OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

April 21, 2025

TO: Kate Stewart, President
County Council

FROM: Marc Elrich, County Executive

SUBJECT: Veto of Expedited Bill 2-25, Taxation - Payments in Lieu of Taxes - Affordable Housing - Amendments

I am vetoing Expedited Bill 2-25. This bill could significantly negatively impact County revenues, adversely affect racial equity, and provide excessive tax benefits to developers with no meaningful public benefit. My concerns about the rushed nature of this legislation and inadequate time for public input also remain unaddressed.

Let me be clear: I support converting underutilized commercial space to help provide affordable housing. However, this mechanism to achieve that goal is flawed. Projects should not automatically receive a 20-year, 100% tax abatement (elimination of all property taxes) as a matter of right. While zero evidence was presented that subsidies were even needed, we have existing examples of conversions where no subsidies were required, and pending projects that were put forward in the absence of subsidies. As Park and Planning said, "Areas such as downtown Silver Spring and Bethesda command higher rents and prices, and strong market potential for residential use shifts the conversion investment 'tipping point' toward repurposing or conversion."[1] From both fiscal and governance perspectives, the County should negotiate eligible projects on a case-by-case basis to determine whether a subsidy is needed, what benefits accrue to the County, and what the unintended consequences of a 20-year, 100% property tax abatement are.

The Fiscal Impact Statement (FIS) estimated a potential revenue loss of $2.6 billion over 25 years. While revisions to the bill since the FIS was prepared improved the outlook (20-year instead of a 25-year abatement, removing much of the retail, and ending eligibility for the program after 10 years), it will still represent a substantial loss to our tax base. While we want development and an

[1] The Third Place » Converting Office to Residential Is Complicated | MontgomeryPlanning.org

adequate housing supply, it comes with increased infrastructure needs – schools, transportation, public safety, parks, recreation, and more, all of which we have struggled to provide because of a lack of tax revenue needed to fund adequate operating and capital budgets. When developers do not contribute their share of costs, they will ultimately be shifted to our residents and other businesses. Given other increased costs anticipated this fiscal year and economic uncertainty at the federal level that could affect our housing market, I cannot justify supporting this rushed proposal with such significant financial implications. This is the last thing we should be doing now.

The market is already addressing conversions without County subsidies. Silver Spring has seen multiple conversions without this kind of subsidy, including the Guardian apartments, which added five stories and created 178 new residential units, the Elon at 700 Roeder Road, and the Octave – all without tax abatements. Additionally, the Department of Housing and Community Affairs (DHCA) currently uses PILOTs as a negotiation tool to secure higher percentages of affordable units and broader income accessibility than would otherwise be built.

The market has also already addressed vacancies in other ways. If a project is underwater, the owner or developer can walk away, and that particular LLC is finished. No payback is required for lost or future rents, and the same developer can develop new projects with no liability from the old project. When the bank regains the property, it puts it on the market at a price the market can bear, and the building is re-tenanted.

Another market mechanism we have seen address vacancies is when developers sell a building at market value, pay the bank what they receive, and walk. The bank resells, and the new owner then puts the building on the market at rents that attract tenants. This bill is nothing more than a developer relief act. There are market mechanisms that address their problems, and our residents should not have to pay to fix them.

We should also consider that the optimal outcome for commercial buildings is full business occupancy, which grows our tax base rather than reducing it. It is not evident that we should prioritize diminishing the inventory of potential business locations in Montgomery County, particularly as we work to strengthen our economic development. We want businesses to have a variety of choices when locating here.

Furthermore, the Office of Racial Equity and Social Justice has determined that Bill 2- 25E would likely widen housing disparities by race and ethnicity. With the Council's amendment, only 17.5% of new units would be designated affordable, and none would be ownership opportunities. Homeownership remains the primary pathway to wealth accumulation, yet homeownership rates are significantly lower for Black and Hispanic households (42.5% and 49.1%, respectively) than for white and Asian households (73.2% and 74.3%). This bill does nothing to address this fundamental inequity.

Additionally, the 17.5% MPDU requirement is insignificant given the high cost of this bill. We do not pay this amount to get this number of additional MPDUs. This bill also makes no provisions for workforce housing, even though the sponsors of the More Housing Now package have raised that as an urgent need.

Additionally, there is no evidence that this will increase the total supply of housing; it is just as likely to shift where the housing is built. There are currently approximately 30,000 units that have been approved by the Planning Board and could be built as soon as a permit is pulled; those projects are far along already. This is also not a static number—different projects are approved and built, and others get added to the pipeline.

The process for this legislation is also concerning. The bill was introduced on February 4, with a Planning review on March 6 and a public hearing on March 11—all for a complex housing package with significant implications for County revenue and development patterns. This compressed schedule did not allow sufficient time for thorough review by residents, stakeholders, or the executive branch. The numerous opposition testimonies submitted for this bill underscore this problem.

As I have stated previously and reiterate here, there is simply no evidence that every eligible property requires a 100% exemption from property taxes for 20 years as a matter of right. Such a sweeping approach is fiscally irresponsible and unnecessary.

I remain committed to working with the Council to develop more targeted, fiscally responsible alternatives that can convert appropriate commercial properties into sustainable and affordable housing that truly serves our diverse community. I hope you will reconsider your vote and sustain this veto so that we can have more complete conversations to achieve that balance missing from Expedited Bill 2-25E.