

HB0029HOABillOfRightsFavWAmends.pdf

Uploaded by: Nelda Fink

Position: FAV

**FAVORABLE With Amendments Testimony - HB0029 -
Nelda Fink
MD District 32**

Thank you! This is very necessary as many HOA/COA BOD members do not know the rights of the Council members and overstep them all the time. They don't understand the limiting powers they are given in the governing documents and abuse their supposed authority far to much costing the homeowner much financial distress. I'm on my community's board and am appalled at all the violations they commit. I'm only one vote however and am limited in what I can do for my community.

There are a few amendments I propose:

1. 1-105 (B)(9)III should incorporate Maryland bill of rights. Such as "ARE PROTECTIVE OF THE RIGHTS OF RESIDENTIAL OWNERS IN THE COMMUNITY AS OUTLINED IN MARYLANDS BILL OF RIGHTS."
2. There is a fine line between the fiduciary responsibility of the BOD and the charging and remediation of violations. Before a BOD can claim a violation of the homeowner's PRIVATE property, they must prove the allegations such as for that of public safety using the appropriate county authorities to prove those allegations. Such as structural damage, unsanitary conditions, or noxious noise needs to be proven that

said conditions actually affect public health or the safety of others in the community.

3. (13) Along with the proving of effects in the community of a violation, there needs to be a more clear definition of "FAIR". If a majority of the BOD defines fair in a manner that is more damaging to the homeowner, yet the minority defines fair to be more fair to the homeowner, something needs to happen. I don't think it's fair for the BOD to require maintenance that the homeowner cannot afford to perform. And I don't think it is fair for that maintenance to be performed by the BOD and have the costs to be alienated onto the property. This is one of the basic premises to the supposed fiduciary responsibility of the BOD. I don't agree with this premise, as there is no proof of the fiduciary value loss if the maintenance is not performed. So I propose that "Fair" be defined as recommendations that the homeowner can reasonably agree to. The BOD can offer a loan to the homeowner, but to force repairs on a homeowner at the homeowners expense is taking a possessory hold of the property, which is illegal, but the homeowner has no funds or knowledge to object or take recourse. The BOD I am on, does this often and without regard to the homeowner's rights to ownership and privacy.
4. The CPD of the OAG is so backed up, we don't get timely responses to the issues presented by homeowners. I propose (15)(III) – Complaints from

homeowners of COA/HOA shall have an emergency fast reaction line into the CPD if necessary to stop any financial or otherwise damaging actions of the BOD. This emergency line should provide feedback within 5 days of filing an emergency complaint.

5. (15)(IV) (Injunctive relief) When a complaint is accepted by the CPD a notice must be immediately sent to the BOD and all actions against a homeowner must cease until a decision by the CPD has been made.

I support This Bill.

Nelda Fink

Document 50.pdf

Uploaded by: Patricia Thomas

Position: FAV

Residential Owners in Common Ownership Communities – Bill of Rights HB 0029

Patricia C. Thomas

8755 Endless Ocean Way, Columbia, MD 21045 (Snowden Overlook 55+ Active Adult Community) (h)410-953-6085

Good afternoon members of the Environment and Transportation Committee.

I am testifying in support of HB 0029.

My husband and I have lived in this community for 18 years. We have been very active from the beginning in 2005 since the community was built out. We served on committees, and I was on the Board of Directors. We didn't do this without the correct education and training to be the best in our new roles.

We noticed that the other Board of Directors were deviating from our governing documents to make risky interpretations without input from us nor our property manager. We could not get them to make good reasonable decisions in the best interest of the community, which resulted in financial chaos for many. We were assessed \$27,000.00 per household to be paid in three months. We were threatened with a lien of foreclosure if their terms were not met. Some residents had to sell their homes to pay for this horrendous assessment. When you have these issues, there is nothing to protect you. You're left to suffer.

