

SUGARLOAF ALLIANCE, INC.,	*	IN THE
<i>Petitioner,</i>	*	SUPREME COURT
v.	*	OF MARYLAND
FREDERICK COUNTY, MARYLAND	*	September Term 20 <u>25</u>
<i>Respondent.</i>	*	Petition Docket No. <u>162</u>
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**PETITION FOR WRIT OF CERTIORARI**

Sugarloaf Alliance, Inc. (“Sugarloaf”), a small nonprofit community organization, brought a Maryland Public Information Act (“MPIA”) suit after Frederick County unlawfully withheld public records related to a controversial development project involving Amazon Web Services (“Amazon”). The trial court concluded that Sugarloaf had “substantially prevailed,” was entitled to fees, and had requested fees that were “customary and reasonable.” Yet the court nonetheless reduced the fee award by nearly half, relying on considerations such as duplicate documents, the County’s “lack of evil motive,” and the burden the award would place on taxpayers. *In the Matter of Sugarloaf Alliance*, C-10-CV-22-000369 (Cir. Ct. Frederick Cnty. Sept. 28, 2023) (Greenberg, J.). The appellate court affirmed, agreeing that Sugarloaf was eligible and entitled to fees, but upholding the reduction as a proper exercise of discretion. *Sugarloaf Alliance, Inc., v. Frederick County, Maryland*, ACM-REG-1617-2023 (Md. App. Ct. May 1, 2025).

The decision below endorses an expansive and undefined standard of discretion that allows trial courts to override the MPIA’s fee-shifting provision based on subjective factors that are plainly inconsistent with the Act’s purpose. By permitting fee reductions

despite full success on the merits, the ruling threatens to chill essential public oversight and reduce government accountability. For these reasons, the Court should grant certiorari and correct the lower courts' erroneous interpretation.

### **QUESTION PRESENTED**

Whether a court abuses its discretion by reducing a prevailing plaintiff's reasonable attorneys' fees for reasons inconsistent with the purposes of the MPIA?

### **PERTINENT STATUTE**

Md. Code, Gen. Prov. § 4-362(f)

### **STATEMENT OF FACTS AND PROCEEDINGS**

Sugarloaf, a nonprofit based in Frederick County, works to preserve the Sugarloaf Mountain area. In early 2020, the County began developing the Sugarloaf Treasured Landscape Management Plan, which would govern land use in the area. A year later, the County redrew the boundaries to open land to new development. The sudden change prompted public concern. At public meetings, Sugarloaf and others questioned officials but received inadequate responses. Suspecting the County was working with Amazon to rezone land for data centers without public scrutiny, Sugarloaf filed two MPIA requests on October 19, 2021, seeking emails from planning officials containing specific search terms. Though the County acknowledged receipt, it failed to respond within the thirty-day statutory deadline. *See* Md. Code, Gen. Prov. ("GP") § 4-203(a)(1).

After eight months of silence, on June 24, 2022, Sugarloaf filed a complaint in the Circuit Court for Frederick County, alleging violations of the MPIA. The County

answered on August 12, 2022 and, four days later, responded to Sugarloaf's MPIO requests. Out of 156 responsive documents, the County released just twenty, which consisted of approximately 197 pages of pamphlets, promotional materials, and a few emails. For the 136 items withheld, the County provided two Vaughn indices which identified in general and conclusory terms various exemptions asserted for each record.

After the court denied cross-motions for summary judgment, the case proceeded to discovery and trial. At the April 2023 bench trial, the court considered whether the County had lawfully withheld the 136 documents. Sugarloaf argued that the County had failed to meet its burden in justifying withholding and that the Vaughn indices lacked the detail necessary for the court to make individual determinations. On June 8, 2023, the court concluded that the County failed to justify withholding 122 documents and ordered their release. It also concluded that it would conduct in-camera review of the remaining fourteen documents. Following the denial of a motion for reconsideration, the County did not request a stay and complied with the court's order to release the records.

On August 10, 2023, Sugarloaf petitioned for attorneys' fees under GP § 4-362(f), submitting detailed billing records totaling \$48,813.62. The County opposed, arguing that because Sugarloaf had not "presented any evidence that prosecution of this suit was necessary for [it] to receive the records it initially requested, it cannot be said that [Sugarloaf] substantially prevailed in this matter." At a September 6, 2023 hearing, the County did not contest the reasonableness of the hours or rates.

