

**REPORT OF THE**  
**BOARD OF COMMERCE**  
**ON**  
**REAL PROPERTY MANAGEMENT**  
**TO**  
**THE GOVERNOR**  
**AND**  
**THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 3**

**COMMONWEALTH OF VIRGINIA**  
**Richmond, Virginia**  
**1981**

PROPERTY MANAGEMENT STUDY COMMITTEE

REPORT

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# COMMONWEALTH of VIRGINIA

DEPARTMENT OF COMMERCE

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December 1, 1980

TO: The Honorable John N. Dalton  
Governor of Virginia

and

The General Assembly of Virginia

I herein transmit to you the report of the Board of Commerce on the study of the field of real property management. House Joint Resolution No. 93 of the 1980 session of the General Assembly authorized the study.

The report concludes that there is not a need to regulate this occupation at this time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Knox R. Burchett".

Knox R. Burchett  
Chairman

## HOUSE JOINT RESOLUTION NO. 93

*Requesting the Board of Commerce to study the desirability of regulating those persons working in the field of real property management.*

Agreed to by the House of Delegates, February 14, 1980  
Agreed to by the Senate, February 25, 1980

WHEREAS, it has been the prior judgment of the General Assembly that persons in the field of real estate, including brokers, salesmen and rental location agents should be regulated, the Virginia Real Estate Commission having been established by Chapter 18 of Title 54 of the Code of Virginia to provide for such regulations; and

WHEREAS, persons in the field of real property management, which includes those persons who manage or contract to manage real estate or improvements for others, including condominiums and cooperative housing corporations as defined in § 13.1-501 of the Code of Virginia, are not presently regulated in any capacity; and

WHEREAS, the field of property management is rapidly expanding and some degree of regulation may be necessary in order to protect those persons served by such property managers; and

WHEREAS, under the provisions of § 54-1.7 of the Code of Virginia it is the duty of the Board of Commerce to evaluate each profession and occupation in the Commonwealth not regulated by other provisions of Title 54 for consideration of whether or not each such profession should be regulated and if so the degree of regulation that should be imposed; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Board of Commerce is requested to make a study of the field of property management and evaluate the necessity and desirability of imposing such degree of regulation on the members of such profession or occupation who manage or contract to manage real estate or improvements, including condominiums and cooperative housing corporations as defined in § 13.1-501 of the Code of Virginia, either by requiring licensing or certification of those persons working in said field; and, be it

RESOLVED FURTHER, That the study shall be made in conjunction and cooperation with the Virginia Real Estate Commission; and, be it

RESOLVED FINALLY, That the Board of Commerce shall prepare a report to the Governor and the General Assembly on the results of its study on or before December thirty-one, nineteen hundred eighty, and, should the Board determine that the public interest requires that the field of property management be regulated, the Board shall recommend a regulatory system for approval by the General Assembly.

## EXECUTIVE SUMMARY

In its study of persons working in the field of real property management, the Board of Commerce did not find a need to regulate this occupation.

The Board found that the field of real property management is rapidly expanding and will probably continue to do so. It also found only five cases where fraud and loss of funds had taken place across the United States and Canada in the past ten years (with 40,000 known associations).

No evidence was presented to the Board of fraud or loss of funds in Virginia.

The Board also determined that the successful real property manager is not easily identifiable nor easily measured through an occupational licensing law.

## BACKGROUND

The 1980 session of the General Assembly of Virginia, in House Joint Resolution No. 93, asked that the Board of Commerce study, in conjunction and cooperation with the Virginia Real Estate Commission, the field of real property management; further, that the Board should determine if the public interest required regulation of real property management, and report back to the General Assembly.

The Board of Commerce established a Study Committee to comply with H.J.R. No. 93.

The Study Committee held a number of meetings, inviting persons involved with property management to offer testimony, comments, and position papers. In addition, a public meeting was held in Northern Virginia on September 8, 1980, to which the members of known Home Owners' Associations and the general public were invited.

## FINDINGS

### A. WHAT IS REAL PROPERTY MANAGEMENT?

Real property management differs from the traditional agent-owner representation in many ways. The real property manager in the case of condominiums and associations actually reports to or is responsible to upwards of 500 different owners who are members of the association. The agent per se is normally responsible for clearly defined areas. Examples would be maintenance and upkeep of the property, following up on adequate insurance and tax payments, bookkeeping functions, etc. In almost all cases, the real property

manager acts at the direction of and reports to an elected board of directors of the association. The real property manager normally has nothing to do with the payment of mortgages, the showing of property, the collection of rents, etc. Payment for real property management services is usually based on a contract for a one-year period at a fixed amount of dollars for each unit in the association.

Several participants have likened the relationship of a real property manager of an association to that of the town manager of a small village or town. The manager must be a lawyer, an insurance, accounting and tax expert, and when he or she claims lack of expertise in any of these areas, association members are usually surprised.

