


MEMORANDUM

July 10, 2018

TO: Transportation, Infrastructure, Energy and Environment Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: Bill 12-18, Real Property - New Home Sales Contracts – Solar Panel Systems

PURPOSE: Worksession – Committee to make recommendations on Bill

Bill 12-18, Real Property – New Home Sales Contracts – Solar Panel Systems, sponsored by Lead Sponsor Councilmember Elrich and Co-Sponsor Councilmember Hucker, was introduced on March 20, 2018. A public hearing was held on April 10.

Bill 12-18 would require the seller of a new single-family home to give the buyer an option to install a solar panel system. It would also require the seller to disclose the benefits of a solar panel system and an estimate of the cost to install the system.

Background

The purpose of the Bill is to increase the use of renewable energy in the County. The Bill would encourage this by ensuring that the purchaser of a new single-family home is aware of the option of installing solar panels on the roof of the home and receives an estimate of the cost to install the panels. The buyer would have the option of either adding the installation of solar panels to the new home sale contract or declining to add the panels.

The Bill would define a single-family home as “a detached or attached residential building, including a single-family home, townhouse, or row house.” The Bill would only apply to a newly constructed single-family home “that has not been previously sold and occupied.” The law would be enforced by the Office of Consumer Protection.

Public Hearing

There were 3 speakers at the public hearing. Philip Raskin, representing the Greater Capital Area Association of Realtors (GCAAR), opposed the Bill. See ©5-6. Mr. Raskin argued that the Bill placed too much responsibility on the seller of a new home to provide an estimate to add solar panels and possibly hire a subcontractor to do the work. Mr. Raskin argued that the responsibility to procure solar panels should rest with the buyer after the sale, and that the County could provide information on solar panels to residents. Stephanie Riddick, representing the

Montgomery County Group of the Sierra Club, supported the Bill. See ©7-8. Ms. Riddick supported the use of renewable energy sources and suggested the Bill include the possibility of solar shingles in addition to solar panels and a requirement to provide information on possible tax credits for adding a solar system. Jim Driscoll also supported the Bill as a step to reverse climate change.

We also receive an email message from Laurence M. Cafritz, President of Laurence Cafritz Home Builders opposing the Bill. See ©9-10. Mr. Cafritz argues that new homes are already energy efficient, unlike older existing homes, that the builder will charge more for the solar panels, that the addition of solar panels would increase construction time and delay settlement, and that leasing solar panels is preferable to purchasing them. Although the Executive has not communicated a position on this Bill, we did receive a written statement from the Montgomery County Energy and Air Quality Advisory Committee (EAQAC) right before this packet went to print. See ©15-17. The EAQAC generally supported the intent of the Bill, but raised several questions concerning its implementation.

Issues

1. What is the fiscal and economic impact?

OMB indicated that the Bill would have no fiscal impact on County revenues. Finance estimated that there would be a positive economic benefit for new single-family households that opt for solar panels due to savings from lower electric bills and higher home resale value. Sales of new homes increased from 1,120 in 2013 to 2000 in 2017. The average sales price of new single-family homes increased from \$542,000 in 2013 to \$725,000 in 2017. The cost of solar panels is between \$12,000 and \$24,000 before applying Federal and State tax credits. The payback period for this expense in lower electric bills ranges from 4 years to 12 years. See the FEIS at ©11-14.

2. Technical correction.

The definition of single-family home on lines 14-15 of the Bill is out of alphabetical order and should be moved after the definition of seller's agent.

3. Should the Bill exclude townhouses?

The EAQAC recommended excluding townhouses from the Bill. According to the EAQAC, townhouse communities often control the installation of solar panels through HOA rules that may not be developed when the townhouses are sold. Their concern is that solar panels may be installed by the builder that do not conform to future HOA rules. Although subject to change by the residents, the initial HOA Bylaws and Rules are established by the developer of the project. A builder should be able to conform to these rules when constructing solar panels.

4. Does the Bill place unreasonable responsibility on the seller of a new home?

GCAAR argues that the Bill would place too much responsibility on the seller of a new home. Instead, GCAAR suggests the seller is free to seek an estimate for solar panels after the

sale is completed. The Bill does not require the buyer to purchase solar panels; it merely requires the seller to provide an estimate of the cost to include solar panels as an option on a new home. A buyer who purchases solar panels as part of the new home purchase will be able to include the cost in a home mortgage. A buyer who waits until after the sale is complete cannot do this without a home equity loan at a greater cost.

