

**BOARD OF SUPERVISORS
FINANCE/GOVERNMENT OPERATIONS AND
ECONOMIC DEVELOPMENT COMMITTEE
INFORMATION ITEM**

SUBJECT: Statewide Fire Prevention Code Amendments

ELECTION DISTRICT: Countywide

STAFF CONTACTS: Chief W. Keith Brower, Jr., Fire, Rescue and Emergency
Management
Chief Fire Marshal Linda Hale
Charles Yudd, Assistant County Administrator
Gwen Kennedy, County Administration

PURPOSE: To discuss issues occurring at the State level with respect to changes being made to the Statewide Fire Prevention Code (SFPC) and their potential detrimental effects on Loudoun County's ability to local fire prevention regulations.

BACKGROUND: Since last summer, Loudoun County Combined Fire and Rescue System Chief Brower has been working with the Board's legislative liaisons in Richmond, Hefty, Wiley and Gore (HWG) to seek improvements to the current process used by the Board of Housing and Community Development (BHCD) to update the Statewide Fire Prevention Code (SFPC). The original concern was that the code development process and the membership of the various stakeholder groups and committees involved is heavily weighted in favor of the building and related property industry. It does not allow for adequate representation (quantity) or input from the fire safety community and the process lacks full transparency. The immediate concern is that DHCD staff at the direction of the BHCD is leading an "off-cycle" work process to edit the SFPC in a manner that several Virginia fire service groups believe will negatively impact public safety.

At issue specifically with this work group is the removal of "unenforceable" language within the SFPC which generally relates to construction requirements contained within the Uniform Statewide Building Code (USBC), under the explanation that Fire Marshals are not permitted to enforce construction requirements. While this is true, the SFPC and USBC are designed to work in a complementary fashion, meaning that for most construction, the USBC is the governing document and the SFPC maintains the construction. However, by removing the construction requirements with respect to means of egress, interior flammable finish, storage of hazardous substances, among others, there is no reference available to initiate corrective measures for maintenance of safe buildings. Further, certain provisions of enforcement are being removed due to DHCD staff's interpretation is that they are "construction" requirements. An example is the proposed elimination of requirements in Chapter 10, "Means of Egress", to require that an

occupant load sign to be posted and maintained. Another is the proposed elimination of the ability of the Fire Marshal to establish a safe occupant load in outdoor areas. Last, it is proposed to eliminate the use of locks and latches in certain instances on egress doors with the approval of the Fire Marshal. All of these proposed changes will have a negative effect on public safety.

Over the last year, Chief Brower, on behalf of the Board of Supervisors, as well as the Virginia Fire Prevention Association and other fire service organizations, sent letters to Secretary of Public Safety and Homeland Security, Brian Moran, and to Secretary of Commerce and Trade, Maurice Jones expressing these concerns in detail (Attachments 1 and 2).

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Under state policy, the BHCD has sole responsibility to promulgate statewide regulations for the building code, fire prevention code, property maintenance code and related regulations. The BHCD consists of fourteen members, including eleven members appointed by the Governor from each of Virginia's Congressional Districts, a representative from the Virginia Fire Services Board (VFSB) (appointed by the Chairman of that Board), the Executive Director of the Virginia Housing Development Authority (VHDA) and the Director of Regulatory Compliance of the Virginia Building Officials Association (VBCOA). While the composition meets the intent of regional representation, the actual membership is dominated by representatives from the architectural, building and other commerce industries of the state. The following is a listing of the current BHCD membership:

Robert Kaplan, Real Estate Investment
Roger McLellon, Marque Homes
Susan Dewey, VHDA
Shekar Narasimhan, Property Management and Real Estate Broker
John Ainsle, Ainsle Homes
Steve Semones, President, New River Valley Homebuilder's Association
James R. Dawson, VFSB
J.P. Carr, Merrifield Homes
James Petrine, Enirtep, Inc.
Patricia Shields, Attorney
Rick Witt, VBCOA
Brian Mullins, Builder
Tommy Shields, Shields Construction
Anthony Clatterbuck, Graystone Homes

By statute, the BHCD and the VFSB, also a gubernatorial appointed body, is supposed to have an equal stake in the fire prevention code development process through joint “VFSB/BHCD meetings.”

27-97. Adoption of Fire Prevention Code.

The Board of Housing and Community Development is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board pursuant to procedures agreed to by the two Boards...

Over the years, there has been a seven (7) member joint subcommittee convened to address changes to the SFPC. The subcommittee is represented by three (3) members of the VFSB, three (3) from the BHCD and the Chairman, who is also serves on the BHCD. This composition has often resulted in the Chairman resolving the deadlock, and often the Chair’s votes do not favor public safety. It is important to note that even if there is a vote in favor of the fire service perspective on an issue, it must still survive the full BHCD vote. Once again, there is only one fire service representative on the BHCD and therefore one vote.

Chief Brower has advocated a more balanced process to develop the SPFC at the BHCD level. Such a model could be structured to isolate the SFPC development by a group with much broader representation of the Virginia fire service. At a minimum, this would eliminate the single vote issue on critical life safety matters.

