



April 18, 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); Rose Valley Management DBA Hampshire Properties LLC's Written Testimony

Dear Council President Glass and Councilmembers:

On behalf of Rose Valley Management, 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.

Rose Valley Management is the management company for The Enclave at Silver Spring Apartments (1,119 apartment homes and Milestone Apartments (576 apartment homes) in Germantown. 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. Rose Valley Management has spent millions of dollars on capital expenditures into the apartments and amenities, including riser replacements, Amazon Lockers, complete parking and garage repairs, full renovations of apartment homes, enhanced landscaping, and dog recreational facilities, not to mention the day to day upkeep of the property and apartment homes. 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. All parties recognized the risk in spending that amount of capital but were convinced in part due to the quality of the location and its durability as a long term community and investment for the families. Being required to conform to a newly enacted, unanticipated rent control ordinance will damage our business. In fact, adoption of the Home Act in any form may preclude any reinvestment in the Property.

I. Written Testimony to the HOME Act

Rose Valley Management 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 and operations 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. Rose Valley Management's goal is to continue to provide its residents with quality housing and amenities. 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 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, Rose Valley Management 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 Rose Valley Management'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 into the future. In some cases, depending on tenancy and economic conditions, recovery or return on investment over 12-24 months could be unachievable. Again, the market determines rental rates and therefore return on investment. 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.

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.

**Rose Valley Management DBA Hampshire
Properties LLC,**
a Delaware limited liability company

By: 
Daniel Rosenthal
CEO