



**Government of the Virgin Islands  
of the United States of America  
Department of Licensing and Consumer Affairs**

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**Richard T. Evangelista, Esquire  
COMMISSIONER**

**Testimony  
Licensing and Consumer Affairs Standard Operating Procedures,  
Policies, Challenges and Plan of Action  
34<sup>th</sup> Legislature of the Virgin Islands**

**Carla J. Joseph, Chair  
Committee on Government Operations and Consumer Protection**

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**April 9, 2021**

*"Serving Businesses & Assisting, Educating and Protecting Consumers"*

Good Afternoon Honorable Carla Joseph, Committee Chair and Senate members of the Committee on Government Operations and Consumer Protection, non-member Senators of the 34<sup>th</sup> Legislature, the Legislative staff, the DLCA staff, and the listening and viewing audience.

I am Richard Tomas Evangelista, Commissioner of the Department of Licensing and Consumer Affairs (DLCA). Accompanying me today are H. Nathalie Hodge, Assistant Commissioner, Myrna George, Deputy Commissioner, Lorraine Fredericks Director of Administration and Business Management, Ann Cecile O'Neill, Esq. Acting General Counsel; Horace Graham, Jr., Director of Licensing and Miguel Tricoche, Director of Consumer Affairs.

### **DEPARTMENT OF LICENSING AND CONSUMER AFFAIRS**

The Department of Licensing and Consumer Affairs or DLCA is established under Virgin Islands Code, Title 3, Chapter 16 (§§ 270 *et seq.*). The Department provides consumer related services and programs pursuant to the Consumer Code as set forth in the Code (V.I.C. Title 12A Consumer Code, including the Consumer Protection Law of 1973 §§ 101 *et seq.*), and the Price Controls Act as set forth in the Code (V.I.C. Title 11 Price Controls, §§ 1010a *et seq.*) DLCA also regulates the licensing of private businesses and professions as provided forth in the Code (V.I.C. Title 27 Professions and Occupations, including Chapter 9 Licensing of Businesses and Occupations §§ 301 *et seq.*). The

Department's mission statement is "Serving businesses and assisting, educating and protecting Consumers".

## **DEPARTMENT OVERVIEW**

There are currently eight (8) separate divisions within the Department which include:

- Office of the Commissioner

The Office of the Commissioner is responsible for the overall leadership, management, planning, supervision, and direction of the Department so that it may effectively carry out its mission.

- Administration and Business Management

This Division is responsible for all budgeting, accounting, payroll, procurement, and personnel operations of the Department. It provides all the resources required for staff to perform their duties in an efficient, effective and, professional manner. This office maintains the following accounts: General Fund, Consumer Protection Fund, Vendors' Plaza Revolving Fund, Virgin Islands Public Accountancy Fund, and Real Estate Appraisers Fund.

- Licensing

The Division of Licensing is responsible for receiving, reviewing, and approving applications for business licenses. Upon receipt of the electronic application for new or renewal licenses, fees are collected and electronic approval from other departments integral to the license approval process is verified (Office of the Lt. Governor Division of Corporations and Trademarks, The Bureau of Internal Revenue, The Virgin Islands Police Department, The Department of Planning and Natural Resources, The Virgin Islands Fire Services, and The Department of Health, (whichever applicable), before the license is issued.

- Boards and Commissions

The Division of Boards and Commissions has oversight responsibility for professions and trades, including the testing and licensing of individuals in each area. There are distinct requirements for each of the following twelve (12) Boards and Commissions:

- (1) Architects, Engineers, and Land Surveyors
- (2) Barbers, Beauticians, & Manicurists
- (3) Certified Public Accountants
- (4) Electricians
- (5) General Contractors
- (6) HVAC Mechanical

- (7) Plumbers
- (8) Real Estate Appraisers
- (9) Real Estate Brokers and Salespersons
- (10) Social Workers
- (11) Fiber Optics
- (12) Licensed Counselors

