Planning & Development Committee Meeting
Minutes of September 24, 2012
City Council Chambers – 7:15 p.m.
Lorraine H. Morton Civic Center

MEMBERS PRESENT: J. Fiske, D. Holmes, A. Rainey, D. Wilson, M. Wynne


PRESIDING OFFICIAL: Ald. Fiske

I. DECLARATION OF QUORUM
A quorum being present, Chair Fiske called the meeting to order at 7:20 p.m.

II. APPROVAL OF THE SEPTEMBER 10, 2012 MEETING MINUTES

Ald. Wynne asked that the minutes be revised to show that Ald. Holmes seconded her motion to introduce Ordinance 96-O-12 (Item P5).

Ald. Wynne moved approval of the minutes as amended, seconded by Ald. Rainey.

The minutes of the September 10, 2012 meeting were approved unanimously 5-0.

III. ITEMS FOR CONSIDERATION

(P1) Ordinance 38-O-11 amending Title 5, Chapter 8 of the City Code to Require the Licensing of Rental Dwelling Units
Staff recommends adoption of proposed Ordinance 38-O-11 regarding the Licensing of Rental Dwelling Units amending Title 5, Chapter 8 of the City Code to be effective July 1, 2013. The Planning and Development Committee considered and accepted the report of the Mayor’s Rental Unit Licensing Committee at the July 23, 2012, Planning and Development Committee meeting.

For Introduction

Mr. Griffin explained that the proposed Ordinance replaces the current rental registration code. The invoices for 2011 will be sent out in December of 2011 and will not be predicated on an inspection being made; the Director will issue a Certificate of Registration upon payment. He explained that the Ordinance, based on inspection for life-safety issues, reserves the City’s right to revoke the certificate if a life-safety issue is not resolved or if the Fire Chief deems the property a “nuisance property.” There are 17 citations listed in the Ordinance. Mr. Griffin said Champagne, Urbana has had a rental registration program for 20 years that has been adopted for single family and duplexes.
Mr. Griffin explained that a landlord will be given ample time to remedy any life-safety problems and extra time for compliance for basements and 3rd floor additions. He said the mayoral-appointed committee that was formed last year met several times with the primary focus on problem properties and landlords.

Ald. Wilson, who served on the committee, said they spent many hours on the draft Ordinance with many reservations and concerns to produce a workable product to accomplish their goal of addressing problem properties.

Ald. Rainey asked who was on the committee to which Mr. Griffin replied that he and Ken Cox of the City’s Legal Department were the principal staff members and there were representatives from Northwestern University (NWU), residents, landlords and aldermen on the committee.

Chair Fiske called the public who wished to speak to the podium:

Betty Ester of 2113 Church said she is glad about the Ordinance but asked how it is tied to the Landlord/Tenant Ordinance and how it will give tenants power. She said it appears that it will cause an increase in the number of inspections which require the tenant and landlord present, and asked that the last CDBG inspection, which is required every 2-3 years, be used to determine compliance in order to prevent redundant inspections.

Bernard Hammer, attorney for a property owner, said:

- Regarding Section 5-8-1, Purpose, exempts 2 flats and multiple unit buildings and that there is no reason to exempt and owner-occupied landlord because the tenants of owner-occupied properties should be given the same protection from life-safety issues as others.
- Regarding Section 5-8-3 A, stating that it is unlawful to offer a unit for rent that has not been received a license, Mr. Hammer said it is applying an overlay just to collect a fee.
- Regarding Section 7(C), stating that the City reserves the right to inspect before issuing the license, he said is punishing the landlord before the City finds a violation.
- Regarding Section 5-8-5(B), the notice shall list the violations in the code, Mr. Hammer said the violations should be spelled out and the remedies should be clearly described in order to be fair

Junad Rizke, Architect and Evanston resident, asked whether the City Manager is counting on the revenues from the rental registration fee for the 2013 budget and asked what the motivation is, besides taking money from people. He said the City illegally moved a TV station on a second floor, knowingly violating code. He said he believes the licensing is about collecting revenue and increasing the bureaucracy of the City.

Dan Schermerhorn said he had been encouraged when a committee was appointed, but all they did was tweak the Ordinance. He said Ald. Holmes met with NWU, Police and residents to discuss what they were trying to achieve with the Ordinance and said there are about a dozen landlords who refuse inspections, and they are who the City
needs to go after and also that as a landlord he has a good relationship with the inspectors because his properties are compliant, and the Ordinance punishes the ones who comply. He said if the City fined the people who made the noise instead of the landlords, the people would make less noise and it would remedy that problem.

