

IN RE:	*	BEFORE THE
CORRIDOR SQUARE LLC	*	HOWARD COUNTY
PETITIONER	*	ZONING BOARD
	*	Case No.: ZB-1130M
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**PETITIONER’S OPPOSITION TO PROTESTANT JOEL B. HUREWITZ’S MOTION TO DISQUALIFY HEARING EXAMINER AND ZONING COUNSEL**

Corridor Square, LLC (“Petitioner”), by and through its undesignated counsel, and pursuant to § 2.403.D.5.a of the Rules of Procedure of the Howard County Zoning Board (the “ZB Rules of Procedure”) and Article III.D.5.a of the Rules of Procedure of the Zoning Board Hearing Examiner (the “ZHE Rules of Procedure”), files this Opposition to Protestant, Joel B. Hurewitz’s (“Hurewitz” or “Protestant”) Motion to Disqualify (the “Motion”) submitted on January 26, 2026. Petitioner requests the Motion be denied; and in support thereof, Petitioner states as follows:

**I. INTRODUCTION**

Protestant seeks the extraordinary relief of disqualifying both the Howard County Hearing Examiner and Zoning Counsel from this matter, and presumably any other matter. The disqualification is not premised on any alleged basis or inability to fulfill their respective contractual duties. Instead, Protestant seeks to disqualify them based on his misreading and misapplication of various provisions of the Howard County Charter (the “Charter”) and the Howard County Code of Ordinances (the “HCCO”). Despite the long-standing administrative practice to fill

the Hearing Examiner and Zoning Counsel positions through contractual employment as allocated in the County budget, Protestant insists both positions must be filled by specific appointment of the Howard County Council (the “Council”) through resolution. This position is without merit and must be rejected.

## II. BACKGROUND

The Council contractually hired Joyce Nichols as the Howard County Hearing Examiner (the “Hearing Examiner”) in January 2020 – six years ago. *See*, January 6, 2020, Council Press Release.<sup>1</sup> For the past six years, Ms. Nichols has lawfully presided over and adjudicated numerous conditional use, variance, and administrative appeal matters.

Prior to Ms. Nichols’ contractual employment as the Hearing Examiner, the position was filled by Michele Lefaiivre. In the same manner as Ms. Nichols, Ms. Lefaiivre was contractually employed by the Council from the inception of the Hearing Examiner position in the early 2000 until around 2019. During her employment, Ms. Lefaiivre presided over and adjudicated hundreds of conditional use, variance, and administrative appeal matters. Of note, neither Ms. Lefaiivre nor Ms. Nichols were appointed to the Hearing Examiner position by Council Resolution. The Council’s long standing administrative practice has been to contractually hire the Hearing Examiner, not appoint them by resolution.

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<sup>1</sup><https://cc.howardcountymd.gov/sites/default/files/migrate/files/010620%2520Council%2520Hires%2520Hearing%2520Examiners.pdf>

In December 2021, the Council passed Council Bill 77-2021 expanding the role of the Hearing Examiner to certain zoning matters, including change or mistake zoning cases, under the jurisdiction of the Zoning Board. *See*, CB 77-2021.<sup>2</sup> In May 2023, the Council passed Council Bill 10-2023, clarifying the role of the Hearing Examiner to hear Zoning Board matters and specifying the powers, duties and procedures of the Hearing Examiner in those cases. *See*, CB-10-2023.<sup>3</sup>

Pursuant to Sec 16.1000 of the Howard County Code of Ordinances (“HCCO”), the Council “may employ a Zoning Counsel on a part-time, contractual basis.” The Zoning Counsel position was created in or around 2000 with the passage of Council Bill 37-2000. *See*, CB 37 2000.<sup>4</sup> From the early 2000s until around at least 2020, the Zoning Counsel contractual position was filled by Eileen Powers. Ms. Powers acted as Zoning Counsel in numerous change or mistake zoning cases in her tenure. Of note, Ms. Powers was never appointed to the position by Council Resolution. Interestingly, Mr. Hurewitz has participated in opposition in a least one prior mistake zoning case with Ms. Powers as Zoning Counsel and did not raise any issue with her qualification to serve as Zoning Counsel. *See*, ZB-1122M<sup>5</sup>

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<sup>2</sup> [https://library.municode.com/md/howard\\_county/ordinances/code\\_of\\_ordinances?nodeId=1131588](https://library.municode.com/md/howard_county/ordinances/code_of_ordinances?nodeId=1131588).

<sup>3</sup> [https://library.municode.com/md/howard\\_county/ordinances/code\\_of\\_ordinances?nodeId=1215486](https://library.municode.com/md/howard_county/ordinances/code_of_ordinances?nodeId=1215486).

<sup>4</sup> <https://apps.howardcountymd.gov/olis/LegislationDetail?legislationId=11034&legislationNumber=C B37-2000>

<sup>5</sup> <https://cc.howardcountymd.gov/sites/default/files/2023-08/ZB%201122M%20Meadowood%20Maple%20Lawn%20DO%20signed.pdf>

### III. ARGUMENT

**A. The Motion should be denied because it is untimely, was not filed with the Hearing Examiner, and will cause undue prejudice to Petitioner.**

Pursuant to § 16.203A(a)(4), the Zoning Board held its initial administrative public meeting on this matter on November 17, 2025, and unanimously voted to forward the Petition to the Hearing Examiner. The initial hearing before the Hearing Examiner is scheduled for February 25, 2026. Protestant had actual or constructive knowledge of the November 17, 2025, initial administrative meeting. Petitioner posted notice, sent certified letters to adjoining property owners, and published notice 30 days in advance of the meeting in two newspapers of general circulation. The meeting date was also advertised on the Zoning Board's website 30 days in advance.

