WILLIAM JOHN PENCEK 10 E. Lee Street, Unit 1206 Baltimore MD 21202	* *	IN THE CIRCUIT COURT
DAVID TUFARO 216 Edgevale Road Baltimore, MD 21210	* *	FOR BALTIMORE CITY
ANIRBAN BASU 575 S. Charles Street, Ste. 505 Baltimore, MD 21201	* *	 Case No. __________
ELEANOR M. CAREY 10 E. Lee Street, Ste. 2005 Baltimore, MD 21202	* *	
ANTHONY AMBRIDGE 625 Stoney Run Drive Baltimore, MD 21210	* *	
BARBARA L. VALERI 10 E. Lee Street, Unit 1508 Baltimore, MD 21202	* *	
DAVID BENN 2901 Boston Street Baltimore, MD 21230	* *	
	*	
Plaintiffs,	*	
v.	*	
MAYOR AND CITY COUNCIL OF BALTIMORE 100 N. Holliday Street Baltimore, MD 21202	* *	
CITY COUNCIL FOR BALTIMORE CITY 100 N. Holliday Street Baltimore, MD 21202	* *	

BOARD OF ESTIMATES FOR BALTIMORE CITY *
100 N. Holliday Street
Baltimore, Maryland 21202 *

MCB HP BALTIMORE LLC *
2002 Clipper Park Road, Ste. 105
Baltimore, MD 21211 *

Serve on: Peter David Bramble, Resident Agent *
2002 Clipper Park Road, Ste. 105
Baltimore, MD 21211 *

Defendants. *

* * * * * * * * * * * * *

COMPLAINT FOR DECLARATORY, MANDAMUS AND PERMANENT INJUNCTIVE RELIEF

Plaintiffs, William John Pencek, David Tufaro, Anirban Basu, Eleanor M. Carey, Anthony Ambridge, Barbara L. Valeri, and David Benn, file this complaint for declaratory, mandamus, and permanent injunctive relief against Defendants Mayor and City Council of Baltimore, the City Council for Baltimore City, the Board of Estimates, and MCB HP Baltimore, LLC, and for causes of action state as follows:

THE PARTIES

1. Plaintiff William John Pencek owns and resides at real property located at 10 E. Lee Street, Unit 1206 in Baltimore City, Maryland.

2. Plaintiff David Tufaro owns and resides at real property located at 216 Edgevale Road in Baltimore City, Maryland.

3. Plaintiff Anirban Basu has his principal place of business at 575 S. Charles Street, Suite 505, in Baltimore City, Maryland.

4. Plaintiff Eleanor M. Carey owns and resides at real property located at 10 E. Lee Street, Unit 2005, in Baltimore City, Maryland.

5. Plaintiff Anthony Ambridge owns and resides at real property located at 626 Stoney Run Road in Baltimore City, Maryland.

6. Plaintiff Barbara L. Valeri owns and resides at real property located at 10 E. Lee Street, Unit 1508, in Baltimore City, Maryland.

7. Plaintiff David Benn owns and resides at real property located at 2901 Boston Street in Baltimore City, Maryland.

8. Defendant Mayor and City Council of Baltimore City (the "City") is a body corporate formed under the City Charter and the laws of the State of Maryland.

9. Defendant City Council for Baltimore City (the "City Council") is the legislative department of City government, established under Article III of the City Charter.

10. Defendant Board of Estimates for Baltimore City (the "Board of Estimates"), is established under Article VI of the City Charter and empowered to formulate and execute the fiscal policy of the City. The Mayor, City Council, and Board of Estimates are sometimes referred to herein collectively as the "City."

11. Defendant MCB HP Baltimore LLC ("MCB") is a limited liability company organized, on March 30, 2022, under the laws of the State of Delaware. According to its Non-Maryland Limited Liability Company Registration, the company was formed for the purpose of "perform[ing] business transactions." MCB engages in business in Baltimore City as a developer of real estate. MCB has an interest which would be affected by the requested declaratory and injunctive relief in this action. Md. Ann. Code, Cts. & Jud'l Proc. 3-405(a)(1); *see also* Md. Rule 2-211.

INTRODUCTION

12. In the late 1970's and 1980's, Baltimore's Inner Harbor was transformed into what the Urban Land Institute described as "the model for post-industrial waterfront redevelopment around the world." The Inner Harbor became Baltimore's crown jewel, attracting millions of visitors and bringing economic and cultural growth to the downtown area. The developer of Harborplace in the Inner Harbor, James Rouse, called it the "most valuable waterfront in the world."

13. In recent years, the Inner Harbor has suffered from mismanagement and deviated from its original concept as a festival marketplace. Redevelopment is clearly needed and there is genuine disagreement regarding how that should be done. Regardless, there are well-settled legal processes for granting rights in public parkland and approving development, and longstanding constitutional principles that must be followed. The Mayor, City Council, and Board of Estimates have disregarded these processes and principles and, instead, have embarked upon an unduly rushed, behind-the-scenes plan to privatize land within the Inner Harbor and hand it over, along with large areas of public parkland, to a favored developer. In doing so, the City has violated numerous provisions of the City Code, the Zoning Code, the City Charter, and the State Constitution.

14. The purpose of this litigation is to bring Defendants' violations of the law to light and ensure that the much-needed effort to restore the Inner Harbor and protect its use as a public park is undertaken openly and fairly, with due process, and in strict compliance with all applicable laws and regulations.

