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January 16, 2025

The Honorable Dawn Gile
Maryland Senate
3 East Miller Senate Office Building
Annapolis, Maryland 21401
Via email

Dear Senator Gile:

You have asked us to respond to a constituent's list of questions relating to the authority of council of unit owners under the State condominium law. While our office can explain what State law provides in relation to this authority, many of the inquiries posed are fact specific with respect to how to interpret the scope of the relevant law. Our office is not a factfinder and we cannot predict how a court would interpret a particular reading or interpretation of the law under specific factual or hypothetical circumstances. If the constituent is aggrieved by the acts of a particular condominium council of unit owners, the constituent may wish to consult with private counsel regarding the constituent's rights. The specific questions posed and our responses are as follows.

1. Does the requirement in Real Property Article [{"RP"}] § 11-109(c)(7)(iv) for the agenda to be open to any matter override any bylaw provision delegating any of those same matters to the board?

Section 11-109(c)(7)(iv) generally provides that the governing body of a council of unit owners of a condominium "shall convene at least one meeting each year at which the agenda is open to any matter relating to the condominium." That provision generally requires a governing body to provide at least one opportunity to open the agenda at least once per year to a "matter relating to the condominium." The manner in which that requirement is satisfied appears to be in the discretion of the governing body, as is the body's decision regarding the relevance of an issue raised as a "matter relating to the condominium." Whether there may be a conflict with that provision of law in the bylaws of a condominium is a specific fact question to which I am unable to respond.

2. Does [RP] § 11-109(c)(15) permit only different majorities (over 50%) of unit owners to make decisions at a meeting of the council, or can it subject decisions at a meeting of the council to the decision of a different body, such as a delegated body (board or committee)?

Section 11-109(c)(15) provides that “[u]nless otherwise provided in this title, and subject to provisions in the bylaws requiring a different majority, decisions of the council of unit owners shall be made on a majority of votes of the unit owners listed on the current roster present and voting.” The majority required to sustain a decision of a council of unit owners appears to be of unit owners listed on the current roster present and voting, unless the law or the bylaws of the condominium require otherwise. A council of unit owners appears to have the discretion to determine how to satisfy this statutory requirement. A unit owner who feels that the council has not met its legal obligations may appeal the determination of the council in accordance with the law and the condominium’s bylaws.

3. Does the law exclude introduction of voting questions from its meaning of “decisions”?

A “decision” by a council of unit owners does not appear to be defined in RP Title 11. The subject matter of a “decision” to be voted on by a council of unit owners appears to be in the particular council’s discretion.

4. Does § 11-111 permit the council to adopt a rule in accordance with § 11-109(c)(15) in spite of the decision of any other delegated body?

Section 11-111 provides that a council of unit owners or the body delegated in the bylaws of a condominium to carry out the responsibilities of the council of unit owners may adopt rules for the condominium, subject to certain requirements and conditions. I am not aware of any particular limits on that authority with respect to another “delegated body.”

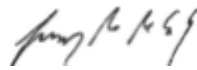
5. If the time to veto a rule has expired (as described in § 11-111) and members have delegated their powers and/or voting rights, does the law permit the adopted rule to be repealed in accordance with § 11-109(c)(15) in spite of the decision or permission of any other delegated body?

The constituent’s remaining questions (questions 6 through 10) each address specific inquiries regarding the scope of the delegation of powers of a council of unit owners. Most if not all of the questions posed may be matters that are governed in the bylaws of a particular condominium. State law appears to provide general and broad discretion for the delegation of powers of a council of unit owners to be determined through individual condominium bylaws. Section 11-109(b) provides that “[t]he bylaws may authorize or provide for the delegation of any power of the council of unit owners to a board of directors, officers, managing agent, or other person for the purpose of carrying out the responsibilities of the council of unit owners.” To the extent the constituent has concerns regarding the scope of authority or the manner in which a condominium’s bylaws address matters of delegation of authority, the constituent may wish to

consult with either counsel to the condominium or private counsel with respect to the rights of the condominium owner.

I hope this is responsive to your request. If you have any questions or need any additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy M. McCoy".

Jeremy M. McCoy
Assistant Attorney General