

SHORT TERM RESIDENTIAL USE COMMITTEE
THURSDAY, JUNE 24, 2010, 3:30 P.M.
CITY HALL, 100 NORTH ANDREWS AVENUE
1ST FLOOR, FORT LAUDERDALE, FL

**CUMULATIVE
MEMBER**

		MAR 2010 / FEB 2011	
		Present	Absent
Marilyn Mammano, Chair	P	4	0
H. Collins Forman, Jr.	P	2	1
Larry Isakowitz	A	3	1
Dwight Ledbetter	P	4	0
Ronald Mastriana	P	3	1
Lula Myers	P	4	0
D.J. Parker	A	3	1
Annette Ross	P	3	1

Staff Members Present

Sharon Miller, Assistant City Attorney

Terry Burgess, Zoning Administrator, Planning and Zoning Department

Deborah Rutkowski, Planning Assistant, Planning and Zoning Department

Malik Mohammed, Chief Zoning Plans Examiner

Cheryl Felder, Service Clerk, Planning and Zoning Department

Communication to the City Commission

None at this time.

I. Call to Order

Chair Mammano called the meeting to order at 3:30 p.m.

II. Roll Call

Roll was called and it was noted a quorum was present.

III. Approval of Minutes

Chair Mammano noted a correction on p.12, paragraph 4: remove "and to make recommendations."

Mr. Ledbetter noted a correction on p.7, paragraph 6: change "immediate income..." to "median income of approximately \$60,000."

Motion made by Ms. Myers, seconded by Mr. Forman, to approve the May 27, 2010 minutes as corrected. In a voice vote, the **motion** passed unanimously.

IV. New Business

a. Chair / Vice Chair Update

Chair Mammano said she did not have updates to present at this time, and recalled that the former Vice Chair has resigned from the Committee. She advised the Committee that they may make nominations for Vice Chair if they wish.

Mr. Ledbetter nominated Mr. Collins as Vice Chair. There were no other nominations for Vice Chair at this time. In a voice vote, Mr. Collins was unanimously elected Vice Chair.

b. Liaison Update

There was no Liaison Update at this time.

c. Staff Presentation:

I. Memo No. 09-1200 (11/12/09), Castro v. City of Fort Lauderdale

Mr. Burgess distributed copies of an update from Code Enforcement. He explained that it updates the list of open and closed cases with which the members were provided in May. He also distributed copies of the "Castro memorandum," which was requested by the Committee the previous month.

Mr. Mastriana asked Mr. Forman if he is filing an appeal on a short-term rental case. Mr. Forman confirmed this. Mr. Mastriana noted that this could be considered a conflict of interest, as the Committee is working to establish parameters for short-term rental while Mr. Forman is appealing a determination for a client with short-term rentals.

Mr. Forman explained that he cannot discuss the case, but recalled that at the previous meeting he had disclosed the fact that an appeal would be filed. The record in the case is closed, so no information that comes from the Committee could be introduced as part of that appeal.

He added that each Committee member acts as an advocate for his or her neighborhood or position. Mr. Mastriana said this differs from acting as a "paid-for advocate" who is acting on behalf of a client. Mr. Forman replied that he is not being paid for the work he is doing with the Committee to clarify the City's Code.

Chair Mammano requested that Counsel address the issue of conflict. Attorney Miller stated she would look into the issue before the next scheduled Committee meeting, and would contact Mr. Forman for further information if necessary. She did not feel the issue should prevent the Committee from meeting and discussing the issue of short-term residential use today.

Chair Mammano requested that Staff provide the Committee with background on the Castro memorandum. Attorney Miller explained that the case involved individuals who were using a single-family dwelling "as a vacation house for nightly, weekly, and monthly fees," with both check-in and check-out times and a cleaning fee. The individuals were prosecuted for a non-permitted use of a residential dwelling. The case was appealed to the Broward County Circuit Court. The basis of the City's position was that vacation rentals are not residential uses as defined by the ULDR: by definition, residential use excludes hotels and motels.

