

IN THE MATTER OF  
BARRY MEHTA, LEGAL OWNER  
5550 BALTIMORE NATIONAL PIKE

\* BEFORE  
\* COUNTY BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* CASE NO. CBA-10-024

RE: CODE ENFORCEMENT  
CIVIL CITATION NO.: 63366

\* \* \* \* \*

**ORDER OF DISMISSAL**

On December 21, 2009, an appeal was filed to this Board by Barry Mehta, Appellant, from a decision and Final Order of the Code Enforcement Hearing Officer, dated October 19, 2009 and the subsequent letter, dated November 12, 2009, from the Director, Department of Permits and Development Management, denying the Motion for Reconsideration that was filed by Mr. Mehta on October 27, 2009.

WHEREAS, the Board is in receipt of Baltimore County's Motion to Dismiss, filed on February 17, 2010, requesting that the Board dismisses this appeal on the basis that it has been untimely filed (a copy of which is attached hereto and made a part hereof); and

WHEREAS, a response letter was received via facsimile signed by Barry Mehta, Appellant, on March 4, 2010 (a copy of which is attached hereto and made a part hereof); and

WHEREAS, the uncontradicted evidence contained in the file clearly reflects that the Appellant was notified on November 12, 2009 that the Motion to Alter/Amend the Hearing Officer's Order was denied, and the Appellant filed an appeal to this Board on December 21, 2009. The period for filing the appeal ended on November 27, 2009. Therefore, Mr. Mehta had missed the 15-day appeal period; and

WHEREAS, the appeal was not filed within the time period as is required statutorily under the Baltimore County Code, Section 3-6-301; and

**WHEREAS**, there are no extenuating circumstances filed by the Appellant; and

**WHEREAS**, there is no sufficient basis for granting the appeal. Based upon the circumstances of this case, the Board will dismiss the appeal.

**THEREFORE, IT IS THIS** 8<sup>th</sup> day of April, 2010 by the Board of Appeals of Baltimore County

**ORDERED** that the October 19, 2009 decision of the Code Enforcement Hearing Officer be and the same is hereby **AFFIRMED**; and it is furthered

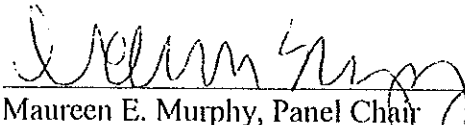
**ORDERED** that the Violation and fine issued by the Code Enforcement Hearing Officer in Citation Number 63366 be and the same is hereby **UPHELD**; and it is further

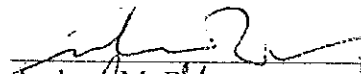
**ORDERED** that Respondent's Motion to Dismiss be and the same is hereby **GRANTED**; and it is further

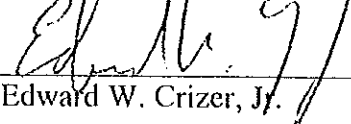
**ORDERED** that the appeal of Barry Mehta, filed in Case No.: CBA-10-024 is **DISMISSED**.

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**

  
Maureen E. Murphy, Panel Chair

  
Andrew M. Belt

  
Edward W. Crizer, Jr.

Faxed to 410-887-3182 Board of Appeals

March 4, 2010  
Barry Mehta  
5551 Oakland Mills Rd.  
Columbia, Md. 21045

To: Board of Appeals  
Baltimore County,  
Towson, Md.

Ref: Case # 10-024

After receiving the citation, I demolished whatever construction was done and invited the inspector to review it. He came over and gave me his signed approval for the demolition. I then wrote to Mr. Kotroco requesting that the item be closed without any fines and waited for his response. When he denied my request, I promptly filed this appeal to the Board. Thus, I did everything in a timely fashion. It would have been unreasonable to file without first doing this process.

I had no way of knowing what Mr. Kotroco's decision would be and thus it made no sense to do any pre-emptive appeal filing without first making a reasonable attempt of resolving it with the department. The Hearing Officer herself who also processes the court of appeals filing understood this and accepted my checks for the board filing as well as the \$1000 fine and processed the board of appeal hearing.

Thus, I request that Mr. Mayhew's motion be denied and that I be given a fair chance to present my case to the board of appeals. In fact, a hearing was already scheduled for this on 2/17/10 and I had to request a postponement because I had a conflict. Thus, Mr. Mayhew's motion is improper and should be denied and I should be granted the due process.

B. Mehta/.  
Barry Mehta

RECEIVED  
MAR 4 2010  
MAP - 4  
BOARD OF APPEALS

RECEIVED

FEB 17 2010

BALTIMORE COUNTY  
BOARD OF APPEALS

County Board of Appeals of Baltimore County  
Jefferson Building  
Second Floor, Suite 203  
105 West Chesapeake Avenue  
Towson, Maryland 21204  
Baltimore County, Maryland

In the Matter of:

Barry Mehta, Legal Owner/Appellant  
5500 Baltimore National Pike

Case No. 10-024

**MOTION TO DISMISS**

Respondent, Baltimore County, by undersigned counsel, moves for dismissal of this appeal, and as grounds states:

**THIS APPEAL IS UNTIMELY AND MUST THEREFORE BE DISMISSED**

This appeal must be dismissed because it is untimely. On October 19, 2009 the Hearing Officer issued the Findings of Fact, Conclusions of Law and Order in accordance with Baltimore County Code § 3-6-206 (g) (1) and §3-6-207. On October 27,2009 the property Owner, Barry Mehta, filed a timely Motion to Alter or Amend pursuant to Code § 3-6-206 (g) (2). On November 12, 2009 the Director denied the Motion to Alter or Amend and this ruling constituted the Final Order under Code § 3-6-206 (g). Accordingly, pursuant to Code § 3-6-301 the property Owner had fifteen (15) days to file an appeal in the Board of Appeals, meaning that it must have been filed by November 27, 2009. However, the instant appeal was not filed until December 21, 2009 and is therefore untimely. Pursuant to Code § 3-6-302, "The Board of Appeals *may not* hear an appeal unless each of the procedural requirements in this section are followed." (emphasis added).

For these reasons the instant appeal must be dismissed because the Baltimore County Code expressly prohibits the Board from hearing appeals that are procedurally defective.

Respectfully submitted,

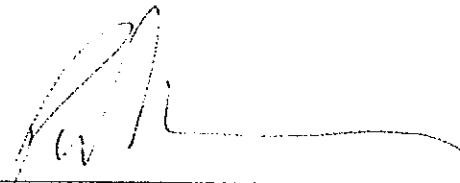


PAUL M. MAYHEW  
Assistant County Attorney  
400 Washington Avenue, Room 219  
Towson, MD 21204  
(410) 887-4420  
*Attorney for Baltimore County*

**CERTIFICATE OF SERVICE**

I hereby certify that on this *16<sup>th</sup>* day of February, 2010 a copy of the foregoing Motion to Dismiss was mailed to:

Barry Mehta  
5551 Oakland Mills Road  
Columbia, Maryland 21045



Paul M. Mayhew