

MARYLAND STATE BOARD OF
ELECTIONS,

Appellant,

v.

ANTHONY AMBRIDGE, *et al.*,

Appellee.

* IN THE
* SUPREME COURT
* OF
* MARYLAND
* September Term 2024
* No. 26,

* * * * *

**EMERGENCY MOTION TO STAY THE
CIRCUIT COURT’S INJUNCTION PENDING APPEAL**

On Monday, September 16, 2024, the Circuit Court for Anne Arundel County nullified Ballot Question F on the 2024 General Election Ballot for Baltimore City. The court ruled that (1) Question F presented a charter amendment that was not “charter material,” in violation of Article XI-A, § 3 of the Maryland Constitution; and (2) the language of Question F violated §§ 9-203 and 9-205 of the Election Law Article because it was too unclear to be easily understood by voters. The court’s order directed the local board of elections to “not certify the results of Ballot Question F arising out of the 2024 General Election for the City of Baltimore.” (Ex. A, at 13.)

Having learned of this from news coverage, Baltimore City voters may choose not to cast a vote on a nullified question. However, Ballot Question F may not remain a nullity. On September 20, 2024, the Maryland State Board of Elections (the “State Board”) noted an appeal of the circuit court’s judgment directly to this Court. *See* Md. Code Ann., Elec.

Law §§ 9-209(d)(1)(ii), 12-203(a)(3) (LexisNexis 2023) (permitting decisions on the election-related causes of action underlying plaintiffs’ claims to be appealed directly to this Court). The State Board therefore seeks a stay of the circuit court’s judgment to avoid potential disenfranchisement of voters who “undervote” a nullified ballot question that is later reinstated on appeal.

STATEMENT OF FACTS

Baltimore City Certifies A Charter Amendment Question to the State Board

On March 4, 2024, the Baltimore City Council passed Council Bill 23-0444. (Ex. B.) The bill resolved to amend Article I, § 9 of the City Charter, in accordance with Article XI-A, § 5 of the Maryland Constitution, by placing a ballot question before the city’s voters at the 2024 general election. (Ex. B, at 3.) The Mayor signed Council Bill 23-0444 on March 11, 2024, and the Chief Solicitor for Legal Advice and Opinions of the City Law Department approved the bill for “Form and Legal Sufficiency” on March 12, 2024.

One month later, on April 19, 2024, Anthony Ambridge, a registered voter who resides in Baltimore City, contacted the Chief Solicitor by email. (Ex. C, at 2.) Mr. Ambridge sought to review the language of the ballot question and to suggest changes or edits to that language before the question was “sent to State for Certification.” (Ex. C, at 2.) Having received no response, Mr. Ambridge followed up on May 13, 2024 with a second email requesting an opportunity to “weigh[] in on the short title of the referendum, before it is sent to State Board of Elections.” (Ex. C, at 2.) The Chief Solicitor responded that same day, declining input “from any group or individual other than those required by the law.” (Ex. D, at 1.)

On July 16, 2024, Mr. Ambridge emailed the Office of the Attorney General to request the same thing: an opportunity to review the ballot question language “before it is sent to State Board of Elections for Certification.” (Ex. E, at 2.) Two days later, Mr. Ambridge forwarded that email to the State Board’s counsel requesting acknowledgement that the email had been received. (Ex. E, at 1.) The State Board’s counsel acknowledged his personal receipt of the email. (Ex. E, at 1.)

On August 2, 2024, the City Solicitor transmitted to the State Board a letter certifying the language of the ballot question in accordance with Election Law § 7-103(c)(3)(i).¹ (Ex. F.) The letter noted that it “provided the form in which the proposed amendment is to be submitted to the voters (which has been drafted and approved by the Department of Law).” (Ex. F, at 1.) It identified the question as “Ballot Question F.” (Ex. F, at 1.) The City Solicitor provided courtesy copies of the letter to multiple public officials, including the Mayor of Baltimore, the Attorney General, and Chief Solicitor of the City Law Department. (Ex. F, at 1.)

On September 2, 2024, the State Board posted to its website the final content and arrangement of all ballots to be used in the 2024 general election. (Ex. G.) This included

¹ Election Law § 7-103(c)(3)(i) provides:

(3)(i) The county attorney of the appropriate county shall prepare and certify to the State Board, not later than the 95th day before the general election, the information required under subsection (b) of this section for each question to be voted on in a single county or part of a county, except a question covered by paragraph (1) or paragraph (2) of this subsection.

The term “county” includes the City of Baltimore. Elec. Law § 1-101(p).

the general election ballot for Baltimore City, which presented Ballot Question F. (Ex. H.)

Plaintiffs Challenge the Qualification and Certification of Ballot Question F

On September 5, 2024, Mr. Ambridge and a group of 22 other registered voters who reside in Baltimore City filed a petition for judicial review of the Baltimore City general election ballot under Election Law § 9-209(a).² The petition purported to seek review of the ballot’s “content”—Question F—challenging the legal propriety of the charter amendment that the question proposed and the clarity of the language that the question used. On September 9, 2024, plaintiffs amended their petition to add a cause of action under Election Law § 12-202(a).³ The additional cause of action challenged Question F on the same substantive bases, but under the provision that permitted judicial relief for any “act or omission” that violated a law related to an election.

² Election Law § 9-209(a) provides:

(a) Within 2 days after the content and arrangement of the ballot are certified under § 9-207 of this subtitle, a registered voter may seek judicial review of the content and arrangement, or to correct any administrative error, by filing a sworn petition with the circuit court for Anne Arundel County.

³ Election Law § 12-202(a) provides:

(a) If no other timely and adequate remedy is provided by this article, a registered voter may seek judicial relief from any act or omission relating to an election, whether or not the election has been held, on the grounds that the act or omission:

- 1) is inconsistent with this article or other law applicable to the elections process; and
- (2) may change or has changed the outcome of the election.

The State Board responded to the petition on September 13, 2024. Although it took no position on the substantive arguments against Question F, the State Board sought dismissal of the petition on procedural grounds. First, the State Board argued that judicial review of a ballot’s “content” under § 9-209 does not encompass substantive challenges to the legality of a ballot question. Second, the State Board argued that even though a § 12-202 suit is an appropriate vehicle for mounting such a challenge, laches barred plaintiffs’ challenge because they filed it, after an unreasonable delay, at 4:56 p.m. on the day before ballot printing began.

The circuit court conducted a hearing on September 16, 2024. Plaintiffs presented argument on both the procedural issues (the propriety of their suits under Election Law §§ 9-209 and 12-202) (whether Ballot Question F presented proper “charter material” and whether its language was sufficiently clear). The State Board presented argument in opposition on the procedural issues only.

The Circuit Court Rules That the State Board Is Liable for All Ballot Language Certified to It

The circuit court ruled from the bench on all matters in the plaintiffs’ favor. In a written memorandum issued after the hearing (Ex. A.), the court documented its ruling from the bench. The court first concluded that laches did not bar plaintiffs’ § 12-202 cause of action. (Ex. A, at 5-6.) It held that, for purposes of § 12-202, the “act or omission” giving rise to both of plaintiffs’ claims—improper charter material and unclear ballot language—occurred when the State Board publicly displayed the general election ballot on

September 2, 2024. (Ex. A, at 6.) Accordingly, plaintiffs’ institution of a § 12-202 suit on September 9, 2024, did not reflect an unreasonable delay.

Second, the circuit court held that the charter amendment proposed in Question F was “a final rezoning scheme of legislative character” and thus was improper material to appear in a local charter. (Ex. A, at 9.) The court did not make clear whether it was addressing that issue under Election Law § 9-209 or § 12-202.

Third, the circuit court held that the clarity of a ballot question’s language is an issue addressable in a suit under § 9-209. (Ex. A, at 10-11.)

Fourth, the circuit court reviewed the question’s language and it found it wanting under the standard articulated in *Stop Slots, Maryland 2008 v. State Board of Elections*, 424 Md. 163 (2012). (Ex. A, at 12.)

In addressing the appropriate remedy, the circuit court acknowledged that revision of the general election ballot could not address Question F’s shortcoming as improper “charter material,” nor was ballot revision feasible at that point in the election calendar. The court thus ordered a post-election remedy by directing the Baltimore City Board of Election to “not certify the results of Ballot Question ‘F.’” (Ex. A, at 13.)

The Aftermath of the Circuit Court’s Ruling

Within hours of the circuit court’s ruling from the bench, print and broadcast media reported the question’s nullification to voters in the city.⁴ Then, on September 20, 2024, the State Board noted a direct appeal of the judgment to this Court.

