

MEMORANDUM

October 27, 2017

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Action:** Expedited Bill 16-17, Swimming Pools – Lifeguards – Amendments

Health and Human Services Committee recommendation (3-0): enact Bill 16-17 (but see amendments on page 4).

Expedited Bill 16-17, Swimming Pools – Lifeguards – Amendments, sponsored by Lead Sponsor Councilmember Katz and Co-Sponsors Councilmembers Floreen and Elrich and Council President Berliner, was introduced on May 16, 2017. A public hearing was held on June 20 and Health and Human Services Committee worksessions were held on July 10 and October 2.

Expedited Bill 16-17 would exempt certain public pools at certain facilities from the requirement to have a lifeguard on duty present when the pool is open for use; require exempted public pools to meet certain criteria, including posting certain warning signs; and require exempted pools to have an emergency alert system. A memorandum from the lead sponsor is attached on ©6. The Fiscal Impact/Economic Impact statements are on ©7-11.

Public Hearing Testimony

At the June 20 public hearing, the Council heard from individuals and companies both supporting and opposing Bill 16-17. Generally speaking, those representing the hotel industry supported the bill while those representing the pool management companies and lifeguard opposed the bill. A representative of the County Executive gave testimony supporting the bill (©12). The Council received written correspondence from several lifeguards opposing the bill. The Council also received written correspondence from several individuals, though Council staff is unsure if those unsigned letters are from residents, visitors, or lifeguards. See select testimony and correspondence on ©13-50.

Background

State law. State rules for swimming pools are found in state regulations. Under state regulations, a hotel/motel pool is considered a “semipublic pool”. COMAR 10.17.01.40D(6) requires a semipublic pool that has a water surface area greater than 2,500 square feet to have a lifeguard on duty. Therefore, under state law, a semipublic pool with a lesser water surface is not required to have a lifeguard.

County law. County Code §51-10(b) requires all public pools to have a lifeguard, regardless of pool size. County regulations specify other requirements, including construction standards and water quality standards. Bill 16-17 would not alter the requirements for water quality standards, which are detailed on ©51-52.

Other jurisdictions. Most other Maryland jurisdictions do not require lifeguards for hotel pools under 2,500 square feet of surface area. As of the writing of this packet, only 2 Maryland jurisdictions – Baltimore County and Montgomery County – require lifeguards in hotel pools. Two other jurisdictions – Anne Arundel County and Prince George’s County – enacted legislation in 2016 to repeal the requirement for lifeguards in hotel pools.

Committee Discussion

There are no legal issues regarding Bill 16-17. The primary question Committee members discussed concerned the policy question of whether to require hotels/motels to employ lifeguards for their pools. To assist in that discussion, the Committee requested, and reviewed the following information:

- Comparison of local laws on this topic.
- Additional statistics of pool incidents in Montgomery County and surrounding jurisdictions. These statistics should include a comparison of pools with and without lifeguards.
- Information relevant to the question about whether drownings are more likely to happen in pools with or without a lifeguard.
- Will hotels maintain lifeguards even when they are not required to?
- How do insurance requirements change (or do they change) if there are lifeguards present or absent?
- Information on residency of lifeguards.

In response to the Committee’s request for information, Council staff reached out to representatives from both the hotel industry and the pool operator/lifeguard industry as well as performing independent research.

Comparison of local laws. As noted above, most other Maryland jurisdictions do not require lifeguards for hotel pools under 2,500 square feet of surface area (State law requires a semi-public pool that has a water surface area greater than 2,500 square feet to have a lifeguard on duty during peak seasonal use for outdoor pools and year round for indoor, heated pools.). As of the date of

this packet, only Baltimore County and Montgomery County require lifeguards for hotel pools. Ocean City, Maryland follows the state law (the City does not have a town ordinance on this subject and neither does Worcester County). Similarly, Howard County does not have a local law on this topic and therefore follows the state law. Laws in Prince George's County and Anne Arundel County specifically exclude hotel and motel pools from having a lifeguard requirement if the water surface area is less than 2,500 square feet. Laws in the District of Columbia do not require a lifeguard for pools open only for people "lodging for a fee at the facility" except in certain circumstances (including if the pool has a diving board, is 5 feet or deeper, or has an expected bather population of 50% or more children under 15 years old).

Statistics of pool incidents in Montgomery County and surrounding jurisdictions. Pool companies provided statistics on the incidents that lifeguards they employ respond to (©32 and 43). Sunset Pools, Inc. indicated that for 2016, they recorded 73 "distress/active drowning/rescues" incidents, 45 of which occurred at hotel pools, and 246 "vomit/fecal" incidents, 152 of which occurred at hotel pools. For 2017, at that time, they had recorded 29 "distress/active drowning/rescues" incidents, of which 16 were at hotel pools and 127 "vomit/fecal" incidents, of which 72 were at hotel pools. In response to Council staff questions, the Maryland Hotel Lodging Association (MHLA) noted that hotels require incident reports to be filled out for all issues requiring first aid to a guest. MHLA conducted a study of hotels owned/operated by Baywood hotels who operates 64 hotels with pools in 11 states, including 14 in Maryland (3 in Montgomery County). The case study revealed that for all hotels with pools (with and without a lifeguard), there were no calls documenting reports of drownings or life-saving events requiring a 911 call.

Council staff surveyed certain surrounding jurisdictions about emergency calls for drownings or near-drownings at hotel pools for approximately the past 12 years. From 2005 to present, the County Fire and Rescue Service (MCFRS) was dispatched for reported drownings at hotels/motels twice; however in only 1 of those incidents was a patient transported to a hospital (the patient had a non-life threatening condition). From 2003 to present, the Anne Arundel County Fire and Rescue Service was dispatched to a hotel or motel pool twice. For Ocean City, Maryland, there were 13 EMS dispatches for drownings/near drownings at hotel/motel pools from 2012 to present. The information gleaned from these jurisdictions does not include whether the EMS calls originated from hotels with or without pool lifeguards.

Lifeguard effectiveness. Committee members requested information about whether drownings are more likely to happen in pools with or without a lifeguard. Council staff did a significant amount of research attempting to provide relevant information to the Committee on this topic. However, Council staff could not find a significant amount of research on this question. A 2001 report of a Centers for Disease Control Working Group and the National Center for Injury Prevention and Control entitled "Lifeguard Effectiveness: A Report of the Working Group", concluded that "trained, professional lifeguards have had a positive effect on drowning prevention in the United States". This report provided several examples of reduced incidents after lifeguards were employed. However, this report focused only on lifeguards at beaches, not at pools. There are many risks associated with beaches, including surf, drop offs, and under currents, that are not present at swimming pools. A 2010 article entitled "Lifeguards: A Forgotten Aspect of Drowning Prevention" cites an "industry" document for the conclusion that approximately a third of drowning deaths in the U.S. happen at lifeguarded pools. However, Council staff was unable to

find the “industry” document referenced in the article.

Other requested information. In response to other Committee requests for information, Council staff learned that:

- Hotels, even when not required by law, staff lifeguards “when it is believed to have a positive impact on guest safety or other needs related to the pool”. Generally speaking, the norm is to “swim at your own risk” unless a pool has a waterslide, lazy river, etc. Other circumstances may lead a hotel to staff a lifeguard at all times or for select days and time, including the location of the pool, crowd control, groups of children/youth using the pool.
- Hotel insurance requirements are not impacted based on the presence of a lifeguard.
- While MHLA stated that the industry opinion is that the majority of lifeguards working at hotel pools are not County residents, according to Sunset Pools, about 90% of the lifeguards employed in hotel pools (seasonal and year round) are County residents. The remaining 10% are J1 visa holders that work only during the summer in outdoor pools.

Committee recommendation

At its October 2 worksession, the Committee unanimously recommended enactment of Expedited Bill 16-17, but requested Council staff to draft 2 amendments to be presented at this Council session. First, Councilmember Rice requested an amendment to require a lifeguard be on duty at a hotel pool during specific hours. At the worksession, Councilmember Rice did not propose specific hours, but after the session requested the amendment to require lifeguards be on duty at hotel pools from 11 a.m. to 7 p.m. on Saturday and Sunday. A hotel pool can be open at any other time without a lifeguard. (See ©56) Second, Committee Chair Leventhal requested an amendment be drafted to require a person certified in CPR to be on a hostel’s premises anytime that a pool is open without a lifeguard. All members of the Health and Human Services Committee and the Bill’s lead sponsor concur with the amendments as drafted.

This packet contains:

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Expedited Bill No. 16-17
Concerning: Swimming Pools -
Lifeguards - Amendments
Revised: 5/4/2017 Draft No. 2
Introduced: May 16, 2017
Expires: November 16, 2018
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Katz
Co-Sponsors: Councilmembers Floreen and Elrich and Council President Berliner

AN EXPEDITED ACT to:

- (1) exempt certain public pools at certain facilities from the requirement to have a lifeguard on duty present when the pool is open for use;
- (2) require exempted public pools to meet certain criteria, including posting certain warning signs;
- (3) require exempted pools to have an emergency alert system; and
- (4) generally amend County law relating to swimming pools.

By amending

Montgomery County Code
Chapter 51, Swimming Pools
Sections 51-1 and 51-10

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 51-1 and 51-10 are amended as follows:

51-1. Definitions.

In this Chapter, the following words have the following meanings:

* * *

Hostel has the same meaning as in Code §54-1.

* * *

51-10. Safety standards; lifeguards and spa guards.

* * *

(b) Lifeguards.

(1) Except for public spas and as provided in paragraph (d), every public swimming pool must have at least one lifeguard with a valid infant/child/adult cardiopulmonary resuscitation (CPR) certificate from the American Red Cross, the American Heart Association, the National Safety Council, or a comparable program approved by the state Department of Health and Mental Hygiene, present when the pool is open for use.

(2) Whenever any person is in the water, a lifeguard must:

(A) be on the deck and observing the pool; and

(B) not leave the deck for any reason unless all persons are out of the water.

(3) The approving authority may require additional lifeguards to be on the deck at any public swimming pool if the approving authority finds that the pool is inadequately guarded because of the:

(A) number of persons using the pool;

(B) shape, dimensions, or layout of the pool;

(C) existence of obstructions to vision; or

(D) capabilities of the persons using the pool.

(c) *Public spas.* A public spa must have at least one spa guard present when the spa is open for use. The spa guard must be available immediately to help in an emergency.

(d) *Hostels.* Paragraph (b) does not apply to a pool that has a water surface area less than 2,500 square feet located on the grounds of a hostel for the exclusive use of its registered guests if:

(1) the hostel is properly licensed under Chapter 54;

(2) the hostel posts warning signs that meet the following:

(A) the size, color, design, application, symbol, and visual layout of a safety sign is in compliance with the ANSI Z-535 series of standards for Safety Signs and Colors as referenced in American National Standard for Public Spas;

(B) a safety sign is posted in a permanent location adjacent to a hostel in compliance with the American National Standard for Public Spas;

(C) the safety sign includes the user load of the pool;

(D) a chemical warning sign is posted at the entrance door to a chemical storage area and includes the text "Caution! Chemical Storage Area";

(E) a chemical vat, feeder, pump, and line is labeled to identify the chemical in use;

(F) a chlorine gas warning sign reading "Danger—Chlorine Gas" is posted at the entrance to a chlorine gas feed room and storage area;

(G) other warning, health advisory, and safety signs are posted, as required by Executive Regulation, if necessary to protect the public health and safety; and

(H) a pool that does not have a lifeguard on duty has a conspicuous sign posted adjacent to entrances to the pool reading "Warning: No lifeguard on duty. SWIM AT YOUR OWN RISK. Children under the age of 15 are not permitted to use the pool without adult supervision"; and

(3) the pool area has a functional and visible emergency alert system approved by the Director of the Department of Health and Human Services that:

(A) connects directly to 9-1-1; and

(B) notifies an employee of the hostel when activated.

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date that it becomes law.

Approved:

Roger Berliner, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 16-17 *Swimming Pools – Lifeguards – Amendments*

DESCRIPTION:	Expedited Bill 16-17 would exempt certain public pools at certain facilities from the requirement to have a lifeguard on duty present when the pool is open for use; require exempted public pools to meet certain criteria, including posting certain warning signs; and require exempted pools to have an emergency alert system.
PROBLEM:	County hotel pools can only be open for swimming if a lifeguard is present. This is a costly burden for the hotel industry that is not faced in neighboring jurisdictions.
GOALS AND OBJECTIVES:	Maintain economic competitiveness in the tourism industry without unduly jeopardizing the safety of our visitors.
COORDINATION:	Health and Human Services
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Amanda Mihill, Legislative Attorney, 240-777-7815
APPLICATION WITHIN MUNICIPALITIES:	Applies in municipalities
PENALTIES:	A violation of Chapter 54 is a Class A violation.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

SIDNEY A. KATZ
COUNCILMEMBER - DISTRICT 3

MEMORANDUM

TO: County Council
FROM: Councilmember Sidney Katz *SK*
DATE: May 9, 2017
RE: Bill regarding Hotel Swimming Pools

Presently, in Montgomery County, our 36 hotel pools may only be open for swimming if a qualified lifeguard is present and on duty. This presents a costly burden for our hospitality industry that is not faced by our jurisdictional neighbors. That's because Montgomery County is one of only two jurisdictions in Maryland that impose this requirement.¹ Local hotels are choosing to close their pools altogether rather than upset patrons with limited hours and, when tourists are choosing where to stay, this can put our county at a disadvantage whenever guests are seeking this important amenity.²

On Tuesday, May 16th, my office will introduce the attached legislation which allows registered guests to use their hotel pool when a lifeguard is not present, as long as there is (1) appropriately posted signage that swimming is at one's own risk and (2) an emergency alert system installed in the pool area to summon help. All hotel properties must have a CPR and First-Aid certified employee on-site at all times to provide quick intervention while awaiting rescue authorities. This proposal enhances measures that have recently passed in Anne Arundel and Prince George's Counties and the bill that is pending in Baltimore County right now.

