

**Mayor and Council of Federalsburg
Monday, October 17, 2022
Workshop @ 6:00 P.M.**

This Meeting is being held at the Mayor and Council Meeting Room located at 118 North Main Street. Citizens who wish to participate by video shall follow directions listed below:

Join Zoom Meeting

<https://us02web.zoom.us/j/81365393237?pwd=ZG5sNWZBUGRqWjIWTWIyWHBEMURXdz09>

Meeting ID: 813 6539 3237

Passcode: TOFWork

Agenda

- I. Call to Order**
- II. Public Comment**
- III. Proposed Election District Discussion**
- IV. Quit Claim Deed Request for Hayman Drive**
- V. Mayor and Council Action Items**
 - * Councilmember Windsor**
 - * Councilmember Sewell**
 - * Councilmember Phillips**
 - * Councilmember Willoughby**
 - * Mayor Abner**
- VI. Adjournment**

NOTES:

THE MEETINGS ARE BEING RECORDED, PLEASE TURN OFF ALL CELLULAR DEVICES AND PAGERS DURING THE MEETING, PLEASE REMAIN QUIET, UNLESS ADDRESSING THE COUNCIL.

Please Note: Pursuant to the Annotated Code of Maryland, State Government Article Section 10-508(a), the Council by majority vote may retire to executive or closed session at any time during the meeting. Should the Council retire to executive or closed session; the chair will announce the reasons and a report will be issued at a future meeting disclosing the reasons for such session. Meetings are conducted in Open Session unless otherwise indicated. All or part of Mayor and Council meetings can be held in closed session under the authority of the state open meetings law by vote of the Mayor and Council.

Rules for Public Comment

The Mayor and Council invite and welcome comments at public meetings. The Mayor or presiding officer will recognize you. Please introduce yourself at the podium (spelling your last name, for recording purposes) and give the name of your street and block number (e.g., 100 block of Main Street).

Time limits for speaking are indicated on the meeting agenda. While speaking, please maintain a courteous tone and avoid personal attack.

TO: Mayor & Council Members
FR: Larry DiRe, Town Manager
DT: October 17, 2022
RE: Proposed Election District Discussion

On September 7, 2022 the Caroline County Chapter of the NAACP, the Caucus of African American Leaders, and the Maryland Chapter of the American Civil Liberties Union issued a press release (attached) citing several violations of the federal Voting Rights Act Section 2 (Section 2) resulting from the town's current election process. They specifically cite the town's at-large voting system being in violation. Section 2 reads as follows:

42 U.S.C. § 1973. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites; establishment of violation.

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b

(f)(2) of this title, as provided in subsection (b) of this section.

(b) A violation of subsection (a) of this section is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

The creation of voting districts is one recognized remedy to address racial voting disparities caused in part or in total by at-large voting systems. Acting on behalf of the three civil rights groups cited in the opening paragraph, a demographer has developed voting district alternative maps (attached) as a potential remedy to any town violation of Section 2. Also attached is a current guidance document from the United States Department of Justice, which provides helpful information about the Voting Rights Act, actions resulting in potential violation, and potential remedies.

Pending further discussion, provide direction to staff.



Caroline County NAACP

Caroline County NAACP, Caucus of African American Leaders, ACLU Seek Reforms to Town of Federalsburg's Discriminatory Municipal Election System

For immediate release: September 7, 2022

Contact: Ezola Webb, wwoods71@msn.com, 410-253-1273.
Meredith Curtis Goode, media@aclu-md.org, 443-310-9946

FEDERALSBURG, MD – With the hope of working collaboratively with local elected leaders, the American Civil Liberties Union (ACLU) of Maryland, the Caroline County Branch of the NAACP (NAACP), the Caucus of African American Leaders - Eastern Shore (CAAL), and members of the Federalsburg community [are asking](#) Federalsburg Mayor Kimberly Jahnigen Abner to join the groups in discussion of reforms needed to bring the Town's racially discriminatory election system into compliance with the federal Voting Rights Act. Promisingly, upon initial contact Mayor Abner responded promptly to say the Town looks forward to hearing the groups' specific concerns so officials can work with residents to address them.

"Black residents of Federalsburg need to have their serious concerns about a lack of fair representation in town elections addressed, which is why we decided to collaborate with the ACLU and the Caucus of African American Leaders to request a meeting with Mayor Abner," said Dr. Willie Woods, President of the Caroline County NAACP. "We invite the Mayor and Town leaders to take positive action, because in the history of Federalsburg there has never before been a Black resident elected to the Town Council, even though recent Census data shows Black residents make up nearly half of the Town's population."

As discussed in the letter:

The Town's longstanding at-large election system has diminished and diluted the influence of Black voters such that no Black candidate in all Federalsburg history has been elected to the Town Council, despite burgeoning growth of the Black population to nearly half of Federalsburg's population. The 2020 U.S. Census shows Federalsburg's Black population has increased to approximately 47 percent of the Town's total population, with People of Color making up approximately 53.2 percent of the population.

Federalsburg's rich community diversity stands in stark contrast to the racial composition of the Town Council and the Mayor's Office, which have been maintained as the exclusive preserve of white officials since the founding of