Howard Handler of the North Shore Barrington Association of Realtors said there is no such thing as a state-issued realtor’s license and that it conflicts with state law. He said if a license is revoked state law requires the tenant to evacuate within one week or the landlord will be fined $14,500 and $17,000 for each additional week. He said there are other cities whose ordinances do not violate state law such as Skokie and Mt. Prospect and asked that the P&D Committee work out the details with the public and adopt a state-compliant ordinance that will be effective.

Josh Brown said he is not in favor of the Ordinance and that if the City used the tools it already has, and enforced the current law, it would be effective in resolving the problems. He suggested raising the level of the fine for noise. He said the existing Property Maintenance Code covers the life-safety issues and just needs to be effectively enforced. He suggested raising the fee for the rental registration instead of adding inspections, since the City does not have enough staff to handle inspections as it is. He asked that the Committee review the Ordinance again.

Jane Evans, member of mayoral-appointed committee and resident of 813 Gaffield Place said the issue is not noise and parties but life-safety issues. She said she represents the Firemen’s Park Neighbors Association and urged the P&D Committee to introduce the Ordinance to Council.

Mary Rosinski, Realtor, landlord and resident of 1729 Chancellor, Evanston, asked the Committee to re-evaluate the Ordinance to apply to every home and condo-owner in Evanston because the current Ordinance is potentially putting landlords in conflict with state law. She said the City should deal with the nuisance tenants and not cause arbitrary fees to landlords.

Jeff Smith, Attorney, of 2724 Harrison said he agrees with the constitutional issue and the focus is on problem landlords. He said the City has the tools to deal with them. He said ownership of property is a right as well as renting property and the Ordinance is framing property ownership as a license subject only to rational basis. He said there is inconsistent, arbitrary and possibly discriminatory enforcement.

Lisa Pildes of 2101 Ridge has lived in the Firemen’s Park neighborhood for 32 years, is a landlord of 6 local properties and she was on the mayoral-appointed committee. She said she voted against the Ordinance but she does not object to registration or raising the fee. She said it would enable life safety inspections but she said the City already has laws to enforce life-safety issues. She said that Mr. Griffin had said the registration fee would allow the City to become less reliant on federal funds and that Jeff Murphy had said the “money is getting smaller each year.” She said life safety should apply to every unit including owner-occupied units. She said she was glad that fees for sprinklered high rise units were reduced to $13 per unit. She said license revocation cannot regulate
tenant behavior. She suggested the City raise the registration fee and take a few years with more money to get it’s house in order.

At Ald. Rainey’s request, staff responded to some of the comments:

Mr. Griffin clarified:
- The CDBG inspections are being used as the life-safety inspection
- 2 flats and owner-occupied units are exempt because research has shown that they are not problematic
- Multi unit buildings with sprinkler systems have a lesser fee of $13/unit
- The Ordinance is about life-safety, not routine staff inspections
- There are approximately 200 units in a state of disrepair, which would be addressed first
- The City hopes to inspect all units within a 2-3 year cycle
- Regarding nuisances and revocation, there are very few, but if a property has ongoing crime and police calls, the City wants to use this provision
- Not all 14,000 each year will be inspected; mainly it is the problematic properties

Ald. Rainey asked Mr. Farrar, Corporate Counsel, whether the Ordinance was not in compliance with the state statute to which Mr. Farrar replied that the Ordinance does not exceed or contravene state law. He said the mayoral-appointed committee fully explored the eviction issue.

Ald. Wilson clarified that a “nuisance property” is deemed so through a legal procedure and that a landlord can change his property from being a nuisance property.

Ald. Holmes said regarding the registration fee, that there is no budget for 2013 yet, so the purpose is not to make revenue for the City. She said she has been working on this issue since 2007 and it is a disservice to those elected people who are devoted to doing right for the community. She added that it is not just about students, but problems all over the City and she believes the Ordinance will help alleviate these problems.

Ald. Rainey said this item is for introduction and welcomed the public to interact with the aldermen about the Ordinance. She said bad landlords have been hiding behind the skirts of good landlords and there is no greater burden on a neighborhood than a bad landlord with bad tenants that cause problems. She cited a severe drug issue in Ald. Fiske’s ward recently and said also that she wishes we had laws that could fine lawyers who slander the City Council. She said the Ordinance won’t affect the good landlords, but will give the City leverage to deal with the bad ones.

Ald. Wynne said she echoes all of her colleagues’ comments and that every ward has bad landlords.

Ald. Wilson moved to introduce Ordinance 38-O-11, seconded by Ald. Wynne.

The Committee voted unanimously 5-0 to introduce Ordinance 38-O-11.
(P2) Ordinance 108-O-12, Amending Title 5, Chapter 2 of the City Code to Require the Licensing of Vacation Rentals

Staff requests consideration of Ordinance 108-O-12, which amends Title 5, Chapter 2 of the City Code to create a license for persons who rent out their homes for fewer than 30 days, commonly referred to as vacation rentals.

