

Company Policies

The following is a list of some of Wainwright Real Estate's policies. We hope this will be of assistance. Earlier versions of the policies should be discarded.

- 1) The office must have a copy of all contracts as soon as they are executed. **Don't wait until contingencies are removed!** Leave a copy at the front desk or fax to 495-1563. Almost all contracts (except VA, HUD, and new construction) require a property disclosure. See #5 below. If the house was built before 1978 there must also be a completed lead paint disclosure form as well.
- 2) VREB regulations require earnest money deposits to be in the broker's escrow account within **five** business days of ratification. If Wainwright is to hold the deposit on a contract, you must make sure that we have the contract and the deposit check in the office within **two** days of ratification so that we can ensure that we meet this deadline! **Don't wait until contingencies (such as home inspection or lender approval of a short sale) are removed!** VREB regulations require us to report to the VREB any agent who fails to turn in escrow funds to the office so that they can be deposited by the deadline! A contract can be ratified even with unfulfilled contingencies, such as home inspection contingencies, or if the contract is a "backup" contract contingent on the release of a prior contract. If in doubt, turn it in!
- 3) HUD contracts – We must have a copy of the contract and the earnest money deposit the same day you submit a bid to HUD. **The deposit must be in certified funds.**
- 4) Agency disclosure/Brokerage relationship – Please make an extra effort here. A Disclosure of Brokerage Relationship form must be completed when you are working with someone who is NOT your client and who is NOT represented by another agent (it is no longer required that you do it with your own clients). This person must sign the form. For instance, if you sell your own listing, you must disclose to the buyer that you represent the seller. Or if you are working a "for sale by owner," you must disclose to the party you do not represent who you DO represent. This disclosure must be done at the very beginning—when you show the property or otherwise before the contract is written. It must be done on the REIN Disclosure of Brokerage Relationship form. The agency acknowledgment in the sales contract does NOT satisfy this requirement!

- 5) Property Disclosure– The law requires that the seller of residential resale properties deliver a property disclosure to the buyer before acceptance of the contract. If the seller delivers it to the buyer after acceptance, **the buyer has three days to void the contract!** Every day that goes by with the disclosure unsigned by the buyer is a day that the buyer can change his mind and void the contract. When that happens, the seller will look to YOU to compensate him for any loss suffered. If you represent a seller, advise the seller NOT to accept any offer until the disclosure has been signed by the buyer. Additionally, an AICUZ form needs to be executed at the same time if the property is in Va. Beach, Norfolk, Chesapeake, or Hampton.

If you hand in a contract without an agency disclosure (where required) or property disclosure signed by both parties, we will call to remind you. We must have these forms before we issue you a commission check. If you allow a closing to occur without a properly executed property disclosure (and AICUZ if required), your commission will be held for one year and used to reimburse the company for any damages the company incurs as a result.

- 6) As a general rule, it is up to the agent what to charge for a commission. However, the commission you charge must meet the following requirement: it must result in the company netting (after compensating the agent according to the normal commission split) an amount at least equal to the lesser of a) 1% of the sales price or b) the amount remaining on the agent’s yearly \$2700 obligation to the company. For example, if you list your own house through the company, you must pay at least a 1% commission to the company (or \$2700) unless the company had already made \$2700 from you for the agent fiscal year in which the sale closes. Another example: you are buying a house for yourself and wish to sign onto the contract as a Wainwright agent in order to “save the commission”. If the company has already made \$2700 from you in the year the deal closes, you may charge no commission. If not, you must charge 1% or \$2700 (or the amount remaining on your \$2700 obligation for that year), whichever is less. If you charge a full commission, it will be split with you according to the normal commission split. Remember, the \$128 transaction fee is due on all closings, even if no commission is charged, and you need to promptly turn in the settlement statement to the office for all such closings. Finally, all listings must include a selling commission of at least 2.5%. Three percent is recommended.

If you do not charge enough commission to meet these requirements, you agree to reimburse the company for the deficiency at settlement. Additionally, even though there is no requirement to list or sell your property through the company, if you choose to do so, the company must make the minimum amount explained above even if another Wainwright agent acts as your listing agent.

