



Code Enforcement Division
306 NE 6th Avenue
Gainesville, FL 32602
Phone: 352-334-5030
Fax: 352-334-2239

DATE: June 15, 2009
TO: Community Development Committee
FROM: James L. Garrett Sr., Code Enforcement Manager
RE: Mr. Silber's request to review LLP for nonconforming uses (Item #061025)

I have discussed this item with code enforcement (CE) staff and members of the City Attorneys staff. I now feel comfortable providing the following information:

The provisions of the landlord permit (LLP) ordinance were implemented years ago as a tool to control negative impacts of rentals in single family neighborhoods. At that time the legal department advised the commission that any defensible regulation would need to be consistently applied. In keeping with that advice the city commission implemented a landlord permit process which included all buildings in zoning districts RSF-1, RSF-2, RSF-3, RSF-4, RC and some PDs. This act allowed the City to monitor and track properties used as rentals. However, this act did, as noted in Mr. Silber's comments, capture properties with uses inconsistent with the goals of the program.

Mr. Silber has several rental properties in the city. With the exception of the properties located at 410 NW 11 Street, 401 NW 10 Street and 400 NW11 Street, he has consistently complied with the provisions of the LLP requirements. Mr. Silber has contested the fairness of this action by appealing to the city commission on more than one occasion. In addition Mr. Silber has appealed to the Board of Adjustment, the Alachua County Court, and the Code Enforcement Board for relief. To date, Mr. Silber has not been successful in finding a favorable ruling for his appeal.

The Code Enforcement Division (CED) frequently hears complaints from owners of legal non-conforming multifamily units that their units should be excluded from the LLP process. Owners contend that surrounding neighbors have knowledge of the neighborhood character prior to moving in. They contend such properties have more direct supervision than single family housing and site maintenance is most often a routine matter. Many owners consider these issues as proof that their properties do not have a negative impact on single family neighborhoods. Owners often point out that being required to obtain permits that multifamily property owners in other zoning districts are not required to obtain result in competitive market inequities.

The CED is often asked to explain what is perceived as a lack of enforcement in single family neighborhoods. Investigation of these inquiries normally results in finding the neighborhood in question is a multifamily zoned district that happens to be predominately single family houses. These rentals operate without the regulations imposed on rentals in single family zoned districts. To the casual observer, they appear to be poorly kept single family neighborhoods. Many times code enforcement officers are enforcing points against landlord permits directly across the street from these properties but are unable to cite owners of these properties for identical problems.

One possible solution could be expanding LLP requirements to include all rentals which would include multifamily zoning districts. The results of 100% inspections that were conducted on six different complexes in recent years would make a compelling argument to support the need for an increase in a proactive routine inspection program to enforce the housing code. The number of multifamily units in Gainesville should serve as a warning that such a regulatory program would require a significant increase in personnel to accomplish such a goal.

Summary:

After careful review with representatives of the City Attorney's office there appears to be good cause to approach any revisions of the LLP process with caution. The current ordinance has withstood the test of court challenges. Any changes could negatively impact this tried and proven document.

As noted earlier, there is the possibility of expanding the scope of the ordinance to include properties in multifamily districts. This action would have positive quality of life and safety benefits. It would also have serious financial considerations. It could be safely anticipated that the financial impact of this action would more than likely come at a time when neither the City nor the rental industry could absorb the cost without serious implications.