

THE CITY OF WILMINGTON
a municipal corporation of the
STATE OF DELAWARE,

Plaintiff,

V.

RHR HOLDINGS, LLC d/b/a
Rowhome Rentals, LLC

Defendants.

Civ. A. No. N25J-03690

Tax Parcel – 20-027.30-277

ORDER

Before the Court is Defendant's Motion to Dismiss the Writ of Monition. For the reasons that follow, Defendant's Motion is **STAYED**.

I. BACKGROUND

Defendant RHR Holdings LLC (“Defendant”) owns a residential property at 505 North Broom Street, Wilmington, Delaware (“the Property”).¹ The City of Wilmington (“the City” or “Plaintiff”) assessed the Property a \$10,000.00 vacant registration fee for the year 2023, and Defendant requested a one-time waiver of the fee because Defendant was in the process of renovating the property to create a rental unit.² On February 28, 2024, the City granted Defendant’s request, but the City

¹ Docket Item (“D.I.” 16), ¶ 1. Defendant’s facts, as provided in the Motion to Dismiss Writ of Monition are accepted as accurate for purposes of this decision.

² *Id.*, ¶ 2.

also informed Defendant that the property had to be occupied by January 1, 2025 to avoid the imposition of an additional vacant property registration fee.³

On July 25, 2024, Defendant entered a residential lease agreement for the Property, and Defendant asserts it timely leased the Property in accord with the City's January 1, 2025 directive.⁴ But, the City also assessed a vacant property fee for 2024.⁵ The City then sent Defendant two bills for vacant property assessments for calendar years 2023 and 2024, and Defendant contested both charges in writing.⁶ The City removed the 2023 vacant property fee assessment, but the 2024 assessment remained.⁷ Defendant contends the 2024 vacant property fee assessment is improper, and it sent additional correspondence to the City requesting it remove the 2024 vacant property assessment. The 2024 assessment remains on the books, and the City instituted a monition proceeding to collect the balance due.

To that end, on December 5, 2025, Plaintiff recorded a Writ of Monition ("Writ") in this Court,⁸ and on December 17, 2025, this Court issued the Writ.⁹ On

³ The February 28, 2024 letter from the City to Defendant indicates the requested waiver was granted. *Id.*, Ex. 1. Attached to Exhibit 1 was a form indicating a party's "Appeal Rights" to contest vacant property assessments. *Id.*

⁴ *Id.*, ¶ 4.

⁵ *Id.*, ¶ 5.

⁶ *Id.*, ¶¶ 7-8.

⁷ *Id.*, ¶ 9.

⁸ D.I. 1.

⁹ D.I. 2.

April 1, 2026, Defendant filed a first Motion to Dismiss the Writ of Monition,¹⁰ and on May 14, 2026 Defendant filed a second Motion to Dismiss the Writ of Monition.¹¹

Plaintiff scheduled a sheriff sale to collect the fee for April 16, 2026,¹² but that sale was stayed on April 5, 2026.¹³ The sheriff sale was rescheduled to July 14, 2026,¹⁴ and that proceeding has also been stayed.

On July 6, 2026, this Court received Plaintiff's Response In Opposition To Defendant's Motion to Dismiss Writ of Monition.¹⁵ Therein, the City argues this Court should deny Defendant's motion to dismiss "because it asks this Court to resolve issues that are wholly outside the limited scope of a monition proceeding and seeks judicial review of administrative determinations that Defendant never properly appealed."¹⁶ Plaintiff notes Defendant does not contend the City failed to comply with the statutory requirement governing the issuance of a writ of monition, and Defendant does not argue the lien was satisfied.¹⁷ According to Plaintiff, Defendant failed to pursue the available administrative remedy available to challenge the City's assessment of the vacant property registration fee, and Defendant's filing in this Court amounts to a collateral attack on the underlying assessment. The City

¹⁰ D.I. 9.

¹¹ D.I. 16.

¹² D.I. 7, Ex. A.

¹³ D.I. 12.

¹⁴ D.I. 19, Ex. A.

¹⁵ D.I. 21.

¹⁶ *Id.*, ¶ 1.

