



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation for Residential Rental Licensing and Inspection program
Presenters:	Rita Tungare, Community Development Director Jim Lamkin, Chief of Police

Please check appropriate box:

	Government Operations		Government Services
X	Planning & Development (3-12-2012)		City Council

Estimated Cost:	\$76,500	Budgeted:	YES		NO	x
-----------------	----------	-----------	-----	--	----	---

If NO, please explain how item will be funded:

Program will pay for itself through license fees

Executive Summary:

After being discussed at two Committee meetings in September and November 2011 and due consideration to various options for structuring the program, the City Council directed staff and legal counsel to prepare documents to include the following components:

1. **Licensing** - All persons engaged in the business of renting residential housing units will be required to obtain a license from the City and pay an annual license fee.
2. **Crime-free Lease Addendum** - All leases for rental residential housing units will be required to include an addendum that permits termination of the lease if the tenant engages in certain illegal activities.
3. **Training** - Once every four years, all owners and managers of rental residential housing units will be required to participate in a training seminar offered by the St. Charles Police Department.
4. **Exterior Inspections of Rental Units** - All rental residential housing units will be required to undergo regular exterior inspection to ensure compliance with codes.

Proposed license fees and costs associated with administering the program are provided in the staff memo. The proposed fees have been structured to ensure that the program will be self-supporting in terms of costs and will not have a significant impact on the City's operating budget.

Per the Committee's direction, staff has made efforts to provide an opportunity to rental property owners or managers to review the documents and meet with City staff to discuss the proposed program. Documents were made available on the City's website, email notification was sent to some property owners who had previously contacted the City and a press release was issued on 2/15/12. Staff is meeting with property owners/managers as we receive requests for meetings.

Attachments: *(please list)*

New attachments: Staff memo dated 2/3/12; Revised Ordinance; Crime Free Lease Addendum; Nuisance Ordinance amending Nuisance Abatement Ordinance

Attachments from previous meetings: Staff Memos dated 11/9/11 & 9/1/11; Memo from Gorski & Good,LLP dated 10/17/11; Programs from other communities spreadsheet; Public comments

Recommendation / Suggested Action *(briefly explain):*

Approve as presented

For office use only:

Agenda Item Number: 4b

**Community Development
Planning Division**

Phone: (630) 377-4443

Fax: (630) 377-4062



Memo

Date: February 3, 2012

To: Chairman Cliff Carrignan
And Planning and Development Committee

From: Rita Tungare, Community Development Director
Jim Lamkin, Police Chief

Cc: Brian Townsend, City Administrator
Bob Vann, Building & Code Enforcement Division Manager

RE: Residential Rental Licensing and Inspection Program

BACKGROUND:

The Rental Licensing and Inspection program has been discussed at two public meetings on September 12th and November 9th, 2011. In November, the City Council reviewed four program options and directed staff and legal counsel to proceed with development of documents for a program that consists of the following components:

1. Licensing - All persons engaged in the business of renting residential housing units will be required to obtain a license from the City and pay an annual license fee.
2. Crime-free lease addendum - All leases for rental residential housing units will be required to include an addendum that permits termination of the lease, if the tenant engages in certain illegal activities.
3. Training - All owners and managers of rental residential housing units will be required to participate in a training seminar offered by the St. Charles Police Department, once every 4 years.
4. Exterior inspections of rental units - All rental residential housing units will be required to undergo regular exterior inspection to ensure compliance with building and property maintenance codes.

Attached for your consideration at the March 12, 2012 Planning & Development Committee meeting is an ordinance that outlines the provisions of the rental licensing program.

LICENSE FEES AND CITY COSTS:

The proposed license fees are structured to ensure that the program will be self-supporting and will not have a significant impact on the City's budget.

Estimated City Costs:

a) One-time cost of **\$6,500**

b) Recurring Costs:

\$12,000 for the Police Dept.

\$58,000 for Community Development which includes additional staffing

Total City Costs: \$76,500

Proposed Annual License Fees:

- Single family dwelling: \$42 per dwelling unit
- Two-family dwelling: \$38 per dwelling unit
- Condo/Townhomes: \$22 per dwelling unit
- Multi-family dwellings (fees will be charged per complex, not per unit):
 - 3-10 Units- \$175
 - 11-50 Units- \$325
 - 51-100 Units- \$550
 - 101-151 Units- \$700
 - 151-200 Units- \$850
 - 201-250 Units- \$1,000
 - 251+ Units- \$1,200

PROGRAM TIMELINE:

In an effort to allow impacted property owners and managers to familiarize themselves with the new program, staff is proposing the following timeline for implementation.

- Rental License applications and fees for the calendar year 2013 will be due prior to January 1, 2013.
- Crime free training, rental license application materials and crime free lease addendum forms will be made available at the City after July 2, 2012, for those who wish to get a head start with the process.
- Exterior inspections may be scheduled after October 1, 2012.
- Applicants will have three months (90 days) after submittal of the rental license application to complete the crime free training, to enter into lease addendums and also have property inspections conducted.
- If property inspections reveal code violations, the owner/agent shall be required to comply within 14 days or a longer time period as specified by the City.

BACKGROUND CHECKS:

Background checks were a discussion point at the last meeting. The benefit of conducting background checks, credit worthiness, financial security and criminal histories are topics of the crime-free housing seminar. It is not mandated in the proposed rental licensing ordinance. A prospective tenant has the ability through the Illinois State Police to obtain a background check on themselves at their own expense. Background checks regarding previous criminal history does not always identify all potential problems related to a tenant. Nor does past criminal history or lack thereof automatically predict future behavior of a tenant. Fingerprint cards can be obtained from the Illinois State Police or through the police department. The prints can be rolled at the St. Charles Police Department or another agency where the applicant may currently reside. The instructions are self-explanatory and the cost to the applicant is \$20.00. There is no requirement being imposed for this to be submitted through the St. Charles Police Department.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed Rental Licensing and Inspection Program as presented.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF ST. CHARLES - TITLE 5, "BUSINESS LICENSES AND REGULATIONS" - ADDING A NEW CHAPTER 5.54, "RESIDENTIAL RENTAL LICENSING"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, AS FOLLOWS:

SECTION ONE: That Title 5, "Business Licenses and Regulations" of the St. Charles Municipal Code be and is hereby amended by adding a new Chapter 5.54, entitled "Residential Rental Licensing", as follows:

"Chapter 5.54

RESIDENTIAL RENTAL LICENSING

Sections:

- 5.54.010 - Purpose.
- 5.54.020 - Definitions.
- 5.54.030 - Annual residential rental license required.
- 5.54.040 - Application requirements for residential rental license.
- 5.54.050 - Crime-free housing seminar.
- 5.54.060 - Crime-free lease addendum-Notice of occupancy standards.
- 5.54.070 - Licensing inspection—Temporary certificate.
- 5.54.080 - License issuance.
- 5.54.090 - License renewal.
- 5.54.100 - Inspection upon sale—New license required.
- 5.54.110 - Tenant responsibilities.
- 5.54.120 - Right-of-entry.
- 5.54.130 - Appeals.
- 5.54.140 - Compliance with regulations.
- 5.54.150 - Enforcement procedures.
- 5.54.160 - Fines—Penalty.
- 5.54.170 - Conflicts.

5.54.010 Purpose.

The purpose of this chapter is to provide for the inspection and annual licensing of residential rental property so as to protect the public health, safety and welfare of the city including, but not limited to:

- A. To protect public health, safety and welfare by ensuring residential rental units comply with the applicable building, fire and property maintenance codes of the city.
- B. To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying rental dwellings.
- C. To prevent the overcrowding of rental dwellings by requiring each unit to be in compliance with occupancy limitations.

- D. To facilitate the enforcement of minimum standards for the maintenance of residential rental structures and premises and thus preventing blighting conditions.
- E. To preserve the value of land and buildings throughout the city, and thus protect the city's tax base.

5.54.020 Definitions.

As used in this chapter, the following terms shall have the meanings set forth:

"Building" means a single structure.

"Code official" means any officer, employee, or consultant of the city responsible for administering or enforcing provisions of this chapter or provisions of this code that are administered pursuant to this chapter. The term "code official" shall also mean "code enforcement officer" or "building inspector" and shall include the community development director, public works director, the fire chief, the chief of police, or their designees.

" Dwelling unit" means a single unit providing complete independent living facilities for one or more persons, in accordance with occupancy limitations, including permanent provisions for living, sleeping, eating, cooking and sanitation. For purposes of establishment of residential licensing fees, the following applies:

"Condominium unit" means one dwelling unit contained within a building that has been established in accordance with the Illinois Condominium Act. Each unit is considered a single residential rental property, unless all units within the building are under single ownership and control.

"Multi-family dwelling" means a building with three (3) or more dwelling units not designed as townhomes, where each dwelling unit is provided an individual entrance to the outdoors or to a common hallway.

"Single-family dwelling" means one dwelling unit within a detached building or house designed to contain one dwelling unit.

"Townhome unit" means a building with three (3) or more dwelling units arranged side-by-side, sharing common fire-resistive walls without openings, where each dwelling unit occupies an exclusive vertical space with no other dwelling unit above or below, and where each dwelling unit has at least one individual exit directly to the outdoors. Each unit is considered a single residential rental property, unless all units within the building are under single ownership and control.

"Two-unit dwelling" means a building containing two dwelling units where both dwelling units are under single ownership and control.

"Let" means to provide or offer for possession or occupancy a dwelling unit to a person who is not the legal owner of record thereof, without compensation.

"Operate" means to own, manage, maintain, rent, lease, advertise, or offer for rent or lease any residential rental property or any dwelling unit therein for the purpose of renting to others.

"Owner" means the person or persons, jointly or severally, that hold legal or equitable title to a parcel of property, including a mortgage holder in possession.

"Person" means an individual, partnership, corporation, business trust, estate, trust, beneficial interest holder, association or any other legal or commercial entity.

"Premises" means a lot together with all the buildings and structures thereon.

"Property agent" means a person, operator, firm, partnership, corporation, or other entity under whose management or supervision the residential rental property will be operated and who can be contacted in case of an emergency. A property agent must have an office within fifty (50) miles of said property, have the authority to cause repairs to be made and properties to be vacated and secured, and have the authority to receive and accept notices and citations. The property agent may be the owner of the residential rental property, provided that the owner resides within fifty (50) miles of the city.

"Re-inspection" means subsequent inspection(s) conducted for the purpose of verifying that all violations reported during an initial inspection have been corrected and the premises is compliant with the applicable building, fire and property maintenance codes of the city.

"Rent" means to provide or offer for possession or occupancy a dwelling unit to a person who is not the legal owner of record thereof, pursuant to an agreement, written, oral or implied, for consideration or pursuant to articles of agreement for deed or similar agreement, if not recorded with the Recorder of Deeds of Kane County, Illinois.

"Residential rental property" means one or more dwelling units rent or let to persons other than the person(s) holding legal or equitable title to the property. A dwelling unit occupied by a purchaser under the provisions of articles of agreement for deed or similar agreement shall be considered a residential rental property unless the articles of agreement or similar agreement have been recorded with the Recorder of Deeds of Kane County, Illinois.

"Single ownership and control" means that the legal owner of each dwelling unit within a building is the same person(s) or entity.

"Structure" means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, driveways and service walks.

"Tenant" means an occupant of residential rental property.

Words or phrases as used in this section and not herein defined shall be defined as provided by, in the following order of precedence, the city's property maintenance code, zoning ordinance or building code.

5.54.030 Annual residential rental license required.

No person shall operate a residential rental property, or shall rent or let any residential property, unless an annual license or temporary certificate is in effect for such property, as provided by this chapter, and remains unexpired. Each license shall be issued only for the residential rental property and to the owner or authorized property agent named in the application and shall not be transferable or assignable. Licenses shall expire on December 31 of each year.

This chapter shall not apply to the following:

- A. Single-family owner occupied dwellings.
- B. Single-family dwellings occupied by a member of the owner's family, meaning an individual related to the owner by blood, marriage or adoption.
- C. Single-family dwellings which are vacant but which are not intended to be let for rent.
- D. Townhome and condominium owner occupied dwellings.
- E. Hotels, motels and bed and breakfast establishments.

- F. Dwellings, buildings, structures and uses licensed and inspected by the state or the federal government, including, but not limited to, nursing homes, assisted living facilities, independent living facilities, hospitals and hospices.
- G. Dwellings, buildings and structures owned by other governmental agencies and public housing authorities.

5.54.040 Application requirements for residential rental license.

- A. Each applicant for a new license to operate a residential rental property for the purpose of renting it to others or for a renewal of an existing license shall file a complete application on an application form provided by the community development department.
- B. All residential rental property applications shall contain at a minimum, the following information:
 - 1. The name and street address of the applicant if an individual, and if a firm, partnership, limited liability corporation or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent.
 - 2. The full legal name, street address, and home and work telephone number of each and every owner of the property, including beneficial interest holders, if applicable.
 - 3. The name, street address, and telephone number of the property agent for the residential rental property. Post office box addresses shall not be acceptable.
 - 4. The street address of the residential rental property.
 - 5. The number of dwelling units within the residential rental property.
 - 6. The total square footage of each dwelling unit and the total number of rooms, bedrooms and bathrooms in each dwelling unit.
 - 7. Each application shall contain an attestation that the information contained within the application is true and correct and shall be signed under penalty of perjury.
- C. Whenever there is a change in the property agent, manager, or other responsible party of a residential rental property, the owner shall notify the community development department within thirty (30) days of such change and file an updated residential rental license application. No fee is due for filing such an update.
- D. Approval shall be obtained from the community development department prior to any change in the number or configuration of residential rental dwelling units. Application for such change shall be made on a form provided by the community development department. Any and all changes must meet all zoning, property maintenance code, fire and building code requirements of the city.
- E. Building permits shall be obtained from the community development department for any construction activity to the residential rental property.
- F. No application shall be accepted without the required payment of the annual license fee, as follows:

Single family dwelling: \$42 per dwelling unit
Two-unit dwelling: \$38 per dwelling unit
Condo/Townhomes dwelling: \$22 per dwelling unit
Multi-family dwelling (fees per complex):

3-10 Units	\$175
11-50 Units	\$325
51-100 Units	\$550
101-151 Units	\$700
151-200 Units	\$850
201-250 Units	\$1,000
251+ Units	\$1,200

License fees are thereafter payable annually on or before expiration of said license. No fee will be pro-rated, except as provided in Section 5.54.100. If a completed license application is not submitted together with the required license fee prior to January 1 of each year, the license fee shall be increased by twenty percent (20%).

- G. All persons applying for a license to operate a residential rental property shall successfully complete a mandatory crime-free housing seminar, administered by the St. Charles Police Department, prior to issuance of the license.
- H. All persons applying for a license to operate a residential rental property shall submit a copy of their lease agreement to the community development department for confirmation that the lease includes a crime-free housing lease addendum or have a clause in that lease substantially similar to the crime-free lease addendum, as required by Section 5.54.060.

5.54.050 Crime-free housing seminar.

- A. Any owner of residential rental property within the city, or their property agent, shall attend and complete a City of St. Charles crime-free housing program seminar within three months of submitting an application for a new license. An owner or agent shall thereafter attend the City of St. Charles crime-free housing program seminar every four years.
- B. In the event a City of St. Charles crime-free housing program seminar is not available, the owner or property agent may attend a crime-free housing seminar provided by another municipality, if pre-approved by chief of police.
- C. A property agent shall be considered an agent of the owner. If a new property agent is hired, the new agent shall have three months after hiring to attend the City of St. Charles crime-free housing program seminar.
- D. The crime-free housing program coordinator, as designated by the chief of police, shall provide the community development department with a list of owners, agents and/or designees who have attended the City of St. Charles crime-free housing program seminar (or approved alternate), with the date of attendance and

verification that the owner or property agent has complied with this chapter and is eligible to obtain, maintain or renew the license to rent.

5.54.060 Lease requirements - Crime-free lease addendum - Notice of occupancy standards.

- A. Any owner or property agent entering into leases regarding residential rental property shall utilize a crime-free lease addendum in substantially the form that is on file with the community development department, or have a clause in the lease similar to the crime-free lease addendum. The department shall review any clauses within actual leases to determine if the clause is similar to the required crime-free lease addendum. The clause is to make criminal activity a lease violation and shall specify that criminal activity is not limited to violent criminal activity or drug-related criminal activity engaged in by, facilitated by, or permitted by the tenant, a member of the household, guest or other party under the control of the tenant. The operator or property agent shall have authority under the clause to initiate an eviction proceeding as specified in the Illinois Forcible Entry and Detainer Statutes. Proof of a criminal violation shall be by a preponderance of the evidence. In addition, the addendum shall provide that if a tenant's guest violates any of the lease terms, rules or regulations, the owner or property agent may bar such guest from the premises and, upon failure to leave the premises or upon subsequent return to the premises, may be arrested for trespass. Failure to include a crime-free lease addendum or similar approved language may result in suspension or revocation of the license to rent property within the city.
- B. The owner or property agent of a residential rental property shall inform each tenant or occupant in writing, prior to occupancy of a dwelling unit, of the maximum number of persons allowable for such dwelling unit by the occupancy standards of the city's property maintenance code. This number shall be calculated by the code official.

5.54.070 Licensing inspection—Temporary certificate.

- A. Each residential rental property required to be licensed under the provisions of this chapter shall be subject to a licensing inspection which shall be scheduled by the owner or property agent with the community development department at the time the complete application is submitted. Thereafter, licensed residential rental property shall be subject to regular inspections every year.
- B. Upon receipt of a complete application and the scheduling of the required licensing inspection, the community development department shall issue a temporary certificate indicating that a license has been duly applied for, and that the residential rental license shall be issued if and when the residential rental property has been inspected and is found to be in compliance with the applicable building, fire and/or property maintenance codes of the city and the crime-free housing seminar has been completed. A temporary certificate shall be valid for a period of three (3) months; provided, however that the community development

director may extend such period, if in his or her reasonable opinion, the owner is making a good-faith effort to fulfill the requirements to obtain a license.

- C. Licensing inspections of all residential rental property shall include the dwelling unit/building exterior(s) and the premises. Such inspections shall be limited to determining compliance with the applicable building, fire and/or property maintenance codes of the city.
- D. Nothing in this section shall preclude (i) the inspection of any residential rental property subject to this chapter more frequently than as set forth in subsection A. above, or (ii) the inspection of the interior of any dwelling unit or building, if such inspections are based upon probable cause that a violation of city ordinances exist upon the dwelling unit or building.

5.54.080 License issuance.

- A. When a licensing inspection of a residential rental property reveals any violation of the applicable building, fire and/or property maintenance codes of the city, the owner shall comply with such codes within fourteen (14) days of the licensing inspection or within such longer time period as specified by the City.
- B. The code official shall issue the correction notice in person or to the property owner or property agent by regular U.S. mail at the last address provided on the most recent license application. Said notice shall include the following:
 - 1. The property address of the residential rental property.
 - 2. A statement listing the violations of the applicable building, fire and/or property maintenance codes.
 - 3. The date by which the owner or authorized representative shall complete the work and have the violations corrected, re-inspected and approved by the city.
 - 4. An explanation that, if the owner or property agent has not corrected the violations or scheduled a re-inspection within the deadline, the license may be denied, the temporary certificate revoked and enforcement actions taken in accordance with section 5.54.150.
- C. The license applicant shall schedule a licensing follow-up inspection on or before the compliance deadline.
- D. If stated violations have been satisfactorily corrected and the crime-free housing seminar has been completed, a license shall be issued.
- E. Failure to comply with the findings of any licensing inspection may result in the license being denied, the temporary certificate being revoked and enforcement action in accordance with section 5.54.150.
- F. A re-inspection fee in the amount of \$30 shall be charged for each inspection conducted after the first re-inspection.

