

December 4, 2013

Authors: Student Rights Committee

Sponsors: Eric Hurtt, Government Relations Director
Emma Halling, Student Body Vice President
Marcus Tetwiler, Student Body President
Marquise Paige, Development Director
Pantaleon Florez III, Graduate Affairs Director
Tyler Childress, Chief of Staff

A RESOLUTION SUPPORTING THE EXPANSION OF THE CITY OF LAWRENCE
RENTAL INSPECTION PROGRAM

WHEREAS, Student Senate Rules and Regulations states “The Student Senate shall work to build a vital and thriving University community encompassing students, faculty, staff and administration. The Student Senate shall work to strengthen ties between the University community and all the residents of Lawrence and the State of Kansas,” and

WHEREAS, Student Senate Rules and Regulations states “The Student Senate shall work to represent students on university, local, state, national, and international levels,” and

WHEREAS, The majority of University of Kansas students live off campus, oftentimes in rented properties, and

WHEREAS, A code-compliant residence is vital to the ability of students to perform to the best of their abilities as students, as well as to their ability to participate fully as citizens within the Lawrence community, and

WHEREAS, Current Lawrence City Code does not provide for adequate inspection capacities to enforce safety codes within residential rental units, many of which are occupied by students, and

WHEREAS, the City of Lawrence City Commission is considering an expansion of the Rental Registration and Licensing program to include inspection of residential rental properties, and

WHEREAS, the University of Kansas Student Senate here assembled recognizes that a rental inspection program that enforces safety codes while preserving the privacy of tenants will best ensure student success and a healthy Lawrence community.

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THEREFORE BE IT RESOLVED by the University of Kansas Student Senate here assembled that the University of Kansas Student Senate supports an expansion of the City of Lawrence rental registration and licensing program to incorporate property inspections of apartments by city inspectors with the consent of tenants, to verify landlord compliance with city code.

- Michael Dever, Mayor, City of Lawrence
- Mike Amyx, Vice Mayor, City of Lawrence
- David Corliss, City Manager
- Cynthia Wagner, Assistant City Manager
- Jeremy Farmer, City Commissioner
- Dr. Terry Riordan, City Commissioner
- Bob Schumm, City Commissioner
- Sen. Marci Francisco, Kansas State Senator
- Dr. Tim Caboni, Executive Vice Chancellor for Public Affairs
- University Daily Kansan
- Lawrence Journal World

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RICHARD A. BARBER
(1911-1998)

GLEE S. SMITH, JR.
OF COUNSEL

Matthew S. Gough
Email: mgough@barberemerson.com

*ADMITTED IN KANSAS AND MISSOURI

December 17, 2013

Re: *Rental Inspection Consent Form*

Dear Mayor Dever:

By way of follow up to my letter dated November 26, 2013, I have reviewed City Commissioner and Staff comments from the last meeting, Randy Larkin's Memorandum dated December 12, 2013, and the newest drafts of the proposed consent form, inspection form, license application, and other documents included in the December 17, 2013 agenda packet. I am pleased to see that the suggestion for vacant unit inspections has been well received. I am generally supportive of Mr. Larkin's comments to Draft 2 of the Ordinance. I respectfully request that the City Commission consider and implement the recommendations of the City Attorney's Office, and direct the staff to prepare a third draft for approval next year. I believe the recent revisions are appropriately targeted to protect tenants' lives and safety, and does nothing but enhance the City's ability to enforce the non-life and safety ordinances that have independently existed for a number of years outside of the rental inspection program.

Regarding the new *Consent for Inspection* form (the "Consent") that is included in the agenda packet, I believe tenants should be notified that the proposed rental inspection does not solely pertain to a landlord's compliance with the ordinance, but also seeks to ensure the tenant's compliance. Consequently, I suggest the following revisions to the Consent:

1. Revise paragraph 1) of the "I hereby" section to read as follows: "Knowingly and voluntarily give my consent to the Code Enforcement Officer(s) to conduct an inspection or any subsequent required re-inspection of my dwelling unit, upon at least 72 hours prior notice, to allow my landlord to comply with, and to ensure my compliance with, the requirements of the ordinance."
2. Revise paragraph 4) of the "I hereby" section to read as follows: "Understand that if I refuse consent to inspection or re-inspection, the City of Lawrence may seek an administrative search warrant to complete the inspection or re-inspection pursuant to City Code Section 6-1301."

Every lease is unique, and the allocation of responsibilities varies widely among the rental units in Lawrence. Consequently, some of the "one size fits all" aspects of the administrative regulations may lead to issues later. For example, some licensees will rent a four bedroom unit by the room, with four leases, which give the tenants non-exclusive access to the kitchen and living room areas of the apartment unit. I believe the administrative regulations and the Consent should expressly address whether tenants who separately rent by the bedroom are capable of giving consent to an inspection of another tenant's bedroom.

Mayor Michael Dever
City of Lawrence, Kansas
December 17, 2013
Page 2

Finally, I strongly urge the City Commission to review and adopt protocols for Code Officials to follow while conducting inspections. Such protocols would address the things an inspector will not do, the limitations of the City inspection, and the steps that will be taken to preserve a tenant's privacy. I believe this document, once adopted, will serve as the City's first and best public relations document to dispel tenants' privacy concerns about the inspection process, perhaps increasing the volume of written tenant consents. Because licensees cannot be forced to obtain tenant consents on the City's behalf, a document meant to give assurances to the leasing public is very important. If the Commission intends to consider a "Draft 3" of the Ordinance, there is ample time to prepare inspector protocols.

Very truly yours,

BARBER EMERSON, L.C.



Matthew S. Gough

MSG:plh

cc: City Commissioners (via e-mail only)
David Corliss (via e-mail only)
Scott McCullough (via e-mail only)

Casey Toomay

From: Scott McCullough
Sent: Tuesday, December 17, 2013 1:46 PM
To: Casey Toomay; Susan Parson
Subject: FW: attorneys

Scott McCullough, Director - smccullough@lawrenceks.org Planning and Development Services | www.lawrenceks.org
City Hall, 6 E. 6th Street P.O. Box 708, Lawrence, KS 66044-0708 office (785) 832-3154 | fax (785) 832-3160

"Your opinion counts! Customer feedback helps us serve you better. Please tell us how we're doing by completing this short online Customer Satisfaction Survey: <http://lawrenceks.org/pds/survey/satisfaction>."

-----Original Message-----

From: Candice Davis [<mailto:candicedavis@sunflower.com>]
Sent: Monday, December 16, 2013 12:28 PM
To: schumm bob; riordan terry; farmer jeremy; dever michael; amyx mike
Cc: Scott McCullough; Brian Jimenez; David L. Corliss
Subject: attorneys

Dear Commissioners. In light of the misleading and inaccurate rental registration information that has been bandied about these past few weeks to uninformed tenants, I would like to know the identity of who/whom exactly are lawyers representing when they speak before the CC, not the LLC, but those who are a part of the LLC. The rest of us have had to get in front of the CC as well as the Lawrence viewing audience and make our concerns known...no hiding just there identified for all the world to see. I would like to have that question asked and revealed to add transparency of the public discussion and process of formulating a meaningful inspection program. Thank you for your consideration,
Candice Davis

Casey Toomay

From: bschulteis@sunflower.com
Sent: Monday, December 16, 2013 12:27 PM
To: mdever@sunflower.com; mikeamyx515@hotmail.com;
voteyourselfafarmer@gmail.com; riordan346@gmail.com; schummfoods@gmail.com
Cc: City Hall email; Bobbie Walthall
Subject: Rental registration

Dear Commissioners,

Please consider a program that utilizes education to help tenants, property owners and owner occupied properties to understand the code and each one's responsibility to follow codes, and how to handle an issue. This would be easier to implement than adding staff and infrastructure. This approach would also address blight in non-rental properties. It is not intrusive to residents. It would not be decisive within the lawrence community. Education has shown to be very effective with the Housing Authority and in our everyday lives.

