

ITEM 46

VACANT FORECLOSURE REGISTRATION ORDINANCE SUMMARY

THE PROBLEM

RealtyTrac, a private-sector company that tracks foreclosures nationally has determined that Nevada is first in the nation in the annual number of foreclosures, followed by Arizona and California. The Las Vegas metropolitan area is 1st in the nation in annual foreclosures, followed by the Phoenix metropolitan area and Modesto, California.

Locally, Las Vegas ranks 3rd in the region in the number of Notices of Default foreclosures, behind Unincorporated Clark County and North Las Vegas. 28% of all foreclosures in the Las Vegas region occur in the City of Las Vegas. According to the Las Vegas-based company SalesTraq, 80% of existing homes being sold today are vacant, and about half of all homes sales in Las Vegas are real-estate owned or lender-owned.

Many vacant foreclosed homes are not being property maintained and are creating attractive nuisances, increasing opportunities for crime, lowering property values and creating physical and economic blight.

In addition, SalesTrac has estimated that the number homeowners currently delinquent in mortgage payments and that are likely to go into foreclosure sometime in the near future is 100,000. In that the City of Las Vegas' portion of this "shadow inventory" is estimated to be 28,000 housing units, the problems with improperly maintained vacant foreclosure homes are not likely to subside anytime soon.

A TOOL TO HELP REDUCE THE NEGATIVE IMPACT THAT FORECLOSED PROPERTY HAVE ON OUR NEIGHBORHOODS AND RESALE VALUES

The proposed ordinance will assist the city in addressing problems created by non-maintained vacant foreclosed homes by requiring lenders to maintain those properties to the same minimum standards that are applicable to the rest of the community. The ordinance will apply to residential and commercial properties. In addition, the ordinance will apply to commercial lenders such as banks and mortgage companies, and private citizens who sell their homes and carry the mortgage themselves. In addition, the ordinance only applies to vacant properties that are in foreclosure.

In summary, the ordinance would require that:

1. Lenders inspect properties going into foreclosure within 15 calendar days of the date of filing the Notice of Default and Election to Sell;
2. If the property is vacant, lenders must register the property with the Building & Safety Department within 10 calendar days after the inspection;
3. As part of the registration process, lenders must designate a property manager located in Nevada to inspect, secure and maintain the property. The property manager must inspect the property every month until it is no longer vacant, or no longer in foreclosure;
4. Lenders must pay a one-time registration fee of \$200;
5. The exterior of vacant foreclosed properties must be maintained in accordance with all applicable codes;
6. A sign must be posted on the building giving the contact information of the required property manager.

Submitted at City Council

Date 12/7/2011 Item #46

By: Christopher Knight

MAJOR JURISDICTIONS WITH VACANT PROPERTY REGISTRATION ORDINANCE											
JURISDICTION	2010 US CENSUS POPULATION	ORDINANCE REQUIREMENTS									
		Registration (Frequency)	Registration Fee (Frequency)	Inspection at Time of Registration	Designate a Property Maintenance Firm or Entity	Ongoing Maintenance/ Security Inspections (Frequency)	Ongoing Maintenance Requirements	Penalty	Definition of Vacant	Definition of Abandoned	Trigger for Registration
Aurora, CO	326,720	Yes (Annual)	\$50 (Annual)	Yes	Yes (If property is owned by a corporation)	Yes (Monthly)	Yes	Criminal and Civil	Yes	Yes	At filing of initial pleadings in judicial foreclosure
Tampa, FL	336,950	Yes (Annual)	\$125 (Annual)	Yes	Yes	Yes (Weekly)	Yes	Criminal and Civil	Yes	Yes	Prior to filing Notice of Default
Oakland, CA	390,720	Yes (One-Time)	\$500 (Annual)	Yes	Yes (Must be within 25 driving miles)	Yes (Periodic-frequency unspecified)	Yes	Criminal and Civil	Yes	No	When property sold at foreclosure
Miami, FL	400,890	Yes (Annual)	\$250 (1st Year) \$375 (2nd Year) \$500 (3rd Year)	No	No	No	Yes	Civil	Yes	Yes	When property becomes vacant or abandoned
Long Beach, CA	462,790	Yes (Annual)	\$155 (Annual)	Yes	Yes (If trustee or beneficiary more than 40 driving miles from property)	Yes (Weekly if trustee or beneficiary more than 40 driving miles from property)	Yes	Criminal and Civil	Yes	Yes	Prior to filing Notice of Default
Fresno, CA	494,670	Yes (Annual)	No	Yes	Yes	No	Yes	Civil	No	No	Prior to filing Notice of Default
Riverside County, CA (Unincorporated)	504,390	Yes (Annual)	\$70 (Annual)	Yes	Yes (If trustee or beneficiary more than 40 driving miles from property)	No	Yes	Civil	Yes	Yes	Prior to filing Notice of Default
Detroit, MI	711,910	Yes (Annual)	\$50 (Annual)	Yes (By City inspectors)	No	Yes (Annually by City inspectors)	Yes	Civil	Yes	No	Within 30 days of becoming vacant
Jacksonville, FL	821,780	Yes (One-Time)	\$150 (One-Time)	Yes	Yes (Must be located with 20 miles of Jacksonville)	Yes (Frequency unspecified)	Yes	Criminal	Yes	Yes	Prior to filing Notice of Default

