

ORDINANCE NO. 181185

An ordinance adding Article 4 to Chapter XVI of the Los Angeles Municipal Code to create the City of Los Angeles Foreclosure Registry Program, and amending Sections 98.0716 and 98.0717 of the Los Angeles Municipal Code to increase the penalty for violations of Los Angeles Municipal Code Section 98.0701, et seq.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 4 is added to Chapter XVI of the Los Angeles Municipal Code to read:

**ARTICLE 4
FORECLOSURE REGISTRY PROGRAM**

SEC. 164.00. TITLE.

This article shall be known as the City of Los Angeles Foreclosure Registry Program.

SEC. 164.01. INTENT.

It is the intent of the Los Angeles City Council, through the adoption of this chapter, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties as a result of the foreclosure crisis.

SEC. 164.02. DEFINITIONS.

The following words and phrases, whenever used in this article, shall be construed as defined in this section unless the context within individual section clearly indicates otherwise. Words and phrases not defined here shall be construed as defined in Sections 12.03, 12.20.3, 91.8901, et seq., and 98.0702, et seq.:

- A. "Abandoned" means a property that is vacant and is under a Notice of Default and/or Notice of Trustee's Sale, pending tax assessor's lien sale and/or properties that have been the subject of a previous foreclosure sale in which title was retained by the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure and/or sale.
- B. "Assignment of rents" means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.
- C. "Beneficiary" means a lender under a note secured by a deed of trust.

D. "Days" means consecutive calendar days.

E. "Deed of Trust" means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition applies to all deeds of trust regardless of priority.

F. "Deed in lieu of foreclosure and/or sale" means a recorded document that transfers ownership of a property from the trustor upon consent of the beneficiary of the deed of trust.

G. "Default" means the failure to fulfill a contractual obligation, monetary or nonmonetary.

H. "Foreclosure" means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.

I. "Local" means within 100 road/driving miles distance of the subject property.

J. "Notice of default" means a recorded notice that a default has occurred under a deed of trust.

K. "Out of Area" means in excess of 100 road/driving miles distance of the subject property.

L. "Property" means any unimproved or improved residential real property, or portion thereof, situated in the City of Los Angeles and includes the buildings or structures located on the property regardless of condition.

M. "Property in Foreclosure" means any Property upon which a Notice of Default has been issued by a lender, mortgagee, or beneficiary of any deed of trust.

N. "Trustee" means the person, firm or corporation holding a deed of trust on a property.

O. "Trustor" means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

SEC. 164.03. RECORDATION OF TRANSFER OF LOAN AND/OR DEED OF TRUST AND/OR ASSIGNMENT OF RENTS.

Within 10 days of the purchase and/or transfer of a loan and/or deed of trust secured by Property the new beneficiary/trustee shall record, with the Los Angeles County

Recorder's Office, an assignment of rents, or similar document, that lists the name of the corporation, and/or individual, the mailing address and contact phone number of the new beneficiary and/or trustee responsible for receiving payments associated with the loan and/or deed of trust.

SEC. 164.04. REGISTRATION OF PROPERTIES IN FORECLOSURE.

Any beneficiary or trustee, who holds, or has an interest in, a deed of trust on a Property in Foreclosure located within the City of Los Angeles ("City") shall register the Property in Foreclosure with the Housing Department of the City of Los Angeles ("LAHD"). If the beneficiary or trustee issues a Notice of Default after the Effective Date of this Ordinance, they shall register such property with LAHD within thirty days of the issuance of such Notice of Default. If the beneficiary or trustee issues a Notice of Default prior to the Effective Date of this Ordinance, and such Notice of Default has not been rescinded, the beneficiary or trustee shall register the Property in Foreclosure with LAHD within 30 days of the Effective Date of this Ordinance.

The registration requirements of this Ordinance shall be satisfied by providing LAHD with contact information including street address and telephone number for the person or persons directly responsible for the Property in Foreclosure. If such person or persons are located Out of Area, such person or persons shall also provide the contact information, including street address and phone number for the staff of any applicable property management or property preservation company responsible for the security, maintenance, and marketing of the property. Such person or persons responsible for the property must be empowered to (1) comply with code enforcement orders issued by the City, (2) provide a trespass authorization upon request of local law enforcement authorities if the property is unlawfully occupied, (3) conduct weekly inspections of the Property, (4) accept rental payments from tenants of the property if no management company is otherwise employed for such person.

An annual registration fee in the amount of \$155.00 shall be paid to LAHD at the time of registration. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due.

The registration shall contain the name of the beneficiary and/or trustee (corporation or individual), the direct street and/or office mailing address of the beneficiary and/or trustee (P.O. boxes are insufficient), a direct contact name and phone number for the beneficiary and/or trustee and, in the case of a corporation or Out of Area beneficiary and/or trustee, the local property management company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.

The registration requirements of this section may be satisfied by providing the information required above to the Mortgage Electronic Registration System (MERS). Lenders that register properties with MERS will not be required to pay the registration fee to LAHD.

Any beneficiary or trustee who holds a deed of trust on a Property in Foreclosure shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, prior to recording a Notice of Default with the Los Angeles County Recorder's Office.

If the property is occupied but remains in default it shall be inspected by the beneficiary and/or trustee, or his designee, monthly until the trustor other or party remedies the default.

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.