15. Plaintiffs have standing to bring this action because, by virtue of their proximity to the subject property, they will suffer special, particularized harm and invasion of personal

interests as a result of Defendants' violations of the laws alleged herein, different from the public at large. Plaintiffs also have standing as taxpayers. The acts and omissions of Defendants described herein constitute illegal and *ultra vires* conduct. If this conduct is not remedied and the law is not enforced, Plaintiffs will sustain pecuniary loss and/or an increase in their taxes. By way of example, the illegal and *ultra vires* conduct alleged will cause a significant loss in the value of Plaintiffs' properties. It will also cause a loss in the value of other nearby properties thereby impairing the property tax base and making government operations less efficient and more costly. Further, because MCB has received and will continue to receive grants, tax reductions, abatement of rent, and other taxpayer-funded financial incentives, the cost of the MCB's Inner Harbor Project will be borne, in substantial part, by Plaintiffs as taxpayers.

FACTS

The Development of the Inner Harbor and its Dedication as a Public Park

16. In November 1978, the City Council passed a charter amendment, subsequently ratified by the residents of Baltimore City, which dedicated perpetually the Inner Harbor, from the World Trade Center to Rash Field, an area of approximately 33 acres, for "public park uses for the benefit of this and future generations of the City of Baltimore and the State of Maryland." The amendment, codified at section 9 of Article I of the Charter, excluded from the public park 3.2 acres set aside for "eating places and other commercial uses" located to the north of Conway Street, and 3.4 acres that were set aside for the Maryland Science Center. Other than these 3.2-acre and 3.4-acre parcels, this public space ("Inner Harbor Park") is the only public park so dedicated in the Charter.

17. On July 18, 1979, the City entered into a 75-year agreement with Harborplace Limited Partnership (the "Harborplace Lease") for the lease of two parcels within the Inner Harbor, the areas that would eventually comprise the Light Street and Pratt Street pavilions. As will be discussed below, these areas are identified in the City's Urban Renewal Plan for the Inner Harbor as Development Areas 13 and 15a.

18. The Harborplace Lease imposed certain restrictive covenants binding on the parties and their successors and running with the land, including: (i) the only permitted land uses in the areas comprising the pavilions (Development Areas 13 and 15a) are retail, recreation, and management offices; (ii) no building or structure may be erected, permitted or maintained in these areas more than two stories or 50 feet in height; and (iii) no on-site parking is permitted in these areas. (Harborplace Lease, pp. 18-19, § 2.2(d), (e)).

19. Consistent with the Urban Renewal Plan (discussed below), the Harborplace Lease required that all of the public areas north of the Science Center and around the pavilions (Development Areas 13 and 15a) "shall be open to the general public and shall be devoted only to public park purposes." (*Id.*, p. 22, § 2.2(k)(i)).

20. Harborplace Limited Partnership subsequently developed the two pavilions at 201 E. Pratt Street (the Pratt Street Pavilion) and 301 Light Street (the Light Street Pavilion), now known collectively as Harborplace.

21. Over the past several decades, Harborplace and the larger Inner Harbor Park have been available to and used by residents of the City and members of the general public for a variety of activities and events, including seasonal markets and festivals, musical performances and concerts, an annual light show, fireworks, pedal boat rentals, kayak classes

and races, skateboarding, biking, yoga and fitness classes, a children's park, volleyball leagues and tournaments, and visitations by tall ships from around the world.

The Receivership Action and the "Private Sale" of Harborplace to MCB

22. In or about 2018, Harborplace Limited Partnership's successor in interest in Harborplace, AAC HP Realty, LLC ("AAC"), defaulted on its loan obligations. On April 12, 2019, Deutsche Bank filed an emergency petition in this Court for the appointment of a receiver for AAC, which was assigned Case No. 24-C-19-002288 (the "Receivership Action").

23. On May 30, 2019, the Court entered a Consent Order appointing IVL Group, LLC as receiver for Harborplace. The Consent Order authorized the Receiver, *inter alia*, to list for sale, solicit offers to purchase, and sell all or any part of Harborplace. (Consent Order, p. 8, ¶ 2(o)).

24. On September 19, 2022, the Receiver filed a motion seeking approval from the Court of a "private sale outside the ordinary course of business" to MCB of all of AAC's interests under the Harborplace Lease (the "Motion for Private Sale"). The Receiver stated that "after engaging in arm's length, good faith negotiations over several months *with representatives of [MCB]*, Receiver … has concluded that the proposed [private sale to MCB] is by far the best offer it has received or will receive." (Mot. for Private Sale, p. 7, ¶ 18) (emphasis added). The Receiver informed the Court that the City fully supported the "private sale" to MCB and, in fact, and that there had been "extensive discussions" between the Receiver, the City, and MCB in order to "formulate the terms of a plan for the … redevelopment of the [Inner Harbor]." (*Id.*, pp. 1, 5, ¶ 13).

25. The Receiver alleged in the Motion for Private Sale that the sale to MCB "will maximize the value of the Property" and that "such a result would not be obtained through a public sale in which the debt would be extinguished based on the bid price by a third-party purchaser." (*Id.*, p. 3, ¶ 4). The Motion for Private Sale did not explain why or how the debt would be extinguished if Harborplace was sold to a third-party nor did it provide any proof that the Receiver had solicited or received bids from other potential purchasers, engaged in negotiations, or even that the property had been marketed, listed or advertised for sale. (Order Appointing Receiver, ¶¶ 2(o), (p)). The Court's file in the Receivership Action, which is voluminous, likewise, does not reveal any such effort by the Receiver. The Motion for Private Sale attached a partial copy of a report by Cushman & Wakefield finding that the appraised market value of Harborplace was $45,800,000.

