

Consumer Council Support for HB 423 (Task Force).p

Uploaded by: Armstead Jones

Position: FAV

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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER COUNCIL

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February 14, 2023

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

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

Re: House Bill 423 – Task Force on Common Ownership Communities (SUPPORT)

The Consumer Council of Maryland supports House Bill 423, sponsored by Delegate Marvin E. Holmes, Jr., which would provide for a task force to study the training and education needs of common ownership communities and issues facing these communities. The Consumer Council 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.

Common ownership communities have been in existence for decades, but the concerns and issues facing them continue to grow. In 2006, a task force was established to study needs of these communities, and since that time, there have been numerous laws passed to assist these communities. However, the complexity of issues surrounding common ownership communities requires further study to be able to meet the growing needs.

This bill would consider training and education for governing boards, conflict management processes, the collection of assessments, resources to assist the communities and the transfer from developers to associations, among many other issues. This would aid in developing new laws to assist communities to ensure that they remain viable and responsive to the needs of their members, as well as resources to assist these communities.

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

Letter Humpton to Barve re New Task Force.pdf

Uploaded by: David Humpton

Position: FAV



MONTGOMERY VILLAGE FOUNDATION, INC.

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February 8, 2023

Via email: Kumar.barve@house.state.md.us

Kumar Barve, Chairman
Environment and Transportation Committee
House Office Building, Room 251
6 Bladen St., Annapolis, MD 21401

Re HB 423—Task Force on Common Ownership Communities
Request for Committee Action (Favorable)

Dear Chairman Barve:

I am writing to note Montgomery Village Foundation's support for HB 423, introduced in the Environment and Transportation Committee by Delegate Marvin Holmes. Delegate Holmes has been a leader on many HOA/Condominium bills and often references the 2006 Task Force when introducing the bills, he has proposed in the past few years.

Back in 2005-2006, the Common Ownership Task Force worked diligently to identify important issues facing common ownership communities resulting in important changes to the HOA Act and the Condo Act.

Progress has been made on many of the issues studied by the 2006 task force, however, I think it is time for the legislature to appoint a new task force to develop a framework for future legislation or other actions to improve common ownership communities in MD. A fresh look of the issues facing common ownership communities would likely ensure that the MD legislature addresses the most contemporary issues. The formation of a new Task Force could lead to development of even better practices in Maryland that take advantage of trends in the common ownership property industry over the last 15 years. Our new Governor and his administration would be well served by such a task force to identify all the issues facing common ownership communities and their governance.

Thank you for your continued leadership of so many important issues facing Maryland residents.

Sincerely,

David B. Humpton, Executive Vice President
Montgomery Village Foundation, Inc

cc: Members of the House Environment and Transportation Committee
Senator Nancy King
Delegate Marvin E. Holmes Jr.
Delegate Gabriel Acevero
Delegate Leslie Lopez
Delegate Kirill Reznik

MBIA Letter of Support with Amendments HB 434.pdf

Uploaded by: Lori Graf

Position: FAV

February 9, 2023

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

RE:

Dear Chairman Barve:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **HB 434 Maryland Condominium Act – Amendments to the Declaration**. MBIA **Supports** the Act with amendments.

This bill reduces from 80% to 60% the percentage of unit owners listed on the current roster of a condominium needed to consent to an amendment of a condominium's declaration. MBIA supports this bill with amendments. We believe that Page 1 Section (c)(1) lines 22-23 should say: “may only be amended only with the written consent of 80 percent of the owners listed on the current roster **until such time as the developer no longer owns any of the units and the public offering statement has not yet been terminated, and thereafter may be amended with the written consent of 60 percent of the owners listed on the current roster.**”

Developers make a large investment in the communities that we build. By law, transfer of control of the condominium association occurs after 50% of the units have been conveyed, so, it is possible this could be brought up while the developer/builder is still selling and negatively affect the percentage interests of the builder's remaining units before they sell them. This risk would have to be priced into the cost of creating new units which ultimately will drive housing prices up. A situation might also arise in which residential owners and commercial owners might be at odds with the interests of one party near universally overruled rather than the current 80% threshold which requires more consensus.

