

House Bill 809 Testimony
Scott Zelov, Lower Merion Township Commissioner
July 20, 2015

Members of the PA House Local Government Committee, thank you for the opportunity to speak to you about HB 809. I'm Scott Zelov, a Lower Merion Township Commissioner. I've served since 2006, representing parts of Bryn Mawr, Haverford, and Gladwyne. Lower Merion Township strongly opposes this proposed legislation, and I'd like to tell you why.

Lower Merion is a first ring suburb of Philadelphia, and is among the largest townships by population in PA. Lower Merion is home to all or portions of five very fine institutions of higher learning, including Bryn Mawr College, Harcum College, Haverford College, Rosemont College, and St. Joseph's University. Additionally Villanova University, located in Radnor Township, borders Lower Merion.

Off campus student occupied homes are and have been a significant problem in our community. This occurs primarily when colleges fail to provide on-campus housing for all of their students. The primary example of this in our township is Villanova University. As I understand the history, Villanova evolved from a primarily commuter school in the 1970's to a University with a larger student body. This transition appeared to occur slowly until Villanova became the Men's NCAA Basketball National Champions in 1985. Villanova didn't have enough on campus housing for many of the students coming in from other areas of the country, and thus students started living in rental properties in nearby communities. By 1988, the South Ardmore and South Bryn Mawr sections of Lower Merion Township had some blocks with more than half of the homes occupied by students. These are higher density neighborhoods with many twin and row homes. Investors were purchasing family occupied homes and converting them into student rentals. This trend accelerated because families were moving away due to the negative impact of the student occupied rental properties.

The student occupied homes completely changed those communities. The neighborhoods went from quiet and family occupied to neighborhoods primarily occupied by college students. These off campus student homes essentially became unsupervised dormitories with no college oversight on student behavior. Students were walking these streets well past midnight, disturbing neighbors many nights of the week. Students would leave the nearby bars at closing time and loudly traverse the neighborhoods to attend after hours house parties disturbing the peace and quiet in the community. Citations were issued for disorderly conduct, disturbing the peace, underage drinking, and public urination. Adding the neighborhood disruption in Lower Merion, landlords were able to charge significantly higher rents. This resulted in too many students living in many of these homes in order to make the higher rents affordable.

25 years ago, in 1989, Lower Merion Township amended our zoning code to create a use classification for student houses and imposing regulations on that use. Included in the code is a requirement that student residences be physically separated from one another, that the residence have a minimum size, that the residence can be occupied by no more than three unrelated persons, and that off street parking be provided. Our ordinance has been challenged in the Pennsylvania Courts through the land use appeal process, and the PA Supreme court found our ordinance to be valid. Our ordinance has also been challenged in the Federal Courts as a violation of students Civil Rights. That challenge was denied, thus upholding our ordinance.

Similar ordinances have become part of the zoning fabric of many communities confronted with the negative impact of student occupied houses in their residential neighborhoods.

Since the enactment of the student housing ordinance, there has been a significant reduction in the number of houses occupied by students. The result has been the preservation of the residential character of the affected neighborhoods. These regulations have allowed many of the homes in these neighborhoods to revert back to family occupation, and have generally prevented additional homes from being occupied by students. The inability of the Township to regulate student housing through the enactment of reasonable and appropriate measures would have resulted in the student takeover of several residential neighborhoods. Although there has been about a 40% reduction in the number of student homes since our ordinance was adopted in 1989, many of the problems I described continue today with student occupied homes. Students still disrupt neighbors with noise, litter, disorderly conduct, and public urination violations. We continue to experience problems with overcrowding in the student occupied homes.

Enforcement of existing occupancy limits is difficult. The ability to distinguish a visitor staying overnight from a permanent resident is a difficult burden to meet. According to our Zoning Officer, it requires many hours of investigation and acquisition of an administrative search warrant in order to verify the occupancy of a dwelling unit. By the time all of the required documentation is obtained to properly document the illegal occupancy, and a local District Justice hearing date is scheduled, the school year is often coming to an end. Unless completed in the current school year, the process begins again in following school year. Once we are able to establish a code violation, the process to obtain a hearing date before the District Justice can take 60 to 90 days.

To Villanova's credit, they are planning to add additional on campus student dormitories. However, the transition that occurred at Villanova 25 years ago appears to be occurring recently with St. Joseph's University. Although most of their off campus housing is in the City of Philadelphia, if Lower Merion is not able to maintain student home regulations, we anticipate that St. Joseph's student's living off campus will expand into Lower Merion Township.

I also want to point out that the impacted neighborhoods are the same neighborhoods that currently provide affordable housing to families with low to moderate incomes. Maintaining our affordable neighborhoods is a high priority for Lower Merion. We are currently updating our Comprehensive Plan and the preservation of our affordable neighborhoods is important in our community. The preservation of our affordable neighborhoods is also a goal in the Montgomery County Comprehensive Plan.