26. On December 16, 2022, the Court granted approval of the "private sale" to MCB "free and clear of all security interests, liens, claims and other interests…." The "private sale" to MCB was not contingent upon any further approvals by the City Council or the Board of Estimates. (Order Authorizing Receiver's Private Sale, p. 15).

The Fourth Amendment to Lease Agreement and Closing of the Private Sale

27. On or about March 31, 2023, prior to closing on the private sale, the City and MCB entered into a Fourth Amendment to Lease Agreement in order to "facilitate Developer's [MCB's] redevelopment of the [Inner Harbor]." For reasons not explained, the City agreed to "unconditionally" abate in full all rent that would be owed by MCB for a period of three years while MCB sought permits and other approvals required for the redevelopment project. (Fourth Am. Lease Agmnt., ¶ 3(b)). The amount of rent from MCB that the City agreed to forego was/is $262,500.00 per year or $787,500.00 over the three-year period.

28. In the Fourth Amendment to Lease Agreement, the City also agreed to pay MCB up to $1 million "for design, community engagement, planning, construction, repair, renovations, reconstruction, site improvements, and other costs in connection with the project." (*Id.*, pp. 2-3).

29. On June 21, 2023, the parties closed on the "private sale" whereby the Receiver "sold" to MCB all leasehold interests in Harborplace and all related personal property. The Report of Sale filed by the Receiver stated that the "purchase price" was "$82,994,552.06 (which sum includes the amount of the loan assumed by purchaser [MCB])." (Report of Sale, p. 1).

30. A week later, the Receiver filed an Amended Report of Sale which removed, without explanation, the purchase price of $84,994,552.06 and identified the purchase price as simply "[a]ssumption of the then outstanding balance of the loan." The Amended Report of Sale also indicated that the Receiver, not MCB, had paid all closing expenses, amounting to $67,523.45. (Am. Report of Sale, p. 1).

The City's Involvement in the Private Sale

31. The private sale to MCB was a done deal long before the Court approved it in December 2022. On April 5, 2022 (*i.e.,* eight months before the Court's approval and five months before the Receiver filed the Motion for Private Sale), Mayor Brandon Scott announced that MCB had already struck an agreement with the Receiver. Mayor Scott said at the time: "Today, West Baltimore's very own, David Bramble, announced that he has the rights to bring private investment for a revitalized Harborplace. Today, we start a new chapter for Harborplace – bringing Baltimore vision, Baltimore community investment, and Baltimore style to transform Harborplace into a landmark destination where residents can go

to enjoy the best that we have to offer – thriving small businesses, green spaces, and cultural venues. Dave has my full support and the support of my entire administration as he navigates the receivership process and works to bring hundreds of millions of dollars of investment into this part of our city." (*See also* Mot. for Private Sale, Ex. 2 at pp. 4, 24 ("On April 1, 2022, the Receiver agreed to a purchase offer from Baltimore-based real estate developer MCB HP Baltimore LLC")).

32. Following approval of the private sale, Mayor Scott admitted again publicly that the City had participated from the very beginning of the Receivership Action in the private sale to MCB. Mayor Scott stated that: "I've had the city solicitor working with [MCB's principal, Mr. Bramble] since the beginning of the receivership process and I remain committed to seeing this to fruition…. After helping to shake it loose from receivership to make this transformation possible, the City of Baltimore has worked with Dave and his team every step of the way."

33. Within days of closing on the private sale, MCB had already entered into contracts with numerous consultants and other professionals for the planning, design, traffic analysis, and other work associated with its development of the Inner Harbor. Over the ensuing months, the City paid the invoices of these professionals, totaling $1 million.

MCB's Inner Harbor Project

34. On October 30, 2023, at a press conference attended by the Governor, the State Comptroller and other City officials, Mayor Scott introduced representatives of MCB and their design team, and showed renderings of MCB's proposed redevelopment of the Inner Harbor (the "MCB Inner Harbor Project").

35. In his comments at the event, Mayor Scott confirmed that the City and MCB had long ago agreed upon the MCB Inner Harbor Project and taken steps to ensure its fruition. Mayor Scott stated: "I've been known to keep secrets, but the hardest one that I had to keep is the work that my law department and BDC [Baltimore Development Corporation] and others were doing from the first day I got into office to make sure we didn't let Harborplace stay or get into other out-of-town hands. We made sure Harborplace got into the hands of a West Baltimore boy who understands and knows Baltimore like no one else." In a subsequent interview, the Mayor reiterated that: "What we've been able to do is through [the] receivership working with the Law Department get it into Dave's [Bramble'] hands."

36. The MCB Inner Harbor Project proposes expansive development of Harborplace and Inner Harbor Park, from the World Trade Center on the north, along the shoreline of the harbor, to the Science Center on the south. MCB proposes to demolish the two Pratt and Light Street pavilions, the existing plazas and promenade along the water, and other public spaces, and construct (i) two high-rise private residential towers (32 and 25 stories) with 900 units along Light Street, (ii) two 200,000 square foot commercial/retail buildings along Pratt Street, and (iii) an 8,500 square foot retail building bounded by Light and Pratt Streets. The MCB Inner Harbor Project entails closing off public roadways and the demolition and reconstruction of the Inner Harbor's shoreline.

