

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

PETITION OF
QUANTUM MARYLAND, LLC,
20251 Century Blvd, Suite 170
Germantown, Maryland, 20874

and

JOAN AQUILINO,
3728 Blueberry Drive
Monrovia, MD 21770

FOR JUDICIAL REVIEW OF THE
DECISION OF THE
FREDERICK COUNTY BOARD OF
ELECTIONS,
8490 Progress Drive, Suite 300
Frederick, MD 21701

Case No. C-10-CV-26-000309

and

BARBARA WAGNER, *in her official
capacity as Election Director of the Board of
Elections*
8490 Progress Drive, Suite 300
Frederick, MD 21701

IN THE MATTER OF THE PETITION OF
THE FREDERICK COUNTY DATA
CENTER REFERENDUM COMMITTEE
FOR REFERENDUM OF FREDERICK
COUNTY COUNCIL ORDINANCE 26-01-
001

* * * * *

QUANTUM MARYLAND, LLC,
20251 Century Blvd, Suite 170
Germantown, Maryland, 20874

and

JOAN AQUILINO,
3728 Blueberry Drive
Monrovia, MD 21770

Plaintiffs,

v.

FREDERICK COUNTY BOARD OF
ELECTIONS,
8490 Progress Drive, Suite 300
Frederick, MD 21701

Case No. C-10-CV-26-000309

and

BARBARA WAGNER, *in her official
capacity as Election Director of the Board of
Elections*
8490 Progress Drive, Suite 300
Frederick, MD 21701

and

FREDERICK COUNTY DATA CENTER
REFERENDUM COMMITTEE,
2313 New Design Road
Adamstown, MD 21710

Defendants.

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**PETITION FOR JUDICIAL REVIEW, COMPLAINT FOR DECLARATORY
JUDGMENT, AND PETITION FOR WRIT OF MANDAMUS**

Petitioners-Plaintiffs Quantum Maryland, LLC and Joan Aquilino (“**Petitioners**”) seek
(i) judicial review of the decision of the Frederick County Board of Elections (“**Board of**

Elections”) and the Election Director of the Board of Elections, Barbara Wagner (**“Election Director”**), dated April 3, 2026, a copy of which is attached to this pleading at Exhibit 1; (ii) a declaratory judgment against the Board of Elections, the Election Director, and the Frederick County Data Center Referendum Committee (**“Referendum Committee”**) that the Petition for Referendum submitted by the Referendum Committee on March 19, 2026 (**“Referendum Petition”**) is legally deficient; and (iii) in the alternative, a writ of mandamus ordering the Election Director to make a determination that the Referendum Petition is not authorized by law under § 6-206 of the Election Law Article of the Annotated Code of Maryland.

INTRODUCTION

1. Frederick County did the hard work of getting data center regulation right. After extensive public debate—including twenty-two public meetings, multiple rounds of proposed maps, and broad community engagement designed to ensure that voices were heard and concerns were addressed—a bipartisan council answered community concerns directly. It listened, deliberated, and reached a genuine compromise that confines all future data center development to a single, targeted area adjacent to the existing data center development on the former Eastalco site, less than one percent of the County’s total land mass. In doing so, it established deliberate order and structure for data center development, thoughtfully locating it in one selected area while considering the needs of Frederick County as a whole.

2. That compromise was Bill 25-09, a law enacted in September 2025 pursuant to the rigorous procedures established in Section 305 of the Frederick County Charter. Bill 25-09 creates a new zoning designation—the Critical Digital Infrastructure Overlay Zone (**“CDI Overlay Zone”**)—and limits data center development to land parcels within that Zone. The law was sensible and broadly supported. It was the law County Executive Jessica Fitzwater

championed. All seven County Council members signed on to the legislation's proposal, praising it for striking the right balance between economic development and livability. It gave opponents exactly what they said they wanted: data centers cabined to one place, on a former industrial site with supporting infrastructure, with the added benefit of remediating a former brownfield site.

3. Because it was enacted pursuant to the County Charter, Bill 25-09 was subject to referendum. Opponents of data center development—including the Referendum Committee—could have challenged that law and sought even stricter limits. They had sixty days. They chose not to.

4. Instead, the Referendum Committee waited until Bill 25-09 safely became law and the referendum window closed. Only then did it target the ordinance that implemented it: Ordinance 26-01-001, a routine zoning map amendment that applied the CDI Overlay Zone to specific parcels, consistent with the County's Comprehensive Plan and pursuant to the Land Use Article ("LUA"). The map designating those additional parcels had been circulating publicly as part of the Planning Commission's July 2025 proposal, and all of the parcels eligible for the Overlay Zone were publicly noticed with physical signs; its contents surprised no one.

5. The strategy was clear: accept the law and overarching legal framework that limits where data centers can develop, then challenge the administrative step that actually permits development to proceed within those limits. A small minority that failed to prevail through the democratic process now seeks to override the bipartisan compromise reached by the County's duly elected representatives who did everything right. The Referendum Petition is therefore not a legitimate exercise of democratic rights. It is a deliberate end-run around the Charter's carefully designed referendum procedures, an attempt to seize control over land-use

policy, dictate from the sidelines how Frederick County grows, and hold the County, its elected officials, established businesses, and economic future hostage.

6. That is not how referendum rights work in Frederick County, and it is not what the law allows. This Court should reverse the Board of Elections' approval of the Referendum Petition and declare the Petition is legally deficient, or (in the alternative) issue a writ of mandamus ordering the Election Director to determine that the Referendum Petition is not authorized by law under § 6-206 of the Election Law Article of the Annotated Code of Maryland.

7. Under the petition for judicial review, three independent grounds compel reversal of the Board of Elections' decision.

8. First, Ordinance 26-01-001 is not a "law" subject to referendum. Charter § 308 provides that the referendum applies only to "law[s]" enacted "pursuant to" the Charter's lawmaking procedures. Ordinance 26-01-001 was not enacted pursuant to that process. Instead, it was enacted pursuant to the Land Use Article's mandatory map-amendment procedures—the same regulatory track the County has used to change zoning boundaries for more than forty years, before and after the Charter's adoption. Not a single step in the Ordinance's promulgation invoked Charter § 305—the required process in Frederick County to enact laws subject to referendum. Instead, each and every step followed the processes to approve non-referable ordinances established by the Land Use Article. Accordingly, Ordinance 26-01-001 is not referable. The referendum window for the law that established the CDI Overlay Zone—Bill 25-09—opened on September 2, 2025, when the law was passed, and closed on October 31, 2025. The Referendum Commission waived its right to challenge the law and cannot seek an end-run around that choice now.

9. Second, the Board of Elections' certification is procedurally void. In her letter approving the Referendum Petition, the Election Director never affirmatively determined whether the Petition was authorized by law. Instead, she stated that she was "unable to make [that] determination," and then presumed that the Referendum Petition must be valid. Maryland's Election Law contains no such presumption of validity. While Petitioners recognize that this is a highly contentious issue with major consequences—especially for Petitioners—the statute requires the Election Director to affirmatively determine that a petition has no deficiencies before approving it. She cannot circumvent the analysis that the Maryland Election Law compels her to perform. This failure alone is fatal to the certification. The screening function is not a mere bureaucratic formality. It is critical to the governing process—including the authority of elected officials to act within their duly conferred powers—and to spare taxpayers the cost of unnecessary litigation over petitions, like this, that should never have been certified. The Board of Elections' approval failed on both counts.

10. Third, the Referendum Petition itself is fatally defective. Circulators reproduced Ordinance 26-01-001's text at an illegible scale, removing the Charter's guarantee that signatories could read precisely what they were signing. Additionally, the administrative record (once transmitted) may reveal other deficiencies, including a lack of sufficient, valid signatures. For these reasons, the petition for judicial review should be granted and the Board of Elections' decision reversed.

11. Petitioners are also entitled to a declaratory judgment that the Referendum Petition is invalid for the same reasons, as well as for reasons outside of the administrative record. The Referendum Committee informed prospective signers that the referendum would not affect already approved construction at the site, that it targeted only a 1,000 acre expansion, and

that existing projects would continue unimpeded. Given the savings language in in Bill 25-09 for Critical Digital Infrastructure Facility applications before the bill's enactment, those representations warrant careful consideration, especially as construction subject to future approvals remains ongoing. Signatures procured based on misrepresentations are not "genuine and bona fide" within the meaning of Charter § 308(b)—a requirement that exists precisely to ensure that referendum petitions reflect an informed electorate, not a misinformed one.

