INSPECTOR GENERAL OF BALTIMORE CITY, ISABEL MERCEDES CUMMING, ESQ., *et al*.,	*	IN THE
	*	CIRCUIT COURT
Plaintiffs,	*	FOR
v.	*	BALTIMORE CITY
MAYOR AND CITY COUNCIL OF BALTIMORE,	*	
Defendant.	*	Case No. C-24-CV-26-001410

* * * * * * * * * * * * *

DEFENDANT'S EMERGENCY MOTION TO STAY ORDER PENDING APPEAL

Defendant Mayor and City Council of Baltimore (the "City"), by undersigned counsel and pursuant to Maryland Rules 2-632 and 8-425, respectfully moves for emergency relief to stay the operation and enforcement of the Court's September 21, 2026, Order pending appellate review.

Because the Court has ordered the City to perform actions that would cause irreparable harm **within 48 hours**, this motion is of an **emergency nature**, and the City further requests an **expedited briefing schedule and decision**, requiring any responses in opposition by noon tomorrow (September 22, 2026), with a decision to be issued by the end of that day. The City further requests that, if the Court does not grant stay pending appellate review, that the Court at least temporarily stay any enforcement of its order pending the disposition of this Motion and the disposition of a comparable motion seeking the same relief that will be promptly filed in the Appellate Court of Maryland.

Background

1. On April 10, 2026, Plaintiffs filed their First Amended Verified Complaint seeking declaratory, injunctive, mandamus, and other relief concerning the authority and operations of the

Office of Inspector General ("OIG"), including OIG administrative subpoenas and access to City records and information systems.

2. On May 28, 2026, the City moved to dismiss the First Amended Complaint. Among other issues, the City disputed that the Plaintiffs had standing, and also disputed Plaintiffs' position that OIG may obtain City information without regard to otherwise applicable legal protections governing privileged, confidential, or protected materials.

3. On August 14, 2026, after a hearing, the Court entered a Decision and Order denying the City's Motion to Dismiss and reserving consideration of Plaintiffs' pending Motion for Summary Judgment. The Court found that OIG requests to the City were not covered by the Maryland Public Information Act ("MPIA") as "OIG investigatory functions and subpoenas are not mere requests for public information from other government units or employees." Mem. Op. at 8.

4. On September 21, 2026, after a hearing, the Court granted Plaintiffs summary judgment and ordered that the City give the Inspector General's Office direct and unlimited access to all of the public records held by the City in electronic formats, without any limitation on or review of those records for privileges and protections against access that have been established by constitutional, common, and statutory law, including the Maryland Public Information Act.

5. Concurrent with the filing of this Motion, the City is seeking appellate review of the Court's decisions in this case, and requests that the injunctive relief granted be stayed until that appeal is resolved.

6. Absent a stay, the Court's order presently requires the City to give a party that is not the custodian of public records access to those records (effectively producing them to that non-custodian party) without any review for mandatory prohibitions against production enshrined in

the law. Moreover, the order not only ignores the legal protections against production of various sensitive material, the order entirely eliminates any opportunity for any party to contest the violation of said legal protections. Indeed, under the unlimited access order, both the people whose sensitive information is being illegally accessed and the legal custodians of the public records containing that information will have no way of knowing that the violations have occurred. The order is without limitation and includes the notes, communications, drafts, and other work product of the undersigned attorneys for the instant case and appeals. The City therefore seeks to preserve the status quo before any illegal disclosures occur that could not later be undone. *See Office of State Prosecutor v. Judicial Watch, Inc.*, 356 Md. 118, 124-25 & 128 (1999) (both ACM and SCM ordered injunction requiring disclosure of protected information be stayed pending appeal, because "the harm against which protection is sought will have occurred the moment" the protected information is produced).

Legal Standard

7. This Court has authority to "suspend, modify, restore, or grant an injunction during the pendency of the appeal . . . ." Md. Rule 2-632(f). Maryland Rule 8-425 likewise provides for relief pending appellate review of an injunction.

8. Maryland courts also possess inherent authority to stay proceedings before them. *Moser v. Heffington*, 465 Md. 381, 398 (2019); *Landis v. North American Co*., 299 U.S. 248, 254 (1936). The power to stay proceedings is inherent in a court's authority to control its docket with economy of time and effort for the court, counsel, and litigants. *Id.* A stay is an equitable tool available for adjudicative economy, and whether to grant a stay rests within the trial court's discretion. *Powell v. Breslin*, 430 Md. 52, 67 (2013); *Geier v. Maryland State Bd. of Physicians*, 223 Md. App. 404, 450 (2015).

9. In considering relief that preserves the status quo pending appellate review of injunctive relief, courts consider: (1) whether the movant has made a strong showing that it is likely to prevail on appeal; (2) whether the movant will suffer irreparable injury absent a stay; (3) the comparative injury to the opposing party if a stay is granted; and (4) the public interest. *General Motors Corp. v. Miller Buick, Inc.*, 56 Md. App. 374, 388–89 (1983).

Argument

10. The City has simultaneously noticed an appeal of this Court's August 14 and September 21, 2026, orders with the filing of this Motion, and plans to ask the Appellate Court of Maryland to stay the injunction pending said appeal. However, Rule 8-425(b) requires that the City request this relief from the Circuit Court under Rule 2-632 first.