37. MCB has estimated the costs of development of the MCB Inner Harbor Project to be at least $900 million, with approximately $400-500 million coming from taxpayers.

The Introduction of the three (3) MCB Inner Harbor Bills

38. On the very same day as the press conference, October 30, 2023, Councilmember Eric Costello and President Nick Mosby introduced three bills for the specific

purpose of advancing the MCB Inner Harbor Project (the "MCB Inner Harbor Bills" or "Bills"). The Bills were drafted by MCB's attorney and stated, on their face, that they were being introduced "at the request" of MCB.

> At the request of: MCB HP Baltimore, LLC
> Address: c/o Caroline Hecker, Esq.
> Rosenberg Martin Greenberg, LLC
> 25 South Charles St., Suite 21st Fl.
> Baltimore Maryland 21202

(The Charter Amendment – Bill 23-0444)

39. Bill 23-0444, as originally introduced, sought to modify Section 9 of the City Charter by setting aside within public space "multi-family dwellings and off-street parking" in addition to eating places and other commercial uses, and to increase the area in which all such uses are permitted from 3.2 to 4.5 acres.

40. Notably, however, the City Solicitor, by letter dated November 28, 2023, informed the City Council that multi-family dwellings and off-street parking are not uses for the benefit of the public and therefore cannot be characterized as parkland or dedicated to public purposes. The letter explained that this amendment "could jeopardize the characterization of the entire park" and recommended amending the Bill "to excise from the dedicated park land that part of the area that will be used for non-public purposes, namely the multi-family dwellings and parking." The Planning Department's staff report on Bill 23-0444 similarly noted that "[a]llowing mixed-use buildings would limit any purely residential structures, which would arguably be the privatization of public access to portions of the harbor."

41. Bill 23-0444 was subsequently amended to clarify that "any areas used for multi-family dwellings and off-street parking are *not* dedicated as a public park." The Bill

proposed, in other words, that these areas, comprising approximately 1.3 acres, would be excised from the public park in order to accommodate the MCB Inner Harbor Project.

(The Zoning Amendment – Bill 23-0446)

42. Bill 23-0446 proposed amending section 10-207(c)(3) and Table 10-401 of Article 32 of the City's Zoning Code to (i) remove the requirement that development be "relatively low-scaled to accommodate the view of the harbor from adjoining subdistricts," (ii) remove the 100-foot maximum building height limitation, and (iii) allow "mixed-use" development.

43. By letter dated November 28, 2023, the City Solicitor instructed the City Council that (i) in considering the bill, the Council must, under section 5-508 of the Zoning Code, make findings of fact supporting the approval standards in that section; and (ii) as a "legislative authorization" under section 5-501, the City must follow certain procedures in the Bill's passage. The City Solicitor also instructed that the Law Department would approve Bill 23-0446 for form and legal sufficiency *only* if "all procedural requirements are met."

(The Urban Renewal Plan Amendment – Bill 23-0448)

44. Bill 23-0448 proposed changes to the land uses allowed under the City's Urban Renewal Plan for Inner Harbor Park.

45. The City adopted the Urban Renewal Plan in 1967 in order to eliminate the blighted nature of the park and to "provide land for needed public improvements such as open space, access to the water's edge, active recreation areas and pedestrian and vehicular circulation." (Plan, pp. 2-3 at II.B).

46. The Urban Renewal Plan, prior to the amendment proposed by Bill 23-0448, identified certain "Development Areas" within Inner Harbor Park, the types of land uses that

are permitted in each area, and other standards for development. (Urban Renewal Plan, pp. 14-19, 28 (Ex. B)). Development Areas 13 and 15a comprise the areas presently occupied by the two pavilions at Harborplace. The Urban Renewal Plan imposed a 50-foot height limitation on the buildings in Development Areas 13 and 15a. (*Id.*, pp. 16-17). Development Areas 10, 12, 14, 15, and 17 comprise the remainder of Inner Harbor Park (exclusive of the Science Center and the World Trade Center). (*Id.*, pp. 14-19). The Urban Renewal Plan identified the required land use for these areas as "public." Development Area 15, in particular, is dedicated in the Urban Renewal Plan "perpetually as public open space so as to be available forever for public use…." (*Id.*, p. 17).

47. Bill 23-0488 proposed changes to the permitted uses in Development Areas 13, 14, and 15a for the purpose of accommodating the MCB Inner Harbor Project. Specifically, the bill, for Development Area 13 (the Pratt Street pavilion), (i) added "residential" to the permitted uses, and (ii) removed the 50-foot height limitation. For Development Area 14, the bill (i) added "commercial" uses as permitted uses in addition to "public" uses, (ii) removed the three-story height limitation, (iii) removed the 20,000 square foot limit for the permitted uses, and (iv) removed the prohibition against construction at or above grade level. For Development Area 15a, the bill (i) added "residential" uses as permitted uses, (ii) removed the 50-foot height limitation, and (iii) allowed off-street parking.

Review and Passage of the MCB Inner Harbor Bills

48. On November 2, 2023, the City Council referred the MCB Inner Harbor Bills to City agencies for their review and comment. The agencies considered the three Bills collectively and issued either a single written comment or identical written comments on all

three Bills. At its regular meeting on December 21, 2023, the Planning Commission discussed the three Bills collectively and recommended passage of the Bills.

49. On March 4, 2024, the City Council approved the MCB Inner Harbor Bills and sent them to the Mayor for his signature. On March 11, 2024, the Mayor signed the Bills.

