

GARY R. ALEXANDER **

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D. K. POUNDS **

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JAMES K. MCGEE *

LORENZO BELLAMY +*

ADMITTED TO PRACTICE IN *MD *DC *VA *PA

ALEXANDER & CLEAVER

ATTORNEYS AT LAW
Professional Association

MARYLAND • DISTRICT OF COLUMBIA • VIRGINIA
410-974-9000

301-970-1959 WASHINGTON METRO AREA
FAX: 410-974-9002 • CABLE: "ALEXLAW"

ac@alexander-cleaver.com

www.alexander-cleaver.com

1-800-292-LAWS

54 STATE CIRCLE
ANNAPOLIS, MD 21401-1904

OFFICES:
CUMBERLAND, MD
FORT WASHINGTON, MD
WALDORF, MD
ALEXANDRIA, VA

GOVERNMENT RELATIONS
CONSULTANTS:
CASPER R. TAYLOR, JR.
ROBIN FOGEL SHAIVITZ
LYLE W. FOWLKES
J. KENNETH BATTLE, JR.
STEVEN L. ARABIA
HANNAH POWERS

Testimony in Support with Amendments of HB 489 - Ground Rents - Redemption On behalf of the Ground Rent Owners Coalition House Environmental Matters Committee

February 22, 2007

We are here today representing the Ground Rent Owners Coalition, composed of investors of all types who own ground rents, including attorneys who are experts in property law. Ground rent owners in Maryland have vested constitutional legal rights because they own the land and are protected just as any other land owner. The Coalition supports reasonable changes and improvements in the enforcement process, but ground rent owners deserve protection also. If owners' fees are established or so-called reforms overburden an already complex enforcement process, the ground rent owner may be deprived of legal rights also. We have submitted to the committee an exhibit showing the enforcement and notice process that exists today, and there are already numerous built-in protections and notice throughout the enforcement process. Thus, the legislative process must carefully balance the interests of all parties, including the owners who for hundreds of years have invested in ground rents in Maryland.

The Coalition supports improvements to the redemption process, but has technical amendments that we will be submitting to the committee. The general nature of the amendments is discussed in the testimony of R. Marc Goldberg, who is appearing today on the panel with us.

Gary R. Alexander, Esq.
Lorenzo M. Bellamy, Esq.
Alexander & Cleaver



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

FRANK J. PRINCIPE JR., *Government Affairs Director*
ERIN P. FAVAZZA, *State Affairs Director*
Legislative Liaison Office

House Bill 489

To: House Environmental Matters Committee

From: James T. Smith, Jr., County Executive

Staff Contact: Erin P. Favazza, State Affairs Director

Title: Ground Rents - Redemption

Sponsor: Delegate Glenn and the Speaker (By Request – Administration)

Position: SUPPORT

Baltimore County **SUPPORTS** House Bill 489 because it is part of an overall legislative package to reform Maryland's antiquated ground rent system that has unjustly caused families to lose their homes. While Baltimore County does not have definitive data on the number of ground rents in the County, based on anecdotal accounts, many are located in the County.

Additionally, the County supports the other pieces of the Governor's legislative package to reform ground rents that will provide homeowners with better protection, understanding, and opportunities to buy their own ground rents, as well as provide a more equitable remedy for failure to pay the ground rent. Those pieces of legislation include:

- Prohibit the use of ejectment as a remedy for the nonpayment of ground rent;
- Establish that the sole remedy for the nonpayment of ground rent is the creation of a lien in the amount of the ground rent due;
- Require that in order to create a lien, the ground rent must be at least 6 months in arrears and the ground rent owner must provide written notice to the tenant;
- Repeal the waiting period for a tenant to redeem a ground rent and require that the ground rent owner give the tenant the first opportunity to redeem a ground rent before offering to a third party;

- Create a registry and on-line database for ground rents and properties subject to ground rents with the Maryland State Department of Assessments and Taxation; and
- Decrease, from 20 years to 3 years, the amount of time after which, if no demand or payment of ground rent is made, a ground rent is extinguished.

For these reasons, Baltimore County **SUPPORTS** HB 489 and requests a **FAVORABLE** report.



Maryland Association of REALTORS®, Inc.
2594 Riva Road, Annapolis, MD 21401-7406

Mary C. Antoun
Executive Vice President

William A. Castelli
Vice President of Government Affairs

410.841.6080

House Bill 489 – Ground Rents – Redemption

Position: Support with Amendments

The Maryland Association of REALTORS® (MAR) supports HB 489 which would clarify that ground rents created after 1982 are redeemable at any time, and that a tenant is granted a right of first refusal when the owner elects to sell the ground rent.