Nearby jurisdictions that allow hotel guests to swim at their own risk have reported no increase in pool-related injuries, even in our tourist hotspot of Ocean City. Our goal with this proposal is to strike a better balance without jeopardizing the safety of our visitors. We hope you will support this sensible measure.

¹ The other jurisdiction is Baltimore County where Bill 22-17

(<http://resources.baltimorecountymd.gov/Documents/CountyCouncil/bills%202017/b02217.pdf>) is currently pending to change this rule. The District of Columbia also allows hotel guests to swim at their own risk.

² Local hotels pay lifeguards several thousand dollars per year to staff potentially empty pools. Please ask our office for more data on local pool operations and costs.



ROCKVILLE, MARYLAND

MEMORANDUM

June 2, 2017

TO: Roger Berliner, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Alexandre A. Espinosa, Director, Department of Finance

SUBJECT: FEIS for Council Expedited Bill 16-17, Swimming Pools-Lifeguards-Amendments

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:mc

cc: Bonnie Kirkland, Assistant Chief Administrative Officer
Lily Qi, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
David Platt, Department of Finance
Clark Beil, Health and Human Services
Kenneth Welch, Health and Human Services
Joshua Watters, Office of Management and Budget
Naeem Mia, Office of Management and Budget

Fiscal Impact Statement
Bill 16-17
Swimming Pools – Lifeguards – Amendments

1. Legislative Summary

Expedited Bill 16-17 exempts public pools at hostels from the requirement to have a lifeguard on duty, under specified circumstances. Instead, the bill requires that the hostel post certain warning signs, and the pool area must have a functional and visible emergency alert system.

“Hostel” includes hotels, motels, tourist courts, motor courts, tourist camps, and similar establishments such as apartment hotels, where lodging or lodging and meals are provided or offered to three or more transient visitors.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

No changes in revenues or expenditures are expected, as the bill’s provisions would not affect existing licensing and inspection processes.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Not applicable. See #2.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County’s information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

No additional expenditures related to County’s information technology systems are expected.


6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable. Bill 16-17 does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

No additional staff time is needed to implement the bill’s provisions.

8. An explanation of how the addition of new staff responsibilities would affect other duties.
No new staff responsibilities are required to implement the bill's provisions.
9. An estimate of costs when an additional appropriation is needed.
Not applicable.
10. A description of any variable that could affect revenue and cost estimates.
Not applicable.
11. Ranges of revenue or expenditures that are uncertain or difficult to project.
Not applicable.
12. If a bill is likely to have no fiscal impact, why that is the case.
The bill's provisions would not affect existing licensing and inspection processes.
13. Other fiscal impacts or comments.
Not applicable.
14. The following contributed to and concurred with this analysis:
Kenneth Welch, Environmental Health Manager, DHHS
Clark Beil, Senior Administrator, Licensure and Regulatory Services, DHHS
Joshua Watters, Senior Management and Budget Specialist, OMB



Jennifer A. Hughes, Director
Office of Management and Budget

5/30/17

Date

Economic Impact Statement
Bill 16-17, Swimming Pools – Lifeguards – Amendments

Background:

Expedited Bill 16-17 would exempt public pools at hostels from the requirement to have a lifeguard on duty present when the pool is open for use; require exempted public pools to meet certain criteria, including posting certain warning signs; and require exempted pools to have an emergency alert system. Chapter 54-1 of Montgomery County Code defines a “hostel” as any building or portion thereof or any group of buildings where, for compensation, lodging or lodging and meals are provided or offered to 3 or more transient visitors, including hotels, motels, tourist courts, motor courts, tourist camps and similar establishments such as apartment hotels.

Presently, in Montgomery County, 36 hotel pools fit the hostel criteria and may only be open for swimming if a qualified lifeguard is present and on duty. Montgomery County is one of only two jurisdictions in Maryland that imposes this requirement. The objective of the legislation is to maintain economic competitiveness in the tourism industry without unduly jeopardizing the safety of visitors. Similar legislation has recently passed in Anne Arundel and Prince George's Counties and a related bill is currently pending in Baltimore County.

1. The sources of information, assumptions, and methodologies used.

- Lifeguard Effectiveness: A Report of the Working Group, Centers for Disease Control and Prevention (CDC)

The total estimated annual life guard costs for the approximate 36 pools in the County that fit the hostel criteria that are under 2,500 square feet are collectively \$600,000.¹

2. A description of any variable that could affect the economic impact estimates.

The Centers for Disease Control and Prevention helps community and local government officials facing decisions about whether to begin, retain, or discontinue lifeguarding services answer questions regarding the efficacy of lifeguards in preventing drowning and other aquatic mishaps, and whether the value of providing lifeguard protection outweighs the costs. County specific studies detailing the benefits and costs at smaller hotel pools have not been conducted. Broader scope studies note public safety education and onsite supervision by lifeguards have helped keep drowning rates low for 50 years but do not address the need for lifeguards as a function of the size of the pools and their square footage. Variables that could affect economic impact estimates include:

- the incidences of water-related injuries and drownings at the facilities over time;
- the number of water-related injuries and drownings at pools in the County with and without lifeguards;
- insurance liability premiums and the associated legal costs for maintaining unsupervised pools;

¹ from Council member Katz's office and memo to the County Council dated May 9, 2017

Economic Impact Statement
Bill 16-17, Swimming Pools – Lifeguards – Amendments

: variability in lifeguard salaries and staffing complements.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.


If all the hotels/hostels eliminate lifeguards as defined in Bill 16-17, there is a potential economic benefit in cost savings for the hotels of approximately \$16,666 annually per pool location (\$600,000 divided by 36). The broader impact to economic competitiveness of the County's tourism industry because of increased availability of pool use for hotel guests is difficult to assess without additional specificity of data. There is a corresponding economic cost to the lifeguards who will no longer be employed at these locations with an equivalent loss in wages and salary. The impact to employment, spending, savings, investment, incomes, and property values beyond the scope of select lifeguard employment would be negligible.

4. If a Bill is likely to have no economic impact, why is that the case?

See number 3.

5. The following contributed to or concurred with this analysis:

David Platt, Dennis Hetman, and Rob Hagedoorn, Finance.



Alexandre A. Espinosa, Director
Department of Finance

6/1/2017
Date

1

**TESTIMONY ON BEHALF OF COUNTY EXECUTIVE ISIAH LEGGETT ON
EXPEDITED BILL 16-17, SWIMMING POOLS - LIFEGUARDS - AMENDMENTS**

June 20, 2017

Good afternoon Council President Berliner and Council Members. My name is Clark Beil, I am the Senior Administrator for Licensing and Regulatory Services at the Department of Health and Human Services, and I am here to testify on behalf of County Executive Isiah Leggett in support of Expedited Bill 16-17 on behalf of the Executive Branch.

Expedited Bill 16-17 would exempt certain pools at hostels, defined to include hotels, from the requirement to have a lifeguard on duty when the pool is open for use. The bill includes requirements for safety and warning signs, as well as an emergency alert system that connects directly to 9-1-1 and alerts hotel staff of the emergency. This emergency alert system must be approved by the Department of Health and Human Services; if any of these safety protocols are not in place or are not followed, the County will withhold the pool license and the pool will not be allowed to open. In 2016, Anne Arundel County and Prince George's County passed similar bills exempting hotel and motel pools from having a lifeguard on duty. The bill being considered here today goes further than those bills to protect pool users by requiring the alarm system to be in place at each hotel pool.

Other health and safety measures are not changed by this bill: if it is enacted, water quality will continue to be monitored and county pool inspectors will continue to require hourly testing and remediation within 15 minutes if chemical and pH levels fall out of range.

The safety and well-being of swimmers is of utmost importance to the County. Licensing and Regulatory Services is responsible for licensing and inspecting swimming pools in the County, including those located at hotels and motels. But Montgomery County is one of only two jurisdictions in Maryland to impose this requirement. We recognize that requiring our hotel pools to have a qualified lifeguard on duty presents a costly burden for our hospitality industry. If hotel pools are closed due to this requirement, our hotels will be placed at a competitive disadvantage.

For these reasons, the Montgomery County Executive Branch supports the adoption of Expedited Bill 16-17.



Maryland Hotel Lodging Association

20 Ridgely Ave., STE 309, Annapolis, MD 21401

Phone: 410-974-4472

Email: mhla@MDLodging.org

Web: www.MDLodging.org

TO: Honorable Members of the Montgomery County Council
FROM: Amy Rohrer, Maryland Hotel Lodging Association
RE: Expedited Bill 16-17, Swimming Pools - Lifeguards - Amendments
POSITION: SUPPORT

As the statewide trade association representing hotels across the state and in Montgomery County, we support Expedited Bill 16-17, Swimming Pools - Lifeguards - Amendments.

Maryland state regulations do not mandate having a lifeguard at semi-public hotel pools under 2,500 square feet. (COMAR 10.17.01.40) In the majority of our state, hotels determine their own need for a lifeguard since regulations allow for guests to swim at their own risk when certain safety requirements are met. The only existing exceptions are Baltimore County and Montgomery County.

To comply with the lifeguard mandate, hotels typically operate their pools with limited hours. It is challenging to predict usage and lifeguards often watch empty pools, or the pool is closed when guests arrive wishing to swim. Eliminating the lifeguard requirement would enable hotels to extend pool hours and increase guest satisfaction among those who seek out and expect this amenity.

Our business is competitive and guests have a lot of choices for accommodations within the D.C. Metro area. In EVERY surrounding jurisdiction – D.C.; Loudon and Fairfax Counties in Virginia; Frederick, Howard and Prince George's Counties in Maryland – hotels are permitted to determine their own need for a lifeguard. Eliminating this competitive disadvantage has the potential to increase rooms booked in Montgomery County, which means increased hotel taxes and other related visitor spending in the County.

Guest safety is a top priority for hotels, including those located in the 22 Maryland counties (including Baltimore City) where lifeguards are not required at hotel pools. We comply with state and local regulations addressing pool construction, accessibility, signage, water quality, etc. Operators may experience reduced costs when it comes to staffing lifeguards, but it is important to note this savings will be offset by increased training costs as we will train more of our own staff in first aid, CPR, and as CPOs (Certified Pools Operators responsible for monitoring and maintaining water quality). In lieu of a lifeguard, regulations require trained staff on-site anytime the pool is open. This has an additional benefit to the county, as it increases the number of citizens trained in these important skills.

We urge your support of Expedited Bill 16-17 and believe passage will be a win-win-win for Montgomery County in terms of increased occupancy tax and visitor spending, our industry as it relates to increased guest satisfaction and eliminating a competitive disadvantage, and for our guests who expect the availability of a pool as an amenity.

Thank you for your consideration.

For further information, contact:

Amy Rohrer
President & CEO
Maryland Hotel Lodging Association

Mihill, Amanda

From: Amy Rohrer <amy@mdlodging.org>
Sent: Friday, June 23, 2017 12:43 PM
To: Mihill, Amanda
Subject: Re: Montgomery County Bill 16-17
Attachments: Email re Lifeguard sleeping and other issues.pdf

Hi Amanda,

I have attempted to answer all of your questions related to Expedited Bill 16-17 in this email. I am still working on blacking out all guest and employee names contained in the negative comments received from seven different hotels in Montgomery County. I will send the file (nearly 70 pages) as soon as possible. They are overwhelmingly related to 1) limited pool hours and/or 2) poor customer service / inattentiveness by the lifeguard.

A sampling of the guest comments is below:

- **The lifeguard at the pool was on his phone, did not look about to keep small children safe.**
- **Montgomery County should not control hotel pools.** Great hotel, but due to county laws that force hotels to contract our lifeguard services, the pool and hot-tub experience is ruined. **Stay in another county.**
- The pool was the main reason we decided on this hotel. The **lifeguard sat in the shed most of the time** (both morning and evening lifeguards), and couldn't see the spa. **If a lifeguard is necessary - which I don't agree that it is! - it isn't working.** Also, the **lifeguard kicked everyone out of the pool with 30 minutes before closing for a 15 minute break.** The kids had been looking forward to it all day and we had planned our time out. But instead, we ended up having to leave (or wait 15 minutes to get back in for 15 minutes). The **pool should stay open later** as well. **The pool and lifeguard policy are my only dislike from the hotel.**
- Swimming pool close at 8pm! O my god! **we stay in many hotel in many place, and all of those swimming close at 10pm**, if not 11pm. Who come back to hotel at 8pm in DC?

Additionally, I have attached an email between a hotel and their pool company. It contains a picture of the **lifeguard sleeping while the pool house doors (with chemicals inside) are wide open and a guest is also present.** For this particular hotel, the situation has been ongoing with more than one lifeguard and it is reflective of the experience of many.

Our primary reason for wanting Expedited Bill 16-17 to pass is so that we can better serve our guests and not lose them to surrounding counties that do not mandate lifeguards at hotel pools. Those hotels are able to keep their pools open longer hours and avoid negative customer service experiences as a result of interaction with a lifeguard who is not trained to our own customer service and various brand standards. The guest is not aware that the lifeguard is not a hotel employee, nor should it matter. Poor reviews related to the inattentiveness and customer service of lifeguards impact our overall hotel scores and negatively impact the guest experience. A dissatisfied guest is highly unlikely to return and all it takes is one bad experience. We are not suggesting every lifeguard displays poor customer service skills, but their interpersonal skills and professionalism vary greatly. We see high turnover among lifeguards which creates an additional training challenge. We value our

partnerships with the pool companies and try to work with them to enhance customer service at every opportunity, but the guest comments speak for themselves on this issue.

As you know, most Maryland counties have allowed hotel guests to swim at their own risk for many years and it has not compromised guest safety in hotel pools across the state. When Baltimore City, Anne Arundel County, and Prince George's County recently changed their regulations to allow this, they looked to other Maryland counties for the safety records at hotel pools. While swimming is an activity that will always involve some risk, those counties would not have passed their legislation if anything indicated a hotel pool with a lifeguard is safer than one without it. Running a hotel means we must constantly balance meeting the needs of our guests while protecting their safety inside the hotel at all times.

