

IN THE MATTER OF  
CHARLES GREEN  
626 STONEY LANE  
CATONSVILLE, MARYLAND 21228

APPEAL OF CITATION 127475

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-14-031

\* \* \* \* \*

OPINION

This matter comes before the Board of Appeals as an appeal from the February 12, 2014 decision of the Administrative Law Judge (ALJ) which affirmed certain citations issued to the Appellant by the Code Enforcement Division of the Baltimore County Office of Permits, Approvals and Inspections concerning the Appellant's use of the property known as 626 Stoney Lane.

BACKGROUND

The Appellant Mr. Charles Green owns but does not reside in the subject property. The citations issued to the Appellant alleged violations of Baltimore County Zoning Regulations (BCZR) sections 431, 428, and 1B01.1D: i.e. Failure to remove open dump conditions; Failure to remove all tagged or untagged commercial vehicles; Failure to remove all untagged or inoperative vehicles from residential property. Thereafter on September 10, 2013, pursuant to Baltimore County Code Section 3-6-205 a Code enforcement citation was issued against the Appellant with a proposed civil penalty of \$4,500.00 (Four thousand five hundred dollars.)

HEARING BELOW

This case came before the Administrative Law Judge on two occasions. The first was a hearing which convened on October 9, 2013. Evidence and testimony was accepted by the ALJ and the case was continued for 90 days to allow the Appellant an opportunity to correct the conditions found to exist of the subject property. The case was next heard on February 11, 2014 after which the ALJ issued the Final Order from which this appeal was taken.

The Final Order reads as follows:

IT IS ORDERED by the Administrative Law Judge that a civil penalty be imposed in the amount of \$4,500.00 (Four Thousand five hundred dollars)

IT IS FURTHER ORDERED that \$4,200.00 of the \$4,500.00 civil penalty be suspended, with an immediate \$300.00 fine imposed at this time.

IT IS FURTHER ORDERED that the remaining \$4,200.00 civil penalty will be imposed if no later than 2/19/14, (if) the Respondent does not demonstrate that all vehicles on his property with historic tags are in fact operative; with all non-operative such vehicles to be removed by 2/26/14.

IT IS FURTHER ORDERED that the remaining \$4,200.00 civil penalty will be imposed if all repairs to the subject property are not completed by 7/1/14.

IT IS FURTHER ORDERED that the remaining \$4,200.00 civil penalty will be imposed if all junk, trash and debris are not removed by 2/19/14.

IT IS FURTHER ORDERED that the remaining \$4,200.00 civil penalty will be imposed if the trailer used as storage on the property is not removed by 2/28/14.

IT IS FURTHER ORDERED that if the subject property is brought into compliance pursuant to this Order, the remaining \$300.00 civil penalty will be imposed if there is a subsequent fining against the Respondent for the same violation.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

ORDERED this 12<sup>th</sup> day of February 2014.

#### DECISION

The Appellant through his counsel opined that the Order issued by the ALJ, inter alia: exceeded his statutory authority; resulted from an unlawful procedure; is unsupported by competent, material and substantial evidence; is affected by errors of law; and, is arbitrary and capricious. Counsel for the Baltimore County Office of Law argued that the ALJ's decision was proper and did not exceed his statutory authority.

The appeal in this case was properly entered by the Appellant pursuant to Section 3-6-301(a) of the Baltimore County Code which mandates that an appeal to the Board of Appeals shall be noted within fifteen (15) days from the date of the Order that forms the basis of the appeal. However, the Board notes

that the Order contains potential monetary penalties to be imposed if future actions are not taken by the Appellant. The most remote of these dates is July 1, 2014 and is a mandate that all repairs to the property shall be completed by then. The nature of the "repairs" required by the ALJ as they relate to the underlying citations and ultimate code violation is not clear to this Board. It would appear that this case is not ripe for a review by the Board. We will therefore remand this matter to the ALJ to conduct a hearing on this issues raised by the Appellant and for further action as deemed necessary herein.

ORDER

THEREFORE, IT IS THIS 30<sup>th</sup> day of May, 2014, by the Board of Appeals for Baltimore County:

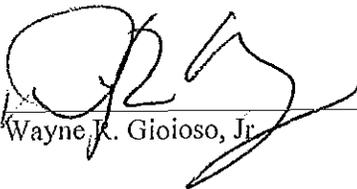
ORDERED that this case shall be remanded to the Office of Administrative Hearing for actions consistent with this order.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

BOARD OF APPEALS  
FOR BALTIMORE COUNTY

  
Wendell H. Grier, Panel Chairman

  
Andrew M. Belt

  
Wayne K. Gioioso, Jr.