

Richmond Association of REALTORS®



2024 Legislative Package

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2024 Legislative Requests

Septic Tanks

Issue: More than a million Virginia families have septic systems at home. State officials estimate about half those systems are so old they pose health and environmental risks. In addition, homeowners are combating septic failures from climate change, increased costs to upkeep, and lack of historical information associated with their tanks.

Position: The Richmond Association of REALTORS® supports legislation of a comprehensive study of septic systems in the Commonwealth, specifically requiring local health departments to digitize septic system records and link to tax documents that can be accessed by the general public. The Richmond Association of REALTORS® also supports legislation creating a permanent source of funding from the state to replace, repair, pump out, or remove old systems.

Accessory Dwelling Units

Issue: Demand for affordable housing remains high across the Commonwealth. Accessory dwelling units, also known as granny flats, are an essential component of a diverse housing stock. They allow families of aging parents or children with mental or physical disabilities to live nearby to essential lifelines, while also providing more units and overall privacy for both the individual and their family. Local governments are responsible for inclusion and guidelines of accessory dwelling units in their zoning ordinances.

Position: To expand housing supply and choice and help lower cost to property owners, the Richmond Association of REALTORS® supports legislation to allow accessory dwelling units by right, subject to use-specific standards.

Virginia Fair Housing Act: Affordable Housing

Issue: In 2021, the Virginia General Assembly adopted a new section of the Virginia Fair Housing Act (§36-96.3C) that prohibits local government, its employees, or commissions from discriminating in the application of local land use ordinances or permitting of housing developments based on the real or perceived income level of the expected occupants if their income is at or below 80 percent of the area median income (AMI). The section further states that “It shall not be a violation of this chapter if land use decisions or decisions relating to the permitting of housing developments are based upon considerations of limiting high concentrations of affordable housing.” While well intended, this final sentence is vague enough as to render the preceding prohibition meaningless. Localities can point to an unquantified threshold of “high concentration of affordable housing” to circumvent the fair housing prohibition. Furthermore, local governments already have tools at their disposal to prevent the concentration of affordable housing by using comprehensive plans and zoning code ordinances. As a result, this clause is duplicative at best and detrimental to the development of affordable housing at worst.

Position: The Richmond Association of REALTORS® supports legislation to either strike “It shall not be a violation of this chapter if land use decisions or decisions relating to the permitting of housing developments are based upon considerations of limiting high concentrations of affordable housing” or defining in specific terms what “high concentration of affordable housing” means in order to prevent the sentence from being used as a loophole.

Clarification to DPOR Sign Regulations

Issue: Signage is an essential part of a real estate agent’s business. The Department of Professional & Occupational Regulation (DPOR) is responsible for managing content of for sale signs; however, these regulations are vague and broad, leaving interpretation up to individual agents, their brokers, and legal counsel. This has resulted in confusion, misunderstandings, and fines for agents who were unaware that their signs were in violation.

Position: As DPOR continues to conduct regulation review, the Richmond Association of REALTORS® supports the addition of specific and clear guidance regarding the content and stylization of real estate signs.

Safe Harbor Law

Issue: Under current law, a licensee is not held liable for providing false information if the information was provided by their client, obtained from a government entity, obtained from a person or entity who received information from a government entity, obtained from a person licensed to provide professional services by the Commonwealth, and the licensee did not have any knowledge that the information received was false or misleading. Emerging technology is becoming an integral part of the real estate industry and is not covered under this law, leaving a licensee open to liability.

Position: The Richmond Association of REALTORS® supports the addition of specific and clear language to account for the advancements in technology to the “Safe Harbor Law.”

Resale Disclosure Act: Add Purchaser's Agent

Issue: The Resale Disclosure Act requires a seller to deliver the resale certificate to the purchaser. This is contrary to common practice where seller agents typically deliver the certificate to purchaser agents. Not including "purchaser agents" in the code creates liability concerns for seller agents who deliver a certificate to purchaser agents, but not directly to the purchaser themselves.

Position: Insert "purchaser's agent" into 55.1-2309 and anywhere else necessary in the code to protect the common practice of seller agents delivering resale certificates to purchaser agents.

Wholesaling

Issue: The practice of wholesaling is becoming more common in the Richmond home sales market. Wholesaling is the practice selling an existing sale contract. Typically, a wholesaler will purchase an existing contract and then market that contract for sale. Another method is for a wholesaler representing a purchaser to find a property already under contract and purchase the contract. The Virginia Code does not define wholesaling as a real estate activity and as a result, licensees who engage in wholesaling are doing so without legal guidance.

