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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1648**

In the Matter of the Property Located at
5420 44th Avenue S. Located in
Minneapolis, MN and owned by Margots Kapacs.

**Filed July 31, 2017
Affirmed
Toussaint, Judge***

Minneapolis Department of Regulatory Services
File No. 3324 23rd Ave S

Margots Kapacs, Minneapolis, Minnesota (pro se relator)

Susan L. Segal, Minneapolis City Attorney, Lee C. Wolf, Assistant City Attorney,
Minneapolis, Minnesota (for respondent City of Minneapolis)

Considered and decided by Reyes, Presiding Judge; Bjorkman, Judge; and
Toussaint, Judge.

UNPUBLISHED OPINION

TOUSSAINT, Judge

In this certiorari appeal, relator Margots Kapacs challenges the decision of
respondent City of Minneapolis to deny his application for a rental license, arguing that the

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

city had no basis for denying his application and that his due-process rights were violated. We affirm.

D E C I S I O N

I. The city had a valid basis for denying Kapacs’s application for a rental license.

Kapacs argues that the city lacked a valid legal basis for denying his application for a rental license for his property located on 44th Avenue South. We disagree.

“City council action is quasi-judicial and subject to certiorari review if it is the product or result of discretionary investigation, consideration, and evaluation of evidentiary facts.” *Staehele v. City of St. Paul*, 732 N.W.2d 298, 303 (Minn. App. 2007) (quotation omitted). “A city council’s decision may be modified or reversed if the city violated constitutional provisions, exceeded its statutory authority, made its decision based on unlawful procedure, acted arbitrarily or capriciously, made an error of law, or lacked substantial evidence in view of the entire record submitted.” *Montella v. City of Ottertail*, 633 N.W.2d 86, 88 (Minn. App. 2001). “The party seeking reversal has the burden of demonstrating error.” *Id.* A reviewing court must not substitute its own judgment or retry the facts, but rather must affirm if there is any legal basis for the action taken. *Staehele*, 732 N.W.2d at 303.

Minneapolis, Minn., Code of Ordinances (MCO) § 244.1910 (2016), provides the minimum standards and conditions that must be met in order to hold a rental dwelling license and states that failure to comply with the conditions shall be adequate grounds to deny a license. MCO § 244.1910(13)(b) states, “Any person(s) who has had an interest in

a license revoked pursuant to this article . . . shall be ineligible from obtaining any new rental dwelling licenses for a period of three (3) years.”

The record reflects that the city revoked Kapacs’s rental license for a property that he owns on 23rd Avenue South in May 2015 and that his appeal to this court was dismissed as untimely. Because Kapacs applied for a license for his 44th Avenue South property in March 2016, less than a year after his license for his 23rd Avenue South property was revoked, the city had a valid basis for denying his application based on MCO § 244.1910(13)(b). We conclude that Kapacs has failed to show that there was any error in the hearing officer’s determination that MCO § 244.1910(13)(b) supported the denial of his application.

II. Kapacs’s due-process rights were not violated.

Kapacs argues that his due-process rights were violated because he did not receive the opportunity to be heard at the hearing held before an administrative hearing officer in June 2016 addressing the denial of his application. We disagree.

An individual’s due-process rights are guaranteed by the United States and Minnesota Constitutions. U.S. Const. amend. XIV, § 1; Minn. Const. art. I, § 7. “Generally, due process requires adequate notice and a meaningful opportunity to be heard.” *Staehele*, 732 N.W.2d at 304. “Procedural due process is flexible and calls for such procedural protections as the particular situation demands.” *In re Khan*, 804 N.W.2d 132, 137 (Minn. App. 2011) (quotation omitted). We review whether a party’s procedural due-process rights were violated de novo. *Staehele*, 732 N.W.2d at 304.

Although Kapacs claims that he was not afforded a meaningful opportunity to be heard, he points to no specific aspect of the hearing as being deficient. Moreover, Kapacs's claim that he was not afforded a meaningful opportunity to be heard at the June 2016 hearing before the hearing officer is belied by the transcript of the hearing. Kapacs appeared at the hearing and vigorously cross-examined the city's witnesses. Kapacs also testified himself, submitted documents to the hearing officer as evidence, and made a number of arguments in support of his position. The record does indicate that the hearing officer redirected Kapacs when he attempted to address issues related to the May 2015 rental license revocation, but such redirection to the issues that were pertinent to the hearing did not deprive Kapacs of a meaningful opportunity to be heard.

Kapacs also argues that his due-process rights were violated because the hearing officer disregarded all of his proposed findings of fact, conclusions of law, and recommendations in his order recommending denial of Kapacs's application. But the fact that the hearing officer disagreed with Kapacs's analysis of the dispute does not indicate that Kapacs was deprived of his due-process rights. An administrative decision "must explain on what evidence it is relying and how that evidence connects rationally with the agency's choice of action to be taken." *Manufactured Hous. Inst. v. Pettersen*, 347 N.W.2d 238, 244 (Minn. 1984). The hearing officer discussed the revocation of Kapacs's rental license for his 23rd Avenue South property and explained that the revocation prevented Kapacs from holding a license for a period of time, under MCO § 244.1910(13)(b). Kapacs has failed to show that the hearing officer violated his due-process rights.

Finally, Kapacs makes some arguments relating to the merits of the city's decision to revoke his license for the 23rd Avenue South property. However, because these arguments are an attempt to relitigate the city council's 2015 decision, which Kapacs failed to timely appeal, they are beyond the scope of this appeal, which only involves the city's decision to deny Kapacs's application for a license for his 44th Avenue South property. *See Hauschildt v. Beckingham*, 686 N.W.2d 829, 840 (Minn. 2004) (stating that res judicata bars relitigation of same claims when court has rendered final judgment on merits); *Surf & Sand, Inc. v. Gardebring*, 457 N.W.2d 782, 787 (Minn. App. 1990) ("The doctrine of res judicata applies in administrative proceedings when the agency is acting in a judicial capacity and resolves disputed issues properly before it, which the parties have had an adequate opportunity to litigate." (alteration omitted) (quotation omitted)).

Affirmed.