



To: Members of the Senate Local Government and Elections Committee

From: Vince Squillace, Executive Vice President, OHBA

Date: June 22, 2021

Re: *Interested Party Testimony SB 61*

Chairwoman Gaverone, Vice Chair O'Brien, Ranking Member Maharath, and Members of the Senate Local Government and Elections Committee, thank you for allowing me to provide interested party testimony on SB 61 Planned Communities, on behalf of the Ohio Home Builders Association (OHBA).

OHBA has shared with the sponsor, as well as, the Chairwoman the reasons OHBA cannot, at this point, be supportive of SB 61, which are also addressed in the comments below. While we are comfortable with the provisions of SB 61 regulating the installation and use of solar energy collection devices on condominium property and in planned communities, OHBA would urge the committee to take a closer look at several of the provisions making changes to the law governing condominium unit owners' associations (UOA) and planned community home owners' associations (HOA).

OHBA's primary concerns are with the changes proposed to 5311.08 and 5311.081. When reviewing these sections, it is crucial to understand and differentiate commercial condominiums and residential condominiums. Commercial condominiums and residential condominiums operate differently, not just practically, but legally, too, at least from a tax perspective. OHBA is happy to work with the Chairwoman, committee members and Sponsor to suggest potential changes to the definition of "residential unit" in order to clarify the difference between a true residential unit which contemplates owner occupancy, and a commercially operated apartment unit. We have included a brief summary of the specific questions we have raised and would be interested in working through before offering support for SB 61.

1. 5311.08 – The proposal is to add a restriction to the effect that the majority of the board may not consist of owners or representatives from the same unit.
 - a. The language does not appear to take into account the period of time during which the developer of a "condominium development" [read "residential condo"], which owns more than one unit, is permitted to control the entirety of the board.
 - b. Is this language intended only to apply to residential condominiums?

2. 5311.081 – the language changes eliminate the opportunity for a commercial condominium declaration to provide those reserves are unnecessary, and requires an annual budget.
 - a. Commercial condominiums are not tax exempt, unlike residential condominiums, so annual reserves will be taxable income.
 - b. Therefore, the proposed language needs to be reconsidered.
 - c. Maybe the language should require reserves only for residential condominiums, or mixed-use condominiums for which the association is income tax exempt.

Thanks for your time and opportunity to provide comments on SB 61.

Vince Squillace,

Executive Vice President, OHBA