Circuit Court for Montgomery County
Case No. 425412-V

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 180

September Term, 2017

MONTGOMERY COUNTY, MARYLAND

v.

LOCKHEED MARTIN CORPORATION

Reed,
Friedman,
Fader

JJ.

Opinion by Fader, J.

Filed: July 17, 2018

Appellee/cross-appellant Lockheed Martin sought a refund of the hotel rental taxes it paid over the course of three years to appellant/cross-appellee Montgomery County in connection with a facility at its corporate headquarters that offers sleeping accommodations to employees and guests who pay for overnight stays. Montgomery County denied the refund claim. The Maryland Tax Court upheld that decision, but the Circuit Court for Montgomery County disagreed in part and found that Lockheed Martin was entitled to most of the refund it sought. We determine that Lockheed Martin's appeal was timely but that Montgomery County had the authority to impose the hotel rental tax and that the tax validly applied to Lockheed Martin's facility. We therefore reverse the circuit court's judgment to the extent that it reversed in part the Tax Court's order denying Lockheed Martin's refund request.

BACKGROUND

The relevant facts are not in dispute. Since 1971, Montgomery County has imposed a hotel rental tax on transients. Currently, the tax rate is seven percent of the total amount paid for room rental. Mont. County Code § 52-16(a)(1).

In March 2009, Lockheed Martin opened its Center for Leadership Excellence ("CLE") on the grounds of its corporate headquarters in Montgomery County. The CLE has 183 rooms that are used as sleeping accommodations by Lockheed Martin employees or other guests travelling for Lockheed Martin corporate functions. The contractor that Lockheed Martin hired to operate the CLE performs services typically provided at a hotel,

including booking rooms and collecting payment from guests. Individuals staying at the CLE pay for their rooms with a credit card.[1]

Lockheed Martin paid the Montgomery County hotel rental tax on amounts collected for overnight stays at the CLE beginning in 2009. On June 14, 2012, Lockheed Martin filed a claim with the County for a refund of the $1.47 million it had paid from 2009 through June 2012. On March 21, 2014, nearly two years later, the County's Finance Director, Joseph F. Beach, issued a letter denying Lockheed Martin's claim. On April 17, 2014, following instructions contained on the back of the claim form, Lockheed Martin submitted a letter to the County's Finance Director requesting a hearing before the Chief of the Division of Treasury. Lockheed Martin stated in the letter that its purpose in requesting a hearing was to formally exhaust its administrative remedies so that it could appeal to the Maryland Tax Court, if necessary. Although Lockheed Martin and County officials, including the Chief of the Division of Treasury, met to discuss the claim on July 15, 2014, the County never provided the requested hearing or issued a written decision in response to the April 17 letter. Lockheed Martin deemed the lack of response to be a denial of its claim. It filed an informal Petition of Appeal to the Maryland Tax Court on December 17, 2014, followed on January 20, 2015 by a formal Petition of Appeal.

[1] The room rate charged by Lockheed Martin for an overnight stay is set to match the contractual per diem rate set by the federal government. Lockheed Martin bills, and is reimbursed by, its customers for the costs incurred by its employees in staying at the CLE, according to its contracts with those customers.

The County moved to dismiss the appeal as untimely. The Tax Court denied the motion to dismiss but ultimately denied Lockheed Martin's refund claim on the merits, finding that Montgomery County had the authority to enact the tax and that the CLE met the definition of a hotel or lodging place covered by the tax.

Lockheed Martin filed a petition for judicial review with the Circuit Court for Montgomery County. The County filed a cross-petition to challenge the Tax Court's denial of its motion to dismiss. The circuit court affirmed the Tax Court's denial of the County's motion to dismiss but reversed in part the Tax Court's denial of Lockheed Martin's refund claim. The circuit court determined that Montgomery County's June 2009 revision of its hotel rental tax rendered ambiguous the application of that tax to the CLE and that Lockheed Martin was therefore entitled to a refund of the taxes it had paid since June 2009. The County appealed and Lockheed Martin cross-appealed.

DISCUSSION

The Maryland Tax Court "is an adjudicatory administrative agency in the executive branch of state government . . . [and] is subject to the same standards of judicial review as other administrative agencies." *Frey v. Comptroller of Treasury*, 422 Md. 111, 136 (2011) (internal quotation and citations omitted). On judicial review, "[w]e review the decision of the Tax Court, not the ruling of the circuit court . . . ." *Comptroller of Treasury v. Johns Hopkins Univ.*, 186 Md. App. 169, 181 (2009). In doing so, we review the Tax Court's legal conclusions de novo. *Id*. The determination as to whether Lockheed Martin's appeal

was timely is a conclusion of law. *Crofton Partners v. Anne Arundel County*, 99 Md. App. 233, 242 (1994).

