



City of Madison

Meeting Minutes - Final

HOUSING COMMITTEE

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

Wednesday, August 2, 2006

5:00 PM

215 Martin Luther King, Jr. Blvd.
Room 260 (Madison Municipal Building)

1. CALL TO ORDER

The meeting was called to order at 5:03 p.m. by Chair Hirsch.

2. ROLL CALL

Present: Michael E. Verveer, Florence Zmudzinski, Howard Mandeville, Thomas E. Hirsch, John L. Merrill, Richard B. Arnesen, Jr., Judith M. Wilcox, Curtis V. Brink, Rose M. LeTourneau, Detria D. Hassel, Julia S. Kerr, David R. Sparer and Austin W. King

Absent: Philip P. Ejercito and Victor E. Villacrez

3. APPROVAL OF MINUTES

Hirsch noted there were some discrepancies in the minutes. He will E-Mail corrections and take up the approval of minutes at the next meeting.

4. PUBLIC COMMENT

No appearances.

5. NEW BUSINESS ITEMS

Amending Section 32.07(5) of the Madison General Ordinances to require separate Check-In and Check-Out forms for rental properties.

Sponsors: Brenda K. Konkel and Michael E. Verveer

A motion was made by King, seconded by Verveer, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER Hirsch handed out a letter from Jay Koritzinsky in opposition to the amended ordinance.

Nancy Jensen of the Apartment Association of South Central Wisconsin appeared in opposition. She noted the association does not support this amendment. She would like to know what is its intent? Why do you want to give a second check-in/check-out form to a resident just before they check out? What do you expect them to do with this? Under the current law, the residents get a check-in form and they sign that they have received it. The association and their members use a 4-part carbon check-in/check-out form. The tenants get a signed copy of this form when they check in and they get duplicates when they check out. Why do you want them to receive it? A check-out form is used for damages in court. Some residents choose not to show up at their check-out meeting. What do you intend the resident to do with this form once they have received it? They cannot do the check-out on their own legally. All this is doing is creating a loop hole later on in terms of going to court over damages. She noted in Jay Koritzinsky's letter that he is asking the very same questions. What is the resident expected to do with the check-out form once they receive it? Is it purely for notification? If so, notification can happen at check-in and it can be mailed at another time. To link it to this ordinance, would remove a resident from damages to property or prohibit a landlord from withholding from a security deposit for damages because they cannot prove that they gave the check-out form to the resident. This requires legal proof in a court setting. What the goal is and what this is to accomplish has got to be clarified. Kerr asked how the procedure works now? Jensen noted the tenant receives a check-in form and they are to return it to the landlord in 7 days. There is no penalty to the tenant if they don't return it. If this ordinance is going to be tinkered with, she recommends that if the tenant doesn't return the form in 7 days they forfeit their rights to the security deposit. If the tenant doesn't return the check-in form, the landlord assumes that there are no problems with the apartment.

Rebecca Abelson from the Neighborhood Law Project at the UW Law School appeared in support. Tenants come to their organization to get help with landlord/tenant disputes. A lot of these disputes center on security deposit problems. They see a lot of unnecessary disputes that arise because the ordinance is ambiguous and doesn't clearly say if a joint check-in/check-out form is required or separate forms required. She believes the intent of the Common Council is to require separate forms to protect both landlords and tenants. If one form is provided and a second form not provided at the end of the tenancy, it seems to undermine the reason to have a check-in/check-out form which is to document the condition of the apartment at the beginning and end of the tenancy. If a joint check-in/check-out form is given at the beginning of the tenancy and this form is misplaced, when the tenant moves out there is no documentation and there are often disputes.

Rebecca Anderson appeared in opposition. The tenants are given the check-in/check-out form when they sign their lease and they initial the checklist that they have received it. They E-mail 90% of their tenants the vacating instructions. There is no question that they have received this. If there is a separate check-out form, this will be E-mailed to the tenants.

