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APPENDIX

NOTICE

This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

SLIP OPINION No. 2023-OHIO-3115

THE STATE EX REL. DUNCAN, APPELLANT, v.
THE CITY OF MENTOR, APPELLEE.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Duncan v. Mentor*, Slip Opinion No. 2023-Ohio-3115.]

Mandamus-Appropriation proceedings-Property owner had adequate remedy in the ordinary course of law for his takings claim and was not entitled to writ to commence appropriation proceedings-Court of appeals lacked subject matter jurisdiction over property owner's remaining claims-Court of appeals' judgment dismissing complaint affirmed.

(No. 2023-0336-Submitted June 27, 2023-Decided September 7, 2023.)

APPEAL from the Court of Appeals for Lake County, No. 2022-L-106, 2023-Ohio-416.

Per Curiam.

{¶1} Appellant, Richard Duncan, filed a complaint in the Eleventh District Court of Appeals requesting a writ of mandamus to compel appellee, the city of Mentor, to commence appropriation proceedings for an alleged taking of his property. The Eleventh District granted Mentor's motion to dismiss Duncan's complaint, and he now appeals. We affirm the Eleventh District's judgment.

I. FACTS AND PROCEDURAL BACKGROUND

{¶2} Duncan's complaint averred that he owned a three-acre parcel of land in Mentor which included a pond and that in 2021, he applied to Mentor for a permit that would allow him to place a houseboat on the pond. It further stated that after Mentor denied the permit, Duncan appealed the denial to Mentor's Board of Building and Zoning Appeals (the "zoning board") and that the zoning board rejected Duncan's appeal after a hearing.

{¶3} In November 2022, Duncan filed a complaint in the Eleventh District. He argued that the denial of the permit constituted a taking of his property, and he requested a writ of mandamus to compel Mentor to commence appropriation proceedings. The complaint also included three additional counts: a count quiet title, a count to "estop" Mentor from enforcing or giving effect to the regulations it relied on to deny the permit, and a count titled "Landlocked Properties Must Get Access" in which Duncan asserted that Mentor illegally refused him use of several easements.

{¶4} Mentor filed a motion to dismiss for failure to state a claim upon which relief could be granted and

for lack of subject-matter jurisdiction. The Eleventh District granted Mentor's motion and dismissed Duncan's complaint. Regarding the takings claim, the Eleventh District found that Duncan had failed to exhaust his administrative remedies because he did not appeal the zoning board's decision to the court of common pleas. The Eleventh District also dismissed Duncan's other three counts for lack of subject-matter jurisdiction.

{¶5} Duncan appealed to this court as of right.

II. LEGAL ANALYSIS

A. *Standard of Review*

{¶6} We review de novo a decision granting a motion to dismiss for failure to state a claim upon which relief can be granted. *Alford v. Collins-McGregor Operating Co.*, 152 Ohio St.3d 303, 2018-Ohio-8, 95 N.E.3d 382, ¶ 10. In conducting this review, we accept all factual allegations in the complaint as true, and to affirm the dismissal, it must appear beyond doubt that the relator can prove no set of facts that would entitle the relator to the relief requested. *Id.* We also review de novo decisions granting a motion to dismiss for lack of subject-matter jurisdiction, and regarding that issue, we consider whether the complaint raises any cause of action cognizable by the forum, *State ex rel. Ohio Civ. Serv. Emps. Assn. v. State*, 146 Ohio St.3d 315, 2016-Ohio-478, 56 N.E.3d 913, ¶ 12.

B. *Duncan's Takings Claim*

{¶7} In his complaint, Duncan argued that Mentor took his property by denying him a permit to place a houseboat on his property. He requested a writ of mandamus to compel Mentor to commence

appropriation proceedings.

{¶8} “When a property owner alleges the taking of private property, mandamus is the correct action to force the state to institute appropriation proceedings” *State ex rel. New Wen, Inc v. Marchbanks*, 159 Ohio St.3d 15, 2020-Ohio-63, 146 N.E.3d 545, ¶ 15. To be entitled to a writ of mandamus, Duncan must establish (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of Mentor to provide it, and (3) the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Waters v. Spaeth*, 131 Ohio St.3d 55, 2012-Ohio-69, 960 N.E.2d 452, ¶ 6.

