

**IN THE
SUPREME COURT OF MARYLAND**

September Term, 2024

No. 26

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

Appellants,

v.

ANTHONY J. AMBRIDGE, *et al.*,

Appellees.

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

RECORD EXTRACT

ANTHONY G. BROWN
Attorney General of Maryland

JULIA DOYLE
Attorney No. 8112010024
DANIEL M. KOBRIN
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September 27, 2024

Attorneys for Appellant

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Maryland Judiciary Case Search

NOTICE: Available

Case Detail

Case Information

Court System: **Circuit Court For Anne Arundel County - Civil**

Location: **Anne Arundel Circuit Court**

Case Number: **C-02-CV-24-002246**

Title: **In the Matter of Anthony Ambridge et al.**

Case Type: **Appeal - Administrative Agency**

Filing Date: **09/05/2024**

Case Status: **Appealed**

Other Reference Numbers

Case Appealed: **SCM-REG-0026-2024**

Involved Parties Information

Petitioner

Name: **Druckman, Dolph**

Address: **231 W. Lafayette Ave**

City: **Baltimore** State: **MD** Zip Code: **21218**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**

Appearance Date: **09/06/2024**

Address Line 1: **1211 Light Street**

City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Donnenberg, Michael S**

Address: **16 W. Read Street**

City: **Baltimore** State: **MD** Zip Code: **21201**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/06/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Ambridge, Anthony J.**

Address: **625 Stoney Spring Drive**
City: **Baltimore** State: **MD** Zip Code: **21210**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/05/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Merbler, Robert L**

Address: **260 E Montgomery Street**
City: **Baltimore** State: **MD** Zip Code: **21230**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/06/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Fernandes, Paula Jane**

Address: **16 W. Read Street**
City: **Baltimore** State: **MD** Zip Code: **21210**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/06/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

PetitionerName: **Prost, James**Address: **205 W. Lanvale Street**City: **Baltimore** State: **MD** Zip Code: **21217****Attorney(s) for the Petitioner**Name: **VIGNARAJAH, THIRUVENDRAN**Appearance Date: **09/06/2024**Address Line 1: **1211 Light Street**City: **BALTIMORE** State: **MD** Zip Code: **21203**

Administrative AgencyName: **Maryland State Board of Elections**Address: **151 West Street****Suite 200**City: **Annapolis** State: **MD** Zip Code: **21401****Attorney(s) for the Administrative Agency**Name: **KOBRIN, DANIEL MICHAEL**Appearance Date: **09/13/2024**Address Line 1: **Office of the Attorney General**Address Line 2: **200 Saint Paul Place**Address Line 3: **20th Floor**City: **BALTIMORE** State: **MD** Zip Code: **21202**

PetitionerName: **Meyer, Ellen**Address: **205 W. Lanvale Street**City: **Baltimore** State: **MD** Zip Code: **21217****Attorney(s) for the Petitioner**Name: **VIGNARAJAH, THIRUVENDRAN**Appearance Date: **09/06/2024**Address Line 1: **1211 Light Street**City: **BALTIMORE** State: **MD** Zip Code: **21203**

PetitionerName: **Shapiro, Donna**

Address: **250 President Street**
Unit 708

City: **Baltimore** State: **MD** Zip Code: **21231**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**

Appearance Date: **09/06/2024**

Address Line 1: **1211 Light Street**

City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Rouse, Winstead**

Address: **1527 Lancaster Street**

City: **Baltimore** State: **MD** Zip Code: **21231**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**

Appearance Date: **09/06/2024**

Address Line 1: **1211 Light Street**

City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Bridges, Leon**

Address: **6317 Park Heights Ave**

City: **Baltimore** State: **MD** Zip Code: **21215**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**

Appearance Date: **09/06/2024**

Address Line 1: **1211 Light Street**

City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Dlosh, Sharon**

Address: **3933 Cloverhill Rd**

City: **Baltimore** State: **MD** Zip Code: **21218**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/06/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Brown, Lauren**

Address: **1000 Fell Street**
City: **Baltimore** State: **MD** Zip Code: **21231**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/06/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Doble, Johanna**

Address: **4605 Hampnett Ave**
City: **Balimore** State: **MD** Zip Code: **21214**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/06/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Respondent

Name: **Mayor and City Council of Baltimore**

Address: **City Hall**
100 North Holliday Street, Suite 101
City: **Baltimore** State: **MD** Zip Code: **21202**

Attorney(s) for the Respondent

Name: **Bradford, Matthew Olen**
Appearance Date: **09/19/2024**
Address Line 1: **100 N Holliday Street**

City: **BALTIMORE** State: **MD** Zip Code: **21202**

Name: **VanDeWalle, Derek Michael**

Appearance Date: **09/20/2024**

Address Line 1: **Baltimore City Law Department**

Address Line 2: **100 N. Holliday Street**

Address Line 3: **Suite 101**

City: **BALTIMORE** State: **MD** Zip Code: **21202**

Respondent

Name: **MCB HP Baltimore LLC**

Address: **6404 Ivy Lane, Suite 400**

City: **GREENBELT** State: **MD** Zip Code: **20770**

Attorney(s) for the Respondent

Name: **MALONEY, TIMOTHY FRANCIS**

Appearance Date: **09/19/2024**

Address Line 1: **Joseph, Greenwald And Laake**

Address Line 2: **6404 Ivy Lane**

Address Line 3: **Suite 400**

City: **Greenbelt** State: **MD** Zip Code: **20770**

Name: **PRAWDE, ALYSE LAUREN**

Appearance Date: **09/19/2024**

Address Line 1: **JOSEPH, GREENWALD & LAAKE, P.A.**

Address Line 2: **6404 IVY LANE**

Address Line 3: **SUITE 400**

City: **GREENBELT** State: **MD** Zip Code: **20770**

Petitioner

Name: **Taylor, Olivia**

Address: **240 E. Montgomery**

City: **Baltimore** State: **MD** Zip Code: **21231**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**

Appearance Date: **09/06/2024**

Address Line 1: **1211 Light Street**

City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Seward, Sandra**Address: **204 Warren Ave**City: **Baltimore** State: **MD** Zip Code: **21217**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**Appearance Date: **09/06/2024**Address Line 1: **1211 Light Street**City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Venanzi, Katherine**Address: **3131 N. Calvert St****Apt 2**City: **Balitmre** State: **MD** Zip Code: **21218**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**Appearance Date: **09/06/2024**Address Line 1: **1211 Light Street**City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Tufaro, David**Address: **216 Edgevale Rd**City: **Baltimore** State: **MD** Zip Code: **21210**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**Appearance Date: **09/06/2024**Address Line 1: **1211 Light Street**City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Bement, Elizabeth**Address: **1920 Bank Street**

City: **Baltimore** State: **MD** Zip Code: **21231**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**

Appearance Date: **09/06/2024**

Address Line 1: **1211 Light Street**

City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Berkower, Carol Lois**

Address: **1709 Sulgrave Avenue**

City: **Baltimore** State: **MD** Zip Code: **21209**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**

Appearance Date: **09/06/2024**

Address Line 1: **1211 Light Street**

City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Morse Boyer, Jennifer**

Address: **103 W. Hill Street**

City: **Baltimore** State: **MD** Zip Code: **21230**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**

Appearance Date: **09/06/2024**

Address Line 1: **1211 Light Street**

City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Bilezikian, Teporah**

Address: **314 S. Eden Street**

City: **Baltimore** State: **MD** Zip Code: **21231**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**

Appearance Date: **09/06/2024**

Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Ambridge, Anthony J**
Removal Date: **09/10/2024**

Address: **65 Stoney Spring Drive**
City: **Baltimore** State: **MD** Zip Code: **21210**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/06/2024**
Removal Date: **09/10/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Batts, Linda Lynn**

Address: **3212 Gwynns Falls Parkway**
City: **Baltimore** State: **MD** Zip Code: **21216**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/06/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Petitioner

Name: **Bederka, Brent**

Address: **3131 N. Calvert Street**
Apt #2
City: **Baltimore** State: **MD** Zip Code: **21218**

Attorney(s) for the Petitioner

Name: **VIGNARAJAH, THIRUVENDRAN**
Appearance Date: **09/06/2024**
Address Line 1: **1211 Light Street**
City: **BALTIMORE** State: **MD** Zip Code: **21203**

Court Scheduling Information

Event Type	Event Date	Event Time	Judge	Court Location	Court Room	Result
Hearing	09/16/2024	09:00:00	Vitale, Cathleen M.	Civil Calendar	Courtroom 3A	Concluded / Held
Hearing - Motion	09/20/2024	09:00:00	Vitale, Cathleen M.	Civil Calendar	Courtroom 3A	Concluded / Held

Document Information

File Date: **09/05/2024**
 Document Name: **Petition**
 Comment: **Petition for Judicial Review**

File Date: **09/05/2024**
 Document Name: **Attorney Appearance - No Fee**
 Comment:

File Date: **09/06/2024**
 Document Name: **Notice to Administrative Agency Issued**
 Comment: **Copies e-served to Atty Vignarajah. Copies mailed to Maryland State Board of Elections**

File Date: **09/06/2024**
 Document Name: **Amended Petition / Motion**
 Comment: **Amended Petition for Judicial Review**

File Date: **09/06/2024**
 Document Name: **Deficient Filing**
 Comment: **Joint Emergency Motion for Expedited Briefing and Hearing**

File Date: **09/09/2024**
 Document Name: **Amended Petition / Motion**
 Comment: **Second Amended Petition for Judicial Review**

File Date: **09/10/2024**
 Document Name: **Notice to Administrative Agency Issued**
 Comment: **Copy e-served to Atty Vignarajah. Mailed to the Maryland State Board of Elections.**

File Date: **09/10/2024**
 Document Name: **Notice of Deficiency - Rule 20-203(d)**
 Comment: **(E-Served atty Vignarajah)**

File Date: **09/10/2024**
Document Name: **Motion**
Comment: **Joint Emergency Motion for Expedited Hearing**

File Date: **09/10/2024**
Document Name: **Memorandum**
Comment: **Memorandum in Support of Petitions for Judicial Review**

File Date: **09/12/2024**
Document Name: **Order**
Comment: **The above case is hereby assigned to the HONORABLE CATHLEEN M. VITALE, for all further proceedings. All postponements must be considered by the designated Case Management Judge, who shall consult with the assigned judge. E-served to Atty Vignarajah and Mailed to MD State Board of Elections**

File Date: **09/12/2024**
Document Name: **Order**
Comment: **Please set this matter for a hearing on the Petition for Judicial Review on Monday, September 16, 2024 at 9:00 a.m. (1/2 day) before Judge Vitale. E-served to Atty Vignarajah and Mailed to MD State Board of Elections**

File Date: **09/13/2024**
Document Name: **Deficient Filing**
Comment: **Maryland State Board of Elections' Opposition to Judicial Review Envelope # 18002747**

File Date: **09/13/2024**
Document Name: **Deficient Filing**
Comment: **Exhibit A - City Council Bill Envelope # 18002747**

File Date: **09/13/2024**
Document Name: **Deficient Filing**
Comment: **Exhibit B- Solicitor's Certification Letter**

File Date: **09/13/2024**
Document Name: **Deficient Filing**
Comment: **Exhibit C- Petitioner's Email Envelope # 18002747**

File Date: **09/13/2024**
Document Name: **Deficient Filing**
Comment: **Exhibit D- SBE Certification Memo Envelope # 18002747**

File Date: **09/13/2024**
Document Name: **Deficient Filing**
Comment: **Exhibit E- Affidavit J. McLaughlin Envelope # 18002747**

File Date: **09/13/2024**
Document Name: **Deficient Filing**
Comment: **Exhibit F- - Balt City Gen Elec Ballot Envelope # 18002747**

File Date: **09/13/2024**
Document Name: **Deficient Filing**
Comment: **Exhibit G- Affidavit N. Walker Envelope # 18002747**

File Date: **09/13/2024**
Document Name: **Deficient Filing**
Comment: **Exhibit H- Affidavit M. Dorsey Envelope # 18002747**

File Date: **09/13/2024**
Document Name: **Opposition**
Comment: **State Board Opposition to Judicial Review**

File Date: **09/13/2024**
Document Name: **Supporting Exhibit**
Comment: **Ex. A to State Board Opposition to Judicial Review**

File Date: **09/13/2024**
Document Name: **Supporting Exhibit**
Comment: **Ex. B to State Board Opposition to Judicial Review**

File Date: **09/13/2024**
Document Name: **Supporting Exhibit**
Comment: **Ex. C to State Board Opposition to Judicial Review**

File Date: **09/13/2024**
Document Name: **Supporting Exhibit**
Comment: **Ex. D to State Board Opposition to Judicial Review**

File Date: **09/13/2024**
Document Name: **Supporting Exhibit**
Comment: **Ex. E to State Board Opposition to Judicial Review**

File Date: **09/13/2024**
Document Name: **Supporting Exhibit**

Comment: **Ex. F to State Board Opposition to Judicial Review**

File Date: **09/13/2024**

Document Name: **Supporting Exhibit**

Comment: **Ex. G to State Board Opposition to Judicial Review**

File Date: **09/13/2024**

Document Name: **Supporting Exhibit**

Comment: **Ex. H to State Board Opposition to Judicial Review**

File Date: **09/16/2024**

Document Name: **Notice of Deficiency - Rule 20-203(d)**

Comment: *****CORRECTED*** e-served to Attny: Kobrin**

File Date: **09/16/2024**

Document Name: **Deficient Filing**

Comment: **Reply of Petitioners Envelope # 18014554**

File Date: **09/16/2024**

Document Name: **Notice of Deficiency - Rule 20-203(d)**

Comment: **e-served to Attny: VIGNARAJAH Envelope # 18014554**

File Date: **09/16/2024**

Document Name: **Hearing Sheet**

Comment:

File Date: **09/16/2024**

Document
Name: **Order**

Comment: **re: Ordered that court finds that Plaintiffs actions in pursuing a judicial remedy were not unreasonably delayed and the Doctrine of Latches did not bar Petitioner's request (E-served to Atty Vignarajah and mailed to the Maryland State Board of Elections)**

File Date: **09/16/2024**

Document Name: **Reply to Opposition**

Comment: **Reply of Petitioners (refiled)**

File Date: **09/16/2024**

Document Name: **Supporting Exhibit**

Comment: **Attachments and Exhibits (refiled)**

File Date: **09/17/2024**

Document
Name: **Amended Order**

Comment: **Order regarding Ballot Question "F" (E-served Atty Vignarajah...Copies mailed to Maryland State Board of Elections)**

File Date: **09/18/2024**

Document
Name: **Memorandum Opinion and Order**

Comment: **RE: Question "F" in the 2024 General Election Ballot for Baltimore City on Petitioners' Second Amended Petition for Judicial Review filed September 9, 2024, and Petitioners' Memorandum in Support of Petitions for Judicial Review, filed September 10, 2024, the State Board of Elections' Response to Petitioners' Motions filed September 13, 2024, and Petitioners' Reply filed on September 16, 2024. Counsel for the parties argued before the Court their respective procedural and substantive positions regarding the Certification of Question "F" on the General Election Ballot. (E-service notification sent to Atty Vignarajah and copies mailed to Maryland State Board of Elections)**

File Date: **09/19/2024**

Document Name: **Motion - Intervene**

Comment: **Mayor & City Council of Baltimore's - Partial Consent Motion to Intervene**

File Date: **09/19/2024**

Document Name: **Supporting Exhibit**

Comment: **EX A - Mayor & City Council of Baltimore's - Partial Consent Motion to Intervene**

File Date: **09/19/2024**

Document Name: **Supporting Exhibit**

Comment: **EX B - Mayor & City Council of Baltimore's - Partial Consent Motion to Intervene**

File Date: **09/19/2024**

Document Name: **Supporting Exhibit**

Comment: **EX 1 - Mayor & City Council of Baltimore's - Partial Consent Motion to Intervene**

File Date: **09/19/2024**

Document
Name: **Motion - Intervene**

Comment: **MCB HP Baltimore LLC's Petition to Intervene or, in the Alternative, Motion to File Amicus Brief**

File Date: **09/19/2024**

Document
Name: **Memorandum**

Comment: **MCB HP Baltimore LLC's Memorandum in Support of Petition to Intervene or, in the Alternative, Motion to File Amicus Brief**

File Date: **09/19/2024**
Document Name: **Supporting Exhibit**
Comment: **Exhibit 1**

File Date: **09/19/2024**
Document Name: **Supporting Exhibit**
Comment: **Exhibit 2**

File Date: **09/19/2024**
Document Name: **Supporting Exhibit**
Comment: **Exhibit 3**

File Date: **09/19/2024**
Document Name: **Supporting Exhibit**
Comment: **Exhibit 4**

File Date: **09/19/2024**
Document Name: **Attorney Appearance - No Fee**
Comment: **Entry of Appearance of Derek Van De Walle, Esq. for Mayor and City Council of Baltimore**

File Date: **09/19/2024**
Document Name: **Response/Reply**
Comment: **Response to Motion to Intervene**

File Date: **09/19/2024**
Document Name: **Supporting Exhibit**
Comment: **Exhibits- for response to motion**

File Date: **09/20/2024**
Document Name: **Attorney Appearance - No Fee**
Comment:

File Date: **09/20/2024**
Document Name: **Hearing Sheet**
Comment:

File Date: **09/20/2024**
Document Name: **Notice of Appeal to ACM - State Agency**
Comment: **Notice of Appeal to Supreme Court of Maryland**

File Date: **09/20/2024**
Document Name: **Motion / Request - To Stay**

Comment: **State Board Request for Stay of Injunctive Relief**

File Date: **09/20/2024**

Document
Name: **Order**

Comment: **re: Ordered that the Mayor and City of Baltimore's Motion to Intervene is Granted and shall be designated as a Respondent, MCB HP Baltimore LLC's Motion to Intervene is Granted and shall be designated as a Respondent, Motion for Reconsideration is Denied (E-served to Attys Vignarajah, Kobrin, Bradford, VanDeWalle, Maloney and Prawde)**

File Date: **09/20/2024**

Document Name: **Notice of Appeal to ACM**

Comment: **Notice of Appeal to the Supreme Court of Maryland**

File Date: **09/20/2024**

Document Name: **Motion - Reconsideration**

Comment: ****DENIED by 9/20/2024 Court Order****

File Date: **09/20/2024**

Document Name: **Clerk Comment**

Comment: **Notices of Appeal sent to SCM Workflow Queue**

File Date: **09/20/2024**

Document
Name: **Order Received from Supreme Court of Maryland**

Comment: **ORDERED that the Clerk of the Circuit Court for Anne Arundel County shall forthwith transmit the record in this case pursuant to Rules 8-413 and 20-402**

File Date: **09/20/2024**

Document Name: **Notice of Appeal to ACM**

Comment: **MCB HP Baltimore LLC's Notice of Appeal**

File Date: **09/20/2024**

Document Name: **Motion - Reconsideration**

Comment: **Motion for Reconsideration**

File Date: **09/20/2024**

Document Name: **Supporting Exhibit**

Comment: **Exhibit 1: Motion for Reconsideration**

File Date: **09/20/2024**

Document Name: **Notice of Appeal to ACM**

Comment: **Mayor and City Council of Baltimore's Notice of Appeal**

File Date: **09/23/2024**
Document Name: **Certification**
Comment: **of Original Case File**

File Date: **09/23/2024**
Document Name: **Original Record Sent**
Comment: **to SCM thru Workflow Queue; No Transcript**

File Date: **09/23/2024**
Document Name: **Clerk Comment**
Comment: *****Appeal Index and Case Summary e-served to attys Vignarajah, Bradford, VanDeWalle, Maloney, Prawde, and Kobrin*****

File Date: **09/23/2024**
Document Name: **Order**
Comment: **This Court will not take action on the Emergency Motion to Stay filed by the Maryland Board of Elections, it appearing to be addressed (or will be addressed) by the Supreme Court. (E-served to attys Vignarajah, Bradford, VanDeWalle, Maloney, Prawde, and Kobrin)**

File Date: **09/25/2024**
Document Name: **Transcript**
Comment: **Invoice and 1 Volume of Transcript electronically filed - Hearing dated 09/16/2024 - Costs: \$1,224.50**

File Date: **09/26/2024**
Document Name: **Certification**
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IN THE MATTER OF ANTHONY
AMBRIDGE, *ET AL.*

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

MEMORANDUM OPINION

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

BACKGROUND

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

9/18/2024 AV

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

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

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

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

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

reads as follows:

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

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

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

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

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

DISCUSSION

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

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

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

In general

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

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

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

Place and time of filing

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

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

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

Md. Code Ann., Elec. Law § 12-202.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Each ballot shall:

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

Md. Code Ann., Elec. Law § 9-203.

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

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

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

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

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

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

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

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

CONCLUSION

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

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

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

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Date



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

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY

Anthony J. Ambridge
65 Stoney Spring Drive
Baltimore, MD 21210

v.

MARYLAND STATE BOARD OF ELECTIONS

151 West Street, Suite 200
Annapolis, MD 21401

FOR JUDICIAL REVIEW OF THE DECISION OF:

Certification of Ballot Question "F" in
2024 General Election Ballot for Baltimore City,
September 2, 2024

* * * * *

PETITION FOR JUDICIAL REVIEW

Anthony J. Ambridge, pursuant to Maryland Annotated Code, Election Law Art., § 9-209(a) and Maryland Rule 7-202 *et al.*, files this petition for judicial review of the Maryland State Board of Elections' certification of Ballot Question "F" in the 2024 General Election Ballot for Baltimore City, dated September 2, 2024. Petitioner was not a party to the certification proceeding. In accordance with Section 9-209(a) of the Election Law Article, Petitioner is a registered voter in Baltimore City and, therefore has standing to seek judicial review.

Respectfully submitted,



THIRUVENDRAN VIGNARAJAH

Client Protection Fund No. 0812180249
211 Wendover Road
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Thiru@JusticeForBaltimore.com
(410) 456-7552

CERTIFICATE OF SERVICE

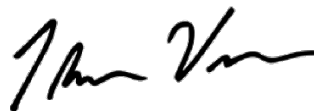
I HEREBY CERTIFY that, on this 5th day of September 2024, a copy of the foregoing petition was delivered, via MDEC, to:

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Counsel, Baltimore City Board of Elections



THIRUVENDRAN VIGNARAJAH

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY

PETITION OF:

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240 E. Montgomery Street	
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 David Tufaro	 *
216 Edgevale Rd	
Baltimore, MD 21210	*
 Katherine Venanzi	 *
3131 N. Calvert Street	
Baltimore, MD 21218	*
 FOR JUDICIAL REVIEW OF DECISION OF	 *
 MARYLAND STATE BOARD OF ELECTIONS	 *
 151 West Street, Suite 200	 *
Annapolis, MD 21401	

Civ. A. No.: _____

IN THE MATTER OF

*

Certification of Ballot Question “F” in
2024 General Election Ballot
for Baltimore City, September 2, 2024

*

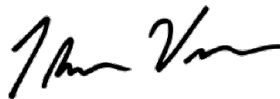
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SECOND AMENDED PETITION FOR JUDICIAL REVIEW

Anthony J. Ambridge, Linda L. Batts, Brent Bederka, Elizabeth Bement, Carol Lois Berkower, Teporah Bilezikian, Jennifer M. Boyer, Leon Bridges, Lauren Brown, Sharon Dlhosh, Johanna Doble, Michael S. Donnenberg, Dolph Druckman, Paula J. Fernandes, Robert Merbler, Ellen Meyer, James Prost, Winstead Rouse, Donna Shapiro, Sandra Seward, Olivia Taylor, David Tufaro, and Katherine Venanzi, pursuant to Maryland Annotated Code, Election Law Art., §§ 9-209(a) & 12-202(a), and Maryland Rule 7-202 *et al.*, files this Second Amended Petition for Judicial Review of the Maryland State Board of Elections’ certification of Ballot Question “F” in the 2024 General Election Ballot for Baltimore City, dated September 2, 2024, and seeks judicial relief on the ground that Question F is inconsistent with the requirements of the Election Law Article and other law applicable to elections as set forth in greater detail in the accompanying Memorandum in Support of Petition for Judicial Review. Petitioners were not a party to the certification proceeding. In accordance with Section 9 209(a) of the Election Law Article, Petitioners are registered voters in Baltimore City and therefore have standing to seek judicial review.

Respectfully submitted,



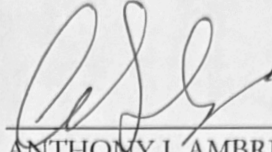
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(410) 456-7552

SWORN PETITION

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.


ANTHONY J. AMBRIDGE

9 Sept '24
DATE


THIRUVENDRAN VIGNARAJAH

9/9/24
DATE

CERTIFICATE OF SERVICE

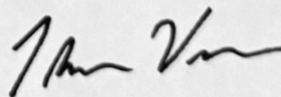
I HEREBY CERTIFY that, on this 9th day of September 2024, a copy of the foregoing amended petition was delivered, via MDEC, to:

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200 Saint Paul Place
Baltimore, MD 21202

Counsel, Baltimore City Board of Elections



THIRUVENDRAN VIGNARAJAH

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

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

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

A RESOLUTION OF THE MAYOR AND CITY COUNCIL CONCERNING

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.**

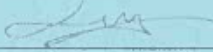
2 There is hereby dedicated to public park uses for the benefit of this and future generations of
3 the City of Baltimore and the State of Maryland the portion of the City that lies along the
4 north, west and south shores of the Inner Harbor, south of Pratt Street to the water's edge,
5 east of Light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

BRANDON M. SCOTT
Mayor



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

August 2, 2024

Via Electronic Mail

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

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

Dear Honorable Chairman and Members:

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

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

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

FOR
CHARTER AMENDMENT

AGAINST
CHARTER AMENDMENT

QUESTION F

CHARTER AMENDMENT
INNER HARBOR PARK

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

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

Sincerely yours,



Ebony M. Thompson

City Solicitor

ATTACHMENT

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

Exhibit 11

CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
EBONY THOMPSON, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

September 3, 2024

Sent Via Email

Jared DeMarinis
Maryland Administrator of Elections
151 West Street, Suite 200
Annapolis, MD 21401

RE: Baltimore City Charter Amendment—Inner Harbor Park - Question F

Director DeMarinis:

It has come to our attention that the State Board of Elections sought clarity about the ballot language pertaining to Baltimore City Charter Amendment relating to the Inner Harbor Park (Question F). In the language that was submitted by the City's Law Department, the boundaries of the applicable land were described as follows:

...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. (Emphasis added).

The language omits the word "Key" prior to highway, and instead describes it as "the Highway". 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 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 office 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.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen Salsbury".

Stephen Salsbury
Deputy Solicitor, Department of Law

CC: Armistead Jones, Baltimore City Board of Elections

Exhibit 12

Subject: Re: Letter to SBE



James, Marvin (Mayor's Office) <Marvin.James@baltimorecity.gov>

to Jared DeMarinis -SBE-, Salsbury, Stephen (LAW), Thompson, Ebony (Law Dept), Abigail Goldman -SBE-, Armstead Jones

You don't often get email from marvin.james@baltimorecity.gov. [Learn why this is important](#)

Jared -

Yes. That's correct. Thank you.