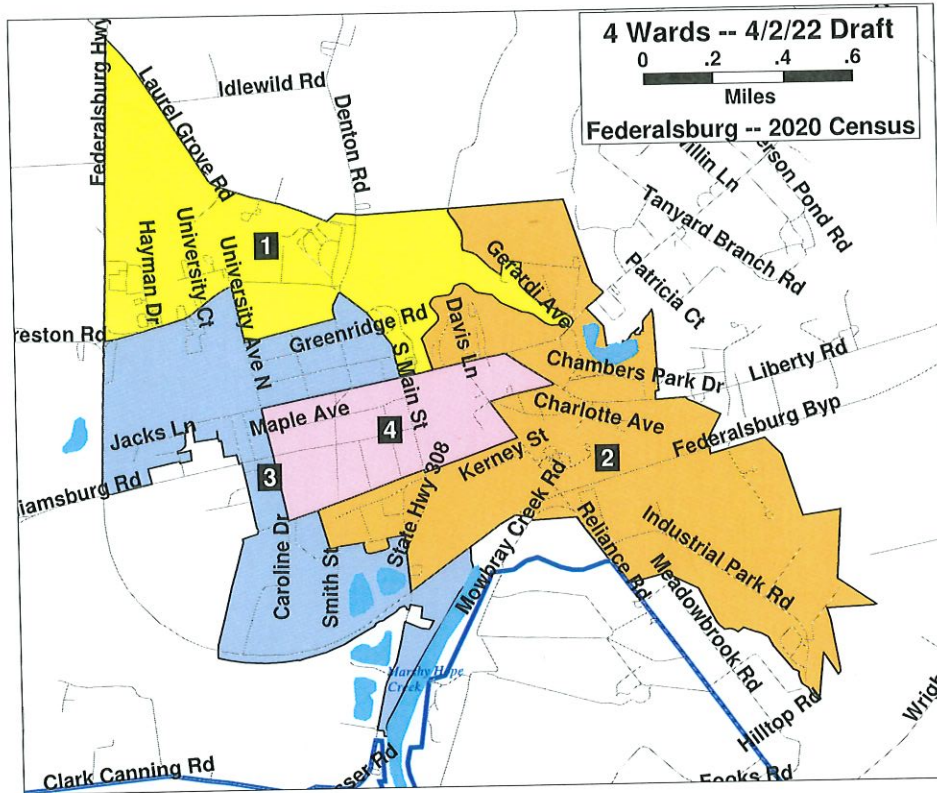
Federalsburg. This is because the Town's at-large election structure – in the setting of the Town's history and amid racial polarization in voting patterns – enables the white plurality to bloc vote against candidates of choice of Black voters, shutting out Black candidates and ensuring continuation of an all-white government.

“The Caucus of African American Leaders believes the importance of restructuring Federalsburg's political setting is a must, but united we will do it,” said Rev. James Jones with the Caucus of African American Leaders. “The political imbalance as well as law enforcement alignment must be addressed to move forward as well the reform of the electoral system.”

The groups' letter outlines two possible approaches to address the unfair districts that the Mayor and Town Council can consider, although other approaches may also be used to fix Federalsburg's discriminatory system.

Go to the ACLU of Maryland's website to read the letter: https://www.aclu-md.org/sites/default/files/aclumd_naacp_cc_caal_letter.pdf

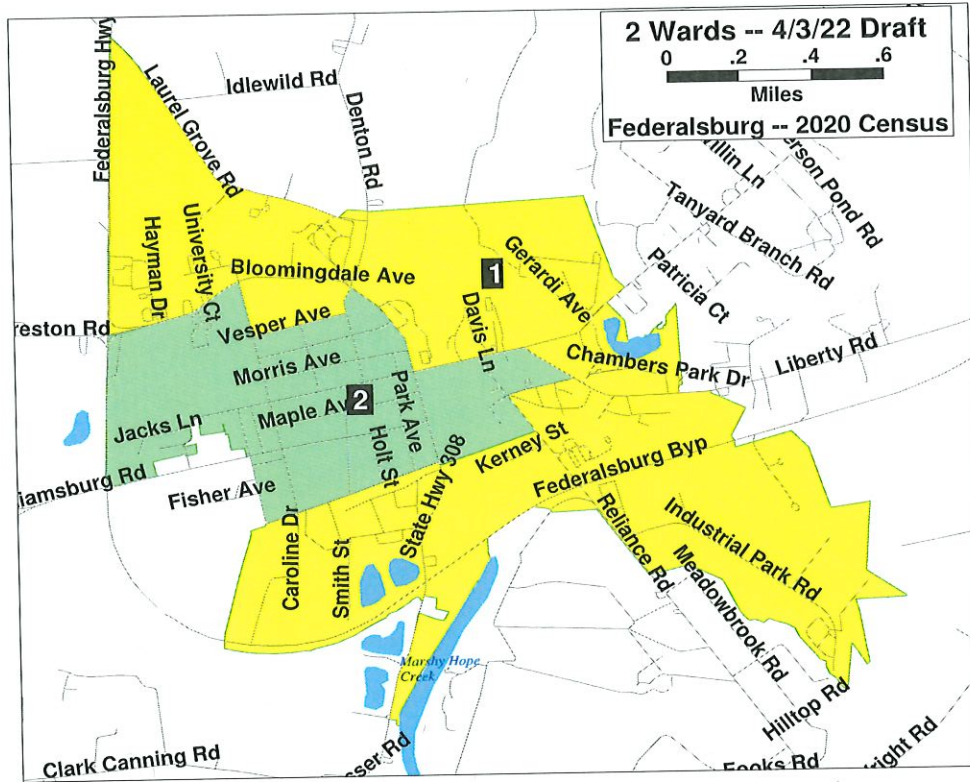
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Population Summary Report (2020 Census)
Federalsburg, MD -- April 2, 2022 Draft

Ward	Adjusted Population	Deviation	% Deviation	2020 Population	Any Part Black	% Any Part Black	Latino	% Latino	NH White	% NH White
1	712	-3	-0.42%	702	500	104.17%	23	3.28%	174	24.79%
2	736	21	2.94%	728	434	80.37%	29	3.98%	260	35.71%
3	706	-9	-1.26%	703	245	48.23%	39	5.55%	402	57.18%
4	704	-11	-1.54%	700	153	31.16%	29	4.14%	491	70.14%
Total	2858		4.48%	2833	1332	47.02%	120	4.24%	1327	46.84%

Ward	18+_Pop	18+ AP Black	% 18+_AP Black	18+ Latino	% 18+ Latino	18+_NH White	% 18+_NH White
1	480	336	70.00%	12	2.50%	127	26.46%
2	540	305	56.48%	19	3.52%	213	39.44%
3	508	152	29.92%	29	5.71%	318	62.60%
4	491	76	15.48%	19	3.87%	376	76.58%
Total	2019	869	43.04%	79	3.91%	1034	51.21%



Population Summary Report (2020 Census)
Federalsburg, MD -- April 3, 2022 Draft

Ward	Adjusted Population	Deviation	% Deviation	2020 Population	Any Part Black	% Any Part Black	Latino	% Latino	NH White	% NH White
1	1492	63	4.41%	1473	972	65.99%	55	3.73%	434	29.46%
2	1366	-63	-4.41%	1360	360	26.47%	65	4.78%	893	65.66%
Total	2858		8.82%	2833	1332	47.02%	120	4.24%	1327	46.84%