It is hard to predict usage in hotel pools that aren't used frequently, which is often when it makes more sense to give guests the option of knowingly swimming at their own risk. Guarding an empty pool leads to lifeguards used to having time on their laptops, phones, or sleeping. This is reflected in the guest comments multiple times and shows the behavior continues even when guests are present. A lifeguard who is not paying attention to the pool may in fact lead to a false sense of security for those who are swimming.

Every hotel varies when considering the location of the pool and the guests who are using it. In jurisdictions that do not mandate lifeguards, there are hotels that have continued to use them during peak periods of pool use, during high occupancy, or when it is known that a group with many kids will be using the pool. Staffing lifeguards is not just for safety but also for crowd control as kids tend to show off to each other and act differently when they are in a large group. This is similar to increasing the police/security presence at a large event. These decisions speak to our responsibility as hotel operators and the fact that we know what is best at our specific properties.

The cost and sometimes the availability of lifeguards are the two things that make it prohibitive for hotels to open their pools for longer hours. Availability is toughest during the summer, and there are times when someone calls off without a replacement, which also leads to a closed pool.

Estimated annual lifeguard costs are below. **However, I want to be clear that eliminating the lifeguard requirement is NOT about compromising guest safety in order for us to save money.** This data is from Montgomery County hotels that are currently limiting their hours due to the lifeguard requirement, and the hours can vary greatly from one hotel to the next. For hotels that continue to use a lifeguard, their cost would likely remain as it is currently.

- Year-round indoor pool: Average annual cost is \$44,128 with a range from \$25,000-\$69,850
- Outdoor seasonal pool: Average annual cost is \$15,804 with a range from \$10,000-\$27,834

Thank you for the opportunity to provide this information. Please reach out if I can be of further assistance.

Amy W. Rohrer, CAE
President & CEO
Maryland Hotel Lodging Association
Mobile 443-822-4693
amy@MDLodging.org
www.MDLodging.org

Note our new address:
20 Ridgely Ave., Suite 309
Annapolis, MD 21401

Testimony

6

Statement by

Xitlaly Castillo-Dietz

General Manager, Hampton Inn & Suites Gaithersburg on Expedited Bill 16-17, Swimming Pools - Lifeguards - Amendments

Good afternoon,

My name is Xitlaly Castillo-Dietz; I am the General Manager for the Hampton Inn & Suites Hotel located at 960 N Frederick, Gaithersburg, MD. 20879. I am here to bare testimony in favor of Expedited Bill 16-17, Swimming Pools - Lifeguards - Amendments.

Personal Experience

I have worked in the hotel industry since 1994; during my career I have worked in Mexico and in the United States. In the US, I have held posts in Virginia, DC and Maryland. The vast majority of those hotel properties operate under rules similar to what **Expedited Bill 16-17, Swimming Pools - Lifeguards - Amendments would allow**. My number one goal everywhere I have worked has always been to create happy customers who want to come back. This amendment would help us to ~~accomplish that goal.~~

As you know, The Hampton Inn and Suites where I work and other hotels in Montgomery County compete with properties in both Frederick MD north of us and plenty of other locations in and around the District of Columbia to the south and east where hotel pools are allowed to operate without a lifeguard present.

My current hotel offers clean rooms, a tasty breakfast buffet, and 24 hour convenience store, a complete business center and fitness center. We also have a salt-water pool, but we currently cannot allow our guests to swim at their leisure.

My staff and I receive complaints daily about the hours of operation of our beautiful salt-water pool. In my opinion, the Montgomery County regulation (lifeguard requirement) is a big obstacle to compete with other localities.

Our Hotel follows the Safety guidelines necessary to have a positive and safe pool experience. Our Front Desk employees are CPR certified and we have a Pool Operator on site.

Conclusion

I am asking you to consider the business ramifications of having this ordinance; as we compete with neighboring localities. How do we offer the best service to our guests? How do we stay competitive?

We already follow more than the basic requirements of Pool Safety and have trained our staff to respond to emergencies. We want to be more competitive and to give our guests access to more services.

Sincerely,

Xitlaly Castillo-Dietz

Good Afternoon Council Members,

J

I am writing to you as members of Montgomery County Council to request that you please vote in favor, in its entirety, for the Expedited Bill 16-17, Swimming Pools - Lifeguards - Amendments.

As a resident of Montgomery County and General Manager of the Bethesda Marriott on Pooks Hill Road I strongly urge you to support this bill.

At Marriott Hotels the safety of our employees and guests comes first and we strongly believe that requesting that our guests should be able to swim at their own risk will in no way compromise this. We will ensure that the water quality is maintained to the highest Montgomery County and Marriott standards with oversight from a certified pool operator who will be on site at all times when the pool is open. In addition, per Marriott brand standards we have staff trained in CPR, first aid, AED and life safety 24 hours a day 365 days a year, which includes having a manager on duty. Should there be any pool emergency or a situation requiring the pool to be closed, we have a clearly marked telephone available at the pool which goes directly to our hotel operator, also covered 24 hours a day. The hotel operator would then immediately contact the manager on duty to respond and take the necessary actions for the safety of our guests.

Additionally, we will staff life guards as necessary when we expect heavy pool usage. This includes when we have youth groups staying in the hotel while visiting the local area and DC. We of course will be sure to work with those organizers to ensure that we have life guards on duty when they are utilizing the pool.

As a father of 5 active teenagers I have spent many nights travelling with my family. It has always been a request of my kids that we stay at a hotel with a pool. One time when they were younger we were staying at a hotel with a pool and after a day of activities we came back to the hotel at around 3pm and headed to the pool. Much to my families dismay the pool was closed. Apparently they didn't have the pool open until 5pm that evening when a lifeguard would be on duty. As you can imagine my 5 kids were very disappointed and it ruined our trip. Following that experience I always make sure the hotel pool is open at all hours before making hotel reservations. Restricting hotels in Montgomery County to have lifeguards puts us at a competitive disadvantage to other surrounding counties as they are able to keep their pools open at all times without a lifeguard on duty.

Again, I strongly urge you to Support this bill and keep Montgomery hotels competitive with our neighboring counties and provide superior service and a safe environment for guests. Thank you for your time and attention to this extremely important matter.

David Child

Montgomery County Resident

12612 Exchange Court North

Potomac, MD 20854

From: Daley, Bob [mailto:Bob.Daley@marriott.com]
Sent: Friday, June 16, 2017 3:45 PM
To: Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>
Subject: Expedited Bill 16-17, Swimming Pools - Lifeguards - Amendments

From: Berliner's Office, Councilmember [Councilmember.Berliner@montgomerycountymd.gov]
Sent: Monday, June 19, 2017 2:37:20 PM
To: Council President
Subject: FW: hearing on Bill 16-17 tomorrow

From: Doherty, Katie [mailto:Katie.Doherty@bfsaul.com]
Sent: Monday, June 19, 2017 2:32 PM
To: Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>
Subject: hearing on Bill 16-17 tomorrow
Importance: High

Dear Honorable Council President Berliner,

I am writing in reference to bill 16-17 being heard tomorrow. Thank you so much for co-sponsoring the bill.

- Maryland state regulations do not mandate having a lifeguard at semi-public pools under 2,500 sq. and less than 5 ft. in depth. Baltimore County and Montgomery County are the only two counties in the state that do not allow hotel guests to swim at their own risk.
- Eliminating the lifeguard requirement would enable hotels to extend pool hours and increase guest satisfaction among those who seek out this amenity, allowing occupancy, tax related revenue and visitor spending in the county to rise.
- Passage of this bill would level the playing field between Montgomery County hotels and hotels in the surrounding area that currently have a competitive advantage of determining their own need for a lifeguard.
- As operators guest safety is among our highest priorities. We are required to maintain a safe pool environment and ensure all rules and regulations are followed. Safety signage must be in place and hotel staff is required to be trained in first aid, CPR and AED usage.
- A certified pool operator (CPO) is required onsite when the pool is open and that person is responsible for monitoring and maintaining water quality at all times.

I am also a resident of Montgomery County my home address is

4616 Bettswood Dr.
Olney, md 20832

Katie Doherty | General Manager

Holiday Inn Gaithersburg
2 Montgomery Village Avenue
Gaithersburg, Maryland 20878
Phone: 240.238.1101
Katie.Doherty@bfsaul.com

[Visit Website](#)

Mihill, Amanda

From: Daniel Maldonado <Daniel.Maldonado@whitelodging.com>
Sent: Friday, May 19, 2017 6:44 PM
To: County.Council@MontgomeryCountyMD.gov
Cc: Michael Swanigan
Subject: Support for Expedited Bill 16-17, Swimming Pools – Lifeguards-Amendments

Dear esteemed council members,

It has come to my attention that there has been a proposal to exempt lodging establishments from requiring a lifeguard at their swimming pools as long as certain safety standards are upheld. I would like to take this opportunity to voice my support for this proposed amendment. As the general manager of the Hilton Garden Inn Silver Spring North I have seen first hand the negative affects the current regulations have had on our guest experience and ultimately our ability to be competitive in a highly competitive market. With the current regulations, we have been forced to limit the hours of operation of our swimming pool to a mere five hours a day, greatly affecting the guest experience and for all intent and purposes, forcing potential leisure guest to book elsewhere.

I full heartedly express my support for the proposed changes and hope that the council members would agree that a strong competitive tourism industry is a benefit not only to those working directly in the industry, but also to all of those who feel the long reaching economic benefits of the added revenues and tax dollars the industry contributes to help our communities thrive.

Thank you for your time and consideration.

Sincerely,

Daniel Maldonado | General Manager
Hilton Garden Inn Silver Spring North
2200 Broadburch Dr. Silver Spring, MD 20904
P: 301-622-3333 | F: 301-622--3338
Daniel.Maldonado@Whitelodging.com

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From: Berliner's Office, Councilmember [Councilmember.Berliner@montgomerycountymd.gov]
Sent: Monday, June 19, 2017 3:16:26 PM
To: Council President
Subject: FW: Montgomery County Hotel Lifeguard Bill

From: Roth, Marty [mailto:marty.roth@marriott.com]
Sent: Monday, June 19, 2017 2:58 PM
To: Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>
Subject: Montgomery County Hotel Lifeguard Bill

Good Afternoon Honorable Council President Berliner,

I am writing to you as a member of the Montgomery County Council to request that you please vote in favor, in its entirety, for the Expedited Bill 16-17, Swimming Pools – Lifeguards – Amendments.

As a resident of Montgomery County and General Manager of the Bethesda Suites Marriott on Democracy Boulevard, I strongly urge you to support this bill.

At Marriott Hotels, the safety of our employees and guests comes first and we strongly believe that requesting that our guests should be able to swim at their own risk will in no way compromise this. We will ensure that the water quality is maintained to the highest Montgomery County and Marriott standards with oversight from a certified pool operator who will be on site at all times when the pool is open. In addition, per Marriott brand standards we have staff trained in CPR, first aid, AED and life safety 24 hours a day 365 days a year, which includes having a manager on duty. Should there be any pool emergency or a situation requiring the pool to be closed, we have a clearly marked telephone available at the pool which goes directly to our hotel operator, also covered 24 hours a day. The hotel operator would then immediately contact the manager on duty to respond and take the necessary actions for the safety of our guests. Additionally, we will staff life guards as necessary when we expect heavy pool usage.

Again, I strongly urge you to **support** this bill and keep Montgomery hotels competitive with our neighboring counties as well as enabling hotels to extend pool hours and increase guest satisfaction among those who seek out this amenity, allowing occupancy, tax related revenue and visitor spending in the county to rise. Thank you for your time and attention to this extremely important matter.

Marty Roth

Montgomery County Resident

14810 Pettit Way

Potomac, MD 20854

Marty

Marty Roth
General Manager
Bethesda Suites Marriott Hotel

22

From: Berliner's Office, Councilmember [Councilmember.Berliner@montgomerycountymd.gov]
Sent: Tuesday, June 20, 2017 1:25:07 PM
To: Council President
Subject: FW: Hilton Garden Inn Bethesda

From: Tamara Williams [mailto:Tamara.Villiams@Hilton.com]
Sent: Tuesday, June 20, 2017 1:10 PM
To: Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>
Subject: Hilton Garden Inn Bethesda

Dear Honorable Council President Berliner,

Thank you for co-sponsoring this legislative.

I am the General Manager at the Hilton Garden Inn Bethesda hotel. I am writing to inform you that my hotel is in support of the Montgomery County Lifeguard Bill.

My pool meets the mandate requirements for this legislative. Montgomery County and Baltimore County are the only two counties in the state that do not allow hotel guests to swim at their own risk.

The Hilton Garden Inn Bethesda has one indoor pool open daily to hotel guests only. Since, I began working at this property in 2011, guests have consistently requested extended hours for our pool. They have limited time in the city and want timeframes that work best for their family

and/or work schedule.

Currently, this is not possible as a result of the current lifeguard requirement. When explaining to guests about this requirement they get extremely frustrated and just don't understand why other hotels they have visited in the surrounding area can and we can't.

In this case, the guests either want compensation for the inconvenience or they just don't return.

By eliminating this lifeguard requirement would allow us to extend our hours, improve our guest satisfaction and allow our occupancy tax revenue and visitor spending to rise.

As the General Manager of the Hilton Garden Inn Bethesda guests safety is our highest priority. Our management company and the Hilton Brand requires that we maintain a safe pool environment and ensure all rules and regulations are followed 100% of the time.

We currently have safety signage in place and the hotel staff is required to be trained on first aid, CPR and AED usage. In addition, to the passing of the new legislative we would add to this a certified pool operator. This person would always be onsite when the pool is open and be

responsible for monitoring and maintaining water quality at all times.

Thank you for this opportunity to make the service we provide to our guest even greater.

