

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 974 (Delegate Stocksdales, *et al.*)
Environmental Matters

Agricultural Land Preservation - Easements - Future Dwelling House

This bill authorizes a landowner of a property on which there is no existing dwelling house, at the time an easement is sold to the Maryland Agricultural Land Preservation Foundation (MALPF), to reserve the right to construct a future dwelling house. The bill establishes requirements and limitations regarding this right.

Fiscal Summary

State Effect: The bill's changes could be handled with existing budgeted resources.

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: MALPF and the local governing body must provide written notice of that right before the sale is completed. However, a landowner is not required to choose the location or have a survey conducted before the sale is completed. If a landowner reserves the right to construct a future dwelling house, MALPF is prohibited from restricting the landowner's right to a future dwelling house on the property if specified conditions are met. A landowner may choose to build a dwelling at any time, but must obtain written approval for the location from MALPF and the local governing body before construction. The siting of the dwelling must be in a location that least affects the integrity of the easement. The one acre with the dwelling house may not be subdivided

from the easement if the landowner sells the property after the dwelling house is constructed.

If a landowner does not choose to reserve the one acre at the time the easement is sold, the landowner forfeits the right to construct a dwelling on the property.

Current Law: Generally, upon written application, MALPF is required to release, free of easement restrictions only for the landowner who originally sold an easement, one acre or less for the purpose of constructing a dwelling house for the use of that landowner or child of the landowner, up to a maximum of three lots. In addition, upon request, an owner generally may exclude from the easement restrictions one acre per each single dwelling that existed at the time of the sale of the easement as an owner's, children's, or unrestricted lot. Before such an exclusion is granted, an owner must agree not to subdivide further for residential purposes any acreage allowed to be released. Instead, a landowner may reserve the right to exclude one unrestricted lot from an easement in lieu of all the owner's and children's lots under specified conditions.

If a landowner's easement option contract was approved by the Board of Public Works before October 1, 2003, the landowner retains the following lot rights: • the landowner who sold the easement reserves the right to exclude from the easement one acre or less to construct a dwelling house for the use of the landowner or child of the landowner, up to a maximum of 10 lots at a density of one dwelling per 20 acres; and • the landowner who sold the easement or any subsequent landowner may exclude from the easement up to one acre per each single dwelling that existed at the time of the sale of the easement, subject to the condition that the lot cannot be subdivided further for residential purposes. No unrestricted lot right is available to landowners whose easement option contract was approved by the Board of Public Works before October 1, 2003.

Background: MALPF was created by the Maryland General Assembly in 1977 to preserve productive agricultural land and woodland. Agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural or woodland use for a specified number of years. Landowners who agree to place their farms within an agricultural preservation district may sell a development rights easement on that property to MALPF. Subject to some limitations, once an easement has been sold, the property is protected from further development. As of June 30, 2006, MALPF had protected approximately 250,370 acres through the purchase of 1,816 easements.

MALPF advises that additional houses can already be created under existing MALPF policy if the proposed withheld acreage is approved by the MALPF board and the local advisory board. Under current policy, the landowner can withhold the acre at the time of

district creation for a future dwelling on the property, and the county can make county approval conditional on agreeing not to subdivide the acre/dwelling from the remainder of the property. However, MALPF requires that the withheld acre be located on the property, that the location be approved by MALPF, and that the location be surveyed and included in the property description in the deed of easement.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture (Maryland Agricultural Land Preservation Foundation), Caroline County, Howard County, Montgomery County, Prince George's County, Department of Legislative Services

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