

RON GALPERIN
CONTROLLER

June 3, 2014

Rushmore D. Cervantes, Interim General Manager
Housing and Community Investment Department
1200 West 7th Street
Los Angeles, CA 90017

Dear Mr. Cervantes:

Enclosed is a report entitled "Audit of the Foreclosure Registry Program." A draft report of this report was provided to your Department on May 14, 2014. Comments provided by your Department at the exit conference were evaluated and considered prior to finalizing this report.

Please review the final report and advise the Controller's Office by July 3, 2014 on planned actions you will take to implement the recommendations.

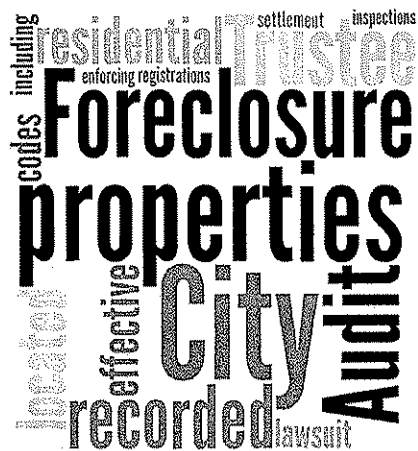
If you have any questions or comments, please contact me at (213) 978-7392.

Sincerely,

FARID SAFFAR, CPA
Director of Auditing

Enclosure

cc: Ana Guerrero, Chief of Staff, Office of the Mayor
Miguel A. Santana, City Administrative Officer
Gerry F. Miller, Chief Legislative Analyst
Holly L. Wolcott, Interim City Clerk
Independent City Auditors



CITY OF LOS ANGELES

Audit of the Foreclosure Registry Program

June 3, 2014



RON | GALPERIN
Los Angeles City Controller

controller.lacity.org



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EXECUTIVE SUMMARY

The Controller's Office has completed a performance audit of the City's Foreclosure Registry Program, as managed by the Housing and Community Investment Department (HCID). In 2008, at a time when Los Angeles and the nation faced a foreclosure crisis, City policymakers envisioned the creation of a program that would protect homeowners and tenants while holding those who initiate a foreclosure accountable for ensuring the appropriate upkeep of properties throughout the process, and to prevent neighborhood blight caused by vacant foreclosed properties.

Our audit sought to evaluate the effectiveness of the Foreclosure Registry Program, from the adoption of a City Ordinance (#181185) in 2010 through its implementation by HCID.

Our audit found that the Program has been ineffective in reducing blight and holding beneficiaries and Trustees who initiate the foreclosure process accountable, primarily due to the requirements set forth by a flawed Ordinance. In its attempt to solve a problem of potential blight, the Ordinance cast too wide a net by requiring "any beneficiary or trustee, who holds, or has an interest in, a Deed of Trust on Property in Foreclosure located within the City of Los Angeles"¹ to register at the time of recording a Notice of Default (NOD), though only a portion of these may actually result in a Trustee's Sale. Additionally, the Ordinance required registration and maintenance when the registrant may not have had the legal status to fulfill the requirements of the Program (such as entering the property for inspections). The Program relied on beneficiaries/Trustees to self-register and update property information without sufficient procedures to ensure compliance. Flaws in the Registry system resulted in incomplete and invalid records and no formal processes to share Registry information of at-risk properties with the Department of Building and Safety for inspection, or for enforcement. Moreover, there were no additional resources dedicated to the inspection/enforcement function.

To address the flaws of the current program, this audit recommends a revised model for the Foreclosed Registry Program: a Distressed Property GeoRegistry, that would provide property information obtained by HCID when an NOD is recorded from subscription services and other sources. The Registry would be a comprehensive, efficient and technologically advanced system for tracking, prioritizing and holding the responsible parties accountable, thus minimizing the impact of properties which may become distressed or foreclosed upon while reducing or eliminating blight from our city's neighborhoods.

The recommended model envisions changing the timing of the registration requirement to the point when ownership transfers back to the beneficiary or a third party in the course of a Trustee's Sale. It allows for a comprehensive assessment of the property's

¹ Ordinance #181185 added Article 4 to Chapter XVI to the Los Angeles Municipal Code; citing Section 164.04.

status upon registration and contemplates a separate enforcement fee for prioritized enforcement activities. It is also designed to serve as a resource, for other City departments and decision makers, rather than solely those involved in the Foreclosure Registry Program.