Ward	18+_Pop	18+ AP Black	% 18+_AP Black	18+ Latino	% 18+ Latino	18+_NH White	% 18+_NH White
1	1053	669	63.53%	34	3.23%	340	32.29%
2	966	200	20.70%	45	4.66%	694	71.84%
Total	2019	869	43.04%	79	3.91%	1034	51.21%

Ward	% NH Single-Race Black CVAP*
1	64.25%
2	17.04%

Note: Citizen Voting Age Population (CVAP) percentages are disaggregated from block-group level ACS estimates (with a survey midpoint of July 2017)

Source for CVAP disaggregation: Redistricting Data Hub
<https://redistrictingdatahub.org/dataset/maryland-cvap-data-disaggregated-to-the-2020-block-level-2019/>



Guidance under Section 2 of the Voting Rights Act, 52 U.S.C. 10301, for redistricting and methods of electing government bodies

Published September 1, 2021

The Voting Rights Act of 1965 is a landmark civil rights law that protects our democratic process against racial discrimination. One of the key protections of the Voting Rights Act is Section 2, 52 U.S.C. § 10301, which is a permanent nationwide prohibition on voting practices that discriminate on the basis of race, color, or membership in a language minority group (as defined in Sections 4(f)(2) and 14(c)(3) of the Act, 52 U.S.C. §§ 10303(f)(2), 10310(c)(3)). Section 2 prohibits both voting practices that result in citizens being denied equal access to the political process on account of race, color, or membership in a language minority group, and voting practices adopted or maintained for the purpose of discriminating on those bases.

Section 2 covers any voting qualification or prerequisite to voting or standard, practice, or procedure related to voting. As relevant for purposes of this guidance, Section 2 covers methods of electing public officials. This coverage includes a variety of electoral practices, such as: 1) districting plans used in single-member district election systems or multi-member district election systems; 2) mixed election systems, e.g., any combination of single-member, multi-member and at-large seats, and any associated districting plans; and 3) at-large election systems.



Following the release of 2020 Census redistricting data, all fifty States and thousands of counties, parishes, municipalities, school districts, and special purpose districts will craft new districting plans. The Department of Justice will undertake its usual nationwide reviews of districting plans and methods of electing governmental bodies to evaluate compliance with Section 2. It is the Department's view that guidance identifying its general approach to Section 2 in this context would be useful. This guidance is not legally binding, nor is it intended to be comprehensive; rather, it is intended only to aid jurisdictions as they comply with Section 2.¹

The discussion provides guidance concerning the following topics:

- Enforcement of Section 2 by the Department of Justice
- Section 2 Analysis: Discriminatory Result
- Section 2 Analysis: Discriminatory Intent
- Other Federal Laws Governing Redistricting
- Use of 2020 Census Data
- Complaints and Comments

¹ In connection with the 2000 and 2010 Census redistricting cycles, the Department of Justice issued guidance concerning redistricting under Section 5 of the Voting Rights Act, 52 U.S.C. § 10304, which establishes preclearance requirements for voting changes in certain covered jurisdictions. 76 Fed. Reg. 7470 (February 9, 2011); 67 Fed. Reg. 5411 (January 18, 2001). In 1973, the Supreme Court held that redistricting is a "standard, practice, or procedure with respect to voting" within the meaning of Section 5. *Georgia v. United States*, 411 U.S. 526, 531-35 (1973). The Department's guidance focused on Section 5 because it was the provision under which the Department initially reviewed redistricting plans for covered jurisdictions. However, in 2013, the Supreme Court held that the coverage formula in Section 4(b) of the Act, 52 U.S.C. § 10303(b), which determines which jurisdictions are required to comply with Section 5, is now unconstitutional. *Shelby County v. Holder*, 570 U.S. 529, 557 (2013). Hence, as the Department has described previously, there are no jurisdictions currently covered by Section 5, and jurisdictions previously covered by the Section 4(b) formula do not need to seek preclearance for new voting changes, such as redistricting plans, absent enactment of a new coverage provision. At present, the only jurisdictions that need to seek preclearance for redistricting plans (or other changes in methods of election) are those covered for such changes by a current federal court order entered under Section 3(c) of the Act, 52 U.S.C. § 10302(c). The Department's prior guidance concerning redistricting under Section 5 is no longer operative. It may still be of assistance to jurisdictions in complying with Section 3.



Enforcement of Section 2 by the Department of Justice

Congress has charged the Attorney General with responsibility for enforcement of the Voting Rights Act on behalf of the United States. 52 U.S.C. § 10308(d). The Department of Justice has delegated that enforcement to the Assistant Attorney General for the Civil Rights Division. 28 C.F.R. § 0.50. The Division has in turn vested enforcement responsibility for the civil provisions of the Voting Rights Act and other federal voting rights laws in the Voting Section. Justice Manual § 8-2.271. The Division's decisions regarding initiation or settlement of litigation are committed to the Assistant Attorney General. 28 C.F.R. §§ 0.50, 0.160; Justice Manual § 8-2.270. The Division can also consider participating as amicus curiae in cases in any federal or state court that raise issues under Section 2 of the Voting Rights Act. See, e.g., 28 U.S.C. § 517.

Section 2 of the Voting Rights Act, 52 U.S.C. § 10301, prohibits discrimination in voting on the basis of race, color, or membership in a language minority group. This permanent, nationwide prohibition applies to any voting qualification or prerequisite to voting or standard, practice, or procedure, including districting plans and methods of election for governmental bodies. *Grove v. Emison*, 507 U.S. 25, 39-40 (1993).

As amended in 1982, Section 2 prohibits voting practices that result in citizens being denied equal access to the political process on account of race, color, or membership in a language minority group. It also continues to prohibit adopting or maintaining voting practices for the purpose of disadvantaging citizens on account of race, color, or membership in a language minority group. *Chisom v. Roemer*, 501 U.S. 380, 394 n.21 (1991). The essence of a discriminatory results claim alleging vote dilution is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in the opportunities enjoyed by minority voters to elect their preferred representatives. *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986). Regardless of whether an electoral law or practice violates Section 2's results test, Section 2 also prohibits any electoral law, practice, or procedure enacted or maintained with the intent to disadvantage voters because of their race, color, or membership in a



language minority group. States and political subdivisions should take the Voting Rights Act's requirements into account when redrawing electoral maps, altering a method of election, or maintaining a method of election that could have the potential to discriminate.