MAJOR JURISDICTIONS WITH VACANT PROPERTY REGISTRATION ORDINANCE (Continued)

JURISDICTION	2010 US CENSUS POPULATION	ORDINANCE REQUIREMENTS									
		Registration (Frequency)	Registration Fee (Frequency)	Inspection at Time of Registration	Designate a Property Maintenance Firm or Entity	Ongoing Maintenance/ Security Inspections (Frequency)	Ongoing Maintenance Requirements	Penalty	Definition of Vacant	Definition of Abandoned	Trigger for Registration
Chicago, IL	2,695,600	Yes (Every 6 months)	\$250 (Every 6 months)	Yes (Inspection conducted by the City)	Authorized agent must have office, or reside, in Cook County	No	Yes	Civil	Yes	No	Within 30 days of becoming vacant or of assuming ownership
Los Angeles, CA	3,792,620	Yes (Annual)	\$155 (Annual)	No	Yes (If contact person more than 100 miles from subject property)	Yes (Weekly)	Yes	Civil and Criminal	No	Yes	Prior to filing Notice of Default
SUMMARY		11 of 11 require registration	9 of 11 require fee	9 Yes 2 No	9 Yes 2 No	7 Yes 4 No	11 Yes	1 Criminal Only 5 Civil Only 5 Civil and Criminal	9 Yes 2 No	7 Yes 4 No	6 Prior to filing Notice of Default 3 at becoming vacant 1 at start of judicial proceedings 1 at foreclosure sale

Las Vegas, NV (Proposed)	583,760	Yes (One-Time)	\$200 (One-time)	Yes	Yes (Can be a department of the mortgagee or lender's service provider)	Yes (Monthly)	Yes	Criminal	Yes	No	Within 15 calendar days after filing of Notice of Default
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PROPOSED SECOND AMENDMENT

BILL NO. 2011-39

ORDINANCE NO. _____

AN ORDINANCE TO ADOPT A REGISTRATION AND MAINTENANCE PROGRAM FOR VACANT PROPERTIES THAT ARE THE SUBJECT OF FORECLOSURE AND RELATED PROCEEDINGS; TO REPEAL LVMC CHAPTER 16.31, PERTAINING TO VACANT BUILDINGS; AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Steven D. Ross

Summary: Adopts a registration and maintenance program for vacant properties that are the subject of foreclosure and related proceedings, and repeals LVMC Chapter 16.31, pertaining to vacant buildings.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1: Title 16 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 33 and consisting of Sections 10 to 90, inclusive, reading as follows:

16.33.010: It is the purpose and intent of this Chapter to establish a program to reduce the amount of deteriorating real property located within the City, in particular, real property suffering from blight caused by the lack of adequate maintenance. The program includes a property registration requirement designed to assist in accomplishing the intent and purpose of this Chapter.

