

Minutes of the Transient Unit Ordinance Workshop

July 14, 2010

Approved August 19, 2010

Chairman Richard Klitenick called the Transient Unit Ordinance Workshop of July 14, 2010 to order at 6:06 pm at Old City Hall, in the antechamber at 510 Greene Street, Key West.

ITEM 1. ROLL CALL

Present were: Chairman Richard Klitenick, Members, Jim Gilleran, Gregory Oropeza, Michael Browning, Sam Holland, Jr. , and Lisa Tennyson.

Excused Absence: Vice-Chairman, Tim Root

Also in attendance were: Planning Director, Amy Kimball-Murley; Chief Assistant City Attorney, Larry Erskine; Licensing Official, Carolyn Walker; and Planning Department staff, Brendon Cunningham, Carlene Cowart, Ashley Monnier, Nicole Malo and Patrick Wright.

ITEM 2. TRANSIENT UNIT ORDINANCE

Mrs. Kimball-Murley gave a presentation on the Transient Unit Ordinance.

The following people spoke on the matter:

Assistant City Attorney Larry Erskine

Licensing Official Carolyn Walker

Mrs. Kimball-Murley stated that the current ordinance allows transient units accompanied by licenses to be transferred from any district to conforming zoning districts. The ordinance also allows transient licenses alone to be transferred from non-conforming to conforming districts.

The members discussed the current ordinance with Mrs. Kimball-Murley, Mr. Erskine and Mrs. Walker.

Mrs. Walker informed members that some units and licenses stay in an “unassigned” pool for years as long as owners continue to pay their annual fees. Members discussed the importance of maintaining a range of unit types in the market place. Mrs. Kimball-Murley stated that there has been no direction to reduce the units.

Members discussed the fate of licenses transferred with units that cannot be used transiently. Mrs. Walker gave members examples of people who have and keep buying licenses that cannot be transferred under the ordinance as it exists today. Members inquired about how many units have people purchased that cannot be utilized. Mrs. Walker estimated that about ten have been purchased.

Mrs. Walker gave members an overview of the Wilson case where the city was sued for not allowing a license to be transferred from a conforming district to a conforming district. As a result, a person can transfer ownership of a license, which only means that a business tax receipt is transferred, but does not mean that a transient use is permitted. Therefore, people who have purchased units under some sort of pretense, end up having a no use permitted and a tax receipt for their location and no medallion, which can be very confusing for those not familiar with the ordinance.

Mr. Erskine expanded on the Wilson case and stated that their argument was that state law trumps and supersedes the ordinance. The city’s argument was that they are probably right about that, but it does not mean that we do not have the right to impose our zoning regulations on the process.

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Members then asked staff if the unassigned units were tied to a destination. Mrs. Walker stated that there are units with Planning Board resolutions with a clear sender site and receiver site where the receiver site never became available due to construction never being started and/or they never got their certificate of occupancy. Then there are situations where the property goes into foreclosure and the owners of the property come in and request to separate the license from the unit and place it in the unassigned pool.

Mrs. Kimball-Murley informed members that Nicole Malo has prepared a spreadsheet tracking transfers from 2000 to present. She then stated that over a ten year period, transfers have remained fairly steady. Some transfers have not been developed yet or are associated with long term development approvals.

Members discussed clarifying differences between transfer of units versus licenses.

Chairman Klitenick stated that the ordinance works and serves its purpose.

Members discussed making the following changes to the ordinance which includes eliminating the sunset period and clarifying what actually happens to the licenses when they are moved with units.

Mrs. Kimball-Murley informed members that the next step in this process is to draft any changes, present them to the Planning Board, then if approved, it will move to the City Commission for a first and second reading. All of these steps would need to be done before the sunset date expires.

ITEM 3. ADJOURNMENT

Workshop adjourned at 7:35 pm.

**Submitted by,
Carlene Cowart
Development Review Administrator
Planning Department**