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IN THE  
**Supreme Court of Maryland**

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September Term, 2024

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No. 26

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**MARYLAND STATE BOARD OF ELECTIONS, *et al.*,**

*Appellants,*

v.

**ANTHONY J. AMBRIDGE, *et al.*,**

*Appellees.*

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**On Appeal from the Circuit Court for Anne Arundel County  
(The Honorable Cathleen M. Vitale, Judge)**

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**BRIEF OF APPELLEES**

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**BRIEF OF APPELLEES**

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**STATEMENT OF THE CASE**

In 1978, the voters of Baltimore City enshrined in the City Charter a provision dedicating a public asset — the Inner Harbor Park — for the benefit of “this and future generations.” Art. I, Sec. 9. (Apx. 1-2.) Although certain public commercial uses were authorized in specified areas within the park, never in 50 years has any portion been stripped from the public park for

exclusive commercial use by a specific private company. Born of a resolution by the Mayor and City Council of Baltimore (“MCC”), Ballot Question F seeks to take this unprecedented step by converting a protected 4.5-acre portion of the Inner Harbor Park into land available for private commercial development by MCB HP Baltimore LLC (“MCB”), a developer with plans to tear down the public Harborplace pavilions to make room for 900 luxury apartments and private parking garages. *See, e.g.,* Dan Rodricks, *Harborplace does not need 900 apartments to be a ‘great good place’ again* (BALT. SUN, Oct 1, 2024).

Sections 12-202 and 9-209 of the Election Law Article allow registered voters to seek “judicial relief” and to challenge the “content and arrangement” of proposed ballot measures like Question F, which was certified and first made available to the public by the State Board of Elections (“SBE”) on the evening of Monday, September 2, 2024 (Labor Day). Appellees filed a timely petition for judicial review under § 9-209 on September 5, 2024 (within *two* business days of SBE’s certification and in the Circuit Court for Anne Arundel County, as required under § 9-209(a)) (E. 31-32.); Appellees added a request for judicial relief under § 12-202 in an amended petition filed on September 9, 2024 (within *ten* days of SBE’s certification and publication, as prescribed by § 12-202).

As certified, published, and now printed by SBE, Question F reads:

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.

(E. 48.) This language has been fairly described as “incoherent,” “confusing and misleading,” “word salad,” and “gibberish.”<sup>1</sup> Colorful descriptors aside, the 132-word ballot language does not satisfy the minimum standards of reasonable clarity, accuracy, and completeness required by Maryland courts. *See Anne Arundel Co. v. McDonough*, 277 Md. 271, 308 (1976) (invalidating a ballot measure because its language was “so inaccurate, ambiguous and obtuse, that an ordinary voter, of average intelligence, could not, in a meaningful and comprehending manner, have knowledgeably exercised his franchise when called upon to vote”); *Surratt v. Prince George's County*, 320 Md. 439, 447 (1990) (requiring that the wording of a ballot question “must convey with reasonable clarity the actual scope and effect of the measure”).

On this non-constitutional ground that the language of Question F is indecipherable and therefore in violation of *McDonough*, *Surratt*, and § 9-203

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<sup>1</sup> *See, e.g., City residents say Harborplace ballot question is 'confusing'* (WBAL, Sept. 6, 2024); *Baltimore City Residents File Petition to Review "Misleading" Ballot Question about Harborplace*, (WJZ, Sept. 6, 2024).



(mandating that ballots be “easily understandable”), Appellees sought to invalidate Question F under § 9-209 and, in the alternative, under § 12-202; Appellees also challenged the ballot measure on constitutional grounds as “improper charter material” under § 12-202. In an abundance of caution in light of the original Appellant’s (SBE’s) procedural objections and the possible need for a temporary restraining order, Appellees instituted a parallel action in Baltimore City under § 12-202, raising the same substantive claims.

On September 16, 2024, after expedited briefing and argument, the Circuit Court for Anne Arundel County ruled in Appellees’ favor and invalidated Question F on two standalone grounds: (1) Question F is not “easily understandable” and does not provide the “ordinary voter of average intelligence” an idea of the nature of the question upon which they are asked to vote, and (2) Question F is unconstitutional because it is not “proper charter material” under *Cheeks v. Cedlair Corp.*, 287 Md. 595 (1980), and its progeny.

Because SBE had already started printing ballots and planned to mail them that Friday (September 20, 2024), and because SBE advised the lower court that ballot machines could not avoid tabulating votes (E. 200), the Circuit Court did not order SBE to reprint ballots or to not count votes, instead confining its Order to blocking SBE’s certification of the results. (E. 18.)

After the Circuit Court rendered its decision, MCB and MCC successfully sought to intervene, with MCB filing a notice of appeal and MCC filing a

motion for reconsideration, which the Circuit Court summarily denied (Apx. 46). Both intervenors joined SBE in filing the instant appeal.

\* \* \* \* \*

### QUESTIONS PRESENTED

1. Whether voters are entitled to challenge indecipherable ballot language under §§ 9-209 and 12-202 within days of its earliest public display, where the language was previously unavailable on SBE's (or any other) website and unreported in media coverage prior to that first publication.
2. Whether voters are entitled to challenge the constitutionality of a ballot measure under § 12-202 within days of SBE's certification, where an earlier attack based solely upon the resolution proposing the amendment would have been declared "premature" under *Smigiel v. Franchot*, 410 Md. 302 (2009), and where constitutional ballot challenges are typically filed after certification and occasionally after the election.
3. Whether Appellees' claims could proceed notwithstanding the doctrine of laches, the supposed availability of judicial review under § 6-209, the decision to not name the City as a defendant, and Appellees' choice to initiate this lawsuit in Anne Arundel County.
4. Whether the Circuit Court correctly concluded that Question F is not "easily understandable" or, alternatively, so "ambiguous and obtuse" that an ordinary voter of average intelligence could not divine its actual scope and effect in order to cast an informed and meaningful vote.
5. Whether the Circuit Court correctly ruled that Question F constitutes "improper charter material," where the ballot measure does not implicate the "form and structure" of government and does not, unlike the original charter provision it seeks to amend, protect a public asset for posterity but rather effectuates the kind of negotiated zoning law for a particular parcel and development project best done by a legislature.
6. Whether an order blocking the counting or certification of votes of an invalid and unconstitutional ballot question was within the range of "appropriate relief" available to the Circuit Court, where revision or reprinting of ballots was costly, burdensome, and unnecessary.

## SUMMARY OF ARGUMENT

Appellants present to this Court a battery of procedural objections, some of which were presented below and rejected by the Circuit Court while others are newly minted on appeal. Appellants also challenge the Circuit Court's substantive rulings, claiming that the language of Question F is minimally adequate and that it constitutes proper charter material because Question F seeks to amend a provision already in the City Charter. None of Appellants' procedural objections or substantive arguments have merit.

### Procedural Objections

Appellants aim to string together a diverse tapestry of procedural arguments that turn out to be threadbare and frayed.

A. Appellees have consistently maintained that they may challenge the language of Question F through either a § 9-209 petition for judicial review or, if that is unavailable, a § 12-202 demand for judicial relief. Appellants dispute the availability of both vehicles but for different reasons. With respect to § 9-209, Appellants urge a strictly textualist approach and rely on a case involving a challenge to a *candidate's* qualifications, yet they (1) disregard the conspicuous *textual* difference between the separate subsections that cover certifying candidates versus certifying ballot questions, (2) overlook the precise text of § 9-205, which requires the State Board to include each question that has met "*all of the* qualifications to appear on the ballot," not just those set

forth in § 7-102, (3) adopt an interpretation of Title 9 that nullifies and fully erases the text of § 9-203, the section that requires each ballot to be “easily understandable” and present questions “in a fair and nondiscriminatory manner,” § 9-203(1)-(2), and (4) misunderstand § 9-209’s legislative history, which confirms that changes in 2019 were designed to stop efforts to relitigate residency disputes and not meant to curtail other valid judicial challenges.

Appellants admit § 12-202 may be used to attack the language of Question F but claim that Appellees’ challenge came too late because it should have been filed within 10 days of when the City Solicitor certified and conveyed the language of Question F to SBE. Appellants use the wrong starting point for the 10-day countdown, however, because neither the certification letter of August 2, nor the language of Question F, could be found on the State Board’s (or City Solicitor’s) website. Furthermore, neither was covered in any local news reports. Those are the two sources this Court has said it would expect would-be parties to consult in order to avoid burying their “head in the sand” to “avoid the triggering of the 10-day statutory time period.” *See Abrams v. Lamone*, 398 Md. 146, 159 n.18 (2007); *Ademiluyi v. Egbuonu*, 466 Md. 80, 129-30 (2019). Ballot Question F was finally displayed publicly, as required by statute, on the evening of September 2, 2024, and Appellees filed for judicial relief under § 12-202 within 10 days. Critically, that was when Appellees and the general public first learned of the language to which they now object.

B. Likewise, Appellants insist that the constitutional objection that Question F is not proper “charter material” could have been filed months earlier when the City first passed a resolution proposing the amendment. Appellants fail to appreciate that a mere resolution does not qualify as an “act or omission” under § 12-202, nor could it be the subject of a declaratory judgment action, which is limited to “a statute, municipal ordinance, administrative rule or regulation, contract, or franchise.” *See* Md. Code Ann., Cts. & Jud’l Proc. § 3-406.

C. MCC colorfully asserts that Appellees have challenged Question F at the wrong time under the wrong statute in the wrong forum against the wrong defendant. The Circuit Court addressed the first of these, concluding that (1) the doctrine of laches does not bar Appellees’ claims. After all, the original time crunch faced by SBE was not due to delay by Appellees, but because of a timetable established by Maryland’s election laws and because of Baltimore City’s and SBE’s own dilatory pace and inaction; moreover, because the Circuit Court’s remedy did not require SBE to reprint ballots or delay mailing them, Appellants have not suffered the prejudice they two weeks ago feared.

MCC’s new arguments on appeal that Appellees should have filed its challenge under § 6-209 in Baltimore City against the City of Baltimore overlook (2) that § 6-209 is only a vehicle to challenge *signature petitions*, (3) that Anne Arundel County was an equally valid venue since SBE resides there

and a related matter was already pending in that Court, and (4) that even if Baltimore City was a necessary party, its motion to intervene has been granted (effectively curing any defect), and Maryland courts have held that “persons who are directly interested in a suit and have knowledge of its pendency and refuse or neglect to appear and avail themselves of their rights are concluded by the proceedings as effectually as if they were named in the record.” *Bodnar v. Brinsfield*, 60 Md. App. 524, 532 (Md. Ct. Spec. App. 1984).

### **Substantive Challenges**

While SBE limits the majority of its appeal to procedural defects, MCC and MCB directly challenge the Circuit Court’s substantive ruling and remedy. These arguments are similarly unconvincing.

A. The Circuit Court correctly concluded that Question F is not “easily understandable” and falls well short of what is expected of a ballot question that should allow an ordinary voter of average intelligence to understand the scope and effect of the proposed amendment on which they are asked to vote. (E. 28-29.) The Circuit Court noted in its written order that Question F included the “unnecessary verbiage” of a “metes and bounds” description of the Inner Harbor Park and would not “apprise the voters of the . . . proposed amendment’s effect on what already exists” (E. 29.) From the bench, Judge Vitale noted that she herself was “struggling with the whole,” got “a little lost,” and wondered out loud “[w]hat are they talking about?” (E. 134.)

The Circuit Court’s conclusion and confusion are hardly surprising. The preliminary problem with Question F is that its convoluted formulation makes it hard for an ordinary voter to know which part of the ballot language is a description of the current provision that is up for amendment and which part describes what the charter provision will become as a result of the amendment. Likewise, the ballot language is “clouded by undue detail” because of the impenetrable verbiage describing the park’s boundaries; even if needless street coordinates and directional vectors are removed, Question F still fails to distinguish between what is currently permitted (*i.e.*, eating places and commercial uses) and what the amendment would permit (*i.e.*, multifamily residential development and off-street parking), instead further confusing matters by listing those distinct uses serially as though they are on the same legal footing. Similarly, because it uses an ambiguous phrase with multiple meanings (*i.e.*, “*as excluded*”) to attempt to convey that a part of the currently protected parkland would be removed from the Inner Harbor Park, Question F does not make clear whether that area is already excluded from the park or would be excluded due to the amendment. Critically, Question F also nowhere mentions that the area available for commercial uses would be increased from the current allotment of 3.2 acres to the newly proposed 4.5 acres explicitly requested by the developer. For all these reasons, the Circuit Court was right to invalidate Question F.

B. The lower court was also correct in ruling that, aside from being incoherent, Question F is also improper “charter material” because it does not alter the “form or structure” of government. That unbroken rule, rooted in the Maryland Constitution itself, has been the basis for invalidating numerous proposed charter amendments that were otherwise meritorious. Question F does not even purport to alter the distribution of authority or modify the structure of city government. It is a zoning ordinance that is meant to allow the construction of luxury apartments and parking garages at the water’s edge at the expense of one of Baltimore’s most precious public assets. It is a gift to a specific local developer who, in exchange for generous campaign donations, would be granted by the legislature a slice of the city’s public infrastructure. It is an insult to generations of taxpayers who long believed that the Inner Harbor Park was a public asset preserved in the City Charter for the public’s use in perpetuity. Exactly for these reasons, it is not proper charter material and therefore violates Article XI-A of the Maryland Constitution.

C. Finally, as to the Circuit Court’s remedy, MCC argues that an order directing the State Board not to certify votes on Question F authorizes an impermissible “straw vote.” To be sure, the Circuit Court’s original remedy was to direct the State Board not to tabulate the votes. It was only when SBE indicated that the ballot machines could not avoid counting votes that the Circuit Court ordered SBE not to certify any vote count on Question F. That is



far different than the impermissible straw vote discussed in *Montgomery County v. Board of Elections*, 311 Md. 512, 517-18 (1988).

## STATEMENT OF FACTS

In October 2023, the Mayor of Baltimore stood alongside a private commercial developer and announced plans they had developed to construct luxury apartments with parking garages to replace the iconic Harborplace pavilions. To meet the developer's needs to build two residential towers — 32 stories and 25 stories tall — the Mayor and City Council lifted existing legal obstacles by altering zoning regulations and removing height restrictions altogether through a series of legislative actions. Because Harborplace currently sits atop parcels of parkland that are dedicated exclusively for public benefit under Section 9 of Article I of the Baltimore City Charter, the Mayor and City Council advanced a ballot measure that would amend the Charter provision that, if left in place, would block the proposed construction of luxury apartments and private parking garages by MCB.

The original resolution was submitted for review to the Office of the City Solicitor who responded that the proposed amendment was insufficient to allow residential development and private parking because, under Maryland law, those activities were incompatible with a public asset dedicated for public benefit. *See* E. 61 (Letter of City Solicitor, November 28, 2023). Following the City Solicitor's recommendation, the proposed amendment was revised to now

also excise from the Inner Harbor Park an area of 4.5 acres, thereby rendering that land amenable to private ownership and development. (E. 37-39.) This would constitute the first time since 1978, when the Inner Harbor Park was first dedicated for public use, that a portion of Baltimore’s most famous landmark would be torn from the fabric of the public park and delivered into the hands of a private developer.

A. The Acquisition of Harborplace by Developer MCB

On December 16, 2022, the Court granted approval of a “private sale” of all leasehold interests in Harborplace to MCB, whose principal, David Bramble, has close ties to the Mayor and members of the City Council of Baltimore. According to press reports, the Mayor said at the time of the sale: “I’ve had the City Solicitor working with [Mr. Bramble] since the beginning of the receivership process and I remain committed to seeing this to fruition.” *See* Giacomo Bologna & Hallie Miller, *How did a single developer come to control the fate of Harborplace?* (BALT. BANNER, Mar. 6, 2024). At an October 30, 2023, press conference, the Mayor revealed that the City and MCB had long ago agreed upon the MCB Project and taken steps to ensure its fruition:

I’ve been known to keep secrets, but the hardest one that I had to keep is the work that my law department and BDC and others were doing from the first day I got into office to make sure we didn’t let Harborplace stay or get into other out-of-town hands. We made sure Harborplace got into the hands of a West Baltimore boy who understands and knows Baltimore like no one else.

See David A. Plymyer, *Upon taking office, Mayor Scott secretly worked to ensure one developer got rights to Harborplace* (BALTIMORE BREW, Jan. 25, 2024.)

B. Introduction of Legislation to Enable MCB's Development Project

On the same day as the press conference, October 30, 2023, Councilmember Eric Costello and Council President Nick Mosby introduced three legislative bills for the express purpose of advancing MCB's proposed development ("MCB Inner Harbor Bills"). These bills, including the resolution that proposed the charter amendment at issue in this case, were drafted by MCB's counsel and state, on their face, that they were being introduced "at the request" of MCB (*see* Bills 23-0444, 23-0446, & 23-0448 (Apx. 47-61, E. 37-39)).

Bill 23-0446 amended provisions of the City's Zoning Ordinance, including, for example, removing the building height limitation. Bill 23-0448 amended the Urban Renewal Plan to change the permitted uses in Development Areas 13, 14, and 15a of Inner Harbor Park. Bill 23-0444 is the resolution of the Mayor and City Council proposing to amend Section 9 of Article I of the City Charter relating to Inner Harbor Park. *Id.*

After revisions prompted by advice from the Office of the City Solicitor, a revised resolution was taken up by the Mayor and City Council. On March 4, 2024, the City Council approved the MCB Inner Harbor Bills; on March 13, 2024, the Mayor signed those Bills. (E. 37-39.)

C. The State Board’s Certification of Ballot Question “F”

On July 1, 2024, the State Board sent a notice reminding local jurisdictions that August 2, 2024, was the deadline under section 7-103(c)(3) to certify and send ballot questions to the Board.<sup>2</sup> By letter dated August 2, 2024, the day of the deadline, the City Solicitor sent a certified copy of the resolution adopted in Bill 23-0444 and proposed ballot language for Question “F” to be submitted to the voters. (E. 40-41.) On September 2, 2024, the State Board issued a letter certifying, under section 9-207, that a copy of the ballot received from the City had been posted on SBE’s website. (E. 44.)

On September 3, 2024, the City’s Deputy Solicitor sent a letter informing the State Board that the word “Key” was omitted from the certified language sent on August 2, 2024. The Deputy Solicitor explained:

To be clear, this was not intended to change the meaning of the original Resolution, which describes the highway as “Key highway.” The language that the City’s Law Department submitted [on August 2] was intended to simplify the Resolution so that it would be easier for voters to understand. Indeed, there is no other highway that the Resolution could refer to. However, in an abundance of caution, the City Solicitor’s wants to make clear to the State Board of Elections as well as the Baltimore City Board of Elections that “highway” in that sentence refers to Key Highway.

(E. 42.)

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<sup>2</sup> Section 7-103(c)(3) requires the City to prepare and certify to the State Board the ballot question language “not later than the 95th day before the general election.” That deadline was August 2, 2024.

On September 4, 2024, the State Administrator of Elections sent the following email to the City:

Thank you for your letter. It is not clear if you want me to change the language on the ballot to include the name of the highway. Because you informed me of the issue, I am assuming that you want me to include the legal description of the highway on the ballot question. Therefore, please reply to this email to clarify and include 'Key Highway' on the ballot question.

Marvin James of the Mayor's office responded, "Yes. That's correct." (E. 43.)

D. Appellees Challenge Question F's Validity and Constitutionality

Beginning in April 2024, Appellee Anthony Ambridge wrote to the City's Law Department (and later to the Maryland Attorney General) asking for a chance to review the ballot language. His request and the request of others were summarily denied. (See E. 64; Apx. 13.) Appellees and the public first saw the proposed ballot language on September 2, the last day by which SBE is required to certify and publicly display the draft ballot. See § 9-207(a). Within days, Appellees filed multiple timely petitions for judicial review challenging the validity and constitutionality of Question F.

**STANDARD OF REVIEW**

The Circuit Court for Anne Arundel County issued an order predicated upon an interpretation of the Maryland Constitution and Maryland statutes including the Election Law Article. In those respects, the lower court's decision is subject to *de novo* review. See *Walter v. Gunter*, 367 Md. 386, 392 (2002). The

Circuit Court's ruling on Appellants' assertion of laches presents a mixed question of fact and law, and hence certain findings will be disturbed only if clearly erroneous. *See Liddy v. Lamone*, 398 Md. 233, 246-47 (2007).

