

Testimony in Favor of SB757 with Amendments

Baltimore City – Air Conditioning in Residential Rental Units
Before Judicial Proceedings Committee: March 7, 2023

Senate Bill 757 would require landlords to provide air conditioning in residential rental units in Baltimore City with residents that are 3 years of age or younger, or 65 years of age or older. This bill requires that air conditioning be provided between June 1 and September 30 of each year. It further requires that the temperature in the units can be no warmer than 80 degrees Fahrenheit if the landlord controls the air conditioning; if the tenant can control the system, the system must be kept in good working condition and able to sustain a temperature no warmer than 80 degrees Fahrenheit.

This testimony will describe the serious health effects that lack of air conditioning can have on all residents of a heat island area, especially the very young, older adults, and anyone with a preexisting health condition. It will then demonstrate the need for this bill by discussing the nearly insurmountable hurdle Maryland law places on tenants when trying to obtain air conditioning, and describe laws in other jurisdictions that require landlords to provide air conditioning. Finally, an amendment will be proposed to provide air conditioning to all tenants in Baltimore City.

The Rising Temperatures in Baltimore City have a Serious Impact on the Health of the Members in our Society

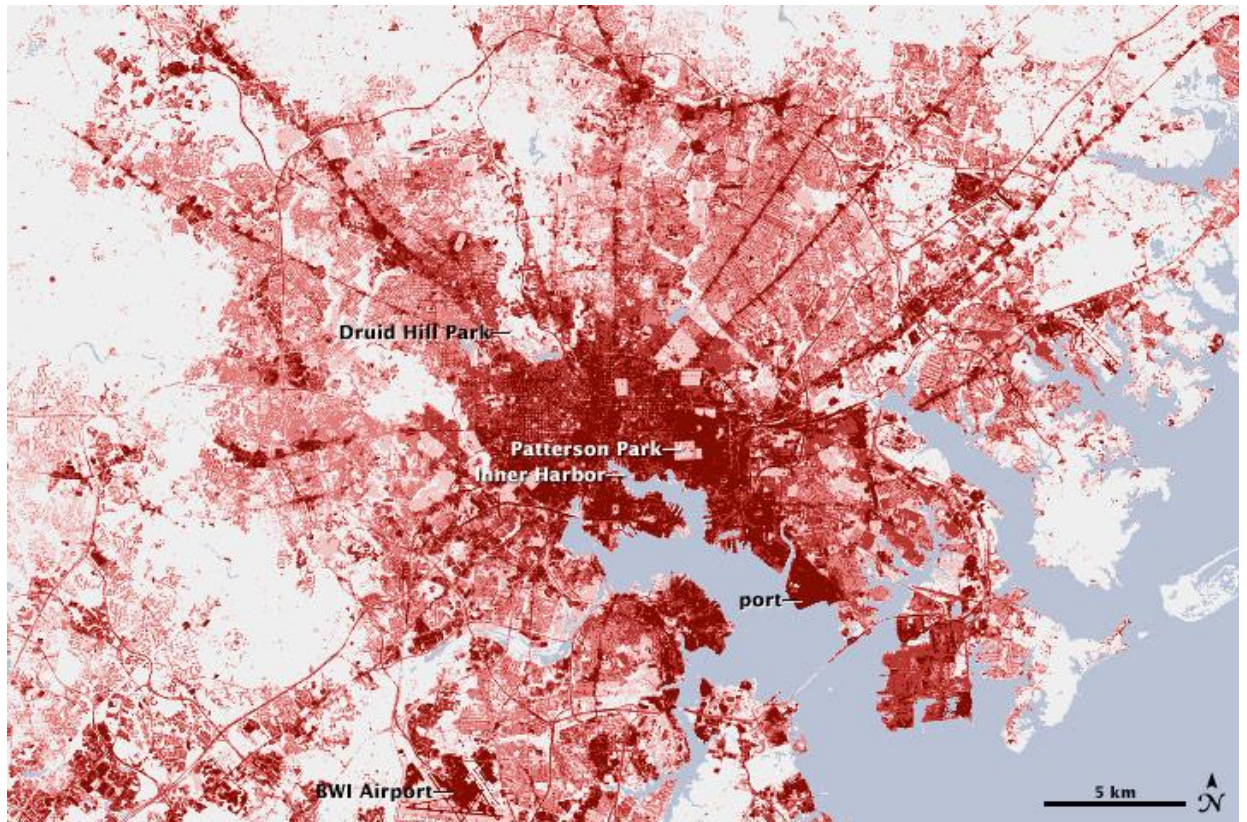
Summer temperatures in urban areas are rising to new levels, creating dangerous heat islands. Heat islands occur when roads, buildings, and other impervious surfaces “absorb and retain heat during the hottest times of the day and reduce cooling overnight.”¹ In addition, heat islands will cause temperatures during the day to rise anywhere from 1 to 7 degrees Fahrenheit and 2 to 5 degrees Fahrenheit at night.² When observing the numerous surfaces and buildings in Baltimore City, one can see that the City is no exception to this effect.³

