

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

ERR-266

DECISION

Application:	Validation of Multifamily Rental License No. M-370 Issued In Error
Applicants:	Vizion Realty, LLC
Opposition:	None
Hearing Date :	March 22, 2017
Hearing Examiner:	Joyce B. Nichols
Recommendation :	Approval

NATURE OF PROCEEDINGS

- (1) ERR-266 is a request for validation of Prince George's County Multifamily Rental License No. M-370 issued in error for a 15 unit apartment building located in the M-U-TC (Mixed-Use Town Center) and the D-D-O (Development District Overlay) (Southern Green Line) Zones, and identified as 4775 Huron Avenue, Suitland, Maryland.
- (2) No one appeared in opposition and the record was kept open for additional documents, upon receipt of which the record was closed April 21, 2017.

FINDINGS OF FACT

- (1) The subject three-story brick structure was constructed on the subject property in 1954, in the R-18 (Multifamily Medium Density Residential) Zone, (Exhibit 4), and contained 15 dwelling units. (Exhibit 32)
- (2) Prince George's County has issued Multifamily Dwelling Licenses on the subject property for 15 apartment units from, at a minimum, 1991 to the present. (Exhibits 9 and 10)
- (3) The Applicant, a limited liability company in good standing in Maryland, purchased the subject property in July, 2003. (Exhibits 5 and 31)
- (4) Prince George's County notified the Applicant via a letter dated June 13, 2016 that the subject property "is operating without a valid Use and Occupancy (U & O), as required by Prince George's County Code" and stated that the failure to properly apply for a valid Use and Occupancy Permit could prevent the rental of the apartments. (Exhibit 12)

(5) The subject property is 16,638 square feet in size. In 1954 a minimum of 1800 square feet of net lot area per dwelling unit was required along with one off street parking space per dwelling unit. The 15 dwelling units only results in 1,109.2 square feet net lot area per dwelling unit, permitting a maximum of 9 dwelling units. Fifteen parking spaces are required and only 11 grandfathered in size off street parking spaces are provided. (Exhibits 4 and 14)

(6) Eight (1) bedroom units and seven (2) bedroom units are provided. (Exhibit 32)

LAW APPLICABLE

(1) 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.

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(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 anybody;

(C) The Applicants 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. Prince George's County has licensed the subject property for 15 units since 1991, at a minimum. The Applicant has applied for Use and Occupancy Permit 30860-2015-01 for a 15 unit apartment building (Exhibits 22 and 24), but, due to the illegal status of the subject property, this Use and Occupancy Permit cannot be issued. Mr. William Philips, the managing member of Vizion Realty, LLC, testified that to the best of his knowledge no fraud or misrepresentation was practiced in obtaining Multifamily Rental License No. M-370 for 15 dwelling units. The Applicant has acted in good faith, expending funds or incurring obligations in reliance on these permits (Exhibits 27-30, 34). The validation will not be against public interest as the instant Application merely validates a

use that has existed on the subject property for almost 65 years. The size and shape of the existing structure is consistent with that of the existing area. (Exhibits 20 and 26). §27-258

RECOMMENDATION

It is recommended that the District Council validate Multifamily Rental License No. M-370. The use of the subject structure as a 15 dwelling unit apartment building with related parking shall be declared to be a Certified Non-Conforming Use. The Site Plan is Exhibit 14 and the Unit Location Plan is Exhibit 32.