⁴ See, e.g., Emily Opilo, Ballot Question on Baltimore’s Harborplace Redevelopment Nullified by Judge, *The Baltimore Sun*, Sep. 16, 2024 (posted 7:02 p.m.),

In the coming days, Baltimore City voters will begin receiving their general election mail-in ballots, which include Question F and have already been printed. *See* 52 U.S.C. § 20302(a)(8)(A) (requiring that mail-in ballots be transmitted to qualified overseas voters and servicemembers before September 21, 2024 for the 2024 general election); *see also* Elec. Law § 9-306(c)(1) (requiring that mail-in ballots be transmitted to qualified voters in the State before September 23, 2024 for the 2024 general election). Those ballots can be voted and postmarked, or returned directly to a local board of elections, any time up to the close of the polls on election day. COMAR 33.11.03.08B. Baltimore City voters, then, will be voting a general election ballot containing a ballot question that, under the terms of the circuit court’s well-publicized order, is a nullity.

ARGUMENT

The State Board seeks to avoid the inadvertent disenfranchisement that the circuit court’s nullification order will cause. Having learned about the order and its effect on the election, voters may choose to not vote “for” or “against” a proposed charter amendment that they believe has been cancelled. And that rational choice could prove disenfranchising

<https://www.baltimoresun.com/2024/09/16/ballot-question-on-baltimores-harborplace-redevelopment-nullified-by-judge/>; Lee O. Sanderlin, Judge Blocks Ballot Question to Allow Inner Harbor Redevelopment, *The Baltimore Banner*, Sept. 16, 2024 (posted 2:06 p.m.), <https://www.thebaltimorebanner.com/politics-power/local-government/harborplace-ballot-question-invalidated-ALZX6DWGV5HUHLHHTGJ4RXZSY4/>; Kate Amara, WBALTV, Judge Declares Baltimore City Ballot Question F Invalid (broadcast Sept. 16, 2024), <https://www.wbalTV.com/article/baltimore-ballot-question-f-unconstitutional-inner-harbor/62227009>.

should this Court ultimately reverse the circuit court’s judgment nullifying Ballot Question F. The State Board therefore seeks a stay of the judgment.

A STAY WILL PROTECT CITY VOTERS FROM POTENTIAL DISENFRANCHISEMENT AND WILL NOT HARM THE PLAINTIFFS OR OTHER VOTERS.

The standard for granting a preliminary injunction also governs whether to grant a stay of injunctive relief. Md. Rule 8-425(g); *see also General Motors Corp. v. Buick*, 56 Md. App. 374, 388 (1983). A court must weigh “(1) the likelihood that the [appellant] will succeed on the merits; (2) the ‘balance of convenience’ determined by whether greater injury would be done to the [appellee] by granting the injunction than would result from its refusal; (3) whether the [appellant] will suffer irreparable injury unless the injunction is granted; and (4) the public interest.” *Ademiluyi v. Egbuonu*, 466 Md. 80, 114 (2019) (quotation omitted). Ultimately, the purpose of a stay is to preserve the status quo during the pendency of any appeal. *General Motors*, 56 Md. App. at 387. In a dispute between a government agency and a private party where the injunctive relief directly impacts a governmental interest, “courts may, and frequently do, go much farther both to give and withhold relief in furtherance of the public interest than they are accustomed to go when only private interests are involved.” *Schade v. Maryland State Bd. of Elections*, 401 Md. 1, 37 (2007).

Both a circuit court and an appellate court may grant a stay of injunctive relief pending an appeal. Md. Rule 2-632(f); Md. Rule 8-425(a). A motion seeking a stay must be filed first in the circuit court, unless it is impracticable to do so. Md. Rule 8-425(b). The State Board filed a request for a stay together with its notice of appeal in the circuit

court. As of the filing of this request, the circuit court has not yet ruled on the request. Because Baltimore City voters will begin receiving ballots in the next few days, and thus may imminently suffer harm from not voting on Question F, the State Board now seeks a stay from this Court. *See* Md. Rule 8-425(c).

A. The State Board Is Likely to Prevail on Appeal.

Wholly apart from the substance of plaintiffs' challenges to Ballot Question F, the State Board is likely to secure reversal of the circuit court's judgment. Section 9-209(a) of the Election Law Article permits challenges only to facial characteristics of the ballot over which the State Board exercises control, not challenges of the sort the plaintiffs have raised. And while those challenges would have been permissible under § 12-202 had they been timely raised, laches bars plaintiffs from raising them at this late date and thus disrupting an orderly election process.

1. The State Board Is Likely to Prevail as to the Inapplicability of Section 9-209(a).

The State Board played no role in developing, drafting, or reviewing Ballot Question F. Rather, that question arose from a charter amendment resolution passed by the Baltimore City Council, signed by the Mayor of Baltimore, and approved for legal sufficiency by a Chief Solicitor in the City Law Department in March 2024. (Ex. B.) Once the question emerged from the local legislative process in this manner, it qualified for inclusion on the ballot. Elec. Law § 7-102(c)(3)(i). The State Board, in turn, was required to ministerially accept its certification for inclusion on the ballot. *Id.* § 7-103(c)(4)(i).

In these circumstances, petitioners could not bring their challenges under Election Law § 9-209. That provision permits judicial review of the State Board’s certification of the “content and arrangement” of the ballot, which is the only action the State Board is permitted to take. *Id.* § 9-209(a). Judicial review thus is restricted to “characteristics of the ballot”—i.e., content, arrangement, “or other facial aspects of the ballot”—and does not extend to substantive challenges to a candidate’s or question’s eligibility to be on the ballot. *Ross v. State Board of Elections*, 387 Md. 649, 665 (2005) (holding that § 9-209 is not a vehicle to challenge a candidate’s eligibility). In other words, under § 9-209 a court can ask whether the candidate or question *did* qualify for the ballot, but not whether the candidate or question *should* have qualified for the ballot.

The circuit court’s ruling misapprehends the scope of judicial review under § 9-209 and conflicts directly with *Ross*. The ruling interprets the mandate that “[e]ach ballot shall contain . . . a statement of each question that has met all of the qualifications to appear on the ballot,” Elec. Law § 9-205(2), as requiring the State Board to ensure that every ballot question certified to it meets every applicable legal standard and requirement. The State Board, however, does not have the authority to consider the legality of, and thus reject, ballot questions certified to it by other governmental authorities. The State Board’s certification of ballot “content” is a warrant only that a question *has* qualified for the ballot, not that it *should* have qualified for the ballot.

Moreover, the circuit court’s ruling would lead to untenable results. For instance, it would grant the State Board plenary authority to reject ballot language certified by the Maryland General Assembly, even though Election Law § 7-105(b)(3)(i) provides that the

summary of a ballot question relating to a State constitutional amendment is automatically “sufficient” if set forth in an enactment by the General Assembly. The ruling also would give two bites at the apple to litigants who wish to challenge a question reaching the ballot by petition. Those litigants could first challenge the question under Election Law § 6-209, contesting the determination made by the “chief election official” that the petition met all applicable legal requirements. *See, e.g., Baltimore City Bd. of Elec. v. Mayor & City Council of Baltimore*, No. 34, September Term, 2023 (Aug. 29, 2024) (per curiam). And then those same litigants, or any registered voter, could mount an identical challenge to the same question in response to the State Board’s certification of ballot “content” under § 9-209. There is no reason to think the General Assembly intended this absurd result.

2. The State Board Is Likely to Prevail as to Whether Laches Bars a Suit Under Section 12-202.

The circuit court’s ruling on the applicability of laches to plaintiffs’ § 12-202 suit similarly warrants reversal. Baltimore City passed a resolution on March 11, 2024, proposing the charter amendment that plaintiffs assailed as inappropriate “charter material.” Plaintiffs indisputably knew of that resolution as early as April 2024. (Ex. C, at 2.) The Baltimore City Solicitor, for her part, certified the question’s language on August 2, 2024, in accordance with Election Law § 7-103(c)(4)(1). (Ex. F.). Yet even after that certification, plaintiffs made no apparent effort to learn of the question’s language until the State Board incidentally posted it as part of its certification of final ballot content. Only then, with the ballots about to be printed, did they bring this challenge.

On these facts, the doctrine of laches bars this suit, for plaintiffs “unreasonably delay[ed] in the assertion of [their] rights,” and that delay “result[ed] in prejudice” to the State Board. *Liddy v. Lamone*, 398 Md. 233, 244 (2007) (quotation omitted). Plaintiffs’ decision to file suit on the eve of ballot printing endangered the State Board’s ability to prepare and print ballots ahead of applicable legal deadlines, and to conduct an orderly election in which the legality of Question F is clear from the start. And plaintiffs’ assertions of ignorance are no excuse, for “[l]aches may bar a claim in situations where a plaintiff fails to timely assert his or her rights due to his own negligence or lack of diligence.” *Ademiluyi*, 466 Md. at 124.

