

# Richmond Association of REALTORS®



## 2021 Legislative Package

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# 2021 Legislative Requests

## **Disclosure of Licensure & Employment Status**

**Issue:** Title 54.1-2106.1 of the Code of Virginia 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 then maintained by the licensee completing additional continuing education requirements. These requirements are in place to not only protect the licensee, but also the consumer; therefore, unlicensed sale agents should be required to disclose to the consumer the nature of their employment and if there is any conflict of interest.

**Position:** The Richmond Association of REALTORS® supports legislation requiring new construction sale agents to disclose whether they hold a real estate license and their employment relationship with the builder.

## **Residential Property Disclosure Form**

**Issue:** The Residential Property Disclosure form directs buyers to exercise the necessary due diligence on a variety of issues before entering into a contract. As of July 2020, the form list 16 items that a buyer should be aware of and conduct additional research as they see fit. RAR's recommended best practices include the usage of both the Residential Property Disclosure Acknowledgement form and the Virginia REALTORS® Summary of Rights and Obligations form because we do not believe that the current Buyer Beware form protects seller agents as intended.

**Position:** The Richmond Association of REALTORS® supports legislation that would transition the Commonwealth of Virginia into a "caveat emptor" state. The current mandatory disclosures such as building/zoning code violations, use of a property to manufacture methamphetamine, etc., should be preserved to protect the consumer's health and welfare. Nevertheless, the continually expanding list of buyer beware disclosures do not serve to inform the consumer on any of the topics enumerated, but simply encourage the buyer to conduct due diligence. We do not believe this is sufficient to protect the real estate licensee from potential legal action and ask that legislation be introduced to make Virginia a disclaimer state.

## **State Funding for Education**

**Issue:** As Virginia deals with the economic fallout precipitated by the COVID-19 Pandemic, the Commonwealth's funding for K-12 education has still not returned to pre-Great Recession levels. Unlike other states, Virginia pushed the majority of education funding to local governments. The Commonwealth ranks 40<sup>th</sup> in state funding per pupil. In fact, Virginia localities pay the highest share of total K-12 spending in the Southeast region of the country. This is especially concerning given that localities rely primarily on real estate, sales, meals, and lodging taxes to fund their essential services, including education. With the exception of the real estate tax, the COVID-19 Pandemic has decimated local revenue sources.

**Position:** The Richmond Association of REALTORS® supports efforts to increase state funding for public schools. Not only is it widely understood that real estate values are directly tied to the quality of the neighborhood public school, localities' budgets are stretched historically thin because of COVID-19. To avoid overreliance on the real estate tax to make up lost revenue, the state government must work to fill the gap.

# 2021 Standing Position Statements to be Adopted

## 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 vast majority of residential development 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.

## Housing Choice

**Issue:** Over a third of households in Central Virginia 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, 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.

# 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, 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. 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

### POA/COA: Requiring Online Association Documents

**Issue:** 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.

## 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. 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:** 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 or to lessen local accountability in 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**

### **Expand Enabling Legislation Establishing Conservation, Redevelopment Districts**

**Issue:** Currently, there are no tax abatements programs offered directly for newly constructed affordable housing, but there are abatements available via housing authority established Conservation and Redevelopment Districts for redevelopment that includes affordable housing. This means that local governments without a housing authority are unable to utilize Conservation and Redevelopment Districts to encourage the construction of affordable housing.

**Position:** The Richmond Association of REALTORS® supports amending state code to allow local governments without a housing authority to establish these districts.

### **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, 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:** 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 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.

### **Virginia Fair Housing Law Amendment**

**Issue:** The Virginia Fair Housing Law prohibits discrimination against individuals because of immutable characteristics including but not limited to: race, sex, gender identity, religion, etc. Currently, the Code lacks language specifically addressing governmental discrimination against any of the above protected classes in the development permitting application process.

**Position:** The Richmond Association of REALTORS® believes that an individual's or family's income level should not be a barrier to living in communities of opportunity and that localities should be unable to use the zoning process to prevent the creation of affordable housing. RAR supports legislation adding language to the Virginia Fair Housing Law that prohibits localities and their employees from using land use ordinances and housing development permitting processes to keep a housing product from being developed because it contains or is expected to contain affordable housing units or occupancy by families or individuals whose incomes are at or below 80% of area median income.

### **Zoning Practices/Comprehensive Plans**

**Issue:** Under Virginia law, local governments have the primary responsibility for regulating local land use matters. Pursuant to the Code of Virginia, localities must adopt a comprehensive plan to serve as a roadmap for future development.

**Position:** The Richmond Association of REALTORS® 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**

### **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.

### **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.