

**ST. PAUL AREA ASSOCIATION OF REALTORS® TALKING POINTS:**  
**STUDENT RENTAL HOUSING ZONING OVERLAY DISTRICT**

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St. Paul Area Association of REALTORS® (“SPAAR”) is respectfully opposed to the student housing neighborhood impact overlay district ordinance as proposed. The goals attempting to preserve the character of predominantly one-and-two family dwelling neighborhoods are laudable but REALTORS® believe private property rights of all owners are paramount. Additionally, many of the mechanisms in the operating language are troublesome and present difficulty with respect to compliance, enforcement, fair and equal housing laws, and the long-term marketability and values of properties within the overlay district.

REALTORS® concerns regarding the proposed ordinance include:

**1. Private Property Rights**

- a. Bundle of Rights: REALTORS® believe in the fundamental right to buy, sell, and let for rent real property. Real property is not just defined as just the land and the structure but rather includes the land plus appurtenances and a specific “bundle of rights.” Chief among this specific bundle of rights is the exclusive right to buy, sell, or let for rent or any other legal use of real property, subject to applicable and appropriate ordinances.
- b. Represents a Taking? SPAAR respectfully asks whether the application of a zoning overlay district, that effectively creates a density ordinance, represents a taking and conflicts with Article I, Section 13 of the Minnesota Constitution.

**2. Fair and Equal Housing Laws / REALTORS® Code of Ethics**

- a. Minnesota State Law: REALTORS® are bound by the Minnesota Human Rights Act which contains language designed to provide the public freedom from discrimination. While age is not a protected class for housing and real property in M§ 363A.02, subd. 1(a)2 both opportunity to obtain housing and education are specified as a civil right in subd. 2. Restricting student access to housing via a stringent zoning ordinance resulting in a de facto density ordinance maybe in fact violating student rights and potentially opening up the City of St. Paul to litigation.
- b. Fair Housing / NAR Code of Ethics: REALTORS® are also bound by Federal Fair and Equal Housing Laws and the National Association of REALTORS® Code of Ethics. While again age is not a protected class in this instance, REALTORS® have specific duties to their clients. One duty is to accurately convey material facts about real property to prospective buyers. This can be important when REALTORS® are conveying whether a particular parcel is subject to the proposed overlay district ordinance or is grandfathered.

### **3. Rental Density Issues**

- a. Creates De Facto Density Ordinance: The net effect of the proposed Student Rental Overlay district creating 150ft setbacks between student rental properties is the creation of a student rental density ordinance. SPAAR is opposed to rental density ordinances and has been active in a number of cities. For example, the city of Winona enacted a rental density ordinance not allowing more than 30% rental per block, affected homeowners unable to sell in the current market and have filed suit against the city. The city of West St. Paul has also enacted a similar ordinance and may likely face legal challenges as well.
- b. Tends to Increase Vacancy Rates: Rental density ordinances restricting the ability of owners to rent may lead to the unintended consequence of increased vacancy rates. Owners left without an ability to sell or rent a property may find little choice left then to let the homes become abandoned or go into foreclosure, increasing vacancies. The St. Paul City Council may be well advised to consider, “Which housing problem do we prefer?”

### **4. Marketability and Value Issues**

- a. Negative Affect on Values: If adopted the city council can expect a negative affect on the value of properties. From a buyer’s perspective, a home that can be used as a rental is generally more desirable than a comparable one that cannot be rented; this is true even if their intent is to reside in the home.
- b. Changing Housing Needs: Residents may not understand how quickly housing needs can change. Job relocation, active-duty military deployment, financial hardships, medical illness, and the changing housing needs of seniors can very quickly and unexpectedly change housing needs. Enacting a zoning overlay district restricting rentals could exacerbate hardships on these would-be sellers, where housing demand may otherwise exist but for the student rental restrictions.
- c. Turnover and Intermittency: It is quite common for parents to invest in property near the University of St. Thomas campus for the benefit of their student-learner. However, at some point parents will eventually have an ownership interest and no family member occupying the property. It is the turnover and the marketability of the property at this point that remains problematic for parent-owners and REALTORS® under the current proposal. Furthermore, the current ordinance does not proscribe one way or another what happens during intermittent periods or lapses in either student enrollment or the occupancy status between years where ‘regular rental’ occurs and a return to ‘student rental’ status is desired by the owner.

- d. Institutional Presence Creates Property and Intrinsic Value: There can be no question the mere existence of a quality institution of higher learning brings-in and creates value for all area property owners. This is the kind of value that many communities would consider an asset to be embraced rather than an annoyance to be merely tolerated.

## **5. Enforcement**

- a. Enforce Current Codes: SPAAR believes the city has failed to present a compelling basis for the proposed student rental district overall and suggests that better enforcement of existing ordinances (i.e. public nuisance ordinance) would be the preferable approach for protecting the character of existing single family neighborhoods.
- b. Better Coordination of Efforts: SPAAR suggests continued cooperation and coordination between the University of St. Thomas, students, tenants, landlords, police officers, and neighbors is the most effective strategy and is preferable to the creation of any additional ordinance.
- c. Zoning as the Solution? We are struck by the idea that the proposed ordinance is attempting to apply a zoning solution to what largely amounts to personal behavior issues.