



HCCA

Howard County Citizens Association

Since 1961...

The Voice Of The People of Howard County

Date: 17 June 2019

Subject: HCCA Testimony CB32-2019

My name is Stu Kohn and I am the President of the Howard County Citizens Association, HCCA.

We are extremely pleased to state we are by all means definitely in favor of CB32-2019 as we were for CB16 and 71-2018. Councilwoman Deb Jung, my Councilperson has indeed not only heard us, has taken the necessary action and realizes that all her constituents should be able to have the opportunity to question the Department of Planning and Zoning (DPZ) designee to appear at quasi-judicial hearings regarding the Planning Board and strongly suggest to include at any given Meeting whereby a Technical Staff Report has been issued. This would provide the audience the opportunity to ask questions after DPZ's presentation. This is only fair especially because the public is not privy to seeing DPZ's Technical Staff Report until two weeks prior to a given hearing which HCCA a few years ago worked with the Council and was instrumental in seeing this was evoked. This Bill should be passed especially because the Petitioner has been involved with communicating with DPZ for quite some time whereas all other interested parties are seeing the findings for the first time and should have the right to ask DPZ any questions.

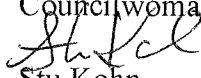
A little background – CB16 which we suggested was introduced by Councilpersons Sigaty and Terrasa to allow the public to question DPZ at Zoning Board Meetings. It passed 5 to 0 as it should have. Since now one can question DPZ at Zoning Board Meetings which I am pleased to announce this is documented in the newly adopted Zoning Board Rules of Procedure it makes no sense to exclude the same opportunity at Planning Board Hearings.

CB71-2018 was introduced by Councilpersons Terrasa and Ball. This Bill was simply correcting an oversight regarding CB16-2018 which we pointed out when we testified on 17 September 2018. It was an extremely important attempt in the right direction which provided a more level playing field for all concerned parties. For some strange reason it was denied. It failed by a 3 to 2 vote with then Councilpersons Ball and Terrasa voting in favor.

We suggest as was written in CB71 that CB32-2019 on page 4, lines 22 thru 27 corrects this most important matter. We would recommend that for clarity you add the following to line 27 after the word "Questions" – by any individual who signs up to testify. We suggest on line 24 after the word "Hearings" you consider adding the words "Meeting whenever a Technical Report is issued." One has to keep in mind that in Zoning Board Hearings CB16 only included Quasi-judicial because this is how they are conducted. The passage of CB32-2019 will enable any interested parties to have DPZ or a representative answer questions regarding their presentation at any given Planning Board hearing or meeting. The non-development community needs some semblance of a more level playing field.

Hopefully our entire County Council will unanimously vote in Favor of CB32. There is absolutely no reason you should not! We want Councilwoman Jung to know our appreciation as it is extremely

refreshing when any elected official attempts to take action on any wrong to make it right.
Councilwoman Jung all we can say is Thank You.


Stu Kohn
HCCA President



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Stu Kohn, have been duly authorized by
(name of individual)

Howard County Citizens Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB32-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Stu Kohn

Signature: [Handwritten Signature]

Date: 17 June 2019

Organization: HCCA

Organization Address: ELLICOTT City

Number of Members: 500

Name of Chair/President: Stu Kohn

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

June 17, 2019

Re: OPPOSITION TO CB32 – Requiring the Department of Planning and Zoning to testify under oath at Planning Board hearings

Dear Chairwoman Mercer Rigby and Members of the Howard County Council:

The Howard County Chapter of the Maryland Building Industry Association (“MBIA”) writes in opposition to Council Bill 32, which essentially requires the Department of Planning and Zoning (“DPZ”) to testify under oath and be cross-examined at Planning Board hearings. Assuming the intent of this bill is to ensure DPZ provides accurate information to the Planning Board, it is unnecessary and will be ineffective.

First, this measure implies that there is an existing problem to fix; that DPZ cannot be relied upon to provide honest information to the Planning Board, and needs to be held to a higher standard in its presentations to the Board. MBIA has the utmost respect for the Director and hardworking staff of DPZ, and believes the Department is fair, judicious, and thorough. In fact, the Director of DPZ and Division of Land Development (“DLD”) Reviewer who present projects to the Planning Board are representatives presenting the findings of approximately 25 agencies who have weighed in on the approval of the project; with so many parties involved, proofing, and vetting the project’s specifications, the chances are slim that the “testimony” provided is manipulative or disingenuous. The Department should be given the respect and professional courtesy of presuming their findings, recommendations, and explanations are honest and accurate.