We need this Bill of Rights to protect those of us who live in these communities. We cannot continue to be labeled as "private" without support from our local and state government. The time is now to make this right. We have truly been left behind. We want Democracy in our communities.

Testimony_In SUPPORT of 2023 HB0029_Oakland Mills

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



January 22, 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 0029

The Oakland Mills Community Association (OMCA) supports House Bill 2023-0029 “Residential Owners in Common Ownership Communities Bill of Rights.” OMCA proudly already meets or exceeds the potential rights outlined in this bill, where applicable. We respect the rights of our residents, as without them, we would not have a community association. Our governing documents make not only owners, but also renters as members of our association, and we feel this bill should set a floor, rather than a ceiling, for membership so we can continue to serve everyone who lives in Oakland Mills. We support codifying these rights across the State of Maryland.

However, as a Columbia, Maryland Village Association, OMCA has a unique relationship with the Columbia Association (CA). CA owns the four buildings we manage on its behalf – The Other Barn and three neighborhood centers. These facilities are larger than the typical clubhouses or community rooms in smaller communities and provide services and event space beyond the boundaries of Oakland Mills and Columbia. Due to this unique relationship with CA and the unique nature of these facilities, we believe special consideration should be given to provisions in the Bill of Rights pertaining to budget and fees for use of these facilities.

OMCA does not maintain a capital fund and does not make capital investments in the facilities it manages. CA is responsible for all capital investments on these facilities and its Open Space within Oakland Mills. OMCA does manage, on behalf of CA, the four facilities mentioned above. As part of this management, OMCA is responsible for non-capital maintenance items, janitorial services, event staffing, and professional services such as event coordination for weddings and other events held in the facilities. All of OMCA’s spending is accounted for in our annual operating budget, which is discussed and voted upon in open meeting.

**Page 2: Oakland Mills Community Association testimony
In Support of MD HB 2023 HB0029**

This unique arrangement, as well as the size of these facilities, should be considered before applying a strict formula to the cost incurred by residents versus nonresidents of OMCA or CA. Otherwise, the overhead and professional services costs invested by OMCA could make it difficult to charge no more than half what we would charge to nonresidents for long-term leases or large-scale events in our facilities. We could be forced to lose money on events for residents or set nonresident prices artificially high, thus pricing our facilities out of the market. For example, The Other Barn is currently a popular wedding venue throughout the Baltimore-Washington area, and a venue of its size could not be supported with such a substantial distinction between residents and nonresidents.

We hope the facilities situation can be studied further and revised to recognize the size of homeowners' associations as well as situation where the association managing the facility is not the owner of the facility.

Beyond that, we support a statewide baseline set of rights for residents of all common ownership and HOA communities.

Testimonyfor HB0029.pdf

Uploaded by: Sheila Daniels-Henriquez

Position: FAV

1/24/23

Sheila Daniels-Henriquez
1832 Dove Court
Severn MD 21144
(IN FAVOR)

I'm in favor of House Bill 0029 for the following reasons:

I've been living in my Common Ownership Community since 2001 and a Board of Director since 2009. This Bill will help limit and/or prevent many of the illegal acts, unethical acts, untrained actions from Board of Directors and Management companies, including misappropriation of funds, theft, non communicating important information to the community for decision making and non communication to their fellow board of Directors who speak of their wrongful, illegal, unethical acts.

Not all but Board of Directors can become Directors who will neglect, become hostile, harass, and retaliate against those who will report their wrong doings, which includes lies they tell regarding community members who they don't like or who won't become part of their unethical or illegal Acts.

This includes stealing community funds, misusing community funds for their own personal or for their friends personal gain which is directly contrary to their Bylaws and fiduciary duties.

Unfortunately, the only recourse Common Ownership owners have is to seek their own lawyer; that's too costly and extremely stressful this needs to stop. Owners want to live in peace in their homes without unethical board members who mean them harm.