5.54.090 License renewal.

It shall be the responsibility of each residential rental property owner or property agent to annually renew a residential rental property license prior to expiration.

5.54.100 Inspection upon sale-New license required.

- A. A license issued pursuant to this chapter shall terminate upon the sale of a residential rental property.
- B. No residential rental property shall be sold unless the seller furnishes the buyer a presale inspection report dated no more than one hundred twenty (120) days prior to the date of closing and dated no later than the day of closing. Said report shall be based on an inspection in the same manner as set forth in Section 5.54.070. The report shall state that the residential rental property complies with the applicable building, fire and property maintenance codes of the city or, in the alternative, list with specificity the manner in which the residential rental property does not comply with such standards.
- C. The request for a presale inspection must be made, in writing, not less than thirty (30) days prior to the scheduled date of closing.
- D. An inspection made under this subsection shall satisfy the annual inspection required by Section 5.54.070A., if said inspection is done with two (2) months of said annual inspection date.
- E. A sale for purposes of this section includes contract sales, exchanges, conversions to condominiums and transfers of possession or control of any residential rental property. Any person participating in such a sale in violation of this section, either as seller or buyer, shall be deemed in violation of this section and be subject to the penalties as provided for in Section 5.54.160.
- F. The new owner shall not operate the residential rental property, or rent or let the residential property, until a new license or temporary certificate has been issued for such property. The application fee shall be one-half (1/2) of the annual fee, if a license is applied for on or after July 1 of the license year. The annual application fee shall be paid in full, when a license is applied for prior to July 1 of the license year.

5.54.110 Tenant responsibilities.

- A. No tenant shall commit vandalism in the building in which the tenant's dwelling unit is located and no tenant shall permit vandalism to occur or shall violate any of the provisions of this code in the dwelling unit leased by the tenant.
- B. No tenant shall cause the dwelling, premises, and other areas of the property to become unsafe or unsanitary.

5.54.120 Right-of-entry.

- A. The owners and their designated property agents shall be responsible for informing their tenants of any scheduled inspection or re-inspection of any residential rental property; and they shall be responsible for requesting permission from any person whose consent is necessary for city inspector to enter the property if that person is not home at the time of the inspection or re-inspection.
- B. The city shall provide notice to both the owner and the tenant, on a form provided by the city, of their right to refuse consent to the residential licensing inspection and to require the city to obtain an administrative search warrant.

- C. If any owner, property agent, occupant or other person in control and/or possession and whose consent to inspect is necessary concerning a residential rental property fails or refuses to consent to access and entry to the property or dwelling unit under his or her control for any residential licensing inspection required by this chapter, the code official or his or her designee may apply to the circuit court for an administrative search warrant. The application for the administrative search warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection shall be limited to a determination whether there are any violations of the applicable building, fire and property maintenance codes of the city.
- D. Nothing set forth herein shall limit the right of a tenant to grant the city access to the dwelling unit.

5.54.130 Appeals.

- A. Any person directly affected by a decision of the code official or notice or order issued under this chapter shall have the right to file a petition as set forth in chapter 15.40 of this code with the appeals board vested with the authority for considering any such petition. An application for an appeal shall be taken within twenty (20) days of the action.
- B. An appeal stays all proceedings in furtherance of the action appealed from, unless in the reasonable opinion of the community development director or his or her designee, a stay would cause imminent peril to life or property.

5.54.140 Compliance with regulations.

It is unlawful for any person or legal entity to operate a residential rental property in violation of any provision of this chapter or any applicable rules and regulations of or adopted by the city pursuant to this chapter, or to change occupancy of any residential rental unit unless in full compliance with the provisions of this code.

5.54.150 Enforcement procedures.

- A. Code officials are authorized to exercise the police power of the city in such manner and to such extent as any code official determines that the character of the violation and the interests of public health, safety and welfare warrant to secure compliance with the provisions of this chapter and this code.
- B. Code officials are authorized and shall demand compliance with the provisions of this chapter and this code in pursuit of this chapter through enforcement actions including, but not limited to, the issuance of a stop work order, a determination that the dwelling unit is uninhabitable and order the unit be vacated, notice of violation, citation or ticket, prosecution for violations, and to recover any penalty or fine and authorized attorney's fees and costs, the institution of the appropriate action of law or in equity to restrain, correct or abate such violation or to require the removal of the unlawful use or act and the filing of liens and judgments against property, as authorized by law.

In addition, the code official may suspend and/or recommend revocation of any license issued hereunder if the licensee is in continuing violation of any law or ordinance, or that the licensee is operating in a manner not conducive to the public health, morals or safety.

Prior written notice of a violation shall not be required for the initiation of enforcement actions. The code official shall institute or cause to be instituted the appropriate legal proceedings to prosecute, restrain, correct or abate any violation or to require removal or termination of the unlawful use of the premises, building or structure in violation of the provisions of this title or of any order or direction made pursuant thereto.

- C. Written notice of enforcement actions shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the condition that is the subject of the enforcement action violation. Such notice shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or in case such person is not found upon the premises and reasonable attempts to locate the individual or a valid address have been unsuccessful, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed equivalent of personal notice.

5.54.160 Fines—Penalty.

- A. Any person, firm, or corporation who fails to obtain a license when required or operates a residential rental property and violates, disobeys, omits, neglects or refuses to comply with the provisions of this chapter shall be issued a ticket, citation or notice to appear and will be fined.
- B. Any person or legal entity who violates any provision of this chapter or provisions of this code pursuant to this chapter or the codes adopted hereunder, or fails to comply with any of the requirements thereof shall be subject to a fine for each offense of not less than fifty dollars (\$50) nor more than seven hundred fifty dollars (\$750). Each day that a violation continues shall be deemed a separate offense.
- C. Any person charged with any violation of this chapter who has since come into compliance and who desires to pay the applicable fine in advance of a court or administrative adjudication hearing may contact the city and request a re-inspection. Upon verification of compliance, the city may accept prepayment of any fine, or may otherwise agree to dispose of the matter in advance of a court or administrative adjudication hearing, subject to the following conditions:
 - 1. A receipt shall be issued for any pre-court payment.
 - 2. Any violation for which the fine or penalty is paid in full by pre-court-payment as provided in this subsection shall not be subject to further prosecution.

3. If more than two violations are issued for the same property in any thirty-day period, only the first two violations may be subject to the pre-court or administrative adjudication hearing payment pursuant to this subsection.
4. Any violation for which a fine is sought shall be confirmed by the code official to be in compliance no less than five days before the date of a court hearing set for such violation at the request of the person receiving the citation alleging the violation.

5.54.170 Conflicts.

To the extent any provision of this chapter conflicts with chapter 5.04 of this code, the provision of this chapter shall prevail.”

SECTION TWO: That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

SECTION THREE: That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication as provided by law; provided, however, that obtaining a license or temporary certificate hereunder shall not be required until January 1, 2013.

PRESENTED to the City Council of the City of St. Charles, Illinois, this ____ day of _____, 2012.

PASSED by the City Council of the City of St. Charles, Illinois, this ____ day of _____, 2012.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ____ day of _____, 2012.

Donald P. DeWitte, Mayor

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes:

Nays

Absent:

Abstain:

CRIME FREE ADDENDUM TO LEASE AGREEMENT

No community is free of crime. However, in an effort to detect criminal activity at the community, this Crime Free addendum is a necessary and crucial element of the lease. Resident hereby agrees to live crime free and insure that Resident's guests and invitees live crime free, on and off the property.

Resident understands that crime can and does occur in every segment of life, as well as in every apartment community and neighborhood, regardless of the location. No property can or should be considered totally safe and free from crime regardless of the measures taken to the contrary. Hence, Landlord/Manager does not, and cannot, in any way warrant or guarantee Resident, Resident's occupants, Resident's guests, or Resident's invitee's safety or security at, on, near or off the community property. Resident understands that the safety of Resident and Resident's household is Resident's responsibility and not the responsibility of the community, or Landlord/manager's staff.

Therefore as part of the consideration for the execution or renewal of a lease, Resident agrees as follows:

1. Resident, Resident's occupants, and Resident's and occupant's guests and invitees shall not engage in any criminal activity, on or off the leased premises.
2. Resident, Resident's occupants, and Resident's and occupant's guests and invitees shall not engage in any act that is intended to or actually facilitates any criminal activity, on or off of the leased premises and common ground.
3. Resident, Resident's occupants, and Resident's and occupant's guests and invitees shall not permit the dwelling unit, leased premises or common ground to be used for any criminal activity.
4. Resident, Resident's occupants, and Resident's and occupant's guests and invitees shall not engage in any act of violence or threat of violence, including, but not limited to, the unlawful display or discharge of a firearm, a racial slur, a hate crime, or any property damage on or off of the leased premises.
5. Resident, Resident's occupants, and Resident's and occupant's guests and invitees agree and understand that management cooperates with law enforcement agencies by allowing management to release any information contained in management's file regarding Resident and Resident's occupants to any law enforcement agency upon request. Resident agrees that landlord/manager may use any police generated report as direct evidence without objection in any court action, including but not limited to eviction.
6. VIOLATION OF THE ABOVE PROVISIONS IS A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY. *A single violation of any of the provisions of this addendum shall be deemed a serious, material and irreparable violation and noncompliance of the lease, regardless of whether or not Resident has any knowledge of the violation by an occupant, guest or invitee and regardless of whether on or off the property.* It is understood and agreed that a single violation shall be good cause for immediate termination of the lease. Proof of the violation shall not require criminal conviction, but shall require only a preponderance of the evidence.
7. Resident shall inform Resident's occupants, guests and invitees of the terms, including rules and regulations, of the lease. Should any of the terms or rules and regulations be violated by Resident's occupants, guests or invitees, the Landlord/Manager has the right to bar such occupant, guest or invitee from the leased premises and/or common ground. If such occupant, guest or invitee refuses to leave the leased premises or common ground after being notified of such ban, or subsequent to notification of such ban, attempts to enter the leased premises and/or common ground, he or she will be subject to arrest for trespass.
8. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of the addendum shall govern. This Lease Addendum is incorporated into the lease or renewal thereof, executed or renewed at any time between Landlord/Manager and Resident/Lessee.

Property Name and Address: _____

Resident/Tenant

Date

Resident/Tenant

Date

Landlord/Manager/Lessor

Date

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF ST. CHARLES - TITLE 9, "PUBLIC PEACE, MORALS AND WELFARE", CHAPTER 9.45, "NUISANCE ABATEMENT" – SECTION 9.45.020, "DEFINITIONS", SUBSECTION A.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, AS FOLLOWS:

SECTION ONE: That Title 9 "Public Peace, Morals and Welfare", Chapter 9.45 "Nuisance Abatement" Section 9.45.020 "Definitions", Subsection A., of the St. Charles Municipal Code is hereby deleted in its entirety and in lieu thereof, the following language shall be substituted:

- " A. CHRONIC NUISANCE PROPERTY. Property upon which two or more of the behaviors listed below have occurred during any 180-day period, as a result of any two (2) separate factual events that have been independently investigated by any law enforcement agency.
1. Disorderly Conduct as defined in 720 ILCS 5/26-1.
 2. Unlawful Use of Weapons as defined in 720 ILCS 5/24-1, *et seq.*
 3. Mob Action as defined in 720 ILCS 5/25.1.
 4. Discharge of a Firearm as defined in 720 ILCS 5/24-1.2 and 1.5.
 5. Gambling as defined in 720 ILCS 5/28-1.
 6. Possession, Manufacture or Delivery of Controlled Substances as defined in 720 ILCS 570/40, *et seq.*
 7. Assault or Battery or Any Related Offense as defined in 720 ILCS 5/12-1, *et seq.*
 8. Sexual Abuse or Related Offenses as defined in 720 ILCS 5/12-15, *et seq.*
 9. Public Indecency as defined in 720 ILCS 5/11-9, *et seq.*
 10. Prostitution as defined in 720 ILCS 5/11-14, *et seq.*
 11. Criminal Damage to Property as defined in 720 ILCS 5/21-1, *et seq.*
 12. Possession, Cultivation, Manufacture or Delivery of Cannabis as defined in 720 ILCS 550/1, *et seq.*
 13. Illegal consumption or Possession of Alcohol as defined in 235 ILCS 5/1, *et seq.*
 14. Violation of any City of St. Charles ordinance or State of Illinois statute controlling or regulating the sale or use of alcoholic beverages.
 15. Violation of City of St. Charles property maintenance code section 305, or any successor code section, relative to rubbish and garbage.
 16. Violation of chapter 8.28 of this code relative to plants and weeds."

SECTION TWO: That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

SECTION THREE: That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication as provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this _____ day of _____, 2012.

Ordinance No. _____
Page 2 of 2

PASSED by the City Council of the City of St. Charles, Illinois, this ____ day of _____, 2012.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ____ day of _____, 2012.

Donald P. DeWitte, Mayor

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes:

Nays

Absent:

Abstain:

APPROVED AS TO FORM:

City Attorney

DATE: _____



Memo

Date: November 9, 2011

To: Chairman Cliff Carrigan
 And Planning and Development Committee

From: Rita Tungare, Community Development Director
 Jim Lamkin, Chief of Police

Cc: Brian Townsend, City Administrator
 Bob Vann, Building & Code Enforcement Division Manager

RE: Residential Rental Licensing and Inspection Program

Background:

At the September 12th P&D meeting, the Committee discussed this item, received comments from members of the public in attendance at the meeting and postponed further discussion to November.

Based on feedback received at the September meeting, staff would like to present four program options for consideration of the Committee. The City's estimated costs to administer the program and corresponding license fees are included. The proposed fees have been structured to ensure that the program will be self-supporting in terms of costs and will not result in a significant impact on the City's operating budget.

Programs	Estimated City Costs	License Fees														
<p><u>OPTION 1:</u></p> <ul style="list-style-type: none"> - Rental Licensing - Crime Free Housing Training - Crime Free Lease Addendum - Exterior Inspection - Interior Inspections of both Vacant & Occupied Units 	<p>a) One-time cost of \$6,500</p> <p>b) Recurring Costs:</p> <ul style="list-style-type: none"> - \$16,800 for the Police Dept. - \$158,000 for Community Development which would include additional staffing of a full-time inspector and a part-time Administrative Assistant (approx. 1,500 hours) <p>Total Costs: \$181,300</p>	<ul style="list-style-type: none"> • Single family : \$100 per dwelling unit • Duplex: \$75 per dwelling unit • Condo/Townhomes: \$65 per dwelling unit • Multi-family (fees per complex): <table style="margin-left: 20px;"> <tr><td>3-10 Units-</td><td>\$350</td></tr> <tr><td>11-50 Units-</td><td>\$775</td></tr> <tr><td>51-100 Units-</td><td>\$1,250</td></tr> <tr><td>101-151 Units-</td><td>\$1,750</td></tr> <tr><td>151-200 Units-</td><td>\$1,950</td></tr> <tr><td>201-250 Units-</td><td>\$2,250</td></tr> <tr><td>251+ Units-</td><td>\$2,700</td></tr> </table>	3-10 Units-	\$350	11-50 Units-	\$775	51-100 Units-	\$1,250	101-151 Units-	\$1,750	151-200 Units-	\$1,950	201-250 Units-	\$2,250	251+ Units-	\$2,700
3-10 Units-	\$350															
11-50 Units-	\$775															
51-100 Units-	\$1,250															
101-151 Units-	\$1,750															
151-200 Units-	\$1,950															
201-250 Units-	\$2,250															
251+ Units-	\$2,700															

<p>OPTION 2:</p> <ul style="list-style-type: none"> - Rental Licensing - Crime Free Housing Training - Crime Free Lease Addendum - Exterior Inspection - Interior Inspections (Vacant Units Only) 	<p>a) One-time cost of \$6,500</p> <p>b) Recurring Costs:</p> <ul style="list-style-type: none"> - \$16,800 for the Police Dept. - \$79,000 for Community Development which includes additional staffing for a part-time inspector (1,500 hours) and a part-time Administrative Assistant (1,200 hours) <p>Total Costs: \$102,300</p>	<ul style="list-style-type: none"> • Single family: \$50 per dwelling unit • Duplex: \$45 per dwelling unit • Condo/Townhomes: \$30 per dwelling unit • Multi-family (fees per complex): <table style="margin-left: 20px;"> <tr><td>3-10 Units-</td><td>\$300</td></tr> <tr><td>11-50 Units-</td><td>\$650</td></tr> <tr><td>51-100 Units-</td><td>\$950</td></tr> <tr><td>101-151 Units-</td><td>\$1,500</td></tr> <tr><td>151-200 Units-</td><td>\$1,750</td></tr> <tr><td>201-250 Units-</td><td>\$1,950</td></tr> <tr><td>251+ Units-</td><td>\$2,200</td></tr> </table>	3-10 Units-	\$300	11-50 Units-	\$650	51-100 Units-	\$950	101-151 Units-	\$1,500	151-200 Units-	\$1,750	201-250 Units-	\$1,950	251+ Units-	\$2,200
3-10 Units-	\$300															
11-50 Units-	\$650															
51-100 Units-	\$950															
101-151 Units-	\$1,500															
151-200 Units-	\$1,750															
201-250 Units-	\$1,950															
251+ Units-	\$2,200															
<p>OPTION 3:</p> <ul style="list-style-type: none"> - Rental Licensing - Crime Free Housing Training - Crime Free Lease Addendum - Exterior Inspection Only (No interior inspections) 	<p>a) One-time cost of \$6,500</p> <p>b) Recurring Costs:</p> <ul style="list-style-type: none"> - \$16,800 for the Police Dept. - \$58,000 for Community Development which includes additional staffing for a part-time inspector (1,000 hours) and a part-time Administrative Assistant (1,200 hours) <p>Total Costs: \$81,300</p>	<ul style="list-style-type: none"> • Single family: \$45 per dwelling unit • Duplex: \$40 per dwelling unit • Condo/Townhomes: \$25 per dwelling unit • Multi-family (fees per complex): <table style="margin-left: 20px;"> <tr><td>3-10 Units-</td><td>\$175</td></tr> <tr><td>11-50 Units-</td><td>\$325</td></tr> <tr><td>51-100 Units-</td><td>\$550</td></tr> <tr><td>101-151 Units-</td><td>\$700</td></tr> <tr><td>151-200 Units-</td><td>\$850</td></tr> <tr><td>201-250 Units-</td><td>\$1,000</td></tr> <tr><td>251+ Units-</td><td>\$1,200</td></tr> </table>	3-10 Units-	\$175	11-50 Units-	\$325	51-100 Units-	\$550	101-151 Units-	\$700	151-200 Units-	\$850	201-250 Units-	\$1,000	251+ Units-	\$1,200
3-10 Units-	\$175															
11-50 Units-	\$325															
51-100 Units-	\$550															
101-151 Units-	\$700															
151-200 Units-	\$850															
201-250 Units-	\$1,000															
251+ Units-	\$1,200															
<p>OPTION 4:</p> <ul style="list-style-type: none"> - Rental Licensing - Crime Free Housing Training - Crime Free Lease Addendum 	<p>a) One-time cost of \$6,500</p> <p>b) Recurring Costs:</p> <ul style="list-style-type: none"> - \$16,800 for the Police Dept. - \$31,500 for Community Development which includes additional staffing for a part-time Administrative Assistant (1,200 hours) <p>Total Costs: \$54,800</p>	<ul style="list-style-type: none"> • Single family: \$35 per dwelling unit • Duplex: \$20 per dwelling unit • Condo/Townhomes: \$15 per dwelling unit • Multi-family (fees per complex): <table style="margin-left: 20px;"> <tr><td>3-10 Units-</td><td>\$50</td></tr> <tr><td>11-50 Units-</td><td>\$125</td></tr> <tr><td>51-100 Units-</td><td>\$175</td></tr> <tr><td>101-151 Units-</td><td>\$225</td></tr> <tr><td>151-200 Units-</td><td>\$250</td></tr> <tr><td>201-250 Units-</td><td>\$300</td></tr> <tr><td>251+ Units-</td><td>\$350</td></tr> </table>	3-10 Units-	\$50	11-50 Units-	\$125	51-100 Units-	\$175	101-151 Units-	\$225	151-200 Units-	\$250	201-250 Units-	\$300	251+ Units-	\$350
3-10 Units-	\$50															
11-50 Units-	\$125															
51-100 Units-	\$175															
101-151 Units-	\$225															
151-200 Units-	\$250															
201-250 Units-	\$300															
251+ Units-	\$350															

Staff Recommendation:

Discuss the options and provide direction to staff on the preferred option.



