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**IN THE  
SUPREME COURT OF MARYLAND**

---

No. 35, September Term, 2023

SCM-REG-0035-2023

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***BENEDICT J. FREDERICK, III, et. al***

*Appellants,*

v.

***BALTIMORE CITY BOARD OF ELECTIONS, et al.***

*Appellees.*

---

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

---

**RECORD EXTRACT**

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

*Attorneys for Appellants*

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**IN THE  
SUPREME COURT OF MARYLAND**

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No. 35, September Term, 2023spe

SCM-REG-0035-2023

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***BENEDICT J. FREDERICK, III, et. al***

*Appellants,*

v.

***BALTIMORE CITY BOARD OF ELECTIONS, et al.***

*Appellees.*

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

---

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

---

Constanine J. Themelis (AIS 0212190235)  
Stevem A. Thomas (AIS 7212010254)  
Clint R. Black, V (AIS 1112130092)  
Thomas & Libowitz, P.A.  
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*Attorneys for Appellants*

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# Maryland Judiciary Case Search

NOTICE: Available

## Case Detail

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### Case Information

Court System: **Circuit Court For Baltimore City - Civil**  
Location: **Baltimore City Circuit Court**  
Case Number: **C-24-CV-24-001361**  
Title: **Benedict Frederick, III .vsBaltimore City Board of Elections**  
Case Type: **Election Law**  
Filing Date: **07/12/2024**  
Case Status: **Closed**  
Judicial Officer: **Handy, Althea M.**

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### Other Reference Numbers

Case Appealed: **SCM-REG-0035-2023**

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### Involved Parties Information

#### Defendant

Name: **JONES, SR, B.C. ARMSTEAD**

Address: **417 E. FAYETTE ST., ROOM #129**

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

#### Attorney(s) for the Defendant

Name: **Chapman, Thomas S.**

Appearance Date: **08/02/2024**

Address Line 1: **Office of the Attorney General**

Address Line 2: **200 St. Paul Place**

Address Line 3: **20th Floor**

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

---

#### Defendant

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

**Attorney(s) for the Defendant**

Name: **VanDeWalle, Derek Michael**  
Appearance Date: **07/18/2024**  
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**

---

**Intervenor - Defendant**

Name: **Mayor and City Council of Baltimore**  
Removal Date: **08/05/2024**

Address: **100 N. Holliday Street**  
**Suite 101**  
City: **Baltimore** State: **MD** Zip Code: **21202**

**Attorney(s) for the Intervenor - Defendant**

Name: **VanDeWalle, Derek Michael**  
Appearance Date: **07/18/2024**  
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**

Name: **WEBB, THOMAS PATRICK GEORGE**  
Appearance Date: **07/18/2024**  
Address Line 1: **Baltimore City Law Department**  
Address Line 2: **100 North Holliday Street**  
City: **BALTIMORE** State: **MD** Zip Code: **21202**

Name: **RULEY, HILARY BALDWIN**  
Appearance Date: **07/18/2024**  
Address Line 1: **BALT CITY LAW DEPT CITY HALL**  
Address Line 2: **100 N HOLLIDAY ST**  
City: **BALTIMORE** State: **MD** Zip Code: **21202**

Name: **RULEY, HILARY BALDWIN**  
Appearance Date: **07/18/2024**  
Address Line 1: **BALT CITY LAW DEPT CITY HALL**  
Address Line 2: **100 N HOLLIDAY ST**  
City: **BALTIMORE** State: **MD** Zip Code: **21202**

---

**Plaintiff**

Name: **Frederick, Benedict J III**

Address: **701 W. University Parkway**

City: **Baltimore** State: **MD** Zip Code: **21210**

### Attorney(s) for the Plaintiff

Name: **BLACK, CLINTON RUTHERFORD V**

Appearance Date: **07/12/2024**

Address Line 1: **Thomas & Libowitz, P.A.**

Address Line 2: **25 S. Charles Street**

Address Line 3: **Suite 2015**

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

Name: **THOMAS, STEVEN A**

Appearance Date: **07/12/2024**

Address Line 1: **Thomas & Libowitz, P.A.**

Address Line 2: **25 S. Charles Street**

Address Line 3: **Suite 2015**

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

Name: **THEMELIS, CONSTANTINE JOHN**

Appearance Date: **07/12/2024**

Address Line 1: **Thomas & Libowitz, P.A.**

Address Line 2: **25 S. Charles Street, Suite 2015**

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

---

### Defendant

Name: **Maryland State Board of Election**

### Attorney(s) for the Defendant

Name: **KOBIN, DANIEL MICHAEL**

Appearance Date: **08/05/2024**

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**

---

### Plaintiff

Name: **Teal-Locust, Stacie**

Address: **5011 Rimmell Avenue**

City: **Baltimore** State: **MD** Zip Code: **21206**

### Attorney(s) for the Plaintiff

Name: **THEMELIS, CONSTANTINE JOHN**  
Appearance Date: **07/12/2024**  
Address Line 1: **Thomas & Libowitz, P.A.**  
Address Line 2: **25 S. Charles Street, Suite 2015**  
City: **BALTIMORE** State: **MD** Zip Code: **21201**

---

## Defendant

Name: **BARNES, SCHEROD C.**

Address: **417 E. FAYETTE ST., ROOM #129**  
City: **BALTIMORE** State: **MD** Zip Code: **21202**

## Attorney(s) for the Defendant

Name: **Chapman, Thomas S.**  
Appearance Date: **08/02/2024**  
Address Line 1: **Office of the Attorney General**  
Address Line 2: **200 St. Paul Place**  
Address Line 3: **20th Floor**  
City: **BALTIMORE** State: **MD** Zip Code: **21202**

---

## Plaintiff

Name: **Wyskiel, Matthew W. III**

Address: **35 Warrenton Road**  
City: **Baltimore** State: **MD** Zip Code: **21210**

## Attorney(s) for the Plaintiff

Name: **THEMELIS, CONSTANTINE JOHN**  
Appearance Date: **07/12/2024**  
Address Line 1: **Thomas & Libowitz, P.A.**  
Address Line 2: **25 S. Charles Street, Suite 2015**  
City: **BALTIMORE** State: **MD** Zip Code: **21201**

---

## Defendant

Name: **Baltimore City Board of Elections**

Address: **417 E FAYETTE St**  
**RM 129**  
City: **BALTIMORE** State: **MD** Zip Code: **21202**

## Attorney(s) for the Defendant

Name: **Chapman, Thomas S.**  
Appearance Date: **07/30/2024**  
Address Line 1: **Office of the Attorney General**  
Address Line 2: **200 St. Paul Place**  
Address Line 3: **20th Floor**  
City: **BALTIMORE** State: **MD** Zip Code: **21202**

---

## Court Scheduling Information

| Event Type       | Event Date | Event Time | Judge            | Court Location                | Court Room | Result           |
|------------------|------------|------------|------------------|-------------------------------|------------|------------------|
| Hearing - Motion | 08/08/2024 | 09:00:00   | Handy, Althea M. | Baltimore City CV/CR Calendar | Room 523C  | Concluded / Held |

---

## Document Information

File Date: **07/12/2024**  
Document Name: **Complaint / Petition**  
Comment: **Verified Complaint for Declaratory Judgment**

---

File Date: **07/12/2024**  
Document Name: **Case Information Report Filed**  
Comment: **Case Information Report**

---

File Date: **07/12/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1**

---

File Date: **07/12/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2**

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File Date: **07/12/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 3**

---

File Date: **07/12/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 4**

---

File Date: **07/12/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 5**

---



File Date: **07/12/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 6**

---

File Date: **07/12/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 7**

---

File Date: **07/12/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 8**

---

File Date: **07/15/2024**  
Document Name: **Summons Issued (Service Event) - New Case**  
Comment:

---

File Date: **07/15/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Summons/issued**

---

File Date: **07/18/2024**  
Document Name: **Complaint - Amended**  
Comment: **Verified Amended Complaint**

---

File Date: **07/18/2024**  
Document Name: **Supporting Document**  
Comment: **Comparison Copy of Complaint**

---

File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1**

---

File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2**

---

File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 3**

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File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**

Comment: **Exhibit 4**

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File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 5**

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File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 6**

---

File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 7**

---

File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 8**

---

File Date: **07/18/2024**  
Document Name: **Motion - Intervene**  
Comment: **Mayor and City Council of Baltimore's Motion to Intervene**

---

File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1 - Motion to Dismiss**

---

File Date: **07/18/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2 - Proposed Order Granting Motion to Dismiss**

---

File Date: **07/22/2024**  
Document Name: **Consent Motion**  
Comment: **Consent to Mayor and City Council of Baltimore's Partial Consent Motion to Intervene**

---

File Date: **07/22/2024**  
Document Name: **Motion**  
Comment: **Joint Emergency Motion for Expedited Briefing Schedule and Hearing for Judicial Review Pursuant to Md. Code. Ann., Elec. Law 6-209(A)(2), 6-209(A)(3)(I), 6-210(E)(3)(I)(1)**

---

File Date: **07/24/2024**  
Document Name: **Summons Issued (Service Event)**

Comment:

---

File Date: **07/24/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Summons/issued**

---

File Date: **07/24/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Summons/issued**

---

File Date: **07/26/2024**  
Document Name: **Motion**  
Comment: **Emergency Petition for Judicial Review Pursuant to Md. Code Ann., Elec. Law (EL) 6-209(A) (3)(I) 6-210(E)(3)(I)(1) and/or Motion for Summary Judgment**

---

File Date: **07/26/2024**  
Document Name: **Memorandum**  
Comment: **Memorandum in Support of Plaintiffs' Emergency Petition for Judicial Review and/or Motion for Summary Judgment**

---

File Date: **07/26/2024**  
Document Name: **Motion / Request - To Dismiss**  
Comment: **City Board's Motion to Dismiss or Alternatively for Summary Judgment**

---

File Date: **07/26/2024**  
Document Name: **Memorandum**  
Comment: **Memorandum in Support of City Board's Motion to Dismiss or for Summary Judgment**

---

File Date: **07/26/2024**  
Document Name: **Affidavit**  
Comment: **City Board's Exhibit 1 (Affidavit of Armstead Jones)**

---

File Date: **07/26/2024**  
Document Name: **Supporting Exhibit**  
Comment: **City Board's Exhibit 2 (Petition Form)**

---

File Date: **07/26/2024**  
Document Name: **Supporting Exhibit**  
Comment: **City Board's Exhibit 3 (Advance Determination)**

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File Date: **07/26/2024**  
Document Name: **Supporting Exhibit**  
Comment: **City Board's Exhibit 4 (Determination of Deficiency)**

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File Date: **07/26/2024**  
Document Name: **Motion for Summary Judgment**  
Comment: **Mayor and City Council of Baltimore's Motion for Summary Judgment**

---

File Date: **07/26/2024**  
Document Name: **Memorandum**  
Comment: **Memorandum In Support of City's Motion for Summary Judgment**

---

File Date: **07/26/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1 - Analysis**

---

File Date: **07/26/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2 - Affidavit of Cennane**

---

File Date: **07/29/2024**  
Document Name: **Order**  
Comment: **Ordered, that the Jnt. Emergency Mot. for Expedited Briefing Sch. Hrg is GRANTED.**

---

File Date: **07/29/2024**  
Document Name: **Copies Mailed**  
Comment:

---

File Date: **07/29/2024**  
Document Name: **Order - Case Reassigned to Judge**  
Comment: **Case specially assigned to Judge Althea M. Handy.**

---

File Date: **07/29/2024**  
Document Name: **Copies Mailed**  
Comment:

---

File Date: **07/29/2024**  
Document Name: **Notice of Judge Assignment**  
Comment: **NO FORMS TO ISSUE**

---

File Date: **07/30/2024**  
Document Name: **Consent**

Comment: **Consent to the Maryland State Board of Elections' Motion to Intervene**

---

File Date: **07/30/2024**

Document Name: **Motion - Intervene**

Comment: **Maryland State Board of Elections' Motion to Intervene**

---

File Date: **07/30/2024**

Document Name: **Supporting Exhibit**

Comment: **Intended Filing for Intervention**

---

File Date: **07/30/2024**

Document Name: **Response/Reply**

Comment: **Maryland State Board of Elections' Response to Plaintiffs' Motion for Summary Judgment**

---

File Date: **07/30/2024**

Document  
Name: **Supporting Exhibit**

Comment: **Supporting Exhibit A- Affidavit of Jennifer McLaughlin re Maryland State Board of Elections'**

---

File Date: **07/30/2024**

Document Name: **Supporting Exhibit**

Comment: **Exhibit B- Affidavit of Natasha Walker re SBE Response**

---

File Date: **08/02/2024**

Document  
Name: **Response/Reply**

Comment: **Mayor and City Council of Baltimore's Response in Opposition to Plaintiff's Motion for Summary Judgment**

---

File Date: **08/02/2024**

Document Name: **Supporting Exhibit**

Comment: **Exhibit 1 - Analysis**

---

File Date: **08/02/2024**

Document Name: **Supporting Exhibit**

Comment: **Exhibit 2**

---

File Date: **08/02/2024**

Document  
Name: **Opposition**

Comment: **Plaintiffs' Opposition to Mayor and City Council of Baltimore's Motion to Dismiss and Request for Hearing**

---

File Date: **08/02/2024**  
Document Name: **Memorandum**  
Comment: **Plaintiffs' Memorandum of Law in Opposition to Mayor and City Council of Baltimore's Motion to Dismiss**

---

File Date: **08/02/2024**  
Document Name: **Opposition**  
Comment: **Opposition to City Board's Motion to Dismiss or Alternatively for Summary Judgment and Request for Hearing**

---

File Date: **08/02/2024**  
Document Name: **Memorandum**  
Comment: **Memorandum of Law in Opposition to City Board's Motion to Dismiss or Alternatively for Summary Judgment**

---

File Date: **08/02/2024**  
Document Name: **Opposition**  
Comment: **Opposition to Mayor and City Council of Baltimore's Motion for Summary Judgment and Request for Hearing**

---

File Date: **08/02/2024**  
Document Name: **Memorandum**  
Comment: **Plaintiffs' Memorandum of Law in Opposition to Mayor and City Council of Baltimore's Motion for Summary Judgment and Plaintiffs' Request for Hearing**

---

File Date: **08/02/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 1**

---

File Date: **08/02/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 2**

---

File Date: **08/02/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit A to Exhibit 2**

---

File Date: **08/02/2024**  
Document Name: **Supporting Exhibit**

Comment: **Exhibit B to Exhibit 2**

---

File Date: **08/02/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 3**

---

File Date: **08/02/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit A to Exhibit 3**

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File Date: **08/02/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit 4**

---

File Date: **08/02/2024**  
Document Name: **Supporting Exhibit**  
Comment: **Exhibit A to Exhibit 4**

---

File Date: **08/02/2024**  
Document Name: **Opposition**  
Comment: **City Board's Reponse to Plaintiffs' Petition for Judicial Review and/or MSJ**

---

File Date: **08/05/2024**  
Document Name: **Set for Trial / Hearing**  
Comment:

---

File Date: **08/06/2024**  
Document Name: **Motion / Request - To Dismiss**  
Comment: **Mayor and City Council of Baltimore's Motion to Dismiss**

---

File Date: **08/08/2024**  
Document Name: **Hearing Sheet**  
Comment:

---

File Date: **08/08/2024**  
Document Name: **Hearing Summary**  
Comment: **Top Sheet**

---

File Date: **08/12/2024**  
Document Name: **Order**  
Comment: **ORDERED grants MD State Board of Elections as a Defendant.**

---

File Date: **08/12/2024**  
Document Name: **Copies Mailed**  
Comment:

---

File Date: **08/12/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Order granting Intervenor for MD. State Bd. of Election**

---

File Date: **08/12/2024**  
Document Name: **Order**  
Comment: **Order Granting M&CC of Balto. Parital Consent to Intervene as Deft**

---

File Date: **08/12/2024**  
Document Name: **Copies Mailed**  
Comment:

---

File Date: **08/12/2024**  
Document Name: **Memorandum Opinion and Order**  
Comment:

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File Date: **08/12/2024**  
Document Name: **Copies Mailed**  
Comment:

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File Date: **08/12/2024**  
Document Name: **Order**  
Comment: **M&CC Mot. to Dismiss w/Prejudice is DENIED as moot.**

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File Date: **08/12/2024**  
Document Name: **Order**  
Comment: **ORDERED that Pltff's Mot. for Summary Judgment is DENIED**

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File Date: **08/12/2024**  
Document Name: **Order**  
Comment: **ORDERED that City Board's Mot. to Dismiss / Alternatively for Summ. Judg. Granted.**

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File Date: **08/12/2024**  
Document Name: **Copies Mailed**  
Comment:

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File Date: **08/12/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**



Comment: **Memorandum Opinion**

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File Date: **08/13/2024**

Document Name: **Civil Information Report - Appeal to ACM**

Comment: **Civil Appeal Information Report**

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File Date: **08/13/2024**

Document Name: **Civil Information Report - Appeal to ACM**

Comment: **Civil Appeal Information Report Continued**

---

File Date: **08/13/2024**

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

Comment:

---

File Date: **08/13/2024**

Document Name: **Supporting Exhibit**

Comment: **Exhibit A**

---

File Date: **08/13/2024**

Document Name: **Supporting Exhibit**

Comment: **Exhibit B**

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File Date: **08/13/2024**

Document Name: **Supporting Exhibit**

Comment: **Exhibit C**

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File Date: **08/13/2024**

Document Name: **Supporting Exhibit**

Comment: **Exhibit D**

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File Date: **08/13/2024**

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

Comment:

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File Date: **08/15/2024**

Document Name: **Certificate**

Comment: **Original Case File**

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File Date: **08/15/2024**

Document Name: **Original Record Sent**

Comment: **Sent to SCM**

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File Date: **08/15/2024**  
Document Name: **Writ /Summons/Pleading - Electronic Service**  
Comment: **Case Summary**

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File Date: **08/15/2024**  
Document Name: **Writ/Summons/Pleading - Confidential Electronic Service**  
Comment: **Appeal Index**

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Service Information

| <u>Service Type</u>   | <u>Issued Date</u> |
|-----------------------|--------------------|
| <b>Summons Issued</b> | <b>07/15/2024</b>  |
| <b>Summons Issued</b> | <b>07/24/2024</b>  |

*This is an electronic case record. Full case information cannot be made available either because of legal restrictions on access to case records found in Maryland Rules, or because of the practical difficulties inherent in reducing a case record into an electronic format.*

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Service Desk: (410) 260-1114



## **VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) sue Defendant, Baltimore City Board of Elections, and states as follows:

### **INTRODUCTION**

1. This is an action for declaratory judgment pursuant to §3-406 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, for the purposes of determining a question of actual controversy between the parties, as hereinafter more fully appears.

2. This case involves the validity of a charter amendment to cap the Baltimore City real property tax rate proposed, pursuant to the Maryland Constitution, Art. XI-A, § 5, by petition of the voters of Baltimore City.

3. Despite satisfying all legal requirements, the Election Director for the Baltimore City Board of Elections (“BCBOE”) determined that a petition of the voters of Baltimore City - put forth by Renew Baltimore, a ballot issue committee, - to amend the Baltimore City Charter by placing caps on the real property tax rate (the “Petition”) was unconstitutional or otherwise prohibited by law.<sup>1</sup>

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<sup>1</sup> To date, BCBOE has not verified the number of valid signatures on the Petition. “The verification and counting of validated signatures on a petition shall be completed within 20 days after filing of the petition.” EL § 6-210(c)(1). “Upon the filing of a petition, and unless it has been declared deficient under §6-206 of this subtitle, the staff of the election authority shall proceed to verify the signatures and count the validated signatures contained in the petition.” EL §6-207(a)(1). On July 9, 2024, BCBOE advised undersigned counsel that BCBOE staff continue to review the signatures. *See Ex. 8*. As of the filing of the Complaint, BCBOE has not advised that the Petition does not contain the requisite number of valid signatures as required by Article XI-A of the Maryland Constitution §5. Plaintiffs are hopeful for a prompt verification and counting of validated signatures and not of any artificial delay, which may be dilatory in nature intending to preclude Plaintiffs from moving forward this election cycle.

4. The Petition complies with Maryland law, should be certified and submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024.

5. This action seeks a declaration that the Petition complied with all legal requirements and shall be placed on the general election ballot in Baltimore City.

6. Plaintiffs are all registered voters of Baltimore City seeking judicial review in the form of declaratory relief as to the Petition pursuant to MD. CODE ANN., ELEC. LAW (EL) § 6-209(b).

### **PARTIES**

7. Mr. Frederick is a registered voter and resides at 701 W. University Parkway in Baltimore City, Maryland. Mr. Frederick owns this property and pays property and income taxes annually.

8. Mr. Wyskiel is a registered voter and resides at 35 Warrenton Road in Baltimore City, Maryland. Mr. Wyskiel owns this property and pays property and income taxes annually.

9. Ms. Teal-Locust is a registered voter and resides at 5011 Remmell Avenue in Baltimore City, Maryland. Ms. Teal-Locust owns this property and pays property and income taxes annually.

10. The BCBOE is a body politic and corporate doing business in Baltimore City, with its principal office located at 417 East Fayette Street, Baltimore, Maryland 21202.

### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over the BCBOE pursuant to MD. CODE ANN., CTS. & JUD. PROC. §§ 6-102 and 6-103.

12. This Court has subject matter jurisdiction over this action, pursuant to MD. CODE ANN., CTS. & JUD. PROC. § 1-501 and MD. CODE ANN., CTS. & JUD. PROC. § 3-403.

13. Venue is proper in this Court under MD. CODE ANN., CTS. & JUD. PROC. § 6-201 because Defendant carries on business in Baltimore City and under MD. CODE ANN., ELEC. LAW § 6-209(a)(1)(ii) because Plaintiffs were aggrieved by a determination made by the chief election official of BCBOE under MD. CODE ANN., ELEC. LAW § 6-206 and 6-208(a)(2).

### **STATEMENT OF FACTS**

14. Renew Baltimore, the Petition “sponsor,” filed a petition to submit to a vote of the registered voters of Baltimore City at the next general election an amendment to the Baltimore City Charter that would implement caps on Baltimore City’s real property tax rate.

15. The Petition complied with Article XI-A of the Maryland Constitution §5, which provides in relevant part:

**SEC. 5.** Amendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition. \*\*\*.<sup>2</sup>

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

#### **§ 6A. Limits on taxation.**

Notwithstanding any other provision of this Charter, and except for property exempt by law, the uniform rate of taxation which shall be levied and imposed on every \$100 of assessed or assessable value of real property in Baltimore City, as

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<sup>2</sup> See fn 1.

determined by the Mayor and City Council pursuant to Article II, Section 39 of this Charter, shall be:

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

A copy of the Petition is attached as **Ex. 1**.

17. The Petition seeks to amend the Baltimore City Charter by adding §6A to Article I (General Provisions) to be placed immediately after §6 (Uniform Taxation). *Id.*

18. The Petition does not seek to change any other section of the Baltimore City Charter. On June 6, 2023, Renew Baltimore sought an “advance determination” of the sufficiency of the Petition form pursuant to EL § 6-202. A copy of this communication is attached as **Ex. 2**.

19. On June 20, 2023, BCBOE Election Director approved the sufficiency of the form of the Petition and did not declare the Petition unconstitutional or unlawful at that time. A copy of this communication is attached as **Ex. 3**.

20. The deadline to submit a charter amendment petition for the upcoming general election is July 29, 2024. See [2024 Elections Calendar.pdf \(maryland.gov\)](#) at p. 6 attached as **Ex. 4**.

21. On June 20, 2024, Renew Baltimore timely filed the Petition and submitted 23,542 Petition signatures (more than double the number of signatures required by Article XI-A of the Maryland Constitution §5) to BCBOE. A copy of the receipt of the Petition delivery is attached as **Ex. 5**.

22. On July 3, 2024, undersigned counsel wrote to BCBOE to inquire if there were any determination(s) regarding the Petition. A copy of this communication is attached as **Ex. 6**.

23. On July 3, 2024, Thomas S. Chapman, Esq. advised BCBOE had not yet made any further determinations. A copy of this communication is attached as **Ex. 7**.

24. On July 9, 2024, BCBOE sent a letter to undersigned counsel to declare the Petition deficient as “it seeks ‘the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law. *See* EL § 6-206 (c)(5).” A copy of this communication is attached as **Ex. 8**.

25. Specifically, BCBOE erroneously concluded that the Petition conflicted with State law as it divested the Mayor and City Council of its authority to set a specific real property tax rate in Baltimore City pursuant to §6-302(a) of the Tax-Property Article, Maryland Code. *Id.*

26. BCBOE conflates real property “tax rates,” “tax caps” and “tax revenues.”

27. The Petition seeks to set a real property tax rate cap in Baltimore City.

28. The Petition does not seek to set the real property tax rate in Baltimore City.

29. The Petition does not limit the amount of revenue Baltimore City can generate from real property taxes or any other lawful tax.

30. The subject case involves a justiciable controversy for Plaintiffs as they do not agree with BCBOE’s decision not to certify the Petition.

### **COUNT I (DECLARATORY JUDGMENT)**

31. Plaintiffs incorporate each and every allegation as set forth in paragraphs 1 through 30 above.

32. Pursuant to Md. Cts. & Jud. Code Ann. §3-406:



Any person interested ...whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation...may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation...and obtain a declaration of rights, status, or other legal relations under it.

33. Election Law Article, Title 6, statutorily obligates the BCBOE Election Director to promptly review and certify petitions for referenda. *See* EL § 6-206(a).

34. Plaintiffs are seeking judicial review of the BCBOE Election Director's erroneous declaration that the Petition is deficient. *See* EL § 6-209.

35. The subject action was filed timely as Plaintiffs have ten (10) days to seek judicial review of the BCBOE Election Director's declaration on July 9, 2024 that the Petition is deficient. *See* EL § 6-210(e)(1).

36. This case shall be heard and decided without a jury and as expeditiously as the circumstances require. *See* EL § 6-210(e)(3)(i).

37. The Supreme Court of Maryland has already determined that real property tax limitation charter amendments that limited the power to collect real property taxes above a specified cap (just like the Petition) are proper. *See Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 236 & 240 (1990).

38. "[A] limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material." *Id. at* 238.

39. There is an existing dispute between the parties that the Petition has satisfied all legal requirements.

40. Plaintiffs request that the Court expeditiously issue a declaration determining that the Petition has satisfied all legal requirements, and that it be certified and placed on the ballot in Baltimore City for the upcoming general election on November 5, 2024.

WHEREFORE, Plaintiffs, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie Teal-Locust, pray that this Court enter an Order as follows:

- A. Declaring the Petition has satisfied all legal requirements;
- B. Ordering the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024;
- C. Precluding the Election Director of BCBOE from making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;
- D. Awarding Plaintiffs the costs of these proceedings; and
- E. Granting such other and further relief as may be just and necessary.

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

July 12, 2024  
Date

Benedict J. Frederick, III  
Benedict J. Frederick, III

Steven A. Thomas

Steven A. Thomas (AIS # 7212010254)  
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Constantine J. Themelis (AIS #0212190235)  
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Clinton R. Black, V (AIS#1112130092)

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Suite 2015

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Phone: (410) 752-2468

Fax: (410) 752-0979

*Attorneys for Plaintiffs Benedict J. Frederick, III, Matthew  
Wyskiel and Stacie Teal-Locust*

IN THE CIRCUIT COURT FOR Baltimore City

(City or County)



**CIVIL - NON-DOMESTIC CASE INFORMATION REPORT**

**DIRECTIONS**

**Plaintiff:** This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111(a).

**Defendant:** You must file an Information Report as required by Rule 2-323(h).

**THIS INFORMATION REPORT CANNOT BE ACCEPTED AS A PLEADING**

FORM FILED BY: ☒ PLAINTIFF ☐ DEFENDANT CASE NUMBER C-24-CV-24-001361

CASE NAME: Benedict J. Frederick, III, et al vs. Baltimore City Board of Elections  
Plaintiff Defendant

PARTY'S NAME: Benedict J. Frederick, III, Matthew W. Wyskiel, III an PHONE: \_\_\_\_\_

PARTY'S ADDRESS: \_\_\_\_\_

PARTY'S E-MAIL: \_\_\_\_\_

**If represented by an attorney:**

PARTY'S ATTORNEY'S NAME: Constantine J. Themelis PHONE: 410-752-2468

PARTY'S ATTORNEY'S ADDRESS: 25 S. Charles Street, Suite 2015, Baltimore, MD 21201

PARTY'S ATTORNEY'S E-MAIL: gthemelis@tandllaw.com

JURY DEMAND? ☐ Yes ☒ No

RELATED CASE PENDING? ☐ Yes ☒ No If yes, Case #(s), if known: \_\_\_\_\_

ANTICIPATED LENGTH OF TRIAL?: \_\_\_\_\_ hours \_\_\_\_\_ days

**PLEADING TYPE**

New Case: ☒ Original ☐ Administrative Appeal ☐ Appeal

Existing Case: ☐ Post-Judgment ☐ Amendment

If filing in an existing case, skip Case Category/ Subcategory section - go to Relief section.

**IF NEW CASE: CASE CATEGORY/SUBCATEGORY (Check one box.)**

**TORTS**

- ☐ Asbestos
- ☐ Assault and Battery
- ☐ Business and Commercial
- ☐ Conspiracy
- ☐ Conversion
- ☐ Defamation
- ☐ False Arrest/Imprisonment
- ☐ Fraud
- ☐ Lead Paint - DOB of Youngest Plt: \_\_\_\_\_
- ☐ Loss of Consortium
- ☐ Malicious Prosecution
- ☐ Malpractice-Medical
- ☐ Malpractice-Professional
- ☐ Misrepresentation
- ☐ Motor Tort
- ☐ Negligence
- ☐ Nuisance
- ☐ Premises Liability
- ☐ Product Liability
- ☐ Specific Performance
- ☐ Toxic Tort
- ☐ Trespass
- ☐ Wrongful Death

**CONTRACT**

- ☐ Asbestos
- ☐ Breach
- ☐ Business and Commercial
- ☐ Confessed Judgment
- (Cont'd)
- ☐ Construction
- ☐ Debt
- ☐ Fraud

- ☐ Government
- ☐ Insurance
- ☐ Product Liability

**PROPERTY**

- ☐ Adverse Possession
- ☐ Breach of Lease
- ☐ Detinue
- ☐ Distress/Distrain
- ☐ Ejectment
- ☐ Forcible Entry/Detainer
- ☐ Foreclosure
- ☐ Commercial
- ☐ Residential
- ☐ Currency or Vehicle
- ☐ Deed of Trust
- ☐ Land Installments
- ☐ Lien
- ☐ Mortgage
- ☐ Right of Redemption
- ☐ Statement Condo
- ☐ Forfeiture of Property / Personal Item
- ☐ Fraudulent Conveyance
- ☐ Landlord-Tenant
- ☐ Lis Pendens
- ☐ Mechanic's Lien
- ☐ Ownership
- ☐ Partition/Sale in Lieu
- ☐ Quiet Title
- ☐ Rent Escrow
- ☐ Return of Seized Property
- ☐ Right of Redemption
- ☐ Tenant Holding Over

**PUBLIC LAW**

- ☐ Attorney Grievance
- ☐ Bond Forfeiture Remission
- ☐ Civil Rights
- ☐ County/Muncpl Code/Ord
- ☒ Election Law
- ☐ Eminent Domain/Condemn.
- ☐ Environment
- ☐ Error Coram Nobis
- ☐ Habeas Corpus
- ☐ Mandamus
- ☐ Prisoner Rights
- ☐ Public Info. Act Records
- ☐ Quarantine/Isolation
- ☐ Writ of Certiorari

**EMPLOYMENT**

- ☐ ADA
- ☐ Conspiracy
- ☐ EEO/HR
- ☐ FLSA
- ☐ FMLA
- ☐ Workers' Compensation
- ☐ Wrongful Termination

**INDEPENDENT PROCEEDINGS**

- ☐ Assumption of Jurisdiction
- ☐ Authorized Sale
- ☐ Attorney Appointment
- ☐ Body Attachment Issuance
- ☐ Commission Issuance

**Constructive Trust**

- ☐ Contempt
- ☐ Deposition Notice
- ☐ Dist Ct Mtn Appeal
- ☐ Financial
- ☐ Grand Jury/Petit Jury
- ☐ Miscellaneous
- ☐ Perpetuate Testimony/Evidence
- ☐ Prod. of Documents Req.
- ☐ Receivership
- ☐ Sentence Transfer
- ☐ Set Aside Deed
- ☐ Special Adm. - Atty
- ☐ Subpoena Issue/Quash
- ☐ Trust Established
- ☐ Trustee Substitution/Removal
- ☐ Witness Appearance-Compel

**PEACE ORDER**

- ☐ Peace Order

**EQUITY**

- ☒ Declaratory Judgment
- ☐ Equitable Relief
- ☐ Injunctive Relief
- ☐ Mandamus

**OTHER**

- ☐ Accounting
- ☐ Friendly Suit
- ☐ Grantor in Possession
- ☐ Maryland Insurance Administration
- ☐ Miscellaneous
- ☐ Specific Transaction
- ☐ Structured Settlements

| IF NEW OR EXISTING CASE: RELIEF (Check All that Apply)   |  |  |   |
|--|--|--|---|
| <input type="checkbox"/> Abatement<br><input type="checkbox"/> Administrative Action<br><input type="checkbox"/> Appointment of Receiver<br><input type="checkbox"/> Arbitration<br><input type="checkbox"/> Asset Determination<br><input type="checkbox"/> Attachment b/f Judgment<br><input type="checkbox"/> Cease & Desist Order<br><input type="checkbox"/> Condemn Bldg<br><input type="checkbox"/> Contempt<br><input type="checkbox"/> Court Costs/Fees<br><input type="checkbox"/> Damages-Compensatory<br><input type="checkbox"/> Damages-Punitive | <input type="checkbox"/> Earnings Withholding<br><input type="checkbox"/> Enrollment<br><input type="checkbox"/> Expungement<br><input type="checkbox"/> Findings of Fact<br><input type="checkbox"/> Foreclosure<br><input type="checkbox"/> Injunction<br><input type="checkbox"/> Judgment-Affidavit<br><input type="checkbox"/> Judgment-Attorney Fees<br><input type="checkbox"/> Judgment-Confessed<br><input checked="" type="checkbox"/> Judgment-Consent<br><input checked="" type="checkbox"/> Judgment-Declaratory<br><input type="checkbox"/> Judgment-Default | <input type="checkbox"/> Judgment-Interest<br><input type="checkbox"/> Judgment-Summary<br><input type="checkbox"/> Liability<br><input type="checkbox"/> Oral Examination<br><input type="checkbox"/> Order<br><input type="checkbox"/> Ownership of Property<br><input type="checkbox"/> Partition of Property<br><input type="checkbox"/> Peace Order<br><input type="checkbox"/> Possession<br><input type="checkbox"/> Production of Records<br><input type="checkbox"/> Quarantine/Isolation Order<br><input type="checkbox"/> Reinstatement of Employment | <input type="checkbox"/> Return of Property<br><input type="checkbox"/> Sale of Property<br><input type="checkbox"/> Specific Performance<br><input type="checkbox"/> Writ-Error Coram Nobis<br><input type="checkbox"/> Writ-Execution<br><input type="checkbox"/> Writ-Garnish Property<br><input type="checkbox"/> Writ-Garnish Wages<br><input type="checkbox"/> Writ-Habeas Corpus<br><input type="checkbox"/> Writ-Mandamus<br><input type="checkbox"/> Writ-Possession |

If you indicated **Liability** above, mark one of the following. This information is not an admission and may not be used for any purpose other than Track Assignment.

☐ Liability is conceded. ☐ Liability is not conceded, but is not seriously in dispute. ☒ Liability is seriously in dispute.

| MONETARY DAMAGES (Do not include Attorney's Fees, Interest, or Court Costs)  |  |
|--|--|
| <input type="checkbox"/> Under \$10,000 <input type="checkbox"/> \$10,000 - \$30,000 <input type="checkbox"/> \$30,000 - \$100,000 <input type="checkbox"/> Over \$100,000 | <input type="checkbox"/> Medical Bills \$ _____ <input type="checkbox"/> Wage Loss \$ _____ <input type="checkbox"/> Property Damages \$ _____ |

| ALTERNATIVE DISPUTE RESOLUTION INFORMATION  |  |
|---|--|
| Is this case appropriate for referral to an ADR process under Md. Rule 17-101? (Check all that apply) |  |
| A. Mediation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                      | C. Settlement Conference <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| B. Arbitration <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                    | D. Neutral Evaluation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    |

| SPECIAL REQUIREMENTS   |  |
|--|--|
| <input type="checkbox"/> If a Spoken Language Interpreter is needed, <b>check here and attach form CC-DC-041</b>   |  |
| <input type="checkbox"/> If you require an accommodation for a disability under the Americans with Disabilities Act, <b>check here and attach form CC-DC-049</b> |  |

| ESTIMATED LENGTH OF TRIAL  |  |
|--|--|
| With the exception of Baltimore County and Baltimore City, please fill in the estimated <b>LENGTH OF TRIAL</b> .<br>(Case will be tracked accordingly) |  |
| <input type="checkbox"/> 1/2 day of trial or less<br><input type="checkbox"/> 1 day of trial time<br><input type="checkbox"/> 2 days of trial time     | <input type="checkbox"/> 3 days of trial time<br><input type="checkbox"/> More than 3 days of trial time |

| BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM   |   |
|---|---|
| For all jurisdictions, if Business and Technology track designation under Md. Rule 16-308 is requested, attach a duplicate copy of complaint and check one of the tracks below. |   |
| <input type="checkbox"/> <b>Expedited</b> - Trial within 7 months of Defendant's response   | <input type="checkbox"/> <b>Standard</b> - Trial within 18 months of Defendant's response |

EMERGENCY RELIEF REQUESTED

**COMPLEX SCIENCE AND/OR TECHNOLOGICAL CASE  
MANAGEMENT PROGRAM (ASTAR)**

*FOR PURPOSES OF POSSIBLE SPECIAL ASSIGNMENT TO ASTAR RESOURCES JUDGES under  
Md. Rule 16-302, attach a duplicate copy of complaint and check whether assignment to an ASTAR is requested.*

☐ **Expedited** - Trial within 7 months of Defendant's response      ☐ **Standard** - Trial within 18 months of Defendant's response

**IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, OR BALTIMORE COUNTY,  
PLEASE FILL OUT THE APPROPRIATE BOX BELOW.**

**CIRCUIT COURT FOR BALTIMORE CITY (CHECK ONLY ONE)**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Expedited  | Trial 60 to 120 days from notice. Non-jury matters. |
| <input type="checkbox"/> Civil-Short           | Trial 210 days from first answer.                   |
| <input type="checkbox"/> Civil-Standard        | Trial 360 days from first answer.                   |
| <input type="checkbox"/> Custom                | Scheduling order entered by individual judge.       |
| <input type="checkbox"/> Asbestos              | Special scheduling order.                           |
| <input type="checkbox"/> Lead Paint            | Fill in: Birth Date of youngest plaintiff_____.     |
| <input type="checkbox"/> Tax Sale Foreclosures | Special scheduling order.                           |
| <input type="checkbox"/> Mortgage Foreclosures | No scheduling order.                                |

**CIRCUIT COURT FOR BALTIMORE COUNTY**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Expedited<br>(Trial Date-90 days) | Attachment Before Judgment, Declaratory Judgment (Simple),<br>Administrative Appeals, District Court Appeals and Jury Trial Prayers,<br>Guardianship, Injunction, Mandamus.  |
| <input type="checkbox"/> Standard<br>(Trial Date-240 days)            | Condemnation, Confessed Judgments (Vacated), Contract, Employment<br>Related Cases, Fraud and Misrepresentation, International Tort, Motor Tort,<br>Other Personal Injury, Workers' Compensation Cases.  |
| <input type="checkbox"/> Extended Standard<br>(Trial Date-345 days)   | Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or<br>Personal Injury Cases (medical expenses and wage loss of \$100,000, expert<br>and out-of-state witnesses (parties), and trial of five or more days), State<br>Insolvency. |
| <input type="checkbox"/> Complex<br>(Trial Date-450 days)             | Class Actions, Designated Toxic Tort, Major Construction Contracts, Major<br>Product Liabilities, Other Complex Cases.   |

7/12/24

Date

25 S. Charles Street, Suite 2015

Address

Baltimore

MD

2015

City

State

Zip Code



Signature of Counsel / Party

Constantine J. Themelis

Printed Name

State of Maryland - Charter Amendment Petition

We, the undersigned voters of Baltimore City, hereby petition to have this amendment of the Baltimore City Charter submitted to a vote of the registered voters of Baltimore City, for approval or rejection at the next general election. *The full text of the proposed amendment appears on the back of this signature page and its subject and purpose are as follows:*

**To place upper limits on the real property tax rate in Baltimore City, lowering the current \$2.248 rate by capping it at \$2.20 per \$100 of assessed value on July 1, 2025, \$2.10 per \$100 of assessed value on July 1, 2026, then gradually reducing the cap by 18 cents each year thereafter until the rate is permanently capped at \$1.20 per \$100 of assessed value beginning July 1, 2031. The Mayor and City Council will continue to set the property tax rate annually, subject to the limits established by the amendment. The amendment adds Section 6A to Article I – General Provisions of the Baltimore City Charter. Capping the property tax rate aligns Baltimore City with surrounding counties, brings equity to City taxpayers and widens the path to home ownership. It encourages investment and growth in the City's population, tax base, employment and economy. Upon ratification of the amendment by City voters, the first annual limit shall become effective July 1, 2025.**

**NOTICE TO SIGNERS:** Sign and print your name (1) as it appears on the voter registration list, OR (2) your surname of registration AND at least one full given name AND the initial of any other names. Please print or type all information other than your signature. Post Office Box addresses are not generally accepted as valid. By signing this petition, you agree that the aforementioned charter amendment proposal should be placed on the ballot as a question at the next general election and that, to the best of your knowledge, you are registered to vote in Baltimore City and are eligible to have your signature counted for this petition.

*Please Note: The information you provide on this petition is public information and may be used to change your voter registration address.*

|   |                             |               |             |           |                    |       |      |      |
|---|-----------------------------|---------------|-------------|-----------|--------------------|-------|------|------|
| 1 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |
| 2 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |
| 3 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |
| 4 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |

Individual Circulator's printed or typed name

Residence Address

City State Zip

Telephone (including area code)

**Circulator's Affidavit** Under penalties of perjury, I swear (or affirm) that:

- (a) I was at least 18 years old when each signature was obtained;
- (b) the information given to the left identifying me is true and correct;
- (c) I personally observed each signer as he or she signed this page; and
- (d) to the best of my knowledge and belief: (i) all signatures on this page are genuine; and (ii) all signers are registered voters of Maryland. (Sign and Date when signature collection is completed)

Circulator's Signature

Date (mm/dd/yy)

**EXHIBIT**

tabbies

## Article I – General Provisions

*[Sections 1 through 6 and 7 through 18 remain unchanged and are not reprinted here; Section 6A, below, is new language.]*

### **§ 6A. Limits on taxation.**

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

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





DLA Piper LLP (US)  
The Marbury Building  
6225 Smith Avenue  
Baltimore, Maryland 21209-3600  
www.dlapiper.com

Carville B. Collins  
carville.collins@dlapiper.com  
T 410.680.4125  
F 410.680.3125

June 6, 2023

VIA ELECTRONIC MAIL

Mr. Armstead B. Crawley Jones, Sr., CERA  
Election Director  
Baltimore City Board of Elections  
Benton Office Building  
417 E. Fayette Street, Room 129  
Baltimore, Maryland 21202-3432

Dear Director Jones:

On behalf of Renew Baltimore, enclosed for the Board of Elections' review is a charter amendment petition proposing amendments to the Baltimore City Charter to place limits on the real property tax rate in Baltimore City. Renew Baltimore respectfully requests the Board's Advance Determination under §6-202 of the Election Law Article on the charter amendment petition attached hereto as Attachment 1.

Please contact me if you have questions or require further information on this. Thank you for your attention to this matter.

Very truly yours,

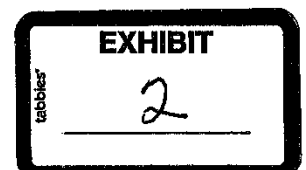
A handwritten signature in black ink, appearing to be 'Carville B. Collins'.

Carville B. Collins  
Counsel for Renew Baltimore

CBC:vc

cc: Abigail Goldman, CERA, Deputy Election Director (via electronic mail)  
Wendy Paige (via electronic mail)  
Ben Frederick III (via electronic mail)

ACTIVE\203238767.1  
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# ATTACHMENT 1

## State of Maryland - Charter Amendment Petition

We, the undersigned voters of Baltimore City, hereby petition to have this amendment of the Baltimore City Charter submitted to a vote of the registered voters of Baltimore City, for approval or rejection at the next general election. *The full text of the proposed amendment appears on the back of this signature page and its subject and purpose are as follows:*

To place upper limits on the real property tax rate in Baltimore City, lowering the current \$2.248 rate by capping it at \$2.20 per \$100 of assessed value on July 1, 2025, \$2.10 per \$100 of assessed value on July 1, 2026, then gradually reducing the cap by 18 cents each year thereafter until the rate is permanently capped at \$1.20 per \$100 of assessed value beginning July 1, 2031. The Mayor and City Council will continue to set the property tax rate annually, subject to the limits established by the amendment. The amendment adds Section 6A to Article I - General Provisions of the Baltimore City Charter. Capping the property tax rate aligns Baltimore City with surrounding counties, brings equity to City taxpayers and widens the path to home ownership. It encourages investment and growth in the City's population, tax base, employment and economy. Upon ratification of the amendment by City voters, the first annual limit shall become effective July 1, 2025.

**NOTICE TO SIGNERS:** Sign and print your name (1) as it appears on the voter registration list, OR (2) your surname of registration AND at least one full given name AND the initial of any other names. Please print or type all information other than your signature. Post Office Box addresses are not generally accepted as valid. By signing this petition, you agree that the aforementioned charter amendment proposal should be placed on the ballot as a question at the next general election and that, to the best of your knowledge, you are registered to vote in Baltimore City and are eligible to have your signature counted for this petition.

*Please Note: The information you provide on this petition is public information and may be used to change your voter registration address.*

|          |                             |               |             |           |             |                    |       |      |      |
|----------|-----------------------------|---------------|-------------|-----------|-------------|--------------------|-------|------|------|
| <b>1</b> | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date: | Month              | Date  | Year |      |
|          | Signature:                  |               |             |           |             | Date of Signature: | Month | Date | Year |
|          | Maryland Residence Address: | Street Number | Street Name |           | Apt. No.    | City or Town       |       | Zip  |      |
|          |                             |               |             |           |             |                    |       |      |      |
| <b>2</b> | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date: | Month              | Date  | Year |      |
|          | Signature:                  |               |             |           |             | Date of Signature: | Month | Date | Year |
|          | Maryland Residence Address: | Street Number | Street Name |           | Apt. No.    | City or Town       |       | Zip  |      |
|          |                             |               |             |           |             |                    |       |      |      |
| <b>3</b> | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date: | Month              | Date  | Year |      |
|          | Signature:                  |               |             |           |             | Date of Signature: | Month | Date | Year |
|          | Maryland Residence Address: | Street Number | Street Name |           | Apt. No.    | City or Town       |       | Zip  |      |
|          |                             |               |             |           |             |                    |       |      |      |
| <b>4</b> | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date: | Month              | Date  | Year |      |
|          | Signature:                  |               |             |           |             | Date of Signature: | Month | Date | Year |
|          | Maryland Residence Address: | Street Number | Street Name |           | Apt. No.    | City or Town       |       | Zip  |      |
|          |                             |               |             |           |             |                    |       |      |      |

Individual Circulator's printed or typed name

Residence Address

City

State

Zip

Telephone (including area code)

**Circulator's Affidavit** Under penalties of perjury, I swear (or affirm) that:

- (a) I was at least 18 years old when each signature was obtained;
- (b) the information given to the left identifying me is true and correct;
- (c) I personally observed each signer as he or she signed this page; and
- (d) to the best of my knowledge and belief: (i) all signatures on this page are genuine; and (ii) all signers are registered voters of Maryland. *(Sign and Date when signature collection is completed)*

Circulator's Signature

Date (mm/dd/yy)

## Article I -- General Provisions

*[Sections 1 through 6 and 7 through 18 remain unchanged and are not reprinted here; Section 6A, below, is new language.]*

### § 6A. Limits on taxation.

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

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

Armstead B. Crawley Jones, Sr.  
Election Director

Abigail Goldman  
Election Deputy Director

Bruce M. Lochanaky  
President (R)

Joyce J. Smith  
Vice President (D)



BALTIMORE CITY  
BOARD OF ELECTIONS

Arlene B. Fisher  
Secretary (D)

Tamara M. Fennell  
Member (R)

Evelle Matthews  
Member (R)

June 20, 2023

*Via Electronic Mail Only*

Carville B. Collins  
DLA Piper LLP  
6225 Smith Avenue  
Baltimore, MD 21209-3600  
[carville.collins@us.dlapiper.com](mailto:carville.collins@us.dlapiper.com)

RE: Charter Amendment: Limits on the real property tax rate in Baltimore City

Dear Mr. Collins:

As Election Director of the Baltimore City Board of Elections, I have received your request under § 6-202 of the Election Law Article, Annotated Code of Maryland, for an advance determination as to the format of a petition proposing an amendment to the Baltimore City Charter, for submission to the voters at the 2024 Presidential General Election. With your request, you submitted a charter amendment petition form for the proposed amendment, including the full text of the proposed charter amendment on the reverse side of the signature page. The materials you submitted are attached to this letter as Exhibit A.

Upon review of your submission, I have determined that you used the correct State Board of Elections form for a charter amendment petition and that the summary of the proposed amendment is sufficient. More specifically, I have determined that the summary is a fair and accurate summary of the substantive provisions of the proposed amendment. I have therefore determined that the petition materials attached as Exhibit A are sufficient as to format, within the meaning of § 6-202 of the Election Law Article.

I have made no determination as to the legality of the proposed amendment. As set forth in § 6-206 of the Election Law Article, Annotated Code of Maryland, I will address that question, in consultation with counsel to the Baltimore City Board of Elections, at such time as the petition and requisite signatures are filed.

Please let me know if I can be of further assistance. I can be reached either by email addressed to [armstead.jones@baltimorecity.gov](mailto:armstead.jones@baltimorecity.gov) or by phone at 410-396-5550.

Sincerely,

Handwritten signature of Armstead B. Crawley Jones, Sr.  
Armstead B. Crawley Jones, Sr., CERA  
Election Director

cc: State Board of Elections  
Baltimore City Board of Elections  
Counsel to the City Board

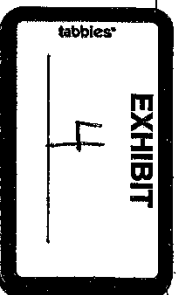


2024 Presidential Election Calendar

2024 Presidential Election Calendar

Maryland State Board of Elections 151 West Street - PO Box 8465 Annapolis, MD 21404-0465

| Actual Date                | Adjusted Date | Date                        | Time <sup>1,2</sup> | Event Name  | Description   | Computation  | Legal Authority <sup>3</sup>            |
|----------------------------|---------------|-----------------------------|---------------------|---|---|--|---|
|                            |               | Monday, January 2, 2023     |                     | New Year's Day  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
|                            |               | Wednesday, January 11, 2023 |                     | General Assembly Convenes   | Lasts 90 days.  | 2nd Wednesday in January.  | MD Const. Art. III, § 14                |
|                            |               | Monday, January 16, 2023    |                     | Martin Luther King, Jr.'s Birthday  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
|                            |               | Wednesday, January 18, 2023 | 11:59 pm            | Annual Campaign Finance Report  | Deadline to file annual campaign finance report for all political committees.   | 3rd Wednesday in January.  | EL § 13-308(b)(2)                       |
| Thursday, February 9, 2023 |               | Thursday, February 9, 2023  |                     | Begin Candidate Filing  | First day candidates for the 2024 election can file a Certificate of Candidacy.   | 1 year before the deadline to file a Certificate of Candidacy.   | SBE Policy                              |
|                            |               | Monday, February 20, 2023   |                     | President's Day   | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
|                            |               | Monday, April 10, 2023      |                     | General Assembly Ends   | Lasts 90 days.  | 90 days after the General Assembly convenes.   | MD Const. Art. III, § 15                |
| Monday, May 1, 2023        |               | Monday, May 1, 2023         |                     | Request for Advance Determination of Sufficiency for 2023 Referendum Petition           | Deadline for petition sponsor to submit to SBE a request for advance determination of sufficiency of a referendum petition format.  | At least 30 days before the deadline to file a petition.   | EL § 6-210(a)(1)                        |
|                            |               | Monday, May 8, 2023         |                     | Determination of Referendum Petition Format Sufficiency                                 | Deadline for SBE to determine sufficiency of a referendum petition format.  | Within 5 days of receiving the request for advance determination.  | EL § 6-210(a)(2)                        |
| Thursday, May 6, 2023      |               | Wednesday, May 10, 2023     |                     | Notification of Outcome of Advance Determination of a Referendum Petition Format        | Deadline for SBE to notify petition sponsor of the approval or deficiency of referendum petition format.  | Within 2 business days after determining sufficiency of referendum petition format.  | EL § 6-210(b)                           |
| Monday, May 14, 2023       |               | Monday, May 15, 2023        |                     | Early Voting Center Approval Form   | Deadline for SBE to provide the local boards with the form for a proposed early voting center.  | At least one year before a primary election.   | COMAR 23.17.02.02                       |
|                            |               | Monday, May 28, 2023        |                     | Memorial Day  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
|                            |               | Wednesday, May 31, 2023     | 11:59 pm            | Filing Referendum Petition on Acts of the 2023 General Assembly                         | Deadline for petition sponsor to file petition with Secretary of State including at least one-third of the referendum petition signatures and a petition fund report.         | Petitions are filed with the Secretary of State before the 1st day of June.  | MD Const. Art. XVI, § 3(b)              |
| Wednesday, May 31, 2023    |               | Wednesday, May 31, 2023     | 11:59 pm            | Title 14 Contribution Report  | Deadline for disclosure of contributions by persons doing business with Maryland government and/or employing a lobbyist.  | Report due every May 31 and November 30.   | EL § 14-104(b)(2)(ii)(2)                |
|                            |               | Monday, June 18, 2023       |                     | June 18th   | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
| Tuesday, June 20, 2023     |               | Tuesday, June 20, 2023      |                     | Verification and Counting of Referendum Petition  | Deadline for the local boards to verify and count the first submission of the required signatures on the referendum petition.   | Within 20 days after the filing of a petition.   | EL § 6-210(c)                           |
|                            |               | Wednesday, June 21, 2023    |                     | Certification of Referendum Petition  | Deadline for SBE to certify the results of the first submission of the required signatures.   | Within 1 business day after verification and counting is completed; deadline is extended if judicial review is pending (1 business day after final judicial decision).                                       | EL § 6-210(d)                           |
|                            |               | Friday, June 30, 2023       | 11:59 pm            | Filing Referendum Petition on Acts of the 2023 General Assembly                         | Deadline for petition sponsor to submit to Secretary of State the balance of referendum petition signatures and a petition fund report.                                       | Petitions are filed with the Secretary of State by the 30th day of June.   | MD Const. Art. XVI, § 3(b)              |
|                            |               | Monday, July 3, 2023        |                     | Judicial Review of Referendum Petition Certification - First Signature Submission       | Deadline for petition sponsor to seek judicial review of referendum petition certification of the first submission of the required signatures.                                | 10th day following SBE's determination on the certification of the first submission of signatures.   | EL § 6-210(e)                           |
|                            |               | Tuesday, July 4, 2023       |                     | Independence Day  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
| Thursday, July 20, 2023    |               | Thursday, July 20, 2023     |                     | Verification and Counting of Referendum Petition  | Deadline for the local boards to verify and count the balance of the signatures on the referendum petition.   | Within 20 days after the filing of the balance of the petition signatures.   | EL § 6-210(c)                           |
|                            |               | Monday, July 24, 2023       |                     | Certification of Referendum Petition  | Deadline for SBE to certify the results of the full referendum petition verification.   | Within 1 business day after verification and counting of the balance of petition signatures is completed; deadline is extended if judicial review is pending (1 business day after final judicial decision). | EL § 6-210(d)                           |
| Thursday, August 3, 2023   |               | Thursday, August 3, 2023    |                     | Judicial Review of Referendum Petition Certification - Balance of Signatures Submission | Deadline for petition sponsor to seek judicial review of referendum petition certification.   | 10th day following SBE's determination on the certification of the balance of signatures.  | EL § 6-210(e)                           |
|                            |               | Monday, September 4, 2023   |                     | Labor Day   | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
|                            |               | Tuesday, September 12, 2023 |                     | Determination of Number of Registered Voters (Early Voting Centers)                     | Deadline for the State Administrator to determine the number of active registered voters for use when determining the number of early voting centers in each jurisdiction.    | Thursday that is 8 months before a primary election.   | COMAR 23.17.02.04(1)                    |
| Sunday, September 17, 2023 |               | Monday, September 18, 2023  |                     | Notice of Number of Early Voting Centers  | Deadline for the State Administrator to provide the local boards with the number of early voting centers in each jurisdiction.  | Within 5 days of determination of number of registered voters.   | COMAR 23.17.02.01B                      |
|                            |               | Sunday, September 17, 2023  |                     | Constitution Day and Citizenship Day  | Commemorates the signing of the U.S. Constitution and requires public schools to celebrate the day and install in reading of the U.S. Constitution and Maryland Constitution. | Anniversary of signing of the U.S. Constitution on September 17, 1787.   | Education Act, § 7-116                  |
|                            |               | Monday, October 9, 2023     |                     | Columbus Day  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |



|                             |                             |          |   |   |   |  |
|-----------------------------|-----------------------------|----------|---|---|---|--|
| Thursday, October 14, 2023  | Monday, October 16, 2023    |          | Early Voting Center Approval Form   | Deadline for the local boards to submit to SBE a form for each proposed early voting center.  | At least 7 months before a primary election.  | COMAR 33.17.02.02C(2)(e)                 |
|                             | Friday, November 10, 2023   |          | Veteran's Day   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201  |
| Thursday, November 14, 2023 | Tuesday, November 14, 2023  |          | Designation of Early Voting Centers   | Deadline for SBE, in collaboration with the local boards, to designate early voting centers.  | No later than 6 months before a primary election.   | EL § 10-301.1(i) (2009 Laws of Maryland) |
| Tuesday, November 14, 2023  | Tuesday, November 14, 2023  | COB      | Determination of Eligible Primary Election Voters   | Deadline for the dates of the principal political parties to notify SBE whether they will allow voters not affiliated with their political party to vote in the primary election.   | 6 months prior to a primary election.   | EL § 8-202(c)                            |
|                             | Thursday, November 23, 2023 |          | Thanksgiving  | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201  |
|                             | Friday, November 24, 2023   |          | American Indian Heritage Day  | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201  |
| Thursday, November 30, 2023 | Thursday, November 30, 2023 | 11:59 pm | Title 14 Contribution Report  | Deadline for disclosure of contributions by persons doing business with Maryland government and/or employing a lobbyist.  | Report due every May 31 and November 30.  | EL § 14-104(b)(2)(i)(2)                  |
|                             | Monday, December 25, 2023   |          | Christmas   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201  |
|                             | Monday, January 1, 2024     |          | New Year's Day  | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201  |
| Monday, January 1, 2024     | Tuesday, January 2, 2024    |          | Determination of Number of Registered Voters (Nomination Petition)  | Deadline for SBE to determine the number of registered voters required to satisfy the requirement for a nomination by petition.   | January 1st of the year of a primary election for which the nomination is sought.   | EL § 5-703(a)(3)                         |
|                             | Wednesday, January 10, 2024 | COB      | Request for Advance Determination of Sufficiency for U.S. Presidential Primary Election Candidacy Petition Format | Deadline for U.S. Presidential candidates to submit to SBE a request for advance determination of sufficiency of the candidacy petition format. Petition is only required for Presidential primary election candidates not recognized by the Secretary of State for automatic ballot placement. | At least 30 days before the deadline to file the petition but not more than 2 years and one month before the deadline to file the petition. | EL § 6-210(a)(1), § 8-502(d)             |
|                             | Wednesday, January 10, 2024 |          | General Assembly Convening  | Lasts 90 days.  | 2nd Wednesday in January.   | MD Const. Art. III, § 14                 |
|                             | Monday, January 15, 2024    |          | Martin Luther King Jr.'s Birthday   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201  |
| Monday, January 15, 2024    | Tuesday, January 16, 2024   |          | Notice to Voters on Permanent Mail-in Ballot List   | Deadline for SBE to send a pre-election notice to voters on the permanent mail-in ballot list, with certain information about their ballot for the primary election.  | No less than 75 days before the day on which a local board begins to send mail-in ballots.  | EL § 9-211.1(b)                          |
| Wednesday, January 17, 2024 | Wednesday, January 17, 2024 | --       | Advance Determination of U.S. Presidential Candidacy Petition Format Sufficiency                                  | Deadline for SBE to determine sufficiency of a U.S. Presidential candidacy petition format.   | Within 5 business days of receiving the request of advance determination.   | EL § 6-210(a)(2)                         |
|                             | Wednesday, January 17, 2024 | 11:59 pm | Annual Campaign Finance Report  | Deadline to file the annual campaign finance report for all political committees.   | 3rd Wednesday in January.   | EL § 13-309(b)(2)                        |
|                             | Friday, January 19, 2024    | COB      | Notification of Outcome of Advance Determination of U.S. Presidential Candidacy Petition Format                   | Deadline for SBE to notify candidate of the approval or deficiency of candidacy petition format.  | Within 2 business days after determining sufficiency of candidacy petition format.  | EL § 6-210(b)                            |
| Monday, January 22, 2024    | Monday, January 22, 2024    | COB      | Certification of Republican and Democratic Presidential Candidates  | Deadline for the Secretary of State to certify to SBE the names of the candidates for U.S. President for the primary election.  | No later than 113 days before a primary election.   | EL § 8-502(c)(1)                         |
|                             | Friday, February 9, 2024    | 9 pm     | Candidate Filing Deadline   | Deadline to file a Certificate of Candidacy.  | 95 days before the primary election.  | EL § 6-303(a)(2)                         |
|                             | Friday, February 9, 2024    | 9 pm     | Filing U.S. Presidential Candidacy Petition   | Deadline for U.S. Presidential candidates not recognized by the Secretary of State to file with SBE a Certificate of Candidacy and petition.  | Not later than 95 days before the day of the election.  | EL § 8-502(d)                            |

\* This calendar includes dates affected by legislation enacted through the 2023 Legislative Session. The calendar will be updated after the 2023 Legislative Session.

\*\* This activity may be performed before the date in the calendar. The date in the calendar is the latest date by which the activity must be completed.

1. COB = Close of Business. For SBE, the close of business is 5 pm. Because the close of business varies by county, please contact the appropriate local board of elections or circuit court to find out when the office closes.

2. COB = Close of Business. For SBE, the close of business is 5 pm. Because the close of business varies by county, please contact the appropriate local board of elections or circuit court to find out when the office closes.

3. Most citations refer to the Election Law (EL) Article of the Annotated Code of Maryland. COMAR refers to the Code of Maryland Regulations. USC refers to the United States Code.

|                             |                              |     |     |   |  |   |  |
|-----------------------------|------------------------------|-----|-----|---|--|---|--|
|                             |                              |     |     |   | Deadline for the local boards to send to voters confirmation mailings to make voters inactive, or to remove voters from the voter list (except at the request of the voter, due to the death of the voter, due to the incarceration following felony conviction of a voter, or due to the mental incapacity of a voter). | No later than 90 days before an election.   | 52 USC § 20507(c)(2)(A)                |
|                             |                              |     |     | President's Day   | State holiday. SBE and local boards will be closed.  |   | State Personnel & Pension Act, § 9-201 |
| Monday, February 19, 2024   | Monday, February 19, 2024    |     |     | Withdrawal of Candidacy   | Deadline for a candidate to withdraw candidacy before primary election.  | Within 10 days after the deadline to file a Certificate of Candidacy.   | EL § 6-502(a)                          |
| Monday, February 19, 2024   | Tuesday, February 20, 2024   | COB |     | Financial Disclosure Statement  | Deadline for candidates that filed a Certificate of Candidacy in the year to file a new financial disclosure statement. Failure to file may result in the candidate's removal from the ballot.   | Last day for the withdrawal of a candidacy.   | CP § 6-605(c)(2)(ii)                   |
|                             | Tuesday, February 20, 2024   |     |     | Death or Disqualification of Candidate  | Last day to remove a candidate's name from the ballot due to the candidate's death or disqualification.  | Within 10 days after deadline for filing Certificate of Candidacy.  | EL § 5-504(c)                          |
| Monday, February 19, 2024   | Tuesday, February 20, 2024   |     |     | Greater Election Judge Exemption Determination  | Deadline for the State Administrator to respond to a local board's request for an exemption to assign greater election judges at each early voting center.   | Within 5 business days of a local board's request.  | COMAR 33.19.03.1D(3)                   |
|                             | Wednesday, February 21, 2024 |     |     |   |  |   |  |
|                             |                              |     |     | Fill Vacancy  | Deadline to fill vacancy due to death or disqualification of unopposed candidate.  | Within 4 days after death or disqualification   | EL § 6-601(a)(2)                       |
|                             | Friday, February 23, 2024    |     |     | Fill Vacancy  | Deadline to fill vacancy if: (1) no candidate for a political party files a Certificate of Candidacy; or (2) an unopposed candidate withdraws.   | Within 4 days after deadline for withdrawal of candidacy.   | EL § 5-601(a)(1)                       |
|                             | Friday, February 23, 2024    |     |     | Replacement Delegate  | Deadline for a Presidential candidate to file with SBE a designation for a replacement delegate.   | No later than 5 days after the withdrawal deadline.   | EL § 8-501(b)(2)(ii)                   |
| Saturday, February 24, 2024 | Monday, February 26, 2024    | COB |     | Challenge Residency of Candidate  | Deadline for a registered voter to file in circuit court a petition challenging the residency of a candidate.  | 15 days after the deadline to file the Certificate of Candidacy.  | EL § 5-505(c)                          |
| Saturday, February 24, 2024 | Monday, February 26, 2024    | COB |     | Verification and Counting of U.S. Presidential Candidacy Petition                                     | Deadline for the local boards to verify and count the signatures on the U.S. Presidential candidacy petition.  | Within 20 days after the filing of the petition.  | EL § 6-210(c)                          |
| Thursday, February 29, 2024 | Thursday, February 29, 2024  | COB |     | Certification of U.S. Presidential Candidacy Petition   | Deadline for SBE to certify the results of the U.S. Presidential candidacy petition verification.  | Within 1 business day after verification and counting is completed; deadline is extended if judicial review is pending.                             | EL § 6-210(d)                          |
| Friday, March 1, 2024       | Friday, March 1, 2024        | COB |     | Judicial Review of U.S. Presidential Candidacy Petition   | Deadline to seek judicial review of candidacy petition certification.  | Within 5 days following SBE's determination.  | EL § 6-210(e)(2)(ii)                   |
| Wednesday, March 6, 2024    | Wednesday, March 6, 2024     |     |     | Security Plan for Early Voting Centers  | Deadline for the local boards to submit to the State Administrator an early voting security plan.  | At least 8 weeks before early voting begins.  | COMAR 33.17.02.04A                     |
| Thursday, March 7, 2024     | Thursday, March 7, 2024      |     |     | Certification of Ballot   | Deadline for SBE to prepare and certify content and arrangement of ballots for the primary election.   | At least 64 days before the primary election.   | EL § 9-201(a)(1)                       |
| Monday, March 11, 2024      | Monday, March 11, 2024       |     |     | Display of Ballot   | Deadline for SBE to display on its website the content and arrangement of each certified ballot.   | At least 64 days before the primary election.   | EL § 9-201(a)(1)                       |
| Monday, March 11, 2024      | Monday, March 11, 2024       | COB |     | Judicial Review of any Ballot Printing Errors   | Deadline for a registered voter to seek judicial review if an error is discovered after the ballots have been printed and the local boards fail to correct the error.  | 82nd day preceding election.  | EL § 9-208(c)                          |
|                             | Wednesday, March 13, 2024    |     | COB | Judicial Review of Content and Arrangement of Ballot  | Deadline for a registered voter to seek judicial review of the content and arrangement of to correct any other error on the ballot.  | Within 2 days of certifying the ballot.   | EL § 9-208(a)                          |
| Wednesday, March 13, 2024   | Wednesday, March 13, 2024    |     | COB | Printing of Ballots   | SBE may begin printing ballots and correct noted errors.   | After 3 days of public display of ballot.   | EL § 9-207(a)                          |
| Thursday, March 14, 2024    | Thursday, March 14, 2024     |     |     | Voting Information to Correctional Facilities   | Deadline to SBE to provide correctional facilities with voting information for distribution to eligible individuals  | No later than 30 days before the advanced deadline to register to vote.   | EL § 1-303.21(c)(1)                    |
| Sunday, March 24, 2024      | Monday, March 25, 2024       |     |     | Transmitting Mail-in Ballots  | Deadline for election officials to transmit mail-in ballots to certain voters unless the Federal Voting Assistance Program grants the State a waiver of the deadline.  | No later than 45 days before an election unless the Federal Voting Assistance Program grants the State a waiver of the 45 day transmittal deadline. | COMAR 33.01.07.0282(b)                 |
|                             | Saturday, March 30, 2024     |     |     | Public Education for Early Voting   | SBE and local boards start public education about early voting.  | 30 days before early voting for an election.  | EL § 10-301.1(f)                       |
|                             | Tuesday, April 2, 2024       |     |     | Review of Early Voting Security Plan  | Deadline for the State Administrator to review and provide feedback on a local board's early voting security plan.   | Within 30 days of receipt of an early voting security plan.   | COMAR 33.17.02.04C(2)                  |
| Saturday, April 6, 2024     | Monday, April 8, 2024        |     |     | Pre-Primary Campaign Finance Report 1   | Deadline to file pre-primary report for political committees participating in the presidential election.   | 5th Tuesday before a primary election.  | EL § 13-309(a)(2)                      |
|                             | Tuesday, April 9, 2024       |     |     | Early Voting & Election Day Supply Verification   | Deadline for the local boards to verify voting supplies according to the supply verification plan.   | No later than 15 days before early voting starts.   | SBE policy                             |
|                             | Wednesday, April 17, 2024    |     |     | Advanced Deadline to Register to Vote & Update Registration Information (including Party Affiliation) | Advanced deadline to register to vote, update registration, or change party affiliation before the primary election.   | 21st day preceding an election.   | EL § 3-302(a)                          |
|                             | Tuesday, April 23, 2024      |     |     |   |  |   |  |



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|                        | Tuesday, April 23, 2024  | 5:00 pm                                  | Polling Place Reassignment   | Deadline for elderly voters or voters with disabilities to submit a request to the local boards for reassignment to an accessible polling place.   | No later than the close of advanced registration before an election.  | EL § 10-1020(i)(1)                   |
|                        | Tuesday, April 23, 2024  | 5:00 PM                                  | Voter Registration Lists   | Deadline to request a voter registration list (New requests will not be taken until registration begins).  | On or before the advanced registration deadline.  | COMAR 33.03.02.05B(1)                |
|                        | Thursday, April 25, 2024 |  | Notice of Election   | Deadline for the local boards to provide notice of the election.   | At least one week before any early voting period before an election.  | EL § 8-402(a)(1)                     |
|                        | Tuesday, April 30, 2024  | COB                                      | Logic and Accuracy Testing - Early Voting (Public Demonstration & Notice)            | Deadline for the local boards to complete logic and accuracy testing of the voting units being used for early voting. (Notice: A public demonstration of the test must be conducted before any voting units are delivered to an early voting center. Notice of the public demonstration must be provided at least 10 days before the demonstration.) | At least 14 days before an election.  | COMAR 33.03.01.14, 16                |
| Wednesday, May 1, 2024 | Wednesday, May 1, 2024   | COB                                      | Request for Advance Determination of Sufficiency for 2024 Referendum Petition Format | Deadline for petition sponsor to submit to SSE a request for advance determination of sufficiency of a referendum petition format.   | At least 30 days before the deadline to file a petition.  | EL § 8-210(a)(1)                     |
|                        | Wednesday, May 1, 2024   | 5 pm                                     | Campaign Signs   | Beginning of period when campaign signs must be allowed at early voting centers.   | The day before early voting starts.   | EL § 10-101(e)(3)(ii)(2)(B)          |
|                        | Thursday, May 2, 2024    | 7 am to 8 pm                             | Early Voting Begins  | Early voting for the primary election begins.  | 2nd Thursday before an election through the Thursday before an election.  | EL § 10-301.1                        |
|                        | Friday, May 3, 2024      | COB                                      | Voter Registration Lists   | Deadline for SSE and the local boards to prepare a voter registration list that includes registrants through the advanced registration deadline.   | Within 10 days of the advanced voter registration deadline.   | COMAR 33.03.02.05C(2)                |
|                        | Friday, May 3, 2024      | 11:59 pm                                 | Pre-Primary Campaign Finance Report 2  | Deadline to file the second pre-primary report for political committees participating in the presidential election.  | 2nd Friday before a primary election.   | EL § 13-329(a)(3)                    |
|                        | Monday, May 6, 2024      | COB                                      | Logic and Accuracy Testing - Election Day  | Deadline for the local boards to complete logic and accuracy testing of the election management system and voting units being used for election day voting and absentee and provisional voting. (Note: A public demonstration of the test must be conducted before any voting units are delivered to an early voting center.)                        | At least 10 days before an election.  | COMAR 33.03.02.14, 15                |
|                        | Monday, May 6, 2024      |  | Notice of Canvass  | Deadline for the local boards to provide notice of the mail-in and provisional canvasses.  | At least 10 days before the first mail-in ballot canvass.   | COMAR 33.08.01.05-1                  |
| Monday, May 6, 2024    | Monday, May 6, 2024      | COB                                      | Determination of Referendum Petition Format Sufficiency                              | Deadline for SSE to determine sufficiency of a referendum petition format.   | Within 5 days of receiving the request for advance determination.   | EL § 6-210(a)(2)                     |
|                        | Tuesday, May 7, 2024     | 8 pm (mail) or 11:59 pm (electronically) | Ballot Request Deadline: Ballot Delivered by Mail or Fax                             | Deadline for a registered voter to request a mailed or faxed mail-in ballot.   | Tuesday before an election.   | EL § 9-305(a)(1); COMAR 33.11.02.02E |
|                        | Wednesday, May 8, 2024   | COB                                      | Notification of Outcome of Advance Determination of a Referendum Petition Format     | Deadline for SSE to notify petition sponsor of the approval or deficiency of referendum petition format.   | Within 2 business days after determining sufficiency of referendum petition format.   | EL § 6-210(c)                        |
|                        | Thursday, May 9, 2024    | 7 am to 8 pm                             | Early Voting Ends  | Early voting for the primary election ends.  | 2nd Thursday before an election through the Thursday before an election.  | EL § 10-301.1                        |
|                        | Friday, May 10, 2024     | 8 am                                     | Campaign Signs   | End of period when campaign signs must be allowed at early voting centers.   | The day after early voting ends.  | EL § 10-101(a)(3)(iii)(2)            |
|                        | Friday, May 10, 2024     | 5 pm (mail) or 11:59 pm (electronically) | Ballot Request Deadline: Ballot Delivered via Internet                               | Deadline for a registered voter to request an electronic mail-in ballot.   | Friday before an election.  | EL § 9-305(a)(2)                     |
|                        | Monday, May 13, 2024     | 5 pm                                     | Campaign Signs   | Beginning of period when campaign signs must be allowed at polling places.   | The day immediately preceding election day.   | EL § 10-101(a)(3)(iii)(2)            |
|                        | Tuesday, May 14, 2024    | 7 am to 8 am                             | Primary Election   | Presidential Primary Election Day.   |   | EL § 9-305(b)(3); COMAR 33.11.02.04A |
|                        | Tuesday, May 14, 2024    | 8 pm                                     | Ballot Request Deadline: Voter Picks Up Ballot                                       | Deadline for a registered voter or voter's agent to request a mail-in ballot in person at a local board.   | No later than the close of the polls on election day.   | EL § 9-302(a); COMAR 33.05.04.C1.C.D |
|                        | Tuesday, May 14, 2024    | 8 pm                                     | Extended Voter Registration Deadline   | Extended deadline for receipt of voter registration applications sent by mail for voting in the primary election.  | An application received by mail after the close of registration is timely if it is properly postmarked.   | EL § 9-302(a); COMAR 33.05.04.C1.C.D |
|                        | Tuesday, May 14, 2024    | 8 pm                                     | Mail-in Ballot Deadline: Ballot Box, Polling Place, or Local Board Office            | Deadline for the local boards to receive a ballot placed in ballot drop box or election judges to receive a ballot at a voting location.   | A ballot is timely if it is: (1) placed in ballot drop box by 8 pm on election day; (2) given to an election judge at a polling place on election day; or (3) received at a local board office by 9 pm on election day. | COMAR 33.11.03.08B(1), (2) & (3)     |
|                        | Tuesday, May 14, 2024    | 8 pm                                     | Precincts for Post-Election Verification & Audits                                    | Deadline for local boards to select randomly the precincts for post-election verification and audits.  | After 8 pm on election day.   | COMAR 33.08.05.04                    |
|                        | Wednesday, May 15, 2024  | 8 am                                     | Campaign Signs   | End of period when campaign signs must be allowed at polling places.   | The day immediately after election day.   | EL § 10-101(a)(3)(iii)(2)            |

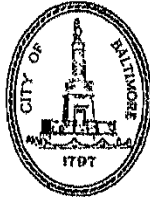
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|                         | July 15, 2024 - July 18, 2024 |      | Republican National Convention in Milwaukee   | Delegates to the Republican National Convention officially vote for their nominees for President and Vice President.  | Dates established by Republican National Committee.  |   |
|                         | Wednesday, July 17, 2024      | COB  | Notification of Outcome of Advance Determination of a Candidacy or New Party Petition Format  | Deadline for SBE or the appropriate local board to notify candidates of the approval or deficiency of candidacy or new party petition format.   | Within 2 business days after determining sufficiency of a candidacy or new party petition format.  | EL § 6-210(c)                                 |
| Saturday, July 20, 2024 | Monday, July 22, 2024         | COB  | Verification and Counting of Referendum Petition  | Deadline for the local boards to verify and count the balance of the signatures on the referendum petition.   | Within 20 days after the filing of the balance of the petition signatures.   | EL § 8-210(c)                                 |
|                         | Tuesday, July 23, 2024        |      | Certification of General Assembly Ballot Questions  | Deadline for SBE to prepare and certify to the local boards ballot questions issued by the General Assembly to voters of one county or part of one county.  | 105th day before a general election.   | EL § 7-102(c)(2)                              |
|                         | Tuesday, July 23, 2024        |      |   | Deadline for SBE to certify the results of the full referendum petition verification.   | Within 1 business day after verification and counting is completed, deadline is extended if judicial review is pending.  | EL § 8-210(c)                                 |
|                         | Tuesday, July 23, 2024        | COB  | Certification of Referendum Petition  | Deadline for petition sponsor to file with local government authority a charter amendment petition.   | 95th day before an election.   | EL § 7-102(d)                                 |
|                         | Monday, July 29, 2024         | COB  | Filing Charter Amendment Petition   | Deadline for Secretary of State to certify to SBE statewide ballot questions relating to Acts of the General Assembly (except for questions referred to the voters of one county or a part of one county) petitioned to referendum. | 95th day before a general election.  | EL § 7-102(c)(1)                              |
|                         | Friday, August 2, 2024        |      | Certification of Statewide Ballot Questions and Questions Relating to an Enactment of the General Assembly Petitioned to Referendum | Deadline for municipal attorney to certify the ballot question language for ballot questions for voters of that municipality.   | 95th day before a general election.  | EL § 7-102(c)(4)                              |
|                         | Friday, August 2, 2024        |      | Certification of Local Ballot Questions   | Deadline for County Attorney or Baltimore City Solicitor to certify to SBE each question to be voted on in the county.  | 95th day before a general election.  | EL § 7-102(c)(3)(i)                           |
|                         | Friday, August 2, 2024        |      | Alternate Certification of Local Ballot Questions   | Deadline for Clerk of the Circuit Court to prepare and certify to SBE local ballot questions if the County Attorney or Baltimore City Solicitor does not do so.   | 1st Friday in August.  | EL § 7-102(c)(3)(i)                           |
| Friday, August 2, 2024  | Friday, August 2, 2024        | COB  | Judicial Review of Referendum Petition Certification - First Signature Submission   | Deadline for petition sponsor to seek judicial review of referendum petition certification of the first submission of the required signatures.  | 10th day following SBE's determination on the certification of the first submission of signatures or 65th day before the general election (August 28, 2024), whichever is earlier. | EL § 6-210(c)                                 |
| Friday, August 2, 2024  | Friday, August 2, 2024        | COB  | Judicial Review of Referendum Petition Certification - Balance of Signatures Submission   | Deadline for petition sponsor to seek judicial review of referendum petition certification.   | 10th day following SBE's determination on the certification of the balance of signatures or 65th day before a general election (August 28, 2024), whichever is earlier.            | EL § 6-210(e)                                 |
|                         | Monday, August 5, 2024        | COB  | Filing New Party Petition   | Deadline for petition sponsor to file with SBE a new political party petition.  | 1st Monday in August.  | EL § 4-102(c)(2)(ii)                          |
|                         | Monday, August 5, 2024        | 5 pm | Filing Candidacy Petition & Certificate of Candidacy  | Deadline for general election petition candidate to file with SBE or the appropriate local board the Certificate of Candidacy and candidacy petition.   | 1st Monday in August.  | EL § 5-703(d) & (f)                           |
|                         | Monday, August 5, 2024        | 5 pm | Filing Certificates of Nomination and Candidacy   | Deadline for candidates seeking nomination from a non-principal political party to file with SBE or the appropriate local board the Certificate of Nomination and Certificate of Candidacy.   | 1st Monday in August.  | EL § 5-703.11(d) & (e)                        |
|                         | Monday, August 5, 2024        |      | Filing of Appellate Judges  | Deadline for Clerk of the Supreme Court of Maryland and Clerk of the Appellate Court of Appeals to provide notice to SBE of the names of judges to be placed on the ballot.   | 1st Monday in August.  | EL § 5-301(f)                                 |
| Monday, August 5, 2024  | Monday, August 5, 2024        |      | Greener Election Judge Exemption Request  | Deadline for the local boards to request an exemption to assign greener election judges at each early voting center.  | No later than 3 months before an election.   | COMAR 33.19.03.01(2)                          |
|                         | Tuesday, August 6, 2024       | COB  | Declaration of Nomination   | Deadline for declaration of nomination by a filed candidate before general election.  | First Tuesday in August.   | EL § 5-301(b)(2)(ii)                          |
|                         | Wednesday, August 7, 2024     |      | Request to Waive Mail-In Ballot Mailing Deadline  | Deadline for SBE to submit a request to the Federal Voting Assistance Program for a waiver of the deadline to transmit ballots to voters.   | At least 90 days before an election.   | 52 USC § 20302(a)(3)(A)                       |
|                         | Wednesday, August 7, 2024     |      | NVRA Confirmation Mailing Deadline  | Deadline for the local boards to send to voters confirmation mailings to verify addresses and make voters inactive.   | No later than 90 days before an election.  | 52 USC § 20307(c)(2)(A)                       |
|                         | Friday, August 9, 2024        | COB  | Vacancy by Declaration of Nomination  | For all offices except Governor and Lt. Governor, deadline for the appropriate central committee(s) to fill a vacancy caused by a candidate filing a declaration of nomination.   | 95th day before a general election.  | EL §§ 5-102(b)(1) & 5-1003(c)(4), & 5-1004(c) |
|                         | Monday, August 12, 2024       |      | Greener Election Judge Exemption Determination  | Deadline for the State Administrator to respond to a local boards request for an exemption to assign greener election judges at each early voting center.   | Within 5 business days of a local board's request.   | COMAR 33.19.03.01(3)                          |

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|                            |  | Monday, August 12, 2024           |                                    | Death or Disqualification of Candidate  | Last day to remove a candidate's name from the ballot due to the candidate's death or disqualification.   | 55th day before an election.   | EL § 5-601 (d)                                 |
|                            |  | Friday, August 16, 2024           |                                    | Vacancy by Death or Disqualification  | For all offices except Governor and Lt. Governor, deadline for the appropriate central committee(s) to fill a vacancy caused by the death or disqualification of a filed candidate.   | 81st day before a general election.  | EL §§ 5-1002(b)(1), 5-1002(c)(5), & 5-1004(b)  |
| Sunday, August 18, 2024    |  | Monday, August 19, 2024           | COB                                | Verification and Counting of Charter Amendment Petition   | Deadline for the local boards to verify and count the signatures on a charter amendment petition.   | Within 20 days after the filing of a petition.   | EL § 5-6-21(c)(6)                              |
|                            |  | August 19, 2024 - August 22, 2024 |                                    | Democratic National Convention in Chicago   | Delegates to the Democratic National Convention officially vote for their nominees for President and Vice President.  | Dates established by Democratic National Committee.  |  |
| Tuesday, August 20, 2024   |  | Tuesday, August 20, 2024          | COB                                | Certification of Charter Amendment Petition   | Deadline for the local boards to certify the results of the charter amendment petition verification.  | Within 1 business day after verification and counting is completed; deadline is extended if judicial review is pending.                              | EL § 5-6-21(c)(6)                              |
| Sunday, August 25, 2024    |  | Monday, August 26, 2024           | COB                                | Verification and Counting of Candidacy or New Party Petition  | Deadline for the local boards to verify and count the signatures on a candidacy or new party petition.  | Within 20 days after the filing of a petition.   | EL § 5-6-21(c)(6)                              |
|                            |  | Tuesday, August 27, 2024          | 11:59 pm                           | Pre-General Campaign Finance Report 1   | Deadline to file the first pre-general report for political committees participating in the presidential election.  | Last Tuesday in August immediately preceding a general election.   | EL § 13-309(a)(4)                              |
|                            |  | Tuesday, August 27, 2024          | COB                                | Certification of Candidacy or New Party Petition  | Deadline for SBE or the appropriate local board to certify the results of the candidacy or new party petition verification.   | Within 1 business day after verification and counting is completed; deadline is extended if judicial review is pending.                              | EL § 5-6-21(c)(6)                              |
| Wednesday, August 28, 2024 |  | Wednesday, August 28, 2024        | COB                                | Judicial Review of Candidacy Petition Certification   | Deadline for candidate to seek judicial review of candidacy petition certification.   | 10th day following ratification on the certification of the petition or 89th day before a general election (August 28, 2024), whichever is earlier.  | EL § 5-6-21(c)(2)                              |
| Wednesday, August 28, 2024 |  | Wednesday, August 28, 2024        | COB                                | Judicial Review of Charter Amendment Petition Certification   | Deadline for petition sponsor to seek judicial review of charter amendment petition certification.  | 10th day following determination on the certification of the petition or 89th day before a general election (August 28, 2024), whichever is earlier. | EL § 5-6-21(c)(2)                              |
| Wednesday, August 28, 2024 |  | Monday, September 2, 2024         |                                    | Labor Day   | State holiday. SBE and local boards will be closed.   | At least 64 days before an election.   | EL § 9-201 (a)(2)                              |
| Monday, September 2, 2024  |  | Tuesday, September 3, 2024        |                                    | Certification of Ballot   | Deadline for SBE to prepare and certify content and arrangement of ballots for the general election.  | At least 64 days before an election.   | EL § 9-201 (a)(2)                              |
| Monday, September 2, 2024  |  | Tuesday, September 3, 2024        |                                    | Display of Ballot   | Deadline for SBE to display on its website the content and arrangement of each certified ballot.  | At least 64 days before an election.   | EL § 9-201 (c)                                 |
|                            |  | Wednesday, September 4, 2024      |                                    | Judicial Review of any Ballot Printing Errors   | Deadline for a registered voter to seek judicial review if an error is discovered after the ballots have been publicly displayed and the local board fails to correct the error.  | No later than the 62nd day preceding an election.  | EL § 9-201(c)                                  |
|                            |  | Thursday, September 5, 2024       | COB                                | Judicial Review of Content and Arrangement of Ballot  | Deadline for a registered voter to seek judicial review of the content and arrangement of or to correct any other error on the ballot.  | Within 2 days of certifying the ballot.  | EL § 9-201(e)                                  |
| Friday, September 6, 2024  |  | Friday, September 6, 2024         |                                    | Printing of Ballots   | SBE may begin printing ballots and correct noted errors.  | After 3 days of public display of ballot.  | EL § 9-201 (e)                                 |
|                            |  | Friday, September 6, 2024         |                                    | Number of Ballots for Manual Audit  | Deadline to determine the number of early voting, mail-in, and provisional ballots each local board must count for the manual audit.  | No later than 60 days before election day.   | COMAR 33.08.05.09(c)(1)                        |
| Friday, September 6, 2024  |  | Friday, September 6, 2024         | COB                                | Judicial Review of New Party Petition Certification   | Deadline for petition sponsor to seek judicial review of new party petition certification.  | 10th day after determination on the certification of the petition.   | EL § 9-210(e)(1)                               |
|                            |  | Sunday, September 15, 2024        |                                    | Voting Information in Correctional Facilities   | Deadline to SBE to provide correctional facilities with voting information for distribution to eligible individuals.  | No later than 30 days before the advanced deadline to register to vote.  | EL § 1-303.2(a)(1)<br>COMAR 33.01.01.02B(2)(b) |
|                            |  | Tuesday, September 17, 2024       |                                    | Constitution Day and Citizenship Day  | Commemorates the signing of the U.S. Constitution and require public schools to celebrate the day and install in students knowledge of history, importance, and meaning of the U.S. Constitution and Maryland Constitution. | Anniversary of signing of the U.S. Constitution on September 17, 1787.   | Education Art., § 7-116                        |
|                            |  | Saturday, September 21, 2024      |                                    | Transmitting Mail-In Ballots  | Deadline for election officials to transmit ballots to certain voters unless the Federal Voting Assistance Program grants the State a waiver of the deadline.   | No later than 45 days before an election unless the Federal Voting Assistance Program grants a waiver of the 45 day transmission deadline.           | 62 USC § 20302(a)(9)(A)                        |
|                            |  | Tuesday, September 24, 2024       |                                    | Public Education for Early Voting   | SBE and the local boards start public education about early voting.   | 30 days before early voting for an election.   | EL § 10-301.1(f)                               |
|                            |  | Wednesday, October 9, 2024        |                                    | Early Voting & Election Day Supply Verification   | Deadline for the local boards to verify voting supplies according to the supply verification plan.  | No later than 15 days before early voting starts.  | SBE policy                                     |
|                            |  | Friday, October 11, 2024          | 11:59 pm                           | Ballot Issue Report   | Deadline for ballot issue committees to file pre-general report.  | 4th Friday before a general election.  | EL § 13-309(a)(5)                              |
|                            |  | Monday, October 14, 2024          |                                    | Columbus Day  | State holiday. SBE and most local boards will be closed.  |  | State Personnel & Pensions Art., § 9-201       |
|                            |  | Tuesday, October 15, 2024         | 5 pm in office<br>11:59 pm on-line | Advanced Deadline to Register to Vote & Update Registration Information (Including Party Affiliation) | Advanced deadline to register to vote, update registration, or change party affiliation before the primary election.  | 21st day preceding an election.  | EL § 3-303(a)                                  |

|  |                              |                             |   |  |   |  |
|--|------------------------------|-----------------------------|---|--|---|--|
|  | Tuesday, October 15, 2024    | 5 pm                        | Polling Place Reassignment  | Deadline for elderly voters or voters with disabilities to submit a request to the local boards for reassignment to an accessible polling place.   | No later than the close of advanced registration before an election.  | EL § 10-102(b)(1)                      |
|  | Tuesday, October 15, 2024    | COB                         | Voter Registration Lists  | Deadline to request a voter registration list (New requests will not be taken until registration receives).  | On or before the advanced registration deadline, before an election.  | COMAR 33.03.02.05(b)                   |
|  | Wednesday, October 16, 2024  |                             | Notice of Election  | Deadline for the local boards to provide notice of the election.   | At least one week before any early voting period before an election.  | EL § 8-102                             |
|  | Thursday, October 17, 2024   | 5 pm                        | Written Candidates  | Deadline for write-in candidates to file a Certificate of Candidacy. Only filed write-in candidates will have their votes reported on the official canvass.  | Earlier of 7th day preceding the start of early voting (October 17, 2024) or within 7 days after expenditure of \$50 to promote candidacy.  | EL § 5-303(c)                          |
|  | Monday, October 21, 2024     |                             | Select Contest and Early Voting Canvass for Manual Audit                  | Deadline for the State Board to randomly select the canvass and early voting centers for the manual audit.   | Within 3 days of the start of early voting.   | COMAR 33.03.05.09(c)(2)(e)             |
|  | Tuesday, October 22, 2024    | COB                         | Logic and Accuracy Testing - Early Voting (public demonstration & votes)  | Deadline for the local boards to complete logic and accuracy testing of the voting units being used for early voting. (Note: A public demonstration of the test must be conducted before any voting units are delivered to an early voting center.)  | At least 14 days before an election.  | COMAR 33.1.02.02.14, 16                |
|  | Wednesday, October 23, 2024  | 5 pm                        | Campaign Signs  | Beginning of period when campaign signs must be delivered to early voting centers.   | The day before early voting starts.   | EL § 10-101(e)(3)(iii)(2)              |
|  | Thursday, October 24, 2024   | 7 am to 8 pm                | Early Voting Begins   | Early voting for the general election begins.  | The day before early voting starts.   | EL § 10-301.1                          |
|  | Friday, October 25, 2024     | COB                         | Voter Registration Lists  | Deadline for SBE and the local boards to prepare a voter registration list that includes registrants through the registration deadline.  | Within 10 days of the advanced voter registration deadline.   | COMAR 33.03.02.05(c)(2)                |
|  | Friday, October 25, 2024     | 11:59 pm                    | Pre-General Campaign Finance Report 2                                     | Deadline to file the pre-general election campaign finance report for political committees participating in the presidential election.   | 2nd Friday immediately preceding an election.   | EL § 13-309(a)(6)                      |
|  | Saturday, October 26, 2024   | COB                         | Logic and Accuracy Testing - Election Day                                 | Deadline for the local boards to complete logic and accuracy testing of the election management system and voting units being used for election day voting and absentee and provisional ballots. (Note: The test must be conducted before any voting units are delivered to an early voting center.) | At least 10 days before an election.  | COMAR 33.1.02.01.14, 16                |
|  | Monday, October 28, 2024     |                             | Notice of Canvass   | Deadline for the local boards to provide notice of the absentee and provisional canvasses.   | At least 10 days before the first absentee canvass.   | COMAR 33.03.01.05-11(b)                |
|  | Tuesday, October 29, 2024    | 8 am (mail) or 7 am to 8 pm | Ballot Request Deadline: Ballot Delivered by Mail or Fax                  | Deadline for a registered voter to request a mailed or faxed mail-in ballot.   | Tuesday before an election.   | EL § 5-303(d)(1); COMAR 33.11.02.02E   |
|  | Thursday, October 31, 2024   | 8 am                        | Early Voting Ends   | Early voting for the general election ends.  | 2nd Thursday before an election through the Thursday before an election.  | EL § 10-301.1                          |
|  | Friday, November 1, 2024     | 8 am                        | Campaign Signs  | End of period when campaign signs must be allowed at early voting centers.   | The day after early voting ends.  | EL § 10-101(e)(3)(iii)(2)              |
|  | Friday, November 1, 2024     | 5 pm (mail) or 5 pm         | Ballot Request Deadline: Ballot Delivered via Internet                    | Deadline for a registered voter to request an electronic mail-in ballot.   | Friday before an election.  | EL § 9-302(d)(2)                       |
|  | Monday, November 4, 2024     | 5 pm                        | Campaign Signs  | Beginning of period when campaign signs must be allowed at polling places.   | The day immediately preceding election day.   | EL § 10-101(e)(3)(iii)(2)              |
|  | Tuesday, November 5, 2024    | 7 am to 8 pm                | General Election  | Presidential General Election Day.   | Tuesday after the first Monday in November.   | MD Const. Art. XV, § 7; EL § 18-301    |
|  | Tuesday, November 5, 2024    | 8 pm                        | Ballot Request Deadline: Voter Picks Up Ballot                            | Deadline for a registered voter or voter's agent to request a mail-in ballot in person at a local board.   | No later than the close of the polls on election day.   | EL § 8-303(d)(3); COMAR 33.03.04.01(c) |
|  | Tuesday, November 5, 2024    | 8 pm                        | Extended Voter Registration Deadline                                      | Extended deadline for receipt of voter registration applications sent by mail for voting in general election.  | No application received by mail after the close of registration is timely if it is properly postmarked.   | EL § 3-303(d); COMAR 33.03.04.01(c)    |
|  | Tuesday, November 5, 2024    | 8 pm                        | Mail-In Ballot Deadline: Ballot Box, Polling Place, or Local Board Office | Deadline for the local boards to receive a ballot placed in ballot drop box or election judges to receive a ballot at a voting location  | A ballot is timely if it is: (1) placed in ballot drop box by 8 pm on election day; (2) given to an election judge at a polling place on election day; or (3) received at a local board office by 8 pm on election day. | COMAR 33.1.02.03(b)(1), (2) & (3)      |
|  | Tuesday, November 5, 2024    | 8 pm                        | Precincts for Post-Election Verification & Audits                         | Deadline for local boards to select randomly the precincts for post-election verification and audits.  | 8 pm on election day.   | COMAR 33.03.05.04                      |
|  | Wednesday, November 6, 2024  | 8 am                        | Campaign Signs  | End of period when campaign signs must be allowed at polling places.   | The day immediately after election day.   | EL § 10-101(e)(3)(iii)(2)              |
|  | Thursday, November 7, 2024   | 10 am                       | Counting of Mail-In Ballots Start   | Local boards of canvassers are required to start counting mail-in ballots.   | 10 am on the Thursday after an election.  | COMAR 33.11.04.03A(1)                  |
|  | Friday, November 8, 2024     |                             | Precincts for Post-Election Verification & Audits                         | Deadline for the local boards to submit to the State Administrator a list of the precincts selected for the post-election verification and audits.   | Within 3 days of selecting the precincts.   | COMAR 33.03.05.04                      |
|  | Monday, November 11, 2024    |                             | Veterans Day  | State holiday. SBE and most local boards will be closed.   |   | State Personnel & Pension Act, § 9-201 |
|  | Wednesday, November 13, 2024 | 10 am                       | Provisional Ballot Canvass  | Local boards of canvassers are required to begin the canvass of provisional ballots.   | 10 am on the 2nd Wednesday after an election.   | COMAR 33.1.05.02                       |
|  | Friday, November 15, 2024    | 10 am                       | Mail-In Ballot Deadline: Delivery by Mail                                 | Deadline for the local boards to receive absentee ballots by mail.   | 10 am on the 2nd Friday after an election provided there is a proper postmark or date on voter's cert.  | COMAR 33.11.03.03B(4)(a)               |

|                             |                              |          |  |   |   |   |
|-----------------------------|------------------------------|----------|--|---|---|---|
|                             | Friday, November 15, 2024    |          | Counting of Mail-In Ballots Ends               | Local boards of canvassers finish counting mail-in ballots unless the local boards have more ballots to count.                                  | Before certifying the results of an election.   | COMAR 33.08.05.02A                        |
|                             | Friday, November 15, 2024    |          | Verification of Vote Count                     | Deadline for the local boards of canvassers to verify the general election vote count.  | Within 10 days after an election and before certifying the results of an election.  | EL § 11-308(a)                            |
|                             | Friday, November 15, 2024    |          | Post-Election Audit                            | Deadline for the local boards to complete various post-election audits on randomly selected precincts and any other identified precincts.       | Before certifying the results of an election.   | SBE policy                                |
|                             | Friday, November 15, 2024    |          | Certification of the Election                  | Deadline for the local boards of canvassers to certify the results of the universal election.   | After the verification of vote count is completed.  | EL § 11-308(b)                            |
|                             | Friday, November 15, 2024    |          | Transmittal of Results                         | Local boards of canvassers must transmit certified copies of election results to the Governor, SBE, and appropriate clerk of the Circuit Court. | 2nd Friday after an election or if canvass is not completed that day, within 48 hours after completion.   | EL § 11-401(c)                            |
| Monday, November 18, 2024   | Monday, November 18, 2024    | COB      | Petition for Recount - Local Questions         | Deadline to file a petition for a recount of the votes cast for a local question on the ballot.   | Within 3 days after the results of an election have been certified.   | EL § 12-102(d)                            |
| Monday, November 18, 2024   | Monday, November 18, 2024    | COB      | Petition for Recount - Local Offices           | Deadline to file a petition for a recount of the votes cast for a local office on the ballot.   | Within 3 days after the results of an election have been certified.   | EL § 12-101(e)                            |
| Saturday, November 16, 2024 | Monday, November 18, 2024    |          | Voter Registration Recaps                      | Voter registration recaps.  | 11th day after an election.   | EL § 3-302(4)                             |
|                             | Tuesday, November 19, 2024   | 11:59 pm | Post-General Campaign Finance Report           | Deadline to file the post-general election campaign finance report.   | On or before the 2nd Tuesday after a general election.  | EL § 13-309(a)(7)                         |
|                             | Wednesday, November 20, 2024 |          | Select Election Day Precincts for Manual Audit | Deadline for the State Board to randomly select the election day precincts for the manual audit.  | Within 15 days of election day.   | COMAR 33.08.05.09C(2)(d)                  |
|                             | Thursday, November 28, 2024  |          | Thanksgiving                                   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
|                             | Friday, November 29, 2024    |          | American Indian Heritage Day                   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
| Saturday, November 30, 2024 | Monday, December 2, 2024     | 11:59 pm | Title 14 Contribution Report                   | Deadline for disclosure of contributions by persons doing business with Maryland government and/or employing a lobbyist.                        | Report due every May 31 and November 30.  | EL § 14-104(b)(2)(i)(2)                   |
|                             | Friday, November 29, 2024    |          | Certification of the Campaign Finance Reports  | SBE shall certify to the official receiving the Commissions of Election that all campaign finance reports due have been filed.                  | Prior to the delivery of the Commissions of Election, (for offices elected to be by first elections in December, when most local executives are sworn.) | EL § 13-333(b)                            |
|                             | Thursday, December 5, 2024   | COB      | Statewide Certification of Results             | Deadline for the State Board of Canvassers to convene to certify election results.  | Within 30 days after an election.   | EL § 11-503(a)(1)(i)                      |
|                             | Wednesday, December 11, 2024 |          | Certificate of Appointment of Electors         | Deadline for the Governor to issue and transmit a certificate of appointment to the electors.   | 6 days before the meeting of the Presidential electors.   | EL § 11-601, 3 USC § 5                    |
|                             | Friday, December 6, 2024     |          | Delivery of Election Results                   | SBE shall deliver to the winners of the general election a certified statement under its seal.  | Prompt delivery.  | EL § 11-603(b)                            |
|                             | Sunday, December 8, 2024     | COB      | Petition for Recount - State Questions         | Deadline to file a petition for a recount of the votes cast for a State question on the ballot.   | Within 3 days after the results of an election have been certified.   | EL § 12-103(d)                            |
|                             | Sunday, December 8, 2024     | COB      | Petition for Recount - State Offices           | Deadline to file a petition for a recount of the votes cast for a State office on the ballot.   | Within 3 days after the results of an election have been certified.   | EL § 12-101(e)                            |
|                             | Tuesday, December 17, 2024   |          | Meeting of the Presidential Electors           | Official casting of votes by members of the Electoral College.  | 1st Tuesday after the 2nd Wednesday in December.  | Executive proclamation by President Biden |
|                             | Wednesday, December 25, 2024 |          | Christmas                                      | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
|                             | Wednesday, January 1, 2025   |          | New Year's Day                                 | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
| Wednesday, March 5, 2025    | Wednesday, March 5, 2025     |          | Completion of Manual Audit                     | Deadline for the local boards to complete manual audit of sample of paper ballots cast in the general election.                                 | Within 120 days after the general election.   | EL § 11-309(d)(2)                         |
| Wednesday, March 19, 2025   | Wednesday, March 19, 2025    | **       | Posting of Manual Audit Report                 | Deadline for SBE to post report of manual audit.  | Within 14 days after completion of manual audit.  | EL § 11-309(d)(4)                         |



BRANDON M. SCOTT  
MAYOR

100 Holliday Street  
Baltimore, MD 21202

**RECEIPT OF PETITION DELIVERY - BALTIMORE CITY MAYOR'S OFFICE**

On behalf of the Mayor of Baltimore, pursuant to the Maryland Constitution, Article 11-A, Section 5, I hereby acknowledge receipt of the following ballot petition:

Brief Description from Information Page: To place upper limits on the Baltimore City real property tax rate to be set by the Mayor and City Council each year during the next 7 years, starting at \$2.20 per \$100 of assessed value as of July 1, 2025, \$2.10 on July 1, 2026, and then incrementally lower each year until the rate is capped at \$1.20 per \$100 of assessed value beginning July 1, 2031. Capping the real property tax rate aligns Baltimore City with surrounding counties, brings equity to City taxpayers, encourages investment, and makes home ownership more affordable.

