

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

ERR-226

DECISION

Application:	Validation of Multi-Family Rental License M-0758 Issued in Error
Applicant:	Ravenswood Road Apartments
Opposition:	None
Hearing Date:	September 25, 2013
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval

NATURE OF PROCEEDINGS

- (1) ERR-226 is a request for validation of Prince George's County Multi-Family Rental License No. M-0758 issued in error on June 11, 2001, Exhibit 3, for 23 apartment units on approximately 0.42 acre of land, located in the R-55 (One-Family Detached Residential) Zone, also identified as 4701-4703 Ravenswood Road, Riverdale, 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 on July 15, 2014.

FINDINGS OF FACT

- (1) The existing 23 unit (22 one bedroom units and 1 two bedroom unit) multifamily structure was constructed prior to 1942 in the Residential "A" Zone. A-496 rezoned the subject property to the Residential "C" on July 7, 1942 and the apartments continued to be a permitted use. On November 29, 1949, the subject property was placed in the C-2 (General Commercial, Existing) Zone, in which dwellings were permitted only in accordance with the adjoining residential zone, R-55.
- (2) On November 18, 1980, CB-117-1980 amended the Zoning Ordinance to permit dwelling units in the C-2 Zone if they were legally erected prior to the property being placed in the commercial zone. The apartment building continued to be a permitted use until the adoption of the 1982 Planning Area 68 Sectional Map Amendment which placed the subject property in the R-55 Zone and rendered the apartment units nonconforming. The subject property currently remains in the R-55 Zone.

- (3) The subject property has obtained Apartment/Rooming House Licenses from the Town of Riverdale Park from 2007-present. (Exhibit 10) The Town of Riverdale Park has no objection to the instant validation request. (Exhibit 13)
- (4) The maximum density for the R-55 Zone is 6.70 dwelling units per acre and thus the maximum density for the subject property is 2.8 d.u.a.; the subject property is developed with 23 dwelling units.
- (5) The Applicant has expended monies in purchasing the subject property in 2005 (\$1,550,000) (Exhibit 19), and in maintaining the subject structure and operating the rental units. (Exhibits 20 and 21)
- (6) The Applicant (Managing Partner) testified that to his knowledge no fraud or misrepresentation was practiced in obtaining Multi-Family Rental License No. M-0758 and that no controversy regarding its issuance is pending before any legal body.
- (7) The subject property was developed with a 23 unit apartment building prior to 1942 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.

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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 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.

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CONCLUSIONS OF LAW

(1) The instant Application is filed in accordance with §27-258 of the Zoning Ordinance. The Ravenswood Apartments have been licensed by Prince George's County for 23 dwelling units since 2001 pursuant to Multi-Family Rental License No. M-0758. As a result of the nonconforming status of the subject property, the Applicant has applied for, but is unable to obtain, a valid Use and Occupancy Permit for the subject property. No fraud or misrepresentation was practiced in obtaining the License. The Applicant has acted in good faith, expending funds or incurring obligations in reliance on the 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 the public interest as the instant Application merely validates a use that has existed on the subject property for almost 75 years. §27-258

RECOMMENDATION

It is recommended that the District Council validate Multi-Family Rental License No. M-0758. The 23 dwelling unit apartment building on the subject property shall be declared to be a Certified Non-Conforming Use.