## **ARGUMENT**

Question F presents a textbook illustration of a ballot measure that is indecipherable for an ordinary voter of average intelligence. It also provides this Court an opportunity to make clear, if only in dicta, that a charter amendment sponsored by a private developer meant only to deliver a zoning regulation to enable that developer to pursue a specific construction project is not proper charter material. On either ground, this Court should affirm the Circuit Court's order invalidating Question F and prescribe any of several remedies that fit the present circumstances. Moreover, none of the procedural obstacles suggested by Appellants prevent this Court from reaching the conclusion that Question F is invalid or from fashioning a remedy that ensures that an incoherent and unconstitutional ballot measure does not become law.

### **I. VOTERS WERE ENTITLED TO CHALLENGE AN INCOHERENT AND UNCONSTITUTIONAL BALLOT MEASURE IMMEDIATELY AFTER IT WAS CERTIFIED AND FIRST MADE PUBLIC.**

Before the Circuit Court and now on appeal, Appellants have raised a bevy of procedural arguments in a vain attempt to short circuit Appellees' substantive claims. Each deserves attention, but none survive scrutiny.

**A. Both §§ 9-209 and 12-202 allow city voters to challenge a ballot question containing impenetrable language.**

Appellants insist that a petition for judicial review under § 9-209 as to the “content and arrangement” of a ballot measure does not allow voters to question whether the ballot language is “easily understandable.” Appellants do not dispute, however, that such a challenge is permitted under § 12-202, but claim that voters needed to file that challenge within 10 days of August 2, when the City Solicitor privately relayed the language of Question F to state officials. Appellants’ position (1) materially rewrites the text and structure of Title 9, (2) is not supported by legislative history, and (3) ignores this Court’s clear guidance in *Abrams* and *Ademiluyi* that voters are expected to remain apprised of information in the media and on SBE’s website, not to extract from election officials information that has not yet been shared with the public.

1. Title 9 makes clear that a challenge to the “content” of a ballot can include attacks on whether its language is “easily understandable.” The difficulty with Appellants’ interpretation is that it overlooks three textual features of the laws in question.

First, Appellants flatly ignore the difference in words between § 9-205(4), which is the provision governing candidates that is at issue in *Ross v. State Board of Elections*, and § 9-205(2), which is the provision for ballot questions and is written very differently. Compare the two side by side:

### **Section 9-205 (Content)**

Each ballot shall contain:

- (2) a statement of each question that has met all of the qualifications to appear on the ballot
  
- (4) the name . . . of each candidate who has been certified by the State Board

Subsection (4) merely requires the State Board to confirm whether the candidate has been certified. But subsection (2) states that a ballot should include questions that have met “all of the qualifications to appear on the ballot.” This conspicuous textual difference explains why *Ross* does not bear on the scope of § 9-209 challenges to ballot questions and only concerns § 9-209 challenges to candidates set to appear on an election ballot. After all, as this Court has long advised, “when a legislature uses different words, especially in the same section or in a part of the statute that deals with the same subject, it usually intends different things.” *Toler v. MVA*, 373 Md. 214, 223 (Md. 2003).

Second, Appellants’ argument overlooks the exact text of § 9-205, which directs the State Board to include each question that has met “all of the qualifications to appear on the ballot,” not just those set forth in § 7-102. If the General Assembly intended only for SBE to check whether the question had qualified under § 7-102, it would have said just that rather than insisting that the question meet “all of the qualifications to appear on the ballot.”



The *Ross* Court itself reiterated a relevant canon of interpretation that further undermines the State Board’s position: “We will neither add nor delete words to a clear and unambiguous statute to give it a meaning not reflected by the words the Legislature used or engage in a forced or subtle interpretation in an attempt to extend or limit the statute’s meaning.” *Ross*, 387 Md. at 662 (citation and internal quotation marks omitted). Yet, that is exactly what Appellants would ask this Court to do: delete “all of the” from “all of the qualifications” and add “under Title 7” to alter the statute’s meaning and to narrow which qualifications need to be met.

*Ross* also affirmed the rule of construction that “[w]hen interpreting the language of a statute, we assign the words their ordinary and natural meaning.” *Id.*, at 662. Black’s Law Dictionary defines “qualification” as “the possession of qualities or properties . . . inherently or legally necessary to make one eligible for a position or office.” BLACK’S LAW DICTIONARY (12<sup>th</sup> ed. 2024). Merriam-Webster defines “qualification” as “a condition or standard that must be complied with (as for the attainment of a privilege).” *See* MERRIAM-WEBSTER DICTIONARY (last visited online on October 1, 2024).

Of course, Title 7 is not the only place that presents qualities or “standard[s] that must be complied with” in order “to appear on the ballot.” In fact, there are additional standards set forth in § 9-203 (a section titled “Standards”) that must also be satisfied, including that the ballot be “easily

understandable” and that ballot questions be presented in a “fair and nondiscriminatory manner.” § 9-203(1)-(2). Where a literal dictionary definition of “qualification” is a “standard that must be complied with,” and an adjacent subsection (§ 9-203) establishes “Standards” including that questions be “easily understandable,” it is natural for “all of the qualifications” to include requirements set forth in the very same subtitle.

Finally, and perhaps most problematic, Appellants’ interpretation would effectively remove § 9-203 from the statute because if the State Board is not required to consider and enforce these standards in certifying questions, then no one is. After all, the City Solicitor’s certification only requires it to affirm that the amendment was proposed by resolution. This is confirmed by the City Solicitor’s certification letter, which states only that “the question set forth in the attached certified copy of the Resolution . . . is of local concern to the people of Baltimore City and is to be submitted for their vote for approval.” (E. 40-41.)

2. On appeal, MCC references amendments to the language of § 9-209(b) to argue that the General Assembly’s revision of “error” to “administrative error” in §§ 9-209(b)(1) & (b)(2) reflected an intent to limit “content and arrangement” challenges to minor administrative matters. *See* MCC App. Br. at 15-16. This is unpersuasive for several reasons.

First, the General Assembly only added the “administrative” qualifier to §§ 9-209(b)(1) and (b)(2), thereby altering the Circuit Court’s authority under

those provisions to require the State Board only to “correct an *administrative* error” or to “show cause why an *administrative* error should not be corrected” (emphasis added). But the Circuit Court in this case did not utilize (b)(1) or (b)(2), but rather used its authority under § 9-209(b)(3) to “require the State Board to . . . take **any other action** required to provide appropriate relief” (emphasis added). The legislature declined to integrate the “administrative” qualifier to (b)(3) as well, so that the lower court could then only require the State Board to take “any *administrative* action” to provide relief. *See Toler*, 373 Md. at 224 (“[W]here the legislature has carefully employed a term in one place and excluded it in another, it should not be implied where excluded. The use of different terms within related statutes generally implies that different meanings were intended.” (citation omitted)).

Also, MCC neglects to share that the Senate hearing on SB1004, which changed “error” to “administrative error” made clear that the overall goal of the changes proposed to the General Assembly was to provide additional time for judicial challenges and that the legal actions that were meant to be curtailed were challenges to candidate residency requirements.<sup>3</sup> At that hearing, a State Senator asked Mr. DeMarinis about the changes to § 9-209(b):

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<sup>3</sup> *See* Bill Hearing on SB0840, SB0142, SB0472, SB0504, SB0615, SB0950, SB1004, before the Education, Health, and Environmental Affairs Committee, 2019 Regular Session (Statement of Jared DeMarinis, Director of Campaign Finance, Maryland State Board of Elections), at 1:28:15, available at

I noticed on the last page, on Section 9-209, you changed it where they can, I guess, seek judicial review, current law is to correct any error, basically, and this changes to administrative error. What's - what is your motivation and difference between that and an administrative error, what are you trying to take out that they can't seek review on?<sup>4</sup>

Mr. DeMarinis forthrightly responds that the goal was to prevent voters from relitigating candidate residency challenges: "We've had a couple of people that were trying to relitigate issues, saying this person is not qualified because they don't live in this address here. Well, that challenge for residency should have occurred under the other provisions of the law." *Id.*, at 1:43:48.

Thus, the legislature's focus was limited to candidate residency disputes, the very subject of *Ross*. The State Senator's closing remark to Mr. DeMarinis affirms that the legislature had no intention of inadvertently removing other potential judicial challenges beyond candidate residency disputes: "I may want to follow up with you just to make sure we're not eliminating some other valid reason they could bring that challenge." *Id.*, at 1:45:50.

3. Even assuming, *arguendo*, that § 9-209 is not an available vehicle to challenge the language of Question F, Appellants concede that registered voters can validly challenge and thereby invalidate the proposed ballot language as too confusing for the ordinary voter of average intelligence under

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[https://mgaleg.maryland.gov/mgaweb/Committees/Media/false?cmte=ehe&ys=2019RS&clip=EHE 3 7 2019 meeting 1&billNumber=sb1004](https://mgaleg.maryland.gov/mgaweb/Committees/Media/false?cmte=ehe&ys=2019RS&clip=EHE%203%207%202019%20meeting%201&billNumber=sb1004).

<sup>4</sup> *Id.*, at 1:43:23.

§ 12-202. *See* SBE App. Br. at 28 (“This cause of action [§ 12-202] would have been the correct vehicle for challenging Ballot Question F as improper charter material and insufficiently understandable by voters—but only if that claim had been filed in a timely manner.”).

Appellants insist, however, that a demand for judicial relief should have been made within 10 days of when the City Solicitor sent its certification letter to SBE with its formulation of Question F. *See id.* Appellants use the wrong starting point for the 10-day countdown, however, because neither the certification letter of August 2, nor the language of Question F, could be found on the State Board’s (or City Solicitor’s) website. Furthermore, neither was covered in any local news reports. Those are the two sources this Court has said it would expect would-be parties to consult in order to avoid burying their “head in the sand” to “avoid the triggering of the 10-day statutory time period.” *See Abrams v. Lamone*, 398 Md. 146, 159 n.18 (2007); *Ademiluyi v. Egbuonu*, 466 Md. 80, 129-30 (2019). Ballot Question F was finally displayed publicly, as required by statute, on the evening of September 2, 2024, and Appellees filed for judicial relief under § 12-202 within 10 days.

Appellees respectfully submit that *Abrams* and *Ademiluyi* conclusively establish that their demand for judicial relief is timely. It is undisputed that the State Board’s website did not display Question F or the City Solicitor’s letter until the evening of Labor Day (September 2, 2024). It is undisputed

that, prior to September 2, 2024, the ballot language and the City Solicitor’s certification received “little to no media attention.” Consequently, Appellees did not fail to avail themselves of the sources this Court has explicitly directed voters to consult.

It should be emphasized that, if anything, Appellees did the opposite of “bury [their] head[s] in the sand.” Mr. Ambridge sent email inquiries about the language of Question F as early as April 19, 2024 (to the City Solicitor’s Office) and as late as July 16, 2024 (to Counsel to the State Board at the Attorney General’s Office). (E. 64-68.). In fact, there were active and public discussions among Appellees and others questioning when the ballot language would be public well into August 2024. (*See* Apx. 5-9 (discussion in late August 2024 on Facebook group devoted to Harborplace inquiring when voters could expect to see ballot language).) Furthermore, notwithstanding SBE’s insistence that the public could have obtained the language of Question F simply by asking, at least one reporter told the public in late August (August 20) that she had specifically asked to review the ballot language the previous day and had been rebuffed. *See* Apx. 13 (“Melody Simmons, guest host for *Midday* and reporter for *Baltimore Business Journal* states: ‘I called the Board of Elections yesterday [8/19/2024] and you can’t even get the language. We don’t know what the referendum is going to say.’”).

**B. Appellees timely challenged the constitutionality of Question F under § 12-202 and were not required to file suit months earlier solely based upon a city resolution proposing the amendment.**

With respect to the constitutional challenge, Appellants claim the 10-day window under § 12-202 began when the original resolution was passed in March 2024, as opposed to when the ballot measure was certified and published by SBE on September 3, 2024. This argument is unavailing for two clear reasons: (1) as the Circuit Court correctly observed, this Court stated in *Smigiel v. Franchot*, 410 Md. 302 (2009), that a ballot measure is not ripe for constitutional challenge until the ballot language itself is formulated and final; and (2) most “form and structure” cases have been brought as declaratory judgment actions — which likely could not be used to test mere resolutions — and in fact all of those challenges were filed either after certification, *see, e.g., Save our Streets v. Mitchell*, 357 Md. 237 (2000); *Cheeks v. Cedlair Corp.*, 287 Md. 595 (1980), or after the election was over, *see, e.g., Griffith v. Wakefield*, 298 Md. 381 (1984)). Appellees have been unable to locate a single case where a challenge was filed prior to certification of the ballot language based solely upon a resolution proposing a charter amendment.

*Smigiel* held that a constitutional challenge to a ballot question could proceed only after the ballot language was final:

The challenge to the ballot question was premature because the Secretary of State, to whom falls the responsibility of drafting the ballot question that describes the proposed constitutional

amendment . . . had not undertaken to discharge that responsibility; thus, there was no ballot question, at that time, for us to review.

*Smigiel*, 410 Md. at 321. In fact, the *Smigiel* Court emphasized that the House Bill that served as the basis for the ballot question was not enough to enable the lawsuit to proceed: “House Bill 4 was not a substitute for the language that would be used in the ballot question either.” *Id.*

**C. Appellants’ contentions that Appellees filed at the wrong time under the wrong statute against the wrong defendant in the wrong forum is unconvincing.**

1. On appeal, Appellants persist in arguing that laches bars Appellees’ claims because the belated filings were needlessly close in time to SBE’s deadline for printing and mailing ballots. SBE App. Br. at 28. As the Circuit Court correctly found, laches is inapplicable where Appellees filed claims as soon as they could and any delay could be fairly ascribed to Maryland’s election calendar and Appellants’ own decision to delay publication of Question F; moreover, in the end, there was no prejudice since the lower court’s remedy did not require any alteration to SBE’s timetable to print and mail ballots.

Laches is especially improper when members of the public were actively seeking and awaiting publication of the proposed language and for four months had affirmatively made their interest known to both the City Solicitor’s Office and counsel to SBE, and yet no one from either office advised those individuals, the media, or the public that they could obtain the ballot language as early as



August 2. (E. 64-68.) The former councilman could not have been clearer in expressing his concern, and again he was one of many registered city voters who were anxious to review the ballot language. (*See* Apx. 5-9.)

2. Appellants' other procedural quibbles are equally feeble: (a) Appellees were not barred from seeking relief under § 12-202 on the supposition that they could have filed under § 6-209 because that latter provision only provides an avenue to attack signature petitions, which is the sole subject of Title 6; (b) the decision to not name Baltimore City as a defendant was not fatal since the City fell within the nonjoinder exception as it was aware of the litigation and yet "refuse[d] or neglect[ed] to appear," and the Circuit Court subsequently granted its motion to intervene and rejected its motion to reconsider, curing any potential joinder deficiency; and (c) Appellees were entitled to bring their claims in Anne Arundel County, the county in which SBE resides, given that the ballot measure in question was certified, publicly displayed, later edited, and ultimately printed and mailed by the State Board of Elections. Each of these supposed defects is answered in turn.

(a) Appellees did not sue under the wrong statute because § 6-209 only concerns signature petitions. While § 6-209 broadly authorizes a court to "grant relief as it considers appropriate to ensure the integrity of the electoral process," § 6-209(a)(2), the entire subtitle exclusively concerns *signature petitions*, that is, the method of placing a candidate, party, or question on the

election ballot by collecting signatures. *See* § 6-101(i). It is therefore no surprise that prior challenges to proposed charter amendments placing a graduated cap on property taxes or providing a \$1000 bonus to families who have a child in Baltimore City were brought under § 6-209, since those charter amendments were advanced by citizen-initiated signature petitions.

(b) Appellees did not sue in the “wrong forum” since SBE resides in Anne Arundel County and a related action had already been filed there. Section 12-202(b) permits a registered voter to seek judicial relief “in the appropriate circuit court.” Appellees do not disagree that Baltimore City was one possible forum in which to bring a challenge to Question F, and in fact Appellees did just that. But there is nothing to suggest that there is only one “appropriate circuit court” in which voters may file for relief under § 12-202. *Cf.* Md. Code Ann., Cts. & Jud’l Proc. § 6-201(b) (providing that, in cases of multiple defendants, an action may be filed in any county in which one of the defendants could be sued). In this case, Anne Arundel County was an appropriate forum for at least two substantial reasons: (1) Appellees had already commenced an action raising identical claims under § 9-209, a provision that mandates that actions be filed in the Circuit Court for Anne Arundel County; and (2) the subject of Appellees’ lawsuit significantly revolved around the actions and decisions of the State Board of Elections. It was SBE, after all, that had certified and published the language of Question F on the night of September

2, had corresponded with Baltimore City officials and revised the ballot language on September 4 (to add “Key” to “Key Highway”) (E. 42), and was poised to print and mail ballots that contained what Appellees believed was an invalid and unconstitutional ballot question later that week.

(c) Appellees did not sue the “wrong defendant” for, even if the City was a necessary party, it declined to join a lawsuit of which it was aware and was later permitted to intervene, curing any supposed defect. The premise of MCC’s argument is that Appellees’ challenge operated like a declaratory judgment action and therefore required, pursuant to Md. Code Ann., Cts. & Jud’l Proc. § 3-405(a)(1), that a person affected by the requested declaration must be made a party. But both § 9-209(b)(3) and § 12-202(a)(1) give the Circuit Court authority to grant relief by statutory remedy as opposed to by issuing a declaratory judgment. Under Maryland Rule 3-409(b) (“Special Remedies”), “If a statute provides a special form of remedy for a specific type of case, that statutory remedy shall be followed in lieu of a proceeding under this subtitle [‘Declaratory judgments or decrees’].” It should be noted that, consistent with this rule, no declaratory judgment was actually issued in this case. “The principal relief in a declaratory judgment action is a declaration, a separate written statement of the court declaring the rights of the parties.” *See Bowen v. City of Annapolis*, 402 Md. 587, 608 (2007).

But even if the City was a necessary party, it is subject to a nonjoinder exception when it elected to remain on the sidelines while fully aware of the litigation. In 1984, in *Bodnar v. Brinsfield*, a Maryland appellate court — quoting this Court’s decision in 1900 — stated: “Persons who are directly interested in a suit, and have knowledge of its pendency, and refuse or neglect to appear and avail themselves of their rights, are concluded by the proceedings as effectually as if they were named in the record.” *Bodnar*, 60 Md. App. at 532 (quoting *Williams v. Snebly*, 92 Md. 9, 21 (1900)). *See also City of Bowie v. MIE, Properties*, 398 Md. 657, 704 (2007).

As Appellees explained in detail in their response to the City’s belated motion to intervene, a string of emails contained in the record make clear that the City was invited to participate and declined to do so. (See Apx. 16-30.) Baltimore City was made aware of the pending litigation, the arguments that were being filed on both sides, and was explicitly invited to participate from the outset through the conclusion of oral argument and the Court’s decision. They were copied on virtually every email correspondence beginning on the afternoon of September 6, received courtesy copies of Appellees’ pleadings in all jurisdictions, and were physically present in the courtroom as the parties presented four hours of argument before Judge Vitale announced the lower court’s ruling. These circumstances make clear that even if the City of

Baltimore was a necessary party, Appellant falls squarely within the nonjoinder exception long recognized by this Court.

Finally, even if the City is a necessary party and is not covered by the nonjoinder exception, the City has now been joined as a party when the lower court granted Appellant’s motion to intervene. Maryland Rule 2-201 states: “The joinder or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.” *See also Carter v. Wallace & Gale Asbestos Settlement Trust*, 439 Md. 333, 349-50 n. n.7 (2014) (“In this situation, ‘formal joinder’ is achieved by ‘fil[ing] a complaint or motion to intervene.’” (citations omitted)).

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## **II. CITY VOTERS SHOULD NOT BE ASKED TO CAST A BALLOT ON AN INVALID AND UNCONSTITUTIONAL BALLOT QUESTION**

### **A. Question F is incoherent and does not afford ordinary voters an opportunity to cast a meaningful vote.**

This Court has acknowledged its circumscribed role in reviewing the language of proposed ballot measures. *See Kelly v. Vote Know Coalition, Inc.*, 331 Md. 164, 174 (1993). At the same time, however, the Court has made clear that it will readily invalidate ballot measures, sometimes even after they go into effect, where they fail to “present a clear, unambiguous and understandable statement of the full and complete nature of the issues.” *See McDonough*, 277 Md. at 307. In *McDonough*, this Court quoted at length an

articulation of the standard adopted by the Ohio Supreme Court in *Markus v. Trumbull County Board of Elections*, 22 Ohio St. 2d 197 (1970):

The ballot must be complete enough to convey an intelligent idea of the scope and import of the amendment. It ought not to be clouded by undue detail as not to be readily understandable. It ought to be free from any misleading tendency, whether of amplification, or omission. It must in every particular be fair to the voter to the end that intelligent and enlightened judgment may be exercised by the ordinary person in deciding how to mark the ballot.

