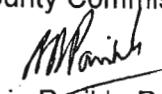


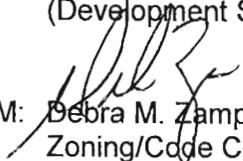
PASCO COUNTY, FLORIDA
INTEROFFICE MEMORANDUM

TO: Honorable Chairman and
Members of the Board of
County Commissioners

DATE: 1/13/11 FILE: ZN11-158


THRU: Bipin Parikh, P.E.
Assistant County Administrator
(Development Services)

SUBJECT: Proposed Resolution – Registration
Fee for the Foreclosure Registration
System
BCC: 1/25/11, 10:00 a.m., NPR


FROM: Debra M. Zampetti
Zoning/Code Compliance
Administrator

REFERENCES: All Comm. Dists.

It is recommended that the data herein presented be given formal consideration by the Board of County Commissioners (BCC).

DESCRIPTION AND CONDITIONS:

On December 7, 2010, the BCC adopted an ordinance establishing a registry system for properties in the process of foreclosure. The ordinance requires that all owners and mortgagees filing an action to foreclose to register the property with the County within ten days of the filing of the Lis Pendens. The ordinance also requires that all owners and mortgagees that have pending foreclosures register their properties by April 1, 2011. The number of open foreclosure cases in Pasco County, according to the Circuit Court, exceeds 14,000 cases.

Initially, the Zoning and Site Development Department was going to partner with the Clerk and Comptroller's Office in an effort to reduce the cost of implementation. After researching the matter, it has become apparent that the County would be reinventing a process that a third-party vendor could more appropriately facilitate in an expeditious matter.

Third-party vendors charge approximately \$75.00 to identify parties responsible for registration by collecting records from the Clerk and Comptroller's Office and the Property Appraiser's Office. The Clerk and Comptroller's Office will need to develop a program to make the information required by the ordinance easily accessible; their fee would be approximately \$10.00 to \$15.00.

One full-time Code Enforcement Officer would be charged with the responsibility of inspecting properties listed in the foreclosure registry for compliance with property maintenance regulations, such as the County Code of Ordinances, Section 42-1, Overgrown Conditions and Related Public Safety Violations); the Land Development Code (LDC), Section 530.10, Accumulation of Debris; and the LDC, Section 530.16, Fences and Walls.

Staff anticipates more involvement by homeowners' associations who are familiar with existing and ongoing problems in their communities as well as a proactive approach to the enforcement of the ordinance, which will increase the amount of overgrown and general property maintenance complaints.

As a result, funding will be necessary for one additional Code Enforcement Officer for the Code Compliance Section for the purposes of enforcement of the ordinance and an additional Customer Services Specialist II for the processing of the liens, contacting entities that have failed to register, and acting as project manager and liaison with the third-party vendor.

Even without the adoption of the Foreclosure Registry Ordinance, over the past 12 months, over 700 liens have been recorded, totaling more than \$116,000.00. Some of these liens are extinguished in the foreclosure action. These figures will increase as a result of the adoption of the ordinance if there is a failure to comply. Since December 2009, \$5,413.90 has been collected from lien payoffs.

Accordingly, staff is recommending that the BCC adopt a registration fee in the amount of \$150.00 to provide for funding for a third-party vendor, one full-time Code Enforcement Officer, and one part-time or one full-time Customer Service Specialist II. This fee will also help defray the costs that the County pays for a contractor to mow lawns and secure properties.

ALTERNATIVES AND ANALYSIS:

1. Approve the adoption of the resolution to establish a registration fee in the amount of \$150.00.
2. Deny the adoption of the resolution to establish a registration fee in the amount of \$150.00.
3. Direct staff to take other action.

RECOMMENDATION AND FUNDING:

The Zoning and Site Development Department recommends that the BCC approve Alternative No. 1, authorize the Chairman to execute the resolution provided, and direct the Board Records Department to retain one original.

Funding is required in the amount of \$64,915.00 for one full-time Code Enforcement Officer and approximately \$38,000.00 for a Customer Service Specialist II. Additional funding for lot clearing will be necessary in the amount of approximately \$50,000.00 to \$75,000.00.

