As Enterprise Zone Administrator for Henrico County, I fully support the change to the Enterprise Zone Regulations as proposed, and appreciate the Board and staff's prompt response to addressing consistency with the recent statutory changes as well as the minor technical changes. What is important to keep in mind is that one of the roles of the local government Enterprise Zone Administrators is to help promote the Virginia Enterprise Zone Grant programs. In Henrico, for example, we aggressively promote the Virginia Program on our website and our Enterprise Zone brochures. With that in mind, it is very important for Virginia Enterprise Zone program staff to keep the local staff informed of changes. In the case of the recent change affecting the RPIG, even those of us who closely monitor relevant bills in the General Assembly could not catch this one as it was buried, last minute in the budget bill. I would therefore encourage DHCD Enterprise Zone staff in the future to provide the local administrators with a summary of relevant adopted legislation as soon as it is signed by the governor so that we can incorporate those changes into our material as soon as possible to better assist you in promoting your program

We always appreciate the professional guidance and assistance provided by DHCD's Enterprise Zone staff as we successfully administer our program. And thank you for the opportunity to provide this very minor comment.

David Sacks
Community Development Manager and Local Enterprise Zone Administrator
Henrico County Department of Community Revitalization
4062 Crockett Street - PO Box 90775
Henrico, VA 23273
804-501-7611
sac01@henrico.us



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Erik C. Johnston
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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

July 12, 2019

Memorandum

To: Board of Housing Community Development Members

From: Erik Johnston, DHCD Director

Subject: Residential Executory Real Estate Contracts (rent-to-own) Best Practices

[Chapter 511, Acts of Assembly 2019](#) introduced the Residential Executory Real Estate Contracts Act. The legislation, as initially introduced, was a recommendation of the Virginia Housing Commission and was a result of stakeholder input and Commission deliberation. The legislation sets out basic provisions for Residential Executory Real Estate Contracts (rent-to-own). Generally, a rent-to-own contract allows a renter to use their rent payments to work towards having the option to own their home. In some cases, it has been noted that landlords/owners use this as mechanism to obtain improvements to the property or other benefits while ultimately, the renter is not able to become a homeowner or retain their equity in the property. This legislation seeks to provide clarity and provide basic protection for renters in such arrangements. A provision of the legislation also requires that, “The Board for Housing and Community Development shall develop and make available on its website best practice provisions for residential executory real estate contracts.”

Enclosed you will find the referenced legislation. Staff recommends the Board approve the best practices as presented in Code, which were developed through a stakeholder process and approved by the Virginia Housing Commission. DHCD will publish and advertise in a reader friendly format on our website.

Best practice provision as required in Chapter 511, Acts of Assembly 2019

Such best practice provisions shall include (i) the full names and current mailing addresses of all parties to the contract; (ii) a legal description of the subject premises; (iii) the term of the contract or rental agreement and the amount of periodic payments or rent due; (iv) the most recent assessment of the value of the subject premises by the relevant property tax assessor, as well as the amount of property tax assigned to the property in the year preceding the transaction; (v) a statement disclosing any liens or encumbrances against the subject premises; (vi) the contract sales price for the subject premises, which shall be stated as a precise fixed amount in United States dollars; (vii) a description and the amount of any charges or fees for services that are includable in the contract separate from the contract sales price; (viii) the amount of any option payment and the deadline by which such option payment is required to be paid; (ix) the residual amount of the contract sales price that is required to be paid after the option payment has been made; (x) the total amount that the purchaser is required to pay in order to complete the purchase of the property under the terms of the contract, including the combined amount of the option, contract sales price, and rent payments coming due over the term of the contract; (xi) the amount that may be paid to extend the option, if any, and the duration of any such extension; and (xii) the notarized signature of each party and date of each signature.

Enclosure



Virginia Department of Housing and Community Development | Partners for Better Communities
Main Street Centre | 600 East Main Street, Suite 300 Richmond, VA 23219
www.dhcd.virginia.gov | Phone (804) 371-7000 | Fax (804) 371-7090 | Virginia Relay 7-1-1

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 511

An Act to amend the Code of Virginia by adding in Title 55 a chapter numbered 14.1, consisting of sections numbered 55-252.1 through 55-252.4, relating to the Residential Executory Real Estate Contracts Act.

[S 1449]

Approved March 18, 2019

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 55 a chapter numbered 14.1, consisting of sections numbered 55-252.1 through 55-252.4, as follows:

CHAPTER 14.1.

RESIDENTIAL EXECUTORY REAL ESTATE CONTRACTS ACT.

§ 55-252.1. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice in the form of a certificate of service confirming such mailing or hand delivery prepared by the sender.

"Option payment" means the amount paid by the purchaser in a residential executory real estate contract in exchange for the right to purchase the property that is the subject of such contract at a specific price within a specified time.

"Purchaser" means a person who enters into a residential executory real estate contract.

