

VAUGHN STEWART  
Legislative District 19  
Montgomery County

CHIEF DEPUTY MAJORITY WHIP

Environment and Transportation  
Committee

*Subcommittees*

Chair, Land Use and Ethics

Motor Vehicle and Transportation



The Maryland House of Delegates  
6 Bladen Street, Room 151  
Annapolis, Maryland 21401  
410-841-3528 · 301-858-3528  
800-492-7122 Ext. 3528  
Vaughn.Stewart@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of HB 392**  
**Evidence - Wiretapping and Electronic Surveillance - Fair Housing Testing**

Testimony by Delegate Vaughn Stewart  
February 7th, 2024 | Judiciary Committee

**What the Bill Does**

Maryland is one of 11 states that does not allow the one-party consensual recordings of conversations. HB 392 would exempt fair housing testers from Maryland's all-party consent law. Fair housing testing is a method for identifying and documenting discrimination in the housing market. Without fair housing testing, it is difficult to uncover evidence of long-standing discrimination when trying to secure housing.

**This bill would carve out an exception for fair housing testers employed by either the government or a qualified civil rights nonprofit organization.** Fair housing testing has been recognized by the U.S. Supreme Court as essential to the full enforcement of civil rights laws.

**Why the Bill is Important**

Housing discrimination remains a problem in Maryland and across the United States. The Maryland Commission of Civil Rights investigated over [400 housing](#) discrimination complaints between 2020 and 2022. Fair housing complaints have been up [5.7%](#) nationally in the past year even though most incidents of housing discrimination are unreported or undetected.

Maryland is one of eleven states that have all-party consent laws. These laws unintentionally shield housing providers from having their commercial speech recorded, even when that speech includes discriminatory statements intended to deny housing opportunities based on race, national origin, gender, sexual orientation, or other protected characteristics.

Without the ability to record discriminatory housing practices, fair housing testers in Maryland are hamstrung. Recorded fair housing tests provide powerful evidence of discrimination. Language used by discriminatory actors can be subtle or coded, such that a transcript does not do the conversation any justice. Moreover, some statements by housing providers are so outrageous that they must be heard by a judge or jury in order to be believed. Finally, recordings of housing providers provide judges and juries with the context of

statements. Personal conversations are complex, and can hang on the tenor or complexity of one's voice. Access to a recording will help paint a fuller picture of interactions between housing providers and testers posing as home seekers.

Finally, recordings provide a check on the housing testers themselves. Recorded evidence can help ensure testers are themselves complying with guidelines and laws.

### **Why the Committee Should Vote Favorably**

Recorded evidence is a critical tool in the enforcement arsenal to finally eliminate the scourge of racism and other forms of discrimination in our housing market. Law enforcement is already exempted from Maryland's Wiretap Act in order to better combat criminal conduct. We need governments and civil rights organizations in Maryland to have the same anti-discrimination tools that their counterparts do in the vast majority of states.

**There is nothing private** about the commercial speech that housing providers use to offer housing or that loan officers use to discuss mortgage products. These conversations occur in public office buildings frequented by the public.

**Maryland is limited in our ability to, at long last, root out discrimination in housing. This bill is part of the solution, and I urge a favorable report.**