

IN THE MATTER OF  
INSTITUTE OF MISSION HELPERS  
OF BALTIMORE CITY  
1001 W. JOPPA ROAD  
TOWSON, MARYLAND 21204

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No.: CBA-24-018

RE: Appeal of Sewer Service Charge

\* \* \* \* \*

**OPINION**

This matter comes before the Board of Appeals following an appeal by the Institute of Mission Helpers of Baltimore City (“Mission Helpers”), Appellants, of a letter of decision issued by D’Andrea L. Walker, Director of the Department of Public Works and Transportation (“DPWT”), dated December 14, 2023 reducing the Sewer Service charges from \$18,430.13 to \$13,164.38 and the Bay Restoration Fee from \$1,200.00 to \$900.00 for property located at 1001 W. Joppa Road, Towson Maryland 21204 (“subject property”). On January 29, 2024, the Notice of Assignment was issued, and a remote hearing was scheduled for March 27, 2024. The Board received a postponement request that was granted. An in-person hearing was convened on May 1, 2024. Baltimore County (“County”) was represented by Katherine Loverde, Assistant County Attorney. Petitioner appeared without an attorney. Its spokesperson was Sister Marilyn Dunphy, MSHS, who serves as treasurer of the organization.

**Factual Background**

Petitioner is the owner of the subject property. The property is located in the Metropolitan District (“District”) which consists of the area within the County served by public sewer and water. The City of Baltimore (“City”) handles the water consumption component, and the County handles the sewer component. Property owners within the District are billed for their water and sewer usage, with the annual sewer charges reflected on County property tax bills. Water bills,

reflecting consumption, come from the City, and are sent to County property owners quarterly. The sewer charges stated on a property owner's tax bill are based on water usage for the calendar year prior. The sewer billing cycle begins July 1 of each year and ends on June 30.

On July 1, 2022, the County issued a real property tax bill to Mission Helpers for year beginning July 1, 2022 and ending June 30, 2023. (County Exhibit 6). That tax bill contained the sewer charges for calendar year 2021 and are the charges that the Petitioner now disputes. The disputed sewer service charges were based on the prior calendar year water consumption records of the City. As previously stated, the City issues water bills on a quarterly basis, while notice of the sewage charge is provided in the County's annual property tax bill. Specific to this matter, when Mission Helpers received their 2023 property tax bill, and per the testimony of Sister Marilyn Dunphy, they noticed the sewer charges for 2021 were much higher than in previous years. The County through its witness, Acting Chief of the Metropolitan District Finance Office, Michael Swygert, indicated that it applied the standard sewage calculation according to departmental procedures. Based on the findings of the inspector's report, the County declined to adjust the sewage charges, and the Petitioner filed an appeal of that decision.

County Exhibit 7 is a chronology of events prepared by Mr. Swygert. On July 26, 2022, Mission Helpers emailed the County regarding high water consumption. Their initial concern was that they were being billed for consumption at the Blakehurst Retirement Community ("Blakehurst"). Mission Helpers attached their property tax bills containing the property description of "BLAKE HRST LFE CARE COM." Staff noted that is common for property descriptions to contain errors, and Metropolitan District Finance Office staff confirmed that Blakehurst and Mission Helpers do not share meters nor accounts. DPWT further noted that property descriptions are maintained by the State Department of Assessments and Taxation

(“SDAT.”) On September 28, 2022, Mission Helpers sent a follow-up inquiry to the Metropolitan District Finance Office requesting an update on their July 26, 2022 email. On October 25, 2022, Mission Helpers sent another follow-up email to the Metropolitan District Finance Office requesting an update on their original July 26, 2022 email. On November 9, 2022, Mission Helpers contacted the County via email stating they had their lines inspected and found no leaks inside or outside the building. Mission Helpers also requested water usage information from January 2018 to the present. On November 14, 2022, the Metropolitan District Finance Office provided consumption data from 2014 to the billing cycle at issue. On November 15, 2022, Mission Helpers sent an email questioning the sewer service rate, the Bay Restoration Fee (BRF), and asked how they could appeal the charges. On November 15, 2022, the Metropolitan District Finance Office sent a response acknowledging that the rate quoted was incorrect, that the BRF is based on consumption, and the Metropolitan District Finance Office’s inspectors verified that the reads and usage align with 2021 consumption. There was no further contact from Mission Helpers until their appeal dated June 29, 2023.

Mr. Swygert testified that the sewer charge in the tax bill issued on July 1, 2022 is calculated on consumption from calendar year 2021, and no documentation has been provided that established the water was not discharged to the sewer system for that year. He further testified that the meter reads were confirmed in an inspection by County staff in November of 2022, and no meter issues were found at the property. He added that the investigation did show that a leak was detected on the Encoder Receiver Transmitter (“ERT”) indicating there was a leak in the property at some point. An email from Mission Helpers dated 11/30/23 stated that routine maintenance of the property included the routine repair of any leaking faucets and toilets,

but no special plumbing issues. (County Exhibit 15). This was also corroborated by Sister Dunphy's testimony.

The meter readings recorded a substantial increase in consumption for the second and third quarters in 2021. This was followed by a decrease for the final quarter in 2021 and with one exception, a general resumption of normal readings thereafter. (County Exhibit 5).<sup>1</sup> The County's notes also indicate that the Facility was vacated in 2022 and is pending sale which has resulted in a drastic reduction in water use since June 2022. (County Exhibit 7). The County contends that consumption was not related to an error in the City billing system, and there are no work orders indicating any meter errors. Petitioner testified that there was an increase in the bills received from the City, but payment was made without requests for adjustments because the amounts were not as concerning as the County's sewer calculations<sup>2</sup>.

