



Maine Real Estate &
Development Association

Supporting Responsible Development

Testimony in Opposition LD 240, An Act to Expand Broadband Internet Access Choice

January 9, 2023

Chairman Lawrence, Chairman Zeigler, and Honorable Members of the Energy, Utilities, and Technology Committee;

My name is Elizabeth Frazier, and I am before you today on behalf of the Maine Real Estate and Development Association (MEREDA). As a general matter, MEREDA supports the goal of this bill to provide good, stable connectivity for all Mainers. MEREDA is opposing LD 240 today based on the current language of the bill. That said, we feel there are changes that could be address our concerns, and I will attempt to lay those out for you in this testimony. We have also provided our feedback and are happy to work with both the sponsor and the proponents to address our concerns.

- **Property owner right to negotiate.** Existing language of the bill prevents property owners from negotiating or coordinating with a provider to ensure that energy efficiency, life safety, and other building design and construction elements relevant to installation of wiring are minimally impacted during construction. Here are some examples:
 - o Life safety concerns include proper fire stops for all wires, and the air-tight and insulation requirements stretch versions of the International Energy Conservation Code (IECC), as are currently used in Portland, South Portland, and Freeport. Maine communities could be moving to the more robust code as soon as next year, meaning that the issue of compliance will ultimately impact the whole state. Installation of wires solely at the discretion of the provider, could raise real concerns with life safety and energy code compliance, where providing the property owner an opportunity to negotiate the installation would help prevent compliance problems and reduce costs.
 - o Costs to the developer could include: necessary changes to engineering plans, which would be borne by the property owner under the current language, building materials to ensure proper seal, fire stop compliance, and aesthetics. We believe the costs could be minimized through open communication and negotiation between a property owner and the utility provider, and that the bill should clearly provide for such negotiation.

We believe allowing developers and/or building owners to negotiate the placement and installation of the wires directly with the provider will help alleviate these important concerns.

- **Compensation.** As previously stated, undue costs could be incurred by a developer/building owner to properly install wiring while maintaining energy efficiency standards and life safety code compliance. We believe existing provisions in this bill related to compensation are too restrictive and seem limited to the fair market value determination for the physical taking, and therefore should be revised to include the ability of the developer/building owner to request reimbursement to the commission for those related costs, in addition to the fair market value of the physical taking – likely de minimis.
- **Insurance and indemnification.** We appreciate that sections of this bill would indemnify and hold harmless a developer against any liabilities arising from the placement of the wires. However, we feel this section should address risk mitigation and adequacy of insurance to cover any indemnification costs.

As you can see, our concerns reflect the real world, on-the-ground reality for developers with respect to borne costs and the challenges of relinquishing control. However, we believe that the goal of connectivity and

accessibility are important, and we appreciate the state's interest in driving toward that goal. We ask that, as you consider this bill and the necessary changes, you also consider the practical and financial implications for housing creators. We would welcome the opportunity to work with you on any proposed language changes.

Thank you for your time and consideration of this important policy matter. We would welcome the opportunity to work with you on any proposed language changes.

Sincerely,

Elizabeth

On behalf of the Maine Real Estate and Development Association (MEREDA)