

Testimony for HB55 - Infrastructure Repair.pdf

Uploaded by: Alex Hekimian

Position: FAV

**Testimony for HB55
(Local Government – Condominium and Homeowners Associations –
Repair and Rehabilitation Funds)**

by Alex Hekimian

I'm a long-time resident of Columbia who has served on our state's Task Force on Common Ownership Communities, and I wholeheartedly support HB55.

Many board of directors of homeowners and condominium associations in Maryland find themselves between a rock and a hard place. They are frustrated by how difficult it is to collect enough funds to adequately and timely maintain their infrastructure.

Developers build these communities, but too often it's the associations that have the burden of picking up the cost of repairing their common elements. And, over the years, that cost has turned out to be huge and unaffordable.

The problem is that the governing documents drafted by the original developers of these communities imposed serious restrictions on how much the associations could raise their yearly assessments. For example, my association can increase the assessment by no more than the increase in the federal Consumer Price Index.

In the past decade, for example, the Consumer Price Index increased by about 1-2% per year. Construction costs, meanwhile, increased at a much higher rate. And, any attempt by associations to charge a special assessment has required a supermajority of 66 2/3% of owners to approve it, which has been so hard to attain. There has been no way to keep up.

There is also a serious inequity issue to overcome. An association's roads and stormwater facilities are types of facilities that governments normally provide. But, in many development cases, local governments agreed with developers to declare that such facilities are private and by so doing saddled the associations of the communities with the burden of repairing them. Meanwhile, for other associations, they declared that their facilities were public, and therefore local governments would be responsible for repairs. Those differing decisions have caused an arbitrary divide of haves and have-nots, as some associations pay little or nothing to repair their infrastructure, while other associations pay the entire cost.

This bill enables local governments to establish a fund to help resolve that inequity and place all associations on an equal financial footing. It also removes double taxation, whereby residents of some communities currently not only pay assessments to their associations to restore their own infrastructure but also property taxes to local governments to pay for restoring the infrastructure of other communities.

This bill allows all associations to recoup a percentage of the property taxes that its residents pay each year to local government via a grant from the fund. By so doing, it would prevent further deterioration of common elements that are unsafe and detract from such communities, and would help avoid depressed property values and the resulting negative impact and a drain on local government's property tax income.

Such a fund would be generally similar in principle to TIF (Tax Increment Financing), where the State has enabled local governments to create a fund that developers could use to recoup a portion of their development's property taxes to pay for their development's infrastructure. Just as TIF is a beneficial resource for developers, this fund would be a justified resource for community associations.

For all of these very important reasons, I urge the committee to issue a favorable report on HB55.

Consumer Council Support for HB 55 (COC Infrastruc

Uploaded by: Armstead Jones

Position: FAV

ANTHONY G. BROWN
Attorney General

CANDACE MCLAREN LANHAM
Chief of Staff

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER COUNCIL

Writer's Fax No.

Writer's Direct Dial No.

February 7, 2023

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

From: Monica Best-James, Chair
Consumer Council of Maryland

Re: House Bill 55 – Local Government - Condominium and Homeowners Associations -
Repair and Rehabilitation Funds (SUPPORT)

The Consumer Council of Maryland is an advisory body to the Consumer Protection Division in the Office of the Attorney General with members representing businesses, consumers and the public who are appointed by the Governor. The Consumer Council supports House Bill 55, sponsored by Delegate Marvin E. Holmes, Jr., which would authorize a county or municipality to establish a fund to provide support for the repair of infrastructure in condominium or homeowners associations. If the local government establishes such a fund, a portion of property tax revenues paid by the members of the associations would go to that fund.

In many common ownership communities, the infrastructure includes roads, storm water management ponds, sewers, parks and other elements that would normally be maintained by the local government, but instead are the sole responsibility of the association and its members. The failure to maintain the infrastructure can result in both physical danger to the community members as well as depressed property values and eventually, communities in crisis. To assist in maintaining these communities, House Bill 55 provides that a portion of the property taxes paid by these communities could be used to maintain their infrastructure.

