



BOMA Legislative Committee – 2015 Maryland Legislative Session

The BOMA Legislative Committee has been busy during the current Maryland legislative session. The Session has a little more than a month to go, and here are some of the most important issues in which we've been active.

[HB 481](#) / [SB 588](#) - Stormwater Management - Watershed Protection and Restoration Program – Repeal

[SB 863](#) - Watershed Protection and Restoration Programs - Revisions

These are two different legislative approaches to a very important issue for BOMA members: the imposition of stormwater management fees that can result in thousands of dollars in additional operating costs to BOMA properties. The Governor fulfilled a campaign promise by introducing his repeal of the “rain tax.” Along with other commercial real estate groups, BOMA met with the Governor’s legislative staff to advise them of our position to support the bill with amendments. Specifically, we wanted to retain the protections we had gained in the original legislation in 2012. Our greatest concern is one of fairness – if the legislature does not allocate the costs of stormwater management fairly across all property owners, inevitably, commercial property owners will bear this burden disproportionately.

The House of Delegates has rejected the Governor’s legislation, so now our attention turns to Senator Miller’s Senate Bill 863. It is characterized not as a repeal, but as a revision of the stormwater management fees. An important subject in the bill is the application of the fees to nonprofit entities. Exemptions granted to nonprofits, especially in a city like Baltimore, could substantially increase the burden on commercial properties. We testified on this bill as favorable with amendments, and we will be joining our commercial real estate colleagues these concerns.

[SB 197](#) – Municipalities – Vacant and Blighted Buildings

This legislation was intended to address a local problem in the City of Annapolis with residential properties that are in a chronic and severe state of disrepair. The bill, however, applies much more broadly, and is potentially damaging to the interests of commercial property owners. As drafted, SB 197 would establish a “vacant and blighted” building registry. Among other potential burdens, the bill would allow municipalities to establish a special class of taxation for such properties. BOMA took the lead among the commercial real estate interests in opposing this bill.

At a meeting with bill sponsor Senator John Astle, also attended by representatives of the City of Annapolis and Maryland municipalities, BOMA pointed out that commercial buildings may often be unoccupied, and for longer periods of time than residential properties. At the same time, we observed that current laws require building owners to keep their properties in good repair. We suggested that, if



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the bill goes forward, commercial properties should be exempted. While that proposal was accepted by the bill sponsor, the bill ultimately received an unfavorable report and was withdrawn.

[HB 442](#) / [SB 323](#) - Mechanics' Lien – Design Services

This is another issue on which BOMA played a lead role. We have always fought the expansion of mechanics' lien laws because of the burden they place on property owners and managers. Mechanics' liens can also be abused to bring pressure on a property owner where there is a legitimate dispute over payment of a contract. One of our Committee members advised that his property had received a notice of lien for work that was conducted at the direction of a tenant. Historically, BOMA has been the primary opponent of legislation to expand the mechanics' lien law in Maryland.

While the number of interested parties eligible to seek a mechanics' lien has expanded in recent years, Maryland has always had a threshold below which a mechanics' lien is not available. Until 1996, that threshold was determined by comparing the value of all the work done with the value of the building. If that amount is greater than 25%, a mechanics' lien can be pursued. In 1996, the threshold was reduced to 15%.

In this year's legislation, the threshold is entirely removed for certain types of work, such as land surveying, engineering and interior design. BOMA objected immediately and was the only interested party to testify against this legislation at the House bill hearing. We met with the Senate sponsor, who heard our concerns and withdrew the bill. We met with the House sponsor twice, in an attempt to resolve our differences, but advised him that we are unable to consider any legislation that removes the threshold entirely for any persons seeking a mechanics' lien. If such a provision were enacted, it would enable contractors to obtain a lien for very small contracts, substantially increasing the nuisance value of such claims. In addition, it would only be a matter of time before the other parties protected by the mechanics' lien law sought the elimination of the threshold for their claims as well. Joined again by our commercial real estate colleagues, we advised the House sponsor that we could not agree on the bill and that we will continue to oppose it.