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January 13, 2022

Maryland General Assembly Environment and Transportation Committee hearing

Re: HB 40 Condominiums – Disclosures to Unit Owners and Prohibited Provisions in Instruments

Position: SUPPORT

Chairman Kumar Barve, Vice Chair Dana Stein, and Members of the Committee,

My name is Roger Williams and I previously testified in support of the 2020 bill – House Bill 30 and I am pleased to see that Delegate Watson is reintroducing the bill since it was a victim of a shortened session in 2020. The objective of the bill remains the same – that secret agreements between boards of directors and developers should not be allowed.

In my previous testimony, I described the construction defects at Sunset Island in Ocean City, MD involving 198 condos and over \$10 MM in repairs at a cost of over \$50,000 per homeowner to fix the water infiltration damage caused by faulty construction. These defects resulted in serious structural damage which if not repaired could have resulted in property damage and possibly even serious injury or death. The terrible incident in Surfside, FL in 2021 is a painful example of how decisions made 30, 40, 50 years ago by boards and developers or builders can have a tragic consequence in the present.

I would like to make just a few additional statements to the committee today.

First, in the case of Sunset Island, the secret release agreement between the then board and the builder was done only when builder conditioned making the repairs on the basis of a release from all existing warranties and any future repairs. In almost all cases, Builders will have many, many orders of magnitude more resources, money, attorneys, etc. than small homeowner associations. A classic David vs. Goliath. Without laws preventing these types of agreements, a volunteer board will almost always succumb to the builder demands because time will not allow protracted negotiations or court battles when repairs loom. Builders full well know the advantages of running out the clock.

A secret agreement not only affects current homeowners but also every future buyer because the agreement will never appear in any disclosure packages or land records leaving the buyer in the dark.

Lastly, from an association board perspective, you have only the board members at the time of the agreement aware of the agreement. However board members come and go and that knowledge cannot be legally transferred to new board members. In our case at Sunset Island when the deficiencies were later discovered, none of the board members who signed the original agreement were still on the board, in fact none currently own condos. None of the subsequent board members knew of the agreement because of the secrecy clause thus preventing the current board from having extremely relevant information on hand to make decisions affecting the well-being of the community.

For your information, I have attached my testimony submitted with HB30 in 2020.

I ask for the Committee's support of HB40 in order to move it to a full vote on the floor of the House and Senate. Thank you.

HB 30-2020 – Condominiums – Disclosures to Unit Owners and Prohibited Provisions in Instruments by Developers (Sunset Island Act) **(Written Testimony from January 2020)**

Chairman Kumar Barve, Vice Chair Dana Stein, and Members of the Committee,

My name is Roger Williams and my wife Denise and I own a condominium at Sunset Island in Ocean City. We bought our condo in 2006 with visions that it would be a nice relaxing beachfront property. My wife and I have both vacationed in Ocean City since we were kids. It was our dream to buy a home in Ocean City.

After retiring in 2014, I volunteered to serve on the condo association board and in 2015 I was elected board president.

So in addition to representing my family, I am also here speaking for the other 197 families that have been so devastatingly affected by the actions of the builder, NVR/Ryan Homes and the prior board.

One of the problems that became evident after I took office was an issue of water infiltration problems throughout the complex. When those problems reappeared in 2016, even though I was board president, I had no knowledge of the confidential release agreement that was agreed to with Ryan Homes in 2010 and which released Ryan Homes from all future responsibility for making repairs. Let me say that again, as board president, I did not know that this agreement was in existence. And I couldn't have known because the agreement barred the prior board from disclosing its terms to homeowners.

Over the past three plus years I have spent thousands of hours trying to find a solution to the problems. In 2017, we had to pass a special assessment to make emergency repairs to several of the buildings to keep them from falling down. In September of 2019, we passed another special assessment to make the full repairs. In total, we will have to spend \$10MM to repair the buildings, not only to stop the water infiltration but to also fix building code violations uncovered as part of our investigations. That works out to a cost of over \$50,000 per homeowner. Compounding matters, the average assessed value of the condos has decreased by an additional \$40,000 because of the damage.

I support House Bill 30-2020, the Sunset Island Act.

A volunteer board made up of fellow homeowners must not have the authority to enter into these types of agreements without informing owners. The entire premise of the MD Condo Act is that meetings and board actions are done in the open. Signing away the rights of owners without their knowledge is unfair and now must become illegal.

In closing, I mentioned the thousands of hours that I have spent on this matter. But it hasn't been by myself. Condo Boards are almost always made up of volunteers with varying experience. Through this ordeal, I've had unbelievable support from other board members and other homeowners. People from all walks of life and with tremendous experience. Lawyers, bankers, contractors to name a few. I have no doubt that had the law been on the books back in 2010, different decisions would have been made and we would not be in the situation we are now.

I appreciate the effort of the legislators who have drafted this bill and have met with us and worked hard to try and find a solution to our problem at hand.

Thank you,

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In-process photos of discovery phases



1FDE East Tower, 3rd Floor, East face. (See evidence sample)



4FDE North Tower, Degradation of structural members at all levels



4FDE North Tower, degradation at return walls