For these reasons, the Consumer Council asks that the Environment and Transportation Committee return a favorable report on House Bill 55.

cc: The Honorable Marvin E. Holmes, Jr.

HB_55_Holmes_Sponsor

Uploaded by: Delegate Holmes Delegate Holmes

Position: FAV

HB 55 Local Government - Condominium and Homeowners Associations - Repair and Rehabilitation Funds

Delegate Marvin E. Holmes, Jr.

Defunct Maryland HOA leaves complex with collapsing sidewalk



Click here=> https://www.youtube.com/watch?v=5TSusAE_j1c

HB 55 - Letter of Support.docx.pdf

Uploaded by: Karen Straughn

Position: FAV

ANTHONY G. BROWN
Attorney General

WILLIAM D. GRUHN
Chief
Consumer Protection Division

CANDACE MCLAREN LANHAM
Chief of Staff



CAROLYN A. QUATTROCKI
Deputy Attorney General


Writer's Fax No.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

410-576-7942
kstraughm@oag.state.md.us No.
Fax: 410-576-7040

February 7, 2023

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

From: Karen S. Straughn 
Consumer Protection Division

Re: House Bill 55 – Local Government – Condominium and Homeowners Associations –
Repair and Rehabilitation Funds (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 55 submitted by Delegate Marvin E. Holmes, Jr. This bill authorizes a county or municipality to establish a fund to provide support for the repair of infrastructure in condominium or homeowners associations. If the local government establishes such a fund, a portion of property tax revenues paid by the members of the associations would go to that fund.

Legislation recently passed requires associations to conduct a reserve study and to fund the reserves of the association in accordance with that study. In the past, many associations had not been properly funding their reserves, either due to the inability to obtain the votes required to approve large increases or the simple inability to afford the increases necessary. As a result, the infrastructure of many of these associations has deteriorated and associations are now forced to incur substantial increases or face penalties along with the deteriorating conditions of the community.

In many common ownership communities, the infrastructure includes roads, storm water management ponds, sewers, parks and other elements that would normally be maintained by the local government, but instead are the sole responsibility of the association and its members. The failure to maintain the infrastructure can result in both physical danger to the community members as well as depressed property values and eventually, communities in crisis. To assist in maintaining these communities, a portion of the property taxes paid by these communities would be used to maintain their infrastructure. Notably, this legislation does not require a local government to take action, but merely provides the basis by which a local government is enabled to take such action. When setting the parameters for payment of a percentage of property taxes into these funds, however, it may be prudent for the funding to be limited to property taxes paid by residents of communities where the infrastructure is not maintained by the local government.

For these reasons, we ask that the Environment and Transportation Committee return a favorable report on this bill.

cc: The Honorable Marvin E. Holmes, Jr.
Members, Environment and Transportation Committee

HB 55.pdf

Uploaded by: Marvin Holmes

Position: FAV

Background Information

HB55 (Local Government – Condominium and Homeowners Associations – Repair and Rehabilitation Funds)

The collapse of a condominium building in Surfside Florida a couple of years ago is a stark reminder to all of us how difficult it is for boards of directors of associations that govern common ownership communities to collect enough funds to adequately and timely maintain their infrastructure.

The problem is that developers build these communities, but too often it's those associations that have to pick up the cost of repairing their common elements. And, that cost has turned out to be huge and unaffordable.

When local governments approved development plans, too many underestimated how much of a burden they would impose on associations. The governing documents drafted by the original developers made the situation worse because there are serious restrictions on how much the associations can raise by the annual assessments. So, over the past 50 years, older communities could not collect enough money to adequately fund their reserves, and even if those restrictions are eased, the total amount of money needed is still so massive that it is impractical and unfair to extract them from today's residents.

There is also a serious inequity issue. Much of an association's infrastructure, like roads and stormwater facilities, are types of facilities that governments normally provide. But, in too many development cases, local governments agreed with developers to declare that such facilities are private and by so doing saddled the associations of the communities with the burden of repairing them. Meanwhile, in other cases, they declared that such facilities were public, and therefore local governments would be responsible for repairs. Those differing decisions have caused a serious inequity among common ownership communities. It has created an arbitrary divide of haves and have-nots, with some associations paying little or nothing to repair their infrastructure, while other associations having to pay the entire cost.

