

**REPORT OF THE
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION ON**

**The Need for
Regulation of
Property Managers**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 9

**COMMONWEALTH OF VIRGINIA
RICHMOND
1994**



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

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October 18, 1993

To: The Honorable L. Douglas Wilder, Governor of Virginia
and Members of the General Assembly

The Board of Professional and Occupational Regulation is pleased to submit the following report pursuant to House Joint Resolution 618 adopted by the General Assembly in 1993. The resolution requested the Board to study the feasibility of establishing a licensing program for property managers of condominiums, townhouses and other similar common interest communities.

Respectfully Submitted,



Joseph R. Cobbe,
Chairman

Board of Professional and Occupational Regulation

Report on the Need for Regulation of Property Managers

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VIRGINIA BOARD OF PROFESSIONAL AND OCCUPATIONAL REGULATION

REPORT ON THE NEED FOR REGULATION OF
PROPERTY MANAGERS

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I. EXECUTIVE SUMMARY

A. Study Overview

B. Findings and Conclusions

C. Recommendations

I. EXECUTIVE SUMMARY

A. Study Overview

House Joint Resolution 618, agreed to in the 1993 Session of the Virginia General Assembly, requested the Board of Professional and Occupational Regulation (formerly the Board of Commerce) to study the feasibility of establishing a licensing program for property managers of condominiums, townhouses, and other similar common interest communities. The Board was instructed to report its findings to the Governor and the 1994 Session of the General Assembly.

The Board of Professional and Occupational Regulation, through the means of public hearings and surveys to involved parties, studied the nature of this occupation, its effect on public health, safety and welfare, and the existing statutory requirements affecting the occupation.

The Board's recommendation is based on an extensive analysis of this information.

B. Findings and Conclusions

1. The information and data received do not support the need for a regulatory program at this time. Board members concluded that a regulatory program which establishes job-entry requirements is unnecessary regulation if there is not clear and overwhelming evidence that the public is at immediate risk.
2. The potential for harm to the public may exist because community association managers control large sums of money and manage valuable real estate.
3. There exists among property managers differing levels of competence, but the majority of those responding to this study hold a professional designation from one of the several professional trade associations or have taken continuing professional education courses.
4. The Common Interest Community Management Information Fund which became effective July 1, 1993, and is administered by the Property Registration Section of the Department of Professional and Occupational Regulation, will provide a more reliable source of data regarding the number of community associations and their concerns about the regulation of community association managers.

C. Recommendations

Based on the above conclusions, the Board of Professional and Occupational Regulation agreed to defer a recommendation for one year, during which time more data can be collected to support or reject the need for regulation of this occupation.

II. INTRODUCTION

A. Statutory Authority

B. Background of Study

II. INTRODUCTION

A. Statutory Authority

The Board of Professional and Occupational Regulation has the legislative mandate to evaluate the need for regulation of occupations and make recommendations to the General Assembly.

Section 54.1-100 of the Code of Virginia (1950, as amended) states that "no regulation shall be imposed upon any profession or occupation except for the exclusive purpose of protecting the public interest when:

1. The unregulated practice of the profession or occupation can harm or endanger the health, safety, or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument;
2. The practice of the profession or occupation has inherent qualities peculiar to it that distinguish it from ordinary work and labor;
3. The practice of the profession or occupation requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability; and
4. The public is not effectively protected by other means."

B. Background of Study

In 1980, the Board of Commerce conducted a study regarding the regulation of persons working in the field of real property management. The report, House Document No. 3, 1981, stated that the Board did not find a need to regulate this occupation for there was no evidence of fraud or loss of funds in Virginia.

Senate Joint Resolution 204, agreed to by the 1992 General Assembly, requested the Housing Study Commission to study the Condominium Act for a period of two years. During that time, the issue of regulating property managers was brought to the Commission's attention. Having determined that it was beyond the scope of the Commission's charge, new legislation was drafted to request the Board of Professional and Occupational Regulation to study this issue. House Joint Resolution 618 was agreed to by the 1993 General Assembly. (See APPENDIX A for a copy of HJR 618.)

Using the requirements set forth above and in Section 54.1-311 of the Code of Virginia which outline the degrees of regulation, the Board of Professional and Occupational Regulation began a several month long study. The study process included information gathering from various sources, surveys and public hearings. This report will serve to outline the findings of the study and the Board's recommendation.

III. ISSUES

- A. Profile of the Occupation**
- B. Fiduciary Responsibilities of a Community Association Manager**
- C. Industry Self-regulation**
- D. Distinction between Community Association Manager and other Real Estate Professionals**
- E. Common Interest Community Management Information Fund**

III. ISSUES

A. Profile of the Occupation

Representatives from the professional trade associations of property managers estimated that there are between 200 and 250 management firms in Virginia and an estimated 500 to 700 individual community association managers. These individuals represent and act as agents for condominium, cooperative, timeshare and property owners' associations throughout the Commonwealth.

