

CDN SB199 FAVORABLE.pdf

Uploaded by: Claudia Wilson Randall

Position: FAV



TESTIMONY
SENATE BILL 199
SENATE JUDICIAL PROCEEDINGS
January 30, 2024
Position: FAVORABLE

Dear Chairman Smith and Members of Senate Judicial Proceedings Committee:

The Community Development Network of Maryland (CDN) is the voice for Maryland’s community development sector and serves nearly 200 member organizations. CDN—focuses on small affordable housing developers, housing counseling agencies and community-based non-profits across the state of Maryland. The mission of CDN is to promote, strengthen and advocate for the community development sector throughout Maryland’s urban, suburban and rural communities. CDN envisions a state in which all neighborhoods are thriving and where people of all incomes have abundant opportunities for themselves and their families.

SB 199 – Authorizes a condominium regime to be established on certain land owned by an affordable housing land trust. Last year this bill- House Bill 567- passed the house.

A number of Affordable Housing Land Trusts (AHLT) are developing multi-unit land trust properties. To enable them to provide units for homeownership rather than rental, the AHLTs are using condominiums. However, the current Residential Condominium Act, located at MD Real Property Code Ann. Sec. 11-101 et seq., provides at Section 11-102(a)(2)(ii) that a residential condominium cannot be created on a “leasehold estate”. This means that AHLTs that use an Affordable Housing Land Trust Agreement, which in fact is a ground lease that leases the land to an AHLT homeowner, cannot directly create a residential condominium of AHLT homeowners.

To get around this prohibition, the AHLT must create two condominium regimes (a commercial condominium and then a residential condominium) to allow for the AHLT to develop a multi-unit condominium of AHLT homeowners/condominium owners. This two-step structure creates added complexity and time, and diverts resources from developing affordable land trust units. It is unnecessary since the purpose of AHLT Agreement is to keep the condominium units perpetually affordable.

There is an urgent need for affordable housing in Maryland and we need to have as many tools as possible to address this need. Community Land Trusts offer an excellent opportunity to create more housing in Maryland.

We respectfully request a favorable report for SB 199.

Submitted by Claudia Wilson Randall, Executive Director

2024 Senate Testimony MD Condo-CLT Bill 1.25.24 on

Uploaded by: Daniel Ehrenberg

Position: FAV

Testimony on SB 199

SB 199 - Residential Property – Affordable Housing Land Trusts – Authority to Establish Condominium Regimes

Monday, January 29, 2024

Position: Favorable

Chairman Smith and Members of the Judicial Proceedings Committee:

My name is Daniel Ehrenberg and I am a board member of the Community Development Network of Maryland, a resident of Kent County and an affordable housing attorney who works with Affordable Housing Land Trusts (AHLTs) in Maryland and elsewhere.

I first want to thank the sponsor, Senator Jeff Waldstreicher, for introducing SB 199. This bill will provide immense help to AHLTs in fulfilling their mission of providing affordable housing in perpetuity to low- and moderate-income families who otherwise would not be able to afford to purchase a home.

This is a technical amendment to the original Affordable Housing Land Trust Act, enacted in 2010, and found at MD Real Property Code Ann. Sec. 14-501 et seq. In Maryland, because ground leases are disfavored and can be redeemed, the ownership and use of an Affordable Land Trust Agreement by an AHLT was exempted from the statutory restrictions placed upon ground leases. The purpose of an AHLT is to own the land and lease it, pursuant to a 99-year renewable term, to a low- and moderate-income family who purchases and owns the home. The AHLT also helps the family to remain in the home and keep the home well-maintained while restricting the resale price and sharing the home's appreciation with the family when the family decides to sell the home. The AHLT normally requires that the home be sold to another low- and moderate-income family, thus keeping the home perpetually affordable.

A number of AHLTs are developing residential multifamily condominiums for low- and moderate-income families. A condominium allows the homeowner to own his/her/their unit, similar to owning a house, and, collectively, pay for and access the condominium's common elements (i.e., walkways, hallways, community room, etc.) with the other unit owners of the condominium.

