



**Martin O'Malley**  
*Governor*  
**Anthony G. Brown**  
*Lt. Governor*

**Margaret G. McHale**  
*Chair*  
**Ren Serey**  
*Executive Director*

**STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338  
[www.dnr.state.md.us/criticalarea/](http://www.dnr.state.md.us/criticalarea/)

October 6, 2014

Honorable Joan Carter Conway, Chair  
Senate Education, Health, and Environmental Affairs Committee  
2 West, Miller Senate Building  
Annapolis, Maryland 21401

Honorable Maggie L. McIntosh, Chair  
House Environmental Matters Committee  
251 Lowe House Office Building  
Annapolis, Maryland 21401

Honorable Roy Dyson, Senate Chair  
Joint Committee on the Chesapeake and Atlantic  
Coastal Bays Critical Area  
102 James Senate Office Building  
Annapolis, Maryland 21401

Honorable Barbara Frush, House Chair  
Joint Committee on the Chesapeake and Atlantic  
Coastal Bays Critical Area  
160 Lowe House Office Building  
Annapolis, Maryland 21401

Dear Senator Conway, Delegate McIntosh, Senator Dyson and Delegate Frush:

Senate Bill 795 and House Bill 1345, which became effective on June 1, 2004, were entitled *Chesapeake and Atlantic Coastal Bays Critical Area – Dwelling Units*. In § 8-1808.1 of the Natural Resources Article, the bills defined the term “dwelling unit” as it applies to the Critical Area, and they required all 64 local Critical Area jurisdictions to include all dwelling units within the calculation of residential density in the Resource Conservation Area (RCA). (You will recall that this density is limited to one dwelling unit per 20 acres.)

The purpose of this legislation was to deter a growing trend in Critical Area jurisdictions at that time – that is, the construction of an accessory dwelling unit, commonly referred to as an “in-law apartment” or “servants’ quarters,” within the perimeter of, or on the same lot as, a primary dwelling unit. With no minimum requirements, these accessory dwelling units often served as an additional primary dwelling unit, which, in effect, defeated the purpose of the Critical Area Program’s density requirement.

In § 8-1808.1(e)(2), the bills provided for one exception when calculating the density limit. This exception authorizes, at the local jurisdiction’s discretion, one additional dwelling unit per lot or parcel, in addition to the primary dwelling, if the additional dwelling meets certain criteria for size, location, and waste disposal.

Under this legislation, specifically at § 8-1808.1(e)(3)(i), local jurisdictions are required to maintain records of additional dwelling units permitted under the exception and to report this information to the Critical Area Commission on a quarterly basis. In subsection (e)(3)(ii), the Commission is, in turn, required to report annually to the General Assembly on the construction of these additional dwelling units.

It has recently come to our attention that our last report was filed on December 4, 2009. For this oversight I sincerely apologize. Please accept this letter to cover the period from December 5, 2009 through the current date.

Our research indicates the following background information:

- Charles, Kent, Talbot, and Worcester Counties are the only jurisdictions that have amended their local Critical Area programs to allow for an additional dwelling unit in the Resource Conservation Area. We do not expect any other jurisdiction to do so.
- From November 1, 2004 through November 3, 2008, Talbot County was the only jurisdiction to approve dwelling units under the applicable provisions of the law, and their total number of dwelling units was minimal – only two.
- From November 4, 2008 to date, no jurisdiction has approved dwelling units under this exception, and we do not expect any jurisdiction to do so.

Given the above trends which demonstrate that the prior “piggyback” practices have ended, we regard § 8-1808.1(e)(2) of the 2004 legislation to have accomplished its goal: the limited circumstances when an accessory dwelling unit is allowed in the RCA have been clarified, and the Commission is satisfied that the language in subsection (e)(2) has fully resolved the issue. Consequently, we regard both reporting requirements under subsection (e)(3)(i) and (ii) to have outlived their usefulness, and the Commission would support repeal of these reporting requirements.

October 6, 2014

Page 3 of 3

The Critical Area Commission greatly appreciates the support of your Committees, and we look forward to working with you during the upcoming legislative session. If you have questions about the program or need additional information on the particular reporting requirements covered in this letter, please contact me at (410) 260-3460 or [margaret.mchale@maryland.gov](mailto:margaret.mchale@maryland.gov) or Ren Serey, the Commission's Executive Director, at (410) 260-3462 or [ren.serey@maryland.gov](mailto:ren.serey@maryland.gov).

Sincerely,



Margaret McHale  
Chair

cc: Honorable Thomas V. "Mike" Miller, President of the Senate  
Honorable Michael E. Busch, Speaker of the House  
Sarah Albert, Department of Legislative Services, Library Division – 5 copies  
Rich Norling, Legislative Director, Department of Natural Resources