



Department of Land Use

## **NEW CASTLE COUNTY CODE OFFICIAL NOTICE OF RULE TO SHOW CAUSE DECISION**

**RESPONDENT(S):  
GARY STAFFIERI & ADRIA CHARLES  
100 SACKVILLE MILLS LA  
WALLINGFORD, PA 19086**

<b>VIOLATION NOTICE DATE:</b>	<b>SEPTEMBER 17, 2013</b>	<b>CASE #:</b>	<b>201307544</b>
<b>LOCATION OF CODE VIOLATION:</b>	<b>1707 CONCORD PIKE</b>	<b>PARCEL #:</b>	<b>06-100.00-086</b>
<b>DATE OF RULE TO SHOW CAUSE HEARING:</b>	<b>OCTOBER 1, 2013</b>	<b>DATE OF DECISION:</b>	<b>OCTOBER 2, 2013</b>

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A Rule to Show Cause (RTSC) Hearing was conducted on October 1, 2013, affording the Respondent(s) an opportunity to provide testimony regarding the Violation Notice issued on September 17, 2013 attached hereto and incorporated by reference. The hearing was held in the White Clay Room at 1:19 p.m. The following individuals were present:

D. Reed Macmillan	Administrative Hearing Officer
Tracey Ginn	Acting Administrative Aide
Chris Yasik	NCC Code Enforcement Officer (CEO)
Gary Staffieri & Adria Charles	Respondent ( <b>did not show</b> )

**FACTS:**

1. Mr. Macmillan would have given a brief description of the Administrative Hearing process and the appeal process regarding any directive resulting from the hearing, but this was not necessary as no one appeared for the hearing. Mr. Macmillan referred to the Violation Notice issued on September 17, 2013, and confirmed the address of record had been used for the Respondent and no mail was returned as undeliverable. There was an introduction of the hearing attendees.
2. Officer Chris Yasik was asked by Mr. Macmillan to explain the origins of this case. The following is a brief synopsis of his testimony:

Officer Yasik indicated that New Castle County received an electronic mail complaint on September 13, 2013 regarding possible sign code violations at 1707 Concord Pike. Officer Yasik continued to explain that he conducted a site inspection on September 14, 2013 and observed a banner advertising window tinting along with a free-standing sign. Officer Yasik continued to explain that he drafted and sent out a September 17, 2013 Violation Notice requiring the property owners to correct the two code violations (window tinting banner sign and a 2002 Lexus ES200 posted for sale) by September 29, 2013. Officer Yasik continued to explain that a previous Violation Notice for prohibited signs (NCC Code Chapter 40, Section 40.06.040E8) was issued to the property owners on March 22, 2013 and they were required to correct the code violation by April 4, 2013. Officer Yasik explained that they moved the sign into the Delaware Department of Transportation (DELDOT) right-of-way prior to April 4, 2013 and he thought this

was now a DELDOT violation. Officer Yasik continued to explain that the property owners moved the sign again from the DELDOT right-of-way back onto their property and submitted photographs of this violation dated September 30, 2013 when he re-inspected the property. Officer Yasik continued to explain that regarding the second code violation depicted in the September 17, 2013 Violation Notice regarding the sale of motor vehicles, he first issued a Violation Notice for this on May 20, 2013 and required the violation to be corrected by June 2, 2013. Officer Yasik indicated that he observed a vehicle for sale on September 14, 2013. NOTE: Photos submitted into the record did not show a vehicle for sale on the property as of September 30, 2013.

3. Gary Staffieri & Adria Charles, the Respondents, would have been asked by Mr. Macmillan to provide testimony on this case; however no one appeared for the hearing.