Lockheed Martin argues that it is entitled to a full refund for two reasons: (1) until specifically authorized by the General Assembly in 2014, the County's hotel rental tax violated the Maryland Constitution's Local Law provisions; and (2) after the Montgomery County Council amended its hotel tax ordinance in 2009, the tax no longer covered private facilities like the CLE. We agree with the Tax Court that: (1) Montgomery County had the authority to impose the hotel rental tax at all relevant times; and (2) Montgomery County's tax applied to the CLE. Before we get there, however, we must address the County's claim that Lockheed Martin's appeal was untimely.

I. LOCKHEED MARTIN DID NOT FORFEIT ITS RIGHT TO APPEAL.

A. Deemed Denials in This Statutory Scheme Are Permissive, Not Automatic, and There Is No Time Restriction on the Claimant in Making That Decision.

The County contends that Lockheed Martin's appeal, filed on December 18, 2014, was untimely under § 20-117 of the Local Government Article, which provides:

> (a) *Appeal.* — Except as provided in subsection (b) of this section, a claimant may appeal to the Maryland Tax Court, within 30 days after the date on which a notice under § 20-116(c) of this subtitle is given . . . .
>
> (b) *Claimant.* — If a claimant is not given notice under § 20-116(c) of this subtitle within 6 months after the claim is filed, the claimant may:
>
> (1) treat the claim as being disallowed; and
>
> (2) appeal the disallowance to the Tax Court.

Under Montgomery County's interpretation of this provision, a refund claim is automatically deemed denied when the County does not act on it for six months, which in turn automatically triggers a 30-day deadline for filing an appeal. Thus, the County argues, Lockheed Martin had until January 14, 2013 to appeal the deemed denial of its June 14, 2012 refund claim (i.e. six months plus 30 days from submission). Lockheed Martin, on the other hand, argues that (1) whether to deem a non-response a denial is permissive at the election of the claimant, not automatic and (2) if a claimant decides to take advantage of that provision, there is no time restriction on doing so. We agree with Lockheed Martin.

Section 20-117(b) says that a claimant "may"—not must—treat a claim as being disallowed if notice is not given within six months of filing the claim. Thus, by the plain language of the statute, a deemed denial is permissive, not automatic. Where the legislative intent "is clear from the words of the statute, our inquiry normally ends and we apply the plain meaning of the statute." *State v. Neiswanger Mgmt. Servs., LLC*, 457 Md. 441, 458-59 (2018) (quoting *Huffman v. State*, 356 Md. 622, 628 (1999)).

The County's argument that this provision is permissive only to the extent that a claimant is not obligated to file an appeal at all is based on a misreading of what "may" applies to in the statute. The structure of the provision makes clear that the permissive "may" applies to both the decision to treat the claim as disallowed (subsection (b)(1)) *and* the decision to file an appeal (subsection (b)(2)). Both decisions are left to the option of the claimant. Although other deemed denial provisions have been found to be automatic, they contain starkly different language. For example, § 11-108(b)(2) of the State Personnel

and Pensions Article provides: "A failure to decide an appeal in accordance with this subtitle is considered a denial from which an appeal may be made." Under the plain language of that provision, the "failure to decide" is automatically "considered a denial," and the permissive "may" applies only to the decision whether to take an appeal. *Id.*; *see also Hughes v. Moyer*, 452 Md. 77, 84-85 (2017) (discussing § 11-108(b)(2)).

Moreover, even if a deemed denial itself were automatic, we see nothing in the plain text of § 20-117(b) that requires an appeal to be filed within 30 days. Under § 20-117(a), a claimant who receives an actual notice denying a claim has 30 days to appeal. Section 20-117(b) contains no such time limitation. We are obligated to treat the choice to include this deadline in subsection (a), but not in subsection (b), as meaningful, and to give it effect. *Phillips v. State*, 451 Md. 180, 196-97 (2017) (We read "the statute as a whole to ensure that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory.") (quoting *Douglas v. State*, 423 Md. 156, 178 (2011)). Moreover, the choice makes logical sense, as it is reasonable that a provision intended to provide taxpayers with an outlet to appeal in the event of government inaction would not require the taxpayer to initiate litigation that might, under the circumstances, be premature. As such, once past the six-month marker, whether and when to deem the County's lack of responsiveness as a denial was entirely up to Lockheed Martin. Of course, the County could also have started the appeal clock running at any time by deciding the claim.

