UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2076

September Term, 2015

DAVID WAYNE MYERS, et al.

v.

ANNE ARUNDEL COUNTY

Graeff,
Kehoe,
Davis, Arrie W.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Davis, J.

Filed: December 15, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland court as either precedent within the rule of *stare decisis* or as persuasive authority. Md. Rule 1-104.

Appellants, David and Ekaterina Myers, *pro se*, appeal[1] from the grant, by the Circuit Court for Anne Arundel County, of appellee, Anne Arundel County's, Motion to Dismiss, without prejudice. According to the Court, it had no record to review the matter because the appeal was not from a decision of the Anne Arundel County Board of Appeals, that administrative appeals mechanism for review of agency decisions. To summarize, the circuit court concluded:

> My issue was notice. You, you were completely noticed [sic] back in April and May when Judge Caroom did what he did about their pending Motion to Dismiss, and you knew the reasons why. Now if that cost you any problem with 30 days that you had to note an appeal to the Board of Appeals, that's on you Sir, that's not on anybody else.

Appellants filed the instant appeal from the circuit court's grant of appellee's Motion to Dismiss, raising six questions for our review,[2] which we quote:

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[1] There is a separate enforcement proceeding in the District Court of Maryland for Anne Arundel County regarding an alleged violation of the County Code concerning the removal of trees in the Chesapeake Bay Critical Area buffer on appellants' property. Despite appellants' inclusion of facts material to that proceeding, we constrain our review to the matters appropriately before this Court.

[2] The County presents the following questions for our review, which we quote:

1. Whether this appeal should be dismissed because the circuit court lacked jurisdiction to take any action after the first appeal was filed?

2. If this matter is not dismissed, whether the circuit court properly dismissed the appellants' Petition for Judicial Review based on appellants' failure to exhaust administrative remedies?

3. If this matter is not dismissed, whether the circuit court properly accepted the County's Motion to Dismiss and Memorandum in support, thereof?

> 1. Did the Clerk and the Circuit Court err in failing to apply and/or misapplying MD Rules to Appellee's Response in accepting and filing the County's Response to Appellants' Petition for Judicial Review, since Response's Certificate of Service shows that it was mailed to a nonexistent address instead of the address of record as specified by law?
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> 2. Did that Clerk and Circuit Court err in accepting and filing Appellee's Motion to Dismiss Appellants' Petition for Judicial Review, since that Motion did not contain any Certificate of Service of that Motion, and did the Circuit Court err in failing to apply and/or misapplying MD Rules to Appellee's Motion to Dismiss?
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> 3. According to law did the Circuit Court err in deciding that all citizens "must" and "shall" always, in every case, first utilize the County Appeals Board process before the Court is authorized and has jurisdiction to hear any citizen's case only as an appeal from a decision of that Board, or is a direct petition to the Circuit Court allowed by law, and/or does the Circuit Court have authority and jurisdiction over the County executive branch agencies via a direct Petition to the Court for Judicial Review?
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> 4. Did the Circuit Court err in judging that Appellants had failed to exhaust all administrative remedies provided by the County to Appellants prior to petitioning for Judicial Review and err in granting County's Motion to Dismiss?
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> 5. Did the Circuit Court err in failing to rule upon Appellants' Motion for Judgement [sic] and err in failing to allow Appellants to present their entire case subsequently?
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> 6. Did the Circuit Court err in denying Appellant's MOTION TO ALTER OR AMEND A JUDGMENT?

FACTS AND LEGAL PROCEEDINGS

In December 2014, appellants became entangled in a dispute with Anne Arundel County (the "County") concerning the removal of trees on appellants' property within the Chesapeake Bay Critical Area buffer. On January 9, 2015, the County notified appellants, *via* letter, that the December 2014 tree removal was in violation of the County Code. Appellants submitted a Standard Vegetative Management Plan application to the County on February 10, 2015. The County, in a letter dated February 18, 2015, responded by stating

that the plan was "denied and fails to meet the minimum standards of a Mitigation/ Buffer Management Plan required in the violation notice dated January 8, 2015 for resolution of the buffer violation."

