

Testimony.HB352.2021 (1)

Uploaded by: Rapaport, Susan

Position: FAV



Maryland Legislative Action Committee
The Legislative Voice of Maryland Community Association Homeowners

Steven Randol, Chair
Charlene Morazzani Hood, MS, CMCA, AMS, PCAM, Vice Chair
Vicki Caine, Secretary

Marie Fowler, PCAM, Treasurer
Ruth Katz, Esq., Asst. Secretary
Kathleen M. Elmore, Esq., Asst. Treasurer

Reese F. Cropper III, CIRMS, Member
Julie Dymowski, Esq., Member
Steven Landsman, PCAM, Member
Judyann Lee, Esq., Member
Chris Majerle, PCAM, Member
Buck Mann, CMCA, Member
Robin C. Manougian, CIRMS, Member

Peter Philbin, Esq., Member
Susan Rapaport, Esq. Member
Brenda Reiber, CMCA, AMS, Member
Susan Saltsman, CMCA, AMS, Member
Scott Silverman, Esq., Member
John Taylor, Member
Aimee Winegar, CMCA, LSM, PCAM, Member

January 14, 2021

Hon. Delegate Kumar P. Barve, Chair
Hon. Delegate Dana Stein, Vice Chair
Hon. Delegate Marvin Holmes, Chair Real Property Sub-committee and Sponsor
Environment and Transportation Committee
Rm. 251 House Office Building
6 Bladen Street
Annapolis, MD 21401

**Re: HB 352- Real Property – Condominiums and Homeowners Associations –
Governing Bodies and Annual Meetings**

Hearing: January 19, 2021 Position: SUPPORT

Dear Chairman Barve, Vice Chairman Stein, Delegate Holmes and Committee Members:


This letter is submitted on behalf of the Maryland Legislative Action Committee (“MD-LAC”) of the Community Associations Institute (“CAI”). CAI MD-LAC represents individuals and professionals who reside in or work with condominiums, homeowners’ associations and cooperatives throughout the State of Maryland.

MD-LAC is writing today to voice our support for HB 352. The bill requires that meetings of a board or council/association be held at least twice per year and mandates that at least one unit or lot owner who is not affiliated with the developer be appointed to serve once 25% of the units or lots are conveyed to members of the public and requires the developer to establish a board when 25% of the units or lots are conveyed to members of the public. This will assure more open governing of condominiums and homeowners’ associations that are still under developer control. This bill also requires the developer to deliver to the council/association notice of any bonds provided by the developer to a governmental entity and notice when the developer requests to be released from the bond. This will provide councils/associations with an opportunity to review all of the work covered by the bond before the bond is released.

Maryland Legislative Action Committee
Post Office Box 6636
Annapolis, Maryland 21401

We respectfully request that the Committee give HB352 a favorable report. We are available to answer any questions which you may have. Please feel free to contact any of the individuals listed: Lisa Harris Jones, CAI MD-LAC lobbyist, at 410-366-1500 or by email at lisa.jones@mdlobbyist.com; or Susan Rapaport, CAI MD-LAC, at 443-283-0682, or by email at srapaport@darslaw.com; or Steven Randol, Chair 410-695-2183, or srandol@pineyorchard.com

Sincerely,



Susan Rapaport
MD-LAC for CAI



Steven Randol
Chairman
MD-LAC for CAI

Commented [SR1]:

CAI is a national organization dedicated to fostering vibrant, competent, harmonious community associations for more than thirty years. Its members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to common interest associations. As part of its mission, CAI advocates for legislative and regulatory policies that support responsible governance and effective management. As part of this purpose state Legislative Action Committees represent CAI members before state legislatures and agencies on issues such as governance, assessments collection, insurance and construction defects.

Maryland Legislative Action Committee
Post Office Box 6636
Annapolis, Maryland 21401

HB 352 Support Letter 2021.pdf

Uploaded by: Straughn, Karen

Position: FAV

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

Writer's Fax No.



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.

410-576-7942
kstraughn@oag.state.md.us
Fax: 410-576-7040

January 19, 2021

To: The Honorable Kumar Barve
Chair, Environment and Transportation Committee

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 352 – Real Property - Condominium and Homeowner Associations –
Governing Bodies (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 352 submitted by Delegate Marvin E. Holmes, Jr. This bill is intended to address situations that arise prior to the transfer of control to an association from the developer of a Common Ownership Community

The Consumer Protection Division has received calls and complaints concerning the problems experienced by associations that are preparing to take control from the developer and those where a developer has recently transferred control only to discover many problems. Many residents claim that they have been kept in the dark as to what is happening in their community prior to the transfer of control. Others have transitioned control only to find that there is no money in any of the accounts and suspect that the developer has used assessment funds to pay its operating costs. We have also heard from communities advising that the developer has released bonds on the roads without their knowledge, yet the roads in the community remain in need of repair or completion. This bill provides for greater disclosure to community members and helps to ensure that these types of problems can no longer occur, or that a remedy exists if they do.

Specifically, the bill requires the developer to have two meetings a year so that association members can be informed about what is happening in their development. It further prevents the developer from comingling funds and requires the developer to name a homeowner or unit owner to the board once the development is 25% complete. Finally, it requires that the association members be given 30 days' notice prior to the release of any governmental bonds.

Preventing the comingling of funds will ensure that association funds are used for association business only and prevents the developer from using association funds for developer operating expenses. In addition, it helps to address concerns that arise prior to the transition of control of an association so that an association will be financially more stable following transition. It also is important in situations in which the developer fails to complete the development, leaving the homeowners to pick up the pieces.

