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Baltimore City and Baltimore County

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Environment Committee

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THE SENATE OF MARYLAND
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STATEMENT

Regarding The Baltimore City Circuit Court's Opinion on Board of Municipal and Zoning Appeals Approval of Crematorium

BALTIMORE, MD. (Tuesday June 6, 2023) Today, Senator Mary Washington released the following statement in response to Baltimore City Circuit Court's opinion on BMZA approval of a crematorium in Baltimore City.

“Last month, the Circuit Court for Baltimore City issued a disappointing opinion in response to the York Road Partnership's Petition for Judicial Review of the Board of Municipal and Zoning Appeals (BMZA) decision to approve the conditional use of M&G Property Management Two, LLC's application to add a crematorium on their property of a funeral home operated by Vaughn C. Greene Funeral Services, P.A.

As the elected representative of the affected areas within the 43rd State Legislative District, I join with concerned residents, and the members of the York Road Partnership—a coalition of over twenty neighborhoods, churches, and community associations encompassing areas from Cedarcroft to Pen Lucy who continue to have grave concerns about the placement of a human crematorium at this location due to the detrimental health impacts this facility will add to the already overburdened health status of the thousands of families, children, and elders living in the majority-black, working class communities surrounding Vaughn Greene Funeral Services' York Road location.

Under the Code of Maryland Regulations: 26.11.08.03 (Prohibition of Certain Incinerators in Areas III and IV), crematories are defined and regulated as “crematory incinerators” because they are used for human or animal remains. The Baltimore Zoning Code (§ 1-209) bans incinerators with no exemption.

On page 22 of the Judge's opinion, the Court states: "The Court accepts Petitioners' premise that a crematorium functionally is a type of incinerator." The Baltimore City Council's legislative intent in the Zoning Code in banning incinerators is due to the harmful impacts on public health and the environment. We agree with the Court that crematoriums are a type of incinerator, and additionally, we find that it was the intent of Baltimore City's legislative body that a ban on incinerators would "promote and protect public health, welfare, and quality of life for current and future generations".

We concurred with the York Road Partnership's original petition for review and opposition to the siting of the additional equipment and structures needed to reduce human remains to ashes on-site at the 4903-4905 York Road location. The petitioners also asked the circuit court to consider whether crematoriums are in effect incinerators — which are prohibited citywide — whether the zoning board found evidence that the crematorium wouldn't create similar adverse environmental and public health effects. Simply put, is this proposed use in time really in the best interest of the public health, the safety, and general welfare of the Govans community? These are questions that were also presented to BMZA and remained unanswered.

Under the Baltimore City Zoning Code, crematoriums are only permitted as a conditional use, and therefore Vaughn Greene Funeral Service sought initial approval from the Board of Municipal and Zoning Appeals (BMZA) on June 4th, 2020. During a series of public hearings in 2021 held on August 10th, August 24th and September 16th, neighborhood neighborhood leaders, members of community associations, faith-based organizations and other concerned residents along the York Road corridor voiced their overwhelming concern about the proximity of the proposed human crematorium and its impact on the adjacent residential areas. Despite the community and public health expert testimony in opposition, the BMZA voted to approve the crematorium in a 3-1 decision published in a Resolution statement released on January 4th, 2022. In response to the Board's action, nearby residents and community organizations opposed the decision.

It should go without saying that the role of government and its agencies must be to preserve and protect the health of its citizens and neighborhoods. The already vast environmental inequity across the Baltimore region means that acceptance of even one more source of contamination in Baltimore City is counter to that goal. Unfortunately, the broader matter of justice, environmental justice, the judiciary must be willing to be the arbitrators in these matters and not simply claim that it is "It is not the court's purpose to parse the precise treatment of human bodies in the MDE regulations."

Failing to support the petitioners requests to overturn or issue a stay in conditional approval of a crematory incinerator within a densely residential area where there is significant evidence of the negative cumulative impact and disproportionate exposures to pollution and poor air quality is the very definition of environmental injustice. When there are discrepancies, inconsistencies or omissions which cause the BMZA and the court to make multiple and contradictory assumptions about regulatory scheme or legislative intent that impact public health one must proceed conservatively and do no unknown harm. The case must remain open and other factors must be brought into consideration in the appeals process “that address the interest of the general welfare. (Ord. 16-581; Ord. 17-015.)

According to the Maryland Department of the Environment's (MDE) Environmental Justice (EJ) Screening Tool, the EJ Score for the neighborhood where the crematory incinerator will be located is in the 94th percentile compared to other locations in Maryland. This means that the citizens of this neighborhood are more vulnerable to environmental hazards than 94% of Maryland residents. Further, the U.S. Environmental Protection Agency EJ Score for this neighborhood reveals that it is among the most burdened communities in the United States, with sky high EJ scores for Air Toxics Cancer Risk (95th percentile), Particulate Matter 2.5 (83rd percentile), and traffic proximity (91st percentile).

While we value the long-standing tradition of Vaughn Greene in providing quality burial services to residents of the district and the surrounding area, the construction and operation of this crematorium would further compound the health impacts faced by residents of these communities and is contrary to the public interest.

The significant threat that the process of incineration poses to public health and the environment is well documented. The proposed crematorium and the construction of a funeral services facility that uses this process will exacerbate decades of continuous air and environmental pollution faced by our most vulnerable constituents. We believe that further regulatory review must be performed to ensure that no additional environmental hazards are placed within any community with elevated levels of air pollution brought on by heightened levels of traffic and idling vehicles, pre-existing business activity, and other contributors to health hazards. It is our position that the potential public health and environmental impacts of the proposed crematorium warrant further examination in this case.

Therefore, I support the decision of the community to continue to oppose the approval of the use and the permitting of a crematory in the best interests of our community. We strongly encourage the Baltimore Zoning Board to reverse their conditional approval decisions and join us in our shared responsibility to protect the health and wellbeing of those we serve.”

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