

Memorandum

City of Lawrence

Planning & Development Services

TO: David L. Corliss, City Manager

FROM: Planning Staff

Date: For December 3, 2013 City Commission Regular Meeting

RE: Rental Expansion

This memo provides information regarding the scope of Planning and Development Services Department's (PDS) rental licensing inspections, the use of administrative warrants to gain lawful entry to inspect residential properties under the existing Rental Licensing program, and PDS cooperation with other local agencies.

Prosecuting for alleged illegal activity outside the scope of rental inspections

PDS inspectors focus on the property maintenance and life safety issues of the rental properties they inspect. To our knowledge, no person has been charged in municipal or district court since the rental inspection program's inception in 2001, based upon a rental inspector's observations of alleged unlawful activity inside a residence, other than property maintenance code violations. This is not to say that staff would not report findings of significant illegal activity, but it would be rare to do so.

It is important to note that inspections are currently and would continue to be coordinated with the landlord several days prior to conducting the inspection. Tenants, therefore, have ample notice of the date and time of the pending inspection.

Consent and Administrative Search Warrants

In the vast majority of cases, the City obtains consent from tenants to perform inspections under the current Rental Licensing Program. If consent is not granted, another tool available to municipalities to gain lawful access to a residence for a regular inspection is an administrative warrant.

As the current RS-based program was being implemented, the city prepared affidavits and warrants for approximately 24 properties for the purpose of inspection after a tenant declined to consent to an inspection. These were all prepared in 2002 (the current program was initiated in 2001). It is estimated that less than half of these warrants were served as consent was eventually provided. No other administrative warrants have been prepared for rental inspections since this initial effort as consent is given on a routine basis. In situations where consent is not obtained, staff works with

the property owner to inspect at a later date when the tenant has moved, or after consent is obtained.

It is more typical, though still rare, to need to seek a warrant for properties outside the rental program where absentee owners and other conditions may require it. In the last five years, the city has served 22 warrants to gain entry in these situations.

Inter-agency cooperation

Inter-agency cooperation is practiced by all departments within the city and often with state and federal agencies. As mentioned, while Code Enforcement staff has not, as a result of its rental inspections, referred possible illegal activity to the Police, the Police and Fire Departments do refer alleged Property Maintenance and Development Code violations to Code Enforcement when they have responded to a property for a police or fire matter. Code Enforcement staff follows up on these referrals which most often involve severe dilapidation of structures and/or deplorable overall living conditions. Furthermore, when such conditions are confirmed, Code Enforcement may report these observed conditions to an appropriate state agency to ensure all of the social services needs are being addressed for tenants that appear to be in need of this support.