

MICHAEL J. BENKO, JR. AND
SHARON LEES-BENKO
Appellants

* BEFORE THE
* HOWARD COUNTY

v.

* BOARD OF APPEALS

HOWARD COUNTY DEPARTMENT
OF PLANNING AND ZONING

* BA Case No. 716-D
*

Appellee

REVISED ORDER

The Howard County Board of Appeals affirms and modifies the Hearing Examiner's Order and Reconsideration Order issued on January 5, 2015 and February 25, 2015, respectively, finding the Appellants in violation of Howard County Zoning Regulations (HCZR) §§ 105.0.B&C, 105.0.C.7.a and 101.0.O for the continued operation of a contractor's business and the parking and storage of more than two commercial vehicles on RR (Rural Residential) zoned property known as 2622 Wellworth Way. The Order and Reconsideration Order of the Howard County Board of Appeals Hearing Examiner is supported by substantial evidence in the record as a whole and is not arbitrary or capricious, contrary to law, or clearly erroneous.

It is, therefore, this *29th* day of *September* 2015, by the Howard County Board of Appeals **ORDERED** that:

1. Respondents shall abate the violations immediately.
2. A civil fine is imposed in the amount of two thousand dollars.
3. It is **FURTHER ORDERED** that the civil penalty/fine shall be paid no later than thirty calendar days from the date of this Order. A failure to pay the fine by the due date may result in a lien being placed on the property for the fine amount, per Section 16.1611(a)(1) of the Code.

4. It is **FURTHER ORDERED** that no deliveries of parts and supplies for the contractor business shall be made to 2622 Wellworth Way. All such business deliveries shall be routed to the Berger Road shop or another pickup facility. Deliveries to 2622 Wellworth Way of office supplies related to the home-based office support function of the off-site contractor business, are not prohibited.
5. It is **FURTHER ORDERED** that Respondents cease all use of the premises for all but the home occupation business support use (American Storefront Glass and Door Products). Per HCZR § 128.0.C.1.h(8), which regulates and permits home occupations and permits business or professional offices, including administrative offices associated with an off-site business, and § 128.0.C.1.e, the home occupation use shall be confined to the 225-ft. area in the residence and limited to these activities: processing orders by mail, telephone or computer, storage of catalogues, samples, and office functions such as telephone, computer, and record keeping.
6. It is **FURTHER ORDERED** that no more than two commercial vehicles shall be parked or stored at Wellworth Way at one time. The Hearing Examiner is imposing this restriction to ensure the cessation of all non-home office contractor business uses at the premises.
7. To ensure Respondents' compliance with the two commercial vehicle parking limitation, it is **FURTHER ORDERED** as follows.

No later than seven calendar days after the date of this Order, Respondents shall schedule a meeting with Zoning Enforcement Supervisor Anthony LaRose and provide the information as follows.

- a. Photographs and vehicle identification (VIN nos. and tags) of all vehicles owned by Michael and Sharon Benko, Hank Heath and Jarrett (Jerret) Carr (the two resident employees).
 - b. Photographs and vehicle identification (VIN nos. and tags) of all non-resident vehicles (office workers and the work crew) and all vehicles owned by Michael Benko, Sr. (VIN nos. and tags).
 - c. Respondents shall identify the two commercial vehicles to be used to transport goods and equipment in furtherance of the business and parked at Wellworth Way.
 - d. Respondents shall update Zoning Enforcement Supervisor LaRose (or his successor) upon any changes to the vehicle information document provided to him and upon any employee changes.
8. It is **FURTHER ORDERED** that all activities at Wellworth Way related to the Benko's business relationship with Brian Smith and Chip Olsen, including their companies, and all related vehicular traffic, shall cease immediately.
 9. It is **FURTHER ORDERED** that any replacement or substitution of the vehicle/employee information provided to DPZ without updating the document information and any business activity on the premises unrelated to the home occupation office use, is an ongoing violation of HCZR §§ 105.0.B&C and 101.0.O.
 10. It is **FURTHER ORDERED** that the Respondents permit the County to inspect the property to determine whether the violations have been corrected.

ATTEST:

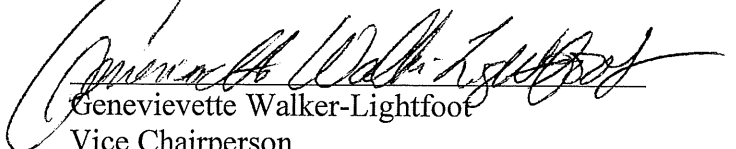
HOWARD COUNTY BOARD OF APPEALS



Robin Regner, Secretary



James Howard, Chairperson




Genevieve Walker-Lightfoot
Vice Chairperson


PREPARED BY:

HOWARD COUNTY OFFICE OF LAW

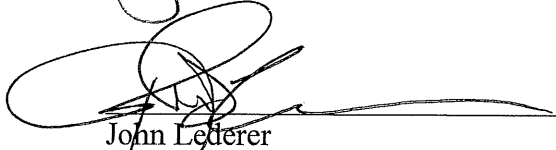
Gary W. Kuc
County Solicitor



James Walsh



Barry M. Sanders
Assistant County Solicitor



John Letterer



Steven Hunt