

**MASSACHUSETTS ASSOCIATION OF REALTORS®**

**PUBLIC POLICY STATEMENT**

**MASSACHUSETTS ASSOCIATION OF REALTORS®**

**256 Second Avenue  
Waltham, MA 02451**

Adopted by the  
MAR Board of Directors

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## **INTRODUCTION**

### **Association Background**

The Massachusetts Association of REALTORS® (MAR), a state affiliate of the National Association of REALTORS® (NAR), comprises approximately 15,000 members in local boards organized throughout seven regions of the Commonwealth. This Association represents all facets of the real estate industry and provides the administrative structure, resources, and collective unity required by its members for greater professionalism in business practice and increased effectiveness in service to the public.

### **Statement of Philosophy**

The Massachusetts Association of REALTORS® is dedicated to the right of the individual to own and freely use real property and to the extension of that right to every individual without exception.

The Association is also dedicated to the free and full exercise of the "bundle of rights" (ie. possession, control, disposition, exclusion and quiet enjoyment) inherent in the ownership of real property and to the fullest possible enjoyment of the benefits conferred by these rights.

The Association is further dedicated to the protection and preservation of the free enterprise system which provides the opportunity for fullest expression and enjoyment of the "bundle of rights"; the association promotes an atmosphere of freedom for individual initiative, promotes free and open competition, and zealously safeguards human dignity by defending human rights.

Finally, the Massachusetts Association of REALTORS® is dedicated to the fundamental proposition of the National Association of REALTORS® Code of Ethics to which every REALTOR® swears allegiance: that "upon the highest and best use of the land and upon its most widely allocated ownership depend the survival and growth of free institutions and of our civilization".

### **Member Involvement**

To achieve these purposes and ideals, the members of the Association share the lessons of their knowledge of real estate, their experience, and their various resources, and offer the benefits of their expertise to the public and to state and local governments.

### **Acknowledgement of NAR Policy Statement**

This document embodies the mission statement and general objectives of the Massachusetts Association of REALTORS®. Specifically, it enunciates a general statement of policy and portrays the Association's positions on issues currently affecting the real estate industry in Massachusetts.

Where these issues have significance beyond Massachusetts, this Association relies on the Statement of Policy of the National Association of REALTORS® and subscribes to the positions in that document.

### **MISSION STATEMENT**

THE PURPOSE OF THE MASSACHUSETTS ASSOCIATION OF REALTORS® IS TO SERVE ITS MEMBERS IN CONCERT WITH ITS LOCAL BOARDS AND THE NATIONAL ASSOCIATION OF REALTORS®:

By developing, providing, and promoting services and programs designed to enhance members' abilities and freedom to conduct their businesses successfully and professionally with integrity and competency;

Through collective action by promoting the preservation and extension of real property rights.

### **FUNDAMENTAL PRINCIPLES**

Real estate is the most basic component of our economy. The members of the MASSACHUSETTS ASSOCIATION OF REALTORS® vigorously support the right of every citizen of the Commonwealth to purchase, sell, develop, lease, manage, own, and use private property with the fullest freedom possible, realizing that such rights must be exercised in a fashion which sustains or improves the quality of life for all. The MASSACHUSETTS ASSOCIATION OF REALTORS® requires strict adherence to a professional Code of Ethics which guides our members as they serve the citizens that own, use, and enjoy private property. Therefore, the MASSACHUSETTS ASSOCIATION OF

REALTORS® will be guided by the following declarations as it takes positions on proposals affecting the use and enjoyment of real property:

- The political stability and economic prosperity of the United States is dependent upon the right of every individual to own real property. Whatever jeopardizes the highest and best use of the land and most widely allocated ownership of real property threatens the general welfare.
- Efforts to foster initiative from the private sector are preferable to government intervention at any level.
- Protection of the free enterprise system is essential to our democratic freedoms. Legislative and regulatory actions which restrain trade, restrict free and open competition or inhibit private initiative are detrimental.
- No individual should have the right to equal opportunity in the ownership or rental of housing of his/her choice denied or abridged.
- The quality of life in a civilized society is well served by an obedience to law, but better served by ethical conduct. The consumer requires professionalism in real estate service. This is best achieved by adherence to and enforcement of a Code of Ethics which requires accountability by those rendering services.
- The protection of the environment is of paramount importance and must be achieved in balance with the protection of the rights of individuals to enjoy the full benefits of real property ownership.

## **Housing Policy**

One of the mega-issues facing our country and especially our Commonwealth is the issue of "affordable housing". Few issues will pose as substantial a threat to the American Dream.

As an Association, REALTORS® reaffirm the national goal of "a decent home and a suitable living environment for every family." No attainment of this goal is possible without the commitment to address the need for affordable housing not just for those climbing up the housing ladder, but more importantly for those not yet on its first step: the homeless, those remaining in the family home because they cannot afford to rent, and those renting property because they cannot qualify as first-time buyers.

### **Condominiums and Co-operatives**

REALTORS® support the condominium and cooperative forms of property ownership as a means of broadening the opportunity of homeownership. Our Association will oppose restrictive legislative and regulatory action at both the state and local level which would inhibit condominium and cooperative development, conversion, or transfer, or which impede their financing.

### **Interval Ownership (Time Sharing)**

State, rather than federal regulation should provide legal recognition of time sharing as a legitimate real property interest and propose protective guidelines in the best interest of both consumers and the industry. Items to be addressed should include disclosure requirements, status of title, association by-laws and assessments, management, exchange programs, and sales inducements. Those selling time shares should hold a real estate license.

### **Rental Housing**

Since rental housing is an important component of the total housing supply, the Association supports efforts at all levels of government which encourage the production of new rental units, enhance property management, and encourage upgrading of existing housing supply.

