

Attorney Jones emphasized to the Commission becoming familiar with the definitions listed in the Rental Housing Inspection and Certification Regulations Ordinance prior to considering any appeal.

Acting Chairman Isley asked Attorney Jones how a sublet property would work. Attorney Jones stated that a sublet would still be a rental and therefore would be covered by these regulations.

Attorney Jones stated the owner of any rental property within the city is required to apply for and obtain a certificate of compliance. The City will take the application, review it and schedule an inspection to ensure there aren't any life safety issues such as wires hanging out the ceiling, broken windows, etc. If the property is inspected and there are no code violations, a certificate of compliance is awarded and it is valid for two (2) years.

The City does not have to come back unless there is a fire or some other issue. If the City inspects the property and discovers violations that need to be addresses, the City will give the owner a reasonable amount of time, typically between 2 weeks and 4 weeks, to remedy the violations and schedule another inspection. If all violations have been addressed, the certificate of occupancy is awarded for one year.

Mr. Bowman asked if there is a clear definition of where the smoke and carbon monoxide detectors should be placed. Director Ianson stated that the carbon monoxide protectors should be placed within 15 feet of all entrances on all levels. Smoke detectors are required within 15 feet of entrances and in all bedrooms. Mr. Bowman asked if that information is published for everyone to know. Director Ianson stated that they are trying to get as much of this information out as they can. Mr. Bowman asked about handrails. Director Ianson stated that if it is loose they will look at it.

Director Ianson explained that a typical inspection would look at the kitchen to be sure that the outlets and counter outlets are GFI protected, look for smoke and CO protectors in the hallways and bedrooms, check the electrical outlets throughout the house using a plug detector, look in the basement to check the furnace and water heater and also check for a smoke detector and do a general overview of the plumbing, heating and electrical system. If there are any issues outside of the life safety inspection, that will be a property maintenance issue which is totally separate. Director Ianson added that they could still pass the rental inspection and receive their certificate of compliance and still have property maintenance issues which would generate a separate letter.

II. Appeal Process

Attorney Jones stated that typically the landlord would be appeal the violation notice when the certificate of compliance has been denied, suspended or revoked. The timeline for appeal is fourteen (14) days from the owner receiving the violation notice. The appeal must be in writing and must state the reason for the appeal. The PZC will conduct a hearing within 30 days of receiving the appeal and will then have thirty (30) days to send a written opinion to the party within 30 days of considering the appeal.

There are four specific categories that can be appealed under this ordinance.

- A. The Owner believes the property is not subject to the ordinance.
(Example, I am the owner and my family and I live at this property.)
- B. The Owner believes the she was wrongfully denied a certificate of compliance.
(Example: I am a landlord and I believe I have met the conditions for a certificate of compliance.)
- C. The Owner believes the certificate of compliance was wrongfully suspended or revoked.
(Example: I am a landlord, I applied and received a certificate of compliance and it was wrongfully suspended or revoked.)
- D. The Owner receives a miscellaneous violation notice.
(Example: I am a landlord, I applied and received a certificate of compliance and I did not renew within the time allotted.)

Attorney Jones also reviewed the conduct of the appeal hearing. He stated that the appeal hearing needs to be recorded by video or audio and a copy of all evidence submitted during the hearing must be kept on file by the city.

The conduct of the appeal will be as follows:

- 1. An opening statement will be made by the Chairman explaining the meetings purpose and format.
- 2. The city will present its evidence and testimony.
- 3. The Owner will question the city's witnesses.
- 4. The Owner will present evidence and testimony.
- 5. The city will question owner.
- 6. Planning & Zoning Commission questions both the city and the owner.
- 7. Public comment period.
- 8. Planning & Zoning Commission decides by majority vote to grant or deny appeal.

9. Planning & Zoning Commission provides written opinion to owner within 30 days. Written opinions must be based on the evidence submitted.

