

HBAV Address
June 25th, 2010
Hyatt Regency Cambridge, Md

Good Morning... or as those of us in Government say: Happy Friday. You know, we seem to venerate this day quite a bit....So much so that we now call Thursday...
Pre-Friday.

A special thanks to your President, Michael Newsome and Executive Vice President, Mike Toalson for the opportunity to speak with you today. I feel privileged and honored to be here with you...
the best builders in Virginia and the country!

Before I got into this profession, I was a homebuilder in New Mexico... so I understand a builder's trepidation around a Building Inspector. I've been where you are. I know what the challenges of the homebuilding business are like.

Let me tell you a story about my first project as a homebuilder. I had a partner named Earl. We got a contract to build a home and Earl sent me to buy the lumber...He asked me to buy 200 4X2's. I went to the lumber yard and asked for 200 4 X 2's. The sales clerk said they had 2X4's but not 4X2's. I called Earl and he said okay...that we would just turn them sideways... So, I told the clerk: Okay. Then he asked me how long I wanted them. Thank goodness I knew enough to answer that question.....So I told him: *A long time...we're building a house!*

Please know how much I respect the homebuilding profession. The citizens of Virginia are very fortunate to enjoy the talents of the building professionals in this room. Your passion for excellence is the reason that Seven Million citizens in Virginia have safe homes to live in each day. Because of your commitment to your profession, Virginia homes are built to the highest standards in human history. The forces of nature are awesome and can destroy the cities we build. The modern homebuilder is responsible for providing cost-effective mitigation to these forces. The modern homebuilder builds to the highest standards in the World; the International family of construction codes. Damage to buildings caused by natural forces in 2010 is significantly less when compared with similar catastrophes that occurred 25 years ago. Fewer lives are lost to fire and structural failure.

Fewer people get sick from polluted water supply. Earthquake or wind damage is far less than it used to be.

Here are some other aspects of protection that Virginia builders have brought to society:

- Sustainable buildings that are safe; designed and constructed to resist natural disasters such as earthquakes, hurricanes, wind and flooding.
- Buildings that provide efficient use of energy for heating, cooling, lighting and operation.
- Fire and life safety design features that protect occupants and allows safe evacuation during emergencies.

Some may say that it is the Building Inspector who is responsible for this level of safety. I disagree. I say it's both of us. We're partners in building safety!

As Immediate Past-President of the Virginia Building and Code Official's Association, I want to introduce you to our organization. VBCOA is an International Code Council (ICC) chapter of nearly 1,000 Building Safety Professionals across Virginia. Like you, we have several regions. We also have several active committees who perform the work of the organization. We have been around since 1929. Our mission includes twelve key goals including:

- Effective code development
- Effective participation in the legislative process
- Raising the profile of our profession
- Effective networking strategy with professional organizationslike yours...

...which is partly why I am here today.

So, what do we do as a member organization? We like to think that we improve the code for both of us... and for society. Our committees work hard on many issues including code development.

Many code changes are proposed at the national level. Something like 2200 proposals were presented during the 2012 code cycle. Of these, only a few hundred are ever approved. You see...part of what we do is to prevent bad code from getting published.

Of these 2200 proposed changes, Virginia presented somewhere around 100 proposals. We lobbied for these and against some others.

Virginia is very successful in our proposed code changes and those we take a position on. We are regarded as leaders in code development by ICC members. They look to Virginia to see where we stand. We have a significant effect on the outcome of those proposals we take a position on.

We work to clear up confusing language or ambiguous terminology that leads to a lack of uniformity across jurisdictional lines. We ensure harmony between the codes or portions of the same code like the IRC. For example, would an energy code change in Chapter 11 conflict with a current mechanical code provision in Chapter 14?

We are represented on almost all ICC code development committees and serve as chair or vice chair of several committees. About 50 Virginians serve on code committees or councils. We are also represented in the elected leadership of ICC. Bill Dupler of Chesterfield County has been an officer for a year and in line to be elected Vice President in October. Guy Tomberlin from Fairfax County is newly elected as a Member of the Board of Directors. And of course, Steve Shapiro from the City of Hampton is a Past-President. But more than that, during the legacy years, Virginia's influence with BOCA was equally significant with leadership and committee representation.

