

Introduced March 2, 2020
Public Hearing June 15, 2020
Council Action July 6, 2020
Executive Action July 7, 2020
Effective Date September 6, 2020

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 3

Bill No. 13-2020

Introduced by: Christiana Rigby
Co-sponsored by: Opel Jones and Liz Walsh

AN ACT amending the Howard County Code to establish a Notice and a Requirement to provide an offer to the County and Housing Commission to Purchase Rental Housing offered for sale in the County; and generally relating to the sale of Rental Housing.

Introduced and read first time March 2, 2020. Ordered posted and hearing scheduled.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on June 15, 2020.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on July 6 2020 and Passed , Passed with amendments , Failed .

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7th day of July, 2020 at 2:30 p.m.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive July 7, 2020

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

4/6/2020 Tabled
5/4/2020 removed from table
extended & put back on table
6/1/2020 removed from table, extended
& put back on table
7/1/2020 removed from table

1 **Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard**
2 **County Code is amended as follows:**

3 *By amending:*

4 *Title 13. Housing and Community Development*

5 *Subtitle 14. Notice - Sale of Multifamily Dwelling Units*

6
7
8 **HOWARD COUNTY CODE**

9 **Title 13. Housing and Community Development.**

10
11 **Subtitle 14. – Notice AND RIGHT TO PURCHASE - Sale of [[Multifamily Dwelling Units]]**

12 **RENTAL HOUSING**

13
14 **Sec. 13.1400. - Definitions.**

15 (a) *Commission* means the Howard County Housing Commission.

16 (b) *Department* means the Department of Housing and Community Development.

17 (c) *Owner* means an individual or entity holding title to rental housing.

18 (d) *Rental Housing* means a multiple-family dwelling, or a group of multiple-family dwellings
19 operated as one entity, with a total of five or more rental units.

20 (e) *Sale, sell or selling* means:

21 (1) Transfer of title to rental housing;

22 (2) Transfer in a 12-month period of a majority interest in ownership of the rental housing;

23 (3) TRANSFER IN A 12-MONTH PERIOD OF A MAJORITY INTEREST IN OWNERSHIP OF AN
24 ENTITY HOLDING TITLE TO THE RENTAL HOUSING; or

25 (34) Lease of rental housing for more than seven years.

26 (f) *Tenant* means an individual who lives in a rental housing unit with the owner's consent and
27 is responsible for paying rent to the owner.

1 (g) *Tenant organization* means an association of tenants of rental housing that represents tenants
2 of at least 30 percent of the occupied units in the rental housing.

3 (h) *Title* means:

4 (1) A legal or equitable ownership interest in rental housing; or

5 (2) A legal, equitable, or beneficial interest in a partnership, limited partnership,
6 corporation, trust, or other person who is not an individual, that has a legal or equitable
7 interest in rental housing.

8

9 **Sec. 13.1401. - Purpose.**

10 The purpose of this subtitle is to ADDRESS A SHORTAGE OF AFFORDABLE RENTAL HOUSING IN
11 THE COUNTY AND TO increase opportunities for the Department and the Commission to expand
12 the number of affordable dwelling units available in the County by requiring an owner of rental
13 housing to FIRST provide notice AND A WRITTEN OFFER TO PURCHASE to the Department, the
14 Commission, and a tenant organization when the owner offers the rental housing for sale either
15 in whole or in part TO ANOTHER PARTY.

16

17 **Sec. 13.1402. - Notice required.**

18 (a) *Notice of Intent to Sell.* Unless otherwise provided by law, no later than three days after
19 offering the rental housing for sale, the owner [[must]] SHALL provide BY FIRST CLASS MAIL
20 TO THE DEPARTMENT, THE COMMISSION, AND TENANTS OF THE RENTAL HOUSING written notice
21 of the owner's intent to sell [[to the Department and the Commission by first-class mail]] THE
22 PROPERTY. ANY CONTRACT OF SALE SHALL COMPLY WITH THE REQUIREMENTS OF THIS
23 SUBTITLE PRIOR TO ENTERING INTO A NON-CONTINGENT CONTRACT OF SALE OF RENTAL
24 HOUSING. THE OWNER MAY ENTER INTO A CONTRACT OF SALE FOR RENTAL HOUSING THAT IS
25 CONTINGENT UPON THE COUNTY'S OR THE COMMISSION'S WAIVER OF RIGHTS PURSUANT TO THIS
26 SUBTITLE.

1 (b) *Notice upon [[Sale]] THE EXECUTION OF A BONA FIDE CONTRACT OF SALE.* Unless otherwise
2 provided by law, no later than ten days after the EXECUTION OF A BONA FIDE CONTRACT OF sale
3 of rental housing , the owner [[must]] SHALL provide written notice of the sale:

4 (1) To each tenant [[and tenant organization, if any,]] in the rental housing by first-class
5 AND TO ANY TENANT ORGANIZATION, IF ANY, BY CERTIFIED mail, RETURN RECEIPT
6 REQUESTED;

7 (2) By conspicuously posting the notice in public areas of the rental housing; and

8 (3) To the Department of Inspections, Licenses and Permits by [[first-class]] CERTIFIED
9 mail, RETURN RECEIPT REQUESTED; and

10 (4) To the Department and the Commission by [[first class]] CERTIFIED mail, RETURN
11 RECEIPT REQUESTED with a list identifying each tenant and the tenant's address.

12 (c) *NOTICE COMPLIANCE.* THE OWNER SHALL ISSUE A CERTIFICATE OF NOTICE COMPLIANCE FOR
13 THE SALE OF RENTAL HOUSING TO THE COUNTY IN A FORM APPROPRIATE FOR RECORDATION IN
14 THE LAND RECORDS.

15 (d) *ENFORCEMENT.*

16 (1) ~~THE DEPARTMENT COUNTY~~ MAY ENFORCE THIS PROVISION BY:

17 (A) INVESTIGATING ANY ALLEGED VIOLATION;

18 (B) ISSUING A SUMMONS OR SUBPOENA TO COMPEL THE ATTENDANCE OF A PERSON OR THE
19 PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE;

20 ~~(C) ISSUING A NOTICE OF VIOLATION ORDERING ABATEMENT AND COMPLIANCE;~~

21 ~~(D)~~ REPORTING A VIOLATION TO ANY OTHER APPROPRIATE GOVERNMENT AGENCY;

22 ~~(E)~~ INFORMAL CONCILIATION BETWEEN A COMPLAINANT AND AN ALLEGED VIOLATOR;

23 ~~(F)~~ DISMISSING A COMPLAINT WHEN THE ~~DIRECTOR OF THE DEPARTMENT COUNTY~~
24 DETERMINES THAT THERE IS INSUFFICIENT EVIDENCE OF A VIOLATION;

25 ~~(G)~~ OBTAINING INJUNCTIVE OR OTHER APPROPRIATE JUDICIAL RELIEF, SUCH AS AN ORDER
26 TO:

- (1) REQUIRE COMPLIANCE WITH A SUMMONS OR A SUBPOENA;
- (2) REQUIRE AN ALLEGED VIOLATOR OR WITNESS TO ATTEND A ~~DEPARTMENT MEETING~~
~~OR OTHER PROCEEDING CONCERNING THE ALLEGED VIOLATION;~~
- (3) REQUIRE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE;
- (4) REQUIRE TRANSFER OF DOCUMENTS OR OTHER EVIDENCE TO THE COURT; OR
- (5) PROHIBIT THE DESTRUCTION OF DOCUMENTS OR OTHER EVIDENCE;
- (~~H~~G) ORDERING ANY APPROPRIATE FINANCIAL, LEGAL, OR EQUITABLE RELIEF TO A
TENANT INJURED BY A VIOLATION OF THIS CHAPTER;
- (I) ANY OTHER APPLICABLE ENFORCEMENT ACTION THAT THE ~~DEPARTMENT-COUNTY~~
COULD TAKE TO ENFORCE A VIOLATION;
- (J) DEVELOPING, CONDUCTING, OR ASSISTING IN EDUCATIONAL AND INFORMATION
PROGRAMS CONCERNING THE REQUIREMENTS OF THIS CHAPTER; AND
- (K) ADOPTING REGULATIONS TO IMPLEMENT THIS CHAPTER.

(2) THE RENTAL HOUSING LICENSE ISSUED UNDER SUBTITLE 9 OF TITLE 14 OF THIS CODE IS SUBJECT TO REVOCATION BY THE DIRECTOR OF THE HOWARD COUNTY DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS. IF THE OWNER OF THE RENTAL HOUSING VIOLATES THE PROVISIONS OF 13.1403, THEN REVOCATION MAY OCCUR AFTER SERVICE OF NOTICE DESCRIBING THE VIOLATION UNDER THIS SUBTITLE ~~AND A REASONABLE OPPORTUNITY TO CURE THE VIOLATION~~ AND THE REVOCATION CAN BE ENFORCED FOR UP TO 24 MONTHS. NOTICE SHALL BE SERVED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 14.903(C).

~~(E) ANY SALE OF RENTAL HOUSING IN VIOLATION OF THIS CHAPTER IS VOID.~~

~~(F)~~ THIS CHAPTER DOES NOT LIMIT ANY OTHER LEGAL RIGHT AVAILABLE TO A PERSON.

~~(G)~~ NOTHING HEREIN CREATES A THIRD-PARTY RIGHT IN ANY INDIVIDUAL TENANT.

SECTION 13.1403. – RIGHT TO PURCHASE

1 (A) *RIGHT TO PURCHASE.* AN OWNER SHALL OFFER THE COUNTY AND COMMISSION THE RIGHT
2 TO BUY RENTAL HOUSING IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 13.1402 THIS
3 SUBTITLE, EXCEPT IF THE PROPERTY MEETS THE REQUIREMENTS UNDER SECTION 13.1403(F).

4 (B) *REQUIREMENTS FOR OFFER.* AN OFFER REQUIRED BY SUBSECTION (A) SHALL:

5 (1) BE IN WRITING;

6 (2) BE ON COMMERCIALY REASONABLE TERMS AND INCLUDE SUBSTANTIALLY THE SAME
7 TERMS AND CONDITIONS UPON WHICH THE OWNER WILL OFFER THE PROPERTY FOR SALE ON
8 THE COMMERCIAL MARKET OR WHICH ARE CONTAINED IN A CONTINGENT BONA FIDE
9 CONTRACT OF SALE EXECUTED BY THE OWNER AND A THIRD PARTY; AND

10 (3) REMAIN OPEN FOR ~~90~~ 45 DAYS AFTER IT IS RECEIVED, FOR THE COUNTY AND
11 COMMISSION.

12 (C) *INFORMATION AND INSPECTION.* THE OWNER SHALL GIVE THE COUNTY AND COMMISSION:

13 (1) ANY INFORMATION ABOUT THE RENTAL HOUSING RELEVANT TO EXERCISING THE RIGHT
14 OF PURCHASE, SUCH AS ARCHITECTURAL AND ENGINEERING PLANS AND SPECIFICATIONS,
15 AND OPERATING DATA; AND

16 (2) ACCESS TO THE RENTAL HOUSING TO INSPECT THE PROPERTY AND CONDUCT
17 REASONABLE TESTS AT REASONABLE TIMES AFTER REASONABLE NOTICE.

18 THE COUNTY OR COMMISSION SHALL PAY THE OWNER A REASONABLE DEPOSIT NOT TO
19 EXCEED THE ACTUAL COST OF REPRODUCING ANY ARCHITECTURAL AND ENGINEERING
20 PLANS THAT THE OWNER IS REQUESTED TO PROVIDE. THE OWNER SHALL REFUND THE
21 DEPOSIT WHEN THE PLANS ARE RETURNED TO THE OWNER.

22 (D) *EXERCISE OF RIGHT TO PURCHASE.*

23 (1) THE COUNTY OR COMMISSION MAY EXERCISE THE RIGHT TO PURCHASE BY ACCEPTING
24 THE OFFER WITHIN THE APPLICABLE PERIOD UNDER SUBSECTION (B)(3).

1 (2) THE OWNER SHALL SELL THE RENTAL HOUSING UNDER THE RIGHT TO PURCHASE IF THE
2 ACCEPTANCE INCLUDES SUBSTANTIALLY THE SAME TERMS AND CONDITIONS CONTAINED IN
3 THE OWNER'S BONA FIDE OFFER OR CONTINGENT CONTRACT OF SALE WITH A THIRD PARTY,
4 INCLUDING ANY CONTRACT TERM THAT PROVIDES FOR A REAL ESTATE COMMISSION
5 PAYABLE TO AN INDEPENDENT BROKER, NOT TO EXCEED 3 PERCENT OF THE SALES
6 PRICE. NOTWITHSTANDING THIS GENERAL REQUIREMENT OR ANY TERM OF THE CONTRACT,
7 THE COUNTY OR COMMISSION MAY CONDITION ITS ACCEPTANCE ON OBTAINING FINANCING
8 AT ANY TIME BEFORE THE DEADLINE IN PARAGRAPH (3) FOR COMPLETING THE SALE.

9 (3) THE OWNER AND THE COUNTY OR COMMISSION SHALL COMPLETE A SALE UNDER THIS
10 SUBSECTION WITHIN 180 DAYS AFTER THE COUNTY OR COMMISSION RECEIVES THE
11 OWNER'S OFFER UNLESS THE PARTIES AGREE IN WRITING TO EXTEND THE 180-DAY PERIOD.

12 (4) THE RIGHT TO PURCHASE APPLIES IN THE FOLLOWING ORDER OF PRIORITY:

13 (A) THE COUNTY; AND

14 (B) COMMISSION.

15 (E) *EXPIRATION OF RIGHT TO PURCHASE.* IF THE COUNTY AND COMMISSION DO NOT EXERCISE
16 THEIR RIGHTS TO PURCHASE WITHIN THE APPLICABLE PERIOD UNDER SUBSECTION (B)(3), THE
17 OWNER MAY SELL THE RENTAL HOUSING TO THE THIRD-PARTY BUYER UNDER SUBSTANTIALLY THE
18 SAME TERMS AND CONDITIONS OFFERED TO THE COUNTY AND COMMISSION.

19 (F) *SALES NOT REQUIRING RIGHT TO PURCHASE.* AN OWNER DOES NOT HAVE TO PROVIDE A RIGHT
20 TO PURCHASE FOR THE SALE OF THE FOLLOWING TRANSFERS OF A RENTAL FACILITY:

21 (1) ANY TRANSFER MADE PURSUANT TO THE TERMS OF A BONA FIDE MORTGAGE OR DEED
22 OF TRUST AGREEMENT, EXCLUDING AN INDEMNITY DEED OF TRUST;

23 (2) ANY TRANSFER TO A MORTGAGEE IN LIEU OF FORECLOSURE OR ANY TRANSFER
24 PURSUANT TO ANY OTHER PROCEEDINGS, ARRANGEMENT OR DEED IN LIEU OF
25 FORECLOSURE;

1 (3) ANY TRANSFER MADE PURSUANT TO A JUDICIAL SALE OR OTHER JUDICIAL PROCEEDING
2 BROUGHT TO SECURE PAYMENT OF A DEBT OR FOR THE PURPOSE OF SECURING THE
3 PERFORMANCE OF AN OBLIGATION;

4 (4) ANY TRANSFER OF THE INTEREST OF ONE CO-TENANT TO ANOTHER CO-TENANT BY
5 OPERATION OF LAW OR OTHERWISE;

6 (5) ANY TRANSFER MADE BY WILL OR DESCENT OR BY INTERSTATE DISTRIBUTION;

7 (6) ANY TRANSFER MADE TO ANY MUNICIPAL, COUNTY OR STATE GOVERNMENT OR TO ANY
8 AGENCIES, INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS THEREOF;

9 (7) ANY TRANSFER TO AN OWNER'S SPOUSE OR CHILD; OR

10 (8) ANY TRANSFER INTO A PARTNERSHIP OR CORPORATION WHOLLY OWNED BY THE
11 PERSON(S) SO TRANSFERRING.

12 (G) *FORGOING THE RIGHT TO PURCHASE FOR AFFORDABLE ~~OR SENIOR~~ UNITS.* IF A RENTAL HOUSING
13 OWNER ENTERS A BINDING AGREEMENT WITH THE COUNTY OR COMMISSION TO DESIGNATE AND
14 MAINTAIN THE GREATER OF EITHER THE EXISTING PERCENTAGE OR AT LEAST 20 PERCENT OF THE
15 UNITS IN THE RENTAL HOUSING OFFERED FOR SALE CLASSIFIED AS ~~SENIOR OR~~ AFFORDABLE TO
16 PERSONS OF ELIGIBLE INCOME (AS DEFINED IN SECTION ~~28.116~~ 13.1303(i) OF THE COUNTY CODE)
17 FOR AT LEAST 40 YEARS, THEN THE OWNER DOES NOT HAVE TO OFFER A RIGHT TO PURCHASE AS
18 PROVIDED IN THIS SECTION.

19 (H) *FORGOING THE RIGHT TO PURCHASE IN A TIMELY MANNER.* THE COUNTY OR COMMISSION
20 SHALL, WITHIN 7 DAYS OF THE NOTICE OF THE SALE UNDER SECTION 13.1402(A) OR (B), NOTIFY
21 THE OWNER OF A RENTAL HOUSING DEVELOPMENT:

22 (1) THAT NEITHER WILL PURCHASE THE PROPERTY OFFERED FOR SALE IF THE PURCHASE
23 WOULD:

24 (A) INCREASE THE POVERTY LEVEL IN A CENSUS TRACT BLOCK GROUP IF THE
25 POVERTY LEVEL IN THE CENSUS TRACT BLOCK GROUP IS 10% OR GREATER; OR

26 (B) INCREASE THE POVERTY RATE OF A CENSUS TRACT BLOCK GROUP TO 10% OR
27 GREATER; OR

1 OR IF THERE IS NO INTENT TO PURSUE THE PURCHASE OF THE PROPERTY.

2 (i) CERTIFICATION TO DEPARTMENT OF FINANCE. THE DEPARTMENT OF FINANCE SHALL DEVELOP A
3 METHOD TO CERTIFY THAT THE TRANSACTION MEETS THE REQUIREMENTS OF THIS SECTION.

