

Circuit Court for Baltimore County  
Case No. C-03-CV-23-003999

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 2378

September Term, 2024

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IN THE MATTER OF YUNGUO GONG

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Friedman,  
Albright,  
Kehoe, Christopher B.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Albright, J.

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Filed: March 11, 2026

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal arises from the issuance, by the Baltimore County Department of Permits, Approvals & Inspections (the “Department”), of a civil citation that charged Yunguo Gong, appellant, of operating a rooming/boarding house without a permit, in violation of Baltimore County Zoning Regulations (“BCZR”). Following an evidentiary hearing, an administrative law judge (“ALJ”) found that the Department had proven the violation and imposed a civil penalty of \$6,000.

Mr. Gong filed an appeal with the Board of Appeals for Baltimore County (“Board”), which affirmed the decision of the ALJ. Mr. Gong then filed a petition for judicial review of the Board’s decision in the Circuit Court for Baltimore County. The circuit court affirmed. This appeal followed.

For the following reasons, we shall affirm.

### **BACKGROUND**

In April of 2023, the Department received a complaint that property identified as 1409 Avon Court in Halethorpe (“the Property”), which is owned by Mr. Gong, was being used for a rooming/boarding house. The complainants, Rodney Sparrow and Jennifer Sparrow, who live next door to the Property, completed and signed a Department questionnaire in which they stated that, beginning in June of 2022, six to seven men of “different nationalities” had resided at the Property at the same time. Some “original renters” had moved out, and “others moved in to take their places.” In response to a question asking for information on any vehicles driven by the residents, the Sparrows listed the make, model, color and license plate of five vehicles. They added, “[t]he other

residents are walkers, bike riders, or [use] scooter[s].” In response to a question asking whether the Property was occupied by the owner, the Sparrows stated that the owner did not reside at the Property. The Property was not listed as the owner’s mailing address.

On April 28, 2023, the Department sent a correction notice to Mr. Gong at his address of record. The correction notice indicated that the Property was being used for a non-permitted rooming/boarding house, in violation of applicable zoning regulations, and advised that such use must immediately cease. The notice further advised that a failure to abate the violation by May 28, 2023, could result in a fine of \$200 per day.

The record before the Board includes the Department’s “Complaint Report” which includes the following comments:

5/30/23: Complainants have supplied documentation and [move] for hearing.

5/30/23: Property owner hasn’t supplied any documentation to counter what complainants have supplied. A citation will be issued as a result.

On May 30, 2023, the Department issued a citation to Mr. Gong for failing to comply with the correction notice. The citation indicated that a fine of \$6,000 had been assessed.<sup>1</sup>

A virtual hearing took place before an Administrative Law Judge on June 28, 2023. Mr. Sparrow testified that he had observed “multiple people coming and going” from the Property, and that there had been “up to . . . eight renters in there at one time[.]” As of the date of the hearing, only one tenant remained. When asked if Mr. Gong lived at

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<sup>1</sup> The amount of the fine represented a fine of \$200 per day from April 28, 2023, when the correction notice was issued, to May 30, 2023, at which time the Property remained in violation.

the Property, Mr. Sparrow responded, “his van would be here, then it wouldn’t be here. So, I have no . . . knowledge of exactly where he lives.”

Ms. Sparrow testified that there had been “multiple people” and “multiple cars” at the Property, and “people moving in [at] odd times of the night[.]” She said that the Property had been advertised on the internet as having rooms to rent by the month. A screenshot of the advertisement was admitted into evidence. When asked how often she had seen Mr. Gong at the Property, Ms. Sparrow said “he’s probably been there a little more lately . . . [b]ut before that it wasn’t very often . . . unless the tenants . . . had a problem and he came to check on something[.] . . . But we didn’t really see him much.”

Barbara Cantrell testified that her aunt lives next door to the Property. Ms. Cantrell lives “right around the corner” from her aunt and is at the aunt’s house “all the time.” According to Ms. Cantrell, “there are always new cars [at the Property] all the time that are going in and out of [the] house[.]”