The Department of Justice enforces Section 2 of the Voting Rights Act across the country. The Department's efforts to evaluate compliance with Section 2 and identify potential violations have a very broad scope. This work encompasses jurisdictions of all types that conduct elections for their governmental bodies. Thus, the Department reviews methods of election for U.S. House of Representatives seats, state legislatures, county commissions, city councils, school boards, judicial bodies, special governmental units with elected boards, and more. Likewise, the Department evaluates all kinds of methods of election, including at-large election systems, districting plans involving multi-member districts, districting plans using single-member districts, and mixed methods of election. The Department evaluates districting plans and methods of election for compliance with Section 2 regardless of whether those plans or methods were adopted by legislative bodies, local boards, redistricting commissions, state courts, or other governmental bodies. The Department's analysis of compliance with Section 2 is intensely localized insofar as it looks to the particular facts in each jurisdiction and that jurisdiction's method of election. Historically, the great majority of Section 2 cases brought by the Department have addressed concerns about racial discrimination in voting at the local level. The Department will monitor for compliance with Section 2 around the country in this decade, as it has in prior decades.²

When the Assistant Attorney General for the Civil Rights Division authorizes a Section 2 enforcement action, the Division seeks to resolve matters amicably and avoid protracted litigation where it is feasible to do so.³

² Following release of the decennial census data, this work extends throughout each decade. The fact that the Department has not challenged a particular jurisdiction's method of election over any given time period does not constitute agreement that it complies with Section 2.

³ Some examples of recent Section 2 enforcement matters involving methods of election for governmental bodies that were settled by consent decree include *United States v. City of West Monroe*, No. 3:21-cv-00988 (W.D. La. Apr. 14, 2021), ECF No. 4 (board of aldermen); *United States v. Chamberlain School District*, No. 4:20-cv-04084 (D.S.D. June 18, 2020), ECF No. 4 (school board); and *United States v. City of Eastpointe*, No. 2:17-cv-10079 (E.D. Mich. June 25, 2019), ECF No. 64 (city council).



The Department's Section 2 cases challenging methods of election for governmental bodies include actions against a variety of jurisdictions, including states, counties, municipalities, school districts, and special districts.⁴

The Department's cases under Section 2 have also challenged a variety of different methods of election, including at-large election systems, as well as district-based election systems and mixed election systems involving a combination of at-large elections and district elections.⁵

In the course of investigating and bringing enforcement actions under Section 2 of the Voting Rights Act, the Department applies well-established case law, which is briefly described below.

⁴ See, e.g., *United States v. Texas*, No. 5:11-cv-00360 (W.D. Tex.), ECF No. 907 (state legislative and congressional districts); *United States v. Charleston County*, No. 2:01-cv-00155 (D.S.C.) (county commission); *United States v. Marion County*, No. 4:99-cv-00151 (M.D. Ga.) (county commission); *United States v. Morgan City*, No. 6:00-cv-01541 (W.D. La.) (city council); *United States v. City of Lawrence*, No. 1:98-cv-12256 (D. Mass.) (city council and school board); *United States v. Village of Port Chester*, No. 1:06-cv-15173 (S.D.N.Y.) (board of trustees); *United States v. Georgetown County School District*, No. 2:08-cv-00889 (D.S.C.) (school board); and *United States v. Upper San Gabriel Valley Municipal Water District*, No. 2:00-cv-07903 (C.D. Cal.) (board of directors for special purpose district).

⁵ See, e.g., *United States v. Blaine County*, No. 4:99-cv-00122 (D. Mont.) (at-large elections for county commission); *United States v. School Board of Osceola County*, No. 6:08-cv-00582 (M.D. Fla.) (single-member district plan for school board); *United States v. Crockett County*, No. 1:01-01129 (W.D. Tenn.) (multi-member district system for county commission); *United States v. South Dakota*, No. 3:00-cv-03015 (D.S.D.) (multi-member district in state legislative districting plan); *United States v. City of Euclid*, No. 1:06-cv-01652 (N.D. Ohio) (mixed at-large and ward method of election for city council).



Section 2 Analysis: Discriminatory Result

Section 2 of the Voting Rights Act prohibits, among other things, any electoral practice or procedure that minimizes or cancels out the voting strength of members of racial or language minority groups in the voting population. This phenomenon is known as vote dilution.

In *Thornburg v. Gingles*, 478 U.S. 30 (1986), the Supreme Court set out the framework for challenges to such practices or procedures. In *Brnovich v. Democratic National Committee*, 141 S. Ct. 2321, 2337 (2021), the Supreme Court described *Gingles* as “our seminal § 2 vote-dilution case” and recognized that “[o]ur many subsequent vote-dilution cases have largely followed the path that *Gingles* charted.”

Analysis begins by considering whether three *Gingles* preconditions exist. First, the minority group must be sufficiently large and geographically compact to constitute a majority of the voting-age population in a single-member district. Second, the minority group must be politically cohesive. And third, the majority must vote sufficiently as a bloc to enable it — in the absence of special circumstances, such as the minority candidate running unopposed — usually to defeat the minority group’s preferred candidate.

If all three *Gingles* preconditions are present, consideration proceeds to an analysis of the totality of the circumstances in a jurisdiction. This analysis incorporates factors enumerated in the Senate Report that accompanied the 1982 Voting Rights Act Amendments, S. Rep. No. 97-417, at 28-29 (1982), which are generally known as the “Senate Factors.” These factors are themselves drawn from earlier case law. *Id.* at 28 nn. 112-113. The factors include:



U.S. Department of Justice

1. the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;
2. the extent to which voting in the elections of the state or political subdivision is racially polarized;
3. the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group;
4. if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
5. the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process;
6. whether political campaigns have been characterized by overt or subtle racial appeals; and
7. the extent to which members of the minority group have been elected to public office in the jurisdiction.

The Senate Report also identified two additional factors that have probative value in some cases:

- whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group; and
- whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.

The Senate Factors are neither comprehensive nor exclusive, and other factors may also be relevant and may be considered. For example, the Supreme Court held in *Johnson v. De Grandy*, 512 U.S. 997, 1000 (1994), that proportionality of minority voters' representation in a single-member district plan is also a relevant fact in the totality of circumstances. A finding of vote dilution in violation of Section 2 does not require that a particular number or a majority of these factors is present in a jurisdiction.



