



Senate Bill 1045 – Zoning – Board of Appeals Decisions or Zoning Actions – Judicial Review

Position: Unfavorable

The Maryland REALTORS® oppose SB 1045 which expands legal standing in all board of appeals decisions, zoning actions, rezoning actions or comprehensive plans.

Maryland faces a significant housing crisis that is measured not only in the 150,000-unit shortage but also in the average residential price assessment increase of 25.6% this past year.

Although Maryland standing rules are more limited than federal standing rules, Maryland standing rules are truer to the purpose of legal standing by granting standing to parties whose personal or property interest is directly impacted in a way different from the general public. Standing rules were created to ensure courts deal with particularized harms to individuals rather than more generalized harms to the public which is the realm of Legislatures.

As to the bill, the REALTORS® are concerned over the definition of an “injury of fact” which includes a negative impact to: aesthetic and recreational interests as well as a negative impact to a person’s use and enjoyment of a natural resource. Expanding standing based on aesthetic interests creates a very broad category of challenges that would be difficult for a legislative body to plan for when developing zoning and comprehensive plans. This provision would give opponents of any development a useful tool to kill projects through judicial delay. Any aggrieved person or association could challenge any decision based on whether the legislative action results in projects that are visually unappealing.

When broadening standing rules are added to the already difficult process of obtaining permits for projects, the potential negative impacts to housing are concerning. Housing projects are always objected to even if the project conforms to local zoning and use restrictions. “Death by delay” is a real threat to many projects and increases the significant and growing costs of building affordable housing.

For these reasons, the REALTORS® recommend an unfavorable report.

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