



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

January 21, 2025

RE: **SUPPORT Senate Bill 189**

Dear Committee Chair Smith, Vice Chair Waldstreicher and Esteemed Committee Members:

Land Preservation Trust, Inc. (LPT), a local land trust that holds over 380 conservation easements on over 14,600 acres of land and is the administrator of the Piney Run Rural Legacy Area for the State of Maryland, **supports Senate Bill 189**, a measure that would protect Maryland's longstanding investment in agricultural and open space land by **prohibiting the use of eminent domain by the State to take privately owned land subject to the terms of an agricultural or conservation easement**.

For over 40 years, Maryland has invested to protect agricultural and open space land throughout the State by purchasing conservation easements on properties and by creating the legal structures to support donations of conservation easements. Conservation easements achieve critical State goals at a significantly lower cost than the outright purchase of land. Conserved land is limited in perpetuity to specific uses, including agriculture, woodlands, wetlands and open space, and conservation easements almost always limit the number of houses and subdivisions of the property. The owners of conserved land retain possession of the property, subject to the terms of a conservation easement, and remain solely responsible for the care and upkeep of the conserved land. In other words, conservation easements allow the State to dedicate land to an important public purpose at a low acquisition cost, with no ongoing expense as the owner of the land.

Preserved and open space land is critical to maintaining Maryland's largest economic sector, agriculture, and to promoting the health of the natural ecosystems on which all of Maryland's residents rely:

- **Water Quality:** preserved land reduces runoff and filters water, limiting the flow and decreasing the temperature of surface water running into the Chesapeake Bay
- **Air Quality:** agricultural land, open space and woodlands filter the air and improve air quality for their surrounding communities
- **Carbon Capture:** active agriculture and open space, particularly woodlands, captures significant carbon and retains carbon in the soil and in trees
- **Greenhouse Gas:** agricultural and open space lands, per acre, emit less than 2% of the greenhouse gases emitted from developed land

Preserved agricultural and open space land maintains the scenic views and rural character of the communities in which it is located, allowing local families to provide fresh food to their communities and preserving opportunities for hunting, hiking, cycling and horseback riding that are important to Maryland's citizens. The agricultural, natural and cultural resource preservation benefits of conserving land are so valuable that Maryland's Rural Legacy Program deeds of easement specifically designate the protected uses of the conserved properties to be their "highest public use."

Landowners take the decision to conserve their land very carefully, understanding that conserving their land imposes significant restrictions on the use of the land going forward. These landowners have committed to the State to preserve their land in perpetuity, and **SB 189 will assure that the State also will protect its conserved land in perpetuity**.

Conserving agricultural and open space land dedicates the land to a critically important public use, and SB 189 will in essence codify the "prior public use" doctrine of Common Law, protecting private land that has already been devoted to public use from being condemned for a different public use. Importantly, SB 189 leaves intact the protections of Section 12-101(c) to allow the State Roads Commission to continue to use eminent domain for its infrastructure projects.

Finally, protecting conserved land is critical to Maryland's success in achieving its goal of protecting 40% of the State by 2040, adopted in the Maryland the Beautiful Act of 2023 (which targets conserving another 600,000 acres by 2040).

To summarize – **enacting Senate Bill 189 will protect Maryland's longstanding investment in agricultural and open space land by prohibiting the use of eminent domain by the State to take privately owned conserved land**.

We respectfully urge a **positive report on Senate Bill 189**.

Michael J. Sonnenfeld, Easement and Stewardship Committee