

Petition for appeal of ruling by APCHA

Hearing date

Petitioner's name

Address of affected property

Petitioner is: Applicant ve Tenant Owner

APCHA Representative and title

Hearing officers findings of fact and conclusions of applicable regulations.

Recommendation on appeal by Jordan Schwartz

Findings of Fact:

Under strict application of the rules, Petitioner does not qualify for a Cat. II rental unit as the average income (AGI) for the past two years was approximately \$85,760, well above the \$65,750 allowed under Table II, Part I of the regulations.

While Petitioner does not dispute the calculation, she notes that she left a significantly better paying job to come here to work for a non-profit Full Circle in reliance on her misunderstanding of the regulations. She believed her income for 2020 would be determinative of her eligibility and asserts that she tried to contact APCHA by telephone to clarify her eligibility.

APCHA's representative notes that Ms. Schwartz' income might have been calculated at an even higher level because calculation manual disallows the subtraction of depreciation on her rental property in the calculation of her income. APCHA's representative. The rules for adding back depreciation are not included explicitly in the regulations but are a part of the definitions of gross income.

Gross income is the standard established as the standard Part III at page 17 and defined in the definitions at page 55 as "... total income derived from income producing property before deductions for expenses, depreciation, taxes and similar allowances."

Thus, adding back disallowed expenses might increase Petitioner's income for the purpose of making the calculation.

Against this calculation must be weighed Petitioner's eligibility for Special Review, Part VI, Section 4 Page 46. A petitioner asking special review must show both:

- Unusual hardship; and
- Consistency with APCHA policies and procedures.

Hearing officer finds the hardship is unusual. It is unlikely that Petitioner quit a much better paying job to work for a nonprofit in order to obtain a Cat. II unit. She is eligible by APCHA's admission for a Cat. III unit. Hearing officer also finds that Petitioner made a sincere effort to understand the rules and did not conceal her circumstances or otherwise cheat the system. In this case, APCHA's desire to house otherwise qualified tenants is met because persons qualifying for Cat III units have traditionally been the most underserved group other than Cat. I qualified persons.

THEREFOR Hearing officer rules that Petitioner should be qualified for one year as eligible for the Cat II unit in question and be required to requalify at the end of that year with a complete set of tax returns or IRS transcript. Should she fail to provide that

information or fail to qualify under the Cat II standards in effect at that time, she shall be required to leave the unit. ⁱ



Michael C Ireland October 1, 2020

Hearing officer recommends some consideration be given to the vagueness of the definition of Gross Income as including "similar allowances." The term "similar allowances" is not otherwise defined. While re-including depreciation makes sense – cash flow is a proper basis for determining ability to pay. However, some expenses are "real," and inescapable and actually reduce the ability of an applicant to pay for housing. Taxes are one such expense.