The County researched the property and found a Facebook page for the Mission Helpers showing events with pictures of large gatherings for birthdays, outdoor events, and statue dedications. (County Exhibit 7). Petitioner testified that events and activities ceased due to the COVID-19 global pandemic, and the related restrictions placed on social gatherings. (Petitioner Exhibit 1). Thus, special events could not be the basis for enhanced water usage in 2021. On 11/30/23, Metro staff contacted Mission Helpers and asked that they provide any plumbing information on work that was performed during 2021. Mission Helpers responded noting nothing extraordinary occurred during the period at issue, only routine maintenance including the timely

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<sup>1</sup> The exception relates to a burst pipe in December of 2022 which did not impact 2021 consumption. (Petitioner Exhibit 1).

<sup>2</sup> The County notes that raw consumption is the read taken from Itron and may differ from the City reads. County staff may refer to raw consumption to gauge whether consumption tracks what the City bills for consumption. In any case, the City consumption is used for sewer billing. (County Exhibit 7)

repair of any leaking faucets or running toilets; no unusual amount of work using water was performed inside or outside the building. (County Exhibit 15).

The Director of DPWT has the discretion to authorize abatement of a sewage bill. Although the County argues that there is no evidence that water consumed during 2021 was **not** discharged to the sewer, DPWT Director Walker, adjusted the original sewage bill from \$18,430.13 to \$13,164.38, and the Bay Restoration Fee from \$1,200.00 to \$900.00. (County Exhibit 17). No specific rationale was offered as to why the adjustments were made. The sewer adjustment was calculated according to an internal DWPT practice of subtracting the average consumption from the aberrant consumption and then dividing the result by two. DPWT has an unwritten policy of granting such reductions for up to two quarters out of a three year period. It appears from the record that the reduction in this instance was based on only one of the two quarters at issue.

### Discussion

Pursuant to Baltimore County Code (“BCC”) § 20-5-128(a), in an appeal to the Board of Appeals, “the Board shall determine whether or not the determination, decision, order, or notice, which is the subject of review, is proper or correct.” The Board may reverse, affirm (in whole or in part), modify the determination, decision, order, or notice appealed from. (*Id.*) The Board is not authorized to waive, set aside, or change any provision of the Wastewater Regulation title of the County Code. (*Id.*) BCC § 20-5-105 presumes that every user discharges 100% of their waste consumption into the sewer system and further presumes that the City water consumption records are correct. The person disputing the records has the obligation to establish any amount of water consumed which it contends was not discharged to the sewer. (*Id.*)

Mission Helpers has diligently attempted to identify the potential cause for the abnormal readings at issue. Because occupancy of the property had declined substantially, because events were held to a minimum due to COVID-19 restrictions, and because no extraordinary water-related events had occurred during the reporting period, Petitioner infers that the meter read was inaccurate. This is difficult in light of the statutory presumption. Without contrary evidence as to the water consumption, the presumption as to the correctness of the City water records and the subsequent sewage charges typically stand. There is, however, some evidence of an exterior leak. (County Exhibit 9, at p. 52). In addition, we completely accept Petitioner's testimony that there were no leaking faucets, running toilets, or other internal leaks to account for the high usage reported. In that regard, we have no doubt that Petitioner's presentation to the Board was truthful and in complete good faith. Also, it appears that the reduction by the Director was based on only one of the offending quarters without an explanation as to why it was not taken as to both of the offending quarters, there having been no other reductions within the three year period. In addition, there were some other features that create some concern as to the accuracy of the billing process like the incorrect property owner listed for the subject property and the application of an incorrect rate. Given all of these factors, the Board finds a further reduction is warranted. While we do not question the integrity of the County's billing system, a further reduction is merely an equitable means of resolving the inconsistencies presented in this case.

### **Conclusion**

In light of the evidence presented, the Petitioner's request for an adjustment is granted. We base this adjustment on Petitioner's average annual use over the past five years. Accordingly, the Board is reducing sewer charges from \$13,164.38 to \$8,133.33 for calendar year 2021 with no change to the Bay Restoration Fee.

**ORDER**

**THEREFORE, IT IS THIS** 17th day of July, 2024, by the Board of Appeals of Baltimore County, hereby:

**ORDERED** that the December 14, 2023 decision letter from D'Andrea L. Walker, Director of the Department of Public Works and Transportation, imposing a sewer charge of \$13,164.38 for calendar year 2021 is hereby modified to \$8,133.33, and it is further

**ORDERED**, that the Director's imposition of a \$900.00 Bay Restoration Fee shall remain unchanged.

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**

  
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Joseph L. Evans, Chair

  
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Sharonne R. Bonardi

  
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Bryan T. Pennington



## Board of Appeals of Baltimore County

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July 17, 2024

Katherine M. Loverde, Assistant County Attorney  
Baltimore County Office of Law  
400 Washington Avenue, Suite 219  
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Sister Marilyn Dunphy, MSHH  
Institute of Mission Helpers of Baltimore City  
16 Greenmeadow Drive, Suite 301  
Timonium, Maryland 21093

RE: In the Matter of: *Institute of Mission Helpers of Baltimore City*  
Case No.: CBA-24-018

Dear Ms. Loverde and Sister Dunphy:

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, Acting Chief/Metropolitan District Financing/DPWT  
Lauren Buckler, Acting Director/DPWT  
James R. Benjamin, Jr., County Attorney/Office of Law