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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0682**

In the Matter of the Administrative Citation:
RFS 16-1206097, October 18, 2016,
3518 Logan Avenue North,
Issued to: Larry Naber.

**Filed January 16, 2018
Affirmed
Toussaint, Edward Judge***

Minneapolis Department of Regulatory Services
File No. RFS 16-1206097

Larry Naber, Minneapolis, Minnesota (pro se appellant)

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

Considered and decided by Rodenberg, Presiding Judge; Worke, Judge; and
Toussaint, Judge.

UNPUBLISHED OPINION

TOUSSAINT, Judge

Relator Larry Naber challenges an order from an administrative hearing officer
(AHO) imposing a civil penalty for the violation of a city code ordinance. Because the
AHO's decision is substantially supported by the evidence, we affirm.

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

DECISION

I.

An administrative hearing on an ordinance violation is a quasi-judicial act. See *Press v. City of Minneapolis*, 553 N.W.2d 80, 83 (Minn. App. 1996). Our review of a quasi-judicial act is limited to determining “if the decision is fraudulent, arbitrary, unreasonable, unsupported by substantial evidence, not within its jurisdiction, or based on an error of law.” *Axelson v. Minneapolis Teachers’ Ret. Fund Ass’n*, 544 N.W.2d 297, 299 (Minn. 1996) (quotation omitted). We do not substitute our judgment for that of the AHO, retry the facts, or make credibility determinations. *Senior v. City of Edina*, 547 N.W.2d 411, 416 (Minn. App. 1996). Naber, as the party challenging the decision, must establish that an error occurred and that he was prejudiced as a result of that error. *Midway Ctr. Assocs. v. Midway Ctr., Inc.*, 306 Minn. 352, 356, 237 N.W.2d 76, 78 (1975). We will affirm if there is “any legal and substantial basis for the action taken.” *Senior*, 547 N.W.2d at 416.

Naber challenges the sufficiency of the evidence underlying the AHO’s order imposing a civil penalty for violating Minneapolis, Minn., Code of Ordinances (MCO) § 541.450. This section establishes the maximum number of vehicles that may be parked or stored at a dwelling: “The total number of vehicles located on a zoning lot shall not exceed two (2) vehicles per dwelling unit, excluding those parked within an enclosed structure. For the purposes of this section, accessory dwelling units shall not be considered a dwelling.” . . . MCO § 541.450 (2017). The evidence presented to the AHO established that the city sent Naber notice that he was in violation of . . . MCO § 541.450 for having

an excessive number of vehicles on his property, and giving him time to correct the condition. When Naber failed to correct the violation, the city issued a \$200 administrative citation, which Naber appealed. At the hearing, Naber conceded that the vehicles belonged to him and admitted that he failed to correct the condition despite receiving notice.

Naber has not established that the decision was “fraudulent, arbitrary, unreasonable,” unsupported by the evidence, outside the AHO’s jurisdiction, or based on an error of law. *Axelson*, 544 N.W.2d at 299. Given Naber’s admission that he violated . . . MCO § 541.450, we conclude that the evidence presented at the hearing substantially supports the AHO’s decision affirming the administrative citation, and we therefore affirm.

II.

Naber challenges the constitutionality of . . . MCO § 541.450. Because Naber’s constitutional arguments are beyond the subject-matter jurisdiction of the AHO, we decline to consider such arguments for the first time on appeal. *See McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 337 (Minn. 2011) (directing aggrieved party to commence a declaratory judgment action in district court); *see also Neeland v. Clearwater Mem’l Hosp.*, 257 N.W.2d 366, 368 (Minn. 1977) (recognizing that administrative agencies lack subject-matter jurisdiction to address constitutional issues).

Affirmed.