

## **ASPEN-PITKIN COUNTY HOUSING AUTHORITY**

Case No. 2025-0004

IN RE GRANT PURCELL GRIEVANCE

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### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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This matter came before the Hearing Officer Thomas W. Snyder for public hearing on December 30, 2025 upon the grievance submitted by Grant Purcell (the “Grievance”). The hearing was held at the Aspen-Pitkin County Housing Authority (“APCHA”) offices, 18 Truscott Road, Aspen, CO.

Present at the hearing were: 1) the grievant Grant Purcell; and 2) Jackie Marinaro representing APCHA. The hearing was conducted in accordance with APCHA Employee Housing Regulations (“APCHA Regulations”) Part VI, Section 3.D.

The Grievance asserts that APCHA Staff did not follow the APCHA Regulations and applicable deed restrictions when it declined to issue a notice of violation to the owners of a property in Mr. Purcell’s neighborhood. The owners live with their son, Henry Henley, who is a convicted violent sex offender and who recently was arrested for allegedly violating the terms of his probation by soliciting minors and offering them drugs. Mr. Henley is residing with his parents while on bail and awaiting trial.

Based on the evidence and testimony received at hearing, the Hearing Officer denies the Grievance because, as explained below, he agrees that APCHA does not have the legal authority or obligation to issue a notice of violation in these circumstances.

Before moving to the findings of fact and conclusions of law, it should be noted that this is an unfortunate situation for all involved. Mr. Purcell is clearly a concerned father of two young girls who prepared well for hearing. The severity of the allegations concerning Henry Henley’s criminal conduct and his apparent lack of rehabilitation cannot be overstated. Frustration was expressed that law enforcement has not done more to protect the public from the risks of Henry Henley’s recidivism while on bail. While apparently expressing deep concern about the potential for Henry Henley to re-offend, the district court set bail at an amount (\$75,000) that Henry Henley was able to meet. And while the terms of bail could have included a restraining order preventing Henry Henley from living or traveling within certain distances of playgrounds and schools (which would have disqualified him from living with his parents), such a restriction apparently was not issued by the district court. Thus, Mr. Purcell (perhaps understandably) turned to APCHA for relief. Unfortunately, APCHA lacks authority to provide that relief.

## **FINDINGS OF FACT**

### **I. Procedural Matters**

1. Mr. Purcell formally initiated the Grievance on December 5, 2025.
2. On December 23, 2025, APCA submitted its prehearing statement with Exhibits A through J. The exhibits generally included the Master Deed Restriction Agreement for the Occupancy and Resale of Woody Creek Subdivision (the “Master Deed”), the APCA Regulations, the Intergovernmental Agreement creating APCA, and prehearing communications between the parties.
3. On April 23, 2025, Mr. Purcell submitted his prehearing statement with several documents, including Title 29 of the Colorado Revised Statutes, the APCA Regulations, the Master Deed, and several photos of the playground near his home.
4. A public hearing was held on December 30, 2025.

### **II. Hearing Testimony**

5. Mr. Purcell resides with his wife and two daughters (ages 9 and 7) at 151 Woody Creek Plaza where he owns a home on a property in the Woody Creek Subdivision covered by the Master Deed.
6. Henry Henley is 24 years old and currently resides with his parents, Steven and March Henley, who are owners of a home at 216 Woody Creek Plaza that also is subject to the Master Deed.
7. According to testimony of Mr. Purcell and submissions by both parties, Henry Henley was convicted of sexually assaulting two minors in 2019; there were statements by law enforcement officers that there likely were several additional victims; and Henry Henley served time in a youth offender institution until he was released in 2023 with a minimum of 20 years of probation and a lifetime requirement to register as a sex offender.
8. According to testimony of Mr. Purcell and submissions by both parties, Henry Henley has been cited with violating his probation four times since March 2025. In a September 2025 incident, Henry Henley allegedly offered drugs to a 14-year old girl and pursued her when she refused. Upon charging Mr. Purcell with probation violations, the prosecuting attorney said that he could not be more concerned for the community.
9. On October 23, 2025, despite allegedly stating that “there is reason to believe [Henry Henley] poses a substantial risk of serious harm to others” and “I do not believe he’s safe to be in the community,” the Pitkin County District Court released Henry Henley subject to a \$75,000 cash bond, pending trial.

