

April 26, 2022

Mr. Bryan Horn  
Director, Virginia Department of  
Housing & Community Development  
600 East Main Street, Suite 300  
Richmond, VA 23219

Dear Director Horn:

We are writing to raise concerns with a report published by the Virginia Department of Housing and Community Development (DHCD) on March 29, 2022 entitled “Active Shooter and Hostile Threats in Public Buildings Study Group Report” (Study Group report). We have the following concerns with this report:

1. We object to a specific Study Group participant – Nightlock (Taylor Brothers Doorlock LLC, DBA Nightlock) – holding blatant conflicts of interest in the matter being examined by the Study Group, that they were permitted to hold a voting seat, and that they may have been allowed to influence the final recommendations of the Study Group report;
2. We object to Nightlock being allowed to officially participate in the Study Group as a private for-profit company, which is counter to instructions provided to the DHCD in statute; and
3. We contend that the proposed building code changes provided by the Study Group report are counter to the public interest, do not reflect the opinions of a majority of stakeholders engaged in the Study Group, and warrant further review from the DHCD.

### **Background**

During the 2020 General Assembly Session, Senate Bill 333 and House Bill 670 directed the Department of Housing and Community Development (DHCD) to convene stakeholders to develop code change proposals for the Uniform Statewide Building Code (USBC) and the Statewide Fire Prevention Code (SFPC) regarding the improvement of safety and security measures for the Commonwealth’s public buildings during active shooter or hostile threat events.<sup>1</sup> Stakeholders were directed to examine the use of emergency supplemental hardware (ESH) and other measures that could prevent ingress or egress in the event of a threat to the physical security of a public building.<sup>2</sup> Stakeholders were also directed to examine whether such measures were compliant with the Americans with Disabilities Act (ADA).

In late 2021, DHCD convened an Active Shooter and Hostile Threats Study Group (Study Group) to examine these matters and assist the DHCD in preparing a report pursuant to the instructions provided

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<sup>1</sup> 2020 General Assembly, Senate Bill 333: <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0533>  
2020 General Assembly, House Bill 670: <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0130>

<sup>2</sup> The USBC defines “emergency supplemental hardware (ESH)” as: “any approved hardware used only for emergency events or drills to keep intruders from entering the room during an active shooter or hostile threat event or drill”.

in statute. This Study Group met virtually on three occasions between December 2021 and January 2022 to discuss concerns related to active shooter or hostile threats and the impact of installing emergency supplemental hardware in public buildings. On March 29, the Study Group published the aforementioned report with a proposed code change that “provides a compliance path for the installation of emergency supplemental hardware within public buildings...within the context of USBC and the SFPC.”

### **Concerns with the Study Group Report**

- 1. We object to a specific Study Group participant – Nightlock (Taylor Brothers Doorlock LLC, DBA Nightlock) – holding blatant conflicts of interest in the matter being examined by the Study Group, that they were permitted to hold a voting seat, and that they may have been allowed to influence the final recommendations of the Study Group report;***

Nightlock is a manufacturer and distributor of “patented Nightlock home, school and business security products.”<sup>3</sup> Its chief product is emergency supplemental hardware (ESH) intended to prevent ingress from intruders. While their products are installed in varied types of public buildings, the company’s primary market is schools.<sup>4</sup> During the January 26 Study Group meeting, Nightlock disclosed that the company had devices installed in 62 schools in Virginia and that the company was actively in the process of providing estimates to multiple schools in Virginia.<sup>5</sup>

Nightlock’s self-interest in the outcome of this report is self-evident. As a manufacturer of ESH, the company has a clear interest in broadening the USBC and the SFPC in Virginia to expand the market for their products. While we do not question Nightlock’s transparency in these matters, we believe DHCD’s decision to allow their official participation in the Study Group is highly problematic.

- 2. We object to Nightlock being allowed to officially participate in the Study Group as a private for-profit company, which is counter to instructions provided to the DHCD in statute; and***

As approved on March 31, 2020, Senate Bill 333 directs DHCD to convene stakeholders to conduct this examination based on a specific set of criteria:

*§ 1. That the Department of Housing and Community Development is directed to convene stakeholders representing entities that enforce the Uniform Statewide Building Code (USBC) (§ [36-97](#) et seq.) and the Statewide Fire Prevention Code (SFPC) (§ [27-94](#) et seq.), other law-enforcement organizations, and representatives of local governments throughout the Commonwealth of Virginia to develop proposals for changes to the USBC and SFPC for submission to the Board of Housing and Community Development.*

Virginia statute explicitly lists the types of entities that DHCD is directed to consult with. However, the Study Group convened by the DHCD included nine individuals representing state or local government, three non-profit trade associations involved in the development or enforcement of building or fire codes,

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<sup>3</sup> <https://nightlock.com/about/>

<sup>4</sup> Active Shooter and Hostile Threats in Public Schools Study Group Report. March 29, 2022. Page 5.

<sup>5</sup> Ibid. Pages 5 and 32.

and one for-profit company, Nightlock, whose primary product is ESH. While we do not oppose DHCD's decision to engage stakeholders outside of this narrow list, we question why a private company with documented conflicts of interest was allowed to officially participate on the Study Group instead of simply being consulted as another interested party. We further question whether this factor contributed to the decision to recommend a code change that would foreseeably lead to wider use of ESH in public buildings.

**3. *We contend that the proposed building code changes provided by the Study Group report are counter to the public interest, do not reflect the opinions of a majority of stakeholders engaged in the Study Group, and warrant further review from the DHCD.***

The Study Report concluded that “the overwhelming majority of stakeholders do not specifically endorse the installation of ESH.”<sup>6</sup> Moreover, the Report also notes that “expanding the code allowances to other uses/occupancies are not welcome by most stakeholders.” In spite of that, the Study Group Report still issued a proposed code change recommendation that would provide a code compliant path for the approval of ESH in all public buildings in Virginia.

Only 3 of the 14 entities on the Study Group supported the proposed code change offered by the Study Group Report: The Virginia Fire Prevention Association, the Virginia Building & Code Officials Association, and Nightlock. 4 of the 14 entities on the Study Group officially opposed the proposed code change: The Virginia Fire Chiefs Association, the Door and Hardware Institute, the Virginia Department of General Services – Division of Engineering, and the American Institute of Architects – Virginia Chapter. The remaining entities on the Study Group abstained from taking an official position.

In light of these facts, we object to the logic and rationale for recommending a proposal that was vehemently opposed by multiple Study Group participants and enjoyed support from only a minority of participants. While we acknowledge that the Study Group was constrained by statutory directive to ultimately develop a proposal in some form, the recommendation offered by the Study Group exceeds the minimum scope required to comply with that directive.

### **Conclusion**

As organizations dedicated to life safety, school security, and the wellbeing of students, teachers, and school staff, we strongly support solutions that improve school safety and security, but only when these solutions do not create new unintended dangers for the individuals they are meant to protect. We respectfully urge the DHCD to retract this report and undertake remedies to ensure that any ethical questions are thoroughly addressed before the Commonwealth proceeds in considering any code changes proposed by this Study Group.

We appreciate your attention and consideration of this matter.

Sincerely,

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<sup>6</sup> Ibid. Page 14.

ASIS International Physical Security Community  
Builders Hardware Manufacturers Association  
Door and Hardware Institute  
Door Security and Safety Foundation  
National Association of State Fire Marshals  
National Systems Contractors Association  
Partner Alliance for Safer Schools

CC: Cindy Davis, Deputy Director of Building and Fire Regulations  
Jeff Brown, State Building Codes Office Director  
Michael C. Westfall, Inspector General of Virginia