

Meet Maryland's top real estate **WATCHDOG**

Commissioner: As the new chairman, Steven Van Grack will undertake tomorrow to obtain a larger budget for the Maryland Real Estate Commission.

By ROBERT NUSGART
SUN REAL ESTATE EDITOR

Steven Van Grack seems to have a knack for getting people to see his point of view.

In a meeting last year with the secretary of the state's Department of Labor, Licensing and Regulation, Van Grack argued that it was ridiculous for commissioners of the Maryland Real Estate Commission — who are unpaid volunteers — to have to fight for downtown parking spaces when they convene their monthly meeting.

He made his point. Problem solved.

Tomorrow, Van Grack, who became chairman of the commission in July, has a return meeting where he wants to convince the secretary that the commission's budget should be increased to reflect in some part the amount of home sales in Maryland, about \$12.5 billion last year, according to commission figures.

Right now, the annual budget is a little more than \$1 million for a commission whose job is to license and regulate nearly 30,000 real estate salespeople and brokers and investigate them when necessary.

He's hoping to be successful once again. But if not, then at least he's getting people to listen.

Since he took over as chairman of the Maryland Real Estate Commission in July, Van Grack, 52, has put his activist thumbprint on the job and has made it a priority to make the

Filing a complaint

A complaint is to be based on circumstances that occurred in a real estate transaction in the State of Maryland. The Real Estate Commission has no jurisdiction over builders of new homes, home inspectors, sellers or mortgage brokers.

■ Complaints must be submitted in writing on the real estate complaint and guaranty fund claim form. It is necessary that you submit supporting documentation with your complaint.

■ Complaints are reviewed to determine whether the complaint falls within the jurisdiction of the commission. An acknowledgement letter is sent to the complainant. Copies of complaints are sent to the brokers of the

companies for responses to allegations. A review process takes place, and the evidence in the file determines the case's progress. The case is either administratively dismissed or sent for an investigative process. Only commissioners, by law, have the authority to charge a licensee with a violation of the law and/or regulation; or to dismiss a complaint.

■ A complaint that results in recommended charges against a licensee is reviewed by the attorney general's office for legal sufficiency. The majority of cases set for a hearing are sent to the Office of Administrative Hearings for a hearing date.

Source: Maryland Real Estate Commission

commission more visible to the industry as well as the public.

"I don't think the public really understands what we do," Van Grack, a Rockville trial lawyer, said of the commission, which is made up of five industry and four consumer appointees.

Next month, commissioners will participate in a seminar at the Maryland Association of Realtors convention in Ocean City — a move that in the past would have been regarded as cozying up to the industry. Van Grack sees it, instead, as a chance to enlighten brokers and agents about how the commission works.

When he was appointed to the commission in 1998 by Gov. Parris N. Glendening, Van Grack's former University of Maryland, College Park professor, the atmosphere "was rather business as usual," he said.

That's not the case anymore.

"There are very few commissions of the size of the real estate commission and the number of agents and the people that we regulate," Van Grack said. Van Grack isn't shy about wanting more money (he says commissioners often cover their own expenses, reaching out to the industry they oversee or even taking on the settlement process).

At this month's commission meeting — a polite and organized discussion of industry and governmental matters — Van Grack matter-of-factly brought up the issue of settlements. "The settlement process is so confusing," he said.

Van Grack shrugged off objections: Changing the process means tinkering with legislation and federal regulations, mobilizing the lobbying groups for lawyers and title companies. You [See Commissioner, 21.]

Watchdog seeking larger budget

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just don't fiddle with the process. No matter, Van Grack knows that he has the bully pulpit and if he wants to have a discussion on settlements then we "can get a bunch of people together" and have one.

In fact, Van Grack wants to have a lot of discussions on a lot of topics with a lot of people.

Kizabath Beggs, executive director of the commission, said in the 11 years that she has served in that role she has seen a number of different styles come into the chairmanship's role.

"Steve, I believe, is a team player who has strong leadership skills, and I think he is going to pull the team together more than anyone before," she said. "That is not to say that everyone has the same interests, but I think [he] should strengthen the individual commissioners to make it a team effort and that's good."

'It's a monster'

When Van Grack brought up the notion of trying to simplify the settlement process at this month's meeting, he knew it would turn heads.

"There isn't a person that I mention this to that disagrees," Van Grack said. "Everybody says you're right. But what can we do about it? There has got to be a way to simplify it."

"When you have 32 documents at a real estate settlement, your agent should be able to explain to you in 25 words or less what each document means. Based on speaking to people, I don't believe that happens in every real estate settlement. How many people know what a deed of trust is? I don't think many do. It's a monster."

Van Grack also questioned why lenders and title companies can't make the settlement package available to a buyer any earlier



Executive director Elizabeth Beggs has high hopes for the Van Grack years.

than when everybody sits down at the settlement table.

