January 31, 2024

Board of Housing and Community Development
Virginia Department of Housing and Community Development
600 East Main Street, Suite 300
Richmond, 23219

Via email to Chase Sawyer (chase.sawyer@dhcd.virginia.gov)

Re: Opposition to reopening the 2021 Virginia Uniform Statewide Building Code pursuant to the Notice of Intended Regulatory Action (NOIRA) for the purpose of complying with Executive Orders One and 19-2022

We appreciate the opportunity to respond to the notice of intended regulatory action (NOIRA) that would re-open the review of the 2021 Virginia Uniform Statewide Building Code (USBC) and write to express our opposition to restarting this just-completed code update process.

To re-open the review process of the 2021 codes threatens to upset the current system of code review, which has prioritized the stakeholder engagement necessary to ensure rigorous vetting, editing, and paring down of the codes and regulations to best suit the Commonwealth's needs. Not only does re-opening the 2021 codes undo years of consensus building, it would, with the goal of improving government efficiency, expend government and volunteer resources redoing a work product and process that was only just approved.

Numerous negative consequences would flow from restarting the 2021 adoption process. Uncertainty in the adoption and implementation of the published 2021 codes would lead to delays in projects, confusion in permitting, and an increase in appeals to code officials' determinations, thus undermining the efficient operation of Virginia's code enforcement regime. Redoing the Commonwealth's past work product would also delay its adoption of the 2024 I-Codes, leading to years of construction built to outdated standards, increases in insurance premiums, and lost federal grant dollars.

The 2024 I-Codes include new provisions, such as protections for building occupants from extreme weather through tornado mitigation measures along with updated hurricane hazard/wind, rain, and snow loads. The 2024 codes provide guidance on longer-term use of temporary structures. To address an alarming increase in battery explosions associated with the growing popularity of micro mobility devices and energy storage, the 2024 I-Codes include hazard mitigation measures through active fire protection systems, listings, separation requirements, and detection systems. The 2024 codes also provide new tools to facilitate the reuse of existing buildings, as well as new testing, design, and compliance options to facilitate cost effective construction.

Numerous studies confirm that the adoption and implementation of current model building codes is one of the best mitigation strategies for natural hazards including hurricanes and flooding.[1, 2, 3, 4, 5] The National Institute of Building Sciences (NIBS) estimates that building to modern building codes saves $11 for every $1 invested through earthquake, flood, and wind mitigation benefits. The Federal Emergency Management Agency (FEMA) projects that if all future construction adhered to current codes, the nation would avoid more than $600 billion in cumulative losses from floods, hurricanes, and earthquakes by 2060.[6] Three National Labs recently found that during prolonged weather induced power outages coupled with extreme heat or cold, the codes Virginia just adopted can save lives by enabling residents to shelter in place safely for longer.[7]

Despite these benefits, contemporary research continues to find that modern model building codes have no appreciable implications for housing affordability—in fact, no peer-reviewed research has found otherwise. One study considering the role of government regulation on home prices found that construction costs, including labor and materials, were flat from 1980 to 2013.[8] The International Code Council was formed in 1994, the I-Codes were adopted across the country in the early 2000s, and several significant advancements to better mitigate structures against natural hazards were integrated into these codes during the period studied. None of these code activities meaningfully impacted construction costs.[9]

Given their benefits to public safety and the savings they provide in avoiding what would otherwise be much more substantial disaster response costs, the federal government has increasingly incentivized the adoption and implementation of current codes and standards. This approach was advanced during the Trump Administration within the federal government's National Mitigation Investment Strategy—developed by the Mitigation Federal Leadership Group (MitFLG)[10] – and continues today.

With the implementation of the 2021 USBC, Virginia continues to meet eligibility for several grant streams. However, Virginia's competitiveness for funding would decrease markedly should Virginia delay consideration of the 2024 I-Codes while the 2021 USBC is revisited. Virginia's falling further behind current model codes would lead to a meaningful decrease in its Building Code Effectiveness Grading Schedule (BCEGS) scoring, which can result in the loss of existing private insurance premium discounts and federal insurance subsidies. Top BCEGS scores can lead to insurance credits of as much as 45%.