I. BACKGROUND – FORECLOSURES AND THE CITY’S RESPONSE

The recent financial crisis resulted in more than 56,000 completed foreclosures of single family and multi-unit residential properties (properties) in the City of Los Angeles from 2007 through 2013. During the foreclosure process, the condition of a property may deteriorate through neglect, causing blight and having a detrimental effect on the neighborhood. These high rates of foreclosed properties and resulting abandoned properties led to a decrease in property values and a destabilization of the City’s neighborhoods. To help stabilize these communities, protect tenants’ rights, and address blight caused by vacant properties, the City implemented the following programs:

- Contract Nuisance Abatement Program (operated by the Department of Building and Safety)
- Neighborhood Stabilization Program (Federal grants to purchase foreclosed houses)
- Foreclosure Eviction Moratorium (Ordinance #180441)
- Foreclosure Registry Program (Ordinances #181185 and #182319)

This audit is a review of the Foreclosure Registry Program.

A. Foreclosure Registry Program

In June 2010, Mayor Villaraigosa approved Ordinance #181185, entitled the Foreclosure Registry Program (Program), which added Article 4 to Chapter XVI of the Los Angeles Municipal Code. The intent of the Los Angeles City Council in adopting the Program was “to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties as a result of the foreclosure crisis.”

The City’s then existing Municipal Code defined and established maintenance requirements for buildings, including a distinct section on vacant buildings, however, it was insufficient to combat the foreclosure crisis because there was limited enforcement and what were considered as insufficient penalties to deter property owners from allowing vacant buildings to become a nuisance or a hazard to surrounding neighborhoods.

Creation of Ordinance

Prior to June 2010, per the Council's directive, a working group was formed to develop a framework that would be the basis for an Ordinance. This framework was presented in a report from the Chief Legislative Analyst (CLA) that recommended that beneficiaries and Trustees be required to register properties with the City when the Notice of Default (NOD) is recorded. The report stated that "often mortgage holders who have received a Notice of Default abandon their homes prior to foreclosure sale, leaving these properties vulnerable to squatters, vandalism or other hazardous conditions." The report also stated that a registration should require a local contact in the event the property becomes a nuisance or hazard. The Ordinance was adopted in 2010 and subsequently amended in 2012.

Property Registration

The framework for the original Ordinance envisioned HCID administering and enforcing the registry requirement with a proposed registration fee of \$155. The Ordinance also allowed an alternative registration option wherein beneficiaries or Trustees could register with the Mortgage Electronic Registration System (MERS) and not have to pay the fee. MERS was subsequently found to be unusable by the City for registration confirmation, as it does not capture the unique Assessor Parcel Number (APN), and consolidated reports or data downloads were not available. The MERS registration option was subsequently deleted as an alternative to the City's Registry in November 2012 by Ordinance #182319.

Fee Collection

From the inception of the Program in July 2010 through March 2014, HCID collected \$5 million in registration fees; however, no penalties for blighted, abandoned properties or delinquent registration fees were collected. The Department also indicated that after considering the costs incurred for managing the Registry, the available unspent balance within Special Fund #41M² attributed to the Foreclosure Registry Program was \$3.7 million as of March 31, 2014.

Enforcement Efforts

While the Ordinance mandated that beneficiaries or Trustees perform periodic inspections of all registered properties in the foreclosure process, HCID had no process to ensure they actually conducted these inspections. According to HCID management, some referrals were informally communicated to the Department of Building and Safety;

² Special Revenue Fund #41M is used to account for fees and related expenditures for the Systematic Code Enforcement Program (SCEP). Foreclosure Registry Fees are tracked through a unique revenue source code, and Departmental costs are tracked internally, using work orders and applied indirect costs.

however, these referrals and any disposition of them were not documented by HCID and there is no evidence of inspections performed by either the beneficiary/Trustee or the Department of Building and Safety.

HCID did not implement adequate procedures to ensure that beneficiaries or Trustees complied with the Foreclosure Registry Program, and thereby not assessing or collecting renewal fees and administrative penalties for non-compliance.

B. Foreclosure Process

In a typical (non-judicial) foreclosure, when a borrower fails to make mortgage payments, the Trustee records an NOD on behalf of the beneficiary, with the County Registrar-Recorder. The NOD begins the foreclosure process, by notifying the borrower and the public of the default and that the property may be sold in order to satisfy the obligation secured by the Deed of Trust or mortgage that is in default.