Gingles describes a review of the totality of the circumstances that requires a “searching practical evaluation of the past and present reality” of a jurisdiction’s electoral system that is “intensely local,” “fact-intensive,” and “functional” in nature. 478 U.S. at 45-46, 62-63, 79. Liability depends on the unique factual circumstances of each case and the totality of the circumstances in the particular jurisdiction in question. Thus, for example, the Supreme Court found that Texas’s use of multimember state legislative districts impermissibly diluted minority voting strength, see *White v. Regester*, 412 U.S. 755, 765-70 (1973), while concluding that Indiana’s use of multimember state legislative districts did not, *Whitcomb v. Chavis*, 403 U.S. 124, 148-55 (1971).

As the cases recognize, Section 2 vote-dilution violations can take several different forms. At-large election systems or multimember districts can submerge minority voters within a larger majority electorate that can effectively control all available positions. *Gingles*, 478 U.S. at 48-49. Districting plans may dilute minority voting strength by cracking or “fragmenting the minority voters among several districts where a bloc-voting majority can routinely outvote them” or by “packing them into one or a small number of districts to minimize their influence.” *De Grandy*, 512 U.S. at 1007; see also *Gingles*, 478 U.S. at 46 n.11. Some plans may do both.



Section 2 Analysis: Discriminatory Intent

Section 2 of the Voting Rights Act also prohibits use of a redistricting plan or method of election adopted or maintained for a discriminatory purpose, which is the same prohibition imposed by the Fourteenth and Fifteenth Amendments.

The Department will examine the circumstances surrounding adoption or continued use of a redistricting plan or method of election to determine whether there is direct or circumstantial evidence of any discriminatory purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority group. See, e.g., *White*, 412 U.S. at 765-70; *Rogers v. Lodge*, 458 U.S. 613, 623-27 (1982).

Direct evidence detailing a discriminatory purpose may be gleaned from the public statements of members of the adopting body or others who may have played a significant role in the process. See, e.g., *Busbee v. Smith*, 549 F. Supp. 494, 508 (D.D.C. 1982) (three-judge court), *aff'd*, 459 U.S. 1166 (1983). However, “smoking gun” or other stark evidence of intent is rare and is not required to establish a discriminatory purpose. The Department will also evaluate whether circumstantial evidence establishes a discriminatory intent. For example, in *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 440 (2006), the Supreme Court suggested that reducing Hispanic/Latino voting strength in a district because a growing Hispanic/Latino community appeared poised to vote out an incumbent “bears the mark of intentional discrimination.”

When assessing evidence of a possible discriminatory purpose, the Department of Justice is guided by the Supreme Court’s decision in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977); see also *Brnovich*, 141 S. Ct. at 2349 (citing the “familiar approach outlined in *Arlington Heights*”).

Arlington Heights outlines a non-exhaustive list of factors relevant to this “sensitive inquiry”: (1) The impact of the decision; (2) the historical background of the decision, particularly if it reveals a series of



decisions undertaken with discriminatory intent; (3) the sequence of events leading up to the decision; (4) whether the challenged decision departs, either procedurally or substantively, from the normal practice; and (5) contemporaneous statements and viewpoints held by the decisionmakers. 429 U.S. at 266-68. The Senate Factors (described above) may also provide evidence of discriminatory intent. *Rogers*, 458 U.S. at 620-21.

Discriminatory intent implies that the decisionmaker selected or reaffirmed a particular course of action at least in part because of, and not merely in spite of, its adverse effects upon an identifiable minority group. The Department of Justice will draw the normal inferences from the foreseeability of a discriminatory impact, and Section 2 does not require proof that one or more government actors are “racist” or bear racial animus. A concurring opinion in *Garza v. County of Los Angeles*, 918 F.2d 763 (9th Cir. 1990), provides a useful example of intentional discrimination without racial animus.

Assume you are an anglo homeowner who lives in an all-white neighborhood. Suppose, also, that you harbor no ill feelings toward minorities. Suppose further, however, that some of your neighbors persuade you that having an integrated neighborhood would lower property values and that you stand to lose a lot of money on your home. On the basis of that belief, you join a pact not to sell your house to minorities. Have you engaged in intentional racial and ethnic discrimination? Of course you have. Your personal feelings toward minorities don’t matter; what matters is that you intentionally took actions calculated to keep them out of your neighborhood.

Id. at 778 n.1 (Kozinski, J., concurring in part and dissenting in part); see also *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204, 222 (4th Cir. 2016). Discriminatory intent need only be one motivating factor behind the enactment or enforcement to violate Section 2. It need not be the only motivating factor. So, for example, if a jurisdiction purposefully reduces minority voting strength in order to protect an incumbent elected official, the fact that incumbent protection was a motivating factor — or even the primary motivating factor — does not mean a plan is lawful. See, e.g., *LULAC*, 548 U.S. at 440; *Garza*, 918 F.2d at 771.



Other Federal Law Governing Redistricting

Section 2 of the Voting Rights Act is the Department of Justice's principal tool to protect voters from racial discrimination regarding redistricting and methods of election for governmental bodies. The U.S. Constitution imposes additional requirements on redistricting plans beyond those in Section 2 of the Act. The Fourteenth Amendment prohibits substantial disparities or malapportionment in total population between electoral districts in the same districting plan (colloquially known as the "one-person, one-vote" principle). *Baker v. Carr*, 369 U.S. 186 (1962). The Fourteenth Amendment also prohibits certain forms of racial gerrymandering in drawing electoral districts. *Shaw v. Reno*, 509 U.S. 630 (1993).

The Department does not enforce these particular constitutional requirements directly through Section 2. However, the Department will consider these background constitutional requirements when enforcing Section 2. For example, malapportioned districts may facilitate vote dilution, and district boundaries drawn predominantly on the basis of race may provide evidence of discriminatory intent. In addition, the Department will consider whether any efforts to change the apportionment base for a districting plan to a measure other than total population (e.g., to equalize eligible voter population between districts) may violate Section 2 if the resulting districting plan, "designedly or otherwise," will "operate to minimize or cancel out" the voting strength of racial minority groups. *Burns v. Richardson*, 384 U.S. 73, 88 (1966) (quoting *Fortson v. Dorsey*, 379 U.S. 433, 439 (1965)). See U.S. Amicus Brief at 32-35, filed in *Evenwel v. Abbott*, No. 14-940 (U.S. Sept. 25, 2015).

