

<b>Subject:</b> Bill 13-19, County Property – Disposition – Reuse Analysis	
<b>Purpose:</b> To introduce agenda item – no vote expected	
<b>Analyst:</b> Amanda Mihill, Legislative Attorney <i>A. Mihill</i>	<b>Committee:</b>
<b>Keywords:</b> #MoCoProperties <b>Other search terms:</b> Disposition of Property, County properties, County facilities	

**EXPECTED ATTENDEES**

None

**COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATIONS**

None

**DESCRIPTION/ISSUE**

Bill 13-19 would modify the procedures for disposition of County property and require the Executive to submit a reuse analysis to the County.

**SUMMARY OF KEY DISCUSSION POINTS**

None

**This report contains:**

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**MEMORANDUM**

May 3, 2019

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *AMH*

SUBJECT: Bill 13-19, County Property – Disposition – Reuse Analysis

PURPOSE: Introduction – no Council vote required

Bill 13-19, County Property – Disposition – Reuse Analysis, sponsored by Lead Sponsor Councilmember Albornoz and Co-Sponsors Councilmembers Rice, Jawando, Friedson, Council President Navarro, Council Vice President Katz and Councilmembers Riemer and Hucker, is scheduled to be introduced on May 7. A public hearing is tentatively scheduled for June 18 at 1:30 p.m.<sup>1</sup>

Bill 13-19 would modify the procedures for disposition of County property and require the Executive to submit a reuse analysis to the County.

This packet contains:	<u>Circle #</u>
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<sup>1</sup> #MoCoProperties

Other search terms: Disposition of Property, County properties, County facilities

Bill No. 13-19  
Concerning: County Property –  
Disposition – Reuse Analysis  
Revised: 4/16/2019 Draft No. 1  
Introduced: May 7, 2019  
Expires: November 7, 2020  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Albornoz  
Co-Sponsors: Councilmembers Rice, Jawando, Friedson, Council President Navarro, Council Vice  
President Katz and Councilmembers Riemer and Hucker

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**AN ACT** to:

- (1) modify the procedures for disposition of County property;
- (2) require the Executive to submit a reuse analysis to the County; and
- (3) generally amend the County law regarding disposition of County property.

By amending

Montgomery County Code  
Chapter 11B, Contracts and Procurement  
Section 11B-45

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Section 11B-45 is amended as follows:**

2   **11B-45. Disposition of real property.**

3           (a)   The County Executive must adopt regulations to establish a process for  
4                   the disposition of any real property owned or controlled by the County,  
5                   other than surplus school facilities and property of nominal value  
6                   identified in the regulation. The regulations must provide for:

7                   (1)   coordination among [public] County departments and outside  
8                               agencies, including any municipality in which the real property is  
9                               located;

10                  (2)   opportunity to reserve property for alternative public use;

11                  (3)   comparative analysis of reuse proposals from County departments  
12                               and outside agencies before any disposition actions; and

13                  (4)   public notice and hearing on possible dispositions before final  
14                               decision on disposition, except that the County Executive may  
15                               waive the public hearing requirement for any real property that:

16                               (A)   has nominal value; or

17                               (B)   is recommended to be reused by the County government.

18           (b)   As used in this Section the following words have the meanings  
19                               indicated[,]:

20                   (1)   County Department means any department or office within the  
21                               executive branch of the Montgomery County Government.

22                   (2)   [disposition] Disposition means a sale, a lease or license for a term  
23                               of 2 years or longer, or a lease or other document which includes  
24                               an option to buy. If a license or lease for an initial term of less than  
25                               2 years is extended or renewed beyond 2 years, that extension or  
26                               renewal is a disposition. Disposition does not include:

- 27 [(1)] (A) a lease of or license to use any parkland, or any facility
- 28 located on parkland, that the Parks Department operates or
- 29 manages for the County;
- 30 [(2)] (B) a license to use County property that is coterminous with
- 31 a contract for services performed by the licensee;
- 32 [(3)] (C) a license to use County property to provide child or adult
- 33 day care services;
- 34 [(4)] (D) a sale or lease of property to the Housing Opportunities
- 35 Commission for housing development;
- 36 [(5)] (E) a sale of one or more housing units obtained by the
- 37 County using its right of first refusal under Section 11A-3
- 38 or 11A-4, Chapter 25A, or Chapter 53A, and resold for not
- 39 less than the County paid; or
- 40 [(6)] (F) a transfer of County right-of-way that is needed to
- 41 implement a road or transit project that is included in the
- 42 applicable master or other land use plan.