The circuit court’s ruling, however, treats the State Board’s certification of ballot “content and arrangement” as the date on which voters learn of all earlier governmental acts on which the ballot rests, so that a voter cannot be charged with “know[ing]” of an “act or omission . . . inconsistent with [the Election Law Article]” until the final ballot is posted on the State Board’s website. Elec. Law § 12-202(a)(1), (b)(1). Neither the Election Law Article nor the cases interpreting its provisions countenance such a view. *See Abrams v. Lamone*, 398 Md. 146, 159 n.18 (2007) (explaining that “[a] reasonable interpretation [of § 12-202] would place an obligation on a registered voter seeking to challenge the qualifications of a candidate to keep informed as to the relevant acts and omissions of that candidate,” and that “[a] voter may not simply bury his or her head in the sand and, thereby, avoid the triggering of the 10–day statutory time period, prescribed by § 12–202, in which to ‘seek judicial review from any act or omission relating to an election’”); *see also Liddy v. Lamone*, 398 Md. 233, 252-53 (2007) (holding that laches

barred a candidacy challenge where plaintiff neglected to uncover the basis for that challenge until three months after the applicable certificate of candidacy deadline). And with good reason: the Board certifies ballots' content and arrangement just 23 days before mail-in ballots must be transmitted to every qualified voter in the State. *See* Elec. Law § 9-306(c)(1). Certification under § 9-207 cannot be regarded as opening a 10-day period for initiating litigation over all possible underlying legal deficiencies with scarcely twice as much time until ballots must be delivered, and even less time until they must be printed. That, however, is the result of the circuit court's laches holding.

B. Disenfranchisement Is an Irreparable Injury; Avoiding It Is in Both the State Board's Interest and the Public's Interest.

A stay is necessary to avoid irreparable injury in the form of disenfranchisement of city voters. *See Ademiluyi*, 466 Md. at 134 (defining irreparable injury as an injury of such character "so that to refuse the injunction [avoiding the injury] would be a denial of justice"). And the State possesses a strong interest in avoiding the disenfranchisement of its voters. *See* Elec. Law § 1-201(1), (2); *see also Pelagatti v. Board of Supervisors of Elections for Calvert County*, 343 Md. 425, 437-38 (1995) ("[I]t is . . . axiomatic that unnecessary disenfranchisement of voters due to minor errors or irregularities in casting their ballots, in the absence of fraud, should be avoided." (quoting *McNulty v. Bd. of Elections*, 245 Md. 1, 8-9 (1966))). These considerations counsel heavily in favor of a staying the circuit court's nullification order.

As explained above, the circuit court's order received immediate and widespread media coverage by local and regional news media. Thus, voters reading the *Baltimore Sun*

or watching the September 16 local evening news broadcast would correctly understand that casting a voting on Ballot Question F would have no effect because the question had been invalidated. Those voters no longer have any incentive to spend time educating themselves on the arguments for and against the question, and may ultimately choose not to cast a vote on the question at all.

Mail-in voters will begin making those choices, and casting those votes (or not), on September 21, 2024. Federal and state law require the State Board to transmit requested mail-in ballots to qualified voters by September 21 and September 23, respectively. 52 U.S.C. § 20302(a)(8)(A); Elec. Law § 9-306(c)(1). Some of those ballots will arrive instantly because they are transmitted to voters by facsimile or over the Internet, Elec. Law § 9-306(b), while the remainder will arrive in voters' mailboxes over the ensuing days. Over the next week, then, tens of thousands of Baltimore City voters will have mail-in ballots in their possession. And there is no restriction on how soon a mail-in ballot can be returned.

Once returned, though, a voter's mail-in ballot cannot be replaced. A voter may not be issued a second mail-in ballot unless there are "reasonable grounds" to believe that the first ballot "has been lost, destroyed, or spoiled." Elec. Law § 9-306(e). And once a local board receives a legally sufficient mail-in ballot from a voter, the local board must count that ballot and reject any other subsequent ballot the voter submits. *Id.* § 11-303.2. Thus, if a Baltimore City voter submits a mail-in ballot next week without voting Question F, the voter will not be able to submit a second mail-in ballot or have any other ballot (such as a

provisional ballot) counted. That is true even if the circuit court's nullification order ultimately is reversed.

Given the shortcomings in the circuit court's ruling, Ballot Question F should not remain nullified in the meantime. Although a stay will not change the legal effect of any votes that are cast, it will help communicate to voters that the nullification order is subject to reversal, and thus will help ensure that voters do not ignore Question F. The State Board seeks to avoid having even one voter disenfranchised in such a manner, returning her ballot under the mistaken impression that any vote can have no effect.

C. A Stay Will Not Injure the Plaintiff-Voters.

Finally, staying the judgment pending appeal cannot injure the plaintiffs. A stay will fully preserve their ability to keep Question F from effecting an amendment to the Baltimore City Charter. If plaintiffs prevail on appeal, that is, they will be in no worse position with a nullification order taking effect on November 5 than with a nullification order taking effect on September 16. The result is the same in either event: the vote on Question F will have no legal effect.⁵

⁵ Plaintiffs may argue that the injunction provides them with clarity in the meantime, and thus directs their decision whether to spend time and money advocating against the ballot question. They may therefore assert that a stay will force them to spend money advocating against a ballot question that may ultimately prove a nullity. Regardless of any stay, however, the State Board's appeal creates the possibility that the circuit court's decision will be reversed, so that Ballot Question F can have an electoral effect on the city's charter. It is the State Board's appeal itself, then—not a stay—that may prompt plaintiffs to spend time and money advocating against Ballot Question F.

CONCLUSION

The motion to stay should be granted.

Respectfully submitted,

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September 20, 2024

Attorneys for the Maryland State Board
of Elections

CERTIFICATE OF SERVICE

I certify that on this 20th day of September, 2024, the foregoing was filed and served electronically by the MDEC system on all persons entitled to service.

/s/ Daniel M. Kobrin

Daniel M. Kobrin

Exhibit A

IN THE MATTER OF ANTHONY AMBRIDGE, *ET AL.*

* IN THE
* CIRCUIT COURT FOR
* ANNE ARUNDEL COUNTY
* MARYLAND
* Case No.: C-02-CV-24-002246

* * * * *

MEMORANDUM OPINION

This matter came before the Court on September 16, 2024, for Judicial Review of the Maryland State Board of Elections’ (“State Board”) certification of Question “F” in the 2024 General Election Ballot for Baltimore City on Petitioners’ Second Amended Petition for Judicial Review filed September 9, 2024, and Petitioners’ Memorandum in Support of Petitions for Judicial Review, filed September 10, 2024, the State Board of Elections’ Response to Petitioners’ Motions filed September 13, 2024, and Petitioners’ Reply filed on September 16, 2024. Counsel for the parties argued before the Court their respective procedural and substantive positions regarding the Certification of Question “F” on the General Election Ballot. Upon the Court’s consideration of the written and oral arguments, the Court provided an oral ruling and, thereafter, a written order on September 16, 2024, and further sets out its Opinion below.

BACKGROUND

In 1978, the Baltimore City Inner Harbor was dedicated “to public park uses for the benefit of this and future generations of the City of Baltimore and the State of Maryland” by amendment to the City Charter and codified in Art. I, § 9 of the City Charter, titled “Inner Harbor Park.” The amendment set aside, *inter alia*, 3.2 acres of the park for “eating places and other commercial

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uses.” Art. I, § 9 (as amended in 2016 through ballot measure Question “H”) (Pet. Ex. 1). On March 11, 2024, the Baltimore City Council approved Bill 23-0444, a proposed amendment to § 9 of the City Charter to be put forth to the vote of City residents in the 2024 General Election for Baltimore City (Pet. Ex. 4).

Title 9 of the Election Law Article of Maryland governs ballot questions, procedure, review, and certification, including questions proposed as charter amendments. Md. Code Ann., Elec. Law § 9-201 *et seq.* Pertinent here, § 9-202(a) provides that “[t]he State Board [of Elections] shall certify the content and the arrangement of each ballot to be used in an election that is subject to this article.” (emphasis added). Further, Title 9 requires the State Board of Elections to certify and publicly display the content and arrangement of each ballot at least 64 days before a general election. Md. Code Ann., Elec. Law § 9-207(a)(2).

The City Solicitor is required to “prepare and certify to the State Board, not later than the 95th day before the general election,” that each question to be voted on comports with the requirements for questions appearing on the ballot outlined in § 7-103(b). Md. Code Ann., Elec. Law § 7-103(c)(3)(i). The requirements of § 7-103(b) are as follows:

- (b) Each question shall appear on the ballot containing the following information:
 - (1) a question number or letter as determined under subsection (d) of this section;
 - (2) a brief designation of the type or source of the question;
 - (3) a brief descriptive title in boldface type;
 - (4) a condensed statement of the purpose of the question; and
 - (5) the voting choices that the voter has.

Md. Code Ann., Elec. Law § 7-103(b). The 95th day before the 2024 General Election was August 2, 2024. On August 2, 2024, the Baltimore City Solicitor sent a certified copy of the proposed ballot language for Question “F”, according to the resolution adopted in Bill 23-0444. (Pet. Ex. 13) The proposed language of Question “F” to amend § 9 Inner Harbor Park of the City Charter

reads as follows:

Question F is for the purpose of amending the provision dedicating for public park uses the portion of the city that lies along the Northwest and South Shores of the Inner Harbor, south of Pratt Street to the water's edge, east of Light Street to the water's edge, and north of the highway to the water's edge, from the World Trade Center around the shoreline of the Inner Harbor including Rash Field with a maximum of 4.5 acres north of an easterly extension of the south side of Conway Street plus access thereto to be used for eating places, commercial uses, multifamily residential development and off-street parking with the areas used for multifamily dwellings and off-street parking as excluded from the area dedicated as a public park or for public benefit.

