

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
One Judiciary Square
441 4th Street, NW
Washington, DC 20001-2714

DISTRICT OF COLUMBIA
DEPARTMENT OF PUBLIC WORKS

Petitioner,

v.

RUFUS LITTLEJOHN
Respondent

Case No.: 2012-DPW-K502686
2012-DPW-K502712
2012-DPW-K506369
2012-DPW-K506370

FINAL ORDER

I. Introduction

Based on his plea of Admit with Explanation, this Order concludes that Respondent violated 21 DCMR 700.3, 24 DCMR 102.1, and 21 DCMR 702.1, as charged by the Department of Public Works (“DPW”). However, due to mitigating circumstances present in the case, the total fine for the three violations is reduced to \$200.

II. Procedural Background

The Notices of Violation in these four consolidated cases charged the following violations and sought the fines listed:

1. K502686 - violation of 21 DCMR 700.3 for improper storage of solid waste at 441 Mellon Street, SE on 12/02/2011- \$150 fine
2. K502712 – 21 DCMR 700.3 – improper storage of solid waste – at 449 Mellon Street SE on 12/06/2011- \$150 fine
3. K506369 – violation of 24 DCMR 102.1 for failure to maintain public parking at 441 Mellon Street S.E. on 12/14/2011 - \$150 fine
4. K506370 – violation of 21 DCMR 702.1 for failing to maintain abutting public space at 449 Mellon Street, S.E. on 12/14/2011- \$150

Respondent filed an answer with a plea of Deny in each of these cases. I held a hearing on March 26, 2012. Katherine Shelton, the inspector who issued the first two Notices of violation, and Harold Davis, the inspector who issued the second two Notices of Violation, represented DPW at the hearing. Rufus Littlejohn appeared on his own behalf. Anthony Jenkins, property manager with Anacostia River Realty, and Patrinia Jordan, a tenant at 449 Mellon Street S.E., testified on behalf of Respondent.

At the hearing, Inspector Shelton moved to dismiss Case No. 2012-DPW-K502686 as the Notice of Violation in that case was issued in error, since she intended to issue a warning. That motion was granted. After alternative pleas were explained, Respondent changed his plea to Admit with Explanation in the remaining three cases. Based on the testimony of the witnesses, my evaluation of their credibility and the exhibits admitted into evidence, I now make the following findings of fact and conclusions of law.

III. Findings of Fact

Respondent is the owner of the properties at 441 and 449 Mellon Street, S.E., where the violations were alleged to have occurred. There is a four-unit apartment building located at each property. By virtue of his plea of Admit with Explanation, Respondent has admitted the violations charged, as described in items 2-4 above.

Respondent has had difficulty with controlling trash and debris deposited on the properties by passers-by and individuals loitering on the properties. In December 2011, Respondent hired Anacostia River Realty as property manager for the properties. The firm has instituted a program of weekly clean-ups at the properties to control the accumulation of trash and debris. As recommended by Inspector Davis, the firm will institute twice-weekly clean-ups to prevent the accumulation of trash. In

addition, Respondent has obtained trash cans with covered lids to replace the plastic bags previously used in the front yards of the properties. Respondent's Exhibit 203-204.

IV. Conclusions of Law

DPW charged Respondent with violating the following three regulations:

21 DCMR 700.3 All solid waste shall be stored and containerized for collection in a manner that will not provide food, harborage, or breeding places for insects or rodents, or create a nuisance or fire hazard.

24 DCMR 102.1 The public parking on streets and avenues of the District of Columbia shall be under the immediate care and keeping of the owners or occupants of the premises abutting on the public parking.

21 DCMR 702.1 Except as provided in § 702.2, each owner, tenant, or lessee (or the agent of that person) who has control of or occupies any building, lot, or land within the District shall maintain in clean condition the public space from the property line of that building, lot, or land and extending eighteen inches (18 in.) from the curb line (or the lateral lines of the roadway) into the abutting roadway.

Respondent's plea of Admit with Explanation establishes that he violated each of these regulations, as charged in the Notice of Violation.

The Council of the District of Columbia has prescribed a fine of \$150 for each first violation of 21 DCMR 700.3, 24 DCMR 102.1, and 21 DCMR 702.1 in a sixty day period by a commercial establishment. 24 DCMR 1380.2. Thus, the authorized fines for the three violations charged in these cases total \$450.

This administrative court may suspend or reduce a fine when there are mitigating factors in a case. D.C. Official Code §8-808(b)(5). In this case, Respondent has accepted responsibility for the violations by virtue of his plea of Admit with Explanation. In addition, Respondent has taken corrective action by obtaining covered trash cans and retaining a property management firm that has instituted a program of weekly removal of trash from the properties. Also, Respondent plans to

increase the frequency of trash removal to twice weekly to prevent accumulations. In light of these mitigating factors, the total fine for the three violations will be reduced to \$200.

V. Order

Based on the foregoing findings of fact and conclusions of law, it is, this 29th day of March, 2012:

ORDERED, that Respondent must pay a fine of **TWO HUNDRED DOLLARS (\$200)** in accordance with the instructions below within 35 days of the mailing date of this Order (30 days plus 5 days service time pursuant to D.C. Official Code § 8-807(h)(1) and 1 DCMR 2811.5); and it is further

ORDERED, that if Respondent fails to pay the above amount in full within 35 days of the date of mailing of this Order, interest shall accrue on the unpaid amount at the rate of 1½ % per month or portion thereof, starting 35 days from the mailing date of this Order, pursuant to D.C. Official Code § 8-807(h)(1) and 24 DCMR 1312.7; and it is further

ORDERED, that failure to pay within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Official Code § 8-807(d-1), and the placement of a lien on its real and personal property pursuant to D.C. Official Code § 8-807(f); and it is further

ORDERED, the appeal and reconsideration rights of any party appear below.

Mary Masulla
Administrative Law Judge