

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0114**

In the Matter of:

Melissa Lopez,
Relator,

vs.

Dakota County Community Development Agency,
Respondent.

**Filed August 24, 2026
Affirmed
Rasmusson, Judge**

Dakota County Community Development Agency

Lisa Hollingsworth, Thomas Mueller, Southern Minnesota Regional Legal Services, Inc.,
St. Paul, Minnesota (for relator)

Mary G. Dobbins, Landrum Dobbins LLC, Edina, Minnesota (for respondent)

Considered and decided by Rasmusson, Presiding Judge; Johnson, Judge; and Bond,
Judge.

NONPRECEDENTIAL OPINION

RASMUSSON, Judge

In this certiorari appeal, relator argues that the termination of her housing benefits is in violation of several statutes, unsupported by substantial evidence, and arbitrary and capricious. Because relator forfeited her statutory arguments, substantial evidence supports the decision, and the decision is not arbitrary or capricious, we affirm.

FACTS

In July 2024, relator Melissa Lopez and her three minor children moved into a Section 8 Project-Based Voucher housing unit in Apple Valley. This unit is owned by respondent Dakota County Community Development Agency (CDA). The CDA administers Lopez's Section 8 assistance.

Lopez acknowledged her tenancy obligations as a voucher-program participant in a signed document. Pertinent here, Lopez's obligations included that she must provide the CDA with true and complete information, the unit must be her only residence, and only approved occupants may reside in the unit. Further, the CDA advised Lopez that a guest cannot stay in the unit for more than 15 days during a 12-month period.

Prior to moving into the unit, Lopez informed the CDA that she was pregnant and anticipated needing assistance from her mother after giving birth. Lopez received approval for her mother to stay at the unit until October 1, 2024.

In April 2025, the CDA began investigating Lopez for violating program rules by living at two residences and allowing her mother to live at the unit. The investigation resulted in a report completed in August 2025. The report cited the following evidence that Lopez had two residences: an application for a name change relating to Lopez's children in which Lopez listed their address as being in Champlin; a child-support order listing Lopez's address as being in Champlin; an affidavit of service stating that Lopez was served in Champlin; and a phone call in which Lopez stated that she splits her time between a Champlin and Apple Valley residence. Regarding the allegation that Lopez's mother lived at the unit, the report noted several calls for law-enforcement assistance at the unit

with Lopez's mother being the only adult present. Lopez's mother stated to a responding officer that the children are living with her at the unit and that she has a delegation of parental authority (DOPA) to care for them.

On September 24, 2025, the CDA informed Lopez that it was terminating her benefits based on her misrepresentation, living at two residences, and having an unreported adult living at the unit. The termination of benefits was originally due to take effect on October 31. Lopez requested an informal hearing. The record suggests that the CDA stayed termination of Lopez's benefits while she pursued internal appeals.

Relevant to the issues on appeal, the record indicates that Lopez has an order for protection against her ex-husband. Prior to the termination of Lopez's benefits, the CDA granted her emergency request under the Violence Against Women Act (VAWA) to transfer to a new unit. While the termination proceedings were pending, the CDA approved a subsequent VAWA emergency transfer request in November 2025.

On November 17, Lopez appeared at a hearing on the termination of her benefits. Afterwards, a hearing officer issued a written order affirming the termination of Lopez's benefits. The CDA denied Lopez's request for reconsideration.

Lopez appeals.

DECISION

This appeal concerns the Section 8 voucher program. The program authorizes the United States Department of Housing and Urban Development (HUD) to enter into agreements with local public-housing agencies (PHAs), which in turn allow the PHAs to make assistance payments on behalf of program participants to owners of eligible

residences. 42 U.S.C. § 1437f(b) (2018). Federal regulations govern the administration of the program. Pertinent here, participant families “must supply any information that the PHA or HUD determines is necessary in the administration of the program,” including information requested “for use in a regularly scheduled reexamination or interim reexamination of family income and composition.” 24 C.F.R. § 982.551(b)(1)-(2) (2026). This information “must be true and complete.” *Id.* (b)(4) (2026). Additionally, “[t]he unit must be the family’s only residence.” *Id.* (h)(1) (2026). Relatedly, a PHA must approve the “composition of the assisted family residing in the unit,” the family “must request PHA approval to add any other family member as an occupant of the unit,” and “[n]o other person . . . may reside in the unit.” *Id.* (h)(2) (2026). A PHA may terminate assistance if the family violates any of the obligations under section 982.551. 24 C.F.R. § 982.552(c)(1)(i) (2026).