"Residential executory real estate contract" means an installment land contract, lease option contract, or rent-to-own contract by which a purchaser acquires any right or interest in real property other than a right of first refusal and occupies or intends to occupy the property as his primary residence.

"Vendor" means the person who sells, or proposes to sell, real property under a residential executory real estate contract.

§ 55-252.2. Exemptions.

The provisions of this chapter shall not apply to residential executory real estate contracts where the vendor is:

1. A natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in the Commonwealth unless the person or entity is an agent, affiliate, subsidiary, or parent company to another legal entity that owns at least one additional residential dwelling unit in the Commonwealth;

2. A real estate licensee pursuant to Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1; or

3. A bank, savings institution, credit union, or mortgage lender licensed under Title 6.2.

§ 55-252.3. Provisions applicable to residential executory real estate contracts.

A. Notwithstanding any other provision of law, a residential executory real estate contract shall be subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.).

B. Notwithstanding any other provision of law, the following provisions shall be applicable to every residential executory real estate contract:

1. The purchaser shall have the right to exercise the option to purchase the property at any time before the option expires, and no fee or penalty shall be charged to any purchaser who exercises the option at an earlier time than anticipated under the contract.

2. If the purchaser defaults in the payment of rent or other requirements under a lease, the vendor may serve notice of such default. If default is limited solely to failure to pay rent or other monetary charges, the vendor may terminate the lease and recover possession of the premises only if the delinquent obligation remains outstanding more than 30 days after notice is served upon the purchaser notifying him of (i) the nonpayment, (ii) the amount of the delinquency, and (iii) the vendor's intention to terminate the lease if the default is not timely cured.

3. The vendor may not forfeit the option payment or any portion of such payment, provided, however, that the vendor may apply the option payment (i) to any amounts owed by such purchaser under the residential executory real estate contract or (ii) as otherwise directed by court order in an interpleader action filed by such vendor pursuant to § 8.01-364 in a court of competent jurisdiction.

4. If the vendor defaults, the purchaser shall be entitled to bring an action in a court of competent jurisdiction (i) to enjoin further violations; (ii) to recover the purchaser's actual damages; (iii) for specific performance of the contract; (iv) for rescission; or (v) to receive other equitable relief as the court may find appropriate in the interests of justice.

5. The prevailing party in any proceeding under this chapter in a court of competent jurisdiction

may be awarded reasonable attorney fees and costs.

C. A residential executory real estate contract may be recorded among the land records in the office of the clerk of the circuit court where the real property is located.

D. The provisions contained in this section shall not be waived by contract.

§ 55-252.4. Board for Housing and Community Development; development of best practice provisions for residential executory real estate contracts.

The Board for Housing and Community Development shall develop and make available on its website best practice provisions for residential executory real estate contracts. Such best practice provisions shall include (i) the full names and current mailing addresses of all parties to the contract; (ii) a legal description of the subject premises; (iii) the term of the contract or rental agreement and the amount of periodic payments or rent due; (iv) the most recent assessment of the value of the subject premises by the relevant property tax assessor, as well as the amount of property tax assigned to the property in the year preceding the transaction; (v) a statement disclosing any liens or encumbrances against the subject premises; (vi) the contract sales price for the subject premises, which shall be stated as a precise fixed amount in United States dollars; (vii) a description and the amount of any charges or fees for services that are includable in the contract separate from the contract sales price; (viii) the amount of any option payment and the deadline by which such option payment is required to be paid; (ix) the residual amount of the contract sales price that is required to be paid after the option payment has been made; (x) the total amount that the purchaser is required to pay in order to complete the purchase of the property under the terms of the contract, including the combined amount of the option, contract sales price, and rent payments coming due over the term of the contract; (xi) the amount that may be paid to extend the option, if any, and the duration of any such extension; and (xii) the notarized signature of each party and date of each signature.



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COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

July 12, 2019

Memorandum

To: Board of Housing Community Development Members

From: Erik Johnston, DHCD Director

Subject: Communities of Opportunity Tax Credit Guidelines

As directed by state statute, the Department of Housing and Community Development (DHCD) administers the Communities of Opportunity Tax Credit (COTC) under guidelines approved by the Board of Housing and Community Development. This program incentivizes landlords by offering a state tax credit to rent to housing choice voucher tenants in areas of opportunity (census tracts with less than ten percent poverty). Currently, the program operates only in the Richmond Metropolitan Statistical Area (MSA). Legislation ([Chapter 19, Acts of Assembly 2019](#)) passed in the 2019 session of the General Assembly has expanded the geographic footprint of the program and will allow eligible landlords in the Virginia Beach-Norfolk-Newport's News MSA to participate. The amount of available credits remains unchanged at \$250,000 per year.

Enclosed you will find the COTC Program Guidelines Updated to include the new program areas as directed in statute; no other changes are proposed at this time. Staff recommend the Board approve the guidelines as presented.

