February 15, 2021

The Honorable Guy Guzzone, Chair
Senate Budget and Taxation Committee
3 West Miller Senate Office Building
Annapolis, MD 21401

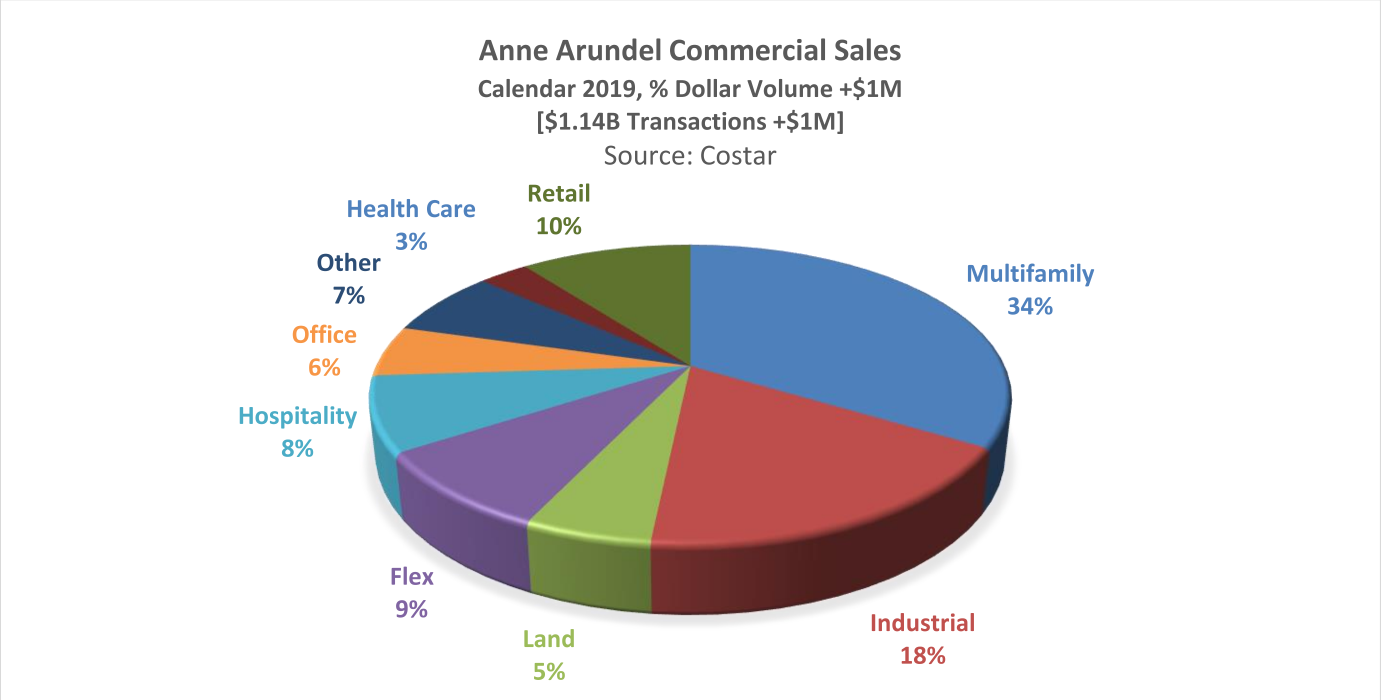
Oppose – SB 566 – Anne Arundel County Transfer Tax – Housing Special Revenue Fund

Dear, Chair Guzzone and Committee Members:

The NAIOP Maryland Chapters represent 700 companies involved in development and ownership of commercial, mixed-use, and light industrial real estate, including some of the largest property owners in Anne Arundel County. On behalf of our member companies, I am writing in opposition to SB 566 which would authorize a transfer tax surcharge on transfers of real estate valued at $1 million or more. We oppose on policy and technical grounds.

+ **Tax Policy Concerns**

A tax surcharge on transactions of $1m or more would hit commercial real estate especially hard including multifamily apartments. During 2019 multifamily transactions were the largest segment of commercial transactions at 34%. Apartments accounted for more than $383m of the $1.1b commercial transfer market. Land transfers made up only



5% of the commercial transfers but were usually related to steps in the land development process. Stacking of taxes at the transfer of raw land, developed lots and then when buildings are sold creates a value added tax at every stage of development that worsens affordability.