- 7) Copier usage is free up to 150 copies per month, and is billed on a per copy basis thereafter. The copier may only be used for real estate sales purposes, and there is a limit of five copies per original. **No bulk copying.**

- 8) No food, drink, or smoking is allowed in the office. Please inform your clients of this policy.
- 9) The office is to be used for business purposes only. Additionally, the conference rooms are for meeting with **clients**. Do not use them as an office or to meet with other agents. Please do not run other businesses out of the office.
- 10) In order to have a listing, you must have a voice mail that pages you, or cell phone with voice mail backup. Digital and alphanumeric pagers are not acceptable. Additionally, the voice mail must be a “closed system”. That is, it cannot be a part of your home answering system, even if it pages you, because if someone at home answers the phone when you are not there, you may not get the message as quickly as necessary.
- 11) Listings must be turned in to the office with a property disclosure signed by the seller(s) (for residential resales), a lead paint disclosure filled out by the seller (if the house was built prior to 1978), a Consumer Disclosure Information Form signed by the seller, an AICUZ disclosure signed by the seller (if applicable), a client information sheet, and ten dollars. **Sometimes we do make mistakes when entering listings, so always check your listing in the computer for accuracy as soon as we input it! It is the agent’s responsibility to ensure that a listing is accurate and to bring it to our attention if it is not.** Listings must be input no later than 2 business days after the start date that the seller has agreed to in the listing. If it is input later, you may find a fine on your next REIN bill! So make sure to turn the listing in to the office ASAP! If you turn in a listing dated more than 2 business days late, we will input the listing with the start date on the listing and you could be fined! We cannot guarantee that listings turned into the office after 3:30 will be input that day.

All listings must be “full service.” No “limited service” or “deal direct with seller” listings are permitted.

Also, when a contract on a listing closes, REIN requires the listing to be marked SOLD within 10 days. So make sure to turn in the settlement statement to the office no more than 5 days after settlement, even if there is no commission or if there is a delay on getting the commission to the office. If you don’t, we may not be able to mark it sold in time and REIN may fine you.

Please make sure your listings are complete and accurate when you turn it in to the office to be input. The listing fee will be increased from \$10 to \$25 per listing if the office staff have to call you to address issues under the following categories:

- a) Missing required fields on the input sheets. These are fields marked by “+” or “*”. These fields cannot be left blank. Even if the field should be “0” or “none”, it still needs to be filled in as such.

b) Square footage problems. This is now a required field, and if you get the information from somewhere other than measuring it yourself, you need to disclose the source of the information in the remarks (e.g. “sq. footage per tax records”, or “per owner”).

c) Missing seller signatures and/or names. Please double check the tax records to see if all owners are accounted for.

d) Missing start or expiration dates, or missing check box items on the 4-page listing contract.

e) Missing forms and addendums, including disclaimers/disclosures/lead paint/AICUZ addendums. If these addendums are required, they need to be completed and signed by the seller and turned in with the listing.

f) Make sure to include a copy of any Power of Attorney that is used to sign the listing.

g) Commission problems. The minimum commission requirements of para. 6 must be met. Also please remember that the “BAC” and “SBC” fields on the data input sheet BOTH refer to the same thing: the selling agent’s commission. Neither refers to the listing side commission. So the same number should be in each field. This number needs to be at least 2.5% for all listings. Also, in the Brokerage Fee section of the listing contract, the first blank is the TOTAL commission (e.g. 6%), and the second blank is the selling agent commission (e.g. 3%).

Of course, you are always free to call with any questions if you are unsure how to complete the listing paperwork (and it won’t cost you a dime).

Finally, if you have a seller who receives an offer on their listing BEFORE the listing has been input into the MLS system, advise the seller that signing the offer before the listing receives MLS exposure could cost them money. Please call the office in this situation before the seller accepts such an offer.

12) Because of our commission split, our margins are too small to loan agents money against upcoming closings or to defer the company’s portion of a commission until a later closing. Please do not ask.

