



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

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**Richard T. Evangelista, Esquire
COMMISSIONER**

**Testimony
Before the 35th Legislature of the Virgin Islands**

**Committee on Government Operations, Veterans Affairs, & Consumer
Protection**

Carla J. Joseph, Chair

March 20, 2023

"Serving Businesses & Assisting, Educating and Protecting Consumers"

Good Afternoon Honorable Carla Joseph, Committee Chair and Senate members of the Committee on Government Operations, Veterans Affairs, and Consumer Protection, non-member Senators of the 35th Legislature, the Legislative staff, the DLCA staff, and the listening and viewing audience.

I am Richard Tomas Evangelista, Commissioner of the Department of Licensing and Consumer Affairs (DLCA). Accompanying me today is H. Nathalie Hodge, Assistant Commissioner, Myrna George, Deputy Commissioner, Joycelyn MacFarlande, Manager of Administrative Services, Geraldine Vaval, General Counsel, Horace Graham, Jr., Director of Licensing, Matthew Padgett, Director of Consumer Affairs, Wilbur Francis, Jr., Director of Enforcement, Hannah Carty, Executive Director Office of Cannabis Regulation and Nicholas Francois, Coordinator Alcohol Control Unit.

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 Code as set forth in the Code (V.I.C. Title 12A Consumer Code, including the Consumer Protection Law of 1973 §§ 101 *et seq.*), and the Price Controls Act as set forth in the Code (V.I.C. Title 11 Price Controls, §§ 1010a *et seq.*) DLCA also regulates the licensing of private businesses and professions as provided forth in the Code (V.I.C. Title 27 Professions and Occupations, including Chapter 9 Licensing of Businesses and Occupations §§ 301 *et seq.*). The

Department's mission statement is "Serving businesses and assisting, educating, and protecting Consumers".

DEPARTMENT OVERVIEW

There are currently eight (8) separate divisions within the Department which include:

- Office of the Commissioner

The Office of the Commissioner is 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.

- 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 Division of Corporations and Trademarks, The Virgin Islands Police Department, The Department of Planning and Natural Resources, The Virgin Islands Fire Services, and The Department of Health. The Division has implemented the provisions of [27 V.I.C. § 303](#) which have greatly improved the timeframe for the processing of business licenses. While some tweaking is still required we have seen a dramatic decrease in the average days to process renewals (less than 10 days) and a continued downward trajectory for the time it takes to process New applications. The Division will no longer allow unpaid and incomplete licenses to remain active for more than 10 days.

- Boards and Commissions

The 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 eight (8) Boards and Commissions:

- (1) Architects, Engineers, and Land Surveyors
- (2) Barbering and Cosmetology

- (3) Certified Public Accountants
- (4) Contractors, Trades, and Crafts (Board) (Pursuant to Act 8464, the Board is now composed of the former General Contractors Board, The Electricians Board, The Fiber Optic Board, The Plumbing Board, and the HVAC Mechanical Board.)
- (5) Real Estate Appraisers
- (6) Real Estate Brokers and Salespersons
- (7) Social Workers
- (8) Licensed Counselors

- 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 regarding the 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 market basket surveys, bi-monthly gasoline price surveys, monthly scanner surveys, various store inspections, and weekly “pull date” inspections.

Within the Consumer Affairs Division, there are two distinct units, Consumer Protection Services, and the Weights and Measures Unit.

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 with consumer laws.

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.

- Enforcement

The Enforcement Division enforces Virgin Islands licensing laws by inspecting all businesses to ensure compliance. Additionally, the Enforcement Officers provide a “Process of Service” on behalf of the Legal Division and the Boards and Commissions Division as well as escort the Cashiers/Collection Clerks to the bank as needed. The Division also regularly participates in various task forces and joint initiatives with the Virgin Islands Police Department, Office of the Governor, Department of Health, and local community organizations, as needed.

- Legal

The 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 licensing/consumer violations through administrative proceedings, and representing the department and consumers on legal matters.

- Office of Cannabis Regulation

Pursuant to Act No. 8167 effective January 17, 2019, The Virgin Islands Office of Cannabis Regulation was created on January 3, 2022, to implement and administer the provisions of The Virgin Islands Medicinal Cannabis Patient Care Act. On January 18, 2023, the Virgin Islands Cannabis Use Act was signed into law which has decriminalized simple possession of Cannabis and created pathways for Adult, Medicinal, and Sacramental Use of Cannabis. We have been hard at work understanding the new law and planning the next steps necessary to roll out the new programmatic initiatives.

In order to expedite and not unnecessarily burden the remainder of the Testimony here today, I have attached the full Testimony of Executive Director Hannah Carty to the Legislature on March 8, 2023, which discusses the specific challenges and funding necessary for that office.

- Alcohol Control Unit

I am happy to inform the Committee that since our last status update to this Committee on April 9, 2022, the Alcohol Control Unit is fully functional. The Alcohol Control Unit (ACU) is responsible for regulating the manufacture, sale, and importation of alcoholic beverages in the Virgin Islands Territory. On behalf of the Alcohol Control Board (ACB),

the ACU review and approve all liquor licenses, and warehouses for storage and aging of all fermented and distilled spirits and liquors in the territory as per Title 8 VIC Section 2.

