

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

H. LEIGHTON LASKEY	:	
	:	
v.	:	
	:	Civil Action No. CCB-08-3228
CITY OF BALTIMORE, et al.	:	
	...	

MEMORANDUM

Now pending before the court are motions to dismiss, filed by defendants City of Baltimore, et al. (the “City”), and for summary judgment, filed by plaintiff H. Leighton Laskey. The City moves to dismiss for failure to exhaust administrative remedies, *see Woodford v. Ngo*, 548 U.S. 81, 88-90 (2006) (discussing the doctrine of exhaustion), and pursuant to *Burford* abstention. *Burford v. Sun Oil Co.*, 319 U.S. 315, 333-34 (1943). Mr. Laskey moves for summary judgment on his claims that the City violated the Excessive Fines Clauses of the Constitution by maintaining a statutory fine of \$500 for work on one’s property without a permit, Baltimore City Code, Art. 1, § 40-14(e)(5a), and by statutorily enabling that fine to be imposed as a lien. Baltimore City Code, Art. 1, § 40-11(a).

Mr. Laskey has now gone through the City’s administrative hearing process, where his fine was reduced to \$100, and has elected to pay the reduced fine rather than appeal the Board’s ruling, making the Board’s decision final. The city’s exhaustion claim is therefore moot and *Burford* abstention is not appropriate. Accordingly, the city’s motion to dismiss will be denied.

The original \$500 fine is not unconstitutionally excessive. *Cf. Towers v. City of Chicago*, 173 F.3d 619, 624-26 (7th Cir. 1999). The potential imposition of the fine via lien is also not unconstitutional. Accordingly, Mr. Laskey’s motion for summary judgment will be denied.

Because all the relevant evidence has been submitted, and there is no genuine issue as to any material fact, it appears that judgment should be entered in favor of the City. *See Bouchat v. Baltimore Ravens Football Club, Inc.*, 346 F.3d 514, 526 (4th Cir. 2003) (discussing the “affirmative obligation of the trial judge to prevent factually unsupported claims and defenses from proceeding to trial”) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-24 (1986)); *see also Hughes v. Bedsole*, 48 F.3d 1376, 1381 (4th Cir. 1995) (“district courts are widely acknowledged to possess the power to enter summary judgments *sua sponte*, so long as the losing party was on notice that she had to come forward with all of her evidence”) (quoting *Celotex*, 477 U.S. at 326). Mr. Laskey will be given ten days to show good cause why judgment should not be entered against him.

A separate Order follows.

April 1, 2009

Date

/s/

Catherine C. Blake
United States District Judge

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ORDER

For the reasons stated in the accompanying Memorandum, it is hereby **ORDERED** that:

1. The defendant's motion to dismiss (docket entry no. 10) is **DENIED**;
2. The plaintiff's motion for summary judgment (docket entry no. 18) is **DENIED**; and
3. The plaintiff shall have **ten (10) days** from the date of this order to show good cause why judgment should not be entered against him.

April 1, 2009

Date

/s/

Catherine C. Blake
United States District Judge