

IN THE MATTER OF
RALPH SEEKFORD, JR.
6 CEDAR VALLEY PLACE – UNIT 103
ESSEX, MARYLAND 21221

RE: APPEAL OF ANIMAL HEARING
BOARD DECISION

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* CASE NO. CBA-14-025

* * * * *

OPINION

This matter comes before the Board of Appeals a record appeal from the November 29, 2013 decision of the Animal Hearing Board. The Animal Hearing Board (AHB) found that the Appellant had violated numerous county ordinances by his activity involving the feeding cats at the condominium in which he resides.

Background

The Appellant Ralph Seekford is a long time resident of the condominium unit located at 6 Cedar Valley Place in Baltimore County. He was cited by the Animal Services Division with the following violations of County ordinances:

E45155A, E45156A, E45157A, E45159A, E45160A, E45161A and E45162A –
License Required - Baltimore County Code – Sec. 12-2-201(a)

E45155B, E45156B, E45158B, E45159B, E45160B, E451561B and E45162B –
Nuisance Animals – Baltimore County Code – Sec. 12-3-109 (a)(1) and (2)

E45155C, E45156C, E45158C, E45159C, E45160C, E45161C and E45162C
Animals at Large – Baltimore County Code – Sec. 12-1-101 (c)(1)(ii)

The citations resulted from an investigation initiated after the receipt of a complaint from the Appellant's neighbor alleging that the Appellant allowed his cats to run at large and create a public nuisance. At the AHB hearing it was determined that the Appellant engaged in the daily

feeding of over 30 cats. Testimony was received from the complainant in this case that the large number of cats produced waste of various types which rendered the area around Appellant's condominium unit undesirable for the use and enjoyment of the complainant's property. The AHB determined that the number of cats being fed by the Appellant varied from day-to-day. The feeding was conducted by way of the Appellant pouring food onto the ground under two trees in the condominium common area. The Appellant admitted that it was his practice to feed the cats on a daily basis.

Hearing before the Board

At the instant hearing the Appellant was self represented. The Baltimore County Division of Animal Control was represented by Jonny Akchin, Assistant County Attorney. The Appellant was advised by the Board that the facts established at the hearing below were not subject to review by the Board. Moreover the Appellant was advised that the Board would review the instant case only to determine if the AHB properly applied the law to the facts of this case.

The Appellant offered to the Board that his conduct was constitutionally protected as an act in concert with his religious belief known as "Jainism". The Appellant explained that the mandates of his belief system were such that all animal must be provided with care and food irrespective of the legal requirements of conduct established by a governmental agency.

The County, offered an extensive and comprehensive review of the law as it relates to the exercise of religious freedoms and their exercise where such activity conflicts with the general law of the federal, state or local governments.

The Board is persuaded by the arguments on behalf of the County that the Appellant's right to the free exercise of his religion does not preempt the County laws as applied in this case.

However the Board's decision in this matter turns on a separate point of law as discussed below. It appears inarguable that the Appellant by his cited behavior has created a "nuisance" in his neighborhood. The decision in this case as viewed by this Board rests upon the nature of the legal relationship between the Appellant and the numerous cats that he admittedly feeds on a regular basis. The County Code Section under which the Appellant was cited Sections 12-201(a), 12-3-109(a)(1) and (2) and 12-1-101 (c)(1)(ii) each state or apparently contemplate that one must be the owner of an animal to incur liability for actions involving the treatment and care of that animal. For reference the applicable Code provisions are as follows:

12-2-201 LICENSE – REQUIRED; EXCEPTIONS

12-2-201 (a) In general. Except as otherwise provided in this subtitle, a person who owns a dog or cat shall have the dog or cat licensed as provided in this title when the dog or cat reaches 4 months old.

12-3-109 PUBLIC NUISANCE ANIMALS

12-3-109(a)(1) and (2) "Public nuisance animal" defined. In this section "public nuisance animal" means an animal that:

- (1) Damages the property of a person other than its owner;
- (2) Causes unsanitary conditions in or on public property;

12-3-109(b) an owner of an animal may not allow it to be a public nuisance animal.

12-1-101. DEFINITIONS

12-1-101(c)(1)(i) "Animal at large" includes any animal off the premises of its owner and not under the control of the owner and not under the control, charge, or possession of the owner or other responsible person.

12-1-101(c)(1)(ii) "Animal at large" includes any dog off the premises of its owner and not under the control of the owner or other responsible person by a leash, cord, or chain.

The term "owner" is not included within the terms defined in Section 12-1-101 of the County Code. The County Office of Law on behalf of the AHB urged that the Board could properly infer ownership of the cats by the Appellant based upon general provisions of Maryland law including COMAR (Code of Maryland Administrative Regulations). We find this argument unpersuasive. A review of the circumstances in this case and the testimony of the Appellant

leads this Board to conclude that the cats, admittedly fed by the Appellant, are apparently wild or feral cats and therefore by their nature not subject to ownership by the Appellant. Because the Board has determined that the Appellant does not own the cats complained of herein we will reverse the decision of the Animal Hearing Board and recommend that the case be against the Appellant be referred to the appropriate County agency for review of the possibility that the facts found at the hearing below demonstrate the existence of a nuisance as found in Title 7 of the Baltimore County Code.

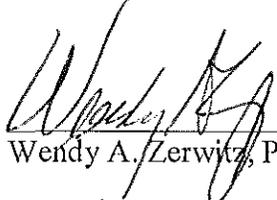
ORDER

THEREFORE, IT IS THIS 1st day of May, 2014 by the Board of Appeals of Baltimore County

ORDERED that the decision of the Animal Hearing Board dated November 29, 2013 upholding the violations herein discussed, is hereby REVERSED.

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**


Wendy A. Zerwitz, Panel Chairman


Wendell H. Grier


Richard A. Wisner