¹⁷ *Id.*, ¶ 2.

contends Defendant's failure to exhaust an available administrative remedy is fatal to its motion to vacate, and Defendant's motion is procedurally barred.¹⁸

Finally, Defendant contends the City's position is that if it properly filed a writ of monition, and Defendant fails to identify a defect in that process, "there is nothing that the landowner/defendant or the Court can do to stop the Sheriff's Sale of the property."¹⁹ Defendant asserts the City's position – "that this Court's review of a City-filed Monition is strictly limited to defects in the process and landowners are prohibited from challenging the underlying basis for the imposition of the municipal lien supporting the Writ of Monition" is unsupported by caselaw or statute.²⁰ Defendant also disputes that its alleged failure to exhaust administrative remedies precludes it from filing a Motion to Dismiss.²¹ Defendant argues Chapter 7, Section 5-705 of the City Code does not *mandate* it follow the provided appeal procedure, and does not create an "affirmative obligation on a landowner to first be limited to a Board of License and Inspection review and precluded from coming to Superior Court for judicial relief."²²

¹⁸ *Id.*, ¶¶ 8-12.

¹⁹ D.I. 24, ¶ 1.

²⁰ *Id.*, ¶ 2.

²¹ *Id.*, ¶ 3.

²² *Id.*, ¶ 5. Defendant also contends the City is not "afforded the protection of the Delaware Administrative Procedures Act (29 *Del. C.* § 10101 *et seq.*) . . . as the definition of a state "agency" as defined in § 10102 specifically excludes municipalities." *Id.*, ¶ 6.

II. DISCUSSION

The City contends Defendant did not pursue available administrative remedies afforded to it by the City of Wilmington Code (the “Code”), and therefore this Court should not intervene and decide the motion on the merits. Plaintiff encourages this Court to apply the doctrine of exhaustion of administrative remedies and deny the Motion.

The doctrine of exhaustion of administrative remedies lies within the discretion of the court.²³ As was explained in *Levinson v. Delaware Compensation Rating Bureau, Inc.*:

Delaware has adopted the doctrine of exhaustion of administrative remedies. A judicially created rule, the doctrine requires that where a remedy before an administrative agency is provided, relief must be sought by exhausting this remedy before the courts will either review any action by the agency or provide an independent remedy. The policy which sustains this doctrine is one of maintaining the proper relationship between the courts and the administrative agencies. It accomplishes this by: (1) favoring a preliminary administrative sifting process; (2) avoiding interference with the administrative agency by withholding judicial action the administrative process has run its course; and (3) preventing attempts to burden the courts by a resort to them in the first instance.²⁴

To apply the doctrine of exhaustion of administrative remedies, *Levinson* requires that the administrative body (the Commissioner of the Department of

²³ *Town of South Bethany v. Nagy*, 2006 WL 1451528, at *6 (Del. Super. Ct. May 12, 2006) (citing *Buckson v. Town of Camden*, 2001 WL 1671443, at *6 (Del. Ch. Dec. 4, 2001)).

²⁴ *Levinson v. Delaware Compensation Rating Bureau, Inc.*, 616 A.2d 1182, 1187 (Del. 1992) (internal citations omitted).

Licenses and Inspections) must have exclusive jurisdiction to review the City's vacant property assessments. Here, Wilmington City Code Section 13-42(a)-(f) details the requirements imposed on a party charged with maintaining an alleged vacant city property. Section 13-42 provides: guidelines for the proper maintenance of a vacant property;²⁵ the right of members of the City's Licenses and Inspections Department ("L&I") to enter and inspect vacant properties;²⁶ how L&I should provide a property owner service of deficiency notices;²⁷ the processes for administration and enforcement of the city code as it relates to vacant properties;²⁸ the specific notice requirements to land owners of an alleged vacant property;²⁹ and an exclusive administrative appeal process.³⁰ The City Code is the exclusive administrative remedy, and does not provide an alternative process for resolving vacant property determinations issued by L&I.³¹

To the extent Defendant argues the adoption of the doctrine of administrative remedies only applies to state "agencies," Delaware caselaw demonstrates

²⁵ Section 13-42(a)-(b).

²⁶ Section 13-42(c)-(d).

²⁷ Section 13-42(e).

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 13-42(f).

³¹ The doctrine of administrative remedies "applies only where a claim must be initiated before an administrative agency which has exclusive jurisdiction over the matter and is able to provide an adequate remedy." *Levinson*, 616 A.2d at 1187.

otherwise.³² Additionally, there is nothing in the Delaware Administrative Procedures Act (29 *Del. C.* § 10101 *et seq.*) which limits the exhaustion doctrine to eligible state “agencies” as that term is defined by 29 *Del. C.* § 10102. Moreover, as indicated in *Levinson*, the doctrine is a judicially created rule rather than a jurisdictional requirement, and it generally requires a litigant to pursue an available administrative remedy before seeking judicial intervention, particularly where the administrative body has authority over the claim and can provide an adequate remedy.³³

In addition to the provisions of Chapter 13, Section 42 of the City of Wilmington Code, Chapter 7, provides appellate procedures exclusive to L&I review determinations.

