



Maryland General Assembly

February 5, 2024

Environment and Transportation Committee

Re: Opposition to HB281

Dear: Distinguished Members of Committee,

My name is Michael Rose and I am a property manager with over 20 years of property management experience working for all of these years for Conway Management Co., Inc. As a management company, we work with over 63 residential condominium and homeowner associations in Maryland. These associations are located in Harford, Baltimore, Cecil and Anne Arundel Counties.

With the introduction of HB107, there have been many changes that with the passing of this bill has caused turmoil within several of the associations that we manage. Most notably is the requirement to have fully funded reserves that meet the requirement of HB107 as established by a certified reserve engineer. While HB107 does help association boards of directors by eliminating caps on the amount that Condo or HOA could escalate annual fees in a given year. There are also draw backs when mandating the complete funding of reserves within a short window of time whether it be a 3-year or 5-year timeframe. Of interest for the community associations that we manage, it is noted that all associations but a few have fallen below the needed reserve fund being mandated, as a requirement to meet the new reserve fund laws being introduced. This particularly has impacted older HOA's that do not see the benefits of having more county sponsored or maintained roadways and infrastructure. These older communities as built had roadways that where not built to county standards and as such been designated as private roadways fully maintained by the association. It doesn't end there though as all infrastructure components, which include water supply lines, sanitary mains and stormwater facilities all fall on to these older associations to maintain. While newer associations have just 2 – 5 components to maintain. Most all of these older HOA's have 15 – 18 components to maintain. This upon purchase to a new buyer also presents an issue, as typically your real estate agents are not fully explaining these new laws that then is causing buyer hardships upon learning that fees will in several cases need to double in their annual assessment amounts. These community associations are also more likely to be first time home ownership properties for new purchasers and their family as a starter home in a townhouse association.

As reserve funds escalate and increase by dollar amount in these reserve funds, has anyone

considered that legislation just a few years back required fidelity bonds for all HOA's, Co-Ops and Condos to purchase and maintain to fully insure all reserve funds and 3 months of operating expenses. As reserve funds grow so do the amounts to ensure these reserve funds that now will add hundreds of dollars to an association budget each year to meet this fidelity bond requirement as an additional increase in assessments to cover another expense to the association membership.

Currently we have seen an increase in delinquent or slow paying members when paying their annual assessments. It thus seems that the average home budget of these association members is already being stretched to the point of not being able to pay. Add on anticipated increases to meet the reserve bills requirements and as a management company are seeing more delinquent accounts starting to pop up. After a relatively short period of time failing to pay one's homeowner assessment when due is leading to accounts having to be turned over to the association attorney for failing to pay one's assessment. This only exacerbates the issue for the typical homeowner already facing challenges of being able to afford increases across every aspect of one's life. In a short time, attorney fees add hundreds to thousands over the course of a years' time.

Do we as a management company have the solution. The answer is no. No one wants deferred maintenance and, in the associations, we manage this typically has not been the case. There have been times where boards go against management suggestions and hold off, but the work does get done without meaningful impact to the association membership. This is accomplished by segmenting and doing projects over a period of time and not on a set time schedule as being laid out in these reserve studies. We do believe that for most associations that the one size fits all as introduced and passed in HB107 is not the answer. It would be best to treat HOA's and Condo's separately as does the Maryland HOA Act and the Maryland Condo Act.

Thank you for your time and consideration. Should you have additional questions or comment, please don't hesitate to contact me.

Regards,

Michael Rose



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Opposition to HB281 by Kings Court Townhouse Association #2 (222 homeowners)

Submitted by: The Board of Directors (501c4) and Conway Property Management Company

KCTHA2 was not aware of the introduction of HB 107 and HB 534 to the House of Delegates in past years. **HB 107 discussion and passage took place primarily during COVID years when many Home Owners Association (HOA) and Condominium Association (Condo) boards were not meeting.**

There was no official Maryland statewide communication to HOAs, Condos, or property management companies to inform them of pending legislation that would affect operation. There are over 6000 of these nonprofit groups in all 26 jurisdictions. (Can the state verify how many of the 501c4 groups knew the legislation was pending?)

Our KCTHA2 board is presently only four members (we cannot find homeowners who will serve), a majority who are new within the past two years. KCTHA2 became aware of the legislation this past summer when we were told about it by our property management firm (Conway).

Although KCTHA2 does support pieces of HB 107, particularly the option for boards to be able to raise annual HOA/Condo fees beyond 10%, KCTHA2 DOES NOT SUPPORT the requirement that HOAs are required to have a reserve study, & thereby made to spend limited funds on it.