CURRENT FIRE PREVENTION CODE WORK GROUP PROCESS

Following a BHCD meeting last year, DHCD staff initiated the current work group to make “editorial” changes to the SFPC. The stated intent of this exercise is to eliminate “unenforceable” provisions of the SFPC where it references or duplicates regulatory language contained in the USBC.

While in principle, this sounds like a benign endeavor, the various Virginia fire service groups question the true motivation for this action. There is no public record to the best of everyone’s understanding that the BHCD voted to approve creation of this work group. Furthermore, there was no statement of the problem by the BHCD to the fire service prior to the work group’s formation. It appears this is an effort led at the direction of a single member of the BHCD.

Chief Brower has expressed three primary concerns:

1. *Expedited Review and Lack of Full Transparency:* The pace with which this review is occurring and the lack of transparency with meeting minutes and comments makes it difficult for the collective fire service to be consistent and meaningful participants in the review process. The meetings are being held in Richmond, two (2) to three (3) times per month, which makes it difficult for local Fire Marshals across the state to attend regularly. This has led to gaps in the review. In addition, on several occasions, summaries from a prior meeting are released which do not accurately report the fire services position. It is important to note that the

Loudoun County Department of Fire, Rescue and Emergency Management recently hired a part time employee who possesses significant experience in the development and enforcement of the SFPC, to provide consistent representation for Loudoun County with regard to the work group's efforts and will be following these matters closely.

2. *Lack of Requested Involvement from Fire Service:* The Virginia fire service, specifically the Virginia Fire Services Board (VFSB) should have been asked to coordinate this process in order to ensure the proper representation of trained fire prevention code inspectors. Instead, participation was determined by DHCD and failed to result in the appropriate cross section of the fire service that normally deals with the code development process. In addition, DHCD selected other groups to participate in this review, most notably the Virginia Building Code Officials Association (VBCOA), the Apartment and Office Building Association (AOBA), the Retail Merchants Association (RMA), the Virginia Association of Realtors (VAR), the American Institute of Architects (AIA) and the Virginia Petroleum Convenience and Grocery Association (VPCGA). These groups do not include individuals who are trained and certified as fire prevention code inspectors, and they generally lack knowledge on the technical discussions which are so vital to this review.

3. *Changes are Substantive and Not Just Editorial:* Chief Brower and the Virginia Fire Service are also concerned that many proposed deletions from the SFPC are in fact "substantive" and would actually have the deleterious impact of not allowing for proper enforcement; and therefore negatively impacting public safety. For example, the storage amounts for hazardous materials are the most recent source of debate and concern for public safety.

At a recent meeting with Secretary Jones at the request of several Virginia fire service representatives, the Secretary directed DHCD staff to make changes to the SFPC development process to address some of these concerns. This included the development of a table which clearly indicates any deletions from the fire code with an explanation where such provisions would be inserted into the building code, if necessary to maintain local enforcement ability by local Fire Marshals.

Secretary Jones also committed to improving the web-based comment process for proposed SFPC changes in the interest of improving transparency. For example, comments on proposals are not universally visible to reviewers; thus it is conceivable that comments on a proposed area of change would not be seen by others who may vote to support the change without the inclination that opposing comments have been issued. This often results in stated "consensus" on changes where the Virginia fire service has vigorously opposed. These procedural changes are still pending.

HWG has scheduled a follow-up meeting with Secretary Jones and Chief Brower, Chief Fire Marshal Linda Hale and other Virginia Fire Service representatives on June 6th in order to follow up with DHCD staff on this process and the implementation of these changes.

ATTACHMENTS:

1. Letter from Chief Brower on Current SFPC Update Process by the BHCD
2. Letter from Other Agencies on Current SFPC Update Process by the BHCD



Loudoun County, Virginia
Department of Fire, Rescue, and Emergency Management



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March 14, 2016

The Honorable Maurice Jones
Secretary of Commerce and Trade
Commonwealth of Virginia
P.O. Box 1475
Richmond, VA 23219

Dear Secretary Jones:

I am writing to ask that you direct your attention to the current efforts by the Department of Housing and Community Development (DHCD) to make significant and potentially detrimental changes to the Statewide Fire Prevention Code (SFPC). The stated purpose of this exercise is to eliminate "unenforceable" provisions of the SFPC where it references or duplicates regulatory language contained in the Uniform Statewide Building Code (USBC).

While, in principle, this sounds like a benign and even laudatory endeavor, various Virginia fire service groups have several unanswered major concerns. I believe you recently received correspondence from the Virginia Fire Prevention Association (VFPA) expressing some of these concerns.

As a local fire chief I have two primary concerns. The first is that the pace with which this review is occurring is making it very difficult for the collective fire service to be consistent participants providing meaningful input in the review process. The work group schedule was initially based on the availability of the majority of those willing to participate. This changed, however, and DHCD staff has now established work group meeting dates without input from all participants. This has led to inconsistent attendance by fire officials, which is resulting in gaps in the review.

