

The Abell Report

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Maryland's Property Transfer Tax – Baltimore City deserves a fair share of the explosive growth of the Maryland Property Transfer Tax revenue collected. It isn't getting it.

By William S. Ratchford, II

ABELL SALUTES: “The Environment Integrity Project” for doing what it does best – forcing polluters to clean up their acts

The Patuxent Riverkeeper, Fred Tutman, was the first to notice the stacks of Mirant Energy's Chalk Point Generation Station belching sooty smoke in the skies above Chalk Point in Prince George's County. Others living and working in the region, members of the Chesapeake Climate Action Network, saw it and reported that they were getting complaints. What the region was witnessing was the discharge into the atmosphere of toxic chemicals-- sulfur dioxide and nitrogen oxide. Enter Environment Integrity Project (EIP), which proceeded to do what it does best: forcing polluters to clean up their acts.

According to Eric Schaefer, Executive Director of EIP, “We filed notice of intent to sue for failure to comply with emissions limits for opacity or soot. As a result of the threat of the suit, the plant will switch from fuel oil to relatively clean natural gas during the summer ozone months. The state has acknowledged that our enforcement action was the catalyst for the clean-up.”

EIP has a growing record for getting results. In July, responding to EIP's

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In a far-sighted decision, in 1969 the Maryland General Assembly passed legislation creating a state property transfer tax. Few steps ever taken by the legislature have done as much to give the public access to open space, provide recreational opportunities and preserve agricultural lands from the pressures of development. Today, the state transfer tax revenue continues to provide an enormous benefit to the citizens of the state. The tax, which is levied on nearly all transfers of real property in Maryland, generated \$7.3 million in 1970. As the state grew and property values increased, revenues from the tax increased to \$103 million in 2001. The soaring real estate market generated tax revenues of \$270 million in the 2006 fiscal year. Estimates for the current fiscal year are \$264 million.

The 1969 legislation mandated that proceeds from the transfer tax be used to pay for the purchase of undeveloped land, with a share of the proceeds spent by the state and the remainder divided among the counties and Baltimore City to encourage local land preservation and pay for local parks projects. However, on several occasions, governors and legislators dipped into the proceeds of the transfer tax to pay for other obligations of state government. In all, \$860 million in transfer tax revenue was redirected to other uses over a two-decade period. Only 10 percent of these redirected funds will ever be “repaid” so that they

can be used for the originally intended purposes. This has significantly reduced the ability of the state and local governments to protect open space and create new parks and recreational facilities. While the diverted transfer tax revenue certainly went to fund important state activities, it is distressing to consider how much open space protection could have been achieved with the use of that \$860 million.

In analyzing the intricate formula used to distribute property tax revenues in Maryland, it is apparent that Baltimore City is not treated fairly. This is due to longstanding assumptions that should be revisited. Ensuring that each jurisdiction receives an appropriate share of the transfer tax revenues is not simple, but the procedures now in place are unfairly penalizing Baltimore City, perhaps the most financially challenged jurisdiction in the state.

In the 2006-2007 budget year, Baltimore City will receive \$12.2 million from the main program funded by the transfer tax – Program Open Space – or 3.3 percent of the total state property transfer tax available. By comparison, the state property tax collected in Baltimore City and appropriated in fiscal year 2007 totals \$22.5 million, or 6.1 percent of revenues.

By not providing a fuller share of the proceeds, state officials are limiting the financially strapped city govern-

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ment's ability to provide critically needed open space-related amenities to maintain Baltimore's ongoing rejuvenation.

