



House Bill 1390

Land Use – Development Rights and Responsibilities Agreements

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Environment and Transportation Committee

Date: March 6, 2018

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** HB 1390 **WITH AMENDMENTS**. The bill would expand the requirements and contents for developer rights and responsibilities agreements (DRRAs).

DRRAs are typically negotiated between a local government and a developer. They serve a useful purpose by ensuring development rights for a project in exchange for public benefits or concessions from a developer.

HB 1390 would require a DRRA to include more specificity regarding the public benefits provided by a developer in a DRRA and give local governments greater flexibility to require a developer to comply with changes local laws, rules, regulations, or policies made subsequent to the adoption of the DRRA. MACo is supportive of these goals.

However, MACo has two primary concerns with HB 1390 as introduced. First, the bill requires a DRRA to include a bonding requirement which takes effect at the time of final development approval. This is challenging as there can be a significant amount of time between final development approval and the beginning of actual construction, especially for complex projects or projects involving multiple governmental actors. The bonding requirement can be negotiated by a local government if needed. *MACo requests that the bonding requirement provision be removed from the bill.*

Second, MACo is concerned about limiting the duration of a DRRA to a five-year or less initial period, with one extension of up to five years by amendment. Under current law, a local government can set a reasonable lifespan for a DRRA based on the complexity and anticipated timeline for a project.

However, the 10-year maximum lifespan proposed by HB 1390 can be insufficient where a project will face potential litigation or is a public project that involves multiple levels of governments or partnerships with private entities or nongovernmental organizations. *The 10-year lifespan needs to be adjusted. This could be addressed by freezing the term of the DRRA for delays caused by litigation or actors other than the local government or developer. Another possibility is to remove the time limit provision entirely.*

MACo is willing to work with the bill's sponsor and other stakeholders to address the two concerns raised in this testimony. Assuming these concerns are addressed, MACo believes HB 1390 would provide some additional clarity to DRRA requirements and clarify when changing laws and ordinances should apply to DRRAs. Accordingly, MACo requests the Committee give HB 1390 a report of **FAVORABLE WITH AMENDMENTS**.