

IN THE MATTER OF
SISTERHOOD AGENDA, INC., APPELLANT
0 EASTERN AVENUE
MIDDLE RIVER, MARYLAND 21220

Civil Citation No. CC2307675

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: CBA-24-028

* * * * *

OPINION

This case comes before the Board of Appeals of Baltimore County (“Board”) as a record appeal filed by Michele McDaniel Rosenfeld, Esquire on behalf of Sisterhood Agenda, Inc., Respondent/Appellant, of Administrative Law Judge, Maureen E. Murphy’s (“ALJ”) February 28, 2024, Final Order (the “Order”) with regard to Civil Citation No. CC2307675.

The Order found that Respondent/Appellant was in violation of Baltimore County Code (“BCC”) § 18-2-608 and imposed and immediately suspended a civil penalty of \$3,200.00. Respondent/Appellant filed a timely appeal.

On May 7, 2024, the Board held a virtual, on-the-record hearing, and heard argument. Michele McDaniel Rosenfeld, Esquire appeared on behalf of Respondent/Appellant. Marissa L. Merrick, Assistant County Attorney, appeared on behalf of Baltimore County.

The appeal petition alleges and counsel for Appellant argued, that the ALJ erred as a matter of law in finding Appellant in violation; for relief, the Petition asks the Board to reverse and vacate the decision of the ALJ and find that the fine was improperly assessed.

For the reasons stated below, the Board agrees with Appellant.

DISCUSSION

This matter first came before the Board in October, 2023 with respect to the existence of a temporary storage pod on the property. Based on the testimony presented to the Board, we

held that the storage unit was for development and construction purposes and did not fall within BCC § 18-2-608. On that basis, the Board reversed the ALJ and dismissed the citation.

Subsequently, by County Council Bill No. 1-3-23, the County Council amended BCC § 18-2-608 to include containers of the type at issue in this case. Bill No. 103-23 was enacted on January 17, 2024 and took effect on January 31, 2024. The law expressly provides that a person may not locate a temporary storage unit on private property “for a period of more than 60 days.”

Citation CC2307675 was re-issued on February 2, 2024, with a \$3,200.00 fine calculated at the rate of \$100.00 per day of the alleged violation.

Appellant argues that it had sixty days from the effective date of January 31, 2024 in which to remove the storage unit before a violation would exist. In fact, the unit had been removed by the February 28, 2024 hearing before the ALJ, at which time the property was deemed to be in compliance.

Nonetheless, Appellant argues that the law is clear and that based on its status as a certified housing organization eligible for funding under Federal and state programs, the record should reflect that no violation existed. Appellant prides itself on having no violations on its record during its twenty-five year existence.

Baltimore County asserts that the violation existed without interruption since the summer of 2023, and it is disingenuous of Appellant to argue that BCC § 18-2-608 does not apply.

STANDARD OF REVIEW

For appeals of this nature, the Baltimore County Code requires this Board to conduct a hearing within the limitations set forth in Section 3-6-303. This Section states:

§ 3-6-303. - HEARING.

(a) Hearing on the record.

(1) (i) Except as provided in subsection (b) of this section, the Board of Appeals hearing shall be limited to the record created before the Hearing Officer, which shall include:

1. Except as provided in paragraph (2) of this subsection, the recording of the testimony presented to the Hearing Officer;

2. All exhibits and other papers filed with the Hearing Officer; and

3. The written findings and final order of the Hearing Officer.

(ii) If the violator requests a transcription of the recording, the violator shall pay the cost of the transcription.

(2) In lieu of a recording, the violator and the Code Official or the Director, as applicable, may present written summaries of the testimony presented to the Hearing Officer.

This Board is limited in its disposition of a case by way of Section 3-6-304. This

Section states:

(a) Disposition options. In a proceeding under the subtitle, the Board of Appeals may:

(1) Remand the case to the Hearing Officer;

(2) Affirm the final order of the Hearing Officer; or

(3) Reverse or modify the final order if a finding, conclusion, or decision of the ... Hearing Officer

(i) Exceeds the statutory authority of jurisdiction of the...Hearing Officer;

(ii) Results from an unlawful procedure;

(iii) Is affected by any other error of law;

(iv) ...is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or

(v) Is arbitrary or capricious.

“With regard to agency factual determinations, the standard of review is whether the finding is ‘unsupported by competent, material, and substantial evidence in light of the entire record as submitted,’ also known as substantial evidence review.” *Charles County Dep’t of Soc. Servs. V. Vann*, 382 Md. 286, 295 (2004) (citations omitted). A reviewing body gives less deference to an agency’s legal conclusions, and will not uphold an administrative decision premised solely upon an erroneous conclusion of law. *HNS Dev. LLC v. People’s Counsel*, 425 Md. 436, 449 (2012).

CONCLUSION

Using these standards, this Board reverses the ALJ decision. The Board rejects the County's assertion. The language of BCC § 18-2-608 is unambiguous. The effect of County Council Bill No. 103-23 did not apply before January 31, 2024 and it provides, in effect, a period of sixty days during which a temporary storage container could remain on the property. The County would have this Board apply the bill retroactively, contrary to settled rules of statutory construction and case law. Whether Appellant was or was not disingenuous is immaterial, because its conduct did not violate the statute. As such, the Board finds that the prior ALJ's decision involving the citation at issue for Civil Citation No: CC2307675 was legally in error and is therefore reversed.

ORDER

THEREFORE, IT IS THIS 22nd day of May, 2024 by the Board of Appeals of Baltimore County

ORDERED that the March 7, 2024 Final Order of the Administrative Law Judge in Civil Citation No: CC2307675 for violation under Baltimore County Code § 18-2-608, Temporary Storage Units in Residential Zones, be and the same is hereby **REVERSED** and **VACATED**; and it is further

ORDERED that Citation CC2307675 is **DISMISSED**, for having been improperly issued; and further

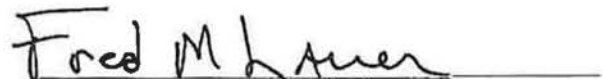
ORDERED that the civil penalty of \$3,200.00 imposed by the Administrative Law Judge in connection with Civil Citation Number CC2307675, be and the same is hereby **VACATED** and **DISMISSED**.


In the matter of: Sisterhood Agenda, Inc.
Case No.: CBA-24-028

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


Fred M. Lauer


Bryan T. Pennington



Board of Appeals of Baltimore County

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May 22, 2024

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RE: In the Matter of: *Sisterhood Agenda Inc.*
Case No.: CBA-24-028

Dear Counsel:

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: Angela Coleman, President/Sisterhood Agenda Inc.
Savanna Weber
Maureen E. Murphy, Chief Administrative Law Judge
Adam Whitlock, Chief of Code Enforcement/PAI
C. Pete Gutwald, Director/PAI
James R. Benjamin, Jr., County Attorney/Office of Law