



MEMORANDUM

TO: Mayor and Board of Aldermen

FROM: Matt Eford, Interim Town Manager
Chief Carolyn Hutchison, Police Chief
Annette Stone, AICP, Economic & Community Development Director
Martin Roupe, Development Review Administrator

DATE: October 28, 2011

SUBJECT: Information Related to Winmore VMU Affordable Housing Complaints

At the request of the Board of Aldermen, this staff memo is intended to provide additional information related to various complaints regarding affordable housing in the Winmore VMU Subdivision. Town staff researched a number of topics, including complaints of harassment and/or stalking, housing discrimination, access to recreational facilities at Winmore, Homeowner's Association (HOA) set up and configuration, and on-street parking issues. A letter from Mr. Eric Chupp, addressing the issues from the developer's perspective, will be forwarded to the Board upon receipt (likely Monday, October 31st).

Law-Enforcement Issues

Staff has reviewed police reports in this area and all reports filed by the complainant who spoke with Reverend Campbell. With regard to the complaint of a man who had taken photos of minority children in the area, there is no official police report; however, Sergeant Tripp did speak with the complainant (during an earlier community meeting) and she expressed a concern about someone photographing children. Sgt. Tripp located the man, who said he was taking photos of illegally parked cars in the area, and not of children. At that time, Sgt. Tripp advised the complainant to call 911 if she was concerned about the man's actions in the future. Captain Horton spoke with the complainant on October 27th. The complainant reported that the man is still taking photos of tenants, kids, trash, and parked cars. She indicated that she feels harassed by the man. She also said that she doesn't think he has any legitimate business out there anymore, and wondered if he could be trespassed. The complainant confirmed with Captain Horton that she has not called 911. Officer Champion plans to attend the Community Watch meeting on November 5th, an arrangement that was made prior to the petition made at the October 25th Board of Aldermen meeting.

Housing Discrimination Issues

Town staff researched this aspect of the complaint with the Community Home Trust (CHT). Their staff indicated that they have been dealing with this issue for a while. CHT has had two meetings with the tenants in Winmore to discuss the issues. The dispute in regards to the use of the pool

centers around the fact that members of the HOA are required to pay a deposit in order to obtain an access key for the pool. The management company for the rental property is apparently telling renters they do not have to pay the deposit citing some requirements of the tax credit program under which the project was funded. However, members of the HOA who are required to pay the deposit insist that rental housing tenants should also pay.

The attached letter (Attachment A-2) sent to the complainant indicates that some issues exist between the complainant and management, but that the tenant is not being evicted. The letter contains an offer for the complainant to be released from her lease without penalty if the complainant moves out by October 31, 2011. It should be noted that the Town has no legal jurisdiction to become involved in this landlord-tenant dispute.

Recreation Facilities

The Winmore VMU Conditional Use Permit (CUP) does not include or specify any specific restrictions or limitations on the use of recreation facilities within the development, including but not limited to the playfields, tot lots, and the pool. Staff discussed the matter with the developer to determine what, if anything, had transpired since the permit was issued that may be seen as imposing limits on the use of some or all facilities. Since the CUP does not itself specify limits, staff considered the applicable Land Use Ordinance (LUO) language when reviewing the information provided by the developer. That language, i.e. LUO Section 15-199(a), reads in part as follows:

“...If such recreational facilities and open space are not publicly dedicated, they shall be made available to all residents of the development under reasonable rules and regulations established to encourage and govern the use of such facilities and open space by the residents without payment of separate optional fees or charges other than membership fees in a homeowners’ association...”

As the developer indicated to staff, equal access to all recreation facilities is provided to all residents of Winmore and will continue. Additional and specific details follow:

- **Pool.** The developer assured staff that all residents have equal access rights to the pool. All that is required to gain access is to submit a \$35.00 deposit for the access key. Keyholder residents further are allowed, at their choosing, to turn in the key, relinquish their ability to visit the pool, and in doing so receive back the \$35.00 deposit.
- **Age restrictions.** The developer has put certain age restrictions in place for the two children’s play areas and the pool. Appropriate ages were determined after much discussion regarding what similar communities are doing and in relation to the manufacturer’s guidelines associated with the play equipment. The children’s play area in the single-family area is intended for children up to ten years old, and the children’s play area near the pool is intended for children up to twelve years old. For the pool specifically, the developer indicates that the only age restrictions imposed relate to unsupervised children. Specifically, children under age fifteen must be accompanied by a supervising adult at least 18 years of age. Additional details will be provided in the letter from Mr. Chupp.
- **Playfields.** Mr. Chupp indicated to staff that no age restrictions or other limitations have been placed on the recreation fields or walking trails.

In summary, according to the developer, the HOA has not imposed any other restrictions or limitations on the use of facilities, for residents of the affordable units or otherwise, except as noted. Town Attorney Mike Brough has considered the above information and found that it likely is consistent with the 'reasonable rules and regulations' portion of LUO Section 15-199(a).

HOA set up / configuration

Winmore VMU has a 'master' HOA that other sub-HOAs report to as needed. The configuration is further explained in the forthcoming letter from Mr. Chupp.

