



Glenn Youngkin
Governor

Carren Merrick
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Bryan W. Horn
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

October 6, 2023

MEMORANDUM

TO: Board of Housing and Community Development Members

FROM: Kyle Flanders

SUBJECT: October 16, 2023 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, October 16, 2023. The full Board will convene at 10:00 a.m. 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.

Please contact me as soon as possible to let me know whether you will or will not be able to attend. 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



AGENDA
BOARD OF HOUSING and COMMUNITY DEVELOPMENT
Monday, October 16, 2023
Virginia Housing Center
4224 Cox Road, Glen Allen, VA
Public Comment before the Board will begin at 10:00 a.m.

In addition to in-person public comment, there will be a virtual public comment option. Please contact kyle.flanders@dhcd.virginia.gov to sign up for public comment.

Microsoft Teams Joining Info:

[Click here to join the meeting](#)

Call in (audio only) +1 434-230-0065 | Phone Conference ID: 254 400 082#

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| I. | OPENING | |
| | a. Call to Order | Chairman |
| | b. Roll Call | Kyle Flanders |
| | c. Public Comment | Chairman |
| II. | CONSENT AGENDA | Chairman |
| | o <i>Approval of Minutes</i> : August 28, 2023 | |
| III. | VIRGINIA LOW INCOME HOUSING TAX CREDIT
RULES and REGULATIONS REPEAL
<i>Action Item</i> | DHCD Staff |
| IV. | AGRITOURISM EVENT STRUCTURE TECHNICAL
ADVISORY COMMITTEE UPDATE | DHCD Staff |
| V. | REPORTS AND INFORMATION | |
| | a. Virginia Housing Report | Susan Dewey |
| | b. Report of the Virginia Fire Services Board | J.M. Snell |
| | c. Report of the Director | Bryan Horn |
| VI. | UNFINISHED BUSINESS | Board members |
| VII. | NEW BUSINESS | Board members |
| VIII. | BOARD MATTERS | Board members |
| IX. | FUTURE BOARD MEETING DATES | Bryan Horn |
| | o December 11, 2023 <i>tentative</i> | |
| X. | ADJOURNMENT | Chairman |

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

August 28, 2023

10:10 A.M.

Tuckahoe Area Library

Henrico, VA

Public Comment - <https://youtu.be/LHdgFBipFZo>

Members Present

Louie Berbert
Claudia Cotton
Susan Dewey
Sean Farrell
Lynne Goldberg
Richard Gregory
Sylvia Hallock
Abigail Johnson
Roger Jones
J.M. Snell
Scott Stosser
Mark Trostle

Members Absent

Larry Murphy
Keith Johnson

Call to Order

Mr. Rick Gregory, Vice-Chairman of the Board of Housing and Community Development, called the meeting of the Board to order at 10:10 am.

Roll Call

The roll was called by Mr. Kyle Flanders of the Department of Housing and Community Development's Policy Office. Mr. Flanders reported that a quorum was present. Mr. Flanders reported that no members were participating virtually.

New Board members and staff were introduced.

Annual Election of Officers

Mr. Gregory turned the meeting over to DHCD Director Bryan Horn. Mr. Horn noted that Louie Berbert had expressed interest in serving as chair. No other board member was nominated to be chair and the floor was closed to nominations. Mr. Berbert was elected chair by acclamation.

Mr. Berbert opened the floor for nominations for Vice - Chair of the Board. Mr. Gregory was nominated as Vice - Chair, there were no other nominations and the floor was closed to nominations. Mr. Gregory was re-elected Vice - Chair by acclamation.

Public Comment

Mr. Berbert opened the floor for comment beginning with virtual speakers.

Ms. Meredith Haines spoke in support of energy efficiency measures including required heat pumps as well as solar and electric vehicle readiness.

Mr. Bill Penniman spoke regarding energy efficiency measures to include heat pumps, electric readiness, and pollution reduction. He also indicated there was not justification for changes in the energy code related to certain manufacturing and storage use groups.

Ms. Susan Stillman spoke in opposition to energy code changes in warehousing buildings requesting the board reject those changes.

