

IN THE CIRCUIT COURT FOR Frederick County (CC)

City/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 Justice of the Supreme Court of Maryland 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: [X] PLAINTIFF [ ] DEFENDANT

CASE NUMBER C-10-CV-26-000326

CASE NAME: Rowan Frederick III LLC

vs. Frederick County Board of Elections, et al

PARTY'S NAME: Rowan Frederick III LLC

PHONE:

PARTY'S ADDRESS: 1400 16th Street, Suite 330 Denver Colorado 80202

PARTY'S E-MAIL:

If represented by an attorney:

PARTY'S ATTORNEY'S NAME: Charles R. Schaller

PHONE: (410) 862-1135

PARTY'S ATTORNEY'S ADDRESS: 100 Light Street, 19th Floor, Baltimore MD 21202

PARTY'S ATTORNEY'S E-MAIL: cschaller@bakerdonelson.com

JURY DEMAND? [ ] Yes [X] No

RELATED CASE PENDING? [X] Yes [ ] No If yes, Case #(s), if known: C-10-CV-26-000309

ANTICIPATED LENGTH OF TRIAL?: hours 1 days

PLEADING TYPE

New Case: [X] 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
[ ] Child Victims Act
[ ] 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/Mncpl Code/Ord
[X] 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
[ ] Worker's 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

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

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)**

- Under \$10,000             \$10,000 - \$30,000             \$30,000 - \$100,000             Over \$100,000
- Medical Bills \$ \_\_\_\_\_     Wage Loss \$ \_\_\_\_\_     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**

- If a Spoken Language Interpreter is needed, **check here and attach form CC-DC-041**
- If you require an accommodation for a disability under the Americans with Disabilities Act, **check here and attach form CC-DC-049**

**ESTIMATED LENGTH OF TRIAL**

*With the exception of Baltimore County and Baltimore City, please fill in the estimated **LENGTH OF TRIAL**.*

*(Case will be tracked accordingly)*

- |   |   |
|---|---|
| <input type="checkbox"/> 1/2 day of trial or less | <input type="checkbox"/> 3 days of trial time           |
| <input type="checkbox"/> 1 day of trial time      | <input type="checkbox"/> More than 3 days of trial time |
| <input type="checkbox"/> 2 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 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 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 Related<br>Cases, Fraud and Misrepresentation, International Tort, Motor Tort, Other<br>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 and<br>out-of-state witnesses (parties), and trial of five or more days), State 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.  |

4/13/2026 \_\_\_\_\_  
Date

/s/ Charles S. Schaller \_\_\_\_\_ 9106200250  
Signature of Attorney/Party Attorney Number

100 Light Street, 19th Floor \_\_\_\_\_  
Street Address

Charles S. Schaller \_\_\_\_\_  
Printed Name

Baltimore MD 21202 \_\_\_\_\_  
City State Zip Code

cschaller@bakerdonelson.com \_\_\_\_\_  
E-mail



**IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND**

**ROWAN FREDERICK LLC,** )  
1400 16<sup>th</sup> Street )  
Suite 330 )  
Denver, Colorado 80202 )

Case No. C-10-CV-26-000326

**ROWAN FREDERICK II LLC,** )  
1400 16<sup>th</sup> Street )  
Suite 330 )  
Denver, Colorado 80202 )

**Filed Under Md. Code. Elec. Law § 6-209  
Subject to Expedited Review**

and )

**ROWAN FREDERICK III LLC,** )  
1400 16<sup>th</sup> Street )  
Suite 330 )  
Denver, Colorado 80202 )

**Plaintiffs,** )

v. )

**FREDERICK COUNTY BOARD OF** )  
**ELECTIONS** )  
8490 Progress Drive )  
Suite 300 )  
Frederick, Maryland 21701 )

Serve on: )  
Barbara Wagner )  
8490 Progress Drive )  
Suite 300 )  
Frederick, Maryland 21701 )

and )

**BARBARA WAGNER** )  
*(In her official capacity as* )  
*Election Director)* )  
8490 Progress Drive )  
Suite 300 )  
Frederick, Maryland 21701 )