On-street parking

Both the CUP plans and Construction Plans for Winmore VMU contain a 'parking plan,' outlining where on-street parking is intended and acceptable within the development. The parking plan is attached for viewing but it should be noted that a reconfiguration of lots took place, via a CUP Minor Modification, to create additional affordable units where lots T51-T58 are shown on the parking plan. Staff understands that this area, adjacent to the Camellia Landing portion of the development, is where on-street parking availability is in question. As shown, this area was not intended for on-street parking, per the approved plans. Parking for this portion of the project is intended to occur in the parking lot directly behind the units.

The parking plan for Winmore considers the development as a whole, and specifically recognizes that certain areas need to remain free of stationery vehicles to maintain general traffic flow and emergency vehicle access throughout the development. It allows for on-street parking in places, but only where sufficient street widths, turning radii, etc are present. In accordance with the plan, in May 2011, Town Staff coordinated the installation of signs in both the Winmore development and neighboring Claremont. This took place according to usual process, around the time the developments were becoming populated, to ensure that appropriate traffic patterns, appropriate parking areas, speed limits, etc were correctly established as residents moved into their respective developments. It should be noted that only the streets where houses have been built have had signage installed at this time.

The streets technically remain private at this time and are under control of the developer. As a result, the Town does not have the ability to enforce restrictions, but the signs still appropriately send the message as to where parking is appropriate and allowed, or not. The Police Department of course may enforce the regulations after the Town accepts the streets and the associated measures, i.e. no parking and speed limit signs are added to the Town Code.

It should be noted that during the past six months, the Carrboro Fire-Rescue Department and Orange County EMS have responded to seven calls for service on the street in question. Orange County EMS has responded to an additional four calls for service during this same period of time without assistance from the Carrboro Fire-Rescue Department. Each of these calls were medical in nature and several times responders had to park the fire engines and ambulances far down the street (over one block away) due to vehicles parked on the street obstructing the access of these emergency vehicles.

Summary

Town staff offers the following summary of the issues related to this complaint.

- 1) Law-enforcement Issues: There have not been prior calls for service related to the complaints related to the Board of Aldermen at the October 25th meeting. The Carrboro Police Department has reached out to the complainant with instructions to call 9-1-1 to report future concerns. CPD staff will continue to monitor the situation, and will be present at the November 5th Community Watch meeting to hear resident concerns.
- 2) Housing Discrimination Issues: There are varying allegations from the Community Home Trust, the property management and the complainant. Town staff cannot determine which party is correct. Staff has determined that the complainant is not being evicted, and that the Town has no legal reason to become involved in a landlord-tenant dispute. In respect to the use of the pool, there appears to be a miscommunication between the developer, management of the rental housing, and the complainant.
- 3) Recreation Facilities: The HOA does not appear to have imposed any restrictions or limitations on the use of facilities, for residents of the affordable units or otherwise, except as noted. The developer is not considered to be in violation of the Winmore VMU CUP or the applicable sections of the Town's Land Use Ordinance.
- 4) On-Street Parking: Town staff installed the "no parking" signs in Winmore according to the Town-approved parking plan for Winmore VMU. Town staff does not have the ability to enforce the "no parking" signs on the private streets of Winmore at this time.

BROWNLEE LAW FIRM, PLLC

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September 6, 2011

VIA HAND DELIVERY and CONFIRMING FIRST CLASS MAIL TO:

Chapel Hill, North Carolina 27516

**RE: Cease and Desist and Offer to Move – The Landings at Winmore
 Apartments**
Our FN: 1800-00004

Dear Ms. . . .

This firm represents The Landings at Winmore Apartments (hereinafter "The Landings") and its managing agent Crosland, LLC (hereinafter "Crosland") regarding the aforementioned matter, and as such, I ask that you cease and desist from contacting my client further regarding this matter. Please direct any and all communications regarding this matter to my attention. As you know, you signed a lease with The Landings for the rental of Chapel Hill, North Carolina 27516 (hereinafter the "premises"). The term of the lease began on February 24, 2011 and is scheduled to end on February 23, 2012. The rate of rent is \$850.00 per month. You are responsible for \$65.00 and the remainder is paid through the Section 8 program.

It has been brought to our attention that you have recently been conducting yourself in a manner that is disturbing to the rights and comforts of the management staff at The Landings and as well as disruptive to The Landings' corporate business operations. In addition to sending irate communications via email, coming to the community office and speaking to the staff in a confrontational and belligerent manner, The Landings has informed our office that on more than one occasion you have made several hostile and continual phone calls to the Crosland corporate offices based on what you perceive to be inappropriate and misapplied community rules. Needless to say your behavior is of significant concern to my client. The Landings has requested that our office contact you to address this issue and request cease and desist this behavior. It is my client's hope that all parties can reach an amicable resolution to this issue.