This report makes the following key recommendations:

1. The governor and General Assembly should in the future resist diverting funds from the state property transfer tax revenues; these funds should continue to be used as intended – to preserve open space, protect farmland, and provide critically needed park and recreation facilities. Such an approach has grown only more imperative in recent years as more and more of the state's open space is eaten away by development.
2. State law requires that Baltimore City receive at least \$1.5 million from the state's share of transfer tax funds. This "minimum" allocation has held steady even though total transfer tax revenues have soared dramatically. The city's share of this allocation should be increased to between \$5 million and \$7 million.
3. The state allocation of the Program Open Space funds to the counties and Baltimore City includes a penalty for jurisdictions with declining population. This factor reduced the City's share by \$3.3 million in fiscal 2007 – the only such reduction of a local jurisdiction's share in the state. Maryland policymakers should revise the rules to avoid penalizing Baltimore City in this way.
4. The state government allocates 3 percent of transfer tax revenues to certain state agencies for the costs of administering Program Open Space and other conservation programs. This 3 percent administrative cost figure may be excessive now that annual property transfer tax revenues are in the range of \$200 million to

\$250 million. Freeing funds not needed for administration could allow state and local governments to devote more money to land preservation and related initiatives.

5. The General Assembly has repeatedly failed to close a loophole that corporations use to avoid paying transfer taxes on property transactions. Eight states and the District of Columbia have passed legislation to close similar loopholes. The state and local jurisdictions lost nearly \$60 million in unrealized transfer tax collections in 2005, according to the General Assembly's fiscal analysts. It is time for the legislature to close the loophole.

This report summarizes the history and background of the state transfer tax, details how its revenues are spent or distributed to local governments, and considers problems with how the tax is applied.

History and Background

The General Assembly established the state property transfer tax in 1969 to provide a dedicated funding source for both the state and local governments to acquire land for parks and recreation areas, and to develop facilities on those properties. Its main creators were state Senators James Clark of Howard County and William S. James of Harford County, lawmakers who were concerned about the threat that onrushing development posed for Maryland's open spaces.

The tax has provided revenue that has funded a long list of important state acquisitions – such as Wye Island in Queen Anne's County and Fair Hill in Cecil County. The state also used the revenue to add to existing state parks in highly developed areas – such as Seneca in Montgomery County, Gunpowder in Baltimore and Harford counties, Patapsco in Baltimore, Carroll, and Howard counties and Patuxent in Anne Arundel and Prince George's counties. A vast

array of local parks and open space projects has also been funded by the tax.

The tax of 0.5 percent is generally applied to the value of real property transfers in the state. However, beginning in 1987, the legislature has exempted certain properties from the transfer tax to reduce the burden of closing costs on buyers. Today, the state waives half of the tax for first-time homebuyers. In those transactions, the tax rate is only 0.25 percent and the seller pays the tax. Other transactions are exempt from the state property transfer tax and from the local recordation and property transfer taxes. For example, transactions in which properties are transferred to a governmental or public entity are not taxed, nor are transactions between spouses and certain relatives or those that take place as part of a business merger or consolidation.

In almost all cases, the clerk of the court in each county and Baltimore City collects the property transfer tax when the deed is filed with the clerk's office. In a small number of cases, the Department of Assessments and Taxation collects the tax – when articles of sale that include real property are filed with the department.

Transfer Tax Revenue

The state property transfer tax has been a major source of state revenue – a total of \$2.8 billion over the past 38 years. In the past several years, that revenue stream has grown dramatically, as home values soared, thanks largely to low mortgage interest rates. In 2006, the tax generated \$270 million in revenue. Table 1 on page 3 details the annual collections.

During the recent real estate boom, the share of state property transfer tax revenues collected on Baltimore City transactions has grown significantly – from 4.23 percent of all revenues in 2003 to 6.28 percent in 2006 – and totaled nearly \$17 million in 2006.¹ See Table 2 on page 3.

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As discussed later in this report, revenues from the tax were initially allocated to Program Open Space. This program, administered by the Department of Natural Resources with assistance of other state agencies, purchases undeveloped land around the state to preserve as open space or for park and recreational uses. Over time, the legislature has directed that some of the transfer tax revenue be used for other land preservation programs – the purchase of easements on agricultural land, the state’s Rural Legacy land conservation program, and the state’s Heritage Conservation Areas program. Today, Program Open Space still receives more than 75 percent of the transfer tax revenues.

