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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 improves the Maryland Public Information Act by closing loopholes that the Maryland Department of Transportation has used to deny legitimate requests for public records. It has three parts.

First, it prohibits a definition of “sociological information” adopted under rules or regulations by a custodian, from including a notice, or a list of the recipients of a notice, to those whose property is being eyed for a survey and possible eminent domain taking by a government agency.

Second, it clarifies that a “distribution list” as defined in the act, does not include such a list of survey notice recipients. It also provides for the redaction of distribution lists when appropriate, instead of an outright denial.

And thirdly, it allows members of the General Assembly, acting in their legislative capacity, to have access to such a list of eminent domain notices.

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. 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 will be entering their properties to survey for the proposed widening of the Beltway for private toll lanes.

I contacted MDOT on the Town's behalf to request 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" under a 2018 law. But denial of sharing such letters 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 last session, incorporating the input of many stakeholders. I look forward to working with the committee and subcommittee and I ask for your favorable report.