As property managers of common interest communities, these professionals are required to administer the affairs of common interest community associations, including the financial and property maintenance matters of the associations. They are responsible for insuring that such affairs are conducted in accordance with existing law and the association's organizational documents. Services include preparing budgets and other financial documents; collecting, controlling and or disbursing funds; investing funds as directed by a Board of Directors; obtaining insurance; conducting association meetings; enforcing restrictive covenants according to the association's rules and regulations; and negotiating and procuring contracts for the maintenance and repair of association property.

Much of the testimony at the public hearings as well as the written comments received focused on the lack of minimum standards for entry into the profession. Individuals with various educational and experience backgrounds may offer their services as community association managers. A board of directors for a community association may find it difficult, therefore, to know how to hire a qualified manager.

B. Fiduciary Responsibilities of a Community Association Manager

Community association managers often deal with considerable amounts of their clients' money. Association dues and annual budgets of community associations vary greatly. Staff to the Board of Professional and Occupational Regulation were able to identify 291 members of this occupation in Virginia and sent surveys to these individuals. Survey results indicated that 76.2% of those responding handle annual budgets over \$100,000. Likewise, the approximate value of real estate managed varied from several million to over a billion dollars. Concerns were raised through public comment that the embezzlement of funds poses a potential threat to the residents of community associations.

Property managers are also responsible for negotiating and

procuring contracts for and on behalf of the community associations they represent. One individual testified that managers often fail to disclose their financial interest in businesses hired to perform various services for the community association, i.e. pool maintenance or landscaping. The Board notes, however, that no documented cases of actual harm in such activities were presented to the Board.

C. Industry Self-regulation

As community association boards look to hire a property manager or management firm, they may find that prospective candidates have several professional designations acquired through professional associations. Some of these professional associations include, but are not limited to, the Community Associations Institute (CAI), Professional Management Association, and the Institute of Real Estate Management (IREM). These professional trade associations offer education and training for property managers which may result in a professional designation.

A majority of the property managers responding to the Board's survey indicated that they hold one or more professional designations related to community association and/or property management. The most common affiliation with a trade association appeared to be the Community Associations Institute and the Institute of Real Estate Management. While membership in these organizations is not mandatory and they have no enforcement power for improprieties, both associations have a published Code of Ethics for their members.

D. Distinction between Community Association Managers and other Real Estate Professionals

Much of the testimony and written comments received in the Board's public comment period surrounded the issue of distinguishing a community association manager from other real estate professionals. Many individuals expressed concern that the nature and scope of the relationship between a community association manager or firm and their client, the community association, is unique and distinct. They argued that community association managers do not work for a single property owner but a board of directors representing many individual private home owners. As a result, there were varied opinions on whether or not a regulatory program for this profession should be included under the existing Real Estate Board.

E. Common Interest Community Management Information Fund

Effective July 1, 1993, condominium unit owners' associations, property owners' associations and real estate cooperative associations are required to file an annual report with the Virginia Real Estate Board. A fee of \$25.00 must accompany each report. The annual report provides information concerning the size and type of association, the names and addresses of the current board of directors, and the name and address of the contact person for the association. The contact person is often a professional community association manager.

The purpose of the annual reports is two-fold. First, the Real Estate Board will be able to provide the name of a contact person for every community association that has filed a report. The contact person can be used as a resource for gathering further information on community associations in the Commonwealth.

Secondly, the fees collected from the annual reports will be used to create the Community Association Management Information Fund. The fund will be used to assist communities and their members in using private alternative dispute resolution procedures for resolving common interest community disputes. The Real Estate Board also hopes to publish a newsletter, brochures and serve as a resource for information on community associations in Virginia. The fund could be used in part to provide information on how to select a community association manager, as that issue has been identified as a concern of community associations.

IV. RESEARCH AND COMPLAINTS

- A. Methodology**
- B. Survey of Property Managers**
- C. Survey of Consumer Affairs Offices and Better Business Bureaus**
- D. Survey of Real Estate Offices**
- E. Survey of Other States**
- F. Public Hearings**
- G. Written Comments**

IV. RESEARCH AND COMPLAINTS

A. Methodology

Due to the high direct and indirect costs inherent in establishing any new or expanded level of occupational regulation, the Board felt it was necessary to conduct a search and analysis of complaints from consumers and others involved in the industry to make sure that any problems are properly addressed at minimal costs and in the most efficient and effective manner.

The following section will analyze data compiled from the Board of Professional and Occupational Regulation's surveys.

