GBREB is one association powering five divisions of over 8,000 members in Greater Boston.

- **RHA**: 550 members who own and manage multifamily properties including some of the largest developers of rental properties in the nation. RHA includes owners & managers of more than 100,000 rental units statewide. Established as a division of GBREB in 1953.

- **CBA**: 400 members of the commercial brokerage community. CBA is the largest organization of commercial brokers in Massachusetts, including leasing and sales professionals. Established as a division of GBREB in 2009.

- **REF**: 550 members in the business of commercial real estate finance. REFA includes lending institutions and law firms. REFA was established as a division of GBREB in 1988.

- **GBAR**: 7,000 members of the residential brokerage community. GBAR is the largest local board of the Massachusetts Association of REALTORS® and in New England.

- **BOMA**: 650 members who own and manage all commercial property types including thousands of square feet of office space in Greater Boston.

GBREB is affiliated with 5 organizations engaged in policymaking at the local, state and National level:

- Greater Boston, MA
- Real Estate Board
- Massachusetts Association of Realtors®
- Washington, D.C.
- BOMA International
- National Apartment Association
- National Multifamily Housing Council
- National Association of Realtors®
Bills
7,000 bills were filed during the 2013-2014 session.

GBREB tracked over 500 bills testifying on dozens of them.

Laws Passed
585 new laws were passed. 196 in 2013 and 383 so far in 2014.

The House
The Senate
There will be 30 new legislators in 2015. 20 in the House and 5 in the Senate.

The legislature operates in two year cycles.
Chairman’s Message:

Each year our industry faces new challenges with thousands of bills filed during each session on Beacon Hill. The first year is often a flurry of bills as we track testify and take our message to the Hill. Year two is where many of those bills are re-drafted, resolved or left to linger in Committee.

While pace on the Hill was at times slow and methodical it was hotbed of activity in several of our local communities-including Newton, Cambridge and Boston. Facing threats to private property rights and their livelihood members sprang into action. Excitement was palpable in Boston with the election of a new mayor for the first time in twenty years and the unveiling of a new housing production plan.

Our members worked hard to get our message to the Hill with nearly 70 members participating in this year’s REALTOR® Day on Beacon Hill. Members from BOMA and RHA testified at the State House and before the Boston City Council. When the vote was taken to delay building energy scoring in Boston, the industry made its appreciation for thoughtful dialogue with lawmakers clear. Many of these issues will return in 2015 but together we stand ready to face the challenge.

Industry volunteers are essential to our success. Without their industry specific knowledge we would not be as effective as we have been. Thank you to all of our volunteers who dedicated their time and talent including our special working groups and committees, you made a difference.

Best Wishes,

Chairman
2014 GBREB Government Affairs Committee
Amicus Briefs & Administrative Regulatory Proceedings

Private Property Rights
Amicus Brief-Glovsky v Roche Brothers Supermarkets
This case involved a candidate for elected office believing that they had a right to come to a Roche Brothers Supermarket to solicit shoppers for their signatures so that candidate could qualify for the ballot. There was case law in Massachusetts that allowed signatures to be solicited at large shopping malls. GBREB took the position that the expansion of that doctrine to smaller retailers should not be allowed and considered an infringement on their private property rights. The Massachusetts Supreme Judicial Court upheld Glovsky’s right to solicit signatures at a supermarket.

Multifamily Evictions
Amicus Brief-Figgs v Boston Housing Authority
Trena Figgs was a Section 8 tenant in BHA apartments was evicted for recreational use of a deminimus amount of marijuana. It was considered a federal crime but only a civil fine in the Commonwealth. Figgs claimed that state law should apply not the federal standards and her eviction should be reversed. GBREB argued that Section 8 is a federal law, with federal money so federal law controls. The SJC upheld the eviction because of the discovery of an illegal firearm in the apartment, and the likelihood other crimes may have been committed there. The Supreme Judicial Court did not decide the state –federal issue surrounding which law would control when the issue of marijuana is involved.