The Office of Boards and Commissions continues its relationship with PSI Services, a third-party provider that administers national and state testing for all PSI developed tests and for the following professions which the Office has oversight: Barbers, Beauticians & Manicurists; Certified Public Accountants (the local portion); Electricians; Plumbers; HVAC Mechanics; General Contractors; Real Estate Brokers and Salespersons; Real Estate Appraisers. The exams are developed and graded by the company. All exams are computer-based and can be scheduled at the examinee's convenience. All computer-based board exams are now offered on demand and are at the most current industry standards and requirements. PSI Examination sites are located on St. Croix at the Department of Licensing and Consumer Affairs and, on St. Thomas at the University of the Virgin Islands.

With the assistance from Legal Counsel, board statutes and regulations governing professions and occupations continue to be reviewed to make sure they follow current industry standards and "Best Practices" to include language on meeting virtually.

Legal Counsel is assisting the Office of Boards and Commissions with, Real Estate Appraisers Board mandated amendments of statute and regulations passed and promulgated; VI Board of Accountancy amendments of statute and regulations to mirror the uniform accountancy standard to ensure that mobility is only authorized for individuals and firms are required to apply for permits and business licenses prior to engaging in providing accounting services to USVI tax clients and proposed amendments to the VI Real Estate Brokers and Salesman Act.

- Consumer Affairs

The Division of Consumer Affairs is responsible for assisting, educating, and protecting consumers against unfair and deceptive trade practices. It advises, guides, and represents consumers in regard to the filing of formal complaints against businesses and/or professionals and attempts to resolve them. It is also responsible for ensuring equity in the marketplace through the establishment and enforcement of weights and measures standards in the Virgin Islands. The Division also conducts monthly market basket surveys, bi-monthly gasoline price surveys, monthly scanner surveys, various store inspections and weekly “pull date” inspections.

Within the Consumer Affairs Division, there are two distinct units, Consumer Protection Services and the Weights and Measures Unit.

Consumer Protection Services Unit, responsible for the development and implementation of consumer education programs and activities, addressing consumer

complaints and monitoring business practices throughout the Territory for compliance of consumer laws.

The Weights and Measures Unit is another distinct unit within this Division. It is responsible for ensuring that all commercial weighing and measuring devices and methods used in the Territory are accurate and correct. The Unit also enforces all laws and regulations pertaining to food freshness and net contents of packaged goods.

- Enforcement

The Enforcement Division enforces Virgin Islands licensing laws by inspecting all businesses to ensure compliance. Additionally, the Enforcement Officers provide “Process of Service” on behalf of the Legal Division and the Boards and Commissions Division as well as escort the Cashiers/Collection Clerks to the bank as needed. The Division also regularly participates on various task forces and joint initiatives with the Virgin Islands Police Department, Office of the Governor, Department of Health, and local community organizations, as needed.

Pursuant to Governor Bryan’s State of Emergency Executive Order of March 13, 2020, the DLCA enforcement officers were deputized as police officers and directed to report to Commissioner Trevor Velinor of the Virgin Islands Police Department (VIPD) effective Monday, March 23, 2020, in order to assist with the enforcement of the State of Emergency Executive Order.

- Legal

The Legal Division is responsible for providing “in house” legal advice to the Commissioner and the Department, promulgating and implementing rules & regulations, providing legal advice to all boards and commissions, assisting with the development of policies and procedures, prosecuting licensing/consumer violations through administrative proceedings, and representing the department and consumers on legal matters.

- Office of Cannabis Regulation

Pursuant to Act No. 8167 effective January 17, 2019, The Virgin Islands Office of Cannabis Regulation was created to implement and administer the provisions of The Virgin Islands Medicinal Cannabis Patient Care Act.

### **FUNDING AND OPERATING BUDGET**

DLCA’s total budget for Fiscal Year 2021 is \$3,948,876. The budget is comprised of \$3,398,876 in General Fund appropriations and \$550,000 in Special Fund appropriations.