Marvin James (he/him)

Chief of Staff

100 Holliday Street
Baltimore, MD 21202

From: Jared DeMarinis -SBE- <Jared.DeMarinis@maryland.gov>

Sent: Wednesday, September 4, 2024 9:26:18 AM

To: James, Marvin (Mayor's Office) <Marvin.James@baltimorecity.gov>; Salsbury, Stephen (LAW) <Stephen.Salsbury@maryland.gov>;
Armstead Jones -SBE- <armstead.jones@maryland.gov>; Daniel Kobrin <dkobrin@oag.state.md.us>

Subject: Re: FW: Letter to SBE

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

Thank you for the letter. It is not clear if you want me to change the language on the ballot to include the name of
please reply to this email to clarify and include "Key Highway" on the ballot question.

Jared DeMarinis
State Administrator of Elections



151 West Street, Suite 200
Annapolis, MD 21401
W- 410-269-2840
X - @jareddemarinis

On Tue, Sep 3, 2024 at 5:29 PM James, Marvin (Mayor's Office) <Marvin.James@baltimorecity.gov> wrote:



E-FILED; Anne Arundel Circuit Court
Docket: 9/13/2024 10:05 AM; Submission: 9/20/2024 10:05 AM
Jared DeMarinis **Michael Summers** **Envelope: 18089183**
State Administrator
Jim Shalleck, Vice Chairman
Katherine Berry **Yaakov "Jake" Weissmann**
Deputy Administrator
Diane Butler
Victoria Jackson-Stanley

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

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

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

Official Ballot

Presidential General Election

November 5, 2024

State of Maryland, Baltimore City

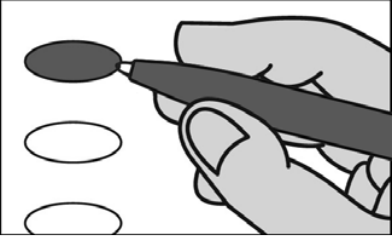
BS 1

Page 1 of 2

001-001

Instructions

Making Selections



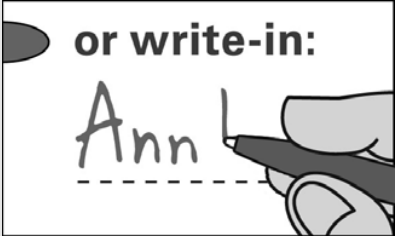
Fill in the oval to the left of the name of your choice. You must blacken the oval completely, and do not make any marks outside of the oval. You do not have to vote in every race.

!

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

Optional write-in

or write-in:



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

President and Vice President of the United States

Vote for 1

☐ Kamala D. Harris and Tim Walz
Democratic

☐ Donald J. Trump and JD Vance
Republican

☐ Chase Oliver and Mike ter Maat
Libertarian

☐ Jill Ellen Stein and Rudolph Ware
Green

☐ Robert F. Kennedy, Jr. and Nicole Shanahan
Unaffiliated

☐ or write-in:

U.S. Senator

Vote for 1

☐ Angela Alsobrooks
Democratic

☐ Larry Hogan
Republican

☐ Mike Scott
Libertarian

☐ or write-in:

Representative in Congress District 7

Vote for 1

☐ Kweisi Mfume
Democratic

☐ Scott M. Collier
Republican

☐ Ronald M. Owens-Bey
Libertarian

☐ or write-in:

Mayor

Vote for 1

☐ Brandon M. Scott
Democratic

☐ Shannon Wright
Republican

☐ or write-in:

President of the City Council

Vote for 1

☐ Zeke Cohen
Democratic

☐ Emmanuel Digman
Republican

☐ or write-in:

Comptroller

Vote for 1

☐ Bill Henry
Democratic

☐ or write-in:

Member of the City Council District 1

Vote for 1

☐ Mark Parker
Democratic

☐ or write-in:

Judge of the Circuit Court Circuit 8

Vote for up to 7

☐ Nicole K. Barmore

☐ Yvette Michelle Bryant

☐ Paul J. Cucuzzella

☐ Troy K. Hill

☐ Alan Carl Lazerow

☐ La Zette C. Ringgold-Kirksey

☐ Martin H. Schreiber, II

☐ or write-in:

☐ or write-in:


☐ or write-in:

☐ or write-in:

☐ or write-in:

☐ or write-in:

Vote All Sides



Justice, Supreme Court of Maryland
Circuit 6

Shirley M. Watts

Vote Yes or No
For Continuance in Office

☐ Yes

☐ No

Judge, Appellate Court of Maryland At Large

Anne K. Albright

Vote Yes or No
For Continuance in Office

☐ Yes

☐ No

Judge, Appellate Court of Maryland At Large

Kevin F. Arthur

Vote Yes or No
For Continuance in Office

☐ Yes

☐ No

Judge, Appellate Court of Maryland At Large

Andrea M. Leahy

Vote Yes or No
For Continuance in Office

☐ Yes

☐ No

Judge, Appellate Court of Maryland
Circuit 6

Michael W. Reed

Vote Yes or No
For Continuance in Office

☐ Yes

☐ No

Question 1

Constitutional Amendment
(Ch. 245 of the 2023 Legislative Session)

Declaration of Rights - Right to
Reproductive Freedom

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

(Adding Article 48 to the Maryland Declaration of Rights)

☐ For the Constitutional Amendment

☐ Against the Constitutional Amendment

Question A

Bond Issue

Affordable Housing Loan

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

☐ For

☐ Against

Question B

Bond Issue

School Loan

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

☐ For

☐ Against

Vote All Sides



State of Maryland, Baltimore City

<p>Question C Bond Issue Community and Economic Development Loan</p> <p>Question C is for the purpose of authorizing the Mayor and City Council of Baltimore to borrow up to \$50,000,000 to be used for, or in connection with, planning, developing, executing and making operative the community, commercial, and industrial economic development programs of the Mayor and City Council of Baltimore; the development or redevelopment, including, but not limited to, the comprehensive renovation or rehabilitation of any land or property, or any rights or interests therein hereinbefore mentioned, in the City of Baltimore, and the disposition of land and property for such purposes; the elimination of unhealthful, unsanitary, or unsafe conditions, lessening density, eliminating obsolete or other uses detrimental to the public welfare or otherwise removing or preventing the spread of blight or deterioration in the City of Baltimore; the creation of healthy, sanitary, and safe, and green conditions in the City of Baltimore; and authorizing loans and grants therefore; making loans and grants to various projects and programs related to growing businesses in the City; attracting and retaining jobs; providing homeownership incentives and home repair assistance; authorizing loans and grants to various projects and programs related to improving cultural life and promotion of tourism in Baltimore City and the lending or granting of funds to any person or other legal entity to be used for or in connection with the rehabilitation, renovation, redevelopment, improvement or construction of buildings and structures to be used or occupied for residential or commercial purposes; and for doing any and all things necessary, proper or expedient in connection therewith.</p> <p><input type="radio"/> For</p> <p><input type="radio"/> Against</p>	<p>Question D Bond Issue Public Infrastructure</p> <p>Question D is for the purpose of authorizing the Mayor and City Council of Baltimore to borrow up to \$125,000,000 to be used for the development of public infrastructure owned or controlled by the Mayor and City Council of Baltimore and the Enoch Pratt Free Library and for the construction and development of streets, bridges, courthouses, City buildings and facilities and related land, property, buildings, structures or facilities, for acquisition and development of property buildings owned and controlled by the Mayor and City Council of Baltimore and the Enoch Pratt Library and public park or recreation land, property, buildings, structures or facilities including the acquisition of such by purchase, lease, condemnation or other legal means; for the construction, erection, renovation, alteration, reconstruction, installation, improvement and repair of existing or new buildings, structures, or facilities to be or now being used by or in connection with the operations, function and activities of the Mayor and City Council of Baltimore, the Enoch Pratt Free Library, public parks and recreational programs; for the construction and development of streets, bridges, courthouses, city office buildings, police stations, fire stations, solid waste facilities, information technology, and public park and recreational and related land property and buildings; for the acquisition and installation of trees, for tree planting programs and for the equipping of any and all existing and new buildings, structures, and facilities authorized to be constructed, renovated, altered or improved by this Ordinance; and for doing any and all things necessary, proper or expedient in connection therewith.</p> <p><input type="radio"/> For</p> <p><input type="radio"/> Against</p>
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Question E

Charter Amendment

Baltimore City Police Department

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

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

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

☐ For the Charter Amendment

☐ Against the Charter Amendment

Question F

Charter Amendment

Inner Harbor Park

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

☐ For the Charter Amendment

☐ Against the Charter Amendment

Question G

Charter Amendment

Community Reinvestment and Reparations Fund

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

☐ For the Charter Amendment

☐ Against the Charter Amendment

Question H

Charter Amendment via Local Petition

Reducing the Size of the City Council

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

☐ For the Charter Amendment

☐ Against the Charter Amendment

ANTHONY J. AMBRIDGE, *et al.*,

Petitioner,

v.

MARYLAND STATE BOARD OF
ELECTIONS,

Defendant.

*

IN THE

*

CIRCUIT COURT

*

FOR

*

ANNE ARUNDEL COUNTY

*

No. C-02-CV-24-002246

*

* * * * *

AFFIDAVIT OF MELISSIA DORSEY

1. I, Melissia Dorsey, 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 have been employed by the Maryland State Board of Elections (“SBE”) since 2021. I currently serve as Assistant Deputy for Election Policy. My work requires, among other things, overseeing coordination of responses to public requests for records.
4. In the normal course of business where the response to an information request affects an election critical deadline such as ballot production, SBE would have responded to a request for the Baltimore City Solicitor’s letter that certified a ballot question within 48 hours by providing that letter to the requestor.
5. 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.

___9/13/24___

Date

Melissia Dorsey

Melissia Dorsey

ANTHONY J. AMBRIDGE, <i>et al.</i> ,	*	IN THE
<i>Petitioner,</i>	*	CIRCUIT COURT
v.	*	FOR
MARYLAND STATE BOARD OF	*	ANNE ARUNDEL COUNTY
ELECTIONS,	*	No. C-02-CV-24-002246
<i>Defendant.</i>		

* * * * *

AFFIDAVIT OF JENNIFER MCLAUGHLIN

1. I, Jennifer McLaughlin, 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 have worked for the Maryland State Board of Elections (“SBE”) since June 2021. I currently serve as the Mail-In Ballot Lead. My work requires, among other things, overseeing the preparation, printing, and delivery of all mail-in ballot materials for use in Maryland elections. This includes the preparation, printing, and delivery of all mail-in ballots, ballot envelopes, and testing materials for mail-in ballots scanners for the 2024 presidential general election.
4. Federal law requires that SBE transmit mail-in ballots to qualified overseas voters by the 45th day before an election. 52 U.S.C. § 20302(a)(8)(A). For the 2024 presidential general election, that deadline falls on Saturday, September 21, 2024.
5. Similarly, State law requires SBE to transmit a mail-in ballot to each voter who has made a timely request to vote by mail by the 43rd day before an election.

Md. Code. Ann., Election Law Article, § 9-306(c)(1). For the 2024 presidential election, that deadline falls on Monday, September 23, 2024.

6. Therefore, by the third weekend in September, mail-in ballots, instructions and other inserts, and ballot envelopes (together known as “ballot packets”) for every overseas and domestic voter, who has made a timely request, must be printed and ready for mailing.

7. Mail-in ballots cannot differ from ballots voted in person. Functionally, then, by the third weekend in September, the form and content of Maryland’s ballot can no longer be changed.

8. The timeline estimates provided in this affidavit are specific to mail-in ballots transmitted by the United States Postal Service, and are in addition to those provided by Natasha Walker for the preparation of ballot materials related to in-person voting and web delivery.

9. SBE cannot produce the required quantity of ballot materials and securely mail them on its own. Instead, through the State procurement process, SBE has publicly contracted with a third-party vendor (Taylor Print and Visual Impressions) for the printing and mailing of all ballot materials. The contract, #D38B1600011, approved by the Board of Public Works on December 1, 2021, remains in effect through the 2024 election cycle.

10. SBE cannot presently provide or procure a different solution for preparing and printing mail-in ballot materials for the 2024 presidential general election.

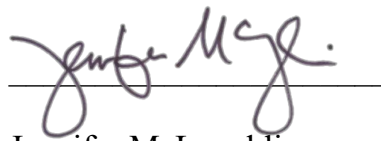
11. The process for printing, assembling, and mailing mail-in ballot packets began with SBE securely transmitting to the third-party vendor digital image files of the ballots, ballot envelopes, and other ballot packet inserts.
12. Once the ballot design was completed and made public for 3 days, the vendor began printing “test decks,” samples of thousands of ballots. These test decks are printed materials created to run through the State’s voting system equipment. Test decks are used to ensure that the final ballots, as designed by SBE, can be accurately and reliably read by the voting system equipment.
13. Printing of test decks was completed on 9/9/24.
14. Once the test decks were printed, the third-party vendor shipped each of the 23 counties and Baltimore City the test decks specific to that jurisdiction. Receipt of the test decks by the jurisdiction can require up to three days.
15. Each county and Baltimore City must now scan each test deck it receives. This requires election officials to manually run documentary material through ballot scanners, comparing the results of the scanning to the known information attendant to the test deck.
16. Scanning of test decks and reporting of results generally requires 2-3 days.
17. Upon confirmation from all counties and Baltimore City that the test decks scan reliably through the statewide voting system, the effort to print ballots and ballot envelopes can begin.
18. Ballot printing and ballot packet assembly requires the third-party vendor at least 6-7 business days for 500,000 ballot packets, and more for larger quantities

19. SBE anticipates directing the printing and assembly of at least 500,000 ballot packets for the 2024 presidential general election. Accordingly, SBE anticipates that the entire process for printing and assembling mail-in ballot packets prior to the deadline imposed by 52 U.S.C. § 20302 will require 13-16 days.

20. I solemnly affirm under the penalties of perjury that foregoing contents of this Affidavit are true to the best of my personal knowledge, information, and belief.

9/12/2024

Date


Jennifer McLaughlin

ANTHONY J. AMBRIDGE, <i>et al.</i> ,	*	IN THE
<i>Petitioner,</i>	*	CIRCUIT COURT
v.	*	FOR
MARYLAND STATE BOARD OF	*	ANNE ARUNDEL COUNTY
ELECTIONS,	*	No. C-02-CV-24-002246
<i>Defendant.</i>	*	
	*	
* * * * *		

AFFIDAVIT OF NATASHA WALKER

1. I, Natasha Walker, 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 have been employed by the Maryland State Board of Elections (“SBE”) since 2003. I currently serve as Director of Voting and Election Management Systems and have been performing the functions of that job since October, 2023. My work requires, among other things, coordinating the preparation of ballots in advance of the primary and general elections
4. The deadline for a candidate to decline the nomination of their party so that his or her name would not appear on the general election ballot was Tuesday, August 6, 2024 at 5:00 p.m.

5. Vacancies on the ballot created by a declination of a nomination had to be filled by the appropriate authority before August 9, 2024 at 5:00 p.m.
6. The last day for which a candidate's death or disqualification, having become known to SBE or the appropriate local board, would result in the candidate's removal from the general election ballot was August 12, 2024.
7. Vacancies on the ballot created by the death or disqualification of a candidate had to be filled by the appropriate authority before August 16, 2024.
8. On August 27, 2024, SBE began creating ballot databases, importing the ballot data, and laying out the different ballots that will be in use across the state for the general election.
9. August 29, 2024, local boards of election ("LBEs") received ballot proofing packages to review and approve the ballots pertinent to their respective jurisdictions. This process takes approximately one week for larger jurisdictions such as Baltimore City.
10. On September 2, 2024, ballots were certified pursuant to Md. Code Ann. EL § 9-207(a)(2) and placed on SBE's website for public viewing. In total, 1,974 different ballots will be in use across the State during the 2024 general election. Baltimore City accounts for 295 of these different ballots, which are assigned to 295 election day precincts and 8 early voting centers, and include ballot questions about amendments to Baltimore City's charter.

11. Any addition, modification or removal of a ballot question at this point will require SBE to correct the relevant databases and redo the process of laying out affected ballots, and will require affected LBEs to re-review and re-approve affected ballots pertinent to their jurisdictions.

12. On September 5, 2024, SBE imported final ballot style data into its MDVOTERS database and local boards confirmed that styles were aligned with the correct precincts and splits. For larger jurisdictions such as Baltimore City this process takes approximately 2 days, and any change to the ballots during or after this process would require the ballot styles to be reimported and would require affected LBEs to re-verify all ballot styles to precinct associations.

13. On September 6, 2024, SBE began the printing of all test decks and all ballots. This process typically takes 3 weeks, and at the conclusion of the printing process approximately 10,200,000 different physical ballot sheets will have been generated. This includes ballots voted in-person, mail-in ballots, and specimen ballots. After the date that printing begins, changes to ballots would be costly and disruptive. The pre-print production process takes approximately 2 days to lay out the ballot styles and create the metal printing plates for each ballot style. When ballot styles change, new ballot style PDF's must be sent to the printer and the pre-print production process must be redone. Any ballots printed for the impacted jurisdiction must be disposed of to ensure that the wrong ballot styles do not get sent to the jurisdiction.

14. On September 8, 2024, SBE finalized the ballot style process in the MDVOTERS database by assigning voters who have requested a mail-in ballot to the current election. Once the mail-in voters have been assigned to the current election, there is no way to unassign them without intervention from the MDVOTERS development team. After speaking with the development team, it is my understanding that it would take approximately 6 days to return to the point where absentee voters can be assigned to the current election again.

15. On September 12, 2024, SBE began testing of its web delivery system.

16. Several other ballot processes are now complete:

- a. Final election databases, which are used for configuring the voting equipment for the upcoming election, were distributed to the local boards of election.
- b. Specimen ballot PDFs were distributed to the local boards of election so that they can begin the process of laying out the specimen ballot mailers.
- c. Standard length and 11 inch ballot PDFs, which are provided to mail-in voters in special circumstances, were distributed to the local boards of election.
- d. Sample ballot PDFs for the SBE's voter services portal were generated and sent to the voter services developer, and will soon be

available for voters to view through SBE's individualized voter services portal.

- e. Final pollbook exports that contain ballot information have been created and imported into the pollbook database and SBE is in the process of generating the test database which is used to confirm the accuracy of the polling places, precincts and ballot style assignments.
- g. Ballot PDFs have been distributed to the post-election audit vendor and all XML files and reports required for the post-election audit and for any testing in advance of the election have been sent to them.
- h. Test election result files have been created and sent to our development team to start election result testing.

17. Each of the processes described above would be impacted substantially if SBE were to be required to add, remove or modify a ballot question.

18. In addition to the approximate week it would take for the State Board to reproduce the affected ballots, reproof the ballots at the local level, reassign absentee voters, re-import ballot styles, and make any ballot styles to precincts changes, we would need several additional days to accommodate the re-printing test deck ballots, in-person ballots and mail-in ballots for a large jurisdiction like Baltimore City.

19. 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.

9/13/2024

Date

Natasha Walker

Natasha Walker

§ 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.

(Res. 16-029, ratified Nov. 8, 2016.)

Attachment 3

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

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

November 28, 2023

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: Mayor and City Council Resolution 23-0444 – Charter Amendment – Inner Harbor Park

Dear President and City Council Members:

The Law Department has reviewed Mayor and City Council Resolution 23-0444 for form and legal sufficiency. Under Article XI-A, Section 5 of the Maryland Constitution, a resolution, such as Mayor and City Council Resolution 23-0444, is an appropriate method of initiating an amendment to the Baltimore City Charter. If enacted, the Resolution would be placed on the ballot at the City's next election and would take effect thirty days after being approved by the voters. Md. Constit., Art. XI-A, § 5.

The Resolution seeks to modify Section 9 of Article I of the City's Charter that dedicates Inner Harbor Park area as a public park. Currently, that Section permits eating places and commercial uses in not more than 3.2 acres of the Inner Harbor Park area. This amendment would include multi-family dwellings and off-street parking to the eating and commercial uses and increase the area in which they are permitted from 3.2 to 4.5 acres.

However, neither multi-family dwellings nor off-street parking are recreational uses that are available to the public. *See, e.g., Green v. Garrett*, 192 Md. 52, 62-63 (1949). The state's highest court recognized that professional baseball games that can be attended by the public are a "use for the benefit of the public." *Id. (citing Cleary v. Philadelphia*, 166 A. 237, 238 (1933) (held that because a public hall could be rented it did not deprive the public of all use of the building)). Like a professional baseball use, which is available to the public for a fee, businesses and eateries are also generally open to the public. Thus, those uses can be part of an area dedicated to all and generally used for recreation. In contrast, the multi-family dwellings and attached parking will never be open to the public. Thus, they cannot be characterized as park land or dedicated to public purposes.

Moreover, municipal land in Maryland dedicated for park purposes is characterized differently for purposes of tort law and governmental immunity. *See, e.g., Mayor and City Council of Baltimore City v. Blueford*, 173 Md. 267, 272 (1937). Characterizing land that is used for exclusive private purposes as park land would run contrary to the long-standing principles in

Maryland that “the maintenance of a public park is a governmental function.” *Id.* In analyzing whether a public pool with an entry fee could be part of park property, the court in *Blueford* held that when “the act in question is sanctioned by legislative authority, is solely for the public benefit, with no profit or emolument inuring to the municipality, and tends to benefit the public health and promote the welfare of the whole public, and has in it no element of private interest, it is governmental in its nature.” *Id.* at 275-76. The Court reasoned that a pool was still a “public convenience” and the same rules for tort liability in public parks carry to public pools. *Id.* at 274. The same reasoning could not be applied to a park that also has exclusive private uses that are not for public convenience. Characterizing land with both private and public uses as dedicated for a governmental park purpose could jeopardize the characterization of the entire park area. *See also, Rios v. Montgomery County*, 386 Md. 104, 128 (2005) and cases cited therein.

Therefore, this Mayor and City Council Resolution should be amended to excise from the dedicated park land that part of the area that will be used for non-public purposes; namely the multi-family dwellings and parking. A suggested amendment to effectuate this change is attached to this report.

Subject to the required amendment, the Law Department can approve the Resolution for form and legal sufficiency.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Hilary Ruley', written in a cursive style.

Hilary Ruley
Chief Solicitor

cc: Ebony M. Thompson, Acting City Solicitor
Nina Themelis, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Ashlea Brown, Chief Solicitor
Jeffery Hochstetler, Chief Solicitor
Teresa Cummings, Assistant Solicitor
Michelle Toth, Assistant Solicitor

AMENDMENTS TO COUNCIL BILL 23-0379
(1st Reader Copy)

Proposed by: Law Dep't

Amendment No. 1: Remove areas that will not be dedicated to the public

On page 2, in line 6, after "Field" insert, "BUT NOT INCLUDE THOSE AREAS USED AS MULTI-FAMILY DWELLINGS AND OFF-STREET PARKING;"; and on that same page in lines 7 and 8, delete all the brackets; and in lines 7 and 8 delete "MULTI-FAMILY DWELLINGS, AND OFF-STREET PARKING" and delete "4.5"; and on the same page in line 8, substitute the correct amount of acreage less than 3.2 acres that removes the areas dedicated for the multi-family dwellings and off-street parking area for "3.2".



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

1 message

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

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

Sincerely,

Elena DiPietro

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

Baltimore City Department of Law

<image001.png>

Department of Law

Mobile -410-802-1850

Office: (410) 396-3209

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

CAUTION: This email originated from outside of Baltimore City IT Network Systems.

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

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

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

From: aja vixonwolfe.com
Sent: Friday, April 19, 2024 11:16 AM
To: Elena.DiPietro@BaltimoreCity.gov
Cc: Phyllis.Fung@gmail.com
Subject: RE: Charter Amendment Harborplace

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

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

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

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

Thank you,

Anthony J. Ambridge

--

You received this message because you are subscribed to the Google Groups "Inner Harbor Coalition Steering Committee" group.

To unsubscribe from this group and stop receiving emails from it, send an email to inner-harbor-coalition-steering-committee+unsubscribe@googlegroups.com.

To view this discussion on the web visit <https://groups.google.com/d/msgid/inner-harbor-coalition-steering-committee/DM6PR16MB2844A9B94CAF6A0326B0CD7ACEE22%40DM6PR16MB2844.namprd16.prod.outlook.com>.

--

You received this message because you are subscribed to the Google Groups "Inner Harbor Coalition Steering Committee" group.

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

Kobrin, Daniel

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

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

Got it, thanks!

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

Acknowledged, this is my email.

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

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

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

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

July 16, 2024

Attorney General Anthony Brown

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

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

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

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

Anthony J. Ambridge
aja@vixonwolfe.com
[REDACTED]

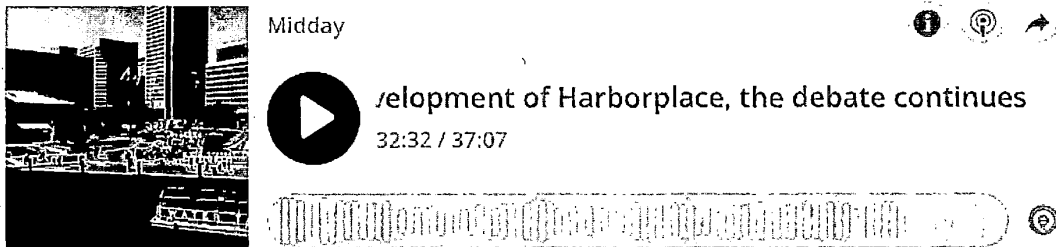
Exhibit 16

<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



At 32:34, **Melody Simmons**, guest host for *Midday* 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. 102CY242246
☒ Plaintiff's/State 10
☐ Defendant's Exhibit _____
☐ Court's _____
☐ Joint _____

Exhibit 15

<https://www.wbaltv.com/article/city-residents-court-edit-harborplace-redevelopment-plan-ballot/62083039>

City residents asking for court-ordered edit to Harborplace redevelopment plan ballot question

Updated: 6:21 PM EDT Sep 6, 2024



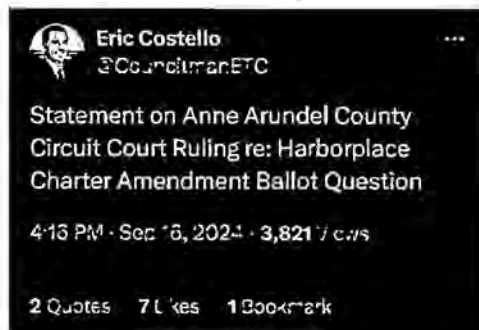
WBAL-TV 11 reporter, Kate Amara, quoted in broadcasted TV report:

"According to the State Administrator of Elections, the language of this ballot question came directly from the city solicitor's office, the mayor's lawyer.

We reached out to the Mayor's Office and have yet to get a response to our requests for comment."