¹ Rebecca Mann and Jenny Schuetz, The Brookings Institution, *As extreme heat grips the globe, access to air conditioning is an urgent public health issue*, (July 25, 2022), <https://www.brookings.edu/blog/the-avenue/2022/07/25/as-extreme-heat-grips-the-globe-access-to-air-conditioning-is-an-urgent-public-health-issue/>

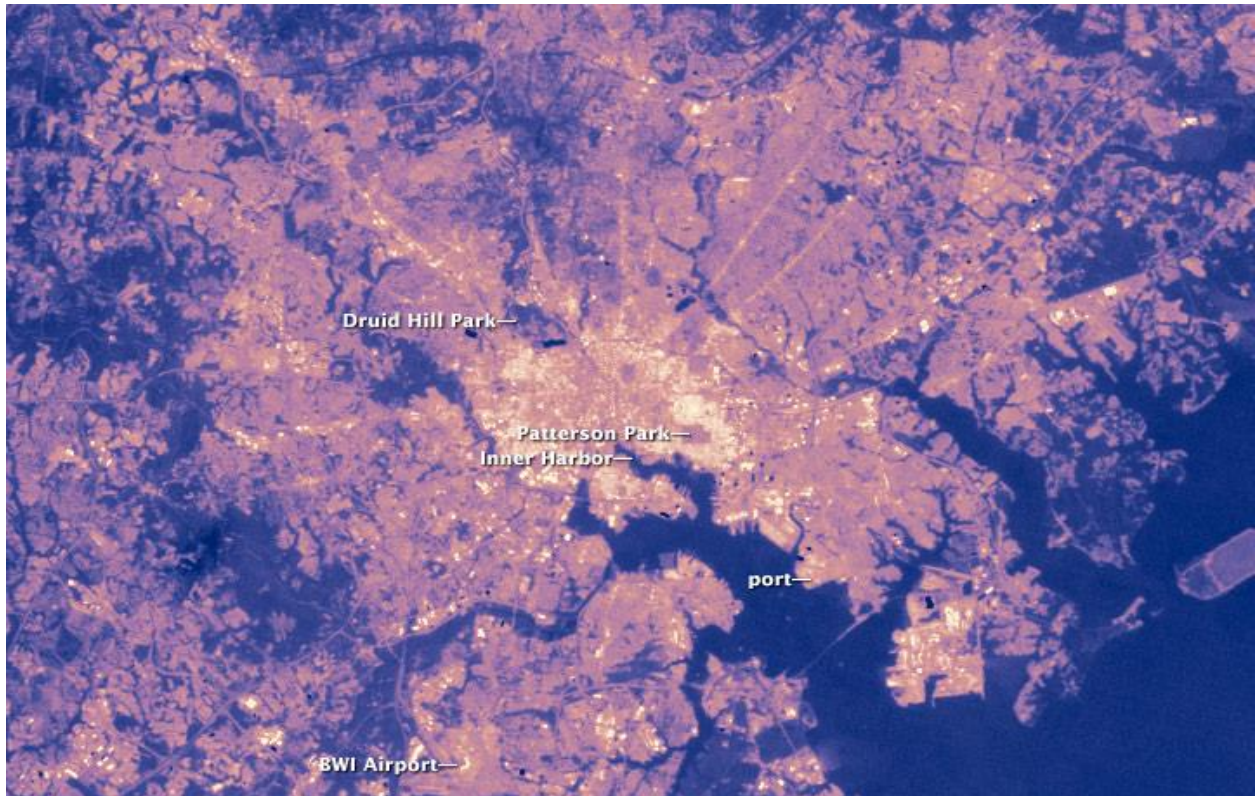
² United States Environmental Protection Agency, *Heat Island Effect*, (Jan. 13, 2023), <https://www.epa.gov/heatislands>

