NORTH MIAMI
FLORIDA

Council Report

776 N.E. 125 Street, North Miami, Florida 33161

To: The Honorable Mayor and City Council

From: Marc Elias, Jr., Chief of Police

Date: ~~May 8, 2012~~ **May 22, 2012 (Second Reading)**

RE: Ordinance Amending Chapter 5 Abandoned Real Property Registration

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RECOMMENDATION

The North Miami Police Department recommends that the Mayor and City Council adopt an Ordinance amending Chapter 5, Article VII of the City Code entitled "Abandoned Real Property Registration" specifically at sections 5-66, 5-68, 5-70, and 5-71 to require mortgagees to pay an annual registration fee, to post abandoned properties with contact information, to report any change in the status of the property, and providing penalties for non-compliance and further requiring abandoned properties to be in compliance with all city codes.

BACKGROUND

At the height of the nation's economic crisis the City of North Miami experienced a surge in the amount of foreclosed vacant homes. The City of North Miami responded by enacting legislation to require mortgagees to take a more active role in maintaining these properties. The City of North Miami's Abandoned Real Property Ordinance was adopted by the Mayor and City Council on June 22, 2010. This ordinance set forth the requirement for mortgagees to register residential property with the City once the property becomes vacant and established minimum maintenance and security requirements.

The North Miami Police Department proposes that additional requirements be imposed upon mortgagees to ensure that these vacant and abandoned homes are properly maintained and do not become a blight on the City. The proposed ordinance included additional requirements that mortgagees pay an annual registration fee, post the property with contact information for the property management company and to report any changes in the status of the property. The attached ordinance also includes a requirement that abandoned real property be in compliance with all city codes as well as the maintenance and security requirements set forth in the original ordinance.

Attachments

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 5, ARTICLE VII, OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES ENTITLED "ABANDONED REAL PROPERTY REGISTRATION", SPECIFICALLY AT SECTIONS 5-66, 5-68, 5-70, AND 5-71, TO REQUIRE MORTGAGEES TO PAY AN ANNUAL REGISTRATION FEE, TO POST ABANDONED PROPERTIES WITH CONTACT INFORMATION, TO REPORT ANY CHANGE IN THE STATUS OF THE PROPERTY, AND TO PROVIDE FOR PENALTIES FOR NON COMPLIANCE; AND FURTHER REQUIRING ABANDONED PROPERTIES TO BE IN COMPLIANCE WITH ALL CITY CODES; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of North Miami "City" currently requires the registration of abandoned properties by mortgagees upon the vacancy of residential properties; and

WHEREAS, the code of ordinances does not currently require posting of the properties with contact information for the property management company or require mortgagees to notify the City when the property ceases to be vacant or to pay an annual registration fee; and

WHEREAS, although the current code requires specific maintenance and security requirements for vacant properties, it does not require mortgagees to keep the property in compliance with all City codes; and

WHEREAS, the Mayor and City Council have determined it is in the best interest of the residents of the City to require mortgagees to post the properties with contact information of the property management company, to report any changes in status to the City, to pay annual registration fee, and to require abandoned properties to be in compliance with all City codes; and

WHEREAS, the Mayor and City Council desire to amend the code of ordinances to include the above requirements and to clearly establish a penalty fine for non compliance.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 5, Article VII, of the City of North Miami Code of Ordinances entitled "Abandoned Real Property Registration", as follows:

CHAPTER 5. BUILDING STANDARDS AND REGULATIONS

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ARTICLE VII. ABANDONED REAL PROPERTY REGISTRATION

Sec. 5-65. - Abandoned real property; purpose and intent.

It is the purpose and intent of the city to establish a process to address the amount of abandoned real property located within the city. It is the city's further intent to establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance of abandoned properties.

Sec. 5-66. - Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned real property means any property that is vacant and is subject to a mortgage under a current notice of default and/or notice of mortgagee's sale, pending tax assessors lien sale and/or vacant properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

Evidence of vacancy means any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to: overgrown and/or dead vegetation, accumulation of abandoned personal property, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

Mortgagee means the person or entity who holds mortgaged property as security for repayment of a loan.

Owner means any person, persons, or entity having legal or equitable title, or any real or contingent interests in any real property; being shown to be the property owner in the records of the Miami-Dade County Property Appraiser's Office; being identified on the abandoned/vacant real property registration form pursuant to this article; being a mortgagee in

possession of real property; or the Plaintiff in a mortgage foreclosure claim, in which the abandoned real property is the subject of the lis pendens and foreclosure lawsuit. Any such person, persons, or entity shall have joint and several obligations for compliance with the provisions of this article.

Property management company means a property manager, property maintenance company or similar entity or individual responsible for the maintenance of abandoned real property.

Vacant means any building/structure that is not legally occupied.

Sec. 5-67. - Applicability.

