



House Bill 82 – Constitutional Amendment – Environmental Rights

Position: Oppose

Maryland REALTORS® oppose HB 82 which amends the Maryland Constitution to establish that every person has certain environmental rights. HB 82 greatly expands the legal concept of “standing” in Maryland and creates vague rights that courts would have difficulty defining and enforcing.

HB 82 lacks clarity. There is no general standard by which to measure if the “rights” are being infringed or upheld. Unlike a statute that provides some direction, HB 82 essentially grants the courts broad discretion to interpret what the rights mean and what the enforcement standard will be.

As an example, HB 82 establishes a right to the preservation of the “natural, healthful, scenic, and historic values of the environment.” Because every person now has a constitutional right based on “scenic” values will every condo building or apartment complex proposed for construction be challenged because one person believes it diminishes the scenic value of the environment? How would a court define healthful? It is an impact that imposes a risk to health or an impact that simply makes a person less healthful like a pint of your favorite ice cream? Terms like the “historic value” of the environment are unclear and raise extraordinary concern over the viability of any development project large or small that needs local and state approval.

The concept of legal “standing” exists so that courts deal with cases where individuals can show specific and measurable harm. If the courts must now deal with every trivial complaint, people with measurable and serious complaints will compete with the trivial complaints for timely justice from the courts.

Finally, Maryland needs to be serious about improving conditions for housing opportunity and supply. Creating an opportunity for every development project to be challenged will only decrease needed housing supply and increase the cost of housing. Maryland is already the fifth most densely populated state in the country. To meet future population growth, the state and local governments will increasingly turn to infill development which is almost always challenged because it impacts individuals living in established communities. This bill significantly expands the rights to challenge community developments even if the individual not a member of that community or directly impacted by the project. Moreover, the bill could make infill and affordable housing projects harder to pursue because such projects may be viewed as less historic or scenic.

Rather than empowering people to challenge decisions after they have been made, Maryland has, instead, expanded individual’s opportunity to be heard at the start of the process. In many counties, notice information is given to many interested parties. A person doesn’t have to be aggrieved or impacted in any way, and that person will have an opportunity to express their opinion on the project. In fact, current public input already has a measurable impact delaying and increasing costs for many projects. HB 82 risks making many infill development projects too expensive to pursue.

For these reasons, the Maryland REALTORS® recommends an unfavorable report.

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