

CHELAN COUNTY

DEPARTMENT OF HEARING EXAMINER

316 WASHINGTON STREET, SUITE 301
WENATCHEE, WASHINGTON 98801

IN THE MATTER OF:)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
AA 22-372)	DECISION and CONDITONS OF
Stone)	APPROVAL ON ADMINISTRATIVE
		APPEAL

I. FINDINGS OF FACT

1. On November 9, 2022, the Chelan County Hearing Examiner issued his decision affirming the denial of the Application for a Short-Term Rental Permit.
2. The Applicant timely appealed this decision.
3. On August 1, 2023, the parties entered into a Stipulation and Agreed Order to remand the matter back to the Chelan County Hearing Examiner and to dismiss the appeal. This Order was signed by the Honorable Judge Brian Huber.
4. On November 1, 2023, the Hearing Examiner held an open record public hearing pursuant to the Order of Remand.
5. In addition to the evidence submitted at the November 2, 2022, hearing, the following additional evidence was admitted into the record.
 - 5.1 October 30, 2023, administrative appeal submitted by Appellants' attorney, Clay Gatens, with exhibits A through J.
 - 5.2 September 20, 2023 brief by Chelan County on the Remand with exhibits A and B.
 - 5.3 Supplemental Declaration of James Stone, dated November 9, 2023.
6. Appearing at the hearing and providing argument on behalf of the Applicant was Clay Gatens. Mr. Gatens argued consistent with his submitted written materials that are on file.
7. Providing argument on behalf of Chelan County was Deputy Prosecuting Attorney, Marcus Foster. Also testifying on behalf of the County was Kirsten Ryles, Chelan County Short Term Rental Permit Coordinator.
8. Chelan County had previously issued Administrative Interpretation 2019-001 prohibiting short-term rentals within the Peshastin Urban Growth Area. That administrative interpretation was later rescinded, effectively allowing short-term rentals within the Peshastin Urban Growth Area as legal non-conforming uses. This interpretation of the Chelan County Code is supported by the Stipulated Remand Agreement in the Mounsey v. Chelan County matter, Administrative Appeal AA 22-354. In this stipulation it was agreed and stipulated to by Chelan County that Mounsey's historic use of the property within the Peshastin Urban Growth Area as a short-term rental qualifies the short-term rental as a legal non-conforming use.

9. Therefore, as the Hearing Examiner reviews this matter, the Hearing Examiner believes that the controlling issue is whether or not the Applicant/Appellant in this matter had established a short-term rental use of the property within the Peshastin Urban Growth Area prior to the adoption of the short-term rental regulation provisions in the Chelan County Code.
10. The Hearing Examiner finds that a preponderance of the evidence as submitted demonstrates that the Applicant/Appellant had established a short-term rental use on the subject property and that this use was continuous since at least 2016.
11. The hearing Examiner recognizes that the prior owner of the subject property had received a permit to operate a Guest Inn. However, this use was terminated and then a short-term rental use was started.
12. 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 current interpretations of the Chelan County Code, short-term rental use of property within the Peshastin Urban Growth Area that is established prior to the adoption of the Chelan County Short-Term Rental Permit Code Regulations, is a legal non-conforming use and is entitled to a short-term rental permit upon compliance with all the provisions within CCC 11.88.290.
3. Any Finding of Fact that is more correctly a Conclusion of Law is incorporated herein as such by this reference.

III. DECISION

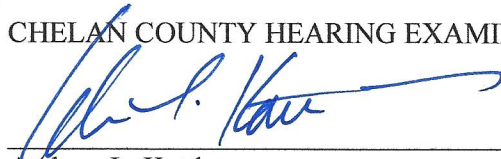
WHEREFORE, subject to the Applicants' compliance with all of the provisions set forth in CCC 11.88.290, the Hearing Examiner reverses the decision of Chelan County to deny this short-term rental permit.

IV. CONDITIONS OF APPROVAL

1. The Applicant shall comply with all provisions of the Chelan County Code, including, but not limited to, CCC 11.88.290 that currently exist or as may be amended and/or adopted in the future.

Dated this 27th day of November, 2023.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Chelan County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is

publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.

Chelan County Code Section 1.61.130 provides that any aggrieved party or agency may make a written request for reconsideration by the Hearing Examiner within ten (10) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Community Development Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner. If the Hearing Examiner chooses to reconsider, the Hearing Examiner may take such further action deemed proper and may render revised decision within five (5) days after the date of filing of the request for reconsideration. A request for reconsideration is not a prerequisite to filing an appeal under Section 1.61.160.

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.