

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 684

An Act to amend and reenact § 36-55.39 of the Code of Virginia, relating to Virginia Housing Development Authority (VHDA); approval of housing developments by localities.

[H 2754]

Approved March 21, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 36-55.39 of the Code of Virginia is amended and reenacted as follows:

§ 36-55.39. Procedure prior to financing of housing developments undertaken by housing sponsors.

A. Notwithstanding any other provision of this chapter, HDA is not empowered to finance any housing development undertaken by a housing sponsor pursuant to §§ 36-55.31, 36-55.33:1 and 36-55.34:1 of this chapter unless, prior to the financing of any housing development hereunder, the commissioners *or the executive director* of HDA find:

1. That there exists a shortage of decent, safe and sanitary housing at rentals or prices which persons and families of low income or moderate income can afford within the general housing market area to be served by the proposed housing development.

2. That private enterprise and investment have been unable, without assistance, to provide the needed decent, safe and sanitary housing at rentals or prices which persons or families of low and moderate income can afford or to provide sufficient mortgage financing for residential housing for occupancy by such persons or families.

3. That the housing sponsor or sponsors undertaking the proposed housing development in the Commonwealth will supply well-planned, well-designed housing for persons or families of low and moderate income and that such sponsors are financially responsible.

4. That the housing development, to be assisted pursuant to the provisions of this chapter, will be of public use and will provide a public benefit.

5. That the housing development will be undertaken within the authority conferred by this chapter upon HDA and the housing sponsor or sponsors.

B. The executive director of HDA shall find, in connection with the financing of the new construction or substantial rehabilitation of any proposed multi-family residential housing development, that the governing body of the locality in which such housing development is to be located has not, within sixty days after written notification of the proposed financing has been sent the governing body by HDA, certified to HDA in writing its disapproval of the proposed multi-family residential housing development. Such certification of disapproval shall only be issued upon a finding by the local governing body that the new construction or substantial rehabilitation of the proposed multi-family residential development is not consistent with current zoning or other applicable land use regulations. If the governing body of the locality has certified its disapproval to HDA, the governing body may revoke such certification of disapproval at any time by written notice to HDA, and upon receipt of such written notice, the executive director of HDA shall, for the purpose of making the finding required by this subsection, disregard such certification of disapproval. Furthermore, no finding need be made under this subsection if HDA shall have received from the governing body its certified resolution approving the proposed housing development.

C. Notwithstanding any other provisions of this section, the certification of disapproval shall not be effective unless written notification of (i) the staff recommendation is sent to the applicant for the proposed financing on or before the date on which the staff recommendation is sent to the governing body or (ii) the governing body's intent to consider such disapproval, where there is no staff recommendation, is sent to such applicant at least fifteen calendar days prior to its decision. Such notice shall be sent to the applicant at the address specified in HDA's written notification. In the event of a failure to send the notice required by this subsection, the executive director shall, for the purposes of making the finding required by subsection B, disregard such certification of disapproval. *The locality, upon written request from the housing sponsor, shall provide a written staff determination that the proposed development is consistent with current zoning and other land use regulations in effect at the time of such request. Failure of the locality to comply with this subsection within thirty days of the receipt of the written request from the housing sponsor shall be deemed to be a determination that the proposed development is consistent with current zoning and other land use regulations. Prior to financing by the HDA, the housing sponsor shall provide the HDA with (i) a copy of the written staff determination received from the locality, (ii) a written certification that the locality failed to respond to the housing sponsor's request within thirty days as provided herein, or (iii) a copy of any building permit issued by the locality.*