Finally, in any lawsuit in which the Department participates, it will propose remedies that are consistent with the requirements of the U.S. Constitution.⁶

⁶ Beyond the requirements of Section 2 of the VRA, and the U.S. Constitution, districting plans and methods of election may be subject to other federal or state requirements as well. See, e.g., 2 U.S.C. § 2c (requiring the use of single-member districts to elect members of the U.S. House of Representatives).



Use of 2020 Census Data

Consistent with past practice, the Department of Justice will evaluate districting plans and methods of election using the 2020 Census redistricting data set issued by the Census Bureau pursuant to Public Law 94-171, 13 U.S.C. § 141(c). The Census Bureau released the 2020 Census redistricting data to the States and the public on August 12, 2021.⁷

As in 2010 and 2000, the 2020 Census Public Law 94-171 data will include counts of persons who have identified themselves as members of more than one racial category. This reflects the October 30, 1997, decision by the Office of Management and Budget (OMB) to incorporate multiple-race reporting into the Federal statistical system. 62 Fed. Reg. 58,782. Likewise, on March 9, 2000, OMB issued Bulletin No. 00-02 addressing “Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Enforcement.” Part II of that Bulletin describes how such census responses will be allocated by Federal executive agencies for use in civil rights monitoring and enforcement.

The Department of Justice will follow both aggregation methods defined in Part II of the Bulletin. The Department’s initial review will be based upon allocating any response that includes white and one of the five other race categories identified in the response. Thus, the total numbers for “Black/African American,” “Asian,” “American Indian/Alaska Native,” “Native Hawaiian or Other Pacific Islander,” and “Some other race” reflect the total of the single-race responses and the multiple responses in which an individual selected a minority race and white race.

The Department will then move to the second step in its application of the census data by reviewing the other multiple-race category, which is comprised of all multiple-race responses consisting of more than one minority race. Where there are significant numbers of such responses, the Department will, as

⁷ In circumstances where states aim, pursuant to state law, to reallocate certain group quarters populations (such as individuals confined in correctional facilities), the Department will review these data as well.



required by both the OMB guidance and judicial opinions, allocate these responses on an iterative basis to each of the component single-race categories for analysis. *Georgia v. Ashcroft*, 539 U.S. 461, 473, n.1 (2003).

As in the past, the Department will analyze Hispanic/Latino persons as a separate minority group for purposes of enforcement of the Voting Rights Act, pursuant to Sections 2, 4(f)(2), and 14(c)(3) of the Act. 52 U.S.C. §§ 10301, 10303(f)(2), 10310(c)(3). The Census asks respondents to answer both the Hispanic origin question and the race question. A Hispanic/Latino tabulation of Census data includes those who respond affirmatively to the Hispanic origin question, irrespective of their response to the race question, e.g., white, a minority race, "some other race" or multiple races. If there are significant numbers of responses in a jurisdiction that self-identify as Hispanic/Latino and one or more minority races (for example, Hispanics/Latinos who list their race as Black/African American), the Department will conduct its initial analysis by allocating those responses to the Hispanic/Latino category and then repeat its analysis by allocating those responses to the relevant minority race category.



Complaints and Comments

Members of the public are encouraged to send any complaints or comments regarding possible violations of the federal voting rights laws to the Voting Section. This can include complaints or comments about methods of election or districting plans that may violate Section 2 of the Voting Rights Act. This can also include requests for the Department to consider participation in cases as amicus curiae on issues under the federal voting rights laws. Finally, this can include comments regarding this guidance document. Complaints and comments can be submitted online through the Civil Rights Division's website portal – civilrights.justice.gov. The Voting Section can also be reached through its toll-free number: (800) 253-3931.

TO: Mayor & Council Members
FR: Larry DiRe, Town Manager
DT: October 17, 2022
RE: Quit Claim Deed Request for Hayman Drive Access

A request for the Town to acquire ownership of a portion of Hayman Drive was received in connection with the development of the new Choptank Community Health Systems, Inc facility. The request includes the attached draft quit claim deed document and several site plans and maps. Two farms, Inc is the current property owner and has been so since August 2019.

Pending further discussion, provide direction to staff.



University Apts

3000

Hargreaves Dr

301

315

Bloomington Ave

310

Hayman Dr

319

4098

Hayman Dr

MD-313

MD-313

Parcel Boundaries:

Jurisdiction Code CARO

Parcel Account Number 0605029198

SDAT URL [More info](#)

[Zoom to](#)



200ft

AFTER RECORDATION RETURN TO:
Ryan D. Showalter
McAllister, DeTar, Showalter & Walker LLC
100 N. West Street
Easton, Maryland 21601
(410) 820-0259

NO TITLE EXAMINATION
NO CONSIDERATION

Tax Account No.: 05-029198
CAROLINE COUNTY, MD

THIS QUIT CLAIM DEED OF DEDICATION made this ___ day of _____, 2022,
by and between **TWO FARMS, INC., a Maryland corporation** (“Grantor”) and **MAYOR**
AND COUNCIL OF FEDERALSBURG, a Maryland municipal corporation (“Grantee”).

WHEREAS, Grantor is the owner in fee simple of the property hereby conveyed (the
“Property”) and more particularly described on Exhibit A attached hereto and made a part
hereof.

WHEREAS, Grantor wishes to grant, convey and relinquish to Grantee, all rights, title,
and interest in the Property, and thereby vest the entire fee simple interest in Grantee.

-WITNESSETH-

THAT IN CONSIDERATION OF THE SUM OF ZERO DOLLARS (\$0.00), the receipt
and sufficiency of which are hereby acknowledged, Grantor does hereby dedicate, grant, release,
confirm, convey, and quitclaim unto the said Grantee, its successors and assigns, forever, in fee
simple, all of Grantor’s right, title and interest whatsoever (except as reserved below), in and to
and to the following described land, and the said Grantee, by its acceptance of this Quit Claim
Deed of Dedication, as evidenced by the signature of the Mayor of the Mayor and Council of
Federalsburg affixed hereto, hereby accepts such dedication described as follows, to wit:

BEING KNOWN AND DESIGNATED as “Proposed 60’ R/W”, “Proposed R/W (R/W
Width Varies)”, and “Lot 8, 2.7823 ac.” as shown on a plat set entitled “Plat Showing
R/W for Proposed Federalsburg Shopping Center”, prepared by Godwin-Jordan &
Associates, P.A. and recorded among the Plat Records of Caroline County, Maryland in
Plat Book FDM 6, pages 45A and 45B.

