



**Government of the Virgin Islands
of the United States of America
Department of Licensing and Consumer Affairs**

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**Devin Carrington, Esquire
COMMISSIONER**

**FISCAL YEAR 2017 BUDGET
PRESENTATION
BEFORE THE
COMMITTEE ON FINANCE
OF THE
31th LEGISLATURE OF THE VIRGIN ISLANDS**

July 14, 2016

"Serving Businesses & Assisting, Educating and Protecting Consumers"

Good Morning Committee Chair Senator Clifford Graham and other members of the Committee on Finance, other Senators of the 31th Legislature, the Legislative staff, the DLCA staff, the public in the gallery, and the listening and viewing audience.

I am Devin Carrington, Commissioner of the Department of Licensing and Consumer Affairs (DLCA). Here with me today are H. Nathalie Hodge, Assistant Commissioner, Frederick Norford, Esquire, General Counsel; Phillis Hodge-Gumbs, Director, Administration & Business Management; Horace Graham, Jr., Director of Licensing, Beatrice Gumbs, Director of Consumer Affairs and Juan Rodriquez, Sr., Acting Director of Enforcement.

DEPARTMENT OF LICENSING AND CONSUMER AFFAIRS

The Department of Licensing and Consumer Affairs or DLCA is established under Virgin Islands Code Title 3 Chapter 16 (§270 *et seq*). The Department provides consumer related services and programs pursuant to the Consumer Protection Law of 1973 as set forth in the Code (*V.I.C. Title 12A Consumer Code §101 et seq*). DLCA also regulates the licensing of private businesses and professions (*as provided for in V.I.C. Title 27 Professions and Occupations §301 et seq*). More concisely, the mission of the Department is to issue business and professional licenses; assist, educate and protect consumers; and ensure that all businesses and persons comply with the licensing and consumer protection laws of the Virgin Islands.

OVERVIEW

The Department of Licensing and Consumer Affairs is, at first blush, a small agency consisting of only 48 employees. Yet this is deceptive because its statutory mandate, jurisdiction and oversight responsibilities belies this appearance. For FY2016 thus far, the agency has served an average of 492 walk-in clients per month with a high of 700+ in January of 2016. DLCA receives an average of 135 phone call clients daily averaging 2,700 calls per month.

There are currently seven (7) separate divisions within the Department which include:

- **Office of the Commissioner**

The Office of the Commissioner is, of course, responsible for the overall leadership, management, planning, supervision and direction of the Department so that it may effectively carry out its mission.

- **Administration and Business Management**

This Division is responsible for all budgeting, accounting, payroll, procurement, and personnel operations of the Department. It provides all the resources required for staff to perform their duties in an efficient, effective and professional manner. This office maintains the following accounts: General Fund, Consumer Protection Fund, Vendors' Plaza Revolving Fund, Virgin Islands Public Accountancy Fund, and Real Estate Appraisers Fund.

- **Legal**

This Legal Division is responsible for providing "in house" legal advice to the Commissioner and the Department, promulgating and implementing rules & regulations, providing legal advice to all boards and commissions, assisting with the development of policies and procedures, prosecuting violations via administrative hearings, and representing the Department and consumers on legal matters.

During FY 2015, sixty-nine (69) cases were referred to the Legal Division for prosecution and assistance in resolving. Forty (40) were settled without the need for formal administrative hearings. Twenty-six (26) of these cases came on for hearing of which Twenty-Two (22) were resolved in favor of consumers. Thus far for this fiscal year, October 1, 2015 through June 30, 2016, Sixty -Two (62) cases have been referred to the Legal Division. Twenty-Six (26) cases have been resolved without the need for administrative hearings. There have been Twenty-Four (24) administrative hearings of which nineteen (19) have been resolved in favor of consumers, with twelve (12) cases pending. One of those cases that has been settled involved a violation of Title 27, § 303(b). This section prohibits companies from hiring workers without registering same with the VI Department of Labor. An undisclosed sum was agreed to, the contents of which we are not at liberty to disclose.

- **Licensing**

The Division of Licensing is responsible for receiving, reviewing, and approving applications for business licenses. Upon receipt of the electronic application for new or renewal licenses, fees are collected and electronic approval from other Departments integral to the license approval process is verified (Office of the Lt. Governor/Corporations and Trademarks, Bureau of Internal Revenue, Virgin Islands Police Department, Department of Planning and Natural Resources, Virgin Islands Fire Services, and Department of Health, whichever applicable), before the license is issued.

During FY 2014, the division issued a total of 16,304 business licenses - 3,248 new licenses and 13,056 renewals and collected \$3,696,288.10 in fees. During FY 2015, the division issued a total

of 16,017 business licenses - 3,767 new licenses and 12,107 renewals and collected \$3,573,851.31 in fees. Thus far as of June FY 2016, the Division of Licensing has issued a total of 10,621 business licenses – 2,013 new licenses and 8,608 renewals, and has collected \$2,708,056.90 in fees.