King clarified that a combined check-in/check-out form is OK as long as the tenant gets another copy of it. Brist noted under the ordinance the landlord

would have to provide a second form to the tenant.

Sarah Mervine from the Neighborhood Law Project appeared in support but did not wish to speak.

Craig Hubbel from the Neighborhood Law Project appeared in support. There are two portions of the existing ordinance that render the check-out portion meaningless. First, it is a combined form but more importantly it can be given to the tenant once at the beginning of the tenancy. If landlords were required to provide tenants with a check-out form a few weeks prior to vacating their rental unit, it is less likely the check-out form would be lost in the sea of chaos that moving out entails. He urges the Housing Committee to make this change to Section 32.07.

Michael Greiber registered in opposition but was not available to answer questions.

Patrick Corcoran appeared in opposition. He noted that most of the security deposit issues come from undesirable, destructive tenants who have destroyed property and have not paid rent. He rented a house to a group of students and the damage was unbelievable and they owed rent. They lost their security deposit due to unpaid rent and damages. Two of the tenants came to speak to him and had previously spoken to an attorney. The students noted that the attorney had told them that the landlord was to give them a check-in sheet and a check-out sheet. Corcoran had noted that they had received these forms and pulled out where they signed that they received the check-in sheet but never returned this to the landlord. He noted that all tenants were mailed a check-out sheet. The tenants didn't argue that they didn't do the damages; they were going to argue that the landlord didn't send them a check-out sheet and they were prepared to go to court. How do you prove that the check-out sheet was delivered?

Alan Chase appeared in opposition but did not wish to speak.

Peter Lemberger appeared in opposition. He uses a combined check-in/check-out form. The tenants get one when the lease is signed and another one is put in the welcome packet to tenants. If the check-in form is not received back within 7 days, a phone call is made and then a letter is sent if not received. The biggest problem is with the burden of proof and the window in which it has to be sent out in.

Hirsch asked Ald. Konkel to address the subject of "separate copies". The AASCW raised the question, does a combined check-in/check-out form meet the requirements of this ordinance. Konkel noted that a separate copy needs to be given at a separate point in time.

LeTourneau stated that at the Landlord & Tenant Issues Subcommittee had numerous landlords come to speak and none of them were in favor of this. She and Brink voted against it. On the face of this, it's just another form and it isn't going to hurt anything. That is not the landlord's experience and this is not the way that this particular ordinance has been used. It has been used in a punitive manner against landlords because they haven't given a check-out form. Now we are making it a tighter time-frame on it. There would be a better way to solve this problem but it was never addressed; just add language to the current

check-in/check-out form that advises tenants to keep the form and use it for their own check-out. If they lose the form, then they can ask the landlord for another form. The reality is about security deposit issues. This adds extra steps and technicalities.

Sparer asked Brist about the current law. Under the City ordinance as it exists now, if a landlord violates this rule and doesn't follow the check-in/check-out procedure, then the landlord cannot deduct for cleaning or damages from a security deposit. Unpaid rent can be deducted from the security deposit. Brist noted this is correct. The penalty under City ordinance is a range. The court commissioner can award anywhere from the security deposit, twice that amount or triple. There is a full range and there is not a mandatory amount. There is a rule in evidence that if a business shows that they have a pattern in practice, it is presumed in the case in question they followed their pattern in practice. Under the rules of evidence, it is presumed that the check-out form was mailed under the pattern in practice. Brist agreed with this.

Brink asked what is done with the check-out form? Sparer noted the tenant has it as their own record of the conditions, the landlord has their copy. Brink noted this is an uncompleted rule as it doesn't specify what the tenant is to do with the check-out form. This should be returned with the keys. There is no penalty on anybody else for not returning the form.

