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Environment and Transportation
Committee

House Chair

Joint Committee on Children,
Youth, and Families

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

March 28, 2023

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Delegate Jen Terrasa
District 13, Howard County

Re: Sponsor Testimony in Support of HB331, Real Property - Cooperative
Housing Corporations, Condominiums, and Homeowners Associations -
Virtual Meetings

Dear Chairman Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee,

Thank you for the opportunity to present HB331. This is a reintroduction of a bill from last year (HB1147), which was passed by the House, but did not get a vote in the Senate Judicial Proceedings Committee. Bringing it back this Session, I decided to take the opportunity to make some improvements to the bill, so it is not in the same posture as last year.

Why HB331 is Necessary:

Some residents of common ownership communities (HOAs, condos and co-ops) have been denied the ability to fully participate in virtual meetings of their community's board of directors, and some have discovered that decisions affecting their community are being made by board members through email.

What HB331 Does:

- Requires that when COCs hold meetings virtually, the Board must provide participants a reasonable opportunity to participate in the meeting, including equal access to any available chat function;
- and provides that a board of directors' meeting held electronically (including via email) must be held as an open meeting. A closed meeting can only be held for one of the specific purposes enumerated in Maryland law.

Background

Virtual Meetings

You may recall that the General Assembly passed legislation several years ago during the height of Covid authorizing the governing bodies of common ownership communities the ability to use virtual means to conduct meetings. (Delegate Holmes' bill, HB1023, passed unanimously out of committee and both chambers and was enacted June 1, 2021.) HB331 would clarify some best practices for conducting those meetings.

While these types of meetings may have begun as a result of necessity during the COVID-19 pandemic, it has become clear that they will likely remain a regular option. Such virtual meetings are a convenient and effective way for people juggling work and family life to have the opportunity to attend.

As a member of Delegate Holmes' Common Ownership Community Taskforce, I heard quite a few concerns about how virtual meetings are being conducted. We were told by a number of community members that COC boards have been using the chat feature without opening it up so all attendees can see it or blocking the chat altogether. We also heard that community members were muted and not given the ability to unmute, and thus were prevented from participating in the meeting in any meaningful way, asking questions, or even objecting if they observed a violation like lack of quorum. Without any ability to participate in the meeting, their presence on a zoom or other virtual platform is no different than merely watching a meeting on TV.

Of course, we've all experienced or heard of an experience when someone becomes disruptive in a virtual meeting, that's why HB331 also provides for the ability to mute a participant if they become disruptive and is provided a warning.

This legislation ensures fair participation and transparency for all the residents living in common ownership communities.

Email Meetings

The modern world involves constant electronic communication which in many ways makes life a lot easier. During the height of COVID, this became even more frequent, and in many cases, conversations that used to take place at in person meetings, became email conversations instead. However, with respect to COCs, this poses a problem because COC meetings should be transparent to the community it represents and give opportunity for resident participation.

We have heard that instead of discussing issues in an open meeting, boards are having group discussions by email and on many occasions even making decisions affecting the community. This excludes the community and is not transparent.

HB331 makes it clear that those email discussions are actually “meetings” and therefore a board of directors’ meeting held electronically must be held as an open meeting unless a statutory exception permits the closure of the meeting. Closed meetings can only be held for the purposes enumerated under Maryland Law. The following are the legal purposes for which a COC may hold a closed meeting:

1. Discussing matters pertaining to employees and personnel;
2. Protecting the privacy or reputation of individuals in matters not related to the business of the cooperative housing corporation;
3. Consulting with legal counsel on legal matters;
4. Consulting with staff personnel, consultants, attorneys, board members, or other persons in connection with pending or potential litigation or other legal matters;
5. Conducting investigative proceedings concerning possible or actual criminal misconduct;
6. Considering the terms or conditions of a business transaction in the negotiation stage if the disclosure could adversely affect the economic interests of the cooperative housing corporation;
7. Complying with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure;
or
8. Discussing individual owner assessment accounts.

HB331 protects the rights of residents while allowing COCs to take full advantage of modern technology.

I respectfully urge a favorable report.