Enclosure





**Communities of Opportunity –Virginia Tax Credit Program
Guidelines**

2019 Tax Year

Definitions

Qualified census tracts are those census tracts that have less than a ten percent of poverty rate based on the most current U.S. Census data. To determine if a specific property is located in an eligible census tract in the Richmond or Virginia Beach Beach-Norfolk-Newport News MSAs, follow the link below and enter address:

<http://www.ffiec.gov/Geocode/default.aspx>

Eligible properties include one or more units where the landlord has in place a Housing Choice Voucher Housing Assistance Payments (HAP) contract (s) for all or part of a tax year (**effective January 1, 2019**). Units must have in place executed Housing Choice Voucher Housing Assistance Payments (HAP) contract (s) with the public housing authority (PHA) or PHA contractor for the tax year. All units must be determined to be rent reasonable and pass PHA or contractor Housing Quality Standards within a year of the applicable tax year.

All eligible properties/units must be located in one of the qualified census tracts within the Richmond or Virginia Beach-Norfolk-Newport News MSAs (see eligible areas).

If a parcel of real property contains four or more dwelling units, then the total number of qualified units on the parcel is limited to 25 percent of the total number of dwelling units on that parcel.

Eligible landlords may be an individual, trust, general partnership, limited partnership (LP), limited liability partnership (LLP), limited liability company (LLC), or elected small business corporation (S corporation). All eligible landlords must be subject to the Virginia Residential Landlord and Tenant Act (VRLTA) in order to be eligible for participation in the Communities of Opportunities Virginia Tax Credit Program.

Communities of Opportunity –Virginia Tax Credit

The Communities of Opportunity Program (COP) is a Virginia income tax credit program **amended and reenacted by the 2019 General Assembly** [§58.1-439.12:04 of the Code of Virginia]. It is intended to decentralize poverty by enhancing low-income Virginians’ access to affordable housing units in higher income areas. To do this, COP provides Virginia income tax credits to landlords with property in less-impooverished areas within the Richmond **or Virginia Beach-Norfolk-Newport News** MSAs who participate in the Housing Choice Voucher program.

Eligible Program Area

COP is targeted to landlords leasing qualified housing units located in census tracts with poverty rates of less than ten percent in the Richmond and Virginia Beach-Norfolk-Newport News MSAs. The Richmond MSA includes 20 cities/counties.

Qualified housing units must be located in a qualified census tract in one of the following cities/counties:

Richmond Metropolitan Statistical Area (MSA): includes the following cities/counties	Primary Public Housing Authority*
Chesterfield County	VHDA
Henrico County	VHDA
City of Richmond	Richmond RHA, VHDA
Hanover County	VHDA
Prince George County	VHDA
City of Petersburg	Petersburg RHA, VHDA
Louisa County	VHDA
Powhatan County	VHDA
Caroline County	VHDA
Dinwiddie County	VHDA
City of Hopewell	Hopewell RHA, VHDA
Goochland County	VHDA
City of Colonial Heights	VHDA
New Kent County	VHDA
King William County	VHDA
Amelia County	VHDA
Sussex County	VHDA
Cumberland County	VHDA
Charles City County	VHDA
King and Queen County	VHDA

*Listed is the primary Housing Authority for that county/city, but vouchers from any public housing authority may be eligible

The Virginia Beach-Norfolk-Newport News includes 14 cities/counties.

Qualified housing units must be located in a qualified census tract in one of the following cities/counties:

Virginia Beach, VA Metropolitan Statistical Area (MSA): includes the following cities/counties	Primary Public Housing Authority*
Gloucester County	VHDA
Isle of Wight County	Suffolk RHA
James City County	Williamsburg RHA
Mathews County	VHDA
York County	VHDA
Chesapeake City	CRHA
Hampton City	HRHA
Newport News City	Newport News RHA
Norfolk City	NRHA
Poquoson City	VHDA
Portsmouth City	PRHA
Suffolk City	Suffolk RHA
Virginia Beach City	VA Beach Housing & Neighborhood Preservation
Williamsburg City	Williamsburg RHA

*Listed is the primary Housing Authority for that county/city, but vouchers from any public housing authority may be eligible

To determine if a specific property is located in an eligible census tract in the Richmond MSA or Virginia Beach-Norfolk-Newport News MSAs, follow link below and enter address:

<http://www.ffiec.gov/Geocode/default.aspx>

Address Search Instructions

1. Type in address and select “Search”
2. Select “Census Demographic Data”
3. Select “Income Data”
4. Under “% Below Poverty Line”, the percentage must be below ten percent

Tax Credits

The amount of tax credit for an eligible property will be based on ten percent of annual Fair Market Rent for that specific unit and prorated when units are qualified for less than the full tax year. Pro rations will be based on full calendar months.

A landlord may receive tax credits on one or more units within the same tax year.

Credits taken for any one tax year cannot exceed the tax liability for that year.

Credits not taken for the year in which they are allocated may be carried forward, but cannot be carried forward for more than five years.

