

APPROVED
SHORT TERM RESIDENTIAL USE COMMITTEE
THURSDAY, AUGUST 26, 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	6	0
H. Collins Forman, Jr., Vice Chair	P	4	1
Larry Isakowitz	P	5	1
Dwight Ledbetter	A	5	1
Ronald Mastriana	P	4	2
Lula Myers	P	6	0
D.J. Parker	P	5	1
Annette Ross	P	5	1

At this time there are 8 appointed members to the Board, which means 5 would constitute a quorum.

Staff

Adrienne Ehle, Liaison, Planner III, Planning and Zoning Department
Cheryl Felder, Service Clerk, Planning and Zoning Department
Sharon Miller, Assistant City Attorney

Communications 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.

The following Item was taken out of order on the Agenda.

IV. New Business

a. Chair / Vice Chair Update

Chair Mammano stated she had read that New York City had amended its Multiple Dwelling Law in an effort to deal with short-term rentals. The definition of "multiple dwelling" in had included the phrase "as a rule, residential," which was considered to be "too broad" and to include the possibility of short-term rentals. The phrase "as a rule" was also removed from the definition. She had also read that tourist destinations such as Hawaii were also dealing with issues related to short-term rentals. Copies of articles on this topic had been distributed to the Committee through Ms. Ehle's office.

Vice Chair Forman provided copies of a handout stating his thoughts on this issue, along with copies of the Landlord/Tenant Statute and definitions of "transient" and "short-term" from Black's Law Dictionary and Webster's Collegiate Dictionary. He explained it could be helpful to see "how other people have looked at short-term use."

Mr. Isakowitz joined the meeting at this time (3:38 p.m.).

Ms. Ehle advised that Vice Chair Forman's handouts would be added to the record of today's meeting, and additional copies would be available to Committee members upon request.

b. Liaison Update

I. Handout: Factors Related to Rentals

Ms. Ehle said she would use a flip chart to take notes on the Committee's discussion, and requested their input on what they would like her to add to these notes.

Attorney Miller joined the meeting at this time (3:42 p.m.).

III. Approval of July 22, 2010 Minutes

Chair Mammano referred to p.2 of the July 22, 2010 minutes, noting that the draft minutes state it is Attorney Miller's opinion that a conflict of interest existed for Vice Chair Forman. It was her recollection that "there was a conflict of interest" rather than a statement of opinion. She asked for Attorney Miller's input.

Attorney Miller said under Florida Statute, "the City Commission may grant a waiver to any possible conflict of interest;" the issue regarding Vice Chair Forman will be brought before the City Commission at their next scheduled meeting. They will then determine whether or not they wish to waive the conflict "which we think we have seen."

With regard to a statement of opinion, she advised that Assistant City Attorneys do not determine whether or not conflict exists: instead, "we say that we think

there is,” and the Committee member “has to make their own decision.” She concluded that the reference to opinion in the July 22 minutes was accurate.

Chair Mammano noted she did not have a copy of the email from Attorney Miller that Vice Chair Forman had introduced into the record. Ms. Ehle explained she had entered this document into the record and would attach it to the corrected July 22 minutes for distribution to members.

Vice Chair Forman stated that he understood the issue to mean the City Attorney’s Office has said “there could be a conflict.” When following up on this issue, he was advised to speak with the City Commissioner who appointed him to the Committee, and who could bring forth a waiver of the conflict.

It was clarified that the City Manager would forward an Agenda Item requesting consideration of a waiver for Vice Chair Forman to the City Commission. The waiver would be voted upon by the entire Commission.

Vice Chair Forman referred to p.6, paragraph 2, “[Chair Mammano] did not, however, believe there is no way to distinguish between ‘residential users,’ offering the example of social service facilities.” Chair Mammano suggested a clarification would be “She believes that there are ways to distinguish between residential users.”

Motion made by Ms. Myers, seconded by Mr. Isakowitz, to approve the July 22, 2010 minutes as corrected. In a voice vote, the **motion** passed unanimously.

c. Roundtable Discussion / Members’ Workshop Session

Vice Chair Forman proposed that the Committee first address “areas of concern,” such as zoning areas and classifications, before moving on to discuss terms. He recalled they had previously talked about areas that “should definitely be restricted on a short-term basis,” as well as areas that can be “looser,” such as “RO or multi-family.” This could help provide protection for both the marine industry and single-family homes, for example, at the same time.

