MARYLAND BUILDING INDUSTRY ASSOCIATION
11825 West Market Place | Fulton, MD 20759 | 301-776-6242

July 24, 2022

The Honorable Gabe Albornoz
President, Montgomery County Council
Council Office Building, Third Floor
100 Maryland Avenue
Rockville, MD 20850

RE: Opposition Expedited Bill 22-22, Landlord – Tenant Relations – Limitations on Rent

Dear President Albornoz and Council Members,

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding Bill 22-22, which would temporarily limit rent increases and notifications of rent increases, by landlords in the County for period of six months after its effective date, any notices of rent increases in the County would be limited to no more than 4.4 percent. MBIA recognizes the ongoing struggles Montgomery County residents are facing in making rent payments, and we are committed to working with the county to mitigate the financial burden. However, we feel that a countywide rent cap would do more harm than good long term, disallowing building owners in Montgomery County to keep up with market rates, leaving less money for needed building maintenance and deterring future infrastructure investment in the county, while neighboring jurisdictions continue to thrive without being hamstrung by regulations. Also, the county continues to push on a separate front the need for both new and existing buildings to operate as efficient as possible to reach the counties climate goals, this requires for existing buildings retrofits for any number of improvements: heating and cooling systems, windows, insulation etc. Adding a rent cap on top of new climate retrofit policies creates the potential for very trouble unanswered economic questions: Understanding this is down the road in terms of implementation, how does that will retrofits get financed without rental income? Is the county going prepared to aide significant for private building owners, if rents rent increases are unable not legally allowed to be raised past a certain point to mitigate increased costs? Just This rent cap proposal is just another aspect as this where we are concerned that one County policy will continues to get pushed to think about even while it harms other existing County policies.

This body has already put into place two separate rent stabilization measures and is now considering a third, while other jurisdictions have allowed theirs to phase out and is now considering a third. Is it going to be a regular occurrence every 6 months or sooner to tweak the figure to reflect to the current labor statistics or lower? The county needs to allocate more money to DHCA and actually set up a rental assistance department that is well staffed and well-funded to aid residences in a timely and helpful manor. Based upon the staff memo, it suggest for this legislation states that census data suggests that 17-20 percent of the renters in the state are behind on their payments. So, if the other 83 or so percent of renters are up to date with their payments, and again this is statewide data indicating the number for Montgomery County is smaller, to the suggestion made earlier why can't the county seek to help those that actually need the help (the 17-20%) or smaller with rent relief payments or some other mechanism, instead of giving 100% of the renters a reduced rent?

There are better ways to protect vulnerable renters. In addition to the allocation of more money to DHCA — an example came from a Bloomberg report to help curb rental increase in San Francisco. A citywide system of government social insurance for renters. Households that see their rents go up could be eligible for tax credits or direct payments to offset rent hikes, and vouchers to help pay the cost of moving. The money for the system would come from taxes on landlords, which would effectively spread the cost among all renters and landowners instead of laying the burden on the vulnerable few.[1]

[1] "Yup, Rent Control Does More Harm Than Good" - https://www.bloomberg.com/opinion/articles/2018-01-18/yup-rent-control-does-more-harm-than-good

Furthermore, that bill is quite vague when it comes to the "retroactive" portion of this bill (as written). As a practical matter, it would seem difficult to renegotiate leases that have already been written. The "Contract Clause" of the U.S. Constitution prevents state and local governments from passing laws that interfere with existing contracts to the benefit of one party and at the expense of others. The basic constitutional premise is that no state or local government may "impair the obligations of contracts." The retroactivity provision in the bill suggests the landlord or property manager would be required to inform the tenant and amend the lease to reflect the 4.4 percent or less number if they raised rents higher. Does this also require the landlord to reimburse the tenant for the difference, can the tenant take legal action the landlord for reimbursement? Rent caps and rent moratoria are very suspect and it can be argued that these laws violate the Contract Clause of the Constitution, when enacted against private contracts

Montgomery County should proceed cautiously in making permanent a piece of legislation that was originally supported by the significant public purpose of affording temporary pandemic-related relief. Extending this law well beyond the public emergency days of the early pandemic is no longer legitimately tied to that same public purpose. In fact, this legislation fails to advance a reasonable public purpose at all.

There is also a public policy issue in forcing private landlords, no matter how big or small, to continue to shoulder the burden of a shifting economy when they are facing the same inflationary problems as their tenants and anyone else who operates in the economy. There is no legitimate purpose served by interfering with landlords' expectations and shifting all burden onto the landlords when their lenders have the same private enforcement mechanisms as before. Landlords will go into loan default if they cannot recoup appropriate rents. It is important to remember that not all landlord or property managers are large corporations and are able to just absorb the ongoing inflationary pressures and operational costs. First, not all landlords are alike. Large, wealthy real estate firms and development conglomerates don't control the entire market: In fact, just over half of the U.S. rental supply, about 25.8 million units, are owned by business entities, according to the 2015 American Housing Survey. The other 22.7 million rental units are owned by individuals, who are more likely to own single units, homes and duplexes, and are often called "mom-and-pop" landlords.[2] These folks are not raising rents 15-20 percent, they have two or four units and serve a community need. They cannot absorb everyone else's struggles.

We appreciate the sponsor and the County Executive's intent and agree something needs to be done to help mitigate the burden of increased rent, but we feel another rent cap is not the solution and for the reasons stated above we ask the council to oppose Bill 22-22.

Thank you for your consideration, for more information about this position, please contact Griffin Benton at gbenton@marylandbuilders.org

cc: Montgomery County Council Members and Staff

[2] "How Eviction Moratoriums Are Hurting Small Landlords—and Why That's Bad for the Future of Affordable Housing" - https://time.com/5846383/coronavirus-small-landlords/