



Strengthening Community Through Workforce Housing

AGENDA

Special Review
December 9, 2020

2:30 PM ONLINE Zoom Meeting (see instructions below)

For Comment on either Hearing,

please reach out to Cindy.christensen@cityofaspen.com by 2:15 PM on 12/9/2020.

**ONLINE Zoom Meeting:
START TIME: 2:30 PM**

Join Zoom Meeting

<https://us02web.zoom.us/j/88228332827?pwd=bFdwWWpEOTQ0T3YyWVBKOWpaU05kdz09>

Meeting ID: 882 2833 2827

Passcode: 349367

One tap mobile

+13462487799,,88228332827#,,,,,0#,,349367# US (Houston)

+14086380968,,88228332827#,,,,,0#,,349367# US (San Jose)

Dial by your location

+1 346 248 7799 US (Houston)

+1 408 638 0968 US (San Jose)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Washington D.C)

Meeting ID: 882 2833 2827

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Find your local number: <https://us02web.zoom.us/j/88228332827?pwd=bFdwWWpEOTQ0T3YyWVBKOWpaU05kdz09>

Hearing Officer: Mick Ireland

2:30 PM Special Review Request from Alessandra Lembo

Petition for appeal of ruling by APCA

Hearing date

Petitioner's name

Petitioner's signature

Address of affected property

Petitioner is: Applicant

Tenant

Owner

APCHA Representative and title

Petitioner's Attorney and contact information if any.

Petitioner's statement of factual basis and desired disposition including recommended sanctions if any. Attach additional pages as needed.

Due to financial hardship petitioner is requesting a variance as granted in the APCA rules and regulations. Petitioner is aware that she does not qualify based on 2019 earnings, however, she has had a significant loss of income due to hardship and the pandemic in 2020. Based on her 2020 income she will qualify for the Category 2 studio. The hardship provision is designed to specially address significant changes in income.

I have been a loyal and law-abiding citizen for 20 years and an Aspen local. I am currently homeless due to the pandemic. I had to give up my apartment in August and have been staying on friends' couches and am desperate to find permanent housing. Category III is the most underserved category and I have not been able to find any affordable housing. I have participated in many lotteries this year and years past but have lost due to the significant number of applicants vying for so few units. I would like to appeal on your kindness and consideration of not leaving me homeless and for being able to remain part of the local work force living in the City of Aspen.

APCHA Regulations and Deed Restriction Provisions viewed by Petitioner as controlling. Attach additional pages as needed.

Section 4 of the APCA Regulations states that due to financial hardship a variance can be granted. This variance would be consistent with the Housing Program intent and policies, will not cause a substantial detriment with the public good and will not substantially impair the intent and purpose of APCA's regulations. Furthermore, based on APCA's strict application of the regulations for verification of household gross income in Section 2, 4(B)(c), if there is a difference of 20% or more between the most recent two years of income, APCA shall average the last two years to establish APCA housing category. Based on applicants 2019 tax returns, applicant earned \$85,378.54 and based on 11 months of actual earnings and one month of estimated earnings, applicant will have earned approx. \$44000 for 2020. Averaging earnings for 2019 and 2020 would result in an average household income of approx. \$64,600, which is below the income cap for category 2 unit. If the applicant waited until January 2nd to file 2020 taxes and then submitted her tax returns to APCA, applicant would qualify.

Petitioner witnesses and Exhibits, if any. Attach additional pages as needed.

Return completed form to mick@sopris.net

Petition for appeal of ruling by APCHA

Hearing date

Petitioner's name

Address of affected property

Petitioner is: Applicant Tenant Owner

APCHA Representative and title

Respondent's statement of factual basis and desired disposition including recommended sanctions if any. Attach additional pages as needed.

APCHA Regulations and Deed Restriction Provisions viewed by Respondent as controlling. Attach additional pages as needed.

Respondent witnesses and Exhibits, if any. Attach additional pages as needed.

