



February 18, 2020

The Honorable Kumar Barve, Chair
House Environment and Transportation Committee
Room 251 House Office Building
Annapolis, MD 21401

Support w/ Amendment: HB 177 - Environment Water Infrastructure Assets – Emergency Actions and Reserves

Dear, Chair Barve and Committee Members:

The NAIOP Maryland Chapters representing more than 700 companies who develop and own commercial, industrial and mixed-use real estate support House Bill 177 with amendment.

NAIOP is broadly supportive of the needs addressed by House Bill 177 as well as the requested authority and funding.

We have concerns, however, about the immunity provided to the State and the Department barring any action for the recovery of damages under a broad set of circumstances including the use of design and construction criteria prepared, approved or promulgated by the Department. (please see HB 177, page 5, line 32 through page 6, lines 14)

Section 12-204 of the State Government Article waives the immunity of the State and its units for tort claims subject to a liability limit of \$400,000 per occurrence and the exclusions included in Section 5-522 (a) of the Courts and Judicial Proceedings Article. Section 12-201 of the State Government Article bars the State and its units from raising the sovereign immunity defense in a contract action and provides immunity from liability described under Section 5-522 (d) of the Courts and Judicial Proceedings Article.

We believe the exiting, limited, state law waiver of immunity should apply to HB 177.

Sincerely,

A handwritten signature in blue ink that reads "T.M. Ballentine". The signature is written in a cursive, flowing style.

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

cc: House Environment and Transportation Committee Members
Nick Manis – Manis, Canning Assoc.