

CHELAN COUNTY

DEPARTMENT OF HEARING EXAMINER

316 WASHINGTON STREET, SUITE 301
WENATCHEE, WASHINGTON 98801

BEFORE THE CHELAN COUNTY HEARING EXAMINER

IN THE MATTER OF:

AA 2021-509

Millbay Beach - Neuman

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FINDINGS OF FACT,

CONCLUSIONS OF LAW AND

DECISION ON

ADMINISTRATIVE APPEAL

I. FINDINGS OF FACT

1. A request for an Administrative Appeal was submitted to appeal the denial of a short-term rental permit as an existing non-conforming short-term rental.
2. The Appellant is David R Neuman, 25 Harris Row, Manson, WA.
3. The subject property is currently used as an unpermitted short-term rental legally described as Millbay Beach Lot 13, Planned Dev. P432-B Dock Slip D 0.2800 Acres. The tax parcel is 28-22-31-691-130 and it is zoned Urban Residential (UR1). The previous owner had held a vacation rental (VR) permit which expired December 31, 2018, and was not renewed by that owner nor applied for by the current owner.
4. The applicant submitted an Existing Non-Conforming Short-Term Rental Application on October 19, 2021 to continue use as a short-term rental. The Applicant submitted further supporting documents on October 20, 2021. On October 20, 2021, it was found by Chelan County Community Development that the applicant did not hold a VR permit in the relevant time frame.
5. Code 11.88.290 Subsection (2)(E)(i)(f) states that if in Manson, the short-term rental was to have been properly registered as a vacation rental with Chelan County per CCC 11.23.040 as of August 25, 2020, or that the short-term rental owner held a vacation rental permit in the Manson UGA as of July 28, 2019, or in 2020, prior to August 25, 2020. On October 20, 2021, Chelan County Community Development denied the permit as ineligible for application status.
6. A letter of denial was sent to applicant October 20, 2021 citing Chelan County Code (CCC) (2)(E)(i)(f), 'If located inside the Manson Urban Growth Area, documentary evidence that the short-term rental was properly registered as a vacation rental with Chelan County per CCC 11.23.040 as of August 25, 2020, or that the short-term rental owner held a vacation rental permit in the Manson UGA as of July 28, 2019, or in 2020, prior to August 25, 2020. This documentary evidence also satisfies the requirements found in (2)(E)(i)(a) above provided

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failure to accurately represent and disclose a property's short-term rental history is grounds for immediate permit denial or revocation, and loss of all existing non-conforming status.

7. On November 1, 2021, the administrative appeal (AA-21-509) was filed with Chelan County Community Development with the associated application fees.
8. Chelan County Code Section 14.12.010: Administrative appeals.
 - 8.1 An administrative appeal to the hearing examiner shall be filed with the department within ten working days of the issuance of the decision appealed, together with the applicable appeal fee.
 - 8.2 The notice of appeal shall contain a concise statement identifying:
 - 8.2.1 The decision being appealed; (B) The name and address of the appellant and his/her interest(s) in the application or proposed development; (C) The specific reasons why the appellant believes the decision to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision is erroneous; (D) The specific relief sought by the appellant; (E) The appeal fee.
9. After due legal notice, an open record public hearing was held via Zoom video conference on January 19, 2022.
10. Admitted into the record were the following:
 - 10.1 Denial letter of permit application for Existing Non-Conforming Short-Term Rental dated October 20, 2021;
 - 10.2 The AA 21-509 Application and Appeal Materials;
 - 10.3 The File of Record.
11. Appearing and testifying was David Neuman. Mr. Neuman testified that he was an airline pilot and that he bought the subject property to be his retirement residence. In the meantime, he planned on using the property as a vacation rental. He was advised by the prior owner that the prior owner had used the property as a vacation rental. Mr. Neuman, according to his written materials and testimony at the hearing, indicated that he hired a private company in order to manage this vacation rental and to obtain all the permits. It's clear that this private company failed to obtain the required permits to allow Mr. Neuman to continue to legally operate this vacation rental with all of the proper permitting. Although Mr. Neuman testified that he had paid substantial taxes on the rental, and although he was unaware that proper permitting had not been obtained, once he learned of the permitting deficiency, he attempted to remedy the situation.
12. The Hearing Examiner finds that the proper vacation rental permits were not obtained within the timeframe set forth in the Chelan County Code, therefore, the denial of the Applicant's request for a new Short Term Rental permit was proper. The Hearing Examiner would note that there is no evidence to demonstrate that Mr. Neuman was anything other than an innocent party in this unfortunate situation. Mr. Neuman hired what he believed to be reputable companies to manage the permitting and running of the vacation rental. Those companies, apparently, did not fulfill their obligations. Nonetheless, this is not a defense available to Mr. Neuman to allow him to circumvent the requirement to obtain a new Short Term Rental permit.

13. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this Decision.
2. Pursuant to Chelan County Code Section 11.88.290 (2)(E)(iii), Non-conforming short-term rental units in the Manson UGA: Where a short-term rental is located in the Manson UGA, only those short-term rentals that were properly registered as a vacation rental and meet criteria in Subsection (2)(E)(i), shall be considered legal non-conforming according to Chapter 11.88.290 CCC, provided the short-term rental is allowed a grace period of operation in which to fully attain compliance with all current rental standards as provided in Subsection (2)(E)(i).
3. The Applicant/Appellant is not eligible for a new Short Term Rental permit because he failed to prove the required criteria to make him eligible to receive this permit.
4. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

III. DECISION

WHEREFORE, based upon the above Findings of Fact and Conclusions of Law, the Hearing Examiner finds that the denial dated October 20, 2021 is hereby **UPHELD** based on the fact the Applicant did not qualify for this status based on CCC 11.88.290 and his non-compliance with obtaining the required Vacation Rental permit in Manson to operate legally.

Dated this 20th day of January, 2022.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

This decision is subject to appeal pursuant to the Chelan County Code. Appeals must be timely filed. Anyone considering an appeal of this decision should seek immediate legal advice.