Section 5-705 of the City Code provides:

Board of license and inspection review.

The board of license and inspection review shall provide an appeal procedure whereby any person aggrieved by the issuance, transfer, renewal, refusal, suspension, revocation or cancellation of any city license or by any notice, order or other action as a result of any city inspection affecting him directly (except for any civil penalty imposed pursuant to Sections 3-12, or Chapter 13 of the City Code), shall upon request be furnished with a written statement of the reasons for the action taken and afforded a hearing thereon by the board of license and inspection review. Upon such hearing, the board shall hear any

³² The doctrine of exhaustion of administrative remedies has been applied by Delaware courts to non-state agencies. See generally *Walker v. City of Wilmington*, 2014 WL 4407977 at *8-9 (Del. Ch. Sept. 5, 2014); *Pleasanton v. Hugg*, 2010 WL 5313228 at *1 (Del. Super. Ct. Nov. 29, 2010); *Cheswold Aggregates, LLC v. Town of Cheswold*, 1999 WL 743339 at *1-2 (Del. Super. Ct. July 2, 1999).

³³ *Levinson*, 616 A.2d at 1187.

evidence which the aggrieved party or the city may desire to offer, shall make findings and render a decision in writing. The board may affirm, modify, reverse, vacate or revoke the action from which the appeal was taken to it.³⁴

Additionally, Chapter 7, Section 5-708 of the City Code explicitly affords a property owner the right to appeal L&I's determinations to the Commissioner of Licenses and Inspections, and a specific procedure to do so. That section provides as follows:

Sec. 5-708. - Appeals to commissioner of licenses and inspections.

The commissioner of licenses and inspections shall provide an appeal procedure whereby *any person aggrieved by any civil penalty imposed pursuant to Sections 3-12 or Chapter 13 of the City Code may submit a detailed written explanation of the grounds for the appeal, along with payment in full of the civil penalty.* After reviewing such written submission, the commissioner of licenses and inspections or his or her designee shall issue a written decision affirming, modifying, reversing, vacating or revoking the civil penalty, and such decision shall be final. In the event the civil penalty is reversed, revoked, vacated or decreased in amount, the appellant shall be reimbursed for payment of the portion of the civil penalty found to have been wrongfully imposed.³⁵

While it is apparent Defendant attempted to resolve this disputed fee assessment through written correspondence with the City, the record is devoid of evidence that Defendant followed the procedure provided for in the Code to appeal an adverse administrative determination, and the Code provided the exclusive remedy to dispute the vacant property fee. Defendant has not asserted an appropriate remedy is unavailable through the administrative review process -- it seeks to remove what it

³⁴ City of Wilmington Code, Chapter 7, Section 5-705.

³⁵ *Id.*, Chapter 7, Section 5-708.

believes to be an erroneous vacant property assessment. Defendant's recourse in disputing the vacant property assessment rests with the administrative appeal process as delineated in the Code.

III. CONCLUSION

Based on the foregoing, this Court declines to exercise jurisdiction over the vacant property assessment dispute. The application of the doctrine of exhaustion of administrative remedies requires Defendant to pursue the administrative appeal process provided in the Code. The Commissioner of the Department of Licenses and Inspections enjoy exclusive jurisdiction to review vacant property assessment appeals, and the Commissioner can fashion an appropriate remedy to address Defendant's claim. This determination is consistent with the policy of maintaining the proper relationship between the courts and administrative agencies by favoring the administrative review process, avoiding interference with the administrative agency, and preventing attempts to burden the courts with administrative appeals when established administrative procedures are in place.

While Plaintiff was generally correct to point out that Defendant did not identify a defect in the Writ of Monitions process which would justify granting the pending motion to dismiss, the Motion to Dismiss Writ of Monition is **STAYED** sixty days to afford Defendant an opportunity to exhaust the administrative remedies

noted above. Defendant shall submit a status report to this Court updating it on its progress with the administrative appeal on or before November 13, 2026.

IT IS SO ORDERED, this 17th day of September, 2026.

/s/ Martin B. O'Connor
Commissioner