Furthermore, failing to testify honestly under oath comes with criminal consequences. Implementing potentially criminal consequences for a Department which surely works hard and does its best for the County is overly harsh and could have a chilling effect on DPZ’s communications with the Planning Board. The Planning Board should have as much information available as possible to make the best possible decision for the County; DPZ should be empowered to provide recommendations, not disincentivized.

Second, successful prosecution of a claim of perjury – defined in Maryland as knowingly and falsely making a statement of material fact under oath¹ - is rare. To sustain a perjury charge would require proof that the speaker knowingly lied. That is an enormously difficult standard for the State’s Attorney to prove. Moreover, DPZ’s statements at Planning Board hearings are often opinions and recommendations, not objective statements of truth or falsehood. Opinions cannot be objectively proven false. This bill would end up being ineffective in its purpose.

DPZ has little reason to mislead the Planning Board, and should not be subjected to threats of criminal prosecution. This measure is excessive, and the MBIA respectfully requests that you vote NO to Council Bill 32-2019.

Thank you for your attention to this vital issue and your continued support of the local home building industry. If you have any questions about these comments and would like to discuss MBIA’s position further, please do not hesitate to contact me at abailey@marylandbuilders.org or (202) 815-4445.

Best regards,



Angelica Bailey, Esq., Vice President of Government Affairs

Cc: Councilman David Yungmann County Executive Calvin Ball
Councilman Opel Jones Sameer Sidh, Chief of Staff to the County Executive
Councilmember Elizabeth Walsh Valdis Lazdins, Director of Planning
Councilmember Deb Jung

¹ Maryland Code, Criminal Law § 9-101.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Angelica Bailey, have been duly authorized by
(name of individual)

Maryland Building Industry Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB32-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Angelica Bailey

Signature: 

Date: June 17, 2019

Organization: Maryland Building Industry Association

Organization Address: Fulton, MD 20759

Fulton, MD 20759

Number of Members: 1,000+

Name of Chair/President: Lori Graf, CEO

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June 17, 2019

CB32 – Support –

Lisa Markovitz President The People's Voice, and VP HCCA

Thank you for this legislation, we believe ~~the~~^x procedurally it makes sense for quasi-judicial proceedings to have all those who give testimony do so under oath, all the same, and be subject to questioning, as all are.

Especially with regard to the Planning Board's decision-making proceedings, it is very clear how very much reliance is placed upon the Technical Staff Report, and thus, having questions answered would be advantageous to all.

Both organizations' fully support this Bill.

Thank you.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Lisa Markovitch, have been duly authorized by
(name of individual)

Howard County Citizens Assn (HCCA) to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB 32 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Lisa Markovitch

Signature: [Handwritten Signature]

Date: 11/7/19

Organization: HCCA

Organization Address: ~~6000~~ PO Box 89
Elizabeth City 21041

Number of Members: 500

Name of Chair/President: SN Kohn

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Bruce A. Harvey
Testimony 06/17/19
Howard County Council
CB32-2019

My name is Bruce Harvey and I reside at 7792 Elmwood Road, Fulton, MD 20759. I have been a Howard County resident since 1978. I am also President and majority owner of Williamsburg Homes based here in Howard County. I am testifying against CB32-2019.

I don't understand the purpose of requiring the Planning and Zoning director or his employees testify under oath before the Planning Board. Both Montgomery and Prince George's Counties who have long standing Planning Boards have a process similar to Howard's current one. The Planning Staff presents and then the public testimony begins. Planning and Zoning employees do not have a financial interest in the projects they review so what incentive do they have to be anything but honest and straightforward? If this legislation is passed, **they will have an incentive to be extraordinarily cautious to avoid a potential legal liability.** I believe that will lead to shorter and more concise reports with less information and certainly nothing that can be challenged. If sworn testimony is taken, both sides (developer and affected residents) will potentially take advantage of misstated information to overturn or appeal a decision. From a County perspective, employees wouldn't want to subject themselves to a potential legal liability? I believe over time that it could be a detriment to hiring qualified individuals.

As a citizen and business owner in Howard County, I encourage you to vote no on this bill.

Thank you for hearing my testimony.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION


I, Dan O'Leary, have been duly authorized by
(name of individual)

Greater Highland Crossroads Assoc. to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB 32-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Dan O'Leary

Signature: 

Date: June 17, 2019

Organization: Greater Highland Crossroads Assoc.

Organization Address: Highland MD 20777

Highland MD 20777

Number of Members: 60

Name of Chair/President: Charlotte Williams, Pres.

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