



March 23, 2023

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Senator William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401

RE: HB 0567 Residential Property-Affordable Housing Land Trusts-Authority to Establish Condominium Regimes

Members

Northeast Housing Initiative

Charm City Land Trusts

Harbor West Collective Affordable Housing Land Trust

South Baltimore Community Land Trust

Cherry Hill Community Development Corporation

York Road Partnership

Dear Chairman Smith,

The SHARE Affordable Housing Land Trust Network in Baltimore City supports HB 0567 and asks the Senate Judicial Proceedings Committee to give it a favorable report. The bill makes a technical change to Condominium Act that will clear up confusion between its regulatory structure and that of Affordable Housing Land Trusts.

SHARE was established in 2018 to provide mutual and technical support to Affordable Housing Land Trusts (AHLTs), also called Community Land Trusts (CLTs), that were forming in Baltimore City. AHLTs/CLTs provide housing that also supports development without displacement. AHLTs legally separate land from the housing upon it, and then knit them together in legal documents that enable homeownership, rental, and co-operative housing to occur in traditional ways with traditional financing, but on land owned by a community-led non-profit organization. The legal land trust agreement that brings them together keeps this housing permanently affordable by prior-set formulas that govern subsequent sales. This enables the community to maintain an affordable sector regardless of market conditions.

AHLTs/CLTs have an exemplary track record in maintaining affordability and security of tenure. Ninety percent of low-income, first-time homebuyers under the AHLT/CLT structure are still housed five years later, either by remaining in AHLT/CLT housing and transitioning to traditional homeownership. In contrast, 50% of low-income, first time

homebuyers have returned to renting under government programs designed to assist them. (Jacobus and Davis [The Asset Building of Shared Equity Homeownership](#), Jan 2010.) AHLTs/CLTs also showed fewer foreclosures than traditional housing models during the foreclosure crisis of the early 2000s and fewer evictions during the COVID 19 emergency (Sabonis, [The Transformative Potential of Community Land Trusts](#), Shelter Force, Sept. 2021.)

A number of Affordable Housing Land Trusts (AHLTs) are developing multi-unit housing and providing the units for homeownership through a condominium-like structure. However, the current condominium law does not envision or make provision for the AHLT agreements. AHLT agreements, commonly known as ground leases (though distinct from “ground rents”), technically makes the AHLT housing a “leasehold estate.” Such estates are prohibited in the condominium structure that is governed by the Residential Condominium Act (MD Real Property Code Ann. Sec. 11-101 et seq.).

AHLTs must sidestep this prohibition by first creating a “commercial” condominium and then a “residential” one. These two-steps add complexity and confusion to financiers, both public and private, and operate to delay and prevent successful property acquisition and housing financing.

The Affordable Housing Land Trust Act (MD Real Property Code Ann. Sec. 14-501 et seq.) exempts the Affordable Housing Land Trust Agreement from statutes pertaining to ground leases but does not address condominiums. While legislative acts must be construed by the courts *in pari materi* (in harmony), there is no reason for this to be resolved by litigation. This simple fix to the Condominium statute would exempt Affordable Housing Land Trust Agreements from being deemed “leasehold estates” for purposes of the Condominium Act. The amendment is consistent both with the intent of the regulatory structure under both the AHLT and Condominium acts, in harmony with each considered together, and involves no fiscal cost to the state.

We thank you for your anticipated support and favorable report of HB 0567.

Sincerely,

Danise Jones-Dorsey