House Bill 809 would remove a community's ability to protect neighborhoods from being overrun with off campus student houses, and experience has shown that this forces other residents out of their neighborhoods.

House Bill 809 would restrict the ability of a community to limit overcrowding in housing occupied by students.

House Bill 809's allowance to regulate based on the number of vehicles registered to or driven by the occupants at a dwelling unit is not a viable solution since it is very difficult for municipal officials to verify the occupancy of a dwelling unit. More importantly, student operated vehicles are typically registered to one or both of their parents at their home address, and not to the

student. In addition, the parent may not have the same last name as the student. It requires the municipality to determine if a vehicle is registered to an occupant or if they are driving a vehicle registered to someone else. In the case of students, vehicles may be registered out of state. This information is not public and, to my knowledge, cannot legally be obtained absent a police investigation.

I also want to point out that this bill affects more than just off campus student housing. The legislation effectively eliminates the concept of single family housing as we know it and as it is instituted throughout the Commonwealth. It prohibits the regulation of residences based on the number of unrelated persons occupying the property. The proposed regulations can only be based on the number of occupants (2 per bedroom) and the number of vehicles registered to or driven by occupants. It is next to impossible for a municipality to determine the number of occupants of a building, let alone the names of those individuals. The number of bedrooms must be determined – is a den or living room a bedroom if each has a sofa bed? Enforcement based on this bill is practically impossible.

I have provided copies of a Resolution unanimously adopted by the Lower Merion Township Board of Commissioners on July 15th. This resolution urges you to reject this bill. During the discussion of this Resolution, our Board of Commissioners also objected to any state level legislation that preempts a local municipality's ability to regulate land use. The local elected officials are in the best position to understand the impact of land use on their community and they understand the regulations that best meet community needs. This level of local land use regulation cannot be applied with a broad brush at the state level. This is especially true in Pennsylvania with the diversity of rural, suburban, and urban communities throughout the State. Our recommendation is to leave the land use decisions to the local elected officials that know what works best for their community.

The proposed legislation, if enacted, would have a devastating effect on Lower Merion Township. We believe it would also have a devastating impact on many other municipalities across Pennsylvania. Our student housing ordinance is tried and true, and is serving us well. Lower Merion Township strongly opposes this preemption of local zoning, and we encourage the Local Government Committee to reject HB 809.

TOWNSHIP OF LOWER MERION

RESOLUTION NO. 2015-14

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE TOWNSHIP OF LOWER MERION EXPRESSING
OPPOSITION TO THE ENACTMENT OF HOUSE BILL 809 BY
THE COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES**

WHEREAS, the Township of Lower Merion is home to all or portions of five distinguished institutions of higher learning, to wit, Bryn Mawr College, Harcum College, Haverford College, Rosemont College, and St. Joseph's University; additionally Villanova University borders the Township; and

WHEREAS, the need for supplemental student housing has led to the purchase by investors of numerous residential properties in the Township, sometimes including the majority of residences within a single block, and the rental of those properties to groups of students; and

WHEREAS, the Township has experienced significant degradation of the residential character of a number of communities and vociferous complaints from residents of those communities as the result of students using these rental residences as defacto fraternity and sorority houses accompanied by late night partying, loud noises, blaring music, public urination, overcrowding and parking congestion; and

WHEREAS, in 1989 the Township enacted an amendment to its zoning code creating a use classification for student houses and imposing regulations on that use, including a requirement that student residences be physically separated from one another, that the residence have a minimum size, that the residence could be occupied by no more than three students, and that off street parking be provided; and

WHEREAS, the Township's student housing ordinance has been upheld against constitutional challenge in state and federal courts and similar ordinances have become part of the zoning fabric of many communities confronted with the negative impact of student housing in their residential neighborhoods; and

WHEREAS, over the intervening years since the enactment of the student housing regulations the Township has experienced the preservation of the residential character of its neighborhoods while still accommodating at present 82 residences used for student housing in the Township; and

WHEREAS, the inability of the Township to regulate student housing through the enactment of reasonable and appropriate measures would have resulted in the loss of several residential neighborhoods which would have been taken over by student housing as property owners moved out because of the intolerable conditions imposed by such housing; and

WHEREAS, these are the same neighborhoods that currently provide affordable housing to families with low to moderate incomes; and

WHEREAS, there now exists before the House of Representatives HB 809 which would effectively prohibit local municipalities from regulating student housing.

NOW THEREFORE, the Board of Commissioners of the Township of Lower Merion hereby resolves to express in the strongest terms its opposition to HB 809 in that it would deprive municipalities of a necessary and highly effective tool to preserve the residential character of neighborhoods, property values within those neighborhoods and the citizens' right of quiet enjoyment of residential properties.

RESOLVED, this 15th day of July, 2015.

**BOARD OF COMMISSIONERS
TOWNSHIP OF LOWER MERION**

By: _____
Elizabeth Rogan, President

ATTEST:

Jody L. Kelley, Secretary