- **Boards and Commissions**

This Division of Boards and Commissions has oversight responsibility for professions and trades, including the testing and licensing of individuals in each area. There are distinct requirements for each of the following nine (9) Boards:

- (1) Architects, Engineers, and Land Surveyors
- (2) Barbers, Beauticians, & Manicurists
- (3) Certified Public Accountants
- (4) Electricians
- (5) General Contractors
- (6) Plumbers
- (7) Real Estate Appraisers
- (8) Real Estate Brokers and Salespersons
- (9) Social Workers

During FY 2014, the Division of Boards and Commissions administered 17 different examinations to 174 candidates and issued 2,171 licenses -372 new licenses and 1,799 renewals. During FY 2015, the Division administered 17 different examinations to 89 candidates and issued 2,039 licenses -204 new licenses and 1,835 renewals. Through the 3rd quarter of this FY 2016, the Division administered 12 different examinations to 76 candidates and issued 1,433 licenses -139 new licenses and 1,294 renewals.

- **Consumer Affairs**

The Division of Consumer Affairs is responsible for assisting, educating, and protecting consumers against unfair and deceptive trade practices. It advises, guides, and represents consumers in regards to filing of formal complaints against businesses and/or professionals and attempts to resolve them. It is also responsible for ensuring equity in the marketplace through the establishment and enforcement of weights and measures standards in the Virgin Islands. The Division also conducts monthly food basket surveys, bi-monthly gasoline price surveys, monthly scanner surveys, various store inspections and weekly “pull date” inspections.

During FY 2015, the Division conducted 760 inspections at retail establishments and issued 88 citations for various consumer laws violations valued at \$98,975.00. Through June 30th of FY

2016, the Consumer Affairs Division has conducted 522 inspections and issued 114 citations valued at \$110,125.00.

Within the Consumer Affairs Division is a separate distinct Consumer Protection Services Unit, responsible for the development and implementation of consumer education programs and activities, addressing consumer complaints, and monitoring business practices throughout the Territory for compliance of consumer laws.

During FY 2014, the Unit received 344 consumer complaints and resolved 168 of them, collected \$32,494.82 in restitution for consumers from businesses, and responded to 87 separate product recalls. During FY 2015, the Unit received 330 consumer complaints and resolved 166 of them, collected \$20,341.53 in restitution for consumers from businesses, and responded to 79 separate product recalls. Through June 30th of FY 2016, the Consumer Protection Service Unit has received 228 consumer complaints and resolved 115 of them, collected \$54,817.02 in restitution for consumers from businesses, and responded 29 separate product recalls.

The Weights and Measures Unit is another distinct unit within this Division. It is responsible for ensuring that all commercial weighing and measuring devices and methods used in the Territory are accurate and correct. The Unit also enforces all laws and regulations pertaining to food freshness, and net contents of packaged goods.

During FY 2014, the Unit inspected 313 scales and 353 retail meters and conducted 480 pull date item inspections of 5,127,375 food items. During FY 2015, the Unit inspected 213 scales and 492 retail meters and conducted 487 pull date item inspections of 5,268,925 food items. Through June 30th of FY 2016 the Weights and Measures Unit inspected 247 scales and 156 retail meters, and conducted 287 pull date inspections of 5,289,477.00 food items during their random business visits throughout the territory.

- **Enforcement**

The Enforcement Division enforces Virgin Islands licensing laws by inspecting all businesses to ensure compliance. Additionally, the Enforcement Officers provide “Process of Service” on behalf of the Legal Division and Boards and Commissions and escort the Cashiers/Collection Clerks to the bank as needed. The Division serves a critical role of ensuring the safety and wellbeing of consumers. The Division also regularly participates on various task forces and joint initiatives with the Virgin Islands Police Department, Office of the Governor, Department of Health (sale of cigarettes & tobacco products to minors), and local community organizations (sale of alcohol & alcohol products to minors), as needed.

During FY 2016 through June the Enforcement Division conducted 650 site inspections 157 licenses processed and 83 citation issued valued at \$41,030.00.

In the absence of the Alcohol Inspector positions on both islands, the Enforcement Division has been tasked with the regulatory duties. On St. Croix this includes the inspection of weekly shipments of rum produced in the Virgin Islands and shipped to the United States. In FY 2015, a total of 19,419,308.90 proof gallons of rum was shipped from St. Croix to the mainland generating a potential rum rebate value of \$257,663,563.86. Through June of FY 2016, a total of 12,997,611.00 proof gallons of rum was shipped from St. Croix to the mainland generating a potential rum rebate value of \$512,098,757.36 to the Virgin Islands Government.