KCTHA2 DOES NOT SUPPORT HB281 which will force HOAs to raise funds from current homeowners (major special assessments) in order fund a “required reserve account and amount determined by an outside entity”. Having a reserve account is very important for all nonprofits. However, the amount of a reserve account should be decided by the board (and in discussion/guidance with the property management company), and NOT mandated through a requirement in the laws of the State of Maryland. The State of Maryland does not regulate 501c3 nonprofits with a mandate to have a reserve account and a required amount—and the law should be no different for a 501c4 and HOAs.

KCTHA2 agrees that a Condo organization with contiguous property (roofs, elevators, walls, etc.) should have a reserve account that is of an amount that is suitable to the operation of that type of property. **An HOA, however, should not be bound to the same laws, operations, and reserve requirements as a Condo.**

HOA nonprofit organizations should not be included with Condos in the current or proposed HB281. These are two different types of housing developments and organizational operations. HOAs do not have the same risk management concerns/issues that Condos have relating to the need and timing of structural improvements.

HOAs (with no condo units) generally require substantially less major capital improvement/expense except in certain situations.

Conway Management had the reserve study done for KCTHA2 as required in HB 107.

However, the board does not agree with what was presented to us by the state approved engineering firm. The board's review of the reserve report determined that the outlined structural items and the cost is not in line with the HOA capital improvement history of our common property. Homeowners who have lived in the HOA for decades and/or are on the board, understand the capital needs of our common property (some of us were on the board before in a previous decade). *The reserve study is out of line with what the board and property management company has determined is needed. (Our board does not believe the state would pay and agree to do the improvements this firm has presented to us.)*

The KCTHA2 reserve amount total approaches \$1million! Part of the problem is that the KCCA Master Association development structure (with its six subdivisions of which KCTHA2 is one) was created by a developer in agreement with Baltimore County in the early 1970s making it the oldest organization in the State of Maryland. Back then, how these property agreements and nonprofit bylaws were set up by the various counties and the state with the developers were very different than in recent years. This situation now creates a major burden on older HOAs which under this reserve study have five times as many capital requirements then on those created in recent years. One size does not fit all for the fiscal impact of what both HB107 and HB281 are requiring

The number of state approved engineering firms are limited within the state. This is also an issue for our board, especially since money is being made by a small number of profit companies from a very large number of nonprofit organizations.

KCTHA2 is OPPOSED to a bill/state law that would require HOAs to have a "mandated reserve account" of a "mandated amount" and "determined by an outside entity determined by the state" and "requiring an HOA to raise these funds by a certain year".

It is not possible to for KCTHA2 to "assess and collect" major fees to meet a state law in this economic environment (and most likely for a majority of other HOAs in the state). ***KCTHA2 homeowners cannot afford major increased fees/assessments and will default. Many homeowners are already in arrears with monthly HOA fees and the 2023 special assessment.***

KCTHA2 proposes these additional actions be taken by the State in support of HOAs/Condos:

- 1.** That the State and each County jurisdiction review all HOA and Condo agreements as they were originally written between developers and each jurisdiction. Then the State/County should meet with the HOAs and Condos groups in each jurisdiction to review these agreements and determine whether they are still viable with the passage of years since they were created, and the current post COVID and economic conditions. (The impact of HB107 and HB281 on homeowners in many of the older HOA organizations could lead to a default of the entire structure thereby causing the State and County to take the common areas, streets, infrastructure, and buildings and then rezone it.)
- 2.** *The state should re-instate the Homeowner HOA/Condo fee request COVID funding with state monies.* The KCTHA2 board, our homeowners, and the property management company were not aware of the COVID funding (which was available and no longer is) for homeowners to request help to pay their fees.
- 3.** The state should create an office/staff to support HOAs and Condo associations and require that each be registered with current board officers and property management companies.
- 4.** There needs to be communication between the state and the 6000+ groups statewide on an on-going basis and before laws such as these are proposed or passed.
- 5.** The state needs to support HOA and Condo boards with training. If homeowners are reluctant or refuse to serve on these nonprofit boards and/or do not understand the responsibility of doing so before they buy, this entire property development concept will fail one by one. Boards will be nonexistent and the state will need to step in—the state needs to be proactive and keep this from taking place.
- 6.** The state needs to be sure that the realty, mortgage, and banking industries support the HOA/Condo operation in Maryland by ensuring that new buyers understand their fiscal and fiduciary responsibilities before buying into these types of nonprofit entities.