Appellants filed a Petition for Judicial Review in the Circuit Court for Anne Arundel County from the County's denial of their Vegetative Management Plan. In response, the County filed a Motion to Dismiss on April 23, 2015, citing appellants' failure to pursue and exhaust administrative remedies before seeking judicial review. Specifically, the County argued that appellants failed to first appeal to the County Board of Appeals before filing an appeal in the circuit court. The County's Response, which also contained a Motion to Dismiss and supporting Memorandum, were "inadvertently mailed to an incorrect address." The County post-stamped the Motion and supporting documents to the correct address on May 8, 2015 and appellants received the Motion and Memorandum on May 13, 2015. The circuit court initially granted the County's Motion on May 14, 2015 ("First Order") and appellants appealed the court's order on June 11, 2015. This Court dismissed the appeal on December 9, 2015 because appellants failed to file a brief or record extract.

However, during the pendency of the first appeal, appellants filed a revisory motion in the circuit court on June 15, 2015 concerning the May 14, 2015 Order and appellants' untimely receipt of the County's Response, due to the County's mailing error. The County filed a response to the Motion and conceded the mailing error. The circuit court struck its First Order on July 8, 2015 and provided appellants an opportunity to oppose the County's initial Motion to Dismiss.

A hearing on the Motion was held on October 5, 2015 and the circuit court once again granted the County's Motion to Dismiss, finding that appellants had failed to pursue and exhaust administrative remedies. The Order was entered in the circuit court on October 21, 2015 ("Second Order").

Prior to the entry of the Second Order, appellants filed three motions: (1) a Motion for a New Trial, (2) a Motion to Alter or Amend and (3) a Motion to Expedite the Motion for New Trial and to Alter or Amend Judgment. These motions were all denied by the court on November 13, 2015. Appellants filed the instant appeal on December 2, 2015.

STANDARD OF REVIEW

This Court reviews determinations of legal questions or conclusions of law, as well as the interpretation and application of Maryland statutory and case law *de novo*. *Swift v. State*, 393 Md. 139, 154–55 (2006). In reviewing a lower court's grant of a motion to dismiss, this Court must determine whether the court was "legally correct." *Norman v. Borison*, 192 Md. App. 405, 419 (2010).

DISCUSSION

I. *Noncompliance with Maryland Rule 8–504*

As a preliminary matter, the County alleges appellants' noncompliance with a number of the subsections of Md. Rule 8–504, which governs the contents of appellate briefs. Specifically, the County avers that appellants' Statement of Facts violates 8–504(a)(4) by failing to cite to the record or record extract, appellants' Analysis violates 8–504(a)(6) by neglecting to address all questions presented and appellants' Standard of

Review is insufficient, pursuant to 8–504(a)(5). In their appellate brief, appellants do not address their compliance, *vel non*, with the Maryland Rules.[3]

Md. Rule 8–504(c) provides, in part, that "[f]or noncompliance with this Rule, the appellate court may dismiss[4] the appeal or make any other appropriate order with respect to the case . . . ." However, this Court has recognized that "dismissing an appeal on the basis of an appellant's violations of the rules of appellate procedure is considered a 'drastic corrective' measure." *Rollins v. Capital Plaza Associates, L.P.*, 181 Md. App. 188, 202 (2008) (quoting *Brown v. Fraley*, 222 Md. 480, 483 (1960)). "We also are mindful that reaching a decision on the merits of a case 'is always a preferred alternative.'" *Id.* (quoting *Joseph v. Bozzuto Mgmt. Co.,* 173 Md. App. 305, 348 (2007)). Therefore, this Court "will not ordinarily dismiss an appeal 'in the absence of prejudice to appellee or a deliberate violation of the rule.'" *Id.* at 202–03 (quoting *Joseph*, 173 Md. App at 348).

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[3] In their reply brief, appellants state that their appellate brief complied with Rules 8–501, 8–502, 8–503 and 8–504, *inter alia*, but appellants only provide an argument in support of compliance with Rule 8–504(a)(4). Appellants argue that the Rule narrowly applies only to the "Statement of Facts" section of an appellate brief. However, in *Rollins v. Capital Plaza Associates, L.P.*, 181 Md. App. 188, 201 (2008), this Court held that, in addition to the "Statement of Facts," seven pages of procedural facts outlined in a separate "Procedural History" section were also governed by the Rule. In the instant case, appellants' "Statement of the Case" sets out procedural facts, only listed in that section, that are also relied upon for the Argument but to which appellants have not cited. Accordingly, this is a clear violation of the Rule as interpreted by the Maryland Courts.

[4] *See* MD. RULE 8–602(a)(8) (Dismissal by Court on the Grounds of "the style, contents, size, format, legibility, or method of reproduction of a brief, appendix, or record extract does not comply with Rules 8-112, 8-501, 8-503, or 8-504").

