

**CITY OF FORT LAUDERDALE
SHORT TERM RESIDENTIAL USE COMMITTEE
THURSDAY, APRIL 22, 2010, 3:30 P.M.
CITY HALL, 100 NORTH ANDREWS AVENUE
1ST FLOOR, FORT LAUDERDALE, FL**

MEMBER		CUMULATIVE	
		MAR 2010/FEB 2011	
		Present	Absent
Marilyn Mammano, Chair	P	2	0
Joe Amorosino, Vice Chair	P	2	0
Larry Isakowitz	P	2	0
Dwight Ledbetter	P	2	0
Ronald Mastriana	P	0	1
Lula Myers	P	2	0
D.J. Parker	P	2	0
Annette Ross	P	2	0
H. Collins Forman, Jr.	A	0	1

Staff Members Present

Adrienne Ehle, Liaison, Planner III, Planning and Zoning Department
Terry Burgess, Zoning Administrator, Planning and Zoning Department
Malik Mohammed, Chief Zoning Examiner, Planning and Zoning Department
Vivian Law, Secretary III, Planning and Zoning Department
Cheryl Felder, Service Clerk, Planning and Zoning Department
Michael Maloney, Code Enforcement Manager, Building Department
Sharon Miller, Assistant City Attorney
Liz Davila, Prototype, Inc., Recording Secretary

Communication to City Commission

I. Call to Order

The meeting was called to order at 3:30 p.m. by Chair Mammano. Chair Mammano polled the Committee members regarding public input; it was determined that time would be provided for the guests in attendance to speak.

Mr. David Cowens briefly addressed the Committee regarding rules and/or licenses governing residential home rentals.

II. Roll Call

A quorum was present for the meeting.

III. Approval of Minutes

Mr. Ledbetter expressed concern regarding statements attributed to Mr. Mastriana in the March minutes as Mr. Mastriana was not present to clarify accuracy of the statements.

Chair Mammano also asked regarding the procedure for Communications to the City Commission and if delay is caused by the minutes not being approved. Ms. Ehle explained that Communications are sent to the Commission prior to minutes approval.

Chair Mammano then deferred approval of the March minutes to the next meeting.

Returning to public comment, Mr. Ron Lolly addressed the Committee regarding “duplexes” in his neighborhood and expressed a desire to learn more.

IV. New Business

a. Chair/Vice Chair Update

Chair Mammano indicated she had received a communication from John Herbst, the City Auditor, relating to the definition of “long term renter.” The communication included frequently asked questions from the Department of Revenue for purposes of assessing the Tourist Development Tax. Chair Mammano, after carefully reading the document, informed the Committee that as far as the Department of Revenue is concerned, “Renters who have signed a bona fide lease in excess of six months are exempt from paying taxes and anything less than six months, the tax is due.” Anyone renting their house for less than six months should be paying the City’s Tourist Development Tax to the Department of Revenue. Chair Mammano requested that a copy of this communication be provided to all members of the Committee, as there was additional information in the memorandum of which they should be aware.

Vice Chair Amorosino noted that owners offering short term rentals, if properly licensed and permitted, would be responsible for paying taxes and fees.

Chair Mammano advised she reviewed the materials provided by staff at the first meeting including the Comprehensive Plan and ULDC, picking out those portions which appeared to relate to their issue. Chair Mammano said she’d provide staff copies of the portions she felt were relevant for staff to forward to all members of the Committee, which included information on stabilizing neighborhoods, etc.

Vice Chair Amorosino reported he had also “done some homework” since the last meeting which had been to get out into the neighborhood to specifically obtain addresses of homes being rented on short term. He said there are ten or eleven rented weekly or nightly. A packet listing the homes was provided. Vice Chair Amorosino also researched on the internet “exactly what they’re advertising.” He stated some are charging short term renters 11% on the rental, and appear to be “making up their own

percentage and collecting it and sticking it in their pocket” as the homeowners are not licensed, permitted, or registered. Vice Chair Amorosino stated that now he is on the Committee residents approach him every day to check different locations within his neighborhood. Vice Chair Amorosino pointed out that to date, no answer or opinion has been received regarding a moratorium from the City’s Legal Department.

