

## **Proposal to Add 'Military Clause' to the State of North Carolina Residential Property Disclosure Statement (21 NCAC 58A .0114)**

When first established decades ago, most U.S. military installations were far from major cities and towns. Today, however, growing population and changing land development patterns since the end of World War II have led to lands vital to military readiness being surrounded by urban, suburban, and other types of development. Such development, especially large residential areas, can limit the installation's operational capability. Complaints about noise, dust, and smoke from aircraft, weapons, and vehicles force commanders to curtail training of certain types or during certain hours. Furthermore, as development destroys or displaces native species of plants and animals, military posts have become their critical 'refuge of last resort', and their presence further restricts military operations. These constraints have been so severe in some cases that installations have had to close<sup>1</sup>.

Such pressures are called *encroachment*. Encroachment can be defined as issues external to military operations that affect or have the potential to affect military installation testing, training, and other operations and overall military readiness. Encroachment is a national issue of critical concern to the Department of Defense, and it has serious implications for North Carolina.

The degree of encroachment around military installations is a key factor when deciding which bases to shut down under the federally-mandated [Base Realignment and Closure \(BRAC\)](#) process. BRAC, which began in 1988, has resulted in the consolidation of the nation's defense infrastructure into a few, strategically vital installations. North Carolina has benefitted from this consolidation, and the state's importance to the national defense has grown substantially since the BRAC process began. The state's six major military bases<sup>2</sup> have all seen their mission and manpower requirements increase during this time. Today, the 'military sector' is a \$23 billion industry in North Carolina, and growing, especially from the BRAC 2005 mandate, in which U.S. Army Forces Command and U.S. Army Reserve Command will move to Fort Bragg in 2011, and from the Marine Corps' *Grow the Force* initiative, which will add an estimated 11,500 active duty personnel to North Carolina's Marine Corps installations. This growth is expected to create an additional 49,000 new jobs statewide by 2013, and add an additional \$2.9 billion to our statewide economy above the military's current economic impact.

While the economic development and new revenue generated by military growth is welcomed by State and local government, *incompatible* urban development encroaching upon military installations is a serious problem.

The [Joint Land Use Study for Fort Bragg/Pope Air Force Base](#) (JLUS), updated in 2008, stated that the "single most important issue affecting the long-term viability of these military installations, along with the public health, safety, and welfare of the civilian populations living near them, and the sustainability of the longleaf pine ecosystem, is incompatible urban development."

Consequently, the top recommendation of the 2008 JLUS update was to call for the requirement of a *real estate disclosure statement* when property [in the vicinity of] of military installations was to be sold.

In December 2009, officials from the [NC Real Estate Commission](#), Fort Bragg, and the NC Association of Realtors met to discuss the inclusion of a 'military clause' in the State of North Carolina Residential Property Disclosure Statement (21 NCAC 58A .0114). This proposed change would add an additional 'question-and-answer box' to the Disclosure Statement that sellers of residential real estate are required to furnish to purchasers. (Currently, there are 21 such 'check-offs' on the Disclosure Statement).

The question on the Disclosure Statement reads:

“Regarding the property identified above, do you know of any problem (malfunction or defect) with any of the following:

The proposed addition to the Disclosure Statement would read:

22. ANY NOISE OR SMOKE from low-flying aircraft, artillery, small arms fire, bombing, or controlled burns on or from a nearby MILITARY INSTALLATION?”

On February 10, 2010, the NC Real Estate Commission held a public hearing on the proposed change. James Dougherty, Executive Director of the Regional Land Use Advisory Commission, (author of the 2008 JLUS update), and Donald Belk, Regional Planner for the BRAC Regional Task Force, attended and spoke to the NCREC about the importance of including a ‘military clause’ in the Real Estate Disclosure Statement. They cited the findings from a recent DoD-funded study<sup>3</sup> that stressed the need for ‘collaboration’ among community stakeholders to determine the necessary actions for the successful mitigation of encroachment. ‘Real estate notification’ was cited as an example of such actions.

The NC Real Estate Commission will accept written comments regarding this proposed change until March 15, 2010. All interested parties should address their comments to:

NC Real Estate Commission  
Post Office Box 17100  
Raleigh, NC 27619-7100

Submitted by:

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<sup>1</sup> From: [The Thin Green Line : An Assessment of DoD's Readiness and Environmental Protection Initiative to Buffer Installation Encroachment](#). Beth E. Lachman, Anny Wong, Susan A. Resetar; RAND Corporation, 2006.

<sup>2</sup> North Carolina's major military installations are: Fort Bragg (Army); Pope Air Force Base, Seymour Johnson Air Force Base (Air Force); Camp Lejeune, Cherry Point Marine Corps Air Station (Marine Corps); and the US Coast Guard Air Station (Department of Homeland Security)

<sup>3</sup> [Strengthening National Defense: Countering Encroachment Through Military-Community Collaboration](#). National Academy of Public Administration, 2009.