Communities must be responsive to the needs of their homeless and their lower-income residents for affordable rental units, and recognize that affordable renting often is the first step for those who would like to become homeowners. To that end, efforts originating at the local level to form partnerships or coalitions between government and the private sector with affordability in rental housing as their goal, offer the best prognosis for success.

Since their enactment in 1969, the provisions of Chapter 40B of the General Laws that encourage the development of low-income housing in the Commonwealth(a/k/a the "snob zoning act of 1969") have resulted in the creation of thousands of units of affordable housing. While recognizing the challenges that new development can create in a community, MAR supports Chapter 40B and the expedited appeals processes it affords to those who would seek to build this much-needed housing.

Landlord-tenant ordinances must achieve the balance of ensuring the safety and protecting the rights of tenants while at the same time safeguarding the fundamental rights of property owners to control, enjoy, utilize, benefit from, and dispose of their property.

## **Rent Control**

Rent control restricts free enterprise, weakens the incentive of the private sector to offer real property for public occupancy, hastens deterioration which leads to the eventual loss of available housing, and discourages its construction.

By lowering the value of rental property, rent control erodes a community's tax base, causes a disproportionate shift of tax burden to other real estate owners, and potentially curtails vital municipal services. Further, the expense of enforcing rent controls adds bureaucracy to government and increases its cost.

The Association opposes rent control in any and all of its forms and encourages its members and urges elected officials to oppose new rent control legislation. REALTORS® oppose the use of government funds to finance rent control advocacy. The Massachusetts Association of REALTORS® supports state preemption of rent control in Massachusetts.

## **Homelessness**

A new awareness must develop that the ranks of the homeless extend beyond the tragedy of the deinstitutionalized, the destitute, and those with substance dependency. The ranks of the homeless continue to be swelled by young runaways, unwed mothers, displaced elderly, the unemployed, and those who cannot find affordable housing.

The Association supports public and private programs to provide shelters for these people as an interim step to a permanent housing solution.

## **Housing for Low and Moderate Income Occupants**

The Association foresees breakthroughs in building technology leading to home designs which will be more space-efficient, utilizing new, more durable materials which can be produced more cost effectively. Revolutionary techniques in labor technology would permit homes to be constructed in less time, be more energy efficient, minimize product waste, require less maintenance, be environmentally more compatible, and ultimately, be priced more affordably.

It is also hoped that communities may accept the challenging opportunity that lies in the recovery and the rehabilitation of declining neighborhoods and business districts so that existing structures may be reclaimed as inventory for the low-to-moderate-income housing stock. Abandoned or unutilized city owned property should also be identified and developed as a means of providing additional housing stock.

## **Housing for Elderly and Handicapped**

Greater concern is being shown for the elderly and the handicapped. Public and private structures are being built with the special needs of the handicapped in mind. Existing structures are being retrofitted or adapted to provide greater comfort and ease of access. The Association stresses the importance of continuing these measures.

The local community has a responsibility to provide alternative housing for their elderly within the community itself so that when circumstances require the sale of the family home, the elderly are not uprooted from their lifelong ties to the community.

Innovative financing programs should be designed and should be marketed to both these groups. Sufficient funds should be earmarked for these purposes.

It is of paramount importance that regulations and ordinances that stipulate these modifications and innovations are balanced against the full and free exercise of the rights of the private property owners.

Incentives should be provided by government to the private sector to implement these changes so that the care and shelter of these two groups does not become the sole responsibility of government.

### **Seizure of Real Property**

Real property which has been used for illegal activity involving drugs and/or has been purchased with the proceeds of illegal drug-related transactions may be seized by the federal government. In the case of such seizure, the property owner does not have to be the individual guilty of the crime in order for the property to be seized. He may be an innocent owner whose tenants are using the property illegally.

Due to the number of drug-related cases, the federal government advises that they are encouraging states and localities to enact their own seizure procedures. In rapidly increasing numbers, states and localities are responding!

REALTORS® support vigorous enforcement of drug laws, however, would oppose the seizure of property when due regard is not given to the following: (1) the seizure constitutes a "taking" of private property without just compensation, (2) contrary to the usual presumption of law, the "innocent owner" is considered guilty and given a specified time to prove his innocence, (3) there are not allowances to protect innocent owners who cooperate with law enforcement officials, (4) the innocence of landlords is called into question for not taking steps to eliminate such illegal activity by his tenants; yet many localities have strict eviction laws which make the eviction process costly and unduly burdensome for the landlord, (5) landlords are being forced by local governments to engage in the dangerous activity of acting as police officers in ridding their apartments of drug activity, (6) state and local ordinances remain silent on the management of real property after it has been seized; sometimes properties are let to "rot", which decreases their value and that of other property in the neighborhood, and (7) unregulated seizure policies could become a financially attractive procedure for state and local governments resulting in abuses of the seizure power.

REALTORS® who have procured tenants for the rental of real property are gravely concerned over their responsibilities and liabilities in relation to the tenant's subsequent activities.

### **Removing Disincentives to Multi-Family Properties**

Multi-family housing programs are considered to be the first step in the housing ladder for many homeowners, however, mortgage financing for multi-family housing has become increasingly scarce. REALTORS® support increased activity by FHA and the removal of the disincentives to the financing and production of FHA's multi-family housing programs that will stimulate new

development. REALTORS® also support the preservation of decent, safe and affordable rental housing which will broaden the range of affordable housing choices available to both low and moderate income families. Cities and towns need to encourage such housing through changes in their planning and zoning policies.

### **Taxation and State Spending**

REALTORS® propose that the annual discussion of new taxes or increases in existing taxes begin each year with a vigorous examination of state and local spending plans. The potential for administrative efficiencies should be scrutinized. The need for continuing government programs should be considered, and new programs should be created only in the context of realigning priorities. Programs that are not essential should be eliminated. Program costs should be analyzed to determine not only how much they draw from the public treasury but whether they generate additional costs or economic benefits.