5. Would the Bill result in providing new home buyers with the best system for their needs?

The Maryland Energy Administration published a 72-page publication called “A Maryland Consumer’s Guide to Solar” in January 2018. See:

<http://energy.maryland.gov/residential/Documents/A%20Maryland%20Consumer%20Guide%20to%20Solar%20LR72dpi.pdf>

The Maryland Energy Administration created a checklist of 10 issues for a consumer to consider before purchasing or leasing a solar system. See the checklist at ©18-19. There are different types of systems, different methods of financing the system, and a system should be designed based upon the orientation, tilt, and shading of the roof of a house. Most importantly, the Maryland Energy Administration recommends that a consumer receive estimates from several different contractors to evaluate the cost, size, and configuration of each proposal. Under the Bill, the home buyer would receive one estimate from the home builder that may be a one-size-fits-all proposal that does not provide useful comparisons with other alternatives, such as leasing or entering into a power purchase agreement. A consumer also needs to decide if the solar system should be connected to the power grid and if it should include electric storage.

Solar power is a renewable source of energy that reduces the use of non-renewable fuels to the benefit of the entire County. Providing an option of including solar panels in the new home sale is likely to increase the percentage of buyers who choose to add solar panels. The policy issue is balancing the potential benefit to County residents of a greater use of solar power against the likelihood that the limited choices provided a new home buyer under the Bill will result in less than ideal choices for the consumer.

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Bill No. 12-18
Concerning: Real Property – New Home
Sales Contracts – Solar Panel
Systems
Revised: March 16, 2018 Draft No. 2
Introduced: March 20, 2018
Expires: September 20, 2019
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Elrich
Co-Sponsor: Councilmember Hucker

AN ACT to:

- (1) require the seller of a new single-family home to give the buyer an option to install a solar panel system;
- (2) require the seller to disclose the benefits of a solar panel system and an estimate of the cost to install the system; and
- (3) generally amend the law governing the sale of a new single-family home in the County.

By amending

Montgomery County Code
Chapter 40, Real Property
Section 40-15; and

By adding

Montgomery County Code
Chapter 40, Real Property
Section 40-15A

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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

Sec. 1. Section 40-15 is amended and Section 40-15A is added as follows:

40-15. Definitions; scope.

(a) In this article, the following words have the meaning indicated:

New home means any newly constructed dwelling unit. "New home" includes any single-family home, townhouse, row house, or condominium which has not been previously sold and occupied.

Buyer means the original buyer of a new home.

Buyer's agent means any person expressly designated by the buyer to serve as the buyer's representative at a pre-settlement inspection. "Buyer's agent" does not include an employee or agent of the seller.

Seller means any person or firm engaged in the business of selling new homes, or to whom a new home has been conveyed for resale in the course of business.

Single-family home means a detached or attached residential building, including a single-family home, townhouse, or row house.

Seller's agent [includes] means an employee of a seller or an independent, licensed real estate agent representing a seller.

Solar panel system means photovoltaic cells or a solar water heating system.

(b) This article applies to any contract for the sale of a new home [entered into on or after March 15, 1989. It applies to all new homes sold] in [Montgomery] the County, whether the new home is built before or after the date of the contract.

(c) The conveyance of a new home to an intermediate person to evade any liability or obligations to a buyer under this article or any other law does not remove the new home from the requirements of this article.

40-15A. Solar Energy Option—New Single-family Home.

(a) Requirements. Before signing a contract for the sale of a new single-family home, the seller must give the buyer:

- (1) an estimate of the cost of a solar panel system;
- (2) the estimated annual energy savings from a solar panel system;
- (3) the number of years estimated to recoup the cost of the solar panel system from the estimated energy savings; and
- (4) an option to add the installation of a solar panel system to the sales price of the new single-family home.

(b) Forms. The Director of Environmental Protection must prepare and publish on the County website:

- (1) standard materials to explain the types of solar panel systems that would comply with this Section; and
- (2) an optional form that may be executed by both the seller and the buyer to document:
 - (A) compliance with subsection (a); and
 - (B) the buyer's decision to purchase or not purchase a solar panel system.

Sec. 2. Transition.

The amendments in Section 1 must apply to any contract for the sale of a new single-family home executed after this Act becomes law.