Tamara Williams
General Manager

23

Mihill, Amanda

From: Auteen Bahrami <abahrami@sunsetpoolsmgmt.com>
Sent: Thursday, May 18, 2017 4:16 PM
To: County.Council@montgomerycountymd.gov
Subject: Sunset Pool Concerns about Expedited Bill 16 - 17

To the Honorable Council,

There is an Expedited Bill that was introduced yesterday regarding the safety of Montgomery County residents and tourists that requires your immediate attention. As an established pool management company that has been in business for over 20 years and employs hundreds of lifeguards to protect the lives and safety of pool patrons for over 150 swimming pool facilities in Montgomery County, we are highly concerned that Expedited Bill No. 16 – 17 will have a damaging effect that will last for years. This Bill is not only disregarding the reality of all the drowning incidents that were prevented by lifeguards in hotels in Montgomery County, but it is also disregarding the negative impact it would have on tourism which depends on a clean, secure, and healthy environment for the tourists. There would also be hundreds of full-time year-round jobs lost at indoor pools in Montgomery County.

A safe and healthy environment is a universal standard no matter the State, County, or Country an individual lives in. It makes all the difference when a person chooses where they would like to visit or live. The reason Montgomery County is so much more affluent, clean, and enjoyable to live in when compared with the rest of the Counties in Maryland or other States, is because they have upheld a higher standard of living for everyone who lives or visits there. Everyone cares about their health and safety more than the extra hour they may have been able to spend in a hotel pool that closed at 11:00pm instead of 12:00am. In fact, pools in PG and Anne Arundel Counties still have limited hours even after they removed their lifeguards.

There are always comments and letters being written to hotel managers by their customers who compliment them about the superior quality of their swimming pools compared to others that did not have a lifeguard on duty. Hotel customers also compliment the presence of lifeguards because they play an important role in keeping the customers safe from each other when there are large parties of children or adults under the influence of toxic substances who are breaking the rules and disturbing the other guests who are trying to relax at the pool. I have attached some of these comments to show how discerning customers expect a higher standard of service when they visit a hotel and it is lifeguards who provide the level of safety and cleanliness they expect to see at the pool. Anyone who has spent time with their family and friends at a pool knows how difficult it is to keep track of everyone, which is why lifeguards make their stay at those hotels so much more enjoyable, because of the unparalleled level of safety and cleanliness that they provide.

In just the past year, our company alone has rescued over 10 individuals from indoor pools in Maryland. Of the 10 rescues, 6 were adults from Montgomery County who had to be rescued from drowning and in another jurisdiction there were 2 children that had to have CPR and Rescue Breathing administered until paramedics arrived on the scene. Even though Baltimore City had passed their lifeguard amendments, the hotel where the 2 children were saved with CPR and Rescue Breathing had opted to keep their lifeguard. The Memorandum by Councilman Katz stated that there were no increases in pool-related injuries in nearby jurisdictions; however this would not have been the case if the 2 children had died as a result of drowning a few months after the passage of their Bill. Even the doctors from the hospital acknowledged that if there had not been a lifeguard at the scene exactly within the 30 seconds that the incident occurred, both of the children would have been deceased or permanently brain-damaged.

The amendments introduced in this Bill would significantly reduce the most important layer of protection that a swimming pool has, which is to have a professionally trained and certified lifeguard present at the swimming pool during all the operational hours of the facility. The emergency alarm system that the Bill proposes in exchange for deregulation of lifeguards does not address the issue of a need for immediate rescue procedures to be implemented in the case of an emergency, as was the case with the 10 individuals who our lifeguards rescued from indoor pools in Maryland in just the past year alone.

If any of these individuals who were rescued, or their family members and friends are asked if this Bill should be passed, all of their answers would resoundingly be "no, do not pass this bill." Those individuals are alive and continuing their daily work as residents of Montgomery County thanks to the clear-vision and caring lawmakers such as yourselves who have upheld a higher standard of living in Montgomery County so that it continues to be a safe, secure, and prosperous County that attracts similar minded individuals to live and visit there.

There are laws regulating the sanitary delivery of public tap water so that nobody gets sick when using it. Similarly, there are laws regulating the sanitary use of swimming pool water, but with the current level of staffing of Montgomery County Health Inspector officials, it would be nearly impossible for the County to frequently ensure the sanitary practices of swimming pools open to the public. Swimming pools are extremely unsanitary unless there is constant supervision of the water quality and disinfectant levels during all the operational hours of the day. A building engineer who visits the pool once every other hour to measure the disinfectant and pH levels of the water does not ensure sanitary water that is free of pathogens contained in the various forms of human discharge during swimming pool use.

As uncomfortable as it may sound, if there is no constant supervision of the swimming pool, a customer might vomit, bleed, pass stool, or have any other number of bodily fluid discharges that infect the pool without detection. Most of these fluid discharges go unnoticed because of their natural tendency to dissolve in water, so the pool users who unknowingly enter the pool after the incident would be swimming in intensely contaminated water. If a meal at a restaurant gives someone a stomach virus, that person is not likely to return to that restaurant ever again, and the same will go for hotels and their hotel chains. With the passage of this Bill, hotels will actually suffer a worse economic fate when an incident occurs and they begin to lose a large percentage of their customer base due to the loss of trust between the hotel chain and their customers.

Part of the reasoning put forth in support of the Bill states that since another jurisdiction in Maryland has adopted this amendment a year ago, they have not reported any rise in pool-related injuries. This is not the case, because as was mentioned earlier, within a couple months of the Bill being passed in Baltimore City, 2 children in one of their hotels were saved by one of our lifeguards. That hotel was also going to remove the lifeguard from their facility after the passage of the Bill, but firmly decided not to after they saw the risk that it entails. There are literally hundreds of incidents such as these that go unreported every year. An emergency alarm system would not have saved those children or the adults who were alone when they had to be rescued, and if those incidents happened at hotels that opted not to have lifeguards, those individuals would not be with us today.

Many of the hotel pools in jurisdictions that have opted out of having lifeguards have become so dirty and unsanitary that their own customers would not even dare to use them after just one look at them. I have attached some pictures from their pools without their names attached to protect their privacy, but one look at these pools yourself and you will see how this is a problem. Filthy pools have become an even greater problem for those hotels since the hotel Managers and Engineers are being given extra lifeguarding tasks that cannot be reasonably performed by them. Our company is constantly getting calls and requests from Managers and Engineers at these same hotels in PG and Anne Arundel Counties complaining that they are being pressured into not having a lifeguard by the hotel owners when they would actually prefer to keep them there.

Hotels choose to add a swimming pool amenity to attract customers. Some of these hotels notice that their swimming pools are not the main attraction so they decide to close their pools and open something more suitable for their guests such as a ballroom, a meeting room, a gym, or a restaurant. Swimming pools are usually closed for these reasons because hotels see a better way to increase their revenue; they are not closed because they are a costly burden. Hotels chains continue to build hotels with swimming pools in them, knowing that they require lifeguards.

For the past 50 years these rules and regulations have been in effect and have helped to save thousands of lives and created thousands of jobs in Montgomery County. It makes no sense to change such a successful program with a distinguished track record of protecting lives. Thank you very much for taking the time to review our concerns and I would appreciate the opportunity to meet with you and discuss these proposed changes in detail.

Pictures of Hotel Swimming Pools in Maryland Jurisdictions after Lifeguards were Removed are attached to this email:

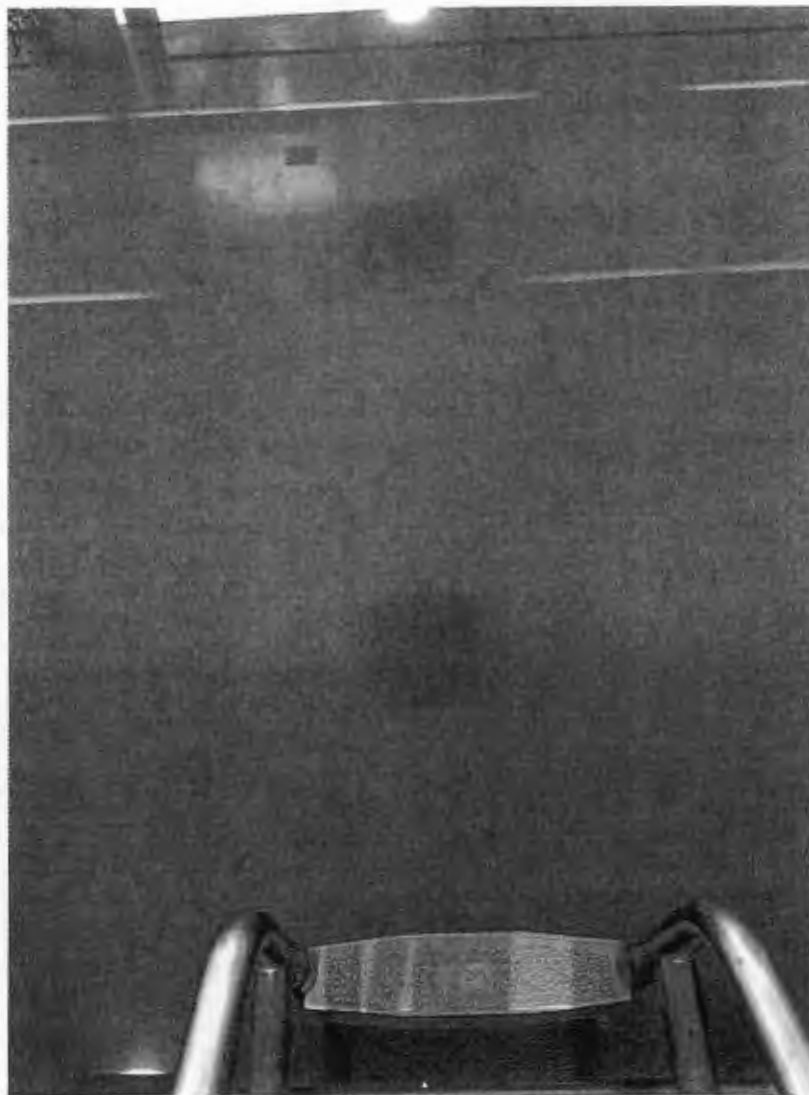


Figure 1 shown above is an example of a pool that has been allowed to get so dirty and infected that algae blooms have taken hold of the water. The cloudiness also indicates that the level of contaminant particles in the water is extremely high. This is a pool that has gone weeks or months without proper water sanitation levels in addition to pool maintenance.

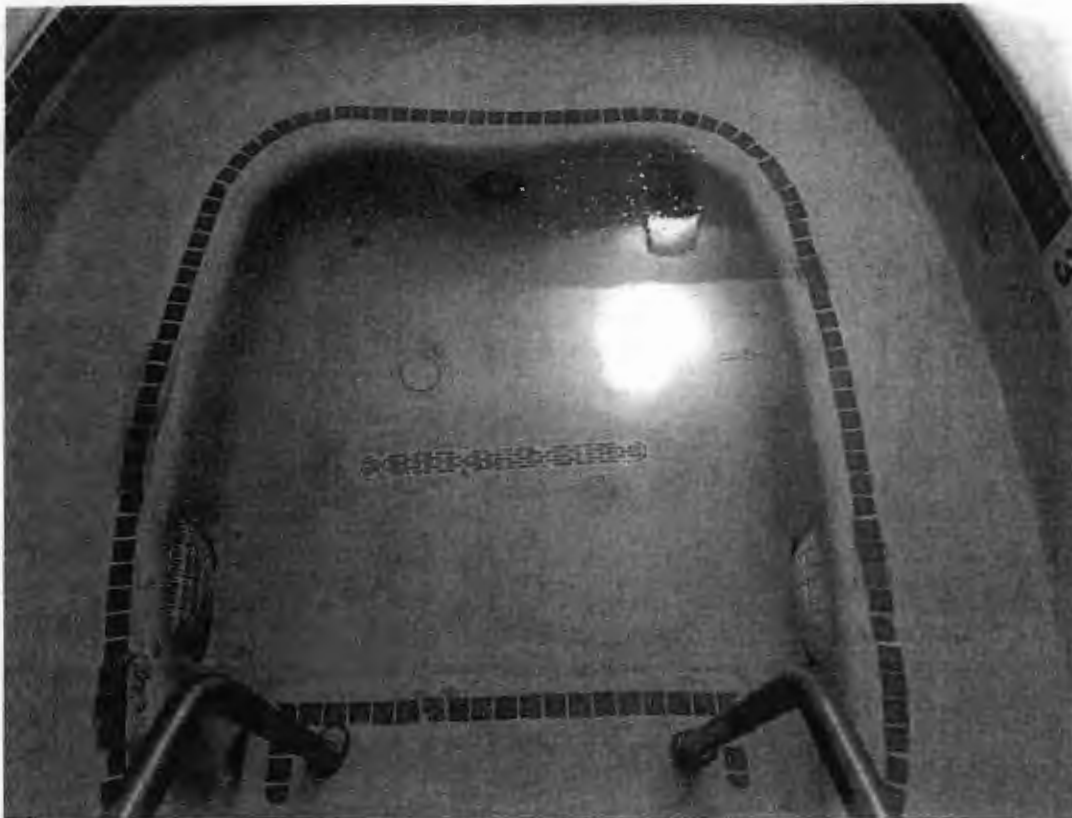


Figure 2 shown above is another example of an algae bloom like the one seen in figure 1, however what cannot be seen in this picture is the stench of body odor and algae that rises with the mist from the hot water of this spa. This spa is beyond disgusting for use and probably has more harmful pathogens that can be transmitted between people than a stagnant pond of water.

Hotel Customer Comments That Were Shared With Our Company

Below you may find some comments that hotel managers shared with us in appreciation of the work our company does for them. There are many comments such as these and many are also shared on comments sections of hotel search engines.

Comments

10/10 would stay again

Pros: -Clean pool with an on duty life guard -Shuttle service to and from the Metro and Reagan Airport - Multiple elevators to handle the busy mornings -Hotel is close to a Whole Foods -Baggage holding service Cons -At busier times it may take a while for the shuttle to pick you up -Wifi was too slow to use at times (but free)

Comments

Nice Hotel

When we arrived they were very nice at the desk it only took like 2 minutes to check in, we then went to the room and my grandson wanted to go to the pool, so we did , it was clean and clear and there was a lifeguard on duty , which was nice because so many times at a hotel pool there is not one , she was so nice .