13) When you list a house, the office must have the listing **before** you put a sign up. Otherwise, we may get calls on the property and not know whom to refer the caller to. Also, never put a sign up without your name and voice mail on the sign. No office numbers should appear on the sign. Also, if you want to put square footage in a listing, you must either measure it yourself or indicate in the remarks section the source of the square footage information (e.g. city records).

- 14) It is the agent's responsibility to be aware of his or her license expiration date and to take the steps necessary to get it renewed. Make sure that the Real Estate Board knows your current address so they can remind you. If you let your license expire while you have pending business, another agent will need to be assigned to handle it and will be compensated out of your commissions.
- 15) Wainwright Real Estate will not accept notes at closing from any party to a transaction. However, in most cases, you may reduce your commission if you feel that is necessary to close a deal (but check with the office first).
- 16) If you go out of town or will otherwise be unavailable for any length of time, you must make arrangements so that your business can be conducted in your absence. If you have listings (either active or pending), you must turn over your business to another Wainwright agent, since someone needs to be available to present offers which may come in while you are gone. If you do not have listings, but only pending contracts or other business, you must at least call in several times a day to check your voice mail if you are out of town. Otherwise, another agent should be handling your business directly. That agent should have your phone, or you should leave a message on your voice mail to call that agent. Please inform the office if someone else will be handling your business, but do not rely on the office to get your calls to whomever is handling your business.
- 17) A few things you must never do!!!
 - (a) It is a crime to give a referral fee to anyone who is not a licensed real estate agent. All referral fees must, of course, be paid to the agent's broker.
 - (b) Never put any terms of a contract on an addendum with the intention of hiding what the addendum says from anyone. **All addenda must be kept with the contract at all times, especially when it is being given to the loan officer or appraiser.** For example, you go to a new home site, and the agent tells you that the seller will include items in the sale in excess of what would be allowed by the lender. He further tells you that it is customary to do this. This is mortgage fraud and is a federal felony which will get you involved with the FBI and could land you in prison.

Another example: You sign a sales contract which calls for the seller to give cash back to the buyer at settlement. The buyer's loan officer tells you that this must be on an addendum and cannot be reflected on the HUD-1; in other words, that as long as the loan officer doesn't know about it, it's OK. What the loan officer is really saying is: "YOU go to jail, not me". **ALL MONEY THAT PASSES BETWEEN BUYER AND SELLER AT CLOSING MUST APPEAR ON THE FINAL HUD-1!** Otherwise, it's mortgage fraud. Typical violations of this rule include escrows which aren't allowed by a lender and seller rebates or "allowances" above and beyond allowable closing cost assistance. There are a lot of loan officers and even settlement agents in town who do not understand this, so

please be careful. Of course, you cannot prevent the seller from giving a rebate to the buyer, but if you sign a contract or addendum with such a provision, or otherwise facilitate such a rebate, then you are potentially making yourself a party to mortgage fraud. The rule to follow is: if it can't be on the HUD-1, it can't be done. The HUD-1 must reflect the ENTIRE transaction, and there cannot be any "side-deals" between the buyer and seller that are not reflected on it (allowances, escrows, etc.).

