



VIRGINIA REAL ESTATE BOARD

VREB *SPEAKING*

www.dpor.virginia.gov

Summer 2011

Message from the Chair



Clifford L. Wells

This is my first message to Virginia real estate licensees as the newly elected Board Chair, and it is a privilege for me to serve in this position. I will uphold the Board's laws and regulations to protect the Commonwealth's citizens from licensees who fail to follow these rules.

Congratulations to Judy Childress who was elected Board Vice Chair! Judy and I look forward to working with the Board and its exceptional professional staff on a variety of opportunities and challenges as we navigate through these difficult economic times.

Byrl Taylor provided exceptional leadership during her tenure as Board Chair, and we will work hard to continue her good work. Byrl served

eight years on the Board, and Virginia law prohibited Governor McDonnell from reappointing her to another term.

The Governor has selected Salesperson Anh Tu Do of Westgate Realty Group, Inc. in Falls Church to serve on the Board. I welcome Ms. Do to the Board and am confident she will serve well the citizens of the Commonwealth.

I trust you will find the information in this newsletter helpful. The articles on pages 3 and 9 describe new real estate laws, most notably HB 1907, that went into effect on July 1, 2011.

The article on page 4 encourages licensees who perform short sale transactions to make sure they have received the appropriate education. Short sales can be tricky and it behooves licensees to seek proper training.

The Board's disciplinary actions from its May and July meetings are listed on pages 5 through 8. Details for these disciplinary actions can be accessed through "License Lookup" on the DPOR website at: www.dpor.virginia.gov.

The Board's Fair Housing actions from its May and July meetings are listed on page 9.

Please contact the Board staff or me at 804-367-8526 or REBoard@dpor.virginia.gov with your ideas and concerns about real estate in Virginia.

Sincerely,
Cliff Wells, Chairman

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

Robert F. McDonnell
Governor

James S. Cheng
Secretary, Commerce & Trade

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2011 Meeting Dates

September 21, 2011
November 17, 2011

All meetings are held on the Second Floor of the Perimeter Center at the above address.

BOARD MEMBERS

Clifford L. Wells, Chairman
Virginia Beach
Licensee Member
Four-year term ends on 6/30/13

Judith L. Childress, Vice Chair
Martinsville
Licensee Member
Four-year term ends on 6/30/12

Nathaniel Brown
Charlottesville
Citizen Member
Four-year term ends on 6/30/12

Carol F. Clarke
Charlottesville
Licensee Member
Four-year term ends on 6/30/12

Anh Tu Do
Annandale
Licensee Member
Four-year term ends on 6/30/15

Sandra Ferebee
Norfolk
Licensee Member
Four-year term ends on 6/30/14

Joseph Funkhouser, II
Harrisonburg
Licensee Member
Four-year term ends on 6/30/14

Sharon Parker Johnson
South Hill
Licensee Member
Four-year term ends on 6/30/12

Jorge G. Lozano
Annandale
Citizen Member
Four-year term ends on 6/30/14

DPOR Staff

Gordon Dixon, Director

Mark Courtney, Deputy Director
Licensing & Regulation Division

Nick Christner, Deputy Director
Compliance & Investigations Division

Steven Arthur, Deputy Director
Administration & Finance Division

Lizbeth Hayes, Director
Fair Housing Office



Real Estate Board Staff

Christine Martine
Executive Director

Kevin Hoeft
Education Administrator

Emily Trent
Administrative Assistant

Board Contact Information

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Internet - www.dpor.virginia.gov
DPOR Main Number - 804-367-8500
Complaints Section - 804-367-8504

2011 General Assembly Update

New Laws Affecting the Virginia Real Estate Board

The 2011 General Assembly Session adjourned on February 27th after considering 2,692 bills and resolutions. Of the more than 50 proposals tracked by DPOR's legislative team this year, several bills affected the Real Estate Board and its licensees.

Below are descriptions of the Board-related bills enacted by the legislature and signed by the governor. To view the full text of the new laws, visit the Legislative Information System online at <http://lis.virginia.gov> and search by bill number.