Virginia currently qualifies for $7 million in flood insurance premium discounts through the Community Rating System (CRS), a program offered through FEMA's National Flood Insurance Program (NFIP) that

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[1] Porter, K. *Do Disaster-Resistant Buildings Deliver Climate Benefits?* SPA Risk LLC (2021).
[2] FEMA, *Building Codes Save: A Nationwide Study* (Nov. 2020).
[3] Corelogic, *Can Modern Building Codes Impact Mortgage Delinquency After Hurricanes*? (Aug. 2023).
[4] Kousky, C., M. Palim, and Y. Pan. *Flood Damage and Mortgage Credit Risk: A Case Study of Hurricane Harvey*, *Journal of Housing Research v.* 29 (Nov. 2020).
[5] Corelogic, *What Are the Effects of Natural Hazards on Mortgage Delinquencies?* (Nov. 2021).
[6] FEMA, Protecting Communities and Saving Money: *The Case for Adopting Building Codes* (Nov. 2020).
[7] DOE, Enhancing Resilience in Buildings Through Energy Efficiency (July 2023).
[8] Gyourko, J. & Molloy, R., *Regulation and Housing Supply*, Handbook of Regional and Urban Economics, Volume 5B Chapter 19 (2015).
[9] U.S. Department of Energy (DOE), *Enhancing Resilience in Buildings Through Energy Efficiency* (July 2023).
[10] U.S. Department of Homeland Security (DHS), Mitigation Framework Leadership Group (MitFLG), *National Mitigation Investment Strategy* (Aug. 2019).

rewards building safety, floodplain management, and other flooding safety mechanisms. Significant premium reductions available to Virginia through CRS are dependent on the continuation of the Commonwealth's timely adoption of current codes and their effective implementation. Falling more than two code cycles behind the current I-Codes would quickly lead to hundreds of thousands in increased flood insurance premiums for thousands of property owners across Virginia. Eighty percent of all flood insurance policies in Virginia are written in CRS communities.[11] We do not believe this outcome aligns with the Governor Youngkin's recent work to enact into law the Virginia Floodplain Management Standards.[12]

We support Virginia's more than 50-year commitment to the advancement of building safety through the consistent update of its Uniform Statewide Building Code. Reopening the 2021 codes would undo years of hard work, expend significant government and volunteer resources relitigating a consensus product, cost Virginia millions in federal grant opportunities, increase insurance premiums for tens of thousands of Virginia residents, ensure that years of new construction does not benefit from current best practices, and dismantle the good will that enables the Commonwealth's current best-in-class code development process—setting a precedent for its future, and regular disruption. For these reasons, we oppose reopening the 2021 codes.

Sincerely,

ABB
ACEC Virginia
AEC Science & Technology, LLC
AIA Virginia
American Property Casualty Insurance Association (APCIA)
American Society of Civil Engineers (ASCE)
American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)
Apartment and Office Building Association of Metropolitan Washington (AOBA)
Association of State Floodplain Managers (ASFPM)
Cellulose Insulation Manufacturers Association
Earthquake Engineering Research Institute (EERI)
Home Builders Association of Virginia (HBA of VA)
Institute for Market Transformation (IMT)
Insurance Institute for Business & Home Safety (IBHS)
International Code Council (ICC)
Lutron Electronics
National Council of Structural Engineers Association (NCSEA)
National Electrical Manufacturers Association (NEMA)
Natural Resources Defense Council (NRDC)
North American Insulation Manufacturers Association (NAIMA)
Polyisocyanurate Insulation Manufacturers Association (PIMA)
Sheet Metal and Air Conditioning Contractors' National Association (SMACNA)
Southeast Energy Efficiency Alliance (SEEA)
Southern Environmental Law Center
U.S. Green Building Council

[11] Virginia Department of Conservation and Recreation, Community Rating System (CRS) (Accessed Jan. 2024).
[12] VA Code§ 10.1-603

Virginia Apartment and Management Association (VAMA)
Virginia Building and Code Officials Association (VBCOA)
Virginia Chapter of the International Association of Electrical Inspectors (VA IAEI)
Virginia Energy Efficiency Council (VAEEC)
Virginia Fire Protection Association (VFPA)
Virginia Plumbing and Mechanical Inspectors Association (VPMIA)
Viridiant
Women in Code Enforcement and Development of Virginia (WICED of VA)