Real Estate Agents, Independent Contractor
Amicus Brief-Monell v Boston Pads
This case involved a group of employees of a real estate office who believed that they were not independent contractors, but because of the exercise and control that their office manager had over them should be considered employees of their company. This case was argued in November, and the SJC will not likely issue a decision on it until 2015.

Utility Costs
Coakley v Bangor Hydroelectric
GBREB has been involved in two administrative regulatory proceedings before Federal Energy Regulatory Commission (FERC) seeking to lower costs for members and their clients. In the first complaint, GBREB, together with the National Consumer Law Center (NCLC) and Environment Northeast (ENE), asked FERC to review the return on equity that the owners of electric transmission line companies are getting from consumers in New England, and reduce it. The complaint brought with others argued that the amount of money ratepayers are paying for transmission costs should be lowered to reflect lower finance costs and the lack of risk. This is the second such complaint filed by consumers from New England. The cost of this litigation was paid for by the Massachusetts Attorney General’s Office of Ratepayer Advocacy which believes that transmission costs are too high and owners are not justified in reaping current high revenues. FERC proceedings are notoriously complex, somewhat arcane, as well as time consuming.
Legislative and Regulatory Issues

Broker Price Opinions
Broker Price Opinion’s (BPO) are regularly used by real estate brokers to help estimate the value of a property and to establish a listing price. A BPO is not an appraisal, which can only be performed by a duly licensed appraiser. Under the current law, a real estate broker providing a BPO is expressly excluded from regulations governing appraisers. MAR & GBREB worked to insure the law remained unchanged for real estate brokers in a bill regulating appraisal management companies. An amendment exempting licensed brokers and salespersons from the bill was successfully included in the bill.

Building/Elevator Code
GBREB continues to monitor a variety of code issues from the mundane to the complex. In March, GBREB successfully urged the Board of Building Regulations and Standards (BBRS) to not require that a building permit be pulled for the replacement of carpeting. GBREB argued the change would add unnecessary time and cost to building updates and like other cosmetic changes such as painting or tiling should continue to be exempt from requiring a building permit. GBREB also monitored changes to regulations governing fines for expired elevator certificates. The final regulations included language that fines would not accrue if owners requested a timely inspection in writing.

Building Energy Scoring-Boston & Cambridge
In Boston GBREB worked with the Walsh Administration & members of the City Council to grant a one year reprieve to commercial building owners from fines. The law amends the so called “Building Energy Reporting and Disclosure (BERDO)” law spearheaded by Mayor Menino in 2013.

The City of Cambridge adopted an energy scoring ordinance similar to Boston in July. The Cambridge law captures commercial buildings over 25,000 sq. feet and residential buildings, including condominiums, with 50 or more units and imposes fines up to $300 a day for non-compliance. Cambridge added a new requirement that owners must provide sellers with benchmarking information for an entire year anytime the building is transferred. The Cambridge law requires owners to maintain records including water and energy bills for up to three years that may be audited by government regulators at any time.

In 2013 GBREB opposed the passage of the energy scoring ordinance in Boston out of concern it would spread to cities and towns across the Commonwealth. GBREB has expressed opposition to policies by the Patrick Administration to stigmatize property or otherwise interfere with transactions. Legislation to require energy audits at the time of transfer has also been considered at the State House.

Building Moratorium & Zoning Enforcement, Newton
In October REALTORS® mobilized against two legislative proposals in the town of Newton. The first proposal was loosely modeled after the rental registry in Boston, however taking it a step further by making real estate agents/brokers responsible for enforcing local zoning laws. Under the proposal real estate agents/brokers would be directly responsible for reporting to the City whenever an apartment was vacated or rented, imposing new fees and assessing fines for non-compliance. The second proposal would have imposed a one year building moratorium. Local lawmakers reconsidered both proposals after a strong showing by local agents at a public hearing.
Carbon Monoxide Detectors
Language to dramatically expanding the installation of carbon monoxide detectors to all commercial buildings at the time of transfer was attached to an outside section of the budget but ultimately not adopted. GBREB raised objections to the proposal would have created problems for mixed use building and did not include a phase in period for commercial transactions.

