

IN THE MATTER OF  
RICHARD and ANNA ROMESBURG  
- APPELLANTS  
1205B East East Homberg Avenue  
Baltimore, MD 21221

RE: Code Enforcement  
Civil Citation: CO0080707;  
Violation *BCC §20-2-101 and §21-15-406*

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-11-022

\* \* \* \* \*

### OPINION

This case comes to the Board on appeal on the record from the Final Order of the Administrative Law Judge (ALJ) for the Office of Administrative Hearings dated April 12, 2011 which Order upheld a violation under *BCC §20-2-101 and §21-15-406* for failure to properly connect the water line service at 1205B East Homberg Avenue through its own independent meter. The Final Order imposed a civil penalty in the amount of \$200.00, which penalty was to be abated upon the property being brought into compliance by June 1, 2011.

Appellants Richard and Anna Lee Romesburg appeared at the Code Enforcement Hearing. Patrick Cassidy, Supervising Plumbing Inspector and William Bryant, Plumbing Inspector of Baltimore County Code Enforcement appeared on behalf of the County.

A hearing before this Board was held on June 22, 2011. Appellants, Richard Romesburg and Anna Lee Romesburg appeared *pro se*. Patrick Cassidy and William Bryant, Code Enforcement Officers from the Department of Permits, Approvals and Inspections (PAI) appeared on behalf of the County.

### Facts

The facts in this matter are not in dispute. The properties in question are 1205A East Homberg Avenue and 1205B East Homberg Avenue in the Essex area of Baltimore County.

Testimony indicated that the two (2) properties are served by the same water line and attached to a meter that is located at the end of a right-of-way on East Homberg Avenue.

The history of this property is that originally there was a main house on the property (1205A). This was connected to the water line and the meter at the East Homberg Avenue intersection with the right-of-way. An accessory garage was connected to the water line. Eventually, the garage was later converted into a residence (1205B), but utilized by members of the same family, with the water line going from the meter to the original structure and from there to the converted residence.

The Respondents Romesburgs were the owners and residents of the converted garage, now known as 1205B East Homberg Avenue. The houses were both owned by Mrs. Romesburg's family. They each have their own septic systems. The home known as 1205B was conveyed to the Romesburgs by Mrs. Romesburg's mother. The water service is registered in the name of Richard Romesburg.

The owner of 1205A East Homberg Avenue is James Darby, who purchased the home from Mrs. Romesburg's mother. Currently, the property at 1205A East Homberg Avenue is in foreclosure and according to Mr. and Mrs. Romesburg, the Darbys should have been out of the property by May 3, 2011. Evidently, they are still moving their belongings out of the property.

### **Issue**

The issue in question appears to be an interpretation of the decision of the Administrative Law Judge (ALJ). As to whether the Romesburgs could utilize the present water meter and thereby connect the line directly to 1205B East Homberg Avenue. This would require a separate meter and line to be installed for 1205A East Homberg Avenue.

**Discussion**

The decision of the Administrative Law Judge is not entirely clear with respect to this issue. The ALJ decision states:

"Testimony was presented by the Inspector and Respondent that this residential property did not have its own water meter. It was developed that originally there was a main house and an accessory garage. The garage was later converted into a residence, but utilized by members of the same family with a water line going to a meter for the original structure and from there to the converted residence. The Respondent is the owner and resident of the converted house. The houses each have their own septic systems. Eventually, the original house was purchased by non family members, but the water bill remained in the name of the Respondent. Evidently, an arrangement was worked out in which the bill was received by the Respondent and divided equitably with the owner of the other residence. The original house, owned by the non family members, is now in foreclosure. The County requires each residence to have its own meter. Respondent agreed that he needed to connect the water directly to his residence, through his own meter, and disconnect from the original residence.

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IT IS FURTHER ORDERED that the \$200.00 civil penalty will be imposed if the property is not brought into compliance by the connection of the subject premises directly to the County water line service through

its own independent meter, and its disconnection from its present water source by June 1, 2011."

The Respondents contend that during the hearing before the ALJ, the discussion by the ALJ indicated to them that they could utilize the meter at the end of the right-of-way at East Homberg Avenue and disconnect from 1205A East Homberg Avenue, thereby connecting the water line directly to their home at 1205B East Homberg Avenue.