“Great place, location and price”

POSITIVE:

The breakfast was ok, the afternoon happy hour was great and the kids loved the pool!

Comments

Good location to Metro, plus good restaurants within walking distance (family)

Breakfasts for the family had good variety, swimming pool attendant (required in VA) was very cordial, the happy hours we made were a welcome relaxing period from the miles of walking, beds were comfortable and we were able to store our luggage on the last day at the hotel and see the city without having to worry about it.

Than you again,

--

Sincerely,

Auteen Bahrami

Sunset Pool

202-524-6244

abahrami@sunsetpoolsmgmt.com

Dear Council President Berliner,

Thank you for giving me the opportunity to speak at the public hearing in regards to the Expedited Bill 16-17 on June 20, 2017. I would like to address a few more issues, which I did not have a chance to speak about during the hearing, due to time restrictions.

During Mr. David Child's (General Manager of Marriott Pooks Hill) testimony at the public hearing, he stated that there is no need for a Lifeguard, and that hotel staff is equipped to handle any emergencies that may arise. Please note that hotel staff that is certified is usually entrusted with this task, among many other duties as part of their job description. It is not their sole responsibility to attend only to pool related emergencies, therefore when an incident may happen; it is not warranted that they will be able to respond to it immediately.

I would also like to bring to your attention an incident that Mr. Child may not be aware of. On May 21st 2014, Marriott Pooks Hill had an incident caused by the hotel engineers that mixed hazardous pool chemicals when no lifeguard was on site. They did so in order to service the pool, however ended up with an evacuated property, engineers and hotel guests transported to the hospital, over several dozen fire trucks, and several closed streets for an extended amount of time. Reason? Toxic gas. All because they took on a task that they were simply not equipped to handle.

Please note that Sunset Pool is currently managing Mr. Child's pool (Marriott Pooks Hill), and we can inform you that the pool hours are not nearly as limited as he presented them to be; the pool is open 7 days a week from 6am to 9pm, giving Marriott Pooks Hill hotel guests and their families plenty of time to enjoy the pool. We are not sure why he misrepresented the pool hours to be so limited, and claimed to have multiple complaints, when the hours are just as they would be with no lifeguard on duty. The only reason why the hotel does choose to close the pool at 9pm is the fact that pool location is adjacent to the hotel rooms, and they want to make sure that noise levels are down.

Amy Rohrer, the representative of Maryland Hotel Lodging Association stated that hotels will continue to have a lifeguard on staff during the hotel peak hours if they deem it necessary. This promise was also made to the council members of Prince George's and Anne Arundel counties during the public hearings. Unfortunately, as soon as the bill passed, all lifeguards were laid off.

Ms. Rohrer also indicated that potential customers may favor other counties over Montgomery, because of limited pool hours, however counties that do not have the lifeguard requirement also operate on limited pool hours and are bound by certain restrictions like having a pool operator and a certified First Aid responder on site at all times. Therefore the restricted operation hours are really not a decisive factor in attracting potential customers. Note that for every one person who is unhappy about limited hours, there will be another 100 who will be grateful to have an extra set of eyes making sure that their loved ones are safe. (Please see comments from hotel guests and managers attached)

During the hearing a few council members inquired about the expenses that hotels have to bear in order to comply with the lifeguard requirements.

I would like to provide this information for you in order to show that the claimed expenses are not nearly as exorbitant as some of these hotels claim. I would also like to point out that the benefits heavily outweigh the cost.

The lifeguard regulations have been in effect for decades. Even after 9/11 and the recession of 2008 lifeguards worked at these hotels, and were not a financial burden. So why now, STR's 2017 HOST Almanac announced that U.S. hotel industry revenues exceeded \$199 billion in 2016, which was an all-time high that lifeguards suddenly became intolerable and uncompetitive financially?

Any property could claim that hiring a lifeguard is financially hurting them; however they have failed to present evidence of hardship in support of such claims. There is always a cost for operating a lodging business, and managing the pool is only a small part of it, that is also tax deductible.

Sunset Pool is currently managing 24 hotel pools in Montgomery County. The average annual contract price for these 24 pools is \$32,160. This cost includes all chemicals, insurance expenses/liability, lifeguard and pool operator services as well as multiple layers of supervision and management accountability. We are in business to make sure that each and every locations remain safe at all times, and if anything is needed we are always there to show up and address any issues that may arise.

I would like to finalize with the fact that because we are currently taking full responsibility for all hotel pool operations, we drastically reduce the cost and liability for their operation in Montgomery County.

Going back to the incident mentioned in the third paragraph of this email, just consider the implications of not having a lifeguard on duty at all, and how much more expensive it could get for the emergency responders to show up for this kind of incidents. As for the current requirement for health department, expectation is to check on the pools once a month, while the pool companies are checking the pools on an hourly basis. We meet and exceed the current imposed regulations. If the repeal is passed, it would become necessary to engage more health department employees in keeping watch and control over these locations. Note that it takes only a couple of minutes for the pool water to become unsafe and endanger patrons and expose them to immediate and long term harm. It is easier to prevent than to deal with long term consequences. I strongly believe that the council has all the power and duty to impose high standards to all citizens and business alike to ensure the best quality of service for each and every person.

Sincerely,

Ari Naderi
Sunset Pool, Inc.

file:///E:/I AW/BILL S/1716%20swimming%20pools/IO/Print/5058943%20incoming%20attachment%20110131%2020170616%20E-Mail%20Message%2012/

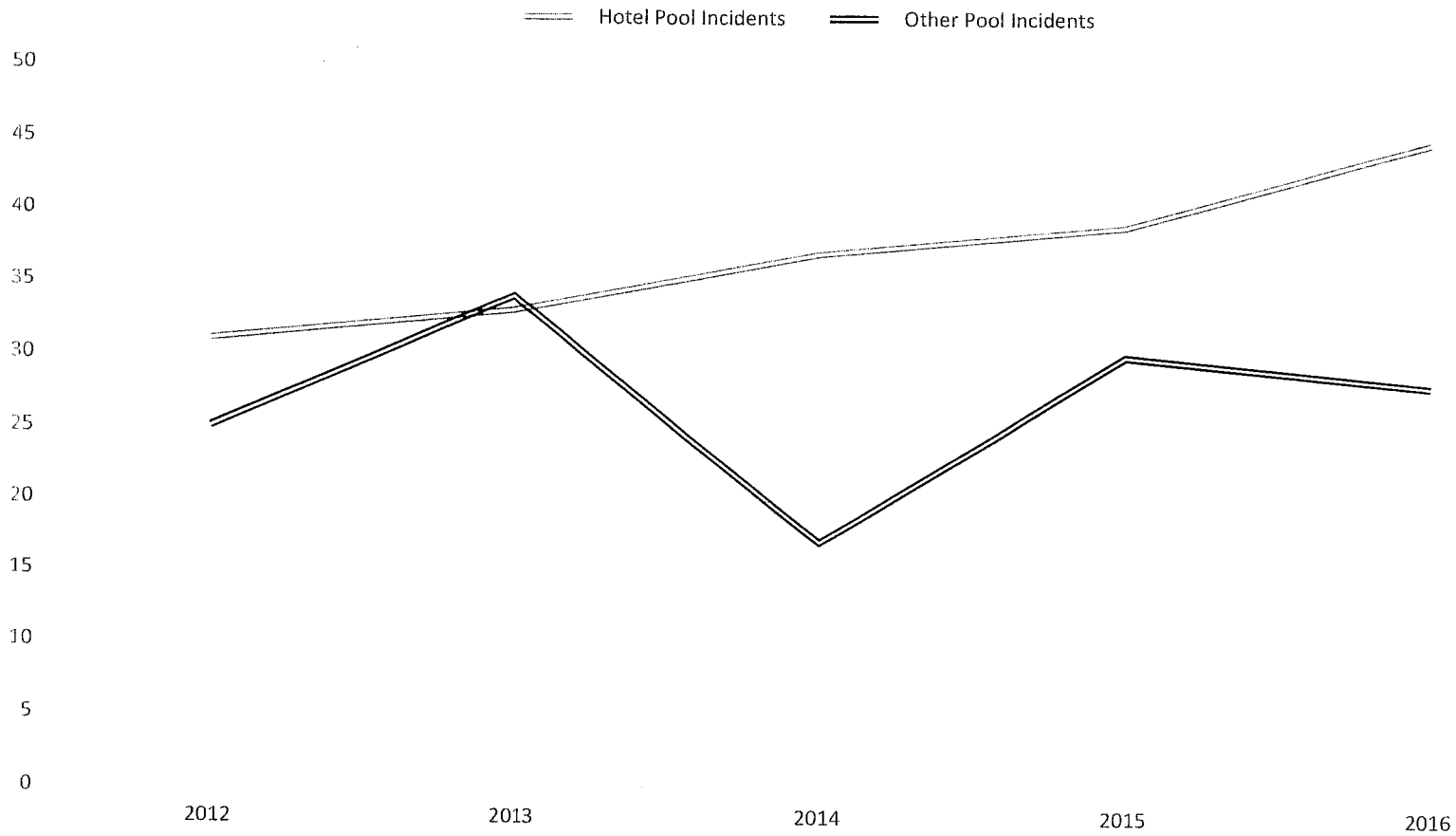
Incident Report

Data Courtesy of: Sunset Pool, Inc.

MD

Incidents		2012	2013	2014	2015	2016	2017, as of now (6/17)
Montgomery County Maryland	Distress/Active Drowning/Rescues *	56	67	54	69	73	29
	Hotel Pool Incidents	31	33	37	39	45	16
	Other Pool Incidents	25	34	17	30	28	13
	Vomit/Fecal Incidents	180	241	209	233	246	127
	Hotel Pool Incidents	94	123	131	138	152	72
	Other Pool Incidents	86	118	78	95	94	55
Total Reported Incidents		236	308	263	302	319	156

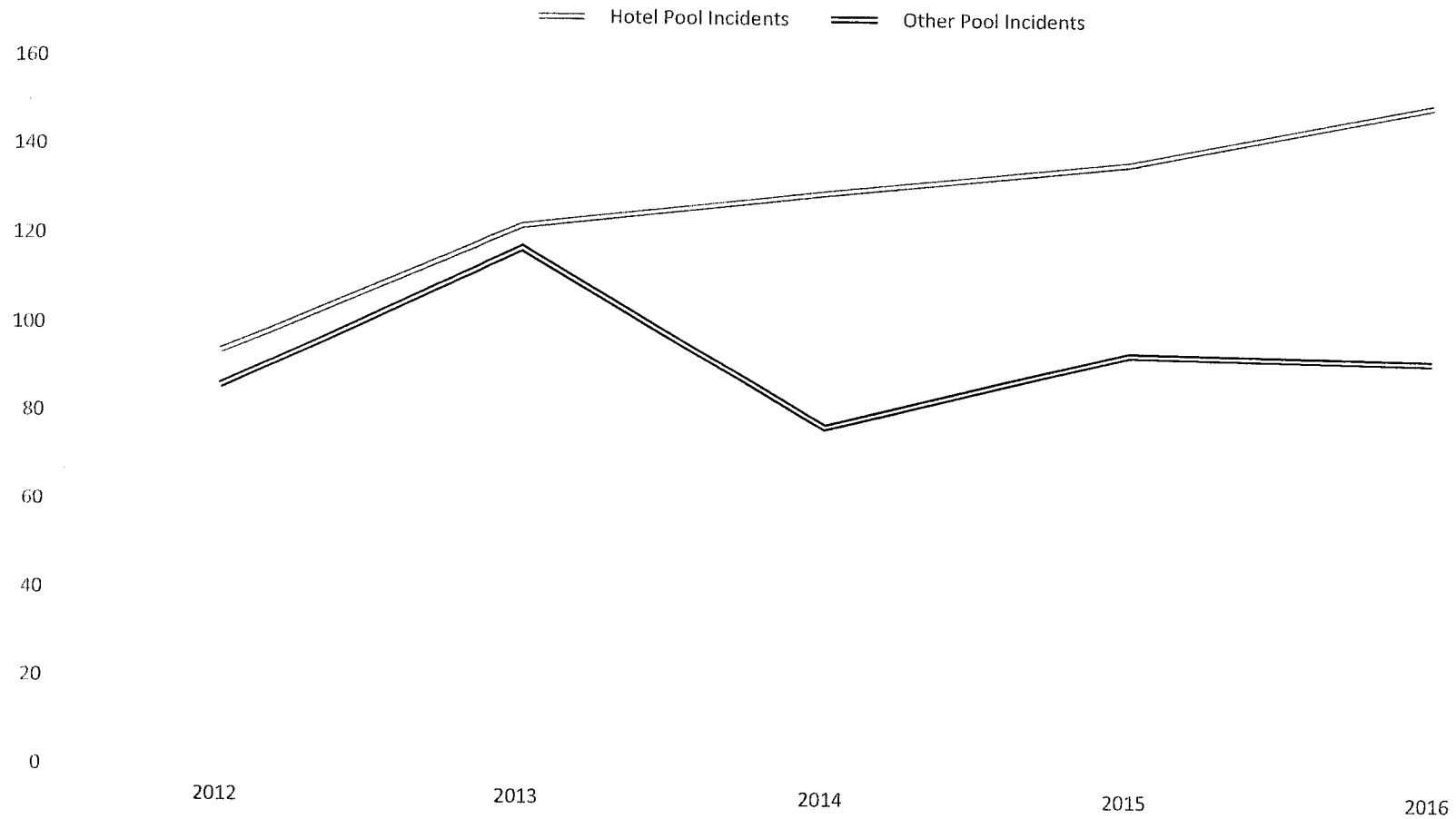
MONTGOMERY COUNTY DISTRESS/ACTIVE DROWNING/RESCUES* 2012-2016