On September 28, 2023, the court issued its Opinion and Order, concluding that Sugarloaf’s counsel had billed reasonably, the fees were customary and appropriate, and the legal work was skillfully performed and achieved favorable results. Despite these findings, the court awarded only \$25,000, nearly 50% less than the fees incurred.

The court gave several reasons for the reduction. It noted that, following its in-camera review, it found fourteen documents justifiably withheld by the County based on attorney-client privilege or confidential commercial information. Some of those documents had already been produced, however, as the County had also sought to withhold them under discretionary privileges the court had rejected. The court also noted that many produced documents were drafts, cover emails, or duplicative. It found no “evil motive,” observing that some County officials appeared to be caught in the difficult position of balancing a potential deal with a major national corporation that could boost the County’s stature and tax base with Amazon’s demands for confidentiality. Finally, it noted that any fee award would ultimately be borne by taxpayers.<sup>1</sup>

Sugarloaf appealed, arguing that the court relied on factors inconsistent with the MPIA’s remedial purpose. The County cross-appealed, challenging the underlying ruling that Sugarloaf had “substantially prevailed” and was entitled to fees at all.

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<sup>1</sup> Additionally, the trial court denied as untimely a supplemental fee petition Sugarloaf filed two days after the September 6 hearing, which primarily sought compensation for work related to that proceeding. On appeal, the Appellate Court vacated the denial, and Sugarloaf does not challenge that ruling.

The Appellate Court of Maryland affirmed in part and vacated in part. It upheld the determination that Sugarloaf substantially prevailed and rejected the County’s cross-appeal. It also, however, rejected Sugarloaf’s argument that the trial court had relied on impermissible considerations, holding that courts may consider the significance of the records disclosed, the presence or absence of agency bad faith, and other discretionary factors in determining the degree of success.

## **REASONS FOR GRANTING REVIEW**

### **I. The Trial Court’s Reduction of Fees Was an Abuse of Discretion**

The MPIA promotes transparency and government accountability by ensuring public access to government records. It establishes a presumption in favor of disclosure, recognizing that “[a]ll persons are entitled” to information about government affairs. GP § 4-103(a). To further “this broad remedial purpose, the General Assembly requires that [courts] construe the MPIA ‘in favor of allowing inspection of a public record, with the least cost and least delay.’” *Balt. Police Dep’t v. Open Justice Balt.*, 485 Md. 605, 621 (2023) (quoting GP § 4-103(b)).

To ensure this right is meaningful, the MPIA includes a fee-shifting provision to deter government noncompliance and prevent prevailing requesters from being blocked by litigation costs. Under GP § 4-362(f), if a “complainant has substantially prevailed,” the court may award “reasonable counsel fees and other litigation costs.” Maryland courts interpret the provision in line with the federal Freedom of Information Act (“FOIA”) standard it was modeled after, recognizing its purpose is to promote

compliance by encouraging enforcement. *See, e.g., Kline v. Fuller*, 64 Md. App. 375, 385, 496 A.2d 325, 330 (1985). As the Senate Report accompanying FOIA explained, when a requester forces disclosure of wrongfully withheld records, they have “acted as a private attorney general in vindicating an important public policy” and “requir[ing] the wronged citizen to pay his attorneys’ fee to make the government comply with the law” “would seem tantamount to a penalty.” *Id.* (quoting S. Rep. No. 854, 93d Cong. 2d Sess. at 17 (1974)).

**A. The Trial Court Relied on Improper Factors That Undermine the Purpose of the MPIA**

A complainant “substantially prevails” under the MPIA, when the lawsuit “could reasonably be regarded as having been necessary” to obtain the requested information, there is a causal link between the suit and the agency’s disclosure, and the requester recovered key documents. *Caffrey v. Dep’t of Liquor Control for Montgomery Cnty.*, 370 Md. 272, 299 (2002). That standard was met here: Sugarloaf secured a ruling that Frederick County unlawfully withheld numerous important records that would not have been disclosed but for the suit. Both the trial and appellate courts agreed that Sugarloaf “substantially prevailed” and was eligible for fees.

