

SHORT TERM RENTAL INVESTIGATION REPORT

(October 7, 2015)

Currently, the Borough of State College does not regulate what is commonly known as football Rentals. For the purpose of this report, I refer to this use as short-term rentals.

During the Fall of 2013, we were assigned to investigate the prevalence of short-term Rentals in the Borough of State College. In addition, we were asked to attempt to determine The impact of short-term rentals on our neighborhoods.

The following model was developed:

Staff began preparing a list of advertised football weekend rentals. With the list of advertised properties, ordinance and zoning staff then took the following action:

- Determined if the property was owner-occupied and if it had a current rental housing permit on file. We only considered single family homes and duplex's in the "R" zoning districts.
- Ordinance Staff then monitored these properties in the evenings and weekends over the PSU Football Season. Staff first tried to determine if the property was in fact occupied For the weekend. They counted cars and tried to find out how long the visitors stayed.
- The list of short-term rentals was then discussed in weekly meetings. We discussed Impacts, observations and removed properties that did not meet the criteria.
- At the end of the football season, we had developed a list of verified short term rentals which could be analyzed.

Fall 2013: 37 properties were identified through advertisements. Through field investigation, 19 properties were found to be rented for the football weekends.

- Unexpected Result: We found that several properties were not owner occupied. Planning Staff determined that this type of use constituted a "Tourist Home." Our Zoning Regulations developed in 1959, clearly prohibit this use in most of our residential zoning districts. Four Tourist Homes were identified in 2013. Zoning enforcement was taken with each property owner to discontinue the use. One of the property owners appealed this interpretation. Our Zoning Hearing Board considered the appeal in July, 2014. The ZHB upheld Planning

Staff's interpretation. The enforcement was supported.

Fall 2014: 19 properties from last year were monitored again. Several had discontinued the use or were unable to rent their properties. 8 new properties identified and field verified.

After the football season ended, we attempted to measure the impact on the community:

- Analysis: Twenty-one verified, short term rental properties were researched. We looked at police contacts, zoning complaints, ordinance activity, parking complaints, and code violations.
- Results: Three police complaints were generated by all the properties during the Fall of 2014. One of the police complaints was unfounded and the other two complaints were minor. No other impact was determined.

Fall 2015: Goal: Attempt to identify and verify new short-term rentals and verify known properties to determine if the use is continuing.

- Seven home PSU Football games targeted.
- The following sources are used to identify active short-term rentals:
 - Craig's List
 - Air B&B
 - Facebook
 - College football rentals.com
 - State College Vacation Rentals
 - Newspapers
- Based on advertisements, the average charge per night for a short term rental was \$680.00.
- Based on advertisements, the average number of people that could be Accommodated at each home was 8.
- So far this year, we have identified four new Tourist Home. Enforcement
- 26 Short term rental properties were confirmed this year.

TOURIST HOME / SHORT TERM RENTAL INVESTIGATION 2016

In the Fall of 2016, we began with a list of fifteen properties which were either carried over from last year or identified as possible Tourist Homes during the Spring and Summer. Those properties are listed below with an updated status:

The following properties were eliminated as possible Tourist Homes:

1. 424 E. Irvin Avenue - determined to be owner occupied
2. 138 W. Prospect Avenue - determined to be rented long term
3. 612 Walnut Street - determined to be rented long term
4. 348 E. Foster Avenue - owner occupied
5. 119 Crestmont Avenue - long term rental
6. 727 E. Foster Avenue - owner occupied
7. 424 W. Foster Avenue - owner occupied
8. 723 E. Foster Avneue - long term rental
9. 1317 Sandpiper Drive - registered bed and breakfast
10. 537 E. Prospect Avenue - owner occupied
11. 1030 S. Atherton Street - owner occupied.