The current Residential Condominium Act, located at MD Real Property Code Ann. Sec. 11-101 et seq., does not allow a residential condominium to be created on a "leasehold estate". (See Section 11-102(a)(2)(ii) of the Residential Condominium Act.) A "leasehold estate" means that the homeowner who owns the home or building leases the land (like a renter), rather than owning the land outright. A leasehold estate includes a ground lease. Thus, the Residential Condominium Act means that AHLTs that use an Affordable Housing Land Trust Agreement, which in fact is remarkably similar a ground lease, cannot directly create a residential condominium of AHLT owners. The work around to this prohibition requires that the AHLT create two condominium regimes (a commercial condominium and then a residential condominium) to be able to develop a multi-unit condominium of AHLT condominium owners. This two-step structure adds not only complexity and time, but also diverts monetary resources (primarily, attorney fees) in developing condominium affordable land trust units, which reduces the affordability of these homes to low- and moderate-income families. The condominium statute does protect residential condominium

owners in cases in which the landowner who leases the land to the condominium tries to take over the homes by terminating the lease or having it expire before the condominium terminates or expires. However, this protection is unnecessary for AHLT projects since the purpose of AHLTs is to keep the condominium units perpetually affordable.

Section 14-502 of the MD Real Property Code Ann., which is the Affordable Housing Land Trust Act (found at MD Real Property Code Ann. Sec. 14-501 et seq.), already provides that an Affordable Housing Land Trust Agreement is not a ground lease and exempts the Affordable Housing Land Trust Agreement and AHLTs from statutes pertaining to ground leases. However, the Affordable Housing Land Trust Act does not address the prohibition against having leasehold estates for residential condominiums and does not specifically state that the Affordable Housing Land Trust Agreement is not a leasehold estate. Most likely, this was an oversight to the Affordable Housing Land Trust Act since the Act exempts AHLTs from ground lease requirements and restrictions in all other Maryland statutes.

A simple technical fix to the Residential Condominium Act would be to exempt Affordable Housing Land Trusts from the “leasehold estates” prohibition in creating a residential condominium. As a result, AHLTs can develop residential condominiums without going through the more complex, costly and time-consuming two-step condominium structure described earlier. I respectfully urge you to pass SB 199 to remedy this issue so AHLTs can use residential condominiums to develop more perpetually affordable homes in the most timely and cost-effective manner.

SB199 Affordable Housing Land Trusts

Uploaded by: Debra Borden

Position: FAV



POSITION STATEMENT

Bill: SB 0199 Residential Property – Affordable Housing Land Trusts – Authority to Establish Condominium Regimes

Position: Support

Date: January 30, 2024

Contact: Debra Borden, General Counsel

Jordan Baucum Colbert, Government Affairs Liaison

Dear Chair William C. Smith and Vice Chair Jeff Waldstreicher,

The Maryland National Capital Park and Planning Commission (M-NCPPC or “the Commission”) has not voted on an official position yet, however, staff has prepared a statement and recommends a favorable vote in support of this bill. The Commission respectfully requests that the Judicial Proceedings Committee consider this information and include it in the record.

What this Bill Does. This bill authorizes a condominium regime to be established on certain land owned by an affordable housing land trust.

Allow More Housing Options for All. The entire state faces a serious housing shortage, and we need to consider how to make more housing attainable for more people—an essential goal if we’re serious about giving residents a choice in where and how they live. Providing more home ownership options is one way to help increase housing opportunities. Housing policies need to involve the refinement or creation of new financial, zoning, and policy tools. Creative ownership options is one tool to help.

Removing barriers. This bill will make it easier for Affordable Land Trusts to develop housing projects on their land and enable the community to maintain an affordable sector with ownership options.

For these reasons, the Commission requests a favorable vote in support of SB 0199.

SB0199-JPR_MACo_SUP.pdf

Uploaded by: Dominic Butchko

Position: FAV



Senate Bill 199

Residential Property - Affordable Housing Land Trusts - Authority to Establish Condominium Regimes

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

Date: January 30, 2024

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** SB 199. This bill enables local Affordable Housing Land Trusts to establish condominium regimes.