Moreover, Protestant was admittedly aware that the Hearing Examiner was not appointed by resolution years before this Petition and case was scheduled. On or around February 24, 2022, Mr. Hurewitz filed a public information act request with the County seeking "a copy of any contract for Hearing Examiner Joyce Nichols and any associated resolution and/or minutes of the County Council regarding its approval." *See*, Protestant's Motion to Disqualify at p. 5-7. The County responded to Mr. Hurewitz on or around February 28, 2022, by providing him the Hearing Examiner Contract and amendments, and by informing him that there were no resolutions or minutes related to the contract. *Id.* The County further informed Mr. Hurewitz that the 2022 Hearing Examiner contract was approved by affirmative of a majority of the Council. *Id.*

Despite having knowledge in 2022 of the alleged issue raised in his Motion, Mr. Hurewitz sat on his hands for nearly four years. Instead of timely raising his alleged issues through the filing of a declaratory judgment action with the Circuit Court, he decided to hi-jack the instant matter through the filing of a collateral Motion that has no bearing on the merits of the case.

Making matters worse, Mr. Hurewitz failed to properly raise the issue prior to the Zoning Board administrative meeting.<sup>6</sup> If he would have done so, the Zoning Board would have had the opportunity to address the allegations prior to sending the case to Hearing Examiner. Instead, Mr. Hurewitz chose to wait until exactly 30 days prior to the Hearing Examiner public hearing removing any ability for the Zoning Board to consider and rule on the Motion without causing prejudice and delay to the Petitioner.

Moreover, he failed to file the Motion with the Hearing Examiner as required by Article III.D.5.a of the ZHE Rules of Procedure. Because the Zoning Board voted on November 17, 2025, to authorize the Hearing Examiner to first hear the Petition, jurisdiction over this Motion, and any other preliminary motion, falls under the Hearing Examiner. Protestant, however, did not file the Motion with the Hearing Examiner requiring automatic denial.

In short, Mr. Hurewitz challenges the legitimacy of contractual positions that have existed and that he has been aware of for years. Despite this knowledge, he

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<sup>6</sup> See, § 2.403.D.5.a of the ZB Rules of Procedure requiring preliminary motions to be filed at least 30 days prior to the hearing.

raises the issue only after this zoning case has commenced. Granting the Motion would unjustly delay and de-rail the pending matter causing prejudice to the Petitioner, and would inject uncertainty into all pending Zoning Board matters. As such, the Motion should be denied.

**B. The Charter and Code does not require the Hearing Examiner and Zoning Counsel to be appointed by resolution.**

As detailed above, the Hearing Examiner and Zoning Counsel positions have existed since the early 2000s. Since their inception, neither position has been filled by Council appointment or resolution. The Council instead has contractually hired the Hearing Examiner and Zoning Counsel utilizing funds allocated for the positions in the County's budget or supplemental appropriation. Indeed, Rule 1.015 of the Rules of Procedure of the County Council provides that "the Council may, by resolution **or as provided in the County budget**, employ such legal, financial, technical or other assistance as it may from time to time deem necessary."

In addition, there is no Howard County Code or Charter provision that requires the Hearing Examiner to be appointed by resolution. This is especially true in the context of zoning cases authorized under §16.203A in which the Hearing Examiner is not charged with final decision making. Similarly, under the Code and Charter, Zoning Counsel is not required to be appointed by resolution. § 16.1000 of the HCCO governs the employment of Zoning Counsel. It states, in pertinent part, that "[t]he County Council **may employ** a Zoning Counsel on a part-time, contractual basis." (emphasis added).

**C. Protestant's request for declaratory relief is improper because the Zoning Board does not have the authority to issue a declaratory ruling in this matter.**

In addition to disqualification, Protestant requests the Zoning Board issue a declaratory ruling that the Hearing Examiner and Zoning Counsel positions are vacant. First, the Zoning Board does not have the authority to issue such a declaratory ruling. § 2.408 of the ZB Rules of Procedure only grants the Zoning Board the authority “to issue a declaratory ruling with respect to the applicability to any person, corporation, property or state of facts of any rule adopted by the Zoning Board, or the Zoning Enabling Act, or the Zoning Regulations or the Zoning Map of Howard County.” Protestant’s request does not involve the applicability of the aforementioned provisions. It instead seeks a ruling that would invalidate the Council’s contract with the Hearing Examiner and Zoning Counsel. The Zoning Board does not have the authority to declare employment contracts entered into with the Council void and the positions vacant.

Second, assuming for argument the Zoning Board does have the authority to issue such a declaratory ruling, §2.408 of the ZB Rules of Procedure requires Protestant to file a separate action requesting declaratory relief ---“Any interested person may petition the Zoning Board to issue a declaratory ruling ...” (“emphasis added”). Further, the petition must be publicly advertised and requires a public hearing. In short, the rules do not allow Protestant to back-door a request for declaratory ruling in a pending matter.

#### IV. CONCLUSION

For the foregoing reasons, Protestant's Motion must be denied. It is an untimely and improper collateral attack that should of, at the very least, been filed prior to the initial Zoning Board administrative meeting. In addition, Protestant failed to file the Motion with the Hearing Examiner who has jurisdiction over this matter. Moreover, the arguments are without merit and the Zoning Board does not have the authority to issue the requested declaratory relief.

Dated: February 10, 2026



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Certificate of Service

I hereby certify that on this 10<sup>th</sup> of February, 2026, a copy of the foregoing was sent by electronic mail to the following:

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