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HOUSE BILL NO. 1084

Offered January 9, 2014

A *BILL to amend the Code of Virginia by adding a section numbered 15.2-2208.1, relating to unconstitutional grant or denial by localities of certain permits and approvals.*

Patrons—Morris, Adams, Fowler, LaRock, Peace and Ransone

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2208.1 as follows:

§ 15.2-2208.1. Damages for unconstitutional grant or denial by locality of certain permits and approvals.

A. Notwithstanding any other provision of law, general or special, any applicant aggrieved by the grant or denial by a locality of any approval or permit, however described or delineated, including a special exception, special use permit, conditional use permit, rezoning, site plan, plan of development, subdivision plan, construction plan submittal, waiver, and building or occupancy permit, where such grant included, or denial was based upon, an unconstitutional condition pursuant to the United States Constitution or Constitution of Virginia, shall be entitled to an award of damages, reasonable attorney fees, and court costs and to an order remanding the matter to the locality with a direction to grant or issue such permits or approvals without such conditions.

B. In any proceeding, once an unconstitutional condition has been proven by the aggrieved applicant to have been a factor in the grant or denial of the approval or permit, the court shall presume, absent clear and convincing evidence to the contrary, that such applicant's acceptance of or refusal to accept the unconstitutional condition was the controlling basis for such impermissible grant or denial.

INTRODUCED

HB1084