In *Rollins, supra,* we held that "substantial violations of the appellate rules," that "clearly caused needless difficulty" in the opposing party's ability to address the merits of issues, "created additional time and expense in bringing these violations to our attention," and created difficulty "to this Court in determining what documents are or are not in the record and where supporting facts are located in the record," warranted dismissal. *Id.* at 203. Although we noted that any of the "violations taken alone may not warrant dismissal," it was the combination of these violations of the Maryland Rules that constituted a "complete disregard of the rules of appellate practice" and rendered the appellate brief and record extract "so far removed from the boundaries of the rules and acceptable appellate practice that they are an affront to the process." *Id.* at 203. We are unpersuaded that that is what has occurred in the instant appeal. The County has not alleged that it was so prejudiced by appellants' brief that it could not adequately address the issues presented; nor does the County allege that the violations caused such additional time and expense as to warrant dismissal.

The Statement of the Case consists of eight pages of facts and cites once to the record. This lack of citation to the record or record extract is a violation of Md. Rule 8–504(a)(4). This Court "cannot be expected to delve through the record to unearth factual support favorable to [the] appellant," when a Statement of Facts or Statement of the Case does not cite to the record or record extract. *Rollins*, 181 Md. App. at 201 (declining to consider seven pages of procedural facts, separate from the "Statement of Facts," that did not provide citation to either the record or record extract). Accordingly, we will only

consider those facts supported by citation to the record or record extract and properly considered by the trial court.

Appellants also violate Md. Rule 8–504(a)(6) by failing to provide argument and analysis in support of each issue raised on appeal.

Pursuant to Md. Rule 8-504(a)(5):

> A brief [filed before an appellate court] shall contain . . . [an a]rgument in support of the party's position. The use of the word 'shall' indicates that the provision is mandatory, and that the consequences of noncompliance are those prescribed by the Maryland Rules or by statute.

Monumental Life Ins. Co. v. U.S. Fid. & Guar. Co., 94 Md. App. 505, 544 (1993). *See also* MD. RULE 1–201(a).[5] Accordingly, we will only consider the issues presented by appellants that have been supported by argument in their appellate brief.[6]

Finally, we agree with the County that appellants have failed to provide a standard of review pursuant to Rule 8–504(a)(5). Despite headings and subheadings in appellants' Argument labeled "standard of review," we discern no standards of legal review by which

[5] "These rules shall be construed to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay. When a rule, by the word 'shall' or otherwise, mandates or prohibits conduct, the consequences of noncompliance are those prescribed by these rules or by statute. If no consequences are prescribed, the court may compel compliance with the rule or may determine the consequences of the noncompliance in light of the totality of the circumstances and the purpose of the rule."

[6] Appellants provide a total of three arguments, despite enumerating the sections as "1, 2 and 4." Additionally, we can discern no difference between arguments Nos. 1 and 2, which consider the County's certificate of service mailed to the incorrect address, the certificate of service listing the incorrect address and the court clerk's acceptance of it. The third argument, labeled No. 4 in appellants' brief, considers the merits of the Motion to Dismiss.

appellants' request our review of the circuit court's actions, *e.g.,* abuse of discretion, *de novo*, etc. We do not, however, deem this violation serious enough to warrant a dismissal of the appeal. Accordingly, we will apply the appropriate standard of review as described, *supra*.

II. Circuit Court Jurisdiction

Appellants do not address the issue of the circuit court's jurisdiction regarding actions taken after the filing of the first appeal in either their appellate or reply briefs submitted to this Court. The County, however, contends that the instant appeal should be dismissed because the circuit court did not have jurisdiction over the matter after the first appeal was filed. Specifically, the County argues that the circuit court was divested of jurisdiction and any subsequent actions, *i.e.*, granting the Motion to Revise, were without "legal effect." Although the County acknowledges that it did not raise this issue in the circuit court, it argues that matters concerning subject matter jurisdiction can be raised and decided by the appellate court, even though they were not raised or decided by the circuit court. We agree.

Md. Rule 8–131 provides that, "[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court . . . ." However, the "lack of subject matter jurisdiction may be raised at any time, including initially on appeal and the issue of subject matter jurisdiction need not be raised by a party, but may be raised by a court *sua sponte*." *Cty. Council of Prince George's Cty. v. Zimmer Dev. Co.*, 217 Md. App. 310, 319 (citation omitted) (internal quotation

marks omitted) *aff'd*, 444 Md. 490 (2015); MD. RULE 2–324(b). Accordingly, we hold that review of the lack of subject matter jurisdiction of the circuit court in this matter is appropriately before this Court.