Approved:

Hans Riemer, President, County Council

Date

LEGISLATIVE REQUEST REPORT

Bill 12-18

Real Property - New Home Sales Contracts – Solar Panel Systems

DESCRIPTION:	Bill 12-18 would require the seller of a new single-family home to give the buyer an option to install a solar panel system. It would also require the seller to disclose the benefits of a solar panel system and an estimate of the cost to install the system.
PROBLEM:	Some new home buyers are not given the option of installing solar panels on the roof.
GOALS AND OBJECTIVES:	The goal is to increase the amount of new homes that have solar panels on the roof to increase the use of renewable energy in the County.
COORDINATION:	Environmental Protection, Consumer Protection, County Attorney
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	Class A violation.

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April 10, 2018

Bill 12-18, Real Property - New Home Sales Contracts - Solar Panel Systems

Council President Riemer and members of the Council, thank you for your time this afternoon.

My name is Philip Raskin, and I come to you today on behalf of the Greater Capital Area Association of REALTORS® ("GCAAR") – the voice of Montgomery County and the District of Columbia's more than 10,000 REALTORS®, property managers, title attorneys, and other real estate professionals.

On behalf of GCAAR and our members, I ask that you oppose Bill 12-18.

The kernel of an idea behind Bill 12-18 is one a good one – solar panels are an environmentally friendly endeavor, a broader installation of them would bring about a healthier energy grid, and owning them can potentially be a boon to a property's value. But the question this bill raises is: where is the line between government action and personal property rights?

Government action with regard to environmental stewardship has often led to both a greener community as well as creation of jobs within new industries. These past efforts include tax incentives for different aspects of 'going green,' providing easy avenues for residents to recycle, and the installation of green technologies on many County properties. These projects and programs are cooperative, and are led by Montgomery County Government's example.

But this bill is not cooperative – its weight is stringently one sided. Instead of an option or incentive to act, Bill 12-18 sets up an almost punitive measure on those selling a new home. Property owners, and REALTORS® who partner with them, already go through numerous requests set forth by a prospective buyer and are burdened with extensive and overbearing disclosure regulations.

The impact of this bill should exclusively rest on the buyer. If a prospective owner wants solar panels on the home, *they* should have to pursue that option and negotiate the project with the current owner. Requiring a property owner to go through the entire process at the buyer's request - no questions asked - is not reasonable.

The effort of researching a number of solar companies, hiring a company of your choice, taking time to schedule and oversee appraisal and construction, as well as the discussing these steps and their cost with a buyer is far too onerous. This will also delay the sale of homes, eroding the rights of property owners.

If the County believes every home sale should include information on solar panels, or other environmentally friendly features, why isn't the County's Department of Environment Protection charged with tracking and supplying the information?

The County could – through direct mail or an informational campaign - educate every property owner on the benefits of solar panels. Choosing to put this impediment in front of property owners instead is misguided and burdensome.

GCAAR supports County efforts to educate and facilitate a renewable community. We have partnered with DEP as recently as this month to give residential property owners information on making their homes more energy efficient. But this legislation will not further these goals. It will put stumbling blocks in front of property owners looking to sell, and will dilute any effort to properly educate County residents on the benefits of residential solar installations.

Unfortunately this bill is another missed opportunity for collaboration. GCAAR stands for the preservation of the right to own, use, and transfer real property. Decreasing Montgomery County's carbon footprint through more residential solar use can be achieved without adversely impacting that goal. It is disappointing that instead of looking for cooperation, this bill unnecessarily draws opposition to an eco-friendly idea we generally support.

For all of these reasons, we ask that you oppose Bill 12-18. We appreciate you taking time to hear from our community on this issue.



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Montgomery County Group

April 10, 2018

Testimony on

Bill 12-18 – Real Property – New Home Sales Contract – Solar Systems

Good afternoon. My name is Stephanie Riddick and I am testifying on behalf of the Montgomery Group of the Sierra Club and its more than 6,000 members in this county.

We appreciate the effort of Councilmember Marc Elrich to introduce this bill and also express gratitude to Councilmember Tom Hucker as co-sponsor to offer the opportunity to expand clean energy use and installations of solar systems in the county. We are pleased to support the passage of this bill and we include our additional recommendations below.