B. Survey of Property Managers

Using mailing lists provided by the trade associations to which property managers belong, staff to the Board sent 291 surveys to property managers in the Commonwealth. Only 151 completed surveys were returned.

The survey results showed that of those responding, property managers do handle significant amounts of money. In response to a question regarding the average association funds they handle on an annual basis, 76.2% said over \$100,000; 11.9% checked \$50,000 - \$100,000; 5.3% checked \$20,000 - \$50,000 0.7% checked \$5,000 - \$20,000; and 4.6% checked \$0 - \$5,000.

The Board found it interesting to note the number of respondents who hold a professional designation from one of the educational institutes in the industry. These professional designations require the completion of various levels of education and examination as well as experience in the field of property management. Of those responding to the survey, 23.8% had earned the designation as a Professional Community Association Manager; 17.2% were Certified Property Managers; 3.3% were Certified Public Accountants; 14.6% were Associate Management Specialists; and 15.2% had various other designations.

The Board noted that those responding to the survey were equally divided on the need for state regulation, with 48.3% responding that regulation was necessary and 49.7% opposed to state regulation; 2.0% were uncertain. Of those favoring state regulation, only 4.6% thought such regulation was necessary to protect the public; 13.2% said regulation was necessary to ensure professionalism and ethical standards; 13.2% thought regulation was necessary to establish minimum entry requirements; and 3.9% favored regulation as a means of eliminating unqualified property managers from the profession.

Other various reasons for state regulation were offered by 15.1% of those responding. (See Appendix B for a copy of the survey and results.)

C. Survey of Consumer Affairs Offices and Better Business Bureaus

The nine Consumer Affairs Offices and four Better Business Bureaus in Virginia received surveys requesting information about complaints against property managers of condominiums, townhouses, and other similar common interest communities. Two of the Better Business Bureaus responded to the survey and both indicated they had received complaints regarding failure to provide services as contracted for and failure to keep accurate records and provide same upon request.

Six Consumer Affairs Offices responded to the survey. Of those responding, 66.7% had not received complaints; 33.3% had received complaints. Likewise, 33.3% believed regulation was necessary to protect the public; 16.7% did not believe regulation was necessary to protect the public; and 50.0% were uncertain.

The Board acknowledges that the absence of complaints may result from the inability of consumers to know where to file such complaints. (See APPENDIX C and APPENDIX D for a copy of these surveys and the results.)

D. Survey of Real Estate Offices

The Board thought the input of other real estate professionals may be helpful on this issue, and therefore surveyed the 33 local offices of the Virginia Association of REALTORS. The Board received 16 completed surveys with 43.8% of those responding indicating that state regulation was necessary, 6.2% checked no; and 50.0% were uncertain. Real estate professionals had experienced problems with property managers who failed to provide services as contracted for (18.8%); failed to keep accurate records and provide same upon request (6.2%); and other problems including misuse of authority, inconsistent enforcement of covenants, unwillingness to answer legitimate questions or requests. The respondents were divided on the need for state regulation; 43.8% responded yes and 50.0% were uncertain; 6.2% checked no. (See APPENDIX E for a copy of the survey and results.)

E. Survey of Other States

Section 54.1-311.B of the Code of Virginia requires that the Board, in determining the need for regulation of an

occupation, shall find the number of states which have regulatory provisions similar to those proposed. The other 49 states and the District of Columbia were surveyed and 37 responses were received. Of those responding, 78.4% do regulate property managers, 21.6% do not currently regulate, but 10.8% are considering regulation. It is important to note, however, that only seven states regulate property managers and/or community association managers by requiring a separate license. Like Virginia, most states require a real estate license if a property manager is leasing or selling property. (See APPENDIX F for a copy of the survey and the results.)

F. Public Hearings

The Board conducted a public hearing in Newport News, Northern Virginia and Richmond during the month of May to gather information about the nature of this profession and complaints relating to the need for state regulation.

In Newport News, 13 individuals presented testimony, and all supported state regulation. However, concerns were raised regarding the difference between licensed real estate brokers and community association managers. In Northern Virginia there were over 50 in attendance, but only four individuals spoke. One participant noted that a licensing program could become too burdensome and drive people out of business. Those supporting regulation included representatives from the Community Association Institute and the Institute of Real Estate Management who believe that standards of professionalism and enforcement of such standards are needed. At the Richmond hearing, letters were submitted from individuals who had experienced problems with community association managers and were unable to seek any recourse. (See APPENDIX G for a list of public hearing participants.)

G. Written Comments

Thirty written comments were submitted to the Board of Professional and Occupational Regulation for the purpose of being placed in the official record of this study. (See APPENDIX H for a summary of the written comments.)