Table 1: State Transfer Tax Revenues Collected, FY 1970-2006

Fiscal Year	Amount	Fiscal Year	Amount
1970	\$ 7.3	1989	\$ 78.8
1971	8.8	1990	69.9
1972	11.6	1991	55.4
1973	15.0	1992	58.4
1974	14.5	1993	62.9
1975	12.9	1994	72.9
1976	16.7	1995	74.2
1977	20.5	1996	65.5
1978	24.4	1997	67.2
1979	27.3	1998	81.1
1980	28.4	1999	93.2
1981	27.7	2000	97.8
1982	23.3	2001	102.9
1983	29.0	2002	122.4
1984	44.9	2003	140.9
1985	46.1	2004	181.4
1986	54.6	2005	237.3
1987	74.0	2006	270.0
1988	77.7	2007 (estimate)	264.5
		2008 (estimate)	188.6

(Data are in millions of dollars)

Table 2: State Transfer Tax Revenue Collected in Baltimore City, FY 2000-2006

Fiscal Year	Total Revenue	Baltimore City	% of Total
2000	\$ 97.8	\$ 5.1	5.30%
2001	102.9	4.9	4.74%
2002	122.4	5.4	4.43%
2003	140.9	5.9	4.23%
2004	181.4	8.7	4.80%
2005	237.3	12.7	5.35%
2006	270.0	16.9	6.28%

(Data are in millions of dollars)

Transfer Tax Diversions to the General Fund

Maryland policymakers have dipped into state property transfer tax revenues and used significant portions for state spending not related to open space or land preservation during three periods – the mid-1980s, the early 1990s, and the mid-2000s.

This trend began in 1984, when the legislature amended the statute to divert a portion of the transfer tax revenues into the state’s general fund, which pays for state operations, entitlements such as medical assistance and foster care, and grants to local entities such as counties, Baltimore City, municipalities, school boards, library boards, and community college boards. In 1990, the General Assembly phased out the fund diversion (effective by 1995).

However, during a budget crunch in the early 1990s, the legislature modified the law once again to allow transfer tax funds to be diverted to the general fund through 1997. Finally, during the past five years, the state again diverted significant amounts of transfer tax revenues to general state operations. Diversions to the general fund are set forth below in Table 3.²

To summarize, the state diverted \$408 million in transfer tax revenues to the general fund between 1985 and 1997. During the budget shortfalls of fiscal 2002 through fiscal 2006, the state diverted another \$479 million to the general fund. After

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Table 3: Transfer Tax Diversions to General Fund, FY 1985-2006

Fiscal Year	Total Revenue	Programs	General Fund
1985	\$46.1	\$ 26.2	\$19.9
1986	54.6	24.0	30.6
1987	74.0	24.0	50.0
1988	77.7	29.0	48.7
1989	78.8	39.0	39.8
1990	69.9	39.0	30.9
1991	55.4	14.7	40.7
1992	58.4	35.3	23.1
1993	62.9	8.3	54.6
1994	72.2	37.2	35.0
1995	74.2	52.6	21.6
1996	65.5	59.2	6.3
1997	67.2	60.7	6.5
2002	122.4	96.1	11.3 (over attainment)
2003	140.9	33.8	47.3
			38.7 (over attainment)
			3.0 (state projects)
			18.8 (agricultural land)
2004	181.4	81.3	102.8
2005	237.3	69.5	125.9
			41.9 (over attainment)
2006	270.0	180.0	68.2
			21.8 (over attainment)

(Data are in millions of dollars)

various other budget maneuvers are taken into account, the bottom line is that during the five-year period this decade a net total of \$451.8 million was diverted from open space and land preservation programs. The recent five-year diversion was allocated as follows in Table 4.

Looking back over the past two decades, through its budget decisions, Maryland has diverted \$860 million that otherwise would have been used to preserve open space, save farmland, or provide park and recreational facilities.

It appears unlikely that the state will “repay” the money diverted from open space-related uses. In 2005, the legislature enacted a measure requiring that the state first repay money diverted to the general fund from the state’s transportation trust fund. That repayment to the transportation fund is expected to continue through 2011, meaning the first repayment to Program Open Space and other funds would not occur until 2012. In any case, the state is obligated to repay only the \$90 million diverted from the open space accounts in 2006 and any amounts diverted in the future.

