

Richmond Association of REALTORS®



2018 Legislative Package

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2018 New Positions

Earnest Money Deposit Release

Issue: In the event of contract termination, the VREB currently requires a separate writing signed by both the buyer and the seller in order to release the earnest money deposit even though the contract language specifically addresses who receives the deposit in the event of a termination. Many brokers are holding deposits that cannot be returned, because the seller refuses to sign a release or written authorization, or objects to the release of the deposit after receipt of the 30 day broker letter. Other alternatives, such as filing an interpleader or other court action, are time consuming, confusing and/or very frustrating to brokers and their clients.

Position: The Richmond Association of REALTORS® requests a statutory change to allow the escrow agent to release an earnest money deposit to the designated party in the event of a contract termination, if the real estate contract contains clear and explicit language of who is to receive the deposit in the event of a contract termination. The language should provide that the escrow agent is immune from liability, if acting as directed by the terms of the real estate contract.

Historic Rehabilitation Tax Credits

Issue: State financed Historic Rehabilitation Tax Credits facilitate development in older neighborhoods, while simultaneously preserving the historic nature of the area. They also help remediate blight and encourage additional economic investment. Since their inception, these tax credits have generated approximately \$4 billion worth of economic activity across the Commonwealth.

Position: The Richmond Association of REALTORS® supports the preservation of Historic Rehabilitation Tax credits at the state level and opposes any efforts to diminish them. While the credits require upfront investment from the Commonwealth, they pay for themselves in the long term via increases in property values, sales taxes, and economic activity generated in a real estate transaction.

Radon

Issue: Radon is a naturally occurring element found in the soil across Virginia and is also a known carcinogen. Testing for radon requires a completed building and working electricity. This is an issue when a buyer enters into a contract on a property that has not yet been completed. Builders sometimes exclude the results of radon testing as a condition of the contract

Position: While we understand the fact that Virginia is a “Buyer Beware” state, the stipulations of these contracts force a buyer to forfeit any kind of recourse before they can even make themselves aware of a radon issue. The Richmond Association of REALTORS® supports legislation that requires the builder to offer the buyer a radon “rough in” prior to construction and contract signing. A rough in is a PVC pipe that extends from the foundation to the roof and costs relatively little to install during the construction of a residential structure (approximately \$100).

Requiring Online POA/COA Documents

Issue: Titles 55-509.4 and 55-79.97 of the Code of Virginia requires that a seller is to obtain from the POA/Condo association an association disclosure packet or resale certificate and provide it to the purchasers, if that lot or unit is located within a development that is subject to the Virginia Property Owner’s Association Act or the Virginia Condominium Act. The packet can be delivered to the authorized agent via different methods either physically or electronically.

Position: To better inform potential buyers and their REALTORS®, The Richmond Association of

REALTORS® proposes requiring professionally managed property and condo owner associations to promulgate the association's restrictions, covenants, bylaws, and meeting minutes online.

State Funding for Education

Issue: When allotting education dollars to localities, the Virginia General Assembly uses a formula called the composite index of local ability to pay (LCI). While this formula is intended to take the politics out of allotments, the way the formula is constructed fails to consider the poverty level of the locality. Instead, it uses real estate values to determine how much a locality can pay. This disadvantages localities like the City of Richmond, which has relatively high real estate values but extremely high rates of child poverty. Students in high poverty areas require additional resources (tutoring, after school programs, counseling, etc.) to help them reach their potential.

Position: The Richmond Association of REALTORS® supports the restructuring of the LCI to take poverty levels into account when distributing educational dollars. In the long run, proper education funding saves the Commonwealth money by providing young citizens an equal opportunity to become successful adults and productive members of the economy.

Standing Positions

Commerce

Economic Development Incentives

Issue: Virginia often finds itself in a highly competitive battle with other states in attracting industry and jobs to the Commonwealth. To lure desirable industries, other states offer incentives.

Position: The Richmond Association of REALTORS® supports the philosophy of providing relocating businesses as well as existing businesses with fiscally responsible incentive packages.

Enterprise Zones

Issue: Enterprise zones are a state tool designed to encourage economic activity in underperforming urban areas.