Case No. CD2CV242246
☒ Plaintiff's/State 9
☐ Defendant's Exhibit _____
☐ Court's
☐ Joint

Exhibit 6



**STATEMENT ON AA COUNTY CIRCUIT COURT RULING re:
HARBORPLACE CHARTER AMENDMENT BALLOT QUESTION**

Today, an Anne Arundel County judge and former Republican legislator undercut the ability of the Baltimore City Council to put questions of our future before the people of Baltimore at the ballot box. The decision today is an outrage and an affront to the sovereignty of the City of Baltimore and ignores decades of precedents. This is no longer a question about Inner Harbor Park. It is a question of our ability to govern ourselves as duly elected members of this City's legislative body.

Even worse, to allow people to vote on the ballot measure and then say we aren't allowed to count the votes of the people of Baltimore is voter suppression at its worst. Either the provision can be on the ballot, or it cannot.

Perhaps most troubling is that a judge from another jurisdiction would decide that language that has existed in our charter for five decades isn't charter-worthy is laughable. Her argument must also mean that the original provisions in the charter related to the Harbor are equally invalid.

I condemn in the strongest possible way the decision of the Anne Arundel County courts to infringe on the self-determination of the people of this City and the work of this City Council. I hope that the State Board of Elections and the City Solicitor immediately appeal to protect our legislative integrity.

####

Case No. CD2CV242246
☒ Plaintiff's/State 6
☐ Defendant's Exhibit _____
☐ Court's
☐ Joint

Charter Material Cases

Case Name and Citation	Type of Amendment	Type of Challenge	Defendant	Where it was filed	Time before general election	Proper Charter Material?	Initiated by petition or legislative act?
Cheeks v. Cedlair Corp. 287 Md. 595 (1980)	Proposed amendment would add new article to charter by establishing a comprehensive system of rent control for the city's residential housing market under control a new City agency (Tenant-Landlord Commission)	Declaratory Judgment and Injunction (Enjoin election officials from placing amendment on the ballot and declaring it invalid)	Circuit Court for Baltimore City	Board of Supervisors of Elections of Baltimore City Certain proponents of the amendment intervened	September 14, 1979	NO The amendment is legislative in character. Amendment is not addressed to the form or structure of government in any fundamental sense.	Petition
Save our Streets v. Mitchell 357 Md. 237 (2000)	<u>Montgomery County Amendment</u> Amendment to the Montgomery County Charter that would prospectively prohibit speed bumps and allow the	Montgomery - Declaratory Judgment and Injunctive Relief Harford – Writ of mandamus and	Board of Election Supervisors of Montgomery County	Circuit Court for Montgomery County	Montgomery - September 9, 1998 Harford – September 18, 1998	NO Holding: Countis' Boards of Election Supervisors	Petition

	County one year to remove previously installed speed bumps. <u>Harford County Amendment</u> Harford County voters petitioned for a referendum on a charter amendment establishing standards for adequate public facilities.	declaratory judgment and injunctive relief	Board of Election Supervisors of Harford County; Harford County; and the County Council	Circuit Court for Harford County		enjoined from placing the proposed charter amendments on the ballot.	
Atkinson v. Anne Arundel County 428 Md. 723 (2012)	In 2002, voters adopted an amendment to the charter relating to resolution by binding arbitration of collective bargaining impasses with law enforcement and firefighters. Charter provision was implemented by ordinance in 2003. In 2011, the Council amended the 2003 ordinance to provide that binding arbitration did not require the Council to appropriate funds or enact legislation necessary to implement a final written award in arbitration.	Declaratory judgment (Petitioners seek DJ that 2011 ordinance violated 2002 charter amendment; County filed counterclaim asserting that if 2011 ordinance violates the charter, seeking a DJ that the 2002 Charter amendment is unconstitutional because the charter amendment is not	Anne Arundel County	Circuit Court for Anne Arundel County		YES Binding arbitration is an appropriate subject matter for inclusion in a county charter.	

	Uncodified section of 2011 bill provided that if any part of the 2011 ordinance were held invalid, the entire code section enacted in 2003 would be deemed repealed by operation of law.	“charter material.”)					
Mayor & City Council of Hagerstown v. Int’l Ass’n of Firefighters 2016 Md. App. LEXIS 323 (Mar. 21, 2016)	Petition to amend charter to enact implementation provisions to install collective bargaining and binding arbitration as to non-management employees of the City’s police and fire departments.	Inunction, mandamus, declaratory judgment to compel City to adopt proposed charter amendment or set date for a referendum vote of the electorate. City filed counter-complaint <u>seeking declaratory judgment that binding arbitration language in the proposed charter amendment was not proper charter material.</u>	City of Hagerstown	Circuit Court for Washington County		YES Proposed amendments that seek to add binding arbitration provisions have been held to be proper charter material. Proposed charter amendment remains completely within appropriate charter mandates. It leaves the City sufficient legislative	Petition

							leeway and authority.	
Bd. of Supervisors of Elections v. Smallwood 327 Md. 220 (1992)	Two separate appeals: <u>First Appeal</u> Petition to place property tax limitation charter amendment on ballot, which would alter Section 710 of Baltimore County Charter. Section 710 provides that when county budget adopted, the county council shall levy and raise the amount of taxes required by the budget. Proposed amendment would require property tax revenues for tax year 1991-92 to be limited to amount of property tax revenues realized for tax year 1989-1990; would not have allowed tax revenues to be raised more than 2% per year; among other changes. <u>Second Appeal</u> Section 710 of Anne Arundel County charter	Declaratory judgment and injunction to prohibit placement of amendment on the general election ballot.	Board of Supervisors of Elections of Baltimore County Board of Supervisors of Elections of Anne Arundel County	Circuit Court for Baltimore County Circuit Court for Anne Arundel County	Baltimore – August 16, 1990 Anne Arundel – August 6, 1990	YES 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. A limitation on the power of a legislative body to raise revenue is at the heart of the	Petitions	

	<p>requires the council maintain a balanced budget and exempts from executive veto an ordinance that levies taxes required to balance the budget. Proposed amendment would have limited property tax revenues for tax year 1991-1992 to amount of property revenues raised during 1988-1989 tax year; placed tax cap provision in the context of the constant yield tax rate provided in the Tax Property Article, etc.</p> <p>Another charter amendment would have amended Section 308 of charter, which reserves to voters the right of referendum regarding legislation passed by county council. Proposed amendment would have given voters the power to initiate legislation which would not be subject to the veto power of the County Executive</p> <p>Plaintiffs asserted that a limitation on the taxing</p>						form and structure of government and is proper charter material.	
--	---	--	--	--	--	--	--	--

	power of the county councils is not proper charter material.								
Balt. City Bd. of Elections v. Mayor of Baltimore 2024 Md. LEXIS 369 (Aug. 29, 2024)	Amend Baltimore City Charter to establish Baby Bonus Fund (one time \$1,000 payment upon birth or adoption of child)	Judicial review of Baltimore City Board of Election's certification of the question for placement on the ballot Writ of mandamus Declaratory judgment amendment is unconstitutional Injunction barring question from appearing on the ballot	Baltimore City Board of Elections MD Child Alliance moved to intervene as defendant, which was granted	Circuit Court for Baltimore City	July 11, 2024	NO	Petition		
Hertelendy v. Bd. of Educ. of Talbot County	Concerned the validity of property tax limitation provision in Art. VI, Sec. 614 in the Talbot County Charter, which had been amended in 1978.	Declaratory Judgment	Circuit Court for Talbot County	Talbot County Several individual County	January 31, 1995	NO Circuit court was correct in declaring invalid the			

344 Md. 676 (1997)	In 1995, 16 years later, several organizations and individuals sought declaration that Sec. 614 was invalid because it so restricts the constitutionally mandated discretion of the council that it violates the Constitution and public general laws. Section 614 prevents the governing body of the County from setting the property tax rate.			residents moved to intervene as defendant and motions were granted.		1978 amendment to Article VI, Sec. 614. The County Council has the power to impose property tax on the assessment of property and is authorized to assess, levy, and collect taxes as necessary for support and maintenance of government.	
IAFF Local 1605 v. Mayor & City Council of Hagerstown 2015 Md. Cir. Ct. LEXIS 47 (April 1, 2015)		Writ of Mandamus				YES Granted writ of mandamus and ordered defendants shall adopt the proposed charter amendment in full or adopt resolution	Petition

							setting date for voter referendum on proposed charter amendment.	
Griffith v. Wakefield, 298 Md. 381 (1984)	Baltimore County Charter amendment requiring resolution of labor disputes involving county-employed firefighters through binding arbitration	Declaratory judgment and injunction	Circuit Court for Baltimore County	Baltimore County Board of Supervisors of Elections Baltimore County Firefighters Association intervened as a defendant.	Filed “before the November 1982 election” Circuit court, with consent of the parties, postponed further proceedings until charter amendment had been voted on; the voters approve the charter amendment	NO Under the proposed amendment, the charter would contain all of the law on the subject and the county council would be deprived of all decision-making authority concerning the subject.		

1 IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

2 ANTHONY AMBRIDGE, ET AL.,

3 Petitioner

4 vs.

Civil Docket

5 MARYLAND STATE BOARD OF ELECTIONS,

No. C-02-CV-24-002246

6 Respondent

7 OFFICIAL TRANSCRIPT OF PROCEEDINGS

8 CHALLENGE HEARING

9 VOLUME I OF I

10 Annapolis, Maryland

11 Monday, September 16, 2024

12 BEFORE:

13 THE HONORABLE CATHLEEN M. VITALE, JUDGE

14 APPEARANCES:

15 For the Petitioners:

16 THIRUVENDRAN VIGNARAJAH, ESQUIRE

17 For the Respondent:

18 DANIEL KOBRIN, ESQUIRE

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7	None			
8	EXHIBITS:	IDENTIFICATION:		EVIDENCE:
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10	Exhibits 1 through 13	9		9
11	For the Respondent:			
12	None			
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P R O C E E D I N G S

THE COURT: This is in the petition of Anthony Ambridge, Linda Batts, Brent Bederka -- and I'm going to apologize for every name I butcher -- Elizabeth Bement, Carol Louise -- Carol Lois Berkower, Teporah Bilezikian, Jennifer Boyer, Leon Bridges, Lauren Brown, Sharon Dlosh, Johanna Doble, Michael Donnenberg, Dolph Druckman, Paula Fernandes, Robert Merbler, Ellen Meyer, James Prost, Winstead Rouse, Donna Shapiro, Sandra Seward, Olivia Taylor, David Tufaro, Katherine Venanzi, again, from the judicial review and decision that was issued by the Maryland -- or involving the Maryland State Board of Elections.

The Maryland State Board of Elections is a State agency. It is housed and homed in Anne Arundel County. Thanks to my former colleagues at the other circle on State Circle, there was a determination made that if you challenge the State Board you come to Anne Arundel County as opposed to the jurisdiction of which the question arises.

And as all parties know we are dealing with the matter of the certification of ballot Question F. It involves our 2024 general election ballot for the City of Baltimore. And that challenge has arisen out of the certification that came on September 2nd, 2024. So, first, let's start with having Counsel identify yourself. I'll give you guys a little bit of the rules then.

1 MR. VIGNARAJAH: I appreciate that, Your Honor. Do I
2 need to call the case number?

3 THE COURT: No. I just did.

4 MR. VIGNARAJAH: Okay. Thiruvendran Vignarajah on
5 behalf of Petitioners.

6 MR. KOBRIN: And Daniel Kobrin, Assistant Attorney
7 General. On behalf of the State Board of Elections.

8 THE COURT: And because our court reporters are not
9 physically here in our building, some of you may know that and
10 not know that. We are again -- I always look up because I think
11 of them as being in the ceiling -- C-02-CV-24-002246, not -2237.
12 All right.

13 So, the Court received first thing this morning a
14 reply that was filed by the Petitioners addressing some of the
15 issues that were raised in the response I had. I was well aware
16 that during our telephone conversation I was initially under the
17 impression there would not be a reply filed, but there was, and
18 we had an opportunity to take a look at it this morning. It has
19 only a few, I would say, new touchable areas; most of it didn't
20 appear to be new law or new grounds.

21 All right. So, Counsel if you're all prepared? The
22 only thing I ask is that you not interrupt one another. I do my
23 best to interrupt you if I have a question, only because I want
24 to make sure we get it addressed at the time. But we will see
25 where we're going.

1 MR. KOBRIN: Your Honor, just preliminarily. I filed
2 the State Board's response in exhibits A through H on Friday and
3 provided a courtesy copy to chambers. I received an email about
4 30 minutes ago, at 9:15, that they were struck for deficiency
5 reasons without a reason given.

6 THE COURT: Welcome to Anne Arundel County.

7 MR. KOBRIN: Without a reason, given which is making
8 it very difficult to --

9 THE COURT: That is never -- you know what I learned
10 in those deficiency notices when I took the bench? There is a
11 reason given and it usually varies. So, give me one second.

12 MR. KOBRIN: Okay.

13 THE COURT: The Court is going to accept, just so you
14 know, I'm going to accept the filings. Otherwise you all are
15 coming back on another day and I'm not going to have you do
16 that.

17 MR. KOBRIN: I appreciate that, Your Honor.

18 THE COURT: So, as I look, we have -- because whatever
19 it is, you could be able to fix it. Okay. There's a big --
20 this whole discussion we're going to have here today involves
21 discussions over form and substance. And it is the form and
22 substance that got you in trouble on the deficiency of this. So
23 in when it was filed by your office -- and it's a common error
24 that occurs -- the response versus the motion, because you all
25 filed the joint motion --

1 MR. KOBRIN: Yes.

2 THE COURT: -- for the hearing, was put in the same
3 filing --

4 MR. KOBRIN: Okay.

5 THE COURT: -- and MDEC or Tyler Technologies can't
6 separate them. So, when you get back to your office, you can
7 refile them so that the record is clear.

8 MR. KOBRIN: Okay.

9 THE COURT: The Court will accept and has accepted and
10 has read all of them. Part of that confusion was because we
11 have the two cases. Whether the cases were going to get put
12 together, which we didn't think was appropriate and I'm glad I
13 didn't do that, because one isn't here anymore. But the basis
14 for the deficiency notice then you would see when you have that
15 opportunity to go back and take a look. Each of the affidavits
16 and the rest of them what you see, or probably what you saw was
17 the notice across that says deficiency. There's one document
18 that gets sent. I will tell you that that got sent this morning
19 as opposed to all of the others. And when you review that, it
20 will tell you, in its boxes --

21 MR. KOBRIN: Okay. Thank you, Your Honor.

22 THE COURT: -- what the issue was, and yours is on the
23 last page of the deficiency notice down at the bottom where it
24 says "other." It says the response had the motions needed to be
25 separate pleadings. And that's just a Tyler Technology issue

1 apparently. All right?

2 MR. KOBRIN: Thank you, Your Honor.

3 THE COURT: Nope, no problem whatsoever. As I said, I
4 have no desire to uphold this on a form over substance
5 discussion. It's one we have in chambers all the time about
6 what gets kicked back.

7 So, at this point I'm ready for argument.

8 MR. VIGNARAJAH: Thank you, Your Honor. I'll just
9 start by saying I have great sympathy for Mr. Kobrin and that is
10 new to Baltimore City. And the --

11 THE COURT: We know. We have all the jurisdictions.

12 MR. VIGNARAJAH: The joint motion for expedited
13 hearing I filed along with the order, and it was kicked back to
14 the deficiency because apparently the order has to be in a
15 separate --

16 THE COURT: Envelope or something.

17 MR. VIGNARAJAH: Very sympathetic. May it please the
18 Court, Thiruvendran Vignarajah here again on behalf of
19 Petitioners. With the Court's permission, what I would like to
20 do is to first make sure we get the exhibits that were attached
21 to the filings marked and entered into the record. I do think
22 the record is going to be important here. I don't take the --
23 the Petitioners have no objection to any of the exhibits that
24 were attached to opposing counsel's memoranda. I don't know if
25 there's going to be any objections, but I want to deal with

1 that.

2 Second, I want to talk through the procedural
3 challenges that opposing counsel has raised and the State Board
4 has raised. I want to then talk about the merits. No matter
5 what the Court's ruling, the Petitioners would ask for a ruling
6 on the merits questions because we have a record of that. And
7 then finally, I want to spend a few moments on the options
8 because this is a very practically complicated case. I don't
9 want the Court to get the impression that Petitioners think the
10 only way to deal with this is to halt printing and stop the --
11 when there's in fact a number of other -- both more modes and
12 more suitable approaches to this particular challenge.

13 If I may then, let me start with the attachments. At
14 this time the Petitioners would just ask that attachments 1
15 through 13 be marked and entered into the record as Exhibits 1
16 through 13 so I can make reference to them.

17 THE COURT: All right. And the 1 through 13 have you
18 reviewed in the petition itself?

19 MR. VIGNARAJAH: And Your Honor, for ease of reference
20 I'm referring to the 1 through 13 as marked in the reply filed
21 this morning.

22 THE COURT: All right. And that may be a little more
23 recorded.

24 MR. VIGNARAJAH: And I can approach with copies if the
25 Court needed.

1 THE COURT: And I think you're going to give them to
2 our clerk because your reply has not caught up with MDEC.

3 MR. VIGNARAJAH: May I approach, Your Honor?

4 THE COURT: Yes. And just so you all know, while
5 you're doing that, I don't have any problem if you sit or stand.
6 I don't have any problem if you use the podium, or you use your
7 desk notes. A form over substance discussion, I don't -- it's
8 all too fresh in my memory even though it was 10 years ago.

9 COURT CLERK: Are you marking them all separately or
10 are you marking them collective?

11 MR. VIGNARAJAH: No. Mark them separately.

12 COURT CLERK: Separately. Okay.

13 MR. VIGNARAJAH: Sorry.

14 COURT CLERK: It's okay.

15 MR. VIGNARAJAH: Do you have 13?

16 COURT CLERK: Which one?

17 MR. VIGNARAJAH: It's 13.

18 COURT CLERK: Do you have 11 and 12?

19 MR. VIGNARAJAH: I do. I'm going to go get those
20 signed copies.

21 COURT CLERK: Okay. Yes, sure. As long as they're
22 marked in order.

23 (Petitioners' Exhibit Nos. 1 through 13
24 marked for identification and admitted
25 into evidence.)

1 THE COURT: So, to the people whispering in the
2 gallery, I can hear everything you're saying. So you might want
3 to watch what you're saying. When COVID came about, we in Anne
4 Arundel County continued to hold cases as soon as the Appellate
5 Court let us start trying jury trials again. And that meant
6 that embedded in various locations are microphones because
7 remember everyone had to be six feet apart in order to deal with
8 or address. The good news is I only know that you're saying
9 stuff. I didn't hear what's brought up. I didn't listen to the
10 conversation. It sounds like a bunch of little mice going psst,
11 psst, psst.

12 MR. VIGNARAJAH: You shouldn't have let them know you
13 could hear them.

14 THE COURT: No, no, not in this case. There is no way
15 I'm going to take chance that anything is not above board. But
16 I tell you that because what happens is just a quick
17 explanation. So, in my olden days of 30 plus years ago of law
18 school-ish stuff, when I interned and spent time in the esteemed
19 halls of the Baltimore City Courthouse, you would find a
20 stenographer and they'd be sitting down in front of the Judge
21 and they've got their very little typewriter that nobody could
22 ever figure out how you could get, you know, 26 characters out
23 of seven. And it was not a problem because that person was
24 charged with the responsibility of writing down everything that
25 got said only here. So, questions and answers, the judge's and

1 the lawyers.

2 We are now electronic, hence no stenographer. At
3 least not one in the courtroom. The stenographer is -- like I
4 do this -- in the clouds somewhere. Our court reporter sits
5 elsewhere in our building and is responsible for three court
6 rooms. And it is difficult for them to be able to catch
7 everybody's words if in fact there's conversation taking place
8 that they don't know because they don't see. They don't know is
9 it part of what's supposed to get recorded or what's not. So,
10 just please bear that in mind.

11 The other thing is make sure with the exception of
12 anybody who may be using their cell phone for medical purposes,
13 I have no intention or desire to have you turn your phone off if
14 you're using it to gage, you know a medical circumstance. But
15 other than that we ask that you turn them off. Because, again,
16 the vibration, you know, you're getting all the notations, or
17 notifications for some reason when it comes through the cell
18 phone it has the opportunity to mess our recording devices.

19 So, as the electronics and up to you know, 21st
20 century as we are, we still have issues. I do feel the pain of
21 Baltimore City going through MDEC. We were the first and they
22 were the last. So it's quite a process. Thankfully, I took the
23 bench before I had to be a lawyer to learn how to.

24 All right. So, counsel, we're prepared.

25 MR. VIGNARAJAH: Thank you, Your Honor. And thank you

1 for the opportunity to put this into the record.

2 THE COURT: Of course.

3 MR. VIGNARAJAH: The Petitioners find themselves in an
4 unexpected position because when we filed the petition for
5 Judicial review first under 9-209, and then also under 12202, we
6 imagined that there may be a substantive response with respect
7 to the merits. We not only advised opposing counsel, counsel
8 for the State Board of Elections, as well as counsel for the
9 Baltimore City Board of Elections, but we also advised the City
10 Solicitors Office that this was proceeding.

11 We anticipated that one of those parties might respond
12 on the merits to the question of whether the language of
13 Question F is so incoherent and confusing and difficult to
14 follow that it should be invalidated on that ground
15 understanding settled law from their own Supreme Court. We also
16 thought they might respond to the question of whether this is
17 proper charter material. We do not have an answer on either of
18 those matters, and so while Petitioners are prepared to answer
19 this Court's question. And I certainly expect that to happen,
20 we do hope that there is a ruling on those matters no matter the
21 procedural matters. But I'm going to spend the bulk of my time
22 in these introductory remarks focusing on the procedural
23 questions.

24 As this Court knows Petitioners filed this challenge
25 to a monumentally important charter amendment for the citizens

1 of Baltimore City. It's been nearly 50 years since the
2 footprint of the Inner Harbor, dedicated in perpetuity to the
3 people of Baltimore, has been considered for privatization.
4 Understandably, it is a subject that has animated much
5 conversation and debate within the both political and public
6 quarters of Baltimore. It has also led to a significant number
7 of legal questions.

8 When we filed this petition, we did so only after
9 seeing the first time on September 2nd, 2024. The language of
10 Question F. And the first challenge that was filed under 929
11 was on the grounds that this court in Anne Arundel County has
12 the authority under that title and that subsection to review a
13 decision to certify with respect to the content and arrangement
14 of Question F. We also a few days later filed the petition
15 under 12-202, which permits actions within 10 days of the Act
16 that is at issue. Again September 2nd Certification decision
17 being the Act. We filed that a few days later, raising that
18 original question about the coherence of the question, but also
19 adding a question about whether this is proper charting
20 material.

21 It appears that the state board, which is now decided
22 on merits but instead is questioning the use of these vehicles
23 has a couple of specific concerns about each of these vehicles.
24 And let me make sure I address them in turn. Again, this is in
25 our briefing, but I think there's a number of points I want to

1 highlight. 9-209 is a provision that allows a registered voter
2 to challenge the content and arrangement of a certified ballot.
3 It can only arise after the State Board certifies the ballot.
4 In fact, it makes a cross reference to 9-207, and 9-207
5 specifically says it is the State Board that shall certify. So,
6 the Petitioners couldn't challenge a city certification. They
7 couldn't challenge any step before. The only thing they can
8 change with respect to content and arrangement is the State
9 certification which of course happened essentially on the last
10 day they were permitted to do that, September 2nd, September
11 3rd, September 2nd was Labor Day. Legally, this took effect as
12 I think opposing counsel acknowledged on September 3rd.
13 Petitioners only have two days to file that challenge. And they
14 in fact filed a timely challenge under that provision.

15 Content and arrangement is, we agree, limited. It
16 does not allow for the full panoply of challenges the
17 Petitioners might file. It has to be limited to the content and
18 arrangement of Question F. And each of those terms, in fact, is
19 described and discussed under other subsections of the same
20 type. 9206 talks about the arrangement of the ballot. We don't
21 have a particular quibble with respect to that. 9-205 allows a
22 challenge with respect to the content. And in that section
23 there are two different provisions, one with respect to the
24 content of a question about question, and another with respect
25 to the question of a candidate. The State Board's principal

1 position with respect to this is that the only thing the State
2 Board does, the only thing that they are asked to do by this
3 statute is to look at the certified language from the City to
4 essentially copy and paste it. Put it into a ballot and publish
5 it.

6 We respectfully disagree that that is a fair reading
7 of this statute and there's a number of reasons for that. That
8 we don't think that they have to do a lot but there are some
9 minimum standards that have to be met. And the minimum
10 standards are different with respect to candidates versus
11 questions. So when the State Board invokes Ross, a case that
12 plainly said that candidates the State Board can't be very much
13 at all. In fact, if the candidate is certified that is
14 essentially the end of the inquiry. But the language of 9-205.2
15 is quite different.

16 And the reason I start there, Your Honor, is because
17 Mr. Kobrin and the State Board have essentially insisted that we
18 adopt a textual interpretation of this title under the Election
19 Law Article overall. And we embrace that. We don't think we
20 need to go to legislative history. We don't think we need to go
21 to purpose. We don't need to -- we think actually a review of
22 the text itself makes clear the validity of this challenge. And
23 that is because number one, there's a textual difference between
24 9-205.2 and 9-205.4. 9-205.4 says each ballot shall contain the
25 name of the candidate of each candidate within certified by the

1 state board. That's it. 9-205.2 says each ballot shall contain
2 a statement of each question that has met all of the
3 qualifications to appear on the ballot.

4 Now interestingly, Ross actually said, even though you
5 can't challenge the underlying qualifications of the candidate,
6 you could challenge if the State Board listed the candidate who
7 hadn't been blessed by the State Board, hadn't been certified by
8 the State Board, or failed to list the candidate that had been
9 certified by the State Board. In other words, Ross acknowledged
10 that this Court in a 9-209 setting can police the validity of
11 the State Boards actions under 9-205. So, now let's take that
12 same assumption to 9-205.2. Because 9-205.2 doesn't say a
13 statement of each question that has been certified by the State
14 Board or by the City Board, or has been qualified under 7103, or
15 7102. What it says is each ballot shall contain a statement of
16 each question that has met all of the qualifications to appear
17 on the ballot.

18 So under the logic of Ross a 9-209 challenge permits a
19 voter within two days of the certification of the ballot to
20 challenge the State Board certification with respect to whether
21 or not a statement of each question has met all of the
22 qualifications to appear on the ballot. So the first textual
23 point that Petitioners would emphasize this court is that two
24 and four are just different. And therefore Ross does not
25 control what we are permitted to do here.

1 The second point that is worth emphasizing is that in
2 order achieve the result that the State Board and Mr. Kobrin
3 would like to see here you have to take the phrase all of the
4 qualifications and start by deleting all of the, take out the S,
5 so there's only one qualification. And then interpret
6 qualification to refer solely to the qualification that is in a
7 different title, 71203. That is certainly the case we submit
8 that that is one of the qualifications. Interestingly, that
9 runs down a number of qualifications that happen at the local
10 level. So, that may be one of the requirements that have to be
11 satisfied. But it is not the only one.

12 And there's at last three reasons why we think that is
13 the fair interpretation of all of the qualifications. First is
14 it says all of the. It's not one qualification, it's all of the
15 qualifications. The plain language of that is anything that
16 could be a qualification they've got to make sure that it was
17 satisfied.