Ratification of the Charter Amendment

50. The charter amendment authorized by Bill 23-0444 was submitted to Baltimore City voters on the ballot in the general election on November 5, 2024. The ballot question stated:

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

51. In an action challenging the ballot question, the Circuit Court for Anne Arundel County found that the amendment was not easily understandable to the average voter and not proper charter material. The Supreme Court of Maryland, however, reversed the Circuit Court, concluding that the plaintiffs' claims were barred by laches. In *dictum*, the Supreme Court agreed that the ballot question could have been drafted better and written more clearly, but nonetheless found that it conveyed, with minimum reasonable clarity, the actual scope and effect of the measure to permit an average voter to exercise an intelligent choice in voting for or against the measure. *Maryland State Board of Elections v. Ambridge*, 489 Md. 404 (2025).

Broken Promises: The Taxpayers Will Pay for the MCB Inner Harbor Project

52. MCB has publicly promised residents and City leaders on multiple occasions that demolition and redevelopment of Harborplace and Inner Harbor Park would not proceed until full financing for the entire project is secured and that financial assistance would not be requested of or provided by the City. In a December 2023 interview with the Mayor present, Mr. Bramble stated: "We are not asking the Mayor for tax increment financing or any of those kinds of subsidies…." In a February 2024 City Council hearing, Mr. Bramble stated: "We are not looking for any city funding for the project." A representative of the City's Finance Department reinforced at the same hearing that: "There is no direct ask of city funding associated with the project."

53. Despite these promises, MCB recently applied for and quickly obtained approval from the Baltimore Development Corporation ("BDC") of a massive property tax reduction under the PILOT (payment in lieu of taxes) program. The tax reduction, which could amount to a reduction in MCB's property taxes of 95% over 25 years, was approved by BDC's Board of Directors, chaired by Mayor Scott's deputy mayor, in executive session and without prior public notice. Two media outlets have filed complaints against BDC for violation of the Open Meetings Act in connection with its decision.

54. Further, although funding is not in place for the entire Inner Harbor Project, MCB, contrary to its promises, has nevertheless applied for City and State permits to begin redevelopment of Inner Harbor Park. According to the City permits, the proposed start date for the work is October 15, 2026.

VIOLATIONS OF LAW

Violation of Maryland Constitution - Article III, § 33 (Special laws)

55. Article III, section 33 of the Maryland Constitution provides that a legislature "shall pass no special Law, for any case, for which provision has been made, by an existing General Law…." The purpose of section 33 is to prevent legislatures from passing private acts for the benefit of particular persons or individual cases. Special laws are inherently undemocratic. They discriminate against the poor, powerless, and under-represented. They encourage corruption and the appearance of corruption and thus lessen public respect for public officials and trust in the law. They impede the public's participation and input in their government.

56. The MCB Inner Harbor Bills are special laws that violate this constitutional prohibition. The Bills were passed for the benefit of particular persons, namely MCB and its principals, for an individual case, namely MCB's acquisition and development of the Inner Harbor by MCB, and relate to a subject matter for which a general law already exists, namely the City's Zoning Code. The Bills were intended to benefit, and their substance and practical effect was to benefit, the narrow pecuniary interests of MCB and its principals. There was no other basis, for example, for eliminating the height limitation, removing areas from the public park, or amending the Urban Renewal Plan other than to advance the MCB Inner Harbor Project. MCB sought and received special advantages for itself and its principals. The Bills do not serve a public need or public interest, are arbitrary and without any reasonable basis, and are not tailored to meet new conditions that the general law is not able to meet.

57. The City conferred other substantial benefits on MCB, including forbearance of substantial rent over three years and the payment of $1 million to cover MCB's costs associated with design, etc. of the MCB Inner Harbor Project.

Violations of City Charter - Article VIII, §§ 1-3 (Franchises)

58. The City Charter provides that the City's title in its parklands and other public property is "inalienable." Charter, Art. VIII, § 1. The Charter authorizes the City to grant a right or "franchise" in parkland or other public property but only "for a limited time" and only if "the terms and conditions of the grant shall have first been authorized and set forth in an ordinance duly adopted." *Id.*

59. The Charter requires that any such grant must "specifically set forth and define the nature, extent and duration of the franchise or right thereby granted" and prohibits the granting of a franchise or right "by implication." The City must retain "the power and right to reasonably regulate in the public interest the exercise of the franchise or right so granted" and cannot "divest itself of the right or power so to regulate the exercise of such franchise or right." *Id.*

60. The Charter requires that, after a franchise ordinance is introduced, it must be referred to the Board of Estimate, which is obligated to "make diligent inquiry as to the money value of said franchise or right proposed to be granted and the adequacy of the proposed compensation to be paid therefor to the City … and the propriety of the terms and conditions of said ordinance…." *Id.* § 2. The Board has the "duty" to "fix" the compensation for the franchise "at the largest amount it may be able to obtain…." *Id.*

61. If the Board of Estimates approves the amount of the compensation for the franchise (the "franchise fee") and other the terms and conditions, the City Council must then

adopt an ordinance specifically setting forth those terms and conditions and the nature, extent and duration of the franchise or rights granted. *Id.*

62. The Charter prohibits the granting of a franchise or right for longer than a period of twenty-five years. Charter, Art. VIII, § 3. The City may grant the right to renew the franchise ("on fair revaluation, including in such revaluation the value derived from the said franchise or right"), but the renewals may not "exceed[] in the aggregate twenty-five years." *Id.*

