Affordable Housing Study Report – June 2020

Special note: This report is part of a report prepared by a state League of Women Voters (LWV) Affordable Housing Study Committee for use by league members in studying the issue of affordable housing and arriving at a position for the LWV-Virginia. This report is a result of the Committee's research on affordable housing in Virginia and is not intended to express the views of the LWV-VA.

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Executive Summary

Background

In April 2018, a *New York Times* article highlighted the eviction crisis in the nation and named the City of Richmond as having the second highest eviction rate among large cities, a rate more than five times the national average. https://www.nytimes.com/interactive/2018/04/07/upshot/millions-of-eviction-records-a-sweeping-new-look-at-housing-in-america.html. The article was based on data released by the Eviction Lab at Princeton University, directed by Matthew Desmond, PhD, the Pulitzer prize-winning author of *Evicted: Poverty and Profit in the American City* (2016).

Richmond was not unique. Four other Virginia cities were among the 10 large US cities with the highest eviction rates. In addition, three Virginia cities were among the top 10 mid-size US cities for high eviction rates. These high eviction rates and the stories of evicted families and individuals portrayed in Desmond's book were catalysts, leading the League of Women Voters-Richmond Metropolitan Area to ask the LWV-VA to undertake a statewide study of affordable housing. A statewide Affordable Housing Study Committee was organized for this purpose; this document is the result of their work.

The focus of this study is renter households at 50% of Area Median Income (AMI) or below -- the population with the most serious need for affordable housing. We include people experiencing homelessness, who will eventually enter rental housing. Housing is considered "affordable" if rent and utilities consume no more than 30% of the household's total monthly income.

Key findings on affordable housing need in Virginia

- Low-income Virginians are paying too much for their housing. Among extremely-low-income renter households (total income is 30% or less of Area Median Income), 87% are housing "cost-burdened" (paying more than 30% of their income for housing), and 70% are "severely cost-burdened" (paying more than 50% of their income for housing). Among very-low-income renter households (total income is 31% to 50% of AMI), 81% are housing "cost-burdened", and 33% are "severely cost-burdened".

  The highest housing cost burdens (76%) occur among extremely-low-income households in urbanized Northern Virginia. Rural areas still have the lowest cost-burdens, but rural housing cost-burden has increased by over 85% over the past 15 years.

- Affordable rental units are not available. For every 100 extremely-low-income renter households in Virginia, only 36 rental units are currently affordable and available, equating to a deficit of over 157,807 rental units across the state. For every 100 very low income renter households, only 57 rental units are affordable and available, equating to a deficit of over 177,818 rental units statewide. The largest gap in affordable and available rental units for extremely low income renters is in Northern Virginia – only 28 units are available for every 100 households. Rural areas have the lowest gaps for extremely low income renters.

- Minimum wage earners cannot afford even modest rental units. In order to afford a modest one-bedroom apartment in Virginia, a person earning the state's minimum wage of

$7.25/hour needs to work 109 hours per week. To afford that modest rent and work only 40 hours a week, a one-person household must earn $19.70 an hour or $40,981 a year. In reality, very low income, one-person households in Virginia now average $31,000 annually.

- Homelessness is decreasing, but appropriate housing is still in short supply. While there has been a 36% decrease in the number of Virginia residents experiencing homelessness during the past 10 years, over 5,800 persons were still experiencing homelessness in 2019 during the one-day count. Persons in homeless shelters accounted for 85% of this total, while 15% were unsheltered. Current best practices in homelessness programs are to focus on permanent housing, limit stays in emergency shelters, rapidly re-house persons who are homeless, and provide permanent supportive housing for those who are chronically homeless. The Virginia Department of Behavioral Health and Developmental Services (DBHDS) estimates a need for 5,000 additional permanent supportive housing units in Virginia for people with serious mental illness.

- The highest eviction rates are clustered in Virginia's poorer cities. The average eviction rate in the nation is 2.34%; in Virginia, it is 5.12%. Within Virginia, the highest eviction areas are clustered in the poorer cities, where poverty rates are between 15 and 29%. For example, in the City of Richmond, the eviction rate is 11.4% and the poverty rate is 25%. In 2016, an average of 17.34 evictions occurred every day in Richmond; 30% of Richmond renters received an eviction notice, nearly all (95%) for non-payment of rent. On the other hand, Northern Virginia poverty rates and eviction rates are much lower than the state average, generally in the single digits.

- Why is there a severe shortage of rental housing for the lowest income Virginia households? Incomes have not kept pace with housing costs, especially in high-cost areas. Federal rental subsidies are insufficient to help even the poorest renters. In addition, a high demand for rental housing was caused by the high foreclosure rate during the 2008 financial crash. Even many young professionals cannot now afford homeownership, but they are able to pay higher rents for housing that was once affordable for low-income households. In rural areas, demand for rental housing increases, but we see little appetite to provide it. Finally, without financial incentives, builders do not find it economically feasible to develop affordable housing for very low and extremely low income renters.

State role and resources for affordable housing

While the federal government provides most of the resources for affordable housing, mainly through the U.S. Department of Housing and Urban Development (HUD), state governments also have supplemental roles in setting policy and providing resources. Virginia has been providing state resources for housing and homelessness since 1987, and that continues today. As a Dillon Rule state, Virginia also has a role in enabling localities to enact legislation that could increase the supply of affordable housing. Virginia can also help or hinder access to affordable housing through laws and policies. The following list summarizes current and potential state resources, as well as issues impacting the supply and access to affordable housing in Virginia:

- <u>Virginia Housing Trust Fund:</u> Virginia is one of 47 states (plus the District of Columbia) that have housing trust funds (HTF) which provide gap financing in the form of low-interest or zero-interest loans, to enable the creation and preservation of low income housing. Since its enactment in 2013, the VHTF, administered by the Virginia Department of Housing and Community Development (DHCD), has funded over 3,000 housing units in 45 projects across Virginia with the $27 million in state appropriations. More than half of the units are for households at 50% of AMI and below.

- <u>Homelessness grants and permanent supportive housing (PSH) funding:</u> The Virginia DHCD awards approximately $14.2 million in state funds annually to over 80 organizations around the state for emergency shelters, rapid re-housing programs, homeless prevention programs, developing PSH units, and supportive services in PSH. Since 2016, PSH for persons with serious mental illness (including those who are homeless) is also provided by the Virginia Department of Behavioral Health and Developmental Services, in the form of ongoing rental subsidies. The current appropriation is $17.8 million which will assist over 1,200 individuals. About 90 to 95% of individuals in PSH remain stably housed.

- <u>Eviction Diversion/Prevention Program:</u> As one response to the eviction crisis in Virginia, a pilot eviction <u>diversion</u> program was approved by the 2019 General Assembly (GA), to be implemented in July 2020 in four cities. The program will divert some tenants from being evicted -- if they come to court with 25% of the rent owed and make payment arrangements for the remainder. In the 2020 GA, $3.3 million was appropriated to help tenants in diversion programs to pay part of their rent. These funds can also be used for <u>prevention</u>, which generally occurs prior to court papers being filed, to help tenants pay back rent. Both diversion and prevention programs provide tenants with support services and housing counseling, in addition to the rental assistance. (Due to COVID19, these funds have not been allotted.)

- <u>Potential state housing resources:</u> Two other potential actions could help create and preserve affordable housing for very low income people or could help them pay their rent. The <u>first</u> is the creation of a state Low Income Housing Tax Credit (LIHTC) as a companion to the federal LIHTC program, which has been the primary federal funding source for the development and preservation of affordable rental housing. Investors in developments receive tax credits that provide developers equity in a project. A companion state LIHTC would add additional equity to the project and could potentially target households at very low incomes. A bill was passed in the 2020 GA requesting that the Department of Housing and Community Development draft legislation to add a state LIHTC program. The <u>second</u> potential program is a state-funded Housing Choice Voucher (HCV) to supplement the underfunded and oversubscribed federal rental subsidies paid to a landlord for households at very low incomes. The household pays 30% of its income for rent, and the remainder is paid by the vouchers.

- <u>Use of Housing Choice Vouchers (HCV):</u> Prior to the passage of the Source of Income bill (HB6) by the 2020 GA, it was legal for landlords to deny an apartment to a HCV holder, even if they met all the rental eligibility criteria. The organization Housing Opportunities Made Equal (HOME) reported that only 12% of apartment complexes they interviewed would accept HCVs, thereby denying housing choice to voucher holders. The passage of HB6 rectifies this inequity.

➢ Policies that incentivize affordable housing development: Six localities in Virginia, all but one in Northern Virginia, have mandatory inclusionary zoning (IZ) ordinances that provide incentives to developers to add affordable housing units in their projects. Incentives include access to local funds, reduction in density requirements, and waivers of standard development requirements, such as parking spaces. The 2020 GA approved an amendment to the IZ statute, giving other localities the option of passing similar mandatory IZ ordinances.

➢ Eviction laws and policies: Since Virginia was thrust into the spotlight in the spring of 2018, housing and legal advocates have pushed for changes to laws to help reduce evictions and lessen the impact of the eviction on affected households. Successful statewide efforts include requiring written leases, putting a cap on late fees, and requiring eviction orders to be expunged from records if the case is later dismissed and the tenant requests the expungement.