MAR supports the general intent of this legislation which is to encourage the redemption of ground rents by tenants by giving them greater notice of their redemption rights and greater opportunity to redeem.

However, because cost can be the greatest disincentive to a tenant interested in redeeming a ground rent, MAR would support an alternative process that would give the tenant the right to purchase the ground rent after the sale of the ground rent to the new owner. This would allow a tenant to take advantage of any discount purchase price paid by the new owner. The notice of the right to redeem at the discounted price could be sent with the information the ground rent owner would have to send to the tenant anyway.

MAR supports HB 489 and endorses the amendments offered by the Greater Baltimore Board of REALTORS® (GBBR).



GBBR Amendments to HB 489

- No. 1 On page 2, lines 18 and 19: delete text in its entirety
- No. 2 On page 3, line 2, strike OR and add new subsection (3) as follows and renumber existing subsection (3) to new subsection (4).
3. 24, WHICH IS CAPITALIZATION AT 4.5 PERCENT, IF THE LEASE WAS CREATED BEFORE APRIL 8, 1884; OR
- No. 3 On pages 8, strike lines 1 through 29 and on page 9, strike lines 1 through 7 and substitute:
- (1) AFTER A VOLUNTARY TRANSFER OF A REDEEMABLE GROUND RENT TO A THIRD PARTY, THE PURCHASING LANDLORD SHALL GIVE THE TENANT NOTICE OF THE TENANT'S RIGHT TO REDEEM THE GROUND RENT UNDER §8-110 OF THIS SUBTITLE AND OFFER THE TENANT THE OPPORTUNITY TO EXERCISE THE RIGHT TO REDEEM.
- (2) THE NOTICE SHALL STATE:
- (I) THE REDEMPTION AMOUNT CALCULATED IN ACCORDANCE WITH §8-110(B)(2) OF THIS SUBTITLE;
- (II) THE AMOUNT PAID BY THE GROUND RENT PURCHASER PLUS 10%;
- (III) SUBJECT TO §8-111.1 OF THIS SUBTITLE, THE AMOUNT OF BACK RENT DUE
- (IV) THE ANNUAL AMOUNT OF THE GROUND RENT;
- (V) WHETHER THE GROUND IS TO BE PAID ANNUALLY OR SEMI-ANNUALLY;
- (VI) THE NEXT DUE DATE FOR THE GROUND RENT;
- (VII) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE GROUND RENT PURCHASER; AND
- (VIII) THE DATE ON WHICH THE GROUND RENT WAS ORIGINALLY CREATED.
- (3) NOTICE SHALL BE GIVEN BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND BY FIRST-CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE TENANT AND, IF DIFFERENT, TO THE ADDRESS LISTED IN THE RECORDS OF THE STATE DEPARTMENT OF ASSESSMENT AND TAXATION.
- (B) (1) THE TENANT SHALL HAVE 30 DAYS AFTER THE DATE OF RECEIPT OF THE NOTICE TO NOTIFY THE LANDLORD OF THE TENANT'S INTENT TO EXERCISE THE RIGHT TO REDEEM.
- (2) IF THE TENANT DOES NOT RESPOND TO THE NOTICE OR NOTIFIES THE LANDLORD THAT THE TENANT WAIVES THE RIGHT TO REDEEM WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE, THE TENANT MAY ONLY REDEEM THE GROUND RENT PURSUANT §8-110.
- (C) (1) IF THE TENANT NOTIFIES THE LANDLORD WITHIN THE 30-DAY PERIOD OF THE TENANT'S INTENT TO EXERCISE THE RIGHT TO REDEEM, THE TENANT SHALL HAVE AN ADDITIONAL 30 DAYS AFTER THE DATE OF MAILING THE NOTIFICATION TO THE LANDLORD TO TENDER THE REDEMPTION AMOUNT AND ANY BACK RENT DUE.
- (2) WITHIN 30 DAYS AFTER RECEIPT OF THE REDEMPTION AMOUNT AND ANY BACK RENT DUE, THE LANDLORD SHALL PROVIDE TO THE TENANT A DEED OF REDEMPTION OF THE GROUND RENT.
- (3) UNLESS THE LANDLORD AND THE TENANT AGREE TO A LONGER TIME PERIOD, IF THE TENANT FAILS TO TENDER THE REDEMPTION AMOUNT AND ANY BACK RENT DUE WITHIN 30 DAYS AFTER THE DATE OF MAILING THE NOTIFICATION OF INTENT TO REDEEM TO THE LANDLORD, THE TENANT MAY ONLY REDEEM THE GROUND RENT PURSUANT §8-110.