63. The City granted rights and franchises in Harborplace and Inner Harbor Park in the Fourth Amendment to Lease Agreement and, upon information and belief, other instruments. By actively supporting and authorizing the MCB Inner Harbor Project, the City has also granted rights and a franchise in Inner Harbor Park to MCB by implication. Further, the Charter amendment effectuated by Bill 23-0444, although ratified by the voters, authorized the MCB Inner Harbor Project in 1.3 acres of land that had previously been dedicated in perpetuity for public land and, thus, granted a franchise and rights to MCB. Likewise, the amendment to the Urban Renewal Plan effectuated by Bill 23-0448 authorizes the MCB Inner Harbor Project in Development Areas 13, 14, and 15a, thus granting a franchise and rights to MCB in those areas.

64. For each of these grants of franchises and rights, the City violated and is violating the Charter in numerous respects, including:

a. The City Council failed to introduce an ordinance proposing the granting of a franchise or rights to MCB in Harborplace and Inner Harbor Park;

b. The Board of Estimates did not conduct any inquiry, much less a diligent inquiry, into the adequacy of the amount paid by MCB for the franchises and rights granted in Harborplace and Inner

Harbor Park or the adequacy of other terms and conditions of those grants;

c. The Board of Estimates did not discharge its duty to fix the amount paid by MCB for the franchises and rights at the largest amount it could obtain;

d. The Board of Estimates did not approve by vote or resolution the amount paid by MCB for the franchises and rights in Harborplace and Inner Harbor Park;

e. The City Council did not adopt an ordinance authorizing the grant of the franchises and rights, or specifying the terms and conditions thereof;

f. The franchises and rights granted to MCB in Harborplace and Inner Harbor Park were not granted "for a limited time" and granted for a period longer than 25 years;

g. The City granted franchises and rights in Harborplace and Inner Harbor Park to MCB without specifically setting forth and defining their nature, extent and duration;

h. The City granted franchises and rights in Harborplace and Inner Harbor Park to MCB by implication; and

i. The City granted franchises and rights in Harborplace and Inner Harbor Park to MCB without retaining the power and right to reasonably regulate in the public interest the exercise of the franchise or rights, and divested itself of the right or power so to regulate the exercise of such franchises and rights.

65. The City's, City Council's, and the Board of Estimates' conduct in this matter otherwise exceeded the authority granted them in Articles II, III, IV, VI and VIII of the City Charter and was thus *ultra vires*.

Violations of the Zoning Code (Bill 23-0446)

66. Section 5-508(a) of the Zoning Code requires the City Council and the Planning Commission to consider certain "approval standards" in the evaluation of any text amendment, such as Bill 23-0446, for (i) consistency with the City's Comprehensive Master

Plan; (ii) whether it would promote public health, safety, and welfare; (iii) its consistency with the intent and general regulations of the Code; (iv) whether it would correct an error or omission, clarify existing requirements, or effect a change in policy; and (v) whether it would create nonconformities. § 5-508(c); § 5-506 (a)(2) ("The Planning Commission must evaluate the bill in accordance with the standards in 5-508"). Section 5-507(a)(2) similarly provides that a committee of the City Council, at a public hearing, must evaluate a text amendment in accordance with these same approval standards.

67. Despite the City Solicitor's instructions that the City Council must make the findings regarding the approval standards in section 5-508(c), neither the City Council, nor the Planning Commission, nor any committee of the City Council, did so.

68. Bill 23-0466 is an illegal text amendment because it relates to one or more specific properties and does not approve, authorize or amend a prior approval, in violation of section 5-501 of the Zoning Code.

Violations of City Code - Article 13, §§ 2-5, 2-6(g)(2) (Bill 23-0448)

69. Section 2-6(g)(2) of Article 13 of the City Code requires changes to a renewal plan to be adopted and approved in the same manner as a new plan. Bill 23-0448 and the amendments it proposes violate this requirement because: (i) the amendments do not contain a land use map as required by section 2-5(b)(2); (ii) the amendments are not sufficiently complete as to meet the requirements of section 2-5(b)(3); and (iii) the amendments do not state the reasons for the proposed amendments as required by section 2-5(b)(6). Moreover, (i) the Director of Planning did not approve the amendments as required by section 2-6(c)(2); (ii) the Planning Commission did not review the amendments for conformity with the Master Plan as required by section 2-6(h)(6)(i); and (iii) the Department of Housing and Community

Development did not review the amendments for conformity with section 2-5(b) or review and evaluate the impact of the amendments to the Plan, as required by section 2-6(h)(5).

COUNT I
(Declaratory Judgment – Special Laws in Violation of Md. Const., Art. III, § 33)

Plaintiffs incorporate the allegations in the preceding paragraphs as if fully stated herein.

70. Pursuant to Md. Code Ann., Cts. & Jud'l Proc. § 3-406, "[a]ny person … whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation, land patent, contract, or franchise and obtain a declaration of rights, status, or other legal relations under it."

71. Plaintiffs' interests and rights are affected by the provisions of the Maryland Constitution which this Court is asked to construe.

72. An actual and justiciable controversy exists between the parties.

73. Antagonistic and adverse claims are present between the parties.

74. Plaintiffs assert a legal relation, status, right or privilege that is challenged by defendants.

75. Granting a declaratory judgment will serve to terminate the uncertainty or controversy giving rise to this proceeding.