Once eligibility is established, the court must consider whether the requester is entitled to fees. *Id.* Maryland appellate courts have identified three non-exclusive factors: (1) the public benefit from the suit; (2) the nature of the complainant’s interest in the released records; and (3) whether the agency’s withholding had a reasonable legal basis. *Id.* (citing *Kline*, 64 Md. App. at 386). All three support Sugarloaf. The suit

revealed internal communications showing the County’s secret coordination with Amazon on a major development project. Sugarloaf, a nonprofit committed to conservation and transparency, acted in the public interest. And both courts found the County lacked a reasonable legal basis for withholding the bulk of the records and delayed for over eight months before asserting sweeping, unsupported exemptions. Notably, the County never contested Sugarloaf’s entitlement to fees.

With eligibility and entitlement established, the remaining question is the appropriate amount of fees. That brings us to the crux of this case. Although the trial court initially found Sugarloaf’s fee request reasonable, stating that “the number of hours expended and the hourly fees were . . . reasonable, and the results obtained by Plaintiff were favorable,” it nonetheless reduced the award by nearly half. The trial court cited four reasons of its own creation: (1) some documents were privileged, thus lawfully withheld; (2) many were “redundant”; (3) the County lacked “evil motive”; and (4) taxpayers would bear the cost of the fee award.

The reasons the trial court supplied for reducing the award directly cut against the statute’s purpose. The fee-shifting provision is intended to encourage enforcement by ensuring that prevailing requesters are made whole for the expense required to obtain public records. Reductions based on redundancy, agency intent, or public cost undermine the predictability and deterrent effect of the law. Federal courts have recognized that narrowly applying the fee-shifting provision undermines FOIA’s enforcement goals. *See e.g., Edelman v. SEC*, 356 F. Supp. 3d 97, 104 (D.D.C. 2019) (“[A] grudging application

of th[e] provision . . . would dissuade those who have been denied information from invoking their right to judicial review [and] would be clearly contrary to congressional intent.”); *Davy v. CIA.*, 550 F.3d 1155, 1166 (D.C. Cir. 2008) (J. Tatel, concurring) (the measure should be “whether fees in a particular case are consistent with the purposes for which Congress subsidized FOIA litigation.”) Once eligibility and entitlement are established, the inquiry should simply be whether the requested fees reasonably reflect the work performed.

First, that some documents may have been lawfully withheld does not diminish Sugarloaf’s success or justify slashing its fee award. The County wrongly withheld 122 documents and delayed for eight months, citing conclusory exemptions. That some records may have been legitimately exempt does not excuse this conduct or mitigate the resources Sugarloaf had to expend. Further, Sugarloaf never sought to obtain documents covered by privilege or confidentiality, but only those to which it was legally entitled.

Second, the suggestion that many documents were “redundant” is irrelevant and allows government entities to game the system. The inquiry is not the number of documents that are turned over, but instead whether key documents were recovered. *See Kline*, 64 Md. App. at 385. Sugarloaf obtained internal communications about the County’s secret coordination with Amazon—records that were crucial to public understanding of the planning process. Allowing courts to reduce an attorneys’ fee award because some documents were repetitive or mundane could reward agencies for dumping volumes of such documents on claimants in hopes of diluting an eventual claim for



attorneys' fees. Indeed, the County made no effort to "deduplicate" its production, swelling the volume of records without serving either side. Assessing the content of specific documents disclosed rather than the reasons they were requested makes little sense. *See e.g., Davy*, 550 F.3d at 1164 (J. Tatel, concurring) (this reasoning would "force requesters to bear the risk that the revealed documents might ultimately be boring, but since no one in [the requester's] position can know before suing what the requested documents say or even whether they exist, [this] would in fact chill *all* FOIA suits, preventing the discovery of important and unimportant content alike.")

Critically, neither of these first two rationales relate in any way to the time expended by counsel to prevail, in this case or likely many others. Requesters cannot know in advance how many documents may be genuinely subject to privilege or other grounds for nondisclosure, whether there will be a handful or thousands of responsive records, or how many will turn out to be key documents. Nor does the volume of responsive documents typically bear much on the time required to pursue the request.

Third, the absence of "evil motive" sets an unreasonably high bar for recovery of fees that does the opposite of what the statute requires—liberal interpretation in favor of access to public records. The MPIA does not require bad faith. The trial court appeared to invoke the lack of evil motive as a general equitable consideration, stating that some officials had been "caught in the middle" of a development effort with a major corporation. But rewarding government actors for appearing well-meaning, regardless of

whether they violated the law, defeats the purpose of the statute. Many MPIA violations result from bureaucratic inertia, not ill intent, yet still cause significant harm.