16.33.020: Unless the context otherwise requires, the following words and phrases used in this Chapter shall have the meanings ascribed to them:

“Default,” with respect to a mortgage, means that the obligor under the mortgage has breached or is in default of a repayment or other obligation in connection with that mortgage.

“Foreclosure” means the process by which real property placed as security for the repayment of a loan is to be sold to satisfy the debt concerning which the borrower has defaulted.

“Mortgage” means a first mortgage or other first-priority security interest in real property that is placed as security for the repayment of a loan, and includes a first deed of trust.

“Mortgagee” means any person or firm who holds a first-priority mortgage or other first-priority security interest in real property to secure a loan, whether as the mortgagee of a mortgage or

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By: VAL STEED

1 the beneficiary of a deed of trust.

2 "Notice of default event," with respect to a mortgage, means that a default regarding that
3 mortgage has occurred and either:

4 (A) A notice of breach or notice of default and election to sell has been provided
5 to the obligor thereof and has been recorded in the County Recorder's Office; or

6 (B) An action for judicial foreclosure has been commenced regarding that mortgage
7 by the filing of a complaint or petition for foreclosure in a court of competent jurisdiction.

8 "Specified property" means any parcel of vacant real property within the City that is subject
9 to a mortgage and concerning which a notice of default event has occurred. For purposes of the
10 inspection requirement set forth in LVMC 16.33.030 and for that purpose only, the term also includes
11 a parcel of real property that appears to be vacant. Once a parcel is determined not to be vacant or is
12 no longer vacant, it shall not be considered "specified property" until it qualifies as such again under
13 this definition.

14 "Vacant," with respect to real property, and "vacant real property" mean real property and
15 improvements that are not presently occupied by persons lawfully entitled thereto. The term does not
16 include real property that is unoccupied by reason of the temporary absence of lawful occupants who
17 intend to return and resume occupancy.

18 **16.33.030:** (A) Except as otherwise provided in LVMC 16.33.070, any mortgagee who holds
19 a mortgage on specified property shall inspect that property or cause it to be inspected in accordance
20 with this Section. If the inspection reveals that the property is not being occupied by the mortgagor
21 or by persons who are occupying the property with the mortgagor's consent, the mortgagee shall
22 register the property with the Department of Building and Safety on forms to be provided by the
23 Department, or with another designated department, person or entity on forms approved by the
24 Department. In connection with that registration, the mortgagee shall also designate in writing a
25 property manager to inspect, maintain and secure the property. A separate inspection, registration and
26 designation is required for each specified property.

27 (B) Registration pursuant to Subsection (A) shall contain, at a minimum, the
28 following information:

1 (1) The name and mailing address of the mortgagee, and the physical
2 address of the mortgagee if the mailing address is a post office box.

3 (2) A direct contact name and phone number for purposes of contacting the
4 mortgagee.

5 (3) The name, address and phone number of the property manager.

6 (4) The current disposition and occupancy status of the property.

7 (C) Any property manager designated pursuant to this Section must be located
8 within Nevada and must be:

9 (1) A duly-licensed property management company or property preservation
10 company;

11 (2) A department or section of a mortgagee that is devoted to property
12 management or preservation; or

13 (3) A service provider specifically employed by a mortgagee to provide
14 property management or preservation within the City.

15 (D) The obligations listed in Subsection (A) shall be fulfilled within the following
16 time frames:

17 (1) The property inspection must occur no later than fifteen calendar days
18 following the occurrence of the notice of default event regarding the property.

19 (2) The property registration and designation of a property manager must
20 occur no later than ten calendar days after the inspection.

21 (E) With respect to each specified property, the mortgagee and its designated
22 property manager shall be responsible for inspecting and maintaining the property on a monthly basis
23 until the parcel no longer qualifies under the definition of "specified property."

24 **16.33.040:** The City is authorized to charge a mortgagee a fee of two hundred dollars for each
25 initial property registration required under this Chapter, and a fee of fifty dollars for each modification
26 to a registration.

