

## Development Services

### From Concept to Construction

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#### APPEAL SUMMARY

**Status:** Decision Rendered - Held over from ID 24466 (12/23/20) for additional information

<b>Appeal ID:</b> 24543	<b>Project Address:</b> 2104 NW Everett St
<b>Hearing Date:</b> 1/20/21	<b>Appellant Name:</b> Hayden Lavery
<b>Case No.:</b> B-010	<b>Appellant Phone:</b> 5039136707
<b>Appeal Type:</b> Building	<b>Plans Examiner/Inspector:</b> Peter Drake
<b>Project Type:</b> residential	<b>Stories:</b> 3 <b>Occupancy:</b> R-3 <b>Construction Type:</b> V-B
<b>Building/Business Name:</b>	<b>Fire Sprinklers:</b> Yes - Throughout
<b>Appeal Involves:</b> Reconsideration of appeal	<b>LUR or Permit Application No.:</b> 18-241563-CO
<b>Plan Submitted Option:</b> pdf [File 1]	<b>Proposed use:</b> R3 Transient Duplex

#### APPEAL INFORMATION SHEET

##### Appeal item 1

<b>Code Section</b>	310.4
<b>Requires</b>	R-3 "Buildings that do not contain more than two dwelling units"
<b>Code Modification or Alternate Requested</b>	We are proposing an occupancy of R-3 Transient Duplex under the classification "Buildings that do not contain more than two dwelling units"
<b>Proposed Design</b>	<p>R-3 Transient Duplex will still be a considered a change of occupancy and require the building meet current safety standards</p> <p>RECONSIDERATION TEXT: Please reference approved Appeal ID: 23696</p> <p>The calculation for occupancy on the entire building is as follows:</p> <p>Unit 1 - 1912 sq. ft. - 10 occupants Unit 2 - 1885 sq. ft. - 10 occupants</p>
<b>Reason for alternative</b>	<p>OSSC makes clear that "primarily permanent in nature" does not restrict transient uses in the R-3 occupancy via the inclusion of transient congregate living facilities, boarding houses and lodging houses. The Chapter 2 definition of "transient" also makes clear that the word is intended to distinguish between groups R-1 and R-2 and includes no mention of buildings that would otherwise be considered R-3. The true intended use of the building is less risk than a congregate living facility or boarding house where tenants within a dwelling/facility are not familiar with each other.</p> <p>In addition, a proposed change to the IBC providing clarification of R-1 occupancies of two dwelling units or less was accepted at the ICC Committee Action Hearing (10-4).</p> <p>RECONSIDERATION TEXT:</p>

I have sent bundles of code language and state level interpretations regarding transient occupancies under R-3. I am submitting this appeal as a formality, but I have been told numerous times now that this is allowed by code and therefore isn't technically an appeal item. There is no language saying a duplex cannot be transient and there is no limit on the number of occupants for a transient duplex. The IBC clarified this with the action committee vote described above. I would also like to clarify that I am not attempting to permit this building under the residential code. I am attempting to permit it under OSSC and meet all requirements of the commercial code. My small business that, for now employs 15+ of your constituents, pays livable wages far above minimum requirements and is still keeping those employees whole at my own expense is already fighting to survive the current circumstances.

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## APPEAL DECISION

### **R3 transient duplex: Granted as proposed as R3 per the Oregon Structural Specialty Code.**

The Administrative Appeal Board finds that the information submitted by the appellant demonstrates that the approved modifications or alternate methods are consistent with the intent of the code; do not lessen health, safety, accessibility, life, fire safety or structural requirements; and that special conditions unique to this project make strict application of those code sections impractical.

Pursuant to City Code Chapter 24.10, you may appeal this decision to the Building Code Board of Appeal within 90 calendar days of the date this decision is published. For information on the appeals process, go to [www.portlandoregon.gov/bds/appealsinfo](http://www.portlandoregon.gov/bds/appealsinfo), call (503) 823-7300 or come in to the Development Services Center.

# G21-18

IBC: 310.2

## **Proposed Change as Submitted**

**Proponent:** Daniel Willham, County of Fairfax, Virginia, representing Virginia Building and Code Officials Association (VBCOA) (daniel.willham@fairfaxcounty.gov)

## **2018 International Building Code**

**Revise as follows**

**310.2 Residential Group R-1.** Residential Group R-1 occupancies containing *sleeping units* or more than two dwelling units where the occupants are primarily *transient* in nature, including:

*Boarding houses (transient)* with more than 10 occupants  
*Congregate living facilities (transient)* with more than 10 occupants  
*Hotels (transient)*  
*Motels (transient)*

**Reason:** There appears to be a gap in the code for hotels (*transient*) that provide *dwelling units*. As currently written, neither the R-1 nor the R-2 descriptions provide clear direction on the classification of hotels (*transient*) that provide *dwelling units*. The commentary clarifies that R-1 occupancies can contain either *sleeping units*, *dwelling units*, or both, but the code as written does not explicitly address *transient* residential occupancies that contain (more than two) *dwelling units*. The key characteristic of group R-1 occupancies is the transient nature of the occupants and not the absence of *dwelling units*. This proposal simply adds language for dwelling units that mirrors that used in the description of R-2 non-transient occupancies. With this clarification, the difference between R-1 and R-2 occupancies will be clearly defined to depend only on the transient or non-transient nature of the occupants, respectively. For reference, an excerpt from the IBC commentary (pg3-37) follows this change proposal.