- Number of Boxes; 4
- Number of Signatures: 23,542

Elena DiPietro  
Chief Solicitor, Baltimore City Law Department  
Printed Name

Elena DiPietro  
Signature

6/20/2024  
Date



## Thomas & Libowitz, P.A.

A Professional Association founded in 1975

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gthemelis@tandllaw.com

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Also Member of MA Bar °

ASSOCIATES  
CLINTON R. BLACK, V~  
JESSICA A. DENKEVITZ  
MEGAN E. BASTER  
JUSTIN T. LIBERATORE

COUNSEL  
JOHN R. WISE  
FRANCIS R. LAWS  
DAVID M. SHEEHAN°

July 3, 2024

### Via Electronic Mail

Mr. Armstead B. Crawley Jones, Sr., CERA  
Election Director  
Baltimore City Board of Elections  
Benton Office Building  
417 E. Fayette Street, Room 129  
Baltimore, Maryland 21202-3432  
[armstead.jones@baltimorecity.gov](mailto:armstead.jones@baltimorecity.gov)

### **Re: Renew Baltimore Charter Amendment Petition**

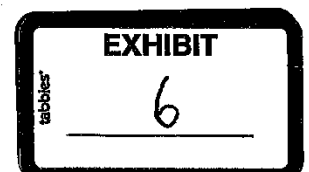
Dear Director Jones:

Please be advised we represent Renew Baltimore regarding the charter amendment petition to place upper limits on the Baltimore City real property tax rate (the Petition).

On June 20, 2024, Renew Baltimore hand-delivered to City Hall the Petition and four (4) boxes containing 23,542 signatures.

On June 20, 2023, pursuant to §6-202 of the Election Law Article, you responded to Renew Baltimore's request for an advance determination and approved the format of the Petition. A copy of your letter is attached for your convenience.

To date, there has not been a response from you since the Petition was filed. Please advise if you have made any further determination(s) regarding the Petition.





Mr. Armstead B. Crawley Jones, Sr., CERA  
Election Director  
July 3, 2024  
Page 2

Very truly yours,

THOMAS & LIBOWITZ, P.A.

A handwritten signature in black ink, appearing to read 'CT', is positioned above a horizontal line.

Constantine J. Themelis

Cc: Abigail Goldman, CERA Election Deputy Director [abigail.goldman@baltimorecity.gov](mailto:abigail.goldman@baltimorecity.gov)  
Wendy Paige [wendy.paige@baltimorecity.gov](mailto:wendy.paige@baltimorecity.gov)  
Steven A. Thomas, Esq.  
Clint Black V, Esq.  
Ben Frederick III

**Constantine Themelis**

---

**From:** Chapman, Thomas <tchapman@oag.state.md.us>  
**Sent:** Wednesday, July 3, 2024 10:56 AM  
**To:** Constantine Themelis  
**Subject:** RE: Renew Baltimore Charter Amendment Petition

You don't often get email from tchapman@oag.state.md.us. [Learn why this is important](#)

Good morning Mr. Themelis,

I represent the Baltimore City Board of Elections. The Board has received from City Hall, and is currently processing, the Renew Baltimore charter amendment petition. The Election Director has not yet made any further determinations beyond the § 6-202 advance determination as to sufficiency of format. As soon as any determinations are made, the Election Director will notify you in accordance with the schedule set forth in § 6-210 of the Election Law Article. Please let me know if you have any further questions.

Best regards,  
Thomas Chapman



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---

**From:** Constantine Themelis <[gthemelis@tandllaw.com](mailto:gthemelis@tandllaw.com)>  
**Sent:** Wednesday, July 3, 2024 8:46:23 AM  
**To:** Jones, Armstead (BOE) <[Armstead.Jones@baltimorecity.gov](mailto:Armstead.Jones@baltimorecity.gov)>  
**Cc:** Goldman, Abigail (BOE) <[Abigail.Goldman@baltimorecity.gov](mailto:Abigail.Goldman@baltimorecity.gov)>; Paige, Wendy (BOE) <[Wendy.Paige@baltimorecity.gov](mailto:Wendy.Paige@baltimorecity.gov)>; Steven Thomas <[SThomas@tandllaw.com](mailto:SThomas@tandllaw.com)>; Clint Black V <[CBlackV@tandllaw.com](mailto:CBlackV@tandllaw.com)>; Ben Frederick <[ben@benfrederick.com](mailto:ben@benfrederick.com)>  
**Subject:** Renew Baltimore Charter Amendment Petition

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Armstead B. Crawley Jones, Sr.  
Election Director  
Abigail Goldman  
Election Deputy Director  
Scherod C. Barnes  
President (D)  
Terrence D. Threault Jr.  
Vice President (R)



BALTIMORE CITY  
BOARD OF ELECTIONS

Secretary (D)  
Hope M. Williams  
Member (D)  
Maria M. Vismale  
Member (R)

July 9, 2024

*Via First-Class Mail and Email*

Constantine J. Themelis, Esq.  
Thomas & Libowitz, P.A.  
25 S. Charles Street, Suite 2015  
Baltimore, MD 21201  
[gthemelis@tandllaw.com](mailto:gthemelis@tandllaw.com)

Re: Renew Baltimore Charter Amendment Petition: Determination of Deficiency

Dear Mr. Themelis:

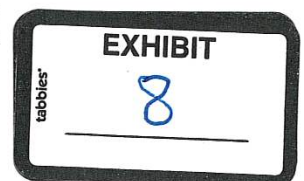
The Baltimore City Board of Elections has received the petition sponsored by your client, Renew Baltimore (the "Petition") proposing an amendment to the Baltimore City Charter (the "Charter Amendment") relating to the rate of real property tax in Baltimore City. As Election Director, I am required by § 6-206 of the Election Law Article ("EL"), Maryland Code, to declare a petition deficient if it seeks "the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law." EL § 6-206(c)(5).

I have determined that the Petition is deficient on that ground. State law provides that the power to set a specific property tax rate in the counties and Baltimore City must remain with the County or City Council. Maryland's highest court has held that under this rule, a petition-initiated charter amendment may not set a specific property tax rate. Accordingly, I cannot certify the Charter Amendment for inclusion on the ballot at the upcoming General Election.

Under Article XI-A, § 1 of the Constitution of Maryland, a City charter provision may not conflict with State law. *See, e.g., Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 242 (1990). Relevant here, § 6-302(a) of the Tax-Property Article, Maryland Code, provides that "in each year the Mayor and City Council of Baltimore City or the governing body of each county annually shall set the tax rate for the next taxable year on all assessments of property subject to that county's property tax."

In two cases, the Maryland Court of Appeals (now the Supreme Court of Maryland) held that, under this statute, a charter amendment may not set the property tax rate in a jurisdiction. *Smallwood*, 327 Md. at 244; *Hertelendy v. Board of Educ.*, 344 Md 676, 683 (1995). Notably, *Smallwood*, which involved proposed charter amendments in Baltimore County and Anne Arundel County, did hold that a charter amendment may set a cap on the future growth of property tax rates. *See* 327 Md. at 243. But the Court invalidated provisions of the proposed charter amendments that would have "roll[ed] back" the amount of property tax collected in each county to a lower level. *Id.* at 244. The Court explained:

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



*Id.* The Court reaffirmed that holding five years later in *Hertelendy*, involving a similar provision in the Talbot County Charter:

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

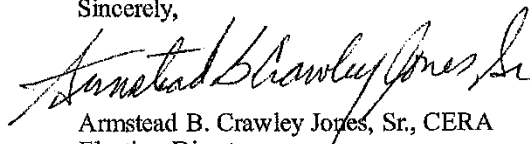
344 Md. at 683 (citation omitted).

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

I see no basis to distinguish the Petition's proposed Charter Amendment from the charter provisions the Court held to be illegal in *Smallwood* and *Hertelendy*. I therefore must decline to certify the Petition on the ground that it seeks "the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law." EL § 6-206(c)(5).<sup>1</sup>

Because I have found the Petition deficient, the Board of Elections is not required to continue verifying and validating the signatures on the Petition, and the 20-day deadline to complete signature verification no longer applies. See EL § 6-207(a). However, in the interest of efficiency and because of the possibility of judicial review of this determination, my staff will continue to review the signatures on the Petition.

Sincerely,



Armstead B. Crawley Jones, Sr., CERA  
Election Director

cc: Baltimore City Board of Elections  
State Board of Elections  
Baltimore City Law Department

<sup>1</sup> Because I have determined that the Charter Amendment would be "unconstitutional . . . or . . . prohibited by law" on the ground that it conflicts with § 6-302(a) of the Tax-Property Article, there is no need for me to determine whether or not the Charter Amendment would be unconstitutional or illegal on any other ground, and I have made no other legality determination one way or the other.



**CIRCUIT COURT FOR BALTIMORE CITY**  
**MARYLAND**  
CIVIL DIVISION  
111 N. Calvert Street  
Baltimore, Maryland 21202

**E-FILED: Baltimore City Circuit Court**  
**Submission: 7/15/2024 11:07 AM**  
**Envelope: 17207965**  
Civil: 410-333-3722  
Criminal: 410-333-3750  
Family: 410-333-3709/3738  
Juvenile: 443-263-6300

**To:** BALTIMORE CITY BOARD OF ELECTIONS  
ATTN: SCHEROD C. BARNES, PRESIDENT  
417 E FAYETTE ST  
RM 129  
BALTIMORE, MD 21202

**Case Number:** C-24-CV-24-001361  
**Other Reference Number(s):**  
**Child Support Enforcement Number:**

**BENEDICT FREDERICK, III .VS BALTIMORE CITY BOARD OF ELECTIONS**

Issue Date: 7/15/2024

**WRIT OF SUMMONS**

You are summoned to file a written response by pleading or motion, within 30 days after service of this summons upon you, in this court, to the attached complaint filed by:

BENEDICT J FREDERICK, III  
701 W University Parkway  
Baltimore, MD 21210; Thomas & Libowitz, PA  
25 S Charles Street, Suite 2015  
BALTIMORE, MD 21201

This summons is effective for service only if served within 60 days after the date it is issued.

A handwritten signature in black ink, appearing to read "Xavier A. Conaway", is written over a light blue rectangular background.

Xavier A. Conaway  
Clerk of the Circuit Court

To the person summoned:

Failure to file a response within the time allowed may result in a judgment by default or the granting of the relief sought against you.

Personal attendance in court on the day named is NOT required.

It is your responsibility to ensure that the court has your current and correct mailing address in order to receive subsequent filings and notice in this case.

Instructions for Service:

1. This summons is effective for service only if served within 60 days after the date issued. If it is not served within the 60 days, the plaintiff must send a written request to have it renewed.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Maryland Rule 2-126.

4. If this notice is served by private process, process server shall file a separate affidavit as required by Maryland Rule 2-126(a).



**SHERIFF'S RETURN**  
(please print)

To: BALTIMORE CITY BOARD OF ELECTIONS

\_\_\_\_\_ ID# \_\_\_\_\_ of the \_\_\_\_\_  
Serving Sheriff's Name

County Sheriff's office present to the court that I:

(1) Served \_\_\_\_\_  
Name of person served

on \_\_\_\_\_ at \_\_\_\_\_  
Date of service Location of service

\_\_\_\_\_ by \_\_\_\_\_ with the following:  
Manner of service

- |  |   |
|--|---|
| <input type="checkbox"/> Summons                       | <input type="checkbox"/> Counter-Complaint                |
| <input type="checkbox"/> Complaint                     | <input type="checkbox"/> Domestic Case Information Report |
| <input type="checkbox"/> Motions                       | <input type="checkbox"/> Financial Statement              |
| <input type="checkbox"/> Petition and Show Cause Order | <input type="checkbox"/> Interrogatories                  |
| <input type="checkbox"/> Other _____                   |   |
| Please specify   |   |

(2) Was unable to serve because:

- |   |  |
|---|--|
| <input type="checkbox"/> Moved left no forwarding address | <input type="checkbox"/> No such address |
| <input type="checkbox"/> Address not in jurisdiction      | <input type="checkbox"/> Other _____     |

Please specify

Sheriff fee: \$ \_\_\_\_\_ ☐ waived by \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of serving Sheriff

Instructions to Sheriff's Office or Private Process Server:

1. This Summons is effective for service only if served within 60 days after the date issued. If it is not served within 60 days, the plaintiff must send a written request to have it renewed.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this summons is served by private process, process server shall file a separate affidavit as required by Rule 2-126(a).

**BENEDICT J. FREDERICK, III**  
701 W. University Parkway  
Baltimore, Maryland 21210

and

**MATTHEW W. WYSKIEL, III**  
35 Warrenton Road  
Baltimore, Maryland 21210

and

**STACIE TEAL-LOCUST**  
5011 Remmell Avenue  
Baltimore, Maryland 21206

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS**  
417 E. Fayette Street  
Baltimore, Maryland 21202

and

**ARMSTEAD B.C. JONES, SR.**  
417 E. Fayette St., Room #129  
Baltimore, MD 21202

and

**SCHEROD C. BARNES**  
417 E. Fayette St., Room #129  
Baltimore, MD 21202

*Defendants.*

\* \* \* \* \*

**VERIFIED AMENDED COMPLAINT**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) sue



Defendants, Baltimore City Board of Elections, Armstead B.C. Jones, Sr. (“Mr. Jones”), in his official capacity as Election Director of Baltimore City Board of Elections and Scherod C. Barnes (“Mr. Barnes”), in his official capacity as President of the Baltimore City Board of Elections (collectively together “Defendants”) and states as follows:

### **INTRODUCTION**

1. This is an action for judicial review, writ of mandamus and declaratory judgment pursuant to §3-406 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, for the purposes of determining a question of actual controversy between the parties, as hereinafter more fully appears.

2. This case involves the validity of a charter amendment to cap the Baltimore City real property tax rate proposed, pursuant to the Maryland Constitution, Art. XI-A, § 5, by petition of the voters of Baltimore City.

3. Despite satisfying all legal requirements, the Election Director for the Baltimore City Board of Elections (“BCBOE”) determined that a petition of the voters of Baltimore City - put forth by Renew Baltimore, a ballot issue committee, - to amend the Baltimore City Charter by placing caps on the real property tax rate (the “Petition”) was unconstitutional or otherwise prohibited by law.<sup>1</sup>

---

<sup>1</sup> To date, BCBOE has not verified the number of valid signatures on the Petition. “The verification and counting of validated signatures on a petition shall be completed within 20 days after filing of the petition.” EL § 6-210(c)(1). “Upon the filing of a petition, and unless it has been declared deficient under §6-206 of this subtitle, the staff of the election authority shall proceed to verify the signatures and count the validated signatures contained in the petition.” EL §6-207(a)(1). On July 9, 2024, BCBOE advised undersigned counsel that BCBOE staff continue to review the signatures. *See Ex. 8*. As of the filing of the Amended Complaint, BCBOE has not advised that the Petition does not contain the requisite number of valid signatures. On July 17, 2024, undersigned counsel spoke with counsel for BCBOE who advised 2,478 signatures were accepted and 1,465 signatures were rejected and based on this ratio he expects there will be sufficient signatures accepted as required by Article XI-A of the Maryland Constitution §5. Plaintiffs are hopeful for a prompt verification and counting of validated signatures and not of any artificial delay, which may be dilatory in nature intending to preclude Plaintiffs from moving forward this election cycle.

4. The Petition complies with Maryland law, should be certified, and submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024.

5. This action seeks judicial review, writ of mandamus and a declaration that the Petition complied with all legal requirements and shall be placed on the general election ballot in Baltimore City.

6. Plaintiffs are all registered voters of Baltimore City seeking judicial review in the form of declaratory relief as to the Petition pursuant to MD. CODE ANN., ELEC. LAW (EL) § 6-209(b).

### **PARTIES**

7. Mr. Frederick is a registered voter and resides at 701 W. University Parkway in Baltimore City, Maryland. Mr. Frederick owns this property and pays property and income taxes annually.

8. Mr. Wyskiel is a registered voter and resides at 35 Warrenton Road in Baltimore City, Maryland. Mr. Wyskiel owns this property and pays property and income taxes annually.

9. Ms. Teal-Locust is a registered voter and resides at 5011 Remmell Avenue in Baltimore City, Maryland. Ms. Teal-Locust owns this property and pays property and income taxes annually.

10. The BCBOE is a body politic and corporate doing business in Baltimore City, with its principal office located at 417 East Fayette Street, Baltimore, Maryland 21202.

11. Armstead B.C. Jones, serves as the Election Director and Chief Election Official of the BCBOE and is responsible for all matters regarding the implementation of the requirements of the Election Law Article.

12. Scherod B. Jones serves as the President of the BCBOE and is responsible for all matters regarding the implementation of the requirements of the Election Law Article.

### **JURISDICTION AND VENUE**

13. This Court has jurisdiction over the Defendants pursuant to MD. CODE ANN., CTS. & JUD. PROC. §§ 6-102 and 6-103.

14. This Court has subject matter jurisdiction over this action, pursuant to MD. CODE ANN., CTS. & JUD. PROC. § 1-501 and MD. CODE ANN., CTS. & JUD. PROC. § 3-403.

15. Venue is proper in this Court under MD. CODE ANN., CTS. & JUD. PROC. § 6-201 because Defendants carries on business in Baltimore City and under MD. CODE ANN., ELEC. LAW § 6-209(a)(1)(ii) because Plaintiffs were aggrieved by a determination made by the chief election official of BCBOE under MD. CODE ANN., ELEC. LAW § 6-206 and 6-208(a)(2).

### **STATEMENT OF FACTS**

16. Renew Baltimore, the Petition “sponsor,” filed a petition to submit to a vote of the registered voters of Baltimore City at the next general election an amendment to the Baltimore City Charter that would implement caps on Baltimore City’s real property tax rate.

17. The Petition complied with Article XI-A of the Maryland Constitution §5, which provides in relevant part:

**SEC. 5.** Amendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general

or congressional election occurring after the passage of the resolution or the filing of the petition. \*\*\*.<sup>2</sup>

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

**§ 6A. Limits on taxation.**

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

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

A copy of the Petition is attached as **Ex. 1**.

19. The Petition seeks to amend the Baltimore City Charter by adding §6A to Article I (General Provisions) to be placed immediately after §6 (Uniform Taxation). *Id.*

20. The Petition does not seek to change any other section of the Baltimore City Charter.

21. On June 6, 2023, Renew Baltimore sought an “advance determination” of the sufficiency of the Petition form pursuant to EL § 6-202. A copy of this communication is attached as **Ex. 2**.

---

<sup>2</sup> See fn 1.

22. On June 20, 2023, BCBOE Election Director approved the sufficiency of the form of the Petition and did not declare the Petition unconstitutional or unlawful at that time. A copy of this communication is attached as **Ex. 3**.

23. The deadline to submit a charter amendment petition for the upcoming general election is July 29, 2024. See [2024 Elections Calendar.pdf \(maryland.gov\)](#) at p. 6 attached as **Ex. 4**.

24. On June 20, 2024, Renew Baltimore timely filed the Petition and submitted 23,542 Petition signatures (more than double the number of signatures required by Article XI-A of the Maryland Constitution §5) to BCBOE. A copy of the receipt of the Petition delivery is attached as **Ex. 5**.

25. On July 3, 2024, undersigned counsel wrote to BCBOE to inquire if there were any determination(s) regarding the Petition. A copy of this communication is attached as **Ex. 6**.

26. On July 3, 2024, Thomas S. Chapman, Esq. advised BCBOE had not yet made any further determinations. A copy of this communication is attached as **Ex. 7**.

27. On July 9, 2024, BCBOE sent a letter to undersigned counsel to declare the Petition deficient as “it seeks ‘the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law. See EL § 6-206 (c)(5).’” A copy of this communication is attached as **Ex. 8**.

28. Specifically, BCBOE erroneously concluded that the Petition conflicted with State law as it divested the Mayor and City Council of its authority to set a specific real property tax rate in Baltimore City pursuant to §6-302(a) of the Tax-Property Article, Maryland Code. *Id.*

29. BCBOE conflates real property “tax rates,” “tax caps” and “tax revenues.”

30. The Petition seeks to set a real property tax rate cap in Baltimore City.

31. The Petition does not seek to set the real property tax rate in Baltimore City.

32. The Petition does not limit the amount of revenue Baltimore City can generate from real property taxes or any other lawful tax.

33. The subject case involves a justiciable controversy for Plaintiffs as they do not agree with BCBOE's decision not to certify the Petition.

## **COUNT I**

### **(DECLARATORY JUDGMENT)**

34. Plaintiffs incorporate each and every allegation as set forth in paragraphs 1 through 32 above.

35. Pursuant to Md. Cts. & Jud. Code Ann. §3-406:

Any person interested ...whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation...may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation...and obtain a declaration of rights, status, or other legal relations under it.

36. Election Law Article, Title 6, statutorily obligates the BCBOE Election Director to promptly review and certify petitions for referenda. *See* EL § 6-206(a).

37. Plaintiffs are seeking judicial review of the BCBOE Election Director's erroneous declaration that the Petition is deficient. *See* EL § 6-209.

38. The subject action was filed timely as Plaintiffs have ten (10) days to seek judicial review of the BCBOE Election Director's declaration on July 9, 2024 that the Petition is deficient. *See* EL § 6-210(e)(1).

39. This case shall be heard and decided without a jury and as expeditiously as the circumstances require. *See* EL § 6-210(e)(3)(i).

40. The Supreme Court of Maryland has already determined that real property tax limitation charter amendments that limited the power to collect real property taxes above a specified cap (just like the Petition) are proper. *See Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 236 & 240 (1990).

41. “[A] limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material.” *Id. at 238*.

42. There is an existing dispute between the parties that the Petition has satisfied all legal requirements.

43. Plaintiffs request that the Court expeditiously issue a declaration determining that the Petition has satisfied all legal requirements, and that it be certified and placed on the ballot in Baltimore City for the upcoming general election on November 5, 2024.

WHEREFORE, Plaintiffs, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie Teal-Locust, pray that this Court enter an Order as follows:

- A. Declaring the Petition has satisfied all legal requirements;
- B. Ordering the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024;
- C. Precluding the Election Director of BCBOE from making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;
- D. Awarding Plaintiffs the costs of these proceedings; and
- E. Granting such other and further relief as may be just and necessary.

## **COUNT TWO**

### **(Petition for Judicial Review Pursuant to Election Law §§ 6-209 and 6-210)**

43. Paragraphs 1-42 above are incorporated as if recited herein.

WHEREFORE, Plaintiffs, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie Teal-Locust, pray that this Court enter an Order as follows:

- A. Declaring the Petition has satisfied all legal requirements;
- B. Ordering the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024;
- C. Precluding the Election Director of BCBOE from making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;
- D. Awarding Plaintiffs the costs of these proceedings; and
- E. Granting such other and further relief as may be just and necessary.

## **COUNT THREE**

### **(Writ of Mandamus Pursuant to Md. Rule 15-701)**

44. Paragraphs 1-43 above are incorporated as if recited herein.

44. The Plaintiffs, pursuant to Md. Rule 15-701, request a writ of mandamus to compel Defendants to perform their statutory duties.

45. Under EL § 6-206(c), Defendants have a clear duty to review and consider the legality of proposed amendments to the Baltimore City Charter, including the Petition. Defendants failed at this duty.



46. Under EL § 6-207, Defendants have a clear duty to verify the signatures and count the validated signatures contained in the Petition. Defendants failed at this duty.

47. Under EL § 6-208, Defendants have a clear duty to certify the Petition. Defendants failed at this duty.

48. Plaintiffs have a clear right to have the Petition included on November 5, 2024 General Election ballot because it is constitutional and is not otherwise prohibited by law.

49. Plaintiffs have no adequate remedy by which they can obtain their right to include the Petition on the November 5, 2024 General Election ballot.

WHEREFORE, Plaintiffs, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie Teal-Locust, pray that this Court enter an Order as follows:

- A. Declaring the Petition has satisfied all legal requirements;
- B. Ordering the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024;
- C. Precluding the Election Director of BCBOE from making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;
- D. Awarding Plaintiffs the costs of these proceedings; and
- E. Granting such other and further relief as may be just and necessary.

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

July 17, 2024  
Date

Benedict J. Frederick, III  
Benedict J. Frederick, III

CR

Steven A. Thomas (AIS # 7212010254)

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Fax: (410) 752-0979

*Attorneys for Plaintiffs Benedict J. Frederick, III, Matthew Wyskiel and Stacie Teal-Locust*



Baltimore, MD 21202

~~Defendant~~

Defendants.

\* \* \* \* \*

**VERIFIED AMENDED COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) sue ~~Defendant, Baltimore City Board of Elections,~~ Defendants, Baltimore City Board of Elections, Armstead B.C. Jones, Sr. (“Mr. Jones”), in his official capacity as Election Director of Baltimore City Board of Elections and Scherod C. Barnes (“Mr. Barnes”), in his official capacity as President of the Baltimore City Board of Elections (collectively together “Defendants”) and states as follows:

**INTRODUCTION**

1. This is an action for judicial review, writ of mandamus and declaratory judgment pursuant to §3-406 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, for the purposes of determining a question of actual controversy between the parties, as hereinafter more fully appears.

2. This case involves the validity of a charter amendment to cap the Baltimore City real property tax rate proposed, pursuant to the Maryland Constitution, Art. XI-A, § 5, by petition of the voters of Baltimore City.

3. Despite satisfying all legal requirements, the Election Director for the Baltimore City Board of Elections (“BCBOE”) determined that a petition of the voters of Baltimore City - put forth by Renew Baltimore, a ballot issue committee, - to amend the Baltimore City Charter by

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placing caps on the real property tax rate (the “Petition”) was unconstitutional or otherwise prohibited by law.<sup>1</sup>

4. The Petition complies with Maryland law, should be certified, and submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming ~~general election~~ General Election on November 5, 2024.

5. This action seeks judicial review, writ of mandamus and a declaration that the Petition complied with all legal requirements and shall be placed on the general election ballot in Baltimore City.

6. Plaintiffs are all registered voters of Baltimore City seeking judicial review in the form of declaratory relief as to the Petition pursuant to MD. CODE ANN., ELEC. LAW (EL) § 6-209(b).

### **PARTIES**

7. Mr. Frederick is a registered voter and resides at 701 W. University Parkway in Baltimore City, Maryland. Mr. Frederick owns this property and pays property and income taxes annually.

8. Mr. Wyskiel is a registered voter and resides at 35 Warrenton Road in Baltimore City, Maryland. Mr. Wyskiel owns this property and pays property and income taxes annually.

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<sup>1</sup> To date, BCBOE has not verified the number of valid signatures on the Petition. “The verification and counting of validated signatures on a petition shall be completed within 20 days after filing of the petition.” EL § 6-210(c)(1). “Upon the filing of a petition, and unless it has been declared deficient under §6-206 of this subtitle, the staff of the election authority shall proceed to verify the signatures and count the validated signatures contained in the petition.” EL §6-207(a)(1). On July 9, 2024, BCBOE advised undersigned counsel that BCBOE staff continue to review the signatures. *See Ex. 8.* As of the filing of the Amended Complaint, BCBOE has not advised that the Petition does not contain the requisite number of valid signatures On July 17, 2024, undersigned counsel spoke with counsel for BCBOE who advised 2,478 signatures were accepted and 1,465 signatures were rejected and based on this ratio he expects there will be sufficient signatures accepted as required by Article XI-A of the Maryland Constitution §5. Plaintiffs are hopeful for a prompt verification and counting of validated signatures and not of any artificial delay, which may be dilatory in nature intending to preclude Plaintiffs from moving forward this election cycle.

9. Ms. Teal-Locust is a registered voter and resides at 5011 Remmell Avenue in Baltimore City, Maryland. Ms. Teal-Locust owns this property and pays property and income taxes annually.

10. The BCBOE is a body politic and corporate doing business in Baltimore City, with its principal office located at 417 East Fayette Street, Baltimore, Maryland 21202.

11. Armstead B.C. Jones, serves as the Election Director and Chief Election Official of the BCBOE and is responsible for all matters regarding the implementation of the requirements of the Election Law Article.

12. Scherod B. Jones serves as the President of the BCBOE and is responsible for all matters regarding the implementation of the requirements of the Election Law Article.

#### **JURISDICTION AND VENUE**

~~11-13.~~ This Court has jurisdiction over the ~~BCBOE~~ Defendants pursuant to MD. CODE ANN., CTS. & JUD. PROC. §§ 6-102 and 6-103.

~~12-14.~~ This Court has subject matter jurisdiction over this action, pursuant to MD. CODE ANN., CTS. & JUD. PROC. § 1-501 and MD. CODE ANN., CTS. & JUD. PROC. § 3-403.

~~13-15.~~ Venue is proper in this Court under MD. CODE ANN., CTS. & JUD. PROC. § 6-201 because ~~Defendant~~ Defendants carries on business in Baltimore City and under MD. CODE ANN., ELEC. LAW § 6-209(a)(1)(ii) because Plaintiffs were aggrieved by a determination made by the chief election official of BCBOE under MD. CODE ANN., ELEC. LAW § 6-206 and 6-208(a)(2).

#### **STATEMENT OF FACTS**

~~14-16.~~ Renew Baltimore, the Petition “sponsor,” filed a petition to submit to a vote of the registered voters of Baltimore City at the next general election an amendment to the Baltimore City Charter that would implement caps on Baltimore City’s real property tax rate.

~~15~~17. The Petition complied with Article XI-A of the Maryland Constitution §5, which provides in relevant part:

**SEC. 5.** Amendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition. \*\*\*.<sup>2</sup>

~~16~~18. The Petition asks the voters of Baltimore City to approve the following amendment to the Baltimore City Charter:

**§ 6A. Limits on taxation.**

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

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

A copy of the Petition is attached as **Ex. 1**.

~~17~~19. The Petition seeks to amend the Baltimore City Charter by adding §6A to Article I (General Provisions) to be placed immediately after §6 (Uniform Taxation). *Id.*

---

<sup>2</sup> See fn 1.

~~20.~~ The Petition does not seek to change any other section of the Baltimore City Charter.

~~18-21.~~ On June 6, 2023, Renew Baltimore sought an “advance determination” of the sufficiency of the Petition form pursuant to EL § 6-202. A copy of this communication is attached as **Ex. 2.**

~~19-22.~~ On June 20, 2023, BCBOE Election Director approved the sufficiency of the form of the Petition and did not declare the Petition unconstitutional or unlawful at that time. A copy of this communication is attached as **Ex. 3.**

~~20-23.~~ The deadline to submit a charter amendment petition for the upcoming general election is July 29, 2024. See [2024 Elections Calendar.pdf \(maryland.gov\)](#) at p. 6 attached as **Ex. 4.**

~~21-24.~~ On June 20, 2024, Renew Baltimore timely filed the Petition and submitted 23,542 Petition signatures (more than double the number of signatures required by Article XI-A of the Maryland Constitution §5) to BCBOE. A copy of the receipt of the Petition delivery is attached as **Ex. 5.**

~~22-25.~~ On July 3, 2024, undersigned counsel wrote to BCBOE to inquire if there were any determination(s) regarding the Petition. A copy of this communication is attached as **Ex. 6.**

~~23-26.~~ On July 3, 2024, Thomas S. Chapman, Esq. advised BCBOE had not yet made any further determinations. A copy of this communication is attached as **Ex. 7.**

~~24-27.~~ On July 9, 2024, BCBOE sent a letter to undersigned counsel to declare the Petition deficient as “it seeks ‘the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law. See EL § 6-206 (c)(5).’” A copy of this communication is attached as **Ex. 8.**



~~25-28.~~ Specifically, BCBOE erroneously concluded that the Petition conflicted with State law as it divested the Mayor and City Council of its authority to set a specific real property tax rate in Baltimore City pursuant to §6-302(a) of the Tax-Property Article, Maryland Code. *Id.*

~~26-29.~~ BCBOE conflates real property “tax rates,” “tax caps” and “tax revenues.”

~~27-30.~~ The Petition seeks to set a real property tax rate cap in Baltimore City.

~~28-31.~~ The Petition does not seek to set the real property tax rate in Baltimore City.

~~29-32.~~ The Petition does not limit the amount of revenue Baltimore City can generate from real property taxes or any other lawful tax.

~~30-33.~~ The subject case involves a justiciable controversy for Plaintiffs as they do not agree with BCBOE’s decision not to certify the Petition.

#### **COUNT I (DECLARATORY JUDGMENT)**

##### **(DECLARATORY JUDGMENT)**

~~31-34.~~ Plaintiffs incorporate each and every allegation as set forth in paragraphs 1 through ~~30~~~~32~~ above.

~~32-35.~~ Pursuant to Md. Cts. & Jud. Code Ann. §3-406:

Any person interested ...whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation...may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation...and obtain a declaration of rights, status, or other legal relations under it.

~~33-36.~~ Election Law Article, Title 6, statutorily obligates the BCBOE Election Director to promptly review and certify petitions for referenda. *See* EL § 6-206(a).

~~34-37.~~ Plaintiffs are seeking judicial review of the BCBOE Election Director’s erroneous declaration that the Petition is deficient. *See* EL § 6-209.

~~35~~38. The subject action was filed timely as Plaintiffs have ten (10) days to seek judicial review of the BCBOE Election Director's declaration on July 9, 2024 that the Petition is deficient. *See* EL § 6-210(e)(1).

~~36~~39. This case shall be heard and decided without a jury and as expeditiously as the circumstances require. *See* EL § 6-210(e)(3)(i).

~~37~~40. The Supreme Court of Maryland has already determined that real property tax limitation charter amendments that limited the power to collect real property taxes above a specified cap (just like the Petition) are proper. *See Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 236 & 240 (1990).

~~38~~41. “[A] limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material.” *Id. at 238*.

~~39~~42. There is an existing dispute between the parties that the Petition has satisfied all legal requirements.

~~40~~43. Plaintiffs request that the Court expeditiously issue a declaration determining that the Petition has satisfied all legal requirements, and that it be certified and placed on the ballot in Baltimore City for the upcoming general election on November 5, 2024.

WHEREFORE, Plaintiffs, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie Teal-Locust, pray that this Court enter an Order as follows:

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

- C. Precluding the Election Director of BCBOE from making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;
- D. Awarding Plaintiffs the costs of these proceedings; and
- E. Granting such other and further relief as may be just and necessary.

**COUNT TWO**

**(Petition for Judicial Review Pursuant to Election Law §§ 6-209 and 6-210)**

43. Paragraphs 1-42 above are incorporated as if recited herein.

WHEREFORE, Plaintiffs, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie

Teal-Locust, pray that this Court enter an Order as follows:

A. Declaring the Petition has satisfied all legal requirements;

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

C. Precluding the Election Director of BCBOE from making any additional  
determinations as to whether or not the Petition would be unconstitutional or illegal  
on any other grounds;

D. Awarding Plaintiffs the costs of these proceedings; and

E. Granting such other and further relief as may be just and necessary.

**COUNT THREE**

**(Writ of Mandamus Pursuant to Md. Rule 15-701)**

44. Paragraphs 1-43 above are incorporated as if recited herein.

44. The Plaintiffs, pursuant to Md. Rule 15-701, request a writ of mandamus to compel  
Defendants to perform their statutory duties.

45. Under EL § 6-206(c), Defendants have a clear duty to review and consider the legality of  
proposed amendments to the Baltimore City Charter, including the Petition. Defendants failed at  
this duty.

46. Under EL § 6-207, Defendants have a clear duty to verify the signatures and count the validated signatures contained in the Petition. Defendants failed at this duty.

47. Under EL § 6-208, Defendants have a clear duty to certify the Petition. Defendants failed at this duty.

48. Plaintiffs have a clear right to have the Petition included on November 5, 2024 General Election ballot because it is constitutional and is not otherwise prohibited by law.

49. Plaintiffs have no adequate remedy by which they can obtain their right to include the Petition on the November 5, 2024 General Election ballot.

WHEREFORE, Plaintiffs, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie Teal-Locust, pray that this Court enter an Order as follows:

A. Declaring the Petition has satisfied all legal requirements;

B. Ordering the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024;

C. Precluding the Election Director of BCBOE from making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;

D. Awarding Plaintiffs the costs of these proceedings; and

E. Granting such other and further relief as may be just and necessary.

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

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Benedict J. Frederick, III

\_\_\_\_\_  
Steven A. Thomas (AIS # 7212010254)  
sthomas@tandllaw.com  
Constantine J. Themelis (AIS #0212190235)  
gthemelis@tandllaw.com  
Clinton R. Black, V (AIS#1112130092) —  
[cblackv@tandllaw.com](mailto:cblackv@tandllaw.com)  
THOMAS & LIBOWITZ, P.A.  
25 S. Charles Street  
Suite 2015  
Baltimore, Maryland 21201  
Phone: (410) 752-2468  
Fax: (410) 752-0979  
*Attorneys for Plaintiffs Benedict J. Frederick, III, Matthew  
Wyskiel and Stacie Teal-Locust*

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State of Maryland - Charter Amendment Petition

We, the undersigned voters of Baltimore City, hereby petition to have this amendment of the Baltimore City Charter submitted to a vote of the registered voters of Baltimore City, for approval or rejection at the next general election. *The full text of the proposed amendment appears on the back of this signature page and its subject and purpose are as follows:*

To place upper limits on the real property tax rate in Baltimore City, lowering the current \$2.248 rate by capping it at \$2.20 per \$100 of assessed value on July 1, 2025, \$2.10 per \$100 of assessed value on July 1, 2026, then gradually reducing the cap by 18 cents each year thereafter until the rate is permanently capped at \$1.20 per \$100 of assessed value beginning July 1, 2031. The Mayor and City Council will continue to set the property tax rate annually, subject to the limits established by the amendment. The amendment adds Section 6A to Article I – General Provisions of the Baltimore City Charter. Capping the property tax rate aligns Baltimore City with surrounding counties, brings equity to City taxpayers and widens the path to home ownership. It encourages investment and growth in the City's population, tax base, employment and economy. Upon ratification of the amendment by City voters, the first annual limit shall become effective July 1, 2025.

**NOTICE TO SIGNERS:** Sign and print your name (1) as it appears on the voter registration list, OR (2) your surname of registration AND at least one full given name AND the initial of any other names. Please print or type all information other than your signature. Post Office Box addresses are not generally accepted as valid. By signing this petition, you agree that the aforementioned charter amendment proposal should be placed on the ballot as a question at the next general election and that, to the best of your knowledge, you are registered to vote in Baltimore City and are eligible to have your signature counted for this petition.

*Please Note: The information you provide on this petition is public information and may be used to change your voter registration address.*

|   |                             |               |             |           |                    |       |      |      |
|---|-----------------------------|---------------|-------------|-----------|--------------------|-------|------|------|
| 1 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |
| 2 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |
| 3 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |
| 4 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |

Individual Circulator's printed or typed name

Residence Address

City State Zip

Telephone (including area code)

**Circulator's Affidavit** Under penalties of perjury, I swear (or affirm) that:

- (a) I was at least 18 years old when each signature was obtained;
- (b) the information given to the left identifying me is true and correct;
- (c) I personally observed each signer as he or she signed this page; and
- (d) to the best of my knowledge and belief: (i) all signatures on this page are genuine; and (ii) all signers are registered voters of Maryland. (Sign and Date when signature collection is completed)

Circulator's Signature

Date (mm/dd/yy)

**EXHIBIT**

tabbies

## Article I – General Provisions

*[Sections 1 through 6 and 7 through 18 remain unchanged and are not reprinted here; Section 6A, below, is new language.]*

### **§ 6A. Limits on taxation.**

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

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





DLA Piper LLP (US)  
The Marbury Building  
6225 Smith Avenue  
Baltimore, Maryland 21209-3600  
www.dlapiper.com

Carville B. Collins  
carville.collins@dlapiper.com  
T 410.680.4125  
F 410.680.3125

June 6, 2023

VIA ELECTRONIC MAIL

Mr. Armstead B. Crawley Jones, Sr., CERA  
Election Director  
Baltimore City Board of Elections  
Benton Office Building  
417 E. Fayette Street, Room 129  
Baltimore, Maryland 21202-3432

Dear Director Jones:

On behalf of Renew Baltimore, enclosed for the Board of Elections' review is a charter amendment petition proposing amendments to the Baltimore City Charter to place limits on the real property tax rate in Baltimore City. Renew Baltimore respectfully requests the Board's Advance Determination under §6-202 of the Election Law Article on the charter amendment petition attached hereto as Attachment 1.

Please contact me if you have questions or require further information on this. Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Carville B. Collins'.

Carville B. Collins  
Counsel for Renew Baltimore

CBC:vc

cc: Abigail Goldman, CERA, Deputy Election Director (via electronic mail)  
Wendy Paige (via electronic mail)  
Ben Frederick III (via electronic mail)

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# ATTACHMENT 1

## State of Maryland - Charter Amendment Petition

We, the undersigned voters of Baltimore City, hereby petition to have this amendment of the Baltimore City Charter submitted to a vote of the registered voters of Baltimore City, for approval or rejection at the next general election. *The full text of the proposed amendment appears on the back of this signature page and its subject and purpose are as follows:*

To place upper limits on the real property tax rate in Baltimore City, lowering the current \$2.248 rate by capping it at \$2.20 per \$100 of assessed value on July 1, 2025, \$2.10 per \$100 of assessed value on July 1, 2026, then gradually reducing the cap by 18 cents each year thereafter until the rate is permanently capped at \$1.20 per \$100 of assessed value beginning July 1, 2031. The Mayor and City Council will continue to set the property tax rate annually, subject to the limits established by the amendment. The amendment adds Section 6A to Article I - General Provisions of the Baltimore City Charter. Capping the property tax rate aligns Baltimore City with surrounding counties, brings equity to City taxpayers and widens the path to home ownership. It encourages investment and growth in the City's population, tax base, employment and economy. Upon ratification of the amendment by City voters, the first annual limit shall become effective July 1, 2025.

**NOTICE TO SIGNERS:** Sign and print your name (1) as it appears on the voter registration list, OR (2) your surname of registration AND at least one full given name AND the initial of any other names. Please print or type all information other than your signature. Post Office Box addresses are not generally accepted as valid. By signing this petition, you agree that the aforementioned charter amendment proposal should be placed on the ballot as a question at the next general election and that, to the best of your knowledge, you are registered to vote in Baltimore City and are eligible to have your signature counted for this petition.

*Please Note: The information you provide on this petition is public information and may be used to change your voter registration address.*

|          |                             |               |             |           |             |                    |       |      |      |
|----------|-----------------------------|---------------|-------------|-----------|-------------|--------------------|-------|------|------|
| <b>1</b> | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date: | Month              | Date  | Year |      |
|          | Signature:                  |               |             |           |             | Date of Signature: | Month | Date | Year |
|          | Maryland Residence Address: | Street Number | Street Name |           | Apt. No.    | City or Town       |       | Zip  |      |
|          |                             |               |             |           |             |                    |       |      |      |
| <b>2</b> | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date: | Month              | Date  | Year |      |
|          | Signature:                  |               |             |           |             | Date of Signature: | Month | Date | Year |
|          | Maryland Residence Address: | Street Number | Street Name |           | Apt. No.    | City or Town       |       | Zip  |      |
|          |                             |               |             |           |             |                    |       |      |      |
| <b>3</b> | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date: | Month              | Date  | Year |      |
|          | Signature:                  |               |             |           |             | Date of Signature: | Month | Date | Year |
|          | Maryland Residence Address: | Street Number | Street Name |           | Apt. No.    | City or Town       |       | Zip  |      |
|          |                             |               |             |           |             |                    |       |      |      |
| <b>4</b> | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date: | Month              | Date  | Year |      |
|          | Signature:                  |               |             |           |             | Date of Signature: | Month | Date | Year |
|          | Maryland Residence Address: | Street Number | Street Name |           | Apt. No.    | City or Town       |       | Zip  |      |
|          |                             |               |             |           |             |                    |       |      |      |

Individual Circulator's printed or typed name

Residence Address

City

State

Zip

Telephone (including area code)

**Circulator's Affidavit** Under penalties of perjury, I swear (or affirm) that:

- (a) I was at least 18 years old when each signature was obtained;
- (b) the information given to the left identifying me is true and correct;
- (c) I personally observed each signer as he or she signed this page; and
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Circulator's Signature

Date (mm/dd/yy)

## Article I -- General Provisions

*[Sections 1 through 6 and 7 through 18 remain unchanged and are not reprinted here; Section 6A, below, is new language.]*

### § 6A. Limits on taxation.

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

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

Armstead B. Crawley Jones, Sr.  
Election Director

Abigail Goldman  
Election Deputy Director

Bruce M. Lochanaky  
President (R)

Joyce J. Smith  
Vice President (D)



BALTIMORE CITY  
BOARD OF ELECTIONS

Arlene B. Fisher  
Secretary (D)

Tamara M. Fennell  
Member (R)

Evelle Matthews  
Member (R)

June 20, 2023

*Via Electronic Mail Only*

Carville B. Collins  
DLA Piper LLP  
6225 Smith Avenue  
Baltimore, MD 21209-3600  
[carville.collins@us.dlapiper.com](mailto:carville.collins@us.dlapiper.com)

RE: Charter Amendment: Limits on the real property tax rate in Baltimore City

Dear Mr. Collins:

As Election Director of the Baltimore City Board of Elections, I have received your request under § 6-202 of the Election Law Article, Annotated Code of Maryland, for an advance determination as to the format of a petition proposing an amendment to the Baltimore City Charter, for submission to the voters at the 2024 Presidential General Election. With your request, you submitted a charter amendment petition form for the proposed amendment, including the full text of the proposed charter amendment on the reverse side of the signature page. The materials you submitted are attached to this letter as Exhibit A.

Upon review of your submission, I have determined that you used the correct State Board of Elections form for a charter amendment petition and that the summary of the proposed amendment is sufficient. More specifically, I have determined that the summary is a fair and accurate summary of the substantive provisions of the proposed amendment. I have therefore determined that the petition materials attached as Exhibit A are sufficient as to format, within the meaning of § 6-202 of the Election Law Article.

I have made no determination as to the legality of the proposed amendment. As set forth in § 6-206 of the Election Law Article, Annotated Code of Maryland, I will address that question, in consultation with counsel to the Baltimore City Board of Elections, at such time as the petition and requisite signatures are filed.

Please let me know if I can be of further assistance. I can be reached either by email addressed to [armstead.jones@baltimorecity.gov](mailto:armstead.jones@baltimorecity.gov) or by phone at 410-396-5550.

Sincerely,

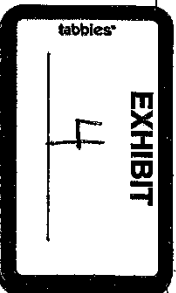
Handwritten signature of Armstead B. Crawley Jones, Sr.  
Armstead B. Crawley Jones, Sr., CERA  
Election Director

cc: State Board of Elections  
Baltimore City Board of Elections  
Counsel to the City Board

EXHIBIT

3

| Actual Date                 | Adjusted Date | Date                        | Time <sup>1,2</sup> | Event Name  | Description   | Computation  | Legal Authority <sup>3</sup>            |
|-----------------------------|---------------|-----------------------------|---------------------|---|---|--|---|
|                             |               | Monday, January 2, 2023     |                     | New Year's Day  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
|                             |               | Wednesday, January 11, 2023 |                     | General Assembly Convenes   | Lasts 90 days.  | 2nd Wednesday in January.  | MD Const. Art. III, § 14                |
|                             |               | Monday, January 16, 2023    |                     | Martin Luther King, Jr.'s Birthday  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
|                             |               | Wednesday, January 18, 2023 | 11:59 pm            | Annual Campaign Finance Report  | Deadline to file annual campaign finance report for all political committees.   | 3rd Wednesday in January.  | EL § 13-308(b)(2)                       |
| Thursday, February 9, 2023  |               | Thursday, February 9, 2023  |                     | Begin Candidate Filing  | First day candidates for the 2024 election can file a Certificate of Candidacy.   | 1 year before the deadline to file a Certificate of Candidacy.   | SBE Policy                              |
|                             |               | Monday, February 20, 2023   |                     | President's Day   | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
|                             |               | Monday, April 10, 2023      |                     | General Assembly Ends   | Lasts 90 days.  | 90 days after the General Assembly convenes.   | MD Const. Art. III, § 15                |
| Monday, May 1, 2023         |               | Monday, May 1, 2023         |                     | Request for Advance Determination of Sufficiency for 2023 Referendum Petition           | Deadline for petition sponsor to submit to SBE a request for advance determination of sufficiency of a referendum petition format.  | At least 30 days before the deadline to file a petition.   | EL § 6-210(a)(1)                        |
| Thursday, May 6, 2023       |               | Monday, May 8, 2023         |                     | Determination of Referendum Petition Format Sufficiency                                 | Deadline for SBE to determine sufficiency of a referendum petition format.  | Within 5 days of receiving the request for advance determination.  | EL § 6-210(a)(2)                        |
| Wednesday, May 10, 2023     |               | Wednesday, May 10, 2023     |                     | Notification of Outcome of Advance Determination of a Referendum Petition Format        | Deadline for SBE to notify petition sponsor of the approval or deficiency of referendum petition format.  | Within 2 business days after determining sufficiency of referendum petition format.  | EL § 6-210(b)                           |
| Monday, May 15, 2023        |               | Monday, May 15, 2023        |                     | Early Voting Center Approval Form   | Deadline for SBE to provide the local boards with the form for a proposed early voting center.  | At least one year before a primary election.   | COMAR 23.17.02.02                       |
| Monday, May 28, 2023        |               | Monday, May 28, 2023        |                     | Memorial Day  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
| Wednesday, May 31, 2023     |               | Wednesday, May 31, 2023     | 11:59 pm            | Filing Referendum Petition on Acts of the 2023 General Assembly                         | Deadline for petition sponsor to file petition with Secretary of State including at least one-third of the referendum petition signatures and a petition fund report.         | Petitions are filed with the Secretary of State before the 1st day of June.  | MD Const. Art. XVI, § 3(b)              |
| Wednesday, May 31, 2023     |               | Wednesday, May 31, 2023     | 11:59 pm            | Title 14 Contribution Report  | Deadline for disclosure of contributions by persons doing business with Maryland government and/or employing a lobbyist.  | Report due every May 31 and November 30.   | EL § 14-104(b)(2)(ii)(2)                |
| Monday, June 18, 2023       |               | Monday, June 18, 2023       |                     | June 18th   | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
| Tuesday, June 20, 2023      |               | Tuesday, June 20, 2023      |                     | Verification and Counting of Referendum Petition  | Deadline for the local boards to verify and count the first submission of the required signatures on the referendum petition.   | Within 20 days after the filing of a petition.   | EL § 6-210(c)                           |
| Wednesday, June 21, 2023    |               | Wednesday, June 21, 2023    |                     | Certification of Referendum Petition  | Deadline for SBE to certify the results of the first submission of the required signatures.   | Within 1 business day after verification and counting is completed; deadline is extended if judicial review is pending (1 business day after final judicial decision).                                       | EL § 6-210(d)                           |
| Friday, June 30, 2023       |               | Friday, June 30, 2023       | 11:59 pm            | Filing Referendum Petition on Acts of the 2023 General Assembly                         | Deadline for petition sponsor to submit to Secretary of State the balance of referendum petition signatures and a petition fund report.                                       | Petitions are filed with the Secretary of State by the 30th day of June.   | MD Const. Art. XVI, § 3(b)              |
| Monday, July 3, 2023        |               | Monday, July 3, 2023        |                     | Judicial Review of Referendum Petition Certification - First Signature Submission       | Deadline for petition sponsor to seek judicial review of referendum petition certification of the first submission of the required signatures.                                | 10th day following SBE's determination on the certification of the first submission of signatures.   | EL § 6-210(e)                           |
| Tuesday, July 4, 2023       |               | Tuesday, July 4, 2023       |                     | Independence Day  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
| Thursday, July 20, 2023     |               | Thursday, July 20, 2023     |                     | Verification and Counting of Referendum Petition  | Deadline for the local boards to verify and count the balance of the signatures on the referendum petition.   | Within 20 days after the filing of the balance of the petition signatures.   | EL § 6-210(c)                           |
| Monday, July 24, 2023       |               | Monday, July 24, 2023       |                     | Certification of Referendum Petition  | Deadline for SBE to certify the results of the full referendum petition verification.   | Within 1 business day after verification and counting of the balance of petition signatures is completed; deadline is extended if judicial review is pending (1 business day after final judicial decision). | EL § 6-210(d)                           |
| Thursday, August 3, 2023    |               | Thursday, August 3, 2023    |                     | Judicial Review of Referendum Petition Certification - Balance of Signatures Submission | Deadline for petition sponsor to seek judicial review of referendum petition certification.   | 10th day following SBE's determination on the certification of the balance of signatures.  | EL § 6-210(e)                           |
| Monday, September 4, 2023   |               | Monday, September 4, 2023   |                     | Labor Day   | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |
| Tuesday, September 12, 2023 |               | Tuesday, September 12, 2023 |                     | Determination of Number of Registered Voters (Early Voting Centers)                     | Deadline for the State Administrator to determine the number of active registered voters for use when determining the number of early voting centers in each jurisdiction.    | Thursday that is 8 months before a primary election.   | COMAR 23.17.02.04(1)                    |
| Monday, September 18, 2023  |               | Monday, September 18, 2023  |                     | Notice of Number of Early Voting Centers  | Deadline for the State Administrator to provide the local boards with the number of early voting centers in each jurisdiction.  | Within 5 days of determination of number of registered voters.   | COMAR 23.17.02.01B                      |
| Sunday, September 17, 2023  |               | Sunday, September 17, 2023  |                     | Constitution Day and Citizenship Day  | Commemorates the signing of the U.S. Constitution and requires public schools to celebrate the day and install in reading of the U.S. Constitution and Maryland Constitution. | Anniversary of signing of the U.S. Constitution on September 17, 1787.   | Education Act, § 7-116                  |
| Monday, October 9, 2023     |               | Monday, October 9, 2023     |                     | Columbus Day  | State holiday. SBE and local boards will be closed.   |  | State Personnel & Pensions Act, § 9-201 |



|                             |                             |          |   |   |   |   |
|-----------------------------|-----------------------------|----------|---|---|---|---|
| Thursday, October 14, 2023  | Monday, October 16, 2023    |          | Early Voting Center Approval Form   | Deadline for the local boards to submit to SBE a form for each proposed early voting center.  | At least 7 months before a primary election.  | COMAR 33.17.02.02C(2)(e)                  |
|                             | Friday, November 10, 2023   |          | Veteran's Day   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
| Thursday, November 14, 2023 | Tuesday, November 14, 2023  |          | Designation of Early Voting Centers   | Deadline for SBE, in collaboration with the local boards, to designate early voting centers.  | No later than 6 months before a primary election.   | EL § 10-301.1 (G) (2009 Laws of Maryland) |
| Tuesday, November 14, 2023  | Tuesday, November 14, 2023  | COB      | Determination of Eligible Primary Election Voters   | Deadline for the draft of the principal political parties to notify SBE whether they will allow voters not affiliated with their political party to vote in the primary election.   | 6 months prior to a primary election.   | EL § 8-202(c)                             |
|                             | Thursday, November 23, 2023 |          | Thanksgiving  | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
|                             | Friday, November 24, 2023   |          | American Indian Heritage Day  | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
| Thursday, November 30, 2023 | Thursday, November 30, 2023 | 11:59 pm | Title 14 Contribution Report  | Deadline for disclosure of contributions by persons doing business with Maryland government and/or employing a lobbyist.  | Report due every May 31 and November 30.  | EL § 14-104(b)(2)(i)(2)                   |
|                             | Monday, December 25, 2023   |          | Christmas   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
|                             | Monday, January 1, 2024     |          | New Year's Day  | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
| Monday, January 1, 2024     | Tuesday, January 2, 2024    |          | Determination of Number of Registered Voters (Nomination Petition)  | Deadline for SBE to determine the number of registered voters required to satisfy the requirement for a nomination by petition.   | January 1st of the year of a primary election for which the nomination is sought.   | EL § 5-703(a)(3)                          |
|                             | Wednesday, January 10, 2024 | COB      | Request for Advance Determination of Sufficiency for U.S. Presidential Primary Election Candidacy Petition Format | Deadline for U.S. Presidential candidates to submit to SBE a request for advance determination of sufficiency of the candidacy petition format. Petition is only required for Presidential primary election candidates not recognized by the Secretary of State for automatic ballot placement. | At least 30 days before the deadline to file the petition but not more than 2 years and one month before the deadline to file the petition. | EL § 6-210(a)(1), § 8-502(d)              |
|                             | Wednesday, January 10, 2024 |          | General Assembly Convening  | Lasts 90 days.  | 2nd Wednesday in January.   | MD Const. Art. III, § 14                  |
|                             | Monday, January 15, 2024    |          | Martin Luther King Jr.'s Birthday   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
| Monday, January 15, 2024    | Tuesday, January 16, 2024   |          | Notice to Voters on Permanent Mail-in Ballot List   | Deadline for SBE to send a pre-election notice to voters on the permanent mail-in ballot list, with certain information about their ballot for the primary election.  | No less than 75 days before the day on which a local board begins to send mail-in ballots.  | EL § 9-211.1(b)                           |
| Wednesday, January 17, 2024 | Wednesday, January 17, 2024 | --       | Advance Determination of U.S. Presidential Candidacy Petition Format Sufficiency                                  | Deadline for SBE to determine sufficiency of a U.S. Presidential candidacy petition format.   | Within 5 business days of receiving the request of advance determination.   | EL § 6-210(a)(2)                          |
|                             | Wednesday, January 17, 2024 | 11:59 pm | Annual Campaign Finance Report  | Deadline to file the annual campaign finance report for all political committees.   | 3rd Wednesday in January.   | EL § 13-309(b)(2)                         |
|                             | Friday, January 19, 2024    | COB      | Notification of Outcome of Advance Determination of U.S. Presidential Candidacy Petition Format                   | Deadline for SBE to notify candidate of the approval or deficiency of candidacy petition format.  | Within 2 business days after determining sufficiency of candidacy petition format.  | EL § 6-210(b)                             |
| Monday, January 22, 2024    | Monday, January 22, 2024    | COB      | Certification of Republican and Democratic Presidential Candidates  | Deadline for the Secretary of State to certify to SBE the names of the candidates for U.S. President for the primary election.  | No later than 113 days before a primary election.   | EL § 8-502(c)(1)                          |
|                             | Friday, February 9, 2024    | 9 pm     | Candidate Filing Deadline   | Deadline to file a Certificate of Candidacy.  | 95 days before the primary election.  | EL § 6-303(a)(2)                          |
|                             | Friday, February 9, 2024    | 9 pm     | Filing U.S. Presidential Candidacy Petition   | Deadline for U.S. Presidential candidates not recognized by the Secretary of State to file with SBE a Certificate of Candidacy and petition.  | Not later than 95 days before the day of the election.  | EL § 8-502(d)                             |

\* This calendar includes dates affected by legislation enacted through the 2023 Legislative Session. The calendar will be updated after the 2023 Legislative Session.

\*\* This activity may be performed before the date in the calendar. The date in the calendar is based on the date that the activity is required to be completed by law. Please verify data with the appropriate board of elections or circuit court to find out when the office closes.

1. COB = Closing of Business. For SBE, the close of business is 5 pm. Because the close of business varies by county, please contact the appropriate local board of elections or circuit court to find out when the office closes.

2. COB = Closing of Business. For SBE, the close of business is 5 pm. Because the close of business varies by county, please contact the appropriate local board of elections or circuit court to find out when the office closes.

3. Most citations refer to the Election Law (EL) Article of the Annotated Code of Maryland. COMAR refers to the Code of Maryland Regulations. USC refers to the United States Code.

|                             |                              |     |  |   |  |   |  |
|-----------------------------|------------------------------|-----|--|---|--|---|--|
|                             |                              |     |  |   | Deadline for the local boards to send to voters confirmation mailings to make voters inactive, or to remove voters from the voter list (except at the request of the voter, due to the death of the voter, due to the incarceration following felony conviction of a voter, or due to the mental incapacity of a voter). | No later than 90 days before an election.   | 52 USC § 20507(c)(2)(A)                |
|                             |                              |     |  | President's Day   | State holiday. SBE and local boards will be closed.  |   | State Personnel & Pension Act, § 9-201 |
| Monday, February 19, 2024   | Monday, February 19, 2024    |     |  | Withdrawal of Candidacy   | Deadline for a candidate to withdraw candidacy before primary election.  | Within 10 days after the deadline to file a Certificate of Candidacy.   | EL § 6-602(a)                          |
| Monday, February 19, 2024   | Monday, February 20, 2024    | COB |  | Financial Disclosure Statement  | Deadline for candidates that filed a Certificate of Candidacy in the year to file a new financial disclosure statement. Failure to file may result in the candidate's removal from the ballot.   | Last day for the withdrawal of a candidacy.   | CP § 6-605(c)(2)(ii)                   |
|                             | Tuesday, February 20, 2024   |     |  |   | Last day to remove a candidate's name from the ballot due to the candidate's death or disqualification.  | Within 10 days after deadline for filing Certificate of Candidacy.  | EL § 5-504(c)                          |
| Monday, February 19, 2024   | Tuesday, February 20, 2024   |     |  | Death or Disqualification of Candidate  | Deadline for the State Administrator to respond to a local board's request for an exemption to assign greener election judges at each early voting center.   | Within 5 business days of a local board's request.  | COMAR 33.19.03.1D(3)                   |
|                             | Wednesday, February 21, 2024 |     |  | Greener Election Judge Exemption Determination  |  |   |  |
|                             |                              |     |  |   | Deadline to fill vacancy due to death or disqualification of unopposed candidate.  | Within 4 days after death or disqualification   | EL § 6-601(a)(2)                       |
|                             | Friday, February 23, 2024    |     |  | Fill Vacancy  | Deadline to fill vacancy if: (1) no candidate for a political party files a Certificate of Candidacy; or (2) an unopposed candidate withdraws.   | Within 4 days after deadline for withdrawal of candidacy.   | EL § 5-601(a)(1)                       |
|                             | Friday, February 23, 2024    |     |  | Fill Vacancy  | Deadline for a Presidential candidate to file with SBE a designation for a replacement delegate.   | No later than 5 days after the withdrawal deadline.   | EL § 8-501(b)(2)(ii)                   |
| Saturday, February 24, 2024 | Monday, February 26, 2024    | COB |  | Replacement Delegate  | Deadline for a registered voter to file in circuit court a petition challenging the residency of a candidate.  | 15 days after the deadline to file the Certificate of Candidacy.  | EL § 5-505(c)                          |
| Saturday, February 24, 2024 | Monday, February 26, 2024    | COB |  | Challenge Residency of Candidate  | Deadline for the local boards to verify and count the signatures on the U.S. Presidential candidacy petition.  | Within 20 days after the filing of the petition.  | EL § 6-210(c)                          |
| Thursday, February 29, 2024 | Thursday, February 29, 2024  | COB |  | Verification and Counting of U.S. Presidential Candidacy Petition                                     | Deadline for SBE to certify the results of the U.S. Presidential candidacy petition verification.  | Within 1 business day after verification and counting is completed; deadline is extended if judicial review is pending.                             | EL § 6-210(d)                          |
| Friday, March 1, 2024       | Friday, March 1, 2024        | COB |  | Certification of U.S. Presidential Candidacy Petition   | Deadline to seek judicial review of candidacy petition certification.  | Within 5 days following SBE's determination.  | EL § 6-210(e)(2)(ii)                   |
| Wednesday, March 6, 2024    | Wednesday, March 6, 2024     |     |  | Judicial Review of U.S. Presidential Candidacy Petition Certification                                 | Deadline for the local boards to submit to the State Administrator all early voting security plan.   | At least 8 weeks before early voting begins.  | COMAR 33.17.02.04A                     |
| Thursday, March 7, 2024     | Thursday, March 7, 2024      |     |  | Security Plan for Early Voting Centers  | Deadline for SBE to prepare and certify content and arrangement of ballots for the primary election.   | At least 64 days before the primary election.   | EL § 9-201(a)(1)                       |
| Monday, March 11, 2024      | Monday, March 11, 2024       |     |  | Certification of Ballot   | Deadline for SBE to display on its website the content and arrangement of each certified ballot.   | At least 64 days before the primary election.   | EL § 9-201(a)(1)                       |
| Monday, March 11, 2024      | Monday, March 11, 2024       | COB |  | Display of Ballot   | Deadline for a registered voter to seek judicial review if an error is discovered after the ballots have been printed and the local boards fail to correct the error.  | 82nd day preceding election.  | EL § 9-208(c)                          |
|                             | Wednesday, March 13, 2024    |     |  | Judicial Review of any Ballot Printing Errors   | Deadline for a registered voter to seek judicial review of the content and arrangement of to correct any other error on the ballot.  | Within 2 days of certifying the ballot.   | EL § 9-208(a)                          |
| Wednesday, March 13, 2024   | Wednesday, March 13, 2024    |     |  | Judicial Review of Content and Arrangement of Ballot  | SBE may begin printing ballots and correct noted errors.   | After 3 days of public display of ballot.   | EL § 9-207(a)                          |
| Thursday, March 14, 2024    | Thursday, March 14, 2024     |     |  | Printing of Ballots   | Deadline to SBE to provide correctional facilities with voting information for distribution to eligible individuals  | No later than 30 days before the advanced deadline to register to vote.   | EL § 1-303.21(c)(1)                    |
| Sunday, March 24, 2024      | Monday, March 25, 2024       |     |  | Voting Information to Correctional Facilities   | Deadline for election officials to transmit mail-in ballots to certain voters unless the Federal Voting Assistance Program grants the State a waiver of the deadline.  | No later than 45 days before an election unless the Federal Voting Assistance Program grants the State a waiver of the 45 day transmittal deadline. | COMAR 33.01.07.0282(b)                 |
|                             | Saturday, March 30, 2024     |     |  | Transmitting Mail-In Ballots  | SBE and local boards start public education about early voting.  | 30 days before early voting for an election.  | EL § 10-301.1(f)                       |
|                             | Tuesday, April 2, 2024       |     |  | Public Education for Early Voting   | Deadline for the State Administrator to review and provide feedback on a local board's early voting security plan.   | Within 30 days of receipt of an early voting security plan.   | COMAR 33.17.02.04C(2)                  |
| Saturday, April 6, 2024     | Monday, April 8, 2024        |     |  | Review of Early Voting Security Plan  | Lasts 90 days.   | 89 days after General Assembly convenes.  | MD Const. Art. III, § 16               |
|                             | Monday, April 8, 2024        |     |  | General Assembly Ends   | Deadline to file the pre-primary report for political committees participating in the presidential election.   | 5th Tuesday before a primary election.  | EL § 13-309(a)(2)                      |
|                             | Tuesday, April 9, 2024       |     |  | Pre-Primary Campaign Finance Report 1   | Deadline for the local boards to verify voting supplies according to the supply verification plan.   | No later than 15 days before early voting starts.   | SBE policy                             |
|                             | Wednesday, April 17, 2024    |     |  | Early Voting & Election Day Supply Verification   | Advanced deadline to register to vote, update registration, or change party affiliation before the primary election.   | 21st day preceding an election.   | EL § 13-302(a)                         |
|                             | Tuesday, April 23, 2024      |     |  | Advanced Deadline to Register to Vote & Update Registration Information (including Party Affiliation) |  |   |  |



|                        |                          |                                     |  |  |   |                                       |
|------------------------|--------------------------|-------------------------------------|--|--|---|---------------------------------------|
|                        | Tuesday, April 23, 2024  | 5:00 pm                             | Polling Place Reassignment   | Deadline for elderly voters or voters with disabilities to submit a request to the local boards for reassignment to an accessible polling place.   | No later than the close of advanced registration before an election.  | EL § 10-1020(c)(1)                    |
|                        | Tuesday, April 23, 2024  | 5:00 PM                             | Voter Registration Lists   | Deadline to request a voter registration list (New requests will not be taken until registration begins).  | On or before the advanced registration deadline.  | COMAR 33.03.02.05B(1)                 |
|                        | Thursday, April 25, 2024 |                                     | Notice of Election   | Deadline for the local boards to provide notice of the election.   | At least one week before any early voting period before an election.  | EL § 8-402(a)(1)                      |
|                        | Tuesday, April 30, 2024  | COB                                 | Logic and Accuracy Testing - Early Voting (Public Demonstration & Notice)            | Deadline for the local boards to complete logic and accuracy testing of the voting units being used for early voting. (Notice: A public demonstration of the test must be conducted before any voting units are delivered to an early voting center. Notice of the public demonstration must be provided at least 10 days before the demonstration.) | At least 14 days before an election.  | COMAR 33.03.01.14, 16                 |
| Wednesday, May 1, 2024 | Wednesday, May 1, 2024   | COB                                 | Request for Advance Determination of Sufficiency for 2024 Referendum Petition Format | Deadline for petition sponsor to submit to SSE a request for advance determination of sufficiency of a referendum petition format.   | At least 30 days before the deadline to file a petition.  | EL § 8-210(a)(1)                      |
|                        | Wednesday, May 1, 2024   | 5 pm                                | Campaign Signs   | Beginning of period when campaign signs must be allowed at early voting centers.   | The day before early voting starts.   | EL § 10-101(e)(3)(ii)(2)(B)           |
|                        | Thursday, May 2, 2024    | 7 am to 8 pm                        | Early Voting Begins  | Early voting for the primary election begins.  | 2nd Thursday before an election through the Thursday before an election.  | EL § 10-301.1                         |
|                        | Friday, May 3, 2024      | COB                                 | Voter Registration Lists   | Deadline for SSE and the local boards to prepare a voter registration list that includes registrants through the advanced registration deadline.   | Within 10 days of the advanced voter registration deadline.   | COMAR 33.03.02.05C(2)                 |
|                        | Friday, May 3, 2024      | 11:59 pm                            | Pre-Primary Campaign Finance Report 2  | Deadline to file the second pre-primary report for political committees participating in the presidential election.  | 2nd Friday before a primary election.   | EL § 13-329(a)(3)                     |
|                        | Monday, May 6, 2024      | COB                                 | Logic and Accuracy Testing - Election Day  | Deadline for the local boards to complete logic and accuracy testing of the election management system and voting units being used for election day voting and absentee and provisional voting. (Note: A public demonstration of the test must be conducted before any voting units are delivered to an early voting center.)                        | At least 10 days before an election.  | COMAR 33.03.02.14, 15                 |
|                        | Monday, May 6, 2024      |                                     | Notice of Canvass  | Deadline for the local boards to provide notice of the mail-in and provisional canvasses.  | At least 10 days before the first mail-in ballot canvass.   | COMAR 33.08.01.05-1                   |
| Monday, May 6, 2024    | Monday, May 6, 2024      | COB                                 | Determination of Referendum Petition Format Sufficiency                              | Deadline for SSE to determine sufficiency of a referendum petition format.   | Within 5 days of receiving the request for advance determination.   | EL § 6-210(a)(2)                      |
|                        | Tuesday, May 7, 2024     | 8 pm (mail) or 11:59 pm (in-person) | Ballot Request Deadline: Ballot Delivered by Mail or Fax                             | Deadline for a registered voter to request a mailed or faxed mail-in ballot.   | Tuesday before an election.   | EL § 9-305(a)(1); COMAR 33.11.02.02E  |
|                        | Wednesday, May 8, 2024   | COB                                 | Notification of Outcome of Advance Determination of a Referendum Petition Format     | Deadline for SSE to notify petition sponsor of the approval or deficiency of referendum petition format.   | Within 2 business days after determining sufficiency of referendum petition format.   | EL § 6-210(c)                         |
|                        | Thursday, May 9, 2024    | 7 am to 8 pm                        | Early Voting Ends  | Early voting for the primary election ends.  | 2nd Thursday before an election through the Thursday before an election.  | EL § 10-301.1                         |
|                        | Friday, May 10, 2024     | 8 am                                | Campaign Signs   | End of period when campaign signs must be allowed at early voting centers.   | The day after early voting ends.  | EL § 10-101(a)(3)(ii)(2)              |
|                        | Friday, May 10, 2024     | 5 pm (mail) or 11:59 pm (in-person) | Ballot Request Deadline: Ballot Delivered via Internet                               | Deadline for a registered voter to request an electronic mail-in ballot.   | Friday before an election.  | EL § 9-305(a)(2)                      |
|                        | Monday, May 13, 2024     | 5 pm                                | Campaign Signs   | Beginning of period when campaign signs must be allowed at polling places.   | The day immediately preceding election day.   | EL § 10-101(a)(3)(ii)(2)              |
|                        | Tuesday, May 14, 2024    | 7 am to 8 am                        | Primary Election   | Presidential Primary Election Day.   |   | EL § 9-305(b)(3); COMAR 33.11.02.04A  |
|                        | Tuesday, May 14, 2024    | 8 pm                                | Ballot Request Deadline: Voter Picks Up Ballot                                       | Deadline for a registered voter or voter's agent to request a mail-in ballot in person at a local board.   | No later than the close of the polls on election day.   | EL § 9-302(a); COMAR 33.05.04.C(1), D |
|                        | Tuesday, May 14, 2024    | 8 pm                                | Extended Voter Registration Deadline   | Extended deadline for receipt of voter registration applications sent by mail for voting in the primary election.  | An application received by mail after the close of registration is timely if it is properly postmarked.   | EL § 9-302(a); COMAR 33.05.04.C(1), D |
|                        | Tuesday, May 14, 2024    | 8 pm                                | Mail-in Ballot Deadline: Ballot Box, Polling Place, or Local Board Office            | Deadline for the local boards to receive a ballot placed in ballot drop box or election judges to receive a ballot at a voting location.   | A ballot is timely if it is: (1) placed in ballot drop box by 8 pm on election day; (2) given to an election judge at a polling place on election day; or (3) received at a local board office by 9 pm on election day. | COMAR 33.11.03.08B(1), (2) & (3)      |
|                        | Tuesday, May 14, 2024    | 8 pm                                | Precincts for Post-Election Verification & Audits                                    | Deadline for local boards to select randomly the precincts for post-election verification and audits.  | After 8 pm on election day.   | COMAR 33.08.05.04                     |
|                        | Wednesday, May 15, 2024  | 8 am                                | Campaign Signs   | End of period when campaign signs must be allowed at polling places.   | The day immediately after election day.   | EL § 10-101(a)(3)(ii)(2)              |

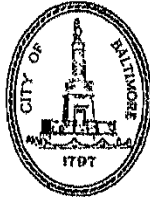
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|-------------------------|-------------------------|--------------------------|----------|---|--|---|---|
|                         |                         | Thursday, May 16, 2024   | 10 am    | Counting of Mail-in Ballots Start   | Local boards of canvassers are required to start counting mail-in ballots.   | 10 am on the Thursday after an election.  | COMAR 33.1.04.03(a)(1)                  |
|                         |                         | Friday, May 17, 2024     |          | Precincts for Post-Election Verification & Audits   | Local boards of canvassers are required to submit to the State Board of Elections a list of the precincts scheduled for the post-election verification and audits.   | Within 3 days of selecting the precincts.   | COMAR 33.08.05.04                       |
|                         |                         | Wednesday, May 22, 2024  | 10 am    | Provisional Ballot Canvass  | Local boards of canvassers are required to begin the canvass of provisional ballots.   | 10 am on the 2nd Wednesday after an election.   | COMAR 33.06.05.02                       |
|                         |                         | Friday, May 24, 2024     | 10 am    | Mail-in Ballot Deadline: Delivery by Mail   | Deadline for the local boards to receive mail-in ballots by mail.  | 10 am on the 2nd Friday after an election provided there is a proper postmark or date on voter's envelope.                                  | COMAR 33.1.03.08(a)(4)(a)               |
|                         |                         | Friday, May 24, 2024     | 10 am    | Second Canvass of Mail-in Ballots   | Local boards of canvassers conduct second canvass of mail-in ballots received after the completion of the first canvass.   | 10 am on the 2nd Friday after an election.  | COMAR 33.11.04.03(a)(2)                 |
|                         |                         | Friday, May 24, 2024     |          | Post-Election Audit   | Deadline for the local boards to conduct the post-election verification and audits.  | Before certifying the results of an election.   | COMAR 33.08.05.02(a)                    |
| Friday, May 24, 2024    |                         | Friday, May 24, 2024     |          | Verification of Vote Count  | Deadline for the local boards of canvassers to verify the primary election vote count.   | Within 10 days after an election and before certifying the results of an election.  | EL § 11-308(a)                          |
|                         |                         | Friday, May 24, 2024     |          | Certification of the Election   | Deadline for the local boards of canvassers to certify the results of primary election.  | After the verification of vote count is completed.  | EL § 11-308(b)                          |
| Friday, May 24, 2024    |                         | Friday, May 24, 2024     |          | Transmittal of Results  | Local boards of canvassers must transmit certified copies of election results to the Governor, SBE, and appropriate Clerk of the Circuit Court.  | 2nd Friday after an election or if canvass is completed after that day, within 48 hours after completion.                                   | EL § 11-407(c)                          |
|                         |                         | Monday, May 27, 2024     |          | Memorial Day  | State holiday. SBE and local boards will be closed.  |   | State Personnel & Pensions Act, § 9-201 |
| Saturday, May 25, 2024  | Monday, May 27, 2024    | Tuesday, May 28, 2024    |          | Voter Registration Recipients   | Voter registration recipients.   | 11th day after an election.   | EL § 3-302(a)                           |
| Monday, May 27, 2024    | Monday, May 27, 2024    | Tuesday, May 28, 2024    |          | Petition for Recount - Local Offices  | Deadline to file a petition for a recount of the votes cast for a local office on the ballot.  | Within 3 days after the results of an election have been certified by the local board.  | EL § 12-107(d)                          |
| Friday, May 31, 2024    |                         | Friday, May 31, 2024     | 11:59 pm | Title 14 Contribution Report  | Deadline for disclosure of contributions by persons doing business with Maryland government and/or employing a lobbyist.   | Report due every May 31 and November 30.  | EL § 14-104(b)(2)(i)(ii)(c)             |
|                         |                         | Friday, May 31, 2024     | 11:59 pm | Filing Referendum Petition on Acts of the 2024 General Assembly                             | Deadline for petition sponsor to the petition with Secretary of State including at least one-third of the referendum petition signatures and a petition fund report.   | Petitions are filed with the Secretary of State before the 1st day of June.   | MD Const. Art. XVI, § 3(b)              |
|                         |                         | Thursday, June 13, 2024  |          | Statewide Certification of Results  | Deadline for the State Board of Canvassers to convene to certify election results.   | Within 30 days after an election.   | EL § 11-503(a)(1)(i)                    |
|                         |                         | Wednesday, June 19, 2024 |          | June 19th   | State holiday. SBE and local boards will be closed.  |   | State Personnel & Pensions Act, § 9-201 |
| Thursday, June 20, 2024 | Thursday, June 20, 2024 | Thursday, June 20, 2024  |          | Verification and Counting of Referendum Petition  | Deadline for the local boards to verify and count the first submission of the required signatures on the referendum petition.  | Within 20 days after the filing of a petition.  | EL § 6-210(c)                           |
|                         |                         | Friday, June 21, 2024    |          | Certification of Referendum Petition  | Deadline for SBE to certify the results of the first submission of the required signatures.  | Within 1 business day after verification and counting is completed; deadline is extended if petition is not certified.                      | EL § 6-210(d)                           |
|                         |                         | Sunday, June 16, 2024    |          | Petition for Recount - State Offices  | Deadline to file a petition for a recount of the votes cast for a State office on the ballot.  | Within 3 days after the results of an election have been certified.   | EL § 12-107(d)                          |
|                         |                         | Sunday, June 30, 2024    | 11:59 pm | Filing Referendum Petition on Acts of the 2024 General Assembly                             | Deadline for petition sponsor to submit to Secretary of State the copy of referendum petition signatures.  | Petitions are filed with the Secretary of State by the 30th day of June.  | MD Const. Art. XVI, § 3(b)              |
| Monday, July 1, 2024    |                         | Monday, July 1, 2024     | 5 pm     | Declaration of Intent   | Deadline for a candidate who seeks nomination by a recognized non-principal party to file a Declaration of Intent to seek nomination.  | First Monday in July.   | EL § 5-703.1(c)(3)(i)                   |
| Monday, July 1, 2024    |                         | Monday, July 1, 2024     | 5 pm     | Declaration of Intent   | Deadline for an unaffiliated candidate or a candidate who is affiliated with a non-recognized political party who intends to seek nomination by petition to file a Declaration of Intent to seek nomination. | First Monday in July.   | EL § 5-703(c)(3)(i)                     |
| Monday, July 1, 2024    |                         | Monday, July 1, 2024     |          | Request for Advance Determination of Sufficiency for Charter Amendment Petition Format      | Deadline for petition sponsor to submit to the appropriate local board a request for advance determination on the sufficiency of a charter amendment petition format.  | At least 30 days before the deadline to file the petition but not more than 2 years and one month before the deadline to file the petition. | EL § 6-210(a)(1)                        |
| Saturday, June 29, 2024 | Monday, July 1, 2024    | Thursday, July 4, 2024   |          | Independence Day  | State holiday. SBE and local boards will be closed.  |   | State Personnel & Pensions Act, § 9-201 |
| Saturday, July 6, 2024  | Monday, July 8, 2024    | Monday, July 8, 2024     |          | Determination of Charter Amendment Petition Format  | Deadline for the local boards to determine sufficiency of a charter amendment petition format.   | Within 5 days of reviewing request of advance determination.  | EL § 6-210(a)(2)                        |
| Saturday, July 6, 2024  | Monday, July 8, 2024    | Monday, July 8, 2024     |          | Request for Advance Determination of Sufficiency for Candidacy or New Party Petition Format | Deadline for candidate or petition sponsor to submit to SBE or the appropriate local board a request for advance determination of sufficiency of a candidacy or new party petition format.                   | At least 30 days before the deadline to file the petition but not more than 2 years and one month before the deadline to file the petition. | EL § 6-210(a)(1)                        |
|                         |                         | Monday, July 8, 2024     |          | Notice to Voters on Permanent Mail-in Ballot List   | Deadline for SBE to send a pre-election notice to voters on about their ballot for the primary election.   | Not less than 75 days before the day on which a local board begins to send mail-in ballots.   | EL § 9-311.1(a)                         |
|                         |                         | Wednesday, July 10, 2024 |          | Notification of Outcome of Advance Determination for Charter Amendment Petition Format      | Deadline for the local boards to notify petition sponsor of the approval or deficiency of charter amendment petition format.   | Within 2 business days after determining sufficiency of charter amendment petition format.  | EL § 6-210(b)                           |
| Saturday, July 13, 2024 |                         | Monday, July 15, 2024    |          | Determination of Candidacy or New Party Petition Format                                     | Deadline for SBE or the appropriate local board to determine sufficiency of a candidacy or new party petition.   | Within 5 days of reviewing request of advance determination.  | EL § 6-210(a)(2)                        |