Beginning in 2010 there was a total of \$450,000 per tax year that was available for tax credits for participating landlords. In 2013, the total tax year amount was reduced to \$250,000 per tax year that will be available for tax credits.

Applications received by March 1 will be processed by April 15. Tax credit certificates will be mailed to eligible landlords prior to the Virginia state tax deadline. Pass-through entities must file Form PTE with the Department of Taxation to allocate the credit.

Should eligible applications received by the March 1 deadline exceed the available tax credit amount, it will be prorated based on the total amount of qualified requests received and the total amount of credits available.

If the available amount for tax credits is not fully allocated based on qualified applications received by the March 1 deadline, the remaining balance will be allocated on a first-come first served basis. Unused balances will not be allocated more than three years after the tax year in which they were first made available.

Credits granted to partnership, limited liability companies, or elected small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders in proportion to their ownership or interest in such business entity. The landlord must assume responsibility for distributing credits in this manner.

Application Process

Landlord must sign, date, and submit the following a completed COP Tax Credit Application

Applications will only be accepted on DHCD's COP tax credit application forms.

Incomplete or incorrect applications may result in ineligibility for COP tax credits.

DHCD will process each application and verify unit eligibility with the appropriate Housing Choice Voucher administrator. DHCD will determine tax credit allocations and issue eligible landlords a tax credit certificate. It is the landlord's responsibility to submit the tax certificate with the appropriate State tax return in order to use the allocated tax credit. For more information on how to claim the credit on your state tax return, see instructions for Schedule CR (individuals) OR 500CR (C-Corporations). In the cases where a landlord is comprised of multiple individuals, the landlord assumes the responsibility of distributing the tax credits to all partners.

COP complete application packages should be mailed to:

Department of Housing and Community Development

Communities of Opportunity Program, Dawn Scott

Main Street Centre

600 East Main Street, Suite 1100

Richmond, Virginia 23219

For questions please contact:

Dawn Scott

(804) 371-7142

dawn.scott@dhcd.virginia.gov

Resources

Virginia Housing Search: <http://www.virginiahousingsearch.com/>

Eligible Property Search: <http://www.ffiec.gov/Geocode/default.aspx>

Communities of Opportunity Program: <http://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0019+hil>

Landlord Tenant Act: <https://dhcd.virginia.gov/sites/default/files/Docx/landlord-tenant/landlord-tenant-handbook.pdf>

Pass Through Entity (PTE) form (as updated by Dept. of Taxation):
<https://www.tax.virginia.gov/sites/default/files/taxforms/credits-subtractions-and-deductions/2018/pte-2018.pdf>



Ralph S. Northam
Governor

R. Brian Ball
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

July 12, 2019

Memorandum

To: Board of Housing Community Development Members

From: Erik Johnston, DHCD Director

Subject: Port Host Communities Revitalization Fund (IRF) Guidelines

As directed by state statute, the Department of Housing and Community Development (DHCD) administers the Virginia Removal or Rehabilitation of Derelict Structures Fund, which has housed a grant program known as the Industrial Revitalization Fund (IRF) since 2011. Over the 20-plus years that the Derelict Structures Fund has been in existence, the General Assembly, from time to time, directs funding through the program for specific purposes. In the past, this has included funding for site clearance and demolition, as well as construction of shell buildings. This past session, the General Assembly appropriated \$1,000,000 for FY2020 to the Derelict Structures Fund for the strategic removal or redevelopment of port related properties in the five (5) Port Host Communities of Front Royal, Newport News, Norfolk, Portsmouth, and Richmond.

The legislation which enables the creation of the Fund directs the Board of Housing and Community Development to develop guidelines by which the Fund will be administered. DHCD determined that these funds should be awarded through a separate grant program, called the Port Host Communities Revitalization Fund (PHCRF), to be administered separately but alongside the existing Industrial Revitalization Fund. This determination was made in order to avoid confusion among applicants, as well as preserve the Port Host Communities' ability to apply for the IRF program.

DHCD used a six-step public process to determine the best practices for administering this grant program in accordance with the intent of the General Assembly. That process is as follows:

1. Confer with the localities designated in the budget language to identify their needs and issues.
2. Develop draft guidelines that meet these stated needs and align with DHCD's duty to appropriately and responsibly allocate public funds.
3. Post the guidelines for public comment and hold a public meeting (held June 3rd in Newport News) to receive public comment.
4. Revise the guidelines to address the comments where possible while ensuring DHCD performed its proper duties.
5. Repost the guidelines and send them directly to the primary stakeholders (Port Host Communities and the Port Authority)
6. Present the guidelines for BHCD approval at a public meeting.

Enclosed are the proposed PHCRF Guidelines, staff recommends the Board adopt the guidelines as presented.



