



THE CITY OF SAN DIEGO  
M E M O R A N D U M

**OFFICE OF THE INDEPENDENT BUDGET ANALYST**

DATE: April 10, 2012

TO: Honorable Council Member Lori Zapf and Members of the Land Use and Housing Committee

FROM: Andrea Tevlin, Independent Budget Analyst

SUBJECT: Additional Analysis on the Proposed Property Value Protection Ordinance

---

At the October 26, 2011 meeting of the Land Use and Housing Committee, the Office of the IBA was asked to provide additional analysis on the proposed Property Value Protection Ordinance (PVPO) presented by the Center on Policy Initiatives and the Alliance of Californians for Community Empowerment. Specifically, the Office of the IBA was requested to:

- (1) Review best practices and experiences of comparative jurisdictions;
- (2) Provide analysis on the cost of implementing the proposed PVPO;
- (3) Provide feedback on options for outsourcing or purchasing the registry; and
- (4) Provide recommendation on sampling methodology outlined in the PVPO proposal.

The following information is provided in response to the specific request from the Land Use and Housing Committee.

**1. Review best practices and experiences of comparative jurisdictions**

In review of multiple industry resources, no definitive compilation of “best practices” was identified for addressing vacant properties, however, there were several similar actions that were being undertaken by many agencies. A 2009 survey conducted by The United States Conference of Mayors highlighted actions other municipalities are undertaking to address vacant and abandoned properties. Most frequently, the agencies have made changes to local ordinances to strengthen property maintenance and code enforcement, and require some type of registration of contact information for the titleholder of the property. While many agencies previously had some type of public nuisance or vacant property/building ordinance, the changes from the agencies include expanding certain definitions, increasing penalties, and adding the registration requirement.

In an attempt to compile all the approved/developed vacant property ordinances, one private business, Safeguard Properties, has developed a matrix illustrating many of these ordinances/programs. According to Safeguard Properties, the largest privately held mortgage field services company in the U.S., nationally over 400 municipalities have developed some type of vacant property protection ordinance, with close to 100 of those municipalities being in California. According to the U.S. Government Accountability Office (“GAO”) report titled *“Vacant Properties, Growing Number Increases Communities’ Costs and Challenges”*, dated November 2011, in referring to local governments establishing titleholders to register vacant properties, their researchers classify these ordinances into two main categories: ordinances that track all vacant and abandoned properties and their owners by requiring the owner to provide the municipality with contact information; and ordinances that in addition to the registration, also hold the titleholder responsible for the maintenance of the property during the foreclosure process.

In review of comparative jurisdictions, the Office of the IBA found a mix of the two categories of programs described by the GAO. The Office of the IBA reviewed multiple comparative agencies, both local and statewide, to compile the information presented in Attachment 1. Local jurisdictions were reviewed to compare municipalities in the immediate vicinity, and several large California municipalities were selected for size. Attachment 1 provides information as to some of the different features that other agencies have incorporated into their vacant property ordinances/programs. These features include the requirement to register a property with the specific agencies, the event that would trigger the registration of a property, fees and penalties related to these programs, and whether benchmarks or metrics have been developed to track the effectiveness of these programs.

In addition to actions taken by many municipalities to draft registration ordinances to address vacant properties, the Mortgage Bankers Association (MBA) and its lenders/servicer members created the MBA Vacant Property Registration MERS Initiative. The MERS (Mortgage Electronic Registration System) Initiative was the development of a national database that would house contact information for vacant properties. This registry would alleviate municipalities from having to develop a registry from the “ground up” with access and training to be provided to municipalities at no cost. MERS contains information on more than 2,500 lenders nationwide. Several of the municipalities reviewed allow titleholders to register with either the municipality for a fee or with MERS and no additional fee from the municipality. Even though the municipalities anticipate that the option of the MERS registration will capture a large majority of the registrations, those municipalities that offered MERS as a filing option, still developed their own registration to capture the balance of the registrations.

## **2. Provide analysis on the cost of implementing the proposed PVPO**

In discussion with several other municipalities, the actual cost of implementing the ordinances and registries is difficult to assess. Most of municipalities developed the registry databases in-house and had existing administrative staff reallocate work priorities to incorporate the additional administrative needs from the registry databases. Most of the municipalities did not track their implementation costs.

It is anticipated that the majority of the implementation costs associated with the proposed PVPO for the City of San Diego would be staff time ushering the item through stakeholder and legislative meetings. Additionally, an extension notification process would be necessary to inform the lenders of the new requirements. In discussion with other municipalities, the majority of the notification process was done electronically which minimized the cost. It is anticipated that the registry database could be developed by City staff, resulting in minimum implementation costs. Some IT staff time would be necessary to develop the registration form and ensure that the appropriate personnel had access to the information that would be stored in the database, however, it is not anticipated that specific software or storage space would be needed to be purchased for the implementation. Upon implementation, if it is the desire to maintain the current service levels within the section that will be responsible for the administration of this database, some administration assistance may need to be added to the specific section.

