

AL CARR
Legislative District 18
Montgomery County

Health and Government Operations
Committee

Subcommittees

Insurance and Pharmaceuticals
Health Occupations and
Long-Term Care

The Maryland House of Delegates
6 Bladen Street, Room 222
Annapolis, Maryland 21401
410-841-3638 · 301-858-3638
800-492-7122 Ext. 3638
Fax 410-841-3053 · 301-858-3053
Alfred.Carr@house.state.md.us

The Maryland House of Delegates
ANNAPOLIS, MARYLAND 21401

Sponsor Testimony in SUPPORT of HB 163
Public Information Act - Required Denials - Sociological Information and
Distribution Lists

January 18, 2022

House Bill 163 strengthens the Maryland Public Information Act by closing loopholes. It is identical to HB272 which passed unanimously in the House in 2021.

The bill has three parts.

First, it clarifies that a “distribution list” 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 the Maryland Department of Transportation. 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, MDOT freely shared public records with individuals, municipalities and members of the General Assembly. Unfortunately, MDOT in recent years has aggressively exploited loopholes in the Public Information Act to shut down legitimate public record requests. This desire to avoid public scrutiny runs counter

to the MPIA, hence the need for the 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 MDOT 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." However, shielding such letters from the public was not the intent of the 2018 law. That law was designed to help municipalities, not hurt them as MDOT claim is allowed.

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 of 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, that the owners of over 3,700 properties received these notices along the entire length of the I495 and I270.

I respectfully ask for your favorable report.