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March 26, 2026

The Honorable William J. Wivell
Maryland House of Delegates
324 Lowe House Office Building
Annapolis, Maryland 21401
Via email

Re: House Bill 1362 – “Condominiums and Homeowners Associations – Meetings – Recording Requirements”

Dear Delegate Wivell:

You inquired whether the third reader version of House Bill 1362 (Condominiums and Homeowners Associations – Meetings – Recording Requirements) conflicts with the Maryland Wiretap Act (“Act”),¹ and whether the prohibition in the amended bill against recording a meeting if a member of a governing body of a condominium or homeowners association (“HOA”) objects is necessary to avoid a conflict with the Act. The answer to both questions is no. Recording a public meeting, with or without the consent of the attendees, does not violate the Act, and the recording requirements of the bill do not conflict with the Act.

Under House Bill 1362, as amended, all meetings of an HOA or council of unit owners of a condominium, or of the board of directors, governing body, or committees of those entities, are required to be recorded by video with audio or by audio only. Recordings may be paused during closed portions of a meeting, and if a member of a governing body objects to a recording, the meeting may not be recorded. Meeting recordings shall be maintained by the entities and made available for inspection under certain circumstances.

In general, the Act prevents the interception of oral communication. CJP § 10-402(a)(1). An “oral communication” is defined as “any communication or words spoken to or by any person

¹ See Maryland’s Wiretapping and Electronic Surveillance Law, Courts and Judicial Proceedings Article (“CJP”), Title 10, Subtitle 4.

in *private conversation*.” CJP § 10-401(13)(1) (emphasis added). The words “in private conversation” have been interpreted to limit the protections of the statute to conversations in which the speaker has a “reasonable expectation of privacy.” *Fearnow v. Chesapeake Telephone*, 104 Md. App. 1, 33 (1995). A person has no expectation of privacy in a statement that is knowingly exposed to the public. *Malpas v. State*, 116 Md. App. 69, 83-84 (1997).

This office has previously advised that the recording of meetings of an HOA that are open to the public are not prohibited under the Act.² Under State law, meetings of condominiums and HOAs are generally required to be open to all members of the condominium or HOA. *See* Real Property Article, § 11-109(c)(6) (condominiums) and § 11B-111(1) (HOAs), respectively. Although condominiums and HOAs are not subject to the State Open Meetings Act, it is worth noting that the Open Meetings Compliance Board has specifically opined that public entities subject to the Open Meetings Act may not prohibit videotaping of meetings. 3 OMCB 356 (2003). *See also* 1 OMCB 137, 140 (1995) (“There is no right to be protected against the gaze of an observer in a public forum, or against the lens of the observer’s camera.”).

Accordingly, communications at an open meeting of a condominium or HOA governing body do not constitute private conversations and recording of such meetings would not violate the Act. The recording requirement under HB 1362 is not in conflict with the Act, and the amended language in the bill that prohibits recording a meeting if a member of a governing body of a condominium or HOA objects is not necessary to avoid a conflict with the Act.

If you have any questions or need any additional information, please feel free to contact me.

Sincerely,



Jeremy M. McCoy
Assistant Attorney General

² *See* Letter of Advice to the Honorable Karen Lewis Young from Assistant Attorney General Kathryn M. Rowe (June 20, 2023) (“a person has no reasonable expectation of privacy in statements made in an HOA meeting that is open to the public”).