A transfer tax surcharge would make worse the already disproportionately high percentage of county services funded by commercial real estate taxes. Since the end of the Great Recession the commercial tax base has increased, backfilling weakness in the residential tax base that was slower to recover and only reached pre-recession levels in 2019. During the years 2010-2019 increases in the value of commercial property accounted for almost all the $7.3b increase in total real estate tax base. In 2019 commercial real estate accounted for 23.3% of total tax base compared to 17% in 2010. This 6.3% increase means that commercial property is paying higher taxes and funding a higher percentage of county services. Because commercial real estate requires fewer public services, it already provides more net tax revenue than other classes of taxpayers.

The Commercial Real Property Tax Base in Anne Arundel Increased $7.1b 2010-2019

	2010	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**10-19**
Residential	69.2	66.6	61.4	58.1	57.5	59.8	62.5	64.4	67.0	69.2	0
Commercial	14.2	14.9	15.5	14.9	16.0	17.8	18.7	19.7	20.6	21.3	7.1
Total Base	84.0	82.1	77.6	73.6	74.1	78.2	81.7	84.7	88.2	91.3	7.3

Values in Billions of Dollars, Source: SDAT Annual Reports

Land Use Policy Concerns

The factors contributing to housing affordability problems in the county are complex and interconnected. A housing trust fund may be part of the solution, but it is unlikely to have a meaningful impact until land use and other policy decisions that limit the supply and drive up the cost of housing in Anne Arundel County are addressed.

NAIOP's members believe the direction Anne Arundel County takes over the next 20 years will be pivotal to regional economic and environmental outcomes. The County's road, rail, aviation, and maritime infrastructure make it a driver for economic growth. Its Chesapeake Bay shoreline and river systems are critical to water quality. Both Maryland's climate mitigation strategies and plans to restore Chesapeake Bay water quality depend on concentrating employment and household growth in the growth areas of Anne Arundel and the other central Maryland Counties.

Remaining development capacity has been drawn down by population growth and policy restrictions to levels that may not accommodate forecasted growth. The draft general development plan uses a 2040 household growth projection that is about 20% lower than the Baltimore Metropolitan Council Round 9A Cooperative Forecast for County growth. Given the already constrained supply of residential and non-residential land, a gap of this magnitude could be problematic and worsen housing affordability.

We are concerned about the distribution of residential capacity shown in the current plan estimates. The tables in the technical volume show about 50% of future residential capacity is in three commercial zones [C-1, C-2, C-3]. While this may provide some mixed-use opportunities and needed market flexibility, these areas are also expected to absorb future employment growth.

The high percentage of future housing that is expected from already improved land raises concerns about market liquidity and project economics. Complications related to small parcel sizes, retiring existing uses and upgrading aged infrastructure are costly impediments to redevelopment projects particularly in submarkets that do not have strong rent potential. A growth strategy that depends so heavily on redevelopment will require strong zoning incentives and procedural advantages that provide a catalyst for transformational redevelopment an approach than can provide more housing at lower costs than the trust fund model.

Technical Concerns

The bill removes the 1% limit on transfer tax rates but provides no replacement limit on the tax surcharge. [pg. 2, ln. 7] There is also no prerequisite spending plan specific eligibility criteria for expenditures from the fund.

While it may be inferred, it is not clear that the new authority to impose the surcharge [pg. 2 ln. 11-15] can only be imposed on instruments presented for recording in the land record or whether the authority is subject to the limitations exempting transfers between related business entities and other provisions of TP 12-103 [pg. 2, ln 2-6].

It is our understanding that Anne Arundel County enacts taxes via a council bill rather than by resolution as provided for in the authorizing language [pg. 2, ln 12]. Among the important differences are that the council bill requires approval of the county executive and council bill is subject to a ballot petition.

For these reasons NAIOP respectfully recommends your unfavorable report on SB 566.

Sincerely.

T.M. Ballentine

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

cc: Senate Budget and Taxation Committee Members
Nick Manis – Manis, Canning Assoc.

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