

February 29, 2024

The Honorable Senator Brian J. Feldman
Chairman, Education, Energy and
Environmental Committee
Miller Senate Office Bldg.
Annapolis, MD 21401

RE: SB 484

Dear Senator Feldman and Committee Members:

I am writing to express my opposition to SB 484, the “Housing Expansion and Affordability Act of 2024,” for a variety of general and specific reasons. Some of those reasons I will outline in this letter. Please enter this letter into the committee’s record.

In a broader sense, this bill seeks to weaken the authority and powers granted to localities thru home rule as it relates to affordable housing, specifically, and to land use, more generally. The 10th Amendment grants the states the right to allocate that power, and Maryland has granted the authority to enact local charters and home rule to the majority of counties in the state. That home rule provides for a government that best meets the needs of its constituency by allowing for flexibility, increased citizen participation and increased responsiveness to local problems.

By contrast, this bill provides a one size fits all approach by granting affordable housing benefits with regard to land formerly owned by the State, land within one mile of a transit station and housing projects undertaken by non-profits in all areas of the State. The approach is the same in Charles County as it is in Baltimore County, and it is the same in Montgomery County as it is in Kent County. Yet I would suggest to you that each of these localities have very different patterns of land use, local constituencies, reach of local government and affordable housing needs.

Specifically, this bill will weaken the effects of adequate public facility law for localities. Section 7-105 (B), states that a local jurisdiction may not use an element of an adequate public facility law to: (1) deny the permit; or unreasonably restrict or limit the development of the project... . If, for example, a locality has a local ordinance that would prevent development in an overly congested traffic shed, as determined by the locality, this bill seeks to supersede the power of the locality. I would argue that

existing residents don't care about the origins of the additional traffic, rather they just care about the additional time and aggravation that this additional traffic will create in their lives. The public urged their local government to enact a traffic congestion component as part of an Adequate Public Facilities Law. So, the State being able to supersede, even for something noble like affordable housing, is not going to be received favorably.

Under Sec. 7-505 of the bill, it states that "a local jurisdiction may not impose any unreasonable limitation ... on a qualified project ..., including limitations on or requirements concerning height, setbacks, bulk, parking, loading, dimensional, or area; or similar requirements." Now this section goes beyond Adequate Public Facilities Law, and it cuts to the most basic tenets of zoning regulations. For example, certain height standards are in place to ensure appropriate light and air flow that could be restricted by a building that is too tall. Imagine if a neighbor has a garden in their rear yard, but this legislation would allow, in limited circumstances, for an affordable housing project to exceed height limitations that would deprive that neighboring garden from necessary sunlight. Again, I think such a possibility is a violation to the neighbor's peaceful enjoyment of their property. The State should not have this right under any circumstances, even for affordable housing.

I am also concerned over the density bonuses afforded under this bill. For projects that are within one mile of a rail station, there is a density bonus if the project contains at least 25% of units that are affordable. The amount of density bonus depends on the zoning/land use category that the project is situated in. Now in the county where I reside, that density bonus is equal to the 25% of units that are to be set aside for affordable housing in at least one multi-family zoning classification. Now, circling back to my earlier comments about Adequate Public Facilities Law, and this bill's superseding of those laws, if this theoretical project does not have an affordable housing component it will be halted until the APFL issues are addressed and rectified. On the other hand, by giving the density bonus afforded under this bill, the developer can choose to include 25% of affordable housing and be able to avoid the APFL issues for the rest of the project. This is clearly wrong, in my opinion.

For these and other reasons, I urge the committee to return an unfavorable report.

Sincerely,

Eric Rockel

Eric Rockel

Sent via email