By letter dated September 2, 2024, the State Board of Elections certified that a copy of Question "F" had been posted on the State Board of Elections website according to the posting requirements under § 9-207 of the Election Law Article. The following day, on September 3, 2024, the Deputy Solicitor sent a letter to the State Board that the word "Key" had been omitted before "highway" in the certified language sent to the State Board on August 2, 2024. The State Administrator of Elections responded on September 4, 2024, seeking clarification as to whether "Key" should be inserted into the language of Question "F". Upon email confirmation by the Mayor's office, "Key" was inserted, so the final language of Question "F" reads as follows:

Question F is for the purpose of amending the provision dedicating for public park uses the portion of the city that lies along the Northwest and South Shores of the Inner Harbor, south of Pratt Street to the water's edge, east of Light Street to the water's edge, and north of the Key highway to the water's edge, from the World Trade Center around the shoreline of the Inner Harbor including Rash Field with a maximum of 4.5 acres north of an easterly extension of the south side of Conway Street plus access thereto to be used for eating places, commercial uses, multifamily residential development and off-street parking with the areas used for multifamily dwellings and off-street parking as excluded from the area dedicated as a public park or for public benefit.

Section 9-209 of the Election Law Article authorizes a "registered voter to seek judicial

review of the content and arrangement, or to correct any administrative error, by filing a sworn petition with the Circuit Court for Anne Arundel County,” within two days after the content and arrangement of the ballot are certified under § 9-207. Title 9 empowers the Court to require the State Board of Elections to “take any other action required to provide appropriate relief.” Md. Code Ann., Elec. Law § 9-209(b)(3). On September 5, 2024, Petitioner filed a timely Petition for Judicial Review. On September 6, 2024, Petitioner filed an amended petition, adding 23 additional registered voters. On September 10, 2024, Petitioners filed the Second Amended Petition for Judicial Review. On September 6, 2024, Petitioners and the State Board of Elections filed a joint emergency petition seeking an expedited briefing schedule and a request for a hearing. The Court heard oral arguments on September 16, 2024.

DISCUSSION

Petitioners challenge the substance of Ballot Question “F” as not proper “charter material” in violation of Article XI-A, § 3 of the Maryland Constitution and the language of Question “F” as failing to meet the content requirements of Title 7 and Title 9 of the Election Law Article.

I. Petitioners’ § 12-202 Challenge To The Certification of Ballot Question “F” Is Not Barred By The Doctrine of Laches.

Petitioners sought judicial review of Ballot Question “F” according to § 9-209(a) and § 12-202(a) of the Election Law Article. Maryland Election Law § 12-202 provides:

In general

(a) If no other timely and adequate remedy is provided by this article, a registered voter may seek judicial relief from any act or omission relating to an election, whether or not the election has been held, on the grounds that the act or omission:

(1) is inconsistent with this article or other law applicable to the elections process; and

(2) may change or has changed the outcome of the election.

Place and time of filing

(b) A registered voter may seek judicial relief under this section in the appropriate circuit court within the earlier of:

(1) 10 days after the act or omission or the date the act or omission became known to the Petitioner; or

(2) 7 days after the election results are certified, unless the election was a gubernatorial primary or special primary election, in which case 3 days after the election results are certified.

Md. Code Ann., Elec. Law § 12-202.

While the State Board conceded that § 12-202 is the appropriate vehicle for challenging the ballot, the State Board argued that Petitioners' judicial review challenge under § 12-202 is barred by the Doctrine of Laches. The defense of laches requires a showing of unreasonable delay and prejudice arising from such delay. *Ross v. State Board of Elections*, 387 Md. 649, 670 (2005). In support, the State Board asserts that Question "F" qualified on March 11, 2024 when the City Council proposed the charter amendment by adoption of council resolution in Bill 23-0444. The State Board argues that passage of this resolution was the operative "act" triggering § 12-202 and starting the 10-day period to seek judicial review under subsection (b)(1). Further, it was argued that Petitioners' filing on September 5, 2024, was an unreasonable delay that has prejudiced the State Board in that mail-in ballots containing Question "F" have begun printing and are required by federal and state law to be mailed by September 21, and September 23, 2024, to qualified uniformed servicemembers and all other State voters who have requested a ballot. 52 U.S.C. § 20302(a)(8)(A); Md. Elec. Law § 9-306(c)(1).

Petitioners contend that the adoption by council resolution of the proposed language of Question "F" on March 11, 2024, did not trigger § 12-202 because the Petitioners requested

judicial review of the State Board of Elections' September 2, 2024¹ certification of Question "F", **not** the City's adoption of the resolution proposing language for Question "F". Between March 11, 2024, and July 18, 2024 Petitioners in an attempt to be proactive sought the language of the ballot question, but were refused, (Pet. Ex. 5 & 6). Moreover, the posting requirements under Maryland's Election Law Article require the State Board to "publicly display the **content** and arrangement of each certified ballot on its website." Md. Code Ann., Elec. Law § 9-207(c) (emphasis added). As such, the certified language of the ballot was not "available" to Petitioners until September 3, 2024.

The Court finds that the "act" for purposes of judicial challenge under § 12-202(a) was the act by the State Board of Elections, to wit: the certification and public display of Ballot Question "F" on September 3, 2024. Therefore, Petitioners' challenge was timely filed under § 12-202(b), and there was no unreasonable delay.

As to prejudice to the State Board, while the Court acknowledges that there may exist a prejudice to the State Board relating to reprinting of ballots or requiring explanatory language for reasons set forth in the Court's written Order on September 16, 2024, the Court does not find prejudice to the State Board of the degree which would justify the application of laches.

II. Question "F" Is Not "Charter Material" And Therefore, Violates Art. XI-A, § 3 Of The Maryland Constitution.

Petitioners challenge the substance of Question "F" as not proper charter material in contravention of the Maryland Constitution. Article XI-A, § 3 of the Maryland Constitution states, "[e]very charter so formed shall provide for an elective legislative body in which shall be vested

¹ Although the State Board of Elections factually certified Question "F" on September 2, 2024, due to the Labor Day Holiday, the legal certification did not occur until September 3, 2024.

the law-making power of said City or County.” Section 5 provides two means by which amendments to a city charter may be amended by vote of the electorate: (1) proposed by a resolution of the Mayor and City Council of Baltimore City or (2) by citizen-initiated petitions from registered voters. We deal with the former.

Maryland Supreme Court precedent provides guidance on charter amendments. A charter is “in effect, a local constitution which forms the framework for the organization of the local government” and is “the instrument which establishes the agencies of local government and provides for the allocation of powers among them.” *Cheeks v. Cedlair Corp.*, 287 Md. 595, 606 (1980) (internal quotations omitted). In *Cheeks v. Cedlair Corp.*, the Maryland Supreme Court addressed whether a proposed charter amendment, initiated by citizens, to create a Tenant-Landlord Commission accompanied by a specified system and duties over a rent-control system in the Baltimore City, violated Article XI-A, § 3. Concluding that the proposed amendment violated § 3, the Supreme Court reasoned that the charter amendment was “essentially legislative in character” and did not go to the “form and structure of government.” *Cheeks*, 287 Md. at 608. The proposed amendment in *Cheeks* created a Tenant-Landlord Commission comprised of non-elected members empowered with a degree of legislative authority that contravened Article XI-A, § 3, because it was a “direct exercise by the voters of the City’s police power by charter initiative[.]” *Cheeks*, 287 Md. at 609.

In 2012, the Supreme Court of Maryland reiterated the principles established in *Cheeks* and formulated a standard by which to assess whether proposed charter amendments were proper charter material. In *Save Our Streets v. Mitchell*, 357 Md. 237 (2000), proposed charter amendments in Harford and Montgomery counties. In Harford County “various adequacy standards” for use or development of public and private property and a one-year moratorium on

Harford County’s approval of development proposals was proposed. In Montgomery County, a prohibition of installation and maintenance of speed bumps by county funds and the required removal of previously installed speed bumps within one year was proposed. *Save Our Streets*, 357 Md. at 241, 243. Upon assessing the “degree to which the county council retains discretion and control regarding an area under its authority pursuant to Article XI-A,” the Court found Harford and Montgomery Counties’ proposed charter amendments as violative of Article XI-A, § 3.

In *Atkinson v. Anne Arundel County*, 428 Md. 723 (2012), the Supreme Court of Maryland provided further guidance on charter material. In *Atkinson*, a 2002 charter amendment to the Anne Arundel County Charter required binding arbitration between the County and law enforcement employees and uniformed firefighters. *Atkinson*, 428 Md. at 735. Anne Arundel County Council implemented the charter provision by ordinance in 2003. *Atkinson*, 428 Md. at 726. The ordinance was amended in 2011 to not require the County Council to “appropriate funds or enact legislation necessary to implement a final written award” in arbitration. *Atkinson*, 428 Md. at 726. Petitioners, employees subject to the 2011 ordinance, sued the County, and the County counterclaimed, seeking declaratory judgment that the original charter amendment of 2002 was unconstitutional. *Atkinson*, 428 Md. at 727. In concluding that the 2002 amendment was constitutional, the Court explained that the voters “made a policy decision,” pursuant to Article XI-A, § 1, and “left all of the detail of implementation to the Council for the exercise of its Article XI-A, § 3 law-making power.” *Atkinson*, 428 Md. at 749–50.

