
Minutes Ad-hoc Rental Housing Task Force Meeting September 25, 2007

Minutes of the Ad-hoc Rental Housing Task Force held on September 25, 2007, 4:00 p.m. at City Hall, Council Chambers, 31 E. 5th Street, Tempe, Arizona.

Present:

City Council members

Mayor Hugh Hallman
Councilmember Ben Arredondo
Councilmember Mark Mitchell
Councilmember Onnie Shekerjian

Task Force community members

Bill Butler
Jim Delton
Don Calender
Dawn Farrison
Dee Haver
Ed Hermes
Darlene Justus
Mark Kennedy
Ann Patterson
Joe Pospicil
Kathy Tershowski

City staff members

Angel Carbajal, Assistant Chief of Police
Lisa Collins, Deputy Development Services Manager
Dean Doubrava, Tax & License Administrator
Molly Enright, Senior Mayoral Aide
Phil Falcosky, Tax Audit Supervisor
Shelley Hearn, Community Relations Manager
Jan Koehn, Neighborhood Enhancement Administrator
John Olsen, Tax Auditor
Dave Park, Assistant City Attorney
Elizabeth Thomas, Neighborhood Services Specialist
Shauna Warner, Neighborhood Services Director

Guests

Marvin Bellefeuille
Diane Christensen
James Connaughton
Peter De Mott
Warren Egmond
Linda Knutson
Charles Lee
Wendy Marshall
Laura Mello
Diann Peart
Lisa Roach
Leo Schmidt
Darlene Tussing

Agenda Item 1 – Call to Order

Mayor Hallman called the meeting to order at 4:05 p.m.

Agenda Item 2 – Legislation (H.B.2221 – 47th Legislature Session, 2nd regular session) Affecting Rental Housing

Dave Park described the two primary consequences of House Bill 2221, Chapter 11, Section 13 which was signed into law on May 26, 2006. First, it limits the ability of municipalities to inspect residential rental properties, a notice will now be required as well as support from three quarters of the City Council. Second, it limits the paperwork required for landlords on residential rentals by prohibiting a municipality from requiring residential properties or property owners to be registered or licensed by the municipality. The City cannot direct these property owners to submit information already provided to the County Assessor's office for state rental registration purposes (no duplication is permitted) or request additional information beyond what is already required. An exception to this law permits the City to collect information necessary to license rental properties for privilege tax.

Phil Falcosky explained that even with the limitations noted above, he is working with Information Technology staff to create a database of rental owners and hopes to be able to demo this database in October 2007. The City likely will be able to utilize some of the information furnished for sales tax purposes particularly as it pertains to enforcement of Neighborhood Enhancement/Code Enforcement issues if it is determined that this will not present a conflict with the new legislation. Some tax information is not permitted to be shared.

In light of this, Phil Falcosky reported that the city is proceeding with the development of a rental housing database to be made available to the general public. The database will be present basic information that is deemed public record under the transaction privilege tax code for all rental properties licensed with the city, together with a link to the County Assessor's website and a means for citizens to report unlicensed rental properties. Tax & License has met with personnel from the City's Information Technology department who hope to have a demo available by the end of October.

Agenda Item 3 – Processes to Identify New Rental Properties

As directed at the May 25th meeting of the Task Force, Phil has been exploring alternatives and potential services that can provide information regarding recent home sales and identify likely rental properties. Phil explained that it can be difficult to track rental properties at the time of a home sale as over 90% are classified as owner occupied and are not classified as rentals. It can take months after a sale to establish a rental.

Staff recently met with one of the vendors providing information system searches using County Assessor records and years of historical home sales data. This type of service may help expedite the property owner identification process by comparing records from different sources. The services offered are comprehensive and much of the information may not be useful for the express purpose of identifying unregistered rental properties. Some of the other information available may be applicable in Neighborhood Enhancement/Code Compliance efforts as well as for mapping needs throughout City departments. Additional research will be necessary to determine if the potential cost for the benefits offered justify going out for a Request for Proposal (RFP). The question was posed how much additional revenue might be collected if all unregistered rentals are captured and how much the City receives of the \$1,000 fine levied by the County for failure to register a rental. Jan Koehn explained that only twenty percent of the fine goes into the City's General Fund with the County keeping the remainder.