For the 2024 Maryland General Assembly Session, MACo has made it a priority – one of the Association’s four legislative initiatives – to *Advance Comprehensive Housing Solutions*. Much like climate change and sea level rise, the challenges surrounding affordable housing are vast and call for a large, multipronged effort. While in other policy areas, it may be easy to deduce a simple cause-and-effect relationship, housing is a complex web of multifaceted factors. Addressing challenges like workforce, financing, interest rates, broad economic trends, supply chain, and large out-of-state corporate interests – among many other obstacles – requires an all-hands-on-deck effort from policy makers at all levels.

MACo is working with sponsors to cross-file legislation to target several components of this crisis: abandonment/blight disincentives, corporate owner transparency, and short-term rental oversight. Additionally, under this initiative, counties will be supporting other pro-housing legislation which helps to advance the conversation, balances local flexibility, and ensures more Marylanders can afford a place to call home.

Counties support SB 199 as it provides an additional tool in the toolbox for local actors, with the best interests of the community in mind, to address the affordable housing crisis. If passed, this legislation would save significant time and resources for projects meant to bring more Marylanders into homeownership and increase the broader affordable housing supply. While there is no silver bullet to the current affordable housing crisis, this bill should be part of a multipronged strategy.

By empowering local actors in the development of affordable housing across various forms, Marylanders will see overall better outcomes and more solutions tailored to the communities they call home. For this reason, MACo urges the committee to give SB 199 a **FAVORABLE** report.

01.30.2024 SHARE - SB199 Testimony.docx.pdf

Uploaded by: Krystle Okafor

Position: FAV



January 30, 2024

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Chairman William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: SB199 – Residential Property – Affordable Housing Land Trusts – Authority to Establish Condominium Regimes

Members

Northeast Housing Initiative

Charm City Land Trusts

Harbor West Collective Affordable Housing Land Trust

South Baltimore Community Land Trust

Cherry Hill Community Development Corporation

York Road Partnership

Position: Favorable

Chairman Smith and the esteemed members of the Senate Judicial Proceedings Committee:

My name is Krystle Okafor. I serve as the director of policy and planning at SHARE Baltimore, Baltimore’s community land trust (“CLT”) network. SHARE Baltimore is pleased to support SB199, a bill which, once enacted, will provide CLTs the authority to develop condominiums. CLTs are nonprofit housing developers with a focus on inclusive growth. CLTs are working apace to rehabilitate and subsidize housing in the Baltimore neighborhoods of Belair-Edison, Curtis Bay, McElderry Park, Highlandtown, and Westport. The passage of SB199 will allow our CLTs to further promote housing security for low- and moderate-income households in our city, which has a 19.6% poverty rate.

The hallmarks of the CLT model are permanent affordability and community stewardship. To achieve permanent affordability, CLTs acquire land, splitting title to the homes they develop and title to the land on which the home sits. Once CLTs have rehabilitated a property, they deed the home and ground lease the underlying land to low- and moderate-income buyers. The ground lease is coupled with subsidies, resale restrictions, and income-eligibility limits that ensure the home remains affordable to families in need in perpetuity. To achieve community stewardship, CLTs offer homeowners opportunities to engage in supportive services and neighborhood organizing, as well as the opportunity to govern the CLT as a member of its board of directors.



SB199 is required because of CLTs' reliance on leased land. Under Maryland law, condominium regimes may generally not be established on leased land — doing so might destabilize the homeowners' tenure. However, since the CLT model is premised on permanent affordability documented and preserved in a 99-year, renewable ground lease, CLT's creation of affordable condominiums is inherently stable. CLTs thus merit an exception to this rule.

I urge you to pass SB199 so that we at SHARE Baltimore and our member CLTs may continue to own and develop land for the benefit of the community. Thank you for your time and consideration.

