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February 10, 2026

Chair, Delegate Kriselda Valderrama
kris.valderrama@house.maryland.gov

Vice Chair, Delegate Lorig Charkoudian
lorig.charkoudian@house.maryland.gov
231 Taylor House Office Building
Annapolis, Maryland 21401

Re: HB 402
Common Ownership Communities - Ombudsman Unit, Governing Document Database, and Local Commissions
Position: OPPOSE
Hearing Date: February 12, 2025

Dear Chairperson Valderrama, Vice Chairperson Charkoudian, and Members of the Economic Matters Committee:

This letter is submitted on behalf of the Maryland Legislative Action Committee ("MD-LAC") of the Community Associations Institute ("CAI"). CAI represents individuals and professionals who reside in or work with community associations, as well as condominiums, homeowners' associations, and cooperatives throughout the State of Maryland and throughout the United States.

The MD-LAC opposes HB 402. Our opposition is based upon CAI's long standing and well researched position that new ombudsman or similar programs are not the best solution to the issues of common interest ownership properties. See, CAI, Department of Government Affairs, Report on Offices of Community Associations Ombudsman, updated October 23, 2024 https://www.caionline.org/getmedia/eec38615-868f-42e0-b049-b023876472c6/Ombudsman_Report_2024OctoberClean.pdf

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CAI instead advocates for the **education of homeowners' rights and responsibilities and community-led solutions that best meet the unique needs of each association**. CAI has found that the educational approach for conflict resolution prevents issues before adversarial situations arise and is a much better solution.

Once upon a time, living in a planned unit community was a fairly uncomplicated matter. The documents were (and still are) a private contract that the association and all owners were (and still are) expected to follow. But the contracts have gotten more complicated. And as new laws are enacted to provide disclosures of governing documents, regulations of meetings and governance and local commissions designed to handle disputes, the laws, regulations, decisions of the local commissions have led to a chaotic, often confusing, patchwork of laws and legal documents. Unfortunately, while HB 402 attempts to provide a sweeping comprehensive ombudsman model, the Bill and the creation of the Ombudsman Unit will not unravel the chaos.

HB402 conflicts with several existing laws and mechanisms already in place for disclosures and databases for each community's governing documents.

A. The Real Property Article, Annotated Code of Maryland, 11-101, et seq., the Maryland Condominium Act (MCA), requires the filing of an initial public offering statement (including the governing documents) with the Secretary of State. The Declaration and By-Laws and Plats are required to be recorded in the Land Records. Section 11-126 requires the developer to give the initial public offering statement to the initial buyer and 11-135 requires that a seller give the governing documents (Declaration, Articles of Incorporation, By-Laws and Rules and Regulations) to a buyer upon resale of the unit.

B. The Corporations and Associations Article, Annotated Code of Maryland, 5-6B-01, et seq., the Maryland Cooperative Housing Corporation Act (MD Co-op Act), requires the governing documents of a cooperative be filed with the State Department of Assessments and Taxation (SDAT) and that a buyer be given a public offering statement upon the transfer of an interest in the co-op unit.

C. The Real Property Article, Annotated Code of Maryland, 11B-101, et seq., the Maryland Homeowners Association Act (MHOAA) requires the governing documents of an HOA be deposited in the HOA Depository which is an adjunct of the Land Records. The primary contract for an HOA, commonly called the Declaration of Covenants, Conditions and Restrictions, is filed in the Land Records. Sections 11B-105, 11B-106 and 11B-107 all require the governing documents to be given to a buyer of a lot in an HOA.

These record keeping filings are disclosures, and the government-maintained records are publicly accessible databases. The laws on the buying and selling of real property still follow the legal

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premise of *caveat emptor* – or buyer beware. It would be shocking to the legislators to know how many buyers fail to read these disclosures before buying into a community association. The Department of Housing and Community Development (DHCD) database required in HB402 will not fix that problem. The database will, however, cause associations to incur additional cost and administrative work to keep the DHCD database up to date (as well as the Land Records, the HOA Depository, and SDAT.)

HB402 conflicts with several existing laws and mechanisms already in place for dispute resolution.

A. Clearly, when one has a contract dispute, the courts are available for resolution of the dispute. The American Arbitration Association is available for the arbitration of disputes. Even when a lawsuit or arbitration options are employed, mediation or ADR is not mandatory – both sides must be willing to engage in the process (that is not to say that the process will not be strongly suggested.) HB402 implicitly mandates mediation and allows a party that refuses mediation to be penalized for not participating. In this industry, we have seen disgruntled owners attempt to use the mediation and ADR process to thwart or delay a valid action by the community association or its board of directors.

B. MCA, MD Co-op Act, and MHOAA all require a dispute settlement mechanism be employed before imposing a sanction such a fines or revocation/suspension of rights. That process is detailed and designed to bring both parties to the table to discuss an alleged violation and what is needed to address or cure the violation. HB402 is confusing as to when or if an owner will have to exhaust remedies already in the law or in the governing documents before filing with the Ombudsman Unit. That confusion may lead to the Ombudsman Unit being flooded with complaints that should be resolved at the community association level.

C. MCA, the MD Co-op Act, and MHOAA provide that an aggrieved party with a dispute to file a complaint with the Office of the Attorney General, Consumer Protection Division. The AG's office expressed its concerns about the workings of the Ombudsman Unit when HB306 was introduced last year.

Finally, HB402 causes grave concern that the Ombudsman Unit that is tasked with "assisting homeowners in understanding their rights" will be asked to give legal advice. Because this area of the law is far more complicated and because the governing documents are no longer one size fits all, the nuances of the legal documents and how they fit with current law are often understood only by those who work in this industry. In short, all attorneys do not know or understand the practice of community association law and many lay people do not know or understand the workings of the laws and the governing documents. The Ombudsman Unit will be tasked with a very tall order which will require careful reading and understanding of the legal documents and a full understanding of the Federal, State and local laws.

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We respectfully request that the Committee give HB 402 an **unfavorable report**. We are available to answer any questions the Committee Members may have. Please feel free to contact Lisa Harris Jones, lobbyist for the MD-LAC, at 410-366-1500, or by e-mail at lisa.jones@mdlobbyist.com, Igor Conev, Chair of the MD-LAC at 443-614-2787, or by e-mail at to igor@ocmannproperties.com, or Cynthia Hitt Kent, Esquire, Assistant Secretary, MD-LAC at 443- 695-1981, or by e-mail at ckent@hittkentlaw.com.

Sincerely,

Cynthia Hitt Kent
Assistant Secretary, CAI MD-LAC

Igor Conev
Chair, CAI MD-LAC

CC: Delegate Marvin Holmes

CAI is a national organization dedicated to fostering vibrant, competent, harmonious community associations for more than fifty years. Its members include community association volunteer leaders, professional managers, community management firms, and other professionals and companies that provide products and services to common interest associations. As part of its mission, CAI advocates for legislative and regulatory policies that support responsible governance and effective management. As part of this purpose state Legislative Action Committees represent CAI members before state legislatures and agencies on issues such as governance, assessments collection, insurance and construction defects.

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