



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm , City Attorney
DATE: February 12, 2008
SUBJECT: Blight Article in Public Corporation Law Quarterly

Enclosed please find the article, "Blight in a Time of Foreclosures," which was written by Assistant City Attorney Susan Lancaster. Sue's article appeared on the front page of the most recent edition of the Public Corporation Law Quarterly. The Quarterly is distributed to over 700 attorneys who are members of the State Bar of Michigan Public Corporations Law Section. It addresses an issue that several municipalities are facing during these difficult economic times.



Public Corporation Law
Quarterly

Blight in a Time of Foreclosures

By Susan M. Lancaster, Assistant City Attorney for Troy

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Today, the news reports bleak stories about the number of foreclosures, which has led to a decline in property values. Banks and corporations are now the owners of many of these foreclosed homes, and several of them are not occupied. These empty buildings are now maintained on a monthly or a quarterly basis, as opposed to the daily care and property maintenance that was provided by the previous owner/occupant of the home.

The existence of one poorly-maintained home frequently also negatively impacts the surrounding neighborhood as well. When there is already a decline in property values, and no peer pressure to keep up with the high standards set by our neighbors, there is a natural decline in the amount of time and energy exerted for private property maintenance. This, accompanied by limited financial resources in these tough economic times, leads to a downward spiral of property values in a community.

This decline in property values reduces the amount of local taxes that are collected, which in turn reduces the funding for municipal services. At the same time, most municipalities are hunkering down to ride out the storm of anticipated cuts in funding, and therefore services, including the loss of personnel through attrition or reassignment to different duties. These competing interests could create the perfect storm. Each municipality needs to recognize the potential danger, and take action to preserve the stock of existing private housing in the community.

The good news is that there are many tools to help combat blight. It is our charge, as municipal attorneys, to work with the elected and code enforcement officials to determine which tools should be introduced and/or used in each community. The Michigan Municipal League has taken a proactive role in creating a community assessment and response procedure, which has already been provided to local elected and code enforcement officials, and is also available on the website. It is titled *Restoring Michigan Communities, Building by Building*, and since it is such a great resource for the municipal attorney, it is also reprinted here with permission.

In this current climate, municipalities can best handle blight by realizing that they have limited time and resources. Therefore, it is essential that each community assess priorities. The priorities may be established by the number of neighborhood complaints that are received. Of course, the first priority should be the health, safety,

Blight . . .*Continued from page 1*

and welfare issues. If there is a home that is a haven for rodents, the community needs to take immediate action to address the infestation and prevent it from spreading to the neighboring homes. However, in our community this past year, we have had a significant increase in the number of aesthetic complaints, such as overgrown grass and vegetation, garbage and trash (including newspapers piling up on porches), and un-drained swimming pools, which were found mainly at unoccupied houses.

We also have an aging stock of existing houses, which can become dilapidated from neglect. Some of these homes have actually reached the point where there are so many repairs that need to be made that it is difficult to know where to start. Instead of allowing these homes to reach this point of no return, a municipality should be doing inventories to identify these homes where the exterior of the property is evidently in need of some attention. If a community does not have the resources to conduct an extensive inventory, then it should explore methods of encouraging community participation in the battle against blight. Neighbors are usually in the best position to observe problems with property maintenance. Although the required municipal response to each complaint will initially consume our limited code enforcement resources, the long term impact of having an effective community reporting system will deter the downward spiral of decreasing property values. When a neighbor's concerns are taken seriously, apathy is reduced, and you have conveyed the message that property maintenance is important in the community.

On the basis of neighborhood complaints during this past year, the City of Troy code enforcement officials discovered two homes without working plumbing. We received complaints about the exterior of these homes, and in doing the inspection discovered sufficient grounds to justify an administrative search warrant for the interior of the home. Once we became aware of the deplorable condition of the interior of the home, we were able to address the emergency health, safety, and welfare concerns with equitable actions at the circuit court level.

As set forth in the attached publication, each community should review its current property maintenance ordinances. Unlike most construction codes that are now mandated by the State of Michigan, the State has allowed municipalities to assess their own individual needs regarding property maintenance and adopt ordinances outlining property maintenance regulations.

It is also necessary to look at enforcement mechanisms for violations of those ordinances. In 1994, the State of Michigan adopted the statute allowing municipalities to prosecute zon-

ing violations as municipal civil infractions (MCL 600.8701, et. seq.). Those communities that have rejected or failed to consider a conversion to municipal civil infractions are missing an opportunity to deal with blight in a reasonable manner. Municipal civil infractions do not involve imprisonment, a remedy which could

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be viewed by the public as an overreaction to economic hard times. Rather, to the municipality's advantage, a court is empowered to fashion a remedy to deal with each specific situation. The court can impose fines, or it can order compliance by a certain date, or it can order reimbursement of a municipality's expenses, and this reimbursement can be with the imposition of liens on the property. As with any civil case, as opposed to a criminal case, the municipal-

ity can reach an agreement with the defendant property owner, which can be placed on the record and monitored by the court. As with other civil cases, default judgments can be entered for a failure to appear. When the court has maximized the amount of damages in granting such a default judgment, the City of Troy has been successful in getting the recalcitrant property owners to become compliant and cooperative, in the hopes of a reduction in the amount of damages. Property owners seem more than willing to correct a problem in exchange for a stipulated reduction in the court ordered judgment.

There are other possible property maintenance ordinances that are being used in other communities. Sterling Heights is considering an ordinance that would require a dumpster or other container on site to dispose of abandoned property. Dumpsters must be removed within 48 hours, unless they are being regularly used by the owner for disposal. Violations of this ordinance would be punishable by a fine. Detroit and Eastpointe have adopted similar ordinances.

A municipality should also take advantage of the advances in electronic capabilities, to make sure that all contacts with a specific property are accessible by all departments. For example, if your assessing department is notified that a house has been repossessed, then the assessing department should note the name and address of the entity taking control of the property. The identification of the new owner, as well as the contact information, will be helpful in any pre-enforcement efforts to obtain compliance, and if unsuccessful, will be necessary for any formal enforcement action.

The City of Troy is making strides in fighting blight in our community. Hopefully, your community will also be joining the cooperative effort, which will lead to a better Michigan. 🏠