

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Administrative Appeals

June 30, 2023

Petitioner: Richard Stefan

Appeal No.: AA-1759

Subject Property: Lot 12, Block I; Glenridge Subdivision being 7252 Glenridge Drive, Hyattsville, Prince George's County, Maryland.

Counsel for Petitioner: Walter W. Green, Esq., Law Offices of Green Law, P.C.

Counsel for Prince George's County Department of Permitting, Inspections, and Enforcement (DPIE):
Angela Beasley, Esq.

Witness: Tony Best, Supervisor, Inspector, Department of Permitting, Inspections and Enforcement
Anderson De Castro, Inspector, Department of Permitting, Inspection and Enforcement

Action by the Board: June 14, 2023

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Carl Isler, Member
Teia Hill, Member
Renee Alston, Member

Board Member Absent: Anastasia Johnson

RESOLUTION

This appeal was filed with the Board of Appeals for Prince George's County, Maryland, sitting as the Board of Administrative Appeals, from the determination of the Department of Permitting, Inspections and Enforcement, (DPIE), Enforcement Division to issue Violation Notice CSD No. 22-000-43170, dated November 28, 2022, citing Petitioners with violating Housing Code Section 13-118 (a); International Property Maintenance Code (2018) Section 301.1 which establishes that exterior property area shall not be used for open storage of items to include but not limited to rubbish, garbage, building materials and/or any other items not approved by County Code. Consequently, the owner must act immediately to remediate the situation. Those items cited above must be removed to protect the community. It is imperative to maintain the area very clean and in good sanitary conditions on Residential, Single-Family-Attached (RSF-A) Zoned, property located at 7252 Glenridge Drive, Hyattsville, Prince George's County, Maryland.

This case was originally heard on March 8, 2023.

1. Mr. Water Green, Counsel for the Petitioner, noted that he will be representing the Petitioner, Mr. Richard Stefan, who is present in his office. One notation he wishes to make regarding the presentation of this case is that the violation noted on the Notice of Hearing states Housing Code Section 13-118 (a); International Property Maintech Code Section 301.1; and should be 302.1 as noted on the Violation Notice. Exhibits (Exhs). 2 and 7.

2. Counsel Green noted that there is no violation of the Prince George's County Code. The violation is supposedly concerning a couple of ladders that Mr. Stefan has on his property. They are stored in his backyard which is fenced. No one else is permitted to go back there or it would be considered trespassing. The Section that is cited, Section 13-118 (a) and 302.1 of the International Property Maintenance Code have nothing to do with the storage of ladders. Inspector De Castro did have some communications with an assistant in my office, Ms. Crabtree, and he confirmed that the only issue that concerned this particular violation was ladders. Additionally, section 13-118 (a)¹ notes that "sanitation" is defined as all exterior

¹ Sec. 13-118. - General Requirements; Section 302, Exterior Property Areas. (a)

property and premises shall be maintained in a clean, safe, and sanitary condition. There is no allegation that the manner that a couple of ladders were stacked on Mr. Stefan's property, was that they are unclean, unsafe, or unsanitary. Furthermore, keeping the exterior property in a clean and sanitary condition is not related to ladders that are not kept in an unclean, unsafe, or unsanitary environment. As far as open storage, there is a laundry list that is here in the County Code and what it states is that except as otherwise specifically authorized by law, the open storage on residential property of any household appliance, motor vehicle parts, building materials, furniture, leaves, dead trees, garbage, rubbish or similar items or materials, or residue therefrom, is prohibited, regardless of age or condition. Ladders do not fall within any of those items. There is no violation here. What this comes down to is that Mr. Stefan is being harassed continuously by the next-door neighbor. Unfortunately, the Inspectors of Dpie do not exercise any deference at all. They listen to the neighbors and issue violations. In this particular instance, there is no basis for a violation. All the Violation Notice says that it is being used to open storage of items, including but not limited to, rubbish, garbage, building materials and/or any other items not approved by the County Code. There is no prohibition on having a ladder or more than one ladder in your secured backyard.

3. Inspector Anderson De Castro testified that the initial contact, Mr. Green is correct, all he was able to see were ladders. He was not able to get a good look at the whole backyard. At first contact, that is what he did see, but coming back prior to today's date, on March 7, 2023, he was able to go back to take more pictures.

