



CODE ENFORCEMENT OFFICE

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TO: Development Review Board

From: Ted Miles,
Code Compliance and Enforcement

Date: July 19, 2021

RE: Report on **Appeal #358671**; Appeal of an Administrative Officer's Zoning Notice of Violation (ZV #358671) issued on March 15, 2021, for Operation of a short term rental without a zoning permit at 37 Hungerford Terrace, Burlington, Vermont.

Note: This is the Administrative Officer's report; decisions are made by the Development Review Board, which may overturn or uphold the Zoning Administrator's Decision. **THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.**

Location: 37 Hungerford Terrace, Burlington, Vermont **Tax Lot # 045-2-157-000**

Appellant: Kenneth Baldwin

Representative: Kenneth Baldwin

Applicable Regulations: CDO Articles 2, 3, 5, 12 and 24 VSA §4451

Appeal #ZAP 21-12 filed on June 21, 2021.

Violation:

1. Property being used as a short term rental, (Airbnb), without approved zoning permit in violation of CDO Sec 3.1.2 (a) 3.

A. This property is in a Residential- High density zoning district. This is a single family home that is NOT occupied by the owner.

A warning letter was sent to the owners of record on January 20, 2021, that being Mr. Kenneth Baldwin. The warning letter was sent first class mail to 889 Francisco St, Apt 2210, Los Angeles, California, which is the address that was on file with the city. The warning letter was not returned and no response was received from the owners in regards to the complaint.

A notice of violation was issued on March 15, 2021 and mailed to the owners Mr Kenneth Baldwin and Mr Jeremy King at the address that was on file, that being

889 Francisco St, Apt 2210, Los Angeles, California, via certified mail and first class mail. The first class letters were *not* returned but the certified letters were returned as undeliverable due to address change of the owners.

CDO Article 2. Enforcement Timeline

January 20, 2021. Initial complaint received about property being advertised on www.airbnb.com as a short term rental.

January 20, 2021. Warning letter sent about complaint of use as a short term rental without a zoning permit.

March 15, 2021 Notice of violation sent.

June 25, 2021. Owner, Mr Kenneth Baldwin filed an appeal of the Notice of Violation for use as a short term rental.

https://www.airbnb.com/rooms/35760812?source_impression_id=p3_1611156953_PktTzZym9Y4hgehS&guests=1&adults=1

Background Information:

- Built circa 1899? as a single family home.
- Current owners, Mr Baldwin and Mr King purchased the property in June 2019
- Property listed in Assessor's Records as a single family home on an 1800 square foot property.
- RH Zone, Ward 8E
- Property has been owner occupied or by a family member living at the property until June 2019 when it was purchased by current owners.
- Short term rentals are presently regulated as "bed and breakfasts" or "hotel/motel" uses. Within the residential zones, hotel/motels are not permissible. Bed and breakfasts may be permitted, contingent on owner occupancy.

CDO Article 12. Appeals, Conditional Uses, Variances

Appellant filed a complete appeal as outlined under CDO Article 12 Sec. 12.2.2 after receiving notification from his attorney of an existing zoning violation. The appeal was filed beyond the

15 day Notice of Violation that was sent to owners and recorded in land records dated March 15, 2021.

SUMMARY:

Appellant has argued that proper notification was not received of the violation. Warning letter was sent to the owner at the address on record and was not returned as undeliverable. The city sent the notice of violation to the owners with the information the owners have provided as their address, that being Los Angeles, Ca. It would be the owner's responsibility to notify the city of a change of address. The appeal was not filed within the appeal period but was filed 87 days AFTER the appeal period ended. Owner does not deny the use as a short term rental and the owner does not reside at the property but has a current address listed in Connecticut.

CONCLUSION:

The Assistant Zoning Administrative Officer for Code Compliance/Enforcement hereby requests the Development Review Board uphold ZV #392880 as valid. The following stipulations are recommended:

1. Appellant (Owner) shall discontinue the use as a short term rental within 30 days, or
2. Within 30 calendar days from date of DRB decision, Appellant shall request an agreement from the Zoning Administrator that includes reasonable timelines in which to cure the violations noted in ZV #392880.