12. In sum, the Board of Elections certified a petition that should never have been filed, against an instrument that was never subject to referendum, and supported by improperly obtained and invalid signatures. This Court should reverse that certification and declare the Referendum Petition deficient.

PARTIES

13. Plaintiff-Petitioner Quantum Maryland, LLC is a limited liability company incorporated in Delaware with a principle place of business at 20251 Century Blvd, Suite 170, Germantown, Maryland, 20874. Quantum Maryland is an owner of land located north of Adamstown, which is the site of the former Eastalco aluminum smelting plant and which is currently part of the CDI Overlay Zone established by Ordinance 26-01-001.

14. Plaintiff-Petitioner Joan Aquilino is a resident of and registered voter in Frederick County who disagrees that Ordinance 26-01-001 is subject to referendum and believes the determination by the Frederick County Board of Elections and the Election Director concerning the Referendum Petition is in error.

15. Respondent and Defendant Frederick County Board of Elections is an administrative agency of Frederick County, Maryland. The Board of Elections is tasked with verifying and counting signatures submitted with any petition for referendum in Frederick

County, as well as determining the sufficiency of any petition for referendum and/or whether it complies with all applicable laws.

16. Respondent and Defendant Barbara Wagner is the Election Director of the Board of Elections. As Election Director, she has been designated by the Board of Elections as the chief election official for the County under §§ 6-206 and 6-208 of the Election Law Article of the Annotated Code of Maryland who is tasked with making a final determination as to whether a petition for referendum is sufficient and complies with all applicable laws.

17. On information and belief, Defendant Frederick County Data Center Referendum Committee is a non-profit organization headquartered in Adamstown, Maryland. The Referendum Committee was organized to gather signatures for and submit the Referendum Petition at issue in this case.

JURISDICTION AND VENUE

18. Jurisdiction is proper pursuant to §§ 1-501 and 3-403 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, as well as §§ 6-209(a)(1)(ii) and (b) of the Election Law Article of the Annotated Code of Maryland.

19. Venue is proper in the Circuit Court for Frederick County pursuant to § 6-201 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland because Respondents-Defendants carry on a regular business and/or reside in or are employed in Frederick County, and pursuant to §§ 6-209(a)(1)(ii) and (b) of the Election Law Article of the Annotated Code of Maryland., because this is the Circuit Court in the County in which the Referendum Petition was filed.

BACKGROUND

A. The Petitioners

20. Quantum Maryland, LLC purchased over 2,100 acres north of Adamstown at the site of the former Eastalco aluminum smelting plant. That property is now being developed as the only comprehensively planned data center campus in Frederick County, and Quantum Maryland has since sold approximately 600 acres to third parties to develop data centers.

21. When the site was acquired in 2021, then-County Executive Jan Gardner publicly praised the project, stating she was “pleased that the former Eastalco property will once again serve as an employment center with high-paying jobs.” She emphasized that “[d]ata centers provide a stable source of tax revenue and jobs, while having minimal impact on local services such as schools, traffic and other infrastructure.”¹

22. Since that time, the Eastalco Data Center Campus has obtained an approved Adequate Public Facilities Ordinance (“APFO”) Amended and Restated Letter of Understanding, dated February 15, 2023, for the development of up to 17,403,344 square feet of data center, 821,881 square feet of office, and 7,500 square feet of commercial use, as amended by a Second Amended and Restated Adequate Public Facilities Letter of Understanding dated August 21, 2024.

23. The Frederick County Planning Commission has approved numerous site plans for Critical Digital Infrastructure (“CDI”) facilities and associated CDI Electric Substation facilities within the campus, and construction of those facilities is already well underway. Quantum Maryland has invested hundreds of millions of dollars to achieve this progress for the

¹ *Former Alcoa Eastalco Site Purchased*, Frederick County Government (Jun. 28, 2021), <https://www.frederickcountymd.gov/CivicAlerts.aspx?AID=4799&ARC=7270>.

County—bringing electric power, public water, public sewer, and telecommunications infrastructure to the site in direct reliance on the County’s own zoning and planning approvals.

24. Quantum Maryland’s development has also attracted other major technology and data center companies to the area, each with a significant stake in the campus’s ongoing success and Frederick County’s broader economic vitality. The multi-year construction phase—concentrated within this single, carefully planned area—will itself employ thousands of workers, including contractors, subcontractors, electricians, heavy machine operators, engineers, and other skilled individuals over a sustained period. With this infrastructure already in place and with an approved Adequate Public Facilities Ordinance Letter of Understanding for well over 17,000,000 square feet of CDI facilities, the Eastalco Data Center Campus is positioned to become one of Frederick County’s largest employment centers—delivering substantial tax revenue, high-paying jobs, and long-term economic growth entirely within the single, targeted area the County Council deliberately selected.

25. Petitioner Joan Aquilino is a registered voter in Frederick County and was a member of the group that drafted the Frederick County Charter in 2014. She contends that the subject of the Referendum Petition is not authorized by law and that the Board of Elections’ decision was wrong. She therefore brings this action to protect the integrity of the County’s zoning, referendum, and democratic processes she helped design.

B. Zoning Regulation in Frederick County

26. Before its Charter took effect in 2014, Frederick County operated as a commission county governed by a Board of County Commissioners. Commission counties are subject to two categories of laws enacted by the Maryland General Assembly: public local laws, which apply only to a specific county, and public general laws, which apply more broadly. Prior to the adoption of the Charter, the Board of County Commissioners had no authority to enact

public local laws. Those laws were enacted exclusively by the Maryland General Assembly and collected in the Code of Public Local Laws of Frederick County (Part II of the Frederick County Code). That code was limited, reflecting only what the General Assembly chose to enact for the County.

27. The Commissioners did, however, possess the authority to regulate land use under the Land Use Article (then Article 66B), a public general law that governs zoning statewide. Under that Article, the Commissioners enacted ordinances establishing zone types, use tables, design standards, bulk regulations, and land use maps. They also conducted parcel-specific zoning reclassification pursuant to §§ 4-203 & 4-204 of the Land Use Article. These actions by the Commissioners were accomplished by ordinance—not by law—and none were subject to referendum.

28. When Frederick County adopted its Charter in 2014, the authority to enact public local laws shifted to the County Council. Under Maryland Constitution Article XI-A § 3, the Council acquired the power previously held by the General Assembly. Charter § 301 of the Frederick County Charter provides that “[t]he Council may enact public local laws for the peace, good government, health, safety or welfare of the County.” Pursuant to Article XI-A § 4 of the State Constitution, upon the adoption of the Charter, the General Assembly is prohibited from enacting public local laws for Frederick County on matters within the County’s express powers.

29. The Charter imposed important procedural safeguards on this new lawmaking authority. Among other things, Charter § 305 specifies that “[t]he Council may enact no law except by written Bill.” Charter § 308 further subjects the Council’s laws—with limited exception—to referendum “upon the filing of a petition signed by seven percent of the registered voters of the County.”

30. Crucially, the Charter left the County’s longstanding zoning authority under the Land Use Act intact. Charter § 601, titled “Adoption of Land Use Article of the Annotated Code of Maryland,” makes clear in subsection (a) that “the provisions of the Land Use Article of the Annotated Code of Maryland that governed land use in the County prior to the Effective Date of this Charter shall continue to apply as if they have been codified in the Code of Public Local Laws of Frederick County.”

31. The Charter thus drew a deliberate and clear line between two distinct tracks. Public local laws—general rules of governance—must follow and be enacted by bill under a mandatory procedural track: introduction, publication, public hearing, enactment by vote, executive review, and a sixty-day effective date. Charter §§ 305-307. Those laws are subject to referendum. Charter § 308. The Land Use Article’s zoning regulations and maps, by contrast, remained unchanged, and continue to follow the separate procedural track: the Planning Commission recommendation, Council hearings, adoption by ordinance, with map amendment taking effect ten days after the final hearing. LUA §§ 3-202, 3-203, 3-204, 4-202, 4-203, 4-204. These implementing ordinances have never been treated as “laws” subject to referendum—neither before the Charter nor after it.

