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HOUSE BILL NO. 295

Offered January 9, 2008

Prefiled January 3, 2008

A BILL for the relief of Sumpter and Robin Priddy.

Patrons—Hargrove and Peace; Senator: McDougle

Referred to Committee on Appropriations

Whereas, Sumpter and Robin Priddy (the Priddys) are the owners of property located at 310 North Shafer Street, Richmond, Virginia; and

Whereas, on or about July 24, 2000, Virginia Commonwealth University (VCU) entered into a five-year lease with the Priddys for the property; and

Whereas, the lease terminated on August 31, 2005; and

Whereas, all provisions included in the lease were prepared by VCU; and

Whereas, the lease includes the following language regarding an option for VCU to purchase the subject property: "The Lessor grants to VCU or an affiliated organization the option to purchase 310 N. Shafer Street for a purchase price based on the average of two appraisals of the property. After the expiration of the initial term, two real estate appraisals will be ordered and paid for by VCU or an affiliated organization. If VCU or an affiliated organization exercises the option, VCU shall pay the agreed purchase price based on the property appraisal, as adjusted for prorated real estate taxes, assessments, interest and rent"; and

Whereas, on July 21, 2005, and August 18, 2005, prior to the expiration of the lease, VCU had two appraisals done; and

Whereas, on November 22, 2005, in an effort to exercise its option, Virginia Commonwealth University Real Estate Foundation (the "Foundation"), the VCU "affiliated organization," sent a letter of notification to the Priddys stating that the purchase price would be \$169,500, the average of the two appraisals that were done by VCU prior to the end of the lease period; and

Whereas, the Foundation at all times was acting on behalf of and for the exclusive benefit of VCU; and

Whereas, by basing the purchase price on appraisals that were done prior to the expiration of the lease, VCU did not follow the terms of the lease; and

Whereas, VCU attempted to cure its error by having its appraisers revise the valuations to September 1, 2005; and

Whereas, the Priddys obtained two separate and independent appraisals, which reflected approximately twice the value contained in the VCU appraisals; and

Whereas, VCU contended that its appraisals did not have to reflect fair market value; and

Whereas, on July 12, 2006, the Foundation initiated an action in the Circuit Court of the City of Richmond seeking specific performance of the lease's purchase option based upon the lower VCU obtained appraisals; and

Whereas, on April 5, 2007, judgment was entered in favor of the Priddys and the request for specific performance was denied, and the court held that the attempt to exercise the option was ineffective, as it based the purchase price on appraisals taken before the expiration of the lease term, or at a time long after the lease expired, in direct contravention of the terms of the option; and

Whereas, the VCU drafted lease did not provide for award of attorney fees to a prevailing party should there be a dispute and, therefore, the Priddys requested reimbursement from the Virginia Commonwealth University Real Estate Foundation in the amount of \$65,000 in attorney fees, appraisal fees, and other related expenses; and

Whereas, on September 7, 2007, the Virginia Commonwealth University Real Estate Foundation responded that it would not provide the requested reimbursement; and

Whereas, VCU prosecuted the lawsuit for specific performance for the sale of the property to VCU at the lower VCU appraisal values, and its subsequent failure to take responsibility for its actions caused the Priddys to expend money and time to protect their interest; and

Whereas, Sumpter and Robin Priddy have no other means to obtain adequate relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

§ 1. *That there shall be paid for the relief of Sumpter and Robin Priddy from the general fund of the state treasury, upon execution of a release of all claims they may have against the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision in connection with the aforesaid*

INTRODUCED

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59 *occurrence, the sum of \$65,000 to be paid to Sumpter and Robin Priddy on or before August 1, 2008,*
60 *by check issued by the State Treasurer on warrant of the Comptroller.*