*** Distress/Active Drowning/Rescues Include:**

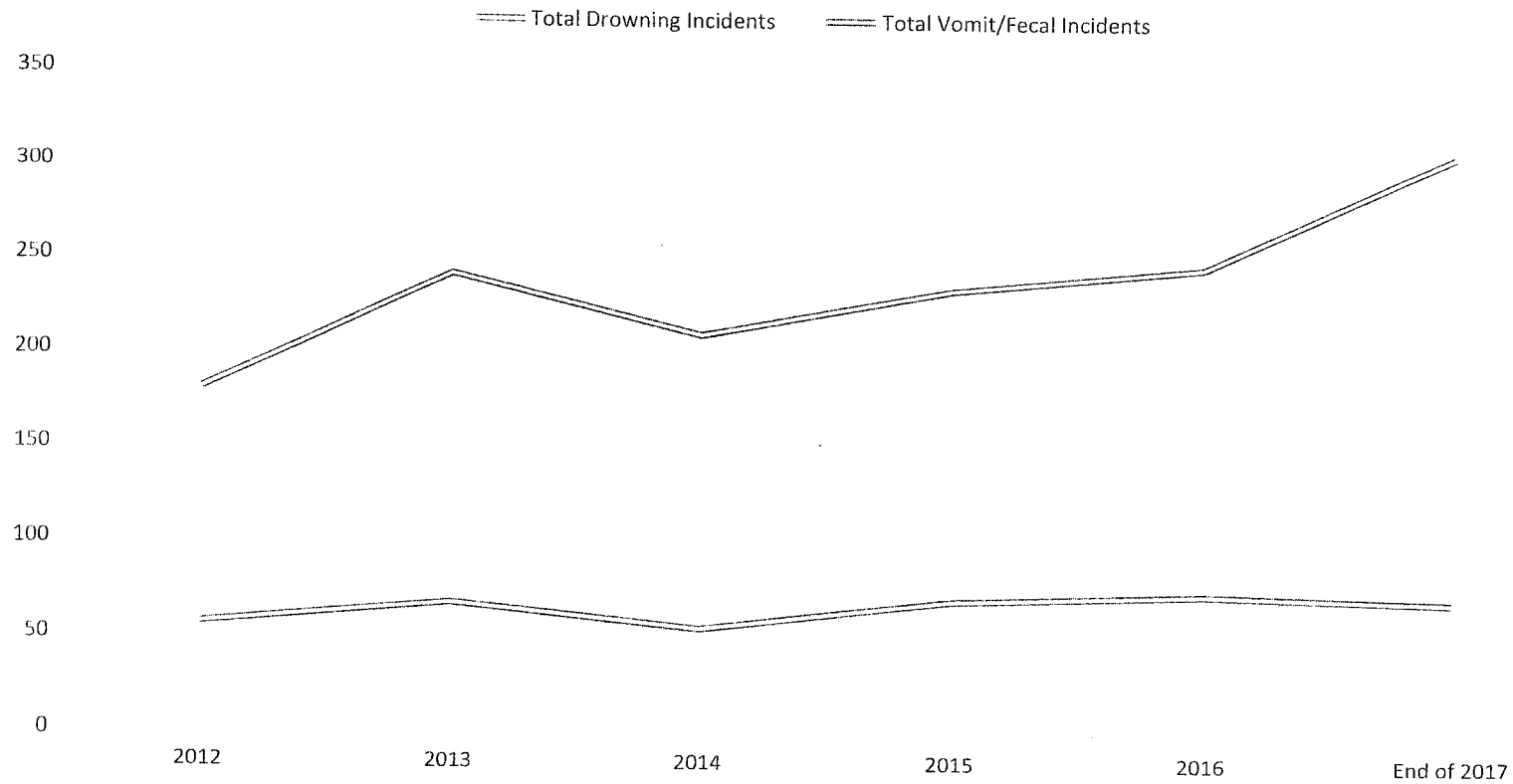
Accidentally falling in
Alcohol/Medication/Substance abuse
Anxiety/panic disorder in water
Bumping into the wall while swimming laps
Children/Adult with inability to swim
Dehydrated swimmers
Diabetes, Hypoglycemia
Epilepsy/Seizures while swimming
Exhaustion/Fatigue while swimming
Failing to follow water safety rules (ex. diving into shallow end)
Heart attack/stroke in the water
Horseplay in the water / holding someone's head in water
Hypothermia in the water
Muscle/Leg Cramps while swimming
Sting and allergic reaction in the water
Weak and panicking swimmers

MONTGOMERY COUNTY VOMIT/FECAL INCIDENTS 2012-2016



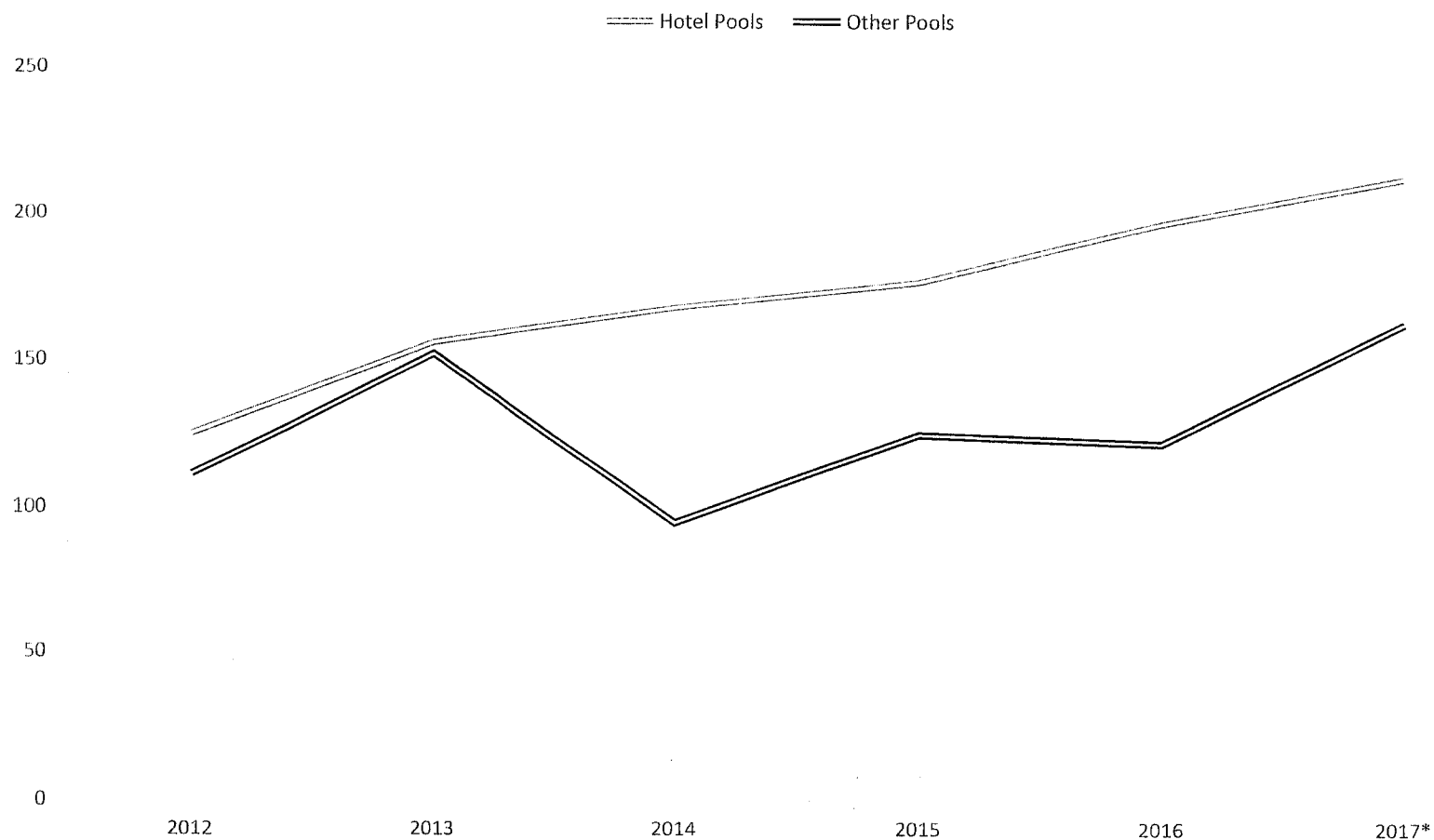
MONTGOMERY COUNTY TOTAL INCIDENTS THROUGH 2017 (HOTEL AND OTHER POOLS)

(2017 PREDICTIONS BASED ON CURRENT STATS AS OF 6/17)

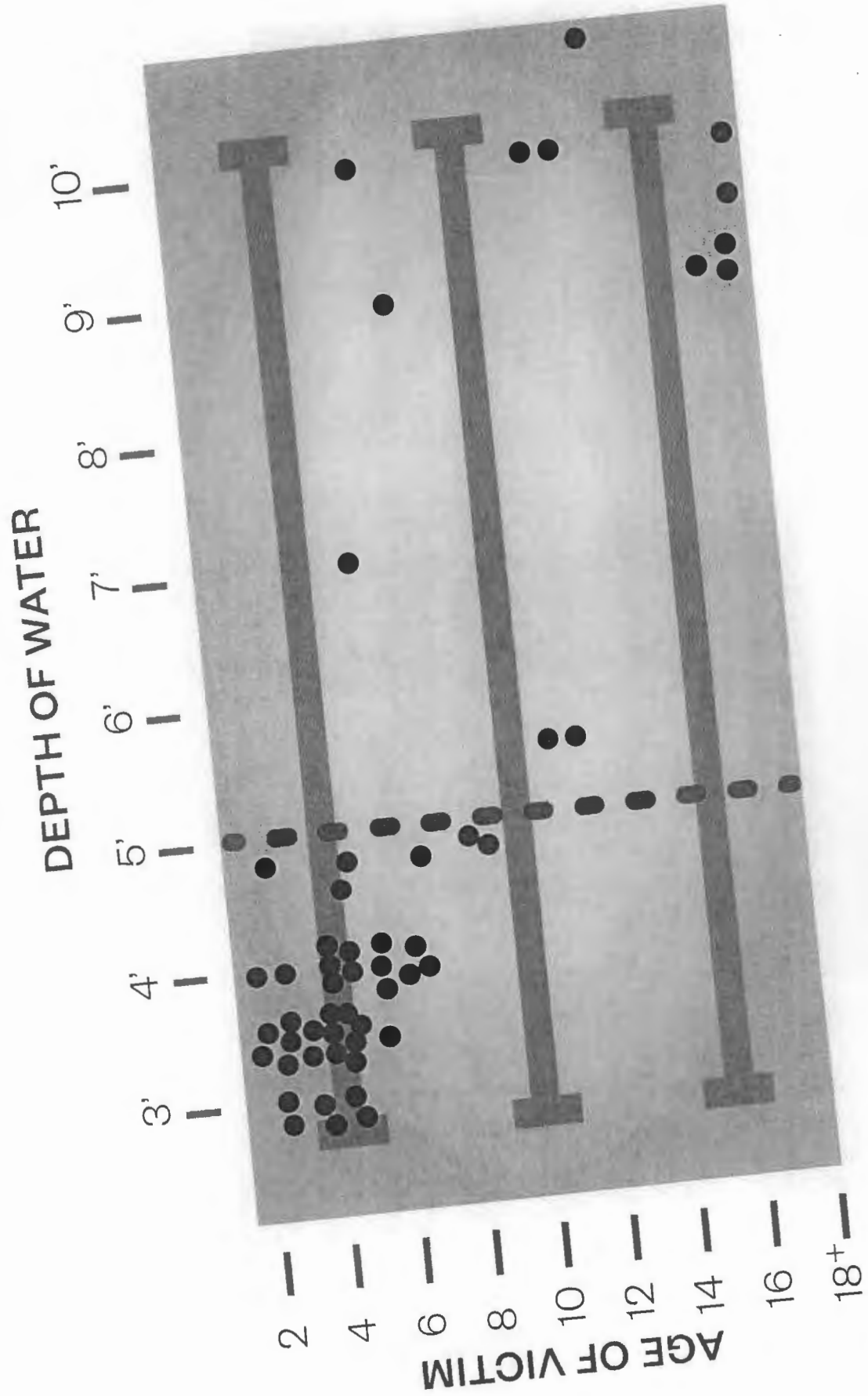


MONTGOMERY COUNTY HOTEL POOLS VS. OTHER POOLS: TOTAL INCIDENTS 2012-2017

*(2017 PREDICTIONS BASED ON CURRENT STATS AS OF 6/17)



Non-Swimmer Drowning Injuries 2007 - 2013



8

Stephen Lavery

To: Stephen Lavery
Subject: RE: Testimony A

Testimony
Steve Lavery
High Sierra Pools, Inc.
Expedited Bill 16-17,
Swimming Pools - Lifeguards –
Amendments [June 20, 2017]

Thank you for allowing me to address The Council and discuss Bill 16-17.

My name is Steve Lavery, I am the President of High Sierra Pools, we have been working in the county for the last 25 years and currently manage 78 swimming pools in The County.

I come forward today to oppose bill 16-17 on grounds that have been repeatedly supported by nationally recognized safety organizations such as the CDC and American Red Cross.

A repeatedly proven fact is that Lifeguards working at swimming pools prevent accidents and save lives in water emergencies.

This proposed legislation eliminates the Lifeguard from the Hotel Swimming Pool. The Lifeguard is the primary safety measure at the Hotel swimming pool.

By eliminating Lifeguards at pool, who is going to be at most risk ?

Children.....

The CDC finds that accidental drowning is a leading cause of death amongst children.

And children of color (Hispanic children and African American children) drown 3 times more than there Caucasian contemporaries.

Children drown far more in the shallow end of the pool than in the deep end of the pool.

So even though children are drowning in shallow water, the fact is untrained adults are still failing to make the rescues in shallow water.

