



March 12, 2024

The Honorable Robert E. Craven, Sr.
Chair
House Judiciary Committee

RE: H 7376—“An Act Relating to Business and Professions – Real Estate Sales Disclosures”

Dear Chair Craven and Committee Members:

Thank you for the opportunity to provide comments on H 7376. The legislation would require the Department of Business Regulation to create a real estate disclosure statement for properties that are considered “oceanfront” or “shoreline.” The impetus behind the proposed legislation is due to the revised Rhode Island General Law § 46-23-26, which describes the public right to the shore or ocean ten feet above the “recognizable high tide line.”

The Rhode Island Association of REALTORS® (RIAR) appreciates the intent of H 7376 and wishes to provide recommendations for the proposed legislation. During the last several years, RIAR has advocated the passage of legislation that protects consumers, while increasing additional layers of transparency during the real estate transaction process. Additionally, our association continues to work closely with the Department of Business Regulation, so that compliance regulations are adhered to by real estate professionals. That is why RIAR could support combining shoreline and oceanfront access with an existing real estate disclosure form.

After reading the proposed legislation, RIAR presents the following concerns and recommendations:

Definition of “oceanfront” and “shoreline”

H 7376 provides the following definitions for “shoreline” and “oceanfront”:

"Oceanfront property" or "shoreline property" means any vacant land or real property that touches the water of an ocean, saltwater bay or saltwater pond.

RIAR is concerned that there may be properties where it is difficult to determine if the definition applies. For instance, properties along ponds, rivers, etc. may be considered tidal-influenced, but the owners may not consider them oceanfront or shoreline. Failure to disclose this to a prospective buyer could be an oversight. RIAR proposes an amendment that provides general disclosure that the property may be considered oceanfront or shoreline and reference RIGL § 46-23-26.

Coastal Resources Management Council (CRMC) jurisdiction

RIAR is concerned that the requirements under proposed Section (e) extend well beyond the “recognizable high tide line” described in RIGL § 46-23-26 and appear to invoke all lands under CRMC’s jurisdiction, which is quite broad:

The regulatory authority of the CRMC is generally defined by the area extending from the territorial sea limit, 3 miles offshore, to two hundred feet inland from any coastal feature. In addition, natural features such as coastal beaches, dunes, barriers, coastal wetlands, cliffs, bluffs, and banks, rocky shores, and manmade shorelines all have an extended contiguous area of two hundred feet from their inland borders which is under the authority of the Council. Cultural features of historical or archaeological significance are also within the jurisdiction of the Council as required by the Federal Government.¹

(e) The Rhode Island real estate commission shall approve a form of written disclosure for the sale of any oceanfront or shoreline property, to be signed by the buyer prior to closing, that the buyer acknowledges receipt of notice of the public’s rights and privileges of the shore pursuant to § 46-23-26.

RIAR recommends a general statement that the property may be considered oceanfront or shoreline and recommend buyers to perform the necessary due diligence prior to executing a purchase and sales agreement.

Additionally, existing real estate disclosure forms do not require a signature from a buyer acknowledging receipt. Sellers are required to document that the disclosure was delivered. For consistency, RIAR recommends removal of this requirement.

The existing real estate disclosure law only applies to sales of land or land with 1 – 4 dwelling units. Is it the intent of the proposed legislation to apply commercial properties, apartments buildings, etc. based on this provision?

The form shall include disclosure by the seller of:

(1) Any right of way adjacent to or cutting across the property;

Rights of way may have been created by a grant from a property owner (memorialized by a recorded instrument) or a legal right held by specific persons or the public by reason of continued use by them over a period of time (not memorialized by a recorded instrument). It is possible that a property owner would not be aware if a right of way exists on their property. RIAR recommends an amendment that includes “to the best of my knowledge” language.

(2) Any CRMC permits; and

A property owner may not be aware of existing CRMC permits that are recorded or filed with the agency. Under H 7376, would a property owner be required to perform a title search? RIAR is concerned that many properties falling under CRMC’s authority may not be considered oceanfront or shoreline. Why should a property owner be required to pay for a permit and title while delaying the real estate transaction if the property is not considered oceanfront or shoreline? RIAR believes this requirement strays too far from the intent of H 7376.

¹<http://www.crmc.ri.gov/aboutcrmc.html#:~:text=The%20regulatory%20authority%20of%20the,inland%20from%20any%20coastal%20>

(3) Any conditions of public access relating to the property.

RIAR believes that the objective of H 7376 is to disclose if a property is considered oceanfront or shoreline. This provision of the bill is too broad and could delay the real estate transaction for unnecessary reasons.

RIAR remains committed to collaborating with lawmakers on policies that improve Rhode Island's housing climate while protecting consumers. After reviewing H 7376, RIAR respectfully asks this committee to take no action on H 7376 as drafted.

Respectfully,

A handwritten signature in blue ink, appearing to read "Philip B. Tedesco".

Philip B. Tedesco, RCE, CAE, CIPS
Chief Executive Officer
RI Association of REALTORS®