

February 7, 2025

Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401

*Re: Testimony in support of –
SB 657 Eminent Domain - Just Compensation - Fees and Costs; and
SB 661 Real Property - Condemnation - Compensation for Farm and Agricultural
Property (Protect Maryland Farm Lands Act)*

Dear Members of the Senate Judicial Proceedings Committee:

My name is Harris Eisenstein. I am a Maryland attorney, and my practice focuses on eminent domain, inverse condemnation, and related litigation. I strongly support SB 657 and SB 661.

Over the past fifteen years, I have represented Maryland citizens and businesses facing the harsh reality of the government taking their private property by eminent domain. This governmental power is rooted in the Fifth Amendment's Takings Clause, which provides: "nor shall private property be taken for public purpose, without just compensation."

Maryland condemnors must observe the Constitutional dictate to pay "just compensation" to those losing property rights. However, current Maryland law does not allow condemnees to recover full and truly "just" compensation for the life-altering experience of losing their property. SB 657 and SB 661 are critical steps in the right direction.

At present, a condemnee is entitled to recover the value of the land and improvements taken by eminent domain plus any diminution in value to the property post-take. Md. Code Ann., Real Prop. §§ 12-104, 12-105. A condemnee cannot recover legal and expert fees incurred defending an eminent domain proceeding except in rare instances. This is true even though a condemnor's initial offer often falls short of just compensation. These below-market offers force my clients to invest significant resources for counsel to develop, in collaboration with experts, the true value of the property taken. The result: while the condemnor may increase its just compensation package, the net received by a condemnee is reduced by whatever sums they must lay out for attorneys and experts. And those condemnees who cannot afford an attorney are left to advocate for themselves against an opponent with endless resources. This is unjust.

SB 657 addresses this inequity by permitting every defendant in an eminent domain proceeding (*i.e.*, the condemnees) to recover the fair market value of the land taken *plus* all legal, expert, and related fees they incur. If enacted, SB 657 will provide Marylanders facing the

difficult circumstance of losing their land to eminent domain with a path to recover full compensation for their loss.

SB 661 addresses an equally important issue, particularly for the hundreds of farmers in Baltimore, Carroll, and Frederick Counties at risk of losing property rights to a planned 70-mile power line project known as the Maryland Piedmont Reliability Project (“MPRP”). If the sponsors of the MPRP ultimately secure the power of eminent domain – a question now before the Maryland Public Service Commission – they will forcibly install high-voltage, above-ground power lines across valuable Maryland farmland.

As any farmer will attest, farmland is a central part of a farmer’s identity. It is more than just their property; it is their livelihood and their legacy.

In addition, when farmland is taken for public use, it is nearly impossible for the displaced farmer to find suitable land to relocate their operations. And even if a farmer is fortunate enough to find another location, it is never truly comparable to the property taken by eminent domain. Farmland is often passed down for generations. That legacy is shattered in the eminent domain process.

SB 661 offers a lifeline for Maryland farmers. By requiring the condemnor to pay 350% of the highest appraised value of the property taken, the displaced farmer receives compensation for losing not only their property, but also their identity, livelihood, and legacy. This is, as the Constitution contemplates, a just outcome.

I thank you for your consideration.

Very truly yours,

A handwritten signature in blue ink, appearing to read "H. Eisenstein", with a long horizontal flourish extending to the right.

Harris W. Eisenstein