

WRITTEN TESTIMONY

SB 0206 SUPPORT
Condominiums – Common Elements – Clean Energy Equipment

Judicial Proceedings Committee
January 30, 2024

Chair Mr. William C. Smith, Vice Chair Mr. Jeff Waldstreicher and members of the Judicial Proceedings Committee, I appreciate the opportunity to provide written testimony to the Committee in **support** of Senate Bill (SB) 0206, Condominiums – Common Elements – Clean Energy Equipment.

My name is Brian Haaser, and I am the President of the Board of Directors for Glen Manor Condominium which is working to meet the goals of energy efficiency mandated by the State of Maryland and Montgomery County.

The Glen Manor Board has succeeded in drastically cutting our expenditure on energy through numerous energy efficiency upgrades all at a cost of \$1,00,000 spent over 10 years. The next step needed is to install solar panels on our roof to further reduce our operating costs and to meet energy efficiency goals mandated by the County and State. **However, the cost of installing the panels is beyond our means and many other condominium associations.**

This led to the exploration of installing solar panels through a lease type arrangement where a private company would install and own the solar panels in exchange for the use of Glen Manor's rooftop. **However, the biggest obstacle faced was complying with the current section of the Maryland Condominium Act Section 11-125 - Easements and Encroachments - which provides an arduous process for common ownership communities to enter into a lease agreement.**

We hired an attorney to interpret section 11-125 and he rendered an opinion that as stated in the Statute 1) we could obtain the approval of 66 2/3 of the owners and their mortgagees, 2) have the Board make the decision as the solar project **only served the owners**, and with notice to the owners and mortgagees, or 3) enter a one-year lease which the law allows for and then just renew it every year for 20 years (20 years is the normal term of a solar lease).

The attorney expressed concerns that section 11-125 was not clear on how to deal with renewable energy equipment such as solar panels and thus any path we choose could be open to litigation since there are few legal precedents regarding this section and leased renewable energy equipment.

The Glen Manor Board chose to enter into a lease agreement, with proper notice to owners and mortgagees since the electricity generated by the solar panels would be for the exclusive use of the owners. The Board also chose that path because under the first option it is very difficult to have 66 2/3 percent of the owners to agree to act on any topic. Also, the possibility that a mortgagee can overrule the vote of an owner makes this section even dicier to use.

It took the Board months to identify all the mortgagees (about a dozen lenders) from County tax records, asking owners and then following up in person with owners. None of the mortgagees contacted responded to our written notice and none attended our video call meeting. It was an exercise in futility to notify the mortgagees and this notice requirement would be a much more daunting task for larger common ownership communities. The legal research and notifications to the mortgagees added at least 1 year to the process of entering into a lease agreement.

Therefore, I am asking this Committee to **approve** SB 0206 and the full Legislature to pass this bill and the companion Bill HB 0216 to update section 11-125 of the Maryland Condominium Act to specifically address the leasing of clean energy equipment. **These changes will greatly streamline the process and clarify the procedures to follow for leasing clean energy equipment.** In addition, remove obstacles for common ownership communities to attain local and State government goals to reduce their carbon footprint and provide an inexpensive way for these communities to reduce their operating costs.