Common Interest Community Board

<u>Guidance Document</u>
Regarding Specific Maximum Allowable Fees Set by the Condominium Act and Property Owners Association Act that may be Charged by the Preparer of Disclosure Packets and Resale Certificates.

Adopted June 27, 2013
Amended March 27, 2014

I. Issue

The Condominium Act and the Property Owners Association Act set specific maximum allowable fees that may be charged by the preparer of disclosure packets and resale certificates. 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

§§ 55-509.6 (pertaining to a disclosure packet for property subject to a property owners' association) and **55-79.97:1** (pertaining to a resale certificate for a unit subject to a unit owners' association) of the Code of Virginia both state, in part:

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

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

2. 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 $125, for no more than two electronic copies. 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 his authorized agent, with the consent of the [unit owners'] association or the common interest community manager, 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 his authorized agent, 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 his authorized agent, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service for hand delivery or overnight delivery of the [disclosure packet/resale certificate]; 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 his authorized agent, the requestor may request that the [unit owners'] association or the common interest community manager perform an additional inspection of the [unit/lot], 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 [unit owners'] 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]. The requestor may request that the specified update be provided in hard copy or in electronic form.

§§ 55-509.6.F and **55-79.97:1.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 consumer (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 §§ 55-509.6.B.1 and 55-79.97:1.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 §§ 55-509.6.B.2 and 55-79.97:1.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 fee not to exceed **$136.64**, for no more than two electronic copies.

3. Expediting the inspection, preparation, and delivery of the disclosure packet or resale certificate, as applicable, pursuant to §§ 55-509.6.B.3 and 55-79.97:1.B.3 of the *Code of Virginia*, an additional expedite fee not to exceed **$54.66**;

4. Pursuant to §§ 55-509.6.B.4 and 55-79.97:1.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 §§ 55-509.6.B.6 and 55-79.97:1.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 §§ 55-509.6.I and 55-79.97:1.I of the Code of Virginia, a fee not to exceed **$54.66.** An additional inspection, as authorized in the declaration, pursuant to §§ 55-509.6.I and 55-79.97:1.I of the Code of Virginia, a fee not to exceed **$109.31**.