Planning & Development Committee Workshop
Minutes of March 2, 2013
City Council Chambers – 9:00 a.m.
Lorraine H. Morton Civic Center


MEMBERS ABSENT: D. Wilson

STAFF PRESENT: W. Bobkiewicz, G. Farrar, S. Griffin, B. Newman

PRESIDING OFFICIAL: Ald. Fiske

I. ROLL CALL

Roll called, Chair Fiske called the meeting to order at 9:07 a.m.

II. Ordinance 1-O-13, Enacting a New Title 5, Chapter 9 of the City Code to Prohibit Vacation Rentals

Staff requests consideration of Ordinance 1-O-13, which enacts a new Title 5, Chapter 9 of the City Code to prohibit the leasing of a dwelling unit for fewer than 30 days.

For Discussion

Chair Fiske announced that each public speaker would have 5 minutes to speak. She called the public to the podium:

Maureen O’Donnell of 2509 Ashland, next door to 2515 Ashland, where the short term rentals have been taking place, said a nice couple moved into 2515 Ashland after it went into foreclosure. Within a month there were strangers in and out, replaced by new strangers, and then a second homeowner on the block has also housed 3 unrelated adults. Ms. O’Donnell said there are 16 homes on the block and related a story of a Craigslist advertisement for a roommate at Devon and Sacramento in Chicago, where 2 of the 3 roommates were killed with the accused being the renter who answered the ad. Ms. O’Donnell said a 12-24 hour tenant cannot be properly investigated. She said in one online review of 2515 Ashland, the owner gave a good review of a tenant because he let himself in when she was not there upon his arrival. She said the rent is $65/night for a bedroom and $15/night for a second bedroom. She said that the owner of 2515 Ashland said she has a problem with the government telling her what to do. Ms. O’Donnell concluded that she and her neighbors are asking that the government enforce the existing laws.

Greg Richards of 2529 Ashland said he fully supports the 30 day requirement on vacation rentals and feels it is appropriate because it would eliminate the short term rentals that are posing a safety risk. He said it is reasonable to rent month to month for example, in a professor’s absence and that a 30 day rental will encourage the owner to better vet the tenant. Mr. Richards said the ban has also been done in other communities. He suggested that exceptions such as rentals pursuant to the sale of
property could be written into the Ordinance and that the 30 day rental could apply only to certain residential zones, but he feels it is necessary.

Mark Rosati of 2509 Ashland expressed his appreciation to the Committee for meeting with the public on a Saturday morning. He said some home owners are operating a 24 hour unregulated commercial enterprise and he is confused as to why the existing ordinance cannot be enforced. He said there are published testimonials on the web to encourage this activity and he no longer knows his neighbors. He mentioned that someone was videotaping the children at the school across the street. He said he would expect an R1 District to be a residential neighborhood, without 24-hour commercial operations. He clarified that he is not expecting strangers to be kept off his block, but there is a difference between people walking to the hot dog stand or a Northwestern game and having a 24 hour commercial business in the house next store and there is a clear difference between reasonable accommodations and a 24 hour transient hotel. Mr. Rosati concluded that it is important to enforce the existing laws.

Judy Berg, on behalf of the principal and pastor of St. Athanasius, 2510 Ashland, said they have 337 children attending their school and it is difficult to ensure parents that their children are safe. She encouraged the City to uphold the laws and enforce them.

Mary Rosinski of 1729 Chancellor, said, as a realtor, she would be concerned about a law that prohibits people from doing rent backs post possession of a home purchase, however a rooming house should not be in an R1 District. She said some people do house swaps with people from other countries and 30 days may be too broad a time period. She said she doesn’t want every home owner to be limited to 30 days. There would need to be exceptions in the law.

Jill Graham of 2724 Harrison said she agrees that the City needs to enforce the zoning laws and restrict commercial activity in an R1 District. She commended the Committee for having the workshop and hopes they can address everyone’s needs. She mentioned Open Communities, a home-sharing organization that connects people with boarders to help each of them make ends meet, and said she hopes this type of home sharing would not be affected by the law.

