

January 13, 2022

The Honorable Kumar P. Barve
Environment & Transportation Committee
House Office Building, Room 251,
6 Bladen St., Annapolis, MD, 21401

RE: Support with Amendments House Bill 40 Condominiums - Disclosures to Unit Owners and Prohibited Provisions in Instruments

Dear Chairman Barve:

The Maryland Building Industry Association, representing 911 member firms statewide, appreciates the opportunity to participate in the discussion surrounding Support HB 40 Support of House Bill 40 Condominiums - Disclosures to Unit Owners and Prohibited Provisions in Instruments by Developers. **MBIA Supports with Amendments.**

This bill clarifies that a board of directors of a condominium may not withhold or agree to withhold from the unit owner's information about any legal agreements to which the board is a party. We understand the intent of the legislation, however the language regarding "any provision in an agreement that prohibits disclosure of any term of this agreement to the unit owners, or to a purchaser under 11-135 of this title, shall be unenforceable" is problematic. There are usually non-disclosure provisions in any agreement where the Association may settle a disputed matter, including such issues as warranty claims. This provision will discourage settling any issue. An argument can be made that the party is the Association and the Association is all the unit owners and thus, may be subject to disclosure. However, this should not apply to resale disclosure packets to a purchaser that is not yet a member of the Association. There could be various reasons for non-disclosure that are intended to protect the reputation or other rights of the parties. We would propose some language that would eliminate the obligation to disclose to third parties. We would also propose language to clarify that the Board cannot enter into an agreement that would preclude disclosure to the unit owners. This places the burden on the Board to comply and does not punish the other party. The current disclosure language is too broad.

We look forward to working with the sponsor on this issue. Thank you for your consideration.

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

cc: Members of the House Environment & Transportation Committee