

**CHELAN COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF

**AA 24-124
Seattle REO III, LLC**

) **FINDINGS OF FACT,**
) **CONCLUSIONS OF LAW, AND**
) **DECISION**
)
)

THIS MATTER having come on for hearing in front of the Chelan County Hearing Examiner on July 3, 2024, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, and Decision:

I. FINDINGS OF FACT

1. During a regular compliance review, 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 on May 23, 2023 that was not appealed. On March 11, 2024 the County issued a citation to the owners. The owners requested an appeal and appear to have continued operation of the rental knowingly in violation.
2. Property being reviewed is located at 57 Getaway Ln., Manson. Parcel 28-21-28-610-344.
3. Community Development Staff discovered this unpermitted short-term rental (STR) as part of regular compliance review and reported it to Code Enforcement.
4. 12/30/2021 Applicant had submitted a new application for a short-term rental
5. 12/31/2021 Applicant submitted an updated application for a short-term rental (EXHIBIT D, Pgs. 1-20).
6. 12/7/2022 Staff emailed Applicant they were ready to review the application, noted that the lot size was deficient for the zoning per the standard in the STR code (CCC 11.88.290) but if the Applicant wanted a full review, the application fee of \$500 needed to be collected. No response was received. (EXHIBIT D, Pgs. 23-24).
7. 3/1/2023 Jamie Mason from Windermere Vacation Rentals in Chelan called to inquire if the property were permitted as an STR as the owner had requested to list with them.

8. 3/2/2023 Staff responded to Ms. Mason that the address in question was not permitted as an STR and that the owner had been notified of such on 12/7/2022.
9. 3/29/2023 CE issued Notice and Order to Abate Violations (CE 23-0037) for operating an STR without required permit. The Notice was sent to Seattle REO III LLC at 1916 Pike Pl, Ste 17-22, Seattle, WA 96101 (EXHIBIT C, Pgs. 27-30).
10. 4/13/2023 Code Enforcement (CE) forwarded an appeal request for CE 23-0037 from Mr. Moorman to Community Development (CD) Department. Staff responded to Mr. Moorman that they needed to verify with the CE Deputy when the Notice had been sent to assure he was within the appeal window and that once the information was received, they would reach back out. Staff also asked him to clarify his basis for appeal. (EXHIBIT D, Pg. 30). Applicant had left a voicemail this date at 4:15 pm for STR Manager stating he was calling regarding CE 23-0037. When STR Manager tried to call Applicant back, the phone was not answered and the message indicated the voicemail was full
11. 4/20/2023 Staff emailed Applicant that his request had arrived within the appeal window, notified him what his case number would be and the fee for the appeal. Staff also reminded him that his appeal request did not contain all of the required elements and listed those elements. Staff further noted that as there was a delay in process while dates were researched, his deadline for payment had been extended to 4/28/2023 (EXHIBIT D, Pgs. 33-36).
12. 5/1/2023 Staff emailed Applicant that the extended timeline to pay for his requested appeal had expired and, therefore the appeal canceled (EXHIBIT D, Pg. 37).
13. 5/23/2023 Staff emailed Applicant regarding the continued advertisement and rental of the property in question noting the Applicant had been sent a Notice and Order to cease operation, noting the need to cease operation, and that continued operation could lead to fines (EXHIBIT D, Pg. 41).
14. CE re-issued Notice and Order to Abate Violations on May 23, 2023 (CE 23-0037) noting a previous incorrect address. Updated Notice sent to Seattle REO III LLC at 1916 Pike Pl, Ste 12-22, Seattle, WA 96101 (EXHIBIT C, pgs. 49-52).
15. Staff looked for the listing a few days later and it was not found.
16. 5/25/2023 Applicant emailed that they had called multiple times and left voicemails and not heard back from anyone in the STR department. They noted the phone number 509-667-6873 which is a number in Code Enforcement, not CD. They went on to state they had called the main number of 509-667-6225 which is the CD Department and received an email address (cd.code.enforcement@co.chelan.wa.us) which is for CE not CD and that he had sent an email on April 12, 2023 for an appeal and not received a response back. They requested a call (EXHIBIT D, Pg. 43).
17. STR Manager responded to Applicant with a timeline of events related to his property up to that point and noted the only voicemail left with CD prior to 5/25/2023 was on 4/13/2023,