#### **FINDINGS:**

1. Regarding Case #201307544, the September 17, 2013 Violation Notice was sent as required by Chapter 40; Section 40.31.910, A.
2. The Respondents have approval for a 3' X 8' wall sign which reads, "202 Auto Spa" which was installed under permit number 201307528 and received the Certificate of Occupancy on June 20, 2013.
3. Regarding Violation #1 in the September 17, 2013 Violation Notice, New Castle County Code Chapter 40, Section 40.06.020 provides definitions of signs and specifically, "*Ground sign* means a detached sign which shall include any sign supported by uprights, pylons, poles or braces placed upon or in or supported by the ground and not attached to any building." The Window Tinting sign appears to meet some of these requirements except the sign itself is a banner sign which is affixed to two poles in the ground. Furthermore, Section 40.06.040, E depicts prohibited signs and subsection 8 states, "Flags, banners or twirling, A-type, sandwich type, sidewalk or curb signs and balloons or other air- or gas-filled figures." Pictures submitted by Officer Yasik clearly depict a banner sign affixed to two metal poles and a free-standing/moveable sign. The free-standing sign in the photograph which depicts a phone number and types of auto detailing would be considered a ground sign; however, it would still require a permit and cannot be moved around the lot. Furthermore, Section 40.06.060, 3 states that three types of signs are permitted in C-1 (or CN) Zoning Districts: Wall Sign; Ground Sign; and Marquee Sign. All three types of signs require a sign permit as specified in NCC Code, Chapter 40, Section 40.06.050, D. There is only one wall sign for this property which has a sign permit on file with New Castle County. The banner type and moveable signs as depicted in the September 30, 2013 photos submitted by Officer Yasik **appear to have no sign permits on file** which is a code violation. Therefore, the Respondents are responsible for this code violation.
4. Regarding Violation #2 in the September 17, 2013 Violation Notice, New Castle County Code Chapter 40, Section 40.03.440, A reads, "The display of a motor vehicle for sale is prohibited by this Article at any location except at a private residence where no more than one (1) motor vehicle, owned by a resident of such private residence, may be displayed for sale at one time, or **in zoning districts properly zoned for motor vehicle sales** so long as the property owner or tenant is properly licensed for such sales. However, in all cases, the display of such motor vehicles for sale in any public right-of-way is prohibited." Auto vehicles sales **is not listed as a permitted use** as depicted in table 40.04.11A for Commercial Neighborhood (CN) zoned properties. However, the photographic evidence submitted by the Code Officer did not show any vehicle for sale during the September 30, 2013 site inspection. Therefore, evidence does not support that the Respondents are responsible for violation #2 as depicted in the September 17, 2013. However, the Respondents are now noticed that auto sales are not permitted in CN Zoning Districts.
5. After listening to the testimony from Officer Yasik, I find the Respondent responsible for violation #1 as depicted in the September 17, 2013 Violation Notice.
6. A review of the Hansen files shows the property owners as having 10 previous code violation cases and thus, is familiar with the administrative enforcement process. As such, after being found responsible for one of the code violations in this case, the \$300.00 Rule to Show Cause Hearing Fee is assessed.

**DIRECTIVES:**

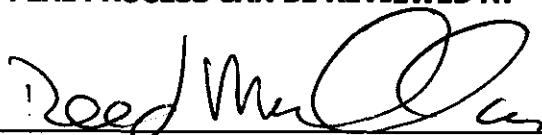
1. Based on the evidence, the Respondents are found responsible for the violations. The \$300.00 Rule to Show Cause Hearing Fee (per NCC Code Chapter 6, Appendix 4) **is assessed**, pending the completion of the following directives:
  - a. Pay the \$300.00 RTSC Hearing Fee no later than **October 30, 2013**;
  - b. Correct Violation #1 as depicted in the September 17, 2013 Violation Notice no later than **October 30, 2013**.
2. Should the Respondents not meet any of the timelines listed in 1 a-b above, the Respondents will have been considered to have allowed the violations to continue and will be **assessed \$100.00 per day beginning on October 31, 2013, until** the code violations are cleared (NCC Code Chapter 40, Section 40.31.920, A, 3, c).
3. Should the Respondents not comply with the above-stated directives by the stated timelines, the Respondent will have been considered to have allowed the violations to continue and New Castle County may:
  - a. Forward this case to the New Castle County Law Department (per NCC Code Chapter 40, Section 40.31.920, C) for the appropriate proceeding at law,
  - b. Forward this case to the Code Official (per NCC Code Chapter 40, Section 40.31.920, A, 3, a) for a "good standing" review, and
  - c. Initiate remedial action to remedy the code violations (per NCC Code Chapter 40, Section 40.31.920, A, 3, b).
4. Officer Chris Yasik (302-395-5088, cyasik@nccde.org) is the contact for information and guidance.

**FAILURE TO COMPLY WITH THIS DIRECTIVE WILL RESULT IN NEW CASTLE COUNTY TAKING ANY ONE OF THE ENFORCEMENT MECHANISMS OUTLINED IN NEW CASTLE COUNTY CODE, CHAPTER 6, SECTION 6-11.002, CHAPTER 7, SECTION PM 106.3 ET SEQ., CHAPTER 12, SECTION 12.08.001 ET. SEQ. OR CHAPTER 40, DIVISION 40.31.900 OF THE NEW CASTLE COUNTY CODE.**

**THIS DECISION MAY AFFECT FUTURE LAND USE APPLICATIONS PURSUANT TO NEW CASTLE COUNTY CODE, CHAPTER 40, SECTION 40.31.901.**

**YOU MAY APPEAL THIS DECISION PURSUANT TO NEW CASTLE COUNTY CODE, CHAPTER 6, SECTION 6-11.003; CHAPTER 7, SECTION PM 106.3.1.5; CHAPTER 12, SECTION 12.08.006; OR CHAPTER 40, SECTION 40.31.510.**

**DETAILS OF THE NEW CASTLE COUNTY CODE AND APPEAL PROCESS CAN BE REVIEWED AT [WWW.NCCDELU.ORG](http://WWW.NCCDELU.ORG).**

  
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D. Reed Macmillan  
Administrative Hearing Officer

cc: Chris Yasik  
Case File