Douglas Austin, who lives across from the Property, testified that, in the month prior to the hearing, between six and eight people had been living at the Property. In the six months prior to the hearing, a total of ten to sixteen people had “come and gone” from the Property. Mr. Austin did not believe that Mr. Gong lived at the Property. He said, “I [saw Mr. Gong] here lately maybe twice, maybe three times a week . . . [b]ut before that . . . I wouldn’t see him for a week or so[.]”

Michael McAuliffe, testifying on behalf of the Halethorpe Improvement Association, became aware of the violation after Mr. Austin raised the issue at a

community meeting. Mr. McAuliffe stated, “so looking into this, it was certainly apparent that a rooming house was being run here.” The Sparrows provided Mr. McAuliffe with a two-week log of “what was going on” at the Property. According to Mr. McAuliffe, tenants of the Property were parking their cars “at various places in the neighborhood” because there was insufficient space for them on Avon Court. He said that, at the time of the hearing, Mr. Gong appeared to have moved his tenants out of the Property.

Mr. Gong testified that he lived at the Property with his father and two tenants until June 15, 2023, at which time he and his father moved. At the time of the hearing, Mr. Gong had evicted one of the tenants and had filed an action to evict the remaining tenant. Mr. Gong denied that he ever had more than two tenants living at the Property. He also denied that he placed the online advertisement offering rooms to rent at the Property.

Mr. Gong stated that he did not receive the correction notice until May 12, 2023, because the address to which it was sent was one of his rental properties. He claimed that, immediately upon receiving the correction notice, he went to the Department’s office and asked for an onsite inspection of the Property. Mr. Gong claimed that he waited at the Property every day for the next two weeks, but the inspector did not show up.<sup>2</sup>

On June 1, 2023, Mr. Gong had a licensed home inspector perform an inspection of the Property. Mr. Gong submitted into evidence a home inspection report, which included copies of photographs of the interior rooms of the house on the Property.

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<sup>2</sup> At the hearing before the Board, the attorney for the Department represented that the inspector’s notes did not reflect that Mr. Gong requested an onsite inspection.

According to the report, only one of the bedrooms of the house appeared to be occupied at that time. Mr. Gong also submitted pictures he had taken of the interior of the Property on various dates in June of 2023.

At the conclusion of the hearing, the ALJ stated, “based on the evidence, I’m convinced that the Protestants . . . have testified convincingly that . . . more than three unrelated individuals have been living in [the Property] at one time[.]” The ALJ further found that no permit had been issued for use as a boarding or rooming house. Following the hearing, the ALJ issued a final order consistent with her oral ruling.

Mr. Gong appealed the ALJ’s decision to the Board of Appeals for Baltimore County (“Board”). Following a hearing on the record,<sup>3</sup> the Board issued a written opinion affirming the decision of the ALJ. The Board determined that the testimony of the neighbors supported the ALJ’s finding that the Property was being used as a rooming/boarding house.

Mr. Gong filed a petition for judicial review of the Board’s decision. The circuit court affirmed. This appeal followed.

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<sup>3</sup> Section 3-6-303 of the Baltimore County Code (“BCC”) applies to enforcement of county zoning regulations and provides:

[T]he Board of Appeals hearing shall be limited to the record created before the Hearing Officer, which shall include: 1. . . . the recording of the testimony presented to the Hearing Officer; 2. All exhibits and other papers filed with the Hearing Officer; and 3. The written findings and final order of the Hearing Officer.

BCC § 3-6-303.

## DISCUSSION

When we review the decision of an administrative agency, such as a county board of appeals, we evaluate the decision of the agency itself, not the actions of the circuit court. *Matter of Gendell*, 262 Md. App. 557, 567, *cert. denied*, 489 Md. 256 (2024). Our role in reviewing an agency decision is to evaluate “whether there is substantial evidence in the record as a whole to support the agency’s findings and conclusions and to [determine] whether the administrative decision is premised upon an erroneous conclusion of law.” *Id.* (cleaned up).

The test for determining whether an agency’s findings of fact are supported by substantial evidence is “whether a reasoning mind reasonably could have reached the factual conclusion the agency reached.” *Brandywine Senior Living at Potomac LLC v. Paul*, 237 Md. App. 195, 210 (2018) (cleaned up). “In applying the substantial evidence test[,] we must review the agency’s decision in the light most favorable to the agency, since decisions of administrative agencies are prima facie correct and carry with them the presumption of validity.” *Id.* (cleaned up) “Furthermore, not only is the province of the agency to resolve conflicting evidence, but where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the inferences.” *Id.* (cleaned up).