For these reasons, MBIA respectfully requests the Committee adopt the proposed amendment 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

HB 423 Support with Amendments.pdf

Uploaded by: Karen Straughn

Position: FWA



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OFFICE OF THE ATTORNEY GENERAL
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February 14, 2023

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

From: Karen S. Straughn
Consumer Protection Division

Re: House Bill 423 – Task Force on Common Ownership Communities (SUPPORT WITH AMENDMENTS)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 423 submitted by Delegate Marvin E. Holmes, Jr. with amendments. This bill establishes a task force on Common Ownership Communities to study the education and training needs of boards and new owners, as well as issues impacting common ownership communities. We recommend an amendment to ensure that the Consumer Protection Division receives the additional staffing needed to facilitate this task force. In addition, we recommend considering adding a designee of the Maryland Higher Education Commission to staff the task force because the bill recommends study of providing classes and brochures on the subject by this state agency.

Common ownership communities have been in existence for decades, but the concerns and issues facing them continue to grow. In 2006, a task force was established to define the key issues which impacted the health and viability of common ownership communities, analyze six areas of significant problems at that time, and build consensus regarding balanced and affordable reforms for recommendation. Since that time, there have been numerous laws passed to assist these communities, but the complexity of common ownership communities requires further study to be able to meet the growing needs.

This bill would consider training and education for governing boards, conflict management processes, the collection of assessments, resources to assist the communities and the transfer from developers to associations, among many others. This would aid in developing new laws to assist communities to ensure that they remain viable and responsive to the needs of their members.

The bill requires the Office of the Attorney General to staff the task force, which would require arranging and attending meetings, taking notes, writing minutes, and drafting the report to be submitted at the conclusion of the task force. We believe that staffing the task force would require ½ of an Administrator for the two years that the task force is in place and recommend that the bill be amended to ensure that this staffing is provided if

the bill passes. In addition, the Office of the Attorney General recommends considering adding a designee of the Maryland Higher Education Commission to the task force due to the fact that the bill requires the task force to study requesting this state agency to provide classes and brochures for common ownership communities.

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

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

HB423 CAI Letter in Opposition.pdf

Uploaded by: Aimee Winegar

Position: UNF

Steven Randol, Chair
Aimee Winegar, CMCA, LSM, PCAM, Vice Chair
Vicki Caine, Secretary
Brenda Wakefield, CMCA, AMS, Assistant Secretary
Hillary A. Collins, Esq., Member
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Steven F. Dunn, Esq., Member
Cynthia Hitt Kent, Esq., Member
Judyann Lee, Esq., Member
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Scott J. Silverman, Esq., Member
John Taylor, Member
Tricia A. Walsh, CISR, Member
Chris Majerle, PCAM, Member Emeritus
Robin Manougian, CIRMS, Member Emeritus

February 10, 2023

Hon. Delegate Kumar Barve, Chair
Hon. Delegate Dana Stein, Vice Chair
Hon. Delegate Marvin Holmes, Sponsor
Environment and Transportation Committee
Room 251
House Office Building
Annapolis, MD 21401

Re: HB 423 – Task Force on Common Ownership Communities

Hearing: February 14, 2023 Position: OPPOSE

Dear Chairman Barve, Vice Chairman Stein, Delegate Holmes and Committee Members:

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

MD-LAC is writing today to voice our opposition against HB 423. The bill calls for the creation of a task force to study and submit findings related to common ownership communities.

