



## VIRGINIA REAL ESTATE BOARD

# VREB *SPEAKING*

[www.dpor.virginia.gov](http://www.dpor.virginia.gov)

Winter 2008

### Message from the Chair



**R. Schaefer Oglesby**

Sometimes, as I reflect on my VREB experiences, it seems that those of us who serve on the Board are lightning rods for the unique problems that occur in our business. In this article I will cover some of the recent challenges that have surfaced.

As I was writing this article I received a phone call from a nice, but very upset, lady who had bought a new house. She wanted to install a swimming pool, but found out that she had "wetlands" in her back yard. Of course, "Her Realtor was to blame." Rules governing wetlands protection areas can be confusing, and the caller did point out that licensees should, at least, have some basic knowledge about what may constitute "wetlands" in their specific area. For more information about wetlands in your community, go to the Virginia Department of Environmental Quality's Water Quality Protection Program's website at [www.deq.virginia.gov/wetlands/](http://www.deq.virginia.gov/wetlands/).

Don't forget to fill in all the blanks

on a standard form, contract or addendum. This is a current VREB problem, especially with new agents. If nothing is required, put "N/A" in the space.

While attending the Property Managers Coalition meeting at Natural Bridge, I realized how many folks don't know about the Virginia law regarding smoke detector servicing. If you handle any rental property, you need to read *Code of Virginia* Section 15.2-922 entitled, "Smoke detectors in certain buildings." This section tells you exactly what you must do, and it supersedes all local codes and State Building Codes. You can read this law online at [www.virginia.gov](http://www.virginia.gov). Click on "Government," then click on "Laws," then click on "*Code of Virginia*," then type in "15.2-922," and click "Submit."

By the time you read this, the new "disclosure" form will be in effect. Don't forget to dispose of all your old disclosure/disclaimer forms as they are no longer applicable.

By now you should be aware of and comfortable with the recent agency changes and your responsibilities for disclosure. Remember, you can negotiate any kind of agency relationship with your client as long as you spell out in the agreement what you intend to do for your compensation.

As always, I will attempt to answer any questions you have about the VREB except case-specific questions. Just call or e-mail me.

Until next time,

Schaefer  
[reboard@dpor.virginia.gov](mailto:reboard@dpor.virginia.gov)

Virginia Real Estate Board  
Perimeter Center, Suite 400  
9960 Mayland Drive  
Richmond, VA 23233  
804-367-8526

Timothy M. Kaine  
Governor

Patrick O. Gottschalk  
Secretary, Commerce & Trade

### INSIDE THIS ISSUE:

Board Members & Staff	2
Board Contact Information	2
ARELLO Certified Courses	3
Fair Housing	3
Disciplinary Actions	4-5
Advisory Council Article	6-7
Common Interest Communities	7

### 2008 Meeting Dates

All meetings are held on the 2nd Floor of the Perimeter Center, at the address above:

January 24, 2008  
March 20, 2008  
May 8, 2008  
July 10, 2008  
September 18, 2008  
November 6, 2008

**BOARD MEMBERS**

R. Schaefer Oglesby, Chair  
Lynchburg  
Licensee Member  
Four-year terms ends on 6/30/09

Byrl P. Taylor, Vice-Chair  
White Stone  
Licensee Member  
Four-year term ends on 6/30/11

Florence Daniels  
Alexandria  
Licensee Member  
Four-year term ends on 6/30/10

Nathaniel Brown  
Charlottesville  
Citizen Member  
Unexpired term ends on 6/30/08

Judith L. Childress  
Martinsville  
Licensee Member  
Four-year term ends on 6/30/08

Marjorie Clark  
Richmond  
Citizen Member  
Four-year term ends on 6/30/10

Carol F. Clarke  
Charlottesville  
Licensee Member  
Four-year term ends on 6/30/08

