

HOWARD COUNTY BOARD OF APPEALS HEARING EXAMINER

In The Matter of

Civil Citation No. CE 13-136

ANN DENISE LASSALLE

Respondent

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER**

This matter came before the Howard County Board of Appeals Hearing Examiner on May 1, 2014 for a hearing on a Department of Planning and Zoning citation for violations of the Howard County Zoning Regulations (HCZR), Sections 125.0.A.7.b and 128.0.D.8, the off-street parking or storage of an unregistered, inoperable, wrecked, dismantled or destroyed motor vehicles on NT (New Town) zoned property known as 10353 Sixpence Court, Columbia, Md. 21044. On February 25, 2014, pursuant to Howard County Code (HCC) Title 24, "Civil Penalties," and Subtitle 3 of Title 16 of the HCC, Department of Planning and Zoning Inspector Tamara Frank issued Anne Denise Lassalle (Respondent) a Howard County Zoning Regulations violation citation. The citation was sent by registered and regular mail to Respondent at 10353 Sixpence Court, Columbia, Md. 21044.

Nowelle A. Ghahhari, Assistant County Solicitor, represented the Department of Planning and Zoning. Zoning Regulations Inspector Tamara Frank appeared for the hearing and testified. Respondent failed to appear for the hearing.

The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure.

DPZ introduced into evidence the exhibits as follows.

1. Notice of violation, January 8, 2014
2. Civil citation, February 25, 2014
- 3A-D. Photographs, April 30, 2014
4. Photographs, February 19, 2014 & April 8, 2014
5. Vehicle registration data

Findings of Fact

1. Zoning Inspector Tamara testified to receiving a complaint about the off-street parking or storage of unregistered, inoperable or wrecked motor vehicles on the premises. She inspected the property on December 19, 2013 and observed a grey BMW on blocks and a white Ford truck filled with trash. She spoke to Craig Johnson during this inspection, who said the problem would be taken care of.

2. After obtaining information from Howard County Police that the tags on the two vehicles had expired, Inspector Frank re-inspected the property on January 8, 2014. The vehicles were still there in the same condition. That afternoon she issued property owner Anne Denise Lassalle, whom she identified as the property owner according to the State of Maryland Department of Taxation and Assessments (SDAT) website, a Notice of Violation by certified and regular mail. The notice charged Respondent with the off-street parking or storage of unregistered, inoperable, wrecked, dismantled, or destroyed motor vehicles on NT (New Town) zoned property in violation of HCZR Sections 125.0.A.7.b and 128.0.D.8. DPZ Exhibit 1.

3. Inspector Frank continued to monitor the property and observed the same vehicles on February 24, 2014. On February 25, 2015, She issued Respondent a civil citation by certified and regular mail for continuing to maintain the off-street parking or storage of unregistered,

inoperable, wrecked, dismantled or destroyed vehicles on NT (New Town) zoned property. DPZ Exhibit 2. The civil citation is based upon violations of HCZR Sections 125.0.A.7.b and 128.0.D.8; it instructs Respondent to abate the violations and pay the fine by March 11, 2014, or, alternatively, to request a hearing. Respondent neither abated the violations nor requested a hearing. Inspector Frank forwarded the citation to the Hearing Examiner for a hearing.

4. It was Inspector Frank's further testimony that she inspected the property on several occasions. On a February 19, 2014 inspection, she observed the Dodge pickup truck, a Buick sedan, and a BMW sedan on the Property. DPZ Exhibit 4 includes eight photographs taken by the Inspector and date stamped February 19, 2014. These photographs depict the white Dodge pickup truck and the grey BMW sedan with expired tags. DPZ Exhibit 4 also includes eight photographs date taken by the Inspector and date stamped April 8, 2014. These photographs show the same white Dodge pickup truck with expired tags (filled with trash) and the same BMW on blocks and/or a lift with one tire off and expired tags.

5. On April 30, 2014, Inspector Frank requested vehicle registration information for the vehicle tags and/or VINs (vehicle identification number) obtained during her site inspection that day. DPZ Exhibit 5. The information indicates the following. The BMW tags (1AK1496) expired August 2013. The owner is Craig Corbet Johnson, whose address is 10353 Sixpence Circle. The white Dodge pickup tags (73V578) expired August 2012. Craig Corbet Johnson, whose address is 10353 Sixpence Circle, is co-owner of the truck. The third vehicle she observed, a white GMC truck, has current tags (27J499) expiring on July 2014. The owner is Marcie Bartholomew

Johnson, whose address is 12411 Starlight Lane, Bowie, MD. The Inspector testified to having seen the GMC truck at the property during previous inspections.