76. Pursuant to Md. Code Ann., Cts. & Jud'l Proc., § 3-412, the Court may grant "[f]urther relief based on a declaratory judgment or decree … if necessary or proper."

WHEREFORE, Plaintiffs respectfully request that the Court enter a declaration that:

A. City Council Bills 23-0444, 23-0446, and 23-0448 are "special laws" that violate Article III, section 33 of the Maryland Constitution;

B. Bills 23-0444, 23-0446, and 23-0448 are each null and void and have no legal effect;

C. Defendants are prohibited from executing upon or otherwise giving effect to Bills 23-0444, 23-0446, and 23-0448;

D. Plaintiffs are awarded their attorneys' fees, costs, and expenses in bringing this action; and

E. Plaintiffs are entitled to such other and further relief as the nature of this cause requires.

COUNT II
(Declaratory Judgment – Grant of Franchises and Rights in Violation of Article VIII, City Charter)

Plaintiffs incorporate the allegations in the preceding paragraphs as if fully stated herein.

77. Plaintiffs' interests and rights are affected by the provisions of the City Charter that this Court is asked to construe.

78. An actual and justiciable controversy exists between the parties.

79. Antagonistic and adverse claims are present between the parties.

80. Plaintiffs assert a legal relation, status, right or privilege that is challenged by defendants.

81. Granting a declaratory judgment will serve to terminate the uncertainty or controversy giving rise to this proceeding.

82. Pursuant to Md. Code Ann., Cts. & Jud'l Proc., § 3-412, the Court may grant "[f]urther relief based on a declaratory judgment or decree … if necessary or proper."

WHEREFORE, Plaintiffs respectfully request that the Court enter a declaration that:

A. The City's and the Board of Estimates' conduct in this matter violated Article VIII of the City Charter in numerous respects, including:

1. The City Council failed to introduce an ordinance proposing the granting of a franchise or rights to MCB in Harborplace and Inner Harbor Park;

2. The Board of Estimates did not conduct any inquiry, much less a diligent inquiry, into the adequacy of the amount paid by MCB for the franchises and rights granted in Harborplace and Inner Harbor Park or the adequacy of other terms and conditions;

3. The Board of Estimates did not discharge its duty to fix the amount paid by MCB for the franchises and rights granted at the largest amount it could obtain;

4. The Board of Estimates did not approve by vote or resolution the amount paid by MCB for the franchises and rights in Harborplace and Inner Harbor Park;

5. The City Council did not adopt an ordinance authorizing the grant of the franchises and rights and specifying the terms and conditions thereof;

6. The franchises and rights granted to MCB in Harborplace and Inner Harbor Park were not granted "for a limited time" and granted for a period longer than 25 years;

7. The City granted franchises and rights in Harborplace and Inner Harbor Park to MCB without specifically setting forth and defining their nature, extent and duration;

8. The City granted franchises and rights in Harborplace and Inner Harbor Park to MCB by implication; and

9. The City granted franchises and rights in Harborplace and Inner Harbor Park to MCB without retaining the power and right to reasonably regulate in the public interest the exercise

> of the franchise or rights, and divested itself of the right or power so to regulate the exercise of such franchise and rights.

B. The Fourth Amendment to Lease Agreement dated March 31, 2023 and any other agreements or instruments purporting to grant a franchise or rights to MCB in Harborplace and Inner Harbor Park are null and void and have no legal effect;

C. To the extent the City granted, by implication, a franchise or rights to MCB in Harborplace or Inner Harbor Park, any such franchise and rights are null and void and have no legal effect;

D. The Mayor's, the City Council's, and the Board of Estimates' conduct in this matter otherwise exceeded the authority granted them in Articles II, III, IV, VI and VIII of the City Charter and was thus *ultra vires*;

E. Plaintiffs are awarded their attorneys' fees, costs, and expenses in bringing this action; and

F. Plaintiffs are entitled to such other and further relief as the nature of this cause requires.

COUNT III
(Declaratory Judgment – Bill 23-0446 – Violations of Zoning Code)

Plaintiffs incorporate the allegations in the preceding paragraphs as if fully stated herein.

83. Plaintiffs' interests and rights are affected by the provisions of the Zoning Code that this Court is asked to construe.

84. An actual and justiciable controversy exists between the parties.

85. Antagonistic and adverse claims are present between the parties.

86. Plaintiffs assert a legal relation, status, right or privilege that is challenged by defendants.

87. Granting a declaratory judgment will serve to terminate the uncertainty or controversy giving rise to this proceeding.

88. Pursuant to Md. Code Ann., Cts. & Jud'l Proc., § 3-412, the Court may grant "[f]urther relief based on a declaratory judgment or decree … if necessary or proper."

WHEREFORE, Plaintiffs respectfully request that the Court enter a declaration that:

A. The City Council violated sections 5-508(a) of the Zoning Code by failing to consider and evaluate Bill 23-0446 in accordance with the approval standards in section 5-5-508(c);

B. The Planning Commission violated sections 5-508(a) and 5-506(a)(2) of the Zoning Code by failing to consider and evaluate Bill 23-0446 in accordance with the approval standards in section 5-508(c);

C. The City Council violated section 5-507(a)(2) of the Zoning Code in that a committee of the Council did not consider or evaluate Bill 23-0446 in accordance with the approval standards in section 5-508(c);

D. Bill 23-0446 is null and void and has no legal effect;

E. Defendants are prohibited from executing upon or otherwise giving effect to Bill 23-0446;

F. Plaintiffs are awarded their attorneys' fees, costs, and expenses in bringing this action; and

G. Plaintiffs are entitled to such other and further relief as the nature of this cause requires.

COUNT IV
(Declaratory Judgment – Bill 23-0448 – Violations of Article 13, City Code)

Plaintiffs incorporate the allegations in the preceding paragraphs as if fully stated herein.