{¶9} The Eleventh District dismissed Duncan’s takings claim because he did not appeal the denial of the permit to the court of common pleas as authorized by R.C. 2506.01(A). This provision states that any final decision of a board of a political subdivision may be appealed to the court of common pleas of the county in which the principal office of the political subdivision is located. *See also* Mentor Codified Ordinances 1131.06(f); *The Chapel v. Solon*, 40 Ohio St.3d 3, 4, 530 N.E.2d 1321 (1988) (a city’s denial of a building permit may be appealed pursuant to R.C. 2506.01). Duncan argues, however, that to bring a mandamus action to compel the commencement of appropriation proceedings for an alleged taking of property, he need only exhaust his administrative remedies before the government agency that denied his permit and does not need to seek judicial review or the agency’s decision. Duncan is wrong.

{¶10} This court recently held in two decisions that judicial review of an administrative decision is an adequate remedy in the ordinary course of the law that must be pursued before a property owner may bring

a mandamus action to compel the commencement of appropriation proceedings. In *State ex rel. Kerns v. Simmers*, 153 Ohio St.3d 103, 2018-Ohio-256, 101 N.E.3d 430, we held that an appeal to the Franklin County Court of Common Pleas from a decision of the Ohio Oil and Gas Commission affirming an order of the Ohio Department of Natural Resources' Division of Oil and Gas Resources Management is an adequate legal remedy that must be pursued before bringing a mandamus action to compel appropriation proceedings. *Id.* at ¶ 5, 8, 15. We reasoned that if the court of common pleas had vacated the order, “[n]o taking would have occurred.” *Id.* at ¶ 8. And in *State ex rel. US Bank Trust, Natl. Assn. v. Cuyahoga Cty.*, _ Ohio St.3d _, 2023-Ohio-1063, _ N.E.3d _, we held that an appeal to the court of common pleas from an adjudication of foreclosure by a county board of revision is an adequate legal remedy that must be pursued before a relator may bring a mandamus action to compel appropriation proceedings. *See id.* at ¶ 29, 31. In *US Bank Trust*, we explained that the reasoning in *Kerns* was not limited to appeals from decisions of the Ohio Oil and Gas Commission. *US Bank Trust* at ¶ 30.

{¶11} Here, Duncan could have appealed the zoning board’s decision to the court of common pleas. *See* R.C. 2506.01(A). If the court of common pleas had reversed the denial of the permit, “[n]o taking would have occurred,” *Kerns* at ¶ 8. Like the property owners in *Kerns* and *US Bank Trust*, Duncan “had the ability to obtain complete relief-i.e., to avoid the alleged takin[g] and any need for appropriation proceedings-by asserting [his] rights as allowed by statute,” *US Bank Trust* at ¶ 30. The Eleventh District thus correctly dismissed Duncan’s request for a writ of

mandamus because he had an adequate legal remedy by way of appeal to the court of common pleas.

C. Duncan's Remaining Claims

{¶12} In addition to his takings claim, Duncan's complaint included three additional counts: a count to quiet title, a count to "estop" Mentor from enforcing or giving effect to the regulations it relied on to deny the permit, and a count titled "Landlocked Properties Must Get Access" in which Duncan asserted that Mentor illegally refused him use of several easements. The Eleventh District dismissed these three counts for lack of subject-matter jurisdiction.

{¶13} Because the Ohio Constitution does not grant courts of appeals original jurisdiction over these claims, the Eleventh District correctly dismissed them. *See* Ohio Constitution, Article IV, Section 3(B)(1); *see also State ex rel. Neer v. Indus. Comm.*, 53 Ohio St.2d 22, 23-24, 371 N.E.2d 842 (1978) (courts of appeals have "original jurisdiction only in quo warranto, mandamus, habeas corpus, prohibition, procedendo, and in any cause on review as may be necessary to its complete determination"). Duncan argues that the Eleventh District "should be able to hear all his claims * * * as it makes sense for judicial economy and time and effort to litigate them in one case and to avoid preclusion or res judicata later on in a later suit." But Duncan provides no authority in support of this argument. And preclusion and res judicata would not apply to these other claims, because they were dismissed for lack of subject-matter jurisdiction. *See State ex rel, Duncan Am. Transm. Sys. Inc.*, 166 Ohio St.3d 416, 2022-Ohio-323, 186 N.E.3d 800, ¶ 8.