We are also involved in the International part of the International Code Council. I have been privileged to visit Afghanistan, Libya and El Salvador to promote the use of modern building codes in those countries. We were key players in getting the IRC translated into Spanish and adopted in Mexico.

VBCOA is instrumental in the education and training of code officials through the several venues such as the Virginia Building Code Academy and community colleges.

We are considered industry leaders in various aspects of the Code. For instance Brian Foley from Fairfax County and Chuck Bajnai from Chesterfield County lead the way on wall bracing standards now in the '09 IRC. Their work simplified this complex installation while it broadened its application. Guy Tomberlin and others in VPMIA have virtually written the

Plumbing and Mechanical Code. Roger Robertson with Chesterfield County has been an inspirational leader of the IRC Building and Energy Committee for more than a decade. All of our efforts are targeted toward making the code more clear and to eliminate conflict.

VBCOA and ICC engage those in the legislative arena at the national level as well.

We have visited numerous congressional and senatorial members regarding issues that affect our profession. Since we have a mutual interest and to avoid the calamity of having a Federal Energy Code, ICC has intervened in the proposed Cap & Trade legislation to allow the IECC to satisfy energy efficient standards for construction. By doing so, we dodged a bullet that would have been very painful for all of us. Imagine a National Energy Code written by DOE!

We also work together with the National Association of Home Builders on a regular basis. For example, the 2006 IRC changed to require engineering for all homes in hurricane prone regions; that includes Hampton roads and right here in the Eastern Shore. I worked with Gary Ehrlich with NAHB to craft a change that would rectify this. That's now in place in the USBC.

We also worked with NAHB to create a green building standard. The ICC 700 is the first ANSI approved green building standard; created through a partnership between builders and building officials.

Partnerships like these, that include Virginians, are commonplace at the national level.

At the State level, we participate in code development for the USBC. We are on every work group put together by Emory Rodgers at the Department of Housing and Community Development. We spend countless hours reviewing code language and arguing for what we feel is a quality code change or against a poor effort.

We focus on the real-world when we do this. We ask: How will this affect our inspection process?

But what you may not know is that we also ask: can a builder be reasonably expected to provide that kind of installation?

We work in the State legislative arena in the same way. Although we have a lobbyist, our legislative committee explains our position to elected leadership. We have spent many late nights explaining to a legislator how their proposal would affect the code. In fact, we rub elbows with Mike Toalson at the Capitol quite a bit!

Where we can agree on an issue, and generally we do, we speak for each other's interest.

Together, we have kept more than one zealous legislator from using the building code to solve a political problem or satisfy a constituent. That's just another example how we work well together!

I am sure that you are interested in knowing what the future building code holds in store for you. You might hear more detail later in the conference, but let me give you a glimpse.

The most significant changes that will affect builders are energy efficiency provisions. What was the standard for a green home will become the minimum code requirement.

Building tightness will increase and will be tested with a blower door test ... unless an extensive visual, air barrier and insulation inspection is performed. Heating and cooling ductwork must be sealed to prevent loss of energy. However, through changes to the USBC, a test may not be required to verify the tightness... but for now...where it is installed, a qualified installer will be able to self-certify.

A programmable thermostat is now required in homes with a forced air furnace. Half of all lights must be the high efficacy type. In Virginia, the thermal resistance for windows changed and now must have a maximum μ value of .35...

a 12% increase in thermal performance!

But the good news is...even though the standard is higher, most window assemblies already comply.

None of us really know what the future holds for energy efficient standards... but the Cap 'n Trade bill asks for a 50% increase in energy efficiency in the 2012 code and DOE wants a Net-Zero energy home by 2020!

