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January 11, 2022

**VIA E-MAIL ONLY: [kumar.barve@house.state.md.us](mailto:kumar.barve@house.state.md.us)**

Delegate Kumar P. Barve, Chair  
House Environment & Transportation Committee  
251 Taylor House Office Building  
6 Bladen Street  
Annapolis, Maryland 21401

**RE: HB 107: Cooperative Housing Corporations, Condominiums,  
and Homeowners Associations – Reserve Studies – Statewide**

Dear Chairman Barve:

We write on behalf of the many Maryland residents statewide who reside in common ownership communities to offer our support, in principle, for the above-referenced legislation, which has already been pre-filed, and is scheduled for hearing before your Environment & Transportation Committee on January 13<sup>th</sup>.

In the wake of the tragedy that occurred in Surfside, Florida, this past June, we understand and share the concerns expressed by many in the General Assembly that Maryland act proactively to protect its citizens by requiring condominiums, cooperatives, and homeowners associations responsible for infrastructure within their communities to take measures to establish and fund replacement reserves so that they will be able to carry out their respective responsibilities to maintain, repair, and replace the components of that infrastructure when necessary.

To that end, as you may already know, community associations in Prince George's County and in Montgomery County are already subject to statutory requirements to obtain and update

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reserve studies every five years, and to fund the projected expenses detailed in those studies to 100% of their recommended levels. House Bill 107, if signed into law, will make those same requirements applicable statewide. We wish to voice our support for the proposed legislation, but with critical amendments.

The legislation already in effect mandates 100% of funding of reserve study recommendations, which would require a community association to meet that funding commitment in the first budget cycle following issuance of its reserve study or update. Recognizing that mandating 100% funding may result in the imposition of an onerous financial burden on individual owners, it has been suggested that some flexibility be introduced if the funding mandate is now to be made applicable statewide. The desire to build flexibility into proposed legislation is a by-product of pushback that many of us have heard from community associations already subject to the existing statutory mandates in Prince George's and Montgomery Counties. Those associations have protested that the fiscal burden imposed on their owners would be excessive and unmanageable if they were required to pay a significant assessment increase to make up for reserve funding that had not been adequately budgeted in prior years.

Balancing the need to preserve capital assets and infrastructure with the budgetary constraints that doing so would impose on individual homeowners, it is our opinion that HB 107 be revised to include language allowing community associations to fund the recommendations set forth in their reserve studies over a period of up to three (3) immediately successive budget cycles, with the proviso that funding commence with the first budget cycle following receipt of the reserve study (or update), and that at least 80% of the funding requirement be met in that first budget year. Associations would thereafter be required to fund recommendations to at least 90% of the level recommended in the next (second) budget year, increasing to 100% of the recommended level by no later than the third successive budget year. All other provisions of proposed HB 107, which echoes the provisions of the existing law applicable in Montgomery County (which is the latter of the two laws now in force to have been adopted) would remain as drafted.

In addition to the logistics of meeting a "full funding" requirement, we are also concerned about enforcement of a statewide reserve mandate. Presently, the Maryland Attorney General's office receives consumer complaints, but has demonstrated limited willingness to do anything other than attempt to mediate disputes between aggrieved owners and the community associations in which they reside. The Montgomery County Commission on Common Ownership Communities ("CCOC") has indicated that it will respond on a case-by-case basis to complaints filed alleging non-compliance with the existing reserve statute. However, it remains unclear what corrective action the CCOC could require a non-compliant association to take. It has been suggested that any new legislation also include a mechanism for affirmative enforcement. Affirmative enforcement could be accomplished by including provisions in the proposed legislation that require community associations to furnish some state agency with copies of their reserve studies and financials showing they have been funded. However, we recognize that there is no apparent source to fund any such agency's operations.

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Finally, inasmuch as the creation and funding of replacement reserves constitutes good business practice for all types of condominiums, we support revision of proposed HB 107 to specify that it would be applicable to residential and non-residential condominiums alike.

Thank you for your time and attention to this important legislation. 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](mailto:lisa.jones@mdlobbyist.com), or Steven Randol, Chair of the MD-LAC, 410-279-8054, or by e-mail at [srandol@pineorchard.com](mailto:srandol@pineorchard.com), or Scott Silverman, of the MD-LAC, at 301-251-1414, or by e-mail at [ssilverman@schildlaw.com](mailto:ssilverman@schildlaw.com)

Sincerely,

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