Representatives of the County felt that the language of the ALJ decision could be interpreted that the Respondents were required to utilize a new water meter at 1205B and run a line from a new water meter directly down to their property at 1205B East Homberg Avenue. They agreed that listening to the recording of the ALJ hearing might clarify his decision.

### **Decision**

An appeal to the Board of Appeals for a code violation is an appeal on the record made before the Administrative Law Judge under BCC §3-6-303 (a):

#### ***(a) Hearing on the record.***

- (1) (i) Except as provided in subsection (b) of this section, the Board of Appeals hearing shall be limited to the record created before the Hearing Officer, which shall include:
  - 1. Except as provided in paragraph (2) of this subsection, the recording of the testimony presented to the Hearing Officer;
  - 2. All exhibits and other papers filed with the Hearing Officer; and
  - 3. The written findings and final order of the Hearing Officer.

After hearing argument and a summary of the evidence presented at the Code Enforcement hearing before the ALJ, this Board has the authority under BCC, §3-6-304 to do the following:

(a) *Disposition options.* In a proceeding under this subtitle, the Board of Appeals may:

- (1) Remand the case to the Hearing Officer;
- (2) Affirm the final order of the Hearing Officer; or
- (3) Reverse or modify the final order if a finding, conclusion, or decision of the Code Official, the Director, or the Hearing Officer:
  - (i) Exceeds the statutory authority or jurisdiction of the Code Official, the Director, or the Hearing Officer;
  - (ii) Results from an unlawful procedure;
  - (iii) Is affected by any other error of law;
  - (iv) Subject to subsection (b) of this section, is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
  - (v) Is arbitrary or capricious.

The members of the Board listened to the tape of the hearing before the ALJ, in order to try and determine the position of the ALJ in this matter. It seems clear from the discussion that took place during the hearing that the ALJ indicated that the Respondents Romesburgs should be able to utilize the existing water meter and have the water line directly connected to their home at 1205B East Homberg Avenue; thereby disconnecting the water from 1205A East Homberg.

Neither party has argued that the decision of the ALJ violated any of the conditions set forth in *Baltimore County Code* (BCC) Section 3-6-304(a)(3) to warrant reversal.

Therefore, the Board will affirm the decision of the ALJ and order that the Two Hundred (\$200.00) Dollar civil penalty will be imposed if the property is not brought into compliance connecting the water line to the existing water meter and disconnecting the connection to 1205A East Homberg Avenue by August 31, 2011.

**ORDER**

**THEREFORE, IT IS THIS** 29<sup>th</sup> day of June, 2011 by the Board of Appeals of Baltimore County,

**ORDERED** that the decision of Administrative Law Judge, Lawrence M. Stahl, ordering the property in question to be brought into compliance by connection of the premises at 1205B East Homberg Avenue directly to the County water line and disconnection from 1205A Homberg Avenue in the above captioned case be and the same is hereby **AFFIRMED**; and

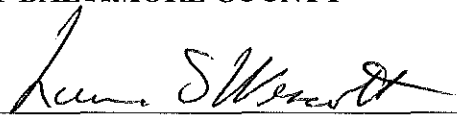
**IT IS FURTHER ORDERED**, that the Two Hundred (\$200.00) Dollar civil penalty will be imposed if the property is not brought into compliance connecting the water line to the existing water meter and disconnecting the connection to 1205A East Homberg Avenue by August 31, 2011; and

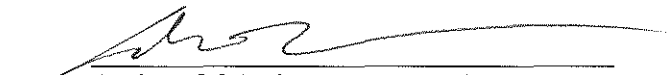
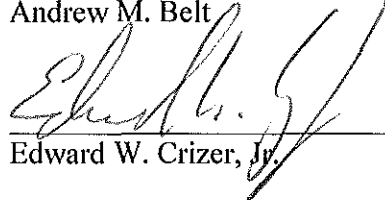
**IT IS FURTHER ORDERED**, that if not paid within thirty (30) days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property; and

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

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**

  
Lawrence S. Wescott, Chairman

  
Andrew M. Belt  
  
Edward W. Crizer, Jr.