Environmental groups have long decried the use of transfer tax revenues for other state purposes. Governor Martin O’Malley has expressed his intent to avoid diverting these funds for purposes not related to land preservation or park and recreation enhancement.

A Loophole for Corporate Transfers

For many years, the legislature has tried unsuccessfully to close a provision in the law that allows corporations to transfer properties and avoid paying the state property transfer tax. Under current Maryland law, corporate entities can transfer properties by selling the controlling interest in an entity that actually owns the title.

Cases have been documented in which corporate property owners seeking to sell a piece of real property have

created a new corporate entity whose only asset is that property. Rather than sell the property directly, the corporation transfers controlling interest in the newly created subsidiary to a buyer. The real property is considered merely an asset of the transferred corporate entity; as such, under Maryland law, the new owners of the subsidiary – and the real estate – are not required to pay the transfer tax. Some of the properties that have changed hands without a transfer tax levy are high-value commercial properties that otherwise would have been subject to large transfer tax bills.

The revenue lost through this loophole is significant, although exact estimates are difficult to establish. In 2005, the Department of Legislative Services estimated the state would realize \$13.6 million in additional annual property transfer tax revenues if the law were changed. The department also estimated that the counties and Baltimore City would realize an additional \$46 million in property transfer and recordation tax revenues.

During three of the last five legislative sessions, the state House of Delegates has passed a measure seeking to close this loophole, but each time the bill died in the state Senate. To date, seven states – California, Connecticut, Delaware, Illinois, New York, Pennsylvania, and Washington – and the District of Columbia have enacted laws making these corporate transfers of commercial properties subject to transfer and recordation taxes.

Spending the Proceeds

When the state transfer tax was created, the proceeds were initially allocated solely to Program Open Space. In those early years, the state issued bonds to fund land purchases, with the bonds repaid by transfer tax revenues. The state moved away from that financing method and the last of those bonds was paid off in 2001.

In 1977, the General Assembly created the state’s agricultural land preservation program to combat the encroachment of development on farmland in many areas of Maryland. To help fund that program, the legislature earmarked a portion of the state share of Program Open Space spending to agricultural land preservation.³ At the end of the 2007 fiscal year, the state estimated that a total of 495,000 acres of farm and forestland will be under preservation easements. There are no agricultural easements in Baltimore City.

In 1990, the legislature amended state law to formally dedicate a share of the state property transfer tax revenue to agricultural land preservation and the state’s heritage conservation fund. The purpose of that fund is to acquire property or a conservation easement for property such as forestlands, unique ecological areas, areas of natural scenic beauty, wetlands, wilderness areas, and land whose conversion to development would affect water quality or natural habitats.

Finally, in 1997, at the urging of Governor Parris N. Glendening, the legislature earmarked another share of the transfer tax revenues for a new Rural

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Table 4: Program Allocations Diverted to General Fund, FY 2002-2006

	Transfer Tax	Prior Allocation	Bond Funds	Total Diversion
State open space	\$184.9	\$18.0	\$(17.3)	\$185.6
Local open space	180.2	---	(12.7)	167.5
Rural legacy	24.0	---	(7.0)	17.0
Heritage conservation	8.6	---	(1.2)	7.4
Agricultural land	81.7	18.8	(26.2)	74.3
<i>(Data are in millions of dollars)</i>	\$479.4	\$ 36.8	\$(64.4)	\$ 451.8

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Legacy program. The purpose of the program is to provide funding to county governments and conservation organizations such as land trusts to purchase property and conservation easements in an area designated as a “rural legacy.” A rural legacy area must have resource-based industries such as agriculture, forestry, recreation, and tourism and zoning and growth management policies that contribute to land conservation and the availability of matching funds. It is worth noting that Baltimore City has no designated rural legacy properties.

The state has established an intricate system for allocating the revenue from the state property transfer tax to various programs. First, the state estimates how much revenue will be collected in the coming year. From that number, 3 percent is subtracted to cover the costs of administering programs funded by the revenue in various state departments. The amount that is left over is allocated as follows:

Transfer Tax Allocations to Programs

- 76.15% - Program Open Space
- 17.05% - Agricultural Land Preservation
- 5.00% - Rural Legacy Program
- 1.80% - Heritage Conservation Fund
- 100.00%

In the 2007 budget, those allocations translated to the budget amounts shown in Table 5.