4. Mr. Green objected to anything outside of this violation. There was a violation issued in November. It was appealed and that is what we are dealing with. And now what is happening is exactly what the problem has been with Dpie. He should not be telling anything except what happened in November. He is trying to create a new violation today to skew what happened in November. His testimony is irrelevant. His objections are on the record.

5. Inspector De Castro, continued that there has been a history of open storage. When he saw the ladders, he did not think it was a huge issue, but again, with the history of not being able to access the backyard, Mr. Stefan has it blocked off. He believes that the ladders fall under the items of building materials. Mr. De Castro advised Ms. Crabtree (Mr. Green's assistant) that the Petitioner does need to get rid of them. Mr. De Castro issued only a violation notice to give the Petitioner time to take care of the ladders. He has made an attempt to clean.

6. Mr. Davis questioned if the County had any representation in this matter.

7. Inspector De Castro clarified that the original violation was issued on November 28, 2022. The violation then was open storage. Mr. De Castro did submit photos back in November 2022, but also submitted photos that were taken on June 13, 2023. The ladders were in the same area from November 2022. The ladders are considered to be building materials. It would not be an issue if the ladders were in a shed or an interior space. A time span of 30 days is provided to abate the issues.

8. Mr. Green questioned Inspector De Castro regarding contacting Ms. Crabtree, and stated that on November 28, 2022, the ladders were the only issue, correct? Mr. De Castro stated yes, that is all he saw. Mr. Green wished to verify with Inspector De Castro that the violation was only the ladders, correct? Mr. De Castro responded, yes. He further questioned that Inspector De Castro opined that ladders are considered building materials. His response is yes, ladders are considered building materials. Mr. Green further questioned Inspector De Castro in regard to what building materials are, for example, items that go into creating a building, such as bricks, wood, concrete, steel, clay, and metal. Is it your position that equipment that is used to build something is now considered building materials? Inspector De Castro

Section 302.1 is amended to read as follows:

"302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property which such occupancy occupies or controls in a clean and sanitary condition. Except as otherwise specifically authorized by law, the open storage on residential property of any household appliance, motor vehicle parts, building materials, furniture, weeds, dead trees, garbage, rubbish, or similar items or materials, or residue therefrom, is prohibited, regardless of age or condition."

responded yes. Mr. Green questioned where in the code would a ladder be considered a “building material”? Inspector De Castro stated that it is not defined, it is up to interpretation.

9. Inspector Best responded to the Chair in regard to whether ladders are “building materials.” Inspector Best stated that the issue is “open storage.” Period. It doesn’t matter what it is. Section 13-118(a) states that you cannot “store” materials in your backyard, doesn’t matter how many, doesn’t matter if it’s fenced off. The main issue is the open storage. As read in the beginning, it is not limited. It is a wide variety of things. You cannot store anything in your yard. Anything that is not designed to be outside in your yard, other than things such as outdoor furniture, a grill, etc. You simply cannot store it outside. Focus on “storage”. It does not matter what that item is. The point is, it does not matter that it is ladders, it doesn’t matter what it is. You cannot “store” any item outside unless it is meant to be outside, again such as a grill or outside furniture.

10. Mr. Green completely disagreed with Mr. Best interpretation of Section 13-118 (a).

11. Madam Chair made the motion to hold the record open to obtain technical assistance to evaluate this issue. The motion was seconded. Motion carried 4/0.

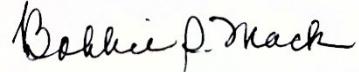
The Discussion/Decision case was held open on March 22, 2023, for technical assistance by and through the Board Attorney and staff attorney. Motion carried 4/0.

The Discussion/Decision case was held open again on April 5, 2023, for technical assistance by and through the Board Attorney and Staff Attorney. Motion carried 4/0.

The Discussion/Decision case was rescheduled for June 14, 2023, where the technical assistance from the Board and Staff Attorney found that the statute under County Code section 13-118 (a) concerning open storage, the County has been consistent in regard to open storage and what you can and cannot have and the manner in which it can be stored therefore, being consistent with the code.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Anastasia Johnson absent, that the determination of the Department of Permitting, Inspections, and Enforcement, Inspections Division, be **AFFIRMED**.

BOARD OF ADMINISTRATIVE APPEALS



By:

Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By: Ellis Watson

Ellis Watson, Esq.

cc: Petitioner
DPIE/Inspections Division
Office of Law

Signature: Ellis F. Watson
Ellis F. Watson (Oct 6, 2023 14:22 EDT)

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