18 The second thing is that the end of the sentence says
19 all of the qualifications to appear on the ballot. Now, the
20 qualifications in Title 7 say nothing about the appearance of
21 the ballot. That's simply to qualify by the City Board or by
22 the City Solicitor to kind of go up to the next level. It's a
23 threshold qualification. This is a qualification for a ballot
24 to appear -- sorry, for a question to appear on the ballot. And
25 that naturally dovetails with the third observation which is,

1 and you'll remember we all did this in law school. We looked up
2 words to find out what their dictionary definition is. We
3 looked them up in Black's Law dictionary. We looked them up on
4 Merriam Webster. And both of those provide very interesting and
5 very clear definitions.

6 Under Black's Law it is qualities and properties that
7 have to be achieved in order to achieve some privilege.
8 Qualities, that's where qualification comes from. Does it have
9 the qualities to get to the next level. Merriam Webster
10 actually says it's conditions and standards that have to be
11 complied with in order to achieve a particular result. Canons
12 of construction, as this Court know require us to apply the
13 ordinary meaning. And to in fact look at dictionary definitions
14 and assume that the legislature knows the dictionary definitions
15 when it writes these words.

16 Well, interestingly, qualifications, particularly as
17 defined as standards and conditions, makes a nice connection to
18 9-203, which is captioned standards. Petitioners respectively
19 submit that they have, at a minimum, explicitly pointed to that
20 section. But at worst have said that all of the qualifications
21 to appear on the ballot. And in interest a bit, that the
22 natural commonsense reading of this is to include amount the
23 qualifications the 9023 standards.

24 THE COURT: So, you believe that 9-205.2 reverts back
25 to 9-203 if it doesn't meet the qualifications -- or I'm sorry.

1 If it doesn't meet the standards of 9-203 it -- therefore under
2 the content requirement for this State Board it would have to be
3 found to be deficient?

4 MR. VIGNARAJAH: That is exactly right. And if I can,
5 Your Honor, in 9-203 you'll note that a number of the standards,
6 the qualifications, are the kinds of things that you might look
7 at to determine whether or not something's appropriate to appear
8 on the ballot. Which again is language that's only in 9-205.2
9 and not 9-205.4. It has to be -- each ballot has to be easily
10 understandable by the voters. Each ballot has to present all
11 candidates and questions in a fair and non-discriminatory
12 manner. Each ballot shall permit the voters to easily record a
13 vote on questions and/or the voters' choice among candidates.

14 I think it's important to note here that these are not
15 superficial features I understand the State Board's reluctance
16 to weigh in. I get it. Mr. DeMarinis is not going to invite me
17 to his summer BBQ if we prevail here. Because the State Board
18 is gonna now have to look at these and decide whether or not
19 their language is fair and non-discriminatory, whether or not
20 it's easy to understand. It is more work for the State Board,
21 but we respectfully submit that that is what the legislature in
22 plain language has asked of them.

23 It is particularly interesting that if we adopt Mr.
24 Kobrin and the State Board's interpretation not only do we have
25 to ignore the textual difference between 2 and 4 under 9-205.

1 Not only do we have to delete certain words and add others to
2 limit qualifications to refer back to a different title, but we
3 also need to essentially delete 9-203. And the reason for that
4 is because there's only two relevant agencies that review this
5 at all. The City Solicitor for a proposed charter amendment and
6 the State Board. Under State law, the City Solicitors
7 responsibilities are de minimis. In fact, as long as it passes
8 the General Assembly under 7102, it is qualified for that
9 threshold requirement. And in fact the City Solicitor's letter
10 in this particular case, this is Exhibit 13, actually reminds us
11 of how de minimis a role the certification is.

12 This letter's not going to say that this certifies
13 that it complies with all requirements of law, which would
14 happen with a signature petition Charter amendment. It does not
15 say that we've reviewed this for -- all it says is pursuant to
16 the applicable provisions, the undersigned City Solicitor hereby
17 certifies that the questions set forth in the resolution and
18 verified by the true stamp is of local concern to the people of
19 Baltimore City and is to be submitted for their vote for
20 approval.

21 The City Solicitor basically said that this matters to
22 the people of Baltimore, here you go. There is no certification
23 under the provisions that govern the City Solicitors
24 responsibility that require them to do anything besides pass on
25 some words to the State Board. So the State Board is now left

1 to be the only entity that may have a responsibility to apply
2 and enforce 9-203 standards. If they don't do it, no one will.

3 THE COURT: Let me ask you a question. And in looking
4 at the exhibit, which is the document dated August 2nd. Doesn't
5 the City Solicitor actually say it has been reviewed for legal
6 sufficiency. It has been reviewed to at least surmise that it
7 has been reviewed for the purposes of legitimacy in its last
8 sentence it says, "You'll note the resolution pertains to the
9 amendment and the Charter of Baltimore City you'll note that
10 we've provided the form in which the proposed amendment is to be
11 submitted to the voters, which has been drafted and approved by
12 the Department of Law." Suggesting that the Office of the City
13 Solicitor for Baltimore City has reviewed it to me, if I'm
14 reviewing something that's approved by the Department of Law I
15 would hope that they do the same thing that we do which is you
16 look in a law book and you make sure it complies.

17 So, isn't there a preliminary presumption that the
18 City Solicitor's office has in fact done exactly what you're
19 saying they haven't done. Which is review it for ease of
20 understanding and meeting the requirements of 9-203?

21 MR. VIGNARAJAH: So what --

22 THE COURT: Or did they not get there?

23 MR. VIGNARAJAH: Anytime a government agency acts I
24 would like to apply that presumption. I would. The problem
25 here is that actually the way in which a City Solicitor in a

1 Baltimore Board of Elections reviews for example and contrast a
2 Charter amendment which comes about by a signature petition is
3 quite different then the review that is under the title 7
4 entitle 9 for what happens when it's passed by a resolution. In
5 the former case there are substantive provisions that have to be
6 complied with. The law requires them to make sure that it's
7 consistent with law. You'll know, of course, that just last
8 month there was a case that went through the Maryland Supreme
9 Court involving the baby bonus. And the tax cuts and in those
10 cases, the Baltimore City Board of Elections found that one of
11 them did comport with the law and that was challenged by the
12 City Solicitor.

13 And the other one, the Baltimore City Board of
14 Elections found that it wasn't consistent and compatible with
15 State law. In that particular context, they are by statute
16 required to do what you're presuming the City Solicitor did
17 here. There is no record evidence that that has happened.
18 There is nothing that the City Solicitor submitted. There's
19 nothing on the face of this except for that parenthetical at the
20 end. And I would note it is a parenthetical. And there is
21 nothing that the Attorney General's office has provided to
22 suggest that. In fact the Attorney General's office on behalf
23 of the State Board has said we did nothing.

24 So, let's just assume for a moment that the City
25 Solicitor did do that hard work. Even in the scenario where she

1 evaluated it. She wanted to make sure was crystal clear.
2 There's still a judgment that needs to be challenged there.
3 That judgment in argument has to be first challenged by the
4 State Board and then ultimately by the voters. In that 40-hour
5 window we can challenge it. When the agency makes the
6 determination within its expertise, some measure of deference is
7 sometimes owed to the State board. But I appreciate Mr. Kobrin
8 and the State Board acknowledging forthright that they made no
9 determination. They made no judgment. So there is no deference
10 owed. And there is no record evidence the city solicitor did
11 anything besides writing it in what she thought was an
12 appropriate way and passing it along for State's certification.

13 I do think it is a feature of this law that there's no
14 other place besides 9-203 for an assurance by agency to make
15 sure that it's easily understood. Now, I respectfully submit
16 that this is going to become a textbook illustration of what is
17 not easily understood. I literally think students are going to
18 read this case for why you shouldn't write things this way.
19 We'll get there.

20 But even before we get that, we have to understand
21 that just imagine this might not happen in Baltimore City but
22 imagine another jurisdiction passing a Charter amendment that is
23 really dangerous in my humble view. A charter amendment that
24 said we are going to abolish a woman's right to choose in, I'm
25 not going to single out a county. Some county and that county

1 says here's the language that we're submitting. Would you expect
2 this from Baltimore City? Perhaps not. But a jurisdiction and
3 these laws are here for good and bad actors. The jurisdiction
4 might pass such a thing, and they might pass on language just
5 for a moment bear with this hypothetical that says for the
6 purpose of abolishing a woman's right to choose in this
7 particular county. Please indicate whether you are for or
8 against this. If you are for this, check here. If you are
9 against this, please provide your name, age, and address. That
10 would plainly, on its face, violate two provisions of 9-203. It
11 is not presented in a non-discriminatory and fair way. It puts
12 on the thumb on the scale of one particular instance. And it
13 also doesn't protect the secrecy of each voter's choices. It
14 suggests that there might be extracting information that is out
15 there.

16 The State Board is the only person that can police
17 that to make sure that that is actually not certified. And if
18 the City Solicitor for that particular county says, we think
19 it's fine and passes it on, there must be someone to police
20 this. And the reason I use that kind of exaggerated
21 hypothetical is because these provisions again are not
22 mechanical. They're not superficial. They're about privacy.
23 They're about fairness. They're about non-discrimination.
24 They're about ease of comprehension. Those are substantive
25 requirements that are in the language that the General Assembly

1 posts. And as a result we respectfully submit that there is a
2 vehicle for us to use in this particular instance.

3 I'm going to turn if it's okay, there's no further
4 questions about the 9-202 vehicle to the 12-202 vehicle. Again,
5 I appreciate the State Boards forthrightly --

6 THE COURT: Before you do that.

7 MR. VIGNARAJAH: Yes.

8 THE COURT: Do you intend to go backwards and discuss
9 what you believe then, the deficiencies are under 9-203 or --

10 MR. VIGNARAJAH: I will, Your Honor. If you don't
11 mind -- I'm happy to do that now or I can do it first thing --

12 THE COURT: No, no. I just want to make sure you're
13 going to do that.

14 MR. VIGNARAJAH: I certainly will.

15 THE COURT: All right.

16 MR. VIGNARAJAH: That's the fun part. When we talk
17 about 12-202 the State Board has forthrightly acknowledged that
18 they believe that is actually the proper vehicle to bring a
19 challenge with respect to the comprehensibility, if that's a
20 word, of the ballot language. So if we can get around this
21 concern about whether the timeline should be pegged to September
22 2nd or August 2nd, the state has conceded that this is a proper
23 vehicle to bring this challenge. This, in our view, is answered
24 by two Maryland Supreme Court cases that make clear what
25 expectation of diligence is applied to the voters of Baltimore

1 City or any other jurisdiction.

2 In Abrams, which many will remember as the case
3 involving the challenge Tom Perez's qualifications when he ran
4 for Attorney General, the Maryland Supreme Court put in a
5 footnote. It was Dikta (phonetic) in that case. It was then
6 cemented in the law in Aviani (phonetic). I'm not sure if I'm
7 pronouncing that right. The Abrams Court said that we do not
8 allow voters to bury their head in the sand. To avoid starting
9 the 10-day clock by going on vacations. Which is what happened
10 in that particular case and therefore not learning about things
11 that are in public circulation. That are in the media.

12 In fact, the Maryland Supreme Court in that footnote
13 said the two sources upon which we expect voters to consult to
14 rely are number one media coverage, and number two, the State
15 Board's website. Neither of those sources would have supplied
16 the language of Question F until September 2nd. Neither of
17 those sources ever discussed or reported on the certification by
18 Baltimore City's Law Department to the State board. There are a
19 number of reporters here in the courtroom today. And there have
20 been a number of reporters that are covered developments in the
21 course of this saga. But there was nobody that covered that
22 particular act.

23 If you are a member of the public and you read all the
24 papers and watch all the stations you would never have learned
25 that the City Solicitor which issues press releases on any

1 number of other issues had in fact sent the language of
2 Question F to the State Board. And that's important because not
3 only was it not there, those minimum requirements that the
4 Maryland Supreme Court put in place, not only could you not have
5 found it there, you were talking about a case where Petitioners
6 were the opposite of burying their head in the sand. We have
7 submitted emails to the State Board, to the Attorney General
8 representing the State Board, Mr. Kobrin in fact. As well as to
9 the City Solicitor starting in April and extending through July.

10 In that four-month span, Mr. Ambridge, who we use as
11 an example repeatedly, I'll call it nagged, lawyers in the
12 Attorney General's office and City Solicitor's office for what
13 he was perfectly entitled to in our view. Which was would you
14 please tell me what you are about to publish because I'm worried
15 you're going to write it in a way that's unfair. He had a
16 conversation as he attests in his affidavit with the City
17 Solicitors representative, Ms. DiPietro, and then the next day
18 referring to that conversation, said, "Please let me know." She
19 didn't respond. A few days later he sent an email again. At
20 that point on May 13th, Ms. DiPietro responded, and I'm just
21 going to read this, the question was, "Can we review this? I'd
22 like to provide input." He was asking for more than just to
23 review it. He wanted to provide input as well. But Ms.
24 DiPietro said on May 13th in response to an earlier
25 correspondence on May 13th and before that April 19th, "As

1 expected the answer is no. There will be no input from any
2 group or individual other than those required by the law. The
3 Law Department will comply with the requirements of the various
4 Court decisions concerning the conduct -- content and drafting
5 of the ballot question."

6 Just to go back to what you asked earlier, Your Honor,
7 it is interesting to note that she doesn't say that she will
8 consult and conform with the applicable standards in a title.
9 She says she's going to look at the decisions and the decisions
10 are important, but they don't actually involve the standards at
11 all. So, there itself is perhaps one additional fact that I've
12 ever stumbled upon for why that may not be a fair assumption.
13 But the reason I bring it up here is because Mr. Ambridge was
14 told by the City Solicitor that they weren't going to give him a
15 chance to provide input.

16 So then the next month he contacted the Attorney
17 General's Office. And he actually wrote a very thoughtful e-
18 mail explaining his concerns. This was in July. He sent it to
19 General OAG account. And then he found Mr. Kobrin's e-mail and
20 sent it to him and asked him to confirm that he got it. He
21 addressed it directly to the Attorney General, Mr. Brown. I'm
22 not going to read the whole thing as part of the record, but I
23 do want to emphasize a couple of points.

24 One of the things that was said is,

25 "There is a group of concerned Baltimore City

1 residents, of which I am a member. We have great concern
2 about the proposed change to our city charter. Our
3 immediate interest now is to ensure the language as
4 presented to our citizens represent the true meaning of
5 this proposal. As such we who are represented would like
6 to review in a timely fashion with you before it is sent to
7 the State Board of Elections for certification. And with
8 ample time suggest changes to same. We are counting on you
9 as our Attorney General."

10 In the previous paragraph, he actually ends by saying
11 the language must be certified by August 2nd. I don't know if
12 he's referring to which of the two deadlines. I think he might
13 be getting wrong, but the State Board of Elections by the State
14 Board of Elections to ensure truth and title, I urge you to
15 review that as PDF 4th and edit is appropriate to reflect the
16 actual meaning of the issue.

17 Mr. Abrams and so many others were under the
18 impression that ultimately it was the Attorney General and the
19 State Board that would be editing it and playing with it and
20 fiddling with it and certifying it. That was the assumption
21 that they were under. There are attached to Ms. McDonald's
22 (phonetic) affidavit a number of sample posts on a Facebook
23 group with 1100 members that was created in December,
24 particularly for this issue. There are countless posts
25 criticizing the language after the fact, but more importantly,

1 there are a number of posts before September 2nd, where active
2 members of the Community are wondering out loud, questioning
3 when the language will come. Out when is it available.

4 You know, Mr. Ambridge actually responded to one of
5 them and said I've actually been told that we can't get.
6 There's others that say I believe it's going to come out on
7 September 2nd. There are people on September 2nd that said I
8 thought we're going to get it today, but it's Labor Day. There
9 are people that are not burying their head to sand. They're
10 begging for it. Could they have filed an MPIA request and
11 gotten it? Could they have contacted somebody in a particular
12 office who would have been a comfortable sharing immediately?
13 Perhaps. Perhaps a particular lawyer would have said I'm gonna
14 assert deliberative privilege. Not fairly in my humble view,
15 but they might have said it's deliberation. That's what they
16 wanted you to assume. That it was under deliberation and
17 therefore subject to deliberative privilege.

18 But even if that is what they could have done, that is
19 not the standard of law. In fact in Aviani, where they applied
20 the Abrams standard of saying you have to be either in a -- on
21 the State Board website or in media coverage. The Court there
22 said there's been little or no coverage of the information upon
23 which this challenge was brough. And in fact the only way they
24 got it was through an MPIA request. But here's what's
25 interesting. They didn't say, well, actually you got it from an

1 MPIA request. But the information existed two months earlier.
2 In fact it could have listed six months earlier when his
3 opponent first certified. That is not the point from which they
4 counted. Because if they had then Mr. Kobrin would have a very
5 good argument. But they only had a month. So, even if you had
6 some nominal rule that they have to apply for an MPIA, you have
7 to get an MPI request in on August 2nd, get it back and then --
8 it's just not the standard.

9 You can't bury your head in the sand, but you don't
10 have to go dredging up public offices that might or might not
11 share it with you. I think this is an instance where as much as
12 it would be nice for academic reasons to give a clean line on
13 August 2nd, because that's when the language was first
14 formulated. Respectfully, if the City Solicitor had issued a
15 press release. Which they were entitled to do, apparently
16 available subject to an MPI request if the reporters had filed
17 an MPI request and gotten it, and they put on the website. And
18 then our petitioners had delayed their challenge beyond the 10
19 days we would have a problem. Because then it would have been
20 out there, within public circulation. And they would have had
21 an opportunity to perhaps to challenge it. They might have
22 still thought, well, this isn't the final language, Mr. Kobrin
23 and the Attorney General, and Mr. DeMarinis are presumably
24 weighing through 203 to make sure this is easily understandable.
25 They might have thought that. But in an abundance of caution

1 they might have filed a challenge under 12-202. But in this
2 instance where neither the City nor the State Board actually
3 decided to publish it, they had no way of knowing it.

4 I will end this part by noting that though the
5 deadlines are August 2nd and September 2nd respectively for the
6 City Solicitor and the State Board, nothing prevents them from
7 sharing it in advance. Soon after this a resolution was passed
8 in March. The City Solicitor has said, we're gonna put this
9 language out there to get some input. We want to make sure that
10 easily understandable. And then she said, we're going to
11 finally certify this to the State Board in June. Giving the
12 whole summer for people to potentially decide whether they want
13 to bring a challenge or not. It would likely take about 10 days
14 if she had done it and said this is the final language and the
15 State Board said we actually have no role.

16 But they didn't do that. They dragged their feet too,
17 so this compressed timetable that we're now all stuck in is at
18 least in part because the Maryland's laws as Mr. Kobrin said to
19 me before the hearing, these were written a long time ago for a
20 very different world today, and surely there is some room for
21 improvement. But those laws are as they are. And then you add
22 to that the decision by the City Solicitor not to share. You
23 add to that the decision by the Attorney General's Office not to
24 share what they believe was public, affirmatively.

25 And also the decision not to extend not something that

1 is likely an obligation but is perhaps a professional courtesy.
2 Nothing stopped Ms. DiPietro from contacting Mr. Ambridge or
3 contacting the media and saying, look, I know there's a lot of
4 people that are anxious to see the language we have now
5 submitted it to the State Board. I want to give you a courtesy
6 copy.

7 In fact, the MPIA requires people to respond within 30
8 days. So, those letters, those emails that were filed in July
9 asking for this that would have extended into August and in
10 theory if you ask for a document that hasn't yet been formed but
11 then is formed during that 30-day window, there's an argument
12 they're obligated to do it. Whether they're legally obligated
13 or whether it's a simple professional courtesy, Mr. Ambridge and
14 the people of Baltimore got none of it. And so the first time
15 they could see it was September 2nd.

16 That day is interesting for two reasons that we
17 mention. September 2nd is a Monday, it's Labor Day. It is 64
18 days before the General Election. If Mr. Ambridge and the other
19 Petitioners had read every word of every statute as I know Mr.
20 Kobrin has, they would have seen that there are two places where
21 the law of Maryland specifies that the language of the question
22 must be displayed. One of them is in 7105, which is titled
23 Publication of Questions. So, if you're looking to find out
24 when it might be published you might go there. It says, "The
25 complete text of questions shall be posted or available for

1 public inspection in the Office of the State Board and each
2 applicable local board for 65 days prior to the general
3 election." That would actually been Sunday, September 1st.
4 Because this is not posted on the State website, again written a
5 little bit before that time it would be posted in the physical
6 office. The first time they could have seen it was Tuesday,
7 September 3rd. Labor Day was the Monday.

8 The other provision is in 9209. And that says that --
9 excuse me, 9207. "The State Board shall certify and publicly
10 display," this is when they're first required to do it. "The
11 content and arrangement of each ballot for a general election at
12 least 64 days before the election. The state courts have
13 publicly display the content and arrangement of each certified
14 ballot on its website." And they did that. They did what the
15 law required under both Title 7 and Title 9 they published it 64
16 and presumably 65 days in their physical office.

17 THE COURT: May I ask you a question and I --

18 MR. VIGNARAJAH: Of course.

19 THE COURT: I will confess that the question I'm going
20 to ask you is from the now dismissed petition. But that's where
21 the document was. Was there not some question of the language
22 of the ballot occurring between September 2nd, September 3rd,
23 and September 4th. And so therefore that one of the questions
24 that remains in my thought process, at least as to the issue of
25 laches, which is what we're talking about.

1 If the Board or the AG's office was unsure, I don't
2 want to use the word confused, because that's for a different
3 discussion. Unsure as to whether or not the language is
4 proposed, and we know we're talking about which is the term Key
5 highway versus highway. What if any significance is that to the
6 finality discussion of what's presented to the voters on the
7 website for purposes of knowing what their two-day time frame
8 starts.

9 MR. VIGNARAJAH: It's a perfect question and just for
10 the record, we have included the record, the correspondence back
11 and forth that relates to that.

12 THE COURT: Okay.

13 MR. VIGNARAJAH: I think you're referring to the
14 letter first from the City Solicitor back to the State Board
15 staying we are under the impression that you're wondering about
16 whether key needs to go before Key highway. And then gives an
17 explanation the following email from Mr.
18 The letter, first from the city solicitor back to the state
19 board, saying we are under the impression that you're wondering
20 about whether key needs to go before Key highway and then gives
21 an explanation to the following e-mail from Mr. DeMarinis writes
22 back to the City Solicitor's office, copied the Mayor's office,
23 and says, "Okay. But do you want us to include key or not?
24 Please respond." And then actually Martin James, the Chief of
25 Staff to the Mayor replies, not the City Solicitor

1 interestingly, and says, "Yes, thank you."

2 There is some back and forth there and I don't think
3 that's necessary for Petitioners position, but I think your
4 point is well taken. Because the Petitioners respectfully
5 submit that what happened was actually because of the engagement
6 of the Petitioners. This was posted on Monday night, Labor Day
7 in the evening hours. You will see actually some of the
8 Facebook posts about immediately saying what's wrong with this,
9 what's wrong with that. And they flag the key in Key highway
10 missing problem.

11 THE COURT: Right.

12 MR. VIGNARAJAH: It is the very next day that this
13 back and forth happened. And in fact ultimately there's a
14 modification. In fact, the first time I saw it had already been
15 changed. So when some of the Petitioners said there no, we have
16 a copy that says there's no key. I was confused. It happens so
17 quickly. What happened after the public saw it. So it wasn't
18 final. Even then there was some back and forth. And I
19 respectfully think that just confirms that Mr. DeMarinis wasn't
20 just copying and pasting and posting. He actually was reading
21 it to see whether or not it made sense. Maybe he wasn't doing
22 as much as he --

23 THE COURT: That's my next question. So my next
24 question then is with regard to the discussion that we still,
25 sir, are gonna have. But the discussion of whether or not the

1 State Board has a responsibility or even has the ability, let's
2 not talk about responsibility. State has the ability. If the
3 code says you're to do A, B, and C. Make sure it's clear. Make
4 sure the content works. Make sure that, you know, it's got a
5 valid letter or a number depending on what type it is. Whether
6 or not it has a clear title so that people know when they look
7 at it what we're talking about. Does it have a descriptive
8 title? Should everybody in the City of Baltimore know the Inner
9 Harbor Park means Inner Harbor. Whatever that definition is of
10 Inner Harbor. As a county person I'm not sure I can delineate
11 it as easily as those that live there. But, it is that then
12 some acknowledgement that not only it's difficult to argue
13 laches when the other side is not sure, but also that until we
14 have the wording that's going to appear on the ballot it doesn't
15 really matter what all the other language is. That's the
16 timeframe.

17 We now have this language. It does have Key in it.
18 Somebody told him to put it in. Whether it was a citizen's
19 group who communicated with the Mayor's office. The Mayor's
20 office who communicated with whoever. Whoever it is is that an
21 acknowledgment, and I'll ask counsel at the same time when he
22 gets his chance, that there was an obligation to use the police
23 it earlier, to police the language to make sure that it's clear,
24 concise, and understandable.

25 MR. VIGNARAJAH: I think there is and I'm not going to

1 pretend this is my point, it's yours. But I want to reinforce
2 it in two ways. One, it's important to note that if you are
3 going to bring a challenge about whether or not something is
4 challenging or not, I mean is confusing or not, if we had used
5 the language from August 2nd it wouldn't have been the final
6 language. I think that's part of your --

7 THE COURT: Right.

8 MR. VIGNARAJAH: -- point. But the other piece of
9 this is I actually note that the exchange between the City
10 Solicitor's office and State Board actually references, which
11 would be more confusing or not.

12 THE COURT: Right.

13 MR. VIGNARAJAH: And that of itself is telling that
14 there is some conversation about whether or not keeping key in
15 or out is more or less confusing. Oddly the City Solicitor's
16 office says we thought it would be less confusing if we kept Key
17 way highway out. I think the attorney said whatever highway did
18 you think you're referring to, when in fact there are a number
19 of other highways that transverse the City of Baltimore. But
20 then they came back --

21 THE COURT: If you understand the definition of Blacks
22 or Merriam highways. Highways are defined legislatively.
23 Sometimes different than they are in Blacks, or --

24 MR. VIGNARAJAH: Correct.

25 And even if you do know the definition there still are

1 multiple highways. But the other piece of it is that when
2 they're going back and forth deciding this the City Solicitor
3 actually reverses the position and says actually we're fine
4 including it. Which now means they're including what they
5 though would be more confusing which I can tell -- but there's
6 so much more that's wrong with that description that I don't
7 think that word is the critical piece. But it does to your
8 point reflect it back and forth that I think makes laches
9 particularly inapplicable here. And let me end the procedural
10 discussion with that.

11 In order to apply laches, you need unreasonable delay
12 on the one hand, and substantial prejudice on the other. I
13 think there would be substantial prejudice if Petitioners
14 marched in here and said stop the presses. Don't mail ballots
15 out this year. You know, erase them all and start reprinting
16 them. That is not necessarily what we are asking. And so there
17 are remedies that would themselves reduce the prejudice.