10. On December 2, 2025, Mr. Purcell informed APCA by letter of the aforementioned circumstances and requested APCA to issue a notice of violation to Steven and March Henley. He asked that APCA require that Henry Henley be removed from the home and/or the owners be forced to sell the home for violating the Master Deed and APCA regulations.

11. APCA investigated and determined that it lacked authority to issue a notice of violation to Steven and March Henley based on the conduct of their son. On December 5, 2025, APCA informed Mr. Purcell of its determination.

12. In response, Mr. Purcell filed this Grievance.

### **CONCLUSIONS OF LAW**

The Hearing Officer confirmed at hearing that the issue in this Grievance was whether APCA had misinterpreted the Master Deed, the APCA Regulations, or other law in determining that it lacked authority to issue a notice of violation based on the conduct of Henry Henley. The issue was *not* whether Steven and March Henley should be required to remove Henry Henley and/or put the home up for sale. That issue presumably would be resolved following issuance of a notice of violation to Steven and March Henley and providing them, in a separate proceeding, with an opportunity to be heard. Accordingly, because their property rights were not at issue in *this* proceeding, the Hearing Officer did not deem it necessary to notice Steven and March Henley.

For his Grievance, Mr. Purcell provided several arguments, which are addressed below. The Hearing Officer notes that APCA did not contend that Mr. Purcell lacked standing to file a grievance demanding issuance of a notice of violation to his neighbor, so the issue of standing was not examined.

#### **I. There are no provisions in the Master Deed or the APCA Regulations that specifically give APCA authority to issue notice of violations for the criminal or dangerous conduct of an occupant of a deed-restricted home.**

Initially, there are no provisions in the Master Deed or the APCA Regulations that specifically give APCA authority to issue notice of violations for the criminal and dangerous conduct of an occupant. Section 2.2 of the Master Deed appears to provide the deed's requirements for maintaining occupancy in a covered property. There are no provisions in Section 2.2 or elsewhere in the Master Deed concerning behavior standards for owners or their families.

Similarly, Part II, Section 2 of the APCA Regulations ("Qualification Requirements") and Part IV, Section 2 ("Maintaining Qualification – Owners")—which are incorporated into the Master Deed by reference—provide additional requirements for qualifying for, and maintaining

ownership of, a covered property. Neither of these sections contains a provision concerning behavior standards for owners or their families.

The absence of any language in the Master Deed and these sections of the APCA Regulations that would specifically give APCA authority to monitor and bring enforcement actions against residents for criminal or dangerous conduct is strong evidence that APCA did *not* intend to allow itself such authority.

**II. There are no provisions in the Master Deed or the APCA Regulations that implicitly give APCA authority to issue notice of violations for the criminal or dangerous conduct of an occupant of a deed-restricted home.**

Mr. Purcell presented several arguments as to how provisions in the Master Deed and APCA Regulations implicitly give APCA authority to issue notice of violations for the criminal or dangerous behavior of an occupant of a deed-restricted home. These are discussed below.

**A. The APCA Regulations Part VI, Section 4 “Ineligibility List” criteria is inapplicable to an owner.**

Mr. Purcell argued that the criteria identified in the Ineligibility List should be referenced when examining an owner’s ongoing compliance with APCA Regulations. “Ineligibility” is discussed in APCA Regulations Part VI, Section 4. For reference, that section is reprinted in part below:

*Section 4. Ineligibility*

*A. The Ineligibility List is used by APCA to determine if an applicant or potential applicant is qualified to rent or purchase a deed-restricted unit or to be qualified as a roommate.*

*1. It is the responsibility of APCA staff to review the Ineligibility List prior to qualifying any person for APCA housing.*

*2. A person on the Ineligibility List may not rent a unit when APCA is the beneficiary of a deed restriction or otherwise responsible for management, nor may such persons rent from an Owner of a deed restricted unit.*

*3. A person on the Ineligibility List is not qualified to purchase a deed-restricted unit.*

*B. Criteria for Ineligibility*

*1. Certain conduct or behavior that APCA finds poses a risk to the use and enjoyment of affordable housing to other qualified persons or APCA staff, or whose record as an occupant of deed-restricted housing otherwise justifies by APCA a conclusion that it would be in the best interest of APCA to reject an application.*

*2. APCA will consider the following criteria in determining whether to add a*

*person to the Ineligibility List. The criteria include but are not limited to:*

- a. fraud or misrepresentation in transacting any business with APCHA;*
- b. submitting untrue, misleading, or inaccurate information to APCHA;*
- c. violation of a lease, deed restriction, or APCHA Regulations, including*