The Department was unable to renew its Law Enforcement Planning Commission (LEPC) grant to assist in enforcing the Territory's laws relative to the selling of alcohol and tobacco products to minors. Funding from this grant has provided a key mechanism in enforcement efforts. Pursuant to this grant, Enforcement Officers would conduct numerous day and night time compliance checks at bars, nightclubs and restaurants, in addition to the routine checks at retail outlets. The grant funding under the Enforcing Underage Drinking Block Grant Program (EUDL) has been eliminated state and territory wide as a result of cuts by Congress. However, we are still in partnership with LEPC under their 2011 EUDL funding extensions in the amount of \$65,000. We have experienced a roadblock with the funding due to a federal audit of LEPC. Consequently, having no funds this fiscal year, the Division has not issued any citations for sale of alcohol and tobacco products to minors.

With the grant of additionally budgetary funds last fiscal year, the Enforcement Division was able hire a Director and two additional Enforcement Officers. Unfortunately, given his crime fighting experience and expertise, the Director, Winsburt MacFarlande was lost to the Virgin Islands Police Department. However, prior to his departure, he began to set a new tone regarding the operations of the division. Not only was adherence to chain of command and protocol re-emphasized, but renewed importance was placed on the enforcement culture within the division. Specifically, a clear distinction has been drawn between policing performed by DLCA and VIPD. It is being re-emphasized that officers need to be sensitive to how their monitoring and inspections of licensees effect the businesses we regulate. Heavy-handedness must be the exception, not the rule.

While the department has hired new enforcement officers over the past fiscal year, we are frankly still in need of additional officers. The amount of licensees over which the department has regulatory jurisdiction dictates this need. Additionally, a large number of those licensees operate during the evening and night hours and our current number of enforcement officers does not allow the degree of coverage needed to carry out our regulatory mandate. Moreover, anticipating the transfer of primary jurisdiction over the Noise Ordinance from VIPD to DLCA, as per Senator Novelle

Francis' amending legislation, the department foresees greater demands on its enforcement officers during day and evening hours and especially weekends relating to noise complaints. Therefore, the department is requesting that consideration be given for additional funding this fiscal year in order to hire additional enforcement officers.

STAFFING

The Department's current staffing level (FY 2016) is at forty-eight (48) persons – forty-six (46) paid from General Fund and two (2) paid from the Consumer Protection Fund. All budgeted positions are currently filled or in the process of being filled. Of the forty-eight (48) positions, twenty-one (21) are in the St. Croix district and twenty-two (22) are in the St. Thomas/St. John district. Of the five (5) vacant positions, one (1) position (Director of Enforcement) is in the St. Croix District and four (4) positions (Administrative Officer I, Consumer Compliance Protection Officer I, Special Assistant to Assistant Commissioner, and Chief Enforcement Officer) are in the St. Thomas/St. John district. All five vacant positions are in the process of being filled.

FY 2016 staffing is allocated as indicated in the chart below:

DIVISION	STX	STT/STJ	VACANT	TOTAL
Office of the Commissioner	5	1	0	6
Management & Business Administration	1	1	1	3
Legal	1	2	0	3
Licensing	4	6	0	10
Consumer Protection Services	2	3	1	6
Weights and Measures	2	3	0	5
Boards and Commissions	2	2	1	5
Enforcement	4	4	2	10
GRAND TOTAL:	21	22	5	48

FISCAL YEAR 2016 AND FISCAL YEAR 2017 REQUESTED POSITIONS

POSITIONS	STX VACANT	STT/STJ VACANT	TOTAL
Cashier III	1	0	1
Consumer Compliance and Protection Officer I	1	1	2
Weights and Measures Inspector I	1	1	2
Enforcement Officer	2	2	4
GRAND TOTAL:	5	4	9

FY 2016 Consumer Protection Fund positions requested to be transferred to General Fund in FY 2017

POSITIONS	STX	STT/STJ	TOTAL
Enforcement Officer	1		1
Weight and Measures Inspector I		1	1
GRAND TOTAL:	1	1	2

During FY2016, the department, with the help of this body and Government House, was able to procure additional critically needed employees. I personally express the gratitude of the department for these new hires. They have helped to bolster the human resources essential to perform our statutory duties. With these additional hires, the department has been able to better tackle the myriad of licensing and consumer related issues faced by the agency. These additions enhance the department's authority to collect license fees, levy penalties for license renewal delinquencies and to issue citations for violations discovered during the inspection/monitoring of licensed entities with the goal of protecting consumers. Attendant to these functions is the generation of revenue. Consumer protection, business licensing and regulation and revenue generation is a direct function of having proper and adequate. With the enhancement of staffing the department is better equipped to address consumer protection and business regulation.

The Department of Licensing & Consumer Affairs (DLCA) received a 2016 Supplemental Budget for a total of \$400,000, whereby Management, Enforcement, Consumer Affairs, and other critical vacancies were funded. As a result, the agency was able to fill the following seven **(7) new positions:**

- (1) District Counsel,
- (1) Public Information Officer,
- (1) Enforcement Officer,
- (1) Weights & Measures Inspector
- (1) Consumer Compliance & Protection Officer, and
- (2) Licensing Officers.

