

**In the Matter of the Administrative
Appeal of Michael W. Jones**

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**Havre de Grace Board of
Appeals**

Michael Jones, Petitioner
Property: 625 S. Washington Street

Case #561

**City's Response to Petitioner's Appeal of Interest Calculation and
Request for Attorney Fees and Costs**

I. Introduction

Petitioner Michael W. Jones appeals the City's April 16, 2026 refund decision concerning a capital cost recovery charge. The City refunded the \$18,500 principal amount and paid \$1,110 in interest, representing 6% simple interest calculated from the date of Petitioner's November 30, 2025 refund request to April 16, 2026. Petitioner now asks the Board of Appeals to award additional interest calculated under the Maryland Tax-General Article, plus attorney's fees, and costs.

Petitioner's appeal should be dismissed or denied for several independent reasons. First, the Board of Appeals does not have subject-matter jurisdiction to adjudicate disputes over municipal fees, refund interest, attorney's fees, or costs. The Board's administrative-review authority is limited by state law and Maryland Supreme Court decisions. Second, even if the Board could reach the merits, Petitioner's proposed interest calculation is wrong. The Tax-General refund-interest provisions apply to refund requests made under specific provisions of the Tax-General Article, but Petitioner here requested his refund under the Local Government Article, NOT the Tax-General Article. Finally, Petitioner's request for attorneys' fees is not supported under Maryland law because it contravenes the American Rule that each party bear its own legal fees absent statutory or contractual authority to the contrary or a legally recognized exceptional circumstance. Accordingly, the Board should dismiss this appeal based upon the specific finding and conclusions as noted below.

II. Background

On April 16, 2026, the City issued a written final decision to Mr. Jones enclosing a check for \$19,610.00. The letter stated that the payment represented "a refund of the \$18,500 capital cost recovery fee plus statutory 6% simple interest calculated from the date of your November 30, 2025 refund request to the present." The letter further advised that the refund rendered moot a scheduled April 17, 2026 hearing before the Director of Finance and stated that any disagreement with the

Administration's final decision to pay the refund could be appealed to the Circuit Court for Harford County.

Petitioner nevertheless filed on May 13, 2026, an application with the City's Board of Appeals under City Code § 25-15A, identifying the appeal as an administrative appeal of the April 16, 2026 administrative decision. The Petitioner "challenges only the City's refund of interest and costs, not the refund of principal." Petitioner asks this Board to award an additional \$5,473.64 in interest calculated under Tax-General §§ 13-603 and 13-604, plus \$6,500 in attorney fees, Board of Appeals fees, and related costs. His request should be denied for the reasons stated below.

III. Argument

A. The Board of Appeals lacks subject-matter jurisdiction over appeals relating to fees, refund interest, attorney's fees, or costs.

Any analysis of the legal powers and authority of a municipality and its boards must begin with Maryland state law. A municipal board may exercise only the authority that the General Assembly has delegated and that the municipality has lawfully implemented. In **K. Hovnanian Homes of Md., LLC v. Mayor of Havre de Grace**, the Supreme Court of Maryland emphasized that municipal action must be consistent with the express powers granted by the General Assembly and that municipal actions taken outside those powers are ultra vires. K. Hovnanian Homes of Md., LLC v. Mayor of Havre de Grace, 472 Md. 267, 244 A.3d 1174 (2021).

The City made this same threshold point in the Legacies Forest Conservation Plan appeal in Board of Appeals Case #560. In short, the Board of Appeals is not a general-purpose tribunal for all disputes involving decisions made by any City official. Rather, this Board's authority derives from Maryland's Land Use Article, and the Board cannot acquire jurisdiction merely because a petitioner characterizes a dispute as an "administrative appeal" related to non-land use and zoning matters. While the City Code may appear to apply to all decisions of any administrative officials of City government, the City Code must be read consistent with the authority granted by state law and cannot grant more authority than is allowed by state law.

Under Maryland Land Use Article § 4-305, a zoning board of appeals is granted authority to hear and decide appeals alleging error in an order, requirement, decision, or determination made by an administrative officer or unit **under the Land Use Article division governing single-jurisdiction planning and zoning** or under a local law adopted under that division. That authority is land-use and zoning authority; it is not a grant of general jurisdiction over municipal finance,

municipal refund decisions, interest calculations, attorney fees, costs, or other monetary claims. Because of the limited grant of authority under the land use article, and no general jurisdiction authority is under the Local Government Article, City Code § 25-15A cannot be read to create Board jurisdiction greater than state law allows. Thus, even though § 25-15A refers to administrative review of final orders, decisions, and determinations, that local provision must be construed consistently with the Board's state-law source of power. The Board therefore cannot hear this appeal unless the challenged decision falls within the type of matter the Board is legally authorized to review. It does not. Petitioner does not challenge zoning interpretation, variance, special exception, subdivision decision, building-code enforcement decision, historic-preservation determination, or other matter within the Board's delegated land-use jurisdiction. Instead, Petitioner asks the Board to decide a monetary dispute: whether the City should pay more interest on a refunded capital cost recovery charge and whether the City should reimburse Petitioner's attorney's fees and costs. Nothing in the Land Use Article, the Local Government Article, the Tax-General Article, the Tax-Property Article, or City Code Chapter 25 grants this Board of Appeals the authority to award that relief.

