



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

---

DISMISSAL FOR LACK OF JURISDICTION: December 12, 2017

CBCA 5935

SBC ARCHWAY HELENA, LLC,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Diana Parks Curran and Hadeel Maseoud of the Curran Legal Services Group, Inc., Johns Creek, GA, counsel for Appellant.

Joseph W. Cooch, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **BEARDSLEY, SULLIVAN** and **O'ROURKE**.

When ordered to show cause why this appeal should not be dismissed for lack of jurisdiction, SBC Archway Helena, LLC (SBC or appellant) provided no cause or argument. Instead, SBC requested a voluntary dismissal of the appeal without prejudice and noted that it preserved its right to file an appeal "after either the contracting officer has issued its decision or sixty (60) days have passed since the date the certified claim was submitted for decision on November 6, 2017 without notice from the contracting officer of the time within which the decision will be issued." The respondent consented to SBC's request.

SBC submitted to the General Services Administration (GSA) contracting officer a certified claim on November 6, 2017. On November 17, 2017, SBC appealed from the

alleged deemed denial of the claim. However,

[o]nce a proper claim is submitted, the contractor cannot appeal until either the contracting officer has issued a decision on the claim or the statutory time for the contracting officer to issue such a decision, as set forth in 41 U.S.C. § 7103(f), has expired. *Primestar Construction v. Department of Homeland Security*, CBCA 5510, 17-1 BCA ¶ 36,612, at 178,330. These requirements are jurisdictional prerequisites to any appeal under the CDA [Contract Disputes Act]. *M. Maropakis Carpentry, Inc. v. United States*, 609 F.3d 1323, 1329 (Fed. Cir. 2010).

*Foxy Construction, LLC v. Department of Agriculture*, CBCA 5632, 17-1 BCA ¶ 36,687. The statutory sixty days for the contracting officer to issue a decision on the claim had not expired before appellant filed its appeal. Thus, we lack jurisdiction. *Id.*

Accordingly, the appeal is **DISMISSED FOR LACK OF JURISDICTION.**

---

ERICA S. BEARDSLEY  
Board Judge

We concur:

---

MARIAN E. SULLIVAN  
Board Judge

---

KATHLEEN J. O'ROURKE  
Board Judge