The General Fund allotment amount of \$2,972,196 covers personnel services and fringe benefits. The remaining \$426,680 covers the department’s operating expenses.



The remaining budget allotment of \$550,000 comes from the Consumer Protection Fund (CPF) which is a revolving fund derived from the collection of license penalties and citation fines. This special fund is designated to address the costs associated with investigating/resolving consumer disputes/complaints and consumer education.

The Department currently has no federal or other funding source.

### **STATUS OF STANDARD OPERATING PROCEDURE AND POLICIES**

DLCA's Standard Operating Procedures and Policies (SOPP) are constantly updated as needed. Unfortunately, DLCA has failed to properly promulgate its updated Rules & Regulations as well as publish an updated Standard of Operating Procedures manual. The Covid-19 has caused DLCA to implement new procedures and policies to protect our internal customers and external customers while simultaneously maintaining an efficient process.

The Department is feverishly working to update its Rules and Regulations as well as its Standard of Operating Procedures by June 1, 2021.

### **UPDATE ON BILL NO. 33-0119 a/k/a ACT NO. 8258**

Act No. 8258 was signed into law by Governor Albert Bryan, Jr. on January 18, 2020. Specifically, the Act requires DLCA to issue a business license within ten (10) days of filing an application or renewal of a license or within three (3) days of the payment of an expedited fee of \$200.00. The Act also prohibits DLCA from issuing a business license to an applicant that fails to file an authorization from the Office of the Lieutenant Governor

- Division of Corporations and Trademarks to use the name of its business. Lastly, the Act also amended the list of causes DLCA may refuse to issue or may revoke or suspend a license.

DLCA endeavors to issue a business license within ten (10) days of a complete application. What is a complete application? The answer differs for a new business license application versus a renewal business license application.

A complete new business license application generally consists of the following:

1. Police Record Check
2. DPNR Zoning Check
3. DLCA Enforcement Division Check

If APPLICABLE

4. Virgin Islands Fire Service Check
5. DPNR Comprehensive Coastal Zone Planning Division Check
6. DPNR VI Historical Preservation Commission Check
7. Department of Health – Environmental Division Check
8. Department of Health – Office of Professional Licensure Check
9. Bureau of Motor Vehicles Check
10. Department of Transportation Check
11. US Coast Guard Inspection

ALSO

12. Proof of Ownership or Authority Check
13. Office of the Lt. Governor – Division of Corporations and Trademark Check

See Attached Exhibit A for complete list.

A complete renewal business license application consists of the following:

1. Tax Clearance

IF APPLICABLE

2. V.I. DOH – Office of Professional Licensure
3. DPNR Environmental Protection
4. Commercial General Liability Insurance

Once the application is complete, DLCA usually issues the business license well within the ten (10) day period prescribed by the statute. Unfortunately, sometimes a business license is not issued timely because of human oversight. Currently, the licensing software does not have an active tickler system to notify a licensing officer that an application is complete. Instead, the licensing officer must check three hundred pending licenses per day to verify if the application is complete for processing. This daily task is in addition to reviewing the new or renewal applications received overnight via the online portal, walk-ins, email and telephone.

DLCA tasked its software vendor to develop a tickler system to assist the licensing processors with their daily tasks and to provide a more efficient system for our clients.

Issuance of a business license within three (3) days for an expedited fee is not something DLCA has implemented yet. Quite frankly, our licensing officers issue a

business license within 24 to 48 hours of a paid completed application. If a business is unable to complete its file quick enough to obtain a business license within the time it requires, DLCA created a General Business License to allow a business to set up itself without actually engaging in the business it intends to operate.

In an attempt to simplify the licensing process for new applicants, a new business entity may apply and receive a “General Business” license within 24 hours which will assist them with the opening of bank accounts, purchase of personal and/or real property, entering into lease agreements, importation of equipment and, registering of motor vehicles and other related non-regulated transactional business activity.

