

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

ERR-245

DECISION

Application:	Validation of Multi-Family Rental Housing License M-0538
Applicant:	Forest Lake Apartments
Opposition:	None
Hearing Date:	April 22, 2015
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval

NATURE OF PROCEEDINGS

- (1) ERR-245 is a request for validation of Prince George's County's Multi-Family Rental Housing License No. M-0538, issued in error on April 17, 2015, Exhibit 32, for 317 apartment units on approximately 14.0956 acres of land, located in the R-18 (Multi-Family Medium Density Residential) Zone, also identified as 9857, 9859, 9861, 9863, 9865, 9867, 9869, 9871, 9873, 9875, 9877, 9881, 9885, 9887, 9889, 9891, 9893, 9895, 9897 and 9899 Good Luck Road, Lanham, Maryland.
- (2) No one appeared in opposition and the record was kept open for a variety of documents, upon receipt of which the record was closed May 13, 2015.

FINDINGS OF FACT

- (1) Forest Lake Apartments was constructed in 1965 pursuant to validly issued building permits and each building obtained a Use and Occupancy Permit between April-August, 1966. (Exhibits 17(a)-(w))
- (2) The subject property has been issued Apartment Licenses for 317 rental units from 1995 to the present date. (Exhibits 14 (a)-(c) and Exhibits 15 (a)-(w)) Licenses may have been issued prior to 1995 but they were not produced.
- (3) Forest Lake Apartments exceed the maximum density of 12 dwelling units per acre in the R-18 Zone as the as built density is 22.5 du/acre. (Exhibits 5 and 38)
- (4) The subject property is developed with 48 one bedroom units (15.14%), 161 two bedroom units (50.79%) and 108 three bedroom units (34.07%). The R-18 Zone permits a maximum of 45% two bedroom units and a maximum of 10% three bedroom units. (Exhibits 34 (b) and 38)

- (5) The maximum net area per dwelling unit required is 2,000 square feet and only 1936 square feet per dwelling unit is provided. (Exhibit 38)
- (6) The Applicant has expended monies in purchasing the subject property in 2007 (Exhibit 8), and in maintaining the subject structures and operating the rental units. (Exhibits 6, 7, and 20)
- (7) The Applicant testified that to his knowledge no fraud or misrepresentation was practiced in obtaining Multi-Family Rental License No. M-0538 and that no controversy regarding its issuance is pending before any legal body.
- (8) The subject property was developed and operated as a 317 unit apartment complex since 1966 and has operated continuously in this capacity since that time, blending in with the surrounding properties and not altering the character of the neighborhood. Approval under these circumstances would not be against the public interest.

LAW APPLICABLE

(1) A Use and Occupancy Permit or an Apartment License may be validated as issued in error in accordance with §27-258 of the Zoning Ordinance. §27-258 states in pertinent part:

(a) **Authorization.**

(1) A building, use and occupancy, or absent a use and occupancy permit, a valid apartment license, or sign permit issued in error may be validated by the District Council in accordance with this Section.

* * * * *

(g) **Criteria for approval.**

- (1) The District Council shall only approve the application if:
- (A) No fraud or misrepresentation had been practiced in obtaining the permit;
 - (B) If, at the time of the permit's issuance, no appeal or controversy regarding its issuance was pending before any body;
 - (C) The applicant has acted in good faith, expending funds or incurring obligations in reliance on the permit; and
 - (D) The validation will not be against the public interest.

(h) **Status as a nonconforming use.**

(1) Any building, structure, or use for which a permit issued in error has been validated by the Council shall be deemed a nonconforming building or structure, or a certified nonconforming use, unless otherwise specified by the Council when it validates the permit. The nonconforming building or structure, or certified nonconforming use, shall be subject to all of the provisions of Division 6 of this Part.

CONCLUSIONS OF LAW

(1) The instant Application is filed in accordance with §27-258 of the Zoning Ordinance. The Forest Lake Apartments have been licensed by Prince George's County for 317 units since at least

1995. (Exhibit 14) On August 15, 2013 the Applicant applied for Use and Occupancy Permit 26960-2013-U, but due to the nonconforming status of the subject property this Use and Occupancy permit cannot be issued. No fraud or misrepresentation was practiced in obtaining Multi-Family Rental License M-0538. The Applicant has acted in good faith, expending funds or incurring obligations in reliance on this License. There is no evidence that there was any appeal or controversy regarding the issuance of the Multi-Family Rental License. The validation will not be against public interest as the instant Application merely validates a use that has existed on the subject property for over 50 years. §27-258

RECOMMENDATION

It is recommended that the District Council validate Multi-Family Rental License No. M-0538. The 317 dwelling unit apartment complex on the subject property shall be declared to be a Certified Non-Conforming Use. The Site and Unit Location Plans are Exhibit 38.