



2015 Legislative Package



Fredericksburg
Area Association
Of REALTORS®



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PURPOSE

The 2015 Legislative Package for the Fredericksburg Area Association of REALTORS® is intended to be an outline guiding the government affairs efforts of the Association throughout the year. In addition, FAAR will also submit this package to the Virginia Association of REALTORS® for consideration in the VAR Legislative Package prepared the 2015 General Assembly Session.

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FAAR STATE LEGISLATIVE POSITIONS FOR 2015

LANDLORD-TENANT ACT UPDATE

FAAR requests that Virginia Code Section 55-246.1 be amended to specifically include the term "family trust" as a entity that can be represented in court by a non-lawyer to pursue judgment and possession of a property.

A FAAR member who has a property management company had a property management agreement with a family trust to manage several single family homes within that trust. The tenants in one of the homes failed to pay rent and did not provide adequate care of the home during the cold winter months leading to burst pipes and water damage. When the property manager went to court to gain possession of the property and get a judgment for rent and damages, the case was thrown out because the judge said a property manager could not legally represent the family trust.

MEDICAID GUIDANCE ON SALE OF A HOME

FAAR requests that VAR consider legislation that will change the state Medicaid requirement that a home for sale be listed at the tax assessed value. According to state Medicaid guidance, the current market value of a home is 100% of the tax assessed value. This presents an issue for homeowners and their families when the tax assessed value is significantly higher than the fair market value.

The process for securing a price reduction is time consuming and frustrating for homeowners and their families often going through one of the toughest time of their lives. FAAR members have repeatedly come across this issue when trying to assist a homeowner or their family with disposing of the primary residence when the homeowner needs to enter Long Term Care.

MORTGAGE DEBT CANCELLATION RELIEF

FAAR continues to support extending the tax provisions that allow homeowners involved in a short sale, foreclosure, or loan modification to be relieved of their income tax obligations on any forgiven debt from that transaction. In the Fredericksburg market, distressed sales continue to make up over 20% of the market. FAAR applauds the U.S. Congress for extending mortgage debt cancellation until the end of 2013, but believes that it remains a vital tool to keep the recovery on track and advocates for another year-long extension.

FAAR ISSUES OF CONCERN

TRANSPORTATION INFRASTRUCTURE FUNDING

The number one issue facing the Commonwealth of Virginia is the growing mobility crisis throughout the population crescent stretching from Northern Virginia to Hampton Roads. FAAR applauds the passage of historic transportation legislation from the 2013 General Assembly session and strongly advocates for keeping a focus on transportation infrastructure.

FAAR promotes the efficient movement of people, goods, and services throughout the Commonwealth of Virginia. Maintaining a balanced, multi-modal, and regional transportation system is critical to our long-term economic viability. In order to meet the current and future demands on the Commonwealth's transportation network, the Virginia Department of Transportation (VDOT) must continue to invest in major highway projects such as extending the HOV lanes into Stafford County and beyond, support mass transit expansion such as Virginia Railway Express into Spotsylvania County, and a commitment to expanding regional bus networks like the partnership between area communities in FRED. It is vital that future local land use plans accommodate the growth that this area continues to experience and that local, state, and federal entities work together to ensure that current needs are being met and future capacity is being planned for.

Transportation must remain a state priority and responsibility that provides dedicated, broad-based funding sources for multi-modal transportation solutions. The General Assembly must continue to enact reforms reestablishing the link between land-use and transportation planning.

REGIONAL COOPERATION

As the Fredericksburg region continues to grow, it's often hard to distinguish where one county or city ends and another begins. Benefits and challenges are shared across the region and no unit of local government is operating in isolation from its neighbors. FAAR supports enhanced regional cooperation among the governments in the region as collaboration and combining of some infrastructure services provides great benefits to the citizens of our communities.

The Central Rappahannock Regional Library is a great example of what partnership between local governments can accomplish. It is imperative that area governments continue to work together on mutually beneficial projects like the library, water and sewer, parks and recreation, and other various opportunities to maximize efficiency and public service. FAAR encourages local governments affecting decisions in the Greater Fredericksburg area to work together in regional efforts to save costs and eliminate the duplication of services. The General Assembly should continue to develop and implement incentives for local governments to band together in regional cooperative efforts to provide services to citizens at a lower cost, and to enhance the region's opportunities for future economic development.

CHESAPEAKE BAY PRESERVATION ACT

FAAR is concerned about achieving a balance between a healthy Chesapeake Bay and a strong, viable economy in Virginia. FAAR supports local ordinances that do not go beyond the Commonwealth's mandated minimums. FAAR 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.

FAAR strongly supports REALTORS® having a seat at the table during negotiations over implementation of Chesapeake Bay preservation practices. It is vital that individual property owners' rights are recognized and taken into consideration when rules are put in place that greatly impede their ability to use their land as they see fit.

