

IN THE MATTER OF \* BEFORE THE BOARD OF APPEALS OF  
CARDONE CAPITAL LLC, \* HOWARD COUNTY, MARYLAND  
Appellant \* CASE NO. BA-808-D

\* \* \* \* \*

**ADMINISTRATIVE AGENCY’S MOTION TO DISMISS**

The Howard County Department of Inspections, Licenses and Permits (“DILP”), the administrative agency in the above-captioned appeal, hereby moves to dismiss the appeal based upon Howard County Code, Sections 2-207(e), 2-202(d), 2-206 (these three provisions collectively contained in the Rules of Procedure of the Board of Appeals), and Section 14-904 (the “Appeal” provision of the Rental Housing License subtitle of the Howard County Code). By this appeal, which was filed April 1, 2024, Cardone Capital LLC asks the Board of Appeals (the “Board”) to overrule DILP’s 2021 refusal to renew rental housing licenses for the years 2021-2023.

The licenses apply to several properties located on Swift Stream Place in Columbia. DILP refused to issue the license renewals until a variety of proper maintenance and other rental housing licensure requirements were met, including repair and certification of the sprinkler system that serves the various rental properties. Cardone asserts that due to DILP’s non-renewal of the licenses until March 2024, in November 2023, litigation was initiated by the tenants of the Swift Stream Place properties for being charged rent for 2021-2023 by a landlord who lacks a rental housing license for those years.

This appeal should be dismissed because Cardone Capital, LLC (“Appellant”) lacks standing with respect to the rental housing licenses for the Swift Stream Place properties, because

Cardone does not own these properties and Cardone is not a named party to the litigation from which it alleges its injury arises. Cardone is not an “aggrieved person” entitled to an appeal.

Even if Appellant were the proper party, the matter must be dismissed because Appellant deprived the Board of jurisdiction by filing its appeal on April 1, 2024, more than 30 days after the 2021 licensing action that Appellant petitions the Board to reverse. The Appellant’s effort to manufacture a timely licensing action for it to appeal is legally insufficient for its appeal to proceed. The only timely licensure action to which Appellant can cite that is within 30 days of Appellant filing its April 1, 2024, appeal are the March 1, 4, and 6, 2024 *issuance* by DILP of rental housing licenses, after the property maintenance and other issues were sufficiently resolved. These licenses were issued, of course, to the property owner, not to Cardone, which itself has not applied for rental housing licensure. Appellant is not and does not claim to be aggrieved by DILP *granting* rental housing licenses.

**1. The Appeal should be dismissed because Cardone Capital, LLC is not an aggrieved person with respect to the subject property.**

The Board’s authority to decide appeals of DILP’s rental licensing actions begins with Howard County Code, Section 14-904, which provides for appeals conducted pursuant to Howard County Code, Section (and Board Rule) 2-202, “Any aggrieved person may appeal a decision of the Director to revoke, deny, suspend, or approve a rental housing license under this subtitle to a Board of Appeals’ Hearing Examiner in accordance with title 2, subtitle 2 of the Howard County Code.” This appeal contests DILP’s non-renewal of rental housing licenses for 10310 Swift Stream Place, Buildings 1-14, Columbia, MD 21044.

However, these properties are owned, and the rental housing licenses were applied for, by ~~Columbia 531 LLC, not Cardone Capital LLC.~~ Columbia 531 LLC, not Cardone, is also the named

party in the 2023 lawsuit brought by the tenants of the Swift Stream Place properties. Columbia 531 LLC is a different legal entity than Cardone Capital LLC. Because Appellant is not itself aggrieved by any action of DILP, it lacks standing for this appeal.

**2. The Administrative Appeal Petition, which was filed April 1, 2024, must be dismissed for lack of jurisdiction, because it was filed more than 30 days after the acts or omissions that Appellant, Cardone Capital LLC, claims were erroneous.**

Appellant's Petition, which initiated this appeal, was filed April 1, 2024. The rental housing licenses that are the subject of the appeal, however, were applicable to the period 2021-2023. DILP initially declined to renew them beginning in 2021 and by 2023, all of the 2021-2023 rental housing licenses for Swift Stream Place had been issued, after the property maintenance and other issues were resolved.