ATTACHMENTS:

1. Proposed Resolution Adopting a Registry Fee for the Foreclosure Registry System
2. Ordinance No. 10-49 Adopted December 7, 2010

DMZ/public/zn/ai/tzn11158

cc: The Honorable Paula S. O'Neil, Ph.D., Clerk and Comptroller
The Honorable Mike Wells, Property Appraiser
Scott P. Stromer, Purchasing Director
Irma I. Lopez, Administrative Services Manager
Patrick Phillips, Code Compliance Field Supervisor

BY THE BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. _____

A RESOLUTION TO THE BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY, FLORIDA, ADOPTING A REGISTRATION FEE FOR REGISTERING PROPERTIES IN FORECLOSURE PURSUANT TO ORDINANCE NO. 10-49; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 7, 2010, the Board of County Commissioners adopted requirements for owners and mortgagees to register properties in foreclosure with the County; and

WHEREAS, the number of open foreclosure cases in the Sixth Judicial Circuit in and for Pasco County has exceeded 14,000 according to The Honorable J. Thomas McGrady, Chief Judge; and

WHEREAS, in order to expeditiously implement the Real Property Registration System, the County will need to expend funds to enforce the ordinance and retain the services of a third-party vendor; and

WHEREAS, additional active cases will be the result of the proactive response from the Code Compliance Section.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pasco County, Florida, in regular session duly assembled that:

The Board of County Commissioners hereby adopts a registry fee of One Hundred Fifty and 00/100 Dollars (\$150.00) per registration, for costs associated with the implementation of the Real Property Registration System, effective February 1, 2011.

DONE AND RESOLVED this _____ day of _____, _____.

(SEAL)

BOARD OF COUNTY COMMISSIONERS OF
PASCO COUNTY, FLORIDA

ATTEST:

PAULA S. O'NEIL, Ph.D., CLERK AND COMPTROLLER

ANN HILDEBRAND, CHAIRMAN

APPROVED AS TO LEGAL FORM AND SUFFICIENCY
Office of the Pasco County Attorney

ATTORNEY

THE BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO 10-49

AN ORDINANCE BY THE PASCO COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING WITHIN THE UNINCORPORATED AREAS OF PASCO COUNTY A FORECLOSURE REGISTRY/REAL PROPERTY REGISTRATION SYSTEM, PROVIDING FOR PURPOSE AND INTENT, PROVIDING FOR DEFINITIONS, REQUIRING REGISTRATION OF PROPERTIES FOR WHICH LIS PENDENS OR FORECLOSURE ACTION FILED, PROVIDING REGISTRATION PROCESS AND REQUIREMENTS, REQUIRING INSPECTION AND CERTIFICATION AS TO WHETHER REGISTERED PROPERTIES ARE ABANDONED, VACANT, OR SHOW EVIDENCE OF VACANCY, PROVIDING STANDARDS FOR MAINTENANCE OF ABANDONED AND/OR VACANT PROPERTIES, REQUIRING ROUTINE INSPECTIONS OF REGISTERED PROPERTIES, PROVIDING FOR ENFORCEMENT AND PERSONS RESPONSIBLE FOR VIOLATIONS, PROVIDING FOR SEVERABILITY, PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Section 125 01, Florida Statutes, the Board of County Commissioners of Pasco County has the power to adopt ordinances necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law, and

WHEREAS, recent events in the housing market have led to a drastic rise in the number of foreclosed properties in unincorporated Pasco County, Florida, and

WHEREAS, the number of open foreclosure cases in the Sixth Judicial Circuit in and for Pasco County has exceeded 14,000 according to Chief Judge J Thomas McGrady, and

WHEREAS, many of these properties are vacated prior to the conclusion of the foreclosure process, leaving the properties unoccupied for extended periods of time awaiting foreclosure sale, often creating an attractive public nuisance, and

WHEREAS, many of these vacant and abandoned properties are in violation of multiple aspects of state law and local ordinances, including among other violations, unoccupied buildings susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unlocked houses, overgrown grass and bushes, and unsecured swimming pools that are not only a threat to children but become breeding grounds for infectious insects such as mosquitoes, and