PROVIDING HOUSING OPPORTUNITY AND CHOICE

The Fredericksburg area sits 50 miles south of Washington, DC, making it a desirable community for those commuting to our nation's capital. Residents and potential homebuyers in the Fredericksburg area saw home prices skyrocket, with a 238% increase in the period of from 2001 through 2007. While prices have fallen considerably in the region, there are still barriers to homeownership for many potential buyers.

Housing opportunity and choice are the cornerstones of the American economy and tradition. Homeownership has always been considered a lucrative source of investment for individuals and families and studies have shown that homeowners have a greater commitment to their community than renters. It is important that government at all levels create an atmosphere for the market to produce housing choices for people at all income levels that encourages the exchange of real property.

FAAR supports the availability of a wide-range of urban, suburban and rural housing choices at all price levels. In order to assist communities in developing growth plans and policies, FAAR supports and encourages implementation of the following objectives:

- Ensuring an adequate supply of land for housing, at all market levels, to meet existing and forecasted housing demand.
- Use of market analysis to reflect an area's diverse population and income levels in a wide range of suburban and rural housing types and choices.
- Reduction of regulatory barriers to home rehabilitation to enable historic preservation, modernization of older housing units, and to increase affordable housing options.
- Evolution of planning, zoning and subdivision laws to accommodate mixed-use development, and changing growth patterns.
- Implementation of fair and reasonable development, building review and permit processes.
- Transportation systems that enhance access to work and services.
- Market-driven and incentive-based approaches to managing growth.
- Balanced, equitable, and fair financing of infrastructure needs, including a more proportionately balanced revenue return to localities from the state.

GROWTH ISSUES

During the past ten years, the population of the greater Fredericksburg Area has dramatically increased. In the last ten years, the area population has increased by over 30%. While this growth has slowed in the past few years, more and more people continue moving to the area

demanding housing and other services. The ever expanding costs for investing in critical infrastructure have placed enormous burdens on the fiscal health of the regional governments. It is unlikely that the region will experience a significant reduction in its growth rate over the next ten years so growth issues will continue to dominate public policy debates.

FAAR supports the following measures to accommodate current growth and plan for future growth:

- Provide ample housing opportunity and choice.
- Improve public safety and schools.
- Ease traffic congestion.
- Implementation of responsible and reasonable storm water management programs.
- Fair and equitable taxation plans to provide necessary financial resources without overburdening property owners.
- Sensible adequate public facilities planning and revenue raising that does not infringe on private property rights.

FAIR AND EQUITABLE REAL ESTATE ASSESSMENTS

Local governments across the region are struggling to balance municipal budgets as tax revenue decreases and the demand on services increase. In some counties, real assessments for commercial properties are holding steady while residential assessments are still falling. Commercial real estate is facing major challenges in the market place and many property owners are now seeing their tax bills increase due to flat assessments and an increased equalized tax rate. FAAR will continue to monitor the situation and work with local supervisors and the Commissioner of the Revenue to ensure that one class of real estate is not unfairly shouldering a tax burden.

DEFICIENCY JUDGEMENTS

With short sales continuing to play a large role in the area market, deficiency judgments are becoming a growing concern for REALTORS® from a client protection and a personal liability perspective. In many cases, a homeowner sells their house through a short sale and then is assessed a deficiency judgment months or even years later when they are finally starting to get back on their feet and replenish the value they lost through the short sale.

FAAR believes this practice, while legal, is unfair after a bank willingly agrees to a short sale and has often already written off the loss. In addition, this presents liability for REALTORS® as many individuals claim not to be aware of the possibility for a deficiency judgment and blame their REALTOR® for not informing them. FAAR supports:

- Limiting a banks ability to seek a deficiency judgment after the loss has already been written off and the bank has willingly agreed to a short sale.
- Creating a specific disclosure requirement that clearly documents for the seller that agreeing to a short sale does not protect them from future deficiency judgments and that the bank may come back at anytime and seek financial recourse.
- Providing sellers with information at closing about resources that can help them repair their credit, seek credit counseling, etc.

FAAR STANDING POSITIONS

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSING (BPOL) TAX:

FAAR supports repeal of the BPOL tax and its replacement with another source of revenue that is collected more fairly, or with state revenue sharing. The association does not wish to further financially constrain local governments and supports the repeal of BPOL only to the extent that the state replaces any loss of revenue with an alternative source that is more equitable. We do not support the repeal of BPOL if such action increases real estate taxes and/or development and real estate related fees. Until an alternative can be found, FAAR continues to oppose any increase in the BPOL tax.