She added that another pertinent case was "Milo v. City of Venice," which sued for damages in response to the City's enforcement that a rental of a single-family dwelling for less than 30 days was a violation of Code. In this case, the city of Venice lost; Attorney Miller pointed out that Venice did not list an exclusion for hotels or motels in its residential use definition. While this is an important distinction from Fort Lauderdale, she noted that it was "a concern" to Code Enforcement, who would like more specific direction on the definitions of transient and short-term rental in order to avoid a similar situation to that of Venice.

Attorney Miller concluded that there are questions regarding what is considered short-term, and whether zoning Ordinances would be affected. These are among the issues the Committee was created to discuss.

Ms. Myers noted that the final paragraph of the memorandum states the City required input from Code Enforcement and Planning and Zoning regarding requests for any amendments to Code regarding short-term rentals. It had been suggested that both Departments provide the City Commission and the City Attorney's Office with a specific list of problems they have encountered regarding short-term rentals in the City, and what Code sections could be affected by an Ordinance Amendment. Ms. Myers asked if any such lists have been submitted at this time. Attorney Miller replied that this input had resulted in the creation of this Committee, which will work with Code Enforcement and Planning and Zoning.

Chair Mammano asked if it is the City's position that commercial use of a property in a residentially zoned district should be considered "illegal and contrary to the Code, and will be pursued to the utmost of the City's ability to enforce." Attorney Miller replied that in the zoning districts where hotels, motels,

and catering services are not permitted uses, cases of this nature are being pursued by Code Enforcement.

Chair Mammano asked Mr. Ledbetter if he could help define crew quarters and how they operate, noting that crew quarters function as an integral part of the City's marine industry. Mr. Ledbetter advised that this is "a gray area," particularly due to the fact that crew quarters are "relatively new on the scene" with regard to housing. He said crew quarters function "somewhere between a bed & breakfast and a boarding house." He added, however, that he was not comfortable making the comparison with a boarding house, as crew quarters offer "a more vibrant atmosphere" for sailors and yachtsmen.

He continued that there are hostels in the City "masquerading as crew quarters and student housing," but explained these "typically attract people that have no stability." By comparison, he said individuals who work on yachts have a good deal of stability, as well as high median income. He pointed out that drug overdoses and prostitution occur at some hostels, and the police are often called there to deal with these problems. He stated these issues will not be found in crew quarters.

Mr. Mastriana asked if yacht owners "master lease" crew houses for long periods of time, such as one year. He explained that while he sees the need for crew housing, he was concerned that they should be "limited to certain areas of the City," as they would not be reasonably priced in some neighborhoods. Mr. Ledbetter said crew houses work best in multi-family zoning areas, rather than in residential single-family zoning areas.

Chair Mammano asked if the operators of crew quarters require proof that individuals are associated with marine industries. Mr. Ledbetter replied that some operators have "higher standards" than other operators. He also noted that there has been "a huge increase" in short-term rentals, perhaps due to the current downturn in the real estate industry.

Mr. Mastriana noted that people in crew houses "do a lot of networking," and residents want others in the marine industry to reside there as well to "help each other in their business." Mr. Ledbetter agreed, stating that some quarters want only students to live there to minimize distractions as they study for licensing exams. Other houses offer "more of a networking atmosphere," as there is turnover in the yachting industry.

Chair Mammano asked if there is a way to differentiate between people in the marine industry and the general population. She explained there is some precedent for "carving out" a category of residential use, such as what has been done with SSRF facilities; these facilities, however, are "very strictly defined" in requiring that residents meet a definition of mentally or physically handicapped.

She asked if there is any similar licensing that could be used to distinguish individuals in the marine industry from the population at large.

Mr. Ledbetter replied that one basic credential required of mariners who work on yachts is STCW 95 Basic Training, which can be used to determine if an individual is serious about a career in yachting. Some crew houses already use this as a credential; others may use passports or out-of-state licenses. He felt the STCW 95 was “the most fair” of these credentials.

