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Jonathan Glaser
Legislative Director
State Department of Assessments & Taxation
301 West Preston Street, 8th Floor
Baltimore, Maryland 21201
(DATED LETTERHEAD ACKNOWLEDGED)

RE: Legislative Proposal - HB 0092/Cross-filed with SB0193

Dear Mr. Glaser:

You asked me to look at a portion the above-referenced proposal and give my opinion on whether it is consistent with the Department's controlling law and current practice. Specifically, you honed in on the following language appearing on p. 2, lines 6-7: "A GROUND LEASE OR AN AMENDMENT IS NOT REGISTERED UNTIL THE GROUND LEASE OR AMENDMENT IS POSTED ON THE ONLINE REGISTRY."

The issue is whether the above concept is consistent or analogous with other instances where the Department is presented with document filings. In my opinion, it clearly is.

When the Department is presented with a charter document filing, the standard for its effectiveness is set forth in Corporations & Associations Article, § 1-206(a). That section makes clear that ". . . charter documents are effective **when accepted for recording or filing by the Department.**" (Emphasis supplied.) The mere fact that a document is postmarked or otherwise delivered to the Department does not make it effective. Clearly, "acceptance" by the Department means that the Department plays a role in vetting a document's effectiveness. Interestingly, the "acceptance by the Department" standard for effectiveness was recent shored up by recent regulatory changes to COMAR 18.04.07.

Back to the language at issue, considering a ground lease registration or amendment registered only when it appears on the ground rent online registry is entirely consistent with the overall "acceptance" standard that is already binding on and in use by the Department under Corporations & Associations Article, § 1-206(a). The fact that the filing has been posted online suggests that the Department has had an opportunity to vet it in some way. Any other standard would reduce the Department to a robotic repository and completely remove its ability to monitor documents filed with it.

Sincerely,

Jeffrey G. Comen

Jeffrey G. Comen
Assistant Attorney General