*McDonough*, 277 Md. at 301-302.

On this basis, the *McDonough* Court invalidated the ballot measure at issue because it was “so inaccurate, ambiguous and obtuse, that an ordinary voter, of average intelligence, could not, in a meaningful and comprehending manner” cast a vote on the measure. *Id.* at 308. *See also Surratt v. Prince George’s County*, 320 Md. 439, 450-51 (1990)

Question F is a textbook illustration — or should become one — of ballot language that will likely confuse and mislead voters, and fails to give an “unambiguous” account of the full nature of the issue.

First, instead of emphasizing and starting with key aspects of the amendment’s effects, Question F instead devotes 80 of its 132 words to a winding, convoluted “metes and bounds” description of the perimeter of Inner Harbor Park. This rambling list of park boundaries was unnecessary. As the Circuit Court noted, this Court can be confident that park boundaries are not needed in part because Baltimore City voters considered (and approved) a

ballot measure in 2016 that also modified where certain commercial uses would be permitted. Question H on the November ballot that year avoided the word salad that dominates the language of Question F:

“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.”

If a precise description of boundaries was unnecessary in 2016, there was no reason to include it in 2024, except as part of a calculated effort to confuse and mislead the uninformed or underinformed voter.

Also, the ballot question begins with the following words: “Question F is for the purpose of amending the provision dedicating...”. The ordinary reader would therefore think that the words following “provision” would describe the current provision that is being amended and that, later, the ballot question would identify how the amendment would alter that current provision. The problem is, in the context of a dense and seemingly endless sentence, there is no way for the ordinary reader to know — by virtue of syntax, grammar, or sentence construction — where the description of the current charter provision ends and where the effect of the proposed amendment begins. *See McDonough*, 277 Md. at 301-302 (“The ballot . . . ought not to be clouded by undue detail as not to be readily understandable.” (quoting *Markus v. Trumbull County Bd. of Elections*, 22 Ohio St. 2d 197 (1970))).

Moreover, Question F is misleading in exactly the same way this Court noted was impermissible in an Ohio state court decision cited extensively by *McDonough* — that the ordinary voter, without direct and detailed knowledge of the current charter, would not know what is already permitted and what commercial permissions are being added thanks to Question F. *See Markus v. Trumbull County Board of Elections*, 22 Ohio St. 2d 197, 202-03 (1970) (“The ballot must be complete enough to convey an intelligent idea of the scope and import of the amendment. It ought not to be clouded by undue detail as not to be readily understandable. It ought to be free from any misleading tendency, whether of amplification, or omission.”).

In Question F, because eating places and other commercial uses are in the same phrase and part of the same list as off-street parking and multifamily residential developments, the ordinary voter understandably might assume that all four categories of commercial activity share the same status.

Consistent with Question F’s failure to distinguish clearly between what is and what will be, Question F also neglected to include any reference whatsoever to the amendment increasing the area in which commercial activities are allowed from 3.2 to 4.5 acres. This alone is a defect that renders the language of Question F legally deficient. *See Sears v. Treasurer and Receiver General*, 327 Mass. 310, 324 (1951).



**B. Question F constitutes improper charter material and therefore violates Article XI of the Maryland Constitution.**

In a series of landmark cases,<sup>5</sup> the Maryland Supreme Court has held that not every issue or controversy can be properly resolved through the mechanism of a charter amendment. The Court has therefore ruled that certain proposed charter amendments do not alter the “form and structure” of government and therefore do not belong in the organizing charter of a local municipality.<sup>6</sup> The Court has also acknowledged that even if the ballot measure properly bears on the “form and structure” of government, it nevertheless cannot usurp or fully displace the legislative prerogative. That means a proposed ballot measure may not drain a local legislature of all of its discretion and decision-making on that particular issue.<sup>7</sup> On the basis of these and other principles — *first*, that a ballot measure must speak to the “form and structure” of government and, *second*, even if it does concern form and structure, the ballot measure still cannot establish such a fleshed out

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<sup>5</sup> See *Cheeks v. Cedlair Corp.*, 287 Md. 595 (1980); *Griffith v. Wakefield*, 298 Md. 381 (1984); *Bd. of Sup’rs of Elections of Anne Arundel Cnty. v. Smallwood*, 327 Md. 220 (1992); *Save Our Streets v. Mitchell*, 357 Md. 237 (2000); *Atkinson v. Anne Arundel Cnty.*, 428 Md. 723 (2012).

<sup>6</sup> See, e.g., *Smallwood*, 327 Md. at 237 (characterizing a local charter as “equivalent to a constitution”).

<sup>7</sup> See, e.g., *Atkinson*, 428 Md. at 747 (warning that a charter amendment cannot contain “all of the law on the subject”).

regulatory or legal scheme,<sup>8</sup> nor can it accomplish by charter what a City or County Council must achieve through the deliberative negotiations of the legislative process<sup>9</sup> — the Maryland Supreme Court has nullified a wide variety of charter amendments over the years.

Question F manifestly fails to bear on the form or structure of government. It is a legislative permission slip written for one developer to convert, at great profit to the developer, one parcel of exquisitely important public land into luxury apartments and parking garages. The Mayor and City Council are free to subsidize a developer who seeks to “pave paradise and put up a parking lot,” but they cannot mask their zoning law as a valid charter amendment. Indeed, Question F does not seek to modify regulatory authority over zoning decisions across the city or alter governance structures over public parks. Instead, it seeks to facilitate a particular development project on a particular plot of land in a particular neighborhood for the benefit of a particular donor. That is the kind of dealmaking common in the context of traditional legislation and politics; thus, Question F stands as a quintessential illustration of the *opposite* of a charter amendment that speaks to the form and structure of government. Hence, it plainly signifies improper charter material.

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<sup>8</sup> See, e.g., *Griffith*, 298 Md. at 386 (cannot set forth a “complete and specifically detailed legislative scheme”).

<sup>9</sup> See, e.g., *Save Our Streets*, 357 Md. at 251 (holding that “legislative power cannot be exercised by means of an amendment to the charter”).

Whatever goals the Mayor and City Council of Baltimore seek to accomplish in the context of supporting this developer or promoting a specific development project, they must achieve it by some means other than altering the City Charter. This argument and its natural conclusion, which entails invalidating Question F as a matter of law, may come as a surprise to the Mayor and City Council who likely maintain that the strict restrictions on charter amendments set forth in *Cheeks* and its progeny do not apply to them. But there is nothing in the Maryland Constitution that justifies such a blanket exemption. The Mayor and City Council have enormous legislative authority; the people also have tremendous power through exercises of direct democracy, but both politicians and the public must abide by uniform principles governing the proper use of charter amendments.<sup>10</sup>

Appellees realize that this case presents an issue of first impression on a question of constitutional magnitude. Rarely does this Court see challenges to a charter amendment sponsored by a legislature as opposed to charter amendments born of citizen-initiated signature petitions. There has also never been a challenge to a charter amendment that seeks to alter an aspect of an existing charter amendment, which raises a unique set of questions. But this

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<sup>10</sup> See generally *Atkinson*, 428 Md. at 745 (assuming without deciding that a charter amendment “proposed by the legislative body is subject to the requirement that the amendment be charter material to the same extent as if the amendment had been initiated by a petition of the voters.”)

Court's precedents establish useful landmarks and provide sufficient clarity that it is easy to see why a charter amendment of the kind proposed by Question F violates virtually every prohibition established in the case law.

1. Tracing the teachings of this Court's cases yields useful frameworks for analyzing the constitutionality of Question F.

As a broad construct, this Court has made clear that there is a threshold question of whether the proposed charter amendment bears on the “form and structure” of government. This first requirement is rooted in the nature and purpose of charters themselves: “A charter is thus a permanent document intended to provide a broad organizational framework establishing the form and structure of government in pursuance of which the political subdivision is to be governed and local laws enacted.” *Cheeks*, 287 Md. at 607. City and county charters are meant to be skeletal blueprints that govern the distribution of authority between the people and government, on the one hand, and among the agencies and arms of government, on the other.

There emerges from a closer reading of this Court's precedents — from *Cheeks* to *Griffith* to *Smallwood* to *Save our Streets* to *Atkinson* to the cases heard this past summer — a more natural and practical framework that points to five cardinal violations that a proposed charter amendment could commit, any combination of which would render it unconstitutional.

First, the proposed charter amendment cannot be legislative in nature. *Cheeks*, 287 Md. at 607 (“Its content cannot transcend its limited office and be made to serve or function as a vehicle through which to adopt local legislation.”)

Second, as this Court emphasized in *Griffith*, the proposed amendment should not solely concern a small or single group of individuals: “Instead, the core of the amendment is the imposition of a comprehensive system of binding arbitration concerning a single group of county employees.” *Griffith*, 298 Md. at 388 (emphasis added). The *Griffith* Court thus made clear that a charter amendment is more likely to survive if it creates a broad rule of general applicability, say an arbitration system that affects all municipal employees, rather than a directive aimed to benefit (or harm) a specific group like county firefighters. The second of these is, after all, the kind of nuanced legislative barter that is better suited to elected politicians than the sort of decision suitable for the broader electorate at the ballot box.

Third, as this Court explained in *Save Our Streets* as it interpreted its earlier decision in *Smallwood*, a charter amendment cannot simply be a grant or limitation on governmental authority but must pertain to a power that is “fundamental in nature.” See *Save Our Streets*, 357 Md. at 250-52 (clarifying that *Smallwood* affirmed a portion of the proposed amendment not merely because the amendments “were expressed as limitations on governmental

power” but because they were “fundamental in nature” insofar as they limited the “power of the government to tax”).

Next, this Court has repeatedly affirmed that proper charter material furthers the “basic function” of an organizing charter by “distribut[ing] power” among local agencies or, in addition or in the alternative, “between government and the people who have delegated that power to their government.” *See id.*, at 248 (quoting *Smallwood*, 327 Md. at 237).

Finally, proper charter material should not and does not leave the legislature with nothing further to do. This Court again in *Save Our Streets*, synthesizing many of this Court’s precedents, elaborated on the Court’s holding in *Griffith* where a proposed charter amendment that would have created a comprehensive system for collective bargaining was struck down because it left the legislature with “nothing” to decide or do. *Save Our Streets*, 357 Md. at 250-51. It should be noted in the context of this last constitutional landmine that this Court expressly stated that “the length and detail of a proposed charter amendment” was “*not* dispositive as to whether the proposed amendment constitutes legislation or proper charter material,” *see id.* at 253, but was more focused on what decisions remained for the legislature to make.

2. Question F bears all the markings of improper charter material.

Applying these tests and frameworks to Question F makes clear that it presents a clear and, in some respects, classic example of improper charter

material. Indeed, Question F appears to violate, legally and factually, each of this Court's teachings.

First, Question F is plainly legislative in nature, most closely resembling the kind of zoning laws that were the subject of the two companion bills that MCB's attorney requested alongside the resolution that proposed this charter amendment. Bills 23-0444, 23-0446, and 23-0448, *see* Apx. 47-61, E. 37-39, were all "[a]t the request of: MCB HP Baltimore, LLC" and spearheaded by MCB's counsel, Caroline Hecker of Rosenberg Martin Greenberg; all three bills were introduced by the same members of the City Council (Councilmember Costello and Council President Mosby) and considered and passed together on the same day; all sought to effectuate changes in zoning to enable MCB's proposed development project to proceed, from lifting height restrictions (Bill 23-0446) to modifying permitted uses in specific development areas (Bill 23-0448) to altering the protected parkland in the Inner Harbor Park (Bill 23-0444); and all three companion bills served no other function than to facilitate, like every zoning law requested by a developer, the forward progress of a specific development proposal.

In that last respect, Question F also sets off the second alarm noted most explicitly in *Griffith* since it "concern[s] a single group" of constituents. The proposed ballot measure is not meant to lift restrictions with respect to public

parks generally or even with respect to the rest of the Inner Harbor Park. It is inspired by and designed solely with one constituent in mind: MCB.

Moreover, unlike *Smallwood*, Question F does not even purport to alter or implicate some question or power of government that is fundamental in nature. It simply endeavors to remove a specific obstacle that impedes a specific development project sponsored by a specific developer; it is, in that regard, downright provincial in character.

Fourth, Question F does nothing to alter the balance of power between the public and government or among different branches of government. In fact, it is a useful illustration of the rare charter provision that merely modifies the balance of power between a specific *private* actor and the government. It is hard to see why or how a municipal government's organizing document would ever include provisions meant only to set and cement the dynamic between government and a particular developer. Appellants might argue that once the Inner Harbor Park's current status is forever altered, it will not just be MCB but any successor developer that would benefit. But that answer asks this Court to blink reality. Question F is a proposed charter amendment seemingly drafted by, submitted at the request of, and meant solely to benefit MCB and its investors. If an amendment that shifts the balance of power between the public and government is a feature of proper charter material, Question F is a



prime example of a red flag set off by a ballot question that largely implicates the interests of a particular private sector constituent.

Finally (and significantly), if Question F was approved by this Court and were to pass in November, it would leave nothing more for the legislature to decide or do. This is not a case where the City of Baltimore seeks to recover some measure of decision-making authority over what takes place in public parks; on the contrary, with the passage of Question F, the work of the city's legislative branch comes to an end. Permitting decisions, development reviews, environmental evaluations, and agency traffic studies may still need to be performed, but with respect to what happens next with the Inner Harbor Park, the legislature of Baltimore has nothing more to do. Question F is a full-blown legislative enactment insofar as no further legislation is needed once the proposed amendment is incorporated into the City's Charter. Like the removal of height restrictions accomplished by one of its companion bills, Question F enacts into law a private zoning regulation that authorizes multi-family dwellings and off-street parking on 4.5 acres of what currently is public parkland. The prospect of a specific zoning law becoming a fixture in the City's governing charter is exactly what this Court's "form and structure" jurisprudence was meant to prevent. *See Cheeks*, 287 Md. at 607 ("[A charter amendment's] content cannot transcend its limited office and be made to serve or function as a vehicle through which to adopt local legislation.").

3. That Question F was sponsored by a legislature should not drastically alter this Court's constitutional analysis.

If MCB sponsored a ballot petition and collected 10,000 valid signatures from registered voters in Baltimore City to put on the November ballot a proposed charter amendment that would accomplish exactly what Question F seeks to achieve, that is, rezoning *through a charter amendment* a parcel of public parkland to accommodate luxury apartments and parking garages, there is little doubt this Court would have no trouble striking it down as “improper charter material.” But perhaps this Court’s analysis should be more accommodating when a charter amendment is proposed by the legislature.

One could imagine that a charter amendment sponsored by the legislature, rather than one proposed by MCB or a group of citizens, could be entitled to greater judicial latitude in terms of whether it violates Article XI-A of the Maryland Constitution. This Court in *Atkinson* expressly did not render a judgment on that question. *See Atkinson*, 428 Md. 723, 745 (2012) (“In addressing this issue, we assume, *arguendo*, that a charter amendment . . . proposed by the legislative body is subject to the requirement that the amendment be charter material to the same extent as if the amendment had been initiated by a petition of the voters.”).

Should this Court at last reach this issue, Appellees respectfully ask this Court to adopt a symmetric or uniform standard. For one thing, the goal of

protecting the legislative prerogative is not what animates the prohibition on improper charter material. Rather, that restriction is rooted in the nature and purpose of city and county charters themselves: “A charter is thus a permanent document intended to provide a broad organizational framework establishing the form and structure of government in pursuance of which the political subdivision is to be governed and local laws enacted”. *Cheeks*, 287 Md. at 607.

Indeed, in elaborating on the first principles set forth in *Cheeks*, this Court in *Save Our Streets* explained that a county council is exclusively vested with the power to pass local legislation *and* that such power could not be exercised through an amendment to the local charter: “In *Cheeks*, we explained in detail that the county council alone, and not the voters of the county, has the power to initiate local legislation. Furthermore, we held that such legislative power cannot be exercised by means of an amendment to the charter.” *Save Our Streets*, 357 Md. at 249. This suggests that no one — neither the legislature nor the public — is permitted to enact local legislation “by means of an amendment to the charter.” *Id.*

It is noteworthy that legislatures across America have tried to crack down on efforts by citizens to use direct democracy to address issues where elected officials appear unresponsive. *See The Increasing Trend of Lawmakers Overriding Ballot Initiatives* (GOVERNING, Jan, 30, 2024). This Court should not adopt an asymmetric rule that tilts the scales even more in favor of city

politicians. That is especially true because drawing a distinction between amendments sponsored by politicians versus by the people has no roots in the structure or language of the Maryland Constitution, nor in the jurisprudence that forms the basis of limiting charter amendments to “form and structure” changes to local government.

4. A charter provision establishing or preserving for posterity a public asset like the Inner Harbor Park is fundamentally different than a charter amendment that delivers a public asset into private hands.

Appellees close by addressing what, candidly, presents the most vexing conundrum on appeal: How could a change to the Inner Harbor provision contained in the City Charter not itself be proper charter material? If Question F is unconstitutional, does that suggest that Art. 1, § 9 is also itself subject to constitutional attack? What can voters or the City of Baltimore do if they wish to modify or repeal an existing charter provision if the proposed amendment is itself deemed improper charter material?

These practical and analytical questions are fair, but they do not take Appellants as far as they may think. For one thing, even if this Court felt that Art. 1, § 9 may be constitutionally no different than Question F, it does not follow that this Court must therefore allow Question F to stand. As the Circuit Court noted, two wrongs do not make a right. Moreover, if this Court concluded that Art. 1, § 9 was also “improper charter material,” this Court could adopt the practical view that MCC may seek to repeal Art. 1, § 9 if it remains an

obstacle to the City's development plans, but cannot accomplish that objective in the present setting when that question is not before the Court.

This Court could also decide that the Mayor and City Council are free to propose a charter amendment that would fully repeal Art. 1, § 9, but are not permitted to use a charter amendment as a scalpel to carve out and remove from the public parkland a 4.5-acre parcel for development. Thus, if this Court wishes to preserve a narrow exception to account for the scenario where improper charter material went unchallenged and has now become part of the City's Charter, the Court could permit only those charter amendments that would *altogether repeal* the charter provision that was perhaps improperly installed in the first place.

That said, there are several major differences between the 1978 charter amendment that established the Inner Harbor Park and made it available to the public in perpetuity versus the proposed present-day Question F. Appellees respectfully submit that these differences easily justify declaring Question F unconstitutional while, at the same time, affirming the validity of the existing Art. 1, § 9 provision.

First , insulating public infrastructure from privatization or dedicating a shared asset for use and enjoyment by future generations qualifies as proper charter material. For this alters the balance of power between the public and government with respect to that public asset or infrastructure. That is perhaps

why Art. 1, § 1 of the City’s Charter includes a commitment to keep certain public infrastructure out of private hands: “[The City’s] underground conduit system for cables, wires, and similar facilities is hereby declared to be inalienable.” It does not follow that just because a provision safeguarding the conduit system can be found in the City Charter that a charter amendment delivering the conduit system to, for example, BGE would also constitute “proper charter material.” The latter — which amounts to a private transaction — is legislative in character and has no place in a local charter.

Second, it is sensible and defensible to ask the public to vote on whether to safeguard the City’s water system, to preserve a constellation of parks for public use only, or to take historical and cultural assets out of free market conversations. Those are very different kinds of decisions than voting for or against zoning ordinances that prescribe what private uses are suitable for a particular parcel of land. That is more suitable for politicians skilled in horse trading who can negotiate back and forth, make context-specific judgments, and promote laws that will benefit specific actors and industries. Indeed, as the retired former County Attorney for Anne Arundel County recently wrote, “Dedicating parkland to permanent public use may be proper charter material. Decisions on what types of private development are allowed on that parkland and where they can be located are not.” See David A. Plymyer, *Calling the*

*judge's Harborplace decision 'voter suppression' shows a real ignorance of the law* (BALT. BREW, Sept. 19, 2024).