Ms. Myers recalled the Committee had been asked to “take a close look” at the previous month’s handout on other cities’ ordinances, and noted that Destin in particular addressed short-term and seasonal rentals, and their locations.

Ms. Parker said they had not discussed how Miami has addressed this issue: as a large tourism-oriented city, it is possible that Miami could offer examples to the Committee. Ms. Ehle offered to compile a list of additional cities whose ordinances the Committee would like to review, and the City Attorney’s Office could research the appropriate information to add to their chart.

Vice Chair Forman felt it would also be useful to discuss “the whole philosophy” of short-term rentals, pointing out that these rentals may be “a growing phenomenon in vacation options,” as hotels are becoming difficult for some families to afford. He suggested they discuss whether these rentals should be allowed in Fort Lauderdale “at all,” and why they should be allowed or prohibited. Chair Mammano added it could be helpful to know “what segment of the population” uses vacation rentals, as she did not feel these rentals are often used for “family vacations.”

Vice Chair Forman explained he had spoken to a representative of TripAdvisor, who had informed him that “Florida perhaps leads the nation” in terms of vacation rentals. It was recommended that the Committee speak with a member of the Florida Vacation Rental Managers’ Association.

He continued that there is often a “good neighbor policy,” which manages rentals to ensure they do not have a negative impact on their neighborhoods. A 24-hour phone number is provided, through which the owner of the property is alerted to negative behavior; if the owner cannot solve the problem, “the next call is to the police.”

Vice Chair Forman recalled that an earlier meeting had included testimony from the public on short-term rentals. He suggested that the Committee consider the “tourism aspect” of these rentals. The “typical vacation renter” was described by TripAdvisor as “families that see the value” of staying in a home, as this can be less expensive than a hotel.

Mr. Mastriana asserted that residents of “certain single-family areas” did not find short-term rentals appropriate for their neighborhoods, as they can be “disruptive” and raise concerns for their children’s safety. Furthermore, the hotel industry needs the business these visitors could provide, and are hurt by short-term rental of homes. He concluded that “R-8 neighborhoods must be protected against short-term rental.”

It was noted that the city of Destin includes many new residences owned by individuals who “knew what they were buying into,” which was a community that included several rental properties. These neighborhoods were promoted by developers and cities as rental communities, as opposed to single-family neighborhoods.

Ms. Myers said if the Committee establishes proper criteria for short-term rentals, they can then ensure that these properties are located in appropriate neighborhoods and communities.

Chair Mammano asked if a system for rentals such as the one in Destin would be acceptable to “your neighborhoods.” Mr. Mastriana stated that “you don’t want...

to have people who are transient in a single-family residential area for any reason.” He reiterated that this is considered a safety issue in his neighborhood.

Chair Mammano noted that Destin’s ordinance allows rentals from “one day to six months,” which she felt was “very liberal.” Mr. Mastriana added that some homes in his neighborhood are rented for beach weekends, which can draw a large crowd to a single property. He did not feel this was suitable for a single-family neighborhood either.

Chair Mammano continued that the Destin ordinance states properties for rental must be registered with that city; Destin also requires that there be a responsible party for the conduct of occupants and the upkeep of units. This party is identified in the city’s records, and it is required that properties must post signs identifying them as short-term rentals.

Vice Chair Forman noted that it is not possible to keep all dangerous individuals out of non-gated communities, which have public roads without checkpoints. He suggested individuals who use short-term rentals “are no worse than the average person that would drive into your neighborhood.” Mr. Mastriana responded that there is “absolutely no reason” to open a neighborhood to a transient population that does not have the best interest of the neighborhood in mind. He noted that longer rentals, such as six months’, show more concern for the welfare of the neighborhood.

Ms. Ehle pointed out that it is not possible under Florida law to say “we don’t want a certain kind of person” to rent in a neighborhood. She noted, for example, that this law also applies to individuals who rent a property with the intent of living there. She explained that this should be kept in mind when discussing potential issues with short-term rentals.