Maryland courts treat agency jurisdiction as a threshold issue. In **Sugarloaf Citizens Ass'n v. Frederick County Board of Appeals**, the Appellate Court of Maryland affirmed a board of appeals' refusal to review a septic-system determination because that issue belonged to a separate state-law regulatory scheme, not the board's zoning jurisdiction. Sugarloaf Citizens Ass'n v. Frederick Cnty. Bd. of Appeals, 227 Md. App. 536, 135 A.3d 509 (2016). The same principle applies here: an appeal concerning a municipal charge, refund interest, fees, and costs belongs, if anywhere, in the forum authorized by law for monetary claims or judicial review—not before the Board of Appeals. Accordingly, the Board should dismiss the appeal for lack of subject-matter jurisdiction.

B. Petitioner's Tax-General interest calculation does not apply because the capital cost recovery charge is not a tax under the Tax-General or Tax-Property Articles.

Even if the Board had jurisdiction, Petitioner's appeal fails on the merits. Petitioner's calculation depends entirely on treating the refunded capital cost recovery charge as if it were a Maryland tax refund governed by Tax-General §§ 13-603 and 13-604. That premise is incorrect.

Tax-General § 13-603 concerns interest on certain tax refunds, and Tax-General § 13-604 sets the statutory refund-interest rate where the General Assembly has authorized interest for those tax refunds. Maryland cases applying those provisions address tax refunds administered within Maryland's tax statutes.

For example, *Wynne v. Comptroller of Maryland* addressed the interest rate paid on state income tax refunds following the Maryland income-tax credit litigation. *Wynne v. Comptroller of Md.*, 469 Md. 62, 228 A.3d 1129 (2020). It does not hold that every municipal charge, fee, or refund automatically becomes a Tax-General refund subject to the Comptroller’s published tax-refund interest rate.

The charge refunded here was identified by the City and by Petitioner as a capital cost recovery fee or capital cost recovery charge, imposed by the municipality, not a tax. The April 16, 2026 refund letter states that the City refunded the “\$18,500 capital cost recovery fee” plus 6% simple interest. *Petitioner’s Board of Appeals Application* at p. 4. Petitioner’s own brief describes the City’s demand as a “fee” and repeatedly seeks interest and costs associated with that “fee.” *Id.* at 5. Maryland law distinguishes taxes from fees. In *Eastern Diversified Properties, Inc. v. Montgomery County*, the Supreme Court of Maryland explained that courts look to the substance and purpose of a charge to determine whether it is a tax or a regulatory fee. The Court recognized the distinction between “fees as a necessary part of a regulatory measure” and taxes imposed “for revenue purposes.” *Eastern Diversified Properties, Inc. v. Montgomery County*, 319 Md. 45, 570 A.2d 850 (1990). That distinction matters here because Petitioner cannot invoke Tax-General refund-interest provisions merely by labeling the refund as a tax refund after the fact.

Further, to be subject to the Tax-General interest provisions, the refund must have been requested under Tax-General § 13-901(a)(1), § 13-901(a)(2), § 13-901(d)(1), or § 13-901(d)(2). Petitioner’s own refund request confirms that he did not proceed under those provisions. Instead, as stated in his November 30, 2025 letter requesting a refund, Petitioner expressly invoked “Maryland Annotated Code, Local Government Article, Division IV, Title 20, Subtitle 1, Part III Refunds,” and requested a hearing under Local Government § 20-116(a). *See* Exhibit A attached hereto. That matters because the Local Government Article refund remedy is a distinct statutory remedy for claims involving payments to counties and municipalities, which includes any “tax, fee, charge, interest, or penalty” claims. In *Brutus 630, LLC v. Town of Bel Air*, the Supreme Court of Maryland described Local Government § 20-113 et seq. as the mechanism for seeking refunds of local-government taxes, fees, charges, interest, or penalties, and held that a claimant dissatisfied with the local government’s disposition may pursue the statutory appeal path provided by Local Government § 20-117. *Brutus 630, LLC v. Town of Bel Air*, 448 Md. 355, 139 A.3d 957 (2016). Petitioner cannot invoke the Local Government Article refund process to obtain review of a municipal fee refund and then import the separate Tax-General §§ 13-603 and 13-604 interest rate as though his claim had been brought under Tax-General § 13-901, which it was not.