For Introduction

Ald. Rainey said she was surprised when she saw this item in her packet. She said someone in her ward reported that someone was renting their property for vacation purposes and the Zoning Board of Appeals (ZBA) said they have no legislation regarding this kind of rental. She said a 24 hour-minimum stay is not a vacation; it allows for unusual behavior and neighbors can’t call the police. In a Bed & Breakfast (B&B), there is an onsite manager giving constant attention to what is going on and the neighbors are the police. She said it should have a 2 week-1 month requirement as it is different from a vacation stay. She said she anticipates a regular turnover. She suggested sending the Ordinance back to staff and to hold public hearings so people in neighborhoods where these properties exist can testify as to how they can make it work. She said she wishes there was no more nonsense on Dobson, 1 block from her home. She said she believes it can be licensed and legislated.

Ald. Rainey moved to remove the item from the agenda and send back to staff for public opinion, seconded by Ald. Wilson.

Ald. Wilson asked that something be put together quickly to address residents’ concerns.

Ald. Wynne said she shares Ald. Rainey's and Wilson's concerns and that the Ordinance was clearly put together hastily. She said she has a vacation rental property in her ward and that R1 and R2 residents did not think they would have these next door to them when they bought their property. She said she agrees with Ald. Rainey that changes can not always be made instantly and the Committee and staff need to think this through.

Chair Fiske called the public who wished to speak to the podium:

Julie Koehler of 2525 Ashland said the city can prohibit vacation rentals. She said she has been a Defense Attorney for 16 years and found that in Chapter 5 of the existing code, under Home Occupations defines what types of businesses can be run out of homes. That is why the code had to be amended to allow B&B’s, which would be an illegal use. She said the Zoning Committee will need to make an amendment to allow vacation rentals because illegal home occupations include overnight guests. She said they advertise on the internet. She said with this Ordinance all an owner needs to do is keep a log and change the sheets but the existing Ordinance does not allow occupations that allow over night stays.

Greg Richards of 2529 Ashland said he is strongly opposed to giving people the right to turn their home into a hotel. He said Code does not allow it which was determined after due process so he does not understand why the City would allow it. He said a young
A couple living down the street from him has done so and they charge $400 for their whole house and $65 or $75 for a room per night. He has 3 children under 6 and they also are within 2 blocks of Kingsley and Haven schools. He said the activity is illegal and making his neighborhood less safe. He said the current code should be enforced to stop it.

Kim Novi of 2507 Ashland said there is a great deal of frustration regarding the issue at Ashland and Central because she has called the City, who told her to call Corporate Counsel and she is getting conflicting information. She said she has been told that Judge Shadur in the Dobson case has forbidden the City from enforcing laws preventing vacation renting. She said she is an attorney and she has done research which states that he said they cannot issue violations once a violation has been issued. So, she said she is asking respectfully, that the City enforce the law already on the books.

Mark Rosatti of the 2500 block of Ashland said he agrees with the previous speakers. He said he lives next door to a property that has been renting rooms on a transient basis on a regular basis and another neighbor is considering doing this. He said he has a teenage daughter and he does not know who is living next door to him from one night to the next but this arrangement does not allow for neighbors to look out for each other. He said vacation rental properties are appearing next to elementary schools. He would never have moved into Evanston if he knew the house next door could become a hotel.

Maureen O'Donnell who lives at 2509 Ashland, next door to 2515 Ashland where they are offering single room rentals for $55-$75 per night and additional guests for $15 per night, with no way to thoroughly vet transient tenants for sexual predators or criminals. She asked how she and her neighbors can feel safe when the house rules for these houses say, "Let your moral compass be your guide and we'll be good" and "No screaming, fighting or pulling hair." She said an article in USA Today cited a case where the website advertising these rentals recently had to pay a $50,000 settlement to a woman in San Francisco who used them to rent out her home and came back to find her home littered with crack pipes and completely destroyed after renting it. She said she moved here for the schools, lake and culture and neighbors, not strange transient neighbors. She asked that the problem be addressed by the existing legislation.

Sarah Gompers of 2680 Prairie, said she has 3 children under 5 and sees the issue of vacation rentals and would love more visitors to come to Evanston. She wondered who would vacation on her block, which is not walking distance to the lake and the nearest attraction is Dominick's. She said she needs to know who lives on her street and that is why she owns her house.

