

YRP LOS SB 869.pdf

Uploaded by: Chris Forrest

Position: FAV



York Road Partnership is membership network of 30+ neighborhoods and affiliates promoting the vitality of Baltimore City's York Road community as a desirable urban environment in which to live, shop, work and worship.

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Chris Forrest
Winston Govans

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Committee Chairs

Public Space and Greening
Helene Perry & Marie Anderson

Housing and Neighborhood Revitalization
Donna Blackwell & Dan Pontious

Public Safety
Cedric Crump & Christopher Forrest

Youth Development
Phyllis Gilmore

Business Engagement
Christopher Forrest & Lisa O'Reilly

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Testimony of Christopher Forrest, President York Road Partnership

Supporting SB 869 – Small Box Discount Stores – Zoning Requirements and Community Agreements

Senate Education, Health, and Environmental Affairs Committee Hearing

March 3, 2022

The York Road Partnership is a collaboration among 30 Baltimore City neighborhoods and institutions all along York Road from 43rd Street to the Baltimore County line. We have been working together for more than 25 years to improve the quality of life on the York Road commercial corridor and in the communities along it. Working together, we have raised hundreds of thousands of State, City, and philanthropic dollars to improve commercial façades, rehabilitate vacant homes, and help senior citizen homeowners with badly needed home repairs.

One force working against us is the proliferation of dollar stores along our corridor. We have a dense population and one of the highest-ridership MTA transit lines in the Baltimore metropolitan area. We should have a grocery store with healthy food that is easily accessible to our corridor's residents. Yet the first dollar store to move into our corridor, Family Dollar, moved into the space that had housed a Food Lion. Two more then moved in just over the past few years, all less than a mile apart.

SB 869 would prevent dollar stores from locating so closely together, it would direct the Baltimore City Board of Municipal Zoning Appeals (BMZA) consider impact on grocery stores and other needed retail when approving a newly conditional use. And finally, it would require memoranda of understanding with nearby neighborhoods for those dollar stores that do locate.

SB 869 would help our corridor in our revitalization work, and we urge a favorable report.
consideration.

Sincerely,

Christopher Forrest
President

RWIA Testimony SB869 Dollar Stores Mar2022.pdf

Uploaded by: Daniel Pontious

Position: FAV



RADNOR-WINSTON IMPROVEMENT ASSOCIATION

RadnorWinstonAssociation@gmail.com www.radnorwinston.org

TESTIMONY OF RADNOR-WINSTON IMPROVEMENT ASSOCIATION IN SUPPORT OF SB 869 – SMALL BOX DISCOUNT STORES – ZONING REQUIREMENTS AND COMMUNITY AGREEMENTS

Before the Senate Education, Health, & Environmental Affairs Committee

March 3, 2022

My name is Dan Pontious, and I serve as president of the Radnor-Winston Improvement Association. Radnor-Winston is a neighborhood along the York Road corridor in northern Baltimore City with more than 300 residences, including single-family bungalows and duplexes, apartments, and affordable homes for senior citizens and people with disabilities. We support Senate Bill 869, sponsored by our Senator Mary Washington and others, which would direct the Baltimore City Council to limit the density of Dollar Stores and their ability to undermine needed grocery stores. The bill would also require those that do locate to reach community agreements with nearby neighborhoods.

When my wife and I bought our house in 1998, there was a Food Lion grocery store along our section of York Road, many other retail options, including discount retail, and no dollar stores. More recently dollar stores seem to have perfected a particularly extractive business model that profits from lower-income communities, undermining grocery stores with healthy food and other retail options. Now part of that Food Lion space is a Family Dollar, the first of now-three dollar stores within one mile of each other on our section of York Road. Just down the street where York Road becomes Greenmount Avenue in Waverly, it was just announced that a long-time Rite Aid store would become yet another dollar store.

We are concerned that the proliferation of dollar stores in Baltimore City will undermine the needed proliferation of grocery stores with healthy food, as well as other retail. We urge you to support SB 869.

HB1269.pdf

Uploaded by: Emily Legum

Position: FAV

HB1269 (SBo871)

Accessory Dwelling Unit Authorization and Promotion Act

Emily R. Legum

2531 Lyon Drive

Annapolis, Maryland 21403

As an educator in both the public and independent schools in Anne Arundel County for four decades, I write in support of HB1259(SBO871). I have witnessed very talented teachers, counselors and administrators leave the area because of the exorbitant cost of housing. I have watched as many have tried to balance two jobs in order to provide their families with adequate housing. Accessory Dwelling Units (ADU's) provide alternative living space for those citizens who choose to serve the community.

ADU's can and could be an effective tool in providing accessible, comfortable and desirable living spaces. They are beneficial for homeowners, renters and the community at large. For homeowners they can provide much-needed annual income. For example, income from an ADU can help a homeowner qualify to buy a home or provide additional income. This is especially important for seniors who are on a fixed income. At the same time, ADUs offer young people entry-level housing choices. Renters also benefit from ADU's by providing affordable housing costs as well as shorter commute times by increasing the odds of living near their work, school and services. Finally, ADU's work well for the smaller childless households which now account for nearly two-thirds of all households in the U.S.