King moved to recommend adoption of the ordinance to the Common Council as suggested amended by the Landlord & Tenant Issues Subcommittee, second by Verveer. Brink noted the ordinance will be changed from not less than fourteen (14) days nor more than thirty (30) days to not less than seven (7) days nor more than sixty (60) days. Also the check-out form shall be mailed, delivered or otherwise provided by the landlord to the tenant was amended.

The motion passed by the following vote:

Absent: Ejercito and Villacrez

Aye: Verveer, Zmudzinski, Mandeville, Merrill, Wilcox, Kerr, Sparer and King

No: Arnesen, Jr., Brink, LeTourneau and Hassel

Non Voting: Hirsch

Recommend adoption as amended by the Landlord & Tenant Issues Subcommittee

Present: Michael E. Verveer, Florence Zmudzinski, Howard Mandeville, Thomas E. Hirsch, John L. Merrill, Richard B. Arnesen, Jr., Curtis V. Brink, Detria D. Hassel, Julia S. Kerr and David R. Sparer

Absent: Philip P. Ejercito and Victor E. Villacrez

Excused: Judith M. Wilcox, Rose M. LeTourneau and Austin W. King

Presentation on Rental Property Conversions for Ownership - Percy Brown.

- Hirsch noted this is an overview of what the situation is as seen by City staff on the rental property conversions for ownership. Brown stated he oversees several of the City's and CDA's housing finance programs and this is what brought him into this issue. There are a number of tools and resources through the City that could assist in converting rental units in owner occupied housing. The University of Wisconsin,

University Hospital & Clinics, Meriter Hospital, St. Mary's Hospital, WHEDA, and also the Wisconsin Partnership for Housing Development have joined the team in this effort. Some of the goals outlined at this point are: (1) Provide housing for the blue collar workers near the University or near their place of employment. (2) Turn rental units back into stable single family homes. (3) Work with employers with the hope that they could help target some employees who would be interested in purchasing some of these units. (4) Take advantage of existing City and State programs and bring these programs in as tools and resources that could come into these transactions to allow people to buy homes in these particular locations. A survey is currently being worked on for employees at the hospitals and the University to find out from those employees if they would be interested in purchasing a home in the vicinity of their jobs, and if so, what type of home they would be interested in, and what assistance would be needed.

Merrill moved to refer this subject to the Affordable Housing Subcommittee once the survey is done, second by Zmudzinski with unanimous approval.

Architects Volunteer Project to Re-Vision Allied Drive - Kelly Thompson-Frater.

- Kelly Thompson-Frater did not attend. This subject will be on the next agenda.

TIF Policy - Brenda Konkel.

- Konkel handed out the executive summary of what the Board of Estimates Subcommittee had recommended. She also passed out an executive summary as to where the subcommittee ended. The resolution introduced by Konkel was handed out. Konkel will be introducing (d) Withholding of TIF Assistance for IZ Units at the September 7 Plan Commission. The 10% set aside issue is still outstanding. There is a document resolution that hasn't been acted on. Copies were distributed to the Housing Committee members.

Sparer moved to refer this to the Affordable Housing Subcommittee, second by Verveer with unanimous approval. Hirsch would like the May 17, 2005 memo be distributed to the Affordable Housing Subcommittee. Konkel noted the entire report from the Board of Estimates Subcommittee should be distributed.

6. OLD BUSINESS

IZ Ordinance - Hirsch noted the IZ ordinance was revised by the Common Council. It was substantially cleaned up and most everything that the Housing Committee asked for was either literally or substitutively enacted along with a few other things. The copy of the ordinance was sent out in the packet.

7. REPORT OF SUBCOMMITTEES

There were no reports as time ran out for the meeting.

8. DISCUSSION OF FUTURE AGENDA ITEMS/SCHEDULE NEXT MEETING

Architects Volunteer Project to Re-Vision Allied Drive - Kelly Thompson-Frater

9. ADJOURNMENT

The meeting was adjourned at 7:00 p.m. upon motion by Merrill, second by Verveer.