

SENATE OF VIRGINIA

SCOTT A. SUROVELL
36TH SENATORIAL DISTRICT
PART OF FAIRFAX, PRINCE WILLIAM,
AND STAFFORD COUNTIES
POST OFFICE BOX 289
MOUNT VERNON, VIRGINIA 22121
(571) 249-4484



COMMITTEE ASSIGNMENTS:
COMMERCE AND LABOR
JUDICIARY
PRIVILEGES AND ELECTIONS
REHABILITATION AND SOCIAL SERVICES
TRANSPORTATION

July 21, 2022

Lucia Anna "Pia" Trigiani
Structural Integrity and Reserves Work Group
112 South Alfred Street
Alexandria, VA 22314

Re: Structural integrity task force

Dear Chair Trigiani:

I am writing to you regarding my views on the matters before the Structural Integrity Task Force. I ask that you all seriously consider a few ideas that guided me when I introduced SB740 in the 2022 Regular Session of the General Assembly.

First, the Surfside Condo collapse exposed a problem that been lingering for some time. In 2017, the River Towers Condominium nearly collapsed in the Mt. Vernon area after a steel girder failed due to long-term corrosion relating to lack of maintenance or careful inspection. We know the age of many multifamily buildings, but we do not know the entire scope of the deferred maintenance problem in Virginia. We need that information aggregated because problems that can be measured are problems that can be solved.

Second, the lack of maintenance on buildings and common interest communities generally is a function of several variables including:

- (1) Refusal of associations to raise dues and maintain adequate reserves;
- (2) A lack of transparency about reserve shortfalls and maintenance issues;
- (3) Insufficient inspections by localities;
- (4) A lack of professional building management; and
- (5) Zero accountability for boards that fail to honor their fiduciary responsibilities to other property owners.

My analysis is that these problems could be solved by enhanced insurance products and assigning legal responsibility to community governing boards instead of asking local governments to assume full responsibility for frequent or robust inspections. Local governments are often underfunded and unaccountable due to sovereign immunity, and no one's safety in their home should be dependent on their zip code.

The Virginia homeownership rate is sixty-six percent, and the home is the primary asset of most households. Due to current Virginia Law, the loss of a home in a common interest community is the only asset that a Virginian cannot fully insure against risk of loss. This is unjust and it must change.

These are the solutions I think should be considered:

Increased Transparency

- All reserve studies should be filed with the state upon completion;
- A state agency should maintain a long-term, searchable, public database of multi-family residential buildings with dates of construction, major renovation, current reserves, stated needed reserves, stated reserve shortfalls, and all filed reserve studies; and
- By the year 2027, any residential real estate purchase in a common interest community should include a specific disclosure regarding the unfunded portion of reserves divided by the number of units in a community so the purchaser can see what they are buying into.

Liability Changes

- The state law providing immunity to board members should only apply to the extent the board has acted consistent with recommendations in all reserve studies and made repairs consistent with building inspections;
- The Bureau of Insurance should require any entity providing liability insurance to a community association to also provide coverage for the loss of all covered assets from the negligence of board members and not solely from losses caused by earthquake, flood or fire; and
- All community associations should be required to carry insurance to cover the loss of all assets from any loss other than willful, malicious misconduct by the Board.

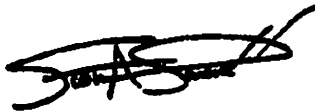
Regulate Building Management

- Require licensing of building managers or minimum standards for individuals responsible for managing buildings of a certain size or value including liability insurance requirements.
- Prohibit association self-management of structures over a certain size or dollar value unless building manager possesses license or certification above.

With these incentives in place, the insurance industry could take the lead on building inspection and documenting compliance with reserve studies. Requiring community associations that might otherwise avoid maintenance to bear the cost of such insurance will allow markets to correctly price the risk of these living arrangements. Doing so will replace our current system of inefficiently socializing the inspection cost across all taxpayers and writing off future tragedies caused by the insufficient inspection or repairs through board immunity and sovereign immunity.

Let me know if I can provide any further thoughts or assistance.

Sincerely Yours,



Senator Scott A. Surovell
36th District

cc: Senator George L. Barker, Chair, General Laws Committee
Mr. Demetrios J. Mells, Director, Department of Professional and Occupational Regulation
Ms. Trisha L. Lindsey, Executive Director, Common Interest Community Board