**Defendants** )

## **PETITION FOR JUDICIAL REVIEW AND OTHER RELIEF**

Plaintiffs Rowan Frederick LLC, Rowan Frederick II LLC and Rowan Frederick III LLC, (collectively “Plaintiffs”) by and through their attorneys, Charles R. Schaller, Christopher C. Dahl, Michael A. Brown, and Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., bring this Petition for Judicial Review under Md. Code. Elec. Law § 6-209, for Mandamus, and for Declaratory Judgment, against the Frederick County Board of Elections and Barbara Wagner in her official capacity as Election Director (together with any successors in that role), and in support thereof, state as follows:

### **PARTIES**

1. Plaintiff Rowan Frederick LLC (“Rowan 1”) is a Delaware Limited Liability Company registered to do business in the state of Maryland and having a principal place of business in Denver, Colorado. Rowan 1 is the owner of the parcel of real property identified as:
  - a. Lot 400 as shown on plat entitled “Final Plat, Lot 400, Open Space Parcel ‘Q’ & Happy Landing Road, Quantum Frederick” and recorded among the Land Records of Frederick County, Maryland in Plat Book 110, page 183.
2. Plaintiff Rowan Frederick II LLC (“Rowan 2”) is a Delaware Limited Liability Company registered to do business in the state of Maryland and having a principal place of business in Denver, Colorado. Rowan 2 is the owner of two parcels of real property identified as:
  - a. Parcel One – Lot 302 as depicted on Plat Entitled “Addition Plat, part of the lands of Quantum Maryland, LLC (Lot 303, “Quantum Frederick”), Addition to Quantum Maryland, LLC (Lot 302, “Quantum Frederick”)” and recorded among the Land Records of Frederick County, Maryland in Plat Book 111, Page 180.

- b. Parcel Two – Lot 304 as depicted on a Plat Entitled “Lots 302-304, Outlot 3, Parcels D & E and Happy Landing Road” and recorded among the Land Records of Frederick County, Maryland in Plat Book 111, Page 164.
  3. Plaintiff Rowan Frederick III LLC (“Rowan 3”) is a Delaware Limited Liability Company registered to do business in the state of Maryland and having a principal place of business in Denver, Colorado. Rowan 3 is the owner of the three parcels of real property identified as:
    - a. Parcel One – “New Area of Lot 102 as shown on plat entitled “Addition Plat, Part of the Lands of Quantum Maryland, LLC (Lot 101 & Part of Lot 102, “Quantum Frederick”) to Quantum Maryland, LLC (Lot 100, “Quantum Frederick”) and Part of the Lands of Quantum Maryland, LLC (Lot 105, “Quantum Frederick”) to Quantum Maryland, LLC (Lot 102, “Quantum Frederick”) and recorded among the Land Records of Frederick County, Maryland in Plat Book 112, page 135.
    - b. Parcel Two - “Lot 112C as shown on plat entitled “Final Plat, Lots 100-102, 105, 112C & 112D, Quantum Frederick” and recorded among the Land Records of Frederick County, Maryland in Plat Book 112, page 123.
    - c. Parcel Three – “Lot 112D as shown on the a plat entitled “Final Plat, Lots 100-102, 105, 112C & 112D, Quantum Frederick” and recorded among the Land Records of Frederick County, Maryland in Plat Book 112, page 123.
  4. Defendant Frederick County Board of Elections (the “Board of Elections”) is an agency and instrumentality of the State of Maryland, authorized and created by Md. Code. Ann., Election Law Article (“Elec.”) § 2-201, *et seq.* The Board of Elections is empowered to make rules consistent with State laws to ensure the proper and efficient registration of voters and conduct of

elections, oversee the conduct of all elections in Frederick County, and to make determinations as provided by law, including determinations on the sufficiency or deficiency of petitions for referendum. The Board of Elections maintains its principal office at 8490 Progress Drive, Suite 300 Frederick, Maryland 21701.

5. Defendant Barbara Wagner is the current Election Director at the Board of Elections. In her capacity as Election Director, Ms. Wagner is required to make determinations as to the legal sufficiency of referendum petitions, including whether the “use of the petition for the subject matter of the petition is not authorized by law.” Elec. § 6-206(c).

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over the Defendants pursuant to Md. Code Ann., Courts and Judicial Proceedings (“Cts.”) § 6-102, *et seq.*, as they maintain their principal location or otherwise carry out their business in Frederick County, Maryland.

