

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

In the Matter of

Civil Citation No. 101475

Christiane M. Rothbaum

300 Hopkins 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 September 19, 2012 for a Hearing on a citation for violations under the Baltimore County Building Code, Council Bill 47-10 Part 121.3: Failure to comply with building Official Order. Variance case 2012-0221A denied 6/14/12 to allow at grade deck with set back of 24.33 feet on residential property.

On May 22, 2012, pursuant to § 3-6-205, Baltimore County Code, Inspector Rodney Larrick 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 \$1,000.00 (one thousand dollars).

The following persons appeared for the Hearing and testified: Respondent and, Rodney Larrick, Baltimore County Code Enforcement Officer.

Testimony was presented that that the Respondent, owner of an end of group townhome in a DR10.5 zone, obtained a permit to build an open deck and steps in the rear of her home. Although a suitable landing for the said steps was approved as part of the permit, the contractor apparently extended the landing during construction beyond that authorized under the permit; resulting in a rear setback of 24.3 feet in lieu of the required 37.5 feet. A Zoning Violation Citation was issued and heard before Administrative Judge Kotrocco, who found that the additional extended landing beyond that allowed under the permit was in violation of the Baltimore County Zoning Regulations (BCZR) and assessed a \$1,000.00 fine. His decision was not appealed.

Thereafter, Respondent filed a request for a Variance to obtain retroactive approval for the additional landing. A hearing was held before Administrative Judge John Beverungen, who denied the request. His Order was not appealed.

Having heard the testimony and evidence presented at the Hearing, it is clear that the extended

landing is in violation of zoning setbacks and exceeds that approved under the permit. There is no issue of res judicata (as discussed by Judge Beverungen in his opinion) here, as the violation is a continuing one. The Respondent cannot simply violate zoning regulations, exceed a permit as was done here, and then simply pay a fine and thereby be insulated from further action by the County thereafter for the ongoing violation. The fine imposed by Judge Kotrocco was imposed under the citation issued for the existence of the illegal landing up to that time. Thereafter, that portion of the landing that exceeded the permit and zoning setbacks was not removed, further permission to retroactively legitimize it was denied, and in spite of those findings, the illegal landing remains.

THEREFORE:

IT IS ORDERED by the Administrative Law Judge that a civil penalty be imposed in the amount of \$ 1,000.00 (One Thousand Dollars).

IT IS FURTHER ORDERED that the \$1,000.00 civil penalty be suspended.

IT IS FURTHER ORDERED that the suspended civil penalty will be imposed if that portion of the subject landing which exceeds that permitted under the above mentioned building permit is not removed, and the subject property is not otherwise brought into zoning compliance pursuant to this Order by October 21, 2012.

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 \_\_\_\_\_ day of September 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.