Miles B. Leon  
Norfolk  
Licensee Member  
Four-year term ends on 6/30/08

Scott M. Gaeser  
Manakin-Sabot  
Licensee Member  
Four-year term ends on 6/30/10

**DPOR Staff**

Jay DeBoer, Director

David Ashe, Chief Deputy Director

Karen O'Neal, Deputy Director  
Licensing & Regulation Division

Nick Christner, Deputy Director  
Compliance & Investigation Division

Steven Arthur, Deputy Director  
Administration & Finance Division

Lizbeth Hayes, Director  
Fair Housing Office

**Real Estate Board Staff**

Christine Martine  
Executive Director

Tom Perry  
Property Registration Administrator

Kevin Hoefft  
Education Administrator

Maryanne Woo  
Office Manager

Emily Trent  
Administrative Assistant

**Board Contact Information**

Executive Director - 804-367-8552

Licensing Section - 804-367-8526

Education Section - 804-367-2406

Property Registration Section - 804-367-8510

Fax Number - 804-527-4299

E-mail - REBoard@dpor.virginia.gov

Web - www.dpor.virginia.gov

DPOR Main Number - 804-367-8500

Complaints Section - 804-367-8504

## Board Votes to “Recognize” ARELLO Certified Courses

### By Judith Childress, Education Committee Chair



At its November 8, 2007, meeting, the Real Estate Board (the Board) voted to “recognize” The Association of Real Estate License Law Officials’ (ARELLO) Education Content Certification for non-state specific real estate pre-license, continuing and post license education courses. “Recognize” means that courses submitted with ARELLO certification can be approved automatically by Board staff as long as each course meets the Board’s approval criteria as required by Virginia law and the Board’s regulations.

Currently all new real estate pre-license, continuing and post license education course applications submitted by education providers must go through the Board’s Education Committee course review process which can take three months. The “recognition” and automatic approval of ARELLO certified courses will reduce the time and energy expended by Board members, staff, and education providers in the Education Committee course review process.

ARELLO certification is awarded to individual real estate education courses that pass the rigorous ARELLO review process. ARELLO only certifies courses that directly relate to professional real estate practice and to protecting the public interest. Education providers pay a review fee to have each course reviewed by ARELLO. “Recognition” of ARELLO certified courses would cost the Board nothing.

The Board also set July 1, 2008, as a deadline to determine whether it should participate in ARELLO’s Distant Education Certification Program (DECP). DECP applies to on-line and correspondence real estate education courses. This program ensures that distance education courses function properly, have the correct number of hours, have appropriate assessment mechanisms, require adequate student interaction, have meaningful and measurable learning objectives, ensure that a course instructor is available, and are periodically audited. For more information on these ARELLO programs, go to [www.arello.org](http://www.arello.org), and click on the “Related Programs” option.

## FAIR HOUSING

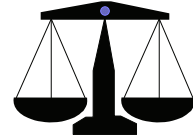
Pursuant to the Freedom of Information Act (FOIA) policy of the Department of Professional and Occupational Regulation for Fair Housing case files, only complaint dismissals resulting from the Board’s determination that **no reasonable cause exists** to believe that a discriminatory housing practice occurred, shall be disclosed to the public. Upon request and following completion of the Board’s investigation, information derived from an investigation and any final investigative report may be made available to only the aggrieved person(s) and the respondent(s). Written conciliation agreements shall be made public **unless** the complainant and the respondent agree in writing that the agreement is to remain confidential and the Board determines that disclosure is not required to further the purposes of the Fair Housing Law. Case names can be obtained from the Board minutes located on the Townhall website.