BEING ALL OF THAT same lot or parcel of land conveyed by AC 21B LLC unto Two Farms, Inc. by Quit-Claim Deed dated August 22, 2019 and recorded among the Land Records for Caroline County, Maryland in Liber TBL 1375, folio 436.

TOGETHER with the buildings and improvements thereon erected, made or being, and all and every, right, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anywise appertaining.

SUBJECT to any covenants, conditions, restrictions and easements of record.

RESERVING UNTO THE GRANTOR a right-of-way and easement, at all times, with or without vehicles, to enter upon, construct, install, operate, maintain, repair and replace: (i) any underground utility pipes, lines, mains, and manholes, together with any and all necessary appurtenances, fittings and fixtures, through, under and across the herein conveyed property, and (ii) road and sidewalk improvements across the herein conveyed property for access between public roads and certain parcels of land retained by Grantor and described by a deed recorded among the Land Records of Caroline County in Liber 1375, folio 394.

TO HAVE AND TO HOLD the said tract of ground and premises above described, and mentioned, and hereby intended to be conveyed, together with the rights, privilege, appurtenance and advantage thereto belonging, or in anywise appertaining, unto and for the proper use, benefit and behalf of the **MAYOR AND COUNCIL OF FEDERALSBURG, a Maryland municipal corporation**, its successors and assigns, in fee simple, forever.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the hands and seals of Grantor and Grantee the day and year first above written.

WITNESS: TWO FARMS, INC.
a Maryland corporation

_____ By: _____(SEAL)
Name: _____
Title: _____

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

On this ____ day of _____, 2022, before me, the undersigned officer, personally appeared _____, the _____ of TWO FARMS, INC., a Maryland corporation and the Grantor herein, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing deed to be the act and deed of Two Farms, Inc., and being authorized to do so, in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

In witness thereof I hereunto set my hand and official seal.

Notary Public

My commission expires: _____

This Deed of Dedication is accepted by the Mayor and Council of Federalsburg this ____ day of _____, 2022.

WITNESS:

Grantee
MAYOR AND COUNCIL OF
FEDERALSBURG, a Maryland municipal
corporation

(SEAL)

By: _____

Kimberly M. Abner, Mayor

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2022, before me, a Notary Public in and for the State and County aforesaid, personally appeared *Kimberly M. Abner*, who acknowledged herself to be the Mayor of the MAYOR AND COUNCIL OF FEDERALSBURG, and that she as such Mayor, and being authorized so to do, executed the foregoing Quit Claim Deed of Dedication for the purposes therein contained by signing the name of the Town by herself as Mayor of the Grantee.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:

Approved as to form and legal sufficiency.

Lyndsey Ryan, Esq.
Town Attorney

ATTORNEY CERTIFICATION

I hereby certify that I am an attorney admitted to practice before the Court of Appeals of Maryland and that the foregoing Quit Claim Deed was prepared by me or under my supervision.

Ryan D. Showalter

NO TITLE EXAMINATION
NO CONSIDERATION

Account No. 05-029198

TRANSFER TAX BASED ON ASSESSED VALUE OF \$23,600.00

QUIT-CLAIM DEED

THIS QUIT-CLAIM DEED (this "Deed") is made this 22nd day of August 2019 from **AC 21B LLC, a Delaware**, party of the first part, Grantors; and **TWO FARMS INC.**, a Maryland corporation, party of the second part, Grantee.

WITNESSETH, that in consideration of the sum of One Dollar and 00/100 (\$1.00), and other and good and valuable considerations the receipt whereof is hereby acknowledged, the said party of the first does grant and convey to the said party of the second part, their successors and assigns, all that property situate in Caroline County, Maryland, that is to say:

BEING KNOWN AND DESIGNATED as a Sixty (60') foot right of way Lot 8 (containing 2.78 acres of land +/-) as shown on a plat entitled "Title Plat Showing R/W for Proposed Federalsburg Shopping Center", which plat is recorded among the Land Records of Caroline County, Maryland in Plat Book 6 folio 45B.

ALSO BEING PART of the same lot of ground which by Deed dated December 1, 2017 and recorded among the Land Records of Caroline County, Maryland in Book 1290 page 285 was granted and conveyed by Oriole Pool I Owner LLC unto AC 21B LLC, the grantor herein.

SUBJECT, HOWEVER, to any covenants, conditions, restrictions and easements of record.

TOGETHER WITH the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot(s) of ground and premises to the said party of the second part, its successors and assigns, forever, in fee simple.

AND the said party of the first part hereby covenants that it has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that it will warrant specially the property hereby granted; and that it will execute such further assurances of the same as may be requisite.

WHEREAS the party of the first part herein wishes to forever quit-claim, grant and convey its respective interests in the said described lot(s) of ground and premises.

CAROLINE COUNTY CIRCUIT COURT (Laini Robbins) IDL 1375, p. 436, WSA_DEED_140. Date available 05/20/2019. Printed on 11/20/22.

WITNESS the hand and seal of said Grantor.

WITNESS;

[Handwritten Signature]

AC 21B LLC, a Delaware limited liability company
By: Abinger Capital LLC, Sole Member

BY: *[Handwritten Signature]*
Name: R. Lupo Talamo
Title: Authorized Officer

LR - Deed (w Taxes)	
Recording Fee no RT	20.00
=====	
SubTotal:	296.00
=====	
Total:	296.00
09/19/2019 12:23	
CC05-CB	
#12732808 CC0201 -	
Caroline	
County/CD020101	

STATE OF NEW YORK, New York County, to wit:

I HEREBY CERTIFY that on this 27th day of August, 2019, before me, the undersigned, a Notary Public of the State aforesaid personally appeared R. Lupo Talamo, Authorized Officer of Abinger Capital LLC, Sole Member of AC 21B LLC, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and she/he acknowledged that she/he being authorized so to do, executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Handwritten Signature]
Notary Public

My Commission Expires
1/18/2022

MACDONALD BUDD
Notary Public, State of New York
No. 02BU0483285
Qualified in New York County
Commission Expires Feb. 28, 2022

The undersigned hereby certifies that the within instrument was prepared by or under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland or a party to the instrument and named herein

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

[Handwritten Signature]
Stephen D. Ruben, Attorney at Law

After recording mail to:
Residential Title & Escrow Co.
100 Painters Mill Road
Suite 200
Owings Mills, MD 21117

File # 88577-A

Quit Claim for 60' Right of Way Federalsburg - Two Farms/2019 deeds/hm/ Aug 2019

I hereby certify this 19 day of Sept 2019
That all public taxes, assessments and charges due on this property transferred by this deed have been paid.

