

The People's Voice, LLC

3600 Saint Johns Lane, Suite D, Ellicott City, MD 21042

CB10-2023

March 19, 2023

Testimony on CB10 – Support

The People's Voice commends Council Member Walsh for this needed Bill. There are specific rules that need codifying regardless of process update plans, so we support this Bill.

Firming up definitions of words and phrases is important for clarity, fairness and transparency.

Thank you.

Lisa Markovitz

President, The People's Voice

Sayers, Margery

From: Sunmy Brown <s_brown0304@yahoo.com>
Sent: Monday, March 20, 2023 5:19 AM
To: CouncilDistrict1@howardcountymd.gov; Jung, Deb; Yungmann, David; Rigby, Christiana; CouncilPIO
Subject: Pass CB10-2023

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

3/20/23

Dear County Council Members,

I am in **support of CB10-2023** AN ACT to clarify the role of the hearing examiner to hear certain matters in the jurisdiction of the Zoning Board;

I know that today on 3/20/23 there is a public hearing for this bill, which I cannot attend. I kindly ask that the County Council consider the passage of this bill in the Council. This bill is particularly important as it addresses the concerns that constituents have had for years with regards to the hearing examiner and the Zoning Board in general. As we all know, there is construction and development occurring throughout Howard County due to the Howard County By Design Plan. It is especially important that every entity of the county that makes decisions regarding development are transparent and adhere to land development regulations.

In about twenty to thirty years from now, I do not believe the various members of the County Council nor the County Executive have considered the infrastructure needs that will be necessary to maintain a high quality of life in Howard County. Already, there is an enormous amount of traffic congestion, noise pollution, environmental concerns and sustainability concerns throughout the entire county.

Please consider the passage of CB10-2023 for the sake of those living in this county and call it home. We need the hearing examiner and the Zoning Board to work in tandem with all entities of the county who make decisions relating to development in this county.

Respectfully,
Sunmy Brown
Ellicott City, Maryland

March 20th, 2023

Re: Letter of Comment Bill Number 10-2023

Dear Counsel Chair Rigby and Members of the Howard County Council:

The Howard County Chapter of the Maryland Building Industry Association (MBIA) is writing to strongly encourage amendments to the bill offered by Councilwoman Liz Walsh, Bill 10-2023 which would create new standards for the conduct of hearing examiners and set new guidelines for the conduction of Zoning Board Hearings.

There are 4 areas in the bill that we have specific concerns about:

1. Definitions – Certain words are defined as their common and generally recognized usage. This is not legally recognized. If not defined in the bill, words should use their dictionary definition which avoids the ambiguity inherent in the “common usage” standard.
2. Sign up – timeframes to sign up are allowed after the beginning of the hearing, this will extend the hearings and create a significant impediment to process efficiency.
3. Conditional Approval – this needs to be looked at carefully to make sure that we are not creating a zoning by contract which is not legally permissible.
4. Adjoining Parcels – This would require that any non-adjoining parcels that are part of the same project require separate hearings to complete a single project. Having multiple hearings for a project is unnecessary and projects should be considered as a whole and not piecemeal.

In general, this bill adds a great deal of additional time and complexity to an already time consuming and thorough process. Rather than requiring that parties participate during the evidentiary hearing period, this bill expands opportunities to comment for the entirety of the zoning board hearing process. This has the potential to drag out the process much longer as people continually add more and more public comments at various points. Any extension of the process costs developers time which increases their expense, driving up costs for consumers. Howard County already is struggling to address a severe housing shortage and affordability crisis. This bill adds to the difficulty with no immediately discernable benefit.

MBIA recommends that instead of adopting this bill which adds a significant expense for Howard County homebuyers, that this bill be amended to create a stakeholder workgroup which could recommend a more cost-effective approach that avoids adding additional time and expense to the process.

For these reasons, MBIA respectfully requests the Council amend CB 10-23. Thank you for your attention to this vital issue and your continued support of the local home building industry. If you have any questions about these comments and would like to discuss MBIA’s position further, please do not hesitate to contact me at iambroso@marylandbuilders.org or (202) 815-4445.