4
5 **Sec. 13.1404. - Purchase.**

6 (a) *Purchase.* IN ADDITION TO THE RIGHT TO PURCHASE SET FORTH IN SECTION 13.1403, THE
7 ~~[[The]] Department-COUNTY~~, Commission, or the tenant organization, if any, may negotiate
8 with the owner to purchase the rental housing.

9 (b) *Information and Inspection.* Upon entering into negotiations and on request the owner shall
10 give the ~~Department-COUNTY~~, the Commission, and any tenant organization:

11 (1) Any information about the rental housing relevant to purchasing the rental housing, such
12 as architectural and engineering plans and specifications, and operating data; or

13 (2) Access to the rental housing to inspect the property and conduct reasonable tests at
14 reasonable times after reasonable notice.

15 (c) *The ~~Department-COUNTY~~ or Commission.* The ~~Department-COUNTY~~ or Commission may
16 make an offer to purchase the rental housing in accordance with section 13.407. ~~[[At least 20~~
17 ~~percent of the units of any rental housing purchased by the ~~Department-COUNTY~~ or~~
18 ~~Commission shall be maintained as affordable to persons of moderate income as defined in~~
19 ~~subtitle 4 of this title.]]~~

20
21 **SECTION 13.1405. AFFORDABLE UNITS.**

22 AT LEAST 20 PERCENT OF THE UNITS OF ANY RENTAL HOUSING PURCHASED BY THE ~~DEPARTMENT~~
23 ~~COUNTY~~ OR THE COMMISSION, UNDER THIS SUBTITLE, SHALL BE MAINTAINED AS AFFORDABLE, ~~IN~~
24 PERPETUITY FOR AT LEAST FORTY YEARS, TO HOUSEHOLDS WITH INCOME AT LEVELS AT OR BELOW
25 THE MODERATE-INCOME LEVEL AS DEFINED IN SECTION 13.1303(i) OF THIS CODE.

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Sec. 13. [[1404]]1406. - Regulations.

The Department may adopt regulations to implement this section.

Sec. 13. [[1405]]1407. - Annual reports to the Council.

Subject to section 22.1000 of the County Code, by February 1 of each year, the Department AND THE COMMISSION shall report AND PRESENT to the Council on activities under this subtitle for the prior calendar year, including:

- (a) Any notice of offer to sell received by the Department or Commission; and
- (b) The number of rental units the ~~Department~~ COUNTY or Commission acquired[[.]],

SPECIFICALLY:

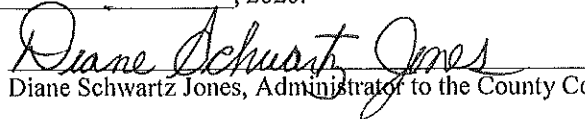
- (1) THE LOCATION OF AFFORDABLE UNITS;
- (2) THE UNIT MIX OF THE RENTAL HOUSING BROKEN DOWN BY MARKET RATE AND AFFORDABLE UNITS;
- (3) A BREAKDOWN OF AFFORDABLE UNITS BY NUMBER AND SIZE OF BEDROOMS;
- (4) A BREAKDOWN OF AFFORDABILITY LEVELS FOR THE AFFORDABLE UNITS;
- (5) A COMPARISON OF UNIT FINISHES FOR MARKET RATE AND AFFORDABLE UNITS;
- (6) A COMPARISON OF ADDITIONAL FEES BEYOND RENT FOR MARKET RATE AND AFFORDABLE UNITS;
- (7) CAPITAL INVESTMENTS AND AMENITIES MADE OR PLANNED FOR THE PROPERTY;
- (8) THE GENERAL CONDITION AND PLANNED MAINTENANCE FOR THE PROPERTY; AND
- (9) HOW THE OVERALL NUMBER OF EXISTING AFFORDABLE UNITS IN THE COUNTY RELATES TO THE AFFORDABLE HOUSING NEEDS, INCLUDING UNMET HOUSING DEMAND, IDENTIFIED IN THE MOST CURRENT HOUSING OPPORTUNITIES MASTER PLAN OR SIMILAR PLAN APPROVED BY THE COUNTY COUNCIL; ~~AND.~~

(10) A MAP SHOWING THE LOCATIONS AND TOTALS BY LOCATION OF (I) THE EXISTING AFFORDABLE UNITS IN THE COUNTY, (II) THE MARKET RATE UNITS, (III) THE APPROVED BUT NOT BUILT AFFORDABLE UNITS AND MARKET RATE UNITS; AND (IV) HOUSING UNIT ALLOCATIONS GRANTED FOR BOTH AFFORDABLE UNITS AND MARKET RATE UNITS.

Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland, that this Act shall become effective 61 days after its enactment.

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on July 7, 2020.


Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

Introduced March 2, 2020
Public Hearing June 15, 2020
Council Action July 6, 2020
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2020 Legislative Session

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Bill No. 13 -2020

Introduced by: Christiana Rigby
Co-sponsored by: Opel Jones and Liz Walsh

AN ACT amending the Howard County Code to establish a Notice and a Requirement to provide an offer to the County and Housing Commission to Purchase Rental Housing offered for sale in the County; and generally relating to the sale of Rental Housing.

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By order

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Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on June 15, 2020.

By order

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This Bill was read the third time on July 6, 2020 and Passed , Passed with amendments , Failed .

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Diane Schwartz Jones, Administrator

Scaled with the County Seal and presented to the County Executive for approval this ___ day of _____, 2020 at ___ a.m./p.m.

By order

Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive _____, 2020

Calvin Ball, County Executive

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6 REQUESTED;

7 (2) By conspicuously posting the notice in public areas of the rental housing; and

8 (3) To the Department of Inspections, Licenses and Permits by [[first-class]] CERTIFIED
9 mail, RETURN RECEIPT REQUESTED; and

10 (4) To the Department and the Commission by [[first class]] CERTIFIED mail, RETURN
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- 2 (2) REQUIRE AN ALLEGED VIOLATOR OR WITNESS TO ATTEND A DEPARTMENT MEETING
- 3 OR OTHER PROCEEDING CONCERNING THE ALLEGED VIOLATION;
- 4 (3) REQUIRE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE;
- 5 (4) REQUIRE TRANSFER OF DOCUMENTS OR OTHER EVIDENCE TO THE COURT; OR
- 6 (5) PROHIBIT THE DESTRUCTION OF DOCUMENTS OR OTHER EVIDENCE;
- 7 (H) ORDERING ANY APPROPRIATE FINANCIAL, LEGAL, OR EQUITABLE RELIEF TO A TENANT
- 8 INJURED BY A VIOLATION OF THIS CHAPTER;
- 9 (I) ANY OTHER APPLICABLE ENFORCEMENT ACTION THAT THE DEPARTMENT COULD TAKE
- 10 TO ENFORCE A VIOLATION;
- 11 (J) DEVELOPING, CONDUCTING, OR ASSISTING IN EDUCATIONAL AND INFORMATION
- 12 PROGRAMS CONCERNING THE REQUIREMENTS OF THIS CHAPTER; AND
- 13 (K) ADOPTING REGULATIONS TO IMPLEMENT THIS CHAPTER.

14

15 (2) THE RENTAL HOUSING LICENSE ISSUED UNDER SUBTITLE 9 OF TITLE 14 OF THIS CODE IS

16 SUBJECT TO REVOCATION BY THE DIRECTOR OF THE HOWARD COUNTY DEPARTMENT OF

17 INSPECTIONS, LICENSES AND PERMITS. IF THE OWNER OF THE RENTAL HOUSING VIOLATES THE

18 PROVISIONS OF 13.1403, THEN REVOCATION MAY OCCUR AFTER SERVICE OF NOTICE DESCRIBING

19 THE VIOLATION UNDER THIS SUBTITLE AND A REASONABLE OPPORTUNITY TO CURE THE

20 VIOLATION. NOTICE SHALL BE SERVED IN ACCORDANCE WITH THE PROVISIONS OF SECTION

21 14.903(c).

22

23 (E) ANY SALE OF RENTAL HOUSING IN VIOLATION OF THIS CHAPTER IS VOID.

24 (F) THIS CHAPTER DOES NOT LIMIT ANY OTHER LEGAL RIGHT AVAILABLE TO A PERSON.

25 (G) NOTHING HEREIN CREATES A THIRD-PARTY RIGHT IN ANY INDIVIDUAL TENANT.

26

27 **SECTION 13.1403. -- RIGHT TO PURCHASE**

1 (A) *RIGHT TO PURCHASE.* AN OWNER SHALL OFFER THE COUNTY AND COMMISSION THE RIGHT
2 TO BUY RENTAL HOUSING IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 13.1402, EXCEPT
3 IF THE PROPERTY MEETS THE REQUIREMENTS UNDER SECTION 13.1403(F).

4 (B) *REQUIREMENTS FOR OFFER.* AN OFFER REQUIRED BY SUBSECTION (A) SHALL:

5 (1) BE IN WRITING;

6 (2) BE ON COMMERCIALY REASONABLE TERMS AND INCLUDE SUBSTANTIALLY THE SAME
7 TERMS AND CONDITIONS UPON WHICH THE OWNER WILL OFFER THE PROPERTY FOR SALE ON
8 THE COMMERCIAL MARKET OR WHICH ARE CONTAINED IN A CONTINGENT BONA FIDE
9 CONTRACT OF SALE EXECUTED BY THE OWNER AND A THIRD PARTY; AND

10 (3) REMAIN OPEN FOR 90 DAYS AFTER IT IS RECEIVED, FOR THE COUNTY AND
11 COMMISSION.

12 (C) *INFORMATION AND INSPECTION.* THE OWNER SHALL GIVE THE COUNTY AND COMMISSION:

13 (1) ANY INFORMATION ABOUT THE RENTAL HOUSING RELEVANT TO EXERCISING THE RIGHT
14 OF PURCHASE, SUCH AS ARCHITECTURAL AND ENGINEERING PLANS AND SPECIFICATIONS,
15 AND OPERATING DATA; AND

16 (2) ACCESS TO THE RENTAL HOUSING TO INSPECT THE PROPERTY AND CONDUCT
17 REASONABLE TESTS AT REASONABLE TIMES AFTER REASONABLE NOTICE.

18 THE COUNTY OR COMMISSION SHALL PAY THE OWNER A REASONABLE DEPOSIT NOT TO
19 EXCEED THE ACTUAL COST OF REPRODUCING ANY ARCHITECTURAL AND ENGINEERING
20 PLANS THAT THE OWNER IS REQUESTED TO PROVIDE. THE OWNER SHALL REFUND THE
21 DEPOSIT WHEN THE PLANS ARE RETURNED TO THE OWNER.

22 (D) *EXERCISE OF RIGHT TO PURCHASE.*

23 (1) THE COUNTY OR COMMISSION MAY EXERCISE THE RIGHT TO PURCHASE BY ACCEPTING
24 THE OFFER WITHIN THE APPLICABLE PERIOD UNDER SUBSECTION (B)(3).

1 (2) THE UNIT MIX OF THE RENTAL HOUSING BROKEN DOWN BY MARKET RATE AND
2 AFFORDABLE UNITS;

3 (3) A BREAKDOWN OF AFFORDABLE UNITS BY NUMBER AND SIZE OF BEDROOMS;

4 (4) A BREAKDOWN OF AFFORDABILITY LEVELS FOR THE AFFORDABLE UNITS;

5 (5) A COMPARISON OF UNIT FINISHES FOR MARKET RATE AND AFFORDABLE UNITS;

6 (6) A COMPARISON OF ADDITIONAL FEES BEYOND RENT FOR MARKET RATE AND
7 AFFORDABLE UNITS;

8 (7) CAPITAL INVESTMENTS AND AMENITIES MADE OR PLANNED FOR THE PROPERTY;

9 (8) THE GENERAL CONDITION AND PLANNED MAINTENANCE FOR THE PROPERTY;

10 (9) HOW THE OVERALL NUMBER OF EXISTING AFFORDABLE UNITS IN THE COUNTY
11 RELATES TO THE AFFORDABLE HOUSING NEEDS, INCLUDING UNMET HOUSING
12 DEMAND, IDENTIFIED IN THE MOST CURRENT HOUSING OPPORTUNITIES MASTER
13 PLAN OR SIMILAR PLAN APPROVED BY THE COUNTY COUNCIL; AND

14
15 (10) A MAP SHOWING THE LOCATIONS AND TOTALS BY LOCATION OF (I) THE EXISTING
16 AFFORDABLE UNITS IN THE COUNTY, (II) THE MARKET RATE UNITS, (III) THE APPROVED
17 BUT NOT BUILT AFFORDABLE UNITS AND MARKET RATE UNITS; AND (IV) HOUSING UNIT
18 ALLOCATIONS GRANTED FOR BOTH AFFORDABLE UNITS AND MARKET RATE UNITS.

19
20 *Section 2. And Be It Further Enacted by the County Council of Howard County,*
21 *Maryland, that this Act shall become effective 61 days after its enactment.*

1 (1) Any information about the rental housing relevant to purchasing the rental housing, such
2 as architectural and engineering plans and specifications, and operating data; or

3 (2) Access to the rental housing to inspect the property and conduct reasonable tests at
4 reasonable times after reasonable notice.

5 (c) *The Department or Commission.* The Department or Commission may make an offer to
6 purchase the rental housing in accordance with section 13.407. [[At least 20 percent of the
7 units of any rental housing purchased by the Department or Commission shall be maintained
8 as affordable to persons of moderate income as defined in subtitle 4 of this title.]]

9
10 **SECTION 13.1405. AFFORDABLE UNITS.**

11 AT LEAST 20 PERCENT OF THE UNITS OF ANY RENTAL HOUSING PURCHASED BY THE DEPARTMENT
12 OR THE COMMISSION SHALL BE MAINTAINED AS AFFORDABLE, IN PERPETUITY, TO HOUSEHOLDS
13 WITH INCOME AT LEVELS AT OR BELOW THE MODERATE-INCOME LEVEL AS DEFINED IN SECTION
14 13.1303(i) OF THIS CODE.

15
16 **Sec. 13.1406. - Regulations.**

17 The Department may adopt regulations to implement this section.

18
19 **Sec. 13.1407. Annual reports to the Council.**

20 Subject to section 22.1000 of the County Code, by February 1 of each year, the Department
21 AND THE COMMISSION shall report AND PRESENT to the Council on activities under this subtitle
22 for the prior calendar year, including:

23 (a) Any notice of offer to sell received by the Department or Commission; and

24 (b) The number of rental units the Department or Commission acquired[[]], SPECIFICALLY:

25 (1) THE LOCATION OF AFFORDABLE UNITS;

1 (3) ANY TRANSFER MADE PURSUANT TO A JUDICIAL SALE OR OTHER JUDICIAL PROCEEDING
2 BROUGHT TO SECURE PAYMENT OF A DEBT OR FOR THE PURPOSE OF SECURING THE
3 PERFORMANCE OF AN OBLIGATION;

4 (4) ANY TRANSFER OF THE INTEREST OF ONE CO-TENANT TO ANOTHER CO-TENANT BY
5 OPERATION OF LAW OR OTHERWISE;

6 (5) ANY TRANSFER MADE BY WILL OR DESCENT OR BY INTESTATE DISTRIBUTION;

7 (6) ANY TRANSFER MADE TO ANY MUNICIPAL, COUNTY OR STATE GOVERNMENT OR TO ANY
8 AGENCIES, INSTRUMENTALITIES OR POLITICAL SUBDIVISIONS THEREOF;

9 (7) ANY TRANSFER TO AN OWNER'S SPOUSE OR CHILD; OR

10 (8) ANY TRANSFER INTO A PARTNERSHIP OR CORPORATION WHOLLY OWNED BY THE
11 PERSON(S) SO TRANSFERRING.

12 (G) *FORGOING THE RIGHT TO PURCHASE FOR AFFORDABLE OR SENIOR UNITS.* IF A RENTAL HOUSING
13 OWNER ENTERS A BINDING AGREEMENT WITH THE COUNTY OR COMMISSION TO DESIGNATE AND
14 MAINTAIN THE GREATER OF EITHER THE EXISTING PERCENTAGE OR AT LEAST 20 PERCENT OF THE
15 UNITS IN THE RENTAL HOUSING OFFERED FOR SALE CLASSIFIED AS SENIOR OR AFFORDABLE (AS
16 DEFINED IN SECTION 28.116 OF THE COUNTY CODE) FOR AT LEAST 40 YEARS, THEN THE OWNER
17 DOES NOT HAVE TO OFFER A RIGHT TO PURCHASE AS PROVIDED IN THIS SECTION.

18
19 **Sec. 13.1404. Purchase.**

20 (a) *Purchase.* IN ADDITION TO THE RIGHT TO PURCHASE SET FORTH IN SECTION 13.1403, THE
21 ~~[[The]]~~ Department, Commission, or the tenant organization, if any, may negotiate with the
22 owner to purchase the rental housing.