WHEREAS, the Board of County Commissioners of Pasco County finds that mortgagees have an interest in maintaining vacant and abandoned real property subject to the terms of each mortgage, and

WHEREAS, these mortgagees are often located out of state, making it difficult to notify the mortgagees of violations of the codes and ordinances of unincorporated Pasco County, and

WHEREAS, the Board of County Commissioners of Pasco County desires to protect the public health, safety and welfare of the citizens of Pasco County and maintain a high quality of life for the citizens of Pasco County, and

WHEREAS, the Board of County Commissioners of Pasco County finds that the registration of real properties that have been foreclosed upon or are the subject of foreclosure actions will protect against devaluation caused by vacant and abandoned properties, and is in the best interest of the public health, safety and welfare

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida

SECTION 1 Legislative Findings, Intent and Purpose

(a) The Board of County Commissioners of Pasco County hereby adopts and

- incorporates into this Ordinance the *above recitals, as if fully restated herein*
- (b) The Board of County Commissioners of Pasco County finds that abandoned and vacant real property is unsightly, unsafe and has a negative impact on the community. The Board of County Commissioners of Pasco County hereby declares that all abandoned and vacant real property in unincorporated Pasco County, including those properties that are abandoned and vacant because they have been foreclosed upon or are the subject of foreclosure actions or proceedings, can quickly become a public nuisance if not maintained during the foreclosure process, and the abatement of such nuisances pursuant to the County's police power is hereby declared to be necessary for the health, safety and welfare of the citizens of Pasco County.
- (c) It is the intent and purpose of this Ordinance to protect and preserve public safety, security, and quiet enjoyment of abutters and neighborhoods by (i) identifying vacant and abandoned properties, (ii) requiring all mortgagees, including lenders, trustees, and service companies, to register properties that have been foreclosed upon or are the subject of foreclosure actions or proceedings and to identify whether such properties are abandoned, vacant, or show evidence of vacancy, and (iii) regulating the inspection, security, and maintenance of abandoned properties that have been foreclosed upon or are the subject of foreclosure actions or proceedings, to prevent blighted and unsecured residences.

SECTION 2 Definitions

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates and requires a different meaning.

ABANDONED REAL PROPERTY means any real property in unincorporated Pasco County that (1) is vacant or shows evidence of vacancy, and (2) is the subject of a lis pendens, a foreclosure action or proceeding, a foreclosure sale where the title was retained by the mortgagee involved in the foreclosure, and/or has been transferred under a deed in lieu of foreclosure or sale to the mortgagee.

CODE ENFORCEMENT OFFICER OR INSPECTOR means any authorized agent or employee of Pasco County whose duty it is to assure code compliance.

COUNTY means Pasco County, Florida.

DAYS means consecutive calendar days.

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, electricity/water/other utilities turned off, a stagnant or green swimming pool, statements by neighbors/passers-by/delivery agents or government agents, lack of response to notices, returned or forwarded mail, unsecured doors, absence of, or condition of, personal belongings on the property, habitation by vagrants/transients/trespassers, etc.

FORECLOSURE means the legal process by which a parcel, tract, lot or other defined area of real property, placed as security for a real estate loan, is prepared for sale by the lender/mortgagee to satisfy the debt if the borrower/mortgagor defaults. This definition shall include all processes, activities and actions, by whatever name, associated with the described process.

LOCAL means within the boundaries of Pasco County, Florida.

LOCAL AGENT means the agent designated by the mortgagee upon registration as required under this Ordinance. The local agent or its employee must be able to be located and served at a local address during a majority of the regular working week (8 a.m. to 5 p.m. Monday through Friday).

