

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

In the Matter of

Civil Citation No. 102934

M. Anita Dowling  
P.O. Box 42054  
Towson, MD 21284

8522 Chestnut Oak 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 March 27, 2012 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 13-4-201(d), failure to store garbage in container with tight fitting lids on residential property.

On October 25, 2011, pursuant to § 3-6-205, Baltimore County Code, Inspector Adam Whitlock issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1<sup>st</sup> class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$75.00 (seventy five dollars).

The following persons appeared for the Hearing and testified: Anita Dowling, Respondent and, Adam Whitlock, Baltimore County Code Enforcement Officer.

Testimony was presented that as a result of a community sweep on 10/5/11; the subject property was inspected, revealing the presence and use of garbage cans without proper lids. A Citation was issued, mailed and posted. The Respondent failed to appear, but later filed a Motion for Reconsideration, stating failure to receive the mailed notice, and requesting a new trial. The Motion was granted by my Order of February 2, 2012 and reset for the instant date.

Respondent does not contest the testimony of the Inspector as to the violation charged. Rather, she maintains that, as a landlord she has a lease making her tenant responsible. Moreover, she presented at the hearing copies of statutes she believes frees her from responsibility. I find most

interesting her reference and presented copy of what she alleges to be subsection 35-5-206 of the Baltimore County Code. Her proffered copy of the section reads as follows:

35-5-206 RESPONSIBILITIES FOR COMPLIANCE

(a) *Scope*

(1) Except as provided under this subtitle, only the property owner is responsible for compliance with the provisions of this subtitle and may be cited for violations of the subtitle.

(2) Except as provided under this subtitle, the Code Official may not cite a property owner for a violation of this subtitle that is caused by the negligent, wrongful, or malicious acts or omissions of a tenant, provided the property owner's own act or omissions have not contributed in any way to cause the violation.

(b) *In General.* A property owner may not rent or lease a housing unit to another person for occupancy or use unless the structure and premises comply with the provisions of this subtitle.

(c) *Duty of tenant to maintain sanitary condition.* The tenant shall:

(1) Keep the part of the structure or premises that the tenant occupies, controls, or uses in a clean and sanitary condition.

(2) Store and dispose of rubbish and garbage in a clean and sanitary manner as required by law.

(3) Keep owner-supplied equipment and fixtures clean and sanitary and exercise reasonable care in using and operating the equipment; and

(f) *Citation.*

(1) The Code Official may cite a tenant for a violation of the provisions of this section that are the tenant's responsibility.

The Respondent particularly drew the Court's attention to section (f) (1) as proof of her contention that only the tenant may be held responsible under these regulations. Unfortunately for her, when the copy of this section presented by her is compared to the complete text found in the regulations themselves, we find that she has omitted (and I cannot but believe purposely) the two sections following her proffered (f) (1), which read:

(2) The Code Official may cite a tenant or a proprietary owner or both for a violation of subsection (c)(2).

(3) If the tenant or property owner fails to comply with the citation, the Code Official may impose a civil penalty of \$200 per day for each day that the violation exists.

It is crystal clear from a reading of the **entire** section that the owner of the property **can** be cited and held responsible. I will overlook the fact that the intentionally incomplete section was offered as complete under oath by the Respondent. Suffice it to say that an attorney conducting himself as the Respondent has, would be treated harshly. Since she is not a member of the Bar, I will satisfy myself with the imposition of the fine as set out in the Citation.

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 \$ 75.00 (seventy-five dollars).

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   3   day of April 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.