The property manager (who may be a property management firm; an employee of the association; or the elected officer of the home owners' association who serves voluntarily with no remuneration) has to respond to a number of property owners for each and every one of his actions. The Board found the expectations of individual owners of condominiums frequently exceeded the reality of performance.

#### B. WHAT ARE ITS PROBLEMS?

Testimony has indicated that in the last decade, homeowners' associations and condominiums have become a major portion of the real estate market. The trend in Virginia has followed the trend nationwide. As in any new industry where there has been a very rapid growth rate, standardization of business practices has lagged behind the growth.

Also, the purchaser of property in an association has had to deal with a completely different set of problems than does the purchaser of an individual property unit. Virginia and its laws, fortunately, have been a leader in these areas. The Virginia laws have set a standard across the United States and are being held up as a "model" for other states' legislatures.

Throughout the study, no significant problems were found, nor could the Committee find a single case of fraud or loss of funds in Virginia in the real property management field.

The Committee, through its meetings, did hear of some cases where a property manager (either paid or volunteer) would use poor business judgment or give unsound advice to the association. However, the Committee felt that these mistakes were made primarily through a lack of communication between the manager and the association membership. If, for example, an association purchases,

without obtaining two or three bids, the services of a firm to maintain its swimming pool and subsequently finds out that comparable service could have been purchased at \$3,000.00 less, the Committee feels they used poor judgment and were not involved in fraud. It should be noted that could happen where the individual was licensed by the real estate commission, as well as being unlicensed.

C. WHAT PROTECTION WOULD REGULATION PROVIDE?

It is the opinion of the Committee that there is no need for further regulation of real property management at this time. There have been no incidents of loss of funds or fraud to date.

Testimony has indicated that the qualities of a successful property manager are the sort of qualities that are not easily measured or tested. Nor is there any current regulatory process which deals with the competencies required.

The Committee feels that additional regulation would not provide any protection at this time.

LEGISLATIVE RECOMMENDATIONS

The Board of Commerce recommends that no additional regulation be adopted at this time.

APPENDIX A

PROPERTY MANAGEMENT STUDY

BOARD OF COMMERCE COMMITTEE MEMBERS

Mrs. Rosalie B. Whitehead, Chairman  
Mr. Knox Burchett  
Mr. H. Lynn Hopewell  
Mr. Alan McCullough

ASSOCIATIONS FROM WHOM TESTIMONY WAS HEARD OR RECEIVED

Virginia Association of Realtors  
Director of the Condominium Act  
Virginia Real Estate Commission  
Home Builders Association of Virginia  
Investigative Staff of the Department  
of Commerce  
Property Managers Committee of the Virginia  
Association of Realtors  
Richmond Apartment Council  
Community Associations Institute  
Northern Virginia Department of Consumer  
Affairs



APPENDIX B

PROPERTY MANAGEMENT STUDY

MEETINGS HELD

April 12, 1980	Department of Commerce
May 2, 1980	Department of Commerce
May 24, 1980	State Capitol
June 5, 1980	Department of Commerce
June 27, 1980	Department of Commerce
July 21, 1980	Department of Commerce
August 1, 1980	Department of Commerce
September 8, 1980	Alexandria City Council Chambers

## Appendix C

### COMMENTS AT PUBLIC HEARING

A public hearing was held on September 8, 1980 at the Alexandria City Council Chambers at 7:30 p.m. (Notice of Hearing, Appendix C-1).

There were one hundred forty seven notices of the meeting mailed to one hundred twenty known condominium associations, individuals who had requested notice, media, and offices of consumer affairs.

Twelve persons appeared at the hearing, seven of whom asked to speak to the Board.

Testimony by the seven individuals did not produce evidence of actual fraud or loss of funds. Rather, they cited cases of alleged mismanagement, alleged failure of their boards of directors to listen to all of the owners of the association, and instances where the property managers did the bidding of the boards of directors over the objections of some owners.

Several individuals addressed the area of possible future harm, and requested the Board to consider regulation to prevent this future harm.

COMMONWEALTH OF VIRGINIA  
Department of Commerce  
2 South Ninth Street  
Richmond, Virginia 23219

(FOR IMMEDIATE RELEASE)

FOR FURTHER INFORMATION:

Mr. Richard P. Wilkinson  
Secretary to the Board of Commerce  
(804) 786-2161

August 27, 1980

NOTICE OF HEARING

The Virginia Board of Commerce will hold a public hearing on September 8, 1980, at 7:30 p.m. at the Alexandria City Council Chambers in consideration of the regulation of managers of condominiums, cooperative housing corporations and real estate.

The hearing is being held in response to House Joint Resolution 93 of the 1980 Virginia General Assembly which charged the Board of Commerce with the study of property managers. The Board will report back to the Assembly on or before December 31, 1980 with a recommendation.

The purpose of the hearing is to allow comment and view, both orally and in writing, to be presented to the Board. Especially invited is evidence of harm such as fraud or loss of funds which may indicate the need for regulation of property managers who manage real estate for others.

Those wishing to submit written comments may do so at the hearing or prior to the hearing with the Secretary of the Board of Commerce.

