

Fairfax County Federation of Citizens Associations  
Legislative Program Issues Evaluation Form

<b>Issue ID:</b> 17L01-Local Control of Residential Occupancy Use
<b>Date Submitted to Legislative Committee:</b> 9 October 2016
<b>Issue:</b> Authority of Localities in controlling use of residential dwellings and effectively investigating incidents of potential non-compliance with ordinances and regulations.
<b>Background:</b> Temporary lodging such as HomeStay, AirBNB, and other like businesses as well as Boarding Houses have become more common in residential areas. While localities are empowered to define BPOL and other requirements that would include such establishments and Commonwealth sales and use taxes address temporary accommodations, localities are limited in their ability to effectively investigate such potential uses thereby tying their hands in enforcement. References: <a href="#">Code of Virginia § 58.1-603.</a> , <a href="http://www.tax.virginia.gov/sites/tax.virginia.gov/files/media/documents/BPOL%20Uniform%20Ordinance%20Provisions%20-%20Severance%20Tax.pdf">http://www.tax.virginia.gov/sites/tax.virginia.gov/files/media/documents/BPOL%20Uniform%20Ordinance%20Provisions%20-%20Severance%20Tax.pdf</a> , <a href="http://www.fairfaxcounty.gov/dpz/zoningordinance/">http://www.fairfaxcounty.gov/dpz/zoningordinance/</a> , and <a href="http://www.asu.edu/courses/aph294/total-readings/mccrummen%20--%20manassasdefinitionoffamily.pdf">http://www.asu.edu/courses/aph294/total-readings/mccrummen%20--%20manassasdefinitionoffamily.pdf</a>
<b>Existing Conditions/Impacts:</b> Presently, localities experience claims of familial relationship without the authority to require residence under investigation for violations to produce evidence of familial claims. Likewise, localities experience difficulty in identifying incidents of recurring rental (thus not eligible for occasional sale exemption from sales and use tax and BPOL collection). Both of these non-traditional uses of residential dwellings negatively impacts street parking, use of common neighborhood facilities, and property values and desirability when existing residence choose to sell out of the neighborhood. When home sale values are depressed due to these uses, it directly impacts real estate assessments as well.
<b>Preferred Position:</b> Commonwealth legislation should be enacted to expressly allow localities the right to limit and/or prohibit use of residential property for temporary accommodations. Additionally, to improve enforcement of residential property use ordinances, residents claiming relationship among occupants and/or occasional sale claims by property owners shall be required to produce documentation such as birth certificates in support of familial claims and residential rental brokers shall be required to collect and remit sales taxes and report monthly to localities by property address those rentals booked through their service. Localities should expressly include said requirements and authority of investigating staff to obtain required supporting documentation in support of such claims. Such residential uses should be expressly defined as businesses conducting a taxable service. Enact legislation to allow HOA's to prohibit such uses within their communities.
<b>Benefits:</b> Maintaining home values which directly impacts real estate assessment values, improved compliance with sales and use and BPOL tax regulations thereby increase tax revenue collection, and protecting neighborhoods from regularly experiencing transient dwelling and other unfavorable impact.
<b>Potential Supporters (Community leaders, Public/Private Partnership Opportunities, Organizations):</b> Locality legislators and compliance investigators; hotel, motel, and other similar industry operators; home owners; Home Owner Associations (HOAs) and Citizen Associations (CAs).
<b>Lead Federation Committee:</b> Land Use
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