

February 11, 2020

The Honorable Kumar Barve
Chairman, House Environment and Transportation Committee
House Office Building, Room 251
6 Bladen Street
Annapolis, MD 21401

RE: Support of House Bill 444 (Homeowners Associations - Powers, Boards of Directors, Voting, Meetings, and Rules) with Amendment

Dear Chairman Barve:

The Maryland Building Industry Association (MBIA), representing 100,000 employees of the building industry across the State of Maryland, supports House Bill 444 (Homeowners Associations - Powers, Boards of Directors, Voting, Meetings, and Rules) with amendment.

This measure attempts to copy much of the Condominium Act to make applicable to homeowners associations (HOA). However, HOAs were not intended to be regulated the same as Condominium Associations, which is why this language was not included in the Act. HOAs are typically single family homes, whereas the activities in one condominium unit can significantly affect other units due to proximity and shared elements. Contrary to that original intent, this bill makes several significant changes to the Maryland Homeowners Association Act (MHAA) which significantly expand provisions related to board of directors, meetings, voting, recordation, and rules of HOAs.

Most of these regulations are already addressed in the HOA declarations and bylaws, as well as other parts of the HOA code or in the Corporations & Associations title of the Maryland Code. Additional laws are either superfluous or contradictory. For example, Section 11B-106 requires a vote after 60 days from the date that at least 75% of the total number of lots are sold. The new language of 11B-111(H) requires that vote shall occur 60 days from the date 50% of the votes in the HOA have been conveyed. This is inconsistent with existing law. This also requires a premature transition, which would greatly affect the developer's ability to develop and control the property in the way it intends to develop it.

Additionally, 11B-106.3(3) indicates that the HOA can sue and be sued on behalf of 2 or more owners on matters affecting the HOA. Since the HOA owns the common property and has no involvement in the ownership of any lot, this language would place an enormous burden on the HOA to have to take actions on behalf of individual lot owners. This section also required that certain information about members be provided at the developer's expense. This information is more relevant to Association records, so it would be more appropriate for the Association to bear that expense.

Furthermore, the suits the Association will have the right to bring are not just limited to defects, but individual owners' personal claims like breach of contract, negligence, fraud etc. Claims personal to the homeowner can be turned into class action suits using Association funds. All of these claims, even the defect claims, derive from a contract between individual home owners and builders. The Association should not have the authority to pursue such personal claims.

MBIA respectfully requests the Committee adopt these amendments and give this measure a favorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: House Environment and Transportation Committee Members