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|                         | July 15, 2024 - July 18, 2024 |      | Republican National Convention in Milwaukee   | Delegates to the Republican National Convention officially vote for their nominees for President and Vice President.  | Dates established by Republican National Committee.  |   |
|                         | Wednesday, July 17, 2024      | COB  | Notification of Outcome of Advance Determination of a Candidacy or New Party Petition Format  | Deadline for SBE or the appropriate local board to notify candidates of the approval or deficiency of candidacy or new party petition format.   | Within 2 business days after determining sufficiency of a candidacy or new party petition format.  | EL § 6-210(c)                               |
| Saturday, July 20, 2024 | Monday, July 22, 2024         | COB  | Verification and Counting of Referendum Petition  | Deadline for the local boards to verify and count the balance of the signatures on the referendum petition.   | Within 20 days after the filing of the balance of the petition signatures.   | EL § 6-210(c)                               |
|                         | Tuesday, July 23, 2024        |      | Certification of General Assembly Ballot Questions  | Deadline for SBE to prepare and certify to the local boards ballot questions proposed by the General Assembly to voters of one county or part of one county.  | 105th day before a general election.   | EL § 7-102(c)(2)                            |
|                         | Tuesday, July 23, 2024        |      |   | Deadline for SBE to certify the results of the full referendum petition verification.   | Within 1 business day after verification and counting is completed, deadline is extended if judicial review is pending.  | EL § 6-210(c)                               |
|                         | Tuesday, July 23, 2024        | COB  | Certification of Referendum Petition  | Deadline for petition sponsor to file with local government authority a charter amendment petition.   | 95th day before an election.   | EL § 7-102(d)                               |
|                         | Monday, July 29, 2024         | COB  | Filing Charter Amendment Petition   | Deadline for Secretary of State to certify to SBE statewide ballot questions relating to Acts of the General Assembly (except for questions referred to the voters of one county or a part of one county) petitioned to referendum. | 95th day before a general election.  | EL § 7-102(c)(1)                            |
|                         | Friday, August 2, 2024        |      | Certification of Statewide Ballot Questions and Questions Relating to an Enactment of the General Assembly Referenced to Referendum | Deadline for municipal attorney to certify the ballot question language for ballot questions for voters of that municipality.   | 95th day before a general election.  | EL § 7-102(c)(4)                            |
|                         | Friday, August 2, 2024        |      | Certification of Local Ballot Questions   | Deadline for County Attorney or Baltimore City Solicitor to certify to SBE each question to be voted on in the county.  | 95th day before a general election.  | EL § 7-102(c)(3)(i)                         |
|                         | Friday, August 2, 2024        |      | Alternate Certification of Local Ballot Questions   | Deadline for Clerk of the Circuit Court to prepare and certify to SBE local ballot questions if the County Attorney or Baltimore City Solicitor does not do so.   | 1st Friday in August.  | EL § 7-102(c)(3)(ii)                        |
| Friday, August 2, 2024  | Friday, August 2, 2024        | COB  | Judicial Review of Referendum Petition Certification - First Signature Submission   | Deadline for petition sponsor to seek judicial review of referendum petition certification of the first submission of the required signatures.  | 10th day following SBE's determination on the certification of the first submission of signatures or 65th day before the general election (August 28, 2024), whichever is earlier. | EL § 6-210(c)                               |
| Friday, August 2, 2024  | Friday, August 2, 2024        | COB  | Judicial Review of Referendum Petition Certification - Balance of Signatures Submission   | Deadline for petition sponsor to seek judicial review of referendum petition certification.   | 10th day following SBE's determination on the certification of the balance of signatures or 65th day before a general election (August 28, 2024), whichever is earlier.            | EL § 6-210(e)                               |
|                         | Monday, August 5, 2024        | COB  | Filing New Party Petition   | Deadline for petition sponsor to file with SBE a new political party petition.  | 1st Monday in August.  | EL § 4-102(c)(2)(ii)                        |
|                         | Monday, August 5, 2024        | 5 pm | Filing Candidacy Petition & Certificate of Candidacy  | Deadline for general election petition candidate to file with SBE or the appropriate local board the Certificate of Candidacy and candidacy petition.   | 1st Monday in August.  | EL § 5-703(d) & (f)                         |
|                         | Monday, August 5, 2024        | 5 pm | Filing Certificates of Nomination and Candidacy   | Deadline for candidates seeking nomination from a non-principal political party to file with SBE or the appropriate local board the Certificate of Nomination and Certificate of Candidacy.   | 1st Monday in August.  | EL § 5-703.11(d) & (e)                      |
|                         | Monday, August 5, 2024        |      | Filing of Appellate Judges  | Deadline for Clerk of the Supreme Court of Maryland and Clerk of the Appellate Court of Appeals to provide notice to SBE of the names of judges to be placed on the ballot.   | 1st Monday in August.  | EL § 5-301(f)                               |
| Monday, August 5, 2024  | Monday, August 5, 2024        |      | Greener Election Judge Exemption Request  | Deadline for the local boards to request an exemption to assign greener election judges at each early voting center.  | No later than 3 months before an election.   | COMAR 33.19.03.01(2)                        |
|                         | Tuesday, August 6, 2024       | COB  | Declaration of Nomination   | Deadline for declaration of nomination by a filed candidate before general election.  | First Tuesday in August.   | EL § 5-301(b)(2)(ii)                        |
|                         | Wednesday, August 7, 2024     |      | Request to Waive Mail-In Ballot Mailing Deadline  | Deadline for SBE to submit a request to the Federal Voting Assistance Program for a waiver of the deadline to transmit ballots to voters.   | At least 90 days before an election.   | 52 USC § 20302(a)(3)(A)                     |
|                         | Wednesday, August 7, 2024     |      | NVRA Confirmation Mailing Deadline  | Deadline for the local boards to send to voters confirmation mailings to verify addresses and make voters inactive.   | No later than 90 days before an election.  | 52 USC § 20307(c)(2)(A)                     |
|                         | Friday, August 9, 2024        | COB  | Vacancy by Declaration of Nomination  | For all offices except Governor and Lt. Governor, deadline for the appropriate central committee(s) to fill a vacancy caused by a candidate filing a declaration of nomination.   | 95th day before a general election.  | EL §§ 5-102(b)(1) & 5-100(c)(4), & 5-100(c) |
|                         | Monday, August 12, 2024       |      | Greener Election Judge Exemption Determination  | Deadline for the State Administrator to respond to a local board's request for an exemption to assign greener election judges at each early voting center.  | Within 5 business days of a local board's request.   | COMAR 33.19.03.01(3)                        |

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|                            |  | Monday, August 12, 2024           |                                    | Death or Disqualification of Candidate  | Last day to remove a candidate's name from the ballot due to the candidate's death or disqualification.   | 5th day before an election.  | EL § 5-601 (d)                                 |
|                            |  | Friday, August 16, 2024           |                                    | Vacancy by Death or Disqualification  | For all offices except Governor and Lt. Governor, deadline for the appropriate central committee(s) to fill a vacancy caused by the death or disqualification of a filed candidate.   | 81st day before a general election.  | EL §§ 5-1002(b)(1), 5-1002(c)(5), & 5-1004(b)  |
| Sunday, August 18, 2024    |  | Monday, August 19, 2024           | COB                                | Verification and Counting of Charter Amendment Petition   | Deadline for the local boards to verify and count the signatures on a charter amendment petition.   | Within 20 days after the filing of a petition.   | EL § 5-6-210(c)                                |
|                            |  | August 19, 2024 - August 22, 2024 |                                    | Democratic National Convention in Chicago   | Delegates to the Democratic National Convention officially vote for their nominees for President and Vice President.  | Dates established by Democratic National Committee.  |  |
| Tuesday, August 20, 2024   |  | Tuesday, August 20, 2024          | COB                                | Certification of Charter Amendment Petition   | Deadline for the local boards to certify the results of the charter amendment petition verification.  | Within 1 business day after verification and counting is completed; deadline is extended if judicial review is pending.                            | EL § 5-6-210(d)                                |
| Sunday, August 25, 2024    |  | Monday, August 26, 2024           | COB                                | Verification and Counting of Candidacy or New Party Petition  | Deadline for the local boards to verify and count the signatures on a candidacy or new party petition.  | Within 20 days after the filing of a petition.   | EL § 5-6-210(e)                                |
|                            |  | Tuesday, August 27, 2024          | 11:59 pm                           | Pre-General Campaign Finance Report 1   | Deadline to file the first pre-general report for political committees participating in the presidential election.  | Last Tuesday in August immediately preceding a general election.   | EL § 13-309(a)(4)                              |
|                            |  | Tuesday, August 27, 2024          | COB                                | Certification of Candidacy or New Party Petition  | Deadline for SBE or the appropriate local board to certify the results of the candidacy or new party petition verification.   | Within 1 business day after verification and counting is completed; deadline is extended if judicial review is pending.                            | EL § 5-6-210(d)                                |
| Wednesday, August 28, 2024 |  | Wednesday, August 28, 2024        | COB                                | Judicial Review of Candidacy Petition Certification   | Deadline for candidate to seek judicial review of candidacy petition certification.   | 10th day following ratification on the certification of the petition or 8th day before a general election (August 28, 2024), whichever is earlier. | EL § 5-6-210(e)(2)                             |
| Wednesday, August 28, 2024 |  | Wednesday, August 28, 2024        | COB                                | Judicial Review of Charter Amendment Petition Certification   | Deadline for petition sponsor to seek judicial review of charter amendment petition certification.  | 10th day following ratification on the certification of the petition or 8th day before a general election (August 28, 2024), whichever is earlier. | EL § 5-6-210(e)(2)                             |
| Wednesday, August 28, 2024 |  | Monday, September 2, 2024         |                                    | Labor Day   | State holiday. SBE and local boards will be closed.   |  |  |
| Monday, September 2, 2024  |  | Tuesday, September 3, 2024        |                                    | Certification of Ballot   | Deadline for SBE to prepare and certify content and arrangement of ballots for the general election.  | At least 64 days before an election.   | EL § 9-201(a)(2)                               |
| Monday, September 2, 2024  |  | Tuesday, September 3, 2024        |                                    | Display of Ballot   | Deadline for SBE to display on its website the content and arrangement of each certified ballot.  | At least 64 days before an election.   | EL § 9-201(a)(2)                               |
|                            |  | Wednesday, September 4, 2024      |                                    | Judicial Review of any Ballot Printing Errors   | Deadline for a registered voter to seek judicial review if an error is discovered after the ballots have been publicly displayed and the local board fails to correct the error.  | No later than the 62nd day preceding an election.  | EL § 9-201(c)                                  |
|                            |  | Thursday, September 5, 2024       | COB                                | Judicial Review of Content and Arrangement of Ballot  | Deadline for a registered voter to seek judicial review of the content and arrangement of or to correct any other error on the ballot.  | Within 2 days of certifying the ballot.  | EL § 9-201(e)                                  |
| Friday, September 6, 2024  |  | Friday, September 6, 2024         |                                    | Printing of Ballots   | SBE may begin printing ballots and correct noted errors.  | After 3 days of public display of ballot.  | EL § 9-207(e)                                  |
|                            |  | Friday, September 6, 2024         |                                    | Number of Ballots for Manual Audit  | Deadline to determine the number of early voting, mail-in, and provisional ballots each local board must count for the manual audit.  | No later than 60 days before election day.   | COMAR 33.08.05.09(c)(1)                        |
| Friday, September 6, 2024  |  | Friday, September 6, 2024         | COB                                | Judicial Review of New Party Petition Certification   | Deadline for petition sponsor to seek judicial review of new party petition certification.  | 10th day after determination on the certification of the petition.   | EL § 9-210(e)(1)                               |
|                            |  | Sunday, September 15, 2024        |                                    | Voting Information in Correctional Facilities   | Deadline to SBE to provide correctional facilities with voting information for distribution to eligible individuals.  | No later than 30 days before the advanced deadline to register to vote.  | EL § 1-303.2(a)(1)<br>COMAR 33.01.01.02B(2)(b) |
|                            |  | Tuesday, September 17, 2024       |                                    | Constitution Day and Citizenship Day  | Commemorates the signing of the U.S. Constitution and require public schools to celebrate the day and install in students knowledge of history, importance, and meaning of the U.S. Constitution and Maryland Constitution. | Anniversary of signing of the U.S. Constitution on September 17, 1787.   | Education Art., § 7-116                        |
|                            |  | Saturday, September 21, 2024      |                                    | Transmitting Mail-In Ballots  | Deadline for election officials to transmit ballots to certain voters unless the Federal Voting Assistance Program grants the State a waiver of the deadline.   | No later than 45 days before an election unless the Federal Voting Assistance Program grants a waiver of the 45 day transmission deadline.         | 62 USC 20302(a)(9)(A)                          |
|                            |  | Tuesday, September 24, 2024       |                                    | Public Education for Early Voting   | SBE and the local boards start public education about early voting.   | 30 days before early voting for an election.   | EL § 10-301.1(f)                               |
|                            |  | Wednesday, October 9, 2024        |                                    | Early Voting & Election Day Supply Verification   | Deadline for the local boards to verify voting supplies according to the supply verification plan.  | No later than 15 days before early voting starts.  | SBE policy                                     |
|                            |  | Friday, October 11, 2024          | 11:59 pm                           | Ballot Issue Report   | Deadline for ballot issue committees to file pre-general report.  | 4th Friday before a general election.  | EL § 13-309(a)(5)                              |
|                            |  | Monday, October 14, 2024          |                                    | Columbus Day  | State holiday. SBE and most local boards will be closed.  |  | State Personnel & Pensions Art., § 9-201       |
|                            |  | Tuesday, October 15, 2024         | 5 pm in office<br>11:59 pm on-line | Advanced Deadline to Register to Vote & Update Registration Information (Including Party Affiliation) | Advanced deadline to register to vote, update registration, or change party affiliation before the primary election.  | 21st day preceding an election.  | EL § 3-303(a)                                  |

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|  | Tuesday, October 15, 2024    | 5 pm                        | Polling Place Reassignment  | Deadline for elderly voters or voters with disabilities to submit a request to the local boards for reassignment to an accessible polling place.   | No later than the close of advanced registration before an election.  | EL § 10-102(b)(1)                        |
|  | Tuesday, October 15, 2024    | COB                         | Voter Registration Lists  | Deadline to request a voter registration list (New requests will not be taken until registration receives).  | On or before the advanced registration deadline, before an election.  | COMAR 33.03.02.05(b)                     |
|  | Wednesday, October 16, 2024  |                             | Notice of Election  | Deadline for the local boards to provide notice of the election.   | At least one week before any early voting period begins an election.  | EL § 8-102                               |
|  | Thursday, October 17, 2024   | 5 pm                        | Written Candidates  | Deadline for write-in candidates to file a Certificate of Candidacy. Only filed write-in candidates will have their votes reported on the official canvass.  | Earlier of 7th day preceding the start of early voting (October 17, 2024) or within 7 days after expenditure of \$50 to promote candidacy.  | EL § 5-302(c)                            |
|  | Monday, October 21, 2024     |                             | Select Contest and Early Voting Canvass for Manual Audit                  | Deadline for the State Board to randomly select the canvass and early voting centers for the manual audit.   | Within 3 days of the start of early voting.   | COMAR 33.08.05.09(c)(2)(e)               |
|  | Tuesday, October 22, 2024    | COB                         | Logic and Accuracy Testing - Early Voting (public demonstration & votes)  | Deadline for the local boards to complete logic and accuracy testing of the voting units being used for early voting. (Note: A public demonstration of the test must be conducted before any voting units are delivered to an early voting center.)  | At least 14 days before an election.  | COMAR 33.1.02.02.14, 16                  |
|  | Wednesday, October 23, 2024  | 5 pm                        | Campaign Signs  | Beginning of period when campaign signs must be delivered to early voting centers.   | The day before early voting starts.   | EL § 10-101(e)(3)(iii)(2)                |
|  | Thursday, October 24, 2024   | 7 am to 8 pm                | Early Voting Begins   | Early voting for the general election begins.  | The day before early voting starts.   | EL § 10-301.1                            |
|  | Friday, October 25, 2024     | COB                         | Voter Registration Lists  | Deadline for SBE and the local boards to prepare a voter registration list that includes registrants through the registration deadline.  | Within 10 days of the advanced voter registration deadline.   | COMAR 33.03.02.05(c)(2)                  |
|  | Friday, October 25, 2024     | 11:59 pm                    | Pre-General Campaign Finance Report 2                                     | Deadline to file the pre-general election campaign finance report for political committees participating in the presidential election.   | 2nd Friday immediately preceding an election.   | EL § 13-309(a)(6)                        |
|  | Saturday, October 26, 2024   | COB                         | Logic and Accuracy Testing - Election Day                                 | Deadline for the local boards to complete logic and accuracy testing of the election management system and voting units being used for election day voting and absentee and provisional ballots. (Note: The test must be conducted before any voting units are delivered to an early voting center.) | At least 10 days before an election.  | COMAR 33.1.02.01.14, 16                  |
|  | Monday, October 28, 2024     |                             | Notice of Canvass   | Deadline for the local boards to provide notice of the absentee and provisional canvasses.   | At least 10 days before the first absentee canvass.   | COMAR 33.08.01.05-11(b)                  |
|  | Tuesday, October 29, 2024    | 8 pm (mail) or 7 am to 8 pm | Ballot Request Deadline: Ballot Delivered by Mail or Fax                  | Deadline for a registered voter to request a mailed or faxed mail-in ballot.   | Tuesday before an election.   | EL § 5-302(a)(1); COMAR 33.11.02.02E     |
|  | Thursday, October 31, 2024   | 8 am                        | Early Voting Ends   | Early voting for the general election ends.  | 2nd Thursday before an election through the Thursday before an election.  | EL § 10-301.1                            |
|  | Friday, November 1, 2024     | 8 am                        | Campaign Signs  | End of period when campaign signs must be allowed at early voting centers.   | The day after early voting ends.  | EL § 10-101(e)(3)(iii)(2)                |
|  | Friday, November 1, 2024     | 5 pm (mail) or 5 pm         | Ballot Request Deadline: Ballot Delivered via Internet                    | Deadline for a registered voter to request an electronic mail-in ballot.   | Friday before an election.  | EL § 9-302(a)(2)                         |
|  | Monday, November 4, 2024     | 5 pm                        | Campaign Signs  | Beginning of period when campaign signs must be allowed at polling places.   | The day immediately preceding election day.   | EL § 10-101(e)(3)(iii)(2)                |
|  | Tuesday, November 5, 2024    | 7 am to 8 pm                | General Election  | Presidential General Election Day.   | Tuesday after the first Monday in November.   | MD Const. Art. XV, § 7; EL § 18-301      |
|  | Tuesday, November 5, 2024    | 8 pm                        | Ballot Request Deadline: Voter Picks Up Ballot                            | Deadline for a registered voter or voter's agent to request a mail-in ballot in person at a local board.   | No later than the close of the polls on election day.   | EL § 8-302(b)(2); COMAR 33.03.04.01(c) D |
|  | Tuesday, November 5, 2024    | 8 pm                        | Extended Voter Registration Deadline                                      | Extended deadline for receipt of voter registration applications sent by mail for voting in general election.  | An application received by mail after the close of registration is timely if it is properly notarized.  | EL § 3-302(c); COMAR 33.03.04.01(c) D    |
|  | Tuesday, November 5, 2024    | 8 pm                        | Mail-In Ballot Deadline: Ballot Box, Polling Place, or Local Board Office | Deadline for the local boards to receive a ballot placed in ballot drop box or election judges to receive a ballot at a voting location  | A ballot is timely if it is: (1) placed in ballot drop box by 8 pm on election day; (2) given to an election judge at a polling place on election day; or (3) received at a local board office by 8 pm on election day. | COMAR 33.1.02.08(b)(1), (2) & (3)        |
|  | Tuesday, November 5, 2024    | 8 pm                        | Precincts for Post-Election Verification & Audits                         | Deadline for local boards to select randomly the precincts for post-election verification and audits.  | 8 pm on election day.   | COMAR 33.08.05.04                        |
|  | Wednesday, November 6, 2024  | 8 am                        | Campaign Signs  | End of period when campaign signs must be allowed at polling places.   | The day immediately after election day.   | EL § 10-101(e)(3)(iii)(2)                |
|  | Thursday, November 7, 2024   | 10 am                       | Counting of Mail-In Ballots Start   | Local boards of canvassers are required to start counting mail-in ballots.   | 10 am on the Thursday after an election.  | COMAR 33.11.04.03A(1)                    |
|  | Friday, November 8, 2024     |                             | Precincts for Post-Election Verification & Audits                         | Deadline for the local boards to submit to the State Administrator a list of the precincts selected for the post-election verification and audits.   | Within 3 days of selecting the precincts.   | COMAR 33.08.05.04                        |
|  | Monday, November 11, 2024    |                             | Veterans Day  | State holiday. SBE and most local boards will be closed.   |   | State Personnel & Pension Act, § 9-201   |
|  | Wednesday, November 13, 2024 | 10 am                       | Provisional Ballot Canvass  | Local boards of canvassers are required to begin the canvass of provisional ballots.   | 10 am on the 2nd Wednesday after an election.   | COMAR 33.16.05.02                        |
|  | Friday, November 15, 2024    | 10 am                       | Mail-In Ballot Deadline: Delivery by Mail                                 | Deadline for the local boards to receive absentee ballots by mail.   | 10 am on the 2nd Friday after an election provided there is a proper postmark or date on voter's cert.  | COMAR 33.11.03.08B(4)(a)                 |

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|                             | Friday, November 15, 2024    |          | Counting of Mail-In Ballots Ends               | Local boards of canvassers finish counting mail-in ballots unless the local boards have more ballots to count.                                  | Before certifying the results of an election.   | COMAR 33.08.05.02A                        |
|                             | Friday, November 15, 2024    |          | Verification of Vote Count                     | Deadline for the local boards of canvassers to verify the general election vote count.  | Within 10 days after an election and before certifying the results of an election.  | EL § 11-308(a)                            |
|                             | Friday, November 15, 2024    |          | Post-Election Audit                            | Deadline for the local boards to complete various post-election audits on randomly selected precincts and any other identified precincts.       | Before certifying the results of an election.   | SBE policy                                |
|                             | Friday, November 15, 2024    |          | Certification of the Election                  | Deadline for the local boards of canvassers to certify the results of the universal election.   | After the verification of vote count is completed.  | EL § 11-308(b)                            |
|                             | Friday, November 15, 2024    |          | Transmittal of Results                         | Local boards of canvassers must transmit certified copies of election results to the Governor, SBE, and appropriate clerk of the Circuit Court. | 2nd Friday after an election or, if canvass is completed, 1st Friday after that day, within 48 hours after completion.                                  | EL § 11-401(c)                            |
| Monday, November 18, 2024   | Monday, November 18, 2024    | COB      | Petition for Recount - Local Questions         | Deadline to file a petition for a recount of the votes cast for a local question on the ballot.   | Within 3 days after the results of an election have been certified.   | EL § 12-102(d)                            |
| Monday, November 18, 2024   | Monday, November 18, 2024    | COB      | Petition for Recount - Local Offices           | Deadline to file a petition for a recount of the votes cast for a local office on the ballot.   | Within 3 days after the results of an election have been certified.   | EL § 12-101(e)                            |
| Saturday, November 16, 2024 | Monday, November 18, 2024    |          | Voter Registration Reopens                     | Voter registration reopens.   | 11th day after an election.   | EL § 3-302(4)                             |
|                             | Tuesday, November 19, 2024   | 11:59 pm | Post-General Campaign Finance Report           | Deadline to file the post-general election campaign finance report.   | On or before the 2nd Tuesday after a general election.  | EL § 13-309(a)(7)                         |
|                             | Wednesday, November 20, 2024 |          | Select Election Day Precincts for Manual Audit | Deadline for the State Board to randomly select the election day precincts for the manual audit.  | Within 15 days of election day.   | COMAR 33.08.05.09C(2)(d)                  |
|                             | Thursday, November 28, 2024  |          | Thanksgiving                                   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
|                             | Friday, November 29, 2024    |          | American Indian Heritage Day                   | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
| Saturday, November 30, 2024 | Monday, December 2, 2024     | 11:59 pm | Title 14 Contribution Report                   | Deadline for disclosure of contributions by persons doing business with Maryland government and/or employing a lobbyist.                        | Report due every May 31 and November 30.  | EL § 14-104(b)(2)(i)(2)                   |
|                             | Friday, November 29, 2024    |          | Certification of the Campaign Finance Reports  | SBE shall certify to the official receiving the Commissions of Election that all campaign finance reports due have been filed.                  | Prior to the delivery of the Commissions of Election, (for offices elected to be by first Wednesday in December, when most local executives are sworn.) | EL § 13-333(b)                            |
|                             | Thursday, December 5, 2024   | COB      | Statewide Certification of Results             | Deadline for the State Board of Canvassers to convene to certify election results.  | Within 30 days after an election.   | EL § 11-503(a)(1)(i)                      |
|                             | Wednesday, December 11, 2024 |          | Certificate of Appointment of Electors         | Deadline for the Governor to issue and transmit a certificate of appointment to the electors.   | 6 days before the meeting of the Presidential electors.   | EL § 11-601, 3 USC § 5                    |
|                             | Friday, December 6, 2024     |          | Delivery of Election Results                   | SBE shall deliver to the winners of the general election a certified statement under its seal.  | Prompt delivery.  | EL § 11-603(b)                            |
|                             | Sunday, December 8, 2024     | **       | Petition for Recount - State Questions         | Deadline to file a petition for a recount of the votes cast for a State question on the ballot.   | Within 3 days after the results of an election have been certified.   | EL § 12-103(d)                            |
|                             | Sunday, December 8, 2024     | **       | Petition for Recount - State Offices           | Deadline to file a petition for a recount of the votes cast for a State office on the ballot.   | Within 3 days after the results of an election have been certified.   | EL § 12-101(e)                            |
|                             | Tuesday, December 17, 2024   |          | Meeting of the Presidential Electors           | Official casting of votes by members of the Electoral College.  | 1st Tuesday after the 2nd Wednesday in December.  | Executive proclamation by President Biden |
|                             | Wednesday, December 25, 2024 |          | Christmas                                      | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
|                             | Wednesday, January 1, 2025   |          | New Year's Day                                 | State holiday. SBE and local boards will be closed.   |   | State Personnel & Pensions Act, § 9-201   |
| Wednesday, March 5, 2025    | Wednesday, March 5, 2025     |          | Completion of Manual Audit                     | Deadline for the local boards to complete manual audit of sample of paper ballots cast in the general election.                                 | Within 120 days after the general election.   | EL § 11-309(d)(2)                         |
| Wednesday, March 19, 2025   | Wednesday, March 19, 2025    | **       | Posting of Manual Audit Report                 | Deadline for SBE to post report of manual audit.  | Within 14 days after completion of manual audit.  | EL § 11-309(d)(4)                         |



BRANDON M. SCOTT  
MAYOR

100 Holliday Street  
Baltimore, MD 21202

**RECEIPT OF PETITION DELIVERY - BALTIMORE CITY MAYOR'S OFFICE**

On behalf of the Mayor of Baltimore, pursuant to the Maryland Constitution, Article 11-A, Section 5, I hereby acknowledge receipt of the following ballot petition:

Brief Description from Information Page: To place upper limits on the Baltimore City real property tax rate to be set by the Mayor and City Council each year during the next 7 years, starting at \$2.20 per \$100 of assessed value as of July 1, 2025, \$2.10 on July 1, 2026, and then incrementally lower each year until the rate is capped at \$1.20 per \$100 of assessed value beginning July 1, 2031. Capping the real property tax rate aligns Baltimore City with surrounding counties, brings equity to City taxpayers, encourages investment, and makes home ownership more affordable.

- Number of Boxes; 4
- Number of Signatures: 23,542

Elena DiPietro  
Chief Solicitor, Baltimore City Law Department  
Printed Name

Elena DiPietro  
Signature

6/20/2024  
Date



## Thomas & Libowitz, P.A.

A Professional Association founded in 1975

STEVEN ANARGYROS THOMAS+\*  
ROBERT A. SNYDER, JR.  
C. WAYNE DAVIS  
CHARLES B. JONES  
C.J. PERSSON

25 S. Charles Street, Suite 2015 ■ Baltimore, MD 21201  
Phone: 410-752-2468 ■ Fax: 410-752-2046

www.tandllaw.com

Constantine J. Themelis  
gthemelis@tandllaw.com

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Also Member of CT Bar ~  
Also Member of MA Bar °

ASSOCIATES  
CLINTON R. BLACK, V~  
JESSICA A. DENKEVITZ  
MEGAN E. BASTER  
JUSTIN T. LIBERATORE

COUNSEL  
JOHN R. WISE  
FRANCIS R. LAWS  
DAVID M. SHEEHAN°

July 3, 2024

### Via Electronic Mail

Mr. Armstead B. Crawley Jones, Sr., CERA  
Election Director  
Baltimore City Board of Elections  
Benton Office Building  
417 E. Fayette Street, Room 129  
Baltimore, Maryland 21202-3432  
[armstead.jones@baltimorecity.gov](mailto:armstead.jones@baltimorecity.gov)

### **Re: Renew Baltimore Charter Amendment Petition**

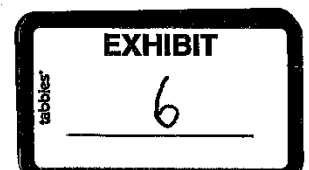
Dear Director Jones:

Please be advised we represent Renew Baltimore regarding the charter amendment petition to place upper limits on the Baltimore City real property tax rate (the Petition).

On June 20, 2024, Renew Baltimore hand-delivered to City Hall the Petition and four (4) boxes containing 23,542 signatures.

On June 20, 2023, pursuant to §6-202 of the Election Law Article, you responded to Renew Baltimore's request for an advance determination and approved the format of the Petition. A copy of your letter is attached for your convenience.

To date, there has not been a response from you since the Petition was filed. Please advise if you have made any further determination(s) regarding the Petition.





Mr. Armstead B. Crawley Jones, Sr., CERA  
Election Director  
July 3, 2024  
Page 2

Very truly yours,

THOMAS & LIBOWITZ, P.A.

A handwritten signature in black ink, appearing to read 'CJ Themelis', written over a horizontal line.

Constantine J. Themelis

Cc: Abigail Goldman, CERA Election Deputy Director [abigail.goldman@baltimorecity.gov](mailto:abigail.goldman@baltimorecity.gov)  
Wendy Paige [wendy.paige@baltimorecity.gov](mailto:wendy.paige@baltimorecity.gov)  
Steven A. Thomas, Esq.  
Clint Black V, Esq.  
Ben Frederick III

## Constantine Themelis

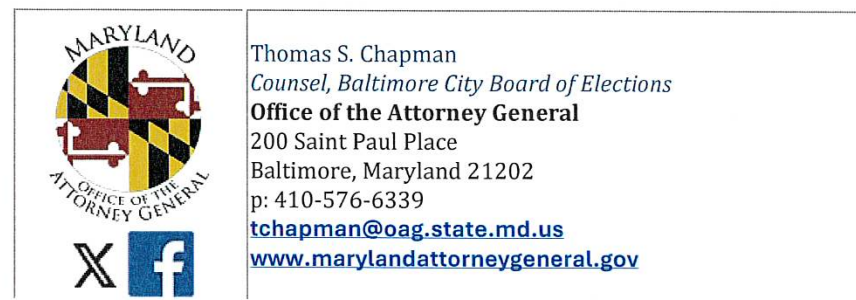
**From:** Chapman, Thomas <tchapman@oag.state.md.us>  
**Sent:** Wednesday, July 3, 2024 10:56 AM  
**To:** Constantine Themelis  
**Subject:** RE: Renew Baltimore Charter Amendment Petition

You don't often get email from tchapman@oag.state.md.us. [Learn why this is important](#)

Good morning Mr. Themelis,

I represent the Baltimore City Board of Elections. The Board has received from City Hall, and is currently processing, the Renew Baltimore charter amendment petition. The Election Director has not yet made any further determinations beyond the § 6-202 advance determination as to sufficiency of format. As soon as any determinations are made, the Election Director will notify you in accordance with the schedule set forth in § 6-210 of the Election Law Article. Please let me know if you have any further questions.

Best regards,  
Thomas Chapman



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**From:** Constantine Themelis <[gthemelis@tandllaw.com](mailto:gthemelis@tandllaw.com)>  
**Sent:** Wednesday, July 3, 2024 8:46:23 AM  
**To:** Jones, Armstead (BOE) <[Armstead.Jones@baltimorecity.gov](mailto:Armstead.Jones@baltimorecity.gov)>  
**Cc:** Goldman, Abigail (BOE) <[Abigail.Goldman@baltimorecity.gov](mailto:Abigail.Goldman@baltimorecity.gov)>; Paige, Wendy (BOE) <[Wendy.Paige@baltimorecity.gov](mailto:Wendy.Paige@baltimorecity.gov)>; Steven Thomas <[SThomas@tandllaw.com](mailto:SThomas@tandllaw.com)>; Clint Black V <[CBlackV@tandllaw.com](mailto:CBlackV@tandllaw.com)>; Ben Frederick <[ben@benfrederick.com](mailto:ben@benfrederick.com)>  
**Subject:** Renew Baltimore Charter Amendment Petition

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Armstead B. Crawley Jones, Sr.  
Election Director

Abigail Goldman  
Election Deputy Director

Scherod C. Barnes  
President (D)

Terrence D. Threault Jr.  
Vice President (R)



BALTIMORE CITY  
BOARD OF ELECTIONS

Secretary (D)

Hope M. Williams  
Member (D)

Maria M. Vismale  
Member (R)

July 9, 2024

*Via First-Class Mail and Email*

Constantine J. Themelis, Esq.  
Thomas & Libowitz, P.A.  
25 S. Charles Street, Suite 2015  
Baltimore, MD 21201  
[gthemelis@tandllaw.com](mailto:gthemelis@tandllaw.com)

Re: Renew Baltimore Charter Amendment Petition: Determination of Deficiency

Dear Mr. Themelis:

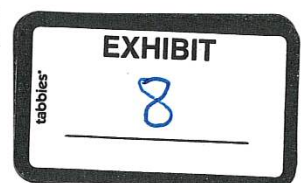
The Baltimore City Board of Elections has received the petition sponsored by your client, Renew Baltimore (the "Petition") proposing an amendment to the Baltimore City Charter (the "Charter Amendment") relating to the rate of real property tax in Baltimore City. As Election Director, I am required by § 6-206 of the Election Law Article ("EL"), Maryland Code, to declare a petition deficient if it seeks "the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law." EL § 6-206(c)(5).

I have determined that the Petition is deficient on that ground. State law provides that the power to set a specific property tax rate in the counties and Baltimore City must remain with the County or City Council. Maryland's highest court has held that under this rule, a petition-initiated charter amendment may not set a specific property tax rate. Accordingly, I cannot certify the Charter Amendment for inclusion on the ballot at the upcoming General Election.

Under Article XI-A, § 1 of the Constitution of Maryland, a City charter provision may not conflict with State law. See, e.g., *Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 242 (1990). Relevant here, § 6-302(a) of the Tax-Property Article, Maryland Code, provides that "in each year the Mayor and City Council of Baltimore City or the governing body of each county annually shall set the tax rate for the next taxable year on all assessments of property subject to that county's property tax."

In two cases, the Maryland Court of Appeals (now the Supreme Court of Maryland) held that, under this statute, a charter amendment may not set the property tax rate in a jurisdiction. *Smallwood*, 327 Md. at 244; *Hertelendy v. Board of Educ.*, 344 Md 676, 683 (1995). Notably, *Smallwood*, which involved proposed charter amendments in Baltimore County and Anne Arundel County, did hold that a charter amendment may set a cap on the future growth of property tax rates. See 327 Md. at 243. But the Court invalidated provisions of the proposed charter amendments that would have "roll[ed] back" the amount of property tax collected in each county to a lower level. *Id.* at 244. The Court explained:

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



*Id.* The Court reaffirmed that holding five years later in *Hertelendy*, involving a similar provision in the Talbot County Charter:

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

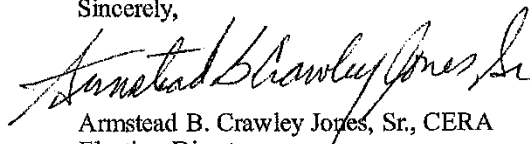
344 Md. at 683 (citation omitted).

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

I see no basis to distinguish the Petition's proposed Charter Amendment from the charter provisions the Court held to be illegal in *Smallwood* and *Hertelendy*. I therefore must decline to certify the Petition on the ground that it seeks "the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law." EL § 6-206(c)(5).<sup>1</sup>

Because I have found the Petition deficient, the Board of Elections is not required to continue verifying and validating the signatures on the Petition, and the 20-day deadline to complete signature verification no longer applies. See EL § 6-207(a). However, in the interest of efficiency and because of the possibility of judicial review of this determination, my staff will continue to review the signatures on the Petition.

Sincerely,



Armstead B. Crawley Jones, Sr., CERA  
Election Director

cc: Baltimore City Board of Elections  
State Board of Elections  
Baltimore City Law Department

<sup>1</sup> Because I have determined that the Charter Amendment would be "unconstitutional . . . or . . . prohibited by law" on the ground that it conflicts with § 6-302(a) of the Tax-Property Article, there is no need for me to determine whether or not the Charter Amendment would be unconstitutional or illegal on any other ground, and I have made no other legality determination one way or the other.

BENEDICT J. FREDERICK, III, *et al.*, \* IN THE  
Plaintiffs, \* CIRCUIT COURT  
v. \* FOR  
BALTIMORE CITY BOARD \* BALTIMORE CITY  
OF ELECTIONS, *et al.*, \*  
Defendants. \* Case No. C-24-CV-24-001361  
\*

\* \* \* \* \*

**MAYOR AND CITY COUNCIL OF BALTIMORE'S  
PARTIAL CONSENT MOTION TO INTERVENE**

The Mayor and City Council of Baltimore, through undersigned counsel, and pursuant to Maryland Rule 2-214, moves to intervene as a Defendant in the above-titled action, and in support thereof, states:

**Background**

1. On July 12, 2024, Plaintiffs Benedict J. Frederick, III, Matthew W. Wyskiel, III, and Stacie Teal-Locust filed a Complaint for Declaratory Judgment against the Baltimore City Board of Elections (the “Board”).
2. The underlying action concerns a petition, put forth by Renew Baltimore, to amend the Baltimore City Charter by mandating a limit on the property tax rate (the “Petition”).
3. On July 9, 2024, the Board notified Renew Baltimore that it denied certification of the Petition pursuant to Md. Code Ann., Election Law Article (“Elec.”), § 6-206 because the Petition was unconstitutional or otherwise prohibited by law.
4. The Mayor and City Council of Baltimore (the “City”) is a municipal corporation and is an entity that may sue or be sued under the laws of Maryland.

5. The City moves to intervene in this matter to protect its constitutionally protected right to set its own property tax rates.

6. Defendant Baltimore City Board of Elections consents to this Motion.

### **Argument**

#### **A. The City can intervene as a matter of right pursuant to Md. Rule 2-214(a).**

7. A party may intervene as a matter of right “when the person has an unconditional right to intervene as a matter of law[.]” Md. Rule 2-214(a)(1).

8. Pursuant to the Maryland Uniform Declaratory Judgments Act, “a person who has or claims any interest which would be affected by the declaration, **shall** be made a party.” Md. Code Ann., Courts and Judicial Proceedings Article (“Cts.”), § 3-405(a)(1) (emphasis added); *see Harvey v. State*, 51 Md. App. 113, 118 (1982) (“Whenever the word ‘shall’ is used, it is mandatory.”).

9. Moreover, “[i]n any proceeding which involves the validity of a municipal or county ordinance or franchise, **the municipality or county shall be made a party and is entitled to be heard.**” Cts. § 3-405(b) (emphasis added).

10. The City has a direct interest in this matter because the Petition, if put before the voters to amend the City Charter, would prevent the City from setting its own property tax rate. The tax limits mandated in the Petition are lower than the City’s current rate, and the Maryland Supreme Court has already determined that this kind of charter amendment is unconstitutional. *See Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676, 685 (1995).

11. Moreover, the City’s right to set its own tax rate is enshrined in Md. Code Ann., Tax-Property Article, § 6-302(a), and in Section (40)(a) of Article II of the City Charter which grants the City a “general taxing power” and the authority “to provide by ordinance for the

imposition, assessment, levy and collection of any tax or taxes authorized by this subsection.” Baltimore City Charter, Art. II, §(40)(a); *see also Kimball-Tyler Co. v. Baltimore*, 214 Md. 86, 94 (1957).

12. Thus, the City has an unconditional right to intervene as a matter of law under Md. Rule 2-214(a)(1) and is entitled to be heard in this matter because it concerns the validity and legality of a proposed amendment to the Baltimore City Charter.

13. A party may also intervene as a matter of right “when the person claims an interest relating to the property or transaction that is the subject of the action, and the person is so situated that the disposition of the action may as a practical matter impair or impede the ability to protect that interest unless it is adequately represented by existing parties. Md. Rule 2-214(a)(2).

14. A party seeking to intervene as a matter of right under subsection (a)(2) must satisfy four conditions: (1) the application was timely; (2) the person claims an interest relating to the property or transaction that is the subject of the action; (3) the person is so situated that the disposition of the action, as a practical matter, may impair or impede that person’s ability to protect that interest; and (4) the person’s interest is not adequately represented by existing parties to the suit.” *Maryland-Nat’l. Cap. Park & Plan Comm’n v. Town of Washington Grove*, 408 Md. 37, 69–70 (2009); *Hikmat v. Howard Cty.*, 148 Md. App. 502, 533 (2002).

15. The City satisfies all four conditions to intervene under Md. Rule 2-214(a).

1. The City’s Motion is timely.

16. Whether a motion is timely depends on “the purpose for which intervention is sought, the probability of prejudice to the parties already in the case, the extent to which the proceedings have progressed when the movant [mov]es to intervene, and the reason or reasons for the delay in seeking intervention.” *Washington Grove*, 408 Md. at 70.



17. Here, the City seeks to intervene to protect its constitutionally protected right to set its own real property tax rates.

18. At the time of filing this Motion to Intervene, no proceedings have been held or scheduled in this matter, and the Board has not answered or otherwise responded to the Complaint. Thus, neither Plaintiffs nor the Board will be prejudiced by the City's intervention in this case.

19. The City has not delayed in filing this Motion. Plaintiffs filed the Complaint on July 12, 2024, and the City filed this Motion within one week from that date. *Accord Doe v. Alt. Med. Md., LLC*, 455 Md. 377, 420 (2017) ("Because the motion to intervene was filed early in the litigation and shortly after the filing of the complaint . . . , there was no delay in seeking intervention.").

2. The City has an interest in the legality of the Petition.

20. The Petition proposes an amendment to the Baltimore City Charter that sets the real property tax rate lower than its current rate, and then continues to reduce the rate over the next five years until the rate is set for all time.

21. By continuously reducing the property tax rate in this way, the Petition would roll back the revenue available to the City by leaving only one tax rate available for the City to set. This will cost the City millions of dollars in the first year alone and hinder its ability to function, including providing basic services to City residents and impairing the City's ability to fulfill many of its existing City contracts.

22. Thus, the City has a paramount interest in participating in an action that may allow the Petition to appear on the November 5, 2024 General Election ballot.

23. Moreover, pursuant to Article XI-A of the Maryland Constitution, the City's law-making power is vested in an elected City Council.



24. Pursuant to the Baltimore City Charter, the City Council is the City’s legislative body and has the “power to pass all ordinances, not inconsistent with the Charter, necessary to give effect and operation to all powers vested in the City,” which is thereafter enacted by the Mayor’s assent, veto or abstention. BALTIMORE CITY CHARTER, art. III, §§ 1(a), 11; art. IV, § 5.

25. This legislative power necessarily includes setting tax rates. Thus, the City has an interest in ensuring that the Mayor and City Council can enact legislation to perform its constitutional duties and will be bound by the court’s decision on that matter. *See, e.g., Save Our Streets v. Mitchell*, 357 Md. 237 (1998) (the “[City] Council alone, and not the voters . . ., has the power to initiate local legislation[,] . . . and such legislative power cannot be exercised by means of an amendment to the charter.” (citation omitted); *see also Washington Grove*, 408 Md. at 75 (“whether the applicant for intervention has an interest which it is essential to protect may be equated with the requirement . . . that he ‘is or may be bound by a judgment in the action.’”) (citation omitted).

26. The City’s right to set its tax rate is enshrined in its home rule powers as a legislative function. *See* Md. Const., art. XI-A, § 2 (“Such express powers granted to the Counties and the powers heretofore granted to the City of Baltimore, as set forth in Article 4, Section 6, Public Local Laws of Maryland, **shall not be enlarged or extended by any charter formed under the provisions of this Article**, but such powers may be extended, modified, amended or repealed by the General Assembly.”) (emphasis added).

27. Thus, a citizen-initiated petition to amend the City Charter that sets the tax rate by the voters violates the home rule powers enacted by the General Assembly—such powers may only be changed by the General Assembly and not the voters as provided by Section 2 of Article XI-A of the Maryland Constitution.

28. These issues are all unique to the Mayor and City Council of Baltimore as it will have its legislative power curbed by voter initiative instead of having it altered by the General Assembly's modification of the City's home rule powers as required by the Maryland Constitution.

29. Further, the City will "be bound by a judgment in the action," which alone gives it an interest sufficient in this litigation. *See Washington Grove*, 408 Md. at 75 (internal quotation marks omitted).

3. The City's position impairs or impedes its ability to protect its interest.

30. The Board is responsible for an initial determination of whether the Petition is constitutionally valid to appear on the ballot in the next general election.

31. If the Court reverses the Board's decision, then the City, through its Law Department, will be required to draft language for the Petition to appear on ballot. *See Elec. § 7-103* (requiring the City Law Department to prepare and certify a description and purpose of the ballot question to the State Board).

32. Thus, the City is entirely beholden to the actions of the Board, and this position impedes its ability to protect its interests absent intervention in this case.

4. The City's interests are not adequately represented by the current Defendant Board.

33. The Board's role is to defend its decision denying certification, and so its interests may be limited solely whether the Petition appears on the ballot.

34. In contrast, the City is governed by the City Charter—the very document the Petition seeks to amend. The Maryland General Assembly has long provided that the City's legislative powers are outlined in its home rule powers, which only the General Assembly can alter; not the voters, nor the City Council, by change to the City's Charter.

35. The Petition also affects City government and its finances. The Petition, if permitted to appear on the ballot, will impair the City's ability to fund its current contractual obligations and meet its statutory duties.

36. While the Board's involvement with the Petition may be over when a final disposition of the merits of this case is reached, the City may have to contend with the effects of the Petition, if passed, indefinitely, as the Petition seeks to set and reduce the property tax rate over the next five (5) years. *Town of Washington Grove, supra*, at 102, (citing *Md. Radiological Soc'y*, 285 Md. 383, 390 (1979)).

37. "The burden of showing that existing representation may be inadequate is a minimal one." *Citizens Coordinating Comm. on Friendship Heights v. TKU Associates*, 276 Md. 705, 714 (1976). Even though interests are not shown to be adverse, "such a showing is not necessary to the conclusion that existing representation may be inadequate." *Citizens Coordinating Comm.*, 276 Md. at 714.

38. The City has met its minimal burden because the City's interests will not be adequately represented by the Board, and the City must defend its interests in setting property tax rates. Accordingly, the City must be permitted to intervene as a matter of law.

**B. The City is permitted to intervene because the lawsuit concerns the validity of a proposed charter provision.**

39. The City is "permitted to intervene in an action when the validity of a . . . charter provision . . . affecting the moving party is drawn in question in the action, or when a party to an action relies for ground of claim or defense on such . . . charter provision[.] Md. Rule 2-214(b)(2).

40. The lawsuit concerns the validity of the Petition which would amend the Baltimore City Charter by adding §6A to Article I (General Provisions) to be placed immediately after §6 (Uniform Taxation).

41. Because the Petition would amend the Baltimore City Charter, the City is permitted to intervene under Md. Rule 2-214(b)(2).

**C. The City is permitted to intervene it has a claim or defense has a question of law or fact in common with the action.**

42. A party may permissively intervene “when the person’s claim or defense has a question of law or fact in common with the action.” Md. Rule 2-214(b)(1).

43. Here, the City’s position that the Petition is not constitutionality valid is a question of law central to this action.

44. Thus, the City should be permitted to intervene as a Defendant in this matter.

**D. The City has complied with Md. Rule 2-214(c).**

45. The City has attached a copy of a proposed Motion to Dismiss to the Complaint as Exhibit 1, as required by Md. Rule 2-214(c) (a motion to intervene “shall be accompanied by a copy of the proposed pleading, motion, or response setting forth the claim or defense for which intervention is sought.”).

**Conclusion**

Wherefore, for the reasons stated herein, the Mayor and City Council of Baltimore respectfully requests that this Court grant its Motion to Intervene, allow the City to Intervene as a Defendant and Oppose Plaintiffs’ Complaint, and grant as well as any and all other relief that it deems appropriate.

*[Signatures follow on next page]*

Respectfully Submitted,

EBONY M. THOMPSON, Baltimore City Solicitor



Hilary B. Ruley (AIS No. 0212170037)

Tom P. Webb (AIS No. 1306190321)

Derek M. Van De Walle (AIS No. 1712140237)

BALTIMORE CITY LAW DEPARTMENT

100 N. Holliday Street, Room 101

Baltimore, Maryland 21202

Tel: 410-396-3271

Fax: 410-547-1025

[Hilary.Ruley@baltimorecity.gov](mailto:Hilary.Ruley@baltimorecity.gov)

[Tom.Webb@baltimorecity.gov](mailto:Tom.Webb@baltimorecity.gov)

[Derek.Vandewalle@baltimorecity.gov](mailto:Derek.Vandewalle@baltimorecity.gov)

*Counsel for Intervenor*

*Mayor and City Council of Baltimore*

### **CERTIFICATE OF SERVICE**

I certify that on July 18, 2024, a copy of the foregoing Motion to Intervene, Proposed Order, and all Exhibits were served by electronic means via the MDEC system on all persons entitled to service.



Derek M. Van De Walle (AIS No. 1712140237)

|   |   |                            |
|---|---|----------------------------|
| BENEDICT J. FREDERICK, III, <i>et al.</i> , | * | IN THE                     |
| Plaintiffs,                                 | * | CIRCUIT COURT              |
| v.  | * | FOR                        |
| BALTIMORE CITY BOARD                        | * | BALTIMORE CITY             |
| OF ELECTIONS, <i>et al.</i> ,               | * |                            |
| Defendants.                                 | * | Case No. C-24-CV-24-001361 |
|   | * |                            |

\* \* \* \* \*

**MAYOR AND CITY COUNCIL OF BALTIMORE’S  
MOTION TO DISMISS WITH PREJUDICE AND  
REQUEST FOR HEARING**

Defendant Mayor and City Council of Baltimore (the “City”), by its undersigned counsel and pursuant to Maryland Rule 2-322, moves to dismiss the Complaint with prejudice and without leave to amend, and states as follows:

**Introduction**

Plaintiffs’ petition to amend the Baltimore City Charter removes the City’s right—enshrined in both its home rule powers and state statute—to set its tax rate legislatively because the petition’s tax limitations are lower than the City’s current tax rate. The Supreme Court of Maryland has already determined that a charter tax limitation that operates to roll back revenue to a lower amount is effectively a rate setting that deprives elected officials of their right to legislate on that issue. *See Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676, 685 (1995). Because the Petition removes the City’s power to set the tax rate each year, in violation of the City’s home rule powers and the requirement of Section 6-302 of the Tax-Property Article of the Maryland Code, the City respectfully requests that this Court dismiss the complaint with prejudice and without leave to amend.

## Statement of Undisputed Facts

Renew Baltimore circulated a petition for citizen signature to amend the Baltimore City Charter to lower the current \$2.248 rate by limiting it at \$2.20 per \$100 of assessed value on July 1, 2025, and then reducing the rate by 18 cents each year over the next five years until it reaches a final limit of \$1.20 per \$100 of assessed real property value (the “Petition”). *See* Comp. ¶ 16. On July 9, 2024, the Baltimore City Board of Elections (the “Board”) notified Renew Baltimore, that pursuant to Md. Code Ann., Election Law Article (“Elec.”), § 6-206, it denied certification of the Petition because it was unconstitutional or otherwise prohibited by law.

On July 12, 2024, Plaintiffs Benedict J. Frederick, III, Matthew W. Wyskiel, III, and Stacie Teal-Locust filed a Complaint for Declaratory Judgment against the Board asking this Court to declare the Petition legal, reverse the decision of the Board, and thereby have the Petition placed before the voters at the next general election on November 5, 2024. The City has moved to intervene in this case.<sup>1</sup>

## Legal Standard

A motion to dismiss for failure to state a claim under Maryland Rule 2-322(b)(2) tests the sufficiency of the pleadings. Md. Rule 2-322(b)(2); *see Converge Services Group, LLC v. Curran*, 383 Md. 462, 475 (2004). The purpose of such a motion “is to have legal questions decided before trial of the action on the merits.” *Porterfield v. Mascari II, Inc.*, 374 Md. 402, 430 (2003).

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<sup>1</sup> *See* Md. Code Ann., Cts. & Jud. Proc., § 3-405(a)(1) (requiring that “a person who has or claims any interest which would be affected by the declaration, **shall** be made a party.” (emphasis added); § 3-405(b) (“[i]n any proceeding which involves the validity of a municipal or county ordinance or franchise, the municipality or county shall be made a party and is entitled to be heard.”).

“In order to withstand a motion to dismiss for failure to state a cause of action, the plaintiff must allege facts that, if proved, would entitle him or her to relief.” *Pittway Corp. v. Collins*, 409 Md. 218, 238-239 (2009). Although a Court must “assume the truth of all well-pleaded facts and allegations in the complaint,” dismissal is proper “if the allegations and permissible inferences, if true, would not afford relief to the plaintiff.” *Id.* at 239; *accord Ricketts v. Ricketts*, 393 Md. 479, 492 (2006); *see also Heist v. Eastern Sav. Bank, FSB*, 165 Md. App. 144, 149 (2005) (“The grant of a motion to dismiss is proper if the complaint does not disclose, on its face, a legally sufficient cause of action.”).

The Complaint fails to state a claim upon which relief can be granted because, as a matter of law, the Petition is unconstitutional as already determined by the Supreme Court of Maryland, and so the matter is ripe for this Court declare the rights of the parties and dismiss the Complaint with prejudice.

### **Argument**

#### **A. Tax rates must be set legislatively by local governments, not the voters.**

The Maryland Constitution provides that local governments enacting a Charter form of government will receive home rule powers, which are exercised legislatively. Md. Const., art. XI-A, § 2; *Kimball-Tyler Co. v. Baltimore*, 214 Md. 86, 94 (1957); 87 Op. Atty. Gen. Md. 187, 191, n. 8 (2002) (“rather than requiring a single express powers act applicable to both Baltimore City and counties adopting charter home rule, the drafters of [Md. Constitution] Article XI-A referenced the powers previously delegated to Baltimore City, then codified at Section 6 of the Public Local Laws of Baltimore City, and later recodified as Article II of the Baltimore City Charter.”); *see, e.g., State v. Stewart*, 152 Md. 419, 137 A. 39, 41-42 (1927) (“This article empowers the General Assembly to designate the subjects in respect to which



the city or counties may legislate locally. In other words, this article of the Constitution itself does not grant the power to Baltimore City to legislate locally on all subjects, but only in respect to such subjects as are delegated to it in the legislative grant of powers.”).

After adoption of a local charter, the General Assembly cannot enact a public local law<sup>2</sup> on any subject given to the local government in its home rule powers, the General Assembly can only modify the grant of those home rule powers. Md. Const., art. XI-A, § 2; *accord Stewart*, 137 A. at 41. As a corollary, neither the voters nor the local government can modify home rule powers because the Maryland Constitution reserves that authority to the General Assembly: “Such express powers granted to the Counties and the powers heretofore granted to the City of Baltimore, as set forth in Article 4, Section 6, Public Local Laws of Maryland, **shall not be enlarged or extended by any charter formed under the provisions of this Article**, but such powers may be extended, modified, amended or repealed by the General Assembly.” Md. Const., art. XI-A, § 2 (emphasis added).

The General Assembly of Maryland has given the City the home rule power “[t]o have and exercise, within the limits of Baltimore City, in addition to any and all taxing powers heretofore granted by the General Assembly of Maryland to the Mayor and City Council of Baltimore, the power to tax to the same extent as the State of Maryland has or could exercise said power within the limits of Baltimore City as a part of its general taxing power; and **to provide by ordinance for the imposition, assessment, levy and collection of any tax or taxes authorized by this subsection.**” BALTIMORE CITY CHARTER, art. II, §(40)(a) (emphasis added).

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<sup>2</sup> The General Assembly remains free to enact a public general law on those topics. *See, e.g., Kent Island Defense League, LLC v. Queen Anne’s County Bd. of Elections*, 145 Md. App. 684, 692 (2002).

The City's home rule powers require it to enact local legislation that sets the annual tax rate. BALTIMORE CITY CHARTER, art. III, §§ 1(a), 11 (City's legislative process); art. VI, §§ 5, 7 (City's tax rate set legislatively each year). In addition to this home rule power, the City's requirement to set its tax rate legislatively is enshrined in the Tax-Property Article of the Maryland Code. *See* Tax-Prop. § 6-302(a) ("the Mayor and City Council of Baltimore City . . . annually shall set the tax rate for the next taxable year on all assessments of property subject to that county's property tax.").

**B. Tax limitations are legislation and not proper charter material.**

The Petition lowers Baltimore City property taxes. It does not operate as a tax cap, as Plaintiffs claim. This is not a debatable point. The Supreme Court has held that when the tax limitations in a proposed charter amendment are lower than the local government's current tax rate, the amendment operates as legislation and is no longer proper charter material. *See Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676, 685 (1995). This is because the legislature is left with no decision other than to set the rate at the amount of the limit:

Under[*Bd. of Sup'rs of Elections of Anne Arundel Cnty. v. Smallwood*, 327 Md. 220, 240 (1990),], a 'tax cap' is valid only so long as it confers some authority upon a county council to carry out its mandated duty under § 6-302(a) of the Tax-Property Article to 'annually ... set the tax rate for the next taxable year on all assessments of property subject to that county's property tax.' . . . Beyond any doubt, the Court of Appeals viewed the tax caps which it considered as being limitations upon the authority of Anne Arundel and Baltimore Counties to a prescribed range. By definition, the ability to establish the property tax rate within a prescribed range is an ability to set the property tax rate, albeit a limited ability. **By definition, the absence of any choice is the ability to do nothing.**

*Id.* at 685 (emphasis added).

The Petition at issue in this case is not proper Charter material because it leaves nothing to legislate as the City is without any choice as to the tax rate. Although the Renew Baltimore Petition sets a limit of \$2.20 cents starting in July 2025, that amount is already

lower than the City’s current rate of \$2.248. *See* <https://bbmr.baltimorecity.gov/city-tax-rates>; *and see* Md. Rule 5-201(d) (judicial notice must be taken of undisputable facts known in the jurisdiction); *Smith v. Hearst Corp.*, 48 Md. App. 135, 141 (1981) (citation omitted).

*Hertelendy* is controlling precedent. The Petition is not proper charter material because it leaves the City with “the absence of any choice” as to the tax rate, and therefore “the ability to do nothing” that they were elected to do: namely set the tax rate legislatively as required by Section 6-302(a) of the Tax-Property Article of the Maryland Code and in accordance with the City’s home rule power in Section (40)(a) of Article II of the Baltimore City Charter.

The effect of removing the City’s power to adopt legislation that sets the tax rate would leave the City without millions of dollars of revenue needed to meet expenses for basic City services, statutory duties and existing contracts. BALTIMORE CITY CHARTER, art. III, §§ 1(a), 11; art. VI, §§ 5; 7. When it is “demonstrated in a particular case that a local limitation on property tax revenues so hampers a county government that it cannot perform the duties required under state law, a tax limitation charter provision may well be found to be invalid as applied.” *Smallwood*, 327 Md. at 243-44 (citing McQuillin, *The Law of Municipal Corporations*, at § 44.26).

**C. Baltimore City does not have home rule power to set lower taxes by petition.**

Generally, real property tax rates are improper charter material in *any* county when they deprive the local legislature of the ability to set the actual tax rate as held by *Hertelendy* and *Smallwood*. *See, supra*, Part B. In Baltimore City, they are improper for an additional reason—the General Assembly expressly excluded from the citizens the specific power to petition for a Charter change about the “classification and taxation of real and personal

property within the limits of the said City.” BALTIMORE CITY CHARTER, art. II, § (49); *Smallwood*, 327 Md. at 240.

Section (49) of Article II of the City Charter makes clear that:

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

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

This language was enacted in 1920 by the Maryland General Assembly to allow the citizens of Baltimore to amend their charter by ballot petition, but within certain defined limits. 1920 Md. Laws, ch. 555; *Cheeks v. Cedlair*, 287 Md. 595, 600 (1980). One of those limits was forbidding a citizen initiative on the taxation of real or personal property. *Id.* at 600–01 (citing the history of the City’s receipt of home rule powers, and the General Assembly’s enactment of chapter 555 of 1920 and chapter 548 of 1945 that amended and defined those powers).

While the City’s restriction on citizen petitions concerning taxation may seem to put the City in a different position than other local governments in Maryland, it follows more than a century of increasing control by the General Assembly over Baltimore City’s ability to exercise taxing power. The City’s first Charter (enacted by the General Assembly in 1796 because there was no home rule power in Maryland) provided that the City “shall have full power and authority to enact and pass all laws and ordinances necessary to preserve the health

of the city” but then went on to expressly provide that the City did not have plenary taxing power: “no tax, direct or indirect, shall be laid on that part of Baltimore called Deptford Hundred” and the City could “lay and collect taxes not to exceed two dollars in the hundred pounds in any one year, except as before is excepted.” 1796 Baltimore City Charter, Art. IX, enacted by 1796 Laws of Md., ch. LXVIII.

In 1840, the General Assembly gave the City certain power to enact laws about local property taxes, but then clarified that the City could not tax certain intangible property whose owners resided outside of the City limits, nor could the City tax property the General Assembly exempted from taxation. 1840 Laws of Md., ch. 63; 1865 Md. Law, ch. 119. “All the power of the corporation emanates from the State; and when a tax is imposed by the Mayor and City Council, or a police power is exerted, it is the action of the State operating through the instrumentality of its municipal agent.” *Mayor & City Council of Baltimore ex rel. Bd. of Police of City of Baltimore*, 15 Md. 376, 382–83 (1860).

It was against this backdrop of a century of General Assembly control over the extent and limitations of City taxing power that City residents adopted the first City Charter in 1918 under the home rule powers in Section 2 of Article XI-A of the current (1867) version of the Maryland Constitution. The General Assembly’s 1920 act was part of that long regulatory history by clarifying that while voters in the City could amend their charter by ballot petition as provided in Section 6 of Article XI-A of the Maryland Constitution, that petition could *not* include the subject of taxation of real property. *See Cheeks*, 287 Md. at 600-01 (“[N]othing contained in this Act shall give to the Mayor and City Council of Baltimore or to the inhabitants thereof the right to initiate any legislation, laws, or ordinances relating to the classification and taxation of real and personal property within the limits of the said City . . .

.”) (quoting 1920 Md. Laws, ch. 555). The General Assembly made clear in 1920 that while the home rule charter adopted by the citizens of Baltimore City could be altered by those citizens, the citizens of Baltimore were not permitted to initiate a petition to change the Charter’s provisions on classification and taxation of real property. *Id.*

The Petition cannot go on the ballot in November because the General Assembly has never given voters in Baltimore City the power to change the taxing provisions of their charter by petition. BALTIMORE CITY CHARTER, art. II, § (49).

### **Conclusion**

For the foregoing reasons, Defendant Mayor and City Council respectfully requests that this Court grant its Motion to Dismiss with prejudice without leave to amend.

Respectfully Submitted,

EBONY M. THOMPSON, Baltimore City Solicitor



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Hilary B. Ruley (AIS No. 0212170037)  
Tom P. Webb (AIS No. 1306190321)  
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*Counsel for Intervenor/Defendant  
Mayor and City Council of Baltimore*

**REQUEST FOR HEARING**

Defendant Mayor and City Council of Baltimore respectfully requests a hearing on its Motion to Dismiss with Prejudice.

Respectfully Submitted,



\_\_\_\_\_  
Derek M. Van De Walle (AIS No. 1712140237)

# EXHIBIT 2

E-FILED; Baltimore City Circuit Court  
Docket: 7/18/2024 11:27 AM; Submission: 7/18/2024 11:27 AM  
Envelope: 17263001

BENEDICT J. FREDERICK, III, et al., \* IN THE  
Plaintiffs, \* CIRCUIT COURT  
v. \* FOR  
BALTIMORE CITY BOARD \* BALTIMORE CITY  
OF ELECTIONS, et al., \*  
Defendants. \* Case No. C-24-CV-24-001361  
\*

\* \* \* \* \*

## **ORDER GRANTING MAYOR AND CITY COUNCIL OF BALTIMORE'S MOTION TO DISMISS**

Upon consideration of the Mayor and City Council of Baltimore's Motion to Dismiss, any opposition thereto, and for good cause shown, it is hereby:

**ORDERED** that the Mayor and City Council of Baltimore's Motion to Dismiss is **GRANTED**; and further

**ORDERED** that the Complaint is dismissed **WITH PREJUDICE** and **WITHOUT LEAVE TO AMEND**.

Date: \_\_\_\_\_, 2024

\_\_\_\_\_  
Judge, Circuit Court for Baltimore City



BENEDICT J. FREDERICK, III, et al., \* IN THE  
Plaintiffs, \* CIRCUIT COURT  
v. \* FOR  
BALTIMORE CITY BOARD \* BALTIMORE CITY  
OF ELECTIONS, et al., \* Case No. C-24-CV-24-001361  
Defendants. \*

\* \* \* \* \*

**ORDER GRANTING  
MAYOR AND CITY COUNCIL OF BALTIMORE'S  
PARTIAL CONSENT MOTION TO INTERVENE**

Upon consideration of the Mayor and City Council of Baltimore's Partial Consent Motion to Intervene, and for good cause shown, it is hereby:

**ORDERED** that the Mayor and City Council of Baltimore's Partial Consent Motion to Intervene is **GRANTED**; and further

**ORDERED** that the Mayor and City Council of Baltimore be named as a Defendant in this action; and further

**ORDERED** that the Mayor and City Council of Baltimore have thirty (30) days from the date of this Order to file a response to the Complaint.

Date: \_\_\_\_\_, 2024

\_\_\_\_\_  
Judge, Circuit Court for Baltimore City

**BENEDICT J. FREDERICK, III, *ET AL***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS**

*Defendant.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361

\*

\* \* \* \* \*

**CONSENT TO MAYOR AND CITY COUNCIL OF BLATIMORE’S PARTIAL  
CONSENT MOTION TO INTERVENE**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) through undersigned counsel consent to the Mayor and City Council of Baltimore intervening as a party in this action.

Through the issuance of this Consent, Plaintiffs are not waving any right to later object to the standing and qualifications of the Mayor and City Council of Baltimore to file a Petition to Intervene, and to hereby preserve all other defenses regarding the allegations and arguments contained in the Mayor and City Council of Baltimore’s Partial Consent Motion to Intervene (“Motion to Intervene”).<sup>1</sup>

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<sup>1</sup> Counsel for the Mayor and City Council did not seek Plaintiffs consent prior to filing the Motion to Intervene.

/s/ Constantine J. Themelis

Steven A. Thomas (AIS #7212010254)

sthomas@tandllaw.com

Constantine J. Themelis (AIS #0212190235)

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Clinton R. Black, V (AIS #1112130092)

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THOMAS & LIBOWITZ, P.A.

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Baltimore, Maryland 21201

Phone: (410) 752-2468

Fax: (410) 752-0979

*Attorneys for Plaintiffs Benedict J. Frederick, III, Matthew Wyskiel and Stacie Teal-Locust*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 22nd day of July 2024, a copy of the foregoing Consent to Mayor and City Counsel's Partial Consent Motion to Intervene was served was served electronically by the MDEC system on all counsel of record.

/s/ Constantine J. Themelis

Constantine J. Themelis

**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

**JOINT EMERGENCY MOTION FOR EXPEDITED BRIEFING SCHEDULE AND  
HEARING FOR JUDICIAL REVIEW PURSUANT TO MD. CODE ANN.,  
ELEC. LAW §§6-209(A)(2), 6-209(A)(3)(I), 6-210(E)(3)(I)(1)**

Plaintiffs, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie Teal-Locust (collectively together “Plaintiffs”) and Defendants, Baltimore City Board of Elections (“BCBOE”), Armstead B.C. Jones, Sr, in his official capacity as Election Director of BCBOE and Scherod C. Barnes, in his official capacity as President of the BCBOE (collectively together “Defendants”) and Mayor and City Council of Baltimore (“Intervening Defendant”) (“Plaintiffs,” “Defendants” and “Intervening Defendant” collectively together “All Parties”) through undersigned counsel are seeking emergency judicial review, pursuant to MD. CODE ANN., ELEC. LAW (EL) §§ 6-209(a)(2), 6-209(a)(3)(i), 6-210(3)(i)(1), and/or pursuant to Md. Rule 2-311, hereby move for and expedited briefing schedule and hearing date as set forth below.

1. This case involves the validity of a charter amendment to cap the Baltimore City real property tax rate proposed, pursuant to the Maryland Constitution, Art. XI-A, §5, by petition of the voters of Baltimore City.

2. Plaintiffs are seeking a writ of mandamus, a declaratory judgment and emergency judicial review pursuant to EL §6-209(b) of the BCBOE’s decision that the petition is deficient.

3. On July 12, 2024, the Complaint was filed.<sup>1</sup>

4. On July 15, 2024, BCBOE was served with the Complaint.

5. On July 18, 2024, the Mayor and City Council filed a Motion to Intervene.

6. Plaintiffs consent to the Mayor and City Council intervening as a party in this case.

Plaintiffs are filing a motion simultaneously with the instant motion.

7. On July 19, 2024, counsel for All Parties conferred and are all in agreement to an expedited briefing schedule and hearing date.

8. This case shall be heard and decided without a jury and as expeditiously as the circumstances require. *See* EL §6-210(e)(3)(i) (emphasis added).

9. The general election is set for November 5, 2024 and, to fully protect the rights and interests of All Parties involved, All Parties request that this matter be heard on an emergency basis by this Court so that a decision can be made to allow sufficient time for the democratic processes established by the City Charter, election law, and the Maryland Constitution to run their course.

10. All Parties anticipate that, regardless of this Court’s decision, the non-prevailing party, at a minimum, would appeal a decision directly to the Supreme Court of Maryland pursuant to EL §6-210.

11. As such, there is good cause for this Court to hear this matter on an expedited basis pursuant to EL §6-210 and the circumstances of this matter.

---

<sup>1</sup> An Amended Complaint (“AC”) was filed on July 18, 2024. The AC did not make any substantive changes. It merely added two individuals from the BCBOE as named defendants in their professional capacity and added two additional counts. A courtesy copy was emailed to counsel for BCBOE the same day.

12. On July 19, 2024, counsel for all Parties conferred and agreed upon the following schedule:

- a. 7/26/24: Deadline for All Parties to file dispositive motions.
- b. 8/2/24: Deadline for All Parties to file oppositions to dispositive motions.
- c. All Parties agree that no replies to oppositions to dispositive motions will be filed.
- d. 8/8/24: Hearing on all motions.

WHEREFORE, All Parties request that this Court enter an order expediting the hearing schedule and hearing date as requested above and granting such other and further relief as the Court deems just, equitable, and proper.

Respectfully submitted,

/s/ Steven A. Thomas  
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stthomas@tandllaw.com  
Constantine J. Themelis (AIS No. 0212190235)  
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*Attorneys for Plaintiffs*  
*Benedict J. Frederick, III,*  
*Matthew Wyskiel and Stacie Teal-Locust*

/s/ Thomas S. Chapman  
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*Counsel, Baltimore City Board of Elections*

/s/ Hilary B. Ruley

Hilary B. Ruley (AIS No. 0212170037)

Tom P. Webb (AIS No. 1306190321)

Derek M. Van De Walle (AIS No. 1712140237)

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Derek.Vandewalle@baltimorecity.gov

*Counsel for Intervenor Mayor and City Council of Baltimore*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 22nd day of July 2024, a copy of the foregoing Joint Emergency Motion for Expedited Briefing Schedule and Hearing for Judicial Review Pursuant to Md. Code. Ann., Elec. Law §§6-209(A)(2), 6-209(A)(3)(I), 6-210(E)(3)(I)(1) was served electronically by the MDEC system on all counsel of record.

/s/ Steven A. Thomas

Steven A. Thomas

**BENEDICT J. FREDERICK, III, *ET AL.***

***Plaintiffs***

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

***Defendants.***

\* **IN THE**  
\* **CIRCUIT COURT**  
\* **FOR**  
\* **BALTIMORE CITY**  
\* **Case No.: C-24-CV-24-001361**  
\*

\* \* \* \* \*

### **ORDER**

Upon consideration of the Joint Emergency Motion for Expedited Briefing Schedule and Hearing for Judicial Review Pursuant to Md. Code. Ann., Elec. Law §§6-209(A)(2), 6-209(A)(3)(I), 6-210(E)(3)(I)(1) (the “Motion”) seeking an expedited schedule, it is this \_\_\_\_ day of \_\_\_\_\_, 2024 hereby

**ORDERED**, that the Motion is **GRANTED**; and it is

**FURTHER ORDERED**, that the Schedule will be as follows:

Deadline for All Parties to file dispositive motions by 7/26/24.

Deadline for All Parties to file oppositions to dispositive motions by 8/2/24.

No replies to oppositions to dispositive motions will be filed.

Hearing on all motions shall occur on 8/8/24.

---

Judge, Circuit Court for Baltimore City





**CIRCUIT COURT FOR BALTIMORE CITY**  
**MARYLAND**  
CIVIL DIVISION  
111 N. Calvert Street  
Baltimore, Maryland 21202

**E-FILED: Baltimore City Circuit Court**  
**Docket 7/24/2024 10:32 AM, Submission: 7/24/2024 10:32 AM**  
Civil: 410-333-3722  
Criminal: 410-333-3750  
Family: 410-333-3709/3738  
Juvenile: 443-263-6300  
**Envelope: 17337486**

**To:** SCHEROD C. BARNES  
417 E. FAYETTE ST., ROOM #129  
BALTIMORE, MD 21202

**Case Number:** C-24-CV-24-001361  
**Other Reference Number(s):**  
**Child Support Enforcement Number:**

**BENEDICT FREDERICK, III .VS BALTIMORE CITY BOARD OF ELECTIONS**

Issue Date: 7/24/2024

**WRIT OF SUMMONS**

You are summoned to file a written response by pleading or motion, within 30 days after service of this summons upon you, in this court, to the attached complaint filed by:

BENEDICT J FREDERICK, III  
701 W University Parkway  
Baltimore, MD 21210; Thomas & Libowitz, PA  
25 S Charles Street, Suite 2015  
BALTIMORE, MD 21201

This summons is effective for service only if served within 60 days after the date it is issued.

A handwritten signature in black ink, appearing to read "Xavier A. Conaway", is written over a light blue rectangular background.

Xavier A. Conaway  
Clerk of the Circuit Court

To the person summoned:

Failure to file a response within the time allowed may result in a judgment by default or the granting of the relief sought against you.

Personal attendance in court on the day named is NOT required.

It is your responsibility to ensure that the court has your current and correct mailing address in order to receive subsequent filings and notice in this case.

Instructions for Service:

1. This summons is effective for service only if served within 60 days after the date issued. If it is not served within the 60 days, the plaintiff must send a written request to have it renewed.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Maryland Rule 2-126.
4. If this notice is served by private process, process server shall file a separate affidavit as required by Maryland Rule 2-126(a).

**SHERIFF'S RETURN**  
(please print)

To: SCHEROD C. BARNES

\_\_\_\_\_ ID# \_\_\_\_\_ of the \_\_\_\_\_  
Serving Sheriff's Name

County Sheriff's office present to the court that I:

(1) Served \_\_\_\_\_  
Name of person served

on \_\_\_\_\_ at \_\_\_\_\_  
Date of service Location of service

\_\_\_\_\_ by \_\_\_\_\_ with the following:  
Manner of service

- |  |   |
|--|---|
| <input type="checkbox"/> Summons                       | <input type="checkbox"/> Counter-Complaint                |
| <input type="checkbox"/> Complaint                     | <input type="checkbox"/> Domestic Case Information Report |
| <input type="checkbox"/> Motions                       | <input type="checkbox"/> Financial Statement              |
| <input type="checkbox"/> Petition and Show Cause Order | <input type="checkbox"/> Interrogatories                  |
| <input type="checkbox"/> Other _____                   |   |
| Please specify   |   |

(2) Was unable to serve because:

- |   |  |
|---|--|
| <input type="checkbox"/> Moved left no forwarding address | <input type="checkbox"/> No such address |
| <input type="checkbox"/> Address not in jurisdiction      | <input type="checkbox"/> Other _____     |

Please specify

Sheriff fee: \$ \_\_\_\_\_ ☐ waived by \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of serving Sheriff

Instructions to Sheriff's Office or Private Process Server:

1. This Summons is effective for service only if served within 60 days after the date issued. If it is not served within 60 days, the plaintiff must send a written request to have it renewed.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this summons is served by private process, process server shall file a separate affidavit as required by Rule 2-126(a).



**CIRCUIT COURT FOR BALTIMORE CITY**  
**MARYLAND**  
CIVIL DIVISION  
111 N. Calvert Street  
Baltimore, Maryland 21202

**E-FILED: Baltimore City Circuit Court**  
**Submission: 7/24/2024 10:32 AM**  
**Envelope: 17337486**  
Civil: 410-333-3722  
Criminal: 410-333-3750  
Family: 410-333-3709/3738  
Juvenile: 443-263-6300

**To:** B.C. ARMSTEAD JONES, SR  
417 E. FAYETTE ST., ROOM #129  
BALTIMORE, MD 21202

**Case Number:** C-24-CV-24-001361  
**Other Reference Number(s):**  
**Child Support Enforcement Number:**

**BENEDICT FREDERICK, III .VS BALTIMORE CITY BOARD OF ELECTIONS**

Issue Date: 7/24/2024

**WRIT OF SUMMONS**

You are summoned to file a written response by pleading or motion, within 30 days after service of this summons upon you, in this court, to the attached complaint filed by:

BENEDICT J FREDERICK, III  
701 W University Parkway  
Baltimore, MD 21210; Thomas & Libowitz, PA  
25 S Charles Street, Suite 2015  
BALTIMORE, MD 21201

This summons is effective for service only if served within 60 days after the date it is issued.

A handwritten signature in black ink, appearing to read "Xavier A. Conaway".

Xavier A. Conaway  
Clerk of the Circuit Court

To the person summoned:

Failure to file a response within the time allowed may result in a judgment by default or the granting of the relief sought against you.

Personal attendance in court on the day named is NOT required.

It is your responsibility to ensure that the court has your current and correct mailing address in order to receive subsequent filings and notice in this case.

Instructions for Service:

1. This summons is effective for service only if served within 60 days after the date issued. If it is not served within the 60 days, the plaintiff must send a written request to have it renewed.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Maryland Rule 2-126.
4. If this notice is served by private process, process server shall file a separate affidavit as required by Maryland Rule 2-126(a).

**SHERIFF'S RETURN**  
(please print)

To: B.C. ARMSTEAD JONES, SR

\_\_\_\_\_ ID# \_\_\_\_\_ of the \_\_\_\_\_  
Serving Sheriff's Name

County Sheriff's office present to the court that I:

(1) Served \_\_\_\_\_  
Name of person served

on \_\_\_\_\_ at \_\_\_\_\_  
Date of service Location of service

\_\_\_\_\_ by \_\_\_\_\_ with the following:  
Manner of service

- |  |   |
|--|---|
| <input type="checkbox"/> Summons                       | <input type="checkbox"/> Counter-Complaint                |
| <input type="checkbox"/> Complaint                     | <input type="checkbox"/> Domestic Case Information Report |
| <input type="checkbox"/> Motions                       | <input type="checkbox"/> Financial Statement              |
| <input type="checkbox"/> Petition and Show Cause Order | <input type="checkbox"/> Interrogatories                  |
| <input type="checkbox"/> Other _____                   |   |
| Please specify   |   |

(2) Was unable to serve because:

- |   |  |
|---|--|
| <input type="checkbox"/> Moved left no forwarding address | <input type="checkbox"/> No such address |
| <input type="checkbox"/> Address not in jurisdiction      | <input type="checkbox"/> Other _____     |

Please specify

Sheriff fee: \$ \_\_\_\_\_ ☐ waived by \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of serving Sheriff

Instructions to Sheriff's Office or Private Process Server:

1. This Summons is effective for service only if served within 60 days after the date issued. If it is not served within 60 days, the plaintiff must send a written request to have it renewed.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this summons is served by private process, process server shall file a separate affidavit as required by Rule 2-126(a).

**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

**EMERGENCY PETITION FOR JUDICIAL REVIEW PURSUANT TO MD. CODE ANN.,  
ELEC. LAW (EL) §§6-209(A)(2), 6-209(A)(3)(I), 6-210(E)(3)(I)(1) AND/OR  
MOTION FOR SUMMARY JUDGMENT**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) through undersigned counsel are seeking emergency judicial review, pursuant to MD. CODE ANN., ELEC. LAW (EL) §§ 6-209(a)(2), 6-209(a)(3)(i), 6-210(3)(i)(1), and/or pursuant to Md. Rule 2-501(a), hereby move for said review and summary judgment. The grounds and authorities in support of this Motion are set forth in the accompanying Memorandum of Law.

/s/ Steven A. Thomas

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Steven A. Thomas (AIS # 7212010254)

sthomas@tandllaw.com

Constantine J. Themelis (AIS #0212190235)

gthemelis@tandllaw.com

Clinton R. Black, V (AIS#1112130092)

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25 S. Charles Street

Suite 2015

Baltimore, Maryland 21201

Phone: (410) 752-2468

Fax: (410) 752-0979

*Attorneys for Plaintiffs Benedict J. Frederick, III, Matthew  
Wyskiel and Stacie Teal-Locust*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 26<sup>th</sup> day of July 2024, a copy of the Emergency Motion for Judicial Review and/or Motion for Summary Judgment was served via electronic mail upon:

Thomas S. Chapman, Esq.  
Office of the Attorney General  
200 Saint Paul Place  
Baltimore, MD 21202  
[tchapman@oag.state.md.us](mailto:tchapman@oag.state.md.us)  
*Counsel for Baltimore City Board of Elections*

and

Hilary B. Ruley, Esq.  
Tom P. Webb, Esq.  
Derek M. Van De Walle, Esq.  
Baltimore City Law Department  
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[Derek.Vandewalle@baltimorecity.gov](mailto:Derek.Vandewalle@baltimorecity.gov)  
*Counsel for Intervenor Mayor and City Council of Baltimore*

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*Attorneys for Plaintiffs Benedict J. Frederick, III,  
Matthew Wyskiel and Stacie Teal*

**BENEDICT J. FREDERICK, III, *ET AL***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, ET AL.**

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361

\* \* \* \* \*

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION  
FOR JUDICIAL REVIEW AND/OR MOTION FOR SUMMARY JUDGMENT**

Plaintiffs, Benedict J. Frederick, III ("Mr. Frederick"), Matthew W Wyskiel, III ("Mr. Wyskiel"), and Stacie Teal-Locust ("Ms. Teal-Locust") (collectively together "Plaintiffs") through undersigned counsel are seeking judicial review pursuant to MD. CODE ANN., ELEC. LAW (EL) §6-209(b) and/or pursuant to Md. Rule 2-501(a), hereby move for summary judgment and declaratory judgment (and if granted, a writ of mandamus) and, in support thereof, states as follows:

**INTRODUCTION**

This case shall be heard and decided without a jury and as expeditiously as the circumstances require. *See* EL §6-210(e)(3)(i) (emphasis added).<sup>1</sup>

This is an action ripe for judicial review, writ of mandamus, and declaratory judgment pursuant to §3-406 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, the Maryland Uniform Declaratory Judgments Act, for the purposes of determining a question of actual controversy between the parties, as hereinafter more fully appears. *See* Plaintiffs' Verified Amended Compl. ("VAC") at ¶1. This case involves the validity of a charter amendment

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<sup>1</sup> On July 22, 2024, all counsel involved in this matter filed a joint motion for an expedited briefing schedule and hearing date, which is currently pending.



to cap the Baltimore City real property tax rate proposed pursuant to the Maryland Constitution, Art. XI-A, §5, by petition of the voters of Baltimore City. *Id.* at ¶ 2. Despite satisfying all legal requirements, the Election Director for the Baltimore City Board of Elections (“BCBOE”) determined that a petition of the voters of Baltimore City put forth by Renew Baltimore, a ballot issue committee to amend the Baltimore City Charter by placing caps on the real property tax rate (the “Petition”) was unconstitutional or otherwise prohibited by law.<sup>2</sup> *Id.* at ¶ 3.

The Petition complies with Maryland law, should be certified, and submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024. The Petition simply sets a **cap** on the real property tax rate. It does not set the real property tax **rate** or limit the amount of **revenue** the City of Baltimore can collect from real property taxes.

The Petition does not violate §6-302(a) of the Tax-Property Article, which mandates that the governing body of each county is to set the property tax rate for the next tax year. The Petition seeks to implement tax cap provisions that will simply place a limit on the taxing power of the Mayor and City Council of Baltimore City (the “MCC”) without eliminating the Mayor and City Council’s ability to set the tax rate. The Petition is not a “roll back” provision that will divest the MCC of its authority to set real property tax rates pursuant to §6-302(a) of the Tax-Property Article.

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<sup>2</sup> To date, BCBOE has not verified the number of valid signatures on the Petition. “The verification and counting of validated signatures on a petition shall be completed within 20 days after filing of the petition.” EL §6-210(c)(1). “Upon the filing of a petition, and unless it has been declared deficient under §6-206 of this subtitle, the staff of the election authority shall proceed to verify the signatures and count the validated signatures contained in the petition.” EL §6-207(a)(1). On July 9, 2024, BCBOE advised undersigned counsel that BCBOE staff continue to review the signatures. *See* Ex. 8 to the Verified Compl. On July 17, 2024, undersigned counsel spoke with counsel for BCBOE who advised 2,478 signatures were accepted and 1,465 signatures were rejected and based on this ratio he expects there will be sufficient signatures accepted as required by Article XI-A of the Maryland Constitution §5. Counsel for BCBOE also advised that approximately 1,000 signatures are reviewed each day.

Pursuant to EL §6-209, Plaintiffs seek an expedited judicial review of the BCBOE’s clearly erroneous decision, a declaration that the Petition is not deficient, complies with all legal requirements, is not constitutionally prohibited, along with an Order requiring the Election Director of BCBOE to certify the Petition, ensuring that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024.

### **FACTUAL BACKGROUND**

There is no dispute that the Petition is proper charter material. “The tax cap portion of the proposed tax limitation amendments constituted proper charter material.” *Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 236 (1990). “The basic function of a constitution or a charter is to distribute power among the various agencies of government, and between the government and the people who have delegated that power to their government.” *Id.* at 237. “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.” *Id.* “Limitations imposed by the people on their government are fundamental elements of a constitution.” *Id.* “Thus, a limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material.” *Id.* at 238. “A common express restriction upon the municipal power to tax is one limiting the amount or the rate that may be imposed in any one year. The validity of such a provision generally is sustained.” *Id.* at 240 (*quoting* E. McQuillin, *The Law of Municipal Corporations*, §44.26 (3rd ed. 1984)).

The facts are not in dispute. Renew Baltimore, the Petition “sponsor,” filed a petition to submit to a vote of the registered voters of Baltimore City at the next general election an amendment to the Baltimore City Charter that would implement caps on Baltimore City’s real

property tax rate. *See* VAC at ¶16. The Petition complied with Article XI-A of the Maryland Constitution §5, which provides in relevant part:

**SEC. 5.** Amendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition.\*\*\*.<sup>3</sup>

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

**§6A. Limits on taxation.**

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

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

*Id.* at ¶18 and Ex. 1 thereto.

The Petition seeks to amend the Baltimore City Charter by adding §6A to Article I (General Provisions) to be placed immediately after §6 (Uniform Taxation). *Id.* at ¶ 19. The Petition does

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<sup>3</sup> *See* fn. 1, *supra*.

not seek to change any other section of the Baltimore City Charter. *Id.* at ¶ 20. On June 6, 2023, Renew Baltimore sought an “advance determination” of the sufficiency of the Petition form pursuant to EL §6-202. *See Id.* at ¶ 21 and Ex. 2 thereto.

There is no dispute that the Petition was filed in a timely manner. On June 20, 2023, BCBOE Election Director approved the sufficiency of the form of the Petition and did not declare the Petition unconstitutional or unlawful at that time. *See Id.* at ¶ 24 and Ex. 3 thereto. The deadline to submit a charter amendment petition for the upcoming general election is July 29, 2024. *See Id.* at ¶ 23 and Ex. 4 thereto. On June 20, 2024, Renew Baltimore timely filed the Petition and submitted 23,542 Petition signatures (more than double the number of signatures required by Article XI-A of the Maryland Constitution §5) to BCBOE. *See Id.* at ¶ 24 and Ex. 5 thereto. On July 3, 2024, undersigned counsel wrote to BCBOE to inquire if there were any determination(s) regarding the Petition. *See Id.* at ¶ 25 and Ex. 6 thereto. On July 3, 2024, Thomas S. Chapman, Esq. advised BCBOE had not yet made any further determinations. *See Id.* at ¶ 26 and Ex. 7 thereto.

On July 9, 2024, BCBOE sent a letter to undersigned counsel declaring the Petition deficient as “it seeks ‘the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law. *See* EL §6-206(c)(5).” *See Id.* at ¶ 27 and Ex. 8 thereto. Specifically, BCBOE erroneously concluded that the Petition conflicted with State law as it divested the MCC of its authority to set a specific real property tax rate in Baltimore City pursuant to §6-302(a) of the Tax-Property Article, Maryland Code. *See* Ex. 8 to the VAC.

### **STANDARD OF REVIEW**

The scope of judicial review of an administrative decision “is narrow; it is limited to determining if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determin[ing] if the administrative decision is premised on an error of

law.” *Aviation Admin. v. Noland*, 386 Md. 556, 571 (2005). If a reviewing court could reasonably have reached the agency’s conclusion, it should not overturn that decision unless reversal is predicated solely on an error of law. *See State Election Bd. v. Billhimer*, 314 Md. 46, 59 (1998).