PORT HOST COMMUNITIES REVITALIZATION FUND (PHCRF)

*Program
Guidelines*

**Department of Housing and Community
Development**

600 East Main Street, Suite 300

Richmond, VA 23219

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**VIRGINIA DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT**
Partners for Better Communities

INTRODUCTION

The General Assembly has allocated funding to be used for the strategic removal or redevelopment of port related properties in the five (5) Port Host Communities of Front Royal, Newport News, Norfolk, Portsmouth, and Richmond. For the purposes of this program, the term “port related” will be considered to mean any non-residential structure that was built or used for a purpose related to port activities, is located near the port so as to benefit from port activities, or is located on or near a transit route (rail, waterway, or highway) that served/serves the port. These structures, in their current deteriorated condition, may not be suitable for productive use and may stand as a substantial deterrent for future economic opportunity in the surrounding area and region.

Financial barriers typically block the timely redevelopment of these structures and often they require more than local resources to attract private sector investment in order to make a deal financially feasible. Therefore, the \$1 million allocation is meant to leverage local and private resources to achieve redevelopment of these structures, creating a catalyst for long-term employment opportunities and on-going physical and economic revitalization.

Eligible properties and structures must exhibit physical and/or economic blight and may be redeveloped for any market-driven purpose including mixed-use, shell building, site clearance, or residential, regardless of the original use. For purposes of the Port Host Communities Revitalization Fund (PHCRF), market-driven purpose is defined as guided by market trends and consumer needs based on market research where there is an actual need to be fulfilled or a market problem to solve.

Availability of Funds

The \$1 million available in FY 2020 is a new allocation to the Virginia Removal or Rehabilitation of Derelict Structures Fund (DSF) established under §36-152 of the Code of Virginia. The Virginia Department of Housing & Community Development administers these funds under the PHCRF Program. Should funding be increased or decreased in this or any subsequent fiscal year, the grants awards shall be adapted accordingly.

Award Amounts

Awards for the PHCRF will be made on a threshold basis at one grant of up to \$150,000 per Port Host Community per Fiscal Year. The remaining funds, after all initial qualifying grants have been awarded, will be placed into an additional pool and will be available to be distributed to these projects based on a statement of need and distributed on a priority basis until the fund is depleted. All awards require at least a 1:1 match. With base award and potential statement of need pool funding, the maximum award per project is \$1,000,000.

ELIGIBILITY

Eligible Applicants

Only local governments of the Port Host Communities (Front Royal, Newport News, Norfolk, Portsmouth, and Richmond) may submit applications for funding. A unit of local government may apply directly for funding to use on publicly owned property **OR** on behalf of a for-profit or non-profit entity for privately owned property. Localities may designate a redevelopment authority or another similar organization as an agent for project implementation and administration, however, the Chief Administrative Officer (CAO/COO/City Manager/Town Manager) must certify that an application has been determined to be the highest Port Related priority for that



grant year.

Award Funding Structures

All PHCRF awards will be made as grants to the locality.

However, if the project property is owned or will be owned by a for-profit entity, the local government may grant the funds to the project or may lend the award to the for-profit entity and the proceeds will be returned to a revolving loan fund operated by the locality in perpetuity.

The following standard terms and conditions will apply to all projects unless DHCD determines that a regionally significant project requires more favorable terms. The terms of the loan must be agreed to by DHCD.

- Interest Rate: 2.5%
- Amortization: 10 Years
- Environmental Review
- DHCD will require an executed performance agreement with the developer
- If the locality is unwilling to manage the loan, or, by DHCD's determination, unable to manage the loan, the loan may be underwritten by Virginia Community Capital (VCC). In this case, VCC will require a commitment fee of 1% (50% due within 14 days of execution of PHCRF loan performance agreement and the remainder at PHCRF closing).

All projects, regardless of award structure, must be ready to execute a contract or performance agreement for the PHCRF funds within six (6) months of the grant award announcement.

- Agreements may be executed simultaneously to the closing of the first trust lender for primary financing or after; however, PHCRF grant/loans **will not close before** all other sources of primary financing are closed or commitment letters with a closing date have been issued.
- Failure to execute the contract or performance agreement within the six (6) month period which commences upon the announcement of the PHCRF awards may result in the PHCRF funds being reprogrammed to another project. The applicant will be given the opportunity to apply again once the project is more prepared for PHCRF loan closing. DHCD has the discretion to offer an extension beyond six months where delays are caused by circumstances beyond the control of the developer.

All projects, regardless of award structure, will be required to have a deed covenant/restriction or a lien for a period of five (5) years that requires DHCD approval prior to any sale or change in end-use for the property. In the case of a sale to private sector entity and/or a change of use during the 5-year period, DHCD may require a pro-rated repayment of the PHCRF funds based on the number of years of the deed restriction remaining.

Match

To demonstrate project viability and the applicant's commitment, applicants are required to provide a 100 percent (1:1) local match from private or public sources. The match must either be cash or documented costs that are directly associated with the improvements to the property where PHCRF funds are expended. Local match may include federal (CDBG or other), state, local, and private funds spent on activities directly related to the targeted project within the last **full** fiscal year.