Now it's your turn to help owners of COC by passing this much needed Bill. We as owners need an office where we can find enforcement for the laws of the state and country. Self Governance does NOT WORK. Honest Board of directors need training, resources from the state and COC need the support, protection and enforcements of laws. Please pass this Bill.

Thank you for your time.

Testimony on HB29 1-26-2023.pdf

Uploaded by: Alex Hekimian

Position: FWA

Testimony on HB29 (Residential Owners in Common Ownership Communities Bill of Rights)

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 HB29.

Back in 2005, the General Assembly saw a clear need to upgrade Maryland's laws that govern common ownership communities and established a Task Force to prepare proposals for protecting existing rights and improving and filling gaps in those laws. Your Task Force concluded that residential owners in such communities are in need of and deserve a Bill of Rights. As you know, the General Assembly has a precedent of approving other Bill of Rights legislation, such as the ones for property owners, law enforcement officers, state correctional officers, patients in comprehensive care and extended care facilities, and patients receiving medical care.

Even the prestigious national Uniform Law Commission strongly urged states to approve a Bill of Rights for owners in common ownership communities. The Uniform Law Commission includes lawyers from all of the states, whose purpose is to recommend legislation designed for important areas of state laws.

Once approved by the General Assembly, it will serve as a very useful foundation for more detailed laws to actually implement each right.

This bill is comprehensive and very well-constructed. The only amendment to the bill that I support is an additional right that states: *“Any homeowners association, condominium, or cooperative housing corporation may extend any of the above mentioned rights to renters, tenants, and/or commercial property owners within their community, if required by its governing documents.”* This addition would account for some rights offered to others by the governing documents of some common ownership communities in our state.

And finally, please reject any amendments that would allow certain associations to be exempt from these rights. HB29 contains basic rights that are generally accepted all over this country. No community in Maryland should be singled out as not worthy of all of these rights.

If an association claims that the Bill of Rights doesn't fit in with their governing documents and the way they do things, it's that much more important to protect the residents of that association from some of the most flawed components of their association's governing documents and practices.

An association also may claim that it's too big, it's too unique, and the rights are unnecessary. If bigness is so important, then why, for example, does the federal Bill of Rights apply to all states, from the smallest to the largest? Please don't accept a flawed system of unequal rights based on size.

And, while some rights in HB29 are currently mentioned in State laws and in association governing documents, it's vital to have a Bill of Rights statute because without it, those rights can later more easily be removed or ignored. Therefore, I respectfully request that you reject any attempts to exclude any association from the Bill of Rights and to approve HB29 for all of Maryland.

HB 29 - Letter of support with Amendment.pdf

Uploaded by: Karen Straughn

Position: FWA

ANTHONY G. BROWN
Attorney General

CANDACE MCLAREN LANHAM
Chief of Staff

CAROLYN A. QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Fax No.

410-576-7942 No.
Fax: 410-576-7040

January 26, 2023

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

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 29 – Residential Owners in Common Ownership Communities Bill of Rights -
(LETTER OF SUPPORT WITH AMENDMENT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 29 introduced by Delegate Marvin Holmes with the attached amendment. This bill creates a bill of rights for members of a common ownership community. The Consumer Protection Division currently mediates complaints on behalf of association members when those members feel their rights under the acts which regulate common ownership communities have not been honored. In addition, the Division has the authority to take an enforcement action against an association that is in violation of the statutes when it feels that an unfair and deceptive trade practice has taken place.

While this office supports a bill of rights for consumers, this bill also provides a mechanism by which the Office of the Attorney General would take direct enforcement actions on behalf of an association member. This office supports the ability of an association member to file a complaint with the Consumer Protection Division when their rights have been compromised, rather than the right to have the Division file a direct action on behalf of an individual residential owner. The Division does not presently represent individual consumers and only takes actions on behalf of the State of Maryland.

