

January 25, 2023

To the Senate Local Government Committee, the House Committee on Counties, Cities, and Towns, and the Virginia Beach Delegation to the Virginia General Assembly:

Subject: NVBCL Response to 1/24/23 Statement by Sen. Lewis on SB1391 Short-Term Rentals

Honorable Senators and Delegates,

The North Virginia Beach Civic League (NVBCL)* Board of Directors continues to request that you NOT ADVANCE SB 1391, HB2271, or any other bills that would override or limit the authority of localities to regulate Short-Term Rentals (STRs).

Without addressing every assertion in the 1/24/2023 Statement by Senator Lewis on SB1391 Short-Term Rentals (the "Statement"), we respond here to a few of them:

The first claim in the Statement is that *"It [SB1391] does not allow for open short term rental proliferation."* But this is NOT TRUE because the bill specifically exempts realtors from any local ordinance that *"prohibits short-term rentals"*. The Virginia Beach STR ordinance specifically allows STRs ONLY in our hotel resort district where our City Council determined that they are a compatible use. This bill would exempt realtors from that very important part of the ordinance.

The Statement goes on to note that *"What this legislation **does** do is ensure that short term rental properties that are managed by licensed realtors – who are regulated by the Commonwealth and must follow a specific code of ethics and conduct or risk losing their license – are able to operate safely and successfully and without some of the significant overreach that has happened recently. It ensures that properties that are exempt from the eight items listed in the Bill are operated by licensed professionals who are required to be responsive and available to their properties and to short term tenants. Licensed realtors who are regulated by the Commonwealth and a part of a community have every incentive to make sure that these short-term rental properties are used responsibly."*

We read every line of the National Association of Realtors (NAR) Code of Ethics and confirmed with multiple realtors that NOTHING in Code of Ethics addresses realtor accountability for negative impacts on neighbors of the properties that they manage. .

NAR Code of Ethics: <https://www.nar.realtor/about-nar/governing-documents/code-of-ethics/2023-code-of-ethics-standards-of-practice>

In fact, the NAR Fiduciary Duties OBLIGATES realtors to look after their CLIENTS' best interests, with no defined duty to the neighbors of rental properties that they manage:

- Duty of Loyalty: "This duty obligates a real estate broker to act at all times SOLELY IN THE BEST INTERESTS OF HIS PRINCIPAL TO THE EXCLUSION OF ALL OTHER INTERESTS"
- Duty of Obedience: "An agent is obligated to OBEY promptly and efficiently ALL LAWFUL INSTRUCTIONS OF HIS PRINCIPAL."

NAR Fiduciary Duties: <https://www.nar.realtor/sites/default/files/handouts-and-brochures/2014/nar-fiduciary-duty-032213.pdf>

So for example, even if a realtor KNOWS that a group seeking to rent an STR intends to a host large party or will otherwise be disruptive to neighbors, the NAR Fiduciary Duties OBLIGATES the realtor to accept the rental if that is in the best interest of the property owner.

So this bill attempts to address an ALLEGED overreach by localities with an EVEN GREATER OVERREACH BY THE STATE ON BEHALF OF, AND TO THE EXCLUSIVE BENEFIT OF REALTORS.

Furthermore, there are still lawsuits pending on STR ordinances in at least one of our state Circuit Courts. When considering another STR bill last Year, Senator DeSteph cited pending lawsuits in the Senate Local Government Committee meeting on 1/31/2022 as the reason to strike his SB602, which you did unanimously. Those lawsuits are still pending, so SB1391, HB2271, and HB1362 should not advance for the same reason.

It is also critically important to note that the Senate Local Government Committee has still not received the "guidelines and framework for moving forward" from the Department of Housing and Community Development (DHCD) that this committee said that it needed before advancing STR bills. In its meeting on 2/28/2022, this committee unanimously approved Senator Favola's motion to carry over HB1362 from 2022 to 2023, which included asking DHCD to convene stakeholders and develop such guidelines and framework, but DHCD told us in October that they never received such a request and had not done what that motion called for. So again, for the same reasons that this committee cited last year, you should not advance SB1391, HB2271, HB1362.