Sincerely,

/s/

Krystle Okafor, JD, MSW
Director of Policy & Planning
SHARE Baltimore

_SBCLT Senate Testimony for CLT Condo Bill.docx.pd

Uploaded by: Meleny Thomas

Position: FAV



RISE, RECLAIM, REBUILD

WWW.SBCLT.ORG

Testimony SB199 - FAVORABLE

January 29, 2024

Hon. William C. Smith, Jr, Chair
Senate Judicial Proceedings Committee
Senate Building
Annapolis, Maryland 21401

RE: HB 013 Residential Property-Affordable Housing Land Trusts-Authority to Establish
Condominium Regimes

Dear Chairman Smith,

The South Baltimore Community Land Trust (SBCLT) supports SB199 and asks the Senate Judicial Proceedings Committee to give it a favorable report.

The bill makes a technical change to the Condominium Act that will clear up confusion between its regulatory structure and that of Affordable Housing Land Trusts (AHLT). In 2018 SBCLT was founded by youth and community leaders with the mission to create community led development without displacement and Zero Waste in Baltimore. SBCLT works to create healthy and safe housing in communities that have often been disinvested. We are building homes for persons at and below 80% of the Area Median Income and have a goal to increase homeownership in the community of Curtis Bay and Cherry Hill to 50%. In order to accomplish this goal we need to be able to offer a variety of housing structures to families.

AHLTs/CLTs provide housing that also supports development without displacement. AHLTs legally separate land from the housing upon it, and then knit them together in legal documents that enable homeownership, rental, and co-operative housing to occur in traditional ways with traditional financing, but on land owned by a community-led non-profit organization. The legal land trust agreement that brings them together keeps this housing permanently affordable by prior-set formulas that govern subsequent sales. This enables the community to maintain an affordable sector regardless of market conditions.

AHLTs/CLTs have an exemplary track record in maintaining affordability and security of tenure. Ninety percent of low-income, first-time homebuyers under the AHLT/CLT structure are still housed five years later, either by remaining in AHLT/CLT housing and transitioning to traditional homeownership. In contrast, 50% of low-income, first time homebuyers have returned to renting under government programs designed to assist them. (Jacobus and Davis The Asset Building of Shared Equity Homeownership, Jan 2010.) AHLTs/CLTs also showed fewer foreclosures than traditional housing models during the foreclosure crisis of the early 2000s and fewer evictions during the COVID 19 emergency (Sabonis, The Transformative Potential of Community Land Trusts, Shelter Force, Sept. 2021.)

SBCLT is one of the CLTs in the process of developing multi-unit housing and providing the units for homeownership through a condominium-like structure. However, the current condominium law does not envision or make provision for the AHLT agreements. AHLT agreements, commonly known as ground leases (though distinct from "ground rents"), technically makes the

AHLT housing a “leasehold estate.” Such estates are prohibited in the condominium structure that is governed by the Residential Condominium Act (MD Real Property Code Ann. Sec. 11-101 et seq.). This minor technical change could spare future CLTs developing multi-unit housing the hassle and expense of having to create two condominium entities.

AHLTs must sidestep this prohibition by first creating a “commercial” condominium and then a “residential” one. These two-steps add complexity and confusion to financiers, both public and private, and operate to delay and prevent successful property acquisition and housing financing. The Affordable Housing Land Trust Act (MD Real Property Code Ann. Sec. 14-501 et seq.) exempts the Affordable Housing Land Trust Agreement from statutes pertaining to ground leases but does not address condominiums. While legislative acts must be construed by the courts in pari mater (in harmony), there is no reason for this to be resolved by litigation. This simple fix to the Condominium statute would exempt Affordable Housing Land Trust Agreements from being deemed “leasehold estates” for purposes of the Condominium Act. The amendment is consistent both with the intent of the regulatory structure under both the AHLT and Condominium acts, in harmony with each considered together, and involves no fiscal cost to the state.

We thank you for your anticipated support and favorable report of HB 0567.

Best Regards,

Dr. Meleny Thomas

Dr. Meleny Thomas
Executive Director- Development Without Displacement
South Baltimore Community Land Trust Inc