



DATE: October 26, 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
November 2018 Update

I. INTRODUCTION

On November 6, 2018, the East Bellevue Community Council (EBCC) will discuss implementation status of the Single-Family Dwelling Rental Ordinance, City of Bellevue Ordinance No. 6223. Since this Ordinance went into effect on April 14, 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 November 2018 Update to the EBCC.

As 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. Historical Data of Code Enforcement Cases.

A complete list of code enforcement cases and their resolutions related to single family dwelling rentals from January 10, 2014 through October 15, 2018 is provided in the second ("All") tab of Attachment A (the "Case List"). A combined total of 382 cases were opened since the City has been regulating single-family dwelling rentals. 103 cases were opened under the interim ordinance between January 2014 and April 14, 2015 when the current (permanent) ordinance went into effect. This report's discussion of historical data focuses on the 279 cases that have been opened up under the current ordinance (Ordinance 6223) between April 14, 2015 through October 15, 2018, based on the information contained in Attachment A.

The "Date" column in Attachment A, Second Tab ("All") shows the date that the case was opened. The "Case Status" column in Attachment A, Second Tab, shows the status of each enforcement case as of October 15, 2018: Closed—Finding of No Violation; Closed—Voluntary Compliance;

Closed—Hearing Examiner’s Order; and Open—Continuing Investigation. In earlier cases under the interim ordinance and later with the permanent ordinance, some different case status designations were used. For consistency, these earlier case dispositions have been reviewed and included under one of the four current case status designations shown in this report.

The Case List also indicates the neighborhood area where each case is located. The geographic distribution of more recent cases is shown in Attachment B (the “Map of Ordinance 6223 Cases” or the “Map”). This map was produced in response to another data request and only shows the distribution of single-family rental cases opened between May 1 and September 30, 2018 (a five-month period). However, the distribution of cases around the City compared with cases within the EBCC boundaries, even for the shorter five-month period ending on September 30, is illustrative of current patterns of single-family dwelling rental violations throughout Bellevue’s neighborhoods.

A summary and comparison of EBCC and Citywide enforcement case dispositions is provided for 4/15/2018 through 10/15/2018. This summary and comparison for the current period is followed by summaries of Citywide enforcement case dispositions from: 4/14/2015 to 4/14/2016; 4/15/2016 to 4/14/2017; and 4/15/2017 to 4/14/2018 (EBCC-only data for these previous time periods was not included in this report).

4/15/2018 to 10/15/2018

	<u>EBCC</u>	<u>CITY</u>
Closed—Finding of No Violation:	4 (40%)	17 (39%)
Closed—Voluntary Compliance:	0 (0%)	7 (16%)
Closed—Hearing Examiner’s Order:	0 (0%)	0 (0%)
Open—Continuing Investigation:	6 (60%)	20 (45%)
TOTAL ENFORCEMENT CASES:	10 (100%)	44 (100%)

4/15/2017 to 4/14/2018

	<u>CITY</u>
Closed—Finding of No Violation:	37 (39%)
Closed—Voluntary Compliance:	47 (50%)
Closed—Hearing Examiner’s Order:	0 (0%)
Open—Continuing Investigation:	10 (11%)
TOTAL ENFORCEMENT CASES:	94 (100%)

4/15/2016 to 4/14/2017

	<u>CITY</u>
Closed—Finding of No Violation:	45 (61%)
Closed—Voluntary Compliance:	20 (27%)
Closed—Hearing Examiner’s Order:	3 (4%)
Open—Continuing Investigation:	6 (8%)
TOTAL ENFORCEMENT CASES:	74 (100%)

4/14/2015 to 4/14/2016

	<u>CITY</u>
Closed—Finding of No Violation:	48 (66%)
Closed—Voluntary Compliance:	20 (27%)
Closed—Hearing Examiner’s Order:	0 (0%)
Open—Continuing Investigation:	5 (7%)
TOTAL ENFORCEMENT CASES:	73 (100%)

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

1. Closed—Finding of No Violation

In response to every valid 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 the complainant, neighbors, property owner or tenant, reviewing property records, researching online sites and databases, visiting the property and neighborhood, and performing other activities. In some instances, the Officer may conclude that there is no code violation after completing these preliminary investigative tasks.