The Board made a finding of reasonable cause or approved conciliation agreements for the following cases at its September and November 2007 meetings:

<u>Action</u>	<u>Case No.</u>	<u>Case Name</u>
Conciliation Agreement	2007-04253	Mark and Charmaine Davis v. Norma Stein, Inc.
Conciliation Agreement	2008-00200	Peter L. Goldstein v. Juanita Beltran, Cafritz Company & Walter Klinger
Conciliation Agreement	2007-01020	Voydee Spinner and Linda Spinner v. First Charter Realty Corp. and Thomas E. Robinson, dba Tom Robinson



## DISCIPLINARY ACTIONS



The Real Estate Board (the Board) licenses real estate salespersons, brokers, firms, proprietary schools and prelicense instructors. If a complaint is filed against a licensee who is subject to the laws and regulations of the Board, the complaint is reviewed by the Compliance and Investigations Division (CID) of DPOR to determine if a violation of these laws or regulations may have occurred. If there is probable cause of a violation, an investigation is initiated. If the investigation reveals that one or more violations may have occurred, the licensee receives notice to appear at an informal fact-finding conference (IFF) to address these alleged violations.

In some cases the licensee may be offered a pre-IFF Consent Order. A Consent Order is an agreement between the licensee and the Board consisting of specific violations and sanctions. Pre-IFF Consent Orders eliminate the time and expense associated with conducting an IFF.

If an IFF is held, a recommendation from the IFF hearing officer consisting of proposed violations and sanctions is submitted to the Board for consideration at its next meeting. The Board can take the following disciplinary actions against a licensee: assess a monetary penalty; suspend or revoke a license; place an individual on probation; require additional education; or deny renewal. A licensee can continue to practice throughout the disciplinary process until the Board either revokes or suspends his license.

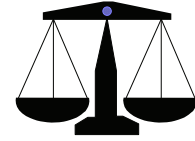
The public can view the Board's Final Orders and Consent Orders on the DPOR website at [www.dpor.virginia.gov](http://www.dpor.virginia.gov). Click on "License Lookup." Then click on "Search Disciplinary Actions Occurring since April 1, 2002." A search page will appear with directions on how to search for Board disciplinary actions against its licensees.

The following cases are disciplinary actions rendered by the Board in September and November of 2007:

<u>Case No.</u>	<u>Licensee</u>	<u>Violation</u>
2006-02454	Alexander Otis Matthews	18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-180 - Maintenance/management escrow account 18 VAC 135-20-310 - Delivery of Instruments 18 VAC 135-20-180 - Maintenance/management escrow account 18 VAC 135-20-185 - Maintenance/management financial records Fined \$5000 plus License Revocation
2006-02779	Alexander Otis Matthews	18 VAC 135-20-300 - Misrepresentation/Omission 18 VAC 135-20-300 - Misrepresentation/Omission 18 VAC 135-20-310 - Delivery of Instruments 18 VAC 135-20-310 - Delivery of Instruments Fined \$4000
2007-01942	Alexander Otis Matthews	18 VAC 135-20-260 - Unworthiness & Incompetence (5 counts) 18 VAC 135-20-180 - Maintenance/management escrow account (3 counts) 18 VAC 135-20-310 - Delivery of Instruments (3 counts) 18 VAC 135-20-300 - Misrepresentation/Omission 18 VAC 135-20-185 - Maintenance/management financial records Fined \$13,000 plus License Revocation