III. CONCLUSION

{¶14} Because Duncan could have appealed the denial of a houseboat permit to the court of common pleas, he had an adequate remedy in the ordinary course of the law and was not entitled to a writ of mandamus to compel Mentor to commence appropriation proceedings. And the court of appeals lacked subject-matter jurisdiction over Duncan's remaining claims. We therefore affirm Eleventh District Court of Appeals' judgment granting Mentor's motion to dismiss Duncan's complaint.

Judgment affirmed.

KENNEDY, CJ., and FISCHER, DEWINE, DONNELLY, STEWART, BRUNNER and DETERS, JJ., concur.

Richard Duncan, pro se.

Joseph P. Szeman, Mentor Director of Law, for appellee

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Filing # 103559 / 2022-L-106 Filed: Court of Appeals
Lake Co Common Pleas Court, Clerk Faith Andrews
02/13/2023 09:01 AM

State of Ohio) In the Court of Appeals
)SS.
County of Lake) Eleventh District

STATE OF OHIO ex rel. JUDGMENT ENTRY
RICHARD DUNCAN

Relator, CASE NO. 2022-L-106

- vs -

CITY OF MENTOR,

Respondent

For the reasons stated in the Per Curiam Opinion
of this court, respondent's Motion to Dismiss is grant-
ed, and Relator's Complaint for Writ of Mandamus
and Damages and Other Relief is dismissed. Costs to
be taxed against relator.



PRESIDING JUDGE JOHN J. EKLUND



JUDGE MARY JANE TRAPP



JUDGE MATT LYNCH

Filing # 103557 / 2022-L-106 Filed: Court of Appeals
Lake Co Common Pleas Court, Clerk Faith Andrews
02/13/2023 08:58 AM

STATE OF OHIO ex rel. CASE NO. 2022-L-106
RICHARD DUNCAN

Relator, Original Action for
Writ of Mandamus

- vs -

CITY OF MENTOR,

Respondent

PER CURIAM
OPINION

Decided: February 13, 2023
Judgment: Complaint dismissed

Richard Duncan, pro se, 1101 East Boulevard,
Aurora, OH 44202 (Relator).

Joseph P. Szeman, City of Mentor Director of Law,
The Matchworks Building, 8500 Station Street, Suite
245, Mentor, OH 44060 (For Respondent)

PER CURIAM.

{¶1} Pending before this court is plaintiff-relator, Richard Duncan's, Complaint for Writ of Mandamus and Damages and Other Relief, filed on November 10, 2022, against defendant-respondent, the City of Mentor. Also pending is the Respondent City of Mentor's Motion to Dismiss, filed on December 12, 2022. Duncan filed his Brief in Opposition to Motion

to Dismiss on January 19, 2023. On February 6, 2023, Mentor filed a combined Reply Brief in Support of Motion to Dismiss and Motion to Strike the “averments of fact and exhibits submitted by Relator in his responsive pleading which are outside those set forth in his Complaint.”

{¶2} The Complaint makes the following allegations:

5. Duncan purchased his lot [Parcel No. 16-B-036-A-00-047-0] on 9/7/94 at a forfeited land sale where it was appraised for over 40,000 dollars by [Lake] County.

6. From the testimony of neighbors at a January 11 th, 2022 zoning board of appeals meeting, Duncan was told that shortly after his lot’s subdivision plat was approved, in December of 1987 that some party went bankrupt. Thus it is believed that the homeowners association within the Hollycroft Subdivision was never setup or took effect and that the neighboring property owners did not pay their required dues. As a result therefore, no County taxes were ever paid. No neighbors or the City of Mentor ever objected and thus they benefited from their negligence or inaction.

7. Thus the County Auditor put the property of 3 acres up for sale and Duncan purchased it. Because the lot was no longer in the homeowners association, Duncan believed and expected that any of such restrictions, covenants or the like were voided out and non applicable. Duncan also believed and expected that since Mentor remained silent as to the issue, their claims as

to any regulations they had on Duncan's lot or in the subdivision would be void and noneffective.

8. Due to that Duncan's lot is unique in that it is partially covered by a pond, land-locked and unregulated, Duncan once or twice over a 20 year period asked the City what use could be made of his lot. Mentor told him that he would need to submit a written request to the City. Duncan believes he could get access to his lot by way of several easements which connect the public street to his lot.

9. Duncan never submitted a proposal but a few times he listed his lot for sale over the past 20 years. Recent prospective buyers who inquired about the 3 acre parcel asked to use the property for an outdoor yoga site and a fishing dock (recreational uses).