She added that the idea of a “transient population,” or the suggestion that a “more permanent” resident will be more considerate of maintaining the character of a neighborhood, was also discussed by the Committee the previous month, and suggested that this could become a factor in the Committee’s deliberations.

Ms. Myers stated when she was appointed to the Committee she felt the intent was for the Committee to “put together a package” of regulations for short-term use in any neighborhood, and requested clarification that the actual intent was “just for a particular neighborhood.”

Mr. Mastriana said his understanding was that single-family districts should have different rules and regulations from an RO or multi-family district. He used crew quarters as an example, pointing out that these are primarily located in RO or RMM-25 areas rather than single-family districts. He concluded that the zoning districts are “totally different” and cannot be accurately compared to one another.

Chair Mammano stated the Committee was not formed to address only one issue or one district, but “to talk about the City.” As zoning differs throughout the City, distinctions may be made based upon zoning districts.

She continued that while vacation rentals in single-family districts are perceived as “mostly a problem,” crew quarters are a separate issue and are not often located in the same areas.

Chair Mammano requested clarification that Mr. Mastriana had suggested a six months’ rental was “probably acceptable.” Mr. Mastriana said this is correct.

Ms. Parker said the State considers “six months and one day” to be a long-term rental. Chair Mammano recalled this was also the time period at which an individual was not subject to the hotel tax.

Ms. Parker observed that Ms. Myers was suggesting a format such as the one used by Destin would work for Fort Lauderdale. She noted that some zoning districts have “a lot of restrictions,” and the definition of these districts requires that only a certain number of residences can be located on a net acre. She advised that these restrictions, including RS-8 and RS-4.4, are intended to “safeguard” the character of these neighborhoods; the character of other neighborhoods, such as those that allow bed & breakfast facilities, are “going to be distinctively different.” She concluded that this is “a district issue,” and felt the Destin format or procedure proposed by Ms. Myers could be useful for the Committee.

Ms. Ehle advised that the location of some districts “changes their character depending on where they are in the City.” For example, the character of a district feels different, depending on where it is, even if the district is the same. If it’s adjacent to commercial, it might feel different than if it’s surrounded by similar character areas.

Vice Chair Forman pointed out that the residents of a neighborhood contribute more to its character than its zoning category. Mr. Mastriana reiterated that his single-family neighborhood, for example, would not accept transient use of property in any case. Chair Mammano affirmed that the issue is “transient versus permanent.”

Vice Chair Forman said his intent in serving on the Committee was “to come up with something that works for as many people as possible,” and observed that if the position is taken that some districts would not allow short-term rental in any case, it would be “very hard... to come to a position that we can all agree to.”

Mr. Mastriana stated again that he felt rentals for less than six months were inappropriate in single-family neighborhoods and should be “strongly prohibited.” He advised that he had reached out to neighborhood associations in other single-family neighborhoods in the City, many of which felt “exactly the same way.”

Ms. Myers explained short-term use can be restricted so it does not allow many of the behaviors that are not wanted in single-family neighborhoods.

Chair Mammano proposed that the Committee move on to address crew quarters. Mr. Mastriana recalled that Mr. Ledbetter had said he would provide a listing of the areas in which crew quarters are concentrated; he also recalled that Mr. Ledbetter had said crew quarters “do not belong” in RS-8 or RS-4.4 zoning districts.

Chair Mammano suggested that it may be possible to determine where these quarters are located by referring to the map of enforcement actions. She noted that there are crew quarters within her own neighborhood, some of which “are great, and some of them are problematic.”

She recalled that Attorney Miller had suggested there could be “some functional relationship” for crew quarters located close to marine facilities. This could be a way to distinguish those areas that are more appropriate for short-term rentals.

She advised that the Committee should first discuss whether or not “we think crew quarters [are] a good idea and something we should be supporting” before moving on to determine where these quarters should be located.

Ms. Parker noted that the term “crew quarters” specifically suggests a relationship with the marine industry. She added that residents in crew quarters “have money” and “are professional;” they come to the City “to find a job... on the boats that we’re trying to attract,” or to attend school. She felt crew quarters “would probably fit” into RMM-25 or RO districts, or in areas close to marinas and shipyards.