R. MARC GOLDBERG, P.C.
ATTORNEY AT LAW

201 N. CHARLES STREET
SUITE 600
BALTIMORE, MARYLAND 21201
(410) 576-1155
(410) 576-0129 fax

GROUND RENT OWNERS COALITION
TESTIMONY IN SUPPORT OF HB 489
WITH AMENDMENT

GROUND RENTS - REDEMPTION

Offered Before The House Environmental Matters Committee

February 22, 2007

The GRO Coalition is a collection of real estate investors, attorneys, and other individuals from across Maryland who own ground rents.

The GRO Coalition's mission is to adequately strike a balance between protecting consumer rights and protecting existing property interests of its member real estate investors and professionals.

The GRO Coalition extends its open hand to the legislature in modernizing the existing procedure for the collection of ground rents. Of the eight administration bills, the GRO Coalition supports, with amendments, most, but not all.

The GRO Coalition supports efforts to make ground rent redemption a natural part of every capital real estate transaction so that, by natural means, ground rents will become extinct, within a short period of time.

Meanwhile, however, Tenants have an existing obligation to pay ground rent. Tenants may be given several notices to pay their obligations, but the nature of the ground rent property interest is such that failure to pay does result in consequences.

The GRO Coalition welcomes the opportunity to work with the legislature in crafting appropriate solutions which balance the existing property rights of ground rent owners with reasonable additional protections for Tenants.

GRO Coalition Testimony In Support of HB 489
With Amendment
February 22, 2007
Page 2

GRO generally supports this bill with the following issues addressed:

Issue:

- Tenant can be notified of right to redeem at every billing, thereby avoiding the necessity of this additional, redundant bill.

GRO Coalition response:

- Insert the proposed notice of right to redeem in each ground rent bill sent by the Landlord. Add required language to House Bill 502.
- Thus, this bill is no longer necessary

Issue:

- Current proposal imposes undue delay and expense on Landlords and arm's-length transactions.

GRO Coalition response:

- Certified mail is too expensive. Tenants don't pick up certified mail. The purpose of certified mail is only to prove that notice is given, therefore, a certificate of mailing will accomplish the same purpose at less expense.
- This is not a major transaction in the nature of buying a house (as in the Baltimore City Tenant Right of First Refusal Ordinance). Therefore, 15 days to consider and respond to a Notice of Right to Redeem is sufficient.

Issue:

- Tenant responsibility to promptly respond to the notice.

GRO Coalition response:

- Require Tenant to obtain a certificate of mailing in order to notify the Landlord that Tenant wishes to redeem. The waiver should be imputed after 15 days.

GRO Coalition Testimony In Support of HB 489
With Amendment
February 22, 2007
Page 3

Issue:

- Current custom and usage should be complied with in the settlement of a real estate transactions.

GRO Coalition response:

- The amounts payable to the Landlord should include not only the redemption amount, but also reimbursement of any registration fee required of the Landlord, along with any back-rent due, accrued rent from the date of the last payment and any expenses lawfully incurred which remain unpaid.
- Redemptions are at the sole cost and expense of Tenant. Tenants are responsible for having a title company perform title services, settlement services, and deed preparation. Tenants are responsible for all transfer taxes and expenses of transfer. Current custom and usage should be maintained. Therefore, the Tenant should remain responsible for submitting a deed, settlement statement and the required funds.

Issue:

- All tenants should redeem ground rents upon the occurrence of a capital transaction (sale/transfer of property and refinance/mortgage of property).

GRO Coalition response:

- All such transactions should require Tenant to exercise the right to redeem, thereby eliminating most ground rents within a short period of time. Thus, ground rents would naturally become extinct with no property rights being lost.