B. Lockheed Martin Did Not Forfeit Its Right to Appeal to the Tax Court by Not Doing So Within 30 Days of the Finance Director's Denial.

Montgomery County alternatively argues that if Lockheed Martin still retained a right to appeal to the Tax Court by the time it received the Finance Director's March 21, 2014 express denial of its claim, it lost that right when it failed to exercise it within 30 days of that denial. According to the County, because the Finance Director is the County's highest-ranking tax official,[2] his denial constituted the notice described in § 20-117(a) of the Local Government Article, and so required Lockheed Martin to appeal within 30 days or forfeit its right to do so. Lockheed Martin replies that it did not appeal to the Tax Court within 30 days of the Finance Director's denial because the County's administrative remedies, published on its refund form, required Lockheed Martin to first appeal the initial denial by requesting a hearing with the Chief of the Division of Treasury.

Montgomery County's refund application form, in a section labeled "Appeal Rights," provides:

> The first right of appeal is with the Chief of the Division of Treasury. Requests for a hearing before the Chief of the Division of Treasury must be in writing and received by this office within thirty days of notification regarding the refund claim. Should you not be satisfied with the results of the hearing, you may appeal to the Maryland Tax Court and from the action of the Maryland Tax Court you may appeal to the Court of the State.

[2] The Finance Director is the designated tax collector for Montgomery County, pursuant to § 20-39 of the Montgomery County Code.

The County contends, in essence, that Lockheed Martin should have known not to follow this guidance. According to the County, when the Finance Director denied the claim, he basically skipped right to the end of the process, bypassing both the initial determination by a lower-level official *and* the hearing before the Chief of the Division of Treasury. Thus, the County argues, the only possible right of appeal was to the Tax Court.

Understandably, Lockheed Martin points out the stark inconsistency between this argument and the County's own form, which is the document the County provided to Lockheed to define the process required to exhaust administrative remedies. The plain language of the form contemplates an initial decision from which "[t]he first right of appeal is with the Chief of the Division of the Treasury." Only after exhausting that first right of appeal, say the instructions, may a claimant appeal to the Tax Court. A reasonable claimant would thus conclude that exhaustion of administrative remedies requires an appeal to the Chief of the Division of the Treasury. *See Md. Comm'n on Human Relations v. Balt. Gas & Elec. Co.*, 296 Md. 46, 56 (1983) ("[O]rdinarily the action of an administrative agency, like the order of a court, is final if it determines or concludes the rights of the parties, or if it denies the parties means of further prosecuting or defending their rights and interests in the subject matter in proceedings before the agency, thus leaving nothing further for the agency to do."); *see also Crofton Partners*, 99 Md. App. at 243 (stating that a corollary to the requirement that an appeal only lies from a final decision is the requirement that the aggrieved party "know . . . that the decision is final").

Here, the County established administrative remedies and Lockheed Martin followed them. Lockheed Martin's appeal was therefore timely.

Moreover, even if we had concluded that the Finance Director's March 21, 2014 denial did exhaust Lockheed Martin's administrative remedies, we would conclude that the County was estopped from raising this defense. "Equitable estoppel operates to prevent a party from asserting his rights under a general technical rule of law, when that party has so conducted himself that it would be contrary to equity and good conscience to allow him to do so." *Permanent Fin. Corp. v. Montgomery County*, 308 Md. 239, 247 (1986) (quoting *Fitch v. Double "U" Sales Corp*., 212 Md. 324, 339 (1957)); *see Sole v. Darby*, 52 Md. App. 218, 224 (1982) (estoppel applied when a party detrimentally relied on an ambiguous notice and "the confusion and ambiguity . . . [were] chargeable to the Register of Wills"). Though estoppel does not ordinarily apply against the State, chartered counties can be equitably estopped based on "positive acts by . . . officers that have induced . . . action of the adverse party" where that party "incurred a substantial change of position or made extensive expenditures in reliance on the act." *Anne Arundel County v. Muir*, 149 Md. App. 617, 636 (2003) (quoting *Permanent Fin. Corp.*, 308 Md. at 249). Lockheed Martin's letter of appeal stated that it was doing so "as required by the County's refund claim instructions" to "formally exhaust[] our administrative remedies so that we may appeal to the Maryland Tax Court if necessary." The County remained silent. Under those circumstances, equity precludes the County from later contesting the timeliness of Lockheed Martin's appeal on that ground.