Considering the significant growth in transfer tax collections in recent years, state policymakers should revisit the mandate that 3 percent of these revenues be dedicated to administer Program Open Space and related programs. The funds, which are allocated among the Departments of Natural Resources, General Services, and Planning, total nearly \$8 million in the 2007 fiscal year. If revenue from the property transfer tax remains in excess of \$200 million a year, the 3 percent fee for administrative costs may be excessive.

Program Open Space

Program Open Space is by far the largest program funded by the property transfer tax. In the 2006-07 budget year, the program will receive a total of \$271 million.

Of that total, up to \$3 million can be transferred to the Maryland Heritage Areas Authority, which works to leverage non-state investment in the protection and compatible development of Maryland’s natural, historical, and cultural resources, generating economic development through place-based tourism. The remainder is divided, roughly in half, between the state and local governments.

In 2006-07, the state received \$137.8 million and local governments received \$134 million for Program Open Space. The state expends its share of the Program Open Space funds based on several requirements in the law. A portion may be allocated to the Historic St. Mary’s City Commission, which oversees historic sites in that Southern Maryland city. The state must also dedicate at least \$1.5 million of the state share of Program Open Space funds to Baltimore City to be used for land acquisition or

development. The state also allocates \$8 million to the Rural Legacy Program.

The balance of the state share is used largely for capital projects and land acquisition consistent with the master plans for various state parks and forests. This year, for example, the state is paying for a variety of capital projects, including projects at Point Lookout Park in St. Mary’s County and at Gunpowder Falls Park in Baltimore County.

Overall, in fiscal year 2007, the state’s expenditures for Program Open Space are broken down as follows:

2007 Program Open Space

State Allocation

State land acquisition	\$112,218,384
Baltimore City	1,500,000
Rural Legacy	8,000,000
Capital projects	16,041,000
Total	\$137,759,384

As mentioned above, the decision to divert Program Open Space funds to the state’s general fund during the past four years significantly hurt the state land acquisition program. Table 6 below shows the amount of funds allocated to land acquisition during this period; the

Table 5: Transfer Tax Budget Allocations, FY 2007

Fiscal 2007 revenue estimate	\$264,491,000
Less 3% for administrative expenses	(7,934,730)
Fiscal 2005 over attainment of revenues	104,453,151
Total revenues	\$361,009,421
Program Open Space	\$271,298,580
State land acquisition	3,610,094
Agricultural Land Preservation	61,552,106
Rural Legacy	18,050,471
Heritage Conservation Fund	6,498,170

Table 6: State Land Acquisition Budget, FY 2003-2007

Fiscal Year	POS Funds	Federal Funds	Bond Funds	Total
2003	\$ 7.4	\$1.0	\$ ---	\$ 8.4
2004	---	1.0	12.7	13.7
2005	---	1.0	---	1.0
2006	23.1	2.0	---	25.1
2007	112.2	2.0	---	114.2

(Data are in millions of dollars)

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fiscal year 2007 allocation of \$114.2 million marks a dramatic increase. Dollars are in millions.

The chart below shows the number of acres of land the state has been able to acquire during the past three years and the amounts it is expected to acquire this year and next.

Fiscal Year	Acres Acquired
2003	2,608
2004	4,107
2005	1,697
2006 (estimate)	4,427
2007 (estimate)	8,540

Local Program Open Space Allocation

Roughly half of the Program Open Space funds are returned to local governments to pay for local projects related to land preservation or for park and recreational purposes.

The counties and Baltimore City receive their annual allocations of this “local share” based on a formula determined by a committee appointed by the governor. The committee consists of nine members – two senators, three delegates, and four members appointed by the governor. Although state law indicates the committee is to meet annually, in practice the state has continued to use the same formula for a number of years.

The allocation formula that has been in place for that time establishes a preliminary grant to each local jurisdiction based on its largest grant from Program Open Space between 1970 and 1982 in proportion to the largest grants for all other jurisdictions.