COMPREHENSIVE PLANS

Comprehensive Plans should be fluid documents, frequently updated, that serve as a guide for the provision of an adequate supply of developable land to meet the market's demand for housing opportunities. Economic development efforts and comprehensive planning efforts must work in tandem to ensure that workers can find affordable housing in close proximity to their places of employment. FAAR supports the following objectives:

- Clustering of development and innovative land-use policies that encourage mixed-use and pedestrian friendly developments.
- Comprehensive land-use planning that serves as a guide for identifying land to be made available for residential, recreational, commercial, industrial and other uses.
- Updating Comprehensive Plans on a regular basis to accommodate changing demands for different types of housing needed to support the local workforce.
- Flexible planning which avoids fixed growth boundaries that exacerbate sprawl and adversely affect housing affordability.

ETHICAL BUSINESS PRACTICES

The vast increases in the number of real estate licensees throughout the Commonwealth requires a greater commitment, within our own ranks, to the REALTOR[®] Code of Ethics and to increased professionalism through continuing education. FAAR stands ready to help VAR in the ongoing state effort to address these issues.

FAMILY SUBDIVISIONS: FAAR supports introduction of legislation requiring local governing bodies to strictly adhere to the Code of Virginia with respect to family transfers. It will oppose any unreasonable restrictions that would limit a family (as defined by the Code) in its rights to divide, sell or gift their property among themselves.

HISTORIC PRESERVATION ORDINANCES: FAAR opposes the implementation of historic preservation ordinances that go beyond the current state law in its regulation of historic preservation and create unreasonable costs for property owners. Our primary concern is that historic preservation benefits the entire community and should be paid for by the entire community by allowing tax credits for compliance with ordinance requirements.

PREMISES LIABILITY: FAAR opposes any premises liability legislation that would require businesses to be responsible for crime (including vandalism) occurring on their property.

PRESERVATION OF OPEN SPACE AND THE ENVIRONMENT

FAAR recognizes the importance of preserving Virginia's environment and supports:

- The preservation of sensitive lands through public action as long as those efforts respect private property rights and are not achieved through "takings."
- Land purchased for open space should always be purchased from a willing seller who is compensated at fair market value.
- Community Open Space Taxation must be fairly and uniformly applied and place an appropriate value on community open space.
- Predictability in the development process.
- Increased uses of density.
- Access to open space and parks.

PRIVATE PROPERTY RIGHTS: FAAR supports fair and comprehensive federal and state private property rights legislation that balances restrictions on property with the constitutional private property rights guaranteed to our citizens under the Fifth Amendment. The United States Supreme Court ruling in *Kelo v. City of New London* has substantially weakened private property rights in the United States and FAAR will be monitoring private property issues in the Commonwealth to ensure that Virginia remains a leader among the states in the protection of private property rights.

PRIVATIZATION OF GOVERNMENT SERVICES: FAAR supports continued efforts to move appropriate government services into the private sector, both at the state and local levels.

PURCHASE OR TRANSFER OF DEVELOPMENT RIGHTS: FAAR opposes any TDR legislation that addresses the shifting of population from one area to another without addressing services, tax shifting, economic development and equitable compensation to the landowner. FAAR opposes any PDR legislation that uses tax money to finance purchases unless the land in question is open and accessible to the general public at all times.

REAL ESTATE RECOVERY FUND: FAAR is opposed to increasing the cap on the Recovery Fund to \$5 million since currently the only way to reach \$5 million is through additional assessments. FAAR would rather see the VREB look at other methods of increasing the Fund's balance. In addition, FAAR favors making the 1997 legislation mandatory – requiring interest to be counted towards the fund's balance – rather than simply permissive.

THIRD PARTY PROVISION OF HOME/CONDO OWNERS DOCUMENTS

While the General Assembly passed legislation to clarify the amount HOA/COA's could charge a homeowner or unit owner for the timely provision of the association's document package, there is a growing concern that as more associations turn to third party providers, documents are not being provided in the necessary time frame. FAAR will continue to monitor this situation and will reserve the right to seek legislative remedy should the situation warrant.

VRE ACCESS: FAAR supports expansion of the VRE and will continue to work on moving the approved extension of the line from the Fredericksburg station out to the newly approved Spotsylvania Station. VRE relieves traffic congestion on roads by providing an alternative form of transportation. Spotsylvania and Caroline county commuters are forced to use existing

VRE stations contributing to traffic congestion on local roads and complicating issues with limited parking in downtown. FAAR will continue to work with the affected counties and residents to fully realize the many economic and community benefits of the VRE.

VIRGINIA REAL ESTATE BOARD RESPONSIVENESS

As the number of real estate agents, brokers and transactions in the Commonwealth continue to increase the state regulatory agency, the Virginia Real Estate Board, has not been able to keep pace with increased demands on the staff to process continuing education application and investigate consumer complaints efficiently. Because the VREB is financed through licensing fees from sales agents and brokers, the membership of FAAR is seeking additional staff support for VREB to meet the demands of a rapidly expanding pool of licensees.