HB 1907 is a comprehensive bill requested by the Virginia Association of REALTORS®. The new law makes numerous changes to the statutes governing real estate agency, including (i) defining the terms for property management agreements and brokerage agreements, and setting out required provisions in such agreements; (ii) revising the dual representation provisions and disclosures for real estate licensees; and (iii) revising the designated dual representation provisions and disclosures for real estate licensees. The amendments also allow all required documents and records to be maintained by real estate licensees to be kept in electronic form.

In addition, HB 1907 revises the mandatory disclosures under the Virginia Residential Property Disclosure Act, moving certain disclaimers to a website maintained by the Real Estate Board. The intent of the amendment is to eliminate the risk of real estate licensees and others relying on outdated disclosure forms.

Due to the comprehensive nature and substantive changes of the bill, it requires the Real Estate Board to approve a continuing education program of at least three hours on the specific changes in the new law. As of July 1, 2012, completion of continuing education on the HB 1907 provisions will be a prerequisite for renewal or reinstatement of an active broker or salesperson license.

HB 1610 and **SB 942** are companion bills recommended by the Housing Commission to address the issue of defective imported "Chinese" drywall. The new law requires real estate licensees to disclose the existence of defective drywall to the prospective buyer.

HB 2099 amends the law governing termination of real estate contracts. The amendment will allow different delivery methods for a purchaser to provide the required written notice for termination, including electronic means and overnight delivery.

HB 1862 and **SB 1361** are companion bills requested by Governor McDonnell as part of his military/veterans legislative agenda. Although not specific to the Real Estate Board, this new law grants all DPOR regulatory boards the authority to extend the expiration of certain licenses held by spouses of active-duty military personnel, when the spouse accompanies the service member for overseas deployment.

Short Sales - Education & Training Required

By Clifford L. Wells, Board Chairman

Some real estate professionals thought the “short sale market” was just a passing phenomenon. Unfortunately, due to the uncertain real estate market, short sales have become a large part of many firms’ business.



Consequently, real estate licensees who perform short sales should seek additional training in these types of transactions. The Board has approved dozens of continuing

education and post-license education courses related to short sales and information on these courses can be accessed on the Board’s website.

Training in short sales transactions may help licensees to avoid some of the following problems that could put them in harm’s way.

The first and most dangerous problem concerns escrow. When buyer and seller ratify a contract, the consummation of the transaction often hinges on a number of contingencies, such as the appraisal, loan approval, home inspection and termite report. The third-party approval of a short sale is simply another contingency in the contract and must be viewed as such. Therefore, an earnest money deposit received as part of a short sale transaction with third-party approval must be placed in the firm’s escrow account by the end of the fifth business banking day following ratification, unless otherwise agreed to in

writing by the parties to the transaction in accordance with the Board’s Regulations.

Second, the seller should be informed of the possibility of a deficiency judgment on the subject property. The client deserves to know before closing that he may be held responsible for the unpaid judgment.

Third, a licensee should not advise a seller to not make mortgage payments in order to qualify for a short sale.

Fourth, the buyer should be made aware their settlement could be delayed or that the bank could proceed to foreclosure and the closing not occur at all if the transaction’s circumstances dictate this. If this is the case, the licensee should take steps to insure if closing does not occur that the buyer’s earnest money is returned in a timely manner.

Fifth, a licensee should not advise a client to market a property at a price that the licensee knows is unacceptable to the bank in an effort to establish a price that the bank will accept.

Sixth, a licensee should not represent himself as a “Distressed Property Expert” or a “Short Sale Expert” or a “Short Sale Negotiator” without receiving the required certification and/or training for these designations. This could be interpreted as misrepresentation.

Finally, there is the issue of multiple offers. Remember, all offers must be presented to the seller.

These are a few of the pitfalls that could result from a lack of training on conducting short sales. Licensees who perform or intend to perform such transactions should complete adequate training prior to offering their services to the public.



DISCIPLINARY ACTIONS



The Real Estate Board (the Board) licenses or certifies real estate salespersons, brokers, firms, proprietary schools and pre-license 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 FOLLOWING DISCIPLINARY ACTIONS RENDERED BY THE BOARD AT ITS MAY and JULY 2011 MEETINGS CAN BE VIEWED AT: www.dpor.virginia.gov. Click on "License Lookup." Then click on "Search Disciplinary Actions Occurring since April 1, 2002." Then enter the Case Number in the blank "Search" box. Then click on the "Search" button. Then click on the highlighted "File Number." The Order and Report of Findings for that case will appear.