The following properties continue to be monitored:

12. 214 Logan Avenue - no short term rental activity verified
13. 412 E. Waring Avenue - no short term rental activity verified
14. 209 Hillcrest Avenue - Enforcement Notice : Oct. 2016 ***
15. 129 W. Prospect Avenue - Enforcement Notice : Oct. 2016 ***

By monitoring numerous short term rental web sites, the Planning Department identified twenty-one additional advertised rental properties: These locations are currently being monitored for activity:

16. 528 W. Beaver Avenue
17. 1111 Oneida Street
18. 931 W. Fairmount Avenue
19. 757 Westerly Parkway
20. 415 Ferguson Avenue ***
21. 1109 S. Garner Street
22. 822 W. Foster Avenue
23. 1148 S. Atherton Street
24. 1629 S. Allen Street
25. 1261 University Drive
26. 144 Hartswick Avenue
27. 244 Ridge Avenue

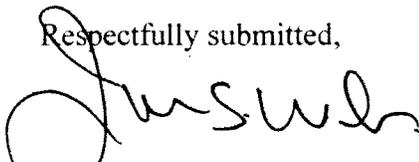
- 28. 1314 Old Boalsburg Road
- 29. 850/854 Willard Street
- 30. 145 Waupelani Drive
- 31. 531 W. Fairmount Avenue ***
- 32. 220 E. Homan Avenue
- 33. 121 W. Irvin Avenue
- 34. 1403 S. Atherton Street
- 35. 1044 Taylor Street
- 36. 921 W. Fairmount Avenue

As this year's investigation continues, we are sending enforcement letters to properties where active short term rentals are verified and the property owner lives at a different address. Because of our efforts this year, we have issued four violation notices to property owners of suspected Tourist Homes. We expect several more will be identified as the property checks are completed during the last home football game.

Note: Early analysis of police contacts and ordinance violations occurring at the addresses listed above are unremarkable to date.

