

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, DECISION ON
)	ADMINISTRATIVE
AA 24-134)	APPEAL
Peterson Apple Ranch, INC)	

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on May 15, 2024, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, and Decision on Administrative Appeal as follows:

I. FINDINGS OF FACT

1. An Administrative Appeal was submitted appealing a March 19, 2024 Notice and Order to Abate Violations for Code Enforcement case CE 24-0027 for operating a short-term rental without the required permit. General Information:
 - 1.1. Violation Location: 1234 Greens Landing Rd, Manson, WA 98831
 - 1.2. Parcel Number: 28-21-15-220-100.
 - 1.3. Legal Description: T 28N R 21EWM S 15 NWNW & BL AGMT 10.2400 ACRES.
 - 1.4. Owner: Peterson Apple Ranch INC.
 - 1.5. Agent: GAIL PETERSON.
 - 1.6. Zoning District: AC (Agricultural Commercial).
 - 1.7. Existing Land Use & Site History: Orchard, Residential, and a short-term rental.
2. Notice and Order to Abate Violations Issued: March 19, 2024.
3. Appeal Submitted: April 1, 2024
4. Notice of Public Hearing: April 20, 2024.
5. Public Hearing: May 15, 2024.
6. Community Development Staff found in early March, 2024, that the owner was operating a short-term rental that was unpermitted. Staff also noted there had been a previous code enforcement case on the property for unpermitted structures/conversions but that case had been closed in 2020 due to a Code Enforcement backlog. Code Enforcement sent a Notice and Order to Abate Violations. The owners requested an appeal and have continued operation of the rental knowingly in violation.
7. Property being reviewed is located at 1234 Greens Landing Rd., Manson. Parcel 28-21-15-220-100
8. Community Development Staff discovered this unpermitted short-term rental as part of regular compliance review and reported it to Code Enforcement.
9. March 8, 2024 a Notice and Order to Abate Violations was mailed via Certified Mail to the site of violation at 1234 Greens Landing Rd., Manson, WA 98831. This Notice was returned. (Exhibit B).

10. March 20, 2024 a Notice and Order to Abate Violations was mailed via Certified Mail to the address of the owner, Peterson Apple Ranch Inc at 1235 Greens Landing Rd, Manson, WA 98831. (Exhibit B).
11. On April 1, 2024 a request to appeal the Notice and Order to Abate Violations was received from Gail Peterson as representative of Peterson Apple Ranch Inc. (Exhibit A).
12. On April 2, 2024 Staff started the appeal process and mailed the receipt for fees paid, the date and time of the scheduled hearing, and information on the format of the hearing to Ms. Peterson. In this communication staff also requested an email address for the Applicant. (EXHIBIT C, Pgs. 42-43).
13. April 7, 2024 Applicant replied via letter requesting an in-person hearing. (exhibit C, Pgs. 45-46).
14. April 11, 2024 Staff replied via letter noting the Applicant's request for an in-person hearing had been received, that the hearing are held via ZOOM and offering the accommodation of attending the ZOOM hearing with Community Development staff at the Community Development offices. (EXHIBIT C, Pg. 44).
15. April 17, 2024 Applicant replied via letter requesting clarification on ordinances or rules regulating hearings. (EXHIBIT C, Pgs. 47-48).
16. April 22, 2024 Staff emailed the Hearing Examiner with the Applicant's request noting the email thread would be printed and mailed to the Applicant for transparency of communication as the Applicant had not provided an email address. The same day, the Hearing Examiner responded. The entire email thread and attachments were printed and mailed to Applicant same day. (EXHIBIT C, Pgs. 49-70).
17. April 23, 2024 Staff checked for continued operation by the Applicant and found the listing for the short-term rental still active and Staff were able to start a booking. Staff note that during this review, it was found that the Notice sent to the Applicant noted the correct address for the violation but had noted the incorrect parcel number. That number has been corrected in this report. (EXHIBIT D).
18. To address specific items from the Applicant's appeal request:
 - 18.1. The Applicant notes in their appeal request that they have operated for 24 years. The short-term rental code, Chelan County Code (CCC) 11.88.290, was adopted in 2021 and those operators who could prove they were operating legally prior were allowed to apply as an Existing Nonconforming applicant from 9/27/2021-12/31/2021. This Applicant did not submit such an application. They have also not applied for an STR permit as a new applicant since that date.
 - 18.2. Applicant also note in their appeal request that there are other housing units on the property that house 14 people in year-round housing. Per the records of Community Development (EXHIBIT E), the only permitted dwellings on the property are a single-wide mobile home from 1990 and a cabin from 1996 that, according to record, replaced orchard housing that was torn down. Upon review of that statement, it appears there are other dwellings that may have been converted or built without permit. That will be given to Code Enforcement to follow up.
 - 18.3. Applicant further refers to statement on the Notice and Order to Abate Violations from CCC 16.02.030- "All violations of this title and all applicable titles, statutes, and regulations are hereby declared to be detrimental to public health, safety, and welfare and are hereby declared to be public nuisances. Each day or portion of a day upon which a violation occurs or continues constitutes a separate violation. This title declares certain acts to be civil violations and establishes nonpenal enforcement procedures and civil penalties" stating it is unequivocally

