

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

**ERR-253**

**DECISION**

Application:	Validation of Multi-Family Rental Housing License M-0570
Applicant:	Beltsville Gardens Apartments
Opposition:	None
Hearing Date:	October 28, 2015
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval

**NATURE OF PROCEEDINGS**

- (1) ERR-253 is a request for validation of Prince George's County's Multi-Family Rental Housing License No. M-0570, issued in error on April 24, 2014, Exhibit 4(g), for 12 apartment units on approximately 36,555 square feet of land, located in the R-18 (Multi-Family Medium Density Residential) Zone, also identified as 4710 St. Mary's Street, Beltsville, 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 November 19, 2015.

**FINDINGS OF FACT**

- (1) The instant building was constructed in 1932 as the old Beltsville School House in the Residential A Zone. On August 7, 1941 Zoning Map Amendment A-441 was approved rezoning the portion of the property upon which the building is located (100 feet x 168 feet) to the Residential C Zone with the remainder of the property retained in the Residential A Zone. During the hearing on this rezoning the property owner stated his intention to convert the school house into an apartment building. When the subject property was brought into the Regional District on November 29, 1949 the property was placed in the R-18/R-R (Rural Residential) Zone. On October 2, 1990 the adoption of the Subregion I Sectional Map Amendment rezoned the property in its entirety to the R-18 Zone.
- (2) Use and Occupancy Permit 683817-U was issued on May 2, 1969 for an 11 unit apartment building. Zoning Map Amendment A-9315 for the adjacent property described the subject property as being improved with an 11 unit apartment building. In 1987 A-9615 was filed to rezone the subject property from the R-R/R-18 Zone to the C-O (Commercial Office) Zone. A-9615 described the subject building as being utilized as an 11 unit apartment building. (A-9615 was subsequently withdrawn)

- (3) The subject property has been issued Apartment Licenses for 12 rental units from 1996 to the present date. (Exhibits 25 (c)-(e) and Exhibits 4 (a)-(g)) Licenses for 11 units have been issued since May 2, 1969 through 1996. (Exhibits 25 (b) and (f)-(n))
- (4) The 11 unit apartment building located on the 16,800 square feet Residential C Zoned portion of the subject property complied with the density request in 1941 which was a minimum of 625 square feet net lot area per dwelling unit.
- (5) When on November 29, 1949 the Residential C portion of the subject property was rezoned to the R-18 Zone, the minimum net lot area required became 1800 square feet per dwelling unit, a maximum of 9 units would have been permitted, rendering the original 11 unit apartment building nonconforming.
- (6) The subject property is 36,556.65 sq. ft. (0.839 acre) in area which permits a maximum of 10 dwelling units; 14.3 dwelling units are provided.
- (7) The subject property is developed with 10 one bedroom units (83.3%), and (2) two bedroom units (16.6%). The R-18 Zone permits a maximum of 45% (2) two bedroom units thus the subject property is in conformance with the bedroom percentage requirements.
- (8) The Applicant has expended monies in purchasing the subject property in 1996 (Exhibits 11 and 12), and in maintaining the subject structure and operating the rental units. (Exhibits 13, 15, and 22)
- (9) The Applicant testified that to his knowledge no fraud or misrepresentation was practiced in obtaining Multi-Family Rental License No. M-0570 and that no controversy regarding its issuance is pending before any legal body.
- (10) The subject property was developed and operated as an 11 unit apartment building since 1969, as a 12 unit apartment building since 1996, and has operated continuously in this capacity since that time, blending in with the surrounding properties and not altering the character of the neighborhood. (Exhibit 14) 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.

**CONCLUSIONS OF LAW**

(1) The instant Application is filed in accordance with §27-258 of the Zoning Ordinance. The Beltsville Gardens Apartments have been licensed by Prince George’s County for 11 units since at least 1969 (Exhibit 25(b) and for 12 units since 1996 (Exhibit 25(e). No fraud or misrepresentation was practiced in obtaining Multi-Family Rental License M-0570. 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 Multi-Family 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 almost 60 years. §27-258

**RECOMMENDATION**

It is recommended that the District Council validate Multi-Family Rental License No. M-0570. The 12 dwelling unit apartment complex on the subject property shall be declared to be a Certified Non-Conforming Use. The Site and Unit Location Plans are Exhibits 5, 6, and 23(c) and (d).