A motion for a summary judgment should be granted if: (1) there is no material dispute of fact; and (2) the movant is entitled to judgment as a matter of law. *See* Md. Rule 2-501(a). If the trier of fact can arrive at more than one conclusion based on genuine issue of material fact, or any deduced inferences, summary judgment is not appropriate. *See Sadler v. Dimensions Health Corp.*, 378 Md. 509, 533 (2003). In the instant case, there are no disputed facts, so the Court’s determination must be based on whether Plaintiffs are entitled to judgment as a matter of law. *See* Md. Rule 2-501(a).

This Court may grant relief as it considers appropriate to ensure the integrity of the electoral process. *See* EL §6-209(a)(2).

### **ARGUMENT**

Plaintiffs are seeking judicial review pursuant to EL §6-209(b) of the BCBOE’s clearly erroneous decision that the Petition is deficient.

Plaintiffs hereby move for summary judgment and declaration pursuant to Md. Cts. & Jud. Code Ann. §3-406<sup>4</sup>, that the Petition is not deficient and satisfied all legal requirements and a writ of mandamus pursuant to Md. Rule 15-701 requiring the Election Director of BCBOE to certify

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<sup>4</sup> Any person interested ...whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation...may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation...and obtain a declaration of rights, status, or other legal relations under it. *See* Md. Cts. & Jud. Code Ann. §3-406.

the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024.

**I. THE BCBOE’S DECISION THAT THE PETITION IS UNCONSTITUTIONAL OR THE ENACTMENT OF THE PETITION WOULD HAVE A RESULT THAT IS OTHERWISE PROHIBITED BY LAW IS CLEARLY ERRONEOUS.**

**A. The Petition Complies with §6-302 of the Tax Property Article and is Not a “Roll Back” Provision.**

The BCBOE conceded that *Smallwood* held “that a charter amendment may set a cap on the future growth of property taxes.” *See* VAC at ¶27 and Ex. 8 thereto. The Petition is clear and unambiguous:

**§6A. Limits on taxation.**

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

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

*See Id.* at ¶18 and Ex. 1 attached thereto.

Despite the clear and unambiguous language in the Petition and the holding in *Smallwood* that a charter amendment may set a cap on the future growth of property taxes, the BCBOE concluded the Petition is deficient because it attempts to set the real property tax rate in Baltimore City. In support of its decision, the BCBOE improperly classified the Petition as a “roll back” and relied on the below quote from *Smallwood*:

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

*See Smallwood* 327 Md. at 244.

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

The BCBOE attempts to bolster its clearly erroneous decision by stating *Smallwood* was reaffirmed five years later in *Hertelendy, et al. v. Board of Education of Talbot County, et al.* 344 Md. 676 (1995). *See* VAC at ¶24 and Ex. 8 attached thereto. Again, the BCBOE cites a block quote to support its clearly erroneous decision:

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

See *Hertelendy* 344 Md. at 683 (internal citation omitted).

Once again, the BCBOE ignores the fact that the charter petition in *Hertelendy* limited the amount of property **tax revenues** that could be collected. “[T]he Council may not establish property tax rates which would provide more **property tax revenues** than were raised during the 1978-79 tax year, unless such additional revenues are the result of assessments on newly constructed property or other property not previously assessed.” *Id.* at 678.

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

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

See VAC at ¶27 and Ex. 8 attached thereto (emphasis added).

Simply put, the Petition does not attempt to limit the amount of revenue Baltimore City can collect and is therefore not a “roll back.” The Petition clearly and unambiguously seeks to set a real property tax rate **cap** in Baltimore City. It does not seek to set the real property tax **rate** in Baltimore City or limit the amount of **revenue** Baltimore City can collect from real property taxes or any other lawful tax and is clearly distinguishable from the “roll back” provisions in *Smallwood* and *Hertelendy*.

The Petition at issue here does not suffer from the same weakness as was presented by the proposed amendments in *Smallwood* and *Hertelendy*. The Petition is not a back-door attempt by



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

### **CONCLUSION**

BCBOE's determination that the Petition is deficient is clearly erroneous. As such, Plaintiffs respectfully request that summary judgment be entered in their favor and that this Court enter an Order as follows:

- A. Declaring the Petition has satisfied all legal requirements;
- B. Ordering the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024;
- C. Precluding the Election Director of BCBOE from making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;
- D. Awarding Plaintiffs the costs of these proceedings; and
- E. Granting such other and further relief as may be just, necessary, and proper under the circumstances and/or under EL §6-209(a)(2).

*/s/ Steven A. Thomas*

---

Steven A. Thomas (AIS # 7212010254)

sthomas@tandllaw.com

Constantine J. Themelis (AIS #0212190235)

gthemelis@tandllaw.com

Clinton R. Black, V (AIS#1112130092)

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Suite 2015

Baltimore, Maryland 21201

Phone: (410) 752-2468

Fax: (410) 752-0979

*Attorneys for Plaintiffs Benedict J. Frederick, III, Matthew  
Wyskiel and Stacie Teal-Locust*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 26<sup>th</sup> day of July 2024, a copy of the Emergency Motion for Judicial Review and/or Motion for Summary Judgment was served via electronic mail upon:

Thomas S. Chapman, Esq.  
Office of the Attorney General  
200 Saint Paul Place  
Baltimore, MD 21202  
tchapman@oag.state.md.us  
*Counsel for Baltimore City Board of Elections*

and

Hilary B. Ruley, Esq.  
Tom P. Webb, Esq.  
Derek M. Van De Walle, Esq.  
Baltimore City Law Department  
100 N. Holliday Street, Room 101  
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Hilary.Ruley@baltimorecity.gov  
Tom.Webb@baltimorecity.gov  
Derek.Vandewalle@baltimorecity.gov  
*Counsel for Intervenor Mayor and City Council of Baltimore*

/s/ Steven A. Thomas  
Steven A. Thomas

**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

**ORDER**

Upon consideration of Plaintiffs Motion for emergency judicial review, pursuant to MD. CODE ANN., ELEC. LAW (EL) §§ 6-209(a)(2), 6-209(a)(3)(i), 6-210(3)(i)(1), and/or for summary judgment pursuant to Md. Rule 2-501(a), (the “Motion”), all oppositions filed to the Motion and oral arguments it is this \_\_\_\_ day of \_\_\_\_\_, 2024 hereby

**ORDERED**, that the Motion is **GRANTED**; and it is

**FURTHER ORDERED**, as follows:

- A. The petition put forth by Renew Baltimore to amend the Baltimore City Charter by placing caps on the real property tax rate (the “Petition”) has satisfied all legal requirements;
- B. The Election Director of Baltimore City Board of Elections (“BCBOE”) shall certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024;

- C. The Election Director of BCBOE shall not making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;
- D. Plaintiffs are awarded all costs of these proceedings.

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Judge, Circuit Court for Baltimore City

**IN THE CIRCUIT COURT FOR BALTIMORE CITY**

BENEDICT J. FREDERICK, III,  
et al.,

Plaintiffs,

v.

BALTIMORE CITY BOARD OF  
ELECTIONS, et al.,

Defendants.

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Case No. C-24-CV-24-001361

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**THE CITY BOARD’S MOTION TO DISMISS**  
**OR ALTERNATIVELY FOR SUMMARY JUDGMENT**  
**Hearing Requested**

Defendants the Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes (collectively, the “City Board”), through undersigned counsel, and pursuant to Maryland Rules 2-311, 2-322, 2-501, and 7-204, move to dismiss the complaint filed by plaintiffs Benedict J. Frederick, III, Matthew W. Wyskiel, III, and Stacie Teal-Locust, for failure to state a claim upon which relief can be granted; or alternatively move for summary judgment on the ground that this case presents no disputed questions of fact and the City Board is entitled to judgment in its favor on all counts as a matter of law. The reasons in support of this Motion are stated in more detail in the attached Memorandum.

July 26, 2024

Respectfully submitted,

ANTHONY G. BROWN  
Attorney General of Maryland

/s/ Thomas S. Chapman  
THOMAS S. CHAPMAN  
(AIS No. 1701050004)  
tchapman@oag.state.md.us  
Assistant Attorney General  
Office of the Attorney General  
200 St. Paul Place  
Baltimore, Maryland 21202  
Tel: 410-576-6339  
Fax: 410-576-7036

*Attorneys for the City Board*

### **Request for Hearing**

The City Board respectfully requests a hearing on this motion.

/s/ Thomas S. Chapman  
Thomas S. Chapman

### **Certificate Regarding Restricted Information**

In accordance with Maryland Rule 20-201(h), I certify that this filing contains no restricted information.

/s/ Thomas S. Chapman  
Thomas S. Chapman

### **Certificate of Service**

I certify that on July 26, 2024, a copy of the foregoing Motion to Dismiss or Alternatively for Summary Judgment, together with two alternative Proposed Orders, was served on all counsel of record via the MDEC system.

/s/ Thomas S. Chapman  
Thomas S. Chapman



**IN THE CIRCUIT COURT FOR BALTIMORE CITY**

BENEDICT J. FREDERICK, III,  
et al.,  
  
Plaintiffs,  
  
v.  
  
BALTIMORE CITY BOARD OF  
ELECTIONS, et al.,  
  
Defendants.

Case No. C-24-CV-24-001361

\* \* \* \* \*

**THE CITY BOARD’S MEMORANDUM IN SUPPORT OF MOTION TO  
DISMISS OR ALTERNATIVELY FOR SUMMARY JUDGMENT**

Defendants the Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes (collectively, the “City Board”), through undersigned counsel, submit this memorandum in support of their motion to dismiss the complaint in this action for failure to state a claim, or, in the alternative, for summary judgment in favor of the City Board.

**INTRODUCTION**

Article XI-A, § 5 of the Constitution of Maryland allows amendments to a local government charter to be proposed by petition. However, before a petitioned charter amendment may be placed on the ballot, the local Election Director must determine whether the amendment would be unconstitutional or otherwise prohibited by law. Md. Code Ann., Elec. Law § 6-206(c)(5) (LexisNexis 2023). In this case, the Baltimore City

Election Director determined that a proposed charter amendment relating to property taxation would be unconstitutional or prohibited by law. Plaintiffs, three individuals who allege that they are registered voters and property taxpayers in the City, now challenge the Director's determination.

The proposed charter amendment at issue here (the "Property Tax Amendment") would set a steadily decreasing cap on Baltimore City's property tax rate. Section 6-302(a) of the Tax-Property Article requires that the power to set the local property tax rate remain with the local legislative body, and in particular prohibits charter provisions that would "roll back" the tax rate to a lower level. *Board of Supervisors of Elections v. Smallwood*, 327 Md. 220 (1990); *Hertelendy v. Board of Educ.*, 344 Md. 676 (1995). In light of Tax-Property § 6-302(a), the Election Director determined that he could not certify the proposed charter amendment because it was prohibited by law.

The City Board's primary interest in this case is to resolve with certainty, at the earliest possible date, the contents of the November ballot, so that ballots can be timely printed and distributed to voters and the City Board can conduct an orderly general election.<sup>1</sup> However, the City Board also has an interest in the integrity of the charter amendment petition process that it administers. To that end, it is in the Board's interest to ensure that legally permissible questions (and only legally permissible questions) appear on the ballot. The City Board thus maintains that Director Jones's determination on the

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<sup>1</sup> See State Board of Elections, *2024 Presidential Election Calendar*, at 7 (noting that September 3, 2024 is the deadline for certification of the content of the ballot), *available at* <https://www.elections.maryland.gov/elections/2024/2024%20Elections%20Calendar.pdf>; see also Md. Code Ann., Elec. Law § 9-207.

legality of the Property Tax Amendment was correct. Because the Election Director correctly determined that the Property Tax Amendment would conflict with a public general law of the State, the Court should dismiss Plaintiffs' complaint or, in the alternative, grant summary judgment for Defendants.

## **BACKGROUND AND FACTS**

### **A. *The Charter Amendment Petition Process***

Since 1918, Baltimore City has been governed by a home rule charter adopted under Article XI-A of the Constitution of Maryland. *See Cheeks v. Cedlair Corp.*, 287 Md. 595, 599 (1980). Amendments to that charter may be proposed either by the Mayor and City Council, or by a petition bearing at least 10,000 valid signatures of Baltimore City registered voters. Md. Const., Art. XI-A, § 5. When a group of voters seeks to initiate a charter amendment by petition, the Baltimore City Board of Elections receives and processes the petition, ascertains whether it meets all legal requirements, and, if it does, certifies the proposed charter amendment as a ballot question at the next general election. *See generally* Elec. Law §§ 6-101 to 6-211.

When a petition proposes a charter amendment, the local Election Director must review the petition and make certain determinations before certifying a ballot question based on the proposed charter amendment. One such determination is whether “the petition seeks . . . the enactment of a law that would be unconstitutional . . . or . . . a result that is otherwise prohibited by law.” Elec. Law § 6-206(c)(5). If the petition does seek an unconstitutional or unlawful result, the Election Director must “declare that the petition is deficient,” *id.* § 6-206(c), and may not certify the proposed charter amendment for the

ballot, *see id.* § 6-208. Expedited judicial review of that determination is then available in the Circuit Court, with direct appeal to the Supreme Court. *Id.* §§ 6-209, 6-210.

***B. Property Taxation in Baltimore City***

Section 6-202 of the Tax-Property Article, Maryland Annotated Code, authorizes “[t]he Mayor and City Council of Baltimore City or the governing body of a county” to impose a property tax on the assessable property within their jurisdiction. *See also* Baltimore City Charter, Art. II, § 39 (authorizing the City to levy and collect property taxes to fund the City government).

Under § 6-302 of the Tax-Property Article, the rate of property tax is to be set annually by the Mayor and City Council. The Charter sets out that process in more detail. At least 45 days before the beginning of a new fiscal year, the Board of Estimates, after holding public hearings, must submit a proposed Ordinance of Estimates (i.e., a City budget) for the upcoming fiscal year to the City Council. Baltimore City Charter, Art. VI, § 3. At the same time, the Board of Estimates submits to the Council a proposed property tax rate which, together with all other anticipated revenues, will be sufficient to balance the proposed budget. *Id.* Art. VI, § 6(b)(5).

The City Council then sets the tax rate for the upcoming year by ordinance. For Fiscal Year 2025, which began this past July 1, the City Council adopted, and the Mayor signed on June 24, 2024, an ordinance setting the property tax rate at \$2.248 per \$100 of assessed or assessable value for nonexempt real property. Ord. No. 24-345 (Council Bill 24-0522) (Balt. City 2024).

**C.     *The Property Tax Amendment***

The Property Tax Amendment would add a new Section 6A to Article I of the City Charter. App'x.<sup>2</sup> The Amendment would provide that “[n]otwithstanding any other provision of [the] Charter,” the City property tax rate shall be set in accordance with Section 6A. *See id.* “[F]or the fiscal year beginning July 1, 2025,” the rate shall be “no higher than \$2.200” per \$100 of assessed or assessable value. *Id.* The cap would then continue to decrease in each succeeding year, first by \$0.100 and then by \$0.180 per year, until, beginning with the 2031–2032 tax year, it would permanently be set at \$1.200. *Id.*

**D.     *Procedural History***

On June 6, 2023, the petition sponsors, Renew Baltimore, submitted their proposed petition form to the City Board, Ex. 2 (Petition Form), which the City Board approved as to format without making any determination as to the charter amendment’s legality, Ex. 3 (Advance Determination Letter). On June 20, 2024, Renew Baltimore submitted petition signature pages purporting to contain 23,542 valid signatures in support of the Property Tax Amendment. Ex. 1 (Jones Aff). ¶ 8. The City Board’s staff began reviewing the signatures, and the Election Director took the legality of the Property Tax Amendment under advisement. *Id.* ¶ 9. On July 9, 2024, the Election Director determined that the Property Tax Amendment was unconstitutional or otherwise prohibited by law on the ground that it conflicted with § 6-302(a) of the Tax-Property Article, and notified Renew

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<sup>2</sup> The text of the proposed Property Tax Amendment (reproduced from Exhibit 2, Renew Baltimore’s approved petition form) may be found in the Appendix to this Memorandum.

Baltimore of his determination. *Id.* ¶ 10; Ex. 4 (Deficiency Determination).<sup>3</sup> Plaintiffs timely brought this action under Elec. Law § 6-209.

### **STANDARD OF REVIEW**

“A motion to dismiss is properly granted if the factual allegations in a complaint, if proven, would not provide a legally sufficient basis for the cause of action asserted in the complaint.” *E.g., Cain v. Midland Funding, LLC*, 475 Md. 4, 33 (2021) (citation omitted). Alternatively, the grant of a motion for summary judgment is appropriate when “the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.” *E.g., Barclay v. Briscoe*, 427 Md. 270, 281 (2012) (quoting Md. Rule 2-501(f)).

### **ARGUMENT**

The City Election Director must declare a charter amendment petition deficient, and may not certify the question for the ballot, if “the petition seeks . . . the enactment of a law that would be unconstitutional . . . or . . . a result that is otherwise prohibited by law.” Elec. Law § 6-206(c)(5). The Property Tax Amendment seeks a result that is unconstitutional and prohibited by law. A local charter provision may not conflict with the public general laws of the State. The public general laws of the State require the City Council to set Baltimore City’s property tax rate, but the Property Tax Amendment, in conflict with that directive, takes the power to set the property tax rate away from the Council. The Election

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<sup>3</sup> Although not required to do so in light of the Election Director’s determination that the petition is legally deficient, *see* Elec. Law § 6-207(a), the City Board continues to review the signatures submitted by Renew Baltimore, but has not yet ascertained whether the petition contains the necessary 10,000 verified signatures of City voters. Ex. 1 (Jones Aff.) ¶ 12.

Director thus correctly declared the Renew Baltimore petition deficient on grounds of illegality. Because all of Plaintiffs' claims depend on the contention that the Property Tax Amendment is legal, those claims must all fail.

The Baltimore City Charter is subject to Article XI-A of the Constitution of Maryland. *See Cheeks*, 287 Md. at 599. Article XI-A empowers the City or a county to adopt a home-rule charter, but such a charter remains "subject" to the "Public General Laws of this State." Md. Const., Art. XI-A, § 1. A charter amendment that conflicts with a public general law of the State is thus invalid, and election authorities may not place such a charter amendment on the ballot. *See, e.g., Montgomery County v. Board of Supervisors of Elections*, 311 Md. 512, 518-20 (1988).

Section 6-302 of the Tax-Property Article is a public general law. *See Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 244 (1990). Section 6-302(a) states:

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

The Supreme Court of Maryland has twice invalidated proposed or existing charter provisions that were substantively indistinguishable from Renew Baltimore's Property Tax Amendment, because they conflicted with § 6-302(a). *See Smallwood*, 327 Md. 220; *Hertelendy v. Board of Educ.*, 344 Md. 676 (1995).

*Smallwood* considered proposed amendments to the charters of Baltimore County and Anne Arundel County. The amendments, which were proposed as ballot questions at

the 1990 general election, both functioned the same way. First, each amendment would have provided that the affected county's property tax revenue for the 1991–1992 tax year could not exceed the revenue collected in a specified earlier tax year: 1989–1990 in Baltimore County, and 1988–1989 in Anne Arundel County. *Id.* at 229 n.2, 231 n.5.<sup>4</sup> The Court called these the amendments' "roll back" provisions. *Id.* at 244.

Second, the amendments would have constrained the further growth of property tax revenue in years following the "roll back" year of 1991–1992. *Id.* at 229 n.2, 231 n.5. Starting in 1992–1993, Baltimore County would be able to increase property taxes by no more than 2% per year, or by a greater amount if the voters approved the increase in a referendum. *Id.* at 229 & n.2. In Anne Arundel County, starting in 1992–1993, the county could increase property tax revenues in accordance with the rate of inflation, or 4.5%, whichever would be less, and could exceed this threshold only with referendum approval. *Id.* at 231 n.5.

The Court considered the "roll back" components of the two amendments separately from the "tax cap" portions that would have limited the future growth of tax revenues to a specified percentage. *See id.* at 244. In the Court's view, the "tax cap" provisions were proper "charter material," in the sense that they were more like constitutional than statutory provisions. *Id.* at 241. The "tax cap" provisions also did not conflict with public general law; in particular, they did not conflict with Tax-Property § 6-302(a) because the county

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<sup>4</sup> The property tax year, like the Baltimore City fiscal year, runs from July 1 through June 30 of the following year. Tax-Property § 1-101(o).



councils of the two counties “could still have exercised discretion to determine the tax rates on property for the next taxable year.” *Id.* at 242.

The Court reached the opposite conclusion about the “roll back” provisions, however, holding that they conflicted with § 6-302(a) of the Tax-Property Article. Despite its earlier recognition that “[w]henever reasonably possible,” courts should construe State and local enactments “so that there is no conflict,” the Court could not harmonize the roll back provisions with § 6-302(a). *Id.* at 242 (alteration in original). As the Court explained:

Unlike the tax cap provisions that would have simply placed a limit on the taxing power of each county council, the roll back provisions would have transferred the county councils' § 6-302(a) powers to the voters. Instead of the councils setting the tax rates, the roll back provisions would have allowed the voters of Baltimore and Anne Arundel Counties to set the property tax rates for the tax year 1991–1992.

*Id.* at 244.

Crucially, the Court reached this conclusion even though the “roll back” provisions took the form of revenue *caps*. Each “roll back” provision would have required the County Council to set tax rates so that revenues in 1991–1992 would be *no higher than* revenues in 1989–1990 (for Baltimore County) or 1988–1989 (for Anne Arundel County).<sup>5</sup> But even though the Councils could theoretically have set a rate even lower than the post-“roll back” cap, the Court concluded that these provisions divested the County Councils of their

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<sup>5</sup> The Baltimore County proposed amendment read: “[F]or the tax year 1991–1992, the County property tax *may not exceed* the property tax realized by the County for the tax year 1989–1990[.]” *Smallwood*, 327 Md. at 229 n.2 (emphasis added).

The Anne Arundel County proposed amendment read: “[C]ommencing on 1 July 1991 (tax year 1991–1992), the County Council may not establish property tax rates which would provide *more* property tax revenues than were raised during the 1988–1989 tax year[.]” *Smallwood*, 327 Md. at 231 n.5 (emphasis added).

rate-setting power contrary to State law because, in effect, they set the rate at the level of the rolled-back “cap.” The Court thus ordered that the “roll back” provisions be deleted from the proposed amendments before they could be submitted to the voters. *Id.* at 224, 226.<sup>6</sup>

The Court reaffirmed the holding of *Smallwood* five years later in *Hertelendy v. Board of Education*, 344 Md. 676 (1995). *Hertelendy* considered the validity of a Talbot County Charter tax cap provision. As relevant here, the charter provision, which had been enacted in 1978, declared that “the [County] Council may not establish property tax rates which would provide more property tax revenues than were raised during the 1978–79 tax year, unless such additional revenues are the result of assessments on newly constructed property or other property not previously assessed.” *Id.* at 678.

The Circuit Court for Talbot County held this provision invalid in light of *Smallwood*, and the Supreme Court affirmed:

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

344 Md. at 683 (citation omitted).

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<sup>6</sup> The Court also held that the proposed provisions that would have let voters disapprove a tax increase by referendum were invalid for the same reason: they transferred rate-setting power to the voters in violation of Tax-Property § 6-302(a). *Smallwood*, 327 Md. at 244-45.

Again, the courts were aware that the Talbot County provision was framed as a *cap* rather than a direct setting of the rate. The Circuit Court explained (in a portion of its opinion quoted by the Supreme Court) that voters may not “in effect set the tax rate legislatively, by decreeing for the indefinite future that revenues *shall not exceed* levels in an arbitrary base year.” *Id.* at 685 (emphasis added). The Supreme Court nonetheless held that the Talbot County provision conflicted with Tax-Property § 6-302(a).

*Smallwood* and *Hertelendy* remain the law of Maryland. Under the doctrine of *stare decisis*, those decisions bound the Election Director just as they bind the Supreme Court of Maryland and this Court. *See, e.g., Maryland Small MS4 Coal. v. Maryland Dep’t of Env’t*, 479 Md. 1, 276 A.3d 573, 591 (2022). The principle of *stare decisis* is especially strong for decisions interpreting statutes, like § 6-302(a). This is because the General Assembly is presumed to be aware of the Supreme Court’s case law and can amend a statute if it disagrees with the Supreme Court’s interpretation. *See, e.g., American Bank Holdings, Inc. v. Kavanagh*, 436 Md. 457, 475 n.19 (2013). And where the General Assembly has repealed and reenacted the statute without taking any action to repudiate the Court’s interpretation, “it is particularly inappropriate to depart from the principle of *stare decisis*.” *E.g., Jones v. State*, 362 Md. 331, 337-38 (2001) (quoting *Williams v. State*, 292 Md. 201, 210 (1981)).

The General Assembly is presumed aware of *Smallwood* and *Hertelendy*—which were decided 29 and 34 years ago respectively—and thus to have acquiesced in those cases’ reading of § 6-302(a). What is more, the Legislature has amended § 6-302 on multiple occasions since 1990—including as recently as this year, when it authorized Baltimore City

and the counties to set a higher tax rate on vacant properties—without making any attempt to overrule those decisions. *See* 2024 Md. Laws, ch. 277; 2013 Md. Laws, ch. 405; 2000 Md. Laws, ch. 80.

The Property Tax Amendment is indistinguishable in substance from the charter provisions invalidated in *Smallwood* and *Hertelendy*. The amendment would provide that for each of the next seven tax years, the real property tax rate in Baltimore City will be “no higher than” a specified, and continuously decreasing, amount per \$100 of assessed or assessable value: for example, “no higher than \$2.200” in the 2025–2026 tax year, “no higher than \$2.100” in the 2026–2027 tax year, and so on. *See* App’x. From the 2031–2032 tax year onward, the rate would be fixed at “no higher than \$1.200” per \$100. *Id.* Just as in *Smallwood* and *Hertelendy*, if this amendment were enacted the tax rate would be set in the Charter, rather than by the City Council, in violation of Tax-Property § 6-302(a). And as in *Smallwood*, the Property Tax Amendment is a “roll back” provision, capping property taxation at a lower level than where it is currently set. *See* City Ord. No. 24-345 (setting tax rate for 2024–2025 tax year at \$2.248).

The Complaint asserts that the Election Director “conflate[d] real property ‘tax rates,’ ‘tax caps,’ and ‘tax revenues,’” Compl. ¶ 29, and that the Property Tax Amendment “seeks to set a real property tax rate cap in Baltimore City,” *id.* ¶ 30. Contrary to the Complaint’s contention, the Election Director recognized that the Property Tax Amendment is presented as a “rate cap” but pointed out that, as discussed above, the provisions invalidated in *Smallwood* and *Hertelendy* also took the form of caps. Ex. 4 (Deficiency Determination), at 2.

It is also true that the provisions in *Smallwood* and *Hertelendy* were presented as caps on tax *revenues* rather than tax *rates*. *Smallwood*, 327 Md. at 229 n.2, 231 n.5; *Hertelendy*, 344 Md. at 678. But because Tax-Property § 6-302(a) expressly empowers a local government to set tax *rates*, a charter provision that directly restricts local government rate-setting would be even more clearly in conflict with § 6-302(a) than a provision that operates indirectly on the rate by fixing a level of revenue. Consistent with that understanding, the Court in both cases focused on the revenue caps’ effect on tax rates, and stated that the problem with these caps was that they effectively allowed voters to set the tax rate. *Smallwood*, 327 Md. at 244 (“[T]he roll back provisions would have allowed the voters of Baltimore and Anne Arundel Counties to set the property tax *rates*[.]” (emphasis added)); *Hertelendy*, 344 Md. at 683 (same).<sup>7</sup>

*Smallwood* and *Hertelendy* resolve this case. The Election Director did not err in concluding that the Property Tax Amendment would be unconstitutional or otherwise prohibited by law.<sup>8</sup>

## CONCLUSION

The Court should dismiss the Complaint. Alternatively, the Court should grant summary judgment for the City Board on all counts.

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<sup>7</sup> This makes sense: because the local government does not directly control the tax *base* (the total taxable value of the property in their jurisdiction), the only way to meet for local legislators to meet a tax revenue cap is by adjusting the tax *rate*. See *Hertelendy*, 344 Md. at 679 (noting that Talbot County’s tax revenue cap had forced the tax rate to decline over time).

<sup>8</sup> The City Board takes no position on the City’s additional arguments as to the illegality of the Property Tax Amendment. See Ex. 4 (Deficiency Determination), at 2 n.1.

July 26, 2024

Respectfully submitted,

ANTHONY G. BROWN  
Attorney General of Maryland

/s/ Thomas S. Chapman  
THOMAS S. CHAPMAN  
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Fax: 410-576-7036

*Attorneys for the City Board*

### **Certificate Regarding Restricted Information**

In accordance with Maryland Rule 20-201(h), I certify that this filing contains no restricted information.

/s/ Thomas S. Chapman  
Thomas S. Chapman

### **Certificate of Service**

I certify that on July 26, 2024, a copy of the foregoing Memorandum, together with four exhibits, was served on all counsel of record via the MDEC system.

/s/ Thomas S. Chapman  
Thomas S. Chapman

## APPENDIX

### Article I – General Provisions

*[Sections 1 through 6 and 7 through 18 remain unchanged and are not reprinted here; Section 6A, below, is new language.]*

#### **§ 6A. Limits on taxation.**

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

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

**E-FILED; Baltimore City Circuit Court  
Docket: 7/26/2024 4:41 PM; Submission: 7/26/2024 4:41 PM  
Envelope: 17387425**

**Case No. C-24-CV-24-001361**

**City Board's Exhibit 1**

**(Affidavit of Armstead B.C. Jones, Sr.)**



**IN THE CIRCUIT COURT FOR BALTIMORE CITY**

BENEDICT J. FREDERICK, III,  
et al.,

Plaintiffs,

v.

BALTIMORE CITY BOARD OF  
ELECTIONS, et al.,

Defendants.

Case No. C-24-CV-24-001361

\* \* \* \* \*

**AFFIDAVIT OF ARMSTEAD B. CRAWLEY JONES, SR.**

I, **Armstead B. Crawley Jones, Sr.**, am over eighteen years of age, am competent to testify, and have personal knowledge of the matters to which I testify below.

1. I am Election Director of the Baltimore City Board of Elections (the “City Board”). I have held that position since 2006. Previously, I served on the City Board for 15 years, both as a Board Member appointed by the Governor and as Board President. I have been certified by the National Election Center as a Certified Elections/Registration Administrator.

2. As Election Director, I manage all election operations in Baltimore City, under the oversight of the City Board and the State Board of Elections (“State Board”). I am responsible for hiring and supervising the City Board’s staff. As relevant here, I am also responsible for verifying petitions related to local ballot questions, including amendments to the City Charter.

3. To be approved for ballot access, a petition proposing a City charter amendment must, among other requirements, contain 10,000 validated and verified signatures of Baltimore City registered voters, and must not seek a result that is unconstitutional or otherwise prohibited by law.

4. On June 12, 2023, Renew Baltimore, a ballot issue committee, requested an advance determination on the format of a petition to place a charter amendment on the ballot at the 2024 General Election. I will refer to Renew Baltimore's proposed charter amendment as the "Property Tax Amendment."

5. On June 20, 2023, I approved Renew Baltimore's petition form as to format only. I made no determination as to the legality of the charter amendment at that time.

6. A true and correct copy of Renew Baltimore's approved petition form, which includes the text of the Property Tax Amendment, is attached to my affidavit as **Exhibit 2**.

7. A true and correct copy of my letter approving the petition as to format is attached to my affidavit as **Exhibit 3**.

8. On June 20, 2024, Renew Baltimore submitted petition signature pages purporting to contain 23,542 valid signatures in support of submitting the Property Tax Amendment to the voters as a ballot question.

9. I directed my staff to begin verifying and validating the signatures. At the same time, I took the legality of the Property Tax Amendment under consideration.

10. On July 9, 2024, I determined that the Property Tax Amendment was unconstitutional or otherwise prohibited by law on the ground that it conflicted with

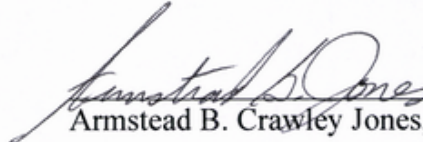
Section 6-302(a) of the Tax-Property Article, Maryland Code. On that same day, I gave Renew Baltimore notice of my determination by letter to their counsel.

11. A true and correct copy of my deficiency determination letter is attached to my affidavit as **Exhibit 4**.

12. Although my determination meant that the City Board was not required to continue validating the signatures on Renew Baltimore's petition, my staff have continued to do so in the interest of efficiency. I have not yet determined whether the petition contains 10,000 or more valid signatures as required by law.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of this document are true.

July 25, 2024

  
Armstead B. Crawley Jones, Sr.

**E-FILED; Baltimore City Circuit Court  
Docket: 7/26/2024 4:41 PM; Submission: 7/26/2024 4:41 PM  
Envelope: 17387425**

**Case No. C-24-CV-24-001361**

**City Board's Exhibit 2**

**(Approved Petition Form)**

## State of Maryland - Charter Amendment Petition

We, the undersigned voters of Baltimore City, hereby petition to have this amendment of the Baltimore City Charter submitted to a vote of the registered voters of Baltimore City, for approval or rejection at the next general election. *The full text of the proposed amendment appears on the back of this signature page and its subject and purpose are as follows:*

**To place upper limits on the real property tax rate in Baltimore City, lowering the current \$2.248 rate by capping it at \$2.20 per \$100 of assessed value on July 1, 2025, \$2.10 per \$100 of assessed value on July 1, 2026, then gradually reducing the cap by 18 cents each year thereafter until the rate is permanently capped at \$1.20 per \$100 of assessed value beginning July 1, 2031. The Mayor and City Council will continue to set the property tax rate annually, subject to the limits established by the amendment. The amendment adds Section 6A to Article I – General Provisions of the Baltimore City Charter. Capping the property tax rate aligns Baltimore City with surrounding counties, brings equity to City taxpayers and widens the path to home ownership. It encourages investment and growth in the City's population, tax base, employment and economy. Upon ratification of the amendment by City voters, the first annual limit shall become effective July 1, 2025.**

**NOTICE TO SIGNERS:** Sign and print your name (1) as it appears on the voter registration list, OR (2) your surname of registration AND at least one full given name AND the initial of any other names. Please print or type all information other than your signature. Post Office Box addresses are not generally accepted as valid. By signing this petition, you agree that the aforementioned charter amendment proposal should be placed on the ballot as a question at the next general election and that, to the best of your knowledge, you are registered to vote in Baltimore City and are eligible to have your signature counted for this petition.

*Please Note: The information you provide on this petition is public information and may be used to change your voter registration address.*

|   |                             |               |             |           |                    |       |      |      |
|---|-----------------------------|---------------|-------------|-----------|--------------------|-------|------|------|
| 1 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |
| 2 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |
| 3 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |
| 4 | Print Name:                 | First Name    | Middle Name | Last Name | Birth Date:        | Month | Date | Year |
|   | Signature:                  |               |             |           | Date of Signature: | Month | Date | Year |
|   | Maryland Residence Address: | Street Number | Street Name | Apt. No.  | City or Town       | Zip   |      |      |
|   |                             |               |             |           |                    |       |      |      |

Individual Circulator's printed or typed name

Residence Address

City State Zip

Telephone (including area code)

**Circulator's Affidavit** Under penalties of perjury, I swear (or affirm) that:

- (a) I was at least 18 years old when each signature was obtained;
- (b) the information given to the left identifying me is true and correct;
- (c) I personally observed each signer as he or she signed this page; and
- (d) to the best of my knowledge and belief: (i) all signatures on this page are genuine; and (ii) all signers are registered voters of Maryland. *(Sign and Date when signature collection is completed)*

Circulator's Signature

Date (mm/dd/yy)

## **Article I – General Provisions**

*[Sections 1 through 6 and 7 through 18 remain unchanged and are not reprinted here; Section 6A, below, is new language.]*

### **§ 6A. Limits on taxation.**

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

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

**E-FILED; Baltimore City Circuit Court**  
**Docket: 7/26/2024 4:41 PM; Submission: 7/26/2024 4:41 PM**  
**Envelope: 17387425**

**Case No. C-24-CV-24-001361**

**City Board's Exhibit 3**

**(Advance Determination Letter)**

Armstead B. Crawley Jones, Sr.  
Election Director

Abigail Goldman  
Election Deputy Director

Bruce M. Luchansky  
President (R)

Joyce J. Smith  
Vice President (D)



BALTIMORE CITY  
BOARD OF ELECTIONS

Arlene B. Fisher  
Secretary (D)

Tamara M. Purnell  
Member (R)

Evette Matthews  
Member (R)

June 20, 2023

***Via Electronic Mail Only***

Carville B. Collins  
DLA Piper LLP  
6225 Smith Avenue  
Baltimore, MD 21209-3600  
[carville.collins@us.dlapiper.com](mailto:carville.collins@us.dlapiper.com)

RE: Charter Amendment: Limits on the real property tax rate in Baltimore City

Dear Mr. Collins:


As Election Director of the Baltimore City Board of Elections, I have received your request under § 6-202 of the Election Law Article, Annotated Code of Maryland, for an advance determination as to the format of a petition proposing an amendment to the Baltimore City Charter, for submission to the voters at the 2024 Presidential General Election. With your request, you submitted a charter amendment petition form for the proposed amendment, including the full text of the proposed charter amendment on the reverse side of the signature page. The materials you submitted are attached to this letter as Exhibit A.

Upon review of your submission, I have determined that you used the correct State Board of Elections form for a charter amendment petition and that the summary of the proposed amendment is sufficient. More specifically, I have determined that the summary is a fair and accurate summary of the substantive provisions of the proposed amendment. I have therefore determined that the petition materials attached as Exhibit A are sufficient as to format, within the meaning of § 6-202 of the Election Law Article.

I have made no determination as to the legality of the proposed amendment. As set forth in § 6-206 of the Election Law Article, Annotated Code of Maryland, I will address that question, in consultation with counsel to the Baltimore City Board of Elections, at such time as the petition and requisite signatures are filed.

Please let me know if I can be of further assistance. I can be reached either by email addressed to [armstead.jones@baltimorecity.gov](mailto:armstead.jones@baltimorecity.gov) or by phone at 410-396-5550.

Sincerely,

  
Armstead B. Crawley Jones, Sr., CERA  
Election Director

cc: State Board of Elections  
Baltimore City Board of Elections  
Counsel to the City Board



**E-FILED; Baltimore City Circuit Court**  
**Docket: 7/26/2024 4:41 PM; Submission: 7/26/2024 4:41 PM**  
**Envelope: 17387425**

**Case No. C-24-CV-24-001361**

**City Board's Exhibit 4**

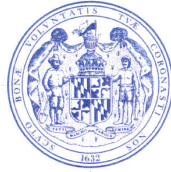
**(Deficiency Determination Letter)**

Armstead B. Crawley Jones, Sr.  
Election Director

Abigail Goldman  
Election Deputy Director

Scherod C. Barnes  
President (D)

Terrence D. Thrweatt Jr.  
Vice President (R)



BALTIMORE CITY  
BOARD OF ELECTIONS

Samuel B. Novey  
Secretary (D)

Hope M. Williams  
Member (D)

Maria M. Vismale  
Member (R)

July 9, 2024

***Via First-Class Mail and Email***

Constantine J. Themelis, Esq.  
Thomas & Libowitz, P.A.  
25 S. Charles Street, Suite 2015  
Baltimore, MD 21201  
[gthemelis@tandllaw.com](mailto:gthemelis@tandllaw.com)

Re: Renew Baltimore Charter Amendment Petition: Determination of Deficiency

Dear Mr. Themelis:

The Baltimore City Board of Elections has received the petition sponsored by your client, Renew Baltimore (the "Petition") proposing an amendment to the Baltimore City Charter (the "Charter Amendment") relating to the rate of real property tax in Baltimore City. As Election Director, I am required by § 6-206 of the Election Law Article ("EL"), Maryland Code, to declare a petition deficient if it seeks "the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law." EL § 6-206(c)(5).

I have determined that the Petition is deficient on that ground. State law provides that the power to set a specific property tax rate in the counties and Baltimore City must remain with the County or City Council. Maryland's highest court has held that under this rule, a petition-initiated charter amendment may not set a specific property tax rate. Accordingly, I cannot certify the Charter Amendment for inclusion on the ballot at the upcoming General Election.

Under Article XI-A, § 1 of the Constitution of Maryland, a City charter provision may not conflict with State law. *See, e.g., Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 242 (1990). Relevant here, § 6-302(a) of the Tax-Property Article, Maryland Code, provides that "in each year the Mayor and City Council of Baltimore City or the governing body of each county annually shall set the tax rate for the next taxable year on all assessments of property subject to that county's property tax."

In two cases, the Maryland Court of Appeals (now the Supreme Court of Maryland) held that, under this statute, a charter amendment may not set the property tax rate in a jurisdiction. *Smallwood*, 327 Md. at 244; *Hertelendy v. Board of Educ.*, 344 Md 676, 683 (1995). Notably, *Smallwood*, which involved proposed charter amendments in Baltimore County and Anne Arundel County, did hold that a charter amendment may set a cap on the future growth of property tax rates. *See* 327 Md. at 243. But the Court invalidated provisions of the proposed charter amendments that would have "roll[ed] back" the amount of property tax collected in each county to a lower level. *Id.* at 244. The Court explained:

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

*Id.* The Court reaffirmed that holding five years later in *Hertelendy*, involving a similar provision in the Talbot County Charter:

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

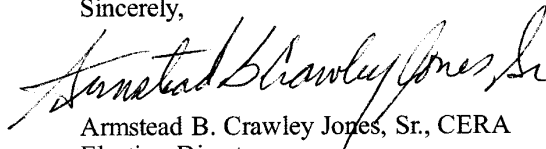
344 Md. at 683 (citation omitted).

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

I see no basis to distinguish the Petition’s proposed Charter Amendment from the charter provisions the Court held to be illegal in *Smallwood* and *Hertelendy*. I therefore must decline to certify the Petition on the ground that it seeks “the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law.” EL § 6-206(c)(5).<sup>1</sup>

Because I have found the Petition deficient, the Board of Elections is not required to continue verifying and validating the signatures on the Petition, and the 20-day deadline to complete signature verification no longer applies. See EL § 6-207(a). However, in the interest of efficiency and because of the possibility of judicial review of this determination, my staff will continue to review the signatures on the Petition.

Sincerely,

  
Armstead B. Crawley Jones, Sr., CERA  
Election Director

cc: Baltimore City Board of Elections  
State Board of Elections  
Baltimore City Law Department

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<sup>1</sup> Because I have determined that the Charter Amendment would be “unconstitutional . . . or . . . prohibited by law” on the ground that it conflicts with § 6-302(a) of the Tax-Property Article, there is no need for me to determine whether or not the Charter Amendment would be unconstitutional or illegal on any other ground, and I have made no other legality determination one way or the other.

**IN THE CIRCUIT COURT FOR BALTIMORE CITY**

BENEDICT J. FREDERICK, III,  
et al.,

Plaintiffs,

v.

BALTIMORE CITY BOARD OF  
ELECTIONS, et al.,

Defendants.

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Case No. C-24-CV-24-001361

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**ORDER**

Upon consideration of the Motion to Dismiss or Alternatively for Summary Judgment filed by Defendants Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes, the Opposition thereto, and a hearing held thereon, it is this \_\_\_\_ day of August, 2024, by the Circuit Court for Baltimore City, **ORDERED** that:

1. The City Board's Motion for Summary Judgment is **GRANTED**; and
2. Summary judgment is entered in favor of all Defendants and against all

Plaintiffs on all claims.

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Circuit Judge

**IN THE CIRCUIT COURT FOR BALTIMORE CITY**

BENEDICT J. FREDERICK, III,  
et al.,

Plaintiffs,

v.

BALTIMORE CITY BOARD OF  
ELECTIONS, et al.,

Defendants.

\*

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Case No. C-24-CV-24-001361

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**ORDER**

Upon consideration of the Motion to Dismiss or Alternatively for Summary Judgment filed by Defendants Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes, the Opposition thereto, and a hearing held thereon, it is this \_\_\_\_ day of August, 2024, by the Circuit Court for Baltimore City, **ORDERED** that:

1. The City Board's Motion to Dismiss is **GRANTED**; and
2. The Complaint is dismissed for failure to state a claim.

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Circuit Judge

BENEDICT J. FREDERICK, III, *et al.*, \* IN THE  
Plaintiffs, \* CIRCUIT COURT  
v. \* FOR  
BALTIMORE CITY BOARD \* BALTIMORE CITY  
OF ELECTIONS, *et al.*, \*  
Defendants. \* Case No. C-24-CV-24-001361  
\*  
\* \* \* \* \*

**MAYOR AND CITY COUNCIL OF BALTIMORE'S  
MOTION FOR SUMMARY JUDGMENT AND REQUEST FOR HEARING**

Intervenor/Defendant the Mayor and City Council of Baltimore, by undersigned counsel and pursuant to Maryland Rule 2-501 and Md. Code Ann., Election Law Article, § 6-209, respectfully submits this Motion for Summary Judgment. For the reasons stated in the accompanying Memorandum of Law, the City requests that this Court grant summary judgment in its favor on all counts in Plaintiffs' Complaint.<sup>1</sup>

*[Signatures follow on next page]*

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<sup>1</sup> On July 18, 2024, the City filed a Partial Consent Motion to Intervene as a Defendant in this matter. The Baltimore City Board of Elections and Plaintiffs have consented to the Motion to Intervene. The Court has not yet ruled on the Motion to Intervene.

As required by Rule 2-214(c), the City attached a response to the Complaint in the form of Motion to Dismiss. The City will formally file the Motion to Dismiss as required by Rule 2-214 promptly after the City is made a Defendant in this action. The City hereby incorporates in this Motion for Summary Judgment the arguments in its Motion to Dismiss.

Respectfully Submitted,

EBONY M. THOMPSON, Baltimore City Solicitor



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Tom P. Webb (AIS No. 1306190321)  
Derek M. Van De Walle (AIS No. 1712140237)  
Hilary B. Ruley (AIS No. 0212170037)  
BALTIMORE CITY LAW DEPARTMENT  
100 N. Holliday Street, Room 101  
Baltimore, Maryland 21202  
Tel: 410-396-3271  
Fax: 410-547-1025  
[Tom.Webb@baltimorecity.gov](mailto:Tom.Webb@baltimorecity.gov)  
[Derek.Vandewalle@baltimorecity.gov](mailto:Derek.Vandewalle@baltimorecity.gov)  
[Hilary.Ruley@baltimorecity.gov](mailto:Hilary.Ruley@baltimorecity.gov)

*Counsel for Intervenor/Defendant  
Mayor and City Council of Baltimore*

**REQUEST FOR HEARING**

Defendant Mayor and City Council of Baltimore respectfully requests a hearing on its Motion for Summary Judgment.

Respectfully Submitted,



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Derek M. Van De Walle (AIS No. 1712140237)

**CERTIFICATE OF SERVICE**

I certify that on July 26, 2024, Mayor and City Council of Baltimore's Motion for Summary Judgment, Memorandum of Law, and Proposed Order were served on all parties via MDEC.



Derek M. Van De Walle (AIS No. 1712140237)



BENEDICT J. FREDERICK, III, *et al.*, \* IN THE  
Plaintiffs, \* CIRCUIT COURT  
v. \* FOR  
BALTIMORE CITY BOARD \* BALTIMORE CITY  
OF ELECTIONS, *et al.*, \*  
Defendants. \* Case No. C-24-CV-24-001361  
\*

\* \* \* \* \*

**MEMORANDUM IN SUPPORT OF  
MAYOR AND CITY COUNCIL OF BALTIMORE’S  
MOTION FOR SUMMARY JUDGMENT AND REQUEST FOR HEARING**

Intervenor Mayor and City Council of Baltimore (the “City”), by its undersigned counsel and pursuant to Maryland Rule 2-501 and Md. Code Ann., Election Law Article, § 6-209, moves for summary judgment in its favor and states as follows:

**INTRODUCTION**

Plaintiffs’ Petition to amend the Baltimore City Charter by dramatically lowering the City’s property tax rate removes the City’s right—enshrined in both its home rule powers and state statute—to set its tax rate legislatively, and therefore was properly excluded from the 2024 general election ballot by the Baltimore City Board of Elections. The Supreme Court of Maryland has already proscribed a charter tax limitation that limited the amount of tax revenue a county could raise. *See Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676, 685 (1995). Renew’s Petition goes significantly farther: it cuts the property tax rate itself, and does so substantially.

There is no dispute of the only material fact in this case: the Petition proposes a radical, 46 percent cut in the City’s property tax rate. Property tax receipts comprise half of the City’s

revenue. Cutting the City’s most significant revenue source in half will cripple the City government’s ability to fund its statutory and contractual obligations. Any argument that this drastic revenue loss will be offset by an influx of new residents is wholly speculative and only serves to underline that the Petition is an attempt to enforce a radical and permanent experiment in supply-side economics on the City of Baltimore. But whatever the wisdom as a policy, such a Petition clearly is inconsistent with well settled Maryland law. It is wholly inappropriate for a local charter in Maryland, which is limited to the form and structure of government, to set economic policy. As such, the City is entitled to judgment as a matter of law.<sup>1</sup>

### **LEGAL STANDARD**

A party is entitled to summary judgment in its favor “if the pleadings, depositions, answers to interrogatories, admissions, and affidavits show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.” Md. Rule 2–501(f). For there to be a dispute of material facts, “there must be evidence on which the jury could reasonably find for the plaintiff.” *Bradley v. Fisher*, 113 Md. App. 603, 610 (1997) (quoting *Seaboard Sur. Co. v. Richard F. Kline, Inc.*, 91 Md. App. 236, 244 (1992)). The non-moving party cannot defeat a properly supported motion for summary judgment with conclusory denials or bald allegations; a mere scintilla of

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<sup>1</sup> On July 18, 2024, the City filed a Partial Consent Motion to Intervene as a Defendant in this matter. The Baltimore City Board of Elections and Plaintiffs have consented to the Motion to Intervene. The Court has not yet ruled on the Motion to Intervene.

As required by Rule 2-214(c), the City attached a response to the Complaint in the form of Motion to Dismiss. The City will formally file the Motion to Dismiss as required by Rule 2-214 promptly after the City is made a Defendant in this action. The City hereby incorporates in this Motion for Summary Judgment the arguments in its Motion to Dismiss.

evidence in support of the non-moving party's claim is insufficient to avoid the grant of summary judgment. *See Barber v. Eastern Karting Co.*, 108 Md. App. 659, 672 (1996).

The Maryland Uniform Declaratory Judgments Act authorizes a court to “grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or controversy giving rise to the proceeding, and if: (1) An actual controversy exists between contending parties; (2) Antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; or (3) A party asserts a legal relation, status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it.” Md. Code, Cts. & Jud. Proc., § 3-409(a). The Act “is remedial” and “shall be liberally construed and administered.” Md. Code, Cts. & Jud. Proc., § 3-402.; *see also Oyarzo v. Maryland Dept. of Health and Mental Hygiene*, 187 Md. App. 264, 272 (2009). Further, the Election Law Article of the Maryland Code allows the court to grant declaratory relief “upon the complaint of any registered voter . . . as to any petition with respect to the provisions of this title or other provisions of law.” Elec. § 6-209(b). Here, Plaintiffs are asking the Court to determine the constitutionality of a proposed charter amendment, which is a legal question. *Bennett v. Harford County*, 485 Md. 461, 473 (2023) (“The interpretation of a provision of a county charter is a legal question”).

## **STATEMENT OF FACTS**

Renew Baltimore seeks to amend the Baltimore City Charter to include a drastic and permanent cut to the City's property tax rate. If amended, the Charter would require that the City's property tax rate be cut by almost fifty percent. The City's Department of Finance has prepared an analysis of the impacts of this tax cut in “City of Baltimore, BBMR Management Research Report, Analyzing the Impact of the 2024 “Renew Baltimore” Charter Amendment

Proposal on Property Tax Rates” (hereinafter the “Analysis”) attached as **Exhibit 1**.<sup>2</sup> This analysis was done by the Bureau of Budget and Management Resources office before the litigation in this matter and was posted online on May 8, 2024. *See* Affidavit of Bob Cename, Deputy Director, Baltimore City Department of Finance, attached as **Exhibit 2**. ¶¶5, 6.

The Analysis used conservative assumptions, not doomsday scenarios. The Analysis started from the same place as every budget analysis: the most recent General Fund outlook that projects ten years forward. **Exhibit 1**, p. 4 “Baseline Forecast”; **Exhibit 2**, ¶ 8. The outlooks take care to balance expected expenditures with expected revenues as required by the City Charter. BALTIMORE CITY CHARTER, art. VI, § 7(c). This is important because the Maryland Constitution has always prevented the City from pledging credit to meet anticipated expenditures. Md. Const., art, XI, § 7.

The Analysis noted that more than half of the City’s annual \$2-billion-dollar budget is made up of fixed costs that include the state statutory requirement to fund city schools (\$396M) and the contractual requirements for debt service (\$105M), and pension contributions (\$215M). Md. Code, Educ., §5-101, *et. seq.* (2019 Md. Law, ch. 771 (Blueprint for Maryland’s Future)); **Exhibit 1**, p. 5; **Exhibit 2**, ¶ 7. The remaining fixed costs are various other expenditures, including retiree health costs, workers compensation, insurance premiums and energy costs. **Exhibit 1**, p 4-5; **Exhibit 2**, ¶ 7.

Using assumptions of future revenue and cost growth taken from sources such as the state’s Board of Revenue Estimates and its Department of Legislative Services as well as the actuarial reports provided by the City’s pension systems, the Analysis found that the City’s

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<sup>2</sup> Also available online at [https://bbmr.baltimorecity.gov/sites/default/files/BBMR%20Report\\_Analysis%20of%20Renew%20Baltimore%20Tax%20Reduction\\_FINAL\\_2.pdf](https://bbmr.baltimorecity.gov/sites/default/files/BBMR%20Report_Analysis%20of%20Renew%20Baltimore%20Tax%20Reduction_FINAL_2.pdf).

current service levels cannot be maintained without taking one of three actions: raising additional revenue, making service reductions, or finding efficiencies within the current budget. **Exhibit 1**, p 4-5; **Exhibit 2**, ¶¶ 8-10.

If the Renew Baltimore Petition was implemented, the Analysis showed that the 46% tax rate reduction in the Petition would impact the real property tax revenue (comprising about 49% of City revenue) and the personal property tax revenue, which is set by state law at 2.5 times the real property tax rate. **Exhibit 1**, p. 6; Md. Code, Tax-Prop., §6-302(b)(1)(ii). Since the City's property tax rate would be reduced by the Petition and the local income tax is already at the highest allowed by state law, the City's reduced revenue would be staggering because those two sources make up about seventy percent of the City's General Fund revenue. **Exhibit 2**, ¶ 12. The City would need to generate over a half a billion dollars *outside of* property and income tax if the Renew Petition became effective. **Exhibit 1**, p. 6; **Exhibit 2**, ¶ 12. "By Fiscal 2032, the year that the tax rate levels out at \$1.20, the City would be losing nearly a quarter of its current revenues or an equivalent of \$627.3 million annually." **Exhibit 1**, p. 6. The City's General Fund deficit would reach \$891 million by 2032 when the Petition's drastic property tax rates reach the final level of no more than \$1.20 per \$100 of assessed value. **Exhibit 1**, p. 6.

If the Renew Petition were implemented, the City would not be able to balance its budget with traditional budget cuts or by finding the half billion needed in new revenues. **Exhibit 2**, ¶ 13. Instead, the City would be forced to make unprecedented service reductions in every City agency that will impact those residents that rely most on City services. **Exhibit 2**, ¶ 13. As the Budget Director said in his affidavit, the "City would need, in Fiscal 2025 dollars,

a total of \$537 million worth of budget cuts by 2032 to make up for the lost revenue.” Exhibit 2, ¶ 11.

## **ARGUMENT**

### **I. Maryland Law Prohibits Tax Cuts via Charter Amendment.**

There is no dispute that the Petition would lower the current \$2.248 rate by limiting it at \$2.20 per \$100 of assessed value on July 1, 2025, and then reducing it by 18 cents each year over the next five years until it reaches a final limit of \$1.20 per \$100 of assessed real property value (the “Petition”). *See* Amd. Comp. ¶ 18.

This is the only material fact. Plaintiffs’ suggestion that the City may still set the tax rate *even lower* than the drastic cuts imposed by this Petition wholly misunderstands the relevant Supreme Court holdings, which have repeatedly disavowed even less drastic measures. In *Smallwood*, the Court explained permitted revenue that the caps were set *above* the current rates, thereby acting as *a limit to future increases in revenue obtained from taxes*, not a reduction in the current tax rate:

If the proposed amendments had been adopted, the county councils of Baltimore and Anne Arundel Counties could still have exercised discretion to determine the tax rates on property for the next taxable year. A limitation would simply have been placed on this power, so that *the increase in property tax revenue for the next tax year could not have exceeded 2% in Baltimore County or 4.5% in Anne Arundel County*. The proposed tax limitations would not have had the effect of allowing the electorate of the two counties to set the tax rates.

*Bd. of Sup’rs of Elections of Anne Arundel Cnty. v. Smallwood*, 327 Md. 220, 242 (1990) (emphasis added).

However, the *Smallwood* Court struck down the part of the charter petitions that rolled back revenue:

The “roll back” provisions of the proposed amendments would have *limited the amount of property tax revenues* for the tax year 1991–1992 to no more than the amount

collected in the tax year 1989–1990 for Baltimore County, and no more than that collected in the tax year 1988–1989 for Anne Arundel County. These provisions violated § 6–302(a) of the Tax–Property Article which mandates that the governing body of each county is to set the property tax rate for the next tax year. Unlike the tax cap provisions that would have simply placed a limit on the taxing power of each county council, the roll back provisions would have transferred the county councils’ § 6–302(a) powers to the voters. Instead of the councils setting the tax rates, the roll back provisions would have allowed the voters of Baltimore and Anne Arundel Counties to set the property tax rates for the tax year 1991–1992.

*Id.* at 244 (emphasis added). The Court held that the roll back provisions were unconstitutional. *Id.* at 244–45.

Similarly, in *Hertelendy*, the Supreme Court observed that the “effect of Article VI, § 614, of the Talbot County Charter was that, except for newly constructed and newly assessed property, for several years, the Talbot County Council has been prohibited from raising more property tax revenues than were raised in 1978–1979.” *Hertelendy*, 344 Md. at 685. That provision, too, was declared invalid. *Id.* at 684–85.

Renew’s Petition goes much farther than those struck down in *Smallwood* and *Hertelendy* because it would cut the rate itself, not merely limit the revenue the City can raise. In that way, the Petition leaves the City’s legislature with even less input (if any) than those of the invalid petitions in *Smallwood* and *Hertelendy*. Either way, the rates in this Petition produce the same mathematical result that the invalid roll backs did in *Smallwood* and the prohibited cap did in *Hertelendy*—to reduce tax revenue below the existing amount needed to balance the local government budget. *Id.*; *Smallwood*, 327 Md. at 243. Applying *Smallwood* and *Hertelendy*, this Petition is without question not proper ballot material.

## **II. The Petition’s Drastic Revenue Reduction is an Experimental Economic Policy and thus Legislative.**

In neither the *Smallwood* nor the *Hertelendy* case did the Supreme Court speculate about the effects of the reduction in tax revenue or ponder what the local governments might

do to make up any difference. Nor was the Supreme Court tasked with projecting what may happen to an assessable base if the tax rate changed, or the population increased, or the property values decreased. These are policy questions, appropriate only for the legislature's consideration. Any dispute between the parties about the amount of revenue that will result from the tax rates in the Petition only serves to confirm that the Petition effectuates policy. Whether or not a drastic rate reduction would or would not be a good economic path for the City is a policy matter for debate by the City Council. The City's DOF tested Renew Baltimore's claims in its Analysis and largely found the predicted economic outcome from the Petition to be implausible. **Exhibit 1**, p. 8-16. However, the electorate is free to elect Councilmembers and a Mayor that will promise to try this economic experiment as best as it can be implemented.

The electorate is not able to require that the Mayor and City Council make this economic experiment its policy by amending the Baltimore City Charter. Md. Const., art. XI-A, § 2 (people do not legislate via Charter amendment); Md. Const., art. XI-A, § 3 (Baltimore City Council is City's legislative body); BALTIMORE CITY CHARTER, art. II, §(40)(a) (City has home rule power to enact legislation concerning taxation, within defined limits); art. II, §(49) (General Assembly prohibits petition for charter changes about the "classification and taxation of real and personal property within the limits of the said City."). The content of a charter amendment "cannot transcend its limited office and be made to serve or function as a vehicle through which to adopt local legislation." *Cheeks*, 287 Md. at 607. Although citizens have the right to change the organization of their government, "voters of a charter county cannot reserve to themselves the power to initiate legislation because such initiative conflicts with the terms of Art. XI-A, § 3, of the Maryland Constitution." *Smallwood*, 327 Md. at 236.



In short, “the enactment of specific legislation is left to the elected legislative bodies.” *Save Our Streets v. Mitchell*, 357 Md. 237, 252 (1998).

### **III. The Tax Cuts Imposed by the Petition Would Jeopardize the City’s Ability to Meet its Basic Obligations Under the Law.**

The effect of removing the City’s power to adopt legislation that sets the tax rate would leave the City without millions of dollars of revenue needed to meet expenses for basic City services, statutory duties and existing contracts. BALTIMORE CITY CHARTER, art. III, §§ 1(a), 11; art. VI, §§ 5; 7. The *Smallwood* court explained that when “demonstrated in a particular case that a local limitation on property tax revenues so hampers a county government that it cannot perform the duties required under state law, a tax limitation charter provision may well be found to be invalid as applied.” *Smallwood*, 327 Md. at 243-44 (citing McQuillin, *The Law of Municipal Corporations*, at § 44.26). There can be no doubt that cutting the City’s primary revenue source in half would impair its ability to perform its duties under the law.

The City’s budget analysis starkly demonstrates the catastrophic effects of such a radical tax cut. The estimated loss of \$851 million dollars in revenue in a short seven-year period would leave the City with little choice but to try to cover required expenses with credit, resulting in the City’s violation of Section 7 of Article XI of the Maryland Constitution. This is because the City is required to balance its budget. BALTIMORE CITY CHARTER, art. VI, § 7(c). This is normally done by setting the tax rate at the number that will allow the City to raise the revenue needed to cover the “difference between the anticipated expenditures for the next fiscal year contained in the Ordinance of Estimates and all expected revenues other than from the full rate property tax. The Board shall then set a rate for the levy of full rate property taxes sufficient to realize the amount required to meet the said difference and the ordinance making the annual levy of full rate property taxes shall fix a rate not less than that

state by the Board so that it shall not be necessary at any time for the City to create a floating debt to meet any deficiency.” *Id.* If the tax rate is permanently set at a lower amount, it mathematically follows that the City’s expenses will not be met by its revenue. Exhibit 2, ¶13.

In addition to not being able to meet its statutory costs, like funding education, the Petition would result in the City’s inability to pay amounts agreed to in contracts, such as pension and retirement costs. *Cherry v. Mayor & City Council of Baltimore City*, 475 Md. 565, 603, (2021) (“the City breached its contract with the Retired and Retirement-Eligible Sub-classes” by implementing a local law that did not fulfill its promise to retirees). The Petition would operate as a later enacted law that impaired existing contracts, potentially violating of the Contracts Clause of the United States Constitution if the impairment was severe. *See, e.g., U.S. Tr. Co. of New York v. New Jersey*, 431 U.S. 1, 24 (1977) (“Whatever the propriety of a State’s binding itself to a future course of conduct in other contexts, the power to enter into effective financial contracts cannot be questioned” although a government may modify a contract legislatively if “adopted with the purpose and effect of protecting the creditors”).

The City is entitled to judgment as a matter of law because, as applied, this Petition will cripple the City government and make it unable to perform basic functions.

### **CONCLUSION**

For the foregoing reasons, and those included in its Motion to Dismiss, the Mayor and City Council of Baltimore respectfully requests that this Court enter judgment in its favor.

*[Signatures follow on next page]*

Respectfully Submitted,

EBONY M. THOMPSON, Baltimore City Solicitor



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*Mayor and City Council of Baltimore*



Department of Finance,  
Bureau of the Budget and Management Research

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# City of Baltimore

## BBMR Management Research Report

*Analyzing the Impact of the 2024 "Renew Baltimore" Charter  
Amendment Proposal on Property Tax Rates*

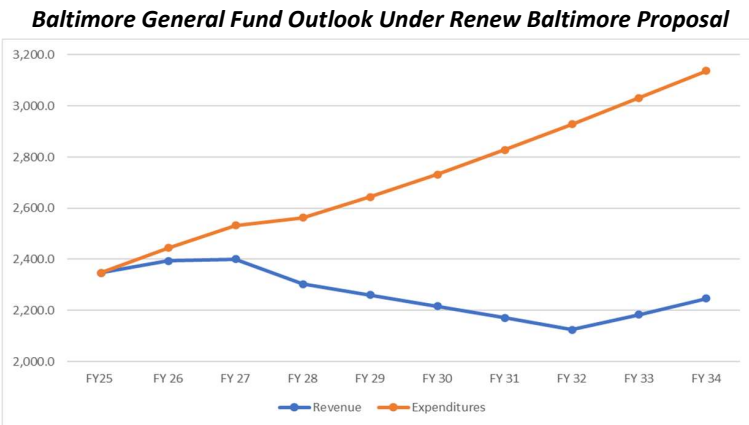
# **Management Research Report:** **Analyzing the Impact of the 2024 “Renew Baltimore” Charter Amendment Proposal on Property Tax Rates**

## **What BBMR Found**

### **Budget Impact**

**1. Budget Gap:** Due to the loss of property tax revenue, the Renew Baltimore proposal would open a massive structural hole in the City’s budget which would reach \$891 million annually between projected revenues and expenditures by Fiscal 2034.

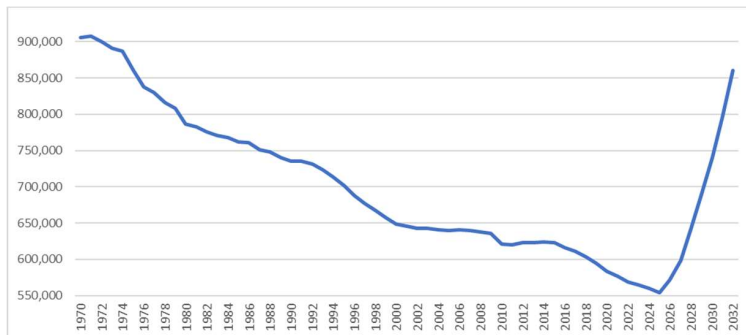
**2. Service Reductions:** The City would not be able to balance the budget with small trims, efficiencies, or new revenues. Instead, the City would be forced to make massive service reductions across many agencies that would have crippling effects, especially on residents that most rely on City services.



### **Testing Renew Baltimore’s Claims**

Renew Baltimore’s claim that new revenues from population growth will make up for the lost tax revenue is wildly optimistic. The City would need to reverse more than fifty years of population decline in just a tiny seven-year window in order to make the proposal revenue-neutral for the City, which calls into doubt the credibility of the proposal:

### **Baltimore Population Trend Required to Make Up for Lost Tax Revenue**



## **Why BBMR Did This Study**

If the Renew Baltimore petition campaign is successful, Baltimore residents will vote on a November ballot initiative that would dramatically reduce the City’s real property tax rate over a seven-year period. BBMR aims to educate its citizens and elected leaders on the likely budget impact of this proposal, and to test some of the claims that Renew Baltimore has made about its’ proposal.

## **What BBMR Recommends**

Dramatic tax reduction is appealing on its face, but tax reduction is best achieved via an incremental approach. Small but consistent rate reductions send a signal to property owners about the seriousness of the City’s efforts, but also protect the budget and City services from drastic reductions.

The City’s 10-Year Plan foresees rate relief via the following actions:

1. Establishing a Solid Waste fee and removing those costs from the General Fund, to be more in line with other large Maryland jurisdictions such as Howard, Montgomery, and Prince Georges County.
2. Generating savings via the City’s tax credit programs. That work is already underway via the Mayor’s Tax Credit Workgroup with recommendations expected in 2024.
3. Expanding the City’s tax base by generating more revenue from non-profit entities. The City can pursue this option when the current agreement expires in 2026.

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# INTRODUCTION

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## **Background and Purpose**

In November 2024 City voters may be faced with a ballot initiative which would alter the City Charter to cap the City's property tax rate. In effect, the rate would be reduced over a seven-year period, declining from the current rate of \$2.248 per \$100 of assessed value to reach a maximum allowable rate of \$1.200 by Fiscal 2032. The coalition organizing this ballot initiative, Renew Baltimore, claims that the property tax reduction will allow Baltimore to "attract more capital, people, and jobs" and will make Baltimore "wealthier, healthier, and more equitable."

The purpose of this report is two-fold. One, educate the public in advance of the November election about the likely impact of this proposal. Tax reduction promises can be inherently appealing to property owners and could be done responsibly, but it is also important to understand the budget and service delivery impacts of such a proposal. Two, provide this same clarity for elected leaders about the likely impact of this proposal. If the ballot initiative passes and goes into law, future City leaders will be constrained by the law and will need to work within its boundaries.

To evaluate the impact of this ballot initiative, the City's Bureau of Budget and Management Research (BBMR) modeled the City's General Fund outlook over the next ten years, including the impact of Renew Baltimore's proposed tax reduction proposal. BBMR also reviewed various Renew Baltimore claims about the impact of the proposal, gathering information from Renew Baltimore's website, from other available literature, and from their interviews with local media. The results of that analysis are summarized in this report.

We believe BBMR is uniquely positioned to conduct a realistic assessment of the Renew Baltimore proposal. BBMR is required to write a fiscal note for most newly introduced City Council legislation, which has given our team extensive experience in analyzing various tax, budget, and policy proposals. And, the Budget Office is often called on to provide advice and to act as neutral arbiter on City budget or policy issues.

# ANALYSIS: Impact of Renew Baltimore Proposal

## Baseline Forecast

To evaluate the impact of Renew Baltimore’s property tax reduction proposal, we must first start with a baseline financial forecast for the City’s General Fund. Each year BBMR produces a 10-year “Current Level of Service” (CLS) forecast. The purpose of the CLS forecast is to compare projected revenues and expenditures assuming the maintenance of current service levels and no changes in current law or policy. This gives the City a starting point to evaluate any future changes in policy.

For this exercise, we started from the Fiscal 2025 Preliminary Budget proposal which is now available to the public at: <https://bbmr.baltimorecity.gov>. The Fiscal 2025 Preliminary Budget is balanced as required by the City Charter. Next, BBMR made a series of assumptions about future revenue and cost growth for Fiscal 2026 through Fiscal 2034 based on market research, economic trends, and other available information. Below, we explain the most important forecast factors for both the revenue and expenditure side of the budget. We also have included a table with the projected year-by-year growth rates for the key assumptions through Fiscal 2034:

### Revenues

**Property Tax:** Property tax revenue is driven by real property assessments performed by the State Department of Assessments (SDAT). Approximately one-third of City properties are reassessed each year, and assessments are phased-in over a three-year period. In Fiscal 2026 Group I properties will be re-assessed which includes the northern portion of the City as well as the central business district (CBD). For the Group I re-assessment we expect some loss in value for commercial properties in the central business district but expect residential property values to grow due to the rapid appreciation in housing prices experienced between 2021 and 2023.

**Income Tax:** Income tax estimates are modeled after the Maryland Board of Revenue Estimates (BRE) forecast and are adjusted for City-specific factors in employment and income. The City’s recent experience is that income tax growth mirrors the growth trends for the State of Maryland as a whole, with some improvement in the make-up of the City’s tax base especially in the middle-income levels. We expect both trends to continue during the forecast period.

### Key Revenue Growth Rate Assumptions

|              | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|--------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Property Tax | 6.2%    | 4.3%    | 3.7%    | 2.5%    | 2.9%    | 3.7%    | 4.0%    | 4.0%    | 4.0%    |
| Income Tax   | 4.1%    | 4.1%    | 4.0%    | 3.9%    | 3.8%    | 3.8%    | 3.7%    | 3.7%    | 3.8%    |

### Expenditures

**Salaries:** Salary growth is tied to expected inflation to ensure that employee wages maintain their purchasing power and keep City salaries competitive with other employers. Note that projected salary growth exceeds inflation in Fiscal 2026 through Fiscal 2028 for both ERS (civilian) and F&P (sworn) employees. The higher

growth is to account for recent studies showing City salaries lagging other competing jurisdictions in certain classifications, with implementation of “catch-up” salary increases in Fiscal 2026, 2027, and 2028.

**Pension:** The City makes annual pension contributions on behalf of employees in the ERS (civilian), F&P (sworn), and EOS (elected) pension systems. The forecast is based on 10-year estimates that are included in each of the system’s Fiscal 2023 year-end actuarial report.

**Health Care:** The forecast includes health care benefits provided to active and retired City employees, which includes coverage for medical expenses, prescription drugs, dental and vision benefits, and life insurance.

**Education:** Per State law, the City must make a minimum annual required contribution (“Local Share”) to City Schools. The forecast is based on the 2022 State Department of Legislative Services (DLS) report “The Local Fiscal Impact of Implementing the Blueprint for Maryland’s Future.” The numbers have been adjusted to reflect the City’s movement from Tier One to Tier Two of the Education Effort Index in Fiscal 2024. Jurisdictions in Tier Two pick up additional State Aid each year through Fiscal 2030 which offsets some of the cost for implementing the Blueprint legislation.

**Inflation:** Most other major costs, including contractual services, materials, supplies, and equipment are forecast based on expected inflation.

#### Key Expenditure Growth Rate Assumptions

|                | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|----------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Salaries – ERS | 4.0%    | 4.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    |
| Salaries – F&P | 6.0%    | 5.0%    | 5.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    |
| Pension – ERS  | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    |
| Pension – F&P  | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    |
| Health Care    | 6.6%    | 6.5%    | 6.4%    | 6.4%    | 6.4%    | 6.4%    | 6.4%    | 6.4%    | 6.4%    |
| Education      | 2.4%    | 1.7%    | 2.1%    | 2.2%    | 3.6%    | 4.3%    | 4.3%    | 4.3%    | 4.3%    |
| Inflation      | 4.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    |

#### Baseline Forecast

Next, BBMR combined the revenue and expenditure projections to build a year-by-year forecast. BBMR projects an annual General Fund shortfall of \$27.0 million beginning in Fiscal 2026 and growing to \$217.3 million by Fiscal 2034. The year-by-year results are displayed in the table below.

To summarize, even before accounting for any future tax rate reduction, the City’s baseline forecast shows that current service levels cannot be maintained without taking one of three actions: raising additional revenue, making service reductions, or finding efficiencies within the current budget:

#### Projected General Fund Revenues vs. Expenditures

(in \$ millions)

|                        | FY 2026       | FY 2027       | FY 2028       | FY 2029        | FY 2030        | FY 2031        | FY 2032        | FY 2033        | FY 2034        |
|------------------------|---------------|---------------|---------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Revenues               | 2,417.0       | 2,476.2       | 2,477.1       | 2,535.9        | 2,600.3        | 2,672.6        | 2,751.3        | 2,833.5        | 2,920.2        |
| Expenditures           | 2,334.2       | 2,425.0       | 2,521.1       | 2,605.3        | 2,696.4        | 2,796.5        | 2,900.8        | 3,006.8        | 3,114.3        |
| PAYGO Capital          | 109.8         | 107.5         | 42.0          | 38.8           | 35.5           | 31.9           | 28.3           | 24.6           | 23.2           |
| <b>Surplus/Deficit</b> | <b>(27.0)</b> | <b>(56.3)</b> | <b>(86.0)</b> | <b>(108.2)</b> | <b>(131.6)</b> | <b>(155.8)</b> | <b>(177.8)</b> | <b>(197.9)</b> | <b>(217.3)</b> |

## **Renew Baltimore Impact**

Next, BBMR added in the impact of the property tax reduction proposed by the Renew Baltimore charter amendment. The current real property tax rate for Baltimore City is \$2.248 per \$100 of assessed value and the personal property tax rate, per State law, must be set at 2.5 times the real property tax rate. The Renew Baltimore proposal would reduce the real property tax rate over a seven-year period between Fiscal 2026 and Fiscal 2032. Then, the rate would be capped at \$1.200 per \$100 of assessed value in Fiscal 2033 and beyond.

### **Projected Real Property Tax Rate Under the Renew Baltimore Proposal**

*Per each \$100 of Assessed Property Value*

|          | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|----------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Tax Rate | \$2.20  | \$2.10  | \$1.92  | \$1.74  | \$1.56  | \$1.38  | \$1.20  | \$1.20  | \$1.20  |

There will be an immediate reduction in both real and personal property tax revenue beginning in the first year of the required rate reduction (Fiscal 2026) with a growing impact through the final year of the seven-year phase-in (Fiscal 2032). Then, property tax revenues will level out in Fiscal 2033 and beyond. The lost revenue is a very simple and straightforward calculation. BBMR simply took the overall projected assessed property valuations for each year and applied the new tax rate versus the existing tax rate. Because the rate reduction is so sharp (46% reduction) and because property taxes make up nearly half of General Fund revenues (49%), the impact on the City's revenues is dramatic. By Fiscal 2032, the year that the tax rate levels out at \$1.20, the City would be losing nearly a quarter of its current revenues or an equivalent of \$627.3 million annually.

### **Projected Impact of Renew Baltimore Proposal on General Fund**

*(in \$ millions)*

|              | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|--------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Lost Revenue | (23.7)  | (75.9)  | (174.0) | (276.1) | (384.4) | (501.1) | (627.3) | (650.4) | (673.7) |

The City already faces a structural deficit in its baseline General Fund forecast for Fiscal 2026 through Fiscal 2034. The Renew Baltimore proposal will add to that deficit by reducing the City's ongoing property tax revenue. The following table shows BBMR's estimate of the 10-year forecast inclusive of the Renew Baltimore proposal. The City's General Fund would face a growing deficit over the 10-year period, growing to \$891.0 million by Fiscal 2034:

### **Projected General Fund Revenues vs. Expenditures with Renew Baltimore Proposal**

*(in \$ millions)*

|                 | FY 2026   | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|-----------------|-----------|---------|---------|---------|---------|---------|---------|---------|---------|
| Revenues        | \$2,393.3 | 2,400.3 | 2,303.1 | 2,259.8 | 2,215.9 | 2,171.5 | 2,124.0 | 2,183.1 | 2,246.5 |
| Expenditures    | 2,334.2   | 2,425.0 | 2,521.1 | 2,605.3 | 2,696.4 | 2,796.5 | 2,900.8 | 3,006.8 | 3,114.3 |
| PAYGO Capital   | 109.8     | 107.5   | 42.0    | 38.8    | 35.5    | 31.9    | 28.3    | 24.6    | 23.2    |
| Surplus/Deficit | (\$50.7)  | (132.2) | (260.0) | (384.3) | (516.0) | (656.9) | (805.1) | (848.3) | (891.0) |

## **Other Impacts**

Proponents of tax cuts often argue that these cuts lead to savings that get reinvested back into the economy. We reviewed the economic research on this topic, and we found some reason to believe this premise in two ways.

First, economic theory suggests that the cost of the property tax is capitalized into the value of property. Assuming two identical homes, the home in a high tax jurisdiction will have a lower selling price than a home in a low tax jurisdiction, because homebuyers look at the entire cost of purchasing a home including the sales price, taxes, interest, insurance, and other costs. Studies on this effect have shown that there is some modest increase in property values when property taxes are reduced.

Second, a fundamental principle of economics is that as prices fall demand will increase. The degree to which this will occur is referred to as the price elasticity of demand. Studies in the United States of this effect on housing demand have found that there is some modest increase in demand when the price of housing (including taxes) declines. This means that the City could see some in-migration of residents and businesses if the property tax rate were reduced significantly.

**It's important to note that predicting the level at which in-migration will occur is complicated by many other factors including the quality of schools, crime levels, commuting costs, distance from family, and the availability of desired amenities, among many other factors.** Cutting the tax rate will improve the economics of living in the City but decisions on where to reside are not made on economics alone. Further, given the historical trend of population loss in Baltimore City, it is likely that any positive effects of tax reduction from the studies cited above would have a more muted effect in Baltimore.

Given the difficulty of accurately predicting any in-migration from a property tax cut, in the next section we will instead test Renew Baltimore's claim by building a break-even analysis to show how many new residents and businesses would be required to achieve revenue-neutrality.

## ANALYSIS: Testing Renew Baltimore's Claims

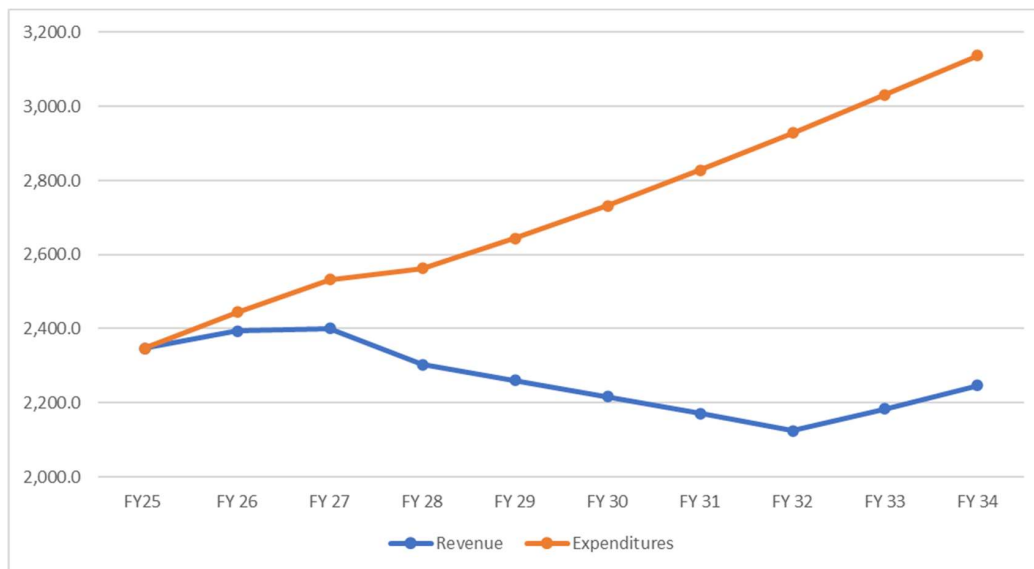
**Renew Baltimore Claim #1:** *A property tax cut will lead to more revenue for the City.*

**BBMR Finding:** **Myth**

**The claim that a sharp property tax reduction will lead to more revenue for the City is wildly optimistic.**

BBMR's analysis in the previous section shows that budget shortfalls would grow rapidly during the seven-year phase-in period and reach a gap of \$891.0 million by Fiscal 2034 due to the lost property tax revenue:

**Baltimore City General Fund Outlook with Proposed Renew Baltimore Tax Reduction**  
*Fiscal 2025 to Fiscal 2034*



To test Renew Baltimore's claim that the property tax cut will lead to more revenue, we ran a break-even analysis to determine what must happen to make the proposal revenue-neutral overall. To break even the City must experience some combination of new households and new businesses that adds enough tax revenue to entirely offset the projected budget deficit. BBMR built a model to estimate how much tax revenue each new household and each new business creates.

For each new household, we assumed an average owner-occupied residential property assessment of \$179,921 based on the most current assessment data from SDAT. After applying the effective property tax each year per the Renew Baltimore schedule and net of the Targeted Homeowners Tax Credit, we determined that each new household generates \$3,820 of property tax revenue for the City. For income tax, the City's current revenues of \$468.3 million were divided by the estimated 247,232 City households to determine that each household contributes \$1,894 of income tax revenue on average. We also included an estimate of a \$221 contribution per household for other nominal City revenues such as energy tax, telecommunications tax, and admissions and amusement tax.

For each new business, we first estimated the amount of personal property tax revenue generated on average for each new business. In Baltimore there are 14,291 businesses that will generate an estimated \$142.7 million of personal property tax in Fiscal 2026 for an average of \$9,985 per business. We also included an estimated contribution of \$2,747 per business for other City revenues such as energy tax and telecommunications tax.

The following tables shows the estimated contribution for each new household and each new business. Note that the contribution per new household or business declines from Fiscal 2026 to 2032 due to the impact of Renew Baltimore's proposed property tax cut:

#### Estimated New Revenue from One New Household

|               | FY 2026      | FY 2027      | FY 2028      | FY 2029      | FY 2030      | FY 2031      | FY 2032      | FY 2033      | FY 2034      |
|---------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Property Tax  | \$3,820      | 3,789        | 3,548        | 3,247        | 2,938        | 2,632        | 2,315        | 2,403        | 2,491        |
| Income Tax    | 1,894        | 1,987        | 2,084        | 2,186        | 2,293        | 2,406        | 2,524        | 2,647        | 2,777        |
| Other Revenue | <u>221</u>   | <u>226</u>   | <u>230</u>   | <u>235</u>   | <u>240</u>   | <u>244</u>   | <u>249</u>   | <u>254</u>   | <u>259</u>   |
| <b>Total</b>  | <b>5,936</b> | <b>6,002</b> | <b>5,864</b> | <b>5,669</b> | <b>5,472</b> | <b>5,283</b> | <b>5,089</b> | <b>5,305</b> | <b>5,528</b> |

#### Estimated New Revenue from One New Business

|               | FY 2026       | FY 2027       | FY 2028       | FY 2029       | FY 2030       | FY 2031       | FY 2032      | FY 2033       | FY 2034       |
|---------------|---------------|---------------|---------------|---------------|---------------|---------------|--------------|---------------|---------------|
| Property Tax  | 9,772         | 9,679         | 9,251         | 8,635         | 8,012         | 7,371         | 6,685        | 6,970         | 7,263         |
| Other Revenue | <u>2,747</u>  | <u>2,802</u>  | <u>2,858</u>  | <u>2,915</u>  | <u>2,973</u>  | <u>3,033</u>  | <u>3,093</u> | <u>3,155</u>  | <u>3,218</u>  |
| <b>Total</b>  | <b>12,519</b> | <b>12,481</b> | <b>12,109</b> | <b>11,550</b> | <b>10,986</b> | <b>10,404</b> | <b>9,779</b> | <b>10,126</b> | <b>10,482</b> |

Next, we computed the number of new households and new businesses needed to close the projected budget gap caused by the loss of revenue from the Renew Baltimore proposal, which begins at \$50.7 million in Fiscal 2026 and grows to \$891.0 million by Fiscal 2034. We assumed that for every 17.3 new households one new business will be created, using the current ratio of households (247,232) to businesses (14,291). We were also able to translate the new households to population, knowing that currently there are 2.28 occupants per household:

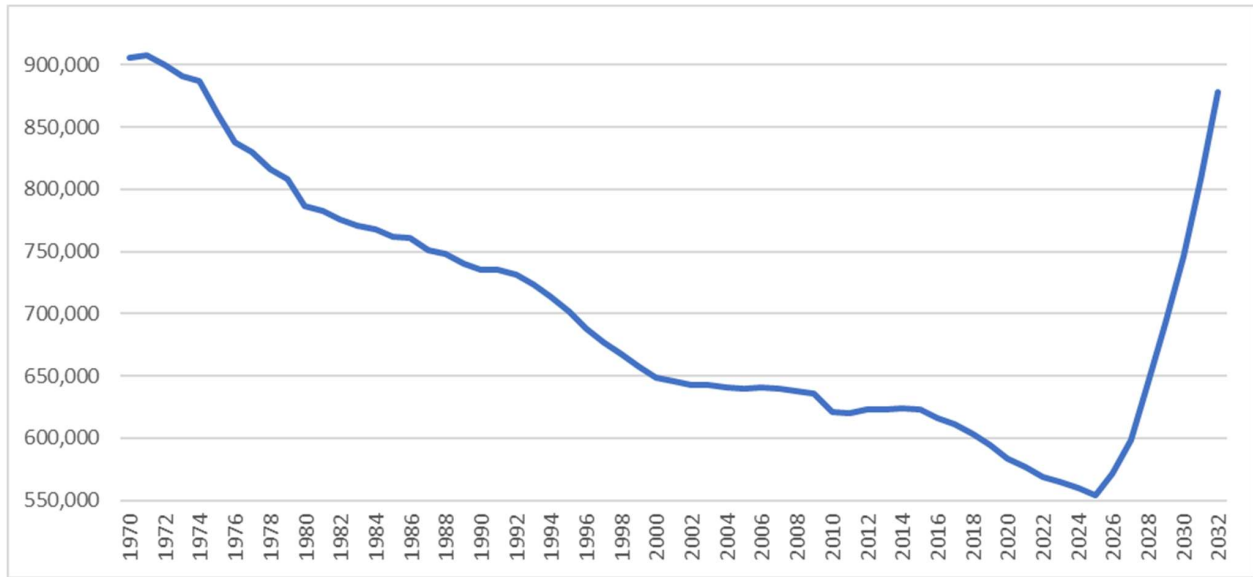
#### New Households, Businesses, and Residents Required to Close Budget Deficit

|            | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Households | 7,612   | 19,661  | 39,610  | 60,647  | 84,483  | 111,617 | 142,378 | 143,995 | 145,242 |
| Businesses | 440     | 1,136   | 2,290   | 3,506   | 4,883   | 6,452   | 8,230   | 8,324   | 8,396   |
| Residents  | 17,356  | 44,827  | 90,312  | 138,275 | 192,622 | 245,487 | 324,621 | 328,310 | 331,152 |

BBMR's analysis shows that by the last year of the tax cut phase-in, to a property tax rate of \$1.20 in Fiscal 2032, the City will need to gain over 300,000 new residents and add over 8,000 new businesses to make the Renew Baltimore proposal revenue neutral. Looking at this in the context of the City's longer-term population trends shows just how unrealistic this task would be. Essentially, the City would need to reverse over fifty years of population growth in just a tiny seven-year window to make the proposal work:

## Baltimore City Population Growth Needed to Make Up for Lost Revenues

*Actual and Estimated Population 1970 to 2034*



Note that our estimate is conservative because we did not attempt to estimate the new expenditures that would be needed to support any growth in population. But, realistically, any substantial growth in population would require the expansion of existing services and add even more cost to the expenditure forecast. This in turn would require even more new residents and/or businesses to make the proposal revenue neutral.

**BBMR's conclusion from this break-even analysis is that the number of new residents required to make the Renew Baltimore proposal revenue-neutral is substantially higher than what could reasonably be expected.**



## **Renew Baltimore Claim #2: *City services will not be cut.***

### **BBMR Finding: **Myth****

**The Renew Baltimore proposal will lead to crippling City service reductions, with the impact felt most directly by the poorest Baltimore residents.** Renew Baltimore claims that the property tax rate cuts are “small, manageable increments.” This statement is wildly inaccurate.

To get a sense of the service reductions required, we must first gain some perspective on the City’s General Fund budget. The City’s Preliminary General Fund Budget for Fiscal 2025 is \$2.237 billion, but approximately \$1.0 billion of the budget, or 42.6%, is made up of “fixed costs.” Fixed costs are costs that the City must pay either by law or by contractual obligation, such as debt service, pension contributions, mandated contributions to City Schools, retiree health benefits, workers compensation payments, and utilities, among many others. Once those fixed costs are accounted for the City only has a “discretionary” budget of \$1.2 billion. And, most of that discretionary budget is tied directly to service delivery – salaries and benefits, equipment, materials, and contract costs.

The Renew Baltimore proposal would eliminate nearly a quarter (23.1%) of the City’s General Fund revenue. To simplify this and put it in terms of the Fiscal 2025 budget, the City would need to eliminate \$537 million worth of services out of a total discretionary budget of only \$1.3 billion, or over 40% of the City’s discretionary budget.

BBMR built a realistic proposal for what a reduction of this magnitude would look like. The City would first seek to find efficiencies within the budget that have minimal impact on residents, but there is only so much efficiency to be gained before direct service reductions are required. Seeking other revenue sources is also a possibility but this will yield only minimum results. In addition to the Charter restriction on property tax rates, the City is already at the State maximum income tax rate of 3.2%. Those two sources alone make up over 70% of the City’s General Fund revenue. And other tax rates for housing transfers and recordation, parking tax, and hotel tax are already at or tied for the highest rates in Maryland.

BBMR did not assume that new revenues could be generated that require State legislation. As of the time of publication, the State of Maryland was still grappling with its own budget challenges. At the close of the 2024 General Assembly session the legislature raised a variety of taxes and fees to fund the Transportation Trust Fund. But, future unfunded requirements for implementing the Blueprint for Maryland’s Future (education) were deferred to later fiscal years. It would be unrealistic to expect the State to provide new taxing authority for the City when they are facing their own budget challenges.