C. The County's Subsequent Deemed Denial Was Also Permissive and Did Not Have a 30-Day Time Requirement to Appeal.

Montgomery County's third argument concerning timeliness is essentially the same, and suffers from the same flaws, as its first. The County contends that if Lockheed Martin's April 17, 2014 letter requesting a hearing was a valid appeal, then: (1) pursuant to § 20-117(b) of the Local Government Article, it was automatically deemed denied when the County did not act on it by October 17, 2014; (2) that gave Lockheed only 30 days, until November 17, 2014, to appeal; and (3) by not filing an appeal to the Tax Court by that date, Lockheed Martin waived its right to appeal. As set forth above, however, a "deemed denial" is permissive, not automatic, and § 20-117(b) does not require a claimant to appeal within 30 days of a deemed denial. Lockheed Martin's appeal was timely.

II. MONTGOMERY COUNTY HAD THE AUTHORITY TO IMPOSE A HOTEL RENTAL TAX.

Montgomery County first passed a hotel rental tax in 1971. The tax imposes "on each transient a tax at the rate of 7 percent of the total amount paid for room rental, by or for the transient, for sleeping accommodations in any hotel or motel that is located in the County." Mont. County Code § 52-16(a)(1). In 2013, the General Assembly enacted legislation exempting from hotel rental taxes any facility that operates solely in support of a corporate headquarters and does not offer lodging to the general public. 2013 Laws of Md., ch. 510, codified at Mont. County Code § 52-17(e). At the time, the CLE was the only facility covered by the exemption.

A. Montgomery County Imposed the Tax Pursuant to Its General Taxing Authority Under Chapter 808 of the Acts of 1963.

Lockheed Martin argues that the County's hotel rental tax was invalid, at least before 2014, because it was not authorized as a local law within the meaning of the Home Rule Amendment, Md. Const. Art. XI-A, or under the Express Powers Act, Md. Code Ann. Local Gov't §§ 10-101 to 10-330. Montgomery County contends that the tax is, and at all relevant times was, authorized under § 52-17 of the Montgomery County Code, which was enacted by the General Assembly as Chapter 808 of the 1963 Laws of Maryland. We agree that the hotel rental tax is (and was) authorized under Chapter 808.

"The power of a political subdivision of this State to enact laws depends on the extent to which the General Assembly has delegated to it its legislative powers which are plenary, except as limited by constitutional provisions." *Montgomery Citizens League v. Greenhalgh*, 253 Md. 151, 158 (1969) (internal quotation omitted). As a charter county, Montgomery County has the authority to enact local laws upon all matters covered by the express powers that were granted to it by the General Assembly for the purposes of adopting a charter and pursuing home rule. *See id*. at 159 (describing how, pursuant to Article XI-A of the Maryland Constitution, the General Assembly "provide[s] a grant of express powers for such County or Counties as may thereafter form a charter").

Additionally, through Chapter 808, the General Assembly separately "granted to Montgomery County, with designated exceptions, 'the power to tax to the same extent as the state has or could exercise said power within the limits of the county as a part of its general taxing power . . . .'" *Waters Landing Ltd. P'ship v. Montgomery County*, 337 Md. 15, 19 (1994) (quoting Chapter 808). This general taxing authority is additional to, and

distinct from, powers granted by the Express Powers Act. Contrary to Lockheed Martin's argument, the County's hotel rental tax did not have to be authorized by the Express Powers Act. The Court of Appeals long ago rejected the "novel but unpersuasive argument" that the Express Powers Act "somehow covers the entire field of taxation . . . so as to bar any local legislation by the General Assembly on that subject." *Montgomery County v. Md. Soft Drink Ass'n, Inc.*, 281 Md. 116, 130 (1977). Thus, in areas of taxation that are not covered by the Express Powers Act—including a hotel rental tax—the General Assembly's broad grant of taxing authority in Chapter 808 extends to Montgomery County the power to tax "so long as there is no impediment to the State" authorizing a similar tax. *Waters Landing*, 337 Md. at 39.

