

Offered by Councilors MICHAEL P. ROSS and MAUREEN FEENEY

CITY OF BOSTON

IN THE YEAR TWO THOUSAND NINE



AN ORDINANCE REGULATING ZONING CODE COMPLIANCE

WHEREAS, In 2007 the City Council sponsored a text-amendment to the Boston Zoning Code that sought to confront overcrowding, escalating rents and home prices and the degradation of community life resulting from more than four individuals living together in a single family dwelling; and,

WHEREAS, In 2008 this positive step towards confronting unruly off-campus student housing was adopted, but issues revolving enforcement have prevented this measure from having its full positive effect; and,

WHEREAS, Earlier this year a measure was previously introduced to help enforce the zoning code by requiring colleges and universities to monitor student directories for code compliance. During a public hearing on this matter, another enforcement tool was suggested; and,

WHEREAS, As a compliment to university responsibility, the City must look to other involved parties responsible for ensuring that the zoning code is complied with. Real estate brokers and salesman are licensed by the state, but are under no affirmative duty to comply with zoning laws. However, they are the ones in a position to help. Ensuring that their advertisements and negotiations comply with one part of the zoning law is a reasonable request; and,

WHEREAS, Calling on these professionals to assist in ensuring that the relevant code provisions are complied with would be an easy step to take. These brokers and salespersons are the ones arranging these leases and are often the ones dealing directly with students. If more than four students sought housing, they could easily inquire into their student status to ensure that the renters are aware of this zoning law and take measures to comply with it. It is a simple question that is often already asked of prospective tenants and imposing the responsibility would be a positive addition to already proposed initiatives. *NOW, THEREFORE*

Be it ordained by the City Council of Boston, as follows:

Section 1.

CBC Chapter XVII, section 17-7 is hereby amended by appending the following new section:-

“17-7.2 Regulation of Zoning Code Compliance.

- a. A real estate broker, salesman or property owner shall not advertise the leasing of any real estate located in the City of Boston that would result in a violation of the Boston Zoning Code’s applicable use regulations with regards to the Code’s definition of the term “family”, which provides that a group of five or more persons who are enrolled as full-time, undergraduate students at a postsecondary educational institution shall not constitute a family.
- b. Any property owner leasing property in the City of Boston shall not knowingly sign a lease agreement that will result in a violation of the Boston Zoning Code’s applicable use regulations with regards to the Code’s definition of the term “family”. At a minimum, any lease agreement containing the names of more than four full-time undergraduate students at a postsecondary education institution shall automatically constitute a violation of this subsection. Any property owner leasing property in the City of Boston shall maintain written records for each lease agreement for a period of three years indicating compliance with this section. Any property owner leasing property in the City of Boston shall make copies of these lease agreements available upon request to the Commissioner of Inspectional Services or his or her designee.
- c. Any real estate broker, salesperson or property owner found in violation of this section shall be punished by a fine in the amount of three hundred dollars (\$300) per offense and, in cases involving brokers or salespersons, the Commissioner of Inspectional Services Department shall send written verified complaint of the violation to the Commonwealth’s Board of Registration of Real Estate Brokers and Salesman. Failure to provide required written records under subsection (b), prohibited advertising under subsection (a), or prohibited leases under section (b) shall each constitute a separate and distinct offense.
- d. The Commissioner of the Inspectional Services Department shall have the authority to enforce this section. Upon enactment of this section, the Commissioner of the Inspectional Services Department shall provide written notification of this requirement and a copy of this ordinance to the Commonwealth’s Board of Registration of Real Estate Brokers and Salesman requesting them to notify licensed real estate brokers and salesman operating in the City of Boston.”

Section 2.

The provisions of these sections shall be effective immediately upon passage, but no monetary fines shall be imposed pursuant hereto until thirty (30) days after passage.