6. DPZ counsel stated the County is requesting a five-hundred dollar fine and an Order directing Respondent to abate the violations by removing the vehicles within thirty days of the issuance of the Order.

CONCLUSIONS OF LAW

The Civil Citation was properly issued after the requisite Notice of Violation pursuant to Title 16.602 of the HCC.

Photographs taken by Inspector Frank on February 19, April 8 and April 30, 2014 show two motor vehicles with expired tags and at least one dismantled or inoperable vehicle on Respondent's property, 10353 Sixpence Court, Columbia, Md. 21044.

HCZR Section 125.0.A.7.b prohibits the off-street parking or storage of unregistered, inoperable, wrecked, dismantled or destroyed motor vehicles, except as permitted by Section 128.0.D.8. Section 128.0.D.8 provides additional regulations for motor vehicle storage in residential districts and permits, in relevant, the parking or storage of unregistered, inoperable, wrecked, dismantled or destroyed motor vehicles when such vehicles are located within a completely enclosed building or are not visible from ground level from any adjacent properties or public street rights-of-way.¹ It is clear from the photographs in evidence that Respondent is

¹ Pursuant to Section 128.0.D.8, the off-street parking or storage of unregistered, inoperable, wrecked, dismantled or destroyed motor vehicles is not permitted in residential districts, except that:

a. Parking or storage of such vehicles shall be permitted provided the vehicles are within a completely enclosed building or are not visible from ground level from any adjacent properties or public street rights-of-way. An

storing unregistered and/or dismantled/inoperable vehicles on the Property. These vehicles are visible at ground level from the public street right-of-way, as the numerous photographs demonstrate. They are also ineligible for any exception under Section 128.0.D.8.

unregistered, inoperable, wrecked, dismantled, or destroyed motor vehicle placed under a tarp or car cover shall not be considered to be screened.

b. In addition, one such vehicle per calendar year may be parked or stored outside, in a location visible from adjacent properties or streets, provided the vehicle is:

- (1) Recently purchased, pending inspection, for up to 180 days; or
- (2) Being advertised for sale, for up to 180 days; or
- (3) Being actively repaired or restored for up to 180 days, or for an extension of this period approved in writing by the Department of Planning and Zoning after an application is received showing good cause; or
- (4) Being held pending settlement of insurance, estate or similar claims.

c. All such vehicles must be owned by a resident of the property and used in connection with or in relation to a principal use permitted as a matter of right in the district.

d. Vehicles made nonconforming by Zoning Board Case No. 954R shall be removed within six months of August 22, 1994. Historic vehicles as defined under Section 13-936 of the Transportation Article of the Annotated Code of Maryland and made nonconforming by ZRA-5, shall be removed by November 6, 1996.

e. Vehicles designed or utilized for farming operations, as defined in Section 13-935 of the Transportation Article of the Annotated Code of Maryland as amended, shall be exempt from these provisions.

ORDER

It is therefore this **21st day of May 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED** that a civil fine be imposed in the amount of five hundred dollars.²

Respondent Ann Denise LaSalle is **FURTHER ORDERED** to pay the fine within thirty calendar days of the date of this Order.

It is **FURTHER ORDERED** that Respondent Anne Denise LaSalle remove the offending vehicles from the premises within thirty calendar days of this Order. The five hundred dollar fee shall be waived if Respondent complies with this Order.

It is **FURTHER ORDERED** that any replacement or substitution of the two offending vehicles depicted in DPZ Exhibits 3 and 4 with other untagged, inoperable or wrecked vehicles or vehicles with expired tags on the Property is an ongoing violation of HCZR Sections 125.0.A.7.b and 128.0.D.8.

It is **FURTHER ORDERED** that the County inspect the Property to determine whether the violations have been corrected.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**


Michele L. LeFaivre

NOTICE TO RESPONDENTS: Respondents are advised that pursuant to Section 16.1608.(c) of the Howard County Code, all fines are due and payable by the date indicated in the citation; and are payable to the Director of Finance of Howard County. Pursuant to Section 16.1609, a final order issued by the Hearing Examiner may be appealed within 30 calendar days of the date of this order by the alleged violator to the Board of Appeals in accordance with Section 16.304 of this title. If an alleged violator appeals the final order of the hearing examiner, the alleged violator may request the stay of any civil fine imposed by a

² Pursuant to HCC Section 16.608, the civil fine is \$250.00 for each violation. Each day a violation continues after the issuance of a notice of violation is a separate offense.