
**IN THE
SUPREME COURT OF MARYLAND**

No. 35, September Term, 2023

SCM-REG-0035-2023

BENEDICT J. FREDERICK, III, et. al

Appellants,

v.

BALTIMORE CITY BOARD OF ELECTIONS, et al.

Appellees.

On Appeal from the Circuit Court for Baltimore City
(The Honorable Althea M. Handy, Judge)

**BRIEF OF APPELLANT
BENEDICT J. FREDERICK, III, et al.**

Constantine J. Themelis (AIS 0212190235)
Steven A. Thomas (AIS 7212010254)
Clint R. Black, V (AIS 1112130092)
Thomas & Libowitz, P.A.
25 South Charles Street, Suite 2015
Baltimore, Maryland 21201
(410) 752-2468
gthemelis@tandllaw.com
sthomas@tandllaw.com
cblackv@tandllaw.com

Attorneys for Appellants

TABLE OF CONTENTS

TABLE OF AUTHORITIES..... iii

I. STATEMENT OF THE CASE 1

II. STANDARD OF REVIEW..... 3

III. QUESTION PRESENTED 4

IV. STATEMENT OF FACTS..... 4

 A. Background..... 4

 B. Lawsuit and Dispositive Motions 6

 1. Plaintiffs’ Motion for Summary Judgment was denied. E 546-47. 7

 2. BCBOE’s Motion to Dismiss or Alternatively for Summary Judgment was granted. E. 534-44. 8

 3. MCC’s Motion for Summary Judgment was granted. E. 536-37. 8

V. ARGUMENT 8

 A. Tax Caps are Proper Charter Material..... 8

 B. The Petition is a Cap and Does Not Divest the MCC of Its Authority to Set the Real Property Tax Rate. 10

 1. Baltimore City Circuit Court erroneously concluded the Petition divested the MCC of its authority to set the tax rate. 10

 2. BCBOE erroneously concluded the Petition is a “roll back.”..... 13

 D. The Petition Does Not Violate Article XI-A of the Maryland Constitution §5. 17

 E. There is unrefuted expert evidence that the Petition will increase the revenue Baltimore City will collect from real property taxes. 18

VI. CONCLUSION 23

CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8–112 25

TEXT OF PERTINENT CONSTITUTIONAL AND STATORY PROVISIONS
AND RULES.....27

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Board of Supervisors of Elections v. Smallwood</i> , 327 Md. 220 (1992).....	Passim
<i>Cheeks v. Cedlair Corp.</i> , 287 Md. 415 A.2d.....	8, 9, 11, 12
<i>Griffith v. Wakefield</i> , 298 Md. 470 A.2d.....	9, 12
<i>Hertelendy v. Bd. of Educ. of Talbot Cnty.</i> , 344 Md. 676 (1995).....	12, 14, 15
<i>Md. State Bd. of Elections v. Libertarian Party of Md.</i> , 426 Md. 488	4
Statutes	
Md. Code, Election Law, § 6-202	5
Md. Code, Election Law, § 6-209	24
Md. Code, Tax-Property § 6-302	Passim
Rules	
Maryland Rule 2-501	3
Other Authorities	
Baltimore City Charter, art. II, § 49	16, 17
Article XI-A of the Maryland Constitution § 5	4, 5, 17

I. STATEMENT OF THE CASE

Baltimore City has, by far, the highest real property tax rate in Maryland. In order to stimulate economic activity and stem decline, Baltimore City leaders have been recommending property tax reductions since at least the 1990's. E. 339.¹ This case involves the validity of a proposed charter amendment (the "Petition") to cap the Baltimore City real property tax rate for fiscal year 2026 and gradually reduce that cap over the course of the following six fiscal years. In reports issued in 2021 and 2022, the Baltimore Development Corporation ("BDC"), Baltimore City's economic development arm, put forth recommendations in line with the Petition. E. 345. BDC determined that the reduction of property tax rates was a "key step" in creating an "expanded tax base and increased employment." *Id.* Baltimore City Mayor Brandon Scott has acknowledged that Baltimore City's high property tax rate puts the City at a "competitive disadvantage when compared to surrounding counties" and is "inequitable" to Baltimore City homeowners. E. 346. Renew Baltimore, a ballot issue committee created to amend the Baltimore City Charter by placing caps on the real property tax rate, drafted the Petition and collected over twenty thousand signatures in order to have the Petition placed on the ballot for the November 5, 2024 General Election. The Petition is constitutional, complies with Maryland law, and

¹ Appellants commissioned an economic analysis by Sage Policy Group entitled: *Projected Fiscal Consequences of Renew Baltimore's Proposed Real Property Tax Rate Caps* (the "Sage Analysis"). E. 338-356. The Sage Analysis explains how capping Baltimore City's property tax rates will ultimately increase tax revenues and improve the City's financial standing.

should be certified and submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at that election.

The Petition is proper charter material and is also valid under the State Property Tax Article, Md. Code Ann. Tax-Property. The Petition only seeks to implement tax cap provisions that will place a reasonable limit on the taxing power of the Mayor and City Council of Baltimore City (“MCC”) *without* eliminating the MCC’s ability *to set the tax rate* pursuant to §6-302(a) of the Tax-Property Article. The Petition does not seek to set the real property tax *rate* or limit the amount of *revenue* Baltimore City can collect from real property taxes. To the contrary, there is undisputed expert evidence in the record that tax revenue will grow in Baltimore City over the next seven years if the Petition is approved.

This Court has held that charter amendments which, like the Petition, imposed property tax caps were valid charter material and were also valid under State law. For instance, in *Board of Supervisors of Elections v. Smallwood*, 327 Md. 220 (1992), this Court made clear that charter amendments proposing tax caps were “a limitation on the power of a legislative body to raise revenue [that] is at the heart of the form and structure of our government and thus is proper charter material.” *Id.* at 238. In the same case, this Court has also made clear that tax caps do not conflict with Md. Code Ann. Tax-Property § 6-302 because they do not prevent the legislative body from continuing to set the tax rate. *Id.* at 242-43.