Borrower Actions Upon Initiation of the Foreclosure Process

The borrower may act to prevent, delay or temporarily stay a completed foreclosure through one or more of the following actions:

- Make sufficient payments to bring the loan current, along with costs and expenses;
- Refinance the property;
- Obtain a foreclosure prevention alternative, such as loan modification;
- Execute a "short sale" of the property;³
- Sell the property to a 3rd party and pay off the loan(s);
- Execute a deed in lieu of foreclosure⁴; or
- File bankruptcy, creating a stay, which suspends legal action.

Completion of Foreclosure

If the borrower does not take these actions, the Trustee may record a Notice of Trustee's Sale which cannot occur until three months after the recording of the Notice of Default. Pursuant to a Notice of Trustee's Sale, if the default remains uncured, the property is subject to a Trustee's Sale and the Trustor's (borrower's) ownership rights are consequently extinguished thereafter. The Trustee's Sale and subsequent Trustee's Deed upon Sale, completes the foreclosure process and the property is either

³ A short sale is an agreement between the borrower and the beneficiary, whereby the beneficiary allows the borrower to sell the property for an amount less than what is actually owed on the mortgage loan. With a short sale, the beneficiary consents to accept less than the debt owed, and to release its lien on the property.

⁴ Executing a deed in lieu of foreclosure is a process whereby a borrower gives up all legal rights to the property in exchange for being absolved of all obligations associated with it. The beneficiary agrees to essentially take back the property.

KEY TERMS

Notice of Default – Recorded notice that default has occurred under a deed of trust.

Notice of Trustee's Sale – Recorded notice of the intended sale of the defaulted property.

Deed in Lieu of Foreclosure – Prior to the Trustee's Sale, the borrower can relinquish their ownership rights by executing a deed in lieu of foreclosure at various stages prior to the sale.

Trustee's Sale – A completed foreclosure wherein the borrower's ownership rights are extinguished.

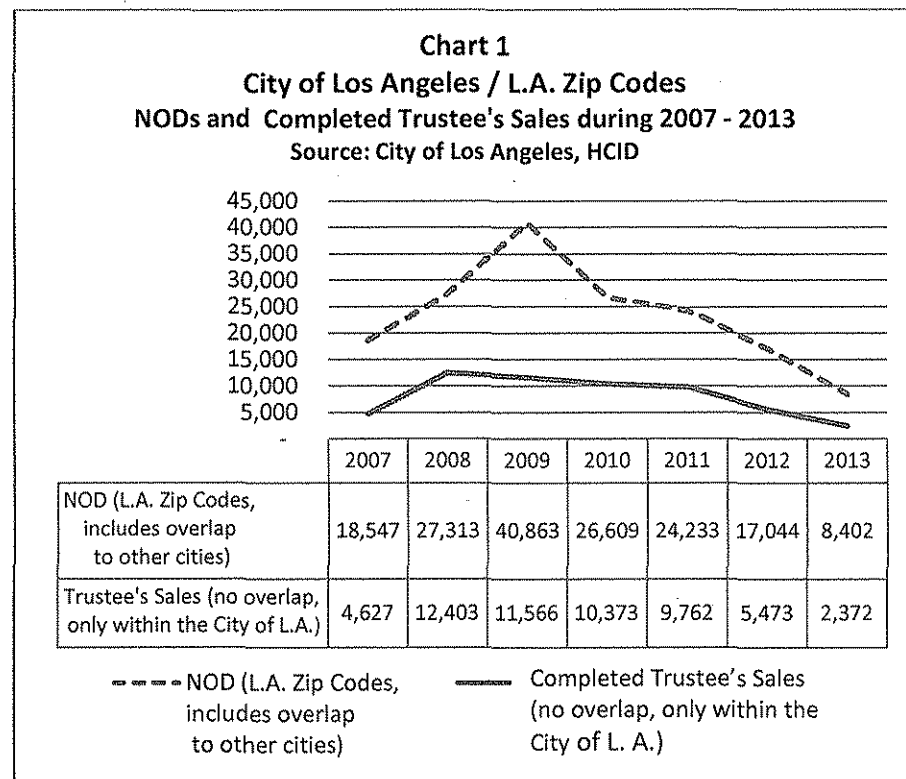
Back to Beneficiary – When a 3rd party does not acquire the property in a Trustee's Sale it becomes Real Estate Owned (REO) by the lender.

Blighted Property – A property that is in physical decay caused by the failure to maintain real estate; e.g. trash/debris, graffiti, overgrown vegetation, hazardous physical structure.

sold to a 3rd party, or the beneficiary takes ownership if there are no other bidders willing to bid at, or in excess of the accumulated debt pursuant to the subject loan/note. Properties that are not sold to a 3rd party, but are *taken back by the lender* are also known as bank-owned or REO properties (Real Estate Owned by the lender).

