

## HOWARD COUNTY BOARD OF APPEALS HEARING EXAMINER

In the Matter of

**JOHN F. SCOTT & LINDA C. SCOTT**

Civil Citation Nos. CE 14-021(a), (b), (c) & (d)

Respondents

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### DECISION AND ORDER

This matter came before the Howard County Board of Appeals Hearing Examiner on September 18, 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 vehicle on NT (New Town) zoned property known as 5456 Thunder Hill Road. On May 27, 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 John E. Scott and Linda C. Scott (Respondents) Howard County Zoning Regulations violation citations. The citations were sent by registered and regular mail to Respondents at 5456 Thunder Hill Road, Columbia MD, 21045 and 4501 Wilkens Avenue, Baltimore, Md. 21229.

Nowelle A. Ghahhari, Assistant County Solicitor, represented the Department of Planning and Zoning (DPZ). DPZ Zoning Regulations Inspector Tamara Frank appeared for the hearing and testified. Respondents 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.

1A. Photograph, red Ford pickup truck, May 20, 2014

- 1B. Photograph, handicap license tag #31391, February 2014 sticker expiration date, photograph taken April 8, 2014
- 1C. Photograph, Inspector Frank's card in door, photograph taken July 1, 2014
- 2. CE 14-021(a) Notice of Violation, April 14, 2014 issued to John E. Scott, mailed to 5456 Thunder Hill Road, Columbia, MD 21045  
CE 14-021(b) Notice of Violation, April 14, 2014, issued to John E. Scott, mailed to 4501 Wilkens Avenue, Baltimore Maryland 21229  
CE 14-021(c) Notice of Violation, April 14, 2014, issued to Linda C. Scott, mailed to 4501 Wilkens Avenue, Baltimore Maryland 21229  
CE 14-021(d) Notice of Violation, April 14, 2014, issued to Linda C. Scott, mailed to 5456 Thunder Hill Road, Columbia, MD 21045
- 3. CE 14-021(a) Civil Citation, May 27, 2014, issued to John E. Scott, mailed to 5456 Thunder Hill Road, Columbia, MD 21045  
CE 14-021(b) Civil Citation, May 27, 2014, issued to John E. Scott, mailed to Wilkens Avenue, Baltimore Maryland 21229  
CE 14-021(c) Civil Citation, May 27, 2014, issued to Linda C. Scott, mailed to 4501 Wilkens Avenue, Baltimore Maryland 21229  
CE 14-021(d) Civil Citation, May 27, 2014, issued to Linda C. Scott, mailed to 5456 Thunder Hill Road, Columbia, MD 21045
- 4A-C. Photographs of red Ford pickup truck, September 17, 2014

### Findings of Fact

1. Zoning Inspector Tamara testified to receiving a complaint on March 13, 2014 about the off-street parking or storage of an unregistered, inoperable or wrecked motor vehicle on the premises. She inspected the property on April 8, 2014 and observed a red Ford pickup truck in the driveway with flat tires and tags that had expired in February 2014. DPZ Exhibit 1B. She left her card at the residence. The card has two notes, "April 8, 2014" and "Please Call." The card was still there at a July 1, 2014 inspection. DPZ Exhibit 1C.

2. Inspector Frank identified Respondents as the property owners of record from the State of Maryland Department of Taxation and Assessments (SDAT) website. On September 16, 2013, she issued Respondents Notices of Violation by certified and regular mail. Notice of

Violations CE 14-021(a) and CE 14-021(d) were mailed to Respondents at 5456 Thunder Hill Road. DPZ Exhibit 2. Because the residence appeared to be vacant and in need of serious repair, the Inspector hypothesized the property owners might be involved in some other type of legal action and so researched the Respondents' names and address on the Maryland Judiciary website. There she found court records indicating the Columbia Association is in current litigation with the Respondents, who had a mailing address of 4501 Wilkens Avenue. She therefore mailed Notice of Violations CE 14-021(b) and CE 14-021(c) to Respondents at 4501 Wilkens Avenue. DPZ Exhibit 2. The notices charged Respondents with the off-street parking or storage of an unregistered, inoperable, wrecked, dismantled, or destroyed motor vehicle on NT (New Town) zoned property in violation of HCZR Sections 125.0.A.7.b and 128.0.D.8. DPZ Exhibit 2. The notice instructs Respondents to correct the violations by registering, tagging, repairing the vehicle, by moving it into the garage or by removing the vehicle from the property within 30 days of the date of the notice of violation. The notices were sent by certified and regular mail. The green certified mail receipts were returned unclaimed. The notices sent by regular mail to the Thunder Hill address were also returned unclaimed.

3. Inspector Frank continued to monitor the Property. On May 27, 2014, she issued Civil Citations to Respondents. Citation Nos. CE 14-021(a) and CE 14-021(d) were mailed to Respondents at 5456 Thunder Hill Road. Citation Nos. CE 14-021(b) and CE 14-021(c) were mailed to Respondents at 4501 Wilkens Avenue. DPZ Exhibit 3. The citations charged Respondents with the continued off-street parking or storage of an unregistered, inoperable, wrecked, dismantled

or destroyed motor vehicles on NT (New Town) zoned property known as 5456 Thunder Hill Road. The citations instructed Respondents to pay a two hundred and fifty dollar fine and to bring the property into compliance before June 11, 2014, with the fine to be dismissed if DPZ confirms the abatement. Respondents neither abated the violations nor requested a hearing. Inspector Frank forwarded the citation to the Hearing Examiner for a hearing. The citations were sent by certified and regular mail. Inspector Frank had the Respondents serviced by a process server, but the Respondents avoided the service of process.

4. Inspector Frank reinspected the premises on September 17, 2014. DPZ Exhibit 4A-D document her observations photographically. The red Ford pick-up truck is visible from the driveway, the right front tire is flat and the tags are expired.

5. The County is requesting a five-hundred dollar fine and an Order directing Respondents to abate the violations by registering, tagging and repairing the vehicle, or by moving it into the garage, or by removing the vehicle from the property within 30 days 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 April 8, May 20 and September 17, 2014 show a red Ford pickup truck in the same location with expired tags and a flat tire.

HCZR Section 125.0.A.7.b states "[t]he off-street parking requirements of Section 133.0 of

these Regulations shall be applicable. Section 133.0 regulates the type and location of off-street parking for residential lots. 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.<sup>1</sup> It is clear from the photographs in evidence that Respondent is storing an unregistered and/or dismantled/inoperable vehicle on the Property. This vehicle is visible at ground level from the public street right-of-way, as the numerous photographs demonstrate. Respondents are also ineligible for any exception under Section 128.0.D.8.

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<sup>1</sup> 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 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 **12<sup>th</sup> day of October 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED** that a civil fine be imposed in the amount of five hundred dollars.<sup>2</sup>

Respondents John E. Scott and Linda C. Scott are **FURTHER ORDERED** to pay the fine within thirty calendar days of the date of this Order.

It is **FURTHER ORDERED** that Respondents John E. Scott and Linda C. Scott register/tag the vehicle, repair it and demonstrate to Inspector Frank that the vehicle is operable, or move it into the garage, or remove the vehicle from the property within 30 calendar days of this Order. The five hundred dollar fee shall be waived if Respondents comply with this Order.

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 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;

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<sup>2</sup> 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.

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.