

**CHELAN COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

316 WASHINGTON STREET, SUITE 301  
WENATCHEE, WASHINGTON 98801

**BEFORE THE CHELAN COUNTY HEARING EXAMINER**

<b>IN THE MATTER OF:</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW AND</b>
AA 23-170	)	<b>DECISION ON ADMINISTRATIVE</b>
Boukhalil	)	<b>APPEAL</b>

**I. FINDINGS OF FACT**

1. A request for an Administrative Appeal was submitted to appeal the denial of a Tier 1 request for a short-term rental permit.
2. The Owners/Appellants are Pascale and Joseph Boukhalil, et al.
3. The project location is 89 Ascend Ln., Chelan, WA 98816. The legal description is T 28N R 21EWM S 09 NWNW LOT A BA# 2003-043 LOT B 5.0000 ACRES. The Parcel Number is 28-21-09-220-050. The zoning district is RURAL RESIDENTIAL 5 (RR5).
4. The subject property is currently advertised/used as a rental for greater than 30 days.
5. The Applicant/Appellant submitted an application for a Tier 1 Short-Term Rental Application dated August 3, 2022 via email on August 31, 2022. The property was out of compliance with the Chelan County Short Term Rental code, 11.88.290 and did not qualify for a Tier 1 Short Term Rental Permit.
6. On September 5, 2022, Community Development staff emailed Applicant stating they were ready to review the application materials and needed to collect the application fee.
7. On September 8, 2022, the Applicant replied stating they would mail a check and asking whom to make it out. Staff responded answering their question.
8. On September 29, 2022, staff received and processed application fee and emailed Applicant a list of missing/incomplete items. As part of that email it was noted: The application was for a Tier 1 which is owner occupied. Staff asked who lived there, noting there was an ADU onsite and staff asked who lived in the ADU. Additionally, the application was marked 3 bedrooms and 7 occupants which exceeds the occupancy limit, and listing other forms that needed to be updated.
9. On September 29, 2022, Public Works verified there were two structures with addresses on this parcel.

10. On October 20, 2022, the Applicant responded with updated forms, noting it is a family-owned vacation property and no one lives either in the main dwelling or ADU, and asking to move the application to a 2023 application as there was then only two months left in the year.
11. On October 25, 2022, staff responded to Applicant reiterating the code requirement for the owner to live in either the main dwelling, or the ADU, as their permanent residence and offering the option to apply for a change of use permit to change the ADU into a storage structure.
12. On November 18, 2022, staff forwarded an email dated October 25, 2022 with a note that we had yet to hear back.
13. On December 9, 2022, staff forwarded an email to another of the Applicants and noted that staff would be meeting with a Plans Examiner and would email again the same day on the result of that meeting. Applicant responded in acknowledgement. Staff emailed again that additional time was needed to review archives on communication from the building permits issued in 2021 and that once staff had more information they would follow up.
14. On December 13, 2022, the Applicant emailed to inquire on progress.
15. On December 18, 2022, the Applicant inquired on progress. On December 23, 2022, staff emailed indicating there had been communication with someone from 'A Plus Construction' when BP 210593 was being issued and that they had applied on the owners behalf to complete the cabin to be permitted as an ADU. The applicant had previously stated that the ADU needed remodeling and was only used as storage. The stated plan was for the owners to someday remodel and use the ADU for personal use. Again, the current remedy to be able to move forward with an STR permit was reiterated as permitting the current ADU with a change of use to storage. Once that was complete, the STR would be able to move forward.
16. As research for the item above, the Plans Examiner reviewed emails from July 6 and July 12, 2021. The first verified the new manufactured home would be replacing the current manufactured home on site and noting there would need to be a permit for the ADU to be in compliance. That email gave the fees for those purposes. The latter email was from the representative at 'A Plus Construction' who verified the manufactured home replacement and that they would submit permits for the ADU. The permits for these actions were BP 210592 and BP210593.
17. On March 23, 2023, Chelan County Community Development denied the permit as ineligible for application status citing:
  - 17.1. 11.88.290 (4)(D)(v)(d)- An application must be deemed complete before a permit is issued. Any applicant who does not complete the required application forms, complete any required inspections or other processes contained within this chapter, and fully submit any required supplemental information or who within thirty calendar days of notification fails to correct any application documentation submission deficiencies as requested by the department by any required deadlines, including submitting a complete application for any required conditional use permits, or who upon application review is found to have knowingly provided false information, or if the applicant or property is found to be out of compliance with this or other titles of Chelan County land use or development codes, is therefore ineligible for a short-term rental permit. The applicant shall not receive any further processing of their application. Once denied, the applicant shall not be eligible for rental permit application until such time as the owner can show compliance with Chelan County regulations, and then must reapply to restart the process.
  - 17.2. Owner does not live onsite which is out of compliance with:

