



February 19, 2020

The Honorable Kumar P. Barve, Chair
House Environment and Transportation Committee
House Office Building, Room 251
6 Bladen St., Annapolis, MD 21401

Oppose: HB 517 – Constitutional Amendment – Environmental Rights

Dear Chairman, Barve and Committee Members:

The NAIOP Maryland Chapters, representing more than 700 that develop and own commercial, industrial and mixed-use real estate, oppose House Bill 517.

HB 517 would amend the Maryland Constitution to provide broad new environmental guarantees and allow any citizen to litigate any activity they perceive to infringe on these rights. The bill further declares that the State's natural resources are common property and designates the State and local governments as trustees forbidding any action or inaction contrary to these rights.

The pragmatic balancing role and policy making authority of the General Assembly would be diminished because any current or future law that did not adhere to this new bundle of Constitutional rights would be unenforceable. With no guidance on whether regulatory compliance equates to Constitutional compliance, State and local agencies could be compelled to act beyond the scope of adopted regulation applying their unique interpretation of what is necessary to fulfil these new responsibilities as trustee.

These broad new rights to litigate are not adopted in the Commonwealth of Pennsylvania. If adopted in Maryland they would end carefully balanced approaches to the right to appeal decisions on land use and environmental permits. The bill would allow private parties to intervene in agency enforcement actions and sue government entities for perceived inaction. Activities performed under state and local permits would never really be vested and reliably carried out because virtually any opponent could use the broad language of this bill to initiate tactical litigation to block legitimate work at any time.

The courts would be faced with adjudicating matters of taste and deciding how the subjective values of the plaintiffs could be remedied with no objective standard of review on which to rely. The basis of litigation would not be scientific standards adopted through laws and regulations, but the plaintiff's and the court's personal tastes, their individual definition of the new constitutional guarantees.

The bill raises serious concerns that routine functions of state and local governments would become chaotic and some ungovernable. **For these reasons, NAIOP respectfully requests your unfavorable report on House Bill 517.**

Sincerely,

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.