The citation issued in this case was for a violation of BCZR § 408B, which provides that boarding or rooming houses are permitted in certain zoning districts, subject

to an approved permit for such use.<sup>4</sup> Contrary to Mr. Gong’s assertion that the zoning regulations do not define a boarding or rooming house, BCZR § 101.1 provides the following definition for “boarding- or rooming house”:

A building:

1. Which is the domicile of the owner and in which rooms with or without meals are provided, for compensation, to three or more individuals who are 18 years old or older and not related by blood, marriage or adoption to the owner; or
2. Which is not the owner’s domicile and which is occupied in its entirety, for compensation, by three or more individuals who are 18 years old or older and not related to each other by blood, marriage or adoption.

BCZR § 101.1(A). The owner of the building has the burden of proving that the occupants are related. *Id.*

Mr. Gong, representing himself on appeal, asserts that there was no factual basis to support the Board’s decision because the Department did not inspect the Property, and, therefore, it was impossible to know how many people lived there.<sup>5</sup> We do not agree. “[C]ircumstantial evidence may satisfy a party’s burden of production.” *Solesky v. Tracy*, 198 Md. App. 292, 319 (2011). “There is no requirement that the circumstances, to justify the inferences sought, negate every other positive or possible conclusion.” *See Bd. of Cnty. Com’rs of Frederick Cnty. v. Dorcus*, 247 Md. 251, 259 (1966). Here, the

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<sup>4</sup> The official publication of the BCZR is available online at [https://library.municode.com/md/baltimore\\_county/codes/zoning\\_regulations](https://library.municode.com/md/baltimore_county/codes/zoning_regulations) (last visited Mar. 3, 2026).

<sup>5</sup> No appellee brief was filed.

testimony of area residents regarding their observations of the number of people and vehicles at the Property, and the screenshot of the online advertisement offering rooms to rent at the Property, if believed, would support an inference that the Property was being used as a boarding or rooming house. That the Department did not enter the Property as part of its investigation into the complaint does not require this Court to reverse the Board's decision. *See Travers v. Balt. Police Dept.*, 115 Md. App. 395, 420 (1997) (advising that if an inference, “drawn by an agency, of the existence of a fact not shown by direct proof . . . reasonably follows from other facts which are shown by direct proof[,] . . . the [reviewing] court has no power to disagree with the fact so inferred” (cleaned up)).

Mr. Gong further claims that the Board's decision must be reversed because the Board ignored his evidence and instead credited the testimony of the neighbors and other residents of the community.<sup>6</sup> His argument is unavailing. “A trier of fact, be it [an agency] or a jury, can believe all, part, or none of the testimony of any witness.” *Pickert v. Md. Bd. of Physicians*, 180 Md. App. 490, 505 (2008). We have said,

If there was evidence of the fact in the record before the agency, no matter how conflicting, or how questionable the credibility of the source of the evidence, the [reviewing] court has no power to substitute its assessment of credibility for that made by the agency, and by doing so, reject the fact.

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<sup>6</sup> Before this Court, Mr. Gong claims that the ALJ's decision was based on racial bias. Because Mr. Gong did not raise this argument before the Board, it was not preserved for appellate review. An agency's decision can only be reviewed on grounds identical to those relied on by the agency. *Wilson v. Maryland Dep't of Env't*, 217 Md. App. 271, 284 (2014). The reviewing court “may not pass upon for the first time issues not encompassed in the final decision of the administrative agency.” *Id.* (cleaned up).

*Travers*, 115 Md. App. at 421 (cleaned up).

Based on our review of the record, we conclude that there was substantial evidence to support a reasonable inference that, during the relevant time period of April 28, 2023, to May 30, 2023, the Property was being used as a boarding or rooming house, as that term is defined in the applicable zoning regulations.<sup>7</sup> Consequently, this Court lacks authority to disturb the decision of the Board.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY AFFIRMED.  
COSTS TO BE ASSESSED TO  
APPELLANT.**

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<sup>7</sup> We discern no argument in Mr. Gong’s brief that challenges the Board’s decision based on an alleged error of law.