

IN THE MATTER OF
XINYE CHAI
43 BADGER GATE COURT
CATONSVILLE, MD 21228

RE: Appeal of Sewer Service Charge

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: CBA-25-003

* * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County as an appeal filed by Xinye Chai, from an August 1, 2024 letter from Lauren T. Buckler, Acting Director of the Department of Public Works and Transportation (“DPWT”), denying a request to reduce a sewer charge of \$5,057.45 for the period of July 1, 2024 to June 30, 2025 for the property located at 43 Badger Gate Court (the “Property”).

The Board convened for a *de novo* public hearing on January 7, 2025. Appearing on behalf of Baltimore County was Katherine Loverde, Assistant County Attorney and Michael Swygert, Acting Director of Metropolitan District Financing at DPWT. Ms. Xinye Chai appeared *pro se*.

FACTUAL BACKGROUND

The Property at 43 Badger Gate Lane is a townhome located in the Catonsville area of Baltimore County. The Appellant, Property owner Xinye Chai, resided in the home prior to her marriage, and she now rents the home. She and her husband maintain the Property, both inside and out, visiting it no less regularly than every two weeks.

Ms. Chai received elevated water bills from Baltimore City for three billing periods, which she challenged in a timely manner. After an on-site inspection of the Property by

In the matter of: Xinye Chai

Case No.: CBA-25-003

Baltimore City on March 21, 2023, which failed to find any water leak either from the meter or inside the house, the City reduced those charges. Ms. Chai then discovered that, based on the City's water bill, Baltimore County had increased the sewer charges on her tax bill, but did not reduce the sewer charges after the adjustment made by Baltimore City.

Ms. Chai then embarked on the sometimes-frustrating exercise of investigating how to pursue that reduction within Baltimore County's Departments of Finance and Department of Public Works and Transportation. In February, 2024, she applied for a 'situational adjustment', which was granted for only one of the water billing periods. Finding this an unsatisfactory resolution, Ms. Chai appealed that decision to the Board of Appeals.

Water and sewer charges involve a somewhat inefficient methodology between Baltimore City, Baltimore County and a taxpayer. Public water service in Baltimore County is operated, provided, measured and billed by Baltimore City.

Baltimore City reads water meters quarterly using a digital drive-by method, measuring water usage for the prior three months. Most of these readings are performed by a third-party contractor, including those that are the subject of this appeal. Though the City should bill the homeowner contemporaneously with the meter reading, there are sometimes delays between the date the meter is read and the date the homeowner receives the water bill. The City operates water billing based on a calendar year.

The public sewer system is operated, owned and provided by Baltimore County. Sewer charges are billed by Baltimore County as part of a homeowner's tax bill, on the tax year beginning July 1. Under Baltimore County Code §20-5-105, the County assumes that 100% of the metered water that enters a property is discharged through the public sewer system. As a consequence of the different billing cycles used for water and sewer by the two jurisdictions, it

In the matter of: Xinye Chai

Case No.: CBA-25-003

is possible that a homeowner would not know of sewer charges based on an elevated or erroneous water bill for as long as a year (assuming the water bills were timely issued).

Both jurisdictions utilize discretionary methods of adjusting excessive bills when a consumer files a complaint by granting a 'situational adjustment'. The City employs one formula; the County employs a different formula, that is at least half that of the City. The formula in each case is arbitrary, and in the case of Baltimore County, is not set forth in the County Code or on its website. The process and paperwork for requesting the adjustment (the Baltimore County Director's Sewer Adjustment Request Form) is not found on the DPWT website. Further, in Baltimore County, if a property owner requests a situational adjustment, in submitting such a request, that person *must* waive rights to request further adjustments for a period of three years. If the waiver is not signed, the adjustment is automatically denied.

The water bills for the Property spiked for three billing periods, based on meter readings taken October 8, 2022 (but not billed for four months until January 10, 2023), January 10, 2023 (billed on January 11, 2023) and on April 11, 2023 (billed on April 12, 2023). All subsequent meter readings (the first of which occurred in July, 2023) reflect the historically low water consumption that predated the three elevated readings.

At the hearing before the Board, Property owner Xinye Chai presented her case. She identified herself as a professional in the area of utilities. Ms. Chai explained that after receiving the high water bills in January, 2023, she contacted the City and an inspector visited the Property on March 21, 2023, to conduct a thorough investigation, including dye tests of the toilets. That investigation revealed no leak at the Property, inside or out. Upon filing an adjustment request with the City, she received an adjustment deducting a total of 821 units of consumption, which was reflected on subsequent water bills.