Best regards,

Isaac Ambruso, Director of Legislative and Regulatory Affairs

Cc: Counsel Chair Christiana Rigby
Vice-Chair Deb Jung

Councilmember Opel Jones
County Executive Calvin Ball
Councilman David Yungmann
Councilmember Liz Walsh



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

I, Leonardo McClarty, have been duly authorized by
(name of individual)

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

County Council regarding CB 10 / CR 49 to express the organization's
(bill or resolution number)

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

Printed Name: Leonardo McClarty

Signature: *Leonardo McClarty*

Date: 3-17-23

Organization: Howard County Chamber

Organization Address: 6240 Old Dobbin Lane, Suite 110

6240 Old Dobbin Lane, Suite 110

Number of Members: 700

Name of Chair/President: Linda Ostovitz, Chair

*This form can be submitted electronically via email to
councilmail@howardcountymd.gov no later than 2 hours prior to the start of the
Public Hearing.*



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

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

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

County Council regarding CB10-2023 to express the organization's
(bill or resolution number)

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

Printed Name: Stu Kohn

Signature: _____

Date: 19 March 2023

Organization: HCCA

Organization Address: Ellicott City, MD

Number of Members: 500

Name of Chair/President: Stu Kohn

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councilmail@howardcountymd.gov no later than 2 hours prior to the start of the
Public Hearing.*



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

I, Isaac Ambruso, have been duly authorized by
(name of individual)

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

County Council regarding CB 10-23 to express the organization's
(bill or resolution number)

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

Printed Name: Isaac Ambruso

Signature: _____

Date: 3/20/22023

Organization: Maryland Building Industry Association

Organization Address: 11825 West Market Place, Fulton MD

11825 West Market Place, Fulton MD

Number of Members: 970

Name of Chair/President: Lori Graf

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councilmail@howardcountymd.gov no later than 2 hours prior to the start of the
Public Hearing.*

Bruce A. Harvey
Testimony 03/20/2023
Howard County Council
Bill CB10-2023

My name is Bruce Harvey and I live on Elmwood Road in Fulton, MD. I am testifying on Council Bill CB10.

I am recommending that we pass this legislation but with Amendment to make the Hearing Examiner process more efficient and straightforward. There's a lot in this bill especially for non lawyers, but what I see needs to be amended is as follows.

- Page 2 line 26 – Words and Phrases not specifically defined...shall be construed according to the common and generally recognized usage of the language. This seems very open ended. Should be changed to dictionary definition.
- Page 6 Line 1 – Adjoining Property – OK to define Adjoining Property, but the legislation requires property not Adjoining to be separate cases or hearings. This could be very limiting down the road as Assemblages of property where an owner in the middle holds out would have to be processed separately. Most recent situation that would apply is Bethany Glen in Ellicott City separated by I-70. Would have required to separate hearings under this legislation, even though the property was owned by a single owner.
- Page 11, line 4 – Allows an Individual or Entity to become a Party of Record up until the Close of the Record for the case. This is much longer than previously allowed and could extend hearings for a great deal of time.
- Page 28, starting on Line 20 – The residential addresses of applicants, especially owners of Corporations and LLC's that are applicants should not be required. There is a safety factor here that should be considered. Also public companies are excluded from this requirement. Doesn't make sense to me that local companies have to show their home addresses.
- Page 33, Page 2 – Conditional Approval – To approve a petition Conditionally is very open ended. A zoning category is stringently defined. The ability to set unlimited number of Conditions is concerning. In addition, Planning and Zoning is being required to enforce and not sure they have staffing necessary if there are conditions on every approval.

Thank you for hearing my testimony.

March 20, 2023

Honorable Christiana M. Rigby, Chair
Howard County Council
3430 Courthouse Drive
Ellicott City, MD 21043

RE: CB 10-2023 and CR 49-2023

Dear Ms. Rigby:

I am providing this testimony on behalf of myself as a resident of the County. I am also a member of the Chamber Legislative Committee and the Land Use Sub-committee but am not speaking in that capacity. I support the written testimony of the Chamber and the comments of Mr. Leonardo McClarty regarding both CB 10-2023 and CR 49-2023.

CB 10-2023

Based on my many years of work in County land use, I am concerned that proposed CB-10-2023 creates many conflicts with the code and basic land use law. Below are just a few examples, but any attempt to amend this legislation without a full discussion of what is intended by the changes is only going to create more conflicts and legislation to fix and clarify.

One concern in using “common and generally recognized usage of the language” to define terms not specifically defined rather than the practice of using a standard dictionary. The County Zoning regulations have used “a standard dictionary” for over fifty years and there is much case history to support that. I am aware that some have recently tried to argue that documents like the American Planning Association “A Planners Dictionary” can be used instead of a standard dictionary, but that document is clear that it is not intended to provide one meaning of a term and often gives several very different meaning examples from across the Country. It is intended to give examples a jurisdiction can use to define a specific term, not to replace the dictionary.

I also note several changes that create confusion and deserve discussion before the Council considers the legislation. Below are a few examples:

Page 6 line 1 adds to the definition of adjoining property “a stream bed or the like”. I have never seen in Howard County where a stream create a boundary of a property when it is not also a property line and I have no idea what “or the like” would include.

