City of Cincinnati

RLT/~~C~~ TAN/BCH

An Ordinance No. 35 - 2014

MODIFYING the provisions of Chapter 1123, "Vacant Foreclosed Residential Property Registration," of Title XI, "Cincinnati Building Code," of the Cincinnati Municipal Code by amending Sections 1123-1, "Legislative Findings," 1123-3-M, "Mortgagee," 1123-3-P-1, "Pilot Neighborhoods," 1123-3-C-1, "Code Official," 1123-3-P-1, "Pilot Neighborhoods," 1123-3-P-2, "PMCE," 1123-3-R, "Residential Property," 1123-5, "Registration of Vacant, Foreclosed Residential Property," 1123-7, "Fees," and 1123-15, "Point of Sale Inspections on Vacant, Foreclosed Properties."

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Chapter 1123, "Vacant Foreclosed Residential Property Registration," of Title XI, "Cincinnati Building Code," of the Cincinnati Municipal Code is hereby modified by amending Sections 1123-1, "Legislative Findings," 1123-3-M, "Mortgagee," 1123-3-P-1, "Pilot Neighborhoods," 1123-3-C-1, "Code Official," 1123-3-P-1, "Pilot Neighborhoods," 1123-3-P-2, "PMCE," 1123-3-R, "Residential Property," 1123-5, "Registration of Vacant, Foreclosed Residential Property," 1123-7, "Fees," and 1123-15, "Point of Sale Inspections on Vacant, Foreclosed Properties," to read as follows:

Sec. 1123-1. - Legislative Findings.

It is hereby found and determined that vacant, foreclosed properties pose a danger to the public health, safety and welfare. Vacant, foreclosed properties also quickly diminish in value and are at greater risk for becoming unsecured, vandalized and hazardous. Several studies have demonstrated that vacant, foreclosed properties can quickly become blighted properties, and foreclosed residential properties are at greater risk of becoming vacant and abandoned properties than other properties in the city. Locating the person in control of the property or responsible for the care and maintenance of the property is often an impossible task, mired in disputes between the mortgagee, mortgagor, servicer, and subservicer. Accordingly, citations for property maintenance are routinely ignored at these properties, placing properties at increased risk for becoming unsecured, vandalized, and hazardous.

The proliferation of ~~these~~ vacant, foreclosed properties and the failure to maintain and monitor these properties has caused their value to diminish, their condition to deteriorate, and blight to flourish~~,~~. As a result, these properties are structurally compromised, provide~~ing~~ havens for criminal activity; ~~destroying~~ jeopardize the safety of

neighborhoods; pose~~ing~~ dangerous risks to the city's firefighters, police officers, and code enforcement officials; deplete~~ing~~ already scarce city resources; diminish~~ing~~ surrounding property values throughout the city; undermine~~ing~~ the city's ability to enforce its criminal laws; and interfere~~ing~~ with the city's duty to protect its citizens from unsafe and harmful conditions and to protect vacant foreclosed properties from further degradation.

The purpose of this chapter is to ensure that vacant, foreclosed properties are protected and maintained and that city officials are alerted to the location of these vulnerable properties. This chapter is enacted in order to protect blighted foreclosed properties and prevent their further degradation, as well as to address the problem of blight~~ed~~ and the threat to the public health, safety and welfare that can result from unmonitored ~~properties that are a direct result of~~ vacant, foreclosed properties~~ and that pose a threat to the public health, safety, and welfare~~.

This chapter ~~is~~was initially enacted in June 2012 as a pilot project and ~~is applicable~~applied to the neighborhoods of Westwood, West Price Hill, East Price Hill, College Hill, and Madisonville. These neighborhoods were selected due to the high concentration of foreclosures during the past several years. ~~As a~~During the pilot program, the city ~~wishes~~sought to address the neighborhoods with the most severe problems.

Under the program, registrants receive a particularized benefit in the form of City oversight to ensure that vacant foreclosed properties do not unnecessarily diminish in value and structural integrity as a result of becoming unsecured, vandalized, and hazardous. Each property in the program is routinely inspected to determine if it is vacant and being maintained. Photos are taken to document the condition of the property at the beginning and end of the foreclosure process. Any maintenance issues prohibited by this chapter and other sections of the Cincinnati Municipal Code are promptly reported to the registrant of the property.