The unit owners and members of community associations who submitted written comments stressed the need to establish guidelines and a forum for dealing with complaints. Homeowners also expressed concern about the conflicts of interest which occur and the need for competitive bidding on contracts. One homeowners' association expressed concern that regulation could decrease the already limited number of

managers and thus increase costs to consumers. Two property managers who questioned the need for a regulatory program indicated that other state programs have not been very effective in dealing with problems of mismanagement.

V. SUMMARY

A. Findings

B. Regulatory Options

C. Conclusions

D. Recommendations

V. SUMMARY

A. Findings

In order to properly analyze all the information gathered through this study, the Board returned to Section 54.1-100 of the Code of Virginia and considered these statutory constraints:

No regulation shall be imposed upon any profession or occupation except for the exclusive purpose of protecting the public interest when:

1. The unregulated practice of the profession or occupation can harm or endanger the health, safety or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument.

The Board of Professional and Occupational Regulation first establishes that the "public" in this requirement is the users of the services of community association managers and management firms, i.e., residents of community associations. Written comments and testimony received by the Board indicate a potential hazard to the public welfare in that community association managers control large sums of money and manage valuable real estate. There also exist differing levels of competence among those people who hold themselves out to the public as community association managers. However, no information was provided which demonstrated actual problems with embezzlement or theft of association funds.

2. The practice of the profession or occupation has inherent qualities to it that distinguish it from ordinary work and labor.

The Board found that those testifying at the public hearing and presenting written comments attempted to distinguish the role of the community association manager from other real estate professionals.

3. The practice of the profession or occupation requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability.

Much of the testimony from all parties in favor of regulation focused on the lack of minimum standards for entry into the profession. Several homeowners testified that it is difficult to determine if a manager candidate was qualified as there exists no source of information regarding competence of community association managers other than possibly professional designations and the Better Business Bureaus.

4. The public is not effectively protected by other means.

The Board recognizes that self-regulation of an occupation allows for no enforcement authority and that it is strictly voluntary in nature. However, a majority of those individuals responding to the survey of this industry had a professional designation earned through professional training from one of the professional associations.

There are various laws that involve community associations, and to varying degrees, their management. These laws include the Condominium Act, the Property Owner's Association Act, the Real Estate Cooperative Act, the Subdivided Land Sales Act, the Real Estate Time-Share Act, criminal statutes for any illegal act such as the embezzlement of association funds, civil common law causes of action such as breach of contract, breach of fiduciary duty, fraud, conversion, assumpsit, etc.

B. Regulatory Options

Section 54.1-311.A of the Code of Virginia sets forth the degrees of regulation which were considered by the Board of Professional and Occupational Regulation.

1. Whenever it is necessary to determine the impact of the operation of a profession or occupation on the public, the Board may implement a system of registration.

While the Board recognizes that a registration program could identify the number of managers and the number of associations, the Board believes that the newly created Common Interest Community Management Information Fund will achieve this goal. The Board finds that a registration program would have limited enforcement opportunity and would provide limited public protection if there are no minimum standards to insure competence.

2. When the public requires a substantial basis for relying on the professional services of a practitioner, the Board may implement a system of certification.

A certification program could create minimum standards for entry into the profession, would be less costly than a licensing program and could be voluntary. The Board found that a certification program would be ineffective, however, if not mandatory. Members also questioned how to establish criteria for certification based on the varying positions presented by the trade associations.

3. Whenever adequate regulation cannot be achieved by means other than licensing the Board may establish licensing procedures for any particular profession or occupation.

A licensing program does provide for the broadest enforcement and therefore the highest degree of public protection. The Board notes that based on the number of potential licensees, a licensing program could be quite expensive.

C. Conclusions

After considering the findings, the following conclusions have been made:

1. The information and data received do not support the need for a regulatory program at this time. Board members concluded that a regulatory program which establishes job-entry requirements is unnecessary regulation if there is not clear and overwhelming evidence that the public is at immediate risk.
2. The potential for harm to the public may exist because community association managers control large sums of money and manage valuable real estate.
3. There exists among property managers differing levels of competence, but the majority of those responding to this study hold a professional designation from one of the several professional trade associations or have taken continuing professional education courses.
4. The Common Interest Community Management Information Fund which became effective July 1, 1993, and is administered by the Property Registration Section of the Department of Professional and Occupational Regulation, will provide a more reliable source of data regarding the number of community associations and their concerns about the regulation of community association managers.

D. Recommendations

Based on the above conclusions, the Board of Professional and Occupational Regulation agreed to defer a recommendation for one year, during which time more data can be collected to support or reject the need for regulation of this occupation.