Finally, the trial court's concern about burdening taxpayers is similarly misplaced. The General Assembly made a deliberate policy choice to shift costs to government agencies that violate the law. Allowing courts to reduce fee awards based on discomfort with this result eviscerates the statute's incentive structure and shifts the cost of transparency onto the very requesters the law is designed to empower. The appellate court dismissed the trial court's reference to taxpayer burden, interpreting it as a mere "acknowledg[ment]" of an "unfortunate[]" reality rather than one of the trial court's bases for reducing the award. But that reading strains the record. The trial court listed taxpayer burden among its reasons for reducing the award and then expressly stated that it was "taking all of these factors into consideration." That language leaves little doubt that the public cost of compliance influenced its decision. This basis for reducing fees cannot stand under the MPIA; it would apply in every single dispute under the statute, as by definition every single defendant is a government entity funded by taxpayers.

The lower court's approach cannot be reconciled with the MPIA's purpose. As this Court has cautioned, a discretionary ruling must not be "clearly against the logic and effect of the facts and inferences before the court." *Wilson v. John Crane, Inc.*, 385 Md. 185, 198 (2005) (citation omitted). Here, the trial court acknowledged that the County's delays and overbroad exemptions forced Sugarloaf to litigate for nearly two years. Yet it rewarded that conduct by cutting the fee award in half. That outcome contravenes the

MPIA's core aim and punishes those who do exactly what the law requires: hold the government accountable when it resists transparency.

**B. The Appellate Court's Post Hoc Application of Rule-2703(f)(3) Factors Cannot Salvage the Trial Court's Ruling**

While this Court has not squarely addressed whether the lodestar method governs MPIA fee awards, the appellate court assumed that it does. Applying that framework, along with the twelve factors enumerated in Rule 2-703(f)(3), it affirmed the trial court's reduction of the attorneys' fees. But in doing so, it misapplied the law and retroactively attempted to shoehorn the trial court's reasoning into an analysis the court never actually undertook. If the trial court did intend to apply the Rule 2-703(f)(3) factors after determining that the lodestar, based on trial counsel's rates and hours, was reasonable, it erred by failing to meet the basic requirements of that approach: to clearly articulate which remaining factors it considered, how they were weighed, and how they justified the ultimate reduction. *See Friolo v. Frankel*, 403 Md. 443, 454–55 (2008); *Monmouth Meadows Homeowners Ass'n, Inc. v. Hamilton*, 416 Md. 325, 333–35 (2010) (requiring detailed explanation for fee determinations under fee-shifting statutes).

In statutory fee-shifting cases that employ the lodestar method to calculate a fee award, the court “begins by multiplying the number of hours reasonably spent pursuing a legal matter by ‘a reasonable hourly rate’ for the type of work performed.” *Monmouth*, 416 Md. at 333 (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)). That figure may then be adjusted based on twelve factors enumerated in Rule 2-703(f)(3), including the novelty and difficulty of the case, the skill required, and the results obtained. This

“method . . . is designed to reward counsel for undertaking socially beneficial litigation in cases where the expected relief has a small enough monetary value that [other methods] would provide inadequate compensation.” *Id.* at 334–35 (citation omitted). Thus, the “approach may very well return a fee award that is actually larger than the amount in controversy.” *Id.* at 334.

While trial courts have discretion in awarding attorneys’ fees, “there must be sufficient information in the record to enable a reviewing court to follow the reasoning of the trial court.” *Bd. of Trs., Cmty. Coll. of Bal. Cnty. v. Patient First Corp.*, 444 Md. 452, 486 (2015). The court must “clearly articulate the factors and reasoning used to calculate the overall figure so that an appellate court can adequately discern the soundness of the trial court’s conclusion.” *Pinnacle Grp., LLC v. Kelly*, 235 Md. App. 436, 481. If “the record does not support a conclusion that the trial court actually used that approach, there would be an error of law.” *Friolo*, 373 Md. at 512.

Here, although the trial court summarily states that “[u]sing the lodestar method, and considering the applicable Maryland Rules of Procedure, the court finds the fees to be customary and reasonable,” it then identifies four reasons for reducing the fee, none of which appear among the twelve factors listed in Rule 2-703(f)(3). The court did not explain whether it considered the Rule 2-703(f)(3) factors, which specific factors it relied upon, how they were weighed, or how they justified the substantial reduction. Instead, it cited that a relatively small number of documents were privileged, the perceived redundancy of documents produced, the burden on taxpayers, and the absence of “evil

motive” by the government. None of these relate to the reasonableness of the hours worked, the rates charged, or the factors in the rule.

