

Board of Directors
Leisure World Community Corporation
3701 Rossmoor Boulevard
Silver Spring, MD 20906

**TESTIMONY OF THE LEISURE WORLD COMMUNITY CORPORATION
ON FEBRUARY 27 2025
BEFORE THE HOUSE ENVIRONMENT & TRANSPORTATION COMMITTEE
HB 1117 – MONTGOMERY COUNTY-COMMON OWNERSHIP COMMUNITIES-DISPUTES,
PAYMENTS, AND ELECTIONS**

FAVORABLE WITH AMENDMENTS

Honorable Chair Marc Korman and Vice Chair Regina Boyce and Members of the House Environment & Transportation Committee:

This testimony is being submitted on behalf of the Leisure World Community Corporation. Leisure World is a senior (55+) adult community in Silver Spring Maryland, located on 610 acres. Leisure World has 29 Mutuels made up of 27 condominiums, 1 cooperative, and 1 home owner association. More than 8500 residents live in Leisure World.

Leisure World supports this bill provided amendments are made to this bill. Leisure World is the largest common ownership community in Montgomery County. It has extensive positive experience with the election process and governing process. Governance at Leisure World is a transparent process. Our owners are free to engage in the process and many volunteer to be involved in the governing process by being on committees and boards. Without amendments to this bill, it will make 1) governance of common ownership communities more difficult and 2) more difficult to obtain owners who are willing to serve on governance committees.

Given the success Leisure World has had over more than fifty years as a common ownership community, HB 1117 should be amended to exclude the Leisure World community and its mutuels from this bill. If this is not accepted, since the provisions in this bill have not been discussed with the owners of the numerous common ownership communities in Montgomery County, HB1117 should be amended to require Montgomery County to consider regulations for the Montgomery County Commission on Common Ownership Communities to address the issues in this bill. This would provide a forum to obtain public input on the numerous issues of this bill. Montgomery County rule making process is particularly suited for this as this bill only applies to Montgomery County. In that regard, it should be noted that the Montgomery County Council on February 24, 2025, voted not to support this bill as drafted.

Alternatively, amendments for the reasons given below are needed because these provisions do not allow property managers to be involved in elections, increases costs to owners in common ownership communities, and make it more difficult to govern these communities.

I – Elections

It is not clear why the provision pertaining to elections only applies in Montgomery County.

The current law does not prohibit common ownership communities from utilizing contractors to assist in their elections. However, in many common ownership communities, property managers provide valuable assistance to the election process. Professional property managers understand the rules, provide guidance to boards and unit owners, assist in administration of elections by sending out notices and reminders, and arrange for printing ballots and other election material. If condos are not allowed to use their property managers, HOA fees may go up to cover the costs of hiring contractors to perform duties otherwise done by property managers for the election process.

Leisure World has had hundreds of elections with a system that includes the property manager. The same situation of clean and fair elections relying on property managers no doubt exists in many other HOAs in Montgomery County. By subjecting all HOAs into the bill, it causes all residents of common ownership communities higher HOA fees and creates confusion that is not necessary.

At Leisure World our professional property managers provide enormous assistance to our residents and governing bodies and committees. Almost all mutuals in Leisure World rely on property managers for parts of the election process. We should note our property managers are employees of the Leisure World Management Corporation (LWMC). LWMC is owned by the Leisure World Community Corporation which is owned by the residents of Leisure World. **In light of this relationship and positive experience with using property managers HB1117 should be amended to exclude Leisure World property managers from the bill.**

Alternatively, bill should be amended to revise sections 5-6B-19.2(B)(3), 11-109.6(B)(3), and 11B-118(B)(2)(I) to read:

Representatives of the [Cooperative Housing Corporation's] [Condominiums'] [Home Owners Association's] property management are independent parties unless more than 25% of the eligible voting members of the [Cooperative Housing Corporation's] [Council of Unit Owners] [Home Owners Association] object to their independence.

This would be consistent with the bill's treatment of members, unit owners, and lot owners that provides a presumption that in the election process they are independent unless 25% of the eligible voters object. This amendment would provide a similar presumption of independence for property managers and importantly provide a check on property managers to ensure residents have confidence in their property managers. It would allow the many professional property managers who provide valuable assistance to Cooperative Housing Corporations, Condominiums and Home Owners Associations to assist in elections and weed out those that do not.

II – Statement on Payment of Funds

It is not clear why the provision pertaining to payments only applies in Montgomery County.

HB 1117 increases administrative costs for common ownership communities by requiring annual statements of payments to be provided each owner. This is an unnecessary administrative provision as each unit owner should be responsible to keep records of payments and why they made the payments.

HB 1117 should be amended by deleting the following sections that pertain to annual statements: 5-6B-29.1 (E)(2), 11-110.1 (E)(2), and 11B-113.7 (E)(2).

III – Treble Damages

It is not clear why the provision pertaining to adverse actions and treble damages only applies in Montgomery County.

HB 1117 provides for treble damages for willful and intentional violations. Clearly such violations should never be tolerated and the claimant suffering damages should be made whole. However, in common ownership communities, the owners end up paying the damages by increasing HOA fees or by special assessments. Except in the smallest of communities, owners are likely to have had no specific involvement in the violations at issue. Thus, it is unfair to cause owners to pay more than the actual damages.

HB 1117 should be amended by deleting the following sections that pertain to annual statements: 5-6B-30.1(D)(2)(IV), 11-113.1(E)(2)(I)(3), and 11B-111.11 (E)(2)(I)(3).

IV – Adjudication

It is not clear why the provision pertaining to adjudications only applies in Montgomery County.

HB 1117 limits who can be an adjudicator in a dispute involving the governing body or a property manager. Specifically, none of the following can serve as an adjudicator: “officer, a board member, or any other person serving as a member of the governing body, or a representative of the property manager of the condominium.” Current law requires the board to conduct a hearing. The best way for a board to make a rational decision is to have the board or its agent be involved in the adjudication. This also allows the board to settle a matter as it hears the arguments in the case. Even if a third party was the adjudicator, the decision eventually rests with the board as the board has to own the decision. This is because its decision is appealable to the courts of Maryland and depending on the matter, to the Montgomery County Commission on Common Ownership Communities. Thus, it is wrong not to allow the board or its agents to be adjudicators.

The language in HB 1117 raises numerous questions about how an adjudicator would be obtained. Who would select the independent adjudicator? Who would pay him? If a board hired and paid the adjudicator, would that adjudicator be independent? Given the cost of an

adjudicator such as an outside lawyer, how much would the penalty or damages need to be to make it practical to spend the money to hire an adjudicator? For example, would a community need to tolerate certain violations as it would not be financially viable to hire an outside adjudicator to have a hearing over a \$50 fine? Would a board be bound by the decision of the adjudicator? Can a board cede its responsibilities to an outside entity? Would the adjudicator be just a fact finder or decision maker? Would the adjudicator provide a recommended decision for the board who would make a final decision? Should the need for an outside adjudicator be just for disputes above a certain amount such as \$5,000?

In light of these numerous issues, HB 1117 should be amended by deleting the following sections: 5-6B-30.1(E), 11-113.1(F), and 11B-111.11 (F).

For the above reasons, Leisure World requests amendments to HB1117.

Respectfully submitted,

Patricia Hempstead
Chair of the Board of Directors