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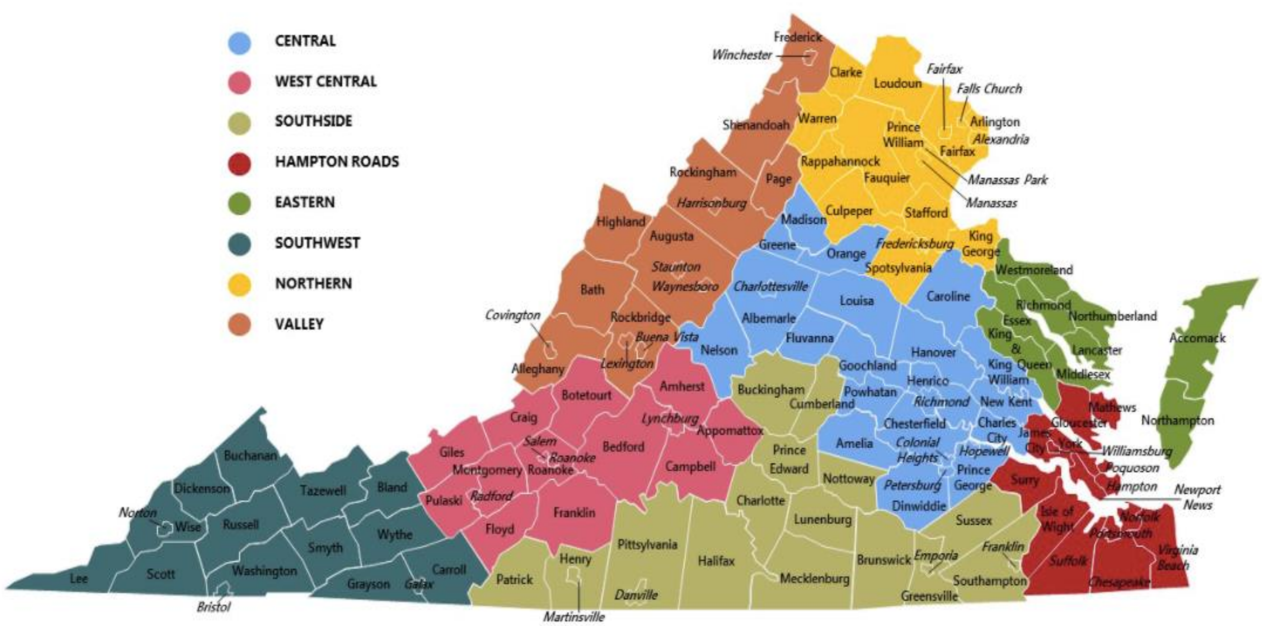
Part I - Affordable housing need in Virginia
For reference purposes, the following map delineates the regions that are used in this report https://demographics.coopercenter.org/virginia-regions.



1. Definition of affordable housing and income**:**
Housing is considered affordable if you spend no more than 30% of your income for housing expenses, including heat and utilities. The U.S. Department of Housing and Urban Development (HUD) publishes annual income limits
https://www.huduser.gov/portal/datasets/il/il2019/2019summary.odn?inputname=STTLT*519

9999999%2BVirginia&selection_type=county&stname=Virginia&statefp=51.0&year=2019. The 2019 Median Income in Virginia for a household of four was $88,500: $62,000 for a household of one and $70,800 for a household of two. These incomes are referred to as Area Median Incomes (AMI). Any household whose income is below the median is considered to need affordable housing. Obviously, the lower the income, the greater the need. (For the purposes of this report, “household” is any person or persons, regardless of familial status, living in a housing unit.)

The income limits for households at 80% of AMI (considered **low income**) in Virginia are defined as $49,550 for one person, $56,650 for two persons and $70,900 for four persons. People who wait on you at restaurants and care for seniors and people with disabilities earn about $9.50 per hour, while those who clean stores and offices pull in $11.50, and those who assist teachers make $12.50 an hour. All of these workers have incomes which are at 50% of AMI and below and are considered **very low income** using the statewide income limits for Virginia for a one person household-- $31,000.

Households at 30% of AMI and below are considered **extremely low income** ($18,000 for one person, $21,250 for two persons and $26,550 for four persons). These would be persons who make just the minimum wage or who are on low fixed incomes.

Incomes vary substantially across the Commonwealth. See chart below for examples across the state.

FY 2019 Area Median Income (AMI) for Select Virginia Areas as Established by HUD

Household Size:		1	2	3	4	5
80% AMI	NOVA*	54,350	62,100	69,850	77,600	83,850
	Richmond City	48,400	55,300	62,200	69,100	74,650
	Norfolk City	44,450	50,800	57,150	63,450	68,550
	Roanoke City	40,950	46,800	52,650	58,500	63,200
	Lee County	32,150	36,750	41,350	45,900	49,600
50% AMI	NOVA	42,500	48,550	54,600	60,650	35,550
	Richmond City	30,250	34,600	38,900	43,200	46,700
	Norfolk City	27,800	31,750	35,700	39,650	42,850
	Roanoke City	25,600	29,250	32,900	36,550	39,500
	Lee County	20,100	23,000	25,850	28,700	31,000
30% AMI	NOVA	25,500	29,150	32,800	36,400	39,350
	Richmond city	18,150	20,750	23,350	25,900	30,170
	Norfolk City	16,700	19,050	21,450	25,750	30,170
	Roanoke city	15,400	17,600	21,330	25,750	30,170
	Lee County	12,490	16,910	21,330	25,750	30,170

- Northern Virginia (NOVA)

As you can see, for incomes at 80% and 50% AMI, there is more than a $20,000 difference in Income in Arlington versus Lee County, while at 30% of AMI, the difference is about $13,000.

2. Fair Market Rents and cost burden**:**

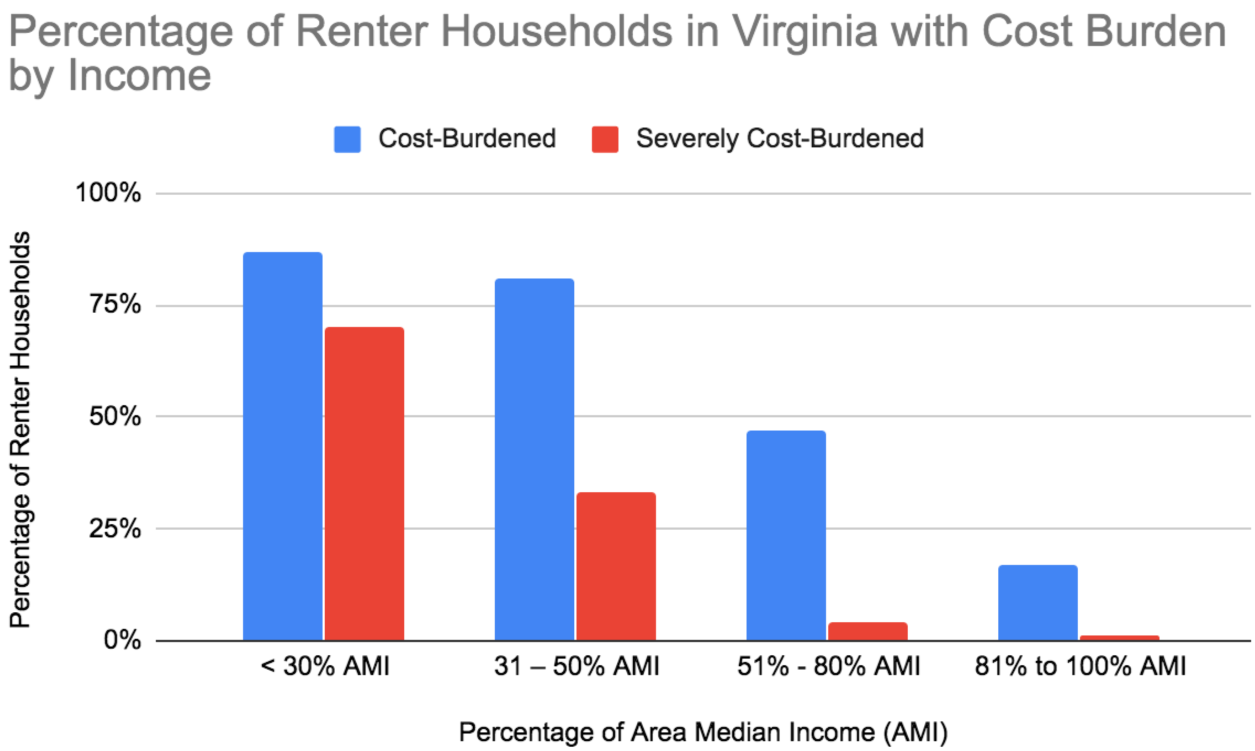
Since HUD must provide the standard rent amounts that are used in the federally-funded Housing Choice Voucher (HCV) program (commonly referred to as Section 8), they are required to calculate and set the Fair Market Rents (FMR) annually for each metropolitan and non-metropolitan area in the US https://www.huduser.gov/portal/datasets/fmr.html. HUD provides these FMR's for statistical areas as well as for each county and city in Virginia. A complete listing of FMR's for 2020 can be found at: https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2020_code/2020state_summary.odn. As with income limits, FMR's differ substantially depending on where you live in Virginia as depicted in the following chart. The rents in Northern Virginia are twice the rents in many rural areas of the State.

If you pay more than 30% of your income on housing, you are considered "cost-burdened". The lower your income, the higher the cost burden, making it difficult for persons earning low wages or those on fixed incomes to pay for basic necessities such as food, medicine and transportation. If you pay more than 50% of your income for housing, you are considered "severely cost- burdened".

3. The greatest need for affordable housing in Virginia**:**

Every year, the National Low Income Housing Coalition (NLIHC) releases their Out of Reach (OOR) report, https://reports.nlihc.org/oor/virginia which documents the gap between renters' wages and the cost of rental housing across the US.

In Virginia, 34% of the 3,106,636 households, or 1,050,563, are renters. As depicted in the following chart, while only 1% of renter households in Virginia whose income is between 81% and 100% of Area Median Income (AMI) are severely cost-burdened, 70% of extremely low income (ELI) renter households are severely cost-burdened. In Virginia, there are over 246,882 ELI renter households and almost 173,000 of them are severely cost-burdened.



Housing cost burden varies somewhat around the state as depicted in the chart below. For rural areas like Roanoke City and Washington County, extremely low income renters with severe cost burden are slightly lower than the state for Roanoke and 14% lower than the state average for Washington County, while renter households between 31% to 50% AMI with severe cost burden are about one third lower than the state average. (See Section 8. for more information on rural housing.) Forty-one percent of Hampton Roads renter households with incomes between 31 and 51% of AMI are severely cost-burdened, whereas Northern Virginia extremely low income renter households have the highest rate of severe cost burden at 76%. In the more urban areas, for the most part, if you are an extremely low income renter household, you are most likely to be paying more than 50% of your income for rent, and if your income is between 31% and 50% of AMI, you're very likely to pay more than 30% of your income for rent.