27 **16.33.050:** By means of contract, the City may assign and delegate to another person or entity the
28 authority and responsibility to:

1 (A) Effect, collect and maintain registrations under LVMC 16.33.030; and

2 (B) Collect registration fees under LVMC 16.33.040.

3 **16.33.060:** (A) Specified property shall be maintained in accordance with applicable codes and
4 ordinances, including without limitation ordinances pertaining to dangerous buildings, litter, and
5 nuisance abatement. Insofar as there is existing or previously existing landscaping, all visible
6 landscaping in front and side yards shall be maintained to the neighborhood standard at the time
7 registration was required. If no landscaping previously existed at the property in front and visible side
8 yards, installation is not required under this Section.

9 (B) For purposes of this Section:

10 (1) "Landscaping" includes without limitation grass, turf stain, ground
11 covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod
12 designed specifically for residential installation. The term does not include weeds, gravel, broken
13 concrete, asphalt, decomposed granite, plastic sheeting, mulch (unless applied in conjunction with
14 reseeded of turf areas), indoor-outdoor carpet or any similar material.

15 (2) "Maintenance of landscaping" includes without limitation regular
16 watering, irrigation, staining, re-staining, cutting, pruning and mowing of required landscaping and
17 removal of all trimmings.

18 (C) Pools and spas located on specified property shall be kept in working order so
19 the water remains clear and free of pollutants and debris or drained and kept dry. In either case, pools
20 and spas must comply with the minimum security requirements applicable to pools and spas within
21 the City.

22 (D) Specified property shall be maintained in a secure manner so as not to be
23 accessible to unauthorized persons. Doors of all kinds, windows, gates and other openings that make
24 the property accessible must be closed and locked so that a key, keycard, tool or special knowledge
25 is necessary to gain access. Broken windows must be reglazed or boarded in accordance with
26 applicable City standards.

27 (E) Specified property shall be posted with the name and contact phone number of
28 the mortgagee or property manager. The posting shall be no less than eight and one-half inches by

1 eleven inches and shall contain, along with the name and contact number, the words "THIS
2 PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL" or similar.
3 The posting shall be placed in a window adjacent to the entry door or attached to the exterior of the
4 entry door. Exterior posting must be constructed of and printed with, or contained in,
5 weather-resistant materials.

6 (F) Except as otherwise provided in LVMC 16.33.070, compliance with this
7 Section with respect to any specified property shall be the joint responsibility of the mortgagee and
8 the property manager, as well as the property owner.

9 **16.33.070:** A mortgagee's obligation under this Chapter regarding inspection and maintenance of
10 a specified property may be waived by the Director of Building and Safety or the Director's designee
11 if the mortgagee can demonstrate to the satisfaction of the Director or designee that:

12 (A) The mortgage documents either expressly prohibit the mortgagee and its agents
13 from entering the property for those purposes or do not authorize such entry in order to protect the
14 mortgagee's interests in the property; and

15 (B) There is a reasonable possibility, based on articulable evidence, that:

16 (1) The obligor under the mortgage or an authorized occupant of the
17 premises will report as a trespass an entry on the premises by or on behalf of a mortgagee; or

18 (2) The obligor under the mortgage will assert against the
19 mortgagee, whether in a foreclosure proceeding or otherwise, a claim that such entry is a breach of the
20 mortgage documents or constitutes an illegal or unauthorized entry on the property.

21 **16.33.080:** (A) It is unlawful for a person or other responsible party under this Chapter to
22 violate any provision of this Chapter.

23 (B) The provisions of this Chapter may be enforced by the Las Vegas Metropolitan
24 Police Department, officers and employees of the Department of Building and Safety, and any other
25 officer or employee designated by the City Manager.

26 (C) The provisions of this Chapter may be enforced by means of:

27 (1) Criminal prosecution;

28 (2) To the extent adaptable, the same civil process that is available under

1 LVMC Chapter 9.04 for the abatement of nuisances;

2 (3) An civil action in a court of competent jurisdiction to compel
3 compliance; or

4 (4) Any other civil mechanism established by the City Council for use in
5 connection with this Chapter.