VI. APPENDICES

- A. House Joint Resolution 618**
- B. Survey of Property Managers**
- C. Survey of Consumer Affairs
Offices**
- D. Survey of Better Business Bureaus**
- E. Survey of Real Estate Offices**
- F. Survey of Other States**
- G. List of Public Hearing
Participants**
- H. Summary of Written Comments**

LD9116204

HOUSE JOINT RESOLUTION NO. 618

Offered January 26, 1993

Requesting the Board of Commerce to study the feasibility of establishing a licensing program for property managers of condominiums, townhouses and other similar common interest communities.

Patrons—Almand, Diamonstein, Miller, Parker, Scott and Stump; Senators: Calhoun and Waddell

Referred to the Committee on General Laws

WHEREAS, condominium and townhouse and other similar common interest communities make up a large part of the Commonwealth's supply of homes; and

WHEREAS, many of these common interest communities seek the services of professional property management firms; and

WHEREAS, annual operating budgets at these common interest communities can total several hundreds of thousands of dollars; and

WHEREAS, the actual and potential loss of association funds due to the incompetence of professional property managers who lack the training and expertise in the management of common interest communities is significant; and

WHEREAS, the citizens of the Commonwealth who live in common interest communities would benefit from professional property managers who have special expertise in managing common interest communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Board of Commerce be requested to study the feasibility of establishing a licensing program for property managers of condominium, townhouse, and other similar interest communities.

The Board of Commerce shall conclude its study and report to the Governor and the 1994 Session of the General Assembly no later than December 1, 1993, as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Official Use By Clerks

Agreed to By The House of Delegates without amendment [] with amendment [] substitute [] substitute w/amdt []

Agreed to By The Senate without amendment [] with amendment [] substitute [] substitute w/amdt []

Date: _____

Date: _____

Clerk of the House of Delegates

Clerk of the Senate

291 Surveys Sent
151 Completed Surveys Returned

APPENDIX B

Board of Professional and Occupational Regulation
Survey of Property Managers

1. Which of the following represents the average association funds you handle on an annual basis?

4.6% \$0 - \$5,000
0.7% \$5,000 - \$20,000
5.3% \$20,000 - \$50,000
11.9% \$50,000 - \$100,000
76.2% over \$100,000
1.3% no answer

2. What is the approximate value of the real estate you manage annually?

Mean responses was over \$1 million

3. Do you hold a current real estate license?

44.4% Yes 53.6% No 1.3% No Answer 0.7% Uncertain

4. Do you work in a property management firm?

74.2% Yes 24.5% No 0.7% No Answer 0.7% Uncertain

5. If yes to question #4, how many managers are employed by the firm?

Mean response was 7.65

6. Do you or your firm provide on-site services?

71.5% Yes 25.8% No 2.6% No Answer

7. What professional designations do you hold (e.g. PCAM, CPM)?

23.8% Professional Community Association Manager (PCAM)
17.2% Certified Property Manager
3.3% Certified Public Accountant
14.6% Associate Management
15.2% Other designations

8. What professional training has most contributed to the practice of your profession?

50.3% Community Association Institute courses
14.6% Institute of Real Estate Management courses
4.6% Real estate courses
2.6% Accounting courses

9. In your opinion, do you think property managers should be regulated by the state?

48.3% Yes 49.7% No 2.0% Uncertain

10. If yes to question #9, why do you think regulation is necessary?

13.2% To ensure professionalism and ethical standards
13.2% To establish minimum entry requirements
4.6% To protect consumers
3.9% To eliminate unqualified property managers
3.9% To establish continuing education requirements
11.2% Other responses

9 Surveys Sent
6 Completed Surveys Returned

APPENDIX C

**Board of Professional and Occupational Regulation
Survey of Consumer Affairs Offices**

1. Do you ever receive complaints against property managers of condominiums, townhouses, and other similar common interest communities?

33.3% Yes 66.7% No

2. How many complaints against property managers have you received in the past year?

66.7% none
33.3% 1 - 10
0.0% 11 - 20
0.0% more than 20

3. How many complaints against property managers have you received in the past five years?

66.7% none
33.3% 1 - 25
0.0% 26 - 50
0.0% more than 50

4. How many valid claims were determined as a result of the complaints filed over the past five years?

One

5. Check the types of complaints received:

16.7% misused funds;
33.3% failed to provide services as contracted for;
0.0% misrepresented capabilities or expertise in the field;
16.7% failed to keep accurate records and provide same upon request;
16.7% other (please explain) Complaints received against property management companies usually involve tenant/landlord disputes based on lease agreements.

6. Do you think regulation of property managers is necessary to protect the public?

33.3% Yes 16.7% No 50.0% Uncertain

4 Surveys Sent
2 Completed Surveys Returned

APPENDIX D

**Board of Professional and Occupational Regulation
Survey of Better Business Bureaus**

1. Do you ever receive complaints against property managers of condominiums, townhouses, and other similar common interest communities?