7. This Circuit Court has subject-matter jurisdiction over this matter pursuant to Cts. § 1-501, and Elec. § 6-209.

8. Venue is proper pursuant to Cts. § 6-201, as Defendants all regularly engage in business and have their principal offices in Frederick County, and pursuant to Elec. § 6-209(a).

### **FACTS COMMON TO ALL COUNTS**

9. On September 2, 2025, the Frederick County Council enacted Bill 25-09, titled “An Act to Establish a Critical Digital Infrastructure Overlay Zone for the purpose of directing Critical Digital Infrastructure Facilities and Critical Digital Infrastructure Electric Substations to industrial lands in proximity to data conveyance infrastructure and other industrial uses, while minimizing impacts to non-compatible uses and allowing for development of industrial lands not included in

the Critical Digital Infrastructure Overlay Zone for other industrial uses.” (hereinafter the “CDI Law”). The CDI Law is attached hereto as **Exhibit A**.

10. The CDI Law was the result of an exhaustive, years-long legislative process, which included numerous public hearings and public workshops, and was the result of bi-partisan compromise. Through the CDI Law, the County Council sought to rezone lands that were abandoned by the former Alcoa Eastalco Works aluminum manufacturing facility, transforming those abandoned industrial lands into areas for development for Critical Digital Infrastructure.

11. The CDI Law was carefully crafted to “best utilize existing infrastructure, and ensure that industrial land elsewhere in the County is available for target industries such as life sciences.”<sup>1</sup>

12. The CDI Law became effective on November 1, 2025. Under the new CDI Law, the Frederick County Council was authorized to establish a “Critical Digital Infrastructure Overlay Zone,” to be established by “*ordinance* and identified on the Zoning Map.” See **Exhibit A**, at p. 8, under § 1-19-10.1100 (B) (emphasis added).

13. The ordinance authority granted to the Frederick County Council under the CDI Law is consistent with the Council’s authority under the state land use laws, which permit legislative bodies, such as the Frederick County Council, to “regulate the construction, alteration, repair, or use of buildings, structures, or lands.” See Md. Code Ann., Land Use § 4-201, *et seq.* (“LU law”)

14. On January 20, 2026, the Frederick County Council, acting under its authority under the LU law and its administrative, quasi-legislative authority pursuant to the CDI Law, enacted Ordinance No. 26-01-001, titled “Comprehensive Zoning for the Critical Digital

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<sup>1</sup><https://www.frederickcountymd.gov/Search?searchPhrase=Critical%20Digital&pageNumber=1&perPage=10&departmentId=-1#docaccess-cf9157c495fbf8d21380ccf83a74d2d18736de7fd91367e5745b6616c043ec66>

Infrastructure Overlay Zone – An Element of the Livable Frederick County, Maryland” (hereinafter “the Ordinance”). The Ordinance is attached hereto as **Exhibit B**. The Ordinance set forth the amendments to the Zoning Map which established the Critical Digital Infrastructure Overlay Zone.

15. Plaintiffs own real property located within the Critical Digital Infrastructure Overlay Zone under special warranty deed record in the Frederick County Land Records at: 1) book 16863, page 188; 2) book 17229, page 85; and 3) book 17459, page 331. Plaintiffs are in the process of developing certain properties and/or applying for County approval of certain CDI structures to be operated within the Critical Digital Infrastructure Overlay Zone in accordance with the CDI Law. Therefore, Plaintiffs have a special interest in the outcome of this legislation as the record owners of real estate that is directly and adversely impacted by the Ordinance.

16. On March 19, 2026, the Frederick County Data Center Reform Committee, (“FCDCRC”), a State-registered Ballot Issue Committee, submitted a petition to the Board of Elections to place the Ordinance on the ballot for referendum pursuant to the Frederick County Charter, Article 3 Section 308.

17. Under Section 308 of the Frederick County Charter, only “laws” enacted under Article 3 of the Charter may be referred to the voters for approval via referendum.

18. The Ordinance is not a “law” within the meaning of Article 3 of the Frederick County Charter.

19. Rather, the Ordinance is the result of an administrative, quasi-legislative act of the Frederick County Council within its statutory powers created by the CDI Law and the powers granted to it via the LU law.

