

Written testimony for SB0447 - Alex Hekimian.pdf

Uploaded by: Alex Hekimian

Position: FAV

Testimony to Senate Judicial Proceedings Committee
by
Alex Hekimian
President, Holly Court Community Association
on
SB0447 (Residential Owners in Common Ownership Communities Bill of Rights)

Back in 2005, the Maryland General Assembly foresaw the need to upgrade State laws that govern homeowners associations, condominiums, and cooperative housing corporations. It established the Task Force on Common Ownership Communities to prepare proposals for protecting the existing rights of homeowners in such communities and adding a few more rights to improve and fill gaps in those laws.

State Task Force advocated Bill of Rights. In its 2006 report, the original Task Force felt that there was a pressing need to create a Bill of Rights statute for residential owners of common ownership communities. It would be comparable to other bills of rights that the General Assembly has already approved, such as:

- The Property Owner's Bill of Rights
- Law Enforcement Officer's Bill of Rights
- State Correctional Officer's Bill of Rights
- Basic Rights of Patients in Comprehensive Care or Extended Care Facilities
- Rights of Individuals with Regard to Medical Care

National Uniform Law Commission advocated Bill of Rights. Then in 2008, the national Uniform Law Commission also saw an urgent need to identify and establish in state laws the basic rights that all owners in common ownership communities deserve. This Commission approved a model Bill of Rights for such homeowners for consideration by the states. The Uniform Law Commission includes lawyers from all of the states, whose purpose is to prepare model legislation designed for critical areas of state laws.

Text of Bill of Rights created. The State Task Force was re-assembled in 2021 and benefited from that model legislation as well as several other sources to prepare a Bill of Rights for owners in common ownership communities in Maryland. It was a very collegial effort, with a wide cross-section of residents as well as professionals serving on the Task Force.

Bill of Rights is a foundation. Like many other bills of rights, the description of each right is intentionally short and compact. Once approved by the General Assembly, it will serve as the foundation for more detailed laws that have a bit more legalese to actually implement each right. Identifying such rights will be very useful to our delegates and senators because it offers the general framework for subsequent laws for common ownership communities in our state.

For these very important reasons, I urge a favorable report on SB0447.

HB 0266 Residential Owners in Common Ownership Com

Uploaded by: Patricia Thomas

Position: FAV

SB 0447/HB 0266 Residential Owners in Common Ownership Communities -Bill of Rights

Patricia C. Thomas

Good afternoon, Chair and Vice Chair of Judicial Proceedings and members

I am testifying in support of SB 0447/HB 0266

“The process of democracy is one of change. Our laws are not frozen into immutable form, they are constantly in the process of revision in response to the needs of a changing society.”

Having lived in a condo-Hoa community for 20 years, I can attest to the need for protection and support. The Rights of owners are not taken into consideration when financial obligations are planned. Boards of Directors do not have the right to cause financial chaos for the residents. This is occurring too often in many communities. Should you have to sell your home to pay a special assessment that has not been voted on by the community, if the community asks for another proposal that will satisfy the financial needs of the community, and the Board says NO because they don't want to reconsider their plan? When this occurs, WHO helps the homeowner?

We need due process and equal protection. There are so many Bills that protect cats, dogs, rivers and streams, insurance companies, developers, roads and streets, but NOT US, Condo and Hoa communities. The 14th Amendment states, “Nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

We cannot continue to be labeled as “private” without support from our local and state government. The time is now to make this right. We have truly been left behind.

Residential Bill of Right HB 266_Mayor TJamesTOB021

Uploaded by: Ray Jefferies

Position: FAV

Town of Bladensburg

Council Members

Ward I

Trina Brown

Kalisha Dixon



Mayor

Takisha James

Council Members

Ward I

Marilyn Blount

Carrol McBryde

February 13, 2024

The Honorable Senator William C. Smith, Jr.
Senator Chair Anthony Muse
Judicial Proceedings Committee

Subject: Support for SB447 - Establishing a Bill of Rights for Unit Owners, Cooperative Housing Corporation Members, and Homeowners Association Lot Owners

Dear Senator Smith,

I am writing this letter to express my strong support for Senate Bill 447, which aims to establish a Bill of Rights for unit owners of condominiums, members of cooperative housing corporations, and lot owners of homeowners associations.

