

**IN THE MATTER OF** \* **BEFORE THE**  
\* **HOWARD**  
**THE PALMETTO GROUP, INC.** \* **COUNTY**  
\* **ZONING BOARD**  
\* **ZB 1131M**

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**EXCEPTIONS OF PROTESTANT JOEL B. HUREWITZ**

Protestant Joel B. Hurewitz submits, pursuant to Howard County Code § 16.203A(d), these Exceptions to the Report of the Zoning Board Hearing Examiner in ZB 1131M, The Palmetto Group, Inc.

**OBJECTION TO THE SCHEDULING OF THE ZONING BOARD PRESENTATION**

Protestant first notes for the record his objection to the premature scheduling by the Chair of the Zoning Board of the Zoning Board’s presentation and work session. The Hearing Examiner issued her report on March 19, 2026. After the Petitioner’s counsel and Zoning Counsel waived filing exceptions in this case, on March 24, 2026 Board Administrator Kel Berg emailed the parties: “Good afternoon. The Chair has requested the Zoning Board Presentation/Work Session for ZB1131M to be held on April 8, 2026 at 7pm.” Later on March 24, 2026, Protestant responded “The deadline for exceptions is April 17, 2026. I will not be available on April 8.” The Board Administrator never responded to this email and scheduling objection.

The Protestant is a party of record in this matter. The members of the public who participate in zoning cases are entitled to due process and conformity with the provisions of the

County Code and Rules of Procedure. Generally, the public will not have standing to appeal to the Circuit Court, and thus, are entitled to fair, proper, and legal proceedings before the Hearing Examiner and Zoning Board.

Only after all of the parties have (1) waived filing exceptions, (2) filed exceptions, or (3) the 20 business days have expired should the Zoning Board Chair schedule the matter before the Zoning Board. See § 16.203A(d). The Zoning Board Chair has violated Protestant's rights in scheduling this matter depriving Protestant of the right to file exceptions as specified in the County Code.

However, because Protestant has no material exceptions to the core zoning issues and as an accommodation to the Petitioner and Petitioner's Counsel, Protestant after noting this objection for the record, does not intend to contest this point further.

**THE GEOGRAPHY OF THE DORSEY TOD DOES NOT ALIGN WITH  
THE HOWARD COUNTY ZONING REGULATIONS**

The Hearing Examiner's Report minimized the problems of the subject parcels in this TOD District to meet the goals of the Howard County Zoning Regulations and General Plan. The parcels are too small to meet the objectives of the TOD District. The lack of vehicular and pedestrian connectivity to the MARC station from the subject properties was mentioned. Notably, omitted however, is that the only vehicular access to the MARC Station is via Route 100. The properties on the north side of Route 100 are only marginally less connected to the Station than those parcels in the TOD District on the south side. When the County Council takes up comprehensive rezoning, the issues of this MARC station should be considered and should not insist on calling an area a TOD District just because it is technically within 3500 feet of a station.

## EXCEPTIONS TO PRELIMINARY MOTION

The Hearing Examiner permitted the Protestant to orally incorporate by reference the Motions to Disqualify previously filed in ZB 1130M, Corridor Square, LLC. The Hearing Examiner chose to integrate her ruling on the Motion to Disqualify into the Report. Had the ruling been made separately, Protestant would not have replied in this herein Exception. The Hearing Examiner's specious Preliminary Motion section of the Report is largely a cut and paste of the **Petitioner's Opposition To Protestant Joel B. Hurewitz's Motion To Disqualify Hearing Examiner And Zoning Counsel** filed in ZB 1130M. As such, it contains many errors of logic, fact and law.

For the record, on page 3, Protestant's name is misspelled and currently has an inactive bar license in Pennsylvania and is not licensed as an attorney in Maryland.

It was not Protestant's intent to incorporate the motion to the Zoning Board for a Declaratory Ruling; thus, it is disingenuous for the Hearing Examiner to object to the filing of a Motion for a Declaratory Ruling in ZB 1131M.