32. After the Charter’s adoption, therefore, the County Council enacts the zoning framework through laws passed by bill. Once those laws are passed, the County Council implements them through ordinances adopted under the Land Use Article. Bill 25-09 was the former. Ordinance 26-01-001 was the latter.

C. The Critical Digital Infrastructure Overlay Zone

33. The CDI Overlay Zone—the subject of Ordinance 26-01-001—emerged from the deliberate two-step process that employed both the Council’s lawmaking authority under Charter § 301, and its separate regulatory authority under the Land Use Article.

1. Frederick County Reaches A Compromise Over Data Center Development

34. The CDI Overlay Zone was the product of a protracted negotiation that resulted in a compromise on data center development in Frederick County—one that considered the interests of all stakeholders. Previously, such development was allowed on land zoned Light Industrial or General Industrial in the County. But in recent years, a public debate arose over the appropriate locations for such facilities.

35. In 2025, the County Council and Executive reached a bipartisan solution. On May 6, 2025, County Executive Jessica Fitzwater and all members of the County Council “announced a compromise to limit where data centers can be built to the area around the old East Alcoa property north of Adamstown.”² The announced “compromise” promised to “limit the development to less than 1% of the County’s total land mass, in an area with the infrastructure to support it, and ensure the County Council retains the tools to prevent future sprawl.”

36. County leaders from both parties praised the CDI Overlay Zone as a compromise that carefully balanced the interests at stake. Executive Jessica Fitzwater praised the “bipartisan compromise” as “protecting our environment and quality of life, while acknowledging that Frederick County’s location makes it a logical site for this critical industry.” Council Member Renee Knapp stated the compromise showed that “Frederick County is emerging as a leader for sensible data center regulations that address community concerns for sustainability while supporting an industry that adds important diversification to our local economy.” Council Member Jerry Donald praised the overlay approach as a “bipartisan compromise that both

² *News Release*, Frederick County Government, Office of the Executive (May 6, 2025), <https://www.frederickcountymd.gov/DocumentCenter/View/356132/CDI-Legislation-050625-Archived?bidId=>.

encourages economic development while protecting the rights of landowners to peacefully enjoy their property.”

37. Notably, Council Member Steve McKay—who later supported the Referendum Petition—likewise stated he was “very pleased to support this compromise approach.” In his view, the CDI Overlay Zone helped “ensure that the Council maintains a firm hand on where we allow data centers” and even “goes one step further by ensuring that we further limit data center development to the Eastalco area.”

38. The announcement made clear that the CDI Overlay Zone would be created in two distinct phases. First, the Council would introduce a bill containing “a text amendment to the zoning code to create a tool called an overlay, which will be used to limit data center development.” “All seven Council members will co-sponsor the measure,” and the “Council will review and vote on the bill through its ordinary public legislative process.” “After that,” the announcement continued, “the Division of Planning and Permitting will develop a map through an open and transparent public process, which will be presented to the Planning Commission for review and the County Council for approval”—consistent with Council Member McKay’s desire that it would ultimately be “the Council [that] maintains a firm hand on where [the County] allows data centers.”

39. These two phases correspond directly to the Council’s lawmaking procedures under Article 3 of the Charter, and its separate power to implement zoning regulations under the adopted provisions of the Land Use Article. First, the CDI Overlay Zone would be introduced by bill using the Council’s lawmaking power under Charter § 305, presented to the Executive, and then be potentially subject to referendum. Second, the Planning Commission and County

Council would exercise their regulatory authority to implement the CDI Overlay Zone under the LUA (§§ 3-202, 3-203, 4-202 to 4-204)—which would not be subject to referendum.

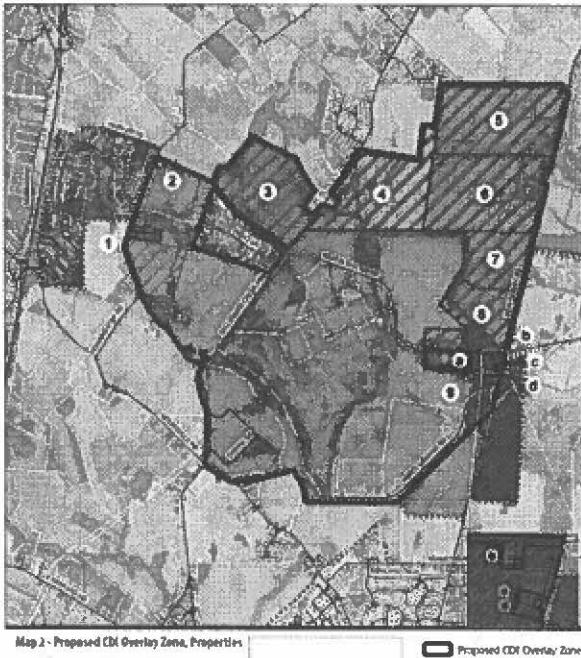
2. Bill 25-09

40. On June 17, 2025, consistent with the County’s announcement, the CDI Overlay Zone was introduced via Bill 25-09. The bill amended the Frederick County Code to create the CDI Overlay Zone.

41. From the beginning, it was clear where the County would likely place the CDI Overlay Zone, and which land would likely be affected. One month after Bill 25-09 was introduced, in July 2025, the Frederick County Division of Planning and Permitting published a draft Comprehensive Plan Amendment and proposed zoning map amendment—a detailed public document that identified the precise boundaries, acreage, and parcel-by-parcel composition of the proposed CDI Overlay Zone—2,566.4 acres, or just 0.60% of the County’s total land mass—and included twelve maps depicting the exact geographic extent of the proposed overlay and associated changes. *See* Frederick County Division of Planning and Permitting, *Critical Digital Infrastructure Overlay Zone: An Amendment of the Livable Frederick Comprehensive Plan* (Jul. 2025), at 6.³

³ Available at <https://planning.maryland.gov/Documents/OurWork/PBP/compplans/AMD-2025-Frederick.pdf>.

42. All the issues the Referendum Committee later raised in its campaign were present in July. The proposed map covered virtually all the same parcels and totaled almost the same acreage. Indeed, the map was virtually identical to the one later promulgated by Ordinance 26-01-001:



Proposed Map: CID-OZ (July 2025)



Ordinance 26-01-001: CDI-OZ Map (December 2025)

43. The public—including the Referendum Committee—thus had full notice as of July 2025 of the likely size, shape, and parcel composition of the overlay zone that would ultimately be implemented by Ordinance 26-01-001. This included signage posted on properties within the proposed CDI Overlay Zone.

44. Following its introduction, Bill 25-09 proceeded through the full public legislative process contemplated in the Charter. Introduced at the County Council’s June 17, 2025 meeting, the bill remained an active agenda item across four subsequent sessions—July 15, August 19 August 26, 2025 (which included a dedicated public hearing workshop), and September 2, 2025, the date on which the Council adopted it. *See Cnty. Council Meeting Agenda*, at 2 (July 15,

2025); Cnty. Council Meeting Agenda, at 2 (Aug. 19, 2025); Cnty. Council Meeting Workshop Agenda, at 1 (Aug. 26, 2025); Bill No. 25-09, Frederick County Council (enacted Sept. 2, 2025). Opposition figures, including Referendum Committee member Steve Black, appeared and spoke at the June 17, July 15, and August 26 meetings. *See* Cnty. Council Meeting Minutes (June 17, 2025) (“Public Comment was heard from ... Steve Black”); Cnty. Council Meeting Minutes (July 15, 2025) (same); Cnty. Council Meeting Minutes (Aug. 26, 2025) (same). The legislative process afforded more than two months of open debate and gave every interested party ample opportunity to advocate for changes to or restrictions on the bill’s implementing authority.

45. After full and open presentation of the facts and issues related to the bill, and with significant community participation—including by members of the Referendum Committee—the County Council voted to enact Bill 25-09 on September 2, 2025. The County Council found the legislation “necessary and appropriate” 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 at the same time “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.” Bill No. 25-09, Frederick County Council (enacted Sept. 2, 2025).

46. Bill 25-09 amended the Frederick County Code to provide that Critical Digital Infrastructure Facilities—*i.e.*, data centers—and related electric substations may be developed “only” on land “within the Critical Digital Infrastructure Overlay Zone.” *See* Bill No. 25-09 § 1-19-8.402(B)(1)(b); § 1-19-8.403(A)(1)(b).