*but not limited to:*

- (1) non-approved pet in a unit;*
- (2) multiple incidents of disruptive behavior or noise complaints from neighbors;*
- (3) unapproved tenants or roommates; illegal fires [sic];*
- (4) multiple parking violations;*
- (5) inexcusable damage to a unit;*
- (6) vandalism of APCHA or any person's property;*
- (7) threatening behavior toward APCHA staff or neighbors, including harassment and verbal abuse;*
- (8) theft of APCHA property;*
- (9) repeated late payments or rent (3 or more times within a lease period);*
- (10) criminal conduct whether resulting in a conviction or not;*
- d. outstanding debt of any kind to APCHA;*
- e. safety risk to APCHA staff or neighbors;*
- f. subleasing a unit without APCHA approval;*
- g. trespassing on the property of another;*
- h. eviction based on lease violation;*
- i. sale of property as the result of violating a deed restriction;*
- j. other violation(s) of applicable deed restriction and/or the APCHA Regulations;*
- k. previously imposed Stage 5 Fine; or*
- l. other reason as determined by APCHA.*

#### *C. Procedure for Additions to the Ineligibility List*

- 1. APCHA may add a person to the Ineligibility List at any time.*
- 2. Upon adding a person to the list, APCHA will notify the person of such action within 15 days by email and letter. The notice must identify with particularity, the reason(s) for adding the person to the list.*
  - a. The notice must advise such person of the opportunity to appeal such action to the APCHA Hearing Officer in the same manner as an appeal from a Notice of Violation as provided in Part VI of these Regulations.*
  - b. The decision of the Hearing Officer constitutes final agency action subject to judicial review pursuant to C.R.C.P. 106(a)(4). (emphasis added)*

On its face, the Part VI, Section 4 Ineligibility List does not apply to regulation of current APCHA owners or tenants. Rather, Section 4.A states that the Ineligibility List is a list that is used by APCHA “to determine ***if an applicant or potential applicant*** is qualified to rent or purchase a deed-restricted unit or to be a qualified roommate.” (emphasis added).

Mr. Purcell argued that Part VI, Section 4 nevertheless should apply to the regulation of current APCA owners based on definitional terms. Mr. Purcell argued that Section 2.1 of the Master Deed limits occupancy of covered properties to “Qualified Buyers and their families.” Mr. Purcell argued that APCA defines “Qualified Buyer” in Part VII of the APCA Regulations as:

*A person approved by APCA for the purchase of a Unit. Upon acquisition, a Qualified Buyer becomes a Qualified Owner. The terms “Qualified Buyer” and “Qualified Owner” are interchangeable as the context so requires. The requirements for Qualified Owners apply equally to Qualified Buyers, and vice versa.*

Mr. Purcell reasons that because the requirements for “Qualified Buyers” apply equally to “Qualified Owners,” APCA may use the Ineligibility List for regulating owner behavior.

The first problem with this argument is that there is no intention in Part VI, Section 4 to regulate the conduct of current owners or their families. As Mr. Purcell acknowledged at hearing, the purpose in interpreting legislative policy is to determine intent. *See, e.g., People v. Jones*, 2020 CO 45, ¶ 54 (“In interpreting statutes, our primary goal is to discern the legislature’s intent.”) There is no evidence of APCA’s intent in Part VI, Section 4 to regulate the conduct of owners or their families.

Divining such intent from reference to the definitional section is a stretch. But the stretch still falls short, as Part VI, Section 4 refers to *applicants*, not Qualified Buyers. The definitional section does not state that the APCA rules apply equally to “Qualified Owners” and to “applicants;” it says that APCA rules apply equally to “Qualified Owners” and “Qualified Buyers”. Accordingly, even if the definitions section were consulted for determining APCA’s intent, the definitions do not link the Ineligibility list in Part VI, Section 4 to owners and their families.