Despite the most vigorous cost containment measures, state, county, regional, and local government expenditures will continue to increase. REALTORS support taxation policies that will encourage homeownership, the creation and maintenance of rental housing, and the development of real estate for commercial and industrial use.

### **Transfer Taxes/Service Taxes**

Costs associated with programs for the public good i.e. land banking, affordable housing, etc. should be shared equitably throughout society. Real estate should not be singled out to pay for programs and services that benefit the entire community.

REALTORS® support the right to freely exchange real property. REALTORS® oppose transfer taxes on properties transferred in a given year to subsidize services whose benefits will be enjoyed by the entire community. REALTORS® oppose using the transfer of real property as the triggering mechanism for the enforcement of laws, regulations, and ordinances, or imposition of government imposed fees or taxes that make real estate transactions less affordable, therefore REALTORS® oppose transfer taxes and deed excise taxes. REALTORS® also oppose the expansion of the sales tax to business services.

REALTORS® do support a broad based equitable funding mechanism approach including, but not limited to the bonding process.

REALTORS® support restraints on the authority of local government to increase property taxes, as exemplified by Proposition 2 1/2. When additional revenues are needed to maintain or improve the quality of community life, the restraints of Proposition 2 1/2 can be overridden by a simple majority vote of a town or city.

### **Impact Fees/Linkage**

REALTORS® oppose singling out real estate development in the residential, commercial and industrial areas for special taxes imposed as "impact fees" or "linkage fees". In practice these fees provide facilities and services enjoyed by the entire community but paid for by only a portion

of it. REALTORS® oppose such taxes because they are an unfair burden on real estate, are an uncertain revenue stream for communities whose debt obligations for long-term planning require stable income, are the extra cost which can make desired economic development infeasible especially in a weak market, and are easily manipulated by those who oppose development for arbitrary reasons or out of self-serving motives. They also result in a reduction of property values and the community's tax base and provide an unfair competitive advantage to owners of existing properties that did not have to pay them.

### **Tax Exempt Properties**

REALTOR® concerns about equitable taxation extend to properties owned by the federal and state governments and non-profit institutions. Such properties should provide compensation to cities and towns for the benefits of local government services.

### **Fair Assessment**

REALTORS® take a strong interest in the policies and practices of cities and towns in assessing values for tax purposes and the procedures for appealing assessments and seeking abatements. Fairness in the taxation of all real estate is an essential goal of REALTOR® public policy.

### **Depreciation - Tenant Improvement**

REALTORS® support the new changes to the tax laws regarding tenant improvements found in the Small Business Job Protection Act that was recently signed into law by the federal government. The legislation addresses the problem created by previous law and allows property owners to deduct non-amortized depreciation when a tenant vacates the building.

### **Legislative and Regulatory Issues**

REALTORS® vigorously support legislation and regulations that enhance their ability to effectively serve the parties to real estate transactions. The Massachusetts Association of REALTORS® supports efforts to increase the accountability, fairness and timeliness in the promulgation of regulations which may affect the parties to real estate transactions. REALTORS® support an economic impact assessment of the regulations prior to promulgation, as required under the law.

REALTORS support adapting the building code to address energy and air quality issues to encourage cost-effective development of environmentally sound buildings.

REALTORS® oppose the continuing enactment of laws and regulations not yet supported by scientific knowledge and technology needed to administer them fairly and effectively. State regulations should be uniformly applied statewide. However, REALTORS® support the rights of each community to enact additional regulations when there is scientific research and data proving the need for the added protections.

The Massachusetts Association of REALTORS® should work for the repeal or sunset of legislation and regulations affecting the real estate industry that are outdated such as the current disclosure requirement for Urea Formaldehyde Foam Insulation.

## **License Law & Continuing Education**

The needs of the public are best met by professional service. REALTORS® support modernization of licensing board systems allowing for current and accurate reporting of the affiliation of each broker or salesman and to make such record available to local boards of REALTORS®. REALTORS® are dedicated to the Code of Ethics and its enforcement by our members. REALTORS® support educational programs which encourage professional standards. REALTORS® support legislation which promotes the highest standards for the acquisition and maintenance of a real estate license by a strong Board of Registration.

To promote increased competency in the industry, REALTORS® urge that:

- Appropriate education requirements must be retained as a prerequisite for licensing; a quality continuing education curriculum, appropriate to the professional needs of all real estate practitioners be developed and delivered to licensees through a network of accredited schools.
- The Board of Registration of Real Estate Brokers and Salesmen be empowered with adequate statutes to provide the opportunity for redress to the public.
- Reciprocity of licensing of real estate professionals between states be encouraged and streamlined where it is mutually advantageous.
- License laws should seek to address new developments in the industry such as the management of condominium and cooperative associations.

### **Interstate Referrals**

REALTORS® believe in open and unregulated exchange of client and customer relocation information, and in the right to charge an appropriate fee for such a service. REALTORS® urge the enactment of legislation when needed to protect such interstate referral activity.

### **Independent Contractor Relationship**

REALTORS® support continued efforts to protect the independent contractor status and clarify when necessary, the independent contractor requirements with respect to worker's compensation, unemployment and health insurance so as not to conflict with federal law.

### **Education, Research and Technology**

REALTORS® recognize the vital necessity of professional competency to meet the challenges of real estate practice in an increasingly sophisticated and complex society. Professionalism in real estate through education and training is one of the primary objectives of the MASSACHUSETTS ASSOCIATION OF REALTORS®.

In addition, the ever-increasing utilization of technology by both consumers and licensees in transfer of real property requires that REALTORS understand these new tools. REALTORS

support legislative and regulatory changes that will encourage further usage of technology in real estate practices such as adoption of laws to recognize electronic signatures and transactions.