noting the email address they had indicated was for CD was not and was for CE, and that emails sent from the STR manager all had their name, email address, and phone number in the signature block. That contact information was also listed on the STR web page (EXHIBIT D, Pgs. 41-42).

18. Staff received confirmation that delivery of the email was complete but that no delivery notification was sent by destination server. Staff received a 'read' confirmation from cjhactg44@gmail.com, one of the emails on the string (EXHIBIT D, Pgs. 45 and 49).
19. Staff CE Liaison emailed Applicant that their questions regarding the appeal were answered by the STR Manager and reiterated that he was not to rent without a valid STR permit, that he had applied for a permit and was denied for cause but was still renting. Again, advised to cease operation and provided the definition of evidence of operation from CCC 11.88.290- Evidence of operation includes, but is not limited to, advertising, online calendars showing availability, guest testimony, online reviews, rental agreements, or receipts. Staff also noted continued operation could lead to fines (EXHIBIT D, Pg. 41).
20. 6/1/2023 CE received back signed receipt of certified mail which was signed on 5/30/2023 (EXHIBIT C, Pg. 53).
21. 7/6/2023 Applicant left voicemail for STR Manager at 9:48 am. Applicant emailed STR Manager stating they had left a voicemail that morning on the manager's direct number 509-667-6526. The Applicant stated they had just seen the emails from 5/1/2023 and prior and noted they don't use email for personal or business items (Initial appeal request had been emailed 4/12/2023). Applicant stated as they had not seen emails, they were not aware a fee was being requested and they would be happy to pay that and that they were expecting confirmation via US Mail and not via email then provided their address. Applicant requested a call when STR Manager was back in office and reiterated they did not use email for personal or business and that they had cc'd one of their attorneys as they did use email (EXHIBIT D, Pg. 51).
22. Staff email auto sent out of office reply (EXHIBIT D, Pg. 56).
23. 7/11/2023 STR Manager returned call to Applicant. Applicant communicated that an STR application had been submitted by a Mary Miller before they had sent one themselves.
24. 7/12/2023 STR Manager had emailed Applicant after Applicant stated on 7/11/2023 that a Mary Miller had sent an STR application before Applicant had submitted one on 12/30/2021. STR Manager let Applicant know no previous application for his property was found and went over a chain of events for his property up to that date. Also covered in the email was what happened with his appeal request and that Corey Hager was not included in the email as the Applicant had removed him from the previous email and that the STR Manager did not feel comfortable responding to an attorney on behalf of the County and that if the Department were notified an attorney had been retained in the matter, direct correspondence would cease. STR Manager indicated they would print and mail a copy of the email as requested (EXHIBIT D, Pgs. 57-59).

