

IN THE MATTER OF
Stephen and Sharon Crum– APPELLENTS
7310 Gunpowder Road
Baltimore, MD 21209
13TH ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

RE: CODE ENFORCEMENT
VIOLATION/CIVIL CITATION
**Violation BCC Section 13-7-503(B)(1)(2); and,
32-7-403 (Demolition by neglect)**

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: CBA-13-007

* * * * *

OPINION

This matter comes before the County Board of Appeals on an appeal from a decision of the Administrative Law Judge dated August 27, 2012 assessing a civil penalty of \$25,000.00, of which all but \$1,000.00 was suspended pending the property being brought into compliance with the requirements of the Maryland Historical Trust on or before November 15, 2012, against Stephen Crum. The Order of the Administrative Judge further mandated that if the subject property was brought into compliance pursuant to its Order, the remaining civil penalty would be imposed if there is a subsequent finding against the Respondent for the same violation.

The court below found that the subject property was improved by a 192 year old residential building which came under the authority of the Maryland Historical Trust by way of an easement granted in its favor by the Appellants. The subject property was apparently inspected in June, 2012 by an inspector from the Baltimore County Code Enforcement and Inspections Division. The inspection and subsequent citation noted the following deficiencies as they related to the requirements of the Maryland Historical Trust: front porch support column; permit to replace 23 windows; 6 sidelights; 2 transoms and tongue/groove; flooring on the north and south porches with non-historic materials.

At the hearing below testimony was taken from representatives of the Baltimore County Landmarks Preservation Services and from the County Building Engineer. There appears to have

been no contest on the part of the Appellants that the repairs were required under the provisions of the Maryland Historical Trust easement. The Appellants defended themselves on the theory that the 1993 easement in favor of the Maryland Historical Trust amounted to an illegal taking of their property. This argument was not accepted by the Administrative Judge as being a satisfactory answer to the citations filed herein.

THE HEARING

The instant case came before the Board of Appeals as an “on the record” appeal as provided in the County Code. The Appellant, Mr. Crum appeared without counsel for the oral arguments in this case. The Appellant advised the Board that he was represented by counsel at the hearing below but chose to proceed *pro se* before the Board.

The Appellant did not allege that the Administrative Law Judge was incorrect in his finding as regards the requirements of the Maryland Historical Trust easement. Instead the Appellant argued that the easement itself was a nullity and therefore unenforceable against him. The Board, in open court, advised the Appellant that because easements are an interest in land the Board had no legal authority to address this matter and the proper resort must be to the Circuit Court for Baltimore County.

CONCLUSION

The decision of the Administrative Law Judge was neither arbitrary nor capricious and was supported by competent, material and substantial evidence. The Board does not find any error of law or unlawful procedure. There was no evidence that the Administrative Law Judge exceeded his authority or jurisdiction as it related to his findings or the sanctions imposed for the instant violations of the county regulations. The Board does differ with the Administrative Judge as to his provision that the monetary penalty issued by him shall remain in effect even after the subject property is brought into compliance with the Maryland Historical Trust regulations. The Board will

not, at this time, attempt to issue any sanctions for violation which may occur after the subject property is brought into compliance with this Order below.

ORDER

THEREFORE, IT IS THIS 5th day of December, 2012, by the Board of Appeals of Baltimore County

ORDERED that the decision of the Administrative Law Judge dated August 27, 2012 be same hereby is **AFFIRMED**, subject to the following:

IT IS ORDERED that the subject property shall be brought into compliance with the requirements of the Maryland Historical Trust by February 28, 2013.

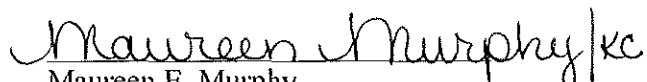
IT IS ORDERED that the civil penalty as assessed by the Administrative Law Judge shall remain in effect should the Appellant fail to bring the subject property into compliance by February 28, 2103.

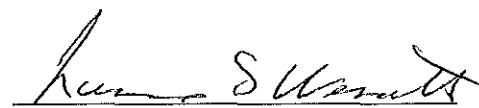
IT IS ORDERED that there shall be no civil penalty assessed against the Appellant for any prospective violations of the Maryland Historical Trust requirements that were not a part of the hearing before the Board.

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, Chairman


Maureen E. Murphy


Lawrence S. Wescott