You DID receive from DHCD on 1/20/2023 from their Commission on Local Government is an updated "Estimate of Local Fiscal Impact" for SB1391 and HB2271. That impact statement showed that the 15 localities responding to their inquiry reported that "*Localities [EACH] estimated negative fiscal impacts ranging from \$0 to \$0.41 million over the biennium (including both revenue losses and expenditure increases).*" Mitigating this impact requires convening ALL stakeholders, not just realtors, and thoughtful balancing of the various competing interests.

- <https://lis.virginia.gov/cgi-bin/legp604.exe?231+oth+SB1391F164+PDF>

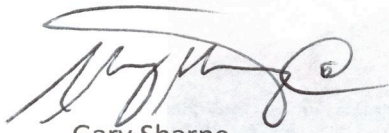
- <https://lis.virginia.gov/cgi-bin/legp604.exe?231+oth+HB2271F164+PDF>

Senator Lewis asserts in his Statement that while the proposed legislation does not solve all issues regarding short-term rentals, it is "one step forward for the Commonwealth in navigating a rapidly changing and expanding industry" and that "the legislation will "evolve as we receive input from constituents and local governments." Is stating this, Senator Lewis says exactly why the DHCD study that the Senate Local Government Committee said that it would request last year is so desperately needed before you advance SB1391, HB2271, or HB1362.

The consequences of this proposed legislation and its impact on neighborhoods and communities are likely to be irreparable and irreversible. Realtors and STR investors will greatly benefit from this bill, but Virginia localities and most of your constituents will not.

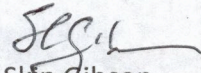
The North Virginia Beach Civic League continues to strongly OPPOSE SB1391, HB2271, and HB1362 that would restrict the ability of localities to regulate STRs.

Respectfully,



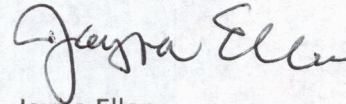
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** With nearly 1,000 active members, the North Virginia Beach Civic League (NVBCL) serves the area of the City of Virginia Beach often referred to as the “North End” which has been a residential neighborhood since 1917.*

This area is bounded on the south by 42nd Street (Cavalier Drive), on the East by the Atlantic Ocean, on the North by Fort Story, and on the west by First Landing State Park, Crystal Lake, and the boundary of the old City of Virginia Beach from Crystal Lake southward to Cavalier Drive, including the subdivisions of Pirate’s Hill and Princess Anne Hills.

The NVBCL mission is to help protect both the character and community of the North End.
<https://nvbcl.org>





January 24, 2023

Senator Lewis Statement on Senate Bill 1391: Short-Term Rentals

Our office has received significant feedback from community groups, constituents and leaders, and I would like to provide some points of clarification on SB1391, legislation to address Short Term Rental rules and regulations in the Commonwealth.

I want to be clear about what this legislation does NOT do:

- It does not allow for open short term rental proliferation.
- It does not supersede rules or provisions put forth by HOAs and/or property owners associations.
- It does not exempt properties owned and operated by licensed realtors from all provisions set forth in local ordinances - just certain provisions. For example, if a locality requires a conditional use permit to operate a short term rental property, Realtors are not exempted from that requirement. In addition, their permit can be denied renewal just like any other permit.
- It does not remove local authority to enforce noise ordinances, trash ordinances, zoning and/or building codes.
- It does not remove local authority to create and enforce short term rental ordinances for their localities as it pertains to properties not owned by licensed realtors.

What this legislation **does** do is ensure that short term rental properties that are managed by licensed realtors – who are regulated by the Commonwealth and must follow a specific code of ethics and conduct or risk losing their license – are able to operate safely and successfully and without some of the significant overreach that has happened recently. It ensures that properties that are exempt from the eight items listed in the Bill are operated by licensed professionals who are required to be responsive and available to their properties and to short term tenants. Licensed realtors who are regulated by the Commonwealth and a part of a community have every incentive to make sure that these short term rental properties are used responsibly.

This legislation admittedly does not solve all issues that have been put forth regarding the management – or lack thereof – of short term rentals, but it is one step forward for the Commonwealth in navigating a rapidly changing and expanding industry. The legislative process is just that - a process – and I fully expect this legislation to continue to evolve as we receive input from constituents and local governments.