Additionally, in anticipation of the recent salary step increases on January 1, 2016, the Department subsequently planned similar salary adjustments for seven (7) of its managers/supervisors that would eventually be adversely impacted by the salary increases process. DLCA's United Steelworkers - Supervisors pay plan has not been negotiated since October 1, 2007 and proactive measures were taken to preclude the development of any imbalance or morale matters. After the initial unionized cost analysis was requested by the Division of Personnel for salary increases, the Department acknowledged the necessity to ensure that salaries of

managers/supervisors not be surpassed by their direct reports in order to maintain a healthy and functional organizational structure.

Furthermore, with in-house promotions to the Enforcement and Consumer Affairs' Divisions, some vacancies were created that the Department anticipate filling early next fiscal year in those divisions.

Lastly, a balance of approximately \$11,473.57 was budgeted to the Enforcement Division for future overtime payments, where applicable.

The Department of Licensing and Consumer Affairs team is comprised of an excellent cadre of individuals who work diligently and are dedicated to doing their best to improve the department's obligation to serve the business and consumer public. I am thankful to work with this staff. They fill in for each other to assist our clients and generally do so professionally and competently. I take this opportunity to thank them for all they do to efficiently and effectively serve the public. They are hardworking and dedicated public servants.

OBJECTIVES, ACCOMPLISHMENTS, DEVELOPMENTS AND GOALS

Stream-Lined Licensing Process

- **Business Licensing**

The Department's online licensing process and database system is operating effectively. While we are pleased with its current functionality we are pursuing measures to improve search speeds and general user experience. The system currently handles most of the license processing caseload with increasingly diminished paper receipts. Clients can apply for or renew their business and professional licenses online. The system allows for electronic approval from all partner agencies. To varying degrees, we have had the cooperation of these agencies (OLG, VIPD, DOH, DPNR, VIFS, and BIR) in facilitating our vision of a more closely integrated and agile system that results in a more rapid delivery of new and renewed business licenses. As all partner agencies responses are aggregated into the electronic process this removes the necessity of clients visiting each agency individually and filling out multiple forms to apply for various approvals, thus making the licensing process more efficient and timely. Applicants can use a variety of devices to access the website. The multiplatform format works on computers, laptops, tablets and smartphones. Applicants can download our mobile website application to their iPad, iPhone, iPod or Android capable devices. Additionally, the online database allows the general public to conduct searches from our website to determine current business and/or professional license status.

An agreement is currently being negotiated for the implementation of “geo-map” capabilities which will allow for immediate visual access via the computer to determine location and status of a licensee’s business. Geo-spatial mapping as a management tool enables the Department to expeditiously identify business locations and will ensure that all addresses are consistent with the standard plot number address scheme as well as zoning designations of the Government of the Virgin Islands. We anticipate that the use of geospatial mapping will uncover incorrect address or zoning problems that delay the issuance of business licenses due to stalemates in the zoning review process.

The website, which is not without shortcomings, continues to be improved based on feedback received from both internal and external users. We intend to continue finding ways to improve the licensing process by simplifying the process, and by working closely with our partner government agencies integral to the process. In fact, there is in the works a revamp of the website based on feedback that we have received. The department has developed a new homepage that has more user friendly less convoluted user interface that a less computer savvy individual can navigate with greater ease. This homepage will go live shortly. An additional Consumer Protection module that will allow for consumer complaints to be filed online is now live. The new consumer protection module also provides more detailed information on consumer rights.

As mentioned, there are shortcomings in the licensing process that are in need of tweaking. We believe that in order to advance a more expeditious licensing process and business friendly compliance scheme within the Department there is the necessity of separating the licensing process from the occupancy requirements. The applicant for a business license should apply for and receive the license separate and apart from meeting the requirements of Health, Fire, and other entities currently tied to the licensing process. Since the applicant cannot operate without the certifications/permits issued by those agencies, we believe that these processes should not encumber the issuance of a business license. If this is implemented applicants who have need of funding to meet the requirements for occupancy will be appropriately licensed to obtain a loan or attract funding needed to do buildouts, renovations or other things needed to meet the requirements of these agencies for certification/permitting.

We also recommend a change to business license categories identified in the North American Industry Classification Standard (NAICS) in order that we can better track new industries that make up our local economy. These proposals will require legislative approval and we hope to obtain your support for these measures when submitted to the Legislature.

- **Interagency Collaboration**

The Department of Licensing and Consumer Affairs continues to work in close collaboration with sister agencies integral to the licensing process and more generally as it relates to business practices and financial affairs of the Government of the Virgin Islands. Most notably are the Department of Labor and the Virgin Islands Internal Revenue Bureau (IRB). As mentioned above, specific labor laws relating to the filing by licensees of job vacancies are under the statutory and administrative purview of the DLCA. Therefore, part of our compliance monitoring requires that the department interface on a regular basis with Labor to procure information respecting licensee's compliance with the law. Often, it is Labor that brings to the attention of the Department the fact that there are issues with certain licensees regarding compliance.

