



## Support for Senate Bill 1045

Dear Chairman Feldman and Members of the Committee:

The Chesapeake Legal Alliance supports SB 1045. Legal standing is, simply, the right of a person or party to bring a lawsuit in court. Historically, the legal doctrine of standing was developed based upon constitutional separation of powers concerns. The U.S. Constitution requires that only actual “cases” and “controversies” be heard by federal courts to avoid those courts stepping out of judicial matters and into policy concerns.

It is important that this committee understand what the doctrine of standing is *not*. It is *not* relevant to the actual merits of any claim. It does *not* tilt the playing field in either direction for any party. This legal doctrine simply dictates when a person is entitled to bring an action in the first place. If a party has no case, then it will lose; if a party brings a frivolous lawsuit, there may be severe sanctions. Merely altering the scope of who has standing to be heard in court does nothing to alter the merits of a case.

At various times in American history, the U.S. Supreme Court has interpreted the evolving standing doctrine in a broad or narrow fashion. *But even under its narrowest and most conservative interpretation, federal standing doctrine has been far broader than it is in Maryland today.* This should raise serious questions for Maryland policymakers regarding why our state, without a direct constitutional directive, should be *more* restrictive than the federal government in determining who should be entitled to their day in court.

At a time when this country is facing a widely recognized “access to justice” crisis, every state should be examining what they can do to reduce barriers to the courthouse doors. Too often standing is used by deep-pocketed litigants to wear down opposition and prevent meritorious claims from seeing the light of day. This only perpetuates a legal system that works for the wealthiest and most well-connected litigants but not for the vast majority of Americans. This bill would be one such solution to this worsening problem. Rather than introducing a new or untested standard, and the uncertainty that would flow from it, this bill simply adopts the well-understood federal doctrine.

We urge this body to resist any suggestion that the bill would wreak havoc on local governments by creating a new standing test for local land use matters. To use a real world example, *Baltimore County currently has an even broader and more flexible standard than would be introduced by this bill.* The Baltimore County Code determines whether or not one has standing by asking whether the petitioner “feels aggrieved” by the local decision. On its face, this standard asks only about a person’s perception and not even any objective or concrete impact. While we would be supportive of such a standard, we believe that the narrower standard in this bill introduces a well-tested formula based on a well-understood federal doctrine that should reduce uncertainty for all parties. And we are aware of no chaotic free-for-all in Baltimore County tribunals due to their more flexible approach to standing. In fact, Baltimore County tribunals and officials, unlike in other counties, do not have to deal with needless

preliminary hearings and motion battles over standing that are waged simply for the purpose of limiting the access of county residents to be heard.

Finally, we note that the bill includes sensible exclusions where affordable housing developments and other smart growth proposals are at issue. At a time when this state and nation are facing an acute shortage of housing, we believe it to be prudent to signal that barriers and obstacles to the creation of affordable housing are not acceptable. At the same time, it is important to dispel any myths that the protection of natural resources is any such obstacle to the development of affordable housing. This false dichotomy being perpetuated by some is detrimental to the process of finding useful solutions to our housing crisis and to efforts to protect our remaining natural places. We are confident that the concept of expanded legal standing would have no bearing whatsoever on the creation of affordable housing and thus the exemption in this bill is of no concern.

For these and many other reasons we support Senate Bill 1045. For more information, you may reach Evan Isaacson at [evan@chesapeakelegal.org](mailto:evan@chesapeakelegal.org).