There are various reasons for the Officer’s finding of no violation. Most often, the Officer’s investigation reveals that there is a legitimate reason to explain the complaint, such as there are driving-age children and/or extended adult family members residing at the home, or that there have been guests, resulting in a multiplicity of different people going in and out and vehicles parked at the home. 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, the Officer enters a finding of no violation and closes the EA file.

Infrequently, there is a lack of information, where the Officer is unable to confirm the alleged violation. For instance, the Officer has not located any advertisement of the alleged rentals, or has not been able to confirm by site visits or contact with the property owner or tenant that a violation is occurring. The Washington State Constitution accords strong privacy rights protection especially in a person's home, and the Officer cannot compel the owner or tenant to provide information or submit to inspections. In these situations, a finding of no violation is entered and the file closed. However, should another complaint be submitted, there is nothing to prevent an opening of another enforcement action which may lead to a different finding.

The percentage of single-family dwelling rental ordinance cases Citywide resulting in a finding of no violation has declined from 66% in the first year of the current ordinance (4/14/2015 to 4/14/2016) to 39% in the current reporting period (4/15/2018 to 10/15/2018). A variety of contributing factors include clearer and more consistent interpretation of the ordinance; more effective community outreach on what the ordinance regulates (resulting in better reporting of possible violations); and staff's development of more effective investigation techniques based on accumulated practical experience with the ordinance.

2. Closed—Voluntary Compliance

For civil violations, the City Council has generally directed that alleged responsible parties (property owners, tenants, contractors, and others) be provided a reasonable opportunity to voluntarily correct before a Notice of Civil Violation is issued and the case is taken to the Hearing Examiner per the Civil Violations Chapter (BCC 1.18.030). Voluntary compliance 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 bed and breakfast permit, 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 needs to be completed, if there are other circumstances beyond the property owner's control, or other special considerations. While the Officer always considers the specific situation for the case, there are guidelines for setting the compliance due dates for 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.

Citywide, cases where voluntary compliance was reached increased from 27% in the period from 4/14/2015 to 4/14/2016 to 50% in the period from 4/15/2017 to 4/14/2018. However, voluntary compliance in the current reporting period (4/15/2018 to 10/15/2018) is only 16%. Part of the reason for the apparent lower rate of voluntary compliance in the current reporting period is that a substantial percentage (45%) of the cases opened during this time are still open investigations. A higher rate of voluntary compliance is expected for these cases as the reporting period continues.

3. Closed—Hearing Examiner's Order

Three cases (4% of the total) were taken to a hearing during the reporting period from 4/15/2016 to 4/14/2017. Each hearing for single-family dwelling rental cases takes a substantial amount of Code Compliance Officer and Legal Planner time to prepare and present the case. Based on this experience, the City is using a tool provided under BCC 1.18.030.C, Voluntary Correction Agreements, to accomplish the same ends as a hearing without the delay and expense of a hearing and potential court appeal.

A Voluntary Correction Agreement (VCA) is a contract between the City and the person(s) responsible for one or more code violations, wherein the responsible party agrees that a violation has been committed, to not commit additional violations for a two-year period (typically), to pay a specified penalty if there is another violation, and to waive their right to an administrative hearing of the violation and/or the required corrective action. Additionally, the VCA may require the responsible party to pay a smaller penalty up front (this can help defray the cost of the investigation), report to the City on a regular basis, and/or allow inspections by City staff of specified premises. In return, the City agrees to close the enforcement case, reserving however the right to bring another enforcement action for any future violation.

No VCAs were entered into in single-family dwelling rental cases in 2016. For 2017, the City entered into two VCAs for this type of case, one in January 2017 with four responsible parties connected with one property; and one in March 2017 with one responsible party for one property. For 2018, the City entered into three VCAs for single-family dwelling rental violations—two separate VCAs for two separate responsible parties relating to one property in February; and one VCA in August with one responsible party involving six separate properties (a second VCA is being negotiated with this same party that should be signed in November).

4. Open—Continuing Investigation

Unless a case falls under the three categories described above, an EA file remains open. Open EA files may be still under investigation or in the process of moving towards voluntary compliance, such as those with related building permits (e.g., accessory dwelling units) that are under review on different, and often lengthy, timelines.