A locality may use documented administrative costs as up to five percent (5%) of the local match. The use of



administrative costs as local match must be outlined in the application and will need to be documented through invoices or payroll records. The locality must provide a description of specific in-kind resources committed, including methods used to determine their value.

Example: An applicant that is seeking a \$150,000 PHCRF grant must provide a match of at least \$150,000 (100% match). This applicant could include up to \$7500 in documented administrative costs in their \$150,000 match.

If the project proposes a for-profit, private end-use, DHCD considers an equity investment by that entity into the PHCRF project as an indication of long-term commitment to the project.

Eligible Match:

- Acquisition costs - include current property appraisal as documentation of value or documentation of purchase price (HUD-1 Settlement statement, bill of sale or deed), whichever is less;
- Documented costs **directly** associated with **physical activities** on the PHCRF project site;
- Construction-related soft costs related to engineering, design or architectural activities (must be specifically identified in the application). These costs may include new construction in the case of a project that includes expansion of the building/facility;
- Investments into Machinery & Tools, taxable by the locality;
- Public notices, permit or dumping fees and inspections costs (or waivers of such) directly related to physical activities (must be specifically identified in the application);
- Improvements to municipally owned utility infrastructure, such as water and sewer lines, may be considered match, if the improvements directly and specifically increase the capacity of services to the target project building/facility so as to allow for a higher and/or more intensive use at the project site. This shall not be construed to include general utility maintenance and/or improvements that benefit the community as a whole or a large portion of the community outside of the project area.
- No more than five percent (5%) local match will be accepted as in-kind or cash for out-of-pocket administrative costs.

Ineligible Match:

- State or local taxes;
- Interest or principal payments on current debt on the property;
- Investments in Business Personal/Tangible Property (Furniture, Fixtures, and Equipment).

Eligible Use of Funds

The PHCRF program is flexibly designed so that funds can be used for a wide variety of revitalization and redevelopment activities such as **acquisition, rehabilitation, or repair** (including securing and stabilizing for subsequent reuse) of specific structures, as well as site remediation, **demolition, removal**, and other **physical activities**.

In the case of acquisition, DHCD will limit its financial participation to the property's fair market value and the associated legal costs of acquisition. Fair market value is considered to be the lesser of the property's documented acquisition costs or appraised value. PHCRF funds may also be used for the legal costs associated with demolition. However, funds may not be used **solely** for acquisition or demolition unless it can be demonstrated that the locality has committed other redevelopment funds to the property, and there is a market-based redevelopment plan outlining reuse options, target markets/niches, and a property marketing strategy including the entity responsible for implementation. In addition, action must be taken by the locality to improve the property's readiness for redevelopment. Generally, demolition should be used only in circumstances where the size or location of a building precludes any significant redevelopment potential or in cases where there is an imminent



safety threat.

While site remediation is an eligible activity for PHCRF, Virginia's Department of Environmental Quality offers several programs to assist with remediation and environmental assessment including the Voluntary Remediation & Brownfields/Land Renewal Programs. Port Host Communities should exhaust these resources first before applying PHCRF funds to fill any gaps. Visit <http://www.deq.virginia.gov> for more information. Grant administration is **not** an eligible activity for PHCRF.

It is **not the intent** of the PHCRF Program to fund the relocation of existing Virginia businesses into a redeveloped structure, particularly if the relocation or expansion occurs simultaneously with the closure or significant reduction of operations in another Virginia locality. If this type of project is proposed as part of a significant expansion, the applicant must demonstrate that it is clearly part of the community or region's economic development strategy and how business relocation has a quantifiable impact on that strategy.

Eligible Properties

According to the Code of Virginia § 36-3, a "blighted property" means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any structure or improvement previously designated as blighted pursuant to § 36-49.1:1, under the process for determination of "spot blight."

The program is targeted toward (functionally) **vacant/underutilized and deteriorated** properties whose poor condition creates a notion of physical and economic blight in the surrounding area, and often is a deterrent to surrounding development. Projects may consist of multiple properties provided they are adjacent and/or adjoining and are related in either their negative impact (e.g., three adjacent severely deteriorated downtown buildings that create a negative impact on the remainder of the block) or end use (e.g., rehabilitation of an abandoned warehouse into a shell building with purchase of adjacent property for parking.)

Eligible properties and structures may be redeveloped for any market-driven purpose including commercial, industrial, retail, mixed-use, shell building, site clearance, or residential, regardless of the original use.

It is **not the intent** of the PHCRF Program to fund new construction, scattered site projects or the development of greenfield properties.

FUND ACCESS

In the case of **GRANTS**, a contract between DHCD and the grantee outlining end products, conditions, fund disbursement and termination must be executed **before any funds are disbursed**. Funds may only be used for **expenses incurred after the signing of the contract, unless otherwise negotiated with DHCD**. PHCRF grant funds are available on a **reimbursement basis only**, for **costs** the applicant has incurred and paid for. Documentation of matching funds must be submitted with each remittance before any funds are disbursed.