Position: The Richmond Association of Realtors® supports legislation to define wholesaling as real estate activity, thereby providing a legal framework to protect licensees and their clients from liability.

Standing Positions

Commerce

Economic Development Incentives

Issue: Virginia often finds itself in highly competitive battles with other states to attract industry and jobs to the Commonwealth. To lure desirable industries, 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. 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.

Land Use and Property Rights

Adequate Public Facilities (APF) Ordinances

Issue: Adequate Public Facilities (APF) ordinances enable local governments to defer indefinitely or 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. Virginia legal 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: The Richmond Association of REALTORS® 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 project or planned development.

Cash Proffers for New Construction

Issue: Local governments impose cash proffers upon residential lots at the time of rezoning in order to finance local infrastructure. 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. 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 concerned about achieving a balance between a

healthy Chesapeake Bay and a strong, viable economy in Virginia. RAR opposes any unreasonable efforts to expand the CBPA beyond its already existing limits. In addition, RAR will continue to support 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 possess only those powers that the state explicitly grants them. The Dillon Rule serves as the foundation for Virginia’s attractive business climate. Because of this important doctrine, businesses know that laws and regulations will vary little between different jurisdictions.

Position: The Richmond Association of REALTORS® opposes any efforts to weaken the Dillon Rule doctrine.

Local Planning

Central Virginia Transportation Authority

Issue: In 2020, the Virginia General Assembly passed legislation to create the Central Virginia Transportation Authority (CVTA). The Authority is made up of the localities in Planning District 15 and derives its revenue from a combination of regional sales and gas taxes. Revenue is then dispersed in the following manner: 15% to the Greater Richmond Transit Company, 35% to be utilized for regional transportation projects, and 50% to be returned proportionally to the member localities. Local governments are permitted to use the funds returned to them on road construction, maintenance, and expansion, sidewalks, trails, mobility services, and transit. The creation of the CVTA is a historic moment for the region and gives localities the autonomy to decide their own transportation development futures.

Position: The Richmond Association of REALTORS® supports the mitigation of congestion and encourages the localities and the CVTA to look beyond the creation of superhighways that negatively impact property values, communities, and the environment. Other regions, including Northern Virginia, have historically looked to the creation and expansion of highways to absolve traffic issues. This has not been effective. According to a 2019 Virginia Department of Transportation study, it would cost \$12.5 billion to add an additional travel lane on I-95 between Stafford and Northern Virginia. The model showed that this significant investment had little to no improvement in congestion levels. Instead, the study concluded by offering multimodal transportation alternatives to alleviate pressure on roadways. Here in Central Virginia, the CVTA presents our region with a unique opportunity to head off massive congestion issues before they truly begin. While we understand that sometimes large roadways will be needed to accommodate new development, we encourage the member localities and the Authority to prioritize public transportation, complete streets, and multimodal transportation alternatives.

The Intersection of Density and Affordability

Issue: The majority of residential land in the Richmond Region is zoned for single family homes on large lots. According to the National Association of Homebuilders, the average cost for a build-ready lot is \$91,996 and is roughly 20% of the final costs to build a single family house. As costs for labor and building materials continue to rise, the easiest way to bring down home prices and increase supply is to build more homes on less land. In other words, to increase density.

Position: The Richmond Association of REALTORS® knows that there is a housing shortage. This shortage is driving up prices and pushing homeownership further out of reach for the average American. RAR supports locality led efforts, via comprehensive plans and zoning ordinance reviews, to increase

density.

Funding of Local Infrastructure Needs

Issue: The challenge of how to pay for growth often receives attention during General Assembly sessions. To pay for infrastructure, local governments often seek to impose various taxes upon the housing industry such as impact fees, transfer taxes, and recordation fees. 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.

Housing Choice

Issue: Over a third of households in Central Virginia are housing cost burdened, meaning they spend over 30% of their income on housing costs. Additionally, median housing costs across the region have increased faster than median incomes. The lack of affordable housing is not unique to Central Virginia. Across the Commonwealth and the nation, there simply is not enough supply to meet the demand.

Position: The Richmond Association of REALTORS® supports local government planning efforts to diversify housing stock and provide residents with a variety of housing choices affordable across the income spectrum.

Local Real Estate Sign Ordinances

Issue: 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. However, unregulated and overuse of signs results in both the pollution of the roadside and the neighborhood character.

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, but supports the implementation of careful, targeted sign ordinances to preserve our environment and neighborhood aesthetic.

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 sustaining and enhancing 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 in regional, cooperative efforts to provide services to citizens and to enhance the region's economic competitiveness.

Taxation/Finance

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 their 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.

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.

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. 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.