Memo

Date: September 1, 2011

To: Chairman Cliff Carrignan
and Planning and Development Committee

From: Rita Tungare, Community Development Director
Jim Lamkin, Chief of Police

Cc: Brian Townsend, City Administrator
Bob Vann, Building & Code Enforcement Division Manager
Robin Jones, Gorski and Good

RE: Residential Rental Licensing and Inspection Program

I. BACKGROUND:

At the July 11th meeting, the Planning and Development Committee directed staff to prepare an ordinance for a proposed residential rental licensing and inspection program. Included in the Committee packets is an ordinance prepared in consultation with City's legal counsel from Gorski and Good. We have also researched programs from other communities and the findings are summarized in an attached spreadsheet for your reference.

II. PROGRAM PARAMETERS:

If approved, the proposed rental licensing program will fulfill the following purposes:

1. To protect public health, safety and welfare by ensuring residential rental units comply with minimum housing standards of city ordinances.
2. To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying rental dwellings.
3. To prevent the overcrowding of rental dwellings by requiring each unit to be in compliance with occupancy limitations.
4. To facilitate the enforcement of minimum standards for the maintenance of residential rental structures and premises and thus preventing blighting conditions.
5. To preserve the value of land and buildings throughout the city, and thus protect the city's tax base.

Provided below is an overview of the key components of the proposed program for St. Charles:

Rental License:

- The license permits the property owner to engage in the renting of a residential unit. Renting shall not be permitted without a license.
- Annual license required prior to renting of units (renewable on January 1st of each year)
- To be administered by the Building & Code Enforcement Division of Community Development.
- The program would apply to an estimated 3,426 rental units, based on the City's current Utility Billing Records.
- The proposed regulations will not apply to the following:
 - Single family owner occupied homes; single family dwellings occupied by a member of the owner's family; vacant single family dwellings that are not intended to be rented; townhomes and owner occupied condominiums; hotels, motels and bed and breakfast establishments; dwellings and structures that are licensed and inspected by state or federal government such as nursing homes, assisted and independent living facilities hospitals; and dwellings/structures owned by other governmental agencies and public housing authorities.
- Section 5.54.040 of the proposed ordinance outlines the specific information that needs to be provided by the owner.
- Owner is required to notify City of any change to ownership or property management within 30 days and to file a revised license application.
- If a license fee is not paid before expiration on January 1st, the fee shall be increased by 20%.
- Failure to comply will result in fines and the certificate of occupancy for the unit being revoked.

Training/Crime Free Housing seminar:

- The license applicant (property owner and/or property manager) is required to attend a mandatory crime free housing seminar administered by the Police Department prior to issuance of a license.
- Attendance is required within 3 months of submittal of a rental license application.
- A seminar must be attended at least once every 4 years.
- A certificate of completion shall be issued.
- The Police Department will provide Community Development with a list of individuals who have fulfilled the requirement.
- The Police Department anticipates holding 4 seminars per year or as needed.
- Topics shall include the St. Charles Chronic Nuisance Property ordinance and procedures that follow, crime prevention by environmental design, suggested screening processes, lease agreements and the crime free lease addendum, dealing with crime related problems and eviction procedures in Illinois.
- The training will be provided as part of the program at no additional cost.

Crime Free lease Addendum:

- A crime free lease addendum shall be included as part of a lease for residential rental properties.

- A license shall not be issued until a copy of the lease addendum is submitted to the Community Development Department.
- A form for the lease addendum provided by the City shall be used or a clause may be included in the lease that is substantially similar to the City's form, with approval of the City.
- The clause will make criminal activity a lease violation and gives the owner or property agent the right under the clause to initiate an eviction proceeding.
- Failure to provide the City with a crime free lease addendum may result in suspension or revocation of the license to rent the property.
- Violations by tenants of the lease addendum shall be cause for the landlord to abate the problem tenant from the involved rental property or be subject to being cited for a violation of the Rental License ordinance. If the landlord refuses/fails to take action, the City will initiate enforcement proceedings as outlined in Section 5.54.150 and 5.54.160 of the Rental Licensing Ordinance.

Inspection

- Inspections shall include interior, exterior and common areas. These inspections are required to ensure that the both the interior and exterior of the unit complies with all codes and ordinances of the City pertaining to life/safety, occupancy, and maintenance.
- Each dwelling unit required to be licensed shall be subject to an inspection to be scheduled by owner or property agent at time of submittal of license application.
- Thereafter, licensed dwelling units will be inspected every 4 years.
- For properties containing more than 12 dwelling units, 20 percent of the units shall be inspected. The City will determine which units are to be inspected. If the inspection reveals that the dwelling units are not in compliance, then the City reserves the right to inspect the remainder of dwelling units.
- Two inspectors will be sent in for interior inspections at any given time.
- Upon scheduling of the inspection, a temporary certificate shall be issued.
- Violation needs to be rectified within period specified by City.
- Once all violations have been rectified satisfactorily and crime-free seminar completed, a license can be issued.
- Owners or property agents shall be responsible for informing tenants of inspections and requesting permission if necessary.
- If access is denied, the City may file for an administrative search warrant.

Annual License/Inspection Fees:

The proposed fees have been structured to ensure that the program will be self-supporting in terms of costs and will not have a significant impact on the City's budget. Fees are based on a current estimate of 1612 single family, townhomes, condos and two family dwellings and 1814 multi-family dwelling units.

Single family, two-family, townhomes - \$ 75 per dwelling unit

Multi-family - \$ 32 per unit

Re-inspection fees - \$ 30.

Fines/Penalties:

- Failure to comply with the requirements of the Rental Licensing program could result in a fine of not less than \$50 and not more than \$750 per day.
- Violations shall be cited through the City's administrative adjudication process.

III.COSTS/RESOURCES/STAFFING:

Estimated costs to administer the program have been broken down into recurring and non-recurring costs:

a) One time non-recurring costs:

- There will be initial costs for setting up the rental program in Lawson including designing and documenting the process and training users -\$3500
- Initial personnel training costs - \$1500. This will include training for police and code enforcement personnel.
- Costs for other City Departments such as Utility Billing/Finance: \$1500

TOTAL ESTIMATED NON-RECURRING COSTS: \$ 6,500

b) On-going recurring costs:

- Police Department:
Presenting 4 crime free seminars per year -\$ 4800.
Administrative record keeping and assigned crime-free personnel: up to \$1,000 per month in overtime related expenses for records review and follow-up.
- Community Development Department:

- The Building & Code Enforcement Division staffing has recently been reduced by one inspector and one part-time administrative assistant. Additional staffing will be needed to administer the program.
The City will need to hire one additional Code Enforcement Officer (\$98,000) and one additional part-time Administrative Assistant (\$18,000).
-Approx. 40% of existing Code Enforcement officer's time - \$ 40,000
-Incidentals such as postage, office supplies, gas, attorney fees, copying, adjudication costs, etc. - \$ 7,500 – \$10,000
- Overtime for staff - \$ 1,000

Two employees will be sent out for interior inspections of units to minimize liability for the City. The two Code Enforcement Officers will work in tandem and split their time on performing both code enforcement duties as well as the rental inspections. The two existing building inspectors will be called upon to assist as necessary. Inspectors/code enforcement officers will perform interior and exterior inspections, draft violations letters, and attend administrative adjudication and court hearings. The administrative staff will be responsible for data entry, processing license applications, tracking change in ownership, scheduling inspections, assisting with training and attendance at administrative adjudication hearings.

TOTAL ESTIMATED RECURRING COSTS: \$172,800

IV. STAFF RECOMMENDATION:

Staff is presenting the proposed program for discussion and Committee's recommendation for approval. The ordinance can be modified per direction from Committee and presented to City Council for approval. Once approved, the program could be implemented as early as January 1, 2012.

LAW OFFICES OF
GORSKI & GOOD, LLP

GERALD M. GORSKI
THOMAS W. GOOD
ROBIN N. JONES

211 SOUTH WHEATON AVENUE
SUITE 305
P.O. BOX 611
WHEATON, ILLINOIS 60187-0611
(630) 665-7500
FAX (630) 665-8670

October 17, 2011

Ms. Rita Tungare
City of St. Charles
2 E. Main Street
St. Charles, IL 60174

Re: P.A.97-0236

Dear Rita:

During the discussion of the draft residential rental licensing ordinance at the Planning & Development Committee meeting on September 12, 2011, a resident mentioned Public Act 97-0236 (the "Act"), which had just recently been passed. You have asked that I explain the provisions of this legislation.

The Act amends 735 ILCS 5/9-120. Prior to amendment, the statute provided that if a tenant or occupant of a leased premises, on one or more occasions, uses or permits the use of the premises for the commission of any act that would constitute a felony or a Class A misdemeanor, the owner/lessor of the premises has the option to declare the lease void and recover possession of the leased premises. The owner can bring a forcible entry and detainer action to recover possession, and can assign that right to the State's Attorney who can then bring the action on behalf of the owner.

If the owner assigns the right to the State's Attorney, the owner remains liable for the cost of the eviction. The tenant's security deposit may be used to pay fees charged by the sheriff for carrying out the eviction. If the owner fails to prove his case (the standard of proof is a preponderance of the evidence) and the court determines the action was brought in bad faith, the court can assess costs against the owner; however, if the owner's action was based upon information provided to him by a law enforcement agency or the State's Attorney, he cannot be held to be acting in bad faith.

The Act amends the statute in the following manner:

(a) A written lease must notify the lessee of the owner's rights under the statute--- although failure to include such language in a written lease, or use of an oral lease, does not impair the owner's rights under the statute.

Ms. Rita Tungare
10/17/2011
Page 2

(b) The owner can now assign the right to bring a forcible entry and detainer action to the corporation counsel of the municipality where the leased premises is located (in addition to the State's Attorney). It is the municipality's choice whether or not to accept such an assignment.

(c) The owner will not be held to have brought an action in bad faith if he does so based on information provided to him by the municipality (in addition to a State's Attorney or law enforcement agency).

The rental licensing ordinance and the crime free addendum to lease agreement that it requires, would supplement, not replace, the statutory provision described above. As currently drafted, the addendum applies to the following additional situations:

(a) The activities proscribed are not limited to felonies or Class A misdemeanors, but rather, any criminal activity and certain other actions, whether or not they constitute criminal activity—for example, property damage.

(b) The addendum applies not only to actions of the tenant or occupant of the premises, but also to the tenant/occupant's guests and invitees.

(c) The addendum applies to activities occurring not only on the leased premises, but also in common areas and off premises.

Therefore, the use of the addendum provides additional authority to a property owner to terminate a lease. It should be noted that neither the state statute nor the addendum require the property owner to terminate a lease, but both provide a legal basis to do so at the owner's discretion.

Should you have questions or comments, please don't hesitate to give me a call.

Very truly yours,



Robin N. Jones

Rental Licensing Community Comparison

	Program Overview	License fees	Staffing	Results	Number of rental properties licensed	Number of annual inspections
Addison	<ul style="list-style-type: none"> •License required – fee covers annual inspection ONLY; additional fees are required for exterior inspections and re-inspections •Inspections are based on "grade" of very good, satisfactory or unsatisfactory-this determines how many external and re-inspections are required •Penalties include fees ranging from \$150 - \$1,000 per offense •Reinspection fees are the same rate as the cost of license 	Apt bldgs w/1 - 5 units: \$50 + \$50/unit; 6-11 units: \$75 + \$50/unit; 12-17 units: \$100 + \$50/unit; 18-23 units: \$125 + \$50/unit; +23 units: \$150 + \$50/unit; Single-family home: \$100; Condos/Townhouse w/no exterior inspections: \$50; Duplexes & 2-flats: \$150	Secretary, 3 housing inspectors (one of which is also a Code Enforcement Officer); Supervisor oversees this program and Code Enforcement	Very good - majority of properties have improved ratings since start of program	780	N/A
Aurora	<ul style="list-style-type: none"> •License required •Annual inspections • Fees and penalties – beginning at \$100 for first offense; Administrative Hearings for repeat offenses • Crime free program requirements 	1 unit \$40; 2 units \$45; 3-5 units \$50; 6-10 units \$85; 11-20 units \$175; 21-30 units \$250; 31-40 units \$330; 41-50 units \$400; 51-75 units \$475; 76-100 units \$535; 100+ \$615	3 clerical; 14 property maintenance inspectors; 2 coordinators; 3 quality of life inspectors; hearing officer when needed; Sept. 1 - August 31 - send out renewals	Increase in compliance	6400 properties; 16,000 units	200/yr each inspector
DesPlaines	<ul style="list-style-type: none"> •License required • Annual external inspections required; internal inspections conducted upon request or when the property is sold • Violation fees only assessed if property does not comply after inspection • Crime free program requirements 	Single-family detached \$100; Single-family attached \$50; Multi-family \$20	1 coordinator; 3 Housing Inspectors (they only do external inspections on every property annually - an internal inspection is only conducted when the property is sold or an inspection is requested)	Definite decrease in crime in the "bad" sections of town	2,000 - definite increase in the past 5 years - only 500 properties at that time	Approx. 3,000
Elgin	<ul style="list-style-type: none"> •License required • Inspection required for all new licenses •Additional fees assessed for re-inspections, late payments on imposed fees, canceled/suspended/revoked licenses •2-year license extension offered to landlords who are violation-free and have attended all mandatory training • Crime free program requirements 	Starts \$71/annual (1-5 units) - fee is based on # of units - highest fee is \$748 (96-100 units)- if they pass and attend mandatory training, they may rec. a 2 yr. extension	F/T coordinator; Code Enf Officers (7) help with annual inspections as well as their day-to-day responsibilities	Increase in compliance	N/A	N/A
Hanover Park	<ul style="list-style-type: none"> •Biannual License required for single units; annual for dwellings with three or more units • Annual inspection required for multi-units; biannual inspection for dwelling with 2 or less units • Reinspection fees required - \$75 each for second and third inspections • No crime free program established 	\$100 for 2 years	F/T Inspector for Residential - Code Enforcement Officers conduct the apartment building inspections	Increase in compliance	N/A	N/A

Rental Licensing Community Comparison

	Program Overview	License fees	Staffing	Results	Number of rental properties licensed	Number of annual inspections
Mt. Prospect	•License required• Inspection only required for properties that contain three or more units; however all properties are subject to inspections if a violation is reported•Crime free program requirements• Monthly enforcement fees established for properties not in compliance	\$40 per unit (multi-family); \$75 (single-family)	4 full-time staff (3 inspectors, 1 Crime Free Officer, 1 Supervisor - who also has other duties) approx. \$300,000.	Substantial increase in compliance; violations have decreased 50%; court cases dropped 95%; re-inspections dropped by 50%; police calls to complexes and "problem areas" decreased 50%	6500 total - only 700 - 1000 are SF/condos or townhomes	580 buildings and 20% of the units annually = 580 buildings, 1500 units. RI avg. 1.5/insp.
Prospect Heights	•License required – inspection required prior to obtaining license• Reinspection fee is \$175; 14 days to comply• No crime free program established	\$100 - any and all rentals (started at 25, then 40, now is \$100) - this includes their annual inspection	N/A - Regular year-round staff - this is their "winter project" and they aim to have all licenses issued and inspections complete between December & April 30th.	98% compliance; have all owner and occupant info in a database for easy access for all - including PD when complaints arise.	Approximately 1500 - If they pass, they receive their registration; RI fee is \$175 - 14 days to correct	Dec - April - "Down season" to complete
Rolling Meadows	• License required• License fees based on violation history; new licenses based upon 0-3 violation fee• All new licenses require an inspection. If inspection passes and no violations have occurred, no inspections required for two years, however, an annual license must still be obtained• Rental license fee covers one inspection and one reinspection; additional re-inspections are \$92• No crime free program requirements	Single-family: 0-3 violations \$50 for annual license and inspected every 3 yrs; 4 or more violations \$150 and inspected every 12 months; Condominiums: 0-3 violations \$30 and inspected every 3 years; 4 or more violations \$90 and inspected every 12 months. RI Fee \$92	Initially F/T to start-up program; then only part-time coordinator - that person left and they didn't replace her; they also have 2 Code Enforcement Inspectors. Process: initial insp - 3 or less violations, won't go back for 2 years - 20% of apts are done each year to be complete every 5 years	Great success and large percentage of compliance	800 - not including apartments	Varies - depends on new applicants and RI
Schaumburg	•License required• Annual apartment rental inspections; single-family inspections only conducted upon complaint or request•\$100 citation issued when fees are unpaid; leads to Adjudication if those fees are not collected•Crime free program requirements	\$55 Single-family homes & Multi-family units; this is an annual fee; 1/2 rate is \$27.50 for licenses after July 1st. Apartments: 1-50 units \$320; 51-100 units \$645; 101-200 units \$970; 201-300 units \$1,300; 301-400 units \$1,620; 401-500 units \$1,950.	1 F/T coordinator - in charge of licensing and renewals; 1 F/T PD employee who facilitates the mandatory seminar; Code Enforcement Officers conduct mandatory annual business & apartment rental inspections - single-family property inspections are only conducted upon complaint or request.	Increase in compliance	3,000 - contact stated this number will be going up substantially this year due to foreclosures.	N/A
West Chicago	•License required• Annual inspection required• No fee for first reinspection. Any additional re-inspections are \$75 per hour, per inspector• Crime free program requirements (2011)	Single-family, 2-flats & townhomes: \$210 per building; Condominiums: \$210 per unit; Multi-family buildings: \$210 per bldg. And \$25 per unit.	1 Secretary; outside consulting firm conducts annual inspections; Supervision in Community Development oversees program and sends out notices	Increase in compliance - they've had the licensing program for approximately 5 years and have seen enormous improvements	410	843 units total

MEMO

3/3/2012

DEAR MAYOR DeWITTE AND ALDERPERSONS:

I am writing in response to the proposed licensing^l for landlords ordinance. It will be an example of BIGGER GOV'T. in renters and landlords lives.

I am 85.9 years of age and have been a landlord since 1947 and a city resident since 1963; by this code change I will need to attend classes to be a landlord. AM I MAKING SENSE?

I am the legal owner of a single house on Mckinley St. that I might want to sell. If a home owner next to my rental sells he does not need an inspection. If I sell my single family rental next to him I must have an inspection within so many days of closing. AM I MAKING SENSE? (see 5.54.100 of proposed code changes)

Last year I increased the rent \$5.00/mo to recoup some of the property tax increase, the renter called immediately after receiving the notice. The \$42.00 license fee will increase the rent \$3.50/mo. AM I MAKING SENSE?

My wife also has rentals and wrote her concerns.

Thank you for serving me and the people of St Charles!

Cletus Gass

42 White Oak Circle

St. Charles 60174



Martha Gass
<martha.gass@sbcglobal.net>
>

03/04/2012 10:24 AM

To <rtungare@stcharlesil.gov>

cc

bcc

Subject Fw: Rental Licensing & Inspection Program response - reply requested

Hi Rita,

We've drafted a letter that we would appreciate if you would include in your packet to the mayor and alderman. If you do not plan to include it, please notify me so that I can send it independently to them.

