Wes Moore
Governor
Aruna Miller
Lt. Governor

Rebecca L. Flora, AICP
Secretary
Kristin R. Fleckenstein
Deputy Secretary

October 18, 2026

The Hon. Anthony G. Brown
Attorney General of Maryland
200 St. Paul Place
Baltimore, Maryland 21202

Dear Mr. Attorney General:

As you know, Maryland is facing a housing shortage, with affordable housing in especially short supply. The shortage has grown to crisis proportions, driving up the cost of living, prompting residents to move out of state, and increasing the number of unhoused Marylanders. Governor Moore has taken bold action to address the crisis, both through executive action and through legislative initiatives.

In 2023, the Maryland General Assembly commissioned an "ADU Policy Task Force" to study the placement of accessory dwelling units (ADU) on land zoned for single-family residential use. ADUs can take many forms, including things like converted garages, accessory apartments, "in-law suites," and "granny flats." Because ADUs are typically smaller structures, they can serve as an important source of affordable housing in Maryland communities. The Task Force, which met from September 2023 to May 2024, surveyed various housing stakeholders and documented a representative sampling of state and local ordinances, laws, codes, and policies regarding ADUs. The Task Force also identified certain obstacles to the creation of ADUs, including private covenants, deed restrictions, and homeowner association conditions (sometimes referred to as "CCRs"). The Task Force ultimately generated a report recommending various legislative measures to encourage the development of ADUs throughout the State.

The General Assembly responded to the report in the 2025 session, enacting new provisions of the Land Use Article requiring all local jurisdictions in Maryland to enact ordinances allowing for the construction of ADUs. HB 1466 (codified in Title 4, Subtitle 5, of the Land Use Article). That legislation also enacted new provisions of the Real Property Article overriding the effect of CCRs. Specifically, § 2-126(b)(1) of that Article provides that "a restriction on use regarding land use may not impose or act to impose an unreasonable limitation on the ability of the property owner to develop or offer for rent an accessory dwelling unit." The term "restriction on use" is defined to "include any covenant, restriction, or condition contained in: (i) a deed; (ii) a declaration; (iii) a contract; (iv) the bylaws or rules of a homeowners association; (v) a security instrument; or (vi) any other instrument affecting: 1. the transfer or sale of real property; or 2.

any other interest in real property." Real Property § 2-126(a)(3). This is often referred to as the bill's "CCR-override" provision.

In the wake of the legislation's enactment, questions have arisen as to whether the bill's CCR-override provision applies prospectively only (i.e., to those CCRs created after the bill's October 1, 2025, effective date) or to pre-existing CCRs as well. Some have argued that the absence of an express retroactivity provision and the Maryland constitutional limitations require that the provision be applied only prospectively, while others argue that it can be applied retroactively, pointing to other Maryland statutory provisions that override CCRs in other contexts and court decisions upholding retroactive CCR-override provisions in other states.

I write today to request your opinion on two issues: (1) whether the override provisions of Real Property § 2-126 apply to CCRs established prior to October 1, 2025; and, if so, (2) whether the CCR override provisions would be constitutional if applied that way. The resolution of these issues will help clarify an important part of Maryland's efforts to address the growing housing crisis and increase the supply of affordable housing for extended families and renters alike.

Please feel free to reach out to Chuck Boyd, Assistant Secretary of Planning Services, (chuck.boyd@maryland.gov) if you have any questions about this issue.

Sincerely,

Rebecca Flora (Oct 19, 2026 06:38:08 EDT)

Rebecca L. Flora, AICP
Secretary, Maryland Department of Planning

# Request for AG Opinion on ADUs and CCR preemption

Final Audit Report 2026-10-19

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