The majority of the costs associated with the proposed PVPO would be related to the code enforcement/inspections. The Development Services Department is to provide an estimate on impacts to administering/enforcing the proposed PVPO.

### **3. Provide feedback on options for outsourcing or purchasing the registry**

As the majority of the reviewed municipalities developed their registry database in-house, it would appear that it would be feasible and cost effective to develop the City of San Diego's database in-house as well. The purchasing of a registry database may be unnecessary.

As previously mentioned, MERS is a national database that is available as a possible outsourcing of the registry database. MERS is available to municipalities at no cost but does require that loans/notices of default/foreclosures be registered with MERS in order to provide any contact information. As part of the implementation of the proposed PVPO, an intensive notification process would be necessary to inform the lenders. The proposed PVPO does not currently include this as a filing option. The City of Los Angeles' Foreclosure Registry Program can be reviewed for an example of the inclusionary language. Several other cities that were reviewed have established MERS as an alternative filing source.

### **4. Provide recommendation on sampling methodology outlined in the PVPO proposal**

The currently proposed PVPO states that the City of San Diego shall regularly inspect, all or a sample, of the registered properties for compliance with the requirements of the ordinance.

If the City chose not to inspect all of the registered properties, a simple random sampling would be suggested to develop an unbiased determination of which areas to inspect. The goal would be to establish an independent process for selecting addresses and the entire population of registered properties would be available to select from. By randomly selecting certain addresses to inspect from the total number of registered properties, it is anticipated that the areas with the most registered address would be selected the most. By developing this methodology, there is no inference that certain areas are more prone to non-compliance properties.

It should be noted that several of the municipalities reviewed inspect the registered property at registration, but no municipality reviewed re-inspects the property solely for compliance after the property is registered. A re-inspection of a registered property would be triggered by a complaint.



Andrea Tevlin  
Independent Budget Analyst

Attachment(s):

1. Property related Ordinances

cc: Honorable Councilmember Todd Gloria, District Three  
Honorable Councilmember Sherri Lightner, District One  
Honorable Councilmember David Alvarez, District Eight

## PROPERTY RELATED ORDINANCES

### Various Jurisdictions

Local City/Agency	Title of Ordinance or Code Section	Enacted / Revised	Registration	Register with which agency	Registration Fee	Who maintains the Registry?	Registry Cost	Trigger	Is the Property required to be vacant?	Time required for inspection of property or respond to notice
Proposed Ordinance from CPI and ACCE for City of San Diego	Property Value Protection Ordinance	Proposed by CPI and ACCE	Yes	City of San Diego	Cost recovery for set up of registry, inspections to ensure compliance	City of San Diego	Unknown	NOD	No	If vacant or REO, Titleholder needs to inspect weekly to ensure maintenance
SD County	San Diego County Register	2009	Yes	SD County	\$0	SD County	Not tracked, scope of work incorporated into staff responsibility	Completion of Foreclosure sale	Yes	Not specified in Ordinance
City of Chula Vista	Abandoned Residential Property Registration Program	2007 / 2010	Yes	1. City of Chula Vista; or 2. National database (MERS)	1. \$70.00 2. Free (fee waived)	1. City of Chula Vista 2. Mortgage Brokers Association	1. \$230,000* 2. \$0 to City of Chula Vista	NOD and Vacant	Yes	Titleholder needs to inspect 10 days from NOD to confirm occupancy, monthly thereafter if occupied
City of Oceanside	Real Property Nuisance Abatement	1998 / 2008	No	N/A	N/A	N/A	N/A	Determination of a Public Nuisance	No	Property owner has 10 days to respond to notice of public nuisance
City of San Marcos	Property Value and Preservation Ordinance	2009	No	N/A	N/A	N/A	N/A	Public Nuisance	No	Property owner has 15 days to respond to notice of public nuisance
City of Santee	Abandoned Residential Property Registration	2007	Yes	1. City of Santee; or 2. National database (MERS)	1. \$70.00 2. Free (fee waived)	1. City of Santee 2. Mortgage Brokers Association	N/A	NOD and Vacant	Yes	Titleholder needs to inspect 10 days from NOD to confirm occupancy, monthly thereafter if occupied
City of National City	Abandoned Buildings and Facilities	2000	No	N/A	N/A	N/A	N/A	Abandoned Building / Public Nuisance	No	Property owner has 10 days to respond to notice of public nuisance
	Vacant Monitoring Fee	2000						Vacant	Yes	