REALTORS® recognize their responsibility to the members:

- To assist REALTORS® in identifying and obtaining opportunities for real estate education and training.
- To assist affiliates of the MASSACHUSETTS ASSOCIATION OF REALTORS® in their educational activities, each within its specialization and in mutually beneficial cooperative ventures.
- To assist local boards in their offering of educational, training, and research programs and in the formation of centers for real estate research; universities and colleges in the offering of their curricula of real estate courses and research in the general field of real estate; the Commonwealth of Massachusetts in adopting and implementing specific requirements for continuing education.

REALTORS® endorse reciprocal education and license renewal credits among state licensing authorities.

REALTORS® further recognize a need to share our knowledge with the general public and our responsibility to our members through the development and dissemination of timely real estate programs which relate members services to the needs of clients and customers.

#### **Anti-solicitation Laws**

REALTORS® oppose all restrictive laws or ordinances that inhibit the free and open market for real property, such as "For Sale" sign bans, and anti-solicitation laws. Advances, however, in electronic and facsimile transmission should be weighed carefully in relation to an individual's right of privacy.

#### **Appraisal Regulations**

REALTORS® are supportive of the efforts to license appraisers to ensure the integrity in the financing process. Any licensing or regulations regarding licensing or certification of appraisers should continue to safeguard against the possibility of a shortage of qualified appraisers. Discrimination in the offering of educational services designed to enhance appraiser qualifications should be strictly prohibited.

#### **Real Estate Development and Economic Growth**

#### **International Real Estate**

As the market for real property and real estate finance becomes increasingly international, the effects of international events upon continued growth and stability of our industry and country become more critical.

REALTORS® believe that the same basic principles that they espouse nationally, which are support for private property ownership and the free enterprise system, have worldwide application. REALTORS® should vigorously press private property philosophies in the international arena and take a highly visible leadership role in the development of a collective private sector position on international housing issues.

REALTORS® support reciprocity in the right of foreign investors to acquire freely U.S. real property and the right of U.S. investors to acquire freely property overseas. Such reciprocity presumes economic concessions in acquisition procedures and taxation policies by both countries without jeopardizing the security and stability of either. REALTORS® also support the free flow of international finance for real estate on a mutual basis with other countries.

REALTORS® believe that foreign investors in U.S. real estate should be subject to the same standards for taxation and tax rates as U.S. investors. As far as is practically possible, investment incentives and regulatory procedures should be mutually advantageous.

REALTORS® recognize the need to collect appropriate data in order to monitor foreign real estate investment in this country. However, the reporting requirements on the foreign investor and/or his agent should be designed to minimize the reporting burden.

REALTORS® encourage the flow of international capital into the real estate financial market.

## **Energy**

The free market system is the most appropriate means of attaining energy conservation and domestic expansion and development of existing and new energy sources are essential to our nation's security and economic prosperity.

- REALTORS® support continued efforts by the federal and state government to remove regulatory impediments to the discovery, production, transportation, and sale of energy resources.
- REALTORS® support the state government's role in contingency planning for severe energy supply disruptions.
- REALTORS® support the role of state government in joining with private enterprise to reach and develop alternative energy sources.
- REALTORS® support the concept of positive incentives for conservation activities such as energy tax credits.
- REALTORS® support increased emphasis on energy efficient technology by the nation's building industry.
- \* REALTORS support the design, construction, and management of buildings in an environmentally-conscious manner. The "Green Buildings" movement should be supported by governmental taxing policies at the local, state and national level.

## **Child Care**

Today more families are finding that economic demands require that both parents must be in the work force. This modifies traditional parental roles and creates the need to find new ways to meet our child care responsibilities. REALTORS®, therefore, support tax and zoning incentives for the creation of child care facilities in locations where clear need is demonstrated.

REALTORS® also support all legislative and regulatory efforts that eliminate barriers to the creation of child care facilities.

REALTORS® also encourage the widest possible participation by all groups to include government, educators, providers, developers, and employers in developing the proper political and economic environment to accomplish a workable solution to child care facilities. However, REALTORS® oppose "linkage solutions" which curtail or prevent real estate development in an effort to ensure that child care needs are met.

## **Community Revitalization**

One of the nation's most challenging opportunities in housing lies in the recovery and rehabilitation of declining neighborhoods. To that end, REALTORS® support efforts by federal, state and local government to implement programs to foster community revitalization and economic growth.

REALTORS® hold the greatest potential for initiating and coordinating the resources and methods for restoration of neighborhood housing and commerce. REALTORS® support and urge local boards and individual members to actively participate in and promote community revitalization efforts which are designed to maintain and improve the quality of life in the neighborhoods of our cities, towns, and communities. REALTORS® applaud the action of communities which have implemented community revitalization programs even when federal assistance has not been available and continue to encourage the involvement of the private sector to take advantage of the present investment possibilities.

## **Historic Preservation**

Recognizing that Massachusetts is the cradle of the American Revolution, REALTORS® appreciate that the places and structures of our early history are a national treasure and need to be preserved and protected. REALTORS® favor zoning regulations by local government which are dedicated to preserving this history. At the same time REALTORS® caution that this preservation must be maintained in balance with respect for the rights of private property ownership. REALTORS® encourage and maintain incentives for restoration such as tax credits.

## **Commercial and Industrial Development**

REALTORS® support orderly and responsible growth of commercial and industrial real estate. REALTORS® vigorously encourage commercial development which maintains the integrity of development sites, accommodates demand in the community, improves the environment in which we work and provides job opportunities. REALTORS® oppose legislation on the local and state level which unnecessarily impedes construction and development of commercial and industrial real estate or which increases costs to commerce and industries.

## **Regional Government**

REALTORS® are concerned with the growth of Regional Government which encroaches on traditional roles of municipal and state government and which has unclear lines of responsibility back to its citizens. REALTORS® encourage appropriate studies to determine the proper role of regional government in the delivery of meaningful services. **Community Service**

In order to promote meaningful public service programs to upgrade the quality of life in their communities, REALTORS® support REALTOR® Community Service programs and involvement of local boards.