The bill properly includes the requirement that all prospective buyers of new homes be offered the opportunity to purchase a solar system as a part of the sales contract. Like other amenities on a home, the purchaser should have the option of choosing which type of energy their home will use. This bill will give buyers the option of choosing clean renewable energy as an initial option, instead of only as a retro-fit, years into the future.

In this way, the home can be designed from the beginning with the solar system as a part of the design process. This will ensure that the solar system most closely fits the home's design and structure. For many, the option to include the cost of a solar system in the initial purchase of the home may be more financially feasible than an out-of-pocket purchase of a solar system at a later time.

The Sierra Club recommends that the option of a solar shingle system be included as a possible purchase as such systems are currently available and have been installed in the county. Further, the bill should also require the seller to provide information on the current state and federal tax incentives for solar systems that may offset part of the system's cost.

The option of adding solar to a new home, when chosen, will gradually reduce the use of fossil fuels and other non-clean sources of energy for single-family homes in the county. This bill represents an additional opportunity to create green jobs and to transition to a 100% clean energy economy. This effort will further address the climate emergency the County Council has declared and help further educate the public, home buyers, home sellers and others about the benefits of solar energy.

In closing, we again thank the Council for your efforts to bring clean energy opportunities to our county. We request that this bill be passed as soon as possible and we look forward to our continuing working relationship in building a clean energy future for all county residents.

Stephanie Riddick

Sierra Club – Montgomery Group Executive Committee

Stephanie.Riddick@MDSierra.org

Drummer, Bob

From: Leventhal's Office, Councilmember
Sent: Monday, April 09, 2018 11:28 AM
To: Larry Cafritz
Cc: Drummer, Bob; #CCLLeventhal Staff
Subject: RE: Letter Opposing Solar Bill 12-18

Dear Larry:

Thank you for copying me on your message to Councilmembers Elrich and Hucker regarding Bill 12-18. As you may know, the County Council will hold a hearing on this measure tomorrow, April 10, at 1:30 p.m. I understand your concerns regarding the bill, which I have not cosponsored.

Best regards,
George

From: Larry Cafritz [mailto:larry@cafritzbuilders.com]
Sent: Friday, April 06, 2018 6:08 PM
To: Elrich's Office, Councilmember <Councilmember.Elrich@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>
Cc: County Council <County.Council@montgomerycountymd.gov>; Berliner's Office, Councilmember <Councilmember.Berliner@montgomerycountymd.gov>; Riemer's Office, Councilmember <Councilmember.Riemer@montgomerycountymd.gov>; Floreen's Office, Councilmember <Councilmember.Floreen@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>; Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Leventhal's Office, Councilmember <Councilmember.Leventhal@montgomerycountymd.gov>; 'Larry Cafritz' <larry@cafritzbuilders.com>
Subject: Letter Opposing Solar Bill 12-18

Dear Councilmembers Elrich and Hucker:

As a small business remodeler and builder of single family infill homes in Montgomery County over the past 26 years, I would like to point out a few things as to why this Solar Bill 12-18 is misguided and unnecessary to require all new home sellers to promote solar panels. Don't get me wrong, going solar can be great on the right home in the right place, but it is hardly a panacea to be even suggested to every new home buyer, when there are so many other effective ways to conserve energy in a home in our region.

For starters, there are diminishing returns for adding solar to a new home built under the highly energy conscious provisions that we already implement under the 2015 IRC and Energy Conservation Code in Montgomery County.

To name a few things in the New Home code: R49 ceiling insulation, where older homes have R30 or R38; Sealing all transition points, wall outlets, recessed lighting, exterior wall penetrations, etc for draft control; Blower door test for only 3 air changes per hour (typical older homes allow 8 to 15 air changes); Duct Blaster test for efficiency of HVAC systems; and LED high efficacy lighting, among other things.

It makes no sense for all new home sellers to be forced to push Solar, when it is really older existing homes that need energy conservation measures the most, starting with better insulation and LED lighting, among other things. Why don't you legislate THAT in the sale of ALL older energy sucking homes, if you are truly being authentic about energy conservation.

If someone wants solar in any home they buy, then by all means they can call any number of Solar installation companies for an estimate and analysis and have the system installed after they settle on the home. A seller offering the option will cost a home buyer way more than buying direct. Additionally, on a newly finished speculative home, if offered and selected, panels will require roughly 4 weeks of extra time for permitting, ordering and installation, which will also drag out the appraisers inspection to finalize the buyer's mortgage approval. This could delay a normal closing by a month or more. This also causes additional risk and burden for the seller to warrant a roof, when covered by solar panels, in case shingles need to be replaced, or if leaks occur. Also, what if the buyer backs out and does not go to closing? Then the seller is stuck with an item that may not be desirable to other prospects, limiting the ability for the home to sell... adding more risk and burden to the seller.

