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MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: February 27, 2019

BILL NUMBER: HOUSE BILL 935

SHORT TITLE: AGRICULTURAL LAND PRESERVATION EASEMENTS - USE OF LAND - SIGNS FORBIDDING TRESPASSING, HUNTING, OR THE DESTRUCTION OF PROPERTY

MDA POSITION: INFORMATION

EXPLANATION:

This bill would retroactively revise existing law and the terms of existing Maryland Agricultural Land Preservation Foundation (MALPF) easements by instituting restrictions on the landowner's right to post "no trespassing," "no hunting," and "no destruction of property" signs. Landowners would be limited to a minimum distance of 500 feet between signs.

BACKGROUND INFORMATION:

The MALPF program purchases agricultural easements on properties to preserve productive farmland and woodland for the continued production of food and fiber for all of Maryland's citizens. To accomplish this and other statutory and ancillary goals, MALPF easements restrict agricultural land from commercial, industrial and residential development. The Program has easements on more than 2,300 properties, covering over 316,000 acres at a public investment of more than \$740 million. MALPF easements are not for aesthetic purposes of viewshed protection or scenic easements.

Currently, all MALPF easement owners are permitted to post signs on their properties, no greater than 4 feet by 4 feet, for eight different purposes:

1. Stating name and address,
2. Advertising farm/forested related uses of the property,
3. Advertising sale of agricultural products,
4. Advertising sale/rent of property,
5. Forbidding trespassing, hunting, and destruction of property,

6. Marking the boundary lines,
7. Identifying the protected status of the property, and
8. Supporting political candidates

Neither the current law nor the recorded easement contracts limit the number of signs or distance between signs that landowners may erect. MALPF, in fact, encourages landowners to mark their property boundary to help prevent criminal trespass, encroachment issues, and adverse position claims, among other benefits.

This bill would retroactively limit the landowners' right to post "no trespassing," "no hunting," and "no destruction of property" signs to a minimum of 500 feet between signs--regardless of whether the property is predominantly used for traditional row crops, hay, vineyards, livestock, equestrian operations, or forested lands, as examples. Depending on the land use, a landowner may consider it necessary to have more than one sign every 500 feet to adequately demark a boundary line, especially in forested areas of a property or along a boundary that meanders. The proposed signage limitation could also compromise safety precautions when a property is used for hunting.

The bill would impact the way MALPF staff and county program administrators perform the actual monitoring inspections of the properties. By placing a restriction on the frequency of certain signage, which is most commonly posted along the property boundary, the MALPF and County inspectors would be required to physically inspect the entire perimeter of every easement property by walking the boundary while measuring the distance between signs. This would create a significant increase in the workload to properly inspect all the more than 2,300 MALPF easement properties across the state. Further, placing limitations on the rights of landowners expressly reserved under the terms of the easement contracts may result in litigation between the State and landowners over sign placement. This bill would require additional staff at both the inspector position as well as an assistant attorney general for enforcement.

The purpose of the MALPF program is to protect farmland and forested land for the production of food and fiber for the State of Maryland. Both the law and the easement contract language allow for placement of non-commercial signs on an easement property that do not impact the agricultural or forest operation of the property. While MALPF easements have a side effect of providing an aesthetic viewshed for neighbors and the general public that is not statutory purpose of the Program.

If you have additional questions, please contact Cassie Shirk, Director of Legislation and Governmental Affairs, at cassie.shirk@maryland.gov or 410-841-5886.