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January 29, 2024

Delegate Korman, Chair
Delegate Boyce, Vice Chair
Environment & Transportation Committee
220 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: House Bill 216
Condominiums – Common Elements - Clean Energy Equipment
Hearing Date: January 30, 2024
Position: Support with Amendments

Dear Delegates Korman, Boyce, and Environment & Transportation 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 community associations (condominiums, homeowners’ associations, and cooperatives) throughout the State of Maryland.

HB 0216 proposes to amend Section 11-125 of the Maryland Condominium Act by adding a new paragraph 11-125(f)(5), pursuant to which leases in excess of one year, or similar interests affecting the common elements of a condominium for “Clean Energy Equipment” (as defined in Section 11-125, as amended) could be approved by *either* a majority vote of the condominium’s board of directors *or* by the affirmative vote of unit owners having 50% of the total votes in the Council of Unit Owners.

Page 2, House Bill 0216
Community Associations Institute

In general, CAI's Maryland LAC supports efforts to facilitate a community association's ability to make use of "green" energy; and, to that extent, it also supports the changes to Section 11-125 of the Act that are proposed in HB 0216, with one exception. In our experience, many condominiums are operating with boards of directors comprised of as few as three (3) directors. In those cases, the members of the board do not sufficiently represent the Council of Unit Owners such that they alone should be empowered to grant interests in the common elements pursuant only to a majority vote of the board. That would mean that as little as two (2) directors could make such a decision. While limiting the approval to a vote among only the members of the board would represent the easiest and fastest route to approval, such decisions may result in arguments or legal action by the unit owners against the board if the decision were not well considered, popular, or in the best interest of the larger community. Major alterations to any Association Common Element as proposed in this amendment should be voted on by the Council of Unit Owners. Therefore, leases in excess of one year, or similar interests in the common elements should be permitted, except by the affirmative vote of Unit Owners having at least 51% of the votes in the Council.

In addition, while some condominiums may have adequate common area space to host such equipment where other condominiums may not, MD-LAC also recommends that language be added to HB 0216 to require that a specific minimum percentage of overall common area acreage be available before any condominium may consider granting to a purveyor of "Clean Energy Equipment" a request for an easement, right-of-way, license, or lease in excess of one year in the common elements

We are available to answer any questions the Committee Members may have. Please feel free to contact Lisa Harris Jones, lobbyist for the MD-LAC, at 410-366-1500, or by e-mail at lisa.jones@mdlobbyist.com, or Vickie Caine, Chair of the MD-LAC, 215-806-9143, or by e-mail at MDLacChair1@gmail.com, or Marie Fowler, Treasurer of the MD-LAC, at 301-596-2600 ext. 4210, or by e-mail at mfowler@cviinc.com.

Sincerely,

Marie Fowler

Marie Fowler, PCAM®
Treasurer, CAI MD-LAC

Vicki Caine

Vicki Caine
Chair, CAI MD-LAC