- (c) Never certify in a contract that you are holding earnest money when you have not yet received it. **This could cost you your license.** This means that when you submit an offer to a seller or seller's agent, you must have **actually** received the deposit from the buyer at that time, unless it is otherwise disclosed in the offer that you have not. This is especially important for HUD/VA sales. Never submit an offer to HUD or VA until you have actually received the deposit from the buyer.
- (d) Wainwright agents are not allowed to list property for rent or manage rental property. You must not act as a rental agent or property manager, **even as a favor to a friend.** This includes even small things like collecting rent from tenants. Wainwright does have a property management department however, and if you have an owner who needs their property managed, you may refer the owner to our property management department. You will receive a referral fee for doing so, and your name will be kept in the file so that you can list the property if and when the owner wants to sell it.
- (e) Never put a client's earnest money deposit in your own account, even with the intention of writing your own check back to the company. This is commingling and could cost you your license. If you agree to "front" the earnest money deposit for the buyer by paying the deposit with your own check, this fact needs to be acknowledged in the sales contract. Otherwise, do not turn in your own personal check for an earnest money deposit on any of your contracts.
- (f) Never sign or initial for a client on a contract unless you have a valid, written power of attorney from the client authorizing you to do so. In the absence of a power of attorney, the clients must sign for themselves. If you (or anyone else without a power of attorney) sign for them, even with their permission, the signature **may not be legally binding.** If either party later decided not to close, the other party might sue you for leading them to believe that they had an enforceable contract when they did not. Additionally, always remember that there is no such thing as an oral real estate contract. Never allow a contract to be "accepted by phone conversation." Never write this on a contract. Doing so could result in the same type of lawsuit. The buyer or seller (or their attorneys in fact) must actually sign the documents themselves. A fax is acceptable for this purpose, so if they can "accept by phone," they can accept by fax. If you are dealing with an agent who tells you that his client has accepted your offer "by phone," tell the agent and your client that you cannot consider the offer accepted

until it is accepted in writing. This means that you should advise your client not to take any action that will cost them money (e.g. paying for an appraisal or home inspection) until the contract has been accepted in writing—unless you want to reimburse the client out of your own pocket if the deal falls apart!

- 18) It is company policy that our buyers and sellers may terminate listings or buyer broker agreements early without penalty, subject to the “safety clauses” in those agreements. This means that as long the client’s intent is not to cheat the company out of a commission, we will agree to release them from listings and buyer-broker agreements, even if they want to do so in order to work with another agent.
- 19) We must have your current address and phone number(s) in our records. If we do not have any way to reach you, we will send your license back to Richmond.
- 20) It is up to you what you want to charge on a listing (within the requirements of paragraph 6). Do not, however, advertise your commission rates in any medium that is in general circulation (e.g. newspapers, real estate magazines). This might make it appear as if your commission rate is the firm’s commission rate.
- 21) If you have an office in your home, be sure not to meet clients there! That would make it an unlicensed office and could cause you to lose your license.
- 22) Please always remember the company’s policy regarding the lead paint procedure: If you do not follow the procedure, you will not be paid. Also, make sure to hand in all contracts immediately upon ratification (execution). Do NOT wait until contingencies are removed!
- 23) If we wait more than 2 days to report your listing under contract after the contract is ratified, REIN may fine you \$100. This means we need a copy of the contract immediately upon ratification so we can report it under contract with REIN. Do not wait until contingencies are removed! Additionally, Wainwright Real Estate will charge the agent \$150 at closing if the agent waits more than 10 days to hand in any contract, whether it is a listing or a sale. The fine will be \$500 if you wait until after closing to hand in the contract.
- 24) In addition to whatever commission split you are on at the time of a closing, there will be a transaction fee of \$128 (\$64 if you are on 50/50 at the time) charged on every closing. This fee is due even if you are taking no commission. This fee reimburses the company for the cost of handling a transaction (such items as accounting, bookkeeping, legal, etc.). The agent also pays the city tax on the commission (\$5.80 per \$1000 of commission). Finally, there is a \$90 E & O surcharge deducted from the first two closing checks of the agent’s fiscal year. This fee is not due until and unless you have a closing. **These fees are deducted from the total commission earned on a transaction. They are not to be charged back to clients or indicated as a separate item on a settlement statement.**