11. The City has a strong likelihood of success on appeal. Where, as here, the balance of equities strongly favors a stay, the City just need only show that it presents a serious legal question. *Lerner v. Lerner*, 306 Md. 771, 783 (1986); *see also Washington Area Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841, 843-45 (D.C. Cir. 1977) ("What is fairly contemplated is that tribunals may properly stay their own orders when they have ruled on an admittedly difficult legal question and when the equities of the case suggest that the status quo should be maintained."). While the Court has ruled against the City on its arguments regarding the application of the MPIA, there can be no doubt that the question of whether the MPIA applies to OIG's administrative subpoenas is novel, difficult, and complex, requiring the close analysis of both Maryland common law and the interplay between State law and the City charter.

12. The City also has a strong likelihood of success on its argument that this Court's order giving Plaintiffs unlimited, uncontestable (indeed, entirely undetectable) access to public records containing privileged and private information protected from examination is illegal under

the well-settled law in Maryland. Even if the OIG may be entitled to examine such information due to some exception in any particular case, it is absolutely impossible to believe that the OIG, simply by virtue of being the OIG, is entitled to peer into any and all private, legally protected, or privileged information in absolutely every case. Moreover, the Court's order grants this access without any kind of due process to allow the subjects or custodians of that information to know (much less contest) that their protected information is being examined. Unless the appellate courts overrule a great deal of their own precedent, this order will not be allowed to stand on appeal. *See, e.g., Montgomery Cnty. Maryland v. Shropshire*, 420 Md. 362, 366 (2011) ("We hold that … [certain public records held by Montgomery County fall within specified legal protections] and, therefore, may not be disclosed under the Maryland Public Information Act to the Montgomery County Inspector General."); *Caffrey v. Dep't of Liquor Control*, 370 Md. 272, 302 (2002)(expressly holding that a charter provision cannot create exceptions to the MPIA because "[i]f a provision of a county charter, including a charter amendment, conflicts with any public general law, the charter provision may not be given effect") (quoting *Montgomery County v. Bd. of Supervisors of Elections*, 311 Md. 512, 514 (1988)); *see also Police Patrol Sec. Sys., Inc. v. Prince George's Cnty.*, 378 Md. 702, 711 (2003) (citing *Caffrey* as determining that MPIA provisions preempt local charter provisions); *Engage Armament LLC v. Montgomery Cnty*., 494 Md. 1, 33 (2026) (any local law is preempted that "conflicts with a public general law enacted by the General Assembly").

13. The City faces irreparable harm absent a stay. The order requires the City to give a non-custodian of public records unlimited access to privileged, confidential, whistleblower-related, personnel, medical, investigatory, legislatively privileged, or otherwise protected information, and does so in such a way that the disclosures cannot meaningfully be reversed after

appellate review. In *Judicial Watch*, the Supreme Court of Maryland recognized the fundamental problem presented by an order compelling disclosure of allegedly protected governmental information: once the information is disclosed, "the harm against which protection is sought will have occurred" once the City makes the production. 356 Md. at 128. A later appellate ruling therefore cannot restore confidentiality once it has been lost.

14. The balance of harms also favors a stay. A stay would preserve the existing status quo while the issue is decided by an appellate court. The City does not seek through this Motion to halt OIG's operations or unrelated investigations, and the City can preserve the records implicated by the disputed subpoenas during the appeal. Plaintiffs, at most, face a temporary delay in receiving the disputed materials. By contrast, if OIG is given unlimited access to all protected information now, the confidentiality and privileges asserted by the City may be permanently lost before appellate review can occur.

15. Finally, the public interest favors appellate resolution before compelled production and the granting of unlimited access. This case concerns the respective authority and obligations of City institutions, the scope of OIG administrative subpoena power, and the continued application of privileges and confidentiality protections imposed by State law. Those questions extend beyond a single production dispute. Preserving the status quo permits the appellate court to address them without risking disclosures that may later be determined unlawful.

16. No bond or other security is necessary. The order does not award monetary relief, and the requested stay would simply maintain the parties' present positions during appellate review.

WHEREFORE, Defendant Mayor and City Council of Baltimore respectfully requests that this Court stay the operation and enforcement of the September 21, 2026, order pending resolution

of the City's appeal, and if the Court is not inclined to issue such a stay, at least stay the order until the Appellate Court has the opportunity to rule on the motion to stay the pending appeal that will shortly be filed in that court. Due to the emergency nature of this motion, and the harm that the order will cause, the City respectfully requests an expedited briefing schedule and decision, requiring any responses in opposition by noon tomorrow, September 22, 2026, and with a decision to be issued before the close of business on the same day.

Respectfully submitted,

EBONY M. THOMPSON
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Counsel for Defendant
Mayor and City Council of Baltimore

CERTIFICATE OF SERVICE

I certify that on September 21, 2026, the foregoing Motion and Proposed Order were served on all counsel of record via MDEC.



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Michael Redmond (AIS No. 0801030028)

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* * * * * * * * * * * * *

ORDER

Upon consideration of Defendant Mayor and City Council of Baltimore's September 21, 2026, Motion to Stay this Court's September 21, 2026, Order, and any opposition filed thereto, it is hereby:

ORDERED, that Defendant Mayor and City Council of Baltimore's Motion to Stay is **GRANTED**; and further **ORDERED**, that:

[ ] the Court's September 21, 2026, order requiring, among other things, that the City provide the OIG unlimited access to the City's electronic public records within 48 hours is stayed pending the decision of the Appellate Court of Maryland on the City's motion to stay the same order pending appeal; and

[ ] the Court's September 21, 2026, order requiring, among other things, that the City provide the OIG unlimited access to the City's electronic public records within 48 hours is stayed pending the resolution of the City's appeal in this matter filed on September 21, 2026.

Date:

_____

Judge