Under *Cheeks* and its progeny, the Court concludes that the proposed charter amendment as reflected in Ballot Question “F” for the 2024 General Election for Baltimore City is not proper charter material and therefore violates Article XI-A, § 3 of the Maryland Constitution. Question “F” sets out to rezone Inner Harbor Park in both use and size, full stop. Reading the metes and

bounds description and the permitted uses in the language of the Question “F” leaves little, if any, discretion to Baltimore City’s legislature to exercise its legislative authority pursuant to Article XI-A, § 3. Question “F” does not touch the fundamental character of “form and structure” of government as is properly reserved for charter amendments proposed to the electorate under Article XI-A, § 5.

Section 3 of the Maryland Constitution requires that any charter adopted under § 1 “shall provide for an elective legislative body in which shall be vested the law-making power of said City” and that such city council “shall have full power to enact local laws” for the city. Md. Constitution, Art. XI-A, § 3; *see Griffith v. Wakefield*, 298 Md. 381, 384 (1984). Question “F” attempts to accomplish a function reserved for the elected officials of Baltimore City to enact by means that comport with the requirements of § 3. Therefore, by proposing a final rezoning scheme of legislative character of Inner Harbor Park directly to the electorate of Baltimore City, the proposed charter amendment contravenes the Maryland Constitution and established Maryland Supreme Court precedent and is therefore unconstitutional.

III. The Ballot Question, As Proposed, Violates §§ 7-103 and 9-203 Of The Election Law Article Of Maryland.

Petitioners offer an alternative argument which the Court felt of importance to address. Title 9 of the Election Law Article of Maryland governs procedure, review, and certification of ballot questions, including questions proposed as charter amendments. Md. Code Ann., Elec. Law § 9-201 *et seq.* Section 9-202(a) provides that “[t]he State Board [of Elections] *shall* certify the content and the arrangement of each ballot to be used in an election that is subject to this article” (emphasis added), and to certify and publicly display the content and arrangement of each ballot at least 64 days before a general election. Md. Code Ann., Elec. Law § 9-207(a)(2).

The State Board of Elections contends that § 7-102 governs the State Board's next steps. The State Board contends its function regarding ballot questions proposed by a county or city legislative body is governed by §§ 7-102 and 7-103. Under § 7-102(c)(3)(i), which provides in pertinent part that "[a] question relating to the amendment of a county charter shall qualify... upon... the passage by the governing body of the county of a resolution proposing the amendment." It was further argued that § 7-103 provides, in this case, for the Office of City Solicitor to take the resolution and form its intent into a proper question to be placed on the ballot in conformity with § 7-103(b) "Requirements of questions appearing on ballot," and then forwarded to the State Board who shall place it on the ballot. Once these statutory procedures have been satisfied according to § 7-102(c)(3)(i), it is the State Board's position that § 7-103(c)(4)(i) requires the Board to accept, unquestionably, whatever is sent by the Office of City Solicitor.

In contrast, Petitioners contend that Title 9 of the Election Law Article, specifically Subtitle 2, places an onus on the State Board greater than a mere ministerial function. The State Boards' responsibilities are more than that of a rubber stamp. Section 9-205 sets forth the content requirement of a ballot. Germane to the issue of ballot questions is the requirement of subsection (2) that each ballot shall contain "a statement of each question that has met **all the qualifications** to appear on the ballot." Md. Code. Ann., Elec. Law § 9-205(2) (emphasis added). Thus, § 9-205 must be read in conjunction with § 9-203 "Ballot requirements," which sets forth the standard by which the ballot question is judged. Those ballot requirements are as follows:

Each ballot shall:

- (1) be easily understandable by voters;
- (2) present all candidates and questions in a fair and nondiscriminatory manner;
- (3) permit the voter to easily record a vote on questions and on the voter's choices among candidates;
- (4) protect the secrecy of each voter's choices; and
- (5) facilitate the accurate tabulation of the choices of the voters.

Md. Code Ann., Elec. Law § 9-203.

The Supreme Court of Maryland recently elucidated the standard under §§ 7-103(b) and 9-203 in *Stop Slots, Md. 2008 v. State Board of Elections*, 424 Md. 163 (2012). The Supreme Court explained:

[T]he Constitutional provisions providing for voter input by amendment or referendum, as implemented by the Election Law, require “a clear, unambiguous and understandable statement of the full and complete nature of the issues undertaken to be included in the proposition,” *Anne Arundel County v. McDonough*, 277 Md. 271, 300, 354 A.2d 788, 805 (1976), and that “the contents and purpose of the proposed referendum” or Constitutional amendment be set forth, in understandable language, “with that clarity and objectivity required to permit an average voter, in a meaningful manner, to exercise an intelligent choice.” *Id.*... In evaluating the sufficiency of ballot language, we have stated that § 7–103 requires that “[t]he ballot ... be complete enough to convey an intelligent idea of the scope and import of the amendment ... [and] ought not to be clouded by undue detail ... [or] misleading tendency, whether of amplification, or omission.” *McDonough*, 277 Md. at 301–02, 354 A.2d at 806 (quoting *Markus v. Trumbull County Board of Elections*, 22 Ohio St.2d 197, 202–03, 259 N.E.2d 501, 504 (1970)). Where, as was the case here, the ballot question is a summary of the purpose of the proposed amendment prepared pursuant to § 7–103(c), rather than the legislative title, as may be specifically prescribed by the General Assembly, *see* § 7–105(b)(3), “the standard by which the question’s validity will be judged ... is whether the question posed, accurately and in a non-misleading manner, apprises the voters of the true nature of the legislation upon which they are voting.” *Kelly v. Vote Know Coal. of Maryland, Inc.*, 331 Md. 164, 172, 626 A.2d 959, 963–64 (1993) (quoting *McDonough*, 277 Md. at 296, 354 A.2d at 802–03).

Stop Slots, 424 Md. at 189–92. The Court further reiterated that § 9-203 requires a ballot to “be easily understandable by voters,” while presenting all “...questions in a fair and nondiscriminatory manner.” *Id.* at 209.

Applying the standard above in assessing “Constitutional provisions providing for voter input by amendment... as implemented by the Election Law,” it is apparent that the language of

Question “F” is insufficient on numerous grounds. For instance, the descriptive language of metes and bounds is unnecessary verbiage for describing the purpose of the amendment. The language is insufficient to apprise the voters of the Charter section and the proposed amendment’s effect on what already exists. It is unclear, for example, how the proposed amendment, which “increases that portion of the public park to 4.5 acres to be used for eating places, commercial uses, multifamily residential development, and off-street parking and then removes “multifamily residential development and off-street parking”” from the definition of public park is being added to, but then excluded from Inner Harbor Park is to be understood by the ordinary voter of average intelligence. *See Anne Arundel County v. McDonough*, 277 Md. 271, 308 (1976). At the very least, the current formulation of Question “F” does not pass muster under the standard articulated by the Supreme Court of Maryland in *Stop Slots*, *supra*.

This point is further illustrated by examining the clarity with which the 2016 Charter amendment to Inner Harbor Park was formulated. Irrespective of whether the 2016 Charter amendment was constitutional, its language is illustrative of an easily understandable ballot question regarding the very same section of the Baltimore City Charter:

Resolution No. 16-29 is for the purpose of amending the Baltimore City Charter to expand the area within the Inner Harbor Park in which outdoor eating places can be located to include areas known as West Shore Park and Rash Field.

Upon a plain reading of the Election Law Article and applying the standard promulgated in *Stop Slots*, the Court finds that the formulation of Question “F” is not easily understandable and does not fairly apprise voters of the nature of the question on which they are voting. As such, Question “F” fails to meet “all the qualifications to appear on the ballot” under § 9-205(2), properly read in conjunction with the ballot requirements set forth in § 9-203, and pursuant to § 7-103(b).

CONCLUSION

For the reasons set forth above, the Court finds that the proposed Question “F” violates Article XI-A §3 of the Maryland Constitution in that it is not proper charter material. Alternatively, the language as contained in Question “F” fails to comport with the requirements of Election Law Article §9-205(2) regarding the content of the ballot, requiring “a statement of each question that has met *all of the qualifications* to appear on the ballot” referring back to §9-203 of the Election Law Article requiring each ballot to be easily understandable by the voters.

As to the appropriate remedy or relief, the Court finds that the State Board would suffer an undue prejudice were it required to reprint 500,000 mail-in ballots for the City of Baltimore to remove Question “F” from the ballot. Nor would it be appropriate to have one version for the mail-in ballot with an accompanying “clarifying statement” and then a ballot for in-person use with Question “F” removed. The Court further finds that a clarifying insert cannot cure the language.