Page 11 line 1 on lines 4-8 adds to the definitions what is not a definition, but a provision that any person including a HOA can become a person of interest by entering testimony after the hearing has concluded, but before the Authority closes the case. This gives the opportunity for anyone to become a party of record and introduce testimony with no opportunity for cross-examination or rebuttal. That is totally contrary the rest of the procedures that require an opportunity for the other side to hear and cross examine a witness. There are cases where the hearing authority leaves the record open for a specific document to be shared with the other participants and entered into the record, but this allows someone who was not even a part to the

March 17, 2023

The Honorable Christiana M. Rigby
Chair, Howard County Council
3430 Courthouse Drive
Ellicott City, MD 21043

RE: CB 10-2023 and CR 49-2023

Dear Chair Rigby:

As an organization dedicated to a prosperous community and growing tax base, the Chamber works to drive economic development, foster a positive business climate, and support employers in the furtherance of their business interest. It is for economic and community development that I come to you now. Specifically, that of CB 10-2023 and CR 49-2023 which is before the Council for public hearing on March 20, 2023. Please accept these written comments as additional information to the testimony that we intend to present at the public hearing.

We understand the Council is seeking to improve policy and procedural measures as it relates to the Hearing Examiner and land use matters. We too are in support of measures that will enhance the County and make conducting business easier. Based on review of the proposed legislation, there are concerns we want to bring forth as information. As always, these comments are intended to assist the Council with its policy considerations to ensure that the changes to these local provisions will best serve the interests of the community.

CB 10-2023

Whether we agree with the outcomes or not, the Chamber is always in favor of a participatory planning and land use process. Thus, we are concerned with CB 10-2023's language as it pertains to words and phrases believing that it conflicts with Section 103.0 of the Howard County Zoning Regulations which specifies that "Terms used in these Zoning Regulations shall have the definition provided in any standard dictionary, unless specifically defined below or in any other provision of these Zoning Regulations." As zoning and land use is a public process, we believe that words and phrases should lean towards simplicity rather than complexity.

We are also concerned with the process outlined as it related to who can sign up to testify or present evidence prior to the close of an Applicant's case. Allowing new parties to join cases at any point in the proceedings until the final closing of the record offers the undesirable result that these administrative hearings would be further vulnerable to extended hearings and other deliberate tactics to slow the decision-making process.

CR 49-2023

The Chamber also has concerns with certain provisions of CR 49. There are calls to extend the period allowed for opponents in Hearing Examiner cases to the end of the protestants' case. If there is a

March 17, 2023

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prevailing view that Hearing Examiner and Zoning Board hearings are not long enough, we are unaware of that opinion, thus we question this extension. [REDACTED]

We are further concerned that there is a "call, examine and cross-examine witnesses and obtain and introduce into the record documentary or other evidence." As a detached and neutral factfinder, it is our belief that the Hearing Examiner should not be encouraged to call witnesses or introduce evidence into a case. We believe that the government and administrative hearing system of Howard County would be best served by limiting actions from a factfinder that may endanger the public's perception and faith in due process.

The most unsettling is the section which seeks to Eliminate the Petitioner's Rebuttal Presentation. It is a hallmark of a fair adjudicatory process that the party with the burden of proof begins the hearing with its presentation, is allowed to cross-examine the opposing party's case and then is allowed a final opportunity to rebut the opposing party's case. Currently, in Howard County, every administrative agency has rules to ensure this setup. One notable exception is the Zoning Board rules of procedure Section 2.403.D.3.h., which allows a surrebuttal by protestants. The proposed Section 5.5 creates an unprecedented new format for the County by allowing an applicant only one opportunity to present its case, including having to anticipate all arguments made against the application. Suffice it to say our conversations with those experienced in this process view this change to be harsh and unnecessarily hostile to prospective applicants.

Finally, members of Howard County's Chamber of Commerce are growing increasingly concerned with the consistent flow of overwhelming and omnibus pieces of legislation that are not the product of a deliberate and organized taskforce of affected stakeholders. Instead, fewer people are being involved in the crafting of important legislation that not only changes processes but is financially impactful. We believe that policymaking should incorporate all views and opinions and believe those of the business community should be considered the same as residents.

Thank you for this opportunity to provide comments on these proposed laws. We remain available and open to further discussions to help forge the best path forward.

Sincerely,



Leonardo McClarty, CCE
President/CEO, Howard County Chamber

cc: [REDACTED] Honorable Deb Jung, Vice-Chair
Honorable Opel Jones
Honorable Liz Walsh
Honorable David Yungmann