	<30% AMI Renter Households		31% to 50% AMI Renter Households	
	w/ cost burden	w/severe cost burden	w/cost burden	w/severe cost burden
Virginia	87%	70%	81%	33%
Richmond City	84%	74&	80%	30%
Hampton Roads	85%	71%	82%	41%
Northern VA	88%	76%	81%	27%
Roanoke City	87%	66%	76%	22%
Washington Co.	77%	56%	69%	19%

In order to afford a modest one-bedroom apartment in Virginia, members of a household would need to work 109 hours per week at the state's minimum wage of $7.25. In order to afford this rent, a household must earn $19.70 an hour or $40,981 a year. None of the workers previously mentioned could afford the average one-bedroom apartment in Virginia.

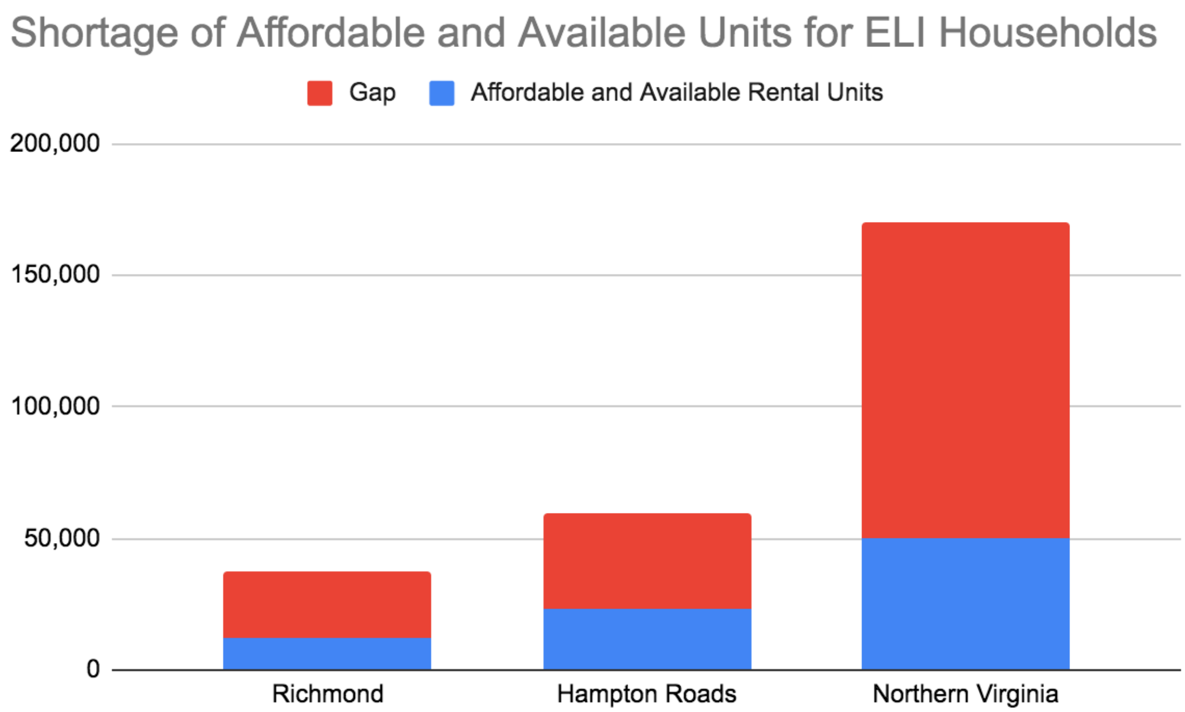
Extremely low income people have the most difficult time finding available and affordable housing in Virginia. NLIHC also publishes a GAP report showing the shortage of affordable homes in the US, which can be found at https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2020.pdf. This report shows that there is a chronic and severe shortage of affordable homes for the lowest income renters. There are only 36 available and affordable rental units for every 100 extremely low income households in Virginia: that means there is a deficit of 157,087 affordable and available rental units for the 246,882 ELI renter households in Virginia https://nlihc.org/housing-needs-by-state/virginia. The number of affordable rental units has continued to decrease over time. According to the Harvard Joint Center on Housing Studies, the number of rental units with contract rents under $600 per month in Virginia decreased by 36% from 2012 to 2017 https://www.jchs.harvard.edu/americas-rental-housing-2020.

There are several reasons for this severe shortage of rental housing for very low income households. Incomes have not kept pace with housing costs especially in high cost areas and there are insufficient federal rental subsidies to help even the poorest renters. Also, higher income renters are renting housing that could be affordable for lower income households; that is, the higher income renters are paying less than 30% of their monthly income for rent. According to the GAP report, nationally, "Of the 7.5 million affordable and available rental homes for extremely low income households, 3.5 million are occupied by higher income households, making them unavailable to extremely low income households." Finally, it is not economically feasible for the private market to develop or maintain existing affordable housing for very low income households as the rents do not cover development or operating costs.

There are wide variations in the shortage of available and affordable rental units around Virginia. As depicted below, in the City of Richmond, there are only 31 affordable and available units for every 100 ELI renter households or a deficit of 25,196 affordable and available rental units for the 36,259 ELI households. In Hampton Roads, it's 36 for every 100 or a deficit of 37,090 affordable and available rental units for 58,172 ELI renter households. Finally, the Washington Metropolitan Area that includes Arlington County and the City of Alexandria has the biggest gap at 28 for every 100 or a deficit of 125,0923 affordable and available rental units for 186,500 ELI renter households https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2020.pdf.

These areas also had gaps for all renter households at or below 50% of AMI although the gaps were not as high. For Richmond City, there were 60 affordable and available rental units for every 100 households at or below 50% of AMI. For Hampton Roads, the number was 56 and Northern Virginia was 49, thus demonstrating that Northern Virginia has the highest gaps than all other areas.

While data was not available in the previously cited National Low Income Housing Coalition (NLIHC) GAP report for smaller cities in rural areas, the staff at HD Advisors, an affordable housing consulting agency, completed some analysis for a couple of areas using the same data sets as the NLIHC used in their GAP report. The gaps for these areas was much less than in large urban areas. For example, in both Roanoke City and Lynchburg City, for every 100 ELI renter households, there were 49 rental units available. There were no gaps for renter households between 31% and 50% of AMI.



4. <u>Homelessness 101 and data for Virginia:</u>
The problem of homelessness and the current affordable housing crisis is in large part a result of drastic reductions in the HUD budget in the 80's during the Reagan Presidency. In 1981, the HUD budget authorization was over $32 billion. By 1989, the HUD budget authority had been reduced 78% to less than $7 billion largely due to the elimination of the Section 8 new construction and rehab programs https://www.cato.org/sites/cato.org/files/pubs/pdf/pa127.pdf. As homelessness was increasing and becoming more visible in the country in the 80's, new non-profit organizations and faith-based groups in many cities opened emergency shelters to provide short-term shelter for people experiencing homelessness. During that same time, advocacy in Virginia resulted in the state appropriating funds for emergency shelter and for a Homeless Intervention Program. (See Part II for additional information on state resources for homelessness.)

While the HUD budget authority was drastically cut in the 80's, ironically, HUD became the leader in efforts to end homelessness beginning in 1987 with the passage of the McKinney-Vento Homeless Assistance Act, which was reauthorized as the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act in 2009 https://www.hudexchange.info/homelessness-assistance/hearth-act/. These two Acts not only provided funding to prevent and end homelessness, but also required systems to be in place in each community/region to ensure that funding was being used effectively and efficiently with the goal of homelessness being rare, brief and non-reoccurring. The mainstay of the required systems were the establishments of what HUD called Continuum of Care (CoC) in each "community", which could mean one jurisdiction or several in a region. According to HUD "The Continuum of Care (CoC) Program is designed to promote communitywide commitment to the goal of ending homelessness; provide funding for efforts by nonprofit providers, and State and local governments to quickly rehouse homeless individuals and families…" https://www.hudexchange.info/programs/coc/. The ideal CoC was a community that had coordinated resources and services to help households facing a housing crisis that included a continuum from prevention services to permanent housing.

Over time, CoC requirements have evolved and become much more sophisticated. The CoC Program includes Homeless Management Information Systems (HMIS), specific administrative rules and regulations, and evaluation criteria for each program reflecting evidence-based practice and research. Housing is seen as the solution to homelessness. With the advent of the "Housing First" model, emphasis is placed on getting people into permanent housing as quickly as possible, which means rapidly re-housing people who are homeless, reducing their time in short term emergency shelter and virtually eliminating transitional housing. The National Alliance to End Homelessness (NAEH) is the primary resource for additional information, research and statistics on homelessness https://endhomelessness.org/.

There are 16 CoC's in Virginia, including the Balance of State CoC. The Balance of State COC concept means that in smaller more rural areas, the State acts as the CoC and requests money from HUD on behalf of these areas. Each of the remaining 15 CoC's determines their own needs and requests funding directly from HUD.

Homeless Data for Virginia: In order to receive homeless grants from HUD, each CoC is required to undertake an annual count (Point in Time or PIT) of persons who are homeless who are either sheltered or unsheltered. HUD has a very specific definition of homelessness which does not include those living in hotels/motels if they are paying for it themselves and those doubled up. These annual counts must be provided to the state and to HUD. The Department of Housing and Community Development (DHCD) publishes an annual report on homelessness, including these counts, as required by the state to the General Assembly. In their latest report, "Virginia's Homeless Programs 2018-2019 Program Year," which can be found in LWV-VA Housing Study portal, DHCD states that Virginia's rate of homelessness per 100,000 people is 70, which is the fourth lowest in the nation. The national average is 156.