Comments on current revisions:

There is no need for annual registration if there have been no changes in ownership, land use or zoning. Many communities that have a registration have a one time registration and in many of these communities there is no charge for the registration.

Remove the form that is in the Rental License Application that is meant for the tenant and explains maximum occupancy. This document is in conflict with the lease that specifies how many people and who will be living in the unit. The form could be intepreted by the tenant that it is okay for the tenant to add occupants up to the maximum.

Consider counting units inspected by section 8 housing toward the maximum of 15 units inspected, if the units have not been used in the previous city inspection. This would cut down on the number of units that need inspection and still see that there are 15 units inspected per entity.

Administrative procedures require that the properties owned by one entity must be contiguous lots or they will be counted as separate properties. This is in conflict with the proposed ordinance that a maximum of 15 units be inspected per entity.

4.5.B. of the administrative procedure expands the regulation that all codes will still be inspected, not just life safety. One of the examples was untagged vehicles.

If the ordinance passes, I support the 3 year expiration of the ordinance if not renewed by the commission. This forces a healthy review of the ordinance.

Thank you for your consideration.

Bill Schulteis

**Oread Neighborhood Association
(oreadneighbor@gmail.com)**

RECEIVED

SEP 16 2013

CITY MANAGERS OFFICE
LAWRENCE, KS

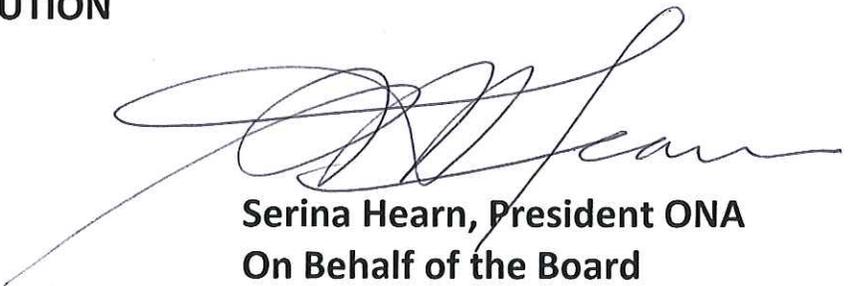
**President: Serina Hearn
Vice President: Rick Kupper**

**Secretary: Jon Davis
Treasurer: David Holroyd**

**To: Mayor Michael Dever
Commissioner: Mike Amyx
Commissioner: Terry Riordan
Commissioner: Bob Schumm
Commissioner: Jeremy Farmer**

Attached you will find a RESOLUTION from the Board of Directors of ONA. The Board is a representative group of residents, investors, and owner occupied home residents as well. The Board represents low to moderate income persons as does the Oread Neighborhood as well.

Furthermore, the executive board or designate is authorized to present to the commission in writing and verbally at the commission meetings the ONA's RESOLUTION



**Serina Hearn, President ONA
On Behalf of the Board**

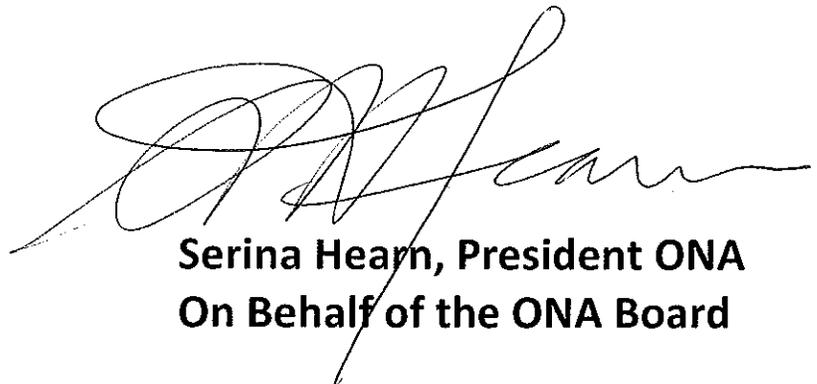
Area Representatives

**District 1 Glen Skulborstad
District 2 marci francisco
District 3 Imran Wahla
At Large Bill Gadberry**

**District 4 Tom Devlin
District 5 Bill Schulteis
District 6 Steve Watts
At Large Alecia Chance**

RENTAL REGISTRATION AND LICENSING PROGRAM

RESOLVED after considering and reviewing the expanded Rental Registration program being considered by the Lawrence City Commission, the ONA Board of Directors strongly **DISAPPROVE** of the program. This program is far reaching and intrusive into the privacy of Oread residents and as a low to moderate income neighborhood has concerns for the financial implications to the residents as well. The ONA Board has weighed heavily the input of residents and owners and **HEREBY** do **NOT** support the licensing program and drafted guidelines as well as the drafted ordinance.



**Serina Hearn, President ONA
On Behalf of the ONA Board**

16 Dec 2013
Dated

Casey Toomay

From: Scott McCullough
Sent: Tuesday, December 17, 2013 1:45 PM
To: Casey Toomay; Susan Parson
Subject: FW: cost review

Scott McCullough, Director - smccullough@lawrenceks.org
Planning and Development Services | www.lawrenceks.org
City Hall, 6 E. 6th Street
P.O. Box 708, Lawrence, KS 66044-0708
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"Your opinion counts! Customer feedback helps us serve you better. Please tell us how we're doing by completing this short online Customer Satisfaction Survey: <http://lawrenceks.org/pds/survey/satisfaction>."

From: Candice Davis [<mailto:candicedavis@sunflower.com>]
Sent: Tuesday, December 17, 2013 1:02 PM
To: amyx mike; dever michael; schumm bob; riordan terry; farmer jeremy
Cc: Scott McCullough; Brian Jimenez; David L. Corliss
Subject: cost review

Dear Commissioners, 12-17-13
Just a reminder of the potential earnings and cost for large apt complexes. Hardships will generally be for smaller rental businesses that have not kept up with property maintenance for many years. The figures shown are actually less now as the registration price for large unit owners has been lowered.
Thank you, Candice Davis LAN vice-chair

BASIC REGISTRATION COST PER ONE UNIT RENTAL- 2013

EXPENSES OR TAX DEDUCTIONS FOR THESE EXAMPLES NOT CALCULATED.

Yearly registration fee for 10 units. \$15 per unit= \$150.

Rent each month per unit for 1 person=\$500.

Rent for the 10 units each month=\$5,000.

Gross profit, 12 x \$5,000.= **\$60,000.**

Percent of fee cost of \$15.00 per unit = ¼ of 1 % of gross profit.

Yearly registration fee for 100 units. \$15. per unit= \$1,500.

Rent each month per unit=\$500.

Rent for the 100 units each month=\$50,000.

Gross profit, 12 x \$50,000.= **\$600,000.**

Percent of fee cost of \$15.00 per unit = 1/4 of 1 % of gross profit.

NOTE, Many single units have 2-4 persons, congregate living-8.) Each person may pay \$500 each.)_

NOTE, The higher the rent, the lower the % of fee cost.

Rent each month per \$700 unit for 1 person= \$700 x12= \$8,400.

Percent of fee cost of \$15.00 per unit = **1/5 of 1%** of gross profit.

Mayor Michael Dever
Vice Mayor Mike Amyx
Jeremy Farmer
Dr. Terry Riordan
Bob Schumm

December 16, 2013

Dear Commissioners:

I wrote to you previously on privacy issues related to the proposed changes to the city's rental housing ordinance. This letter addresses an additional set of issues related to potential costs and benefits of the proposed program expansion.