## **Zoning and Land Use Restrictions**

We believe in the fundamental rights of all private property owners working through local government to determine the highest and best use of their land.

Every person should have the right to acquire real property with confidence and certainty that the value of such property will not be unduly diminished or jeopardized by governmental action at any level without just compensation or the owner's expressed consent.

We encourage all municipalities to establish a master land use plan, or if a plan is already developed, to assure updates of the plan every five years.

We maintain that planning for the classification and use of land must adequately consider the needs of housing, agricultural, commercial and industrial growth, as well as quality of life and a healthy local economy.

We believe that undue restrictions on development, or regulations that do not reflect or keep pace with current technology, invite pressure by communities, groups, or individuals who seek to hinder growth for self-serving purposes.

## **Protection of the Natural Environment**

REALTORS® welcome and encourage the growing awareness that the value of real estate now and in the future depends upon the protection of the natural environment. Soil must be free from contamination by oil and hazardous materials. Drinking water untainted by pollutants must be available in sufficient supply. Rivers, ponds, harbors, and beaches should be clean and enjoyable. Land should be used properly for housing, employment, community needs, and open space. However, private property rights must not be abridged in order to achieve these goals. Efforts to protect the environment should attempt to coordinate and enforce existing state and local laws and regulations before attempting broad-based environmental legislation. Legislation and regulations that restrict property owners' use of their property should contain funding mechanisms to compensate property owners.

The MASSACHUSETTS ASSOCIATION OF REALTORS® encourages its members to be educated about environmental issues so as to make well-informed business decisions and encourage responsible public and private research institutions to provide the practical scientific and

technical information which is needed to develop workable laws, regulations, and environmental protection policies.

REALTORS® support environmental protection programs when the nature and extent of the need has been demonstrated accurately, the extent of the action to be taken has been measured, the responsibilities of the private and public sectors have been clearly delineated, all available alternatives have been studied, and the least burdensome and most cost-effective approach has been chosen.

REALTORS believe that there is a need for a statewide uniform code for Title 5 of the State sanitary code and appropriate reforms to local septic regulations so that they are not used as zoning tools. Title 5 is intended to provide guidelines for construction and maintenance of septic systems that protect groundwater and public health. Any use of the septic code for the purpose of growth management by a local community is inappropriate and unacceptable. Alternative technologies making septic systems less costly while still protecting the public health must also be encouraged.

### **Hazardous Waste/Superfund**

REALTORS® support efforts by the state to develop fair and workable regulations and policies to administer the vast array of environmental laws adopted in recent years.

REALTOR® participation in the development of regulations and policies is guided by several general concerns including:

- Private individuals who themselves may be victims should not be unfairly burdened with the cost of repairing damaged caused by irresponsible individuals or by the historical mistakes of society at large.
- Owners should be compensated fairly for loss of their property value when development rights are sharply curtailed.
- The administrative apparatus should be structured to accomplish the public purpose of the law at the least public and private cost and with the minimum amount of government regulatory interference in the ability of private citizens to conduct their businesses.

REALTORS® oppose programs which invite misuse by individuals or groups who seek to stop real estate development or other activity arbitrarily or out of self-serving motives.

### **Wetlands**

REALTORS® support the passage of comprehensive wetlands legislation at the state and federal level that includes a standardized wetlands definition which includes hydrophytic vegetation, hydric soils and hydrology; a clearly defined permitting process; the creation of a priority wetlands ranking system; a requirement that all local authorities and affected property owners be notified of wetlands inventories in their jurisdictions and the use of wetlands mitigation banking and the passage of legislation which will ensure just compensation of all property owners who have been subject to a land taking or diminution in value as a result of a wetland designation.

### **Public Health and Safety**

## **Health Care**

REALTORS® support Health Care reform which: provides 100% tax deductibility for health insurance premiums for self-employed persons and employers who pay those premiums on behalf of their employees and (where applicable) their dependents. REALTORS® support the retention of the present relationships between principal brokers and independent contractors and which recognize the independent contractor as a self-employed business person for health insurance purposes.

REALTORS® support the elimination of barriers to affordable health insurance based on pre-existing medical conditions. There should be no mandated employer health care premium payments for employee health insurance. Any health care reform legislation should allow for the portability of health insurance policies from job to job.

## **Indoor Air Quality**

REALTORS® actively support the creation and maintenance of healthy indoor environments by advising owners and sellers about the need for accurate information and its disclosure to prospective buyers and renters.

The state's consumer protection law provides guidance regarding the array of potential health hazards, calling for disclosure of any known facts which could have a material effect on a potential buyer's decision to purchase a property. Massachusetts law has created detailed requirements to provide specific information regarding lead paint and urea formaldehyde foam insulation (UFFI). REALTORS® oppose the continuation of this legislative approach which creates an investigatory obligation going beyond a broker or salesperson's field of expertise.

Pursuant to a policy of the NATIONAL ASSOCIATION OF REALTORS®, MAR urges that owners of residences in areas identified with high levels of radon have their properties tested to determine if elevated levels of radon gas are present. REALTORS® support increased education of homeowners so that they will become aware of potential radon problems and of their responsibility to disclose to real estate brokers or agents indoor air problems that present a significant risk to health. However, REALTORS® strongly oppose mandatory radon testing during real estate transactions.

Sufficient scientific knowledge and remedial technology remains to be developed with respect to certain potential causes of unhealthy indoor air. In the absence of definitive information, REALTORS® support public information programs about the potential health risks created by various sources such as asbestos, biological organisms, and volatile organic compounds. Government proposals to mandate specific action when scientific information is incomplete and technology unavailable should be weighed carefully against the costs of compliance and the potentials for creating greater health risks unwittingly through inappropriate action. If action is mandated, there should be reasonable and workable time periods for implementation, flexibility in the choice of compliance techniques, and adequate funding and training of public and private workers who will implement the requirements and monitor actions. Economic incentives should be provided to encourage action determined to be necessary to protect the public health and for those who simply cannot afford to take the required action.

