

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

ERR-230

DECISION

Application:	Validation of Rental Housing Licenses M-1100 and M-1091
Applicant:	Lester Langford
Opposition:	None
Hearing Date:	April 10, 2014
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval

NATURE OF PROCEEDINGS

- (1) ERR-230 is a request for validation of Prince George's County Rental Housing License M-1100 issued in error on June 8, 2008, for a three unit attached apartment building on approximately 10,423 sq. ft. of land, in the R-55 (One-Family Detached Residential) Zone, also identified as 5511 Sachem Drive, Forest Heights, Maryland. (Exhibit 2)
- (2) ERR-230 is also a request for validation of Prince George's County Rental Housing License M-1091 issued in error on October 26, 2007, for a three unit attached apartment building on approximately 9,159 sq. ft. of land, in the R-55 Zone, also identified as 5513 Sachem Drive, Forest Heights, Maryland. (Exhibit 2)
- (3) No one appeared in opposition of the request for validation. Upon receipt of the requested documentation the record was closed on April 21, 2014.

FINDINGS OF FACT

- (1) On June 8, 2008, Prince George's County issued Rental Housing License M-1100 for 5511 Sachem Drive, which is improved with a two story detached brick structure which has 1 three (3) bedroom unit and 2 two (2) bedroom units. (Exhibits 7(a), 8(a), and 24)
- (2) On October 26, 2007, Prince George's County issued Rental Housing License M-1091 for 5513 Sachem Drive, which is improved with a two story detached brick structure which has 3 two (2) bedroom units. (Exhibits 7(b), 8(b), and 24)
- (3) On November 29, 1949, the subject properties were placed in the R-55 Zone when they were adopted into the Regional District.

- (4) The maximum density for the R-55 Zone is 6.70 dwelling units per acre and thus the maximum density of the subject properties is 1.6 d.u.a. (5511) and 1.4 (5513) d.u.a., respectively. Each lot is developed with a density of 3 d.u.a.
- (5) A maximum of 40% of the dwelling units in the R-55 Zone may be two (2) bedroom units; 5511 Sachem Drive is developed with 66.6% two (2) bedroom units and 33.3% three (3) bedroom units, and 5513 Sachem Drive is developed with 100% two (2) bedroom units. (Exhibits 7(a), (b), 23 and 24)
- (6) The Applicants have expended monies in purchasing 5511 Sachem Drive (in 2012), and 5513 Sachem Drive (in 2007), and in maintaining the subject structures and the six (6) apartment units as rental units. (Exhibits 10(a) and (b), 13, 14(a) and (b), 15(a)-(i), and 16(a)-(o))
- (7) The Applicant testified that to his knowledge no fraud or misrepresentation was practiced in obtaining Rental Housing Licenses M-1100 and M-1091 and that no controversy regarding their issuance is pending before any legal body.
- (8) The subject properties were each developed with three unit apartment buildings in 1949 and have 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. (Exhibits 17(a)-(f), 19(a)-(f) and 21(a) and (b))
- (9) The subject properties have also been issued Rental Housing Licenses by the Town of Forest Heights since 2012. (Exhibits 22(a) and (b))

LAW APPLICABLE

- (1) A Use and Occupancy Permit or 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.

CONCLUSIONS OF LAW

(1) The instant Application is filed in accordance with §27-258 of the Zoning Ordinance. Each of the two subject properties has been licensed by the County for three (3) dwelling units since October 26, 2007 and June 8, 2008 respectively. (Exhibits 8(a) and (b) and 9(a)-(c)) No fraud or misrepresentation was practiced in obtaining the Licenses. There is no evidence that there was any appeal or controversy regarding the issuance of Rental Housing Licenses M-1100 and M-1091. The Applicant has acted in good faith, expending funds or incurring obligations in reliance on the Licenses.

RECOMMENDATION

It is recommended that the District Council validate Rental Housing Licenses M-1100 and M-1091. The 2 three (3) unit apartment buildings shall be declared to be Certified Non-Conforming Uses.