Similarly, there has developed a close collaboration between this Department and the IRB. Being that applications for license renewals require IRB approval, there is a need for both agencies to work cooperatively with each other. In fact, recent meetings between our agencies have resulted in a decision to develop a mechanism to target and enforce against the underground business market existing in the Virgin Islands. Through this initiative we hope to recover losses in license fees and taxes. This collaboration is ongoing.

- **Professional Licenses**

The Office of Boards and Commissions continues its relationship with PSI Services, a third-party provider that administers national and state testing for the following professions: Real Estate Brokers and Salespersons; Real Estate Appraisers; Barbers, Beauticians & Manicurists; Electricians; Plumbers; HVAC Mechanics; and General Contractors. The exams are developed and graded by the company. All exams are computer based and can be scheduled at the examinee's convenience. All computer based board exams are now offered on demand and are at the most current industry standards and requirements.

All the Boards within the Division have been reviewing their Rules and Regulations to make sure they are in compliance with current industry standards and "Best Practices". However, this effort continues to be stymied by a dire need for the staffing on several of the boards and commissions that have been operating with less than a full complement of members. A complete listing of boards and commissions that are deficient in membership, primarily due to expired terms, as well as suggested names of qualified individuals who have agreed to serve, has been submitted to the Governor and it is our hope that prompt action will be taken thereon forthwith. In the meantime, the enabling statutes and rules and regulations governing each Board are being given a thorough review by District Counsel to ensure relevancy, consistency and legal sufficiency.

Consumer Protection

- **Public Information Officer and Consumer Outreach**

DLCA has ramped up its efforts to provide information to the community on various consumer related topics such as: use of coupons, avoiding scams, recalls, purchasing automobiles, smart shopping and other consumer related topics via press releases, public forum and other media. The hiring of our Public Information Officer (PIO), a critical position that was sorely needed within the department as it relates to consumer outreach and advocacy, has been instrumental in this effort.

Our ability to achieve sufficient public outreach and education has been incrementally advanced with this hire. Ms. Astia Lebron has demonstrated a high degree of competence and professionalism since she has undertaken the responsibilities of the job. Various public information initiatives have been developed to include PSAs, regularly scheduled radio/talk show programs, short educational videos, a departmental Facebook and Twitter page and various public hearings/meetings to name a few. The Virgin Islands Code requires that the department “stimulate the formation of nonprofit private groups of consumers exclusively engaged in protecting and watching over the interest of consumers. With the formation of the Consumer Awareness Network, the department has commenced the process of recruiting interested individuals with the aim of developing a cadre of consumer activists that will aid in the inspection and monitoring of specific licensees for regulatory compliance. These individuals will ultimately report to the department. It is also anticipated that the group will operate semi-independently of the department in as much as it may decide to organize other consumer related initiatives they determine are of importance.

The Consumer Awareness Network will in essence serve as the department’s eyes and ears in the marketplace, enabling us to become more aware of and respond to violations and thus ensure greater licensee compliance. This is an important asset given our manpower shortages. The role of a PIO is critical in organizing and providing continuing support to such a cadre of consumer advocates. Moreover, it is also important to note that the functions of a PIO will certainly include outreach and education to businesses regarding their obligations under the law. By taking an aggressive interdisciplinary approach, the goal is to promote good businesses and reward responsible business practices that will give incentive to protect consumers and provide quality services.

On the consumer awareness front, our goal is to provide expanded educational awareness initiatives via public information campaigns and more community presence to educate the public on becoming wise consumers. With the funding of the Public Information Officer position, consumer and business educative efforts via media appearances, workshop participation and other community outreach initiatives such as consumer advocacy groups will be increased to better apprise

businesses and consumers or their rights and obligations. The ultimate goal is the minimization of consumer complaints and the development of a better informed, more astute consumer as well as a more diligent business community. The department shall soon commence publication of the names of licensees that have been cited on a repeated basis for consumer related infractions. The bottom line is, negative publicity is a powerful incentives for business compliance

- **Consumer Protection Online Services**

As mentioned above, the DLCA will continue to expand its website to keep consumers better informed and provide more information to increase consumer awareness. A new consumer oriented component of the website has been launched. This allows for the filing of consumer complaints online. The department has also urged and continues to implore consumers to utilize social media via the department's Facebook and Twitter pages to lodge complaints and post pictures concerning consumer related issues. The department has and shall continue to urge consumers to be greater participants in the process of monitoring the conduct of businesses.

- **Fuel Issues**

Early in 2015, DLCA issued a gas price analysis apprising the general public in numerical detail why gas prices are at a profound disparity between the continental United States and the Virgin Islands despite the drop in the price of oil. The department continued to closely monitor and advise the public of retail gasoline prices while imploring retailers to be more consumer sensitive. While on the island district of St. Croix in particular, we experienced a reasonable drop in gas prices at the pump, in the St. Thomas/St. John district, the same cannot be said. We determined that if relief was to come to consumers, the department would have to take proactive steps using provided statutory mechanisms. In that regard, statute provides the department with authority to set reasonable profit margins on certain consumer commodities. The setting of such margins must of course be based on sound quantifiable evidence.