*** Indicates that a Zoning Violation Notice has been issued.

Respectfully submitted,

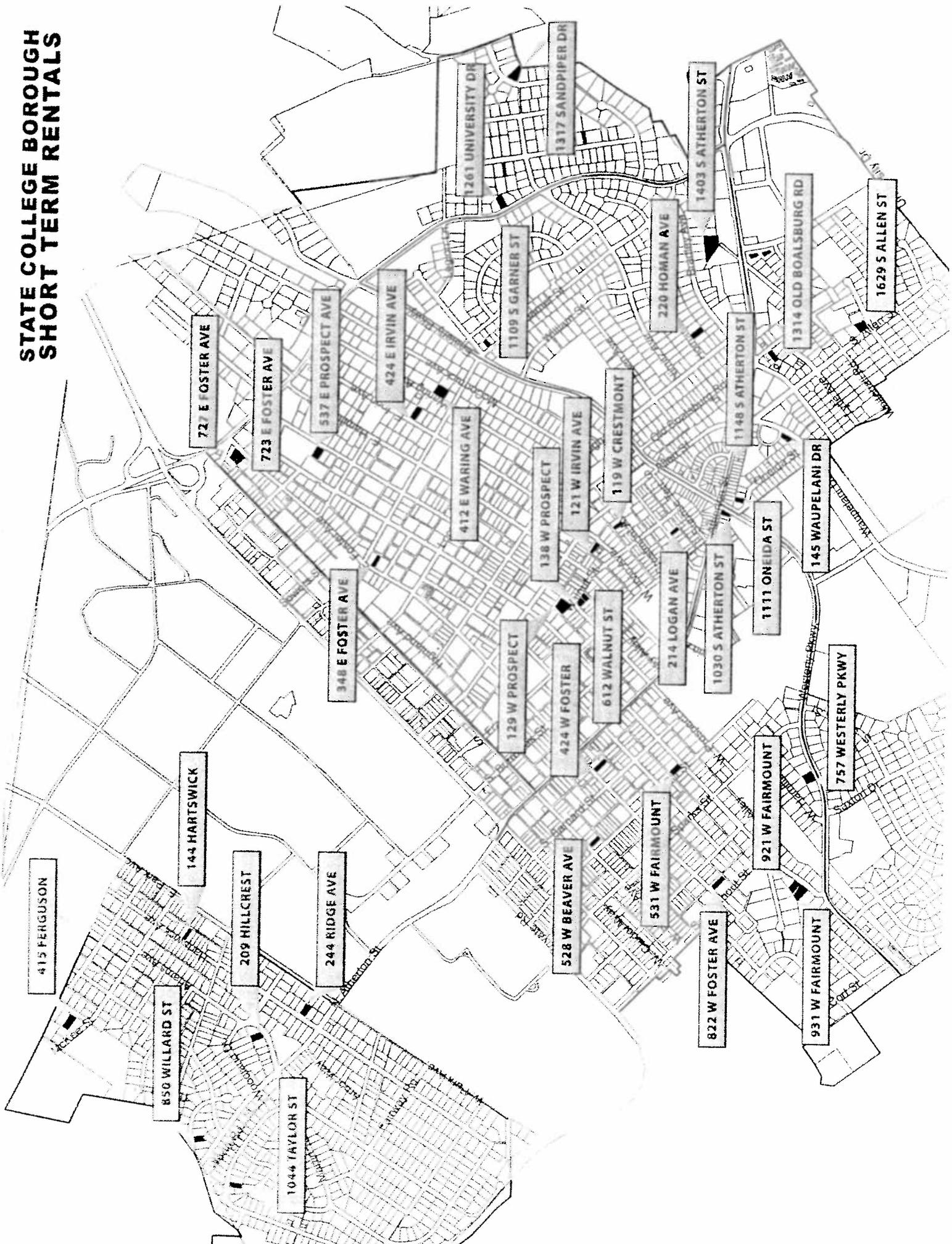


John S. Wilson
Zoning Officer

Attachments:

- 1. Map of advertised short-term rental properties in the Borough of State College.
- 2. A report to Council Dec. 21, 2011 prepared by Thomas Kurtz.

STATE COLLEGE BOROUGH SHORT TERM RENTALS



415 FERGUSON

850 WILLARD ST

144 HARTSWICK

209 HILLCREST

244 RIDGE AVE

1044 TAYLOR ST

727 E FOSTER AVE

723 E FOSTER AVE

537 E PROSPECT AVE

424 E IRVIN AVE

412 E WARING AVE

348 E FOSTER AVE

129 W PROSPECT

424 W FOSTER

612 WALNUT ST

138 W PROSPECT

121 W IRVIN AVE

119 W CRESTMONT

214 LOGAN AVE

1030 S ATHERTON ST

1111 ONEIDA ST

145 WAUPELANI DR

931 W FAIRMOUNT

921 W FAIRMOUNT

822 W FOSTER AVE

757 WESTERLY PKWY

531 W FAIRMOUNT

528 W BEAVER AVE

1261 UNIVERSITY DR

1317 SANDPIPER DR

1109 S GARNER ST

220 HOMAN AVE

1403 S ATHERTON ST

1314 OLD BOALSBURG RD

1629 S ALLEN ST

Rec'd 11/29/12

FOOTBALL RENTALS: Final Report

December 21, 2011

Report prepared by Thomas Kurtz, retired State College Assistant Manager

The regulation of Football Rentals by means of the Centre Region Building Safety and Property Maintenance Code (Code), the municipal Zoning Ordinance and/or other regulations has been suggested by some residents and local government officials. This report provides a review of the issue and the following **Recommendation: Football Rentals should NOT be subject to regulation.**

What are Football Rentals?

It is fundamentally important to recognize that a Football Rental as discussed herein is a rental of a home, townhome or condominium that is owned and regularly occupied on a full-time basis by a resident of the community. [If the dwelling unit is a rental home, townhouse or apartment, then the Code and Zoning regulations already apply to the unit; and the renter may have lease restrictions on sublets, etc. Such situations are beyond the scope of this discussion.]

Football Rentals (also called Game-Day or Event Rentals) are short term, intermittent rentals of a house, townhome or condominium. These rentals occur during major events in town where there is a peak demand for accommodations by out of town visitors to our community. In State College this means weekends such as Penn State home football games, Penn State graduation and the Central Pennsylvania and People's Choice Arts Festivals.

Where are Football Rentals?

Football Rentals are found in university communities where the football game crowds are big and the hotel capacity is small. Similar event rentals occur in Augusta, Georgia for the Masters golf tournament; London, England for the 2012 Olympics and in other communities with large annual or occasional events.

In the State College area, one might imagine that the rentals are primarily in State College Borough near campus and Beaver Stadium. College Heights and the Highlands neighborhoods are the presumed ideal locations for Football Rentals – near the stadium and near downtown. However, a July 26, 2011 survey of listings on two web sites for Football Rentals showed a total of 29 homes available for games during the upcoming Penn State football season. Of these, only 3 were in the Borough of State College, one in east College Heights, one in west College Heights and one on Westerly Parkway.

