

**HOWARD COUNTY BOARD OF APPEALS HEARING EXAMINER**

In The Matter of

**MOLSEN HAGHIGHAT &  
SADEID HAGHIGHAT**  
Respondents

Civil Citation Nos. CE 12-102(a-1),  
CE 12-102(b-1), CE 12-102(a-2) &  
CE 12-102 (b-2)

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**FINAL ORDER**

This matter came before the Howard County Board of Appeals Hearing Examiner on May 1, 2014 for a hearing on Department of Planning and Zoning citations for continuing violations of the Howard County Zoning Regulations (HCZR) at 11279 Old Hopkins Road.

Nowelle A. Ghahhari, Assistant County Solicitor, represented the Department of Planning and Zoning. Zoning Regulations Inspector Tamara Frank appeared for the hearing and testified. Michael Walls, Esquire, represented Respondent Molsen Haghighat (Respondent), who appeared for the hearing and testified.

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. Civil citations CE 12-102(a-1), January 8, 2014, issued to Sadeid Haghighat
2. Civil citations CE 12-102(b-1), January 8, 2014, issued to Molsen Haghighat
3. Photographs, April 30, 2014
4. Photographs, November 25, 2013

At the outset of the hearing, the Hearing Examiner introduced the proceeding as a hearing on Civil Citations CE 12-102(a-2) and (b-2). DPZ Counsel Nowelle Ghahhari then raised as a preliminary matter DPZ's request to dismiss Civil Citation CE 12-102(b-2), a civil citation issued to Mr. Molsen Haghighat for the continued storage of construction equipment on an RR (Rural

Residential) zoned property.<sup>1</sup> DPZ next proposed to either postpone or continue the hearing on Civil Citations CE 12-102(a-1) and (b-1). The Hearing Examiner took notice that DPZ's hearing request memorandum (dated February 25, 2014) pertained only to CE 12-102(a-2) and (b-2). There ensued a discussion between Counselors Ghahhari and Walls as to whether Respondent and Mr. Walls were in receipt of the CE 12-102(a-1) and (b-1) citations. Upon further discussion, DPZ determined to go forward with the case on Civil Citations CE 12-102(a-1) and (b-1), which citations were issued for continued violations of §§ 105.0.C.7 and 128.0.D.8, the continued off-street parking or storage of unregistered, inoperable, wrecked, dismantled or destroyed motor vehicles on RR (Rural Residential) zoned property.

Having reviewed the evidence of this case, the Hearing Examiner is dismissing Civil Citations CE 12-102(a-2) and (b-2), on DPZ's motion. She is also compelled to dismiss Civil Citations CE 12-102(a-1) and (b-1) because Respondents were not adequately served notice that the May 1, 2014 hearing concerned Civil Citations CE 12-102(a-1) and (b-1).

HCC § 16.1605 et seq. controls Hearing Examiner hearing proceedings on a citation issued under § 16.1603 and directs the examiner to schedule a citation hearing if requested by the alleged violator or the department or, alternatively, if the alleged violator fails to pay any fine assessed in the citation. HCC § 16.1605(c) requires DPZ to serve notice of a hearing in the same manner as a notice of violation, as set forth in § 16.1602(e) of this subtitle. Section 16.1602(e), in turn, requires service of a Notice of Violation to be served in one of the following

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<sup>1</sup> DPZ counsel did not specifically include CE 12-102 (b-2) in its dismissal request, but in light of the evidence before the Hearing Examiner, it, too, is being dismissed.

methods: (1) Personal service; (2) Certified or registered mail, restricted delivery, return receipt requested; (3) First class mail to the last known address of the alleged violator; or (4) When service cannot be obtained by one of these methods, a copy of the notice of violation may be posted in a conspicuous place on the property.<sup>2</sup>

Although DPZ Exhibits 1 and 2 prove the department issued Civil Citations CE 12-102(a-1) and (b-1) in accordance with law, the legal issue here is whether DPZ adequately informed Respondent about which citations were the subject of the hearing. The Hearing Examiner takes notice here that per internal DPZ administrative policy, the case inspector serves notice to alleged violators that a citation hearing has been scheduled. However, no hearing notice as to Civil Citations CE 12-102 (a-1) and (b-1) was introduced into evidence to demonstrate proper notice.

The Hearing Examiner also bases the dismissals on DPZ's February 25, 2014 hearing request memorandum, which includes the two civil citation cover letters for CE 12-102(a-1) and (a-2), and CE 12-102(b-1) and (b-2). Highlighted on the cover letters are the terms "CE 12-102(a-2)" and "CE 12-102(b-2)", which the Hearing Examiner understood to mean, when scheduling the hearing, that DPZ was requesting a hearing on the highlighted citations only.

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<sup>2</sup> DPZ Exhibit 1 is a cover letter for attached Civil Citations CE -12-102 (a-1) & (b-1) issued to Sadeid Haghighat. DPZ Exhibit 2 is a cover letter for attached Civil Citations CE -12-102 (a-2) & (b-2) issued to Molsen Haghighat. Both are dated January 8, 2014.

**ORDER**

It is therefore this **22<sup>nd</sup> day of May 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED** that:

Civil Citations CE 12-102(a-1), CE 12-102(a-2), CE 12-102(b-1) and CE 12-102(b-2) are **DISMISSED**.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



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Michele L. LeFavre

NOTICE TO RESPONDENTS: The 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 final order pending the final resolution of an appeal. Pursuant to Section 16.1610, if a final order of the Hearing Examiner includes a civil fine and the order is appealed to the Board of Appeals, the alleged violator shall post security in the amount of the civil fine to the director in a form acceptable to the Director of Finance. After all appeals are exhausted, if a civil fine is reduced or vacated, the security shall be reduced proportionately; any surplus shall be returned to the alleged violator; and any balance shall be used to satisfy the civil fine; or is not reduced or vacated, the security shall satisfy the fine assessed and accrue to the benefit of the county. Pursuant to Section 16.1611, if a final order issued by a Hearing Examiner assesses a civil fine and the alleged violator does not pay the fine within the time required by the order, the Hearing Examiner shall certify to the Director of Finance the amount owed that shall become a lien on the property on which the violation existed; and be collected in the manner provided for the collection of real estate taxes. Pursuant to Section 16.1612, if an alleged violator fails to comply with an order to correct a violation within the time provided in the order, the county may seek a court order authorizing entry on to the property to correct the violation and may procure the performance of the work by county employees or by contract to correct the violation. The cost and expense of work performed under this section a lien on the property on which the violation exists upon certification to the Director of Finance of the amount owed.

A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the order. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard on the record by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.