18 But I for the record do need to make sure that the
19 Court is aware that because this is a state matter and because
20 the State administrator under 9208 and this Court under 12-202-
21 02 and 929 has substantial authority on how to remedy this
22 situation this Court can direct the State Board to do things
23 that will ensure that they are not out of compliance with state
24 law. That is something that falls within the equity powers of
25 the State board.

1 Mr. Kobrin is very astute on this point, which is why
2 he emphasized that the State can't force the State Board to
3 violate federal law. That is true. The problem is that Mr.
4 Kobrin and the State Board neglect to mention that there is an
5 outlet. There's a waiver provision in the very law the Mr.
6 Kobrin says imposes the deadline.

7 You are permitted to apply and obtain a waiver upon
8 hardship exemption. G2 of that same USC code and one of the
9 ways in which you can apply for a hardship exemption is if you
10 are unable to generate the balance because of a legal contest.
11 And that was something that was and presumably still is
12 available to the State. Because there is an active legal
13 contest that may be complicating their ability to do their job.
14 And importantly in the context of that legal contest recall that
15 as byzantine as state laws might be, there is an elegance to one
16 piece of this. An elegance that Mr. Kobrin and the State Board
17 recognized in a briefing to the Maryland Supreme Court just
18 three weeks ago.

19 The opportunity for Mr. Ambridge and others to
20 challenge the content and arrangement is limited to two days.
21 They have to do it by Thursday. And Friday happens to be the
22 first day, three days after, --

23 THE COURT: They can print.

24 MR. VIGNARAJAH: That they can print. And Mr. Kobrin
25 actually wrote this in the brief where he said you have two days

1 to challenge. You can't print until the three day. And he says
2 if no judicial review is sought, comma, the State Board may
3 begin printing. He recognizes that that may justify taking a
4 minute. Ultimately up to them. They may have thought that our
5 petitions were not particularly meritorious. They may have
6 thought, even if they are meritorious, we still got to get to
7 the printers. But there is a window for them to reflect.

8 So, that prejudice too is something that is diminished
9 by the structure of the law. You put that provision, that two
10 day versus three day give, combined with the hardship exemption
11 under federal law. And we think the State Board can and should
12 have taken corrective steps to diminish their -- to do their
13 part to diminish the overall impracticability of the situation
14 in which we find ourselves.

15 I'm going to take a take a breath and see if there's
16 any question before I turn to the Merit's issue.

17 THE COURT: No, go ahead.

18 MR. VIGNARAJAH: Let me start with the one that is
19 more fundamental. And let's be clear, the Maryland Supreme
20 Court is going to need to ultimately weigh in because there is
21 some question marks around whether or not proper Charter
22 material includes what we believe is a pure legislative
23 enactment. But, the language of Cheeks, the language of its
24 progeny, including Save Our Spots. The language of the Maryland
25 Constitution which empowers counties and the City to engage in

1 home rule to form a charter. Also says that charters are
2 special. They're not for ordinary policy statement. They're
3 not for legislative enactments. They're in order to organize.
4 Organizing principles of government.

5 And so when you have a charter that is so defined a
6 Charter amendment according to Cheeks, Save our Spots and the
7 Maryland Constitution has to go the from and structure of
8 government. Now we have outlined what we believe is a fair
9 articulation of how the Maryland Supreme Court cases work with
10 one another. We believe that the fair interpretation that is
11 that the first question is does this go to the form and
12 structure of government? If it doesn't you're out of luck. You
13 can't do a charter amendment about, you know, a resolution for
14 Christmas Day. You can't do a legislative enactment about
15 \$1,000 for every family. That because that does not go to the
16 form and structure of government you're out of luck.

17 But there are some creative arguments that one could
18 make a different context, not this one. As to how something
19 peripherally affects the form and structure.

20 THE COURT: Let me stop right there a minute. Don't
21 we have a predicated problem in that, would you say 50 years ago
22 a legislative body, a Mayor of a city, the voters of the city
23 allowed this term. And it became a piece of the charter. And
24 the only way to change a piece of the charter, at least as I
25 understand the argument is to go back to the voters. So is

1 there, did you find any law, any cases that would say when --
2 and I'm not suggesting this is correct, or that I would do that,
3 but if section 9 shouldn't have been there in the first place
4 that you're stuck with it. That in '16 when they modified, as I
5 recalled, nobody challenged then.

6 MR. VIGNARAJAH: Yeah.

7 THE COURT: So you're stuck with it. So now the only
8 way that -- I struggle and let --

9 MR. VIGNARAJAH: Great question.

10 THE COURT: -- I guess a legislative disclosure. I
11 thought about that Anne Arundel County. And in the County's
12 counsels' obligations for both charter amendments and zoning. I
13 can look at it no matter how I read we're talking about zoning.
14 And knowing that the structure of the two, municipal versus the
15 County are different. I haven't sat on our County counsel for
16 11 years. And lived through Anne Arundel County zoning. It
17 struck me as difficult in that there's a piece of me that kept
18 saying why is there simply not a legislative discussion?
19 Legislative fix for lack of a better word. Although being
20 mindful of the reporters here, I don't mean fix like fix. As
21 legislative correction, how's that. A piece of legislation that
22 would simply say in the areas identified by the charter as
23 public places.

24 Here's what our zoning's going to look like. It's
25 going to allow for A, B, C, D, E, F places. Okay. And I like

1 in my though process to having to do the drafting gymnastics in
2 the creation of government reuse facilities in Anne Arundel
3 County in which there's only one. And having to go through the
4 challenges of whether it's a spot zone or like could you do
5 that? But we're talking about somewhere in the code, in your
6 charter, I mean in your code sections where it discusses what an
7 happen in a public park or open space or community property.
8 Whatever the title the city uses.

9 I'm struck with that in the back of my head, and I
10 haven't decided how that fits, that if we're going to change as
11 this amendment suggests. I'm not sure how, but if it's going to
12 change the intercity -- I mean Inner Harbor in that we're now
13 going to have multi-family dwellings, apartments, condos.
14 Whatever that looks like for whatever happens. Is that not a
15 legislative meaning, City Council function of zoning, as opposed
16 to an amendment? And if the answer to that is yes, what do you
17 do with the difficulty that this particular identifiable public
18 park happens to be in your charter?

19 MR. VIGNARAJAH: Yeah. Lot of terrific questions in
20 there we have wrestled with a little of them in a briefing but
21 candidly, very superficially.

22 THE COURT: Okay.

23 MR. VIGNARAJAH: In our briefing in our original
24 petition to the very end, we contemplated three potential
25 responses. One of which was your zoning point. Because there

1 actually are a number of zoning regulations that are then put to
2 the voters. It almost seems as though zoning is something that
3 can do that. But in my research it did become clear that
4 there's a distinction between a piece of legislation that has
5 passed the zoning legislation that is part of the legislation
6 needs to be approved by the people through a referendum. So
7 it's not amending the Charter, they're just building into the
8 legislation, and it has to be blessed by the people. So that is
9 not going as hard -- as not altering the rules of government.

10 THE COURT: Right. Familiar with those.

11 MR. VIGNARAJAH: Of course.

12 THE COURT: So now we have this predicament where we
13 have a --

14 MR. VIGNARAJAH: And this one --

15 THE COURT: -- zoning buried into a charter.

16 MR. VIGNARAJAH: Correct. And so we have a couple of
17 responses and I'm going to end by noting what the Maryland
18 Supreme Court said about this argument just a month or so ago.
19 If the Charter was never supposed to include a zoning regulation
20 around the Inner Harbor but the voters, Mayor Schaefer, the
21 Courts blinked in 1978 and blinked again in 2016. The remedy to
22 that is not to allow improper charter material, correct that.
23 In fact, presumably the correct fix would be to legislatively
24 challenge it. In theory, we have seen instances where improper
25 charter material found its way into the law. McDonald is

1 actually a great example of this. Where the Supreme Court
2 ultimately retroactively struck down something that had been
3 passed and was in the charter. The governmental immunity
4 provision that was in there was then struck down afterwards.

5 So, there's nothing that stops the developer from
6 saying I want to challenge the Inner Harbor Park protection.
7 And look Petitioners are not gonna love this in the long run,
8 but they're gonna, you know, you have to understand that this is
9 a fight. The developer in theory could challenge the validity
10 of the 1978 and 2016 partitions on the ground that it's not in
11 proper charter material. What you can't do is try to achieve
12 what you're supposed to get through judicial challenges through
13 too wrongs make a right approach.

14 The other thing I would note, Your Honor, is the
15 Maryland Supreme Court could certainly fashion an exception to
16 this foreman charter problem. For this scenario. They could
17 say, for example, in this is why you need the Supreme Court to
18 write some new law. They could say, for example, when you have
19 improperly embedded into your Charter something that is not
20 proper charter material. Though people and the legislature must
21 have a remedy, but that remedy is to repeal it wholesale. You
22 can't take a scalpel to it and remove it, because that is really
23 quintessential legislature.

24 If the problem we're trying to fix this it was
25 improper, then what they should do is repeal it and you may want

1 to give that power to legislature. I respectfully think that
2 the Mayor and City Council would have a much harder time trying
3 to get the voters to take away Inner Harbor Park altogether. So
4 what they've done instead is to try to do something very nuance.
5 Apply a scalpel and remove 4.5 acres, transfer it to private
6 developers. That is something that is quintessentially
7 legislated, and I don't think that you could do that the. And
8 the third thing I -- Go ahead.

9 THE COURT: No, no. I just don't want you to -- you
10 mentioned McDonald. Isn't McDonald the Anne Arundel County --
11 make sure I'm thinking the right one. The Route 3 Anne Arundel
12 County median strip.

13 MR. VIGNARAJAH: I'm thinking of Cheeks, Your Honor.

14 THE COURT: You're thinking Cheeks. You said McDonald
15 and I'm thinking, wait a minute, I know McDonald.

16 MR. VIGNARAJAH: I'm not going to present I got a lot
17 of sleep last night, Your Honor. The --

18 THE COURT: That makes two of us. But in McDonald it
19 was -- there is a tangential parallel in the sense that in the
20 McDonald case it was the median strip of Route 3 and a
21 designation for an attempt at designating to put in front of the
22 voters of Anne Arundel County an area that was going to be
23 developed using streets and, you know, markings. And then it --
24 when you looked at it and back then -- I don't remember with
25 McDonald we had Google Maps or not, but you -- they couldn't

1 figure out where it was. And the determination was if you can't
2 tell me what it is you're asking me to do then it can't be done.
3 And almost the 9203 argument.

4 I haven't looked at McDonald till this morning, so for
5 that, I guess I'll thank you both for the last minute, three
6 o'clock brief. Isn't that what we have here?

7 MR. VIGNARAJAH: I think that's right, Your Honor.
8 And I do think to your questions on whether or not you can fix
9 it later because it's improper charter material. There they
10 invalidated it. Different grounds but you can --

11 THE COURT: Right. In that case they went to the --
12 right. You're on the front end, they run the back end.

13 MR. VIGNARAJAH: Correct.

14 THE COURT: I clearly understand the distinction. And
15 in that case, you know, one wonders where were they? Why didn't
16 they file? Why aren't they in the front end versus backend?
17 But in that both in the language and even in the ditto
18 (phonetic) it brought that same sort of discussion which was
19 interestingly enough it is only because of the Monday morning
20 quarterbacking did the ballot question that was invalidated
21 because it wasn't proper.

22 MR. VIGNARAJAH: Yeah.

23 THE COURT: It was turned down by the voters of Anne
24 Arundel County. And whether it was turned down because they
25 couldn't understand it or turned down because they didn't want

1 development on Earth, one will never know. Sort of like you try
2 to ask the jury when they did something, we'll never really know
3 why they did it. They just did it. But it didn't change. I
4 think that's my point by McDonald was it didn't change the fact
5 that despite being able to have that lookback to see what did
6 the voters do, it didn't change the fact that it wasn't a proper
7 turn.

8 MR. VIGNARAJAH: Correct. And in fact if I can just
9 use this as an opportunity to note that I think these cases make
10 clear that you can challenge this before or after it passes.
11 There would be another context in which it might do it. You
12 have to wait for a direct controversy, a case and controversy to
13 come up in the Inner Harbor context and then have an opportunity
14 to review it. But Maryland Supreme Court cases have made clear
15 that they prefer front end challenges, so again the question of
16 laches, we did it as quickly as we could.

17 But I do think the last point I wanted to make back to
18 your question about when the charter amendment is in there, what
19 can you do to reverse it in the Supreme Court argument about the
20 Renew Baltimore map, the tax cut. There was an exchange with
21 the justices and the attorneys because one of the attorneys
22 tried to invoke a tax cut provision in another county and the
23 justice said, well, nobody challenged that, did they? And her
24 point was you can't take the fact that it passed and is there as
25 evidence that that was proper charter material.

1 And we think the baby bonus is a great hypothetical
2 illustration. If the City of Baltimore had not challenged that,
3 remember the -- well, Baltimore City Board of Election certified
4 it. It would have gone to the voters. Let's say it had been
5 passed. It had then become ensconced in the Baltimore City
6 Charter. The notion that once it's in you can do all sorts of
7 things with it because not all of its proper charter material.
8 I don't think that's common sense. I think in the future a
9 change, let's say they move it from \$1000 to \$2000. That could
10 have been challenged that could have been challenged in proper
11 charter material too, and the fact that the first one was kind
12 of grandfathered in may get you again, Maryland Supreme Court
13 have to say this, a chance to cut it out altogether. But you
14 can't apply a scalpel to something that was defective in the
15 first place.

16 THE COURT: Okay.

17 MR. VIGNARAJAH: For these reasons, we think that this
18 is improper charter material and therefore are being validated
19 on the front end right away. Because we don't think that either
20 side should have to expend resources advocating and lobbying for
21 something that is ultimately improper charter material.

22 But the final thing that I want to end with on the
23 merits question is this charter and I'm going to do this mostly
24 because I won't be able to see my page if I try to refer to it.
25 And I'm just going to show this to opposing counsel for a

1 minute.

2 THE COURT: You don't really expect me to be able to
3 read that do you?

4 MR. VIGNARAJAH: No, I don't. But you have a copy of
5 it. It's for me really, Your Honor.

6 THE COURT: All right. It's fine.

7 MR. VIGNARAJAH: So, the first think I'm going to show
8 you is this is improperly labeled this question but the language
9 on the right is actually that 2016 charter amendment that you
10 referenced. In 2016 the people of Baltimore voted to allow
11 eating places to be permitted in what is referred to as Rash
12 Field and West Stone Park -- Westshore Park. Excuse me. This
13 was the language that the City Solicitor submitted that was
14 blessed by the State Board. That was presented to the people of
15 Baltimore that won overwhelmingly. It said resolution Number
16 1629 is for the purpose of amending the Baltimore City Charter
17 to expand the area within the Inner Harbor Park in which outdoor
18 eating places can be located to include areas known as West
19 Shore Park and Rash Field. That was it. That was how simple a
20 charter amendment could be.

21 You'll note in particular that the City --

22 THE COURT: They're not waiving that should -- it
23 might not have been.

24 MR. VIGNARAJAH: It might not have been -- we're not
25 on the question of whether it's comprehensible. Forgive me,

1 Your Honor. We think that too might have been an improper
2 charter deal. Absolutely. But if we don't prevail there on the
3 question of whether or not this is sufficiently comprehensible,
4 there is simple, clear language that the ordinary voter of
5 average intelligence can understand. Language that is
6 sufficient to make clear the purpose and effect of the
7 amendment.

8 You'll note in particular that the City Council, the
9 Mayor, the City Solicitor, and the State Board did not feel it
10 necessary to include what is referenced as a metes and bounds
11 description of the Inner Harbor. Why 80 of the 133 words in the
12 2024 version had to go through the nooks and corners of the
13 Inner Harbor Park in a way that is genuinely difficult to trace.
14 It is beyond me but more important it is not supported by
15 precedent. There are clear ways to write this. And we are not
16 entitled to the clearest version. The Court has made that
17 clear. We are entitled to a version that is sufficiently clear
18 as not confused or mislead the voters.

19 And as we explained in our brief, there are three
20 features in particular that we point to. The first is, and
21 these are the three touchstones that we think come out of the
22 cases. The first is that this language is genuinely confusing.
23 And I noted, and again it's included in the exhibits that are
24 now into the record, a number of posts from Facebook. Where a
25 lot of people many of them with a bias said all sorts of things.

1 What is the exact wording will be? What's up with that? I got
2 nothing to release the language in July. And you've got folks
3 that are trying to decipher this, and they say things like never
4 seen such a long, run-on sentence in my life. Missing commas
5 makes it hard to read too. Their wording is confusing with all
6 the rambling on about intercardinal directions. It's a series
7 of diversions to make people decide fast in the booth (phonetic)
8 with only a superficial understanding the issue.

9 There may be a positive with it cutting both ways with
10 people who think about the towers filling in the wrong box.
11 Hey, a guy can dream. All day long and twice on Sunday. LOL,
12 who wrote that. In all caps. This is not dispositive of
13 course, Your Honor, and these are people on a forum that is
14 devoted to this issue. They were not clients. Many of them are
15 not Petitioners. They are amount the 1100 people that were
16 On this message board. But it is conspicuous how quickly people
17 said I can't understand it.

18 There's one post in particular that we thought was
19 very telling. It's 14E, the attachment. A well-known architect
20 has placed a copy of the ballot, including Question F as well as
21 Question H. And he mentions a catchy phrase that a lot of
22 people are using about the F-no campaign. And he says vote F-
23 no. Then a person responds and says why? No to public parks?
24 She actually thinks this is for public parks and doesn't
25 understand why somebody who supports public parks would vote no.

1 And then there was a conversation explaining to this person that
2 that's actually not what it means. And then she responds, "oh,
3 I see what they're trying to do. This fix is in. I get it
4 now." That is the reaction of ordinary citizens getting their
5 authentic reaction on Facebook posts. That doesn't mean this
6 court has to submit to that. It doesn't have to surrender to
7 it. But we think that's a fair reading of why this is so
8 confusing.

9 But the second feature of this is a particular
10 grammarian's problem. And I wanted to try to spell out why this
11 is confusing. Number one found a lot of words that have nothing
12 to do the real effect of it that are preceding the actual
13 effects. But number two, because of the way the sentence is
14 structured it's actually difficult to tell when the amendment is
15 referring to the power as it is and when it shifts to talking
16 about the park as it will be.

17 And I think we put in our briefing five different
18 places where the clause could end. Grammatically correct places
19 where the clause could end that would suggest whether this is
20 the park as it is or as it will be after the amendment. One of
21 them, by the way, is at the very end. It could just be one full
22 description of the part as it is, or as it will be. And the
23 result of that is you don't know whether it ends after that
24 clause, or that clause, or that clause, and again we put in
25 color ink the different clauses where it could end

1 grammatically. There is no way for a voter to know which
2 they're voting for, what is happening. And that we believe is
3 misleading.

4 The Maryland Supreme Court in particular has said that
5 language that makes it impossible to know which way is up and
6 which way is down that even if you know what you want you don't
7 know which way to cast your vote. That is particularly
8 misleading, and that is what we have here. And the final
9 feature in order to avoid belaboring the point is that there is
10 --

11 THE COURT: I'm going to have you stop for one second.
12 I want to reread it.

13 MR. VIGNARAJAH: Okay.

14 THE COURT: The section. I don't have the benefit of
15 your color copy but, Question answers for the purpose of
16 amending the provision dedicated for public park uses the
17 portion of the City that lies along the northwest, South and
18 South shores of the Inner Harbor South of Pratt to the Water's
19 Edge, East of light, to the Water's Edge and north of the
20 highway to the Water's Edge from the World Trade Center around
21 the shoreline of the Inner Harbor, including Rash Field, for the
22 maximum of 4.5 acres north of and easterly extension of the
23 south -- obviously I get a little lost, but from the South side
24 of Conway Street plus access thereto to be used for eating
25 places, commercial uses, multifamily residential development and

1 off street parking of the area used for multi dwelling,
2 multifamily dwellings and off street parking is excluded from
3 the area that is dedicated as the public park or for the public
4 benefit.

5 My question to you, maybe it will be my question to
6 the party that's not here. Which would have been the solicitor.
7 What are they talking about? No, no. I don't need that to be -
8 - no, no, no. I don't mean it for that reason. Please. And
9 I'm not being facetious about it. I'm asking that as an honest
10 question. In my head I see the Inner Harbor. I obviously know
11 where the World Trade Center is. I know where the aquarium is.
12 I will be honest and tell you in preparation of understanding
13 the question I attempted to map it. Okay. I used Google Map
14 just as a tool for me for comprehension, not for any purposes
15 for, you know, a legal mechanism. Because I didn't want to make
16 a presumption that wasn't an appropriate presumption.

17 And I, to be honest with you, I couldn't remember
18 where the direction was for Rash Field. So, I was trying to
19 understand where the boundaries were, but my question what I
20 don't understand is in reading it in the context of 9203 about
21 comprehension, I go back to the McDonald case where I'm trying
22 to make an assertion on the clarity of the language is the
23 4.5, which I understand used to be 3.2 is the 4. -- and it
24 doesn't count me back in my amendment. Okay. So, I don't have
25 a comparison when I'm looking. And I also don't have a

1 comparison or an understanding I'm going to make a presumption
2 that 4.5 acres of land, wherever it is in the horseshoe and the
3 other area. Could all be then multifamily uses, no eateries, no
4 commercial. It could be eateries, commercial, half an acre, so
5 there's not a -- that back part would be left up to whoever it
6 is going to be involved in whatever the development is. Is this
7 then -- I guess because when I read it I have the advantage in
8 the way I have on materials, I have § 9. I can look at § 9 and
9 then I can look at the question and sort of parse where it fits
10 in.

11 The last part obviously is the Inner Park § 9 isn't in
12 here. It doesn't make mention of what happens to property over
13 at West Park, West Shore Park or Rash Field. It doesn't make
14 mention of whether the 4.5 effects or doesn't affect the 3.4
15 which we know is the Science Center. So in terms of that, the
16 case law talks about having to read charter amendments in both
17 whole and context. So you can't just take a sentence out of
18 place and say well, I'm going to disallow because of this or
19 allow it because of this. You have to look in whole and
20 context. And I'm struggling with the whole.

21 MR. VIGNARAJAH: I'm certainly not going to do the job
22 of the City Solicitor, but as an officer of the Court just let
23 me tell you two things. I think what they might say is because
24 there's a metes and bounds description in the current charter we
25 were trying to track that. The problem of course is that that

1 does not help anyone, as you pointed out, that doesn't have the
2 original charter to be able to see almost like a track changes
3 in a Word document what is happening. Your other point I think
4 it's something that we do --

5 THE COURT: Because you're increasing, I guess there's
6 two pieces that I've --

7 MR. VIGNARAJAH: Yeah.

8 THE COURT: -- you're increasing the amount available
9 now for eateries, commercial and housing.

10 MR. VIGNARAJAH: Yeah.

11 THE COURT: From 3.2 to 4.5. But then it says they're
12 going to exclude from the area dedicated as a public park. But
13 in the original § 9 it doesn't exclude the 3.2 --

14 MR. VIGNARAJAH: Correct.

15 THE COURT: -- it defines almost the permitted use
16 within the, again, about doing the discussion about should it or
17 shouldn't it. It included in the definition of the park or in
18 the in the charter amendment of the park that we're going to
19 we're going to identify a park and we're going to say by the
20 way, within the park, we're going to give you a use. The use
21 can be no more than 3.2. Sort of the tax cap discussion.

22 MR. VIGNARAJAH: Right.

23 THE COURT: It can be no more than 3.2. It can always
24 be less, but it can't be more. At it's going to include these
25 two types of uses. Now we're gonna include or increase, but

1 then take out of the Park definition?

2 MR. VIGNARAJAH: I will -- when we turn to remedies,
3 submit the Petitioners view is this is so off the spectrum of
4 clarity to confusing that it is irremediable.

5 THE COURT: Okay.

6 MR. VIGNARAJAH: I happen to know, however, what
7 they're trying to do. They're trying to do three things. They
8 are trying to expand the --

9 THE COURT: Don't tell me that. Because I don't want
10 to have the development thought in my head.

11 MR. VIGNARAJAH: Great. Well, no, no, no, no, no.

12 THE COURT: I am blissfully ignorant about what they
13 want to do because of --

14 (cross talk)

15 MR. VIGNARAJAH: I was not going to say the ultimate
16 purpose. I mean what this charter amendment is intending to
17 accomplish as I understand it is to expand the area where
18 commercial uses are permitted from 3.2 to 4.5 acres.

19 THE COURT: Okay.

20 MR. VIGNARAJAH: To add two additional commercial uses
21 to all of those 4.5 acres. Right now it's commercial uses and
22 eating places they want to add multifamily dwellings and off
23 Street parking. So two additional uses for all 4.5. And then
24 because of something that the City Solicitor pointed out in an
25 earlier letter back in November --

1 THE COURT: Yeah. Private homes can't --

2 MR. VIGNARAJAH: They had to extract it from the park.

3 And this is the part that I think so many of the Petitioners,
4 again, not within politics of this, find problematic, in part
5 because this part is not clear. They are not only expanding
6 commercial uses from 3.2 to 4.5, 3.2 is nowhere mentioned there.
7 Not only are they adding two additional uses, and by the way,
8 the way they list it, it's not clear that they're adding two.
9 It makes it seem as though eating places, off street parking,
10 multifamily, and commercial use, they're on the same legal
11 status. They're all all-in or all-out. That's not true Two of
12 them are currently in already. They're the other two that are
13 being added.

14 But the last part that they don't make clear is that
15 this has to be excised from the public park it has to be removed
16 as public Parkland, in order for these multifamily buildings and
17 off street parking to go there. Because that private use is
18 incompatible with a public park land.

19 THE COURT: Right.

20 MR. VIGNARAJAH: So because the City Solicitor's
21 astute observation they needed to take it out. The problem is,
22 and I pointed this out again, when we looked up the dictionary.
23 The way they do that is they put this phrase, "With the areas
24 used for multifamily dwellings and all street parking as
25 excluded from the area dedicated as a public park." But as

1 excluded as has 10 different definitions in Merriam-Websters.
2 And eight of them suggest that that is what it currently is.
3 Like, we are doing this as it presently is. While, when, those
4 -- so this actually gives the impression to eight out of 10
5 definitions that this is what it currently is, not what it's
6 going to be.

7 So lots of different ways this could have been
8 rewritten. I don't know that this can be revised. But the
9 bottom line is that this is so difficult to decipher that an
10 ordinary voter of normal intelligence, let alone judges and
11 lawyers and urban architects and many other interested parties,
12 cannot trace the mouth. They cannot know what the context is.
13 They cannot know the purpose or effect. It literally violates
14 every one of the touchstones that the Maryland Supreme Court has
15 put in place as the kind of test we do to determine whether or
16 not something is easily understandable. And whether or not it
17 is under that precedent or the standards in 9-203, we believe
18 that this is struck down.

19 If I may, Your Honor and I I'm sure opposing Counsel
20 does want to talk today. I want to make sure we spend a few
21 moments on the range of remedies that are available. I have
22 confirmed with the petitioners and despite the decision that the
23 State Board has made understandably to start printing. We don't
24 believe the remedy that's appropriate here is to halt printing
25 and reprint the Baltimore City ballots. Not only would it be

1 expensive and not sure it's feasible given the other deadlines
2 and other solutions that we have.