6 (D) In addition to any enforcement remedy otherwise available, the Director of
7 Building and Safety or a designee shall have the authority to require a responsible party to implement
8 additional maintenance and/or security measures as may be reasonably required to arrest the decline
9 of the property.

10 **16.33.090:** (A) Nothing in this Chapter:

11 (1) Requires a mortgagee or its agent or employee to violate any criminal
12 law or ordinance or any court order, or to violate an automatic stay in a bankruptcy proceeding.

13 (2) Creates a duty or obligation that is owed to, or runs in favor of, any
14 person other than the City and those officers, employees or agents who are acting in the City's behalf.

15 (3) Creates or implies a cause of action in favor of, or available to, any
16 person other than the City.

17 (B) No act by a mortgagee or its officers, employees, agents or contractors in
18 compliance with this Chapter, and no omission of an act required by this Chapter on the part of a
19 mortgagee or its officers, employees, agents or contractors, shall be deemed or interpreted to:

20 (1) Make the mortgagee, for any purpose, a "mortgagee in possession" of
21 property subject to a mortgage.

22 (2) Create a duty or obligation that is owed to, or runs in favor of, any
23 person other than the City and those officers, employees or agents who are acting in the City's behalf.

24 (3) Create or imply a cause of action in favor of, or available to, any person
25 other than the City.

26 (4) Create, imply or suggest liability in tort on the part of a mortgagee or
27 its officers, employees, agents or contractors, unless the act or omission would be actionable and result
28 in such liability independent of, and notwithstanding the provisions of, this Chapter.

1 SECTION 2: Title 16, Chapter 31, of the Municipal Code of the City of Las Vegas,
2 1983 Edition, is hereby repealed in its entirety.

3 SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or
4 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
5 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
6 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
7 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
8 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
9 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
10 invalid or ineffective.

11 SECTION 4: Whenever in this ordinance any act is prohibited or is made or declared
12 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
13 required or the failure to do any act is made or declared to be unlawful or an offense or a
14 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
15 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
16 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
17 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

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1 SECTION 5: All ordinances or parts of ordinances or sections, subsections, phrases,
2 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
3 1983 Edition, in conflict herewith are hereby repealed.

4 PASSED, ADOPTED and APPROVED this _____ day of _____, 2011.

5 APPROVED:

6
7 By _____
CAROLYN G. GOODMAN, Mayor

8 ATTEST:

9 _____
10 BEVERLY K. BRIDGES, MMC
City Clerk

11 APPROVED AS TO FORM:

12 _____
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2011, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2011, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as amended and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11

12 APPROVED:

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14 By _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:

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17 BEVERLY K. BRIDGES, MMC
City Clerk

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CITY OF LAS VEGAS SPEAKER CARD

DATE: 12/7/2011

AGENDA ITEM/ITEMS #: BILL No. 2011-39

If you wish to address the Council, please complete this form and submit it to the City Clerk at the front of the Chambers. When you are recognized by the Mayor, please come to the podium, state your name for the record. Groups or organizations are asked to designate a spokesperson. When more than one citizen is heard, please give careful attention to others' remarks to avoid repetition. Brief statements are helpful to the Council in reaching a decision based on sound judgment.

Comments under the first Public Comment portion must be limited to items on the agenda for action. If you wish to speak on an item under the jurisdiction of the Council, but not on the agenda, that opportunity is provided at the end of the agenda under Citizens Participation. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited.

PLEASE PRINT

NAME: MICHAEL HALPERN - SAFEGUARD PROPERTIES

ADDRESS (Optional): 7887 SAFEGUARD CIRCLE VALLEY VIEW OH 44125

TELEPHONE NUMBER (Optional): 216-739-2900 EXT. 1392

All information provided on this card is public information and may be disseminated

**City Council Meeting
of
December 7, 2011**

**Pamphlets and Flyers
on Community
Partnership for Code
Enforcement by
Michael Halpern**