100.0% Yes 0.0% No

2. How many complaints against property managers have you received in the past year?

0.0% none
50.0% 1 - 10
50.0% 11 - 20
0.0% more than 20

3. How many complaints against property managers have you received in the past five years?

0.0% none
50.0% 1 - 25
50.0% 26 - 50
0.0% more than 50

4. How many valid claims were determined as a result of the complaints filed over the past five years?

50% of the complaints resulted in valid claims

5. Check the types of complaints received:

0.0% misused funds;
50.0% failed to provide services as contracted for;
0.0% misrepresented capabilities or expertise in the field;
50.0% failed to keep accurate records and provide same upon request;
_____ other (please explain) _____

6. Do you think regulation of property managers is necessary to protect the public?

50.0% Yes 50.0% No 0.0% Uncertain

33 Surveys Sent
16 Completed Surveys Returned

APPENDIX E

Board of Professional and Occupational Regulation
Survey of Real Estate Offices

1. Are real estate agents in your area affected by the activities of property managers of community associations?

62.5% Yes 37.5% No

2. If yes to question #1, how do real estate agents generally interact with property managers of community associations?

31.2% contact during sales activity;
31.2% obtaining disclosure/resale package;
0.0% contact during leasing activity;
0.0% shared professional association activities;
0.0% other (please explain) _____
37.5% no answer

3. Check those problems which real estate agents in your area have experienced with property managers of community associations:

0.0% misuse of funds;
18.8% failed to provide services as contracted for;
0.0% misrepresented capabilities or expertise in the field;
6.2% failed to keep accurate records and provide same upon request;
25.0% other (please explain) misuse of authority,
unreasonable demands and interpretations, inconsistent
enforcement of covenants, restrictions and bylaws;
unwillingness to answer legitimate questions or requests.
50.0% no answer

4. Do you think property managers of community associations should be regulated by the state?

43.8% Yes 6.2% No 50.0% Uncertain

5. If yes, do you think property managers should be required to hold:

25.0% a real estate license; or
25.0% other (please specify) _____
50.0% no answer

50 Surveys Sent
37 Completed Surveys Returned

APPENDIX F

**Board of Professional and Occupational Regulation
Survey of Other States Regarding
the Regulation of Property Managers**

1. Does your state regulate property managers?
78.4% Yes 21.6% No

2. If yes, for what activities? Responses varied greatly and included managing property owned by another person, negotiating leases, operating and renting any building, listing, selling, and leasing.

3. If yes to question #1, does your state require:
0.0% separate license
70.3% real estate license
2.7% other (please explain) _____
27.0% no answer

4. If no to question #1, is your state considering regulation?
10.8% Yes 18.9% No 70.3% No Answer

5. If you state currently regulates this occupation, what category best describes the regulatory program?
5.4% registration - any person may engage in the occupation, but that person must submit certain information to the appropriate authorities.
0.0% certification - any person may practice the occupation, but only those who have met certain educational and/or experience requirements may use the title "Certified home inspector";
70.3% licensure - a person is prohibited from engaging in the occupation without meeting certain educational and/or experience requirements and obtaining a license.
24.3% no answer

Public Hearing Participants

SPEAKER	AFFILIATION	POSITION
Newport News, Virginia - May 4, 1993		
Bryce Smink	Smink & Assoc.	Supports manager certification or licensing to help prevent financial problems caused by unqualified property managers.
Mike Inman	Attorney	Favors regulation to properly manage the financial aspects of community associations.
Donald Biernot	CPA	Sees a need for a regulatory board to monitor property managers and to allow consumers the ability to report improprieties.
Ronald Pittser	Agee Management	Proponent of some type of regulatory program.
Patricia Wasson	Professional Community Association Manager	Supports regulation because the lack of minimum requirements for entry into the field results in people being unqualified.
Carolyn Donahoe	Tidewater Chapter of the Institute of Real Estate Management	Supports licensure and favors such a program being placed under jurisdiction of the Real Estate Board. Favors exemption for on-site managers and

SPEAKER	AFFILIATION	POSITION
		other on-site personnel.
Trenda Robertson	Drucker and Falk	Concerned that any new regulatory program distinguish between association and apartment management.
Polly Brickman	Community Association Management firm	Supports regulation for on-site managers as well as community association managers.
Bob Kirkland	Community Association Manager	Supports licensure of managers but not as part of the current Real Estate structure. Problems will not stop, but a forum for handling them will be created.
Bonnie Herring	Community Association Manager	Supports regulation and education of managers.
Brad Brady	Community Group, Inc.	Favors regulation because there are currently no safeguards to protect the public. Concerned that there are only 500 managers in the state to support a regulatory program.
Jim Golden	Property Manager	Proponent of certification for property managers.
Laura Wenslaff	Professional Community Association Manager and Real Estate Broker	Supports licensing but feels that brokers are not trained to understand community association issues and laws.

