

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