Lockheed Martin contends that Chapter 808 does not authorize the hotel rental tax for the additional reason that Chapter 808 only grants the County general taxing power "within the limits of the county," but the hotel rental tax extends beyond the limits of the county because it is imposed on non-residents.[3] We are not persuaded. The hotel rental tax applies only to the activity of staying at, and paying for, overnight accommodations

[3] Lockheed Martin points to the 1936 case *Dasch v. Jackson* for the proposition that "[a] law may be local in the sense that it operates only within a limited area, but general in so far as it affects the rights of persons without the area . . ." 170 Md. 251, 260 (1936). The full quotation from *Dasch*, however, goes on to state that a law may be general ". . . in so far as it affects the rights of persons without the area to carry on a business or to do the work incident to a trade, profession, or other calling within the area." *Id*. Whatever may be said about the ongoing viability of the *Lochner*-era decision in *Dasch*, a seven percent tax on the cost of a hotel room is hardly a curtailment of a non-resident's fundamental liberty to carry on a business or do the work incident to a profession within the limits of Montgomery County. *Dasch* is inapposite.

within the prescribed territorial limits of Montgomery County. Thus, the taxable event occurs entirely within the limits of the County. *See Hampton Assocs. Ltd. P'ship v. Baltimore County*, 66 Md. App. 551, 558-59 (1986) (noting that "Baltimore County's power to tax is strictly limited . . . to events occurring within the County," and then upholding the county's excise tax on real estate transfers because the taxable events occurred entirely within the county); *see also Waters Landing*, 337 Md. at 26-27 (upholding Montgomery County's development impact tax as a valid excise tax authorized by Chapter 808, and noting that the tax "was levied directly by the Montgomery County Council . . . on all who seek to develop land within the designated districts [i.e., within the county]"); *Fish Mkt. Nominee Corp. v. G.A.A. Inc.*, 337 Md. 1, 11-12 (1994) (finding that fixing the redemption interest rate for properties within Baltimore City was of local concern: "The fact that Baltimore City's redemption interest rate ordinance affects a non-resident owner or purchaser of real estate does not make the ordinance general in scope. It applies to tax sales of property only within Baltimore City and is, therefore, local."); *Steimel v. Bd. of Election Supervisors of Prince George's County*, 278 Md. 1, 5 (1976) (observing that the test to determine whether a law is a public local law, as opposed to a public general law, is whether the law "[i]s confined in its operation to prescribed territorial limits and [i]s equally applicable to all persons within such limits").

In sum, Chapter 808 authorized Montgomery County's hotel rental tax at all relevant times.

B. The General Assembly's Extension of Authority to Impose a Hotel Rental Tax Through a Separate Statutory Provision Does Not Diminish the Authority Provided in Chapter 808.

Lockheed Martin next argues that the General Assembly's 2014 extension of authority to impose hotel rental taxes to all charter counties somehow demonstrates that Montgomery County, a charter county, lacked that authority before 2014. We find no merit in this contention.

Title 4 of Chapter 20 of the Local Government Article authorizes certain counties to impose hotel rental taxes. Md. Code Ann., Local Gov't §§ 20-401 – 20-403. The counties covered by the authorization are identified in § 20-402. Before 2014, that section stated, "This part applies only to" a list that included "a code county" and 11 specifically-enumerated counties, four of which are charter counties. Montgomery County was not included.

In Chapter 464 of the 2014 Laws of Maryland, the General Assembly amended § 20-402 to add "a charter county" as a new category to which the law applied. The Act simultaneously deleted the specific references to the four charter counties that had previously been listed. Montgomery County, as a charter county, is thus currently authorized by § 20-402 to impose a hotel rental tax.

Lockheed Martin contends that two aspects of § 20-402 support its claim that Montgomery County lacked authority to impose a hotel rental tax before 2014. First, Lockheed Martin asserts that the statute's use of "only" in the introductory phrase acted as a prohibition against any county not included on the list establishing a hotel rental tax.

That misreads the statute. The plain meaning of § 20-402 is to *authorize* certain counties to adopt a hotel rental tax, not to prohibit counties that had that authority from a different statutory source from using it. Thus, the word "only" limits the counties to which Title 4 extends authority for a hotel rental tax. Nothing about this provision purports to restrict or limit the separate authority provided to Montgomery County in Chapter 808.[4]

Second, Lockheed Martin argues that the General Assembly's 2014 addition of "a charter county" to the list in § 20-402 somehow implies that the General Assembly believed that Montgomery County previously lacked authority to implement a hotel rental tax. To the contrary, legislative history confirms that the General Assembly understood and accepted that Montgomery County already had the authority to impose such a tax. *See*

[4] Furthermore, even if Lockheed Martin's interpretation of § 20-402's use of "only" were otherwise correct, it still would not prevail on this issue because "only" did not appear in the statute until 2013, with the creation of the Local Government Article by Chapter 119 of the 2013 Laws of Maryland. Section 20-402 was derived from former § 9-301(b) of Article 24, which had provided:

> *Authorized county*. – "Authorized county" means:
>
> (1) A code county;
> (2) Calvert County; . . .