As a concerned member of the community and the Mayor of Town of Bladensburg, I believe that the rights and protections afforded to individuals living in such community associations are of paramount importance. The proposed Bill of Rights outlined in SB 447 addresses several key issues that impact the lives and well-being of those residing in these community settings.

The residents of Parkway Condominiums in Bladensburg have suffered a myriad of issues due to poor management and lack of capital funding needed improvements. This bill will empower these residents with additional rights and opportunities to affect change.

One of the significant strengths of SB 447 is its commitment to fostering transparency and accountability within these associations. By clearly defining the rights of unit owners, cooperative housing corporation members, and homeowners' association lot owners, the bill ensures that all residents are aware of their entitlements. This transparency will contribute to a healthier and more harmonious living environment by preventing potential conflicts arising from misunderstandings.

Moreover, the bill seeks to strike a fair balance between the powers of the association boards and the individual rights of residents. This equilibrium is essential in promoting a sense of community while respecting the autonomy and dignity of each resident. This is something greatly needed for my constituents, and I urge you to support this important legislation.

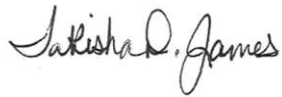
As a Town, we appreciate the emphasis placed on due process in addressing disputes within these associations. The establishment of clear procedures for conflict resolution will undoubtedly contribute to a more equitable and just environment for all residents.

In conclusion, we urge you to support and advocate for the passage of SB 447. By doing so, we can ensure that the rights of unit owners, cooperative housing corporation members, and homeowners association lot owners are safeguarded, leading to stronger, more vibrant, and harmonious communities.

Thank you for your attention to this matter, and I trust that you will give careful consideration to the positive impact that SB 447 can have on our community. The Town of Bladensburg supports legislation that protects Maryland unit owners and provides a Bill of Rights of protections.

Thank you for taking public input on this topic.

Sincerely,

A handwritten signature in black ink that reads "Takisha D. James". The signature is written in a cursive, flowing style.

Takisha D. James
Mayor, Town of Bladensburg

cc: Delegate Holmes
Bladensburg Town Council
Tony Perez, LA Perez

Testimony_In SUPPORT of SB447_Oakland Mills Commun

Uploaded by: Sandy Cederbaum

Position: FAV



Oakland Mills Community Association
The Other Barn • 5851 Robert Oliver Place
Columbia, MD 21045
410-730-4610 • oaklandmills.org



January 29, 2024

TO: Members of the Senate Judicial Proceedings Committee

FROM: Oakland Mills Community Association
Jonathan Edelson, Chair, Board of Directors

SUBJECT: TESTIMONY IN SUPPORT OF SENATE BILL 447

The Oakland Mills Community Association (OMCA) supports Senate Bill 2024-447, “Residential Owners in Common Ownership Communities Bill of Rights.” OMCA proudly already meets or exceeds the potential rights outlined in this bill, where applicable. We respect the rights of our residents, as without them, we would not have a community association. Our governing documents make not only owners, but also renters as members of our association, and we feel this bill should set a floor, rather than a ceiling, for membership so we can continue to serve everyone who lives in Oakland Mills. We support codifying these rights across the State of Maryland.

However, as a Columbia, Maryland Village Association, OMCA has a unique relationship with the Columbia Association (CA). CA owns the four buildings we manage on its behalf – The Other Barn and three neighborhood centers. These facilities are larger than the typical clubhouses or community rooms in smaller communities and provide services and event space beyond the boundaries of Oakland Mills and Columbia. Due to this unique relationship with CA and the unique nature of these facilities, we believe special consideration should be given to provisions in the Bill of Rights pertaining to budget and fees for use of these facilities.

OMCA does not maintain a capital fund and does not make capital investments in the facilities it manages. CA is responsible for all capital investments on these facilities and its Open Space within Oakland Mills. OMCA does manage, on behalf of CA, the four facilities mentioned above. As part of this management, OMCA is responsible for non-capital maintenance items, janitorial services, event staffing, and professional services such as event coordination for weddings and other events held in the facilities. All of OMCA’s spending is accounted for in our annual operating budget, which is discussed and voted upon in open meeting.