The Division supports the rights of a residential owner to file a complaint with the Division rather than seeking to have the Division file an action on behalf of that individual. Enhancing the role of the Division to enable it to represent owners in a common ownership community, would require, at a minimum, a full-time Assistant Attorney General, 1/2 of an investigator, and 1/2 a Mediation Unit Supervisor. The filing of these individual actions could also increase the costs for the associations and, ultimately, the assessments paid by residents.

For these reasons, the Consumer Protection Division seeks a favorable report on this bill with the attached amendment.

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

AMENDMENT TO HB 29 (2023)

Amendment 1

On page 6, in line 5, strike “:” in line 6 strike “(I)”, and in line 7 – after communities, strike beginning with “and” down through “Attorney General” in line 11, inclusive.

HB 29 FWA Proposed Admendment-Dorsey-Walker

Uploaded by: Linda Dorsey-Walker

Position: FWA

AMENDMENT TO HB 29 (PROPOSED BY LINDA DORSEY-WALKER 1/24/23)

Article – Real Property

1–105.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMON OWNERSHIP COMMUNITY” MEANS:

(I) A COOPERATIVE HOUSING CORPORATION AS DEFINED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE;

(II) A CONDOMINIUM AS DEFINED IN § 11–101 OF THIS ARTICLE; OR

(III) A HOMEOWNERS ASSOCIATION AS DEFINED IN § 11B–101 OF THIS ARTICLE.

(3) “GOVERNING DOCUMENTS” MEANS ANY BYLAWS, COVENANTS, DECLARATIONS, OR RULES OF A COMMON OWNERSHIP COMMUNITY.

(4) “LOT” HAS THE MEANING INDICATED IN § 11B–101 OF THIS 26 ARTICLE.

(5) “RESIDENTIAL OWNER” MEANS:

(i) A MEMBER AS DEFINED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; HOUSE BILL 29 3 1

(ii) A UNIT OWNER AS DEFINED IN § 11–101 OF THIS ARTICLE; 2 OR 3

(iii) A LOT OWNER.

(iv) A RESIDENT OCCUPANT OF A COMMON OWNERSHIP COMMUNITY, WHO HAS BEEN DESIGNATED BY A RESIDENT OWNER IN WRITING TO REPRESENT THAT OWNER’S HOUSEHOLD INTERESTS, SHALL BE PERMITTED TO PARTICIPATE IN CONDOMINIUM OR H.O.A. MEETINGS, HEARINGS, VOTES, ELECTIONS TO OFFICE, ACTIVITIES, AND USE OF FACILITIES AND AMENITIES IN A MANOR THAT IS INDISTINGUISHABLE FROM THE RESIDENT OWNER OF AN HOUSEHOLD. DESIGNEES OF THE RESIDENT OWNER MAYBE AN ADULT RELATIVE OR RENTER WHO OCCUPIES THE RESIDENCE.

MBIA Letter of Support HB 0029.pdf

Uploaded by: Lori Graf

Position: FWA

January 25, 2023

The Honorable Kumar P. Barve
Environment & Transportation Committee
House Office Building, Room 251,
6 Bladen St., Annapolis, MD, 21401

RE: Support with Amendments HB 0029 Residential Owners in Common Ownership Communities Bill of Rights

Dear Chairman Barve:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **Support with Amendments HB 1060 Residential Owners in Common Ownership Communities Bill of Rights**. MBIA Supports the Act With Amendments.

This establishes a Bill of Rights to residential owners in common ownership communities. MBIA supports the institution of codified rights of homeowners. We do, however, have some concerns about what provisions are incorporated into the bill and would like to offer the following comments on certain sections.

Section (B)(2) (page 3 lines 13-16) gives owners **the right to be represented by the governing body of the common ownership community**. This is broad and wide open. In what capacity is this language intended to apply? If an individual owner has a dispute with another owner, the builder or developer, should the governing body have the right to interject and represent the individual owner? The association's resources and funds should not be used for such individual issues.