³ Baltimore was ranked in the “95th percentile” for “exhibiting very high [Surface Urban Heat Island Intensity] SUHI intensity, ... high social vulnerability, and low AC prevalence.” SUHI intensity examines the land’s surface temperature, therefore, this statistic demonstrates that lack of air conditioning is more prevalent in the homes of those who need it the most. Yasmin Romitti, Ian Sue Winga, Keith R. Spanglerb and Gregory A. Welleniusb, *PNAS NEXUS, Inequality in the availability of residential air conditioning across 115 US metropolitan areas*, (Sept. 24, 2022), <https://www.osti.gov/pages/biblio/1901592>

To better demonstrate the magnitude of this effect, the Baltimore Office of Sustainability has produced two maps that reveal the breadth of this problem, and these maps have been included below.⁴ In the first map, the areas in red indicate locations with the largest volumes of objects that absorb heat, and the areas in white represent locations covered with vegetation. The second map denotes the hottest temperatures in yellow, and the lowest temperatures in purple. Viewing both maps together demonstrates that the areas in Baltimore City containing the largest volumes of objects that absorb heat, are the same areas that are exhibiting the highest temperatures. As a result, if amended this bill can ensure protections against the devastating health implications that are caused by living in this heat island.



⁴ Baltimore Office of Sustainability, *Urban Heat Island Sensors*, <https://www.baltimoresustainability.org/urban-heat-island-sensors/>



Living in a heat island is not optimal for anyone and it presents devastating health implications for the very young, older adults, and anyone who possesses a preexisting health condition.⁵ Tenants living in a heat island are more susceptible to heat-related illnesses such as heat exhaustion, heat cramps, dizziness, and one of the most serious, heat stroke, which if left untreated can cause death.⁶ In addition, living in this environment can harm anyone with asthma, cardiac issues, and mental illness by placing these tenants at greater risk of suffering from complications.⁷ Air conditioning can reduce the risk of heat-related illnesses.

⁵ Centers for Disease Control and Prevention, *Protecting Disproportionately Affected Populations from Extreme Heat*, (Aug. 25, 2022), <https://www.cdc.gov/disasters/extremeheat/specificgroups.html>

⁶ Seattle Children's Hospital Research Foundation, *Heat Exposure and Reactions*, (Mar. 1, 2023), <https://www.seattlechildrens.org/conditions/a-z/heat-exposure-and-reactions/>; Center for Disease Control and Prevention, *Older Adults and Extreme Heat*, (June 9, 2021), <https://www.cdc.gov/aging/emergency-preparedness/older-adults-extreme-heat/index.html#:~:text=Signs%20can%20include%20fainting%2C%20behavior,sweating%20even%20though%20it's%20hot>

⁷ Center for Disease Control and Prevention, *Chronic Medical Conditions*, (June 19, 2017), <https://www.cdc.gov/disasters/extremeheat/medical.html>; Katy Anderson, SingleCare, *How the summer heat can affect your health—and ways to stay safe*, (June 3, 2022), <https://www.singlecare.com/blog/hot-weather-health-risks/#:~:text=Asthma%2C%20COPD%2C%20and%20allergies,->

Maryland Law Burdens a Tenant's Ability to Obtain Air Conditioning

Maryland law does not require that landlords provide air conditioning in residential rental units; nor does Baltimore City law. Legal requirements in residential leases do not provide tenants an effective avenue of relief to secure air conditioning.

Generally, the warranty of habitability requires landlords to provide tenants with a home “that meets basic structural, health, and safety standards.”⁸ This is evidenced in Maryland law by Real Property §8-211, creating a process for tenants to seek relief for “conditions [that] present a substantial and serious threat of danger to the life, health and safety of the tenants.” Lack of “heat, light, electricity, or hot and cold running water” are presumptive conditions that trigger a landlord’s obligation to repair and a tenant’s right to bring a rent escrow action, holding back rent until the repairs are made. Real Property §8-211(e) and (i). However, lack of air conditioning is presumed to not be a basis for tenant action, unless the tenant can prove the lack of air conditioning presents “a serious and substantial threat to the life, health, or safety of [the] occupants.” Real Property §8-211(f). That is a significant burden on tenants. Lack of air conditioning, particularly in heat island areas, can be just as fatal as lack of heat yet landlords are presumptively required to provide heat and presumptively protected against such a requirement for air conditioning. With the rent escrow essentially unavailable as a mechanism for tenants to secure air conditioning, tenants need protective legislation.