B. Lessons Learned in Recent Code Compliance Cases.

1. Language Barriers.

Responsible parties for whom English is not their first language continue to present a challenge in as many as half of the cases. The Language Line and professional interpreters are resources available to ensure clear understanding of violations and corrective actions. Court-certified interpreters are particularly valuable in negotiating VCAs with responsible parties where language is a challenge. All of these tools are being employed to ensure that violations of single-family rental provisions are diligently processed to completion.

2. *Complainant neighbors are reluctant to testify.*

A key element of proof in single-family rental cases is direct observation of actual use of a house for transient rentals. Such evidence may take the form of seeing people arrive or depart from a subject house with luggage; license plate numbers (for rental cars or out-of-state) from vehicles that are at the subject house for only a short time; and conversations with transient guests or with the property owner or the primary tenant (house not owner-occupied). Code Compliance Officers cannot maintain extensive surveillance of a property, particularly outside of regular working hours which is when most transient guests arrive or depart. Neighbors are in the best position to observe a property over time for indicators of transient rentals. While Code Officers actively interview neighbors, some do not want to testify or sign a declaration about their observations. As a result, there may be situations where information from complainants or other individuals that is at best second-hand evidence or hearsay. Officers do their best to substantiate what complainants and neighbors report. If complainant or neighbor testimony becomes critical to a case heading towards a hearing, the Officer and other City staff may meet directly with the concerned neighbors to encourage them to help the case by testifying in person or by declaration.

3. *Online ads can be very difficult to link to a specific property.*

Transient rentals are most often advertised through Airbnb and similar online platforms. The address of a property typically is not provided until a registered Airbnb account holder contacts the host and affirmatively reserves the advertised property. Properties advertised for transient rental on Craigslist or on foreign-language online platforms likely also do not show specific addresses. Officers must painstakingly try to link photos of the exterior or interior of a house, host photos, host names or guest reviews with the property under investigation. While use may be indirectly indicated by the reservation calendar for a particular ad, the advertisement in general is only suggestive that a property is actually/actively being used for transient rentals; advertising availability of a property for transient rental is not itself a violation of the ordinance. Careful monitoring of advertising media may produce circumstantial evidence of transient rental use that is helpful as one part of the overall case. Online advertisements can also help connect multiple transient rental properties with one responsible party. However, the information available for online advertisements is not adequate in and of itself to advance the enforcement process to completion.

4. *Public Engagement and Information.*

The complexity of the single-family dwelling rental ordinance has been broken down into separate sections of the City's website where the requirements of different situations are clearly explained—for example, distinguishing transient-rental violations from situations where the legal limit on the number of unrelated adults (4) is the main concern. These updated web pages (which can be printed for distribution) are included with this report as Attachment C (SFDR Information Handouts). Over time these documents will be translated to the most common foreign languages encountered in Bellevue.

In addition, we continue to provide information and articles for *Its Your City* and other publications, and make staff available for interviews for news media as well as presentations to neighborhood groups and homeowner associations. We take the opportunity when talking in person with property owners, tenants, rental agents, neighbors, and other potential responsible parties to educate them about the single-family rental regulations. We also proactively encourage property owners, tenants, and rental agents to consider rental arrangements that are allowed by the ordinance, such as Accessory Dwelling Units (long-term lease required) or Bed-and-Breakfasts (Home Occupation permit required), and provide details on what permits or registrations that may be required and how to obtain them.

III. CONCLUSION

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 in single-family residential neighborhoods, many of which involved houses that were not owner-occupied. But 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 East Bellevue Community Council area and throughout the City will likely continue to experience pressure for rental arrangements that violate the Single-Family Dwelling Rental Ordinance. This demand is reflected in the increasing number of new case investigations opened each year (from 73 to 96), and the continuing online advertisements for hundreds of transient-rental properties in Bellevue.

Outside of preparing for hearings, Code Compliance Officers spend about 20% of their investigation time on single-family dwelling rental cases, which account for about 6% of the complaints submitted. Code Compliance Officers are committed to giving their best efforts, within legal parameters and available budget resources, to proactively educate the community about the Ordinance and respond to specific complaints of violations.

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