3 We respectfully submit that there are four potential
4 solutions to this particular case. The first one, which is what
5 we believe is appropriate under these circumstances, what we
6 will certainly ask the Maryland Supreme Court to do is to simply
7 invalidate this. And I want to express why we believe such a
8 final solution is needed here. Why such a dramatic step is
9 needed here. Charter amendments are supposed to be hard.
10 They're supposed to be the kind of thing that happens with some
11 rarity.

12 You will know that two years ago there was a group
13 that tried to get a charter petition to cut property taxes. And
14 another one that tried to get a charter amendment to establish a
15 transit party. And another one -- they failed two years ago.
16 And then they came back, and two of them went back to the well
17 and collected 10,000 plus signatures, and it passed. And after
18 it passed, it was challenged. And it was struck down.

19 And those groups and those individuals, those citizens
20 that believe in those important things are going to have to go
21 back to the well again and determine whether there's another way
22 to write a charter amendment that would conform with the
23 Maryland Supreme Court's jurisprudence and also accomplish their
24 goal. This is a situation where Baltimore City has elected to
25 take the highest risk path to get this accomplished. They

1 waited until the very end.

2 They didn't allow Mr. Ambridge or former councilman or
3 anyone else to weigh in on the language. They published it to
4 the State Board but did not circulate it to the media or the
5 press or put it on their website. And then the State Board,
6 understandably but they've got enough to do, published it on
7 their last day. And now we are in this compressed schedule
8 where the Maryland Supreme Court is likely going to weigh on
9 this after ballots go out.

10 In a circumstance like that we don't believe that it
11 is appropriate to try to figure out a way to get the City
12 Solicitor to rewrite this. They had their chance. They had an
13 opportunity to take up Mr. Ambridge who in good faith said,
14 "We're going to fight this, but at least speak clear to the
15 people of Baltimore what they're trying to fight." He was
16 declined. He wasn't entitled to do it. But it was an
17 opportunity the City Solicitor and the City of Baltimore could
18 have taken up and didn't.

19 And in that circumstance where they take the risk of
20 what might happen if this gets struck down we believe the
21 appropriate remedy is to invalidate it. And if this was a
22 sentence missing here or a sentence missing there, there is a
23 third solution that might have solved it which is something that
24 they did, I didn't know this, a couple years ago where they
25 required the State Board to circulate and insert along with the

1 ballots. So, the ballots went out, but they also added an
2 insert that clarified a particular question.

3 I don't know how you can clarify this certainly in
4 less than 150 words. You could try to replace it, but I don't
5 think that's fair because now you're going to have two charter
6 amendments. And insert that's clear-ish and one that's not
7 clear at all. And that's going to be confusing. So, I don't
8 know that an insert is a viable option. It's not a preferred
9 option. But it is an option if frankly the City Solicitor was
10 here and wanted to take that up. I don't know that the State
11 Board would think that was feasible.

12 But the second solution, one less dramatic than
13 invalidation altogether is to remand this to the State Board.
14 Petitioners respectfully submit that they didn't do the job they
15 were supposed to do, in part because of their interpretation of
16 their obligations under the State law. If this Court concludes
17 that their obligations are somewhat higher than what they
18 perceived an appropriate remedy might be to remand to them and
19 give them a chance to certify or not certify and then to
20 evaluate that. And if this was happening two months ago that
21 might have been a perfectly feasible natural solution.

22 THE COURT: You mean for a 9-203 evaluation?

23 MR. VIGNARAJAH: Correct.

24 THE COURT: But that doesn't change the fact that if
25 the Court finds it's improper charter material then the

1 responsibility of this Court and then presumably the Supreme
2 Court if they agree, would be that the valid question would be
3 invalidated.

4 MR. VIGNARAJAH: That is correct.

5 THE COURT: The proper charter amendment because it
6 had improper charter material.

7 MR. VIGNARAJAH: That is exactly right. Which is why
8 we think a number of these solutions are not viable because it
9 depends on the latter. But the last thing that I would suggest
10 is that you could in theory pause and reprint. And again, this
11 I think is not feasible, but there are circumstances when the
12 State administrator could order it.

13 My only point in laying out these options is the
14 Petitioners are not trying to be unreasonable. They don't like
15 this amendment. They're all going to vote against it. They're
16 going to encourage their friends to vote against it. They're
17 going to try to educate their voters about why they should say
18 no and not yes because of what they are trying to accomplish.
19 But ultimately there is such a set of fundamental defects that
20 we believe on constitutional ground as well as statutory grounds
21 the proper remedy for this court is to invalidate Question F for
22 the State Board. If it elects on procedural grounds to appeal
23 that to the Maryland Supreme Court. And for them to have the
24 final say.

25 THE COURT: Okay.

1 MR. VIGNARAJAH: Thank you, Your Honor.

2 MR. KOBRIN: Your Honor, may we have a brief -- brief
3 four-minute recess?

4 THE COURT: Yes. Yes, I thought you were going to ask
5 for that. Or somebody was. That's fine. If not my Clerk. All
6 right. So, we're going to take a five-minute recess and then
7 we'll come back, and I'll hear arguments as well.

8 THE CLERK: All rise.

9 (At 11:20 a.m., recess in the proceedings.)

10 THE COURT: All right. Everybody have a seat. We are
11 back on the record in C-02-CV-24-002246. Counsel are all
12 present in the courtroom, and I'm prepared to hear the State's
13 position.

14 MR. KOBRIN: Thank you, Your Honor. And again, for
15 the record, Daniel Kobrin, Assistant Attorney General on behalf
16 of the State Board.

17 I think it would be useful briefly for the Court and
18 for this case, to just briefly go through who plays what role
19 here, because we have a lot of different actors; right? We've
20 heard about the Attorney General, the State Board, the City
21 Board, the City Law Department, and the City Council.

22 So, let's first talk about there are lots of different
23 ballot questions. In fact, there are two types, and we love
24 them both equally. There are those that originate with local
25 governments for charter amendments or -- not necessarily local

1 governments, but by the legislative process. The General
2 Assembly can put a ballot question on the ballot. A local
3 government can do it. And then there are those that originate
4 with the petitioning process.

5 They are governed by two different sets of laws, but
6 they have to be governed otherwise the same because they both
7 end up on the ballot, and importantly the strictures of Title 9,
8 the ballot content and arrangement provisions, and the ballot
9 uniformity, and all the other provisions about the ballot in
10 Title IX have to apply to both equally.

11 For a question that originates with legislative
12 authority -- I think that's the best way to put it -- the State
13 Board of Elections has almost no role or authority to
14 countermand what a legislative authority or a question-drafter
15 does. And we're talking here about Title 7 of the Election Law
16 Article. There are five provisions. They govern how a ballot
17 question gets on and appears on the ballot.

18 For a legislative authority, the question qualifies --
19 and that's the word that the statute uses -- the question
20 qualifies when the legislative authority passes what it needs to
21 pass. For a charter amendment it's 7-102(c), and it's the
22 moment the County Council, or the County Commissioners pass the
23 legislative instrument, the resolution, that says there's going
24 to be a charter amendment, a proposed charter amendment, the
25 question has qualified. That means there's a spot on the

1 ballot. There's going to be a question on it.

2 The State Board at that point has no authority to say,
3 "No, there isn't." Title 7 does not give the State Board any
4 authority to say, "We don't think that's a legal questions," "We
5 don't think that's charter material," "We don't think that's
6 appropriate." If it is passed by the legislative process, which
7 has its own guardrails and review processes, and reviews, it
8 simply arrives at the State Board office and it earns a spot on
9 the ballot.

10 Once that happens, the question then is what fills
11 that space; right? We need a question itself. There's one
12 instance where the State Board gets to talk about or at least
13 look at and write the language of a question, and that is when
14 the General Assembly passes a law and wants it referred to the
15 voters of a single county. So, not a constitutional amendment.
16 A law that will only apply in one jurisdiction and therefore
17 needs to be posed to the voters of one jurisdiction.

18 Under those circumstances, the State Board and the
19 language in 7-103 is drafts -- or I'm sorry -- prepares and
20 certifies. Every other circumstance where a ballot question
21 goes on the ballot is assigned to someone else. For
22 constitutional amendments to the state constitution, the
23 Department of Legislative Services and the Secretary of State do
24 all the work. They prepare and certify the question. It is
25 certified to the State Board.

1 The State Board receives the certification. At that
2 point, the State Board can't tell another member of the
3 executive branch no. There's no authority to do so in the
4 Election Law Article. For local governments, for
5 municipalities, it's the municipal attorney. Here, we're
6 actually talking about local governments. The statute uses the
7 language "county" but county is defined in the Election Law
8 Article as including Baltimore City.

9 THE COURT: County is Baltimore City.

10 MR. KOBRIN: Yeah. So, it is the -- essentially the
11 City Attorney in Baltimore City which is the City Law Department
12 and the City Solicitor. The City Solicitor, before the 95th day
13 preceding the election, prepares and certifies the language of
14 the ballot question. The end.

15 Once again, the State Board receives it. There's no
16 countermand provision like there is in Title 6. And I'll get
17 into that in a moment. The last statutory piece I want to set
18 up here for the Court is that it's not just the City Solicitor.
19 Let's say it's 94 days before the election, or we're past that
20 95th day deadline and no language has come from the City
21 Solicitor, the statute has a backup: the Clerk of the Circuit
22 Court.

23 It falls on the Clerk of the Circuit Court to prepare
24 and certify the question. And so, when we start talking about
25 remedies or what SBE could do here, we have to start talking

1 about if there's a countermand, who does it go to? But we'll
2 get into that in a moment. Everything I've just said, it's kind
3 of a straight line from the legislative authority to the drafter
4 to the SBE stands in stark contrast to Title 6, which is
5 petitions.

6 Petitions are popularly generated. They're not
7 necessarily generated by governmental offices. And so, there
8 needs to be some guardrails and the Election Law Article places
9 them there. A petition has to be filed with an election
10 authority. For charter amendments, that's the local Board of
11 Elections. And I say that, again, because I haven't said the
12 words local Board of Elections yet when I described everything
13 having to do with legislative questions.

14 The Baltimore City Board of Elections had absolutely
15 nothing to do with this case, did nothing because they had no
16 authority or duty to. They're not an actor.

17 THE COURT: Right. Right.

18 MR. KOBRIN: When we talk about charter amendments, or
19 really any petitions dealing with a county or a specific local
20 jurisdiction, it goes to the local authority, the local Board of
21 Elections, and specifically the Election Director of that Board
22 has a statutory duty under 6-206 to make a determination when
23 that petition is submitted. Okay? This is before we start
24 counting signatures, which is the last part of the process.

25 Before you start counting signatures and using the

1 county and state's resources, the Election Director has to make
2 a determination as to the petition's sufficiency. That means
3 its form is right. That means there's on its face enough
4 signatures, and importantly, based on the advice of legal
5 authority -- and that's in the statute -- the Election Director
6 has to go to their local Board Council. In Baltimore City,
7 that's the Office of the Attorney General, by statute, and the
8 Election Director has to seek legal advice about whether, one,
9 the petition tries to do something illegal, establish a law that
10 it can't or that is in violation with another law; or place a
11 candidate's name on the ballot who doesn't qualify for the
12 office they're running for; and two, whether the petition
13 violates any other law.

14 And so, there, you have express authority for an
15 Election Director to say, "You've given me this petition. This
16 petition has a proposed question on it, or a proposed charter
17 amendment, and I can look at both of those things and I can
18 determine whether they are legally sufficient to move forward
19 onto the ballot." And only if they are legally sufficient, and
20 there's enough signatures, the Election Director is permitted to
21 certify the question for the ballot.

22 So, that review that the Petitioners are arguing the
23 SBE should undertake, the policing, looking at the language and
24 seeing if it's clear enough, or looking at the charter amendment
25 and determining if it's something that can even go inside of

1 Baltimore City's charter, SBE has no authority to do that. If
2 SBE did that, we'd be in court with the City of Baltimore
3 arguing you can't do that, put that on the ballot.

4 It's simply, frankly, a rock and a hard place, where,
5 yes, the SBE is the repository for all this information. It
6 receives all of it, and then it places it on the ballot, but it
7 otherwise has no functional role in legislatively led questions
8 to fundamentally change them.

9 Which takes us to the Title 9 provisions, the ballot
10 itself. SBE is responsible for the content and the arrangement
11 of the ballot. The content and the arrangement is how the
12 ballot looks; what does in it, so that SBE can't say, well,
13 we're just not going to have questions this year, or we're not
14 going to have candidates for this office. And the arrangement,
15 which I don't think anybody is arguing about here today. But
16 you know, how big the bubbles are. Can you make on big bubble
17 bigger than the other? No. That would be unfair and
18 discriminatory which is what 9-203 is talking about.

19 But ultimately, when we're talking about the Title 9
20 role, it is the design of what is now PDFs to insure that those
21 PDFs, those ballots that are being pulled together over -- I
22 believe the affidavit I submitted is something like 1900
23 different styles in this election -- are all uniform. They all
24 contain the requisite information and offices and questions.
25 And that they are all arranged fairly and understandably.

1 So, we're going to talk later, especially in the 12-
2 202 discussion about what acts were taken and by who, but the
3 acts here that the State Board took were the receipt of
4 certification, and the certification of content and arrangement.

5 With that being said, 9-209, we're talking about
6 content and arrangement. So, what is content and arrangement?
7 And ultimately, Petitioner's argument here is not that this
8 question wasn't qualified, or this question wasn't certified.
9 Their argument is it should not have been; that in March of
10 2024, March 11th, the City Council shouldn't have passed that
11 resolution because that resolution creates a charter amendment
12 that is not charter material; that does something with the City
13 Charter they're not allowed to do; and that on August 2nd, the
14 letter to the State Board of Election that certified the
15 language of the ballot question was in violation of the Election
16 Law Article.

17 THE COURT: So, let me ask you a question about that.
18 When I look at that August 2nd letter --

19 MR. KOBRIN: Yes.

20 THE COURT: -- which is contained in the file, and
21 that letter does not make that information public. How could
22 that be a known or should have known date for Petitioners if
23 there was no way that they would have even known that that
24 August 2nd letter exists?

25 MR. KOBRIN: Sure. Let's talk about two ways; one

1 legal, one factual. Okay? Legally, the City Solicitor had to
2 write that letter on or before August 2nd. And these
3 Petitioners, and specifically Mr. Ambridge who is the only
4 person we have a sworn affidavit of supporting the petition, Mr.
5 Ambridge knew or should have known that August 2nd, again, set
6 out by law, and set out by the State Board's election calendar.
7 You can go to the SBE website right now. There's an election
8 calendar that lays out the exact date of every event that
9 happens in the election season and its source in law.

10 Every citizen in the state, every voter in the state I
11 should say, is on notice that there are certain election
12 deadlines. And Mr. Ambridge knew that letter that he wrote to
13 the OAG that Mr. Vignarajah read to you, August 2nd wasn't a
14 mistake in that letter.

15 It says certification to the State Board on August
16 2nd. Mr. Ambridge knew when certification was. There is no
17 excuse, no reason has been given for why Mr. Ambridge had all
18 these discussions, April, May, July, and was completely silent
19 until September 3rd. As of August 2nd, this entire state was on
20 notice that that language had to be certified. We put an
21 affidavit --

22 THE COURT: Well, is -- I don't know that that's
23 legally accurate because what I heard you say was that if the
24 City Solicitor doesn't do their job on August 2nd, somebody else
25 comes in, the Clerk of the City Court, and has to do it. So, to

1 simply say, "We should know absolute that the City Solicitor
2 took that action," they don't know that. They don't know if
3 because something is not taken August 2nd, that they don't know
4 until -- let's say the certification has to happen by September
5 2nd, I think was the date; right?

6 MR. KOBRIN: The State Board certification, yes.

7 THE COURT: The State -- right. State Board
8 certification has to happen on September 2nd. It's not until
9 that timeframe that, one, the voters even know that the City of
10 Baltimore followed their own procedure to make sure that they
11 turned in what they were supposed to turn in on August 2nd;
12 isn't that correct?

13 MR. KOBRIN: Yes. But you have a month-long period in
14 which they did nothing.

15 THE COURT: And in that -- and in that month -- nor
16 did the State. So, in that month, what would they do? So,
17 let's say they do an MPIA, which seems to be the only vehicle
18 that the world is acknowledging should have happened at that
19 point, what's the first thing that the AG's Office or the City
20 Solicitor does? Thank you very much for your receipt of
21 information. Please be advised under MPIA, I don't have to give
22 you a response for 30 days.

23 So, then, they have created the legal fallacy that by
24 filing an MPIA, they'll get the language of the ballot. They
25 cannot say to the City of Baltimore, and I want you to use a

1 shorter window of time to produce that information, because they
2 don't have the legal authority, the statutory authority to
3 require the city to act more prompt than 30 days. And at the
4 end of the 30 days, let's say they filed it exactly on August
5 2nd, and that would have brought you to September 2nd, which
6 would have brought you to the Labor Day problem.

7 But let's say there was someone in the City
8 Solicitor's Office on September 2nd who then said, "I didn't get
9 this done." So, then they follow the prescribed, "I couldn't
10 get it done in 30 days," and they send the notice that says, "I
11 couldn't get it done in 30 days. I'm going to give it to you in
12 15," and now they're outside the window.

13 MR. KOBRIN: So, you have created a hypothetical --

14 THE COURT: Of course.

15 MR. KOBRIN: -- in which they started with the
16 request. But to do nothing, and that is -- Petitioners bring up
17 Ademiluyi (phonetic), and forgive me. That's how I pronounce
18 it. Again, we're not going to stipulate on a pronouncing,
19 because I have no idea either. But in Ademiluyi, it was an MPIA
20 request that generated the sufficiency of the suit; that a
21 person's party affiliation is not something that gets posted on
22 SBE's website, and so an MPIA request was appropriate, was
23 answers, and since they filed the day after the MPIA request, if
24 we were in court, and nobody had responded at the City
25 Solicitor's Office to an MPIA request until September 3rd, 2024,

1 I would have no argument because then there would be force
2 behind the argument to say and MPIA request took too long. But
3 to do nothing doesn't give that argument force.

4 THE COURT: How can you argue they did nothing when
5 they asked for months?

6 MR. KOBRIN: Asked who?

7 THE COURT: The City Solicitor for months.

8 MR. KOBRIN: They asked the City Solicitor --

9 THE COURT: Information and the City Solicitor did
10 nothing.

11 MR. KOBRIN: Because there was no language. There was
12 nothing to give.

13 THE COURT: That's my point. That's my point. There
14 was nothing to give. So, on August 2nd, a date they don't know
15 it --

16 MR. KOBRIN: Why don't they know it, though? And they
17 do know it.

18 THE COURT: Because they're not sitting in your office
19 or the City Solicitor's Office knowing the date.

20 MR. KOBRIN: But they are writing letters to the
21 Officer of the Attorney General saying, "On August 2nd, this
22 must be certified to the State Board." We do have that
23 evidence.

24 THE COURT: Right. It must be. But what if it
25 wasn't? It must be certified to the Board, unless of course it

1 wasn't, because then it goes to the Clerk's Office.

2 MR. KOBRIN: But Your Honor is --

3 THE COURT: And nobody even at that point -- I guess
4 had that not happened, had the City Solicitor not done their
5 job, then perhaps the question would be to the City Solicitor,
6 having not -- I guess the letter might have said, "Having failed
7 to certify as required, has this matter been referred to the
8 Clerk?" And perhaps they would have gotten the same silence
9 from the City Solicitor's Office that they'd gotten before.

10 MR. KOBRIN: But Your Honor, again, we're dealing with
11 laches; correct? Laches is an equitable remedy where you are
12 looking at the case before you and the circumstances before you.
13 And Your Honor is presenting meritorious arguments about
14 hypotheticals that had they happened, essentially had the City
15 Solicitor caused more delay, more delay would have been
16 justified. But that didn't happen.

17 THE COURT: All right. So, let's talk about a more
18 specific --

19 MR. KOBRIN: Sure.

20 THE COURT: All right? So, it's not hypothetical. On
21 September 3rd and/or September 4th, the State Board of Elections
22 didn't know what the language was because there were
23 communications back and forth between the State Board and the
24 City about the language in the charter, in the amendment. So,
25 therefore, until the City and the State agreed to what was going

1 to be placed on the ballot and therefore on the website, they
2 don't have -- they don't know if there's something to challenge
3 or not.

4 MR. KOBRIN: So, there's again, two answers to that.
5 I'm going to want to start with the second one, which is an
6 aspect of 12-202 that hasn't been mentioned yet. A 12-202
7 challenge, in order to be meritorious, the Plaintiffs have to
8 make some showing that the act or omission would change the
9 outcome or is likely to change the outcome of the election.

10 When you are talking about whether the word "key" or
11 "key highway" is placed in the question, I can't make this
12 argument for the City, but I think there is an argument that
13 that would not rise to the level of a 12-202.

14 Mr. Vignarajah showed us all the language of the
15 question and made an argument that the language as a whole, not
16 the "key highway" part is what is confusing, and that was and
17 would have been known to these Petitioners on August 2nd because
18 every word has remained the same except for "key." "Key" not
19 necessarily making a difference under a 12-202 assessment.

20 THE COURT: Under 12-202, isn't the argument that if
21 there's five highways, we don't know which one, so therefore
22 that specificity was required?

23 MR. KOBRIN: No, because there aren't otherwise
24 highways --

25 THE COURT: That's not what I heard. And as you said,

1 you can't argue on behalf of the City.

2 MR. KOBRIN: Well, then I won't give you a response.
3 But ultimately, no. Under 12-202, I don't think the
4 communication -- this is the second answer -- the communication
5 from the City to the State Board -- the State Board did not
6 approach the City and go, "Hey, this is confusing. Can you
7 clear it up for us?" The first communication was the City
8 telling the State Board there's something fixable in here, and
9 the State Board saying, "What do you want fixed?"

10 THE COURT: I think they said, "This is confusing."

11 MR. KOBRIN: Again, I defend the State Board of
12 Elections. But the State Board is saying, "What do you want us
13 to fix?" Because 9-207 has the error-correction provision.
14 It's some of the worst syntax in the Maryland Code. But it's --
15 the State --

16 THE COURT: And I'll agree.

17 MR. KOBRIN: We're allowed to start printing. The
18 State Board is allowed to start printing after three days of
19 public display and correct any noted errors. So, there is --
20 the State Administrator has authority to correct content and
21 arrangement or other administrative errors.

22 THE COURT: Right.

23 MR. KOBRIN: And this seemed to be raised to the State
24 Administrator as an administrative errors; there's one word
25 "key," we want it back in. And so, the State Board obliged the

1 City's request and put it back in.

2 THE COURT: Okay.

3 MR. KOBRIN: But no, saying that this back and forth
4 between the City and the State Administrator is a justification
5 for the delay because otherwise the ballot language wasn't known
6 would be incorrect, because the ballot language by and large was
7 known, and the Petitioners' issue with that ballot language does
8 not arise from or necessarily hinge on the word "key highway."

9 THE COURT: Okay.

10 MR. KOBRIN: It's much larger than that. Ultimately,
11 we are relying in part on the cases that the Petitioners have
12 brought up in their reply, Abrams and Ademiluyi. Abrams being
13 another example where you had the challenge to Mr. Perez's
14 qualifications, and those didn't come until three weeks after
15 the Certificate of Candidacy because the challenger had gone on
16 vacation. And the now Supreme Court of Maryland said you can't
17 wait. It's not necessarily when you learn about it. If you
18 learn about it at a later time because, and their language was,
19 you stuck your head in the sand or you otherwise did not seek it
20 out. That's my language, not the Supreme Court's.

21 And then it was --

22 THE COURT: So, wasn't their request for the ballot
23 language and the request for the specifics different than the
24 Supreme Court case that you just cited because in that case, or
25 in the present case, they kept asking?

1 MR. KOBRIN: No. They asked the City Solicitor once,
2 and what they asked of the City Solicitor was to be involved in
3 the review and drafting of the language. They did not ask for
4 necessarily a copy of it. They asked for -- to see the language
5 because they wanted to be involved in providing feedback and
6 potentially helping draft it.

7 And the City Solicitor's response in May was, "The
8 City Solicitor drafts the question. We don't take input from
9 anybody else. We will draft it according to the law and we will
10 submit it when it needs to be submitted."

11 THE COURT: And therefore, you're not going to get to
12 see what we draft?

13 MR. KOBRIN: Until it's certified. Why can't the City
14 Solicitor do that?

15 THE COURT: I'm not saying they can't. That wasn't my
16 point. I'm not suggesting that they can't. I'm suggesting that
17 when the resolution was proposed, there's discussion among the
18 counsel about, yes, no, what they're going to do; but the
19 discussion is not about the language. The discussion is about
20 are we going to do this or aren't we going to do it. Okay? I
21 can't imagine that that governing body would have been any
22 different than the one I sat on.

23 Then it goes to the Office of Law, or the City
24 Solicitor in Baltimore, and they workshop it and wordsmith it
25 and do whatever it is they do, or they put it in a pile and say,

1 "I don't have to worry about it for the next 60 days," and they
2 do whatever it is within their timeframe. I don't disagree with
3 anything you've said up to that point. But the one thing we
4 know at that point is they don't know what it is. They don't
5 know what the language is. They don't know what's being said.
6 They don't know what's being provided.

7 And on August 2nd, regardless of the fact that a
8 former City Council member, you know, may know the date, or not,
9 or maybe he has a friend in the Office of Law who says, "Hey,
10 guess what? They finally got around to sending the
11 information." I have 19 other names that aren't members of the
12 City Council who would not have been in that unique finite
13 position of being a former council member that, you know, I hope
14 I'm not -- have to be imparted with all the language and
15 information that I have forgotten over the last 20 years of
16 being a legislator.

17 It doesn't change the fact that the language isn't the
18 language until they send it to the Board, and the Board uses
19 those magic words that they've certified that amendment.

20 MR. KOBRIN: And that's, I think, where our
21 fundamental disagreement is. "The language isn't the language
22 until." Yes, it is. When they send that letter on August 2nd,
23 that, for the State Board, is the language.

24 THE COURT: Which is not made public.

25 MR. KOBRIN: But is publicly accessible. Ms.

1 Ademiluyi's party affiliation was not made public either, but it
2 was publicly accessible, and that's why that suit was timely
3 because it was brought within a day of the public accessing it.
4 That language was publicly accessible. And I want to take a
5 step back for a moment about the 19 other names. You have Mr.
6 Ambridge and his sworn affidavit that the contents of the
7 petition are true. You do not have any other sworn affidavits.

