



DATE: April 19, 2018

TO: Chair Hummer and Members of the East Bellevue Community Council

FROM: Carol Helland, Code & Policy Director, Development Services

SUBJECT: City of Bellevue Ordinance No. 6223—Single-Family Dwelling Rentals  
**May 2018 Update**

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## I. INTRODUCTION

On May 1, 2018, the East Bellevue Community Council (EBCC) will discuss implementation of the Single-Family Dwelling Rental Ordinance, City of Bellevue Ordinance No. 6223. Since the adoption of this Ordinance on April 6, 2015, the EBCC has been updated regarding the City's administration and enforcement of the Ordinance on a yearly basis, and starting this year (2018), the EBCC has requested that this update is given twice per year, at its May and November meetings. This Memorandum is the May 2018 Update to the EBCC.

As a brief introduction, the purpose of Ordinance No. 6223 is to support the City Comprehensive Plan's objectives of maintaining and strengthening the vitality, quality, and character of Bellevue's residential neighborhoods, and providing housing choices and affordability. The Ordinance also seeks to address citizen concerns about the rental of multiple rooms in residential dwellings to unrelated individuals and under separate lease agreements (single room rentals), and the impacts of this and other rental practices that threaten the vitality, quality, stability, and character of residential neighborhoods.

## II. DISCUSSION OF DATA AND RECENT EVENTS

### A. 12-Month Data of Code Enforcement Cases.

A list of complaints and their resolutions related to single family dwelling rentals for the 12-month period between April 1, 2017 through March 31, 2018 is provided in Attachment A (the "Case List"). The Case List is organized by Neighborhood Area. The geographic distribution of the cases is shown in Attachment B (the "Map"). The Map reflects the status of each complaint/case as of the end of the survey period, on March 31, 2018: Closed—Finding of No Violation; Closed—Complied (Voluntary Compliance); Closed—Complied (Hearing Examiner's Order); Closed—Administrative; and Open—Continuing Investigation.

A summary of the 12-month survey period is as follows:

Closed—Finding of No Violation:	City-wide: 38 (32%), EBCC: 5 (23%)
Closed—Voluntary Compliance:	City-wide: 36 (31%), EBCC: 3 (14%)
Closed—Hearing Examiner’s Order:	City-wide: 2 (2%), EBCC: 1 (1%)
Closed—Administrative:	City-wide: 5 (4%), EBCC: 0 (0%)
Open—Continuing Investigation:	City-wide: 37 (31%), EBCC: 13 (59%)
<b>TOTAL ENFORCEMENT ACTIONS:</b>	<b>City-wide: 118, EBCC: 22</b>

More information about and a discussion of cases within the listed categories is provided below.

1. *Closed—Finding of No Violation*

In response to a complaint of alleged code violation, an enforcement action (EA) file is opened and a Code Compliance Officer is assigned to that case. The assigned Officer investigates the alleged violation by talking with complainants, neighbors, property owner(s), and/or tenants; reviewing property records; researching online sites and databases; visiting the property and neighborhood; and performing other investigative and research activities. In some instances, the Officer may conclude that there is no code violation after completing these investigative tasks.

There are various reasons for the Officer’s finding of no violation. Complaints typically are made based on neighbors’ external observations of the property, such as multiple vehicles and/or different vehicles parked in the driveway or on the street in front of the subject house; multiple different adults seen staying at the house; and declining property maintenance. As examples, common complaints are that more than four unrelated adults are living at the property, and the house is being used for transient (Airbnb) and single room rentals, based on the kind of external observation described above.

After investigating the complaint, the Officer may find that there is a legitimate reason for the number of vehicles observed by neighbors, such as multiple driving-age children, or that certain vehicles are not in fact associated with the subject property. The Officer may also learn that extended adult family members are residing at the home, or that there have been out-of-town guests. Such information may be provided by the property owner or tenant directly, or the Officer may acquire information as part of the investigation. In these cases where the Officer affirmatively concludes that the documented use of the home complies with the ordinance, the Officer enters a finding of no violation and closes the EA file.