Despite satisfying all legal requirements, the Baltimore City Circuit Court and the Election Director for the Baltimore City Board of Elections determined that the Petition

conflicted with State law because it divested the MCC of its authority to set a specific real property tax rate in Baltimore City pursuant to §6-302(a) of the Tax-Property Article, Maryland Code. The Circuit Court granted summary judgment against Appellants and in favor of Appellees. This Court should reverse the decision of the Circuit Court.

II. STANDARD OF REVIEW

This Court has discussed the standard of review of a trial judge's grant of summary judgment in the following relevant way:

Pursuant to Maryland Rule 2-501, we have stated that “[a] trial court may grant summary judgment when there is no genuine dispute of material fact and a party is entitled to judgment as a matter of law.” *120 W. Fayette St., LLLP v. Mayor & City Council of Balt. City*, 413 Md. 309, 329, 992 A.2d 459, 471 (2010) (internal quotation omitted). A determination of “[w]hether a circuit court’s grant of summary judgment is proper in a particular case is a question of law, subject to a non-deferential review on appeal.” *Tyler v. City of College Park*, 415 Md. 475, 498, 3 A.3d 421, 434 (2010); *Conaway v. Deane*, 401 Md. 219, 243, 932 A.2d 571, 584 (2007); *Charles Cnty. Comm’rs v. Johnson*, 393 Md. 248, 263, 900 A.2d 753, 762 (2006). Thus, “[t]he standard of review of a trial court’s grant of a motion for summary judgment on the law is *de novo*, that is, whether the trial court’s legal conclusions were legally correct.” *Messing v. Bank of Am., N.A.*, 373 Md. 672, 684, 821 A.2d 22, 28 (2003) (citations omitted).

...If it is determined that no genuine dispute of material fact exists, “we review the trial court’s ruling on the law, considering the same material from the record and deciding the same legal issues as the circuit court.” *Messing*, 373 Md. at 18 684, 821 A.2d at 28 (citation omitted); *Anderson v. Council of Unit Owners of the Gables on Tuckerman Condo.*, 404 Md. 560, 571, 948 A.2d 11, 18 (2008) (holding that “[i]f no material facts are placed in dispute, this Court must determine whether the Circuit Court correctly entered summary judgment as a matter of law” (citations omitted)). In conducting our review of a grant of a motion for summary judgment, we consider “only the grounds upon which the trial court relied in granting summary judgment.” *River Walk Apartments, LLC v. Twigg*, 396 Md. 527, 541-42, 914 A.2d 770, 779 (2007) (quoting *Standard Fire Ins.*

Co. v. Berrett, 395 Md. 439, 451, 910 A.2d 1072, 1079 (2006)).
D'Aoust v. Diamond, 424 Md. 549, 574-75, 36 A.3d 941, 955-56
(2012).

Md. State Bd. of Elections v. Libertarian Party of Md., 426 Md. 488, 505-06 (quoting
D'Aoust v. Diamond, 424 Md. 549, 574-75, 36 A.3d 941, 955-56 (2012))

III. QUESTION PRESENTED

Is a charter amendment that imposes a reasonable limitation on the real property tax rate unconstitutional or otherwise prohibited by law?

IV. STATEMENT OF FACTS

A. Background

The facts are not in dispute. Renew Baltimore, the Petition “sponsor,” filed a petition to submit to a vote of the registered voters of Baltimore City at the next general election an amendment to the Baltimore City Charter that would implement caps on Baltimore City’s real property tax rate. E. 56. The Petition complied with Article XI-A of the Maryland Constitution §5, which provides in relevant part:

SEC. 5. 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.***.

The Petition asks the voters of Baltimore City to approve the following amendment to the Baltimore City Charter:

§6A. Limits on taxation.

Notwithstanding any other provision of this Charter, and except for property exempt by law, the uniform rate of taxation which shall be levied and imposed on every \$100 of assessed or assessable value of real property in Baltimore City, as determined by the Mayor and City Council pursuant to Article II, Section 39 of this Charter, shall be:

- (a) for the fiscal year beginning July 1, 2025, no higher than \$2.200;
- (b) for the fiscal year beginning July 1, 2026, no higher than \$2.100;
- (c) for the fiscal year beginning July 1, 2027, no higher than \$1.920;
- (d) for the fiscal year beginning July 1, 2028, no higher than \$1.740;
- (e) for the fiscal year beginning July 1, 2029, no higher than \$1.560;
- (f) for the fiscal year beginning July 1, 2030, no higher than \$1.380; and
- (g) for the fiscal year beginning July 1, 2031, and for each and every fiscal year thereafter, no higher than \$1.200.

E. 57, 76-77.

The Petition seeks to amend the Baltimore City Charter by adding §6A to Article I (General Provisions) to be placed immediately after §6 (Uniform Taxation). E. 57. The Petition does not seek to change any other section of the Baltimore City Charter. *Id.* On June 6, 2023, Renew Baltimore sought an “advance determination” of the sufficiency of the Petition form pursuant to §6-202 of the Election Law Article, Maryland Annotated Code. E. 57, 78-81.

