



Boston City Council
Committee on Government Operations
Maureen Feeney, *Chair*

October 18, 2010

Dear Councillors:

The Committee on Government Operations held a hearing to discuss Docket #1161, An Ordinance Further Regulating the Maintenance of Vacant, Foreclosing Residential Properties. This matter was sponsored by Councillor Rob Consalvo, referred to this Committee on Wednesday, August 25th, 2010, and heard at a public hearing on Wednesday, October 13th, 2010 at which public comment was taken.

Docket #1161 proposes to amend Chapter 16-52 of the Boston Municipal Code pertaining to the maintenance of foreclosed and vacant buildings. Adopted in 2008, this portion of the code was originally designed to require foreclosing lenders, banks and other real estate entities to register and maintain vacant properties while they are on the market for sale. Using Boston's ordinance as a model to address public safety issues, several cities around the country have adopted similar measures.

Docket #1161 offers to strengthen the 2008 ordinance. At the hearing, the Inspectional Services Department testified that the proposed amendment provides an enforcement tool and will help them require private entities to secure problematic properties. Some of the properties affected by the current ordinance are nonetheless habitually broken into causing public safety concerns for nearby residents and city officials.

The Greater Boston Real Estate Board also testified in support at the hearing, stating that it is difficult for realtors to market homes which are not well maintained and that attract vandals, squatters, and other nuisances. The amendments in Docket #1161 will provide the Inspectional Services Department with the regulatory authority to require vacant property owners to install more effective security barriers to prevent unauthorized access by trespassers.

Consideration was also given at the hearing for requiring that a list of vacant properties be accessible to the public upon request and accessible through the City's website. Such a list may be useful for delivery vendors and other interested parties in identifying properties that are vacant and should not have activity on the premises.

By the Chair of the Committee on Government Operations, to which the following was referred:

Docket #1161 An Ordinance Further Regulating the Maintenance of Vacant, Foreclosing Residential Properties

based on information presented at the hearing and public comment gathered by the Committee and having considered the same, respectfully recommends that this matter **ought to pass in a new draft.**

For the Chair:

Maureen E. Feeney, *Chair*
Committee on Government Operations

NEW DRAFT
(ORIGINAL DRAFT ATTACHED)

Offered by COUNCILOR ROB CONSALVO

CITY OF BOSTON



IN THE YEAR TWO THOUSAND TEN

**AN ORDINANCE FURTHER REGULATING
THE MAINTENANCE OF
VACANT, FORECLOSING RESIDENTIAL
PROPERTIES**

WHEREAS, Ordinance Section 16-52 was passed by the City Council and approved by the Mayor in 2008 in response to a failing housing market that caused a dramatic rise in the number of foreclosed homes which often remained vacant, abandoned and unmaintained for extended periods of time causing numerous problems in our neighborhoods; *and*,

WHEREAS, The ordinance requires that all foreclosed and abandoned properties in Boston be registered with the Inspectional Services Department (ISD), pay a registration fee and be maintained monthly by a property management company in accordance with all applicable sanitary and building codes as well as all other local regulations; *and*,

WHEREAS, Since 2008, over 2,000 properties have registered with ISD and are in compliance with the law, generating over \$200,000 in revenue for ISD; *and*,

WHEREAS, According to the Department of Neighborhood Development, foreclosure petitions have increased in the City of Boston 5 percent between FY2009 and FY2010.

WHEREAS, A new problem has arisen with secured properties as windows and doors that are secured externally with plywood, over time, become vulnerable to the elements or torn off by criminals or vandals, thus causing problems again in the neighborhood and defeating the purpose of the ordinance; *and*,

WHEREAS, Many other municipalities, which have passed a version of this ordinance, have addressed this issue by strengthening the ordinance to require, after a certain period of time, an internal, metal security panel that will safely secure the property from unauthorized entry; *and*,

WHEREAS, Cities such as New York, Chicago and Washington, D.C. have implemented or are considering similar measures, as well as public agencies and housing authorities in Atlanta, LA, Newark, San Francisco, Dallas, Pittsburgh and Buffalo employ such measures; *and*,