In the matter of: Xinye Chai
Case No.: CBA-25-003

Ms. Chai then sought to have the sewer service charge on her Baltimore County tax bill adjusted. She was re-routed within the county before connecting with Metropolitan District Financing in May, 2023. Then, her request crossed many desks, before she was directed to file a “Baltimore County Director’s Sewer Adjustment Request Form”. On July 3, 2023, Baltimore County’s inspector Mr. Ollie determined that one of the toilets in the house had a small, intermittent leak. The leak was repaired by the Property owner immediately. Despite the finding of this leak, the water meter readings for the quarter immediately prior to the discovery of the leak ending July, 2023, reflected minimal consumption, inconsistent with a continuous leak of any sort.

Ms. Chai also advised the Board that the Property was inspected as a prerequisite to obtaining a Rental License, issued in October, 2023, and passed that inspection with no evidence of a water leak. Ms. Chai pointed out that it would require over 409,000 flushes to achieve the water usage reflected on the elevated bills.

Mr. Swygert testified on behalf of Baltimore County, explaining in detail the interrelated systems of Baltimore City and Baltimore County, the disparity in billing cycles, and the absence of any explanation for the high water bills, other than that there had to have been a leak. Mr. Swygert points to the July, 2023 inspection findings to support the County’s position. He also maintained that the records shared by Baltimore City do not support Ms. Chai’s allegation that the meter was malfunctioning.

The Board here is faced with two knowledgeable and credible witnesses. Ms. Chai testified that she and her husband are very hands-on landlords, visiting the Property multiple times a month, who diligently maintain the house and grounds. Unlike many citizens filing these

In the matter of: Xinye Chai

Case No.: CBA-25-003

types of appeals, she was familiar with the applicable technology¹ and was pro-active in resolving the problem as promptly as possible. The Board feels that she has met the burden of proving her case.

While Mr. Swygert was equally credible, he relies entirely on data provided by Baltimore City during the period of the elevated bills, but in fact had no actual discussion with his counterpart in the City regarding this matter. Further, he relies on the small leak discovered in July, 2023 to explain the high water readings, when intervening meter readings displayed dramatically lower consumption, all prior to the repair by the homeowner. Accordingly, we do not feel Baltimore County overcame the Property owner's presentation.

Therefore, absent of definitive evidence by Baltimore County, we believe the Property owner is entitled to a refund equivalent to 587 units or \$4,390.76.

ORDER

THEREFORE, IT IS this 10th day of February, 2025, by the Board of Appeals of Baltimore County,

ORDERED that the August 1, 2024, decision letter from Lauren T. Buckler, Acting Director of the Department of Public Works and Transportation, refusing to grant a reduction in the sewer service charge of \$5,057.45 against the Property at 43 Badger Gate Court, be and is hereby **REVERSED**, and further

ORDERED, that a reduction in the sewer service charge of \$4,390.76 be **GRANTED**; and it is further

¹ In fact, she is the Deputy Bureau Chief of Utilities · Howard County DPW

In the matter of: Xinye Chai

Case No.: CBA-25-003

ORDERED, that the total sewer service charge is \$666.69, and any amount not previously paid shall be paid to Baltimore County, Maryland within thirty (30) days of the date of this Opinion and Order and any amount paid to Baltimore County shall be refunded such that the total amount paid to Baltimore County is \$666.69.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules.

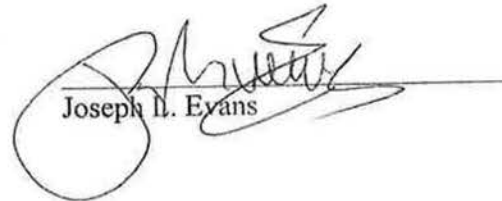
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Sharonne R. Bonardi, Chair



Deborah C. Dopkin



Joseph L. Evans



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

February 10, 2025

Katherine Loverde, Assistant County Attorney
Baltimore County Office of Law
400 Washington Avenue, Suite 219
Towson, Maryland 21204

Xinye Chai
9904 Lamontt Court
Ellicott City, Maryland 21042

RE: In the Matter of: *Xinye Chai*
Case No.: CBA-25-003

Dear Ms. Loverde and Ms. Chai:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Executive Secretary

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Michael Swygert, Chief of Metropolitan District Financing/DPW&T
Lauren T. Buckler, Director/DPW&T
James R. Benjamin, Jr., County Attorney/Office of Law