## **Sprinkler Systems/Smoke Detectors**

Through information to its members, MAR encourages compliance with public safety requirements enacted in recent years which call for the installation of smoke detectors and automatic sprinkler systems in new buildings and in certain older buildings. REALTORS® respond to public safety proposals with suggestions for economic incentives to encourage compliance, equitable sharing of the cost of public safety measures, timetables for implementation, and the application of requirements to all properties where the needs exists, not solely to those that are being transferred.

## **Lead Paint**

The statute, effective April 14, 1994, has generally taken steps to recognize the need for property owners to have the necessary economic tools to undertake lead paint abatement activities.

The Massachusetts Association of REALTORS® will continue to support legislative and regulatory efforts that make abatement of lead paint hazards less burdensome for property owners while also ensuring the public health and safety for property owners and tenants alike.

We will continue to support increased tax credits for neutralizing lead paint hazards, streamlined procedures for owner abatement activities and the incorporation of proven technologies, such as encapsulants, into the approved methods of lead paint abatement. We also support research on additional, effective methods of creating lead safe environments for children, as well as, an increase in the period of interim control.

The Massachusetts Association of REALTORS® will play an active role in the development of regulations used to enforce the new statute through its position on the Governor's Advisory Council on Lead Paint. Our efforts on the Council will be to ensure that the regulations developed meet the spirit and intent of the new statute and are not developed in such a way that benefits of the new law are nullified.

## **Fair Housing/Equal Opportunity**

We fully accept our responsibility to make all people aware of the obligations and advantages of a strict compliance with the spirit as well as the letter of the Federal and Massachusetts Fair Housing Laws. REALTORS® realize that the industry is in a unique position to foster equal opportunity in housing and, therefore, commit to affirmative action policies in which we seek to actively press for solutions to discrimination.

The MASSACHUSETTS ASSOCIATION OF REALTORS® Code of Equal Opportunity is the REALTORS® affirmative action pledge to offer equal service to all persons without regard to race, color, religion, sex, sexual preference, handicap, familial status, national origin, creed, age, ancestry, children, blindness, accompaniment of guide dog, deafness, veteran history, membership in the armed forces, or public assistance recipiency.

REALTORS® support the Fair Housing Partnership between REALTORS® and the U.S. Department of Housing and Urban Development (HUD). The Partnership agreement replaces the Voluntary Affirmative Marketing Agreement (VAMA). The structure of this national partnership

between NAR and HUD is outlined in Appendix A the Fair Housing Partnership Resolution and Articles of Partnership.

## **Real Estate Finance**

### **Alternative Mortgage Instruments**

We strongly support the continued availability of the fixed-rate mortgage (FRM) which has been the hallmark of residential mortgage finance for the last 40 years. We further support the use of alternative mortgage instruments as options to the fixed-rate loan. However, given the complexity of adjustable rate mortgages (ARMs), it is important that potential homebuyers fully understand all the features of an adjustable rate mortgage. Therefore, we strongly support and will continue to work with mortgage lenders, elected officials, and the appropriate regulatory bodies for the strengthening and enforcement of disclosure requirements.

### **Mortgage Credit Available**

REALTORS® support legislation and innovative programs which will increase the availability and affordability of funds for residential and commercial mortgages. REALTORS® support efforts that seek to develop new vehicles and sources of mortgage finance. These efforts should include the ongoing development of new mortgage instruments designed to meet the needs of prospective homebuyers, and the further refinement of instruments or incentives targeted toward attracting new investment in housing. REALTORS® support the development of a secondary market for commercial mortgages which would include the addition of commercial mortgage instruments to the Secondary Mortgage Market Enhancement Act (SMMEA), removing the restrictions from the Employment Retirement Income Security Act (ERISA) prohibiting pension funds from investing in commercial paper, and advocate the removal of the onerous risk-based capital requirements placed on banks.

- Continued development of highly marketable mortgage-backed securities designed to attract new investment housing from nontraditional sources, including but not limited to Real Estate Mortgage Investment Conduits (REMICs) and Trusts for Investment n Mortgages (TIMs), as vehicles to improve the ability of mortgage backed securities to compete in the marketplace, should be adopted. The Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporations (FHLMC), as major participants in the secondary mortgage market, should be authorized to issues these securities.
- Banking reforms which strengthen banks and ease the "credit crunch". REALTORS® support provisions which improve the availability and affordability of veterans' home loan guaranty programs and oppose any increases in user fee for participating in, and utilization of any government mortgage programs.

### **Financial Entities Involvement in Real Estate**

We strongly oppose the authority of all financial entities which benefit from federal deposit insurance, favorable tax treatment, and special access to credit (including their parents, subsidiaries, affiliates and divisions) to participate in the business of real estate brokerage, fee appraising, leasing, real estate development, real estate syndication, property management, and other real estate services and/or activities not directly related to their primary function. Such activities may conflict

with the interests of their customers, threaten the safety and financial stability of the institution, increase the risk of taxpayer liability and pose a threat to the competitive structure of the real estate industry.

