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FEB 05 2019

Scott Gustin

From: Michael Long <[REDACTED]>
Sent: Tuesday, February 05, 2019 8:38 AM
To: Scott Gustin
Cc: William Ward
Subject: 19-0436AP; 15-17 Weston St -- Updatedb Letter -- Additional Signatures
Attachments: weston no more than 4 letter final.docx

DEPARTMENT OF
PLANNING & ZONING

2/4/19

To: The Burlington Development Review Board

Regarding: 19-0436AP; 15-17 Weston St (RL, Ward 1E) Philip Irwin Aaron Appeal of NOV 345151 relating to occupancy of a dwelling by more than 4 unrelated adults (Project Manager: Scott Gustin)

Please deny this appeal and support our Code Enforcement Office and our zoning ordinance. This appeal is not supported for the following reasons:

1. This property cannot be "grandfathered" because, under the *Mentes* decision, the use of a dwelling unit by more than four unrelated adults was never legal. In fact, the four unrelated adult ordinance change *liberalized* occupancy requirements in the RL zone. Thus it cannot be accurately characterized as "arbitrary, capricious, and unreasonable."
2. This is a "use" violation and "use" violations never become "unenforceable" no matter how long they persist, with or without interruption. The appellant correctly acknowledges that the Environmental Court has said 24 VSA sec. 4454 (the so-called "Bianchi" rule) does not apply to use violations. However, the appellant holds that the Environmental Court was wrong. The appellant has no authority to overrule the Court and its decisions remain controlling before the DRB. Only the Environmental Court itself or the Supreme Court has authority to overrule.
3. The ordinance does make a generous exception for a "functional family," but the "evidence" submitted here by the appellant does not support the claim. Whether the tenants have known each other for more than a year is not relevant. A lease provision stating that they "shall" live as a functional family says nothing about whether they actually do. And finally, only the Code Enforcement Director is authorized to make the functional family determination, not the tenants or the appellant.
4. The appellant's argument regarding discriminatory enforcement is baseless since the City has limited resources. The appellant would have to show an improper motive, which he does not allege.

In conclusion, this appeal is without merit and should be denied.

Sincerely,

Michael Long 55 Henry Street
Caryn Long 55 Henry Street
Mary Moynihan 53 Henry Street

Sandy Wynne 137 Mansfield Avenue
Paul Bierman 86 Brooks Avenue
Anne Chapple-Sokol 143 N. Prospect Street
Richard Hillyard 43 Highgrove Court
Rebecca Mc Knight 22 Henry Street
Norman S. Ward 832 S. Prospect Street
Alexander Friend. 53 Henry Street
Robert Butani 31 Fletcher Place
Susan Butani 31 Fletcher Place
Steve Conant 69 Mansfield Avenue
Candace Page 26 Henry Street
Jack Menten S. Willard Street
Peggy Menten S. Willard Street
Hamilton Davis 26 Henry Street
Maggie Conant 69 Mansfield Avenue
Judy Rosenstreich 30 Henry Street
Kathy Olwell 136 N. Prospect Street
Ashley Bond 51 Henry Street

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