Based on the serious impact that lack of air conditioning can have, Montgomery County, Maryland and Dallas, Texas have enacted laws that require landlords to provide air conditioning for tenants. Montgomery County’s law resembles this bill by requiring air conditioning to be provided in multifamily units from June 1 through September 30, and it requires that a minimum temperature of 80 degrees Fahrenheit be maintained. Montgomery County’s law requires that air conditioning be provided to all residents living in specified units regardless age.⁹ In Dallas, Texas an owner is specifically required to “provide and maintain in operating condition, refrigerated air equipment” that maintains a temperature of no greater than 85 degrees Fahrenheit for all tenants.¹⁰ These local laws reveal growing public policy that recognizes the potentially devastating impact of extreme heat and the legislature’s ability to act to protect tenants.

Certain%20respiratory%20conditions&text=%E2%80%9CHigher%20temperatures%20contribute%20to%20the,(CO PD)%2C%20and%20allergies.

⁸ Kerri McGowan Lowrey, The National Network for Public Health Law, *Rent Escrow as a Tool for Enforcing Tenants’ Rights*, (Jan. 9, 2023), <https://www.networkforphl.org/wp-content/uploads/2023/01/Rent-Escrow-as-a-Tool-for-Enforcing-Tenants-Rights.pdf>

⁹ Montgomery County, Md. The Montgomery County Code, Light, Ventilation Heating, Temperature Control § 26.7 (2023).

¹⁰ Dallas, Tex. City Code of Dallas, Texas, Article III, Utility and Appliance Standards § 27-11 (e) (2022).

Proposed Amendment

While Senate Bill 757 will ensure that tenants in vulnerable age groups will receive access to air conditioning, we are respectfully requesting an amendment to require air conditioning for all rental units. By ensuring access to air conditioning for all, this bill can offer protections to all tenants impacted by living in a heat island.¹¹

Additionally, if this bill is not amended, it could create more harm than good, as it could open the door for landlords to discriminate against renters who have a child 3 years of age or younger, or are themselves 65 years of age or older. In order to eliminate this possibility, an anti-discrimination provision would need to be added to this bill. In addition, implementing a nondiscrimination provision could create administrative challenges for landlords as well as enforcement and implementation challenges for Baltimore City. Specifically, landlords would be required to actively monitor the age of every tenant to ensure that landlords are following the law. The City would need to strategize procedures to ensure landlords are complying with the law, and that any home inspected by the Baltimore City Department of Housing & Community Development complied with the law. Thus, it is mutually beneficial for both landlords and tenants to strike the age requirement and ensure that all renters have access to a safe and livable home.

Conclusion

Requiring landlords to provide air conditioning to all residents will add protections against the heat island effect, improving living conditions for tenants throughout the City. For these reasons, we respectfully urge this Committee to amend this bill and provide a favorable report.

This testimony is submitted on behalf of the Public Health Law Clinic at the University of Maryland Carey School of Law and not by the School of Law, the University of Maryland, Baltimore, or the University of Maryland System.

¹¹ Center for Disease Control and Prevention, *Chronic Medical Conditions*, (June 19, 2017), <https://www.cdc.gov/disasters/extremeheat/medical.html> ; Katy Anderson, SingleCare, *How the summer heat can affect your health—and ways to stay safe*, (June 3, 2022), [https://www.singlecare.com/blog/hot-weather-health-risks/#:~:text=Asthma%2C%20COPD%2C%20and%20allergies,-Certain%20respiratory%20conditions&text=%E2%80%9CHigher%20temperatures%20contribute%20to%20the,\(CO PD\)%2C%20and%20allergies.](https://www.singlecare.com/blog/hot-weather-health-risks/#:~:text=Asthma%2C%20COPD%2C%20and%20allergies,-Certain%20respiratory%20conditions&text=%E2%80%9CHigher%20temperatures%20contribute%20to%20the,(CO PD)%2C%20and%20allergies.)