SPEAKER**AFFILIATION****POSITION**

Northern Virginia, May 19, 1993

Ken Chadwick

Chadwick, Washington
and Olters/Community
Associations Institute

Supports manager
licensing because it
will protect the
public interest and
serve to enhance the
professional image
of managers as a
separate and distinct
profession in the
Commonwealth. Also
believes licensing
should be separate
from real estate
agent or broker
license. Supports
continuing
professional education
requirements.

Carl Frieson

Old Town Condominium
Association member

Believes there needs
to be some standard
by which management
companies are licensed
and the means for
condo owners to
resolve complaints.

Raymond Sawyer

Condominium Owner

Supports licensure to
ensure standards of
professionalism and
to establish
accountability for
managers' decisions
and actions.

Eric Berenbaum

Berenbaum Management

Concerned that a
licensing program is
going to be too
burdensome and drive
some people out of
business. Licensure
doesn't always do
that much good.

SPEAKER**AFFILIATION****POSITION**

Richmond, Virginia - May 26, 1993

Brad Brady

Community Group, Inc.
and Community Assoc.
Institute (CAI)

Presented letters from individuals who had experienced problems with their community association managers and were unable to seek any recourse. Recommends a registration program or the use of the new community association annual report program to survey association members about the problems they have with managers.

Ken Chadwick

Chadwick, Washington
and Olters

Concerned that registration will only provide for a method of identifying who the managers are and will provide no authority or enforcement to deal with problems. Believes licensing needs to be separate and distinct from real estate broker's license. Believes licensure will not solve all the problems, but it will provide some entry level qualifications.

Steve Brincefield

Morton G. Thalhimer

Licensure will only mislead the public into thinking that a manager will not abscond with their funds. Opposes special licensure.

Janet Oliver

Barefoot Community

Questioned the impetus for this study and to what degree

SPEAKER

AFFILIATION

POSITION

other state regulatory
programs would be
looked at.

Summary of Written Comments

NAME	AFFILIATION	POSITION
Carl L. Freson	Unit Owner, Old Town Condominium, Arlington	Supports regulation of those who offer "management services"; need definition of such services.
Susan Grace	Former Board member, unnamed townhouse association, Richmond	Need to establish guidelines for conduct; handle complaints; provide references. Related experience with allegedly incompetent manager.
Sharon A. Long	Former board president, unnamed townhouse association, Richmond	Need to establish guidelines for contracts and give homeowners a forum for complaints against community association managers. Related experience with allegedly incompetent association manager. CAI is not enough.
Charles E. Schaaf	St. Albans Condominium, Richmond	Community association management firms should be licensed. Firms should be bonded. Declarant should not be allowed to be manager.
Dorothy O. Hankins	Board member of an unnamed condominium association, Richmond	A license or required course work would help protect community associations from incompetence. Need a code of ethics and a method of recourse for associations.

NAME	AFFILIATION	POSITION
Madeline W. Stillman	Resident of a townhouse community, Henrico County	Favors a regulatory commission for association managing agents. Owners need recourse when agents do not live up to terms of contract.
Tony Cona	Condominium unit owner, Virginia Beach	Board of Commerce should establish a standard generic contract between the association and the management company. Contract would have an initial filing fee and a renewal fee.
Maureen M. McCutcheon	Former townhouse resident and board member	Supports licensing or certification of community association managers. Developer should not be manager. Certification would provide minimum standards.
Daniel E. Bray	Member and former president of townhome owners' association, Richmond	Supports certification to prevent incompetence and conflicts of interest.
Melvin Sartin	Condominium Association Board member	Developer should hire independent management to establish cost and budget, and purchasing systems for association.
Marie Parthenis	Unit owner, Turtle Creek West Condominium, Richmond	Supports requiring management independent of the declarant.

NAME	AFFILIATION	POSITION
Lester W. Bates	Resident, The Summit, Cross Junction	Supports licensure of community association managers, including coursework and examination. Manager should not serve as a board member.
H. Patricia Rosing, PCAM	President of Consultants To Community Associations, Burke	Supports licensure of community association managers. Money wasted by inefficiency and lack of knowledge far exceeds any increase in assessments caused by implementation of licensing program. Licensing program should include distinctions based on type of property managed - i.e., high/mid rise; communities with primarily grounds, etc.
Jules G. Korner	President, Korner Associations, Germantown, MD	Supports licensing if distinct from regulation of real estate brokers and agents. Suggest use of the CAI "Model Manager Licensing Act."
Kenneth E. Chadwick, Esquire	Chadwick, Washington & Olters, P.C., Alexandria	Supports licensure for agents and firms separate and distinct from real estate agents and brokers. Supports continuing education requirement and the investigation of complaints. Points out distinction