The Revisor's Note explained: "This section is new language derived without substantive change from former Art. 24, § 9-301(b). This section is revised as a scope provision rather than a definition of 'authorized county' because the former definition served only to delineate what counties were covered by this subtitle." We do not think that the insertion of the word "only" was intended to repeal by implication Montgomery County's separate Chapter 808 authority to impose a valid hotel rental tax. "Ordinarily, 'a repeal by implication does not occur unless the language of the later statute plainly shows that the legislature intended to repeal the earlier statute,' in most cases by use of an 'express reference' to the previous enactment." *McGraw v. Loyola Ford, Inc.*, 124 Md. App. 560, 594 (1999) (quoting *State v. Harris*, 327 Md. 32, 39, (1992)).

Moore v. State, 388 Md. 466, 460 (2005) (legislative history can "bolster[]" the conclusion as to a statute's plain meaning). The Fiscal and Policy Note accompanying the legislation makes clear that its purpose was to authorize Harford County, not Montgomery County, to impose a hotel rental tax, because the General Assembly understood that "Harford County is the only jurisdiction [in Maryland] that does not impose a hotel rental tax." Md. Dep't of Legislative Servs., Revised Fiscal and Policy Note, S.B. 172, at 58 (2014).

Two other enactments make even more clear that the General Assembly had long been aware of, and at least implicitly accepted, Montgomery County's hotel rental tax before 2014. First, in 1995 the General Assembly added § 52-17(d) to the Montgomery County Code. 1995 Laws of Md., ch. 55. That provision requires Montgomery County to distribute its hotel rental tax revenue to certain of its geographic subunits. *Id.* And in 2013, the General Assembly enacted an exemption to the hotel rental tax that was clearly understood at the time to apply only to Lockheed Martin's CLE. 2013 Laws of Md., ch. 510. That would have been a strange exemption to create if Montgomery County lacked the authority to impose that tax on *any* facility within its borders.

C. Montgomery County's Tax Applied to the CLE.

Lockheed Martin also argues that the hotel rental tax, even if generally valid and applicable, no longer applied to the CLE after Montgomery County amended its ordinance in 2009 to remove the words "public or private" from the definition of "hotel[s]" covered by the tax. Before 2009, the ordinance defined a "hotel or motel" required to pay the tax as: "Any *public or private* hotel, inn, hostelry, tourist home or house, motel, apartment

hotel, rooming house, or other lodging place within Montgomery County" that offered sleeping accommodations for compensation. *See* 2009 Laws of Mont. County, ch. 14 (Expedited Bill 16-09) (emphasis added). After the 2009 revision, the definition was: "Any hotel, inn, hostelry, tourist home or house, apartment hotel, rooming house, or other lodging place that offers for compensation sleeping accommodations in the County to 5 or more transients at any one time."[5] *Id.*

Lockheed Martin focuses on the elimination of the qualifier "private" from the definition of "hotel or motel," and argues that this reflects an intent to exempt private hotels from the tax. Lockheed Martin contends that the simultaneous elimination of the qualifier "public" from the definition is of no moment because the unqualified word "hotel" *means* a public hotel. However, regardless of whether Lockheed Martin is right about the common meaning of the word "hotel," the CLE still fell within the plain language of the ordinance as an "other lodging place that offers for compensation sleeping accommodations in the County to 5 or more transients at any one time." Mont. County Code § 52-16(b). Accordingly, the County's hotel tax applied to the CLE after 2009.

In sum, we hold that Lockheed Martin's appeal to the Tax Court was timely, that the County's hotel rental tax is a valid exercise of Montgomery County's general taxing authority, that the tax applied to the CLE during the years for which Lockheed Martin seeks

[5] The current definition, codified at § 52-16(b) of the Montgomery County Code, is slightly different from the 2009 version, but the change does not affect our analysis here.

a refund, and that the Tax Court thus did not err in upholding Montgomery County's denial of Lockheed Martin's refund claim.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED IN PART AND REVERSED IN PART. REMANDED TO THE CIRCUIT COURT FOR MONTGOMERY COUNTY WITH INSTRUCTIONS TO AFFIRM THE ORDERS OF THE MARYLAND TAX COURT. COSTS TO BE SPLIT EVENLY BY THE APPELLANT AND APPELLEE.