There is no dispute that the Petition was filed in a timely manner. On June 20, 2023, BCBOE Election Director approved the sufficiency of the form of the Petition and did not declare the Petition unconstitutional or unlawful at that time. E. 58, 82. The deadline to submit a charter amendment petition for the upcoming general election was July 29, 2024. E. 58, 88. On June 20, 2024, Renew Baltimore timely filed the Petition and submitted 23,542 Petition signatures (more than double the number of signatures required by Article XI-A of the Maryland Constitution §5) to BCBOE. E. 58, 92. On July 3, 2024, undersigned

counsel wrote to BCBOE to inquire if there were any determination(s) regarding the Petition. E. 58, 93-94. On July 3, 2024, Thomas S. Chapman, Esq. advised BCBOE had not yet made any further determinations. E. 58, 95. It is undisputed that the Petition has the requisite number of signatures.²

On July 9, 2024, BCBOE declared the Petition deficient as it seeks "the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law," citing Section 6-206(c)(5) of the Election Law Article. E. 58, 96-97. Specifically, BCBOE erroneously concluded that the Petition conflicted with State law and divested the MCC of its authority to set a specific real property tax rate in Baltimore City pursuant to §6-302(a) of the Tax-Property Article, Maryland Code. *Id.*

B. Lawsuit and Dispositive Motions

The Complaint was filed on July 12, 2024 and the Amended Complaint was filed on July 18, 2024.³ E.16, 53. Plaintiffs/Appellants, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie Teal-Locust (collectively "Appellants"), sued Defendants, Baltimore City Board of Elections, Armstead B.C. Jones, Sr., in his official capacity as Election Director of Baltimore City Board of Elections, and Scherod C. Barnes, in his official capacity as President of the Baltimore City Board of Elections (collectively "BCBOE"). E. 55-56. On July 18, 2024, the Mayor and City Council filed a Motion to

² On August 16, 2024, counsel for BCBOE's advised undersigned counsel that there are 14,737 verified signatures.

³ The Amended Complaint did not make any substantive changes. It merely added two individuals from the BCBOE as named defendants in their professional capacity and added two additional counts. E. 64-75.

Intervene. E. 98. On July 30, 2024, the Maryland State Board of Elections (“SBOE”) filed a Motion to Intervene. E. 221. (“BCBOE,” “MCC,” SBOE” collectively “Appellees”) (“Appellants and “Appellees” collectively “All Parties”). Appellants consented to both motions to intervene. E. 119-20, 219-20. ⁴

On July 19, 2024, counsel for all Parties conferred and agreed upon an expedited briefing and hearing schedule. E. 121-24. On July 26, 2024, All Parties filed dispositive motions. Plaintiffs filed their Emergency Petition for Judicial Review or Alternatively for Summary Judgment, arguing that the Petition was constitutional and legal under state law. E. 130-44. BCBOE filed a Motion to Dismiss or Alternatively for Summary Judgment arguing the Petition was deficient because it conflicted with §6-302(a) of the Tax-Property Article and was “roll back.” E. 147-64. MCC filed a Motion for Summary Judgment echoing the BCBOE’s arguments and adding the argument, with no expert report or affidavit in support thereof, that the Petition would jeopardize the City’s ability in the future to meet its obligations under the law. E. 179-214. On August 2, 2024, All Parties filed oppositions to dispositive motions. On August 8, 2024, a hearing took place before the Honorable Althea M. Handy. The hearing was limited to oral argument and no testimony was taken.

On August 12, 2024, Judge Handy entered the following Orders:

1. Plaintiffs’ Motion for Summary Judgment was denied. E 546-47.

⁴ Appellants consented to MCC intervening as a party in this action only and did not waive any right to raises any other defenses. *Id.*

2. BCBOE's Motion to Dismiss or Alternatively for Summary Judgment was granted. E. 534-44.
3. MCC's Motion for Summary Judgment was granted. E. 536-37.
4. Memorandum Opinion Order. E. 538-43.

In so ruling, the Circuit Court held the Petition divested the MCC of its authority to set the real property set tax rate and conflicted with Section 6-302(a) of the Tax-Property Article.

On August 13, 2024, Appellants filed a timely Notice of Appeal. E. 548-49.

V. ARGUMENT

A. Tax Caps are Proper Charter Material.

There is no dispute that the Petition is proper charter material. The Petition seeks to place caps on the property tax rates that may be imposed by the MCC. In *Smallwood*, this Court explained in detail why such property tax caps are proper charter material:

The tax cap portion of the proposed tax limitation amendments constituted proper charter material. We have repeatedly explained that a county charter is equivalent to a constitution. *Bd. of Elections Laws v. Talbot County, supra*, 316 Md. at 341, 558 A.2d at 728 (additional citations omitted). The basic function of a constitution or a charter is to distribute power among the various agencies of government, and between the government and the people who have delegated that power to their government. As Chief Judge Murphy stated for the Court in *Cheeks v. Cedlair Corp., supra*, 287 Md. at 607, 415 A.2d at 261:

"A charter ... is the organic, the fundamental law, establishing basic principles governing relationships between the government and the people."

The proposed Property Tax Limitation amendments directly involved the relationship between the people and the government by limiting the power of the government to tax. Limitations imposed by the people on their government are fundamental elements of a constitution. *See, e.g., Marbury v. Madison*, 1 Cranch 137, 176-177, 2 L.Ed. 60, 73 (1803); *The Federalist*, Nos. 78, 81, 84 (1788) (Alexander Hamilton). The Maryland Declaration of Rights and the Bill of Rights to the United States Constitution largely

represent limitations on governmental power. In fact, the desire of the people to limit the government's ability to tax was a major cause of the American Revolution. "There was no colony of English America, in which the claim of the inhabitants, to exemption from all taxation not sanctioned by their assent, was more familiar than in Maryland." The Constitution of the United States, the Constitution of Maryland, and the charters of Anne Arundel and Baltimore counties, are replete with provisions limiting the power of governments to raise and appropriate revenue. Thus, a limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material. *See Bd. of Election Laws v. Talbot County, supra*, 316 Md. at 347-348, 558 A.2d at 731-732; *Griffith v. Wakefield, supra*, 298 Md. at 389, 470 A.2d at 350; *Cheeks v. Cedlair Corp., supra*, 287 Md. at 606-608, 415 A.2d at 261- 262; *Ritchmount Partnership v. Board, supra*, 283 Md. at 58, 388 A.2d at 530.

Smallwood, 327 Md. at 236-38. "A common express restriction upon the municipal power to tax is one **limiting the amount or the rate** that may be imposed in any one year. The validity of such a provision generally is sustained." *Id.* at 240 (*quoting* E. McQuillin, *The Law of Municipal Corporations*, §44.26 (3rd ed. 1984)) (emphasis added).