**PROPERTY RELATED  
ORDINANCES**

**Various Jurisdictions**

Local City/Agency	Title of Ordinance or Code Section	Enacted / Revised	Registration	Register with which agency	Registration Fee	Who maintains the Registry?	Registry Cost	Trigger	Is the Property required to be vacant?	Time required for inspection of property or respond to notice
<b>CA City / Agency</b>										
City of Los Angeles	Foreclosure Registry Program	2010	Yes	1. City of Los Angeles; or	1. \$155.00	1. City of Los Angeles	1. Not tracked	NOD and Vacant	Yes	Titleholder needs to inspect 30 days from NOD
	Statement of Intent			2. National database (MERS)	2. Free (fee waived)	2. Mortgage Brokers Association	2. \$0 to City of LA			
City/County of San Francisco	Vacant Building Registration Fee	2009	Yes	City of San Francisco	\$765.00	City of SF	Not tracked	Vacant	Yes	Property owner needs to registry 30 days from abandonment/vacancy
City of Long Beach	Foreclosure Registry Program	2011	Yes	City of Long Beach	\$155.00	City	Not tracked	NOD	Not defined	Titleholder needs to inspect 10 days from NOD
	Vacant Building Monitoring Program	2010	N/A	N/A	Monitoring fee - set by Council resolution	N/A	N/A	Vacant	Yes	Property owner has 7 days to file building plan

Definitions:  
 Notice of Default (NOD)  
 Mortgage Electronic Registration System (MERS)  
 Real Estate Owned (REO)

\*Figure provided by Center on Policy Initiatives

**PROPERTY RELATED  
ORDINANCES**

**Various Jurisdictions**

Local City/Agency	Is there a service provided for registering other than being listed?	Penalty	Maintenance of Property	Frequency of property inspection by Titleholder or designee	Code Enforcement Inspections	# of Code Enforcement Officers	Average response time for code complaint	Developed metrics / benchmarks for review
Proposed Ordinance from CPI and ACCE for City of San Diego	Initial inspection of the property and random inspection to determine compliance	<b>Failure to register</b> Administrative Penalty : From \$100 per day to \$500 per day Maximum of \$100,000 <b>Public Nuisance</b> Penalty of \$1,000 day Maximum of \$500,000	Titleholder or designee	If in default or REO; and vacant, inspection every 7 days	Random inspections to ensure compliance	Four	Varies, depends on nature of complaint	None
SD County	No	<b>Failure to register</b> Civil Penalty of \$1,000 per violation <b>Public Nuisance</b> Civil Penalty of \$1,000 per day Maximum of \$50,000 State Penalty of \$2,500 per day Maximum of \$125,000	Titleholder or designee	None	Upon complaint	Eleven	3 days for inspection	None
City of Chula Vista	No	<b>Failure to register</b> Administrative Penalties: \$100 for first violation, \$200 for second violation, \$500 for additional violation Civil Penalty of \$1,000 per day Maximum of \$100,000	Titleholder or designee or Field Service Provider	If occupied, monthly; if vacant, weekly	Upon complaint	Nine	Unknown	Unknown
City of Oceanside	N/A	<b>Public Nuisance</b> \$100 for first violation, \$200 for second violation, \$500 for third violation, \$1,000 for each additional violation	Property Owner	N/A	Upon complaint	Eight	7 days for inspection/letter	Quarterly Report
City of San Marcos	N/A	<b>Public Nuisance</b> \$100 for first violation, \$200 for second violation, \$500 for third violation, \$1,000 for each additional violation	Property Owner	N/A	Upon complaint	Two	Varies, depends on nature of complaint	None
City of Santee	No	<b>Public Nuisance</b> \$100 for first violation, \$200 for second violation, \$500 for third violation, \$1,000 for each additional violation	Lien holder or Field Service Provider	Monthly	Upon complaint	One	Varies, depends on nature of complaint	Unknown
City of National City	N/A	<b>Public Nuisance</b> Administrative Penalties: \$250 for first violation, \$200 for each additional violation Civil Penalty of \$2,500 per day <b>Vacant Monitoring Fee</b> Established by the City Council	Property Owner	N/A	Upon complaint and specific properties	Three	Unknown	Unknown

**PROPERTY RELATED  
ORDINANCES**

**Various Jurisdictions**

Local City/Agency	Is there a service provided for registering other than being listed?	Penalty	Maintenance of Property	Frequency of property inspection by Titleholder or designee	Code Enforcement Inspections	# of Code Enforcement Officers	Average response time for code complaint	Developed metrics / benchmarks for review
<b>CA City / Agency</b>								
City of Los Angeles	No	<b>Failure to register</b> Administrative Penalty : \$250 per day  <b>Vacant Structure</b> Penalty of \$1,000 day Maximum of \$100,000	Titleholder or designee or Mgmt Co.	Weekly	Upon complaint	Seven	Varies based on number of complaints	None
City/County of San Francisco	No	<b>Failure to Register</b> Up to \$6885 for not filing <b>Public Nuisance</b> \$500 day	Titleholder or designee or Mgmt Co.	Not identified in City Ordinance	Upon complaint	One, with additional staff for posting	Varies based on number of complaints	None
City of Long Beach	Initial Inspection	<b>Administrative Penalty</b> \$1,000 per day \$100,000 maximum	Titleholder or designee or Mgmt Co.	Weekly	Upon complaint	Twenty Five	Varies based on number of complaints	None
	N/A	<b>Vacant Building Penalty</b> \$2,500 for first violation \$5,000 for additional violation	Titleholder or designee or Mgmt Co.	Weekly				