Jeff Smith of 2724 Harrison said the neighborhood people have the best eyes on the street. He said a rooming house under the City ordinance is not the same as a short term or vacation rental. He said he has not heard the need for a City-wide ordinance at any of the other hearings. He said property owners have the right to rent their homes for a weekend and the need has increased since the economic collapse and one tax bill can be paid by one weekend rental. He said he objects to guests being called transients, which has a bad connotation, and he has heard a lot of fear expressed. He said not knowing the facts leads to fear but he sees a number of out-of-state license plates on his block, of people who have relatives staying with them and college kids who have friends visiting them but there have been no complaints to police and the guests have not caused a nuisance. He said he understands that no one wants a commercial enterprise popping up next to them but there are plenty of solutions short of a ban on rentals under 30 days such as background checks, as he
would not want to rent his home to a tenant that was not vetted. He suggested setting a limit on the number of rentals per year or per month, making exceptions for graduation or certain Northwestern football games. He said there are many ways to make an ordinance work and noted that there would always be house sitters and house swapping which could put an out-of-state stranger in a neighbor’s house. He noted that guests bring economic activity to Evanston and there are not many hotels in Evanston. He said he has done short visits to many places with his wife instead of staying at a hotel and he believes thorough vetting is important.

John Fell of 2008 Harrison in an R5 District owns a 3 flat with a vacation rental he recently started by accident when his neighbors needed a place for a professor to stay. He rented the apartment that his children stay in when they visit and has been renting it to affluent, vetted people successfully since then. He bought the building to allow him to operate a business model that would allow him to live in Evanston. He gives tenants a little book on where to go in Evanston and has received thanks from the business owners and everyone who stays here finds Evanston to be a charming, great community. He said his experience has been different from tenants who disturb the peace or absentee parents who leave kids at home. He said the tenant is the owner’s responsibility, though he is an owner occupant, so he is there. Mr. Fell said he advertises on VRBO.com (vacation rental by owner), which he uses when he travels because he does not like to stay in hotels. He said everything is regulated on VRBO.com; the reviews tell all; they provide a great service and create a model. He said he understands the need for seniors to have boarders in order to stay in their homes.

Kim Novi of 2507 Ashland said she is sure she is speaking on behalf of her neighbors when she says they do not believe people should not be allowed to have their relatives come, but they object to unlicensed rentals. She said she has researched rentals in Chicago and the owners on her block are renting their homes for less than a transient hotel charges. She asked whether the City must wait until something bad happens and cited a murder in Arizona that occurred at a weekend rental. She said two nights ago a detective came to her door investigating a robbery of copper pipe at “St. A’s.” Ms. Novi wondered how the City would police an ordinance not allowing rentals for more than 30 days. Neighbors would be required to tattle on other neighbors. Ms. Novi mentioned that it is disturbing to see people on your block taking photos of children. She said the right to rent is a privilege and must be balanced with health, safety and property values and Evanston is not a rural community where people have no where to stay. She said the City should ensure that hotels are not competing with unlicensed home owners and hopes the Committee will come up with legislation that will prevent unlicensed rental of homes. She asked that the City please enforce existing laws that prohibit the rental of unlicensed homes.

Chair Fiske turned the discussion over to the Committee.

Ald. Rainey said she agrees with everyone who spoke and that each block has a different story. She said just because a business is licensed, it does not ensure that there won't be problems and she is conflicted because she wants to stop the bad behavior and intrusions. She said Open Community, mentioned by one of the public speakers, is an organization that is supported by Community Block Grant funding,
and is not part of this issue. She said it is important to find out whether we can control bad behavior with the existing ordinances.

Grant Farrar pointed out that enforcement must follow any ordinance. He said the Law Dept. has looked at other cities' short term rental laws and clarified that the issue before the Committee was whether to ban rentals for less than 30 days or to devise an enforcement scheme to be understood by everyone. He explained that the Zoning Board of Appeals does not believe the definition of a rooming house applies and that home occupations exclude boarding houses so the City can not prosecute for the unclearly defined activity. Mr. Farrar suggested as a best practice, the City ordinance should have licensing define an allowed short term rental with many restrictions.

Ald. Wynne said she agrees with everyone. She noted that Mr. Fell of 2008 Harrison lives in an R5 District where rental properties are allowed and Mr. Fell is following the rules for his district but R1 is the subject at hand. She noted that in her ward the police ask neighbors to call them if something suspicious is going on. Many homes have alarm systems but a neighbor is the best alarm. Ald. Wynne said it is not fair to run a business in an R1 District. It is not what the neighbors paid for when they bought their homes and if someone wants a rental property, they should buy one that is designated as such. She said the City should be able to craft something that includes the exceptions and they all must be thoroughly thought out.