Mr. Mastriana asked which areas of the City Mr. Ledbetter felt were the most appropriate for crew housing. Mr. Ledbetter stated in his experience, crew housing is compatible with RO or other multi-family zoning neighborhoods. He reiterated that they are less compatible with single-family zoning.

Attorney Miller asked if Mr. Ledbetter was referring to use in single-family neighborhoods, pointing out that the characteristics of crew quarters as described would be allowed in a single-family zoning area. She also asked if six months, for example, is a minimum amount of time that a crew member might reside in quarters, pointing out that dormitories or boarding houses are not outlined in Code.

Mr. Ledbetter replied that the majority of crew members will stay in quarters “two or three months;” others may stay in, for example, a 3 bedroom/2 bath house while a vessel is being refitted. These houses could be located within a residentially zoned area. He noted, however, that one reason a “niche industry” such as crew housing exists is the lack of knowledge of how much time may be spent there: for example, awaiting a refit or looking for a job may involve indefinite time periods.

Attorney Miller reiterated that the issue is where the line must be drawn between daily or nightly use, such as in a hotel or motel, and one or more months. She pointed out that hotels have a different impact on their surroundings than other uses. In addition, the parking requirement and density for hotel units is different than that of residential uses.

She added that when individuals are on vacation at a property, there is a different impact on the area than the impact of a single-family home. The question is when a rental aspect changes, such as when renters are acting differently than others in a neighborhood. She noted that there are similar zoning expectations for individuals renting a multi-family unit as their permanent home and for those in single-family zoning areas. This could mean there are additional distinctions to be taken into consideration.

She asked if the vessels on which crew members work are attached to the house in some way, as this would be considered an accessory use of the property. It was clarified that this is not always the case.

I. Zoning Comparison:

- 1. City of Fort Lauderdale;**
- 2. Lauderdale-by-the-Sea;**
- 3. City of Hollywood**

Chair Mammano suggested the Committee take the materials home for review, and the discussion of how different cities address the issue of short-term housing would be held at a later time.

She asked if there were other Florida communities similar to Fort Lauderdale that offer crew quarters. Mr. Ledbetter advised that West Palm Beach has an infrastructure supportive of yachts; Dania and Miami were also offered as examples. Destin, Marco Island, and Key West were noted as offering a “quieter, marina-type atmosphere.” Chair Mammano requested that Dania and West Palm Beach be added to Staff’s analysis.

Mr. Forman noted that the Committee is tasked with considering all short-term residential uses, not only crew quarters; neighborhoods close to the beach that offer vacation rentals must also be considered. He suggested that other communities’ reaction to vacation rentals should be looked into as well.

It was asked when Fort Lauderdale’s Ordinances were originally adopted, as the definitions do not take issues such as spring break and crew quarters into consideration. Attorney Miller estimated the Ordinances affecting hotels, motels, and residential uses were “about 50 years old.”

Mr. Forman asked what the best method would be for passing on information to the Committee. Chair Mammano replied that information should be given to Staff for distribution to the members.

d. Discussion

Chair Mammano stated she would like to “address the short-term rental issue head-on.” She noted that crew quarters have been discussed, as well as “deleterious effects of short-term rentals;” however, she wanted to know if there are types of short-term rentals that might be accommodated in the City’s residential districts.

Mr. Mastriana asked if the Committee could request Staff to draft an Ordinance that the Committee can review to “decide certain issues.” He explained it could be important for the members to see a draft of “what the City may think would be

appropriate.” This would make it easier to see what the various Committee members feel is appropriate for certain zoning districts.

Attorney Miller said she was not sure of the direction she might take in preparing a draft, and advised that the Committee should review the policies of other cities to learn if they might “lean towards” any of the other cities’ ordinances.