The formula then adjusts the grants for jurisdictions losing population – Allegany County and Baltimore City – based either on the lesser of the initial allocation or an amount representing the proportional distribution in fiscal 1982. This can result in a reduction of funds for these jurisdictions and indeed has meant a loss of funds for Baltimore City in recent years – a penalty directly relat-

ed to the city’s loss of population.

The aggregate statewide reduction is then allocated in proportion to the property transfer tax collected by each jurisdiction in the second prior year. The revised preliminary allocation and second allocation are added to determine the final allocation for each jurisdiction.

Looking at Baltimore City’s share in fiscal year 2007, the calculation starts with an initial allocation of \$14.1 million, or 10.54 percent of the total. This was based on the city’s maximum grant share during the period from 1970 to 1982.

However, the formula adjusts the allocation to reflect the maximum share of the local program grant that Baltimore City received during that period – which was 7.82 percent in 1982. That meant that Baltimore City’s initial allocation was reduced to \$10.5 million, a difference of \$3.6 million.

The formula then went on to distribute that \$3.6 million among the twenty-four jurisdictions, with each share determined by the proportion of the property transfer tax collected in fiscal year 2007. Baltimore City received \$194,806 from this second allocation, bringing its total grant to \$10.7 million. Although Allegany County has also lost population, that county’s proportion of the fiscal 1982 grant is greater than the proportion of the county’s maximum grant received during the period from 1970 to 1982. That meant Allegany did not pay a penalty because of a declining population.

Baltimore City has unique characteristics with respect to park recreational facilities. Due to the foresight of city officials many years ago, the city has a large amount of parkland. However, many park and recreation facilities are old and require significant maintenance and periodic rehabilitation. At the same time, there are no state parks in Baltimore City. To partially account for this, the state allocates a separate grant – in addition to the local share of Program Open Space – to assist with Baltimore City’s recreation and open space costs. Overall, Baltimore City will receive \$12.2 million from Program Open

Space in the 2007 fiscal year, including this \$1.5 million grant from the state’s share of Program Open Space.

The allocations for fiscal year 2007 for the 23 counties and Baltimore City are shown in the chart below. The amount for Baltimore City does not include the \$1.5 million that the state contributes from the state share; including that brings the total for Baltimore City to \$12.2 million.

County	Allocation	% of Total
Allegany	\$ 1.5	1.11%
Anne Arundel	16.1	12.04%
Baltimore City	10.7	7.97%
Baltimore	18.2	13.56%
Calvert	1.6	1.21%
Caroline	.7	0.53%
Carroll	3.6	2.71%
Cecil	1.9	1.40%
Charles	3.3	2.47%
Dorchester	.6	0.46%
Frederick	3.8	2.87%
Garrett	.7	0.56%
Harford	5.3	4.02%
Howard	9.5	7.11%
Kent	.4	0.34%
Montgomery	24.3	18.11%
Prince George’s	20.6	15.36%
Queen Anne’s	.9	0.73%
St. Mary’s	1.8	1.37%
Somerset	.4	0.33%
Talbot	1.0	0.77%
Washington	2.9	2.14%
Wicomico	1.9	1.42%
Worcester	1.9	1.41%
Total	\$134.1	100.00%

As mentioned earlier, Baltimore City’s total share amounts to 3.3 percent of the property transfer tax revenues supporting the program. By comparison, 6.1 percent of the property transfer tax revenues budgeted in the 2007 fiscal year, \$22.5 million, were collected in Baltimore City.

The variance between what Baltimore City receives and the revenues generated within the city reflect three factors:

1. In 2005, state law established that

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Baltimore City is to receive a minimum of \$1.5 million from the state's share of Program Open Space funds to account for the fact that there are no state parks within the city limits. Prior to that date the amount was discretionary and ranged from \$1.2 to \$1.5 million. However, that "minimum" is now viewed, in effect, as a maximum, although the governor has the discretion to request a larger amount. The \$1.5 million figure may have been realistic when annual transfer tax revenue collections were in the range of \$50 million to \$70 million. But with annual revenue collections reaching \$250 million, the city's share of the state Program Open Space allocation should be adjusted to between \$5 million and \$7 million.

