

Bryson F. Popham, P.A.

Bryson F. Popham, Esq.

191 Main Street
Suite 310
Annapolis, MD 21401

410-268-6871 (Telephone)
443-458-0444 (Facsimile)

www.papalaw.com

January 31, 2022

The Honorable Kumar P. Barve
Chairman, House Environment and Transportation Committee
Room 251, House Office Building
Annapolis, Maryland 21401

RE: House Bill 248 - Legionnaires' Disease Prevention Act - UNFAVORABLE

Dear Chairman Barve, Delegate Stewart, and Members of the House Environment and Transportation Committee,

I am writing on behalf of the Building Owners and Managers Association of Greater Baltimore (BOMA), in respectful opposition to House Bill 248 - Legionnaires' Disease Prevention Act.

BOMA, through its nearly 300 members, represents owners and managers of all types of commercial property, comprising 143 million square feet of office space in Baltimore and Central Maryland. Our members' facilities support over 19,000 jobs and contribute \$2.5 billion to the Maryland economy each year.

At the outset, BOMA wishes to acknowledge the serious nature of a legionella infection. The possibility of such an infection is at the heart of House Bill 248.

Also, as a threshold matter, we note that the bill seeks to regulate the owner/operator of a "public building;" however, there is no definition of that term in the bill itself. There are at least two definitions of "public building" elsewhere in the Annotated Code, and BOMA assumes for the purpose of this testimony that both the sponsor and Committee will consider a friendly amendment to specify the definition used in the State Finance and Procurement Article for this bill. If that amendment is added, BOMA will remove its opposition to the bill.

With that said, BOMA respectfully submits the following information should the bill be interpreted to apply to private buildings that are open to the public.

Our public health officials must face a wide variety of health risks to Maryland citizens at any and all times. A constant challenge to their duty to protect the public is to prioritize responses among different types of risks. The current COVID pandemic illustrates the need for public health officials to develop and execute policies that are both effective and broad-based. The risk of legionella, in contrast, is small in number, highly localized, and specifically identifiable to certain equipment that holds or uses water. In other words, this risk can be managed effectively by the owners or managers of such equipment. Such management practices are often the product of common sense precautions that have historically been very effective in both containing such outbreaks and preventing them.

In Maryland, we have been unable to find a reference to legionella on the Maryland Department of Health website. We note that information on the Maryland Department of Environment website prescribes "simple preventive actions" with

respect to reopening buildings that have been closed down by COVID siting the risks of infection including legionella. BOMA believes the approach already taken by the Maryland Department of the Environment is appropriate.

BOMA members have undertaken their own precautions against such risk. Perhaps the greatest exposure to legionella would come from the heating and air conditioning equipment, including cooling towers, that serve large commercial, industrial and mixed-use buildings. Many BOMA members advise that, in the ordinary course of business, they often contract for third party HVAC chemical water treatment services from reputable service providers, in order to ensure that bacterial growth does not occur in a building's equipment. Some BOMA members also employ rigorous preventive maintenance programs that include regular cleaning of HVAC chiller, cooling tower and air handling system components, all in accordance with accepted intervals in the industry. Such measures have proven effective in Maryland, as evidenced by the lack of a legionella outbreak in recent memory.

To summarize, House Bill 248, while well intentioned, seeks to address a public health problem that does not currently exist in Maryland. BOMA submits that the potential regulatory burden under the bill, which requires regulations to be adopted by the Maryland Department of the Environment, "validation testing" of water, extensive records retention and "legionella pneumophila culture sampling and analysis" is simply not warranted in relation to the risk of a legionella outbreak. As noted above, BOMA respectfully requests an unfavorable report on House Bill 248 unless it is amended to adopt the definition of "public building" found in the State Finance and Procurement Article.

Very truly yours,

A handwritten signature in black ink, reading "Bryson Popham". The signature is fluid and cursive, with the first name "Bryson" and last name "Popham" clearly legible.

Bryson F. Popham

cc: Kevin Bauer
Joan Smith