In the case of **GRANT/LOANS**, PHCRF funding will be released as a grant to the applicant local government entity (or approved Development Authority), or Virginia Community Capital, at DHCD's sole discretion, who will then make a loan to the private developer pro-rata with other funders or once other sources are expended. This will be determined in discussion with developers upon DHCD's award notification.



Funding Priorities

The ultimate intent of the PHCRF program is to fund **shovel-ready** projects that will act as a catalyst to spark additional private investment and job creation in Port Host Communities, especially in areas that have been targeted for economic development and community revitalization as part of a larger economic restructuring or economic development strategy. Based on that intent, DHCD has established the following funding priorities:

1. Clear relationship to a local or regional economic development strategy.

Applicants must identify the economic development strategy that the proposed project will support. This strategy should be an element of an existing redevelopment, blight removal, or economic development plan, and applicants should cite the specific documents that substantiate the goals of project. Applicants must explain what is currently being done in the community and how the PHCRF funds will accelerate and expand those economic restructuring and development activities. Additionally, the application should identify why the proposed project is being prioritized for PHCRF funds over other projects in the locality.

2. High degree of blight and deterioration to be addressed.

Applicants must describe the extent of the physical deterioration and identify the negative impact the property is having in the community and/or the ability of the existing structure to be put to productive use. DHCD is seeking to invest in projects that will address the negative impact the property has on the community's ability to attract private investment and job creation. Applicants must demonstrate that addressing the property is a local priority. Higher priority should be given to projects involving blight abatement and elimination, than those proposing blight prevention.

3. Project readiness.

DHCD will give higher priority to shovel-ready projects that will lead to the efficient and **immediate** redevelopment of blighted properties. Projects that can demonstrate "readiness to proceed" will be given the greatest consideration. Readiness to proceed is demonstrated by having **finalized plans** and **primary financing in place** (formal letters of interest, term sheets or letters of commitment) for an identified **end-use/user**. Capacity for project implementation by the locality or developer will also be a consideration in project readiness. For applications requesting grant funding, readiness to proceed should be demonstrated by community support for the project, and the receipt of public input where appropriate. **NOTE:** Any developers, contractors, and professional services funded by an PHCRF grant must be procured in accordance with the [Virginia Procurement Act \(VPPA\)](#). Applicants should submit documentation to detail that procurement requirements have been met for any professional services contracted to date. Grantees will be required to submit documentation to detail that procurement requirements have been met, prior to any execution of contracts that obligate PHCRF funds. See the list of items that should be provided, if available, to show project readiness

Projects that can show the ability to close on the PHCRF loan or go under contract with DHCD within six months of an PHCRF award notification are preferred. DHCD reserves the right to withdraw funding should the applicant not be under contract/close the PHCRF loan in a reasonable amount of time. DHCD also reserves the right to withdraw funding if there are substantial or significant changes to the development team, scope of work or community economic benefit that have not been approved by DHCD.

4. Project with a clear end use.

Successful applicants will be able identify a tangible end-use to be completed in a reasonable amount of time, typically an 18-month timeframe, or to demonstrate that the cleared pad site or shell building is necessary for



future economic or community activity. Successful projects should have executed development agreements, commitment letters from non-profit partners, operations/management agreements, leases for space, and detailed operations plans when possible. Projects that have speculative or undetermined end uses will be considered. If the application proposes a non-profit end use, the applicant or end user must demonstrate long-term sustainability by providing a 10 year operating pro forma and other documentation of financial solvency.

5. End use will have a clear and significant community economic impact.

Applicants must describe how the project will have a clear positive impact on the community. Applicants must demonstrate how the completion of the PHCRF project will be a catalyst to larger economic revitalization efforts in the locality and region and may spark additional investment in the surrounding area. Applicants should include quantified expectations for primary impact (such as net new jobs, new businesses, and leveraged private investment) and any secondary impact (such as increased local sales, meals, or lodging tax revenue, increased export or non-export (tourism) revenues, increased daily and/or overnight visitors, and availability of commercial square footage.) In addition, applicants should describe how the project may be catalytic to the community in non-economic terms (such as access to services or resources, workforce development, and quality of life improvements). For PHCRF purposes, a full-time equivalent job is defined as employment of at minimum 35 hours per week. Existing employees or unpaid volunteer positions should not be included in job creation projections and will not be considered in application scoring unless these positions are being made available to a lower income neighborhood through the rehabilitation of a derelict structure.

