

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

In the Matter of

Civil Citation No. 103397

James W. Shipe
Cynthia Shipe

2322 Foster Avenue

Respondents

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

This matter came before the Administrative Law Judge on January 18, 2012 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 13-7-309, 310; 12-3-106; Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B01.1A, 1B02.1, failure to cease the illegal operation of a private kennel on residential property, failure to remove dog feces on a daily basis.

On December 8, 2011, pursuant to § 3-6-205, Baltimore County Code, Inspector Kim Wood 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 \$3,000.00 (three thousand dollars).

The following persons appeared for the Hearing and testified: James and Cynthia Shipe, Respondents, Robert and Karen Harris, Barbara Wentz, Neighbors and Complainants and, Kim Wood, Baltimore County Code Enforcement Officer.

Testimony revealed that The Respondents are the owners of the property at 2322 Foster Avenue and have lived at this address for the past 19 years. According to the testimony presented, they have been engaged in the breeding of Huskies and have had prior kennel violation cases brought against them in past years. At this time, the evidence shows that they have been keeping and housing up to as many as 9 adult husky dogs on their property. The neighbors who reside on either side of this

property, Mr. & Mrs. Harris and Ms. Wentz both appeared and testified about the keeping of these dogs and the problems associated with same. Many photographs were submitted into evidence showing the numbers of dogs and the large amount of feces on the property. Clearly, the Respondents are in violation of operating a kennel on their property and have failed to remove all feces on a timely basis.

The Shipes appeared and testified that they are aware of the laws that apply to the number of adult dogs that can be kept on their property in Baltimore County. They stated that they have reduced that number of dogs to three as of the date of the Hearing before me. They stated that they have found homes for some of the dogs but that two of the dogs are with Mrs. Shipe's father at this time. He was present at the hearing and stated that he travels and when he is away brings his two Huskies back to the property at 2322 Foster Road for the Shipes to watch. This practice cannot continue as this would bring the total number of dogs to five and thereby constitute a violation.

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 \$3,000.00 (three thousand dollars).

IT IS FURTHER ORDERED that \$2,750.00 of the \$3,000.00 civil penalty be suspended, with an immediate \$250.00 fine imposed at this time.

IT IS FURTHER ORDERED that the remaining \$2,750.00 civil penalty will be imposed if the property is not brought into and remain in compliance.

IT IS FURTHER ORDERED that the remaining \$2,750.00 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 19th day of January 2012

Signed: ORIGINAL SIGNED
Timothy M. Kotroco
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.

TMK/jaf