RESOLUTION NO. 111 2014

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

Denying the Conditional Use application submitted by Brian Skiles (applicant) of 706 Franklin Street, Reading 19601 for the conversion of 714 Franklin Street from two dwelling units to one dwelling unit and a three room boarding house and ordering the de-conversion within six months.

Adopted by Council Oct 27, 2014

Francis G. Acosta
President of Council

Attest:

Linda A. Kelleher CMC
City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original resolution passed by the Council of the City of Reading, on the 27 day of Oct A. D. 20 14. Witness my hand and seal of the said City this 28 day of Oct A. D. 20 14

CITY CLERK

(Council Staff)

IN RE: APPLICATION OF	: BEFORE THE CITY COUNCIL
BRIAN SKILES	:
FOR A CONDITIONAL USE	: OF THE CITY OF READING,
PERMIT TO ADD BOARDING	:
ROOMS TO THE TWO UNIT	: PENNSYLVANIA
RENTAL PROPERTY AT	:
714 FRANKLIN ST.,	:
READING, BERKS COUNTY, PA	:

DECISION OF THE CITY OF READING CITY COUNCIL ON A CONDITIONAL USE APPLICATION

AND NOW, this 27th day of October, 2014, after a hearing held on October 14, 2014, upon the application of Brian Skiles, 706 Franklin Street, Reading., PA 19601, notice of such hearing having been first sent, posted and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the City of Reading City Council (hereinafter "Council") renders the following decision:

FINDINGS OF FACT

City Council finds the following facts:

1. Brian Skiles, of 706 Franklin Street, Reading, PA 19601 (hereinafter Applicant).
2. Applicant is the owner of the fee simple property at 714 Franklin Street (hereinafter Subject Property), at the time of application and at the time of the hearing.
3. The Subject Property is located in the CR zoning district as that term and district is defined by the City of Reading Zoning Ordinance, as amended, (hereinafter referred to as "Zoning Ordinance").
4. Applicant is seeking a Conditional Use permit to convert the two dwelling unit to a single dwelling unit with a three boarding rooms on the 2nd floor at the Subject Property, as per Zoning Ordinance sections 600-1203 (B) and (D) and 600-1204(D).
5. The Applicant attended the hearing.
6. The Applicant stated that the property was purchased in 1987 and he would like to continue using the property as a single dwelling unit on the first floor and a three room boarding space on the second floor.

7. The Applicant testified that he has sufficient off-street parking available behind the property. However, the Applicant did not provide testimony on the Code compliance of the building.
8. The Applicant expressed the belief that under his ownership conditions in the neighborhood have improved.
9. The Applicant provided testimony at length about other properties he owns, his court battles to keep the properties, his bankruptcy problems and his illnesses. He also listed a number of addresses of other rental properties and admitted that he is operating them illegally.
10. The zoning administrator provided a case report listing the history at the property as follows:
    - The previous owner applied to the Zoning Hearing Board # 1986-7, for a conversion of a single family dwelling unit into a boarding house. This appeal was denied on March 5, 1986 and the property remained as a single family dwelling unit.
    - In 1987, the applicant purchased the property. At that time, the applicant did not apply for the transfer of the zoning permit for the subject property. In 2002, the property was inspected as a two unit dwelling.
    - In 2007, the City changed Chapter 308, Housing Ordinance. At this time, the applicant submitted a housing application for one dwelling unit and three rooming units. On the applicant's lease of the property, it refers to the subject property as hotel rooms and suites.
    - In 2009, the applicant and his lawyer met with a previous zoning administrator and the previous City Solicitor to discuss zoning for the subject property and several other rental properties owned by the applicant. It was the City Solicitor's opinion that the subject property had a history of two dwelling units, and whereas the housing permit history identified one rental unit, it may be construed that the second unit was owner occupied. The applicant was given the option to accept the two dwelling units or seek conditional use approval from City Council. The property was inspected again as two dwelling units by Property Maintenance Division in 2009.
    - The applicant sought and was granted zoning permit # 2012-203 (attached) for two residential rental units, specifically specifying that no rooms were allowed.
    - On August 22, 2013, the City received a complaint that the applicant was renting the subject property as rooms on the second floor. An inspection was scheduled between William Frymoyer, a former zoning inspector and the applicant's property manager, Leroy Schaeffer. Mr. Schaeffer did state to Mr. Frymoyer that the property was being utilized as a rooming house. At the inspection, Mr. Frymoyer was denied entrance to the subject property by Mr. Schaeffer. Mr. Frymoyer explained that conditional use approval by City Council was needed to be able to operate a rooming house. On October 8, 2013, Mr. Frymoyer sent a letter to the applicant