47. As a direct result, new data centers could only be developed within the newly created CDI Overlay Zone—a zone that now existed in the Code but had not yet been mapped to any specific parcels. *See id.* § 1-19-8.403(A)(1)(b).

48. Following the lawmaking procedures of Charter § 305, the Council enacted Bill 25-09 on September 2, 2025. The County Executive received the bill on September 3, 2025, and approved it on September 12, 2025, pursuant to Charter § 306(b). The bill took effect November 1, 2025. *See* Bill No. 25-09.

49. The Referendum Committee did not seek to refer Bill 25-09 to referendum. As such, Bill 25-09 took effect, and the Council was given “a firm hand on where [the County would] allow data centers” through its regulatory power under the Land Use Act.

3. Ordinance 26-01-001

50. After Bill 25-09 took effect on November 1, 2025, the only remaining step was to implement the CDI Overlay Zone following the routine procedures for zoning regulation in the Land Use Article.

51. Under the Land Use Article, the Planning Commission must prepare and approve a plan amendment and certify an attested copy to the Council before it can act. LUA §§ 3-202(a), 3-203(f). The Planning Commission must also hold at least one public hearing before recommending adoption of a plan amendment, with notice published in a newspaper of general circulation. *Id.* §§ 3-203(b)(1)-(2).

52. The Planning Commission followed these procedures in implementing the CDI Overlay Zone. It developed the CDI Overlay Zone Comprehensive Plan Amendment, held its required public hearing (two, for that matter), and certified the amendment to the Council on November 4, 2025. *See* Resolution No. 26-01, Frederick County Council (Jan. 20, 2026). The Plan amendment incorporated the CDI Overlay Zone into the Livable Frederick Comprehensive

Plan and made conforming land use designation changes throughout the Planning Area—including modifications to Rural Legacy Area and Priority Preservation Area boundaries. *See* Cnty. Council Meeting Minutes at 6-7 (Dec. 23, 2025).

53. After required public notice, the Council held a two-day public hearing on both the Plan amendment and the proposed rezoning on December 16 and 17, 2025. *See* Ordinance No. 26-01-001 (Jan. 20, 2026). On December 23, 2025, the Council approved the amendments to the Planning Commission’s recommended Plan—including the CDI Overlay Zone boundary—and directed staff to prepare a rezoning ordinance to implement those changes. *See* Cnty. Council Meeting Minutes at 17, Dec. 23, 2025. The vote was 5-2, with Council Members Donald and McKay opposed. *Id.*

54. On January 20, 2026, the Council acted on both instruments. It first enacted Resolution No. 26-01, formally adopting the Comprehensive Plan amendment. Cnty. Council Meeting Minutes at 4 (Jan. 20, 2026). It then enacted Ordinance No. 26-01-001, amending the zoning boundary map to designate specific parcels as within the CDI Overlay Zone—implementing the Plan. *Id.* Both instruments took effect that day. *See* Resolution No. 26-01 (“[T]his ... shall take effect January 20, 2026.”); Ordinance No. 26-01-001 (same).

55. In sum, the Ordinance is not a new law and is not subject to referendum. It is simply the administrative step that implements Bill 25-09. As a zoning map amendment, the Ordinance merely designated specific parcels—as previewed—on the County’s boundary map as lying within the CDI Overlay Zone. It approves no development, grants no permit, and commits no infrastructure. It makes no changes to any Rural Legacy Area boundary or Priority Preservation Area. Instead, it executes the map identified and previously approved in the Comprehensive Plan.

D. The Referendum Campaign

56. In light of this history, any assertion that the Referendum Committee was surprised by Ordinance 26-01-001 is simply not credible. Two months before Bill 25-09 was enacted, the July 2025 plan publicly proposed a CDI Overlay of 2,566.4 acres, with every parcel identified.⁴ Physical signs were also posted on all affected properties to notify the public. The Referendum Committee therefore knew the anticipated geographic scope of the overlay well before the bill passed. Minor map adjustments between legislation and implementing ordinance are routine, and were nonetheless fully addressed through the standard public hearing and debate process (which occurred), leading to a reasoned final boundary. If the Referendum Committee believed the proposed map to be too expansive, the time to seek legal intervention would have been immediately after Bill 25-09 passed. Moreover, the Referendum Committee could have advocated for tighter geographic restrictions in the Bill itself (a hard cap at 0.3% of the County's land mass, for example) or, in the event the Council ignored those hypothetical efforts, could have submitted a petition for referendum. The Referendum Committee chose to do neither. Bill 25-09 had its own referendum period, and the Referendum Committee let it expire.

57. To be sure, the Planning Commission proposed a more limited overlay zone in November 2025. Through amendments adopted at its December 23, 2025 session, the County Council adjusted the CDI Overlay Zone to bring the final overlay into close alignment with the July 2025 proposal.⁵ That adjustment relative to the July proposal was modest, adding only a

⁴ *Critical Digital Infrastructure Overlay Zone: An Amendment of the Livable Frederick Comprehensive Plan* (Jul. 2025) at 6, <https://www.frederickcountymd.gov/ArchiveCenter/ViewFile/Item/15932>.

⁵ See Cnty. Council Meeting Minutes (Dec. 23, 2025), <https://www.frederickcountymd.gov/Archive.aspx?AMID=112#docaccess-8cb65518b23f0c0d0268391383b2779e92ad2479b51>

very small percentage of total acreage, across which Quantum Maryland had already installed substantial infrastructure, including fiber optics. These facts persuaded the Council that the slightly larger boundary was appropriate. In any event, the potential geographic scope of the overlay had been publicly known and open to debate since July 2025. Having declined to use the leverage it possessed at the lawmaking stage, the Referendum Committee cannot now credibly claim that the January 2026 map—which is substantially similar to the July 2025 proposed map—came as a surprise.

58. Moreover, the Referendum Committee was formed by members of the Sugarloaf Alliance and Envision Frederick County, organizations with extensive experience in the zoning process. Formed in 2014 “to coordinate citizen efforts” to defeat a local “gun range zoning application,” the Sugarloaf Alliance now focuses on efforts to “watch-dog powerline proposals and data center development in Frederick County.”⁶ It knew about—and even actively “watch-dog[ged]”—the CDI Overlay Zone proposals from the very beginning (even presenting at the first open meeting of the Data Center Working Group in August 2023). Envision Frederick County likewise highlights its efforts in “[t]rack[ing] local legislation, proposed zoning changes, and county-wide plans” in Frederick County.⁷

59. The Referendum Committee and its supporters also recognized that serious legal questions were raised by the Referendum Petition. Councilman McKay acknowledged that the CDI Overlay Zone was enacted through two instruments: a comprehensive plan amendment by

d6887555f36842b434195; *see also* Resolution No. 26-01 (“County Council approved 7 amendments to the Planning Commission’s recommended Plan on December 23, 2025...”).

⁶ *About Us*, Sugarloaf Alliance, <https://www.sugarloaf-alliance.com/about-us>.

⁷ *About*, Envision Frederick County, <https://envisionfrederickcounty.org/mission-strategic-plan/>.

resolution and a zoning map amendment by ordinance. He admitted he did not know whether the plan amendment was subject to referendum precisely because plan amendments are enacted by resolution. Nevertheless, he predicted that a successful referendum of the ordinance would effectively impose, in McKay's words, "a moratorium on any new [critical digital infrastructure] in the county."⁸

60. In reality, the Referendum Committee's true objective was a moratorium. Despite participating in the legislative process with full awareness of the likely scope of the CDI Overlay Zone, the Referendum Committee deliberately waited to challenge the one implementing step that is clearly not subject to referendum. This tactic is inconsistent with how the referendum right is intended to operate under the Charter, and with good-faith advocacy in a representative democracy.

61. Nevertheless, even though its leadership had been directly involved in the process leading to the passage of Bill 25-09, the Sugarloaf Alliance's president, Steve Black, helped organize the Referendum Committee and seek a referendum on Ordinance 26-01-001.⁹ The Referendum Committee's decision to target the Ordinance—rather than Bill 25-09—was deliberate. The referendum window for Bill 25-09—the law that actually created the CDI Overlay Zone, established its permitted uses, and restricted data center development County-wide—opened and closed without any action by the Referendum Committee. Having chosen not to challenge the framework legislation, the Referendum Committee pivoted to the implementing ordinance, targeting the map-amendment step that applied the zone to specific parcels.

