

Halpine Park LLC

March 27, 2023

Via Email

Mr. Evan Glass, Council President
And Members of the County Council
Council Office Building
100 Maryland Avenue, 4th Floor
Rockville, MD 20850

Re: March 28, 2023 County Council Public Hearing (Council Bill Nos. 15-23 and 16-23); Halpine Park LLC's Written Testimony

Dear Council President Glass and Councilmembers:

On behalf of Halpine Park LLC ("Halpine"), we offer the following comments to Council Bill No. 15-23 (the "Anti Rent Gouging Protections Act") and Council Bill No. 16-23 (the "HOME Act") (collectively, the "Proposed Council Bills") that propose to substantially modify well-established, longstanding rental housing policies in Montgomery County. Since the Proposed Council Bills are concurrently scheduled for public hearings (and will presumably be reviewed at work sessions in tandem), we are submitting comments to the Proposed Council Bills in one letter.

By way of background, Halpine is the owner of the apartment community known as Halpine View that is located at 12813 Twinbrook Parkway, 13001 Twinbrook Parkway, and 5508 Dowgate Court in Rockville (the "Property"). Halpine, through several local families including the Gudelsky family, has continuously owned and operated 564 garden style apartments at the Property since they were constructed in the mid-1960's. Snell Properties recently purchased a roughly one-third interest in the Property from several local families and now controls the Property with the Gudelsky family.

While the Property has been successful as a rental community for many years, the age and condition of these apartments require significant upgrades to meet market demands and compete with the amenities offered by other nearby apartment properties. As a result, Halpine recently obtained a substantial loan and set aside \$19 million for significant capital expenditures into the apartments and amenities at the Property, including the addition of a clubroom, gym, patios, renovated pool house, enhanced landscaping, children's indoor play area, and dog recreational facilities. These proposed capital improvements will benefit the residents and County's commercial tax base. However, as explained in greater detail below, these capital expenditures will be infeasible if either of the Proposed Council Bills are adopted without amendments that fully consider economic fundamentals necessary to improve multi-family buildings.

I. Written Testimony to the HOME Act

Halpine strongly opposes the HOME Act because it would restrict allowable rent increases to a level that is insufficient to support most, if not all, capital expenditures necessary to ensure that multi-family communities are maintained to a condition that enhances resident's quality of life and public welfare for the long term. Halpine's goal is to continue to provide its residents with quality housing and amenities as has occurred for over 60 years at the Property. The Home Act would severely limit any further investment in Montgomery County and be a disservice to the residents at the Property.

A rent cap of 3% or the rental component of the annual CPI will have the effect of discouraging

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reinvestment in existing housing. While the HOME Act includes provisions that would allow a property owner to petition for a fair rent return where certain capital expenditures are made, such discretionary process does not provide the certainty that is necessary for a property owner to undertake risk and incur financial obligations that allow for improvements. We respectfully request that the Council vote the Home Act down and not pursue this proposal any further.

II. Written Testimony to the Anti Rent Gouging Protections Act

In addition to the two previous paragraphs, Halpine is generally opposed to any form of regulated rent restrictions for market rate units and believes that it is in the public interest to allow market conditions to control rental rates.

Notwithstanding Halpine's opposition, the Anti Rent Gouging Protections Act presents a more workable framework than the Home Act. More specifically, the Anti Rent Gouging Act's proposal to limit annual rent increase to 8% plus the Consumer Price Index for All Urban Consumers (CPI-U) in the Washington area is likely to be consistent with what the market will support as a ceiling for rent increases at many apartment communities in the County. However, the proposed rent increase allowance still does not adequately account for situations where a property owner makes capital improvements to the benefit of residents and the County's tax base. In these instances, such investment is only feasible where the property owner can recoup its investment and achieve a rate of return commensurate with the risk of making such investment.

While proposed Section 29-58 of the Anti-Rent Gouging Act would create a limited and temporary surcharge for capital improvements, the mechanics and framework for the surcharge will not functionally allow for property owners to make such an investment because it lacks the certainty required to obtain financing. First, requiring a property owner to pursue a discretionary process to obtain approval for such a surcharge creates additional administrative costs and process that will frustrate and limit reinvestment in apartment communities that would otherwise enhance both the County's commercial tax base and residents' quality of life. In this respect, the County simply is not structured to efficiently and properly review capital improvement plans such that it can administer allowable surcharges as set out in the Bill currently. In addition, capital improvements should rightfully be determined by the owners of the property and not by a government. Second, the allowable timeframes for a property owner to recover the cost of capital improvements do not allow for the rate of return that is necessary to underwrite such improvements through financing. While the Anti-Rent Gouging Act permits recovery of capital costs over a 12-to-24-month period (depending on the nature of the improvements), these types of capital improvement projects can only be financed and implemented where a property owner has the opportunity to achieve a commensurate rate of return for a period commensurate with the useful life of such improvements. In most cases where significant improvements are made, recovery or return on investment over 12-24 months would be impossible. In our case, Halpine with gross annual rents of less than \$10M would need to increase those rents by \$19M over a one or two year period, which is not feasible.

In summary, a property owner bears all the risk (including lender commitments) in making such improvements to the benefit of their residents and the County's tax base, and the Anti Rent Gouging Act impairs a property owner's ability to achieve a rate of return that makes these capital improvements financeable.

Absent significant changes to the surcharge exemption in the Anti Rent Gouging Act, Halpine will be unable to reinvest the \$19 million dollars set aside into the Property and unable to achieve the required rate of return on its underlying loan as anticipated and promised. Instead, proceeds would be used for other


investments outside of Halpine or distributed to its members for investment or use. Based upon the foregoing, we respectfully request that the surcharge language be modified to specifically exempt projects from the proposed rent increase allowance where they obtain financing to make capital improvements that exceeds some objective percentage of the overall assessed value of improvements for a property. **Halpine recommends that the Council amend the Anti Rent Gouging Act exemptions to include any project that takes out financing (or has already taken out such financing) to complete major capital improvements, with the financing exceeding 10% of the property's assessed value, for a period of 15 years following closing on such financing.** Such a policy will encourage reinvestment in apartment communities and ensure that property owners are incentivized to maintain their communities to the highest standards to the benefit of residents and the County's commercial tax base.

We thank you for your time and consideration reviewing these written comments to the Proposed Council Bills and hope that the Council will work with apartment owners to establish policies that continue to promote reinvestment and maintenance of multi-family housing to the benefit of County residents.

HALPINE PARK LLC,
a Maryland limited liability company

By: SNELL HALPINE, LLC,
a Delaware limited liability company, as
Administrative Manager

By: Snell Construction Corporation,
a Virginia corporation, its Manager

By: 
Christopher R. Hanessian
President

cc: George Covucci, Halpine Park LLC
Marc Rubin, Halpine Park LLC
Matthew Gordon, Esq. & Robert Dalrymple, Esq.,
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