



TOWN OF BEL AIR MARYLAND

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TOWN ADMINISTRATOR

Edward Hopkins

March 7, 2024

The Honorable Marc Korman
Environment and Transportation Committee
251 Taylor House Office Building
Annapolis, Maryland 21401

RE: House Bill 1255 – Land Use – Historic Preservation – Right of Appeal - FAV

Dear Chair Korman:

I am writing in support of House Bill 1255. Current Maryland law says that appeals from the Historic Preservation Commission (HPC) are addressed in the same fashion as appeals from the decision of the Planning Commission – meaning that an appeal of the decision of the HPC will be to the Circuit Court under current state law. Md. Code, LU § 8-308; Md. Code, LU §4-406.

The legislative notes and committee notes suggested that the legislature revisit and clarify what path exists for appellate review. I suspect that prior to the passage of that section, some jurisdictions did have an HPC appeal to its board of appeals and did not want to change that. That is where the Town of Bel Air finds itself.

The Town of Bel Air changed its code to follow state law and appeals are now to the Circuit Court rather than to the Board of Appeals. The HPC would prefer that it be clear that an appeal from its decision is to the Board of Appeals. As a result, the Town is asking that HB1255 be passed to clarify that appeals may be to the Board of Appeals rather than to the Circuit Court. Each municipality can make its own determination which path is best for appeals from its HPC.

Allowing an appeal to the local board of appeals will be easier, faster, and cheaper than requiring an appeal to the Circuit Court. It will also lessen the burden on the Circuit Court's already crowded dockets.

Below are the specifics of some differences between an appeal to the Circuit Court versus an appeal to the Board of Appeals:

1. To appeal an HPC decision, the applicant would have to file a Petition for Judicial Review under the Maryland Rules (7-201, et seq.) within 30 days from the date the HPC issued their decision. To do so is simple - all they have to say is they want to appeal the identified decisions of the HPC and attach a copy of that decision. Filing fees are \$165.00 without an attorney; \$185.00 with an attorney.
2. They must serve the custodian of records for HPC.
3. The custodian of records would have to prepare to transmit the record to the Circuit Court for Harford County, this would include all documents filed with the HPC, the minutes and any documents presented at the hearing and certify that what was filed was the true and accurate record of the HPC file on the matter.
4. HPC does not have a court reporter - it only uses minutes. This may necessitate the use of a court reporter.
 - a. Production and filing of the transcript are always the cost and burden of the Appellant in Circuit Court. This could be \$100s or \$1,000s, depending on how long the meeting is.
5. The Town has the right to respond. Obviously, there would attorney's fees and appearance fees of \$20.00.
6. Thereafter, the Appellant must file a Memorandum (i.e., brief) setting forth their arguments and why the HPC acted improperly.
7. The Town would have the ability to file its own Memorandum (i.e., brief) responding to the Appellant's brief/arguments and raising any new ones. Again, attorney's fees at normal hourly rate.
8. The Court then must set in an oral argument hearing. Right now, this can take months to get a court hearing. Petitions for Judicial Review are not considered "emergent" cases requiring expedited hearings.
9. Hearings are usually no more than 1 hour. Attorney's fees at normal hourly rates. There is no evidence to be presented; this is an appeal on the record.
10. Judges usually holds decisions in abeyance, step down and issue a written opinion. That could take more months.
11. If either party is not satisfied with the decision of the Circuit Court, they have an appellate right to the Appellate Court of Maryland. Filing fees would be \$165.00.

With respect to sending appeals from HPC to the Board of Appeals:

1. Board of Appeals always has a court reporter.
2. It will not take months to get an answer. An appellant would likely have an answer within 1-2 months after the meeting. If it is hotly contested, the Board could hold the matter over and instruct Town Counsel and the Planning Department to draft a written opinion.
3. The Appellant would have the right to further appeal to the Circuit Court for Harford County as set forth above as a Petition for Judicial Review.

I strongly urge the Committee to issue a favorable report on House Bill 1255. This bill will give flexibility to local jurisdictions to permit a faster and easier review of decisions of the HPC.

Sincerely,



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