20. The conclusion that the Ordinance is not a “law” as contemplated by the County Charter is supported by several key indicators under the County’s law making process, including: (a) the Charter’s requirement that any law be enacted by a “written bill” (Frederick County Charter § 305(a)); (b) that each written bill must be introduced and read and formatted as they would appear in the law (*Id.* § 305(b)); (c) that bills may be rejected by five votes upon introduction (*Id.* § 305(d)); (d) that bills or a fair summary thereof must be advertised in newspapers of general circulation (*Id.* § 305(d)); (e) that bills not enacted within 90 days of introduction or prior to the month of November are void (*Id.* § 305(f)); (f) that bills must be presented to the executive for signature or veto within ten business days after passage (*Id.* § 306(d)); and (g) that bills do not become effective until 60 days after final approval, allowing 59 days to a referendum effort (*Id.* § 307).

21. Applied to the Ordinance, there was no written bill, meaning it was not introduced or read as it would appear in the law. Upon information and belief, there likewise was no effort to advertise the Ordinance in local newspapers. The Ordinance, by its plain terms, became effective immediately. The Ordinance was not presented to the executive for signature or veto. In fact, the Ordinance was not subject to the executive’s veto power whatsoever. All of these factors further demonstrate that the Ordinance was not a “law” within the meaning of Article 3 of the Charter, and therefore is not subject to a referendum under Section 308.

22. Upon information and belief, prior to effecting the Ordinance, the County Council was advised by legal counsel to the County that the Ordinance was not a “law” within the meaning of Article 3 of the Charter and therefore should not be subject to referendum.

23. However, on April 3, 2026, the Board of Elections, via its Director Ms. Wagner, issued its letter opinion permitting the Ordinance to be placed on the ballot for referendum. A copy

of the letter opinion is attached hereto as **Exhibit C**. In issuing that letter opinion, the Board of Elections, via Ms. Wagner, stated it was “unable to make a determination that the petition is not authorized by law under EL 6-206(c)(5)(i).” However, the Board of Elections, via Ms. Wagner, opined that “there is a presumption of sufficiency,” and accordingly concluded that “the petition is sufficient for purposes of EL 6-206.”

24. Based on the Board of Elections letter disposition, the Ordinance is now set to be placed on the ballot for citizen referendum under Section 308 of the Frederick County Charter in the upcoming general election.

25. The Board of Elections, via Ms. Wagner, should not have approved the FCDCRC’s petition as the Ordinance does not qualify as a “law” under Article 3 subject to referendum. As the chief election official, Ms. Wagner was required to determine if the petition was deficient, with one determining factor of deficiency being “based on the advice of legal authority” whether “the use of a petition for the subject matter of the petition is not authorized by law.” *See* Elec. § 6-206(5)(i).

26. Upon information and belief, the Board of Elections received legal authority from counsel that the Ordinance was not a “law” that was subject to referendum, thereby making the petition “not authorized by law.” Despite that authority, the Board of Elections, via Ms. Wagner, approved the petition based on an unfounded “presumption” that the petition was sufficient.

27. Plaintiffs now file suit seeking judicial review of the Board of Election’s decision.

**COUNT I**  
**(Petition for Judicial Review Pursuant to Election Law § 6-209)**

28. Plaintiffs restate and incorporate by reference the allegations contained in Paragraphs 1-27 as set forth above.

29. Section 6-209(a) of the Election Law Article gives any “person aggrieved” the right to seek judicial review of the chief election official’s determination of sufficiency or deficiency under Section 6-206.

30. This Court is empowered to “grant relief as it considers appropriate to ensure the integrity of the electoral process.” § 6-209(a)(2).

31. Further, a proceeding brought under § 6-209 “shall be heard and decided without a jury and as expeditiously as the circumstances require[.]” § 6-209(a)(3)(i).

32. Since the Ordinance is not a “law” within the meaning of Section 308 of the Frederick County Charter, it is not subject to referendum, and therefore the petition submitted by FCDCRC should have been denied by the Board of Elections as deficient.

33. Plaintiffs are the owner of real property located within the Critical Digital Infrastructure Overlay Zone as proposed by the Ordinance. As such, Plaintiffs are aggrieved by the Board of Election’s decision, which may result in the Ordinance being stricken, thereby preventing the development of Critical Digital Infrastructure on Plaintiffs’ property.

