City of Brighton

STUDY SESSION REPORT TO CITY COUNCIL
July 7, 2022

SUBJECT: DISCUSSION ON SHORT-TERM RENTALS AND THE CITY RENTAL INSPECTION ORDINANCE

ADMINISTRATIVE SUMMARY

This discussion is warranted due to the increasing number of Airbnb rentals in the city and the numerous complaints received from residents regarding them. Through staff's research of the zoning ordinance in April of 2021, staff reviewed the zoning ordinance and determined that short-term rental (Airbnb's) violated the regulations of the zoning district in which they are located in. Code enforcement was initiated on four properties found to be operating as Airbnb's. Of the four locations one property owner ignored the code violations and continued operations. The attached letter from the city attorney to this property owner was sent, which explains how Airbnb rentals violate the city zoning ordinance.

As you may recall, also occurring at the same time, was the State Legislature's attempts at passing a Bill to allow short-term rentals that prohibited the local municipality from regulating them. Our enforcement was suspended until the State finished its proceedings, which ultimately did not pass any new laws.

With no recent movement from the State regarding short-term rentals, this spring season staff renewed code enforcement against property owners operating Airbnb's in violation of the zoning ordinance. The following locations received a violation letter from the city attorney to cease and desist operations. Our attorney has drafted a second notice which has not been sent yet, as we have decided to wait until a discussion on enforcement of Airbnb's is had with City Council. It is also staff's understanding that the State is potentially moving on another revised Bill regarding this topic.

314 E. St. Paul
Owner: Curley Bungalows, LLC
905 Madison St
Brighton, 48116

901 Fairway Trails Dr.
Owner: Donald Reich
901 Fairway Trails Dr.
Brighton, 48116

905 Madison St.
Owner: Curley Living Trust
905 Madison St.
Brighton, 48116

1030 Brighton Lake Rd.
Owner: Jason Mattison
15772 Troon Ct.
Northville, MI 48168-8477

Another issue staff has found in need of attention is the city's rental registration and inspection program. This ordinance was adopted in 2013 prior to short-term rentals becoming a popular choice for consumers. Two of the property owners in violation originally registered their parcels as rentals and have since began utilizing them as short-term. These owners are stating they have registered their locations as required by the inspection program and are now able to rent as they choose. This was obviously not the intent of the rental ordinance adopted.

Prepared by: Michael Caruso, Community Development Manager

Attachment: Attorney Notice Letter

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Writer's Direct Phone: 616.726.2238 **Fax**: 616.726.6813 **Reply To**: Grand Rapids **E-Mail**: LGenovich@fosterswift.com

May 13, 2021

via first-class mail and certified mail, return receipt requested

Donald F. Reich, Jr.
901 Fairway Trails Dr.
Brighton, MI 48116

Dear Mr. Reich:

Re: Zoning Violation - Short Term Rental

This law firm serves as the City Attorney for the City of Brighton. We understand that you own property located in the City identified as Parcel Number 4718-31-305-106 and located at 901 Fairway Trails Drive ("Property"). We also understand that you are using a portion of the Property as a short-term rental through AirBnB or a similar rental website.

On April 14, 2021 the City informed you that your use of the Property as a short-term rental violates the City's Zoning Ordinance. You were advised to cease and desist further rental operations. In response, you informed the City that you intend to continue the use because you believe it is lawful.

We direct your attention to Section 98-3.4 of the Zoning Ordinance, which lists the uses permitted by right in the R-1 Single-Family Residential district, including single-family dwellings. A single-family dwelling is defined as "a building, structure, mobile home or prefabricated, premanufactured or precut structure designed exclusively for and occupied **exclusively by one family.**"

When a property is used as a short-term rental, it is not occupied exclusively by one family. *See Reaume v Twp of Spring Lake*, 328 Mich App 321, 324; 937 NW2d 734, 736 (2019), aff'd in part, vacated in part 505 Mich 1108; 943 NW2d 394 (2020). Instead, a short-term rental is more accurately classified as a hotel or motel use:

> Hotel means a building, or part of a building, or a group of buildings, containing rental units designed for, and/or occupied primarily by, transients. The term shall include, but not be limited to, any such building or building group designated as motor lodge, motor inn, motel, or **any other title intended to identify it as providing lodging for compensation** (see Motel or Motor court).
>
> Motel (motor court) means a series of attached, semidetached or detached housing units which provide overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicles as a facility for temporary residence.

(City Zoning Ordinance, Sec. 98-2.0, emphasis added.)

Hotels and motels are not permitted in the R-1 district. Rather, they are permitted as a special land uses in the C-2 (General Business) and DBD (Downtown Business) districts.

Because your Property is not located in the C-2 or DBD districts and because you have not obtained a special land use permit, you are not permitted to operate a short-term rental on the Property.

The City demands you comply with the Zoning Ordinance and cease and desist all use of the Property as a short-term rental effective immediately. If you fail to comply with the City Zoning Ordinance, the City will pursue enforcement action, which may include issuing citations or filing a lawsuit against you in court to obtain an injunction and other relief.

If you have any questions or concerns, you may contact the City directly or contact me. We appreciate your anticipated compliance.

Very truly yours,

FOSTER SWIFT COLLINS & SMITH PC

Laura J. Genovich

LJG:KEM

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