Mr. Purcell argued that this does not matter because a Qualified Buyer can only be qualified by avoiding the criteria for Ineligibility in Part VI, Section 4. However, it does not appear that an applicant must satisfy each of the criteria listed in the Ineligibility List to be a “Qualified Buyer.” The qualifications for buying a deed-restricted home are listed in Part II, Section 2. They do not specifically incorporate the criteria in the Ineligibility List. Part II, Section 2.A.6 does require satisfaction of “the applicable deed restrictions and these Regulations.” However, Section 2.A.6 does not state which of the Regulations are “applicable” beyond the criteria listed in Section 2.A. And the Part VI, Section 4 Ineligibility criteria do not state that they automatically apply to all buyers. Rather, the section states that the criteria is considered by APCA when determining whether to add someone to the Ineligibility List. The criteria for addition to the Ineligibility List are not listed as criteria to be a Qualified Buyer nor, by extension, for maintaining qualification as a Qualified Owner.

By the same token, Part IV, Section 2.A—which addresses what a Qualified Owner must

do to remain qualified—does not state that the owner must avoid conduct that would be considered for inclusion on the Eligibility List. Part IV, Section 2.A states that an owner must “maintain all Qualifications Requirements.” “Qualification Requirements” is defined in Part VII as “minimum standards used to qualify applicants, tenants, buyers, and owners to rent, own, or occupy ACPHA deed-restricted housing, as stated in these Regulations and subject to the applicable deed restrictions.” As explained above, an individual applying for deed-restricted housing need not meet any minimum standards beyond those identified in Part II, Section 2. That does not include meeting any behavioral standards. As explained above, the behavior criteria listed in Part VI, Section 4 are intended for consideration for inclusion on the Ineligibility *List*, which is a separate process.

Mr. Purcell also pointed to language in Part VI, Section 4 that he believes reflect an ACPHA intent to apply that section to owners. He pointed to several criteria that only could be triggered by an individual who had a prior relationship with ACPHA, such as the criteria concerning individuals having made false statements, having been evicted, having created safety risks, and having violated deed or lease restrictions. He reasoned that this reflected an intent by ACPHA to regulate the conduct of current owners. However, these factors would apply to an applicant who had previously lived in ACPHA housing and was re-applying. They do not reflect an intent to apply the ineligibility criteria to current owners.

In sum, Part VI, Section 4 reveals no intent to allow ACPHA to regulate conduct of owners. To reach that conclusion, Mr. Purcell advocates the interplay of definitions from other sections. But in the absence of a clear intent to regulate owner behavior in either Part IV concerning qualifications for maintaining ownership, or in Part VI, Section 4 concerning the Ineligibility List, the interplay of defined terms simply cannot be used to create such an intent. As the Colorado Supreme Court has stated, “we should not allow a hyper-technical reading of the language in a contract to defeat the intentions of the parties.” *Ad Two, Inc. v. City & Cnty. of Denver ex rel. Manager of Aviation*, 9 P.3d 373, 377 (Colo. 2000). The intent of ACPHA clearly was not to police the behavior of owners.

**B. The ACPHA Regulations Part I, Section 5.A policy statement does not provide criteria for regulating owner behavior.**

Mr. Purcell further argued that ACPHA Regulations Part I, Section 5.A reflects an intent to regulate owner behavior. That section provides:

*APCHA does not guarantee affordable housing to any person. ACPHA may deny approval to any applicant **or rescind approval** for any occupant who ACPHA finds poses a risk to the use and enjoyment of affordable housing to other qualified persons or to ACPHA staff, or whose record as an occupant in deed-restricted housing otherwise justifies a conclusion by ACPHA that it would be in the best interest of ACPHA to reject an application or undertake a compliance action.*

Mr. Purcell reasons that if approval can be “rescinded,” ACPHA intended to reserve authority to

regulate owner behavior.

While this argument has logic, the statement in this section appears to be a policy statement, as APCA advocates. Indeed, the statement lacks any criteria for enforcement. Moreover, the context of the statement undermines the notion that this is an enforcement standard. The statement appears in Part I, entitled “Housing Board Policies.” Part I contains no standards for obtaining and maintaining owner qualification. Those standards are included in Parts II and IV, respectively. As discussed above, neither Part II nor Part IV contains a provision concerning behavior standards for owners or their families. Thus, it does not appear that the statement in Part I, Section 5.A concerning “rescinding approval” sets any independent standards for regulating owner conduct. Rather, Section 5.A appears to reflect a summary policy concerning the specific qualification requirements included in Parts II and IV.