Mr. Michael Trauberman, speaking on behalf of the Falls Church Environmental Sustainability Council, spoke in favor of adopting the 2021 IECC without weakening amendments.

Ms. Susan Bonney, member of the Sierra Club Great Falls Group, spoke in support of adopting the 2021 IECC noting the cost savings to residents should it be adopted.

Mr. Jay Riat, building official for Fairfax County, spoke on behalf of adopting updated energy codes. He noted the importance of long-term cost savings and environmental benefits and indicated that the changes were not an impediment to affordable housing.

Mr. Dan Willham, Deputy Building Official for Fairfax County, spoke in support of the 2021 IECC, noting the long-term affordability impact of energy efficiency measures.

Mr. Charles Gerena spoke on behalf of electric vehicle owners in metro Richmond advocating for changes that increase charging options for EV owners.

Mr. Robert Glass of Daikin Comfort Technologies, spoke regarding the inclusion of guidance related to the use of A2L refrigerants and when the new building code would become effective.

Mr. Dan Storck of the Fairfax County Board of Supervisors spoke in support of full adoption of the IECC, indicating its measures would support the County's efforts at energy efficiency.

Mr. Thomas Deary of the Air Conditioning Heating and Refrigeration Institute echoed the comments of Mr. Glass regarding A2L refrigerants.

The Chair called for in person speakers.

Mr. Steve Shapiro, speaking on behalf of the VA Apartment Management Association (VAMA) and the Apartment and Office Building Association (AOBA) , supported the adoption of the final regulations without additional amendment and indicated the board and stakeholders had done significant work in achieving consensus and balancing affordability and other measures.

Mr. Eric Lacey of the Responsible Energy Codes Alliance spoke on behalf of energy efficiency measures supporting the work that had been done this code cycle but encouraged continued work around energy efficiency.

Mr. Bob Shippee spoke regarding the benefits of adopting the 2021 IECC without amendments and noted he believed it was necessary to comply with recent legislation.

Mr. Jason Laws of the Virginia Building and Code Officials Association spoke in support of the code adoption process and the work that had been done by stakeholders to reach consensus on many issues. He also shared his support for the continued use of CdpVA because of the increased access it provides for stakeholders to participate in the code development process.

Ms. Maryia Lackansingh speaking on behalf of Women in Code Enforcement and Development spoke in support of the code adoption process and in support of the work stakeholders and the board had done to achieve consensus on many issues.

Upon conclusion of the public comment, the meeting was adjourned until the close of the committees.

The meeting was called to order at 11:04 am and Mr. Flanders called the role, reporting that a quorum was present.

Approval of Minutes

A motion was made and properly seconded to approve the minutes of the May 8, 2023, meeting of the Board; the motion passed.

After a brief recess called by the chair, the meeting reconvened at 11:13 am.

Codes and Standards

Mr. Berbert provided a report of the Codes and Standards Committee noting recommendations regarding the Statewide Fire Prevention Code, Uniform Statewide Building Code, Industrialized Building Safety Regulations, and the Virginia Amusement Device Regulations.

The recommendation of the committees and the joint boards to adopt the final regulations for the Statewide Fire Prevention Code, to include the repeal of Chapter 51 and the promulgation of Chapter 52, was presented as a standing motion. The motion passed.

The recommendation of the committee to adopt the final regulations for the Uniform Statewide Building Code was presented as a standing motion. The motion passed with Ms. Abby Johnson abstaining.

The recommendation of the committee to adopt the final regulations for the Industrialized Building Safety Regulations was presented as a standing motion. The motion passed.

The recommendation of the committee to adopt the final regulations for the Virginia Amusement Device Regulations was presented as a standing motion. The motion passed.

Virginia Economic
Development Partnership

Ms. Nicole Riley of the Virginia Economic Development Partnership spoke to the Board regarding the Administration's InnoVAtive Framework. She noted the importance of linking housing with jobs and the innovative work being done to this end.

Private Activity Bond
Update

Mr. Flanders and Director Horn presented an update on the Private Activity Bond process. It was noted there would be additional updates and opportunities for stakeholder input in the coming weeks.