The distribution of Football Rental listings on these two web sites on July 26 was as follows:

Location	Listed Rentals	Location	Listed Rentals
State College Borough	3	Harris Township	4
College Township	3	Patton Township	6
Ferguson Township	3	Other Centre County	4
Halfmoon Township	4	Outside Centre County	2

There is no comprehensive inventory of Football Rentals in State College, the Centre Region or beyond. It is believed that the number is substantially more than the number currently listed on the two web sites surveyed, but no data has been collected. The very nature of the activity means that some homes may be rented without anyone even recognizing the change on a busy football weekend. And, some of the rentals nearer Beaver Stadium may already be booked for the season and are no longer listed on the web sites.

How are Football Rentals advertised?

Historically, Football Rentals were advertised by notices in newspapers, both locally (*Centre Daily Times, Collegian, Voices*) and in some major cities where there were a large number of potential customers; and by word of mouth and personal contacts. In the internet age, advertisements for football rentals began appearing on Craig's List and perhaps other sites. In the last three years at least two businesses with web sites have been set up to connect homeowners willing to rent for football weekends and potential renters in State College: www.gamedayhousing.com and www.psufootballhouserentals.com. Game Day Housing has listings in 26 college towns. PSU Football House Rentals is new to the State College market, but has been active in South Bend, IN, home to Notre Dame, for 5 years. Some of the current questions from residents arose because they were unaware of or inattentive to Football Rentals and were alerted by flyers distributed by PSU Football House Rentals this summer.

What are the concerns about Football Rentals?

The major concerns about Football Rentals expressed by some residents and officials fall into three categories:

1. The potential for deleterious effects on the quality of life and property values in neighborhoods.
2. The safety of the renters in a fire emergency.
3. A question of tax equity for the income from rentals.

As noted in the discussion below, it is the conclusion of this report that none of these concerns lead to a recommendation for regulation of Football Rentals.

1. Concerns about deleterious effects are not born out by actual experience.

The concerns that are expressed about Football Rentals include illegal parking, noise (particularly late night), overcrowding, and property damage, both to the home rented and to neighbors' property. Implicitly, these concerns are about the perceived quality of life in the neighborhood and, ultimately, about property values.

The State College Police advise they do not have any reports of crimes, incidents or problems associated with Football Rentals in State College Borough, College Township or Harris Township, the area of their jurisdiction. This question was not posed to other police departments.

There have been anecdotal reports of incidents related to Football Rentals. One in College Township involved residents noticing strangers around a neighbor's house and calling State College Police. The Code would not have addressed this issue – good neighbor communication could have. One in State College involved parking across a sidewalk blocking movement of a neighbor in a wheel chair. A contact to the renters produced a cooperative moving of the car in question. This issue came to the attention of the Ordinance Enforcement and Public Health Department. The State College Zoning Officer received one report, after the fact, of loud noise and damage from a car driving on a neighbor's lawn.

It should be noted that regulation of Football Rentals under the Building Safety and Property Maintenance Code will not address these types of concerns anyway. Parking, for example, is regulated currently for all properties, rental and non rental alike, with enforcement by the police and, in State College Borough, by the Parking Enforcement staff. Noise and property damage are both police matters, not matters of the Code or Zoning Ordinance.

Some suggest amending the Zoning Ordinance to prohibit Football Rentals, or at least limit the number of occupants in Football Rentals, in single family neighborhoods. This idea is that the potential negative impacts of too many rentals will result in lower quality of life and property value, and that a preemptive action preventing such deterioration is warranted. This approach is not recommended for several reasons:

- As noted above, the activity of Football Rentals is an amorphous market, with contacts made personally and via web sites. Because much of the market is "quiet", banning Football Rentals would be ineffective as a comprehensive approach. Furthermore, existing Football Rentals would be grandfathered if they were "caught" as long

as they could provide evidence of this activity prior to the adoption of the change in the Zoning Ordinance. The resulting enforcement from a ban of Football Rentals in the Zoning Ordinance would be, at best, uneven.

- Overcrowding as addressed in the State College Zoning Ordinance is known as the “three unrelated” rule. However, this rule applies to persons residing in the dwelling unit, not weekend guests or related families. Renters, like all residents, are permitted to have weekend guests without additional regulation. And because the Zoning Ordinance can only be enforced through a civil (vs. criminal) process starting with a notice to correct overcrowding, enforcement is not practical for a transitory problem. Zoning is a blunt instrument not suitable for overcrowding in Football Rentals, if there is such a problem.
- As noted there is not evidence, despite the concerns, that there has been or is likely to be a negative impact on the neighborhoods, particularly one that could be remedied by an amendment to the Zoning Ordinance.