CHERYL D. GLENN
Legislative District 45
Baltimore City

Environmental Matters Committee

Subcommittees
Housing and Real Property

Local Government and
Bi-County Agencies

Motor Vehicles and Transportation



The Maryland House of Delegates
ANNAPOLIS, MARYLAND 21401

Annapolis Office
The Maryland House of Delegates
6 Bladen Street, Room 314A
Annapolis, Maryland 21401
410-841-3257 · 301-858-3257
Fax 410-841-3019 · 301-858-3019
E-Mail Cheryl.Glenn@house.state.md.us

District Office
5241 Darien Road
Baltimore, Maryland 21206
410-488-6830

TESTIMONY IN SUPPORT OF HB489
GROUND RENTS – REDEMPTION
Thursday, February 22, 2007

Good Afternoon Madame Chair Maggie McIntosh, Vice Chair James Malone, and Members of the Environmental Matters Committee.

I am testifying today to ask for your support of **HB489**. This Bill is being submitted along with a package of other Bills on the subject of Ground Rents. In particular, this Bill would allow for the redemption of redeemable ground rents. Here are the basic highlights of the Bill:

- Repeals the waiting period (e.g., 5 years for newer ground rents) for a tenant to redeem a ground rent.
- Require a GRO to give the tenant the first opportunity to redeem a ground rent before offering to a third party; tenant has 30 days after receiving written notice from the GRO to decide; if tenant elects to redeem, tenant has another 30 days from notifying GRO to tender redemption amount
- Require settlement agent to notify borrower, before settlement of a loan on residential property secured by a mortgage, of right to redeem the ground rent and the redemption amount
- Require DHCD to study feasibility of providing a loan program to assist families of limited income to redeem ground rents, and report to ENV, JPR & EHE by December 8, 2008

I ask for your favorable support of this bill.

Thank you for your time.

ENVIRONMENTAL MATTERS COMMITTEE

Date 2/22/07

(PLEASE PRINT CLEARLY)

PRO (for)
FWA (fav. with amend.)
OPP (against)

	Name	Address	Phone	Representing	PRO	FWA	OPP
Panel	1 Gary R Alexander	Alexander & Cleaver	410 974 9000	GRD Coalition		✓	
	2 R. Marc Goldberg			Ridge Title		✓	
	3 CAROLYN COOK & BILL COSTELLI SPANIEL	63521 MAR	410 337 7200 410 371 6080	Rec Hous		✓	
	4 Lee Hudson (written only)	41 State Circle 21701	410-268-7722	Lutheran office	✓		
5							
6							
Panel 7	7 Bill Pletcher Jim Cosgrove		410-268-0842	MZTA			✓
	8 PAUL GRAZIANO	88 State Circle	410 269 0207	Balto City Housing	✓		
Panel 8	9 Bill Bungee						
	10 Joseph Bryce	State House	410-974-3336	Governor's office	✓		

ENVIRONMENTAL MATTERS COMMITTEE

(PLEASE PRINT CLEARLY)

Date 2/22/07

PRO (for)
FWA (fav. with amend.)
OPP (against)

	Name	Address	Phone	Representing	PRO	FWA	OPP
1	Nathleen Murphy	116 Duke of Gloucester Annapolis	410-269- 5977	Maryland Bankers Assoc		✓	
2	Bib Enten	11	11	Maryland Bankers Assoc		✓	
3	Kathleen & Howard	11 E. Fajet St Baltimore Md 21202	410-539- 2370	Regional Manager		✓	
4	Charles Muskin	1906 Martins Cove Ct Annapolis MD 21409	410.349.9599	self		✓	
5							
6							
7							
8							
9							
10							

**Environmental Matters Committee
VOTING RECORD
2007**

H.B. 489 H.R. _____ S.B. _____ S.J.R. _____ DATE: 3/14/07

MOTION: FAVORABLE AMENDED WITHDRAWN:
 NO MOTION RE-REFER TO

	YEAS	NAYS	ABSTAIN/ EXCUSED	ABSENT	
Maggie McIntosh, Chairman					
James F. Malone, Jr., Vice Chairman					
Rudolph L. Cane					
Elizabeth Bobo					
Anne Healey					
Paul S. Stull					
Anthony J. O'Donnell					
Doyle L. Niemann					
Joseph C. Boteler, III					
Tanya Thornton Shewell				EX	
Stephen W. Lafferty					
Pamela G. Beidle					
Saqib Ali					
Dana M. Stein					
Cheryl D. Glenn					
Tom Hucker					
Richard A. Sossi					
Michael H. Weir, Jr.				EX	
Barry Glassman				EX	
Jane Lawton					
Marvin Holmes					
Virginia Clagett					
Barbara Frush					
12 Affirmative Votes Needed To Pass					
TOTAL	19		3		

Beverly A. Buchheit
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