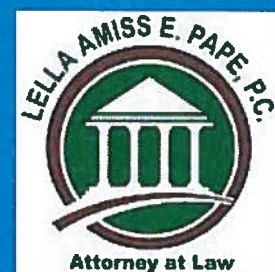


# The Impact of Recent Legislative Activity on Community Associations

Tuesday, October 21, 2014  
Fairfax, Virginia

Thank you to tonight's sponsors:



... and John S. Tomko, Jr

WASHINGTON METROPOLITAN  
CHAPTER



**community**  
ASSOCIATIONS INSTITUTE

## The Impact of Recent Legislative Activity on Community Associations

### Speakers List

#### *Distinguished Speakers:*

**Delegate David L. Bulova** represents the 37<sup>th</sup> District of Virginia which encompasses parts of the City of Fairfax and Fairfax County. An environmental planner by profession, he is well known for his expertise in stormwater management. In addition to serving on the Education and Agriculture Chesapeake and Natural Resources Committees in the General Assembly, Delegate Bulova sits on the House General Laws Committee, and its Housing Subcommittee, through which most community association legislation passes. Currently, he chairs the Workgroup on Common Interest Communities within the Housing Subcommittee.

**Delegate James M. LeMunyon** represents the 67<sup>th</sup> District of Virginia which encompasses parts of Fairfax County and Loudoun County. Professionally, a technology company entrepreneur, he was a principal of two technology firms prior to being elected to serve in the General Assembly. In addition to serving on the Education Transportation Committees in the General Assembly, Delegate LeMunyon also sits on the House General Laws Committee. During the 2013 General Assembly session, Delegate LeMunyon co-sponsored legislation to clarify the covenants enforcement authority of common interest communities.

#### *Other Speakers:*

**David Braun** has extensive community association experience, serving over 15 years as President of the Penderbrook Community Association, a 1,776 home golf-course community in Fairfax County, one of only a handful of communities in the US which owns its own golf course. David recently led that community to the distinction of winning the CAI Community of the Year award. He also served as president of the Heights Condominium Association and is past president of the Valewood Manor Homeowner Association. Professional, he is CEO and founder of an M&A firm headquartered in Tyson's and author of a highly acclaimed business book published in 2013, *Successful Acquisitions*.

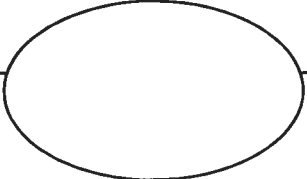
**Ronda DeSplinter** is a former educator and manager in the professional and trade association industry. Being involved with community associations since 1991, she served as general manager of two large scale homeowner associations in Fairfax County and in several volunteer capacities. She served on the Virginia Common Interest Community Board (CICB), and is an active member of CAI, serving on the National Large Scale Manager's Committee, as Co-chairman of the Washington Metro Chapter's Virginia Legislative Committee and, most recently, as a member of the Virginia Legislative Action Committee (VALAC).

**Denise Harrover** who serves as Vice-President of Planned Communities for Van Metre Companies, has 13 years of service as a declarant representative on association boards that include Broadlands, Stone Ridge, as well as the commercial association boards of Broadlands, Stone Ridge and the Gum Spring Library Condominium. She has worked closely with attorneys setting up the association and all the governing documents for Stone Ridge, including the Design and Maintenance Standards & Guidelines.

**Susan Livingstone** - Following a successful career in technology sales and management, Susan served as the architectural and covenants administrator for Kingstowne Residential Owners Corporation (KROC) for the last ten years. During that time, an annual architectural inspection program was implemented that resulted in a 99% success rate in achieving voluntary compliance. The inspection program has also incorporated the use of smartphone technology.

**Bill Marr** is a practicing attorney in Fairfax, Virginia. His work focuses on civil law, primarily in the areas of business law, real property matters and civic litigation. Mr. Marr represents various small business clients as well as numerous condominium and community associations. He is a business partner of the Community Association Institute (CAI) and currently serves as the Co-chair of the Washington Metro Chapters Legislative Committee, and well as Vice Chair of the Virginia Legislative Action Committee (VALAC.) Bill is also the president of the Board of Directors of the Property Owners Association of Virginia (POAVA.)

**Jeremy Moss** - is an associate with the law firm of MercerTrigiani, practicing in the area of community association law. Jeremy is an active member of the Community Associations Institute, currently serving on the Virginia Legislative Action Committee of CAI. Jeremy is a frequent lecturer on community association law, a member of the Virginia Bar Association Real Estate Council, Virginia State Bar's Real Estate Committee's Subcommittee on Common Interest Communities, and Chair of the Legislative Committee of the Alexandria Bar Association.