#1 - please include the Sue Torres one-page letter dated 3-2-12, forwarded from below.

#2 - please include our letter called landlord ordinance - attached

Best regards,

Martha Gass and Greg Taylor

----- Forwarded Message -----

From: "cgibbons@stcharlesil.gov" <cgibbons@stcharlesil.gov>

To: martha.gass@sbcglobal.net

Cc: rtungare@stcharlesil.gov; jlamkin@stcharlesil.gov

Sent: Fri, March 2, 2012 3:04:12 PM

Subject: Rental Licensing & Inspection Program response - reply requested

The response to your request for information is attached. Please reply to this email to confirm receipt.
Thanks.

Christel Gibbons | FOIA Officer

2 E. Main Street, St. Charles, IL 60174-1984

phone: 630.762.7077 | fax: 630.377.4430 | www.stcharlesil.gov

cgibbons@stcharlesil.gov

CITY OF ST CHARLES, ILLINOIS



landlord ordinance.docx



landlord ordinance.docx

#1 City for Families
St. Charles named by FamilyCircle

Please consider these points in your discussion of this proposed ordinance.

Over reach and broad focus

- Penalizes all landlords for the issues of a few
- Penalizes all tenants for the actions of a few

Crime

- Senate bill 1766 allows for lease termination for a felony or class A misdemeanor at the property.
- The state already has the law in place and the enforcement and litigation system in place, no need to pay to develop and duplicate an existing system.

Crime free lease addendum (not required per above)

- Allows tenant to be evicted for any alleged crime, anywhere.
- No conviction required.
- Allows tenant to be evicted if any guest or invitee commits a crime on the property.
-

Crime, section 5.54.060, 5.54.160

- Police can force a landlord to evict a tenant for an alleged crime by using the enforcement procedure in the ordinance. The police chief explained that for them to take action would require a civil lawsuit and legal costs to the city, and then potentially 8-10 months in court to resolve. Via the ordinance, the police/ city would require the landlord to evict and then if the tenant protests, the landlord takes on the expenses and time in court for the eviction. The penalty to the landlord for each day of non compliance may be \$750 per day. The landlord will be the subject of any potential angry retaliatory action.
- The threshold to initiate this action is any crime perpetrated anywhere without any due process of law. This is an over reach of government authority.
- Another reason to use the state law.

Crime-free housing seminar, section 5.54.050

- Additional burden of time and money that will have very limited benefit
- Could offer a packet of information to interested parties

Inspection, section 5.54.070, 5.54.100

- Why is this applied to just rented properties?
- Why would landlords be required to “keep up on the paint, etc.” and not home-owners?
- Realtors Association of Fox Valley representative expressed concern about the inspections and required affidavits for sale of a rented property, makes them more difficult to sell.
- Representative suggested triggers for inspection such as: delinquency of taxes, calls from neighbors, calls from tenants, and police calls. This would address concern for interior inspections for life safety issues – the tenant can initiate this call.
- Apply nuisance codes that already exist across the board to all properties.

Other thoughts

We can't pick our neighbors, property owners and renters alike. Things I've experienced in St. Charles from all owner-occupied neighbors, examples from three different neighbors in different neighborhoods:

- Illegal vehicles parked in the street

- Junk vehicles parked in front of my house
- Unsupervised child outside in only his diaper in 30-degree weather. (A drive-by citizen took the child to the police department.)
- Barking dogs put out at 5:30 am and left outdoors.
- Dogs left outdoors in +90 degree heat with no source of water. (A different dog, different neighbor)
- Neighbor lighting off fireworks pointed at other dwellings.
- Neighbor with weeds over 6' tall in side yard.
- Neighbor planting a tree that will be very large at maturity just 6" from my fence. It will eventually grow over onto my property and take out my fence.



#1 City for Families
by FamilyCircle® magazine

March 2, 2012

Ms. Martha Gass
Ms. Eda Gass
Mr. Cletus Gass
Martha.gass@sbcglobal.net

Re: Freedom of Information Act request for information about the Rental Licensing & Inspection program

Dear Mr. & Mses. Gass:

We have the following information to provide in response to your email request sent to Rita Tungare on 2/25/12 for information regarding the Rental Licensing and Inspection program.

The Rental Licensing Program was discussed at the 9/12/11 and 11/14/11 Planning and Development Committee meetings. Please see attached agendas and minutes. This item was also on the 11/12/11 City Council agenda under Committee reports - Item II.C.5. The agenda and minutes of this meeting are attached.

There have been no additional press releases about the program since the one you received in February. The Planning & Development Committee meeting is scheduled for 3/12/12 in the Council Chambers at City Hall, 2 E. Main St., but it is not on the City calendar as of today's date.

The Police Department does not maintain statistics related to rental property. Although crime statistics and calls for service are maintained, the city does not categorize incidents based on whether the unit is rental versus owner-occupied.

Request regarding calculation of fees: *Revenue stream - in the memo the costs to the city are included and a fee per unit, but the actual revenue stream the city would expect from the fees is not provided. Are those figures available?*

Response: The proposed program is expected to be self-supporting. Proposed fees are based on an estimate of costs and an estimated number of 3,426 rental units within St. Charles. The estimated number of the types of rental units was derived from Utility Billing records. Actual numbers on revenue generated will only be available after the program has gone into effect.

Feel free to contact me if you have any questions or need anything further.

Sincerely,

Sue Torres, FOIA Officer
City Records Division Manager
storres@stcharlesil.gov
630-377-4981

Attachment

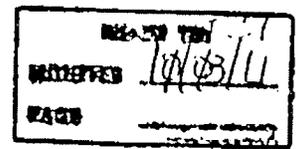
DONALD P. DEWITTE *Mayor*
BRIAN TOWNSEND *City Administrator*

TWO EAST MAIN STREET ST. CHARLES, IL 60174 PHONE: 630-377-4400 FAX: 630-377-4440
www.stcharlesil.gov

**AGENDA
CITY OF ST. CHARLES
PLANNING & DEVELOPMENT COMMITTEE
ALD. CLIFF CARRIGNAN – CHAIRMAN**

**MONDAY, SEPTEMBER 12, 2011 - 7:00 PM
CITY COUNCIL CHAMBERS
2 E. MAIN STREET**

- 1. CALL TO ORDER**
- 2. COMMUNITY DEVELOPMENT**
 - a. Recommend approval of Final Plat of Subdivision for East Main Retail Resubdivision of Lot 4 (Culvers Restaurant).
 - b. Recommend approval of Minor Change to PUD Preliminary Plan-Tyler and Rt. 64 Business Park PUD (St. Charles Chrysler).
 - c. Recommend approval of Minor Change to PUD Preliminary Plan-Foxwood PUD (Parent Petroleum).
 - d. Recommend approval of Façade Improvement Grant for 202 Cedar Avenue (Maureen Salesky, Directions in Clothing).
 - e. Recommend approval of revised Historic Preservation Certificate of Appropriateness (COA) Administrative Approval List.
 - f. Recommending approval regarding Residential Rental Licensing and Inspection program.
 - g. Discussion regarding Notification for Public Hearings.
 - h. Update on the Comprehensive Plan project.
- 3. ADDITIONAL BUSINESS**
- 4. ADJOURNMENT**



**MINUTES
CITY OF ST. CHARLES, IL
PLANNING AND DEVELOPMENT COMMITTEE
MONDAY, SEPTEMBER 12, 2011 7:00 P.M.**

Members Present: Chairman Carrigan, Ald. Stellato, Monken, Payleitner, Turner, Rogina, Martin, Krieger, Lewis

Members Absent: Bessner

Others Present: Mayor Donald P. DeWitte; Brian Townsend, City Administrator; Bob Vann, Building and Code Enforcement Manager; Rita Tungare, Director of Community Development; Fire Chief Mullen; Matt O'Rourke, Planner; Russell Colby, Planning Division Manager; Police Chief Lamkin; Robin Jones, City Attorney

1. Call to Order

The meeting was convened by Chairman Carrigan at 7:00 pm.

2. COMMUNITY DEVELOPMENT

- a. Recommend approval of Final Plat of Subdivision for East Main Retail Resubdivision of Lot 4 (Culvers Restaurant).

Mr. O'Rourke reviewed the staff report dated 9/7/11 and stated staff recommended approval.

A motion was made, seconded and passed by unanimous vote.

- b. Recommend approval of Minor Change to PUD Preliminary Plan-Tyler and Rt. 64 Business Park PUD (St. Charles Chrysler).

Mr. O'Rourke reviewed the staff report dated 9/2/11 and stated staff recommended approval.

A motion was made, seconded and passed by unanimous vote.

- c. Recommend approval of Minor Change to PUD Preliminary Plan-Foxwood PUD (Parent Petroleum).

Mr. O'Rourke reviewed the staff report dated 9/2/11 and stated staff recommended approval.

Ald. Turner asked for clarification that the bank building will be used for office space. Mr. O'Rourke indicated that was correct.

A motion was made, seconded and passed by unanimous vote.

- d. Recommend approval of Façade Improvement Grant for 202 Cedar Avenue (Maureen Salesky, Directions in Clothing).

Mr. Colby reviewed the request for a Façade Improvement Grant for up to \$3,000 and advised the Historic Preservation Commission and staff has recommended approval.

A motion was made, seconded and passed by unanimous vote.

- e. Recommend approval of revised Historic Preservation Certificate of Appropriateness (COA) Administrative Approval List.

Mr. Colby reviewed the COA Administrative Approval list and said the Historic Preservation Commission and staff recommend approval.

Chairman Carrigan asked for clarification that by handling these items administratively, it would expedite the process for property owners. Mr. Colby agreed.

A motion was made, seconded and passed by unanimous vote.

- f. Recommending approval regarding Residential Rental Licensing and Inspection program.

Ald. Stellato recused himself from discussion as the company he is employed at does own residential properties within the community and therefore has a conflict of interest.

Ms. Tungare and Chief Lamkin reviewed the power point presentation and staff memo dated 9/1/11.

Ald. Rogina referred to the recommendation from staff asking if the Committee was expected to vote on that recommendation this evening. He noted this is a very complex proposal and may need more input and information provided before making a recommendation. Chairman Carrigan noted the Committee had asked staff to develop a program and they brought it forward looking for approval. The decision to approve tonight or not is up to the Committee, or move to the next meeting.

Ald. Martin said he is supportive of this ordinance and consideration should be given to anyone who wants to discuss this issue. He said he is not prepared to vote on this issue tonight and there are a lot of items that may need compromise and negotiation.

Ald. Monken asked what is involved for interior inspection, is it building code violations. Ms. Tungare said they would be looking for life safety violations of code.

Ald. Turner asked what would trigger an interior inspection for overcrowding. Chief Lamkin said a complaint would be the trigger. He discussed that overcrowding is very hard to prove because people visit, stay for a short period of time. Ald. Turner said it is his understanding that presently if there is a complaint the City cannot just walk in and question how many people are living in a home. He asked if this would give the opportunity to do this. Chief Lamkin agreed and said they would contact the property owner.

Ald. Lewis asked if there will be a limit to the number of animals at a residence. Ald. Krieger advised that currently there is a limit of three animals for any owner occupied property. Mr. Vann explained exceptions are allowed for when there is a litter.

Ald. Rogina asked for clarification that for any City ordinance violation that is suspected, entry into a rental unit would be through permission of the property owner. Chief Lamkin said for any ordinance violation entry can be gained by permission, but explained there are means to pursue administratively but there are grounds that need to be established before a judge will give a warrant to go in against owner wishes. Ald. Rogina asked if a standard lease gives the landlord the right to give permission to go into and inspect the property. Chief Lamkin said it may for the landlord. Ms. Tungare said the landlord has the right. She said if there were a situation where the tenant refuses the City could hold the landlord responsible. Ald. Rogina said as a homeowner it would require a warrant and he said this differentiation is what he hesitates about. Attorney Robin Jones added that the consent needs to come from the tenants regardless of what the lease says. The landlord may have the right under the lease to go onto the property, but said the way this ordinance is drafted would require consent from the person actually living on the site because they have the expectation of privacy.

Ald. Krieger asked if in the event an arrest for a minor crime would they have the right to stay in the rental unit until they were declared innocent or guilty. Chief Lamkin said it will depend on whether it is set-up that when a violation of the law occurred the terms of the addendum have been violated, or set-up as a violation of the law minus a conviction. Attorney Jones added that the crime-free lease addendum as written enables the property owner to evict the tenant, does not mandate but gives the ability. She agreed this could be drafted that it requires an actual conviction or preponderance of evidence indicated a violation has occurred. She said if a conviction of the court is required there is clarity that a crime has occurred. Ald. Krieger said her concern if there is misunderstanding or false identification someone may be put out on the street. Attorney Jones said protection against that can be written into the addendum and as it is written now it does not require a conviction but preponderance of evidence. Ald. Lewis said she agrees with Ald. Krieger that based on a generated report might be too loose.

Ald. Rogina referred to the senate bill 1766 which makes two changes to leases and evictions; one requires the written leases to notify leases that if they use or permit activity that is a felony or Class A misdemeanor that they can be evicted; two allows municipalities corporation counsel to evict under this statute as well. He asked if that is law or will become law will that have an impact on the criminal aspect of this ordinance. Attorney Jones said it would appear to increase the powers. She said she does not know the status of this bill.

Chairman Carrigan noted there are approximately 3500 apartment units and said when implementing a program like this do you look at the subsequent year to bring all those people into compliance? He said if there is a 3-month window there will end up to be a meeting with a thousand people attending. He asked if this will take 12-months to roll this out and then start. Ms. Tungare said that was one reason staff was requesting a recommendation tonight because to put this into effect January 1st is a challenge. She said it can be done but expecting all to be in compliance January 1st 2012 is unrealistic. She said there will need to be a grace period the first 6 months, with leniency and communication, but within a one year period all will be expected to be in compliance. Chairman Carrigan said it is understood there will not be a recommendation

this evening and the Committee would like information about the roll out process and he does not think it will be within a 3-6 month window. If this is passed by the end of this year, he believes it will still be a solid calendar year to have everyone up to compliance.

Chairman Carrignan asked the committee for any issues regarding who this applies to. Ald. Lewis as listed for who, or what properties, applies or would be exempt is suitable. Chairman Carrignan asked staff to provide the Committee with a copy of the power point presentation. He referred to the list and asked if a single-family owner has to go thru the process if they want to rent it out. Ms. Tungare said that is correct. Chairman Carrignan referred to a structure over 12-units will have 20% inspected. He asked how many units in town have more than 12 units. Ms. Tungare said she did not have the exact amount but noted there is a fair amount of multi-family complexes. Chairman Carrignan asked Chief Lamkin for clarification regarding the Nuisance Abatement ordinance and multiple offenses. Chief Lamkin said it is a reported offense at least two times within six months. He said there does not necessarily need to be an arrest made but a reported offense. He said the items listed are common to other communities.

Ald. Payleitner said her concerns with the addendum are that leases will be signed out of necessity of having a place to live however may not be taken seriously. Also, there are very good tenants and landlords within our community, but the addendum states tenants are responsible for all guests. She referred to a scenario where there is a party and guests create a problem and asked if a tenant were to call the police they are then subject to being evicted. Chief Lamkin explained when a person realizes there is a problem on their property and calling to resolve it they are being proactive, it's when a neighbor calls that it becomes reactive. Ald. Payleitner said when this first came up she was under the impression why it was being done was not so much to protect landlord, but rather neighbors of landlords and occupants. She referred to the five program parameters listed noting three have been addressed by existing ordinances, but needed enforcement for protection of the neighbors. She asked if a lot of effort isn't being duplicated and having a cost involved. She asked why an interior inspection is needed. Chief Lamkin said Police do not have the ability to do interior inspections. He said the police can go with the code enforcement officer as a security measure but cannot intrude on someone's property. Ms. Tungare added that without a program in place probable cause would be needed to enter owner occupied property. This program gives the City the right to go in and do interior inspections for code violations, issues of overcrowding, etc. She said this may be a duplicate of work with issues on a complaint basis, but this program is constructed to treat everyone consistently giving tools to conduct inspections in a structured manner. Attorney Jones said this is recognition that certain situations are more likely to have issues and with the program you get the ability to do interior inspections, still subject to consent if the tenant doesn't want the City to inspect, then will need an administration search warrant. She said the ordinances that run into problems are the ordinances that do not provide that due process protection.

Ald. Lewis said the fees appear high and asked how they were calculated. Ms. Tungare said these numbers were estimates based on current number of rental dwelling units and acknowledged that they could change year to year. She said these costs may be argued but noted what other communities are charging this is within the range. Ald. Rogina noted large complexes will have a large amount of fees. Ms. Tungare said the license fee will be based on the number of dwellings. She said after 12 months there will be experience with this and need to be revisited and monitored. She said a fee structure could be established upon a sliding scale. She also said the fee structure fits within the automated Lawson and permit system. Ald. Lewis

said that other businesses do not need to apply for licenses every year has there been thought to have a 2-3 year license.

Chairman Carrignan noted the man power to enforce the program. Ms. Tungare said an additional full time code enforcement officer and a part-time administrative assistant will be needed. Chairman Carrignan asked if it could be set up as code enforcement and an apprentice. Ms. Tungare said right now the inspectors are assisting with code enforcements efforts because the City is down one inspector. Both officers will tag-team on all code enforcement issues. Ald. Payleitner asked if large complexes get inspected presently for smoke alarm, etc. Mr. Vann said annual inspections are done in the common areas.

Ms. Tungare asked the Committee if they wanted to go with both the interior and exterior inspections. Chairman Carrignan said he would like to open this discussion for public comment.

Mr. Joe Conti, resident of St. Charles, is totally opposed to this ordinance. He referred to duplicating ordinances, and commented that this ordinance does not give more ability. He asked if there was much difference from someone renting an apartment to owning a home with inspection for life safety issues. He said he is a landlord in Elgin and noted that he pays the same amount of taxes on his rental unit as his own home and is against paying an additional fee for having more inspectors who may come back 3 times increasing a fee from \$30 to \$90 and may also include a violation. He said this is creating a huge layer of bureaucracy that is not necessary. He said presently the City has the right now with the existing ordinance to determine if something is unsafe and needs to be fixed. Regarding crime, presently a resident has certain responsibilities to make a call to get the police. He does not understand why they are singling out tenants in the community. He noted Attorney Jones commented that there may be a problem with saying that tenants are in general more of a problem and have higher crime rates. Are landlords given additional power to remove someone and put an addendum in the lease. He said this could be a voluntary thing. He said this is too much of an expense and will grow to even more. He said the same results could be made with suggestions or addendums to the lease.

Mr. Phil Kessler, downtown St. Charles resident, said he is not 100% opposed but too much information has been overwhelming and was unaware that there were so many components to this proposed ordinance. He noted there are good tenants and good landlords within the community. He is surprised that there is not a lot of landlord involvement in this process. He referred to the First Street redevelopment that involved a lot of meetings and committees. He hesitates to pass this too quickly without a lot of landlord input. He said a round table of landlords with the Planning & Development Committee would be imperative. Chairman Carrignan advised that is the purpose of the meeting this evening. Mr. Kessler said he was not advised by invitation or letter and this meeting would not serve as such. He said the interior inspections are far too onerous and he does not see the connection between crime-free and interior inspections. He noted units on the west side of the City that have caused problems involving police activity and said if that is where the problems are then the City should start there. He said that Batavia is presently doing that exact thing. Chairman Carrignan said information is posted every Friday saying what the Committees and Council will be discussion. He stated it is the obligation of people to research. He reiterated there is no rush to make a judgment and want to gather more information before making a decision. Mr. Kessler said he

this group wants participation of landlords; they would probably get more participation if there was no interior inspection.