23 (b) *Information and Inspection.* Upon entering into negotiations and on request the owner shall
24 give the Department, the Commission, and any tenant organization:

1 (2) THE OWNER SHALL SELL THE RENTAL HOUSING UNDER THE RIGHT TO PURCHASE IF THE
2 ACCEPTANCE INCLUDES SUBSTANTIALLY THE SAME TERMS AND CONDITIONS CONTAINED IN
3 THE OWNER'S BONA FIDE OFFER OR CONTINGENT CONTRACT OF SALE WITH A THIRD PARTY,
4 INCLUDING ANY CONTRACT TERM THAT PROVIDES FOR A REAL ESTATE COMMISSION
5 PAYABLE TO AN INDEPENDENT BROKER, NOT TO EXCEED 3 PERCENT OF THE SALES
6 PRICE. NOTWITHSTANDING THIS GENERAL REQUIREMENT OR ANY TERM OF THE CONTRACT,
7 THE COUNTY OR COMMISSION MAY CONDITION ITS ACCEPTANCE ON OBTAINING FINANCING
8 AT ANY TIME BEFORE THE DEADLINE IN PARAGRAPH (3) FOR COMPLETING THE SALE.

9 (3) THE OWNER AND THE COUNTY OR COMMISSION SHALL COMPLETE A SALE UNDER THIS
10 SUBSECTION WITHIN 180 DAYS AFTER THE COUNTY OR COMMISSION RECEIVES THE
11 OWNER'S OFFER UNLESS THE PARTIES AGREE IN WRITING TO EXTEND THE 180-DAY PERIOD.

12 (4) THE RIGHT TO PURCHASE APPLIES IN THE FOLLOWING ORDER OF PRIORITY:

13 (A) THE COUNTY; AND

14 (B) COMMISSION.

15 (E) *EXPIRATION OF RIGHT TO PURCHASE.* IF THE COUNTY AND COMMISSION DO NOT EXERCISE
16 THEIR RIGHTS TO PURCHASE WITHIN THE APPLICABLE PERIOD UNDER SUBSECTION (B)(3), THE
17 OWNER MAY SELL THE RENTAL HOUSING TO THE THIRD-PARTY BUYER UNDER SUBSTANTIALLY THE
18 SAME TERMS AND CONDITIONS OFFERED TO THE COUNTY AND COMMISSION.

19 (F) *SALES NOT REQUIRING RIGHT TO PURCHASE.* AN OWNER DOES NOT HAVE TO PROVIDE A RIGHT
20 TO PURCHASE FOR THE SALE OF THE FOLLOWING TRANSFERS OF A RENTAL FACILITY:

21 (1) ANY TRANSFER MADE PURSUANT TO THE TERMS OF A BONA FIDE MORTGAGE OR DEED
22 OF TRUST AGREEMENT;

23 (2) ANY TRANSFER TO A MORTGAGEE IN LIEU OF FORECLOSURE OR ANY TRANSFER
24 PURSUANT TO ANY OTHER PROCEEDINGS, ARRANGEMENT OR DEED IN LIEU OF
25 FORECLOSURE;

Amendment | to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 1

(Clarifies that any entity that constitutes a majority ownership holding title to rental housing is subject to the Notice requirement.)

1 On page 1, in line 23, before the word "or", insert "(3) TRANSFER IN A 12-MONTH PERIOD OF A
2 MAJORITY INTEREST IN OWNERSHIP OF AN ENTITY HOLDING TITLE TO THE RENTAL HOUSING".

3
4 On page 1, Line 24 strike "(3)" and insert (4).

5
6
7

ADOPTED July 6, 2020
~~FAILED~~
SIGNATURE Opel Jones

Amendment 2 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 2

(Makes technical corrections)

1 On page 5, in line 2, strike "SECTION 13.402" and substitute "THIS SUBTITLE".

2

3 On page 7, in line 15, insert after the word "affordable" "TO PERSONS OF ELIGIBLE INCOME".

4

5 On page 7, in line 16, strike "28.116" and substitute "13.1303(i)".

6

7 On page 8, in line 12, after "COMMISSION" and substitute ", UNDER THIS SUBTITLE.".

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ADOPTED July 6, 2020
FAILED
SIGNATURE ~~Opel Jones~~

Amendment 3 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 3

(Changes the 90-day open period to 70 days.)

1 On page 5, in line 10, strike "90" and substitute "70" "45".

2

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ADOPTED July 6, 2020
FAILED _____
SIGNATURE Opel Jones

Amendment 1 to Amendment 3 to Council Bill No. 13-2020

BY: Deb Jung

Legislative Day No. 10

Date: July 6, 2020

Amendment No. 1 to Amendment 3

(This Amendment changes proposed open period from 70 days to 45.)

- 1 On page 1, in line 1, strike "70" and substitute "45".
- 2
- 3

ADOPTED July 6, 2020
FAILED
SIGNATURE Diane J. Jones

Amendment 3 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 3

(Changes the 90-day open period to 70 days.)

1 On page 5, in line 10, strike "90" and substitute "70".

2

3

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5

Amendment 4 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 4

(Clarifies that Indemnity Deeds of Trust are not excluded from this ordinance.)

- 1 On page 6, in line 22, after "AGREEMENT", insert "EXCLUDING AN INDEMNITY DEED OF TRUST".
- 2
- 3
- 4
- 5

ADOPTED July 6, 2020
FILED
SIGNATURE Diane A. Jones

Amendment 5 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 5

(Removes senior units as an option for forgoing the Right to Purchase provision.)

- 1 On page 7, in line 12, strike "*OR SENIOR*".
- 2
- 3 On the same page, in line 15, strike "*SENIOR OR*".
- 4
- 5
- 6

ACCEPTED July 6, 2020
FAILED
SIGNATURE Opel Jones

Amendment 6 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 6

(Add a "fast no" provision to the Right to Purchase process.)

1 On page 7, immediately following in line 18, insert the following:

2 "(H) FORGOING THE RIGHT TO PURCHASE IN A TIMELY MANNER. THE COUNTY OR COMMISSION
3 SHALL, WITHIN 7 DAYS OF THE NOTICE OF THE SALE UNDER SECTION 13.1402(A) OR (B), NOTIFY
4 THE OWNER OF A RENTAL HOUSING DEVELOPMENT:

5 (1) THAT NEITHER WILL PURCHASE THE PROPERTY OFFERED FOR SALE IF THE PURCHASE
6 WOULD:

7 (A) INCREASE THE POVERTY LEVEL IN A CENSUS TRACT BLOCK GROUP IF THE
8 POVERTY LEVEL IN THE CENSUS TRACT BLOCK GROUP IS 10% OR GREATER; OR

9 (B) INCREASE THE POVERTY RATE OF A CENSUS TRACT BLOCK GROUP TO 10% OR
10 GREATER; OR

11 (2) OR IF THERE IS NO INTENT TO PURSUE THE PURCHASE OF THE PROPERTY."
12

13
14 ACCEPTED July 6, 2020
15 FAILED
SIGNATURE Opel Jones

Amendment 7 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 7

(Changes the requirement that units remain affordable into perpetuity to a period no less than 40 years.)

- 1 On page 8, in line 12, strike “, IN PERPETUITY,” and substitute “FOR AT LEAST FORTY YEARS”.
- 2
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RECEIVED July 6, 2020
FILED
SIGNATURE *Opel Jones*

Amendment 8 to Council Bill No. 13-2020

**BY: The Chairperson at the request
of the County Executive**

**Legislative Day 10
Date: July 6, 2020**

Amendment No. 8

(This amendment corrects the entity taking action to be the County, not the Department of Housing and Community Development and corrects enforcement provisions.

This Amendment also:

- 1. Provides that at least 20 percent of the units of any rental housing purchased by the County or the Commission shall be maintained as affordable for 40 years, instead of in perpetuity;*
- 2. Adds provisions related to the Department of Finance; and*
- 3. Removes a reporting requirement that the Department does not typically maintain.)*

1 On page 3, in line 16, strike "DEPARTMENT" and substitute "COUNTY".

2

3 On page 3, strike line 20 in its entirety.

4

5 On page 3, in line 21, strike "D" and substitute "C".

6

7 On page 3, in line 22, strike "E" and substitute "D".

8

9 On page 3, in line 23, strike "F" and substitute "E" and, in the same line, strike "DIRECTOR OF THE
10 DEPARTMENT" and substitute "COUNTY".

11

12 On page 3, in line 25, strike "G" and substitute "F".

13

14 On page 4, in line 2, strike "DEPARTMENT MEETING"

15

16 On page 4, in line 3, strike "OR OTHER".

17

18 On page 4, in line 7, strike "H" and substitute "G".

ADOPTED July 6, 2020
FAILED
SIGNATURE Diana J. Giner

- 1
- 2 On page 4, in line 9, strike "DEPARTMENT" and substitute "COUNTY".
- 3
- 4 On page 4, in line 19, strike "AND A REASONABLE OPPORTUNITY TO CURE THE".
- 5
- 6 On page 4, in line 20, strike "VIOLATION" and substitute "AND THE REVOCATION CAN BE ENFORCED
- 7 FOR UP TO 24 MONTHS".
- 8
- 9 On page 4, strike line 23 in its entirety.
- 10
- 11 On page 4, in line 24, strike "F" and substitute "E".
- 12
- 13 On page 4, in line 25, strike "G" and substitute "F".
- 14
- 15 On page 7, in line 18, insert:
- 16 "(H) CERTIFICATION TO DEPARTMENT OF FINANCE. THE DEPARTMENT OF FINANCE SHALL DEVELOP
- 17 A METHOD TO CERTIFY THAT THE TRANSACTION MEETS THE REQUIREMENTS OF THIS SECTION.".
- 18
- 19 On page 7, in lines 21 and 24, in each instance, strike "Department" and substitute "COUNTY".
- 20
- 21 On page 8, in lines 5 and 7, in all three instances, strike "Department" and substitute "COUNTY".
- 22
- 23 On page 8, in line 11, strike "DEPARTMENT" and substitute "COUNTY".
- 24
- 25 ~~On page 8, in line 12, strike "IN PERPETUITY" and substitute "FOR 40 YEARS".~~
- 26
- 27 On page 8, in line 24, strike "Department" and substitute "COUNTY".
- 28
- 29 On page 9, in line 9, after "PROPERTY;" insert "AND".
- 30
- 31 On page 9, in line 13, strike "AND" and substitute a period.

() ()

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2 On page 9, strike lines 15 through 18, inclusive and in their entirety.

Amendment 1 to Amendment 8 to Council Bill No. 13-2020

BY: Christiana Rigby

Legislative Day No. 10

Date: July 6, 2020

Amendment No. 1 to Amendment 8

(This Amendment removes the 40-year language from the amendment. The issue is addressed in Amendment 7.)

1 On page 2, strike line 25, in its entirety.

2

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ADOPTED July 6, 2020
FAILED ~~_____~~
SIGNATURE Christiana Rigby

Amendment 2 to Amendment 8 to Council Bill No. 13-2020

BY: Liz Walsh

Legislative Day No. 10

Date:

Amendment No. 2 to Amendment 8

(This Amendment would keep the required affordable housing map requirement.)

1 On page 2, strike lines 29 and 31, in their entirety.

2

3 Strike page 3 in its entirety.

4

5

~~ADOPTED~~ July 6, 2020
~~FAILED~~
SIGNATURE *Diane A. Jones*

Amendment 8 to Council Bill No. 13-2020

BY: The Chairperson at the request
of the County Executive

Legislative Day 10
Date: July 6, 2020

Amendment No. 8

(This amendment corrects the entity taking action to be the County, not the Department of Housing and Community Development and corrects enforcement provisions.

This Amendment also:

- 1. Provides that at least 20 percent of the units of any rental housing purchased by the County or the Commission shall be maintained as affordable for 40 years, instead of in perpetuity;*
- 2. Adds provisions related to the Department of Finance; and*
- 3. Removes a reporting requirement that the Department does not typically maintain.)*

1 On page 3, in line 16, strike "DEPARTMENT" and substitute "COUNTY".

2

3 On page 3, strike line 20 in its entirety.

4

5 On page 3, in line 21, strike "D" and substitute "C".

6

7 On page 3, in line 22, strike "E" and substitute "D".

8

9 On page 3, in line 23, strike "F" and substitute "E" and, in the same line, strike "DIRECTOR OF THE
10 DEPARTMENT" and substitute "COUNTY".

11

12 On page 3, in line 25, strike "G" and substitute "F".

13

14 On page 4, in line 2, strike "DEPARTMENT MEETING"

15

16 On page 4, in line 3, strike "OR OTHER".

17

18 On page 4, in line 7, strike "H" and substitute "G".

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On page 4, in line 9, strike "DEPARTMENT" and substitute "COUNTY".

On page 4, in line 19, strike "AND A REASONABLE OPPORTUNITY TO CURE THE".

On page 4, in line 20, strike "VIOLATION" and substitute "AND THE REVOCATION CAN BE ENFORCED FOR UP TO 24 MONTHS".

On page 4, strike line 23 in its entirety.

On page 4, in line 24, strike "F" and substitute "E".

On page 4, in line 25, strike "G" and substitute "F".

On page 7, in line 18, insert:
"(H) CERTIFICATION TO DEPARTMENT OF FINANCE. THE DEPARTMENT OF FINANCE SHALL DEVELOP A METHOD TO CERTIFY THAT THE TRANSACTION MEETS THE REQUIREMENTS OF THIS SECTION."

On page 7, in lines 21 and 24, in each instance, strike "Department" and substitute "COUNTY".

On page 8, in lines 5 and 7, in all three instances, strike "Department" and substitute "COUNTY".

On page 8, in line 11, strike "DEPARTMENT" and substitute "COUNTY".

On page 8, in line 12, strike "IN PERPETUITY" and substitute "FOR 40 YEARS".

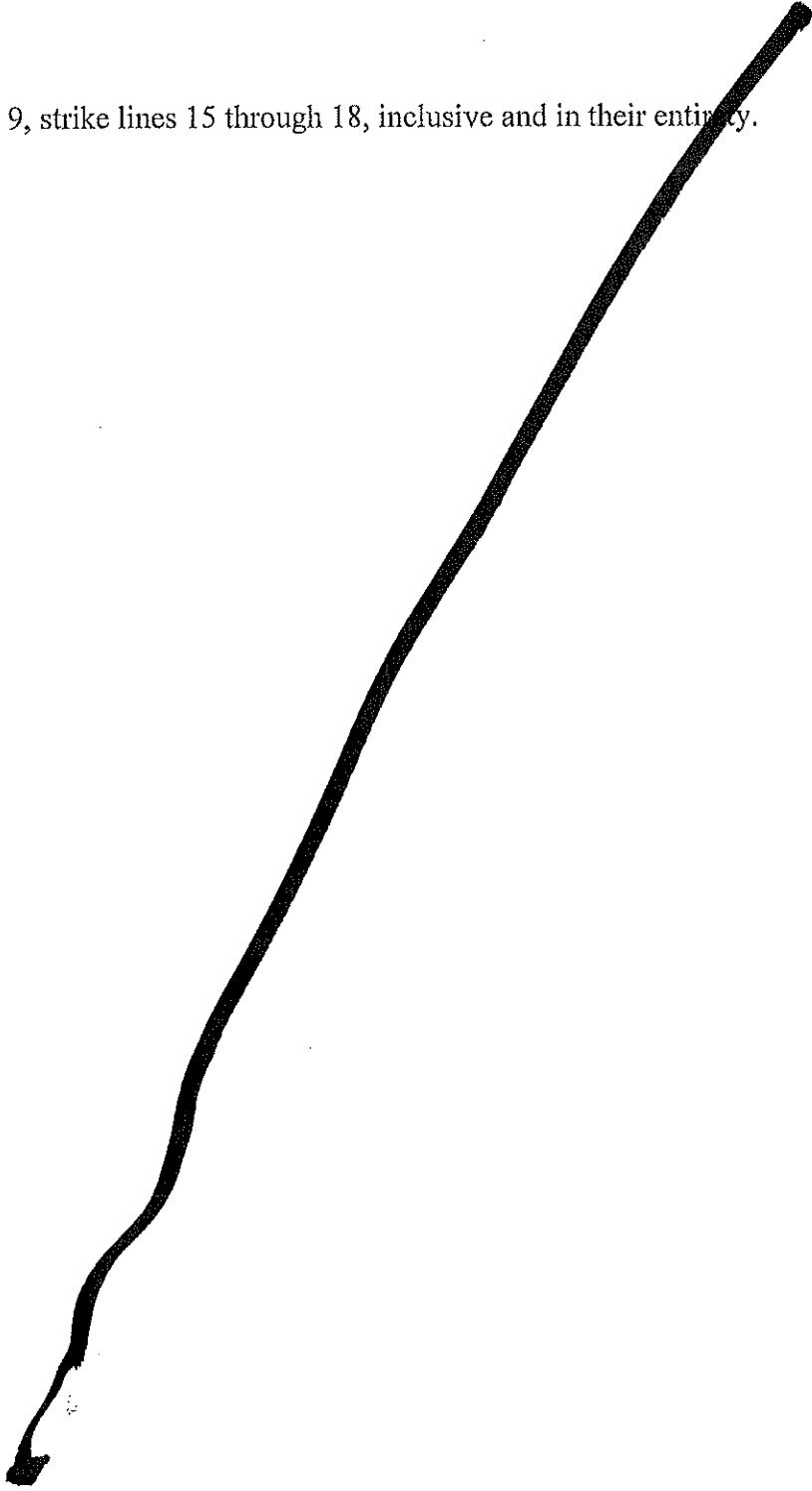
On page 8, in line 24, strike "Department" and substitute "COUNTY".