The report states,

> Since 2010, there has been a 36.3 percent decrease in the number of homeless persons, a 45 percent decrease in households with children, and a 46 percent decrease in chronic homeless identified during the point-in-time count. In addition, since 2011, there has been a 52 percent decrease in veteran homelessness with a 48 percent decrease in unsheltered veterans.
>
> In addition to the reduction in the point-in-time count, the number of persons in Virginia who became homeless for the first time decreased by 412 since 2017.

The preliminary numbers from the 2019 PIT count show that there were 5,780 individuals representing 4,209 households experiencing homelessness. A majority of those were in shelters or transitional housing while 15% of them were unsheltered. Most households who experienced homelessness were single adults. Fifteen percent were households with children.

The report goes on to say that in the 2019 PIT count, 15% of individuals (881) were chronically homeless. This is based on the HUD definition of chronic homelessness published in December 2015:

> A homeless individual with a disabling condition or family where the head of household has a disabling condition and who has either been continuously homeless for a year or more, or has had at least four episodes of homelessness that equal a year's time in the past three years.

While there has been a decrease in homelessness in Virginia over the past decade, largely due to the resources poured into it, there is a need to stay vigilant as nationally, homelessness has begun to increase slightly, according to the National Alliance to End Homelessness (NAEH) https://endhomelessness.org/new-homelessness-numbers-reflect-uneven-progress-increased-urgency/, and locally in the Richmond Region in 2020, the number of unsheltered individuals increased for the first time in many years.

5.Permanent Supportive Housing:

Permanent supportive housing (PSH) is an evidenced based housing model that combines affordable housing, usually with subsides, with wrap-around services for people who need supportive services in order to maintain their housing. Individuals who need PSH usually have a serious disability such as mental illness, substance use disorders, serious physical health issues or developmental disabilities. PSH is especially successful with individuals who are chronically homeless but is also effective for disabled individuals housed with aging family members or those coming out of institutions who need to move to private housing. There are multiple studies and research on the effectiveness of PSH showing that it has a very high success rate in keeping people stably housed, while reducing community costs for hospitalizations and incarcerations https://www.ncbi.nlm.nih.gov/books/NBK519591/. Virginia Supportive Housing (VSH) is the largest provider of PSH in the state. Their success rate with PSH for chronically homeless adults is over 95% http://www.virginiasupportivehousing.org/about/. All of the people VSH serves are below 30% of AMI.

In terms of need for PSH in Virginia, the Virginia Coalition to End Homelessness (VCEH) published a report on "The State of Permanent Supportive Housing in Virginia 2015," which can be found on the LWV-VA housing study portal https://lwv-va.org/publications/our-studies/lwv-va-affordable-housing-study-2019/. (NOTE: In 2017, VCEH merged with the Virginia Housing Coalition to form the Virginia Housing Alliance.) That report estimated that there was a need for 2,500 PSH units for individuals and families experiencing homelessness in Virginia. In a fact sheet provided by the Department of Behavioral Health and Developmental Services (DBHDS) and found on the LWV-VA website, they estimate that, currently, an additional 5,000 PSH units are needed for the population they serve https://lwv-va.org/publications/our-studies/lwv-va-affordable-housing-study-2019/. (Refer to Part II for more information about PSH for DBHDS clients.)

More information and research on PSH can be found in the Housing Study Portal – Additional Homelessness Research on the LWV-VA website https://lwv-va.org/publications/our-studies/lwv-va-affordable-housing-study-2019/.

6. Evictions in Virginia:

New information has brought to national attention Virginia's high eviction rate. In 2016, Mathew Desmond, PhD, published the Pulitzer prize-winning book *Evicted: Poverty and Politics in the American City.* In 2017, Desmond started the first-ever nationwide eviction lab at Princeton University which collected and analyzed tens of millions of datasets on evictions from across America https://evictionlab.org/about/. In 2018, the first data from the eviction lab was published revealing that the City of Richmond was the second highest evictor city in the nation https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&lang=en. (Eviction rates are calculated by dividing each year's eviction judgments in court by the total number of renter-occupied households and multiplying that number by 100 so that the rate is represented by a percentage.) Indeed, Virginia has five of the top 10 highest eviction rates among large U.S. cities and three of the top 10 highest eviction rates among mid-size U.S. cities. They are all concentrated in central Virginia, the tri-cities (cities of Petersburg, Hopewell and Colonial Heights) and Hampton Roads. In Richmond City alone, in 2016, an average of 17.34 evictions occurred every day: annually, 30% of Richmond City renters receive an eviction notice. The average eviction rate in the nation is 2.34%. In Virginia, it is 5.12%. In the City of Richmond, it is 11.4%. In the City of Petersburg, it is 17.5%.

Evictions in different parts of the state vary drastically, especially in Northern Virginia, where the eviction rate in many counties and cities is well below the state average and some below the national average: Arlington, .86%; Loudoun, 1.6%; Fairfax County, 1.86%; Alexandria, 3.8%; and Prince William, 4.04%. Some of the disparity is explained by the difference in the poverty rate between Northern Virginia and the highest evictor cities. Petersburg's poverty rate is 29%, followed closely by Richmond City at 25%, Hopewell at 21%, Portsmouth at 18%, Newport News at 16%, and Hampton at 15%. Chesapeake is the outlier at 10%. While Loudoun's poverty rate is 4% and Arlington's and Fairfax's are 6%, Prince Williams is 7% and Alexandria is 10.5%. Poverty is one reason, but not the only one. Past racial practices may also play a factor as described below. Also, the absence or presence of resources such as rental assistance or prevention funds may also be a factor in the disparity.

In April 2018, the *New York Times* published an article which highlighted the eviction crisis in Richmond City https://www.nytimes.com/interactive/2018/04/07/upshot/millions-of-eviction-records-a-sweeping-new-look-at-housing-in-america.html. At that time, the Virginia Poverty Law Center (VPLC) gathered a group of representatives from around Virginia to launch the Campaign to Reduce Evictions (CARE) https://www.reduceevictions.org/. CARE held several summits in the cities of Richmond and Hampton to highlight the problem and discuss potential solutions to include increasing the affordable housing supply, providing short-term rental assistance and making legal reforms. In 2018, CARE proposed increases to the Virginia Housing Trust Fund, a pilot eviction prevention program and changes to laws to increase protections for tenants.

Understanding the need for further research and analysis, two professors from Virginia Commonwealth University Center for Urban and Regional Analysis, Drs. Ben Teresa and Kathryn Howell, launched an eviction lab in Richmond https://cura.vcu.edu/ongoing-projects/rva-eviction-lab/. They determined that there is a strong correlation between evictions and race. While 11.5% of Virginia Census tracts have eviction rates greater than 10%, 60% of all majority Black tracts have rates over 10%. While 39% of all high eviction rate census tracts have poverty rates over 20%, 76.7% of these are majority Black.

While there is no way to determine the income of households who are evicted, a majority of evictions (about 95%) in Virginia occur due to non-payment of rent. The assumption is that most households who are evicted are cost-burdened with many being severely cost-burdened. Since most evictions are due to non-payment of rent, a direct cause and effect relationship assumes that most households do not have enough money to pay their rent. Assuming that most tenants want to pay their rent and pay it on time, they are either cost-burdened or severely cost burdened and deciding which bills to pay and/or an emergency occurs resulting in a short-term crisis. Either way, these households need housing that is more affordable or rental assistance that is temporary or ongoing.

Virginia's landlord/tenant laws could also be a factor in the high rate of evictions in the state. This will be explored in Part III of this report.

7. Regional and local housing studies related to greatest need:
In a search for housing studies across the state, 14 were found: five in Northern Virginia, three focusing on Central Virginia, three in Hampton Roads, two in North Central Virginia and one from Southwest Virginia. One of the Richmond studies addresses discrimination encountered by Housing Choice Voucher holders which will be explained in Part IV. The Summary of Regional and City Housing Studies can be found in the LWV-VA housing study portal https://lwv-va.org/publications/our-studies/lwv-va-affordable-housing-study-2019/.

Of the five from Northern Virginia, two of them focus on the entire Washington Metropolitan Area which includes D.C., and parts of Maryland and Northern Virginia. Another study focuses on just Northern Virginia and the other two are for the City of Alexandria and Arlington County. These studies focus on the high cost of housing in Northern Virginia and talk about the urgent need for housing for low and very low income households, although the Alexandria study focuses mainly on "Workforce Housing". Housing Virginia, a statewide non-profit organization that provides education, research and training on all aspects of affordable housing, has a toolkit on workforce housing, which they define as "workers that staff a region's essential institutions and amenities, e.g. teachers, emergency personnel, nurses, utility workers, sanitation workers, service/retail workers. Often, this refers to housing that is affordable to workers in 'bread and butter' industries such as those listed above. Often, these are the industries and jobs that fall within the 60%-80% AMI range." https://www.housingvirginia.org/toolkits/workforce-housing-toolkit/.

The Richmond Regional Housing Framework includes a goal to increase the supply of affordable rental housing https://pharva.com/framework/about-the-framework/. While not cited in the report but provided during an interview with an HD Advisors staff who prepared the research for the report, it is estimated that the region will add almost 16,000 very low income people over the next 20 years increasing the need for rental units for that population.

The Central Virginia Regional Partnership of the Thomas Jefferson Planning Commission study gives an assessment of the housing needs of households between 30 and 50% of AMI. They define the need for affordable housing as those households who are cost burdened and especially those who are severely cost burdened http://tjpdc.org/media/CVRHP-Housing-Needs-Assessment-Packet-web.pdf.

The three Hampton Roads studies all call for preserving existing affordable rental housing and increasing the supply of the same. The City of Norfolk describes the shortage of affordable rental housing at 15,000 units and the regional report cites the increased severe cost burden such that "nearly 90 percent of the region's renters with household incomes below $20,000 spend more than 30 percent of the income on rent" https://jamescitycountyva.gov/DocumentCenter/View/13601/Housing-the-Future-Workforce-in-the-Hampton-Roads-Region-PDF?bidId=.

