

IN THE MATTER OF  
RODNEY CROUCH  
1210 Hilldale Avenue  
Baltimore, Maryland 21237

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-12-018

Civil Citation No. 91137

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OPINION

This matter comes before the Board of Appeals for Baltimore County (the "Board") as an Appeal from Administrative Law Judge's September 23, 2011 decision regarding a Code Enforcement Violation at 1012 Hilldale Avenue in which the property owner was found to have violated Baltimore County Zoning Regulations (BCZR) as defined in § 101.1 and 102.1 of the Zoning Commissioner's Policy Manual (ZCPM), for failure to cease all service garage activities on residential property. The property owner was fined Five Thousand Six Hundred Dollars (\$5,600.00). On December 6, 2011 the parties appeared before this Board for oral arguments as to the record appeal from the Administrative Law Judge, Lawrence Stahl's Decision. The owner of the subject property, Mr. Rodney Crouch, did not appear at the hearing. The citation issued in this matter, in reality, concerned itself with the actions of Mr. Brian Hosier the tenant at the subject property. Mr. Hosier appeared as the Appellant in this case. Baltimore County Code Enforcement Inspector, Ryan Fisher appeared on behalf of Baltimore County.

BACKGROUND

Testimony was presented to the Hearing Officer that upon complaints from neighbors, an

initial inspection of the subject property was carried out on or about April 5, 2011. The inspector, Ryan Fisher, continued his investigation for several weeks during which he received statements from the residents in the Appellant's neighborhood along with numerous photographs of various vehicles on or about the property leased by Mr. Hosier. Inspector Fisher took the initiative to examine the ownership records of several of the photographed vehicles. According to the MVA records at least two vehicles photographed on the subject property were not registered Mr. Hosier. The record also discloses that a number of the photographed vehicles appeared to be in the process of being repaired or serviced.

Mr. Hosier responded to the allegation by testifying that he does indeed repair and/or restore automobiles for his personal use as well as a favor to friends and neighbors. Mr. Hosier testified that he has twenty years of experience in automobile mechanics and moved into the subject property, in part, because it has a three car garage. He list among the vehicle he owns five motorcycles, two cars, one truck, and one mini van. The events complained of herein occurred, according to Mr. Hosier, while he was at home on extended disability leave from his job as a machine operator with the Key Recycling Company.

#### BOARD'S OPINION

The Administrative Judge concluded that Mr. Hosier was engaged in a brisk and continuing pattern of providing repair services to motor vehicles not owned by him. The Board does not dispute this conclusion. However the Board disagrees with the Administrative Judge that the foregoing establishes that Mr. Hosier is operating a "service garage". The term "service garage" is defined in Section 101.1 of the Baltimore County Zoning Regulations and reads as follows:

BCZR § 101.1

BCZR, § 101.1, states a service garage as being “a garage other than a residential garage, where motor driven vehicles are stored, equipped for operation, repaired, or kept for *remuneration*, hire, or sale.

In applying the “Plain Meaning Rule” of statutory interpretation, this Board has to look no further than the “plain meaning” of the language of the statute itself to ascertain its intent. Webster’s Third New International Dictionary defines *remuneration* “as to pay for any service, loss or expense; recompense.”

It is clear from the record that no evidence was presented that Mr. Hosier received any pay, or was hired to perform car repairs for others. The Administrative Law Judge concluded that the totality of the evidence and the circumstantial inferences he drew from same that Mr. Hosier was operating a service garage. What is lacking in this matter is any evidence of payments received by Mr. Hosier for his efforts in repairing vehicles. The difficult question presented in this matter is the level of proof required to establish that automobile repair services were performed by Mr. Hosier for compensation. In this case the Board views the totality of the evidence in a light different from that of the Administrative Judge.

Mr. Hosier has indicated to the Board that he is preparing to return to his employment and presumptively will have less time to devote to his avocation. Should these events continue into the future and another citation is issued it is entirely possible that or a future Board will view the totality of the evidence in a differently.

As it is the County’s burden to prove each element of an alleged violation, it appears that that it has failed under the instant presentation of facts to adequately establish the underlying

premise of the violation. While it appears that BCZR § 101.1 has been construed to prohibit a wide range of automotive repair activity in the past, this Board may only look to the plain meaning the statute in interpreting whether a violation has occurred.

CONCLUSION

Based the findings stated above, the Board finds that the Administrative Law Judge's September 23, 2011 decision in regard to the violation of BCZR, § 101.1 was unsupported by competent material and substantial evidence and therefore is REVERSED.

ORDER

**THEREFORE, IT IS THIS** 20<sup>th</sup> day of December 2011 by the Board of Appeals of Baltimore County

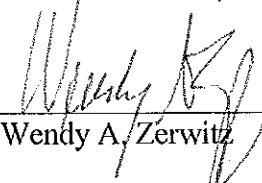
**ORDERED** that the decision of the Administrative Law Judge dated May 16, 2011 be and the same is hereby **REVERSED**; and it is further

**ORDERED** that, for the reasons stated, the total civil penalty of Five Thousand Six Hundred Dollars (\$5,600.00) imposed by the Administrative Law Judge shall be **RESCINDED**.

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**

  
Wendell H. Grier, Panel Chairman

  
Wendy A. Zerwitz

  
Edward W. Crizer, Jr.