The community also benefits from ADU's. They prevent urban sprawl by reducing the pressure on state and local governments and developers to create new housing thus reducing the impact on local utilities, the environment, climate and much needed services.

I urge you to pass HB1259(SBO871).

Respectfully,

Emily R. Legum

MLW Written Testimony For BCSD SB869.pdf

Uploaded by: Mary Washington

Position: FAV

MARY L. WASHINGTON, PH.D
Legislative District 43
Baltimore City

Education, Health, and
Environmental Affairs Committee

Chair
Joint Committee on Ending
Homelessness

Chair
Joint Committee on Children,
Youth, and Families



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SUPPORT – SB 869

Baltimore City - Small Box Discount Stores - Zoning Requirements and Community Agreements

Education, Health, and Environmental Affairs Committee

March 3, 2022

I respectfully urge you to vote favorable on Senate Bill 869, which regulates small box discount stores in Maryland. SB869 limits the concentration of small box discount stores and increases community involvement in retail store developments.

Small box discount stores have grown considerably in food desert communities across the State and urban centers. They continue to spread rapidly throughout low-income communities, significantly decreasing the profits of local grocery stores and subsequently prompting their closures ([Donahue, 2018](#)). Small box retail stores offer items at a presumably discounted rate, but their per-unit rates are higher than the big box retailers such as Walmart ([Karpyn, 2019](#)). The concentration of small box discount stores and the elimination of grocery stores contribute to the economic and health disparities in low-income communities across Maryland ([ILSR, 2018](#); [ILSR, 2022](#)).

SB869 mandates communication with adjacent communities. As a part of the small box retail store zoning permit application, the owner must execute a community agreement, allowing for community participation in the process. When dollar stores come into communities, there is very little to no involvement from the community due to the lack of proper communication and community leverage. Involving them in the process allows communities to set a standard for participating small box discount stores. Historically, Small box stores are commonly known to underpay workers and have been cited as crime hot spots due to their understaffing ([NBC, 2020](#); [Shen, 2021](#)). Communities must have the capacity to leverage their power to regulate potentially detrimental businesses. Communities must be active participants in the approval process.

SB869 ensures the enforcement of the community engagement agreement. Small box discount stores must be monitored to ensure their agreement is upheld.

SB869 will ensure that small box discount stores will not be located less than a mile from one another. Prior to COVID19, about 1.5 million residents were thought to be food insecure ([Baltimore Sun, 2020](#)). Low-income communities suffer from food insecurity at disproportionate rates throughout the state. Food insecurity addresses the availability of food or access and the

access to nutritious food items that can support a community's growth and development ([Feeding America, 2019](#)). Most small box retailers have a limited selection of fresh food items contributing to unhealthy dietary patterns.

SB869 requires that small box discount stores develop at least a mile apart and allows for the opportunity for communities to incorporate stores that carry more nutritious options.

Nutrition is vital for a communities' mental health and overall wellness. Epidemiological research emphasizes that nutritious diets are associated with reduced risks of depression, suicidal ideation, decreased stress, and other health risks ([Firth et. al, 2020](#)). Decreasing the amount of small box discount stores within a given area will allow the development of full-service grocery stores and increase the surrounding community's health.

SB869 encourages beneficial community development by limiting the development of small box retail stores.

This bill prioritizes local retail, grocery stores, and other stores offering healthier food options over the development of small box stores. Increasing local retail stores is an investment in the local community; it contributes to the local economy. Small box retail stores have successfully removed vital dollars from low-income communities. Between 2015- 2019 Dollar Tree multiplied from 20,000 locations to nearly 30,000 ([ILSR, 2022](#)). These stores' concentration led to supermarket redlining, which stifled the urban ecology. The concentration of small box retailers has acted as a social marker for nutrition scarcity and disinvestment ([Shannon, 2018](#)).

SB 869 will bring a profound benefit to the lives of Marylanders by regulating small box retail stores and ensuring beneficial development in neighborhoods.

I welcome your partnership in this important effort and urge you to vote favorable on SB 869.

In Partnership,

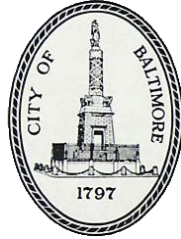
A handwritten signature in blue ink, appearing to read "Mary Washington".

Senator Mary Washington
Maryland 43rd District

SB0869-EHEA-LOI.pdf

Uploaded by: Natasha Mehu

Position: INFO



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 869

March 3, 2022

TO: Members of the Senate Education, Health, and Environmental Affairs Committee

FROM: Natasha Mehu, Director, Office of Government Relations

RE: SB 869 -Baltimore City - Small Box Discount Stores - Zoning Requirements and Community Agreements

POSITION: LETTER OF INFORMATION

Chair Pinsky, Vice Chair Kagan, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) is submitting a letter of information on Senate Bill 869.

