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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*

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