

IN THE MATTER OF
EMENIKE ONYEKWERE- APPELLANT
4713 TRUFFLE LANE
OWINGS MILLS, MARYLAND 21117

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: CBA-24-006

* * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County following an appeal by Petitioner Emenike Onyekwere of a letter of decision by D’Andrea L. Walker, Director of the Department of Public Works and Transportation dated May 19, 2023 denying adjustments to Sewer Service charges for the property located at 4713 Truffle Lane Owings, Mills, MD 21117.

Factual Background

Mr. Onyekwere, is the owner of the property located at 4713 Truffle Lane, Owings Mills, Maryland 21117. The property is located in the Metropolitan District (“District”) which consists of the area within Baltimore County (“County”) served by public sewer and water. The City of Baltimore (“City”) handles the water consumption component, and the County handles the sewer component. Property owners within the District are billed for their water and sewer usage, with the sewer charges reflected on County property tax bills. Water bills, reflecting consumption, come from the City and are sent to County property owners quarterly. Previously, City workers would read the water meters to identify usage. Now, with the new smart meters, the consumption information is sent directly to the City. Although the water and sewage assessments are annotated on property tax bills, the Metropolitan District is self-funded; no tax dollars are used to sustain

it. The sewer charges stated on a property owner's tax bill are based on water usage for the calendar year prior. The sewer billing cycle begins July 1 of each year and ends on June 30.

On July 1, 2021, the County issued a real property tax bill to Mr. Onyekwere for year 2022. The Appellant also received the real property tax bill from the County on July 1, 2022 for year 2023. The real property tax bills issued to Mr. Onyekwere contained the sewer charges that he now disputes. The disputed sewer service charges were based on the prior calendar year water consumption records of the City. As previously stated, the City issues water bills on a quarterly basis, while notice of the sewage charge is provided in the County's annual Property Tax bill. Specific to this matter, when Mr. Onyekwere received his 2022 and 2023 Property Tax bills, he noticed the sewer charges were much higher than in previous years. The County asserts that it applied the standard sewage calculation according to departmental procedures and regulations. Based on the findings of the inspector's report, the County declined to adjust the sewage charges, and the petitioner filed an appeal of those decisions.

On July 1, 2022 and July 1, 2023, correspondence from the Department Public Works Directors ("DPW") of Baltimore City and Baltimore County was sent to Emenike and Nkiru Onyekwere. (Exhibit 4). On December 27, 2022, the property owner called the County regarding high water consumption. (Exhibit 11). In response to the call, the County's Customer Service agent created a record for meter number 08423477002 to investigate the report of high water consumption. (Exhibit 10). The inspection report and related documentation identified a toilet leak on the property. (Exhibit 9). The record contains a prior work order dated July 2, 2019 for same meter noting there were no found leaks from the meter inspection. (Exhibit 6). On January 23, 2023, DPW documented another customer service call for the same meter (number 08423477002) requesting an update on the inspection. The record notes that the plumbing

In the matter of: Emenike Onyekwere
Case No: CBA-24-006

documentation would be forwarded to the property owner. (Exhibit 12). On January 27, 2023, the County notified Mr. Onyekwere that no adjustment would be made for the consumption due to the determination of a running toilet that was discovered during the requested inspection. Appeal information was emailed to Mr. Onyekwere. (Exhibit 13). On January 30, 2023, Mr. Onyekwere appealed the denial to Mr. Thomas Flagg, Acting Chief of the Department of Public Works. (Exhibit 14). On March 14, 2023, Thomas Flagg denied the property owner's adjustment request, and that request provided appeal rights to the Director of the Department of Public Works and Transportation, D'Andrea Walker. (Exhibit 15). On May 19, 2023, Ms. Walker issued a decision denying the property owner's request for adjustment delineated on a Real Property tax bill dated July 1, 2022 in the amount of \$3,114.06 for the same reasons provided in the prior determinations, and that decision specifically stated that a review of her decision must be timely filed pursuant to the provisions of Baltimore County Code §20-5-110(b) or the appeal request would be "rejected." (Exhibit 17). On July 5, 2023, Mr. Onyekwere called the District to inquire about next steps for the appeal and was advised to review the information contained in the denial letter. He later called again on the same day seeking information about the appeal process and likely outcome of the proceeding, and the District agent noted that no information could be provided regarding the outcome. District received another call from the property owner, Mr. Onyekwere, on July 19, 2023 requesting appeal information. The District agent informed him that the 30-day appeal period had passed, and it was noted Mr. Onyekwere said he would still be sending in an appeal request. (Exhibit 18).