⁸ See Erik Anderson, *Group Seeking Referendum on Data Center Zone*, The Frederick News-Post, Yahoo!News (Jan. 3, 2026), available at <https://www.yahoo.com/news/articles/group-seeking-referendum-data-center-045900447.html>.

⁹ *Id.*

62. In or around January 20, 2026, the County Council’s attorney, Mr. Bryon Black, in conjunction with Tim Maloney of Joseph, Greenwald & Laake, concluded that Ordinance 26-01-001 is not a “law” subject to referendum under Charter § 308—specifically, that the Charter’s definition of “law” does not encompass a zoning map amendment not enacted as a Bill under Charter §§ 301-310.¹⁰

63. The Referendum Committee nevertheless launched a signature gathering campaign across Frederick County, deploying circulators to dozens of locations—coffee shops, libraries, grocery stores, breweries, and houses of worship—over a period of several weeks.

64. Referendum Committee members communicated a clear but false narrative to prospective signers. Upon information and belief, circulators told prospective signatories that the referendum targeted only a 1,000 acre expansion and would leave ongoing construction at the Eastalco site undisturbed. That framing omits the critical legal reality: after Bill 25-09 amended the Frederick County Zoning Ordinance, CDI facilities may only be established within a designated CDI Overlay Zone. Suspending or voiding Ordinance 26-01-001 would leave Frederick County with no such zone on the map. Signatures procured based on that incomplete and misleading picture are not “genuine and bona fide” within the meaning of Charter § 308(b).

65. That was not the only misrepresentation made to potential signatories. Upon information and belief, the Referendum Committee repeatedly claimed that the Ordinance would cause permanent environmental damage and impose severe burdens on transmission lines,

¹⁰ See, e.g., Erik Anderson, County Attorney Says Data Center Zone Not Subject to Referendum; Opponents Disagree, FREDERICK NEWS-POST (Jan. 20, 2026), <https://www.yahoo.com/news/articles/group-seeking-referendum-data-center-045900447.html> (“Bryon Black writes in the memo that county charter’s definition of ‘law’ does not include the process used to change the zoning code map for the CDI overlay because ‘it was not enacted as a bill’ under section 301-310 of the county charter.”).

utilities, and water supplies. The Ordinance does none of those things. It is a zoning map amendment that changes the map and nothing more. It approves no development project, grants no permit, authorizes no destruction of any wetland or forest, triggers no transmission infrastructure project, and commits no electrical or water resources. Any future development must still navigate a full gauntlet of independent reviews, including Preliminary Plan review, APFO compliance, Maryland Department of the Environment wetlands and waterways permits, Army Corps Section 404 permits, Forest Conservation Act compliance, and utility capacity review—each governed by its own substantive standards. A zoning map amendment does not cause harms that those regulatory regimes exist to prevent.

66. Similarly, circulators told signers that the referendum would protect agricultural land designated as Priority Preservation Area or within the Rural Legacy Area. That claim is also false. The land use designation changes at issue were made by the Plan amendment enacted through Resolution.¹¹ Those changes reside in the Plan, *not in the Ordinance*. Voiding the Ordinance would not restore a single Rural Legacy Area boundary or Priority Preservation Area designation. Under the Land Use Article, all future zoning decisions for these parcels must be consistent with the Plan as amended. LUA § 4-202(a)(1). A referendum against the Ordinance therefore cannot restore the agricultural designations opponents claim to be defending. Those proposed changes were publicly disseminated well before the Bill 25-09 was enacted and were incorporated into the amended Plan—yet the Referendum Committee chose not to challenge that either.

¹¹ Frederick Cty. Council, Critical Digital Infrastructure Overlay Zone—Comprehensive Plan Amendment, An Element of the Livable Frederick Comprehensive Plan 22-23 (Dec. 2025), frederickcountymd.gov/DocumentCenter/View/359197.

67. Many circulators were poorly informed about the very petition they were promoting. Upon information and belief, several had not read the ordinance, and provided conflicting information about witness requirements and signature thresholds bringing into question the validity of the signatures secured.

E. The Referendum Petition’s Validity Is Challenged

68. While the Referendum Committee gathered signatures, County Executive Jessica Fitzwater and County Council President Brad Young sent a letter to the Election Director. The letter from two of the County’s highest elected officials recognized that there was a live and unresolved question whether the Referendum Petition was valid, but urged the Election Director to count and verify petition signatures before addressing the Referendum Petition’s legal sufficiency. See Ryan Marshall, *Fitzwater, Young Urge Elections Board to First Determine If Petition Signatures Are Valid*, Frederick News-Post (Mar. 18, 2026).¹²

69. On March 19, 2026, the Referendum Committee submitted the Referendum Petition to the Board of Elections for verification of approximately 24,000 signatures. Letter from Barbara Wagner, Election Dir., Frederick Cty. Bd. of Elections, to Frederick Cty. Data Ctr. Referendum Comm. (Apr. 3, 2026) (“BOE Letter”). On Sunday, March 22, 2026, the Board of Elections held an emergency open session to discuss specifically the Referendum Petition. See Marwa Barakat, *Elections Board Orders Count of Data Center Petition Signatures Before Deciding Its Validity*, The Frederick News-Post (Mar. 22, 2026).¹³ At that session, Mr. Dan Loftus, attorney for the Board of Elections, gave a presentation, explaining that he had spoken to

¹² Available at https://www.fredericknewspost.com/news/continuing_coverage/zoning/fitzwater-young-urge-elections-board-to-first-determine-if-petition-signatures-are-valid/article_15b64742-77c7-5a8a-8c48-23b31149a1c7.html.

¹³ Available at <https://www.yahoo.com/news/articles/elections-board-orders-count-data-231800674.html>.

counsel for the Referendum Committee as well as the County and that he was aware of diverging legal opinions regarding the validity of the Referendum Petition. Mr. Loftus then suggested, and the Board of Elections approved by vote, that the Board of Elections would first count and validate all signatures and then make a determination regarding Referendum Petition's legal sufficiency. *See id.*

70. On March 25, 2026, Petitioner Quantum Maryland sent a letter to the Board of Elections that identified several defects in the Referendum Petition, which mirror the grounds asserted in this Petition and Complaint.

F. The Board's Decision

71. On April 3, 2026, the Election Director sent a letter to the Referendum Committee with her final decision. BOE Letter. In the letter, the Election Director determined that, after counting and validating all signatures, the Referendum Petition is sufficient under Maryland Elections Law Section 6-206. *Id.* Specifically, she wrote:

I have reviewed each number under EL 6-206 subsection (c) and there is no deficiency under 1, 2, 3, 4 and 6. However, as the chief election official, based on the advice of legal authority (Board counsel) I am unable to make a determination that the petition is not authorized by law under EL 6-206 (c) (5) (i). In short, since there is a presumption of sufficiency, unless a determination of a deficiency is made, and I am unable to make a determination of a deficiency, the petition is sufficient for purposes of EL 6-206. The Frederick County Board of Elections will inform the Frederick County Council and Frederick County Office of Law of the final disposition of the petition.

Id.

72. Based on this later, it appears that the Election Director: (1) invoked a purported "presumption of sufficiency"; (2) concluded she was "unable" make a determination of whether the Referendum Petition was authorized by law, and (3) on that basis, declared the presumption controlling. The Director accordingly certified the Referendum Petition was sufficient without ever resolving whether it is authorized by law. *See id.*

73. The Election Director later confirmed with the Frederick News-Post that “[m]y office has said this is sufficient and can go on the ballot” and that any party has the ability to challenge the referendum’s legality in circuit court.¹⁴

74. Following Election Director’s letter, Council Member Steve McKay issued a public statement addressing the Board of Elections’ determination. McKay acknowledged that, as a result of the petition, “the zoning decisions—including the Overlay Zone and the upzonings from AG to LI/GI—are now on pause,” and that they “are no longer in effect.” Steve McKay, Facebook (Apr. 3, 2026, at 8:09 pm ET).¹⁵

75. McKay issued further public comments at the Council’s April 7, 2026 meeting. McKay described the Board’s decision—resting on “the principle of the assumed sufficiency”—as a “very momentous occasion.” Statement of Council Member Steve McKay, *Frederick County Council Meeting*, Frederick County Government, 46:33-48:23 (Apr. 7, 2026).¹⁶ McKay then called on the County to issue a “public and affirmative statement” that it “will not accept new data center applications until it is voted upon, presumably in November.” *Id.* at 50:32-51:02.