As a result, the Department of Licensing and Consumer Affairs, in conjunction with the Department of Justice, has commissioned a comprehensive study of gas prices incorporating all economic factors that play into the price at the pump. That study is being done by an entity experienced in such matters and is ongoing. In addition to determining a reasonable profit margin, the study is aimed at determining whether there are illegal activities taking place in the industry that have resulted in the level of prices being charged consumers at the pump. It is anticipated that a study of food prices will be undertaken thereafter.

In that regard, the department, through its Division of Weights and Measures, has continued to carry out periodic sampling of fuel at gas retailers throughout the Virgin Islands to monitor the integrity of the product consumers are purchasing. Our latest samples have revealed some concerning results. While I am not at liberty to discuss details, as this is an ongoing investigation, the department has found evidence of possible fuel contamination whereby traces of ethanol was found to be present in the samples taken. Consequently, the department has contracted an entity to perform a scientific analysis on samples taken and to provide a definitive determination as to the contents of the samples. Of course the sale of ethanol as a motor fuel is not sanctioned by Virgin Islands law. If that determination reveals fuel contamination it would constitute a deceptive trade practice under consumer law and could be deemed criminal. In that event, the department shall take administrative action against those accountable as well as refer the issue to the Department of Justice for any other legal action that may be warranted.

Enforcement Division

Over the past year, through funding provided by this body, the department has hired three additional enforcement officers. We are slated to hire at least two more. One of those officers is currently in training at the Police Academy. All other officers have attained Peace Officer status.

Officers continue to routinely inspect businesses for compliance with Territorial licensing laws. Officers regularly work on VIPD and other special task forces whether on an emergency or as needed basis. Most recently DLCA officers have discontinued to partner with the DOH Mental Health Division and the LEPC to enforce the prohibition in the sale of tobacco products to minors and with local community organizations and faith based groups to enforce the prohibition on the sale of alcohol products to minors due to grant issues.

Through LEPC's 2011 Enforcing Underage Drinking Block Grant Program (EUDL) \$65,000 has been earmarked for compliance the above enforcement purposes. However, currently our grant funding from LEPC is on hold due to special conditions attached to the grant as a result of a federal LEPC audit review. We are constantly in contact with the Director of the grant on the status of the funding release. It is anticipated that funding will be released within the next several weeks, once USDOJ closes out their audit finding. This will allow us to resume our partnership with LEPC and DOH with the Enforcing Underage Drinking Block Grant compliance checks.

Educational Enhancement

The department, during the last fiscal year, embarked on the offering of a schedule of educational courses geared toward improving skills needed by departmental employees to more

effectively perform their jobs. The courses were formulated in conjunction with University of the Virgin Islands Community Engagement and Life Long Learning (CELL) Program and instructors from UVI CELL are teaching the courses. This process is ongoing and we have had full employee participation. Courses include the following:

- Customer Service
- Evidence Gathering
- Investigative Reporting 1 and 2
- Effective Communication
- Math In the Workplace
- Paralegal Course

Employees have been enthusiastic about the offerings and have generally commented that the courses are insightful, productive and helpful in the performance of their job duties.

Standard Operating Procedures and Policies

Best Practices from each division continue to be reviewed and we are in the continual process of revising each division's Standard Operating Procedure (SOP) with staff input to better reflect current processes and to incorporate best practices. This process is critical to more efficient operations and shall take into consideration developments within the licensing and consumer protection areas that we administer.

Although, the process of revision is ongoing, due to some staffing issues this process was set back in some ways. However, as the department is being outfitted with additional personnel, we are hopeful to be able to complete the first set of revisions in eight years.

Legal Division

With the additional funding afforded as a result of the last fiscal year budget cycle, the department was finally able to hire district counsel on the island of St. Croix. The addition of district counsel has enabled the department to pay greater attention to procedural issues that were long in need of re-evaluation and updating. Outdated rules and regulations, standard operating procedures, administrative hearing procedures, administrative litigation forms and board and commissions statutory issues are but a few of the subject matter areas being worked on by district counsel.

Additionally, district counsel has assisted in the initiation of administrative action against several licensees who operate in a manner egregiously outside the scope of their licenses and/or are involved in illegal activities. While proceeding against these entities administratively, the

department has also referred these entities to the Department of Justice for criminal investigation and action where warranted.

However, there exists a statutory issue regarding our administrative process that is well worth mentioning here. Presently our general licensing statute, which was enacted more than three (3) decades ago, requires that legal representation in the administrative hearings and court actions brought to enforce the Department's licensing related administrative orders be limited to the Attorney General or an assistant attorney general. This statutory limitation conflicts with the Department's more recently enacted consumer protection enabling legislation, which may be interpreted to give broad express and implied powers to counsel hired by the Department to represent the Department in any administrative proceeding or court in order to effectively carry out the Department's broad duties and responsibilities in both the consumer protection and regulatory arenas to protect the public interest.