Agritourism Event Structure Technical Advisory Committee (AGTAC) Update	<p>Mr. Chase Sawyer of the DHCD Policy Office updated the Board on legislation directing the AGTAC Committee to meet and discuss certain items prior to the next General Assembly Session.</p> <p>Mr. Sawyer provided updates on the work of the committee, including work to draft non-binding guidance related to legislation that recently became effective.</p>
Virginia Housing Report	<p>Ms. Susan Dewey, CEO of Virginia Housing, reported that information on the next round of the Housing Opportunity Tax Credit would be coming out soon.</p>
VFSB Report	<p>Mr. J.M. Snell noted that the Fire Services Board would be meeting in September</p>
Report of the Director	<p>Director Horn noted that as the state budget had not yet been adopted, he would provide a more detailed update at a future meeting. He noted that federal Broadband Equity and Deployment (BEAD) announcement had occurred, and Virginia would deploy \$1.4 billion to provide broadband access across the state.</p>
Unfinished Business	<p>There was no unfinished business.</p>
New Business	<p>Mr. Berbert recognized Mr. Billy Hux of the State Fire Marshal’s Office (SFMO) to present information regarding fees related to food truck inspections. Mr. Hux indicated that the requirement to inspect food trucks brought in during the last code update did not allow fees to also be included for their inspection. After discussion it was determined that staff would return to the Board with options related to fees for food truck inspections performed by the State Fire Marshal’s Office.</p>
Board Matters	<p>Staff noted that the Board was welcome to attend the Virginia Governor’s Housing Conference in Hampton in November.</p>
Future Meetings	<p>The next meeting of the Board will be September 18, 2023.</p>
Adjournment	<p>Upon a motion duly made and seconded, the meeting was adjourned.</p>



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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

Memorandum

To: Board of Housing Community Development Members

From: Bryan Horn, DHCD Director

Subject: Repeal of Rules and Regulations for the Virginia Low Income Housing Tax Credit
Regulation Repeal (Legacy Program) 13 VAC5-175

Date: October 6, 2023

In 2016, Section 36-55.63 of the Code of Virginia was repealed. This Code Section enabled regulations to be promulgated by the Board for the Virginia Low Income Housing Tax Credit program. With the enabling legislation repealed, the regulation should also be repealed. As a note, there is a new and separate state tax credit, the Housing Opportunity Tax Credit, operated under regulations promulgated by the Virginia Housing Board of Commissioners. The repeal of the above regulation does not impact the program being operated by Virginia Housing.



Virginia Administrative Code

Chapter 175. Rules and Regulations for the Virginia Low-Income Housing Tax Credit

13VAC5-175-10. General requirements and application.

A. To qualify for the Virginia low-income housing tax credit, the applicant must qualify for and claim the federal low-income housing tax credit in accordance with [13VAC10-180](#), Rules and Regulations for Allocation of Low-Income Housing Tax Credits. The Virginia Housing Development Authority allocates the federal low-income housing tax credit in Virginia.

B. The Department of Housing and Community Development (the department) is designated to approve, allocate, and certify the use of the Virginia low-income housing tax credit. An application for certification to use the state tax credit must be filed with the department, on a form prescribed by the department. The application shall provide taxpayer identification, information regarding the housing unit or units for which a tax credit is sought, and information confirming the allocation of the federal low-income housing tax credit during the taxable year. The department may require any additional information and documentation. After reviewing applications, the department shall notify each applicant of the total Virginia low-income housing tax credit allocated for use by the applicant. The department shall certify the total Virginia low-income housing tax credit allocated for use by each approved applicant to the Department of Taxation or the State Corporation Commission.

Statutory Authority

§ [36-55.63](#) of the Code of Virginia.

Historical Notes

Derived from Virginia Register [Volume 16, Issue 4](#), eff. October 20, 1999; amended, Virginia Register [Volume 18, Issue 7](#), eff. January 1, 2002.

13VAC5-175-20. Availability of Virginia low-income housing tax credit.

