



# The Monarch News Carrier\*

“For the Serious Real Estate Professional”

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## Dodd-Frank Imposes Many Obstacles to Homeownership: But the REALTOR® “Army” Keeps Marching and Ultimately Will Win!

The Dodd-Frank Consumer Protection legislation has understandably stirred considerable controversy and galvanized many factions within the real estate engine into an impressive lobbying engine spearheaded by David Stevens, President and Chief Executive Officer of the Mortgage Bankers Association and Ron Phipps, current President of the National Association of REALTORS®.

We are all now painfully familiar with the ever-tightening restrictions on home lending handed down by Dodd-Frank—and the lenders are being even *more* restrictive (than Dodd-Frank requires) with their own guidelines because of the enormous liability they now have for: 1) buying back loans because of errors; 2) paying penalties for improper underwriting; 3) not being able to sell their loans if they are not in perfect compliance with the guidelines; and/or 4) being sued in vast numbers by investor-shareholders for all the recent past infractions and losses.

So who can get a housing loan anymore? It seems that only those who don’t need a loan (e.g. have enough cash to make a purchase) can get a loan.

Financially, our housing market is indeed in the tank.

The **GOOD NEWS**: Housing prices have stabilized or even increased in some markets (Remarks from Lawrence Yun, Senior Economist for NAR and David Stevens from NVAR’s EcoSummit, 9/15/2011) In part, investors have made considerable inroads on foreclosed properties. Best of all, buyers who purchased homes from 2009 have the lowest default rate in years so our housing market is already being re-established on more solid footing. (see David H. Stevens, *supra*)

And REALTORS® can do even more to help restore the market: Find the inventory and find the people who can buy it.

How to do that? In many respects, we’re in asset recovery mode—so, in addition to traditional sales (there are still a few out there) I am hearing from some REALTORS® that they are seeking out asset managers of banks, creditors, investors, federal, state and local housing agencies and finding out how they work, what they require, what they’ll repair and pay for—and then they go find the people who can and want to buy those properties. In the meantime, those REALTORS® have already helped their community, even the nation by facilitating the housing price stabilization. And everyone is using Equator (See <https://www.equator.com/home/>)

So REALTORS®, if there was ever a time to raise the flag, and show your patriotism it is NOW!

## ALERT TO MARYLAND LICENSEES: **New Continuing Education Requirements**

**Effective October 1, 2011, For Expired Returning to Active Licensees** the term of an expired license will change from 4 years to 3 years. For **Inactive Returning to Active Licensees**, the term of an inactive license will change from 4 years to 3 years AND continuing education hours **MUST BE COMPLETED BEFORE RENEWING A LICENSE** even on Inactive Status. See [Maryland Real Estate Commission website](#).

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### **NOTICE TO VIRGINIA AGENTS: MUST DISCLOSE CHINESE DRYWALL!**

Effective July 1, 2011, all Virginia sellers whose properties contain Chinese Drywall, must complete and provide to any purchaser, DPOR's form entitled "Defective Drywall Disclosure Statement/Notice to Prospective Purchaser" to disclose the existence of same. Unfortunately, the vast majority of toxic Chinese drywall problems have been found in Florida, Alabama, Mississippi, Louisiana, **Virginia**, and/or Southeast Texas (see <http://chinesedrywallcomplaintcenter.com/index.html>) –in Virginia, the drywall problems tend to be concentrated in the southern areas, especially around the coastal regions but the drywall can appear elsewhere. (Check with the Virginia Department of Health for more information for your region). Moreover, the VA Building Code has been amended to require, in some instances, the removal of all drywall in a home where any of it has been Chinese (see Section 112.5 of the VA Uniform Statewide Building Code, as amended August 2011—also: <http://www.chinesedrywall.com/>) **The form can be found on DPOR's website at:**

**[http://www.dpor.virginia.gov/dporweb/DEFECTIVE\\_%20DRYWALL\\_%20DISCLOSURE\\_%20STATEMENT.pdf](http://www.dpor.virginia.gov/dporweb/DEFECTIVE_%20DRYWALL_%20DISCLOSURE_%20STATEMENT.pdf)**

How do you or your seller know if Chinese drywall is in the property? For drywall installed between 2001-2009, you may see blackening of copper electrical wiring and/or air conditioning evaporator coils. Additionally, for drywall installed between 2005-2009 you may see 2 of the following factors and for that installed between 2001-2004, may see at least 4 of the below :

- Elemental sulfur in the drywall core (requires outside lab testing)
- Copper sulfide on coupons, grounding wires, and/or air conditioning coils (requires outside lab testing)
- Chinese markings on drywall (This does not imply that all Chinese drywall or that only Chinese drywall is associated with these problems, but that among homes with the characteristic corrosion, Chinese drywall is a corroborating marker for the characteristic problems). Such markings may not be present or easily discerned in all problem drywall homes.
- Elevated sulfide gas emissions from drywall (requires outside lab testing)
- Corrosion induced by drywall in test chambers (requires outside lab testing)

There are also **adverse health effects reported:** irritated and itchy eyes and skin, difficulty in breathing, persistent cough, bloody nose, runny nose, recurrent headaches, sore throats, sinus infections, and asthma attacks.