Permanently balancing the City’s budget under the Renew Baltimore proposal would require the combination of all the following budget savings and/or cuts totaling \$537 million. **The package below is a realistic assessment of how dramatically City government would need to shrink by Fiscal 2032 under the Renew Baltimore proposal:**

## Summary of Actions Needed to Balance the Budget by Fiscal 2032 Under Renew Baltimore Proposal

*All Services and Amounts in Fiscal 2025 Dollars*

**Efficiencies and New Revenues (\$124.5 million):** Eliminate 200 long-term vacant positions, find \$20 million of other agency efficiencies, eliminate the Targeted Homeowners Tax Credit, reduce Tax Credit offerings by 20%, double the Homestead Cap from 4% to 8%, raise the Taxi Tax from \$0.25 to \$1.00 per ride, and increase energy tax rates by 10%.

**Public Safety (\$233.0 million):** Reduce the Police force by 40% (1,000 officers), eliminate the Police helicopter unit, close 40% of Fire Suppression units (20 units), close 40% of EMS units (10 units), eliminate Sheriff enforcement of child support payments, eliminate SAO's victim and witness protection programs, reduce SAO prosecutors by 1/3 (50 prosecutors), and eliminate all 10 Safe Street sites.

**Cleanliness and Beautification (\$25.9 million):** Eliminate street and alley cleaning, return to permanent bi-weekly recycling, eliminate business district cleaning, close the Cylburn Arboretum and Rawlings Conservatory, eliminate mowing and maintenance for 870 median strips, and eliminate the Inner Harbor beautification and safety teams.

**Youth and Education (\$46.6 million):** Eliminate all after-school programming, reduce school nurses to only 1 for every 3 schools, eliminate school crossing guards, reduce rec center hours from 6 days to 3 days per week, eliminate 1/3 of Library branch locations (7 libraries), eliminate all pre and post-natal maternal health visits, eliminate 2,000 Youth Works jobs slots, eliminate trauma-informed care training for City employees, and eliminate all Healthy Homes lead exposure visits.

**Direct Employee Impacts (\$76.1 million):** Freeze employee pay for three consecutive years, double employee costs for healthcare from 20% to 40% share of premium, eliminate all employee training programs, and eliminate employee wellness, training, and assistance programs.

**Miscellaneous (\$30.9 million):** Reduce annual Capital investment from \$100M to \$80M, eliminate all election early voting sites, eliminate all support for community development entities, eliminate all grants for art and cultural institutions, and eliminate Charm-TV and all public broadcasting.

This combination of budget cuts, totaling \$537 in Fiscal 2025 dollars, would be truly devastating. It would be especially difficult for lower-income residents who are more reliant on City services. Renew Baltimore claims that property tax reduction will trigger an influx of new investment, but we think exactly the opposite is more likely. Once property owners, residents, and businesses begin to see the massive and unprecedented reduction in City services the City risks *losing* property owners who seek a more stable environment.

**Renew Baltimore Claim #3:** *Similar tax reduction proposals have triggered a turnaround in other cities.*

**BBMR Finding:** **Myth**

**The claim that a sharp tax cut was the trigger for turnaround in places such as San Francisco does not stand up to scrutiny.** A better comparable for the Renew Baltimore proposal is an experimental income tax cut in the state of Kansas that triggered an ongoing fiscal crisis for the better part of the next decade.

**San Francisco:** Proponents of sharp tax cuts often point to the implementation of Proposition 13 in California in 1978 as an example of a policy that spurred the turnaround of San Francisco. But that argument does not stand up to scrutiny. First, the explosion in downtown development in San Francisco occurred between 1965 and 1980, beginning well before the implementation of Prop 13. Second, the State of California took actions to cushion the financial blow for local jurisdictions. The State gave block grants and shifted some tax revenue back to local governments and bought out parts of state-mandated health and welfare programs to reduce costs for local governments. Baltimore would not have the luxury of receiving similar support from Annapolis.

The Renew Baltimore coalition also argues that Prop 13 created an economic spark that led to growth in receipts for sales and use taxes, payroll taxes, and business licenses. Here they are mixing up cause and effect. The City of San Francisco had to broaden its tax base to collect more revenue from these sources **because of** the loss in property tax revenue. In fact, across California, the financing of city and county services shifted from general taxes to other fees and charges.

**Kansas:** A better comparison to the Renew Baltimore proposal is Kansas Governor Sam Brownback’s income tax cut experiment. In May 2012 the Governor signed a bill that cut the top income tax rates and eliminated pass-through income from businesses to their owners. The Governor argued that the tax cuts would pay for themselves through increased revenues and would serve as a real live experiment of whether tax cuts could create growth. Brownback’s tax consultant was Arthur Laffer, a noted “supply-side” economist, and his policies were endorsed by noted anti-tax activist Grover Norquist.

The tax cuts resulted in an almost immediate deterioration of the State’s fiscal health. In 2014, after the tax cuts went into effect, State revenues plummeted by nearly \$700 million. S&P and Moody’s both downgraded the State’s bond rating due to the structurally unbalanced budget. Lawmakers were forced to utilize one-time gimmicks to make up for the loss of revenue by drawing on General Fund reserves, diverting money from the State transportation fund, and reducing annual pension payments. And, further budget cuts were needed to balance the State’s budget, including sharp reductions in Medicaid and education spending. In 2017 the newly elected Kansas legislature, having tired of the ongoing fiscal crisis, voted to restore the top income tax rate and the pass-through business tax. This action effectively ended the “Kansas experiment” and restored structural balance to the State’s budget.

**Renew Baltimore Claim #4:** *Baltimore taxpayers pay a tax rate that is twice as high as other Maryland residents.*

**BBMR Finding: Needs More Context for a Fair Comparison**

**Comparing the City’s tax rate versus other county rates alone does not provide a true apples-to-apples comparison of the tax burdens between different jurisdictions.** Baltimore’s real property tax rate of \$2.248 per \$100 of assessed value is the highest when compared to other Maryland counties alone. However, there are three adjustments – Solid Waste fees, the Targeted Homeowners Tax Credit, and municipal tax rates - that must be made to make a more accurate comparison about the tax burdens that property owners face in Baltimore compared to other Maryland jurisdictions:

**1) Solid Waste Fees:** Baltimore City is one of the few large jurisdictions in Maryland that funds Solid Waste collection costs in its General Fund via the property tax. Most other large counties in Maryland - including Prince Georges, Montgomery, Howard, and Anne Arundel - charge a separate Solid Waste collection fee to property owners on top of the property tax rate. In the Fiscal 2024 budget the City spent \$92.2 million on Solid Waste services which includes trash and recycling collection, street and alley cleaning, disposal, and landfill costs. Given that each penny of the City’s tax rate generates \$5.1 million of General Fund revenue, the City’s tax rate is overstated by the equivalent of \$0.180 when compared to these other large Maryland counties which charge a separate fee for those services.

**2) Targeted Homeowners Tax Credit:** Any residential owner-occupied property in Baltimore that is Homestead-eligible automatically receives the Targeted Homeowners Tax Credit (THTC). The THTC effectively reduces the rate for those property owners by an additional \$0.20 per \$100 of assessed value. There is no equivalent tax credit in any other Maryland county.

**3) Municipal Tax Rates:** Approximately 26% of Maryland residents live in either a town or municipality that charges an additional municipal or town tax rate on top of the county rate. These jurisdictions tend to be denser with higher demands for services and thus serve as a better comparison to Baltimore City. For example, taxpayers in the City of Frederick pay both the Frederick County property tax rate plus the City of Frederick rate for a combined total of \$1.687. The same is true of many other large municipalities in the State including Hagerstown, College Park, Bel Air, Havre de Grace, and Annapolis, among many others.

A more accurate comparison is to take Baltimore’s tax rate, correct for the impact of Solid Waste fees and the THTC, and then compare versus other municipality’s combined county and local rate.:

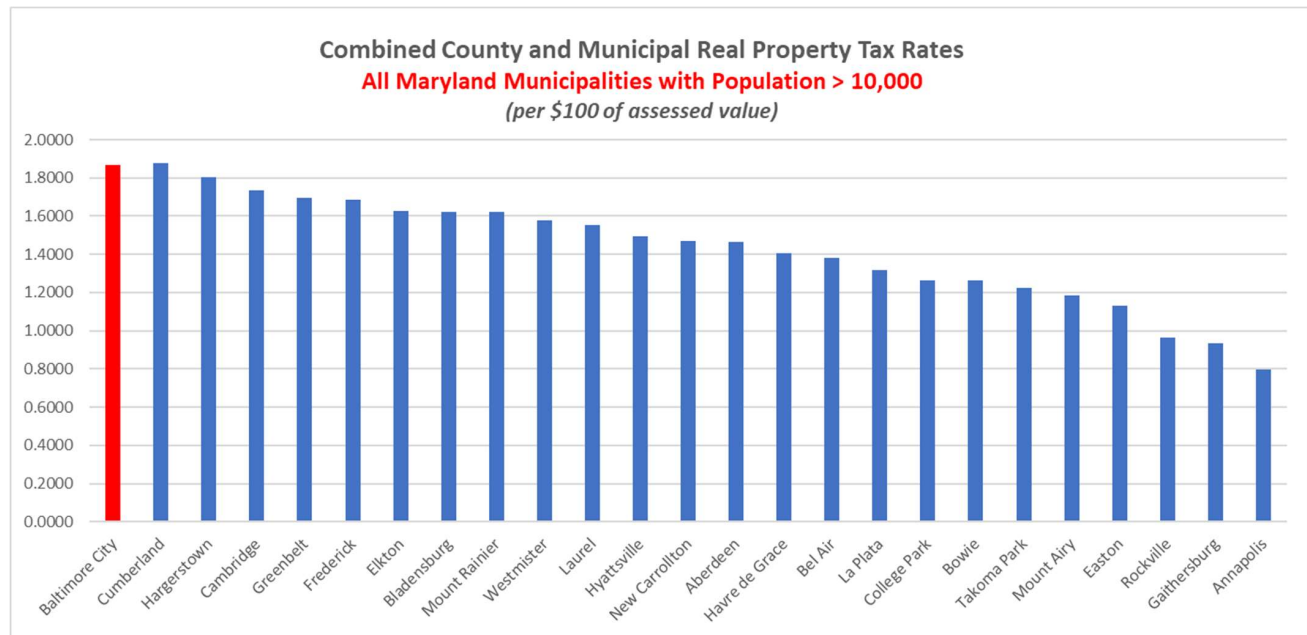
**Comparable Baltimore City Property Tax Rates**

*Accounting for Solid Waste Costs and the Targeted Homeowners Tax Credit*

|   | Rate           |
|---|----------------|
| <b>Base Baltimore City Property Tax Rate</b>  | \$2.248        |
| <b>Less:</b> equivalent Solid Waste Enterprise costs  | (\$0.180)      |
| <b>Equals: Comparable Tax Rate for Commercial and Residential Non-Owner Occupied Property</b> | <b>\$2.068</b> |
| <b>Less:</b> Targeted Homeowners Tax Credit   | (\$0.200)      |
| <b>Equals: Comparable Tax Rate for Residential Owner-Occupied Property</b>                    | <b>\$1.868</b> |

24-01: Analyzing the Impact of the 2024 “Renew Baltimore” Charter Amendment Proposal on Property Tax Rates

When comparing the adjusted \$1.868 City tax rate for residential owner-occupied properties to other Maryland municipality's combined tax rates, the comparison is more favorable and not nearly as bad as the “double the tax rate” headline that is often used to describe the City’s tax rates.



## CONCLUSIONS

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BBMR aims to provide clarity to the public, elected officials, and other stakeholders about the impact of various City tax, budget, and policy proposals. The Renew Baltimore petition that is currently circulating would represent a dramatic change in tax policy with significant impacts on the City budget and service delivery. As such, we felt it was our duty to perform a good-faith analysis of the proposal and its potential impact on Baltimore residents.

Our conclusion is that the Renew Baltimore proposal would create an enormous structural deficit in the City's General Fund budget, and in turn require massive service reductions that represent more than 40% of the City's discretionary budget. Those service reductions would be most likely to impact the City's most vulnerable residents. Renew Baltimore's claim that new revenues would offset the lost property tax revenue are wildly unrealistic and failed a common-sense break-even analysis. Claims that similar proposals have triggered a turnaround in other cities do not stand up to scrutiny.

Dramatic tax reduction is appealing on its face, but tax reduction is best achieved via an incremental approach. Small but consistent rate increases send a signal to property owners about the seriousness of the City's efforts, but also protect the budget and City services from drastic reductions. The City's 10-Year Financial Plan includes several initiatives – such as establishing a Solid Waste fee, making reforms to tax credit programs, and expanding the City's tax base to include large non-profit entities – that can serve as a roadmap for generating tax relief via a more manageable and realistic approach.

## APPENDIX I: CONTACT INFORMATION

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### **Contributors**

Bob Cenname, Deputy Finance Director  
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### **BBMR Mission**

The Bureau of the Budget and Management Research is an essential fiscal steward for the City of Baltimore. Our mission is to promote economy and efficiency in the use of City resources and help the Mayor and City agencies achieve positive outcomes for the citizens of Baltimore. We do this by planning for sustainability, exercising fiscal oversight, and performing analysis of resource management and service performance. We value integrity, learning and innovating, excellent customer service, and team spirit.

### **Obtaining Copies**

All BBMR reports are made available on our website, <https://bbmr.baltimorecity.gov/management-research>.

### **Contacting BBMR**

Please contact us by email at [budget@baltimorecity.gov](mailto:budget@baltimorecity.gov) or by phone at 410-396-4941.

|   |   |                            |
|---|---|----------------------------|
| BENEDICT J. FREDERICK, III, <i>et al.</i> ,           | * | IN THE                     |
| Plaintiffs,   | * | CIRCUIT COURT              |
| v.  | * | FOR                        |
| BALTIMORE CITY BOARD<br>OF ELECTIONS, <i>et al.</i> , | * | BALTIMORE CITY             |
| Defendants.   | * | Case No. C-24-CV-24-001361 |
|   | * |                            |

\* \* \* \* \*

### **AFFIDAVIT OF ROBERT CENNAME**

1. My name is Robert Cenname. I am at least 18 years of age and competent to testify.
2. I currently serve as Deputy Director of the Baltimore City Department of Finance (“DOF”).
3. My duties as Deputy Director include supervising and overseeing the daily functions of DOF and coordinating with the Director; signing all checks of the City made by the City; and performing the duties of the Director when the Director is incapacitated or otherwise unavailable for duty for any cause, and serving as Acting Director of DOF if the Director position becomes vacant.
4. As Deputy Director of DOF, I am responsible for overseeing the preparation of the budget for consideration by the Mayor, proposed to the City’s Board of Estimates and thereafter considered as legislation by the Baltimore City Council under the process outlined in the City’s Charter.
5. DOF’s Bureau of Budget and Management Resources (“BBMR”), which I help oversee as Deputy Director of DOF, is required to write fiscal notes for legislation and has extensive experience in analyzing various tax, budget, and policy proposals.
6. The DOF analysis of the 2024 Renew Baltimore Charter Petition is in a document entitled “City of Baltimore, BBMR Management Research Report, Analyzing the Impact of the 2024 ‘Renew Baltimore’ Charter Amendment Proposal on Property Tax Rates” (hereinafter the “Analysis”) that was published online on May 8, 2024.
7. The City has approximately \$1 billion dollars annually in fixed costs that include funding the Baltimore City Public School System (\$396 million), servicing the City’s debt, or “debt service”, (\$105 million), and making contributions to the City’s various pension obligations (\$215 million). The remaining costs are divided among other expenses, including retiree health costs, workers compensation, insurance premiums and energy costs.



8. DOF's Analysis modeled the City's General Fund outlook over the next ten years starting with the most recent annual budget proposal, the Fiscal 2025 Preliminary Budget proposal available to the public at: <https://bbmr.baltimorecity.gov>, which balances expected expenditures with expected revenues as required by the City Charter and Maryland Constitution. The Analysis does not change significantly if the actual figures from the recent Ordinance of Estimates are used.

9. The Analysis made realistic assumptions of future revenue and cost growth, including using the Maryland Board of Revenue Estimates (BRE) forecast adjusted for City-specific factors in employment and income, the actuarial reports provided by the City's pension systems and the 2022 Maryland State Department of Legislative Services report on "The Local Fiscal Impact of Implementing the Blueprint for Maryland's Future."

10. Even without the tax rate reductions mandated by the Renew Baltimore Petition, DOF projects that the City's current service levels cannot be maintained without taking one of three actions: raising additional revenue, making service reductions, or finding efficiencies within the current budget.

11. If the Renew Baltimore Petition was implemented, the City would need, in Fiscal 2025 dollars, a total of \$537 million worth of budget cuts by 2032.

12. Property tax and income tax make up nearly 70% of the City's General Fund revenue. The Renew Petition would lower the City's property tax rate substantially. Because the income tax rate is the maximum allowed under State law (3.2%), the City would need to generate over a half a billion dollars outside of property and income tax if the Renew Petition took effect.

13. The City would not be able to balance its budget with traditional budget cuts or by finding the half billion needed in new revenues. Instead, the City would be forced to make massive service reductions across many agencies that would have crippling effects, especially on residents that rely most on City services.

14. The Analysis found that the City would need to reverse more than fifty years of population decline in a seven-year window to make the Renew Baltimore proposal revenue-neutral for the City.

\* \* \*

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Date: July 26, 2024

Robert Cennname  
Robert Cennname

BENEDICT J. FREDERICK, III, *et al.*, \* IN THE  
Plaintiffs, \* CIRCUIT COURT  
v. \* FOR  
BALTIMORE CITY BOARD \* BALTIMORE CITY  
OF ELECTIONS, *et al.*, \*  
Defendants. \* Case No. C-24-CV-24-001361  
\*

\* \* \* \* \*

**ORDER GRANTING  
MAYOR AND CITY COUNCIL OF BALTIMORE'S  
MOTION FOR SUMMARY JUDGMENT**

Upon consideration of the Mayor and City Council of Baltimore's Motion for Summary Judgment, any opposition thereto, and for good cause shown, it is hereby:

**ORDERED** that the Mayor and City Council of Baltimore's Motion for Summary Judgment is **GRANTED**; and further

**ORDERED** that judgment is hereby entered in favor of Defendant Mayor and City Council of Baltimore;

Date: \_\_\_\_\_, 2024

\_\_\_\_\_  
Judge, Circuit Court for Baltimore City

**BENEDICT J. FREDERICK, III, ET  
AL.**

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, ET AL.**

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

### ORDER

Upon consideration of the Joint Emergency Motion for Expedited Briefing Schedule and Hearing for Judicial Review Pursuant to Md. Code. Ann., Elec. Law §§6-209(A)(2), 6-209(A)(3)(I), 6-210(E)(3)(I)(1) (the “Motion”) seeking an expedited schedule, it is this 26th day of July, 2024 hereby

**ORDERED**, that the Motion is **GRANTED**; and it is

**FURTHER ORDERED**, that the Schedule will be as follows:

Deadline for All Parties to file dispositive motions by 7/26/24.

Deadline for All Parties to file oppositions to dispositive motions by 8/2/24.

No replies to oppositions to dispositive motions will be filed.

Hearing on all motions shall occur on 8/8/24.

07/26/2024 5:24:42 PM

  
Judge, Circuit Court for Baltimore City

**BENEDICT FREDERICK, III, et al.**

***Plaintiffs,***

**v.**

**BALTIMORE CITY BOARD OF  
ELECTIONS, et al.**

***Defendants.***

\*

\*

\*

\*

\*

**IN THE**

**CIRCUIT COURT**

**FOR**

**BALTIMORE CITY, PART 23**

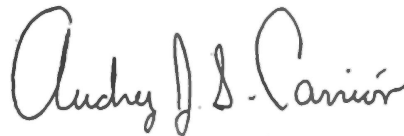
**Case No.: C-24-CV-24-001361**

\* \* \* \* \*

**ORDER**

This Court having reviewed Plaintiffs' Verified Complaint for Declaratory Judgment electronically filed on July 12, 2024, it is this 29th day of July 2024, by the Circuit Court for Baltimore City, Part 23 hereby

**ORDERED**, that the above captioned case be and the same shall be specially assigned for all purposes to Judge Althea M. Handy.



**07/29/2024 9:51:28 AM**

The Honorable Audrey J.S. Carrión  
Administrative Judge  
Circuit Court for Baltimore City  
Case No.: C-24-CV-24-001361

CLERK TO SEND COPIES TO:

The Honorable Althea M. Handy  
The Honorable John S. Nugent, JICC

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*Attorney for Intervenor Mayor and City Council of Baltimore*

BENEDICT J. FREDERICK, III, *ET AL*

*Plaintiffs*

v.

BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL*

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361

\* \* \* \* \*

**CONSENT TO THE MARYLAND STATE BOARD OF ELECTIONS' MOTION TO  
INTERVENE**

Plaintiffs, Benedict J. Frederick, III ("Mr. Frederick"), Matthew W Wyskiel, III ("Mr. Wyskiel"), and Stacie Teal-Locust ("Ms. Teal-Locust") (collectively together "Plaintiffs") through undersigned counsel consent to the Maryland State Board of Elections intervening as a party in this action.

/s/ Constantine J. Themelis

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*Attorneys for Plaintiffs Benedict J. Frederick, III, Matthew  
Wyskiel and Stacie Teal-Locust*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 30th day of July 2024, a copy of the foregoing Consent to State Board of Elections' Motion to Intervene was served was served electronically by the MDEC system on all counsel of record.

/s/ Constantine J. Themelis  
Constantine J. Themelis

BENEDICT J. FREDERICK, III, *et al.*,

*Plaintiffs,*

v.

BALTIMORE CITY BOARD OF ELECTIONS, *et al.*,

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* No. C-24-CV-24-001361

\* \* \* \* \*  
**MARYLAND STATE BOARD OF ELECTIONS’ MOTION TO INTERVENE  
PURSUANT TO ELECTION LAW § 2-105(2)**

The Maryland State Board of Elections, by counsel, Daniel Kobrin, Assistant Attorney General, moves to intervene as a defendant in the above-captioned case pursuant to Maryland Rules 2-214(a) & (b)(2); and, Maryland Code Annotated (LexisNexis 2023), Election Law Article § 2-105(2).

The plaintiffs filed suit against the Baltimore City Board of Elections, the Chair of the City Board, and the City Election Director, pursuant to § 6-209 of the Election Law Article. The suit seeks judicial review of the Baltimore City Election Director’s legal determination that the plaintiffs sought to amend the Baltimore City Charter in a manner that was unconstitutional or otherwise prohibited by law.

Section 2-105(2) of the Election Law Article permits the State Board of Elections to “join as a party to the proceeding” any “judicial proceeding in which a local board is a party.” The State Board of Elections therefore possesses an “unconditional right to



intervene as a matter of law.” Md. Rule 2-214(a). Moreover, resolution of the plaintiffs’ suit implicates the placement of a ballot question on the 2024 presidential election ballot. The State Board of Elections is responsible for timely certifying, publishing, and printing all ballots. *See* Elec. Law § 9-207(a) & (e). This Court may therefore permit the State Board’s intervention as a matter of governmental interest, pursuant to Maryland Rule 2-214(b)(1).

The State Board intends on filing a response to plaintiffs’ motion for summary judgment, explaining why expediency in adjudicating the challenge is necessary for the orderly operation of the 2024 general election. That response is being filed concurrently with this motion.

The State Board therefore requests this Court issue an order directing the clerk of the court to docket the State Board as a defendant in the above-captioned matter.

Respectfully submitted,

ANTHONY BROWN  
Attorney General of Maryland

/s/ Daniel M. Kobrin

---

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(410) 576-6472  
(410) 576-6955 (facsimile)

July 30, 2024

Attorneys for the Maryland State Board  
of Elections

## **CERTIFICATE OF SERVICE**

I certify that on this 30th day of July, 2024 the foregoing was filed and served electronically by the MDEC system on all persons entitled to service:

/s/ Daniel M. Kobrin

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Daniel M. Kobrin

IN THE  
CIRCUIT COURT FOR BALTIMORE CITY

|   |   |                       |
|---|---|-----------------------|
| BENEDICT J. FREDERICK, III, <i>et al.</i> , | * | IN THE                |
| <i>Plaintiffs,</i>                          | * | CIRCUIT COURT         |
| V.  | * | FOR                   |
| BALTIMORE CITY BOARD OF                     | * | BALTIMORE CITY        |
| ELECTIONS, <i>et al.</i> ,                  | * | No. C-24-CV-24-001361 |
| <i>Defendants.</i>                          |   |                       |

\* \* \* \* \*

**MARYLAND STATE BOARD OF ELECTIONS' RESPONSE TO PLAINTIFFS'  
MOTION FOR SUMMARY JUDGMENT**

Defendant, the Maryland State Board of Elections, by counsel, Daniel Kobrin, Assistant Attorney General, hereby respond to plaintiffs' motion for summary judgment.

By the third weekend in September the State Board must have approximately 500,000 mail-in ballot packets designed, printed, and assembled. *Affidavit of Jennifer McLaughlin*, Mail-In Ballot Lead, Maryland State Board of Elections ¶19 (affixed to this response and hereafter referred to as "Exhibit A.") Ready that many ballots for mailing requires weeks of data assembly, design review, and materials testing. *Affidavit of Natasha Walker*, Director of Voting and Election Management Systems, Maryland State Board of Elections ¶¶ 8–15 (affixed to this response and hereafter referred to as "Exhibit B.") And the State Board must prepare and print millions of ballots for in-person voting during the early voting period and election day, must separately prepare

specially-designed mail-in ballots for web delivery, and must prepare and test its elections results reporting system before election day. Exhibit B ¶¶ 15, 18–19. The State Board therefore takes no position on the legality of the proposed charter amendment at issue; but urges expediency in adjudicating and resolving this ballot question challenge, so that preparations for the 2024 presidential general election may be completed lawfully.

In order to conduct a modern election and fulfill its statutory duties, the State Board must produce different ballot forms for different electoral needs: (1) specimen ballots must be printed and transmitted to voters to notify of the election, its candidates, and its ballot questions, *see* Md. Code Ann. (LexisNexis 2023), Elec. Law §§ 7-105(a)(1), 8-102(a)(1) & 9-214(1); (2) a uniform ballot must be prepared and printed for use in mail-in voting and in-person voting, *see* Elec. Law § 9-204(a); and, (3) the uniform ballot must be redesigned to print properly on 8.5” x 11” paper, so that voters can receive a mail-in ballot by web delivery, mark that ballot by online ballot marking tool, and print out that ballot on a home printer to return it to the local board of elections for canvassing, *see* Elec. Law §§ 9-306(b)(3) & 9-308.1(a)(1). Exhibit B ¶ 13.

Additionally, the State Board must produce “test decks” of its ballots: ballot pre-production samples “created to run through the State’s voting system equipment.” Exhibit A ¶ 12. Test decks are printed and sent to each local board of elections “to ensure that the final ballots, as designed by [the State Board], can be accurately and reliably read by the voting system equipment.” *Id.* Before printing any ballots, then, test

decks must be printed, shipped to local boards, and tested. *Id.* And while test decks for mail-in ballots are only tested on ballot scanners used during mail-in ballot canvassing, test decks for in-person ballots “must be scanned on every scanner in the State used during early voting and election day.” Exhibit B ¶ 13.

The preparation of all these ballots and test decks takes place in a compressed timeframe. After September 5, 2024, the State Board will conclusively know the content for the general election ballot. *See* Elec. Law § 9-207(a)(2) & (e) (requiring the content and arrangement of the general election ballot to be certified on the 64th day before the election and permitting the State Board to begin printing ballots three days after that). Sixteen days later, on September 21, 2024, federal law requires the State Board to transmit mail-in ballots to qualified uniformed servicemembers and overseas voters. 52 U.S.C. § 20302(a)(8)(A). And two days after that, on September 23, 2024, the Election Law Article requires the State Board to send a mail-in ballot to each qualified voter in the State who has made a timely request to receive one. Elec. Law § 9-306(c)(1). By the third week in September, then, the State Board must have mail-in ballots ready for transmission to voters around the State and the world.

On September 6, 2024, the State Board will begin the eight-day process of creating digital image files of the nearly 2,000 general election ballot styles for each ballot format (specimen ballots, mail-in and in-person ballots, web-delivery ballots and test decks). Exhibit B ¶ 14. The digital image files for mail-in ballots and in-person

ballots, and their respective test decks, are completed first, so as to allow them to be printed first. *Id.* at ¶¶ 14–15. On September 8, 2024, the three-week process for printing over “20,000,000 different physical ballot sheets will begin.” Exhibit B ¶ 15. Any changes to the ballot during those three weeks would require the digital file creation process and printing process to begin anew for the ballots of the affected jurisdiction. *Id.*

For mail-in ballots specifically, test decks will be printed over a two-to-three-day span beginning when the State’s mail-in ballot printing vendor receives the appropriate digital image files. Exhibit A ¶¶ 12-13.<sup>1</sup> Test decks must then be shipped to, and received by, each of the 24 local jurisdictions, including Baltimore City, which requires another three days’ time. Exhibit A ¶ 14. Test deck scanning takes a further two-to-three days, after which the effort to print mail-in ballots can begin. Exhibit A ¶ 14.

Printing mail-in ballots requires the State’s vendor to print a ballot, print an associated outgoing envelope and return envelope (as prescribed by Election Law § 9-310(a)), print mail-in ballot instructions and “other inserts,” and package them together for mailing to a voter. Exhibit A ¶ 6. The State Board anticipates “directing the printing and assembly of at least 500,000” of these “ballot packets” for the 2024 presidential general election. *Id.* at ¶ 19. The State’s vendor requires at least 6-7 business days to print and assemble half-a-million mail-in ballot packets. *Id.* at ¶ 18.

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<sup>1</sup> The State Board cannot, and therefore does not, produce ballot materials on its own. Instead, the State Board relies on a third-party vendor, contracted through the public procurement process, for the industrial printing and assembly of mail-in ballot packets. Exhibit A ¶ 9.

From start to finish, then, and under perfect circumstances, the State Board anticipates that it will need 13-16 days to ready mail-in ballot packets for transmission by the September 21, 2024 federal deadline. Exhibit A ¶ 19. Any delay in that process due to a change in ballot content after September 5 puts the State Board at risk of missing the federally-imposed deadline.

Additionally, the State Board must prepare web delivery ballots in time for the September 21, 2024 transmission deadline. *See* 52 U.S.C. § 20302(a)(7). Quality assurance testing of the secure web-delivery system requires “approximately two weeks” of work after the completion of the 8.5” x 11” ballot. Exhibit B ¶ 18. The State Board therefore aims to have the web delivery ballot ready for quality assurance testing by September 10, 2024. Exhibit B ¶ 18. Any delay in creating the web delivery ballot due to a change in ballot content after September 5 puts the State Board at risk of not having web delivery of ballots available by September 21, 2024.

And separate from ballot creation, the State Board must ready its election results reporting system for use beginning on November 5, 2024. Testing of the reporting system requires “finalized ballot information” and requires “approximately two months to complete.” Exhibit B ¶ 19. Testing can only begin after the finalized ballot information is known after September 5. *Id.* Therefore, any delay in ascertaining finalized ballot information due to a change in ballot content after September 5 puts the State Board at risk of not having its election-night reporting system ready for the November 5 election .

The State Board therefore requests that all litigation relating to petition questions, including appellate review by the Supreme Court pursuant to Election Law § 6-209(a)(3)(ii), be resolved by September 5, 2024. Any court order affecting the ballot thereafter places at risk the State Board's ability to properly prepare for the conduct of the 2024 presidential general election.

Respectfully submitted,

ANTHONY G. BROWN  
Attorney General of Maryland

/s/ Daniel M. Kobrin

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DANIEL M. KOBRIN  
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July 30, 2024

Attorneys for the the Maryland State  
Board of Elections

### **CERTIFICATE OF SERVICE**

I certify that, on this 30th day of July, 2024, the foregoing was filed and served electronically by the MDEC system and courtesy email on all persons entitled to service:



/s/ Daniel M. Kobrin

---

Daniel M. Kobrin

BENEDICT J. FREDERICK, III, *et al.*,

*Plaintiffs,*

v.

BALTIMORE CITY BOARD OF ELECTIONS, *et al.*,

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* No. C-24-CV-24-001361

\* \* \* \* \*

**ORDER**

UPON CONSIDERATION of the Motion to Intervene (“Motion”), it is this \_\_\_\_\_  
day of August, 2024 hereby

ORDERED that the Motion is granted; and it is further

ORDERED that the clerk’s office is directed to docket the Maryland State Board of  
Elections as a Defendant in the above-captioned matter.

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Judge, Circuit Court for Baltimore City

IN THE  
CIRCUIT COURT FOR BALTIMORE CITY

|   |   |                       |
|---|---|-----------------------|
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| <i>Defendants.</i>                          |   |                       |

\* \* \* \* \*

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specially-designed mail-in ballots for web delivery, and must prepare and test its elections results reporting system before election day. Exhibit B ¶¶ 15, 18–19. The State Board therefore takes no position on the legality of the proposed charter amendment at issue; but urges expediency in adjudicating and resolving this ballot question challenge, so that preparations for the 2024 presidential general election may be completed lawfully.

In order to conduct a modern election and fulfill its statutory duties, the State Board must produce different ballot forms for different electoral needs: (1) specimen ballots must be printed and transmitted to voters to notify of the election, its candidates, and its ballot questions, *see* Md. Code Ann. (LexisNexis 2023), Elec. Law §§ 7-105(a)(1), 8-102(a)(1) & 9-214(1); (2) a uniform ballot must be prepared and printed for use in mail-in voting and in-person voting, *see* Elec. Law § 9-204(a); and, (3) the uniform ballot must be redesigned to print properly on 8.5” x 11” paper, so that voters can receive a mail-in ballot by web delivery, mark that ballot by online ballot marking tool, and print out that ballot on a home printer to return it to the local board of elections for canvassing, *see* Elec. Law §§ 9-306(b)(3) & 9-308.1(a)(1). Exhibit B ¶ 13.

Additionally, the State Board must produce “test decks” of its ballots: ballot pre-production samples “created to run through the State’s voting system equipment.” Exhibit A ¶ 12. Test decks are printed and sent to each local board of elections “to ensure that the final ballots, as designed by [the State Board], can be accurately and reliably read by the voting system equipment.” *Id.* Before printing any ballots, then, test

decks must be printed, shipped to local boards, and tested. *Id.* And while test decks for mail-in ballots are only tested on ballot scanners used during mail-in ballot canvassing, test decks for in-person ballots “must be scanned on every scanner in the State used during early voting and election day.” Exhibit B ¶ 13.

The preparation of all these ballots and test decks takes place in a compressed timeframe. After September 5, 2024, the State Board will conclusively know the content for the general election ballot. *See* Elec. Law § 9-207(a)(2) & (e) (requiring the content and arrangement of the general election ballot to be certified on the 64th day before the election and permitting the State Board to begin printing ballots three days after that). Sixteen days later, on September 21, 2024, federal law requires the State Board to transmit mail-in ballots to qualified uniformed servicemembers and overseas voters. 52 U.S.C. § 20302(a)(8)(A). And two days after that, on September 23, 2024, the Election Law Article requires the State Board to send a mail-in ballot to each qualified voter in the State who has made a timely request to receive one. Elec. Law § 9-306(c)(1). By the third week in September, then, the State Board must have mail-in ballots ready for transmission to voters around the State and the world.

On September 6, 2024, the State Board will begin the eight-day process of creating digital image files of the nearly 2,000 general election ballot styles for each ballot format (specimen ballots, mail-in and in-person ballots, web-delivery ballots and test decks). Exhibit B ¶ 14. The digital image files for mail-in ballots and in-person

ballots, and their respective test decks, are completed first, so as to allow them to be printed first. *Id.* at ¶¶ 14–15. On September 8, 2024, the three-week process for printing over “20,000,000 different physical ballot sheets will begin.” Exhibit B ¶ 15. Any changes to the ballot during those three weeks would require the digital file creation process and printing process to begin anew for the ballots of the affected jurisdiction. *Id.*

For mail-in ballots specifically, test decks will be printed over a two-to-three-day span beginning when the State’s mail-in ballot printing vendor receives the appropriate digital image files. Exhibit A ¶¶ 12-13.<sup>1</sup> Test decks must then be shipped to, and received by, each of the 24 local jurisdictions, including Baltimore City, which requires another three days’ time. Exhibit A ¶ 14. Test deck scanning takes a further two-to-three days, after which the effort to print mail-in ballots can begin. Exhibit A ¶ 14.

Printing mail-in ballots requires the State’s vendor to print a ballot, print an associated outgoing envelope and return envelope (as prescribed by Election Law § 9-310(a)), print mail-in ballot instructions and “other inserts,” and package them together for mailing to a voter. Exhibit A ¶ 6. The State Board anticipates “directing the printing and assembly of at least 500,000” of these “ballot packets” for the 2024 presidential general election. *Id.* at ¶ 19. The State’s vendor requires at least 6-7 business days to print and assemble half-a-million mail-in ballot packets. *Id.* at ¶ 18.

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<sup>1</sup> The State Board cannot, and therefore does not, produce ballot materials on its own. Instead, the State Board relies on a third-party vendor, contracted through the public procurement process, for the industrial printing and assembly of mail-in ballot packets. Exhibit A ¶ 9.

From start to finish, then, and under perfect circumstances, the State Board anticipates that it will need 13-16 days to ready mail-in ballot packets for transmission by the September 21, 2024 federal deadline. Exhibit A ¶ 19. Any delay in that process due to a change in ballot content after September 5 puts the State Board at risk of missing the federally-imposed deadline.

Additionally, the State Board must prepare web delivery ballots in time for the September 21, 2024 transmission deadline. *See* 52 U.S.C. § 20302(a)(7). Quality assurance testing of the secure web-delivery system requires “approximately two weeks” of work after the completion of the 8.5” x 11” ballot. Exhibit B ¶ 18. The State Board therefore aims to have the web delivery ballot ready for quality assurance testing by September 10, 2024. Exhibit B ¶ 18. Any delay in creating the web delivery ballot due to a change in ballot content after September 5 puts the State Board at risk of not having web delivery of ballots available by September 21, 2024.

And separate from ballot creation, the State Board must ready its election results reporting system for use beginning on November 5, 2024. Testing of the reporting system requires “finalized ballot information” and requires “approximately two months to complete.” Exhibit B ¶ 19. Testing can only begin after the finalized ballot information is known after September 5. *Id.* Therefore, any delay in ascertaining finalized ballot information due to a change in ballot content after September 5 puts the State Board at risk of not having its election-night reporting system ready for the November 5 election .

The State Board therefore requests that all litigation relating to petition questions, including appellate review by the Supreme Court pursuant to Election Law § 6-209(a)(3)(ii), be resolved by September 5, 2024. Any court order affecting the ballot thereafter places at risk the State Board's ability to properly prepare for the conduct of the 2024 presidential general election.

Respectfully submitted,

ANTHONY G. BROWN  
Attorney General of Maryland

/s/ Daniel M. Kobrin

---

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July 30, 2024

Attorneys for the the Maryland State  
Board of Elections

### **CERTIFICATE OF SERVICE**

I certify that, on this 30th day of July, 2024, the foregoing was filed and served electronically by the MDEC system and courtesy email on all persons entitled to service:



/s/ Daniel M. Kobrin

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Daniel M. Kobrin

**E-FILED; Baltimore City Circuit Court**  
**Docket: 7/30/2024 10:55 AM; Submission: 7/30/2024 10:55 AM**  
**Envelope: 17418364**

**Exhibit A**

IN THE  
CIRCUIT COURT FOR BALTIMORE CITY

BENEDICT J. FREDERICK, III, *et al.*,

*Plaintiffs,*

v.

BALTIMORE CITY BOARD OF  
ELECTIONS, *et al.*,

*Defendants.*

No. C-24-CV-24-001361

\* \* \* \* \*

**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 begins 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 is completed and made public for at least 3 days, the vendor first prints “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 generally requires 2-3 days.

14. Once the test decks are printed, the third-party vendor ships 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 then 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.

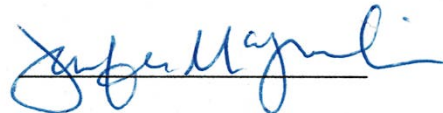
18. Ballot printing and ballot packet assembly requires the third-party vendor at least 6-7 business days for 500,000 ballot packets, and more for larger quantities

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.

7/29/2024

Date

A handwritten signature in blue ink, appearing to read "Jennifer McLaughlin", written over a horizontal line.

Jennifer McLaughlin

**E-FILED; Baltimore City Circuit Court**  
**Docket: 7/30/2024 10:55 AM; Submission: 7/30/2024 10:55 AM**  
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**Exhibit B**

IN THE  
CIRCUIT COURT FOR BALTIMORE CITY

BENEDICT J. FREDERICK, III, *et al.*,

*Plaintiffs,*

v.

BALTIMORE CITY BOARD OF  
ELECTIONS, *et al.*,

*Defendants.*

\*

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\*

\*

No. C-24-CV-24-001361

\*

\* \* \* \* \*

**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 is Tuesday, August 6, 2024 at 5:00 p.m.



5. Vacancies on the ballot created by a declination of a nomination must 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 is August 12, 2024.
7. Vacancies on the ballot created by the death or disqualification of a candidate must be filled by the appropriate authority before August 16, 2024.
8. On August 26, 2024, SBE will begin 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") will receive 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 3, 2024, ballots must be certified pursuant to Md. Code Ann. EL § 9-207(a)(2) and placed on SBE's website for public viewing. In total, 1,990 different ballots will be in use across the State during the 2024 general election. Approximately 295 of these different ballots, which are assigned to 295 election day precincts and 8 early voting centers, include ballot questions about amendments to Baltimore City's charter.

11. Any addition or removal of a ballot question during the period prior to certification 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. Pursuant to Maryland Code Annotated, Election Law § 9-207(a)(2), the certification of ballots must take place “at least 64 days before the election,” which, for the 2024 presidential general election, imposes a deadline of September 3, 2024. However, because mail-in ballots must be made available to military and overseas voters no later than 45 days before the election (this year, September 21, 2024) pursuant to 52 U.S.C. § 20302(a)(8)(A), SBE strives to certify ballots as early as possible to allow for the completion of the several steps required to take place before the military/overseas mailing deadline.

13. SBE creates multiple ballot formats for the various needs of the election. Specimen ballots are designed for voter education. Ballots voted in-person (during early voting and on election day) and mail-in ballots do not differ, but the process of their preparation does. Test decks for mail-in ballots are scanned through specific scanners used only during the mail-in canvass; test decks for in-person ballots must be scanned on every scanner in the State used during early voting and election day. In-person test deck scanning requires weeks in a large jurisdiction like Baltimore City. Finally, web-delivery ballots must be designed to print on the

8 ½ x 11-inch paper found in consumer printers, rather than the 17-inch paper used for all either types of ballots.

14. On September 6, 2024, SBE will begin the process of creating PDFs of all 1,990 of the general election ballots for each of the different ballot formats that will be in use (including specimen ballots, election day ballots, test deck ballots, mail-in ballots, and 11-inch ballots for web delivery). Start to finish, this process takes approximately eight days. PDF's for in-person ballots, mail-in ballots, and their respective test decks are completed first. Any change to the ballots during this period would require PDFs of the affected ballots across all formats to be redone.

15. On September 8, 2024, SBE expects to begin the printing of all test decks and all ballots. This process typically takes 3 weeks, and at the conclusion of the printing process approximately 20,000,000 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.

16. On September 7, 2024, SBE expects to import final ballot style data into its MDVOTERS database. Once this is done, local boards of election must verify that styles are 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.

17. On September 9, 2024, SBE expects to finalize 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 5 days to return to the point where absentee voters can be assigned to the current election again.

18. On September 10, 2024, SBE expects to begin testing of its web delivery system. Under Maryland law, voters may request that mail-in ballots be delivered to them via the web. In order to test SBE's web delivery system, SBE must transmit ballot style and content data to its programmer, who then performs quality assurance testing using real absentee voters. The testing process takes approximately two weeks, and must be completed before the September 21, 2024

deadline for making mail-in ballots available to military and overseas voters. Also, the testing process may not begin until mail-in ballots are assigned to voters.

19. While ballots are being prepared, SBE also conducts testing of its election results site and news feed, to allow for real-time election results reporting to the public. The process draws on finalized ballot information to produce XML and CSV files of all final contest and candidate data for the purpose of producing test results files and HTML test results pages. This process begins at the time of ballot certification and takes approximately two months to complete. This testing process must be complete by November 1, 2024.

20. Early voting for the 2024 presidential general election is scheduled to begin October 24, 2024, and conclude on October 31, 2024..

21. Election day for the 2024 presidential general election is November 5, 2024.

22. 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.

7/29/2024

Date

Natasha Walker

Natasha Walker

BENEDICT J. FREDERICK, III, *et al.*, \* IN THE  
Plaintiffs, \* CIRCUIT COURT  
v. \* FOR  
BALTIMORE CITY BOARD \* BALTIMORE CITY  
OF ELECTIONS, *et al.*, \*  
Defendants. \* Case No. C-24-CV-24-001361  
\*

\* \* \* \* \*

**MAYOR AND CITY COUNCIL OF BALTIMORES RESPONSE IN OPPOSITION  
TO PLAINTIFFS’ EMERGENCY PETITION FOR  
JUDICIAL REVIEW AND/OR FOR SUMMARY JUDGMENT**

Defendant Intervenor Mayor and City Council of Baltimore (the “City”), by its undersigned counsel, submits this Response in Opposition to Plaintiffs’ Emergency Petition for Judicial Review and/or for Summary Judgment and states as follows<sup>1</sup>:

**INTRODUCTION**

Plaintiffs’ Petition to amend the Baltimore City Charter by reducing the City’s property tax rate runs directly counter to well-established case law in Maryland. Time and again, the Supreme Court of Maryland has struck down attempts to lower property tax rates through the charter amendment process. The reason is simple: setting the property tax rate is the job of the legislature. In Plaintiffs’ Motion for Summary Judgment, they fundamentally misconstrue the holdings of cases from the Supreme Court of Maryland—particularly *Anne Arundel County v. Smallwood*—to arrive at the conclusion that their Petition was proper charter material and should not have been excluded from the ballot. They are wrong. In fact,

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<sup>1</sup> The City does not oppose Plaintiffs’ request for an expeditious resolution to this matter, and to that end joined all the parties in filing the Emergency Motion for Expedited Briefing Schedule and Hearing on July 22, 2024.

the Petition goes considerably farther than past attempts to reduce property taxes that have also been shot down as improper. For those reasons, Plaintiffs’ Motion for Judicial Review and/or Motion for Summary Judgment must be denied, and judgment entered in favor of Defendant Baltimore City Board of Elections and Intervenor Mayor and City Council of Baltimore.

## ARGUMENT

### I. **Plaintiffs Misconstrue *Smallwood*, *Hertlendy* and Their Progeny.**

#### A. The Petition Is a Roll Back under *Smallwood*, Not a Cap.

Plaintiffs contend that the Petition does not run afoul of *Smallwood* and its progeny because *Smallwood* allows that “a charter amendment may set a cap on the future growth of property taxes.” Plaintiffs Mot. at 7. Plaintiffs’ very statement proves the City’s point. The operative word is “growth.” The tax caps the *Smallwood* court permitted were caps on the rate of future growth of revenue—i.e., slowing the increase. The caps allowed the tax revenue to continue to grow—to increase over the amount collected the previous year—just not too rapidly.<sup>2</sup>

In *Smallwood*, the tax caps permitted in Anne Arundel and Baltimore Counties were designed to prevent the legislature from increasing *tax revenue in the future too quickly*. *Bd. of Sup’rs of Elections of Anne Arundel Cnty. v. Smallwood*, 327 Md. 220, 229, 232 (1990). Baltimore County’s charter amendment “would not have allowed the tax revenues to be *raised* by more than 2% per year” – meaning that while the revenue could grow year after year, it could do so only at a rate of 2% each year, and no more. *Id.* (emphasis added). Similarly,

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<sup>2</sup> See <https://bbmr.baltimorecity.gov/city-tax-rates> demonstrating the current tax rate is \$2.248 per \$100 of assessed value; and see Md. Rule 5-201(d) (judicial notice must be taken of undisputable facts known in the jurisdiction).

Anne Arundel County’s charter amendment would “not have allowed property tax revenues to exceed the constant yield rate by a value greater than the increase in the Consumer Price Index from the preceding January, or by 4.5%, whichever would be less.” *Id.* In both counties, the legislatures still had discretion to decide whether tax revenue (and thus, tax rates) needed to grow. The amendments simply limited how quickly such growth could happen. *Smallwood* teaches that “a limitation on the power of a legislative body to **raise** revenue is at the heart of the form and structure of our government and thus is proper charter material.” *Id.* at 239 (emphasis added). The operative word is raise. The *Smallwood* Court referred to such a permissible “limit on the taxing power” of the government as a “tax cap” because it merely caps the rate of increase in taxes over time. *See, e.g., id.* at 244.

Conversely, the *Smallwood* Court described what it termed as a “roll back” provision in terms of limiting tax revenue to a fixed number that was at or below what had been received in prior years:

The “roll back” provisions of the proposed amendments would have limited the amount of property tax revenues for the tax year 1991–1992 **to no more than** the amount collected in the tax year 1989–1990 for Baltimore County, and no more than that collected in the tax year 1988–1989 for Anne Arundel County. ***These provisions violated § 6–302(a) of the Tax–Property Article which mandates that the governing body of each county is to set the property tax rate for the next tax year.*** Unlike the tax cap provisions that would have simply placed a limit on the taxing power of each county council, the roll back provisions would have transferred the county councils’ § 6–302(a) powers to the voters. Instead of the councils setting the tax rates, the roll back provisions would have allowed the voters of Baltimore and Anne Arundel Counties to set the property tax rates for the tax year 1991–1992.

*Id.* at 244.

In other words, a petition cannot directly alter the tax rate. It can only limit the rate of increase in revenue, so long as that limit does not “so hamper[] a county government that it cannot perform the duties required under state law.” *Id.* Although nothing in the Baltimore



County or Anne Arundel County petitions actually set a specified rate for the collection of property taxes, the Court still termed the petitions as having “roll back” provisions because they would have the effect of forcing the counties to lower their tax rate by tying tax revenue collections to prior years.

That is where Plaintiffs get the holding in *Smallwood* exactly wrong. Plaintiffs assert that their petition “does not attempt to limit the revenue in Baltimore City and therefore is not a roll back.” Pl. Mot. at 9. Setting aside the practical absurdity of this claim, it collapses under any level of scrutiny. Plaintiffs’ Petition lowers the rate. If the Petition were validated, the legislature cannot set its tax rate at the current tax rate. It is therefore a roll back under *Smallwood*. Indeed, Plaintiffs’ roll back goes much further than the invalidated roll backs in *Smallwood*. It immediately lowers the tax rate and then attempts to lower it year after year. No amount of slight-of-hand will allow Plaintiffs to avoid the fact that their amendment would repeatedly roll back the tax rate. As the court explained in *Smallwood*, charter petitions cannot transfer the legislature’s § 6–302(a) powers to the voters.<sup>3</sup> Plaintiffs’ motion must be denied and their Complaint must be dismissed.

B. The Petition Must Also be Struck Down Under *Hertelendy*.

Applying *Hertelendy* provides the same result. There, the Supreme Court held that to be a proper amendment to the form and structure of government, **a charter tax rate limitation**

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<sup>3</sup> Even if the court entertained Plaintiffs’ dubious argument that *Smallwood* only limited revenue roll backs, their Petition is still unlawful because their petition also rolls back City revenue. *Smallwood* explained that when a Charter petition “limited the amount of property tax revenues for the [future] to no more than the amount collected in the [past] year” that IS setting the tax rate. *Id.* (“Instead of the councils setting the tax rates, the roll back provisions would have allowed the voters of Baltimore and Anne Arundel Counties to set the property tax rates for the tax year 1991–1992.”). This is what the Plaintiffs misunderstand. When a charter petition rolls back the government’s estimated revenue to an amount collected in a prior year, this is effectively rate setting. When a local government is estimated to receive less revenue next year than the current year, the legislature is no longer able to set its tax rate legislatively. Local governments cannot speculate that they will receive more money at a lower rate. The only “choice” is to set the rate at the highest permissible rate. This is precisely the type of budgeting by Charter that *Smallwood* rejected.

must leave open a “prescribed range,” meaning **both the ability to increase or decrease the rate from the one that existed** at the time of the enactment. *Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676, 685 (1995) (emphasis added). In other words, the county government must have the ability to set the rate higher or lower; not simply hope revenue comes in, regardless of the rate, as a function of increased property values or more residents. The levying “is the imposition of the tax itself. It is a *legislative function*, and includes a determination that the tax shall be imposed, and also the *ascertainment of the amount necessary or desirable to be raised, the amount or rate to be imposed*, and the subjects or persons to contribute to the tax.” *Casey Dev. Corp. v. Montgomery Cnty.*, 212 Md. 138, 146, (1957) (emphasis added).

The Supreme Court in *Hertelendy* explained that the “effect of Article VI, § 614, of the Talbot County Charter was that, except for newly constructed and newly assessed property, for several years, the Talbot County Council has been prohibited from raising more property tax revenues than were raised in 1978–1979.” *Id.* at 684. The *Hertelendy* limit was invalid because the voters locked in revenue at a fixed number, which naturally meant that the dependent variable of tax rate had been set by the voters. The Baltimore City Board of Elections stated it elegantly:

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

Compl., Exhibit 8, p. 2 (emphasis added).

As the Baltimore City Board of Elections explained, the fact that the legislature is free to set a lower rate than the fixed tax rate limits in the Petition, and thereby take even less revenue than the current amount, was open to all three counties in *Smallwood* and *Hertelendy*. *Smallwood*, 327 Md. at 229, 232; *Hertelendy*, 344 Md. at 685. The option of a lower rate and less revenue did not change the Courts’ holdings. A charter amendment cannot set the range of available tax rates that are all lower than the current rate, otherwise the Supreme Court would not have held as it did in *Smallwood* and *Hertelendy*. Said differently, the Supreme Court evaluated these cases with the assessed value as a constant and realized that once the voters peg revenue to a number, they have set the rate. Conversely, when the voters peg the rate to a number, they have set the estimated revenue.<sup>4</sup>

The Petition in this case **does not leave a prescribed range both higher and lower than the current rate** of \$2.248 per \$100 of assessed value; all the mandated tax rate limits in the Petition are lower than the current rate. *See* Comp. ¶ 16; footnote 1, *supra*. Plaintiffs’ argument that the legislature could pick a rate lower than those limits in the Petition is insufficient legislative autonomy as evidenced by the holdings in *Smallwood* and *Hertelendy*. Rather, the analysis in both cases will say that if the highest rate available in the Petition—\$2.20 for the 2025 tax year—is multiplied by the assessable base of the current 2024 tax year, the revenue is rolled back to a drastically lower amount.

The Petition operates as the forbidden “back-door attempts by the voters ... to enact detailed legislation,” by forcing the City to have a tax rate lower than the existing one, thereby

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<sup>4</sup> The *Smallwood* and *Hertelendy* Courts had to make this logical connection—that setting a rate determines revenue, and that setting revenue determines rate—to conclude that the petitions in those cases, which set *revenues*, violated the requirements of Tax. Prop., § 6-302, which requires the legislature to set *rates*. Ironically, this Court does not even need do that, as this Petition directly sets rates, the very thing that Tax. Prop., § 6-302 requires the legislature to do.

leaving the legislature with no option to meet the rolling tide of expenses or surf the constant shift in the value of the real property market. *Hertelendy* at 685. The flexibility to go up or down in the rate and revenue is what is needed for the legislature to meet each budget years challenges. That flexibility was present in the caps allowed in Baltimore and Anne Arundel Counties, which were defined as percentages—i.e. variables—of another number. *Smallwood*, 327 Md. at 229, 232. That flexibility was absent in Talbot County, when its charter petition limited revenue to a constant number. *Hertelendy*, 344 Md. at 685. It is also absent here. Plaintiffs’ Complaint must be dismissed and their motion denied.

## **II. The Petition is Unconstitutional as Applied.**

Outside of the jargon of “caps” and “roll backs”, there is a more straightforward and obvious theme in *Smallwood* and its progeny. While a narrow limitation on the growth of government through future increases in tax revenues could be entrusted to the electorate, changing the rate itself is the province of the legislature. Plaintiffs show us why with their misguided Petition. Here, the Petition reduces the City’s tax rate not with a scalpel, but with a bazooka. The submissions of the City’s Department of Finance provide stark detail on impacts of Plaintiffs’ proposed tax cuts.

The Petition has the clear effect of decreasing—drastically and rapidly—the tax revenue for Baltimore City below the current amount the Constant Yield Tax Rate would produce and without regard to what the City’s elected officials deem to be the best economic policy in any given year. As the Supreme Court explained in a case concerning Garrett County’s tax rates:

The concept of a constant yield tax rate was introduced into the property tax system by Maryland Laws (1977), Ch. 964, now Md. Code (1957, 1975 Repl.Vol., 1979 Cum.Supp.), Art. 81, s 232C. It is that rate which, when applied to the estimated full assessable base as of the date of finality (here

January 1, 1979) of the next taxable year (here 1979/1980), will provide the same property tax revenue for the taxing authority as was levied during the current taxable year (here 1978/1979).

*Bd. of Cnty. Commrs of Garrett Cnty. v. Bolden*, 287 Md. 440, 442 (1980).

The terms of the Petition force the Mayor and City Council to select the amount of the cap available each year in the Petition as its tax rate to receive the revenue each year that would come closest to the revenue of the Constant Yield Tax Rate. The City “charter itself would contain all of the law on the subject, and the [Mayor and City Council] would be deprived of all decision-making authority concerning the subject.” *Save Our Streets v. Mitchell*, 357 Md. 237, 254, (1998) (citation omitted). This is why the Petition was properly removed from the ballot by the Baltimore City Board of Elections. The Petition will, just like the invalid limits in *Hertelendy* and *Smallwood*, necessarily result in setting the tax rate, thereby violating state tax law and the City’s Home Rule powers to set its tax rate annually. Tax. Prop., § 6-302; Baltimore City Charter, art. II, §(40)(a) (“to provide by ordinance for the imposition, assessment, levy and collection of any tax or taxes authorized by this subsection.”) (emphasis added).

Plaintiffs’ detailed legislation, not proper material for any local charter in Maryland, effectuates a drastic reduction in revenue that will significantly impair the government’s ability to function, making it unconstitutional as applied. *Smallwood*, 327 at 240 (citing *Bell v. Arel*, 461 A.2d 108, 110–111 (N.H. 1983) (citizens may require limits on taxation if no impairment of the city’s ability to carry out its mandatory obligations will occur)); *see also Save Our Streets*, 357 Md. at 252 (“the enactment of specific legislation is left to the elected legislative bodies.”).

As the Exhibits attached to the City’s Motion for Summary Judgment make clear, the Petition’s tax limits, if allowed to be implemented, would make it impossible for the City to balance its budget, as required by its Charter and the Maryland Constitution. BALTIMORE CITY CHARTER, art. VI, § 7(c); Md. Constit., Art, XI, § 7. The City could not meet its contractual and statutory obligations. *See* Exhibits 1 and 2 to the City’s Motion for Summary Judgment. The Petition would force the City to violate state law requiring funding for public education, drastically cut every agency and program, and even attempt to pay for expenses on credit, which is forbidden by Maryland’s Constitution. *Id.*

There is no genuine dispute that the Petition, if enacted, would result in a shortfall of more than three-quarters of a billion dollars in seven years, even with realistic projections of economic and population growth. *Id.* Because the City is prevented by the Maryland Constitution from meeting obligations by pledging its full faith and credit—i.e., it cannot carry debt like paying with a credit card—the Renew Petition will make funding the City impossible, thereby making the Petition unconstitutional. Md. Constit., Art, XI, § 7; BALTIMORE CITY CHARTER, art. VI, §7(c). The undisputed material fact—that this reduction of the tax rate, which will lead to less tax revenue, is economic policy inappropriate for a charter—supports judgment as a matter of law in favor of the City as well.

Even were the Court to find merit in the Plaintiffs’ argument that the Petition is a cap that the *Smallwood* framework would otherwise permit, the Petition would still be invalid under the *Smallwood* Court’s recognition that any petition is invalid when “a local limitation on property tax revenues so hampers a county government that it cannot perform the duties required under state law.” *Id.* at 244. The Supreme Court correctly anticipated such a scenario here. One need only imagine a future petition that set the rate at mere pennies to the \$100 of

assessed property with a similar supply-side argument about growing the tax base. These discussions would put a court in the unenviable position of mediating a policy discussion that is obviously better entrusted to the duly elected legislature.<sup>5</sup> For those reasons, Plaintiffs' Complaint must be dismissed, and their motion denied.

### **III. The Voters of Baltimore City Have Never Been Allowed to Petition for Change in the City Charter Concerning Taxation**

Lastly, the case law reinforces what history shows: that voters *in Baltimore City* have never been able to petition for a change in the tax rate. In 1920, the General Assembly recognized that the voters of Baltimore City had the power—by Section 5 of Article XI-A of the Maryland Constitution—to change their newly adopted Charter by petition that the voters would accept or reject at the ballot. 1920 Md. Laws, ch. 555; BALTIMORE CITY CHARTER, art. II, § (49). However, the General Assembly expressly forbade the voters from petitioning for a charter amendment about the taxation and classification of real property. *Id.*; *accord Cheeks v. Cedlair*, 287 Md. 595, 600-01 (1980) (citing the history of the City's receipt of home rule powers, and the General Assembly's enactment of chapter 555 of 1920 and chapter 548 of 1945 that amended and defined those powers). Because the Petition in this case is about the taxation of real property, it exceeds the powers given to the voters of Baltimore City by the General Assembly and cannot be on the ballot for that reason as well. Plaintiffs' Complaint must be dismissed and their motion denied.

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<sup>5</sup> Any discussion of assessable base is also misguided. The assessable base is not controlled by the government and therefore is not able to be adjusted in any charter or by any legislature. Md. Code, Tax-Prop., § 2-202 (State Department of Assessments and Taxation, ("SDAT"), values all real property in the State). This is why Courts do not speculate about the changes in assessable base. In neither *Smallwood* nor *Hertelendy*, did the Supreme Court consider how a different tax rate or a different revenue restriction would impact the assessable base, nor did the Supreme Court forecast the amount of people moving in or out of the jurisdiction.

## CONCLUSION

For the foregoing reasons, and reincorporating the reasons submitted in the City's Motion to Dismiss and its Motion for Summary Judgment, the City respectfully requests that the Court deny the Plaintiffs Emergency Petition for Judicial Review and/or for Summary Judgment, dismiss the Complaint with prejudice and without leave to amend, or, alternatively, grant summary judgment in the City's favor.

Respectfully Submitted,

EBONY M. THOMPSON, Baltimore City Solicitor



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**CERTIFICATE OF SERVICE**

I certify that on August 2, 2024, copies of the Defendant Intervenor Mayor and City Council of Baltimore's Response in Opposition was served on all counsel via MDEC.



Derek M. Van De Walle (AIS No. 1712140237)



Department of Finance,  
Bureau of the Budget and Management Research

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# City of Baltimore

## BBMR Management Research Report

*Analyzing the Impact of the 2024 "Renew Baltimore" Charter  
Amendment Proposal on Property Tax Rates*

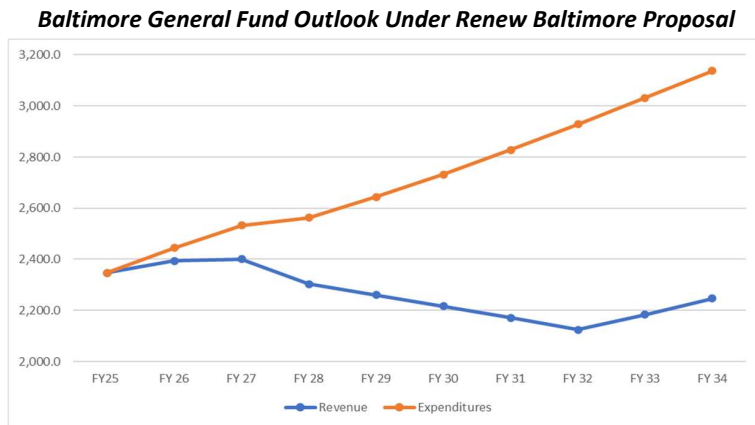
# **Management Research Report:** **Analyzing the Impact of the 2024 “Renew Baltimore” Charter Amendment Proposal on Property Tax Rates**

## **What BBMR Found**

### **Budget Impact**

**1. Budget Gap:** Due to the loss of property tax revenue, the Renew Baltimore proposal would open a massive structural hole in the City’s budget which would reach \$891 million annually between projected revenues and expenditures by Fiscal 2034.

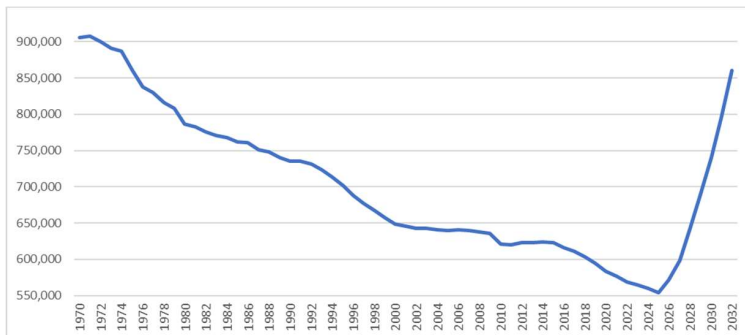
**2. Service Reductions:** The City would not be able to balance the budget with small trims, efficiencies, or new revenues. Instead, the City would be forced to make massive service reductions across many agencies that would have crippling effects, especially on residents that most rely on City services.



### **Testing Renew Baltimore’s Claims**

Renew Baltimore’s claim that new revenues from population growth will make up for the lost tax revenue is wildly optimistic. The City would need to reverse more than fifty years of population decline in just a tiny seven-year window in order to make the proposal revenue-neutral for the City, which calls into doubt the credibility of the proposal:

### **Baltimore Population Trend Required to Make Up for Lost Tax Revenue**



## **Why BBMR Did This Study**

If the Renew Baltimore petition campaign is successful, Baltimore residents will vote on a November ballot initiative that would dramatically reduce the City’s real property tax rate over a seven-year period. BBMR aims to educate its citizens and elected leaders on the likely budget impact of this proposal, and to test some of the claims that Renew Baltimore has made about its’ proposal.

## **What BBMR Recommends**

Dramatic tax reduction is appealing on its face, but tax reduction is best achieved via an incremental approach. Small but consistent rate reductions send a signal to property owners about the seriousness of the City’s efforts, but also protect the budget and City services from drastic reductions.

The City’s 10-Year Plan foresees rate relief via the following actions:

1. Establishing a Solid Waste fee and removing those costs from the General Fund, to be more in line with other large Maryland jurisdictions such as Howard, Montgomery, and Prince Georges County.
2. Generating savings via the City’s tax credit programs. That work is already underway via the Mayor’s Tax Credit Workgroup with recommendations expected in 2024.
3. Expanding the City’s tax base by generating more revenue from non-profit entities. The City can pursue this option when the current agreement expires in 2026.

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# INTRODUCTION

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## **Background and Purpose**

In November 2024 City voters may be faced with a ballot initiative which would alter the City Charter to cap the City's property tax rate. In effect, the rate would be reduced over a seven-year period, declining from the current rate of \$2.248 per \$100 of assessed value to reach a maximum allowable rate of \$1.200 by Fiscal 2032. The coalition organizing this ballot initiative, Renew Baltimore, claims that the property tax reduction will allow Baltimore to "attract more capital, people, and jobs" and will make Baltimore "wealthier, healthier, and more equitable."

The purpose of this report is two-fold. One, educate the public in advance of the November election about the likely impact of this proposal. Tax reduction promises can be inherently appealing to property owners and could be done responsibly, but it is also important to understand the budget and service delivery impacts of such a proposal. Two, provide this same clarity for elected leaders about the likely impact of this proposal. If the ballot initiative passes and goes into law, future City leaders will be constrained by the law and will need to work within its boundaries.

To evaluate the impact of this ballot initiative, the City's Bureau of Budget and Management Research (BBMR) modeled the City's General Fund outlook over the next ten years, including the impact of Renew Baltimore's proposed tax reduction proposal. BBMR also reviewed various Renew Baltimore claims about the impact of the proposal, gathering information from Renew Baltimore's website, from other available literature, and from their interviews with local media. The results of that analysis are summarized in this report.

We believe BBMR is uniquely positioned to conduct a realistic assessment of the Renew Baltimore proposal. BBMR is required to write a fiscal note for most newly introduced City Council legislation, which has given our team extensive experience in analyzing various tax, budget, and policy proposals. And, the Budget Office is often called on to provide advice and to act as neutral arbiter on City budget or policy issues.

# ANALYSIS: Impact of Renew Baltimore Proposal

## Baseline Forecast

To evaluate the impact of Renew Baltimore’s property tax reduction proposal, we must first start with a baseline financial forecast for the City’s General Fund. Each year BBMR produces a 10-year “Current Level of Service” (CLS) forecast. The purpose of the CLS forecast is to compare projected revenues and expenditures assuming the maintenance of current service levels and no changes in current law or policy. This gives the City a starting point to evaluate any future changes in policy.

For this exercise, we started from the Fiscal 2025 Preliminary Budget proposal which is now available to the public at: <https://bbmr.baltimorecity.gov>. The Fiscal 2025 Preliminary Budget is balanced as required by the City Charter. Next, BBMR made a series of assumptions about future revenue and cost growth for Fiscal 2026 through Fiscal 2034 based on market research, economic trends, and other available information. Below, we explain the most important forecast factors for both the revenue and expenditure side of the budget. We also have included a table with the projected year-by-year growth rates for the key assumptions through Fiscal 2034:

### Revenues

**Property Tax:** Property tax revenue is driven by real property assessments performed by the State Department of Assessments (SDAT). Approximately one-third of City properties are reassessed each year, and assessments are phased-in over a three-year period. In Fiscal 2026 Group I properties will be re-assessed which includes the northern portion of the City as well as the central business district (CBD). For the Group I re-assessment we expect some loss in value for commercial properties in the central business district but expect residential property values to grow due to the rapid appreciation in housing prices experienced between 2021 and 2023.

**Income Tax:** Income tax estimates are modeled after the Maryland Board of Revenue Estimates (BRE) forecast and are adjusted for City-specific factors in employment and income. The City’s recent experience is that income tax growth mirrors the growth trends for the State of Maryland as a whole, with some improvement in the make-up of the City’s tax base especially in the middle-income levels. We expect both trends to continue during the forecast period.

### Key Revenue Growth Rate Assumptions

|              | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|--------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Property Tax | 6.2%    | 4.3%    | 3.7%    | 2.5%    | 2.9%    | 3.7%    | 4.0%    | 4.0%    | 4.0%    |
| Income Tax   | 4.1%    | 4.1%    | 4.0%    | 3.9%    | 3.8%    | 3.8%    | 3.7%    | 3.7%    | 3.8%    |

### Expenditures

**Salaries:** Salary growth is tied to expected inflation to ensure that employee wages maintain their purchasing power and keep City salaries competitive with other employers. Note that projected salary growth exceeds inflation in Fiscal 2026 through Fiscal 2028 for both ERS (civilian) and F&P (sworn) employees. The higher



growth is to account for recent studies showing City salaries lagging other competing jurisdictions in certain classifications, with implementation of “catch-up” salary increases in Fiscal 2026, 2027, and 2028.

**Pension:** The City makes annual pension contributions on behalf of employees in the ERS (civilian), F&P (sworn), and EOS (elected) pension systems. The forecast is based on 10-year estimates that are included in each of the system’s Fiscal 2023 year-end actuarial report.

**Health Care:** The forecast includes health care benefits provided to active and retired City employees, which includes coverage for medical expenses, prescription drugs, dental and vision benefits, and life insurance.

**Education:** Per State law, the City must make a minimum annual required contribution (“Local Share”) to City Schools. The forecast is based on the 2022 State Department of Legislative Services (DLS) report “The Local Fiscal Impact of Implementing the Blueprint for Maryland’s Future.” The numbers have been adjusted to reflect the City’s movement from Tier One to Tier Two of the Education Effort Index in Fiscal 2024. Jurisdictions in Tier Two pick up additional State Aid each year through Fiscal 2030 which offsets some of the cost for implementing the Blueprint legislation.

**Inflation:** Most other major costs, including contractual services, materials, supplies, and equipment are forecast based on expected inflation.

#### Key Expenditure Growth Rate Assumptions

|                | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|----------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Salaries – ERS | 4.0%    | 4.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    |
| Salaries – F&P | 6.0%    | 5.0%    | 5.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    |
| Pension – ERS  | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    | 2.0%    |
| Pension – F&P  | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    | 4.0%    |
| Health Care    | 6.6%    | 6.5%    | 6.4%    | 6.4%    | 6.4%    | 6.4%    | 6.4%    | 6.4%    | 6.4%    |
| Education      | 2.4%    | 1.7%    | 2.1%    | 2.2%    | 3.6%    | 4.3%    | 4.3%    | 4.3%    | 4.3%    |
| Inflation      | 4.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    | 3.0%    |

#### Baseline Forecast

Next, BBMR combined the revenue and expenditure projections to build a year-by-year forecast. BBMR projects an annual General Fund shortfall of \$27.0 million beginning in Fiscal 2026 and growing to \$217.3 million by Fiscal 2034. The year-by-year results are displayed in the table below.

To summarize, even before accounting for any future tax rate reduction, the City’s baseline forecast shows that current service levels cannot be maintained without taking one of three actions: raising additional revenue, making service reductions, or finding efficiencies within the current budget:

#### Projected General Fund Revenues vs. Expenditures

(in \$ millions)

|                        | FY 2026       | FY 2027       | FY 2028       | FY 2029        | FY 2030        | FY 2031        | FY 2032        | FY 2033        | FY 2034        |
|------------------------|---------------|---------------|---------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Revenues               | 2,417.0       | 2,476.2       | 2,477.1       | 2,535.9        | 2,600.3        | 2,672.6        | 2,751.3        | 2,833.5        | 2,920.2        |
| Expenditures           | 2,334.2       | 2,425.0       | 2,521.1       | 2,605.3        | 2,696.4        | 2,796.5        | 2,900.8        | 3,006.8        | 3,114.3        |
| PAYGO Capital          | 109.8         | 107.5         | 42.0          | 38.8           | 35.5           | 31.9           | 28.3           | 24.6           | 23.2           |
| <b>Surplus/Deficit</b> | <b>(27.0)</b> | <b>(56.3)</b> | <b>(86.0)</b> | <b>(108.2)</b> | <b>(131.6)</b> | <b>(155.8)</b> | <b>(177.8)</b> | <b>(197.9)</b> | <b>(217.3)</b> |

## **Renew Baltimore Impact**

Next, BBMR added in the impact of the property tax reduction proposed by the Renew Baltimore charter amendment. The current real property tax rate for Baltimore City is \$2.248 per \$100 of assessed value and the personal property tax rate, per State law, must be set at 2.5 times the real property tax rate. The Renew Baltimore proposal would reduce the real property tax rate over a seven-year period between Fiscal 2026 and Fiscal 2032. Then, the rate would be capped at \$1.200 per \$100 of assessed value in Fiscal 2033 and beyond.

### **Projected Real Property Tax Rate Under the Renew Baltimore Proposal**

*Per each \$100 of Assessed Property Value*

|          | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|----------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Tax Rate | \$2.20  | \$2.10  | \$1.92  | \$1.74  | \$1.56  | \$1.38  | \$1.20  | \$1.20  | \$1.20  |

There will be an immediate reduction in both real and personal property tax revenue beginning in the first year of the required rate reduction (Fiscal 2026) with a growing impact through the final year of the seven-year phase-in (Fiscal 2032). Then, property tax revenues will level out in Fiscal 2033 and beyond. The lost revenue is a very simple and straightforward calculation. BBMR simply took the overall projected assessed property valuations for each year and applied the new tax rate versus the existing tax rate. Because the rate reduction is so sharp (46% reduction) and because property taxes make up nearly half of General Fund revenues (49%), the impact on the City's revenues is dramatic. By Fiscal 2032, the year that the tax rate levels out at \$1.20, the City would be losing nearly a quarter of its current revenues or an equivalent of \$627.3 million annually.

### **Projected Impact of Renew Baltimore Proposal on General Fund**

*(in \$ millions)*

|              | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|--------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Lost Revenue | (23.7)  | (75.9)  | (174.0) | (276.1) | (384.4) | (501.1) | (627.3) | (650.4) | (673.7) |

The City already faces a structural deficit in its baseline General Fund forecast for Fiscal 2026 through Fiscal 2034. The Renew Baltimore proposal will add to that deficit by reducing the City's ongoing property tax revenue. The following table shows BBMR's estimate of the 10-year forecast inclusive of the Renew Baltimore proposal. The City's General Fund would face a growing deficit over the 10-year period, growing to \$891.0 million by Fiscal 2034:

### **Projected General Fund Revenues vs. Expenditures with Renew Baltimore Proposal**

*(in \$ millions)*

|                 | FY 2026   | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|-----------------|-----------|---------|---------|---------|---------|---------|---------|---------|---------|
| Revenues        | \$2,393.3 | 2,400.3 | 2,303.1 | 2,259.8 | 2,215.9 | 2,171.5 | 2,124.0 | 2,183.1 | 2,246.5 |
| Expenditures    | 2,334.2   | 2,425.0 | 2,521.1 | 2,605.3 | 2,696.4 | 2,796.5 | 2,900.8 | 3,006.8 | 3,114.3 |
| PAYGO Capital   | 109.8     | 107.5   | 42.0    | 38.8    | 35.5    | 31.9    | 28.3    | 24.6    | 23.2    |
| Surplus/Deficit | (\$50.7)  | (132.2) | (260.0) | (384.3) | (516.0) | (656.9) | (805.1) | (848.3) | (891.0) |

## **Other Impacts**

Proponents of tax cuts often argue that these cuts lead to savings that get reinvested back into the economy. We reviewed the economic research on this topic, and we found some reason to believe this premise in two ways.

First, economic theory suggests that the cost of the property tax is capitalized into the value of property. Assuming two identical homes, the home in a high tax jurisdiction will have a lower selling price than a home in a low tax jurisdiction, because homebuyers look at the entire cost of purchasing a home including the sales price, taxes, interest, insurance, and other costs. Studies on this effect have shown that there is some modest increase in property values when property taxes are reduced.

Second, a fundamental principle of economics is that as prices fall demand will increase. The degree to which this will occur is referred to as the price elasticity of demand. Studies in the United States of this effect on housing demand have found that there is some modest increase in demand when the price of housing (including taxes) declines. This means that the City could see some in-migration of residents and businesses if the property tax rate were reduced significantly.

**It's important to note that predicting the level at which in-migration will occur is complicated by many other factors including the quality of schools, crime levels, commuting costs, distance from family, and the availability of desired amenities, among many other factors.** Cutting the tax rate will improve the economics of living in the City but decisions on where to reside are not made on economics alone. Further, given the historical trend of population loss in Baltimore City, it is likely that any positive effects of tax reduction from the studies cited above would have a more muted effect in Baltimore.

Given the difficulty of accurately predicting any in-migration from a property tax cut, in the next section we will instead test Renew Baltimore's claim by building a break-even analysis to show how many new residents and businesses would be required to achieve revenue-neutrality.

## ANALYSIS: Testing Renew Baltimore's Claims

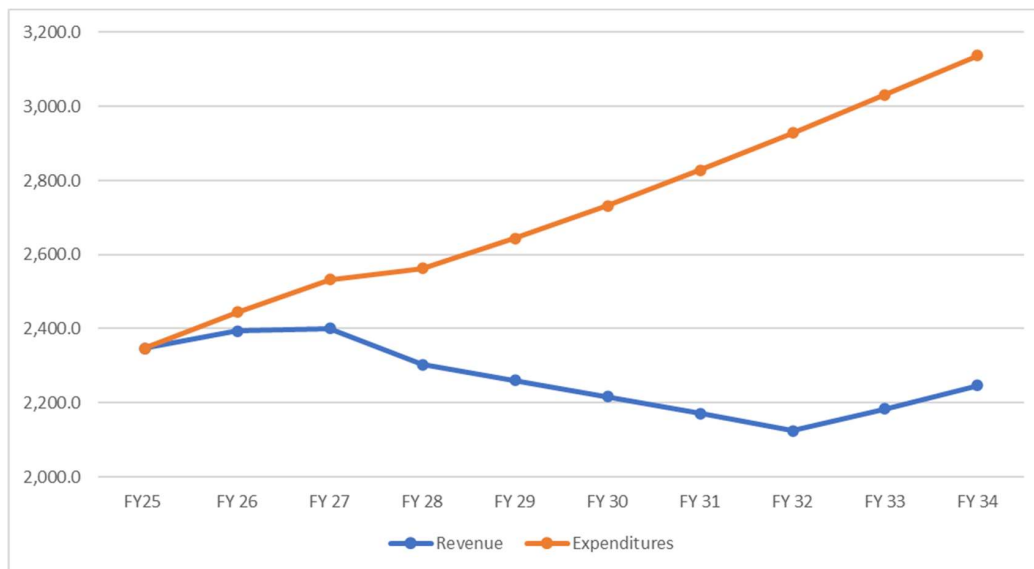
**Renew Baltimore Claim #1:** *A property tax cut will lead to more revenue for the City.*

**BBMR Finding:** **Myth**

**The claim that a sharp property tax reduction will lead to more revenue for the City is wildly optimistic.**

BBMR's analysis in the previous section shows that budget shortfalls would grow rapidly during the seven-year phase-in period and reach a gap of \$891.0 million by Fiscal 2034 due to the lost property tax revenue:

**Baltimore City General Fund Outlook with Proposed Renew Baltimore Tax Reduction**  
*Fiscal 2025 to Fiscal 2034*



To test Renew Baltimore's claim that the property tax cut will lead to more revenue, we ran a break-even analysis to determine what must happen to make the proposal revenue-neutral overall. To break even the City must experience some combination of new households and new businesses that adds enough tax revenue to entirely offset the projected budget deficit. BBMR built a model to estimate how much tax revenue each new household and each new business creates.

For each new household, we assumed an average owner-occupied residential property assessment of \$179,921 based on the most current assessment data from SDAT. After applying the effective property tax each year per the Renew Baltimore schedule and net of the Targeted Homeowners Tax Credit, we determined that each new household generates \$3,820 of property tax revenue for the City. For income tax, the City's current revenues of \$468.3 million were divided by the estimated 247,232 City households to determine that each household contributes \$1,894 of income tax revenue on average. We also included an estimate of a \$221 contribution per household for other nominal City revenues such as energy tax, telecommunications tax, and admissions and amusement tax.

For each new business, we first estimated the amount of personal property tax revenue generated on average for each new business. In Baltimore there are 14,291 businesses that will generate an estimated \$142.7 million of personal property tax in Fiscal 2026 for an average of \$9,985 per business. We also included an estimated contribution of \$2,747 per business for other City revenues such as energy tax and telecommunications tax.

The following tables shows the estimated contribution for each new household and each new business. Note that the contribution per new household or business declines from Fiscal 2026 to 2032 due to the impact of Renew Baltimore's proposed property tax cut:

#### Estimated New Revenue from One New Household

|               | FY 2026      | FY 2027      | FY 2028      | FY 2029      | FY 2030      | FY 2031      | FY 2032      | FY 2033      | FY 2034      |
|---------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Property Tax  | \$3,820      | 3,789        | 3,548        | 3,247        | 2,938        | 2,632        | 2,315        | 2,403        | 2,491        |
| Income Tax    | 1,894        | 1,987        | 2,084        | 2,186        | 2,293        | 2,406        | 2,524        | 2,647        | 2,777        |
| Other Revenue | <u>221</u>   | <u>226</u>   | <u>230</u>   | <u>235</u>   | <u>240</u>   | <u>244</u>   | <u>249</u>   | <u>254</u>   | <u>259</u>   |
| <b>Total</b>  | <b>5,936</b> | <b>6,002</b> | <b>5,864</b> | <b>5,669</b> | <b>5,472</b> | <b>5,283</b> | <b>5,089</b> | <b>5,305</b> | <b>5,528</b> |

#### Estimated New Revenue from One New Business

|               | FY 2026       | FY 2027       | FY 2028       | FY 2029       | FY 2030       | FY 2031       | FY 2032      | FY 2033       | FY 2034       |
|---------------|---------------|---------------|---------------|---------------|---------------|---------------|--------------|---------------|---------------|
| Property Tax  | 9,772         | 9,679         | 9,251         | 8,635         | 8,012         | 7,371         | 6,685        | 6,970         | 7,263         |
| Other Revenue | <u>2,747</u>  | <u>2,802</u>  | <u>2,858</u>  | <u>2,915</u>  | <u>2,973</u>  | <u>3,033</u>  | <u>3,093</u> | <u>3,155</u>  | <u>3,218</u>  |
| <b>Total</b>  | <b>12,519</b> | <b>12,481</b> | <b>12,109</b> | <b>11,550</b> | <b>10,986</b> | <b>10,404</b> | <b>9,779</b> | <b>10,126</b> | <b>10,482</b> |

Next, we computed the number of new households and new businesses needed to close the projected budget gap caused by the loss of revenue from the Renew Baltimore proposal, which begins at \$50.7 million in Fiscal 2026 and grows to \$891.0 million by Fiscal 2034. We assumed that for every 17.3 new households one new business will be created, using the current ratio of households (247,232) to businesses (14,291). We were also able to translate the new households to population, knowing that currently there are 2.28 occupants per household:

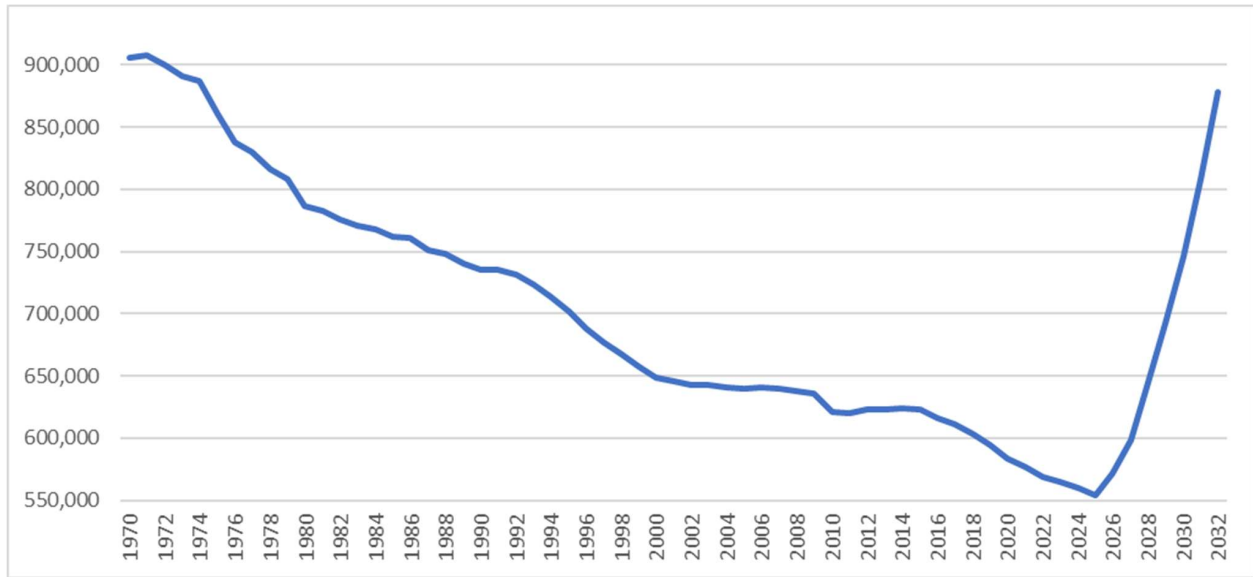
#### New Households, Businesses, and Residents Required to Close Budget Deficit

|            | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | FY 2031 | FY 2032 | FY 2033 | FY 2034 |
|------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Households | 7,612   | 19,661  | 39,610  | 60,647  | 84,483  | 111,617 | 142,378 | 143,995 | 145,242 |
| Businesses | 440     | 1,136   | 2,290   | 3,506   | 4,883   | 6,452   | 8,230   | 8,324   | 8,396   |
| Residents  | 17,356  | 44,827  | 90,312  | 138,275 | 192,622 | 245,487 | 324,621 | 328,310 | 331,152 |

BBMR's analysis shows that by the last year of the tax cut phase-in, to a property tax rate of \$1.20 in Fiscal 2032, the City will need to gain over 300,000 new residents and add over 8,000 new businesses to make the Renew Baltimore proposal revenue neutral. Looking at this in the context of the City's longer-term population trends shows just how unrealistic this task would be. Essentially, the City would need to reverse over fifty years of population growth in just a tiny seven-year window to make the proposal work:

## Baltimore City Population Growth Needed to Make Up for Lost Revenues

*Actual and Estimated Population 1970 to 2034*



Note that our estimate is conservative because we did not attempt to estimate the new expenditures that would be needed to support any growth in population. But, realistically, any substantial growth in population would require the expansion of existing services and add even more cost to the expenditure forecast. This in turn would require even more new residents and/or businesses to make the proposal revenue neutral.

**BBMR's conclusion from this break-even analysis is that the number of new residents required to make the Renew Baltimore proposal revenue-neutral is substantially higher than what could reasonably be expected.**

## **Renew Baltimore Claim #2: *City services will not be cut.***

### **BBMR Finding: **Myth****

**The Renew Baltimore proposal will lead to crippling City service reductions, with the impact felt most directly by the poorest Baltimore residents.** Renew Baltimore claims that the property tax rate cuts are “small, manageable increments.” This statement is wildly inaccurate.

To get a sense of the service reductions required, we must first gain some perspective on the City’s General Fund budget. The City’s Preliminary General Fund Budget for Fiscal 2025 is \$2.237 billion, but approximately \$1.0 billion of the budget, or 42.6%, is made up of “fixed costs.” Fixed costs are costs that the City must pay either by law or by contractual obligation, such as debt service, pension contributions, mandated contributions to City Schools, retiree health benefits, workers compensation payments, and utilities, among many others. Once those fixed costs are accounted for the City only has a “discretionary” budget of \$1.2 billion. And, most of that discretionary budget is tied directly to service delivery – salaries and benefits, equipment, materials, and contract costs.

The Renew Baltimore proposal would eliminate nearly a quarter (23.1%) of the City’s General Fund revenue. To simplify this and put it in terms of the Fiscal 2025 budget, the City would need to eliminate \$537 million worth of services out of a total discretionary budget of only \$1.3 billion, or over 40% of the City’s discretionary budget.

BBMR built a realistic proposal for what a reduction of this magnitude would look like. The City would first seek to find efficiencies within the budget that have minimal impact on residents, but there is only so much efficiency to be gained before direct service reductions are required. Seeking other revenue sources is also a possibility but this will yield only minimum results. In addition to the Charter restriction on property tax rates, the City is already at the State maximum income tax rate of 3.2%. Those two sources alone make up over 70% of the City’s General Fund revenue. And other tax rates for housing transfers and recordation, parking tax, and hotel tax are already at or tied for the highest rates in Maryland.

BBMR did not assume that new revenues could be generated that require State legislation. As of the time of publication, the State of Maryland was still grappling with its own budget challenges. At the close of the 2024 General Assembly session the legislature raised a variety of taxes and fees to fund the Transportation Trust Fund. But, future unfunded requirements for implementing the Blueprint for Maryland’s Future (education) were deferred to later fiscal years. It would be unrealistic to expect the State to provide new taxing authority for the City when they are facing their own budget challenges.

Permanently balancing the City’s budget under the Renew Baltimore proposal would require the combination of all the following budget savings and/or cuts totaling \$537 million. **The package below is a realistic assessment of how dramatically City government would need to shrink by Fiscal 2032 under the Renew Baltimore proposal:**

## Summary of Actions Needed to Balance the Budget by Fiscal 2032 Under Renew Baltimore Proposal

*All Services and Amounts in Fiscal 2025 Dollars*

**Efficiencies and New Revenues (\$124.5 million):** Eliminate 200 long-term vacant positions, find \$20 million of other agency efficiencies, eliminate the Targeted Homeowners Tax Credit, reduce Tax Credit offerings by 20%, double the Homestead Cap from 4% to 8%, raise the Taxi Tax from \$0.25 to \$1.00 per ride, and increase energy tax rates by 10%.

**Public Safety (\$233.0 million):** Reduce the Police force by 40% (1,000 officers), eliminate the Police helicopter unit, close 40% of Fire Suppression units (20 units), close 40% of EMS units (10 units), eliminate Sheriff enforcement of child support payments, eliminate SAO's victim and witness protection programs, reduce SAO prosecutors by 1/3 (50 prosecutors), and eliminate all 10 Safe Street sites.