At Ald. Wynne’s inquiry, Mr. Farrar explained that Judge Shadur interpreted the law differently than the City; Ald. Wynne surmised that it would be whistle blowing that would best enforce the law in this high price single family residential district, though it is not fair to make the neighbors police. She said it is definitely a commercial activity in a residential zone, and one does not expect to live next to a short term rental property in an R1 district.

At Ald. Wynne’s inquiry, Mr. Farrar said he received several suggestions just before the meeting and he will work with Mr. Griffin to compile them. Ald. Wynne said they would be useful so we don’t have to re-invent the wheel, adding that legislation must be put in place as soon as possible.

Ald. Holmes said in her 8 years in City Council, something like this always comes up and she has found that licensing is a step towards a solution. She asked Mr. Griffin about the legislation at his previous locations, noting that we need to cover all bases or we will be legislating piecemeal. She noted that you cannot enforce the law without the help of neighbors. Mr. Griffin replied that the other communities had defined a vacation rental, but they were on the gulf coast, a vacation destination: certain areas were allowed for short term rentals, others were not, and it was enforced by zoning and licensing.

Ald. Rainey said she supports licensing but disagrees with restricting it to R1 Districts because people who live in apartments deserve a level of safety too. She said it is a mistake to single out zoning districts. Mr. Griffin said it will be the consensus of the Committee that will decide whether to ban short term rentals or to allow them as determined by zoning or licensing. He suggested a zoning overlay that would allow subletting to professors, permitting housing swaps, limit the number of rentals per
year or per month, and make noise and nuisance a factor. He said staff would prepare both options if the Committee wishes.

At 10:06 Chair Fiske left the meeting. Ald. Wynne assumed the role of Chair.

At Ald. Rainey’s inquiry, Mr. Griffin said that he would research best practices as to whether such ordinances require a distance notice. Ald. Rainey suggested a notice to the neighborhood when requesting a vacation rental license. Chair Wynne noted that Mr. Farrar had said vacation rental would need to be defined with all its exceptions. She listed time periods, a licensing mechanism and which zoning districts would be considered. She said she had suggested R1 because that is where most of those present were from. She suggested that a property owner must come into the City and get licensed. She said renters are as critical to the issue as landlords. She noted that a property owner cannot use their property for a movie set or a commercial more than 3 times per year. Ald. Rainey commented that this legislation is to alleviate the problems that arise. Chair Wynne said she supports a time limit because in 30 days a renter becomes part of the community. Ald. Rainey noted that 30 days is not a vacation rental. Chair Wynne argued that to legislate for all zoning districts, 30 days is appropriate; renting for less than that feels like a business.

Ald. Holmes noted regarding the person taking photos of children, that not every vacation rental is across the street from a school. Ald. Rainey said people should call the police if they see something like that. Ald. Rainey said she supports the time limit on rentals. Chair Wynne said it depends greatly on the goal of the short term rental. Residential neighbors don’t want to have a business in the homes next door.

Mr. Griffin suggested staff provide the Committee with drafts of two ordinances: one with the ban and the other a regulatory scheme and the ideas that were submitted. He said there is a practical way to enforce this but in both cases it will have a definition and exceptions.

At Ald. Rainey’s inquiry about an insurance requirement, Mr. Farrar said requiring that publishing that additional insurance coverage has been obtained might help. Ald. Rainey said the City could require that the owner have insurance coverage to get a license. Ald. Wynne said it would be another layer of regulation on the City. She said the number of times allowed per year would be effective.

Chair Wynne opened the discussion to the public:

Maureen O’Donnell thanked the Committee again for meeting and suggested that limiting the number of rentals per year would be difficult to monitor and enforce.

Mark Rosati said he and his neighbors no longer have the luxury of watching out for each other since there are so many strangers, they can’t determine who is supposed to be there. He added that since they are advertising around the clock, it is a commercial enterprise. He does not know whether the owner is occupying his house or how often the owners are there. He believes there is a person acting as manager who is staying in an upstairs room.
Ms. O'Donnell said Air B&B works like Yelp: people review the rental and the owner reviews the renter. She said there had been several reviews but recently some have disappeared. She said when she saw the man who was photographing the children at the school, he quickly put his camera away and went back into the house. She said she is constantly having to make the choice whether to call the police or try not to cause trouble and try to be a good neighbor. She has shut the shades on the side of her house that faces the rental because she does not want someone to be able to see if her older child is home alone. She concluded saying that the neighborhood feeling has been corroded.