<u>Case Number</u>	<u>Licensee</u>	<u>Violations & Sanctions</u>
2010-04082	James E. Dolan, Sr. Nathalie, VA	18 VAC 135-20-190 - Advertising by Licensees (3 counts) 18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-300 - Misrepresentation/Omission (4 counts) \$5250 Monetary Penalty, \$150 Board Costs, 8 hours Continuing Education, Three-year License Probation with Quarterly Reporting to the Board
2011-02143	Dorothy F. Ritchie Harrisonburg, VA	18 VAC 135-20-260 - Unworthiness & Incompetence \$1000 Monetary Penalty, \$150 Board Costs, License Revocation
2011-02865	Karen D. Newins Chesapeake, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts 18 VAC 135-20-300 - Misrepresentation/Omission \$1100 Monetary Penalty, \$150 Board Costs, 4 hours Continuing Education
2011-02627	Ahmad A. Ashkar Dunn Loring, VA	18 VAC 135-20-170 - Maintenance of License 18 VAC 135-20-180 - Maintenance & Management Escrow Accounts \$1100 Monetary Penalty, \$150 Board Costs
2011-02667	Debra D. Kraehmer Virginia Beach, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts \$500 Monetary Penalty, \$150 Board Costs, 3 hours Continuing Education
2011-01938	Sherry L. Albertson Norfolk, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts \$500 Monetary Penalty, \$150 Board Costs



DISCIPLINARY ACTIONS (Cont.)



<u>Case Number</u>	<u>Licensee</u>	<u>Violations & Sanctions</u>
2011-02605	Kwan S. Chung Springfield, VA	18 VAC 135-20-210 - Disclosure of Interest 18 VAC 135-20-260 - Unworthiness & Incompetence \$1250 Monetary Penalty, \$150 Board Costs, 4 hours Continuing Education, One-year License Probation with Quarterly Reporting to the Board
2011-02858	Patricia A. Mele Clifton, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts 18 VAC 135-20-310 - Delivery of Instruments \$1000 Monetary Penalty, \$150 Board Costs
2011-03041	Lewis K. Jamison Danville, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts \$500 Monetary Penalty, \$150 Board Costs, 3 hours Continuing Education
2011-02894	Sarah W. Welch Blairs, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts 18 VAC 135-20-220 - Disclosure of Brokerage Relationships \$1000 Monetary Penalty, \$150 Board Costs, 3 hours Continuing Education
2011-03076	Julia H. Hughes Danville, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts 18 VAC 135-20-210 - Disclosure of Interest 18 VAC 135-20-300 - Misrepresentation/Omission \$1000 Monetary Penalty, \$150 Board Costs, 3 hours Continuing Education
2011-01694	Timothy D. Baggett Yorktown, VA	18 VAC 135-20-260 - Unworthiness & Incompetence \$150 Board Costs, Three-year License Probation with Quarterly Reporting to the Board
2011-02004	Mark A. Stock Leesburg, VA	18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-300 - Misrepresentation/Omission 18 VAC 135-20-310 - Delivery of Instruments \$3150 Monetary Penalty, 6 hours Continuing Education
2011-02012	Robert B. Wilton, III Richmond, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) \$150 Board Costs, License Revocation
2011-03065	Marjorie R. Dick Stuart Washington, DC	18 VAC 135-20-260 - Unworthiness & Incompetence \$350 Monetary Penalty, \$150 Board Costs
2011-03114	Rodney E. Bowden Ashland, VA	18 VAC 135-20-310 - Delivery of Instruments \$150 Board Costs, 4 hours Continuing Education
2011-02830	Anita L. Cox Hampton, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts \$500 Monetary Penalty, \$150 Board Costs, 3 hours Continuing Education



DISCIPLINARY ACTIONS (Cont.)



