



MEMORANDUM

DATE: May 7, 2019

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

FROM: Tom Campbell, Code Compliance Supervisor
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Development Services Department

SUBJECT: City of Bellevue Ordinance 6223—Single-Family Dwelling Rentals
May 2019 Update

I. INTRODUCTION

On May 7, 2019, the East Bellevue Community Council (EBCC) will discuss the status of enforcement 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 in 2018, the EBCC has requested that this update is given twice per year, at its May and November meetings. This Memorandum is the May 2019 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. Ordinance 6223 was enacted as a permanent ordinance following the previous passage of an interim ordinance passed by the City Council that went into effect in January 2014.

II. DISCUSSION OF DATA

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 (first case of record) through March 31, 2019 is provided in Tab 1 of Attachment A (the "Case List"—Excel spreadsheet). A combined total of 426 cases were opened since the City has been regulating single-family dwelling rentals through March 31, 2019. 103 cases were opened under the interim ordinance

between January 1, 2014 and April 14, 2015 when the current (permanent) ordinance went into effect. 323 cases have been opened up under the current ordinance (Ordinance 6223) between April 14, 2015 and March 31, 2019. **This report focuses on the 49 cases that were open at the beginning of the reporting period (October 1, 2018) or opened during the reporting period (through March 31, 2019),** based on the information contained in Attachment A, Tab 1

Note: At the request of the EBCC, the case list has been arranged to first group all cases occurring within the EBCC boundaries, i.e., "East Bellevue," with cases occurring in other areas of the City listed following. Within each of these two case groups, individual cases are then listed by chronological order based on the date a complaint was received. The City's enforcement of Ordinance 6223 is complaint-based.

The "Date" column in Attachment A, Tabs 1 and 2, shows the date that the case was opened. The "Case Status" column in Attachment A, Tabs 1 and 2, shows the status of each enforcement case as of March 31, 2019: 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 shows the distribution of single-family rental cases opened between October 1, 2018 and March 31, 2019 throughout the City, with EBCC boundaries outlined in blue.

A summary and comparison of EBCC and Citywide enforcement case dispositions is provided for October 1, 2018 through March 31, 2019.

	<u>EBCC</u>	<u>CITY</u>
Closed—Finding of No Violation	4 (50%)	23 (47%)
Closed—Voluntary Compliance	2 (25%)	13 (26.5%)
Closed—Hearing Examiner's Order	0 (0%)	0 (0%)
<u>Open---Continuing Investigation</u>	<u>2 (25%)</u>	<u>13 (26.5%)</u>
Total	8 (100%)	49 (100%)

More information about the categories of cases reported follows:

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 investigative 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 a 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 from additional investigation. In these cases, the Officer enters a finding of no violation and closes the EA case.

Occasionally the Officer is unable to confirm the alleged violation due to a lack of information. For instance, the Officer has not located any advertisement of the alleged rentals, or has not been able to confirm that a violation is occurring by site visits or contact with the property owner or tenant. 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 case 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 47% in the current reporting period (10/1/2018 to 3/31/2019). 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 and others) be provided a reasonable opportunity to voluntarily correct a violation before a Notice of Civil Violation is issued and the case is taken to the Hearing Examiner (BCC 1.18.030). Voluntary compliance with Ordinance 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 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 case.

Citywide during the reporting period (10/1/2018-3/31/2019), voluntary compliance was reached in 26.5% of the cases (compared with 27% in the first year of the permanent ordinance, 4/14/2015 to 4/14/2016). Whether voluntary compliance can be reached varies with the responsible parties that the City deals with in each case.

3. Closed—Hearing Examiner's Order

No cases were taken to a hearing during the reporting period from 10/1/2018 through 3/31/2019.

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 continues to focus on performing diligent investigations and working with the property owners or tenants to achieve voluntary compliance. As shown by the data above, 73.5% of these cases are resolved by a finding of no violation or through voluntary compliance.

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. Over time these documents are being 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

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 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 EBCC area and throughout the City will likely continue to experience pressure for rental arrangements that violate the Ordinance. This demand is reflected in the continuing online advertisements for hundreds of transient-rental properties in Bellevue.

The Development Services Department, Code Compliance Division, and 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. Additionally, we continue to look for opportunities to make process improvements towards fulfilling our vision to serve as neighborhood stewards, working to achieve successful resolutions as One City by building harmonious partnerships among our diverse communities.

Attachment A--Ordinance 6223 Case List (Excel spreadsheet)

Tab 1—10/1/2018-3/31/2019

Tab 2---1/1/2014-3/31/2019

Attachment B—Map of Locations of Cases 10/1/2018-3/31/2019