Ms. Kim Malay, 526 S. 16th Street, said previously she made the suggestion to this group to pull together some landlords to get their feedback. Her thought is talking to the good landlords will help improve this program. Interior inspections have been discussed in the past and it is what has killed the program every time. Ms. Malay feels that this is not something that we need right seeing as though we are strapped for money and obviously the landlords are not making a major jackpot in this industry either with trying to keep their rents low. If costs are \$75.00 per unit and a landlord has 5 or 6 units spread throughout town that can start to get costly. Ms. Malay's thoughts were to at least at this point forget the interior and bring the cost down that it would be a better way to approach this. In regard to the Senate bill that was approved August 2nd and Staff was informed of that, so that really is our core of this Ordinance. Ms. Malay suggested ruling that out as the Ordinance for now and improve on it as we need to. Ms. Malay also questioned the charge vs. conviction issue, the court system can take quite a long time to go through the process, and that the wording should be thought of so the hands of the Landlords are not tied. In regard to the Junk Car section, because there are couple houses in the neighbor that are not rentals so she wants to be sure that is separate but applies to this as well, it seems that the code is just not specific enough to deal with these issues in a timely manner seeing as though there is no time limit as to how long the cars can sit in the driveway. Ms. Malay offered language that she has gathered from other Municipalities throughout the Country. Another concern is we have people using Foreclosed homes as their second parking lot, and although it is a nice thing to have that safety of a vehicle in the driveway as if someone is living there, the negative is many people walk away from even looking at the interior of the house because they cannot get near the house because of the cars. Chairman Carrigan stated that Ms. Malay point is valid in regard to the Junk Cars and suggested bringing it up with Staff.

Kristen Jungles on behalf of the Realtors Association of Foxvally, who resides in Naperville, IL. Said as we look through the grid that was provided, a number of the Ordinances that exist in other Municipalities, I will tell you that the Illinois Association of Realtors was at the table for all of them 6-7 years ago when Schaumburg first drafted their Crime Free Housing Proposal, we assisted them in that process so I appreciate the opportunity tonight to be able to address you regarding the Ordinance here. Ms. Jungle questioned the Apartment Complex Officer Program, is that in place. Chief Lamkin answered that we do not have a program where they live at the complex, we have a program where we meet with the apartment complex manager's yes, they come to us and we have officers that are liaisons to that. Ms. Jungles said that's great because it indicates that there is a lot of success with the program, so I am trying to figure what unmet need there is for the Rental Licensing issue if there is that ongoing communication between the Police Dept. and the Apartment Complex right now. Ms. Jungles stated the reasoning for her question is, Batavia as our neighbors, are drafting a similar crime free housing proposal, we are certainly in favor of them but we want to be educate the property owners and the landlords so the best tenants are selected in regard to eliminating crimes, however Batavia proposal is only looking at their 7 apartment complexes first and looking at single-family a couple years down the road because there was an analysis done in regard to where the highest number of calls are coming from. Ms. Jungles suggested doing a similar analysis before drafting a proposal. Ms. Jungles stated that in regards to inspections, what most municipalities have found is the inspections are incredibly costly. Ms. Jungles questioned what inspectors would be looking for and how it inspections would reduce crime in a house by looking to see whether it is in compliance. One of

the things we would like to see is most other municipalities involved in this allow for you to attend the crime free housing class at another municipality and provide St. Charles with a copy of the Certificate, and as the Ordinance is drafted now it states that it is at the discretion of the Chief. Ms. Jungles stated as far as the sliding scale for the multi family, it's a very good point, about a the number being capped off so it's not too excessive, however the Realtors Associations concern is that we want to make sure that if there is a property available and we bring a client to show it, that the City of St. Charles will not do anything to negatively impact the sale of a property and anything that can be done to reduce the fees that are going to be incurred by an owner would be appreciated. Ms. Jungles reiterated that Senate bill 1766 passed both houses in May, ideally what that does is if there is a felony or a class A misdemeanor at the property it give the owner the right to immediately terminate the lease and move forward, essentially accomplishing some of the things the city is looking to do.

Vanessa Bell-LaSota, 1610 Howard, stated she was glad Ms. Jungles made mention of the Apartment Complex Officer Program and she wanted to reiterate that she feels it's a gem of a program and when she speaks to landlords they are unaware of this and her suggestion is to have the city possibly support and expand the program so landlords will have that also for a forum to do some sort of a round table discussion, she feels the program has real possibilities, but everybody is burdened by their schedules and only so much can be accomplished at that meeting by the Officer that is coordinating that program so perhaps more city support and knowledge throughout the rental community might actually off-set some of the problems if more people knew there was a central forum for them. Her understanding is that it's a shared forum for landlords and management to share any problems that they have had and to track problem tenants and make sure they do not re-rent on another property. Ms. LaSota complimented the program but suggested maybe some intermediate point could be interjected.

Ald. Krieger stated that she totally supports interior inspections due to it being a matter of life safety and feels it's not something that should be overlooked.

Ald. Lewis stated she believes this could be a win/win situation for everyone; things need to be added, taken out and re-worded but in the end this also can be a benefit to tenants. There are good tenants living with bad landlords in some cases. Ald. Lewis stated that in her neighbor she is surrounded by 5 rental houses that are excellent tenant landlord situations; however there are some places where the tenant needs some help from their landlords who do not do their job. She feels it's a great start and that it can be figured out to make this a win/win for everybody.

Ald. Martin stated that he supports the Ordinance but that he still has a couple issues he would like to hear more about such as the interior vs. exterior inspections. He also stated he would like to focus on the multi-family units first because that's where most the problems are. He would also like to look closer at the fees as far as being justifiable.

Aldr. Rogina questioned what the goal is, he had a sense that our goal was to address issues we have had in the last 6 months in regard to peace and tranquility in our neighborhoods, and if we crowd their property and that to him is a big issue. He stated that the inspection internally bothers him because of how it stacks up feasibly for the homeowners. Aldr. Rogina feels we have many great landlords but he feels that some sort of forum needs to be held with landlords in the area to assist the city with what we are trying to accomplish as far as crime free goals. He also stated that he would like to see an Ordinance that gives landlord or the municipality the

teeth to evict criminals not people involved with petty crime or even a DUI, a homeowner doesn't have to leave their premise because they have been convicted of a DUI, so he does not feel a tenant should either but at the same token people are committing criminal acts and there should be a right to evict someone, so in that aspect he feels the frame works for the city.

Aldr. Turner stated he would like to see it based on the senate bill and he asked Robin Jones-City Attorney, if the landlord has a right to evict the tenant and is he required to evict the tenant.

Robin Jones answered under the addendum the way it is written no.

Aldr. Turner said in case there are uncooperative landlords and he knows there is especially with single-family home situations, he feels the city needs more teeth when it comes to requiring people to move out. Aldr. Turner said he is also in favor of interior inspections but feels fees need to be looked over.

Aldr. Payleitner said that she feels this has gotten too complicated and we need to get back to our mission statement, her understanding was when this discussion it was crime prevention and protect your neighbors. She feels one way we can do this is to empower and educate the landlords and then cover our cost while doing so with the license fee, and at the same time empower tenants with a help list. Aldr. Payleitner stated that calls she has received since this went in the paper have been about the single-family residents that live amongst rental properties and their property values are dropping due to tenants that yes are paying their rents but they don't need to keep up on the paint etc., and she sees this as our job to protect our neighborhoods and protect property value therefore protecting our tax rates. Aldr. Payleitner stated she would like to start small and expand as needed but to go back and readdress what our purpose is.

Aldr. Monken said he believes more contact needs to be made with owners and landlords and have their participation to have us all work together. He feels we have made a lot of progress on the discussion tonight.

Chairman Carrigan said he feels that the specific goal is to make sure we are in compliance of city codes as we look at the issues that are on the table and he questioned how some of the administrative functions will roll out and how we will do this regarding whether it will be only multi-family or single-family as well and how this will lay on top of the senate bill. Chairman Carrigan suggested that there be a landlord meeting scheduled and he made a motion to continue this discussion at the Planning and Development meeting on November 14th.

The motion was made, seconded and passed by unanimous vote.

Aldr. Stellato rejoined the Committee.

g. Discussion regarding Notification for Public Hearings.

Ms. Tungare stated that this item was added for discussion at the request of Aldr. Rogina. Ms. Tungare went over a memorandum that was in the packet that lists the geographical distance requirements for mailed notices given in connection with development applications, which is consistent with state law.

Aldr. Rogina stated that his sole purpose initiating this discussion with his fellow Committee members is to seek input regarding an expansion to the geographical notice requirement prior to a Public Hearing for the Plan Commission. Despite comments from the press that expanding the notification area would increase the time and cost of any business locating in the city, his intent is only to discuss expanding the notification required for a Public Hearing. His motivation for discussion is the aftermath of the special use granted by the City Council for the Illinois Central School Bus. He believes a request for change in zoning can impact residents and businesses well beyond the current requirement of 250 ft. Aldr. Rogina stated that he feels that an expanded notification area will make the City more transparent to its citizens. He asked for clarification on the passage by Robin Jones in the legal memo that says "there are practical implications and policy issues that the city will want to take into account". Ms. Jones answered that was simply her way of saying her memo addresses only the legal issues and staff undoubtedly has some thoughts on what the policy should be and what the practical implications are.

Aldr. Stellato asked for staff to refresh his memory as to what instances the City requires a public hearing.

Ms. Tungare answered that public hearings are held for Zoning Map Amendments or Re-Zoning, Special Uses, Special Uses for PUD's and Annexations, but only when there is an Annexation Agreement and there is also not a mailed notification requirement for annexation hearings.

Aldr. Stellato said that in regard to larger developments, if somebody wanted to replace a business that already exists, they probably work with Building and Code Enforcement to receive a permit, but otherwise there is not a Public Hearing involved unless there is a liquor license. Ms. Tungare answered that is correct but that consideration of a liquor license does not require a public hearing, just a public meeting.

Aldr. Stellato questioned what is involved in the notification process for a larger project.

Ms. Tungare answered that a sign is posted on the property, a certified mailed notification is sent to property owners within 250 ft., and a notice is published in the newspaper.

Aldr. Stellato said that some of the larger issues fly under the radar and in his opinion feels that due to the City becoming more of an in-fill development community that it would be apropos to have some additional footage for the notice area.

Aldr. Turner stated he has done this for seven years with these requirements and he feels that things should not be changed due to one glitch.

Aldr. Payleitner stated that there may be situations in which we do need additional signage as opposed to putting an extra burden on the property owner.

Aldr. Krieger made the point of how often people respond to notices sent out, because we send out notices for all sorts of issues, but yet at the meetings there is no one in attendance.

Chairman Carrigan questioned if the notices go out to the residents or the property owners?

Ms. Tungare said they go to the person that is listed on the tax bills.

Chairman Carrigan stated that his concern is we are a city that is going from a growth community to a mature community and are becoming closed in, and the impact of a development in a neighborhood has deeper repercussions than it did 14 years ago. He feels that state law at 250 ft. works well along with the newspaper and the signs. He said the Committee can choose to make a motion and if not we will leave this as a discussion.

Mr. Townsend recommended that Ms. Tungare explain the process that would take place to make this change. Ms. Tungare stated that this would require a General Amendment to the Zoning Ordinance. The City would initiate an application which would be taken to the Plan Commission, typically a process like that takes 60 days. Ms. Tungare said that in terms of practical implications that there definitely would be an additional cost to the applicant and also depending on how much the radius is increased anything beyond 500 ft. we would be looking at lengthier public hearings and a longer development review process. Ms. Tungare also pointed out that the City also sends a courtesy notice for concept review plans even though it is not required.

Aldr. Lewis stated that in regard to an apartment complex, the residents know nothing about public hearings because the property owner receives the letter; therefore she feels there should be consideration of this somehow when things are being changed.

Ms. Tungare stated that what she anticipates with expanding the notification range, there will be more individuals showing up to speak in favor or against the petition and that means more testimony and by state law that means we may have several public hearing on any given larger project. Aldr. Rogina asked if Ms. Tungare feels that is unhealthy. Ms. Tungare replied that it is not for her to say and that she is just putting it into perspective that it is a possibility.

Ms. Lewis asked what type of information is in the notices. Ms. Tungare answered zoning of the property, a map of the property, information regarding the specific application, public hearing notice and information regarding the purpose of the meeting and that they are invited to attend. Ms. Tungare let the Committee know she would send them all an example of what is sent to property owners in regard to public hearings.

Aldr. Stellato asked if there have been any complaints aside from what Aldr. Rogina mentioned as far as past applications. Ms. Tungare answered none that come to mind.

Ms. Malay stated the sign coverage for the Public Hearing for Towne Centre was not sufficient. Ms. Tungare stated that regardless of the signs many residents were in attendance regarding Towne Centre.

Mr. Stellato mentioned Wal-Mart and that it was the largest turnout he has ever seen, that public hearing notice was the same requirements, but somehow the word spread to everyone and he is not sure why but feels maybe it's the purpose of the alderman in that ward to notify residents of public hearings.

Chairman Carrigan asked what the requirement is for signs. Ms. Tungare stated there are specific requirements that state the Director of Community Development shall direct the erection of at least one sign on the property and nothing specific about the location of the sign.

Chairman Carrignan stated that signs should be big enough for people as they drive by to see it.

Aldr. Rogina stated that in regard to the comment made about Alderman making there wards aware of public hearings that he had a conversation with Ms. Tungare and it was mentioned, and rightfully so, that we are consistent on keeping the notice at 250 ft. and not beyond that due to legal action that could be taken by the developer. He asked if he did something like that would he be as an agent of the city in violation of the Ordinance. Ms. Jones answered she did not see a problem with that.

Aldr. Lewis asked if something major came up could we make a change for that instance, or would the whole ordinance need to be changed. Ms. Tungare stated whole ordinance, but that staff could work with the Public Works Dept. in terms of the size of the signs and location without changing the Ordinance.

Chairman Carrignan asked if anyone wants to bring anything forward relative to a motion to change the ordinance today, as we have the ability to do so.

No motion was made and the discussion concluded.

h. Update on the Comprehensive Plan project.

Russell Colby gave a brief update on the Comprehensive Plan Project.

5. ADDITIONAL BUSINESS

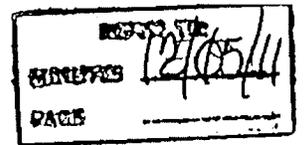
None.

The meeting adjourned at 8:55 p.m.

**AGENDA
CITY OF ST. CHARLES
PLANNING & DEVELOPMENT COMMITTEE
ALD. CLIFF CARRIGNAN – CHAIRMAN**

**MONDAY, NOVEMBER 14, 2011 - 7:00 PM
CITY COUNCIL CHAMBERS
2 E. MAIN STREET**

- 1. CALL TO ORDER**
- 2. COMMUNITY DEVELOPMENT**
 - a. Recommend approval of a Special Use for a Daycare Center on Lot 2 of the Tyler & Rt. 64 PUD (Children of America).
 - b. Recommend approval of a Minor Change to a PUD Preliminary Plan-Charlestowne Mall PUD (Savers).
 - c. Recommend approval of a Special Use for a Recycling Center at 3655 Illinois Ave. (Inter-Plastics).
 - d. Presentation and continued discussion of Residential Rental Licensing and Inspection program.
 - e. Discussion regarding Fence Regulations for 1202 S. 7th Avenue.
 - f. Recommend approval of a Minor Change to a PUD Preliminary Plan-Corporate Reserve Lot 5.
 - g. Presentation of a Concept Plan for the Corporate Reserve Development (Multi-Family Residential and Mixed Use).
 - h. Update on the Comprehensive Plan Project-Information only.
- 3. ADDITIONAL BUSINESS**
- 4. ADJOURNMENT**



**MINUTES
CITY OF ST. CHARLES, IL
PLANNING AND DEVELOPMENT COMMITTEE
MONDAY, NOVEMBER 14, 2011 7:00 P.M.**

Members Present: Chairman Carrignan, Ald. Stellato, Monken, Payleitner, Turner, Rogina, Martin, Krieger, Lewis, Bessner

Members Absent: None

Others Present: Mayor Donald P. DeWitte; Brian Townsend, City Administrator; Bob Vann, Building and Code Enforcement Manager; Rita Tungare, Director of Community Development; Matthew O'Rourke, Planner; Russell Colby, Planning Division Manager; Police Chief Lamkin; Robin Jones, City Attorney; Chris Tiedt, Development Engineering Division Manager; Rob Surratt, Code Enforcement Officer.

1. Call to Order

The meeting was convened by Chairman Carrignan at 7:00 pm.

2. COMMUNITY DEVELOPMENT

- a. Recommend approval of a Special Use for a Daycare Center on Lot 2 of the Tyler & Rt. 64 PUD (Children of America).**

Mr. O'Rourke reviewed the staff report dated 11/4/11 and stated staff recommended approval.

Jan Dangles-business owner at 716 Oak St. and 1713 Howard St. (Bridges Montessori)-Ms. Dangles stated she has two businesses in St. Charles that are celebrating their 20th year. She said enrollment has been down and she is struggling. Ms. Dangles stated three years ago she had 191 kids and this year only 94. She named a list of schools to which her business is losing enrollment and stated it is not because of the quality of education but because of the influx of preschools in the area and the economy. Ms. Dangles said her business tries to accommodate struggling people and her reputation is immaculate and that after celebrating 20 years, it is frustrating to hear that another 10,000 sf. preschool is being considered in the area. She asked the Committee to please think about this and please do not put her out of business.

Ann Grieves-38W109 Tanglewood Dr., Batavia, IL. Ms. Grieves said she has worked at Bridges Academy with Jan for 20 years and that their standards are equal to none, from 3-year olds to 5th grade. Last year only 15 children graduated from their 5th grade and now preschool is dwindling and they must keep it going with a lot of creativity. She asked for the Committee to please think this through.

Anisa Ali-200 N. Tyler Rd.-Goddard School-Ms. Ali stated she submitted an informational packet to Chairman Carrignan, Aldr. Rogina and Mr. Aiston in regard to Children of America not having a very good performance record with DCFS (Dept. of Children and Family Services).

She stated all children care facilities must be licensed by DCFS and submitted 17 pages that list out licensing violations, and many are recurring, in regard to maintaining the facility or providing a safe comfortable environment; teachers that are competent and contribute to the child's physical, intellectual, personal and emotional well-being; and not maintaining child/teacher ratios. Ms. Ali stated her two concerns, one being in order to approve this land use change, there has to be no effect or negative impact on the general welfare, and that the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, comfort or general welfare. Chairman Carrignan clarified that Ms. Ali is speaking of #5 on the establishment of finding and facts for a special use. Ms. Ali said that is correct, she said she strongly believes that Children of America is corporately owned and there is history in Illinois of a proven track record of not being that strong and that was submitted into evidence. She also said that there are over 20 preschool/child care facilities in the immediate area and she has spoken to about 75% of them and enrollment is ranging from less than 50% up to approximately on the high side 80% and nobody is close to full and this additional facility is going to hold about 180 kids, which is a huge facility. Ms. Ali mentioned that in the last meeting that Mr. Rasmussen tried to say that Children of America has a target client tell that is different because they primarily serve families that benefit from the state subsidy program and she said from her research she has found that over half of the facilities in the area also accept the state subsidy program so it is not that there are current families that are not being served by this need.