By requiring the developer to name a homeowner or unit owner to the board who is not affiliated with the developer once the development is 25% complete, the community members are given a greater voice in their community and will hopefully be more knowledgeable about events occurring in the development of their community. Finally, by providing information about the bonds and providing notice prior to release of these bonds, it ensures that association members can make a claim against the bond if the work is not completed.

For these reasons, we ask that the Environment and Transportation Committee return a favorable report on this bill with the technical amendments suggested.

cc: The Honorable Marvin E. Holmes, Jr.
Members, Environment and Transportation Committee

MBIA HB 352 FVA.pdf

Uploaded by: Graf, Lori

Position: FWA

January 19, 2021

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 352 (Real Property - Condominiums and Homeowners Associations - Governing Bodies) with Amendment

Dear Chairman Barve:

The Maryland Building Industry Association (MBIA), representing 100,000 employees of the building industry across the State of Maryland, support House Bill 352 (Real Property - Condominiums and Homeowners Associations - Governing Bodies) with Amendments.

In concept, we do not disagree with much of the content of this bill. However, there needs to be some clarifying language specifically with regards to sections of the bill that calls for “25% of the currently subdivided units in the condominium”. Again, we do not have an issue with the concept that a homeowner should be appointed to the board upon the conveyance of 25% of the units to homeowners, but do think it needs to be drafted differently as it can be interpreted in different ways. In particular, it is unclear whether the 25% applies to the whole community and the number of units that may ultimately be annexed or whether it applies only after the entire community has been expanded to include all phases, in which case, transition of the board may have already occurred. In addition, the transition meeting for election of the board in a condominium is based upon 50% of the percentage interest and not the number of units. It may be appropriate to use the same method for both sections.

Additionally, we have significant concerns with the language regarding bonding (page 6, section IV). The Bonds that are posted are between the Developer and the Jurisdiction. The homeowners have no claim to the bonds, nor are bond generally posted by the Developer to cover the completion of common elements of the condominiums or community/association owned property. Therefore the terminology “The Name, Address, and Phone Number of the person through which a claim against the bond may be asserted” is confusing due to the fact that no one can make a claim against the bond but the Jurisdiction. We ask that this section be stricken from the bill. In addition, line 17 indicates that this language is to be applicable to any bond provided by a developer to a governmental unit “in connection with the development”. That is overly broad and is not sufficiently limited to property within the community. Given that there are no rights to claims against a bond posted with the jurisdiction, that provision should be stricken from the legislation.

For these reasons, MBIA looks forward to working with the sponsor of the bill to clarify the intent and support the bill.

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

HB352

Uploaded by: Harris, Rhea

Position: FWA



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: House Bill 352 -Real Property – Condominiums and Homeowners Associations- Governing Bodies – Annual Meetings

SPONSOR: Delegate Holmes

HEARING DATE: January 19, 2021

COMMITTEE: Environment and Transportation

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT WITH AMENDMENTS

The Office of the Prince George's County Executive **SUPPORTS House Bill 352**, which requires the governing body of a condominium to convene at least two meetings each year; and requires a developer of a condominium or a declarant of a homeowners association to convene an annual meeting, **House Bill 352** also requires meetings to include an opportunity for certain unit owners or lot owners to provide comment and requires the developer of a condominium to appoint a unit owner to the board of directors within 30 days after 25% of the currently subdivided units have been conveyed to the public.

Currently, the developer of an association is excluded from holding an annual meeting. Association members in Prince George's County should be allowed to have an open meeting with the board of directors, even if the developer is still in control of the association. **House Bill 352** is in line with the County's Office of Community Relations and the Office of the County Executive. A suggested amendment would be to include Cooperative Housing Units in the types of housing for the required annual meetings.

For the reasons stated above, the Office of the Prince George's County Executive **SUPPORTS House Bill 352 WITH AMENDMENT to add Cooperatives** and asks for a **FAVORABLE** report.

Amendments to hb352

Uploaded by: Association, Maryland Building Industry

Position: INFO

BY: Delegate Holmes
(To be offered in the Environment and Transportation Committee)

AMENDMENTS TO HOUSE BILL 352
(First Reading File Bill)

AMENDMENT NO. 1

On page 5, line 16, strike (16) and (17) and replace with:

(16) If there is a board of directors for the Council of Unit Owners already established by the Developer, within 30 days from the date that units representing 25% of the total votes in the condominium, which 25% shall be calculated on the total units that may be made part of the condominium upon full expansion of all phases, have been conveyed by the developer to members of the public for residential purposes, the developer shall appoint at least one member of the board of directors who is:

- (I) A unit owner; and
- (II) Not otherwise affiliated with the developer.

(17) If no board of directors for the council of unit owners has been established by the developer when 25% of the total votes in the condominium, which 25% shall be calculated on the total units that may be made part of the condominium upon full expansion of all phases, have been conveyed by the developer to members of the public for residential purposes, the developer shall establish a board of directors for the council of unit owners.

AMENDMENT NO. 2

On page 6, line 15, insert after "DEVELOPMENT" insert, "THAT ARE APPLICABLE TO COMMON ELEMENTS FOR THE CONDOMINIUM".

AMENDMENT NO. 4

On page 6, line 18, strike lines 18 through line 28

AMENDMENT NO. 5

On page 13, line 14, insert after "DEVELOPMENT" insert, "THAT ARE APPLICABLE TO COMMON AREAS FOR THE ASSOCIATION".

AMENDMENT NO. 6

On page 13, , strike lines 15 through line 23