89. Plaintiffs' interests and rights are affected by the provisions of the City Code that this Court is asked to construe.

90. An actual and justiciable controversy exists between the parties.

91. Antagonistic and adverse claims are present between the parties.

92. Plaintiffs assert a legal relation, status, right or privilege that is challenged by defendants.

93. Granting a declaratory judgment will serve to terminate the uncertainty or controversy giving rise to this proceeding.

94. Pursuant to Md. Code Ann., Cts. & Jud'l Proc., § 3-412, the Court may grant "[f]urther relief based on a declaratory judgment or decree … if necessary or proper."

WHEREFORE, Plaintiffs respectfully request that the Court enter a declaration that:

A. Bill 23-0448 violates section 2-6(g)(2) of Article 13 of the City Code because the amendments it proposes were not adopted and approved in the same manner as the original plan and otherwise violate Article 13 because:

1. the amendments do not contain a land use map in violation of section 2-5(b)(2);

2. the amendments are not sufficiently complete as to meet the requirements of section 2-5(b)(3);

3. the amendments do not state the reasons for amending the Urban Renewal Plan in violation of section 2-5(b)(6);

4. the Director of Planning did not approve the amendments in violation of section 2-6(c)(2);

4. the Planning Commission did not approve the amendments in violation of section 2-6(h)(6); and

5. DHCD did not review the amendments for conformity with sections 2-5(b) or evaluate the impact of the amendment on the original Urban Renewal Plan in violation of section 2-6(h)(5).

B. Bill 23-0448 is null and void and has no legal effect;

C. Defendants are prohibited from executing upon or otherwise giving effect to Bill 23-0448;

D. Plaintiffs are awarded their attorneys' fees, costs, and expenses in bringing this action; and

E. Plaintiffs are entitled to such other and further relief as the nature of this cause requires.

COUNT V
(Writ of Mandamus)

Plaintiffs incorporate the allegations in the preceding paragraphs as if fully stated herein.

95. The City, City Council, and Board of Estimates have clear and ministerial duties under the forementioned provisions of the City Charter, Zoning Code, and City Code.

96. The City, City Council, and Board of Estimates have violated their ministerial duties under the Charter.

97. Plaintiffs have no adequate remedy by which they can compel the City, City Council, and Board of Estimates to comply with the terms of the law.

WHEREFORE, Plaintiffs respectfully request that the Court

A. Issue a writ of mandamus ordering:

1. the City, City Council and Board of Estimates to comply with their duties under Article VIII, § 1-3 of the City Charter as alleged herein;

2. the City Council and Planning Commission to comply with their duties under §§ 5-501 *et seq.* of the Zoning Code as alleged herein;

3. the City Council, Planning Commission, Director of Planning, and the Department of Housing and Community Development to comply with their duties under Article 13, §§ 2-5 *et seq.* of the City Code as alleged herein; and

B. Grant such other and further relief that the nature of this cause requires.

COUNT VI
(Permanent Injunctive Relief)

Plaintiffs incorporate the allegations in the preceding paragraphs as if fully stated herein.

98. Irreparable harm will occur if Defendants are permitted to violate and continue violating the law, proceed with demolition of the existing buildings, piers, promenade and other infrastructure, and redevelop Harborplace and Inner Harbor Park as proposed including, but not limited to, immediate and permanent harm to the environment, harm to Plaintiffs' health, quality of life, and the use and enjoyment of their properties, loss of access to and use of public parkland and amenities, loss of light and air, loss of viewshed, and increased congestion and pollution, and the denial of Plaintiffs' rights to the due process afforded by the forementioned provisions of the Zoning Code, City Code and City Charter.

99. The benefits to Plaintiffs of obtaining injunctive relief far outweigh the harm, if any, to Defendants.

100. The public interest would be served by the granting of injunctive relief.

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Enter an order permanently enjoining the City from giving any effect to or executing Bills 23-0444, 23-0446, and 23-0448;

B. Enter an order permanently enjoining MCB from exercising any rights in Harborplace or Inner Harbor Park pursuant to Bills 23-0444, 23-0446, and 23-0448;

C. Enter an order enjoining the City from issuing any permits or approvals for the demolition of existing structures and infrastructure in, or the construction or redevelopment of, Harborplace and Inner Harbor Park unless and until the processes set forth in the Zoning Code (§§ 5-5-1 *et seq.*), City Code (Art. 12, §§ 2-5, 2-6), and the City Charter (Art. VIII, §§ 1-3), as alleged herein, are strictly and fully complied with;

D. Enter an order enjoining MCB from undertaking any demolition, construction, or redevelopment in Harborplace or Inner Harbor Park unless and until the processes set forth in the Zoning Code, City Code, and the City Charter, as alleged herein, are strictly and fully complied with;

E. Enter an order awarding Plaintiffs their attorneys fees, costs, and expenses in bringing this action; and

F. Entering an order awarding Plaintiffs such other and further relief as the nature of this cause requires.

Respectfully submitted,

_________/s/_________________

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Dated: September 21, 2026