

Janet Crouch

Testimony in Support of HB HB322 Real Property – Restrictions on Use – Low Impact Landscaping

One would think that it would not be necessary to legislate something like this, but unfortunately common sense doesn't always prevail. My family has spent the last three years in a legal battle to save our pollinator garden and fight for our property rights. We purchased our home in Beech Creek, a Columbia outparcel (not part of the Columbia Association) in 1999 and have nurtured an environmentally friendly garden since approximately 2004. Our garden's footprint had been in place for over a decade when the Beech Creek Homeowners Association's hired law firm sent us a "Notice to Cease and Desist" letter demanding that we replace our entire garden with grass in 2017.

After nearly two years of constant anxiety and living under the threat of having our yard destroyed, we filed suit against the Beech Creek HOA in August 2019. We did not do this lightly, but only took this course of action after deciding that the board's demands were untenable. In bullying letters and court documents, the HOA's lawyer wrote that gardens with plants that help birds, butterflies and other pollinators do not belong in our community or in any planned community. Even though we pointed out that this was untrue and that the Columbia Association promotes eco-friendly pollinator gardening and that such gardens are found throughout Columbia, the Beech Creek HOA dismissed us and required that our garden be replaced with grass.

Rather than consulting the community's architectural guidelines – which contain no stipulations against gardens like ours – the HOA's demands seemed to derive directly from complaints of a single neighbor, who had launched a secret, years-long campaign against our property. The HOA ignored his initial anonymous complaints. But after the single complaining neighbor began using his high-level title ".gov" Assistant Inspector General for Investigations, Legal Services Corporation e-mail address in his communications to push for replacement of our garden with turf grass, the HOA called upon its lawyer to pursue the matter.

We realized fairly early in this saga that the Beech Creek HOA board members would not communicate with us to try to work through their concerns. This became even more apparent when the HOA's lawyer told me to "shut up" as I was chatting with a board member just prior to a so-called board hearing that he presided over and yelled at my sister to "be quiet" as she shared information about environmentally friendly pollinator gardens during the same hearing.

While numerous neighbors and visitors to the community comment on the pleasure the garden provides—with some going out of their way to walk by especially in recent months during the pandemic—the HOA sided with the lone neighbor in an effort to eradicate this butterfly oasis.

As we learned about the dangers of pesticides and fertilizers over the years, we decided to discontinue their use altogether. When we mentioned this environmentally friendly practice in one of our responses, the HOA chastised this viewpoint and stated that our "wildlife friendly" and "environmentally sensitive" yard was not welcome in our community. The HOA lawyers further stated that plants intended to filter stormwater runoff and help wildlife, including nesting birds, are "a source of annoyance." Never mind that birds, like our pollinators, are also in crisis, largely due to habitat loss. And never mind that properties all along Beech Creek Drive are adjacent to protected parkland that harbors abundant animal life that will always be a part of our whole community. "All of our parks are inhabited by a wildlife such as deer, snakes, fish,

Janet Crouch

Testimony in Support of HB HB322 Real Property – Restrictions on Use – Low Impact Landscaping

rabbits, insects and birds,” note county leaders on the official Howard County web page for Cedar Lane Park, which is directly behind our property. “Please do not disturb them; remember, this is their home.”

After three long years and over \$60,000, we recently settled our case and are able to retain most of our garden with some setbacks. The HOA spent well over \$75,000 in this matter without even sharing their activities with the community. Many homeowners who find themselves in this situation would not have the resources to fight back against what they feel are wrongful HOA actions. Although we understood that fighting to save our garden and defend our property rights would require a significant financial commitment, I don’t think we fully understood the emotional toll it would take. We felt an obligation to stand up not only for ourselves but for others as well.

The bottom line is that this should have never happened. Passing this protective legislation would help ensure that other homeowners who are just trying to do the right thing are able to do so.