Depending on the interpretation, the Department's administrative process can potentially be stifled given the the lack of human resources at the Department of Justice to effectively assist in the voluminous myriad of cases concerning consumer and licensing related issues pending before the Department. It is suggested that this be addressed through legislation that would clarify the issue thereby enabling the Department to litigate all its administrative actions without the need for the assistance of the Department of Justice. The Department intends to have legislation to this effect transmitted to this body for consideration.

Technological Advances

DLCA continues to move toward the "paperless office" concept. However, the cost of service providers who would begin the process of scanning old and incoming files and other documents has been determined to be prohibitive. While one vendor has disclosed they are under contract with two departments of the Government of the Virgin Islands and have started the process with those departments, it has been determined that those departments have a federal mandate and federal funding to pay for it. The voluminous nature of our accumulated documentation and room to house it forces us to find monetary resources to begin the process. We fully intend to have all paper files stored electronically as soon the resources can be identified.

Additional modules to our online licensing system and database that were being developed in order that all divisions can take advantage of the data sets in the database and work more efficiently and effectively are just about ready to go on-line. One such module is the consumer complaint module which is now available to the public. Consumers can file complaints by visiting our website and following the link specifying this. We anticipate that this will lead to greater compliance and a more aggressive response by the department to consumer issues. The module

facilitates both named and anonymous complaints. We encourage the reporting of unlicensed business activity through this module. With this new module special emphasis is being placed on the consumer protection/awareness aspects of the agency's mandate. This is but one component of our continuing plan to integrate all divisions into web-based platforms in the very near future.

The department is in possession of new computers needed for more efficient and effective operations. The older models were donated to the Virgin Islands Taxicab Commission, local public schools and the others are being used in the DLCA fully automated computerized testing center recently implemented for testing in our Division of Boards and Commissions. Working closely with the Bureau of Information Technology we have established an agreement to begin utilizing the SharePoint web resources to develop a more robust interface for the Departments website. Additionally, have finalized the connection details with VINGN using BIT as our ISP which will result in a more seamless and faster connectivity for utilization of our video-conference capabilities as well as the sharing of information between the department and other government agencies that are critical to our licensing function.

Vendors Plaza

The department has addressed this body on at least one prior occasion regarding plans to upgrade the facility and operations at Vendors Plaza on the waterfront in Charlotte Amalie. The condition of the facility is such that it is essentially an eyesore where there should be an attractive and inviting facility in the heart of the tourist district. The facility is clearly not aesthetically welcoming to visitors and is a difficult environment at best for vendors to work in. Departmental conceptual plans include temporary roofing of some type as well as expansion and resurfacing of the plaza footprint. Additionally, the purchase of secure kiosks that will allow vendors to secure their goods overnight is planned. This would obviate the need for vendors to cart their goods and wares in the morning hours on a daily basis for set up. It would also enable them to leave the facility at a decent hour without the need to pack up their goods everyday. These improvements would accrue to the benefit of visitors and vendors alike.

Toward that end we have met with representatives from the Vendors Plaza organization, as well as with the Commissioner of Public Works to conjunctively to develop plans for the rehabilitation of the facility. Further discussions are planned with the Historic Preservation Commission. The department is also in the process of procuring information concerning older plans that had been developed for the plaza.

In developing our plan, the department has been guided by existing law and regulations governing the facility. In particular, Title 33 VIC §3084(f) of the Vendors Plaza Fund legislation directs that the payment of the \$200 fee be maintained until such time a roof is constructed, and bathroom facilities, electricity and lights are provided. We fully intend to re-visit the fee once the facility and its

amenities are developed. The department shall in short order present to this body a conceptual design and itemized costs for the envisioned improvements. Currently there is approximately \$202,000 within the Vendors Plaza Fund but it is anticipated that it will not cover the cost of the improvements. Therefore, it is our hope that this body deems such a project worthy of funding.

Physical Plant Enhancement

The department has completed the process of renovating a room in the St. Croix district to be able to administer the testing required of individuals practicing in many of the professions and occupations administered by the department's Division of Boards and Commissions. Heretofore, these individuals would have to travel off-island at burdensome expense in order to sit the examinations mandated by statute for licensure. This improvement allows the department to more fully serve its constituents and thereby ensure that the public is better protected through the licensure of more competent and qualified individuals working in the professions and occupations regulated by the department's Division of Boards and Commissions.

Requested Positions

Statistical Data/Research Analyst

Whether streamlining a process, evaluating current vs. prospective customers, or extrapolating data for reasons of economic trends or forecasts, statistics provide confidence when dealing with uncertainty. Statistics back up assertions. It enable leaders to more quickly make smarter decisions. Statistics provide the means to measure and control production, service, and processes; to minimize variations, which often lead to error or waste, and ensure consistency throughout the process. This saves money by reducing the materials, time and redundancy while boosting efficiency. We therefore see the need for and request that this body consider providing the funds needed to hire a Statistical Data/Research Analyst.