Housing Virginia and the VCU Center for Urban and Regional Analysis (CURA) conducted one of the North Central Virginia studies. The other was conducted by People, Inc. a nonprofit in Abingdon that serves a wide area of the valley and southwest Virginia. The Northern Shenandoah Valley study by HV and CURA, which includes the city of Winchester and surrounding counties, does not specifically target the need for housing for ELI renter households but does indicate that there is not enough housing for households at 31 to 80% of AMI. The study says, "The current housing market is likely to push the lowest income homebuyers into housing that may not be affordable or back towards the rental market. Low to moderate income renters may also have difficulty finding affordable units as higher income renters place downward pressure on the rental inventory". "Housing the Northern Shenandoah Valley: Analysis of Trends and Projections" can be found in the LWV-VA housing portal at https://lwv-va.org/publications/our-studies/lwv-va-affordable-housing-study-2019/.

The People Inc. report for Northern Shenandoah Valley was part of a community needs assessment that included surveys and focus groups. The report noted that housing was one of the top areas of need cited in the survey and said that 1/3 of the households in the area are cost-burdened http://www.peopleinc.net/media/About/Publications/Publications-2018%20Northern%20Shenandoah%20Valley-Community%20Needs%20Assessment.pdf.

Finally, the report completed by People Inc. for the southwest area was also part of a community needs assessment that listed affordable housing as one of the top three needs for the region and that more than half of renters are cost burdened and cited the need for more affordable rental housing http://www.peopleinc.net/media/About/Publications/Publications-2018%20Southwest%20Virginia-Community%20Needs%20Assessment.pdf.

8.Rural housing needs in Virginia:

Housing Virginia (HV) implemented a rural housing initiative in 2015 that culminated in a report completed in April 2017 entitled *Meeting Housing Needs in Rural Virginia: Trends, Needs, Gaps, Solutions* where the information in this section was obtained https://www.housingvirginia.org/focused-initiatives/rural-housing-initiative/. For their analysis, HV created six unique rural regions of the state. In addition to analyzing demographic and housing data, HV met with over 150 rural housing providers across the state over the course of the study to talk about the housing needs, gaps and potential solutions in their area.

Due to the outmigration of millennials and a growing senior population, between 2010 and 2015, the population growth in the rural areas increased at a slower rate than the rest of the state; in the Mountain region, which includes all of southwest, it decreased. By 2020, in rural Virginia, young adults will account for 15% of the population while seniors will account for 20%. In the Mountain and Southside regions in 2014, nearly one in five adults lived in poverty. The report states that while housing cost burden in rural areas is less than in urban areas, it has increased faster in rural areas. "Overall, cost-burdened households in rural regions increased by 85% over the past 15 years" (*Meeting Housing Needs in Rural Virginia,* p. 13).

While homeownership is still much higher in rural than in urban areas, the demand for affordable rental housing was cited as the top need in rural surveys and interviews. What created this need in rural areas is similar to that of urban areas with young people not able to afford homeownership, seniors needing to downsize and the housing crash causing large numbers of foreclosures. However, in rural areas there are far fewer rental units than there are in urban areas. Housing providers said that there has only been an appetite for rehabbing rental housing in rural areas and not enough willingness to create new multi-family developments, even smaller ones, and that NIMBY and zoning restrictions are problems. Providers also said that there was a dearth of subsidized housing to meet demand and long waiting lists everywhere.

Policy options for increasing affordable rental housing should include an increased focus on mixed-income projects in towns, more focus on building rather than rehabbing rental housing, focus on building rental housing with LIHTC and VHTF, use of more federal Rural Development funds, and incentivizing or supporting the development of smaller rental projects in rural areas.

9.<u>Focus area for LWV-VA affordable housing study: renter households at 50% of AMI and below</u>
After reviewing the many documents and reports related to affordable housing the Affordable Housing Study Committee decided to focus its efforts on affordable housing for households with the most acute housing needs, renters at 50% of AMI and below. As incomes have held steady over the past decade but rents have steadily increased, households with the lowest incomes have had the most difficult time finding and keeping affordable housing. The eviction statistics in Virginia indicate a real crisis. Based especially on the information from the National Low Income Housing Coalition (NLIHC) GAP report and bolstered by regional and local data as well as current trends in the industry, which include high land and construction costs, developing and maintaining affordable housing for households at very low incomes is virtually impossible without government intervention. Either there is not enough rental housing available or the rental housing that is available is not affordable. Finally, market forces, such as low interest rates and the economics of housing development ensure that housing for those above 50% of AMI (while it may be difficult for some earners) is more affordable and available than for those below 50% of AMI.

Since the scope of the study is on affordable housing for very low and extremely low income renter households, the remainder of the report will focus on how the State can increase the

supply of affordable housing and preserve the existing affordable housing stock with current or potential state resources and remove barriers that stand in the way for the development of this type of housing. The study will also speak to non-financial issues related to affordable housing for this population such as laws or regulations that make it difficult for this population to find and maintain their housing.

Part II – Current and potential state housing resources

While this section of the report is focused on state resources, it is important to note that local resources are also needed to solve the affordable housing problem. Many localities are currently putting local general fund resources for affordable housing into local Housing Trust Funds (HTF). Seven Virginia localities have local HTF's: Albemarle, Alexandria, Arlington, Charlottesville, Fairfax County, Norfolk and Richmond City https://housingtrustfundproject.org/wp-content/uploads/2020/01/HTFunds-in-the-US-2020.pdf. Since funds are appropriated annually, there is no single source that captures the amount of funds available and the number of units created through these local trust funds.

1. Virginia Housing Trust Fund:

Virginia is one of 47 states and the District of Columbia that have housing trust funds (HTF). The Housing Trust Fund Project is a national non-profit organization providing information, education, training and technical assistance to states and localities in the establishment, implementation and monitoring of HTF's. The HTF Project defines HTF's as "distinct funds established by city, county or state governments that receive ongoing dedicated sources of public funding to support the preservation and production of affordable housing and increase opportunities for families and individuals to access decent affordable homes" https://housingtrustfundproject.org/our-project/about/. Nationally, HTF's provide over $1.2 billion annually to help address critical housing needs.

Why are HTF's needed? Multi-family housing developers use market rate loans to construct or renovate existing housing. In order to repay the loans and make a profit, they need to charge the Fair Market Rents or higher. The economics of multi-family development do not work in housing very low income (VLI) and extremely low income (ELI) households as the rents these households are able to pay are not high enough. This is true for non-profit housing developers as well, even discounting the profit in the project, they are not able to serve VLI or ELI households. Therefore, lower interest or no interest loans, and forgivable loans are needed in order to develop rental housing for the VLI and ELI household. These incentives are sometimes referred to as gap financing. The lower the incomes of households to be served, the more gap financing that is needed. HTF's provide this gap financing, both for single-family (homeownership) and multi-family (rental) housing.

As previously mentioned, the Virginia Housing Trust Fund (VHTF) was created by the General Assembly in 2013 to create and preserve affordable housing and reduce homelessness in Virginia. As stated by the Virginia Housing Coalition (now the Virginia Housing Alliance), after a decade of advocacy (by housing providers) for a state HTF, the VHTF was created under the Bob McDonnell administration with initial funding of $7 million (part of a $66 million National Mortgage Settlement fund) for FY2013 https://housingtrustfundproject.org/virginia-initiates-housing-trust-fund-with-national-mortgage-settlement-funds/.

The law describes what the VHTF may be used for:

- Affordable rental housing to include new construction, rehabilitation, repair, or acquisition of housing to assist low or moderate income households, including land and land improvements;
- Down payment and closing cost assistance for homebuyers; and
- Short, medium and long term loans (to developers) to reduce the cost of homeownership and rental housing.
- Up to 20% of the funds may be used for grants through eligible organizations to reduce homelessness, including: Temporary rental assistance, not to exceed one year; Housing stabilization services in permanent supportive housing for homeless individuals and families; Mortgage foreclosure counseling targeted to localities with the highest incidence of foreclosure activity; and Pre-development assistance for permanent supportive housing and other long term housing options for the homeless.

The VHTF provided the first loans and grants in 2014. In the past six years of the VHTF, $27 million has been appropriated. The 2020 General Assembly (GA) approved $14 million for the VHTF for the current fiscal year, FY 2020, which adds $4 million to the current year funding, although due to the COVID-19 crisis, these additional funds may not be appropriated. For FY 2021 and FY 2022, the VHTF is funded at $30 million each year. (Due to COVID19 the FY21 and FY22 funds are now on hold.)

DHCD provided the following data via email on the use of the funds:
Since 2014, 45 projects have been funded for 3,075 units. A majority of the units (63%) were new units created and 37% were units that were preserved through rehabilitation. More than half of the preserved and newly created units are or will be housing households at 50% AMI and below. The $27 million in project costs spent or committed to date have leveraged an additional $750 million. Units were created/preserved in both urban and rural areas as evidenced by this map created by the VHA and included in the Campaign for Housing and Civic Engagement (CHACE) Issue Brief for 2020 https://chaceva.files.wordpress.com/2019/08/chace-2019-vhtf-issue-brief-final-4.pdf.

As indicated above, the VHTF is a viable source of funding to develop and preserve affordable housing for very low income people as it provides necessary resources and incentives that developers need to create this type of housing. The lower than market rate loans or no interest loans enable developers to charge lower rents which allow them to house very low and extremely low income households. The VHTF is one of the solutions cited in the housing section of the Behavioral Health position of the LWV-VA https://lwv-va.org/wp-content/uploads/2019/06/lwv-va-positions-Full-2019-Final-6-2-19.pdf.

Finally, in 2017 the Campaign for Housing and Civic Engagement (CHACE) contracted with the Wasson Center for Public Policy at Christopher Newport University to conduct a public opinion poll of Virginia voters about affordable housing and the government's role in it. The results of the poll showed that 78% of voters in Virginia support the VHTF and 80% support dedicating a portion of those funds to specifically address homelessness
https://chaceva.files.wordpress.com/2017/09/chace_poll_summary.pdf.

