



THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

March 4, 2025

To: The Honorable Marc Korman  
Chair, Environment and Transportation Committee

From: Delegate Jen Terrasa  
District 13, Howard County

Re: Sponsor Testimony in Support of HB 1444,  
Local Government - Moderate Income Housing Unit Requirements -  
Prohibition Against Fee-in-Lieu

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Dear Chair Korman, Vice Chair Boyce, and Members of the Environment and Transportation Committee,

Thank you for the opportunity to present HB 1444, which is an affordable housing bill. We've been talking all session and frankly for years about the affordable housing crisis we have in Maryland. We all know we need more affordable housing.

Background

In inclusionary zoning, affordable housing units are created by requiring the developer of market rate units to make a certain percentage of units in the development affordable to people with low or moderate income - often defined as affordable for those making below 80% of median income for the area. The idea is a good one. Each time market rate housing units are built, so too are affordable units. So for example, a 100-unit development with a 15% affordable housing requirement will produce 85 market rate units and 15 affordable units.

This can produce a steady stream of affordable housing. For example, in 2023, 1674 units were permitted in Baltimore County last year. If there was an inclusionary zoning requirement of 15 percent affordable for all these units, 251 affordable units would have been produced. In Howard County, approximately 800 housing units were produced which could have produced approximately 119 affordable units. But we know we aren't seeing that many affordable units come onto the market.

Unfortunately, many jurisdictions allow developers to pay their way out of building affordable housing - in other words pay a fee-in-lieu of their affordable housing requirement.

The idea behind allowing for a fee-in-lieu is that the fee will go into a fund that will help the County or others to build their own affordable housing. Paying money to a county, so that the county can itself provide affordable housing for its residents sounds good. What could be wrong with the County having money to build affordable housing? However, what happens in reality is a different story.

### Problem

There are two major problems with allowing a fee-in-lieu of affordable housing are (1) allowing a fee-in-lieu of affordable housing leads to a concentration of low- and moderate-income housing in neighborhoods; and (2) the fees are insufficient to provide the same number of units that would be made available if the developer were required to build them.

Let me give you a little more detail on these:

1. Concentration of low- and moderate-income housing. The impact of allowing some developers to pay out of their obligation to provide affordable housing is that those units that are built are not built throughout the county. Instead, certain neighborhoods end up being only for the wealthy and other neighborhoods have concentrations of poverty which we know from years of research is not good for anyone.
2. The reality is these fees are generally set far too low to actually produce affordable housing units. The average cost of building a housing unit in Maryland is approximately \$200 to \$400 sq/ft. Whereas the fee in-lieu in Howard County as of 2024 was set at \$3.65 sq/ft. So, clearly the fee is wholly insufficient to house people in actual units. No developer in their right mind would opt to build a unit instead of paying this fee. And the fee once in the county's hands is wholly insufficient to finance the county building those units, exacerbating the housing crisis.

The limited housing options for Maryland's middle-income families has led to issues that contribute to instability in Maryland housing – especially cost burdens. Some middle-income families are paying more than half of their income on housing.

### Solution

HB 1444 addresses the need for affordable housing by prohibiting a county or municipality from authorizing payment of a fee-in-lieu of providing moderate income housing units in a new residential development project. The goal is to require the developers to build the units that are desperately needed.

When fee-in-lieu policies were passed, it was with the hope that it would be another way to help make housing in Maryland more affordable and attainable. But that has not been realized. We can no longer allow developers to get out of local zoning requirements to build moderate income housing units. We need the homes!

I respectfully urge a favorable report on HB 1444.