25. As part of compliance review on 5/6/2024, staff found the property was still being rented as a short term rental without the required permit. The booking calendars on the compliance monitoring site, Rentalscape were checked. The color blocked dates indicate bookings Exhibit G, Pgs. 1-2).
26. The booking calendars indicate multiple bookings since July 2023. Staff were able to correlate two of those bookings to reviews left by renters. The first review was left July 16, 2023 and indicates a stay of ten nights in July 2023 which correlates to the booked block of July 18-27, 2023. The second review was left September 11, 2023 and indicates a five night stay in August 2023 which correlates to the booked block of August 16-20, 2023 (Exhibit G).
27. 3/11/2024 CE mailed Citation CE 23-0037-1 via certified mail to Seattle REO III LLC at 1916 Pike Pl, Ste 12-22, Seattle, WA 96101 (EXHIBIT C, pgs. 55-57).
28. 3/25/2024 Applicant emailed request for an appeal of CE 23-0037-1. The Appellant called at 10:07 am to provide payment information (EXHIBIT D, Pg. 56 and 73-75).
29. Assistant Director emailed with copies of appeal fees receipts, case number (AA 24-124), and date of scheduled hearing (April 17, 2024), and a request that if the Applicant would have legal representation to please let them know so they could be cc'd on further communication (EXHIBIT D, Pgs. 69-71).
30. Assistant Director emailed to further request a statement for the Hearing Examiner file as to the reason(s) they felt they were not in violation per the signed statement on the back of the Citation issued (EXHIBIT D, Pg. 77).
31. Applicant responded requesting a date in June so they could have time to find someone to represent them (EXHIBIT D, Pg. 76).
32. Assistant Director responded that the date could certainly be moved to June and advised them that continued operation would result in further citations and fines which would then accrue at \$1500/day (EXHIBIT D, Pg. 76).
33. 3/26/2024 Assistant Director emailed with new hearing date of June 5, 2024 at 9:00 am and reminded Applicant that hearings are held via ZOOM and Noticing and connection information would be sent prior (EXHIBIT D, Pg. 76).
34. 4/22/2024 Assistant Director emailed Applicant asking if counsel had been determined so they could be added to the file (EXHIBIT D, Pg. 81).
35. 5/2/2024 Staff performed compliance check on rental listing(s). The AirBnB listing appears to have been changed to 'not live' status in February 2024. VRBO listing is still 'live' and the reviews indicate last rental to be September 2023 which is well after the denial of STR permit application and the Notice and Order to Abate Violations were sent (EXHIBIT E, Pgs. 1-4).
36. Per the bookings calendars from Rentalscape, there appear to be several bookings coming up beginning May 25, 2024 and into the summer. This location will be monitored. If rental

continues and can be verified by either Code Enforcement visit or review, another citation will be issued with fines accruing at \$1500 per day rented.

37. The Notice and Order to Abate Violations dated May 23, 2023 was lawfully issued to the Appellant. It was not timely appealed and is therefore final.
38. An open record public hearing after due legal notice was held on July 3, 2024.
39. Appearing for the Appellant was William Moorman. Mr. Moorman stated that he was the agent of the property owner and Appellant. He indicated that the original STR permit was not obtained because the person he hired to obtain the required permits failed to do so. He stated that he was primarily appealing to ask that the Hearing Examiner suspend the penalty because of the severe nature of the citation penalty being imposed. He claimed that he had not been renting his property. He claimed that he is trying to come up with money to be able to make improvements to the property so that it could be sold.
40. Chelan County Deputy Prosecuting Attorney, Marcus Foster indicated that the record clearly shows that there had been rentals of this property when the Appellant/property owner did not have any STR permit.
41. The following exhibits were admitted into the record:
 - 41.1. Ex. A AA 24-124 Appeal Application materials (signed citation requesting appeal)
 - 41.2. Ex. B Citation 23-0037-1
 - 41.3. Ex. C Code Enforcement case 24-0037
 - 41.4. Ex. D Emails with Applicant
 - 41.5. Ex. E May 2, 2024 Compliance Check
 - 41.6. Ex. F Timeline
 - 41.7. Ex. G Proof of rental
 - 41.8. Ex. H Staff Report
42. 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 the authority to render this decision.
2. The property owner did not appeal the Notice and Order to Abate Violations and therefore that order is final.
3. The property owner provided no evidence as to why the citation had been improperly issued.
4. The Hearing Examiner finds that the citation issued March 11, 2024 was legally issued by Chelan County.


5. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the citation issued March 11, 2024 is hereby **AFFIRMED** in all respects.

Dated this 3 day of July, 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.