The Virginia low-income housing tax credit is available for qualified housing units placed in service on or after January 1, 1998, in accordance with § [36-55.63](#) of the Code of Virginia. The state tax credit for each project is based on a percentage of the federal tax credit allowed and claimed for the project. Any portion of the amount allocated may be used during the first year of the allocation, if feasible, or may be carried forward and used in subsequent years in accordance with § 58.1-435 of the Code of Virginia. The amount of a state low-income housing tax credit that may be used for any project during any tax year shall not exceed the amount certified as feasible by the Virginia Housing Development Authority.

Statutory Authority

§ [36-55.63](#) of the Code of Virginia.

Historical Notes

Derived from Virginia Register [Volume 16, Issue 4](#), eff. October 20, 1999; amended, Virginia Register [Volume 18, Issue 7](#), eff. January 1, 2002.

13VAC5-175-30. Amount and allocation of the Virginia low-income housing tax credit.

The department shall allocate the Virginia low-income housing tax credit up to the maximum amount allowed during any calendar year as specified by § [36-55.63](#) of the Code of Virginia. The department shall review each application and, based on the application and other information available to the department, shall assign points to each project as follows:

1. Any project that qualifies as a "hard-to-develop" project as defined by the Virginia Housing Development Authority in the federal low-income housing tax credit application manual. (40 points)
2. Any project that is located within, or that if awarded a state low-income housing credit will locate within, a Virginia Enterprise Zone, a Virginia Housing Revitalization Zone or a "revitalization area" as defined by the Virginia Housing Development Authority, provided the development of low-income housing within such zones or areas was included as part of the application under the above-referenced community development programs. (40 points)
3. All other qualified low-income housing projects not qualifying for points in subdivision 1 or 2 of this section. (20 points)
4. One bonus point for each residential unit reserved for households at or below 40% of area median income, as determined by the application for federal low-income housing tax credits (up to a maximum of 40 bonus points).

The state credit allocated may be used any time during the five-consecutive-year period beginning with the first year the federal low-income housing tax credit is claimed for the project. The allowable amount of the Virginia low-income housing tax credit for any qualified applicant shall be the lesser of (i) 20% of the amount of the federal low-income housing tax credit allowed during the five-year period or (ii) the amount certified as feasible by the Virginia Housing Development Authority. Upon assignment of points to all applications, the department shall rank the applications based on the number of points assigned. Those applications assigned more points will be ranked higher than those applications assigned fewer points. Applications with the highest rankings shall receive allocations up to the allowable amount prior to any allocations to lower ranking applicants.

Allocations will be made to projects up to the statutory maximum amount of tax credits allowed during the calendar year.

In the event of a tie in the number of points assigned to two or more projects where a full allocation to each applicant with that point total would exceed the maximum tax credit amount authorized by statute during any calendar year, the department shall calculate a pro rata reduction of the amount of tax credit to be allocated to each approved applicant. This reduction shall be made to assure that the established maximum tax credit allocation is not exceeded. The pro rata reduction will not apply to or affect allocations to projects with a higher point total.

Statutory Authority

§ [36-55.63](#) of the Code of Virginia.

Historical Notes

Derived from Virginia Register [Volume 16, Issue 4](#), eff. October 20, 1999; amended, Virginia Register [Volume 18, Issue 7](#), eff. January 1, 2002.

13VAC5-175-40. Recapture of Virginia low-income housing tax credit.

The Virginia low-income housing tax credit is a percentage of the federal low-income housing tax credit allowed and claimed. If any person claims the Virginia low-income housing tax credit and is subject to the credit recapture provisions for federal income tax purposes in a subsequent taxable year, the applicant shall, similarly, be subject to a recapture of the state tax credit amount claimed on the Virginia income tax return. The percentage of the federal tax credit recaptured will be used to calculate the amount of the state tax credit to be recaptured. The total recaptured amount of the state tax credit shall be payable to the Virginia Department of Taxation or the State Corporation Commission during the taxable year in which the federal recapture is required.

Statutory Authority

§ [36-55.63](#) of the Code of Virginia.

Historical Notes

Derived from Virginia Register [Volume 16, Issue 4](#), eff. October 20, 1999; amended, Virginia Register [Volume 18, Issue 7](#), eff. January 1, 2002.

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