Jim Mullen of 2525 Ashland, said he is a former public defender and Julie Koehler's husband, and said the City already has the tools for item P1 and regarding Item P2 he agrees with Ms. Koehler that we have the tools, the laws are on the books to prevent vacation rental of property. He said the purpose of the law is to promote and facilitate public health and safety of the residents and to maintain property values. He said the vacation rentals would also lower property values.
Jill Graham of 2439 Ashland and a retired Business School Professor, asked that the Ordinance define guest/transient and guest/permanent. She said it is fine for strangers to stay on her street for a football game but it is hard to hold strangers accountable for their actions when they are leaving town the next day.

Howard Handler of the North Shore Barrington Real Estate Association said the Ordinance fails to distinguish between people who rent and people who are just visiting. He cited the following examples:
- If a couple sells their home but can't move for 15 days, it would be unlawful for them to rent their home from the new buyers under this Ordinance
- A flood situation, where a family would have to rent for 2-3 weeks until the flood damage in their home was repaired
- If a Northwestern University Professor left town for a few weeks and wanted to rent his home for a few weeks, it would be unlawful under this Ordinance

Judy Koehler, President of Jefferson Condominiums at 2425 Central said she is opposed to vacation rentals because of the decline in property values and safety issues related to the fact that at her condo building they use a code instead of a key, so the renter would retain that code after rental period. She also said there are bad landlords. She asked that the Committee not adopt the Ordinance.

Kim Irwin of 123 Florence said it has been a nightmare living across from 1525 Dobson. She thanked Ald. Rainey for advocating for the neighbors of Dobson. She said some people have problems and need to take in boarders but these situations need to be distinguished between those who are irresponsible about letting people rent.

Omer Temizel, Evanston resident, said he has a vacation rental property next door to him and each day he wakes up with different neighbors. He used to spend time in his backyard with his children and grandchildren, but he cannot any longer because the backyard next door is sometimes very crowded and some of the vacationing neighbors use their backyard as a toilet. He said permanent renters are different. He said the vacation renters check themselves in and out which could make it a convenient place for criminals to hide. He added that he is thinking of selling his home.

Jeff Smith of 2724 Harrison said he has stayed at B&B's for one night with his wife to attend football games in other cities which he sometimes found on AirB&B and he does not believe this posed a problem for the neighbors. He said that he was the attorney that appeared before Judge Shadur and that Judge Shadur advised that all should be aware that they are not forced into something out of fear, though the fear may be well-founded. He suggested adding up the crimes and considering the number of crimes being committed by vacation renters, which he believes will be relatively small. He said he agrees with Ald. Wynne's point that no one moves into an R-1 district with the intention of being next to a hotel, but he said he believes that renting individual rooms is different from renting for a year and the distinction needs to be drawn as to when it becomes a vacation rental and that renting individual rooms is different than, for instance, renting a whole house. He also suggested looking at the property value situation. He said he believes the Ordinance is a good start at addressing the problem but he agrees with Ald.
Rainey that the Ordinance needs to be discussed further but it should be a balanced and open-minded discussion.

Ald. Wynne addressed Mr. Smith, saying economists are not zoning lawyers and they are speaking purely from an economical standpoint and are not living in the neighborhood. She informed the speakers that over the summer, the City Council had a debate about B&B’s and only two members supported making B&B’s owner occupied and having a distance requirement. She said she and the two Council members made almost all of the same arguments about wanting to know their neighbors and having a community that was the community you bought in, and she said she shares all of their views of the speakers and understands their concerns and an R-1 district should be respected as R-1 even if it is near an attraction. She believes the owner should live in the vacation rental property for the same reasons they have raised. She suggested the speakers listen to the recording of the meetings regarding B&Bs. She thanked them for raising these issues.

Ald. Rainey said the vacation rental properties she is familiar with are nothing like B&Bs. They have no supervision or maintenance and no one managing them 24 hours a day. In this case it is a free-for-all and no thought has been given to safety or parking issues. She said the ZBA failed the City when they said there is nothing in the City Code restricting people from renting their homes. She said the Committee thought there was something in the Code that would help them with this issue. She said regarding the Dobson property issue, she does not believe the neighbors think they are able to take the next step, which would be to take the case to Circuit Court. A lawyer stepped in, scooped up Ms. Davis and that is when all the legal stuff started. She said she does not know how to interpret Schrader’s comments but looks forward to having a discussion with any residents who are attorneys and help with the problem in her ward.

Ald. Rainey moved to remove the item from the agenda for the purpose of having public hearings and discussions on how to move forward, seconded by Ald. Wilson.

The Committee voted 5-0 to remove the item from the agenda.

IV. ITEMS FOR DISCUSSION
There were no items for discussion.

V. COMMUNICATIONS
There were no communications.

VI. ADJOURNMENT
The meeting was adjourned at 8:49 p.m.

Respectfully submitted,
Bobbie Newman