**C. The Circuit Court's order includes a proper remedy that does not effectuate an impermissible straw vote.**

MCC suggests that the Circuit Court's order produces an impermissible "straw vote" in violation of this Court's guidance in *Montgomery County v. Board of Supervisors of Elections*, 311 Md. 512 (1988). Appellant ignores the specific context of that decision, which sharply distinguishes it from the case at hand. In *Montgomery County*, the County asked that a charter amendment that was facially invalid due to its conflict with a public general law nevertheless be allowed to remain on the ballot on the theory that once the general law with which it conflicts was rescinded, the charter amendment could then spring to life.

In stark contrast, the Circuit Court's ruling in this case precluded certification of the vote not to gather poll data on the popularity of Question F. Rather, the lower court fashioned a remedy in light of its conclusion that Question F was incurably invalid but reprinting ballots was impracticable and unnecessary and SBE advised that the ballot machines could not be stopped from tabulating votes. To be clear, when the Court stated that it would prefer to "simply indicate that having indicated that it is an improper amendment, that [the responses to Question F] simply not be counted and recorded," SBE's

counsel answered that this may not be possible. (E. 200 (SBE’s counsel stating, “I don’t know [if it is possible] because ballot scanners are going to skim ballots. They’re going to tabulate them.”))

It should be noted that if this Court wishes to avoid this supposed peril, the State Board could be directed, as SBE elected to do in 2018 after the untimely death of former gubernatorial candidate Kevin Kamenetz, to have local election boards notify the general public — through written notices in the mail, public announcements, and postings at voting precincts — that Question F is a legal nullity and does not warrant further consideration or a vote.

## **CONCLUSION**

Candidly, this appeal presents a few difficult questions and several easy ones. Appellees confidently insist, for reasons set forth in great detail above, that the text, structure, and legislative history of §§ 9-203, 9-205, and 9-209 make clear that a voter may challenge the language of a ballot measure that is not “easily understandable” and that, as the Circuit Court correctly found, Appellants’ contrary reading lacks support. Similarly, Appellees vigorously maintain, for reasons outlined above, that what is essentially a zoning law to benefit a specific developer will never constitute “proper charter material” because it does not bear on the “form and structure” of local government and that this conclusion is not undermined by charter provisions that validly insulate public assets from political bartering and privatization.



But these complex issues of first impression decided in Appellees' favor by the Circuit Court — rulings that Appellees are well prepared and delighted to defend on appeal — should not be conflated or confused with the lower court's more straightforward conclusions that would lead this Court to reach precisely the same ultimate result. While Appellees welcome this Court's guidance, in dicta or as a formal holding, on the scope of a petition for judicial review under § 9-209 and on whether Question F violates the Maryland Constitution, Appellees are also aware that the simplest path to affirming the lower court's ruling may be: that § 12-202 allows Appellees to challenge Question F; that the 10-day clock began to run only as of the first publication of Question F on September 3, 2024; and that the ballot measure's incoherent language renders it invalid. That result may be most consistent with this Court's longstanding commitment to resolving disputes on non-constitutional grounds when possible. *See Prof'l Staff Nurses Ass'n v. Dimensions Health Corp.*, 346 Md. 132, 138 (1997) (“This Court has regularly adhered to the principle that we will not reach a constitutional issue when a case can properly be disposed of on a non-constitutional ground.”).

At the same time, this Court is surely aware that election officials, local governments, petition committees, and the public are anxious to receive the Court's clarity and binding guidance on important issues that no doubt will, sooner or later, invariably resurface. Either way, Appellees urge this Court, for

the reasons set forth in detail above, to promptly affirm the decision of the Circuit Court for Anne Arundel County.

Respectfully submitted,



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**CERTIFICATION OF WORD COUNT  
AND COMPLIANCE WITH RULE 8-112**

I hereby certify that:

1. Appellees have filed a motion to exceed word count in light of three substantial briefs filed by Appellants totaling 34,776 words.
2. This brief contains 12,920 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
3. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

*Thiru Vignarajah*

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THIRUVENDRAN VIGNARAJAH

## **TEXT OF PERTINENT AUTHORITIES**

### ***Constitutional Provisions***

#### **MD Constitution, Art. 11-A, § 2**

##### **§ 2. Grant of express powers**

The General Assembly shall by public general law provide a grant of express powers for such County or Counties as may thereafter form a charter under the provisions of this Article. Such express powers granted to the Counties and the powers heretofore granted to the City of Baltimore, as set forth in Article 4, Section 6, Public Local Laws of Maryland, shall not be enlarged or extended by any charter formed under the provisions of this Article, but such powers may be extended, modified, amended or repealed by the General Assembly.

#### **MD Constitution, Art. 11-A, § 3**

##### **§ 3. Legislative bodies**

Every charter so formed shall provide for an elective legislative body in which shall be vested the law-making power of said City or County. Such legislative body in the City of Baltimore shall be known as the City Council of the City of Baltimore, and in any county shall be known as the County Council of the County. The chief executive officer or County Executive, if any such charter shall provide for the election of such executive officer or County Executive, or the presiding officer of said legislative body, if such charter shall not provide for the election of a chief executive officer or County Executive, shall be known in the City of Baltimore as Mayor of Baltimore, and in any County as the President or Chairman of the County Council of the County, and all references in the Constitution and laws of this State to the Mayor of Baltimore and City Council of the City of Baltimore or to the County Commissioners of the Counties, shall be construed to refer to the Mayor of Baltimore and City Council of the City of Baltimore and to the President or Chairman and County Council herein provided for whenever such construction would be reasonable. From and after the adoption of a charter by the City of Baltimore, or any County of this State, as hereinbefore provided, the Mayor of Baltimore and City Council of the City of Baltimore or the County Council of said County, subject to the Constitution and Public General Laws of this State, shall have full power to enact local laws of said City or County including the power to repeal or amend local laws of said City or County enacted by the General

Assembly, upon all matters covered by the express powers granted as above provided, and, as expressly authorized by statute, to provide for the filling of a vacancy in the County Council or in the chief executive officer or County Executive by special election; provided that nothing herein contained shall be construed to authorize or empower the County Council of any County in this State to enact laws or regulations for any incorporated town, village, or municipality in said County, on any matter covered by the powers granted to said town, village, or municipality by the Act incorporating it, or any subsequent Act or Acts amendatory thereto. Provided, however, that the charters for the various Counties shall specify the number of days, not to exceed forty-five, which may but need not be consecutive, that the County Council of the Counties may sit in each year for the purpose of enacting legislation for such Counties, and all legislation shall be enacted at the times so designated for that purpose in the charter, and the title or a summary of all laws and ordinances proposed shall be published once a week for two successive weeks prior to enactment followed by publication once after enactment in at least one newspaper of general circulation in the county, so that the taxpayers and citizens may have notice thereof. The validity of emergency legislation shall not be affected if enacted prior to the completion of advertising thereof. These provisions concerning publication shall not apply to Baltimore City. All such local laws enacted by the Mayor of Baltimore and City Council of the City of Baltimore or the Council of the Counties as hereinbefore provided, shall be subject to the same rules of interpretation as those now applicable to the Public Local Laws of this State, except that in case of any conflict between said local law and any Public General Law now or hereafter enacted the Public General Law shall control.

## **MD Constitution, Art. 11-A, § 5**

### **§ 5. Charter amendments**

Amendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition. If at the election the majority of the votes cast for and against the

amendment shall be in favor thereof, the amendment shall be adopted and become a part of the charter of the City or County from and after the thirtieth day after said election. The amendments shall be published by the Mayor of Baltimore or President of the County Council once a week for five successive weeks prior to the election in at least one newspaper published in said City or County.

## **MD Constitution, Art. 11-A, § 6**

### **§ 6. Power to voters**

The power heretofore conferred upon the General Assembly to prescribe the number, compensation, powers and duties of the County Commissioners in each County, and the power to make changes in Sections 1 to 6 inclusive, Article XI of this Constitution, when expressly granted as hereinbefore provided, are hereby transferred to the voters of each County and the voters of City of Baltimore, respectively, provided that said powers so transferred shall be exercised only by the adoption or amendment of a charter as hereinbefore provided; and provided further that this Article shall not be construed to authorize the exercise of any powers in excess of those conferred by the Legislature upon said Counties or City as this Article sets forth.

## Statutes

### **Md. Code Ann., Election Law, § 12-202.**

#### **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., Election Law, § 9-201 – In general**

(a) In any election conducted under this article:

(1) all voting shall be by ballot; and

(2) only votes cast on a ballot may be counted.

#### **Compliance with subtitle required**

(b) All ballots shall comply with the provisions of this subtitle.

#### **Other uses for ballots prohibited**

(c) A ballot may not be used for any purpose not authorized by this article.

### **Md. Code Ann., Election Law, § 9-203 - Standards**

Each ballot shall contain:

- (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., Election Law, § 9-205 - Content**

Each ballot shall contain:

- (1) a heading as provided in [§ 9-206\(a\)](#) of this subtitle;
- (2) a statement of each question that has met all of the qualifications to appear on the ballot;
- (3) the title of each office to be voted on;
- (4) the name, as specified in the certificate of candidacy, or as otherwise provided in Title 5 of this article, of each candidate who has been certified by the State Board;
- (5) a party designation for certain candidates as provided in this subtitle;
- (6) a means by which a voter may cast write-in votes, as provided in this subtitle; and
- (7) instructions to voters as provided in this subtitle.

### **Md. Code Ann., Election Law, § 9-209.**

#### **In general**

- (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.

### **Possible relief granted**

(b) The circuit court may require the State Board to:

- (1) correct an administrative error;
- (2) show cause why an administrative error should not be corrected; or
- (3) take any other action required to provide appropriate relief.

### **Errors discovered after publicly displayed**

(c) If an administrative error is discovered after the ballots have been publicly displayed, and the State Administrator fails to correct the administrative error, a registered voter may seek judicial review not later than the 62nd day preceding the election.

### **Conduct of proceeding; exceptions; appeal**

(d)(1) A judicial proceeding under this section shall be conducted in accordance with the Maryland Rules, except that:

- (i) the case shall be heard and decided without a jury and as expeditiously as the circumstances require; and
- (ii) an appeal shall be taken directly to the Supreme Court of Maryland within 5 days of the date of the decision of the circuit court.

(2) The Supreme Court of Maryland shall give priority to hear and decide an appeal brought under paragraph (1)(ii) of this subsection as expeditiously as the circumstances require.

## **Md. Code Ann., Election Law, § 6-101(i).**

### **Definitions**

(i) “Petition” means all of the associated pages necessary to fulfill the requirements of a process established by the law by which individuals affix their signatures as evidence of support for:

- (1) placing the name of an individual, the names of individuals, or a question on the ballot at any election;
- (2) the creation of a new political party; or
- (3) the appointment of a charter board under Article XI-A, § 1A of the Maryland Constitution.

**Md. Code Ann., Election Law, § 6-209.**

**In general**

(a)(1) A person aggrieved by a determination made under § 6-202, § 6-206, or § 6-208(a)(2) of this subtitle may seek judicial review:

(i) in the case of a statewide petition, a petition to refer an enactment of the General Assembly pursuant to Article XVI of the Maryland Constitution, or a petition for a congressional or General Assembly candidacy, in the Circuit Court for Anne Arundel County; or

(ii) as to any other petition, in the circuit court for the county in which the petition is filed.

(2) The court may grant relief as it considers appropriate to ensure the integrity of the electoral process.

(3) A judicial proceeding under this section shall be conducted in accordance with the Maryland Rules, except that:

(i) the case shall be heard and decided without a jury and as expeditiously as the circumstances require; and

(ii) an appeal shall be taken directly to the Supreme Court of Maryland within 5 days after the date of the decision of the circuit court.

The Supreme Court of Maryland shall give priority to hear and decide an appeal brought under paragraph (3)(ii) of this subsection as expeditiously as the circumstances require.

**Md. Code Ann., Courts & Judicial Proceedings, § 3-405.**

**Persons with interest affected by declaration**

(a)(1) If declaratory relief is sought, a person who has or claims any interest which would be affected by the declaration, shall be made a party.

(2) Except in a class action, the declaration may not prejudice the rights of any person not a party to the proceeding.

**Municipalities or counties**

(b) In any proceeding which involves the validity of a municipal or county ordinance or franchise, the municipality or county shall be made a party and is entitled to be heard.

**Attorney General**

(c) If the statute, municipal or county ordinance, or franchise is alleged to be unconstitutional, the Attorney General need not be made a party but, immediately after suit has been filed, shall be served with a copy of the proceedings by certified mail. He is entitled to be heard, submit his views in writing within a time deemed reasonable by the court, or seek intervention pursuant to the Maryland Rules.

**Md. Code Ann., Courts & Judicial Proceedings, § 6-201.**

**In general**

(a) Subject to the provisions of §§ 6-202 and 6-203 of this subtitle and unless otherwise provided by law, a civil action shall be brought in a county where the defendant resides, carries on a regular business, is employed, or habitually engages in a vocation. In addition, a corporation also may be sued where it maintains its principal offices in the State.

**Multiple defendants**

(b) If there is more than one defendant, and there is no single venue applicable to all defendants, under subsection (a) of this section, all may be sued in a county in which any one of them could be sued, or in the county where the cause of action arose.

## *Baltimore City Charter Provisions*

### **Article I**

#### **§ 3. Property rights; Trusts; Gifts.**

All the property and franchises of every kind belonging to, in the possession of, or hereafter acquired by the City are vested in it and it may dispose of any property belonging to it in the manner and upon the terms provided in the Charter. The City may receive in trust, and may control for the purposes of such trust, all moneys and assets which may have been or shall be bestowed upon it by will, deed or any other form of gift or conveyance in trust for any corporate purpose, or in aid of the indigent poor, or for the general purposes of education or for charitable purposes of any description. All trust funds now held or subsequently received shall be administered with respect to investment and reinvestment, subject to any limitations in the trust, by the Board of Finance. The City may also accept grants for its corporate purposes from any government, governmental agency or person.

### **Article I**

#### **§ 9. Inner Harbor Park.**

There is hereby dedicated to public park uses for the benefit of this and future generations of the City of Baltimore and the State of Maryland 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 to and including Rash Field, except that, in order to provide eating places and other commercial uses, areas totalling not more than 3.2 acres plus access thereto, within the dedicated space and north of an easterly extension of the south side of Conway Street shall be set aside for such purposes; and except that in order to provide outdoor eating places for the areas known as West Shore Park and Rash Field, areas totalling not more than 0.5 acres within the dedicated space and south of an easterly extension of the south side of Conway Street shall be set aside for such purposes; and except that an area of not more than 3.4 acres shall be set aside for use by the Maryland Science Center, plus access thereto.

## **Article II**

### **§ (49) Constitutional and other powers.**

The voters of Baltimore City shall have and are hereby expressly granted the power to make such changes in Sections 1 to 6, inclusive, of Article XI of the Constitution of the State of Maryland, as they may deem best; such power shall be exercised only by the adoption or amendment of a charter as provided in Article XI-A of said Constitution; provided, that nothing contained in this subsection (49) shall be construed to authorize the exercise of any powers in excess of those conferred by the Legislature upon said City, as set forth in Article XI-A of said Constitution; and expressly provided, further, that nothing herein contained shall give to the City or to the inhabitants thereof the right to initiate any legislation, laws or ordinances relating to the classification and taxation of real and personal property within the limits of said City.

The powers heretofore or hereafter granted to the City not included in Article II of its Charter shall, nevertheless, be exercisable by said City. Nothing contained in this subsection (49) shall be construed to take away or limit any power vested in the City, under the laws existing prior to June 1, 1945.

## **Article III**

### **§ 1. Legislative Department; Qualification and salary of members.**

#### **(a) Legislative Department.**

The Legislative Department of the City shall be the City Council, which shall consist of a single chamber.

#### **(b) Qualifications.**

Members of the City Council, except the President whose qualifications are provided for in Section 3, shall be citizens of the United States, at least 18 years old, and registered voters of Baltimore City. They also shall be residents of the districts the members have been chosen to represent for at least 1 year next preceding their election, except as provided in Section 7(e), and during their term of office.

## **Article VII**

### **§ 67. Department of Recreation and Parks: Director – Powers and duties.**

The Director of Recreation and Parks shall have the following powers and duties: (a) subject to the provisions of Article V relating to the acquisition and disposition of real property, to establish, maintain, operate and control parks, zoos, squares, athletic and recreational facilities and activities for the people of Baltimore City, and to have charge and control of all such property and activities belonging to, or conducted by, the City; (b) to provide concerts, symphonies and other musical entertainment for the people of Baltimore City; (c) to provide for the protection and maintenance of all monuments belonging to the City; (d) subject to the provisions of Article V relating to the acquisition and disposition of real property, to rent for department use buildings and other places suitable for the conduct of the activities of the Department. The Director is hereby authorized and empowered, with the consent of any other municipal agency, to organize and conduct play and recreational activities on grounds and in buildings under the control of such other agency and on such conditions as may be agreed to by such other agency. (e) to charge and collect fees for admission, services and the use of facilities, and rentals for the use of property controlled by the Department; provided, that no lease of such facilities shall be made for a period of thirty days or more (or for successive periods aggregating thirty days or more) without the prior approval of the Board of Estimates. All moneys collected by the Department shall be accounted for as the Director of Finance prescribes. (f) to adopt and enforce rules and regulations for the management, use, government and preservation of order with respect to all land, property, and activities under the control of the Department. To carry out such regulations, fines may be imposed for breaches of the rules and regulations as provided by law

## **Article VIII**

### **§ 1. Authority to grant.**

The title of the City in and to its waterfront, wharf property, land under water, public landings, wharves and docks, streets, lanes, and parks, its sewer system and water-supply system, as described in Article VII, §§ 33 and 34 of this Charter, and its underground conduit system for cables, wires, and similar facilities is hereby declared to be inalienable.

With the exception of the City's sewer system, water-supply system, and underground conduit system for cables, wires, and similar facilities, the City may grant for a limited time and subject to the limitations and conditions contained in the Charter, specific franchises or rights in or relating to any of the public property or places mentioned in the preceding sentence; provided that such grant is in compliance with the requirements of the Charter, and that the terms and conditions of the grant shall have first been authorized and set forth in an ordinance duly adopted.

Every such grant shall specifically set forth and define the nature, extent and duration of the franchise or right thereby granted, and no franchise or right shall pass by implication under any such grant; and, notwithstanding any such grant the City shall at all times have and retain the power and right to reasonably regulate in the public interest the exercise of the franchise or right so granted; and the City shall not have the power by grant or ordinance to divest itself of the right or power so to regulate the exercise of such franchise or right. (Res. 18-013, ratified Nov. 6, 2018; Res. 20-027, ratified Nov. 8, 2022.)

### **§ 2. Procedures; Compensation; Minor privileges.**

Whenever an ordinance is introduced into the City Council pursuant to the provisions of Section 1 of this Article VIII, which ordinance shall contain all the terms and conditions of the proposed grant, including a provision as to the rates, fares and charges, if the grant provides for the charging of rates, fares or charges, and a provision that the franchise or right shall be executed and enjoyed within six months after the grant, it shall, after the first reading, be referred forthwith to the Board of Estimates. The said Board shall make diligent inquiry as to the money value of said franchise or right proposed to be granted and the adequacy of the proposed compensation to be paid therefor to the City as offered in said ordinance,

and the propriety of the terms and conditions of said ordinance, and said board is empowered to increase the compensation to be paid therefor to the City and to alter the terms and conditions of said ordinance, including the space in or over which the franchise or right is proposed to be granted and the person to whom the franchise or right shall be granted, provided such alterations are not inconsistent with the requirements and provisions of the Charter, and it shall be the duty of said Board to fix in said ordinance the said compensation at the largest amount it may be able to obtain, by advertising or otherwise, for said franchise or right, and no grant thereof by the City Council shall be made except for the compensation and on the terms approved by vote or resolution of the said Board, entered in the minutes or records of said Board and attached to said ordinance with the signature of a majority of said Board signed thereto, and in the absence of such vote or resolution of said Board said proposed ordinance may not be passed but shall lapse and be void.

Provided, that the right to use the streets, or other public property, by any person for steps, porticoes, bay windows, bow windows, show windows, signs, columns, piers, or other projections or structural ornaments of any character except so far as the same may be prohibited by law, and covered vaults, covered areaways, drains, drainpipes, or any other private purpose not prohibited by law or ordinance and not being a franchise or right requiring a formal grant by ordinance, may be granted by the Board of Estimates for such an amount of money and upon such terms as the said Board may consider right and proper without the necessity of an ordinance or advertising. The applicant for any such right shall make written application therefor to the Board of Estimates, stating therein the use desired and the amount he proposes to pay therefor. Before filing the application with the Board of Estimates, the applicant shall serve copies thereof on the owners of the adjoining properties. The use applied for shall be enjoyed only on the payment of the consideration fixed by said Board and on the terms and conditions prescribed by it in writing, which terms and conditions, including the consideration charged therefor, may be changed from time to time by the Board — but with respect to “permanent” minor privileges, as defined in Section 9 of this Article VIII of the Charter, only after reasonable notice to the holder of the privilege and opportunity to him to be heard before the Board or its designated representative — and provided further, that all grants of minor privileges shall also be subject to the provisions of said Section 9 of this Article VIII. The Board of Estimates may delegate to any department or other municipal agency, and such department or other municipal agency shall exercise, any administrative powers and duties relating to minor privileges.



