

**Testimony of Laurent “Tippy” Alfred  
Chairman, Virgin Islands Real Estate Commission**

**Re: Bill # 35-0193**

**35<sup>th</sup> Legislature of the Virgin Islands  
Committee of Government Operations, Veterans’ Affairs and Consumer Protection**

*April 23, 2024*

Good afternoon Committee Chair, Senator Carla J. Joseph, Committee members, other Senators, and members of the viewing and listening public. My name is Laurent “Tippy” Alfred. I am testifying before you in my capacity as current Chair of the Virgin Islands Real Estate Commission.

In addition to my responsibility before you today to share opinions and concerns on behalf of the Real Estate Commission, I am also in a unique position to testify on this bill for two reasons. One is that I have been working as a drafter on this bill and its predecessor for nearly four years. I currently work as a researcher and drafter for the sponsor of this bill, Senate President Novelle E. Francis. In that current capacity, I have been tasked with re-drafting this bill in close consultation with the Department of Licensing and Consumer Affairs and its legal counsel, who had significant input throughout the process.

The second reason why I feel I have a unique perspective on this bill is that, despite my position as Chair of the Real Estate Commission, I have never worked as a real estate industry professional. I bring a neutral and more objective perspective: that of a citizen, a father, a homeowner, and a business owner who defends the best interests of the people of the Virgin Islands regarding the laws, rules, and regulations of the real estate industry.

Bill No 35-0193 is a long-overdue effort to update and modernize our 57-year-old current statute regarding the licensing and regulation of the real estate industry in the Territory, located at Title 27 of the VI Code, Chapter 15. New trends and practices in the real estate industry require that we update the existing law, with consumer protection and fairness for real estate professionals as our two guiding touchstones. Consumer protection, while important in all regards, holds the added importance in the real estate industry that encompasses the public’s most valuable assets and the very plots and properties that make our Virgin Islands. There are three main ways in which this Bill protects consumers, whether they be buyers, sellers, lessors or lessees.

Firstly, this Bill empowers the Real Estate Commission with stronger requirements to ensure that both new and continuing professionals are adequately trained and educated. The Bill also expands the regulatory tools of the Commission to better protect the public from fraudulent, deceptive, predatory or other unethical practices that can, and unfortunately do, occur in the real estate industry.

Secondly, this Bill addresses the crucial issue of agency by providing a framework for mandating written disclosure among all parties in any real estate transaction so that it is clear to consumers (both buyers and sellers), who represents who in a transaction. Confusion and obscurity around the issues of agency and loyalty can cause scenarios where consumers are taken advantage of by paying for the services of an agent who does not act in their best interests. The existing statute, while contemplating that a licensee might represent more than one side of a transaction, is completely silent on the implications of agency representation. This Bill provides a framework to define various agency relationships and clearly describes the fiduciary obligations and disclosure obligations in any given agency scenario.

Thirdly, this Bill finally allows for regulation of the Property Management industry that has operated for decades without effective regulatory oversight, thereby causing confusion both among the public and within the real estate industry in the Territory. Today's testimony of the Vice-Chair of the Real Estate Commission, Ms. B.J. Harris, will describe this point in greater detail.

Before concluding, I would like to briefly address three issues that have been of particular concern to the Commission. One is the issue of residency requirements for applicants to become real estate professionals. The Real Estate Commission is currently in the uncomfortable position of applying a residency requirement that does not align with the VI Code. Existing law, at §423, includes residency requirements of two years for real estate brokers and one year for real estate salespersons. However, in the years following the 1989 US Supreme Court Case of *Barnard v. Thorstenn* that disallowed the VI Bar Association from having any residency requirement whatsoever, the Commission changed its residency requirement in practice, for both broker and salesperson applicants, to 90 days, in alignment with the residency requirement for voter registration. This Bill would preserve this modest residency requirement and bring needed legal clarity. The existing practice of requiring 90 days residency has not led to any legal challenge, nor has it caused an overwhelming influx of outside real estate professionals. Therefore, it would be sensible to write this *de facto* practice into law.

The second issue of concern for the Commission has been understanding the implications of the recent federal lawsuit and subsequent settlement involving the National Association of Realtors (NAR). In a \$418 million settlement announced last month, the NAR resolved a lawsuit that accused it of anticompetitive practices, including limiting competition in the real estate market and inflating commissions. In addition to the class-action settlement payout, the agreement generally releases NAR members of past liability over the issues in question and mandates reforms to the practices and policies of the NAR and the Multiple Listing Service (MLS) listing system. These reforms are designed to bring greater transparency for consumers regarding commissions, and to prohibit certain practices that hinder competition. While neither existing law nor this Bill addresses the issues of commissions or commission splits, Bill No. 35-0193 does firmly address the issue of agency disclosure and fiduciary responsibility that are, in some ways, at the core of the NAR settlement. The increased transparency and agency disclosure requirements in this Bill dovetail well with the reforms announced by the NAR settlement that are ultimately designed to improve consumer protection in the real estate industry.

The third issue of particular concern for the Commission is on the issue of preserving and enabling new pathways for young Virgin Islanders to participate in the real estate industry as licensed professionals, be they Sales Associates, Brokers or Property Managers. This Bill makes significant changes that would encourage wider participation in the real estate industry among our younger residents. Firstly, it lowers the age requirement from twenty-one to eighteen for a Sales Associate license. Secondly, it provides for the Commission to collaborate with the Department of Labor on a new real estate industry apprenticeship program. Thirdly, this Bill preserves the pathway of Temporary Sales Apprentice permit for new entrants into the industry, but wisely limits these temporary permittees from signing off on transactions, something that current law allows. A more diverse body of real estate professionals that reflects the demographics of the community it serves would help make for a more vibrant, sustainable and fair real estate industry here in the Virgin Islands.

I stand in full support of Bill No. 35-0193, and I remain available to answer any questions that you might have.

Thank you.