Carbon Monoxide detectors will now be required in homes. A fire extinguisher will be required in the kitchen. {This was a HBAV initiative. Thank you for sponsoring that, by the way}

Structural Insulated Panels (or SIPs) are now considered prescriptive in the code and not an alternative material. Plumbers have a standard for inspection of a shower liner. Gray water systems are moved from the appendix and rainwater systems are added to the body of the code to encourage their use. Pipe in these systems must now be purple. For electricians an intersystem bonding termination block is new. Arc Fault Circuit Interrupters will still only be required in bedrooms; but tamper resistant receptacles will be required throughout the house. Increased bonding of steel in concrete around swimming pools is now required.

We must both work to learn these changes together...Building Officials to apply and Builders to comply. It is a partnership.

Today I would like to talk with you about that partnership...across regulatory lines. We have a lot in common. We both understand the nature of construction and the nature of regulations and how they relate to each other. We both have a solid understanding and genuine love for construction. [Whenever I pass a construction site, my eyes follow the work ...and sometimes I run off the road.... I imagine that many of you have the same affliction.]

We also both want a good, safe home built at an affordable cost to the public.

We have worked together very effectively in the past on many issues. For example, Mike Toalson invited the Presidents of our associations to jointly sponsor Building Safety Week with HBAV last year. Together we accepted a Governor's proclamation and both got a lot of positive public relations out of that partnership.....Thanks Mike! I really hope we do that again!

We have a lot of areas of agreement. But I believe there's room for more.

- I envision a partnership at every local level.....a partnership between you and the local building official. Working with, instead of against each other will lead to harmony and ensure consistency. It will also lead to a greater understanding of each other's interests.

There are some models for a partnership of this type.

In Hampton Roads the regional building officials work very closely with Tidewater Builder's Association and the Peninsula Home Builder's Association. We are members of each other's association and regularly attend each other's meetings. But more than that, we help each other out and take decisions that embrace each other's interest as much as possible. We coordinate on training and work to ensure uniformity of enforcement. If we both agree, we work to make code changes at the national and state level. For example, the Termite Treatment Association needed help in access for treatment in enclosed crawl spaces. The new enclosed crawl space provision eliminated their ability to install treatment and to inspect damage. Working together with TBA we crafted language that will provide a small gap in the foundation wall for that purpose.....that provision will be in the 2009 USBC!

Sometimes we create a region-wide policy that explains the *how to comply* for a complex code requirement. Several years ago, we enacted a policy like this for special inspection. TBA was a leader in this effort. We created a policy that increased uniformity and consistency across 17 jurisdictional boundaries. Recently, we have seated a group that will help create a similar policy on enforcing the new energy code requirements and acceptance of testing criteria for air sealing measures and duct tightness. Who will perform that test? What are the proper credentials for the test specialist? Under what standard should the test be conducted? All these questions must be answered before the first test. We both want uniformity across the entire region. TBA and PHBA will always be central to that process.

TBA always invites regional building officials to attend their annual Homearama event. The local Building Officials are invited to a regular TBA breakfast meeting where we roll out new code requirements and discuss local code issues. I am told that this is the highest attended meeting of the year.

Another excellent example of working together is in Western Virginia. The New River Valley Home Builder's Association and VBCOA Region II were recognized for their joint effort to improve the image of both professions with a publicity campaign using public service announcements. The campaign, entitled: Better Buildings...Safer Homes, was recognized with an award for Raising the Profile from the International Code Council.

- I urge your leadership to promote the concept of.....*getting to know your Building Official*. It could be an informal meeting at their office or during a regular meeting of one of your associations. Regular meetings could be the next step. There are some simple things you can do to improve communication. Are you acquainted with your local Building Official? Do you have his/her cell phone number? Do you have an organization chart for your jurisdiction? That way, you will know who to call...for what. Do you know the rules for requesting a certain time for an inspection? Can you ask for AM? PM? Do you know the rules for a re-inspection? Do you have to request one? Or, will it be generated automatically? Do you know what happens if you don't call for an inspection within 6 months? Are you aware of the option for third party inspections? Each jurisdiction should have a policy on this as an option for you. Work out some common goals and maybe joint projects. An initiative to *meet your local Building Official* would open the door to enhanced communication.
- How many times has your project superintendent *explained-away* an inspection failure as *Inspector nitpicking or...really nothing*? When is the last time you reviewed an inspection results slip? Have you discussed this with the Building Official? Does your superintendent use the Inspector to develop a *punch list*?
- From our side, how many Building Officials hold an Inspector accountable for their inspection calls? How many Building Officials really know how an Inspector performs on a regular basis?
 - I make every Inspector cite a code reference for every inspection failure. I do this mainly to force the Inspector to look at the book and make sure nothing has changed.
- I think it is time that each of us; Builders and Building Officials get more involved where we have a mutual interest. If you experience delays, go to the source and find out why?