Foreclosure Data

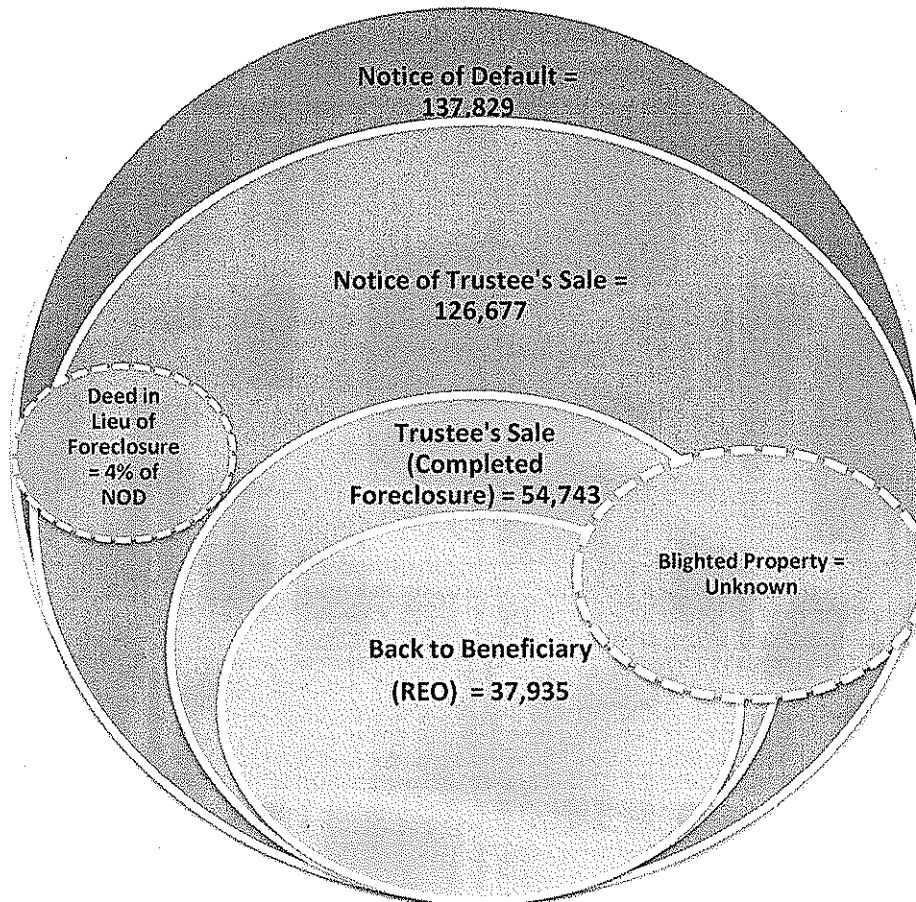
Chart 1 presents the data tracked by HCID, showing the history of recorded NODs for single family and multi-unit residential properties located within HCID-defined Los Angeles zip codes (NOD data contains some properties located outside of City boundaries but provides an approximation for illustration purposes) and Trustee's Deeds upon Sale (completed foreclosures) for recorded for single family and multi-unit residential properties specifically located within in the City of Los Angeles occurring from 2007 through 2013.



The data used to support Chart 1 was obtained from HCID, and is presented graphically to show the trend and relative comparison between NOD and Trustee's Sales. The number of NODs recorded for single family and multi-unit residential properties with L.A.

zip codes over the seven years (2007 – 2013) totaled 163,011, while recorded Trustee's Sales (completed foreclosures) located within the City of L.A. itself (subset of L.A. zip codes) were 56,576 for the same period, representing a ratio of almost 3:1.

The following Venn diagram presents information we obtained directly from DataQuick, a private data source, using only single family residential properties (excluding multi-unit residential properties), based on using the L.A. zip code list from HCID (the tally contains some limited properties located outside of City boundaries.) The purpose of this illustration is to show comparative numbers of properties that experienced each phase of the foreclosure process, over a six year period (2007 – 2012).



Source – DataQuick, obtained counts of single family residential properties for calendar years 2007 – 2012, based on the L.A. zip code list provided by HCID. (The count of deed in lieu of foreclosure was not available until 2011, but for 2011 and 2012, that count was 4% of the number of NOD recordings. The actual number of blighted properties is unknown.)

