



February 7, 2024

The Honorable William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, MD 21401

Oppose: SB 383 Baltimore County Nuisance Actions – Community Association Standing

Dear, Chair Smith and Committee Members:

The NAIOP Maryland Chapters representing more than 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate opposes SB 383. This bill expands the types of organizations granted standing to seek injunctive relief and nuisance abatement in the Circuit Court of Baltimore County beyond what we consider community groups. The bill also broadens the scope of local code violations that can be petitioned to the court.

NAIOP's opposition is based on the following rationale:

- The scope of activities that can be enforced through the Circuit Court is expanded beyond Article 13, Title 7, Nuisances of the Baltimore County Code, to include Article 35, Building and Housing. Article 35 includes requirements related to the Building Engineer's issuance and enforcement of building permits which are not currently appealable under the Baltimore County Code.
- In addition to building permits, Article 35 also contains requirements related to adequate storm drainage that open the door to challenges of stormwater management. The language at the bottom of page four likely does not exclude stormwater management activities from community challenges under the bill because those activities are authorized under a general permit and proceed under a notice of intent not a permit, certificate, registration, or license.
- The definition of eligible community association is made overly broad by removing existing requirements that an organization achieve minimum household membership levels and demonstrate local support in the form of annual dues payments before it qualifies for broadened standing.
- Without membership thresholds, community associations are permitted to self-define the areas they represent by establishing geographic boundaries in their bylaws. This sets the stage for more than one organization to claim representation of the same geographic area.
- The bill allows a community association to take court action after providing notice, even if the County Code enforcement agency decides enforcement action is not warranted. The community association action can also proceed if the enforcement agency seeks code compliance in a way that does not include filing an action for equitable relief.

- Repealing the requirement that an organization be listed in the Directory of Organizations in Baltimore County and that it be in existence for more than one year before petitioning the court allows entities to be formed for the sole purpose of taking enforcement action to court.

Enacting SB 383 would require accepting the notion that code enforcement and nuisance abatement by Baltimore County government is grossly ineffective and that citizen suits are the best solution. Our members do not accept either premise and believe improvements to code enforcement should take place within the framework established in the Baltimore County Code and should be implemented by county agencies rather than the Circuit Court.

For these reasons, NAIOP respectfully requests your unfavorable report on SB 383.

Sincerely,



Tom Ballentine, Vice President for Policy

NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: Senate Judicial Proceedings Committee Members

Nick Manis – Manis, Canning Assoc.