The second concern is that the Virginia fire service, specifically the Virginia Fire Services Board (VFSB) should have been asked to coordinate this process in order to ensure the proper representation of trained fire prevention code inspectors. This would have been in accordance with the following section of the Code of Virginia pertaining to the development of the SFPC:

27-97. Adoption of Fire Prevention Code.

The Board of Housing and Community Development is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board pursuant to procedures agreed to by the two Boards... [emphasis added]

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ATTACHMENT 1

Instead of collaborating with the fire service at the outset, DHCD selected other groups to participate in this review, notably the Virginia Building Code Officials Association (VBCOA), the Apartment and Office Building Association (AOBA), the Retail Merchants Association (RMA), the Virginia Association of Realtors (VAR), the American Institute of Architects (AIA) and the Virginia Petroleum Convenience and Grocery Association (VPCGA). These groups do not include individuals who are trained and certified as fire prevention code inspectors, and they generally lack knowledge on the technical discussions which are so vital to this review.

While there are many other concerns with respect to the current process, to include a definitive statement of the problem(s) necessitating this work group process, I want to express support for a suggestion previously offered to the DHCD by the VFSB. The purpose of the SFPC is to ensure public safety, and that should be the focus of this review process. Therefore, the current work group effort should be stopped immediately and reconstituted under the leadership of the VFSB's Fire Prevention and Control Committee and include a formally established work group with a balanced make-up to include fire and building code officials. Having these individuals involved in the review would provide a much-needed public safety perspective which is currently lacking, and would more likely lead to accomplishing the stated goal of this undertaking, namely the removal of those unenforceable provisions of the SFPC.

The Chairman of the VFSB's Fire Prevention and Control Committee has indicated that his objectives in establishing this workgroup would be formalized in a written procedure to clarify the following:

- The specific make-up of the voting membership of the workgroup;
- A clearly defined purpose, goal and process for the workgroup;
- A voting process to determine if proposed changes are editorial or technical in nature;
- Use of Robert's Rules of Order for the conduct of meetings;
- A mechanism for the submission of minority opinions to the BHCD;
- Compliance with the requirements of the Freedom of Information Act (FOIA) for meetings;
- Recording of meetings to ensure accuracy and full disclosure of discussion topics for reference and use by the Board of Housing and Community Development (BHCD) in reaching final decisions on proposed changes.

I have addressed this matter with the Loudoun County Board of Supervisors, and their members have encouraged me to advocate for public safety, including the safety of firefighters and first responders. There is a very real concern that the BHCD will be given a voluminous package of technical information related to the SFPC, and will be asked to vote without the benefit of the endorsement of, or detailed review by, the fire service.

You possess the ability to suspend the current effort and retool it into a process that will eliminate gaps, but more important, ensure the integrity of this very important public safety document.

Thank you again for your willingness to listen to my concerns.

Sincerely,

A handwritten signature in black ink, appearing to be 'W. Keith Brower, Jr.', written over the word 'Sincerely,'.

W. Keith Brower, Jr.
Fire and Rescue System Chief

Cc: Loudoun County Board of Supervisors
Tim Hemstreet, County Administrator
Linda Hale, Chief Fire Marshal
The Honorable Brian Moran, Secretary of Public Safety and Homeland Security
DFREM Senior staff

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Loudoun County, Virginia
Department of Fire, Rescue, and Emergency Management



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February 18, 2016

The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security
Office of the Secretary of Public Safety and Homeland Security
Patrick Henry Building
1111 E. Broad Street
Richmond, VA 23219

Dear Secretary Moran:

I hope you are doing well. I am writing to follow up on my letter from August 12, 2015 regarding the Virginia fire service's concerns with the composition, authority and business practices of the Virginia Board of Housing and Community Development ("BHCD") with respect to the development of the fire and building codes in Virginia.

Following receipt of my letter by your office, I received direction from Deputy Secretary Adam Thiele that the concerns needed to go directly to the Secretary of Commerce and Trade due to the fact that the BHCD is not situated within the public safety arm of state government. Correspondence echoing the concerns contained in my letter was sent, as directed, to Secretary Maurice Jones by:

- The Virginia Fire Prevention Association,
- The Virginia Fire Chiefs Association,
- The Virginia Chapter of the International Association of Arson Investigators,
- The Virginia Firefighter's Association, and
- The Northern Virginia Fire Chiefs.

As of this date, I am unaware of any significant efforts to address these concerns. I am aware that there was a recent meeting between Melvin Carter, Executive Director of the Department of Fire Programs and Bill Shelton, Director of the Department of Housing and Community Development ("DHCD"), however I, nor anyone within the listed fire service groups have obtained any definitive follow up on this meeting, nor are we aware of any plan to address the specific problems we identified with the BHCD composition.

In the meantime, the situation has gotten worse, as the staff from DHCD has recently directed a review of the Statewide Fire Prevention Code ("SFPC"). This was not done through a formal vote by the BHCD, but rather through the apparent persuasion of an individual member of the BHCD. Further, there was no formal discussion with the Virginia Fire Service, specifically the Virginia Fire Services Board ("VFSB") as required by the Code of Virginia:

27-97. Adoption of Fire Prevention Code.

The Board of Housing and Community Development is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board pursuant to procedures agreed to by the two Boards...

