



February 19, 2020

The Honorable Paul G. Pinsky, Chair
Education, Health, and Environmental Affairs Committee
2 West Miller Senate Office Building
Annapolis, MD 21401

Oppose: SB 460 – Environmental Ombudsman

Dear Chairman, Pinsky and Committee Members:

The NAIOP Maryland Chapters, representing more than 700 that develop, and own commercial, industrial and mixed-use real estate oppose SB 460, Office of Environmental and Natural Resources Ombudsman

NAIOP believes in the professionalism and good faith of our member companies. We do not wish to provide safe harbor for bad actors and rarely enter testimony on environmental enforcement legislation. However, we do have concerns about the structure and charge of the position established by SB 460.

Any public figure can have a complaint come in over this tip line. Those complaints are to be posted on the web without notification to the permit holder, the local permitting authority, before determining the validity of the complaint, issuing a citation or providing an opportunity to cure the violation. A best practice a complaint-handling system would protect the identity of both the complainant and the alleged violator during the investigative phase.

We are not clear who has controlling authority over the Ombudsman's complaints and are concerned that the position will be isolated leading to confusion over questions of interpretation and how to correct a violation. Compliance with water quality regulations is enforced by MDE and local jurisdictions exercising delegated authority who administer sediment control or stormwater management programs. Local governments, MDE and the Attorney General's Environmental Crimes Unit all currently take public complaints and act on referrals. This new position is hosted by the Attorney General, *"with appropriate steps taken to protect the autonomy and independence of the Ombudsman."* Are instructions from the local permitting authority about how to cure a problem enough to clear a violation registered with the Ombudsman or does the Ag's Environmental Crimes Unit have jurisdiction?

We find the scope of work to be limited compared to environmental ombudsman in other states who aid customers of all kinds. For example, the California Environmental Protection Agency has a designated ombudsman in each regional office, *"as a single point of contact to work with applicants and the public to clarify permit requirements and resolve regulatory conflicts."*

The Fiscal Note five-year estimate of just over \$4 million seems likely to put upward pressure on user fees and is hard to justify for a function that is already performed within MDE and its delegated jurisdictions.

For these reasons, NAIOP respectfully requests your unfavorable report on Senate Bill 460.

Sincerely,

A handwritten signature in blue ink that reads "Tom Ballentine".

Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters -The Association for Commercial Real Estate

cc: Senate EHEA Committee Members
Nick Manis – Manis, Canning Assoc.