8 9-209 says a registered voter gets to do this on a
9 sworn affidavit. You have Mr. Ambridge. You have Mr.
10 Vignarajah's signature, but I don't think Mr. Vignarajah is a
11 Plaintiff. So, you have Mr. Ambridge. And Mr. Ambridge, again,
12 on the facts in front of you, equitably knew that on August 2nd,
13 something had to happen. And so, on August 3rd, it at least
14 behooved him to check, again with Mr. Petro, and that may have
15 been a brick wall. Again, we can't --

16 But could have checked with the State Board of
17 Elections, and that's why we put that affidavit in our filing.
18 The State Board would have provided this to him in the normal
19 course of business within 48 hours. And he knew it goes to the
20 State Board. He wrote as much in multiple emails. He asked the
21 Office of the Attorney General in July and that email was
22 eventually forwarded to me by Mr. Ambridge. The Office of the
23 Attorney General is not in custody of any of this. The Office
24 of the Attorney General doesn't have any of the questions, any
25 of the anything until, frankly, there's a legal challenge.

1 That's when I took custody over all of these things.

2 But the State Board of Elections had this information.

3 Let's take, for example, because this happens all the time.

4 Let's look at petitions for a moment. Petitions, legal

5 sufficiency, right? Who knows what's in a petition? Who knows

6 what the ballot question or the charter amendment is in the

7 petition? The local board the reviews it, and the Petitioners.

8 But 6-209 gives an aggrieved person, not even a registered

9 voter, any aggrieved person the ability to challenge the

10 determination that the Election Director makes.

11 So, if the Election Director says, "Yes, this petition

12 is fine, I'm putting it on the ballot," anyone who is aggrieved

13 by that can challenge it. But petitions are not made public.

14 Petitions are not published on SBE's website with ballot

15 language on SBE's website. You would have to go to SBE or the

16 local board that processed it, and say, "Show me the petition so

17 that I know what you just certified." Otherwise, you're waiting

18 until 9-209, and it's too late. And that's what happened in

19 Baltimore City.

20 And I will say 6-209 puts a 10-day limit in there and

21 says you have to challenge the Election Director's determination

22 within 10 days. And so, someone who did not conduct this

23 petition and is not otherwise within the employ of the local

24 board has to go to find out for themselves what's in that

25 language based on the statutory framework that tells them when

1 these kinds of things happen.

2 THE COURT: But in that circumstance, the individuals
3 who have forwarded the petition to the Board get the
4 communication back that says, "You fell short." So, they know
5 and then the 10 days run.

6 MR. KOBRIN: But I'm not talking about falling short.
7 What if it succeeds like it did in Baltimore City with the baby
8 bonus amendment?

9 THE COURT: Right.

10 MR. KOBRIN: And that goes on the ballot. A
11 Petitioner -- in these Petitioner circumstances who don't want
12 that question on the ballot because they think it's otherwise
13 inappropriate --

14 THE COURT: But aren't we again talking hypotheticals?
15 Because the person who didn't want that to go on the ballot is
16 the City, and the City is in the unique position to know what
17 their agency --

18 MR. KOBRIN: Why? If the -- the Baltimore City Board
19 of Elections is not a City agency. It's a State office. They
20 have to go and seek out just like anyone else would. And again,
21 it's an aggrieved person. It's not necessarily the local
22 government that would have to do it. Any aggrieved person has
23 to go and find for themselves. And so, an aggrieved person
24 could not come into this courtroom on a 6-209 suit saying that
25 petition question shouldn't be on the ballot.

1 I filed 20 days after the determination, but I didn't
2 learn what the ballot language was until it was reported on in a
3 newspaper or posted under the 9-207 deadline for content and
4 arrangement. They don't get to make that argument. These
5 Petitioners should not as well. There is a modicum of
6 engagement that if these Petitioners are so engaged, and again,
7 on this record, they know that August 2nd, is a day that
8 something should happen, it behooves them between August 2nd and
9 September 2nd to do something besides wait and not reach out to
10 anyone and not contact anyone including the one State agency
11 that they did never contact, the State Board of Elections.

12 THE COURT: Go ahead. I don't know if you're going to
13 convince me, but go ahead.

14 MR. KOBRIN: I'm making my record.

15 THE COURT: I understand.

16 MR. KOBRIN: But ultimately, what you have before you
17 is a laches argument which is an equity argument. It isn't
18 about application in the future and statutory interpretation.
19 It is in this case, was there an unreasonable delay; and what is
20 the prejudice suffered?

21 And the last thing I'll say about that is that there
22 is sort of a scale between the two. They're not -- they inform
23 each other. And Liddy, Liddy v. Lamone, we cited to it in our
24 brief. It stands and governs this case where, again, a
25 challenge -- three -- in that case, three months after the

1 candidacy deadline on the eve of the election to a candidate's
2 qualifications was too late, even though there was sworn
3 testimony in that case by the challenger that said, "I didn't
4 learn about what I" -- what he perceived was Mr. Gansler's
5 disqualification "until two or three days ago, and within two or
6 three days, I filed this. I was within 10 days about learning
7 about the act, but I didn't learn about it until I heard news
8 stories or read an article online about his potential
9 disqualification."

10 And the Supreme Court was clear. When there is an
11 opportunity to learn about something far earlier than when you
12 learned about it, the date that you learned about it is not what
13 governs. And under a laches determination, when the prejudice
14 builds so great to the point where we are in front of the
15 election, and I'm going to actually agree with a lot about what
16 the Petitioners said about the remedy, where at this point we
17 can't, you know, take the train off the tracks; yeah, that
18 prejudice is great enough to say you should have done something
19 on August 2nd or August 3rd to avoid inflicting that prejudice
20 on the State Board and the voters. Liddy governs here.

21 That is essentially -- I sense from the Court's
22 questions that 12-202 is kind of the issue here, not necessarily
23 9-209. I'll just briefly say on the issue of 9-209, what isn't
24 addressed is the two bites of the apple problem; where if 9-209
25 is a vehicle by which you can challenge the underlying should

1 this have been qualified, should this have been certified, then
2 all petition questions are getting two bites at the apple; that
3 you're going to get to challenge it under 6-209 which is the
4 determination and --

5 THE COURT: You lost me. 9-209, under judicial review,
6 which gives them the two-day, that's the two-day --

7 MR. KOBRIN: Yes.

8 THE COURT: -- context to talk about content. As I
9 followed Petitioners' argument, 9-209 back to 9-205, back to 9-
10 203, that's the path. That's what the legislature set out would
11 be the path. They say you've got two days after the content and
12 arrangement of the ballot are certified to do whatever it is.
13 They may seek judicial review of the content and arrangement.

14 They don't say, "You go to the Board of Elections."
15 They say you come here. Of course they say literally you come
16 here, not somebody else's court. So, you're here in Anne
17 Arundel.

18 MR. KOBRIN: This is where that path breaks down. 9-
19 209 says content and arrangement. 9-205 is content. 9-206, 9-
20 210 9-211 are arrangement. 9-203 is not content. Content is
21 the standards. The way Petitioners are reading 9-203, the
22 actual language of the statute is "the ballot shall" and lists
23 five standards. I think that's Petitioners' words. I agree
24 with it. Those are standards for the language that goes onto
25 the ballot, and the stopslotskis (phonetic) which we haven't

1 discussed because ultimately it has not been terribly pertinent
2 to this case, but that made it clear that sort of when you make
3 a 12-202 challenge to ballot language being unclear, the
4 governing standards are 7-103 and 9-203; that it has to have
5 certain language, and that language has to be understandable.

6 But it's a governing standard. It's not a tool for
7 the State Board to use, or it's not a rubric for the State Board
8 to use to go through each ballot question and determine does it
9 meet all five of these requirements. It couldn't be. It
10 couldn't be. And it wasn't set out. If it were, frankly, the
11 language would have read, "The State Board shall insure that
12 each ballot shall," or "each ballot will" and have those five
13 requirements.

14 THE COURT: I think you're giving a lot of deference
15 to the legislative drafting of non-lawyer legislators.

16 MR. KOBRIN: As an officer appearing on behalf of the
17 Executive Branch, I kind of have to.

18 THE COURT: I understand.

19 MR. KOBRIN: But ultimately --

20 THE COURT: I understand. As a recovering member of
21 the legislative body for this General Assembly, and a lawyer
22 legislator of the General Assembly.

23 MR. KOBRIN: Ultimately, the Supreme Court in Ross
24 made it clear, and then in Ademiluyi repeated, content and
25 arrangement, 9-203 is not mentioned. It's 9-205 which is

1 content, what has to appear. And again, the language is "all
2 questions that meet the requirements." That is a way of saying
3 the questions that should be there, not you need to judge
4 whether the questions should be there.

5 THE COURT: If we're debating the definition of the
6 words "all" and "qualifications" where do you, on behalf of your
7 client, direct me to? Because 2-052, "A statement of each
8 question that has met all of the qualifications to appear on the
9 ballot." Your argument would be whatever the City Solicitor
10 says goes.

11 MR. KOBRIN: No. It's qualifications. So, 7-102(c),
12 I think it's Roman Numeral I, that a question qualifies when the
13 legislative body passes the resolution. So, in the -- when a
14 legislate -- when there is a question that arises out of the
15 legislative process, qualification happens when that process
16 happens. It's a question of did it -- is it a resolution that
17 validly passed the legislative process?

18 THE COURT: So, under your theory, there would never
19 be a circumstance, never be a circumstance where a voter could
20 come to the court and say, "We believe this language is
21 problematic?"

22 MR. KOBRIN: No, they absolutely can, under 12-202,
23 and we make that point. A 12-202 suit is the appropriate
24 vehicle. They should do that. It would be a violation of the
25 Election Law Article --

1 THE COURT: But they should come to court earlier even
2 though they don't know what the language is going to be?

3 MR. KOBRIN: Your Honor --

4 THE COURT: No, seriously. I'm not trying to be
5 facetious. I'm truly trying to understand the argument because
6 I do believe the legislature intended that the State Board be
7 more than just a rubbery stamp.

8 MR. KOBRIN: It intended it -- when the State Board or
9 the local boards evaluate petition questions. It has to.
10 Right? Because who knows what a Petitioner in that sense -- not
11 in that court case -- would write in a petition question. But
12 in the legislatively rooted one, I very much believe the General
13 Assembly wanted the questions that they want on the ballot not
14 to encounter a second review by an Executive Branch agency.

15 This rule we're talking about will have to apply when
16 the State Board receives local charter amendments, but it will
17 also have to apply when the State Board receives constitutional
18 amendments from the Secretary of State.

19 THE COURT: And I don't disagree. I mean, we're not
20 disagreeing with regard to that component. But again, what
21 you're suggesting is then there is no avenue for the individual
22 who learns of the language -- let's say -- and I looked at the
23 ordinance that produced the -- I looked at the ordinance that
24 produced the amendment. Let's say that that language -- I'm
25 looking at the resolution, I believe that it's problematic, I

1 think there's -- you know, I don't like the topic, which I think
2 is how this all starts.

3 It's not until the City takes an action that someone
4 has to evaluate whether or not all the T's have been crossed and
5 the I's have been dotted; correct?

6 MR. KOBRIN: Correct.

7 THE COURT: So, if the City says, looks at this
8 particular ordinance or resolution, and says, "Okay, that's all
9 well and good and got the gist of what you want to say, but
10 here's how the question has to be written," it's not until
11 that's public, public that a voter could challenge it. I guess
12 that's what I've been struggling with the last several days on
13 that. Because I can read the entire ordinance including the
14 portions of the ordinance that don't show up in the amendment
15 that talk about what the intent was, they're going to preserve
16 the public park known as Rash Field.

17 So, now, if I read that, which I'm not going to read
18 in a charter amendment, and I'm not going to see anywhere but in
19 this ordinance, and the only way I'm going to see the ordinance
20 is, one, if I can find it; and again, I'm not being facetious.
21 I will tell you that I went to pull it up to see if there were
22 earlier versions. It isn't that so easy to find on the
23 Baltimore page. So, if I find this, I might get an idea. If I
24 read it, the regular citizen, and I understand legislative
25 drafting, and I understand that Section 2 really doesn't mean

1 anything, and it isn't going to be part of the amendment, and it
2 doesn't speak to what the amendment speaks to. The amendment
3 speaks to putting house on Inner Harbor. And then I got this.

4 So, you're left with as the average citizen who is
5 supposed to be able to understand the charter amendment having
6 to figure out when they're standing in the voting booth what it
7 means; or knowing the law to know when they should challenge
8 something that isn't public to them until it's placed on SBE's
9 site. So, help me with that piece. That's really I'm
10 struggling with the State's argument.

11 MR. KOBRIN: Of course. Okay. Let's start back in
12 March, then. Because again, there's two arguments here, right?
13 Charter material and unclear language. Let's start with charter
14 material.

15 THE COURT: Which is the one that I really would like
16 to focus on, because that one --

17 MR. KOBRIN: Sure. Charter material. On March 11th,
18 2024, you have a resolution from the City Council that says this
19 is the charter amendment we want to put in. As of that day, on
20 March 11th, the charter material argument is ripe. Okay? At
21 that date, every one of the Petitioners -- let me put it this
22 way. The argument over charter material cannot and does not
23 change from March 11th until today. All the arguments Mr.
24 Vignarajah made today about why it's not charter material and
25 all the arguments made in Petitioners' memorandum about why it's

1 not charter material were as applicable on March 11th as they
2 are today because nothing has changed in six months.

3 THE COURT: Okay.

4 MR. KOBRIN: The only question for charter material
5 is, is this proposed charter amendment proper charter material?
6 In terms of should laches apply because they wouldn't have found
7 out about this information, you have, again, a sworn affidavit
8 and exhibits that show that this Petitioner was -- he did know
9 about it; that they did know that there was a charter amendment
10 resolution; that there was going to be a proposed charter
11 amendment; that that they wanted to participate.

12 And so the charter material argument, I think this has
13 -- it's the strongest laches argument for the State Board,
14 because at that point, the Petitioners, once that bill is passed
15 and they learn the language of that bill, however they did it,
16 should have walked into court and said, "This is not proper
17 charter material. Don't waste your time even writing language
18 for it."

19 THE COURT: So, the constitutionality has a statute of
20 limitations?

21 MR. KOBRIN: Yes. Under 12-202 --

22 THE COURT: If that were to be the case --

23 MR. KOBRIN: Your Honor, under 12-202, if they want to
24 file a declaratory judgment action after the election, like what
25 was done in Atkinson or McDonough, I'm not going to appear here

1 and there's not going to be a problem with that. But they're
2 making a 12-202 case.

3 THE COURT: That may be their phase two. But --

4 MR. KOBRIN: They're making a 12-202 case, and under
5 12-202, once you're outside 10 days, you're into laches
6 territory, and we need to start talking about why did it take
7 you so long, and what's the effect of it taking you so long?

8 So, again --

9 THE COURT: Okay.

10 MR. KOBRIN: -- if on January 20th, 2025,
11 hypothetically, if these Petitioners had come into court and
12 said this passed, it's part of our charter now, it's not proper
13 charter material, we want a declaratory judgment action saying
14 as much, they would probably have a meritorious argument on the
15 timing of it. I'm not saying the substance that it's actually
16 not charter material. But they've got a valid argument on the
17 timing of it.

18 They are asserting a 12-202, it violates something
19 having to do with the Election Law Article or election law; and
20 therefore, they've got to do it within 10 days of the act
21 happening. The act is the qualification for the ballot of the
22 question, and that qualification happened on March 11th, 2024.

23 THE COURT: So, that's your definition of the act.
24 Their definition of the act is when the State creates the ballot
25 showing the exact language that's going to appear, as I

1 understand their argument.

2 MR. KOBRIN: Understood. But what does the language
3 of the ballot have to do with whether it is charter material?

4 THE COURT: It's the language that determines whether
5 it's charter material, counsel.

6 MR. KOBRIN: No, the charter amendment, the proposed
7 amendment determines whether it's charter material. The
8 language of the ballot is how the voters will vote on it. But
9 whether it's proper charter material, again, we did this three
10 weeks ago in Baltimore City. You can challenge before the
11 election saying this proposed amendment, language aside, this
12 proposed amendment is not proper to show up on a ballot because
13 it's not charter material, or like in Atkinson or McDonough, you
14 can do it after the election and ask for a declaratory judgment.

15 What you can't do is know that there is a proposed
16 charter amendment, know what the proposed charter amendment
17 wants to do, and then wait six months to challenge it and say it
18 shouldn't be allowed to do what it seeks to do because it's not
19 proper charter material.

20 THE COURT: And in order to do that, they would have
21 to understand what the charter amendment does; right? So,
22 doesn't that circularly get us back to the 9-203 argument?

23 MR. KOBRIN: No. I mean, if they're arguing that the
24 proposed amendment isn't clear enough to say what it does, that
25 can be their argument. But no, the ballot language does not

1 affect whether it's proper charter material or not. If you look
2 at the charter material cases, Cedlair, Anne Arundel County
3 Atkinson. It's Atkinson versus Anne Arundel County.

4 THE COURT: I know Atkinson.

5 MR. KOBRIN: But nobody looked at the ballot language.
6 The analysis proceeds on what is the proposed amendment and what
7 does it do? What authority does it propose to give or take to
8 the county, and is that authority, or is that action proper
9 charter material? So, if the question here from that resolution
10 is, there's a resolution, it seeks to change the status of
11 something on city property. I mean, from the outset, if the
12 original charter amendment wasn't appropriate and its amendment
13 should be inappropriate, that's a self-contained question having
14 to do with the proposed charter amendment which was passed on
15 March 11th, and the charter. It does not have to do with the
16 ballot language.

17 The clarity of the ballot language question is the
18 discussion that we're having about August 2nd, and September
19 2nd; but the Petitioners cannot wait from March 11th until there
20 is ballot language that they find on September 2nd, and say,
21 "Oh, we're aware of ballot language now, therefore we actually
22 think this charter amendment is no good altogether. You should
23 never have even been allowed to proposed it as a charter
24 amendment." Because that's ultimately what a charter material
25 challenge is. It's a challenge to the authority to say you

1 can't propose this as a charter amendment because it can't go in
2 a charter. And that proposal happened on March 11th, 2024.

3 As far as the other challenge, the clarity challenge,
4 again for the record, what we're talking about here is a Liddy
5 situation where it is not posted on a website but it is still
6 publicly available. And even if it is not -- if there are
7 hypothetical offramps that could lead to trouble, what you have
8 before you is a factual record that shows that the sworn
9 Petitioner in this case knew of the resolution, knew was it
10 purported to do, wanted input in it, knew that on August 2nd, it
11 had to be certified to the State Board, and that therefore on
12 August 2nd, both the City Solicitor and the State Board likely
13 have some possession of language that he could have looked at.

14 And at the very least, he could have asked. And if he
15 had been told, "We don't have language," or "We're not showing
16 it to you," that's another case. But what we have is absolutely
17 no effort taken on the date that he knew something should have
18 happened to September 3rd when it was, frankly, getting much too
19 late in the game to do anything about it.

20 THE COURT: Was it much too late in the game at that
21 point? The State simply knowing that there was a challenge,
22 knowing that there was going to be a request for judicial review
23 could have not started printing Baltimore City's ballots.

24 MR. KOBRIN: So, again, in a perfect world,
25 discretionarily, yes, I think the State Board has the discretion

1 to choose whether or not when to print the ballots; right?
2 There's nothing in the law that says you must start printing. I
3 would pose to the Court, based on the affidavits submitted by
4 Jennifer McLaughlin and Natasha Walker that it is not so
5 discretionary. And the fact of the matter is, the State Board
6 cannot produce the 500,000 ballots it needs to produce in time
7 by waiting.

8 And the point I'll make here is, let's say the State
9 Board, again, hypothetically said, oh, there's a challenge,
10 let's wait. Wait until when? September 10th? September 15th?
11 The deadline? September 21st? It becomes an indefinite
12 waiting. Because of the scheduling of these cases and the way
13 this case was kind of prosecuted at the outset, and that
14 actually was not Mr. Vignarajah. That was the other dismissed
15 case. But ultimately, what we had here was a filing at 4:56, I
16 believe, was the time stamp, which was impressive, on September
17 5th to get this challenge in, and the State Board looking and
18 saying, it's the 6th, we've got to start printing especially
19 when it is a challenge to content and arrangement.

20 And I think it's fair for the State Board, based on
21 its understanding of the arguments made here today, that content
22 and arrangement do not necessarily require the complete removal
23 of a ballot question, or the wholesale re-writing of a ballot
24 question; that at most, it is a word like "key" going in or out
25 of the ballots, which then can be set and then all the steps

1 taken for printing.

2 Ultimately, what I'll say about that printing process
3 and the choice to move ahead with printing is please take a look
4 at the affidavits. There is so much done at this point in order
5 to be here today on September 16th where there is a printer
6 running, I don't know how many hours a day, in order to create
7 not just ballots, but the inserts that go with ballots, the
8 instructions, and the envelopes which have requirements as well.
9 The have an oath on them. They have to be returned. All so
10 that they can be mailed on time.

11 Then when I say "on time" again I'm talking about the
12 September 21st federally imposed deadline. Petitioners'
13 argument that we could seek a hardship exemption is not
14 meritorious.

15 THE COURT: Why is that?

16 MR. KOBRIN: There have been two hardship exemptions
17 sought by states in the past eight years. One was by Ohio in
18 2022, one was by New York in 2016. Ohio asked for a week. And
19 it's because they said we have ongoing litigation. We have our
20 redistricting, our redistricting is being challenges in court,
21 we're not done. Can we have an extension for seven days? From
22 the 45th day before the extension to the 38th day and the
23 Department of Defense said no, you do have a hardship, and undue
24 hardship, but we find that 38 days is not enough time and
25 therefore we are denying you the exemption.

1 And New York's question, similar to Ohio's. New
2 York's undue hardship was "we have a court order that says hold
3 this election on this date, your process is changing." And the
4 Federal District Court in that court order said, "You need to go
5 seek a hardship exemption under UOCAVA and the MOVE Act." And
6 New York went and sought the hardship exemption and laid out
7 this is why we have to do it, this is what the District Court
8 told us to do, and the Department of Defense in 2016 granted it.

9 If the State Board of Elections went to the Department
10 of Defense, who is the designee here, and said, "We have a case
11 pending but we don't have a court order and it involves one
12 question in one jurisdiction," I would anticipate the DOD would
13 tell us to pound sand and not grant us that exception.

14 So, September 21st is our deadline for mailing
15 something. It's not just overseas voters, but UOCAVA applies
16 such that service members serving in the United States --

17 THE COURT: No, I know.

18 MR. KOBRIN: -- just not where they live --

19 THE COURT: I know.

20 MR. KOBRIN: -- that's how they get their ballots.

21 And we can't forget State law which also requires sending
22 literally every other mail-in ballot on Monday the 23rd.

23 THE COURT: Right. Okay.

24 MR. KOBRIN: In regards to remedies, at this point, I
25 think we would agree with Petitioners that revising is not

1 possible for logistical reasons.

2 THE COURT: Agree.

3 MR. KOBRIN: We would also argue revising is not
4 possible because we don't know who would do the revising at this
5 point. SBE doesn't write these questions, and shouldn't at this
6 point in the process. Remand to SBE will not accomplish much.
7 The State Board's suggestion for remedy is invalidation in the
8 absolute last case scenario because at that point, we're going
9 in and we're taking a choice away from voters; but the allowance
10 under 9-208 for the State Administrator to step in and try to
11 determine some kind of method to either clarify the question, if
12 it's unclear language. If it's a problem with charter material,
13 the question is just off the ballot. There's no way to fix it
14 because it's not proper charter material.

15 But that the State Administrator be permitted to
16 exercise some discretion under 9-208 to inform voters in
17 Baltimore City. And here is where we're going to run into
18 issues with how late we are in the Election Law calendar. And
19 again, I'm not providing this as argument. I'm providing this
20 for the Court's edification. On September 23rd, ballots are
21 going to go out. People are going to have their mail-in
22 ballots. We can't put --

23 THE COURT: Right. So, how do you do -- right.

24 MS. KOBRIN: It would be a public education campaign.
25 It would have to be a public education campaign that reaches out

1 to every registered voter with a separate mailing or by email to
2 say this court case has ordered us to provide the following, and
3 be it a map that illustrates what that is or language that is
4 what that is. That is how the State Administrator could
5 accomplish something like that in conjunction with information
6 in polling places, because polling places and early voting
7 centers would actually be easier here since they will not happen
8 until October 24th.

9 So, what we're dealing really here is with mail-in
10 ballots and mail-in voters, and informing them because they'll
11 have ballots in hand already. What we are begging the Court not
12 to do is have potentially two ballots out there, one with this
13 language on it that was sent already, and then a revised one
14 that has different language or not this language.

15 THE COURT: Oh, no. I can assure you that that's not
16 even -- that's not even my thought process because at that
17 point, that challenge would --

18 MR. KOBRIN: Yes. That's going to be a uniformity
19 problem.

20 THE COURT: Right. Right. Would center on a
21 discussion of uniformity.

22 MR. KOBRIN: And logistically speaking, the voting
23 system equipment is not going to be able to read two different
24 ballots easily.

25 THE COURT: Right.

1 MR. KOBRIN: So, we would not want to introduce that
2 into the system.

3 THE COURT: No. No. Uniformity was not a -- creating
4 two separate ballots for the same ballot question was never a
5 contemplation, at least not one of mine. I don't think it will
6 be of theirs either. But certainly not of mine.

7 MR. KOBRIN: Unless Your Honor has any other
8 questions, I'll submit.

9 THE COURT: No, that's where I am. Counsel?

10 MR. VIGNARAJAH: Your Honor, may I just take a two-
11 minute break? I'll be right back.

12 THE COURT: Yes. I'm not going to get off the bench.
13 We're going to go off the record because otherwise it continues
14 to record, but nobody has to get up. Nobody has to move. I'm
15 just going to --

16 (At 12:32 p.m., recess in proceeding.)

17 THE CLERK: All rise.

18 THE COURT: Nobody get up. All right.

19 THE COURT: All right. We are back on the record in
20 the matter of Anthony Ambridge, C-02-CV-24-002246.

21 MR. VIGNARAJAH: Thanks, Your Honor. Thank you again
22 to the Court for accommodating the expedited review on this
23 important matter. I have a couple of preliminaries that I want
24 to just have some brief responses to the substances of what Mr.
25 Kobrin shared.

1 First on preliminaries, number one, the requirement is
2 that it is a sworn petition. It does not indicate that each
3 petitioner must swear. The sworn petition was by Mr. Ambridge.
4 Mr. Ambridge has conference calls and is familiar with each and
5 every one of the other Petitioners and what he swore to was the
6 petition, which included MD registered city voters, then not
7 participating in the certification process and, therefore, being
8 valid petitioners. I don't believe the rules suggest that each
9 petition must be sworn -- that an amended petition with 20
10 petitioners must be sworn by each of them. But again, Mr.
11 Ambridge is an important feature of this, and I'm going to talk
12 about him in just a moment.

13 I also just wanted the Court to know, let the record
14 reflect, that we are printing a copy of the correspondence
15 between the City Solicitor and the State of Board of Elections
16 in the September 3rd, 4th, 5th window, about the Key Highway,
17 and we will before -- if this Court will allow us, before these
18 proceedings close, allow that to be part of the record in the
19 event this goes up on appeal.