In the interim, Phil has had some success in identifying additional, non-licensed rental properties by analyzing the monthly list of new water deposits. A water deposit is not required for those properties which provide escrow papers showing them as owner occupied. Utilizing the June, July and August 2007 water deposit data, 800 deposits total were required of which approximately 500 or two thirds were licensed. The remaining 300 were not licensed as rentals and were mailed out letters with

licensing information and notification of the need to do so. Forty percent of the notifications were returned and thirty percent proceeded with getting licensed. Phil is currently using skip tracing methods to help try to identify current owner addresses for returned notices.

Creation and maintenance of a database for rental properties and tracking owners of non licensed rentals is a time consuming and labor intensive process. Phil requested additional staffing be considered to be responsible for the database organization and maintenance, the follow up with non-responders to licensing notifications and the follow up needed with the County regarding reclassifying the properties as rentals. The Task Force agreed that additional staffing should be requested by Tax & License.

The suggestion was made to send notification to all mortgage and title companies to encourage them to let their clients know of the need to register properties as rentals and the cost of failing to do so. Phil noted that the City did follow up with local title companies regarding rental licensing, registration and classification policies but they are not obligated nor required to pass this information along to their clients.

Agenda Item 4 – Residential Rental Licensing Fines

The Task Force had recommended that consideration be given to increasing fines for failure to license property. Any changes would apply to all businesses as well and would require the approval of the Municipal Tax Code Commission and industry groups such as Arizona Tax Research Association. Generally, penalties in the Model City Tax Code are tied to the amount of tax due. There is imposed a 10% late filing penalty and an additional late payment penalty of 5% per month, up to 15%, for a total of 25% of the tax due. Other cities impose a fine of 150% of the fee otherwise due with a maximum of \$75.00 per year. Currently, the City imposes a \$15.00 fixed penalty fee imposed for failure to renew the license of an existing rental property. Upon review of the provided information, the Task Force agreed to recommend changing the licensing fines to 150% of the fee due, similar to what other cities impose.

Agenda Item 5 – City of Tempe Nuisance and Property Enhancement Code Fine Structure and Enforcement Amendments

A summary of the proposed code fine structure and enforcement amendments was provided in the meeting packets. The most significant change to the code is the clause pertaining to habitual offenders. The City Attorney's office is working to craft a definition and to provide recommended language for review. Jan Koehn emphasized that only six to eight properties per year fall into this category but they consume considerable staff time and effort.

Increasing the fines associated with habitual offenders, persons who repeatedly violate the Nuisance and Property Enhancement Code can serve as a deterrent while creating the opportunity for a revenue source to aid elderly and disabled populations with their code compliance efforts. Neighborhood Enhancement/Code Compliance staff have been in preliminary discussions with City Courts regarding formation of such a program. This program would need to be formally proposed and approved through the next budget supplemental process.

Other recommended changes include immediate attention (rather than 48 hours) by landlords to rental properties with health/safety/welfare issues such as cooling, heating, toilet or smoke detector problems. Jan acknowledged that contractors can require time to respond during peak seasons (i.e. summer for air conditioning unit issues) but the landlord must demonstrate to Code Compliance staff that a good faith effort has been made. For example, the landlord should provide the name and phone number of the contractor they have contacted for repairs and confirm an appointment has been

set. Landlords should also demonstrate reasonable steps have been taken to provide for resident comfort until the repair has been made.

Task Force members were reminded to take a holistic approach rather than focusing on individual experiences. Jan noted that despite the previous fine increases, there have been increases in recidivism and some residents are content to just pay the fines. It is hoped that the new recommended fine increases might be sufficient to discourage some of that behavior. After some discussion, Task Force members agreed to the notion of habitual offenders and will await the recommended language for review. They also requested the item for item list be added to the Rental Housing Code.

Agenda Item 6 – Proposed Zoning and Development Code Occupancy & Parking Standards Amendments

City Attorney's office staff has been consulting with Ira Ellman, an Arizona State University Professor specializing in family law. Professor Ellman is convinced in the legality of utilizing consanguinity as a Neighborhood Enhancement/Code Compliance tool. Case law demonstrates the City can regulate the number of related persons in a household in single family residential areas. However, enforcement can be problematic. Similar to when an individual receives a parking ticket, there is no right to a discovery process by prosecutors and tenant offenders cannot be made to testify against themselves. Tenants could potentially be encouraged to testify against their landlords.