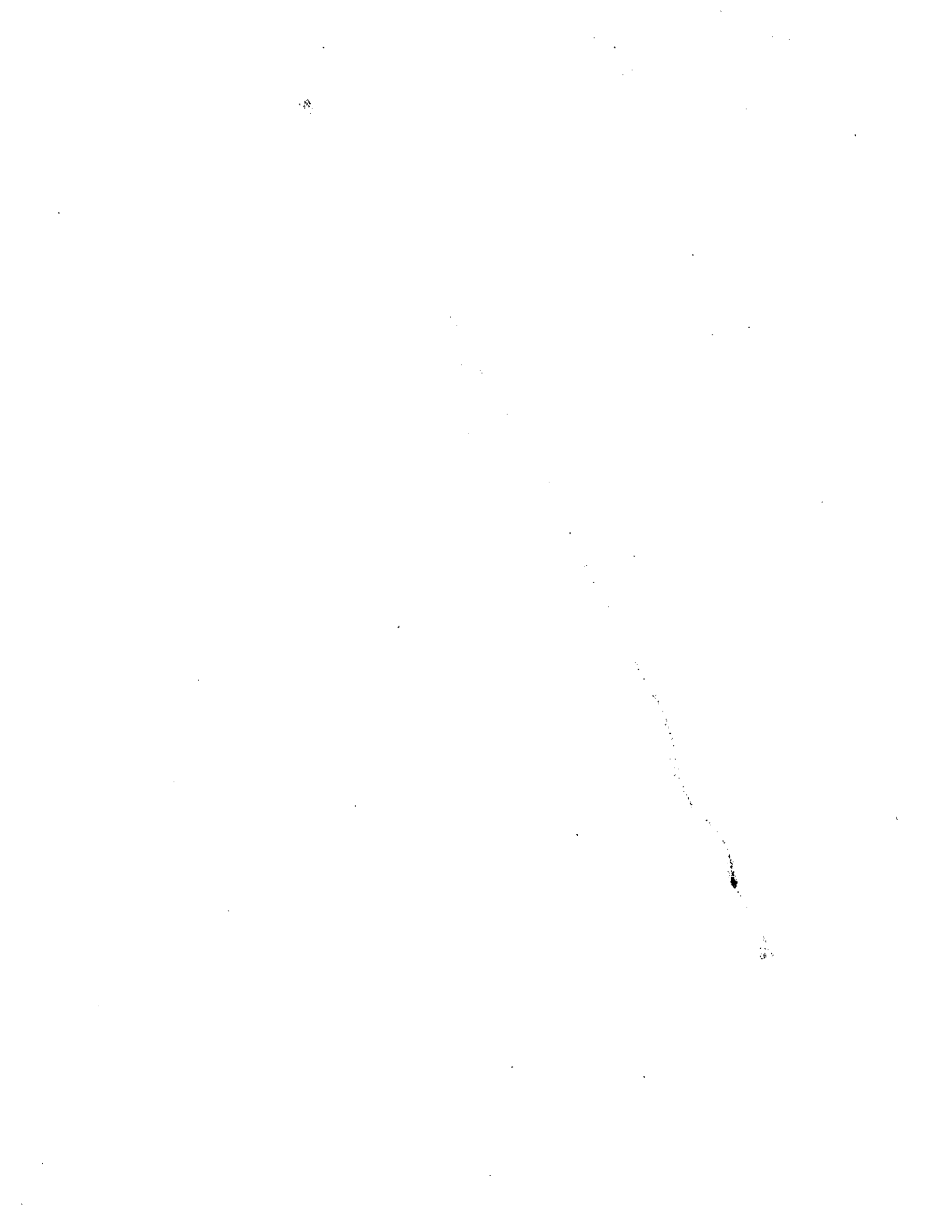
On page 9, in line 9, after "PROPERTY;" insert "AND".

On page 9, in line 13, strike "; AND" and substitute a period.

1

2 On page 9, strike lines 15 through 18, inclusive and in their entirety.





Amendment | to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 1

(Clarifies that any entity that constitutes a majority ownership holding title to rental housing is subject to the Notice requirement.)

1 On page 1, in line 23, before the word "or", insert "(3) TRANSFER IN A 12-MONTH PERIOD OF A
2 MAJORITY INTEREST IN OWNERSHIP OF AN ENTITY HOLDING TITLE TO THE RENTAL HOUSING".

3

4 On page 1, Line 24 strike "(3)" and insert (4).

5

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7

Amendment 2 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 2

(Makes technical corrections)

- 1 On page 5, in line 2, strike "SECTION 13.402" and substitute "THIS SUBTITLE".
- 2
- 3 On page 7, in line 15, insert after the word "affordable" "TO PERSONS OF ELIGIBLE INCOME".
- 4
- 5 On page 7, in line 16, strike "28.116" and substitute "13.1303(i)".
- 6
- 7 On page 8, in line 12, after "COMMISSION" and substitute ", UNDER THIS SUBTITLE,".
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Amendment 3 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 3

(Changes the 90-day open period to 70 days.)

1 On page 5, in line 10, strike "90" and substitute "70".

2

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Amendment 4 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 4

(Clarifies that Indemnity Deeds of Trust are not excluded from this ordinance.)

1 On page 6, in line 22, after "AGREEMENT", insert ", EXCLUDING AN INDEMNITY DEED OF TRUST".

2

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Amendment 5 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 5

(Removes senior units as an option for forgoing the Right to Purchase provision.)

- 1 On page 7, in line 12, strike "OR SENIOR".
- 2
- 3 On the same page, in line 15, strike "SENIOR OR".
- 4
- 5
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Amendment 6 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 6

(Add a "fast no" provision to the Right to Purchase process.)

1 On page 7, immediately following in line 18, insert the following:

2 "(H) FORGOING THE RIGHT TO PURCHASE IN A TIMELY MANNER. THE COUNTY OR COMMISSION
3 SHALL, WITHIN 7 DAYS OF THE NOTICE OF THE SALE UNDER SECTION 13.1402(A) OR (B), NOTIFY
4 THE OWNER OF A RENTAL HOUSING DEVELOPMENT:

5 (1) THAT NEITHER WILL PURCHASE THE PROPERTY OFFERED FOR SALE IF THE PURCHASE
6 WOULD:

7 (A) INCREASE THE POVERTY LEVEL IN A CENSUS TRACT BLOCK GROUP IF THE
8 POVERTY LEVEL IN THE CENSUS TRACT BLOCK GROUP IS 10% OR GREATER; OR

9 (B) INCREASE THE POVERTY RATE OF A CENSUS TRACT BLOCK GROUP TO 10% OR
10 GREATER; OR

11 (2) OR IF THERE IS NO INTENT TO PURSUE THE PURCHASE OF THE PROPERTY."
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Amendment 7 to Council Bill No. 13-2020

BY: Christiana Rigby
Opel Jones
Liz Walsh

Legislative Day 10

Date: July 6, 2020

Amendment No. 7

(Changes the requirement that units remain affordable into perpetuity to a period no less than 40 years.)

1 On page 8, in line 12, strike “, IN PERPETUITY,” and substitute “FOR AT LEAST FORTY YEARS”.

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Amendment 8 to Council Bill No. 13-2020

BY: The Chairperson at the request
of the County Executive

Legislative Day 10
Date: July 6, 2020

Amendment No. 8

(This amendment corrects the entity taking action to be the County, not the Department of Housing and Community Development and corrects enforcement provisions.

This Amendment also:

- 1. Provides that at least 20 percent of the units of any rental housing purchased by the County or the Commission shall be maintained as affordable for 40 years, instead of in perpetuity;*
- 2. Adds provisions related to the Department of Finance; and*
- 3. Removes a reporting requirement that the Department does not typically maintain.)*

1 On page 3, in line 16, strike "DEPARTMENT" and substitute "COUNTY".

2

3 On page 3, strike line 20 in its entirety.

4

5 On page 3, in line 21, strike "D" and substitute "C".

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7 On page 3, in line 22, strike "E" and substitute "D".

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9 On page 3, in line 23, strike "F" and substitute "E" and, in the same line, strike "DIRECTOR OF THE
10 DEPARTMENT" and substitute "COUNTY".

11

12 On page 3, in line 25, strike "G" and substitute "F".

13

14 On page 4, in line 2, strike "DEPARTMENT MEETING"

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16 On page 4, in line 3, strike "OR OTHER".

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18 On page 4, in line 7, strike "H" and substitute "G".

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On page 4, in line 9, strike "DEPARTMENT" and substitute "COUNTY".

On page 4, in line 19, strike "AND A REASONABLE OPPORTUNITY TO CURE THE".

On page 4, in line 20, strike "VIOLATION" and substitute "AND THE REVOCATION CAN BE ENFORCED FOR UP TO 24 MONTHS".

On page 4, strike line 23 in its entirety.

On page 4, in line 24, strike "F" and substitute "E".

On page 4, in line 25, strike "G" and substitute "F".

On page 7, in line 18, insert:
"(H) CERTIFICATION TO DEPARTMENT OF FINANCE. THE DEPARTMENT OF FINANCE SHALL DEVELOP A METHOD TO CERTIFY THAT THE TRANSACTION MEETS THE REQUIREMENTS OF THIS SECTION.".

On page 7, in lines 21 and 24, in each instance, strike "Department" and substitute "COUNTY".

On page 8, in lines 5 and 7, in all three instances, strike "Department" and substitute "COUNTY".

On page 8, in line 11, strike "DEPARTMENT" and substitute "COUNTY".

On page 8, in line 12, strike "IN PERPETUITY" and substitute "FOR 40 YEARS".

On page 8, in line 24, strike "Department" and substitute "COUNTY".

On page 9, in line 9, after "PROPERTY;" insert "AND".

On page 9, in line 13, strike "; AND" and substitute a period.

1

2 On page 9, strike lines 15 through 18, inclusive and in their entirety.

**Office of the County Auditor
Auditor's Analysis - Addendum**

Council Bill No. 13-2020

Introduced: March 2, 2020

Auditor: Michelle R. Harrod

Other Comments:

The Department of Housing and Community Development (the Department) has provided the following historical information regarding total funding to the Housing Commission.

**Five Year Funding to Housing Commission
Fiscal Year 2015 through Year-To-Date Fiscal Year 2020**

Fiscal Year	County Funding	CBDG/Home Funding	Commission Reimbursement to County	Commission Contribution
FY 2015	\$ 1,486,502.95	\$ 754,220.13	\$ (1,901,227.75)	\$ 242,181.76
FY 2016	1,207,570.96	1,307,360.41	(1,345,716.00)	178,939.96
FY 2017	196,014.73	249,917.96	(1,120,979.96)	191,721.40
FY 2018	388,864.63	220,984.96	(958,319.73)	210,761.54
FY 2019	1,138,573.41	220,984.96	(425,762.22)	223,254.96
FY 2020	238,698.00	172,033.06	(122,492.48)	65,962.55
Grand Total	\$ 4,656,224.68	\$ 2,925,501.48	\$ (5,874,498.14)	\$ 1,112,822.17

Note: Beginning in Fiscal Year 2018, the Housing Commission financials were officially separated from the Department. Prior to Fiscal Year 2018, the financials were co-mingled.

Table C attached provides additional detail, such as the purpose of this funding.

Table C

**Council Bill No. 13-2020 Right to Purchase
County Funding to the Housing Commission
Fiscal Year 2015 thru Fiscal Year 2020**

Purpose	Fiscal Year	County Funding	CBDG/Home Funding	Commission Reimbursement to County	State Funding	Commission Contribution	Comment -
Bridges Alliance Program	FY 2015	209,831.68					To Purchase properties for Bridges Alliance Program
Relocation Assistance - Beechcrest	FY 2015	1,112,176.82					Grant to relocation tenants on Beechcrest
Real Property Research Group	FY 2015	61,000.00					Real Property Rental Survey
Rehab	FY 2015	50,000.00		(215,998.00)			MIHU
Come Home to Howard County Exp	FY 2015	50,453.96				82,547.00	Come Home to Howard County Event
Miscellaneous	FY 2015	3,040.49		(1,606,108.00)			Admin
Relocation Assistance - Beechcrest	FY 2015		300,000.00				Grant to relocation tenants on Beechcrest
Relocation Assistance	FY 2015		375,098.38				Grant to relocation tenants on Beechcrest
Public Facilities - North Laurel / Safe House	FY 2015		79,121.75	(79,121.75)			Pay Safehouse - Vollmerhausen Rd rent & renovation to Recreation & Park
Public Facilities - Roger Carter	FY 2015					159,634.76	Pay Roger Carter Center debt
Bridges Alliance Program	FY 2016	500,000.00					To Purchase properties for Bridges Alliance Program
MIHU Purchases	FY 2016	707,570.96					To Purchase MIHU properties
Relocation Assistance - Burgess Mill	FY 2016		381,747.83				Grant to relocation tenants on Ellicott Terrace
Acquisition - Bickley	FY 2016		420,321.00				Grant to purchase Bickley House at 8518 Frederick Rd.
Rental Assistance (RAP)	FY 2016		10,000.00				RAP Grant, subgrant to Community Action Council
RAD Rehab	FY 2016		225,000.00				RAD Rehab Grant
BMC	FY 2016		19,200.00				
Guilford Road DRC/SEA	FY 2016		225,000.00				DRC/SEA Predevelopment Grant
Misc. Admin	FY 2016		2,091.58	(1,321,716.00)			Admin
Public Facilities - Safe House	FY 2016		24,000.00	(24,000.00)			Pay Safehouse - Vollmerhausen Rd rent to Recreation & Park
Public Facilities - Roger Carter	FY 2016					178,939.96	Pay Roger Carter Center debt
MIHU - North Amer Title - Albions & Sage	FY 2017	196,014.73		(899,995.00)			Admin
Safehouse Demolition	FY 2017		28,933.00				9275 Vollerhausen - Demolition
Public Facilities - Safe House / Roger Carter	FY 2017		220,984.96	(220,984.96)		191,721.40	Pay Roger Carter Center debt and Safehouse - Vollmerhausen Rd rent
MIHU Glenrobbin - North Amer Title	FY 2018	269,364.63		(737,334.77)			MIHU See Revenue
MIHU - 8480 Ice Crystal - Note North Amer Title	FY 2018	118,000.00					
MIHU Master Note	FY 2018	1,500.00					
Public Facilities - Safe House / Roger Carter	FY 2018		220,984.96	(220,984.96)		210,761.54	Pay Roger Carter Center debt and Safehouse - Vollmerhausen Rd rent
Riverwatch	FY 2019	565,300.00					County grant for land purchase at Riverwatch Apartment II
MIHU Purchases	FY 2019	550,773.41		(204,777.26)			Pay back to County - 8822 Glenrobbin Place CK#397
Rental Survey	FY 2019	22,500.00					County portion of 2018 Real Property Rental Survey
Public Facilities - Safe House / Roger Carter	FY 2019		220,984.96	(220,984.96)		223,254.96	Pay Roger Carter Center debt and Safehouse - Vollmerhausen Rd rent
7373 Kerry Hill	FY 2020	238,698.00					To purchase a shared equity property and waiting for County to resell
Rehab on Existing Units	FY 2020		49,540.58				Pay For New Venture property fire safety and exterior renovations projects
Public Facilities - Safe House / Roger Carter	FY 2020		122,492.48	(122,492.48)		65,962.55	Pay Roger Carter Center debt and Safehouse - Vollmerhausen Rd rent

Office of the County Auditor
Auditor's Analysis

Council Bill No. 13-2020

Introduced: March 2, 2020

Auditor: Michelle R. Harrod

Fiscal Impact:

Although the Howard County Housing Commission (the Commission) has indicated there would be a biannual administrative cost of \$50,000 to perform a rental housing survey, the full fiscal impact of this legislation cannot be determined.

To estimate cost of rental properties purchased by the County or the Commission, the attached **Table A** provides a list of apartment complexes that have sold in the past three years along with the purchase price.

Additional impacts of this legislation could be the cost of rental property purchased by the County and possible administrative costs to oversee the process. In addition, cost of enforcement and reporting to the Council may increase operating costs.

Purpose:

This bill would amend the County Code to establish an option for the County or Commission to purchase rental housing units under the Housing and Community Development title. **Table B**, attached, provides a summary of changes to Title 13, Subtitle 14.

Other Comments:

The Department of Housing and Community Development (the Department) has indicated that it does not have access to gather or maintain all the information noted under the reporting requirements. It further indicates that the Department is not equipped to handle enforcement.

The Department of Inspections, Licenses and Permits (DILP) has also raised concern regarding their role in enforcement of this proposed legislation. It indicated that the County would have limited authority for enforcement once a rental unit has been sold.

According to the Department, there are no current plans for the County to purchase rental housing units. It is more likely that the Commission would purchase rental housing units.