2. Closed—Voluntary Compliance

For civil violations, the City Council has adopted administrative enforcement procedures that generally provide responsible parties (property owners, tenants, contractors, and others) a reasonable opportunity to voluntarily correct an alleged violation before a Notice of Civil Violation is issued and the case is taken to the Hearing Examiner. Refer to the Civil Violations Chapter (BCC 1.18.030). Voluntary compliance with Ordinance No. 6223 can be achieved in a number of ways depending on the specific violation, including reduction of the number of unrelated adult occupants, forming the functional equivalent of a family and single housekeeping unit through sharing of expenses and being on a single lease, securing a Home Occupation Permit for a Bed and Breakfast, or ceasing the rental activities altogether.

The amount of time allowed to resolve a documented violation of the Ordinance depends on a variety of factors, including whether a City permit or registration process (such as for an accessory dwelling unit or home occupation permit) needs to be completed, if there are other circumstances beyond the property owner's control, or other special considerations. While the specific situation of the case is considered, the Officer follows prescribed guidelines for setting the compliance due dates to achieve consistency and fairness while being responsive to the neighbors and community. After completion of the required corrective actions is confirmed, the Officer enters a finding of compliance and closes the EA file. The EBCC Chair and Vice Chair have requested additional information regarding hours expended by Code Compliance Officers on transient lodging and single room rental cases. This information was not available when the EBCC packet materials went to print, but should be available in time for the May 1 meeting.

3. Closed—Hearing Examiner's Order

In a handful of cases where voluntary compliance efforts have been exhausted without achieving compliance, a Notice of Civil Violation is issued, which also sets an administrative hearing before the Hearing Examiner. The City has the burden to prove by a preponderance of the evidence that a violation has occurred and that the requested corrective action is reasonable. After the administrative hearing is held, the Hearing Examiner issues findings and conclusions documenting whether the violation has occurred and the appropriate corrective action, including if any monetary penalty is to be imposed. The Hearing Examiner's decision is the final City action and the EA file is thereafter closed. Decisions of a city Hearing Examiner may be appealed to Superior Court by the parties involved in the hearing.

4. Closed—Administrative

Occasionally there is a lack of information, even after investigation, to establish the alleged violation. For instance, in a transient rentals case, the Officer may be unable to locate any advertisement of the alleged rentals, has been unable to personally observe the rental activities, and/or the property owner or tenant declines to provide information about the residents and their living arrangements. The Washington State Constitution accords strong protection of privacy rights, especially in a person's home, and the Officer cannot compel the owner or tenant to provide

information or submit to inspections. Where a reasonable amount of investigation has not produced evidence warranting further efforts, a case may be closed administratively. However, should another complaint be submitted, there is nothing to prevent the opening of another investigation and proceeding through the enforcement process.

5. Open—Continuing Investigation

Unless a case falls under the four “Closed” categories described above, an EA file remains open. Open EA files may be still under investigation, in the process of moving towards voluntary compliance but not yet completely resolved, tied up with related building or land use permits (e.g., accessory dwelling units), or being prepared for or pending hearing before the Hearing Examiner.

**B. Lessons Learned in Recent Code Compliance Cases.**

1. Language Barrier

Owners and tenants of rental properties may have limited ability to speak or read English. Language barriers can impede various steps of the investigation process, from the initial contact to explaining code requirements and setting time frames for compliance. An Officer may be required to identify the language(s) of the owners and tenants and find translation resources to effectively meet with owners and tenants at rental properties. Additionally, advertisements for transient lodging or single room rentals may not be in English, thus presenting investigative and evidence-gathering challenges for Code Compliance Officers.