<u>Case Number</u>	<u>Licensee</u>	<u>Violations & Sanctions</u>
2011-02896	Douglas J. Shelton Danville, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts \$500 Monetary Penalty, \$150 Board Costs, 3 hours Continuing Education
2011-02411	Kathleen M. Carmichael Mechanicsville, VA	§54.1-2131.A.4 - Failure to Exercise Ordinary Care 18 VAC 135-20-190 - Advertising by Licensees \$1300 Monetary Penalty, \$150 Board Costs, 5 hours Continuing Education, One-year License Probation with Semi-annual Reporting to the Board
2011-01795	Joyce M. Gaines Woodbridge, VA	18-VAC-135-20-240 - Provision of Records to the Board 18-VAC-135-20-250 - Response to inquiry to the Board 18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) 18 VAC 135-20-280 - Improper Brokerage Commission \$9500 Monetary Penalty, License Revocation
2010-03648	Anthony J. Albanese Penhook, VA	18-VAC-135-20-240 - Provision of Records to the Board 18 VAC 135-20-260 - Unworthiness & Incompetence (3 counts) 18 VAC 135-20-300 - Misrepresentation/Omission \$4500 Monetary Penalty, License Probation, 60-hour Salesperson Pre-license Education Course, License Revocation
2011-02509	Edwin L. Soto Arlington, VA	18 VAC 135-20-260 - Unworthiness & Incompetence License Probation, 60-hour Salesperson Pre-license Education Course, License Revocation
2011-00666	Pamela Overbey Richmond, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts 18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-300 - Misrepresentation/Omission \$2000 Monetary Penalty, License Probation until completes 24 hours of Continuing Education, One-year License Probation with Quarterly Reporting to the Board
2011-02714	Kevin H. Turner Bedford, VA	18 VAC 135-20-160 - Place of Business (2 counts) 18 VAC 135-20-300 - Misrepresentation/Omission \$2100 Monetary Penalty, \$150 Board Costs, 4 hours Continuing Education
2011-02547	Shirley A. Langridge Dickson City, PA	18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) \$150 Board Costs, License Surrender
2011-00765	Deborah A. Riston Colonial Beach, VA	18 VAC 135-20-300 - Misrepresentation/Omission \$1000 Monetary Penalty, \$150 Board Costs, 3 hours Continuing Education
2011-04060	James S. Strum, Jr. Richmond, VA	18 VAC 135-20-260 - Unworthiness & Incompetence \$150 Board Costs, Agreement for Licensure requiring Quarterly Reporting to the Board



DISCIPLINARY ACTIONS (Cont.)



<u>Case Number</u>	<u>Licensee</u>	<u>Violations & Sanctions</u>
2011-01799	Patrice M. Muya Fairfax, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts 18 VAC 135-20-310 - Delivery of Instruments \$1500 Monetary Penalty, License Probation until completes 16 hours Continuing Education, One-year License Probation with Quarterly Reporting to the Board
2011-00708	Alma E. Preciado Clarksburg, MD	18 VAC 135-20-260 - Unworthiness & Incompetence \$2500 Monetary Penalty, License Revocation
2011-03566	Roberta L. Johnson Matoaca, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (3 counts) License Suspension until completes 60-hour Salesperson Pre-license Education Course, Three-year License Probation with Quarterly Reporting to the Board after License Suspension
2011-03531	Monica J. Lambert Bristow, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) \$150 Board Costs, License Revocation
2011-02960	Carol N. Leggett Moneta, VA	18 VAC 135-20-270 - Conflict of Interest \$750 Monetary Penalty, \$150 Board Costs
2011-03013	Terrance S. Williams Aldie, VA	18 VAC 135-20-180 - Maintenance & Management Escrow Accounts \$500 Monetary Penalty, \$150 Board Costs, 3 hours Continuing Education
2007-01647	Gary S. Youngling Dunnsville, VA	§54.1-2131.A.4 - Failure to Exercise Ordinary Care 18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-300 - Misrepresentation/Omission 18 VAC 135-20-310 - Delivery of Instruments \$1350 Monetary Penalty, License Probation until completes 8 hours of Continuing Education, One-year License Probation with Quarterly Reporting to the Board
2011-03066	Augusto Arostegui Vienna, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) \$450 Monetary Penalty, \$150 Board Costs, 4 hours Continuing Education
2011-02643	Lourdes Ortiz-Bonilla Stafford, VA	§ 54.1-2112 et seq - Virginia Real Estate Transaction Recovery Act Claim approved for \$20,000.00, License Revocation
2011-02031	Terri F. Davidson Portsmouth, VA	§ 54.1-2112 et seq - Virginia Real Estate Transaction Recovery Act Claim approved for \$14,370.00, License Revocation
2010-00959	Helen Akins McLean, VA	§ 54.1-2112 et seq - Virginia Real Estate Transaction Recovery Act Claim approved for \$20,000, License Revocation

