

Dear Council Members:

I am a resident of St. Paul and live on Berkeley Ave. in the Macalester Groveland neighborhood. I am writing in opposition to the proposed student housing ordinance.

I have attended several meetings related to this proposed ordinance. In the fall of 2011, before the study leading to the ordinance was conducted city staff member Josh Williams, who conducted the study, publicly stated at the October meeting that there "would be" a new ordinance related to student housing. When the conclusion is determined before the study begins, the study is suspect at best.

The study itself is based upon information gathered from the Department of Safety and Inspections and from St. Thomas University. Look carefully at the study and the information provided and you will see that there was no attempt to gather information on where students enrolled in all of the other colleges and universities in the City are living. Why didn't staff gather information from Hamline? Concordia? The University of Mn St. Paul campus or those Minneapolis students who live in St. Paul? Macalester? St. Paul College? Metro State University? University of St. Catherine? Bethel?

I suspect there may be several answers: 1) those colleges would not or could not provide the information due to privacy concerns; 2) they were not asked; and/or 3) the information did not fit into the narrative that would support the pre-determined outcome.

If, as has been argued, the "lifestyle" of undergraduates makes it difficult to live near them, then information as to where they all live should have been gathered, not just select information. This of course may be impossible to gather.

Be aware that under federal law (Family Educational Rights and Privacy Act) the addresses of students in institutions that receive any federal funds (including private colleges) are classified as private data unless: 1) the college or university has a directory information policy that makes it public; 2) that policy has been annually published; and 3) the student has not opted out. Similarly, who is or who is not enrolled in a college or university receiving any federal funds would be inaccessible to the City under the same provisions of the law.

So, my next question is, under the amendments to the ordinance, how does the City intend to empower the DSI to determine whether or not three students are living in house? How will the DSI know whether three tenants living in a house have been enrolled in an undergraduate program for the past 12 months? This determination directly impacts the property rights of other owners within 150 feet in any direction and how those owners can and cannot use their houses. This provision is unenforceable since the DSI cannot contact all of the colleges and universities in the City to gather enrollment data which is likely to be classified as private data.

How will those other property owners be able to challenge the DSI's determination when they need to rent out their home and do not believe that another property is actually being

rented to students any longer? How can they check on the enrollment of the tenants in someone else's house? Someone whose property currently gets designated as student rental will never want to give up that designation because they will not be able to get it back.

This ordinance is vague and unenforceable. In fact, before the most recent amendments granting the DSI unprecedented vague authority unrelated to safety, Josh Williams acknowledged at the Macalester planning meeting that the City would not be able to determine whether tenants were or had been enrolled in college, but that the City "had a lot of" ordinances that were not enforceable. I was frankly amazed to hear this from a City employee as an argument for enacting an ordinance. Nothing in the recent amendments changes the lack of enforceability. Thee DSI will be unable to gather student enrollment data.

The bias in favor of enacting "anything" instead of the "right" thing is evident in the materials which have been distributed by staff. I have reviewed the information related to the proposed ordinance which repeatedly reference deadlines and the need to hurry up and pass the ordinance before the moratorium expires. However, the sky will not fall if an ordinance is not adopted before August. It is more important for the City to take the right action to address concerns rather than just any action.

I understand that Russ Stark is under a lot of pressure from constituents in his area. That is not an excuse for the rest of you to adopt a bad ordinance that is unworkable.

There are other options for the City to consider, as referenced by the Planning Commission. More unbiased study and thought to come up with ideas that are fair to everyone and are actually workable needs to occur.

The City cannot and should not enact an ordinance that it knows is unenforceable. To do so is to deliberately invite litigation. As a long-time St. Paul resident, I do not want my tax dollars spent defending this poorly thought out ordinance.

I urge you to vote against this ordinance and send this back to the drawing board.

Ann Goering