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February 27, 2023

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

Re: SB 817 – Multifamily Dwellings -Smoking Policies
Hearing: February 28, 2023 Position: Oppose

Dear Chair 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.

MD-LAC is writing today to voice our opposition for SB 817 which requires a multi-family dwelling (condominium or cooperative association) with four or more units to adopt a policy to set forth where smoking is both permitted and prohibited on the property of the multi-family dwelling. Such bill also requires a multi-family dwelling to establish a process to file a complaint against violators of such smoking policy and set forth any penalties or fines for violation of the policy.

While some condominium or cooperative associations may have a smoking policy in place, there are significant challenges to enforcing such a policy. The bill does not address concerns within the community association industry pertaining to enforcement of such policies. It is exceptionally

difficult for a community association to penalize violators of a no-smoking policy because there is often insufficient proof of the source of the smoke. Smoking complaints are often unsubstantiated claims from a resident who believes smoke is emanating from a nearby unit or common area but has no definitive proof of such claim. By mandating a multi-family dwelling to adopt such a policy, the bill is inadvertently requiring a multi-family dwelling to enforce such a policy when that is difficult, if not impossible, to do. This could lead to claims against the multi-family dwelling for failing to enforce such a policy. Therefore, multi-family dwellings should have autonomy to determine if such a policy is prudent for their community and whether enforcement is possible.

In addition, although the bill requires the multi-family dwelling to create a policy on any “lighted matter” or “lighted substance,” this bill does not address the recent legalization of marijuana in the state of Maryland. Multi-family dwellings must first have guidance from the state on whether recreational marijuana can be prohibited in multi-family dwellings before a policy on smoking can be required. Housing providers are already faced with Fair Housing accommodation requests with respect to medical or medicinal marijuana and should not now be forced to decide between a potential discrimination claim from the user of medical marijuana and enforcement of a mandatory no-smoking policy.

Accordingly, the MD-LAC respectfully request that the Committee does not give SB 817 a favorable report.

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; Hillary Collins, Esq., member by email at hcollins@reesbroome.com; or Steven Randol, Chair 410-695-2183, or srandol@pineyorchard.com

Sincerely,

Steven Randol

Steven Randol
Chair, CAI MD-LAC

Hillary Collins

Hillary Collins, Esq., CIRMS
Member, CAI MD-LAC

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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