Instead, the fire service was “invited” to participate on the work group, however the work group sessions are all in Richmond and are on a compressed schedule that is unrealistic for my statewide local colleagues to attend with regularity. Further, the work group is comprised of several non-fire service personnel, creating yet another imbalance in this insidious process.

It has been stated by DHCD staff that the purpose of the review is to make “editorial” changes in the interest of reducing duplication of regulation between the Uniform Statewide Building Code (“USBC”) and the SFPC. What is transpiring is that DHCD staff are getting into technical areas, which in the opinion of many are well beyond the scope of editorial, and which could have detrimental effects on public safety in Virginia. Many of the fire service’s participants have expressed the sense that their concerns during the meetings are being ignored, and that the oppressive meeting schedule is designed to limit the fire service’s involvement.

I have addressed this matter with the Loudoun County Board of Supervisors and the Board has encouraged that I continue to work to represent positions to protect the County’s best interests for public safety. If this needs to be elevated to a higher level of state government, I believe the Board of Supervisors is prepared to do so.

In my opinion, the current “fast track” of the review of the SFPC needs to immediately stop until a complete vetting of the mission and definition of process is clarified and endorsed by the VFSB, as required by statute, with input from the Virginia Fire Service organizations.

There is a very real fear that that the BHCD will be given a voluminous package of technical information related to the SFPC, which has not been fully vetted nor endorsed by fire service.

Again, this speaks to my original plea for a more balanced process for the development of the SFPC.

I reiterate my previous recommendation of the creation of an independent study to evaluate the current code development process, with specific emphasis on stakeholder participation. Ensuring the interests of public safety for the citizens of the Commonwealth is not possible in the current environment.

Thank you again for your willingness to listen to my concerns.

Sincerely,



W. Keith Brower, Jr.

Fire and Rescue System Chief

Cc: Loudoun County Board of Supervisors
Tim Hemstreet, County Administrator
Linda Hale, Chief Fire Marshal
Senior staff



Loudoun County, Virginia
Department of Fire, Rescue, and Emergency Management

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August 12, 2015

The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security
Office of the Secretary of Public Safety and Homeland Security
Patrick Henry Building
1111 E. Broad Street
Richmond, VA 23219

Dear Secretary Moran:

Thank you for taking the time to visit the Virginia Fire Chiefs Association (VFCA) Fire Chief's summit in May. This summit was the first of hopefully many such opportunities for the Fire Chiefs from across the Commonwealth to get together for a concentrated and focused agenda on several important issues. By all accounts, this gathering was a huge success, and Virginia Department of Fire Programs Executive Director Melvin Carter, his staff and the VFCA leadership are to be commended for organizing this effort.

As requested, I wanted to take a brief moment of your time to expand upon my statements during the input session following your opening address. In the simplest terms, the administrative structures and processes used in the Commonwealth of Virginia to develop and amend the fire and building codes, in particular those related to the construction of one and two-family residential dwellings, have significant shortcomings. The intended desire for the codes to address public safety is frequently outweighed by the desire to reduce costs, and often nationally endorsed safety standards are reduced or eliminated from the adopted codes of the Commonwealth. I am concerned, as are many leaders in the Virginia Fire Service that the long term effects of this situation will increase the devastation from fire, both in terms of human lives lost and economic loss.

The essence of my concern rests with the composition, authority and business practices of the Board of Housing and Community Development (BHCD), which, by statute, has the sole responsibility to promulgate the state-wide regulations related to construction, community development, building safety, fire protection and fire prevention. These regulations include the Uniform State-wide Building Code (USBC), the Virginia Residential Code (VRC) and the State-wide Fire Prevention Code (SFPC).

The BHCD consists of fourteen citizen members, including eleven members appointed by the Governor from each of Virginia's Congressional Districts, a representative from the Virginia Fire Services Board appointed by the Chairman of that Board, the Executive Director of the Virginia Housing Development Authority and the Director of Regulatory Compliance of the Virginia Building Officials Association. Whereas a broad base of regional representation

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exists, the BHCD is over represented by the citizens from the architectural, building and economic areas of commerce. Public safety has just a single vote on the BHCD and is typically over-ruled/out voted on critical fire prevention and fire protection issues.

The current practice of code development utilizes technical work sessions and public meetings which are supposed to ensure the proper and timely balance of stakeholder input and review. In practice, however, recommendations are forwarded by technical staff based upon a "consensus" process that is ill defined and often perceived as inconsistent, depending upon the issue or who the proponent represents.

The Virginia Fire Services Board (VFSB), also a Governor appointed body, is supposed to have an equal stake in the code development process through a "joint VFSB/DHCD meeting" process. However public safety, again, is only one vote on the BHCD.

A more balanced process would ideally have our building and fire safety codes promulgated by a combined Board of Housing and Fire Services Board with equal footing in the development process rather than the current single vote on such critical life safety code questions. There are specific examples that I, and others in the Virginia Fire Service, can provide, and I would encourage further dialogue to better inform you of the issues and risks that are present today. I would also offer that the creation of an independent study to evaluate the current code development process in terms of stakeholder composition would be a great undertaking. Key to this would be a mechanism to ensure a full consideration of the science related to fire dynamics and more representation of the fire service for final decisions.