The Baltimore City Circuit Court agreed that "[t]here is no dispute that the Petition is proper charter material." E. 538. The BCBOE also conceded that a charter amendment may set a cap on the future growth of property taxes. E. 96.

Therefore, "limiting the amount [i.e., receipts or revenue] or the rate" with respect to real property taxes has been approved this Court and considered equivalent. *Id.* Contrary to the Baltimore City Circuit, the Petition is not "distinguishable" from those discussed in *Smallwood*. E. 541.

B. The Petition is a Cap and Does Not Divest the MCC of Its Authority to Set the Real Property Tax Rate.

The Petition only places a cap on the MCC’s ability to set property tax rates and does not impose any other restrictions on the MCC’s right to set the property tax rate. The express language of the Petition, quoted above *supra* at Section IV (A), states only that “the uniform rate of taxation which shall be levied and imposed on every \$100 of assessed or assessable value of real property in Baltimore City ... shall be ... for the fiscal year beginning July 1, 2025, no higher than \$2.200...” E. 56, 76-77. Similarly, for fiscal years 2027 through 2032, the Petition sets a different and slightly lower cap for each fiscal year, ranging from \$2.100 for fiscal year 2027 to \$1.200 for fiscal year 2032. *Id.*

Despite the clear and unambiguous language in the Petition and the holding in *Smallwood* that a charter amendment may limit the amount or the rate on real property taxes, the BCBOE and the Circuit Court for Baltimore City concluded the Petition is deficient because it attempts to set the real property tax rate in Baltimore City.

1. Baltimore City Circuit Court erroneously concluded the Petition divested the MCC of its authority to set the tax rate.

The Circuit Court incorrectly concluded that this case is distinguishable from *Smallwood*. In particular, that Court asserted that the Petition “**removes** the City’s right to set its rate legislatively” (E. 539), “**divests** the City Council of the ability to set property taxes” (E. 540), and “**would take all power and discretion** from the City Council” (E. 541); therefore, “Plaintiffs [*sic*] proposed tax rate **differs vastly** from those proposed in *Smallwood*” (E. 540) (emphasis added). All of these conclusions and assertions are simply

incorrect and are not supported by the evidence in the record. *See* Section V (E), *infra*. The Petition does not set the real property tax rate and does not violate §6-302(a) of the Tax-Property Article or Article II, §(40)(a) of the Baltimore City Charter.

The Circuit Court’s finding that the Petition runs afoul of the policy in *Smallwood* because the limitation is in the form of a ceiling on a tax rate rather than a “percentage cap” is a distinction without a difference. Under the Circuit Court’s reasoning, the Petition could have, for example, proposed language that Baltimore City’s property tax rate be no more than 100% or 90% or 110% of the average property tax rate of the immediately surrounding jurisdictions, and it would comply with the holding in *Smallwood* because this language reflects a “percentage cap.” The effect of this language, however, is identical to the language of the Petition’s proposed cap, i.e., it would mean that the City’s real property tax cannot exceed a certain tax rate.

The Circuit Court’s reasoning that the Petition is distinct from *Smallwood* because it does not take the form of a percentage (revenue growth) cap also ignores what this Court stated in *Smallwood* that a charter amendment may “limit the amount or the rate” imposed. *Smallwood*, 327 Md. at 240. That finding flows directly from the fact that the amount of tax revenue equals the tax rate times the tax base; thus, a limit on the percentage by which the amount of revenue might grow will, in most circumstances, translate into a limit on the tax rate. *Smallwood* treated these alternative limitations equivalently because they are, in fact, functionally indistinguishable.

The Petition’s tax cap is not “detailed” as defined by the caselaw. In *Cheeks v. Cedlar Corp.*, 287 Md. 595 (1980), this Court prohibited as charter material a proposal that

transferred authority from the City Council to an appointed Tenant-Landlord Commission to implement a system of rent control. Similarly, in *Griffith v. Wakefield*, 298 Md. 381 (1984), the Court found in this instance that a proposed system of mandatory arbitration where contract negotiations proved unsuccessful between Baltimore County and county-employed firefighters did not constitute proper charter material. In each case, these proposals were improper since they prescribed in “lengthy detail” the system under which affected parties would be governed, i.e., the “composition, function, and powers of the board” and “le[ft] nothing for the determination of the County Executive or the County Council.” *Id.* at 386 (citation omitted). Unlike the proposals in *Cheeks* and *Griffith*, the Petition’s proposed cap does not prescribe a system of taxation beyond the cap itself, and leaves the MCC with the authority to make any determinations regarding this system.

Likewise, the Petition’s proposed cap does not conflict with this Court’s holding in *Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676 (1995), which struck down a proposed charter amendment that required that the County maintain a property tax rate that could only generate revenue equal to the amount of revenue the County raised in 1978-79 tax year. In this instance, this Court appeared to interpret this restriction as resulting in a discreet tax rate that the Council could not alter and, therefore, constituted improper charter material. By comparison, the Petition’s proposed cap is not tied to a certain level of revenue such that the tax rate must be set at a rate that precisely raises that amount of revenue, thereby leaving nothing left to the City Council to determine. *See Griffith*, 298 Md. at 386.

Additionally, the Petition imposes a reasonable limitation on the real property tax rate to be set for fiscal year 2026. The MCC has not yet determined the real property tax

rate for fiscal year 2026. The Petition thus does not seek to compel the MCC to reduce a current tax rate already determined by the MCC, since it is impossible to lower a rate that has not yet been set.

2. BCBOE erroneously concluded the Petition is a “roll back.”

In support of its decision, the BCBOE improperly classified the Petition as a “roll back” and relied on the below quote from *Smallwood*:

“These provisions violated §6-302(a) of the Tax-Property Article which mandates that the governing body of each county is to set the property tax rate for the next tax year. Unlike the tax cap provisions that would have simply placed a limit on the taxing power of each county council, the roll back provisions would have transferred the county councils’ §6-302(a) powers to the voters. Instead of the councils setting the tax rates, the roll back provisions would have allowed the voters of Baltimore and Anne Arundel Counties to set the property tax rates for the tax year 1991-1992.” See *Smallwood* 327 Md. at 244.

