

CHELAN COUNTY

DEPARTMENT OF HEARING EXAMINER

**316 WASHINGTON STREET, SUITE 301
WENATCHEE, WASHINGTON 98801**

BEFORE THE CHELAN COUNTY HEARING EXAMINER

IN THE MATTER OF:)	FINDINGS OF FACT,
AA 2022-184)	CONCLUSIONS OF LAW AND
Misenar Holdings, Inc.)	DECISION ON
)	ADMINISTRATIVE APPEAL

I. FINDINGS OF FACT

1. The Applicant submitted an Administrative Appeal of the denial of a short-term rental permit application as an existing non-conforming short-term rental.
2. The Appellant/owner is Misenar Holdings, Inc., c/o Robert Misenar, 4721 127th Ave E, Edgewood, WA 98372.
3. The subject property was most recently used as a non-conforming short-term rental. The legal description is MANSON BLOCK 2 LOT 6 LOTS 6-7 0.1100 ACRES. The Parcel No. is 28 21 35 696 045 and the zoning district is Commercial Downtown (CD). The address is 124 Wapato Way, Manson, WA 98831.
4. The Applicant submitted an Existing Non-Conforming Short-Term Rental Application on December 1, 2021 to continue use as a short-term rental. The Applicant was denied the permit as he did not meet criteria for the classification.
5. The building applied for is located at 124 Wapato Way, Manson, WA 98831. There is a secondary building on the parcel that was permitted to be built as a storage building. The use was changed to an Accessory Dwelling Unit which per the Manson UGA District Use Chart in CCC 11.23.030, are not allowed in the CD zone in the Manson UGA. In addition, this is the secondary dwelling on the parcel and per 11.88.200 (5), the property owner (which shall include title holders and contract purchasers) is required to occupy either the primary unit or the accessory unit as their permanent residence. The address listed for the Misenar's is 4721 127th Ave E, Edgewood, WA 98372.
6. The property in question is located at 124 Wapato Way, Manson, WA 98831
7. On December 1, 2021, application materials for a Tier 1 owner occupied Short-Term Rental were received.

8. On April 6, 2022, a letter of denial was sent to applicant based on the fact that the secondary building on the parcel was permitted as a storage building then the use was changed to an Accessory Dwelling Unit which is not allowed in the CD zone of the Manson UGA.
9. On April 12, 2022, the administrative appeal (AA-22-184) was filed with Chelan County Community Development with the associated application fees.
10. The applicant states in his appeal application letter that a caretaker dwelling is allowed in the Manson CD zone. While this is true, it is not how the building was permitted to be used at the time of the STR application.
11. The applicant states that the dwelling has been used as a rental for 35 years. If it were used as a short term rental/vacation rental, there is no record of this property ever having a Vacation Rental (VR) permit which has been and is required in the Manson UGA per CCC 11.23.040.
12. The Applicant was told by department staff he was welcome to reapply when/if his application to convert the secondary structure to a caretaker dwelling was approved. This is not a guarantee that any new permits would be approved.
13. Chelan County Code Section 14.12.010: Administrative appeals:
 - (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.
 - (2) The notice of appeal shall contain a concise statement identifying:
 - (A) 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.
14. After due legal notice, an open record public hearing was held via Zoom video conference on May 18, 2022.
15. Admitted into the record were the following:
 - 15.1 AA 22-184 Application Materials;
 - 15.2 Denial letter of permit application for Tier 1 Owner Occupied Short-Term Rental dated April 6, 2022 and materials relied upon for such denial.
 - 15.3 Staff Report.
16. Appearing and testifying at the hearing was Robert Misenar. Mr. Misenar stated he was the agent of the Applicant and property owner and was authorized to appear on their behalf. Mr. Misenar testified consistent with his appeal materials. Mr. Misenar further testified that before he purchased the property, he looked at what permits had been issued. This was done in approximately July, 2021. Since he found no permits had been issued, he assumed no permits were required. He contacted the County assessor and the Director of Public Works, as he was not familiar with the Short Term Rental permit process. His desire is to rent one of the homes on the property for summer use. He stated that he has applied for and received a

building permit that has been inspected and approved. He stated that his property is now a permitted, conforming structure and desires a Short Term Rental permit. He stated that he has an accessory dwelling unit water connection.

17. The Hearing Examiner finds that at the time of the STR application on December 1, 2021, the property was a non-conforming structure and did not have proper permits either for either buildings use as either a Short Term Rental or an Accessory Dwelling Unit.
18. 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. At the time the STR permit application was made, December 1, 2021, the property had not received proper permits for either a Short Term Rental or an Accessory Dwelling Unit, the properties had non-conforming uses and the application was properly denied.
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 be **AFFIRMED** in all respects, based on the applicant not qualifying for this status based on CCC 11.88.290.

Dated this 23rd day of May, 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.