### **§ 3. Duration.**

No franchise or right in relation to any street, either on, above or below the surface of the same, or franchise or right with respect to any other public property, shall be granted by the City to any person for a longer period than twenty-five years, but such grant may, at the option of the City, provide for giving to the grantee the right (on fair revaluation, including in such revaluation the value derived from the said franchise or right) to renewals not exceeding in the aggregate twenty-five years.

Regardless of the number of previous grants of a given franchise to its holder, or the number of years such holder may have held the same, the City may renew the same to him on the same or different terms from that theretofore granted, including an increase or decrease of the consideration or charge therefor, provided always, no grant by the City of a franchise or right in, over or under any part of its public property, whether an original grant or a renewal thereof, shall (save for a possible provision for renewals in accordance with the first sentence of this section) create a term therefor or a right to obtain a renewal of said term extending more than twenty-five years from the date of the ordinance granting or renewing the same, as the case may be.

Any grant of a franchise may provide that upon the termination of the said franchise or right granted by the City, the plant, as well as the property of the grantee situated in, above or under the streets or other public property aforesaid with its appurtenances, shall thereupon be and become the property of the City, without further or other compensation to the grantee; or such grant may provide that upon such determination, there shall be a fair valuation of the plant and property, which shall be and become the property of the City at its election, on paying the grantee said valuation. If, by virtue of the grant, the plant and property are to become the property of the City without money payment therefor, the City shall have the option either to take and operate the said property on its own account, or to renew the said grant for not exceeding twenty-five years on a revaluation or sell the same to the highest bidder at public sale. If the original grant shall prescribe that the City shall at its election make payment for such plant and property, such payment shall be at a fair valuation of the same as property, excluding any value derived from the franchise or right and if the City shall make payment for such plant and property, it may, in that event, operate the plant and property on its own account for five years, after which it may determine either to continue such operation on its own account or to lease the said plant and property and the said franchise or right to use the streets, or

other public property in connection therewith, for limited periods, not to exceed twenty-five years from the date of the grant, under such rules and regulations as it may prescribe, or to sell the plant and property to the highest bidder at public sale.

Every grant of any such franchise or right shall make provision, by way of forfeiture or otherwise, for the purpose of compelling compliance with the terms of the grant, and to secure efficiency of public service at reasonable rates, and the maintenance of the property in good condition, throughout the full term of the grant. The grant shall also specify the mode of determining the valuations and revaluations which may be provided for therein.

#### **§ 4. Street railways.**

The Board of Estimates, subject to ratification and approval by ordinance, is empowered to agree with any street railway company for the surrender of any of its franchises, easements or rights-of-way, and in substitution for the franchise, easement or right-of-way so surrendered to grant a new franchise, easement or right-of-way on any street, and which may be for the same duration as the franchise, easement or right-of-way surrendered; and to provide, in appropriate cases, for a graduated park tax, as prescribed by Chapter 566 of the Acts of the General Assembly of 1906.

#### **§ 5. Trackless trolleys.**

The City may, by ordinance, permit any street railway company to operate under its existing franchises vehicles propelled by electricity furnished by overhead wires but not operated upon rails, and any such grant heretofore made is hereby ratified and confirmed.

#### **§ 6. Advertising.**

Before any grant of the franchises or right to use any street, or other public property, either on, above or below the surface of the same shall be made, the proposed specific grant, except as provided in the second paragraph of Section 2 of this Article VIII, embodied in the form of a brief advertisement, prepared by the Board of Estimates, at the expense of the applicant, shall be published by the Comptroller for at least three days in one daily newspaper published in Baltimore City to be designated by the Board of Estimates, and all the provisions of the first paragraph of Section 2 of this Article VIII shall be complied with.

## **§ 7. Reservation of rights.**

When the grant of a franchise or right is made in compliance with the foregoing sections, the City shall not part with, but shall expressly reserve the right and duty at all times to exercise in the interest of the public full municipal superintendence, regulation and control in respect to all matters connected with said grant and not inconsistent with the terms thereof.

## **§ 9. Minor privileges.**

### *(a) Temporary minor privilege charges.*

Beginning with the year 1935, the amount of the lien of the City for charges for temporary minor privileges, as hereinafter defined, shall be limited to the amount of the charge therefor for the last calendar year for which made. The person to whom such temporary minor privilege is granted shall be personally liable to the City for the amount of such charges. If any such charge is not paid by April 1st of the year succeeding that in respect of which the charge was made, the Department of Finance shall record the lien for such previous year's charge in the tax lien record, where it shall continue to be a lien, until paid, upon the property on which such minor privilege is located. The Department of Finance may proceed to enforce the liability above provided for or to sell the property in satisfaction of such lien under the provisions of Article 81 of the Code of Public General Laws of Maryland.

### *(b) "Temporary" and "permanent" defined; Procedures.*

Temporary minor privileges are those in the nature of awnings, barber poles, signs, skids, clothes racks, sidewalk displays and vending machines and the like, which can be removed without a material alteration of the property where the said privilege is located. Permanent minor privileges are those in the nature of steps, porticoes, bay windows, bow windows, show windows, columns, tiers, covered vaults, covered areaways, drains or drainpipes, and the like which cannot be removed without a material alteration of the property where the said privilege is located. The procedure for granting minor privileges is set forth in Section 2 of this Article VIII.

### *(c) Savings clause.*

Nothing contained in this section shall affect the payment or collection of any minor privilege charges, temporary, or permanent, accruing before the year 1935 or the payment or collection of charges for permanent minor privileges during and after the year 1935. As to any of such charges which are not paid when due, the

Department of Finance may institute suit against the holder of the privilege and the owner of the property at the time the charge arose, and shall record them in the tax lien record, and they shall remain a lien until paid and may sell the property at which the privilege is located under the provisions of said Article 81.

(d) *Designation by Board of Estimates.*

In issuing minor privileges the Board of Estimates shall designate the same as being “temporary” or “permanent” as defined in this section.

## **APPENDIX**

## RESOLUTIONS

1157

## No. 11

(Council No. 1748)

A Resolution of the Mayor and City Council of Baltimore proposing to add a new Section 11 to Article I of the Charter of Baltimore City (1964 Revision, as amended), title "General Provisions" under the new sub-heading "Inner Harbor Park" dedicating a certain area around the Inner Harbor to public park uses and setting aside limited areas therein to be used for eating places and other commercial uses and for the Maryland Science Center, and relating generally thereto; and providing for the submission of the proposed amendment of the Charter of Baltimore City to the qualified voters of the City of Baltimore for adoption or rejection.

SECTION 1. *Be it resolved by the Mayor and City Council of Baltimore, That a new Section 11, title "Inner Harbor Park" be added to Article I, "General Provisions" of the Charter of Baltimore City (1964 Revision, as amended) to read as follows:*

*Section 11. Inner Harbor Park.*

*There is hereby dedicated to public park uses for the benefit of this and future generations of the City of Baltimore and the State of Maryland 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 to and including Rash Field, except that, in order to provide eating places and other commercial uses, areas totalling not more than 3.2 acres plus access thereto, within the dedicated space and north of an easterly extension of the south side of Conway Street shall be set aside for such purposes; and except that an area of not more than 3.4 acres shall be set aside for use by the Maryland Science Center, plus access thereto.*

SEC. 2. *And be it further resolved, That the proposed addition of a new Section 11 to Article I of the Charter of*

Baltimore City (1964 Revision, as amended) shall be submitted to the legally qualified voters of the City of Baltimore at the general election to be held on Tuesday, November 7, 1978, for adoption or rejection in accordance with the provisions of Article XI-A of the Constitution of Maryland in the following form:

### CHARTER AMENDMENT

Dedicating certain areas around the Inner Harbor to public park uses and setting aside limited areas therein to be used for eating places and other commercial uses and for the Maryland Science Center.

FOR CHARTER AMENDMENT

AGAINST CHARTER AMENDMENT

Approved July 19, 1978.

WILLIAM DONALD SCHAEFER, *Mayor*.

---

No. 12

(Council No. 1779)

Resolution of the Mayor and City Council of Baltimore proposing amendments to Subsection (b) of Section 15 of Article VII of the Charter of Baltimore City (1964 Revision, as amended), title "Executive Departments", subtitle "Department of the Treasurer"; clarifying the duties of the Treasurer as custodian of all moneys and securities belonging to the City including the actuarial retirement systems; authorizing the Treasurer, in discharging his duties as custodian of the moneys and securities of the actuarial retirement systems of the City, to enter into contracts with banks or trust companies, for such banks or trust companies to be custodian of cash and securities of the retirement systems, with the approval of the Board of Estimates; providing that the Treasurer shall have no personal liability for the performance, lack of performance, misfeasance or mal-

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY

PETITION OF: \*

ANTHONY J. AMBRIDGE, *et al.* \*

Case No. C-02-CV-24-002246

FOR JUDICIAL REVIEW OF DECISION OF \*

MARYLAND STATE BOARD OF ELECTIONS \*

IN THE MATTER OF: \*

Certification of Ballot Question "F" \*

2024 General Election Ballot for \*

Baltimore City, September 2, 2024 \*

\* \* \* \* \*

AFFIDAVIT OF BROOKE MCDONALD

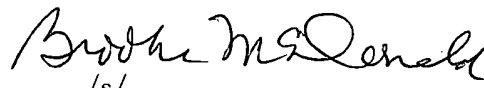
1. I, Brooke McDonald, am over 18 years of age; and am competent to testify to the facts set forth herein.
2. I have personal knowledge of all matters contained herein.
3. I co-lead the Steering Committee of the Inner Harbor Coalition, a Baltimore citizen-led group concerned with the future of the Inner Harbor Park. I also co-founded and moderate the public Facebook group, Harborplace Forum, which is a discussion page designed to enable open civil discourse regarding the future vision for Harborplace and Baltimore's Inner Harbor Park. This Facebook group was established in December 2023. Harborplace Forum has over 1,100 active members (1114, to be precise).
4. Throughout the past several months, there have been active discussions amongst Harborplace Forum members who were very concerned about the language to be used on the ballot referendum question regarding the Charter Amendment.
5. From August 2, 2024, through September 2, 2024, there were posts and subsequent comments



from Harborplace Forum members asking if anyone knew when the ballot language would be released or what specific wording would be used. Members continued to express concern. None of the members could find any mentions in the press, media, or on the City's websites of any approved ballot language or when the ballot language was expected to be published.

6. Then very late on September 2, 2024, the Ballot Question F was published on the State Board of Elections website. There were immediate forum discussions that turned towards the confusing nature of the wording of Question F.
7. I solemnly affirm under the penalties of perjury that the foregoing contents of this Affidavit are true to the best of my personal knowledge, information, and belief.

9/15/24  
Date

  
\_\_\_\_\_  
/s/  
Brooke McDonald

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY

PETITION OF: \*

ANTHONY J. AMBRIDGE, *et al.* \*

\*

Case No. C-02-CV-24-002246

FOR JUDICIAL REVIEW OF DECISION OF \*

MARYLAND STATE BOARD OF ELECTIONS \*

IN THE MATTER OF: \*

Certification of Ballot Question "F" \*

2024 General Election Ballot for \*

Baltimore City, September 2, 2024 \*

\* \* \* \* \*

AFFIDAVIT OF ANTHONY J. AMBRIDGE

1. I, Anthony J. Ambridge, am over 18 years of age, and am competent to testify to the facts set forth herein.
2. I have personal knowledge of the matters contained herein.
3. I served our Citizens as a Member of the Baltimore City Council for four terms (1983-1999) and later as the Real Estate Officer for Baltimore City.
4. I am an active member of several groups that are deeply concerned about the future of the Inner Harbor Park and am one of over 1100 active members of a public Facebook group, Harborplace Forum, that focuses on the future of our most sacred public park.
5. In a phone call to a member of the City Solicitor's Office on April 18, 2024, I expressed my concerns about the language for the proposed Charter Amendment referendum regarding the proposed land use changes to the Inner Harbor Park and Harborplace that would be appearing on the upcoming November 2024 ballot in Baltimore City.
6. I followed that discussion with an email to her on April 19, 2024. On behalf of myself and a

## Appendix 6

group of concerned Baltimore City residents, I reiterated our concerns regarding the Charter language. Our most immediate concern was to assure that the language presented on the ballot would clearly and accurately reflect the true meaning of these proposed changes to the City Charter. I emphasized the importance of a timely response to this email to allow us ample time to review the language and suggest changes.

7. After not receiving a response from Ms. DiPietro, I followed up with her in another email on May 13, 2024.
8. I received a reply from Ms. DiPietro on May 13, 2024, in which she indicated that neither members of the public nor I would be given a chance to review or provide input on the language of the ballot question.
9. On August 12, 2024, there was a post on the Facebook Harborplace Forum from Joe Stewart asking, “Has the city released their ballot language?” I responded, as did several other members. We all assumed that the ballot language would only be released to the public on September 2, 2024, and many of us watched the State Board website like hawks waiting for Question F to show up. (*See* Attachment 14A-B)
10. Once the ballot language was first published on the State Board of Elections website on September 2, 2024, there was immediate commentary on the ballot language by numerous members of the Facebook Harborplace Forum. (*See* Attachment 14C-E)
11. I solemnly affirm under the penalties of perjury that the foregoing contents of this Affidavit are true to the best of my personal knowledge, information, and belief.

9/15/24  
Date

/s/  
Tony Ambridge

### Attachment 14A: Harborplace Forum

Harborplace Forum

**Joe Stewart**  
Aug 12 · 🌐


## Has the city released their ballot language?

👍 5 6 comments

👍 Like    💬 Comment    🔗 Copy    ➦ Share

**Anthony J. Ambridge**  
Aug 12 · 🌐

Second referendum struck down by Court this summer--"Protect Our Parks" short 88 signatures--when our "leaders" fail to lead, they should follow--we have neither.



Harborplace Forum  
Joe Stewart · Aug 12 · 🌐

## Has the city released their ballot language?

👍 Like    💬 Comment    🔗 Copy    ➦ Share

👍 5

Top comments ▾

**Anthony J. Ambridge**  
I have not seen it and was prohibited by both City Solisitor and Att ou rney General, to get a look.

4w Like Reply 3 🤔 😬

**Anthony J. Ambridge**  
Dottie Koller i agree, and we have every reason to expect unbiased and truthful language

4w Like Reply 3 👍

Attachment 14B: Inner Harbor Forum

**Harborplace Forum**  
Ed Yelochan · Aug 28 · 🌐

**any plans to distribute placards/window signs: "VOTE NO ON CHARTER AMENDMENT ##"**

👍👏 19 41 comments

👍 Like Comment Copy Share

---

**Harborplace Forum**  
Ed Yelochan · Aug 28 · 🌐

**Rein Kreek**  
Do we even know yet what the exact wording will be? (Same fate as the promised traffic 'study')

2w Like Reply 3 👍

**Ed Eddie Edward**  
[Rein Kreek](#), yeah what's up with that? I thought they had to release the language in July.

2w Like Reply 1 😬

**Rein Kreek**  
[Ed Eddie Edward](#) I was expecting end of July; maybe mid August the latest. But

View 1 reply...

**Teporah Bilezikian**  
Never mind, I see your post : )

1w Like Reply

Write a reply...

**Edith Pula**  
I've been anxious to see the wording so I'd know if a banner should day vote "no" or vote "yes" if one doesn't want the referendum to pass (i.e., doesn't want the MCB plan). [Don Cuddy](#)

**Harborplace Forum**  
Ed Yelochan · Aug 28 · 🌐

**Ed Eddie Edward**  
Rein Kreek, it's weird because they had the final reading of the bill so long ago, I wonder if they actually have some fears of it being rejected, and that has something to do with it?

Frankly, considering the softball press they've been getting on this, and the fact that only once has one these things been rejected, it seems like they would be riding pretty high right now.

I'm just trying to figure out what the holdup is.

2w Like Reply 1 👍

**Rein Kreek**  
I don't disagree but I don't think it's 'softball press' but media is only focused on covering stories of interest (what will generate most clicks/ads). Aside from a small group: All of this is pretty dry and boring stuff. The average person does not care if a building is two floors or 30 and if such a structure is zoned; not zoned, or needs to be zoned. Readers are zoned

**Ed Eddie Edward**  
[Rein Kreek](#), I think there's actually a lot of muckraking news organizations could do if they felt like it. Starting with -- where the hell's the language we're going to be voting on? Segway to a feature on how we're spending happy billion dollars for a 10-year construction traffic jam, etc. I think the City Paper would have been all over this one. Although, I'm not claiming media attention would have any impact.

### Attachment 14C: Harborplace Forum

Like Comment Copy Share



**Harborplace Forum**



Sep 2 ·

Please share any information you might have about when the text for the ballot on the Harborplace referendum will be released and what the process is from there. We heard it was coming out today but it's Labor Day!

3

2 comments

Like Comment Copy Share

#### Top comments ▾



**Harborplace Forum**

Author

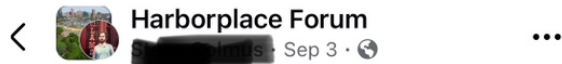
[https://www.elections.maryland.gov/elections/2024/general\\_ballots/baltimorecity.pdf](https://www.elections.maryland.gov/elections/2024/general_ballots/baltimorecity.pdf)

#### **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.

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

Attachment 14D: Harborplace Forum



Are any of the defenders of the MCB proposal going to acknowledge that the ballot question explicitly states that "off-street parking" is going to be part of the structures? Not three blocks away, not even across the street - where the pavilions are now.

And that if the road diet is defeated later in the process, we could easily end up with 1,000+ new parking spaces right up to the waterline, with no changes to Pratt or Light and the loss of that "new" park land that would have come with the reclamation of that intersection?

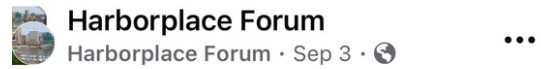
Additionally, you have to applaud them literally seeking to remove the land the towers will be built on "from the area dedicated...for public benefit." Chef's kiss.



**reporan Diezikian**  
 [Redacted] I've never seen such long run on sentence in my life. Missing commas makes it hard to read too!

1w Like Reply 5

**Phyllis Fung** Their wording is confusing with all the rambling on about intercardinal directions. It's a series of diversions to make people decide fast in the booth with only a superficial understanding of the issue. There may be a positive with it cutting both ways with people in favor of the towers filling in the wrong box! Hey, a guy can dream.



[Redacted] R all day long and twice on Sunday!

1w Like Reply 4

**[Redacted]**  
 LOLLLLLL!!! WHO WROTE THAT???? It should not pass regardless because it does not make any sense grammatically so any applicable context is null and void! Laws are based on sentences that are grammatically correct. This is not. LOL.