On August 4, 2023, the Board of Appeals received a letter of appeal from Mr. Onyekwere dated July 22, 2023 in an envelope postmarked July 25, 2023 contesting the sewer service

charges. (Exhibit 19). On August 24, 2023, the Notice of Assignment was issued, and a remote hearing was scheduled for October 26, 2023 at 10:00 a.m.

Discussion

Pursuant to Baltimore County Code §20-5-128(a), for an appeal to the Board of Appeals, “the Board shall determine whether or not the determination, decision, order, or notice, which is the subject of review, is proper or correct.” The Board may reverse, affirm (in whole or in part), modify the determination, decision, order, or notice appealed from. (*Id.*) The Board is not authorized to waive, set aside, or change any provision of the Wastewater Regulation title of the County Code. (*Id.*) BCC §20-5-105 presumes that every user discharges 100% of their waste consumption into the sewer system and further presumes that the City water consumption records are correct. The person disputing the records has the obligation to establish the amount of water consumed. (*Id.*)

Section 20-5-105 of the Baltimore County Code provides, in effect, that the meter readouts in these cases are presumptively correct. This statutory presumption places the burden on the property owner of proving that the meter reading lacks integrity. This Board has routinely and comfortably upheld County sewer charges based on this presumption even where the City had, without explanation, forgiven the abnormally high reading. The County makes its own independent assessment and then acts accordingly: if it determines that the meter reading was correct, then it seeks to recover the full sewer charges even where the City has adjusted away the overage.

Although Mr. Onyekwere diligently attempted to identify the potential cause for the issue, he erroneously concluded that the leaks were connected to the water meter and inaccurate reading thereof caused by an unreliable computer software system. Without contrary evidence as to the

In the matter of: Emenike Onyekwere
Case No: CBA-24-006

water consumption, the presumption as to the correctness of the City water records stands, and the subsequent sewage charges are correct. Having said that, the members of this panel are empathetic to property owners' frustration with the lag time in which property owners are provided notice of County sewage charges. However, Mr. Onyekwere took no action to correct the plumbing issue prior to the imposition of the sewage charges; therefore, no adjustment is warranted.

Pursuant to Baltimore County Code ("BCC") §20-5-110(b), appeals to the Baltimore County Board of Appeals must be made within 30 days of the date of a decision issue by the Director of the Department of Public Works and Transportation. On August 4, 2023, the Board of Appeals received a letter of appeal from Mr. Onyekwere dated July 22, 2023 in an envelope postmarked July 25, 2023 which is more than 60 days after the date of the issuance of decision D'Andrea Walker Director of the Department of Public Works and Transportation denying the property owner's adjustment request. Therefore, the request for appeal is dismissed as it was not filed within the time provided in BCC §20-5-110(b).

Conclusion

In light of the evidence presented, it is determined that the Appellant failed to file a timely appeal of the decision reached by D'Andrea Walker, Director of the Department of Public Works and Transportation; therefore, this appeal request is dismissed resulting in the prior decisions of the County upholding the sewer assessments for the period July 1, 2022 to June 30, 2023 in the amount of \$3,114.06 plus penalty and accrued interest.

ORDER

THEREFORE, ON THIS 25th day of January, 2024, by the Board of Appeals of Baltimore County, it is hereby:

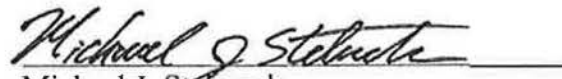
ORDERED that appeal is hereby **DISMISSED WITH PREJUDICE**.

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**


Deborah Dopkin, Panel Chair


Sharonne R. Bonardi


Michael J. Steimack



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

January 25, 2024

Katherine Loverde, Assistant County Attorney
Baltimore County Office of Law
400 Washington Avenue, Suite 219
Towson, Maryland 21204

Emenike Onyekwere
4713 Truffle Lane
Owings Mills, Maryland 21117

RE: In the Matter of: *Emenike Onyekwere*
Case No.: CBA-24-006

Dear Messrs. Loverde and Onyekwere:

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".

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