

Office of Administrative Hearings for Baltimore County
105 West Chesapeake Avenue Suite 103
Towson, Maryland 21204

In the Matter of

Civil Citation No. 103205

William M. Lagna
221 Bowleys Quarters Road
Baltimore, MD 21220

3920/4000 Chestnut Road

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE ADMINISTRATIVE LAW JUDGE

This matter came before the Administrative Law Judge on February 1, 2012 for a Hearing on a citation for violations under the Baltimore County Code (BCZR) section 101, 102.1, 1A04, 1A04.2.A, 1A04.2.B, 415A, 415A.2; 4.5A.3, failure to cease operation of a Marina in a BC5 zone – not allowed by Right or Special Exception, out of water boat storage on residential property.

On December 15, 2012, pursuant to § 3-6-205, Baltimore County Code, Inspector Christina Frink issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$9,600.00 (nine thousand six hundred dollars)

The following persons appeared for the Hearing and testified: Michael McCann, Esquire, representing William Lagna Respondent and owner of the property, David Hash, neighbor and, Christina Frink, Baltimore County Code Enforcement Officer.

Testimony was presented that upon a complaint, an inspection of the subject properties was carried out on 11/31/11. The inspector noted and presented photographs showing the presence of a number of boats on the subject properties, exceeding that number permitted on property in the RC 5 zone in which the subject lots are located. The inspector related that 3920 Chestnut Road has approximately 250 foot of waterfront and 4000 Chestnut Road is comprised of three lots and has a 100foot waterfront. A Correction Notice was issued. A re-inspection of the subject properties on 12/8/11

revealed no change and a Citation was issued, mailed and posted. The original hearing date of 1/11/12 was postponed upon the entry of Appearance of Counsel on behalf of the Respondent. A pre-hearing inspection of the properties prior to this most recent hearing date was carried out on 1`/31/12, showing no change at the subject site. The testimony of the Respondent was proffered by his Counsel as he had suffered a stroke in 2010. Respondent would relate that he purchased the subject site of the "Seneca Creek Mariners Club" as well as the Club itself in 1993. He related the various social and boat related activities which he states have continued uninterruptedly at the subject site under several "club names" since at least 1937. A number of photographs, letters as well as testimony was presented to support the "non conforming" status of the use at the site. Testimony was also offered by the Zoning Chairman and several members of the neighboring Bowleys Quarters Community Association in support of the alleged "non-conforming use."

Absent a ruling by an appropriate authority that the subject property is, in fact a permitted non-conforming use as a marina or other boat related entity, the Inspector has established that the number of boats clearly stored on the site exceed that permitted under its existing RC5 zoning. It remains for the Respondent to resolve the issue once and for all.

Having heard the testimony and evidence presented at the Hearing:

IT IS ORDERED by the Administrative Law Judge that a civil penalty be imposed in the amount of \$1000.00 (one thousand dollars).

IT IS FURTHER ORDERED that the \$1000.00 civil penalty be suspended in full.

IT IS FURTHER ORDERED that the Respondent shall file within ninety days of the date of the hearing in this matter, a Petition For Special Hearing, to determine and resolve the zoning and use status of the so –called "Seneca Creek Mariners Club" property. Further, that Respondent shall pursue the matter until an Opinion and Order shall have been issued by the Office of Administrative Hearings in and for Baltimore County. Upon the failure of the Respondent to file or complete the aforesaid Special Hearing, the \$1000.00 suspended civil penalty shall be imposed.

IT IS FURTHER ORDERED that if the subject property is brought into compliance pursuant to this Order, the remaining \$1000.00 civil penalty will be imposed if there is a subsequent finding 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.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 8 day of February 2012

Signed: _____
Lawrence M. Stahl
Managing Administrative Law Judge

NOTICE: Pursuant to §3-6-301(a) of the Baltimore County Code, the Respondent or Baltimore County may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$225.00 and the posting of security in the amount of the penalty assessed.