This bill is enabling legislation that allows local governments to establish a fund, if they so choose, to help resolve that inequity and place all community associations on an equal financial footing. It also removes double taxation, whereby residents of some communities not only pay assessments to their associations to restore their own infrastructure but also property taxes to local governments to pay for restoring the infrastructure of other comparable communities.

This bill allows all community associations to recoup a percentage of the property taxes that its residents pay each year to local government via a grant from the fund. The net result is preventing further deterioration of common elements that are unsafe and detract from such communities, and helping avoid depressed property values and the resulting negative impact and a drain on local government's property tax income.

Such a fund is generally similar in principle to TIF (Tax Increment Financing), where the State has authorized local governments to create a fund that developers could use to recoup a portion of their development's property taxes to pay for their development's infrastructure. Just as TIF is a beneficial resource for developers, RRF would be a justified resource for community associations.

Testimony_In SUPPORT of HB0055_Oakland Mills Commu

Uploaded by: Sandy Cederbaum

Position: FAV



Oakland Mills Community Association
The Other Barn • 5851 Robert Oliver Place
Columbia, MD 21045
410-730-4610 • oaklandmills.org



February 3, 2023

TO: Members of the Maryland Environment and Transportation Committee

FROM: Oakland Mills Community Association
Jonathan Edelson, Chair, Board of Directors

SUBJECT: TESTIMONY IN SUPPORT OF HOUSE BILL 0055

The Oakland Mills Community Association supports House Bill 2023-0055. While most of Oakland Mills is already served by public roads, stormwater facilities, etc., parts of Oakland Mills were developed as subdevelopments with their own common ownership or homeowners' associations responsible for their subdevelopment within Oakland Mills. Fifty years or more after their construction, some of these subdevelopments are now struggling to raise the funds necessary to maintain or upgrade services provided by our county in other communities. This has led to inequities in the condition of infrastructure that would traditionally be maintained by the county, and the only current path to remedy this would be substantial dues increases passed on to the members of the subdevelopments.

Allowing counties and municipalities to establish infrastructure funds will be a step toward fixing this situation. We support not only the potential to create these funds, but also the prioritization by need for the disbursement of these funds. House Bill 2023-0055 is a first step toward relieving a burden on residents of the State of Maryland, such as those who live in the subdevelopments within Oakland Mills, who currently face steep bills to maintain or repair infrastructure that other residents receive as a public good.

Gmail - IN FAVOR OF HB0055.PDF

Uploaded by: Sheila Daniels-Henriquez

Position: FAV



IN FAVOR OF HB0055

1 message

Sheila Henriquez <sheilahenriquez10@gmail.com>

Fri, Feb 3, 2023 at 1:58 PM

To: Sheila Henriquez <sheilahenriquez10@gmail.com>

Hello everyone. I'm in favor of HB0055. Please pass this most important Bill for homeowners. I've been living in my Condominium association since 2001 and a board of director since 2009. I have personally witnessed the difficulty in collecting enough funds to sustain and maintain the community's infrastructure. I have also witnessed many communities turning into slums due to it's financial and physical infrastructure problems.

The initial problem is with the developers when building COC. Once the homes are turned over to the homeowners the cost to maintain infrastructure becomes unaffordable and unattainable. The governing documents created by the developers have limited communities in such a way they can't retrieve enough money to fund their reserves accounts and the amount of money to do so is overwhelmingly out of reach in today's economy.

Secondly, I wanted to mention another extremely disturbing fact. Many infrastructures including a community's roads, sidewalks, stormwater facilities the government is responsible for such. That's understandable considering homeowners pay state, assessments and property taxes; however, this is not true for all COC. There are instances where developers and the state agreed that in certain communities some would be private and some would be public without the ability to ever change its status. The burden is on communities that are private to pay for all its infrastructure repairs and replacements. Public infrastructure communities are paid for by the state/counties. This practice is unfair, troublesome and creates animosity among homeowners who are also voters.