○ But I do caution you about any dispute with an Inspector about the code. There's an old joke that...*arguing with an Inspector is like wrestling with a pig in the mud...after a while you realize..... the pig enjoys it!*

● Here's an idea. Imagine a project jointly sponsored by HBAV and VBCOA that focuses on training the job superintendent for you? The training could be targeted at the most significant building code requirements to help you and us. We both lose when an inspection has to be failed for any reason. How valuable would it be for you to pass your inspections the first time instead of the 2nd or 3rd time?

Arizona has a program where they meet regularly across jurisdictional lines teaching inspection standards to Job Superintendents. A different builder volunteers a different home in the framing stage each month. The regional builders let their Project Superintendent attend a brief (1-2 hours) training put on by a consortium of Inspectors from different towns. The job superintendents learn what Inspectors are looking for and are better prepared for the inspection. The result is dramatic. 1st inspection approvals skyrocketed!

● How many of you know the ways to deviate from prescriptive methods in the code? How many of you know the legal process to disagree with decisions by the Building Official?You know we're not infallible!

● There are three parts of the code you should know about. These are:

1. Modifications Section 106.3.1

This is a tool allowing the Building Official to modify any requirement in the code that is impractical for a given situation...We do this by allowing you to present a different way of complying with the intent of the code. We both get what we're after: building safety! This is a great tool to help us both out of sticky situations.

2. Alternative methods and materials – Section 112.2

Let me ask this audience: Can I build a straw bale house in Virginia? It's not in the code! Can I do it?

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... The short answer is: Yes you can... as long as the material is substantially equal in safety. Again, this is something you propose and prove to us...then we accept! The code is flexible like that! It relies on the good judgment of the Building Official for quality decisions.

3. Appeals Section 119

You disagree with us. Alright...you have the right to challenge a decision of the Building Official by requesting an appeal within 30 days to a local board of building code appeals...then you can appeal that decision to the Technical Review Board. Many of these boards include members of your profession: Builders just like you.

- Another area where we must work together is code development. The changes in the code directly affect each of us. By in large, we do work together in this area.
 - But what if you and we...set a goal of working together on at least 10 issues... every code cycle! By that I mean we should both search out and find 10 proposed code changes for the next cycle that we could co-sponsor. We could start by focusing on changes where there is a mutual interest. At the very least, a goal like that would get us talking to each other and negotiating compromises on areas of common interest. It will lead to greater solidarity between us.
- There are many ways that we as Building Officials can improve as a profession as well. A few of the comments I have heard from builders tells me that we can do better. For example:
 - We need to avoid springing changes on builders that cause significant expense or delays.
 - We need to be more uniform and consistent across jurisdictional boundaries, after all, it is a statewide building code.
 - We need to be more open to new ideas and accept proven new technology.
 - We need to understand how our decisions affect builders and your customers, the prospective home buyers.
 - Localities need to structure re-inspection fees so as to not penalize contractors; except for the most egregious code violations ... not just missing a nail here and there.

- We need to learn to be more responsive to a builder's concerns and work together to craft mutually acceptable policy or even code changes.
- In short... we need to learn how to work together more effectively.

These are areas that we recognize need improvement. We can build on our relationship with you by focusing on one or more of these issues and have an ongoing process of constant improvement. We will never be able to agree with each other on every issue, but it's important that we try.