Section (B)(4) (page 3 lines 20-23) – **Residential owners have the right to use facilities and services at a reasonable cost that does not exceed half the cost charged to eligible users who are not residents of the community**. Often times there is no instituted fee by the owner and instead if there is one at all it is instituted by the board. Often the cost of the use of facilities is reflected in the overall budget. This makes calculating whether certain residents receive greater costs difficult to assess.

Section (B)(7)(1) (page 4 lines 3-7) – **The first right under (7)(I) – says that owners have the right, by secret ballot, to elect the membership of the governing body . . .** However, under Maryland law, a meeting at which owners have the right to first vote to elect a governing body, is not required to occur until (i) 60 days after 50% of the units have been conveyed to owners for a condominium, and (ii) 60 days after 75% of the lots have been conveyed to owners for an Homeowners Association. Therefore, MBIA suggests an amendment adding “subject to applicable law” in line five between the words “Body...For”. This would prevent changing the rule about when members have a right to elect directors under the MD Condo Act and MD Homeowners Association Act.

Section (B)(8)(III) (page 4 lines 24-26) gives owners the right to **“a reasonable opportunity to speak during a timely period**. We are concerned that “A timely period is not defined” and respectfully request clarification as to how that will be established.

Section (B)(14) (page 5 lines 23-29) – Here owners are given the right to **be informed by the governing body of proposed changes to the existing governing documents and to vote to approve those changes**. Most Homeowners Association documents include language that allows the Declarant (developer) to unilaterally make changes to the governing documents (and most specifically to the Declaration) during a Development Control Period – the property is

still under development. This allows the developer to address issues that arise during the development process. If this language were to pass, then, it may not allow developers to unilaterally change Homeowners Association documents. Which would make it more difficult to establish a functioning Homeowners Association and compete the project.

For these reasons, MBIA respectfully requests the Committee adopt the proposed amendments and give this measure a favorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the House Environment & Transportation Committee

HB0029WrittenTestimony.pdf

Uploaded by: Cynthia Kent

Position: UNF

Steven Randol, Chair
Aimee Winegar, CMCA, LSM, PCAM, Vice Chair
Vicki Caine, Secretary
Brenda Wakefield, CMCA, AMS, Assistant Secretary

Marie Fowler, PCAM, Treasurer
Charlene Morazzani Hood, PCAM, MS,
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Hillary A. Collins, Esq., Member
Igor Conev, CMCA, AMS, PCAM, CIRMS, Member
Steve Dunn, Member
Cynthia Hitt Kent, Esq., Member
Judyann Lee, Esq., Member

Barbara Leonard, 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

January 23, 2023

Chair Kumar P. Barve
Environmental and Transportation Committee
251 Taylor House Office Building
6 Bladen Street
Annapolis, MD 21401
kumar.barve@house.state.md.us

RE: HB29 - Residential Owners in Common Ownership Communities Bill of Rights

Position: Oppose

Dear Del. Barve and Members of the Environment & Transportation Committee:

The Community Associations Institute's Maryland Legislative Action Committee (CAI MD LAC) has reviewed HB29 and finds it to be unnecessary, ambiguous and in parts overly burdensome. Many of the rights noted in general terms already exist in specific terms in the Maryland Condominium Act (MCA), the Maryland Homeowners Association Act (MHAA) and in many of the governing documents that govern condominium, homeowners associations and cooperatives in the State of Maryland. The Bill may be erroneously interpreted to change already codified (statute) and contracted (governing documents) "rights," provisions, or processes. Note too, that many communities have already created their own bill of rights and responsibilities that apply to the owners, the Board of Directors, committees, and all of the residents in the community, whereas this Bill of Rights applies solely to owners. Although HB29 states that it is subject to all applicable laws, it does not generally state that it is subject to rights, rules, procedures or processes set forth in the governing documents. Thus, in a conflict

between the governing documents and HB29, the law would prevail. The law would then trounce some rights, rules, procedures and processes that have been in place for decades. Although HB29 states that it is subject to all applicable laws, most lay residential owners would not be skilled in the practice of toggling between this Bill of Rights and existing applicable law. Allow us to illustrate these concerns with specifics:

Homeowners have the right to Participate in Meetings on Community Issues with other members (B) (1)(I)

Homeowners have the right to participate, either in person or by remote access, in open meetings that are easily accessible to the residential owners (B) (8) (II)

Homeowners have a right to a reasonable opportunity to speak during a timely period when matters are discussed or voted on by the governing body or committee (B) (8) (III)

The foregoing rights to attend open meetings and to participate already exist in the MCA and MHAA. These general statements could be construed as expanding those rights. Some of the terms are without definitions such as “participate.” Owners already have the right to participate by attending the open meetings and listening to the Board conduct the business of the community association and by speaking during open forum. “Meetings that are easily accessible” - this phrase is unclear. Does this phrase mean the communities have to have their meetings onsite or they have to train their owners as to how to remotely access a meeting? “Reasonable opportunity to speak during a timely period” - this phrase is also unclear. The right to speak during open forum already exists and the conduct of open forum is subject to reasonable rules to maintain order and decorum. Who will decide what is a reasonable opportunity or a timely period?

Homeowners have the right to be represented by the governing body of the community and to have the governing body consider the priorities of all owners when approving a budget and managing the facilities and open space.

What does this mean and does this “right” expand those that already exist? Homeowners already have the right to vote for members of the governing body (the Board of Directors). The governing body has a fiduciary duty to act in the best interests of the community. Considering the priorities of "all owners" could be construed to mean *accepting* the priorities of all which would clearly be in conflict with the concept of fiduciary duty. Does consideration of the priorities of all owners may mean that if one owner cannot afford an increase in assessments, there can be no increase?

Homeowners have the right to an annual budget . . . to be delivered

In condominiums and homeowners associations there is already an obligation to send the proposed budget and to allow comment before adoption. Could this restated “right” mean that the adoption of a budget is ineffective if the owner claims that it was not delivered? Since there is already statutory and contractual regulations and procedures in place for the budget process, we do not see the need for this restatement.

Homeowners have the right to use of all facilities and services at a reasonable cost that does not exceed one half the costs charged to eligible users who are not residential owners. This “right” could easily be misconstrued. Many associations charge a guest fee for non owners or a rental fee for the amenities but the fee may not relate to the reasonable cost of the facilities and services. Who is going to determine this “reasonable cost”?

The right to be a member of the class of sole or primary users of the common ownership community's facilities and services if there is scarce available capacity of these facilities and services and to be provided with additional capacity, to the extent possible, so that the class is not denied the opportunity to use those facilities and services. This provision is entirely ambiguous as to the meaning of "the class of sole or primary users" and "to be provided with additional capacity so that the class is not denied. . . ." This phrasing could also violate the principles established by the Maryland Courts - specifically that unless otherwise provided in the documents, general common elements are subject to mutual, non exclusive use by all unit owners in the Condominium. That being said of course some facilities and services must be limited due to limited capacity. But it is very difficult to discern what this "right" means.

Homeowners have the right to fair treatment in the repayment of debt so that present and future owners share in repayment.

Fair treatment is undefined but is a concept already existing in law. However, who decides when debt is incurred and debt is repaid, what is fair treatment. Can an owner argue that he or she should not have to pay the adopted and due and owing special assessment for the roof because it is a twenty year roof and s/he intends to sell next year? This "right" could also wreak havoc with financing decisions. We are particularly concerned that this provision hints that future owners must share in debt repayment. Does this preclude a special assessment to payoff a loan taken by current owners? Requiring out of fairness that debt be passed onto to future owners is not within the scheme of every present owner paying their share of the common expenses as assessed, in full, and on time, without set off.