Chair Mammano stated she did not feel it was within the Committee’s charge to bring “a full-blown Ordinance” to the City Commission. Mr. Mastriana explained that an Ordinance could “add definitions to existing provisions within the Code;” the Committee would then review these definitions and then make a recommendation that they be added to the Code.

Attorney Miller read the Resolution that created the Committee, which was as follows: “The purpose and duty of the Short Term Residential Use Committee is to define the parameters for use of residentially zoned properties in light of protecting neighborhood tranquility and peaceful enjoyment of residential property.” By implication, she noted, there are two sides to the discussion, a “residential side” and a “transient side,” with short-term rentals comprising a middle portion. The Committee is asked to suggest that the City Commission handle the issue in specific ways.

Mr. Mastriana felt they should recognize that if vacation rentals are allowed, licensing and inspections should be done, and owners should be fined if the individuals renting the property create problems for the neighborhood. He noted that this use is not clearly prohibited by Code, and establishing parameters could be a way to control what is done with these properties.

Chair Mammano noted that members of the public had attended the meeting, and invited them to briefly address the Committee at this time.

Zack Finn, private citizen, stated he is a Realtor and real estate broker with “strong opinions” on both sides of the short-term rental issue. He said many people come to visit the City before moving there to become residents, and may first rent a property for some time before purchasing a residence. If owners did not have the ability to rent a property for a short time, it could ultimately affect the City’s population growth. He also advised that yacht captains often ask where they can rent a house where the boat can be kept in front: these houses are often located in single-family neighborhoods, and there can be a conflict when individuals wish to live on the boats in these neighborhoods. He concluded that he would not like to see short-term rentals “longer than a month,” as he felt these would have a negative impact on the City.

Lester Zalewski stated he was asked by the president of the Central Beach Alliance to attend the meeting, although he is speaking on his own behalf. He felt

if there are enforcements against rentals in the City, the result would be “bringing a lot more people to foreclosure immediately,” which is good for neither neighbors nor property values. He recommended that the Committee ask the City Commission for a moratorium against enforcement of current zoning violations, as well as those who are appealing judgments, and felt that in two years, the City’s housing situation would have improved significantly so enforcements would be less of a hardship.

Richard Dallett said he is a homeowner and yachter who took offense at the characterization of vacation renters as individuals who “are going to tear apart neighborhoods.” He stated in his experience, these renters are not disruptive and are “respectable people” who bring a great deal of money to the City; they often come to the City for a “family vacation.” He explained that he rents out his own home for part of the year, and would not live in Fort Lauderdale if he could not do so, as he does not wish to live in the City year-round. He concluded that he is supportive of vacation rentals and rents out his own home for months at a time while he lives on his boat.

Anna Lee Dalvianco said she is a Realtor and also sees both sides of the issue. She is a homeowner who has rented her own home on a varying short-term basis. Some of the renters have come to the City to vacation, while others have undergone medical treatment in the City or are considering relocation to the area. She stated she had been very respectful of her neighbors and did not wish to change the character of a neighborhood by renting her property. She concluded that parameters should be put in place to allow individual homeowners to rent their properties.

e. Set Agenda for Next Meeting

Chair Mammano proposed that the Committee discuss other kinds of short-term rentals at the next scheduled meeting. Zoning maps will be brought to the meeting for discussion, and the zoning ordinances of other cities will also be discussed.

Mr. Forman noted that many of the open Code Enforcement cases resulted from a complaint and/or a police report. He asked if it was possible to see statistics on police responses to nuisance calls overlaid on the maps showing open cases. It was agreed Staff would look into this and attempt to provide this information at the next meeting.

It was agreed that the Committee would meet in August.

f. Other New Business

None at this time.

V. For the Good of the Committee

Nothing at this time.

VI. Communication to the City Commission

None at this time.

VII. Announcements

None.

VIII. Adjournment

There being no further business to come before the Committee at this time, the meeting was adjourned at 5:10 p.m.

[Minutes prepared by K. McGuire, Prototype, Inc.]