In sum, there has not been any significant impact from Football Rentals in the community; and, in any case, regulation by the Code or Zoning Ordinance would not address the direct areas of concern, parking, noise and property damage. These areas are addressed by existing regulations.

2. The safety concerns do not rise to the level of requiring Code regulation.

This concern is raised principally by local code officials who are concerned that Football Rental occupants could be exposed to unknown safety hazards or issues with building evacuation in a fire emergency in an unfamiliar home. They recommend the application of the Building Safety and Property Maintenance Code to Football Rentals. The current Code excludes rentals for less than 7 days. The code officials recommend application of the Code to all rentals, regardless of duration. This would entail annual permits and triennial inspection of a property before it could be occupied as a Football Rental.

The stated goals of this regulation are to provide a minimum level of safety for football renters and for the owner of the home/football rental to have liability protection by having a permit and inspection under the Code.

For more than 40 years Centre Region municipal elected officials have made a policy distinction in adopting the Property Maintenance Code (currently titled Centre Region Building Safety and Property Maintenance Code). The code is applied to rental units. The code is not applied [with very limited exceptions] to owner-occupied dwelling units. The basic assumption

underlying this differentiation is that a property owner's self-interest is to provide sufficient safety and property maintenance measures in the house where he lives – and that government regulation is not appropriate.

In contrast, there are divergent interests in a rental relationship where a home, townhome or apartment is rented for a semester or a year. The landlord's key interest is maximizing return on investment – not the condition and safety of the property. The extreme case, familiar to all, is the classic absentee landlord. And the tenant's interest is not in the preservation of the property but minimal care for the property since he has no investment therein. Consequently, it is appropriate for the government to establish the "rules of the game," a code to assure basic safety and maintenance of the rental property by the landlord (to the tenant's benefit) and basic maintenance of the property by the tenant (to the landlord's benefit.)

A key question, then, is whether Football Rentals cross the threshold in the policy distinction described above. Are these, in their essence, owner-occupied dwellings; or are they rental units? Upon consideration, Football Rentals do not cross the threshold into a landlord/tenant relationship with divergent interests. The owner of a property will reside therein for more than 94 percent of the year even if it is rented for 10 weekends during a year. This is clearly a sufficient amount to qualify as a principle use of the unit as an owner-occupied unit. The policy assumptions about safety and maintenance for owner-occupied dwellings are valid for Football Rentals. The essential equation has not "flipped" from the owner-occupied side to the landlord/tenant relationship. The Code should not be applied to these owner-occupied dwellings.

Even if Football Rentals qualify as owner occupied dwellings exempt from the Code, it has been argued that at least key sections of the Code should be applied for the safety of the football renters in an unfamiliar home. These provisions of the Code include:

- Smoke detectors - interconnected wirelessly, powered by house power
- Fire extinguisher
- Hand rails on stairs
- Maintenance of Furnace
- Carbon Monoxide detectors if fuel fired appliance (gas stove, oil furnace, etc.)
- If the Football Rental house has three stories, provision of a second means of egress from or sprinklers in 3rd floor sleeping areas.

While these provisions are important, they are only a small portion of the comprehensive Building Safety and Property Maintenance Code adopted by local officials. It is bad public policy for the local government to adopt an ordinance applying the Code to Football Rentals, and then require, or allow, the Code Administration officers to enforce only parts of the Code as they see

fit. This approach is fraught with difficulties: inconsistent enforcement, liability for such inconsistent enforcement, the potential for putting inspectors in compromising situations, and delegation of policy decisions (which sections of the Code to enforce) to staff. This approach should not be considered.

3. Tax equity is not an issue – there are no added costs for Football Rentals.

To some it just appears to be inherently unfair that owners of one home in a neighborhood can receive thousands of dollars of income without necessarily paying more taxes to the community when compared to the neighbors without this income. This concern is often raised in the same context as the concerns about impacts on the neighborhood from Football Rentals. As noted in earlier sections, these impacts have been inconsequential. There has been no increased cost for municipal services resulting from Football Rentals. Thus, there is no basis for added tax revenue from Football Rentals to pay higher costs.