1w Like Reply 3



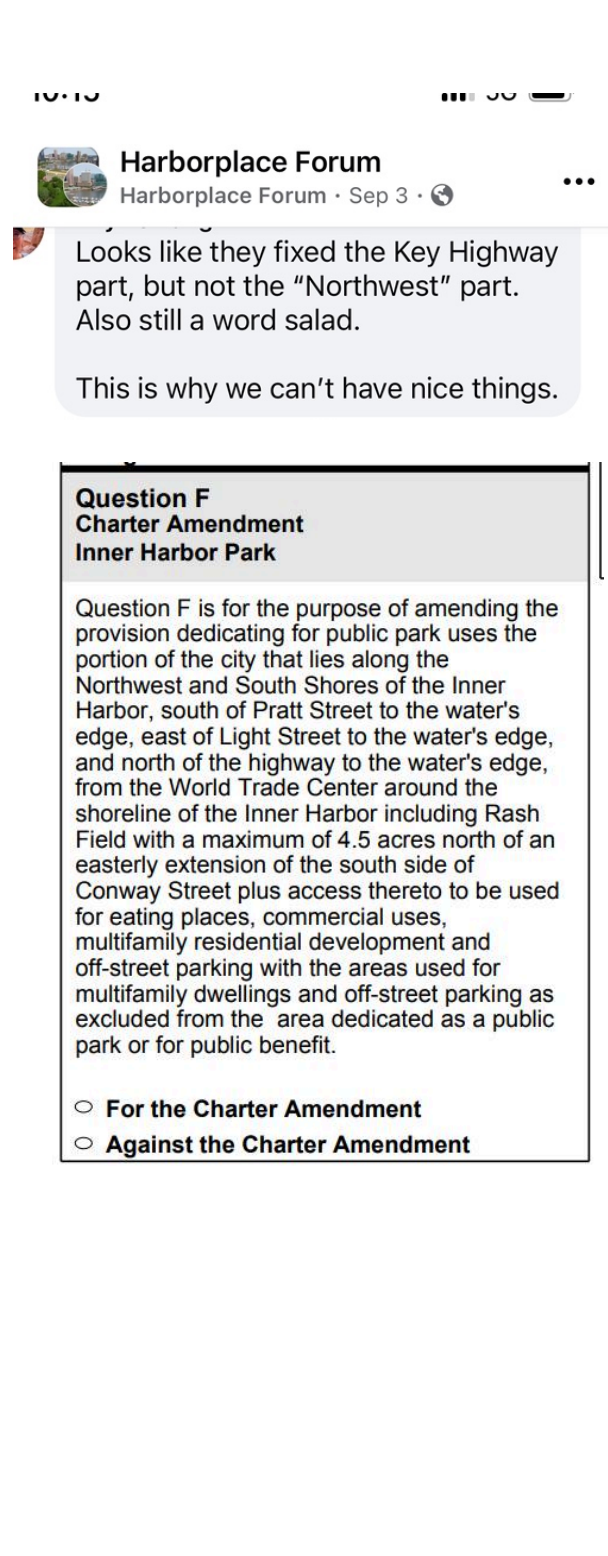
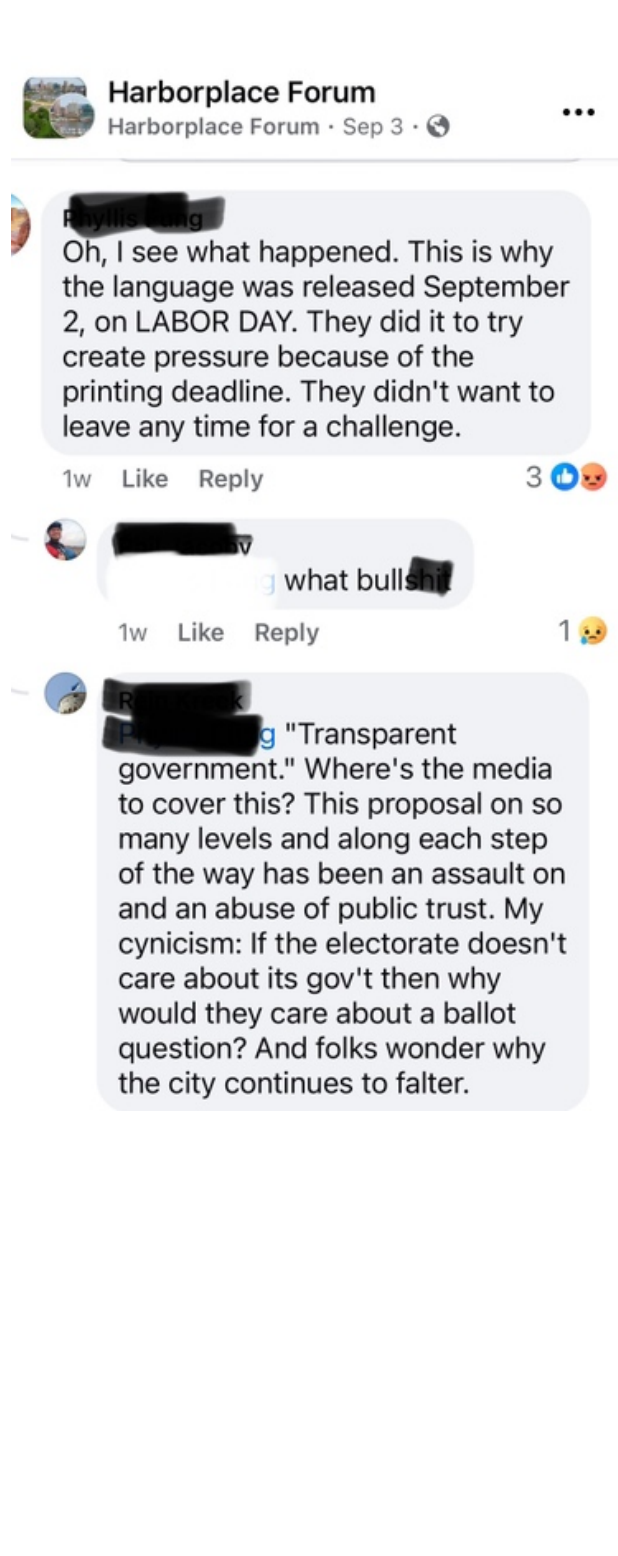
**Fred Shoken**  
 I believe there are some errors on this Charter Amendment when comparing it to the existing text of the Baltimore City Charter Article 1 Section 9.

It should read " ... along the north, west and south shores of the Inner Harbor ..." not "the Northwest and South Shores of the Inner Harbor ..."

It should also read " ... north of Key Highway to the water's edge" not "north of the highway to the water's edge ..."

I am not sure if these errors are substantial enough to challenge a vote, but it represents a sloppy attempt at amending the charter.

Attachment 14D: Harborplace Forum





Attachment 14E: Harborplace Forum

**Klaus Philipson**  
September 5 at 7:16 PM · 🌐

This time around there are referendum questions on the ballot that should be voted down. Two at least. F-No! and H-no! You can fill out the missing letters.

---

<p><b>Question E</b> Charter Amendment Baltimore City Police Department</p> <p>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.</p> <p>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.</p> <p>The duties of police officers are also established and the procedure for the creation of police districts is established.</p> <p><input type="radio"/> For the Charter Amendment <input type="radio"/> Against the Charter Amendment</p>	<p><b>Question G</b> Charter Amendment Community Reinvestment and Reparations Fund</p> <p>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</p> <p><input type="radio"/> For the Charter Amendment <input type="radio"/> Against the Charter Amendment</p>
<p><b>Question F</b> Charter Amendment Inner Harbor Park</p> <p>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.</p>	<p><b>Question H</b> Charter Amendment via Local Petition Reducing the Size of the City Council</p> <p>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.</p> <p><input type="radio"/> For the Charter Amendment <input type="radio"/> Against the Charter Amendment</p>

👍 You, Sue Carlin, Jën Fischetti and 6 others    9 🗨️ 2 📄

👍 Like    🗨️ Comment    ➦ Share

Most relevant ▾

**Steven Rivelis**  
And to clear the vote is "AGAINST" ...

Most relevant ▾

**Steven Rivelis**  
And to clear the vote is "AGAINST" ...  
1w Like Reply

**Cindy Thompson**  
Why "No" for F, the public parks? ...  
1w Like Reply

**Klaus Philipson**  
**Cindy Thompson** the rub with F is the last sentence, allowing offices, residences and parking in 4.5 acres of the public park, all uses currently prohibited there by the City Charter.  
1w Like Reply

**Terrance Hancock**  
**Cindy Thompson** aka the MCB development ...  
1w Like Reply

**Anthony J. Ambridge**  
**Cindy Thompson** I for one am appalled that our City "leaders" have approved a Resolution to allow by referendum the conversion of 3.6 acres of public parkland, designated in the City Charter to be "open space in perpetuity for use of all citizen Balt... See more  
1w Like Reply 3 🗨️

**Cindy Thompson**  
**Anthony J. Ambridge** Oh! So, they are trying to SNEAK THIS IN!!!! OHHHHHHHHHH. I get it now!  
1w Like Reply

**Donna Beth Joy Shapiro**  
**Cindy Thompson** MCB plans to build two huge apartment towers on Light Street and two office structures on Pratt Street. Thr City Council has already removed all zoning restrictions and height limitations - the guard rails that insured our masterpiece In... See more  
1w Like Reply

**Peggy Webster**  
**Cindy Thompson** it's purpose is to allow the Bramble fiasco at the Inner Harbor  
16h Like Reply

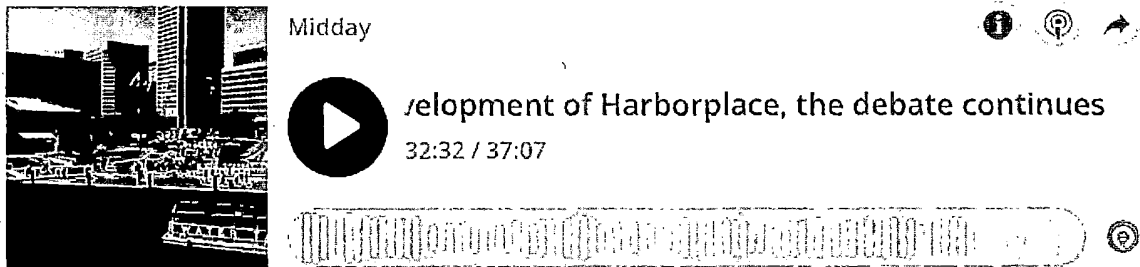
Exhibit 16

<https://www.wypr.org/show/midday/2024-08-20/redevelopment-of-harborplace-the-debate-continues>

# Redevelopment of Harborplace, the debate continues

By Melody Simmons, Tom Hall, Teria Rogers, Sam Bermas-Dawes

Published August 20, 2024 at 12:02 PM EDT



Middyay

Redevelopment of Harborplace, the debate continues

32:32 / 37:07

At 32:34, **Melody Simmons**, guest host for *Middyay* and reporter for the *Baltimore Business Journal* states:

***“I called the Board of Elections yesterday [8/19/2024] and you can’t even get the language. We don’t know what the referendum is going to say.”***

At 35:09 Ted Rouse, son of original Harborplace architect, James Rouse, says, ***“My concern is about the language...”***

Melody Simmons replies, ***“We don’t know yet.”***

Case No. CO2CY242246  
 Plaintiff's/State 10  
 Defendant's Exhibit \_\_\_\_\_  
 Court's \_\_\_\_\_  
 Joint \_\_\_\_\_

CITY OF BALTIMORE  
RESOLUTION **16.29**  
Council Bill 16-0660

---

Introduced by: Councilmembers Costello, Spector  
Introduced and read first time: May 2, 2016  
Assigned to: Judiciary and Legislative Investigations Committee  
Committee Report: Favorable  
Council action: Adopted  
Read second time: June 6, 2016

---

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL CONCERNING**

1 **Charter Amendment – Inner Harbor Park**

2 FOR the purpose of amending the provision for Inner Harbor Park to provide for outdoor eating  
3 places in the areas known as West Shore Park and Rash Field; and submitting this  
4 amendment to the qualified voters of the City for adoption or rejection.

5 BY proposing to amend  
6 Article I - General Provisions  
7 Section(s) 9  
8 Baltimore City Charter  
9 (1996 Edition)

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

12 **Baltimore City Charter**

13 **Article I. General Provisions**

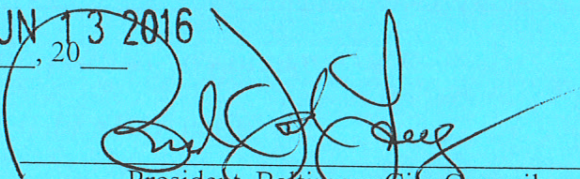
14 **§ 9. Inner Harbor Park.**

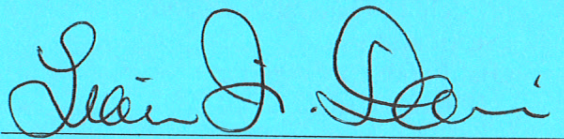
15 There is hereby dedicated to public park uses for the benefit of this and future generations of  
16 the City of Baltimore and the State of Maryland the portion of the City that lies along the  
17 north, west and south shores of the Inner Harbor, south of Pratt Street to the water's edge,  
18 east of Light Street to the water's edge and north of Key Highway to the water's edge, from  
19 the World Trade Center around the shoreline of the Inner Harbor to and including Rash Field,  
20 except that, in order to provide eating places and other commercial uses, areas totalling not  
21 more than 3.2 acres plus access thereto, within the dedicated space and north of an easterly  
22 extension of the south side of Conway Street shall be set aside for such purposes; AND  
23 EXCEPT THAT IN ORDER TO PROVIDE OUTDOOR EATING PLACES FOR THE AREAS KNOWN AS  
24 WEST SHORE PARK AND RASH FIELD, AREAS TOTALLING NOT MORE THAN 0.5 ACRES WITHIN  
25 THE DEDICATED SPACE AND SOUTH OF AN EASTERLY EXTENSION OF THE SOUTH SIDE OF  
26 CONWAY STREET SHALL BE SET ASIDE FOR SUCH PURPOSES; and except that an area of not  
27 more than 3.4 acres shall be set aside for use by the Maryland Science Center, plus access  
28 thereto.

EXPLANATION: Underlining indicates matter added by amendment.  
~~Strike out~~ indicates matter stricken by amendment.

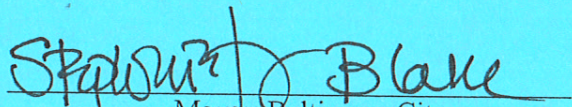
Council Bill 16-0660

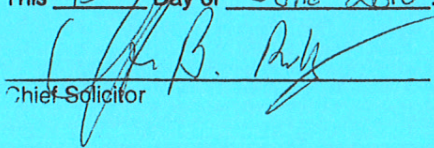
1 SECTION 2. AND BE IT FURTHER RESOLVED, That this proposed amendment to the City  
2 Charter be submitted to the legal and qualified voters of Baltimore City, for adoption or rejection,  
3 in accordance with Article XI-A, § 5 of the Maryland Constitution, in the form specified by the  
4 City Solicitor.

Certified as duly passed this \_\_\_\_\_ day of JUN 13 2016, 20\_\_\_\_  
  
\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,  
this \_\_\_\_\_ day of JUN 13 2016, 20\_\_\_\_  
  
\_\_\_\_\_  
Chief Clerk

JUN 21 2016

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
  
\_\_\_\_\_  
Mayor, Baltimore City

Approved For Form and Legal Sufficiency  
This 15<sup>th</sup> Day of June 2016.  
  
\_\_\_\_\_  
Chief Solicitor

ATRUE COPY  
Henry Raymond  
Director of Finance



Thiru Vignarajah <thiru@justiceforbaltimore.com>

**Petition for Judicial Review - Ballot**

Michael McCann <michael@mmccannlaw.net> Fri, Sep 6, 2024 at 4:05 PM  
To: "Kobrin, Daniel" <dkobrin@oag.state.md.us>, Thiru Vignarajah <thiru@justiceforbaltimore.com>,  
"Elena.DiPietro@baltimorecity.gov" <Elena.DiPietro@baltimorecity.gov>

Folks: Attached is a draft of the joint motion.

I am working on the proposed order.

Please let me know as soon as possible if you have any changes or that I may file.

I have reached out to the clerk's office and they are waiting on the e-filing.

Thiru can file an identical motion in his case.

Thank you.

Michael

**Michael R. McCann**

*Michael R. McCann, PA*  
*118 W. Pennsylvania Avenue*  
*Towson, Maryland 21204*  
*(p) 410-825-2150*  
*(f) 410-825-2149*

Case No.	<u>CB2CY242246</u>
<input checked="" type="checkbox"/>	Plaintiff's/State /
<input type="checkbox"/>	Defendant's Exhibit _____
<input type="checkbox"/>	Court's
<input type="checkbox"/>	Joint

E-mail Confidentiality: The information contained in this message may be confidential, proprietary and/or protected by the attorney-client privilege or work product doctrine. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please delete/destroy any copy of this message and notify Michael R. McCann at 410 825-2150.



**Cir Ct - Ballot - joint motion.docx**  
21K



Thiru Vignarajah <thiru@justiceforbaltimore.com>

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**Petition for Judicial Review - Ballot**

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Michael McCann <michael@mmccannlaw.net>

Fri, Sep 6, 2024 at 4:21 PM

To: "Kobrin, Daniel" <dkobrin@oag.state.md.us>, Thiru Vignarajah <thiru@justiceforbaltimore.com>, "Elena.DiPietro@baltimorecity.gov" <Elena.DiPietro@baltimorecity.gov>, Vignarajah Thiru <ThiruForBaltimore@gmail.com>

Proposed order attached.

[Quoted text hidden]



**Cir Ct - Ballot - proposed order re joint motion.docx**

18K



Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;

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**Petition for Judicial Review - Ballot**

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**Kobrin, Daniel** <dkobrin@oag.state.md.us>

Fri, Sep 6, 2024 at 4:22 PM

To: Michael McCann &lt;michael@mmccannlaw.net&gt;, Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;, "Elena.DiPietro@baltimorecity.gov" &lt;Elena.DiPietro@baltimorecity.gov&gt;

Fine by me but your dates are off. I'm fine with Monday-Friday-Monday. But you have it written Sept 9, 10, 13.

---

**From:** Michael McCann <michael@mmccannlaw.net>**Sent:** Friday, September 6, 2024 4:06 PM**To:** Kobrin, Daniel <dkobrin@oag.state.md.us>; Thiru Vignarajah <thiru@justiceforbaltimore.com>; Elena.DiPietro@baltimorecity.gov**Subject:** Petition for Judicial Review - Ballot

Folks: Attached is a draft of the joint motion.

[Quoted text hidden]





Thiru Vignarajah <thiru@justiceforbaltimore.com>

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**Petition for Judicial Review - Ballot**

---

Thiru Vignarajah <thiru@justiceforbaltimore.com>

Fri, Sep 6, 2024 at 4:26 PM

To: "Kobrin, Daniel" <dkobrin@oag.state.md.us>

Cc: Michael McCann <michael@mmccannlaw.net>, "Elena.DiPietro@baltimorecity.gov" <Elena.DiPietro@baltimorecity.gov>

Same. I'll file identical version in our case as well.

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

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**Petition for Judicial Review - Ballot**

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**Kobrin, Daniel** <dkobrin@oag.state.md.us>

Fri, Sep 6, 2024 at 4:27 PM

To: Thiru Vignarajah <thiru@justiceforbaltimore.com>

Cc: Michael McCann <michael@mmccannlaw.net>, "Elena.DiPietro@baltimorecity.gov" <Elena.DiPietro@baltimorecity.gov>

The dates should be Sept 9-13-16.

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

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**Petition for Judicial Review - Ballot**

---

Michael McCann <michael@mmccannlaw.net>

Fri, Sep 6, 2024 at 4:29 PM

To: Thiru Vignarajah <thiru@justiceforbaltimore.com>, "Kobrin, Daniel" <dkobrin@oag.state.md.us>

Cc: "Elena.DiPietro@baltimorecity.gov" <Elena.DiPietro@baltimorecity.gov>, Vignarajah Thiru <ThiruForBaltimore@gmail.com>

If we don't hear from Elena shortly, I will remove the paragraph 6 and file.

**From:** Thiru Vignarajah [mailto:thiru@justiceforbaltimore.com]

**Sent:** Friday, September 6, 2024 4:26 PM

**To:** Kobrin, Daniel <dkobrin@oag.state.md.us>

**Cc:** Michael McCann <michael@mmccannlaw.net>; Elena.DiPietro@baltimorecity.gov

[Quoted text hidden]

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

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**Petition for Judicial Review - Ballot**

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Michael McCann <michael@mmccannlaw.net>

Fri, Sep 6, 2024 at 4:46 PM

To: Thiru Vignarajah <thiru@justiceforbaltimore.com>, "Kobrin, Daniel" <dkobrin@oag.state.md.us>

Cc: "Elena.DiPietro@baltimorecity.gov" <Elena.DiPietro@baltimorecity.gov>, Vignarajah Thiru <ThiruForBaltimore@gmail.com>

Elena: I am going to get the motion. Please reach out to me if you disagree with the schedule, including over the weekend.

My cell is 443 956 5742.

[Quoted text hidden]



Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;

---

**Petition for Judicial Review - Ballot**

---

Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;

Fri, Sep 6, 2024 at 4:53 PM

To: "Kobrin, Daniel" &lt;dkobrin@oag.state.md.us&gt;


Cc: Michael McCann &lt;michael@mmccannlaw.net&gt;, "Elena.DiPietro@baltimorecity.gov" &lt;Elena.DiPietro@baltimorecity.gov&gt;

Here's our substantively identical motion, with dates corrected and paragraph 6 deleted as well. Dan, please confirm approval. Elena, you can reach me at (410) 456-7552.