E. 97

The “roll back” discussed in *Smallwood* is clearly distinguishable from the Petition. The “roll back” provisions that were severed from the proposed amendments in *Smallwood* **attempted to limit the amount of property tax revenues that the counties could collect.** As stated in *Smallwood*, “The ‘roll back’ provisions of the proposed amendments would have limited the amount of **property tax revenues** for the tax year 1991-1992 to **no more than the amount collected** in the tax year 1989-1990 for Baltimore County, and **no more than that collected** in the tax year 1988-1989 for Anne Arundel County.” *Smallwood* 327 Md. at 244 (emphasis added). There is no language contained in the Petition that attempts to limit the amount of revenue that Baltimore City can collect; therefore, the Petition is not a

“roll back.” Indeed, the purpose of the cap is to increase revenue in Baltimore City. E. 338-55.

The BCBOE attempted to bolster its clearly erroneous decision by stating *Smallwood* was reaffirmed five years later in *Hertelendy*. E. 97. Again, the BCBOE cited a block quote to support its clearly erroneous decision:

“The teaching of *Smallwood* is that, although property tax limitations may be valid charter material when they “would have simply placed a limit on the taxing power of [a] county council,” §6-302(a) of the Tax-Property Article prohibits charter provisions that “would have transferred the county councils’ §6-302(a) powers to the voters” and “would have allowed the voters . . . to set the property tax rates for the tax year” In light of *Smallwood*, the circuit court was clearly correct in declaring invalid the 1978 amendment to Article VI, §614, of the Talbot County Charter.” See *Hertelendy* 344 Md. at 683 (internal citation omitted).

Id.

Once again, the BCBOE ignored the fact that the charter petition in *Hertelendy* limited the amount of property **tax revenues** that could be collected. “[T]he Council may not establish property tax rates which would provide more **property tax revenues** than were raised during the 1978-79 tax year, unless such additional revenues are the result of assessments on newly constructed property or other property not previously assessed.” *Hertelendy*, 344 Md. at 678. It is also important to note that *Hertelendy* is distinguishable as it involved a cap on property tax revenue that had been in place for nearly twenty years. Thus, the application of the “roll back” involved the timing as well as the amount of revenue.

In what appears to be a disingenuous attempt to reach a desired conclusion, the BCBOE conflated real property “tax rates,” “tax caps,” and “tax revenues.” This is clear when the BCBOE stated:

I recognize that the Charter Amendment at issue here is framed as a *cap* on the property tax rate, meaning the City Council could still theoretically set a rate lower than the cap. However, the same was true for the invalidated ‘roll back’ provisions of the two charter amendments at issue in *Smallwood*, which both stated that the county property *tax revenues could not exceed the amount collected* in a specified prior year. 327 Md. at 229 n.2, 231 n.5. This was also true for the charter provision at issue in *Hertelendy*, which used similar language. 344 Md. at 678. The Court still held that these charter provisions would in effect take away the power to set tax rates from the local legislative body, in violation of State law.

E. 97 (emphasis added).

Simply put, the Petition does not attempt to limit the amount of revenue Baltimore City can collect and is therefore not a “roll back.” The purpose of the Petition is to increase tax revenues over time. E. 338-55. The Petition clearly and unambiguously seeks to set a real property tax rate *cap* in Baltimore City. It does not seek to set the real property tax *rate* in Baltimore City or limit the amount of *revenue* Baltimore City can collect (and certainly not to some level collected in any prior year) from real property taxes or any other lawful tax and is clearly distinguishable from the “roll back” provisions in *Smallwood* and *Hertelendy*.

The Petition at issue here does not suffer from the same weakness as was presented by the proposed amendments in *Smallwood* and *Hertelendy*. The Petition is not a back-door attempt by the voters to enact detailed legislation, nor does it divest the MCC of the ability to set the real property tax rates. Rather, the Petition simply attempts to preclude the

MCC from charging a real property tax rate above the specified cap, which is permissible under *Smallwood* and *Hertelendy*. The Petition does not attempt to limit the amount of property tax revenue that Baltimore City can collect, nor does it deprive the MCC of setting real property tax rates; however, it does establish a ceiling on the MCC's authority to set the property tax rates. A limit on the taxing power of the MCC is appropriate and consistent with *Smallwood* and *Hertelendy*. "Limitations imposed by the people on their government are fundamental elements of a constitution." *Smallwood* at 237.

The Petition leaves the MCC with far greater power and discretion than was afforded local governments by the two caps accepted by this Court in *Smallwood*. The cap in *Smallwood* limited the increase in revenue that the Council could generate by an additional percentage per year. Accordingly, the Council would have no ability to either "raise" or "leave" the tax rate the same if it meant that the Council would generate revenue that exceeded the percentage more revenue than that of the previous year. The Petition respects the MCC's power to legislate any property tax rate up to and including each cap level. The Petition places no limitation on the growth of property tax revenue from year to year. The caps in the *Smallwood*, on the other hand, placed strict limitations on the growth of property tax revenue.

C. The Petition Does Not Violate Section (49) of the Baltimore City Charter.

The MCC references Section (49) of Article of the City Charter to support its argument that the General Assembly prohibits a charter amendment like the Petition. Section 49 states as follows:

“§ (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...”

BALTIMORE CITY CHARTER, art. II, § (49) (emphasis added).

Section 49 is inapplicable to the Petition. A charter amendment is *not* “legislation, laws or ordinances.” In addition, if Section 49 prohibits the power of the electorate from seeking change “relating to the classification and taxation of real and personal property,” then this prohibition also applies to the City. To be clear, the sentence the MCC relies upon to support its argument states: “nothing herein contained shall give to the **City or to the inhabitants.**” Thus, Section 49 cannot, and should not, be interpreted as the MCC contends.

D. The Petition Does Not Violate Article XI-A of the Maryland Constitution §5.

Article XI-A of the Maryland Constitution §5, provides in relevant part:

SEC. 5. 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.***.

