



Maine Real Estate &
Development Association

Supporting Responsible Development

In Opposition to LD 50, An Act of Provide the Right of First Refusal to Towns in Which the University of Maine System and Similar Quasi- independent State Entities Are Selling Property

February 10, 2025

Senator Baldacci, Representative Salisbury and Members of the Committee on State and Local Government

My name is Bev Uhlenhake, and I am a Government Affairs Consultant at Pierce Atwood. On behalf of the Maine Real Estate and Development Association (MEREDA), I am presenting the following testimony in opposition LD 50. I will note that while I'm representing MEREDA today, I also come to this podium with twenty years of experience as a broker and consultant in the commercial real estate industry, I have represented the University of Maine System in the listing of excess property (the former WT Grants building in Bangor), and I have served two terms on city council and two terms as mayor of the City of Brewer. I can see all sides of this issue and have worked all sides of this issue. I probably have significantly more than three minutes of things to say about this bill; feel free to ask me questions.

Let me first start by saying that I understand the frustration with the difficult situation that led to the proposal of this bill. The town of Belfast and its citizens were incredibly frustrated. That said, this bill cannot fix that situation, nor is it good policy going forward.

I'll first address the technical issues I see with the bill and then talk about good policy. I'll note that the title of the bill and the language within it speaks of requiring a "right of first refusal" but then goes on to define the process of a "right of first offer". The two concepts play out very differently in the real world, and mixing the two here could lead to problems. The terms are not interchangeable.

The bill then requires that the price of the sale be set by an independent appraiser but says nothing of the other terms of a potential sale. The sale of large commercial properties can be incredibly complex, and the negotiations include many other factors that cannot be captured in a price tag. From environmental concerns to the handling of tenants in the building to issues of timing and financing, there is much to be discussed that can't be captured or contemplated in a bill. I'll also note that in most negotiations of any size, the buyer is given the ability hire their own appraiser and then there are often provisions to further negotiate on the price, typically with the help of a third appraiser. That is not included here, and municipalities should be fighting for it if they really want this to work for them.

The timelines laid out in this bill are also problematic. Municipalities generally cannot respond within 30 days to a proposal like this unless the property under consideration is very small, and it is highly unlikely that the sale of the property could happen within three months. The internal processes alone within a municipality to get approval for the purchase of property would make this unworkable. Once negotiated and under contract, most commercial sales take significantly longer than three months, even when being considered by nimble, experienced developers.

For the reasons stated above, the proposed law would simply add time and cost to the seller and make it very unlikely that a municipality could ever take advantage of the process laid out therein.

Now, let's talk about good policy. There are a number of reasons that you shouldn't tie the hands of the University System or other entities by blanketly forcing them to sell to municipalities. For example,

- They might want to sell to a new private entity that is an off-shoot of their R&D efforts, a move that could ensure that the investment the State of Maine has made has long-term benefits for the State.
- They might want to sell a neighboring parcel to a private partner that would provide a synergistic use or produce something in which proximity plays a huge role in the cost or quality of the supply of the goods made by the partner.
- The parcel might be best in the hands of a housing developer, arguably one of the areas of highest need in our state.
- The leaders of the municipality, while good-intentioned, may not have the ability or the financial stamina to manage the property in the short term and position it for its next life in the long term. The problematic short timelines mentioned earlier are more likely to lead to poor decisions at the municipal level.
- The process of dealing with the machinations of a right of first offer or right of first refusal, while sounding like a great solution, typically just leads to delays and added costs and frustration on all sides when the outcome is not what they thought would happen.

For any other innumerable reasons, some of which we can't even begin to predict at the moment, dictating the disposition of real property is bad policy. This is a well-intentioned bill, and I would argue that working with the municipality in question is very good practice for the seller, but there is a clear distinction between that and this policy.

Thank you for your time and consideration in reviewing our comments. I'm happy to take any questions.

Sincerely,

Bev Uhlenhake
On behalf of Maine Real Estate & Development Association
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