

HB532-MDLACTestimony.pdf

Uploaded by: Kathleen Elmore

Position: FAV

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February 9, 2023

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Delegate Kumar Barve., Chair
Delegate Dana Stein, Vice Chair
Environment and Transportation Committee
House Office Building
Annapolis, Maryland 21401

Re: HB 532
Homeowners Associations – Authority to Levy Fines
Position: SUPPORT
Hearing Date: February 21, 2023

Dear Chairman Barve, Vice Chair Stein, and Committee Members:

This letter is submitted on behalf of the Maryland Legislative Action Committee (“MD-LAC”) of the Community Associations Institute (“CAI”). CAI represents individuals and professionals who reside in or work with community associations (condominiums, homeowners’ associations, and cooperatives) throughout the State of Maryland.

MD-LAC supports HB 532. The bill authorizes a homeowners association to levy reasonable fines for violations of the declaration, the bylaws, or the rules and regulations of the homeowners association. Condominiums have had this statutory authority for many years, but the Homeowners Association Act currently does not provide that same authority to fine.

The fines are utilized by the governance to persuade violators to abide by the governing documents. Otherwise, the Associations must utilize more expensive methods.

Prior to imposing a fine, a dispute settlement procedure must be followed. First, a written demand to cease and desist from an alleged violation shall be provided to the alleged violator containing the nature of the alleged violation, the action required to abate the violation, and a period of time of at least 15 days in which the violation can be abated without further sanction. Second, if the violation continues past the period of time in the demand, the board shall provide the alleged violator a written notice of their right to request a hearing. The notice to request a hearing shall contain the nature of the alleged violation, the procedures for requesting a hearing, the period of time to request the hearing (at least 10 days from the date of the notice), and the proposed sanction to be imposed. If the alleged violator requests a hearing, the board must provide a notice of the hearing with the time and place of the hearing (not less than 10 days after the request of hearing was provided). If the alleged violator does not request a hearing within the period specified, the board, at the next meeting, shall deliberate whether the violation occurred and decide if a sanction is appropriate.

We respectfully request that the Committee give HB 532 a favorable report. We are available to answer any questions the Committee Members may have. Please feel free to contact Lisa Harris Jones, lobbyist for the MD-LAC, at 410-366-1500, or by e-mail at lisa.jones@mdlobbyist.com, Steven Randol, Chair of the MD-LAC, 410-279-8054, or by e-mail at MDLACChair@gmail.com, or Kathleen M. Elmore, Esquire, emeritus member, MD-LAC for Community Associations Institute at 410-544-6644, or by E-mail at kelmore@el-grp.com.

Sincerely,

Kathleen M. Elmore

Kathleen Elmore, Esquire
Emeritus Member, CAI MD-LAC

Steven Randol

Steven Randol
Chair, CAI MD-LAC

HB 532 Letter of Information.pdf

Uploaded by: Karen Straughn

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February 21, 2023

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

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 532 – Homeowners Associations – Authority to Levy Fines (LETTER OF INFORMATION)

The Consumer Protection Division of the Office of the Attorney General submits the following letter of information regarding House Bill 532 submitted by Delegate Marvin E. Holmes, Jr. The bill would permit homeowners associations to levy fines for violations of the association's rules and regulations even though the governing documents may not address the ability to levy fines.

When individuals decide to purchase homes in a homeowners association, they are given the declaration and bylaws to review so they are aware of any conditions that may exist for the community. Included in these documents is whether the association can levy fines as a result of any violations. If nothing is included in the governing documents or other documents provided in the resale package, the buyer makes their decision to purchase with the knowledge that fines will not be levied as a result of violations that may be minor in nature. In addition, it would take a majority of the association members to alter this lack of authority to fine homeowners. The bill would amend the association's ability to fine homeowners without a vote of the community and could unfairly subject homeowners to fees that had not been anticipated when they purchased the home.

This Division has received calls and complaints from owners in homeowners associations who assert that associations are fining residents in a discriminatory manner and often assert that the fines are unreasonable. In *Elvaton Towne Condo Regime, II, Inc. v. Rose*, 453 A.2d 684, the court found that it was not proper to take away the rights of individual unit owners when this was not authorized by the declarations. Similarly, this legislation would permit assessing fines when

not already permitted by the governing documents, despite owners not having been given prior notice when they made their purchase.

For these reasons, we ask that the Environment and Transportation Committee takes the Division's concerns into consideration with respect to HB 532.

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