

IN THE MATTER OF  
RICHARD AND MONICA LEVINE  
- LEGAL OWNERS

976 Western Road  
Hunt Valley, Maryland

8<sup>th</sup> ELECTION DISTRICT  
3<sup>rd</sup> COUNCILMANIC DISTRICT

RE: CIVIL CITATION #CO0087736

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case Nos. CBA-11-016

\* \* \* \* \*

**OPINION**

This matter comes before the Board of Appeals as the result of an appeal filed in the above captioned matter by Ariel and Patricia Dahan the owners of a parcel of land located adjacent to 976 Western Road. The Dahans attempted to appeal what they termed as a decision of the Department of Permits and Development Management (now known as Permits, Approvals and Inspections (PAI)) and “various decisions, actions and inactions of PIA and Code Enforcement, with respect to violations of the Baltimore County Zoning Regulation (BCZR) Section 1A03.5F, on 976 Western Road, Hunt Valley, MD 21030.

The matter was scheduled for a hearing before this Board on March 29, 2011. Prior to the scheduled hearing in this matter, the Baltimore County Office of Law filed a Motion to Dismiss the appeal based on the grounds that the Dahans lacked standing to bring this appeal and, in the alternative, that the appeal was untimely.

The scheduled hearing on March 29, 2011 was amended for argument only on the Motion to Dismiss. On March 29, 2011 a hearing was held at which time the Board considered the arguments of the parties and accepted evidence in this matter with regard to the Motion to Dismiss only. Baltimore County was represented by Adam M. Rosenblatt, Assistant County Attorney and Appellants, Ariel and Patricia Dahan appeared *pro se*. After hearing arguments by

the parties, the Board reviewed the file and publicly deliberated the Motion to Dismiss on Thursday, April 14, 2011.

### HISTORY

This matter arises as a dispute between Baltimore County and Richard and Monika Levine concerning the proposed site preparation and construction of a house to be built on 976 Western Road. From the testimony, it appears that the Levines were issued a building permit by Baltimore County for the construction of a private residence. The proposed construction necessitated compliance with various county ordinances and zoning regulations.

There came a time when the Levines apparently violated Baltimore County Zoning Regulation 1A03.5 (f) which limits the area for clearing and grading for a residential lot to 20,000 square feet. It appears from the testimony that the Levines cleared an area of approximately 37,000+/- square feet. Baltimore County issued a “stop work” order initiated by the Department of Environmental Protection and Resource Management (DEPRM) in August 2010. The “stop work” order was appealed by the Levines to DEPRM. A final decision on the appeal has not been issued.

### HEARING ON THE MOTION TO DISMISS

The Baltimore County Office of Law, through its counsel, argued that the instant matter is based upon a code enforcement case brought by Baltimore County against the Levines as owners of the subject property. Counsel for Baltimore County advised the Board that the procedure for appealing a code enforcement matter is contained in Section 3-6-301 of the *Baltimore County Code* (BCC), which contains the following language:

Within 15 days after a final order issued under Section 3-6-206(g) of this title at the conclusion of a code enforcement hearing, a violator or the county may appeal the final order to the Board of Appeals.

Counsel for the County argued that the language of the statute is clear on its face and based upon the statute, the Dahans are clearly not a violator(s), nor obviously the County.

The second argument of counsel for the County was that there is no “final order” as contemplated by the statute above from which an appeal could be taken. Counsel argued that the obvious precursor to an appeal of a code enforcement action to the Board is the issuance of a final order under *Baltimore County Code* Section 3-6-206(g). In this matter, the dispute between the Levines and Baltimore County is pending before the Office of Administrative Hearings, according to counsel.

The Dahans represented by Mrs. Patricia Dahan, Esquire, who argued that the appeal was proper based upon her interpretation of Baltimore County Zoning Regulation 500.6 and the *Baltimore County Code* §32-3-301. Mrs. Dahan presented to the Board a series of events which she claims constituted a failure on the part of the Department of Permits and Development Management (now known as Permits, Approvals and Inspections (PAI) to properly pursue remediation of the situation involving Baltimore County and the Levines as mentioned above. In essence the Dahans claim that they have been left out of the loop during the process involving this situation.

#### ISSUE

**Can a property owner file an appeal with the Board of Appeals based upon alleged failures of a county agency to properly perform its administrative duties?**

#### DECISION

The Board holds that the instant situation cannot be appealed at this point in time.

The procedure identified by Counsel for Baltimore County for the appeal of a code enforcement citation by its words limits the right of appeal to the “county” or a” violator”. The Board finds no legal authority vested in it to address alleged administrative failure of a County Agency, such as those put forth

by the Dahans. Moreover, the legal authority cited by the Dahans in their argument is not applicable to the facts of the instant matter before the Board. Based upon the circumstances of this case, the Board will dismiss the appeal.

**ORDER**

**THEREFORE, IT IS THIS** 11<sup>th</sup> day of May, 2011 by the

Board of Appeals of Baltimore County

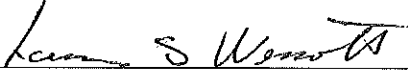
**ORDERED** that Baltimore County's Motion to Dismiss be and the same is hereby

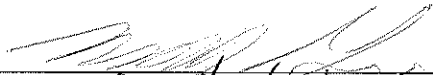
**GRANTED**; and it is further

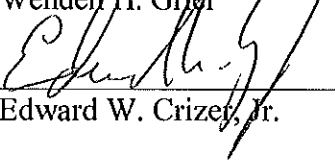
**ORDERED** that the appeal of Ariel and Patricia Dahan, filed in Case No.: CBA-11-016 is **DISMISSED**.

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**

  
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Lawrence S. Wescott, Chairman

  
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Wendell H. Grier

  
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Edward W. Crizey, Jr.