With regarding to making a formal complaint, Vice Chair Amorosino stated that Code Enforcement has indicated neighbors on all sides of a property have to make the complaint and identify themselves. Vice Chair Amorosino reported that he had turned over an address on North Atlantic Boulevard to the Broward County Tax Assessor and the City’s Legal Department, which home is homesteaded, but the owners do not reside there, and is rented by the week.

Vice Chair Amorosino, as neighbors are sometimes reluctant to report these incidents due to “reprisal,” asked if the parameters were “set in stone” and if it has to be a neighbor making the report or if the information could be gathered the way he had done it including obtaining information from the internet showing the property advertised for rent.

Mr. Maloney, Code Enforcement Manager, responded that they do not take anonymous complaints on this type of violation because they would need the complainant to advise of the circumstances leading them to believe there’s a violation ongoing. He indicated many times these cases are difficult to prove, unless there is evidence on a website which can be used as a basis for their “first notice.” Oftentimes, it will be necessary for the neighbors to show up at a hearing if it gets to that point. Mr. Maloney stated, however, with information provided via a homeowner’s association and web listing, they would be happy to check out the locations.

Mr. Maloney explained, in order to get a complaint moved forward, it would be necessary for an individual to call Code Enforcement either on their own behalf or on behalf of the homeowner’s association.

Vice Chair Amorosino reiterated that in his neighborhood “It’s a big problem and that’s what I want recognized by everybody; Code, Legal, Planning. It’s a problem.” He indicated that when there is a problem in a certain district or neighborhood, there should be specific parameters set up for how to deal with the complaint. Vice Chair Amorosino said many neighbors do not want to be “out there” making a complaint, adding that his own association does not have a quorum of members wanting a complaint to come from them as a group due their fear of reprisal and/or intimidation.

Mr. Maloney pointed out that if they are going to move forward in this regard “we need the neighborhood.” If the neighbors aren’t willing to show up, many times the cases are lost. Vice Chair Amorosino stated he is really looking for a moratorium at this point. Mr. Maloney mentioned there are 19 cases pending, six of which are now scheduled before

the Special Magistrate. Clear direction has been given by the Mayor and City Manager to continue enforcement.

Vice Chair Amorosino asked that a decision be made prohibiting rentals of less than two weeks at any time. Mr. Maloney did not feel that parameters needed to be defined as his department is moving forward on several cases. He suggested that policy changes would have to come through the City Commission and City Manager.

Mr. Ledbetter asked if there could be a more expeditious way to “get relief” for this neighborhood rather than the routes being currently taken. Mr. Maloney said it would require a full time Code Inspector just to handle those cases exclusively; however, the City over the past year has been short three inspectors. Once the hearings move forward and cases are won, Mr. Maloney hopes the “word will get out.” He further confirmed that the department will follow through with “whatever this Committee gives us to the best of our ability.”

b. Liaison Update

Ms. Myers stated that after carefully thinking about of the Committee members’ comments, there may be a “mechanism already in place”; however, a mini-workshop with Code, Legal, and Planning was suggested which would enable the STRUC to put together rules or “something to go before the City Commission.” She pointed out that these same problems may be ongoing in other communities and the STRUC may be a foundation for structuring guidelines.

A map was reviewed showing areas that are subject to frequent complaints, specifically near the ocean on the barrier island and east of Federal Highway south of Las Olas north of 17th Street.

A question was asked regarding penalties for violation. Mr. Maloney explained the complaint is brought for administrative hearing before a Special Magistrate. If it is established a violation has occurred, an Order is entered stating the homeowner is in violation and any future occurrences would be deemed repeat violations, at which point they can be fined up to \$1,000 for each day the violation continues. A lien can be placed on the property if the fines are not paid.