The Court has found that the language of Question “F” is not proper charter material, so the State Board need not take any of the aforementioned actions. Rather, the Baltimore City Board of Elections shall not certify the results of Ballot Question “F” arising from the 2024 General Election for the City of Baltimore.

09/17/2024 8:43:08 PM

09/17/2024

Date



Judge, CATHLEEN M. VITALE
Circuit Court for Anne Arundel County

Exhibit B

CITY OF BALTIMORE
ORDINANCE **24-318**
Council Bill 23-0444

Introduced by: Councilmember Costello and President Mosby
At the request of: MCB HP Baltimore, LLC
Address: c/o Caroline Hecker, Esq.
Rosenberg Martin Greenberg, LLP
25 South Charles St., Suite 21st Fl, Baltimore, Maryland 21201
Telephone: (410) 727-6600

Committee Report: Favorable, as amended
Council action: Adopted
Read second time: February 26, 2024

A RESOLUTION OF THE MAYOR AND CITY COUNCIL CONCERNING

Charter Amendment – Inner Harbor Park

FOR the purpose of amending the provision dedicating for public park uses the portion of the City that lies along the north west and south shores of the Inner Harbor, south of Pratt Street to the water's edge, east of Light Street to the water's edge, and north of Key Highway to the water's edge, from the World Trade Center around the shoreline of the Inner Harbor and including Rash Field to permit multifamily residential development and off-street parking within the dedicated boundaries of Inner Harbor ~~Park~~; Park, but making clear that areas used for multi-family dwellings and off-street parking are not part of the area dedicated as park land for public benefit; and submitting this amendment to the qualified voters of the City for adoption or rejection.

BY proposing to repeal and re-ordain, with amendments
Article 1 - General Provisions
Section 9
Baltimore City Charter
(1996 Edition)

SECTION 1. BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Charter of Baltimore City is proposed to be amended to read as follows:

Charter of Baltimore City

Article I. General Provisions

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 23-0444

1 § 9. Inner Harbor Park.

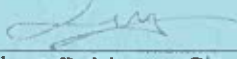
2 There is hereby dedicated to public park uses for the benefit of this and future generations of
3 the City of Baltimore and the State of Maryland the portion of the City that lies along the
4 north, west and south shores of the Inner Harbor, south of Pratt Street to the water's edge,
5 east of Light Street to the water's edge and north of Key Highway to the water's edge, from
6 the World Trade Center around the shoreline of the Inner Harbor to and including Rash Field,
7 except that, [in order] to provide MULTI-FAMILY DWELLINGS AND OFF-STREET PARKING, eating
8 places, [and] other commercial uses, ~~MULTI-FAMILY DWELLINGS, AND OFF-STREET PARKING~~,
9 areas totaling not more than [3.2] 4.5 acres plus access thereto, within the dedicated space
10 and north of an easterly extension of the south side of Conway Street shall be set aside for
11 such ~~purposes~~; [purposes:] PURPOSES, EXCEPT THAT ANY AREAS USED FOR MULTI-FAMILY
12 DWELLINGS AND OFF-STREET PARKING ARE NOT DEDICATED AS A PUBLIC PARK; and except
13 that in order to provide outdoor eating places for the areas known as West Shore Park and
14 Rash Field, areas totaling not more than 0.5 acres within the dedicated space and south of an
15 easterly extension of the south side of Conway Street shall be set aside for such purposes; and
16 except that an area of not more than 3.4 acres shall be set aside for use by the Maryland
17 Science Center, plus access thereto.

18 SECTION 2. AND BE IT FURTHER RESOLVED, That in enacting this Resolution of the Mayor
19 and City Council, it is the intent of the Mayor and City Council to preserve the public park
20 known as Rash Field and to preserve the existing development restrictions within the Inner
21 Harbor Park south of Conway Street.

22 SECTION 3. ~~SECTION 2.~~ AND BE IT FURTHER RESOLVED, That this proposed amendment to
23 the Charter of Baltimore City be submitted to the legal and qualified voters of Baltimore City, for
24 adoption or rejection, in accordance with Article XI-A, § 5 of the Maryland Constitution, in the
25 form specified by the City Solicitor.

Council Bill 23-0444

Certified as duly passed this 04 day of March, 2024



President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this 04 day of March, 2024



Chief Clerk

Approved this 11 day of March, 2024



Mayor, Baltimore City

Approved for Form and Legal Sufficiency
This 12th Day of March, 2024.

Elena DiPietro

Chief Solicitor

Exhibit C

Attachment 5

e-mail immediately. Nothing contained in the body and/or header of this e-mail is intended as a signature or intended to bind the addressor or any person represented by the addressor to the terms of any agreement that may be the subject of this e-mail or its attachment(s), except where such intent is expressly indicated.

From: aja [vixonwolfe.com](mailto:aja@vixonwolfe.com) <aja@vixonwolfe.com>
Sent: Monday, May 13, 2024 3:18 PM
To: DiPietro, Elena (Law Dept) <Elena.DiPietro@baltimorecity.gov>
Cc: Phyllis.Fung@gmail.com
Subject: RE: Charter Amendment Harborplace

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Hi Elena—just checking in with you. Have the higher-ups chimed in with their position as it applies to our citizen group weighing in on the short title of the referendum before it is sent to State Board of Election. Again, we hope for a title which accurately reflects the very action of this question.

From: aja [vixonwolfe.com](mailto:aja@vixonwolfe.com)
Sent: Friday, April 19, 2024 11:24 AM
To: Elena.DiPietro@BaltimoreCity.gov
Cc: Phyllis.Fung@gmail.com
Subject: RE: Charter Amendment Harborplace

Ms. DePietro—please confirm receipt as the first one, with same address to you, was returned to me.

From: aja [vixonwolfe.com](mailto:aja@vixonwolfe.com)
Sent: Friday, April 19, 2024 11:16 AM
To: Elena.DiPietro@BaltimoreCity.gov
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Subject: RE: Charter Amendment Harborplace

Ms. De Pietro—thank you for your time yesterday in discussion regarding the upcoming November ballot question as it applies to changes in Harborplace land use. Currently the Baltimore City Charter disallows

residential use there and requires its existing parkland/open space. The recent ordinance passed by the Baltimore City Council and signed by the Mayor puts on the forthcoming November, 2024 ballot, that Referendum to remove these restrictions and allow development of residential towers and take from Charter the requirement of parkland/open space. The Baltimore City Law Department is now required to provide language for the short title and narrative as it will be shown on the ballot, and that language must be Certified by August 2, 2024 by the State Board of Elections.

There is a group of concerned Baltimore City Residents of which I am a member, who have great concern about this proposed change to our City Charter. Our immediate interest now is to assure the language as presented to our Citizens represents the true meaning of this proposal. As such, we, or a representative would like to review it, in a timely fashion, with you, before it is sent to State for Certification, and with ample time to suggest changes to same.

It had always been my pleasure when I served our Citizens as a Member of the Baltimore City Council and later as The Real Estate Officer for Baltimore City to work with you. Please, let me know, as soon as possible, how to proceed in this important matter.

Thank you,

Anthony J. Ambridge

--

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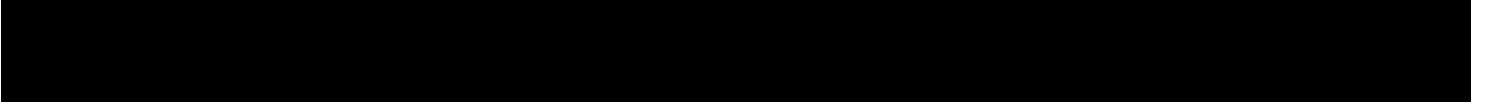
To view this discussion on the web visit <https://groups.google.com/d/msgid/inner-harbor-coalition-steering-committee/F90BCEAD-1BC0-49E4-B552-666BDD52E258%40houplastudio.com>.

Exhibit D



Fwd: FW: IHC Steering: Fwd: Charter Amendment Harborplace

1 message



From: DiPietro, Elena (Law Dept) <Elena.DiPietro@baltimorecity.gov>
Sent: Monday, May 13, 2024 3:34:17 PM
To: aja [vixonwolfe.com](mailto:aja@vixonwolfe.com) <aja@vixonwolfe.com>
Subject: RE: Charter Amendment Harborplace

As I expected, the answer is no. There will be no input from any group or individual other than those required by the law. The Law Department will comply with the requirements of the various court decisions concerning on the content and drafting of the ballot question.

Sincerely,

Elena DiPietro

*Elena R. DiPietro, Practice Group Chief
General Counsel Division*

Baltimore City Department of Law

[<image001.png>](#)
Department of Law

Mobile -410-802-1850

Office: (410) 396-3209

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Anthony J. Ambridge

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Exhibit E

Kobrin, Daniel

From: aja vixonwolfe.com <aja@vixonwolfe.com>
Sent: Thursday, July 18, 2024 9:20 AM
To: Kobrin, Daniel
Subject: RE: Forthcoming Referendum on Baltimore City November Ballot

You don't often get email from aja@vixonwolfe.com. [Learn why this is important](#)

Got it, thanks!