Other Considerations

DHCD encourages localities to apply for projects that will have a strong significance to the broader community and region, in areas of ongoing or identified redevelopment/revitalization. Applicants are strongly encouraged to consider projects that meet the following characteristics:

- Part of a significant **regional focus**. This includes projects located in an area covered by a revenue sharing agreement or projects cited in a formal regional economic development plan.
- Eligibility for local real property tax abatements (§58.1-3221) or other **local incentives** to encourage investment.
- Location in an **Enterprise Zone** and ability to qualify for the state and local incentives. **PHCRF loans** may be included in the Enterprise Zone Real Property Investment Grant schedule of Qualified Real Property investments, while **PHCRF grants** must be excluded.
- Location in a designated **Opportunity Zone**, a local, state or federal **historic district**, a **redevelopment or blight removal district**, a **Technology Zone**; or other similar district.
- Location in a current **CDBG project area**.
- Committed project leverage exceeds 1:1 match.

Prioritization

A locality may only submit one application per funding round; therefore, localities must identify and authorize the project that will have the most meaningful impact on local community revitalization and economic development efforts. As such, a resolution from the local Chief Administrative Officer authorizing the request for funding is an application requirement. If the locality is applying on behalf of a non-profit or private for-profit, the resolution should indicate the specific match amount and identify the entity that will be responsible for providing the matching funds.



STATEMENT OF NEED FUNDING

All Port Host Communities may apply for additional funds of between \$50,000 and \$850,000 for their prioritized project. The amount of additional funding should be based on the funding gap for the individual project. DHCD reserves the right to reduce or pro-rate the amount awarded, based on an internal funding analysis and/or demand for the limited funds.

Application for Statement of Need Funding shall be made at the time of application for the PHCRF by answering additional questions in the CAMS application. The Statement of Need awards must be matched on at least a 1:1 basis.

SUBMISSION REQUIREMENTS

Applications for PHCRF funding must be submitted through DHCD's Centralized Application Management System (CAMS). You can access CAMS using the following link: <https://dmz1.dhcd.virginia.gov/camsportal/Login.aspx>

AWARDS

PHCRF awards will be allocated through a threshold process that will ensure that each project funded serves the public interest and will remove blight while spurring additional private investment. Localities should give greater priority to projects leading to the efficient and immediate redevelopment and/or reuse of abandoned "industrial" structures. Applications will be awarded funding based on the thorough demonstration of following criteria:

Relationship to Economic Development Strategy
Readiness
End Use Plans
Economic Impact
Elimination of Blight
Minimum \$1:\$1 Match

A strong application will be able to document that the project is **ready-to-go, but could not be finished without the injection of the PHCRF funds.**

PERFORMANCE AGREEMENTS & CONTRACTUAL OBLIGATIONS

Successful applicants will be **required to sign a contract/performance agreement** committing them to the economic outcomes, property use, fund use and match outlined in approved application and any pre-contract/performance agreement negotiations.

All applications, contracts and performance agreements are subject to negotiation with DHCD. All projects will be required to have a deed covenant/restriction or a lien for a period of 5 years that requires DHCD approval prior to any sale or change in end-use for the property. In the case of a sale to private sector entity and/or a change of use during the 5-year period, DHCD may require a pro-rated repayment of the PHCRF funds based on the number of



years of the deed restriction remaining. DHCD will not unreasonably withhold approval for project changes and changes in property ownership.

All approved projects will be committed to a project completion date of 18 months from contract execution/loan closing, by which all activities must be completed and drawdown requests/loan disbursements submitted to DHCD/VCC. Any project that receives funding and does not use all of its designated funds by the project completion date specified in its contract/loan award may lose the remaining fund balance.

SUBSTANTIAL PROJECT CHANGES AFTER APPLICATION SUBMITTAL

DHCD reserves the right to rescind the funding offer if substantial changes to the project scope and/or financing needs occur after application submittal. DHCD will be concerned of the impact of such on project cash flow, project timing, need for PHCRF funding, intent of the PHCRF program, and projected outcomes as outlined in the original application. To maintain consideration for PHCRF funding, substantial changes to project scope and/or budget will require applicants to provide DHCD with an updated description of the project. DHCD will not unreasonably withhold approval of projects that will meet the established criteria above.

CONTACT

For more information on the PHCRF program please contact:



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COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

July 12, 2019

Memorandum

To: Board of Housing and Community Development Members

From: Erik Johnston, DHCD Director

RE: Public Participation Guidelines Update

At the May 13, 2019 meeting, the Board of Housing and Community Development made a recommendation to amend the Public Participation Guidelines (13VAC5-11) as a result of a Periodic Review of the regulations. The purpose of recommending to amend the regulations was to include model language provided by the Department of Planning and Budget as a result of Chapter 795 of the 2012 Acts of Assembly. This language clarifies that persons providing public comment during the regulatory process may be represented by counsel or another representative. As the change is noncontroversial, it will likely be able to utilize the “fast-track” process for expedited review. Staff recommends the Board approve the enclosed amendments to the Public Participation Guidelines.

Enclosure

Partners for Better Communities



www.dhcd.virginia.gov

Part III

Public Participation Procedures

13VAC5-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to (i) submit data, views, and arguments, either orally or in writing, to the agency, and (ii) be accompanied by and represented by counsel or other representative. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.
4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.