

**OFFICIAL PROCEEDINGS OF THE BOARD OF
COUNTY COMMISSIONERS, TETON COUNTY, WYOMING**

The Board of County Commissioners in Teton County, Wyoming met in special session at 1:30pm on **January 29, 2018** in the Commissioners Chambers located at 200 South Willow, Jackson, Wyoming.

The purpose of the meeting was to hear the Appeal of Decision on Docket No. 2017-0006, Moises and Adela Tzompa, Lot 72, Notice of Violation of Special Restrictions.

Present were: Smokey Rhea Acting Chair, Paul Vogelheim, and Greg Epstein. Mark Newcomb and Natalia Macker were absent.

Hearing Officer: Mike Barton

Also present were: Chief Deputy County Attorney Keith Gingery, County Clerk Sherry L. Daigle, County Assessor Melissa Shinkle, Board of County Commissioners Administrator Alyssa Watkins, Housing Director April Norton, Housing Manager Stacy Stoker, Housing Compliance Specialist Lisa Potzernitz, and Deputy Administrative Clerk Shelley Fairbanks

At 1:30pm the hearing began with the call to order by Acting Commissioner Rhea. Hearing Officer Mike Barton gave an overview of the proceedings. The Appellant will have 20 minutes to argue the merits of their brief, with an additional 10 minutes allotted for questions. The Appellee shall have 20 minutes to argue the merits of their brief, with an additional 10 minutes allotted for questions. The Appellant may have 10 minutes to rebut the Appellee's argument. The Order will be done by the prevailing side, submitted to the other side for approval, before being given to the Commission. The Board's job is to consider the record as it's presented and the arguments. Make sure the evidence as it's presented in the transcript supports the decision made by the Housing Authority Board. The Board will look at the law and make sure the decision is supported by the law. The Boards role is not evidentiary in purpose, they are not here to find facts It is simply to make a determination based upon the record if the right thing was done.

Ken Cohen, attorney for Moises and Adela Tzompa, the appellants presented his argument on why the decision from the Housing Authority should be overturned. The process utilized in the Tzompa case for the Housing Department is broken. The Housing Authority Board was thrown into a situation without any training or guidance. Mr. Cohen gave background information on the Tzompa family. The Tzompa's moved into their home on July 4, 2003. Every few years (2004-05, 2007-08, 2013, and 2015) neighbors complained that the family was not living there. Mr. Cohen showed records of the photos and video taken on the trailcam and water and utility records. Mr. Cohen stated the order being asked to overturn showed zero findings of fact. Testimony from James Triplett, acting General Manager at The Virginian, stated the Tzompa's were at work before 6:45am and after 8:30pm seven days per week was rejected. Mr. Cohen said the burden of proof was on the Housing Department to show the Tzompa's do not reside in the Melody Ranch house as their sole and exclusive residence nine months throughout the year. Matt Faupel of the JTCHA stated the burden of proof was on the Tzompa's to disprove. The last point included in the brief was the utter confusion of the Board in their deliberations.

The hearing was recessed at 2:07pm and reconvened at 2:10pm.

Discussion between the Board and Mr. Cohen included dates and names on water and utility bills, dates of Idaho residency, dates of video and photo records show living at house 100% of time only from August 2015 – November 2015, Idaho residency and fraudulent application, and effective dates of special restrictions.

Keith Gingery, Deputy County Attorney representing the Jackson/Teton County Housing Department, presented his argument on why the decision of the Housing Authority Board should be upheld. He spoke of the special restrictions of Lot 72 Melody Ranch, previous breaches of special restrictions, Idaho residency including vehicle registrations and state tax filings, electrical usage and water/sewer usage were lower than normal compared to a house similar in size, dates on water and utility bills, written affidavits from neighbors were part of the exhibits at the hearing – objection (overruled) by Mr. Cohen referring to the written affidavits, no room in the garage for 2nd vehicle, trailcam placed in neighbor's yard – camera did not pick up vehicle pulling into driveway, problems with trailcam, the JHTCA Board findings – pay stubs, taxes, drivers licenses, long working hours, narrow down to breach of special restriction having to do with nine month occupancy, the findings are based upon presentations at the hearing, written record, exhibits provided, response, and closing statements. Mr. Gingery addressed some issues Mr. Cohen spoke about including the sole residence requirement and the fraud in the application – objection by Mr. Cohen (overruled), Idaho residency, and the JTCHA Board asking both attorneys for guidance.

Discussion between the Board and Mr. Gingery included verification of living in the house nine months per year, options of affirmation, reverse, or remand, to remand would mean to tell the Housing Authority Board what more is needed, rules of Housing Department or special restrictions for surveillance, no law violated with trailcam at neighbors, nowhere does the trailcam show a vehicle approaching,

Mr. Cohen began his rebuttal with the Housing Authority Board questioning Mr. Gingery regarding procedure and responsibility of Board, trailcam photos and video, burden of proof, and violations.

The hearing was recessed at 3:19pm and reconvened at 3:25pm.

There were no questions from the Board.

The hearing was called to an end at 3:26pm.

Discussion among the Board included was there work and/or W2's from Idaho, were the managers/owners from the Virginian contacted and questioned, personal privacy in jeopardy, trailcam a big piece of evidence, cut and dried that the Tzompa's live in their home, JTCHA enforcing workforce housing requirements, find in breach of contractual agreement, is property an investment or residence, is process fair, review of evidence presented and as presented, decision by the previous board is substantial – not a fact finder, can remand back to JTCHA if the evidence does not support what was presented, and ask for greater clarity in their findings.

A motion was made by Commissioner Epstein and seconded by Commissioner Rhea to overturn the decision made by the Jackson/Teton County Housing Authority Board in the matter of the appeal of Findings of Fact, Conclusions of Law and Order finding Moises and Adela Tzompa in violation of special restrictions.

Acting Chair Rhea called for the vote. The vote showed 2-1 in favor with Commissioner Vogelheim opposed and the motion carried.

ADJOURNMENT

A motion was made by Commissioner Epstein and seconded by Commissioner Vogelheim to adjourn. Acting Chair Rhea called for the vote. The vote showed all in favor and the motion carried. The meeting was adjourned at 3:41pm.

Respectfully submitted: sdf

TETON COUNTY BOARD OF COMMISSIONERS

Mark Newcomb, Chair

Natalia Macker, Vice-Chair

Greg Epstein

Paul Vogelheim

ATTEST:

Kathleen "Smokey" Rhea

Sherry L. Daigle, County Clerk