Thanks all,  
Thiru

[Quoted text hidden]

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 **Joint Emergency Motion for Expedited Briefing and Hearing - Anthony Ambridge et al. v. Md Bd of Elections**  
**(filed 9.6.24) .docx**  
20K



Thiru Vignarajah <thiru@justiceforbaltimore.com>

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**Petition for Judicial Review - Ballot**

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Michael McCann <michael@mmccannlaw.net>

Fri, Sep 6, 2024 at 5:00 PM

To: Thiru Vignarajah <thiru@justiceforbaltimore.com>, "Kobrin, Daniel" <dkobrin@oag.state.md.us>

Cc: "Elena.DiPietro@baltimorecity.gov" <Elena.DiPietro@baltimorecity.gov>

Ours, as filed.

Thank you gentlemen. Have a nice weekend. Or I should say, Dan, have a nice weekend.

[Quoted text hidden]

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 **Cir Ct - Ballot - joint motion without City.pdf**  
142K



Thiru Vignarajah <thiru@justiceforbaltimore.com>

---

**Petition for Judicial Review - Ballot**

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**Kobrin, Daniel** <dkobrin@oag.state.md.us>

Fri, Sep 6, 2024 at 5:02 PM

To: Thiru Vignarajah <thiru@justiceforbaltimore.com>

Cc: Michael McCann <michael@mmccannlaw.net>, "Elena.DiPietro@baltimorecity.gov" <Elena.DiPietro@baltimorecity.gov>

Sorry I missed your call- approved for filing with my signature.

Get Outlook for iOS

---

**From:** Thiru Vignarajah <thiru@justiceforbaltimore.com>

**Sent:** Friday, September 6, 2024 4:53:13 PM

**To:** Kobrin, Daniel <dkobrin@oag.state.md.us>

**Cc:** Michael McCann <michael@mmccannlaw.net>; Elena.DiPietro@baltimorecity.gov  
<Elena.DiPietro@baltimorecity.gov>

[Quoted text hidden]

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

---

**Petition for Judicial Review - Ballot**

---

Thiru Vignarajah <thiru@justiceforbaltimore.com>

Fri, Sep 6, 2024 at 5:04 PM


To: "Kobrin, Daniel" <dkobrin@oag.state.md.us>

Cc: Michael McCann <michael@mmccannlaw.net>, "Elena.DiPietro@baltimorecity.gov" <Elena.DiPietro@baltimorecity.gov>

Great, filing now. See attached as filed.

[Quoted text hidden]

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 **Joint Emergency Motion for Expedited Briefing and Hearing - Anthony Ambridge et al. v. Md Bd of Elections**  
(filed 9.6.24) .pdf  
120K



IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY \*

PETITION OF: \*

Michael Brassert, *et al.* \*

Case No.: C-02-CV-24-002237

FOR JUDICIAL REVIEW OF THE DECISION OF: \*

MARYLAND STATE BOARD OF ELECTIONS \*

IN THE CASE OF: \*

IN MATTER OF: \*

Certification of Ballot Question "F" in \*

2024 General Election Ballot for Baltimore City, \*

September 2, 2024 \*

\* \* \* \* \*

**EMERGENCY JOINT MOTION FOR ORDER EXPEDITING FILING OF MEMORANDA AND SCHEDULING OF HEARING**

Petitioners, Michael Brassert *et al.*, and Respondent, the Maryland State Board of Elections, by their undersigned counsel, pursuant to Maryland Annotated Code, Election Law Art., § 9-209(a)(d) move the Court for an Order expediting the filing of memorandum and the scheduling of a hearing in this matter and state as follows:

1. On Wednesday, September 4, 2024, Petitioners filed a Petition for Judicial Review seeking review of the State Board of Elections' certification of proposed question "F" in the ballot for 2024 General Election. Ballot question "F" involves the Baltimore City Council's proposed amendment to a provision of the City Charter relating to Inner Harbor Park.

2. The proposed amendment to the Charter is of great public importance and the issues raised in this matter require the Court's immediate attention. Among other reasons,

Respondent is authorized to begin printing the ballots today, September 6, 2024, and has certain statutory deadlines for the preparation and delivery of ballots to the public.

3. Section 9-209 of the Elections Article of the Annotated Code of Maryland, pursuant to which the subject petition was filed, provides that “these proceedings shall be heard and decided .... as expeditiously as the circumstances require.” Md. Code Ann., Election Law Art., §9209(d)(1); *see also id.* § (d)(2) (requiring any appeal be taken directly to the Supreme Court within 5 days of the Circuit Court’s decision and that such appeal be given priority).<sup>1</sup>

4. The parties agree that this matter should be heard as soon as possible and, to that end, request that the Court to enter an Order setting the following deadlines:

a. Deadline for Petitioners to file memorandum in support of their Petition for Judicial Review – Monday, September 9, 2024;

b. Deadline for Respondent to file an answering memorandum – Friday, September 13, 2024;

c. Deadline for Petitioners to file any reply memorandum – Monday, September 16, 2024;

5. The parties further request that the Court schedule a hearing in this matter as soon as practicable after the filing of memoranda.

WHEREFORE, Petitioners and Respondent respectfully request that the Court enter the requested Order.

---

<sup>1</sup> Section 9-209(a) requires the filing of a petition for judicial in this Court rather than the Circuit Court for Baltimore City.

\_\_\_\_\_/s/\_\_\_\_\_  
Daniel Korbin  
CPF no. 1112140138  
Office of the Attorney General  
Civil Divisions  
200 Saint Paul Place  
Baltimore, Maryland 21202  
[dkobrin@oag.state.md.us](mailto:dkobrin@oag.state.md.us)  
(410) 576-6472

\_\_\_\_\_/s/\_\_\_\_\_  
Michael R. McCann  
CPF No. 9506230004  
118 W. Pennsylvania Avenue  
Towson, Maryland 21204  
[michael@mmccannlaw.net](mailto:michael@mmccannlaw.net)  
(410) 825-2150

Date: September 6, 2024

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 6<sup>th</sup> day of September 2024, a copy of the foregoing motion was delivered, *via* MDEC, to counsel of record.

\_\_\_\_\_/s/\_\_\_\_\_  
Michael R. McCann



Thiru Vignarajah <thiru@justiceforbaltimore.com>

**RE: Petition for Judicial Review of Ballot**

**Kobrin, Daniel** <dkobrin@oag.state.md.us> Fri, Sep 6, 2024 at 1:26 PM  
To: Michael McCann <michael@mmccannlaw.net>  
Cc: "Chapman, Thomas" <tchapman@oag.state.md.us>, "thiru@justiceforbaltimore.com" <thiru@justiceforbaltimore.com>, "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>

Mr. McCann and Mr. Vignarajah,

First, forgive me. You are free, on behalf of your clients, to prosecute your cases as you see fit and on the timelines you deem appropriate.

I am attaching, however, my brief from two recent Supreme Court of Maryland cases. I attach the brief as the basis for understanding why SBE is beginning to print ballots *today*. The failure to do so would jeopardize SBE's ability to meet federal and state law requiring ballots be ready (and mailed) on Sept 21 and Sept 23<sup>rd</sup>, respectively.

You are therefore free to wait until the time for filing a record has passed. SBE has no record to file, nor does the Baltimore City Board of Elections. The City itself may have record materials, but you have not named it as a party to this case (nor, it seems, obtained materials from it prior to filing this action). The certification and display of the ballot under Election Law § 9-207 has no proceeding. There is no decision for the Board to make. SBE receives the question from (in this case) the City Solicitor, and ministerially reproduces that ballot question language on the applicable ballot.

To that end, I've included the City Law Department on this response. The City is likely to hold an interest in this litigation.

Section 9-209 permits review "of the content and arrangement [of the ballot], or to correct any administrative error" on the basis of a sworn petition. The record is the ballot itself, and the petitioner's sworn basis for believing that its content or arrangement is improper. I'm only asking for that basis sooner, rather than later, to correct the content and arrangement of Question F if it's something within SBE's authority to do.

I therefore suggest we begin expediting this matter as soon as practicable. Once the petitioners supplement their filing with their basis, SBE will be able to respond and we can get inside a courtroom.

Dan

**From:** Michael McCann <michael@mmccannlaw.net>  
**Sent:** Friday, September 6, 2024 12:10 PM  
**To:** Kobrin, Daniel <dkobrin@oag.state.md.us>  
**Cc:** Chapman, Thomas <tchapman@oag.state.md.us>; thiru@justiceforbaltimore.com

[Quoted text hidden]

[Quoted text hidden]

Case No. COACV242246  
 Plaintiff's/State  
 Defendant's Exhibit  
 Court's  
 Joint



Thiru Vignarajah <thiru@justiceforbaltimore.com>

---

**RE: Petition for Judicial Review of Ballot**

---

Thiru Vignarajah <thiru@justiceforbaltimore.com>

Fri, Sep 6, 2024 at 1:44 PM

To: "Kobrin, Daniel" <dkobrin@oag.state.md.us>

Cc: Michael McCann <michael@mmccannlaw.net>, "Chapman, Thomas" <tchapman@oag.state.md.us>, "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>

Thanks Dan. I'm going to confer with Mike and we'll get back to you shortly.

We cannot stop your client from starting to print today, but I'd encourage them to reconsider until we get clarity that we can resolve this through discussion or through a swift ruling from the judiciary.

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

---

**RE: Petition for Judicial Review of Ballot**

---

Michael McCann <michael@mmccannlaw.net>

Fri, Sep 6, 2024 at 1:52 PM

To: "Kobrin, Daniel" <dkobrin@oag.state.md.us>

Cc: "Chapman, Thomas" <tchapman@oag.state.md.us>, "thiru@justiceforbaltimore.com" <thiru@justiceforbaltimore.com>, "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>

Dan: Thanks. We appreciate the Board of Elections' concerns about timing.

I think it makes the most sense to have a telephone call to discuss these record and timing issues with you and Elena.

Thiru and I are both available now, the earlier the better.

Please let me know if that will work and when.

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

---

**RE: Petition for Judicial Review of Ballot**

---

**Kobrin, Daniel** <dkobrin@oag.state.md.us>

Fri, Sep 6, 2024 at 1:54 PM

To: Michael McCann <michael@mmccannlaw.net>

Cc: "Chapman, Thomas" <tchapman@oag.state.md.us>, "thiru@justiceforbaltimore.com" <thiru@justiceforbaltimore.com>, "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>

My direct office line is 410 576 6472.

I've got my afternoon dedicated to writing, so I've got no other meetings on the books.

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

---

**RE: Petition for Judicial Review of Ballot**

---

Michael McCann <michael@mmccannlaw.net>

Fri, Sep 6, 2024 at 2:06 PM

To: "Kobrin, Daniel" <dkobrin@oag.state.md.us>

Cc: "Chapman, Thomas" <tchapman@oag.state.md.us>, "thiru@justiceforbaltimore.com" <thiru@justiceforbaltimore.com>, "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>

Elena?

[Quoted text hidden]





Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;

---

**RE: Petition for Judicial Review of Ballot**

---

DiPietro, Elena (Law Dept) &lt;Elena.DiPietro@baltimorecity.gov&gt;

Fri, Sep 6, 2024 at 2:08 PM

To: Michael McCann &lt;michael@mmccannlaw.net&gt;, "Kobrin, Daniel" &lt;dkobrin@oag.state.md.us&gt;

Cc: "Chapman, Thomas" &lt;tchapman@oag.state.md.us&gt;, "thiru@justiceforbaltimore.com" &lt;thiru@justiceforbaltimore.com&gt;

I am trying to get the appropriate attorneys involved.

---

**From:** Michael McCann <michael@mmccannlaw.net>**Sent:** Friday, September 6, 2024 2:07 PM**To:** Kobrin, Daniel <dkobrin@oag.state.md.us>**Cc:** Chapman, Thomas <tchapman@oag.state.md.us>; thiru@justiceforbaltimore.com; DiPietro, Elena (Law Dept) <Elena.DiPietro@baltimorecity.gov>**Subject:** RE: Petition for Judicial Review of Ballot**CAUTION:** This email originated from outside of Baltimore City IT Network Systems.**Reminder:** DO NOT click links or open attachments unless you recognize the sender and know that the content is safe. Report any suspicious activities using the Report Phishing Email Button, or by emailing to Phishing@baltimorecity.gov

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

---

**RE: Petition for Judicial Review of Ballot**

---

Thiru Vignarajah <thiru@justiceforbaltimore.com>

Fri, Sep 6, 2024 at 2:09 PM

To: "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>

Cc: Michael McCann <michael@mmccannlaw.net>, "Kobrin, Daniel" <dkobrin@oag.state.md.us>, "Chapman, Thomas" <tchapman@oag.state.md.us>

Thank you all. Mike and I are conferring with our clients and will call when everyone is ready. Would it be helpful for me to circulate a Zoom/dial-in?

Thiru

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

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**RE: Petition for Judicial Review of Ballot**

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Kobrin, Daniel <dkobrin@oag.state.md.us>

Fri, Sep 6, 2024 at 2:10 PM

To: Thiru Vignarajah <thiru@justiceforbaltimore.com>, "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>

Cc: Michael McCann <michael@mmccannlaw.net>, "Chapman, Thomas" <tchapman@oag.state.md.us>

Yes to the Zoom.

[Quoted text hidden]



Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;

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**RE: Petition for Judicial Review of Ballot**

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Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;

Fri, Sep 6, 2024 at 2:13 PM

To: "Kobrin, Daniel" &lt;dkobrin@oag.state.md.us&gt;

Cc: "DiPietro, Elena (Law Dept)" &lt;Elena.DiPietro@baltimorecity.gov&gt;, Michael McCann &lt;michael@mmccannlaw.net&gt;, "Chapman, Thomas" &lt;tchapman@oag.state.md.us&gt;, Vignarajah Thiru &lt;ThiruForBaltimore@gmail.com&gt;

This is scheduled for 2:30 pm, but it will work whenever we're prepared to proceed with the call. Since I may be doing after-school pickup, I'm adding an additional email address. Please reply to this thread moving forward. Zoom details below:

Join Zoom Meeting <https://us06web.zoom.us/j/82037112360?pwd=3NZoqxHFuqb1M5lXxuWWY25vfx0nrM.1>  
Meeting ID: 820 3711 2360 Passcode: 781022 One tap mobile: +13017158592,,82037112360#,,,,\*781022#

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

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**RE: Petition for Judicial Review of Ballot**

---

Michael McCann <michael@mmccannlaw.net>

Fri, Sep 6, 2024 at 2:42 PM

To: Thiru Vignarajah <thiru@justiceforbaltimore.com>, "Kobrin, Daniel" <dkobrin@oag.state.md.us>

Cc: "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>, "Chapman, Thomas" <tchapman@oag.state.md.us>, Vignarajah Thiru <ThiruForBaltimore@gmail.com>

Thiru and I are on the zoom call waiting, if you are able to join.

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

**Memorandum in Support of Petitions for Judicial Review + Exhibits**

Thiru Vignarajah <thiru@justiceforbaltimore.com>

Tue, Sep 10, 2024 at 5:24 PM

To: "Kobrin, Daniel" <dkobrin@oag.state.md.us>, "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>

Cc: Michael McCann <michael@mmccannlaw.net>




Hi all,

I wanted to make sure everyone had a courtesy copy of our filings from late last night. I know the Court has not adopted our proposed schedule as an order, but I know we are all trying to keep this moving forward quickly in light of the various practical exigencies.

Thanks,  
Thiru

p.s. I've separated the Memo from the Exhibits so they're smaller files -- hope nothing got lost in translation when I did that.

**3 attachments**

-  **Memorandum in Support of Petitions for Judicial Review (for circulation).pdf**  
283K
-  **Exhibits for Memorandum in Support of Petitions for Judicial Review.pdf**  
3591K
-  **Second Amended Petition for Judicial Review (filed 9.9.24).pdf**  
1412K

Case No. CO2CV242246

Plaintiff's/State 3

Defendant's Exhibit \_\_\_\_\_

Court's \_\_\_\_\_

Joint \_\_\_\_\_



Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;

---

**Memorandum in Support of Petitions for Judicial Review + Exhibits**

---

Kobrin, Daniel &lt;dkobrin@oag.state.md.us&gt;

Wed, Sep 11, 2024 at 9:12 AM

To: Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;, "DiPietro, Elena (Law Dept)" &lt;Elena.DiPietro@baltimorecity.gov&gt;

Cc: Michael McCann &lt;michael@mmccannlaw.net&gt;

Hi Thiru,

After our brief phone conversation yesterday, I reviewed the exhibits attached to your petition. Mr. Ambridge's email address jogged my memory—I recalled receiving emails from that address in the not-to-distant past. In the interest of fullest disclosure, I'm attaching those emails to this one. I don't know yet if I'll be appending these emails to my filing. I did, however, want to make sure we're on a level factual playing field.

Dan

[Quoted text hidden]

----- Forwarded message -----

From: "aja vixonwolfe.com" &lt;aja@vixonwolfe.com&gt;

To: "Kobrin, Daniel" &lt;dkobrin@oag.state.md.us&gt;

Cc:

Bcc:

Date: Thu, 18 Jul 2024 13:20:06 +0000

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



Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;

---

**Memorandum in Support of Petitions for Judicial Review + Exhibits**

---

Thiru Vignarajah &lt;thiru@justiceforbaltimore.com&gt;

Wed, Sep 11, 2024 at 11:46 AM

To: Melissa Rayhart &lt;melissa.rayhart@mdcourts.gov&gt;

Cc: Daniel &lt;dkobrin@oag.state.md.us&gt;, "DiPietro, Elena (Law Dept)" &lt;Elena.DiPietro@baltimorecity.gov&gt;, "Chapman, Thomas" &lt;tchapman@oag.state.md.us&gt;, Michael McCann &lt;michael@mmccannlaw.net&gt;

----- Forwarded message -----

From: **Thiru Vignarajah** <thiru@justiceforbaltimore.com>

Date: Tue, Sep 10, 2024 at 5:24 PM

Subject: Memorandum in Support of Petitions for Judicial Review + Exhibits

To: Kobrin, Daniel &lt;dkobrin@oag.state.md.us&gt;, DiPietro, Elena (Law Dept) &lt;Elena.DiPietro@baltimorecity.gov&gt;

Cc: Michael McCann &lt;michael@mmccannlaw.net&gt;

Hi all,

I wanted to make sure everyone had a courtesy copy of our filings from late last night. I know the Court has not adopted our proposed schedule as an order, but I know we are all trying to keep this moving forward quickly in light of the various practical exigencies.

Thanks,  
Thiru

p.s. I've separated the Memo from the Exhibits so they're smaller files -- hope nothing got lost in translation when I did that.

---

**3 attachments**

 **Memorandum in Support of Petitions for Judicial Review (for circulation).pdf**  
283K

 **Exhibits for Memorandum in Support of Petitions for Judicial Review.pdf**  
3591K

 **Second Amended Petition for Judicial Review (filed 9.9.24).pdf**  
1412K





Thiru Vignarajah <thiru@justiceforbaltimore.com>

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**Memorandum in Support of Petitions for Judicial Review + Exhibits**

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**Melissa Rayhart** <melissa.rayhart@mdcourts.gov>

Wed, Sep 11, 2024 at 3:09 PM

To: Thiru Vignarajah <thiru@justiceforbaltimore.com>

Cc: Daniel <dkobrin@oag.state.md.us>, "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>, "Chapman, Thomas" <tchapman@oag.state.md.us>, Michael McCann <michael@mmccannlaw.net>

Received. Thank you very much.

Melissa A. Rayhart

Judicial Assistant to the

Honorable Cathleen M. Vitale

Anne Arundel County Circuit Court

(410)222-1273

[Quoted text hidden]



Thiru Vignarajah <thiru@justiceforbaltimore.com>

**Emergency Motion for TRO and Memorandum in Support**

Thiru Vignarajah <thiru@justiceforbaltimore.com>

Fri, Sep 13, 2024 at 12:04 PM

To: "Kobrin, Daniel" <dkobrin@oag.state.md.us>, "Chapman, Thomas" <tchapman@oag.state.md.us>, "DiPietro, Elena (Law Dept)" <Elena.DiPietro@baltimorecity.gov>

Cc: Michael McCann <michael@mmccannlaw.net>

Please find attached courtesy copies of an emergency motion and memorandum in support just filed in Baltimore City.