A Code Compliance Officer can avail herself of a variety of informal and formal language translation resources. Sometimes a family member or friend of an owner or tenant can provide informal interpretation on the spot, or some City staff competent in the relevant language and may help translate at City Hall or in the field. More formally, an interpreter can work over the phone through the Language Line resource that the City contracts for, and for administrative hearings, the City has a list of certified translators who can be retained with sufficient notice. To date, the City has provided a translator once for an administrative hearing, occurring this past February.

2. Public Engagement and Information

Code Compliance staff and officers directly educate tenants and owners of rental properties about the single-family dwelling rental ordinance on every case opened relating to a reported violation of the ordinance. Equally important, staff and officers also educate complainants who report possible violations about what the ordinance regulates, what is not regulated, the limits of the external property conditions that are most frequently the basis for complaints, and the challenges of these kinds of investigations. For example, Airbnb advertisements may not be enough to show actual use of the property for transient and single room rentals. Code Compliance staff and officers also provide information to homeowners’ associations, realtors, and other community groups with an interest in the impact of rentals on residential neighborhoods.

Furthermore, Code Compliance continuously strives to improve our proactive education efforts about the ordinance and transient rentals in Bellevue. We are in the process of putting together a handout specifically addressing the limits on transient rentals and finding different ways to get information out both to owners of rental properties and prospective transient tenants. We also plan to publish this information in different languages.

3. *Ambiguity of Online Rental Advertising*

Online advertising for transient rental of rooms or non-owner-occupied houses on platforms like Airbnb.com, VRBO.com, and some Chinese-language websites is the most common indicators that a house in a single-family neighborhood is actively being used in violation of Ordinance No. 6223. While an online advertisement is suggestive that a property is being used for transient rentals or for rentals by groups of more than four unrelated adults, an advertisement is not conclusive evidence that an actual violation has occurred (i.e., advertising for transient rental is not itself prohibited under the ordinance). A pattern of advertising of a property over time may be helpful circumstantial evidence of a violation, however, and certainly is a reasonable basis for approaching the property owner or tenant (advertising for sublessees) to provide education and seek voluntary compliance with the ordinance.

The challenge is that online platforms like Airbnb do not typically identify the specific address of the property advertised for rent. To connect an online ad to a property the City has received a complaint about, interior photos of rooms, furnishings, and views out of windows must be compared with other ads and with what can be identified for the property complained of. Staff often are not able to gain access to the interior of a subject house. Further confounding the investigation is that different ads may use the same photos for different properties, and host names (often aliases) change for the same property. In one current case, the probable responsible party may have been running as many as 16 different Airbnb ads, some for the subject property and some for other properties rented by this person and then advertised for (sub)rent on Airbnb. Code Compliance officers work together and meticulously compare ads with information received from complainants and from site observations. Dozens of hours of staff time may be consumed to compare ads with information received from complainants and site observations to produce clear evidence connecting various ads to a subject property.

In October 2017 Code Compliance staff began using an online database that makes new information available from publicly available sources correlated by one search tool. This new investigative resource is helping staff more effectively work with the limited information provided in online ads and develop circumstantial evidence of violations.

### **III. CONCLUSION**

The City Council enacted the Single-Family Dwelling Rental Ordinance in April 2015 to respond to urgent resident concerns about the impacts of transient (less than 30 day) room rentals and

rooming-house occupancies (non-owner-occupied, single room rentals) in single-family residential neighborhoods.

The growing demand for affordable housing in Bellevue, together with the influx of absentee real estate investors and entrepreneurial Airbnb hosts, means that single-family neighborhoods in the EBCC jurisdiction and throughout the City are likely to continue to experience pressure for rental arrangements that violate this Ordinance. This demand is reflected in the steady number of new case investigations opened each year, and the continuing online rental advertisements for hundreds of properties in Bellevue. Code Compliance Officers are committed to giving their best efforts, within legal parameters and available budget resources, to proactively educate and respond to specific complaints of violations.