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Maryland Department of Agriculture

Legislative Comment

DATE: January 21, 2025

BILL NUMBER: HB 81

SHORT TITLE: Real Property – Condemnation – Compensation for Farm and Agricultural
Property (Protect Maryland Farm Lands Act)

MDA POSITION: OPPOSITION

The Maryland Agricultural Land Preservation Foundation (MALPF) program purchases agricultural easements on properties to preserve productive farmland and woodland for the continued production of food and fiber for all of Maryland's citizens. To accomplish this and other statutory and ancillary goals, MALPF easements restrict agricultural land from commercial, industrial, and residential development. As of the end of 2024, MALPF holds easements on 2,804 properties, covering more than 376,000 acres.

House Bill 81 would establish a new definition of Fair Market Value (FMV) in condemnation proceedings for properties that are actively used for farm or agricultural purposes, as determined by the State Department of Assessments and Taxation (SDAT), including property acquired by condemnation for the construction or maintenance of a transmission line. This would impact the MALPF program in any instance where the subject property is encumbered with an MALPF easement. MALPF's operating statute dictates how MALPF is to be reimbursed if any eased-property is taken in fee through the condemnation process. The proposed rate in this legislation inflates the reimbursable rate significantly.

For easements established prior to July 1, 2018, section 2-515 of the Agriculture Article establishes that MALPF must be reimbursed at the per-acre rate at which MALPF originally purchased the easement; accordingly, the proposed legislation (altering the FMV formulation for a property) would not affect MALPF regarding any easements acquired on or before June 30, 2018.

Example: MALPF acquired an easement in 1990 and paid \$1,000 an acre. If 1.0 acre of this easement is condemned, the condemning entity typically would reimburse MALPF directly at the per-acre rate MALPF purchased the easement (\$1,000 in this example) and would pay the farm owner the FMV determined by a current appraisal. If this bill passed,

the condemning entity would pay 350% of the appraised FMV, which would be a significant loss of state revenue to the condemning authority paid out unnecessarily to MALPF at this inflated rate.

However, section 2-515 further establishes that MALPF easements acquired on July 1, 2018, or after, the reimbursement amount is determined by the current FMV, with MALPF receiving a portion of that value. If the definition of FMV for these properties is revised to be 350% greater than the appraisal value, then the portion MALPF will be reimbursed for will also increase by 350%.

Example: MALPF acquired an easement in 2019 and paid \$3,000 an acre, which was valued at 75% of the fair market value of the fee simple land. If 1.0 acre of this easement is condemned, under this bill, the new definition of FMV for this farm has been established at 350% higher than the appraised value. If the appraised value determined the value of the farm to be \$6,000/acre, the new law would mandate the reimbursable FMV would increase to \$21,000/acre. Assuming that the MALPF easement retained 75% of the value of the farm, MALPF would receive \$15,750 of the condemnation payment by the condemning entity with the farm owner receiving \$5,250. This would result in the condemning entity (often a governmental entity like State Highway Administration) paying MALPF the majority of reimbursement, rather than the funds going to the farm owner.

For the reasons articulated above and the undue burden on the state, we respectfully oppose this legislation.

If you have additional questions, please contact Rachel Jones, Director of Government Relations, at rachel.jones2@maryland.gov or 410-841-5886.