Commercial Real Estate Closings
GBREB along with the Land Title Association and NAIOP opposed legislation that would hinder commercial real estate closings by prohibiting the use of title insurance companies, as escrow agents acting on the instructions of mortgagor’s and mortgagee’s counsel, to conduct commercial real estate mortgage loan closings – i.e., to receive and disburse mortgage loan funds and record documents. The language was attached to the state budget as a way to generate new revenue for the Interest on Lawyers’ Trust Accounts (IOLTA) program. IOLTA distributes the interest earned on IOLTA accounts to the Massachusetts Legal Assistance Corporation, the Boston Bar Foundation and the Massachusetts Bar Foundation to be distributed to legal aid providers. The language was not included in the final version of the state budget after the sides were unable to reach a compromise.

Construction Retainage
Despite opposition from the real estate industry, architects and affordable housing advocates a bill regulating the terms of private construction contracts over $3 million became law. Chapter 276 of the Acts of 2014 regulates how and when retainage can be released by an owner. Retainage is a portion of the contract withheld until work is complete to insure that a contractor/subcontractor correctly completes a project. The new law caps retainage at 5%. GBREB opposed the bill out of concern it would interfere with private contract rights and increase the cost of construction. GBREB also raised concerns regarding lending requirements which require 10% retainage including many affordable housing programs. Despite these concerns the bill was swiftly adopted by the Senate and House on a voice vote during the last two weeks of session. Prior to the bill’s passage retainage was a matter of private contract negotiations.

Energy Efficiency, Education for Building Operators
New legislation introduced this session at GBREB’s request was successfully reported out favorably from committee. The bill sponsored by Representative Tacky Chan of Quincy target’s the needs of the commercial building sector by providing the education and training, including analytical tools, for those who are directly responsible for a building’s operations. The bill attempts to capture a portion of the existing energy efficiency funds for education and training focused to include some very specific and important topics, such as best energy use, efficiency practices, use of new technologies, use of metering, tracking, monitoring energy use, and economic analysis to support reduced energy use – all in the context of learning to save energy in an economical and cost effective way.

Vacant and Foreclosed Buildings-Metal Theft
GBREB and MAR supported legislation to clamp down on metal theft. Metal piping and other fixtures are increasingly stripped from vacant and foreclosed buildings and sold as scrap metal. This often results in an unmarketable title for mortgage loan qualification purposes and creates a public safety hazard. The bill creates a state-wide “Second Hand Metal Registry.” to providing law enforcement with sufficiently detailed transaction information to keep scrap metal thieves out of business.
Mortgage Forgiveness Debt Relief and Debt Cancellation
In 2007 the federal government passed The Mortgage Debt Relief Act allowing homeowners to exclude income from the discharge of debt on their principal residence on their federal tax return. MAR refiled legislation to allow a similar exclusion on the state level. GBREB and MAR continue to support the bill allowing homeowners with loan modifications, short sales and foreclosures not liable for state taxes on debt that is forgiven, as they would on regular income.

Pest Infestation
Legislation filed at the request of GBREB to help mitigate bedbugs advanced during this legislative cycle. The bill is designed to increase public awareness and encourage early notification and cooperation between residents and owners. The legislation would require the state Department of Public Health to create a pamphlet explaining how to identify bed bugs, outline preventative measures to avoid infestation, and address the duties of landlords and tenants. The duty to exterminate bedbugs will remain a responsibility of the landlord, as it is in current state law, however the bill would require cooperation by the tenant. It is hoped this measure will give the landlord and the exterminator a reasonable chance at success, eradicating the problem.

Rent Escrow
Under current state law a residential tenant may withhold rent that is due by filing a counterclaim in certain summary process actions alleging violations of the state sanitary code. Such cases can be costly and time consuming. Representative Robert Fennell (D-Lynn) introduced legislation at request of GBREB, to simply require the tenant to prove that unpaid rent is being maintained in a bank account. In addition, the bill allows but does not require that the court may order those funds to be maintained pending the conclusion of the case. The bill seeks to strike a balance to ensure equity and fairness to all parties. The bill was sent to a study.

