

Bruce A. Harvey
Testimony 03/20/2023
Howard County Council
Bill CR49-2023

My name is Bruce Harvey and I live on Elmwood Road in Fulton, MD. I am testifying on Council Resolution CR49.

Similar to CR-49, I am recommending that we pass this legislation but with a couple of Amendments

- Persons of Record – The ability to become a Person of Record at any time while the Case is open will lengthen the time required to hear the case. I'm recommending it be limited to before the initial hearing and/or at the initial hearing. Administratively difficult to keep adding Persons of Record as well.
- Petitioner Rebuttal Presentation – this has been eliminated in these new Rules of Procedure. It is important that a Petitioner be able to respond to the Opposition's Presentation to make certain that any misrepresented information is clarified.

Thank you for hearing my testimony.



**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

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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.*

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