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Dear Delegates Stein, Allen, Behlar, Foley, Lehman, Lewis, and Ruth:

I am an owner and resident in the Willoughby Condominium in Friendship Heights, in southern Montgomery County. We live in a 24-story high-rise with 815 units. Our community of almost 2,000 people is very diverse by almost any dimension of diversity, with people of all ages including seniors (many on fixed incomes), young families and a broad range of financial resources. For the Willoughby, and for many other common ownership communities, BEPS compliance will be financially and operationally challenging, and if the MDE regulations apply to us, potentially devastating.

I am writing to urge the members of the Environment Subcommittee to support an amendment to the Climate Solutions Now Act of 2022 that would grandfather buildings that are subject to BEPS regulations in their local jurisdictions, allowing the buildings to be regulated for BEPS only by their local environmental protection agency – the Department of Environmental Protection (DEP) for Montgomery County buildings. A provision that exempts buildings from having to comply both with local and state regulations would serve the goals of the CSNA of reducing Maryland's greenhouse gas emissions, eliminate the risk of inconsistent regulation, and foster better administration of the State's environmental policies.

There are several reasons for exempting buildings in Montgomery County from the Climate Solutions Now Act, and allowing our BEPS compliance to be regulated locally, some of which have been stated by other commentors.

- Montgomery County's BEPS has studied since at least 2021, and Montgomery County's BEPS study was a major part of the basis for the CSNA and the MDE regulation. The Montgomery County DEP has an experienced and dedicated staff, and has the resources to manage the large number of covered buildings in the county.
- If we are subject to both the CSNA and Montgomery County BEPS, we risk duplication of fines, fees and penalties if we are unable to meet the standards of the regulations.
- Montgomery County's DEP has promulgated final BEPS regulations, while MDE's regulation for energy use will not be promulgated until 2027. If we are subject to only the County's regulation, we can continue with planning for the County's regulation expeditiously. If we are also subject to the MDE's regulation, we will not know what standard we have to meet for two years or more, and the standard might be inconsistent with the County's standard.
- The County's standard will achieve significant reductions in greenhouse gas emissions. The County has studied the impact of its regulations on greenhouse gas emissions and determined that the implementation will substantially reduce greenhouse gas emissions.

- The County regulation includes provisions to ensure that BEPS does not lead to financial ruin for owners of covered buildings and their condominium and cooperative associations. The CSNA requires the BEPS regulations to, “[a]s necessary, include special provisions or exceptions to account for building age ... [and] the unique needs of particular building or occupancy types.” It also requires MDE’s BEPS regulation to “[p]rovide maximum flexibility to the owners of covered buildings to comply with building energy performance standards.”
  - Although many commentators on the regulations urged MDE to comply with these requirements, neither the greenhouse gas regulation nor the draft energy use intensity regulation complied with these requirements. The recent revised proposed amendment to the CSNA offered by MDE does not satisfy these requirements. While on its face the proposed amendment appears to provide some consideration of these factors, in fact it provides almost none, and, at best, will postpone the financial calamity by five years.
  - Montgomery County has listened to the concerns of common ownership communities and owners of rental buildings, and provided procedures that would limit the compliance requirements to affordable measures.
- A county agency is in a much better position to work with the owners of covered buildings. DEP has made presentations on BEPS to the Willoughby and other buildings; we have worked with the Green Bank on our strategy for compliance, and retained a consultant recommended by the Green Bank, after interviews with four consultants the Green Bank recommended; the Green Bank can assist us with financing BEPS compliance; and the County has resources and a procedure for working with owners while there is no comparable procedure or assistance available from MDE.
- MDE’s proposed CSNA amendment, which would permit an exemption only if the county’s BEPS regulations are as stringent as the MDE regulation and is approved by MDE, essentially provides no flexibility, and would require us to meet different standards and work with state and county regulators enforcing different laws and regulations on the same subject matter. We will have to comply with a state regulation and agency that gives no consideration of the building age, affordability, or ownership structure of common ownership communities as required by the CSNA. MDE will continue to fail to provide the flexibility that the CSNA requires, with catastrophic consequences for common ownership communities.

Thank you for considering this submission.

*Lawrence B. Bernard*  
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*Dated: March 6, 2025*