HB0055 will create legislation that will allow the state/counties to establish a fund by choice to help alleviate such unfair practices. This Bill will help support the financial infrastructure among COC. It will also remove the unfair double taxation where homeowners living in COC pay property tax as well as community assessments for infrastructure.

In addition, passing HB0055 will help to prevent depressed properties, help to keep community homeowners living in a safe environment and potentially prevent negative local state property tax income.

Thank you for your time.

Gmail - 2-3-23 Shirley Ali Favorable Testimony.PDF

Uploaded by: Shirley Ali

Position: FAV



2-3-23 Shirley Ali Favorable Testimony

1 message

Sheila Henriquez <sheilahenriquez10@gmail.com>
To: Sheila Henriquez <sheilahenriquez10@gmail.com>

Fri, Feb 3, 2023 at 2:56 PM

February 3, 2023

Shirley Ali
1813 Falcon Court
Severn MD 21144
In favor of HB1061

Because I've lived in a Common Ownership Community for forty four years and I'm an original owner, I have witnessed the need for House Bill 1061. A safe Infrastructure is needed for the everyday life of homeowners to function in a safe environment and to know their well being and safety is taken care of.

Other communities, in other areas, really do not worry about their infrastructure because they know it's taken care of by the government but for my community, we have to pay for it ourselves which is not affordable. As it happens, our community is now less desirable to live in because our community's infrastructure has deteriorated over the years.

It would be a great accomplishment for my State to establish and pass this Bill to honor Common Ownership homeowners in Maryland with the ability to know that where they live their infrastructure is protected. We pay our property and community taxes as well as these other communities who get the infrastructure help they need. We should be treated fairly. Passing this Bill will get us the help we need.

Lastly, to know there's a law that protects the infrastructure of Common Ownership Communities will be a great act of kindness you all will demonstrate when this Bill passes.

HB55 Support with Amendment-Rehab Funds.pdf

Uploaded by: Chris Majerle

Position: FWA

Steven Randol, Chair
Aimee Winegar, CMCA, LSM, PCAM, Vice Chair
Vicki Caine, Secretary

Marie Fowler, PCAM, Treasurer
Charlene Morazzani Hood, PCAM, MS,
Asst. Treasurer

Hillary A. Collins, Esq., Member
Igor Conev, CMCA, AMS, PCAM, CIRMS, Member
Steve Dunn, Esq., Member
Cynthia Hitt Kent, Esq., Member
Judyann Lee, Esq., Member
Barbara Leonard, Member

Brenda Wakefield, CMCA, AMS, Member
Susan Saltsman, CMCA, AMS, Member
Scott J. Silverman, Esq., Member
John Taylor, Member
Tricia A. Walsh, CISR, Member

Julie Dymowski, Esq. Member Emeritus
Kathleen M. Elmore, Esq. Member Emeritus

Chris Majerle, PCAM, Member Emeritus
Robin Manougian, CIRMS, Member Emeritus

February 3, 2023

Del Kumar Barvee
AA_ENT@mlis.state.md.us
364 House Office Building Rm 251
Annapolis, MD 21401

RE: HB55

Local Government - Condominium and Homeowners Associations - Repair and Rehabilitation Funds

Position: Support w/Amendment

Dear Del. Barve & members of the Environment & Transportation Committee:

The Community Associations Institute's Legislative Action Committee certainly supports the concept of tax money paid by our association owners being set aside to help pay for infrastructure. It has never been right that our associations contribute equally to road and other infrastructure maintenance, yet must fund their own road and infrastructure maintenance out of pocket. When you pay for your appendix to be removed, you expect that you will leave the hospital without an appendix. When you pay for a fuel fill-up, you expect your tank to be full when you leave the station. Yet, our owners pay their cities and counties for snow removal, paving, sidewalks, streetlights and, when those costs arise, they must bear the cost themselves for a second time.