The members of the MD-LAC and of all common ownership communities join with the state legislature in supporting the concept and goals of common ownership community living, especially in view of the fact that nearly every new home build in Maryland is required to be part of an association. However, we believe that the proposed task force is an unsatisfactory mechanism for exploring the legal challenges facing communities today. Among our concerns are the following specific items:

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

- ***The size and composition of the task force is unsatisfactory.*** The proposed task force appears to include approximately 35 members, only one of which will be a professional community association manager. Association managers work with common ownership communities every day, and their limited representation on the proposed task force will limit their ability to provide valuable insight into the operation of common ownership communities. Only one task force member is proposed to be an attorney with experience in common ownership law. Again, these professionals work in this industry and could bring a significant amount of knowledge and experience to the table.
- ***Condominiums as a group are not represented.*** There does not appear to be any designated representation of condominiums (presumably they could be included in one of the other groups). This is despite the fact that condominiums are the most at risk of financial jeopardy in today's economic climate.
- ***The projected goals of the task force may either (1) be easily realized through other means or (2) be too complicated to lead to a reasonable result by means of this task force.*** For example:
 - The creation of a state website related to common ownership communities, including best practices and resident rights may be developed using existing resources through the industry group Community Associations Institute (CAI) or by soliciting volunteer inputs from industry professionals to be incorporated into the Housing and Community Development website (dhcd.maryland.gov).
 - The development of a brochure and classes may also be requested of the private or public educational sector and industry professionals. CAI already offers classes and printed material for residents and community leaders at very low or no cost.

We have additional concerns about the following individual proposed outcomes and believe that, to the extent that the task force proceeds, these be removed as topics of discussion, as they should be addressed through targeted, informed legislation to the extent the concepts should be pursued at all:

- ***Fining volunteer board members as individuals for law violations places these volunteers in a different class from other board members of other types of organizations.*** Common ownership communities already struggle to fill leadership positions with volunteers, and we believe the idea of potential personal liability will have a chilling effect on volunteerism. Sufficient remedies already exist in law to penalize associations that do not uphold their governing documents, or board members who actually commit crimes.
- ***Adoption of the Uniform Common Interest Ownership Act promulgated by the National Conference of Commissioners of Uniform State Laws may lead to confusion and conflict*** with existing state laws that have been formulated to address the specific needs of Maryland residents.
- ***Resale disclosure packages are already governed by state laws.*** Additional laws could be proposed and passed as needed in a more targeted way.

- *A permanent State Commission may be advisable, but could be addressed within the Department of Housing and Community Development without a task force.*
- *A “bill of rights” opens the possibility for conflicts between such a document and the widely varying governing documents of common ownership communities,* to which every homeowner agrees upon purchasing a home in a common ownership community.
- *The task force is not proposed to include the industry expertise to satisfactorily consider additional requirements on developers.* A requirement for developers to fund reserve studies, to provide initial reserve funds, and to provide additional resources to homeowners is welcome, but again is not an appropriate topic for a task force on which developers, community managers, professional reserve advisors and investment professionals are not well represented.
- *Common ownership communities are required to exist by governmental agencies. Why would they then also be required to be licensed and to post a surety bond as proposed?*
- *State-mandated assessment limits will not be able to account for the individual and unique needs of each association in the full constellation of common ownership communities.* These associations own widely varying amounts of property/assets and provide a panoply of services. Anything approaching a one-size-fits-all mandate will not address the actual needs of these associations, particularly those at the lower end of the socio-economic scale. Additionally, imposed limits would fly in the face of recent legislation mandating minimum reserve contributions and other state-mandated actions.
- *Alternatives to adjudication for the collection of delinquent assessments will create confusion on the part of association leaders and residents,* possibly without improving the financial posture of associations which are burdened by large amounts of uncollected assessments.
- *Governing documents are already required to be deposited with county agencies.* The proposed requirement that governing documents be deposited annually with the circuit court duplicates current requirements. It is unlikely that annual filings will be used by the courts.

Accordingly, we respectfully request that the Committee give HB423 an unfavorable report. We are available to answer any questions which you may have. Please feel free to contact any of the individuals listed: Lisa Harris Jones, CAI MD-LAC lobbyist, at 410-366-1500 or lisa.jones@mdlobbyist.com; or Steven F. Dunn, CAI MD-LAC, at 301-347-1276 or sfdunn@lercheearly.com; or Steven Randol, Chair, at 410-695-2183 or MDLACChair@gmail.com.

Sincerely,



Steven F. Dunn
MD-LAC for CAI
MD-LAC for CAI



Steven Randol
Chairman

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
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