As the Commission is an independent organization, costs incurred by them should not impact the County. *To quantify potential County impact, we have requested information regarding historical funding the County has provided to the Commission.*

Table A

**Apartment Complexes Sold
FY 2018 through YTD FY 2020**

Seller	Purchasing Property Owner	Address	Year	Property Tax Acct ID	Purchase Date	Price	# Units
Azure Orchard LP	Orchard Meadows Apartments Owner LLC	3201 West Spring Dr	FY 2018	02-316986	5/4/2018	\$ 50,500,000	
Azure Orchard LP	Orchard Meadows Apartments Owner LLC	3300 Sonia Trail	FY 2018	02-331896			
Azure Orchard LP	Orchard Meadows Apartments Owner LLC	3411 Sonia Trail	FY 2018	02-593692			
Azure Orchard LP	Orchard Meadows Apartments Owner LLC	3410 Sonia Trail	FY 2018	02-593693			
Azure Orchard LP	Orchard Meadows Apartments Owner LLC	3150 N Ridge Rd	FY 2018	02-353563			
Goldstar Ashbury LLC	GK Tri-Texas, LLC	10095 Washington Blvd	FY 2018	06-397018	8/31/2017	\$ 27,250,000	
Community Homes Housing, Inc.	Enterprise Community Homes Housing, LLC	Eliots Oak Rd	FY 2018	15-009055	12/22/2017	\$ 5,488,000	
Community Homes Housing, Inc.	Enterprise Community Homes Housing, LLC	Twin Rivers Rd	FY 2018	15-009063	12/22/2017	\$ 5,684,000	
Community Homes Housing, Inc.	Enterprise Community Homes Housing, LLC	Cedar Ln	FY 2018	15-009071	12/22/2017	\$ 6,076,000	
Community Homes Housing, Inc.	Enterprise Community Homes Housing, LLC	Harpers Farm Rd	FY 2018	15-009098	12/22/2017	\$ 8,134,000	
Community Homes Housing, Inc.	Enterprise Community Homes Housing, LLC	Little Patuxent Pkwy	FY 2018	15-009101	12/22/2017	\$ 4,018,000	
DOH, Inc.	MLSFP Columbia I LLC	5361 Brook Way #3	FY 2018	15-017430	10/2/2017	\$ 64,000,000	
DC Start Cary LLC	Clary's Crossing Apartments LLC	11311 Little Patuxent Pk	FY 2018	15-067454	3/8/2018	\$ 38,385,556	
MP Cedar Lane Apartments LLC	KMF XI Ashton Green, LLC	5320 Cedar Ln	FY 2018	15-089016	7/20/2017	\$ 33,900,000	
Stellar Ashton Woods, LLC	Elms At Falls Run, LLC	8401 Oakton Lane Ellicott City	FY 2018	01-222678	10/12/2017	\$ 40,087,500	
Fairway Partners	Combined Columbia Glade LLC	5029 Columbia Rd	FY 2019	15-079673	10/22/2018	\$ 39,500,000	
Ryan Hamilton	Anil Abraham	9140 Baltimore St. Savage	FY 2019	06-430392	11/9/2018	\$ 450,000	
Lazy Hollow Partners	JB Timbers, LLC	8786 Cloudleap Ct	FY 2020	16-101087	1/3/2020	\$ 34,050,000	
API Columbia Town Center, LLC	Columbia 531, LLC	10360 Swift Stream Pl	FY 2020	15-019980	12/26/2019	\$ 133,700,000	
Oakland Place LLC	Oakland Heritage LLC	7525 Oakland Mills Rd	FY 2020	06-424910	12/10/2019	\$ 4,500,000	

Information obtained through Department of Assessment and Taxation (<https://sdat.dat.maryland.gov/RealProperty/Pages/default.aspx>) and Maryland Land Records (<https://mdlandrec.net/>)

We have requested the number of units from Department of Inspections, Licenses and Permits

**Table B – Title 13 – Housing and Community Development,
Subtitle 14 – Notice and Right to Purchase – Sale of Rental Housing**

Code Reference	Details
Sec 13.1402(a) and Sec 13.1403(a)	The proposed legislation requires owners of rental housing units to provide the County or Howard County Housing Commission (Commission) the first opportunity to purchase these units when selling their property.
Sec 13.1402(a) and Sec 13.1403(b)	The property owner may enter into a contract of sale provided it is contingent upon the County's or Commission's waiver of their right to purchase.
Sec 13.1402(b)	The owner must send notice of the execution of a bona fide contract of sale by certified return receipt requested mail to any tenant organization; the Department of Inspections, Licenses and Permits; and the Commission.
Sec 13.1403(c)	Information regarding the rental units and access to inspect the property must be granted to the County and the Commission.
Sec 13.1403(d)(2) and Sec 13.1403(d)(3)	The real estate commission cannot exceed 3 percent of the sales price. Sale must be complete within 180 days.
Sec 13.1403(f)	Certain sales are not subject to Right to Purchase; these are "forced sales" such as foreclosure, court ordered, or under a will.
Sec 13.1403(g) and Sec 13.1405	A minimum of 20 percent of units purchased by the County or Commission must be maintained as affordable in perpetuity.
Sec 13.1402(d)	The Department of Housing and Community Development is charged with enforcement of this statute.
Sec 13.1407	Additional detail will be required in the Annual Report to the Council.

**Office of the County Auditor
Auditor's Analysis**

Amendment 1
Council Bill No. 13-2020
Legislation Introduced: March 2, 2020
Auditor: Michelle R. Harrod

Fiscal Impact:

There is no fiscal impact of this amendment.

Purpose:

This amendment adds to the definition of sale, sell, or selling as a “[t]ransfer in a 12-month period of a majority interest ownership of an entity holding title to the rental housing.”

Other Comments:

None

Office of the County Auditor
Auditor's Analysis

Amendment 2
Council Bill No. 13-2020
Legislation Introduced: March 2, 2020
Auditor: Michelle R. Harrod

Fiscal Impact:

There is no fiscal impact of this amendment.

Purpose:

This amendment proposes the following technical corrections:

- It corrects several Section and Subtitle references; and
- It clarifies “affordable” to include persons of eligible income.

Other Comments:

None

Office of the County Auditor
Auditor's Analysis

Amendment 3
Council Bill No. 13-2020
Legislation Introduced: March 2, 2020
Auditor: Michelle R. Harrod

Fiscal Impact:

There is no fiscal impact of this amendment.

Purpose:

This amendment proposes a change in the requirement for the offer to remain open after it is received from 90 days to 70 days.

Other Comments:

None

Office of the County Auditor
Auditor's Analysis

Amendment 4
Council Bill No. 13-2020
Legislation Introduced: March 2, 2020
Auditor: Michelle R. Harrod

Fiscal Impact:

There is no fiscal impact of this amendment.

Purpose:

This amendment clarifies that an Indemnity Deed of Trust must provide a Right to Purchase notice.

Other Comments:

None

Office of the County Auditor
Auditor's Analysis

Amendment 5
Council Bill No. 13-2020
Legislation Introduced: March 2, 2020
Auditor: Michelle R. Harrod

Fiscal Impact:

There is no fiscal impact of this amendment.

Purpose:

This amendment removes senior units from Section 13.1403(g) Forgoing the Right to Purchase.

Other Comments:

None.

**Office of the County Auditor
Auditor's Analysis**

Amendment 6
Council Bill No. 13-2020
Legislation Introduced: March 2, 2020
Auditor: Michelle R. Harrod

Fiscal Impact:

There is no fiscal impact of this amendment.

Purpose:

This amendment adds a provision that requires the County and Commission to notify the owner of a rental unit offered for sale within 7 days if the intent is to not purchase the property.

Other Comments:

None.

Office of the County Auditor
Auditor's Analysis

Amendment 7
Council Bill No. 13-2020
Legislation Introduced: March 2, 2020
Auditor: Michelle R. Harrod

Fiscal Impact:

There is no fiscal impact of this amendment.

Purpose:

This amendment changes the requirement that units remain affordable in perpetuity to remaining affordable for at least forty years.

Other Comments:

None.

Office of the County Auditor
Auditor's Analysis

Amendment 8
Council Bill No. 13-2020
Legislation Introduced: March 2, 2020
Auditor: Michelle R. Harrod

Fiscal Impact:

The fiscal impact of this amendment is currently unknown.

Potential impact could be additional costs incurred by the Department of Finance in the development of a process to track these transactions. *We have requested this information from the Department of Finance.*

Purpose:

This amendment proposes the following changes:

- Clarifying that the entity taking action is the County, not the Department of Housing and Community Development;
- Removing from Section 13.1402(d) the requirement to issue a notice of violation ordering abatement and compliance;
- Clarifying in Section 13.1402(g)(2) that the alleged violator must attend a proceeding;
- Stating that revocation of a Rental Housing License can be enforced for up to 24 months;
- Removing the ability to void any sale of rental housing in violation of this Chapter;
- Adding the requirement for the Department of Finance to create a method to certify these transactions; and
- Specifying that the affordable housing designation is for 40 years.

Other Comments:

None.

Sayers, Margery

From: LINDA Wengel <lwengel@msn.com>
Sent: Tuesday, June 23, 2020 4:03 PM
To: CouncilMail
Subject: CB-13

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Some take aways from work session.

1. The Housing Opportunity Task Force, of which I am a member, decided on advice of counsel not to take a stand on CB-13.
2. Consider loss of tax revenue from Commission purchase of housing as a County contribution to increasing the supply of affordable housing and stabilizing rents.
3. Often when apartment developments are resold tenants are forced to vacate at the end of their leases. I doubt that the Housing Commission would force tenants out.
4. Alternatively, I see no reason why the MIHU mandate imposed on new apartment developments cannot be mandated when a development changes ownership.

Writing for myself,
Linda Wengel
Columbia, MD

Sayers, Margery

From: Tom Ballentine <tom.ballentine@naiop-md.org>
Sent: Wednesday, June 17, 2020 10:00 AM
To: Rigby, Christiana; CouncilMail
Cc: Williams, China; Harris, Michael; Gelwicks, Colette; Knight, Karen; Dvorak, Nicole; Yungmann, David; Jones, Opel; Walsh, Elizabeth; Jung, Deb
Subject: Follow up on CB 13-2020 Hearing Question and Answer re County Legal Authority
Attachments: Howard County - CB 13-2020 - Right of First Refusal - Hearing Question of Legal Authority - Followup - NAIOP Testimony Letter.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good Morning Councilmember Rigby –

I am writing to follow up on the discussion about legal authority at the CB 13-2020 bill hearing on Monday.

The attached letter sets out some points to consider related to state law and CB 13-2020.

Sincerely –

tb

Tom Ballentine

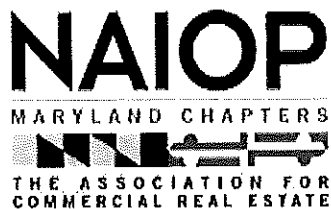
Vice President for Policy and Government Relations

NAIOP Maryland Chapters – *The Association for Commercial Real Estate*

Phone: 410.977.2053

Email: tom.ballentine@naiop-md.org

U.S. Mail: P.O. Box 16280 Baltimore, Maryland 21210



The Maryland Chapters of NAIOP represent more than 700 companies involved in commercial, industrial and mixed use real estate. Established in 1967 as the National Association of Industrial and Office Properties, today NAIOP is the nation's leading advocate for companies involved in commercial construction, land development, brokerage, property management, finance, architecture, engineering and law. For more information, please visit www.naiopmd.org

NAIOP

MARYLAND CHAPTERS

THE ASSOCIATION FOR
COMMERCIAL REAL ESTATE

June 17, 2020

The Honorable Christiana Rigby
Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043

Via Email: crigby@howardcountymd.gov; councilmail@howardcountymd.gov;

CB 13-2020 Rental Property – County Right to Purchase – Follow up on Question of County Legal Authority

Dear Councilmember Rigby and Council Members:

I am writing to follow up on the question and answer exchange between you and James Knott at the CB 13 bill hearing on Monday June 15, 2020. During his testimony Mr. Knott questioned whether the county had the authority to do what is proposed. I recall your reply was that the bill had been found to be legally sufficient.

NAIOP's concerns with the bill are explained in our hearing testimony and are based primarily on the market disruptions caused by the timing and length of the Commission's contingency period. Putting aside broader legal concepts, we also see a sizable gap between the provisions of CB 13-2020 and both the General Assembly statement of legislative intent and the authority to intervene in apartment sales granted to local governments by Real Property Article 11-138 and 11-140 as well as the related language in Corporations and Associations Article 5-6B-08.

We acknowledge that the County generally has broad legal authority derived from multiple sources and that opposite positions can often be supported by statutory and legislative history. Nevertheless, these state code sections raise legitimate questions about preemption, the equity of the policies proposed in CB 13-2020 and the limits of Howard County's legal authority to intervene in apartment sales. For example, please consider the five questions and corresponding highlighted code sections below:

- 1) Does state law allow the county to apply ROFR to property with less than 10 units?
- 2) Does state law allow county intervention in apartment sales that are not intended to be converted to a condominium?
- 3) Can the county require the ROFR offer be valid for more than 60 days?
- 4) Is it appropriate for CB 13-2020 to require rent controls on 20% of the units for at least 40 years when the state law exemption from ROFR is based on the owner agreeing to retain the property as a rental facility for 3 years?
- 5) How does the statement of legislative intent in Real Property 11-140 apply to CB 13-2020?

Real Property § 11-138. Local government's right to purchase rental facility

(b) "Rental facility" defined. – In this section, ¹"rental facility" means property containing 10 or more dwelling units intended to be leased to persons who occupy the dwellings as their residences.

(b) Local law requiring right of purchase; mandatory provisions. –

- (1) A county or an incorporated municipality may provide, ²by local law or ordinance, that a rental facility may not be granted to a purchaser for the purpose of subjecting it to a condominium regime unless the county, incorporated municipality or housing agency has first been offered in writing the right to purchase the rental facility on substantially the same terms and conditions offered by the owner to the purchaser. The local law

or ordinance shall designate the title and mailing address of the person to whom the offer to the county, incorporated municipality or housing agency shall be delivered.

- (2) The offer shall contain a contingency entitling the county, incorporated municipality or housing agency, to secure financing within 180 days from the date of the offer.
- (3) Unless written acceptance of the offer is sooner delivered to the owner by the county, incorporated municipality or housing agency, ³the offer shall terminate; without further act, 60 days after it is delivered to the county, incorporated municipality or housing agency. If the offer terminates, the owner may grant the rental facility to any person for any purpose on terms and conditions not more favorable to a buyer than those offered by the owner to the county, incorporated municipality or housing agency.
- (4) If the county, incorporated municipality, or housing agency purchases the rental facility, it shall retain or provide for the retention of:
 - (i) The property as a rental facility for at least 3 years from the date of acquisition; or
 - (ii) At least 20 percent of the units in the facility as rental units for 15 years from the date of acquisition for households that do not exceed the applicable income eligibility figure under § 11-137(n) of this title for the county or incorporated municipality in which the rental facility is located.

(c) Certain rental facility owner exempt. -- A local law or ordinance adopted under subsection (b) of this section may provide that ⁴the owner of a rental facility is exempt from the provisions of this section if the purchaser of the rental facility enters into an agreement with the county, incorporated municipality, or housing agency to retain the property as a rental facility for a period not to exceed 3 years after the date of acquisition of the property.

(d) Transfers to which right of purchase not applicable. -- The provisions of any local law or ordinance adopted under this section shall not apply to any of the following transfers of a rental facility:

- (1) Any transfer made pursuant to the terms of a bona fide mortgage or deed of trust agreement;
- (2) Any transfer to a mortgagee in lieu of foreclosure or any transfer pursuant to any other proceedings, arrangement or deed in lieu of foreclosure;
- (3) Any transfer made pursuant to a judicial sale or other judicial proceeding brought to secure payment of a debt or for the purpose of securing the performance of an obligation;
- (4) Any transfer of the interest of one co-tenant to another co-tenant by operation of law or otherwise;
- (5) Any transfer made by will or descent or by intestate distribution;
- (6) Any transfer made to any municipal, county or State government or to any agencies, instrumentalities or political subdivisions thereof;
- (7) Any transfer to a spouse, son or daughter;
- (8) Any transfer made pursuant to the liquidation of a partnership or corporation; or
- (9) Any transfer into a partnership or corporation wholly owned by the person(s) so contributing.

(e) Waiver of right. -- Any county, incorporated municipality or housing agency, by execution and delivery by the appropriate official to the grantor of an instrument in recordable form, may waive its right to purchase a particular rental facility under this section.

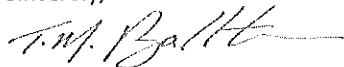
(f) Copy of local law to be forwarded to Secretary of State. -- Within 30 days of the enactment of a law or ordinance under this section, the county or incorporated municipality shall forward a copy of the law or ordinance to the Secretary of State.

§ 11-140. Legislative intent; local legislative finding and declaration of rental housing emergency; local laws and regulations to meet emergency; copies

- (a) ⁵Legislative intent. -- The intent of the General Assembly of Maryland is to facilitate the orderly development of condominiums in Maryland. The General Assembly recognizes, however, that the conversion of rental dwellings to condominiums can have an adverse impact on the availability of rental units, resulting in the displacement of tenants.
- (b) Local legislative finding and declaration of rental housing emergency. -- A county or incorporated municipality may, by legislative finding, recognize and declare that a rental housing emergency exists in all or part of its jurisdiction and has been caused by the conversion of rental housing to condominiums. The jurisdiction shall consider and make findings as to:
- (1) The nature and incidence of condominium conversions;
 - (2) The resulting hardship to and displacement of tenants; and
 - (3) The scarcity of rental housing.
- (c) Local regulations and laws to meet emergency. -- Upon finding and declaration of a rental housing emergency caused by the conversion of rental housing to condominiums, a county or an incorporated municipality may by the enactment of laws, ordinances, and regulations, take the following actions to meet the emergency:
- (1) Grant to a designated family as defined in § 11-137 of this title a right to an extended lease for a period in addition to that period provided for in § 11-137 of this title. The right to an extended lease may not, in any event, result in a requirement that a developer set aside for an extended lease more than 20 percent of the total number of units.
 - (2) Otherwise extend any of the provisions of § 11-137 of this title except that:
 - (i) More than 20 percent of the total number of units may not be required to be set aside; and
 - (ii) The term of an extended lease for any family made a designated family by a county or an incorporated municipality may not exceed 3 years.
 - (3) Require that the notice required to be given under § 11-102.1 of this title be altered to disclose the effects of any actions taken under this section.
- (d) Copies. -- Within 10 days of the enactment of a law, ordinance, or regulation under this section, a county or incorporated municipality shall forward a copy of the law, ordinance or regulation to the Secretary of State.

Thank you for your consideration. Please feel free to contact me directly with questions or for additional information from NAIOP and our member companies.

Sincerely,



Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

Sayers, Margery

From: LINDA Wengel <lwengel@msn.com>
Sent: Monday, June 15, 2020 9:29 PM
To: CouncilMail
Subject: Fwd: LWVHC SUPPORTS CB 13-20

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

I am resending this originally sent March 10, 2020.

From: LINDA Wengel <lwengel@msn.com>
Sent: Tuesday, March 10, 2020 12:50 PM
To: councilmail@howardcountymd.gov
Subject: LWVHC SUPPORTS CB 13-20

The Board of Directors of the League of Women Voters of Howard County has voted to support CB 13-20 based on our housing position which recognizes the need to increase the supply of affordable housing throughout Howard County.