**Cleanliness and Beautification (\$25.9 million):** Eliminate street and alley cleaning, return to permanent bi-weekly recycling, eliminate business district cleaning, close the Cylburn Arboretum and Rawlings Conservatory, eliminate mowing and maintenance for 870 median strips, and eliminate the Inner Harbor beautification and safety teams.

**Youth and Education (\$46.6 million):** Eliminate all after-school programming, reduce school nurses to only 1 for every 3 schools, eliminate school crossing guards, reduce rec center hours from 6 days to 3 days per week, eliminate 1/3 of Library branch locations (7 libraries), eliminate all pre and post-natal maternal health visits, eliminate 2,000 Youth Works jobs slots, eliminate trauma-informed care training for City employees, and eliminate all Healthy Homes lead exposure visits.

**Direct Employee Impacts (\$76.1 million):** Freeze employee pay for three consecutive years, double employee costs for healthcare from 20% to 40% share of premium, eliminate all employee training programs, and eliminate employee wellness, training, and assistance programs.

**Miscellaneous (\$30.9 million):** Reduce annual Capital investment from \$100M to \$80M, eliminate all election early voting sites, eliminate all support for community development entities, eliminate all grants for art and cultural institutions, and eliminate Charm-TV and all public broadcasting.

This combination of budget cuts, totaling \$537 in Fiscal 2025 dollars, would be truly devastating. It would be especially difficult for lower-income residents who are more reliant on City services. Renew Baltimore claims that property tax reduction will trigger an influx of new investment, but we think exactly the opposite is more likely. Once property owners, residents, and businesses begin to see the massive and unprecedented reduction in City services the City risks *losing* property owners who seek a more stable environment.



**Renew Baltimore Claim #3:** *Similar tax reduction proposals have triggered a turnaround in other cities.*

**BBMR Finding:** **Myth**

**The claim that a sharp tax cut was the trigger for turnaround in places such as San Francisco does not stand up to scrutiny.** A better comparable for the Renew Baltimore proposal is an experimental income tax cut in the state of Kansas that triggered an ongoing fiscal crisis for the better part of the next decade.

**San Francisco:** Proponents of sharp tax cuts often point to the implementation of Proposition 13 in California in 1978 as an example of a policy that spurred the turnaround of San Francisco. But that argument does not stand up to scrutiny. First, the explosion in downtown development in San Francisco occurred between 1965 and 1980, beginning well before the implementation of Prop 13. Second, the State of California took actions to cushion the financial blow for local jurisdictions. The State gave block grants and shifted some tax revenue back to local governments and bought out parts of state-mandated health and welfare programs to reduce costs for local governments. Baltimore would not have the luxury of receiving similar support from Annapolis.

The Renew Baltimore coalition also argues that Prop 13 created an economic spark that led to growth in receipts for sales and use taxes, payroll taxes, and business licenses. Here they are mixing up cause and effect. The City of San Francisco had to broaden its tax base to collect more revenue from these sources **because of** the loss in property tax revenue. In fact, across California, the financing of city and county services shifted from general taxes to other fees and charges.

**Kansas:** A better comparison to the Renew Baltimore proposal is Kansas Governor Sam Brownback's income tax cut experiment. In May 2012 the Governor signed a bill that cut the top income tax rates and eliminated pass-through income from businesses to their owners. The Governor argued that the tax cuts would pay for themselves through increased revenues and would serve as a real live experiment of whether tax cuts could create growth. Brownback's tax consultant was Arthur Laffer, a noted "supply-side" economist, and his policies were endorsed by noted anti-tax activist Grover Norquist.

The tax cuts resulted in an almost immediate deterioration of the State's fiscal health. In 2014, after the tax cuts went into effect, State revenues plummeted by nearly \$700 million. S&P and Moody's both downgraded the State's bond rating due to the structurally unbalanced budget. Lawmakers were forced to utilize one-time gimmicks to make up for the loss of revenue by drawing on General Fund reserves, diverting money from the State transportation fund, and reducing annual pension payments. And, further budget cuts were needed to balance the State's budget, including sharp reductions in Medicaid and education spending. In 2017 the newly elected Kansas legislature, having tired of the ongoing fiscal crisis, voted to restore the top income tax rate and the pass-through business tax. This action effectively ended the "Kansas experiment" and restored structural balance to the State's budget.

**Renew Baltimore Claim #4:** *Baltimore taxpayers pay a tax rate that is twice as high as other Maryland residents.*

**BBMR Finding: Needs More Context for a Fair Comparison**

**Comparing the City’s tax rate versus other county rates alone does not provide a true apples-to-apples comparison of the tax burdens between different jurisdictions.** Baltimore’s real property tax rate of \$2.248 per \$100 of assessed value is the highest when compared to other Maryland counties alone. However, there are three adjustments – Solid Waste fees, the Targeted Homeowners Tax Credit, and municipal tax rates - that must be made to make a more accurate comparison about the tax burdens that property owners face in Baltimore compared to other Maryland jurisdictions:

**1) Solid Waste Fees:** Baltimore City is one of the few large jurisdictions in Maryland that funds Solid Waste collection costs in its General Fund via the property tax. Most other large counties in Maryland - including Prince Georges, Montgomery, Howard, and Anne Arundel - charge a separate Solid Waste collection fee to property owners on top of the property tax rate. In the Fiscal 2024 budget the City spent \$92.2 million on Solid Waste services which includes trash and recycling collection, street and alley cleaning, disposal, and landfill costs. Given that each penny of the City’s tax rate generates \$5.1 million of General Fund revenue, the City’s tax rate is overstated by the equivalent of \$0.180 when compared to these other large Maryland counties which charge a separate fee for those services.

**2) Targeted Homeowners Tax Credit:** Any residential owner-occupied property in Baltimore that is Homestead-eligible automatically receives the Targeted Homeowners Tax Credit (THTC). The THTC effectively reduces the rate for those property owners by an additional \$0.20 per \$100 of assessed value. There is no equivalent tax credit in any other Maryland county.

**3) Municipal Tax Rates:** Approximately 26% of Maryland residents live in either a town or municipality that charges an additional municipal or town tax rate on top of the county rate. These jurisdictions tend to be denser with higher demands for services and thus serve as a better comparison to Baltimore City. For example, taxpayers in the City of Frederick pay both the Frederick County property tax rate plus the City of Frederick rate for a combined total of \$1.687. The same is true of many other large municipalities in the State including Hagerstown, College Park, Bel Air, Havre de Grace, and Annapolis, among many others.

A more accurate comparison is to take Baltimore’s tax rate, correct for the impact of Solid Waste fees and the THTC, and then compare versus other municipality’s combined county and local rate.:

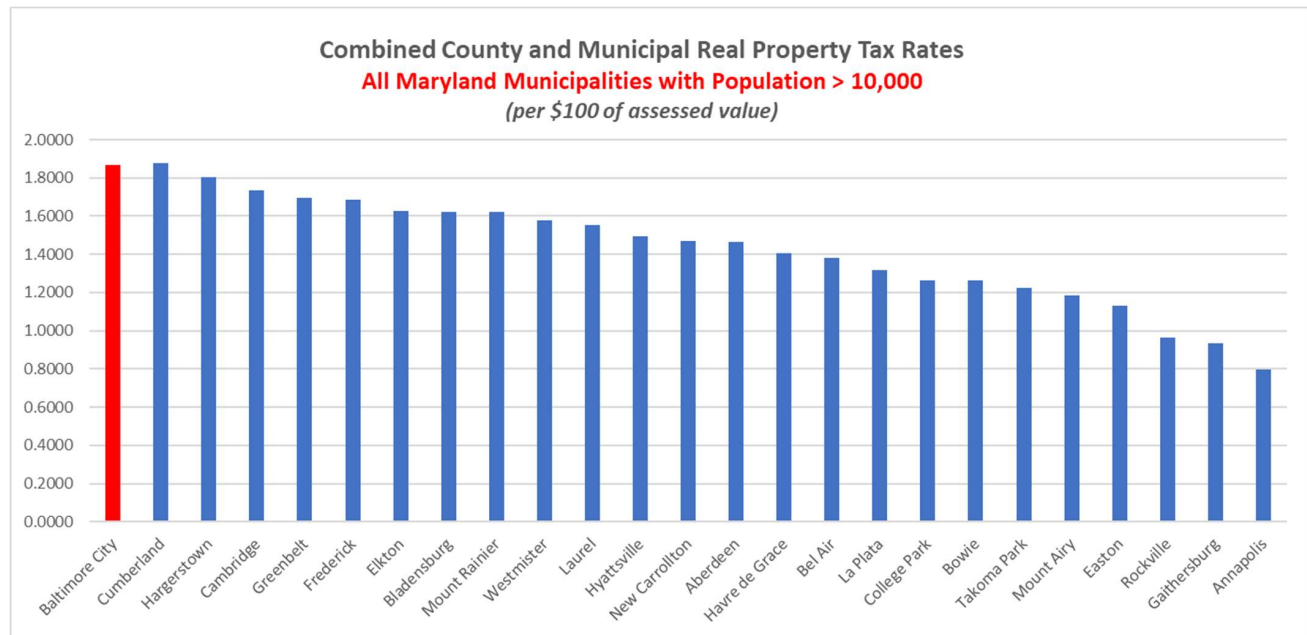
**Comparable Baltimore City Property Tax Rates**

*Accounting for Solid Waste Costs and the Targeted Homeowners Tax Credit*

|   | Rate           |
|---|----------------|
| <b>Base Baltimore City Property Tax Rate</b>  | \$2.248        |
| <b>Less:</b> equivalent Solid Waste Enterprise costs  | (\$0.180)      |
| <b>Equals: Comparable Tax Rate for Commercial and Residential Non-Owner Occupied Property</b> | <b>\$2.068</b> |
| <b>Less:</b> Targeted Homeowners Tax Credit   | (\$0.200)      |
| <b>Equals: Comparable Tax Rate for Residential Owner-Occupied Property</b>                    | <b>\$1.868</b> |

24-01: Analyzing the Impact of the 2024 “Renew Baltimore” Charter Amendment Proposal on Property Tax Rates

When comparing the adjusted \$1.868 City tax rate for residential owner-occupied properties to other Maryland municipality's combined tax rates, the comparison is more favorable and not nearly as bad as the “double the tax rate” headline that is often used to describe the City’s tax rates.



## CONCLUSIONS

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BBMR aims to provide clarity to the public, elected officials, and other stakeholders about the impact of various City tax, budget, and policy proposals. The Renew Baltimore petition that is currently circulating would represent a dramatic change in tax policy with significant impacts on the City budget and service delivery. As such, we felt it was our duty to perform a good-faith analysis of the proposal and its potential impact on Baltimore residents.

Our conclusion is that the Renew Baltimore proposal would create an enormous structural deficit in the City's General Fund budget, and in turn require massive service reductions that represent more than 40% of the City's discretionary budget. Those service reductions would be most likely to impact the City's most vulnerable residents. Renew Baltimore's claim that new revenues would offset the lost property tax revenue are wildly unrealistic and failed a common-sense break-even analysis. Claims that similar proposals have triggered a turnaround in other cities do not stand up to scrutiny.

Dramatic tax reduction is appealing on its face, but tax reduction is best achieved via an incremental approach. Small but consistent rate increases send a signal to property owners about the seriousness of the City's efforts, but also protect the budget and City services from drastic reductions. The City's 10-Year Financial Plan includes several initiatives – such as establishing a Solid Waste fee, making reforms to tax credit programs, and expanding the City's tax base to include large non-profit entities – that can serve as a roadmap for generating tax relief via a more manageable and realistic approach.

## APPENDIX I: CONTACT INFORMATION

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### **BBMR Mission**

The Bureau of the Budget and Management Research is an essential fiscal steward for the City of Baltimore. Our mission is to promote economy and efficiency in the use of City resources and help the Mayor and City agencies achieve positive outcomes for the citizens of Baltimore. We do this by planning for sustainability, exercising fiscal oversight, and performing analysis of resource management and service performance. We value integrity, learning and innovating, excellent customer service, and team spirit.

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All BBMR reports are made available on our website, <https://bbmr.baltimorecity.gov/management-research>.

### **Contacting BBMR**

Please contact us by email at [budget@baltimorecity.gov](mailto:budget@baltimorecity.gov) or by phone at 410-396-4941.

BENEDICT J. FREDERICK, III, *et al.*, \* IN THE  
Plaintiffs, \* CIRCUIT COURT  
v. \* FOR  
BALTIMORE CITY BOARD \* BALTIMORE CITY  
OF ELECTIONS, *et al.*, \*  
Defendants. \* Case No. C-24-CV-24-001361  
\*

\* \* \* \* \*

**AFFIDAVIT OF ROBERT CENNAME**

1. My name is Robert Cenname. I am at least 18 years of age and competent to testify.
2. I currently serve as Deputy Director of the Baltimore City Department of Finance (“DOF”).
3. My duties as Deputy Director include supervising and overseeing the daily functions of DOF and coordinating with the Director; signing all checks of the City made by the City; and performing the duties of the Director when the Director is incapacitated or otherwise unavailable for duty for any cause, and serving as Acting Director of DOF if the Director position becomes vacant.
4. As Deputy Director of DOF, I am responsible for overseeing the preparation of the budget for consideration by the Mayor, proposed to the City’s Board of Estimates and thereafter considered as legislation by the Baltimore City Council under the process outlined in the City’s Charter.
5. DOF’s Bureau of Budget and Management Resources (“BBMR”), which I help oversee as Deputy Director of DOF, is required to write fiscal notes for legislation and has extensive experience in analyzing various tax, budget, and policy proposals.
6. The DOF analysis of the 2024 Renew Baltimore Charter Petition is in a document entitled “City of Baltimore, BBMR Management Research Report, Analyzing the Impact of the 2024 ‘Renew Baltimore’ Charter Amendment Proposal on Property Tax Rates” (hereinafter the “Analysis”) that was published online on May 8, 2024.
7. The City has approximately \$1 billion dollars annually in fixed costs that include funding the Baltimore City Public School System (\$396 million), servicing the City’s debt, or “debt service”, (\$105 million), and making contributions to the City’s various pension obligations (\$215 million). The remaining costs are divided among other expenses, including retiree health costs, workers compensation, insurance premiums and energy costs.

8. DOF's Analysis modeled the City's General Fund outlook over the next ten years starting with the most recent annual budget proposal, the Fiscal 2025 Preliminary Budget proposal available to the public at: <https://bbmr.baltimorecity.gov>, which balances expected expenditures with expected revenues as required by the City Charter and Maryland Constitution. The Analysis does not change significantly if the actual figures from the recent Ordinance of Estimates are used.

9. The Analysis made realistic assumptions of future revenue and cost growth, including using the Maryland Board of Revenue Estimates (BRE) forecast adjusted for City-specific factors in employment and income, the actuarial reports provided by the City's pension systems and the 2022 Maryland State Department of Legislative Services report on "The Local Fiscal Impact of Implementing the Blueprint for Maryland's Future."

10. Even without the tax rate reductions mandated by the Renew Baltimore Petition, DOF projects that the City's current service levels cannot be maintained without taking one of three actions: raising additional revenue, making service reductions, or finding efficiencies within the current budget.

11. If the Renew Baltimore Petition was implemented, the City would need, in Fiscal 2025 dollars, a total of \$537 million worth of budget cuts by 2032.

12. Property tax and income tax make up nearly 70% of the City's General Fund revenue. The Renew Petition would lower the City's property tax rate substantially. Because the income tax rate is the maximum allowed under State law (3.2%), the City would need to generate over a half a billion dollars outside of property and income tax if the Renew Petition took effect.

13. The City would not be able to balance its budget with traditional budget cuts or by finding the half billion needed in new revenues. Instead, the City would be forced to make massive service reductions across many agencies that would have crippling effects, especially on residents that rely most on City services.

14. The Analysis found that the City would need to reverse more than fifty years of population decline in a seven-year window to make the Renew Baltimore proposal revenue-neutral for the City.

\* \* \*

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Date: July 26, 2024

Robert Cennane  
Robert Cennane

**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

**PLAINTIFFS' OPPOSITION TO MAYOR AND CITY COUNCIL OF BALTIMORE'S  
MOTION TO DISMISS AND REQUEST FOR HEARING**

Plaintiffs, Benedict J. Frederick, III ("Mr. Frederick"), Matthew W Wyskiel, III ("Mr. Wyskiel"), and Stacie Teal-Locust ("Ms. Teal-Locust") (collectively together "Plaintiffs") through undersigned counsel are opposing Defendants, Mayor and City Council of Baltimore Motion to Dismiss. The grounds and authorities in support of this Motion are set forth in the accompanying Memorandum of Law.

/s/ Constantine J. Themelis

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 2nd day of August 2024, a copy of the Motion in Opposition to Defendants' Mayor and City Council of Baltimore Motion to Dismiss was served electronically via the MDEC system on all counsel of record and sent via electronic mail to:

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/s/ Constantine J. Themelis

**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
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\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

**PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO MAYOR AND CITY  
COUNCIL OF BALTIMORE'S MOTION TO DISMISS**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) through undersigned counsel submits the following Memorandum of Law in Opposition to the Defendant’s, Mayor and City Council of Baltimore (collectively the “MCC”) Memorandum of Law in support of Motion to Dismiss (“Memorandum” or “Memo”).

**INTRODUCTION**

This case involves the validity of a charter amendment to cap the Baltimore City real property tax rate proposed pursuant to the Maryland Constitution, Art. XI-A, §5, by petition of the voters of Baltimore City. *See* Plaintiffs’ Verified Amended Compl. (“VAC”) at ¶ 2. Despite satisfying all legal requirements, the BCBOE determined that a petition of the voters of Baltimore City put forth by Renew Baltimore, a ballot issue committee, to amend the Baltimore City Charter by placing caps on the real property tax rate (the “Petition”) was unconstitutional or otherwise prohibited by law.<sup>1</sup> *Id.* at ¶ 3.

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<sup>1</sup>. To date, BCBOE has not verified the number of valid signatures on the Petition. “The verification and counting of validated signatures on a petition shall be completed within 20 days after filing of the petition.” EL §6-210(c)(1). “Upon the filing of a petition, and unless it has been declared deficient under §6-206 of this subtitle, the staff of the

The Petition complies with Maryland law, should be certified, and submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024. The Petition simply sets a *cap* on the real property tax rate. It does not set the real property tax *rate* or limit the amount of *revenue* the City of Baltimore can collect from real property taxes. The Petition simply seeks a real property tax rate in Baltimore City that is fair, equitable and competitive with surrounding counties.

The Petition does not violate §6-302(a) of the Tax-Property Article, which mandates that the governing body of each county is to set the property tax rate for the next tax year. The Petition seeks to implement tax cap provisions that will simply place a limit on the taxing power of the Mayor and City Council of Baltimore City (the “MCC”) without eliminating the Mayor and City Council’s ability to set the tax rate. The Petition is not a “roll back” provision that will divest the MCC of its authority to set real property tax rates pursuant to §6-302(a) of the Tax-Property Article.

Pursuant to EL §6-209, Plaintiffs seek an expedited judicial review of the BCBOE’s clearly erroneous decision, a declaration that the Petition is not deficient, complies with all legal requirements, is not constitutionally prohibited, along with an Order requiring the Election Director of BCBOE to certify the Petition, ensuring that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024.

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election authority shall proceed to verify the signatures and count the validated signatures contained in the petition.” EL §6-207(a)(1). On July 9, 2024, BCBOE advised undersigned counsel that BCBOE staff continue to review the signatures. *See* Ex. 8 to the Verified Compl. On July 31, 2024, undersigned counsel exchanged emails with counsel for BCBOE who advised 8,090 signatures were accepted and 5,224 signatures were rejected. Based on this ratio it is expected there will be sufficient signatures accepted as required by Article XI-A of the Maryland Constitution §5. Counsel for BCBOE also advised that approximately 1,000 signatures are reviewed each day.

## **FACTUAL BACKGROUND**

The facts are not in dispute. Renew Baltimore, the Petition “sponsor,” filed a petition to submit to a vote of the registered voters of Baltimore City at the next general election an amendment to the Baltimore City Charter that would implement caps on Baltimore City’s real property tax rate. *See* VAC at ¶16. The Petition complied with Article XI-A of the Maryland Constitution §5, which provides in relevant part:

**SEC. 5.** Amendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition.\*\*\*.<sup>2</sup>

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

### **§6A. Limits on taxation.**

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

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

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<sup>2</sup> *See* fn. 1, *supra*.

(g) for the fiscal year beginning July 1, 2031, and for each and every fiscal year thereafter, no higher than \$1.200.

*Id.* at ¶18 and Ex. 1 thereto.

The Petition seeks to amend the Baltimore City Charter by adding §6A to Article I (General Provisions) to be placed immediately after §6 (Uniform Taxation). *Id.* at ¶ 19. The Petition does not seek to change any other section of the Baltimore City Charter. *Id.* at ¶ 20. On June 6, 2023, Renew Baltimore sought an “advance determination” of the sufficiency of the Petition form pursuant to EL §6-202. *See Id.* at ¶ 21 and Ex. 2 thereto.

There is no dispute that the Petition was filed in a timely manner. On June 20, 2023, BCBOE Election Director approved the sufficiency of the form of the Petition and did not declare the Petition unconstitutional or unlawful at that time. *See Id.* at ¶ 24 and Ex. 3 thereto. The deadline to submit a charter amendment petition for the upcoming general election is July 29, 2024. *See Id.* at ¶ 23 and Ex. 4 thereto. On June 20, 2024, Renew Baltimore timely filed the Petition and submitted 23,542 Petition signatures (more than double the number of signatures required by Article XI-A of the Maryland Constitution §5) to BCBOE. *See Id.* at ¶ 24 and Ex. 5 thereto. On July 3, 2024, undersigned counsel wrote to BCBOE to inquire if there were any determination(s) regarding the Petition. *See Id.* at ¶ 25 and Ex. 6 thereto. On July 3, 2024, Thomas S. Chapman, Esq. advised BCBOE had not yet made any further determinations. *See Id.* at ¶ 26 and Ex. 7 thereto.

On July 9, 2024, BCBOE sent a letter to undersigned counsel declaring the Petition deficient as “it seeks ‘the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law. *See* EL §6-206(c)(5).” *See Id.* at ¶ 27 and Ex. 8 thereto. Specifically, BCBOE erroneously concluded that the Petition conflicted with State law as it divested the MCC of its authority to set a specific real property tax rate in Baltimore City pursuant to §6-302(a) of the Tax-Property Article, Maryland Code. *See* Ex. 8 to the VAC.

## **STANDARD OF REVIEW**

In deciding a motion to dismiss, the Court only examines the sufficiency of the complaint and it does not resolve factual matters. *Soc’y of Am. Foresters v. Renewable Natural Res. Found.*, 114 Md. App. 224, 232-33 (1997). The Court must accept as true all well-pleaded facts and allegations in the complaint or third-party complaint. *Bd. of Educ. of Montgomery Cnty. v. Browning*, 333 Md. 281, 286 (1994). The Court must also resolve all reasonable inferences in favor of the third-party plaintiff, and dismissal is only proper if having done so, the complaint would still fail to afford the third-party plaintiff relief. *Faya v. Almaraz*, 329 Md. 435, 443-44 (1993). The purpose of a motion to dismiss is merely “to determine the legal sufficiency of the action.” 71 C.J.S. *Pleading* § 239 at p. 285 (2000). It is “not the appropriate procedure for determining the truth of disputed facts or what inferences should be drawn where competing inferences are possible.” *Id.* “The object of the motion is to argue that as a matter of law relief cannot be granted on the facts alleged.” *Converge Servs. Grp., LLC v. Curran*, 383 Md. 462, 475 (2004). Indeed, Maryland courts have expressly stated that factual resolution is “clearly inappropriate in the context of a motion to dismiss.” *Morris v. Osmose Wood Preserving*, 99 Md. App. 646, 658, *rev’d on other grounds*, 340 Md. 519 (1995).

The scope of judicial review of an administrative decision “is narrow; it is limited to determining if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determin[ing] if the administrative decision is premised on an error of law.” *Aviation Admin. v. Noland*, 386 Md. 556, 571 (2005). If a reviewing court could reasonably have reached the agency’s conclusion, it should not overturn that decision unless reversal is predicated solely on an error of law. *See State Election Bd. v. Billhimer*, 314 Md. 46, 59 (1998).

This Court may grant relief as it considers appropriate to ensure the integrity of the electoral process. *See* EL §6-209(a)(2).

### **ARGUMENT**

Plaintiffs are seeking judicial review pursuant to EL §6-209(b) of the BCBOE’s clearly erroneous decision that the Petition is deficient.

On July 26, 2024, Plaintiffs moved for summary judgment and declaration pursuant to Md. Cts. & Jud. Code Ann. §3-406<sup>3</sup>, that the Petition is not deficient and satisfied all legal requirements and a writ of mandamus pursuant to Md. Rule 15-701 requiring the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024 (“Plaintiffs’ Motion”).

#### **I. THE BCBOE’S DECISION THAT THE PETITION IS UNCONSTITUTIONAL OR THE ENACTMENT OF THE PETITION WOULD HAVE A RESULT THAT IS OTHERWISE PROHIBITED BY LAW IS CLEARLY ERRONEOUS.**

##### **A. The Petition Does Not Set the Real Property Tax Rate.**

Simply put, the Petition does not remove the MCC’s home rule power to tax or violate §6-302(a) of the Tax-Property Article, which mandates that the governing body of each county is to set the property tax rate for the next tax year. The Petition seeks to implement tax cap provisions that will simply place a limit on the taxing power of the MCC without eliminating the MCC’s ability to set the tax rate.

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<sup>3</sup> Any person interested ...whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation...may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation...and obtain a declaration of rights, status, or other legal relations under it. *See* Md. Cts. & Jud. Code Ann. §3-406.

**B. The Petition is Proper Charter Material, Complies with §6-302 of the Tax Property Article and is Not a “Roll Back” Provision.**

There is no dispute that the Petition is proper charter material. “The tax cap portion of the proposed tax limitation amendments constituted proper charter material.” *Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 236 (1990). “The basic function of a constitution or a charter is to distribute power among the various agencies of government, and between the government and the people who have delegated that power to their government.” *Id.* at 237. “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.” *Id.* “Limitations imposed by the people on their government are fundamental elements of a constitution.” *Id.* “Thus, a limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material.” *Id.* at 238. “A common express restriction upon the municipal power to tax is one limiting the amount or the rate that may be imposed in any one year. The validity of such a provision generally is sustained.” *Id.* at 240 (*quoting* E. McQuillin, *The Law of Municipal Corporations*, §44.26 (3rd ed. 1984)).

The BCBOE conceded that *Smallwood* held “that a charter amendment may set a cap on the future growth of property taxes.” *See* VAC at ¶27 and Ex. 8 thereto. The Petition is clear and unambiguous:

**§6A. Limits on taxation.**

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

- (a) for the fiscal year beginning July 1, 2025, no higher than \$2.200;
- (b) for the fiscal year beginning July 1, 2026, no higher than \$2.100;
- (c) for the fiscal year beginning July 1, 2027, no higher than \$1.920;



- (d) for the fiscal year beginning July 1, 2028, no higher than \$1.740;
- (e) for the fiscal year beginning July 1, 2029, no higher than \$1.560;
- (f) for the fiscal year beginning July 1, 2030, no higher than \$1.380; and
- (g) for the fiscal year beginning July 1, 2031, and for each and every fiscal year thereafter, no higher than \$1.200.

*See Id.* at ¶18 and Ex. 1 attached thereto.

Despite the clear and unambiguous language in the Petition and the holding in *Smallwood* that a charter amendment may set a cap on the future growth of property taxes, the MCC argues and the BCBOE concluded the Petition is deficient because it attempts to set the real property tax rate in Baltimore City. In support of its decision, the BCBOE improperly classified the Petition as a “roll back” and relied on the below quote from *Smallwood*:

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

*See Smallwood* 327 Md. at 244.

This is clearly distinguishable from the Petition. The “roll back” provisions that were severed from the proposed amendments in *Smallwood* ***attempted to limit the amount of property tax revenues that Baltimore County and Anne Arundel County could collect.*** “The ‘roll back’ provisions of the proposed amendments would have limited the amount of *property tax revenues* for the tax year 1991-1992 to ***no more than the amount collected*** in the tax year 1989-1990 for Baltimore County, and ***no more than that collected*** in the tax year 1988-1989 for Anne Arundel County.” *Smallwood* at 244 (emphasis added). There is no language contained in the Petition that

attempts to determine the amount of revenue that Baltimore City can collect; therefore, the Petition is not a “roll back.” The BCBOE’s decision is clearly erroneous on this ground alone.

The MCC and the BCBOE attempts to bolster its clearly erroneous decision by stating *Smallwood* was reaffirmed five years later in *Hertelendy, et al. v. Board of Education of Talbot County, et al.* 344 Md. 676 (1995). See VAC at ¶24 and Ex. 8 attached thereto. Again, the BCBOE cites a block quote to support its clearly erroneous decision:

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

See *Hertelendy* 344 Md. at 683 (internal citation omitted).

The MCC ignore the fact that the charter petition in *Hertelendy* limited the amount of property **tax revenues** that could be collected. The petition language at issue in *Hertelendy* stated “[T]he Council may not establish property tax rates which would provide more **property tax revenues** than were raised during the 1978-79 tax year, unless such additional revenues are the result of assessments on newly constructed property or other property not previously assessed.” *Id.* at 678.

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

“I recognize that the Charter Amendment at issue here is framed as a **cap** on the property tax rate, meaning the City Council could still theoretically set a rate lower than the cap. However, the same was true for the invalidated ‘roll back’ provisions of the two charter amendments at issue in *Smallwood*, which both stated that the county property **tax revenues could not exceed the amount collected** in a specified

prior year. 327 Md. at 229 n.2, 231 n.5. This was also true for the charter provision at issue in *Hertelendy*, which used similar language. 344 Md. at 678. The Court still held that these charter provisions would in effect take away the power to set tax rates from the local legislative body, in violation of State law.”

See VAC at ¶27 and Ex. 8 attached thereto (emphasis added).

Simply put, the Petition does not attempt to set the amount of revenue Baltimore City can collect and is therefore not a “roll back.” The Petition clearly and unambiguously seeks to set a real property tax rate *cap* in Baltimore City. It does not seek to set the real property tax *rate* in Baltimore City or limit the amount of *revenue* Baltimore City can collect from real property taxes or any other lawful tax and is clearly distinguishable from the “roll back” provisions in *Smallwood* and *Hertelendy*.

The MCC’s argument that the Petition would leave the City without millions of dollars of revenue to meet expenses for basic City services is unsupported and should not be considered by this Court. Plaintiffs filed an opposition to the MCC’s motion for summary judgment simultaneously with the instant motion establishing that the City’s contention is unsupported with any reliable evidence and is wrong.

The Petition at issue here does not suffer from the same weakness as was presented by the proposed amendments in *Smallwood* and *Hertelendy*. The Petition is not a back-door attempt by the voters to enact detailed legislation, nor does it divest the MCC of the ability to set the real property tax rates. Rather, the Petition simply attempts to preclude the MCC from charging a real property tax rate above the specified cap, which is permissible under *Smallwood* and *Hertelendy*. The Petition does not attempt to limit the amount of property tax revenue that Baltimore City can collect, nor does it deprive the MCC of setting real property tax rates; however, it does establish a ceiling on the MCC’s authority to set the property tax rates. A limit on the taxing power of the

MCC is appropriate and consistent with *Smallwood* and *Hertelendy* and mandated by the Constitution. “Limitations imposed by the people on their government are fundamental elements of a constitution.” *Smallwood* at 237.

**C. Baltimore City does have home rule power to set lower taxes by petition.**

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

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

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

This argument fails because Section 49 is inapplicable to the Petition. A charter amendment is **not** “legislation, laws or ordinances.”

In addition, if Section 49 prohibits the power of the electorate from seeking change “relating to the classification and taxation of real and personal property,” then this prohibition also applies to the City. To be clear, the sentence the MCC relies upon to support its argument states: “nothing herein contained shall give to the **City or to the inhabitants**.” Thus, Section 49 cannot be interpreted as the MCC contends. If this is the case, there would likely be a taxpayer lawsuit forthcoming.

## **CONCLUSION**

Plaintiffs respectfully request that the MCC's motion to dismiss be denied.

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## **REQUEST FOR HEARING**

Plaintiffs respectfully request that the Court set this matter in for hearing.

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 2nd day of August 2024, a copy of Memorandum of Law in Opposition to the Defendant's, Mayor and City Council Memorandum of Law in support of Motion to Dismiss was served electronically via the MDEC system on all counsel of record and sent via electronic mail to:

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/s/ Constantine J. Themelis

**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

**ORDER**

Upon consideration of Defendant Mayor and City Council of Baltimore's Motion to Dismiss, all oppositions and oral arguments it is this \_\_\_\_ day of \_\_\_\_\_, 2024 hereby

**ORDERED**, that Mayor and City Council of Baltimore's Motion to Dismiss is **DENIED**.

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Judge, Circuit Court for Baltimore City

**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

**OPPOSITION TO THE CITY BOARD’S MOTION TO DISMISS OR ALTERNATIVELY  
FOR SUMMARY JUDGMENT AND REQUEST FOR HEARING**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) through undersigned counsel are opposing Defendants, Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes’ Motion to Dismiss or Alternatively Motion for Summary Judgment. The grounds and authorities in support of this Motion are set forth in the accompanying Memorandum of Law.

/s/ Constantine J. Themelis

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*Attorneys for Plaintiffs Benedict J. Frederick, III, Matthew  
Wyskiel and Stacie Teal-Locust*



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 2nd day of August 2024, a copy of the Defendants, Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes' Motion to Dismiss or Alternatively Motion for Summary Judgment was served electronically via the MDEC system on all counsel of record and sent via electronic mail to:

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**BENEDICT J. FREDERICK, III, *ET AL.***

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v.

**BALTIMORE CITY BOARD OF  
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\* IN THE  
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\* Case No.: C-24-CV-24-001361

\* \* \* \* \*

**MEMORANDUM OF LAW IN OPPOSITION TO THE CITY BOARD’S MOTION TO  
DISMISS OR ALTERNATIVELY FOR SUMMARY JUDGMENT**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) through undersigned counsel submits the following memorandum of law in opposition to the Defendants, Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes (collectively the” BCBOE”) memorandum of law in support of motion to dismiss or alternatively for summary judgment (“Memorandum” or “Memo”).

**INTRODUCTION**

This case involves the validity of a charter amendment to cap the Baltimore City real property tax rate proposed pursuant to the Maryland Constitution, Art. XI-A, §5, by petition of the voters of Baltimore City. *See* Plaintiffs’ Verified Amended Compl. (“VAC”) at ¶ 2. Despite satisfying all legal requirements, the BCBOE determined that a petition of the voters of Baltimore City put forth by Renew Baltimore, a ballot issue committee, to amend the Baltimore City Charter

by placing caps on the real property tax rate (the “Petition”) was unconstitutional or otherwise prohibited by law.<sup>1</sup> *Id.* at ¶ 3.

The Petition complies with Maryland law, should be certified, and submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024. The Petition simply sets a *cap* on the real property tax rate. It does not set the real property tax *rate* or limit the amount of *revenue* the City of Baltimore can collect from real property taxes. The Petition simply seeks a real property tax rate in Baltimore City that is fair, equitable and competitive with surrounding counties.

The Petition does not violate §6-302(a) of the Tax-Property Article, which mandates that the governing body of each county is to set the property tax rate for the next tax year. The Petition seeks to implement tax cap provisions that will simply place a limit on the taxing power of the Mayor and City Council of Baltimore City (the “MCC”) without eliminating the Mayor and City Council’s ability to set the tax rate. The Petition is not a “roll back” provision that will divest the MCC of its authority to set real property tax rates or collect revenue pursuant to §6-302(a) of the Tax-Property Article.

Pursuant to EL §6-209, Plaintiffs seek an expedited judicial review of the BCBOE’s clearly erroneous decision, a declaration that the Petition is not deficient, complies with all legal requirements, is not constitutionally prohibited, along with an Order requiring the Election

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<sup>1</sup>. To date, BCBOE has not verified the number of valid signatures on the Petition. “The verification and counting of validated signatures on a petition shall be completed within 20 days after filing of the petition.” EL §6-210(c)(1). “Upon the filing of a petition, and unless it has been declared deficient under §6-206 of this subtitle, the staff of the election authority shall proceed to verify the signatures and count the validated signatures contained in the petition.” EL §6-207(a)(1). On July 9, 2024, BCBOE advised undersigned counsel that BCBOE staff continue to review the signatures. *See* Ex. 8 to the Verified Compl. On July 31, 2024, undersigned counsel exchanged emails with counsel for BCBOE who advised 8,090 signatures were accepted and 5,224 signatures were rejected. Based on this ratio it is expected there will be sufficient signatures accepted as required by Article XI-A of the Maryland Constitution §5. Counsel for BCBOE also advised that approximately 1,000 signatures are reviewed each day.

Director of BCBOE to certify the Petition, ensuring that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024.

### **FACTUAL BACKGROUND**

There is no dispute that the Petition is proper charter material. “The tax cap portion of the proposed tax limitation amendments constituted proper charter material.” *Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 236 (1990). “The basic function of a constitution or a charter is to distribute power among the various agencies of government, and between the government and the people who have delegated that power to their government.” *Id.* at 237. “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.” *Id.* “Limitations imposed by the people on their government are fundamental elements of a constitution.” *Id.* “Thus, a limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material.” *Id.* at 238. “A common express restriction upon the municipal power to tax is one limiting the amount or the rate that may be imposed in any one year. The validity of such a provision generally is sustained.” *Id.* at 240 (*quoting* E. McQuillin, *The Law of Municipal Corporations*, §44.26 (3rd ed. 1984)).

The facts are not in dispute. Renew Baltimore, the Petition “sponsor,” filed a petition to submit to a vote of the registered voters of Baltimore City at the next general election an amendment to the Baltimore City Charter that would implement caps on Baltimore City’s real property tax rate. *See* VAC at ¶16. The Petition complied with Article XI-A of the Maryland Constitution §5, which provides in relevant part:

**SEC. 5.** Amendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition.\*\*\*.<sup>2</sup>

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

**§6A. Limits on taxation.**

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

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

*Id.* at ¶18 and Ex. 1 thereto.

The Petition seeks to amend the Baltimore City Charter by adding §6A to Article I (General Provisions) to be placed immediately after §6 (Uniform Taxation). *Id.* at ¶ 19. The Petition does not seek to change any other section of the Baltimore City Charter. *Id.* at ¶ 20. On June 6, 2023,

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<sup>2</sup> See fn. 1, *supra*.

Renew Baltimore sought an “advance determination” of the sufficiency of the Petition form pursuant to EL §6-202. *See Id.* at ¶ 21 and Ex. 2 thereto.

There is no dispute that the Petition was filed in a timely manner. On June 20, 2023, BCBOE Election Director approved the sufficiency of the form of the Petition and did not declare the Petition unconstitutional or unlawful at that time. *See Id.* at ¶ 24 and Ex. 3 thereto. The deadline to submit a charter amendment petition for the upcoming general election is July 29, 2024. *See Id.* at ¶ 23 and Ex. 4 thereto. On June 20, 2024, Renew Baltimore timely filed the Petition and submitted 23,542 Petition signatures (more than double the number of signatures required by Article XI-A of the Maryland Constitution §5) to BCBOE. *See Id.* at ¶ 24 and Ex. 5 thereto. On July 3, 2024, undersigned counsel wrote to BCBOE to inquire if there were any determination(s) regarding the Petition. *See Id.* at ¶ 25 and Ex. 6 thereto. On July 3, 2024, Thomas S. Chapman, Esq. advised BCBOE had not yet made any further determinations. *See Id.* at ¶ 26 and Ex. 7 thereto.

On July 9, 2024, BCBOE sent a letter to undersigned counsel declaring the Petition deficient as “it seeks ‘the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law. *See* EL §6-206(c)(5).” *See Id.* at ¶ 27 and Ex. 8 thereto. Specifically, BCBOE erroneously concluded that the Petition conflicted with State law as it divested the MCC of its authority to set a specific real property tax rate in Baltimore City pursuant to §6-302(a) of the Tax-Property Article, Maryland Code. *See* Ex. 8 to the VAC.

### **STANDARD OF REVIEW**

In deciding a motion to dismiss, the Court only examines the sufficiency of the complaint and it does not resolve factual matters. *Soc’y of Am. Foresters v. Renewable Natural Res. Found.*, 114 Md. App. 224, 232-33 (1997). The Court must accept as true all well-pleaded facts and allegations in the complaint or third-party complaint. *Bd. of Educ. of Montgomery Cnty. v.*

*Browning*, 333 Md. 281, 286 (1994). The Court must also resolve all reasonable inferences in favor of the third-party plaintiff, and dismissal is only proper if having done so, the complaint would still fail to afford the third-party plaintiff relief. *Faya v. Almaraz*, 329 Md. 435, 443-44 (1993). The purpose of a motion to dismiss is merely “to determine the legal sufficiency of the action.” 71 C.J.S. *Pleading* § 239 at p. 285 (2000). It is “not the appropriate procedure for determining the truth of disputed facts or what inferences should be drawn where competing inferences are possible.” *Id.* “The object of the motion is to argue that as a matter of law relief cannot be granted on the facts alleged.” *Converge Servs. Grp., LLC v. Curran*, 383 Md. 462, 475 (2004). Indeed, Maryland courts have expressly stated that factual resolution is “clearly inappropriate in the context of a motion to dismiss.” *Morris v. Osmose Wood Preserving*, 99 Md. App. 646, 658, *rev’d on other grounds*, 340 Md. 519 (1995).

The scope of judicial review of an administrative decision “is narrow; it is limited to determining if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determin[ing] if the administrative decision is premised on an error of law.” *Aviation Admin. v. Noland*, 386 Md. 556, 571 (2005). If a reviewing court could reasonably have reached the agency’s conclusion, it should not overturn that decision unless reversal is predicated solely on an error of law. *See State Election Bd. v. Billhimer*, 314 Md. 46, 59 (1998).

A motion for a summary judgment should be granted if: (1) there is no material dispute of fact; and (2) the movant is entitled to judgment as a matter of law. *See* Md. Rule 2-501(a). If the trier of fact can arrive at more than one conclusion based on genuine issue of material fact, or any deduced inferences, summary judgment is not appropriate. *See Sadler v. Dimensions Health Corp.*, 378 Md. 509, 533 (2003). In the instant case, there are no disputed facts, so the Court’s

determination must be based on whether Plaintiffs are entitled to judgment as a matter of law. *See* Md. Rule 2-501(a).

This Court may grant relief as it considers appropriate to ensure the integrity of the electoral process. *See* EL §6-209(a)(2).

### **ARGUMENT**

Plaintiffs are seeking judicial review pursuant to EL §6-209(b) of the BCBOE’s clearly erroneous decision that the Petition is deficient.

On July 26, 2024, Plaintiffs moved for summary judgment and declaration pursuant to Md. Cts. & Jud. Code Ann. §3-406<sup>3</sup>, that the Petition is not deficient and satisfied all legal requirements and a writ of mandamus pursuant to Md. Rule 15-701 requiring the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024 (“Plaintiffs’ Motion”). Plaintiffs’ Motion addressed all of the arguments made in BCBOE’s Memo.

#### **I. THE BCBOE’S DECISION THAT THE PETITION IS UNCONSTITUTIONAL OR THE ENACTMENT OF THE PETITION WOULD HAVE A RESULT THAT IS OTHERWISE PROHIBITED BY LAW IS CLEARLY ERRONEOUS.**

##### **A. The Petition Complies with §6-302 of the Tax Property Article and is Not a “Roll Back” Provision.**

The BCBOE conceded that *Smallwood* held “that a charter amendment may set a cap on the future growth of property taxes.” *See* VAC at ¶27 and Ex. 8 thereto. The Petition is clear and unambiguous:

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<sup>3</sup> Any person interested ...whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation...may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation...and obtain a declaration of rights, status, or other legal relations under it. *See* Md. Cts. & Jud. Code Ann. §3-406.



### **§6A. Limits on taxation.**

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

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

*See Id.* at ¶18 and Ex. 1 attached thereto.

Despite the clear and unambiguous language in the Petition and the holding in *Smallwood* that a charter amendment may set a cap on the future growth of property taxes, the BCBOE concluded the Petition is deficient because it attempts to set the real property tax rate in Baltimore City. In support of its decision, the BCBOE improperly classified the Petition as a “roll back” and relied on the below quote from *Smallwood*:

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

*See Smallwood* 327 Md. at 244.

This is clearly distinguishable from the Petition. The “roll back” provisions that were severed from the proposed amendments in *Smallwood* ***attempted to limit the amount of property***

*tax revenues that Baltimore County and Anne Arundel County could collect.* “The ‘roll back’ provisions of the proposed amendments would have limited the amount of *property tax revenues* for the tax year 1991-1992 to *no more than the amount collected* in the tax year 1989-1990 for Baltimore County, and *no more than that collected* in the tax year 1988-1989 for Anne Arundel County.” *Smallwood* at 244 (emphasis added). There is no language contained in the Petition that attempts to determine the amount of revenue that Baltimore City can collect; therefore, the Petition is not a “roll back.” The BCBOE’s decision is clearly erroneous on this ground alone.

The BCBOE attempts to bolster its clearly erroneous decision by stating *Smallwood* was reaffirmed five years later in *Hertelendy, et al. v. Board of Education of Talbot County, et al.* 344 Md. 676 (1995). See VAC at ¶24 and Ex. 8 attached thereto. Again, the BCBOE cites a block quote to support its clearly erroneous decision:

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

See *Hertelendy* 344 Md. at 683 (internal citation omitted).

Once again, the BCBOE ignores the fact that the charter petition in *Hertelendy* limited the amount of property *tax revenues* that could be collected. The petition language at issue in *Hertelendy* stated “[T]he Council may not establish property tax rates which would provide more *property tax revenues* than were raised during the 1978-79 tax year, unless such additional revenues are the result of assessments on newly constructed property or other property not previously assessed.” *Id.* at 678.

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

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

See VAC at ¶27 and Ex. 8 attached thereto (emphasis added).

Simply put, the Petition does not attempt to set the amount of revenue Baltimore City can collect and is therefore not a “roll back.” The Petition clearly and unambiguously seeks to set a real property tax rate *cap* in Baltimore City. It does not seek to set the real property tax *rate* in Baltimore City or limit the amount of *revenue* Baltimore City can collect from real property taxes or any other lawful tax and is clearly distinguishable from the “roll back” provisions in *Smallwood* and *Hertelendy*.

The Petition at issue here does not suffer from the same weakness as was presented by the proposed amendments in *Smallwood* and *Hertelendy*. The Petition is not a back-door attempt by the voters to enact detailed legislation, nor does it divest the MCC of the ability to set the real property tax rates. Rather, the Petition simply attempts to preclude the MCC from charging a real property tax rate above the specified cap, which is permissible under *Smallwood* and *Hertelendy*. The Petition does not attempt to limit the amount of property tax revenue that Baltimore City can collect, nor does it deprive the MCC of setting real property tax rates; however, it does establish a ceiling on the MCC’s authority to set the property tax rates. A limit on the taxing power of the MCC is appropriate and consistent with *Smallwood* and *Hertelendy* and mandated by the

Constitution. “Limitations imposed by the people on their government are fundamental elements of a constitution.” *Smallwood* at 237.

### **CONCLUSION**

BCBOE’s determination that the Petition is deficient is clearly erroneous. As such, Plaintiffs respectfully request that summary judgment be entered in their favor and that this Court enter an Order as follows:

- A. Declaring the Petition has satisfied all legal requirements;
- B. Ordering the Election Director of BCBOE to certify the Petition and ensure that the Petition is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024;
- C. Precluding the Election Director of BCBOE from making any additional determinations as to whether or not the Petition would be unconstitutional or illegal on any other grounds;
- D. Awarding Plaintiffs the costs of these proceedings; and
- E. Granting such other and further relief as may be just, necessary, and proper under the circumstances and/or under EL §6-209(a)(2).

*[Signatures follow on next page]*

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### **REQUEST FOR HEARING**

Plaintiffs respectfully request that the Court set this matter in for hearing.

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Matthew Wyskiel and Stacie Teal*

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 2nd day of August 2024, a copy of the Opposition to Mayor and City Council of Baltimore's Motion for Summary Judgment was served electronically via the MDEC system on all counsel of record and sent via electronic mail to:

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**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

**ORDER**

Upon consideration of Defendants Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes' Motion to Dismiss or Alternatively Motion for Summary Judgment, all oppositions and oral arguments it is this \_\_\_\_ day of \_\_\_\_\_, 2024 hereby

**ORDERED**, that Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes' Motion to Dismiss or Alternatively Motion for Summary Judgment is **DENIED**.

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Judge, Circuit Court for Baltimore City

**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
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**OPPOSITION TO MAYOR AND CITY COUNCIL OF BALTIMORE’S MOTION FOR  
SUMMARY JUDGMENT AND REQUEST FOR HEARING**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) through undersigned counsel are opposing Mayor and City Council of Baltimore’s Motion for Summary Judgment. The grounds and authorities in support of this Motion are set forth in the accompanying Memorandum of Law.

/s/ Constantine J. Themelis

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 2nd day of August 2024, a copy of the Opposition to Mayor and City Council of Baltimore's Motion for Summary Judgment was served electronically via the MDEC system on all counsel of record and sent via electronic mail to:

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/s/ Constantine J. Themelis

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\* \* \* \* \*

**PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO INTERVENOR  
DEFENDANT MAYOR AND CITY COUNCIL OF BALTIMORE'S MOTION FOR  
SUMMARY JUDGMENT and PLAINTIFFS' REQUEST FOR HEARING**

Plaintiffs, Benedict J. Frederick, III ("Mr. Frederick"), Matthew W Wyskiel, III ("Mr. Wyskiel"), and Stacie Teal-Locust ("Ms. Teal-Locust") (collectively together "Plaintiffs") through undersigned counsel submits the following Memorandum of Law in Opposition to the Memorandum of Law in Support of Mayor and City Council of Baltimore's Motion for Summary Judgment (the "Memorandum" or "Memo").

**INTRODUCTION**

Plaintiffs consented to the Mayor and City Council of Baltimore's ("MCC") intervening as a party in this action. Plaintiffs did not consent to the MCC introducing new facts that are not relevant to this action. The MCC's Motion to Intervene or Motion to Dismiss attached thereto did not expressly reference or attach the report prepared by the Department of Finance, Bureau of the Budget and Management Research entitled: *Analyzing the Impact of the 2024 "Renew Baltimore" Charter Amendment Proposal on Property Tax Rates* (the "City's Analysis"). See Ex. 1 attached to MCC's Memo. Specifically, the Verified Complaint (and Amended Verified Complaint) challenges the Election Director for the Baltimore City Board of Elections ("BCBOE") erroneous

conclusion that the subject petition at issue in this matter conflicted with State law as it divested the MCC of its authority to set a specific real property tax rate in Baltimore City. The BCBOE's motions in this matter are limited to this issue. The MCC should not be permitted to introduce **new irrelevant non-expert opinions and arguments**. Indeed, the MCC admits the City's Analysis involves "...policy questions, appropriate only for the legislature's consideration." *See* the Memo at 8. It is within the discretion of this Court to limit the MCC's involvement to the legal question presented in this matter to avoid undue delay and prejudice to Plaintiffs. *See* Md. Rule 2-214(3).

This case involves the validity of a charter amendment to cap the Baltimore City real property tax rate proposed pursuant to the Maryland Constitution, Art. XI-A, §5, by petition of the voters of Baltimore City. *See* Plaintiffs' Verified Amended Compl. ("VAC") at ¶ 2. Despite satisfying all legal requirements, the Election Director for the Baltimore City Board of Elections ("BCBOE") determined that a petition of the voters of Baltimore City put forth by Renew Baltimore, a ballot issue committee, to amend the Baltimore City Charter by placing caps on the real property tax rate (the "Petition") was unconstitutional or otherwise prohibited by law.<sup>1</sup> *Id.* at ¶ 3.

The Petition complies with Maryland law, should be certified, and submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming general election on November 5, 2024. The Petition simply sets a *cap* on the real property tax rate. It does not set

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<sup>1</sup>To date, BCBOE has not verified the number of valid signatures on the Petition. "The verification and counting of validated signatures on a petition shall be completed within 20 days after filing of the petition." EL §6-210(c)(1). "Upon the filing of a petition, and unless it has been declared deficient under §6-206 of this subtitle, the staff of the election authority shall proceed to verify the signatures and count the validated signatures contained in the petition." EL §6-207(a)(1). On July 9, 2024, BCBOE advised undersigned counsel that BCBOE staff continue to review the signatures. *See* Ex. 8 to the Verified Compl. On July 31, 2024, undersigned counsel exchanged emails with counsel for BCBOE who advised 8,090 signatures were accepted and 5,224 signatures were rejected. Based on this ratio it is expected there will be sufficient signatures accepted as required by Article XI-A of the Maryland Constitution §5. Counsel for BCBOE also advised that approximately 1,000 signatures are reviewed each day.

the real property tax *rate* or limit the amount of *revenue* the City of Baltimore can collect from real property taxes. The Petition simply seeks a real property tax rate in Baltimore City that is fair, equitable and competitive with surrounding counties.

The Petition does not violate §6-302(a) of the Tax-Property Article, which mandates that the governing body of each county is to set the property tax rate for the next tax year. The Petition seeks to implement tax cap provisions that will simply place a limit on the taxing power of the Mayor and City Council of Baltimore City (the “MCC”) without eliminating the MCCs ability to set the tax rate or generate revenues therefrom. The Petition is not a “roll back” provision that will divest the MCC of its authority to set real property tax rates pursuant to §6-302(a) of the Tax-Property Article.

## **FACTUAL BACKGROUND**

### **A. Undisputed Facts**

The facts are not in dispute. Renew Baltimore, the Petition “sponsor,” filed a petition to submit to a vote of the registered voters of Baltimore City at the next general election an amendment to the Baltimore City Charter that would implement caps on Baltimore City’s real property tax rate. *See* VAC at ¶16. The Petition complied with Article XI-A of the Maryland Constitution §5, which provides in relevant part:

**SEC. 5.** Amendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County, provided, however, that in any case 10,000 signatures shall be sufficient to complete a petition. A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City or County at the next general

or congressional election occurring after the passage of the resolution or the filing of the petition.\*\*\*.<sup>2</sup>

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

**§6A. Limits on taxation.**

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

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

*Id.* at ¶18 and Ex. 1 thereto.

The Petition seeks to amend the Baltimore City Charter by adding §6A to Article I (General Provisions) to be placed immediately after §6 (Uniform Taxation). *Id.* at ¶ 19. The Petition does not seek to change any other section of the Baltimore City Charter. *Id.* at ¶ 20. On June 6, 2023, Renew Baltimore sought an “advance determination” of the sufficiency of the Petition form pursuant to EL §6-202. *See Id.* at ¶ 21 and Ex. 2 thereto.

There is no dispute that the Petition was filed in a timely manner. On June 20, 2023, BCBOE Election Director approved the sufficiency of the form of the Petition and did not declare the Petition unconstitutional or unlawful at that time. *See Id.* at ¶ 24 and Ex. 3 thereto. The deadline

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<sup>2</sup>*See* fn. 1, *supra*.

to submit a charter amendment petition for the upcoming general election is July 29, 2024. *See Id.* at ¶ 23 and Ex. 4 thereto. On June 20, 2024, Renew Baltimore timely filed the Petition and submitted 23,542 Petition signatures (more than double the number of signatures required by Article XI-A of the Maryland Constitution §5) to BCBOE. *See Id.* at ¶ 24 and Ex. 5 thereto. On July 3, 2024, undersigned counsel wrote to BCBOE to inquire if there were any determination(s) regarding the Petition. *See Id.* at ¶ 25 and Ex. 6 thereto. On July 3, 2024, Thomas S. Chapman, Esq. advised BCBOE had not yet made any further determinations. *See Id.* at ¶ 26 and Ex. 7 thereto.

On July 9, 2024, BCBOE sent a letter to undersigned counsel declaring the Petition deficient as “it seeks ‘the enactment of a law that would be unconstitutional or a result that is otherwise prohibited by law. *See* EL §6-206(c)(5).” *See Id.* at ¶ 27 and Ex. 8 thereto. Specifically, BCBOE erroneously concluded that the Petition conflicted with State law as it divested the MCC of its authority to set a specific real property tax rate in Baltimore City pursuant to §6-302(a) of the Tax-Property Article, Maryland Code. *See* Ex. 8 to the VAC.

**B. The Statement of Facts Outlined in the MCC’s Memorandum (pp. 3-6) Are Not Relevant to this Action and Disputed.**

The MCC Memorandum attempts to outline an “analysis” of the impact of the tax cap by attaching the “City’s Analysis.” *See* Ex. 1 attached to MCC’s Memo. As discussed *supra*, this Court should not consider the City’s Analysis and the MCC’s Statement of Facts outlined on pages 3-6 of the Memo as it introduces **new irrelevant non-expert opinions and arguments**. The MCC should not be permitted to introduce these new irrelevant non-expert opinions and arguments. Indeed, the MCC admits the City’s Analysis involves “...policy questions, appropriate only for the legislature’s consideration.” *See* the Memo at 8. Even if the Court considers the City’s Analysis, it should still be precluded as it is unreliable.

The MCC made no attempt to provide the qualifications of the authors or methodology used to prepare the City's Analysis. It is unclear if the MCC are attempting to use the City's Analysis as lay opinion testimony under Maryland Rule 5-701 or expert opinion testimony under Maryland Rule 5-702. Either way, this Court should not consider the City's Analysis as it is flawed and unreliable.

Plaintiffs commissioned an economic analysis by Sage Policy Group entitled: *Projected Fiscal Consequences of Renew Baltimore's Proposed Real Property Tax Rate Caps* (the "Sage Analysis"). A copy of the Sage Analysis is attached as **Ex. 1**. A copy of the affidavit of Anirban Basu is attached as **Ex. 2**.

The City's Analysis improperly applies static analysis. *See Exs. 1, 2*, a copy of the affidavit of Stephen J.K. Walters, Ph.D. attached as **Ex. 3** and a copy of the affidavit of Steve H. Hanke, Ph.D. attached as **Ex. 4**. "The notion is that the impact of a tax rate change can simply be computed by increasing or decreasing the projected level of tax collections in proportion with the proportionate change in the tax rate. This approach is facially flawed. If taxpayer behavior did not respond to changes in tax rates, local governments could raise rates without limit, generating massive revenues in the process." *See Ex. 1 at 5-6*. Indeed, the City Analysis expressly states "[t]he lost revenue is a very simple and straightforward calculation." *See Ex. 1* attached to MCC's Memo at 6. There is nothing simple or straightforward about forecasting property tax policy reform.

The Sage Analysis utilized "'dynamic analysis' pursuant to the best practices of 21<sup>st</sup> century economic study. Berkeley real estate Professor Kenneth Rosen (1982), Sacramento State Professor Robert Wassmer (1993), Federal Reserve economist Andrew Haughwout (2004), University of Illinois Professor Yonghong Wu (2012), Federal Reserve economist Byron Lutz (2015), and a multitude of other scholars have demonstrated that only dynamic analysis is capable

of properly evaluating tax reform in general and property tax reform in particular.” *See Ex. 1 at 6.* Dynamic analysis is the *only* accepted methodology used by economists to forecast property tax policy reform. *See Ex. 2 at ¶7, Ex. 3 at ¶8 & Ex. 4 at ¶10.*

“According to Hanke and Walters (2018), ‘. . . the literature provides no support whatsoever for officials’ tendency to rely on static models when evaluating their tax policies. The nature and size of the dynamic effects of tax changes will certainly depend on a host of factors specific to a particular jurisdiction, but it is undeniable that there will be favorable long-run effects.’ Parenthetically, the City’s Department of Finance has at least occasionally seen fit to recognize the value of dynamic analysis, including citing Kenneth Rosen’s work in support of a proposed tax credit in 2012.” *See Ex. 1 at 6.*

The Sage Analysis concluded “that nominal real property tax collections will rise each fiscal year during implementation of Renew Baltimore’s ballot initiative. By FY2032, real property tax collections will be approximately \$62 million per annum higher than presently.” *See Ex. 1 at 2.*

“Similar property tax caps are already embedded in the charters of five major Maryland jurisdictions: Anne Arundel, Montgomery, Prince George’s, Talbot, and Wicomico counties. All 23 counties in Maryland have property tax rates below the final property tax cap rate Renew Baltimore proposes, though there are instances in which combined county/municipal tax rates exceed the \$1.20/\$100 of assessed value associated with Renew Baltimore’s ballot initiative. Baltimore City’s current real property tax rates is \$2.248/\$100 of assessed value.” *Id.* at 5.



## **STANDARD OF REVIEW**

“In Maryland, a court shall grant summary judgment only if ‘there is no genuine dispute as to any material fact and . . . the party in whose favor judgment is entered is entitled to judgment as a matter of law.’” *George v. Baltimore Cnty.*, 463 Md. 263, 272 (2019) (quoting Md. Rule 2-501(f)). Moreover, to defeat a motion for summary judgment, “the opposing party must present admissible evidence upon which the jury could reasonably find for the plaintiff.” *Thomas v. Shear*, 247 Md. App. 430, 465 (2020) (quotation marks and further citation omitted) (quoting *Rogers v. Home Equity USA, Inc.*, 453 Md. 251, 263 (2017)). That evidence must be “legally sufficient,” which “‘means that the party cannot sustain its burden by offering a mere scintilla of evidence, amounting to no more than surmise, possibility, or conjecture.’” *Candolfi v. Allterra Grp., LLC*, 254 Md. App. 221, 237 (2022) (quoting *Dobkin v. Univ. of Balt. Sch. of Law*, 210 Md. App. 580, 590 (2013)).

Entry of summary judgment is appropriate only where “there is no genuine dispute as to any material fact and . . . the [moving] party is entitled to judgment as a matter of law.” Md. Rule 2–501(a). In considering a summary judgment motion, the Court must review the record in the light most favorable to the non-moving party and construe any reasonable inferences that may be drawn against the moving party. *E.g., Romeka v. RadAmerica II, LLC*, 485 Md. 307, 331 (2023). The Court “does not endeavor to resolve factual disputes, but merely determines whether they exist and are sufficiently material to be tried.” *Bd. of Cnty. Comm’rs of St. Mary’s Cnty. v. Aiken*, 483 Md. 590, 616 (2023). Thus, the court cannot weigh the evidence or make credibility determinations on summary judgment, *see, e.g., Gurbani v. Johns Hopkins Health Sys. Corp.*, 237 Md. App. 261, 289 (2018); *Ralph v. Sears Roebuck & Co.*, 102 Md. App. 387, 398 (1994), *aff’d sub nom Sears, Roebuck & Co. v. Ralph*, 340 Md. 304 (1995), since those matters are left to the trier of fact. *Laing*

*v. Volkswagen of Am., Inc.*, 180 Md. App. 136, 152 (2008). Ultimately, because the summary judgment procedure “is not a substitute for trial,” *Tucker v. Univ. Specialty Hosp.*, 166 Md. App. 50, 58 (2005), any evidentiary matters, credibility issues, and material facts that are in dispute cannot be disposed of by summary judgment. *Rowhouses, Inc. v. Smith*, 446 Md. 611, 662 (2016).

### **ARGUMENT**

#### **A. This Court Should Preclude the City’s Analysis and the Affidavit prepared by Robert Cennane as they are both unreliable.**

In connection with the admission of expert testimony, this court must act as a gatekeeper in applying the factors set out by the Supreme Court of Maryland in *Rochkind v. Stevenson*, 471 Md. 1 (2020). It is an abuse of discretion to admit expert evidence where there is an analytical gap between the type of evidence the methodology can reliably support and the evidence offered. *See Rochkind*, 471 Md. at 26-27, 236 A.3d 630.

The admissibility of expert testimony is governed by Rule 5-702, which provides:

Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine

- (1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education,
- (2) the appropriateness of the expert testimony on the particular subject, and
- (3) whether a sufficient factual basis exists to support the expert testimony.

*See* Md. R. 5-702. This Court must analyze the admissibility of evidence under Rule 5-702 and consider the following non-exhaustive list of “factors in determining whether the proffered expert testimony is sufficiently reliable to be provided to the trier of facts,” *State v. Matthews*, 479 Md. 278 at 310 (2022):

- (1) whether a theory or technique can be (and has been) tested;
- (2) whether a theory or technique has been subjected to peer review and publication;

- (3) whether a particular scientific technique has a known or potential rate of error;
- (4) the existence and maintenance of standards and controls; ...
- (5) whether a theory or technique is generally accepted[;]

...

- (6) whether experts are proposing to testify about matters growing naturally and directly out of research they have conducted independent of the litigation, or whether they have developed their opinions expressly for purposes of testifying;
- (7) whether the expert has unjustifiably extrapolated from an accepted premise to an unfounded conclusion;
- (8) whether the expert has adequately accounted for obvious alternative explanations;
- (9) whether the expert is being as careful as [the expert] would be in [the expert's] regular professional work outside [the expert's] paid litigation consulting; and
- (10) whether the field of expertise claimed by the expert is known to reach reliable results for the type of opinion the expert would give.

*Rochkind*, 471 Md. at 35-36, 236 A.3d 630 (first quoting *Daubert*, 509 U.S. at 593-94, 113 S.Ct. 2786 (for factors 1-5) and next quoting Fed. R. Evid. 702 Advisory Committee Note (cleaned up) (for factors 6-10)).

In *Matthews*, the Supreme Court of Maryland summarized the trial court's reliability analysis in five principles:

- “[T]he reliability inquiry is ‘a flexible one.’ ” *Matthews*, 479 Md. at 311, (quoting *Rochkind*, 471 Md. at 360).
- “[T]he trial court must focus solely on principles and methodology, not on the conclusions that they generate. However, conclusions and methodology are not entirely distinct from one another. Thus, [a] trial court ... must consider the relationship between the methodology applied and conclusion reached.” *Id.* (internal citations and quotation marks omitted).
- “[A] trial court need not admit opinion evidence that is connected to existing data only by the *ipse dixit* of the expert; rather, [a] court may conclude that there is simply too great an analytical gap between the data and the opinion proffered.” *Id.* at 308 (internal quotation marks omitted).
- “[A]ll of the *Daubert* factors are relevant to determining the reliability of expert testimony, yet no single factor is dispositive in the analysis. A trial court

may apply some, all, or none of the factors depending on the particular expert testimony at issue.” *Id.* at 312.

- “*Rochkind* did not upend [the] trial court’s gatekeeping function. Vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking shaky but admissible evidence.” *Id.* (internal quotation marks omitted).

**1. The City’s Analysis has no stated methodology and is unreliable.**

The City’s Analysis does not attempt to outline the methodology used to reach the conclusions outlined in the report. Indeed, the word methodology does not appear once in the City’s Analysis. Plaintiffs’ experts opined that the City’s Analysis applied static analysis, which is improper. *See Exs. 1-4.* Dynamic analysis is the only accepted methodology used by economists to forecast property tax policy reform. *Id.* This is undisputed. For this reason, Plaintiffs request that the City’s Analysis be precluded from this case and not be considered.

**2. Robert Cennane is not qualified to offer opinions regarding the impact the Petition may have on City.**

Mr. Cennane’s qualifications and level of education are unknown, other than that he is an employee of Baltimore City. He is not an economist and is not qualified to render any opinions in this case.

In determining whether expert opinion satisfies Rule 5-702(3), the Court must determine whether the opinion suffers from an “analytic gap.” *Id.* (applying *Joiner/Daubert* “analytical gap” analysis to Rule 5-702(3) foundational requirements for admitting expert testimony). The trial court must determine that the opinion is more than the expert’s say-so, that it is, in fact, supported by hard data. *General Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997). In other words, evidence must be validated by more than the expert’s *ipse dixit* pronouncement that “I say it is valid, therefore it must be valid.” *Id.*

Here, the City's Analysis is unreliable, and so is Mr. Cennane's testimony. The City's Analysis is flawed and unreliable and should not be considered by this Court.

Even if the Court decides not to preclude the City's Analysis and Mr. Cennane's testimony, there is at the very least a dispute of fact for the reasons outlined in the Sage Analysis and affidavits from Drs. Basu, Walters and Hanke. *See Exs.1-4*. Thus, the MCC's motion for summary judgment must be denied.

### **B. Tax Caps are Proper Charter Material.**

There is no dispute that the Petition is proper charter material. "The tax cap portion of the proposed tax limitation amendments constituted proper charter material." *Board of Supervisors of Elections v. Smallwood*, 327 Md. 220, 236 (1990). "The basic function of a constitution or a charter is to distribute power among the various agencies of government, and between the government and the people who have delegated that power to their government." *Id.* at 237. "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." *Id.* "Limitations imposed by the people on their government are fundamental elements of a constitution." *Id.* "Thus, a limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material." *Id.* at 238. "A common express restriction upon the municipal power to tax is one limiting the amount or the rate that may be imposed in any one year. The validity of such a provision generally is sustained." *Id.* at 240 (*quoting* E. McQuillin, *The Law of Municipal Corporations*, §44.26 (3rd ed. 1984)).

**1. The Petition Complies with §6-302 of the Tax Property Article and is not a “Roll Back” Provision.**

The BCBOE conceded that *Smallwood* held “that a charter amendment may set a cap on the future growth of property taxes.” *See* VAC at ¶27 and Ex. 8 thereto. The Petition is clear and unambiguous:

**§6A. Limits on taxation.**

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

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

*See Id.* at ¶18 and Ex. 1 attached thereto.

Despite the clear and unambiguous language in the Petition and the holding in *Smallwood* that a charter amendment may set a cap on the future growth of property taxes, the MCC argue the Petition is a “roll back.” In support of its position, the MCC rely on the below quote from *Smallwood*:

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

*See Smallwood* 327 Md. at 244.

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

The MCC’s reliance on *Hertelendy, et al. v. Board of Education of Talbot County, et al.* 344 Md. 676 (1995) ignores the fact that the charter petition in *Hertelendy* limited the amount of property *tax revenues* that could be collected. “[T]he Council may not establish property tax rates which would provide more *property tax revenues* than were raised during the 1978-79 tax year, unless such additional revenues are the result of assessments on newly constructed property or other property not previously assessed.” *Id.* at 678.

The MCC conflates real property “tax rates,” “tax caps,” and “tax revenues.” Simply put, the Petition does not attempt to limit the amount of revenue Baltimore City can collect and is therefore not a “roll back.” The Petition clearly and unambiguously seeks to set a real property tax rate *cap* in Baltimore City. It does not seek to set the real property tax *rate* in Baltimore City or limit the amount of *revenue* Baltimore City can collect from real property taxes or any other lawful tax and is clearly distinguishable from the “roll back” provisions in *Smallwood* and *Hertelendy*.

### C. The Petition is Not an Experimental Economic Policy or Legislative.

The MCC's argument that the Petition is an experimental economic policy and thus legislative ignores the doctrine of *stare decisis*. "The tax cap portion of the proposed tax limitation amendments constituted proper charter material." *See Smallwood*, 327 Md. at 236.

The Petition at issue here does not suffer from the same weakness as was presented by the proposed amendments in *Smallwood* and *Hertelendy*. The Petition is not a back-door attempt by the voters to enact detailed legislation, nor does it divest the MCC of the ability to set the real property tax rates. Rather, the Petition simply attempts to preclude the MCC from charging a real property tax rate above the specified cap, which is permissible under *Smallwood* and *Hertelendy*. The Petition simply seeks a real property tax rate in Baltimore City that is fair, equitable and competitive with surrounding counties. The Petition does not attempt to limit the amount of property tax revenue that Baltimore City can collect, nor does it deprive the MCC of setting real property tax rates; however, it does establish a ceiling on the MCC's authority to set the property tax rates. A limit on the taxing power of the MCC is appropriate and consistent with *Smallwood* and *Hertelendy* and mandated by the Constitution. "Limitations imposed by the people on their government are fundamental elements of a constitution." *Id.* at 237.

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

§ (49) Constitutional and other powers. The voters of Baltimore City shall have and are hereby expressly granted the power to make such changes in Sections 1 to 6, inclusive, of Article XI of the Constitution of the State of Maryland, as they may deem best; such power shall be exercised only by the adoption or amendment of a charter as provided in Article XI-A of said Constitution; provided, that nothing contained in this subsection (49) shall be construed to authorize the exercise of any powers in excess of those conferred by the Legislature upon said City, as set forth in Article XI-A of said Constitution; and expressly provided, further, that **nothing**



**herein contained shall give to the City or to the inhabitants** thereof the right to initiate any **legislation, laws or ordinances** relating to the classification and taxation of real and personal property within the limits of said City...

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

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

### **CONCLUSION**

For the above reasons, Plaintiffs respectfully request that this Court deny the MCC’s motion for summary judgment.

/s/ Constantine J. Themelis

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## **REQUEST FOR HEARING**

Plaintiffs respectfully request that the Court set this matter in for hearing.

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 2nd day of August 2024, a copy of the Opposition to Mayor and City Council of Baltimore's Motion for Summary Judgment was served electronically via the MDEC system on all counsel of record and sent via electronic mail to:

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# EXHIBIT 1

# Projected Fiscal Consequences of Renew Baltimore's Proposed Real Property Tax Rate Caps

PREPARED BY SAGE POLICY GROUP, INC.  
ON BEHALF OF RENEW BALTIMORE

JULY 2024



## Executive Summary

### PURPOSE

Renew Baltimore endeavors to place an initiative on the 2024 ballot implementing caps on Baltimore City's real property tax rate during a period stretching from fiscal years 2026 to 2032. The terminal tax cap would be in place thereafter. This is in line with a recommendation put forth by Baltimore Development Corporation (BDC), the City's economic development arm, in early-2021. Similar property tax caps are already embedded in charters of five major Maryland jurisdictions. Under the proposed caps, by FY2032, Baltimore's maximum permissible real property tax rate would be \$1.20/\$100 of assessed value, down from today's \$2.248/\$100 rate. Today, that terminal property tax cap would still represent the highest real property tax rate in metropolitan Baltimore.

### METHODOLOGY

Sage utilizes "dynamic analysis" pursuant to the best practices of 21<sup>st</sup> century economic study. Berkeley real estate Professor Kenneth Rosen (1982), Sacramento State Professor Robert Wassmer (1993), Federal Reserve economist Andrew Haughwout (2004), University of Illinois Professor Yonghong Wu (2012), Federal Reserve economist Byron Lutz (2015), and a multitude of other scholars have demonstrated that only dynamic analysis is capable of properly evaluating tax reform in general and property tax reform in particular.

### RELEVANT HISTORY

Baltimore City leaders have been recommending property tax reductions since at least the early 1990s to stimulate economic activity and stem decline. Other communities have experienced required reductions in real property tax rates by referendum, including San Francisco and Boston.

In 1978, Proposition 13, a statewide ballot initiative forced the City of San Francisco to adopt significant property tax reform. Compared to the Renew Baltimore proposal, Proposition 13 is radically more dramatic. With virtually no warning and little time to prepare, San Francisco was required to cut its real property tax rate by two-thirds to a new rate of 1 percent, well below what Renew Baltimore has proposed as its terminal tax cap.

Despite the magnitude and speed of San Francisco's property tax cut and a horrible national economy, the city repopulated and its tax revenues surged. By the fourth fiscal year after reform, "the city's total real tax receipts had risen so much that they exceeded pre-Prop 13 levels by 66 percent, enabling significant improvements in the quantity and quality of government services delivered to the city's now-growing population, reinforcing its upward trajectory." By 1982, the City of San Francisco enjoyed a surplus of \$512 million (in current dollars).

Something similar happened after tax reform in Boston. From 1983 to 1990, Boston’s “tax base,” what Boston’s Assessing Department refers to as “total value of all taxable property assessed,” nearly tripled from just over \$12 billion to nearly \$36 billion. Such a massive increase in tax base would likely be welcome in Baltimore, but is not necessary to generate real property tax revenue growth over the time of implementation. Rather, Sage finds that simply mimicking dynamics experienced in Prince George’s County after tax reform in 1984 would be sufficient to generate real property tax revenue growth as property tax caps are implemented in Baltimore City. Indeed, Sage’s response function model (response of economic activity to successive property tax caps) indicates that Baltimore City’s response will be similar to that experienced by Prince George’s County after tax reform was implemented there.

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## CONCLUSION

It may be that the actual lift to economic activity will be far larger than encompassed in Sage’s estimates. Nonetheless, Sage estimates that nominal real property tax collections will rise each fiscal year during implementation of Renew Baltimore’s ballot initiative. By FY2032, real property tax collections will be approximately \$62 million per annum higher than presently. Other revenues will also be enhanced, including income tax collections and receipts from Baltimore City property sales. Sage may have an opportunity to estimate those separately at some point in the future.

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## Projected Fiscal Consequences of Renew Baltimore's Proposed Real Property Tax Rate Caps

### Purpose

This Sage Policy Group, Inc. (Sage) report analyzes the fiscal and economic implications of a proposed Baltimore City charter amendment put forth by “Renew Baltimore,” a ballot initiative committee. Renew Baltimore endeavors to supply Baltimore City voters with the opportunity to approve property tax caps to be implemented over a 7-year period stretching from fiscal years 2026 through 2032. The terminal tax cap would be in place thereafter. By proposing property tax caps, Renew Baltimore is effectively endorsing a recommendation offered by the Baltimore Development Corporation (BDC), the City’s economic development arm, on multiple occasions in recent years. In both 2021 (interim report) and 2022 (final report) – entitled *Baltimore Together. A Platform for Inclusive Prosperity: A Comprehensive Economic Development Strategy*, BDC proposed an idea similar to what Renew Baltimore is proposing now (more on this below). Baltimore’s Mayor was presented and signed the final report, which among other things indicated that the “Baltimore Together team hopes this document will serve as a call to action and roadmap for a range of partners over the next five years.”<sup>1</sup>

Similar property tax caps are already embedded in the charters of five major Maryland jurisdictions: Anne Arundel, Montgomery, Prince George’s, Talbot, and Wicomico counties. All 23 counties in Maryland have property tax rates below the final property tax cap rate Renew Baltimore proposes, though there are instances in which combined county/municipal tax rates exceed the \$1.20/\$100 of assessed value associated with Renew Baltimore’s ballot initiative. Baltimore City’s current real property tax rates is \$2.248/\$100 of assessed value.

Some stakeholders are concerned that Renew Baltimore’s proposal will reduce Baltimore City tax collections, diminishing public services. The question is whether expansion of economic activity in Baltimore resulting from lower tax burdens will suffice to offset lower property tax rates. This Sage study addresses that question head on.

### Fiscal Estimates of Renew Baltimore’s Proposal

Some forecasts concerning property tax policy reform — including those sometimes conducted by government agencies — rely on what economists call static analysis. The notion is that the impact of a tax rate change can simply be computed by increasing or decreasing the projected level of tax collections in proportion with the proportionate change in the tax rate. This approach is facially

<sup>1</sup> Baltimore Together, Baltimore Together. A Platform for Inclusive Prosperity: A Comprehensive Economic Development Strategy, November 2022, PDF Page 2.

flawed. If taxpayer behavior did not respond to changes in tax rates, local governments could raise rates without limit, generating massive revenues in the process.

Anyone familiar with the Baltimore area knows this not to be the case. Over recent decades, population has left high-tax Baltimore City for adjacent communities offering lower tax rates. The same phenomenon can be observed nationally, whether in the form of migration from high-tax California to low-tax Arizona and Texas or the movement of New Yorkers to Florida. Admittedly, other factors are at work, including schools, crime, and quality of the built environment (e.g. grime, vacancy), but the fact is that people care about their tax burdens. One implication is that communities associated with lower tax rates enjoy superior economic outcomes and higher bond ratings. Several Baltimore area jurisdictions enjoy AAA bond ratings. Baltimore City is not among them.

Sage utilizes “dynamic analysis” pursuant to the best practices of 21<sup>st</sup> century economic study. Berkeley real estate Professor Kenneth Rosen (1982), Sacramento State Professor Robert Wassmer (1993), Federal Reserve economist Andrew Haughwout (2004), University of Illinois Professor Yonghong Wu (2012), Federal Reserve economist Byron Lutz (2015), and a multitude of other scholars have demonstrated that only dynamic analysis is capable of properly evaluating tax reform in general and property tax reform in particular.

According to Hanke and Walters (2018), “. . . the literature provides no support whatsoever for officials’ tendency to rely on static models when evaluating their tax policies. The nature and size of the dynamic effects of tax changes will certainly depend on a host of factors specific to a particular jurisdiction, but it is undeniable that there will be favorable long-run effects.”<sup>2</sup> Parenthetically, the City’s Department of Finance has at least occasionally seen fit to recognize the value of dynamic analysis, including citing Kenneth Rosen’s work in support of a proposed tax credit in 2012.<sup>3</sup>

A distinguishing feature of dynamic analysis in the current context is its capacity to embody the concept of tax capitalization. The concept states that when all other variables are held constant, increasing the direct tax on an asset reduces the value of that asset while diminishing the direct tax on an asset increases its value. The implication is that real property tax rate reductions increase the value of real property by diminishing cost of ownership. The sharper the decline in the real property tax rate, the more significant the upward trajectory of the underlying asset’s value.

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<sup>2</sup> Hanke, Steve and Walters, Stephen, “Financing Urban Revitalization”, *Journal of Applied Corporate Finance*, Volume 30, Number 3, 2018, at p. 50.

<sup>3</sup> Bureau of Budget and Management Research, Memo, City Council Bill No. 12-040, footnote 1, March 23, 2012.

## Some Relevant History

By the early 1990s, Baltimore leaders understood the need for property tax reform. They established a long-term goal: to have the City's property tax rate be no more than 150 percent that of Baltimore County.<sup>4</sup> The logic was simple. Absent such a move, the City would steadily lose economic competitiveness, jobs, and population. Tax base would shrink in the process, if not in absolute terms, then certainly in relative ones. That is precisely what has transpired since the 1990s, with Baltimore's population loss continuing and occasionally accelerating.

Indeed, the impetus to begin the road toward fiscal viability was spawned by a sense of urgency. During the 1990s, the City "was on its way to losing more people that decade than any municipality in the country."<sup>5</sup> In 1990, Baltimore's population was 736,000. Today, it is under 570,000 according to the U.S. Census Bureau.

By 2007, the problematic nature of Baltimore's property tax climate prompted the creation of Mayor Sheila Dixon's Blue Ribbon Committee on Taxes and Fees. This committee included dozens of civic leaders who represented "the City's residents, businesses, non-profit institutions, City Council, City Comptroller, City administration, and State officials."<sup>6</sup> After many months of study, the Committee put forth a report expressing the following:

"...the overwhelming majority of Committee members were of the opinion that reducing the tax rate will be a catalyst for increasing investment and development in the City, and thereby grow the tax base and expand the pool of taxpaying wage earners choosing to live in the City. Strengthening the tax base will permit the City to enhance critical services, such as public safety and education, while maintaining a competitive tax rate."<sup>7</sup>

In February 2013, Mayor Stephanie Rawlings-Blake presented citizens with *Change to Grow: A Ten-Year Financial Plan for Baltimore*. Tax competitiveness was a major point of emphasis in the document:

"Baltimore's property tax rates are, by far, the highest in Maryland, and overall tax burdens are also well above the rest of the state. Further, the City's tax structure...places these funding burdens primarily and disproportionately on those who choose to locate their homes and/or businesses in the City...this non-competitive tax structure deters and drives out investment...To grow our City, we must improve our tax competitiveness, to encourage more residents and businesses to locate in Baltimore..."<sup>8</sup>

<sup>4</sup> Siegel, Eric. "Political debate looms over the city's property tax rate," *The Baltimore Sun*, February 22, 2007.

<sup>5</sup> Siegel, Eric. "Political debate looms over the city's property tax rate," *The Baltimore Sun*, February 22, 2007.

<sup>6</sup> City of Baltimore. *Report of the Blue Ribbon Committee on Taxes and Fees*, December 5, 2007, Page 13.

<sup>7</sup> City of Baltimore. *Report of the Blue Ribbon Committee on Taxes and Fees*, December 5, 2007, Page 40.

<sup>8</sup> City of Baltimore. *Change to Grow: a Ten-Year Financial Plan for Baltimore*, February 2013, Pages 9-10.

The City's financial plan went on to indicate that:

“Baltimore’s existing, high tax burdens and regional tax competitiveness concerns — particularly with regard to the property tax rate for residents — are a critical factor in individual decisions to locate outside of the City...This is a real and critical challenge that erodes the City’s tax base and economy, and that severely constrains the City’s ability to increase revenues.”<sup>9</sup>

The City’s financial plan did not stop there:

“In the stakeholder interviews conducted for this Ten-Year Financial Plan, the City’s high property tax rates were cited again and again as one of the most significant impediments to economic and neighborhood growth. Consistent with these views, academic research has strongly indicated that tax increases in communities with comparatively high tax rates will...reduce the number of local jobs and erode the tax base...”<sup>10</sup>

Baltimore City’s own economic development agency, the Baltimore Development Corporation, has indicated that property tax caps would help stimulate tax base formation. In November 2022, Baltimore Together, “a public-private initiative led by the Baltimore Development Corporation to support the creation of a common vision of inclusive economic growth in our City,” issued a report indicating that “Baltimore City needs...an expanded tax base and increased employment. A key step is to develop a plan to reduce real property taxes and codify it in the Baltimore City Charter through a referendum.”<sup>11</sup>

Rather than develop coherent responses to Baltimore City’s uncompetitive real property tax rate, City policymakers have spent decades crafting a complex system of narrow and exclusive tax credits and ad hoc tax breaks. The City’s justification for such credits and breaks has been that they ultimately pay for themselves by enhancing the tax base. For instance, on January 23, 2012, the Board of Finance of Baltimore City, the Department of Finance, and the Bureau of Treasury Management issued *Tax Increment Financing Policy and Project Submission Requirements*. According to one requirement, “A summary fiscal impact analysis shall be provided that demonstrates the project will create positive tax revenues to the City, taking into consideration the costs of public services to be provided to the new development...”<sup>12</sup> In Place Economics’ *An Analysis of the Baltimore Historic Preservation Tax Credit* (CHAP), commissioned by the Baltimore City Department of Planning and prepared for the Baltimore Commission for Historical and Architectural Preservation, the authors concluded that Baltimore City’s

<sup>9</sup> City of Baltimore. Ten-Year Financial Plan FY2013 - FY2022, Background Report, February 2013, Page 50.

<sup>10</sup> City of Baltimore. Ten-Year Financial Plan FY2013 - FY2022, Background Report, February 2013, Page 53.

<sup>11</sup> Baltimore Together, Baltimore Together. A Platform for Inclusive Prosperity: A Comprehensive Economic Development Strategy, November 2022, PDF Page 4 and Page 49.

<sup>12</sup> Board of Finance of Baltimore City, the Department of Finance, and the Bureau of Treasury Management. *Tax Increment Financing Policy and Project Submission Requirements*, January 23, 2012, Page 11.

Tax Credit for Historic Rehabilitations and Restorations was a property tax revenue enhancer for the City:

“Overall, the results of this analysis show that the improvements to properties that received the tax credit do substantially increase the appraised value of the property and therefore increase the tax revenue. But the impacts do not stop there. The CHAP projects have a catalytic impact on the construction activity happening around them resulting in a demonstrable property value premium in the immediate vicinity, deemed the ‘halo effect.’ This produces additional tax revenue to the city through job creation and the incremental property tax revenue.”<sup>13</sup>

Baltimore City has long recognized that property tax cuts — albeit often only selectively granted — enhance property tax revenues. The City recognizes that this narrow and exclusive approach is also a significant source of inequity. In August 2022, Baltimore’s Bureau of Budget and Management Research published *A Comprehensive Review of the City’s Current Tax Credit Programs*. According to its findings, “The City’s existing tax credit system is highly inequitable.”<sup>14</sup> Moreover, “The City’s existing tax credit programs clearly favor the wealthier and more-established neighborhoods...The effect of this structure is that homeowners in the wealthier neighborhoods are collectively paying a lower effective tax rate (net of credits) than homeowners in poorer neighborhoods.”<sup>15</sup>

All of these considerations help explain why Mayor Brandon Scott expressed the following while running for his current post in 2020.

“As a life-long Baltimorean, I understand and share residents’ frustrations with the high property tax on Baltimore City homeowners and businesses. It puts us at a competitive disadvantage when compared to surrounding counties. High property taxes not only dissuade potential home buyers but cost those who do choose to buy in the city potentially hundreds of thousands of dollars in lost equity over a homeowner’s lifetime. This is deeply inequitable to the city’s homeowners.”<sup>16</sup>

<sup>13</sup> Place Economics. *An Analysis of the Baltimore Historic Preservation Tax Credit (CHAP)*, August 2020, prepared for the Baltimore Commission for Historical and Architectural Preservation, Page 12.

<sup>14</sup> City of Baltimore, Department of Finance, Bureau of the Budget and Management Research. *A Comprehensive Review of the City’s Current Tax Credit Programs*, August 2022, PDF Page 2.

<sup>15</sup> City of Baltimore, *A Comprehensive Review of the City’s Current Tax Credit Programs*, August 2022, Page 31.

<sup>16</sup> WBAL TV 11, “Baltimore mayor’s race voter’s guide 2020: Economy, Job Creation,” February 25, 2020.

## Experiences of Noteworthy Communities

### SAN FRANCISCO

The 1950 Census indicated that Baltimore, with a population of 949,708, was the 6<sup>th</sup> largest city in the United States. With a population of 775,357, the 11<sup>th</sup> largest city in the country was San Francisco. As Stephen J.K. Walters, Ph.D., and Louis Miserendino point out in *How to Make Baltimore a Superstar City*, both bayside cities experienced depopulation and economic setbacks over the next 25 years. Yet, it was actually San Francisco that fared worse. Baltimore lost 10 percent of its residents while San Francisco lost 14 percent. From 1947 to 1972, Baltimore lost 25 percent of its manufacturing jobs while San Francisco lost 28 percent. In 1975, even the overall crime rate in San Francisco was 19 percent higher than Baltimore's.<sup>17</sup> Moviegoers of a certain vintage may recall that the *Dirty Harry* films starring Clint Eastwood used San Francisco as their gritty backdrop in the 1970s and 1980s.

In 1978, Proposition 13, a statewide ballot initiative, forced the City of San Francisco to adopt property tax reform. Compared to Renew Baltimore's proposal, Proposition 13 is radically more dramatic. With virtually no warning and little time to prepare, San Francisco was required to cut its real property tax rate by two-thirds to a new rate of 1 percent, below what Renew Baltimore has proposed as its terminal tax cap after a gradual 7-year implementation phase. Moreover, San Francisco was forced to apply its new 1 percent rate to 1975 assessment values with all future assessment increases limited to 2 percent/year. Such provisions do not exist in Renew Baltimore's plan.

Blindsided by Proposition 13, San Francisco officials found themselves dealing with a new property tax cap during a period of strong macroeconomic headwinds punctuated by periodic gas shortages, elevated inflation, incredibly high interest rates, and a double-dip recession that commenced in 1980 and that encompassed much of 1982 (the 1981-82 recession ended in November 1982).

Despite the magnitude and speed of San Francisco's property tax cut, or perhaps because of it, and despite a horrible national economy, San Francisco repopulated and tax revenues surged. By the fourth fiscal year after reform, "the city's total real tax receipts had risen so much that they exceeded pre-Prop 13 levels by 66%, enabling significant improvements in the quantity and quality of government services delivered to the city's now-growing population, reinforcing its upward trajectory."<sup>18</sup> By 1982, the City of San Francisco enjoyed a surplus of \$512 million (in today's dollars). *The Economist* observed, "San Francisco is embarrassed only by its riches."<sup>19</sup> By fiscal year 1986, the

<sup>17</sup> Walters, Stephen J.K. and Louis Miserendino. "How to Make Baltimore a Superstar City," *The Maryland Journal A Journal of Public Policy and Public Finance Analysis*, Volume 2011, Pages 36-37.

<sup>18</sup> Hanke, Steve H. and Stephen J.K. Walters. "Financing Urban Revitalization: A Pro-Growth Template," *Journal of Applied Corporate Finance*, Volume 30 Number 3, 2018, Pages 47-54, at Page 48.

<sup>19</sup> "California: Not-So-Golden State," *The Economist*, November 20, 1982, Page 41.

inflation-adjusted assessed value of real property tripled relative to the initial assessment values required under Proposition 13.<sup>20</sup>

## BOSTON

In 1950, Boston's population of 801,444 rendered it the 10<sup>th</sup> largest city in the United States. According to Census data, it had 26,000 more residents than San Francisco, but it had 148,000 fewer residents than Baltimore. Decades that followed were difficult for Massachusetts' capital. From 1950 to 1975, Boston lost 21 percent of its population compared to Baltimore's 10 percent decline. From 1947 to 1972, Boston lost 42 percent of its manufacturing jobs while Baltimore lost 25 percent. In 1975, Boston's overall crime rate was 53 percent higher than Baltimore's.<sup>21</sup> One of Boston's most notorious neighborhoods in those days was a downtown area known simply as "the Combat Zone." The city was in decline as tax reform approached. Between 1975 and 1980, Boston lost 12 percent of its population. In 1980, Boston recorded nearly 224,000 fewer residents than Baltimore.

