

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 2023-256)	CONCLUSIONS OF LAW AND
Saban)	DECISION ON
)	ADMINISTRATIVE APPEAL

I. FINDINGS OF FACT

1. An application for an Administrative Appeal with fees was submitted on June 7, 2023 to appeal the Notice and Order to Abate Violations issued on May 24, 2023 for Code Enforcement file # CE 23-0058.
2. The property location is 703 'A' Boetzkes Ave, Manson, WA 98831. The Parcel No. is 28-21-35-696-451 and the legal description is MANSON BLOCK 21 LOT 6 & THE W 5' OF LOT 5 0.1900 ACRES and is located in the UR2 Zoning District.
3. The Appellant/owners are Matthew & Teresa Saban.
4. Upon regular review of short-term rental (STR) platforms, the Department of Community Development short-term rental staff (staff) discovered on May 24, 2023, a STR operating without the required permit. This was relayed to Code Enforcement staff. Code Enforcement Deputy B. Anderson served the applicant via Certified Mail with the Notice and Order to Abate Violations to cease operation and cease advertising immediately and notify Code Enforcement these things had been completed. That notification has not come by the by the date of this decision.
5. On June 7, 2023, staff arrived at work to find a voicemail from Appellant had been left but, no callback number was left. Staff responded to the Appellant via email.
6. On June 7, 2023, at 11:05 am, staff sent the Appellant an email in response to the Appellant's voicemail. The Appellant called and spoke to the Code Enforcement liaison and instructed them he would not be answering his phone for a few hours and provided an email address for response. Staff reminded Appellant of the 14-day window to file an appeal which would end at end of business June 7, 2023. Instructions for filing an appeal were provided. Staff also instructed the Appellant that continued operation would bring further violation and noted Code Enforcement notes an additional rental on the same property. Of note, the original email sent this date was recalled and resent to allow staff to add a phone number to call and pay the appeal fee should the appellant wish to pay that way. Staff had also informed Appellant that

the Code Enforcement Liaison had at that point found another rental on the parcel which was also not permitted and to cease operation of that as a courtesy notice.

7. The Appellant has continued to operate the online listing as of the date of this report, is still active, and calendars show significant booked dates.
8. On June 7, 2023, at 4:34 pm, the Appellant emailed the appeal request to staff. The Appellant then called to pay appeal fees, but staff on duty were new and not clear on the process.
9. The Appellant indicates in his appeal application he had attempted to get a permit in 2020 and 2021 but they were not being issued. They purchased the property on 4/30/2020. The moratorium on rental permits did not go into effect until 8/25/2020, so the request must have come after that date. The moratorium was initially set to expire 9/27/2021, at which time applications were accepted. Prior to that, vacation rental permits had been required in Manson for over 10 years. Operation without a permit was, and is, a violation.
10. On June 8, 2023, at 7:10 am, staff emailed Appellant to acknowledge timely receipt of the appeal request on June 7, 2023, and to let Appellant know staff would reach out to collect fees, which they did.
11. On June 8, 2023, at 2:29 pm, staff emailed the Appellant to inform them payment was received, a hearing date set for July 19, 2023 at 1:00 pm, and that Noticing would be sent prior that would include a Zoom link for attendance.
12. On June 9, 2023, at 8:27 am, the Appellant submitted an STR permit application for 2023 and 2024.
13. On June 9, 2023, at 9:43 am, staff emailed that the application had been received. As a courtesy, staff noted the application was incomplete and gave direction to visit the STR website for the additional application material needed and provided a link to web page.
14. On June 12, 2023, at 6:51 am, staff emailed the Appellant to let them know that the STR application would be added to the queue for processing for the 2024 permit year and it would not be possible to get a permit for the remainder of the 2023 operating year.
15. Review of the STR issue on this property became more complex when, after reading through the historical notes of the Assessor's Office, there appears to be four dwellings on this parcel with two being in the main structure (closest to the alley), one in the building attached to the rear of the main structure (originally an attached warehouse/garage), and then the small cabin noted to be used as an STR (originally a storage shed).
16. The original buildings on this parcel date back to 1943 for which there are no building permits but, there are notes as to original buildings. There does appear to have been significant changes/remodels over time with no permits to include converting the main structure from a SFR to two apartments, converting the warehouse/garage into living space and gym, and the storage shed into the mini cabin STR. The one building permit referred to on the Assessor's Improvement Survey Records, 910298, was actually issued to the next parcel over at 705 Boetzkes.
17. Staff checked with Public Works on the parcel addressing. Both 703 and 703A appear to be assigned to the main structure with no address being assigned to the STR or middle building if records are correct. Staff does note the address of 703 has been posted on the mini cabin.
18. It is a life safety requirement in Chelan County for separate dwellings on a parcel to have unique addresses for emergency services.

19. On June 22, 2023, Code Enforcement Liaison informed the STR Manager that the other rental previously noted to be on the parcel was still being advertised and he had found others as well which appear to corroborate the previous thought of four rentals on the property.
20. Chelan County Code 11.88.200 (1) states: "There shall be no more than one accessory dwelling unit per lot in conjunction with a single-family dwelling unit" and (5) states: "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".
21. There are multiple dwellings on this parcel, most lacking adequate permitting, and the owners do not live onsite.
22. The owners reside at 11635 Grove Dr., Mukilteo, WA 98275.
23. Code Enforcement will be following up with the owner regarding further violations.
24. 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.
25. The appeal hearing was originally scheduled for July 19, 2023. The Appellant requested a continuance which the County did not oppose. The Hearing Examiner continued the hearing on the record at the July 19, 2023, hearing to August 2, 2023, at 9:00 a.m. to be heard by Zoom video conference.
26. After due legal notice, an open record public hearing was held via Zoom video conference on August 2, 2023.
27. Admitted into the record were the following exhibits:
 - 27.1 From the County:
 - 27.1.1 Ex. A: AA 23-256 application materials;
 - 27.1.2 Ex. B: Notice and Order dated 5/24/2023 and supporting documents;
 - 27.1.3 Ex. C: Email Correspondence between Appellant and staff;
 - 27.1.4 Ex. D: Emails between Staff and Public Works regarding addressing on parcel;
 - 27.1.5 Ex. E: Improvement Survey Records for parcel with timeline;
 - 27.1.6 Ex. F: VRBO listing and calendars showing booked time and a booking started by staff;
 - 27.1.7 Ex. G Staff Report.

28. The Appellant did not appear for the hearing. The Appellant requested, though staff, a continuance of the August 2, 2023, hearing. The County opposed the hearing indicating that the property continues to be advertised as available to rent. The Hearing Examiner denied the request to continue the hearing.
29. The Appellant received prior legal notice of the date, time and manner of the hearing. The Appellant did not submit any evidence disputing the alleged violations.
30. The Hearing Examiner finds that the Appellant did not provide evidence demonstrating that the Notice and Order to Abate Violations issued May 24, 2023, was issued in error.
31. 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. Short-Term rentals must not operate without a STR permit per CCC 11.88.290(5)(A) and CCC 11.88.290(4)(A).
3. The Notice and Order to Abate Violations issued by Chelan County on May 24, 2023 regarding property located at 703 A Boetzkes, Manson, Washington, was properly issued.
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 Notice and Order of CE 23- 0058 be upheld for not obtaining the needed short-term rental permit.

Dated this 3 day of August, 2023.

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.