

**In accordance with § 2.2-4002.1 of the Code of Virginia, this proposed guidance document conforms to the definition of a guidance document in § 2.2-4101.**



Department of Professional and Occupational Regulation

## **Common Interest Community Board**

**PROPOSED** Guidance Document: Regarding Specific Maximum Allowable Fees Set by the Property Owners Association Act and Virginia Condominium Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates

*Amended January 12, 2023*

*Effective upon conclusion of the public comment period required pursuant to § 2.2-4002.1 of the Code of Virginia*

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### **I. Issue**

The Property Owners' Association Act (§ 55.1-1800 et seq. of the Code of Virginia) and the Virginia Condominium Act (§ 55.1-1900 et seq. of the Code of Virginia) set specific maximum allowable fees that may be charged by the preparer of disclosure packets and resale certificates, provided that specific provisions of the applicable Acts are met. The Acts also index those maximum allowable fees to inflation and require adjustment every five years based on the United States Average Consumer Price Index, All Urban Consumers (CPI-U).

### **II. Applicable Statutes**

Sections **55.1-1810** and **55.1-1992** of the Code of Virginia both state, in pertinent part:

B. A reasonable fee may be charged by the preparer [of the disclosure packet/resale certificate] as follows:

1. For the inspection of the [lot/unit], as authorized in the declaration and as required to prepare the [disclosure packet/resale certificate], a fee not to exceed \$100;

2. For the preparation and delivery of the [disclosure packet/resale certificate] in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. Only one fee shall be charged for the preparation and delivery of the [disclosure packet/resale certificate];
3. At the option of the seller or the seller's authorized agent, with the consent of the [unit owners'] association or the common interest community manager, for expediting the inspection, preparation, and delivery of the [disclosure packet/resale certificate], an additional expedite fee not to exceed \$50;
4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the [disclosure packet/resale certificate], a fee not to exceed \$25 per hard copy;
5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery of the overnight [disclosure packet/resale certificate], a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service; and
6. A post-closing fee to the purchaser of the [property/unit], collected at settlement, for the purpose of establishing the purchaser as the owner of the [property/unit] in the records of the [unit owners'] association, a fee not to exceed \$50.
  - I. A reasonable fee for the [disclosure packet/resale certificate] update or financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the [unit owners'] association or the common interest community manager perform an additional inspection of the [lot/unit], as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. Neither the association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the [disclosure packet/resale certificate] update.

The requester may request that the specified update be provided in hard copy or in electronic form.

Sections **55.1-1810(F)** and **55.1-1992(F)** of the Code of Virginia both state:

The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

### III. Policy

The CPI-U on 12/31/07 was 210.036, on 12/31/08 was 210.228, on 12/31/09 was 215.949, on 12/31/10 was 219.179, on 12/31/11 was 225.672, and on 12/31/12 was 229.601. With a starting point of 100, the compounded increase between 12/31/07 and 12/31/12 was 9.31%. In order to be consistent in calculation, the Board adopted the following policy indicating the exact compounded monetary amounts that are the maximum allowable fees to be charged by the preparers of disclosure packets and resale certificates, as applicable.

1. The inspection pursuant to §§ 55.1-1810(B)(1) and 55.1-1992(B)(1) of the *Code of Virginia*, a fee not to exceed **\$109.31**;
2. The preparation and delivery of the disclosure packet or resale certificate, as applicable, pursuant to §§ 55.1-1810(B)(2) and 55.1-1992(B)(2) of the *Code of Virginia*, in (i) paper format, a fee not to exceed **\$163.97** for no more than two hard copies, or (ii) electronic format, a total fee not to exceed **\$136.64**, for a copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requestor;
3. Expediting the inspection, preparation, and delivery of the disclosure packet or resale certificate, as applicable, pursuant to §§ 55.1-

1810(B)(3) and 55.1-1992(B)(3) of the *Code of Virginia*, an additional expedite fee not to exceed **\$54.66**;

4. Pursuant to §§ 55.1-1810(B)(4) and 55.1-1992(B)(4) of the *Code of Virginia*, an additional hard copy of the disclosure packet or resale certificate, as applicable, a fee not to exceed **\$27.33** per hard copy;

...