requesting documentation to substaniate Mr. Schaeffer's statements about the existing zoning approval for the rooming house. The applicant did not provide any documentation to support Mr. Schaeffer's statement.

- On November 8, 2013, Mr. Frymoyer sent a cease and desist letter to the applicant stating that the use at the subject property as rooming houses was not a permitted use by right. The applicant was further advised that he had thirty (30) days to appeal said enforcement notice. No appeal of the enforcement notice was undertaken.
- Property Maintenance Division inspected the subject property on February 20, 2014. The inspection was conducted on a first floor apartment and three rooms on the second floor. During the final isnpection on June 25, 2014, the subject property was still being used as one apartment and three rooms.
- As a result of the applicant's failure to comply with the cease and desist letter and continued violations of the City of Reading Zoning's Ordinance, the zoning inspector filed a civil action with the Magisterial District Justice. A hearing was held before the Magisterial District Justice on September 2, 2014, the applicant was found guilty in absentia of operating a rooming house without zoning approval. The applicant filed an appeal of the Magisterial District Justice ruling with the Prothonotary's Office on September 24, 2014. An appeal hearing has not yet been scheduled in Berks County Court.

11. The zoning administrator and the Planning Commission recommended denying the permit.

DISCUSSION

The Applicant is seeking a Conditional Use Permit to convert the two unit dwelling to a single family dwelling on the first floor and a three room boarding house on the second floor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Subject Property at 714 Franklin Street is located in the CR Zoning District.
2. Hearing was held on October 14, 2014.
3. Applicant requests a Conditional Use permit to convert the Subject Property from a two dwelling unit to a single family unit with a three room boarding house on the second floor.
4. The burden of proof for an application for a Conditional Use is upon the Applicant.
5. City of Reading City Council is permitted to grant Conditional Uses, with conditions and other relief as set forth in the Zoning Ordinance of the City of Reading and Pennsylvania Municipalities

Planning Code upon compliance with the requirements therefore set forth in the Zoning Ordinance.

6. The Applicant stated that there is sufficient off street parking at the rear of this property and other properties he owns in this block.
7. The Applicant did not provide documentation proving the long term use of the property.
8. Applicant did not file an application for other relief from the City of Reading Zoning Hearing Board.
9. The zoning administrator and Planning Commission recommended denying the application for the conversion.

DECISION

After reviewing the Applicant's request in detail, City Council enters the following decision:

1. The application of Brian Skiles, of 706 Franklin Street, Reading, PA 19601, to convert this two dwelling unit to a single dwelling unit on the first floor and a three room boarding house on the second floor is hereby denied with the following orders:

    a. The property shall be de-converted to two dwelling units no later than April 27, 2015 and the property shall return to a two unit dwelling as specified in the 2012 zoning permit.
    b. The second floor or any other unit, space or room in this property may not be rented as a boarding house, rooming house or hotel beginning November 27, 2014.
    c. An inspection to ascertain that the de-conversion occurred will be scheduled by the property owner, property manager or the City on or before April 27, 2015.
    d. If the de-conversion does not occur by April 27, 2015 or if the Applicant or his representative fails to allow the inspection of the property at the request of City officials, the City shall immediately exercise its right to revoke the Business Privilege License of the Applicant as per City Code §339-209 and immediately shut down all rental and business properties owned by the Applicant within the City of Reading.
    e. The property shall meet all applicable Building, Trades and Fire Code requirements required by the City's Building and Trades Division and the Fire Department. The property shall also obtain a Certificate of Occupancy.

This is the decision of the City of Reading City Council by a vote of 7 to 0.