In Maryland, a trial court's jurisdiction typically ends upon the filing of an appeal. *Tiller v. Elfenbein*, 205 Md. 14, 19 (1954). Although, "the mere filing of an appeal from the judgment does not strip the trial court of its revisory power in a proper case . . ." *id.* at 21, the Court of Appeals has held that, "unless the appeal is dismissed when the motion comes on for hearing, the appellant must elect between his motion and his appeal." *Id.* Significantly, the Court noted that, "if the appeal is still pending when the motion to strike the judgment comes on for hearing, *the trial court lacks jurisdiction to entertain the motion, regardless of whether the motion is of the type that may be renewed or not.*" *Id.* at 21 (Emphasis supplied). Accordingly, if an appellant desires for a motion to be considered by a lower court, he or she has "the undoubted right to dismiss [the] appeal and thereby enable that [lower] court to act on the motion." *Id.* at 20.

In the case *sub judice*, the circuit court struck its First Order on July 8, 2015, while the first appeal was still pending before this Court. We did not dismiss the first appeal until December 9, 2015. Patently, the appeal was not dismissed at the time that appellants' Motion to Revise was under consideration, by the circuit court, on October 5, 2015 at the hearing. Therefore, appellants failed to "choose" between the Motion to Revise and the appeal pending before this Court and the circuit court was divested of jurisdiction to consider the Motion and all subsequent proceedings lacked legal effect. *Tiller, supra.*

Accordingly, we grant the County’s Motion to Dismiss the appeal due to the lower court’s lack of jurisdiction to legally enter the Order that is the subject of the instant appeal; *i.e.*, the Second Order.

III. Certificate of Service

Appellants contend that service of the County's Response to their Petition for Judicial Review and Motion to Dismiss is defective. Although the County submitted a Certificate of Service with its filing, appellants argue that there was no service, under Maryland law, because the certificate listed a “nonexistent address.” Additionally, appellants argue that the listing of the incorrect address on the certificate obligated the clerk of the circuit court not to accept the County's filing, pursuant to Md. Rule 1–323. Therefore, appellants request that this Court hold that the County's pleading is “null and void and without legal effect or basis in this action.”

The County responds that the clerk of the court was required to accept its filing because there was no defect in the Certificate of Service. The County also argues that the mailing error was cured by the circuit court when it struck its original Order, granting the first Motion to Dismiss. Appellants, the County argues, were “afforded an opportunity to file an opposition to the Motion to Dismiss and an opportunity for a hearing.” Therefore, the County argues that the mailing error is now a moot issue.

Md. Rule 1–323 provides:

> The clerk shall not accept for filing any pleading or other paper requiring service, other than an original pleading, unless it is accompanied by an admission or waiver

> of service or a signed certificate showing the *date and manner of making service*. A certificate of service is *prima facie* proof of service.

(Emphasis supplied).

Md. Rule 1–321(a) provides, in pertinent part:

> Except as otherwise provided in these rules or by order of court, every pleading and other paper filed after the original pleading shall be served upon each of the parties . . . . Service upon the attorney or upon a party shall be made by delivery of a copy or *by mailing it to the address most recently stated in a pleading or paper* filed by the attorney or party, *or if not stated, to the last known address* . . . . Service by mail is complete upon mailing.

(Emphasis supplied).

Looking to the 1984 revision of the Maryland Rules that produced the current Rule 1–323, this Court observed:

> Under the old Rule, the clerk may have had some obligation to determine whether the certificate actually showed service on the 'opposite party.' But, as noted, that obligation, if it ever did exist, has been eliminated . . . . The obligation of the clerk under the current Rule is simply to assure that there is, in fact, an admission, a waiver, *or a certificate showing the date and manner of service*. If such a certificate is attached to the paper, the clerk *must file the paper*, leaving it then to the parties or the court to deal with any deficiency.

State v. Andrews, 227 Md. App. 350, 369 (2016) (Emphasis supplied) (quoting *Dir. of Fin. of Baltimore City v. Harris*, 90 Md. App. 506, 513–14 (1992)).