FUNDING AND OPERATING BUDGET

DLCA's total budget for Fiscal Year 2023 is \$4,982,210. The budget is comprised of \$4,573,710 in General Fund appropriations and \$408,500 in Special Fund appropriations.

The General Fund allotment amount of \$4,140,552 covers personnel services and fringe benefits. The remaining \$433,158 covers the department's operating expenses.

The remaining budget allotment of \$408,500 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 investigating/resolving consumer disputes/complaints and consumer education.

The Department received a grant of (\$3,315,423.24) in the American Rescue Plan Act of 2021 (ARPA) funding from the Office of the Management and Budget. DLCA has not received any other federal or local funding source thus is the dilemma DLCA faces. For the record, DLCA publicly thanks Director Jenifer O'Neal and her team at the Office of Management and Budget for the financial support it has provided DLCA for the last four years. In fact, OMB has consistently increased the DLCA ceiling each successive year since the fiscal year 2020, including this year. Unfortunately, the DLCA ceiling is not enough to carry out all of its duties as proscribed in the Virgin Islands Code.

To address the budget shortfall for the current fiscal year as well as for the upcoming fiscal year and the one thereafter, DLCA proposes a 15% increase for every business license effective October 1, 2023, with another subsequent 15% increase effective October 1, 2024. With the exception of the Alcohol License, the DLCA has withheld the implementation of a fee increase for almost twenty (20) years. DLCA is limited in its ability to adequately regulate the businesses for which licenses are issued. The regulation includes the invaluable consumer protection component that safeguards the public from vagaries in the prices and measures. The services that have been hampered based on funding limitations include price checks, scale checks, price studies, and myriad enforcement activities and initiatives. Staff development and training in these and other areas have been limited due to a lack of funding. The necessity of the proposed fee increase is indubitably warranted and will only serve to improve the DLCA's positive impact on the quality of life of our residents and the prosperity of our businesses.

STATUS OF STANDARD OPERATING PROCEDURE AND POLICIES

DLCA's Standard Operating Procedures and Policies (SOPP) are constantly being updated. New policies and procedures are implemented to address the changing practices within the Department that correspond to the implementation of new technologies, new divisions, and improved processes. DLCA hopes to have a published updated Standard Operating Procedures manual in the near future.

VENDORS PLAZA

In January 2023, Act 8690, transferred the management of Vendors Plaza from the Department of Licensing and Consumer Affairs to the Department of Property and Procurement. DLCA shall continue to enforce the Rules & Regulations and issue the business license although issuance of leases and management of the kiosks shall be performed by the Department of Property and Procurement. DLCA commends Senator Novelle Francis and the 34th Legislature of the Virgin Islands for successfully passing the legislation.

DEPARTMENTAL CHALLENGES AND PLAN OF ACTION

As mentioned in prior testimonies, the lack of adequate staffing is an ongoing issue. Currently, the department has fifty-four (54) positions and seven (7) vacancies. The vacancies are primarily in the Consumer Affairs Division. Not having the benefit of active participation in these critical positions poses a great obstacle to attaining greater results from DLCA and expeditious outcomes for our internal and external customers.

Within the Consumer Affairs Division, the Consumer Protection Unit is functioning with one (1) Consumer Compliance Officer in St. Thomas & St. John District and one (1) Consumer Compliance Officer in the District of St. Croix. Ideally, the Division needs at least a staff of three (3) Compliance Officers in St. Thomas and three (3) in St. Croix to adequately serve the needs of the Virgin Islands.

The Compliance Officers are responsible for market basket surveys, scanner surveys, retail price checks, and consumer complaints. The Compliance Officers also do the work

of several positions not filled: The Consumer Education Specialist and Compliance Investigators. Although the current staff has performed their duties to their utmost ability, it has been a stretch in the number of consumer complaints that are reported.

Also, within the Consumer Affairs Division, the Weights and Measures Unit includes two (2) Weights and Measures Inspectors in the District of St. Thomas & St. John and one (1) Weights and Measures Inspector in the District of St. Croix. The Division needs at least a staff of four (4) inspectors per district to provide DLCA with enough inspectors to cover all the retail stores, gas stations, and grocery stores as well as associated tasks to meet the needs of our external customers. The Consumer Affairs Division will also benefit from an Administrative Officer needed to provide administrative and clerical support to the Director and staff.

DLCA conducted interviews on March 15, 2023, for the positions of Chief Compliance Officer and Chief of Weights and Measure. We are hopeful to have these positions filled within the next couple of weeks.

Additionally, the following personnel is crucial for the efficient operations of the Division of Boards and Commissions:

Enforcement Officer/Investigator assigned to the Office of Boards and Commissions to assist in the enforcement of the Board's rules, regulations, and compliance and the investigation of matters as it relates to each board and commission.

The Division of the Office of Boards and Commissions, Trade Boards is in dire need of Board Members. To date, the Governor's Office has been diligently trying to fill these vacancies; however, it is sometimes challenging to obtain a commitment from some

of these Tradespersons. Many are faced with trepidation to go before the Rules Committee for a confirmation hearing.

I am grateful to work with TEAM DLCA. They fill in for each other to assist our clients and do so professionally and competently. I take this opportunity to thank each team member for all they do to serve the public efficiently and effectively, especially during the coronavirus pandemic. They are hardworking and dedicated public servants.

I and the DLCA Team stand ready to answer any questions this Body may have.