

**Board of Zoning Adjustment
Staff Report**
November 10, 2023



Case No:	LIC-STA-23-01473
Request:	Short Term Rental Residency Hearing
Project Name:	Host, JanChase Charifa
Location:	968 Samuel Street
Owner:	JanChase & April K. Charifa
Applicant:	N/A
Jurisdiction:	Louisville Metro
Council District:	6 – Philip Baker
Case Manager:	Jude Mattingly, Planner I

REQUEST

- Residency hearing concerning a short term rental registration application for a dwelling unit at 968 Samuel Street. The Director has the ability to request such a hearing pursuant to Louisville Metro Land Development Code Section 4.3.23.

CASE SUMMARY

A short-term rental registration application was received by the Office of Planning and assigned the case number LIC-STA-23-01473. Previously LIC-STL-22-00730 had been issued and expired October 23, 2023.

Following a review of the application, staff determined that a residency hearing is necessary due to questionable circumstances regarding the primary residence of the host. Based upon the information in the application, in this staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the subject dwelling unit is the primary residence of Mr. Charifa. Otherwise, a Conditional Use Permit (CUP) is required.

STAFF ANALYSIS

The following sections of the LDC are applicable to this case.

- 4.3.23 Short Term Rentals, J.: In cases in which the required primary residency of a host is in question due to: a) conflicting documentation or information; b) inadequate documentation supporting a claim to primary residency; and/or c) questionable circumstances, the Planning Director may request that the Board of Zoning Adjustment review a pending application or approved registration and make a determination related to the residency of the host. The Board shall act following a public hearing. Public comment by the host and any interested party shall be permitted. During a residency hearing, in addition to considering the documentation provided in the application, the Board may consider the circumstances surrounding the application as well as testimony in determining if the host spends most of their time at the property.

- 1.2.2 Primary Residence (or Principal Residence): A primary residence is the main home of an individual. An individual has only one primary residence at a time. If an individual owns and lives in just one dwelling unit, then that dwelling unit is their primary residence. If an individual owns or lives in more than one dwelling unit, then the individual must apply a "facts and circumstances" test to determine which dwelling unit is their primary residence. While the most important factor is where the individual spends the most time, other factors are relevant as well. The more of these factors that are true of a home, the more likely that it is a primary residence. Factors included, but are not limited to, the address listed on an individual's Kentucky-issued driver's license or identification card, Voter Registration, federal and state tax returns, and/or vehicle registration.

Mr. Charifa has submitted required documentation to support his residency including a Kentucky State Issued Driver's License and Voter Registration. In addition to providing the required documentation as evidence of residency, the dwelling unit must serve as his "main home" where he spends "most" of his time.

968 Samuel Street is residentially zoned (R6). In the R6 district, short term rentals that are not occupied by the owner require a CUP.

Since the issuance of the initial registration, a complaint has been filed contesting Mr. Charifa's residency.

ENF-ZON-23-00169 was received by the Office of Planning with the following description written by the complainant "It appears the owners of this property are using this as a full-time short term rental and they do not have a CUP and it is not their primary residence. I live in the neighborhood and constantly see people coming and going. This is the link to their airbnb listing: <https://www.airbnb.com/rooms/742191440582525787>"

Staff has investigated Mr. Charifa's residency and has found information suggesting Mr. Charifa may not reside at 968 Samuel Street on a primary basis. Background check records from 10/06/23 indicate that Mr. Charifa may reside at an address in Ontario, California. The background search results are not attached to this report as the information may not be subject to public disclosure as part of this record.

Mr. Charifa submitted a conditional use permit pre-application (23-CUPPA-0182) to conduct non-host occupied short term rentals on 06/02/2023. A letter of explanation was provided with that application which Mr. Charifa indicated to "work remotely 6 months out of the year in the finance field".

Other applications have been received by the Office of Planning, (23-WAIVER-0111) filed 07/27/2023, and (23-MPLAT-0085) filed 07/03/2023. Both of these applications list Mr. Charifa's address as 3912 South Alexander Avenue in Ontario, California. Signatures on the approved plat (23-MPLAT-0085) under "Certificate of Ownership and Dedication" and "Zoning Certificate" indicated Mr. Charifa's address as the property in Ontario, California. The "Certificate of Acknowledgement" was notarized in California.

The Airbnb listing shows the rentals as widely available and unshared with the host. As the definition requires that this dwelling be where the host spends the most time, allowing rentals without notable blackout periods makes it difficult to do so unless the dwelling is shared.