WHEREAS, Amending and strengthening our ordinance will improve the quality of life for all those neighborhoods affected by the blight of vacant, abandoned foreclosed properties and will provide additional public safety by providing reinforced security measures that defend against repeated and unauthorized entry to vacant residential homes; *NOW*,

Be it ordained by the City Council of Boston, as follows that the City of Boston Code be amended by adding the following ordinance:

Section 1. CBC Chapter XVI is hereby amended in section 16-52.3 (Registration of Vacant and/or Foreclosing Residential Properties; Duty to Provide Written Notice of Vacant, Residential Property and/or Mortgage Foreclosure) by inserting after paragraph (c) the following paragraph:--

d. The Inspectional Services Department shall maintain a list of properties registered pursuant to this section and make it available to the public upon request. The list of registered properties shall also be made accessible through the City of Boston's website and updated as practicable.

Section 2. CBC Chapter XVI is hereby amended in section 16-52.4 (Maintenance Requirements) by striking paragraphs b and c in their entirety and inserting in place thereof the following:--

b. The property must contain a posting with the name and twenty-four (24) hour contact phone number of the local individual or property management company responsible for the maintenance. The sign must also indicate the name, address and telephone number of the property owner and the owner's authorized agent for the purpose of service of process. This sign must be posted on the front of the property so it is clearly visible.

c. Where a building is vacant, unguarded, and open to unauthorized entry, all building openings must be closed, secured and protected as follows:

(1) When a building is vacant, all building openings shall be closed and secured to prevent entry by unauthorized persons in a manner not inconsistent with rules and regulations issued by the Inspectional Services Department for securing vacant buildings.

(2) For a building that is determined by the Inspectional Services Department to be chronically or habitually violated or upon any renewal of the registration statement required in section 16-52.3, the property owner must implement and provide proof satisfactory to the Inspectional Services Department that, in addition to complying with the security standards set forth elsewhere in this section, said building either: (i) contains all of the security features set forth in subparagraph (A) below, or (ii) is unviolated, as described in subparagraph (B) below:

(A) Every opening larger than one (1) square foot in area that is located less than eight feet above the ground or that is accessible from ground level or within eight

feet in any direction of an exterior stairway, fire escape, or other means of access shall be secured using practices and materials approved by the Inspectional Services Department and the office of the City Fire Marshal, including but not limited to stainless steel plates or shutters, steel mesh grates, lexan panels and concrete blocks.

(B) For purposes of this section only, the term “unviolated” shall refer to a building: (i) that has a permanent door or window, as applicable, in each appropriate building opening and that has each such door or window secured to prevent unauthorized entry and (ii) that has all its door and window components, including without limitation frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panes, intact and unbroken. A building that does not meet the definition of “unviolated” shall be deemed “violated”.

(C) It shall be a violation of this section for a vacant building to become violated, if the owner has otherwise represented proof to the inspectional services department that such building is unviolated. With respect to a vacant building represented by the owner as unviolated, if the commissioner determines, based on an inspection by the inspectional services department or a report prepared by another city agency and provided to the inspectional services department, that such building is violated, the commissioner shall send by certified mail a written notice of violation to the person responsible for day-to-day supervision and management of the building or to the authorized agent for service of process as identified on the sign required by Section 16-52.4(b), or if there is no such sign, then sent by certified mail to the owner of record. Within 30 days of the mailing of such notice of violation, the owner shall be required to comply with Section 16-52.4(c)5(A).

c. Adherence to this section does not relieve the owner of any applicable obligations set forth in Code regulations, Covenant Conditions and Restrictions and/or Home Owners Association rules and regulations.

Section 2. CBC Chapter XVI is hereby amended in section 16-52.9 (Regulatory Authority) by inserting after the first sentence the following:--

“These rules may allow for additional materials which may be used to secure a building, pursuant to the requirements as set forth in section 16.52.4, if proof is provided, satisfactory to the commissioner, that such materials will perform in a manner equivalent to, or better than, the materials specified herein.”

Section 3. The provisions of these sections shall be effective immediately upon passage.