The only requirements for a General Business License are the following:

1. Registration of Business Organizational Document with the Office of the Lieutenant Governor;
2. Registration of Trade Name with Office of the Lieutenant Governor;
3. Successful Background Check by the Virgin Islands Police Department;
- and
4. DLCA License Fee of \$200.

#### **DEPARTMENTAL CHALLENGES AND PLAN OF ACTION**

While there are great successes to be proclaimed for the Division of Licensing, on the technology side we continue to struggle to keep pace with advancements and enhancements to the website that would make the processing of license applications more

efficient and effective. On February 23 - 26, 2021, the DLCA Team, including our internal users, staff and our external users, Licensing Processors, virtually met with Palm Beach County Board of Commissioners Information Systems Services in West Palm Beach, Florida to consult on the improvement of DLCA's website, along with discussions on continued modifications and enhancements to our online Licensing & Database System.

Based on feedback received from both internal and external users, the Division has identified changes to the web application to allow it to work more effectively on mobile devices thereby facilitating a better user experience for applicants. These and other enhancements are in the works with major deliverables expected within the second quarter of 2021.

The DLCA portal is also being revised for the virtual interaction between the Licensing and Consumer Affairs Divisions. This will allow the Licensing and Compliance Officers to share information regarding consumer complaints, cases, and citations. Currently, the online system allows consumers to file a consumer complaint online and upload pictures and documents to complement the complaint. A Consumer recall page was designed to timely inform everyone about recalls that may occur in food, in more than 15,000 kinds of consumer products used in and around the home and in sports, recreation and schools, in motor vehicles and related equipment and in recreational boats and related equipment. The information is provided by various well known resource organizations. Consumers may also view up-to-date press releases, fuel surveys and market baskets on our website.

The Division continues to face the challenge of long-standing delinquencies. These are often precipitated by tax clearance issues. Applicants unable to obtain tax clearance remain in a pending state until tax clearance can be achieved. The Licensing Division will cease to maintain the delinquent licensees as pending and shall provide notice of intent to deny the application once delinquency has reached a threshold of thirty days. With assistance from the Legal Division, applicants will have to show cause why we should not deny the application and all efforts that have been made towards rectifying the tax clearance denial. By this process we anticipate that the log of delinquencies will be significantly reduced.

The lack of adequate staffing is a great obstacle to attaining greater results from the Department of Licensing and Consumer Affairs and expeditious outcomes for our customers both internal and external.

The presence of inspectors, officers and investigators in the field provides the consumer with the confidence and comfort in the department and helps to mitigate any offenses committed by businesses.

Within the Consumer Affairs Division, the Consumer Protection Unit consists of two (2) Consumer Compliance Officers in the St. Thomas & St. John District and one (1) Chief Compliance Officer and one (1) Consumer Compliance Officer in the District of St. Croix. Ideally, the Division needs at least a staff of three (3) Compliance Officers in St. Thomas and three (3) in St. Croix to adequately serve the needs of the Virgin Islands. The Compliance Officers currently do the work of several positions not filled: The Consumer Education Specialist and Compliance Investigators. Although the duties of these positions

can be handled by the Compliance Officer, it has been a stretch for the current staff based on the amount of consumer complaints that are reported.

Also, within the Consumer Affairs Division, the Weights and Measures Unit includes one (1) Weights and Measures Inspector in the District of St. Thomas & St. John and one (1) Chief of Weights and Measures Inspector in the District of St. Croix. DLCA recently conducted interviews last month and two (2) Weights and Measures Inspectors are scheduled to commence work on Monday, April 12, 2021, adding one (1) new member to the team per district. While grateful, to adequately serve the needs of the Virgin Islands, the Division needs at least a staff of four (4) inspectors per district to provide DLCA with enough inspectors to cover all the retail stores, gas stations, grocery stores as well as associated tasks to meet the needs of our external customers. DLCA recently conducted interviews for the St. John Coordinator position which became vacant after the employee resigned in November 2020.