The city proposes to hire five-full time inspectors and an administrative staff position for the enlarged program, with \$400,000 in program costs. Although the February 2012 Rental Housing Licensing Program Performance Audit does not reveal cost of the current program, it states that revenue covers less than half the costs of the program, not including equipment and office costs, with most of the program's costs borne by general revenues. Estimating annual costs at \$100,000, the proposed change would result in a fourfold cost increase.

From the Performance Audit: *"The 2012 budget reports 743 rental inspections and reinspections for 2010; the annual report shows 435 inspections in 2010 and 743 in 2009....Development staff believe that the program can be 'cost neutral' and that the benefits would include safer housing for renters, reduced demolition by neglect, more stable neighborhoods, and a consistent standard of housing for all landlords to abide by."*

The city's reporting system shows the inspection department responded to 37 minimum housing complaints in 2012. Metrics showing code violations found as a result of the current rental housing inspection program are not available through the reporting system. Thus, we have no metrics available for analysis and possible benefits of the program must remain unquantified.

As a city property taxpayer (with no rental property or other business interest in this issue) it does not strike me as financially responsible to undertake a fourfold increase in a program with no benefit metrics. How do we know that this program is leading to safer housing or better neighborhoods? A pilot program including a results reporting process leading to quantifiable benefits would provide a good start on determining if this program is performing a true service to city rental property residents and neighborhood property owners.

Sincerely,

Mary Ann Stewart
Mary Ann Stewart Engineering LLC
511 Lake Street
Lawrence, KS 66044

To Mayor and City Commissioners:

First, I take exception to the resident whom spoke at the last public meeting saying there was poor to low numbers of landlords concerned over the proposed rental inspection discussion. I have spoken to many that are not in favor of it as proposed but simply do not have the time to be present in body, however they are expressing their concerns in other forms as I do here today.

Secondly, I am not opposed to rental inspections and do believe that the "bad apples" or slum lords have given cause for this necessary process. I am on the board for Habitat for Humanity and see on a regular basis the lack of safe, healthy housing in our community as well as around the nation. But we must not forget, that the landlord, although engaged in a business venture is not solely responsible for the actions of the tenants.

Basic Safety Issues should include the following areas and specifically eliminate any type of cleanliness such as furnace filters, clutter or egress issues arising after the move in period caused by tenants personal belongings, etc.

- a) Smoke alarms
- b) Mechanical
- c) Electrical
- d) Plumbing
- e) Structural integrity

All references to "digital imaging audio and video" should be removed from the proposal all together, (specifically GPS location tracking, who would control/access images and length of retention.) The inspectors should instead have in place a grade scale of degree by which they all can adhere to.

Certainly there are rentals and specifically neighborhood's that bear the brunt of the "student life" with noise, party, traffic and numerous nuances issues at all hours as some have alluded to but this proposal is not concerning those issues. And just as there are laws in effect in our municipality and ways in which to curb and report this activity so is there for poor housing. Might our rental population not be better served by better education and timely response by the appropriate authority when concerns are reported?

One might argue that it is the landlord's responsibility to ensure the safety and welfare of their tenants. But how is it any more an instructor's responsibility to ensure that all of a student's homework is completed after it is assigned?

Life safety and health issues are indeed a right of every tenant. Unfortunately everyone has a different level of what is an appropriate level of acceptable living. You may keep your house clutter free; someone else may not mind having clothing piled two feet deep up a stairwell and

down the hallway creating an environment for mold and mildew growth. It is unsafe and disgusting in my opinion but if a tenant chooses to live like a pig a landlord has no control over that until it creates damage to the dwelling at which point we wait out the lease term, choose not to renew and hope that in that event there is enough security deposit to clean up after them. That is a business risk each of us takes on a regular basis.

I have not heard how this proposed program is being paid for. Yes, some of it will be paid by the landlord unit registrations but where will the remainder of the funds be found, what area of the City budget can afford a cut to supplement these efforts? It is my understanding that the current program is not generating enough revenue to be self sufficient. The current system in my opinion, as a business owner, seems at the very least ineffective with current management unable to keep accurate records and a poor attempt at a revenue generator. I have not seen any evidence of current program success or progress and only vague numbers and assumptions from the current program. I have been told a new system has been purchased to better track the infractions and such documentation, one would have thought an Excel spreadsheet could have been used for this in some manner over the last decade to maintain better records.

It is my understanding the 15% cap that was in the original proposal was removed or omitted due to an oversight and will be put back in place. I do hope that is the case.

Perhaps as previously stated we may better serve our rental population along with the homeowners living among them to require landlord's to license as business first and perform inspections on complaint driven basis with revenue going towards tenant education and inspector identifications of problem properties, neighborhoods, complexes or landlords. I truly believe it is a responsibility for every person, tenant or landlord, to report unsafe issues of health, welfare and safety in order to make our community a better place for all of us.

Thank you for your considerable time and dedication to this matter. As a previous tenant and a current 10+ year landlord for multiple units I ask that the commission please consider all ramifications of instituting this program. I ask that all details and forms be available for public review and comment before any ordinance is passed.

Respectfully,

Michelle Mailand, landlord and previous tenant

Casey Toomay

From: Serina Hearn <rainbowworks1@yahoo.com>
Sent: Tuesday, December 17, 2013 10:59 AM
To: Casey Toomay
Subject: Letter to City Commissioners about mandatory inspection

Dear Commissioners,

Arguments have been made claiming that mandatory inspections are for the benefit of renters even though ordinances already exist to assist all renters who wish to have the City inspect their homes.

This new mandatory ordinance states that the FIRST SERIOUS health and safety violation for both landlord, and tenant, is OVEROCCUPANY: The over occupancy of more than 4 people living in a 6 bedroom Victorian house, or a 7, or 8, and so on...

The FIRST concern is NOT for:

- * Backed up sanitary sewer line
- Ceiling height requirement not met in habitable rooms as defined by code
- Combustion "makeup" air requirement not met for gas furnace and/or water heater
- Missing or inoperable lock on exterior doors
- Dryer not vented to exterior or improperly vented
- Egress requirement not met for bedrooms
- Electrical wiring that is exposed, frayed or faulty as defined by code
- Fire escape from 3rd story or higher not in place when required by code
- Fungus that is most likely mold that is located on walls, ceilings, or floors (large or multiple areas)
- Furnace or water heater flue that is loose or disconnected
- Gas fired furnace and/or water heater not properly vented

As Mr. Schumn states: rentals are businesses. However, it is clear that this government mandate to invade the privacy of people's homes (under the guise of safety) is a financial/political one to discover how many people live in a non-compliant Victorian house and to push them elsewhere.

This hostile environment that has been created for landlords especially under this new threat of invasive searches has caused USBANK Vice president Jacob Dale and Kevin Freese at a meeting on Dec 10 to inform me that due to USBank losing their appetite to finance rental property of the nature that I owned (a seven bedroom house in the OREAD) that they would not be renewing my loan. When pressed further to explain reasons for this loss of appetite the Vice President said that with the 2% loss of enrollment at KU, the high vacancy rates in apartment complex, plus the further building of more apartment complexes along with the City's pressing for mandatory inspections of properties such as mine was the reason for their withdrawal of support.

HISTORY OF INDEPENDENT RENTAL BUSINESSES IN LAWRENCE:

- 1963 - Billings and McGrew distinguished land zoned multifamily from the type of dwelling on it - however, until recently this rule was UNKNOWN
- Up to early 2000s - most individuals (including appraisers and bankers) had NEVER HEARD of the Billings and McGrew ruling. All one has to do is look at every appraisal done for multifamily houses on the Oread Hill in the last 50 years and you will find them consistently upholding this ignorance of an unenforced ordinance.