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97% of CHILDREN drownings are associated with adult mistakes.

Today I brought my company's "Incident book".

The book includes records of significant incidents which occurred at pools in Maryland Virginia and DC for 2015.

I will be happy to share it with Council members after the meeting to show the types of incidents our Lifeguards respond to throughout the summer.

For 2015 our lifeguards responded to 340 significant incidents.

44 incidents required fire and rescue to also respond.

You simply will not see these records anywhere else but in the pool industry.

The Fire Department and The Health Department only have a fraction of the story.

Both departments are simply unaware of the volume and important functions Lifeguards serve.

I respectfully ask The Council to work together with the Swimming Pool Industry and The Swimming Pool Industry Association APSP when it comes to Water Safety legislation.

APSP is already preparing to a statistical summary of incident reports recorded by pool management companies who are operating in The County for the Council's review.

Montgomery County has a long history of leading the way when it comes to Swimming Pools Safety.

I know we can do far better in Montgomery County than this legislation.

Thank you for your time.

From: Berliner's Office, Councilmember [Councilmember.Berliner@montgomerycountymd.gov]
Sent: Thursday, June 29, 2017 8:48:36 AM
To: Council President
Subject: FW: Oppose Bill 16-17 eliminating Lifeguards from Hotel Pools

From: Stephen Lavery [mailto:steve@highsierrapools.com]
Sent: Wednesday, June 28, 2017 8:41 PM
To: Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>
Cc: Elrich's Office, Councilmember <Councilmember.Elrich@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>; Leventhal's Office, Councilmember <Councilmember.Leventhal@montgomerycountymd.gov>; Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>
Subject: Oppose Bill 16-17 eliminating Lifeguards from Hotel Pools

Dear Montgomery County Council President Berliner:

Mr. Berliner, I remember your comments at the hearing a few days ago concerning your personal experience with visiting Hotel pools without Lifeguards and that you "watch you kids like a hawk". I appreciate your sharing that personal experience because I have heard those types of stories many times. The tragic statistical fact is that not all adults are able to sustain a high enough level of vigilance to remove Child Drowning as a leading cause of deaths in children. While we all think we would watch our kids, it simply doesn't happen. Personal experiences simply cannot be substituted for statistical facts when governing over a large community. The tragic fact is if Lifeguards are eliminated from Hotels more children will drown and be badly injured in Montgomery County.

I am deeply opposed to Bill 16-17 eliminating the Lifeguard requirement for Hotel Swimming Pools. The legislation will have unintended consequences as well. There is no legitimate difference between two same size pools; one is on the property of a Hotel the other a Condominium Complex.

Montgomery County has a long history of believing Lifeguards have obvious safety benefits to the Montgomery County Community. After 40 years we now have more statistical evidence showing those past Council members did the right thing and required Lifeguards at all pools.

The Swimming Pool Industry is made up of small businesses working hard every day training Lifeguards and operating Pools in the county safely. The Swimming Pool Industry has just recently organized a coalition to provide vital facts to The Council members and vows to approach surrounding jurisdictions with these same facts. In the near future Montgomery County will be proven right when surrounding jurisdictions receive the facts about water safety and drownings and reverse recent decisions which were based solely on the opinions of The Hotel and lodging Industry Association.

A Myth: The shallow end of the pool (less than 5 feet deep) is safer than the deep end of the pool.

The Fact: Children statistically drown far more in water less than 5 feet deep as opposed to water over 5 feet deep. Children drown statistically far more than adults.

Please review the enclosed documents published by the CDC, Redwoods Group, and Red Cross and a summary of our incident reports proving that Lifeguards are a vital link in the chain of survival for victims of swimming pool related injuries.

Please also review High Sierra Montgomery County Incident Book Summary table enclosed as well. It is clear that Lifeguards are responding to save lives in Montgomery County. Including Hotel pools.

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Respectfully,
Steve Lavery

Stephen Lavery | President



High Sierra Pools - SAFETY IS OUR FIRST PRIORITY

Our New Address: 2704 Columbia Pike, Arlington, VA 22204

P: (703) 920-1750 | ext. 105 F: (703) 920-1753 | C: (202) 255-6768

www.highsierrapools.com

Connect with us on:

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 please consider the environment before printing this e-mail.

42

Stephen Lavery

From: Stephen Lavery
Sent: Wednesday, June 28, 2017 8:37 PM
To: Stephen Lavery
Subject: RE: incident reports

Summary of High Sierra Pools, Inc. Incident Books 2012 - 2016: Total Table represents all pools in DC metro area per year. Montgomery County Table Only represents all pools managed by HSP located in Mont County.

Total

	2012	2013	2014	2015	2016	total
rescue in the water	67	42	97	128	110	444
fecal/vomit incident	19	11	24	17	2	73
minor incident	99	53	109	75	80	416
incident on the pool deck	60	24	68	56	66	274
other	3	14	27	16	24	84
intoxicated patrons	3		5	1	3	12
total	251	144	330	293	285	1303

Montgomery county ONLY

	2012	2013	2014	2015	2016	Total
rescue in the water	4	3	3	4	4	18
fecal/vomit incident	1	7	3	3		14
minor incident	4	23	16	8	4	55
incident on the pool deck	8	10	3	3	10	34
other						0
intoxicated patrons	2		2			4
total	19	43	27	18	18	125

- 37 incidents involved children under 11 years old
- 26 incidents occurred in shallow pools less than 5 feet deep
- High Sierra managed 3 Hotel pools in the past 5 years and no Hotel Pools in the last 2 years in Mont County.
- 5 incidents occurred at Hotel pools managed by HSP

Stephen Lavery | President

High Sierra Pools - SAFETY IS OUR FIRST PRIORITY

Our New Address: 2704 Columbia Pike, Arlington, VA 22204

P: (703) 920-1750 | ext. 105 F: (703) 920-1753 | C: (202) 255-6768

www.highsierrapools.com

Stephen Lavery

To: Richard Smekal; Stephen Lavery
Cc: Radoslaw Kaczor
Subject: RE: Financial study

Marriott Bethesda Study:

Facts:

- hotel has 400 rooms
- occupancy rate 82% (nationwide average)
- average per night rate \$170 (\$200/night weekdays, \$100/night weekends)
- 6am to 10pm daily = 112 weekly hours => \$100,000/year service/lifeguard contract cost

Breakdown #1:

\$100,000/year = \$275/day cost to hotel to operate pool with service contract (CPO, Lifeguard, Chemicals, Insurance, etc.)

Occupancy rate is 82% => 328 rooms/day are occupied => \$275 daily cost of pool divided over 328 occupied rooms equals to 84cents per room;

If room costs \$170/night average, then the pool contract cost over average per night room revenue equals $\$0.84/\$170 = 0.0049$ (in percentage ratio it is 0.49%);

This calculation indicates that the pool contract cost represents **a tiny** fraction of the room rates charged to customers.

Breakdown #2:

\$100,000/year pool service contract with lifeguard staff

- assuming \$12/hour wage for lifeguard staff, 112 hours x 52 weeks x \$12 = \$69,888
- add 12% payroll related taxes = \$78,275

If lifeguard staff eliminated, \$21,725 or even more, will still be incurred for chemicals, pool supervision and oversight, maintenance, insurance, etc. – items that are otherwise part of the lifeguard and service pool management contract;

Cost of Lifeguard wages is \$78,275/year => \$214.50/day

\$214.50/day over 328 occupied rooms equals to 65cents/day; This represents 0.38% of the average room price charged to customer;

10 Leading Causes of Injury Deaths by Age Group Highlighting Unintentional Injury Deaths, United States – 2010

Rank	Age Groups										Total
	<1	1-4	5-9	10-14	15-24	25-34	35-44	45-54	55-64	65+	
1	Unintentional Suffocation 905	Unintentional Drowning 436	Unintentional MV Traffic 354	Unintentional MV Traffic 452	Unintentional MV Traffic 7,024	Unintentional Poisoning 6,767	Unintentional Poisoning 7,476	Unintentional Poisoning 9,682	Unintentional Poisoning 4,451	Unintentional Fall 21,649	Unintentional MV Traffic 33,687
2	Homicide Unspecified 154	Unintentional MV Traffic 343	Unintentional Drowning 134	Suicide Suffocation 168	Homicide Firearm 3,889	Unintentional MV Traffic 5,558	Unintentional MV Traffic 4,552	Unintentional MV Traffic 5,154	Unintentional MV Traffic 4,134	Unintentional MV Traffic 6,037	Unintentional Poisoning 33,041
3	Homicide Other Spec., classifiable 82	Homicide Unspecified 163	Unintentional Fire/Burn 89	Unintentional Drowning 117	Unintentional Poisoning 3,183	Homicide Firearm 3,331	Suicide Firearm 2,914	Suicide Firearm 4,092	Suicide Firearm 3,387	Unintentional Unspecified 4,596	Unintentional Fall 26,009
4	Unintentional MV Traffic 76	Unintentional Fire/Burn 151	Homicide Firearm 58	Homicide Firearm 107	Suicide Firearm 2,046	Suicide Firearm 2,594	Suicide Suffocation 1,839	Suicide Poisoning 2,061	Unintentional Fall 2,011	Suicide Firearm 4,276	Suicide Firearm 19,392
5	Undetermined Suffocation 39	Unintentional Suffocation 134	Unintentional Suffocation 31	Suicide Firearm 80	Suicide Suffocation 1,824	Suicide Suffocation 1,910	Homicide Firearm 1,673	Suicide Suffocation 1,965	Suicide Poisoning 1,382	Unintentional Suffocation 3,400	Homicide Firearm 11,078
6	Unintentional Drowning 39	Unintentional Pedestrian, Other 103	Unintentional Other Land Transport 26	Unintentional Suffocation 48	Unintentional Drowning 656	Suicide Poisoning 787	Suicide Poisoning 1,279	Unintentional Fall 1,283	Suicide Suffocation 1,130	Adverse Effects 1,544	Suicide Suffocation 9,493
7	Undetermined Unspecified 35	Homicide Other Spec., classifiable 84	Unintentional Pedestrian, Other 20	Unintentional Fire/Burn 46	Homicide Cut/Pierce 420	Undetermined Poisoning 580	Undetermined Poisoning 712	Homicide Firearm 1,097	Unintentional Suffocation 613	Unintentional Poisoning 1,402	Suicide Poisoning 6,599
8	Adverse Effects 22	Unintentional Natural/Environment 52	Adverse Effects 14	Unintentional Other Land Transport 42	Suicide Poisoning 371	Unintentional Drowning 476	Unintentional Fall 493	Undetermined Poisoning 955	Homicide Firearm 533	Unintentional Fire/Burn 1,088	Unintentional Suffocation 6,165
9	Unintentional Fire/Burn 22	Homicide Firearm 43	Unintentional Natural/Environment 14	Unintentional Poisoning 40	Undetermined Poisoning 282	Homicide Cut/Pierce 438	Unintentional Drowning 409	Unintentional Drowning 578	Undetermined Poisoning 480	Suicide Poisoning 709	Unintentional Unspecified 5,688
10	Unintentional Natural/Environment 22	Unintentional Struck by or Against 37	Unintentional Poisoning 14	Unintentional Firearm 26	Unintentional Other Land Transport 221	Unintentional Fall 299	Homicide Cut/Pierce 349	Unintentional Suffocation 464	Unintentional Fire/Burn 479	Suicide Suffocation 648	Unintentional Drowning 3,782

Data Source: National Center for Health Statistics (NCHS), National Vital Statistics System.

Produced by: Office of Statistics and Programming, National Center for Injury Prevention and Control, CDC using WISQARS™.



Centers for Disease
Control and Prevention
National Center for Injury
Prevention and Control

From: Berliner's Office, Councilmember [Councilmember.Berliner@montgomerycountymd.gov]
Sent: Tuesday, May 23, 2017 2:15:15 PM
To: Council President
Subject: FW: Please vote No to Bill 16-17

From: Christine Jones [mailto:mom2momfe@outlook.com]
Sent: Tuesday, May 23, 2017 1:23 PM
To: Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>
Subject: Please vote No to Bill 16-17

Dear Mr. Roger Berliner,

I heard news from a lifeguard who saved my daughter's life that he might be getting laid off by the end of this month. I have been a regular customer at the Marriott in Bethesda for the past 6 years where I have seen the same thing happening to other parents. The lifeguard who works there told me that the County wants to let hotels run their pools without a lifeguard. He said the County thinks that the drowning risk is low at hotels so they want to allow people to swim at their own risk.

My daughter was 7 years old when a lifeguard saved her life. She knew how to doggy paddle and always listened to my instructions. That day when she was saved I was watching her from only 20 feet away. She was playing in the shallow end when I turned to grab my phone for a couple seconds when I heard the lifeguard's whistle. When I looked up I saw the lifeguard jumping in to grab my daughter who had managed to doggy paddle to deeper water where she couldn't stand. I hadn't taken my eyes off her for more than 10 seconds before it all happened.

I don't know any parents that can have their eyes glued to our children for every second of the day and just 10 seconds meant the difference between life and death for my daughter that day. We owe our daughter's life to that lifeguard and the County who made it possible. Lifeguards should be required anywhere there is a swimming pool because it is too difficult to keep them safe without one. Please vote against this bill.

Sincerely,
Christine Jones

Sent from [Outlook](#)

From: Berliner's Office, Councilmember [Councilmember.Berliner@montgomerycountymd.gov]
Sent: Wednesday, May 24, 2017 3:25:49 PM
To: Council President
Subject: FW: Bill 16-17

From: NICK STEPHANO [mailto:nickrstephano@gmail.com]
Sent: Wednesday, May 24, 2017 2:04 PM
To: Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>; Elrich's Office, Councilmember <Councilmember.Elrich@montgomerycountymd.gov>; Floreen's Office, Councilmember <Councilmember.Floreen@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>; Leventhal's Office, Councilmember <Councilmember.Leventhal@montgomerycountymd.gov>; Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Riemer's Office, Councilmember <Councilmember.Riemer@montgomerycountymd.gov>
Subject: Bill 16-17

Dear Councilman Rice,

My Name is Trish Kirby. I am a single mom of two. With all due respect, and to the extent it Bill 16-17 matters to me personally and financially. I work as a lifeguard year around.

