

January 29, 2024

Senator William C. Smith, Jr., Chair  
Senator Jeff Waldstreicher, Vice Chair  
Judiciary Proceedings Committee  
2 East Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: Senate Bill 141: *Multifamily Dwellings - Smoking Policies***

**Dear Chair Smith & Vice Chair Waldstreicher:**

I am writing you to support Senator Bill 141 but with a few amendments.

My reason in supporting this bill is I am a victim of second and third hand smoke in a “Common Ownership Community” (e.g., Condominium). The smoke that impacted me the most was from Tobacco and Marijuana.

This form of secondhand smoke traveled through the walls, floors, ventilation, balcony, hallways, and stairwells which infiltrated right into my and other condominiums. Our Condominium Board was powerless to do anything about it except consider the smoke a nuisance under their current by-laws.

The question always comes up: **What are Common Ownership Community (COC)** and I felt that Prince George County, Office of Community Relations gave the best example of how it should be defined.

According to them, “there are three kinds of community associations. They are condominiums, homeowners’ associations, and cooperatives. The main difference between the three groups is the ownership:

**Condominiums** - In a condominium, the individual unit owner owns fee simple title to the air space contained within their unit and an undivided interest in all common grounds, streets and parking, recreation facilities, utilities, and parts of residential structures (i.e., the roof and lobby), which are collectively known as the common elements. A master deed divides the land into units and common elements and sets forth rights, obligations and restrictions of the condominium owner. Owners are obligated to pay assessments.

**Homeowners Associations** - In a homeowners association, the homeowner owns his/her home in fee simple title and the common grounds and facilities are owned in fee simple by the association as an entity. Open space, recreational and common areas are vested in the homeowners’ association and funds for their upkeep are raised from assessments. Homeowners’ associations are regulated by privately written Declarations of Covenants, Conditions and Restrictions.

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**Cooperatives** - In cooperative housing, the shareholder does not own real estate, but owns a share of the legal entity that owns real estate. The corporation owns the land, buildings and any common areas. Each resident has membership in the coop association and has occupancy rights to a specific suite” (Prince George County, “*What is a Common Ownership Community*”. <https://www.princegeorgescountymd.gov/-offices/community-relations/about-ocr/services/common-ownership-communities>). Therefore, if the State is to create a policy, it should be based on the above COC definition.

Below are my additional comments and possible amendments that I feel will make Senate Bill 141 stronger and enforceable throughout the State.

They are as follows:

**1. Create a Task Force to develop a “Statewide “Common Ownership Communities Commission” to include condominiums, homeowner associations (e.g., townhouses), cooperatives and all multifamily rental units (e.g. subsidized or not subsidized).**

*Why the Commission?* What local government will enforce the creation of the policy in all COC’s and enforce it. I feel a “COC Commission” (e.g., Under the Maryland State Department of Housing and Community Development) would be able to oversee this policy in each local government and develop criteria on how the local government will implement the policy to COC and multifamily rentals communities.

**2. Take baby steps in the coming years to work towards policies for a partial or total ban on smoking in all multifamily housing as a public health problem not only in COC but rental housing (e.g., Assistant living, Senior Communities, etc.) that is not subsidized.**

Right now, the U.S. Department of Housing and Urban Development (HUD) to the only full government agency that has already passed bills that created a policy that banned smoking in all subsidized multi-family housing based on public health research. Therefore, all forms of housing that is subsidized by HUD has a smoking policy that totally bans all forms of smoking and protects its renters and their families.

Thank you for the opportunity to comments on SB 141 and I look forward in a favorable vote on this Senate bill.

Sincerely,

*Dawnn McCleary*

Dawnn McCleary  
Resident of Maryland