The Consumer Affairs Division will also benefit from an Administrative Officer needed to provide administrative and clerical support to the Director and staff.

The Division of the Office of Boards and Commissions also need to add members to its skeletal team. Currently, it provides administrative and technical assistance for the twelve professionals and trades under the division, reviews all applications, prints all licenses, and prepares to all correspondence required. The Division is managed by the Assistant Commissioner who is also the Administrator for Boards and Commissions, a Licensing Officer in the District of St. Croix, and a Special Assistant to the Assistant Commissioner in the District of St. Thomas & St. John.

Ideally, the following personnel is crucial for the efficient operations of Boards and Commissions:

1. Secretary to Boards and Commissions STX;
2. Licensing Officer for Boards and Commissions STT;
3. Enforcement Officer/Investigator assigned to the Office of Boards and Commissions to assist in the enforcement the Board's rules, regulations and compliance and the investigation of matters as it relates to the Board; and
4. Legal Counsel to assist in the interpretation of the Board's rules, regulations and compliance and the investigation of matters as it relates to the Boards and Commissions.

In addition to staff for the Division of the Office of Boards and Commissions, the Trade Boards are in dire need of Board Members. To date, the Governor's Office has been diligently trying to fill these vacancies; however, it is sometimes challenging to obtain a commitment from some of these Tradespersons. Many are faced with trepidation to go before the Rules Committee for a confirmation hearing.

The Virgin Islands Board of Control of Beverages a/k/a Alcohol Control Board (ACB) has no staff. The ACB was established to regulate the manufacture, sale, and importation of alcoholic beverages in the Virgin Islands Territory. ACB was responsible for the approval of all liquor licenses, warehouses for storage and aging of all fermented and distilled spirits and liquors in the territory as per Title 8 V.I.C. § 2.

In the absence of the Alcohol Control Board, the Division of Enforcement is tasked with performing the field work and regulatory duties. In both the District of St. Croix and



the District of St. Thomas and St. John, DLCA inspects incoming spirits. Specifically, in the District of St. Croix, this includes the inspection of weekly shipments of rum produced in the Virgin Islands and exported to the United States. In the past, the ACB had members from all three (3) Districts and an ACB Office managed by an Executive Director. However, the ACB statute was repealed and the powers of the ACB were transferred to the Office of the Commissioner of DLCA.

The Legal Division also requires additional staff. Currently, it is responsible for providing “in house” legal advice to the Commissioner and the Department, promulgating and implementing rules & regulations, providing legal advice to all boards and commissions, assisting with the development of policies and procedures, prosecuting licensing/consumer violations through administrative proceedings and representing the department and consumers on legal matters. In addition, the division also assist with professional contract matters, including ensuring contractor compliance, and with addressing and processing personnel issues and grievances. Conduct survey through subpoena investigation of the reasonableness of the wholesale and retail prices of propane, retail, and wholesale gas in the Territory. Subpoenas are also issued to businesses in order to investigate consumer complaints alleging a violation on price gouging.

The Legal Team is presently functioning with a District Counsel as Acting General Counsel, a Legal Office Administrator, and a Paralegal Researcher. To effectively assist the Department, the Legal Division should consist of the following positions:

1. A General Counsel;

2. Two (2) District Counsels;
3. Two (2) Legal Assistants;
4. Two (2) Hearing Officers; and
5. An Administrative Law Judge.

I cannot express enough that The Department of Licensing and Consumer Affairs team is comprised of an excellent cadre of individuals who work diligently and are dedicated to doing their best to improve the department's responsibility to serve the business and consumer public.

I am grateful and thankful to work with TEAM DLCA. They fill in for each other to assist our clients and do so professionally and competently. I take this opportunity to thank each team member for all they do to serve the public efficiently and effectively, especially during the coronavirus pandemic. They are hardworking and dedicated public servants.

I and the DLCA Team stand ready to answer any questions this Body may have.