Development Services and Neighborhood Enhancement/Code Compliance staff have been working together to address task force recommendations regarding the issue of landlords supplying adequate parking for tenants. Specifically, staff is researching alternatives to having landlords tear up lawns to install concrete, asphalt or decomposed granite for parking. In addition to the need for proactive enforcement efforts that address the root problems of too many tenants in a single family residence and/or tenant behavior issues, there are neighborhood aesthetic and heat island concerns that need to be taken into consideration.

No conclusions have been reached on the above noted issues and staff will continue to research alternatives for addressing them.

Agenda Item 7 – Evening and Weekend Communication Methods with Code Compliance Inspectors

Jan Koehn stated that the issue brought up at the May meeting regarding timely communication from residents to part time code compliance inspectors working evenings and weekends has been addressed. From 5-8 p.m. Monday through Friday and from 8 a.m. until 1 p.m. Saturday, calls made to the main Code Compliance phone number (480-350-8372) are forwarded to Administrative staff who then forward the calls to the on duty inspectors working those areas.

Agenda Item 8 – Arizona State University Student Housing

Lisa Collins, Deputy Development Services Manager, provided a brief overview regarding ASU total bed counts. As of 2009, there are anticipated to be 12,413 beds on and around the campus. New facilities currently being built include the Barrett Honors College, Hassayampa Village #2 and Vista del Sol. An additional 1300 private housing sector beds are also being built. Within a three year construction period anticipated to end in 2009, over 5,500 student beds will have been added. This should help alleviate some of the pressure the need for student rental housing has been placing on the community.

Agenda Item 9 – Arizona State University Off-Campus and Commuter Student Services

Friday, October 5th, a ribbon cutting will be held celebrating the grand opening of ASU's Center for Off-Campus & Commuter Student Services. The Center located at 915 S. Rural Road will provide off campus and commuter students a variety of services ranging from help with housing options to family counseling to tutorial assistance. Stephanie Salazar will share additional center information when she is available to do so.

Agenda Item 10 –Public Comment

- Hire a full time person for Tax & License. Neighbors should be more proactive in neighborhoods regarding who is moving in and specifically which landlords are moving in. No parking on curb or sidewalk or against traffic signs should be installed in neighborhoods.
- Rentals Tempe is the largest landlord in the area with over 50% of rentals in the Mitchell Park East neighborhood. Many of these rentals have numerous code violations. Area residents need to see progress, the continued deterioration negatively impacts our property values.
- I am also a long time Mitchell Park resident. You need some help building a database. Look at mystreet.com, involve and use local residents and neighborhood associations. You could look into paying a bounty for associations that find unregistered rental properties.
- I am a resident of Broadway Palms neighborhood. Our neighborhood has been in transition over the last five years with original home owners renting their homes to family and friends and now we are experiencing lots of litter and loud parties. How do we identify these renters? Whom do we provide the data to? Some of our concerns also include double parking in the driveway cutting off sidewalk access and speeding concerns. How about establishing landlord water accounts where no deposits or hook up fees are charged as an incentive for landlords to keep records current.
- I am proud to be a part of this community. One third of the homes in my neighborhood are rentals and one particular house is a real problem that I know you are working on but it is frustrating the length of time to effect any change.
- I also live in Mitchell Park East. Consider forming a friends of neighborhoods volunteer group or community service group that can help other residents with their clean up efforts.

Per Task Force member Darlene Justus, Darlene Tussing had to leave the meeting early but will be sharing comments and recommendations in her own words at a later date.

Agenda Item 11 – Next Steps

The Mayor confirmed the public comment suggestion regarding creating a bounty for turning in unregistered rental properties has been referred to the Neighborhood Quality of Life, Public Safety and Parks and Recreation Council Committee for further evaluation. The formation of Friends of Neighborhoods volunteer or community service group will also be referred to this Council Committee for follow up.

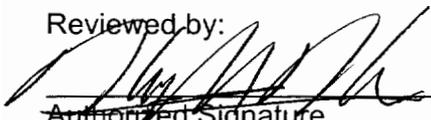
The Mayor announced that the Ad Hoc Task Force will reconvene if it is deemed necessary. Task Force members will be notified in writing of any future meetings or additional next steps.

Agenda Item 12 - Adjournment

Meeting was adjourned at 6:15 p.m.

Prepared by: Shauna Warner, Neighborhood Services Director

Reviewed by:



Authorized Signature

Mayor Hallman, Chair