Additionally, for anyone wanting solar, leasing makes so much more sense than buying, and this is very easy for a homeowner to do, AFTER they close on a home.

It would be wise to dismiss this solar bill and I hope you see the benefits of leaving the risk and investment for solar panels entirely up to a buyer directly with a solar panel company, once they own the home.

Sincerely,

Larry Cafritz

Laurence M. Cafritz
President
Laurence Cafritz Builders
7520 Hampden Lane
Bethesda, MD 20814
301-320-0125 (phone)
301-320-0127 (fax)
202-437-5931 (cell)
website: www.CafritzBuilders.com
Larry@CafritzBuilders.com

Fiscal Impact Statement
Council Bill 12-18 Real Property- New Homes Sales Contracts- Solar Panel Systems

1. Legislative Summary.

This bill would require the seller of a new single-family home to give the buyer an option to install a solar panel system. It would also require the seller to disclose the benefits and a cost estimate of a solar panel system.

The bill also requires the Department of Environmental Protection (DEP) to prepare and publish materials to explain the types of solar panel systems and an optional form that may be used by both the seller and the buyer to document compliance with the bill and the decision to purchase or not purchase a solar panel system.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Bill 12-18 is not estimated to affect County revenues or expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Not applicable.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable.

7. An estimate of the staff time needed to implement the bill.

Additional staff time to implement the bill is expected to be minimal and would be incorporated into existing departmental activities. Limited DEP staff time would likely be required to prepare and publish the informational materials required by the bill. The Department of Permitting Services (DPS) would have to process permits for any new solar panel system.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

Bill 12-18 is not estimated to affect County revenues or expenditures. Any staff time to implement the bill would be minimal and is expected to be incorporated into existing departmental activities.

13. Other fiscal impacts or comments.

Some minor costs, that are not budgeted, may result if the development of a database or other tracking mechanism is needed to document compliance with this law.

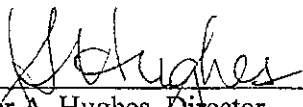
14. The following contributed to and concurred with this analysis:

Stan Edwards, Department of Environmental Protection

Barbara Suter, Department of Permitting Services

Diane Jones, Department of Permitting Services

Trevor Lobaugh, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget

4/4/18
Date

Economic Impact Statement
Bill 12-18, Real Property – New Home Sales Contracts – Solar Panel Systems

Background: Bill 12-18 would require the seller of a new single-family to give the buyer an option to install a solar panel system and to include the cost of the system and/or installation in the purchase contract. The legislation would also require the seller to disclose the benefits of a solar panel system and an estimate of the cost to install the system.

1. The sources of information, assumptions, and methodologies used.

Sources of information and data include the Department of Environmental Protection (DEP), the Montgomery Planning Department (Planning) of the Maryland-National Capital Park and Planning Commission (M-NCPPC), and Dodge Analytics (Dodge). Data also used in the preparation of the economic impact state are from the document entitled *Solar 101: Go Solar Guide* from Solar United Neighbors. Assumptions or methodologies were not used by the Department of Finance (Finance) in the preparation of the economic impact statement.

Data provided by Planning from CoreLogic for calendar years 2013 to 2017 are as follows:

- Sales of new homes increased from nearly 1,120 in 2013 to over 2,000 in 2017 for an average annual increase of 1.8 percent;
- Average sales prices increased from nearly \$542,000 in 2013 to nearly \$725,000 for an average annual increase of 7.5 percent;

Data provided in the document from Solar United Neighbors are as follow:

- Costs of the solar panels vary based on the type and size of the system. The cost for installation of a purchased system averages \$3.00 per watt, and the average total installation costs range from \$12,000 to \$24,000. These costs are before applying the federal or state tax credits;
- The payback period for a typical purchased residential solar system ranges from 4 to 12 years depending on system size, household electricity demand, and utility electricity rates; and
- The average time for installation ranges from 2 to 4 months from the design of the system, ordering and obtaining the equipment, and applying and obtaining a permit.