2. State Low Income Housing Tax Credit Program:
CHACE has an excellent Issue Brief on their website advocating for the creation of a Virginia Low Income Tax Credit (LIHTC) that would be a companion to the federal LIHTC https://chaceva.files.wordpress.com/2019/07/chace-2019-va-lihtc-program-issue-brief-final.pdf. As stated in the brief, since 1986 when it began, the LIHTC program has been the primary federal funding source for the development and preservation of affordable rental housing. Investors in developments receive tax credits that provide developers equity in a project. While LIHTC projects can serve all low income tenants, the majority of the projects serve households at 50 to 80% of AMI. Very few, except those for special needs populations, such as PSH, serve households at extremely low incomes. A companion state LIHTC would add additional equity to the project that could potentially target households at very low incomes. In the issue brief, it states that there are 14 states that have companion state programs to the federal LIHTC program.

HB 810 was introduced in the 2020 General Assembly to create a companion state LIHTC program. It was amended to direct the Virginia Housing Development Authority and the Virginia Department of Housing and Community Development (DHCD) to convene an Advisory Stakeholder group to develop draft legislation establishing a Virginia housing opportunity tax credit program in 2021. The bill passed both houses and was signed by the governor.

3. Homelessness grants:
In the Virginia Department of Housing and Community Development (DHCD) Homeless Programs 2018-2019 report to the General Assembly where all the following information was obtained, DHCD reported providing grants of over $12 million in state funds during that fiscal year in their Virginia Homeless Solutions Program (VHSP) to 82 organizations across the state. These grants require a 25% match from localities. Virginia has adopted best practices solutions to ending homelessness and only funds those organizations and programs with proven success. As DHCD states in their 2018-2019 report to the General Assembly, “Efforts have been successful. Since 2010, the increased focus on ending homelessness in the Commonwealth of Virginia has achieved significant results”.

More than half of the funds, some $6.7 million, were used for rapid rehousing which provided households with short term rental assistance and housing stabilization services. Of the households who exited rapid rehousing programs, 84% exited to permanent housing situations.

Four million of the state funds were used for homeless prevention which requires a household to have income less than 30% of AMI and be in imminent danger of being evicted. Approximately 2,000 received assistance in this program; 1,633 of those exited the program and 98% of those households did not become homeless after exiting the program.

The remainder of the funding ($2.4 million) was used for emergency shelter. Approximately 9,000 households were served in year round and seasonal shelters with 17% of them being households with children. Of those exiting emergency shelter, only 44% exited to permanent housing. Additional information about the population served in the VHSP can be found in the report.

In addition to the VHSP, DHCD provided $2.2 million in Homeless Reduction grants through the VHTF. (Up to 20% of the VHTF may be used for homelessness.) These funds are used for rapid rehousing programs, for services in Permanent Supportive Housing (PSH) and for pre-development funds for PSH. Grants were awarded to 22 organizations in various parts of the State with these funds. State funds for PSH for persons who are homeless are restricted to supportive services, predevelopment funds to help develop PSH, and for low or no interest loans to develop PSH through the VHTF. Only DBHDS provides rental assistance in their PSH program.

4. Permanent supportive housing through the Virginia Department of Behavioral Health and Development Services (DBHDS):

(It should be noted that while many of the individuals served though PSH funded by DHCD are also behavioral health clients and DBHDS also serves individuals who are homeless, an individual does not have to be homeless to be eligible for PSH through DBHDS.) DBHDS receives an annual appropriation to provide PSH for ongoing long-term rental assistance and supportive services. Their target population are individuals who would be eligible for DBHDS services (serious mental illness, substance use disorders, etc.) and who are either being discharged from state institutions, leaving a supervised residential program (group home or assisted living facility), experiencing long-term homelessness, or unstably housed and are frequent users of crisis, local hospitals or criminal justice systems. PSH funds pay for a rental subsidy averaging $8,900 per household annually. Individuals pay 30% of their monthly income for rent. Clinical services are provided by Community Service Board staff or private providers.

The first appropriation for PSH began in 2016 and the current annual appropriation is $17.3 million. According to a DBHDS Fact Sheet that can be found on the LWV-VA housing portal, DBHDS requested a $2.9 million increase for FY21 and FY 22 which would house an additional 400 to 450 individuals bringing the total housed and served to 1,200 https://lwv-va.org/publications/our-studies/lwv-va-affordable-housing-study-2019/. For FY 2021, DBHDS will be receiving an additional $8.5 million for a total of $20.8 million for PSH. For FY 2022, the increase is $17 million for a total of $37.8 million for PSH. (These appropriations may change due to the COVID-19 crisis.)

In a Fact Sheet provided by DBHDS that can be found on the LWV-VA housing portal https://lwv-va.org/publications/our-studies/lwv-va-affordable-housing-study-2019/, DBHDS lists the following outcomes:

- **799** individuals are currently housed in 16 DBHDS PSH programs across the state.
- 90% have maintained stable housing.
- **147** were **directly discharged** from state hospital to PSH.
- PSH participants reduced their utilization of other systems after 12 months in housing:
- 89.2% reduction in state hospital costs
- 48.5% reduction in jail costs
- 39.4% reduction in emergency department costs
- 8.8% reduction in local inpatient hospital costs
- CSB costs for crisis care decreased and community behavioral health services increased.
- **$1,375** in avoided cost per person, even after PSH costs are included.

5. <u>Eviction diversion/prevention programs:</u>
Sometimes diversion and prevention programs are viewed as the same thing with different names. For the purposes of this report and to be consistent with what was passed in the 2019 General Assembly (GA), a diversion program is one that occurs in the court system; that is, the tenant has received a Summons for an Unlawful Detainer (UD) and must appear in court or an automatic judgment is issued. Lawyers, such as legal aid attorneys, are usually involved with diversion programs, whereas a prevention program can help tenants before or after they receive a UD and lawyers are generally not involved. (The only exception to this definition is the DHCD homeless prevention program which requires that a tenant have a UD and be in imminent danger of losing their home.) Both diversion and prevention programs require the tenant to receive some type of housing counseling in order to receive assistance.

In the 2019 GA, a pilot Eviction Diversion Program (EDP) was passed within the structure of the district general courts in the cities of Danville, Hampton, Petersburg and Richmond to be implemented in July 2020 and ending in 2023 https://www.billtrack50.com/BillDetail/1012375. The bill was recommended by the Virginia Housing Commission who must collect data from the Supreme Court to evaluate the effectiveness of the program. The Virginia Housing Commission is located in Legislative Services and is comprised of members of the House and Senate and several citizen members. Its purpose is to "study and provide recommendations to ensure and foster the availability of safe, sound and affordable housing for every Virginian" http://dls.virginia.gov/commissions/vhc.htm.

The EDP bill also says that no other EDP's can be established unless they follow the requirements of this bill. There are several proscriptive tenant eligibility requirements of the EDP that include that the tenant has received an Unlawful Detainer (UD), comes to court on the court date with 25% of amount owed, is able to pay ongoing rent when due and pay catch up on back rent, has a good rent-paying record (has not been late more than twice in a six-month period, has not been late more than three times in a 12 month period, has not been in the EDP in the last 12 months and has not had a UD dismissed by paying current in the last six months.). Tenants in the EDP must also be able to pay the 75% balance owed within three months.

The City of Richmond created its own EDP in May 2019 mirroring the state EDP but also provided city funding to help tenants with the balance owed. The city's EDP can pay up to 75% of what is owed. The program is run by HOME in partnership with the Central Virginia Legal Aid http://www.richmondgov.com/PressSecretaryMayor/robocopy/documents/EDP_Presentation.pdf. Households who are assisted receive housing counseling in addition to help with their rent and fees owed.

An eviction prevention program recommended by the CARE group described in Part II, section 6 would include funding for both financial assistance and supportive services. Funding for the upcoming biennium has been included in the state budget that is a combination eviction diversion and prevention program: $3.3 million for FY21 and $3.3 million for FY22. The new two-year pilot will be administered by DHCD and will begin in July 2020. (Due to COVID19, these funds are now on hold.)

There are also several robust local prevention programs, including one in Arlington County https://arlingtonthrive.org/ and one in Fairfax County https://www.fairfaxcounty.gov/housing/sites/housing/files/assets/documents/caper/fy%202019/draft_fy2019_consolidated_annual_performance_and_evaluation_report.pdf. There are also faith-based groups that provide prevention services notably ACTS in the Richmond Region who serves almost 400 households annually with financial assistance and supportive services http://actsrva.org/.

6. State Housing Choice Vouchers:

Housing Choice Vouchers (HCV) are rental subsidies paid to a landlord for households at very low incomes. HCV holders must pay 30% of their income for rent and utilities and the remainder of the contract rent is paid by HUD through the housing authorities around the state. Seventy-five percent of HCV tenants must be at or below 30% of AMI. The HCV program is a federally-funded program through HUD. However, this is another potential state housing resource. Currently, the HCV program is administered by local housing authorities or by the Virginia Housing Development Authority (VHDA) for localities who do not have housing authorities. HCV subsidies are a scarce commodity and local administrators have long waiting lists. Since the amount of funds for the HCV program is controlled by the federal government, at this point the only way to increase the program would be to lobby at the federal level or to initiate a state program. (As mentioned in the Permanent Supportive Housing (PSH) through the Virginia Department of Behavioral Health and Development Services (DBHDS) section of this report, their PSH program is similar to the HCV program as state-funded rental subsidies are provided.)

Other than HCV programs for special populations like the one administered by DBHDS in Virginia, the only state that has a HCV program for low income households not specifically targeted to special needs populations is Massachusetts. The latest information that could be found for the MA Rental Voucher Program (MRVP) states that they help over 5,100 households in this program https://www.mass.gov/service-details/massachusetts-rental-voucher-program-mrvp. This changes annually depending on the authorization. It should be noted that Arlington County has its own rental subsidy program that helps about 1,200 households annually.