Effects of HB 1907 on Real Estate Licensees

The passage of HB 1907 by the 2011 General Assembly amended several real estate laws in the Code of Virginia, and these amendments went into effect on July 1, 2011. HB 1907 can be viewed at: <http://leg1.state.va.us/cgi-bin/legp504.exe?111+ful+CHAP0461> The changes to the current real estate laws in the Code of Virginia brought about by HB 1907 can be tracked at: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC540100000210000000000000>

The article on page 3 of this newsletter describes briefly how HB 1907 will make significant changes to the statutes governing real estate agency, and that all active licensees who renew their licenses on or after July 1, 2012, will need to complete a special one-time three-hour continuing education course in standard residential agency to become knowledgeable of these changes. The Board will begin to consider and approve three-hour residential standard agency course applications from approved education providers at its September 21, 2011, meeting. Licensees who submit a notarized affidavit to the Board certifying that they will not practice residential real estate during the two-year licensing term will not have to complete this course.

HB 1907 also affects real estate licensees in a number of other ways. First, the three practice tracks have been removed from the Board's 30-hour post license education (PLE) curriculum for new salesperson licensees. However, the three practice track format will remain in place until the Board makes specific changes to the PLE curriculum. The Board's Advisory Council will meet this summer and fall to discuss how to change the PLE curriculum.

Second, the Board has been given the authority to adjust the required continuing education (CE) hours and course subjects for licensees by September 1 of each year to include topics that the Board deems to be essential for the next license renewal period. The Board does not have to adjust the CE hours, but it now has the option to do so.

Third, the mandatory disclosures under the Virginia Residential Property Disclosure Act have been amended, and the Real Estate Board is now required to maintain these disclosures on its website at: http://www.dpor.virginia.gov/dporweb/reb_consumer.cfm

Fair Housing Cases



The Fair Housing Board administers and enforces the Virginia Fair Housing Law, although the Real Estate Board is responsible for fair housing cases involving real estate licensees or their employees. Each board investigates housing discrimination through the Virginia Fair Housing Office at DPOR. All fair housing cases must attempt conciliation – an alternative dispute resolution approach using informal negotiation. Successful conciliation agreements are public unless both parties request and agree to a confidentiality clause. If conciliation is unsuccessful in resolving the complaint, the Board determines if reasonable cause exists to support a charge of discrimination. In cases where the Board determines reasonable cause and issues a charge of discrimination, the Attorney General's Office brings civil suit in circuit court seeking relief for the complainant. The following fair housing actions were rendered by the Board at its May and July 2011 meetings:

<u>Case Number</u>	<u>Case Name</u>	<u>Action</u>
2011-00067	Agustin Vega v. W.H.H. Trice & Co., Mary Digges, Chastity Corbin, Cathleen McCartney & Elaine V. Thomas	Conciliation Agreement
2011-03032	Heather Foster v. Philip W. Wyne Trustee	Conciliation Agreement
2010-01237	Lisa Mullins v. Leigh Burnley, Barbara Blackburn & Keller Williams Realty North Stafford	Conciliation Agreement
2010-04087	Holly Burdell and Larry Barfield v. Cindy Hornsby, The Hornsby Homefront, LLC and Calebs Realty	Discrimination by refusing to rent or otherwise making a dwelling unavailable based on familial status. Discrimination by making and/or causing to be made a discriminatory statement that expresses a preference of limitation based on familial status.