

IN THE MATTER OF:
PEDRO GARAY
5629 WHITBY ROAD
BALTIMORE, MD 21206

Re: Appeal of Sewer Service Charges

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: CBA-24-017

* * * * *

OPINION

This matter comes before the Baltimore County Board of Appeals (“the Board”) as an appeal from a letter from D’Andrea Walker, Director of the Department of Public Works denying the request of Appellant, Pedro Garay, to have reduced the Department of Public Works’ Sewer Service Charge of \$9,500.73 for the calendar year January 1, 2022 - December 31, 2022. Mr. Garay appealed this decision on January 5, 2024. An evidentiary hearing, via Webex, was held before the Board on February 15, 2024. Appellant, Pedro Garay, appeared *pro se*. Assistant County Attorney, Katherine M. Loverde appeared on behalf of Baltimore County, along with Michael Swygart, Acting Chief of the Metropolitan District Financing Office, Department of Public Works. (collectively referred to as “the County”).

FACTS

The County presented Exhibits 4 through 22 to the Board. The exhibits showed the various water meter readings and correspondence between the County and the Appellant. Included in the exhibits were customer service notes, videos and communications with Mr. Garay. No irregularities or water meter problems were found in the County’s investigation into this matter.

As testified to by Appellant, Mr. Garay, he did find, by accident, a leaky faucet which he repaired. Appellant also claimed that there was a replacement meter and a collapse meter in the same vault.

While Baltimore City bills Baltimore County residents for actual water usage, Baltimore County assesses a Sewer Service Charge for the upcoming year, based on the water usage from the prior year. This, in essence, charges County residents a sewer fee for the amount of water that they send down the drain into the County sewer system. This assessment is solely based on the resident's water bills from the year prior and Baltimore County possesses no other mechanism to actually measure sewer usage.

DISCUSSION

Pursuant to Executive Order, Metropolitan District Charges, dated July 1, 2023:

c. Sewer Service Charge Adjustments. A wastewater credit allowance, which reduces the sewerage service charge, may be granted to those who provide detailed documentation that less than 100% of their non-public and/or public water usage is discharged to the sanitary sewer. . . .

In County Exhibits 4 through 22, the County introduced photographs, correspondence, and invoices evidencing that no defects were found in Mr. Garay's water meter and work order's reflecting that there was nothing explaining the high-water reading. Mr. Garay testified that there had been a leak at the site which he found by accident and fixed. He also stated that a replacement meter had been placed recently in the vault. The County responded that its records indicate that the water meter was changed on August 25, 2017, well before the period in question.

As outlined in the Executive Order for Metropolitan District Charges, a resident must provide detailed documentation that less than 100% of their water usage did not make it into the sanitary sewer, in other words, that there was some sort of leak, swimming pool filling, etc, that

caused water to go somewhere other than into the sewer. Unfortunately, Mr. Garay was not able to provide any such documentation.

As a matter of a factual finding, this Board finds the testimony of Mr. Garay credible, but is in the uncomfortable situation of lacking the necessary authority to deviate from the applicable Executive Order. Pursuant to the Executive Order, documentation of an improper discharge is required before a Sewer Usage adjustment can be given, and no such evidence has been presented to the Board. Consequently, the Board finds that it is bound by the Executive Order and the Sewer Service Charge of \$9,500.73 must stand.

CONCLUSION

The Board finds in light of the evidence presented that the Sewer Service Charge in the amount of \$9,500.73 assessed by the Baltimore County Department of Public Works for 5629 Whitby Road, Baltimore Maryland 21206 for the period January 1, 2022 to December 31, 2022 is AFFIRMED.

ORDER

THEREFORE, IT IS THIS 17th day of April, 2024 by the Board of Appeals of Baltimore County

ORDERED Sewer Service Charge in the amount of \$9,500.73 assessed by the Baltimore County Department of Public Works for 5629 Whitby Road, Baltimore, Maryland 21206 for the period January 1, 2022 to December 31, 2022 is **AFFIRMED**.

In the matter of Pedro Garay
Case No.: CBA-24-017

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*.

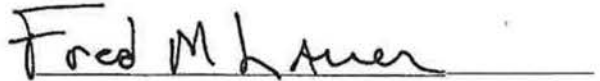
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Sharonne R. Bonardi, Panel Chair



Bryan T. Pennington



Fred M. Lauer



Board of Appeals of Baltimore County

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April 17, 2024

Katherine M. Loverde, Assistant County Attorney
Baltimore County Office of Law
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Towson, Maryland 21204

Pedro Garay
2207 Solmar Drive
Silver Spring, Maryland 20904

RE: In the Matter of: *Pedro Garay*
Case No.: CBA-24-017

Dear Messrs. Loverde and Garay:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

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*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington" with a small "Hog" written below it.

Krysundra "Sunny" Cannington
Legal Administrative Secretary

KLC/taz
Enclosure
Duplicate Original Cover Letter

c: Michael Swygert, Acting Chief/Metropolitan District Financing/DPWT
D'Andrea L. Walker, Director/DPWT
James R. Benjamin, Jr., County Attorney/Office of Law