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Hon. Dereck E. Davis
Chairman
Economic Matters Committee
Maryland House of Delegates
House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: House Bill 1006

Dear Sir:

I am writing to express my opposition to this proposed bill. I am an attorney, and my practice is largely real property related. I concentrate in real estate transactions, real estate litigation and land use issues. I often serve as trustee for court ordered sales, and I practice in the estate administration area as well.

My clients are best served if I can offer them a variety of possible ways to sell property. For the most part, if a client wishes to sell residential property and there is no outside pressure to sell (i.e. divorce, foreclosure, financial difficulty) the client engages a realtor, and the transaction goes forward based on the realtor's estimate of the marketability of the property. It may sell quickly, or depending on the accuracy of the realtor's guesstimate of value, it may languish on the market for months.

There are some cases, not court ordered, where this simply doesn't work. For instance, feuding siblings (or tenants in common) may be unable to agree on price, a single realtor, the terms of sale or whether another family member should be offered the property before it is offered to others. Distrust is rampant. Tempers can flare, and the result is often ugly.

At this time I can offer the family a solution – a public auction sale with the property being sold to the highest bidder. This has multiple advantages: (1) anyone can bid; (2) the entire transaction takes place in the public view; (3) we can get the property to settlement in as little as seventy-five (75) days; (4) we can establish a reserve; (5) we can sell "AS-IS" without having to make repairs; (6) we can require that the purchaser pay at least half or perhaps all of the transfer taxes. In the case of distressed property that flexibility can be very important. It also prevents the increasingly common practice of realtors suggesting that the price increase and the seller give "seller assistance" thus creating a false equity in the property.

Estates often have distressed property that must be sold. It is frankly impossible to get a realtor to list or take the time to market a property where the chance of a reasonable commission is almost non-existent. On the other hand, there are a number of buyers who follow the legal advertisements searching for real estate auctions. These buyers are looking for bargains – properties they can rehab, re-purpose or market to investors who buy properties “in need.” In the estate context there is a nine (9) month deadline for the first account. For distressed properties it has been my experience that it is difficult to meet that deadline if the property is listed with a realtor.

Additionally, as I understand the proposed legislation, it might be broad enough so that I, acting as a court appointed trustee, would not be able to employ an auctioneer to “call the sale” without violating the law.

It appears to me that this proposed legislation is merely an attempt to remove competition for real estate sales services. The law must not be used to stifle competition. Competition protects the consumer. By removing my client’s ability to choose the service the client prefers, you will do my clients, and the public at large, a great disservice.

Thank you for considering my concerns.

Sincerely,



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Robert E. Jarrell, Esq., 5 N. First Street, Denton, MD 21629 has authorized me to say that he also is opposed to the bill as drafted. He agrees that competition is good for consumers and the public at large. This bill effectively removes a tool that can be employed to protect the consumer.