(3) Outside agency means:

- 44 (A) the Housing Opportunities Commission;
- 45 (B) the Maryland-National Capital Park & Planning
- 46 Commission;
- 47 (C) Montgomery College;
- 48 (D) Montgomery County Public Schools;
- 49 (E) the Revenue Authority;
- 50 (F) the Washington Suburban Sanitary Commission; and
- 51 (G) municipalities located in Montgomery County.

\* \* \*

53 (d) Before seeking Council approval of a declaration of no further need under  
54 subsection (e), the Executive must submit to the Council and allow the  
55 Council at least 30 days to comment on:

56 (1) all material terms of the disposition, including the price or rent to  
57 be paid and any associated economic incentives; [and]

58 (2) any appraisal that the Executive relied on or will rely on in setting  
59 the property's market value[.]; and

60 (3) the comparative analysis of reuse proposals required in paragraphs  
61 (a)(3) and (h), including any proposals received from an outside  
62 agency.

63 \* \* \*

64 (e) (1) In addition to the process required under subsection (a), before the  
65 disposition of any real property owned or controlled by the County  
66 (other than a property which has either nominal value or an  
67 appraised value lower than \$100,000) becomes final:

68 [(1)] (A) the Executive must publish a declaration in the County  
69 Register and post a notice on the County website that the  
70 County has no further need for the property or, if the  
71 disposition is a lease or license, has no further need for the  
72 property during the term of the lease or license; and

73 [(2)] (B) the Council, by resolution adopted after the Council holds  
74 a public hearing with a least 15 days advance notice, must  
75 approve[;]:

76 [(A)] (i) the Executive's declaration of no further need; and

77 [(B)] (ii) any disposition of the property at less than full  
78 market value.

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(C) The Council may disapprove the Executive’s declaration of no further need if the Council finds that:

- (i) there is further need for the real property;
- (ii) a County department or outside agency has expressed need for the real property; or
- (ii) approval of the declaration is contrary to the public interest.

(2) The Director must adjust the \$100,000 floor in this subsection on July 1 every third year by the percentage increase or decrease in the applicable Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index, during the previous 3 calendar years, rounded to the nearest \$1000.

(3) The Council may waive the public hearing required by this subsection if it concludes that a hearing on a particular proposed disposition is not necessary to properly assess the proposed action.

(4) If the Council does not act under this subsection within 60 days after the Executive has submitted the proposed action, the proposed action is automatically approved. The Council may extend the 60-day deadline by resolution if the Council President has informed the Executive, within 30 days after the Executive submitted the proposed action, that the Council has not received all information necessary to review the proposed action. If the 60 day deadline would fall during August or from December 15

105 through December 31, the deadline is automatically extended until  
106 the next scheduled Council session.

107 (5) This subsection and subsection (c) do not apply to any disposition  
108 of property that will be used primarily for housing development if  
109 the recipient legally commits to the Director of the Department of  
110 Housing and Community Affairs that at least 30% of the housing  
111 units built on the property will be moderately priced dwelling units  
112 or other units that are exempt from the development impact tax  
113 under Section 52-41(g)(1)-(4).

114 \* \* \*

115 *Approved:*

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Nancy Navarro, President, County Council

Date

117 *Approved:*

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Marc Elrich, County Executive

Date

119 *This is a correct copy of Council action.*

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Megan Davey Limarzi, Esq., Clerk of the Council

Date



LEGISLATIVE REQUEST REPORT  
Bill 13-19

*County Property – Disposition – Reuse Analysis*

**DESCRIPTION:** Bill 13-19 would modify the procedures for disposition of County property and require the Executive to submit a reuse analysis to the County.

**PROBLEM:** Under the current process, the reuse analysis is not required to be presented to Council.

**GOALS AND OBJECTIVES:** To bring an additional layer of transparency and accountability to the property disposition process and give the Council information on how the reuse analysis was performed. To allow the Council to see which County departments or outside agencies expressed interest in potential surplus property and for what purpose.

**COORDINATION:** Procurement

**FISCAL IMPACT:** To be requested

**ECONOMIC IMPACT:** To be requested

**EVALUATION:** To be requested

**EXPERIENCE ELSEWHERE:** To be researched

**SOURCES OF INFORMATION:** Amanda Mihill, Legislative Attorney, 240-777-7815

**APPLICATION WITHIN MUNICIPALITIES:** n/a

**PENALTIES:** n/a