Smoke Detectors
Legislation mandating the installation of so called “10-year” smoke alarms in homes and apartments was adopted in the Senate but ultimately did not become law. GBREB did not oppose the ability of fire officials to require upgrades as new technology becomes available as long there was no requirement to retroactively eliminate the use of battery operated technology an idea which had been discussed in prior versions of the bill. GBREB was also successful for securing an amendment to the bill that would grant more time for homeowners and the public to understand the new law and comply by January 1, 2016. The bill also would have required inspections by local fire officials regardless of the date of construction.

Taxation-Expansion of Hotel/Motel Tax to 90 Day Rentals
GBREB and MAR continued to successfully oppose the expansion of the hotel/motel tax including three “home-rule” petitions filed by the towns of Provincetown, Wellfleet and Brewster. The proposals would have expanded the application of the hotel/motel tax to any apartment, single family, cottage, condominium or timeshare rented for less than 90 days. GBREB and MAR raised several objections including the administrative burden placed on owners to register with the Department of Revenue (DOR) and file a monthly report of income even if the property has not been rented and no tax is due. In addition that short-term house rentals and corporate apartments are different from hotels rented for a longer duration through the execution of a lease.
Tax Credits
GBREB continues to support expansion of real estate specific tax credits such as Title V, Lead Paint, Historic Tax Credits and the Low Income Housing Tax Credit. Current state law grants homeowners who delead their property or repair their septic system tax credits. The Lead Paint Removal Credit is $1500 per residential unit for full compliance, and $500 per residential unit for interim control. The Commonwealth also provides a tax credit of up to $6,000 over 4 years to defray the cost of septic repairs to a primary residence. GBREB and MAR continue to support an expansion of these tax credits to help homeowners. In addition, GBREB supports tax credits aimed at spurring housing development such as the Historic Tax Credit and the Low Income Housing Tax Credit. Both the LIHTC and Historic Tax Credit have been successful in generating billions in private investment and construction jobs.

Utility Vaults
Utility transformer vaults are often contained in building or may be located below the surface of the street outside of the property line. These vaults contain specialized and dangerous high voltage equipment. For appropriate safety reasons access to, and use of, the vaults and transformers are under the exclusive jurisdiction of the utilities. Language attached to an omnibus gas bill would have shifted cost and liability from the utilities to the building owner for the maintenance of utility vaults. GBREB strongly supports proper maintenance as critical to the safety of the building maintenance personal and tenants, but urged legislators to consider alternatives to the bill as written. Ultimately the legislature adopted language that directs the state Board of Building Regulations & Standards to conduct further research.

Zoning, 40B
GBREB and MAR continued to vigorously defend the comprehensive permit law also known as 40B. Chapter 40B has been an important tool in streamlining the process and getting much-needed housing built. The law was enacted in 1969 in response to the heightened awareness of fair housing to create housing opportunities in suburban communities for people of limited means. Its purpose was – and remains – to address fundamental fair housing principles that are often blocked or overlooked through restrictive local zoning that prevents the development of affordable and multi-family housing units for lower-income residents of the Commonwealth. Dozens of bills were filed which would undermine the intent of 40B and ultimately rejected by the legislature.

Zoning, 40A
The real estate industry was united in strong opposition to a bill that would further complicate the development process and stifle housing development. A bill reported out favorably from the Committee on Municipalities would have taken away several tools used by developers including the elimination of the Approval Not Required (ANR) process and mandated inclusionary zoning without providing a density bonus or other incentives. The bill would have done nothing to prevent municipalities from continuing the practice of imposing arbitrary and ad hoc mitigation requirements on development. GBREB continues to believe that any legislation addressing land use reform must facilitate a more transparent and predictable system for owners and developers.

Housing Production
In 2014 Mayor Martin Walsh announced efforts to increase housing production in Boston. Representatives of GBREB worked with the Mayor and his team as part of the Housing Task Force which developed the housing blueprint. According to the plan the City will aim to produce 53,000 new units of housing, generating $21 billion in new development and creating 51,000 construction jobs through the year 2030.