



City of Madison

Meeting Minutes - Final

HOUSING COMMITTEE

City of Madison
Madison, WI 53703
www.cityofmadison.com

Thursday, August 18, 2005

4:30 PM

215 Martin Luther King, Jr. Blvd.
Room LL-130 (Madison Municipal Building)

LANDLORD & TENANT ISSUES SUBCOMMITTEE

CALL TO ORDER

The meeting was called to order at 5:38 p.m. by Chair Ejercito.

ROLL CALL

Present: Brink, Ejercito, Hassel, King, LeTourneau, Sparer, Verveer

Also Present: George Hank, Staff

Steve Brist, Asst. City Attorney

Pat Kreitzman, Recording Secretary

Present: Ald. Michael E. Verveer, Philip P. Ejercito, Curtis V. Brink, Rose M. LeTourneau, Detria D. Hassel, David R. Sparer and Ald. Austin W. King

Excused: Florence Zmudzinski, Howard Mandeville, Thomas E. Hirsch, John L. Merrill, Victor E. Villacrez, Richard B. Arnesen, Jr., Judith M. Wilcox and Julia S. Kerr

PUBLIC COMMENT

No appearances.

APPROVAL OF MINUTES

King moved approval, second by Sparer with unanimous approval.

UNFINISHED BUSINESS ITEMS

1. *Landlord Registration - no appearances.*

2. *Security Deposit - Megin McDonell of the Tenant Resource Center appeared. She was unclear as to what the questions were on security deposits. Ejercito stated the subject was relative to having a third party hold the security deposit. McDonell stated that security deposits is in the top four that the TRC has questions about. She went over statistics from the 2004 TRC report. The biggest complaint about security deposits is the smaller amounts being withheld and the tenant knows they can get triple but it isn't worth their effort and paying the filing fee to go to court. They want to fight it on the principle but it's not worth it after paying the court fees. Ejercito asked if the TRC had a guide for enforcement related items like rent abatement or small claims? McDonell noted they give out the brochure from the Small Claims Court. Sparer noted that there is a guide to Small Claims in the works. The ordinance has the provision for up to triple damages whereas the State code is double. He would like to have the City ordinance the same as the State code so it would make it more clear and uniform for everyone. Ejercito noted the subcommittee could have discussions on this subject.*

NEW BUSINESS ITEMS

SUBSTITUTE Amending portions of Section 9.23 of the Madison General Ordinances to incorporate State of Wisconsin regulations for Mobile Home Parks, to define those regulations and to repeal certain obsolete provisions.

Larry Jacobson appeared. The Highland Manor Homeowners Association received the draft from Asst. City Attorney Steve Brist. This is what they have asked for and have no objections to the proposed ordinance.

Sparer noted the wording is simply verbatim quotes from the State code. It is letting the City, through its own code, enforce things that the State already enforces. For some reason, the State does not enforce the code. He suggested the following amendments.

Page 4, Subsection (9)(a) & (d) - "If not included in the rent" should be eliminated. Park operators have put the utility charges in the rent in order for them to get around compliance of the code. Sparer moved to include language that if it is part of the "rent" that it be separately itemized, second by Hassel. The vote was 3-4 (Verveer, Sparer, Hassel in favor) (Brink, LeTourneau, Ejercito, King against) Motion failed.

King suggested that all language suggestions that deviate from the State code be ready to the drafted not for adoption of this ordinance but for a follow-up within the next six months for ease of adoption and likelihood that we will be able to provide at least a minimum of enforcement without having legal challenges to deal with right away. Sparer noted that this is not identical to the State code.

Sparer recommended that we have double damages and attorney's fees for violations that the State code has. Brist distributed Wisconsin Statutes 100.201(5). Brist noted this is in Section 32 and it may exist in the Equal Opportunity ordinance. Sparer noted it is not in the ordinance but the commission awards it as if it was. Sparer moved adding (5) in the proposed ordinance, second by Verveer. The vote was unanimous.

Page 4, Subsection (9)(b) - Second sentence the word "reasonable" should be inserted in the third line before compensation. Sparer moved approval, second by King with unanimous approval.

Page 5, Subsection (12)(a)4. - Sparer stated that this relates to "tie-in sales" where the operator says that you have to buy my trailer or else you can't buy a trailer and put it in my park. This is prohibited. Brist noted another "tie-in" is to have a requirement that if you want to sell your trailer, you would have to go through the mobile home park operator. Sparer suggested at the end of the sentence the phrase to add "based on reasonable criteria related to the ability to pay". Brist believes that Chapter 32 relates to landlord/tenant relations and the relationship with a person renting space in a mobile home park and we already have reference to mobile homes in Chapter 32. There may be a way to cross reference what is already in the ordinances. Sparer noted it may be a better way to relate back to Chapter 32. This will be left as is.

Page 5, Subsection (13)(b) - Sparer noted this relates entirely to retaliatory evictions or non-renewable. There are several different State-wide regulations of retaliatory eviction. It appears in Chapter 125 Mobile Home Code. Section 704.45 of the Wisconsin State Statutes also prohibits retaliatory nonrenewable. Sparer moved that (b) be amended so it uses the language of 704.45 "if there is a preponderance of evidence that the action or inaction would not occur but for the landlord's retaliation against the tenant for doing any of the following". King seconded with unanimous approval.

Page 6 - There is a duplication of (6) thru (9). Brist noted this will be removed. Sparer moved striking this, second by Brink with unanimous approval.

Sparer moved that this proposed ordinance with the changes suggested be recommended for adoption to the Common Council, second by Hassel. The motion was approved unanimously.

The Landlord & Tenant Issues Subcommittee recommended adoption of the substitute ordinance.

A motion was made by Sparer, seconded by Ald. Verveer, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER

The motion passed by acclamation.

ADJOURNMENT

The meeting adjourned at 6:05 p.m.