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The Maryland House of Delegates
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Sponsor Testimony in SUPPORT of HB 272
Public Information Act - Required Denials - Sociological Information and
Distribution Lists

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House Bill 272 strengthens the Maryland Public Information Act by closing loopholes that the Maryland Department of Transportation employs to exclude the public. The bill has three parts.

First, it clarifies that a “distribution list” as defined in the act, does not include a notice, or a list of the recipients of a notice, to those whose property is being surveyed for a possible eminent domain taking by MDOT. It also provides for the redaction of distribution lists when appropriate, instead of an outright denial.

Second, it prohibits a definition of “sociological information” adopted under rules or regulations by a custodian, from including such a notice.

And third, it requires that a requestor sign an affidavit that such a notice will not be used for commercial purposes.

In the past, the Maryland Department of Transportation freely shared public records with individuals, municipalities and members of the General Assembly. Unfortunately, MDOT in recent years has exploited loopholes and aggressively interpreted the Maryland Public Information Act to shut down legitimate public record requests to avoid public scrutiny. Hence the need for this bill.

North Chevy Chase is a municipality in my district, located adjacent to the Capital Beltway (I495). They contacted me in 2019 after their citizens began receiving letters from the Maryland Department of Transportation notifying them that workers would be entering their properties to survey for acquisition for the proposed widening of the Beltway for private toll lanes.

I contacted MDOT on the Town's behalf to request copies of the notices or a list of the affected properties. MDOT denied the request, citing section 4-341 of the MPIA (enacted in 2018) and calling their mail merged letters, a "distribution list". But shielding such letters from the public was not the intent of the 2018 law.

The MPIA forbids disclosure of "sociological information." However, this basis for denial may be used only if an official custodian has adopted rules or regulations that define the meaning and scope that term. MDOT used their overly broad definition of "sociological information" in its justification to avoid revealing the list of specific properties affected by the widening proposal. MDOT quietly adopted this definition in 2014, exploiting a longstanding loophole in the MPIA.

MDOT did admit, that in 2019, the owners of over 3,700 properties received these notices along the entire length of the I495 and I270.

House Bill 272 is a refined version of 2 bills from the session, incorporating the input of many stakeholders. I look forward to working with the committee and I respectfully ask for your favorable report.