In the instant case, appellants conflate two distinct issues. Rule 1–323 concerns a defect in the *certificate* and Rule 1–321(a) concerns a defect in the *service*. Rule 1–323 requires a clerk of the court to accept a certificate unless it is defective, *i.e.*, lacks an admission or waiver of service or a signed certificate showing the date and manner of making service. The Certificate of Service submitted with the County's filing was signed

and showed the date and manner of service. Therefore, the certificate itself was not defective and the clerk of the circuit court did not err in accepting it; rather, it would have been error if the clerk *had not* accepted the pleading. *Andrews, supra.*

Furthermore, appellants' argument that the County has not filed "a certificate of service which shows a real address where it mailed" its filing and that the date to file has "long since passed" is without merit. The County did timely file a certificate of service with its Response and Motion to Dismiss and supporting Memorandum. The fact that the address is not accurate does not render the certificate of service invalid under the Maryland Rules as discussed, *supra*.

Appellants also contend that the County, with "purposeful malfeasance," initially mailed the filing to a "fake" address, thus causing a delay in appellants' receipt of the documents and causing prejudice to appellants when the circuit court granted the County's Motion to Dismiss, in part, due to appellants' "lack of timely opposition thereto . . . ." Appellants urge that the County's Motion to Dismiss should, therefore, itself be "dismissed."

The County concedes the mailing error, but takes issue with appellants' characterization of the incorrect address as "fake." The County explains that the incorrect address was an amalgamation of appellants' two addresses and, when the filing was returned due to the mailing error, the County mailed the pleading to appellants with the correct address on May 8, 2015. Furthermore, the County argues that the appropriate remedy for the mailing error is not to dismiss the County's Motion, but to affirm the

curative measures made by the circuit court, *i.e.*, providing appellants an opportunity to respond to the Motion and a hearing.

Rule 1–321 does not prescribe consequences for the noncompliance with mandated conduct. As we noted in *Lovero v. Da Silva*, 200 Md. App. 443, 448 (2011), regarding noncompliance with the court clerk's failure to follow Rule 1–321, "[u]nder Rule 1–201,[7] where no consequences are prescribed by the rule for noncompliance with mandated conduct, the court 'may determine the consequences of the noncompliance in light of the totality of the circumstances and the purpose of the rule.'"

In the instant case, the County concedes that its Response and Motion to Dismiss were initially mailed to the wrong address. Although the incorrect address may not, in and of itself, be detrimental, the fact that appellants did not receive adequate notice is problematic. The County argues that the circuit court "adequately addressed the consequences of the incorrect certificate of service," pursuant to Rule 1–201, by striking its May 14, 2015 Order and permitting appellants the opportunity to respond. We agree.

However, it is axiomatic that, under Maryland law, if an appeal is still pending when a motion to strike the judgment comes on for hearing, the circuit court is divested of

[7] MD. RULE 1-201(a). "These rules shall be construed to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay. When a rule, by the word 'shall' or otherwise, mandates or prohibits conduct, the consequences of noncompliance are those prescribed by these rules or by statute. If no consequences are prescribed, the court may compel compliance with the rule or may determine the consequences of the noncompliance in light of the totality of the circumstances and the purpose of the rule."

jurisdiction and any subsequent proceedings are without legal effect, as discussed, *supra.* Appellants failed to dismiss the first appeal and, therefore, were constrained to seek redress for any issue regarding defective service on that first appeal.

IV. Motion to Dismiss

Assuming, *arguendo*, that the circuit court had retained jurisdiction over the matter, notwithstanding the pending appeal to this Court, the lower court's grant of the County's Motion to Dismiss was legally correct.

Md. Code Ann., Local Gov't § 10–305(a) provides that a county may enact local laws to create a County Board of Appeals. Subsection (b)(2) provides that the jurisdiction of that county board may include review of the actions of an administrative office concerning "the issuance, renewal, denial, revocation, suspension, annulment, or modification of any license, permit, approval, exemption, waiver, certificate, registration, or other form of permission or of any adjudicatory order."

The Anne Arundel County Charter § 602(c)[8] provides that "[t]he County Board of Appeals *shall* have the function and power to hear appeals from decisions involving licenses or permits . . . ." (Emphasis supplied). Section 602(e)[9] provides that "[t]he County Board of Appeals *shall* hear and decide appeals from all other administrative and adjudicatory orders other than those affecting the internal operation of the executive

[8] Eff. July 14, 1980, Bill No. 93-80.
[9] Eff. Aug. 2, 1980, Bill No. 85-82.

branch . . . .” (Emphasis supplied). Furthermore, § 604[10] provides that a party may appeal a decision *from* the County Board *to* the Circuit Court for Anne Arundel County.

