

July 20, 2023

VIA EMAIL

Office of the City Council President
100 N. Holliday Street, Suite 400
Baltimore, MD 21202

Re: Letter in Support of Proposed Ordinance #23-0347

Dear President Mosby and Members of the Baltimore City Council:

I write in strong support of the proposed ordinance #23-0347 (“the ordinance”), seeking to establish the Baltimore City Department of Business Licensing and Consumer Protection. Public Rights Project wholeheartedly supports this effort to expand consumer protection and ensure enforcement against “unfair, abusive, or deceptive trade practices” (“UDAP”) as defined in § 13-301 of the State Commercial Law Article, and enforced under City Code Article 2 Subtitle 4. By expanding the city’s ability to seek legal remedy beyond direct harm to the municipality, the ordinance would build on Baltimore City Council’s robust efforts to better protect residents from violations, scams, and exploitation.

Without enforcement, rights are merely words on the page. But enforcement that affirmatively engages the community to protect the city’s most vulnerable residents – what we call “equitable enforcement” – makes those rights meaningful reality and helps build community trust in the local justice system. Public Rights Project (PRP) commends the Baltimore City Council in taking action to protect its residents from consumer exploitation, and writes to urge passage of the proposed ordinance.

Bridging the Enforcement Gap

Since our inception in 2017, PRP has been dedicated to closing the gap between the promise of our laws and the lived reality of historically underserved communities. In 2019, our organization conducted a national survey on corporate abuse and found that 54 percent of Americans had experienced one or more incidents of wage theft, predatory lending, predatory debt collection, unsafe housing conditions, or health

problems due to pollution created by a business within the past ten years.¹ Yet less than 32 percent of those who experienced corporate abuse sought help from government entities to remedy the harm done. Of all the individuals surveyed, eight out of every ten people had experienced more than one instance of corporate abuse, yet six out of ten people who experienced this abuse never received services or support.

Those who experience corporate abuse are far more likely to come from marginalized social and economic backgrounds, and the exploitation of these vulnerable consumers continues to contribute to this country's ever-expanding wealth gap. Not only are people of color, youth, women, and low-income communities more likely to bear the harms of unfair and deceptive practices, they are also the least likely to seek redress either from government enforcement or through the courts. Our research and analysis is confirmed by other national experts. For example, the National Consumer Law Center has found that it is often the most vulnerable that are the first to be exploited and economically harmed by predatory business practices.² This is especially relevant for the City of Baltimore, where the population of seniors is over 25 percent,³ and where 61 percent of all residents identify as Black or African American.⁴

As our survey demonstrated, it is both gaps in enforcement and wraparound support that contribute to the harms faced by vulnerable and underserved communities. Violations need to be reported to activate enforcement, but this cannot happen if there is a lack of trust in government to deliver outcomes. That is why PRP is working with local governments like the City of Baltimore to bridge the enforcement gap. For the past five

¹ Public Rights Project, "Corporate Enforcement Gap Report" (July 2019) https://drive.google.com/file/d/1TSrl-z5nyOuN_r1cX5sPXAxOO1MilGO6/view (hereafter, "PRP Corporate Enforcement Gap Report").

² Carolyn Carter, National Consumer Law Center (NCLC), "Consumer Protection in the States: A 50-State Evaluation of Unfair and Deceptive Practices Laws" (March 2018) <https://www.nclc.org/topic/unfair-deceptive-and-abusive-practices-udap/#:~:text=Many%20also%20prohibit%20unfair%20or,an%20enforce%20these%20important%20laws>.

³ Cody Boteler, "Population of Baltimore County Expected to be 25% senior citizens by next Year, Officials Say," Baltimore Sun (September 2019) <https://www.baltimoresun.com/maryland/baltimore-county/cng-co-at-to-senior-alone-aging-20190916-xz5utajmvc73btcdtwsofdazy-story.html>.