**C. The APCA Regulations Part VI, Section 1.A policy statement does not provide criteria for regulating owner behavior.**

Mr. Purcell further argued that APCA Regulations Part VI, Section 1.A reflects an intent to regulate owner criminal behavior. That section provides:

*All Residents of deed-restricted rental and ownership units must comply with the requirements of the applicable deed restriction; **applicable federal, state and local laws**; and these Regulations. A violation by any one Co-owner, Tenant, or member of a Household is considered a violation by all other Co-owners, Co-tenants, or members of a Household. (emphasis added)*

Mr. Purcell argued that this provision allowed APCA to bring enforcement proceedings against lawbreakers residing in APCA housing.

The problem with this argument is the word “applicable.” Part VI, Section 1.A does not purport to reserve for APCA the ability to bring notices of violations against residents for the violation of *all* laws. Rather, the word “applicable” appears to narrow the universe of laws for which APCA could bring enforcement proceedings to those laws governing the relationship between the residents and APCA.

**III. Neither state nor federal law requires APCA to regulate conduct of owners.**

Mr. Purcell further argued that state and federal law required regulation of the criminal conduct of owners. Mr. Purcell represented that federal Housing and Urban Development (“HUD”) regulations require removal of occupants of federally-funded housing for commission of sexual assaults. Mr. Purcell conceded, however, that APCA was not governed by HUD regulations, which APCA confirmed. Given that HUD regulations do not apply, the Hearing Officer has not analyzed whether the HUD regulations indeed would require removal of Henry Henley.



Mr. Purcell further argued that Title 29 of the Colorado Revised Statutes provided a basis for APCA to regulate criminal activity by owners. Mr. Purcell pointed to C.R.S. § 29-4-202(1) which states a legislative purpose for the creation of housing authorities to eliminate conditions leading to crime. Mr. Purcell reasons that if one of the goals of APCA is to reduce crime, it would be incongruous for APCA to allow sex offenders to reside in its properties.

Again, this is a stretch. There is nothing in Title 29 requiring housing authorities to remove individuals with criminal histories from their properties. While housing authorities may exist to provide safe and sanitary housing in an effort to reduce crime, the state has not mandated housing authorities to restrict individuals with criminal histories from their properties. And, as explained above, there is nothing in the APCA Regulations that reflects an intent by APCA to do so.

#### **IV. Policy arguments cannot supplant regulations.**

Mr. Purcell's remaining arguments were policy arguments. Mr. Purcell argued that it was against public policy for a housing authority to tolerate individuals such as Henry Henley in its properties. He also argued that, if the regulations do not allow APCA to bring enforcement actions in these cases, the regulations should be amended to do so. He also argued that the severity of the crimes committed and allegedly committed by Henry Henley should be considered. Mr. Purcell also argued that APCA must take a stand because the law enforcement system has done as much as it can do (which, as noted above, is debatable, given that the district court apparently placed no limitations on Henry Henley's movements when granting bail.)

While these may be compelling policy arguments, the Hearing Officer is required to follow the applicable regulations and deed restrictions in his decision. To conclude otherwise would mean that APCA would become responsible for investigating and policing the behavior of all its owners and tenants, and not just with respect to criminal conduct but with respect to all Ineligibility criteria listed in Part VI, Section 4. APCA's Regulations do not grant APCA such authority or responsibility. As acknowledged in *Kansas v. Carr*, "The standard adage teaches that hard cases make bad law." *Kansas v. Carr*, 577 U.S. 108, 135, 136 S. Ct. 633, 651 (2016). This indeed is a hard case, as the threat to the community appears real. Yet it would make bad law to conclude that APCA has such broad powers to take action here. Ultimately, law enforcement and the judicial system must be responsible for public safety, and through bail conditions and restraining orders, these institutions do have authority to prevent Henry Henley from living near children and playgrounds. They should be encouraged to utilize that authority.

### **CONCLUSION**

The Hearing Officer appreciates the parties' efforts in this grievance proceeding. These Findings of Fact and Conclusions of Law are issued pursuant to APCA Regulations Part VI Section 2.E.4 and Section 3.F. **Note: Pursuant to APCA Regulation Part VI Section 3.F, this decision is deemed final agency action and subject to *immediate judicial review under C.R.C.P. 106(a)(4)*.** Under APCA Regulations Part VI Section 3.F, this decision is *not*

appealable to the APCA Board because it is a decision upon a grievance, rather than a notice of violation.

Dated: January 5, 2026

**KUTAK ROCK LLP**

s/ Thomas W. Snyder

Thomas W. Snyder, Hearing Officer

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