One problem encountered under the current VFPR ordinance is that, upon judicial sale to the mortgagee, VFPR regulation ceases. Thus, upon legal transfer of title to the mortgagee, basic VFPR maintenance requirements can no longer be enforced. As a result, the City has seen VFPR properties which were maintained during the foreclosure process quickly degrade in condition. Post-judicial sale, some VFPR program maintenance requirements (e.g., high grass or standing water) can be enforced against mortgagees by the City under other existing CMC health and safety standards. However, for other VFPR maintenance requirements (e.g. no signs or placards on the front of the property advertising it as vacant and foreclosed), the City has no enforcement ability upon cessation of the VFPR case at judicial sale. This change in enforcement ability undermines the regulation and continuity that occurred prior to judicial sale.

After approximately eighteen months, the city has analyzed and evaluated this pilot program. The city has concluded that the program has been and continues to be successful. Accordingly, the city now wishes to extend this program to apply to all fifty-two neighborhoods in the city of Cincinnati. As well, it wishes to extend the timeline for VFPR enforcement from within ten (10) business days of foreclosure and vacancy until title transfers to a bona fide owner occupant or an unaffiliated third party.

Sec. 1123-3-C-1. - Code Official.

"Code official" shall mean the chief of the property maintenance code enforcement division of the department of trade and development~~community development~~ of the city of Cincinnati or his designee.

Sec. 1123-3-M. Mortgagee.

"Mortgagee" shall mean any for-profit lender who is a party to a mortgage agreement and whose interest in that agreement is secured by a lien on residential property who has filed an action in foreclosure on the particular premises at issue. For the purposes of Chapter 1123, the lender shall be considered the mortgagee until title to the premises is transferred to a bona fide owner-occupant or unaffiliated third-party.

Sec. 1123-3-P-1. - ~~Pilot Neighborhoods~~Repealed.

~~"Pilot neighborhoods" shall mean the statistical neighborhood boundary maps of the neighborhoods of Westwood, West Price Hill, East Price Hill, College Hill, and Madisonville. The statistical neighborhood boundary maps are on file with the Department of city Planning.~~

Sec. 1123-3-P-2. - PMCE.

"PMCE" shall refer to the property maintenance code enforcement division of the department of trade and development~~community development~~ of the city of Cincinnati.

Sec. 1123-3-R. - Residential Property.

"Residential property" shall mean parcel of land within the corporate limits of the city of Cincinnati which contains a dwelling or structure that provides living accommodations for persons.

Sec. 1123-5. - Registration of Vacant, Foreclosed Residential Property.

a. Within ten (10) business days of filing a foreclosure action on residential property ~~located within the pilot neighborhoods~~ that is vacant at the time of filing, the mortgagee shall submit a vacant, foreclosed property registration form for the property to the city's PMCE division.

A mortgagee is not required to submit the vacant, foreclosed registration form if the residential property ~~located within the pilot neighborhoods~~ is not vacant on the date of the filing of a foreclosure action on the property. However, if the residential property becomes vacant at any point during the foreclosure process, the mortgagee shall submit a vacant, foreclosed property registration form regarding the property to the city's PMCE division within ten (10) business days of the vacancy.

The vacant, foreclosed property registration form shall contain the following information:

(1) Description of the residential property, including, but not limited to, the street address and parcel identification number;

(2) The name, street address, and telephone number of a natural person, 18 years of age or older, or a business entity registered with the Ohio Secretary of State designated by the mortgagee as an authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of the mortgagee in connection with enforcement of this chapter, and this person or entity must maintain an office in Ohio or must actually reside in Ohio; and

(3) The mortgagee shall pay the initial registration fee listed in section 1123-7(1) or, if the mortgagee meets the exemption requirements in section 1123-13, the mortgagee shall pay the exception fee listed in section 1123-7(3).

b. The mortgagee shall notify the city's PMCE division within ten (10) business days of any change of information on the foreclosed property registration form. The vacant, foreclosed property registration form shall be maintained with accurate information until the property is ~~sold at a judicial sale,~~ transferred to a bona fide owner-occupant, or an unaffiliated third party. The mortgagee shall notify PMCE in writing when the property is transferred to a bona fide owner-occupant or an unaffiliated third party, <u>or</u> the property is reoccupied, ~~or the property is sold at a judicial sale,~~ so the property may be promptly removed from the registry.

c. On an annual basis, the mortgagee shall pay the annual registration fee listed in section 1123-7(2) or, if the mortgagee meets the exemption requirements in section 1123-13, the mortgagee shall pay the exception fee listed in section 1123-7(3).

