



**U.S. Department of Justice**

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August 17, 2020

**By ECF**

Honorable Paula Xinis  
United States District Judge  
United States District Court  
District of Maryland  
6500 Cherrywood Lane  
Greenbelt, Maryland 20770

Re: *Casa De Maryland, Inc., et al v. Chad F. Wolf et al*, Civil No.: 20-2118-PX

Dear Judge Xinis:

Pursuant to this Court's Order, dated, August 14, 2020 (ECF No. 53), please accept this letter on behalf of defendants addressing the availability of preliminary relief pursuant to the Administrative Procedure Act, 5 U.S.C. § 705.

Section 705 of the Administrative Procedure Act and Rule 65 of the Federal Rules of Civil Procedure provide this Court with authority to issue an injunction to postpone the effective date of the rules being challenged. Court should consider the same factors under § 705 as they do under Rule 65. *Casa De Md., Inc. v. Trump*, 414 F. Supp. 3d 760, 769-70 (D. Md. 2019) (compiling cases), *rev'd* on other grounds, \_\_\_ F.3d \_\_\_, 2020 WL 4664820 (4th Cir. 2020); *see also Make the Rd. New York v. Pompeo*, \_\_\_F.Supp.3d\_\_\_, 2020 WL 4350731, at \*20 (S.D.N.Y. July 29, 2020) ("The standard for a stay of agency action under 5 U.S.C. § 705 is the same as the standard for a preliminary injunction."). When Courts issue injunctions pursuant to § 705 or Rule 65, the injunction must be "meant to redress the injuries sustained by a particular plaintiff in a particular lawsuit" and therefore, a nationwide injunction is typically not appropriate. *CASA de Md., Inc. v. Trump*, No. 19-2222, 2020 U.S. App. LEXIS 24672, at \*76, \*91 n.8 (4th Cir. Aug. 5, 2020)(holding that the APA does not provide for the availability of a nation-wide injunction.). Finally, defendants do not contend that § 705 would preclude the availability of preliminary relief once the challenged rules go into effect.

Very truly yours,

Robert K. Hur  
United States Attorney

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/s/

Jane E. Andersen  
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