The Bill requires secret ballots and "fair elections administered by neutral parties" (cost) subject to audit. Not all governing documents require secret ballots. When secret balloting is required, there are significant costs associated with either paper ballot package or electronic voting systems. Administration of the election process by neutral parties and subject to audit will undoubtedly add costs... costs that would most often be unwarranted.

Homeowners have the right to recall incumbent members of the Board

Many governing documents already set a process for removal of a Board member. The Bill does not say how this recall should occur.

Homeowners have the right to vote on certain financial matters "if permitted in the governing documents"

Homeowners have the right to vote on new capital projects, "if permitted in the governing documents"

Here are the examples of provisions that are unnecessary as well as ambiguous. What "certain" financial matters"? Clearly, the intent cannot be to have homeowners vote on every financial matter. The bill makes this right subject to governing documents where some associations homeowner already have the right to vote on certain assessment increases or expenditures or even capital expenditures. In many cases, associations do take decisions to the members and they find the members favor projects like new carpet, lobby furniture and beautification, but that they fail to understand the gravity of boiler renovations, structural enhancements and elevator

modernizations. If the rights are already present in the documents and the law would defer to the documents, why is there a need for this restatement?

Homeowners have the right to receive reasonable advance notice of meetings, agenda and supporting information.

There are existing laws with respect to giving notice of meetings and most governing documents set out the notice requirements in detail. Does this restated right expand that obligation by requiring that the owner “receive” the notice? In this provision, the terms “agenda” and “supporting information” are not defined. Could this restated right require that members be provided with all bids, proposals, financial reports, engineering studies, correspondence and the like, in addition to the agenda. Mandating that this information be provided and/or received would entail a substantial cost to many associations.

Homeowners have the right to have a governing body and manager that are:

Properly trained and indemnified

This is too broad and undefined to have meaning.

Stewards of the community's interests

This is subject to interpretation and will certainly test the limits of indemnification, above.

Protective of the rights of owners

This is too broad and undefined to have meaning.

Provide due process & equal protection

Due process is already required in the MCA and HHAA and equal protection is undefined and unreasonably broad. In addition, Maryland courts have ruled that community associations are not the “government” or “arms of the government” and therefore constitutional mandates such as equal protection do not apply.

Comply and function in accordance with State law and the governing documents

The law and the documents already require that the board and management comply with the law and the documents.

Homeowners have the right to receive timely access to documents

“Timely” is undefined. Access is already required by law.

Homeowners have the right to receive prompt and nondiscriminatory service

“Prompt” is undefined. Non discriminatory service is already required by law.

Homeowners have the right to privacy by the governance and management

“Right to privacy” is undefined and overly broad and, in some cases, may not be able to exist in an open and transparent community association.

Homeowners have the right to fair treatment on violations

“Fair treatment” is undefined but the violation enforcement process is already in the law.

Homeowners have the right to be informed of changes to governing documents and policies and the right to vote on changes and to have those change properly adopted and published

The amendment and approval process for changes to governing documents is already a requirement of every set of governing documents. Not all governing documents require a “vote”

by the owners, so if the adoption/approval process does not require a vote by the owners will the statement of this right now impose that requirement? Also the terms “policies” and “published” are not defined and are capable of several different meanings.

Homeowners have the right to have Consumer Protection Division of the Maryland Attorney General (AG) review alleged violations of state law and right to have the AG take direct enforcement action on behalf of the owner

Assuming the AG would be willing to take on such a broad jurisdiction, disgruntled homeowners will use the AG as their private attorney and will engage the office in every perceived violation of this Bill of Rights. If an owner only reads this Bill of Rights, without regard to the documents or to applicable law, due to undefined terms and ambiguous provisions, the owner may easily be able to argue that the owner has been aggrieved. In many instances, the AG Consumer Protection Division will become a complaint department. This kind of broad mandate to the AG would also circumvent the civil and criminal court system and place massive time and resource burdens and potential financial liabilities on volunteers and managers.

For these reasons, we oppose HB29 in its entirety. 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. Despite our opposition to this particular bill, we thank you for your efforts on behalf of community associations and your time in this matter.