## DISCIPLINARY ACTIONS (Cont.)



<u>Case No.</u>	<u>Licensee</u>	<u>Violation</u>
2007-02374	Louise J. Monger	18 VAC 135-20-290 - Improper Dealing Fined \$150, \$150 Board Costs
2007-02278	Sandeep Arora	18 VAC 135-20-210 - Disclosure of Interest Fined \$100, \$150 Board Costs, 4 Hours Continuing Education
2007-03161	Asha Arora	18 VAC 135-20-210 - Disclosure of Interest Fined \$100, \$150 Board Costs, 4 Hours Continuing Education
2007-04553	William P. Lunger, Sr.	18 VAC 135-20-180 - Maintenance/management escrow account Fined \$450, \$150 Board Costs, 6 Hours Continuing Education
2007-05026	Lucia A. Jason	18 VAC 135-20-180 - Maintenance/management escrow account Fined \$450, \$150 Board Costs, 6 Hours Continuing Education
2007-03093	Dion A. Rainey	18 VAC 135-20-260 - Unworthiness & Incompetence (2 Counts) Fined \$300, \$150 Board Costs
2007-01314	Shanna A. Slocum	18 VAC 135-20-260 - Unworthiness & Incompetence \$150 Board Costs, License Revocation
2007-01258	Elizabeth W. Atkinson	§54.1-2135.A.2 - Failure to Exercise Ordinary Care Fined \$750, \$150 Board Costs, 4 Hours Continuing Education
2007-01995	Mary J. Meeks	18 VAC 135-20-220 - Disclosure of Brokerage Relationship Fined \$500, \$150 Board Costs, 8 Hours Continuing Education
2007-04100	Linda W. Foster	18 VAC 135-20-220 - Disclosure of Brokerage Relationship Fined \$500, \$150 Board Costs, 8 Hours Continuing Education
2007-02285	Susan M. Hensley	18 VAC 135-20-290 - Improper Dealing Fined \$1000, \$150 Board Costs, 8 Hours Continuing Education
2007-04101	Jason E. Meeks	18 VAC 135-20-220 - Disclosure of Brokerage Relationship Fined \$500, \$150 Board Costs, 8 Hours Continuing Education
2007-03503	Bonnie Leigh Coffey	18 VAC 135-20-220 - Disclosure of Brokerage Relationship Fined \$500, \$150 Board Costs, 8 Hours Continuing Education
2006-03072	Khoa D. Nguyen	18 VAC 135-20-260 - Unworthiness & Incompetence (3 Counts) 18 VAC 135-20-240 - Provision of Records to the Board Fined \$8500, License Revocation
2007-01767	Sean A. McNeil	18 VAC 135-20-260 - Unworthiness & Incompetence License Revocation
2007-04442	Michele C. Stevens	18 VAC 135-20-330 - Broker's Responsibility for Licensee's Acts Fined \$500, \$150 Board Costs, 8 Hours Continuing Education

## Advisory Council Recommends Elimination of Practice Tracks By Joseph K. Funkhouser, II Advisory Council Chairman

The Virginia Real Estate Board Advisory Council (Advisory Council) met in Richmond on October 29, 2007, to determine whether any changes should be made to the Board's post license education program for new salesperson licenses pursuant to § 54.1-2105.01.B of the *Code of Virginia*.



After review of information, public input and discussion, the Advisory Council concluded that the post license education program's three practice track format (Residential Real Estate, Commercial Real Estate and Property Management) has not succeeded in meeting the program's initial goal of providing the best possible education for new real estate salespersons. As a result, the Advisory Council voted unanimously to recommend that the Real Estate Board (the Board) work expeditiously to have the *Code of Virginia* amended to remove the three practice tracks from the post license education program.

At its November 8, 2007, meeting, the Board approved this Advisory Council recommendation. Board Chairman Schaefer Oglesby also indicated on November 8 that it is too late for the Board to request that this change be made during the 2008 General Assembly session, so it is likely that this proposed change will be addressed by the 2009 General Assembly.

### **History of the Post License Education Program and Advisory Council**

The 2003 General Assembly passed House Bill 2723 which established the 30-hour Post License Education Program for new real estate salespersons who became licensed after January 1, 2004. This law requires that all new salespersons complete 30 hours of post license education in order to renew their license. This law also required the Board to create an Industry Advisory Council to establish educational guidelines for the three practice tracks (Residential,

Commercial and Property Management) that were required by the new law.

The Board established the Advisory Council in May 2003, which met several times in the Summer and Fall of 2003, and its Final Report was approved by the Board in October 2003. The Final Report specified the post license education program's mandatory and elective course topics and the hours required to complete the 30-hour curriculum for each practice track.

