

IN THE MATTER OF  
ALMA GATLEY  
17030 EVNA ROAD  
PARKTON, MD 21120

RE: DECISION OF  
ANIMAL HEARING BOARD #3638

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-12-014

\* \* \* \* \*

**OPINION**

This matter comes before the Baltimore County Board of Appeals as an appeal from an Animal Hearing Board decision, dated July 27, 2011, upholding a civil monetary penalty in the amount of One Hundred (\$100.00) Dollars for the following violation: Violation E 40558 - Cruelty – Prohibited Acts (wound observed one month prior still being infected, hooves in need of farrier care, failure to contact Animal Control as requested). On October 27, 2011, the Board of Appeals held a hearing in this matter. Mrs. Alma Gatley, appeared in proper person before the Board, and the County was represented by Aaron Burch, Assistant County Attorney. Mr. Keith George of Keith Jr. Farrier Service, a Witness on behalf of Mrs. Alma Gatley, also was present at the hearing.

The Board informed all parties that this was an appellate hearing, and that the Board was required to review the case based upon the testimony and record established at the Animal Hearing Board. Argument was heard by both Parties.

**Review Of Animal Hearing Board Record**

Testifying before the Animal Hearing Board were Mark Clark and Animal Control Officer Joyce Barnett. Mr. Clark stated that the County received an anonymous Complaint regarding a horse named “Baby” which was running at large in the neighborhood. Ms. Gatley is the undisputed owner of the horse. On March 25, 2011, a message was left at Ms. Gatley’s house by Officer Barnett informing her that the horse had escaped her property. Officer Barnett went

to the property and observed a horse which was blind in 1 eye, had an infected wound behind her ear, had missing hair caused by a blanket that was rubbing, and also had cracked hooves. Officer Barnett took photos of the horse that day.

On April 22, 2011, Officer Barnett made a follow up phone call to Ms. Gatley to check on the condition of the horse. Receiving no response, Officer Barnett made another site visit on April 25, 2011 and observed that some of the hair had grown back but there was still puss or drainage from the wound as well as flies on the wound, and the condition of the hooves had not changed. At this point, Officer Barnett took photographs of the conditions. She also issued a citation.

Ms. Gatley testified at the Animal Board hearing that she and her husband do not reside at the property where the horse is kept because the house is not habitable. The horse and its mother (now deceased) came with the purchase of the house. Ms. Gatley identified a person named "Janet Ash" as someone who looks after the horse. Ms. Gatley defended that the horse escaped because a tree fell on the fence.

Ms. Gatley was unsure how the horse developed the wound. She recalled first noticing it in March of 2011. She testified that she had a vet examine the horse in April of 2011, that he allegedly concluded that the wound was not infected and that the horse was healthy. The vet did not testify before the Animal Hearing Board.

Ms. Gatley also explained that she was an R.N. She stated that the wound was getting better. She outlined the steps she had taken to treat the wound, including applying Vaseline to the wound. In her experience as a nurse, she stated that when a wound heals there is clear fluid that discharges from the wound. She further speculated that any fluid observed by Officer Barnett could have been "rain water" due to the amount of rain that the area had experienced.

Much of Ms. Gatley's testimony before the Animal Hearing Board concerned her interactions with the neighbor who had filed the complaint. Ms. Gatley testified that, as a result of the citation, she arranged for a farrier to come every 8 weeks out and take care of the horse. The first visit by the farrier was on March 27, 2011. The farrier did not testify at the Animal Hearing Board.

With regard to the hooves, Ms. Gatley noted that the crack will not go away and even putting a "wedge" in the hooves will not correct the problem. It was Ms. Gatley's position that nothing could be done to improve the hooves.

### Decision

A hearing before this Board from the Animal Hearing Board is controlled by Baltimore County Code, §12-1-114(g) ("BCC") and is limited to the record made before the Animal Hearing Board. Pursuant to BCC, § 12-1-114(h), the Board of Appeals in such cases may:

- (i) remand the case to the Animal Hearing Board
- (ii) affirm the decision of the Animal Hearing Board
- (iii) reverse or modify the decision of the Animal Hearing Board if a finding, conclusion or decision of the Animal Hearing Board:
  - 1. exceeds the statutory authority or jurisdiction of the Animal Hearing Board;
  - 2. results from an unlawful procedure;
  - 3. is affected by any other error of law;
  - 4. subject to paragraph (2) of this subsection, is unsupported by competent material and substantial evidence in light of the entire record submitted; or
  - 5. is arbitrary or capricious.

Ms. Gatley is charged with violating Baltimore County Code, §12-3-103(b) entitled "Cruelty; Prohibited Acts." Subsection (b) states in pertinent part:

**§ 12-3-103. CRUELTY; PROHIBITED ACTS.**

(a) *Exception.* This section does not apply to customary and normal veterinary and animal husbandry practices including dehorning, castration, docking, and limited feeding for diet purposes.

(b) *Prohibited - Cruelty.* A person may not:

(1) Beat, cruelly treat, torment, overload, overwork, or otherwise abuse any animal; or

\* \* \* \*

The County argued that it is relying upon Subsection (b) in support of its citation. The County maintains that the citation was only issued after a follow-up visit by Officer Barnett who observed that the condition of the horse had not improved. The photographs of the horse's condition confirm the observations of Officer Barnett that the horse was being "abused". While the citation of "cruelty" may be harsh in the eyes of Ms. Gatley, the County contends that the evidence substantiated the citation and warranted the finding made by the Animal Hearing Board.

Ms. Gatley attempted to introduce new evidence at the hearing before this Board. It was explained to Ms. Gatley that we could only hear argument on the record.

Having reviewed the record below, and after hearing the arguments from Ms Gatley and from the County, it is clear the Animal Hearing Board had sufficient evidence including the testimony of both Officer Barnett and the photographs submitted by the County, to support its decision that the horse was being "abused." This Board finds no cause to remand or reverse the decision. The actions taken by Ms. Gatley to care for the horse including hiring a farrier and having a vet examine the horse were only in response to the citation. However, while this Board will affirm the decision of the Animal Hearing Board, we will reduce the imposed penalty, based upon the circumstances of Appellant.

**ORDER**

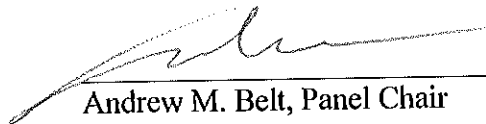
Therefore, it is this 6<sup>th</sup> day of December, 2011 by the Board of Appeals of Baltimore County

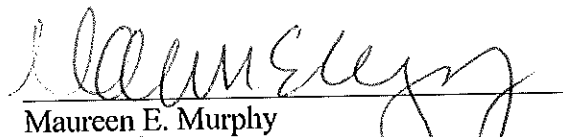
**ORDERED** that, for the reasons stated above, the decision of the Animal Hearing Board be and is hereby **AFFIRMED**; and it is further

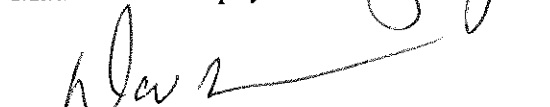
**ORDERED** that the civil monetary penalty in the amount of \$ One Hundred (\$100.00) Dollars be and is hereby **REDUCED** to Fifty (\$50.00) Dollars, to be paid within 30 days from the date of this Order.

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**

  
Andrew M. Belt, Panel Chair

  
Maureen E. Murphy

  
David L. Thurston