76. These statements not only contradict Council Member McKay’s earlier support for the Council’s proper role in implementation, but also perpetuate a fundamental misunderstanding and misapplication of the law, thereby undermining the very democratic institutions he is meant to represent.

¹⁴ See Anderson, *supra* n. 8.

¹⁵ Available at <https://www.facebook.com/SteveMcKay4FrederickCounty/photos/the-board-of-elections-has-validated-the-data-center-referendum-petition-to-be-p/1379046580699424/>.

¹⁶ Available at https://frederick.granicus.com/MediaPlayer.php?view_id=10&clip_id=10613

CAUSES OF ACTION

COUNT I: PETITION FOR JUDICIAL REVIEW

77. Petitioners restate and incorporate by reference the allegations set forth in paragraphs 1–76 of this Petition and Complaint.

78. Petitioners, pursuant to the Election Law Article of Annotated Code of Maryland (“Election Law”) § 6–209 and Maryland Rule 7-202, request judicial review of the Frederick County Board of Elections’ determination dated April 3, 2026, that the Referendum Petition is “sufficient” under Election Law § 6–206(b)(1) and has satisfied all requirements of law under Election Law § 6–208(a)(2).

A. Standing.

79. Petitioners have standing to challenge the Board of Elections’ determination. Under Maryland law, a party has standing to seek judicial review if it is “aggrieved” by the agency’s decision. *See* Md. Code Ann., Election Law § 6-209(a)(1) & (3); *see also* Md. Code Ann., State Gov’t Art. § 10-222.

80. And “[i]n actions for judicial review of administrative land use decisions, ‘[a]n adjoining, confronting or nearby property owner is deemed, prima facie, . . . a person aggrieved.’ The person challenging the fact of aggrievement has the burden of denying such damage . . . and of coming forward with evidence to establish that the petitioner is not, in fact, aggrieved.” *Sugarloaf Citizens’ Ass’n v. Department of Env’t*, 344 Md. 271, 297, 686 A.2d 605, 618-19 (1996), *partially abrogated by statute*, Md. Code (1982, 2013 Repl. Vol.), § 5–204(f) of the Environment Article, *as stated in Patuxent Riverkeeper v. Maryland Department of Env’t*, 422 Md. 294, 298, 29 A.3d 584, 586 (2011); *see also Long Green Valley Ass’n v. Bellevalle Farms, Inc.*, 205 Md. App. 636, 685, 46 A.3d 473, 503 (2012) (same).

81. Petitioner Quantum Maryland owns property affected by the Ordinance challenged by the Referendum Petition that the Board of Elections approved. Therefore, Quantum Maryland is an “aggrieved” party with standing to bring this Petition for Judicial Review. *Sugarloaf Citizens’ Ass’n*, 344 Md. at 297, 686 A.2d at 618-19.

82. Petitioner Joan Aquilino also qualifies as an “aggrieved” person because she is a registered voter who disputes the validity of the Election Director’s decision to certify the referendum petition. *See Whitley v. Maryland State Bd. of Elections*, 2012 WL 9245964, at *3 (Md. Cir. Ct. Aug. 10, 2012) (determining that registered voters who challenged a “decision to certify [a] referendum petition” were “aggrieved” and had “standing to pursue th[e] action under Section 6-209(a)”).

B. The Petition Is Not Authorized By Law

83. This Court should reverse the Board of Elections’ determination. The Referendum Petition is “deficient” because the “use of [the Referendum Petition] for the subject matter of the petition is not authorized by law.” Md. Code Ann., Election Law § 6–206(c)(5)(i).

84. Whether the “subject matter” of the Referendum Petition is “authorized by law” is governed by the text of the Frederick County Charter. Maryland’s Constitution authorizes the creation of charter counties, which Frederick County has been for several years, under Article XI–A. *See* Md. Const. art. XI–A, § 1.

85. Importantly, “Article XI–A of the Constitution does not contain an express referendum provision,” but “charter counties can include the right to referendum in their charter.” *Kent Island Defense League, LLC v. Queen Anne’s County Board of Elections*, 145 Md. App. 684, 692 n.2, 806 A.2d 341, 346 n.2 (2002). The Charter is therefore the exclusive source of referendum rights in Frederick County, and the scope of those rights is determined by its own text.

86. The scope of the referendum power in Frederick County is defined in Article 3 of the Charter:

308. Referendum

(a) Except for the following, a law, or part of a law, enacted pursuant to this Charter may be referred to the voters for approval upon the filing of a petition signed by seven percent of the registered voters of the County:

- (1) A law imposing a tax;
- (2) A law appropriating funds for current expenses to maintain the Government;
- (3) A law prescribing Council Districts; and
- (4) A law adopting a Compensation Review Commission.

(b) A petition to refer a law, or portion of a law, to the voters of the County shall meet the requirements of State law and may consist of several papers, but each paper shall contain the full and accurate text of the law, or part of the law, that is subject to the petition. There shall be attached to each paper of signatures filed with a petition an affidavit of the person procuring those signatures. The affidavit shall state that the signatures were affixed in the person's presence and that, based upon the person's best knowledge and belief, every signature on the paper is genuine and bona fide and that the signers are registered voters of the County at the address set opposite or below their names.

1. Ordinance 26-01-001 Is Not A "Law" Subject To Referendum

87. The Frederick County Charter expressly treats "laws" and "ordinances" as distinct instruments. Section 104(c) defines a "Bill" as a proposed act "resulting in a law or ordinance"—two separate outputs. Section 305 then states unequivocally that no law may be enacted "except by written Bill." Read together, these provisions are dispositive: while an ordinance may result from a bill, a law must result from a bill. Because Ordinance 26-01-001 did not begin as a bill, it cannot qualify as a "law" under the Charter's plain language and structure.

88. Conversely, Bill 25-09 was enacted by written bill and amended the Frederick County Zoning Code to create the CDI Overlay Zone. Resolution 26-01—adopted simultaneously with the Ordinance—amended the Frederick County Comprehensive Plan to

incorporate the CDI Overlay Zone, as required by Land Use Article §§ 3-201 and 3-204 before any zoning map amendment could take effect. Ordinance 26-01-001 then implemented the plan, consistent with the Zoning Code, by applying the CDI Zone to specific parcels on the map.

89. In sum, the adoption of Ordinance 26-01-001 was not the making of a “law” authorized by §§ 301-310 of the County Charter. Instead, it was an administrative, quasi-legislative enactment governed by state law, which delegates zoning responsibility to the Planning Commission and the local legislative body. *See* LUA § 4-201, *et seq.*

90. More than forty years of consistent County practice reinforces this point. When the Charter was adopted, Section 601 preserved the Land Use Article as the governing framework for land use in Frederick County, continuing the County’s longstanding treatment of zoning map amendments as ordinances—not laws subject to referendum. *See, e.g.*, Ordinance 22-07-007 (Sugarloaf Treasured Landscape). The referendum provision was therefore never intended, and does not, transform these routine zoning instruments into referable “laws.”

91. The Ordinance’s procedural markers also confirm it is not a law: it took effect immediately upon adoption, without the 60-day delay that attaches to laws. Because Charter § 308(a) subjects only laws—not ordinances—to referendum, the referendum power only reached Bill 25-09 (and that window closed long ago). It does not reach Ordinance 26-01-001. The Petition is accordingly “not authorized by law” and should not have been certified. Md. Code Ann., Election Law § 6-206(c)(5)(i).

2. Ordinance 26-01-001 Was Not Enacted “Pursuant To Th[e] Charter”

92. Charter § 308 subjects to referendum only “a law, or part of a law, enacted pursuant to this Charter.” The Ordinance was not enacted “pursuant to” the Charter. It was enacted “pursuant to” the Land Use Article—a distinct source of authority whose provisions “continue to apply” in Frederick County. Charter § 601(a).