34. Accordingly, Plaintiffs seek judicial review of the Board of Elections April 3, 2026 finding that the petition was not deficient.

WHEREFORE, and for good cause shown, Plaintiffs hereby seek judicial review of the Board of Elections April 3, 2026 decision, and requests that the Court rescind that finding, and direct the Board of Elections to deny the petition for referendum as deficient.

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

35. Plaintiffs restate and incorporate by reference the allegations contained in Paragraphs 1-27 as set forth above.

36. In the alternative to the relief sought by Plaintiffs under Count I, Plaintiffs seek, pursuant to Md. Rule 15-701, a writ of mandamus to compel Defendants to perform their statutory duties.

37. Under Elec. Law. 6-206(c)(5)(i), the Board of Elections, via its chief election official Ms. Wagner, “shall declare that the petition is deficient if the chief election official determines that... the use of a petition for the subject matter of the petition is not authorized by law.”

38. The Ordinance, which is the subject matter of the petition, is not authorized under the Frederick County Charter to be subject to a referendum as it is not a “law” within the meaning of Article 3 of the Charter. Rather, the Ordinance is the result of the Frederick County Council’s administrative, quasi-legislative authority to act within its designated powers and authority provided to it by the CDI Law and the LU law.

39. In dereliction of its statutory obligations, the Board of Elections, via its election of director Ms. Wagner, stated it was “unable to make a determination that the petition is not authorized under” Elec. § 6-206(c)(5)(i), yet still approved the Petition based on an unfounded “presumption” of sufficiency.

40. Plaintiffs, real property owners within the Critical Digital Infrastructure Overlay Zone to be created by the Ordinance, have a clear right to have the Ordinance excluded from the upcoming election ballot because it is not a “law” within the meaning of Section 308 of the Frederick County Charter.

41. Plaintiffs have no adequate remedy by which they can obtain their right to exclude the referendum from appearing on the ballot absent an order from this Court.

WHEREFORE, and for good cause shown, Plaintiffs hereby seek a writ of mandamus directing the Board of Elections to perform its obligation to declare the petition as deficient as its subject matter is not authorized by law to be subject to a referendum.

**COUNT III  
(Declaratory Judgment)**

42. Plaintiffs restate and incorporate herein by reference the allegations contained in Paragraphs 1-27 as set forth above.

43. An actual controversy exists between the Plaintiffs and the Defendants within the meaning of Cts. § 3-409 because the Defendants certified a referendum sufficiency decision concerning the Ordinance on April 3, 2026, despite that Ordinance not being a “law” subject to referendum under Article 3 of the Charter.

44. Plaintiffs maintain that the Ordinance is not a “law” within the meaning of Section 308 of the Frederick County Charter and therefore is not subject to a referendum.

45. The Board of Elections conversely declared the petition “sufficient,” based on a “presumption of sufficiency” which now has the effect of treating the Ordinance as a “law” subject to Section 308 of the Frederick County Charter.

46. Accordingly, an actual and judiciable controversy exists between the parties as to whether the Ordinance is a “law” within the meaning of Section 308 of the Frederick County Charter and whether the Defendants’ decision erroneously treated it as a “law” in approving the petition for referendum.

47. A declaratory judgment by this Court will terminate this controversy.

WHEREFORE, and for good cause shown, Plaintiffs hereby seek declaratory relief from this Court that the Ordinance is not a law subject to Section 308 of the Frederick County Charter

and that the Defendants' decision erroneously treated it as a "law" in approving the petition for referendum, along with an award of costs under Cts. § 3-410.

DATED: April 13, 2026

Respectfully submitted,

/s/ Charles R. Schaller

Charles R. Schaller (AIS #9106200250)

Christopher C. Dahl (AIS #1012140177)

Michael A. Brown (AIS # 1812110045)

BAKER, DONELSON, BEARMAN, CALDWELL  
& BERKOWITZ, P.C.

100 Light Street, 19<sup>th</sup> Floor

Baltimore, MD 21202

T: (410) 862-1135

cschaller@bakerdonelson.com

cdahl@bakerdonelson.com

mbrown@bakerdonelson.com

*Counsel for Plaintiffs*