

BRUCE C. OGILVIE, MS
230 LEELANAU AVENUE
FRANKFORT, MI 49635-1734
April 30, 2019

Rep. JAMES LOWER
Rep. STEVEN MARINO
LOCAL GOVERNMENT AND MUNICIPAL FINANCE COMMITTEE
MICHIGAN HOUSE OF REPRESENTATIVES
VIA EMAIL for Local Government and Municipal Finance Committee hearing May 1, 2019

OPPOSITION TO HB 4046 SHORT-TERM RENTAL PREEMPTION LEGISLATION

Sirs;

The proposed Short-Term Rental Preemption Legislation In House Bill 4046 is a violation of the principals of local government control of health, welfare, and safety embodied in the Michigan Planning and Zoning Laws.

Further, it is a violation of the principles of effective government embodied in the phrase that "the most effective government is local government." HB 4046 removes the specific protections embodied in the U.S. Supreme Court decision of 1926, Village of Euclid, Ohio v. Ambler Realty Co. [272 U.S. 365]

The U.S. Supreme Court held that the zoning ordinance was not an unreasonable extension of the village's police power and did not have the character of arbitrary fiat, and thus it was not unconstitutional. The court ruled that zoning ordinances, regulations, and the law must find their justification in some aspect of police power and asserted for the public welfare. Benefit for the public welfare must be determined in connection with the circumstances, the conditions and the locality of the case. [underline, and italics added] from Casebriefs by BloombergLaw.

Local zoning ordinances protect property owners residences by providing surety that residential uses of adjoining property are not changed or abused in such a manner as to create a public nuisance *per se* that inhibits or curtails the individual's free and unrestricted use and enjoyment of their property. That the thoughtless or uninhibited use or actions of their neighbors does not impose, on those rights. That local ordinance is also protecting the investment in the property to the purposes under which the current property use was created. Finally, the property remains in its stated form and purpose until the local government, elected by the local voters, should change that use for all property owners with the consent of the governed. These are the most basic of the principle of representative government in the Republic of the United States of America.

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The Michigan House of Representatives, and the State Senate in the matching bill SB 329, by creating this act, seeks to violate the best principles of representative government and deny local voters the right to control their property through their elected representatives. Bill HB 4046 and SB 329 overturns by fiat and abuse of legislative authority the best interests of the majority of citizens of the local area for the benefit of a minority of the many non-resident owners with only a profit motive of turning the residential property into commercial rental uses to the detriment of the local residents and the domestic transient visitor properties [e.g. hotels, motels, etc] that are properly located and regulated by the local zoning ordinance and state lodging regulations.

Sincerely,

/s/ Bruce C. Ogilvie

Bruce C. Ogilvie, MS

Formerly, Master Citizen Planner, MSUE

Lately, Chair, City of Frankfort Planning Commission

Current, Vice-Chair, Zoning Board of Appeals, City of Frankfort

2011 MI-APA Citizen Planner of the Year

Cc: Sam Barresi, Ph.D., Chair, Planning Commission, City of Frankfort
Joshua Mills, City Superintendent, City of Frankfort
Jennifer Rigterink, Michigan Municipal League
Gov. Gretchen Whitmer, Michigan
Rep. Jack O'Malley, State Representative, 101st District
Sen. Curt VanderWall, State Senator, 35th Senate District
Sen. Wayne Schmidt, State Senator, 37th Senate District