

WRITTEN TESTIMONY

SB 0593 SUPPORT
Condominiums – Common Elements – Clean Energy Equipment

Judicial Proceedings Committee
March 7, 2023

Chair Mr. William C. Smith, Vice Chair Mr. Jeff Waldstreicher and members of the Judicial Proceedings Committee, I appreciate the opportunity to testify before this Committee in regard to Senate Bill (SB) 0593, Condominiums – Common Elements – Clean Energy Equipment.

My name is Brian Haaser, and I am the President of the Board of Directors for Glen Manor Condominium and have been a member of the Board for over 14 years. Glen Manor is a small garden style condominium consisting of 32 units located in Silver Spring, Maryland.

I began my research on leasing solar panels over two years ago. The biggest obstacle we faced was complying with the current section of the Maryland Condominium Act 11-125 - Easements and Encroachments - which provides an arduous process for common ownership communities to enter into a lease agreement.

Our attorney interpreted this section as follows: 1) we could obtain the approval of 66 2/3 of the owners and their mortgagees, 2) have the Board make the decision as long as the solar project served only the owners, and with proper notice to the owners and mortgagees, or 3) enter a one-year lease and then just renew it every year for 20 years (20 years is the normal term of a solar lease).

Our attorney is concerned this section is not clear on how to deal with entering a lease for clean energy equipment since there are few legal precedents regarding this section and leased clean energy equipment.

The Glen Manor Board chose to make the decision, with notice to owners and mortgagees. The Board choose this option since it is very difficult to have 66 2/3 percent of the owners to agree to act on any topic. Also, the possibility that a mortgagee can overrule the vote of an owner makes this section even dicer to use.

It took the Board months to identify all (about a dozen) the mortgagees (lenders). None of the mortgagees responded to our written notice and none attend our video call meeting. To me it was an exercise in futility and the notice requirement would be a much more daunting task for larger common ownership communities.

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The proposed changes Section 11-125, will greatly streamline the approval process and clarify the procedures to follow for leasing clean energy equipment. In addition, remove obstacles for common ownership communities to attain local and State government goals to reduce their carbon footprint and provide a way for these communities to reduce their operating costs.