We turn to the standards of review. A PHA, like the CDA, acts in a quasi-judicial capacity when it receives evidence, hears testimony, and makes a decision. *Carter v. Olmsted Cnty. Hous. & Redevelopment Auth.*, 574 N.W.2d 725, 729 (Minn. App. 1998). We will uphold a PHA’s quasi-judicial decision unless it is “unconstitutional, outside the agency’s jurisdiction, procedurally defective, based on an erroneous legal theory, unsupported by substantial evidence, or arbitrary and capricious.” *Wilhite v. Scott Cnty. Hous. & Redevelopment Auth.*, 759 N.W.2d 252, 255 (Minn. App. 2009) (quotation omitted). We evaluate the findings to determine whether they support the decision but do not “retry the facts or make credibility determinations.” *Senior v. City of Edina*, 547 N.W.2d 411, 416 (Minn. App. 1996). We will uphold a quasi-judicial decision if the

decision-maker “furnished any legal and substantial basis for the action taken.” *Id.* (quotation omitted).

I. Lopez forfeited her statutory arguments.

Lopez argues that the termination of her benefits violates VAWA, the Fair Housing Act (FHA), and the Minnesota Human Rights Act (MHRA). As a threshold issue, we first address whether these arguments are properly before us.

Appellate courts generally do not review arguments made for the first time on appeal. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). This principle applies to a party’s failure to present arguments in quasi-judicial proceedings. *See, e.g., In re Stadsvold*, 754 N.W.2d 323, 327 (Minn. 2008) (declining to address zoning issue that “was not presented to or considered by the Board [of Adjustment]” (citing *Thiele*, 425 N.W.2d at 582)). Lopez concedes that she first addressed her statutory arguments in her request for reconsideration rather than in the initial proceedings. We assume without deciding that it was proper for Lopez to submit a request for reconsideration. An argument that a party first made in a request for reconsideration, however, does not suffice to preserve that argument for appeal. *See Superior Shores Lakehome Ass’n v. Jensen–Re Partners*, 792 N.W.2d 865, 868 (Minn. App. 2011) (explaining that a party forfeited appellate review of an argument by first raising it in a request to file a motion for reconsideration).

Lopez counters that she was unable to raise her statutory arguments at the hearing because she did not know the hearing officer’s decision. We find this argument unpersuasive because Lopez knew the basis of the CDA’s termination decision prior to the hearing, which afforded her the opportunity to raise her statutory arguments at the hearing.

Alternatively, Lopez contends that she raised her statutory arguments under VAWA, FHA, and MHRA at the hearing by stating her status as a victim of domestic abuse and requesting to have her mother present at the unit. Although we appreciate the sensitivity of Lopez's situation, her general references to topics addressed in the underlying statutes fall short of affirmatively raising a claim or defense under those statutes.

Because Lopez did not sufficiently preserve her arguments, we decline to address her statutory arguments on appeal.

II. Substantial evidence supports the hearing officer's decision, and the decision is not arbitrary or capricious.

Lopez additionally argues that the hearing officer's decision "was conclusory and unsupported by substantial evidence." In making this argument, she challenges the evidentiary support for certain aspects of the termination, the CDA's interpretation of the term "residence," the hearing officer's failure to make credibility determinations, and the hearing officer's failure to provide a rationale for her decision. We interpret Lopez as arguing that the hearing officer's decision was unsupported by substantial evidence and arbitrary and capricious.

A. Substantial Evidence

Lopez first contends that insubstantial evidence supports the determination that her mother was an unauthorized occupant of the unit. *See* 24 C.F.R. § 982.551(h)(2). Pertinent to this argument is the CDA's guest policy, which prohibits guests from being in a unit for more than 15 days in a 12-month period. A guest is "a person temporarily staying in the

unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.” 24 C.F.R. § 5.100 (2026).

As stated above, we will reverse a quasi-judicial decision if it is “unsupported by substantial evidence.” *Wilhite*, 759 N.W.2d at 255 (quotation omitted). “Substantial evidence is 1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; 2) more than a scintilla of evidence; 3) more than some evidence; 4) more than any evidence; and 5) evidence considered in its entirety.” *In re Brown*, 28 N.W.3d 486, 505 (Minn. App. 2025) (quotation omitted), *rev. denied* (Minn. Jan. 21, 2026). Under this standard, we will not disturb an agency’s decision if “it has adequately explained how it derived its conclusion and that conclusion is reasonable in the basis of the record.” *In re Application of Enbridge Energy, Ltd. P’ship, for Certificate of Need & Routing Permit*, 964 N.W.2d 173, 189 (Minn. App. 2021) (quotations omitted), *rev. denied* (Minn. Aug. 24, 2021).¹ So long as an agency engages in reasoned decision-making, an appellate court “will affirm, even though it may have reached a different conclusion had it been the factfinder.” *Cable Commc’ns Bd. v. Nor-West Cable Commc’ns P’ship*, 356 N.W.2d 658, 669 (Minn. 1984).

