

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

ERR-264

DECISION

Application:	Validation of Multifamily Rental License No. M-0205 Issued in Error
Applicants:	919 Maryland Avenue NE, LLC t/a Finian's Court Apartments
Opposition:	None
Hearing Dates:	February 22 and April 26, 2017
Hearing Examiner:	Joyce B. Nichols
Recommendation:	Approval

NATURE OF PROCEEDINGS

- (1) ERR-264 is a request for validation of Prince George's County Multifamily Rental License No. M-0205 issued in error for a 57 unit apartment building located on approximately 2.5508 acres of land in the R-18 (Multifamily Medium Density Residential) Zone, and identified as 7740, 7742, 7744, 7746, 7748, 7750, 7752, 7754, 7756 and 7758 Finns Lane, Lanham, Maryland.
- (2) No one appeared in opposition and the record was kept open for additional documents, upon receipt of which the record was closed on June 23, 2017.

FINDINGS OF FACT

- (1) The subject apartment complex known as Finian's Court consists of 3 three story brick apartment structures constructed in 1966 containing 18 one bedroom dwelling units, 19 two bedroom dwelling units, and 18 three bedroom dwelling units; a total of 55 dwelling units. (Exhibit 2)
- (2) Prince George's County has issued Multifamily Rental Licenses on the subject property for 57 dwelling units from, at a minimum, 1987 to 2017. (Exhibit 6)
- (3) The Applicant, a limited liability company in good standing in Maryland, purchased the subject property in June, 2005. (Exhibits 12 and 21)
- (4) On October 17, 2005 Prince George's County issued a Certificate of Occupancy to the Applicant for the subject property for 55 dwelling units and 83 parking spaces. (Exhibit 4)
- (5) The subject property upon which the apartment buildings are located is approximately 2.5508

acres in size and 55 dwelling units met the minimum net lot area of 2,000 square feet of lot area per dwelling unit (d.u.a.) at the time of construction in 1966. (Exhibit 2)

(6) In 1975 the maximum density permitted in the R-18 Zone was reduced to 12 d.u.a. The instant apartment complex currently exceeds this maximum density by providing 21.56 d.u.a.

(7) The subject property is developed with 20 one bedroom units (35.09%), 19 two bedroom units (33.3%) and 18 three bedroom units (31.58%). The R-18 Zone permits a maximum of 10% three bedroom units.

(8) The subject apartment complex was Certified as a Nonconforming Use in 2005 for 55 dwelling units. (Exhibits 15 and 16)

(9) The Applicant has expended monies in purchasing the subject property in 2005 (Exhibit 12) and in maintaining the subject structure and operating the rental units. (Exhibits 26-34)

(10) The Applicant testified that to the best of his knowledge no fraud or misrepresentation was practiced in obtaining Multifamily Rental License No. M-0205 and that no controversy regarding its issuance is pending before any legal body. The Board of Appeals indicated that it has no record of any appeals or controversies regarding the subject property. (Exhibit 35)

(11) The subject property has been developed and operated as a 57 unit apartment complex since 1989, 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) 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 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. The Finian's Court Apartments have been licensed by Prince George's County for 57 units since at least 1989. (Exhibit 6) No fraud or misrepresentation was practiced in obtaining Multifamily Rental License M-0205. 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 Multifamily 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 approximately 30 years. §27-258

RECOMMENDATION

It is recommended that the District Council validate Multifamily Rental License No. M-0205. The 57 unit apartment complex on the subject property shall be declared to be a Certified Nonconforming Use. The Site Plan is Exhibit 16 and the Unit Location Plans are Exhibit 42.