The appellate court attempted to salvage the trial court’s ruling by invoking the “results obtained” factor under Rule 2-703(f)(3)(H) (“the amount involved and the results obtained”), citing *Hensley* for the proposition that when “claims for relief . . . involve a common core of facts or [are] based on related legal theories[,] . . . the [trial] court should focus on the significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended.” But the trial court never cited that factor nor did it compare the results achieved to the time spent. The appellate court also offered that a trial court may consider “whether a request was overbroad or a lack of reasonable cooperation was exhibited during an appropriate effort to narrow the request.” But it then immediately conceded that from its “review of the record in the present case, the trial court did not appear to rely on either of these considerations to justify its downward adjustment.”

Even if the appellate court’s reframing were credited—that the trial court applied the 2-703(f)(3)(H) factors and assessed the fees based on the results obtained—it still fails on its own terms. The trial court’s reference to the County’s lack of “evil motive” cannot plausibly be connected to the “results obtained” factor. The appellate court attempts to tie it to Sugarloaf’s earlier claim for statutory damages under GP § 4-362(d), which it had abandoned by trial, but that reasoning misreads the trial court’s decision. The absence of an “evil motive” was not cited in relation to the statutory damages claim or the extent of Sugarloaf’s success. It was presented as an independent reason to reduce

fees. Likewise, the suggestion that taxpayers would ultimately bear the cost of a fee award contradicts the entire logic of a fee-shifting statute: to place the cost of litigation on the party that violated the law. *See Monmouth*, 416 Md. at 334–35; *see also Bills v. Hodges*, 628 F.2d 844, 847 (4th Cir. 1980) (holding that, in the context of the federal Civil Rights Attorney’s Fees Awards Act, 42 U.S.C. § 1988, neither a “plaintiff[’s]ability to pay attorneys” nor a “defendant’s good faith” qualify as “a special circumstance that would render an award of fees unjust.”)

Even assuming the appellate court was correct to apply the Rule 2-703(f)(3) factors, the trial court’s ruling cannot stand. It failed to identify the factors it relied on, how it weighed them, or how they supported the fee reduction. Instead, the court cited reasons that have no place in a MPIA fee analysis. The appellate court’s post hoc attempt to justify the decision through lodestar principles cannot cure these defects.

## **II. Unbounded Discretion Undermines the MPIA**

The appellate court characterized the trial court’s reduction as a permissible exercise of broad discretion, affirming that trial courts may consider a wide range of “appropriate” factors. But endorsing such a standard undermines the MPIA’s remedial purpose by detaching fee awards from the goal of encouraging government compliance.

If courts may reduce or deny fees based on the production of duplicated documents, sympathy for the agency, or concern for taxpayer cost, then fee recovery becomes unpredictable and discourages requesters from enforcing their rights. *Edelman*, 356 F. Supp. 3d at 104 (“[c]ourts must remain cognizant” that FOIA’s fee provision exists

to “remove the incentive for agencies” to deny requests “based on []the knowledge that many” requesters lack the resources to pursue costly litigation rather than based on “the merits of exemption claims.”) (citations omitted)).

This Court has repeatedly emphasized that the MPIA must be liberally construed in favor of disclosure. *See Off. of the Governor v. Wash. Post Co.*, 360 Md. 520, 544–45 (2000) (listing cases). That mandate should apply equally to the Act’s enforcement tools. Public-interest organizations, journalists, and community advocates, as well as individuals, rely on the MPIA to investigate and challenge governmental secrecy. The fee-shifting provision is often the only realistic tool available to hold government agencies accountable. Undermining that provision undermines the Act as a whole.

This case offers an ideal vehicle for resolving the issue. The trial court articulated the considerations it relied on to reduce Sugarloaf’s fees, and the appellate court issued a reported opinion affirming that such considerations fall within a court’s apparently unbounded discretion. Clarification is urgently needed to preserve the integrity of the MPIA’s enforcement mechanism and prevent the lower courts’ reasoning from becoming a blueprint for government impunity by allowing agencies to disregard the MPIA with little fear of accountability, knowing that many requesters cannot afford to seek relief.

## **CONCLUSION**

For these reasons, the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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