Houses were sold and legally valued at their rental income worth. If suddenly that previous legal value is diminished, in some cases by half, it will create hardship for both business owner and tenant, as

- Over occupants will be forced to leave and even fined
- Landlord will not have enough income to pay mortgage let alone keep up with maintenance.
- Remaining tenants will be left with double the heating/utility bill.
- Grandfathering rights of property owners and KU students who have lived in what the City now terms "Over Occupied," have been utterly neglected, and made impossible to comply with.

This financial/political decision to resurrect, and enforce by mandatory invasion of people's homes while IGNORING the grandfathering rights, or adverse possession rights of the status quo since KU started points to one direction as seen in CITY'S continued endorsement of building NEW apartment buildings:

DESTRUCTION OF HISTORIC OREAD NEIGHBORHOOD: architecturally, socially, and commercially -

WHO WILL BENEFIT:

- BIG DEVELOPERS:
 - Current apartment developments which have 20% vacancy due to 2% falling KU enrollment and over building encouraged by City.

- GOVERNMENT OF THE CITY OF LAWRENCE:
 - Revenue paid to City of Lawrence will increase due to increased property taxes for every new apartment complex, every 4-plex built on OREAD hill.

- INVESTORS WITH CASH will benefit as they will be able to buy cheaply once Oread landlords are unable to make their bank payments and those noncompliant Victorian houses will be torn down in favor of 4-plexes which will allow 16 people to live on the same site.

Does the City of Lawrence have the right to take away small business owners' ability to survive and give it to the BIG FISH because it will increase City coffers?

WHO WILL LOSE:

- OREAD PROPERTIES
 - Will lose the 25% equity originally invested in house purchase and if banks do not support sales blighted homes will follow.
- * SMALL BUSINESS OWNERS/INVESTORS
 - Property values will go down on existing historic OREAD Victorians
 - Cash-flow will be impossible to sustain and many small rental business owners will go out of business along with net work of local handymen, appliance repair techs, and the whole community of service men it takes to upkeep OREAD homes.
- KU STUDENTS
 - A vital experience of KU students who like to live together as a household will be lost to developers who will legally be able to build their 4-plexes just as developers McGrew and Billings foresaw,
 - Future generations will NOT be able to visit the historic OREAD neighborhood their parents and grandparents lived in when they went to KU,

- THE HISTORIC OREAD NEIGHBORHOOD will cease to exist as we know it.

Serina Hearn

December 16, 2013

Dear Commissioner Farmer,

I believe the proposal that you made, a pilot program was influential in the proposal of a sunset clause. A sunset clause would do much to eliminate fears expressed by Commissioner Schumm while gathering useful data necessary for evaluation as you proposed. A sunset clause would serve as a motivational tool for staff to meet goals and criteria as yet to be defined by the clause and commission.

As you know from the city Performance Audit Report, February 2012, the current rental inspection program is revenue negative, nearly 100%. The proposed program operated in the same manner will require either the general revenue fund to pick up the revenue shortfall or landlords, who will likely be forced to pass on the added expense. (Performance Audit Report, February 2012, pg 11)

Staff has proposed a budget wholly supported by fees and licenses yet this fiscal independence proposed has not been the case with the existing program. Further the city auditor's report was critical of a revenue neutral program being an obtainable goal based on the currently proposed fee schedule .

As noted in the Performance Audit Report, the existing program lacks written policy and procedures and is haunted by an appalling absence of data. Citizens deserve a fiscally sound program, a program which is revenue neutral and professionally managed .

Since installation of new software by the city, staff has produced a report "Case Statistics By Case" 01/10/13, showing the Codes Enforcement department responded to 37 minimum housing complaints city wide in 2012. This report includes all violations regardless of the source.

Of the 37 complaints, city wide 21 were related to issues at a North Lawrence trailer park at 827 Walnut street, a widely known problem in existence for years. The remaining 16 complaints were a mix of housing. This is a slight improvement in the data reporting although it is far from being comprehensive or an effective management tool. Staff was not able to produce a report for the current year for unspecified reasons.

Staff must provide transparency in the program which should be monitored closely by the commission and public for fiscal prudence and cost benefit. Perhaps a citizen oversight committee would be useful?

As in most managerial or life situations structure , direction, clearly defined written policies and procedures afford the best chance for people to achieve common goals.

You spoke of the head and the heart, this law will have lasting impact on our community and citizens, it would serve citizens well to get this right by giving careful consideration to privacy , fiscal prudence and public oversight.

I urge you to strike the digital imaging from the inspections process and pass an ordinance with digital privacy.

I urge you to support your pilot program idea by including a sunset provision.

Thank you for your time and attention to these matter, if I may be of further service please contact me.

Russell Livingston

russsl@sunflower.com

785/979/2007

CASE NBR	ORIGINATION	DATE	STATUS	PENALTY	PAID	PROPERTY OWNER	LOCATION ADDRESS
12-20000028	CC	1/10/12	CL	.00	.00	S J INVESTMENTS OP	2040 HEATHERWOOD DR
12-20000030	TC	1/10/12	CL	.00	.00	PAUL JESS D JR TRUSTEE	1300 TENNESSEE ST
12-20000101	TC	1/27/12	CL	.00	.00	EDR LAWRENCE LP	2511 W 31ST ST 13
12-20000130	TC	2/28/12	AC	.00	.00	PARK PLAZA SOUTH PARTNERSHIP	1821 W 26TH ST
12-20000211	TC	3/23/12	AC	.00	.00	HAMPTON COURT LLC	1722 W 24TH ST
12-20000224	TC	3/28/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000292	TC	3/28/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000307	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000315	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000320	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000321	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000332	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000333	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000336	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000337	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000338	SI	4/05/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000339	SI	4/05/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000340	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000341	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000349	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000350	SI	4/10/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000354	SI	4/04/12	AC	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000362	SI	4/10/12	CL	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000363	SI	4/05/12	CL	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000431	SI	4/10/12	CL	.00	.00	WARREN GEORGE L	827 WALNUT ST
12-20000431	SI	4/27/12	CL	.00	.00	MCDAYVIS JERRY L	827 WALNUT ST
12-20000436	CC	4/27/12	CL	.00	.00	CAMPUS CREST AT LAWRENCE LLC	501 COLORADO ST UNIT 1
12-20000763	TC	5/04/12	AC	.00	.00	MAGILL DANIEL L	4301 W 24TH PL 13
12-20000832	TC	5/08/12	AC	.00	.00	BEASLEY FAMILY PROPERTIES LLC	728 RHODE ISLAND ST
12-20000847	CC	5/11/12	AC	.00	.00	LUCE HUDSON H	3418 HARVARD RD C
12-20000941	TC	5/17/12	CL	.00	.00	ARC SPEI I LLC	758 ASH ST
12-20000981	TC	5/23/12	AC	.00	.00	LAWRENCE PROPERTIES I LLC	101 N MICHIGAN ST
12-20000984	TC	6/12/12	CL	.00	.00	H & R PROPERTIES LLC	2300 MARARUSA DR M2
12-20000985	TC	6/15/12	AC	.00	.00	PENG LIH W	1311 MICHIGAN WAY C
12-20000987	TC	6/22/12	AC	.00	.00	SEIM MITCHELL R	2532 WINTERBROOK DR
12-20000988	TC	7/05/12	AC	.00	.00	TEDROW RANDALL E	1713 E 21ST TERR
				.00	.00		3308 W 8TH ST C

TOTAL FOR CASE TYPE MH REPORTED 37

Megan Gilliland

From: bschulteis@sunflower.com
Sent: Monday, December 16, 2013 12:27 PM
To: mdever@sunflower.com; mikeamyx515@hotmail.com;
voteyourselfafarmer@gmail.com; riordan346@gmail.com; schummfoods@gmail.com
Cc: City Hall email; Bobbie Walthall
Subject: Rental registration

Dear Commissioners,

Please consider a program that utilizes education to help tenants, property owners and owner occupied properties to understand the code and each one's responsibility to follow codes, and how to handle an issue. This would be easier to implement than adding staff and infrastructure. This approach would also address blight in non-rental properties. It is not intrusive to residents. It would not be decisive within the lawrence community. Education has shown to be very effective with the Housing Authority and in our everyday lives.

