

HOUSE BILL 194

L6
HB 1192/08 – ENV

9lr1026

By: **Delegates G. Clagett, Dwyer, and Weldon**

Introduced and read first time: January 26, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Land Use – Development Rights and Responsibilities Agreements**

3 FOR the purpose of altering the time period after which a certain development rights
4 and responsibilities agreement will be void under certain circumstances;
5 providing that a certain local jurisdiction may not enforce certain laws, rules,
6 regulations, or policies governing the use, density, or intensity of certain real
7 property subject to a certain agreement unless certain circumstances exist; and
8 generally relating to development rights and responsibilities agreements.

9 BY repealing and reenacting, with amendments,
10 Article 66B – Land Use
11 Section 13.01
12 Annotated Code of Maryland
13 (2003 Replacement Volume and 2008 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article 66B – Land Use**

17 13.01.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) “Agreement” means a development rights and responsibilities
20 agreement.

21 (3) “Governing body” means the local legislative body, the local
22 executive, or other elected governmental body that has zoning powers under this
23 article.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) “Public principal” means the governmental entity of a local
2 jurisdiction that has been granted the authority to enter agreements under subsection
3 (b)(1) of this section.

4 (b) (1) Subject to subsections (c) through (l) of this section, the governing
5 body of a local jurisdiction may:

6 (i) By ordinance, establish procedures and requirements for the
7 consideration and execution of agreements; and

8 (ii) Delegate all or part of the authority established under the
9 ordinance to a public principal within the jurisdiction of the governing body.

10 (2) The public principal may:

11 (i) Execute agreements for real property located within
12 jurisdiction of the governing body with a person having a legal or equitable interest in
13 the real property; and

14 (ii) Include a federal, State, or local government or unit as an
15 additional party to the agreement.

16 (c) Before entering an agreement, a person having a legal or equitable
17 interest in real property or the person’s representative shall petition the public
18 principal of the local jurisdiction in which the property is located.

19 (d) (1) After receiving a petition and before entering an agreement, the
20 public principal shall conduct a public hearing.

21 (2) A public hearing that is required for approval of the development
22 satisfies the public hearing requirements.

23 (e) The public principal of a local jurisdiction may not enter an agreement
24 unless the planning commission of the local jurisdiction determines whether the
25 proposed agreement is consistent with the plan of the local jurisdiction.

26 (f) (1) An agreement shall include:

27 (i) A legal description of the real property subject to the
28 agreement;

29 (ii) The names of the persons having a legal or equitable
30 interest in the real property subject to the agreement;

31 (iii) The duration of the agreement;

32 (iv) The permissible uses of the real property;

- 1 (v) The density or intensity of use of the real property;
- 2 (vi) The maximum height and size of structures to be located on
3 the real property;
- 4 (vii) A description of the permits required or already approved for
5 the development of the real property;
- 6 (viii) A statement that the proposed development is consistent
7 with the plan and development regulations of the local jurisdiction;
- 8 (ix) A description of the conditions, terms, restrictions, or other
9 requirements determined by the governing body of the local jurisdiction to be
10 necessary to ensure the public health, safety, or welfare; and
- 11 (x) To the extent applicable, provisions for the:
- 12 1. Dedication of a portion of the real property for public
13 use;
- 14 2. Protection of sensitive areas;
- 15 3. Preservation and restoration of historic structures;
16 and
- 17 4. Construction or financing of public facilities.
- 18 (2) An agreement may:
- 19 (i) Fix the time frame and terms for development and
20 construction on the real property; and
- 21 (ii) Provide for other matters consistent with this article.
- 22 (g) An agreement shall be void [5] **10** years after the day on which the
23 parties execute the agreement unless:
- 24 (1) Otherwise established under subsection (f)(1)(iii) or (2)(i) of this
25 section; or
- 26 (2) Extended by amendment under subsection (h) of this section.
- 27 (h) (1) Subject to paragraph (2) of this subsection and after a public
28 hearing, the parties to an agreement may amend the agreement by mutual consent.
- 29 (2) Unless the planning commission of the local jurisdiction
30 determines that the proposed amendment is consistent with the plan of the local
31 jurisdiction, the parties may not amend an agreement.

1 (i) (1) The parties to an agreement may terminate the agreement by
2 mutual consent.

3 (2) If the public principal or the governing body determines that
4 suspension or termination is essential to ensure the public health, safety, or welfare,
5 the public principal or its governing body may suspend or terminate an agreement
6 after a public hearing.

7 (j) (1) Except as provided in paragraph (2) of this subsection, the laws,
8 rules, regulations, and policies governing the use, density, or intensity of the real
9 property subject to the agreement shall be the laws, rules, regulations, and policies in
10 force at the time the parties execute the agreement.

11 (2) (I) If the local jurisdiction determines that compliance with
12 laws, rules, regulations, and policies enacted or adopted after the effective date of the
13 agreement is essential to ensure the health, safety, or welfare of residents of all or
14 part of the jurisdiction, an agreement may not prevent a local government from
15 requiring a person to comply with those laws, rules, regulations, and policies.

16 (II) **UNLESS THE LOCAL JURISDICTION DETERMINES THAT**
17 **THERE IS AN IMMINENT THREAT TO THE HEALTH, SAFETY, OR WELFARE OF THE**
18 **RESIDENTS OF ALL OR PART OF THE JURISDICTION, THE LOCAL JURISDICTION**
19 **MAY NOT ENFORCE ANY LAWS, RULES, REGULATIONS, OR POLICIES THAT:**

20 **1. GOVERN THE USE, DENSITY, OR INTENSITY OF**
21 **THE REAL PROPERTY SUBJECT TO THE AGREEMENT; AND**

22 **2. ARE ENACTED OR ADOPTED AFTER THE**
23 **EFFECTIVE DATE OF THE AGREEMENT.**

24 (k) (1) An agreement that is not recorded in the land records office of the
25 local jurisdiction within 20 days after the day on which the parties execute the
26 agreement is void.

27 (2) The parties to an agreement and their successors in interest are
28 bound to the agreement after the agreement is recorded.

29 (l) Unless the agreement is terminated under subsection (i) of this section,
30 the parties to an agreement or their successors in interest may enforce the agreement.

31 (m) This section does not require the adoption of an ordinance by a governing
32 body or authorize a governing body to require a party to enter into an agreement.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2009.