Because all of the DILP actions that a landlord might contest predate the April 1, 2024, appeal petition by more than 30 days, the appeal is not timely under Howard County Code (and Board Rule) 2-206 and the Board should dismiss the appeal.

Even if Appellant had somehow not noticed in 2021 (or 2022 or 2023) that its 2021 license renewal application had not yet been granted (and failing to be aware of the basis for filing an appeal is not an exception to Howard County Code, 2-206, regardless), the appeal petition is based upon and incorporates a the tenant-filed complaint filed in the United States District Court for the District of Maryland on November 22, 2023. That court filing itself should have brought the expired status of Appellant's 2021-2023 rental housing licenses to its attention. Even if the complaint itself did not remind Petitioner that it had not yet passed renewal inspections nor received licenses for 2021-2023, in the course of preparing to file an answer to the complaint, Petitioner surely realized in November-December 2023 that it did not have any documentation of being licensed for 2021-2023. The licenses issued for Swift Stream Place for the preceding 2019-

2021 period, as all Howard County Rental Housing Licenses do, state in bold type at the bottom of the license that they expired on, e.g. August 1, 2021. (See, Exhibit C to Appellant’s Petition).

As Appellant noted in a Memorandum before the Board’s Hearing Examiner, “any review of the [DILP] database would [have revealed] that violations were in the process of being abated.” (Appellant’s Memorandum at 1). Howard County Code of Ordinances, section 14.901(f)(i), Renewal of License, provides that DILP will not renew a rental housing license until outstanding property maintenance code violations are resolved. “A rental housing license may be renewed if: The dwelling unit continues to meet the requirements of the Howard County Property Maintenance Code for Rental Housing other requirements under this section of the Howard County Code, and has provided updated information in the rental license application.”

**3. Dismissal of the appeal is appropriate because Appellant is not aggrieved by the March 1, 4, and 6, 2024 actions of DILP that are all that is alleged in the Petition.**

The Petition alleges that the “Date[s] of Ruling or Action” being appealed are March 1, 4, and 6, 2024. The relevant actions taken on these dates were DILP’s issuance of licenses for 2023-2025. Appellant has previously explained its aggrievement, in Appellant’s Memorandum section III, filed before the Board’s Hearing Examiner, as being subjected to litigation, presumably the federal lawsuit attached and incorporated into Appellant’s Petition. That lawsuit relates to the 2021-2023 licensing period, not the 2023-2025 period for which licenses were issued in March 2024.

Appellant’s alleged aggrievement does not even make sense. Appellant avers that in March 2024, DILP took action that resulted in a lawsuit that was filed in 2023. Appellant cannot demonstrate that it has been aggrieved by being subjected to this 2023 lawsuit based upon the March 2024 issuance of licenses.

**CONCLUSION**

For these reasons and as may be further addressed in any hearing before this Board, the Petition should be denied, and the appeal dismissed.

Respectfully Submitted,

HOWARD COUNTY OFFICE OF LAW

GARY W. KUC  
County Solicitor



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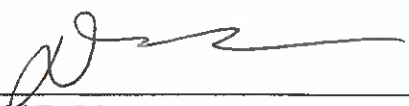
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of September, 2024, a copy of the foregoing Administrative Agency's Motion to Dismiss and the accompanying Certification Pursuant to Board Rule 2.207(e) was mailed, U.S. mail, first class postage prepaid, to:

Edward L. Donohue, Esquire  
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Petitioner and Counsel for Cardone Capital, LLC


COLUMBIA 531, LLC  
Serve On: CORPORATE CREATIONS NETWORK INC.  
2 WISCONSIN CIRCLE #700  
CHEVY CHASE MD 20815

  
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David R. Moore

**CERTIFICATION PURSUANT TO BOARD RULE 2.207(e)**

I hereby certify that a copy of the accompanying Administrative Agency's Motion to Dismiss was provided to all persons known to have an interest in the case, including but not limited to the petitioner, the property owner, the Administrative Agency, and any person entitled to written notification under Rule 2.203(e) and (f), as the case may be.

**PLEASE NOTE: Any person interested in responding to the motion shall file a written response with the Board within 15 days of the date that the motion was filed.**

  
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David R. Moore