For further in depth information on Chinese drywall and remediation, see esp. the US Consumer Product Safety Commission website at <http://www.cpsc.gov/info/drywall/how.html> and NAR's Field Guide at <http://www.realtor.org/library/library/fg724>

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### **CAVEAT EMPTOR IS ALIVE & WELL IN VA; BUT REALTORS® AND SELLERS STILL PROBABLY SHOULDN'T RELAX ON DISCLOSURE**

A recent Virginia Supreme Court decision (*Turner et. al. v. Bay, Virginia Supreme Court Record No. 101239, Circuit Court of the City of Virginia Beach, No. CL07-3623, 22 July 2011*) reversing the lower Circuit Court, ruled that the buyers had not been defrauded by the sellers in their purchase of a property with a wet basement and mold. Reciting previous court opinions defining and applying *caveat emptor*, the Court found that in this case, the buyers had had more than sufficient information about the possibility of mold and other water problems from their own home inspector before they bought the property.

In rendering judgment for the defendant sellers, the Court pointed out that "it is undisputed that the Bays' ('buyers') home inspector found standing water and a mold line in the house's crawlspace and notified the Bays of his discoveries. [T]hus, assuming acts of concealment by the defendants, the Bays nevertheless obtained information alerting them to a problem and were required to "discover for [themselves] the true condition of the premises." (Armentrout, 220 Va. at 466, 258 S.E. 2d at 524). Once aware of these material facts, the Bays were 'charged with all the knowledge which [they] might have obtained had [they] pursued the inquiry diligently to the end...'"

All of the foregoing is well and good. Buyers should take responsibility for checking out the products they buy, including homes. Long-time jurisprudence historically stops short of protecting those (fools) who will not protect themselves or otherwise sit on their rights. But, at least in this writer's opinion, such should not be taken as a green light for either sellers or REALTORS® to feel that non-disclosure or withholding information in most cases, is a better, if acceptable approach.

## **MONARCH TITLE IS PLEASED TO ANNOUNCE...**

Its UPDATED Schedule for 2 HR Continuing Education\* programming for 2011

Thursday, October 13, 2011 “**Buyer Agents as Heroes: Better Serving Your Buyers**”

Location: NVAR Headquarters, 520 Huntmar Park, Herndon, VA

Time: 1:00 PM to 4:00 PM/Registration & Light Lunch 1PM to 2PM/CE Program 2PM-4PM

This is a best practices program designed to help REALTORS® improve their business/transactional systems and skills---not only to boost their professionalism and avoid claims, but also to BETTER SERVE THEIR CLIENTS thereby enjoying an even more robust sales business.

### **AND INTRODUCING ITS NEWEST CE PROGRAM**

“REALTORS® are Our Economic Recovery Army:  
REALTORS®—START MARCHING!!!”

**Want to know how to develop more business in the worst economy and housing market seen since the Great Depression?** Learn more about how to work the short sales, foreclosure, REO, tax sales and general asset recovery markets. This program not only offers an overview of NAR’s (and its members’) history of aiding in previous economic downturns but provides some practical suggestions on what you REALTORS® can do to help your country AND improve YOUR bottom line!!

Friday, October 28 and Friday, December 2, 2011 at the NVAR Fairfax Headquarters, 8407 Pennell Street

**AND**

Wednesday, November 2, 2011 at NVAR’s Herndon Headquarters, 520 Huntmar Park Drive

**All programs begin with Registration & Breakfast from 9AM to 10AM and the CE Program presented from 10AM to Noon.**

\*All programs are approved for 2 Hours of Elective Continuing Education credits by the District of Columbia Real Estate Commission and the Virginia Real Estate Board

There is a nominal charge for the CE credits: \$15.00 for DC credit and \$15 for VA credit.

**TO REGISTER: (Link to CC) or email [ann@monarchtitle.net](mailto:ann@monarchtitle.net)  
with your name and license number(s)**

We’ll bring our program to your office for a 2HR CE program together with a catered breakfast or light lunch.

For further details, contact Ann Johnston at Monarch Title via  
[ann@monarchtitle.net](mailto:ann@monarchtitle.net).

**For the best settlement services in the Metro DC area, contact our real estate professionals at any one of our convenient office locations:**

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McLean, VA 22101  
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703.852.1750 Fax

**Leesburg, Virginia**

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Leesburg, VA 20175  
703.771.0000  
703.890.0830 Fax

**Georgetown, Washington, DC**

**(Also serving Maryland)**

1015 31st Street, NW  
Suite 300  
Washington, DC 20007  
202.298.6270  
202.298.6275 Fax

**Gainesville, Virginia**

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Suite 208  
Gainesville, VA 20155  
703.753.0771  
703.581.1310 Fax

**Old Town Alexandria, Virginia**

675 North Washington Street  
Suite 435  
Alexandria, VA 22314  
703.852.7700  
703.852.7719 Fax

**Springfield, Virginia**

6800 Backlick Road  
Suite 303  
Springfield, VA 22150  
703.852.7710  
703.852.7717 Fax

**Capitol Hill at Eastern Market, DC**

**(Also serving Maryland)**

210 7th Street, SE  
Suite 100  
Washington, DC 20003  
202.546.3100  
202.546.3101 Fax

**Bethesda, Maryland**

4800 Hampden Lane  
Suite 200  
Bethesda, MD 20814  
240.482.0589  
240.482.3722 Fax

**Dulles / Herndon**

205 Van Buren Street  
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Herndon, VA 20170  
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