Timeline of Related Events:

- 10/24/22: LIC-STL-22-00730 is approved
- 02/13/23: Zoning Enforcement complaint (ENF-ZON-23-000169) questioning Mr. Charifa's residency is received.
- 06/02/23: Conditional Use Permit Pre-Application (23-CUPPA-0182) is received by the Office of Planning
- 07/03/23: Minor Plat Application (23-MPLAT-0085) is received by the Office of Planning.
- 07/27/23: Land Development Code Waiver Application (23-WAIVER-0111) is received by the Office of Planning.
- 10/31/23: LIC-STA-23-01473 is entered.

STAFF CONCLUSIONS

The zoning enforcement complaint alleges that Mr. Charifa may not currently reside in the dwelling unit on a primary basis.

Mr. Charifa submitted two forms of acceptable documentation supporting his residency with this application; however other documentation suggests residency out of state.

Staff has been in contact with the property owner about this hearing. If he or a representative attends the meeting, staff will request clarification from the host on the following issues at the hearing: the amount of time he spends at the property; the frequency in which the dwelling is rented short term and if there are any blackout times; the amount of notice he is provided in advance for an upcoming stay; where he stays when the dwelling is rented short term; why recent signatures were signed with an Ontario California address listed; and questions about the letter of explanation provided with the conditional use permit pre-application. Mr. Charifa does not need to be present in order for the Board to act.

STANDARD OF REVIEW

The Board must determine if the subject dwelling is the primary residence of the host, as defined in Section 1.2.2.

If the Board determines the host's residency meets Section 1.2.2, the registration can be renewed with Mr. Charifa as host. The registration is only valid for one year and can be renewed again. The host must maintain primary residence at the address. Failure to do so may result in another residency hearing.

If the Board determines the host's residency does not meet Section 1.2.2, any registration renewal with Mr. Charifa as host will be denied. While the Board would normally revoke a registration in this situation, in this particular case, the registration expired before the residency hearing.

The new application will be denied. The host may re-apply for the registration at a later date after satisfying the deficiencies in the application. Another residency hearing will likely be required.

RELATED CASES

- LIC-STL-22-00887: Short Term Rental Registration (JanChase Charifa – Host) – Approved/Expired
- ENF-ZON-23-000169: Zoning Enforcement Case concerning the host's residency – Open
- 23-CUPPA-0182: Conditional Use Permit Pre-Application to conduct non-host occupied short term rentals
- 23-MPLAT-0085: Minor Plat Application
- 23-WAIVER-0111: Land Development Code Waiver Application.

INTERESTED PARTY COMMENTS

Other than enforcement complaints, staff has not received any interested party comments for the file about the residency hearing of the subject host as of the date of this report.

NOTIFICATION

Staff notified JanChase Charifa via email 10/31/2023

ATTACHMENTS

1. LIC-STA-23-01473 pending application
2. Email requesting residency documents, Kentucky State Issued Driver's License, Voter Registration
3. Letter of Explanation submitted with 23-CUPPA-0182
4. Signature pages associated with 23-MPLAT-0085 & 23-WAIVER-0111



Short-Term Rental Annual Registration

Louisville Metro Planning & Design Services

Registration No: LIC-STA-23-01473

Intake Staff: JM

STAFF USE ONLY ABOVE THIS LINE

Fee: \$100 (Make checks payable to "Planning & Design Services"). Once complete, please bring or mail the application and supporting documentation to: Develop Louisville's Office of Planning and Design Services, 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit: <https://louisvilleky.gov/government/planning-design>

*A registration shall expire one year from the date it is issued and must be renewed annually. A new registration form must be submitted to renew a registration within 30 days of its expiration. A separate registration form is required for each short-term rental even if they are located on the same property. *A change in host, ownership, or tenancy of a dwelling unit used as a short-term rental invalidates any existing registration. The new host, property owner, and/or tenant must apply for a registration in their name(s).

☐ Registration ☒ **Renewal** - Former Registration No. (if known): LIC-STL-22-00730

Physical Address: 968 Samuel Street, Louisville, KY 40204

Is the dwelling unit the primary residence of the host? ☒ Yes ☐ No

If yes, please attach a copy of two of the following documents to this form: *driver's license, state identification card; voter registration card; vehicle registration; federal/state tax returns*. You may redact any sensitive personal information such as social security numbers.

