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Judicial Proceedings Committee

Vice Chair, Baltimore County
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February 12, 2020

Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401-1991

RE: SB 340 – Nuisance Actions – Community Association Standing

Dear Chairman Smith and Members of the Committee:

I am pleased to introduce Senate Bill 340. This is a local Baltimore County bill which will grant Community Associations standing to seek injunctive and other equitable relief in the Circuit Court for Baltimore County for abatement of certain nuisances.

Now I know what you're thinking. Didn't we just hear this bill last week. The answer is nearly "yes". You heard a bill very similar to this bill last week, but there is one critical difference between the two bills.

Here's the background. Last year, then-Delegate Sydnor introduced and passed a version of this bill in the House of Delegates. I found a problem in his bill and prevented its passage in the Senate. Over the summer, I fixed his bill and filed what I thought was going to be the Senate cross-file of a fixed Sydnor bill this year, but Delegate Sydnor was elevated to the Senate. At that point, however, instead of joining me in filing the new version of the bill, he once again filed last year's version of the bill. His bill is Senate Bill 247. When Senate Bill 247 came for its hearing before this Committee recently, I was over in the Education, Health and Environmental Affairs Committee presenting two of my bills, so I completely missed the bill hearing in this Committee on Senate Bill 247. To further add to the problem, at the time that the Baltimore County Senate Delegation met last Thursday afternoon to consider the Sydnor bill, I was stuck in this Committee presenting two more bills. So I completely missed the meeting of my Delegation.

So finally, today, I get a chance to explain the difference between the two bills. Let me note at the outset that if Senator Sydnor would accept a friendly amendment to his bill to eliminate the difference between the two bills, I would be most pleased to withdraw my bill and work to pass his bill in this Committee as well as on the floor of the Senate.

Permit me to point out the difference between the two bills. Since 1997, Baltimore County community associations have been permitted to file nuisance actions in the Circuit Court for

Baltimore County. These actions seek injunctive and other equitable relief for abatement of a nuisance. But the existing statute carefully defines what constitutes a community association. It is a nonprofit corporation that is comprised of at least 20% of the total number of households as members, with a minimum membership of 25 households, of a local community that consists of 40 or more individual households as defined by specific geographic boundaries in the association's bylaws or charter.

This definition is essential because it ensures that a nuisance lawsuit, which will tie up the Circuit Court for Baltimore County, is filed by a genuine neighborhood association consisting of a critical mass of neighbors in a defined geographic area. By requiring that a community association must consist of at least 25 households and that the neighborhood must consist of at least 40 households, the current law ensures that neighborhood associations filing suits in the Circuit Court are real and really represent real people living in real neighborhoods.

My bill, Senate Bill 340 doesn't alter the existing definition of a community association. The only material change to the existing law made by my bill is to provide that a nonprofit organization that represents two or more individual community associations can file a nuisance action. In Baltimore County, there are a number of umbrella community associations that represent multiple individual community associations, and Senate Bill 340 thus will enable such umbrella community associations to file nuisance actions in the Circuit Court for Baltimore County.

The Sydnor bill adds the same provision enabling umbrella community associations to file nuisance actions, but the difference between the two bills is that Senate Bill 247 deletes nearly the entire definition of "community association" contained in the current statute.

Under the Sydnor bill, the definition of "community association" is revised to read that such an association is "composed of residents of a community defined by geographic boundaries in the bylaws or charter of the community association" So, quite literally, under the Sydnor definition of "community association", a community association could consist of two Baltimore County homeowners, one living on the west side of the County and the other living on the east side of the County, and the charter of their association could define the geographic boundaries of their community association as the geographic boundaries of Baltimore County. So defined, the two homeowners could roam the County and file nuisance suit after nuisance suit in the Circuit Court for Baltimore County against any County homeowner who failed to maintain his or her property in accordance with the exacting standards of the two members of the community association. If a dog is out in a yard backing constantly, the two homeowners could file a nuisance action. If the grass in a yard hasn't been cut in a month, the two homeowners could file a nuisance action. If an outdoor party is occurring in the front yard of a home and loud music is playing that afternoon, the two homeowners could file a nuisance action.

I can't sign onto a bill that would permit such frivolous lawsuits to be filed and clog the Baltimore County courts. The elimination of any reasonable definition of "community association" would only invite the filing of abusive lawsuits. Perhaps requiring a minimum of 40 households is excessive, and I'd be happy to consider a lower number, but to remove all limits

on the number of households in a community and on the number of member households in the community association just invites misbehavior.

For these reasons I ask for a favorable report on senate Bill 340. I will plan to present this bill to the Baltimore County Senate Delegation tomorrow afternoon and hope to provide the Committee with a Delegation letter shortly.