



LD 1787, Resolve, Directing the Department of Agriculture, Conservation and Forestry to Convene a Stakeholder Group Tasked with a Comprehensive Overhaul and Modernization of the State Subdivision Statutes

Testimony in Support

May 9, 2023

Senator Pierce, Representative Gere, and Honorable Members of the Joint Select Committee on Housing,

My name is Elizabeth Frazier, and I am submitting this testimony on behalf of the Maine Real Estate & Development Association in support of LD 1787, Resolve, Directing the Department of Agriculture, Conservation and Forestry to Convene a Stakeholder Group Tasked with a Comprehensive Overhaul and Modernization of the State Subdivision Statutes.

MEREDA is a statewide, membership-based organization founded in 1985, whose members include real estate owners, for-profit and non-profit developers, bankers, property managers and other related professionals who are committed to supporting responsible development and real estate ownership throughout Maine. Through the work of its Public Policy Committee, MEREDA pursues a more fair, predictable, and practical policy environment.

LD 1787 proposes to tackle one of the biggest barriers to housing creation – soft costs. Creating housing costs more than just the value of the purchased land. Housing creators must pay for architectural and environmental engineering and design, traffic design, bankers, and lawyers before a single brick is laid. One of the biggest drivers of soft costs is the permitting process, which can drag on over months. In real estate development, time is money. The longer a project delays, the higher the costs.

The current subdivision laws are overly burdensome and primarily designed to address traditional single family home subdivisions. However, the breadth of the law is such that it covers all types of land which is subdivided into parcels or dwelling units. In recent years, MEREDA has worked on and successfully supported legislation that nibbles around the edges of the problem, but we strongly support the intent of LD 1787 to move forward with discussions of a complete overhaul.

A couple of important factors to consider when thinking about the role of state subdivision law:

- **What is the policy interest being effectuated under the state's police powers?** When state and local land use laws intersect, the state should have a clear reason for overriding local law. In the case of Shoreland Zoning and LD 2003, the state's interest is in addressing a statewide issue – the waters of the state and the statewide lack of housing availability respectively.
- **Is the policy crafted to narrowly address the state's interest?** The existing subdivision statutes are overbroad and deal with matters as specific as street lighting. While there is a rational argument that the state has an interest in ensuring access to a property (something the

subdivision statutes actually do not do, ironically) or protecting environmental features (like wetlands), the determination of what lighting is appropriate should be left to the local level.

- **Is the policy duplicative?** Taking the example of the lighting requirements, most towns have what are called “site plan” reviews, which include design requirements crafted to fit the appropriate local land use scheme and to address any concerns specific to the land or region.

MEREDA believes these are weighty issues, and worthy of discussion by a stakeholder group. The state certainly has some valid interests in governing the subdivision of real property – we believe a diverse stakeholder group can help narrowly tailor a subdivision overhaul that would protect the state’s interests while lowering barriers to housing creation at the local level.

Please vote Ought to Pass on LD 1787.

Thank you.

Sincerely,

Elizabeth M. Frazier

On Behalf of the Maine Real Estate & Development Association