The Hearing Examiner failed to comment directly on any of the Protestant's cited caselaw, and showed a lack of comprehension of what is a de facto judge and what is a "collateral attack." In fact, the issues of "collateral attack" were flipped on its head. The Hearing Examiner improperly suggests the appropriateness of filing a declaratory ruling with the Circuit Court. This would in fact be a collateral attack on the legality of the appointments. In addition to explaining the de facto officer doctrine, the cited cases have emphasized the necessity of raising the issue of a defect in the officer's qualifications in the proper proceeding." *Baker v. State*, 833 A.2d 1070, 1084, 377 Md. 567 (2003). The *Baker* Court cited numerous cases of the jurisprudence of attacking the power of a judge and concluded:

the legality of the acts of a de facto judge, or that judge's entitlement to the office, may not be collaterally attacked in a proceeding to which the de facto judge is not a party. *Id.* In this case, we have seen, the petitioner moved to quash or strike both an illegal sentence and the warrant of execution. This is a collateral attack on the petitioner's sentence. It is not a proceeding brought directly to question whether Judge Whitfill was validly holding the office of judge of the Circuit Court for Harford County when he sentenced the petitioner and signed the Warrant of Execution.

*Id. at* 1086. It is also incorrect that the Hearing Examiner or a judge needs to have a personal issue or bias requiring disqualification. The cited federal cases had no factual issues of personal bias; instead the issues related to issues of constitutional and statutory law regarding the lawfulness of the appointments.

Additionally, while totally ignoring Charter Section 216, the Hearing Examiner improperly relies upon Council Rule 1.015; Rule 1.015(d) states

Other Assistance. 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.

Council Rule 1.015(d) is generally a restatement of Charter Section 216; however, Rule 1.015(d) contains an "or" after "resolution" that is not found in the Charter. By adding the "or," Rule 1.015(d) deviated from the structure of Charter Section 216. As written, Rule 1.015(d) allows employment of assistance (1) if it is provided in the budget or (2) if not provided in the budget, the Council may pass a resolution. There is no provision in Rule 1.015(d) for supplementary appropriations. If the Council were to pass a resolution, and there is no money in the budget, there is no ability to pay for the assistance. This result would be contrary to the plain language of Charter Section 216. Council Rule 1.015(d) cannot effectively rewrite the superiority, meaning, interpretation, and/or application of Charter Section 216.

The argument that the Board of Appeals Hearing Examiner and Zoning Counsel have never been appointed by Council resolution is not a defense. Rather, it is an admission that the

County Council has erred for a very long time. The claim that Protestant failed to bring the motions before the Zoning Board's Administrative Meeting in this instant case has been proved to be an irrelevant distraction. First, it shows the lack of attention to detail of the Hearing Examiner's cutting and pasting. As stated, the Hearing Examiner granted discretion to incorporate the prior motions into ZB 113M. Therefore, it is disingenuous to then claim that it was not brought at a proper time by pasting the Petitioner's argument from ZB 1130M.<sup>1</sup>

The filing of the Public Information Act requests with the Council Administrator was not only a method of making a record, but was also a means to subtly make objections to the lack of resolutions with the County Council and Office of Law. From this, the Hearing Examiner improperly concludes that Protestant was somehow legally obligated to bring a challenge to the authority of the Board of Appeals Hearing Examiner in prior Hearing Examiner matters. Not only is this position without legal merit, but to what end would doing so have accomplished? Clearly, the motions would have been similarly rejected.

Discussion of the lawfulness of appointments of the Board of Appeals Hearing Examiner are useful for a full background, but it totally misses the issues of fact and law that the Board of Appeals Hearing Examiner and the Zoning Board Hearing Examiner are two district offices with authority deriving from different authority in the Howard County Charter and County Code. As a factual matter, there was no Zoning Board Hearing Examiner matter to challenge in 2022. Had it then been brought, it would have needed to include Katherine Taylor and her position as Zoning Board Hearing Examiner—a position which it turns out she has never held..

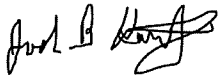
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<sup>1</sup> As will be discussed separately in its own proceeding, such a motion was made before the Administrative Meeting in ZB 1133M The Howard Research and Development, and the Zoning Board chose to ignore the motions without discussion.

Furthermore, the Zoning Counsel was not hired until early January 2026. Thus, it was impossible to challenge the failure of the Zoning Counsel to be hired by the vote of three votes of the Council earlier.

Lastly, the Hearing Examiner's conflation is actually belied by how she signed the Report: "Zoning Board Hearing Examiner."

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joel B. Hurewitz". The signature is stylized and cursive.

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April 8, 2026

**CERTIFICATE OF SERVICE**

I, Joel B. Hurewitz certify that on April 8, 2026 I served to the below named persons the attached copy of **EXCEPTIONS OF PROTESTANT JOEL B. HUREWITZ**

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