

WEBSTER L. GOLDEN
PETER K. CURRAN
WINTON A. WINTER, JR.
EVAN H. ICE
SHERRI E. LOVELAND
MOLLY M. WOOD
CHRISTOPHER F. BURGER*
WESLEY F. SMITH
BRADLEY R. FINKELDEI
MATTHEW H. HOY*
LESLIE M. MILLER

*ADMITTED IN KANSAS AND
MISSOURI

□ADMITTED IN KANSAS, MISSOURI
AND CALIFORNIA

STEVENS & BRAND LLP

ATTORNEYS AT LAW
US BANK TOWER
900 MASSACHUSETTS, SUITE 500
POST OFFICE BOX 189
LAWRENCE, KANSAS 66044-0189
(785) 843-0811 FAX: (785) 843-0341

EMILY A. DONALDSON
REBECCA J. WEMPE
PATRICIA E. HAMILTON*
JOHN T. BULLOCK[□]
KRISTIN L. BALLOBIN
JEFFREY L. HEIMAN
KANA R. ROLLER*

OF COUNSEL
THOMAS D. HANEY

RICHARD B. STEVENS
1899-1991
JOHN W. BRAND
1907-1971
JOHN W. BRAND, JR.
RETIRED

September 10, 2013

Michael Dever
Mayor
City of Lawrence - City Hall
P.O. Box 708
Lawrence, KS 66044

Jeremy Farmer
City Commissioner
City of Lawrence - City Hall
P.O. Box 708
Lawrence, KS 66044

Dr. Terry Riordan
City Commissioner
City of Lawrence - City Hall
P.O. Box 708
Lawrence, KS 66044

Mike Amyx
Vice Mayor
City of Lawrence - City Hall
P.O. Box 708
Lawrence, KS 66044

Bob Schumm
City Commissioner
City of Lawrence - City Hall
P.O. Box 708
Lawrence, KS 66044

Via email dcorliss@lawrenceks.org

Re: Proposed Ordinance No. 8840

Dear Mayor and Commissioners:

Our firm represents the Lawrence Apartments Association, Inc. (LAA). As you are likely aware LAA members are heavily invested in our community. In fact, there likely is no other industry in Lawrence that is as heavily invested (or pays more in property taxes) than the Apartment industry. LAA members are proud of the housing stock they provide to our neighbors and fellow citizens. Please see below for some specific comments and concerns from the LAA regarding proposed Ordinance No. 8840.

Proposed Ordinance No. 8840 is a misguided attempt to solve a variety of issues that have very little to do with Apartment housing stock in our community. This is a far-reaching potential governmental bureaucracy which is not properly focused on the issues the

Commission has recently said it would like to address. As should properly be considered, the cost/benefit ratio resulting from the proposed Ordinance is significantly out of balance.

In 2012, the city's Code Enforcement records indicate there were a total of only 8 violations in apartment properties. This is not just staff-initiated complaints. This total includes all complaints and violations regardless of source. In other words, there were only 8 violations in apartment properties including complaints from community citizens, the tenants themselves, or city officials. For this small amount of violations, Ordinance No. 8840 will create a huge and incredibly burdensome bureaucracy.

The costs associated with the proposed ordinance go beyond just the registration fees and inspection fees (which are significant in their own right). Apartments will have to provide staff to be available for inspections which will result in additional expenses. This is not insignificant to large complexes. Tenants will need to be notified, schedules coordinated, and staff will have to attend the inspections. That requires manpower which the apartments must provide. By adding this burden there will be additional overhead expense to the Apartment complex which may very well be passed through in rental increases.

You will recall that the overwhelming majority of incidents discussed at previous City Commissions meeting involved issues regarding single-family homes in older neighborhoods which had been converted into rental units. Obviously, these types of rental properties are significantly different from Apartment properties. Apartment properties are typically newer, built to applicable codes, regularly inspected for property insurance purposes, and maintained by professional staff. Proposed Ordinance No. 8840 simply carries too much associated cost given the benefit to be obtained.

Apartment properties provide a significant portion of Lawrence's housing stock. The proposed expansion will likely force Apartment owners to pass along the additional costs to tenants. While it may seem a small price, any increase will further impact housing affordability for the large percentage of Lawrence residents residing in apartments. These are the homes for many of our community neighbors. A burdensome tax such as the one in the proposed ordinance is heavily regressive and comes at a very inopportune time given our community's somewhat stagnant economy and job growth. Furthermore, while cost estimates show a fee supported inspection program, the possibility remains that costs of the program may exceed the fee estimates. Since the program's design requires costs be passed through via registration fees any increase in the bureaucracy's costs will be borne by Lawrence apartment residents.

In addition to the significant financial burden, Ordinance No. 8840 raises serious civil liberty and other law enforcement issues. The question must be asked: why single-out this type of residence for inspection when numerous examples of owner-occupied residences fail to meet appropriate standards? How will residents' civil liberties be guarded? Finally, will the City stand behind its certifications if something bad should happen after a property is certified? If not, then what is the value to residents from the program?

What can or should be done as an alternative to Ordinance No. 8840?

1. The LAA supports best practices of its members and encourages the City to vigorously enforce its existing codes against any violator. Enforcement of current city housing codes will adequately address the issues (which, again, almost exclusively referenced a converted single-family residence) most often cited at previous City Commission meetings by proponents for Ordinance No. 8840. Unfortunately, the proposed ordinance is unduly burdensome,

unnecessary, makes our community's business climate appear unfriendly, and will have serious unintended results to the large Lawrence population which resides in apartments. Government action should be narrowly tailored to solve specific issues which need to be addressed. The LAA urges the City Commission to not approve proposed Ordinance No. 8840 and, instead, focus on vigorous enforcement of the existing city housing codes to punish the offending parties.

2. The Lawrence-Douglas County Housing Authority already has a property inspection and certification program in place. Why should our local government duplicate services rather than looking at what is already in place to see how an existing program could be utilized? Given that the LDCHA has experienced inspection staff in place and understands the process of inspecting properties and certifying the same, the City should look to the LDCHA as the inspection provider City-wide with the possibility of "certifying" properties.

3. Has the City Commission considered requiring all rental agreements in Lawrence to include notice to tenant of the contact information for code enforcement? Would the City Commission consider requiring all landlords to post on the interior side of entrance doors a placard (similar to what is required with hotels) notifying the tenants of the city's code enforcement offices and a phone number to contact with complaints? Again, vigorous enforcement of existing city housing codes with significant penalties for violators seems like a very good mechanism to address the issues previously presented to the City Commission and obtain the desired results.

Proposed Ordinance No. 8840 is similar to using a sledgehammer to drive in a nail. While the nail may be driven, the sledgehammer is overly aggressive, not the right tool, and will be certain to cause undesired damage.

Very truly yours,
STEVENS & BRAND, L.L.P.



Matthew H. Hoy
Direct ~ 785.856.6533
mhoy@stevensbrand.com

MHH:dbs