From: Kobrin, Daniel <dkobrin@oag.state.md.us>
Sent: Thursday, July 18, 2024 9:20 AM
To: aja vixonwolfe.com <aja@vixonwolfe.com>
Subject: RE: Forthcoming Referendum on Baltimore City November Ballot

Acknowledged, this is my email.

From: aja vixonwolfe.com <aja@vixonwolfe.com>
Sent: Thursday, July 18, 2024 8:55 AM
To: Kobrin, Daniel <dkobrin@oag.state.md.us>
Subject: FW: Forthcoming Referendum on Baltimore City November Ballot

You don't often get email from aja@vixonwolfe.com. [Learn why this is important](#)

Mr. Kobrin--Several emails I sent you were returned as AG web site offers incorrect email address. Please acknowledge receipt of this.

From: aja vixonwolfe.com
Sent: Tuesday, July 16, 2024 12:08 PM
To: oag@oag.state.md.us
Cc: Phyllis Fung <[REDACTED]>; Michael Brassert <[REDACTED]>; Brooke McDonald <[REDACTED]>; Rebecca Hoffberger <[REDACTED]>; David Benn <[REDACTED]>; David & Sharon Tufaro <[REDACTED]>; Ted Rouse <[REDACTED]>
Subject: RE: Forthcoming Referendum on Baltimore City November Ballot

July 16, 2024

Attorney General Anthony Brown

Re: Baltimore City Referendum to remove all restrictions and protections on land known as Harborplace and to allow commercial, residential development, and structured parking.

Mr. Brown—I write you as it pertains to a forthcoming referendum on the November ballot in Baltimore City. This is regarding changes in the Baltimore City Charter to allow residential development in what is now Harborplace and removes all protection of this vital land. Currently, this is the only parkland in Baltimore City currently protected within the City Charter. Our forefathers found it necessary to “protect for all future generations for the Citizens of Baltimore and the State of Maryland” this important parcel of land. Further, currently the Baltimore City Charter disallows residential use there and requires its existing parkland/open space. The recent ordinance passed by the Baltimore City Council and signed by the Mayor puts on the forthcoming November 2024 ballot, that Referendum to remove these restrictions and allow development of residential towers and take from Charter the requirement of parkland/open space. The Baltimore City Law Department is now required to provide language for the short title and narrative as it will be shown on the ballot, and that language must be Certified by August 2, 2024, by the State Board of Elections. To ensure truth in title, I urge you to review that as put forth and edit as appropriate to reflect the actual meaning of the issue.

There is a group of concerned Baltimore City Residents of which I am a member, who have great concern about this proposed change to our City Charter. Our immediate interest now is to assure the language as presented to our Citizens represents the true meaning of this proposal. As such, we, or a representative would like to review it, in a timely fashion, with you, before it is sent to State Board of Elections for Certification, and with ample time to suggest changes to same. We are counting on you as our Attorney for all Citizens of Maryland.

It had always been my pleasure to serve our Citizens first as a volunteer with Mayor Thomas D’Alesandro III, and subsequently as a fore term Member of the Baltimore City Council, and later as The Real Estate Officer for Baltimore City. My group and I care very much about this issue and hope you do what is right. Please, let me know, as soon as possible, how to proceed in this important matter.

Anthony J. Ambridge
aja@vixonwolfe.com



Exhibit F

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

EBONY M. THOMPSON, ACTING CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

August 2, 2024

Via Electronic Mail

The Honorable Chairman and Members
of the Maryland State Board of Elections
151 West Street, Suite 200
Annapolis, MD 21401

Re: Baltimore City Charter Amendment –Inner Harbor Park - Question F

Dear Honorable Chairman and Members:

Pursuant to the applicable provisions of the Election Law Article of the Annotated Code of Maryland, the undersigned, City Solicitor of the City of Baltimore, hereby certifies that the question set forth in the attached certified copy of the Resolution enacted by the Mayor and City Council of Baltimore and verified by the True Copy stamp of the Director of Finance is of local concern to the people of Baltimore City and is to be submitted for their vote for approval or disapproval at the General Election to be held in Baltimore City on Tuesday, November 5, 2024.

You will note that the Resolution pertains to an amendment to the Charter of Baltimore City. You will also note that we have provided the form in which the proposed amendment is to be submitted to the voters (which has been drafted and approved by the Department of Law).

The following is the form in which the Resolution may be submitted to the voters:

FOR
CHARTER AMENDMENT

AGAINST
CHARTER AMENDMENT

QUESTION F

CHARTER AMENDMENT
INNER HARBOR PARK

Question F is for the purpose of amending the provision dedicating for public park uses the portion of the city that lies along the Northwest and South Shores of the Inner Harbor, south of Pratt Street to the water's edge, east of Light Street to the water's edge, and north of the highway to the water's edge, from the World Trade Center around the shoreline of the Inner Harbor including Rash Field with a maximum of 4.5 acres north of an easterly extension of the south side of Conway Street plus access thereto to be used for eating places, commercial uses, multifamily residential development and off-street parking with the areas used for multifamily dwellings and off-street parking as excluded from the area dedicated as a public park or for public benefit.

A certified true test copy of the above-mentioned Resolution is attached. If you need any additional information concerning this matter, please call Elena DiPietro, Chief Solicitor, at 410-396-3209.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Ebony M. Thompson', is written over a horizontal line.

Ebony M. Thompson

City Solicitor

ATTACHMENT

cc: Honorable Brandon Scott, Mayor
Honorable Anthony Brown, Attorney General of Maryland
Honorable Nicholas J. Mosby, President, Baltimore City Council
Nina Themelis, Director, Mayor's Office of Government Relations
Elena R. DiPietro, Chief Solicitor
Ben Guthorn, Acting Director of Legislative Reference
Natasha Walker, State Board of Elections

Exhibit G



Jared DeMarinis
State Administrator

Katherine Berry
Deputy Administrator

Michael Summers, Chairman
Jim Shalleck, Vice Chairman
Yaakov "Jake" Weissmann
Diane Butler
Victoria Jackson-Stanley

DATE: September 2, 2024
TO: Local Boards of Elections
FROM: Jared DeMarinis, Administrator
SUBJECT: 2024 General Election Ballot Certification

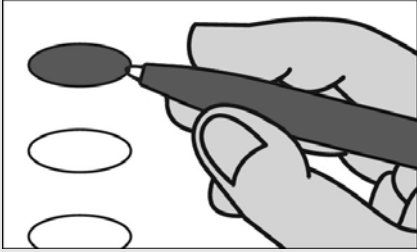
This certifies that the content and arrangement of the 2024 General Election ballots has been provided to the local boards of elections for review and proofing. To meet the posting requirements of Election Law, Section 9-207, copies of each ballot have been posted on the State Board of Elections website under the 2024 Election section.

Should you have questions regarding the ballots, please do not hesitate to contact Natasha Walker at natasha.walker@maryland.gov or Katherine Berry at katherine.berry@maryland.gov.

Exhibit H

Instructions

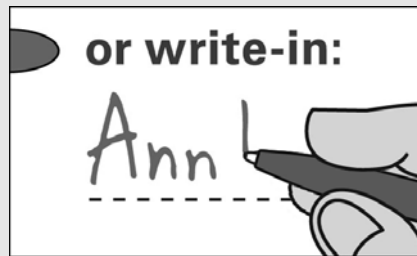
Making Selections



Fill in the oval to the left of the name of your choice. You must blacken the oval completely, and do not make any marks outside of the oval. You do not have to vote in every race.

! Do not cross out or erase, or your vote may not count. If you make a mistake or a stray mark, you may ask for a new ballot.

Optional write-in



To add a candidate, fill in the oval to the left of "or write-in" and print the name clearly on the dotted line.