This section shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the city above and beyond any other state, county and/or local provisions for same.

Sec. 5-68. - Penalties; schedule of civil penalties.

Any person who shall violate the provisions of this section shall, upon conviction, be punished as provided in this section.

(1) The following table shows the sections which may be enforced pursuant to the provisions of this regulation; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

(2) The "description of violations" below are for informational purposes only and the civil penalties attached are meant only as proposed figures not intended to limit the nature, number of or amount of fines to be imposed for the violations that may be cited in this section. To determine the exact nature of the activity prescribed or required by this Code, the relevant code section, ordinance or treatise cited in the specific violation must be examined.

Code Section	Description of Violation	Civil Penalty
5-70	Failure to register abandoned real property	$500.00
5-71(g)	Failure to properly maintain abandoned real property	500.00
5-72(e)	Failure to properly secure abandoned real property	500.00
5-74	Interference with code enforcement officer	500.00
5-70(d)	Failure to post property with contact information for property management company	500.00
5-70(h)	Failure to report change of information or change of status of property	500.00

Sec. 5-69. - Public nuisance.

All abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of the city.

Sec. 5-70. - Registration of abandoned real property.

(a) Any mortgagee who holds a mortgage on real property located within the city shall upon default by the mortgagor and prior to the issuance of a notice of default, perform an inspection of the property that is the security for the mortgage. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned real property and the mortgagee shall, within ten (10) days of the inspection, register the property with the code enforcement manager, or his or her designee, on forms provided by the city. A registration is required for each vacant property.

(b) If the property is occupied but the mortgage on the property remains in default, the property shall be inspected by the mortgagee or his designee monthly until (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall within ten (10) days of that inspection, register the property with the code enforcement manager, or his or her designee, on forms provided by the city.

(c) Registration pursuant to this section shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of mortgagee, a facsimile number and e-mail address for mortgagee, and the name and twenty-four (24) hour contact phone number of the property management company responsible for the security and maintenance of the property. A non-refundable annual registration fee in the amount of $200.00 per property, shall accompany the registration form(s).

(d) At such time that property becomes abandoned property, the mortgagee shall promptly post it with the name and contact phone number of the local property manager. The posting shall be no less than 18 inches x 24 inches, and shall be clearly visible and legible from an adjacent street. The posting shall contain the following language: THIS PROPERTY IS MANAGED BY: _____ TO REPORT PROBLEMS OR CONCERNS CALL: (XXX)XXX-XXXX.

(~~d~~e) 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 mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

(~~e~~f) Properties subject to this section shall remain under the registration requirement, security and maintenance standards of this section as long as they remain vacant.

(fg) Any person or corporation that has registered a property under this section must report any change of information contained in the registration, including change in status of property from vacant to occupied, in writing within ten (10) days of the change to the code enforcement manager, or his or her designee.

(h) Failure of the mortgagee and/or property owner of record to properly register or to revise the registration to reflect a change in circumstances as required by this chapter is a violation of the city's codes and may result in issuance of a civil violation ticket.

Sec. 5-71. - Maintenance requirements.

(a) Properties subject to this section shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), abandoned vehicles, portable storage devices, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(b) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

(c) Front, side, and rear yards, including landscaping, shall be maintained in accordance with the city's Code of Ordinances.

(d) Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscaping shall not include weeds, gravel, broken concrete, asphalt or similar material.

(e) Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing of required ground cover and/or landscape and removal of all trimmings.

(f) Pools and spas shall be maintained so that the water remains free and clear of pollutants and debris. Pools and spas shall comply with all requirements of the city Code of Ordinances and Florida Building Code, as amended from time to time.

(g) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the city code and issuance of a civil violation ticket, citation or notice of violation/notice of hearing by a city code enforcement officer. Pursuant to a finding and determination by the city's special magistrate or code enforcement board, the city may take the necessary action to ensure compliance with this section.

(h) In addition to the above, the property is required to be maintained in accordance with all applicable code(s) provisions.

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Section 2. **Repeal.** All ordinances or parts of ordinances in conflict herewith are repealed.

Section 3. **Conflicts.** In the event that the provisions of this Ordinance are in conflict with any other ordinance, rule or regulation, the provisions of this Ordinance shall prevail.

Section 4. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Codification.** It is the intention of the City Council of the City of North Miami and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by 5-0 vote of the Mayor and City Council of the City of North Miami, Florida on first reading this 8 day of May, 2012.

PASSED AND ADOPTED by _____ vote of the Mayor and City Council of the City of North Miami, Florida on second reading this _____ day of _____, 2012.

_____
ANDRE D. PIERRE, ESQ.
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____

REGINE M .MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Andre D. Pierre, Esq.,	_____ (Yes)	_____ (No)
Vice Mayor Jean R. Marcellus	_____ (Yes)	_____ (No)
Councilperson Michael R. Blynn, Esq.	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.