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THE MARYLAND HOUSE OF DELEGATES
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HB 1449 – Zoning – Board of Appeals Decisions or Zoning Actions – Judicial Review
SUPPORT

GOOD AFTERNOON CHAIR KORMAN, VICE CHAIR BOYCE AND ESTEEMED COMMITTEE MEMBERS. FOR THE RECORD, I'M DELEGATE MARY LEHMAN, REQUESTING FAVORABLE CONSIDERATION OF HB 1449 – ZONING – BOARD OF APPEALS DECISIONS OR ZONING ACTIONS – JUDICIAL REVIEW.

THE BILL WILL APPLY TO SPECIFIC DIVISION I CHARTER COUNTIES ONLY: ANNE ARUNDEL, BALTIMORE, HARFORD, FREDERICK, HOWARD COUNTIES.

NOTE: THE STATE'S TWO LARGEST COUNTIES, MONTGOMERY AND PRINCE GEORGE'S ARE DIVISION II CHARTER COUNTIES SO THE BILL DOES NOT APPLY TO THEM.

THIS BILL WILL ALLOW CIVIC ASSOCIATIONS, UNINCORPORATED COMMUNITY ORGANIZATIONS, AND OTHER GROUPS TO FILE A REQUEST FOR JUDICIAL REVIEW OF A DECISION OF A BOARD OF APPEALS OR ZONING ACTION, IF ONE OF THEIR MEMBERS IS AGGRIEVED. TO BE ABLE TO FILE A COURT CHALLENGE, AN ORGANIZATION MUST CONSIST OF TWO OR MORE MEMBERS WITH A COMMON PURPOSE, AND AT LEAST ONE MEMBER MUST HAVE STANDING, WHICH MEANS HE OR SHE WOULD BE DIRECTLY AGGRIEVED BY A ZONING ACTION.

THE BILL SPECIFICALLY DEFINES WHAT IT MEANS TO BE AGGRIEVED, ALSO KNOWN AS INJURY IN FACT.

FIRST, THE INDIVIDUAL HAS TO BE IN CLOSE PROXIMITY TO THE PROJECT – TYPICALLY LESS THAN 800 FEET. SECONDLY, "INJURY IN FACT" INCLUDES:

A PROPERTY RIGHT OR PERSONAL INTEREST THAT IS DISTINCT FROM, OR SPECIFICALLY AFFECTED IN A WAY THAT IS DISTINCT FROM, A PROPERTY RIGHT OR PERSONAL INTEREST OF THE GENERAL PUBLIC.

THE AGGRIEVED PERSON ALSO MUST DEMONSTRATE THAT SHE OR HE WOULD SUFFER ADVERSE EFFECTS ON PERSONAL HEALTH, THE ENVIRONMENT OR THE AESTHETIC APPEARANCE OF THE AGGRIEVED PERSON'S PROPERTY. UNDER THIS TYPE OF STANDING, AN ORGANIZATION THAT HAS AN AGGRIEVED MEMBER CAN CHALLENGE LAND USE DECISIONS IN COURT, WHETHER IT IS A COMPREHENSIVE PLANNING OR REZONING ACTION.

THE BILL IS INTENDED TO HELP CIVIC ASSOCIATIONS, COMMUNITY ORGANIZATIONS AND INCORPORATED AND UNINCORPORATED GROUPS TO BRING LEGAL CHALLENGES ZONING APPEALS.

THE IDEA FOR THE LEGISLATION STEMS FROM A LAND USE CASE IN SEVERNA PARK CONCERNING A PROPOSED DEVELOPMENT ON A HISTORIC PROPERTY KNOWN AS MT. MISERY. THIS WAS A UNION ARMY FORT DURING THE CIVIL WAR THAT SITS ON A HILL OVERLOOKING THE SEVERN RIVER. THE TOP OF THE HILL IS KNOWN AS MT. MISERY. THE MAGOTHY RIVER ASSOCIATION HAS CONCERNS ABOUT LOSING THE HISTORIC SIGNIFICANCE OF THE AREA AND, BECAUSE OF THE STEEP GRADE OF THE PROPERTY, THE ASSOCIATION ALSO HAS CONCERNS ABOUT EROSION THAT WILL LIKELY OCCUR WITH THE REMOVAL OF TREES AND THE DISTURBANCE OF SOIL.

HOWEVER, UNDER CURRENT STANDING LAW FOR ANNE ARUNDEL COUNTY, THE ASSOCIATION CANNOT FILE A LEGAL CHALLENGE IN CIRCUIT COURT.

THIS BILL WOULD PERMIT GROUPS LIKE THE MAGOTHY RIVER ASSOCIATION TO ASSERT THE LEGITIMATE INTERESTS OF ITS MEMBERS, AND THUS ALLOW CITIZENS TO POOL THEIR RESOURCES AND POLITICAL CLOUT TO HAVE THEIR DAY IN COURT.

THANK YOU AND I ASK YOUR FAVORABLE CONSIDERATION OF HB 1449.