President and Vice President of the United States

Vote for 1

- Kamala D. Harris**
and
Tim Walz
Democratic
- Donald J. Trump**
and
JD Vance
Republican
- Chase Oliver**
and
Mike ter Maat
Libertarian
- Jill Ellen Stein**
and
Rudolph Ware
Green
- Robert F. Kennedy, Jr.**
and
Nicole Shanahan
Unaffiliated
- or write-in:

U.S. Senator
Vote for 1

- Angela Alsobrooks**
Democratic
- Larry Hogan**
Republican
- Mike Scott**
Libertarian
- or write-in:

Representative in Congress District 7
Vote for 1

- Kweisi Mfume**
Democratic
- Scott M. Collier**
Republican
- Ronald M. Owens-Bey**
Libertarian
- or write-in:

Mayor
Vote for 1

- Brandon M. Scott**
Democratic
- Shannon Wright**
Republican
- or write-in:

President of the City Council
Vote for 1

- Zeke Cohen**
Democratic
- Emmanuel Digman**
Republican
- or write-in:

Comptroller
Vote for 1

- Bill Henry**
Democratic
- or write-in:

Member of the City Council District 1
Vote for 1

- Mark Parker**
Democratic
- or write-in:

Judge of the Circuit Court Circuit 8
Vote for up to 7

- Nicole K. Barmore**
- Yvette Michelle Bryant**
- Paul J. Cucuzzella**
- Troy K. Hill**
- Alan Carl Lazerow**
- La Zette C. Ringgold-Kirksey**
- Martin H. Schreiber, II**
- or write-in:
- or write-in:
- or write-in:
- or write-in:
- or write-in:
- or write-in:
- or write-in:

Vote All Sides



**Justice, Supreme Court of Maryland
Circuit 6**
Shirley M. Watts
Vote Yes or No
For Continuance in Office

Yes

No

Judge, Appellate Court of Maryland At Large
Anne K. Albright
Vote Yes or No
For Continuance in Office

Yes

No

Judge, Appellate Court of Maryland At Large
Kevin F. Arthur
Vote Yes or No
For Continuance in Office

Yes

No

Judge, Appellate Court of Maryland At Large
Andrea M. Leahy
Vote Yes or No
For Continuance in Office

Yes

No

**Judge, Appellate Court of Maryland
Circuit 6**
Michael W. Reed
Vote Yes or No
For Continuance in Office

Yes

No

Question 1
Constitutional Amendment
(Ch. 245 of the 2023 Legislative Session)
Declaration of Rights - Right to
Reproductive Freedom

The proposed amendment confirms an individual's fundamental right to reproductive freedom, including but not limited to the ability to make and effectuate decisions to prevent, continue, or end the individual's pregnancy, and provides the State may not, directly or indirectly, deny, burden, or abridge, the right unless justified by a compelling State interest achieved by the least restrictive means.

(Adding Article 48 to the Maryland Declaration of Rights)

For the Constitutional Amendment

Against the Constitutional Amendment

Question A
Bond Issue
Affordable Housing Loan

Question A is for the purpose of authorizing the Mayor and City Council of Baltimore to borrow up to \$20,000,000 to be used for the planning, developing, executing, and making operative the Affordable Housing Program of the Mayor and City Council of Baltimore, including, but not limited to, the acquisition, by purchase, lease, condemnation or any other legal means, of land or property in the City of Baltimore; the payment of any and all costs and expenses incurred in connection with or incidental to the acquisition and management of the land or property; the payment of any and all costs and expenses incurred for or in connection with relocating and removing persons or other legal entities displaced by the acquisition of the land or property, and the disposition of land and property for such purposes, such costs to include but not limited to rental payment and home purchase assistance, housing counseling and buyer education, assistance, and activities to support the orderly and sustainable planning, preservation, rehabilitation, and development of economically diverse housing in City neighborhoods; support the Affordable Housing Trust Fund; support the elimination of unhealthful, unsanitary or unsafe conditions, lessening density, eliminating obsolete or other uses detrimental to the public welfare or otherwise removing or preventing the spread of blight or deterioration in the City of Baltimore; and for doing all things necessary, proper or expedient in connection therewith.

For

Against

Question B
Bond Issue
School Loan

Question B is for the purpose of authorizing the Mayor and City Council of Baltimore to borrow up to \$55,000,000 to be used for the acquisition of land or property to construct and erect new school buildings, athletic and auxiliary facilities; and for additions and improvements to or modernization, demolition or reconstruction of existing school buildings or facilities; and to equip all buildings to be constructed, erected, improved, modernized, or reconstructed; and for doing any and all things necessary, proper or expedient in connection therewith.

For

Against

Vote All Sides



State of Maryland, Baltimore City

Question C
Bond Issue
Community and Economic Development
Loan

Question C is for the purpose of authorizing the Mayor and City Council of Baltimore to borrow up to \$50,000,000 to be used for, or in connection with, planning, developing, executing and making operative the community, commercial, and industrial economic development programs of the Mayor and City Council of Baltimore; the development or redevelopment, including, but not limited to, the comprehensive renovation or rehabilitation of any land or property, or any rights or interests therein hereinbefore mentioned, in the City of Baltimore, and the disposition of land and property for such purposes; the elimination of unhealthful, unsanitary, or unsafe conditions, lessening density, eliminating obsolete or other uses detrimental to the public welfare or otherwise removing or preventing the spread of blight or deterioration in the City of Baltimore; the creation of healthy, sanitary, and safe, and green conditions in the City of Baltimore; and authorizing loans and grants therefore; making loans and grants to various projects and programs related to growing businesses in the City; attracting and retaining jobs; providing homeownership incentives and home repair assistance; authorizing loans and grants to various projects and programs related to improving cultural life and promotion of tourism in Baltimore City and the lending or granting of funds to any person or other legal entity to be used for or in connection with the rehabilitation, renovation, redevelopment, improvement or construction of buildings and structures to be used or occupied for residential or commercial purposes; and for doing any and all things necessary, proper or expedient in connection therewith.

- For
- Against

Question D
Bond Issue
Public Infrastructure

Question D is for the purpose of authorizing the Mayor and City Council of Baltimore to borrow up to \$125,000,000 to be used for the development of public infrastructure owned or controlled by the Mayor and City Council of Baltimore and the Enoch Pratt Free Library and for the construction and development of streets, bridges, courthouses, City buildings and facilities and related land, property, buildings, structures or facilities, for acquisition and development of property buildings owned and controlled by the Mayor and City Council of Baltimore and the Enoch Pratt Library and public park or recreation land, property, buildings, structures or facilities including the acquisition of such by purchase, lease, condemnation or other legal means; for the construction, erection, renovation, alteration, reconstruction, installation, improvement and repair of existing or new buildings, structures, or facilities to be or now being used by or in connection with the operations, function and activities of the Mayor and City Council of Baltimore, the Enoch Pratt Free Library, public parks and recreational programs; for the construction and development of streets, bridges, courthouses, city office buildings, police stations, fire stations, solid waste facilities, information technology, and public park and recreational and related land property and buildings; for the acquisition and installation of trees, for tree planting programs and for the equipping of any and all existing and new buildings, structures, and facilities authorized to be constructed, renovated, altered or improved by this Ordinance; and for doing any and all things necessary, proper or expedient in connection therewith.

- For
- Against

Vote All Sides



**Question E
Charter Amendment
Baltimore City Police Department**

Question E is for the purpose of establishing the Baltimore City Police Department as an agency of the Mayor and City Council of Baltimore. The Police Commissioner is established as the head of the Department and is appointed by the Mayor subject to confirmation under Art. IV, Sec. 6 (a) of the Charter. The Commissioner's powers are enumerated and include determining and establishing the form and organization of the Department; assigning staff and resources, instituting systems for evaluations of members and setting policy with respect to the general operations of the Department.

The purpose and powers of the Department are also determined. The Department shall have the duty to preserve the peace, detect and prevent crime, enforce the laws of the State and the Mayor and City Council of Baltimore as well as apprehend and arrest individuals who violate or are lawfully accused of violating the law. The Department will preserve the order at public places but must discharge its duties and responsibilities with dignity and in a manner that will inspire public confidence and respect.

The duties of police officers are also established and the procedure for the creation of police districts is established.

- For the Charter Amendment**
- Against the Charter Amendment**

**Question F
Charter Amendment
Inner Harbor Park**

Question F is for the purpose of amending the provision dedicating for public park uses the portion of the city that lies along the Northwest and South Shores of the Inner Harbor, south of Pratt Street to the water's edge, east of Light Street to the water's edge, and north of the Key Highway to the water's edge, from the World Trade Center around the shoreline of the Inner Harbor including Rash Field with a maximum of 4.5 acres north of an easterly extension of the south side of Conway Street plus access thereto to be used for eating places, commercial uses, multifamily residential development and off-street parking with the areas used for multifamily dwellings and off-street parking as excluded from the area dedicated as a public park or for public benefit.

- For the Charter Amendment**
- Against the Charter Amendment**

**Question G
Charter Amendment
Community Reinvestment and
Reparations Fund**

Question G is for the purpose establishing a continuing, non-lapsing Community Reinvestment and Reparations Fund, to be used exclusively to support the work of the Community Reinvestment and Reparations Commission to the extent that the work of the commission is within the scope of the use limitations in § 1-322 {"Community Reinvestment and Repair"} of the State Alcoholic Beverage and Cannabis Article. The Mayor and City Council are authorized, by ordinance, to provide for the oversight, governance, and administration of the Fund.

- For the Charter Amendment**
- Against the Charter Amendment**

**Question H
Charter Amendment via Local Petition
Reducing the Size of the City Council**

Question H is for the purpose of amending Art. III, Sections 2 and 7 of the Charter to reduce the number of Baltimore City Council districts from 14 to 8. If the number of City Council districts is modified by an approved Charter amendment, the Mayor shall prepare a plan for Council redistricting based on the most recent census. The Mayor shall present the plan to the City Council not later than the first day of February of the first municipal election year following the approval of the Charter amendment.

- For the Charter Amendment**
- Against the Charter Amendment**

End of Ballot