Discussion: The State Enterprise Zone Program seeks to facilitate neighborhood revitalization as well as provide incentives for small businesses to create jobs.

Position: The Richmond Association of REALTORS® supports the expansion and enhancement of the state's Enterprise Zone Program.

General

Mandatory Non-Real Estate Licensee Disclosure

Issue: Title 54.1-2106.1 states that no one shall act as a real estate salesperson without a salesperson's license from the Real Estate Board. Licenses are granted by the Board to individuals who have completed specific educational requirements and maintained by the licensee completing additional continuing education requirements.

Position: The Richmond Association of REALTORS® supports legislation that would require individuals showing a property to disclose their licensure status to potential buyers.

Land Use and Property Rights

Adequate Public Facilities (APF) Ordinances

Issue: Adequate Public Facilities (APF) ordinances enable local governments to defer indefinitely or to deny a rezoning proposal based on the locality's assessment that existing infrastructure is "inadequate" to support new development. Under these proposals, there is no obligation on the part of local governments to provide the needed infrastructure.

Discussion: Virginia Court precedent has established that the provision of roads, schools, parks and other public facilities is primarily a responsibility of government. An APF ordinance used as a no-growth tool would severely damage the real estate industry.

Position: RAR supports sound local planning principles and an appropriately planned and funded Capital Improvement Plan. RAR opposes legislation that would require the existence of adequate public facilities prior to, or concurrent with, the governmental approval of a particular project or planned development.

Cash Proffers for New Construction

Issue: Local governments impose cash proffers--taxes or surcharges--upon residential lots at the time of rezoning in order to finance local infrastructure.

Discussion: Cash proffers artificially increase the cost of housing. Unlike other local revenue sources, there are no statutory caps or restrictions on the rate of increase.

Position: The Richmond Association of REALTORS® opposes cash proffers. The Association supports equitable, broad-based methods to fund local infrastructure.

Chesapeake Bay Preservation Act

Issue: The Chesapeake Bay Preservation Act (CBPA) outlines water quality protection measures for the Bay and its tributaries.

Discussion: The Act requires local governments to incorporate into their local comprehensive plans, zoning ordinances, subdivision ordinances and erosion and settlement control ordinances, water quality protection measures which define and protect environmentally sensitive lands.

Position: The Richmond Association of REALTORS® is extremely concerned about achieving a balance between a healthy Chesapeake Bay and a strong, viable economy in Virginia. Nevertheless, RAR opposes any unreasonable efforts to expand the CBPA beyond its already existing limits. RAR will continue to support, however, reasonable and fair regulations that promote a balance between economic growth, the protection of private property rights and the preservation of the environment, while opposing any initiatives that exceed these criteria.

Dillon Rule

Issue: Virginia is considered a "Dillon Rule" state, which means that local governments are considered political subdivisions of the state and therefore possess only those powers that the state explicitly grants them.

Discussion: The Dillon Rule serves as the foundation for Virginia's excellent business climate. Because of this important doctrine, businesses know that the laws and regulations will vary little between different jurisdictions.

Position: The Richmond Association of REALTORS® opposes any efforts to weaken the Dillon Rule doctrine or to lessen local accountability with regard to land use regulation.

Short Term Rentals

Issue: Attempts by localities to limit or outright ban short term rentals in a private home infringe upon a citizen's private property rights.

Position: RAR supports the rights of private citizens to use their property as they see fit, provided said use complies with current zoning ordinances.

Local Planning

Funding of Local Infrastructure Needs

Issue: The challenge of how to pay for growth often receives attention during General Assembly sessions.

Discussion: To pay for infrastructure, local governments often seek to impose various taxes upon the housing industry such as impact fees, transfer taxes, etc. These proposals would increase the cost of housing as well as diminish the stock of available affordable housing.

Position: The Richmond Association of REALTORS® supports broad-based methods to fund local infrastructure needs.

Local Real Estate Sign Ordinances

Issue: Sign ordinances in several localities prohibit temporary, off-site signs, such as those commonly used to advertise open houses.

Discussion: Temporary, off-site signs placed along the roadway and private property are valuable in directing the public to a property which is listed for sale or lease.