false. The Hearing Examiner finds that the property is in violation of Chelan County Code, therefore does fall under this categorization.

- 18.4. Applicant requests to be grandfathered as an exception to the requirement to apply for, qualify for, and receive an STR permit and have to renew that permit annually. The time frame to apply for the Existing Nonconforming permit was 9/27/2021 – 12/31/2021. After that time no other Existing Nonconforming permits may be issued according to CCC 11.88.290(4)(D)(i)-
19. Existing Nonconforming Short-Term Rentals. Beginning on September 27, 2021, and by December 31, 2021, all existing short-term rentals operating as of dates established in subsection (2)(E) of this section and subject to the provisions of subsection (2)(E) of this section wishing to operate as a short-term rental for the remainder of 2021 shall pay a fee equal to one-quarter of the annual permit fee established for their tier per the table in Chapter 3.24, and register on a department registration provisional self-certification form. This self-certification form serves as the first provisional short-term rental permit application. Those owners and properties failing to register within this time period shall not be considered as an existing and nonconforming short-term rental use for 2021 under this section and shall forfeit any claim of continuing existing nonconforming short-term rental use status for 2022 and beyond under this section, and any short-term rental that occurred during this period is considered to have been in violation of this chapter, subject to appeal provisions under Chapter 14.12 and Title 16.
20. Lastly, Applicant asks if the rental can legitimately be referred to as a public health, safety, and welfare issue as well as a public nuisance. This descriptor is from CCC 16.02.030. The Hearing Examiner finds that as the rental dwelling has not been properly permitted and inspected for Fire & Life Safety to be used as a commercial rental as an STR, it is in violation of CCC and meets this descriptor.
21. After due legal notice, an open record public hearing was held on May 15, 2024.
22. The following exhibits were admitted into the record:
 - 22.1. Ex. A. AA 24-134 Appeal Application Materials,
 - 22.2. Ex. B. Notice and Order to abate Violations CE 24-0027,
 - 22.3. Ex. C. Code Enforcement case CE 24-0027,
 - 22.4. Ex. D. Proof of continued operation,
 - 22.5. Ex. E. Chelan County Permits for Parcel 28-21-15-220-100,
 - 22.6. Ex. F. Staff Report,
 - 22.7. Ex. G. Remainder of Staff File,
 - 22.8. Ex. H. Four Photographs Provided by the Appellant.
23. Appearing and testifying on behalf of the Appellant was Gail Peterson. Ms. Peterson testified that she was the Appellant and the property owner. She provided testimony about the history of the property being owned by her father and uncle. She testified that the orchard on the property is currently operating at a loss and that they need the short-term rental to provide income to supplement the orchard. She indicated that she provides housing to her orchard worker and others on various residences on the property. She read a letter from a neighbor into the record that does not object to the short-term rental use and indicates that the short-term rental use is not disruptive in any way.
24. The Appellant provided no legal reason as to why she should not be required to comply with the Chelan County Code regarding obtaining a short-term rental permit. She believed that her use was grandfathered in and that she did not need to have a permit.

25. The Hearing Examiner finds that the short-term rental use on the Appellants property is in violation of the Chelan County Code as set forth in the Notice and Order to Abate Violations dated March 19, 2024.
26. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this Decision.
2. The Applicant is in Violation of the Chelan County Code by failing to obtain a short-term rental permit as required by the Chelan County Code.
3. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based upon the above Findings of Fact and Conclusions of Law, the Hearing Examiner here by **AFFIRMS** Chelan County's Notice and Order to Abate Violation Dated March 19, 2024.

Dated this 22 day of May, 2024.

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.