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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