Simply put, there is no dispute that the Petition is supported by the requisite number of valid signatures (14,737 have been accepted). The Appellees have not raised this as a reason for concluding the Petition is deficient.

E. There is unrefuted expert evidence that the Petition will increase the revenue Baltimore City will collect from real property taxes.

The Petition is a property tax revenue enhancer for the City of Baltimore. E. 338-56. The Sage Analysis is unrefuted by Appellees. Appellants attached three affidavits from three renowned economists with extensive experience in forecasting property tax reform: Anirban Basu, Ph.D. (E.357-61), Stephen J. K. Walters, Ph.D. (E. 383-400), and Steve H. Hanke Ph.D. E. (E. 402 -510), and they all agree with the methodology, analysis and conclusions in the Sage Analysis.

The Sage Analysis concluded “that nominal real property tax collections will rise each fiscal year during implementation of Renew Baltimore’s ballot initiative. By FY 2032, real property tax collections will be approximately \$62 million per annum higher than presently.” E. 353

“Similar property tax caps are already embedded in the charters of five major Maryland jurisdictions: Anne Arundel, Montgomery, Prince George’s, Talbot, and Wicomico counties. All 23 counties in Maryland have property tax rates below the final property tax cap rate the Petition proposes, though there are instances in which combined county/municipal tax rates exceed the \$1.20/\$100 of assessed value associated with the

Petition. Baltimore City’s current real property tax rates is \$2.248/\$100 of assessed value.”

E. 342.

As the City leaders have understood for decades, the status quo of a noncompetitive property tax rate (approximately double those in every other Maryland County) damages the City’s ability to grow its tax base and increase property tax revenue. E. 344-46.

In February 2013, for instance, Mayor Stephanie Rawlings-Blake presented citizens with *Change to Grow: A Ten-Year Financial Plan for Baltimore*. E. 344. A movement toward property tax competitiveness was deemed necessary for greater growth of property tax revenue, and states in part:

“Baltimore’s existing, high tax burdens and regional tax competitiveness concerns particularly with regard to the property tax rate for residents — are a critical factor in individual decisions to locate outside of the City... This is a real and critical challenge that erodes the City’s tax base and economy, and that severely constrains the City’s ability to increase revenues.”

E.345

Baltimore City well knows that property tax competitiveness increases property tax revenue. This has been well documented for decades as City policymakers have crafted a complex system of narrow and exclusive tax credits and ad hoc tax breaks to support development and growth. E. 345. The City’s justification for such credits and breaks has been that they increase property tax revenue by enhancing the tax base. E. 346. For instance, on January 23, 2012, the Board of Finance of Baltimore City, the Department of Finance, and the Bureau of Treasury Management issued *Tax Increment Financing Policy and Project Submission Requirements*. E. 345. According to one requirement, “A summary fiscal impact analysis shall be provided that demonstrates the project will create positive

tax revenues to the City...” In Place Economics’ *An Analysis of the Baltimore Historic Preservation Tax Credit* (CHAP), commissioned by the Baltimore City Department of Planning and prepared for the Baltimore Commission for Historical and Architectural Preservation, the authors concluded that Baltimore City’s Tax Credit for Historic Rehabilitations and Restorations was a property tax revenue enhancer for the City. *Id.*

As reflected in the Sage Analysis, other jurisdictions have seen property tax revenue growth as a result of real property tax caps. E. 347-50. That is precisely the expected result that Baltimore City has long understood. Consider San Francisco, Boston, and Maryland’s Prince George’s County. *Id.*

In 1978, a statewide ballot initiative forced the City of San Francisco to adopt significant property tax reform. E. 347. With virtually no warning San Francisco was required to cut its real property tax rate by two-thirds to a new rate of one percent, well below what the Petition has proposed as its terminal tax cap. *Id.* By the fourth fiscal year after reform, “the city’s total real tax receipts had risen so much that they exceeded pre-Prop 13 levels by 66%, enabling significant improvements in the quantity and quality of government services delivered to the city’s now-growing population, reinforcing its upward trajectory.” E. 347-48. By 1982, the City of San Francisco enjoyed a surplus of \$512 million (in today’s dollars). *The Economist* observed, “San Francisco is embarrassed only by its riches.” E. 347.

Something similar happened after tax reform in Boston. E. 348. From 1983 to 1990, Boston’s “tax base,” what Boston’s Assessing Department refers to as “total value of all

taxable property assessed,” nearly tripled from just over \$12 billion to nearly \$36 billion. *Id.* Such a massive increase in tax base would likely be welcome in Baltimore. *Id.*

The Sage Analysis finds that simply mimicking dynamics experienced in Prince George’s County after tax reform in 1984 would be sufficient to generate real property tax revenue growth as property tax caps are implemented in Baltimore City. E. 340, 349. In 1984, Prince George’s County Executive Parris Glendening encouraged voters to “freeze the tax rate.” E. 349. The assessed value of real and personal property in Prince George’s County grew rapidly thereafter. *Id.* There was 81 percent growth by the seventh fiscal year after 1984 and 96 percent by the eighth fiscal year. *Id.*

It should also be noted that, by 1989, Prince George’s County’s poverty rate had fallen dramatically to a level well below Maryland’s average. E. 349-50. Today, Prince George’s County is the nation’s most affluent majority African American County with more than 185,000 residents. *Id.* Thanks in large measure to its voter-initiated tax reform – which began as a cap on receipt growth and later became a cap on the tax rate at the urging of then-County Executive and future Governor Parris Glendening – population and the tax base in Prince George’s County increased immediately and dramatically. *Id.*

The Sage Analysis applied dynamic analysis, which is the only accepted methodology used by economists to forecast property tax policy reform. E. 358-59, 383-84, 402-04. The report attached to MCC’s Motion for Summary Judgment (E.193-212) generated by the City of Baltimore Department of Finance, Bureau of the Budget and Management Research: *Analyzing the Impact of the 2024 “Renew Baltimore” Charter Amendment Proposal on Property. Tax Rates.* (“City’s Analysis”) improperly applied

static analysis, which is not a generally accepted methodology used by economists to forecast property tax policy reform. *Id.*

On August 8, 2024 at the motions hearing in this case, the MCC conceded that the City's Analysis is not an expert report and the individual that signed the affidavit attached to the MCC's motion is not an expert. "And I want to state clearly that the City's affidavits and its analysis weren't expert opinion..." E. 585. (8/8/24 Tr. at p. 29: 19-20). The Appellees have no experts to dispute the Sage Analysis. *Id.* There is no credible evidence in this record to dispute the Sage Analysis and is uncontroverted.