Comments on current revisions:

There is no need for annual registration if there have been no changes in ownership, land use or zoning. Many communities that have a registration have a one time registration and in many of these communities there is no charge for the registration.

Remove the form that is in the Rental License Application that is meant for the tenant and explains maximum occupancy. This document is in conflict with the lease that specifies how many people and who will be living in the unit. The form could be intrepreted by the tenant that it is okay for the tenant to add occupants up to the maximum.

Consider counting units inspected by section 8 housing toward the maximum of 15 units inspected, if the units have not been used in the previous city inspection. This would cut down on the number of units that need inspection and still see that there are 15 units inspected per entity.

Administrative procedures require that the properties owned by one entity must be contiguous lots or they will be counted as separate properties. This is in conflict with the proposed ordinance that a maximum of 15 units be inspected per entity.

4.5.B. of the administrative procedure expands the regulation that all codes will still be inspected, not just life safety. One of the examples was untagged vehicles.

If the ordinance passes, I support the 3 year expiration of the ordinance if not renewed by the commission. This forces a healthy review of the ordinance.

Thank you for your consideration.

Bill Schulteis

2603 Orchard Lane ,

Lawrence, Ks. 66049

785-845-9996

susanjkraus58@gmail.com

Nov. 10, 2013

RECEIVED

NOV 26 2013

CITY MANAGERS OFFICE
LAWRENCE, KS

To City Commission:

I am writing with regard to the Rental Housing License. I will describe my recent experience and then make a few suggestions pending expansion of the program.

I have a license for a small rental property at 1639 Bullene. I have had the license since the beginning of the program. Every year I pay the \$25 fee. But this year I slipped up. I didn't send the check. I thought I did but what with on-line banking now and so few actual checks ... I cannot find any record of that check.

The check for \$765 on May 25th for taxes? That one I mailed.

But no \$25 for the license renewal.

Now, Planning and Development Services says they sent a 2nd notice. I accept that they did. However, I don't remember seeing it. (And if I assumed I sent the check I wouldn't have paid attention.) But then ... nothing. No e-mail. No call. No follow up. No "final warning" or any other notice. So I had no idea I was "in violation of ordinances."

My license apparently expired June 30th, with a one-month grace period until July 30th. What makes this especially frustrating is that I personally met the city inspector at the property on July 23rd for the "every 3 year" inspection. So, obviously, I was not trying to defy the system. The house passed just fine, and the inspector never said "Hey, you never paid your license fee and the City is gonna issue you a summons and haul your ass into court. "

No, she just said "Looks great, Susan. See you next time."

So, the first time I had a clue that I did not pay my paltry \$25 license fee was when my husband got a "Notice to Appear." Not me, the person who is also on the title, and license, has had every single contact with the city, written every check, shown up for every inspection... no, this is done alphabetically. So, Frank Barthell has got to go to court because his wife, Susan Kraus, forgot to mail a check.

I was initially indignant when I received the notice to appear. I *knew* I'd mailed that check. But then I couldn't find it. Mea culpa. I ran down to the city planning office in person to give them their \$25 check. But the fact that I paid made no difference. We

still had to appear in court...no, correct that... my husband (who has no clue) has to appear. And the court was not about to allow me, even though it is my house and my license and my fault, be his substitute. Neither would they accept the statement from City Planning that the damn \$25 was paid. We still had to appear. So we take off work and sit there on a Tuesday morning for an hour just to make a plea. (And, I must say, I had no clue as to the extent of public urination on Ohio Street. It's a wonder they have any grass left at all. Everyone should sit in Municipal Court once in a while to get a sense of the underbelly of Lawrence.) I'd assumed we could show we paid, show the license, and go home. But, no, we could not get it dropped just because we paid the \$25, and it didn't matter that we had been totally compliant for years, we still had to plea and then to meet with a prosecutor or set a trial date.

I went back the next day and asked to see a prosecutor. Waited an hour but that was better than having to return to court (really, a *trial*?) And the prosecutor was kind enough to meet with me instead of insisting that my husband be present to supervise. He, however, seemed fixated on how I'd had a few months before the city came after me to pay... which makes no sense to me as I had no clue I was in arrears. But, he added, if I paid \$60 in court costs, the whole matter would be dropped.

I paid the court costs. But I am not happy.

- 1) There has to be a better system of notifying people. We have crazy lives. A second notice (the first that a payment is delinquent) is not adequate. If people have been in compliance for **years**, then the courtesy of an e-mail or a call would be a step prior to a court summons. If this is how the system runs with a relatively small number of units, then it is going to get really insane when everyone comes on board.
- 2) The right hand needs to know what the left hand is doing. If I meet with an inspector on July 23rd, and she says everything is peachy, and I have no knowledge that I missed a paltry \$25 check and am about to be in trouble *after* the inspection date... do I have a right to assume that a city inspector would inform me if something were amiss? Does it make sense that the city inspector also has no clue?
- 3) It would be useful to have some coordination between the Municipal Court and City Planning. If people rush in to pay up, then the city needs to figure out a way they do not have to go sit in court, plea, and then also meet with a prosecutor or schedule a trial. Have a penalty fee, or double the license fee. But it is waste of court time and prosecutor time... it is a BIG waste, period. And the city is paying for **all** of it.
- 4) It costs NO money (no stamps, no paper) to have an on-line notification system. Get e-mails when people register to send notices. Set up an automatic notification system. Even if a notice is going out via post office, send a parallel e-mail. Or a "Look for your renewal in the mail coming in June because if you do not renew the City will haul your ass into court ... and thank you for signing up with the rental licensing program." Or "You forgot to send in your licensing fee. Do it before _____ or you will end up

receiving a summons, have to appear in Municipal Court and incur court fees plus a penalty fee. So, send in your licensing fee." That sort of e-mail would have been a real help.

- 5) This last is more a marketing tip: If you are going to require licenses and inspections, then it would be helpful to provide a service. For example, a seasonal e-mail with maintenance tips with explanations why the maintenance is critical and will save landlords money in the long run. Check out the one by Steve Bauer (a home inspector: s.bauer@MCHSI.com.) It would also help to have clear handouts on what the inspection specifically covers so landlords can prepare. This again, is best managed via e-mail.

Thank you.

A handwritten signature in black ink that reads "Susan Kraus". The signature is written in a cursive, flowing style.

Susan Kraus

November 13, 2013

RECEIVED

NOV 19 2013

CITY MANAGERS OFFICE
LAWRENCE, KS

Re: Proposed rental licensing

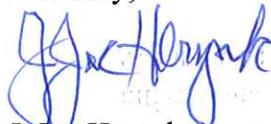
Lawrence City Commissioners:

City commissioner Mike Amyx believes the city's current inspection system is adequate and I would agree for the following reasons:

- 1.) "Safety" is not the primary motivation for this proposal if it exempts the majority of our city's residents from compliance (non-owner-occupied residents as compared to owner-occupied residents). Safety issues should not be discriminatory, applied equally to all residents and should not be used as a scapegoat to enforce existing ordinances regarding blighted neighborhoods and overcrowded parking.
- 2.) The Fourth Amendment states that "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." The Fourth Amendment provides equal rights to all citizens and does not discriminate as to whether or not they live in non-owner-occupied or owner-occupied residences.
- 3.) Paragraph 58-2559 of The Kansas Residential Landlord Tenant Act, provides tenant(s) a legal remedy to address all health, safety and maintenance issues
- 4.) Privacy issues regarding personal residences should not be confused with businesses that serve the public. As an example, restaurants and barbers are required to have a license before they can engage in commerce with the public. Cutting hair or cooking in the privacy of your home does not require a license because private residences are not open to the public and there is no money exchanged for services.
- 5.) The proposed rental licensing program would be nothing less than a discriminatory tax on non-owner-occupied property owners.