With that said, let's talk about residential sprinklers. The Board of Housing will meet and take a decision on mandatory residential sprinklers next month.

I recognize that HBAV was opposed to mandatory sprinklers for one and two family dwellings.

Other interests took a position in favor of mandatory sprinklers for one and two family dwellings.

Our association has taken three positions:

1) We support voluntary sprinklers that are encouraged by providing incentives for detached one and two family dwellings. We believe that the public must be convinced of the advantage for this technology before it becomes common in homes. Because of that, our Association has paid for the installation of an IRC sprinkler system in two homes in Virginia; one in Martinsville and the other in Norfolk. Our experience indicates the cost *was between \$1.50/ft² and \$1.68/ft².*

2) We support the sprinkler standard in Section P2904 of the IRC. This provision sets standards that are prescriptive and simple for installing sprinklers. It allows the installer to avoid an engineered design when they choose this option. It is something that a plumber can do!

3) As a compromise, we supported mandatory sprinklers in townhouses along with incentives to offset the cost. We endorsed this option since we believe that sprinklers in townhomes would protect an occupant from a neighbor ...much as they do in apartments.

So how does that position differ from the position of the homebuilders? I don't think there is much difference.

I am convinced that the home builders of Virginia would agree that we should provide incentives for the voluntary installation of sprinklers for detached one and two family dwellings.

That's our position.

I know that homebuilders support the ICC standard for residential sprinklers. NAHB spoke in favor of this standard when it was proposed. This new prescriptive standard makes it easy and cheaper to install these systems voluntarily. It also is easy for a plumber to install. This keeps the cost down.

That's our position.

About the only difference between us is that we supported sprinklers for townhomes. We believe that a townhome is much like an apartment building where sprinklers are currently required for every size of building. In addition sprinklers are already required in four story townhomes.

Well, we have worked together to promote the best possible code for Virginia. Together, we will both accept decisions from the Board of Housing and will embrace the code together.

But where do we go from here? The sprinkler issue is probably not going away...for any of us. I think we should capitalize on the common ground that we have on this issue and go forward. For our part, our profession is preparing to learn the sprinkler standard. I invite you, as builders to join us and learn the basics of this new standard. Classes are planned for this topic. We welcome your participation.

- Here's an idea... The USBC will provide for incentives to encourage voluntary residential sprinklers.....
 - what if HBAV and VBCOA worked together to co-sponsor the installation of a residential sprinkler system in one or more high profile homes?
 - This would confirm that both our professions support building and fire safety.
 - It could lead to a greater understanding of the technology of this new standard.
 - It would raise the profile of both our professions.

There is no downside in working together on this issue.

To achieve success in our collective future, I encourage both of us to listen to each other and, where we can, work with each other to resolve differences. As you know, your Executive Vice President, Mike Toalson graciously spoke to our association in April. The entire membership expressed appreciation for his presentation. We learned from him and gained a greater understanding of your interests.

Let's do more of that.

I very much appreciate your invitation to attend this conference and address you. For me, being here is a wonderful opportunity to listen to you and your

concerns. I heard about some issues last night and this morning. I will share your sentiments with my peers across Virginia.

In summary, let me restate a few suggestions that could lead to greater cooperation:

- Code development...find 10 code changes where we have a mutual interest...to co-sponsor next cycle. Working together we could be 100% effective in our code development activities.
- Legislative action... negotiate, work out issues, find compromise and agreement on State legislation.
- Raise the profile of both our professions through joint public relations efforts. Maybe we could do a public service announcement together that could be statewide?
- Co-sponsor the voluntary installation of a residential sprinkler system in one or more high profile homes.
- Co-sponsor joint training for job superintendents with a pilot project in Hampton Roads.
- Co-sponsor a meet-your-Building Official event at the local level.
- Participate in low cost training provided by VBCOA across the State for the 2009 code updates.
- Join each other's associations and meet regularly...and listen.

On behalf of the Building Officials in Virginia, THANK YOU for the opportunity to meet with you and listen. Please know that we regard you as our partners in building safety. May we always work together.

THANK YOU.