We further urge the appropriate regulators to use their authority to restrain the expansion of real estate activity by state financial entities and their federal counterparts. Where third party real estate brokerage is allowed, those federally -insured financial institutions should be subject to the following standards and safeguards:

- Prohibit the use of the parent federally -insured financial institutions' name, trademark, logo, and any indication of affiliation in public advertising by the subsidiary.
- Prohibit joint advertising between federally-insured financial institutions and related real estate brokerage firms.
- Require federally-insured financial institutions and real estate brokerage business operations to be conducted in separate geographic facilities.
- Require complete separation between the federally-insured financial institution and its operating subsidiaries. The subsidiaries should have separate management and staff, and should be independently operated.
- Limit and regulate the amount of capital investment and working capital loans in real estate brokerage subsidiaries from parent federally -insured financial institutions.
- Limit and regulate investment and loans based on the "legitimate" net work of the parent federally-insured financial institutions.
- Require full disclosure of potential conflict of interest in situations where affiliated federally-insured financial institutions and real estate brokerage companies are involved in the same transactions, in order to prevent the provision of preferential treatment based on that affiliation.
- Prohibit the use of public or private communications designed to create the impression that the subsidiary real estate brokerage company has priority access to the funds or credit of the parent federally-insured financial institution, or is entitled to a preferential interest rate for real estate loans.
- Prohibit the use of confidential credit information available from the parent federally -insured financial institution for solicitation purposes by a real estate brokerage subsidiary.
- Limit the percentage of loans made by federally-insured financial institutions to clients of real estate brokerage subsidiaries.
- Require approval of the appropriate regulatory bodies of federally-insured financial institution investment in nonfinancial subsidiaries, such as real estate brokerage companies.
- Require appropriate regulatory agencies to periodically review and audit the records and statements of federally-insured financial institutions with subsidiaries to ensure and enforce compliance and protect against unsafe and unsound practices.

- Require strict enforcement of regulations and safeguards designed to prevent an anti-competitive environment.
- Require imposition and implementation of stiff penalties for violation of regulations mentioned above.
- Require real estate brokerage subsidiaries to comply with the real estate licensing laws and regulations of the appropriate real estate commission.

### **RESPA (Real Estate Settlement & Procedures Act)**

REALTORS® support federal legislation and regulation which preserves the right of REALTOR® firms to diversify and which limits government involvement in setting commissions and other settlement fees and which preserves the cooperative brokerage exemption.

### **Consumer Protection/Risk Reduction**

#### **Consumer Protection Law**

REALTORS® support and encourage efforts to protect consumers of real estate services against unfair or deceptive practices. REALTORS® accept the responsibility to understand and abide by current laws and regulations which provide consumer rights and remedies.

REALTORS® support changes in 93A which would protect the REALTOR® from frivolous claims and encourage timely and equitable settlement of legitimate claims.

#### **Disclosure Issues**

REALTORS® subscribe to the REALTOR® Code of Ethics. In regulatory and legislative matters, REALTORS® are sensitive to the conflict between (1) the affirmative obligations to disclose and the need to respect the privacy of individuals, and (2) the REALTOR's® obligation to comply with their agency responsibilities and disclosure. REALTORS® do believe, however, that a seller of real property has the responsibility to disclose known property defects to a real estate agent or buyer.

REALTORS® believe that the need for disclosure requirements are sufficiently addressed under Chapter 93A and oppose legislation which addresses disclosure issues in a piecemeal fashion. REALTORS® oppose imposition of treble damages for conduct that is not willful or intentional.

REALTORS® support Dispute Resolution methods and procedures which include Arbitration and Mediation.

### **Professionalism, Business Opportunity Expansion & Community Service**

Professionalism in business practices, involvement and community service can all enhance the public perception of the REALTOR® as a professional in the business community and can lead to expansion of business opportunities and reputation. REALTORS® participate and encourage

participation in a variety of community service projects as active and caring citizens of their communities.

## CONCLUSION

Since many issues change over time, in order to be relevant and accurate, this document is updated and republished annually. Furthermore, the positions herein are intended to be interpreted and applied to issues by the *Government Affairs Committee* Issues Work Group of the Massachusetts Association of REALTORS® with final approval by its Board of Directors.

While what is contained herein provides a rationale for Association positions and reflects current thinking on many issues, it is not meant to substitute for open-minded debate, re-analysis, and re-statement of those positions.

**APPENDIX A**

WHEREAS: Fairness is a cornerstone of the foundation of the American way of life and depicts the best of our traditional values.

WHEREAS: Fair housing is a major element of public policy and it is in our national interest to promote and further fair housing.

WHEREAS: The Fair Housing Act and other laws guarantee a right to a national housing market free from discrimination based on race, color, religion, sex, handicap, familial status, and national origin.

WHEREAS: The Code of Ethics and the National Association of REALTORS® commits every REALTOR® to providing professional services without such discrimination.

WHEREAS: Section 809 of the Fair Housing Act requires the Secretary of the U.S. Department of Housing and Urban Development to work with the housing industry and other interested parties to develop voluntary programs to achieve fair housing.

WHEREAS: The National Association of REALTORS® and HUD pioneered a cooperative voluntary approach to achieving our nation's fair housing goals.

NOW, THEREFORE, BE IT RESOLVED that the National Association of REALTORS® and the U.S. Department of Housing and Urban Development reaffirm their commitment and hereby formulate a partnership to promote fair housing in all communities across our nation.

BE IT FURTHER RESOLVED that such partnership is based on the following principles;

All participants in our nation's housing market share a responsibility for the achievement of fair housing.

HUD and NAR (the partnership) will, on an ongoing basis, jointly identify fair housing issues and concerns which need be addressed.

The partnership will develop measurable strategies and actions to address identified issues and concerns.

The partnership will evaluate the results of the actions taken to determine future strategies and actions.

The partnership is national in scope but will be implemented both on the local community level and national level.

REALTORS® are encouraged to adopt a fair housing declaration outlining their commitment to fair housing.

## ARTICLE V

Local and State Activities: The Partnership's goals can best be implemented at the local level. The Partnership will encourage the development of local partnerships between HUD field offices and State or local Associations of REALTORS® based on the national principles and articles set forth in this Resolution. The national Partnership will identify and develop model local and state partnerships, and model strategies and approaches for addressing specific fair housing issues to guide these efforts. Local partnerships are encouraged to invite local organizations in the housing community with an interest in fair housing into their local partnership. Each local partnership shall determine how to formalize and make public their local partnership efforts.