In response to Ms. Myers’ question regarding how many homeowners on the list had been fined, Mr. Maloney answered he was only aware of one case that went before the Special Magistrate, had been appealed in Circuit Court, and was won on appeal by the City. He was unsure regarding the amount of the fines, if any. Since then, the ordinance has been changed to include recurring violations.

Ms. Ross wondered whether, with homes listed as homestead, but not lived in by the owners, if any help or backup has been received from the County. Mr. Maloney

confirmed that they always report those cases to the County of “non-homestead” property, adding that the City does work in conjunction with the County in that regard. He did indicate, however, that the State is not notified of non-payment of the tourist tax by the City, although the County may make those reports.

Ms. Parker asked regarding the intent of the Committee and how it relates to quality of life. She agreed that enforcement of the regulations overtaxes staff and is almost an impossibility, bearing in mind that South Florida “by its very nature is a very transient sort of environment.” She stated that Rio Vista, as a community, has its own rules and to her knowledge is “still intact.” Ms. Parker questioned why a neighborhood such as the one where Vice Chair Amorosino lives could not “pull together to have noise ordinances” as a way of helping the whole neighborhood. Mr. Maloney noted there are hundreds of instances in the City and the residences they get complaints on are the ones which are “not being managed well” - legal or illegal. Vice Chair Amorosino stated his homeowner association could not set rules like that as there are “a lot of ramifications.”

Ms. Parker suggested to Ms. Ehle that it would be helpful if she could overlay on the map not only showing the neighborhood associations which would be helpful, but also the zoning districts, as some of the cases presented may be in zoning districts which permit some type of “less than pure single family residential use” such as bed and breakfasts or small hotels. Ms. Ehle agreed that they could overlay the zoning map which would help provide additional information. Mr. Maloney confirmed that the map now shows a mixture of complaints and actual violations. He stated that next month he would provide details on a case-by-case basis.

In reply to Mr. Ledbetter’s inquiry regarding the scope and responsibilities of the Committee as far as possibly identifying areas for exemption and for the benefit of members of the public who are present, Ms. Ehle read the resolution creating the Committee: “The purpose of the STRUC is to define the parameters for use of residentially-zoned property in light of protecting neighborhood tranquility and peaceful enjoyment of residential property.” She added that the Committee could determine if those parameters as they are should remain or if they should be further defined, changed or tweaked, for different neighborhoods. Ms. Ehle agreed they are talking about quality of life issues as, in some areas, quality of life is affected dramatically, although in other areas it may be a problem in certain respects but not in others.

Chair Mammano said that in the problem areas where short term rentals are not permitted, enforcement should be pursued; and in those areas where it may or may not be permitted, but is not a problem, they may go for “tweaking.” First, however, they need to determine the regulations for those particular areas.

Ms. Ehle stated she would also put together a reference for permitted and non-permitted zoning for the pending cases.

With regard to the Comprehensive Plan, Ms. Ehle read from the Future Land Use Element, Objective 1.19, Neighborhood Compatibility Policy, as it relates to quality of life and density.

Ms. Parker pointed out that Rio Vista has an off duty police officer paid from association dues who patrols the area in a security guard capacity. In addition, Rio Vista has a strong civic association and crime watch. Vice Chair Amorosino also stated his neighborhood has paid security, but within limited constraints, as well as a guard house. He did not believe, even though they have good communication with local law enforcement, that help would come from the police with regard to short term rentals as it is not a law enforcement priority.

Chair Mammano summarized the materials needed for their next meeting as follows:

- Reduction of the map (of the complaints) to 8.5 x 11, distinguishing each and color coding; as well as provide an overlay of the zoning districts
- Provide the regulations for each specific district and whether they provide for lodging facilities

c. Other New Business - none.

V. Unfinished Business - none.

VI. For the Good of the Committee - none.

VII. Communication to the City Commission - none.

VIII. Announcements

A reminder was given of the upcoming Better Meetings Academy meetings on 4/27/10 and 6/7/10.

X. Adjournment

With no further business to come before the Committee, the meeting adjourned at 4:40 p.m.

[Minutes prepared by L. Edmondson, Prototype, Inc.]