

Petition for appeal of ruling by APCHA

Hearing date 9/30/2020

Petitioner's name Christopher Fuller

Address of affected property
Lottery for 403 Lacet

Petitioner is: Applicant Tenant Owner

APCHA Representative and title
Bethany Spitz, Compliance Manager

Hearing officers findings of fact and conclusions of applicable regulations.

See attached detail. Special review denied.

M Ireland

10/01/20

Recommendation on appeal by Christopher Fuller

Rule appealed: Section 1 Part 3 verification of Household size. Mr. Fuller and his ex have two children. The rule allows a total of five bedrooms in the APCA system. She has a three bedroom house this limiting Mr. Fuller to a two bedroom unit.

Issue presented. Although this is presented as an appeal of the application of the rule cited above, hearing officer recasts this hearing as a request for a variance from the rule. Petitioner states that he is unable to qualify under the rules because his shared custody of his children with his ex wife limits the two parents to a total of five bedrooms within the APCA system. The APCA system does not include North 40 or Lazy Glen. Those two subdivisions and others are marketed by owners through APCA and buyers must qualify under the guidelines and the rule limiting the number of bedrooms in a joint custody case does not apply.

Petitioner's request: Petitioner does not dispute the interpretation of the rule or claim eligibility under that rule. Rather, Petitioner claims the rule is unfair and "discriminates" against divorced people. APCA's petition is that the rule also applies to persons who are not and were not married to each other and yet have joint custody of minor children. Being divorced is not a "protected class" requiring a higher level of legal scrutiny. The rule also applies to persons who have never been married and share custody.

The applicable portion of the rule states:

"TWO ADULTS THAT SHARE CUSTODY OF CHILDREN ARE ALLOWED IN TOTAL THE NUMBER OF BEDROOMS OF INDIVIDUALS PLUS ONE. FOR EXAMPLE, IF THERE ARE TWO CHILDREN, THE HOUSEHOLD WOULD BE ALLOWED TO HAVE AT MOST FIVE BEDROOMS COMBINED."

Section 1, Part 3, Page 17 of the APCA regulations."

The all caps example cited above applies directly.

Petitioner notes that he has no control over his ex-spouse's acquisition of a three bedroom unit which effectively limits him to the purchase of a two bedroom unit within the APCA system. He states that the rule effectively limits him to living in Lazy Glen or North 40. Petitioner made an offer for the purchase of a North 40 single family home for \$1.65 million. That offer was not signed by seller. He states that he cannot afford a North 40 unit and seeks to buy the Lacet unit offered at \$1.6 million. Buying at North 40 would cost \$1.7 million.

Petitioner has 182 days of custody each year. The children are an 8 year old girl and a 10 year old boy. The children are with Petitioner "all the time" and are of an age that makes separate bedrooms necessary. Hearing officer accepts the facts as presented.

Petitioner requests to be allowed to participate in an upcoming lottery for a three bedroom Lacet unit.

Conclusions and findings of fact:

Under the APCHA regulations, petitioner is not eligible for this lottery. The Petition is considered as a Petition for Special Review under Part VI, Section 4 of the regulations. Requiring a second hearing for special review from the denial under the application of the rules would be wasteful and make the appeal moot.

Section 4. Special Review policy and procedure requires Petitioner to show both

Unusual hardship; and

Consistency with APCHA policies and purposes.

Unfortunately, Petitioner's dilemma is a real but not an unusual hardship, a result of the inadequate supply of units. It is a hardship for Petitioner to find a unit that lends itself to Petitioner's needs and allows him ready access to his children. Hearing officer accepts Petitioner's argument that he can't afford North 40 and presumes that buying a unit without the bedroom total restriction would be a significant inconvenience or even a hardship. However, the circumstances are not "unusual" in the sense that Hearing Officer has been acquainted with similar dilemmas over many years. APCHA's Cindy Christensen notes a similar problem occurred last year.

Given the demand for limited multi bedroom housing stock, the numbers of single parent families, APCHA's regulation is a reasonable but difficult compromise between the desire to serve such families and the need to maximize occupancy of the units. Hearing officer supports a board hearing of the special review request.

Therefor: hearing officer denies the Petition. APCHA representatives suggested that an appeal to the APCHA board might be scheduled at the end of the week.



Michael C Ireland October 1, 2020