**Page 2: Oakland Mills Community Association testimony
In Support of MD SB447**

This unique arrangement, as well as the size of these facilities, should be considered before applying a strict formula to the cost incurred by residents versus nonresidents of OMCA or CA. Otherwise, the overhead and professional services costs invested by OMCA could make it difficult to charge no more than half what we would charge to non-residents for long-term leases or large-scale events in our facilities. We could be forced to lose money on events for residents or set nonresident prices artificially high, thus pricing our facilities out of the market. For example, The Other Barn is currently a popular wedding venue throughout the Baltimore-Washington area, and a venue of its size could not be supported with such a substantial distinction between residents and nonresidents.

We hope the facilities situation can be studied further and revised to recognize the size of homeowners' associations as well as situation where the association managing the facility is not the owner of the facility.

Beyond that, we support a statewide baseline set of rights for residents of all common ownership and HOA communities.

Sheila Daniels-Henriquez (2).pdf

Uploaded by: Sheila Daniels-Henriquez

Position: FAV

Sheila Daniels-Henriquez
Maryland
February 2, 2024

IN FAVOR OF HB0266

My name is Sheila Daniels-Henriquez. Thank you for the opportunity to testify in favor of House Bill-266. After being a board of director, and having witnessed first hand the challenges, discrepancies, inequalities, retaliations, harassments, disadvantages, hardships, unfair treatment, lack of knowledge of laws, unfair treatment, financial losses facing unit owners in Common Ownership Communities (COC), I do understand why there's an imperative need for House Bill 266.

This Bill addresses imperative issues facing COC owners. In addition, I believe it will support and benefit the state of Maryland. Here are a few reasons why I believe it will help COC owners and the State.

Homeowners and their Governing Bodies/Board of directors, will have the resources and support they need from their state office utilizing their understanding of their rights and responsibilities; therefore, allowing them to be effective board of directors and homeowners within their communities. In relation to Boards and Community Managers, it assures a more comprehensive understanding of their rights and responsibilities as well as mandatory training.

I can honestly say from experience, that training and certification can have a positive impact on anyone's professionalism and knowledge and when it doesn't because one chooses not to adhere to the law then an official state office can be an enforceable, powerful, positive assurance that one is corrected. This should be true for COC Governing Bodies and Community Management as well for they make decisions on behalf of COC. Please, take note that Montgomery County has a CCOC office for over a decade and the cost is only ten dollars per year, per COC Homeowner.

I do believe House Bill 266 will address these imperative issues once it passes. Giving the Consumer Protection Division the authority to take direct enforcement when abuse of laws/powers, regulations, statues, Bylaws, just as this office does with all other criminal and injustices, will be a step in the right direction for COC. Without an enforceable office such actions currently make it challenging for COC to hold such actions accountable to bylaws, rules, regulations and statutes. Giving the Consumer Protection Division enforcement power will provide reassurance to COC that the state has implemented enforcement for their well being. Thank you for your time.

SB 447 Support with amendments.pdf

Uploaded by: Karen Straughn

Position: FWA

CANDACE McLAREN LANHAM
Chief Deputy Attorney General

CAROLYN A. QUATTROCKI
Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CHRISTIAN E. BARRERA
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ZENITA WICKHAM HURLEY
Chief, Equity, Policy, and Engagement

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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

WILLIAM D. GRUHN
Chief
Consumer Protection Division

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February 15, 2024

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 447 - Residential Owners in Common Ownership Communities Bill of Rights
– (LETTER OF SUPPORT WITH AMENDMENT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of Senate Bill 447, introduced by Senator C. Anthony Muse, with the attached amendment. This bill creates a bill of rights for members of a common ownership community. The Consumer Protection Division currently mediates complaints on behalf of association members when those members feel their rights under the acts which regulate common ownership communities have not been honored. In addition, the Division has the authority to take an enforcement action against an association that is in violation of the statutes when an unfair and deceptive trade practice has taken place.