6. Pursuant to §§ 55.1-1810(B)(6) and 55.1-1992(B)(6) of the *Code of Virginia*, a post-closing fee to the purchaser of the property or unit, as applicable, a fee not to exceed **\$54.66**;

...

I. A disclosure packet or resale certificate update, as applicable, or financial update pursuant to §§ 55.1-1810(I) and 55.1-1992(I) of the Code of Virginia, a fee not to exceed **\$54.66**. An additional inspection, as authorized in the declaration, pursuant to §§ 55.1-1810(I) and 55.1-1992(I) of the Code of Virginia, a fee not to exceed **\$109.31**.

On November 30, 2017, the Board authorized that the fees listed above remain in place until Bureau of Labor Statistics (BLS) published the CPI-U for December 2017. On January 12, 2017, BLS published the CPI-U for December 2017. The CPI-U for December 2012 was 229.601. The CPI-U for December 2017 was 246.524. Based on the calculation formula outlined above, the increase between 12/31/2012 and 12/31/17 was 7.37%. The revised maximum allowable fees outlined below are effective as of January 16, 2018.

Fee Type	Initial Maximum Fee (2008)	Adjusted Fee (2013)	Adjusted Fee (2018)
Inspection of lot/unit	\$100.00	\$109.31	<b>\$117.37</b>
Preparation/delivery of packet/certificate (paper)	\$150.00	\$163.97	<b>\$176.05</b>
Preparation/delivery of packet/certificate (electronic)	\$125.00	\$136.64	<b>\$146.71</b>
Expedited inspection additional fee	\$50.00	\$54.66	<b>\$58.69</b>
Additional copy fee	\$25.00	\$27.33	<b>\$29.34</b>
Third-party commercial delivery (overnight or hand-delivery)	Actual cost	N/A	<b>N/A</b>
Post-closing fee	\$50.00	\$54.66	<b>\$58.69</b>

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Pre-settlement updates	\$50.00	\$54.66	<b>\$58.69</b>
Additional inspection fee	\$100.00	\$109.31	<b>\$117.37</b>

On December 8, 2022, the Board authorized that the fees effective January 16, 2018, remain in place until the Bureau of Labor Statistics (BLS) published the CPI-U for December 2022. On January 12, 2023, BLS published the CPI-U for December 2022. The CPI-U for December 2017 was 246.524. The CPI-U for December 2022 was 296.797. Based on the calculation formula outlined above, the increase between December 31, 2017, and December 31, 2022 was 20.4%. The revised maximum allowable fees outlined below are effective as of January 12, 2023.

Fee Type	Initial Maximum Fee (2008)	Adjusted Fee (2013)	Adjusted Fee (2018)	<b>Adjusted Fee (2023)</b>
Inspection of lot/unit	\$100.00	\$109.31	\$117.37	<b>\$141.31</b>
Preparation/delivery of packet/certificate (paper)	\$150.00	\$163.97	\$176.05	<b>\$211.96</b>
Preparation/delivery of packet/certificate (electronic)	\$125.00	\$136.64	\$146.71	<b>\$176.64</b>
Expedited inspection additional fee	\$50.00	\$54.66	\$58.69	<b>\$70.66</b>
Additional copy fee	\$25.00	\$27.33	\$29.34	<b>\$35.33</b>
Third-party commercial delivery (overnight or hand-delivery)	Actual cost	N/A	N/A	N/A
Post-closing fee	\$50.00	\$54.66	\$58.69	<b>\$70.66</b>
Pre-settlement updates	\$50.00	\$54.66	\$58.69	<b>\$70.66</b>
Additional inspection fee	\$100.00	\$109.31	\$117.37	<b>\$141.31</b>

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*The Common Interest Community Board will be taking public comment on this proposed guidance document. A 30-day comment period will begin on January 30, 2023.*

*If you wish to comment on the proposed guidance document, you may do so via the Town Hall website or you may submit written comments so that they are received no later than March 1, 2023 to:*

*Joseph C. Haughwout, Jr., Board Administrator  
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