93. The record confirms this distinction. Resolution 26-01 recites Land Use Article §§ 3-201 and 3-204 as the authority for every step—Planning Commission certification, public hearing, Council adoption. Ordinance 26-01-001 implements the plan amendment under Land Use Article §§ 4-203 and 4-204. Not one step invoked the Charter or its lawmaking procedures.

94. Bill 25-09 illustrates the contrast. The Council unanimously amended Chapter 1-19 of the Frederick County Code to create the CDI zone type—a governance-level enactment that followed the requirements of Charter § 305 and became effective sixty days after enactment under Charter § 307. That was an act “pursuant to” the Charter, and the window to petition it to referendum has long closed. Ordinance 26-01-001 then applied that zone to specific parcels under the Land Use Article’s map-amendment procedures. “Pursuant to” is a phrase of attribution. See *Town of Bel Air v. Bodt*, 487 Md. 354, 370, 318 A.3d 570 (2024). The authority attributed to every step of the Ordinance’s enactment is the Land Use Article. Charter § 308’s referendum provision does not reach it.

C. The Board’s Refusal To Make A Determination Under § 6-206(c)(5)(i) Is Independently Defective

95. Even setting aside the merits of the referability question, the Board of Elections’ determination cannot stand. The Board of Elections did not find the Referendum Petition authorized by law—it found only that it could not determine whether the Referendum Petition was unauthorized. That is not an option permitted by the Maryland Election Law.

96. The Election Director interpreted Election Law § 6-206(b) as a freestanding presumption of sufficiency that applies whenever the chief election official cannot find a deficiency. The text forecloses that reading. Section 6-206(b) is conditional: unless a determination of deficiency is made under subsection (c), the chief election official shall make a determination of sufficiency. The word “unless” makes subsection (b) entirely dependent on

completing subsection (c). There is no freestanding presumption—there is only a mandatory sufficiency determination that follows only after the subsection (c) analysis is done.

97. The Board of Elections' reading also renders § 6-206(b)(2) superfluous. That provision allows the chief election official to defer a sufficiency determination pending further review. Under the Board's logic, deferral would never be necessary: the moment she could not find a deficiency, sufficiency would follow automatically. Courts do not read statutes to render provisions meaningless. *See Chesapeake & Potomac Tel. Co. v. Dir. of Fin.*, 343 Md. 567, 579, 683 A.2d 512 (1996) ("Moreover, whenever possible, a statute should be read so that no word, clause, sentence or phrase is rendered superfluous or nugatory.") (citing *Montgomery County v. Buckman*, 333 Md. 516, 523, 636 A.2d 448 (1994)).

98. The option to defer only makes sense if an inability to determine sufficiency obligates the Election Director to continue reviewing until a determination can be made—which is the opposite of what the Election Director concluded.

99. Whatever merit this interpretation of § 6-206 may have, it does not survive § 6-208's requirements for certification. Section 6-208(a)(2) provides: "[a]t the conclusion of the verification and counting processes," the Election Director "if [she] has not done so previously, [shall] determine whether the petition has satisfied all other requirements established by law for that petition." Thus, if the chief election official defers a determination under § 6-206(b)(2), the determination must follow before certification. That obligation is mandatory and leaves no room for an unresolved legal question carried forward from the § 6-206 stage.

100. Section 6-208(c) confirms as much: certification is conditioned on an *affirmative* determination that "a petition has satisfied all requirements established by law relating to that petition"—including whether the subject matter is authorized by law. The Election Director

made no such determination. She certified a petition whose authorization she never resolved. Section 6-208(c) does not permit that. The consequence of the Board of Elections' approach is that § 6-206—the provision the General Assembly enacted to screen out unauthorized petitions—is nullified whenever Board Counsel is uncertain about any of the requirements. That reading frustrates the statute's evident purpose and should be rejected. This Court should reverse the Board of Elections' determination and declare the Referendum Petition deficient under § 6-206(c)(5)(i).

D. Additional Deficiencies In The Administrative Record

101. The Referendum Petition is defective for additional reasons as well. Charter § 308(b) requires that each petition paper “contain the full and accurate text of the law.” That is a substantive requirement: signatories must be able to read precisely what they are signing. The petition fails this requirement. While gathering signatures, the organizers reproduced the text of Ordinance 26-01-001 at such a reduced scale that it is effectively illegible. An unreadable photographic reproduction does not satisfy the Charter's requirement and is equivalent to omitting the text of Ordinance 26-01-001 altogether. Every signature page bearing illegible text is therefore facially defective, and all signatures on those pages should be invalidated.

102. These defects were compounded by flyers distributed alongside the petition, which contained false and unsupported assertions of permanent environmental damage and severe impacts on transmission lines, utilities, and water supplies—none of which are supported by the Ordinance. Because the full text of the Ordinance is illegible on the petition pages, these misleading campaign materials effectively substituted for the “full and accurate text” requirement under Charter § 308(b), rendering the petition entirely improper.

103. In addition to these reasons, the administrative record—including the signature count—may reveal additional grounds to invalidate the Board of Elections' decision.

104. This Court should accordingly reverse the Board of Elections' decision.

COUNT II: REQUEST FOR DECLARATORY JUDGMENT

105. Petitioner Joan Aquilino restates and incorporates by reference the allegations set forth in paragraphs 1–22 and 25–104 of this Petition and Complaint.

106. Election Law § 6-209(b) provides that, “[p]ursuant to the Maryland Uniform Declaratory Judgments Act and upon the complaint of any registered voter, the circuit court of the county in which a petition has been or will be filed may grant declaratory relief as to any petition with respect to the provisions of this title or other provisions of law.”

107. Petitioner Joan Aquilino is a “registered voter” within Frederick County who seeks a declaration from this Court pursuant to the Maryland Uniform Declaratory Judgment Act that the Board and the Election Director erroneously approved an invalid petition for referendum. Md. Code Ann., Cts. & Jud. Proc. §§ 3-401 to 3-415.

108. There exists a judiciable controversy between Petitioner Joan Aquilino on the one hand, and the Board of Elections, the Election Director, and the Referendum Committee on the other. The controversy is ripe for adjudication, and which Ms. Aquilino has standing to assert her claim. *See Whitley v. Maryland State Bd. of Elections*, 429 Md. 132, 146, 55 A.3d 37, 46 (2012) (“conclud[ing] that there [wa]s a justiciable controversy” when a registered voter “contend[ed] that the State Board . . . certifi[ed] a petition for referendum that d[id] not, in fact, merit certification,” and that the registered voter “ha[d] standing properly under § 6–209(b)” in light of “the broad grant of authority afforded to registered voters under § 6–209(b) of the Election Law Article”).

109. The Board of Elections and the Election Directors' decision was erroneous for all the reasons stated in the Petitioners' petition for judicial review. *See supra* ¶¶ 77–104.

110. In addition, the Referendum Petition is deficient for reasons that extend beyond the administrative record. Petition circulators were instructed to—and in fact did—make material misrepresentations to prospective signatories about the Ordinance’s scope and effect.

111. The circulator materials falsely claimed the referendum would affect only the additional 1,000 acres (omitting that Ordinance 26-01-001 implements the CDI Overlay Zone as to the entire 2,600-acre site) and that it would apply solely to future projects, not existing ones. These misrepresentations concealed the fact that the referendum risks disrupting a long-standing project that employs dozens of companies and hundreds of individuals in Frederick County.

112. Charter § 308(b) requires that every signature on a referendum petition be “genuine and bona fide.” This requirement is substantive and requires more than authenticity, which is already addressed by the affidavits required under the same section. Charter § 308(b) separately requires each circulator to attest that signatures were “affixed in the person’s presence.” The presence requirement confirms the signature is authentic—that a real person actually signed. If “genuine and bona fide” meant nothing more than authentic, it would be duplicative of the presence attestation, and the Charter would have no need for both. Courts do not read instruments to render words superfluous. *See Chesapeake & Potomac Tel. Co.*, 343 Md. at 578.