MORTGAGEE means the creditor, including but not limited to, trustees, service companies, lenders in a mortgage agreement, any agent, servant, or employee of the

creditor, any successor in interest, or any assignee of the creditor's rights, interests or obligations under the mortgage agreement For purposes of this Ordinance only, the term Mortgagee does not apply to governmental entities

OWNER means every person, entity, or service company, who alone or severally with others

1) has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, building, structure, or parcel of land, vacant or otherwise, including a mobile home park, or

2) has, or has exercised, care, charge or control of any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title, changing of locks or service of paperwork directing occupants to vacate the premises is prima facie evidence of the exercise of care, charge, or control of any dwelling, or

3) is a mortgagee in possession of any such property, or

4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property

PROPERTY means any real property, or portion thereof, located in unincorporated Pasco County, including building or structures situated on the property For purposes of this Ordinance only, property does not include property owned or subject to the control of the County or any of its governmental bodies

SECURING means any measures that assist in making the property inaccessible to unauthorized persons

VACANT means any building, structure or property that is not legally occupied

SECTION 3 Registration of Certain Properties Required, Identification of Abandoned or Vacant Property

A Within 10 days of filing of a lis pendens in connection with a default on a mortgage or similar instrument that secures debt upon real property, or within 10 days of filing an action to foreclose upon a mortgage or similar instrument, all owners and mortgagees making such filings shall register the subject property with the Pasco County Code Compliance Department For properties where a lis pendens (in connection with a default on a mortgage or similar instrument that secures debt upon real property) and/or an action to foreclose is pending but were filed prior to the effective date of this ordinance, owners and mortgagees have until April 1, 2011 to register the properties that are the subject of the filings, unless the foreclosure is terminated or the lis pendens is released/withdrawn prior to April 1, 2011

The registration will require the owner and mortgagee to certify that the property has been inspected within the preceding 30 days, and to certify whether the property was found to be abandoned, vacant, or showed evidence of vacancy The registration will require the owner and mortgagee to designate and retain a local individual or local property management company as the local agent responsible for inspecting the property in accordance with this ordinance, for the security and maintenance of the property in accordance with section 4 of this ordinance, and for timely updates of the registration

All registrations must state the property address, the owners' names, mailing addresses, and telephone numbers, the occupants' (if any, and if known) names and telephone numbers, the mortgagee's name, mailing address, and telephone number Registrations will include a local agent's name, mailing address, telephone number and email address Mailing addresses may not be a post office box

B All property registrations are valid for one (1) *calendar year from the date of issuance*. An annual registration fee in an amount established by the Board of County Commissioners of Pasco County by adoption of a resolution, shall accompany each registration form. Subsequent annual registrations and fees are due on or before the expiration of the previous registration. Any part of the registration process may be performed by an agent or independent contractor for the county, or by the Tax Collector or the Clerk of the Circuit Court pursuant to an agreement with the county.

C Once the property is sold or the lis pendens and foreclosure action is terminated, the mortgagee must provide proof of sale or termination of the legal proceedings to the Pasco County Code Compliance Department or its designee, the registration and the mortgagee's continuing obligations under this ordinance will then terminate.

D Any person that has registered a property under this Ordinance must report any update or change to the information contained in the registration within ten (10) days of the change. The County may charge an additional fee for modifications to registrations.

SECTION 4 Maintenance Requirements

A All owners of properties which are abandoned real property, vacant, or show evidence of vacancy, are responsible for maintaining the properties in accordance with the provisions of this ordinance and all other applicable Pasco County codes and ordinances.

B If the owner of the property is a company and/or mortgagee, the owner shall contract with a local agent to perform monthly inspections on the property and to verify compliance with the requirements of this ordinance and any other applicable laws, until the property is sold and/or the lis pendens and foreclosure action is terminated. The local agent shall be empowered to accept service of warnings, citations, and other legal process for the owner if the owner is a company and/or mortgagee.

C Abandoned real property, vacant property, and property showing evidence of vacancy must be maintained by owners to meet the standards in the county's minimum housing codes located in Chapter 18 of the Pasco County Code of Ordinances, and to comply with local regulations concerning external and/or visible maintenance. These ordinances include Section 42-1 of the Pasco County Code of Ordinances (Overgrown conditions and related public safety violations), Section 106-54 of the Pasco County Code of Ordinances (Outdoor storage of inoperative, unregistered, abandoned, or wrecked vehicles on any property prohibited), 530.10 of the Land Development Code (Accumulation of debris, property maintenance), and 530.16 of the Land Development Code (Fences and walls). Pools must be maintained in accordance with Chapter 18 of the Pasco County Code of Ordinances.