As buildable land becomes scarcer in Howard County this legislation provides an important tool for converting or maintaining existing rental housing as affordable units. Offering the seller the opportunity to guarantee that at least 20% of the units will stay or become affordable, in lieu of offering for sale to the County or Commission is reasonable and puts these units on a par with the MIHU requirement for new rental housing.

The League is encouraged to see the Council addressing this vital issue.

Linda Wengel
Columbia, MD
Action Chair
League of Women Voters of Howard County

Sayers, Margery

From: Thompson, Mark <Mark.Thompson@stronachgroup.com>
Sent: Monday, June 15, 2020 8:06 PM
To: CouncilMail
Subject: CB 13 Testimony
Attachments: CB 13 2020.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Chairwoman Jung and Honorable Councilmembers,

My testimony is attached for your review. Thank you for your consideration.

Stay safe,

Mark

1/ST

MARK THOMPSON
Senior Vice President of Development

1/ST PROPERTIES
O | 301.470.5494
C | 443.794.7161
E | mark.thompson@stronachgroup.com
198 Laurel Race Track Road
Laurel, Maryland 20725 - United States
www.1st.com



Please consider the environment before printing this email

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June 15, 2020

Dear Chairwoman Jung and Members of the Howard County Council:

My name is Mark Thompson. I'm the Senior Vice President of Development for 1/ST Properties of The Stronach Group. I work at Laurel Park, in Laurel, Maryland. I'm here to testify in opposition of CB 13.

Before I get into the details of this bill, I'd like to provide a broader context. You are all aware of the health and economic devastation caused by COVID 19. Howard County hasn't been spared with over 2,300 cases and 75 deaths. I commend the County's efforts along with our healthcare providers to attack this pandemic.

Devastation has also occurred on the economic front. According to the Bureau of Labor Statistics, jobs held by Howard County residents fell by 28,000 from March to April of this year! The unemployment rate in 1 month went from 2.6% to 8.1%! That is higher than the 6.0% peak unemployment rate of the Great Recession in January of 2010. I was one of those that lost their job during that time period, but unlike now it took 20 months for unemployment to get that high, not one month.

Clearly now is not the right time to add to the long list of legislative efforts enacted by this Council that have made new housing and economic development more complicated and costly. CB 13 would do this by creating a chilling effect on the market. Investors will go elsewhere, following the many builders and developers that have already left the County. That's the last thing our local economy needs.

There's a saying in the real estate business that "Time and greed kills all deals". By inserting a requirement into a private transaction to enable the County to have a free look at a deal for three months is the same as telling a prospective purchaser that we are going to both work really hard and spend money to negotiate a deal that Howard County may then be able to jump in and have three months to consider taking it. Would you waste your time and money to pursue that? Of course not.

If Howard County wants to get into the private rental housing market, then let's make it an even playing field. Require private landlords of 20 plus units (make it worth the County's while) to provide notice to the County of their intent to sell. The County would have an exclusive right for 10 days to make an offer. If accepted, the County would then have a 45 day test and study period and close within 45 days of the expiration of that period. If the current owner refuses the County's offer and wants to seek other buyers they can, but if the County's price is fair, many owners will sell to a credit buyer on a normal transaction timeline.

CB13-2020 will create an unnecessary level of complexity into the market and impact economic recovery. I strongly encourage your opposition to the bill. Thank you for your consideration.

Cc:

Councilman Opel Jones

Councilmember Christiana Mercer Rigby

Councilman David Yungmann

Councilmember Elizabeth Walsh

County Executive Calvin Ball

Sameer Sidh, Chief of Staff to the County Executive

Sayers, Margery

From: Jessie Keller <jkeller@mmhaonline.org>
Sent: Monday, June 15, 2020 7:03 PM
To: CouncilMail
Cc: Aaron Greenfield
Subject: Cb13-2020 testimony
Attachments: MMHA-howard County-CB13-2020-right to purchase- testimony.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Members of the Howard County Council,

Please accept Maryland Multi-Housing Association's attached testimony for CB 13-2020.

Best Regards,

Jessie Keller
Government and Community Affairs Manager
Maryland Multi-Housing Association
410-413-1420
www.mmhaonline.org



TO: Howard County Council
FROM: Maryland Multi-Housing Association.
SUBJECT: Bill No. 13-2020
DATE: June 15, 2020
POSITION: Oppose

Background

This testimony is offered on behalf of Maryland Multi-Housing Association (MMHA). We are a professional trade association established in 1996, whose members consists of owners and managers of more than 210,000 rental housing homes in over 870 apartment communities. Our members house over 556,000 residents of the State of Maryland and we have 250 associate member companies who supply goods and services to the multi-housing industry. Lastly, MMHA members manage 93 apartment communities with over 22,300 units in Howard County.

Bill Summary

Council Bill 13-2020 requires an owner of rental housing to first provide notice and a written offer to purchase to the Department of Housing and Community Development, the Housing Commission, and a tenant organization when the owner of a rental housing dwelling with five or more units offers the rental housing for sale either in whole or in part to another party. The offer to purchase must remain open for 90 days after it is received, and if accepted the sale must be completed within 180 days after the County or Commission receives the owner's offer, unless the parties agree in writing to extend the 180-day period.

Position

MMHA understands that the intent of the bill is to address the shortage of affordable rental housing and expand the number of affordable units in the County. However, we are concerned about the prohibitive and time-consuming provisions of this legislation. CB13-2020 adds another three to six months to the sales of multifamily communities, creating uncertainty and risks for transactions, and rendering the market less predictable. As a result of the instability in the sales of these communities, buyers and investors may not be interested in purchasing in Howard County, which would reduce transfer and recordation tax revenue for the County.

CB13-2020 also is unlikely to increase the County's affordable housing inventory. Since these properties go on the market without asking prices, the purchase tends to go to the highest bidder. **This bill does not provide the County with a financial advantage to purchase properties, it only drastically slows the process down for transactions.**

The 90-day offer period required in the bill particularly hinders 1031 exchanges. In these deals, the Exchangor has 45 days from when they sell a property to nominate potential replacement properties, and 180 days to acquire the replacement property. Under CB13-2020, if



the Exchangor immediately identified a property and executed a contract of sale after it sold their previous property, the County could wait 90 days and decide it wants to purchase the property, leaving the 1031 Exchangor with only 90 days (or likely in practice, much less time) left to complete the entire transaction. Howard County properties would look far less appealing to buyers and investors, resulting in less deals and less tax revenue for Howard County.

In addition to harming business and its likely failure to achieve the goal of acquiring more affordable housing, we also believe that this bill is unnecessary. Howard County's existing Notice of Intent to sell law already works. The Housing Commission has purchased several properties in the past decade through it, including the Housing Commission purchased Columbia Landing, Azure Oxford Square, Gateway Village, Columbia Commons, and Verona at Oakland Mills. If properties have been purchased through the existing law, why does Howard County need to interfere with property transactions and add months to the process?

Amendments

To address our concerns, MMHA and the Maryland Building Industry Association, request the amendments below. These amendments would allow for timelier transactions and prevent County multifamily purchases from being completely unappealing.

Without these amendments, MMHA cannot support this bill.

Our suggested amendments importantly capture an idea that could achieve the goal of this bill while still making Howard County appealing to do deals in. A Right of First Offer process instead of a Right of Purchase process would prevent a private buyer's purchase from being interrupted by County decision while still giving the County the advantage of being the first to available to make an offer without drastically interrupting and holding up the process. Also if the County initially responded yes or no within 7 days (while still having 30 days to make an offer), the selling process is only lengthened by 7-30 days before a private market buyer could surely purchase the property without interruption from the County.

We request the following amendments:

Amendment No. 1

On page 1, in line 19, strike "five" and replace with "TWENTY".

This amendment changes the number of units for which this section would apply.

Amendment No. 2

On page 3, strike lines 1 through 11 in their entirety.

This amendment removes a requirement to notify the Department, the Commission, and Tenants with written notice of the execution of a bona fide contract of sale. Seller would still be required to notify the Department, the Commission, and Tenants of Seller's intent to sell.



Amendment No. 3

On page 4, strike lines 15 through 21 in their entirety.

This amendment removes the proposed enforcement provision that would have permitted the County to revoke a Seller's rental housing license for alleged violations of this section.

Amendment No. 4

On page 5, in line 8, strike "OR WHICH ARE CONTAINED IN A CONTINGENT BONA FIDE CONTRACT OF SALE EXECUTIVE BY THE OWNER AND A THIRD PARTY;"

This amendment removes mention of a bona fide contract of sale, since the Department, the Commission, and Tenants would have the option to purchase prior to the execution of such a contract.

Amendment No. 5

On page 5, in line 10, replace "90" with "30".

This amendment reduces the length of time for which an offer from Seller must remain open for the County and the Commission.

Amendment No. 6

On page 5, in line 11, insert ", UNLESS THE COUNTY OR THE COMMISSION DECLINES ITS RIGHT TO PURCHASE PURSUANT TO SUBSECTION (D)" after "COMMISSION".

This is a structural amendment referring to the proposal in Amendment 7.

Amendment No. 7

On page 5, in line 23, insert:

"(1) WITHIN SEVEN BUSINESS DAYS OF RECEIPT OF THE OFFER, THE COUNTY AND THE COMMISSION BOTH SHALL MAKE AN INITIAL EVALUATION WHETHER IT WILL EXERCISE ITS RIGHT OF FIRST REFUSAL OR WAIVER PURSUANT TO THIS SECTION AND SHALL NOTIFY THE OWNER IN WRITING.

"(2) IF THE COUNTY OR THE COMMISSION DETERMINES THAT IT WILL EXERCISE ITS RIGHT TO PURCHASE, THE OFFER SHALL REMAIN OPEN FOR 30 DAYS AFTER IT IS RECEIVED, PURSUANT TO SUBSECTION (B)."



MARYLAND MULTI-HOUSING ASSOCIATION, INC.

On page 5, in line 23, renumber existing “(1)” as “(3)”; on page 6, in line 1, renumber existing “(2)” as “(4)”; on page 6, in line 9, renumber existing “(3)” as “(5)”; on page 6, in line 12, renumber existing “(4)” as “(6)”.

This amendment requires the County and the Commission to notify the seller within 7 business days of receipt of notice of intent to sell whether the County or the Commission intends to exercise its right to purchase. If so, the offer remains open for 30 days. If not, the offer will terminate.

Amendment No. 8

On page 6, in line 21, insert: “(1) A MULTIFAMILY RENTAL FACILITY WITH LESS THAN TWENTY RENTAL DWELLING UNITS;”.

This amendment changes the number of units for which this section would apply.

Amendment No. 9

On page 7, in line 16, strike “40” and replace with “15”.

This amendment changes the length of time for which senior or affordable units must remain designated as such to qualify for the exception in subsection (G).

For these reasons, we respectfully oppose CB13-2020, unless the bill includes our amendments above and does not bring economic harm and instability to the industry.

For more information, please contact Jessie Keller at 410-413-1420



11825 West Market Place | Fulton, MD 20759 | 301-776-6242

June 15, 2020

Re: OPPOSITION TO CB13 – Offer to Purchase Rental Housing

Dear Chairwoman Jung and Members of the Howard County Council:

The Howard County Chapter of the Maryland Building Industry Association (MBIA) writes in opposition to Council Bill 13, which establishes new procedures and requirements for providing an offer to the County and Housing Commission to purchase rental housing offered for sale.

Our industry shares the sponsors' concerns that the County lacks sufficient affordable housing; however, this measure is prohibitive and time-consuming. Under this measure, the Seller of rental housing must provide notice to the County, Housing Commission, and tenants of an intention to sell which includes an offer to purchase; that offer must remain open for 90 days, and if accepted, the sale must be completed within 180 days. That process adds three to six months to the sale of multifamily properties, which is far too long and significantly longer than competing jurisdictions. Potential purchasers will be unwilling to spend considerable time and money to negotiate with the Seller, just for the County to purchase the property instead. This will restrict the pool of buyers, which artificially depresses the value of the property. Additional restrictions will also disincentivize the building of new multifamily projects, which generate significant affordable housing units. The County will lose opportunities to collect recordation and transfer taxes, and to grow its tax base with new residents.

Instead, we should wait to see what the Housing Opportunities Master Plan Task Force recommends. The Task Force is currently working hard to examine and improve all types of housing opportunities for all income levels. Legislation addressing these concerns should be part of a holistic approach, based on research and recommendations from the Task Force. Until the Task Force's report is published later this year, any legislation is premature.

However, if the Council decides to move forward with this legislation, we respectfully request consideration of the attached amendments, which are the result of collaboration between NAIOP, MMHA, and MBIA. We believe these changes will improve this bill's efficacy, efficiency, and fairness, and we look forward to discussing them further with you. Absent the adoption of these amendments, we respectfully request the Council vote no on Council Bill 13-2020.

Thank you for your consideration 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,

A handwritten signature in black ink, appearing to read "Angelica Bailey".

Angelica Bailey, Esq., Vice President of Government Affairs

Cc: Councilman Opel Jones
Councilmember Christiana Mercer Rigby
Councilman David Yungmann
Councilmember Elizabeth Walsh

County Executive Calvin Ball
Sameer Sidh, Chief of Staff to the County Executive

Proposed Amendments to Council Bill 13-2020

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On page 7, in line 16, strike “40” and replace with “15”.

This amendment changes the length of time for which senior or affordable units must remain designated as such to qualify for the exception in subsection (G).

Sayers, Margery

From: Tom Ballentine <tom.ballentine@naiop-md.org>
Sent: Monday, June 15, 2020 3:11 PM
To: CouncilMail; Jung, Deb; Walsh, Elizabeth; Jones, Opel; Rigby, Christiana; Yungmann, David
Cc: Williams, China; Harris, Michael; Gelwicks, Colette; Knight, Karen; Dvorak, Nicole
Subject: Testimony from NAIOP Maryland on CB 13-2020
Attachments: Howard County - CB 13-2020 - Right of First Refusal - NAIOP Testimony Letter.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good Afternoon –

I am writing to forward the attached testimony from NAIOP's commercial real estate members on CB 13-2020.

All the Best

tb

Tom Ballentine

Vice President for Policy and Government Relations

NAIOP Maryland Chapters – *The Association for Commercial Real Estate*

Phone: 410.977.2053

Email: tom.ballentine@naiop-md.org

U.S. Mail: P.O. Box 16280 Baltimore, Maryland 21210



The Maryland Chapters of NAIOP represent more than 700 companies involved in commercial, industrial and mixed use real estate. Established in 1967 as the National Association of Industrial and Office Properties, today NAIOP is the nation's leading advocate for companies involved in commercial construction, land development, brokerage, property management, finance, architecture, engineering and law. For more information, please visit www.naiopmd.org

NAIOP

MARYLAND CHAPTERS



THE ASSOCIATION FOR
COMMERCIAL REAL ESTATE

June 15, 2020

The Honorable Deb Jung, Chair
Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043

Via Email: councilmail@howardcountymd.gov

Oppose - CB 13-2020 Rental Property – County Right to Purchase

Dear Chair Jung and Council Members:

The NAIOP Maryland Chapters represent more than 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate, including many of the largest property owners in Howard County. On behalf of our member companies I am writing to oppose CB 13-2020.

CB 13-2020 would require sellers of apartment buildings of 5 units or more provide the Howard County Housing Commission the right to review a contract offer from for 90-days and purchase a property on *"substantially the same terms"* as a contract offer from a private buyer.

The proposed process would reduce the pool of eligible buyers and, in our opinion, further diminish the function of the Howard County housing market. For example:

1. Buyers utilizing a property exchange under Section 1031 of the IRS Tax Code must adhere to a strict time schedule that cannot accommodate the process proposed in CB 13-2020. These buyers represent nearly 40% of the buyer pool.
2. The bill would impose significant interest rate risk on the contract purchaser. A lender will not lock interest rates long enough to accommodate the buyer's due diligence and the Commission's 90-Day contingency period.
3. The notice to tenants implies a right to purchase on the part of any tenant group representing at least 30% of residents.
4. The right to review and purchase applies at resale for the contract purchaser and if the Commission declines or fails to close, would apply again to the current owner when the building is put back on the market.

NAIOP's opposition is based on the experience of our member companies in this and other markets. Empirical evidence about the negative effects of right of first refusal [ROFR] was documented in [a study by the Finance Department of the National Taiwan University and the Department of Finance at the University of Iowa](#). The study found that a land auction with ROFR has significant negative impacts on auction success. The main findings of the report are that ROFR:

1. Discourages bidder entry into an auction.
2. Creates an incentive for bidders to bid less aggressively.
3. Forces the seller to set a lower offering price to offset the effects of the ROFR.
4. Ultimately reduces sales prices.

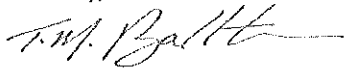
The bill proposes a questionable use of County legal authority. Language dating back to the 1980s in the Maryland Condominium Act authorizes local governments that have declared a housing state of emergency caused by the conversion of rental housing to condominiums to create a right to purchase rental property that is being sold to be converted to condominium regime. [Real Property 11-138 to 11- 140] Neither CB 13-2020 nor the facts on the ground today conform to that authority. Other examples of rights of first refusal authorized by state law relate to the sale of state subsidized housing units, franchised auto dealerships and state aquaculture leases all examples where the facts, relationship between the parties and therefore the justification for a right to purchase are far different than CB 13-2020.

For the reasons above NAIOP remains strongly opposed to CB 13-2020. The fundamental threat to market function posed by CB 13-2020 is that the bill provides the Commission with both the right to see a bona fide contract offer and a long [90-day] option period to review the terms and make a purchase decision. If the Commission wants an extended contingency period, it should do its due diligence concurrent to private market buyers when the property is first offered for sale and without the benefit of seeing a contract offer. If the commission wants to see a contract offer it should exercise its purchase right under an expedited timetable [7-days or less] that will reduce the deterrent effect on the pool of private buyers.