While this office supports a bill of rights for consumers, this bill also provides a mechanism by which the Office of the Attorney General would take direct enforcement actions on behalf of individual association members who file complaints with the Office. This office supports the ability of an association member to file a complaint with the Consumer Protection Division when their rights have been compromised, which the Division would seek to resolve through mediation, as it does with all other complaints. However, it does not support the ability to have the Division file an action on behalf of individual residential owners. The Division does not represent individual consumers and we have significant concerns about creating a right to have the Division file a direct action on behalf of an individual residential owner. Rather, the Division

takes enforcement actions for violations of the Consumer Protection Act on behalf of the State of Maryland.

Expanding the role of the Division to enable it to represent individual owners in a common ownership community would require, at a minimum, a full-time Assistant Attorney General, a full-time Investigator, and 1/2 a Mediation Unit Supervisor. The filing of these individual actions could also increase the costs for the associations and, ultimately, the assessments paid by residents. Moreover, the mere fact that an individual lives in a common ownership community, without regard to their financial ability to file a private action, should not be a basis to compel the Division to take an action.

For these reasons, the Consumer Protection Division seeks a favorable report on this bill with the attached amendment.

cc: The Honorable C, Anthony Muse
Members, Judicial Proceedings Committee

AMENDMENT TO SB 447 (2024)

Amendment 1

On page 6, in line 2, strike “(I)”, and in line 3- after communities, strike beginning with “and” down through “Attorney General” in line 7, inclusive.

Letter to Chairman Smith - Oposition to Bill SB447

Uploaded by: Mike Conroy

Position: UNF



MONTGOMERY VILLAGE FOUNDATION, INC.

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MONTGOMERY VILLAGE, MARYLAND 20886-1000

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February 13, 2023

The Hon. William C. Smith, Chairman
Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, MD 21401

Re: **Opposition to SB447**
Residential Owners in Common Ownership Communities--Bill of Rights

Dear Chairman Smith and Members of the Committee:

On behalf of the Montgomery Village Foundation, Inc. (MVF) I am writing to **oppose** the Bill of Rights as set forth in SB447. Most fundamentally, MVF asks the Committee to recognize that this proposed new statute, to be placed at the beginning of the Real Property Act, would violate an essential principle of legislative drafting, i.e. **not to create a law that is surplusage**. The basic rights being “declared” in SB447—to participate in meetings, to have access to budget and financial information, to receive notice of meetings and to vote on community matters—are **all already found in the existing Maryland statutes for common interest communities**.

Some of the specific concerns MVF has are as follows:

1. **Many of the rights described in the bill are ambiguous and the bill does not contain a provision for enforcement.** The Montgomery Village Foundation (MVF) recognizes that the concept of declaring rights for numerous categories of Maryland residents is well established in Maryland. But other “bills of rights” in the Maryland Code, such as for children, nursing home patients, and taxpayers, have clear sections that explain the consequences of violating their provisions, but such a provision is missing from SB447. Additionally, it is not clear how the new rights being enumerated impact the provisions of the HOA Act, the Condo Act, and the Co-operative Housing Act.

2. **Although the pre-ample of SB447 invokes the Uniform Law Commission’s approved Uniform Common Interest Communities Bill of Rights Act as a rationale for this bill, SB447 does not track the Uniform Law Commission Bill of Rights in form or substance.** SB447 does not retain the depth and comprehensive organization of the Uniform Law Commission’s bill of rights. Examples of “new” rights that are not in the Uniform Law Commission’s Bill of Rights include:

- A new right to be created in section 1-105-B-(4) ensuring that owners must not be charged to use the amenities at a rate of not more than 50% of “*non-residential owners*.” This is an arbitrary standard that conflicts with an Association’s Board of Directors

fiduciary duty to determine and manage a community's common expenses. Following this standard would curtail MVF's ability to provide superior amenities to its members.

- 1-105(B)(6) creates "the right to fair treatment in the repayment of any debt incurred by the common ownership community for major capital projects or operating expenses so that present and future owners have a relatively equal share in the responsibility to repay such debt." This is an ambiguous right, without enough specificity for a Board to know how to comply.
- Proposed section 1-105(B)(15) would establish a right for a unit owner to be represented by the Attorney General's Office to enforce a provision of state law that governs common ownership communities. Certainly, the Attorney General prosecutes matters on behalf of consumers, but that body of consumer law has been well-developed in the Courts and Administrative Agencies. Whether the Attorney General has the authority to represent an individual member of a common ownership community against an elected Board of Directors is not clear.

