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February 3, 2020

Hon. Delegate Kumar Barve, Chair
Hon. Delegate Dana Stein, Vice Chair
Environment and Transportation Committee
House Office Building Room 251
6 Bladen Street
Annapolis, MD 21401

**Re: HB 240 Real Property - Homeowners Associations - Number of Declarant
Votes**

Hearing: February 4, 2020

Position: Support with Amendments

Dear Chairman Barve, Vice-Chair Stein and Committee Members:

This letter is submitted on behalf of the Maryland Legislative Action Committee (“MD-LAC”) of the Community Associations Institute (“CAI”). CAI represents individuals and professionals who reside in or work with condominiums, homeowners associations and cooperatives throughout the State of Maryland. We are writing today to voice our support for HB 240 with amendments.

The MD-LAC believes the bill provides improved clarity over an issue that has significant impact on voting rights during the time of transition from developer control to homeowner control, especially when such transition is lengthy. It clarifies when the homeowners can begin to manage the affairs of the association instead of the developer.

The bill will address inequitable situations where developer-control of homeowner associations in Maryland could (by virtue of Declarations and covenants created by developers) extend for many, many years and despite the completion of most of the community. Often developers will include provisions for weighted voting (e.g., developer has 3 votes for each lot owned OR that

could be subdivided in the future). This control can continue even after the financial obligations for administering the community are shouldered primarily or wholly by the homeowners.

It should be noted that this type of weighted voting in favor of the developers is strictly prohibited in condominiums by virtue of the Condominium Act.

In addition, we would ask that the Committee recommend an amendment noting the remedial nature of the bill so that it applies both prospectively and retroactively to existing communities. The Court of Appeals has explained [Langston v. Riffe, 359 Md. 396, 409 (2000)] that:

“Under Maryland law, statutes are remedial in nature if they are designed to correct existing law, to redress existing grievances and to introduce regulations conducive to the public good.”

Weathersby v. Kentucky Fried Chicken Nat'l Management Co., 86 Md.App. 533, 550, 587 A.2d 569, 577 (1991) (citing State v. Barnes, 273 Md. 195, 208, 328 A.2d 737, 745 (1974)), rev'd on other grounds, 326 Md. 663, 607 A.2d 8 (1992).

We strongly believe that HB240 is designed to correct the inequities in existing law, existing grievances and that these changes would further the public good for residents in existing and future Maryland communities.

We ask for a favorable report on HB 240 as amended. We are available to answer any questions which you may have. Please feel free to contact any of the individuals listed: Lisa Harris Jones, CAI MD-LAC lobbyist, at 410-366-1500 or by email at lisa.jones@mdlobbyist.com; or Peter Philbin, Esq., CAI MD-LAC at 301-222-0152 or by email at PPhilbin@reesbroome.com; or Steven Randol, Chair 410-695-2183, or srandol@pineyorchard.com

Sincerely,

Peter S. Philbin

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Community Associations Institute
Maryland Legislative Action Committee

CAI is a national organization dedicated to fostering vibrant, competent, harmonious community associations for more than thirty years. Its members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to common interest associations. As part of its mission, CAI advocates for legislative and regulatory policies that support responsible governance and effective management. As part of this purpose state Legislative Action Committees represent CAI members before state legislatures and agencies on issues such as governance, assessments collection, insurance and construction defects

Maryland Legislative Action Committee
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