

Bryson F. Popham, P.A.

Bryson F. Popham, Esq.

191 Main Street
Suite 310
Annapolis, MD 21401
www.papalaw.com

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

January 31, 2022

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

RE: House Bill 263 - Real Property – Nuisance Actions – Rodent Harborage - UNFAVORABLE

Dear Chairman Barve, Delegate Grammer and Members of the Committee,

I am writing on behalf of my client, the Building Owners and Managers Association of Greater Baltimore (BOMA), in opposition to House Bill 263. We note the similarity of this legislation to House Bill 1282 from the 2021 legislative session, however, our substantive comments and objections to the legislation remain.

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

As we advised the Committee in our testimony on House Bill 1282, dealing with rodents is an unpleasant fact of life for many buildings in urban settings. Local governments in Maryland and elsewhere have enacted statutes addressing this problem, and often include rigorous compliance efforts. See, for example, Baltimore City Property Maintenance Code Sections 304.28, 305.4, and 307.7. In Maryland, dealing with problems caused by rodents has historically been the exclusive responsibility of local governments.

Like House Bill 1282, House Bill 263 adds new obligations in this area and places those obligations solely on property owners. As a remedy for this new offense at the State level, a nuisance action may be brought against a property owner. While House Bill 263 does exempt properties zoned for agricultural use, such an exemption is of little to no value in urban and suburban communities.

For commercial property owners, House Bill 263 represents a potentially unfair burden. For example, if damages are caused by rodent harborage – a defined term in the bill – a nuisance action may be brought against the property owner. What if a commercial tenant in a multi-tenant building creates the problem? Or, what if the rodent harborage actually arises from an adjoining property? Additionally, the bill would presumably allow a complainant to bring the action even if the complainant does not directly suffer injury from the condition, since the bill does not specify the property damage that would give rise to the action.

The express addition of a punitive damage remedy under House Bill 263 (as in House Bill 1282 last year) is out of proportion to any actual damages that may be incurred and, indeed, there is no requirement for actual damages to be proven or even alleged. As in our testimony last year, BOMA believes that the bill would simply encourage baseless complaints, and contains no penalty for filing such a complaint without cause. The better approach is for a local government in the State to address the problem and devise its own solution.

For these reasons we respectfully request an unfavorable report on House Bill 263.

Very truly yours,


Bryson F. Popham, Esq.

cc: Kevin J. Bauer