



# MEMORANDUM

DATE: November 21, 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  
**November 2019 Update**

## I. INTRODUCTION

On December 3, 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 status update be given twice a year. The EBCC was updated in May 2019. This Memorandum is the November 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 negative impacts of this and other rental practices. 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 September 30, 2019 is provided in Attachment A (the "Historical Case List"). A combined total of 478 cases have been opened from when the City started regulating single-family dwelling rentals through September 30, 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. 375 cases have been opened up under the current ordinance (Ordinance 6223) between April 14, 2015 and September 30, 2019.

**This report focuses on the 51 cases that were open at the beginning of the reporting period (April 1, 2019) or opened during the reporting period (April 1 through September 30, 2019), based on the information contained in Attachment B (the “Current Case List”).**

*Note: The City’s enforcement of Ordinance 6223 is complaint-based. Individual cases are listed by chronological order based on the date a complaint was received. Cases occurring within the EBCC area boundaries show “East Bellevue” in Column C in the case lists. There were eight cases opened in the EBCC area during the current reporting period.*

The “Date” column in the case lists shows the date that each case was opened. The “Case Status” column shows the status of each enforcement case as of September 30, 2019: Closed—(Finding of) No Violation; Closed—Complied (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 C (the “Map of Locations of Cases” or the “Map”). The Map shows the distribution of single-family rental cases opened between April 1, 2019 and September 30, 2019 throughout the City, with EBCC boundaries outlined in blue.

A summary and comparison of EBCC and Citywide enforcement case dispositions is provided for April 1, 2019 through September 30, 2019.

	<u>EBCC</u>	<u>CITY</u>
Closed—Finding of No Violation	4 (50%)	17 (33.3%)
Closed—Voluntary Compliance	1 (12.5%)	18 (35.3%)
Closed—Hearing Examiner’s Order	0 (0%)	1 (2%)
Open---Continuing Investigation	3 (37.5%)	15 (29.4%)
Total	8 (100%)	51 (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(s), the property owner and/or tenant(s), as well as neighbors if appropriate; reviewing property

records; researching online advertisements, websites 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. Occasionally the Officer is unable to confirm the alleged violation due to a lack of information. In both 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 (April 14, 2015 to April 14, 2016) to 33% in the current reporting period (April 1, 2019 through September 30, 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.

In some cases, voluntary compliance is achieved through a Voluntary Compliance Agreement (VCA) between the City and the responsible party, where the responsible party admits the code violations, agrees to complete specific corrective actions by a compliance date, pays a portion of monetary penalties in some situations, and commits to not repeat the code violations within a 2-year period. The City in turn agrees to close the compliance case.

Citywide during the reporting period (April 1, 2019 to September 30, 2019), voluntary compliance was reached in 35% of the cases (compared with 27% in the first year of the permanent ordinance, April 14, 2015 to April 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

One case was taken to a hearing during this reporting period. Each hearing for single-family dwelling rental cases takes a substantial amount of staff time and City resources 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, 69% of these cases Citywide 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 staff review with varying, and often lengthy, timelines. Citywide, 29.4% of single-family rental cases opened in the current reporting period remained under investigation at the end of the reporting period.

## **B. Lessons Learned in Previous Code Cases**

### 1. Language Barriers

Responsible parties for whom English is not their first language continue to present a challenge in a substantial portion 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 retained in enforcement hearings 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 and/or single room 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 renters 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. In the case resolved by a hearing in the current reporting period, written as well as in-person testimony from multiple neighbors was key to the Hearing Examiner's determination that there was a code violation.

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

Transient and/or single room 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 and/or single room 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 advertisement, the advertisement in general is only suggestive that a property is actually/actively being used for transient rentals. Careful monitoring of advertising media may produce circumstantial evidence of transient rental use that is helpful as one part of the overall case and/or connect multiple transient rental properties with one responsible party. However, advertising in and of itself is not a violation of the ordinance and is not adequate 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 and/or single room 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 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) and/or single room rentals 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 and its 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, staff 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.

#### Attachments:

- A. Historical Case List January 1, 2014 to September 30, 2019
- B. Current Case List April 1, 2019 to September 30, 2019
- C. Map of Locations of Cases April 1, 2019 to September 30, 2019