



**City
of
Milwaukee**

INTERDEPARTMENTAL

CORRESPONDENCE

LEGISLATIVE REFERENCE BUREAU

Memorandum

To: Members of the Common Council

From: Richard Withers, Legislative Fiscal Analyst

Date: December 9, 2008

Re: **File # 080871:** A substitute ordinance regulating the maintenance of abandoned residential properties pending foreclosure and during foreclosure proceedings.
SPONSORS: ALD. MURPHY, BOHL, WADE AND BAUMAN

This memorandum summarizes the key elements of File # 080871 that passed the Zoning, Neighborhoods and Development Committee on December 9, 2008, and which will be scheduled for action before the Common Council on December 16, 2008.

This ordinance is one response to the issues facing the City as a result of increasing numbers of abandoned residential properties in foreclosure. The failure of property owners and others with secured interests in residential property to preserve and protect the premises during foreclosure proceedings can result in making the residence a target for vandalism and other crime, reduction in property values in the neighborhood, infestation with vermin, higher risk of fire, and other threats to the health, welfare and safety of the public.

It is often difficult to establish ownership or to locate owners of abandoned houses for enforcing building code and other ordinance requirements. Recent mortgage lending practices, including the bundling and securitizing of mortgage loans, have also resulted in difficulty identifying and contacting parties that assert a security interest in residential properties. Residential mortgages financed through Fannie Mae and Freddie Mac or insured by the Federal Housing Administration (FHA), and most other mortgages include language authorizing the mortgagee to enter vacant premises upon filing a foreclosure action and requiring the mortgagee to preserve and protect the premises.

Registration of Abandoned Residential Property

The proposed ordinance establishes a process requiring parties with a mortgage lien interest in residential property to inspect the property once a foreclosure action has been initiated. The party initiating foreclosure proceedings is required to inspect the property. If the property is determined to be abandoned, the ordinance requires registration of the property with the commissioner of neighborhood services.

Fees

\$35 - Registration of abandoned property

\$10 - Late fee for filing more than 5 days after abandonment determined

\$10 - Late fee if registration fee not paid within 7 days of initial filing

Inspections; Time Periods

- The mortgagee must cause an inspection (generally conducted by a servicing company) within 30 days of filing a foreclosure action.
- If the property is determined to be abandoned, the property must be registered with the City within 5 working days.
- If the property is not determined to be vacant, then it is to be re-inspected in intervals of not more than 30 days until foreclosure proceedings are terminated.

Minimum Requirements for Registrants

A registrant must comply with standards set by the FHA for the preservation and protection of single-family residences insured by the FHA.

The ordinance also specifies, consistent with the FHA guidelines, that:

- Buildings are secured and inaccessible to unauthorized persons.
- Litter, trash, debris and graffiti are removed.
- Grass is mowed, noxious weeds are removed, vegetation trimmed.
- Immediate risks to health, welfare and safety are eliminated.
- Public walkways are kept free from ice, snow, mud and other debris.

The Commissioner of Neighborhood Services may order the registrant to address an immediate threat to health, welfare and safety. Failure of the registrant to comply with the

order may subject the registrant to a forfeiture if the condition constitutes a violation of specified ordinances requiring owners to maintain the external premises.

Penalties

Failure to inspect	\$250 to \$1,000
Failure to register	\$500 to \$2,000
Failure to secure or maintain	\$350 to \$1,500
Failure to maintain records	\$100 to \$500

At the meeting of the Zoning, Neighborhoods and Development Committee on December 9, 2008, representatives of national lending institutions and a national servicing company noted their support for the ordinance. A representative of a Milwaukee law firm that handles foreclosures advised the committee that, with one amendment clarifying that lawyers only engaged in judicial foreclosure proceedings were not “agents” of the lender for purposes of preserving and maintaining abandoned properties in foreclosure, that the firm did not oppose the ordinance. The file was amended to reflect this concern.

Please contact the Bureau if you have any questions or would like further information.

LRB08398-5 memo
RLW
12/9/2008