

Decision of the Board

Case Record: DILP Appeal – 000174-2024

Harford County Government

Building Board of Appeals

On Tuesday, May 7, 2024, six members of the Building Board of Appeals for Harford County, Maryland (the “Board”) met to hear the Appeal of Mr. Sandyn Wright relative to the April 4, 2024, correspondence with Mr. Richard Truitt, Director of the Department of Inspections, Licenses and Permits (“DILP”) for the Harford County Government, and the pertinent Certificate of Occupancy issued on July 21, 2022. Mr. Wright’s Appeal was signed and dated by Mr. Wright April 24, 2024.

Board members Mr. Paul Milano and Mr. Jay Van Deusen respectfully requested that they be recused from voting; Mr. Milano because of a personal acquaintance with Mr. Wright and Mr. Van Deusen because of his company’s business relationship with the general contractor and design company that built Mr. Wright’s home, which was the subject generating the appeal. Mr. Milano was not in attendance because of a conflict.

The Hearing Officer (Mr. Karl Houser) agreed with their rationale and recused both gentlemen from voting but requested that that Mr. Van Duesen remain in attendance to participate in the technical portion of the hearing but limiting his input to his professional experience and refraining from any personal comments based on his relationships with the general contractor and design company. Mr. Van Deusen agreed with the stipulation. The Appellant objected to Mr. Van Deusen’s attendance. After being given an opportunity to examine Mr. Van Deusen regarding his potential conflicts, Mr. Wright’s objection was overruled by the Chair.

Under the Board’s Rules of Procedure, Mr. Wright is entitled to have a five-voting-member Board hear his appeal. Rule D.3. After the recusals and one absentee member, five-voting-members remained. Rule D.4 requires a 2/3 vote of the Board to overturn a decision of the DILP Director. This majority was present at the Hearing.

The issue before the Board pertained to the application and enforcement of the 2018 edition of the International Building Code (“IBC”) with local amendments adopted by the County via Chapter 82 of the Harford County Code. It is the Board’s understanding that this is the building code which was in effect when the Wright home (at 2511 Easy Street, Fallston, Maryland) was constructed and had a legal Certificate of Occupancy granted by the County on or about July 21, 2022.

The County Attorney (Mr. Timothy Marsheck) representing DILP asked to be heard on the preliminary issue of whether Mr. Wright’s appeal was submitted timely. IBC § B101.1. Mr. Marsheck’s request was granted by the Chair and the Board heard argument from the County and Appellant on the issue in an open deliberation format where all parties were permitted to be heard as much as they desired. The County expressed their deep concern with the time between the “Notice” given the Appellant and the date the Appellant filed for an appeal, and that failure

to adhere to deadlines would set a bad precedent for future matters if we were to permit appeals to be filed years after the arising of the pertinent issue. The County argued that the Notice in this case was the Certificate of Occupancy issued on July 21, 2022, and that Mr. Wright's appeal dated April 24, 2024, was well outside the 20-day deadline provided by the IBC by nearly two years.

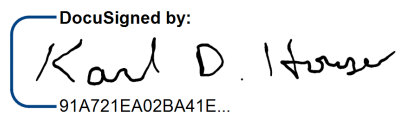
When afforded the opportunity to respond, Mr. Wright wanted to address the merits of his appeal rather than the timeliness issue. Mr. Wright only asserted that his Appeal was submitted timely, but never elaborated on why the July 21, 2022 Certificate of Occupancy was not the applicable Notice which would have triggered his 20 days to appeal.

The Board found that the term "Notice" in the Code is not specifically defined; therefore, "Notice" is interpreted under its ordinary meaning. In this case, the July 21, 2022, Certificate of Occupancy certainly provided "Notice" of the issuance of said Certificate of Occupancy which Mr. Wright sought to be revoked.

In its deliberations, the Board concurred with the County that the July 21, 2022, Certificate of Occupancy was the triggering "Notice" in this case, thereby starting a 20-day clock for Mr. Wright to file his appeal. The Board discussed that although the Certificate of Occupancy is not the exclusive means by which a person may receive "Notice", it is the means by which Notice was *first* provided to Mr. Wright. Although Mr. Wright may have been in ongoing discussions with DILP relative to these issues, that does not change the fact that Mr. Wright received Notice of the Certificate of Occupancy on or about July 21, 2022. Therefore, Mr. Wright's April 24, 2024, Appeal is far outside the timeframe required under the IBC.

MOTION: A motion was made by Mr. Benfield and seconded by Mr. McBride to **AFFIRM** the County's contention that a Certificate of Occupancy constitutes a "Notice". Based on a voice vote and hearing no Nays, the Board's vote was unanimous, and the Motion carried, and Mr. Wright's Appeal was dismissed as untimely.

Submitted by:

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Karl D. Houser
Hearing Officer
Building Board of Appeals
May 17, 2024

Appeal Rights:

Homeowner has thirty (30) days to file a petition for judicial review of the above decision, which constitutes the final administrative decision of Harford County, in the Circuit Court for Harford County.