Sincerely,

Steven Randol

Chair, CAI MD-LAC

Cynthia Hitt Kent

Member, CAI MD-LAC

cc:

Delegate Marvin Holmes, Sponsor
Marvin.holmes@house.state.md.us
364 House Office Building
6 Bladen Street
Annapolis, MD 21401

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

Big Govt.pdf

Uploaded by: Dana Schulze

Position: UNF

STOP enlarging the pockets of our government by taking away from Maryland citizens. This is not the governments job. The role of government to protect the RIGHTS of citizens so they can provide for themselves. STOP the equal outcomes which only serve to race to the bottom for everyone. All people end up at the absolute bottom. Socialism is equal outcomes which equal poverty for everyone. Socialism is the stage of transition prior to communism and characterized by the imperfect implementation of collectivist principles. STOP the march toward communism NOW.

2023 HB 29 [1.24.23].pdf

Uploaded by: William O'Connell

Position: UNF



Real Property Section

To: Environment and Transportation Committee (House)

From: Legislative Committee of the Real Property Section Counsel

Date: January 24, 2023 [Hearing Date January 26, 2023]

Subject: **HB 29 – Residential Owners in Common Ownership Communities Bill of Rights**

Position: **Opposed**

The Real Property Section Counsel of the Maryland State Bar Association (MSBA) **opposes House Bill 29** – Residential Owners in Common Ownership Communities Bill of Rights. As a threshold matter, although HB 29 is intended to apply to residential owners in common ownership communities, in the condominium context the definition of common ownership community under HB 29 includes a “condominium” as defined in the Maryland Condominium Act, and “residential owner” is defined to mean a “unit owner” as defined in the Maryland Condominium Act. Under the Maryland Condominium Act, “condominium” and “unit owner” are defined to include any condominium regime and any condominium unit owner, not just residential condominiums, and residential unit owners.

A consumer bill of rights is typically a statement or summary of provisions under existing law. However, HB 29 purports to cover certain rights that do not exist under current Maryland law, including among others:

- The right to “be designated as a member of a common ownership community when the community makes that residential owner subject to a lien and to mandatory assessment.” Maryland laws on coops, condominiums, and HOAs define membership, as do existing covenants for existing associations, which should not be subject to any such “right” that defines membership in any inconsistent manner.
- The right to a community manager that is properly trained. There are no state laws that require a common interest community to have a community manager or that impose training requirements on community managers.
- The right of homeowner members to vote to approve any proposed changes to association governing documents and policies. Although Maryland law governs certain amendments to covenants or bylaws that require a vote of association members, other rules and policies of associations are enacted by the association’s governing board,

under the authority delegated to the board by law and/or covenant and are not subject to a vote by all members.

- The right to use all facilities and services of the community, but there is at least one HOA that leases some of its property and amenities to a third-party Club, and therefore it is generally not available for use by the homeowners unless they are also members of the Club. This language would potentially knock out the underpinnings of such leases.

These are just a few examples of problems with HB 29 and not an exhaustive list. The Condominium Act and the Homeowners Associations Act have numerous provisions relating to governance, operation, and affairs of condos and HOAs. The provisions in each act have been enacted (and, as to many, amended) over time. These provisions deal with specific rules for specific provisions. If any of these provisions should be amended, then each suggested change should be individually considered on its own merits.

HB 29 would enact overriding provisions that may or may not dovetail with specific laws that are in the Condominium Act and the Homeowners Associations Act. What happens when one of the general principles of HB 29 conflicts with the law as it now exists? One can easily anticipate the confusion that will result. In short, if HB 29 were enacted it would create an unworkable dual track of community association law containing many inconsistencies with existing Maryland laws that govern coops, condominiums and HOAs.

For these reasons, the Real Property Section Counsel of the MSBA **opposes HB 29** and asks for an **unfavorable report**. Thank you for your consideration.