Aldr. Turner asked if DCFS has imposed any penalties or fines against Children of America. Ms. Ali said none that she can find, but that DCFS gives 30 days to correct the problem. Ms. Ali said that the licensing representative in this area is strict as it should be because of dealing with children and their safety. Aldr. Rogina asked if Ms. Ali had found any violations beyond procedural. Ms. Ali said yes, she then named a whole list of violations which can also be found on a website that was submitted in the information packet that was given to Chairman Carrignan, Aldr. Rogina and Mr. Aiston. Aldr. Rogina asked what the basis is for DCFS documenting charges against a facility. Ms. Ali answered that DCFS is required to do a minimum of one unannounced visit per year to all licensed facilities, which then the licensing representative will observe classrooms, inspect cubbies, look at equipment, observe teacher interaction, make sure there are enough teachers per number of children in each classroom, check to be sure the building and playground are safe for children, as well as insuring a safe environment is being provided, but as far as corporal punishment which would be no supervision and not maintaining ratios. Aldr. Rogina asked if corporal punishment has been witnessed. Ms. Ali stated they must have because the representative can only document it if it was seen. Aldr. Stellato stated that this is sensitive information and that he is not comfortable voting on it at the time.

Chairman Carrignan asked if there is a separation between the special use and the company using the special use. Ms. Jones said she has not researched this situation because she had just become aware of it, but that generally under the Zoning Ordinance there are certain standards that an applicant has to meet to be entitled to the special use, and if in fact those standards are met and you make those findings, the applicant is entitled to the special use. If the City finds that standards have been met, you have no discretion in that area. She said in regard to daycare centers you have even less discretion, as they are subject to comprehensive state wide regulations, hence the reference to DCFS, and if in fact a facility is licensed by DCFS there is case law that the municipality cannot use its Zoning Ordinance to frustrate the regulation of DCFS. Ms. Jones feels that it would be difficult to turn down a special use application especially

in the case that all standards are met. Chairman Carrignan asked if the building has to be set up before the license is obtained. Ms. Jones said yes.

Aldr. Payleitner asked if the charges were brought up against corporate or a specific facility. Ms. Ali said she did the search on the DCFS site for Children of America schools and South Elgin, Flossmoor, North Aurora and Oswego came up. Aldr. Lewis asked to hear the explanation on the difference between a daycare and a preschool. Ms. Ali said Goddard, technically licensing would call them a daycare, and personally she does not use that because they educate the kids while in their care, she said she does not know enough about Children of America's curriculum to know if it they consider themselves a daycare or a preschool but that it falls under the same licensing. Aldr. Turner asked if DCFS has ever revoked one of Children of America licenses. Ms. Ali said not that she is aware of but in order for that to happen there would unfortunately have to be a fatality.

Vanessa Bell-LaSota, 1610 Howard Street, stated that in light of what Jan Dangles said, in support of that, if corporate entities come into our community and put people like Jan out of business, she is more than just a school, she is an asset to the community, supports the neighborhood watch and opened her school doors to many community groups. She feels that bringing in new businesses may bring harm to those already in the community running businesses.

Bob Rasmussen, applicant and owner of the site, said he does not want to get into childcare because it's not his expertise, but he had rebuttal against some thoughts, and said it needs to be understood that every daycare facility has DCFS studies. He said he pulled up the information on the Goddard School and they have the exact same findings, the specific claims are dependent on each situation and each school. He said in searching under four different Goddard Schools he found they all have 14-17 different DCFS concerns/violations. He said he feels we should not be dwelling on Children of America's ability to manage a business that they are very successful at. He said he feels that when looking at a business that wants to come to our town, a company like this would not look at this particular site if they did not feel there was a need and a market for their services. He said he feels bringing in a company who has a new vision on caring for children, he doesn't feel it can hurt us. He feels this is great company, and that we shouldn't dwell on specific documentation from a DCFS inspection that happens at every single daycare facility. He said it is wrong, it's illegal and it can't be done. He also stated a segment of their business is children of under privileged income. Those parents and families come to daycare with Government Subsidies and there are other schools that do it in the area, but this is another added benefit they feel can help our market place. Mr. Rasmussen said as a developer he wants to go to the findings of fact and the special use he is asking for. He said he feels in all aspects he has met his obligation as ownership to ask for this request for approval of the Children of America special use.

Aldr. Rogina said he appreciates that as a developer and a builder, but what bothered him was that a representative of Children of America has not once been here. Chairman Carrignan said there are a couple of significant issues, one being a Special Use is effectively a permitted use unless named not so and that this is more of an administrative process than a legislative process, and another thing to consider is Ms. Jones' point in regard to the City having less control over a Daycare Center due to DCFS regulations. Chairman Carrignan then went back to the Committee and asked if they had any questions and if they would like to vote.

Aldr. Bessner agreed with Aldr. Rogina in regard to Children of America needing to have some representation for the Committee to ask questions to and address the allegations. Aldr. Stellato said there is a reason this is a Special Use and that we are given the opportunity to look at the Special Use and the particular circumstances involved, and in this case, he stated he is concerned and wants more information.

Aldr. Turner made the motion to continue discussion to the December 12, 2011 Planning and Development meeting. The motion was seconded.

Chairman Carrigan asked Mr. Rasmussen if it would be possible to have a representative from Children of America at the December 12th meeting and if not they would roll the discussion to January's Planning and Development meeting.

Voice Vote:

Ayes: Stellato, Monken, Payleitner, Turner, Rogina, Martin, Krieger, Bessner, Lewis

Nays: None

Absent: None

Motion Carried.

b. Recommend approval of a Minor Change to a PUD Preliminary Plan-Charlestowne Mall PUD (Savers).

Mr. O'Rourke reviewed the staff report dated 11/4/11 and stated staff recommended approval.

A motion was made, seconded and passed by unanimous vote to recommend approval of the Minor Change to PUD Preliminary Plan-Charlestowne Mall (Savers).

c. Recommend approval of a Special Use for a Recycling Center at 3655 Illinois Ave. (Inter-Plastics).

Mr. O'Rourke reviewed the staff report dated 11/4/11 and stated staff recommended approval.

A motion was made, seconded and passed by unanimous vote to recommend approval of a Special Use for a Recycling Center at 3655 Illinois Ave. (Inter-Plastics).

d. Presentation and continued discussion of Residential Rental Licensing and Inspection program.

Ald. Stellato recused himself from discussion as the company he is employed with does own residential properties within the community and therefore has a conflict of interest.

Ms. Tungare stated that based on the discussion and Committee's direction back in September that 2 additional pieces of information have been added to the packet: One is an opinion from legal counsel on some legislation that has been passed in this regard and that Ms. Jones was there to speak for that, and also a staff memo presenting 4 options for consideration. Ms. Tungare briefly summarized the 4 options.

Chairman Carrignan asked a question in regard to state statute and our crime free addendum Ordinance and what the impact is. Ms. Jones said her letter indicates that the state statute is somewhat different than the crime free lease addendum. The addendum is more broad as far as the activities, the State Statute references acts that would constitute a felony or class A misdemeanor, and that the addendum is supplementary to the state statute. Chairman Carrignan said it's his understanding that the state doesn't compel removing someone after a felony. Ms. Robins said that's correct and that both documents would give the landlord the right but it does not force them to do that. Aldr. Rogina asked if a tenant commits a felony and a landlord did not want to remove them, that the City has no authority. Ms. Jones stated that is correct, the landlord would have to do it himself or assigned his right for the City to do that. Aldr. Rogina asked if the crime free addendum to a lease would require us to license landlords. Ms. Jones said its part of the entire licensing Ordinance but it depends on what the final Ordinance looks like but that is one element this is currently written and that the landlord would have to attach the addendum to the lease, and that's actually in the state statute also although even if the landlord does not attach it and is state statute they can still exercise their rights under the state statute.

Aldr. Rogina had a question in regard to the revised Nuisance Abatement Ordinance being revised adding more teeth to the Ordinance in regard to offenses being committed. Chief Lamkin replied that he added 2 parts relating to the property code. Aldr. Rogina asked if that applied to any property owner including landlords, tenants and also home owners. Chief Lamkin said that is correct. Aldr. Rogina asked if under the Nuisance violations if the City could take action against a homeowner. Chief Lamkin answered that if the Ordinance itself were used, a civil action would have to be filed and used as a mechanism in court, to have the court impose some sort of a sanction. Aldr. Rogina asked if the Ordinance itself defines a civil penalty of some sort, monetarily for a violation. Chief Lamkin said at the end of the nuisance abatement ordinance are some sanctions having to do with fines or if a property was ordered to be vacated by the court it could be held to stay empty and the City would have to choose to take the civil action to do that.

Chairman Carrignan briefly went over the 4 program options presented for consideration. Aldr. Martin said he felt that option #1 was too strong, but that #3 would be the least pervasive on the landlord and property owners and still give us the opportunity to monitor. Aldr. Turner said he agrees with Aldr. Martin that option #3 is good because of complaints he has gotten in regard to appearances in the neighborhoods and this option allows monitoring of that. Aldr. Krieger also agrees on option #3 but asked if there are a number of complaints for a particular unit maybe about Life Safety, would the City then have the option to go in and inspect the unit if problems are suspected. Mr. Tungare said if it is not made part of the program the City would have to seek an administrative search warrant. Mr. Vann offered that with the owner's consent, they have been able to access units. Aldr. Bessner stated he like option #1 because he feels there's an opportunity right now to look at multi-unit dwellings, but his concern is if the City would end up in lengthy court battles and how intrusive the inspections would be. Aldr. Payleitner said she the purpose is to make sure that these buildings are good neighbors and to help cut down on crime and she feels option #3 does that without being too intrusive. Aldr. Rogina commended staff for putting together the options, but he still thinks there should be a landlord forum and that he would probably like to see option #4 used.

Kim Malay-526 S. 16th Street-thanked the Committee for considering option #3 versus 1 or 2 because she feels those are very intrusive to the landlords. Ms. Malay asked about background

checks and wanted to know if they will they be addressed in the Ordinance and she feels if not they should be seriously looked into. Chief Lamkin said some of the crime free housing training offers places to go for background checks, but he said they are not allowed to do that, they are prohibited by state and federal law to use their automated systems for criminal background checks for a private entity; it's the responsibility of the landlord. Ms. Malay said she feels it's very important to get landlords input on this to hear their ideas because a lot of them have great suggestions that could make the Ordinance that much better. Chairman Carrignan said that is why we have public forums. Ms. Malay said she feels just one meeting with a group of landlords and staff to go through this, she said she knows a few of the landlords have attempted to contact staff and not gotten too far and she requests that and really feels a better job can be done on the Ordinance with the landlords input.

Craig Bobowiec-508 Cedar St.-said on Sept. 19th he sent an email out and had heard back from Aldr. Martin and Lewis. He asked a question in regard to the background check being illegal, but he said he is confused because the State police will do them, he then recommend the City work with the State police to do background checks. Chief Lamkin said it's no different than what the City uses for liquor licenses and that the LEAD system cannot be used for that because it's illegal. Mr. Bobowiec suggested contracting the State police, the City then brands the program and charges the tenant a fee to go to the police dept. to fill out the background check and then pay the State police to run the check with the city being the middle man to be sure it's done properly. He said the State police website says a professional criminals and conmen know how to get around background checks, he said for a laymen like himself, even though he has been doing this for 30years that the police dept. are the professionals. Chief Lamkin said the State police do a fingerprint check but said to the Committee that the cost to do that has not been factored into the programs as far as what it would take to do that and that their records division is not staffed to handle that extra workload to do background check on every renter in the City. Mr. Bobowiec submitted his ideas to the Committee to explain how it would pay for itself. He said the State police do 2 types both the finger print and a typical background check. Chairmen Carrignan said at the end of the day the cost will be on the landlord or the renter. Mr. Bobowiec said in his submittal he explains that if landlords are going to be taught to charge someone \$40.00 to do this with renters who are on limited incomes, but if they could go to the City and pay one \$40.00 fee and then runs there background check through the State police then the City could issue each applicant 4 or 5 certified copies. Chairmen Carrignan said we only have so much manpower and only so much money. Mr. Bobowiec said in doing 500 background checks and charging \$40.00 each that \$20,000.00 and that would be enough to hire 1 part time employee; he feels this is much cheaper than what the City is proposing. He said if someone wanted to rent from him that has a warrant and knows there is a mandatory background check by the State police they wouldn't even bother trying to rent in the City and this is the way to keep the riffraff out. He said it would give renting families piece of mind knowing that everyone in a complex has had a background check, he said he feels there is no downside to this except to people who have something to hide. He then said he would appreciate a round table for landlords to discuss it.

Kristen Jungles on behalf of the Realtors Association of Foxvalley at 433 Williamsburg-Geneva said she appreciates the time staff had taken to pull together options 1-4 and that local realtors are in support of option #4 that does not include inspections, she said she work with a number of municipalities in the area to help write crime free housing proposal so they know once it is implemented it does work for the community. She said as mentioned in earlier emails to staff

and she appreciates the suggestion to meet with landlords and that the real estate community would like to be included should there be a meeting of that type. She said should the Committee decide to go with an option that requires inspections they ask that in the Ordinance there be certain triggers such as: delinquency of taxes, calls from neighbors, calls from tenants and police calls so there are specifics to generate an inspection. Ms. Jungles said the Realtors Assoc. also has a number of suggestions for the Ordinance as it's presented in regard to definition of the owner including those that advertise which includes the entire real estate community, but that she would email those to staff. She said she knows the purpose of the Ordinance is to look at the crime aspect and the property values in the neighborhood but to not necessarily have each one of their members to participate in the crime free housing. Ms. Jungles had a question and asked if there were any consideration in regard to a police report and whether or not the report included if we are looking at multi-family or single-family. Chairman Carrignan said right now it's on the table as both rental, single and multi-family and that part of the licensing process is the training even for a single family type of unit. Ms. Jungles asked if had been identified which municipalities would be accepted for crime free housing education that have already been taken by owners.

Chairman Carrignan said as we look at the options we would probably address that as we move forward and see which other communities have done that successfully. Ms. Jungles said ok and that the Realtors Assoc. would look forward then to a date to be at the table to assist in drafting the Ordinance.

Aldr. Lewis asked if the City would consider starting with one of the lower option for a couple years and then if need be move to a higher option. Chairman Carrignan said yes that always an option to establish a base line to move up or down and 3 years seems to be the popular choice for now, but that there should be a time table established to come back and review it. Aldr. Rogina stated he was not ready to vote that evening on any option and he needed more input but that he is also not interested in letting this delay for months to come.

Aldr. Martin moved to direct staff to proceed with option #3. Aldr. Krieger seconded the motion.

Aldr. Rogina questioned if this was a vote and if it passed was it a recommendation to Council to adopt option #3. Chairman Carrignan said no this is telling staff that option #3 is what Committee is interested in looking at and staff will then come back with some sort of an Ordinance. Aldr. Rogina asked if the motion would guarantee a meeting of the landlords. Aldr. Martin said that was not necessary as he felt it's a public meeting and an appropriate forum for future discussion.

Voice Vote:

Ayes: Stellato, Monken, Payleitner, Turner, Martin, Krieger, Bessner, Lewis

Nays: Rogina

Absent:

Motion Carried.

Chairman Carrignan stated that this item would be coming back to Planning and Development in the next couple months, possibly January.

Mr. Townsend said that in regard to the landlords round table he didn't feel it was necessary and that the City staff is very available and open for comments via email, phone and also one on one discussions, and that staff would begin to draft an Ordinance without creating any type of a landlords taskforce or round table discussion.

Aldr. Stellato rejoined the Committee.

e. Discussion regarding Fence Regulations for 1202 S. 7th Avenue.

Chairman Carrignan said since Mr. Kage was not present to strike the item from the Agenda.

f. Recommend approval of a Minor Change to a PUD Preliminary Plan-Corporate Reserve Lot 5.

Mr. O'Rourke reviewed the staff report dated 11/4/11 and stated staff recommended approval.

Aldr. Turner moved for approval subject to the satisfaction of staff comments. The motion was seconded and approved by unanimous vote to recommend approval of a Minor Change to a PUD Preliminary Plan-Corporate Reserve Lot 5.

Chairman Carrignan called for a 4 minute break.

g. Presentation of a Concept Plan for the Corporate Reserve Development (Multi-Family Residential and Mixed Use).

Chairman Carrignan explained the ground rules for the Concept Plan process.

Mr. O'Rourke reviewed the staff memo dated 11/4/11 and pointed out that the last section called out specific items to consider that staff is looking for feedback on.

Henry Stillwell-Attorney representing JCF Real Estate-said what they are looking for is to amend the PUD that was approved by the City in 2008. He said the amendment they are looking for is to address some of the market changes that are taking place to make this a viable project going forward. He noted that the project already has some infrastructure in place.

Paul Robertson-JCF Real Estate-presented a PowerPoint presentation discussing the current condition of the property in regard to zoning and infrastructure.

Terry Smith- BSB Design- presented a PowerPoint presentation regarding the Site Plan for the multi-family aspect and how the vision was acquired. He drew attention to the community's amenities that would be offered for the proposed plan.

Joe Safin-BSB Design-presented a PowerPoint presentation discussing the Architectural Character of the proposed plan.

Aldr. Bessner asked for an explanation regarding the pedestrian and automobile flow of traffic. Mr. Smith said the turnabout in the center is more of an organizational element but that the intent is to have a simple loop street that facilitates traffic movement. He also said he sees potential for

another emergency access point off of Woodward Dr. He said for the east side of the site, there would be an east and west bound street that would link the roundabout to an existing curb cut off of Cardinal Drive, which is the north/south drive that serves lots 5 and 6, so there would be a connection into the site. Mr. Smith said they are trying to afford as many additional access points as possible yet at the same time keeping the circulation somewhat simple. Aldr. Bessner asked if someone going to the far northwest corner, is the vision to go straight up and to the left. He said he is trying to see what type of pattern may form. Mr. Smith said one could go around the roundabout and head north or go left as you come through the roundabout and go toward the 4-story building facing south. He said all streets are 2-way and there will be 90 degree angle parking. Aldr Bessner asked if each building will have sufficient parking for all tenants living there. Mr. Smith said there are only a certain number of garage spaces, the ratio is about 40% in communities like this, and he said he thought the Ordinance requirement was 1.7 spaces per unit. Aldr. Bessner asked if removing the parking to the north and south of the proposed pocket park was possible. Mr. Smith said that is included in the calculations.

Aldr. Krieger asked if the roundabout would accommodate emergency vehicles including fire trucks and all equipment. Mr. Smith said yes everything will be compatible to the movement of emergency vehicles. Aldr. Krieger asked if there is only the one small park area. Mr. Smith said presently yes, but that this concept plan is a work in progress and as it moves forward he feels the idea would be to work in more pedestrian connections and more green spaces. Aldr. Krieger said she would like to see more parks for families.

Aldr. Stellato asked a question about the 66 ft. set-back in regard to the Nicor right of way. Mr. Smith said yes the Nicor set-back is actually off of the property and it shows a set-back of about 40 ft. from the property line to the first building. Aldr. Stellato asked questions leading up to trying to figure out the size of the buildings in regard to calculation for the schools. Mr. Smith said they are considering just a portion of the two entryway buildings, possibly each corner, as commercial and possibly the units in the middle being residential.

Aldr. Rogina asked about pricing structure from smallest to the largest units. Mr. Smith in general it would be a range of price per square foot. Mr. Stillwell said that this is still in the concept plan stages and they weren't at the point to put dollar amounts out there at this time. Aldr. Turner asked how this plan, 3-4 months ago, went from 244 units to 344 units. Mr. Smith said at the time, with 244 units they weren't showing the entire parcel build out. Aldr. Turner said so in other words we are adding buildings. Mr. Smith said they are just representing what the entire building might be if the three buildings were added. Aldr. Turner asked if the plan may have 3 buildings in the future or is this the plan to put the 3 buildings in at the present time. Mr. Smith said whatever they do has to be marketable. Mr. Stillwell said this will be a phased a project. Aldr. Turner said if this does go forward he would like to request a phasing to get a better idea of how all this would come about at 1 or 3 buildings at a time. Mr. Smith said he cannot say at this point how many building would be in each phase, but it would be a phased development.

