

June 13, 2023

Hon. Evan Glass
President, Montgomery County Council
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

Re: Testimony – Bill 25-23 - Development Impact Taxes for Transportation and Public School Improvements – Amendments

Dear President Glass and Councilmembers:

The Maryland Building Industry Association (“MBIA”) is submitting testimony in response to Bill 25-23, which would modify the calculations for tax rate adjustments for transportation improvements by requiring a cumulative increase or decrease in the construction cost index rather than an annual average every two years and would also establish a cap on the development impact tax rate for school and transportation improvements, allow certain increases to the biennial tax rate adjustments. We appreciate the quick action of the council to address these enormous increases.

This is all about stability in costs and the ability to project impact taxes for a project. Impact taxes are often projected by the developer and builder months or years before those are actually assessed, and so the biannual review can very realistically kill a development, or result in higher costs passed through to the homebuyer, when the biannual change far exceeds the projections anticipated. With the huge increase in recordation taxes dedicated to school construction, shouldn't all of that increase (along with the current dedicated amount) be deducted from the cost to provide a new seat? This is especially true since a new house ends up paying the recordation fee when the raw land is sold to the developer (usually at the highest possible rate), when the finished lot is sold to the builder, and the finished home is sold to the homeowner.

The goal of the impact tax is for new development to pay 100% of the school cost and the subsequent creation of dedicated amounts from recordation taxes is not reflected in that calculation. By adding a cap, the council is greatly helping developers and builders project how much impact taxes will actually cost, capping both taxes is a laudable goal and we support it. However, 20 percent cap if combined with the “roll forward” provision, could ultimately end up meaning school Impact taxes will have hefty increases each time because the roll over amount will continue to accrue.

We would recommend a lower cap, somewhere closer to 12-14 percent and the ability to carry forward the amount over the cap is not perpetual. With the carryover approaches, you are essentially saying that future projects will pay in excess of their impact to offset the lost revenue from the discount provided to earlier projects.

Respectfully,

Griffin Benton, VP Government Affairs