Part III – Non-financial Issues related in affordable housing

1. Use of Housing Choice Vouchers (HCV):

In the regional and local housing studies section of this report (Part I Section 7.) and the summary document of these studies, research conducted in the metro Richmond area of rental apartments by Housing Opportunities Made Equal (HOME) on the use of HCV is described. HOME conducted their research in 2019 which updated the same research they did in 2012 https://homeofva.org/wp-content/uploads/2019/07/Choices-Constrained-2019_5_14_19.pdf. Ostensibly a tenant can use the voucher anywhere, but HOME found that only 12% of apartment complexes they interviewed would accept the HCV. Currently, it is legal to deny an apartment to a HCV holder. For several years, HOME has spearheaded an effort to have a Source of Income (SOI) bill passed in the General Assembly requiring that landlords accept HCV households provided they meet all the same rental criteria used with other tenants.

A Source of Income bill (HB6) was approved in the 2020 General Assembly session with two amendments: the bill does not apply to apartment buildings with four or fewer units and the tenancy must be approved by the housing authority within 15 days, which means the housing authority must conduct their housing inspections and approve the use of the unit for the HCV holder within that time frame. The argument that has always been used by the apartment industry is that the only reason they refused to accept HCV holders was the government red tape associated with it, which is why both of the amendments were added to the bill. However, the Virginia Apartment Management Association is still unhappy with the bill. They believe that landlords should not be forced to enter into agreements with the government on behalf of clients.

2. Policies on zoning and incentives for development:

The most comprehensive information on inclusionary housing, (not inclusionary zoning which is one strategy in inclusionary housing) is provided by Housing Virginia's (HV) Inclusionary Housing Guidebook *Welcome to the Neighborhood: A Practitioner's Guide to Inclusionary Housing* completed in 2018. https://www.housingvirginia.org/focused-initiatives/inclusionary-housing/ This Guidebook contains their power point presentation, where the information in this section was obtained, as well as other tools and research on inclusionary housing. In the HV Guidebook, inclusionary housing is defined as

> Policies that mandate or encourage new residential developments to dedicate a share of homes to low and moderate income families are *inclusionary housing strategies*. The most common method is *inclusionary zoning*, which creates specific affordability targets in local land use codes, but we use the term 'inclusionary housing' to also include additional incentives and programs that complement zoning requirements.

Over 500 localities across the nation have some form of inclusionary zoning (IZ) and Virginia has 13, most adopted from 2000 to 2009. More than 80% of IZ programs are mandatory because voluntary programs, such as the City of Richmond's, produce very little affordable housing. The majority of the IZ programs target people between 51% and 80% of AMI, which is not this study's target population. However, any new production of affordable housing even for low income people will inevitably make housing available to those at the lowest incomes as low income people who can afford a slightly higher rent leave more affordable units to those at lower incomes.

In the nation, 40% of IZ programs require less than 10% of the units be affordable, and 80% require less than 20% be affordable. IZ can also potentially affirmatively further fair housing depending on where development occurs. Some federal courts have ordered municipalities to adopt IZ as a remedy for exclusionary zoning in violation of the Fair Housing Act. IZ's are most successful and effective in high cost, high growth areas, rather than in rural areas. Mandatory IZ programs make up 85% of IZ programs nationwide. Most mandatory IZ programs include density bonuses that offset costs and allow developers to provide more units than normally allowed. Many also include incentives such as streamlining permitting and inspections and waiving certain development fees. Other incentives might include real estate tax abatement, design alternatives and reducing parking minimums. Most programs also include affordability terms and guarantees meaning they must keep the units affordable for a certain number of years, sometimes greater than 50 years. Affordable unit subsidies for developers may also be provided through federal, state or local grants or low interest loans such as housing trust funds. Most mandatory IZ programs also exclude small developments, for example, of less than 10 units.

As previously mentioned, while policies incentivizing affordable housing development are decided at the local level, certain ones need state enabling legislation passed by the state before they can be implemented because Virginia is a Dillon rule state. Mandatory inclusionary zoning (IZ) is one of those policies. Fairfax County adopted the nation's first IZ program in 1971, but it was eventually struck down by the Virginia Supreme Court in 1973 because the county had no authority under Virginia's zoning enabling act—Dillon Rule. In 1989, the General Assembly passed enabling legislation that allows six specific localities to develop their own mandatory IZ policies, (15.2-2304 Code of Virginia). They passed another piece of legislation in 1990 for semi-mandatory IZ (15.2-2305 Code of Virginia) that applies to all localities but that puts greater constraints on those policies. The 1990 legislation says that the ordinance may only apply when the developer seeks rezoning or special exemption.

The six localities that have mandatory IZ programs are the counties of Albemarle, Arlington, Fairfax, and Loudoun, and the cities of Alexandria and Fairfax. Localities that wish to implement voluntary programs may do so without enabling legislation. The localities that have semi-mandatory or voluntary programs include the counties of Amelia, Fauquier and York and the cities of Fredericksburg, Richmond, Suffolk and Virginia Beach. Legislation introduced in the 2018 GA to include all localities in the 15.2-2304 statute failed. An Affordable Housing Dwelling Unit (AHDU) Ordinance (SB834) bill was passed in the 2020 GA that amends section 2305 adding a section, 2305.1. According to Preston Lloyd, a land use attorney at Williams Mullen, Section 2305.1 is an attempt to increase the tools available for a local government seeking to incentivize affordable housing. A local ordinance that is approved under this section must include a density bonus program that is automatic if the developer complies with the Code standards. The new section also includes a waiver of development standards such as height requirements, setbacks and parking requirements. Mr. Lloyd believes this will help in the development of new affordable housing but it is now up to localities to adopt it.

Mandatory IZ programs in Virginia have included for-sale units as well as rental units. Fairfax County's IZ requires that 12% of all new development must be affordable. Their minimum development is 50 units and at a density greater than one unit per acre. They serve households with incomes up to 70% of AMI. Fairfax's Affordable Housing Development Unit Program has created almost 1,400 affordable rental units in 50 projects since it began in 1990 and an equal number of for-sale units. Fairfax has also created almost 1,200 workforce development rental units in 26 rental projects since that program was started in 2007. Loudoun County has created less than 300 rental units in their program and almost 2,400 for-sale units since they started their program. With the modest number of rental units created, inclusionary zoning is certainly not a panacea, but in a tight rental market every little bit helps.

According to Michelle Krocker, executive director of the Northern Virginia Housing Alliance, "Arlington has their own unique IZ program, but it allows developers to buy out if they don't want to provide the units. Unfortunately, that happens most of the time. The up-side is that all that money fuels the County's Housing Trust Fund, providing gap financing for the nonprofit developers to do 100% affordable units. Alexandria also has a voluntary program where the city negotiates both units and cash payments. While this is voluntary, there is usually 100% compliance as it's usually an expectation for a developer who is seeking a rezoning."

Other policies besides inclusionary zoning that could impact the development of affordable housing are mandatory impact fees on all new development to address affordable housing needs. To date, the Virginia General Assembly has not given localities explicit authority to levy such fees for affordable housing.

Another zoning approach that would need state enabling legislation would be to do what Minneapolis has done, which has been fiercely debated. In December 2018, Minneapolis became the first city in the U.S. to eliminate single-family zoning http://www.minneapolismn.gov/cped/planning/ZoningCodeTextAmendments as part of their comprehensive plan called Minneapolis 2040. There have been many articles written about this landmark and bold decision, but basically, it is an attempt to solve the housing crisis and undo racial disparities in housing caused by years of discrimination. An article by City Lab states "Endorsed by a nearly unanimous vote, Minneapolis 2040 is the most ambitious up zoning guide yet passed by an American city. Since 75 percent of the city's residents live in areas zoned for single-family homes, it promises to bring dramatic change to the fabric of Minneapolis" https://www.citylab.com/equity/2018/12/mayor-minneapolis-2040-affordable-housing-single-family-zoning/577657/.

(As a point of clarification, the IZ ordinances refer to "Affordable Dwelling Units" within a development, while recent legislation that passed in the 2020 GA referred to it as Affordable Housing Dwelling Unit. However, many people refer to these as ADU's, but ADU's are also the acronym for Accessary Dwelling Units, which are smaller independent residential units located on the same lot as a single-family home. They are usually attachments to homes but could also be in the home and are often called "in-law" or secondary apartments or "granny flats" that are usually for seniors who wish to age in place. These secondary dwellings on single-family home lots can be allowed as an ordinance at the local level without state enabling legislation. While this type of ADU is a local option, local leagues should consider encouraging this zoning as it means duplexes can be added to single family homes which would add to the creation of affordable housing for very low income people.)

3.<u>Policies and laws related to evictions:</u>
Comparing states on whether they are more friendly to tenants (legislation favors tenants) versus landlords (legislation favors landlords) on a scale of 1 to 100 with 100 being the most tenant friendly, Virginia came in as "neutral", at a 45 rating https://truckfrat.com/2018/03/which-states-have-the-best-and-worst-laws-for-renters/ . Vermont was the most tenant friendly at 90, followed by Delaware and Hawaii who tied for second place at 80. The least tenant friendly state was Arkansas at a 12.5 rating.

In Virginia, from the time the rent is due to the Sheriff's eviction, the entire eviction process for non-payment of rent can take as little as 38 days and as long as 60 days.

- Rent is due on the first of the month.
- You have five days to pay it or you will incur a late fee.
- On the sixth day, you'll receive a five day Pay or Quit Notice.
- If you haven't paid by then, usually the 12th or 13th day, you'll receive a Summons for an Unlawful Detainer (UD) to appear in court in 21 days, either the 33rd or 34th day from when the rent was due.

- Prior to the court date, if you pay the rent owed plus the late fees, court fees and legal fees, the case is dismissed.
- If you don't pay and don't appear in court, an automatic judgment for possession and rent is issued and a Writ of Possession may be issued immediately.
- The Writ goes to the sheriff who must give you at least 72 hours to vacate, but usually gives five to 10 days.
- The process is longer if you show up for your court date.

