



JUSTICE FOR ALL

MARYLAND HOUSE JUDICIARY COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF HB986: MARYLAND REAL PROPERTY TRANSFER-ON-DEATH
(TOD) ACT
WEDNESDAY, MARCH 8, 2023

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Chair Clippinger and distinguished members of the Committee, thank you for the opportunity to testify in support of House Bill 986.

My name is Margaret Henn, and I am the Deputy Director at the Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest provider of pro bono civil legal services to low-income Marylanders. MVLS was founded in 1981 by a group of concerned Maryland lawyers, legal services providers and leadership of the Maryland State Bar Association. Since then, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in a wide range of civil legal matters. In FY22, MVLS volunteers and staff lawyers provided legal services to 3,458 people across the state. As part of our Advance Planning Project and My Home, My Deed, My Legacy Project, we encounter numerous clients facing economic barriers, such as probate fees, which make it difficult to transfer property. For the reasons explained below, we respectfully request a favorable report on HB986.

The Advanced Planning Project is an outreach effort designed to stabilize neighborhoods, preserve family assets and reduce the number of Baltimore City properties with deed and title entanglements that prevent homes from being in productive use. In conjunction with community partners across the city, MVLS is raising awareness about the importance of estate planning, especially in the context of community stabilization. As part of the My Home, My Deed, My Legacy Project, MVLS provides homeowner clinics to help Baltimore City residents stabilize their homes, through estate planning discussions, and secure critically important resources, including the Homeowners' Property Tax Credit. One of the main focuses of these discussions is avoiding probate, through payable on death accounts, vehicle beneficiaries, and life estate deeds. Although the clinics are focused in Baltimore City, MVLS' community outreach and provision of legal services on these issues are statewide as the challenges with deeds and estate administration is a statewide problem. Additionally, the My Home, My Deed, My Legacy Project provides continuing direct representation, both by volunteer attorneys and staff attorneys, to clients navigating the probate process. Probate is a costly and time-consuming process. In addition to the fees associated with probate, it can cost several hundred dollars and take a minimum of nine months to open, administer, and close an estate. Our clients

are homeowners who are facing financial hardship and they often don't have the resources to cover these expenses. It is imperative that they pass as many assets outside of probate as possible.

MVLS provides a comprehensive estate planning approach that includes life estate deeds to protect home occupancy and ownership. Life estate deeds are an alternative to the client adding their children to the deed, which would open the client up to potential exploitation or unintended collections actions. Life estate deeds are a great tool to addressing the barriers that probate raises but they have their own challenges which include deed recording requirements and cost. Transfer-on-death deeds offer another alternative to the probate barrier for many of Maryland's most vulnerable residents. Transfer-on-death deeds provide a statutory form that will allow Maryland homeowners a more accessible vehicle to keep their homes in their families. Transfer-on-death deeds are an important additional option because of the aforementioned challenges. MVLS is committed to removing all barriers so that all Marylanders can participate in the judicial system and transfer-on-death deeds would be another tool to make the system more equitable. Below is an example that MVLS has seen of how a transfer on death deed could have prevented the potential loss of a client's family home.

Thomas lives in Baltimore City in his home that is currently titled in his deceased mother's name. Thomas, along with his sister, was named as personal representative for his mother's estate in 2019. The estate has been closed since December 2019 and Thomas has been trying to record the new deed since that time. Prior to the passage of House Bill 610, Thomas was ineligible for the Homeowners' Property Tax Credit and could not afford the annual property taxes. After consecutive donations from his community in 2020 and 2021, Thomas was able to pay the property's back taxes and keep the home out of tax sale. After his first attempt to record the deed in 2020 ended with the city losing the deed while it was being processed, Thomas has now succeeded in recording a new deed. Since his mother's passing, Thomas had constantly been faced with the very real possibility of losing the home through tax sale. Every hurdle that Thomas overcame in his journey to get the property was immediately followed by another potentially destabilizing challenge. The availability of an accessible transfer-on-death deed would have allowed Thomas's mother to record that deed during her lifetime and automatically pass the property to Thomas upon her death.

MVLS supports HB986 because it would remove a huge barrier standing in the way of Maryland families' ability to sustain homeownership thereby making investment in Maryland more favorable.

Chair Clippinger and members of the Committee, thank you again for the opportunity to testify.