A **primary residence** is the main home of an individual. If an individual owns or lives in more than one dwelling unit, then he or she must apply a facts and circumstances test to determine if the property is his or her primary residence. (For more information, refer to the definition of "primary residence" in the Land Development Code).

Was the short-term rental approved by a Conditional Use Permit? ☐ Yes ☒ No


Is the dwelling unit in a Single-Family residence or Duplex? ☒ Yes ☐ No

Is the dwelling unit in a Condominium? ☐ Yes ☒ No

Number of Bedrooms in the Short-Term Rental: 3

Number of Off-Street Parking Spaces on the Property: 2

Zoning of Property: R-6

A property's zoning classification and other land use related information may be obtained by calling the Office of Planning & Design Services at (502) 574-6230 or search the address in LOJIC by going to <https://www.lojic.org/lojic-online> and click the  icon.

Revenue Commission Transient Room Tax ID Number (Required): 101277-1707

The Louisville Metro Revenue Commission (LMRC) collects various special license fees. One of these fees is the Transient Room Tax. The transient room tax rate is 8.5% of the rent for every occupancy of a suite, room, or rooms. As a short-term rental owner (host) you are required to report and remit this tax monthly to LMRC if you use Airbnb or any other platform as a host. The first step is to register for a tax reporting number. To register, you may go to the Louisville Metro Revenue Commission Office located at 617 W Jefferson Street, by phone (502) 574-4860, or via their website: https://emints.metrorevenue.org/_/

For more information, see the transient taxes FAQ sheet: <https://louisvilleky.gov/revenue-commission/document/short-term-rental-faq>

Attachment #1: LIC-STA-23-01473 Pending Application

Contact Information

*Note: The short-term rental Host must be listed under an *individual's* first and last name, even if the rental is managed through an LLC.

Property Owner:

Name: JanChase Charifa
Company: _____
Address: 968 Samuel Street
City: Louisville State: KY Zip: 40204
Primary Phone: 5024379035
Alternate Phone: _____
Email: chasecharifa@gmail.com

Short-Term Rental Host: ☒ Check if same as owner

Name*: _____
Company: _____
Address: _____
City: _____ State: _____ Zip: _____
Primary Phone: _____
Alternate Phone: _____
Email: _____

Emergency Contact: ☐ Check if same as Host

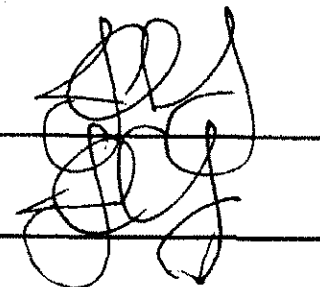
Name: Rebecca Jones
Company: _____
Address: 11006 Shady Hollow Drive
City: Louisville State: KY Zip: 40241
Primary Phone: 5024077163
Alternate Phone: _____
Email: rebecca.jones.photo@gmail.com

Louisville Metro Code requires that a person residing in Jefferson County, KY and/or within **25 miles** of the short-term rental be responsible for addressing any maintenance issues, safety concern, or nuisance complaints.

Please affirm that the emergency contact(s) meets this requirement: ☒ Yes ☐ No

Applicant/Host
Signature (required):

Property Owner
Signature (required):



Certification Statement:

The Certification Statement is only to be filled out in the circumstance that the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc. or if someone other than the owner(s) of record sign(s) the application.

I, _____, in my capacity as _____, hereby
representative/ authorized agent/ other

certify that _____ is (are) the owner(s) of the property which
name of LLC/ corporation/ partnership/ association/ etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

Signature: _____ Date: _____

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a materially false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

Mattingly, Jude

From: Mattingly, Jude
Sent: Wednesday, November 1, 2023 8:56 AM
To: Chase Charifa
Cc: Short Term Rental; Pinto, Mark
Subject: RE: Residency Documents for 968 Samuel Street
Attachments: JanChase Charifa License.pdf; JanChase Charifa Voter Registration.pdf

Thank you for your response.

I have included these into the application and file.

Please see attached as I redacted some of the sensitive information.

Jude A. Mattingly
Planner 1

Office of Planning
Louisville Metro Government
444 S. Fifth St. #300, Louisville, KY 40202

O: (502) 574-1300



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PLANNING

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Please consider the environment before printing this email

From: Chase Charifa <chasecharifa@gmail.com>
Sent: Tuesday, October 31, 2023 5:51 PM
To: Mattingly, Jude <Jude.Mattingly@louisvilleky.gov>
Cc: Short Term Rental <ShortTermRental@louisvilleky.gov>; Pinto, Mark <mark.pinto@louisvilleky.gov>
Subject: Re: Residency Documents for 968 Samuel Street

CAUTION: This email came from outside of Louisville Metro. Do not click links, open attachments, or give away private information unless you recognize the sender's email address and know the content is safe.