I do believe that everyone involved with the code development process truly intends to ensure a regulatory framework that results in safe and cost effective development.

Unfortunately this is not possible in the current environment.

Thank you again for your willingness to listen to my concerns.

Sincerely,



W. Keith Brewer, Jr.
Fire and Rescue System Chief

Cc: Tim Hemstreet, County Administrator



Virginia Fire Prevention Association

The Honorable Maurice Jones
Secretary of Commerce and Trade
Commonwealth of Virginia
P.O. Box 1475
Richmond, Virginia 23218

Dear Secretary Jones,

As a follow-up to previous letters our organization and other fire service organizations have sent to you on this issue, I must once again express our concern and frustration with the process the Department of Housing and Community Development has pressed forward with in a clear and measured effort to eliminate the existing Statewide Fire Prevention Code (SFPC). Their efforts have not only continued over the past few months, but have been reinforced through an aggressive meeting schedule and persistent dismissal of the fire official's opinions of the "enforceability" of provisions of the Statewide Fire Prevention Code.

To illustrate our concern, I offer the following:

There have been three meetings of this poorly defined workgroup this far. The group has reviewed four chapters of the fifty-nine chapters that make up the SFPC. This has resulted in proposed changes to sixty-five sections and more than 1,900 specific portions of this code. While a few may be worthy changes to make editorial modifications in order to conform to Virginia terminology (like referring to the Uniform Statewide Building Code rather than the International Building Code), and very few may be truly unenforceable, the code changes proposed are based on interpretations from DHCD staff members and others who are not certified nor charged with interpreting the SFPC. In fact, none of those who are proposing these changes are even trained or certified in this very specialized discipline.

Following these initial meetings, DHCD staff members have established a meeting schedule which is unrealistic for many of our fire service members to attend. There were six meetings scheduled in the Richmond area, one each week, through the month of March. Our members are typically engaged in this type of process, but each have full time job responsibilities and are unable to travel to Richmond with this degree of frequency. This meeting schedule along with the frustrations associated having people run the process who do not understand the fire code and its impact, as well as the group's ignoring the opinions of those fire officials here have caused many of my colleagues to withdraw from the process, and it is likely many more will do

ATTACHMENT 2

the same in the near future. This is a tactic we feel is aimed specifically at limiting the fire service's involvement in the process.

The Virginia Fire Services Board, who is charged under the Code of Virginia to cooperatively develop the SFPC, sent a letter to Executive Director Bill Shelton requesting that the current process be halted and to allow the Fire Services Board Code Development Subcommittee to lead the effort of removing unenforceable provisions of the code. This subcommittee is made up of local and state fire officials and fire marshals. That letter received a less than welcome reception, and indicated the SFPC Workgroup's efforts would continue with or without the input of the fire service.

While the efforts of this workgroup was described as removing "unenforceable" provisions of the SFPC, much more than that is being stricken. In chapter 10 alone, the chapter addressing the ability of occupants to exit a building, the chapter has been virtually deleted in its entirety. Including provisions that require an occupant load sign to be posted and maintained (1004.3), the ability of a fire official to establish a safe occupant load in outdoor areas – something that is not regulated by the building code (1004.5), and provisions that would allow a public building owner to use locks and latches in certain instances on egress doors with the approval of the fire official. These are not building code provisions and clearly hamper a fire official's ability to ensure occupant safety.

Add to our concern that DHCD staff has indicated each of these thus far 1,900 code changes (in only 4 of the fifty-nine chapters of the SFPC) will be a single code change considered by the Board of Housing when they are adopting the next edition of the International Fire Code. Given there are another forty plus chapter to review in this effort, it is not out of the question that this will include several thousand specific code sections that are being modified. This is by far the most concerning aspect of this effort. With the scope of the changes being proposed, each change to the code should receive attention from the Board of Housing. Some of the changes proposed will also impact the Uniform Statewide Building Code (USBC). In more than 600 locations in the USBC, it references the SFPC by specific section. We have been able to identify several of those sections that would no longer be in the SFPC if these changes are approved. This effectively changes the USBC and eliminates those safety provisions incorporated into the USBC by reference.

Lastly, we remain skeptical that the Board of Housing has formally taken any action on this subject. When asked to identify the direction the Board approved on this issue, there were no meeting minutes or correspondence outlining this course of action. In one of the recent workgroup meetings, one member of the board attended and indicated he asked for this workgroup to be established and yet could not clearly note that it was a formal position of the board. If the Board of Housing made the direction to remove unenforceable provisions as has been stated, the efforts of this workgroup are well beyond that scope.

We continue to bring this and other concerns to your attention in hopes that you will intervene and stop what we believe is a conscious effort by some to eliminate the authority and ability of local and state fire marshals to enforce a nationally recognized fire prevention code. Even if the minority of the changes proposed by this workgroup is approved, it will require many of us to add what has been removed from the SFPC to our local fire prevention code amendments. This will become problematic as some localities may choose to add those provisions, some may

make those more restrictive than the model code, and others – particularly those areas where the State Fire Marshal has jurisdiction – there may be no modification.