If the Council does determine that it wants to allow the Commission to intervene in apartment sales, we endorse the amendments proposed by MBIA and MMHA and circulated separately. The amendments provide the Commission with an opportunity purchase but attempt to limit the market disruptions that would result from the bill as introduced.

Thank you for your consideration. Please feel free to contact me directly with questions or for additional information from NAIOP and our member companies.

Sincerely,



Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*



HCCA

Howard County Citizens Association

Since 1961...

The Voice Of The People of Howard County

Date: April 16, 2020

Re; CB13-2020 -- The Affordable Housing Retention Act

The HCCA strongly opposes this bill and requests that it either be withdrawn or voted down.

The County currently has an effort underway that addresses Affordable Housing in the County; the Housing Opportunities Master Plan Task Force (Task Force). For decades the County has not had a comprehensive approach to siting Affordable Housing. The approach has been piece meal and the outcome for current Affordable Housing reflects that piece meal approach. Affordable Housing is now concentrated in older Columbia Villages including, Oakland Mills, Owen Brown, Long Reach, and Wilde Lake. Those existing apartment complexes are now 30 to 50 years old and therefore can be cheaply bought and in many cases are owned by the Howard County Housing Commission. The result has been a concentration of poverty and Free and Reduced Meal recipients in the county schools. This has resulted in a very contentious school redistricting in the last year. If passed there will be bad consequences since this bill will allow more older apartment complexes to be bought in existing low income and poverty areas east of US29 thereby continuing to concentrate poverty and negatively affecting schools. For example, Oakland Mills has four apartment complexes totaling approximately 980 units.. Approximately 40% are currently Affordable Housing. Four years ago the Howard County Housing Commission (HCHC) attempted to also buy Columbia Pointe that contains 324 units. Fortunately, after many meetings with HCHC, they were dissuaded from buying the complex. If that had occurred, 70% of the apartments would have become Affordable Housing and would have added to the concentration of low income and poverty issues in redistricting. Columbia Pointe was subsequently bought by a private company and they invested \$11 million in upgrading the units.

The Routes 1 and 40 corridors have exploded in development with high density housing to meet the smart growth plans from the early 90s. Much of the density includes developments with 20 to as high as 50 percent affordable housing set aside. An example of this is the River Watch community in Elkrige. When you consider many of the developments along the corridors which consists of hundreds of units and at these percentages, the affordable housing has and will add up quickly. The county must be able to meet the needs of the social economic environment it is creating and thus far, it is struggling to do that.

The remainder of the County has not had much Affordable Housing even when new apartment complexes are built since developers can pay a Fee-in-Lieu instead of providing affordable units. The Fee-in-Lieu must stop. The result has been a concentration of Affordable Housing mainly east of US29. This bill would make this situation even worse under this Bill and not spread-out Affordable Housing throughout the County.

The established Task Force will hopefully provide a comprehensive approach to Affordable Housing. Let the Task Force come up with their recommendations especially considering the County Executive and the Council approved \$400,000 in consultant services. Although this will obviously take a longer to do, it will provide a much better outcome for Affordable Housing in our county then CB13-2020.

Please allow the Task Force to do its work and **WITHDRAW** or vote **AGAINST** this bill.

Paul Verchinski
HCCA Board of Director

CB 13-2020

Sayers, Margery

From: Jennifer Broderick <Jennifer@bridges2hs.org>
Sent: Wednesday, May 20, 2020 5:01 PM
To: CouncilMail
Subject: Testimony support CB 13 2020
Attachments: Bridges CB13 2020 support letter may 2020.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Please see the attached letter of support to the council members for CB 13 2020 from Bridges to Housing Stability, Inc. Thank you,

Jen Broderick, LCSW
Bridges to Housing Stability
Executive Director
410-312-5760 ext 117

Everyone carries a burden so be kind

Solving Homelessness with Housing



9520 Berger Road, Suite 311 • Columbia, MD 21046
443-518-7661 • Fax: 410-312-5765
jennifer@Bridges2HS.org
www.Bridges2HS.org



Stay informed about Bridges, [sign up to receive our e-newsletter.](#)

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May 20, 2020

Dear Howard County Council Members,

I'm writing in support of Council Bill 13-2020 introduced by Councilwoman Christiana Rigby. Bridges to Housing Stability's mission is to provide a path to self sufficiency to prevent homelessness through affordable housing solutions and advocacy in Howard County. As an organization that helped rehouse 119 households last year, we are well aware of the shortage of affordable housing in the county. We serve hundreds of working families that call Howard County home, as do their children. Yet often these neighbors must leave the county to find more affordable housing in surrounding counties because prices continue to rise in Howard.

It is important that our Council do all in it's power to help preserve affordable housing. This legislation helps give a chance for the Howard County Housing Commission, or Department of Housing and Community Development to preserve affordable housing and create additional units within existing complexes if given the opportunity to buy multi-family units. It is important that these entities that are focused on increasing and preserving affordable housing get a fair chance to do so. There is little to no new affordable housing being built in the County now, yet through this legislation there will continue to be opportunities.

The Howard County Housing Opportunities Master Plan is going to be a great tool for the County, but until the plan is complete and moved forward there might be other chances for affordable housing that may be missed if this legislation is not passed. Thousands of households struggle with rent each month, especially now, but continue to do so willingly because it means so much to them to live in this wonderful county with amazing resources, services, and schools. This legislation will allow sellers to still get a fair price for their property, while increasing the chance that housing will still be available for lower income renters.

I hope you will all support this bill.

Respectfully,

Jen Broderick, LCSW
Executive Director
Bridges to Housing Stability, Inc.

Bridges to Housing Stability, Inc.
9520 Berger Rd., Suite 311, Columbia, MD 21046
Phone (410) 312-5760 Fax (410) 312-5765
www.Bridges2HS.org

Sayers, Margery

From: Alan Schneider <ajs333@aol.com>
Sent: Monday, April 20, 2020 7:16 PM
To: CouncilMail
Subject: CB 13-2020 Affordable Housing

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

CB 13-2020 Affordable Housing

Council Members:

Citizens depend on you for changes to 50 year trends. What do we need?

In the 1070's most people were able to buy a home. What aligns with individual needs in Howard County? Is more subsidized or more rental housing the best long range plan?

You have an intellectual treasure in Howard County. You have an Affordability Task Force of knowledgeable, independent individuals. Connect with independent resources for research and answers.

Lower price homes in all Howard County neighborhoods will efficiently achieve the benefits of school and community diversity.

Few can afford owning a home. Most now rent. Average monthly rent is higher than a mortgage payment. Rent increases annually; mortgage payments are fixed term. At the end of the term, payments end. Home ownership provides stability, and built in home equity savings.

Home ownership has been promoted. Legislation in one state found it cheaper to build and to give homes away compared to the cost of numerous subsidies.

Land use regulations and restrictions are not an illegal "taking", so holds the Supreme Court. Howard County has experienced the highest growth rates. Taxes have gone up. Unregulated free enterprise has not achieved lower taxes. Public policy demands new options.

Establish goals for Howard County, and agree on measurements for reaching those goals.

1. **Decentralize affordable housing developments.** Concentrated affordable housing leads to perpetual poverty, negative quality of life, and stifles other types of economic development. See Denver's 5 year plan, and studies in Chicago, Boston, Atlanta, Texas, and California.
2. **Adopt policies and strategies to promote affordable/attainable housing options.** Green building affordable housing reduces expenses, has a smaller environmental footprint, and reduces expenses. Solar rooftops dramatically cut the rising cost of electricity.
3. **Enable creativity, flexibility and ease of use.** Combine university talents, data driven research, and policy options for effective long term solutions for all public sectors of Howard County.

4. **Recognize and give weight** to community advocates' testimony for policies that advance racial equality. Truly affordable housing benefits communities by attracting home care workers, police, fire fighters, teachers, retail workers, and service industry workers.
5. **Require measureable zoning policies** that will achieve disparate-impact requirements in the federal Fair Housing Act.
6. **Require feedback reports** that measure adherence to affordable housing priorities, and health and safety standards.

Thank you for your dedication to long term planning for the public in Howard County.

Alan Schneider

Sayers, Margery

From: Stu Kohn <stukohn@verizon.net>
Sent: Thursday, April 16, 2020 8:51 PM
To: CouncilMail
Cc: Stuart Kohn
Subject: CB13-2020 Written Testimony from HCCA
Attachments: HCCA - CB13-2020 Affordable Housing.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Councilmembers,

Please accept the attachment which is the Howard County Citizens Association, HCCA written testimony regarding CB13-2020.

We would appreciate confirmation that you received this email.

Thank You,

Stu Kohn
HCCA President



HCCA

Howard County Citizens Association

Since 1961...

The Voice Of The People of Howard County

Date: April 16, 2020

Re; CB13-2020 -- The Affordable Housing Retention Act

The HCCA strongly opposes this bill and requests that it either be withdrawn or voted down.

The County currently has an effort underway that addresses Affordable Housing in the County; the Housing Opportunities Master Plan Task Force (Task Force). For decades the County has not had a comprehensive approach to siting Affordable Housing. The approach has been piece meal and the outcome for current Affordable Housing reflects that piece meal approach. Affordable Housing is now concentrated in older Columbia Villages including, Oakland Mills, Owen Brown, Long Reach, and Wilde Lake. Those existing apartment complexes are now 30 to 50 years old and therefore can be cheaply bought and in many cases are owned by the Howard County Housing Commission. The result has been a concentration of poverty and Free and Reduced Meal recipients in the county schools. This has resulted in a very contentious school redistricting in the last year. If passed there will be bad consequences since this bill will allow more older apartment complexes to be bought in existing low income and poverty areas east of US29 thereby continuing to concentrate poverty and negatively affecting schools. For example, Oakland Mills has four apartment complexes totaling approximately 980 units.. Approximately 40% are currently Affordable Housing. Four years ago the Howard County Housing Commission (HCHC) attempted to also buy Columbia Pointe that contains 324 units. Fortunately, after many meetings with HCHC, they were dissuaded from buying the complex. If that had occurred, 70% of the apartments would have become Affordable Housing and would have added to the concentration of low income and poverty issues in redistricting. Columbia Pointe was subsequently bought by a private company and they invested \$11 million in upgrading the units.

The Routes 1 and 40 corridors have exploded in development with high density housing to meet the smart growth plans from the early 90s. Much of the density includes developments with 20 to as high as 50 percent affordable housing set aside. An example of this is the River Watch community in Elkrige. When you consider many of the developments along the corridors which consists of hundreds of units and at these percentages, the affordable housing has and will add up quickly. The county must be able to meet the needs of the social economic environment it is creating and thus far, it is struggling to do that.

The remainder of the County has not had much Affordable Housing even when new apartment complexes are built since developers can pay a Fee-in-Lieu instead of providing affordable units. The Fee-in-Lieu must stop. The result has been a concentration of Affordable Housing mainly east of US29. This bill would make this situation even worse under this Bill and not spread-out Affordable Housing throughout the County.

The established Task Force will hopefully provide a comprehensive approach to Affordable Housing. Let the Task Force come up with their recommendations especially considering the County Executive and the Council approved \$400,000 in consultant services. Although this will obviously take a longer to do, it will provide a much better outcome for Affordable Housing in our county then CB13-2020.

Please allow the Task Force to do its work and **WITHDRAW** or vote **AGAINST** this bill.

Paul Verchinski
HCCA Board of Director

Sayers, Margery

From: LINDA Wengel <lwengel@msn.com>
Sent: Monday, April 6, 2020 1:37 PM
To: CouncilMail
Subject: LWVHC SUPPORTS CB 13-20

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

(Resending testimony of March 10, 2020) The Board of Directors of the League of Women Voters of Howard County has voted to support CB 13-20 based on our housing position which recognizes the need to increase the supply of affordable housing throughout Howard County.

As buildable land becomes scarcer in Howard County this legislation provides an important tool for converting or maintaining existing rental housing as affordable units. Offering the seller the opportunity to guarantee that at least 20% of the units will stay or become affordable, in lieu of offering for sale to the County or Commission is reasonable and puts these units on a par with the MIHU requirement for new rental housing.

The League is encouraged to see the Council addressing this vital issue.

Linda Wengel
Columbia, MD
Action Chair
League of Women Voters of Howard County

Sayers, Margery

From: Gelwicks, Colette
Sent: Thursday, March 19, 2020 9:03 AM
To: Jones, Diane; Jones, Opel; Jung, Deb; Meyers, Jeff; Rigby, Christiana; Rosen, Lynne; Sayers, Margery; Walsh, Elizabeth; Wimberly, Theo; Yungmann, David
Subject: FW: CB13-2020 Letter
Attachments: County Council Letter 2.pdf

Good morning,

Our office received the attached testimony supporting CB13-2020.

Kind regards,

Colette Gelwicks – *she/her/hers*
Special Assistant

Councilwoman Christiana Rigby, District 3
Howard County Council
3430 Court House Drive, Ellicott City, MD 21043
cgelwicks@howardcountymd.gov
410.313.2421



[Sign up for our newsletter!](#)

From: Cynthia Parr <cparr@archoward.org>
Sent: Wednesday, March 18, 2020 10:04 AM
To: Gelwicks, Colette <cgelwicks@howardcountymd.gov>
Subject: CB13-2020 Letter

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Colette:

Here is my letter . Thanks for your patience!

Best,
Cindy
Cindy Parr
Executive Director
cparr@archoward.org
The Arc of Howard County
410-730-0638, x225

Achieving full community life for people with intellectual and developmental disabilities - one person at a time.





Achieve with us.

March 16, 2020

Dear County Council Members:

My name is Cindy Parr and I am writing to state that the Affordable Housing Retention Act (CB13-2020) introduced by Councilwoman Christiana Rigby would be a tool in the toolbox for building affordable housing inventory. The Arc of Howard County provides services for people with disabilities and we know the importance of this legislation. Currently, we supply residential services to more than 80 adults with disabilities in the Howard County community.

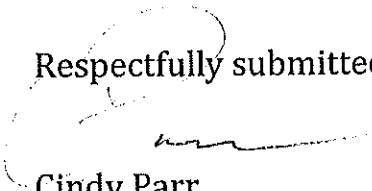
Our organization has been in existence for nearly 60 years and it has become increasingly more difficult to find stable, secure housing that is affordable for people who experience disabilities. Most of the people we support receive SSI or SSDI benefits which precludes them from meeting the financial requirements necessary for the majority of housing options in Howard County.

This legislation, I feel would provide a stop gap so the County can give the Department of Housing and the Howard County Housing Commission the ability to initially purchase rental housing when it appears for sale.

As we move forward with the Housing Opportunities Master Plan, we will no doubt see additional ways to enhance our ability to increase affordable housing opportunities. This bill, coupled with future options will forge a needed path to housing diversity in Howard County.

I hope you will accept The Arc of Howard County's support of this legislation.

Respectfully submitted,


Cindy Parr
Executive Director

Sayers, Margery

From: LINDA Wengel <lwengel@msn.com>
Sent: Tuesday, March 10, 2020 12:51 PM
To: CouncilMail
Subject: LWWHC SUPPORTS CB 13-20

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

The Board of Directors of the League of Women Voters of Howard County has voted to support CB 13-20 based on our housing position which recognizes the need to increase the supply of affordable housing throughout Howard County.

As buildable land becomes scarcer in Howard County this legislation provides an important tool for converting or maintaining existing rental housing as affordable units. Offering the seller the opportunity to guarantee that at least 20% of the units will stay or become affordable, in lieu of offering for sale to the County or Commission is reasonable and puts these units on a par with the MIHU requirement for new rental housing.

The League is encouraged to see the Council addressing this vital issue.

Linda Wengel
Columbia, MD
Action Chair
League of Women Voters of Howard County

Sayers, Margery

From: Christopher J. Alleva <jens151@yahoo.com>
Sent: Monday, April 6, 2020 9:27 AM
To: CouncilMail
Subject: CB 13-2020 How a Community can be layed to Waste by well intentioned policies
Attachments: South Bronx 1970s.jpg; South Bronx 1970s 2 .jpg; Grand Councourse Plaza Hotel .jpg

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Chairperson Jung and the Howard County Council

I am writing to express my opposition to CB 13-2020.

This bill provides for the Howard County Housing Commission to have a mandatory right of first refusal for the sale of any rental housing in Howard County.

In the 1970s the South Bronx was literally turned into wasteland largely due to misguided laws and regulations. One of the most lethal regulations was a seemingly appropriate rule that if you were driven from your apartment by fire you were placed at the head of the line for subsidized housing. Consequently, tenants took to committing arson to game the system.

Just a decade earlier the Bronx was a desirable place to live.

There are a whole host of unintended and adverse consequences that will occur if this bill is passed. Rental apartments are institutional pension fund assets that trade with regularity driven by the fiduciary duty to achieve their return rate targets.

For example, in July 2016, AIMCO, a large Colorado Apartment owner sold what is now known as Columbia Point to Morgan Properties. for \$47.5 million. In 2015 Chesapeake Properties dropped their contract to purchase the property. AIMCO made their decision to sell in 2013 so it took them nearly 3 years to conclude this transaction.

Under the terms of the proposed legislation the obligation to offer it to the Housing Commission could have extended this process to as much as 5 years because they would have to re-notice the Commission when the property was remarketed.

This could discourage investors from Howard County especially under the present uncertainties, it is probably not advisable to discourage any investment in the County with a risky burden like this.