20 With respect to Mr. Ambridge, you know it is -- you do
21 give a former city councilman the benefit of the doubt to
22 understand how things work. But these are complicated. And I
23 actually want to read exactly what he wrote to Mr. Kobrin and to
24 the Attorney General's office, because one way or the other, he
25 wasn't right. What he wrote was: "The Baltimore City Law

1 Department," and this is on July 16th, "The Baltimore City Law
2 Department is now required to provide language for the short
3 title and narrative as it will be shown on the ballot and that
4 language must be certified by August 2nd, 2024, by the State
5 Board of Elections." It's not to the State Board of Elections.
6 It's by the State Board of Elections. That is why, and having
7 talked to Mr. Ambridge, our understanding was that he was
8 talking about September 2nd being the date that the State Board
9 of Elections certifies it. Either he was wrong with the date or
10 he was wrong with the State Board of Elections. But either way
11 he had a complicated perspective on what on earth was going on.
12 That is confirmed, by the way, by 14.A. This is a Facebook
13 post. This is on August 12th. So, if you thought something was
14 going to happen on August 2nd, he'd lost that insight by August
15 12th because on August 12th an individual posted the question,
16 "Has the City released their ballot language?" And Mr. Ambridge
17 is one of the first to comment and he says, "I have not seen it
18 and was prohibited by both the City Solicitor and the Attorney
19 General to get a look." And then he says, "Dottie Keller, I
20 agree. We have every reason to expect unbiased and truthful
21 language." So even as of August 12th, he was under the
22 impression that he was not allowed to get it. Whether he got
23 that impression by misapprehending responses from Mr. Ketrow
24 (phonetic) and Mr. Kobrin or whether it was because he asked in
25 April, didn't get a response. Did a follow-up email in May.

1 Got a response that said he couldn't. Sent an email to the
2 Attorney General's office, didn't get a response for that email
3 to Mr. Kobrin, who responded simply "Received." In this email,
4 he actually suggests that the Attorney General's office will
5 play a role in ending the language of what the State Solicitor
6 had submitted, and, not that it's Mr. Kobrin's obligation, but
7 there would have been an easy opportunity right there to say,
8 "Oh, actually we don't do that. The City provides the language
9 and you'll have it on August 2nd." It may be on some calendar.
10 I've seen that calendar. It's in 8-point font. It has 600
11 dates on it. That is not what the public has expected. And I'm
12 going to use that to transition into the question about what is
13 reasonably expected of our voters.

14 The reality is that that question may be interesting
15 in the abstract, that Abrams and Ademiluyi have answered it.
16 They have said, and I -- we included the quote, I'm not going to
17 quote it here for the Court, that the proper source materials
18 upon which we expect voters to consult is the State website, the
19 State Board's website, and media coverage. The individual who
20 was on vacation missed media reports about the information.
21 That had he not been on vacation he would have received it.
22 That is the standard. It is not, "You have to file an MPI."
23 It's not you have to send something to someone who has certified
24 after the fact that they responded within 48 hours. And this is
25 the part, I think, that Mr. Kobrin misunderstands. In

1 Ademiluyi, it is true that the information that was obtained was
2 obtained through an MPIA request. And Mr. Kobrin's view is as
3 soon as you file the MPIA request and the information was
4 returned to you, then you had 10 days. That's true. But what
5 they're asking is that August 2nd was the date upon which the
6 clock started to click. In other words, if Mr. Ambridge had
7 filed an MPI request on August 20th and had gotten it on
8 September 5th, they would have said, "No, the clock started
9 clocking on August 2nd." In that one-month period, there is no
10 obligation to file an MPI request because, if that were the
11 case, in Ademiluyi, the Court would've said, "This fact that you
12 got through an MPIA request wasn't here on August 2nd. It's
13 actually been here for years." And so as soon as that fact
14 existed in a publicly available way, whereas amenable to an MPI
15 request, according to the State's position, that's when the
16 clock starts. That cannot be the law. That is not what the law
17 is. Barnes (phonetic) and Ademiluyi make it clear that if it's
18 not in the press and it's not on the State Board website, you
19 are not assumed to be in possession of it, and you're not
20 obligated to file MPI requests for anything else.

21 I should also note, Your Honor, that the other side of
22 that equation as to why it is that Mr. Ambridge and so many
23 others, as reflected in the Facebook post, thought that
24 September 2nd was when they would first be able to see this
25 language is because in § 7-102 and § 9-1.06 -- .07, excuse me,

1 the legislature has said that 65 days before and 64 days before
2 is when the public is obligated -- when the agencies are
3 obligated to share it. Post in the office, post it on the
4 website. That's the date that the public has in mind for when
5 the agencies are obligated. This notion that there's also a
6 date where a letter is sent in private from one public official
7 to another and you can get it by MPPIA, that's not Barnes, ,
8 that's not Ademiluyi, and it's not the sections of the law that
9 provide dates specific as to when public display begins.

10 I should also note, Your Honor, that under Mr.
11 Kobrin's reading of this, and this is within 9-209, 207, 205,
12 203 comes into place, their interpretation would simply write
13 out 9-203. That may be the preferred perspective of the State
14 Board, that they don't want to wade into this messy area.

15 But what was interesting about Mr. Kobrin's remarks as
16 he surveyed the range of roles that different agencies play is
17 that sometimes the State Board does play a more significant role
18 and sometimes it doesn't. Here it appears that there's a
19 circumstance where the City Board of Elections did not have to
20 certify that it was legal, that the City Solicitor played a
21 nominal role in that at all, it would not be unreasonable to
22 expect the legislature to say, "We want a more expansive role
23 played by the State Board."

24 Mr. Kobrin takes the position that the State Board is
25 not expected to do anything, oh except in a couple of

1 circumstances where it's expected to do a lot. The State Board
2 is capable of preparing, in fact it sometimes does, it is
3 capable of certifying on substance of things. Mr. Kobrin has
4 acknowledged that that happens.

5 Our perspective is that the State Board is misreading
6 9-209, 07, 05 03. That in that circumstance where a question
7 comes to the State Board proposing a charter amendment that has
8 been certified and shared by the City Solicitor, there is a
9 responsibility to make sure that it is easily understandable,
10 that it is presented in a fair and nondiscriminatory way. And
11 for the State Board to elect not to do it is not consistent with
12 the plain language of the law.

13 Interestingly, Mr. Kobrin suggested that
14 qualifications -- all of the qualifications just means Title
15 7103 because it shall qualify. If it -- if the legislature
16 wanted to just have one requirement for one particular scenario,
17 they know how to do that. In fact, I just pulled up § 7-102,
18 Qualification of Questions. There are nine different routes
19 that the General Assembly has laid out for each and every
20 different kind of scenario. If the legislature wanted that when
21 the City passes a resolution and it automatically qualifies and,
22 therefore, the State Board doesn't need to do anything, it
23 could've easily done so. It could've done what it did in 7-102
24 in 9-205. It could've said, with respect to contents, "You
25 shall include a statement of each question that has been

1 qualified under Title 7," period. And if they'd done that, it
2 would've looked identical to the candidate certification process
3 and there wouldn't have been a role for the State to play. But
4 that is not what the legislature wrote. The legislature seems
5 perfectly comfortable picking a poison that is different for
6 each different scenario. And in this particular scenario, where
7 a charter amendment comes up through the Law Department and
8 arrives at the desk of the State Board, unapproved by the Law
9 Department as to substance, the plain language suggests that the
10 State Board has a role to play and they did not play it here.

11 I want to have one more substantive comment and then
12 move to remedies. This one is interesting about when it is that
13 the challenge on proper charter material is right.
14 Interestingly, 12-202 doesn't say the very first time you have a
15 chance, you've got to take your shot right then and there. What
16 is actually says is any act or omission that affects an election
17 opens the door to a challenge within 10 days. The passage of
18 the act could be that trigger. The certification by the State
19 Board could be that trigger. But respectfully, one of the
20 things that's not on the list of things that could be that
21 trigger is a resolution by the city charter. And there's a very
22 technical reason for that. It is because 9-209 provides a very
23 specific vehicle to come into court. A petition for judicial
24 review. 12-202 says, "You may seek judicial relief." But, as
25 Mr. Kobrin points out, you need a vehicle for that. Most of

1 them, in fact all the ones that would present the seminal cases
2 of form and structure of government, not proper City charter
3 material, they were all declaratory judgment actions that were
4 filed after the ballot was certified. If certified, they file a
5 challenge within 10 days. It was not a resolution. And again,
6 the reason for that is because a resolution is not listed under
7 Maryland law as one of the things that you can call into
8 question through a declaratory judgment action. You can do a
9 statute. You can do an ordinance. You can do a number of other
10 things, but a resolution, which is defined as a proposal, is not
11 something that you can get a declaratory judgment action. So
12 it's not obvious, certainly to me, that Mr. Ambridge and company
13 (phonetic) back then could have actually have a vehicle to bring
14 a 12-202 challenge. The first time that was available was when
15 it was certified. And I would just point out to Mr. Kobrin and
16 the State and the City that when they filed challenges in the
17 last few months with respect to two different charter petitions,
18 they didn't do it when the language of the amendment was first
19 available to the public. According to them, the 10-day clock
20 would've happened at a very specific date. Because the Attorney
21 General's office plays a role when a signature committee, a
22 ballot committee, tries to collect 10,000 signatures. You have
23 to draft the amendment itself. You have to draft a summary and
24 prepare a signature sample ballot, and you have to submit it to
25 the Attorney General's office to confer technical sufficiency.

1 At that moment, everybody knows what it is that is the subject
2 of that charter amendment. And at that point, according to Mr.
3 Kobrin's logic, Baltimore City will needed to have challenged it
4 when it knew that there was a ballot going out there. Now they
5 need to go get 10,000 signatures, but the City needed to go pass
6 the certified language to the State Board. There were still
7 steps that were unavailable. If the argument is the amendment
8 is all you need to know whether you can file an improper charter
9 material challenge, then the trigger would've been the moment
10 the AG confirmed the technical sufficiency of the signature page
11 and the amendment. Everything you knew. But Baltimore City
12 waited for the certification. The State of Maryland waited for
13 the certification in both the baby bonus case and the cutting
14 property taxes. They didn't do it when the Signature Committee
15 started. They did it when those ballots were certified.

16 So, respectfully, we don't think that you can bring it
17 back in March. We think you have to wait for the certification,
18 which is what every other challenge has done, because then you
19 have a declaratory judgment action action, you have a ripe
20 controversy, and you can bring it to court. Every single
21 improper charter material challenge that I have seen in Maryland
22 has come under those circumstances. The suggestion now that it
23 could've been brought back in March just belies the Declaratory
24 Judgment Act and the rules around it, as well as common practice
25 in the State.

1 I'm going to end with respect to the remedy. You know
2 I reflected on what Mr. Kobrin said about the State
3 Administrator being able to have some options available. Here
4 is Petitioners' challenge. This is a mess. It is a mess. And
5 I don't know that inserting another document that is going to be
6 sent out at some point that will be received by some people and
7 will get thrown out because it doesn't look like a ballot to
8 others is really a solution to a profoundly flawed set of words.
9 And I think we call it ballot language. It's just a set of
10 words. If key was the only thing that was missing, maybe an
11 insert would have been appropriate. Maybe a public education
12 campaign would have been appropriate. But I don't think at this
13 stage, given how late it is in the game, how delinquent the City
14 was in getting this to the State, how delinquent it was in
15 giving the public a chance to understand what this was. They
16 literally waited until the eleventh hour to do so. I do not
17 think it's appropriate to now empower the State Administrator to
18 come up with some other fix in coordination with whom?

19 I'm not suggesting that the City necessarily acted in
20 bad faith. But they could've done a lot more to make sure the
21 public was aware of what on earth this was about and they failed
22 to do so. They took that risk. They wrote the language. They
23 delayed certifying it to the State Board until the very last
24 day. They have been silent through the course of these
25 proceedings. They are taking the risk that what they have

1 proposed may be invalidated and have to come back in two years.
2 It happens. It's not the end of the world. If they think this
3 is an appropriate charter amendment, they can have another
4 chance. But for the November 2024 election, it appears too late
5 in part because of them, in part because of the structure and
6 timetable of Maryland and federal law, and, as a result, the
7 Petitioners respectfully submit that the proper remedy on both
8 improper charter material as well as the confusing word salad
9 ballot language proposal is to invalidate this as a matter of
10 law.

11 Thank you, Your Honor.

12 THE COURT: All right. Thank you.

13 All right, so let me tell you, procedurally, the Court
14 is going to give you an oral decision that is going to be
15 reduced to a written order, so that I can touch on some things
16 in my comments. And then follow it up with a written order and
17 a written memorandum. The timeline for that, so it's not to put
18 you all afoul, should one side or the other choose to do
19 something, is to have the order to be to counsel today and to
20 have the memorandum no later than tomorrow. Okay. So that you
21 all have the time and I'm well aware of counting the five days
22 to the 21st, knowing that that is going to create different
23 problems, depending on what I do.

24 But first, to the lawyers, thank you for the
25 arguments. This matter, although it was filed here with our

1 courts, this initial matter was filed with our court, I believe,
2 a week ago. It came to our knowledge and attention on Thursday?
3 Friday? Either Thursday or Friday, as a result of the phone
4 call that I don't think has anything to do with this case and
5 everything to do with the other case. A lesson learned not only
6 from our Clerk's office or to our Clerk's office of the
7 expedient nature of election law. And as we talked about form
8 and substance, the knowledge by clerks who would not know --
9 clerks, meaning ours, would not know of the importance or the
10 need to get how to get the matter is scheduled. So I appreciate
11 the self-determined schedule that you all came up with for
12 briefing. And if it hadn't been signed by an order it will be
13 just so the record's clear. But we -- I appreciate you all
14 working that out.

15 This is certainly not unique in the sense that ballot
16 challenges have come before the courts before, either through
17 petition issues or resolution. I may have made a comment once
18 before about Atkinson and a few others being familiar. You all
19 can look up my legislative history to know where I might have
20 been living legislatively at the time that Atkinson was going
21 through or the binding arbitration issues or any of the other
22 stuff. So I'm well familiar with that, as well as having the
23 parts of drafting resolutions to the Office of Law to then
24 determine what they should look like in order to get to a
25 ballot, so perhaps that's in part why this case landed in my

1 chambers. I have maybe a little more knowledge than some of my
2 colleagues on the legislative process.

3 That being said, the statute talks about the procedure
4 and the process. So let me try to succinctly in order address
5 at least what I consider to be the three major issues here.

6 With regard to the issue of laches, the Court would
7 need to look at whether or not there was an unreasonable delay
8 on the part of the Petitioners in order to determine that laches
9 applies. And so, I thank you both for the factual history of
10 what each of you believes to be the relevant periods of time.

11 In this case, if the Court is looking at a 12-202
12 determination and addressing the issue of laches, 12-202, by its
13 very words, says,

14 "If no other timely and adequate remedy is provided by
15 this article, a registered voter may seek judicial relief
16 from any act or omission related to an election. It
17 indicates whether or not the election has been held, on the
18 grounds that the act or omission is inconsistent with the
19 article or other law applicable to the election process and
20 may be changed -- and may change or has changed the outcome
21 of the election."

22 And obviously in this case we're talking about the
23 outcome of a ballot question in specific drilling it down. And
24 then there's the 10-day rule, because obviously we haven't had
25 the election, so the election results are not capable of being

1 certified.

2 So, there is a valid argument to be made that it is
3 the Petitioner's prerogative to choose on acts or omissions
4 relating to the election, and in this case the act has to do
5 with the certification as has been pled by the Petitioners. And
6 that's the September date, not the August date.

7 Complicate that with the back and forth, and counsel I
8 appreciate your belief that the only highway is the Key Highway,
9 I couldn't tell you if it is or isn't. I heard the Petitioner
10 tell me there were five highways by definition of highway,
11 whichever definition one chooses to use, that it could've
12 pertained to because you're talking about educating the voters
13 of the City of Baltimore and perhaps we all take a presumption,
14 be it rightfully or wrongfully or correct or incorrect, I guess,
15 is a better way to say that, that the Inner Harbor is defined in
16 a particular way. As I said, I literally took the ballot
17 question at a Google map to try to at least understand where the
18 frame of reference was to determine whether it could be
19 confusing or not, because quite frankly it might not have been.

20 So on the issue of laches, the Court does not find
21 that there was an unreasonable delay and that the matter is
22 barred under the theory of laches.

23 So then that takes us to the substance of the
24 argument. And I'm going to address both of them because I think
25 they're both equally significant and I believe that it's

1 important to understand both directions. So.

2 It continues to be apparent that § 9 is not a form and
3 structure amendment. For whatever reason that it was put in 50
4 years ago, if I were to look at the resolution that was filed in
5 the court matters and was approved by the Council, it spoke to
6 the intent of those that placed this item in the charter to be
7 of such a level of significance that I think, as both counsel
8 would agree, charter amendments, some people may believe, are
9 easily passed and very difficult to repeal. And so, you
10 mentioned the Swantz (phonetic) matter -- easy to pass and
11 difficult to repeal should the cause occur. But that doesn't
12 make those charter amendments by definition something that
13 they're not. The inclusion of Inner Harbor Park in the charter,
14 from a factual standpoint here in 2024, is just that. It's a
15 charter amendment if it's part of the charter. But whether or
16 not to continue taking inappropriate steps to modify provisions
17 that perhaps shouldn't be there is not necessarily the
18 appropriate course of action either.

19 The question comes down to whether or not it violates
20 art. 11, § 3 provisions, which speak to the need for charter
21 amendments to the form and structure. I have reviewed the
22 provision every possible way, and I do not find that the
23 resolution that was proposed creating the Charter Amendment Act
24 comes even tangentially to form a structure of government. And
25 because of that, the Court would find that it is violative of

1 the constitution and, therefore, it is an unconstitutional
2 proposal.

3 So what does that mean here? I understand the ballots
4 are printed. I understand, and nor am I going to request that
5 you create a new set of ballots, nor do I believe that that's
6 appropriate because the case law gives me a separate direction.
7 The court permits -- in public courts would permit me to simply
8 indicate that having indicated that it is an improper amendment,
9 that it simply not be counted and recorded. Once the ballots
10 are final, in other words once the ballots have been cast, it
11 simply takes the action of a nullity in that the question --

12 MR. VIGNARAJAH: Your Honor, just for clarity of
13 language and to make sure that what you want happens, I don't
14 know if it can't not be counted, because ballot scanners are
15 going to skim ballots. They're going to tabulate them --

16 THE COURT: Right. Right. Right. We're going to
17 know the numbers, which is exactly why we know what happened in
18 (unintelligible)

19 MR. VIGNARAJAH: -- right. But to have the local
20 Board of Elections and State Board of Canvassers not certify a
21 result for this ballot question.

22 THE COURT: Thank you for the clarity.

23 MR. VIGNARAJAH: Okay.

24 THE COURT: Clarity being very important here.

25 MR. VIGNARAJAH: I really don't want to get in trouble

1 for accidentally counting ballots.

2 THE COURT: No. No. And that -- and I, you know, and
3 then I forget that all the time. I forget that we send it
4 through the Scantron, it gives you the number --

5 MR. VIGNARAJAH: Right.

6 THE COURT: -- as opposed to two people sitting there
7 with -- looking at a ballot and determining what the particular
8 ballot --

9 MR. VIGNARAJAH: Your Honor, if I may. This is not to
10 quibble. I completely understand that. Could I ask that the
11 Court issue an order that the number never even be published?
12 In other words, they can count it.

13 THE COURT: No. I'm not going to do that.

14 MR. VIGNARAJAH: Okay. Okay.

15 THE COURT: Because somewhere -- again, without
16 wanting to quibble with specifics of language, that's why you
17 all are here, and it's going to be on a tabulation page
18 someplace --

19 (crosstalk)

20 THE COURT: -- which technically meets the definition
21 of being published.

22 MR. VIGNARAJAH: Yeah.

23 THE COURT: But in that case it's no different than --
24 I keep saying MacDonald because we were reading that case -- our
25 Anne Arundel County wrote three things, where I could look at

1 the numbers and know what the voters did, and it didn't matter
2 because the Court had already declared that the ballot question
3 was inappropriate, so -- and I know that one. Every time I read
4 the dissent of that, I know that it was 36,000 to 11.

5 So, that having been said, it would be unfair to you
6 all to not take the other piece, because I do believe that
7 perhaps this is the case where an appellate court might find it
8 appropriate to provide instruction with regard to the 9-203.

9 In reviewing the construction of 9-205 and its
10 discussion of the content of a ballot, it's pretty specific. A
11 heading, a statement of each question that has met all of the
12 qualifications to appear on the ballot. And then several
13 others: the title of the office, which is not at issue here; the
14 name as specified in the certificate of candidacy, which is not
15 an issue -- in other words, candidate questions. The only
16 provisions that speak to something other than a candidate could
17 only be interpreted as 9-205(2), a statement of each question
18 that has met all of the qualifications to appear on the ballot.
19 So what does that mean for a candidate? It means something
20 different than a question. A candidate, the name, the, you
21 know, is the name to appear on the ballot contain the, you know,
22 the oath that a person is to know under one thing and supposed
23 to know under their given name. That would be a qualification,
24 because if you wanted to put something on a ballot that was
25 different than what your given name was, you had to explain it,

1 provide a certification, and show proof that everybody knows you
2 as A is supposed to be. That would be a qualification. Not
3 necessarily is it a Republican or a Democrat, although a very
4 important qualification for almost every race except, I believe,
5 Board of Elections and judges. It means making sure that the
6 person has met the residency requirements and making sure that
7 the person is the proper age. In the Gansler (phonetic) matter,
8 it was having the Court step in to tell us what does practicing
9 mean. Lawyers, we think we know what that means. Do you have
10 to just have a law license or do you have to actually practice?
11 And if you have a law license, are you practicing merely because
12 you have a law license. And there was quite, I think, a dynamic
13 discussion in that case. It's the Liddy (phonetic) case.

14 Here, however, the qualifications have to go back to
15 the standards because that's what a ballot is. A ballot is a
16 compilation of lists of candidates and the list of questions
17 being put before the voters to make educated decisions. And so
18 how do they do that? Again, candidates, very simple. Here's
19 your Republican candidate. Here's your Democrat candidate.
20 Maybe here's a third-party candidate. And as the cases even
21 talk about here's the blank in case you want to put in other, so
22 you are still within your perfect right to put another name in
23 and to have that person counted or entity counted, depending on
24 what's written, I guess.

25 So, when they -- when you look at the ballot, I don't

1 believe that you can look at the ballot and say content means
2 placement, that content means anything other than that word.
3 Content means the words and the combination of words put
4 together in order to tell the voters what it is that they're
5 being asked to do.

6 So, in looking at F., you run into 9-203 problems,
7 which the Court believes. Had the Court not believed this does
8 not formulate the proper charter material, would have found that
9 it fails to comply -- that F., as currently written, fails to
10 comply with the requirement that the question be easily
11 understandable by voters in its form and function. And so, what
12 would that have meant to the Board of Election? I do not
13 believe that the code (phonetic) is designed to reduce the Board
14 of Elections to a cut and paste because to do so takes away from
15 a petitioner any opportunity to challenge an incomprehensible
16 ballot. And as I said, the distinction most likely in a
17 candidate scenario, more likely in a charter question or a
18 referendum question. That question, Question F, as it has been
19 provided to the citizens in its formulation -- I don't know what
20 happened, but we just lost our stuff -- fails to provide a
21 discernible description of the request in a clear, concise
22 manner so that the citizens of Baltimore City can determine what
23 they're being asked to do. They're being asked to change
24 something to affect public park usage without any appreciation
25 of what the amendment will do.

1 And under 9-203, where you have to create a ballot
2 that's easily understandable by voters, we're not talking about,
3 you know, learned members of the Supreme Court. We're not
4 talking about scholars in the sense that somebody who studied
5 ballot questions and words. It's with regard to the language of
6 the ballot and what's being asked upon them to do.

7 And, for that reason, the Court would have found, had
8 I not found the problem with the charter material, I would have
9 found that the language of Question F fails to comport with the
10 9-203 requirements that the ballot contain information that is
11 or questions that are easily understandable by the voters asked
12 to vote on it.

13 So, those are the Court's three components. And I'll
14 get those out as soon as I get off the bench.

15 MR. KOBRIN: Thank you, Your Honor.

16 MR. VIGNARAJAH: Your Honor, thank you. Can I ask one
17 minor -- I'm so sorry. The State Board's position has been that
18 the proper way to challenge the bad language is not under 9-209,
19 but rather under 12-202.

20 THE COURT: In going through the analysis of the
21 subtitle 9, it's because the Court believes that you have the
22 ability to challenge --

23 MR. VIGNARAJAH: Understood. Understood.

24 THE COURT: -- in this case. And if I'm wrong, I'm
25 sure someone's going to tell me. But I believe that you have

1 that option. The legislature didn't give you a A or B.

2 MR. VIGNARAJAH: Right.

3 THE COURT: They said if --

4 MR. VIGNARAJAH: It is only available if there's no
5 other adequate remedy.

6 THE COURT: Yeah. But if, for example, 12-202 didn't
7 apply and it was merely the language of the statute -- I mean
8 the language of the question, then your challenge on content is
9 appropriate under 9-205. It takes you back to 9-203, but it
10 starts with 9-209.

11 MR. VIGNARAJAH: I just wanted to make sure that all
12 the parties (unintelligible). Thank you, Your Honor.

13 THE COURT: All right. Oh, okay. Yeah, no, no, no.
14 I do need to put on the record. Exhibit 8 of the amended
15 petition for judicial review is -- has been received by the
16 Court and it is admitted.

17 MR. VIGNARAJAH: I do know, Your Honor, that there
18 were three other items that were being printed. This is the
19 colloquy between the State Board and the State Solicitor. I
20 don't know that we got those printouts yet. I can work with the
21 clerks.

22 THE COURT: My clerk's getting off the bench.

23 MR. VIGNARAJAH: Okay.

24 THE CLERK: It has not --

25 THE COURT: What's that?

1 THE CLERK: -- you remember what we were talking about
2 earlier? I called civil and they didn't have anything.

3 THE COURT: (unintelligible)

4 THE CLERK: Everything they received from him was
5 returned deficient. Whatever that was.

6 THE COURT: Did you receive a deficiency notice on
7 your reply?

8 MR. VIGNARAJAH: No. Not that I know --

9 THE CLERK: I'll talk to you.

10 MR. VIGNARAJAH: Okay.

11 THE COURT: All right. I'm going to step off. That's
12 a procedural I don't need to know about.

13 MR. VIGNARAJAH: Thank you, Your Honor.

14 THE CLERK: All rise.

15 (At 1:24 p.m., proceedings concluded.)
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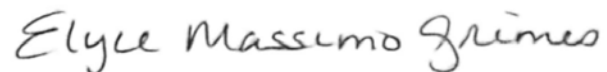
CERTIFICATE OF TRANSCRIBER

I hereby certify that the proceedings in the matter of Anthony Ambridge, et al., v. Maryland State Board of Elections, case C-02-CV-24-002246, heard in the Circuit Court for Anne Arundel County, Maryland, on September 16, 2024, were recorded by means of digital audio.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 128 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness whereof, I have affixed my signature this 24th day of September, 2024.



Elyce Massimo Grimes

Transcriber