Therefore, we fully support the concept of these funds being made available to our associations. However, if left to the discretion of the county or municipality where they MAY establish a fund, we have little confidence that ANY will actually do so. Rather, we suggest either changing (B)(1) from MAY to SHALL and rewording (B)(2)(I) such that funds shall be made available to associations for such costs up to the amount those homes have collectively contributed OR, better yet, prohibit counties and municipalities from collecting taxes for services they have no intention of ever providing. The latter would seem to be the most fair and equitable and the one that the one of which the CAI MD LAC would be most supportive.

In the interest of equity, we support concepts intended by HB55 provided it comes with a mandatory means of directing those funds to the homeowners who paid into the fund. We are available to answer any questions the Committee Members may have. Please do not hesitate to contact Lisa Harris Jones, CAI MD-LAC lobbyist, at 410-366-1500 or by email at lisa.jones@mdlobbyist.com or Steve Randol, CAI MD-LAC Chair, by email at srandol@pineyorchard.com or Chris Majerle, PCAM at 240-387-4742 or by email at cmajerle@AccessMMI.com.

Sincerely,

Chris Majerle

Chris Majerle, PCAM

Steven Randol

Chair, CAI MD-LAC

CAI is a national organization dedicated to fostering vibrant, competent, harmonious community associations for more than thirty years. Its members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to common interest associations. As part of its mission, CAI advocates for legislative and regulatory policies that support responsible governance and effective management. As part of this purpose state Legislative Action Committees represent CAI members before state legislatures and agencies on issues such as governance, assessments collection, insurance and construction defects.

**Maryland Legislative Action Committee
Post Office Box 6636
Annapolis, Maryland 21401**

HB0055-ET_MACo_SWA.pdf

Uploaded by: Dominic Butchko

Position: FWA



House Bill 55

Local Government - Condominium and Homeowners Associations - Repair and Rehabilitation Funds

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Environment and Transportation Committee

Date: February 7, 2023

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** HB 55 **WITH AMENDMENTS**. The bill would allow counties, at their option, to establish a fund to deal with infrastructure issues in defunct condominiums and homeowners' associations. Amendments could strengthen this authority by leveraging state funds to accelerate any needed remediation efforts.

One of the unique features of condominiums and homeowners' associations is that they are charged with similar infrastructure responsibilities as county governments. In theory, these bodies maintain those infrastructure responsibilities instead of a county. However, there are numerous examples of condominiums and homeowners' associations becoming unable to fulfill their obligations. In several instances, counties have been forced to act as the natural backstop, stepping in to perform emergency maintenance at the cost of all taxpayers, rather than the residents in the impacted area.

HB 55 would provide taxpayers with an insurance policy against irresponsible condominiums and homeowners' associations. This bill would enable county governments to establish special trust funds for handling infrastructure maintenance concerns in affected areas. Counties would effectively be able to set aside property tax revenue from these communities in a "rainy day" fund that can be used if these organizations can no longer meet their obligations. Additionally, counties would also encourage the State to contribute to these "rainy day" funds; this effort would minimize any unanticipated strain on resources aimed at serving our mutual constituents. Amendments to HB 55 could define a state component of these efforts, through the state share of property taxes or other relevant funding resources.

HB 55 gives counties another tool in the toolbox. If a condominium or homeowners' association cannot meet their obligations, it shouldn't fall on the other taxpayers to bail them out. Accordingly, MACo urges the Committee to issue a **FAVORABLE WITH AMENDMENTS** report for HB 55.

HB0055-LocalFundsForHoasInfrastructure-FAVWithAmen

Uploaded by: Nelda Fink

Position: FWA

HB0055 - FAVORABLE With Amendment - Local Government - Condominium and Homeowners Associations - Repair and Rehabilitation Funds

I believe this is necessary but should only be utilized in communities which are smaller as they are the ones that do not have enough assessments to cover major expenses for roads. My community only has 130 units. We are low income neighborhood with prices for 1 – 3 BR units ranging from \$150,000 - \$190,000 range, and are now trying to determine how to pay for the roads and parking lot. The now mandated Reserve Study will dictate how much we need to raise assessments in order to cover those costs, but will probably increase the assessments beyond what the unit owners can afford.