Pursuant to Paragraph 15(A)(3) of the lease agreement, all tenants agree not to make or permit noises or acts that will disturb the rights or comfort of anyone. Furthermore, Pursuant to Paragraph 15(B)(1) all tenants agree to observe and comply with any rules and regulations which now exist or which may be later established by The Landings for the maintenance and operation of the Home or for the common areas. The common areas include the area in front of and

CHARLOTTE: 6135 PARK SOUTH DR., SUITE 510, CHARLOTTE, NORTH CAROLINA 28210 T: (704) 247-4998 F: (888) 267-7689
 CHARLESTON: 4 CARRIAGE LANE, SUITE 403, CHARLESTON, SOUTH CAROLINA 29407 T: (843) 628-7120 F: (888) 267-7689

surrounding the apartment units, the breezeways, and the parking lots. It is important that The Landings maintain these areas and discourage loitering because if tenants use these areas as places for gathering, such behavior creates noise that disturbs other tenants as well as interferes with egress and ingress to the units. The Landings discourages any loitering in these areas for that purpose. The Landings applies this rule to all tenants, occupants, and guests. The Landings understands that at times tenants and children may socialize and gather in the areas surrounding the apartment units, but as stated herein The Landings want to keep these areas clear and as such mandates that tenants gather in areas designated for them to socialize and not loiter. The Landings has various common areas and amenities designated for such purposes (i.e. the community building, pool, and playground areas). If any tenant continually violates this policy, such behavior not only puts the tenant in breach of the lease agreement, but also jeopardizes that tenant's eligibility to be offered a renewal lease agreement at the termination of their current lease.

For the most part The Landings has been able to enforce this policy through word of mouth immediately at instances where the behavior has been seen; however, based on your communications and allegations that you and other tenants are the only individuals being cited, on August 16, 2011 the management staff issued a letter to all residents in the community explaining that loitering in the breezeways is prohibited and continual violations could result in nonrenewal of lease terms. The Landings is sorry if you or any members of your household feel that you have been singled out in the enforcement of this policy; however, my client denies any and all alleged violations of the federal Fair Housing Act, 42 U.S.C. § 3601, *et seq* and denies that it has unfairly applied the rules and regulations against any particular tenants. The Landings has not received any other complaints regarding enforcement of this rule from any other tenant.

Although The Landings Apartments works diligently to have an affordable, safe, and pleasant community, it is clear that during your short tenancy here at the community you have not been happy regardless of any efforts made. As such, this letter contains the following: (1) an offer for you to move at the end of October 2011 (or sooner if you wish), and be released from your lease without penalty; and (2) a notice to otherwise cease and desist from harassing the staff at The Landings and Crosland's corporate offices. Should you choose to voluntarily terminate your lease agreement, please provide The Landings with a written notice of your intent to vacate by the end of the October 2011. Please mail the notice to our office. You will be released from your lease upon the following conditions:

1. You provide our office with written notice of your intent to vacate.
2. You agree to immediately cease and desist your behavior of harassing the staff members of The Landings, and disrupting Crosland's corporate business operations;
3. You execute and have notarized a Settlement Agreement and Release whereby you are released from the remainder of your lease (which ends February 2012) upon condition that:
 - a. The terms of the Settlement Agreement and Release are confidential and you will not disclose the existence of the Agreement or any of the terms to anyone;
 - b. You will remain responsible to The Landings for any damages to the property beyond that of normal wear and tear including, but not limited to, any damage to the carpet, any

physical damage to the unit/fixtures, and any expenses incurred by The Landings in an effort to restore the premises to its original condition at the time you assumed possession.

c. You agree to a non-disparagement provision such that you will not communicate with any person or entity (including but not limited to any internet site, trade publication, bulletin board, or other publication) whether directly or indirectly, any critical, negative, derogatory, or disparaging remarks regarding any other party to this Agreement, whether true or untrue, and whether or not presented as an opinion or statement of fact;

d. Standard terms contained in any Settlement Agreement, including choice of law and venue, and a mutual release of all parties from liability.

Whether you choose to move or stay is your choice. We would like you to be pleased in your choice of residence, and we understand that the place where a person chooses to live directly affects his or her family and sense of well-being. We will remind you that, absent settlement, you remain liable for your obligations under the lease as well as the rules and regulations of the community until you are released from same. Should you have any further questions or concerns, you may reach me at the above address or telephone number.

With kindest regards, I am

BROWNLEE LAW FIRM, PLLC



LaTonya D. Hucks

LDH/ew

cc: The Landings at Winmore Apartments (via electronic mail only)
Jacqui Booker (via electronic mail only)



THE JOHN R. McADAMS COMPANY, INC. 1000 ...

Winmore CARBORO, NC



Released for Construction

Owner/Developer/Applicant: ...

Designed By: ...

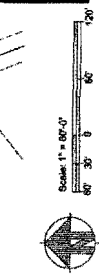
Engineering Firm: ...

Table with 2 columns: Item, Description. Includes items like DRAINAGE, EROSION CONTROL, etc.

PARKING PLAN

SP-5

SYMBOLS & DEFINITIONS LEGEND. Table listing various symbols and their corresponding definitions for the parking plan.



GREEN HILLS ...

JAMES S. ...

- Notes: 1. All work shall be in accordance with the approved plans... 2. All work shall be in accordance with the approved plans... 3. All work shall be in accordance with the approved plans...