Aldr. Rogina said in the staff report labeled "con" under surrounding residential density in regard to Remington and East Regency, the density of these two developments are lower. He wanted to know as far as some of the other larger complexes in town, what is the ratio of units to acre. Mr. O'Rourke said he did not have that information with him, that they just wanted to show

comparison for the surrounding area. Ms. Tungare said the Zoning Ordinance RM-3 district, which is the most dense, allows 20 dwelling units per acre.

Chairman Carrignan asked for clarification on the total build out number. Mr. Smith said it will be a range and they are not certain at this time of an exact amount. Chairman Carrignan asked if they will be private or public streets. Mr. Smith said typically in a development like this all streets are private and managed and maintained under one entity. Chairman Carrignan asked about height and the PUD allowing 60ft., will there be a need for a Special Use amendment for the height. Mr. O'Rourke said the proposal is within the height limit but it's based on the OR zoning district, which allows 60 ft. Chairman Carrignan said the 60ft. that's there now is it from the zoning side or PUD. Mr. O'Rourke said it's incorporated into the PUD but the underlying zoning allows the 60ft. as well. Chairman Carrignan asked if the site is 22 acres or 17. Mr. Smith said the entire parcel of lot 8 is 22 acres and included in that is the detention area to the north. Chairman Carrignan asked if the north detention picks up all detention for the site. Mr. Smith said there is a combination of the 3 or 4 detention basins serving the entire site. Chairman Carrignan said detention to the south and west, is there a way to avoid detention on Route 64. Mr. Robertson said the detention ponds along Route 64 are already in place, but from an Engineering perspective the property had four quadrants and we had to respect the natural flow, so four ponds were put in the four corners to be consistent.

Chairman Carrignan asked about the Affordable Housing issues relative to density bonuses. Mr. Stillwell said it's recognized that it's currently required and it's something that has to be looked at as the project goes into a more detailed examination, but there have not been any density bonuses sought based upon the calculations at this point.

Aldr. Lewis asked what constitutes a luxury apartment. Mr. Smith said he feels its provision of a certain amount of amenities, the garage parking, the layout of the unit, the materials used, the landscape and hardscape used on site. Mr. Safin said when referring to luxury it tends to get more from the size standpoint and right now our units would average in the 925-950 sq. ft., which is typical, and would be considered a class A community with a club, nice kitchens, nice master baths. Mr. Safin said he considers luxury apartments more on the side of the 3 bedroom range which they will not have; he said they offer studio, 1 bedroom and 2 bedroom units. Aldr. Rogina asked what the largest unit would be. Mr. Safin said the 2 bedroom would be in the 1050-1100 sq. range.

Aldr. Stellato asked a question regarding the height issue. Mr. Smith said the site is relatively flat but that it does slightly slope up on the west property line, so the grade is somewhat higher. Mr. Safin said they could be very careful of the 60ft. limit. Aldr. Stellato said that would be good due to the neighboring communities to the south being shorter.

Jim Stevenson-1031 Ash St.-said in regard to this project being a phased development, that he has lived in the City a long time and has seen phased developments fail and then become eye sores. He asked what type of financing had been secured for phase I. Mr. Stillwell said that was a premature question and they are not prepared to go into discussion seeing as though this is only the concept plan stage. Chairman Carrignan again went through the process of how the proposal of a new development plan process works starting with the Concept Plan. Mr. Stevenson said he understands, but his concern is as a member of the community, that people that develop these types of developments have the financial wherewithal to not only initiate them, which they

always do, but actually complete them on the scheduled time frame, and noted that the concept plan has already changed since 2008. Chairman Carrignan said nothing has changed and we are sitting talking about possible changes, and that the world has changed a lot since 2008 due to a recession and he feels this project is worthy of discussion.

Marian Siritella-Remington Glen- stated her building is directly west of the detention pond, which is much higher than what is being expressed to the Committee. She is concerned the proposed building will tower over her building. She also said in regard to change that has come upon us, that their development has not been completed and commented on overloading the streets and schools.

Roger Burrell- 285 Remington Drive-said in regard to 342 units and 51 of those being affordable housing, and now that there is a proposed 407 units, he wanted to know if that will change the ratio for affordable housing. Chairman Carrignan said when affordable housing comes about, there is a density bonus that is involved, he asked if the 407 units includes affordable. Mr. Stillwell said the 407 units are unrelated to the affordable issue and there is no density bonus because it's too conceptual at this point. Roger Burrell asked if the 4 story buildings had to meet any ADA requirements. Mr. Smith said that's the law, so yes, but that the 3 story buildings do not need elevators. Mr. Burrell asked what the pocket parks consist of. Mr. Smith said it's a small gathering area with trees and grass with no recreational area but possibly benches. Mr. Burrell asked with all the parking spaces, where the snow would be shoveled to. Mr. Smith said from the curb line there is a 5ft. grass strip before the sidewalk and being that they are private streets it would not be handled by the city but privately. Mr. Burrell asked for the size of the club building and swimming pool area. Mr. Smith said somewhere in the area of 5,000 sf.

Mr. Burrell made a comment in regard to traffic patterns and feels that if this project moves forward, to work with the state to open up and put a stop light at Woodward crossing over Randall Rd. He said he is very concerned about the density of the project and feels the way the roads are laid out, and parking set-up, that it looks like a typical apartment complex and he feels the community deserves better and the city could find a better use for the property. He also feels the property needs more green space if the project goes through because otherwise it is going to look like a supermarket parking lot.

Claudia Stewart- 223Remington Drive-asked for clarification for the ratio of number of units to acreage and wanted to know if the ratio is based on acreage without the ponds. Mr. O'Rourke said it does not include the ponds. Ms. Stewart asked what type of market the elevator versus walk up units will appeal to because she feels walk up units and the size of the units will call more for a younger clientele, so she said has concerns about what type of market this will appeal to and who will be drawn in. Her overall concern is Remington is not even fully developed and that having apartments back up to the property will not be conducive to want to purchase property at Remington Glen.

Vanessa Bell-Lasota-1610 Howard St.-asked if the developer is aware that the community has been waiting for a traffic signal for over 10 years at Oak Street. She mentioned to the developer of possible proposals for the old St. Charles mall site and Lexington PUD and asked them to consider these other developments that could potentially be rental developments. Chairman Carrignan asked if Ms. Bell-Lasota knew something they didn't about the old mall site. Ms. Bell-Lasota said well someday, lets hold on to that hope. She asked if the developer was aware

of the Lexington PUD and she feels this is not the time to add new families into the school district. She suggested considering the east side where there is a lag in the economy and the schools are more vacant.

Kim Malay-516 S 16th St.-commented on the staff memo in regard to 3,400-3,500 units in town right now and there are many vacancies. She wanted to know if there is really a demand for them, and to look 20-30 years down the road with these complexes and homeowners ending up living right next to them. She would hate to see this happen on that side of town as well. She asked the Committee to really question if this is the best use even though yes times are tough right but, but is it worth settling for this type of development versus something that can really benefit down the road.

Chairman Carrigan polled the Committee for comments on the concept plan.

Aldr. Stellato said he likes the design and architecture and colors, but his concern is the height and the set-backs and he would like to see an intense market study.

Aldr. Monken said he agrees with Aldr. Stellato regarding the height and density and it really comes down to the marketability.

Aldr. Payleitner said she also likes the architecture and she feels it could add to the community and she is not sure why it's a conflict of rental versus buying. She is not sure where the competition is there. She said she feels it's much nicer than a bunch of office buildings.

Aldr. Lewis said she also likes the design but that it is a bit dense and she would like to see more open space. She said she did some research on her own and called a luxury apartment complex on the east side of town and was told they have 90.5% occupancy out of 400 units and that its down for them, they are usually at 94.5%, and most tenants are adults and not many children. They said the reason people are breaking leases is because they are buying houses. Ms. Lewis said she would need to think about this but definitely would like to see this proposed complex smaller and more open space.

Aldr. Bessner said he likes the architecture and entry way. His concerns are with the hard scape and feels it needs more green space, he is also concerned with the height of any building that would be close enough to some surrounding residential areas, with a towering effect. He would like a better handle on exactly how many units we are talking about.

Aldr. Krieger said her concerns are building height, density, traffic, needs more park space, and the number of unfinished projects that have been abandoned. Ms. Krieger also noted that Lincoln School on the east side is full.

Aldr. Martin said he would prefer to see single family but reality has set in and the only direction the housing market is going at this time is the rental units. He said he feels this is a desired land use and is acceptable but he would like to see the density reduced by half. The mixed use buildings are acceptable but would like to see lower heights due to the towering impact on neighboring developments. He said he likes the architecture very much and advises the applicant to proceed and consider all that was heard today and to see them back again soon.

Aldr. Rogina said he doesn't feel that area should sit as office space given the time lag and the recession. He said we need to look for quality opportunities to expand our tax base and he agrees that rentals are a hot market and respects the developer. His concerns are open space, density issue, height issue, traffic concerns, and even though this is just conceptual, he feels less density would be best in regard to the affordable housing ratio. Aldr. Rogina doesn't feel the enrollment in schools will be an issue. He feels this should absolutely move forward but with many of the considerations discussed.

Aldr. Turner said he is pleased to get rid of the office space because it's not needed. He is very concerned about the density but feels with 244 units in the original plan, that all of the concerns would go away, density would be down, and the green space comes back. The project should forego affordable housing as he feels no more is needed in the city and he feels it's dragging down the city at this point. He asked the developer to take all things into consideration and to move forward with it.

Chairman Carrigan said he likes the urban architecture but his perception is that people move west to have a less urban environment. He disagrees with a number of members of the committee relative to the office component, this is the last piece of OR Office Research property in town and this will take away the option to take more tax revenue into the town. He feels this is something that really needs to be thought about. He feels the height is a huge issue, he said he would expect nothing higher than 60ft. He would like to see less asphalt. He feels in regard to traffic that it will be really difficult to get a light at Route 64 and he feels if this goes further that a traffic study will be needed.

h. Update on the Comprehensive Plan Project-Information only.

Mr. Colby gave a brief update on the Comprehensive Plan Project.

3. ADDITIONAL BUSINESS-None.

4. ADJOURNMENT-The meeting adjourned at 9:35 p.m.

AGENDA
ST. CHARLES CITY COUNCIL MEETING
DONALD P. DEWITTE, MAYOR

MONDAY, NOVEMBER 21, 2011 – 7:00 P.M.
CITY COUNCIL CHAMBERS
2 E. MAIN STREET

1. **Call to Order.**
2. **Roll Call.**
3. **Invocation.**
4. **Pledge of Allegiance.**
5. **Presentation:** Fire Department's Citizen Award presented to Pastor Jeff Fricke of the Bethlehem Lutheran Church – Chief Mullen
6. **Omnibus Vote. Items with an asterisk (*)** are considered to be routine matters and will be enacted by one motion. There will be no separate discussion on these items unless a council member/citizen's requests, in which event the item will be removed from the consent agenda and considered in normal sequence on the agenda.
- *7. Motion to accept and place on files minutes of the regular City Council meeting held on November 7, 2011.
- *8. Motion to approve and authorize issuance of vouchers from the Expenditure Approval List as of November 17, 2011 in the amount of \$1,819,711.40 and the Hand-Issued List of November 17, 2011 in the amount of \$597.85.

I. New Business

- A. Motion to approve a Resolution Authorizing the Mayor and City Clerk of the City of St. Charles to Execute an Intergovernmental Agreement – Sale of Vehicles to the Village of Robbins, Illinois.
- B. Motion to approve an Ordinance Authorizing the Sale of Personal Property Owned by the City of St. Charles (dump truck with plow and Ford F450 pickup truck with plow).

II. Committee Reports

A. Government Operations

- *1. Motion to accept and place on file the minutes of the November 7, 2011 Government Operations Committee Meeting.
2. Motion to approve a Class B1 liquor license for Poblano Peppers Grill Restaurant to be located at 3677 E Main Street, St. Charles.
- *3. Motion to approve Change Order No. 1 for the IL Route 25 resurfacing project in an amount not to exceed \$27,442.11.
- *4. Motion to waive the bid procedure and purchase replacement squad car laptops for the Police Department from CDS Office Technologies.
- *5. Motion to approve an **Ordinance** Amending the Municipal Code of the City of St. Charles – Title 9 “Public Peace, Morals, and Welfare” – adding a new Chapter 9.49 “Synthetic Alternative Drugs.”
- *6. Motion to approve a **Resolution** Authorizing the Mayor and City Clerk of the City of St. Charles to Execute an Agreement – JDB Investment Group LLC (Hotel Baker).
- *7. Motion to approve the estimated 2011 Property Tax Levy in the amount of \$21,765,031.
- *8. Motion to approve authorization for the Finance Director to execute the risk insurance program renewal.

B. Government Services

None.

C. Planning and Development

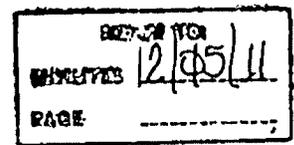
- *1. Motion to approve an **Ordinance** Granting a Minor Change to a PUD Preliminary Plan for Charlestowne Mall PUD Lot 1 of Charwil’s Second Resubdivision of Charlestowne Centre Mall (Savers, Inc.).
- *2. Motion to accept and place on file Plan Commission Resolution No. 20-2011 A Resolution Recommending Approval of a Special Use for a Recycling Center at 3655 Illinois Avenue.
- *3. Motion to approve an **Ordinance** Granting a Special Use for a Recycling Center at 3655 Illinois Avenue (Inter-Plastics).
- *4. Motion to approve an **Ordinance** Granting a Minor Change to a PUD Preliminary Plan Corporate Reserve PUD Lot 5.
5. Motion to direct city staff and legal counsel to proceed with development of a rental licensing program that consists of licensing, crime-free lease addendum, training, and exterior inspections.

D. Executive Session

- Personnel
- Pending Litigation
- Probable or Imminent Litigation
- Property Acquisition
- Collective Bargaining

E. Additional Items from Mayor, Council, Staff, or Citizens

F. Adjournment



**MINUTES FROM THE MEETING OF THE ST. CHARLES CITY COUNCIL
HELD ON MONDAY, NOVEMBER 21, 2011 – 7:00 P.M.
CITY COUNCIL CHAMBERS, IN THE CITY COUNCIL CHAMBERS
2 E. MAIN STREET ST. CHARLES, IL 60174**

1. **Call To Order By Mayor Donald DeWitte At 7:01 P.M.**
2. **Roll Call.**
Present: Stellato, Monken, Carrignan, Payleitner,
Turner, Rogina, Martin, Krieger, Bessner, Lewis
Absent: None
3. **Invocation Alder. Payleitner.**
4. **Pledge of Allegiance**
- 5A. **Presentation: Fire Department's Citizen Award presented to Pastor Jeff Fricke of the Bethlehem Lutheran Church – Chief Mullen**
- 5B. **Motion by Carrignan, seconded by Turner to add a proclamation to the agenda.**
VOICE VOTE UNANIMOUS MOTION CARRIED
- 5C. **Mayor DeWitte read the document proclaiming Friday, November 25, 2011 as Salvation Army Red Kettle campaign beginning day in the City of St. Charles. The proclamation was presented to Major Miller.**
6. **Motion by Martin, seconded by Krieger to approve the Omnibus Vote as presented.**
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED
- *7. **Motion by Martin, seconded by Krieger to accept and place on files minutes of the regular City Council meeting held on November 7, 2011.**
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
- *8. **Motion by Martin, seconded by Krieger to approve and authorize issuance of vouchers from the Expenditure Approval List as of November 17, 2011 in the amount of \$1,819,711.40 and the Hand-Issued List of November 17, 2011 in the amount of \$597.85.**
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis

NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)

I. New Business

- A. Motion by Martin, seconded by Krieger to approve a **Resolution 2011-104** Authorizing the Mayor and City Clerk of the City of St. Charles to Execute an Intergovernmental Agreement – Sale of Vehicles to the Village of Robbins, Illinois.
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED
- B. Motion by Martin, seconded by Krieger to approve an **Ordinance 2011-M-51** Authorizing the Sale of Personal Property Owned by the City of St. Charles (dump truck with plow and Ford F450 pickup truck with plow).
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED

II. Committee Reports

- A. **Government Operations**
- *1. Motion by Martin, seconded by Krieger to accept and place on file the minutes of the November 7, 2011 Government Operations Committee Meeting.
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
2. Motion by Carrignan, seconded by Stellato to approve a Class B1 liquor license for Poblano Peppers Grill Restaurant to be located at 3677 E Main Street, St. Charles.
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Bessner, Lewis
NAY: Martin, Krieger ABSENT:0
MOTION CARRIED
- *3. Motion by Martin, seconded by Krieger to approve Change Order No. 1 for the IL Route 25 resurfacing project in an amount not to exceed \$27,442.11.
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)

- *4. Motion by Martin, seconded by Krieger to waive the bid procedure and purchase replacement squad car laptops for the Police Department from CDS Office Technologies.
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
- *5. Motion by Martin, seconded by Krieger to approve an **Ordinance 2011-M-52** Amending the Municipal Code of the City of St. Charles – Title 9 “Public Peace, Morals, and Welfare” – adding a new Chapter 9.49 “Synthetic Alternative Drugs.”
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
- *6. Motion by Martin, seconded by Krieger to approve a **Resolution 2011-105** Authorizing the Mayor and City Clerk of the City of St. Charles to Execute an Agreement – JDB Investment Group LLC (Hotel Baker).
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
- *7. Motion by Martin, seconded by Krieger to approve the estimated 2011 Property Tax Levy in the amount of \$21,765,031.
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
- *8. Motion by Martin, seconded by Krieger to approve authorization for the Finance Director to execute the risk insurance program renewal.
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
- B. Government Services**
None.
- C. Planning and Development**
- *1. Motion by Martin, seconded by Krieger to approve an **Ordinance 2011-Z-21** Granting a Minor Change to a PUD Preliminary Plan for Charlestowne Mall PUD Lot 1 of Charwil’s Second Resubdivision of Charlestowne Centre Mall (Savers, Inc.).
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner,
Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)

- *2. Motion by Martin, seconded by Krieger to accept and place on file Plan Commission Resolution No. 20-2011 A Resolution Recommending Approval of a Special Use for a Recycling Center at 3655 Illinois Avenue.
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner, Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
- *3. Motion by Martin, seconded by Krieger to approve an **Ordinance 2011-Z-22** Granting a Special Use for a Recycling Center at 3655 Illinois Avenue (Inter-Plastics).
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner, Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
- *4. Motion by Martin, seconded by Krieger to approve an **Ordinance 2011-Z-23** Granting a Minor Change to a PUD Preliminary Plan Corporate Reserve PUD Lot 5.
ROLL CALL VOTE: AYE: Stellato, Monken, Carrignan, Payleitner, Turner, Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
MOTION CARRIED (Omnibus Vote)
5. Motion by Carrignan, seconded by Turner to direct city staff and legal counsel to proceed with development of a rental licensing program that consists of licensing, crime-free lease addendum, training, and exterior inspections.
ROLL CALL VOTE: AYE: Monken, Carrignan, Payleitner, Turner, Rogina, Martin, Krieger, Bessner, Lewis
NAY: 0 ABSENT:0
ABSTAIN: Stellato
MOTION CARRIED

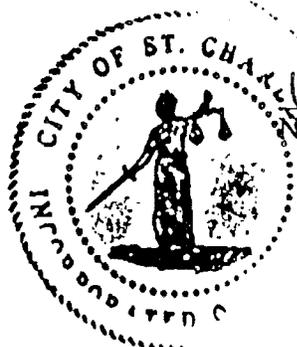
D. No Executive Session

E. Additional Items from Mayor, Council, Staff, or Citizens

- Alder. Carrignan reminded all of the Lighting of the Lights ceremony at 4:45 PM at First Street Plaza on Friday, November 25, 2011 and of the parade on Saturday, November 26, 2011 at 5:30.