**The Impact of  
Recent Legislative Activity  
on  
Community Associations**

**Presented by ....**

Virginia Legislative Action Committee  
(VALAC)  
and  
WMCCAI Virginia Legislative Committee  
*in coordination with the*  
Fairfax County Office of Consumer Affairs

**Thank you to tonight's sponsors...**



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**Speakers**

The Honorable David L. Bulova  
David Braun  
Ronda DeSplinter  
Denise Harrover  
Susan Livingstone  
The Honorable James M. LeMunyon  
William A. Marr, Jr.  
Jeremy R. Moss

**Introductions  
and  
Program Overview**

**2014 Virginia  
Legislative Session**

**Virginia Legislation**

- 2888 Bills Introduced
  - 1950 House
  - 938 Senate
- 235 Bills Continued To 2015
- 1647 Bills Passed
- 1006 Bills Failed
- Governor Amended 60 + Bills
- 5 Bills Vetoed by Governor

**Virginia Legislation**

- 28 Bills Affecting Community Associations
- 6 Passed
- 1 Bill Carried Over

*Bills Became Effective July 1, 2014*

### Passed Legislation

- Rules Enforcement (HB 791)
- Declaration Compliance (HB 530)
- Assessment Collection – Late Fees (HB 566)
- Access to Books & Records (HB 550)
- Condo Mergers/Judicial Reform (HB 690)
- Contract Rescission (HB 899)
- Resale Fees (HB 900)
- Solar Panels (SB222)
- Group Homes (HB 527)
- Service Dogs (SB 177)

### Virginia Legislation

#### PASSED LEGISLATION

##### *Rule Enforcement (HB 791)*

- Confirms authority to enforce rules in General District Court
- Prior to initiating legal action, requires
  - Notice
  - Opportunity to Cure and
  - Hearing
- Allows appeal to Circuit Court

### Virginia Legislation

#### PASSED LEGISLATION

##### *Compliance with POAA, Condominium Act and Recorded Documents (HB 530)*

- Action may be brought against an association
- *Prevailing Party* may seek an award of attorneys fees and judgment interest.

### Virginia Legislation

#### PASSED LEGISLATION

##### *Assessment Collection - Late Fees (HB 566)*

- Clarifies 2013 legislation establishing statutory late fee provision - unless the recorded covenants or rules adopted pursuant thereto provide otherwise, Associations have the authority to levy late fees
  - When assessment (or any installment) is not paid within 60 days of the due date and
  - In an amount no more than the penalty for nonpayment of taxes specified in Virginia Code Section 58.1-3819 (currently 5%)

### Virginia Legislation

**PASSED LEGISLATION**  
*Access to Books & Records (HB 550)*

Association must provide access to Association books and records

- **10 business days** for self-managed associations.
- **5 business days** for professionally managed associations.

### Virginia Legislation

**PASSED LEGISLATION**  
*Condominium Mergers/Judicial Reform (HB 690)*

- Circuit Court may reform documents
- Ambiguities or inconsistencies
- Scriveners errors
- Association must have first made efforts to amend that were unsuccessful

### Virginia Legislation

**PASSED LEGISLATION**  
*Contract Rescission (HB 899)*

- Reduces from 10 to 5 days the right to rescind the purchase contract upon initial sale of a residential condominium unit
- First page of Purchase Contract must include disclosure in 12 point type.

### Virginia Legislation

**PASSED LEGISLATION**  
*Resale Fees (HB 900)*

- Technical changes
- No fees may be charged for website access

## Virginia Legislation

### PASSED LEGISLATION

#### *Solar Panels (SB 222)*

- Association cannot prohibit solar panels *unless declaration includes prohibition.*
- Association has authority to regulate size, place and manner of placement.

## FAIR HOUSING

### PASSED LEGISLATION

#### *Group Homes (HB 527)*

- For purposes of zoning.
- Residential occupancy by a *single family.*
- Residential facility of no more than 8 persons plus one or more resident or non-resident staff.

## FAIR HOUSING

### PASSED LEGISLATION

#### *Service Dogs (SB 177)*

Definition of Service Dog expanded to include dogs trained to assist persons suffering from:

- Physical
- Sensory
- Intellectual
- Developmental
- Mental Disability
- Mental Illness

## ASSESSMENT COLLECTION AUTHORITY

Governing Document Authority must be clear:

- Late Charges and Interest
- Rule Enforcement Charges
- Administrative Charges
- Recovery of Attorneys' Fees and Costs



## Virginia Legislation

### WHAT DOES IT ALL MEAN?

Revise policies for providing association books and records to reflect increased time frames for responding to requests –

- **5 business days** for professionally managed communities and
- **10 business days** for self-managed communities.

## Virginia Legislation

### WHAT DOES IT ALL MEAN?

- Amend policies (if recorded governing documents are silent) to assess a late charge of 5% on unpaid balances
- Amend rule enforcement procedures to ensure adequate notice and opportunity to cure.

## Challenges for Association Boards

Governance, Operations  
&  
Achieving Compliance

## Challenges for Association Boards

Denise Harrover, Developer/Board Member  
Van Metre Companies

David Braun, President  
Penderbrook Community Association

Susan Livingstone, Architectural Administrator  
Kingstowne Residential Owners Corp.

**Challenges for  
Association Boards**

Round Table Discussion!

QUESTIONS?

WRAP UP!

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