Petitioner's cited authorities are inapposite and unpersuasive. In *Wynne v. Comptroller of Md.*, 469 Md. 62, 228 A.3d 1129 (2020), the Maryland Supreme Court analyzed the General Assembly's statutory treatment of interest on income-tax refunds and the constitutionality of the Legislature's chosen refund remedy. The case had nothing to do with refunds requested from a municipality under the Local Government Article or interest applied to such claims. In *Bowman*, the plaintiff filed a putative class action seeking to recover sheriff's fees allegedly collected in violation of Maryland law. *Bowman v. Goad*, 348 Md. 199, 703 A.2d 144 (1997). The Supreme Court of Maryland held that, even assuming the fees were unlawfully collected, the plaintiff could not proceed by common-law action because Maryland provides statutory administrative refund remedies for taxes, fees, and charges, and those statutory remedies are exclusive. The case makes no finding on applicability of Tax-General Article interest to municipal refund requests. Finally, *Belcher v. State Department of Assessments & Taxation*, 315 Md. 111 (1989) (mis-cited by Petitioner as 329 Md. 253) does not stand for the proposition asserted (i.e., interest is not discretionary on refunds) but rather, involved a determination of whether tax-credits were applicable to certain investment activity.

Absent statutory authority to the contrary, the applicable default rule is Article III, § 57 of the Maryland Constitution, which sets a 6% legal rate of interest unless otherwise provided by the General Assembly. Because the General Assembly has not made Tax-General §§ 13-603 and 13-604 applicable to Petitioner's capital cost recovery charge refund request made under the Local Government Article, the City properly applied the 6% rate rather than the Comptroller's tax article interest rate.

C. Attorney's fees are not recoverable under the American Rule, and the Board has no authority to award attorney's fees, Board costs, or related expenses.

Petitioner also asks the Board to award \$6,500 in attorney fees, administrative filing fees, and related costs. Petitioner attaches no legal invoices or receipts to support his request, and no attorney has entered an appearance with regard to Petitioner's November 30, 2025 refund request. Petitioner's request for attorney's fees and costs should be denied because (1) the Board has no authority to award attorney's fees and costs, and (2) Maryland follows the American Rule which recognizes that each party ordinarily bears its own attorney's fees unless a statute, rule, contract, or recognized exception provides otherwise.

The request for attorney fees is factually unsupported. Petitioner had no attorney represent him in connection with the November 2025 refund claim. Because the refund claim was pursued without counsel, there is no basis for

Petitioner to recover attorney's fees allegedly incurred to obtain the refund especially where no legal invoices are supplied in support of his claim.

Maryland follows the American Rule, under which each party ordinarily bears its own attorney's fees unless fee-shifting is authorized by statute, contract, or a recognized exception. *Hess Construction Co. v. Board of Education of Prince George's County*, 341 Md. 155, 160, 669 A.2d 1352 (1995). Notably, Petitioner cites no statute, contract, or other recognized exception authorizing an attorney's-fee award in refund cases. The refunded capital cost recovery charge was not paid under any agreement containing a fee-shifting clause, and Petitioner cites no City Code provision, state statute, or Board rule that empowers the Board to shift fees against the City. Petitioner's application generally invokes equitable labels such as "common fund," "bad faith," and "private attorney general," but those labels do not create a legal right to attorney's fees in this refund claim. Petitioner has not identified any common fund created for the benefit of others, any adjudicated bad-faith conduct by the City, or any Maryland statute adopting a private-attorney-general fee remedy for this type of municipal refund dispute. Nor has Petitioner identified any legal authority allowing the Board of Appeals—an administrative body of limited jurisdiction—to award attorney's fees or litigation costs against the City in an administrative appeal.

Because Petitioner has not shown any statutory, contractual, or other legally recognized basis for fee-shifting, each party must bear its own attorney's fees. The Board should deny Petitioner's request for attorney's fees, Board of Appeals fees, administrative filing fees, and related costs.

IV. Conclusion

For the foregoing reasons, the Board of Appeals should dismiss the appeal for lack of subject-matter jurisdiction. In the alternative, if the Board reaches the merits, it should deny the appeal because Tax-General §§ 13-603 and 13-604 do not apply to the refunded capital cost recovery charge, and the City properly applied the 6% interest rate authorized by Article III, § 57 of the Maryland Constitution. The Board should also deny Petitioner's request for attorney's fees, Board costs, and related expenses for lack of factual record and legal support to override the American Rule.

Respectfully submitted,

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