Senate Bill 869 requires the City to make small box stores conditional based on analysis of 1) economic harm to adjacent properties; 2) proximity to grocery stores or healthy food retailers and 3) impact on business diversity. The bill is prospective in that it addresses future locations for dollar stores, but does not address the perceived impacts of these stores already located in Baltimore neighborhoods. We understand the intent of the sponsor is to address the concentration of dollar stores and the problems associated with them in the City. We commend her intent and are committed to working with her to address those issues.

The BCA recognizes the controversial nature of dollar stores, and the detrimental impact they can have on urban communities. These impacts are nationally well-documented and a source of local concern, especially since dozens of dollar stores currently exist within Baltimore City. Controversy aside, Baltimore City dollar stores provide goods at affordable prices to many Baltimore neighborhoods and provide jobs for City residents. Many Baltimoreans choose to shop at dollar stores because they provide the only nearby options for critical goods and groceries and/or they offer goods at less expensive prices relative to traditional grocery stores.

The City zoning code already restricts certain uses to conditional use only -- big box stores for example -- and has situations where economic impact analysis is required (big box stores), or where the density of certain operations is restricted (liquor stores), so a bill for small box stores that use these strategies is not inconsistent with existing policy. However, efforts to address the concentration of dollar stores in Baltimore City need to carefully balance the benefits and detrimental impacts the stores have on our communities.

The BCA supports the use of independent, data-based analysis to support proposed changes in zoning, and in the particular case at hand, it would be extremely beneficial for an independent analysis of the economic harm of Dollar Stores on grocery stores and/or communities to be in place prior to imposing restrictions on them, so that the restrictions can be appropriately tailored to the harm they cause. As written, however, this bill does not call for such independent analysis and imposes very broad conditions that must be met to obtain a conditional use. While deferring to the local jurisdiction on these matters is appropriate, it handcuffs the City's ability to craft appropriate restrictions by pre-determining the specific conditions under which a store could be approved.

Moving forward without such an analysis on zoning and land use can lead to legal concerns and unintended consequences. Zoning and land use regulation changes often raise constitutional concerns over the reasonableness of the regulation – namely whether there is a real and substantial relation to the objects and purposes intended. State courts often note that regulation must have a real and substantial relation to the objects and purposes intended to be furthered, in view of existing conditions in the community and the physical characteristics of the area and particular tract of land involved. This type of arbitrary and capricious due process challenge has been successful in a wide variety of contexts and in regard to most types of zoning restrictions.

Equal Protection and Commerce Clause concerns are also often raised. Generally, under an equal protection analysis, so long as there is "some rational basis" for different treatment of similar land uses, a zoning classification or restriction will be upheld. Under the dormant Commerce Clause, a law cannot discriminate against companies that come from outside the town, city, or state, and the purpose behind the law cannot be to protect local merchants from unfair competition, or even to protect the local economy from out of state business competition, nor can it single out an unwanted retailer. Finally, "a zoning enabling act authorizes as the proper object of regulation only the use of the land itself and therefore, courts have held zoning controls on the details of an owner's operation are ultra vires. An important rationale in many cases applying this ultra vires principle is that established businesses should not, merely by being first in time, receive undue advantage from zoning.

As for unintended consequences, the bill seeks to separate one type of store from all others. The BCA would need to amend the zoning code to create a new land use definition, and then assign it to the various districts where it is to be permitted (or not). While we understand the desire is to target a specific group of retail brands, it's important to note that such changes will also affect other businesses of the same size, regardless of ownership. This would lead to the unintended consequence of non-targeted businesses being impacted by the bill. The proposed distance standards are also not without controversy. As they could have the effect of zoning out the land use functionally or entirely. There have been problems with establishing distance standards for other kinds of uses, such as adult entertainment establishments.

One of the proposed mechanisms to gain a conditional use – a required community agreement – is unprecedented in the City code. We are concerned about the legality, practicality, and fairness of this approach. Community associations and other community-based nonprofit incorporated entities can do this, but communities are not the same thing. Communities are often difficult to define and are composed of hundreds of individuals as well as places of worship, businesses, schools, and nonprofits. We are also concerned about this approach, if approved, being applied to future business types that certain communities may find objectionable now or in the future, e.g. fast-food restaurants, gas stations, or novel business models not yet in existence. The existing conditional use processes through BMZA and City Council provide multiple opportunities for

community input and, in some cases, may require a community agreement to be put in place, but to require one as a prerequisite to use causes us major concern.

Zoning is a broad set of rules, whereas a license can target a specific applicant that does not meet specific rules or requirements. We see attempts to use the zoning code for a wide variety of things because it's the most easily visible regulation, but most often it's the wrong tool for the job. A better, more precise tool for regulating target businesses may be the creation of a specific business license. The BCA is committed to working with the sponsor to address the issue in the most appropriate way possible.

Sincerely,

A handwritten signature in brown ink, appearing to read "Natasha Mehu", with a long, sweeping underline.

Natasha Mehu

Director

Mayor's Office of Government Relations (MOGR)