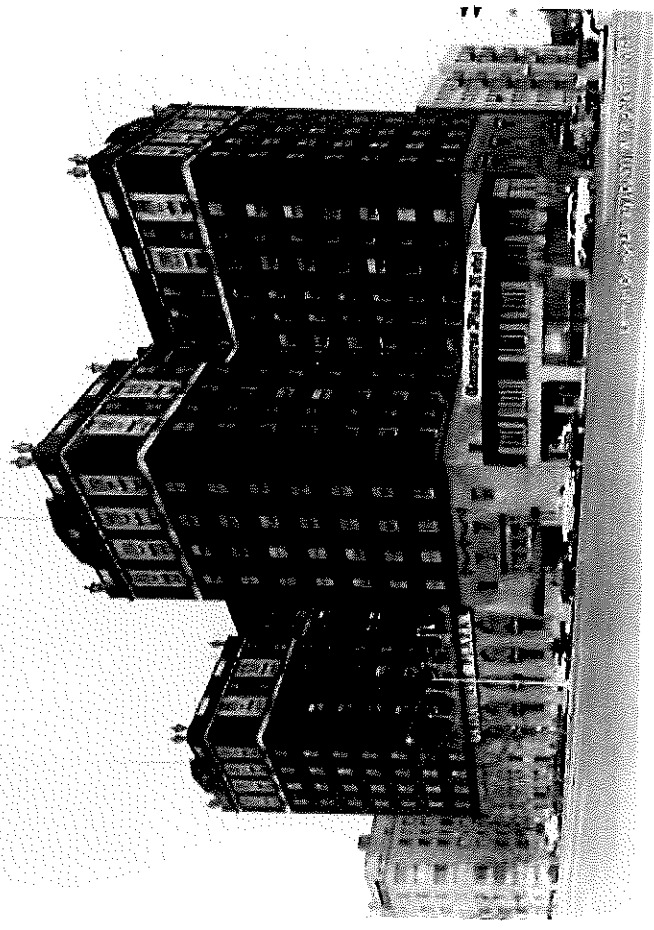
Sincerely,

Christopher Alleva
10848 Harmel Dr,
Columbia, MD 21044





Vancouver Plaza Hotel



Sayers, Margery

From: Sandy Cederbaum <manager@oaklandmills.org>
Sent: Monday, March 30, 2020 3:11 PM
To: CouncilMail
Cc: 'Jonathan Edelson'; 'Bill McCormack Jr'
Subject: Testimony for CB13-2020 From Oakland Mills Community
Attachments: CB13_2020 Oakland Mills Community Testimony 3_30_2020.pdf; Oakland Mills Village Center and Surrounding Area.jpg

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Attached is our testimony for the hearing on CB13-2020 and a map of Oakland Mills and surrounding area. Please email me or Board Chair, Jonathan Edelson at jledelson.omca@gmail.com if you have any questions.

Thinking of each of you during these trying times and thank you for all you do for the citizens of our great County.
Sandy

Sandy Cederbaum, Village Manager

Oakland Mills Community Association
The Other Barn ~ 5851 Robert Oliver Place
Columbia, MD 21045
Office: 410-730-4610
fax: 410-730-4620

<http://oaklandmills.org> – follow link on right of web homepage to JOIN OUR LISTSERV

Visit us on Facebook at **Oakland Mills Village** and **The Other Barn**

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Oakland Mills Community Association
The Other Barn • 5851 Robert Oliver Place
Columbia, MD 21045
410-730-4610 • oaklandmills.org



March 30, 2020
Testimony on CB13-2020
Submitted by: Oakland Mills Board of Directors

CB13-2020 Testimony

Master Plan versus Piecemeal

Please withdraw CB13-2020, the Affordable Housing Retention Act. The Housing Opportunities Master Plan Task Force will make a comprehensive study of housing opportunities for residents of all incomes in the county. The County Executive and County Council approved \$400,000 in the budget for an expert consultant to work with the Task Force. The Task Force of about 30 members, who have expertise in a broad spectrum of backgrounds, will spend this year analyzing and studying current policies and practices and recommending changes to better position the county to offer housing opportunities for residents of all incomes throughout the county.

The Master Plan is a comprehensive approach. An individual bill is a piecemeal approach. Each individual housing bill undermines the Task Force. The Task Force will consider this bill's intent and many other strategies during the Master Plan process.

Moratorium

A moratorium on housing bills is needed. When the county zoning board rewrites the zoning regulations there is a moratorium on hearing zoning cases. That same process should be utilized concerning housing bills while the Task Force creates the Master Plan.

Unintended Consequences

The bill may put restrictions on the sale of housing for those earning under the Area Median Income with unintended consequences. If the Housing Commission wanted to sell one of its 13 complexes on the east side of Rt. 29 and use the profits to create housing opportunities for those under the AMI on the west side of Rt. 29, the Commission may not be able get top dollar. Per our understanding of the bill's proposed process, a buyer of a Housing Commission property would have to maintain 20% of the units as affordable if the deal closed right away. If the deal was delayed 90 days, then the 20% requirement would not apply and all units could be market rate. The waiting process may deter bidding.

The bill may help to perpetuate the imbalance of students who receive Free and Reduced Meals throughout our school system. To a large extent the FARM numbers are a reflection of the housing available in a school district. To provide equity and equal opportunity, housing policies need to be

flexible. To move from the current system where some schools have less than 10% FARM and some schools over 50% FARM toward a future system where all schools are within the range of the county average (currently 22%) plus or minus a third will require a comprehensive Master Plan. As currently written there are no references to the FARM rates in the schools in the bill. Any bill on housing for residents of all incomes must be evaluated on its effect on the FARM percentages in each and every school.

There is a restriction in the bill concerning Census Tract Block Group poverty rates at 10%. A rate of 5% is needed. Some Oakland Mills CTBG's have been near 10% in an area where school FARM percentages are the highest in the county.

Bidding Process

Per the press release, "Currently, the Department of Housing and Community Development and the Howard County Housing Commission may competitively bid for rental housing that is on the market in Howard County. However, with limited resources and requirements to maintain or reduce rents, the Housing Commission is often out-bid by private companies, and previously affordable housing units have their rents increased, thus displacing residents and reducing the county's affordable housing stock."

Per our understanding of the bill after the bidding is over on a proposed sale, and the seller has a bona fide offer from a buyer, then the HC with right of first refusal can buy the complex for the price in the bona fide offer. This process doesn't ring true with the statement in the press release. In a competitive bidding process, if the Housing Commission has been outbid, it doesn't have the money to buy at the bona fide offer level.

In Perpetuity

Section 13.1405 of the bill states that 20% of the units must remain affordable "In perpetuity." Our understanding of the legal term "In perpetuity" means forever. At an Oakland Mills Village Board meeting the bill's sponsor said that in this bill "In perpetuity" only means as long as the Housing Commission owns the property. Our understanding is that any property owned by the Housing Commission must be at least 20% affordable so "In perpetuity" is not necessary. "In perpetuity" is not flexible.

Build New versus Buy Old

The Housing Commission may do better building new instead of buying old.

Per the attached map of the Oakland Mills Village Center and surrounding area there are four apartment complexes. Forest Ridge which is 108 units of Section 8, Verona South and Verona North which is 251 units with 20% affordable, Columbia Pointe which is 324 units and Autumn Crest which is 300 units. Also, note Stevens Forest Elementary School (SFES), Talbott Springs Elementary School (TSES), Oakland Mills Middle School (OMMS) and Oakland Mills High School (OMHS). For years these four schools have been at or near the highest FARM rates in the county.

Verona Story

October, 2013 the Housing Commission purchased Verona Apartments for \$39.5M.

November, 2013 over 350 Oakland Mills residents met in the Loft to hear the Housing Commission's plan to make 20% of the units affordable immediately and in 10 years refinance and create 300 market rate units and 200 affordable units. The vast majority of the residents were against the purchase. At that time Talbott Springs Elementary and Stevens Forest Elementary and Oakland Mills Middle and High Schools were all well above the county average for students who receive Free and Reduced Meals.

A Vice President for Development at a development company that had been in business for decades in the county and that had done recent projects in Howard County was consulted. He was told that the Housing Commission paid \$39.5M in 2013 for Verona, 251 apartments over 40 years old in an area that already had too much low and moderate income housing.

He was told that old Clarksville Middle School was sold to a developer in 2012, and that closing was in 2014 for \$3.5M.

He was asked, "What could the Housing Commission have done with \$39.5 had it purchased old Clarksville Middle School?"

Answer: 263 brand new apartments.

Compare 251 over 40 year old apartments in an area that already had too much low and moderate housing versus 263 brand new apartments in an area that had little or no low and moderate income housing.

Economically which is the better choice? Ethically which is the better choice?

Grand Pointe (now Columbia Pointe) Story

In 2016 Grand Pointe, now Columbia Pointe, was for sale. The Housing Commission Executive Director at that time, Tom Carbo, approached the Co-Chairs of the Oakland Mills Village Board, Ginny Thomas and Bill McCormack, about purchasing Grand Pointe. The Co-Chairs stated that it was against the Oakland Mills Village Center Community Plan.

A meeting was held with then County Executive, Allan Kittleman, his Chief-of-Staff, Diane Wilson, Tom Carbo, Ginny Thomas, Bill McCormack and Kay Wisniewski, OM Board's Point of Contact for the VCCP. The OM representatives stated that the proposed purchase was against the OM VCCP.

Tom Carbo stated that he would not bring the proposed purchase to the Housing Commission Board of Directors.

Morgan Properties purchased Grand Pointe for \$47.5M in 2016. Within one week of the purchase they informed the Oakland Mills Covenant Advisor that they planned to invest \$11M over the next 12-18 months to replace all windows and doors, which were the original single pane, and the roof, which they determined was probably the original over 40 years old.

Verona Expense Story

In 2019 the Housing Commission was notified by one of the OMCA Covenant Advisors that several dead trees at the Verona Apartments were a violation and needed to be taken down. The Housing Commission

responded that they didn't have the money to take the trees down in a timely manner. An extended time frame was negotiated.

Conclusion

Might the Housing Commission be better off building new in areas with little or no low and moderate income housing rather than buying old in areas that have concentrations of low and moderate income housing?

Requests

Please withdraw CB13 and let the Task Force make a comprehensive study of housing policy and create the Master Plan.

Please place a self-imposed moratorium on all housing bills until the Master Plan is approved.

If the bill is not withdrawn, please make the following amendments.

In section 13.1405 delete "In perpetuity."

Create restrictions on the property to be purchased to stipulate that if after the purchase, with a minimum of 20% of the housing units as affordable, the property's elementary or middle or high school district is over the county average plus a third for the FARM rate for that school type, the property cannot be purchased.

Create the requirement for a public hearing on the proposed purchase. When the seller notifies the County and the Housing Commission of a bona fide offer, the County must immediately schedule and then hold a public hearing on the proposed purchase prior to the County or Housing Commission making the commitment to purchase the property.



Lake Kittamaquundi

175

29

AUTUMN
CREST

Oakland Mills

Talbot Springs
Pool

Talbot Springs
ES

VERONA
NORTH

COLUMBIA
PONTE

Rt. 29
Pedestrian
Bridge

FOREST
RIDGE

OM
VILLAGE
CENTER

VERONA
SOUTH

Oakland Mills
HS

Oakland Mills
MS

Stevens Forest
ES

RIVER MEADOWS

PUSHCARTWAY

CANTON

WILSON

STEVEN

KILIMANJARO RD

ON VICTORY

WILLEN CT

FORREST ROWE

KILIMANJARO RD

WILSON

PIANE

WILVENSEHORST RD

BASKETCRANG RD

WHITEACRE RD

STEVENS WOOD LN

HIMMELBERG RD

TRONDENHILL RD

THE DUNNWOOD

WILSON

WILSON

LONGWOOD DR

OAKLAND MILLS RD

Sayers, Margery

From: Bill McCormack Jr <william.r.mccormack@verizon.net>
Sent: Saturday, March 28, 2020 1:32 PM
To: CouncilMail
Subject: CB13-2020 Testimony
Attachments: Testimony CB13-2020.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Councilmembers,

Please see the attached testimony on CB13-2020.

Thanks for reading,
Bill McCormack Jr.

Withdraw CB13-2020

My official personal position as Co-Chair of the Housing Opportunities Master Plan Task Force is to withdraw CB13-2020, the Affordable Housing Retention Act, and let the Task Force create the Master Plan.

County Executive, Dr. Calvin Ball, created the Housing Opportunities Master Plan Task Force. The County Council approved the budget with \$400,000 for the Task Force consultant.

Goals of the Housing Opportunities Master Plan

- Inclusiveness, equity, openness, transparency and accountability
- Assessment of housing programs/policies in all departments/agencies of Howard County Government to improve efficiency and effectiveness
- Providing metrics, timelines to measure progress toward achieving goals
- Identifying ways to create and preserve housing opportunities for residents of all incomes

The Task Force held its first work session in early February and plans call for completion of the Master Plan Final Report to the County in early December, 2020.

The Task Force of about 30 members, who have expertise in a broad spectrum of backgrounds, will spend this year analyzing and studying current policies and practices and recommending changes to better position the county to offer housing opportunities for residents of all incomes throughout the county.

Please let the Task Force do its job and withdraw CB13-2020.

Going forward it would be helpful to put a moratorium on all housing bills until after the Master Plan has been completed and approved.

Thanks for reading.

Bill McCormack Jr.
9569 Patchin Court
Columbia, 21045

Sayers, Margery

From: Jones, Diane
Sent: Saturday, March 28, 2020 11:36 AM
To: Sayers, Margery
Subject: FW: HAC Comments- CB 13-2020
Attachments: CB 13 Comments.docx

Hi Margery,

For CB13.

D.

From: Jacqueline Eng <jleng1747@gmail.com>
Sent: Friday, March 27, 2020 10:11 AM
To: Rigby, Christiana <crigby@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Walsh, Elizabeth <ewalsh@howardcountymd.gov>
Cc: Gelwicks, Colette <cgelwicks@howardcountymd.gov>; Jones, Diane <dijones@howardcountymd.gov>
Subject: HAC Comments- CB 13-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Council members Mercer-Rigby, Walsh and Jones,

The Howard County Housing Affordability Coalition appreciates and supports CB 13-2020 with a few suggested amendments. Attached are the Coalition's comments, which we are available to discuss with you when these challenging times enable you to get back to consideration of CB 13.

Please accept our sincere congratulations on how you and your fellow Council members and your staffs have been managing Council business and community engagement during this COVID 19 emergency. Let us know if there is anything we can do to help facilitate communications within the affordable housing community.

Jackie Eng, Coalition Coordinator

Howard County Housing Affordability Coalition

March 27, 2020

Council members Christiana Mercer-Rigby, Opal Jones and Liz Walsh
Howard County Council
George Howard Building
Ellicott City, MD

Re: Affordable Housing Retention Act, Council Bill 13-2020

Dear Ms. Mercer-Rigby, Dr. Jones and Ms. Walsh,

Our Coalition of individuals and organizations appreciates your continuing recognition of and willingness to identify solutions to the extraordinary need for affordable housing for households with incomes below sixty percent of Howard County's median income. We know that CB 13-2020 is intended to and can be an important new policy tool in helping to preserve current affordable housing and bringing new affordable units into the County's inventory, and that this is a policy that has been used successfully in other jurisdictions to achieve these purposes. We, therefore, support CB 13-2020 with the suggestion that it will benefit from a few amendments.

To that end, the Coalition suggests an amendment that would add a Sunset provision to take effect two years from implementation of the Bill. Such a provision would enable the Howard County Department of Housing and Community Development and Housing Commission to not miss any right of first refusal opportunities that may arise in the near term, but would also enable a sufficient period of time to fit the policy into a broader County housing strategy or recommend that it be allowed to sunset. A Sunset provision would also provide opportunity for the Housing Opportunities Master Plan Task Force to consider the legislation and include any recommendations in its final report.

Additional comments:

- Section 13.1403(G) – Foregoing the Right to Purchase. As written “senior” can be interpreted as housing for seniors at any income level. Language such as “affordable, including senior” would be consistent with legislative intent. Language such as “affordable, including housing for seniors, persons with disabilities and other special populations,” would better capture the totality of needs in the county. Or, eliminating “senior” and letting “affordable” represent the totality is an option.
- Section 13.1405. Affordable Units.
 - Substituting “40 years” for “in perpetuity” would be consistent with the state's LIHTC program and the period imposed on the inclusionary units in Downtown Columbia. Such consistency would facilitate financing opportunities.
 - Codifying maintaining *20 percent of units* at income levels at or below moderate-income would be a strong statement of the County's long-term commitment to affordable housing.

Please let us know if you wish to discuss these comments, or if we can do anything to facilitate conversations with other parties that can lead to consensus on the need for this new policy tool.

Respectfully,

Jackie Eng

Jackie Eng, Coalition Coordinator
Jleng1747@gmail.com
410-808-9677

Sayers, Margery

From: JOSEPH PAVLOVSKY <jpavlovsky@verizon.net>
Sent: Saturday, February 22, 2020 6:51 AM
To: CouncilMail
Subject: 13-2020 Right to Purchase

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Sounds like another tax hike for the tax payers of Howard County. What legislation is being considered to reduce the burden that already exists. I moved to Howard County over 40 years ago to escape the high taxes in Baltimore and Baltimore County. If cost continue to rise it will most likely will mean another move to a more accommodating state. Please direct your efforts to help the current population.

Sent from my iPhone

Sayers, Margery

From: Alice Pham <alicekpham@yahoo.com>
Sent: Friday, February 21, 2020 4:36 PM
To: CouncilMail
Subject: In favor of CB 13-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

This bill looks like a good step to allow the county to assure that there is adequate housing at affordable rates available so that we do not become just another rich town. Columbia was established as a place where a diverse population would prosper, yet housing costs keep going up, making it increasingly difficult for many to live here.. We must act to make sure that there is a range of "affordable" housing available.

Alice Pham
9650 Sandlight Ct
Columbia MD 21046