That same year, two years after California voters approved property tax reform in the form of Proposition 13, Massachusetts voters approved Proposition 2½. As was the case in San Francisco, Boston's property tax reduction was dramatic and swift. Boston's effective property tax rate fell by an estimated 75 percent from 1980 to 1982 just as America was experiencing a double dip recession.<sup>22</sup>

As the decade progressed, Boston's economy experienced robust growth, driving what came to be known as the "Massachusetts Miracle." It was a nationally known phenomenon that helped Governor Michael Dukakis earn the Democratic Party's presidential nomination in 1988. Financial services and technology boomed as did real estate with the construction of new office buildings, hotels, and residential properties. That development added to tax base, creating new resources for the City of Boston to supply public services. From 1983 to 1990, Boston's "tax base," what Boston's Assessing Department refers to as "total value of all taxable property assessed," nearly tripled from just over \$12 billion to nearly \$36 billion.<sup>23</sup>

As was the case with San Francisco's renaissance, Boston's miracle represents an ambitious standard that Baltimore need not replicate for Renew Baltimore's proposal to emerge as fiscally constructive. This Sage analysis forecasts Baltimore's nominal assessed value of real property to less than double over the course of Renew Baltimore's 7-year implementation plan, modest relative to Boston's tax base expansion during the years following Proposition 2½.

<sup>20</sup> Walters, Stephen J.K. *Boom Towns: Restoring the Urban American Dream*, Stanford University Press, 2014.

<sup>21</sup> Walters, Stephen J.K. and Louis Miserendino. "How to Make Baltimore a Superstar City," *The Maryland Journal A Journal of Public Policy and Public Finance Analysis*, Volume 2011, Pages 37-37 at Page 36. Citation refers to Boston and Baltimore comparisons.

<sup>22</sup> Walters, Stephen J.K. and Louis Miserendino. "How to Make Baltimore a Superstar City," Page 37.

<sup>23</sup> City of Boston Assessing Department, *Property Tax Facts & Figures: Fiscal Year 2018*, Pages 3-4.



## PRINCE GEORGE'S COUNTY, MARYLAND

As a suburban jurisdiction bordering Washington, D.C., Prince George's County grew rapidly after World War II. During the 1970s, Washington itself (which had property tax issues of its own) depopulated rapidly even as the number of government jobs in the capital region increased. Suburban jurisdictions in Maryland boomed partially as a result, but Prince George's County was a major exception. As noted in *The Washington Post*, Prince George's County lost 34,000 residents between 1970 and 1976. From 1969 to 1979, its poverty rate expanded while neighboring Howard and Charles counties experienced declining poverty rates.<sup>24</sup> Rising property tax rates — by the 1970s the 2<sup>nd</sup> highest in Maryland behind only Baltimore City — were widely regarded as a contributing factor to Prince George's County's economic, fiscal, and demographic malaise.<sup>25</sup>

Policymakers and Prince George's County residents worked quickly to address the tax competitiveness problem. In 1978, the same year that San Francisco voters approved Proposition 13, Prince George's County voters amended their County's charter by approving the Tax Reform Initiative by Marylanders (TRIM). The Prince George's County tax cap froze the dollar amount of property taxes — not the tax rate. In other words, Prince George's government could not collect property taxes in excess of the amount of revenue raised in 1979, irrespective of inflation and home value. Property tax collection was capped at \$143.9 million.<sup>26</sup>

The original TRIM amendment was far more restrictive than Renew Baltimore's proposal, which places no limits on property tax revenue growth from year to year. Although TRIM immediately helped boost Prince George's County's population, it created budget constraints too limiting for County leaders and residents alike. In 1984, County Executive Parris Glendening encouraged voters to remove the revenue ceiling and “freeze the tax rate.”<sup>27</sup>

The assessed value of real and personal property in Prince George's County grew rapidly thereafter. There was 81 percent growth by the seventh fiscal year after 1984 and 96 percent by the eighth fiscal year.<sup>28</sup> As reflected in Exhibit 1 below, this performance is roughly in line with Sage's forecasts for Baltimore should Renew Baltimore's ballot petition prevail.

It should also be noted that, by 1989, Prince George's County's poverty rate had fallen dramatically to a level well below Maryland's average.<sup>29</sup> Today, Prince George's County is the nation's most

<sup>24</sup> Hanke, Steve H. and Stephen J.K. Walters, “Larry Hogan can revive Baltimore, just as his dad revived Prince George's County,” *The Washington Post*, March 22, 2019.

<sup>25</sup> Thompson, Vernon C. “County's Migration Is Reversed; Pr. George's Loses 34,000 Residents in Migration Reversal,” *The Washington Post*, September 4, 1977.

<sup>26</sup> Hernández, Arelis R. “Ten things to know about TRIM,” *The Washington Post*, April 8, 2015.

<sup>27</sup> Hernández, Arelis R. “Ten things to know about TRIM,” *The Washington Post*, April 8, 2015.

<sup>28</sup> Comptroller of Maryland. *Annual Report of the Comptroller, Editions for 1985, 1992, and 1993*.

<sup>29</sup> Hanke, Steve H. and Stephen J.K. Walters, “Larry Hogan can revive Baltimore, just as his dad revived Prince George's County,” *The Washington Post*, March 22, 2019.



affluent majority African American County with more than 185,000 residents.<sup>30</sup> Perhaps not coincidentally, Prince George's County's County Executive Parris Glendening was elected Maryland's governor in 1994 and re-elected in 1998.

## Sage Analytical Findings

### REAL PROPERTY TAX REVENUE FORECAST

Sage's forecasting model, which embodies the local economy's response function to tax cap implementation, considers several factors. Some of these factors are purely technical, including the tax capitalization concept discussed above and the response functions observed in other communities, including Prince George's County. The Sage study team also made certain assumptions regarding baseline City tax base growth and the most recent round of real property assessments conducted by the Maryland State Department of Assessments and Taxation (SDAT).

Sage also considers other broader factors as well, including likely migration patterns unleashed by tax cap implementation. There is a search in America for affordability, including with respect to housing. Baltimore is the Northeast's discount leader among major cities. Among other things, the region is far less expensive than neighboring Washington, D.C.

Moreover, surrounding jurisdictions do not embrace growth aggressively. Neighboring Baltimore County has very little residentially zoned developable land and many communities are concerned by school overcrowding. Redevelopment activities are limited in Howard County and include the enormously successful but pricey redevelopment of downtown Columbia. Carroll, Harford, Anne Arundel, and Queen Anne's counties also do not embrace growth aggressively.

That leaves one jurisdiction in Central Maryland that is open to rapid economic expansion, including in the form of population growth – Baltimore City. With homicides tumbling in Baltimore City, tax caps would likely open the door to rapid economic growth as investors rush to improve properties and households race to fill them. The Millennials are now America's most populous generation. The oldest of that group will turn 44 this year, but many are in their late-20s and 30s. They are poised to form households in large numbers, and Baltimore emerges as a major potential destination, especially as mortgage rates begin their expected decline in earnest in 2025 and beyond. The City of Baltimore would have an opportunity to sell City-owned properties at higher prices given their greater appeal. The City would also be able to avoid granting as many tax breaks to developers given a more competitive real property tax rate.

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<sup>30</sup> Van Dam, Andrew. "Is Prince George's still the richest majority-Black county in America?" *The Washington Post*, June 29, 2022.

Exhibit 1. Sage Fiscal Estimates

| Fiscal Year | Real Property Tax Rate with Renew Baltimore Tax Cap Implementation | Projected Yearly Growth in Assessable Real Property Tax Base | Effective Real Property Assessable Base (\$billions, nominal) | Sage Forecast Real Property Tax Revenues, Baltimore City (\$millions, nominal) |
|-------------|--|--|---|--|
| 2025        | 2.248%   | 0.0%   | \$46.1  | \$1,036.3  |
| 2026        | 2.200%   | 6.2%   | \$49.0  | \$1,078.0  |
| 2027        | 2.100%   | 5.3%   | \$51.6  | \$1,083.6  |
| 2028        | 1.920%   | 9.5%   | \$56.5  | \$1,084.8  |
| 2029        | 1.740%   | 11.0%  | \$62.7  | \$1,085.1  |
| 2030        | 1.560%   | 11.7%  | \$70.0  | \$1,091.0  |
| 2031        | 1.380%   | 13.2%  | \$79.2  | \$1,093.0  |
| 2032        | 1.200%   | 15.5%  | \$91.5  | \$1,098.0  |

\*City estimates; totals may not add due to rounding

## Reasonableness of Estimates

The reasonableness of estimates depends on two things: 1) logic and 2) parameterization. The logic has been explained above. What has not been offered is a view into the underlying parameters that lead to the revenue estimates presented above.

The gradual implementation of property tax caps raises property values in several ways. First, it diminishes the cost of property ownership, a dynamic captured in the concept of tax capitalization. Second, it expands the number of prospective purchasers of properties, thereby lifting market value. Third, it frees up funds to reinvest in properties, ultimately resulting in even higher valuations. Because the number of prospective buyers of properties is expanded, it also increases the rate of return on capital reinvested in properties. Finally, it also creates greater inducement to construct new properties.

That said, the Sage study team has not incorporated a level of new construction in its estimates beyond that which is contemplated by a recent City Finance Department report. The primary reason for this is that such an estimate would be highly speculative. If the experiences of San Francisco, Boston, and Prince George's County are any indication, tax caps will generate significant amounts of new construction. By not including this dynamic in report estimates, these estimates can be viewed as highly conservative.

The study team attributes much of the prospective gain in tax base size to the shifting values of existing properties, including presently vacant properties. Rehabilitating vacant properties (including by tearing them down and rebuilding) is economically akin to new construction but remains distinguishable. As an aside, the presence of thousands of vacant units represents a substantial cost to the City each year. A recent *Johns Hopkins 21<sup>st</sup> Century Cities Initiative* study concludes, "We have estimated over \$100 million in lost revenue and an additional \$100 million in direct spending by the

city each year on vacant houses. These figures come with many caveats. We are unable to separate and count many expenditures that are embedded in City agency budgets so we are undercounting total spending for this need.”<sup>31</sup>

Sage’s model estimates tax revenues in large measure by analyzing the impact of tax caps on the per square foot value of real property, whether presently occupied or prospectively occupied through rehabilitation. Sage estimates that the square footage of habitable space will increase by 8.5 percent (through rehabilitation) above and beyond the City’s current projections over the 7-year tax cap implementation period.

Sage also estimates that the value of square footage (per square foot) will increase relative to its current trajectory, including by high single-digits during the final two years of implementation as the market for Baltimore property expands as its real property tax rate approaches those of surrounding counties. According to Sage’s projections, the price per square foot of residential property in Baltimore City would still be well below that of Baltimore County even after tax reform is fully implemented, in part because of considerations such as schools and crime.

Nonetheless, Sage’s projections indicate that real property tax revenues will climb each year during tax cap implementation. In part, this is because tax capitalization dynamics supplement the impacts described immediately above. The study team estimates a 15 percent increase in existing property values attributable to tax capitalization over the seven years of implementation. The study team also anticipates more frequent reassessments of properties since the pace of sales will increase as prospective sellers find that their properties have become considerably more marketable. That will also help boost the City’s real property tax collections over the implementation horizon as expanded assessment values are more frequently reflected in annual tax bills.

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<sup>31</sup> Miller, Mary and Mac McComas Johns. “The Costs of Baltimore’s Vacant Housing,” *Johns Hopkins 21<sup>st</sup> Century Cities Initiative*, September 2022, Page 18.

## Conclusion

Sage's estimates do not presume the massive responses to real property rate tax reductions that were observed in earlier decades in San Francisco or Boston. Rather, the response to tax caps in Baltimore City is projected to be more in keeping with what occurred in Prince George's County. It may be that the actual lift to economic activity will be far larger than encompassed in Sage's estimates. Nonetheless, Sage estimates that nominal real property tax collections will rise each fiscal year during implementation of Renew Baltimore's ballot initiative. By FY2032, real property tax collections will be approximately \$62 million per annum higher than presently.<sup>32</sup> Other revenues will also be enhanced, including income tax collections and receipts from Baltimore City property sales. Sage may have an opportunity to estimate those separately at some point in the future.

Some may worry that a rejuvenated Baltimore City will become too expensive for many who currently reside there. However, for many homeowners, property tax bills will decline or at least remain relatively flat even as property values rise. Community wealth will expand. Critically, the supply of housing will rise as existing properties are rehabilitated and as the construction of new units accelerates. This will expand housing choice and accessibility in Baltimore for both renters and homeowners. Many of the properties that will be rehabbed and rendered available will be those that are presently marginal or uninhabitable. Those will tend to be oriented toward the lower end of the income spectrum, which is where much of the additional supply in housing opportunities needs to be.

One of the reasons to believe that assessable base will rise with especial rapidity during the final years of tax cap implementation relates to assessment cycles. Renew Baltimore's implementation phase stretches over more than two assessment cycles, which are three years apiece. Sage's model also incorporates an enhanced volume of transactions as more properties are sold in a market characterized by rapidly rising valuations. That translates into more rapid re-assessments of individual properties, ushering forth substantial gains in real property tax collections in the process.

A handwritten signature in black ink, appearing to read "Anirban Basu".A handwritten date "7/31/24" in black ink.

Anirban Basu, CEO, Sage Policy Group, Inc.

<sup>32</sup> See Exhibit 1

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## About Sage Policy Group

**Sage Policy Group** is an economic and policy consulting firm headquartered in Baltimore, MD. Dr. Anirban Basu, Sage's chairman and CEO, founded the firm in 2004. Over a period spanning two decades, Sage has managed to create a client base that encompasses more than forty states and seven countries and includes Fortune 500 companies, NFL teams, aquariums and zoos, state and local governments, insurance companies, banks, brokerage houses, major medical systems, trade organizations, and law firms, among others.

The company is especially well known for its analytical capabilities in economic impact estimation, school enrollment forecasting, economic development, economic forecasting, fiscal impact analyses, legislative analyses, litigation support, environmental economics, and industry outlooks, and has significant experience in the subject areas of construction, healthcare, energy, real estate, manufacturing, professional sports, lotteries, agriculture, tourism, entrepreneurship, government contracting, secondary and post-secondary education, and the economics of retirement. The firm is also known for its superior communications and messaging skills.

In addition to leading Sage, Dr. Basu has emerged as one of the nation's most recognizable economists. He serves as the chief economist to Associated Builders and Contractors and the International Food Distributors Association and as the chief economic adviser to the Construction Financial Management Association. He chaired the Maryland Economic Development Commission from 2014 to 2021 and currently chairs the Baltimore County Economic Advisory Committee. He has been interviewed by CNBC, CNN, Fox Business, Axios, the New York Times, and many others.

Dr. Basu's lectures in economics are delivered to audiences across the U.S. and abroad. In recent years, he has focused upon health economics, the economics of education, and economic development. He has lectured at Johns Hopkins University in micro-, macro-, urban, and international economics, and most recently, global strategy. He is now the Distinguished Economist in Residence at Goucher College, where he teaches History of Economic Thought.

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# EXHIBIT 2



**BENEDICT J. FREDERICK, III, *ET AL***

***Plaintiffs***

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS**

***Defendant.***

**\* IN THE**

**\* CIRCUIT COURT**

**\* FOR**

**\* BALTIMORE CITY**

**\* Case No.: C-24-CV-24-001361**

**\***

\* \* \* \* \*

**AFFIDAVIT OF ANIRBAN BASU**

I, Anirban Basu, do hereby swear and affirm, based on personal knowledge and under penalties of perjury, as follows:

1. That I am over the age of eighteen (18) years and have personal knowledge of the facts set forth herein and am competent to testify to such facts.

2. I am the Chairman & CEO of Sage Policy Group, Inc., an economic and policy consulting firm located in Baltimore, Maryland (“Sage”).

3. I have a doctorate with a concentration in economics and founded Sage in 2004.

4. My current CV summarizing my experience and qualifications is attached as **Ex. A.**

5. A true and accurate representation of the report generated by Sage: *Projected Fiscal Consequences of Renew Baltimore’s Proposed Real Property Tax Rate Caps*. (“Sage Analysis”) is attached as **Ex. B.**

6. I am the author, and have personal knowledge of, and agree with, the entire Sage Report and Analysis.

7. The Sage Analysis applied dynamic analysis, which is the only accepted methodology used by economists to forecast property tax policy reform.

8. I reviewed the report generated by the City of Baltimore Department of Finance, Bureau of the Budget and Management Research: *Analyzing the Impact of the 2024 “Renew Baltimore” Charter Amendment Proposal on Property. Tax Rates.* (“City’s Analysis”).

9. The City’s Analysis improperly applied static analysis, which is not a generally accepted methodology used by economists to forecast property tax policy reform.

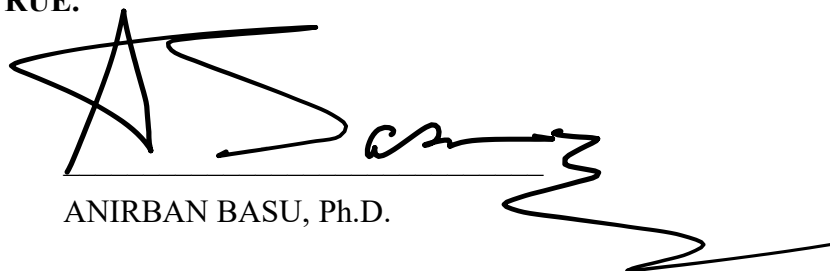
10. The City’s Analysis is flawed, unreliable and should not be considered by this Court.

11. I have been accepted as an expert in the field of economics in court approximately twenty-five (25) times.

12. I will be in California at pre-scheduled meetings, but I am available to testify remotely at the hearing in the morning of the scheduled on August 8, 2024.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE.**

DATE: August 2, 2024



ANIRBAN BASU, Ph.D.

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Docket: 8/2/2024 3:59 PM; Submission: 8/2/2024 3:59 PM  
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# **EXHIBIT A**

**to**

# **EXHIBIT 2**

Dr. Anirban Basu, economist

## Career Brief

Anirban Basu is Chairman & CEO of Sage Policy Group, Inc., an economic and policy consulting firm located in Baltimore, Maryland. He founded the company in 2004. Dr. Basu is one of the nation's most recognizable economists, in part because of his consulting work on behalf of numerous clients, including prominent developers, bankers, brokerage houses, elected officials, energy suppliers and law firms. His lectures in economics are delivered across the United States and in other parts of the world.

In recent years, he has focused upon health economics, the economics of education and economic development. He has lectured at Johns Hopkins University in micro-, macro-, urban, and international economics as well as global strategy. In 2022, Goucher College named him their Distinguished Economist in Residence. He teaches *The History of Economic Thought* there.

Maryland Governor Larry Hogan appointed Mr. Basu Chair of the Maryland Economic Development Commission in 2015. He served that role until 2021. He is Chairman of the Baltimore County Economic Advisory Committee. He also serves the chief economist function for Associated Builders and Contractors, the International Food Distributors Association, and the Maryland Bankers Association among others. He is on the boards of the University of Maryland School of Law, University of Maryland System Foundation, St. Mary's College of Maryland, and the Lyric Opera House.

## Experience

CHAIRMAN & CEO, SAGE POLICY GROUP, INC.  
2004-

- Founder
- Chief economist
- Responsible for securing contracts
- Responsible for successful execution of projects and quality management
- Sole equity holder
- Responsible for representing the firm through public speaking and in the media

CHAIRMAN & CEO, OPTIMAL SOLUTIONS GROUP, LLC  
2002-2004

- Co-founder
- Chief economist
- Responsible for successful execution of projects and quality management
- Major equity holder

DIRECTOR, APPLIED ECONOMICS & SENIOR ECONOMIST, RESI/TOWSON UNIVERSITY  
1992-2003

- Directed all research/consulting projects with heavy economic content
- Authored numerous publications, including *Outlook Maryland & Mid-Atlantic Economic Quarterly*
- Led a staff of more than 30 professionals.

## EDUCATION

- Ph.D., Concentration, Health Economics, UMBC, 2020.
- J.D., UNIVERSITY OF MARYLAND SCHOOL of Law, 2003 (*passed MD Bar Exam, 7/03*)
- M.A., MATHEMATICAL ECONOMICS, UNIVERSITY OF MARYLAND, 1998
- M.P.P., JOHN F. KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY, 1992
- B.S., FOREIGN SERVICE, GEORGETOWN UNIVERSITY, 1990

## YEARS OF EXPERIENCE

- 33

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# **EXHIBIT B**

**to**

# **EXHIBIT 2**

# Projected Fiscal Consequences of Renew Baltimore's Proposed Real Property Tax Rate Caps

PREPARED BY SAGE POLICY GROUP, INC.  
ON BEHALF OF RENEW BALTIMORE

JULY 2024



## Executive Summary

### PURPOSE

Renew Baltimore endeavors to place an initiative on the 2024 ballot implementing caps on Baltimore City's real property tax rate during a period stretching from fiscal years 2026 to 2032. The terminal tax cap would be in place thereafter. This is in line with a recommendation put forth by Baltimore Development Corporation (BDC), the City's economic development arm, in early-2021. Similar property tax caps are already embedded in charters of five major Maryland jurisdictions. Under the proposed caps, by FY2032, Baltimore's maximum permissible real property tax rate would be \$1.20/\$100 of assessed value, down from today's \$2.248/\$100 rate. Today, that terminal property tax cap would still represent the highest real property tax rate in metropolitan Baltimore.

### METHODOLOGY

Sage utilizes "dynamic analysis" pursuant to the best practices of 21<sup>st</sup> century economic study. Berkeley real estate Professor Kenneth Rosen (1982), Sacramento State Professor Robert Wassmer (1993), Federal Reserve economist Andrew Haughwout (2004), University of Illinois Professor Yonghong Wu (2012), Federal Reserve economist Byron Lutz (2015), and a multitude of other scholars have demonstrated that only dynamic analysis is capable of properly evaluating tax reform in general and property tax reform in particular.

### RELEVANT HISTORY

Baltimore City leaders have been recommending property tax reductions since at least the early 1990s to stimulate economic activity and stem decline. Other communities have experienced required reductions in real property tax rates by referendum, including San Francisco and Boston.

In 1978, Proposition 13, a statewide ballot initiative forced the City of San Francisco to adopt significant property tax reform. Compared to the Renew Baltimore proposal, Proposition 13 is radically more dramatic. With virtually no warning and little time to prepare, San Francisco was required to cut its real property tax rate by two-thirds to a new rate of 1 percent, well below what Renew Baltimore has proposed as its terminal tax cap.

Despite the magnitude and speed of San Francisco's property tax cut and a horrible national economy, the city repopulated and its tax revenues surged. By the fourth fiscal year after reform, "the city's total real tax receipts had risen so much that they exceeded pre-Prop 13 levels by 66 percent, enabling significant improvements in the quantity and quality of government services delivered to the city's now-growing population, reinforcing its upward trajectory." By 1982, the City of San Francisco enjoyed a surplus of \$512 million (in current dollars).

Something similar happened after tax reform in Boston. From 1983 to 1990, Boston’s “tax base,” what Boston’s Assessing Department refers to as “total value of all taxable property assessed,” nearly tripled from just over \$12 billion to nearly \$36 billion. Such a massive increase in tax base would likely be welcome in Baltimore, but is not necessary to generate real property tax revenue growth over the time of implementation. Rather, Sage finds that simply mimicking dynamics experienced in Prince George’s County after tax reform in 1984 would be sufficient to generate real property tax revenue growth as property tax caps are implemented in Baltimore City. Indeed, Sage’s response function model (response of economic activity to successive property tax caps) indicates that Baltimore City’s response will be similar to that experienced by Prince George’s County after tax reform was implemented there.

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## CONCLUSION

It may be that the actual lift to economic activity will be far larger than encompassed in Sage’s estimates. Nonetheless, Sage estimates that nominal real property tax collections will rise each fiscal year during implementation of Renew Baltimore’s ballot initiative. By FY2032, real property tax collections will be approximately \$62 million per annum higher than presently. Other revenues will also be enhanced, including income tax collections and receipts from Baltimore City property sales. Sage may have an opportunity to estimate those separately at some point in the future.



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## Projected Fiscal Consequences of Renew Baltimore's Proposed Real Property Tax Rate Caps

### Purpose

This Sage Policy Group, Inc. (Sage) report analyzes the fiscal and economic implications of a proposed Baltimore City charter amendment put forth by “Renew Baltimore,” a ballot initiative committee. Renew Baltimore endeavors to supply Baltimore City voters with the opportunity to approve property tax caps to be implemented over a 7-year period stretching from fiscal years 2026 through 2032. The terminal tax cap would be in place thereafter. By proposing property tax caps, Renew Baltimore is effectively endorsing a recommendation offered by the Baltimore Development Corporation (BDC), the City’s economic development arm, on multiple occasions in recent years. In both 2021 (interim report) and 2022 (final report) – entitled *Baltimore Together. A Platform for Inclusive Prosperity: A Comprehensive Economic Development Strategy*, BDC proposed an idea similar to what Renew Baltimore is proposing now (more on this below). Baltimore’s Mayor was presented and signed the final report, which among other things indicated that the “Baltimore Together team hopes this document will serve as a call to action and roadmap for a range of partners over the next five years.”<sup>1</sup>

Similar property tax caps are already embedded in the charters of five major Maryland jurisdictions: Anne Arundel, Montgomery, Prince George’s, Talbot, and Wicomico counties. All 23 counties in Maryland have property tax rates below the final property tax cap rate Renew Baltimore proposes, though there are instances in which combined county/municipal tax rates exceed the \$1.20/\$100 of assessed value associated with Renew Baltimore’s ballot initiative. Baltimore City’s current real property tax rates is \$2.248/\$100 of assessed value.

Some stakeholders are concerned that Renew Baltimore’s proposal will reduce Baltimore City tax collections, diminishing public services. The question is whether expansion of economic activity in Baltimore resulting from lower tax burdens will suffice to offset lower property tax rates. This Sage study addresses that question head on.

### Fiscal Estimates of Renew Baltimore’s Proposal

Some forecasts concerning property tax policy reform — including those sometimes conducted by government agencies — rely on what economists call static analysis. The notion is that the impact of a tax rate change can simply be computed by increasing or decreasing the projected level of tax collections in proportion with the proportionate change in the tax rate. This approach is facially

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<sup>1</sup> Baltimore Together, Baltimore Together. A Platform for Inclusive Prosperity: A Comprehensive Economic Development Strategy, November 2022, PDF Page 2.

flawed. If taxpayer behavior did not respond to changes in tax rates, local governments could raise rates without limit, generating massive revenues in the process.

Anyone familiar with the Baltimore area knows this not to be the case. Over recent decades, population has left high-tax Baltimore City for adjacent communities offering lower tax rates. The same phenomenon can be observed nationally, whether in the form of migration from high-tax California to low-tax Arizona and Texas or the movement of New Yorkers to Florida. Admittedly, other factors are at work, including schools, crime, and quality of the built environment (e.g. grime, vacancy), but the fact is that people care about their tax burdens. One implication is that communities associated with lower tax rates enjoy superior economic outcomes and higher bond ratings. Several Baltimore area jurisdictions enjoy AAA bond ratings. Baltimore City is not among them.

Sage utilizes “dynamic analysis” pursuant to the best practices of 21<sup>st</sup> century economic study. Berkeley real estate Professor Kenneth Rosen (1982), Sacramento State Professor Robert Wassmer (1993), Federal Reserve economist Andrew Haughwout (2004), University of Illinois Professor Yonghong Wu (2012), Federal Reserve economist Byron Lutz (2015), and a multitude of other scholars have demonstrated that only dynamic analysis is capable of properly evaluating tax reform in general and property tax reform in particular.

According to Hanke and Walters (2018), “. . . the literature provides no support whatsoever for officials’ tendency to rely on static models when evaluating their tax policies. The nature and size of the dynamic effects of tax changes will certainly depend on a host of factors specific to a particular jurisdiction, but it is undeniable that there will be favorable long-run effects.”<sup>2</sup> Parenthetically, the City’s Department of Finance has at least occasionally seen fit to recognize the value of dynamic analysis, including citing Kenneth Rosen’s work in support of a proposed tax credit in 2012.<sup>3</sup>

A distinguishing feature of dynamic analysis in the current context is its capacity to embody the concept of tax capitalization. The concept states that when all other variables are held constant, increasing the direct tax on an asset reduces the value of that asset while diminishing the direct tax on an asset increases its value. The implication is that real property tax rate reductions increase the value of real property by diminishing cost of ownership. The sharper the decline in the real property tax rate, the more significant the upward trajectory of the underlying asset’s value.

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<sup>2</sup> Hanke, Steve and Walters, Stephen, “Financing Urban Revitalization”, *Journal of Applied Corporate Finance*, Volume 30, Number 3, 2018, at p. 50.

<sup>3</sup> Bureau of Budget and Management Research, Memo, City Council Bill No. 12-040, footnote 1, March 23, 2012.

## Some Relevant History

By the early 1990s, Baltimore leaders understood the need for property tax reform. They established a long-term goal: to have the City's property tax rate be no more than 150 percent that of Baltimore County.<sup>4</sup> The logic was simple. Absent such a move, the City would steadily lose economic competitiveness, jobs, and population. Tax base would shrink in the process, if not in absolute terms, then certainly in relative ones. That is precisely what has transpired since the 1990s, with Baltimore's population loss continuing and occasionally accelerating.

Indeed, the impetus to begin the road toward fiscal viability was spawned by a sense of urgency. During the 1990s, the City "was on its way to losing more people that decade than any municipality in the country."<sup>5</sup> In 1990, Baltimore's population was 736,000. Today, it is under 570,000 according to the U.S. Census Bureau.

By 2007, the problematic nature of Baltimore's property tax climate prompted the creation of Mayor Sheila Dixon's Blue Ribbon Committee on Taxes and Fees. This committee included dozens of civic leaders who represented "the City's residents, businesses, non-profit institutions, City Council, City Comptroller, City administration, and State officials."<sup>6</sup> After many months of study, the Committee put forth a report expressing the following:

"...the overwhelming majority of Committee members were of the opinion that reducing the tax rate will be a catalyst for increasing investment and development in the City, and thereby grow the tax base and expand the pool of taxpaying wage earners choosing to live in the City. Strengthening the tax base will permit the City to enhance critical services, such as public safety and education, while maintaining a competitive tax rate."<sup>7</sup>

In February 2013, Mayor Stephanie Rawlings-Blake presented citizens with *Change to Grow: A Ten-Year Financial Plan for Baltimore*. Tax competitiveness was a major point of emphasis in the document:

"Baltimore's property tax rates are, by far, the highest in Maryland, and overall tax burdens are also well above the rest of the state. Further, the City's tax structure...places these funding burdens primarily and disproportionately on those who choose to locate their homes and/or businesses in the City...this non-competitive tax structure deters and drives out investment...To grow our City, we must improve our tax competitiveness, to encourage more residents and businesses to locate in Baltimore..."<sup>8</sup>

<sup>4</sup> Siegel, Eric. "Political debate looms over the city's property tax rate," *The Baltimore Sun*, February 22, 2007.

<sup>5</sup> Siegel, Eric. "Political debate looms over the city's property tax rate," *The Baltimore Sun*, February 22, 2007.

<sup>6</sup> City of Baltimore. *Report of the Blue Ribbon Committee on Taxes and Fees*, December 5, 2007, Page 13.

<sup>7</sup> City of Baltimore. *Report of the Blue Ribbon Committee on Taxes and Fees*, December 5, 2007, Page 40.

<sup>8</sup> City of Baltimore. *Change to Grow: a Ten-Year Financial Plan for Baltimore*, February 2013, Pages 9-10.

The City’s financial plan went on to indicate that:

“Baltimore’s existing, high tax burdens and regional tax competitiveness concerns — particularly with regard to the property tax rate for residents — are a critical factor in individual decisions to locate outside of the City...This is a real and critical challenge that erodes the City’s tax base and economy, and that severely constrains the City’s ability to increase revenues.”<sup>9</sup>

The City’s financial plan did not stop there:

“In the stakeholder interviews conducted for this Ten-Year Financial Plan, the City’s high property tax rates were cited again and again as one of the most significant impediments to economic and neighborhood growth. Consistent with these views, academic research has strongly indicated that tax increases in communities with comparatively high tax rates will...reduce the number of local jobs and erode the tax base...”<sup>10</sup>

Baltimore City’s own economic development agency, the Baltimore Development Corporation, has indicated that property tax caps would help stimulate tax base formation. In November 2022, Baltimore Together, “a public-private initiative led by the Baltimore Development Corporation to support the creation of a common vision of inclusive economic growth in our City,” issued a report indicating that “Baltimore City needs...an expanded tax base and increased employment. A key step is to develop a plan to reduce real property taxes and codify it in the Baltimore City Charter through a referendum.”<sup>11</sup>

Rather than develop coherent responses to Baltimore City’s uncompetitive real property tax rate, City policymakers have spent decades crafting a complex system of narrow and exclusive tax credits and ad hoc tax breaks. The City’s justification for such credits and breaks has been that they ultimately pay for themselves by enhancing the tax base. For instance, on January 23, 2012, the Board of Finance of Baltimore City, the Department of Finance, and the Bureau of Treasury Management issued *Tax Increment Financing Policy and Project Submission Requirements*. According to one requirement, “A summary fiscal impact analysis shall be provided that demonstrates the project will create positive tax revenues to the City, taking into consideration the costs of public services to be provided to the new development...”<sup>12</sup> In Place Economics’ *An Analysis of the Baltimore Historic Preservation Tax Credit* (CHAP), commissioned by the Baltimore City Department of Planning and prepared for the Baltimore Commission for Historical and Architectural Preservation, the authors concluded that Baltimore City’s

<sup>9</sup> City of Baltimore. Ten-Year Financial Plan FY2013 - FY2022, Background Report, February 2013, Page 50.

<sup>10</sup> City of Baltimore. Ten-Year Financial Plan FY2013 - FY2022, Background Report, February 2013, Page 53.

<sup>11</sup> Baltimore Together, Baltimore Together. A Platform for Inclusive Prosperity: A Comprehensive Economic Development Strategy, November 2022, PDF Page 4 and Page 49.

<sup>12</sup> Board of Finance of Baltimore City, the Department of Finance, and the Bureau of Treasury Management. *Tax Increment Financing Policy and Project Submission Requirements*, January 23, 2012, Page 11.

Tax Credit for Historic Rehabilitations and Restorations was a property tax revenue enhancer for the City:

“Overall, the results of this analysis show that the improvements to properties that received the tax credit do substantially increase the appraised value of the property and therefore increase the tax revenue. But the impacts do not stop there. The CHAP projects have a catalytic impact on the construction activity happening around them resulting in a demonstrable property value premium in the immediate vicinity, deemed the ‘halo effect.’ This produces additional tax revenue to the city through job creation and the incremental property tax revenue.”<sup>13</sup>

Baltimore City has long recognized that property tax cuts — albeit often only selectively granted — enhance property tax revenues. The City recognizes that this narrow and exclusive approach is also a significant source of inequity. In August 2022, Baltimore’s Bureau of Budget and Management Research published *A Comprehensive Review of the City’s Current Tax Credit Programs*. According to its findings, “The City’s existing tax credit system is highly inequitable.”<sup>14</sup> Moreover, “The City’s existing tax credit programs clearly favor the wealthier and more-established neighborhoods...The effect of this structure is that homeowners in the wealthier neighborhoods are collectively paying a lower effective tax rate (net of credits) than homeowners in poorer neighborhoods.”<sup>15</sup>

All of these considerations help explain why Mayor Brandon Scott expressed the following while running for his current post in 2020.

“As a life-long Baltimorean, I understand and share residents’ frustrations with the high property tax on Baltimore City homeowners and businesses. It puts us at a competitive disadvantage when compared to surrounding counties. High property taxes not only dissuade potential home buyers but cost those who do choose to buy in the city potentially hundreds of thousands of dollars in lost equity over a homeowner’s lifetime. This is deeply inequitable to the city’s homeowners.”<sup>16</sup>

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<sup>13</sup> Place Economics. *An Analysis of the Baltimore Historic Preservation Tax Credit (CHAP)*, August 2020, prepared for the Baltimore Commission for Historical and Architectural Preservation, Page 12.

<sup>14</sup> City of Baltimore, Department of Finance, Bureau of the Budget and Management Research. *A Comprehensive Review of the City’s Current Tax Credit Programs*, August 2022, PDF Page 2.

<sup>15</sup> City of Baltimore, *A Comprehensive Review of the City’s Current Tax Credit Programs*, August 2022, Page 31.

<sup>16</sup> WBAL TV 11, “Baltimore mayor’s race voter’s guide 2020: Economy, Job Creation,” February 25, 2020.

## Experiences of Noteworthy Communities

### SAN FRANCISCO

The 1950 Census indicated that Baltimore, with a population of 949,708, was the 6<sup>th</sup> largest city in the United States. With a population of 775,357, the 11<sup>th</sup> largest city in the country was San Francisco. As Stephen J.K. Walters, Ph.D., and Louis Miserendino point out in *How to Make Baltimore a Superstar City*, both bayside cities experienced depopulation and economic setbacks over the next 25 years. Yet, it was actually San Francisco that fared worse. Baltimore lost 10 percent of its residents while San Francisco lost 14 percent. From 1947 to 1972, Baltimore lost 25 percent of its manufacturing jobs while San Francisco lost 28 percent. In 1975, even the overall crime rate in San Francisco was 19 percent higher than Baltimore's.<sup>17</sup> Moviegoers of a certain vintage may recall that the *Dirty Harry* films starring Clint Eastwood used San Francisco as their gritty backdrop in the 1970s and 1980s.

In 1978, Proposition 13, a statewide ballot initiative, forced the City of San Francisco to adopt property tax reform. Compared to Renew Baltimore's proposal, Proposition 13 is radically more dramatic. With virtually no warning and little time to prepare, San Francisco was required to cut its real property tax rate by two-thirds to a new rate of 1 percent, below what Renew Baltimore has proposed as its terminal tax cap after a gradual 7-year implementation phase. Moreover, San Francisco was forced to apply its new 1 percent rate to 1975 assessment values with all future assessment increases limited to 2 percent/year. Such provisions do not exist in Renew Baltimore's plan.

Blindsided by Proposition 13, San Francisco officials found themselves dealing with a new property tax cap during a period of strong macroeconomic headwinds punctuated by periodic gas shortages, elevated inflation, incredibly high interest rates, and a double-dip recession that commenced in 1980 and that encompassed much of 1982 (the 1981-82 recession ended in November 1982).

Despite the magnitude and speed of San Francisco's property tax cut, or perhaps because of it, and despite a horrible national economy, San Francisco repopulated and tax revenues surged. By the fourth fiscal year after reform, "the city's total real tax receipts had risen so much that they exceeded pre-Prop 13 levels by 66%, enabling significant improvements in the quantity and quality of government services delivered to the city's now-growing population, reinforcing its upward trajectory."<sup>18</sup> By 1982, the City of San Francisco enjoyed a surplus of \$512 million (in today's dollars). *The Economist* observed, "San Francisco is embarrassed only by its riches."<sup>19</sup> By fiscal year 1986, the

<sup>17</sup> Walters, Stephen J.K. and Louis Miserendino. "How to Make Baltimore a Superstar City," *The Maryland Journal A Journal of Public Policy and Public Finance Analysis*, Volume 2011, Pages 36-37.

<sup>18</sup> Hanke, Steve H. and Stephen J.K. Walters. "Financing Urban Revitalization: A Pro-Growth Template," *Journal of Applied Corporate Finance*, Volume 30 Number 3, 2018, Pages 47-54, at Page 48.

<sup>19</sup> "California: Not-So-Golden State," *The Economist*, November 20, 1982, Page 41.

inflation-adjusted assessed value of real property tripled relative to the initial assessment values required under Proposition 13.<sup>20</sup>

## BOSTON

In 1950, Boston's population of 801,444 rendered it the 10<sup>th</sup> largest city in the United States. According to Census data, it had 26,000 more residents than San Francisco, but it had 148,000 fewer residents than Baltimore. Decades that followed were difficult for Massachusetts' capital. From 1950 to 1975, Boston lost 21 percent of its population compared to Baltimore's 10 percent decline. From 1947 to 1972, Boston lost 42 percent of its manufacturing jobs while Baltimore lost 25 percent. In 1975, Boston's overall crime rate was 53 percent higher than Baltimore's.<sup>21</sup> One of Boston's most notorious neighborhoods in those days was a downtown area known simply as "the Combat Zone." The city was in decline as tax reform approached. Between 1975 and 1980, Boston lost 12 percent of its population. In 1980, Boston recorded nearly 224,000 fewer residents than Baltimore.

That same year, two years after California voters approved property tax reform in the form of Proposition 13, Massachusetts voters approved Proposition 2½. As was the case in San Francisco, Boston's property tax reduction was dramatic and swift. Boston's effective property tax rate fell by an estimated 75 percent from 1980 to 1982 just as America was experiencing a double dip recession.<sup>22</sup>

As the decade progressed, Boston's economy experienced robust growth, driving what came to be known as the "Massachusetts Miracle." It was a nationally known phenomenon that helped Governor Michael Dukakis earn the Democratic Party's presidential nomination in 1988. Financial services and technology boomed as did real estate with the construction of new office buildings, hotels, and residential properties. That development added to tax base, creating new resources for the City of Boston to supply public services. From 1983 to 1990, Boston's "tax base," what Boston's Assessing Department refers to as "total value of all taxable property assessed," nearly tripled from just over \$12 billion to nearly \$36 billion.<sup>23</sup>

As was the case with San Francisco's renaissance, Boston's miracle represents an ambitious standard that Baltimore need not replicate for Renew Baltimore's proposal to emerge as fiscally constructive. This Sage analysis forecasts Baltimore's nominal assessed value of real property to less than double over the course of Renew Baltimore's 7-year implementation plan, modest relative to Boston's tax base expansion during the years following Proposition 2½.

<sup>20</sup> Walters, Stephen J.K. *Boom Towns: Restoring the Urban American Dream*, Stanford University Press, 2014.

<sup>21</sup> Walters, Stephen J.K. and Louis Miserendino. "How to Make Baltimore a Superstar City," *The Maryland Journal A Journal of Public Policy and Public Finance Analysis*, Volume 2011, Pages 37-37 at Page 36. Citation refers to Boston and Baltimore comparisons.

<sup>22</sup> Walters, Stephen J.K. and Louis Miserendino. "How to Make Baltimore a Superstar City," Page 37.

<sup>23</sup> City of Boston Assessing Department, *Property Tax Facts & Figures: Fiscal Year 2018*, Pages 3-4.



## PRINCE GEORGE'S COUNTY, MARYLAND

As a suburban jurisdiction bordering Washington, D.C., Prince George's County grew rapidly after World War II. During the 1970s, Washington itself (which had property tax issues of its own) depopulated rapidly even as the number of government jobs in the capital region increased. Suburban jurisdictions in Maryland boomed partially as a result, but Prince George's County was a major exception. As noted in *The Washington Post*, Prince George's County lost 34,000 residents between 1970 and 1976. From 1969 to 1979, its poverty rate expanded while neighboring Howard and Charles counties experienced declining poverty rates.<sup>24</sup> Rising property tax rates — by the 1970s the 2<sup>nd</sup> highest in Maryland behind only Baltimore City — were widely regarded as a contributing factor to Prince George's County's economic, fiscal, and demographic malaise.<sup>25</sup>

Policymakers and Prince George's County residents worked quickly to address the tax competitiveness problem. In 1978, the same year that San Francisco voters approved Proposition 13, Prince George's County voters amended their County's charter by approving the Tax Reform Initiative by Marylanders (TRIM). The Prince George's County tax cap froze the dollar amount of property taxes — not the tax rate. In other words, Prince George's government could not collect property taxes in excess of the amount of revenue raised in 1979, irrespective of inflation and home value. Property tax collection was capped at \$143.9 million.<sup>26</sup>

The original TRIM amendment was far more restrictive than Renew Baltimore's proposal, which places no limits on property tax revenue growth from year to year. Although TRIM immediately helped boost Prince George's County's population, it created budget constraints too limiting for County leaders and residents alike. In 1984, County Executive Parris Glendening encouraged voters to remove the revenue ceiling and “freeze the tax rate.”<sup>27</sup>

The assessed value of real and personal property in Prince George's County grew rapidly thereafter. There was 81 percent growth by the seventh fiscal year after 1984 and 96 percent by the eighth fiscal year.<sup>28</sup> As reflected in Exhibit 1 below, this performance is roughly in line with Sage's forecasts for Baltimore should Renew Baltimore's ballot petition prevail.

It should also be noted that, by 1989, Prince George's County's poverty rate had fallen dramatically to a level well below Maryland's average.<sup>29</sup> Today, Prince George's County is the nation's most

<sup>24</sup> Hanke, Steve H. and Stephen J.K. Walters, “Larry Hogan can revive Baltimore, just as his dad revived Prince George's County,” *The Washington Post*, March 22, 2019.

<sup>25</sup> Thompson, Vernon C. “County's Migration Is Reversed; Pr. George's Loses 34,000 Residents in Migration Reversal,” *The Washington Post*, September 4, 1977.

<sup>26</sup> Hernández, Arelis R. “Ten things to know about TRIM,” *The Washington Post*, April 8, 2015.

<sup>27</sup> Hernández, Arelis R. “Ten things to know about TRIM,” *The Washington Post*, April 8, 2015.

<sup>28</sup> Comptroller of Maryland. *Annual Report of the Comptroller, Editions for 1985, 1992, and 1993*.

<sup>29</sup> Hanke, Steve H. and Stephen J.K. Walters, “Larry Hogan can revive Baltimore, just as his dad revived Prince George's County,” *The Washington Post*, March 22, 2019.

affluent majority African American County with more than 185,000 residents.<sup>30</sup> Perhaps not coincidentally, Prince George’s County’s County Executive Parris Glendening was elected Maryland’s governor in 1994 and re-elected in 1998.

## Sage Analytical Findings

### REAL PROPERTY TAX REVENUE FORECAST

Sage’s forecasting model, which embodies the local economy’s response function to tax cap implementation, considers several factors. Some of these factors are purely technical, including the tax capitalization concept discussed above and the response functions observed in other communities, including Prince George’s County. The Sage study team also made certain assumptions regarding baseline City tax base growth and the most recent round of real property assessments conducted by the Maryland State Department of Assessments and Taxation (SDAT).

Sage also considers other broader factors as well, including likely migration patterns unleashed by tax cap implementation. There is a search in America for affordability, including with respect to housing. Baltimore is the Northeast’s discount leader among major cities. Among other things, the region is far less expensive than neighboring Washington, D.C.

Moreover, surrounding jurisdictions do not embrace growth aggressively. Neighboring Baltimore County has very little residentially zoned developable land and many communities are concerned by school overcrowding. Redevelopment activities are limited in Howard County and include the enormously successful but pricey redevelopment of downtown Columbia. Carroll, Harford, Anne Arundel, and Queen Anne’s counties also do not embrace growth aggressively.

That leaves one jurisdiction in Central Maryland that is open to rapid economic expansion, including in the form of population growth – Baltimore City. With homicides tumbling in Baltimore City, tax caps would likely open the door to rapid economic growth as investors rush to improve properties and households race to fill them. The Millennials are now America’s most populous generation. The oldest of that group will turn 44 this year, but many are in their late-20s and 30s. They are poised to form households in large numbers, and Baltimore emerges as a major potential destination, especially as mortgage rates begin their expected decline in earnest in 2025 and beyond. The City of Baltimore would have an opportunity to sell City-owned properties at higher prices given their greater appeal. The City would also be able to avoid granting as many tax breaks to developers given a more competitive real property tax rate.

<sup>30</sup> Van Dam, Andrew. “Is Prince George’s still the richest majority-Black county in America?” *The Washington Post*, June 29, 2022.

Exhibit 1. Sage Fiscal Estimates

| Fiscal Year | Real Property Tax Rate with Renew Baltimore Tax Cap Implementation | Projected Yearly Growth in Assessable Real Property Tax Base | Effective Real Property Assessable Base (\$billions, nominal) | Sage Forecast Real Property Tax Revenues, Baltimore City (\$millions, nominal) |
|-------------|--|--|---|--|
| 2025        | 2.248%   | 0.0%   | \$46.1  | \$1,036.3  |
| 2026        | 2.200%   | 6.2%   | \$49.0  | \$1,078.0  |
| 2027        | 2.100%   | 5.3%   | \$51.6  | \$1,083.6  |
| 2028        | 1.920%   | 9.5%   | \$56.5  | \$1,084.8  |
| 2029        | 1.740%   | 11.0%  | \$62.7  | \$1,085.1  |
| 2030        | 1.560%   | 11.7%  | \$70.0  | \$1,091.0  |
| 2031        | 1.380%   | 13.2%  | \$79.2  | \$1,093.0  |
| 2032        | 1.200%   | 15.5%  | \$91.5  | \$1,098.0  |

\*City estimates; totals may not add due to rounding

## Reasonableness of Estimates

The reasonableness of estimates depends on two things: 1) logic and 2) parameterization. The logic has been explained above. What has not been offered is a view into the underlying parameters that lead to the revenue estimates presented above.

The gradual implementation of property tax caps raises property values in several ways. First, it diminishes the cost of property ownership, a dynamic captured in the concept of tax capitalization. Second, it expands the number of prospective purchasers of properties, thereby lifting market value. Third, it frees up funds to reinvest in properties, ultimately resulting in even higher valuations. Because the number of prospective buyers of properties is expanded, it also increases the rate of return on capital reinvested in properties. Finally, it also creates greater inducement to construct new properties.

That said, the Sage study team has not incorporated a level of new construction in its estimates beyond that which is contemplated by a recent City Finance Department report. The primary reason for this is that such an estimate would be highly speculative. If the experiences of San Francisco, Boston, and Prince George's County are any indication, tax caps will generate significant amounts of new construction. By not including this dynamic in report estimates, these estimates can be viewed as highly conservative.

The study team attributes much of the prospective gain in tax base size to the shifting values of existing properties, including presently vacant properties. Rehabilitating vacant properties (including by tearing them down and rebuilding) is economically akin to new construction but remains distinguishable. As an aside, the presence of thousands of vacant units represents a substantial cost to the City each year. A recent *Johns Hopkins 21<sup>st</sup> Century Cities Initiative* study concludes, "We have estimated over \$100 million in lost revenue and an additional \$100 million in direct spending by the

city each year on vacant houses. These figures come with many caveats. We are unable to separate and count many expenditures that are embedded in City agency budgets so we are undercounting total spending for this need.”<sup>31</sup>

Sage’s model estimates tax revenues in large measure by analyzing the impact of tax caps on the per square foot value of real property, whether presently occupied or prospectively occupied through rehabilitation. Sage estimates that the square footage of habitable space will increase by 8.5 percent (through rehabilitation) above and beyond the City’s current projections over the 7-year tax cap implementation period.

Sage also estimates that the value of square footage (per square foot) will increase relative to its current trajectory, including by high single-digits during the final two years of implementation as the market for Baltimore property expands as its real property tax rate approaches those of surrounding counties. According to Sage’s projections, the price per square foot of residential property in Baltimore City would still be well below that of Baltimore County even after tax reform is fully implemented, in part because of considerations such as schools and crime.

Nonetheless, Sage’s projections indicate that real property tax revenues will climb each year during tax cap implementation. In part, this is because tax capitalization dynamics supplement the impacts described immediately above. The study team estimates a 15 percent increase in existing property values attributable to tax capitalization over the seven years of implementation. The study team also anticipates more frequent reassessments of properties since the pace of sales will increase as prospective sellers find that their properties have become considerably more marketable. That will also help boost the City’s real property tax collections over the implementation horizon as expanded assessment values are more frequently reflected in annual tax bills.

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<sup>31</sup> Miller, Mary and Mac McComas Johns. “The Costs of Baltimore’s Vacant Housing,” *Johns Hopkins 21<sup>st</sup> Century Cities Initiative*, September 2022, Page 18.

## Conclusion

Sage's estimates do not presume the massive responses to real property rate tax reductions that were observed in earlier decades in San Francisco or Boston. Rather, the response to tax caps in Baltimore City is projected to be more in keeping with what occurred in Prince George's County. It may be that the actual lift to economic activity will be far larger than encompassed in Sage's estimates. Nonetheless, Sage estimates that nominal real property tax collections will rise each fiscal year during implementation of Renew Baltimore's ballot initiative. By FY2032, real property tax collections will be approximately \$62 million per annum higher than presently.<sup>32</sup> Other revenues will also be enhanced, including income tax collections and receipts from Baltimore City property sales. Sage may have an opportunity to estimate those separately at some point in the future.

Some may worry that a rejuvenated Baltimore City will become too expensive for many who currently reside there. However, for many homeowners, property tax bills will decline or at least remain relatively flat even as property values rise. Community wealth will expand. Critically, the supply of housing will rise as existing properties are rehabilitated and as the construction of new units accelerates. This will expand housing choice and accessibility in Baltimore for both renters and homeowners. Many of the properties that will be rehabbed and rendered available will be those that are presently marginal or uninhabitable. Those will tend to be oriented toward the lower end of the income spectrum, which is where much of the additional supply in housing opportunities needs to be.

One of the reasons to believe that assessable base will rise with especial rapidity during the final years of tax cap implementation relates to assessment cycles. Renew Baltimore's implementation phase stretches over more than two assessment cycles, which are three years apiece. Sage's model also incorporates an enhanced volume of transactions as more properties are sold in a market characterized by rapidly rising valuations. That translates into more rapid re-assessments of individual properties, ushering forth substantial gains in real property tax collections in the process.

A handwritten signature in black ink, appearing to read "Anirban Basu".

Anirban Basu, CEO, Sage Policy Group, Inc.

7/31/24

<sup>32</sup> See Exhibit 1

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## About Sage Policy Group

**Sage Policy Group** is an economic and policy consulting firm headquartered in Baltimore, MD. Dr. Anirban Basu, Sage's chairman and CEO, founded the firm in 2004. Over a period spanning two decades, Sage has managed to create a client base that encompasses more than forty states and seven countries and includes Fortune 500 companies, NFL teams, aquariums and zoos, state and local governments, insurance companies, banks, brokerage houses, major medical systems, trade organizations, and law firms, among others.

The company is especially well known for its analytical capabilities in economic impact estimation, school enrollment forecasting, economic development, economic forecasting, fiscal impact analyses, legislative analyses, litigation support, environmental economics, and industry outlooks, and has significant experience in the subject areas of construction, healthcare, energy, real estate, manufacturing, professional sports, lotteries, agriculture, tourism, entrepreneurship, government contracting, secondary and post-secondary education, and the economics of retirement. The firm is also known for its superior communications and messaging skills.

In addition to leading Sage, Dr. Basu has emerged as one of the nation's most recognizable economists. He serves as the chief economist to Associated Builders and Contractors and the International Food Distributors Association and as the chief economic adviser to the Construction Financial Management Association. He chaired the Maryland Economic Development Commission from 2014 to 2021 and currently chairs the Baltimore County Economic Advisory Committee. He has been interviewed by CNBC, CNN, Fox Business, Axios, the New York Times, and many others.

Dr. Basu's lectures in economics are delivered to audiences across the U.S. and abroad. In recent years, he has focused upon health economics, the economics of education, and economic development. He has lectured at Johns Hopkins University in micro-, macro-, urban, and international economics, and most recently, global strategy. He is now the Distinguished Economist in Residence at Goucher College, where he teaches History of Economic Thought.



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Envelope: 17477963

# EXHIBIT 3

BENEDICT J. FREDERICK, III, *ET AL*

*Plaintiffs*

v.

BALTIMORE CITY BOARD OF  
ELECTIONS

*Defendant.*

\* IN THE

\* CIRCUIT COURT

\* FOR

\* BALTIMORE CITY

\* Case No.: C-24-CV-24-001361

\*

\* \* \* \* \*

**AFFIDAVIT OF STEPHEN J.K. WALTERS**

I, Stephen J.K. Walters, do hereby swear and affirm, based on personal knowledge and under penalties of perjury, as follows:

1. That I am over the age of eighteen (18) years and have personal knowledge of the facts set forth herein and am competent to testify to such facts.
2. I am a Fellow at Johns Hopkins University, Institute for Applied Economics, Global Health, and the Study of Business Enterprise.
3. I am Chief Economist at the Maryland Public Policy Institute.
4. I am Professor Emeritus of Economics at Loyola University Maryland.
5. I have a doctorate in economics from the University of California, Los Angeles, and a bachelor's in economics from the University of Pennsylvania.
6. My current CV summarizing my experience and qualifications is attached as **Ex. A.**
7. I reviewed the report prepared by Sage Policy Group: *Projected Fiscal Consequences of Renew Baltimore's Proposed Real Property Tax Rate Caps*. ("Sage Analysis").

8. The Sage Analysis applied dynamic analysis, which is the only accepted methodology used by economists to forecast property tax policy reform.

9. The Sage Analysis is reliable and accurate.

10. I agree with the methodology, analysis and conclusions contained in the Sage Analysis.

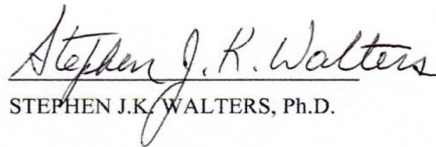
11. I reviewed the report generated by the City of Baltimore Department of Finance, Bureau of the Budget and Management Research: *Analyzing the Impact of the 2024 "Renew Baltimore" Charter Amendment Proposal on Property Tax Rates*. ("City's Analysis").

12. The City's Analysis improperly applied static analysis, which is not a generally accepted methodology used by economists to forecast property tax policy reform.

13. The City's Analysis is flawed, unreliable and should not be considered by this Court.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE.**

DATE: August 2, 2024

  
STEPHEN J.K. WALTERS, Ph.D.

E-FILED; Baltimore City Circuit Court  
Docket: 8/2/2024 3:59 PM; Submission: 8/2/2024 3:59 PM  
Envelope: 17477963

**EXHIBIT A**  
**to**  
**EXHIBIT 3**

## ***STEPHEN J.K. WALTERS***

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*mobile:* (410) 963-6154

### **PERSONAL:**

Born December 20, 1953, Salem, MA. Married, two children.

### **EDUCATION:**

Ph.D., Economics, University of California, Los Angeles (1982)  
M.A., Economics, University of California, Los Angeles (1977)  
B.A., Economics, University of Pennsylvania (1975)

### **EMPLOYMENT:**

#### *Present:*

Chief Economist, the Maryland Public Policy Institute (2011- )  
Professor *Emeritus* of Economics, Loyola University Maryland (2019- ); previously  
Assistant Professor (1981-86), Associate Professor (1986-93), Professor (1993-2019), and  
Economics Department Chair (1993-98), Loyola University Maryland  
Fellow, Institute for Applied Economics, Global Health, and the Study of Business  
Enterprise, The Johns Hopkins University (2011-)

#### *Prior:*

Economic Adviser to the Baltimore Orioles (2011-18)  
Economic Adviser to the Chicago Cubs (2009-11)  
Lecturer in Economics, California State University, Northridge (1980-81)  
Lecturer in Economics, Santa Monica College (1979-80)  
Research Analyst, Kotin & Regan, Inc., Economic Consultants (1979-80).  
Senior Research Assistant, Department of Research, Federal Reserve Bank of  
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### **FIELDS OF SPECIALIZATION:**

*Research:* Urban economics, industrial organization and regulation; law and  
economics; sports economics; labor economics.

*Teaching:* Microeconomics and macroeconomics principles; urban economics; sports  
economics; business and government regulation; American economic history; managerial  
economics and pricing strategy; environmental economics.

**PUBLICATIONS - ARTICLES IN SCHOLARLY JOURNALS:**

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“Do Millennials Really Love Socialism,” The James G. Martin Center for Academic Renewal, May 11, 2018, at: <https://www.jamesgmartin.center/2018/05/do-millennials-really-love-socialism/>

- “Time for Preakness to move on – and out,” *The Baltimore Sun*, June 22, 2018, at: <http://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0624-preakness-laurel-20180618-story.html>
- “Lying Prices Keep America Hooked on Spending,” *The Wall Street Journal*, Jan. 8, 2019 (with Steve H. Hanke), at: <https://www.wsj.com/articles/lying-prices-keep-america-hooked-on-spending-11546908833>
- “Too many ideas are 'off the table' in Baltimore,” *The Baltimore Sun*, Jan. 15, 2019, at: <https://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0115-baltimore-taxes-20190114-story.html>
- “Raising minimum wage won’t solve Baltimore’s crime problem,” *The Baltimore Sun*, March 19, 2019, at: <https://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0321-wage-con-20190319-story.html>
- “Larry Hogan can revive Baltimore, just as his dad revived Prince George’s County,” *The Washington Post*, March 22, 2019, at: [https://www.washingtonpost.com/opinions/local-opinions/larry-hogan-can-revive-baltimore-just-as-his-dad-revived-prince-georges-county/2019/03/22/d6fad58-3920-11e9-aaae-69364b2ed137\\_story.html?utm\\_term=.0307cefaef9b](https://www.washingtonpost.com/opinions/local-opinions/larry-hogan-can-revive-baltimore-just-as-his-dad-revived-prince-georges-county/2019/03/22/d6fad58-3920-11e9-aaae-69364b2ed137_story.html?utm_term=.0307cefaef9b)
- “There are lessons to learn from Chris Davis catastrophe,” *The Baltimore Sun*, April 9, 2019, at: <https://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0410-chris-davis-20190409-story.html>
- “Property Rights Matter: Lessons from a Failing City,” *Law & Liberty*, May 14, 2019, at: <https://www.lawliberty.org/2019/05/14/property-rights-matter-lessons-from-a-failing-city/>
- “Baltimore’s real ‘systemic’ problem,” *Maryland Public Policy Blog*, Aug. 21, 2019, at: <https://www.mdpolicy.org/policyblog/detail/baltimores-real-systemic-problem>
- “Kirwan Commission enables education monopoly,” *The Baltimore Sun*, Sept. 9, 2019, at: <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-0909-kirwan-monopoly-20190909-ycgigyicxjbojnqxqkvl6uq53i-story.html>

Author of over 50 additional articles in local and national publications.

#### **HONORS, AWARDS, APPOINTMENTS, MEMBERSHIPS:**

- Elected member of Executive Board, North American Association of Sports Economists, 2013-17;

- Received Chair's Award for Distinguished Research in Economics, 2008-09, 2014-15;
- Received Chair's Award for Distinguished Teaching in Economics, 1997-98, 2004-05, 2009-10;
- Elected Member, Loyola College Board on Rank and Tenure, 2006-2010;
- Selected as Loyola College Distinguished Teacher of the Year, 2005;
- Selected as Loyola College Newman Scholar, 2001-02;
- Inducted as Honorary Member, Alpha Sigma Nu (National Jesuit Honor Society), 1987;
- Awarded Loyola College Faculty Research Grants, 1985-87, 1989-90, 1992, 2005;
- Awarded Sellinger School Board of Sponsors Research Grants, 1988, 2001, 2003, 2008;
- Awarded Smith-Richardson Fellowship in Political Economy, 1980, and California Regents Fellowship in Economics, 1976-77.
- Appointed to Maryland Governor's Advisory Council on Unemployment Compensation, 1990-92;
- Served as Member of Editorial Advisory Board, *The Baltimore Examiner*, 2007-09;
- Member of Editorial Board, *The Maryland Review*, 2009- ;
- Memberships (current or former): American Economic Association, Southern Economic Association, Western Economic Association, International Atlantic Economic Society, International Association of Sports Economists, North American Association of Sports Economists, Society for American Baseball Research.

#### **SERVICE AS REFEREE:**

*Cato Journal*

*International Journal of Sport Finance*

*Journal of Quantitative Analysis in Sports*

*Labour Economics*

*Industrial Relations*

*Journal of Labor Research*

*Journal of Sports Economics*

*Southern Economic Journal*

**E-FILED; Baltimore City Circuit Court**  
**Docket: 8/2/2024 3:59 PM; Submission: 8/2/2024 3:59 PM**  
**Envelope: 17477963**

# **EXHIBIT 4**

**BENEDICT J. FREDERICK, III, *ET AL***

***Plaintiffs***

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS**

***Defendant.***

**\* IN THE**

**\* CIRCUIT COURT**

**\* FOR**

**\* BALTIMORE CITY**

**\* Case No.: C-24-CV-24-001361**

**\***

\* \* \* \* \*

**AFFIDAVIT OF STEVE H. HANKE**

I, Steve H. Hanke, do hereby swear and affirm, based on personal knowledge and under penalties of perjury, as follows:

1. That I am over the age of eighteen (18) years and have personal knowledge of the facts set forth herein and am competent to testify to such facts.
2. I am a Professor of Applied Economics and Founder and Co-Director of the Institute for Applied Economics, Global Health, and the Study of Business Enterprise at The Johns Hopkins University in Baltimore, where I have been on the faculty for 54 years. In the past, I have been on the faculties at the Colorado School of Mines and the University of California at Berkeley, where I taught economics.
3. I am a Senior Fellow at the Independent Institute in Oakland, California, a Senior Adviser at the Renmin University of China's International Monetary Research Institute in Beijing, and a Special Counselor to the Center for Financial Stability in New York.
4. I am a Contributing Editor at Central Banking in London and a Contributor at National Review.

5. I am a member of the Charter Council of the Society for Economic Measurement, a Distinguished Associate of the International Atlantic Economic Society, an honorary professor of economics at four foreign universities, was named by World Trade Magazine as one of the 25 most influential people in the world, and for the past four year have been listed as one of the 500 most influential people in Washington, D.C.
6. I am ranked as the world's third-most influential economics influencer by FocusEconomics in Barcelona, Spain.
7. I hold a doctorate in economics and have been the recipient of eight honorary doctorate degrees in economics.
8. My current CV and publication list summarizing my experience and qualifications are attached as **Ex. A**.
9. I reviewed the report prepared by Sage Policy Group: *Projected Fiscal Consequences of Renew Baltimore's Proposed Real Property Tax Rate Caps*. ("Sage Analysis").
10. The Sage Analysis applied dynamic analysis, which is the only accepted methodology used by economists to forecast property tax policy reform.
11. The Sage Analysis is reliable and accurate.
12. I agree with the methodology, analysis and conclusions contained in the Sage Analysis.
13. I reviewed the report generated by the City of Baltimore Department of Finance, Bureau of the Budget and Management Research: *Analyzing the Impact of the 2024 "Renew Baltimore" Charter Amendment Proposal on Property. Tax Rates*. ("City's Analysis").

14. The City's Analysis improperly applied static analysis, which is not a generally accepted methodology used by economists to forecast property tax policy reform.
15. The City's Analysis is flawed, unreliable and should not be considered by this Court.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE.**

DATE: August 2, 2024

A handwritten signature in black ink, appearing to read "S Hanke", written over a horizontal line.

STEVE H. HANKE, Ph.D.

E-FILED; Baltimore City Circuit Court  
Docket: 8/2/2024 3:59 PM; Submission: 8/2/2024 3:59 PM  
Envelope: 17477963

**EXHIBIT A**  
**to**  
**EXHIBIT 4**



**CURRICULUM VITAE**GENERAL

Steve H. Hanke  
 Professor of Applied Economics and Co-Director  
 Institute for Applied Economics, Global Health, and the Study of Business Enterprise

The Johns Hopkins University  
 Baltimore, Maryland 21218-2685  
 Telephone: (410) 516 7183  
 Fax: 410 516 8996  
 Email: hanke@jhu.edu  
 Twitter: @Steve\_Hanke  
 Websites:

<http://krieger.jhu.edu/iae/co-directors/index.html>

ACADEMIC DEGREES

|      |                                |   |
|------|--------------------------------|---|
| 1969 | Ph.D. (Economics)              | University of Colorado<br>Boulder, Colorado |
| 1964 | B.S. (Business Administration) | University of Colorado<br>Boulder, Colorado |

ACADEMIC APPOINTMENTS

|                |  |
|----------------|--|
| 1969 – Present | Professor of Applied Economics (1975 – Present)<br>Associate Professor (1973-1975)<br>Assistant Professor (1969-1973)<br>The Johns Hopkins University<br>Baltimore, Maryland |
| 1974 – 1975    | Visiting Associate Professor<br>Graduate School of Public Policy<br>University of California<br>Berkeley, California   |
| 1966 – 1969    | Assistant Professor (1968 – 1969)<br>Instructor (1966 – 1968)<br>Colorado School of Mines<br>Golden, Colorado  |

RESEARCH APPOINTMENTS

|                |   |
|----------------|---|
| 2013 – Present | Director<br>The Troubled Currencies Project<br>The Cato Institute-Johns Hopkins University<br>Washington, D.C.  |
| 2012 – Present | Associated Scholar<br>The Ludwig von Mises Institute<br>Auburn, Alabama   |
| 2011 – Present | Faculty Member<br>JHU Global Water Program<br>The Johns Hopkins University<br>Baltimore, Maryland   |
| 2011 – Present | Senior Adviser<br>International Monetary Institute<br>Renmin University of China<br>Beijing, China  |
| 2011 – Present | Special Counselor<br>Center for Financial Stability<br>New York, New York   |
| 2009 – Present | Associate<br>Inter-American Dialogue<br>Washington, D.C.  |
| 2002 – 2023    | Senior Fellow<br>The Cato Institute<br>Washington, D.C.   |
| 1995 – Present | Founder and Co-Director<br>Institute for Applied Economics, Global Health, and the Study of Business<br>Enterprise<br>The Johns Hopkins University<br>Baltimore, Maryland |
| 1993 – Present | Senior Fellow<br>The Independent Institute<br>Oakland, California   |
| 1988 – 1994    | Senior Fellow<br>Institute for Advanced Strategic and Political Studies<br>Jerusalem, Israel  |

|             |   |
|-------------|---|
| 1985 – 2012 | Adjunct Scholar<br>The Ludwig von Mises Institute<br>Auburn University<br>Auburn, Alabama                             |
| 1983        | Senior Fellow<br>The Heritage Foundation<br>Washington, D.C.  |
| 1982 – 2002 | Adjunct Scholar<br>The Cato Institute<br>Washington, D.C.   |
| 1981        | Distinguished Visiting Scholar<br>Lund Institute of Technology<br>University of Lund<br>Lund, Sweden                  |
| 1979 – 1980 | Associate Research Scholar<br>International Institute for Applied Systems Analysis<br>Schloss Laxenburg, Austria      |
| 1978        | Visiting Scholar<br>Centre de formation internationale a la gestion des ressources en eau<br>Sophia Antipolis, France |
| 1972        | Research Associate<br>National Museums of Kenya<br>Nairobi, Kenya   |

PRIVATE SECTOR APPOINTMENTS

|                |  |
|----------------|--|
| 2019 – Present | Chairman<br>Supervisory Board<br>Advanced Metallurgical Group (AMG)<br>Amsterdam, The Netherlands                          |
| 2013 – 2019    | Member<br>Supervisory Board (Risk and Audit Committee)<br>Advanced Metallurgical Group (AMG)<br>Amsterdam, The Netherlands |
| 2014 – 2016    | Chairman<br>Hanke – Guttridge Capital Management, LLC.<br>Severna Park, MD   |

|                |   |
|----------------|---|
| 2006 – Present | Chairman Emeritus<br>Friedberg Mercantile Group, Inc.<br>Toronto, Canada  |
| 2011 – 2014    | Chairman<br>Richmond Optimus, LLC.<br>Richmond, Virginia  |
| 2007 – 2013    | Member<br>International Advisory Board<br>(chaired by Sir John Major)<br>National Bank of Kuwait<br>Safat, Kuwait |
| 1999 – 2010    | Principal<br>Chicago Partners, LLC.<br>Chicago, Illinois  |
| 1997 – 2002    | President<br>FCMI NZ Financial Corporation, Ltd.<br>Auckland, New Zealand   |
| 1995 – 2002    | President<br>Toronto Trust Argentina<br>Buenos Aires, Argentina   |
| 1995 – 2002    | Chairman<br>Friedberg Mercantile Group, Inc.<br>New York, New York  |
| 1995 – 1997    | Member<br>Board of Governors<br>Philadelphia Stock Exchange<br>Philadelphia, Pennsylvania                         |
| 1994           | Member<br>The Investable Commodity Index Committee<br>Intermarket Management, Inc.<br>Somerset, New Jersey        |
| 1985 – 1995    | Vice President and Chief Economist<br>FCMI Financial Corporation<br>Toronto, Canada                               |

PUBLIC SECTOR APPOINTMENTS

|              |  |
|--------------|--|
| 2023 – Pres. | Chief Economic Advisor, Roberto Enriquez, President of<br>Partido Socialcristiano, Presidential Candidate<br>Venezuela<br>Caracas, Venezuela |
| 2008 – 2014  | Member<br>Financial Advisory Council<br>United Arab Emirates<br>Abu Dhabi, United Arab Emirates  |
| 2001 – 2002  | Advisor to the Minister of Economy and Finance<br>Republic of Ecuador<br>Quito, Ecuador  |
| 1999 – 2003  | Advisor to the President and State Counselor<br>Republic of Montenegro<br>Podgorica, Montenegro  |
| 1997 – 2002  | Advisor to the President<br>Republic of Bulgaria<br>Sofia, Bulgaria  |
| 1998         | Special Counselor<br>The Economic and Monetary Resilience Council<br>Republic of Indonesia<br>Jakarta, Indonesia                             |
| 1995 – 1996  | Advisor<br>Fundo de Inversiones de Venezuela<br>Caracas, Venezuela   |
| 1995 – 1996  | Advisor to the Minister of Economy and Public Works and Services<br>Republic of Argentina<br>Buenos Aires, Argentina                         |
| 1994 – 1996  | State Counselor on Monetary and Financial Issues<br>Republic of Lithuania<br>Vilnius, Lithuania  |
| 1994 – 1995  | Advisor to the President<br>Republic of Kazakhstan<br>Alma-Ata, Kazakhstan   |

|             |   |
|-------------|---|
| 1991 – 1992 | Special Advisor on Currency Reform to Albania's Council of Ministers and to the Deputy Prime Minister and Minister of the Economy<br>Republic of Albania<br>Tirana, Albania |
| 1990 – 1991 | Personal Economic Advisor to the Deputy Prime Minister<br>The Socialist Federal Republic of Yugoslavia<br>Belgrade, Yugoslavia  |
| 1984 – 1986 | Senior Advisor to the Joint Economic Committee<br>U.S. Congress<br>Washington, D.C.   |
| 1981 – 1982 | Senior Economist<br>President's Council of Economic Advisers<br>Washington, D.C.  |
| 1976 – 1977 | Member<br>Governor's Council of Economic Advisers<br>State of Maryland<br>Annapolis, Maryland   |

#### EDITORIAL APPOINTMENTS

|                |   |
|----------------|---|
| 2023 – Present | Contributor<br><i>SiriusXM</i><br>The Business Briefing<br>New York, New York         |
| 2020 – Present | Contributor<br><i>National Review</i><br>New York, New York                           |
| 2018 – Present | Member<br>International Editorial Board<br><i>Public Policy.bg</i><br>Sofia, Bulgaria |
| 2018 – Present | Editor<br><i>Journal of Economic and Political Economy</i><br>Istanbul, Turkey        |
| 2017 – 2019    | Contributor<br><i>Forbes</i><br>New York, New York                                    |
| 2016 – Present | Editor  |

*Studies in Applied Finance* Working Paper Series  
 Johns Hopkins University Institute for Applied Economics, Global Health,  
 and the Study of Business Enterprise

|                |  |
|----------------|--|
| 2012 – Present | Editor<br><i>Studies in Applied Economics</i> Working Paper Series<br>Johns Hopkins University Institute for Applied Economics, Global Health,<br>and the Study of Business Enterprise |
| 2011 – Present | Member<br>Advisory Board<br>Series of International Monetary Studies<br>Renmin University of China<br>Beijing, China   |
| 2011 – Present | Member<br>Editorial Board<br><i>Journal of Earth Science &amp; Climatic Change</i>   |
| 2010 – Present | Editor<br><i>The Maryland Journal</i>  |
| 2004 – Present | Contributing Editor<br><i>The Independent Review</i>   |
| 2001 – Present | Member<br>Advisory Council<br><i>Economic Journal Watch</i>  |
| 1999 – Present | Member<br>Advisory Council<br><i>Post-Communist Economies</i>  |
| 1998 – Present | Contributing Editor<br><i>Central Banking</i>  |
| 1991 – Present | Contributing Editor and Member of the Editorial Board of Advisors<br><i>The International Economy</i>  |
| 1985 – Present | Member<br>Editorial Board<br><i>Review of Austrian Economics</i>   |
| 1983 – Present | Member<br>Editorial Board<br><i>The CATO Journal</i>   |

|             |  |
|-------------|--|
| 2007 – 2016 | Contributing Editor<br><i>Globe Asia</i><br>Jakarta, Indonesia                                   |
| 2007 – 2013 | Contributing Editor<br><i>Elegans Magazine</i><br>Istanbul, Turkey                               |
| 2006 – 2009 | Member<br>Editorial Board<br><i>The Baltimore Examiner</i>                                       |
| 2002 – 2011 | Member<br>Editorial Board<br><i>Journal of Economic Policy Reform</i>                            |
| 2002-2003   | Member<br>Editorial Board<br><i>worlegrin Economic Papers</i>                                    |
| 1998 – 2010 | Contributing Editor<br><i>Forbes Asia (formerly Forbes Global)</i><br>New York, New York         |
| 1995 – 1999 | Member<br>Academic Board of Advisors<br><i>International Treasurer</i>                           |
| 1993 – 2010 | Columnist<br><i>Forbes</i><br>New York, New York   |
| 1991 – 1998 | Member<br>Advisory Council<br><i>Communist Economies and Economic Transformation</i>             |
| 1991 – 1994 | Contributing Editor<br><i>La Gaceta de los Negocios</i><br>Madrid, Spain                         |
| 1990 – 1993 | Consulting Editor and Member<br>Board of Review<br><i>Journal of Regulation and Social Costs</i> |



|                            |   |
|----------------------------|---|
| 1989 – 1992                | Member<br>Board of Review<br><i>Journal of Economic Growth</i>            |
| 1988 – 1994                | Co-Editor<br><i>IASPS Policy Studies</i>                                  |
| 1985 – 2002                | Contributing Editor<br><i>Friedberg's Commodity and Currency Comments</i> |
| 1985 – 1987<br>1976 – 1979 | Associate Editor<br><i>Water Resources Research</i>                       |
| 1983 – 1987                | Associate Editor<br><i>Water Resources Bulletin</i>                       |
| 1981 – 1982                | Member<br>Editorial Board<br><i>Water Resources Bulletin</i>              |
| 1980 – 1982                | Economics Editor<br><i>Water Engineering and Management</i>               |
| 1975 – 1985                | Member<br>Editorial Board<br><i>Land Economics</i>                        |

BOARD MEMBERSHIPS (Non-Profit Organizations)

|                |  |
|----------------|--|
| 2010 – Present | Member<br>Board of Directors<br>Streit Council<br>Washington, D.C.                                 |
| 2010 – 2017    | Member<br>Board of Directors<br>The Stern Stewart Institute<br>Munich, Germany                     |
| 1995 – 2009    | Member<br>Board of Directors<br>Maryland Business for Responsive Government<br>Baltimore, Maryland |

1990 – 1995      Member  
 Board of Directors  
 Acton Institute  
 Grand Rapids, Michigan

ADVISORY BOARD AND COMMITTEE MEMBERSHIPS

2023-Present      Member  
 Board of Directors  
 Federal Fiscal Sustainability Foundation  
 Daytona Beach, Florida

2020-Present      Member  
 Advisory Council  
 Institute for Economics and Politics  
 University of National and World Economy  
 Sofia, Bulgaria

2020-Present      Fellow  
 Asian Financial Think Tank  
 Asian Financial Cooperation Association  
 Beijing, China

2019-Present      Advisor to the President  
 World Federation of Consuls  
 Brussels, Belgium

2018 – Present      Member  
 Academic Advisory Council  
 Institute of International Monetary Research  
 University of Buckingham  
 Buckingham, United Kingdom

2017 – Present      Member  
 Academic Counsel  
 Cross Border Financial 50 Forum  
 International Monetary Institute  
 Renmin University of China  
 Beijing, China

2016 – Present      Member  
 Business Advisory Council  
 Woxsen School of Business  
 Hyderabad, India

2016 – Present      Member

EuroGrowth Task Force  
(Co-chaired by H.E. José Manuel Durão Barroso and the Hon. Stuart Eizenstat)  
Atlantic Council  
Washington, D.C.

|                |  |
|----------------|--|
| 2013 – Present | Member<br>Charter Council<br>Society of Economic Measurement<br>New York, NY                                   |
| 2012 – Present | Senior Advisor<br>The Gold Standard Now<br>The Lehrman Institute<br>Greenville, NY                             |
| 2010 – Present | Member<br>Regional Agenda Council, Middle East and North Africa<br>World Economic Forum<br>Geneva, Switzerland |
| 2010 – Present | Member<br>Advisory Board<br>Official Monetary and Financial Institutions Forum (OMFIF)<br>London, England      |
| 2007 – Present | Member<br>Advisory Council<br>Center for European Policy Analysis<br>Washington, D.C.                          |
| 2006 – Present | Member<br>Scientific Council<br>Turgot Institute<br>Louvain, Belgium   |
| 2005 – Present | Member<br>Board of Advisors<br>Center on Global Prosperity<br>The Independent Institute<br>Oakland, California |
| 2004 – Present | Member<br>Advisory Board<br>Forum Istanbul<br>Istanbul, Turkey   |
| 2001 – Present | Member   |

|                |   |
|----------------|---|
|                | Academic Advisory Council<br>The Institute of Economic Affairs<br>London, England   |
| 1995 – Present | Member<br>Committee of Academic Advisors<br>The Independent Institute<br>Oakland, California  |
| 1991-Present   | Member<br>Advisory Council<br>Centre for Research into Communist Economies<br>London, England   |
| 2014 – 2022    | Member<br>Expert Panel of Economists<br>Euromoney Country Risk<br>London, England   |
| 2012 – 2013    | Member<br>Council of Scientific Advisors<br>Global Adaptation Institute<br>Washington, D.C.   |
| 2007           | Member<br>Programme Committee<br>Civil Development Forum Foundation<br>Warsaw, Poland   |
| 1991-1998      | Member<br>Scientific Advisory Council<br>International Centre for Research into Economic Transformation<br>Moscow, Russia                               |
| 1994           | Member<br>Political Economic Working Group<br>American-Ukraine Advisory Committee<br>Center for Strategic and International Studies<br>Washington, D.C. |
| 1991           | Member<br>Blue Ribbon Commission on the Economic Reconstruction of Cuba<br>Washington, D.C.   |
| 1990           | Member<br>The Steering Committee<br>The G7 Council  |

Washington, D.C.

- 1990            Member  
Advisory Board  
The Discussion Club  
St. Louis, Missouri
- 1989            Member  
International Board of Advisors  
Carl Menger Institut  
Vienna, Austria

- 1988 – 1993    Member  
Economic Policy Committee  
U.S. Chamber of Commerce  
Washington, D.C.

#### PRESIDENTIAL COMMISSIONS

- 2020 – 2021    Member  
Board of Directors  
National Board for Education Sciences  
Washington, D.C.
- 1985 – 1987    Member  
Presidential Task Force on Project Economic Justice  
Washington, D.C.

#### HONORS AND AWARDS

- 2024            Doctorate, *Honoris Causa*  
Universidad Nacional del Este  
Ciudad del Este, Paraguay
- 2023            Illustrious Visitor  
Universidad Catolica Argentina  
Buenos Aires, Argentina
- 2021 – 2024    Washington's Most Influential People  
*Washingtonian*
- 2020            Knight of the Order of the Flag  
Republic of Albania  
Tirana, Albania

|                |  |
|----------------|--|
| 2018           | Doctorate, <i>Honoris Causa</i><br>D.A. Tsenov Academy of Economics<br>Svishtov, Bulgaria                            |
| 2018 - Present | Gottfried von Haberler Professor<br>European Center of Austrian Economics Foundation (ECAEF)<br>Vaduz, Liechtenstein |
| 2017           | Doctorate, <i>Honoris Causa</i><br>University of Liechtenstein<br>Vaduz, Liechtenstein                               |
| 2015           | Doctorate, <i>Honoris Causa</i><br>Varna Free University "Chernorizets Hrabar"<br>Varna, Bulgaria                    |
| 2015 - Present | <i>Profesor Visitante</i> (UPC's highest academic honor)<br>Universidad Peruana de Ciencias Aplicadas<br>Lima, Peru  |
| 2013           | Doctorate, <i>Honoris Causa</i><br>Bulgarian Academy of Sciences<br>Sofia, Bulgaria                                  |
| 2012           | Doctorate of Economics, <i>Honoris Causa</i><br>Istanbul Kültür University<br>Istanbul, Turkey                       |
| 2010           | Doctorate of Economics, <i>Honoris Causa</i><br>Free University of Tbilisi<br>Tbilisi, Georgia                       |
| 2008 - Present | Distinguished Professor<br>Universitas Pelita Harapan<br>School of Business<br>Jakarta, Indonesia                    |
| 2005 – Present | Famous Phis<br>Phi Delta Theta<br>Oxford, Ohio   |
| 2004           | Keynote Speaker<br>Centennial Celebration<br>Warsaw School of Economics  |

|                |   |
|----------------|---|
|                | Warsaw, Poland  |
| 2004 - Present | Profesor Asociado (Highest academic honor)<br>Universidad del Azuay<br>Cuenca, Ecuador  |
| 2004           | Outstanding Achievement Award<br>Economia y Negocios (Ekos)<br>Quito, Ecuador   |
| 2003           | Delivered the Annual Sven Rydenfelt Lecture<br>University of Lund<br>Lund, Sweden   |
| 2003           | Doctor of Arts, <i>Honoris Causa</i><br>Universidad San Francisco de Quito<br>Quito, Ecuador  |
| 2003 - Present | Honorary Member of the Board of Directors<br>Friends of the Rule of Law in Ecuador, Inc.<br>Quito, Ecuador                                |
| 2002 - Present | Honorable Member<br>Bulgarian Economic Forum<br>Sofia, Bulgaria   |
| 2000           | Third Prize (Latin American Mutual Fund Performance, 1997 – 2000)<br>Toronto Trust Argentina<br>Standard and Poor's Micropal—London       |
| 1998 - Present | Distinguished Associate<br>International Atlantic Economic Society  |
| 1998           | Twenty-Five Most Influential People in the World<br><i>World Trade Magazine</i>   |
| 1998           | Delivered the William S. Vickrey Distinguished Address<br>Forty-Sixth International Atlantic Economic Conference<br>Boston, Massachusetts |
| 1996           | First Prize (Argentine Mutual Fund Performance, 1996)<br>Toronto Trust Argentina<br>Micropal—London                                       |
| 1995           | First Prize (World Emerging Market Mutual Fund Performance, 1995)<br>Toronto Trust Argentina—Buenos Aires<br>Micropal—London              |

Hanke 16

August 2024

PUBLICATIONS  
(See separate publication list.)



## **PUBLICATIONS**

Steve H. Hanke  
Professor of Applied Economics  
The Johns Hopkins University, Baltimore, Maryland 21218  
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Telefax: 410.516.8996  
Email: [Hanke@jhu.edu](mailto:Hanke@jhu.edu)  
Website: <https://sites.krieger.jhu.edu/iae/about/co-directors/>

### **1967**

Essays in Petroleum Economics (ed.), Golden, Colorado: Colorado School of Mines, 1967.

### **1968**

"The Effects of Metering Urban Water", Journal American Water Works Association, Vol. 60, No. 12, December 1968, (with J. E. Flack).

"Dynamic Aspects of Urban Water Demand", Proceedings of the Fourth American Water Resources Conference, Proceedings Series No. 4, 1968.

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- [“Plan de dolarización para Argentina”](#), *Studies in Applied Economics*, No. 235, Baltimore: The Johns Hopkins Institute for Applied Economics, Global Health, and the Study of Business Enterprise, April 2023 (with Kurt Schuler).
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- [“How the Federal Reserve Destroyed the US Economy”](#), *The IFA’s Wealthgram*, January 2023 (with Caleb Hofmann).
- [“Steve Hanke and Caleb Hofmann: Banks Have now become gov’t-backed businesses – Just Look at Silicon Valley Bank”](#), March 2023 (with Caleb Hofmann).
- [“Steve Hanke and Matt Sekerke: FED’s Monetary Blunders Put the Entire Banking System in a Bad Spot”](#), March 2023 (with Matt Sekerke).
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- [“Hyperinflation in Suriname”](#), *World Economics Journal*, June 2023 (with Nicole Saade).
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- [“Yes, Argentina Can Replace the Peso with the US Dollar”](#), *Central Banking*, October 2023 (with Matt Sekerke).
- [“No More Excuses: Dollarize Argentina”](#), *Independent Institute*, November 2023 (with Matt Sekerke).
- [“Dollarize Argentina; Abolish the Central Bank”](#), *Latinvex*, December 2023 (with John Greenwood and Francisco Zalles).

## 2024

Books, Chapters in Books, and Journal Articles:

- [“Covid Lessons Learned, Four Years Later: A Retrospection After Four Years,”](#) March 2024 (with Scott W. Atlas, Philip G. Kerpen, and Casey B. Mulligan).



The Wall Street Journal:

- [“Hanke and Greenwood Predict Recession in 2024,”](#) January 15, 2024 (with John Greenwood)
- [“Covid Lessons Learned, Four Years Later,”](#) March 18, 2024 (with Scott W. Atlas)
- [“A Soft Landing Is Still Possible for the Fed,”](#) June 25, 2024 (with John Greenwood)

National Review:

- [“A Message from Menem to Milei: Dollarize Argentina Now,”](#) January 11<sup>th</sup>, 2024.
- [“Inflation Was Always a Monetary Phenomenon, Never Transitory,”](#) January 15<sup>th</sup>, 2024 (with John Greenwood).
- [“Hanke’s 2023 Misery Index,”](#) March 14<sup>th</sup>, 2024.

Fortune:

- [“Fed Chair Jerome Powell is trying to explain away the inflation rollercoaster—but money supply is absent from his script,”](#) August 2<sup>nd</sup>, 2024.

Studies in Applied Economics:

- [“Commodity and Foreign Exchange Trading – Some Notes and High Points,”](#) *Studies in Applied Economics*, No. 250, Baltimore: The Johns Hopkins Institute for Applied Economics, Global Health, and the Study of Business Enterprise, January 2024.
- [“A Synopsis of Prof. Hanke’s Activities in the Water Resource Field: Selected Publications and Brief Comments,”](#) *Studies in Applied Economics*, No. 251, Baltimore: The Johns Hopkins Institute for Applied Economics, Global Health, and the Study of Business Enterprise, January 2024.

Other:

- [“Sanctions Are for Losers,”](#) May 2024.

**BENEDICT J. FREDERICK, III, *ET AL.***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, *ET AL.***

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361  
\*

\* \* \* \* \*

**ORDER**

Upon consideration of Intervenor Defendant Mayor and City Council of Baltimore's Motion for Summary Judgment, all oppositions and oral arguments it is this \_\_\_\_ day of \_\_\_\_\_, 2024 hereby

**ORDERED**, that Mayor and City Council of Baltimore's Motion for Summary Judgment is **DENIED**.

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Judge, Circuit Court for Baltimore City

**IN THE CIRCUIT COURT FOR BALTIMORE CITY**

BENEDICT J. FREDERICK, III,  
et al.,  
  
Plaintiffs,  
  
v.  
  
BALTIMORE CITY BOARD OF  
ELECTIONS, et al.,  
  
Defendants.

Case No. C-24-CV-24-001361

\* \* \* \* \*

**THE CITY BOARD’S RESPONSE TO PLAINTIFFS’ PETITION FOR  
JUDICIAL REVIEW AND MOTION FOR SUMMARY JUDGMENT**

Defendants the Baltimore City Board of Elections, Armstead B.C. Jones, Sr., and Scherod C. Barnes (collectively, the “City Board”), through undersigned counsel, submit this response to Plaintiffs’ Emergency Petition for Judicial Review and Motion for Summary Judgment.

**STATEMENT OF DISPUTED FACTS**

The City Board agrees that there is no genuine dispute as to any fact that is material to this case. *See* Md. R. 2-501(b).

**ARGUMENT**

The City Board restates, and incorporates by reference, the arguments previously made in support of its own Motion to Dismiss or Alternatively for Summary Judgment (filed July 26, 2024). For the reasons stated in that Motion and the supporting

Memorandum, the City Board is entitled to judgment in its favor as a matter of law, and Plaintiffs are not entitled to judgment in their favor. The City Election Director correctly determined that the petition to place Renew Baltimore's Property Tax Amendment on the ballot was deficient because the Amendment would conflict with a public general law of the State.