Hello Jude,

See attached driver's license and Voter registration card.

On Tue, Oct 31, 2023 at 12:18 PM Mattingly, Jude <Jude.Mattingly@louisvilleky.gov> wrote:

Hello JanChase,

While reviewing the short-term rental registration application that is the subject of a residency hearing on 11/20/2023 I noticed that the residency documents required were not submitted.

The short-term rental registration application requires A Kentucky Issued Driver's License or State Identification Card and then Voter Registration Card, Vehicle Registration, and/or the most recent year's tax filing.

Do you have a Kentucky Issued Driver's License and one of the other documents that can be submitted for the application and as evidence of your primary residency claim at 968 Samuel Street?

Thank you,

Jude A. Mattingly

Planner 1

Office of Planning

Louisville Metro Government

444 S. Fifth St. #300, Louisville, KY 40202

O: (502) 574-1300



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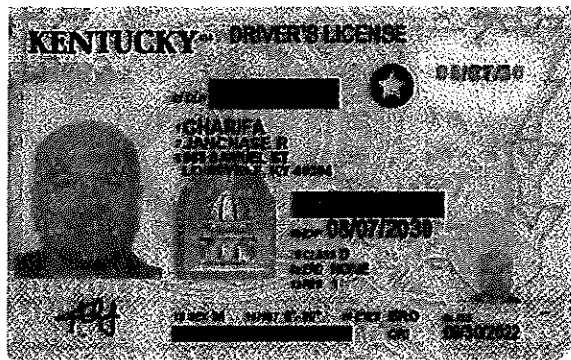
Please consider the environment before printing this email

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

JanChase Charifa | Loan Officer

NMLS#1108326

818-321-7783 (Cell)
chasecharifa@gmail.com





Online Voter Registration



Welcome Eligibility Identification Political Party Address Thank You

**Your Kentucky Voter Registration Application has been submitted.
You may print this page for your records.**

Important Information:

You are not officially registered to vote until the electronic application is approved by your county clerk.

If your registration application is accepted, the county clerk will send you confirmation, by mail, of your registration and notify you of your polling location.

A. Are you a citizen of the United States of America? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		B. Will you be 18 years of age on or before election day? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
C. Check one: <input type="checkbox"/> I am a U.S. citizen. <input type="checkbox"/> I am a U.S. citizen and a permanent resident of Kentucky.			
D. County: Jefferson	E. Precinct:	F. City/Town:	G. Zip:
H. Name: JANCHASE null CHARIFA			
I. Address: 968 SAMUEL ST LOUISVILLE, KY 402042459			
J. Party Registration:		K. Signature:	
L. I am a U.S. citizen and a permanent resident of Kentucky.		M. I am a U.S. citizen and a permanent resident of Kentucky.	

Back Finish

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Attachement #2 Email, Kentucky State Issued Driver's License, and Voter Registration

To Whom It May Concern,

I am humbly applying for a conditional use permit. I work remotely 6 months out of the year in the finance field. I would like to short term rental my home when I am not home so that it doesn't sit empty. I would like to rent the home to visitors as well as traveling nurses and professionals temporarily staying in the city.

This will help me keep my house as you all are aware of the 30,000 home shortage here in Louisville. It would be extremely difficult for me to find another home if I have to sell. I would prefer to keep it and still be able to earn an income & keep local businesses going with the ongoing interest and tourism that funds so much in our city.

Thank you

JanChase Charifa

Contact Information:

Owner: ☐ Check if primary contact

Applicant: ☐ Check if primary contact

Name: JANCHASE & APRIL KOUTH CHARIFA

Name: _____

Company: _____

Company: _____

Address: 3912 S. ALEXANDER AVE.

Address: _____

City: ONTARIO State: CA Zip: 91761

City: _____ State: _____ Zip: _____

Primary Phone: 818-321-7783

Primary Phone: _____

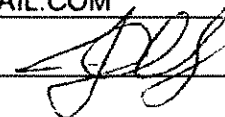
Alternate Phone: _____

Alternate Phone: _____

Email: CHASECHARIFA@GMAIL.COM

Email: _____

X Owner Signature (required):



RECEIVED

JUL 03 2023

PLANNING & DESIGN
SERVICES

Attorney:

☐ Check

if primary contact

Plan prepared by:

☒

Check if primary contact

Name: _____

Name: CHARLES R. PODGURSKY

Company: _____

Company: C.R.P. AND ASSOCIATES, INC.

