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February 18, 2022

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

From: Kira Wilpone-Welborn, Assistant Attorney General
Consumer Protection Division

Re: House Bill 688 – Real Property – Residential Contract of Sale – Buyer Identification
(Letter of Concern)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) is concerned about unintended consequences of House Bill 688 sponsored by Delegate Jay Jalisi. Despite its admirable goals of preventing discrimination in the sale of single-family residential properties, as introduced House Bill 688 would permit buyers, including both individuals and business entities, who use the services of a real estate broker to purchase single family residential real property to elect to be anonymous, identified only as “Client A”, in a residential contract of sale. The identity of a buyer is a material fact the omission of which could affect consumers selling residential real property and the community at large.

Maryland law currently has protections in place to ensure sellers do not discriminate against buyers in residential real estate transactions based upon race, color, sex, religion, disability, familial status, sexual orientation, gender identity, or national origin,¹ and the Division recognizes the goal of House Bill 688 to further strengthen those protections. However, passage of this bill authorizing buyers of residential real property to hide their identities could unintentionally facilitate unfair, abusive, or deceptive trade practices. For example, developers could seek to abuse this provision to drive down sale prices and obscure larger development plans without appropriate public oversight by anonymously entering into multiple residential contracts of sale. Likewise, this provision could be used to facilitate illegal flipping schemes or equity stripping that would cause substantial harm to consumer sellers.

¹ Maryland Code, State Government §§ 20-704-705; and Maryland Real Estate Broker's Act, Bus. Occ. & Prof. Art. §§ 17-525, 17-526, and 17-608.

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Additionally, because of the potential for substantial harm to consumer sellers, the identity of a buyer could be a material fact that a reasonable seller would consider in deciding whether to proceed with a transaction. As written, this bill would make legal the omission of an important material fact in the transaction impeding consumer sellers' ability to make informed decisions as to whether to ratify a residential contract of sale. Moreover, the legal and financial challenge of voiding a fully executed contract of sale in a transaction involving an anonymous buyer who entered the contract with malicious or fraudulent intent could be quite significant. Finally, although the bill would only apply to those buyers who chose to engage the services of a real estate broker, that fact does not negate or outweigh the potential harm to consumer sellers.

If the Environment and Transportation Committee were to give this bill a favorable report, to protect consumer sellers of residential real property, the Division recommends that the bill permit only individual buyers who are purchasing the single-family property to be their personal and primary residence to identify themselves as "Client A" in a residential contract of sale.

For these reasons, the Division expresses its concerns with House Bill 688 to the Environment and Transportation Committee.

cc: The Honorable Jay Jalisi
Members, Environment and Transportation Committee