



## Board of Appeals of Baltimore County

JEFFERSON BUILDING  
SECOND FLOOR, SUITE 203  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND, 21204  
410-887-3180  
FAX: 410-887-3182

July 17, 2015

Jonny Akchin, Assistant County Attorney  
Dept. of Permits, Approvals and Inspections  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Linda L. Schlogel  
11 Choptank Avenue  
Baltimore, Maryland 21237

RE: *In the Matter of: Linda L. Schlogel*  
Case No.: CBA-15-006

Dear Mr. Akchin and Ms. Schlogel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

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*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review** filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

  
Krysundra "Sunny" Cannington  
Administrator

KLC/tam  
Enclosure  
Duplicate Original Cover Letter

c: Bernard J. Smith, Chairman / AHB  
Thomas Scollins, Assistant Chief / Animal Control Division  
Scott Bowerman / Animal Control Division  
April Naill / Animal Control Division  
Nancy C. West, Assistant County Attorney  
Michael E. Field, County Attorney

IN THE MATTER OF  
LINDA L. SCHLOGEL  
11 CHOPTANK AVENUE  
BALTIMORE, MD 21237

RE: DECISION OF  
ANIMAL HEARING BOARD

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-15-006

\* \* \* \* \*

**OPINION**

This matter comes before the Baltimore County Board of Appeals as an appeal from an Animal Hearing Board decision upholding civil monetary penalties in the amount of \$500.00 for the following violations: Violation E 45643 – Cruelty Two Counts.

The Board convened for a hearing on February 24, 2015 at 1:00 p.m. Jonny Akchin Assistant County Attorney, appeared on behalf of Baltimore County and the Appellants appeared pro se.

It was noted by the Board that this was an appellate hearing and that the Board was required to review the case based upon the testimony and record established at the Animal Hearing Board hearing below.

The Appellant stated that she appealed the ruling of the Animal Control Board citing there was insufficient evidence to convict her of the violations. In particular, she contended that leaving her dog outdoors unattended overnight with access to a makeshift shelter did not constitute cruelty as alleged.

The County alleges and evidence was presented of an anonymous complaint regarding a dog chained in the front yard of a vacant residence located at 11 Choptank Avenue. The dog was described as a male Great Pyrenes, Animal Services Officer Scott Bowerman visited the residence

and observed the dog at what he believed to be a vacant residence. He opined that the shelter was inadequate and the water provided for the dog was dirty. The Appellants testified that they were in the process of moving and planned to return for the dog, and were actually in route when they were informed that the dog had been taken by the County.

### Decision

Pursuant to § 12-1-114 of the *Baltimore County Code*, the Board of Appeals in such cases may:

- (i) remand the case to the Animal Hearing Board
- (ii) affirm the decision of the Animal Hearing Board
- (iii) reverse or modify the decision of the Animal Hearing Board if a finding, conclusion or decision of the Animal Hearing Board:
  1. exceeds the statutory authority or jurisdiction of the Animal Hearing Board;
  2. results from an unlawful procedure;
  3. is affected by any other error of law;
  4. subject to paragraph (2) of this subsection, is unsupported by competent material and substantial evidence in light of the entire record submitted; or
  5. is arbitrary or capricious.

The function of this Board, as outlined above in Animal Hearing Board Appeals is not to be a finder of fact or the judge or evaluator of the credibility of witnesses. Consequently, it is not the role of this Board to second guess the factual finding of the Animal Hearing Board unless such findings are arbitrary or capricious or unsupported by competent material and substantial evidence. While the Board might not agree with the Animal Board's finding, we cannot find that their decision arbitrary or capricious or unsupported by competent material and substantial evidence. Consequently, this Board will affirm the decision of the Animal Hearing Board.

**ORDER**

Therefore, it is this 17<sup>th</sup> day of July, 2015 by the Board of Appeals of Baltimore County

**ORDERED** that, for the reasons stated above, the decision of the Animal Hearing Board be and is hereby **AFFIRMED**; and it is further

**ORDERED** that the civil monetary penalty in the amount of \$500.00 be and is hereby **AFFIRMED** and must be paid within 30 days from the date of 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  
OF BALTIMORE COUNTY**

  
Andrew M. Belt, Panel Chair

  
Benfred B. Alston

  
Meryl W. Rosen