Position: The Richmond Association of REALTORS® opposes efforts to impose unreasonable restrictions on the use of temporary directional signs located outside of the VDOT right-of-way.

Regional Cooperation

Issue: Regional cooperation can provide essential services (e.g. water, sewer, waste management, transportation) to citizens at reduced costs by eliminating duplication of effort and bureaucracy. Regional cooperation is critical to sustain and to enhance economic development efforts.

Position: The Richmond Association of REALTORS® encourages all local governments to explore the cost-saving potential of regional cooperation. The General Assembly should continue to develop incentives for local governments to join together in regional, cooperative efforts to provide services to citizens and to enhance the region's economic competitiveness.

Zoning Practices/Comprehensive Plans

Issue: Under Virginia law, local governments have the primary responsibility for regulating local land use matters.

Discussion: Pursuant to the Code of Virginia, localities must adopt a comprehensive plan to serve as a roadmap for future development.

Position: RAR supports efforts to strengthen the accountability of local governments as it relates to their comprehensive plans and zoning ordinances. RAR also favors more stringent local comprehensive plan requirements that strengthen the designation of affordable housing areas and result in better planning for a community's long-term housing needs.

Taxation/Finance

Grantor and Recordation Tax Calculation

Issue: The Virginia Code states that grantor's and recordation tax calculations be applied to the consideration or the value of the interest conveyed, "whichever is greater." Using the assessed value as a basis for tax collections can be highly inaccurate. The tax assessment may reflect outdated market conditions.

Position: The Richmond Association of REALTORS® supports legislation to clarify that calculations of the real estate recordation and grantor's taxes should be made based on the sales price of the property rather than the assessed value.

Independent Contractors

Issue: Real estate sales agents have a unique statutory provision (Internal Revenue Code Section 3508) that provides clear directives about how a real estate broker may classify his/her sales agents as independent contractors. Brokers and sales agents can determine with certainty what their work arrangements are and can thereby ascertain the role of each with respect to payroll taxes and benefits.

Position: The Richmond Association of REALTORS® opposes any erosion of the statutory protections in Section 3508.

Real Estate Transfer/Recordation Taxes

Issue: Both the state and local governments levy real estate recordation taxes, the rates of which are outlined in the Code of Virginia. These fees are often targeted as potential sources for additional revenue.

Discussion: Transfer taxes are out-of-pocket costs generally paid by the buyer at the time of settlement. An increase in statutory transfer taxes or flat fees associated with the transfer of real estate diminishes the ability of families to purchase a home.

Position: The Richmond Association of REALTORS® opposes any increase in transfer taxes or recordation fees.

Real Property Taxes

Issue: Local governments determine the rate of and levy real estate taxes. The Virginia Constitution requires local governments to assess properties at fair market value.

Position: The Richmond Association of REALTORS® supports broad-based funding measures that would lessen local governments' dependence on the real estate tax. RAR believes in expanded real estate tax relief through additional means testing via the existing tools in the Code of Virginia.

Tax Credit Market Place

Issue: The Department of Historic Resources' current map of designated Historic Districts excludes large areas containing historic properties in the City of Richmond. Property owners in these areas are ineligible for historic tax credits, and as a result, owners have no equal incentive to maintain their properties, leading to urban blight and the loss of historic properties to neglect.

Position: The Richmond Association of REALTORS® proposes creating a "tax credit marketplace" for owners in homes 50 years or older that are excluded from current DHR maps. Owners of properties that meet certain criteria should be provided similar incentives to preserve the historic character of their residences; however, many of these properties are owned by citizens who are unable to take advantage

traditional tax credits. Therefore, the creation of a Tax Credit Marketplace would allow these property owners to sell tax credits gained from property improvements and maintenance to buyers who can use the credits in a traditional fashion.

Transportation Funding

Issue: Despite the passage in 2013 of legislation to fund transportation needs, legislators will continue to seek additional solutions for ongoing transportation needs. Some legislators have attempted to transfer road maintenance costs to local governments.

Position: The Richmond Association of REALTORS® opposes shifting statewide road construction and maintenance responsibility to local governments without their consent. RAR supports dedicated, broad based, revenue sources for transportation.