



July 20, 2021

The Honorable Tom Hucker  
Council President  
Montgomery County Council  
100 Maryland Avenue  
Rockville, Maryland 20850

Dear Council President Hucker:

The Montgomery County Chamber of Commerce (MCCC) advocates for our members to compete in a globally and regionally competitive marketplace by promoting opportunities and removing barriers to progress. MCCC contends that Bill 16-21 -- *Environmental Sustainability - Building Energy Use Benchmarking*, while laudable in its intent, creates new barriers for Montgomery County businesses and their ability to compete. The bill, as currently constructed, creates more complexity for building owners and makes the County less competitive with neighboring jurisdictions.

While we understand and appreciate what Bill 16-21 seeks to do, MCCC has concerns based on the lack of details included in the bill as well as the timeline for implementation. MCCC is particularly concerned by the Office of Legislative Oversight's (OLO) analysis where they conclude that Bill 16-21, "may reduce the County's competitiveness in the office, retail, and/or multifamily markets vis-à-vis peer jurisdictions, particularly Fairfax County." The analysis further states that, "OLO anticipates that the bill would have a negative impact on local economic conditions in the short-term because, in part, it would increase the cost of business and weaken the competitiveness of the County's commercial and multifamily building sector relative to surrounding jurisdictions."

For the above-stated reasons, as well as the unknown long-term economic ramifications of the COVID-19 pandemic, MCCC asks that members of the Montgomery County Council (Council) consider the following changes that could alleviate some of the potentially adverse outcomes of Bill 16-21:

### **Delayed Implementation**

MCCC asks that the Council consider delaying the implementation of Bill 16-21 for at least 18 months until more data is available on the COVID-19 pandemic's impact on real estate and the ability of a building to measure their energy performance standards. The lack of data and uncertainty brought about by the ongoing pandemic does not allow building owners ample opportunity to plan for energy efficiency investments necessitated to comply with Bill 16-21. As an example, many buildings have prioritized moving more air through their space to maintain a healthier air standard. This practice will certainly increase energy costs and create new baselines for building energy performance. However, the prospect of lower building occupancies, which are difficult to predict at this time, may eventually reduce a building's energy usage.

### **Building Energy Performance Improvement Board**

Bill 16-21 proposes the establishment of a Building Performance Improvement Board to advise on the implementation of building performance standards. MCCC recommends the formal inclusion of business owners or those with commercial building experience to serve on that board and provide necessary expertise.

### **Allocation of County Funds for Compliance**

MCCC supports the elimination the County's energy tax. In lieu of doing that, MCCC contends that the money raised from this tax, which at one time was intended to be temporary, should be allocated to assist building owners in the financing and installation of technologies that meet the energy standards set forth in Bill 16-21. MCCC also supports the reallocation of other taxpayer revenue to help offset the costs that building owners will incur by the passage of Bill 16-21.

### **Share Cost Burdens Across Sectors**

Bill 16-21 unduly places additional burdens on one industry sector. MCCC proposes that the building owners can share some costs with tenants and other parties. Financing and installing energy efficiency technologies will be an expensive endeavor and the costs need not be borne by one sector.

### **Reinvest Penalties**

MCCC seeks language allowing monetary penalties for noncompliance be used for investment in efficiency measures. Additionally, the jail time requirement for noncompliant building owners in the bill should be removed. The specter of a six-month jail sentence for noncompliance is unreasonable and harms the County's business climate.

### **Alternative Compliance Pathways**

MCCC asks that the Council further examine scenarios where, for example, a business is already in the process of instituting carbon neutral plans for their buildings. Bill 16-21 should allow alternative pathways to prove energy standards compliance. The Council may also want to consider language recognizing that innovative industries, especially those with high growth rates like those in the life sciences industry, may also require significant energy usage that could complicate compliance.

As always, we stand ready to provide assistance to you during your deliberations.

Sincerely,



Georgette "Gigi" Godwin  
President & CEO  
Montgomery County Chamber of Commerce

cc: Members, Montgomery County Council