Consistent with Circuit Court procedures for emergency motions for injunctive relief, I'll be sending courtesy copies to Magistrate Sara Walsh.

Very best,  
Thiru

On Thu, Sep 12, 2024 at 10:28 PM Thiru Vignarajah <thiru@justiceforbaltimore.com> wrote:

Good evening all,

Please see attached a complaint for declaratory and injunctive relief (with attachments (Envelope # 17993761), filed moments ago in the Circuit Court for Baltimore City, naming both the State Board and City Board of Elections as defendants. To save everyone a little late-night reading, this is filed under Election Law Article Section 12-202 and substantively overlaps with the petition for judicial review under consideration in Anne Arundel County.

We'll no doubt be in touch in the morning.

Very best,  
Thiru

**2 attachments**

**Emergency Motion for TRO and Preliminary Injunction (filed 9.13.24).pdf**  
137K

**Memorandum in Support of Emergency Motion and Exhibits (filed 9.13.24).pdf**  
2641K

Case No. CO2CV242246

Plaintiff's/State 5

Defendant's Exhibit \_\_\_\_\_

Court's

Joint

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

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

\* \* \* \* \*

**ORDER**

Upon consideration of the Partial Consent Motion to Intervene by the Mayor and City Council of Baltimore, filed September 19, 2024, and the Motion to Intervene or, in the Alternative, Motion to File Amicus Brief, filed September 19, 2024, by MCB HP Baltimore, LLC, filed September 19, 2024, and Petitioners’ Response to Motion to Intervene, filed September 19, 2024, a hearing was held, and arguments presented on September 20, 2024. It is by the Circuit Court for Anne Arundel County, Maryland, hereby:

**ORDERED**, that the Mayor and City Council of Baltimore’s Motion to Intervene is **GRANTED**. The Mayor and City Council of Baltimore shall be designated as a Respondent; and it is further

**ORDERED**, that MCB HP Baltimore, LLC’s Motion to Intervene is **GRANTED**. MCB HP Baltimore, LLC shall be designated as a Respondent; and it is further

**ORDERED**, that upon being designated as a Respondent, the Count having considered the Mayor and City Council of Baltimore’s Motion for Reconsideration, the motion is **DENIED**.

09/20/2024 4:08:04 PM

**09/20/2024**

Date



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

09/20/2024 DLF

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 21<sup>st</sup> 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**

1 **Charter Amendment – Inner Harbor Park**

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

11 BY proposing to repeal and re-ordain, with amendments  
12 Article I - General Provisions  
13 Section 9  
14 Baltimore City Charter  
15 (1996 Edition)

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

18 **Charter of Baltimore City**

19 **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.**

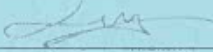
2           There is hereby dedicated to public park uses for the benefit of this and future generations of  
3           the City of Baltimore and the State of Maryland the portion of the City that lies along the  
4           north, west and south shores of the Inner Harbor, south of Pratt Street to 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

CITY OF BALTIMORE  
ORDINANCE **24-319**  
Council Bill 23-0446

---

Introduced by: Councilmember Costello and President Mosby  
At the request of: MCB IIP Baltimore, LLC  
Address: c/o Caroline Hecker, Esq.  
Rosenberg Martin Greenberg, LLP  
25 South Charles St., Suite 21<sup>st</sup> Fl, Baltimore, Maryland 21201  
Telephone: (410) 727-6600  
Introduced and read first time: October 30, 2023  
Assigned to: Economic and Community Development Committee

---

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

---

**AN ORDINANCE CONCERNING**

**Zoning – C-5-IH Inner Harbor Subdistrict – Amendment**

FOR the purpose of amending the description C-5-IH Inner Harbor Subdistrict; and amending the bulk and yard regulations for the Subdistrict.

BY repealing and re-ordaining, with amendments  
Article 32 - Zoning  
Section 10-207(c)(3) and Table 10-401: Commercial Districts (C-5)  
Baltimore City Code  
(Edition 2000)

**SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the Laws of Baltimore City read as follows:

**Baltimore City Code**

**Article 32. Zoning**

**Title 10. Commercial Districts**

***Subtitle 2. District Descriptions***

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 23-0446

§ 10-207. C-5 Downtown District.

(c) Subdistricts.

(3) C-5-IH Inner Harbor Subdistrict.

(i) The purpose of the C-5-IH Inner Harbor Subdistrict is to establish these standards for structures located adjacent to and facing the Inner Harbor.

(ii) The standards recognize that development within this subdistrict is to be oriented to the Inner Harbor waterfront and be predominantly pedestrian-oriented AND MIXED-USE. [Development is relatively low-scaled to accommodate the view of the harbor from adjoining subdistricts.]

Zoning Tables

TABLE 10-401: COMMERCIAL DISTRICTS (C-5) – BULK AND YARD REGULATIONS

CATEGORIES	SPECIFICATIONS (PER SUBDISTRICT)						
	C-5-DC	C-5-IH	C-5-DE	C-5-HT	C-5-TO	C-5-HS	C-5-G
<b>MAXIMUM BLDG HEIGHT</b>							
All Uses	None	[100 feet] NONE	125 feet	80 feet	175 feet	175 feet	80 feet
<b>MINIMUM BLDG HEIGHT</b>							
All Uses	36 feet	None	36 feet	36 feet	36 feet	36 feet	36 feet
<b>MINIMUM FRONT YARD</b>							
All Uses	None	None	None	None	None	None	None
<b>MINIMUM INTERIOR-SIDE YARD</b>							
All Uses	None	None	None	None	None	None	None
<b>MINIMUM CORNER-SIDE YARD</b>							
All Uses	None	None	None	None	None	None	None



Council Bill 23-0446

1  
2  
3  
4  
5

<b>MINIMUM REAR YARD</b>							
All Uses	None	None	None	None	None	None	None

**SECTION 2. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30<sup>th</sup> day after the date it is enacted.

Council Bill 23-0446

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 10 day of March, 2024

  
\_\_\_\_\_  
Mayor, Baltimore City

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

  
\_\_\_\_\_  
Chief Solicitor

CITY OF BALTIMORE  
ORDINANCE **24-320**  
Council Bill 23-0448

---

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 21<sup>st</sup> Fl, Baltimore, Maryland 21201  
Telephone: (410) 727-6600  
Introduced and read first time: October 30, 2023  
Assigned to: Economic and Community Development Committee

---

Committee Report: Favorable, with Amendments  
Council action: Adopted  
Read second time: February 26, 2024

---

AN ORDINANCE CONCERNING

**Urban Renewal – Inner Harbor Project I – Amendment 21**

FOR the purpose of amending the Urban Renewal Plan for Inner Harbor Project I; amending the Development Area Controls for certain development areas; amending the Land Use and Proposed Zoning exhibits to the Plan; waiving certain content and procedural requirements, making the provisions of this Ordinance severable; providing the application of this Ordinance in conjunction with certain other ordinances; and providing for a special effective date.

BY authority of  
Article 13 – Housing and Urban Renewal  
Section 2-6  
Baltimore City Code  
(Edition 2000)

**Recitals**

The Urban Renewal Plan for Inner Harbor Project I was originally approved by the Mayor and City Council of Baltimore by Ordinance No. 67-1045, as last amended by Ordinance 15-327.

An amendment to the Urban Renewal Plan for Inner Harbor Project I is necessary to update the Development Area Controls for certain development areas and to amend the Land Use and Proposed Zoning Exhibits to reflect changes to the Plan.

Under Article 13, § 2-6 of the Baltimore City Code, no substantial change may be made in any approved renewal plan unless the change is approved in the same manner as that required for the approval of the renewal plan.

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  
a amendment or deleted from existing law by amendment.

Council Bill 23-0448

1       **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
2 following changes in the Urban Renewal Plan for Inner Harbor Project I are approved:

3           (1) In the Plan, amend Section III.B to read as follows:

4                   III. Land Disposition

5                           B. The Areas shown as available for disposition in Exhibits B, "Development  
6                           Areas", and C, "Land Use", are schematic and approximate, and the Agency  
7                           shall have the right, in its discretion, to fix their precise boundaries and size.  
8                           The Agency shall also have the right, [in order] to facilitate the most  
9                           advantageous development of the Project, to subdivide or combine the  
10                          Development Areas OR PORTIONS THEREOF, INCLUDING ADJUSTING THE  
11                          ESTABLISHED PARCEL AND LOT LINES OF DEVELOPMENT AREAS UNDER AGENCY  
12                          CONTROL, and in so doing to assign or consolidate, as the case may be, the  
13                          Standards and Controls applicable to said Development Areas. To carry out  
14                          this Plan, the Agency will formulate appropriate disposition policies and  
15                          procedures.

16           (2) In the Plan, amend Section V.B. to read as follows:

17                   V. Standards and Controls

18                           B. Size of Facilities:

19                                   The minimum and maximum sizes of the various types of facilities in each  
20                                   Development Area shall be determined by [the Agency, provided that the  
21                                   facilities defined in section IV.3 as Office, Housing, Transient Housing, and  
22                                   Retail, in that portion of the Project to be disposed of, shall contain in the  
23                                   aggregate not less than 2,000,000 square feet of gross building area nor more  
24                                   than 4,000,000 square feet of gross building area, and provided further, that  
25                                   the] THE ZONING FOR EACH PARCEL. ~~THE facilities~~ [facilities defined in  
26                                   Section IV.3 as Parking, in that portion of the Project to be disposed of, shall  
27                                   contain in the aggregate not less than 3,000 spaces nor more than 4,500  
28                                   spaces. {The Agency shall set maximum densities of residential development  
29                                   which shall not exceed 250 dwelling units per net acre.]

Council Bill 23-0448

1 (3) In the Plan, amend Section V.D. to read as follows:

2 V. Standards and Controls

3 D. Servicing:

4 All servicing shall be off street, and except with respect to Development Areas  
5 13 and 15a and to the properties not to be acquired, shall be within structures  
6 and roofed, so as to be screened from public view. Loading docks will be  
7 provided and in accordance with the Building Code of Baltimore City.  
8 Open-air storage of equipment, merchandise, and materials is prohibited,  
9 except in Development Areas 17a and 25. Outside exhibit or display of  
10 merchandise is prohibited, EXCEPT IN DEVELOPMENT AREAS 13 AND 15A, AND  
11 except where specifically permitted by the Department.

12 (4) In the Plan, strike V.I. Minimum Elevation for Development in its entirety and  
13 substitute a new V.I. Floodplain and Critical Area Requirement to read as follows:

14 V. Standards and Controls

15 I. Floodplain and Critical Area Requirements:

16 To achieve the objectives of the Plan any development above or below grade  
17 shall comply with all requirements, restrictions, and terms contained in Title 7,  
18 Subtitle 3 {"Floodplain Overlay Zoning District"} and Subtitle 4  
19 {"Chesapeake Bay Critical Area Overlay Zoning District"} of the Baltimore  
20 City Zoning Code.

21 (5) [(4)] (4) In the Plan, amend V. P. Development Area 13 to read as follows:

22 V. Standards and Controls

23 P. Development Area Controls:

24 Development Area 13

25 a. General Use: Commercial AND RESIDENTIAL.

26 b. Building Requirements:

27 i. Maximum Permitted Height: [Elevation 50 feet, except for limited  
28 extensions of specialized construction as may be approved by the  
29 Agency] SUBJECT TO THE ZONING OF THE UNDERLYING PARCEL.

30 ii. Vehicular Access: Access will be permitted from the surrounding  
31 streets through Development Area 15, in such a manner as may be  
32 approved by the Department.

33 iii. Parking: No Parking permitted except for special uses as may be  
34 approved by the Department.

Council Bill 23-0448

1 iv. Planning Review: All preliminary and final plans for Development  
 2 Area 13 shall be subject to review and comment by [an ad hoc  
 3 Advisory Task Force (hereinafter called Task Force) which shall be  
 4 established by the Commissioner of the Department of Housing and  
 5 Community Development to provide citizen input into the design  
 6 process for the improvements to be constructed within said  
 7 Development Area. The size and composition of the said Task force  
 8 shall be determined by the Commissioner at his sole discretion except  
 9 that the Task force shall include two representatives of the City  
 10 Council who shall be appointed by the President. The Department shall  
 11 retain final authority to approve or disapprove all proposed plans for  
 12 said area.] THE URBAN DESIGN AND ARCHITECTURE ADVISORY PANEL  
 13 (UDAAP), AS PART OF THE DESIGN REVIEW PROCESS ESTABLISHED BY  
 14 TITLE 4, SUBTITLE 4 {"DESIGN REVIEW"} OF THE ZONING CODE.

15 (6) [(5)] (5) In the Plan, amend V. P. Development Area 14 as follows:

16 V. Standards and Controls

17 P. Development Area Controls:

18 Development Area 14

- 19 a. General Use: Public AND COMMERCIAL
- 20 b. Building Requirements: [No building construction will be permitted at or  
 21 above grade level except for that which is related and incidental to the  
 22 General Use of this Development Area, and which is approved by the  
 23 Agency, provided that vehicular circulation and parking at or above grade  
 24 are prohibited.]

25 BUILDING CONSTRUCTION, WHICH IS APPROVED BY THE AGENCY, SHALL BE  
 26 PERMITTED, PROVIDED THAT THE BUILDING CONSTRUCTION:

- 27 1. ~~DOES NOT EXCEED 3 STORIES; OR~~
- 28 2. ~~A TOTAL OF 20,000 GROSS SQUARE FEET IN THE AGGREGATE~~  
 29 ~~ACROSS DEVELOPMENT AREA 14; AND~~
- 30 3. ~~THAT VEHICULAR CIRCULATION AND PARKING AT OR ABOVE GRADE~~  
 31 ~~ARE PROHIBITED.~~

32 (7) [(6)] (6) In the Plan, amend V. P. Development Area 15a to read as follows:

33 V. Standards and Controls

34 P. Development Area Controls:

35 Development Area 15a

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- 1 a. General Use: Commercial AND RESIDENTIAL
- 2 b. Building Requirements:
  - 3 i. Maximum Permitted Height: [Elevation 50 feet, except for limited  
4 extensions of specialized construction as may be approved by the  
5 Agency] SUBJECT TO THE ZONING OF THE UNDERLYING PARCEL.
  - 6 ii. Vehicular Access: Access will be permitted from the surrounding  
7 streets through Development Area 15, in such a manner as may be  
8 approved by the Department.
  - 9 iii. Parking: [No Parking permitted except for special uses as may be  
10 approved by the Department.] OFF-STREET PARKING IS PERMITTED  
11 WHERE EXPRESSLY APPROVED BY THE DEPARTMENT PROVIDED THAT  
12 THE OFF-STREET PARKING IS NOT LOCATED AT GRADE AND IS SCREENED  
13 FROM PUBLIC VIEW.
  - 14 iv. Planning Review: All preliminary and final plans for Development  
15 Area 13 shall be subject to review and comment by [an ad hoc  
16 Advisory Task Force (hereinafter called Task Force) which shall be  
17 established by the Commissioner of the Department of Housing and  
18 Community Development to provide citizen input into the design  
19 process for the improvements to be constructed within said  
20 Development Area. The size and composition of the said Task force  
21 shall be determined by the Commissioner at his sole discretion except  
22 that the Task force shall include two representatives of the City  
23 Council who shall be appointed by the President. The Department shall  
24 retain final authority to approve or disapprove all proposed plans for  
25 said area.] THE URBAN DESIGN AND ARCHITECTURE ADVISORY PANEL  
26 (UDAAP), AS PART OF THE DESIGN REVIEW PROCESS ESTABLISHED BY  
27 TITLE 4, SUBTITLE 4 {"DESIGN REVIEW"} OF THE ZONING CODE.

28 (8) In the Plan, amend Appendix 1, in part, to read as follows:

29 This Appendix and the accompanying Exhibit F contain the various special controls  
30 applicable to properties along the LOT 15 AND Lot 25 waterfront. These additional  
31 controls have been included in order to ensure that public access to the waterfront be  
32 maximized, opportunities for visual enjoyment of the water be created and/or  
33 preserved, and contrast and variety of building facades along the waterfront be  
34 maintained.

35 Pedestrian Access

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1 Public pedestrian access to the water shall be provided through a series of easements -  
 2 Public Access Corridors - leading to a shoreline walk - Pedestrian Promenade, the  
 3 general location of which is shown on the accompanying exhibit. The Pedestrian  
 4 Promenade will be established by an easement which shall be no less than 20 feet in  
 5 width. In limited areas where it can be demonstrated that it is functionally justified,  
 6 the Commissioner of the Department of Housing and Community Development may  
 7 allow a promenade and/or landscaped area of lesser width. These required easement  
 8 improvements shall be built and maintained by the developer. Public pedestrian  
 9 access on private property shall be subject to such reasonable rules and regulations as  
 10 may be promulgated by the owner of such property and agreed to in writing by the  
 11 Commissioner of the Department of Housing and Community Development. The  
 12 Pedestrian Promenade shall be completed the later of: (1) two years from the passage  
 13 of the ordinance approving Amendment No. 16 to the Urban Renewal Plan, or (2) the  
 14 date of substantial completion of the Development Plan as MAY BE described in the  
 15 companion Planned Unit Development (PUD) [Ordinance] ORDINANCES for LOT 15  
 16 AND Lot 25. In some cases, an exception to the permanently constructed promenade  
 17 requirement may be granted by the Commissioner of the Department of Housing and  
 18 Community Development if the promenade easement is granted to the City of  
 19 Baltimore and a temporary walkway across the site connecting existing portions of the  
 20 promenade is provided by the property owner. The Commissioner may extend the  
 21 time for completion of the Pedestrian Promenade if it is deemed necessary to do so for  
 22 the health, safety, and welfare of the citizens.

23 (9) [(7)] (7) Revise Exhibit B, "Development Areas" to reflect the changes in the Plan.

24 (10) [(8)] (8) Revise Exhibit C, "Land Use" to reflect the changes in the Plan.

25 (11) [(9)] (9) Revise Exhibit D, "Proposed Zoning" to reflect the changes in the Plan.

26 (12) [(10)](10) Revise Exhibit E, "Right-of-Way Adjustments" to reflect the changes in  
 27 the Plan.

28 (13) Revise Exhibit F, "Waterfront Area Controls" to include the pedestrian promenade  
 29 along the entirety of the inner harbor shoreline and public access corridors so agreed  
 30 upon between the Department of Planning and the Applicant.

31 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Urban Renewal Plan for Inner Harbor  
 32 Project I, as amended by this Ordinance and identified as "Urban Renewal Plan, Inner Harbor  
 33 Project I, revised to include Amendment 21, dated October 30, 2023", including Exhibit A,  
 34 "Land Acquisition", dated August 25, 1970, as most recently revised on October 6, 2000;  
 35 Exhibit B, "Development Areas", dated April 24, 1979, as most recently revised on \_\_\_\_\_;  
 36 Exhibit C, "Land Use", dated April 24, 1979, as most recently revised on \_\_\_\_\_; Exhibit D,  
 37 "Proposed Zoning", dated April 24, 1979, as most recently revised on \_\_\_\_\_; Exhibit E,  
 38 "Right of Way Adjustments", dated April 24, 1979, as most recently revised on \_\_\_\_\_; and,  
 39 Exhibit F, "Waterfront Area Controls", dated October 6, 2000, is approved. The Department of  
 40 Planning shall file a copy of the amended Urban Renewal Plan with the Department of  
 41 Legislative Reference as a permanent public record, available for public inspection and  
 42 information.



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1       **SECTION 3. AND BE IT FURTHER ORDAINED,** That if the amended Urban Renewal Plan  
2 approved by this Ordinance in any way fails to meet the statutory requirements for the content of  
3 a renewal plan or for the procedures for the preparation, adoption, and approval of a renewal  
4 plan, those requirements are waived and the amended Urban Renewal Plan approved by this  
5 Ordinance is exempted from them.

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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 12 day of March, 2024

  
\_\_\_\_\_  
Mayor, Baltimore City

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

  
\_\_\_\_\_  
Chief Solicitor

MARYLAND STATE BOARD OF ELECTIONS,

*Appellant,*

v.

ANTHONY J. AMBRIDGE, et al.,

*Appellee.*

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IN THE

SUPREME COURT

OF MARYLAND

September Term, 2024

No. 26

\* \* \* \* \*

**CERTIFICATE OF SERVICE**

I certify that, on this 4<sup>th</sup> day of October, 2024, Brief of Appellees in the above-captioned case was filed electronically and served electronically by the MDEC system on all persons entitled to service.

*Thiru Vignarajah*

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Attorney No.: 0812180249

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