Would this also include snow removal for those communities and roads?

Also this should exclude those communities near the airport which can be covered by the Transportation Community Enhancement Grants Program, under the Maryland Aviation Authority or should exclude local funding for those who do receive the grant money.

Requesting a favorable vote on this bill with the amendments recommended.

**Nelda Fink
MD District 32**

STB MD Assembly 2023 Testimony bill HB0055 (Condom

Uploaded by: Michael Scepaniak

Position: UNF

Strong Towns Baltimore (STB) is taking an **unfavorable** position toward bill HB0055 (Condominium and Homeowners Associations - Repair and Rehabilitation Funds).

Infrastructure maintenance is expensive, especially for low-density developments. Unfortunately, privately-maintained condominium and homeowners associations (CHAs) are given the impression that, in publicly-maintained communities, property and local taxes paid by those communities are sufficient to maintain their community-specific public infrastructure.

However, our understanding is that the maintenance of public infrastructure, especially in low-density developments, is paid for with growth. [1] Municipalities pull from revenue streams that are unique to government to cover the costs of maintaining the infrastructure in older, existing communities. This lack of knowledge is leading to shortfalls in CHA infrastructure budgets, eye-popping work estimates, and distress for many CHA residents.

CHA-managed developments are very attractive to local municipalities. By approving them, municipalities realize a fresh and ongoing stream of property and local taxes without assuming responsibility for the initial development of the community-specific infrastructure (which the developer typically covers) or long-term maintenance of that infrastructure (when the CHA takes responsibility for it).

However, expecting all of these widely-varying CHAs to adequately run the grass roots equivalents of government transportation and public works departments is unrealistic. And expecting future waves of residents buying into these communities to properly vet the competence of the applicable CHA board, especially their management of below-ground infrastructure, is also unrealistic. It comes as no surprise that many CHAs with aging infrastructure are finding themselves in over their head - with their residents shocked and looking for help.

Municipalities have a role to play in addressing this issue, but a blanket shifting or garnishment of property taxes is not it. Property taxes pay for much more than community-specific infrastructure. Also, these backstop funds, if made available free of drawbacks, will introduce the risk of CHAs abdicating their fiscal discipline.

STB believes that the municipality's proper role in this is to provide expertise with helping CHAs and their residents understand the scope of their infrastructure liabilities and strategies on how to tackle them. Given the low-density layout of many of these communities, this may amount to a combination of increasing housing density and downgrading infrastructure standards.

Unfortunately, many suburban communities are fundamentally designed to make inefficient use of land and infrastructure - to such a degree that they may not be able to escape the financial holes they are in. As such, municipalities also need to take steps to ensure that vulnerable first-time buyers are not baited into buying into neighborhoods with unmanageable deferred maintenance backlogs.

There's a large conflict of interest at play when CHAs are established because the developer is incentivized to set the monthly/quarterly dues as low as possible to make the properties more attractive to potential home-buyers. Beyond that point, it's then up to the residents to a) realize that the infrastructure maintenance situation is unsustainable and b) agree to raise their own dues on themselves. This situation must be daylighted and remedied.

If it is decided that financial relief or support is to be extended to these CHAs, it **must** be coupled with policies that address the root cause(s) of the problem and be tied to a moratorium on any new such developments. We shouldn't allow any additional Maryland residents to be misled and victimized by bad-actor CHA developers. Also, municipalities need to move out ahead of this and get a handle on this "shadow inventory" of private infrastructure.

We hope the committee finds our points helpful and convincing and we urge its members to vote down this bill. Thank you for your time and attention.

[Strong Towns Baltimore](#)

Michael Scepaniak, Co-president

James Pizzurro

John Locke

Phil Scherer

Josh Poland

Henry Cook

Shaun Lehmann

[1] Charles L. Marohn, *A Bottom-Up Revolution to Rebuild American Prosperity*, chap. 3, The Municipal Ponzi Scheme, e-book