Standards to consider during the appeal:

Was the code official's determination correct? Was it supported by facts and testimony presented by the city at the meeting?
Does the owner's evidence or testimony establish that code official's determination was incorrect?

The Planning & Zoning Commission can only consider evidence and testimony presented at the meeting, the code and PZC's discussion. Attorney Jones also added that:

- A. The appeal is not a trial; strict evidentiary standards do not apply. Only relevant evidence should be accepted – no personal attacks.
- B. Standard of review; preponderance of the evidence.
- C. Allow more testimony – not less.
- D. PZC cannot consider or rule on constitutional issues. PZC can only consider facts and determine whether the city's determination was correct.
- E. Public may speak during public comment period.
- F. PZC's decisions appealable to the circuit court.

Mr. Bowman asked if the Commission can ask the owner if he has been warned before. Director Ianson stated that there would have been notices that were sent which would be submitted as evidence from our (city) side.

Secretary Bronson asked if the appeals require legal notice and publication. Attorney Jones said that appeals do not require publication but should be treated like a Special Meeting with posting no less than 48 hours. Secretary Bronson asked if there was a form that the owner will complete and submit. Attorney Jones stated that the ordinance requires a written explanation for the basis of the appeal. Secretary Bronson asked if the audio file should be kept online or on a disk. Attorney Jones stated that it should be kept however the city keeps it records. Director Ianson added that the adjudication hearings are kept on a disk with the file. Secretary Bronson asked who will be responsible for writing the opinion. Attorney Jones stated that the legal team would do it. Secretary Bronson asked if the Chairman of the PZC should swear in audience members with a blanket statement or one at a time. Attorney Jones stated that he recommends one at a time. Secretary Bronson asked if there is a timeline for the Owner to submit their evidence to the PZC for their packet distribution. Attorney Randall stated that the written appeal should be submitted to the city and the supporting documentation should be presented at the hearing.

Acting Chairman Isley asked if there was a fee associated with the Certificate of Compliance. Attorney Jones said yes. Acting Chairman Isley asked if the PCZ upholds the city determination, do they have to pay the fee again. Attorney Jones said that if the fee has been paid for a new application and there were violations found during the inspections, there wouldn't be another application fee because there is already a pending application. He added that if you had a situation where the owner had a certificate had been issued and the owner forgot to renew and received a violation notice and decides to appeal and the PZC upholds the city's determination, the owner would not have a valid certificate and therefore would be required to pay the fee for the certificate of compliance.

Mr. Riley asked how the temporary certificate of compliance would work in this process. Attorney Jones stated that a temporary certificate of compliance would be issued if there were non-life safety issues that need to be addressed. (An example would be electrical covers are missing from the outlets.) Director Ianson stated that he hasn't issued any temporary certificates because we've been giving them a little extra time to address the issues.

Director Ianson asked if this is something the Council would consider. Attorney Jones stated no. Attorney Randall asked how was the process going so far. Director Ianson stated that we have about 50% compliance. He added that we've received at 250 applications so far.

Acting Chairman Isley asked if the only appeal process after this would be the circuit court. Attorney Jones said yes. Director Ianson asked if Attorney Jones would recommend a video recording of the appeal if it went to circuit court. Attorney Jones stated that the circuit court won't take a recording. He added that the circuit court will only accept written transcript. Acting Chairman Isley asked who would represent us in circuit. Attorney Jones stated either he or Attorney Randall would. Mr. Quinn stated that there shouldn't be too many appeals in the circuit court and that the process is pretty cut and dry.

Mr. Bowman asked what would happen if the owner denies access to the property. Attorney Jones stated that there is a provision in the ordinance that allows access via search warrant and there is also a provision that allows the city to cite the owner for non-compliance. Attorney Jones also added that if the tenant denies access, there is a provision in most leases states that the tenant has to provide access to the owner within 24 hours.

III. Public Participation

There was none.

IV. Adjourn

It was motioned by Mr. Bowman and second by Mr. Riley to adjourn the meeting at 6:43pm.