Attachment A

Alessandra Lembo has requested a special review regarding APCHA's determination that she is not qualified for a Category 2 Rental Unit. Ms. Lembo's appeal does not demonstrate unusual hardship because her situation is the same as anyone else subject to the income limitations; she is not disqualified from getting APCHA housing because it is only a question of what category she meets; and granting her appeal would set a precedent that APCHA staff would have to follow in every case, inconsistent with the Regulations.

The income limits for a 1-person household are as follows:

Category 2	\$65,000
Category 3	\$100,600
Category 4	\$158,600

The applicable Regulations provide that in verifying income the applicant shall submit copies of their most recently filed tax return and W2s. Part III, Section 2, B(4a). Additionally, when there is a difference of twenty percent or more between the most recent two years of income, they shall be averaged to establish the APCHA housing category for which the household is qualified. Part III, Section 2, B (4c).

Based on the Regulations and APCHA's consistent method of determining annual income, APCHA determined that Ms. Lembo's income is \$85,379. Therefore, Ms. Lembo's income exceeds the Category 2 limit, but meets the Category 3 limit.

Ms. Lembo's application was reviewed on 11/20/2020. Her income from her 2019 W2 is \$85,379. There was no need for a 2-year average since there was not a 20% change in W2 income between 2019 and 2018.

Ms. Lembo has been placing bids on sales units since at least March 2018 as a Category 3. She is familiar with how APCHA determines an individual's category.

APCHA made it clear to Ms. Lembo that she would qualify for Category 3 rental units. APCHA has consistently applied the income verification procedures when qualifying applicants for rental and ownership units. APCHA always (except in qualifying for tax credit properties) use the income listed on tax returns to determine category. This does allow for someone during the following year to take a job that makes a lot more money and still potentially remain in a lower category. In this case the reverse occurred. APCHA cannot rely on what an applicant states they will make or on an employment verification form as that does not always show the entire picture. Additionally, applicants have omitted sources of revenue to stay in a lower category. The only number we can take and have confidence in is what is submitted to the Internal Revenue Service. Ms. Lembo is qualified for Category 3 rental units.

Attachment B

APCHA Regulations

Part III, Section 2, B (4a). Income Verification (Page 18).

Applicants shall submit copies of their most recently filed tax returns, including federal and state returns and all schedules and business tax returns. If applicants do not have copies of their W2's or tax returns, they must request and obtain earnings and tax information from the Social Security Administration (SSA) or the IRS. • All applicants shall submit required tax documents for the past two years. • All applicants must submit an APCHA Employment Verification form signed by the applicant's employer(s), if requested by APCHA.

Part III, Section 2, B (4c). Verification Documents (Page 18).

Income and Assets Exceptions

Income Variations Policy – Where there is a difference of twenty percent (20%) or more between the most recent two years of income, they shall be averaged to establish the APCHA housing category for which the household is qualified.

Definitions:

Gross Income – The total income of a person including maintenance and child support, derived from a business, trust, employment, or income-producing property, before deductions for expenses, depreciation, taxes, and similar allowances.

Household Net Assets – The combined net assets of all individuals who will be occupying a unit regardless of marital or legal status.

Household Income – The combined gross income of all individuals who will be occupying a unit regardless of marital or legal status. Adjustments/additions to gross income for business expenses are permitted for persons who are self-employed.

APCHA Operations Handbook

Page 14

1. Copies of the past two years' complete Federal income tax returns, with W2's attached.
2. Current income and financial statement verified by the applicant to be true and correct. If there is a variance of more than or less than 20% between current income and income reported on the previous year's tax returns, the incomes will be averaged. This will establish the income category.
3. Social Security records or W2's for all the years worked in Pitkin County.

Page 33

When income has changed more than 20%, a two-year income average may be used. Example: if spouse takes one year off to care for a child and income has decreased (at least 20%), it must be documented in tax returns and a 2-year average can be used).

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Hearing officers findings of fact and conclusions of applicable regulations.