By voting "no" on this proposal, commissioners will be continuing the tradition of respecting the privacy rights of all individuals living in our city. The proposed rental licensing program should not be implemented.

Sincerely,



J. Joe Herynk
785.979.3550

Bobbie Walthall

From: S McCoy <shdmc73@gmail.com>
Sent: Monday, November 18, 2013 7:44 PM
To: Russ Livingston; mdever@sunflower.com; riordan346@gmail.com;
schummfoods@gmail.com; voteyourselfafarmer@gmail.com; mikeamyx515@hotmail.com;
Bobbie Walthall; David L. Corliss
Subject: Rental Licensing Ordinance

Dear Lawrence City Commissioners and Mr. Corliss;

I received an email with some documentation from my landlord regarding the new Rental Licensing Ordinance that the city is preparing to try and pass. I have been a tenant of one landlord for a majority of my almost twenty years in Lawrence. I work a full time job here in Lawrence and also work part time for the city as well.

While I understand that the regulation of rental units is something that may need to be looked into when there is a problem. Safe and secure places to live are important but to force the city upon the citizens to come in when they want and for a person to basically sign away rights to make this happen aren't the best way to do this. I for one will not be signing this letter unless I am shown more information on how my privacies and rights are going to be protected. Not by reading something in a city memo that looks as though if we don't comply then a warrant will be issued. Does everyone that this well affect know exactly what signing waiver will do to their rights and what they'll be subject to?

6-1310 - Consent from the tenants or securing a warrant is necessary to comply with federal law, but the responsibility for complying with the licensing and inspection program rests with the property owner who rents the unit as a business venture. In this regard, the business owner has the responsibility to coordinate the inspection from their end since they are ultimately responsible for compliance.

6-1313 – The right of entry section of the ordinance is the same as it is for any code violation the city suspects exists on a property and is legally sound according to the City Attorney's Office. Search Warrants are delivered to those on site and staff is always accompanied by the Police.

As a longtime resident of Lawrence, I would appreciate learning more about this ordinance and how it relates to me and my rights as a resident of Lawrence.

Sincerely,

Mr. Shannon D. McCoy

Bobbie Walthall

From: Russell Livingston <russsl@sunflower.com>
Sent: Friday, November 15, 2013 12:32 PM
To: mdever@sunflower.com; riordan346@gmail.com; Bob Schumm; Jeremy Farmer For City Commission; Mike Amyx
Cc: Bobbie Walthall
Subject: Response to Commissioner Farmers questions November 5, 2013 study session Rental Licensing ordinance
Attachments: manhattan_program.pdf; "Certification"

Dear Commissioners;

I recognize you may not have time to read all the information provided to you by staff. In my review of the questions posed by commissioners at the November 5, 2013 study session on the Rental Licensing an Inspection Proposal.

Commissioner Farmer asked: "Why was this program repealed in Manhattan? Why haven't they reintroduced it? Why did it not succeed?"

Part of the staff response was the attached document noted as "memo" and hyperlinked.

http://www.lawrenceks.org/assets/agendas/cc/2013/11-05-13/pl_rental_licensing_staff_memo.html

I respectfully request you read the attached document, a response to city staff provided you in the link above from the Manhattan KS Inspection Department.

This document may give you new information as to why the program terminated or should have been.

On the second page first paragraph beginning at the sixth line and continuing into the next paragraph three lines.

RCPD is the Riley County KS Police Department.

The inspector openly admitted staff being trained by Riley County Police Department to observe illegal activity and how to document and report it.

Manhattan inspectors stated that they had reported several addresses to the Police Department for suspected criminal activity, a result of their Rental Inspection Program.

Commissioner Farmer asked: "How do we prevent citizens being placed into classification categories based upon how they live?"

"Can we ensure people with alternative lifestyles are not discriminated against?"

In the second paragraph it appears the inspectors in Manhattan are also cross trained in mental health evaluations and are competent to diagnose Obsessive Compulsive Disorder, or hoarding.

Commissioner Farmer asked: "How can we ensure that fourth amendment rights are protected?"

The Tenant Consent to inspect document included in every rental registration is an overt attempt at circumventing the Fourth Amendment. Voluntary consent strips the Fourth Amendment's protection from the tenant; this document is done under threat of coercion.

Without tenant consent to inspect Federal protection mandates probable cause (Life safety?) and a warrant.

Is the City counting on the naivety of the citizens they purport to protect?

Will the City provide information to inform citizens of the dangers involved with waving their rights or create a document of informed consent?

Will inspectors give citizens a final "Mirada warning" informing them of the rights citizens will be waving before entry?

Will our inspectors be cross trained as police agents as well?

Will inspectors be sharing information collected with Lawrence Police Department as was done in Manhattan?

Will inspectors identify themselves as Agents of the Police?

Who will have access to the digital imaging proposed in the Consent to Inspect?

There are many questions yet unanswered, I urge you to postpone your support until such questions are answered. Your citizen's civil rights are dependent on your decision.

Thank you.

Russell Livingston
785/979/2007
russl@sunflower.com



INTEROFFICE MEMORANDUM

Date: April 11, 2011
To: Ron Fehr, City Manager
From: Brad Claussen, Building Official *BC*
Subject: Rental Licensing and Inspection Program Update

As requested, the following is a periodic update regarding the Residential Rental Licensing and Inspection Program. Since my last update was a month ago I will briefly recap that report, and then update you on the programs progress over the past month.

Review and Current Registrations

You may recall that at the end of February 2011, we had registered 11,470 dwelling units total. Most of those registrations occurred last fall and early this year. We continue to have a few new registrations trickle in. Mostly these are delinquent registrations, property ownership changes or are new units which have been recently constructed. Our current total number of registered units is 11,542. We continue to spend time pursuing possible rental units which have not yet been registered but are identified through means such as the County Appraisers office as being rental property.

Inspections began in January of 2011, however much of that month was utilized to train new inspection staff so the predominance of our inspections through the end of the first quarter (663) have taken place in the months of February and March.

Inspections

I am pleased to report that all three of our rental inspectors have passed national certification testing and are certified ICC Property Maintenance Inspectors. In March we inspected a total of 338 dwelling units. Of these, 107 passed inspection during the initial check. There were several of those however, that did have minor violations which were corrected on site by the owner / manager or maintenance staff and were not counted against the unit for the purpose of determining its next inspection interval. The average number of violations found during an inspection is currently about four. The following are updated totals of the most common items found:

- Electrical violations (For example inappropriate, damaged or deteriorated wiring or electrical equipment)

Total times cited - 469

- Smoke detectors missing or inoperable
Total times cited - 239
- Interior surfaces kept in a good, clean and sanitary condition (This would include mold conditions)
Total times cited - 167
- Electrical receptacles (Not in sufficient quantity leading to extension cord use or outlets wired incorrectly)
Total times cited - 133
- Fire resistance rated assemblies (Lack of fire separation between dwelling units)
Total times cited - 120

We conducted 109 recheck inspections during the month of March as well with all of those except 1 passing. We continue to run into a number of unique situations which we have been documenting. These would include items such as plumbing not connected to the sanitary drainage system (drained into a pit), bathrooms located beneath stairways and altered electrical and plumbing installations. I can provide photographs should you wish to see those.

An interesting side note is that we have referred a few addresses to RCPD in which we observed suspected drugs and / or paraphernalia present during our inspection. Early on in the program we underwent training from the RCPD investigations staff since we knew we might run into these situations.

