

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

ERR-227

DECISION

Application:	Validation of Multi-Family Rental License M-0516 Issued in Error
Applicant:	Langley Gardens Apartments Limited Partnership
Opposition:	None
Hearing Date:	September 18, 2013
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval

NATURE OF PROCEEDINGS

(1) ERR-227 is a request for validation of Prince George's County's Multi-Family Rental License No. M-0516, issued in error on August 19, 2011, Exhibit 3(e), for 204 apartment units on Parcel C (2.378 acres), Lot 2, Block B-2 (2.342 acres), Lot 3, Block B-2 (1.493 acres) and the residue of Lot 4, Block B-2 (1.413 acres), in the R-18 (Multi-Family Medium Density Residential) Zone, also identified as 8200, 8202, 8204, 8206, 8208, 8210, 8106, 8108, 8110, 8012 and 8014 New Hampshire Avenue, 1030, 1032, 1034, 1036 University Boulevard, and 1200, 1202, 1204, and 1206 Lebanon Street, and 8100 and 8102 Takoma Drive, Silver Spring, Maryland. (Exhibits 1, 3, 6, 15, 17 and 18)

(2) At the conclusion of the evidentiary hearing the record was kept open for the receipt of existing unit location plans, upon receipt of which the record was closed October 1, 2013.

FINDINGS OF FACT

(1) The subject property was placed in the Residential "C" Zone by the adoption of Zoning Map Amendment 975 on May 21, 1947. The property was placed in the R-18 Zone on or before the adoption of the 1963 Langley Park Master Plan and Sectional Map Amendment as a result of the retirement of the Residential "C" Zone. The 10 three (3) story brick apartment buildings, developed and utilized with 204 apartment units, were constructed and occupied in 1948-49. The apartments became nonconforming on November 29, 1949 when the minimum density was raised from 625 sq. ft. of lot area per dwelling unit to 1,800 sq. ft. of lot area per dwelling unit. (Exhibit 15)

(2) The current maximum density for the R-18 Zone is 12 dwelling units per acre; as built Parcel C has a d.u.a. of 26.1, Lot 2 has a d.u.a. of 27.3, Lot 3 has a d.u.a. of 25.5 and Lot 4 has a d.u.a. of 28.3. (Exhibits 17 and 18)

- (3) A maximum of 40% of the dwelling units in the R-18 Zone may be two (2) bedroom units; as built Parcel C is 70.97% two (2) bedroom units, Lot 2 is 64.06% two (2) bedroom units, Lot 3 is 68.42% two (2) bedroom units, and Lot 4 is 77.5% two (2) bedroom units. (Exhibits 17 and 18)
- (4) The Applicant purchased the subject property on August 21, 1997, Exhibit 20, for \$11,534,000 and began extensive rehabilitation of the project all in accordance with CR-64-1916, the approval of \$9,000,000 in federally exempt bonds by the Housing Authority of Prince George’s County for the subject property. (Exhibit 4)
- (5) 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 License, Exhibits 3(e)-(j). (Exhibits 10, 14, 25, 27, 29(a)-(i), 30(a) and (b), and 31(a)- (l))
- (6) The Applicant has testified that no fraud or misrepresentation was practiced in obtaining Multi-Family Rental License No. M-0516 and that no appeal or controversy regarding its issuance is pending before any legal body.
- (7) The subject property was developed as 10 apartment buildings in 1948-49 and has been in active use as apartment complexes 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 Langley Gardens Apartments have been licensed by Prince George’s County for 204 dwelling units since 2001 pursuant to Multi-Family Rental License No. M-0516. 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 70 years. §27-258

RECOMMENDATION

It is recommended that the District Council validate Multi-Family Rental License No. M-0516 in accordance with the Site Plan, Exhibits 17 and 18. The 10 buildings consisting of 204 dwelling units on the subject property shall be declared to be a Certified Non-Conforming Use.