"Why can't we require that the documents be available 24 hours before settlement? The vast majority of people who go to settlement ask the same question: 'Why couldn't I have known about this before hand?' I just have the sense that if the right people sit down and put their mind to it, there is a solution here."

"I don't know if it has to be legislation. Why can't the real estate commission work with the industry?"

"All that I know is that I think I have clearly identified a problem that everybody agrees is a problem. And unless we look for answers, we are never going to find them. Maybe some of the answers I've suggested aren't so viable. Maybe a lot of good people will say that's silly and can't be done. And that is possible."

By his own admission, Van Grack wasn't an expert in real estate matters when he joined the commission.

"I'm basically a trial lawyer. I haven't been to a real estate settlement in 20 years of practice — I

don't do real estate settlements."

And he had his own opinions about real estate agents. But as he observed the industry up close, he saw "that there was a lot of similarities in the relationship of a lawyer with a client and the relationship with a real estate agent and their clients, because it is very trusting. You have to believe in that person."

What surprised Van Grack was how tough industry members of the commission could be.

"The normal impression that you would have is, while the consumer people would protect the people, the industry people would protect the industry. But I didn't see that," he said. "In some instances, the industry representatives were harder on the industry than the consumers. And I was impressed. I was impressed by them wanting the high standards."

One of Van Grack's goals is helping the public to better understand the workings of the commission.

"The public doesn't know who we are, by and large," he said. "The public doesn't know that if they don't get along with an agent that there is a recourse of action by which they can go to the real estate commission, and not only bring about financial benefits [up to



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Session: Chairman Steven Van Grack and Commissioner Roswitha K. Ginter listen to an exchange during a meeting of the nine-member Maryland Real Estate Commission.

\$25,000) but also put that Realtor or agent or representative in danger of losing their license. It can get suspended or revoked. And I think the public would like to know that."

But he also said many consumer complaints that come before the commission could be solved beforehand if a mediation process existed.

"Some of these things should never get to us," Van Grack said.

"I wish we could spend more time on the more important issues. There are issues that have far higher dollar value involved, far higher inappropriate conduct. We see some pretty horrific things that are done. You only have so much time."

Although the majority of real estate licensees never are brought before the commission because of a complaint, Van Grack said there is a core of "repeat offenders."

"It is interesting that when you look at these files, and you go back and look at the record of these agents, the more egregious conduct is performed by those agents whose hands have been slapped and have been suspended or have had problems in the past." The commission has been working to document charges against problem agents.

"In some instances, somebody didn't do something severe enough to warrant major action, but we wanted a letter on file. We wanted to say, 'You were really close. You didn't quite step over the line. And we are not going to suspend your license or revoke it. But we just wanted you to know that you did something. And you have a record.'"

"And over the course of time, that is going to build up. And that is very significant."

"If you are going to use an agent, check them out. Check them out through the real estate commission and make sure they don't have any, or certainly no major complaints."

A year's work

In the fiscal year ending June 30, the commission investigated 531 complaints and denied, suspended or revoked 21 licenses.

"There are people who are put out of the industry; we do put people out of work," Van Grack said, noting that consumers should realize they don't need a lawyer to lodge a complaint.

"If you can understand your real estate settlement and where you've been [harmed] and even if you can't, you can write it down and the staff will help you get your complaint through the process. That is a real plus," he said.

In his three years on the commission, Van Grack said, he found that the root cause of most complaints was a lack of communication between agent and customer.

"The agent has the enormous burden of communication with the client," Van Grack said. "The commission insists [agents] maintain a high level. As long as the word gets to the agents that they have to communicate a lot, and if they don't they will be held accountable, that keeps [adherence] very high."

Despite the complaints, Van Grack has high praise for the industry: "People don't know the difficulty of getting licensed. Do you know the failure rate is like 50 percent? You take the test and the odds are 50-50 that you are going to pass or fail. Even though we need to improve it, still what happens is incredible — the success of the real estate transaction speaks for itself."

Guaranty Fund

The fund is established by the Maryland Real Estate Commission and is maintained at a level of at least \$250,000. A person may recover compensation from the Guaranty Fund for an actual loss.

A claim shall be based on an act or omission that occurs in the provision of real estate brokerage services by:

- A licensed real estate broker.
- A licensed associate real estate broker.
- A licensed real estate salesperson.
- Or an unlicensed employee of a licensed real estate broker.

It must involve a transaction that relates to real estate that is located in the state; and be based on an act or omission:

- In which money or property is obtained from a person by theft, embezzlement, false pretenses, or forgery.
- Or that constitutes fraud or misrepresentation.

A real estate broker shall include in each sales contract that is provided by the real estate broker a written notice to the buyer that the buyer is protected by the Guaranty Fund in an amount not more than \$25,000.

The amount recovered for any claim against the Guaranty Fund may not exceed \$25,000 per claim.

A claim shall be submitted to the commission within three years after the claimant discovers or, by the exercise of ordinary diligence, should have discovered the loss or damage.

Source: Maryland Real Estate Commission