F. Adjournment

Motion By Carrignan, Seconded By Monken, To Adjourn Meeting
VOICE VOTE UNANIMOUS MOTION CARRIED
Meeting adjourned at 7:17 P.M.



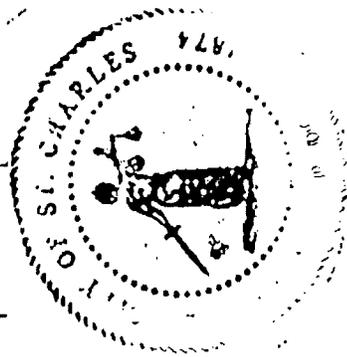
Nancy Garrison
Nancy Garrison, City Clerk

City Council Meeting
November 21, 2011
Page 5

CERTIFIED TO BE A TRUE COPY OF ORIGINAL



Nancy Garrison, City Clerk





50 E. Washington Street, Suite 500,
Chicago, IL 60602

312-263-3830
Fax: 312-263-3846
www.povertylaw.org

Fax

To: Rita Tungare

From: Emily Werth

Fax: 630-377-4062

Pages: 9

Date: 3/8/2012

Re: Comments on Proposed Residential Rental Licensing and
Inspection Program

Urgent For Review Please Comment Please Reply Please Recycle

**SHRIVER
CENTER**

advancing justice and opportunity

Sargent Shriver National Center on Poverty Law

March 8, 2012

City Council Planning and Development Committee
City of St. Charles
2 E. Main Street
St. Charles, IL 60174

RE: Residential Rental Licensing and Inspection Program

Dear Members of the Planning and Development Committee:

The Sargent Shriver National Center on Poverty Law's Housing Justice Unit advocates to preserve affordable housing and to protect the rights of low-income tenants and residents of public and subsidized housing throughout Illinois. It has come to our attention that the City of St. Charles is considering adopting a Residential Rental Licensing ordinance and amending its Chronic Nuisance Property ordinance. As more and more municipalities pursue these sorts of crime free rental housing programs, we have been working to ensure that there is a fair balance between public safety, due process, fair housing, the preservation of affordable housing, and the prevention of homelessness. We therefore wish to provide the Committee with the following comments. We would strongly welcome the opportunity to work with the Committee further to ensure that these concerns are adequately reflected in any new policies adopted by the City of St. Charles.

Protecting the Rights of Victims of Domestic and Sexual Violence and Other Crime Victims

The City must account for the significant possibility that residents of a rental property might be the victim(s) of the criminal activity prohibited by the crime free lease addendum required by the Residential Rental Licensing ordinance and/or by the Chronic Nuisance Property ordinance, as in cases of domestic violence, dating violence, sexual assault, and stalking ("domestic and sexual violence"). Unless the City explicitly incorporates protections for such residents into the municipal code and the crime free lease addendum, the City creates the serious risk that property owners will move to evict crime victims in order to avoid the possibility of penalties such as loss of the residential rental license and/or nuisance abatement remedies when crime has allegedly occurred. Oftentimes this threat of eviction will cause a crime victim to stay in a violent home rather than involve the police and thereby risk homelessness.

In fact, if the City does not take steps to protect the housing rights of victims of domestic and sexual violence it runs the risk of violating Title VIII of the U.S. Civil Rights Act of 1964 ("the Fair Housing Act")¹ and the Illinois Human Rights Act² which both prohibit discrimination in

¹ 42 U.S.C. §§ 3601 *et seq.*

² 775 ILCS 5/1-101 *et seq.*

rental housing on the basis of sex.³ These statutes forbid actions that have either an intentionally discriminatory or an adverse disparate impact on women. In addition, the Illinois Civil Rights Act of 2003 prohibits local governments from “utiliz[ing] criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their... gender.”⁴ Because the overwhelming majority of domestic and sexual violence victims are women,⁵ policies and practices that discriminate against or otherwise adversely affect these victims of violence have an unlawful disparate impact on women.⁶ If the City requires or even simply encourages property owners to evict all residents at a rental property because there has been an incident of domestic or sexual violence, it will run afoul of the rights of these victims to be free from sex discrimination under federal and state law.

Furthermore, if the City were to require a property owner to evict residents of a rental property because of an incident of domestic or sexual violence the City would also be forcing the property owner to improperly pursue an eviction to which the victim of violence has a clear defense under state law. The Illinois General Assembly recently passed important legislation that recognizes the need to protect the housing rights of domestic and sexual violence victims by providing that such victims may not be evicted based on an incident of violence committed against them and giving victims an affirmative defense in eviction actions.⁷

Finally, any City policy that links police intervention with penalties against property owners and/or residents runs the risk of violating the First Amendment of the U.S. Constitution, which guarantees “the right of the people . . . to petition the government for a redress of grievances.” This includes the right to seek law enforcement assistance. Unless the City explicitly ensures that implementation of the Residential Rental Licensing and/or Chronic Nuisance Property ordinances will not lead to the eviction of or otherwise penalize residents who seek assistance from the police (or from other City departments), the City will be unlawfully chilling the exercise of this First Amendment right. Such a chilling effect on crime victims and on others who need to reach out to the police for help or who are coming to the aid of a crime victim will only undermine law enforcement and nuisance prevention in the city.

Protecting the Housing Rights of Innocent Tenants

The City should ensure that enforcement of the Residential Rental Licensing and/or Chronic Nuisance Property ordinances avoids to the greatest extent possible the displacement of innocent tenants of rental property based on the conduct of a single household member, guest, or invitee in

³ The Illinois Human Rights Act also proscribes discrimination on the basis of order of protection status. 775 ILCS 5/1-103(Q). This prohibition may also be implicated if the City’s Residential Rental License and/or Chronic Nuisance Property ordinances do not safeguard the rights of victims of domestic and sexual violence.

⁴ 740 ILCS 23/5(a)(2).

⁵ In 2010, women were more than four times more likely than men to experience intimate partner violence and more than eleven times more likely than men to experience some form of sexual assault. See JENNIFER L. TRUMAN, CRIMINAL VICTIMIZATION, 2010 9-10 (2011), available at <http://www.bjs.gov/content/pub/pdf/cv10.pdf>.

⁶ See U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, *Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA) 2* (2011), available at <http://www.hud.gov/offices/fheo/library/11-domestic-violence-memo-with-attachment.pdf>.

⁷ See 735 ILCS 5/9-106.2.

which the tenant(s) had no involvement. Displacing innocent tenants is an excessive response to concerns about criminal activity that contributes to critical problems such as homelessness and educational instability for children. The crime free lease addendum required by the Residential Rental Licensing ordinance should state that it does not apply when a tenant has neither engaged in, permitted, nor allowed the criminal activity that is prohibited, and the City should ensure that the Residential Rental Licensing and/or Chronic Nuisance Property ordinances include explicit protection for such innocent tenants against any adverse consequences of enforcement action(s).

Ensuring Due Process for Both Property Owners and Tenants

The City must be careful to ensure that the Residential Rental Licensing and/or Chronic Nuisance Property ordinances honor the due process rights of property owners before imposing any penalties for their violation. The ordinances must specify that the City will give property owners notice of and an opportunity for a hearing to contest any alleged violations prior to any penalties being imposed, including the loss of the residential rental license.⁸ Providing this due process is also in the City's best interest, because enforcement actions that render property owners unable to legally lease their properties may increase the number of vacant and abandoned properties, and the City should ensure that this outcome is avoided unless it is definitively warranted under the circumstances.

Likewise, tenants at risk of possible eviction through enforcement of these ordinances should be afforded proper notice and an opportunity to be heard before the municipal government. A tenant should not have to rely on the property owner to raise the tenant's own rights and defenses in such circumstances. The City should provide notice to all affected tenants and an opportunity for those tenants to be heard by the City before any penalties available under either the Residential Rental Licensing and/or Chronic Nuisance Property ordinances (including loss of the property owner's residential rental license) are imposed.⁹ This is especially important in those cases where the tenant may be able to present information that she is a crime victim or an innocent party, and her displacement from the home may violate civil rights laws and/or the terms of the ordinance itself.

Prioritizing the Penalization of Serious Criminal Activity

An important way to protect property owners and tenants from arbitrary enforcement of the Residential Rental Licensing and/or Chronic Nuisance Property ordinances is to explicitly limit their application to criminal activity and other conduct that poses a serious threat to the health

⁸ See, e.g., *Javinsky-Wenzek v. City of St. Louis Park*, 2011 U.S. Dist. LEXIS 126923, No. 11-2228 (JRT/JSM), at *19-31 (D. Minn. Nov. 2, 2011) (finding that plaintiff property owners had demonstrated a likelihood of success on the merits in their procedural due process claim against the City based on enforcement of its Crime Free/Drug Free Ordinance).

⁹ The proposed Residential Rental Licensing ordinance does give "any person directly affected by a decision of the code official or notice or order issued under" the ordinance the right to file a petition for appeal with the Board of Zoning Appeals, which stays proceedings in the enforcement action appealed from. However, this language is not currently adequate to make it clear to both City officials enforcing the ordinance and property owners and tenants potentially affected by the ordinance that no penalties shall be imposed against either a property owner or a tenant until the tenant has been given an opportunity for a hearing. The ordinance should declare the tenant's due process rights more directly.

policy. Contracts that are so one sided to the benefit of one party and that would force a tenant to agree to the admission of otherwise inadmissible evidence are unenforceable. Furthermore, rules of evidence, such as the rule barring hearsay evidence, are typically waived in more informal, administrative proceedings where little is at stake and where a decision can be appealed in a judicial court. Here, however, the City is requiring tenants to waive their right to bar inadmissible hearsay evidence in a judicial proceeding that could lead to their homelessness. Such an unjust result cannot stand.

Media coverage of the City's plans to adopt the Residential Rental Licensing ordinance suggests that the intent of this provision may be to allow a property owner to evict a tenant on the basis of an arrest alone.¹² The fact of an arrest alone is not sufficient evidence to establish by a preponderance of the evidence that criminal activity which violates the crime free lease addendum has actually occurred.¹³ The crime free lease addendum required by the City should clearly state that the fact of an arrest must be supported by admissible corroborating evidence that criminal activity in violation of the lease addendum occurred.

Exercising Caution with Regard to Barring Persons from Rental Property

In requiring or encouraging property owners to bar persons from rental property, the City should consider the constitutional constraints on its action in this area, notably the First Amendment right to free association and Substantive Due Process right of intimate association of tenants and their invited guests. Furthermore, the overbroad exercise of the power to bar persons from rental property may operate to deprive children, disabled persons, and the elderly of access to important resources that are available from relatives and friends who do not live with them. The City should restrict its ability to compel or encourage property owners to use the power to bar to narrow circumstances when there is sufficient evidence to establish that a barred person presents a serious and current threat to the health and safety of others at the rental property. In this regard, the mere fact of an arrest should not be treated as sufficient evidence.

Exercising Caution with Regard to Criminal Background Checks of Prospective Tenants

While the City's proposed ordinances do not mandate criminal background screening of all prospective tenants, the City has indicated that such screening will be a topic of the crime free housing seminar mandated by the Residential Rental Licensing ordinance. In implementing this program, the City should urge property owners to exercise caution if they deny housing on the basis of a criminal background. If an owner imposes a flat ban on applicants with any criminal record – even if the person was never found guilty of the alleged criminal activity or the underlying offense was minor, old, or simply irrelevant to a person's ability to be a good tenant – that owner risks violating the Fair Housing Act.¹⁴ Although people with criminal records do not constitute a protected class under federal fair housing law, bans on applicants with criminal

¹² See Lynne Senne, *City program may evict renters for an arrest*, ST. CHARLES EXAMINER, July 13, 2011.

¹³ Cf. *Landers vs. Chicago Housing Authority*, 936 N.E.2d 735, 742 (Ill. App. 2010) (“The CHA had no evidence whatsoever that petitioner engaged in criminal activity where the outcome of his arrests was the consistent dismissal of the charges.”).

¹⁴ See generally Note, Rebecca Oyama, *Do Not Re(Enter): The Rise of Criminal Background Tenant Screening as a Violation of the Fair Housing Act*, 15 Mich. J. Race & L. 181 (2009).

records have a disparate racial impact because African-Americans and Latinos have disproportionately more contact with the criminal justice system when compared to the general population. As the Community Development Planning Division's February 23, 2012 memo rightly acknowledges, historical records of past criminal activity do not necessarily predict a propensity for future criminal activity.¹⁵ Thus, when property owners rely on criminal records without regard to how old, minor, or irrelevant they might be, the disproportionate racial impact is unjustified. This fair housing problem is magnified when property owners bar all applicants with any arrest record regardless of the ultimate disposition, since arrest records measure law enforcement's response to potential criminal activity, not criminal activity itself.¹⁶

Abiding by the Obligation to Affirmatively Further Fair Housing

In 2011 the City received Community Development Block Grant funding from Kane County. Entitlement jurisdictions that obtain federal housing and community development funding, such as Kane County and the State of Illinois, have an obligation to affirmatively further fair housing,¹⁷ and a duty to monitor any subrecipients to ensure the subrecipients' own compliance with this affirmatively furthering obligation.¹⁸ If the City hopes to be a subrecipient of such funding from either the County or the State in the future, it must be careful both to refrain from discriminating and to engage in efforts that affirmatively promote the right to fair housing. The City should ensure that its implementation of the Residential Rental Licensing and/or Chronic Nuisance Property ordinances does not result in any unjustified and disproportionate adverse impact on members of protected classes when a less discriminatory alternative is available. This particularly holds true because the Residential Rental Licensing program focuses exclusively on rental housing and has the potential to adversely affect the supply of rental housing. Approximately 66% of African-American households and 77% of Latino households in St. Charles rent, compared with only 23% of non-Latino white households.¹⁹ This must be a guiding principle that informs the City as it moves forward in deciding whether to adopt these proposed ordinances at all, and if so in what form.

We thank you very much for your consideration of these comments. We urge the Planning and Development Committee to incorporate these suggestions into any Residential Rental Licensing Program and/or Chronic Nuisance Property ordinance that the City may ultimately adopt in order to ensure that the City avoids the concerns that we have identified.

¹⁵ *Id.* at 213.

¹⁶ See generally Delbert S. Elliott, Center for the Study and Prevention of Violence, Lies, Damn Lies, and Arrest Statistics, The Edwin R. Sutherland Award Lecture at the American Society of Criminology Meetings (1995) (criticizing criminological studies that derive crime rates from arrest rates because arrest records do not accurately reflect criminal behavior).

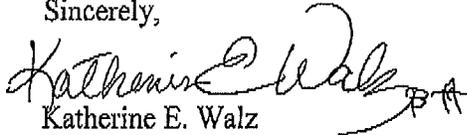
¹⁷ See 42 U.S.C. § 5304(b)(2), 42 U.S.C. § 12,705(b)(15), and related federal statutes and regulations. See also *United States ex. Rel. Anti-Discrimination Center, Inc., v. Westchester County*, 668 F. Supp. 2d 548 (S.D.N.Y. 2009).

¹⁸ See U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, *Fair Housing Planning Guide, Volume 1 3-5* (1996), available at <http://www.hud.gov/offices/fheo/images/fhpg.pdf>; *Westchester*, 668 F. Supp. 2d at 559, 563.

¹⁹ 2006-2010 American Community Survey 5-Year Estimates (Tables B25003B, B25003H, B25003I).

We reiterate our willingness to consult with the Committee further about these concerns and to work with the Committee in identifying solutions that will achieve the City's public safety goals while respecting the rights of tenants and others. Please contact Katherine Walz at (312) 368-2679 or Emily Werth at (312) 368-8575 to discuss this possibility.

Sincerely,


Katherine E. Walz
Director, Housing Justice


Emily Werth
Staff Attorney/Skadden Fellow



Kristen Jungles
<kjungles@sbcglobal.net>
03/08/2012 09:47 AM

To <rtungare@stcharlesil.gov>
cc <jlamkin@stcharlesil.gov>, <btownsend@stcharlesil.gov>,
<BVann@stcharlesil.gov>

bcc

Subject Re: Rental Licensing & Inspection Program

Rita,

Thank you again for providing the information regarding the St Charles Rental Licensing and Inspection program in advance of the March 12th meeting. The Government Affairs Committee at the REALTOR Association of the Fox Valley has reviewed the proposed ordinance and shares the following suggested changes.

5.54.020 Definitions

The definition of "property agent" indicates that the "property agent must have an office within fifty miles of said property." We would suggest this language be eliminated from the ordinance. As you are aware, owners of rental properties and their designated agents do not live within a certain mile radius of investment property. Requiring that they do so will put an undue hardship on the property owner and will have a negative impact on the real estate market in St Charles.

5.54.050 Crime Free Housing Seminar

The proposed ordinance requires that a crime free housing seminars can be "provided by another municipality, if pre-approved by chief of police." Owners of rental properties in St Charles own investment properties in surrounding towns. Because these property owners have already complied with the crime free housing seminar requirement in surrounding towns, language should be included in the St Charles ordinance that will allow for documentation of the completed course to be submitted with the application to satisfy the St Charles requirement.

5.54.070 Licensing Inspection

Item "C" reads that inspection of properties "shall be limited to determining compliance with the applicable building, fire and/or property maintenance codes of the city." It was our understanding, following the vote at the November 2011 Planning & Development meeting, that inspections of rental properties would be limited to exterior only. Please clarify why that language, specifying exterior inspections only, was not included in this section of the proposed ordinance.

5.54.100 Inspection Upon Sale

The proposed ordinance requires that "no residential rental property shall be sold unless the seller furnishes the buyer a presale inspection report dated no more than one hundred twenty (120) days prior to the date of closing." Please explain why, if the rental property registration requirement is every four years, a current inspection is important to St Charles. The proposed ordinance will require the new owner to register with St Charles and that should trigger the current inspection of the property.

5.54.160 Fines - Penalty

We agree that a time frame to complete rental property violations is appropriate, however, the proposed language needs to include at least a thirty (30) day window to complete the work. As an example, if a property inspector cites a roofing violation, St Charles weather may not permit that

that work can be immediately corrected. The property owner should not begin to incur fines for a situation that is out of their control.

Thank you again for providing the REALTOR Association of the Fox Valley with the opportunity to submit feedback in advance of the Planning & Development meeting. I look forward to hearing back from you regarding our suggested changes to the proposed ordinance.

Make it a great day!

Kristen Jungles

Government Affairs Director

Illinois Association of REALTORS®

p: 630-816-6841

f: 630-983-5003

e: kjungles@sbcglobal.net

kjungles@iar.org

From: "rtungare@stcharlesil.gov" <rtungare@stcharlesil.gov>

To: rtungare@stcharlesil.gov

Cc: jamkin@stcharlesil.gov; btownsend@stcharlesil.gov; BVann@stcharlesil.gov

Sent: Tue, February 14, 2012 4:23:41 PM

Subject: Rental Licensing & Inspection Program

Good afternoon,

Draft documents for the Rental Licensing and Inspection Program are available for review on the City website, at www.stcharlesil.gov/codebook/proposed-changes. We encourage any impacted rental property owner or manager to review the documents. Please let me know if for some reason you have trouble accessing the documents and I can email them to you individually. Police Chief Jim Lamkin and I would be happy to schedule a meeting with anyone who would like to meet in person to discuss.

This item will be considered by the City's Planning & Development Committee on Monday, March 12th. The City will be issuing a press release this week as well to ensure property owners and landlords in St. Charles are made aware of the proposed program.

Sincerely,

Rita Tungare, AICP
Director of Community Development
City of St. Charles IL
(630)377-4443
RTungare@stcharlesil.gov