Recordation Tax Amt 240
Property ID: 05-029198
[Handwritten Signature]

CAROLINE COUNTY TAX OFFICE

CAROLINE COUNTY CIRCUIT COURT (Land Records) 1BL 1375, p. 0437, MSA_CE95_1145. Date available 09/23/2019. Printed 09/11/2019.

MARYLAND
FORM
WH-AR

**Certification of Exemption from Withholding Upon
Disposition of Maryland Real Estate Affidavit of
Residence or Principal Residence**

2019

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change

in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor AC 21B LLC, a Delaware limited liability company

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers). 60' Right of Way , Federalsburg, MD 21632

3. Reasons for Exemption

Resident Status As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Name

**Date

Signature

3b. Entity Transferors

Witness/Attest

AC 21B LLC, a Delaware limited liability company

AC 21B LLC

Name of Entity

By 

Name

R. Wyo Talano 8/22/19

** Date

Managing Partner

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court. To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

CAROLINE COUNTY CLERK (Land Records) 100 N. 14th St., P.O. Box 100, WEAVER, MD 21780. Date available 08/20/2019 10:11:20Z.

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only
(Type or Print in Black Ink Only - All Copies Must Be Legible)

1	Type(s) of Instruments	<input checked="" type="checkbox"/> Deed <input type="checkbox"/> Deed of Trust	<input type="checkbox"/> Mortgage <input type="checkbox"/> Lease	<input type="checkbox"/> Mult. Accounts	<input type="checkbox"/> Not an Arms-Length Sale [9]
2	Conveyance Type Check Box	<input type="checkbox"/> Improved Sale <input type="checkbox"/> Arms-Length [1]	<input type="checkbox"/> Unimproved Sale <input type="checkbox"/> Arms-Length [2]	<input type="checkbox"/> Arms-Length [3]	<input type="checkbox"/> Length Sale [9]
3	Tax Exemptions (If Applicable) Cite or Explain Authority	<input type="checkbox"/> Recordation Quit Claim Deed - \$1.00 consideration <input type="checkbox"/> State Transfer <input type="checkbox"/> County Transfer			Space Reserved for Circuit Court Clerk Recording Violation
4	Consideration and Tax Calculations	Consideration Amount Purchase Price/Consideration 1.00 Any New Mortgage Balance of Existing Mortgage Other Assessed Value Other Full Cash Value		Finance Office Use Only Transfer and Recordation Tax Consideration Transfer Tax Consideration \$ X () % = \$ Less Exemption Amount Total Transfer Tax = \$ Recordation Tax Consideration \$ X () % = \$ TOTAL DUE \$	
5	Fees	Amount of Fees Recording Charge 20.00 Surcharge 40.00 State Recordation Tax 240.00 State Transfer Tax 118.00 County Transfer Tax (if Applicable) 118.00 Other -- Other	Doc: 1 Doc: 2 40.00	Agent Tax Bill: C.B. Credit: Ag. Tax/Other:	
6	Description of Property SDAT requires submission of all applicable information. A Maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	District: 05 Property Tax ID No. (1): 029198 Grantor/Liber/Folio: 1290/285 Map: Parcel No.: Var. LOG: 10 Subdivision Name: Lot (3a): Block (3b): Sect/AR (3c): Plat Ref: 6/45B Sq. Ft./Acreage (4): 60' Right of Way Federalsburg Shopping Center Location/Address of Property Being Conveyed (2) 60' Right of Way, Federalsburg, MD			
7	Transferred From	Other Property Identifiers (if applicable) Residential or <input type="checkbox"/> xx Non Residential Fee Simple <input type="checkbox"/> or Ground Rent Amount: Partial Conveyance? <input type="checkbox"/> xx <input type="checkbox"/> No Description/Amt. Of Sq. Ft./Acreage If Partial Conveyance, List Improvements Conveyed:		Water Meter Account No.	
8	Transferred To	Doc: 1 - Grantor(s) Name(s) AC 21B LLC Doc: 1 - Owner(s) of Record, if Different from Grantor(s)		Doc: 2 - Grantor(s) Name(s) Doc: 2 - Owner(s) of Record, if Different from Grantor(s)	
9	Other Names to be Indexed	Doc: 1 - Grantee(s) Names Two Farms, Inc. New Owner's (Grantee) Mailing Address: 3611 Roland Avenue, Baltimore, MD 21211		Doc: 2 - Grantee(s) Name(s) Doc: 1 - Additional Names to be Indexed (Optional) Doc: 2 - Additional Names to be Indexed (Optional)	
10	Contact/Mail Information	Instrument Submitted By or Contact Person Name: Heidi Murphy Firm: Residential Title & Escrow Co. Address: 100 Painters Mill Road, Suite 200, Owings Mills, MD 21117 Phone: 410-653-3400		<input checked="" type="checkbox"/> Return to Contact Person <input type="checkbox"/> Hold for Pickup <input type="checkbox"/> Return Address Provided	
11	Space Reserved for County Validation	IMPORTANT - BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER. Assessment Information Yes X No Will the property being conveyed be the grantee's principal residence? Yes X No Does transfer include personal property? If yes, identify: Yes X No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).			
Assessment Use Only - Do Not Write Below This Line <input type="checkbox"/> Terminal Verification <input type="checkbox"/> Agricultural Verification <input type="checkbox"/> Whole <input type="checkbox"/> Part <input type="checkbox"/> Tran. Process Verification Transfer Number: Year 20 Date Received: 20 Deed Reference: Assigned Property No: Land Buildings Total Zoning Us8 Town Cd Ex St Ex Cd Remarks: Distribution: Clerk's Office, SDAT, Office of Finance, Prepare					

CAROLINE COUNTY CIRCUIT COURT (Land Records) TBL 1375, p. 0439, MSA_CE95_1145, Date available 09/23/2019, Printed 06/17/2022.