In challenging the hearing officer’s decision, Lopez argues that she provided sufficient evidence to support a determination that her mother did not reside at the unit. She points to her mother’s lease agreement listing a different address, mail addressed to

¹ Although *Enbridge* conducts review under Minnesota Administrative Procedure Act (MAPA), we note that the standard of review of quasi-judicial agency decisions under the common-law standard is identical to that of an agency decision under MAPA. *Staeheli v. City of St. Paul*, 732 N.W.2d 298, 304 n.1 (Minn. App. 2007).

her mother that listed a different address, and testimony that her mother was only present at the unit during the day. Even if this information supports a determination that Lopez's mother did not reside in Lopez's unit, it is reasonable for the hearing officer to have come to a different conclusion. Notably, the record includes many police reports regarding calls to the unit at which Lopez's mother was the only adult present. In one of these reports, dated outside the period during which Lopez's mother had permission to stay at the unit, Lopez's mother was described as stating that she lived there with the children.² The hearing officer additionally noted that the signatures on Lopez's mother's purported lease are undated and there is no rent charge listed on the lease. From these facts, it is reasonable for the hearing officer to have determined that Lopez's mother was living at the unit without authorization. We therefore conclude that substantial evidence supports this aspect of the hearing officer's decision.

B. Arbitrary and Capricious

Lopez last argues that the decision was arbitrary and capricious because it failed to make findings of fact or credibility determinations.

A quasi-judicial decision is arbitrary and capricious

if the agency relied on factors which the legislature had not intended it to consider, if it entirely failed to consider an important aspect of the problem, if it offered an explanation for the decision that runs counter to the evidence, or if the decision

² Lopez relies on *Basco v. Machin* in arguing that hearsay evidence cannot be the sole basis for terminating assistance. 514 F.3d 1177, 1181 (11th Cir. 2008). In addition to being nonbinding, see *Daniel v. City of Minneapolis*, 923 N.W.2d 637, 645 n.6 (Minn. 2019) (stating that a federal circuit court decision “do[es] not bind our court”), *Basco* is distinguishable because it merely holds that hearsay evidence must be accompanied by sufficient guarantees of reliability and probative value. 514 F.3d at 1183.

is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

Minn. Transitions Charter Sch. v. Comm’r of Minn. Dep’t of Educ., 844 N.W.2d 223, 235 (Minn. App. 2014) (quotation omitted), *rev. denied* (Minn. May 28, 2014). Put differently, a decision is arbitrary and capricious if it represents the agency’s “will and not its judgment.” *Id.* (quotation omitted). But “[i]f there is room for two opinions on a matter, [an agency’s] decision is not arbitrary and capricious, even though the court may believe that an erroneous conclusion was reached.” *In re Rev. of 2005 Ann. Automatic Adjustment of Charges for All Elec. & Gas Utils.*, 768 N.W.2d 112, 120 (Minn. 2009).

In support of her argument, Lopez contends that the hearing officer failed to make credibility determinations to justify disregarding certain testimony, such as testimony about a DOPA that requires Lopez’s mother to be frequently present at the unit. In making this argument, Lopez relies on *Carter*, 574 N.W.2d at 729-30. Under *Carter*, “[i]n order to facilitate appellate review, an administrative agency must state the facts and conclusions essential to its decision with clarity and completeness.” 574 N.W.2d at 729.

The hearing officer’s decision does not suffer from the same infirmities as in *Carter*. In *Carter*, we held that a hearing officer made insufficient findings by failing to mention testimony or evidence that does not support the decision or give an explanation as to why he chose to disregard this information. *Id.* at 730. Regarding the allegation that Lopez’s mother was an unauthorized occupant, the hearing officer noted that Lopez provided a purported lease regarding Lopez’s mother’s tenancy at a different location. The hearing officer explained, however, that she did not find this explanation credible because the

signatures on the lease were not dated, the lease did not list rent charged, and Lopez's mother expressed hesitancy when asked for documentation of her residence. Implicit in the hearing officer's explanation is that the officer did not find Lopez and her mother's explanations credible when weighed against the evidence that the CDA submitted. Because the hearing officer provided an adequate explanation for her decision and this decision is reasonable, the decision is neither arbitrary nor capricious.³

Affirmed.

³ Lopez raises several arguments with respect to the determination that she violated the single-residence requirement. A PHA may terminate assistance based on the violation of any obligation under section 24 C.F.R. § 982.551 (2026), such as the requirement that only approved people live in the residence. 24 C.F.R. § 982.552(c)(1)(i); *see also* 24 C.F.R. § 982.551(h)(2) (addressing the approval requirement). Because we affirm the hearing officer's determination that Lopez violated this approval requirement, we decline to address Lopez's arguments regarding the single-residence requirement.