2. The penalty for declining population used in the formula for the local allocation of Program Open Space reduced Baltimore City's local share by \$3.4 million.
3. Approximately 24 percent of the revenues from the state transfer tax are used for programs that are not applicable in Baltimore City – agricultural land preservation, Rural Legacy, and the Heritage Conservation Fund. The fact that Baltimore City is not even eligible for a quarter of the spending from the transfer tax revenues buttresses the notion that the state should increase its grant to the city from the state share of Program Open Space.

Program Open Space – Local Program

State officials from the Department of Natural Resources, the Department of Planning, and the Board of Public Works must approve each local jurisdiction's spending plan. To guide their project selection for land acquisition or park development, local governments are required to submit Land Preservation, Park, and Recreation Plans to the Mary-

land Department of Planning that set out goals for land acquisition. Local governments must revise these plans at least every six years and incorporate them in the jurisdiction's comprehensive plans.

Each county must use at least half of its allocation for land acquisitions. Local matching funds are not required for land acquisition but local governments must try to obtain federal funds. A county may use the other half of its allocation for land acquisition or development projects and 20 percent of the funds may be used for capital renewal (but not routine maintenance).

Baltimore City may use its allocation of Program Open Space funds for operation and maintenance of park and recreation facilities in addition to land acquisition and development. Baltimore City is not required to use a portion of the allocation for land acquisition because it has already met the requirements for park acreage established in its land preservation and parks plan.

In fiscal year 2007, the state is allocating \$134 million as the local share of Program Open Space – a record amount that is due to increased revenues from the transfer tax and to the fact that state officials are not diverting these revenues to other purposes beyond land preservation-related activities. By comparison, during the 1990s and the early 2000s, total revenues were in the range of \$70 million to \$100 million annually and the local share for the counties and Baltimore City ranged from \$25 million to \$35 million.

In fiscal year 2007, the local share of Program Open Space will pay for an estimated 115 open space projects, a number that may well rise, given the large transfer tax collections in the past year.

Baltimore City Spending on Parks and Recreations Programs

Baltimore City is fortunate to have a large number of impressive parks and recreational facilities – an inventory that includes 46 recreation centers and 13 special facilities such as indoor pools

and soccer pavilions. However most of these facilities are old and need major repair. Indeed, the city has built only one new recreation center in the past 30 years. The Baltimore Department of Recreation and Parks estimates that it would cost at least \$154 million to undertake a basic restoration of existing park and recreation facilities. That does not include the cost of other projected needs, such as completing the city's greenway system, renovating athletic fields, or creating new facilities such as skateboard parks. Several factors make it more expensive to maintain the park and recreation system in the city. For one, many park buildings are old enough to be considered historically significant; renovating them to the standards required by local or state historical preservation agencies can add significant costs. In addition, modernizing such facilities – for example, making them accessible to people with disabilities – can be more expensive than building new facilities.

The city's capital budget for parks and recreation in 2006 totaled \$8.6 million. For this budget, Program Open Space accounted for \$4.2 million, with a combination of local and other funds accounting for the remainder. In fiscal year 2007, the parks and recreation capital budget totals \$27.8 million. Roughly half of that budget will be covered by Program Open Space funding, which is increasing significantly this year. Recent projects that Program Open Space helped finance include major renovations to the pool facilities in Patter-son Park and Clifton Park.

The city parks department appears well positioned to spend additional funds from Program Open Space on important parks and recreation projects as detailed in community-approved master plans for major parks – and not on basic operating expenses, although that is allowed under state law.

Although the parks system has enormous capital needs, local revenues are often unavailable because of other press-

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ing needs in Baltimore. More Program Open Space funds would be put to good use in refurbishing these facilities and improving the quality of life in Baltimore. More broadly, successfully rehabilitating Baltimore's open spaces and retaining and attracting new residents to the city will significantly reduce the pressure for new housing in undeveloped areas.