A Statistical Data/Research Analyst will research, compile, analyze, summarize and organize descriptive representation of data regarding licenses/licensees and consumers goods and services that the department has generated in the course of its business. This person will also give recommendation for the type of data that should be captured and prepare tools for the capture of the same. This will and provide a reasonably accurate, detailed cost-effective snapshot of the trends and forecasts regarding licensing and consumer activities.

At DLCA, the service we perform on a daily basis generates information and data that is valuable both to the agency and other organizations who request information for vast and varied purposes such as the preparation of grant applications and forecasting trends for planning and

economic development. Entities that may benefit from a more robust data collection and analysis regime at the DLCA include the general public, Bureau of Economic Research, Department of Labor, Office of the Delegate to Congress, Legislature of the Virgin Islands and the University of the Virgin Islands to name a few.

To better improve some areas of operation within our agency a Statistical Data/Research Analyst is needed. The purpose of a Statistical Data Analyst is to increase the conciseness, clarity and objectivity with which information is presented and interpreted. A Statistical Data/Research Analyst can improve the Department's mission and objective goals related to educating the consumers and businesses by providing clear information needed substantiate positions that we take and to improve the services we provide. Because the agency's mandate is so broad we recognize the need to be data driven institution. Moreover such data can serve a wider economic purpose with respect to providing a clear data driven guidance for managers throughout the Government of the Virgin Islands in general.

The economy is currently uncertain, politics are highly polarized, and many more people are relying on government services compared to just a decade ago. We're also living in a time of unprecedented digital openness, convenience, and transparency in everyday life. Many consumers expect to find the answers to almost any question online and are demanding more answers from government. More commonly through data research and collection many government agencies are able to improve the lives of its citizens. Data has long been recognized as a government asset, and now it can more easily be shared and utilized both inside government and among citizens, entrepreneurs, and researchers, to find solutions to persistent public problems.

It is the intention of the Department of Licensing and Consumer Affairs to utilize statistics to optimize the agency's functioning, responsiveness and resource allocation, to enhance customer awareness and protection, and make available sound numerically based information that can be utilized to gain greater insight into economic trends and prognosis. I ask again that you consider funding for such a position with the DLCA.

REVIEW OF FISCAL YEAR 2017 BUDGET

DLCA's total budget for Fiscal Year 2017 is \$4,231,657.22. It reflects an increase of \$351,240.22 more than the department's final FY 2016 budget appropriation amount of \$3,880,417.00. The budget is comprised of \$3,831,510.00 in General Fund appropriations (which represents a \$388,612.00 or \$11.29% increase over FY 2016 General Fund appropriation of \$3,442,898.00) and \$400,147.22 in Special Fund appropriations. The General Fund increase includes \$297,986.00 for personnel services; \$60,713.00 for fringe benefits; \$183,308 for other

services and charges (professional services, communication, repairs and maintenance); \$13,500.00 for utilities; and \$40,000.00 for capital outlay.

The General Fund allotment amount of \$3,831,510.00 is used for personnel services, fringe benefits, rent, maintenance, and other operating costs. Personnel services and fringe benefits account for approximately 83.30% (\$3,191,602.00) of the allotment. The remaining \$639,908.00 is used to cover the Department's operating expenses.

The operating expenses for General Fund include \$20,000.00 for supplies (office and operating); \$340,845.00 for professional services (website and online licensing system, technological consultant, janitorial services, testing services, and extermination services); \$40,000.00 for communication (telephone systems, monthly telephone service, long distance, facsimile machines, T-1 lines and DSL internet service, and maintenance agreements); \$21,563.00 for repairs and maintenance; \$91,500.00 for rent (St. Croix office); \$86,000.00 for utilities; and \$40,000.00 for capital outlay (machinery & equipment for Xerox machine payments, etc.).

The remaining budget allotment of \$400,147.22 comes from the Consumer Protection Fund (CPF) which is a revolving fund derived from the collection of license penalties and citation fines. This special fund is designated to address the costs associated with consumer disputes/complaints and consumer education. Due to the current financial constraints, however, CPF funds have been utilized to defray costs for professional contracts, equipment, communication, and supplies. CPF expenses include \$46,067.00 for personal services; \$29,367.22 for Fringe Benefits; \$36,500.00 for Supplies; \$268,213.00 for Other Services and Charges, and \$20,000.00 for Capital Outlay (machinery and equipment).

This budget request amount is extremely frugal and is barely sufficient to carry out the duties and responsibilities of the Department during Fiscal Year 2017, all things remaining relative. Therefore, the department welcomes any additional funding that the Legislature determines is needed in order for this department to more fully carry out its legislative mandate. I thank you for your time, and my staff and I stand ready to answer your questions.