10. On May 20th, 2021 and October 2021 Duncan in a formal letter to the City wanted to know Mentor's final position on what procedures he needed to follow to use his lot.

11. The City told Duncan to submit an application for a building permit which he did on November 8, 2021.

12. In this application Duncan specifically requested are a recreational houseboat on the pond and stated Mentor's drainage easement would be unaffected.

13. Duncan received a denial by the City on November 22, 2021 detailing about 9 reasons or so in support, citing building plan review, zoning review, engineering review standards or laws.

14. Duncan was advised to file an appeal to the appeals board. On 12/14/21 he prepared and submitted a written rebuttal to each of the 9 reasons stated for permit denial and requested variances in support ***.

15. At the January 11th 2022 hearing a point was raised that Duncan needed to submit more detailed houseboat plans. Duncan agreed to do so and he asked for continuance but the board denied such, and voted to deny all his variance requests after a 2 hour hearing. Few if any of the 9 reasons were analyzed or discussed.

{¶3} Based on the foregoing allegations, the Complaint raises four Counts: Count I Taking of Property, Count II Quiet Title, Count III Estoppel/Laches, and Count IV Landlocked Properties Must Get Access.

{¶4} “In order for a court to dismiss a complaint for failure to state a claim upon which relief can be granted (Civ.R. 12(B)(6)), it must appear beyond doubt from the complaint that the plaintiff can prove no set of facts him to recovery. *O’Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242, 327 N.E.2d 753 (1975), syllabus. “In construing a complaint upon motion to dismiss for failure to state a claim, [the court] must resume that all factual allegations of the complaint are true make all reasonable inferences in favor of the non-moving” *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192, 532 N.E.2d 753 (1988).

{¶5} Mentor argues, and this Court agrees, that Duncan’s claims for Quiet Title, Estoppel/Laches, and Landlocked Properties Must Get Access are outside the scope of the original jurisdiction granted to a court

of appeals. Accordingly, they must be dismissed.

{¶6} A court of appeals' original jurisdiction is limited by the Ohio Constitution to the following types of cases: quo warranto; mandamus; habeas corpus; prohibition; procedendo; and any cause on review as may be necessary to its complete determination. Ohio Constitution, Article IV, Section 3. As a court of appeals' original jurisdiction is limited, the court "is obligated to raise sua sponte questions related to [its] jurisdiction." *Smirz v. Smirz*, 2014-Ohio-3869, 18 N.E.3d 868, ¶8 (9th Dist.); *State ex rel. White v. Cuyahoga Metro. Hous. Auth.*, 79 Ohio St.3d 543, 544, 684 N.E.2d 72 (1997) ("[s]ubject-matter jurisdiction, may "not be waived or bestowed upon a court by the parties to the case" and "may be raised sua sponte by an appellate court").

{¶7} The claim for Quiet Title is based on R.C. 5303.01 and asserts that Mentor's attempts to apply restrictive covenants, deed restrictions, zoning ordinances, building department or engineering storm water codes or the like are illegal and constitute a cloud upon his property rights. The claim for Estoppel/Laches asserts that Mentor and the neighboring property owners (not identified as parties in the Complaint) should be estopped from enforcing or giving effect to their regulations so as to deny Duncan a building permit. The claim for Landlocked Properties Must Get Access asserts that Duncan is entitled to the use of access easements contained on the approved plat for the Hollycroft Subdivision. None of these claims are encompassed by the types of cases over which this court may exercise original jurisdiction. This court is without jurisdiction to consider them.

{¶8} With respect to the claim for Taking of

Property, Mentor argues that Duncan has failed to state a claim upon which relief may be granted in that he has an adequate remedy at law “by way of a Chapter 2506 appeal of the decision of the Board of Building and Zoning.” We find that Duncan’s failure to pursue an appeal of the denial of his building permit and/or variance request constitutes a failure to exhaust his administrative remedies which precludes this Court’s consideration of whether Mentor has unconstitutionally appropriated his property by ‘totally denying [him] of any use of his lot (not only economically viable use, but recreational).’ Accordingly, this claim is also subject to dismissal.