In reviewing the Maryland Code and local Anne Arundel County Code, it is apparent that the General Assembly empowered the local counties to create an administrative appeals mechanism. Anne Arundel County, acting within the authority granted to it by Maryland statute, created a Board of Appeals that reviews the actions discussed, *supra*. Significantly, Anne Arundel County included the word “shall” in its code, which denotes mandatory conduct. Therefore, a party, seeking review of an administrative action outlined in the Anne Arundel County Code, must first file an appeal with the Board of Appeals. *Then*, both Maryland and the local code permit an appeal from the Board of Appeals to be timely filed in the Circuit Court for Anne Arundel County. *See* Md. Code Ann., Local Gov’t § 10–305(d)(1) (“Any person aggrieved by the decision and a party to the proceeding before the county board of appeals may seek review by the circuit court for the county.”); Anne Arundel County Code § 604 (“Within thirty days after any decision by the County Board of Appeals is rendered, any person aggrieved by the decision of the Board and a party to the proceedings before it may appeal such decision to the Circuit Court for Anne Arundel County.”).

In their reply brief, appellants reiterate that they were never “provided” an appeal and that the County had to “pretend that administrative review was offered but not did not [sic] actually have to provide it!” (Exclamation mark in original). Appellants, however,

[10] Eff. Nov. 7, 1972, Bill No. 80-72; Res. No. 18-06. Last Amended 2006, Bill No. 80-72; Res. 18-06.

confuse an administrative hearing/ review that occurs at the agency level and an appeal *from that agency decision* that must go before the County Board of Appeals. Additionally, to be provided an appeal means to be provided a *mechanism* by which an aggrieved party may legally seek review of a decision by the appropriate reviewing entity. *See* Merriam-Webster 937 (10th ed. 2001) (defining "provide," *inter alia*, as to "make available"). It does not mean that the County has a legal obligation to affirmatively initiate an appeal on appellants' behalf. Appellants also confuse their self-described "exhaustive attempts" to contact the agency concerning the Vegetative Management Plan dispute and the doctrine of exhaustion. In *Maryland Comm'n on Human Relations v. Downey Commc'ns, Inc.*, 110 Md. App. 493, 526–27 (1996), we noted:

> It is a longstanding principle of administrative law that one must exhaust statutorily prescribed administrative remedies before resorting to the courts. Therefore, a *litigant must first pursue the applicable administrative process*; other remedies cannot be pursued prematurely.

(Emphasis supplied). Quoting the Supreme Court, we further expounded that, "one of the purposes of the exhaustion doctrine is to prevent the possibility 'that frequent and deliberate flouting of administrative processes could weaken the effectiveness of an agency by encouraging people to ignore its procedures.'" *Id.* (quoting *McKart v. United States*, 395 U.S. 185, 195 (1969)).

> The purposes of the doctrine of exhaustion of administrative remedies are threefold. It is designed to encourage the determination of particular issues by agencies with special expertise as to those issues; to avoid the judicial resolution of matters the legislature thought could be best performed by an agency; and to keep from the courts matters they might never be called upon to decide if the prescribed administrative remedy was followed.

Id. at 528 (quoting *Boyd v. Supervisor of Assessments of Baltimore City*, 57 Md. App. 603, 606 (1984)).

As appellants pointed out in their reply brief, they are the litigants. Therefore, it was incumbent upon them to use the specific procedures prescribed by the Maryland and local legislature to appeal the administrative decision denying their Vegetative Management Plan.

Accordingly, we hold that, assuming the circuit court had retained jurisdiction to hear the matter, the court correctly granted the County's Motion to Dismiss the action for appellants' failure to exhaust the administrative remedies as prescribed under Maryland and local law.

CONCLUSION

In sum, we hold that the circuit court was divested of jurisdiction when appellants failed to dismiss their first pending appeal. Accordingly, any subsequent action of the circuit court, *i.e.,* the Second Order, was without legal effect and this Court's dismissal of appellants' appeal on December 9, 2015 controls. Furthermore, even if the circuit court had retained jurisdiction, we hold that the circuit court's grant of the County's Motion to Dismiss was correct. Appellants were required, under Maryland and local law, to exhaust administrative remedies, *i.e.,* file an appeal with the County Board before seeking redress from an administrative action in the Circuit Court for Anne Arundel County.

APPELLEE'S MOTION TO DISMISS GRANTED.
COSTS TO BE PAID BY APPELLANTS.