- 17.2.1. 11.88.290 (2)(A)(i)- Tier 1. Owner-occupied short-term rentals where either (a) rooms are rented and the owner is personally present at the dwelling during the rental period, or (b) the short-term rental is located within the same parcel as the owner's principal residence and the owner is personally present at the dwelling during the rental period, or (c) the entire dwelling is rented no more than fifteen total days in a calendar year; provided, that an on-site qualified person is there during the owner's absence. Portions of calendar days shall be counted as full days.
  - 17.2.2. 11.88.290 (3)(A)(i)- Short-term rentals must be operated out of an owner's primary dwelling or a legally established accessory dwelling unit. In no case, shall an owner or operator make available a recreational vehicle, tent, or other temporary or mobile unit for short-term rental.
  - 17.2.3. 11.88.200 (5)- The property owner (which shall include title holders and contract purchasers) shall occupy either the primary unit or the accessory unit as their permanent residence.
  - 17.2.4. 11.88.290 (4)(J)(i)- To receive approval or renewal, an owner must demonstrate to the satisfaction of the director that all approval criteria listed below have been satisfied: (c)- (c) The short-term rental is consistent with short-term rental standards of this section.
18. On March 30, 2023, the administrative appeal (AA-23-170) was filed with Chelan County Community Development with the associated application fees being paid April 4, 2023.
  19. Admitted into the record were the following:
    - 19.1 Ex. A Denial of permit application for Short-Term Rental dated March 3, 2023.
    - 19.2 Ex. B AA 23-170 Application Materials
    - 19.3 Ex. C Email string between staff and Applicant
    - 19.4 Ex. D Email between staff and Rene Montemayor of "A Plus Construction"
    - 19.5 Ex. E Staff Report.
  20. An open record public hearing was held on May 3, 2021 via Zoom videoconference.
  21. Appearing and testifying at the hearing on behalf of the Applicant/Appellant were Shawn DeReemer and Rita DeReemer. Mr. DeReemer testified that they wanted to switch their application from a Tier 1 to a Tier 2. They understood what they had been using as a storage shed was actually permitted as an accessory dwelling unit. Mr. DeReemer testified that it had not been used a dwelling unit since the time they owned it and from their understanding, for many years before they owned it. He stated that it is not connected to water, electricity, or plumbing.
  22. Mrs. DeReemer testified that the ADU/storage shed had not been used as a dwelling unit. When they put in their new modular home, their contractor submitted paperwork to have the storage unit designated as an accessory dwelling unit. She indicated that the change of use for this old ADU/storage unit had not been completed because it was quite expensive. However, she stated it is simply not habitable and asked for a Tier 2 permit to be granted.

23. The Hearing Examiner finds that staff had provided the Applicant/Appellant with substantial information as to the deficiencies in their application and gave them reasonable information as to how to correct these deficiencies. The applicant did not correct these deficiencies.
24. The Applicant/Appellant did not qualify for a Tier 1 Short Term Rental Permit due to the reasons set forth in the Denial of Permit Application dated March 23, 2023.
25. The Applicant/Appellant did not provide factual evidence to contradict the reasons why they were denied a Tier 1 Short Term Rental Permit as set forth in the Denial of Permit Application dated March 23, 2023.
26. The Applicant/Appellants application for a Short Term Rental Permit was properly denied by Chelan County.
27. 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. 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.
3. By not submitting a renewal application with all the required information, the Applicant failed to demonstrate to the satisfaction of the Director that all approval criteria had been satisfied.
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 March 3, 2023 is hereby **AFFIRMED** based on the applicant not qualifying for STR based on CCC 11.88.290.

Dated this 8 day of May, 2023.

CHELAN COUNTY HEARING EXAMINER

  
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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.**