

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

ERR-232

DECISION

Application:	Validation of Multi-Family Rental License M-0174 Issued in Error
Applicant:	Calvert Hall Limited Partnership
Opposition:	None
Hearing Date:	April 10, 2014
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval

NATURE OF PROCEEDINGS

- (1) ERR-232 is a request for validation of Prince George's County's Multi-Family Rental License No. M-0174, issued in error on June 21, 2001, Exhibit 9, for 162 apartment units on approximately 7.55 acres of land, Parcel A, in the R-18 (Multi-Family Medium Density Residential) Zone, also identified as 3805, 3807, 3809, 3811, 3813, 3815, 3817, 3819, 3821, 3823, 3825, and 3827 67th Avenue, Landover, MD.
(Exhibits 4, 5, 9 and 13(b))
- (2) No one appeared in opposition and at the conclusion of the evidentiary hearing the record was closed on April 12, 2014.

FINDINGS OF FACT

- (1) A-5114, adopted April 8, 1964, rezoned the subject property from the R-55 (One-Family Detached Residential) Zone to the R-18 Zone. The 12 three (3) story brick apartment buildings, developed and utilized with 162 apartment units, were constructed and occupied in 1965 pursuant to Permit 4/563/65. (Exhibit 13(b)) The earliest apartment licenses for the subject property date back to June 30, 1971. (Exhibits 4, and 5(a)-(o))
- (2) The current maximum density for the R-18 Zone is 12 dwelling units per acre; as-built the subject property has a d.u.a. of 21.5. (Exhibit 13(b))
- (3) A maximum of 40% of the dwelling units in the R-18 Zone may be two (2) bedroom units; as-built the subject property has 42.59% two (2) bedroom units, and 44.4% three (3) bedroom units. (Exhibit 13(b))

(4) 203 parking spaces are required and the Revised Site Plan, Exhibit 13(c), provides all 203 required parking spaces.

(5) The Revised Site Plan, Exhibit 13(b), provides adequate two-way drive aisles with the exception of the drive aisle between the rows of parking in front of Buildings 3813-17, which is only 10 feet wide, which is inadequate for two-way traffic. (Exhibit 13(b))

(6) The Applicant purchased the subject property on December 6, 1976 for \$1, 660,000. (Exhibit 18)

(7) In addition to the cost of acquisition, the Applicant has provided records that support a finding that the Applicant has expended monies in reliance on the Multi-Family Rental Licenses, Exhibits 9(a)-(g). (Exhibits 15 and 16)

(8) The Applicant has testified that no fraud or misrepresentation was practiced in obtaining Multi-Family Rental License No. M-0174 and that no appeal or controversy regarding its issuance is pending before any legal body.

(9) The subject property was developed as 12 apartment buildings in 1965 and has been in active use as an apartment complex since that time, blending in with the surrounding development. Approval of the instant Application will not alter the character of the neighborhood. (T. *passim*)

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. The subsections relevant to the instant request provide as follows:

(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 Calvert Hall Apartments have been licensed by Prince George's County for 162 dwelling units since 2001 pursuant to Multi-Family Rental License No. M-0174. 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. 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 50 years. §27-258

RECOMMENDATION

It is recommended that the District Council validate Multi-Family Rental License No. M-0174 in accordance with the Revised Site Plan, Exhibits 13(b) and (c). The 12 buildings consisting of 162 dwelling units on the subject property shall be declared to be a Certified Non-Conforming Use.