2. A description of any variable that could affect the economic impact estimates.

The first variable that could affect the economic impact estimates is the cost of installing a solar panel system based on the decision by the home buyer of whether to buy or lease the system, or enter into a power purchase agreement (PPA), including the eligibility for the federal and state tax credit and renewable energy credits. The second variable that could affect the economic impact estimates is the amount of energy/electricity usage in the single-family home.

Economic Impact Statement
Bill 12-18, Real Property – New Home Sales Contracts – Solar Panel Systems

- 3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

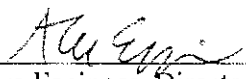
Bill 12-18 could have a positive economic benefit for new single-family households attributed to an increase in income through the savings from lower electric bills and net metering and to an increase in the resale value of the single-family home.

The amount of the economic benefit to a new single-family household would depend on whether the solar panel system was purchased and owned by the household, leased, or subject to a PPA. Second, by leasing the system or using a PPA, the household would also forego any federal and state tax credits had the household purchased the system and also forego the renewable energy credits.

- 4. If a Bill is likely to have no economic impact, why is that the case?**

Please see paragraph 3.

- 5. The following contributed to or concurred with this analysis:** David Platt and Rob Hagedoorn, Department of Finance; and Stan Edwards, Department of Environmental Protection.



Alexandre Espinosa, Director
Department of Finance

4/11/18
Date

Subject: Montgomery County Energy and Air Quality Advisory Committee (EAQAC) comments
on Bill 12-18, Real Property - New Home Sales Contracts- Solar Panel Systems

Dear Montgomery County Councilmembers:

I write to you on behalf of the Energy and Air Quality Advisory Committee (EAQAC) to weigh in on a current discussion at the Montgomery County Council regarding adoption of Bill 12-18, Real Property - New Home Sales Contracts- Solar Panel Systems. Given the importance of this topic to the county residents and businesses, EAQAC is closely monitoring this Bill, which is proposed to increase the use of renewable energy in the County. The objective of the Bill is to encourage installation of solar panel systems by ensuring that the purchaser of a new single-family home is aware of the option of installing solar panels on the roof of the home and receives an estimate of the cost to install the panels as part of the real estate transaction process.

First and foremost, EAQAC supports the intent of Bill 12-18 to increase the penetration of Solar Panel Systems in the residential market, where it is economically and technically justified, and such a Bill could help to achieve this objective, if some of the issues summarized below are taken into consideration in future versions of Bill 12-18.

- There can be unsavory or uninformed homebuilders and sellers in the market who may not be qualified to up-sell solar. What protections can be put in place to protect uninformed buyers?
- The Bill, as drafted, could be introducing unnecessary bureaucracy, that will result in the exact opposite of the intended results. Bad advice from the home builders, causing uninformed decisions by home owners and a negative experience, is quite possible without stronger provisions for standard forms, enforcement, and compliance.
- The seller is usually a home builder and unless some basic verified information is developed, and approved by the County, will not have the expertise to advise a home buyer about the benefits of a solar installation. Also, a home buyer needs to be clearly instructed on the financial obligations, short and long term he/she is accepting, including the options for direct purchase, long-term lease of equipment, or power purchase agreement (PPA). Lastly the estimated cost of solar can vary significantly and a builder's estimate may not necessarily be the best interest of the new home buyers.
- We have concerns about the inclusion of townhouses and row homes in the definition of "New Homes" for this bill. Installing solar on town or row houses is often controlled by Homeowner Association (HOA) rules, which are often not in effect at the time of construction. While MD law has established that HOAs cannot outright prohibit solar but can impose some regulations – i.e., not on street facing roofs, etc. – there will be many situations where a buyer and seller are discussing solar without a final set of HOA rules, and therefore making financial commitments without full knowledge of what is allowed by the HOA. For example, if a buyer chooses solar based on the seller's information for installation of solar on south facing roof visible from the street, and the Homeowner Association rules, once formalized, prohibit such installations, what recourse does the home-buyer have? Even in cases where Homeowner Association rules are established at

the time of the transaction, the installation of solar on the roof of one of a town or row house may negatively affect the value or ability to sell adjacent properties. Therefore, we suggest limiting the Bill 12-18 to single family detached homes.