The post license education program for new salespersons went into effect on January 1, 2004. The Advisory Council next met on October 27, 2004, reviewed the requirements in place at that time, and recommended a few minor program changes which were approved by the Board.

The Advisory Council then met to review the post license education program in December 2005 and October 2006, and it made no recommendations for changes.

### **Post License Education Program Problems**

The Board has issued 34,607 new salespersons licenses since the inception of the post license education program on January 1, 2004. An astounding 98.1% of the new salespersons completed or selected the Residential Real Estate practice track in order to renew their license. Only 1.8% of these new salespersons completed or selected the Commercial Real Estate practice track to renew their license. And just over one-tenth of 1% of these new salespersons completed or selected the Property Management practice track to renew their license.

The Advisory Council was concerned that such an overwhelming majority of new salespersons have selected the Residential Real Estate practice track since the program began. Although it is true that most new salespersons work primarily in the area of residential real estate, it is unlikely that less than two percent of new salespersons work primarily in the commercial real estate and property management areas.

**(Advisory Council Article continued on Page 7).**

## Common Interest Communities

By Karen O'Neal, Deputy Director, DPOR Licensing and Regulation Division

What is the Common Interest Community Management Information Fund (the Fund)? What are the different types of associations required to file annual reports with the Real Estate Board? What is the purpose of annual report filing and the Fund? This article will provide basic answers to these questions.

The Fund was created in 1993 to promote the improvement and more efficient operation of common interest communities through research and education. The Fund consists of annual report filing fees required by Property Owners' Associations (§ 55-516.1), Condominium Associations (§ 55-79.93:1) and Cooperative Associations (§ 55-504.1).

A portion of the Fund, not to exceed 60%, is used for the Community Association Liaison position, established by the General Assembly in 2001.

The Liaison serves as an information resource on issues relating to the governance, administration and operation of common interest communities. The Liaison receives, on average, more than 100 inquires each week regarding registration and basic association concerns.

The remaining portion of the Fund promotes information and research in the field of common interest community management and operation, expeditious and inexpensive procedures for resolving common interest community disputes, seminars and educational programs designed to address topics of concern to community associations and other programs deemed necessary by the Real Estate Board to promote improvement and more efficient operation of the common interest community.

For more information, contact the Common Interest Community Association Liaison at 804-367-2941 or [cicliaison@dpor.virginia.gov](mailto:cicliaison@dpor.virginia.gov)

### Advisory Council Article (from Page 6)

One of the original purposes in establishing three distinct practice tracks for the post license program was to meet the perceived need to provide new salespersons with rigorous and specific educational training in the different areas of the real estate industry. The evidence appears to indicate that this is not occurring.

Some of the public comments received by the Advisory Council raised additional concerns about the usefulness of the current practice tracks. One education provider commented that her school is unable to schedule classroom courses for the commercial real estate and property management practice track students because there is insufficient demand since so few new salespersons select those tracks.

Another commenter indicated that some new salespersons who primarily practice commercial real estate are selecting the residential real estate practice track instead of the commercial real estate practice track because the residential track is easier to complete as those courses are offered much more often than are commercial track courses.



The Advisory Council did not discuss what type of specific changes should be made to the post license education program should the General Assembly eliminate the current three practice tracks. It is likely that the Board will direct the Advisory Council to meet in 2008 to discuss this matter.

The Board and Advisory Council value public comments from its licensees concerning the future of the post license education program. Please address your written comments to the "Virginia Real Estate Board Advisory Council" and mail them to the Board's address on page one of this newsletter or e-mail them to [reschool@dpor.virginia.gov](mailto:reschool@dpor.virginia.gov).



**COMMONWEALTH OF VIRGINIA**  
**Department of Professional and**  
**Occupational Regulation**  
**9960 Mayland Drive, Suite 400**  
**Richmond, Virginia 23233**

PRE-SORT  
STANDARD  
U.S. POSTAGE PAID  
Permit No. 2005  
Richmond, VA