D Compliance with this ordinance does not relieve the owner of any applicable obligations set forth elsewhere in the Pasco County Code of Ordinances, the Pasco County Land Development Code, or within any covenants, conditions and restrictions and/or homeowner's association rules and regulations.

SECTION 5 Security Requirements

A All owners are responsible for maintaining their abandoned and/or vacant properties in a secure manner so as not to be accessible to unauthorized persons. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates, fences, and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or replacing of the window.

B Any excavations or swimming pools, (whether finished or unfinished) must be filled in with dirt or properly barricaded in accordance with Section 42-1 of the Pasco County Code of Ordinances (Overgrown conditions and related public safety violations).

and Section 530.4 of the Pasco County Land Development Code (Private swimming pools)

C If the owner of the property is a company and/or mortgagee, the property shall be posted with the name and twenty-four (24) hour contact telephone number of the owner's local agent. The posting shall be no less than 18" x 24", and shall be clearly visible from the street but not readily accessible to vandals. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY

TO REPORT ANY PROBLEMS OR CONCERNS CALL

SECTION 6 Inspections

A The owner's local agent shall inspect all registered properties on a monthly basis to determine if the property is abandoned, vacant, or shows evidence of vacancy, or evidence of unlawful occupation (i.e., squatters), and to ensure that the property is in compliance with this ordinance and other laws and regulations. If the inspection reveals information different than what is contained on the registry, the owner shall update the registry within 10 days of the inspection.

SECTION 7 Enforcement and Persons Responsible for Violation

A Enforcement The requirements of this ordinance may be enforced as follows:

(1) By citation for civil penalties pursuant or to appear in county court pursuant to the authority granted by Section 125.69, Florida Statutes, Chapter 162, Part II, Florida Statutes, and/or section 1-11 of this Code,

(2) By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction,

(3) By exercise of the county's powers of eminent domain, or by condemnation and demolition pursuant to Chapter 79 of this Code, or by the nuisance abatement process,

(4) By revocation or temporary suspension of necessary permits and/or certificates or occupancy and/or licenses,

(5) By any other process permitted at law or equity, and

Use of one enforcement process or theory does not preclude the county from seeking the same, different, or additional relief through other enforcement methods.

B Separate offenses A violation of this ordinance shall constitute a separate offense for each day it shall continue or recur. Each condition which exists in violation of this ordinance is a separate violation. Each day a property remains unregistered when required to be registered by this ordinance is a separate offense for each day it shall continue or recur. Each day a property is not inspected as required by this ordinance is a separate offense. Each day a property is not secured as required by this ordinance is a separate offense. Each day a condition violating the county's minimum housing codes or property maintenance codes exists on a property subject to registration under this ordinance is a separate offense.

C Persons responsible for violations The local agent, owner, or mortgagee as those terms are defined in this ordinance, and their duly authorized officers, employees or agents employed in connection therewith who has assisted in the commission of the violation or failed to perform as required by the ordinance shall be guilty of the violation. In addition to those persons and the persons generally responsible for violations of the Pasco County Code of Ordinances and the Pasco County Land Development Code, any person (or officer, agent, or employee thereof) causing or contributing to a violation, or exercising care, custody or control of the relevant premises may also be held responsible for the violation.

SECTION 8 Severability

If any section, phrase, sentence, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such

section, phrase, sentence, or portion shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof

SECTION 9 Effective Date

This Ordinance shall take effect on February 1, 2011

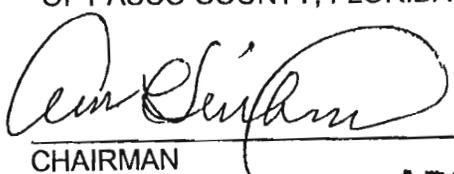
ADOPTED with a quorum present and voting by the Board of County Commissioners of Pasco County, Florida, this 7th day of December 2010





PAULA S. O'NEIL, Ph D
CLERK & COMPTROLLER

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA



CHAIRMAN

APPROVED

DEC 6 7 2010

BOCC