Any person, firm or corporation that has registered a property under this chapter must report any change of information contained in the registration with LAHD within 10 days of the change.

If LAHD determines that the beneficiary and/or trustee has failed to comply with the registry requirements of this section, LAHD shall notify the beneficiary and/or trustee at the last known address as provided in Section 161.409 of the failure to comply with this section. If the beneficiary and/or trustee fails to comply with this section within 30 days of LAHD's notification, the beneficiary and/or trustee shall pay a penalty in the amount of \$250 per day for each day subsequent to LAHD's notification.

SEC. 164.05. MAINTENANCE AND ENFORCEMENT OF MAINTENANCE REQUIREMENTS.

Properties shall be maintained by the beneficiary/trustee in accordance with the standards set forth in Section 91.8104.

The provisions of Article 1, Division 89 (Section 91.8901, et seq.) and all requirements described therein shall apply to properties subject to this section. Should a property be deemed a nuisance, hazardous, or substandard by the City, the abatement procedures described in Article 1, Division 89 may be initiated against beneficiary/trustee by the City.

SEC. 164.06. MAINTENANCE OF VACANT PROPERTIES AND ENFORCEMENT OF VACANT PROPERTY MAINTENANCE REQUIREMENTS.

If a property subject to this section is found to be vacant, the provisions of Article 8, Division 7 (Section 98.0701, et seq.), and all maintenance and security requirements described therein, shall apply. Enforcement by the Los Angeles Department of Building and Safety shall be pursuant to the provisions of Article 8, Division 7.

SEC. 164.07. UTILITIES.

The beneficiary and/or trustee shall ensure that utility services to the property are not terminated if the property is lawfully occupied.

SEC. 164.08. VIOLATION/PENALTY.

Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement under the Los Angeles Municipal Code. Administrative penalties imposed pursuant to this ordinance shall not exceed \$100,000 per property.

SEC. 164.9. SEVERABILITY.

Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

Sec. 2. Section 98.0716 of the Los Angeles Municipal Code is hereby amended to read:

SEC. 98.0716. VACANT STRUCTURE PENALTY.

(a) Any Responsible Person in charge of a structure which meets the definition of a Vacant Structure as provided in this division for 30 consecutive calendar days may be liable for an administrative penalty in the amount of \$1000 per structure per day, not to exceed \$100,000 per property per calendar year unless:

- (1) a Statement of Intent has been filed and approved by the Superintendent; and
- (2) the building has been posted as required by Section 98.0714 of this Code; and
- (3) one of the following applies:

(A) The structure is the subject of an active building permit for repair, rehabilitation or demolition and the owner is proceeding diligently in good faith to complete the repair, rehabilitation or demolition; or,

(B) The structure is maintained in compliance with this division and is actively being offered for sale, lease or rent; or,

(C) The Responsible Person can demonstrate that he or she made a diligent and good faith effort to implement the actions set forth in the approved Statement of Intent within the time line contained within the Statement of Intent.

(b) If the structure continues to meet the definition of Vacant Structure as provided in this division beyond the initial 30 calendar days, and if the Responsible Person does not meet any of the exceptions set forth in this section, the Superintendent may impose a penalty of \$1000 per structure for each calendar day the structure continues to constitute a Vacant Structure, subject to the limitations set forth in Section 164.08 of this Code, pursuant to the notice requirements in this division. At no time may the amount of the administrative penalty exceed \$100,000 per property in a calendar year.

Sec. 3. Section 98.0717 of the Los Angeles Municipal Code is hereby amended to read:

SEC. 98.0717. PROCEDURES FOR BARRICADED AND VACANT STRUCTURE PENALTY.

(a) Whenever the Superintendent determines that a structure meets the definition of a Vacant Structure as provided in this division for more than 30 consecutive calendar days, and the Responsible Person does not meet any of the exceptions set forth in Section 98.0716(a), a 30-day Notice of Barricaded and Vacant Structure Penalty may be issued to the Responsible Person, and any other person listed in the title report as having an interest in the real property. The Notice of Barricaded and Vacant Structure Penalty shall include a description of the conditions that gave rise to the penalty and notice of the City's intent to assess an administrative penalty pursuant to Section 98.0716 if action to correct the violation is not commenced within a period of not less than 14 days from the date the Notice is mailed, and completed within a period of not less than 30 days from the date the Notice is Mailed.

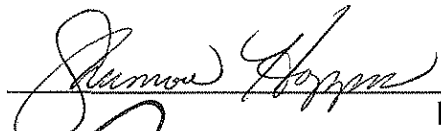
(b) A separate 30-day Notice of Barricaded and Vacant Structure Penalty shall be issued for each subsequent penalty that may be imposed pursuant to Section 98.0716.

(c) The Notice of Barricaded and Vacant Structure Penalty shall be served on each required person by any one of the methods of service listed in Section 91.8903.3.4 of this Code.


Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of MAY 21 2010.

JUNE A. LAGMAY, City Clerk

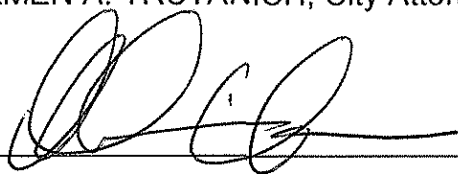
By  Deputy

Approved JUN 02 2010


Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 

Deputy City Attorney

Date 5.21.10

File No. CF 09-0365