Sec. 1123-7. - Fees.

Mortgagees shall pay any required fees ~~until the foreclosure is dismissed or~~ until the property is transferred to a <u>bona fide owner-occupant or an unaffiliated</u> third-party. The fees for the various requirements under this chapter are as follows:

<u>Subsection</u>	<u>Title of fee</u>	<u>Fee amount</u>
(1)	Initial registration fee	$500
(2)	Annual registration fee	$500
(3)	Exception fee	$50

All fees shall be directed to a special fund designated only for use in administering and operating the registry program. The fee is non-refundable and cannot be prorated.

Sec. 1123-15. - Point of Sale Inspections on Vacant, Foreclosed Properties.

a. Point of sale inspections are hereby authorized on all properties that are subject to the vacant, foreclosed property registration. Mortgagees shall arrange to have all properties subject to the requirements of this chapter inspected by the code official within five (5) business days of filing for the property to be sold at a judicial sale. If the mortgagee fails to arrange an inspection, the property shall be inspected by the code official pursuant to Ohio Revised Code § 2329.17(B) prior to the property being sold at a judicial sale or pursuant to a search warrant issued by a court of competent jurisdiction.

b. If, as a result of the above inspection, the code official determines that health code violations, housing code violations, hazards, or structural defects exist on the property, the code official ~~shall notify the city solicitor of these conditions. The city solicitor~~ shall provide written notice via certified mail to the mortgagee or the mortgagee's agent, as designated on the foreclosed vacant property registration form, the owner of record, and any equitable lien holders, informing the parties of the following:

(1) The need to repair and correct the violations, hazards, or structural defects prior to the judicial sale;

(2) If the property is not brought into compliance within thirty (30) calendar days of the issuance of the notice of violation, the code official may correct or repaired some or all of the violations;

(3) If the code official corrects or repairs some or all of the violations, <u>the code official shall notify the city solicitor and</u> the city solicitor shall promptly place a priority lien on the property for the total cost of abating the violations. The city solicitor shall collect the priority lien from the proceeds of the judicial sale of the property, or upon any subsequent sale of the property, or by the methods provided in ORC § 715.261. When notice is given as provided for in this section, the lien shall be a priority over liens of prior record and the lien will be effective on the date the city incurs the costs of repairs as provided in ORC § 715.26(B).

c. The mortgagee may post a bond in an amount equal to the cost of abatement of the code violations which may include repair or demolition. The mortgagee must submit to the code official written cost estimates by contractors registered with the city of Cincinnati for abating the violations. The code official will establish the bond amount based upon the submitted cost estimates. Upon successful submission of the bond pursuant to Chapter 303 of the Cincinnati Municipal Code, the mortgagee shall be exempt from the requirements of Section 1123-15(b). The code official may extend the compliance date up to 90 days if a bond is posted. An additional 90 days may be extended in writing by the code official if good cause or diligence in abating the violations is demonstrated. If the violations are not abated in conformance with the terms of this section, the bond will be forfeited and the code official shall cause the violations to be abated with the proceeds of the forfeiture.

Section 2. That existing Sections 1123-1, "Legislative Findings," 1123-3-M, "Mortgagee," 1123-3-P-1, "Pilot Neighborhoods," 1123-3-C-1, "Code Official," 1123-3-P-1, "Pilot Neighborhoods," 1123-3-P-2, "PMCE," 1123-3-R, "Residential Property," 1123-5, "Registration of Vacant, Foreclosed Residential Property," 1123-7, "Fees," and 1123-15, "Point of Sale Inspections on Vacant, Foreclosed Properties," of Chapter 1123, "Vacant Foreclosed Residential Property Registration," of Title XI, "Cincinnati Building Code," of the Cincinnati Municipal Code are hereby repealed.

Section 3. That this ordinance shall take effect and be in force from and after the earliest time allowed by law.

Passed: March 12, 2014

Mayor

Attest:
Clerk

I HEREBY CERTIFY THAT ORDINANCE No. 35-2014
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 3-25-2014
CLERK OF COUNCIL