We continue to ask the question that has remained unanswered throughout this process, what is the problem we are trying to fix? Cindy Davis reports that her office receives calls and question about the SFPC and its application and yet she can't quantify those issues and does not refer those questions to those who have the knowledge, certification, and authority to answer those questions – the local fire marshal or state fire marshal. Our continued fear is – separate from the concern over the removal of a majority of the SFPC – that the unintended consequences associated with the elimination of a significant portion of the SFPC will not be seen until after these changes are approved. Then it will be too late.

We sincerely hope your direction will be to stop this effort immediately, and as the Fire Services Board has requested, allow the experts in the field of fire prevention and fire code enforcement lead this effort.

Sincerely,

George Hollingsworth

George Hollingsworth, President
Virginia Fire Prevention Association

cc: Secretary of Public Safety Brian Moran
Deputy Secretary of Public Safety Adam Thiel



Virginia Fire Prevention Association

The Honorable Maurice Jones
Secretary of Commerce and Trade
Commonwealth of Virginia
P.O. Box 1475
Richmond, Virginia 23218

Dear Secretary Jones:

At the request of Deputy Secretary of Public Safety Adam Thiel, our fire service organization is seeking your help in addressing an ongoing fire and life safety concern we have for the citizens and firefighters of the Commonwealth. The request by Secretary Thiel was the result of a pointed letter sent to the Secretary of Public Safety concerning the development and adoption of the Uniform Statewide Building Code and the Statewide Fire Prevention Code. In that letter, Loudoun County Fire Chief Keith Brower expressed clear issues with the composition of the Board of Housing, the process by which these codes are promulgated, and the lack of transparency and public input into the development of these important regulations in Virginia.

This letter is meant to support Chief Brower's original concerns as well as detail the concerns held by the leaders of Virginia's fire service organizations. Here, we will attempt to illustrate specific incidents of how the current process is imbalanced and flawed. These flaws we fear are creating undue risk to Virginia residents and the firefighters sworn to protect them.

First, Virginia adopts a "model" building and fire code that is published by the International Code Council (ICC). These documents are published every three years and go through a process to change and consider new technology and methods based on a long and transparent hearing process that involves building professionals, fire service organizations, building officials and inspectors, product manufacturers and a myriad of other professional organizations just to name a few involved in the process. When a change to these codes is proposed, a formal hearing is conducted by an ICC Committee seated to specifically evaluate the merits of the change. The proponents are provided the opportunity to outline the change and opponents are provided equal time to argue their opposition. After there has been a full vetting – including questions posed to those testifying from the committee – a vote is taken. There remains one additional step in the process by which the committee can be overturned by the voting members of the ICC. However, due to the broad and balanced make up of these ICC Committees, they are rarely overturned.

Once published by the ICC, the process moves to Virginia to update our building and fire codes to reflect the modern materials, construction features, and safety provisions of the newly updated codes. This is where we believe the system currently in place to amend and adopt these heavily vetted model codes goes astray. This process is governed by the Administrative Process Act which gives great latitude to the Board of Housing and Community Development. In most instances this is a positive thing for Virginia, but without clear direction from the Act, and with the imbalance on the Board of Housing, the process

made by any one proponent. This is in stark contrast to the ICC process which properly debates – through a process of proponents, opposition, then rebuttal debates – in order to fully discuss one specific proposal. During this debate, members of the decision making body are afforded the opportunity to clarify and question any speaker on the topic at hand. This provides them with a full awareness and understanding of each and every code change before that group decides on any issue. Following the complete debate, a vote of the deciding body is taken and the decision made.

In the Board of Housing process, there are no opportunities for questions to be asked of the speakers, and the decision is made sometimes months after this meeting. During which time DHCD Staff hold their work group meetings and provide the Board with their overviews before voting on a matter. In addition, votes have been taken by the Board when members of the Codes and Standards Committee have openly indicated they did not understand a code change, they were uncertain as to the impacts of a specific proposal, and were not fully aware of the long term costs of a change that had been approved at the national model code committee process. With those questions looming and remaining unanswered, and admittedly without a clear understanding of a code proposal before them, the Committee and Board approved a submitted code change.

3. Virginia's fire service is not fairly represented on the Board of Housing or in the DHCD code development process:

While the Code of Virginia Section § 27-97 specifies, "The Board of Housing and Community Development is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board pursuant to procedures agreed to by the two Boards", the process to adopt the Statewide Fire Prevention Code remains fully and completely in the hands of the Board of Housing. The agreement currently in place specifies that a joint committee from the Fire Services Board and the Board of Housing will review changes to the Statewide Fire Prevention Code, but when the time comes for adoption of the code, the Board of Housing remains the controlling entity. Any decision by the joint committee is easily and quickly overruled by the Board of Housing's Codes and Standards Committee or full Board. The language in the Code of Virginia as it is currently written, combined with any agreement between the two boards is not followed.