Recent investments in Patterson Park and Druid Hill Park have demonstrated the value of parks as neighborhood and community assets, raising property values and corresponding tax collections, including transfer taxes. Improvements to parks and recreation facilities can help bring about similar change in other communities, and should be considered a priority by both city and state leaders.

Conclusion

The state property transfer tax has proven an extremely valuable and much-needed revenue source that has played a critical role in preserving roughly 500,000 acres of Maryland farmland, and large amounts of open space and other environmentally sensitive areas. It also has helped create a strong system of state parks and recreational facilities and has contributed to Baltimore City's upkeep of its impressive, but costly to maintain park system.

Too often, state officials have taken these funds that are so vital to land preservation, heritage conservation and preserving park and recreation facilities and used them for other purposes. This should not continue. Development pressures continue to build within the state, pressures that will continue to eat up precious open space.

The legislature also should take steps to close loopholes allowing corporations to avoid paying the transfer tax on commercial properties.

Finally, state officials should re-examine the longstanding and outmoded formula that directs how transfer tax revenues are distributed to local governments. Baltimore City's share is unfairly low, due to quirks in the law and official practice. This should be re-examined and corrected.

About the Report

The fiscal information in this report was developed by William S. Ratchford, II, an Annapolis-based consultant. Mr. Ratchford served for 23 years as the director of the Maryland General Assembly's Department of Fiscal Services, which analyzes state budgets and spending.

¹ This is based on data from the Administrative Office of the Courts. The does not include any property transfer tax revenues collected by the Department of Assessments and Taxation from corporate transfers of property. Those collections generally total less than \$1 million for transactions statewide.

² The data reflect the diversions that occurred during the fiscal year indicated whereas the total revenues reflects the actual revenues some of which would have been appropriated in the second subsequent fiscal year. Over attainment indicates a portion or all of the revenues collected in excess of the estimate for prior years that were allocated to the general fund in the fiscal year indicated.

³ In 1981 the General Assembly enacted a separate agricultural land transfer tax.

"Maryland's Property Transfer Tax" is available on The Abell Foundation's website at www.abell.org or: write to The Abell Foundation, 111 S. Calvert Street, 23rd Floor, Baltimore, MD 21202

ABELL SALUTES

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pressure, Allegheny Power agreed to a massive cleanup of the Hatfield's Ferry plant by installing scrubbers that will reduce sulfur dioxide emissions by approximately 145,000 tons per year.

Mr. Schaefer says, "Support from the Abell Foundation has made it possible for EIP to fight for enforcement of the Clean Air Act right here in Maryland, where too many neighborhoods suffer from unhealthy levels of air pollution. Enforcement can help bring our environmental laws to life, make our air safer to breathe, and promote the cleaner technologies we need in the twenty-first century.

"The Maryland Department of the Environment has promised to revise its current enforcement policy, which effectively prevents the state from enforcing its own emission standards for soot. The state agreed to do this after we filed our lawsuit against Chalk Point. So we got two for the price of one: a cleanup of the Chalk Point plant, and withdrawal of a policy that prevents MDE from enforcing its own soot standards against other facilities. The policy hasn't actually been revised yet, but I think we have a pretty ironclad commitment from the state to do so."

The Environmental Integrity Project is a non-partisan, non-profit organization established in March 2002 to advocate for more effective enforcement of environmental laws. The organization was founded by Mr. Schaefer with support from the Rockefeller Fund and over time by other foundations, including The Abell Foundation. It lists three objectives: to provide objective analysis of how the failure to enforce or implement environmental laws increases pollution and affects the public health; to hold federal and state agencies as well as individual corporations accountable for failing to enforce or comply with environmental law; and to help local communities in key states obtain the protection of environmental laws.

EIP's work has been cited in Congressional hearings and in reports by the U.S. General Accounting office, and in frequent news articles. EIP periodically evaluates the effectiveness of federal and state environmental programs, offering recommendations for improvement while recognizing outstanding performance.

EIP works with grassroots organizations across the country and is significantly expanding in Maryland.

The Abell Foundation salutes the EIP and Executive Director Eric Schaefer for doing what they do best — forcing polluters to clean up their act.