Greg Richards agreed that the City needs to get this done and wondered whether an all out ban is too much. He suggested that a facilitated workshop would be required to decide on the minimum and maximum number of stays, etc. in the proper format to solve the problem.

John Fell acknowledged that the Committee has a great deal to consider. They have a bad situation, but putting a limit on the number of stays per year or month may not be the solution. Either a landlord is responsible or not and vetting tenants is an important part of that. He said he wants his tenants to experience safety and he wants property values to go up. He asked whether a good renter is determined by whether he stays a month or a week. He asked the Committee to be careful as they look at the regulations and what they can enforce. He does not want to tell his renters that they cannot come back unless they stay for a month. He noted that in regulating, they don’t hear about the good experiences, only the problems. He said it is a good conversation and he would like to see legislation that awards rentals that are beneficial to the community.

Kim Novi said regarding the question of insurance, it does not need to be regulated by the City as there are insurance exceptions. She said we don’t want insecure homes any more than we want uninsured motorists. She said she has two requests: that the City ban in R1 districts and enforce the existing ordinance. She said there are property owners renting to more than 3 unrelated people who are unlicensed in the R1 District. She asked that the City please enforce the law in this regard. Ms. Novi offered legal research time to the City.

Howard Handler of the North Shore Barrington Association of Realtors, said some people feel there needs to be an all out ban but that might be going too far. He said the City will have enforcement issues with the ban if, for example, someone rents for 29 instead of 30 days. He suggested the Committee attempt to separate the quasi hotels from those having to rent for less than 30 days, once or twice a year. He cited a rent-back situation on a real estate sale purchase or a professor on sabbatical, where a permit would not be required to rent for 2 weeks.

Jeff Smith said he believes reasonable legislation could be devised. He said as President of Central Street Neighbors Association, this is one of the greatest neighborhoods in Evanston and said the Association fought against a hotel proposed for Northwestern prospective athletes to be put on Ashland and Central because it is zoned 01. Now that NWU wins more games, it is noisier. He said that if the City
were to start from scratch, renting would be a natural use of many properties to make money in this area. He reminded the Committee that there used to be theaters there, and the golf course and stadium were trying to bring people to the neighborhood.

Mr. Smith said he disagrees with the remark that renting is a privilege, not a right. Owning property gives you the right, within limits, to sell and leverage the property for an economic profit and the proposed legislation impacts property owners’ rights. He believes the solution will be in finding the point where it has become a business or a resident trying to make ends meet.

Chair Wynne agreed with Mr. Smith, and noted that After World War II the League of Women Voters had boarding houses restricted because there was a need to regulate them in order to maintain Evanston as a residential community. She said regulation is needed as times change. She said she lives in an R1 District that is very thin, but the borders must be maintained, otherwise the neighborhood is not varied.

Mr. Smith agreed and said the concept of zoning was put into place after WW II, when life styles were different and more defined by the division of labor. It is a different economy with more multi-use buildings, more telecommuting, and the lines between where you work and where you lived have blurred. Peoples’ incomes are sometimes made up of a few different jobs, such as local farming and other home occupations.

Chair Wynne suggested the Committee discuss this further and agreed with Mr. Griffin’s suggestion that staff provide the Committee with draft legislation of the ban vs. a regulatory scheme with exceptions and all the written comments that had been submitted to the City. Ald. Rainey asked for the Legal Dept. staff to provide text distinguishing this type of use from a home occupation use. She said she is concerned that they may be drawing a line that does not exist.

Wally Bobkiewicz, City Manager, informed the Committee of the alternate spring schedule. Based on the spring schedule, the drafts, comments and information requested will be provided to the Committee for the April 1st, 2013 Planning & Development Committee meeting.

III. ADJOURNMENT

Ald. Rainey moved to adjourn the meeting, seconded by Ald. Holmes.

The meeting was adjourned at 10:50 a.m.

Respectfully submitted,
Bobbie Newman