The VCU-Center for Urban and Regional Analysis (CURA) Eviction Lab that was cited in Part I. Section 6. provides research and information comparing eviction laws and policies in Virginia and other states that can be found at https://cura.vcu.edu/ongoing-projects/rva-eviction-lab/. In a PDF entitled "Comparative Law and Policy Analysis for Addressing Evictions in Richmond." they describe laws and policies designed to reduce evictions by providing additional tenant protections and those designed to lessen "the severity of evictions by mitigating the impact of evictions on health, future housing and job or educational stability." Some of these remedies could be enacted through laws at the local level such as bans on evictions and disconnections of utilities during extreme weather. State laws that could provide more tenant protections include extended pay-or-quit periods or mandatory grace periods.

In 2019, the Campaign to Reduce Evictions (CARE) recommended law changes to both protect the tenant from being evicted and those designed to mitigate the impact. CARE recommended extending the pay-or-quit period to 14 days because they felt that many tenants are paid biweekly and extending the time would enable them to have a better chance of paying their full rent when they got paid. The Virginia Apartment Managers Association adamantly opposed such extensions contending that owners had to pay their mortgages on the first of the month and any extra time given to tenants would simply delay the inevitable. Regardless of when tenants are paid, they need to budget their money to ensure their rent is paid on time. In an interview with a large owner/property manager in April 2020, this question was posed to him and, for the most part, he agreed with VAMA, but did think that adding two days onto the pay-or-quit (from a five day to a seven day notice) might be helpful to the tenant and not too onerous on the owners/managers.

In 2019, there were several changes made to the landlord tenant law thanks to the CARE and advocacy by the Virginia Poverty Law Center. (The Landlord Tenant Law in Virginia was initially enacted into law in 1974 https://law.lis.virginia.gov/vacodepopularnames/virginia-residential-landlord-and-tenant-act/) Changes included a requirement for written leases, prohibiting landlords from issuing more than one UD for the same tenant, and extended Right of Redemption. Other changes may be found at https://www.reduceevictions.org/wp-content/uploads/2019/04/new-landlord-tenant-laws-0319.pdf.

State laws mitigating the impact of evictions include limiting late fees and expungement of eviction records. In 2020 several laws were changed to lessen the impact of evictions. The first change, prescribed in HB1420, is that late fees are now capped at 10% of monthly rent or the amount due and owed by the tenant, whichever is less. Previously, the law did not specify any percentage, but said that the fee must be "a reasonable amount".

The second law change relates to expungement of records, which is a critical issue for households who either have been evicted or received an Unlawful Detainer (UD). Once the tenant receives a UD, it is on his/her record forever, even if the case is dismissed. While not an actual eviction, the UD will negatively impact the tenant's credit rating and ability to find another apartment. If there is an actual eviction or writ of possession on the tenant's record, most landlords and property managers will not accept the tenant. A right to expungement bill (HB1401) was passed in the 2020 General Assembly (GA) for cases that were dismissed. However, it is not automatic. A tenant would need to apply for the expungement for it to occur.

Another bill that passed in the 2020 GA (SB707 and HB393) requires a Tenant Rights and Responsibility document to be created by Virginia Department of Housing and Community Development (DHCD). Landlords would be required to give this document to tenants before they are evicted. Further another bill that also passed in the 2020 GA (SB115) requires that tenants in subsidized housing must be given the phone number for Legal Aid. Both of these bills have been approved by the governor.

One other issue that was not addressed in the CURA RVA report previously cited, but that was brought up by Matthew Desmond when he was in Richmond in late 2019 relates to the cost of filing fees. Apparently, Virginia has one of the lower costs for filing an Unlawful Detainer (UD) at $58. Desmond said that they are doing research on these fees and their initial findings indicate that there seems to be a correlation between the cost a landlord pays to file a UD and eviction rates; states with higher UD fees, upwards of $250, have lower eviction rates. He seemed to imply that if landlords have to spend more money to evict maybe they are more apt to work things out with tenants who are late paying their rent. While this is an intriguing question, there is not enough research conducted to determine its consideration as a solution.

Summation: This report was designed to guide league members in responding to the Affordable Housing Study Questions and potentially arrive at consensus. This report intentionally does not arrive at any conclusions or recommendations.

Appendix A – Housing Glossary/Acronyms

ABLE	(Missouri) Achieving a Better Life Experience
ACS	American Community Survey (information source on population and housing intended to help local officials, community leaders, and businesses understand the changes taking place in their communities)
ACTS	Area Congregations Together in Service
AHSC	Affordable Housing Study Committee (LWV-VA)
AMI	Area Median Income
ARCH	Advocate Rebuild Change Heal (Roanoke recovery service)
ASPAN	Arlington Street People's Assistance Network
CACH	Crater Area Coalition on Homelessness
CARE	Campaign to Reduce Evictions
CBSA	Core Based Statistical Area (U.S. geographic area defined by the Office of Management and Budget (OMB) that consists of one or more counties (or equivalents) anchored by an urban center of at least 10,000 people plus adjacent counties that are socioeconomically tied to the urban center by commuting)
CDBG	Community Development Block Grant
CHACE	Campaign for Housing and Civic Engagement
CNCS	The Corporation for National and Community Services
CoC	Continuum of Care (community plan to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximize self-sufficiency; includes action steps to end homelessness and prevent return to homelessness)
CORE	The Center for Outcomes Research & Education
CSH	The Corporation for Supportive Housing
DARS	(Virginia) Department of Aging and Rehabilitative Services
DBHDS	(Virginia) Department of Behavioral Health and Developmental Services
DHCD	(Virginia) Department of Housing and Community Development
DHS	Department of Human Services
Dillon Rule	Rule based on legal principle of ultra vires ("outside one's powers"); states that local governments are limited to only the powers expressly granted to them by their state.
DMAS	(Virginia) Department of Medical Assistance Services
DMH	Department of Mental Health
DPA	down payment assistance
DSS	Department of Social Services
EDP	Eviction Diversion Program (intervention at court hearing designed to divert the tenant from being evicted)

EHARP	Emergency Home and Accessibility Repair Program
ELI	Extremely Low Income (Households)
ESCADV	Eastern Shore Coalition Against Domestic Violence
ESG	Emergency Solutions Grant (from HUD)
FUSE	Frequent Users Service Enhancement (proven model identifying frequent users of jails, shelters, hospitals and/or other crisis public services and then improving their lives through supportive housing)
GA	General Assembly
GAO	(US) Government Accountability Office
GCCH	Governor's Coordinating Council on Homelessness
HA	(local) Housing Agency
HMIS	Homeless Management Information System
HOME	Home Investments Partnership Program (HUD HOME Investment Partnerships Program which provides formula grants to States and localities that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people)
HOME	Housing Opportunities Made Equal (501(c)3 non-profit corporation organized specializing in fair housing; they are also a HUD-approved housing counseling agency)
HOPWA	Housing Opportunities for Persons With Aids (federal program with grants to DHCD and local entitlement communities to help persons with AIDS obtain and maintain affordable housing)
HTF	Housing Trust Fund (national, state or local programs that provide funds to help create and preserve affordable housing and end homelessness)
HUD	(US Department of) Housing and Urban Development
I/DD	Intellectual and Developmental Disabilities
IRS	Internal Revenue Service
LI	low income
LIHTC	Low Income Housing Tax Credit (federal program authorized under the IRS code that provides tax credits to investors in affordable housing that enables developers to create and preserve housing for low income households)
LLC	Limited Liability Corporation
MI	middle income
MU	mixed use (district)
NFHA	National Fair Housing Alliance
NHTF	National Housing Trust Fund
NLIHC	National Low Income Housing Coalition
NOVA	Northern Virginia

PD	(Virginia) Planning District
PDC	Planning District Commission
PHA	Public Housing Authority
PIT	point-in-time (unduplicated count on a single night of the people in a community who are experiencing homelessness that includes both sheltered and unsheltered populations)
PSH	Permanent Supportive Housing (intervention that combines affordable housing assistance with voluntary support services to address the needs of chronically homeless people)
PUMSA	Public Use Microdata Sample Area
PUMS	Public Use Microdata Sample (Census Department files that show the full range of population and housing unit responses collected on individual American Community Survey questionnaires, for a subsample of ACS housing units and group quarters persons)
RECAP	Racially and ethnically concentrated areas of poverty
RPS	Richmond Public Schools
RRH	rapid re-housing (intervention designed to help individuals and families that don't need intensive and ongoing supports to quickly exit homelessness and return to permanent housing)
RVA	Richmond Virginia (area)
SES	Supplemental Education Services (additional academic instruction designed to increase the academic achievement of students in low-performing school)
SHOP	Self-Help Ownership Opportunity Program
SIF	Social Innovation Fund initiative
SNAP	Supplemental Nutritional Assistance (formerly food stamps)
SOI	Source of Income
SSVF	Supportive Services to Veterans’ Families
TAY	Transition Age Youth (at risk young people, ages 16 to 24, who are in transition from state custody or foster care)
VAMA	Virginia Apartment Management Association
VCDBG	Virginia Community Development Block Grant
VDH	Virginia Department of Health
VHA	Virginia Housing Alliance
VHDA	Virginia Housing Development Authority
VHSP	Virginia Homeless Solutions Program
VHTF	Virginia Housing Trust Fund
VLI	Very Low Income (Households)
VO	Virginia Organizing
VPLC	Virginia Poverty Law Center
USDA	United States Department of Agriculture
USICH	United States Interagency Council on Homelessness

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Duke Dodson, Founder and CEO, Dodson Property Management

Brian Koziol, Executive Director, Virginia Housing Alliance

Michelle Krocker, Executive Director, Norther Virginia Affordable Housing Alliance

Preston Lloyd, Land Use Attorney, Williams Mullen

Christie Marra, Director of Housing Advocacy, Virginia Poverty Law Center

Kristin Yavorsky, Director of Community Housing, Dept of Behavioral Haelth & Developmental Services