NAME	AFFILIATION	POSITION
Marie Mirek	Vice President, Mahon & Associates, Community Association Management, Falls Church	between "property managers" and "community association managers." Supports licensing separate and distinct from real real estate license, if cost effective and not a money making entity. Both the agent and the firm should be licensed.
Mary H. Coleman, CPA	Wells, Coleman & Co., Richmond	Supports licensing to establish minimum requirements of financial record keeping, financial statement disclosures and tax aspects of community associations.
Martin L. Collier	Condominium unit owner, Alexandria	Supports licensing of community association managers to protect unit owners from mismanagement and to require competitive bidding for contracts for services for associations.
Betty Bargamin	Unit owner, The Hamlet Condominium, Henrico County	Supports licensing program for community association managers to prevent "amateurish" and "learning on the job."
Mrs. James Armstrong, Jr.	Unit owner and former board member, Deerwood Condominium, Richmond	Supports regulation of community association managers to prevent mismanagement and to protect condominium owners. Board members do not have business skills to hire

NAME**AFFILIATION****POSITION**

Fred G. Summs,
III, CPM

President, PMI
Management Inc. &
PMI Realty Inc.,
Virginia Beach

managers on their own.

Supports licensing
of community
association management
companies (not
community association
managers); licensing
should be structured
under the existing
Real Estate Board.
Additionally, industry
self-regulates through
CAI and IREM.

Shelia F. Rummel,
CRB, CRS, GRI

President, Prince
William Association
of REALTORS, Inc.,
Manassas

Supports licensure
of community
association managers.
Presently licensed
real estate agents
should be licensed
without further
requirements.
Program should include
mandatory educational
requirements, an exam
and continuing
education. Assumes
that licensing would
be done by the Real
Estate Board.

Jo Anne Johnson

President, Northern
Virginia Association
of REALTORS, Merrifield

Supports the licensing
of common interest
community managers if
the licensing is based
on standards developed
by the industry.

John Fee

Vice President,
Fairfax County of
Federation of Citizens
Associations,
Annandale

Concerned that any
licensing program may
be overly broad, as
many communities are
self-managed.
Concerned with
possible increase in
fees charged by
managers, as well as
by for-profit exam
services and CPE
classes.

NAME	AFFILIATION	POSITION
Russell MacDonald	Property Managers, ERA Townside, Inc., REALTORS	Not supportive of licensing or regulation of community association managers. If regulation is deemed necessary, it should be accomplished within the context of the Real Estate Board and the Real Estate licensing structure. Additional training could be handled through the existing continuing education program.
David Reid	President, The Seasons Council of Co-Owners, Alexandria	Does not support regulation. Regulation would decrease the already limited number of managers and thus increase the cost. Added that current real estate standards do not apply to association management.
Douglas M. Kleine, PCAM	Professional Assoc. Services, Des Moines, Iowa	Does not support licensing of community association managers. Little evidence of problems, and if there were problems, licensing would not necessarily solve them. Florida regulates the industry and still encounters mismanagement problems. Alternative means exist for associations to protect themselves. No recognized body of knowledge upon which a reliable exam can be constructed. State

NAME**AFFILIATION****POSITION**

should not substitute its judgment for that of an association's board of directors. If firms are licensed, would be similar to requiring managers of more than one nonprofit association to be licensed.

Licensing restricts interstate movement of managers. Licensing programs are not necessarily effective, but do raise fees and serve as barriers to entry for minorities and women. Would limit the available number of managers in certain parts of the state. Could possibly cause real estate license fees to increase if manager licensing is coupled with existing real estate licensing program. Impetus for licensing is from those already in the profession.

Cecil W. Shuler

Vice President,
Heritage Court
Board of Directors,
Annandale

Does not support licensing of community association managers.

Associations are like mini-governments. State does not license town managers and therefore should not license community association managers. Established associations have no relationship to the real estate profession and should not be under the control of

NAME**AFFILIATION****POSITION**

A. Kathryn Guy,
PCAM

Cafritz Company,
Washington, D.C.

the Real Estate Board.

Would only support a licensing program geared specifically for community association managers. She is licensed as a property manager in the District of Columbia. The 80 question exam for property management had no questions concerning community association managers. D. C. requires continuing education, which again does not cover community associations. CAI and Virginia Tech are mechanisms for learning about community association management.

Lawrence E.
Marshall, III

General Counsel,
Virginia Association
of REALTORS, Richmond

The VAR is currently not taking a position on the licensing of community association managers.

William C. Morhard

Property Owners
Association of VA

Association does not believe licensing is desirable, practical or necessary. Offered eleven reasons to oppose licensing such as licensing will drive up salaries that may not be affordable in rural areas. Argued that licensing is self-serving and legitimizes trade associations.