The Sage Analysis utilized "'dynamic analysis' pursuant to the best practices of 21st century economic study. Berkeley real estate Professor Kenneth Rosen (1982), Sacramento State Professor Robert Wassmer (1993), Federal Reserve economist Andrew Haughwout (2004), University of Illinois Professor Yonghong Wu (2012), Federal Reserve economist Byron Lutz (2015), and a multitude of other scholars have demonstrated that only dynamic analysis is capable of properly evaluating tax reform in general and property tax reform in particular." E. 343. Dynamic analysis is the *only* accepted methodology used by economists to forecast property tax policy reform. E. 358-59, 383-84, 402-04.

"According to Hanke and Walters (2018), '. . . the literature provides no support whatsoever for officials' tendency to rely on static models when evaluating their tax policies. The nature and size of the dynamic effects of tax changes will certainly depend on a host of factors specific to a particular jurisdiction, but it is undeniable that there will be favorable long-run effects.' Parenthetically, the City's Department of Finance has seen

fit to recognize the value of dynamic analysis, including citing Kenneth Rosen's work in support of a proposed tax credit in 2012.” E. 343.

Sage Analysis’s response function model (response of economic activity to successive property tax caps) indicates that Baltimore City’s response will be similar to that experienced by Prince George’s County after tax reform was implemented there. E. 340, 353. It may be that the actual lift to economic activity will be far larger than encompassed in the Sage Analysis estimates. *Id.* Nonetheless, the Sage Analysis estimates that property tax collections will rise each fiscal year during implementation of Renew Baltimore’s ballot initiative. *Id.*

VI. CONCLUSION

For these reasons, the judgment of the Circuit Court should be reversed.

As such, Appellants respectfully request that summary judgment be entered in their favor and that this Court remand this matter back to Circuit Court to enter an Order as follows:

- A. Declaring the Petition has satisfied all legal requirements;
- B. Ordering the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024;

- C. Precluding the Election Director of BCBOE from making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;
- D. Awarding Appellees to pay the costs of these proceedings; and
- E. Granting such other and further relief as may be just, necessary, and proper under the circumstances and/or under Md. Code, Election Law, § 6-209(a)(2).

Dated: August 20, 2024

Respectfully submitted,

/s/ Constantine J. Themelis

Constantine J. Themelis (AIS 0212190235)

Steven A. Thomas (AIS 7212010254)

Clint R. Black, V (AIS 1112130092)

Thomas & Libowitz, P.A.

25 South Charles Street, Suite 2015

Baltimore, Maryland 21201

(410) 752-2468

gthemelis@tandllaw.com

stthomas@tandllaw.com

cblackv@tandllaw.com

Attorneys for Appellants

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

I HEREBY CERTIFY that: (1) the Brief of Appellants, excluding the portions of the Brief exempted by Rule 8-503, contains 6,937 words; and (2) the Brief of Appellants was prepared in Times Mew Roman, proportionally spaced 13-point font with double spacing between the lines as permitted by Rule 8-112.

/s/ Constantine J. Themelis

Constantine J. Themelis

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of August, 2024, a copy of the foregoing Appellant's Brief and the Record Extract were filed using this Court's electronic filing system, which will effect service upon all counsel of record.

I FURTHER HEREBY CERTIFY that on the 20th of August, 2024, pursuant to Maryland Rule 20-404, I caused eight (8) copies of Appellant's Brief and Joint Record Extract to be filed with the Clerk of the Court and two (2) copies of Appellant's Brief and Joint Record to be served in paper form via first-class mail postage prepaid.

Thomas S. Chapman, Esq.
Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202
Counsel for Appellee The City Board

Daniel Michael Korbin, Esq.
Julia Doyle, Esq.
Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202
Counsel for Appellee Maryland State Board of Elections

Michael Patrick Redman, Esq.
Derek Michael VanDeWalle, Esq.
Matthew Olen Bradford, Esq.
Baltimore City Law Department
100 N. Holliday Street, Suite 101
Baltimore, MD 21202
Counsel for Appellee Mayor and City Council of Baltimore

/s/ Constantine J. Themelis
Constantine J. Themelis

**TEXT OF PERTINENT CONSTITUTIONAL AND STATORY
PROVISIONS AND RULES**

Md. Code, Election Law § 6-202

§ 6-202. Advance determinations of sufficiency by chief election official

In general

(a)(1) The format of the petition prepared by a sponsor may be submitted to the chief election official of the appropriate election authority, in advance of filing the petition, for a determination of its sufficiency.

(2) In making the determination under this subsection, the chief election official may seek the advice of the legal authority.

Procedure

(b)(1) When determining the sufficiency under subsection (a) of this section of a petition that seeks to place a question regarding a local law or charter amendment on a ballot, the election director of the local board shall determine the sufficiency of any summary of the local law or charter amendment that is contained in the petition.

(2) If the election director determines that the summary of the local law or charter amendment is insufficient, the election director shall provide the sponsor with a clear, concise, and understandable explanation of the reasons for the determination.

(3) In making the determination under this subsection, the election director may seek the advice of:

- (i) the counsel to the local board; or
- (ii) the Attorney General.

Md. Code, Election Law § 6-209

§ 6-209. Judicial Review

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.

(4) 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.