Tenant Issues

We have been active in holding tenants responsible for violations recently. For example, 5 tenants at one address were issued tickets for damage they admitted causing to the dwelling unit and we have sent written notice to 2 tenants for hoarding or serious sanitation issues. We will continue to work with tenants as well as owners when it is determined either have violated provisions of the code.

Other Comments

Finally, it was interesting that we have recently been contacted by the City of Pittsburg, KS with several questions on our rental licensing and inspection program. Apparently, they are looking at potentially drafting such an ordinance there. When I asked the staff member who called me what was precipitating the inquiry, he mentioned that the business community along with Pittsburg State University was interested in a way to improve the housing stock. Evidently they have had people come for interviews and decline jobs due to the inability to find decent housing. I consented to participating in an upcoming conference call with them to share our experiences. I will keep you posted on that.

2702 University Drive
Lawrence, KS 66049

November 20, 2013

Mayor Mike Dever,

Vice Mayor Mike Amyx,

Commissioner Jeremy Farmer

Commissioner Bob Schumm,

Commissioner Dr. Terry Riordan.

City Hall, 6 E. 6th Street
Lawrence, KS 66044

RE: Comments on the 11.05.13 Lawrence City Commission study session on the proposed registration and regulation of residential rental properties in Lawrence.

Dear Mayor and Commissioners:

Comments and recommendations based on the above-referenced study session.

1. Inspectors: The proposed number is inadequate to initiate the program and to continue administering it. There should be at least 10, 5 full-time and 5 part-time. Retired or off-duty first responders could serve as part-time inspectors, with appropriate training. Fire fighters should require minimum training to identify health and safety hazards.

2. Frequency of inspections: Once the initial licensing and registration program inspections are done, each residential rental property should be subject to inspection randomly, upon a report or request, or upon observation by an inspector or first responder. There should not be a specific interval between inspections, nor an "incentive" interval for a favorable inspection.

3. Time for non-resident property owners to remedy Code violations: They should notify the City Code Enforcement Manager, in writing, within 48 hours of the finding of a violation(s) that repairs have been made or will be made within 5 calendar days. E-mail notice would be considered "in writing."

4. Responsibility for code violations: The property owner should be responsible for **all** city code violations, including noise complaints, trash, and parking infractions. Landlords and non-resident property owners receive the income from these properties, are probably exempt from state income tax, so they should be accountable. They can insure a safe, habitable environment for tenants and the neighborhood through rental/lease agreements, screening of tenants, and random inspections of the premises.

5. Seemingly minor code infractions: The lawn of a property that hasn't been mowed, the presence of trash or debris, rotting wood of the structure, and illegally parked vehicles are indicators that the inside of the structure may also be unsafe. Code enforcement officers and inspectors should consider these seemingly minor conditions as such.

6. Dissemination of information on City code enforcement and property inspections. The information distributed by the City should be **only** for those subjects. Other information such as voter registration and renter's insurance would only serve to confuse recipients and divert their focus.

7. Radon gas hazard. According to a January, 2013, message from Stewart Steen, Environmental Scientist, KDHE Bureau of Environmental Health radon gas is a health hazard. He stated, in part, “Radon is the leading cause of lung cancer in non-smokers. It is estimated that one in 15 homes in the US have elevated radon levels. The US Environmental Protection Agency has established a recommended action level of 4.0 picocuries per liter for radon.” A map of Kansas, sent to me by Mr. Steen, dated 2010, shows that Douglas County residences have an average rate of 4.8 picocuries of radon per liter. Yet the City Commission, firmly in the clutches of non-resident property owners, did not even broach this matter in developing up a rental registration and code enforcement program.

8. State of Kansas v. William Lemesany, Case No. 2000-CR-1438. The file on this case should be reviewed by each City Commissioner because it involves, as you probably know, a landlord secretly observing his tenants in their bedrooms. The fact that this case has not been mentioned in the rental registration and code enforcement discussions is clear evidence that the Lawrence Apartment Association, and the other non-resident property owners, have the City Commission firmly in their clutches to the detriment of tenants, neighborhoods, and the city at large. This is further supported by the recent discoveries of an apartment complex in south Lawrence and a trailer park in north Lawrence that were uninhabitable.

9. Rental registration and code enforcement oversight. The City of Lawrence, because of a lack of code enforcement officers and a pathetic tolerance of blight and unsafe living conditions, needs to establish a three-member panel to have complete access to the City code enforcement records and data to ensure that the new rental registration program is being administered to protect neighborhoods and the health and safety of tenants. None of these panel members would be a non-resident property owner or an apartment complex owner.

10. Independent authority for City of Lawrence code enforcement and rental registration. The City of Lawrence, as stated in item 9, has not adequately executed its responsibilities in protecting neighborhoods and the health and safety of rental properties. Therefore, an independent authority should be established to carry out these functions free of the politics and cronyism that currently infest and debilitate these functions. Under this plan, the City would fund the authority, but it would be governed by an outside person, such as a retired state judge, appointed by a three-member panel consisting of City of Lawrence residents who are not non-resident property owners. The model for this would be the Kansas City, MO Police Department (KCMOPD). For decades the KCMOPD has been administered by a board appointed by the Governor of Missouri. The City of Kansas City, MO only allocates 25% of its annual budget to the KCMOPD. The board oversees and administers the department. This arrangement exists because in the early 1900's the KCMOPD was so corrupt and ineffective that it could not serve the community at large. The City of Lawrence has arrived at the same point in the areas of regulation of residential rental properties and code enforcement.

11. University of Kansas. If the City of Lawrence has provided a significant portion (25%) of the infrastructure for the Rock Chalk Park facilities for KU events and activities, KU should, each calendar year, pay to the City \$500,000 for rental registration and code enforcement functions. This is necessary because more than 50% of KU students live in off-campus housing and disrupt neighborhoods with noise, trash, traffic, and late-night disturbances resulting in more code and law enforcement expenditures by the City.

Sincerely,

Dan Dannenberg

Cc: Dr. Tim Caboni, KU Vice Chancellor for Public Affairs

The Lawrence City Commission
Mayor Michael Dever
Vice Mayor Mike Amyx
Jeremy Farmer
Dr. Terry Riordan
Bob Schumm

October 18, 2013

Dear Commissioners,

I am writing you today to ask that you carefully consider these points before the Study Session on Rental Housing Licensing, Tuesday October 22, 2013.

Included within the Codes Enforcements most recent packet to register single-family housing is a document, Consent to Inspect. In this document, tenants are required give up their right to privacy, granting City inspectors the right to enter citizens' homes to make digital recordings (audio and video), of alleged code violations, even "potential" violations, along with everything else within the scope of the camera lenses and microphones.

This opens the door for the unwarranted collection of vast amounts of private citizen data under the vague rubric of "life safety." As City Staff presents it, "life safety" equates to "for the public good"--fertile ground for obfuscation. The information the City proposes to collect cannot be called back and remains in City possession. What other government agencies will have access to this information and for what purposes? Even more troubling is the fact that City inspectors are law-enforcement agents bound to uphold the statutes of the State of Kansas. [Search & Seizure Issues in Code Enforcement, www.kscoplaw.com/outlines/s&sforcode.html].

The program proposed by Lawrence City Staff is a potential violation of the Fourth Amendment.

The City of Manhattan initiated a similar program in early 2011. The program was repealed by the Manhattan City Commission shortly thereafter, on July 20, 2011:

"The last straw and the undoing of the program was when the City Staff took four College Students to court and they received a 15-day jail term. At a work session meeting, members of the Commission told the City Staff that they were never told that people could go to jail. Staff responded by saying that is what happens when you pass an Ordinance."