Chair Mammano pointed out that bed & breakfasts require an owner to remain on the premises, but can rent to anyone for any period of time. She noted that crew quarters do not typically have an owner who lives on the premises, and advised that if the Committee “decides it’s a good thing to do” to allow crew quarters, they must find a way to allow that kind of short-term rental “with or without some restriction on who can live there.”

Vice Chair Forman advised that there are many “sober houses” in Fort Lauderdale communities; these facilities rent to individuals who are released from jail after an arrest involving a drug- or alcohol-related crime. He was not aware of whether or not these houses required “special zoning.”

Chair Mammano pointed out that if the houses are not regulated by the State, they are boardinghouses, which are only legal if certain conditions and circumstances are met. Vice Chair Forman explained the houses are often located in residential districts and provide a controlled environment for its residents. He asked if the Committee felt these programs should be considered as short-term use. Chair Mammano reiterated that if short-term rentals are allowed, "we cannot limit" the people who move into them.

Mr. Mastriana asked if the City restricts the number of individuals permitted to live in a particular structure. Ms. Ehle said she would research this and bring the information to the next Committee meeting.

Returning to the issue of crew quarters, Mr. Mastriana suggested a member of a local marine association might be able to provide input on where most crew quarters are located, whether there are criteria for individuals who are allowed to stay in these quarters, and other considerations specific to this use.

Ms. Parker recalled that at a previous meeting, the Committee had discussed ways to restrict crew housing to members of the marine industry only. Chair Mammano noted that the City Attorney had expressed concern that the Committee cannot discriminate in this way; Chair Mammano had pointed out, however, that the City does "carve out housing options for certain populations." She added that Mr. Ledbetter had suggested distinguishing members of the marine industry through proof of professional licensing, which could be a consideration.

Mr. Isakowitz proposed considering "licensing of the actual homeowner as well" as requiring licensing of a house's residents. He pointed out that private homeowners presently rent vacation homes to crews with "no control of who they are and what they can and can't do on the premises." If a homeowner is licensed, the City could develop guidelines under which he must operate, such as providing quarters "to qualified marine industry people." Mr. Isakowitz also advised there is a distinction between individuals who come into the City "looking for work as crew people" and individuals who "come into the City as part of a large boat crew."

He concluded that he did not believe "there is an answer to every problem – it's too complex." While the Committee might not be able to arrive at a solution that will "suit everybody," he felt it was possible they could find answers to "suit the majority of people." He cautioned, however, that if they find a solution that imposes restrictions on crews, the crews and boats would go elsewhere.

Ms. Ehle suggested Staff could assist by looking into whether or not other cities require proof of licensing for crew quarters. She added that in the ULDR, bed & breakfast are an example to refer to in that they are required to provide “an operational plan,” which includes providing a way to reach an individual at the location and providing information on “what they plan to do” with the facility.

Mr. Mastriana noted that often members of a large boat’s crew “stay on the boat” while it is docked, even if it is docked for months. This means the marina must establish rules on what is permitted. He asked if crew quarters are primarily intended to house individuals who are “looking for work” or between jobs.

Vice Chair Forman advised there is also an issue of what to do about “the people who are already here” and how a new ordinance could affect them. He felt the Committee should plan to discuss Destin’s ordinance further at an upcoming meeting.

d. Set Agenda for Next Meeting (5:00 p.m.)

Chair Mammano recalled these topics had been raised for discussion at the next meeting:

- Licensing procedures, such as those described in Destin’s and St. Augustine’s ordinances;
- Density regulations for the number of individuals permitted in various uses;
- The “grandfathering” aspect of any new regulations, with an attorney’s perspective;
- How the Committee plans to proceed to finish its work, including the possibility of “interfacing with the public;” and
- Producing an interim report.

Vice Chair Forman noted that a case has been filed “for declaratory relief and damages on the current Ordinance” regarding short-term residential uses. The case was filed on July 26. Ms. Ehle requested a copy of this information so it could be sent to members in advance of the next meeting.

e. Other New Business

Motion made by Mr. Mastriana, and duly seconded, to set aside the last 10 or 15 minutes of every session for public input. In a voice vote, the **motion** passed unanimously.

There being no further business to come before the Committee at this time, the meeting was adjourned at 5:08 p.m.