By voting to pass this bill to allow pools to operate without lifeguards, you will hurt me and many others in similar situations. I truly fear that I may not be able to provide for my children who deserve so much better, if this bill passes.

I trust that you share my concerns and will think twice before voting for this bill!

Respectfully,
Trish Kirby

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Dear Councilwomen and Councilmen of Montgomery County,

I would like to express my deep concerns regarding this bill. I am very worried about its contents for numerous reasons, as outlined below:

1. The safety of guests using hotel pools without a lifeguard on duty;

I know the industry first hand, because I used to work as a lifeguard for over a year, during which time I witnessed multiple cases of adult supervision negligence, which sometimes caused near drowning rescues. I also worked as a regional manager for multiple hotel pools and I can attest to the fact that guests are not paying attention to signage, to the posted rules, or even sometimes listen to a lifeguard. Multiple times, they simply disregard recommendations, and even with a lifeguard on duty, it may be difficult to keep the pool under control.

2. The water safety;

Water balance and safety is a very sensitive issue that is achieved by consistent control and adjustments of many systems, mechanical and chemical alike. Engineers who become CPO certified within a 3-day class simply do not possess the experience and the time to properly manage the pool. The automated chemical feeder systems, which are labeled as absolute lifesavers, all too many times demand even more care, precision and attention rather than the hourly maintenance performed by the pool operators.

3. The loss of jobs that could be triggered by the passage of this bill.

Lifeguarding jobs provide great experience and education, and by repealing this law you would be depriving Maryland residents from having access to jobs that save lives, and cutting down the income many rely on.

I believe that hotels dramatically diminish the importance of constant supervision of the pool. For the past 20 years the majority of the pools were managed by third parties, and the hotels simply do not understand how much work is being put in into keeping the pools safe.

As outlined in the Bill Memorandum, Montgomery County is faced with being put in line along other counties that have already repealed the Lifeguard Law. I urge you to lead by example, and put the residents and visitors of Montgomery County First, to continue being one of the safest counties of our nation.

I strongly urge you to vote NO on the passage of the 16-17 bill.

Best Regards,

Irina Lupu

From: Berliner's Office, Councilmember [Councilmember.Berliner@montgomerycountymd.gov]
Sent: Wednesday, May 24, 2017 3:26:53 PM
To: Council President
Subject: FW: Vote No to Bill 16-17

From: Scott Mcfadden [mailto:scottbmcfadden@yahoo.com]
Sent: Wednesday, May 24, 2017 12:17 PM
To: Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>; Elrich's Office, Councilmember <Councilmember.Elrich@montgomerycountymd.gov>; Floreen's Office, Councilmember <Councilmember.Floreen@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>; Leventhal's Office, Councilmember <Councilmember.Leventhal@montgomerycountymd.gov>; Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Riemer's Office, Councilmember <Councilmember.Riemer@montgomerycountymd.gov>
Subject: Vote No to Bill 16-17

To Councilmembers:

Once in a while the lifeguards clean-up after a child who used the bathroom in the pool. I have personally seen the diarrhea of a child mix and disappear into the pool within seconds. The lifeguard had to evacuate the pool and close it for cleaning the entire day. I do not want my family to swim at hotels that have no clue about what is mixed into their pool water. I was recently reading news that the number of these incidents has doubled over the past 2 years: <https://www.usatoday.com/story/news/2017/05/18/pool-parasites-on-the-rise/101833016/>. Even if hotel owners want to ignore the fact that lifeguards save lives and keep their pools clean just to save money, it would be irresponsible for the Council to ignore the fact that lifeguards are saving our lives and keeping us safe at pools.

Sincerely,

Scott McFadden

From: Berliner's Office, Councilmember [Councilmember.Berliner@montgomerycountymd.gov]
Sent: Wednesday, May 24, 2017 3:49:51 PM
To: Council President
Subject: FW: Vote no to bill 16-17

From: Boris Todorovic [mailto:todorovicboris@yahoo.com]
Sent: Wednesday, May 24, 2017 3:26 PM
To: Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>; Elrich's Office, Councilmember <Councilmember.Elrich@montgomerycountymd.gov>; Floreen's Office, Councilmember <Councilmember.Floreen@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>; Leventhal's Office, Councilmember <Councilmember.Leventhal@montgomerycountymd.gov>; Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Riemer's Office, Councilmember <Councilmember.Riemer@montgomerycountymd.gov>
Subject: Vote no to bill 16-17

Dear Councilmembers,

I'm writing you in regard of the new law that you are looking to pass regarding lifeguards in indoor/outdoor hotel pool areas. As this may seem like a good idea to you, as current engineer and former HR director for a few hotel properties in the area, I think its extremely dangerous to proceed with this law. There are plenty of reason why. I can tell you few.

As you know most of pool decks (indoor or outdoor) are very slippery, we have lots of guest using it, and few times we had incident where our guest get injured, and the lifeguard was first on the scene to help out and call for emergency. This is big liability for properties, even when lifeguard is present, I can just imagine how it would end if the lifeguard wasn't there.

- Chemical imbalance

In situation where we have lots of guest coming in and out of the pool, chemicals get out of the range which, again, is extremely dangerous and again one more liability for us. Probably you are planning to have our staff get trained and take care of the pool, but in reality this is completely impossible. We cannot have our staff present at the pool all the time. There must be someone at the pool all the time to watch and maintain safety of the guests and chemical balance.

- Drinking and other hazard

If there is no one present at the pool, it will be extremely tough to regulate what guest bring to the pool. Each property has their own rules, which brings up safety to a risk again. Especially on weekends, when the hotel is busy, we have different crowd at our pools (kids and adults, schools with teenagers, older patrons who just like to stay at the pool and relax etc), and without lifeguard being there and control the situation, there will be lots of confrontation between our guest.

- Service and pool company

From my own experience working with multiple pool companies, they fully train their staff when it comes to service and lifeguarding. Our hotel staff wont be able to recognize what is the problem if there is a mechanical failure in the pump room or anywhere else.

Having this law sign you are jeopardizing our people's safety.

Please Vote No to Bill 16-17.

Sincerely,

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COMCOR - Code of Montgomery County Regulations

51.00.02.03 Water Quality

The sections of the Code of Maryland Regulations (COMAR) 10.17.01 (2013), Public Swimming Pools and Spas, governing water chemistry, disinfection, and circulation systems are incorporated for the operating standards of this regulation unless superseded or amended by the following specific standards:

A. Filtration.

When any Public Swimming Pool is open, it is the joint responsibility of the Owner, Pool Operator, and Pool Management Company to comply with the following:

1. Water in the Public Swimming Pool must be of sufficient clarity so that the main drain is clearly visible from the closest lifeguard chair or the furthest edge of the Public Swimming Pool, if the Public Swimming Pool has no lifeguard chair;

2. Floating or sunken debris, algae, dirt, filter media, or filter aids must not be present in the Public Swimming Pool; and

3. The circulation system must operate between the minimum Required Flow Rate and the manufacturer's listed filter capacity, as indicated on an approved flow meter.

B. Chemical Treatment.

At all times when the Public Swimming Pool is open, it is the responsibility of the Owner, Pool Operator, and Pool Management Company to comply with the following:

1. Chemical levels.

a. Public Swimming Pool (Except Wading, Spa, Spray, and Therapy Pools):

1. pH a minimum of 7.2 and a maximum of 7.8;

2. Free chlorine a minimum of 1.5 ppm and a maximum of 10.0 ppm; and,

3. Total bromine a minimum of 3.0 ppm and a maximum of 8.0 ppm;

b. Public Wading, Spray, and Therapy Pools:

1. pH a minimum of 7.2 and a maximum of 7.8;

2. Free chlorine a minimum of 3.0 ppm and a

COMCOR - Code of Montgomery County Regulations

maximum of 10.0 ppm; and,

maximum of 8.0 ppm;

3. Total bromine a minimum of 4.0 ppm and a

c. Public Spas:

1. pH a minimum of 7.2 and a maximum of 7.8;

2. Free chlorine a minimum of 4.0 ppm and a

maximum of 10.0 ppm;

3. Total bromine a minimum of 4.0 ppm and a

maximum of 8.0 ppm; and

pool.

- d. Cyanuric acid a maximum of 80 ppm in any stabilized

2. Tests for pH, free chlorine, and total bromine residuals must be performed and recorded at least once every hour when the pool is open. The initial tests must be performed prior to opening the pool to patrons to insure compliance with Section III(B). Tests for cyanuric acid must be performed and recorded at least once a week prior to opening the pool to patrons and after any cyanuric acid treatment.

3. Any chemicals used in the Public Swimming Pool water must: (a) be non-toxic to persons in the concentrations found in the water and (b) be clearly labeled with directions for use.

4. A convenient method must be provided to measure the effective concentration of the chemical in the water.





Maryland Hotel Lodging Association

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TO: Amanda Mihill and Members of the HHS Committee

FROM: Amy Rohrer, Maryland Hotel Lodging Association

RE: Response to questions asked by HHS Committee on Expedited Bill 16-17: Swimming Pools – Lifeguards - Amendments

1. Will hotels maintain lifeguards even when they are not required to? Is there any data to support this in other jurisdictions?

Hotel operators staff lifeguards when it is believed to have a positive impact on guest safety or other needs related to the pool. Generally speaking, the norm in our industry is for guests to swim at their own risk unless a pool has a waterslide, lazy river, etc. There are other circumstances that may lead to a decision to staff a lifeguard at all times or for select days/times. (i.e. location of the pool within a hotel, groups of children/youth using the pool, crowd control, etc.)

As an example, the Maryland hotels listed below continue to staff lifeguards, even though regulations do not require it.

- Holiday Inn Express Baltimore at the Stadiums – lifeguard staffed due to proximity to casino / high volume of guests
- Days Inn Inner Harbor – primary reason for a lifeguard is keeping out unregistered, local guests invited by registered hotel guests (crowd control)
- Holiday Inn Greenbelt – a lifeguard is in place since the only place where you can see the pool is from the “Leased Out Restaurant” and the hotel does not have a direct site to the pool

2. How do insurance requirements change (or do they change) if there are lifeguards present or absent?

Hotel insurance requirements are not impacted based on the presence of a lifeguard. Hotels are required to have general liability insurance that covers property and bodily injury in the pool area. Pool companies typically carry a policy that covers negligence by their agents or employees. (See attached pool company contract further stipulating this arrangement.)

3. Information on characteristics of lifeguards. Are lifeguards typically County residents? Foreign nationals?

We do not have access to the data needed to answer this question factually since pool companies hire lifeguards and we contract with the pool companies. The opinion among our industry is that the majority of lifeguards working at hotel pools are not county residents.

4. Cost of lifeguards in relation to the overall cost to operate a hotel pool.

The average cost of lifeguards in relation to overall pool operating costs is 88%.

5. Statistics from pool operators regarding hotel pool incidents.

While this question has been directed to pool companies, we would like to note that hotels require incident reports to be filled out for ALL issues requiring first aid (minor and major) to a guest. See the attached contract between a hotel and Sunset Pools, which stipulates the pool company will "fill out necessary incident and accidents reports, and provide copies to (the hotel)."

We respectfully request the opportunity to verify all reports of life-saving incidents provided by pool companies against our own records.

- We conducted a case study of hotels owned and/or operated by Baywood Hotels, who operates 64 hotels with pools in 11 states, including 3 in Montgomery County and a total of 14 in Maryland.
- **FOR ALL HOTELS WITH POOLS, BOTH WITH AND WITHOUT A LIFEGUARD, THERE ARE ZERO (0) DOCUMENTED REPORTS OF DROWNINGS OR LIFE-SAVING EVENTS REQUIRING A CALL TO 911.**

Summary:

- **4 HOTELS REQUIRING A LIFEGUARD**, located in the following counties:
 - MARYLAND: Montgomery and Baltimore
- **60 HOTELS NOT REQUIRING A LIFEGUARD**, located in the following states/counties:
 - MARYLAND: Anne Arundel, Baltimore City, Charles, Howard, Prince George's, St. Mary's
 - DISTRICT OF COLUMBIA
 - VIRGINIA: Alexandria City, Fairfax, Loudon, Prince William
 - FLORIDA: Duval, Miami-Dade, Polk
 - LOUISIANA: Calcasieu Parish, East Baton Rouge Parish, Jefferson Parish
 - GEORGIA: Fulton

- MASSACHUSETTS: Essex
- NEW YORK: Erie, Monroe, Onondaga, Seneca
- PENNSYLVANIA: Blair, Franklin
- TEXAS: Antonio, Bexar, Gray, Matagorda, Maverick, Uvalde
- KANSAS: Wyandotte

Thank you for the opportunity to respond to the questions and concerns raised by the HHS Committee on this issue.

For further information, contact:

Amy Rohrer
President & CEO
Maryland Hotel Lodging Association

To Bill 16-17

Beginning on page 3, lines 31-33, change paragraph (d) to read:

* * *

(d) Hostels. [[Paragraph]] Except for on Saturday and Sunday between 11:00 a.m. and 7:00 p.m., paragraph (b) does not apply to a pool that has a water surface area less than 2,500 square feet located on the grounds of a hostel for the exclusive use of its registered guests if:

* * *

AMENDMENT

To Bill 16-17

PURPOSE: To require hostels to have someone on the premises certified in CPR during non-lifeguarded hours.

Beginning on page 4, after line 64, add paragraph (4) to read:

* * *

(4) the hostel has an employee with a valid infant/child/adult cardiopulmonary resuscitation (CPR) certificate from the American Red Cross, the American Heart Association, the National Safety Council, or a comparable program approved by the state Department of Health and Mental Hygiene, on the premises of the hostel when the pool is open for use and no lifeguard is on duty.