{¶9} When seeking mandamus relief, “a party must wait for a final administrative decision before asserting a takings claim.” *State ex ref. Dynamic Industries, Inc. v. Cincinnati*, 147 Ohio St.3d 422, 2016-Ohio-7663, 66 N.E.3d 734, ¶10, “Where a statutory scheme would obviate the need for a takings claim, a party may not ignore that scheme in favor of instituting a takings claim.” *State ex rel. US Bank Trust Natl. Assn. v. Cuyahoga County*, 8th Dist. Cuyahoga No. 110297, 2021-Ohio-2524, ¶ 25; *Crosby v. Pickaway Cty. Gen. Health Dist.*, 4th Dist. Pickaway No, 06CA27, 2007-Ohio-6769, ¶23 (“the nature of appellants’ mandamus action necessarily challenges the permit denials and, thus, they must exhaust their administrative remedies before seeking the extraordinary remedy of mandamus”).

{¶10} According to the allegations in the Complaint, Duncan purchased his property in 1994. In November 2021, Duncan submitted a building permit application for a recreational houseboat on his property which Mentor denied. On December 14,

2021, Duncan requested a variance from the Board of Building and Zoning Appeals. The request was denied in January 2022. No further action on Duncan's part has been alleged. Rather, Duncan acknowledges in his Brief in Opposition that he "was required to at least try to get a variance before the zoning board" and that "the court must decide if an area variance was warranted."

{¶11} The Ohio Revised Code provides that "every final order, adjudication, or decision of any *** board *** of any political subdivision of the state may be reviewed by the court of common pleas of the county in which the principal office of the political subdivision is located." R.C. 2506.01(A); Mentor Codified Ordinances 1131.06(f) ("[d]ecisions of the Board [of Building and Zoning Appeals] shall be final and binding on the applicant provided, however, that any persons or the City aggrieved by any decision of the Board may appeal said decision by a filing a petition with the Common Pleas Court").

{¶12} Here, Duncan has failed to avail himself of the available administrative appeal processes which could obviate the need for the initiation of appropriation proceedings. *Compare State ex rel. Sibarco Corp. v. Hicks*, 177 Ohio St. 81, 82, 202 N.E.2d 615 (1964) ("the right to appeal pursuant to Chapter 2506, Revised Code, is an adequate remedy at law"); *The Chapel v. Solon*, 40 Ohio St.3d 3, 530 N.E.2d 1321 (1988), syllabus ("[t]he proper procedure to test an official's refusal to issue a building permit is by of appeal to the court of common pleas after all administrative remedies of appeal, if any, are exhausted").

{¶13} For the foregoing reasons, Mentor's Motion to Dismiss is granted and Duncan's Complaint is,

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accordingly, dismissed. Mentor's Motion to Strike is overruled as moot.

JOHN J. EKLUND, P.J., MARY JANE TRAPP, J.,
MATT LYNCH, J., concur.



**CITY OF
MENTOR**

8500 Civic Center Boulevard, Mentor, Ohio 44060-2499 • (440) 255-1100 • www.cityofmentor.com

November 22, 2021

Richard Duncan
1101 East Blvd.
Aurora, Ohio 44202

**Re: Review No. RBPR-11-21-12191
0 Barberry Hill
House Boat**

Applicant:

Your plans have been reviewed for compliance with the Mentor Code of Ordinances. The following deficiencies and non-conformities with the Code are noted:

**Building Plan Review - Contact Jim Decker,
440-974-5785, decker@cityofmentor.com:**

1. Mentor Code of Ordinances Section 1313.03:
The Chief Building official has the authority to determine that dwelling units conform to Chapter Architectural Control. Please submit floor plans and building elevations of the structure for review.

**Zoning Review - Contact Kathy Mitchell, 440-
974-5740, mitchell@cityofmentor.com:**

1. Mentor Code of Ordinances Section 1103.03: No building permit shall be issued for any parcel or plat of land which was created by subdivision not in conformity with the provisions of the Subdivision Regulations of the City of Mentor. The subject parcel was never an approved building lot, and, for additional, independent reasons detailed

further herein, it cannot be built upon. Parcel 16-B-036-A-00-047-0 is not an approved building lot on the plat for Hollycroft Colony Subdivision No. 2. The approved plat identifies this parcel as a "Village Green, Drainage Easement", not a buildable subplot. In addition, only sublots numbered 3 through 44 are identified as the approved lots on the Acceptance and Dedication page of the subdivision plat for Phase 2.

