



**TESTIMONY ON SENATE BILL 802**

Presented to the Senate Urban Affairs and Housing Committee

By  
Lisa Schaefer  
Acting Executive Director Appointee

November 20, 2019

Good morning, Chairman Ward, Chairman Muth and members of the Senate Urban Affairs and Housing Committee. I am Lisa Schaefer, Acting Executive Director Appointee for the County Commissioners Association of Pennsylvania. CCAP is a non-profit, non-partisan association providing legislative, educational, insurance, research, technology, and similar services on behalf of all of the Commonwealth's 67 counties. Thank you for the opportunity to comment on Senate Bill 802, which would require county planning commissions to compile certain information about community associations in an annual report. Counties have significant concerns about the bill, specifically the challenges and effort required to gather this information compared to the actual benefit that counties would derive from it.

County land use planning is important in creating an appropriate balance among environmental, infrastructure, public health and safety, and economic development needs and an appropriate balance among state, county and municipal prerogatives. In Pennsylvania, all counties have created planning agencies, which may encompass everything from traditional land use planning to transportation planning and environmental planning. Under the Municipalities Planning Code, comprehensive plans are created to be guidance documents for county and municipal governing bodies, which form a basis to promote regional consistency of municipal planning and ordinances, as well as general guidance for land use patterns that extend beyond municipal boundaries.

In general, counties have no public purpose need to collect a database of information purely relevant to common interest ownership communities, nor do they get into ownership interests on *any* properties or descriptions of lots down to this level of detail. Even if they did, ownership types are not a land use that a county would evaluate for planning purposes. Additionally, whether for planning purposes, emergency services or infrastructure maintenance, counties are concerned with the well-being of all of their communities, looking more globally at information like housing trends and growth patterns, and it does little good to evaluate community associations in a vacuum.

As you will hear from Mr. Hutchins, counties already have mapping data that is used for 911 and emergency services purposes, and even if the report envisioned under SB 802 was available, it would not be in a format that would be useful to existing county systems. We have also heard that there is a desire to collect information about infrastructure such as dams within these communities, yet it is unclear what counties are to do with this if they had it, as the state Department of Environmental Protection has sole regulatory authority.

We acknowledge that there are some counties where there are a large number of condominium associations that have seen utility for this information, and thus have attempted to gather it, such as Pike and Monroe counties. However, our understanding is that counties that have tried to gather this data in the past may not have completed this effort because of the difficulty, or have not been able to maintain it. While it has been argued that this information is available because the county planning commission reviews development plans, and these plans and corresponding condominium association declarations are filed

with the recorder of deeds office. Mr. Zugay will discuss with the committee how this information can and cannot be extracted from county systems.

In 2011, the Joint State Government Commission (JSGC), pursuant to HR 350 of 2009, released a report on this topic and noted the difficulty they had in trying to gather the study. In fact, the study reports “the data simply do not exist statewide and it would take significant resources and a commitment from the county and municipal governments to locate the data requested” (page 45).” Although SB 802 requires a condominium association to provide this information to the county when the cooperative is created, it is likely to become out of date – for instance, if the development is occurring in phases and additional units or infrastructure are added at a later time. Data will likely be inconsistent as well, as many of the data elements in the bill are unclear when asking for the presence of storm water systems or roads, is that intended to be a yes/no question, or is there other information sought? Does it matter for these purposes if the infrastructure has been dedicated to the municipality and is not actually owned and maintained by the association, or just that it exists within the association? The bill also does not address existing condominium associations and how that data would be gathered and maintained.

It is unclear how counties would be expected to compile and maintain this data without significant effort, or why local government resources would be expended to this extent for an exercise which has no real benefit for them or their taxpayers. Instead, county resources would be used to fill a massive data void for private and state interests.

Other states that have undertaken similar efforts have very different types of county needs for these details, or in the case of the Utah example cited in the JSGC report, appear to have created a registration mechanism at the state level. If the intent with SB 802 is ultimately to create a statewide picture of condominium associations, then there should be some requirement for the data to be submitted by the associations to the state for compilation; even if counties were able to compile all of this data it would not achieve this goal.

Finally, we note that under SB 802, this new report must be prepared consistent with section 207 of the Municipalities Planning Code, which requires the planning commission to submit an annual report to the governing body (e.g., county commissioners, township supervisors, borough council) of its activities and business. Although we understand this provision was a recommendation of the JSGC report, there would likely be no useful purpose to the governing body to have this data compiled and sent to them on an annual basis, nor is that its purpose.

While we were unfortunately unable to have a county planning director with us this morning. In evaluating this legislation, CCAP reached out to county planning offices across the state, and additional feedback is summarized below for the committee’s reference:

**Difficult to collect and maintain**

Largely, counties shared that having and collecting information on condominium associations would have little utility for planning purposes, and would likely be a herculean

task that ultimately would not be comprehensive. A few counties indicated they have tried to compile this information, but the information is hit or miss and the granular level of detail in the resulting database was not useful.

### **Administrative burden**

Some of the burden would likely be offset by placing it on local municipalities, where land use controls are often conducted and authorities manage infrastructure or amenities, and would shift staff time from other projects that are currently underway to data maintenance only. The cost/benefit ratio for compiling all of this data on an annual basis would result in staff spending more time gathering data than actually helping improve communities or implementing the plans that already exist.

### **Availability of data**

The data is also housed in different locations – some counties reported that the assessment office would be the main source of the data, but classification related to common interest properties may or may not be available and in any event, most databases were not built to be queried this way and so local knowledge would have to be relied upon to create an inventory. Even when declarations could be gathered, someone would need to sift through them to understand what exactly is in each – one might include just a tiny bit of common area, like a buffer yard, where another might include roads, sewer lines, water lines, storm water facilities, and so forth. Additionally, amendments to declarations can convert some units/homes out of the CIOC, so someone would have to evaluate those to ascertain which units/homes were once a part of the CIOC and which no longer are.

### **Challenges/duplication of data**

Some counties shared that they have no good way to identify the sewer and storm water service, which is hard to track because much of it is within easements. Conditions of sanitary sewer, water and storm water systems are also the legal responsibilities of a variety of entities, largely authorities, municipal governments, PENNDOT and on occasion home owners' associations. Through Act 167, counties have plans for their watersheds, and some but not all municipalities have significant MS4 compliance that details the condition and long-term planning of storm water systems. Several counties also shared that for homeland security reasons, or because some of the information is proprietary, entities are legally protected from sharing some of this information.

In closing, we reiterate that counties are actively engaged in planning efforts that will affect the future of all of the communities within their borders, as well as throughout their local regions. If information about common interest communities is useful to that effort, counties are attempting to gather it, although it has had limited success. For others, the burdens associated with trying to comply with SB 802 would take away from their abilities to implement projects associated with their existing plans and move forward with their counties' visions.

Thank you for your consideration of these comments, and we would be happy to answer any questions.