- In the case of development of single-family detached homes in a planned community, the seller must provide written guarantees that Homeowner Association rules will allow the installation of solar panels.
- In the "Requirements" section:
 - How would payback be modeled? Can that be standardized?
 - The bill doesn't address net metering and financing mechanisms (PPAs, etc.). How will buyers be notified about those and how will the builder/seller address these in the "standard" financial calculations?
 - Are there minimal performance standards sellers/installers would need to follow?
 - Are the "benefits of solar" communicated the same way to all new home buyers?
 - How can the County ensure that fair cost estimates are provided for the mainly three ways of selling/leasing/PPA of solar systems? Because every house location is different, would a separate cost and savings estimate be run on a 'typical size' system for that particular home location? If so, what would be the 'typical size'?
 - A Builder should add information about the flexibility of the new home to accept solar panels, such as reinforced roof, southern exposure, clear view of sun, even ground mount availability or other special capabilities.
- Can the intent of the bill be satisfied through incentives rather than legislation? It's very wise (especially now) to limit additional regulations and mandates and help create new collaborative forces that incentives residents to install solar, instead of mandating through legislation.
- Multiple cities in California have required solar PV and the California Energy Commission (CEC) mandated solar for the full state. Has the council reviewed and considered the results of those projects?
- "Forms" section:
 - "Standard materials" is very vague. What is the council looking for there? A proposed solution would be to require the County DEP to develop a standard website link sheet that advises the customers, The EAQAC can independently also review and develop contents to guide an interested new home buyer in selecting a solution that meets its needs. Such a publication is already available, title "A Maryland Consumer's Guide to Solar", January 2018, produced by the Maryland Energy Administration.
 - For the optional form executed by both the seller and buyer: Why is that optional? How will compliance be enforced?

Finally, we strongly encourage the Council and its advisory committees (including EAQAC) to continue to engage with stakeholders on this topic, even after adoption by Council. From EAQAC's perspective, part of what has been challenging but ultimately a strength of this adoption process to date is that an inclusive, community-driven approach was taken.

Adoption of even more advanced, realistic sustainability regulations within Montgomery County is a critical goal, and we are very excited that Council is working on this topic. We hope these suggestion/comments are helpful, and hope to continue to support Council's efforts in this area in the future. If you have any additional questions or would like to discuss this more, we are available.

Thank you for your consideration.

Best,

Chris Avery
Chair
Energy and Air Quality Advisory Committee



10 KEY THINGS TO REMEMBER

If You're Thinking about Solar

1. Consider energy efficiency.

Consider installing energy efficiency measures first, before you install solar. Reducing the amount of energy used by your home will allow you to install a smaller, less expensive photovoltaic system. See “Energy Efficiency First” on p. 10.

2. Solar is a significant investment.

Going solar is a significant investment, comparable to buying a car or making major home improvements. Make sure you think it through carefully.

3. Financing options are available.

There are four main ways to pay for a solar photovoltaic system, each of which has advantages and disadvantages. See “Financing Your Solar PV System” on p. 24.

- Paying cash up front
- Financing a system through a loan
- Signing a solar lease
- Signing a power purchase agreement

4. Net metering is key.

Net metering is an arrangement in which the utility credits you for electricity your system generates that is not used onsite and is instead added back onto the grid. See “Net Metering” on p. 29.

5. Community solar is an option.

If installing solar on your own home or land isn't viable, or if you don't own your home, there are still solar options for you. Both renters and homeowners can potentially participate in a community solar project, which is an offsite solar array that serves multiple customers. See "Community Solar" on p. 21.

6. Federal incentives are available.

For those solar photovoltaic system owners that pay federal income taxes, the federal government provides a significant tax credit that helps reduce the total cost of your solar system. See "Federal Tax Credit" on p. 28.

7. Several contractor bids are better than one.

Consider proposals or bids from at least three different solar contractors to help select the best solar installer for you. See "Choosing a Contractor" on p. 31.

8. Calculate the financial deal.

Before selecting a bid and signing a solar contract, calculate your net savings, return on investment, and/or payback period. See "Calculating Savings" on p. 52.

9. Understand the impact of changing utility rates.

In any calculation of how much money your solar system can save you, assumptions about future utility rate increases are very important. Make sure that you and your contractor are calculating future electricity costs appropriately. See "Understanding Utility Rate Increase Impacts" on p. 33.

10. Know what you are signing.

Make sure you read and understand your solar contract before you sign it. See "Contract Provisions" on p. 25 as well as "Signing a Contract" on p. 34.