MVF strongly endorses the spirit of a Bill of Rights. An underlying theme of SB4772 as drafted, appears to reflect a perceived disparity in the rights of residential owners and non-residential owners in communities where there are both. The point of view of rights as expressed in the current text of SB477 would likely conflict with many of the provisions of Maryland common interest community law that have evolved, as well as provisions of governing documents of the communities, and therefore **MVF opposes SB447.**

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael N. Conroy".

Michael N. Conroy
Executive Vice President

Cc: MVF Board of Directors
Christopher Hitchens, MVF General Counsel
Karen Kodjanian, MVF Director of Community Management

SB 447 [Opposition 2024].pdf

Uploaded by: William O'Connell

Position: UNF



Real Property Section

To: Judicial Proceedings (Senate)

From: Legislative Committee of the Real Property Section Counsel

Date: February 13, 2024 [Hearing Date February 14, 2024]

Subject: **SB 447 – Residential Owners in Common Ownership Communities Bill of Rights**

Position: **Opposed**

The Real Property Section Counsel of the Maryland State Bar Association (MSBA) **opposes Senate Bill 447** – Residential Owners in Common Ownership Communities Bill of Rights. As a threshold matter, although SB 447 is intended to apply to residential owners in common ownership communities, in the condominium context the definition of common ownership community under SB 447 includes a “condominium” as defined in the Maryland Condominium Act, and “residential owner” is defined to mean a “unit owner” as defined in the Maryland Condominium Act. Under the Maryland Condominium Act, “condominium” and “unit owner” are defined to include any condominium regime and any condominium unit owner, not just residential condominiums, and residential unit owners.

A consumer bill of rights is typically a statement or summary of provisions under existing law. However, HB 29 purports to cover certain rights that do not exist under current Maryland law, including among others:

- The right to “be designated as a member of a common ownership community when the community makes that residential owner subject to a lien and to mandatory assessment.” Maryland laws on coops, condominiums, and HOAs define membership, as do existing covenants for existing associations, which should not be subject to any such “right” that defines membership in any inconsistent manner.
- The right to a community manager that is properly trained. There are no state laws that require a common interest community to have a community manager or that impose training requirements on community managers.
- The right of homeowner members to vote to approve any proposed changes to association governing documents and policies. Although Maryland law governs certain amendments to covenants or bylaws that require a vote of association members, other rules and policies of associations are enacted by the association’s governing board,

under the authority delegated to the board by law and/or covenant and are not subject to a vote by all members.

- The right to use all facilities and services of the community, but there is at least one HOA that leases some of its property and amenities to a third-party Club, and therefore it is generally not available for use by the homeowners unless they are also members of the Club. This language would potentially knock out the underpinnings of such leases.

These are just a few examples of problems with SB 447 and not an exhaustive list. The Condominium Act and the Homeowners Associations Act have numerous provisions relating to governance, operation, and affairs of condos and HOAs. The provisions in each act have been enacted (and, as to many, amended) over time. These provisions deal with specific rules for specific provisions. If any of these provisions should be amended, then each suggested change should be individually considered on its own merits.

SB 447 would enact overriding provisions that may or may not dovetail with specific laws that are in the Condominium Act and the Homeowners Associations Act. The bill purports to make all these rights . .

SUBJECT TO THE PROVISIONS OF ALL APPLICABLE LAWS GOVERNING COMMON OWNERSHIP COMMUNITIES ESTABLISHED IN THE STATE, A RESIDENTIAL OWNER IN A COMMON OWNERSHIP COMMUNITY HAS THE FOLLOWING RIGHTS:

But if that is the case, why not simply state the specific rights that are not created elsewhere? What purpose does it serve to have the same rights stated in two places? What happens when one of the general principles of SB 447 conflicts with the law as it now exists? One can easily anticipate the confusion that will result. In short, if SB 447 were enacted it would create an unworkable dual track of community association law containing many inconsistencies with existing Maryland laws that govern coops, condominiums and HOAs.

For these reasons, the Real Property Section Counsel of the MSBA **opposes SB 447** and asks for an **unfavorable report**. Thank you for your consideration.