- 25) As a general rule, the company has no production requirements. However, we do check from time to time to determine that our agents are doing at least a minimal amount of business, enough to make the company \$2700 every TWO years. If you do not do enough business to reach that goal, we may deactivate your license.
- 26) Whenever you order services in the course of your real estate activities (e.g., taking out an ad in a newspaper, ordering home repairs for a seller, sending a package by an overnight service etc.), you must make sure that you do so in your own name.
Wainwright Real Estate must not be on the work order and must not receive a bill for the service. The bill should be sent to you **at your home address**. The contract must be entirely between the vendor and you in your own name. In the case of expensive home repairs, you should get the seller to order them themselves. If you order them, you will be legally obligated to pay for them if the seller does not!
- 27) **Sale of agent-owned property:** There is a limit of 3 properties per fiscal year that you may sell through the company if you have any ownership interest in the property, and all such ownership interest must be titled in your personal name, not a corporation or other business entity in which you have ownership. You may not list such a property through the company even if another Wainwright agent acts as the listing agent. New construction and vacant land is an exception to this rule, but if you own such properties in a corporate name, please understand that there is no E & O insurance coverage for such a sale.
- 28) All advertising you run (newspapers, real estate magazines, internet etc.) must be approved first. Bring in a proof copy for us to approve before it's run. Business cards can be ordered through the company. If you order them elsewhere make sure to have them approved first. In all advertising with the company logo, please use the logo we provide you. Do not attempt to recreate it yourself.
- There are new regulations for online advertising. If you have a website, you must include on the site not only the company name, but also its address and the fact that it is a Virginia Real Estate Broker. The same information must also be included in email advertising. Please consult VREB regs (18 VAC 135-20-190) for more details.
- 29) It is against the law for you to receive a commission from anyone but Wainwright Real Estate. If you are purchasing property for yourself, you may not apply your commission to your downpayment, as this would violate the regulations and result in unreported income. However, with our permission, you may reduce your commission if you need to. For instance, if you want to use your commissions toward closing costs or price reduction, you may agree with the seller to reduce your commission and have the seller pay the same amount in closing costs or reduction in sales price. Just keep the requirements of paragraph 6 in mind and check with the office first.
- 30) The national Do-not-call list is in effect. If you plan to do any "cold calling," please

contact us first so that we can inform you about how to utilize the do-not-call list. Fines can be up to \$11,000 per violation, so please do not make any cold calls without speaking to us first. Also, it is company policy that cold calls may not be made from the office phones.

- 31) If you currently have a salesperson's license and want to apply for a broker's license, keep in mind that Wainwright Real Estate will have to certify that you have been actively engaged as a salesperson for 40 hours a week for the time period for which you seek certification. You will need a total certification of 36 of the 48 months preceding your broker license application. In most cases, the company has no way to keep track of the actual hours you have worked. Therefore, in most cases, our policy is to require at least one closing per month on average to certify you as full time for any given time period. If you have not met this minimum requirement, we may not be able to sign your experience certification unless you have kept detailed logs of your sales activities. Keep this in mind before spending time and money on a broker licensing course.
- 32) Wainwright is licensed only in Virginia. If you have clients who want to buy or sell in other states, you may refer them to an out-of-state broker and you may receive a referral fee through Wainwright. However, you must not enter that state in order to facilitate the sale, Wainwright must not be a party to the sales contract or listing, and Wainwright must not appear on the settlement statement. If any of these occur, we will have to return the referral fee and you will not be paid!
- 33) Please keep your license expiration date in mind and renew it with plenty of time to spare before that date. There is NO grace period during which you may conduct licensed activity if your license expires, and any listings you may have will be given to another agent if you fail to renew on time. Additionally, if you renew your license more than 30 days after the expiration date, the VREB will charge you a higher renewal fee, and Wainwright will remove your name from the company roster. You will then have to pay the state to re-activate your license with Wainwright when you do renew it, and the start date of your commission-split fiscal year with the company will change to that re-activation date.
- 34) It is company policy that all agents must inform their insurance carrier that their car is used for business, and that Wainwright Real Estate must appear on the policy as an "additional interested party" or "additional insured". Please inform your carrier to send insurance certificates to our office. If you drive clients in your car or have a sign on your car, your insurance limits must be at least \$100,000 / \$300,000.
- 35) BPOs: The Real Estate Board has issued a statement regarding its interpretation of state law that requires anyone offering a valuation of real property for a fee to have an appraiser's license. Real estate licensees are exempt from this requirement only in the course of their normal brokerage duties and only if the valuation is not being used in lieu of an appraisal. Broker Price Opinions are usually used in lieu of appraisals by banks and

other financial institutions. Therefore it is company policy that neither Wainwright nor its agents may accept payment for BPOs, as doing so would be in violation of state law.