The marginal involvement in the development of the fire code is nonexistent in the development of the Uniform Statewide Building Code. This is contrary to the development of the national model codes (both the ICC and National Fire Protection Association's code) in which the fire service is on equal footing with the building trades, building owners, and other special interests. Fire service representation on the Board of Housing is limited to one At Large position filled by a member of the Virginia Fire Services Board. This is a single fire safety position on a regulatory board which has an overabundance of a single special interest group representation.

4. The Board of Housing which promulgates the Uniform Statewide Building Code and the Statewide Fire Prevention Code does not provide a balanced approach to the development of these important regulations. Rather it is dominated by a single special interest group that is regulated by these codes:

The Board of Housing and Community Development is a fourteen (14) member, Governor appointed body that is tasked with the promulgation of the Uniform Statewide Building Code, the Statewide Fire Prevention Code, and other related regulations in addition to other duties outlined in section § 36-137 of the Code of Virginia. At present, those members are comprised of one ex officio member from the Virginia Housing Development Authority, one member from the Virginia Fire Services Board, and one

and spread than ever, and the fire related risk to residents and firefighters has grown exponentially. The National Institute for Standards and Testing along with Underwriters Laboratory testing has demonstrated these modern fire problems again and again. Their research has shown how today's fire scenarios and construction features are clearly increasing these risks.

Other states like Maryland and California have taken statewide action to reduce these new fire risks by requiring fire sprinklers in new homes consistent with both of the national model building codes. Other states have left this decision to local cities and counties to address the fire problems locally by allowing them to adopt or modify building codes. In Virginia, we do not have either of these strategies available to employ due to the nature of the laws regulating building codes and the special interests that are controlling the code development process.

As an organization of fire officials from across the Commonwealth, it is our hope that your office and the Governor will see the need to change the Code of Virginia and allow a better code development process to prevail in order to protect the lives and property of our citizens and firefighters. We would recommend a documented process outlining the process and changes to the Code that places the Board of Housing and Community Development and the Fire Services Board on equal footing in the development of these codes. Alternative options would be to move the development of the Statewide Fire Prevention Code from the Board of Housing to the sole responsibility of the Fire Services Board and to permit local governments to require the use of fire sprinklers in newly constructed single family homes.

Respectfully,

A handwritten signature in black ink, appearing to read "George A. Hollingsworth", with a large, sweeping flourish at the end.

George Hollingsworth, President
Virginia Fire Prevention Association



Virginia Chapter
International Association of Arson Investigators
Incorporated
Post Office Box 1367, Madison, VA 22727



October 26, 2015

The Honorable Maurice Jones
Secretary of Commerce and Trade
P.O. Box 1475
Richmond, Virginia 23218

Dear Secretary Jones:

The Virginia Chapter of the International Association of Arson Investigators is seeking your help in addressing an ongoing fire and life safety concern we have for the citizens and firefighters of the Commonwealth. We believe the development and adoption of the Uniform Statewide Building Code and the Statewide Fire Prevention Code has revealed significant issues with the composition of the Board of Housing, the process by which these codes are promulgated, and the lack of transparency and public input into the development of these important regulations in Virginia. We believe the current process is creating undue risk to Virginia residents and the firefighters sworn to protect them.

I am aware other fire service groups have enumerated problems and solutions in dealing with this issue and I will not present them to you again because our concerns are the same as others have stated so clearly.

As an organization that represents fire officials from across the Commonwealth, it is our hope that your office and the Governor will see the need to review the Code of Virginia and seek a better code development process to protect the lives and property of our citizens and firefighters. Our organization would welcome the opportunity to assist in that process.

Sincerely,

Dave Allen
Executive Director

cc: The Honorable Adam Thiel



Virginia Fire Chiefs Association, Inc.

P.O. Box 699, Blackstone, VA 23824

Phone: 888-818-0983

Web Site: www.vfca.us

September 22, 2015

The Honorable Maurice Jones
Secretary of Commerce and Trade
P.O. Box 1475
Richmond, Virginia 23218

Dear Secretary Jones:

At the request of Deputy Secretary of Public Safety Adam Thiel, our fire service organizations come to you seeking your help in addressing an ongoing fire and life safety concern we have for the citizens and firefighters of the Commonwealth. The request by Secretary Thiel was the result of a pointed letter sent to the Secretary of Public Safety concerning the development and adoption of the Uniform Statewide Building Code and the Statewide Fire Prevention Code. In that letter, Loudoun County Fire Chief Keith Brower expressed clear issues with the composition of the Board of Housing, the process by which these codes are promulgated, and the lack of transparency and public input into the development of these important regulations in Virginia.

This letter is meant to support Chief Brower's original concerns as well as detail the concerns held by the leaders of Virginia's fire service organizations. Here, we will attempt to illustrate specific incidents of how the current process is imbalanced and flawed. These flaws we fear are creating undue risk to Virginia residents and the firefighters sworn to protect them.

