

# **SB0970 Howard County - Department of Planning and Zoning - Parking Space Requirements for New Construction Ho. Co. 13-25**

Education, Energy, and the Environment Committee

## **UNFAVORABLE**

Testimony of Joel Hurewitz  
Columbia, MD  
Howard County  
Hearing March 11, 2025

### **SB0970 IS AN UNCONSTITUTIONAL INFRINGEMENT ON THE HOME RULE POWERS OF HOWARD COUNTY**

The Maryland Constitution in Article XI-A Local Legislation Section 4 states “From and after the adoption of a charter under the provisions of this Article by the City of Baltimore or any County of this State, no public local law shall be enacted by the General Assembly for said City or County on any subject covered by the express powers ...“ One such provision of the Express Powers Act is Section 10-324 “Zoning and Planning” which states in part:

(a)(1) A county may enact local laws relating to zoning and planning to protect and promote public safety, health, morals, and welfare,

\* \* \*

(b)(2) It is the policy of the State that planning and zoning controls shall be implemented by local government.

The Maryland Supreme Court has explained that a review of a Home Rule violation is a two-step analysis:

A conclusion that a statute violates the Home Rule Amendment requires two findings: (1) that the law in question is a public *local* law, as opposed to a public *general* law; and (2) that the law addresses a subject covered by the express powers granted to the particular geographical subdivision. See *State’s Attorney v. Mayor & City Council*, 274 Md. 597, 337 A.2d 92 (1975).

*Park v. Board of Liquor License Commrs. for Balto. City*, 338 Md. 366, 377 (1995).

### **SB0970 ADDRESSES A SUBJECT COVERED BY THE EXPRESS POWERS ACT GRANTED TO HOWARD COUNTY**

In analyzing the two steps in *Park*, first, it is undisputed that SB0970 is a Howard County Senators’ public local law. Regarding the second step, SB0970 reads as if it were local legislation from the Howard County Council. On Page 2, Line 2 there is reference to “the Howard County Building Code.” Page 2, Line 4 references “a Howard County building permit.” Page 2, Lines 6-7 reference “the

Howard County Department of Planning and Zoning.” The title and purpose have additional references to “the Howard County Department of Planning and Zoning.” It is the job of Howard County under Section 10-324(a)(1) to “protect and promote public safety, health, morals, and welfare” with zoning not the General Assembly. What part of this bill fulfills “the policy of the State that planning and zoning controls shall be implemented by local government”?

Bill sponsor Senator Clarence Lam has essentially admitted that the bill is unconstitutional. An email from the Senator’s Chief of Staff was publicly posted by the Howard County Citizens Association (“HCCA”) President Stu Kohn on the HCCA listserv:

Hi Stu,

Because of Senate drafting rules and how the Howard County Delegation processes bill requests, it was easier to initially have HoCo 13-25 drafted as only applying to Howard County.

However, **Sen. Lam hopes to ultimately include Anne Arundel County as part of this bill. Adding Anne Arundel would remove any *potential* Express Powers Act concerns.**

\* \* \*

Scott

Scott Tiffin  
Chief of Staff  
Senator Clarence Lam, MD, MPH  
Maryland State Senate  
District 12 | Anne Arundel & Howard Counties  
[clarence.lam@senate.state.md.us](mailto:clarence.lam@senate.state.md.us)

December 6, 2024 (emphasis added).

Adding another jurisdiction to this local legislation, such as Anne Arundel County, would cure the constitutional violation in Article XI-A, but to date this has not been done. Thus, the bill before the committee remains a public local law only for Howard County.

This analysis shows that SB0970 fulfills the two findings as laid out by the Maryland Supreme Court in its opinion in *Park*: it is a public local law, and it covers the subject of zoning and planning in the Express Powers Act. Thus, SB0970 undeniably addresses a subject covered by the express powers granted to Howard County.

Therefore, SB0970 should be given an **Unfavorable Report** for being an unconstitutional infringement on the Home Rule powers of Howard County.