



HOUSE BILL 31: Material Fact Disclosure Clarifications.

2017-2018 General Assembly

Committee: House Transportation	Date: March 26, 2017
Introduced by: Reps. Hastings, Stone, Davis, Floyd	Prepared by: Giles Perry
Analysis of: Second Edition	Staff Attorney

OVERVIEW: *House Bill 31 would clarify that the inclusion of real property in financially constrained transportation plan is a material fact that must be disclosed in a real estate transaction, but inclusion of real property in a Comprehensive Transportation Plan (CTP) that is not financially constrained is not a material fact and does not need to be disclosed in a real estate transaction.*

CURRENT LAW: Under G.S. 93A-6(a)(1), the North Carolina Real Estate Commission can take disciplinary action against a real estate broker who misrepresents or omits a material fact in a real estate transaction.

G.S. 47E-4 requires sellers of residential real property to provide the purchaser with a disclosure statement covering specified characteristics and conditions of the property listed for sale. As to each of the listed characteristics and conditions included in the disclosure statement, the seller must respond either that it is present in the property, that it is not present in the property, or that the seller makes no representation as to the characteristic or condition.

Current law does not specifically state whether inclusion of residential real property on a CTP that is not financially constrained is a material fact that must be disclosed by a real estate broker or is a characteristic or condition of the property subject to disclosure by the seller.

BILL ANALYSIS:

Section 1: House Bill 31 would amend Article 9 of Chapter 39 of the General Statutes to clarify that the inclusion of a piece of real property in a transportation plan that is financially constrained is a material fact. Failure to disclose could be the basis for discipline of a broker under G.S. 93A-6(a)(1). The mere fact that a piece of real property is listed on a CTP that is not financially constrained would not be a material fact; therefore, failure to disclose the fact that a property was listed on a CTP that is not financially constrained could not, by itself, be the basis for discipline of a broker under G.S. 93A-6(a)(1). House Bill 31 would also clarify that a party conveying real property may not knowingly make a false statement regarding the property's inclusion on any transportation plan.

Section 2 of House Bill 31 would add a section to G.S. 47E-4 to clarify that inclusion of a piece of real property on a CTP that is not financially constrained is not a required disclosure on the disclosure form a seller must furnish to a potential buyer of residential real property. This section would also clarify that neither the seller nor anyone acting as an agent of the seller may make a false statement regarding the inclusion of the property on a CTP that is not financially constrained.

EFFECTIVE DATE: This act is effective when it becomes law and applies to real estate contracts entered into on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

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BACKGROUND: CTPs are long-range, not-financially-constrained transportation plans for municipalities, counties, and large metropolitan areas. They represent a community's consensus on the future transportation systems needed to support anticipated growth over a 20-30 year timeframe. CTPs differ from a Long Range Transportation Plan (LRTP) adopted by an MPO, which is required by federal regulations to be financially constrained, and the State Transportation Improvement Program, (STIP) which is a list of transportation projects that will receive funding in the next ten years.

Jason Moran-Bates, counsel to House Judiciary I, substantially contributed to this summary.