2. Mentor Code of Ordinances Section 1117.03: Lots shall have satisfactory access to a public street. This parcel has no frontage on and no access to any public street. As noted herein above, this was by design and intent for this subdivision as the parcel was never to be developed for any use other its perpetual preservation as open space and storm water management.
3. Mentor Code of Ordinances Section 1117.04: Easements for storm water management facilities shall conform to the requirements established in Chapter 1352. According to the plat for Hollycroft Colony Subdivision No. 2, a detention easement exists over the entire area of parcel 16-B-036-A-00-047-0. It should further be noted that most of the parcel is under water. Section 1352.11, paragraph (f), states city owned easements to structural storm water management practices shall be restricted against the construction therein of buildings, fences, walls, and other structures that may obstruct the free flow of storm water and the passage of inspectors and maintenance equipment; and against the changing of final grade from that described by the final grading plan approved by the City of Mentor. Any re-grading and/or obstruction

placed within a City owned maintenance easement may be removed by the City of Mentor at the property owners' expense.

4. Under Section 1155.01 (b), house boats are not listed as a permitted use. Regulations for permitted residential dwellings in this district are set forth in Section 155.01, Schedule of District Regulations, and require that structures in the R-2, Single Family Zoning District, maintain a minimum front setback of 50-ft, side setbacks of 10-ft and a rear setback of 50-ft. The code also requires a minimum floor area for a one-story to be 1,200 square feet and for more than one story to be ,350 square feet. The maximum height is 35-ft for the main structure. Even if a houseboat were considered a permitted residential structure, this proposed houseboat does not meet these requirements.
5. Per 1173.07 Access Drives and Parking Aisles: (a) General: Adequate and safe access to parking areas shall be constructed as approved by the City. Curb cuts/access drives shall be onto improved public streets and shall be located the same lot with the building or use they are intended to serve. Access drives shall not be extended beyond the property line, except an easement for a shared access drive may be granted with an adjoining lot fronting on the public street; and (b) Residential: Access drives shall be located such that they are a maximum distance possible from street intersections. Residential drive apron access shall be onto improved public streets and limited to a maximum width of twenty-four (24)-feet as measured at the public right-of-way. The plan submitted does not comply with this ordinance as no access to any

public street is shown.

6. Per 1173.14 GARAGES REQUIRED (a): For all single family dwellings of 1,100 square feet or greater and for each unit of all duplexes at least one of the required parking spaces shall be in 2 completely enclosed garage. No garage is shown on the plan submitted.
7. A site plan is required to be submitted for review as part of this application per 129.02 ZONING PERMITS: Each application shall be accompanied by a plot plan drawn to scale showing the size and shape of the parcel of land, the location of structures or uses with respect to the property lines and to the right-of-way of any street or highway, proposed grading plan and any other information which the Administrator may deem necessary for consideration of the application. The application submitted does not conform this requirement.

**Engineering Review - Contact Brian Ashurst,
(440) 974-5784, ashurst@cityofmentor.com**

1. Section 1352.01 of Mentor's Storm Water Management Code requires owners who develop or re-develop their property within the City of Mentor to control storm water runoff from their property and ensure that all storm water management practices are properly designed, constructed, and maintained.

The construction of a houseboat within the storm water management basin for the subdivision development that drains to it is not in conformance with the approved basin design. The addition of the houseboat to the pond will displace water and

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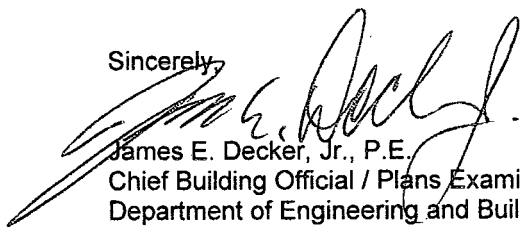
result in a reduction in storm water detention volume which is contrary to the requirement for proper design and maintenance as indicated above.

You have the right to appeal these determinations to the Mentor Board of Building and Zoning Appeals. Forms are available in the Planning and Development Department. You have thirty (30) days from the date of this correspondence, (consistent with Section 119.07 Ohio Revised Code) to request an appeal or resubmit a revised application in conformance with the Building Code and all other compliance items.

Failure to submit revisions or appeal within the time specified will render your application expired and your plans will be discarded. Additional review fees may be charged for any new permit applications.

Please review the above code sections and comments. Upon receipt and review of revised drawings indicating compliance with the above contingency items, a Building Permit may be issued. The City of Mentor would prefer a re-submission of drawings and specifications in a digital format.

Sincerely,



James E. Decker, Jr., P.E.
Chief Building Official / Plans Examiner
Department of Engineering and Building
decker@cityofmentor.com