## ARTICLE VI

Termination of Partnership: Either partner may terminate its participation in the partnership by written notification to the designate representative of the other partner. At the request of either partner, the partners will meet to discuss the pending termination. The partnership will terminate within 60 days of receipt of notice of the pending termination unless the partners agree, within this time frame, to continue the partnership. When a State or local Association of REALTORS® or a HUD field office wishes to terminate its participation in a local partnership, it shall notify its national organization as to the reasons for termination. The national organization shall consult with the other national partner regarding the possible termination to determine whether to take appropriate action to assist in preserving the local partnership.

## ARTICLE VII

Fair Housing Declaration: The Partners have developed a fair housing declaration for use by REALTORS®. The declaration is included in the appendix to this resolution. The declaration outlines a series of affirmative fair housing principles REALTORS® are encourage to incorporate into the day-to-day business operations of their firms. REALTORS® are encouraged to publicly display this commitment in their marketing efforts.

## ARTICLE VIII

Fair Housing Practices: The partners will develop guidance for REALTORS® concerning the development of appropriate Fair Housing Practices for their individual firms, including a recommended list of Best Practices. REALTORS® are encouraged to use this guidance to develop an appropriate set of fair housing practices for their firms. Local partnerships will be encouraged to develop from this guidance appropriate practices to address local fair housing concerns.

The partners will develop model Affirmative Fair Housing Marketing Plans for use by REALTORS® when needed to satisfy HUD's Affirmative Fair Housing Marketing regulations.

U.S. Department of Housing and Urban Development (HUD)  
And the  
National Association of REALTORS® (NAR)

Appendix I to the Fair Housing Partnership Resolution

The partnership will, on an ongoing basis, jointly identify fair housing issues and concerns; and will develop measurable strategies and actions to address identified issues and concerns. This appendix sets forth specific issues and actions that will be implemented through this partnership.

The partnership will then assess the results of the actions taken to determine future strategies and actions and to provide the public with information concerning the activities of the partnership. This appendix periodically will be revised and supplemented to reflect future direction.

Current Issues, Strategies, and Actions.

The U.S. Department of Housing and Urban Development and the National Association of REALTORS® have developed strategies and actions to address the following fair housing issues:

Issue 1: There is a need to provide information to the general public concerning fair housing laws, rights, and responsibilities.

Strategy: The partnership will promote the dissemination of fair housing information through local partnerships and local affiliates of the national partners.

Action: The partnership will develop a fair housing information and promotion kit which can be used by local partnerships and affiliates of the national partners to promote fair housing to the public. The kit will be developed by October, 1997.

Issue 2: The achievement of a housing market free from discrimination requires the involvement of people and organizations in addition to that of the partners.

Strategy A: Through participation in the National Homeownership Strategy, the partnership will promote the Strategy's opening markets action items and provide leadership on their implementation.

Actions: 1. The partnership will coordinate quarterly meetings of the Homeownership Strategy on Opening Markets and will initiate discussion on ways to coordinate promotion of fair housing to the public and to

Strategy B: Training materials developed by the partners will include a set of fair housing “best practices” and which allow flexibility for incorporating specific practices to address newly identified or local fair housing issues.

Actions: 1. The partners will review the fair housing practices recommended in the National Association of REALTORS® *Fair Housing Handbook*. The partners will suggest, by February 1, 1997, revisions to the recommended procedures. NAR then will determine appropriate revisions to the NAR *Fair Housing Handbook*.

2. The partners agree to promote the development and dissemination of information and materials to assist in implementing HUD’s affirmative marketing regulations and the development and implementation of fair housing “best practices” by real estate professionals.

Strategy C: The partnership will promote self testing as an effective tool for educating real estate professionals and for internal monitoring of compliance with the Fair Housing Act.

Actions: 1. The partners will evaluate whether legislation is necessary to protect participants in self testing programs from the later use of self testing records in enforcement actions, and, if so, will consider seeking such legislation.

2. The partners will develop by October 1, 1997, guidance regarding self testing by real estate firms and local Associations of REALTORS®.

Issue 4: Real estate professionals doing certain business with the United States Department of Housing and Urban Development and other governmental agencies are required by law to design and implement affirmative fair housing marketing plans. These firms have had the option in the past to adopt the Voluntary Affirmative Marketing Agreement in lieu of developing these plans. This fair housing partnership agreement does not allow the continuation of that option.

Strategy: Model affirmative fair housing marketing plans would assist real estate professionals doing business with HUD in meeting affirmative marketing requirements.

Actions: 1. The partners will develop model affirmative fair housing marketing plans containing fair housing practices that real estate professionals may incorporate into their affirmative marketing plan. The plan shall be presented to the NAR Equal Opportunity Committee and Board of Directors for approval at the NAR Midyear meeting, May 1997.

## REALTOR® Fair Housing Declaration

I agree to:

Provide equal professional service without regard to the race, color, religion, sex, handicap, familial status, or national origin of any prospective client, customer, or of the residents of any community.

Keep informed about fair housing law and practices, improving my clients' and customers' opportunities and my business.

Develop advertising that indicates that everyone is welcome and no one is excluded;, expanding my client's and customer's opportunities to see, buy, or lease property.

Inform my clients and customers about their rights and responsibilities under the fair housing laws by providing brochures and other information.

Document my efforts to provide professional service, which will assist me in becoming a more responsive and successful REALTOR®.

Refuse to tolerate non-compliance.

Learn about those who are different from me, and celebrate those differences.

Take a positive approach to fair housing practices and aspire to follow the spirit as well as the letter of the law.

Develop and implement fair housing practices for my firm to carry out the spirit of this declaration.