Declaratory relief

(b) Pursuant to the Maryland Uniform Declaratory Judgments Act and upon the complaint of any registered voter, the circuit court of the county in which a petition has been or will be filed may grant declaratory relief as to any petition with respect to the provisions of this title or other provisions of law.

Md. Code, Tax-Prop. § 6-302

§ 6-302 – County Tax

(a) Except as otherwise provided in this section and after complying with § 6-305 of this subtitle, in each year after the date of finality and before the following July 1, the Mayor and City Council of Baltimore City or the governing body of each county annually shall set the tax rate for the next taxable year on all assessments of property subject to that county's property tax.

(b)

(1) Except as provided in subsection (c) of this section and §§ 6-305 and 6-306 of this subtitle :

(i) there shall be a single county property tax rate for all real property subject to county property tax except for operating real property described in § 8-109(c) of this article; and

(ii) the county tax rate applicable to personal property and the operating real property described in § 8-109(c) of this article shall be no more than 2.5 times the rate for real property.

(2) Paragraph (1) of this subsection does not affect a special rate prevailing in a taxing district or part of a county.

(c)

(1) The Mayor and City Council of Baltimore City or the governing body of a county may set a special rate for a vacant lot or improved property cited as vacant and unfit for habitation or other authorized use on a housing or building violation notice.

(2) On or before December 1 each year, the Mayor and City Council of Baltimore City or the governing body of a county that enacts a special rate under paragraph (1) of this subsection shall report to the Department of Housing and Community Development and, in accordance with § 2-1257 of the State Government Article, to the General Assembly on:

(i) the special rate set under paragraph (1) of this subsection;

(ii) the number of properties to which the special rate applies;

(iii) the revenue change resulting from the special rate;

(iv) the use of the revenue from the special rate; and

(v) whether properties subject to the special rate are viable for adaptive reuse, as defined in § 1-102 of the Housing and Community Development Article, and plans to convert viable properties.

Md. Rule 2-501

Rule 2-501. Motion for Summary Judgment

(a) Motion. Any party may file a written motion for summary judgment on all or part of an action on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law. The motion shall be supported by affidavit if it is (1) filed before the day on which the adverse party's initial pleading or motion is filed or (2) based on facts not contained in the record. A motion for summary judgment may not be filed:

(A) after any evidence is received at trial on the merits or

(B) unless permission of the court is granted, after the deadline for dispositive motions specified in the scheduling order entered pursuant to Rule 2-504(b)(1)(F).

Committee note: This Rule does not prevent the trial court from exercising its discretion during trial to entertain any motions *in limine* or other preclusive motions that may have the same effect as summary judgment and lead to a motion for judgment under Md. Rule 2-519. *See, e.g., Univ. of Md. Medical System Corporation, et al. v. Rebecca Marie Waldt, et al.*, 411 Md. 207 (2009). Such a procedure avoids confusion and potential due process deprivations associated with summary judgment motions raised orally or at trial. *See Beyer v. Morgan State Univ.*, 369 Md. 335, 359, fn. 16 (2002); *see also Hanson v. Polk County Land, Inc.*, 608 F.2d 129, 131 (5th Cir. 1979) (allowing oral motions for summary judgment leads to confusion with each side having a different recollection of what was contended.) Requiring a written motion also insures adequate notice to all sides.

(b) Response. A response to a motion for summary judgment shall be in writing and shall

(1) identify with particularity each material fact as to which it is contended that there is a genuine dispute and

(2) as to each such fact, identify and attach the relevant portion of the specific document, discovery response, transcript of testimony (by page and line), or other statement under oath that demonstrates the dispute. A response asserting the existence of a material fact or controverting any fact contained in the record shall be supported by an affidavit or other written statement under oath.

(c) Form of Affidavit. An affidavit supporting or opposing a motion for summary judgment shall be made upon personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit.

(d) Affidavit of Defense Not Available. If the court is satisfied from the affidavit of a party opposing a motion for summary judgment that the facts essential to justify the opposition cannot be set forth for reasons stated in the affidavit, the court may deny the motion or may order a continuance to permit affidavits to be obtained or discovery to be conducted or may enter any other order that justice requires.

(e) Contradictory Affidavit or Statement.

(1) A party may file a motion to strike an affidavit or other statement under oath to the extent that it contradicts any prior sworn statement of the person making the affidavit or statement. Prior sworn statements include

(A) testimony at a prior hearing,

(B) an answer to an interrogatory, and

(C) deposition testimony that has not been corrected by changes made within the time allowed by Rule 2-415.

(2) If the court finds that the affidavit or other statement under oath materially contradicts the prior sworn statement, the court shall strike the contradictory part unless the court determines that

(A) the person reasonably believed the prior statement to be true based on facts known to the person at the time the prior statement was made, and

(B) the statement in the affidavit or other statement under oath is based on facts that were not known to the person and could not reasonably have been known to the person at the time the prior statement was made or, if the prior statement was made in a deposition, within the time allowed by Rule 2-415(d) for correcting the deposition.

(f) Entry of Judgment. The court shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law. By order pursuant to Rule 2-602 (b), the court may direct entry of judgment

(1) for or against one or more but less than all of the parties to the action,

(2) upon one or more but less than all of the claims presented by a party to the action,
or

(3) for some but less than all of the amount requested when the claim for relief is for money only and the court reserves disposition of the balance of the amount

requested. If the judgment is entered against a party in default for failure to appear in the action, the clerk promptly shall send a copy of the judgment to that party at the party's last known address appearing in the court file.

Cross reference: Section 3931 of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.*, imposes specific requirements that must be fulfilled before a default judgment may be entered.

(g) Order Specifying Issues or Facts Not in Dispute. When a ruling on a motion for summary judgment does not dispose of the entire action and a trial is necessary, the court may enter an order specifying the issues or facts that are not in genuine dispute. The order controls the subsequent course of the action but may be modified by the court to prevent manifest injustice.

Charter of Baltimore City § 49

§ (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.

Constitution of Maryland

Article XI-A – Local Legislation, § 5

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 (*amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978*).