Apartment and Office Building Association of Metropolitan Washington Position Statement on CB-26-2022

June 23, 2022

The Apartment and Office Building Association of Metropolitan Washington (AOBA) is a non-profit trade association representing more than 133,000 apartment units and over 23 million square feet of office space in Prince George's and Montgomery Counties. In Prince George's County, AOBA members own or manage over 66,000 of the County's nearly 127,000 rental units in 220 apartment communities across Prince George's County. AOBA members comprise nearly 20% of all Prince George's County's housing.[1]

It is hard to speak to the merits of this legislation as so much needs to be sorted out through a rigorous regulation process—one which AOBA hopes will include the Association's regional expertise and niche perspective as a member of the Advisory Board established in this legislation. AOBA believes the best way to achieve the aspirational goals set out in the legislation is to put the money in the hands of the people most impacted by this legislation, the large building owners, local office building owners and multifamily housing providers via grants, funds and other incentives to offset cost prohibitive retrofits. As proposed, AOBA members will be forced to design, implement, and completely finance costly capital improvements and investments to meet these new requirements. Further, AOBA members are singularly responsible for any penalties and fines assessed for non-compliance—non-compliance based on factors that they cannot wholly control as tenant behavior also has a significant impact on the ability to meet performance standards and energy usage goals. This bill, like many others, does not incentivize building occupants to adopt effective energy conservation practices. The elimination of greenhouses gases and the adoption of County-wide sustainability measures should not be balanced solely on the backs of AOBA members.

AOBA members are critical to the County's economic growth and without robust commercial real estate, County tax revenue will be reduced. Additionally, at a time when building owners are struggling to recover from the long-term impacts of the pandemic including significant office and retail vacancies; historic rent delinquencies in the commercial sector; significant rent forbearance; staggering residential rent delinquencies; government mandated limits on rent increases and evictions in the multifamily sector; AOBA members need assistance to supplement their own capital investments to make the County's goals attainable. Green banks and other financing tools are not what AOBA members need to achieve the legislative agenda in Prince George's County. To qualify for loans, property owners need to show revenue and Return on Investment (ROI). With an uncertain future in the office building and multifamily housing markets, this will prove difficult, if not insurmountable. The grants should be for all building owners, not just carved out for affordable housing. While AOBA agrees that the affordable housing sector should receive grants and other tools to help them comply, the County needs to be aware that all building owners are impacted by Covid driven changes to the workplace, unprecedented inflation and, therefore, need similar assistance.

[1] U.S. Census Bureau Quick Facts for Prince George's Co. https://www.census.gov/quickfacts/fact/table/princegeorgescountymaryland/PST120218

Much is made of the anticipated cost savings that will be achieved by reducing energy consumption. AOBA members have already made upgrades that reduce building emissions, such as switching to more efficient lighting systems, insulating windows, and installing energy-efficient appliances like refrigerators and microwaves. Thus, compliance with more stringent building performance standards will require far more expensive changes like replacing current boilers with dual-energy heating systems, chiller upgrades, or comprehensive retrofit projects that can range from $14 million to $36 million, as noted by projects connected with Washington DC's Sustainable Energy Utility (SEU). Additionally, current electric boiler technology cannot heat water at the rate traditionally consumed in multifamily communities. Beyond that issue, some properties, like 1980's garden-style apartment properties, cannot be retrofitted with electric boilers without razing the entire building. The same is true for other comprehensive retrofit projects, which make these changes prohibitively expensive to complete. It is important to note that these types of properties are offering the County's naturally occurring affordable housing, offering the lowest rents and housing thousands of moderate-income Prince Georgians. In short, it is far from certain that assumed cost savings from using less energy can compensate for the significant costs required to retrofit buildings to meet performance standards.

Finally, there is an open question of law related to the viability of both the proposed Prince George's legislation as well as the recently passed Montgomery County Bill, specifically, whether the local legislation is pre-empted by Maryland Senate Bill 528, The Climate Solutions Now Act of 2022. The Office of the County Attorney in Montgomery County has offered an interpretation of the pre-emption of state legislation. However, the County Attorney leaves open the potential of the local legislation being challenged in the courts[2]. AOBA has concluded that the pre-emption issue will likely be resolved in court. It is imperative that AOBA ensure that members are not ensnared in a conflicting battle between a state and county law when the State law pre-empts the local legislation.

Thank you for your consideration of AOBA's position on CB-26-2022. Please contact Erin Bradley, Vice President of Government Affairs, at ebradley@aoba-metro.org or (301) 904-0814 with questions or concerns.

[2] Montgomery County Staff Report on Bill 16-21, page 2
https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2707_1_20126_Bill_16-21_Committee_20220328.pdf