First, Virginia adopts a "model" building and fire code that is published by the International Code Council (ICC). These documents are published every three years and are changed based on a long and transparent hearing process that involves building professionals, fire service organizations, building officials and inspectors, product manufacturers, and a myriad of other professional organizations just to name a few. When a change to these codes is proposed, a formal hearing is conducted by an ICC Committee seated to specifically evaluate the merits of the change. The proponents are provided the opportunity to outline the change and opponents are provided equal time to argue their opposition. After there has been a full vetting – including questions posed to those testifying from the committee – a vote is taken. There remains one additional step in the process by which the committee can be overturned by the voting members of the ICC. However, due to the broad and balanced make up of these ICC Committees, they are rarely overturned.

Once published by the ICC, the process moves to Virginia to update our building and fire codes to reflect the modern materials, construction features, and safety provisions of the newly updated

on all of the code changes submitted to a particular code. This may represent literally hundreds of submitted changes to amend the Virginia codes and hundreds of changes to the updated model codes. Anyone interested in more than one code change issue is handcuffed from speaking on all of their areas of interest or concern.

In addition to the limitations on the topics, there is an inherent lack of true debate on any one code change. If a proponent of the change speaks for the change, there may be dozens of speakers discussing dozens of unrelated code changes before the opposition has the chance to speak to the comments made by any one proponent. This is in stark contrast to the ICC process which properly debates – through a process of proponents, opposition, then rebuttal debates – in order to fully discuss one specific proposal. During this debate, members of the decision making body are afforded the opportunity to clarify and question any speaker on the topic at hand. This provides them with a full awareness and understanding of each and every code change before that group decides on any issue. Following the complete debate, a vote of the deciding body is taken and the decision made.

In the Board of Housing process, there are no opportunities for questions to be asked of the speakers, and the decision is made sometimes months after this meeting. During which time DHCD Staff hold their work group meetings and provide the Board with their overviews before voting on a matter. In addition, votes have been taken by the Board when members of the Codes and Standards Committee have openly indicated they did not understand a code change, they were uncertain as of the impacts of a specific proposal, and were not fully aware of the long term costs of a change that had been approved at the national model code committee process. With those questions looming and remaining unanswered, and admittedly without a clear understanding of a code proposal before them, the Committee and Board approved a submitted code change.

3. Virginia's fire service is not fairly represented on the Board of Housing or in the DHCD code development process:

While the Code of Virginia Section § 27-97 specifies, "The Board of Housing and Community Development is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board pursuant to procedures agreed to by the two Boards", the process to adopt the Statewide Fire Prevention Code remains fully and completely in the hands of the Board of Housing. The agreement currently in place specifies that a joint committee form the Fire Services Board and the Board of Housing will review changes to the Statewide Fire Prevention Code, but when the time comes for adoption of the code, there Board of Housing remains the controlling entity. Any decision by the joint committee is easily and quickly overruled by the Board of Housing's Codes and Standards Committee or full Board. The language in the Code of Virginia as it is currently written, combined with any agreement between the two boards is nothing more than a paper tiger.

The marginal involvement in the development of the fire code is nonexistent in the development of the Uniform Statewide Building Code. This is contrary to the development of the national model codes (both the ICC and National Fire Protection Association's code) in which the fire service is on equal footing with the building trades, building owners, and other special interests. Fire service representation on the Board of Housing is limited to one At Large position filled by a member of the Virginia Fire Services Board. This is a single fire safety position on a regulatory board which has an overabundance of a single special interest group representation.

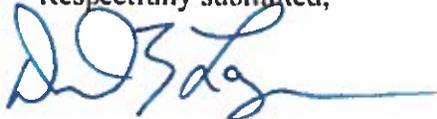
4. The Board of Housing which promulgates the Uniform Statewide Building Code and the Statewide Fire Prevention Code does not provide a balanced approach to the development of

The fire service organizations in Virginia believe the process for the adoption of building and fire codes in our Commonwealth is broken. The bias and imbalanced process will lead to communities that are less safe than they have been in the past. New home construction is more dangerous today than it ever has been in the past due to light weight construction, more combustible materials and furnishings in the home with higher heat release rates. Combine these issues with differences in modern open floor plans providing for faster fire development and spread than ever, and the fire related risk to residents and firefighters has grown exponentially. The National Institute for Standards and Testing along with Underwriters Laboratory testing has demonstrated these modern fire problems again and again. Their research has shown how today's fire scenarios and construction features are clearly increasing these risks.

Other states like Maryland and California have taken statewide action to reduce these new fire risks by requiring fire sprinklers in new homes consistent with both of the national model building codes. Other states have left this decision to local cities and counties to address the fire problems locally by allowing them to adopt or modify building codes. In Virginia, we do not have either of these strategies available to employ due to the nature of the laws regulating building codes and the special interests that are controlling the code development process.

It is our collective hope that your office and the Governor will see the need to change the Code of Virginia and allow a better code development process to prevail in our Commonwealth in order to protect the lives and property of our citizens and firefighters. We would recommend specific changes to the Code places the Board of Housing and Community Development and the Fire Services Board on equal footing in the development of these codes. Alternative options would be to move the development of the Statewide Fire Prevention Code from the Board of Housing to the sole responsibility of the Fire Services Board or to permit local governments to require the use of fire sprinklers in newly constructed single family homes.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "D. Layman", with a long horizontal flourish extending to the right.

David E. Layman
President