

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,

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Plaintiffs,

*

v.

Case No.: C-02-CV-22-000217

*

ANNE ARUNDEL COUNTY, MD,

*

Defendant.

* * * * *

**DEFENDANT’S MOTION TO DISMISS OR ALTERNATIVELY,
FOR SUMMARY JUDGMENT**

Defendant, Anne Arundel County, Maryland, by and through Hamilton Tyler, Deputy County Attorney, and M. Brooke McKay, Assistant County Attorney, pursuant to Maryland Rules 2-322 and 2-501, files this Motion to Dismiss or, Alternatively, for Summary Judgment and states for cause to this Honorable Court:

1. Plaintiffs’ Amended Complaint fails to state a claim upon which relief can be granted as a matter of law, or alternatively the County is entitled to judgment as a matter of law.
2. Plaintiff Maryland Shall Issue, Inc. lacks standing to bring this suit because it has not alleged any cognizable harm beyond speculative potential future harm to its members.
3. The Plaintiffs have failed to state a claim that the Bill is not a valid local law, is in violation of the Express Powers Act, or is preempted by State law because the County was authorized by State law to enact it.

4. The Amended Complaint also fails to state a claim for either substantive or procedural due process violations because its prohibitions are clearly defined and not vague, and because the County Council held a public hearing prior to its passage.
5. Alternatively, the County is entitled to summary judgment and a declaration in its favor on each count in the Complaint. As to Count I, the Bill is a valid local law under Md. Const. Art. XI-A (the Home Rule Amendment). As to Count II and III, the Bill is authorized by, and not preempted by or in conflict with, State law. With respect to Count IV, the Bill is not void for vagueness as the prohibitions are clearly defined and thus do not violate the Due Process Clause.
6. A Memorandum of Law more fully exploring these grounds is attached hereto and incorporated herein.

WHEREFORE, the Defendant Anne Arundel County, Maryland respectfully requests this Court enter an Order:

- A. Granting its Motion to Dismiss, or Alternatively, for Summary Judgment;
- B. Dismissing the Amended Complaint with prejudice;
- C. In the alternative, enter judgment in favor of the Defendant as a matter of law;
- D. Declaring that Bill No. 109-21 was lawfully enacted and that the Code provision it created is a valid local law, not in violation of the Express Powers Act, not preempted by State law, and not void for vagueness; and
- E. For such other and further relief as may be necessary to the Defendants' case and as justice may so require.

Respectfully submitted,
GREGORY J. SWAIN
County Attorney

/s/ *Hamilton F. Tyler*

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*Attorneys for Anne Arundel County,
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CERTIFICATE OF SERVICE AND COMPLIANCE

I HEREBY CERTIFY that on the 21st day of March, 2022, I electronically filed the foregoing via this Court's MDEC electronic filing system, on the parties listed below. I further certify that the foregoing contains none of the information prohibited by Md. Rule 20-201.

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