113. “Genuine and bona fide” must therefore mean more than a real signature witnessed by the circulator. It requires a signature given knowingly and voluntarily by a signer who understood what he or she was signing. A signature procured through material misrepresentation—here, false statements about the Ordinance’s acreage, scope, and effect—is not a genuine and bona fide expression of the signer’s assent. It is a signature obtained under false pretenses. The circulator’s attestation of presence cannot transform a deceived signature

into a knowing one. COMAR 33.06.03.08(B)(4)(a) reflects this principle, requiring that a petition circulator's affidavit accurately represent the circumstances of signature collection. Where the representations that induced the signature were false, the affidavit itself compromised.

114. The Maryland courts have recognized that referendum petitions must be the product of an informed electorate. Misrepresentations that corrupt the signature-gathering process go to the integrity of the petition itself—not merely to the validity of individual signatures—and render the petition deficient as a whole. *See Gray v. Howard Cnty. Bd. of Elections*, 218 Md. App. 654, 665, 98 A.3d 423, 430 (2014) (referendum “language must ‘be free from misleading tendency, amplification, or omission’ to permit voters to exercise ‘intelligent and enlightened judgment’ as to whether to sign the referendum petition”). The Referendum Petition here was built on material falsehoods about Ordinance 26-01-001. Signatures obtained through those misrepresentations are also not “genuine and bona fide” within the meaning of Charter § 308(b). The Referendum Petition should therefore be declared deficient on this independent ground.

115. Signatures obtained through material misrepresentation are also voidable under a theory of fraudulent inducement. A signature on a legal instrument may be voided when it was procured by a false representation of a material fact, made with knowledge of its falsity or reckless disregard for the truth, on which the signer justifiably relied, and which caused the signer's assent. *See, e.g., Sass v. Andrew*, 152 Md. App. 406, 429, 832 A.2d 247 (2003). Each element is satisfied here. Upon information and belief, the Referendum Committee provided circulators with scripts regarding the Ordinance's acreage and effect—these scripts included representations that were objectively false and go to the core subject matter of the Referendum Petition. Signers who relied on those representations in affixing their signatures did not

meaningfully consent to the Petition's actual subject matter. Their signatures are therefore voidable, and the Board of Elections should have treated them as invalid rather than counting them toward the signature threshold.

116. Accordingly, both Quantum Maryland and Ms. Aquilino seek a declaration from this Honorable Court that the Referendum Petition is deficient and invalid.

COUNT III: PETITION FOR WRIT OF MANDAMUS

117. Petitioners restate and incorporate by reference the allegations set forth in paragraphs 1–116 of this Petition and Complaint.

118. In the alternative to Count I, the Election Director failed to make a proper determination on the Referendum Petition's deficiency under Election Law § 6–206(c). This Court should therefore issue a writ of mandamus ordering the Election Director to declare that the Referendum Petition is “deficient” under Election Law § 6–206(c)(5)(i).

119. A writ of mandamus is “appropriate where the relief sought involves the traditional enforcement of a ministerial act (a legal duty) by recalcitrant public officials.” *Baltimore Cty. v. Baltimore Cty. Fraternal Order of Police Lodge No. 4*, 439 Md. 547, 570, 96 A.3d 742 (2014) (internal quotation omitted).

120. A writ of mandamus is therefore available when “(1) the action sought to be compelled is a ministerial, non-discretionary duty of the defendant and (2) the plaintiff has a clear legal right to that action.” *Motor Vehicle Admin. v. Geppert*, 470 Md. 28, 52, 233 A.3d 102 (2020).

121. The Election Director has a ministerial, non-discretionary duty to determine whether the Referendum Petition is deficient. Election Law § 6–206 provides that the Election Director, as the “chief election official” of Frederick County, “*shall* declare that the petition is

deficient if the chief election official determines” that any one of six enumerated deficiencies are present. Md. Code Ann., Election Law § 6–206(c) (emphasis added). That includes the determination that, “based on the advice of the legal authority,” the “use of a petition for the subject matter of the petition is not authorized by law.” Md. Code Ann., Election Law § 6–206(c)(5)(i).

122. Section 6–208(a)(2) confirms that, “[a]t the conclusion of the verification and counting processes,” the Election Director “if [she] has not done so previously, [shall] determine whether the petition has satisfied all other requirements established by law for that petition.” And § 6–208(c) conditions certification itself on an affirmative determination that “a petition has satisfied all requirements established by law relating to that petition.” Taken together, §§ 6–206, 6–208(a)(2), and 6–208(c) impose a mandatory obligation: the Election Director must resolve whether the petition’s subject matter is authorized by law before certification issues.

123. The Election Director failed to discharge her non-discretionary duty under Election Law §§ 6–206(c) and 6–208. While her letter states affirmatively that “*there is no deficiency* under 1, 2, 3, 4 and 6” of § 6–206(c),” it conversely notes she was “*unable to make a determination* that the petition is not authorized by law” under subsection 5. Letter at 1; *see also id.* (“I am unable to make a determination of a deficiency”). By failing to make any affirmative finding, one way or another, under Election Law § 6–206(c)(5)(i), the Election Director failed to discharge her mandatory duty. That failure is made unambiguous by § 6–208’s requirement that she determine, before certification, whether the petition satisfied all requirements established by law. The Election Director certified a petition whose legal authorization she expressly left unresolved. Maryland Election Law does not permit that.

124. This failure is not excused by the letter's purported "presumption that a petition is sufficient unless there is a finding or determination of a deficiency." That presumption finds no basis in Maryland law. The word "presumption" appears nowhere in the statutory text. No court in any jurisdiction in Maryland has ever articulated or applied such a presumption. And even if there were a presumption, that would not excuse the Election Director from discharging her non-discretionary duties to find whether or not the Referendum Petition is deficient under Election Law Article § 6-206(c)(5)(i), which is, at minimum, mandated by § 6-208.

125. Not only the action sought to be compelled is a ministerial, non-discretionary duty, but Petitioners have "a clear legal right" to a determination that the Referendum Petition is deficient for all the reasons stated *supra*, ¶¶ 1-116. *See Geppert*, 470 Md. at 52.

126. Petitioners have no other adequate remedy to ensure that the Election Director discharges her duty to issue a final determination that the Referendum Petition is deficient.

127. Because the Election Director has failed to perform a nondiscretionary ministerial duty to which Petitioners are entitled, this Court should issue a writ of mandamus ordering the Election Director to promptly issue a final determination that the Referendum Petition is deficient.

PRAYER FOR RELIEF

128. WHEREFORE, Petitioners respectfully request that this Court:

129. Reverse the determination of the Election Director and the Board of Elections that the Referendum Petition is sufficient under the law;

130. Declare that the Referendum Petition is deficient and legally invalid;

131. In the alternative, issue a writ of mandamus that orders the Election Director to make a determination that the Referendum Petition is deficient and legally invalid;

132. Award Petitioners' costs of litigation, including any reasonable attorneys' fee authorized by applicable law; and

133. Grant Petitioners such other relief as the Court may deem just and proper.

Date: April 10, 2026

Respectfully submitted,

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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-26-000309

CASE NAME: Quantum Maryland LLC, et al., vs. Frederick County Board of Elections, et al.

PARTY'S NAME: Quantum Maryland LLC, Joan Aquilino PHONE: (510) 423-5414

PARTY'S ADDRESS: 20251 Century Blvd., Suite 170 Germantown, Maryland 20874

PARTY'S E-MAIL: mkuykendall@catellus.com

If represented by an attorney:

PARTY'S ATTORNEY'S NAME: Adam L. Van Grack, Esq. PHONE: (301) 291-5027

PARTY'S ATTORNEY'S ADDRESS: 10411 Motor City Drive, Suite 750, Bethesda, Maryland 20817

PARTY'S ATTORNEY'S E-MAIL: avangrack@lvglawfirm.com

JURY DEMAND? [] Yes [X] No

RELATED CASE PENDING? [] Yes [X] No If yes, Case #(s), if known:

ANTICIPATED LENGTH OF TRIAL?: hours days

PLEADING TYPE

New Case: [X] Original [X] 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

- [] Declaratory Judgment
[] Equitable Relief
[] Injunctive Relief
[] Mandamus

OTHER

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

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

April 9, 2026 _____
Date

10411 Motor City Drive, Suite 750 _____
Street Address

Bethesda MD 20817 _____
City State Zip Code

 CPF# 0212190262

Signature of Attorney/Party Attorney Number

Adam L. Van Grack _____
Printed Name

avangrack@lvglawfirm.com _____
E-mail