⁴ U.S. Census Bureau, "Quickfacts: Baltimore City, Maryland" (July 2022) <https://www.census.gov/quickfacts/fact/table/baltimorecitymaryland/PST045222>.

years, PRP has worked closely with the city's Law Department on advocacy efforts, to help train its lawyers through programs such as our Affirmative Leaders Fellowship, and to join coalition efforts ranging from reproductive justice to workers' rights. From our experience, we recognize that city law departments need the personnel, know-how, and legal authority to make enforcement of rights a reality from their communities. The ordinance is a vital step in that direction.

Power and Potential of UDAP Enforcement

We know from our state and local partners that UDAP enforcement makes real and meaningful impacts for individuals across the country. State attorneys general, a longtime champion of UDAP enforcement, use these powers to protect consumers from abusive debt collection practices, for-profit colleges, and other consumer scams. Recent examples show the true power and potential of these laws: the Maryland Attorney General recently announced a settlement with CarMax to ensure that consumers were warned about manufacturer recalls before purchasing used vehicles that might need additional repairs;⁵ and the DC Attorney General settled to protect the data of people using apps to track their ovulation.⁶ This enforcement, just two of hundreds of recent examples, demonstrates the robust opportunities to protect the privacy and economic welfare of consumers under UDAP authorities.

Local governments with similar, robust authority have used their enforcement power to protect their residents in multiple ways. For example, in Chicago, the City's Law Department and the Department of Business Affairs and Consumer Protection (BACP) filed two lawsuits against DoorDash and GrubHub for deceptive and unfair business practices under UDAP authorities.⁷ Local governments in California use similar authority

⁵ Ryan, Kate, "What a Settlement Between Maryland's Attorney General and CarMax means for Car Buyers" (July 2023)

<https://wtop.com/maryland/2023/07/what-a-settlement-between-marylands-attorney-general-and-carmax-means-for-car-buyers/>.

⁶ Office of the AG for District of Columbia, "AG Schwalb Protects Private Data of Consumers Using Ovulation Tracking App 'Premom'" (May 2023)

<https://oag.dc.gov/release/ag-schwalb-protects-private-data-consumers-using>.

⁷ Bloomberg Law (Pazanowski, Mary Ann) "DoorDash Must Defend Chicago's Consumer Protection Lawsuit" (March 2022)

<https://news.bloomberglaw.com/litigation/doordash-must-defend-chicagos-consumer-deception-lawsuit>.

with great frequency. For example, in a recent \$6 million settlement, the San Francisco and Los Angeles district attorneys obtained relief both for workers and consumers using Handy, an app for home cleaning, furniture assembly, and other repairs.⁸ These local enforcement efforts highlight the importance of proposed ordinance #23-0347 in allowing Baltimore to take similar actions on behalf of individual consumers. Expanding enforcement powers beyond municipal harms is another step in closing the enforcement gap, rendering protection for individuals and not just for the city as an entity.

While the city currently maintains municipal authority to hold businesses accountable in limited ways, the authorities incorporated in this ordinance are imperative to protecting the rights of Baltimore residents more robustly. Among other reasons, the enforcement gap exists because of structural barriers to individuals seeking remedy in court due to restrictions such as forced arbitration and class action waivers.⁹ Establishing authority to investigate, enforce, and seek legal remedy on behalf of harmed individual consumers would directly address the personal and economic damages consumer law violations wreak on vulnerable individuals, families, and communities—and it would take the burden away from the individual to pursue vindication on their own.

For these reasons, Public Rights Project supports the passage of proposed ordinance #23-0347. Should you have any questions or need further information, please do not hesitate to reach out to us.

Sincerely,

/s/ Jonathan B. Miller

Jonathan B. Miller
Chief Program Officer
Public Rights Project

⁸ Office of the SF District Attorney, “District Attorney Brooke Jenkins Announces a \$6 Million Settlement and Permanent Injunction in Worker Protection Lawsuit” (May 2023)
<https://sfdistrictattorney.org/press-release/district-attorney-brooke-jenkins-announces-a-6-million-settlement-and-permanent-injunction-in-worker-protection-lawsuit/>.

⁹ PRP Corporate Enforcement Gap Report
https://drive.google.com/file/d/1TSrl-z5nyOuN_r1cX5sPXAxOO1MiGO6/view.