- "Rental Inspection Program Killed," Manhattan Free Press, July 21, 2011.

The City of Lawrence has been ramping up the rental registration process since 2001. Now City Staff is proposing sterner measures. Yet a report by the Lawrence City Auditor in February 2012 on the current program, "Performance Audit: Rental Housing Licensing Program," is damning of the City's performance and follow-through:

- "The City hasn't written policies and procedures to guide the rental registration and inspection program." [Page 9]
- "In the most recent [City] employee survey, many respondents with an opinion disagreed (44 percent) with the statement that they 'understand city's performance measures.'" [Page 10]
- "Program revenue below costs. Payments from landlords to register their properties fall well short of covering the costs of operating the current program." [Page 11]
- "The City Auditor conducted limited reviews of the program data maintained by the city in the AS400. The city intends to implement a new system in 2012."

http://lawrenceks.org/assets/agendas/cc/2012/02-28-12/auditor_performance_audit_rental_housign_program.pdf

The last quote is telling in omission. After 11 years, data from the Rental Housing Licensing Program has yet to be collated and quantified into useful information. In a phone request to Brian Jimenez, Code Enforcement Manager on October 16 for a categorical data breakdown, he was only able to state that since 2001, there have been in excess of 8,000 code violations. He was unable to specify the nature of these violations, claiming software issues. He did not know if the violations were primarily snow removal/lawn care/noise/littering violations or fire safety/defective furnaces/electrical violations. Such a response defeats practical analysis. Is the City unaware of the Excel spreadsheet program? The severity of these violations is paramount in determining the need for an expanded program.

The City's own report determines that the City has underestimated the cost of this program, has no written policies or procedures in place, has compromised the confidence of 44 percent of City employees, and has no categorized data for a program that has been in effect since 2001. Furthermore, the Management's Response to the Auditor's report stated that: "Staff will complete this recommendation within 6 months of the City Commission receiving the audit." It is now October 2013. Where are the documents to affirm City Management's promise to improve the program?

If the City can't efficiently manage the monitoring of 1600 properties over 11 years, how can they manage the proposed increase to monitor 20,720 properties?

To date, the City has produced no data that justifies the unwarranted surveillance of people's homes, other than the nebulous banner of "life safety." Please Mr. Corliss, show us the data that justifies compromising the Fourth Amendment and wasting more taxpayer money. The track record of this program, as

confirmed by the Lawrence City Auditor, clearly infers that the City is flying blind on this issue.

Respectfully yours,

Russell Livingston

PO 1203

Lawrence, KS 66044

russl@sunflower.com

785/979/2007

The Lawrence City Commission
Mayor Michael Dever
Vice Mayor Mike Amyx
Jeremy Farmer
Dr. Terry Riordan
Bob Schumm

September 24, 2013

Privacy, Civil Liberties, and the non Democratic Proposal of expanded Rental Inspections in Lawrence, Kansas.

Empirical Data

With respect to this matter the City Manager has stated numerous times that this process of inspection is about preventing injuries and death or "*life safety*". It is about the greater good of protecting the of the citizens of the community in their respective dwellings'.

That the City has effectively been in a trial run for an expansion of this program since the single family inspection ordinance began over ten years ago.

Further, since this "trial run" has begun sufficient data should have been collected to answer questions I propose .

I would like to know the following from the data collected and to measure its warrant supporting or not Mr. Corliss' opinion of the dangers tenants and homeowners face each night as they lie in their beds.

- 1) How many deaths have been prevented?
- 2) How many serious injuries have been avoided?
- 3) How many actual code violations and what severity levels? Can a measure of this metric be made against total rental housing stock to arrive at a monetary cost to implement?
- 4) How many condemnations have occurred?
- 5) How many families were displaced? (Single family) Where did they go and at what cost to them?
- 6) How many of the above were consumer complaint driven verses top down centralized inspections?
- 7) Who were the largest offenders?
- 8) How many of the above metrics have been or can be applied to owner occupants? Owner occupants are citizens and their safety is somehow less important?
- 9) How many tenants have been charged with criminal complaints as a result of inspectors observations?

Privacy , Civil Liberties and Property Rights

"Civilization is the progress toward a society of privacy." Ayn Rand

Within the Codes Enforcements most recent packet to register single family housing, included is a document specifically for the tenant.

This document, **Consent to Inspect**, has been inserted into the inspection and registration process.

Contained in this wavier, carefully crafted, on the final paragraph of the Consent to Inspect document, individuals will be giving up their right to digital privacy, granting to the inspector(s) the right to make digital images of the "violations" along with everything in the scope of the camera lenses.

This document, for the tenant to sign, waves their individual right to privacy, opening the door to vast amounts of data being collected and held in the public domain with no way to call this information back, to be used today and in as yet unimagined ways for all eternity. Digital images are very different from still photographs of yesterday; with the click of a mouse they may be made available globally.

Why is digital consent needed before any "violations" are found? Why not request consent at the time of the finding of the infraction? Instead the city covertly inserts in the last paragraph of the document a blanket wavier for warrantless digital image searches. Why? Why images at all?

Individual privacy, safety, solitude and intimacy are all the collateral damage of intrusive government regulation. We know from history that human destruction short of capitol crime can be accomplished by destruction of one's privacy and safety in it.

The essence of solitude, and all privacy, is a sense of choice and control. The individual controls who watches or learns about them.

People are realizing, perhaps finally, that privacy is paramount to freedom, and both are under attack.

If culture and diversity is important to you then freedom is important to you.

If freedom is important to you, then privacy must be important.

You cannot maintain your freedom or diversity if you cannot maintain personal privacy.

If privacy is important, then a comprehensive strategy to protect privacy is a necessity.

The history of mankind is one replete with the abuses of power. Today, the arm of abuse resides in the unrestricted growth of the Surveillance State, whose reach is global.

Support of Citizens

Support of this ordinance in the community does not seem to be generated by a mass of tenants, instead it appears to be endorsed solely by a minority of Neighborhood Group spokespersons. It seems a few people speak on the behalf of Neighborhood groups but that these "spokespersons" may not be the consensus of the groups.

Conversely when large groups of property managers respond and voice their concerns they are not greeted with the same listening ear as the "altruistic" group spokesperson. Perhaps the City has made its decision.

Property managers and landlords are also citizens and neighbors with families paying taxes in this community.

Landlords provide humane housing and a valuable service at a reasonable costs, all in a highly competitive arena, and with great personal economic peril.

What kind of university would Lawrence have if there was no private housing investment?

Motivations

Safety may not be the primary motivation, but that the generation of fees, Department building and increased government .

Case in point, when experiencing 500 building permits per year versus 100 currently; workloads reduced by 80% has the Building Inspections department made any personnel cut backs?

Mr. Corliss has stated an argument about "**life safety**" which is difficult to challenge publicly lest you are branded as un caring.

Data from the single family licensing program over the last ten years can provide facts that either can or cannot support this "bogey man" fear based initiative put forth by City Staff and Management.

Closing

I support a program of mandatory inspections, respectful of individuals' privacy and civil liberties, without use of cameras, warrants or covert waivers.

These Inspections should be narrowly limited to such items as fire alarms, electrical, plumbing and heating systems.

Our tenants and citizens are intelligent enough to contract for themselves. Should the need arise there are and have been channels to request inspections; support is available to citizens both public and private.

The City and its Codes Enforcement Department resources are derivatives of the public's contributions. These precious resources would serve the citizens best through a system of consumer education coupled with complaint driven enforcement rather than the proposed resource laden top down centralized management intensive approach.

In closing , City leadership has not been forthcoming with empirical evidenced based claims of public hazard, but has instead relied on Neighborhood Groups Spokespersons, rhetoric and fear to goad the "public" opinion through media and not democratic governance.

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