Nevertheless, the following is a brief discussion of possible taxes on Football Rental income:

- The local earned income tax does not apply to rental income. This limitation is established by Pennsylvania Law, not the local tax ordinance. The Pennsylvania Home Rule Law further prohibits home rule municipalities like State College and Ferguson Township from taxing subjects not authorized by the state. Local officials agree rental income should be taxed, but it will require a change in the state law for which they have lobbied unsuccessfully.
- The property tax on a home that is a football rental is, and should be under Pennsylvania law, the same as the tax on the identical house next door. Residential property taxes are based on sale value, not income producing value. Just because one home's owners choose to rent it for football weekends does not give it a higher resale value than the identical house next door.
- Should the Homestead exclusion, which reduces property taxes for owner-occupied homes, be denied if a home is used for football rentals? This decision is made by the County assessment office, and the qualifications for exclusion have not been studied here. If this question is to be considered further, it should be officially transmitted by municipal officials to the County Assessment office.
- Without having consulted an accountant or tax attorney, it is presumed here that Football Rental income of the property owner is subject to state and federal income tax. Whether that is true and is correctly reported in all cases is between the homeowner, his or her accountant

and the IRS and the Pennsylvania Department of Revenue. This is not a matter for local government.

- Is income from Football Rentals subject to state sales tax and/or the County hotel tax? Again, these are issues beyond the scope of local government.

Conclusion

The foregoing sections show that there is no basis for regulating Football Rentals in the Borough of State College or the Centre Region.

There are no demonstrated deleterious effects of Football Rentals on neighborhoods. The concerns are about real issues; important issues like quality of life and property values. But there is no evidence to show that there has been an impact on neighborhoods; and there are no added costs for the local governments resulting from Football Rentals. The anecdotal reports of issues are quite isolated and are just a few of the complaints each Football weekend, some of which are about properties where the homeowner is at home.

The safety issues for Football Rentals are minimal. The homes available are owner-occupied and presumed by 40 years of local public policy to be reasonably safe and fit for occupancy. And, limited enforcement of the Code for owner-occupied dwellings is fraught with liability and consistency issues. This is not a path that should be followed.

The tax issues are largely beyond the scope of the local government.

Football Rentals have existed for a long time, but have become more publically noticed in recent years. The current recession seems to have motivated some homeowners to rent for Football Weekends so they could continue to afford their homes. And the appearance of internet businesses brokering Football Rentals has brought attention to the practice for more residents in the community.

Ironically, the businesses which have stirred up the issue by advertising and raised residents' concerns actually help manage Football Rentals to the benefit of the owners, the renters and the community. The businesses require contracts between the parties: the owner and the renter. This contract protects the interests of each in the way that historical, less formal Football Rentals did not, by addressing responsibilities and costs to each party. And, the contracts typically draw attention to the owner's responsibility to provide notice of local ordinance requirements and the renter's responsibility to comply with all local regulations.

Potential Action

The foregoing review finds that there is no basis to regulate football rentals, either through the zoning or code administration ordinances.

There may be a value, however, to licensing football rentals so that their existence can be put on the record for tax authorities outside the municipality. Annual licensing of football rentals would provide a list of those properties where the owners engage in this activity. This information could serve as a resource for the taxing authorities mentioned in the section above on tax equity.

As noted previously income from football rentals is not subject to the local earned income tax. Nor does income from football rentals impact local property tax. However, the information may be helpful for state and county agencies:

- The County Assessment Office in determining the Homestead exclusion.
- Centre County in determining whether the County Hotel Tax applies.
- The Pennsylvania Department of Revenue in determining a football rental owner's personal income tax (the state personal income tax has a different basis than the local earned income tax).
- The Pennsylvania Department of Revenue in determining whether a sales tax or any other state tax applies.

If a licensing program is initiated the cost should be based on the actual cost to the municipality (including overhead) of conducting the program. Such costs might include staff work for computer programming and data entry, fee processing, establishing on-line and in-office registration and payment opportunities, monitoring newspapers and appropriate web sites to identify unlicensed properties, and preparing reports.

The municipality should cover its costs for this licensing program; but it is desirable to keep the licensing fee low to encourage voluntary compliance. Compliance can be further "encouraged" by substantial enforceable penalties established by ordinance – the penalty for non compliance should be substantially more than the license fee itself so that the incentive is to comply in the first place.