Address: _____

Address: 7321 NEW LA GRANGE RD.#111

City: _____ State: _____ Zip: _____

City: LOUISVILLE State: KY Zip: 40222

Primary Phone: _____

Primary Phone: 502-423-8747

Alternate Phone: _____

Alternate Phone: 502-639-9748

Email: _____

Email: crpodgursky@gmail.com

Certification Statement: A certification statement must be submitted with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, _____, in my capacity as _____, hereby
representative/authorized agent/other

certify that _____ is (are) the owner(s) of the property which
name of LLC / corporation / partnership / association / etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

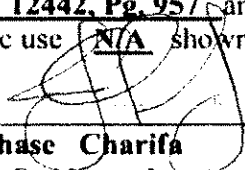
Signature: _____ Date: _____


I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

23-MPLAT-0085

CERTIFICATE OF OWNERSHIP AND DEDICATION

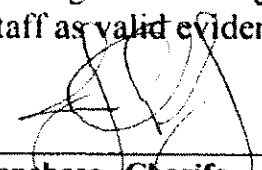
This is to certify that the undersigned is the owner of the land shown on this plat and hereby acknowledges the same to be the plat of SAMUEL STREET D. B. 12442, Pg. 957 and does hereby dedicate to public use N/A shown thereon.

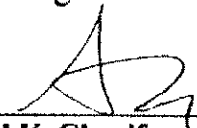

Janchase Charifa
3912 S. Alexander Ave.
Ontario, CA 91761


April K. Charifa
3912 S. Alexander Ave.
Ontario, CA 91761

ZONING CERTIFICATE

I hereby certify all of the lots of this minor subdivision and any existing buildings and improvements thereon and/or any buildings and improvements included in a building permit either applied for or approved thereon, are in compliance with all of the provisions of the Zoning District Regulations. Any such lots or improvements not in compliance with the Zoning District Regulations have been granted all necessary variances by the Board of Zoning Adjustment as described in Docket N/A or documentation of the existence of the buildings or improvements prior to the adoption of the Zoning District Regulations has been accepted by the Planning Commission staff as valid evidence of their non-conforming status.


Janchase Charifa
3912 S. Alexander Ave.
Ontario, CA 91761


April K. Charifa
3912 S. Alexander Ave.
Ontario, CA 91761

CERTIFICATE OF ACKNOWLEDGEMENT

State of Kentucky)
) SS
County of Jefferson)

SEE ATTACHED

I, _____ a notary public in and for the County aforesaid, do certify that the foregoing plat of SAMUEL STREET was this day presented to me by Janchase & April K. Charifa known to me, who executed the Certificate in my presence and acknowledged it to be THEIR free act and deed.

Attachment #4 Signature pages associated with 23-MPLAT-0085 & 23-WAIVER-0111

Witness my hand and seal this

day of

2023

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Bernardino

On JULY 19, 2023 before me, A. McNamara

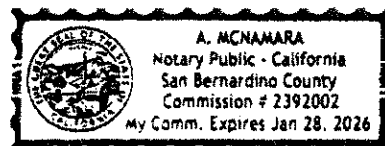
A Notary Public personally appeared Janease Charifa and
April K. Charifa

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature A. McNamara



(Seal)

Contact Information

Print and use a second copy of this page if additional contacts are needed.

Owner:

Name: JANCHASE & APRIL CHARIFA

Company: _____

Address: 3912 S. ALEXANDER AVE

City: ONTARIO State: CA Zip: 91761

Primary Phone: _____

Alternate Phone: _____

Email: _____

Applicant / Contact:

Name: CHARLES PODGURSKY

Company: CRP & ASSOCIATES INC

Address: 732 NEW LA GRANGE RD SUITE 111

City: LOUISVILLE State: KY Zip: 40222

Primary Phone: 502.639.9748

Alternate Phone: _____

Email: CRPPODURSKY@GMAIL.COM

Owner Signature (required): _____

Certification Statement

A certification statement must be submitted with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, NA, in my capacity as NA, hereby
representative/authorized agent/other

certify NA is (are) the owner(s) of the property which
name of LLC/corporation/partnership/association/etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

Signature: NA Date: _____

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a materially false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

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JUL 27 2023

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