There is no relevant difference between the Property Tax Amendment and the charter provisions the Supreme Court of Maryland rejected in *Board of Supervisors of Elections v. Smallwood*, 327 Md. 220 (1990), and *Hertelendy v. Board of Education*, 344 Md. 676 (1995). *Smallwood* held that a local charter amendment may not “roll back” property tax revenues to a lower level. *See* 327 Md. at 244. The mandate to “roll back” revenue would require the local government to change the tax *rate*. *See id.* So “roll back” requirements for tax revenue would in effect let the voters set the tax rate through the Charter. *Id.* And, the Court held, allowing the voters to set the tax rate through the Charter would conflict with § 6-302 of the Tax-Property Article, which explicitly requires and empowers the elected governing body to set the tax rate. *Id.*; *accord Hertelendy*, 344 Md. at 683. It was the amendments' interference with the local governments' rate-setting authority that made them unlawful.

The Property Tax Amendment proposed by Renew Baltimore does the same thing as the invalid provisions in *Smallwood* and *Hertelendy*. The only difference is that it cuts out the intermediate step and lowers the tax rate directly, instead of lowering it indirectly by “rolling back” the permissible level of City revenue. Contrary to Plaintiffs' contention, then, the fact that the Property Tax Amendment operates on the tax *rate* rather than tax

revenue strengthens, rather than weakens, the argument that the Amendment is impermissible under *Smallwood* and *Hertelendy*.

Nor does characterizing the Property Tax Amendment as a “cap” distinguish it from the amendments the Supreme Court has rejected. Those amendments, too, nominally took the form of caps. The counties retained the theoretical ability to set an even lower level of revenue. *Smallwood*, 327 Md. at 229 n.2, 231 n.5; *Hertelendy*, 344 Md. at 678. But the Court recognized that letting the voters “roll back” tax collections to a “cap” below the existing level of taxation (as in *Smallwood*) or freeze the existing level of taxation as the “cap” (as in *Hertelendy*) would, in reality, lead local governments to set the tax rate at the cap: the cap would determine the tax rate. *See Smallwood*, 327 Md. at 244; *Hertelendy*, 344 Md. at 685. When the voters “decree[] for the indefinite future that revenues *shall not exceed*” a certain level, they “in effect set the tax rate legislatively.” *Hertelendy*, 344 Md. at 685 (emphasis added).<sup>1</sup> That is exactly what Renew Baltimore’s amendment would do.

Plaintiffs’ argument—that the Council’s ability to set a rate still lower than the Charter-specified rate saves the Property Tax Amendment—merely repeats the argument made by the dissent in *Smallwood*, *see* 327 Md. at 252 (Chasanow, J., dissenting), and made again by the intervenors defending the Talbot County charter provision in *Hertelendy*, *see* 344 Md. at 681. That argument twice failed to persuade the Supreme Court.

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<sup>1</sup> The *Hertelendy* Court was here approvingly quoting the Circuit Court decision, which had “correctly applied the principles of *Smallwood*,” and which was in turn approvingly quoting the brief of the county Board of Education, which had challenged the charter amendment. 344 Md. at 685.

It is true that the *Smallwood* Court separately approved of what it called a “tax cap.” 327 Md. at 243 (majority op.). But the Court, in distinguishing a proper “tax cap” from an improper “roll back,” looked at the substance of the provisions, not the label. A “tax cap,” in the Court’s understanding, sets a boundary on how much taxation can grow going forward. *See* 327 Md. at 242-43. For example, the “tax caps” in *Smallwood* would have provided that, after enactment of the cap, tax revenues could not increase in a given year by more than 2% (in Baltimore County) or 4.5% (in Anne Arundel County).<sup>2</sup> The local governments thus would have retained a range of options, both in theory and in practice. *See id.* They could lower taxes, keep them unchanged, or raise them, as long as they did not raise them by more than the specified percentage. Such a “cap” would not force the local government’s hand contrary to the local government’s Tax-Property § 6-302 authority. It would not have “the *effect* of allowing the electorate . . . to set the tax rates.” *Id.* (emphasis added). A “roll back,” by contrast, would have that “effect,” notwithstanding the local government’s nominal ability to set the rate even lower than required. *See id.* at 244.

The Property Tax Amendment would leave even less theoretical discretion to the City Council than the “roll back” provisions in *Smallwood* (which applied only during a single year) and the challenged provision in *Hertelendy* (which merely froze tax collections at their current level). *Smallwood*, 327 Md. at 229 n.2, 231 n.5; *Hertelendy*, 344 Md. at 678. Renew Baltimore’s amendment, in contrast, would impose a continuously lowering

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<sup>2</sup> The voters of the two counties ultimately rejected the proposed tax cap provisions. *Smallwood*, 327 Md. at 234 n.8.

cap—requiring the City Council to continuously decrease the tax rate to comply—and then, once the “cap” reaches its lowest level, the amendment would set it in place permanently.<sup>3</sup> Although it purports to leave discretion to the local government, the Property Tax Amendment has both the purpose and the effect of forcing the City Council to set the tax rate at \$2.20 next year, at \$2.10 the following year, and, eventually, at \$1.20 for all time.

Because Plaintiffs have identified no meaningful distinction between the Property Tax Amendment and the charter provisions held invalid in *Smallwood* and *Hertelendy*, the Court should affirm the Election Director’s determination that the Property Tax Amendment conflicts with § 6-302(a) of the Tax-Property Article, and so may not appear on the ballot.

### CONCLUSION

The Court should deny Plaintiffs’ Emergency Petition for Judicial Review and Motion for Summary Judgment.

August 2, 2024

Respectfully submitted,

ANTHONY G. BROWN  
Attorney General of Maryland

/s/ Thomas S. Chapman  
THOMAS S. CHAPMAN  
(AIS No. 1701050004)  
tchapman@oag.state.md.us  
Assistant Attorney General  
Office of the Attorney General  
200 St. Paul Place  
Baltimore, Maryland 21202

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<sup>3</sup> The text of the Property Tax Amendment is attached as an Appendix to the City Board’s Memorandum in Support of Motion to Dismiss or Alternatively for Summary Judgment.

Tel: 410-576-6339  
Fax: 410-576-7036

*Attorneys for the City Board*

### **Certificate Regarding Restricted Information**

In accordance with Maryland Rule 20-201(h), I certify that this filing contains no restricted information.

/s/ Thomas S. Chapman  
Thomas S. Chapman

### **Certificate of Service**

I certify that on August 2, 2024, a copy of the foregoing Response was served on all counsel of record via the MDEC system.

/s/ Thomas S. Chapman  
Thomas S. Chapman



BENEDICT J. FREDERICK, III, et al.,

Plaintiffs,

v.

BALTIMORE CITY BOARD  
OF ELECTIONS, et al.,

Defendants.

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IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

Case No. C-24-CV-24-001361

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**ORDER GRANTING  
MAYOR AND CITY COUNCIL OF BALTIMORE'S  
PARTIAL CONSENT MOTION TO INTERVENE**

Upon consideration of the Mayor and City Council of Baltimore's Partial Consent Motion to Intervene, and for good cause shown, it is hereby:

**ORDERED** that the Mayor and City Council of Baltimore's Partial Consent Motion to Intervene is **GRANTED**; and further

**ORDERED** that the Mayor and City Council of Baltimore be named as a Defendant in this action; and further

**ORDERED** that the Mayor and City Council of Baltimore have thirty (30) days from the date of this Order to file a response to the Complaint.

Date: August 5, 2024

08/05/2024 4:45:01 PM

  
\_\_\_\_\_  
Judge, Circuit Court for Baltimore City

BENEDICT J. FREDERICK, III, *et al.*,

*Plaintiffs,*

v.

BALTIMORE CITY BOARD OF ELECTIONS, *et al.*,

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* No. C-24-CV-24-001361

\* \* \* \* \*

**ORDER**

UPON CONSIDERATION of the Motion to Intervene ("Motion"), it is this 5<sup>th</sup>  
day of August, 2024 hereby

ORDERED that the Motion is granted; and it is further

ORDERED that the clerk's office is directed to docket the Maryland State Board of  
Elections as a Defendant in the above-captioned matter.

08/05/2024 4:46:19 PM



Judge, Circuit Court for Baltimore City

BENEDICT J. FREDERICK, III, *et al.*, \* IN THE  
Plaintiffs, \* CIRCUIT COURT  
v. \* FOR  
BALTIMORE CITY BOARD \* BALTIMORE CITY  
OF ELECTIONS, *et al.*, \*  
Defendants. \* Case No. C-24-CV-24-001361  
\*

\* \* \* \* \*

**MAYOR AND CITY COUNCIL OF BALTIMORE'S  
MOTION TO DISMISS WITH PREJUDICE AND  
REQUEST FOR HEARING**

Defendant Mayor and City Council of Baltimore (the “City”), by its undersigned counsel and pursuant to Maryland Rule 2-322, moves to dismiss the Complaint with prejudice and without leave to amend, and states as follows:

**Introduction**

Plaintiffs’ petition to amend the Baltimore City Charter removes the City’s right—enshrined in both its home rule powers and state statute—to set its tax rate legislatively because the petition’s tax limitations are lower than the City’s current tax rate. The Supreme Court of Maryland has already determined that a charter tax limitation that operates to roll back revenue to a lower amount is effectively a rate setting that deprives elected officials of their right to legislate on that issue. *See Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676, 685 (1995). Because the Petition removes the City’s power to set the tax rate each year, in violation of the City’s home rule powers and the requirement of Section 6-302 of the Tax-Property Article of the Maryland Code, the City respectfully requests that this Court dismiss the complaint with prejudice and without leave to amend.

## Statement of Undisputed Facts

Renew Baltimore circulated a petition for citizen signature to amend the Baltimore City Charter to lower the current \$2.248 rate by limiting it at \$2.20 per \$100 of assessed value on July 1, 2025, and then reducing the rate by 18 cents each year over the next five years until it reaches a final limit of \$1.20 per \$100 of assessed real property value (the “Petition”). *See* Comp. ¶ 16. On July 9, 2024, the Baltimore City Board of Elections (the “Board”) notified Renew Baltimore, that pursuant to Md. Code Ann., Election Law Article (“Elec.”), § 6-206, it denied certification of the Petition because it was unconstitutional or otherwise prohibited by law.

On July 12, 2024, Plaintiffs Benedict J. Frederick, III, Matthew W. Wyskiel, III, and Stacie Teal-Locust filed a Complaint for Declaratory Judgment against the Board asking this Court to declare the Petition legal, reverse the decision of the Board, and thereby have the Petition placed before the voters at the next general election on November 5, 2024. The City has moved to intervene in this case.<sup>1</sup>

## Legal Standard

A motion to dismiss for failure to state a claim under Maryland Rule 2-322(b)(2) tests the sufficiency of the pleadings. Md. Rule 2-322(b)(2); *see Converge Services Group, LLC v. Curran*, 383 Md. 462, 475 (2004). The purpose of such a motion “is to have legal questions decided before trial of the action on the merits.” *Porterfield v. Mascari II, Inc.*, 374 Md. 402, 430 (2003).

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<sup>1</sup> *See* Md. Code Ann., Cts. & Jud. Proc., § 3-405(a)(1) (requiring that “a person who has or claims any interest which would be affected by the declaration, **shall** be made a party.” (emphasis added); § 3-405(b) (“[i]n any proceeding which involves the validity of a municipal or county ordinance or franchise, the municipality or county shall be made a party and is entitled to be heard.”).

“In order to withstand a motion to dismiss for failure to state a cause of action, the plaintiff must allege facts that, if proved, would entitle him or her to relief.” *Pittway Corp. v. Collins*, 409 Md. 218, 238-239 (2009). Although a Court must “assume the truth of all well-pleaded facts and allegations in the complaint,” dismissal is proper “if the allegations and permissible inferences, if true, would not afford relief to the plaintiff.” *Id.* at 239; *accord Ricketts v. Ricketts*, 393 Md. 479, 492 (2006); *see also Heist v. Eastern Sav. Bank, FSB*, 165 Md. App. 144, 149 (2005) (“The grant of a motion to dismiss is proper if the complaint does not disclose, on its face, a legally sufficient cause of action.”).

The Complaint fails to state a claim upon which relief can be granted because, as a matter of law, the Petition is unconstitutional as already determined by the Supreme Court of Maryland, and so the matter is ripe for this Court declare the rights of the parties and dismiss the Complaint with prejudice.

### **Argument**

#### **A. Tax rates must be set legislatively by local governments, not the voters.**

The Maryland Constitution provides that local governments enacting a Charter form of government will receive home rule powers, which are exercised legislatively. Md. Const., art. XI-A, § 2; *Kimball-Tyler Co. v. Baltimore*, 214 Md. 86, 94 (1957); 87 Op. Atty. Gen. Md. 187, 191, n. 8 (2002) (“rather than requiring a single express powers act applicable to both Baltimore City and counties adopting charter home rule, the drafters of [Md. Constitution] Article XI-A referenced the powers previously delegated to Baltimore City, then codified at Section 6 of the Public Local Laws of Baltimore City, and later recodified as Article II of the Baltimore City Charter.”); *see, e.g., State v. Stewart*, 152 Md. 419, 137 A. 39, 41-42 (1927) (“This article empowers the General Assembly to designate the subjects in respect to which

the city or counties may legislate locally. In other words, this article of the Constitution itself does not grant the power to Baltimore City to legislate locally on all subjects, but only in respect to such subjects as are delegated to it in the legislative grant of powers.”).

After adoption of a local charter, the General Assembly cannot enact a public local law<sup>2</sup> on any subject given to the local government in its home rule powers, the General Assembly can only modify the grant of those home rule powers. Md. Const., art. XI-A, § 2; *accord Stewart*, 137 A. at 41. As a corollary, neither the voters nor the local government can modify home rule powers because the Maryland Constitution reserves that authority to the General Assembly: “Such express powers granted to the Counties and the powers heretofore granted to the City of Baltimore, as set forth in Article 4, Section 6, Public Local Laws of Maryland, **shall not be enlarged or extended by any charter formed under the provisions of this Article**, but such powers may be extended, modified, amended or repealed by the General Assembly.” Md. Const., art. XI-A, § 2 (emphasis added).

The General Assembly of Maryland has given the City the home rule power “[t]o have and exercise, within the limits of Baltimore City, in addition to any and all taxing powers heretofore granted by the General Assembly of Maryland to the Mayor and City Council of Baltimore, the power to tax to the same extent as the State of Maryland has or could exercise said power within the limits of Baltimore City as a part of its general taxing power; and **to provide by ordinance for the imposition, assessment, levy and collection of any tax or taxes authorized by this subsection.**” BALTIMORE CITY CHARTER, art. II, §(40)(a) (emphasis added).

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<sup>2</sup> The General Assembly remains free to enact a public general law on those topics. *See, e.g., Kent Island Defense League, LLC v. Queen Anne’s County Bd. of Elections*, 145 Md. App. 684, 692 (2002).

The City's home rule powers require it to enact local legislation that sets the annual tax rate. BALTIMORE CITY CHARTER, art. III, §§ 1(a), 11 (City's legislative process); art. VI, §§ 5, 7 (City's tax rate set legislatively each year). In addition to this home rule power, the City's requirement to set its tax rate legislatively is enshrined in the Tax–Property Article of the Maryland Code. *See* Tax-Prop. § 6-302(a) (“the Mayor and City Council of Baltimore City . . . annually shall set the tax rate for the next taxable year on all assessments of property subject to that county's property tax.”).

**B. Tax limitations are legislation and not proper charter material.**

The Petition lowers Baltimore City property taxes. It does not operate as a tax cap, as Plaintiffs claim. This is not a debatable point. The Supreme Court has held that when the tax limitations in a proposed charter amendment are lower than the local government's current tax rate, the amendment operates as legislation and is no longer proper charter material. *See Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676, 685 (1995). This is because the legislature is left with no decision other than to set the rate at the amount of the limit:

Under[*Bd. of Sup'rs of Elections of Anne Arundel Cnty. v. Smallwood*, 327 Md. 220, 240 (1990),], a ‘tax cap’ is valid only so long as it confers some authority upon a county council to carry out its mandated duty under § 6-302(a) of the Tax–Property Article to ‘annually ... set the tax rate for the next taxable year on all assessments of property subject to that county's property tax.’ . . . Beyond any doubt, the Court of Appeals viewed the tax caps which it considered as being limitations upon the authority of Anne Arundel and Baltimore Counties to a prescribed range. By definition, the ability to establish the property tax rate within a prescribed range is an ability to set the property tax rate, albeit a limited ability. **By definition, the absence of any choice is the ability to do nothing.**

*Id.* at 685 (emphasis added).

The Petition at issue in this case is not proper Charter material because it leaves nothing to legislate as the City is without any choice as to the tax rate. Although the Renew Baltimore Petition sets a limit of \$2.20 cents starting in July 2025, that amount is already

lower than the City’s current rate of \$2.248. *See* <https://bbmr.baltimorecity.gov/city-tax-rates>; *and see* Md. Rule 5-201(d) (judicial notice must be taken of undisputable facts known in the jurisdiction); *Smith v. Hearst Corp.*, 48 Md. App. 135, 141 (1981) (citation omitted).

*Hertelendy* is controlling precedent. The Petition is not proper charter material because it leaves the City with “the absence of any choice” as to the tax rate, and therefore “the ability to do nothing” that they were elected to do: namely set the tax rate legislatively as required by Section 6-302(a) of the Tax-Property Article of the Maryland Code and in accordance with the City’s home rule power in Section (40)(a) of Article II of the Baltimore City Charter.

The effect of removing the City’s power to adopt legislation that sets the tax rate would leave the City without millions of dollars of revenue needed to meet expenses for basic City services, statutory duties and existing contracts. BALTIMORE CITY CHARTER, art. III, §§ 1(a), 11; art. VI, §§ 5; 7. When it is “demonstrated in a particular case that a local limitation on property tax revenues so hampers a county government that it cannot perform the duties required under state law, a tax limitation charter provision may well be found to be invalid as applied.” *Smallwood*, 327 Md. at 243-44 (citing McQuillin, *The Law of Municipal Corporations*, at § 44.26).

**C. Baltimore City does not have home rule power to set lower taxes by petition.**

Generally, real property tax rates are improper charter material in *any* county when they deprive the local legislature of the ability to set the actual tax rate as held by *Hertelendy* and *Smallwood*. *See, supra*, Part B. In Baltimore City, they are improper for an additional reason—the General Assembly expressly excluded from the citizens the specific power to petition for a Charter change about the “classification and taxation of real and personal



property within the limits of the said City.” BALTIMORE CITY CHARTER, art. II, § (49); *Smallwood*, 327 Md. at 240.

Section (49) of Article II of the City Charter makes clear that:

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

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

This language was enacted in 1920 by the Maryland General Assembly to allow the citizens of Baltimore to amend their charter by ballot petition, but within certain defined limits. 1920 Md. Laws, ch. 555; *Cheeks v. Cedlair*, 287 Md. 595, 600 (1980). One of those limits was forbidding a citizen initiative on the taxation of real or personal property. *Id.* at 600–01 (citing the history of the City’s receipt of home rule powers, and the General Assembly’s enactment of chapter 555 of 1920 and chapter 548 of 1945 that amended and defined those powers).

While the City’s restriction on citizen petitions concerning taxation may seem to put the City in a different position than other local governments in Maryland, it follows more than a century of increasing control by the General Assembly over Baltimore City’s ability to exercise taxing power. The City’s first Charter (enacted by the General Assembly in 1796 because there was no home rule power in Maryland) provided that the City “shall have full power and authority to enact and pass all laws and ordinances necessary to preserve the health

of the city” but then went on to expressly provide that the City did not have plenary taxing power: “no tax, direct or indirect, shall be laid on that part of Baltimore called Deptford Hundred” and the City could “lay and collect taxes not to exceed two dollars in the hundred pounds in any one year, except as before is excepted.” 1796 Baltimore City Charter, Art. IX, enacted by 1796 Laws of Md., ch. LXVIII.

In 1840, the General Assembly gave the City certain power to enact laws about local property taxes, but then clarified that the City could not tax certain intangible property whose owners resided outside of the City limits, nor could the City tax property the General Assembly exempted from taxation. 1840 Laws of Md., ch. 63; 1865 Md. Law, ch. 119. “All the power of the corporation emanates from the State; and when a tax is imposed by the Mayor and City Council, or a police power is exerted, it is the action of the State operating through the instrumentality of its municipal agent.” *Mayor & City Council of Baltimore ex rel. Bd. of Police of City of Baltimore*, 15 Md. 376, 382–83 (1860).

It was against this backdrop of a century of General Assembly control over the extent and limitations of City taxing power that City residents adopted the first City Charter in 1918 under the home rule powers in Section 2 of Article XI-A of the current (1867) version of the Maryland Constitution. The General Assembly’s 1920 act was part of that long regulatory history by clarifying that while voters in the City could amend their charter by ballot petition as provided in Section 6 of Article XI-A of the Maryland Constitution, that petition could *not* include the subject of taxation of real property. *See Cheeks*, 287 Md. at 600-01 (“[N]othing contained in this Act shall give to the Mayor and City Council of Baltimore or to the inhabitants thereof the right to initiate any legislation, laws, or ordinances relating to the classification and taxation of real and personal property within the limits of the said City . . .

.”) (quoting 1920 Md. Laws, ch. 555). The General Assembly made clear in 1920 that while the home rule charter adopted by the citizens of Baltimore City could be altered by those citizens, the citizens of Baltimore were not permitted to initiate a petition to change the Charter’s provisions on classification and taxation of real property. *Id.*

The Petition cannot go on the ballot in November because the General Assembly has never given voters in Baltimore City the power to change the taxing provisions of their charter by petition. BALTIMORE CITY CHARTER, art. II, § (49).

### **Conclusion**

For the foregoing reasons, Defendant Mayor and City Council respectfully requests that this Court grant its Motion to Dismiss with prejudice without leave to amend.

Respectfully Submitted,

EBONY M. THOMPSON, Baltimore City Solicitor



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Hilary B. Ruley (AIS No. 0212170037)  
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*Counsel for Intervenor/Defendant  
Mayor and City Council of Baltimore*

**REQUEST FOR HEARING**

Defendant Mayor and City Council of Baltimore respectfully requests a hearing on its Motion to Dismiss with Prejudice.

Respectfully Submitted,



\_\_\_\_\_  
Derek M. Van De Walle (AIS No. 1712140237)

**CERTIFICATE OF SERVICE**

I certify that on August 6, 2024, Mayor and City Council of Baltimore's Motion for to Dismiss and Proposed Order were served on all parties via MDEC.



Derek M. Van De Walle (AIS No. 1712140237)



**CIRCUIT COURT FOR BALTIMORE CITY,  
MARYLAND**  
CIVIL DIVISION  
111 N. Calvert Street  
Baltimore, Maryland 21202

Main: 410-333-3733  
Civil: 410-333-3722  
Criminal: 410-333-3750  
Family: 410-333-3709/3738  
Juvenile: 443-263-6300

Case Number:  
Other Reference Number(s):

**C-24-CV-24-001361**

**BENEDICT FREDERICK, III .VS BALTIMORE CITY BOARD OF ELECTIONS**

**COURTROOM CLERK'S DIVISION CIVIL HEARING SHEET**

PRESIDING JUDGE: Althea M. Handy

COURTROOM CLERK: Borchardt

**TYPE OF PROCEEDING:**

PRETRIAL CONFERENCE \_\_\_\_ SETTLED \_\_\_\_ CANNOT SETTLE

MOTION HEARING \_\_\_\_ MOTION GRANTED \_\_\_\_ MOTION DENIED \_\_X\_\_ SUBCURIA

**FAST TRACK:**

GUARDIANSHIP \_\_\_\_ PERSON \_\_\_\_ PROPERTY \_\_\_\_ BOND \_\_\_\_ BOND WAIVED/EXCUSED

DENOVO APPEAL \_\_\_\_ APPEAL WITHDRAWN IN OPEN COURT \_\_\_\_

DISTRICT COURT APPEAL: \_\_\_\_ WORKERS COMPENSATION: \_\_\_\_

AFFIRMED \_\_\_\_ REVERSED \_\_\_\_ MODIFIED \_\_\_\_ REMANDED \_\_\_\_ VACATED

FORFEITURE \_\_\_\_ INQUISITION \_\_\_\_ FAILURE TO APPEAR \_\_\_\_

**TRIAL:**

\_\_\_\_ BENCH \_\_\_\_ JURY \_\_\_\_ NON- JURY \_\_\_\_ VERDICT

EVIDENTIARY HEARING: \_\_\_\_ OTHER: \_\_\_\_

\_\_\_\_ ORDER FILED \_\_\_\_ ORDER TO BE FILED \_\_\_\_ TRANSFER JURISDICTION

JUDGMENT: IN FAVOR OF PLAINTIFF \_\_\_\_ DEFENDANT \_\_\_\_

**COST:**

WAIVED \_\_\_\_ PAID BY PLAINTIFF \_\_\_\_ PAID BY DEFENDANT \_\_\_\_ EQUALLY \_\_\_\_ NO COST \_\_\_\_

**OTHER:** \_\_\_\_ Emergency Petition for Judicial Review And The City Boards Motion to Dismiss or Alternatively for Summary Judgment Heard and Held Sub-Curia to Written Opinion.



**CIRCUIT COURT FOR BALTIMORE CITY,  
MARYLAND**  
CIVIL DIVISION  
111 N. Calvert Street  
Baltimore, Maryland 21202

Main: 410-333-3733  
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Juvenile: 443-263-6300

Case Number: **C-24-CV-24-001361**  
Other Reference Number(s):

**BENEDICT FREDERICK, III .VS BALTIMORE CITY BOARD OF ELECTIONS**

**CIVIL TOP SHEET**

PRESIDING JUDGE: Althea M. Handy

COURTROOM CLERK: Borchardt

SCHEDULING EVENT: Hearing - Motion ROOM: Room 523C DURATION: 0h0m

TYPE OF PROCEEDING:

PRETRIAL CONFERENCE: ☐ SETTLED ☐ CANNOT SETTLE  
MOTION HEARING: ☒ MOTION GRANTED ☒ MOTION DENIED  
TRIAL: (☐ JURY) (☐ NON-JURY) ☐ VERDICT  
EVIDENTIARY HEARING: \_\_\_\_\_ OTHER: \_\_\_\_\_

ORDER: ☐ ORDER/DECREE SIGNED ☒ ORDER/DECREE TO BE SIGNED

INSTRUCTIONS:

☐ CLOSE CASE ☐ ENTER JUDGMENT AND CLOSE CASE  
☐ CASE DISMISSED-CLOSE CASE  
☐ DEFENDANT/CLAIM DISMISSED – CASE REMAINS OPEN  
REMOVE DEFENDANT FROM SERVICE LIST:  
☐ REMANDED TO: \_\_\_\_\_  
☐ POSTPONED TO: \_\_\_\_\_  
☒ OTHER (PLEASE EXPLAIN): : Emergency Petition for Judicial Review And The City Boards  
Motion to Dismiss or Alternatively for Summary Judgment Heard  
and Held Sub-Curia Till Written Opinion.

NEXT COURT DATE:

ATTORNEY(S)/PROPER PERSON(S) FOR CASE: CLINTON RUTHERFORD BLACK, V; STEVEN A THOMAS;  
CONSTANTINE JOHN THEMELIS; THOMAS S. CHAPMAN; CONSTANTINE JOHN THEMELIS;  
CONSTANTINE JOHN THEMELIS; DEREK MICHAEL VANDEWALLE; THOMAS PATRICK GEORGE WEBB;  
HILARY BALDWIN RULEY; HILARY BALDWIN RULEY

08/09/2024 7:23:21 PM

Date

Judge

BCCC-V-001 (05/2024)

Page 1 of 2

8/8/2024 3:01 PM

**Case Number: C-24-CV-24-001361**  
**Other Reference Number(s):**



|  |   |                                    |
|--|---|------------------------------------|
| <b>BENEDICT J. FREDERICK, III, et al.,</b> | * | <b>IN THE</b>                      |
| <b>Plaintiffs,</b>                         | * | <b>CIRCUIT COURT</b>               |
| <b>v.</b>                                  | * | <b>FOR</b>                         |
| <b>BALTIMORE CITY BOARD</b>                | * | <b>BALTIMORE CITY</b>              |
| <b>OF ELECTIONS, et al.,</b>               | * | <b>CASE NO.: C-24-CV-24-001361</b> |
| <b>Defendants.</b>                         |   |                                    |


\* \* \* \* \*

**ORDER**

Upon consideration of the City Board’s Motion to Dismiss or Alternatively for Summary Judgement and the Memorandum in Support filed by defense counsel Anthony Brown on July 26, 2024, Plaintiffs’ Opposition to Mayor and City Council of Baltimore’s Motion to Dismiss and Request for Hearing and the Memorandum in Support filed by plaintiffs’ counsel Constantine Themelis on August 2, 2024, and the hearing held on August 8, 2024, it is this 9<sup>th</sup> day of August 2024, by the Circuit Court for Baltimore City, hereby:

**ORDERED** that the City Board’s Motion to Dismiss or Alternatively for Summary Judgment is **GRANTED**.

08/09/2024 7:20:23 PM

  
 Judge Althea M. Handy  
 Baltimore City Circuit Court

cc: Constantine J. Themelis, Esq.  
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 Clinton R. Black, V, Esq.  
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|  |   |                                    |
|--|---|------------------------------------|
| <b>BENEDICT J. FREDERICK, III, et al.,</b> | * | <b>IN THE</b>                      |
| <b>Plaintiffs,</b>                         | * | <b>CIRCUIT COURT</b>               |
| <b>v.</b>                                  | * | <b>FOR</b>                         |
| <b>BALTIMORE CITY BOARD</b>                | * | <b>BALTIMORE CITY</b>              |
| <b>OF ELECTIONS, et al.,</b>               | * | <b>CASE NO.: C-24-CV-24-001361</b> |
| <b>Defendants.</b>                         |   |                                    |

\* \* \* \* \*

**ORDER**

Upon consideration of the Mayor and City Council of Baltimore’s Motion for Summary Judgment and Request for a Hearing and the Memorandum in Support filed by counsel Derek Van De Walle on August 2, 2024, Plaintiffs’ Opposition to Mayor and City Council of Baltimore’s Motion for Summary Judgment and Request for Hearing and the Memorandum in Support filed by plaintiffs’ counsel Constantine Themelis on July 26, 2024, and the hearing held on August 8, 2024, it is this 9<sup>th</sup> day of August 2024, by the Circuit Court for Baltimore City, hereby:

**ORDERED** that the Mayor and City Council of Baltimore’s Motion for Summary Judgment is **GRANTED**.

08/09/2024 7:21:10 PM




---

Judge Althea M. Handy  
Baltimore City Circuit Court

cc: Constantine J. Themelis, Esq.  
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**BENEDICT J. FREDERICK, III, et al.,** \* **IN THE**  
**Plaintiffs,** \* **CIRCUIT COURT**  
**v.** \* **FOR**  
**BALTIMORE CITY BOARD** \* **BALTIMORE CITY**  
**OF ELECTIONS, et al.,** \* **CASE NO.: C-24-CV-24-001361**  
**Defendants.**

\* \* \* \* \*

**MEMORANDUM OPINION AND ORDER**

Standard of Review

A motion for summary judgment should be granted if there is no material dispute of fact such that the movant is entitled to judgment as a matter of law. Md. Rule 2-501(a). If the trier of fact can arrive at more than one conclusion based on genuine issue of material fact, or any deduced inferences, summary judgment is not appropriate. *Sadler v. Dimensions Health Corp.*, 378 Md. 509, 533 (2003). In the instant case, there are no disputed facts, so the Court's determination must be based on whether Plaintiffs are entitled to judgment as a matter of law. Md. Rule 2-501(a).

Discussion

The facts before this Court are not in dispute<sup>1</sup>. They involve the validity of a charter amendment proposed pursuant to the Maryland Constitution, Art. XI-A, §5, by petition of the voters of Baltimore City to cap the Baltimore City real property tax rate.

There is no dispute that the Petition is proper charter material. "The tax cap portion of the proposed tax limitation amendments constituted proper charter material." Board of Supervisors of

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<sup>1</sup> See Plaintiffs' Emergency Petition For Judicial Review Pursuant To Md. Code Ann., Elec. Law (El) §§6-209(A)(2), 6-209(A)(3)(I), 6-210(E)(3)(I)(1) And/Or Motion For Summary Judgment for a summary of the factual and procedural background.

Elections v. Smallwood, 327 Md. 220, 236 (1990). “The basic function of a constitution or a charter is to distribute power among the various agencies of government, and between the government and the people who have delegated that power to their government.” *Id.* at 237. “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.” *Id.* “Limitations imposed by the people on their government are fundamental elements of a constitution.” *Id.* “Thus, a limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material.” *Id.* at 238.

Tax cap portions of a proposed Property Tax Limitation amendments are facially valid and constitute proper charter material if they do not conflict with public general law. *Bd. of Sup'rs of Elections of Anne Arundel Cnty. v. Smallwood*, 327 Md. 220, 243 (1990). *Smallwood* further holds, “The Constitution of the United States, the Constitution of Maryland, and the charters of Anne Arundel and Baltimore counties, are replete with provisions limiting the power of governments to raise and appropriate revenue. Thus, a limitation on the power of a legislative body to raise revenue is at the heart of the form and structure of our government and thus is proper charter material.” *Id.* at 238.

Plaintiffs’ petition to amend the Baltimore City Charter removes the City’s right to set its tax rate legislatively because the petition’s proposed tax limitations require the City to lower its taxes and would establish a steadily decreasing cap on Baltimore City’s property tax rate. The current Baltimore City property tax rate is \$2.248 on every \$100 of assessed or assessable value for nonexempt real property. Starting in the fiscal year beginning July 1, 2025, the rate shall be “no higher than \$2.200” per \$100 of assessed or assessable value. The cap would then continue to decrease in each succeeding year, first by \$0.100 and then by \$0.180 per year, until, beginning

with the 2031–2032 tax year, it would permanently be set at \$1.200. Plaintiffs’ proposed charter amendment divests the City Council of the ability to set property taxes. Under the proposed charter, the City Council would be required to reduce taxes every year, until the rate fell to \$1.200.

“[C]lear from a reading of *Smallwood* is the fact that the Court viewed a ‘tax cap’ as involving not merely a limitation, but a limitation in which some portion of the council’s power was retained. That is to say, the provisions of the Anne Arundel and Baltimore County proposals which permitted a limited increase in the rate provided in the ‘base year’ as part and parcel of a ‘tax cap.’ In describing those proposals, Judge Eldridge, for the Court, expressly stated that ‘The proposed Property Tax Limitation charter amendments ... would have placed a *percentage* cap on the amount of local property tax revenues to be raised each year.’” *Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676, 684, (1995).

“Section 6–302(a) of the Tax–Property Article provides that the government body of a county shall set the tax rate on property for the next taxable year. The proposed tax limitation amendments would not have conflicted with this provision. If the proposed amendments had been adopted, the county councils of Baltimore and Anne Arundel Counties could still have exercised discretion to determine the tax rates on property for the next taxable year. A limitation would simply have been placed on this power, so that the increase in property tax revenue for the next tax year could not have exceeded 2% in Baltimore County or 4.5% in Anne Arundel County. The proposed tax limitations would not have had the effect of allowing the electorate of the two counties to set the tax rates. As required by § 6–302(a), the legislative body in each county would continue to set the tax rate on property. There is no language in the statute indicating that reasonable limits cannot be placed on the legislative power to set the tax rate.” *Smallwood*, 327 Md. 220, (1990). Plaintiffs proposed tax rate differs vastly from those proposed in *Smallwood*.

Unlike the Baltimore County and Anne Arundel County amendments in *Smallwood* which limits the amount that taxes could be raised<sup>2</sup>, the proposed amendment divests the Baltimore City Council of the ability to set property tax rates. The proposed tax cap would require the City to reduce the taxes for the next seven tax years until it reached the set rate of 1.20 thereafter. Such a requirement would take all power and discretion from the City Council and their ability to legislate and determine the tax rate.

“Elsewhere, because of that small window of discretion (4.5% in Anne Arundel County, and 2% in Baltimore County), the Court found that ‘These proposed tax limitation amendments were not back-door attempts by the voters ... to enact detailed legislation. Nor did they divest the county councils of the ability to set the property tax rates’ (citing *Board of Sup’rs of Elections of Anne Arundel County v. Smallwood*, 327 Md. at 240). Here, the tax cap was ‘detailed’ to the point of excluding all other possibility; and the Council’s ability was completely divested.” *Hertelendy v. Bd. of Educ. of Talbot Cnty.*, 344 Md. 676, 685, (1995). Plaintiffs proposed tax cap is distinguishable from the *Smallwood* case because it sets the rate for each year, excluding all other realistic possibility, and the Baltimore City Council’s ability would be completely divested.

“Beyond any doubt, the Court of Appeals viewed the tax caps which it considered as being limitations upon the authority of Anne Arundel and Baltimore Counties to a prescribed range. By definition, the ability to establish the property tax rate within a prescribed range is an ability to set the property tax rate, albeit a limited ability. By definition, the absence of any choice is the ability to do nothing. As the Board of Education succinctly notes, ‘in the one case, the voters do not ... set tax rates, but only ... limit them, while in the other case, the voters in effect set the tax rate

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<sup>2</sup> 4.5% in Anne Arundel County, and 2% in Baltimore County



legislatively, by decreeing for the indefinite future that revenues shall not exceed levels in an arbitrary base year.” *Id.*

“Under *Smallwood*, a ‘tax cap’ is valid only so long as it confers some authority upon a county council to carry out its mandated duty under § 6–302(a) of the Tax–Property Article to ‘annually ... set the tax rate for the next taxable year on all assessments of property subject to that county's property tax.’ Under Article VI, § 614, of the Talbot County Charter, the County Council has no such authority.” *Id.*

In the present case, unlike *Smallwood*, Plaintiffs’ petition is not proper Charter material because it is in violation of Tax-Property § 6-302(a) and allows the citizens of Baltimore to establish the tax rate, leaving nothing for the City Council to legislate because they would be required to lower the tax rate every year. The Charter amendments proposed in *Smallwood* limited the percentage of increase every year, however, the County Council still had the ability to raise, lower, or leave the tax the same. The Plaintiffs’ proposed charter amendment does not leave any discretion in the hands of the City Council. As in *Cheeks v. Cedlair Corp.*, 287 Md. 595, (1980), the proposed amendment usurps the City Council’s powers and mandates their actions. In other words, the proposed amendment is essentially legislative in character. The Plaintiffs proposed charter amendment would divest the City Council of the ability to set the tax rate, would mandate the City Council to lower the tax rate, and therefore would allow the voters to set the tax rate. Therefore, the proposed charter amendment is in violation of § 6–302(a) of the Tax–Property Article of the Maryland Code, Article XI-A, § 5 of the Constitution of Maryland, and Article II, § (40)(a) of the Baltimore City Charter.

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*Attorney for Intervenor Maryland State Board of Elections*

|   |   |                                    |
|---|---|------------------------------------|
| <b>BENEDICT J. FREDERICK, III, et al.,</b>            | * | <b>IN THE</b>                      |
| <b>Plaintiffs,</b>                                    | * | <b>CIRCUIT COURT</b>               |
| <b>v.</b>   | * | <b>FOR</b>                         |
| <b>BALTIMORE CITY BOARD<br/>OF ELECTIONS, et al.,</b> | * | <b>BALTIMORE CITY</b>              |
| <b>Defendants.</b>                                    | * | <b>CASE NO.: C-24-CV-24-001361</b> |

\* \* \* \* \*

**ORDER**

Upon consideration of the Mayor and City Council of Baltimore’s Motion to Dismiss With Prejudice and Request for Hearing filed by counsel Derek Van De Walle on August 6, 2024, Plaintiffs’ Opposition to Mayor and City Council of Baltimore’s Motion to Dismiss and Request for Hearing and the Memorandum in Support filed by plaintiffs’ counsel Constantine Themelis on July 26, 2024, and the hearing held on August 8, 2024, it is this 8<sup>th</sup> day of August 2024, by the Circuit Court for Baltimore City, hereby:

**ORDERED** that the Mayor and City Council of Baltimore’s Motion to Dismiss With Prejudice is **DENIED** as moot.

08/09/2024 7:20:48 PM




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Judge Althea M. Handy  
Baltimore City Circuit Court

cc: Constantine J. Themelis, Esq.  
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|  |   |                                    |
|--|---|------------------------------------|
| <b>BENEDICT J. FREDERICK, III, et al.,</b> | * | <b>IN THE</b>                      |
| <b>Plaintiffs,</b>                         | * | <b>CIRCUIT COURT</b>               |
| <b>v.</b>                                  | * | <b>FOR</b>                         |
| <b>BALTIMORE CITY BOARD</b>                | * | <b>BALTIMORE CITY</b>              |
| <b>OF ELECTIONS, et al.,</b>               | * | <b>CASE NO.: C-24-CV-24-001361</b> |
| <b>Defendants.</b>                         |   |                                    |


\* \* \* \* \*

**ORDER**

Upon consideration of the Emergency Petition For Judicial Review Pursuant To Md. Code Ann., Elec. Law (El) §§6-209(A)(2), 6-209(A)(3)(I), 6-210(E)(3)(I)(1) And/Or Motion For Summary Judgment filed by plaintiff’s counsel Constantine Themelis on July 26, 2024, Maryland State Board of Election’s Response to Plaintiff’s Motion for Summary Judgment filed by counsel Daniel Kobrin on July 30, 2024, The City Board’s Response to Plaintiff’s Petition for Judicial Review and Motion for Summary Judgment filed by counsel Thomas Chapman on August 2, 2024, Mayor and City Council of Baltimore’s Response in Opposition to Plaintiff’s Emergency Petition for Judicial Review and/or for Summary Judgment filed by counsel Derek Van De Walle on August 2, 2024, and the hearing held on August 8, 2024, it is this 9<sup>th</sup> day of August 2024, by the Circuit Court for Baltimore City, hereby:

**ORDERED** that Plaintiffs’ Motion for Summary Judgment is **DENIED**.

08/09/2024 7:19:52 PM

  
 Judge Althea M. Handy  
 Baltimore City Circuit Court

cc: Constantine J. Themelis, Esq.  
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**BENEDICT J. FREDERICK, III, *ET AL***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, ET AL.**

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361

\* \* \* \* \*

**NOTICE OF APPEAL**

**(Md. Rule 8-301)**

Plaintiffs, Benedict J. Frederick, III, Matthew W Wyskiel, III, and Stacie Teal-Locust (collectively together “Plaintiffs”) through undersigned counsel and pursuant to Maryland Rule 8-301 and MD. CODE ANN., ELEC. LAW (EL) §6-209(a)(3)(ii) notes an appeal **directly to the Supreme Court of Maryland** from the Memorandum Opinion Order (attached as Ex. A), the Order denying Plaintiffs Emergency Petition for Judicial Review or Alternatively for Summary Judgment (attached as Ex. B), the Order granting Defendant Baltimore City Board of Elections’ Motion for Summary Judgment (attached as Ex. C) and the Order granting Defendant Mayor and City Council of Baltimore’s Motion for Summary Judgment (attached as Ex. D) (collectively Exs. A-D, the “Orders”). All Orders were entered on August 12, 2024 in the above captioned action. Plaintiffs also include with this filing the \$121 fee required by Md. Code Ann. Cts. & Jud. Proc. § 7-102.

The Supreme Court of Maryland shall give priority to hear and decide this appeal as expeditiously as the circumstances require. *See* EL §6-209(a)(4) (emphasis added).

Date: August 13, 2024

/s/ Constantine J. Themelis

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*Attorneys for Plaintiffs Benedict J. Frederick, III,  
Matthew Wyskiel and Stacie Teal*

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 13th day of August 2024, a copy of the Notice of Appeal was served electronically via the MDEC system on all counsel of record and sent via electronic mail to:

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/s/ Constantine J. Themelis



**CIVIL APPEAL INFORMATION REPORT**  
(Md. Rules 8-205 & 8-206)

Appellant: Benedict J. Frederick, et al. v. Appellee: Baltimore City Board of Elections, et al.  
County/Baltimore City: Baltimore City Case No. C-24-CV-24-001361 Judge: Althea M. Handy

**Instructions** Except in the circumstances noted below, a party who is appealing (known as the “appellant”) from a civil case in the circuit court, must file the following in the circuit court:

(1) A notice of appeal; and

(2) This completed Civil Appeal Information Report including the judgment(s) that is/are appealed.

At the time the appellant files the notice of appeal and Civil Appeal Information Report, the appellant must also serve a copy of each on all other parties or their attorneys.

**In completing this form you may use extra pages if needed.** There is no separate fee to file this form.

**FAILURE TO TIMELY FILE THIS FORM OR TO CORRECT ANY ERRORS AS REQUESTED MAY RESULT IN DISMISSAL OF THE APPEAL.**

**Exceptions:** This form is not required for cases regarding Child(ren) In Need of Assistance or Supervision; termination of parental rights; juvenile delinquency; criminal convictions; habeas corpus; coram nobis; post-conviction; violation of probation; appeals by prisoners relating to their confinement; and cases where an application for leave to appeal is allowed by law.

**For appellee(s):** Within 10 days after service of appellant’s Civil Appeal Information Report, each non-appealing party (known as an “appellee”) may, but is not required to, file with the Clerk of the Appellate Court of Maryland a supplemental report containing any other information needed to clarify the issues on appeal.

**COMPLETE THE FOLLOWING:**

|  |  |
|--|--|
| <b><u>Appellant’s Name:</u></b> <u>Benedict J. Frederick, III, et al</u> | <b><u>Appellant’s Attorney:</u></b> <u>Constantine J. Themelis</u> |
| Phone (cell & work): _____   | Phone (cell & work): <u>443-927-2127; 443-955-3499</u>             |
| E-mail: _____  | E-mail: <u>gthemelis@tandllaw.com</u>                              |

|   |   |
|---|---|
| <b><u>Appellee’s Name:</u></b> <u>Baltimore City Board of Election:</u> | <b><u>Appellee’s Attorney:</u></b> <u>Thomas S. Chapman, Esq.</u> |
| Phone (cell & work): _____  | Phone (cell & work): <u>410-576-6339</u>                          |
| E-mail: _____   | E-mail: <u>tchapman@oag.state.md.us</u>                           |

**1. Select Case Type:**

☐ Contract    ☒ Declaratory Judgment    ☐ Foreclosure    ☐ Estates/Trusts    ☐ Divorce  
☐ Custody    ☐ Admin. Agency Appeal    ☐ Workers Comp.    ☐ Personal Injury    ☒ Other Election Law

**2. Dates & duration of any relevant trial(s) or hearing(s):** August 8, 2024 hearing (approx. 1.5 hours)

**3. Were any post-judgment motions filed under Rule 2-532 (Judgment Notwithstanding the Verdict); 2-533 (New Trial); or 2-534 (Alter or Amend) within 10 days of entry of judgment** ☐ YES ☒ NO

Date Motion Filed: \_\_\_\_\_ Disposition Date: \_\_\_\_\_ ☐ GRANTED ☐ DENIED ☐ PENDING

4. Does the judgment/order appealed end the entire case against all parties? ☒ YES ☐ NO

If no, explain why the case is appealable under Rule 2-602 or Courts & Judicial Proceedings § 12-301 or § 12-303: \_\_\_\_\_

5. Was *in banc* review requested under Rule 2-551 (In Banc Review)? ☐ YES ☒ NO

If yes, which party filed the petition for *in banc* review? \_\_\_\_\_

6. Has there been a prior appeal in this case, or are there any pending related appeals? ☐ YES ☒ NO

Prior Appeal Case No(s): \_\_\_\_\_

Related Appeal Case No(s): \_\_\_\_\_

7. Is this an appeal from an order about adoption, termination of parental rights, guardianship of the person, custody, or visitation? ☐ YES ☒ NO

8. Briefly state the issues on appeal (*Information disclosed does not limit the scope of appeal. Rule 8-205(f)*).

This case involves the validity of a charter amendment to cap the Baltimore City real property tax rate proposed pursuant to the Maryland Constitution, Art. XI-A, §5, by petition of the voters of Baltimore City. The Supreme Court of Maryland shall give priority to hear and decide this case expeditiously to ensure that the charter amendment is submitted to a vote of the registered voters of Baltimore City, for approval or rejection, at the upcoming General Election on November 5, 2024. See EL §6-209(a)(4).

9. Describe the history and present status of settlement negotiations (*Information disclosed is subject to Rule 8-205(f)*).

Not applicable.

a. Was this case previously submitted to any Alternative Dispute Resolution process (arbitration, mediation, settlement conference, etc.)? ☐ YES ☒ NO

If so, please identify the arbitrator or mediator: \_\_\_\_\_

b. Could this case benefit from mediation or prehearing conference services before briefs are filed? ☐ YES ☒ NO

(For questions about your appeal please call the Appellate Court of Maryland Clerk's Office at 410-260-1450 or see [mdcourts.gov/cosappeals](http://mdcourts.gov/cosappeals))

**CERTIFICATE OF SERVICE**

I certify that on the date stated below a copy of the foregoing Report was mailed, postage prepaid to:

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Baltimore, Maryland 21202  
City, State, Zip

August 13, 2024  
Date

/s/ Constantine J. Themelis  
Signature of Party Serving

Constantine J. Themelis  
Printed Name

**BENEDICT J. FREDERICK, III, *ET AL***

*Plaintiffs*

v.

**BALTIMORE CITY BOARD OF  
ELECTIONS, ET AL.**

*Defendants.*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: C-24-CV-24-001361

\* \* \* \* \*

**CIVIL APPEAL INFORMATION REPORT(CONTINUED)**

Plaintiffs, Benedict J. Frederick, III (“Mr. Frederick”), Matthew W Wyskiel, III (“Mr. Wyskiel”), and Stacie Teal-Locust (“Ms. Teal-Locust”) (collectively together “Plaintiffs”) by and through undersigned counsel and pursuant to Maryland Rule 8-205 provides the following additional information to the Civil Appeal Information Report:

**Appellee’s Name:** Mayor and City Council of Baltimore

**Appellee’s Attorneys:**

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Tom P. Webb, Esq.

Derek M. Van De Walle, Esq.

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**Appellee’s Name:** Maryland State Board of Elections

**Appellee’s Attorneys:**

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Date: August 12, 2024

/s/ Constantine J. Themelis

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Courtesy copy to the Honorable Althea M. Handy: [may.bennett@mdcourts.gov](mailto:may.bennett@mdcourts.gov)

/s/ Constantine J. Themelis

Constantine J. Themelis

|                                |   |                                  |
|--------------------------------|---|----------------------------------|
|                                | * | IN THE                           |
| BENEDICT J. FREDERICK, III, ET | * | SUPREME COURT                    |
| AL.                            |   |                                  |
|                                | * | OF MARYLAND                      |
| v.                             |   |                                  |
|                                | * | No. 35                           |
| BALTIMORE CITY BOARD OF        | * | September Term, 2023             |
| ELECTIONS, ET AL.              | * |                                  |
|                                | * | (Cir. Ct. No. C-24-CV-24-001361) |

### ORDER

After the circuit court enjoined the placement of a ballot initiative to amend the Baltimore City Charter proposed by the appellants, they appealed the circuit court's judgment to this Court pursuant to §§ 6-209(a)(3)(ii) and 6-210(e)(3)(i)(2) of the Election Law. Pursuant to those sections and mindful of the need for the State Board of Elections to certify the ballot before the November general election, the Court will expedite the briefing, argument, and decision of this appeal.

Accordingly, it is this 13th day of August 2024, by the Supreme Court of Maryland, ORDERED that this case is docketed as No. 35, September Term, 2023 (SCM-REG-0035-2023), and it is further

ORDERED that the Clerk of the Circuit Court for Baltimore City shall forthwith transmit the record in this case pursuant to Rule 8-413 and 20-402, and it is further

ORDERED that the parties' briefs and the record extract shall be filed as follows:

1. The appellants' briefs and the joint record extract shall be filed on or before Tuesday, August 20, 2024;
2. The appellees' briefs shall be filed on or before Monday, August 26, 2024; and
3. Any reply brief shall be filed on or before Tuesday, August 27, 2024.

ORDERED that this shall be argued on Wednesday, August 28, 2024 commencing at 9:00 a.m.<sup>1</sup>



/s/ Matthew J. Fader  
Chief Justice

---

<sup>1</sup> This case will be argued on the same day as *Baltimore City Board of Elections, et al. v. Mayor and City Council of Baltimore, et al.*, No. 34, September Term, 2023 (Cir. Ct. No. C-24-CV-24-001320).

August 8, 2024

Benedict Frederick, III, et al v. Baltimore City Board of Elections, et al BEFORE THE HONORABLE ALTHEA M. HANDY, JUDGE

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

BENEDICT FREDERICK, III, ET AL.,

Plaintiff,

V.

C-24-CV-24-001361

BALTIMORE CITY

BOARD OF ELECTIONS, ET AL.,

Defendant.

\* \* \* \* \*

## TRANSCRIPT OF OFFICIAL PROCEEDINGS

(Petition for Judicial Review)

-- -- -- -- --

BEFORE: THE HONORABLE ALTHEA M. HANDY, Judge

-- -- -- -- --

HEARING DATE: August 8, 2024

-- -- -- -- --

## APPEARANCES:

FOR THE PLAINTIFF: CONSTANTINE THEMELIS, ESQ.

FOR THE DEFENDANT: THOMAS CHAPMAN, ESQ., OAG

FOR THE INTERVENOR: HILARY RULEY, ESQ.

DANIEL KOBRIN, ESQ., OAG

Transcriptionist: Patty English

AAERT Cert. No.: CET-843

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August 8, 2024

Benedict Frederick, III, et al v. Baltimore City Board of Elections, et al BEFORE THE HONORABLE ALTHEA M. HANDY, JUDGE

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PROCEEDINGS

(On the record - 1:59 p.m.)

THE COURT: All right. This is -- make sure I have -- properly note the case, the Emergency Petition for Judicial Review pursuant to Maryland Code Annotated Election Law 6-209(a)(2), 6-209(a)(3)(i), 6-210(e)(3)(i)1. and/or motion for summary judgment filed by the Plaintiff.

So it is versus the Baltimore City Board of Elections.

Counsel, do you want to identify yourselves for the record? And I know there's Intervenors here as well.

MR. THEMELIS: Good afternoon, Your Honor. Constantine Themelis on behalf of the Plaintiffs.

THE COURT: Yes.

MR. CHAPMAN: Good afternoon, Your Honor. Thomas Chapman for the City Board of Elections as well as Scherod Barnes and Armstead Jones.

THE COURT: Okay. Wait, I'm sorry. As well as who?

MR. CHAPMAN: Scherod Barnes and Armstead Jones, the City Board President and City Election Director in their official capacities.

THE COURT: Oh, okay.

1 MS. RULEY: Good afternoon, Your Honor.

2 Hilary Ruley, on behalf of the Intervenor, the Mayor  
3 and City Council of Baltimore.

4 MR. KOBRIN: And good afternoon, Your Honor.

5 Daniel Kobrin, Assistant Attorney General, on behalf  
6 of the Maryland Board of Elections.

7 THE COURT: All right, thank you. So I have  
8 read all of the papers and I am ready to hear  
9 argument, so I suppose we should start with the  
10 Plaintiffs.

11 MR. THEMELIS: Thank you, Your Honor. It's  
12 a pleasure to see you and to be here today to argue  
13 this motion, and I want to thank you and the court  
14 for hearing this so quickly on an expedited basis.  
15 On behalf of the Plaintiffs, we are very much  
16 appreciative of that.

17 THE COURT: Well, I can't take any of that  
18 thanks, because I was on vacation when this was  
19 assigned to me and scheduled on my collateral day  
20 which was today. I had violations of probation and a  
21 post-conviction hearing, so that's why this is at 2  
22 o'clock. So I will spread the thanks to those that  
23 deserve it. All right, thank you.

24 MR. THEMELIS: Well, we are very much  
25 appreciative, Your Honor, and we are going to, you

1 know, do our best. Counsel have been great to work  
2 with and we've done our best to expedite this so,  
3 Your Honor, I'm going to get right to it.

4 This case as you know from reading the  
5 briefing, involves the validity of a proposed  
6 amendment to the Baltimore City Charter to impose a  
7 cap on the real property tax. And, Your Honor, the  
8 voters of Baltimore City should have the opportunity  
9 at the upcoming general election to vote on this  
10 proposed amendment and decide if it should be  
11 implemented.

12 The petition simply seeks to impose a limit  
13 on the real property tax rate in Baltimore City that  
14 is fair, equitable and competitive with surrounding  
15 counties, Your Honor. As you've read in the briefing  
16 by all the parties, one of the cases that is the  
17 seminal case that will -- that applies here is the  
18 Board of Supervisors of Election of Anne Arundel  
19 County v. Smallwood, 327 Md. 220, a 1990 case.

20 I'll refer to that as the Smallwood case,  
21 Your Honor, and I'd like to start with the holding in  
22 Smallwood that is at page 241, Your Honor.

23 "Consequently, we hold that a provision in a county  
24 charter placing restrictions upon the county  
25 council's revenue raising authority is a fundamental

1 aspect of the form and structure of government and  
2 thus is proper charter material." That's at page  
3 241. That's the holding of the Smallwood case.

4 Your Honor, in coming to that holding, the  
5 Smallwood court explained that a basic function of a  
6 constitution or a charter is to distribute power  
7 between the government and the people. That is at  
8 page 237. "A charter is the organic, the fundamental  
9 law establishing basic principles governing  
10 relationships between the government and the people."  
11 That's also at 237. That's quoting Cheeks v. Cedlair  
12 Corp., 287 Md. 595 at 607. That's a 1980 Maryland  
13 Supreme Court case.

14 Two more quotes that I find very significant  
15 and applicable when you are considering the petition  
16 here today, Your Honor. "Limitations imposed by the  
17 people on their government are fundamental elements  
18 of a constitution," Smallwood at 237.

19 "The Maryland Declaration of Rights and Bill  
20 of Rights to the United States Constitution largely  
21 represents, what represent limitations on  
22 governmental power. In fact, the desire of the  
23 people to limit the government's ability to tax was a  
24 major cause of the American Revolution." That's at  
25 Smallwood at 237 to 238.

1           Your Honor, there's no dispute that the  
2 subject petition here is proper charter material.  
3 That is black letter law in Smallwood.

4           THE COURT: I don't think that there's any  
5 dispute as to that, is there?

6           MR. THEMELIS: Well, the reason that I say  
7 that is there was some argument in some of the City's  
8 briefing, Your Honor, that did challenge it. But if  
9 that's what you --

10           THE COURT: Well, that's how I -- yes. But  
11 also quoting from Smallwood, "Tax cap portions of a  
12 proposed property tax limitation amendment is  
13 facially valid and constitutes proper charter  
14 material if they do not conflict with public general  
15 law." And that's at page 243. And I think the  
16 argument is that this does conflict with public  
17 general law.

18           MR. THEMELIS: And I'm moving on, Your  
19 Honor, to get to that because I agree with you that  
20 is the real issue in this case. So -- and that was  
21 my absolutely next point in my outline.

22           THE COURT: Okay. Also the distinction in  
23 this case as opposed to Smallwood is their amendment,  
24 proposed amendments and final amendments left power  
25 with the counties in terms of it was simply a, they

1 were not allowed to raise the taxes more than a  
2 certain percent. So they could increase the taxes,  
3 they could lower them, they could leave them the  
4 same. Your proposal doesn't give leave that  
5 authority in the City of Baltimore. That's the big  
6 distinction that I see.

7 MR. THEMELIS: And let me get right to that,  
8 Your Honor. Because it is important to look at the  
9 actual language in Smallwood of those subject  
10 petitions, Your Honor, and they are found at the  
11 Baltimore County charter amendment in Smallwood, the  
12 actual wording, is in footnote 2.

13 And this is getting to the rollback  
14 argument, Your Honor, because the petition in this  
15 case does not set the tax rate. It imposes a cap on  
16 the rate that Smallwood said is permissible. The  
17 only thing that Smallwood struck down in that case is  
18 when you look at footnote 2.

19 THE COURT: The escape clause and the  
20 rollback.

21 MR. THEMELIS: I'm sorry?

22 THE COURT: The escape clause and the  
23 rollback.

24 MR. THEMELIS: Yes.

25 THE COURT: Is what they struck down. Yes.

1 MR. THEMELIS: Yes. And the Board of  
2 Elections in this case deemed that the petition was a  
3 rollback is what they said in their letter that's  
4 attached to the verified amended complaint in this  
5 case at page 8. That was their basis for finding the  
6 petition was deficient was that it was a rollback and  
7 it permissively takes away the authority of the Mayor  
8 and City Council to set the real property tax rate.

9 And so when you look at what a rollback is  
10 in Smallwood, Your Honor, and you look at footnote 2,  
11 the proposed charter amendment from Baltimore County,  
12 "the county property tax may not exceed the property  
13 tax realized by the county for tax year 1989 to  
14 1990." That's in footnote 2. That was the portion  
15 of the charter amendment that was deemed invalid.

16 In footnote 5, the court outlined an Anne  
17 Arundel County charter amendment and the portion that  
18 was deemed invalid was "the county council may not  
19 establish property tax rates which would provide more  
20 property tax revenues than were raised during the  
21 1988-1989 year."

22 At page 244, Your Honor, Smallwood quote  
23 stated, "the rollback provisions of the proposed  
24 amendments would have limited the amount of property  
25 tax revenues for the tax year 1991 to 1992 to no more



1 than the amount collected in the tax year 1989 or  
2 1999." That's the rollback in Baltimore County. And  
3 no more than the amount collected for the tax year  
4 1988 to 1989 for Anne Arundel County. Those were  
5 what they considered rollbacks.

6 The other case that is at, briefed that  
7 relied upon Smallwood was the Hertelendy case. And  
8 when you look at the proposed charter amendment in  
9 Hertelendy, at page 678, the quote, "The council may  
10 not establish property tax rates which would provide  
11 more tax revenues than were raised during the 1978-  
12 1979 tax year."

13 And so when you look at Election Director  
14 Jones' letter in this case, Your Honor, that is  
15 attached to the verified amended complaint in other  
16 motions, he admits quote that the petition is framed  
17 as a cap on the property tax rate. And then he  
18 erroneously concluded the petition was invalid  
19 because it's a rollback like the charter amendments  
20 in Smallwood and Hertelendy.

21 And he stated that tax revenues could not  
22 exceed the amount collected in a specified prior  
23 year. That's what a rollback is, Your Honor. The  
24 petition at issue here does not do that. It is not a  
25 rollback. It does not attempt to look at any revenue

1 that the City has collected in a prior year and say  
2 that the City cannot collect real property taxes  
3 above that specified amount.

4 THE COURT: Well, isn't that in effect,  
5 though, what it does?

6 MR. THEMELIS: No. No.

7 THE COURT: If the beginning July 1st, 2025,  
8 the property tax would have to be less than what was,  
9 what the current property tax is, wouldn't they be  
10 getting less revenue as a result of that?

11 MR. THEMELIS: Absolute --

12 THE COURT: So the current property tax rate  
13 is 2.248, correct?

14 MR. THEMELIS: Yes.

15 THE COURT: And fiscal year July 1st 2025,  
16 you want it no higher than \$2.20 per 100 of assessed  
17 property value.

18 MR. THEMELIS: Yes.

19 THE COURT: So in effect, they would be  
20 getting less revenue.

21 MR. THEMELIS: Absolutely not, Your Honor,  
22 and that is not what is at issue in this case. What  
23 the -- as the City quoted in its brief, that is not  
24 for -- our decision is to what will happen as a  
25 result of this. I mean, I can give you, you know,

1 what I think's going to happen.

2 THE COURT: Okay.

3 MR. THEMELIS: I can tell you what I think's  
4 going to happen in the Sage report that's attached to  
5 our opposition to the City's motion for summary  
6 judgment, Your Honor. But the fact of the matter is,  
7 the rate being lowered does not automatically mean  
8 that the revenue's going to be lowered.

9 I think that's the most simplistic way of  
10 saying it. And the basis for me saying that is when,  
11 it's just a, it's a basic economic principle that  
12 this Court could take judicial notice of that when  
13 something is taxed less, the value goes up.

14 That's the idea behind this is, this  
15 petition wants to see the City grow and flourish.  
16 It's not looking to, you know, rates are going to go  
17 down and the City's going to have less money. That  
18 is way too of a simplistic way of looking at this.

19 And frankly that is not what the Election  
20 Director's, the basis for the Election Director  
21 finding the petition deficient. And that wasn't in  
22 our complaint because that wasn't a basis for finding  
23 it to be deficient.

24 THE COURT: Well, you would agree though  
25 that they would be required to reduce the tax rate?

1 MR. THEMELIS: There's no dispute about  
2 that, Your Honor.

3 THE COURT: Okay.

4 MR. THEMELIS: And that's --

5 THE COURT: And they would not have the  
6 authority to raise the tax rate.

7 MR. THEMELIS: Well, they have the authority  
8 to set the rate wherever they want.

9 THE COURT: They cannot raise the tax rate  
10 beyond what you label as a cap.

11 MR. THEMELIS: Exactly, Your Honor.

12 THE COURT: So isn't that taking the power  
13 from their legislative authority?

14 MR. THEMELIS: No. It's imposing a  
15 reasonable limit on, and that's exactly what the case  
16 law says, Your Honor. When you look at Smallwood in  
17 243, there is no language in the statute, and the  
18 statute meaning Tax Property Article 6-302(a), the  
19 Tax Property Article quote.

20 Your Honor, there is no language in the  
21 statute indicating that reasonable limits cannot be  
22 placed on the legislative power to set the tax rate.

23 THE COURT: Limits. And that's what the  
24 Small (sic) case was about. There were percentages.  
25 Anne Arundel County couldn't, they couldn't increase

1 their tax rate, I thought I had it in my notes here,  
2 but it was by a certain percentage.

3 MR. THEMELIS: Yes, Your Honor.

4 THE COURT: And the same thing in Baltimore  
5 County, giving their councils to still raise the  
6 rate, lower the rate, so it would still give them the  
7 authority. This takes away all of that authority.  
8 That's the thing I am not understanding as part of  
9 your argument there.

10 MR. THEMELIS: And, Your Honor, the case law  
11 just does not say that that was part of their  
12 decision. There's nowhere in Smallwood where it says  
13 that a reasonable limits above the current limit --  
14 they don't say that, Your Honor. That's simply not  
15 in Smallwood. It's for you to decide whether the  
16 limits in the petition are reasonable or not.

17 THE COURT: Actually, it says elsewhere  
18 because of that small window of discretion, 4.5  
19 percent in Anne Arundel County and 2 percent in  
20 Baltimore County, the court found that these proposed  
21 tax limitation amendments were not back-door attempts  
22 by the voters to enact detailed legislation, nor did  
23 they divest the county councils of the ability to set  
24 the property tax rates.

25 It says here, the tax cap was detailed to

1 the point of excluding -- and they're referring to  
2 the impermissible parts -- of excluding all  
3 possibility, and the council's ability was completely  
4 divested.

5 MR. THEMELIS: And that gets to my earlier  
6 argument where it's referring to a specific revenue  
7 dollar and that's not what we're doing. The petition  
8 in this case does not reference a specific revenue  
9 dollar from any prior year.

10 That's what that language you just read,  
11 Your Honor, and that's why I've read Smallwood so  
12 many times. When you read it to see whether this  
13 petition complies with Smallwood or not and you look  
14 at the language that says reasonable limits can be  
15 applied, if you were to look at this petition when  
16 you look at surrounding rates in surrounding  
17 counties, it's reasonable.

18 Baltimore City's real property tax rate is  
19 the highest around, and so shouldn't it be for the  
20 citizens, the voters of Baltimore City to vote on  
21 this and decide if they want their real property tax  
22 rate in their city to be taxed the way that it is  
23 taxed? Shouldn't they be the ones to decide that?

24 And that's the whole point of this petition,  
25 Your Honor. And it's our position that the petition

1 complies with the Tax Property Article 6-302. Your  
2 Honor, if you look at, you know, I know all Baltimore  
3 City judges have to live in the City. When you look  
4 at your own real property --

5 THE COURT: I know. I thought maybe I  
6 should recuse myself from this case because, of  
7 course, I'd want those tax rates lowered. But go  
8 ahead. I can be fair and impartial.

9 MR. THEMELIS: But when you look at any real  
10 property bill there's a constant yield rate on there,  
11 which basically means that the --

12 MR. FREDERICK: That's last year, 2023, 7.4  
13 cents. 2024, this year, is 9.1 cents.

14 MR. THEMELIS: Which basically means that  
15 the City could have taxed that amount lower on that  
16 yield rate and still have collected the same amount  
17 of revenue, Your Honor, which gets to that revenue  
18 distinction of the argument.

19 But that is our position, Your Honor, why  
20 the petition in this case is in compliance with  
21 Smallwood, and we ask that the Plaintiff's motion for  
22 summary judgment be granted and all the other motions  
23 be denied.

24 And I'll reserve the rest of my time for if  
25 you have any other questions or any response that I

1 may have to --

2 THE COURT: Oh, thank you so much. And  
3 thank you for responding to my questions.

4 MR. THEMELIS: Thank you.

5 THE COURT: And if I took away any of your  
6 time as a result of that you can certainly make it  
7 up.

8 MR. THEMELIS: No. I mean your questions  
9 are important to me, Your Honor. I mean, I have my  
10 outline and I wasn't going to obviously say anything  
11 new that was in the briefing.

12 The only other argument that I was going to  
13 make was in regard to the additional arguments in the  
14 City's motion, Your Honor, that they should not be --  
15 that they're new and irrelevant, nonexpert opinions  
16 that were introduced in the City's motion for summary  
17 judgment.

18 It's within, Maryland Rule 2-214(3), it's  
19 within your discretion to limit the issues when a  
20 party intervenes in a case, and the City has  
21 introduced issues that were not raised in the  
22 complaint or the Election Director's letter.  
23 Specifically, the City's analysis that they attached,  
24 the affidavit from Mr. Cennemen (phonetic).

25 It would be our position that the Court



1 should not consider them as they are not, they're  
2 irrelevant to this case. On other grounds, they  
3 should not, this Court should not consider them as  
4 they're just admissible evidence that the Court  
5 should consider at the motion for summary judgment  
6 stage, as they just, the qualifications of Mr.  
7 Cennemen are unknown other than they's not an  
8 economist and the methodology is not outlined in the  
9 City's analysis.

10 We provided affirmative evidence that it is  
11 improper analysis, called static analysis, which was  
12 kind of which you hinted at. Well, you know, if the  
13 property tax rate is lower, well, the City's going to  
14 have less money. That is not proper analysis to  
15 forecast the impact of a reduction and foreshadow the  
16 impact of a reduction in real property tax rates.

17 We attached three affidavits from renowned  
18 economists saying that the only methodology that  
19 should be applied is dynamic analysis. That is much  
20 more complicated than just reducing the rate and  
21 therefore there's less money.

22 And so with that, Your Honor, thank you for  
23 your time.

24 THE COURT: Thank you very much.

25 MR. CHAPMAN: Thank you very much, Your

1 Honor. I'll join with the Plaintiffs in thanking you  
2 for hearing this case on an expedited basis. Again,  
3 my name is Thomas Chapman. I'm with the Office of  
4 the Attorney General and I'm here on behalf of the  
5 City Board of Elections in this case.

6 Your Honor, this case is controlled by  
7 Smallwood and Hertelendy. The Election Director was  
8 required to decide whether the property tax charter  
9 amendment proposed by (indiscernible 2:20:57)  
10 Baltimore was in conflict with law. And the Election  
11 Director determined that the amendment was in  
12 conflict with the section 6-302(a) of the Tax  
13 Property Article which requires the Mayor and City  
14 Council to set the property tax rate.

15 In Smallwood, Your Honor, the Supreme Court  
16 of Maryland, then the Court of Appeals, held that a  
17 charter amendment could set limits on the future  
18 growth of property taxes; however, a charter  
19 amendment could not be used to set the property tax  
20 rate, to take the power to set the tax rate away from  
21 the local government and transfer to the voters.

22 That's what the court called a rollback  
23 amendment and that's what the amendment in this case  
24 would do. It would effectively set the property tax  
25 rate at \$2.20 next year and so on down to \$1.20 in

1 2031. So that was the issue that the court had with  
2 the charter amendment in Smallwood was not that it  
3 reduced the amount of revenue, it was that by  
4 decreasing revenue or by setting a cap on the amount  
5 of revenue the local government could take in, it  
6 would effectively force the local government to  
7 reduce the rate.

8 And that's what the, what you were alluding  
9 to, Your Honor. The problem is with a charter  
10 amendment it was, would reduce the property tax rate.  
11 So the only distinction between the charter amendment  
12 here, and in Smallwood and Hertelendy that the  
13 Plaintiffs have referred to, the only distinction  
14 they've referenced is that this rate, this charter  
15 amendment would directly reduce the rate and that one  
16 operated on the revenue.

17 But the fact that this one directly reduces  
18 the rate means it's even more in conflict with 6-  
19 302(a) than the amendments in Smallwood and  
20 Hertelendy, because it directly operates  
21 (indiscernible 2:22:53). It directly takes that  
22 power away from the City and transfers it to the  
23 voters.

24 So the Plaintiffs also referred to the fact  
25 that this amendment would just set a cap and

1     theoretically there would be a rate even lower than  
2     the cap. But there are two responses to that, Your  
3     Honor. The first is that as you mentioned earlier,  
4     this would force the City's hand.

5             It would force the property tax rate to go  
6     down from where it is now to the lower level and then  
7     lower and lower and lower over time. And that's  
8     exactly what the court in Smallwood treated as a  
9     rollback, and so to that extent it's improper.

10            And the other issue is that the court in  
11     Smallwood and Hertelendy recognized that in real  
12     terms, when the, when a charter amendment sets a  
13     property tax cap that's lower than the current tax  
14     rate, effectively the City is going to be forced to  
15     and required to set the rate at that cap.

16            In reality, the City is going to set the  
17     rate at that cap. And both of the property tax  
18     amendments in Smallwood as well as the one in  
19     Hertelendy, both of them or all three of them,  
20     rather, also took the form of caps.

21            In theory, the local governments in all  
22     those cases could have set a rate even lower than  
23     what the cap was. But the court didn't consider that  
24     persuasive, didn't consider that to be a reason to  
25     allow these amendments, but instead recognized that

1 the amendments were still improper under 6-302(a)  
2 because they took power away from the local  
3 government and transferred it to the voters.

4 And now, Your Honor, the City Board doesn't  
5 take a position on any of the other issues that have  
6 been presented in the briefs, except to say that the  
7 Court doesn't need to reach any of those issues  
8 because this case is controlled by 6-302(a) and  
9 Smallwood and Hertelendy.

10 And for those reasons, Your Honor, unless  
11 you have any questions, I would ask that the  
12 Plaintiff's dispositive motion be denied, the City  
13 Board's cross motion be granted, and the Election  
14 Director's determination be affirmed.

15 Thank you, Your Honor.

16 THE COURT: All right. Thank you very much.

17 MS. RULEY: Good afternoon, Your Honor.

18 Hilary Ruley on behalf of the Mayor and City Council  
19 of Baltimore. The Mayor and City Council of  
20 Baltimore has a vested interest in this matter. We  
21 believe that the Election Board has correctly removed  
22 this from the ballot for three simple reasons.

23 One, it violates the State Property Tax  
24 Article, and therefore that means it also violates  
25 section 2 of Article 11A of the Charter, or of the

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1 Maryland Constitution because that provision prevents  
2 local charters from going against the public general  
3 law.

4 The second reason is that this is outside  
5 the scope of what voters in the City are allowed to  
6 petition to change in their charter. And third, it's  
7 unconstitutional as applied. The City adopts the  
8 arguments that were just made by the Election Board,  
9 and we want to be clear. The petition is illegal  
10 because it does cap the tax rate at a number below  
11 what it is right now.

12 A lower tax rate equals lower revenue.  
13 There is no confusion for us about the  
14 interchangeability of those two variables. It's  
15 simple math. When you think of the property values  
16 as staying constant, the equation is simple. The  
17 revenue you get is equal to the rate you set times  
18 the property value.

19 And the problem with the Petitioners'  
20 argument is simple. They want this Court to evaluate  
21 the constitutionality of their petition based on this  
22 dynamic analysis they refer to. They hope the Court  
23 says, well, wait a minute. Property values could go  
24 up. They could go down. People could move in the  
25 City, they could not. Heck, more people could decide

1 to pay their tax bill this year than next year.  
2 There's just no way of saying what lowering the rate  
3 will do.

4 And the problem with that argument is that  
5 no Supreme Court in Maryland has used that analysis  
6 and there's a simple reason. No legislature does  
7 that. We would all love to get property tax revenue,  
8 but we cannot speculate what the property tax will,  
9 what the property values will do in any year. No one  
10 could predict COVID, and that drastically changed our  
11 economy.

12 So legislators have to set the rate in  
13 advance and they do that by taking the same amount of  
14 property value of last year, and they go, that's  
15 probably what the property value's going to be worth.  
16 If I need this much revenue, what's my rate?

17 So rolling back your tax rate drastically as  
18 this petition would do by 40 percent or more is  
19 actually rolling back your revenue. There's no room  
20 for interpretation. And this is important because  
21 both Smallwood and Hertelendy stand for the  
22 proposition that revenue is intertwined, it's linked  
23 to rate.

24 Let's think about it. Those were revenue  
25 cases, as the Plaintiff notes. And if they're cases

1 about revenue, then why did they violate the  
2 provision on setting a tax rate? And the answer is  
3 because no court and no legislature changes the value  
4 of the assessment of property when they try to set  
5 the property tax.

6 Everyone hopes the property tax value will  
7 increase. Everyone hopes people will move in. But  
8 that can't -- that's speculative, and that simply is  
9 economic policy that can't be part of what the  
10 legislature does and it certainly isn't part of what  
11 the citizens can do in the charter.

12 In fact, everyone who looks at these cases  
13 as well as Your Honor and every legislature that sets  
14 a budget in advance, they have to assume a number for  
15 the real property tax value and they don't make it  
16 up. They use the number that the State gives them  
17 every year as the constant yield number. In fact,  
18 the State has to do that under state law.

19 It's in 6, I'm sorry. It's in Real Property  
20 Tax Article 2-202. Every year, before a local  
21 government makes its budget that number's set. It  
22 would be lovely if this petition does what the  
23 Plaintiffs say and magically raises a bunch of  
24 revenue.

25 But that's everyone's hope every year when



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1 they set a budget. When this Court needs to review  
2 is this one constitutional, it has the precedent in  
3 Smallwood and Hertelendy that clearly state revenue  
4 is linked to rate, because when you take the assessed  
5 value and you set it at a constant, the equation is  
6 simple. Revenue equals rate. And so rolling back  
7 the revenue simply does also roll back the rate and  
8 vice versa.

9 To our second point, Your Honor, the  
10 Baltimore City residents have never had the power to  
11 change their charter about taxation. And I know that  
12 may sound odd because it appears to be permissible in  
13 Anne Arundel, Talbot, Garrett and other counties.

14 But the history is quite clear and it's  
15 outlined in Cheeks v. Cedlair. In that case, 287 Md.  
16 at 595 on page 600, it sets this forth. And it  
17 basically says that in 1919, when the City adopted  
18 its first home rule charter, the very next  
19 legislative session the General Assembly came in 1920  
20 and said, wait a minute. I know it says in the  
21 Maryland Constitution you can petition to change your  
22 charter, but taxes are invital (indiscernible  
23 2:31:02).

24 And that wasn't out of the blue. It's a  
25 long history in the City of the General Assembly

1 curbing the City's ability to tax. And it makes  
2 sense when you think about the history of the City.  
3 We were the biggest tax revenue generator from the  
4 time we were a tobacco port in the 1700s. And it  
5 makes sense.

6 The City simply has never and nor has its  
7 voters, had any ability to petition their charter to  
8 be changed with respect to taxes. But even if Your  
9 Honor doesn't agree with those first two arguments,  
10 the third one is very persuasive here.

11 The Smallwood court said and I quote,  
12 governments are required by state law to provide many  
13 public services such as public education, police and  
14 fire protection services, water and sewage services,  
15 et cetera. If it is subsequently demonstrated in a  
16 particular case that a local limitation on property  
17 tax revenue so hampers a county government that it  
18 cannot perform the duties required under state law, a  
19 tax limitation charter provision may well be found  
20 invalid as applied, end quote.

21 And there is no genuine dispute here about  
22 the reality facing the City of Baltimore if this  
23 petition were to be implemented. The City's  
24 Department of Finance created an analysis long before  
25 this case was filed, before we ever knew if the

1 petition would gather sufficient signatures to be  
2 placed on the ballot.

3 And in addition to that analysis and the  
4 affidavits submitted, the City would like to draw  
5 Your Honor's attention to the fact that the real  
6 property tax revenue the City gets is half of all the  
7 revenue the City uses every year. Together, with  
8 local income tax, it makes up 70 percent of the  
9 City's total yearly revenue.

10 So when you cut the property tax rate, the  
11 income tax that's tied to it, it impacts 70 percent  
12 of the City's budget. And to put that in dollar  
13 values, each year the City's annual budget hovers  
14 around \$2 billion.

15 And that means that this petition would make  
16 it impossible for the City to fund its government.  
17 Why? As the affidavit we submitted clearly shows,  
18 half of the City's two billion-dollar budget is fixed  
19 costs. The State's statutory requirement to fund  
20 schools currently costs the City \$396 million.

21 The contractual requirements are debt, our  
22 bond service alone are 105 million. Pension  
23 contributions are 215 million. And there are still  
24 other remaining fixed costs like retiree health care,  
25 workers' compensation, insurance premiums, energy.

1 The petition's drastic 40 percent reduction in tax  
2 rate would result in a massive revenue loss.

3 The Deputy Director of Finance made clear in  
4 his affidavit that he's using conservative  
5 assumptions of future growth and expected costs. He  
6 took those from the State's Board of Revenue  
7 estimates, from the State's Department of Legislative  
8 Services, as well as from the actuaries for the  
9 City's pension system.

10 If the tax rate were rolled back as the  
11 petition requires, the City would need in fiscal 2025  
12 dollars a total of \$537 million worth of budget cuts  
13 by 2032 to implement. And by fiscal 2032, at the end  
14 of the rollback period, the City would be losing  
15 \$627.3 million every year. The General Fund deficit  
16 would skyrocket to 891 million. There's simply no  
17 doubt that the City would not be able to balance its  
18 budget.

19 And I want to state clearly that the City's  
20 affidavits and its analysis weren't expert opinion  
21 and I think that's really the problem with the  
22 Plaintiff's argument. They want this Court and they  
23 want the City and they want legislatures to make a  
24 budget based on economic speculation. No one does  
25 that. The law simply says, what budget did you pass,

1 what revenue do you need, and that means what tax  
2 rate do you have to pay?

3 The reality is, no one can know what will  
4 happen to the economic projections. The affidavit by  
5 the City's finance director and the analysis aren't  
6 expert opinion, they're basic mathematical fact.  
7 They take the petition's tax rate and they multiply  
8 it by the number that SDAT gives us.

9 We as a legislature and a local government,  
10 we have absolutely no control over how the real  
11 property tax market fairs and that's why Smallwood  
12 and Hertelendy absolutely don't look at potential  
13 economic projections.

14 In fact, what they do is, they say, is the  
15 legislature able to increase the rate or decrease the  
16 rate or, alternatively, increase the revenue and  
17 decrease the revenue? That's what you elected your  
18 legislators to do and that's what's enshrined in  
19 Article 11A of the Maryland Constitution, that  
20 authority for local governments to have people elect  
21 officials and for each year for them to make a  
22 budget.

23 So when Your Honor is considering the  
24 affidavit and the analysis that the City submitted,  
25 we posit to you those were not expert opinions,

1 they're basic math. Now we will say that the latter  
2 half of the financial analysis rebutted some of this  
3 economic analysis, dynamic analysis that the  
4 Plaintiffs have done, but nowhere in our affidavit do  
5 we refer to any of that.

6 We simply articulated the basic math. When  
7 you take the rates required there, you multiply it by  
8 the number set from the State Department of  
9 Assessments and Taxation, this is the mathematical  
10 result. These are facts in the affidavit, they're  
11 not opinions.

12 And we believe that these facts clearly show  
13 that because the local government doesn't have the  
14 ability to hope for a better real estate market or  
15 pray that people move into the City, the  
16 legislature's forced to actually set the rate at the  
17 -- to be the number that when multiplied by what SDAT  
18 gives us is revenue sufficient to cover expenses.  
19 And this drastic cut would leave the City government  
20 crippled, unable to meet the statutory and  
21 contractual requirements it has, and for that reason,  
22 Your Honor, it is unconstitutional as applied.

23 And I would just finally like to say, the  
24 electorate is free to pick a different mayor and  
25 different elected officials who will try out this

1 economic policy. What Maryland's Constitution says  
2 is that they simply are not free to legislate policy  
3 in a charter and force the hand of the government,  
4 making them try this economic experiment.

5 That's simply unconstitutional in Maryland.  
6 It violates the City Council's right to set the tax  
7 rate and what it deems best each year. And for that  
8 reason, Your Honor, the Mayor and City Council of  
9 Baltimore respectfully request that you affirm the  
10 Election Director's decision to remove this petition  
11 from the ballot. Thank you.

12 THE COURT: All right. Thank you.

13 MR. THEMELIS: Oh, sorry.

14 MR. KOBRIN: No, no. I'll be quick.

15 THE COURT: Did you want to respond now? Is  
16 that what --

17 MR. THEMELIS: Well, I'd defer to you, Your  
18 Honor. I completely forgot about the State Board. I  
19 know they open argue substantively on these issues.  
20 That's why I stood up. I apologize for interrupting.

21 THE COURT: Oh, okay.

22 MR. THEMELIS: Yeah.

23 MR. KOBRIN: And, Your Honor, I only arose  
24 to say the State Board actually takes no position on  
25 the substantive legal issues in this litigation and

1 will submit on its filing unless Your Honor has  
2 questions about the timeline or preparation of  
3 ballots.

4 THE COURT: Okay. I don't. Thank you.  
5 There you go.

6 MR. THEMELIS: Thank you, Your Honor. I'm  
7 going to do my best to be brief and just limit my  
8 response to --

9 THE COURT: I'm not rushing you.

10 MR. THEMELIS: Okay, great. Okay. Thank  
11 you. So the first point I want to make, Your Honor,  
12 is I just want to, you know, when you first hear the  
13 word rollback and you look at the petition and the  
14 rates are saying no higher than a rate that is lower  
15 than the current rate, it kind of seems like a  
16 rollback, you know, it's easy.

17 But when you look at the language in  
18 Smallwood of exactly what the -- because they don't  
19 define a rollback. They don't say here's what a  
20 rollback is. It's not defined in the Tax Article.  
21 It was the judges on the Supreme Court in 1990 that  
22 put in quotes the words rollback when they found that  
23 proposed charter amendment to be invalid.

24 And when you look at precisely what was  
25 found to be invalid, that is not what we're doing.



1 That is not, we are not doing what is a rollback.  
2 And I don't want to repeat myself, but a rollback  
3 basically says that the future revenues cannot exceed  
4 the past revenue, in general, is what it's saying.  
5 We are not doing that.

6 To say that because we are lowering, because  
7 we're imposing a cap on a lower rate that that is  
8 effectively lowering the revenue, that is just not in  
9 Smallwood. Smallwood does not say that anywhere. So  
10 at the very least, I want to encourage you, Your  
11 Honor, to re-read that portion because it doesn't,  
12 it's not a big part of Smallwood. It's like a  
13 paragraph, the rollback discussion. The opinion goes  
14 on about a lot of other things, but rollback is about  
15 a paragraph.

16 So that I want to -- the next point I want  
17 to raise, Your Honor, is that the City's argument  
18 about Article 2 Section 49 is just not applicable.  
19 And we argued it in our brief, Your Honor, but when  
20 you look at Baltimore City Charter Article 2 Section  
21 49, and we have that quoted in our brief, the  
22 petition -- that applies to legislation, laws or  
23 ordinances. That's what that section applies to.

24 A petition is not legislation, laws or  
25 ordinances, period. That argument, their number two

1 argument, just doesn't apply. That should not be  
2 made. And then on top of that, Your Honor, when you  
3 look at it, it says nothing herein contained shall  
4 give to the City or to the inhabitants.

5 So if they're saying the voters don't have  
6 the ability to do what we're trying to do here, the  
7 City doesn't either. It applies to the City and the  
8 inhabitants. It's in my brief, cited, and so that's  
9 for point 2 of the City's argument.

10 It just -- that just plain and simple, it  
11 just -- if that's what that section of the charter is  
12 intended to mean it just doesn't make sense. But it  
13 doesn't apply to begin with, because it doesn't apply  
14 to charter amendments petitions.

15 The whole -- I'm very surprised to hear that  
16 the City is admitting that that is nonexpert  
17 testimony because it's full of opinions, Your Honor,  
18 and it just should not be considered, period. If  
19 it's not being introduced as an expert opinion, it  
20 just, it should not be considered.

21 And any argument made here today about the  
22 impact that this petition may have on revenue is  
23 complete speculation. There's not a shred of support  
24 in the record to support that it would have an  
25 adverse impact. We submitted affirmative evidence to

1 the contrary, but I'm not even going to waste my time  
2 arguing that point because the City has admitted it's  
3 not expert testimony.

4 And therefore, any impact that this may have  
5 on schools or the budget that when I look up the  
6 budget online, I see an operating budget of \$4  
7 billion, not 2 billion, so I'm not sure what that  
8 means. But all that argument as to the impact is  
9 without support.

10 And on top of that it gets back to one of  
11 the first points that I made, Your Honor, that that  
12 wasn't part of the Election Director's decision in  
13 his letter. He never raised that as an issue. It's  
14 irrelevant to this proceeding.

15 So -- and just the notion that it's basic  
16 math, Your Honor, it's far from it. And with that I  
17 renew our request to you to grant the Plaintiff's  
18 motion. Unless you have any questions, Your Honor, I  
19 don't have any additional argument. Thank you.

20 THE COURT: Thank you very much.

21 Well, I'm quite sure that my word's not  
22 going to be the last word on this, so I know that you  
23 are going to want a decision very quickly. And we  
24 have been working on this. Is Monday too late? Mr.  
25 Themelis, do you --

1           MR. THEMELIS: Your Honor, I might defer to  
2 my brother down there from the State Board who  
3 probably has a better idea of timing than I. I mean,  
4 obviously, we were hoping by the end of the week,  
5 but.

6           THE COURT: Well, we certainly can try.

7           MR. THEMELIS: Yeah. But --

8           THE COURT: There's so many things going on  
9 as you know --

10          MR. THEMELIS: Yes.

11          THE COURT: -- in these courts, and so.

12          MR. KOBRIN: Your Honor, I think Monday  
13 would not be problematic. And this is something the  
14 parties can discuss outside of, obviously, this  
15 hearing with -- statutorily, the parties have five  
16 days to appeal any decision here to the Supreme  
17 Court.

18                 If that decision can be pre-made before we  
19 get a decision about whether to appeal, Monday would  
20 not be a problem.

21          THE COURT: Well, we will try to get it out  
22 tomorrow.

23          MR. THEMELIS: Thank you.

24          THE COURT: But just in case, I just wanted  
25 to give us some breathing room.

1 All right. Well, thank you for your  
2 excellent arguments. They were very helpful. And  
3 like I said, we will consider everything and then I  
4 will make my decision.

5 MR. KOBRIN: Thank you, Judge.

6 MR. THEMELIS: Thank you, Your Honor.

7 MS. RULEY: Thank you, Your Honor.

8 MR. THEMELIS: Nice to see you.

9 THE COURT: Nice to see you.

10 Mr. Themelis is such a gentleman. See, he  
11 takes after his dad.

12 MR. THEMELIS: Oh, Judge, thank you. It's  
13 been a long time since I've seen you --

14 THE COURT: I know.

15 MR. THEMELIS: -- and you haven't changed a  
16 bit. It's great to see you.

17 THE COURT: It's good to see you.

18 I'm sure some of you take after your parents  
19 too, so I -- all right, we're in recess. Have a good  
20 afternoon, everyone.

21 MR. THEMELIS: You too, Your Honor.

22 THE COURT: Thank you, Mike.

23 MS. RULEY: Thank you, Your Honor.

24 THE CLERK: All rise.

25 (At 2:46 p.m., proceedings concluded.)

August 8, 2024

Benedict Frederick, III, et al v. Baltimore City Board of Elections, et al BEFORE THE HONORABLE ALTHEA M. HANDY, JUDGE

## TRANSCRIBER'S CERTIFICATE

This is to certify that the proceedings in the matter of Benedict Frederick, III, et al v. Baltimore City Board of Elections, et al case number C-24-CV-001361, heard in Circuit Court for Baltimore City on August 8, 2024, were recorded on digital media.

I hereby certify that the proceedings herein contained were transcribed by me or under my direction. That said transcript is a true and accurate record to the best of my ability and constitutes the official transcript thereof.

In witness thereof, I have hereunto subscribed my name on August 12, 2024.

*Kelly Taylor-Marshall*

Kelly Taylor-Marshall, President





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