Foreclosure Related Lawsuits

The City Attorney filed lawsuits against two large banks (Deutsche Bank in May 2011 and U.S. Bank in July 2012) that included failure to maintain foreclosed properties. The City Attorney's Office was successful in the lawsuit against Deutsche Bank, et al; in September 2013, a "judgment and injunction pursuant to stipulation against Trustee defendants", which provided injunctive relief and awarded monetary relief.

The injunctive relief section of the settlement required the defendants to appoint a senior employee as a responsible representative of the defendants and to comply with all laws including those with maintenance requirements. The monetary payment section of the settlement was for \$10 million payable to the City of Los Angeles and would allocate that payment between the City Attorney's Office and County of Los Angeles. A representative from the City Attorney's Office stated that payment related to the Deutsche Bank lawsuit is likely to occur by the end of 2014, and the U.S. Bank lawsuit is still underway.

II. OVERALL ASSESSMENT

The City envisioned a Foreclosure Registry Program that would address the impact that foreclosed properties have on the City's neighborhoods. However, the process to develop the Program took several years, missing the height of the foreclosure crisis without ever operating effectively.

While Council interest began in 2008, the Foreclosure Registry Ordinance was not enacted until nearly two years later in July 2010. The Ordinance had flaws that were not quickly addressed, with one amendment eliminating a specific exemption effective January 2013. In June 2013, Council requested the City Attorney to prepare another amendment to address actual enforcement of the Ordinance.

Program Effectiveness

Due to the timing of the City's actions and inadequate resolution of issues, the program to date has not been effective. There are legal obstacles to enforcing the registrations, inspections, and maintenance by the beneficiary / Trustee for properties on which they are not the owner of record (and for which they may never obtain that legal status). The Ordinance cast too wide of a net in its attempt to solve the problem of potential neighborhood blight by "any beneficiary or trustee, who holds, or has an interest in, a Deed of Trust on Property in Foreclosure located within the City of Los Angeles"⁵ to register at the time of recording a "Notice of Default", though only a portion of these may actually result in a Trustee's Sale. It is time for the City to reassess the Program in its current form, given the number of properties facing foreclosure has significantly declined and the lessons learned from the City's experience.

⁵ Ordinance #181185 added Article 4 to Chapter XVI to the Los Angeles Municipal Code; citing Section 164.04.

III. KEY FINDINGS

1. The City enacted a partially funded and flawed Ordinance that made beneficiaries / Trustees responsible and required registration and maintenance at a stage in the foreclosure process when they may not have had the legal status to enter properties to perform inspections or may not have been equipped to comply.
2. The City did not adequately plan and develop its Foreclosure Registry Program, including identifying the resources/tools necessary for implementing an effective Program.
3. HCID did not implement adequate procedures to ensure beneficiaries / Trustees comply with the Foreclosure Registry Program, thereby missing the opportunity to assess and collect renewal fees and administrative penalties for non-compliance.
4. HCID did not develop a robust, comprehensive information system, which resulted in Registry data being incomplete and invalidated records with unpaid registration fees.
5. HCID lacked a process to make formal referrals to the Department of Building and Safety of vacant foreclosed properties and to ensure responsible parties perform inspections of foreclosed properties.

IV. RECOMMENDATIONS

- 1.1 HCID and the Mayor and City Council should determine whether the Municipal Code pertaining to the Foreclosure Registry Program should be significantly revised to require more proactive involvement by the City to monitor properties in the foreclosure process. This approach should be focused on the intent to protect neighborhoods from blight caused by vacant foreclosed properties. See Appendix II for a recommended approach to redesigning the Foreclosure Registry Program.

Until significant modifications are made to the current Foreclosure Registry Program, HCID should implement the recommendations as noted below.

- 2.1 Take immediate steps to utilize the NOD database from RealQuest, an existing City contractor, to ensure a complete Foreclosure Registry.
- 3.1 Develop and implement procedures to periodically review and monitor registrations to ensure the Registry is accurate

- 3.2 Review one-time registrations to determine accurate status and whether registration fees are due.
- 4.1 Develop and implement system modifications to ensure a complete and accurate Foreclosure Registry, such as required data fields for a local property management contact.
- 5.1 Provide DBS with a complete list of all registered vacant properties on a regular basis or grant access to the database so DBS has the needed information for enforcement to perform inspections and address potential blight.
- 5.2 Confirm that the Program includes a requirement for owners, upon completion of the foreclosure process, to provide evidence of their inspections; thus allowing the City to monitor their compliance.

Review of Report

On May 8, 2014 a draft report was provided to HCID for review, and we held an exit conference with HCID management and representatives on May 14, 2014 to discuss the audit's findings and recommendations. The Department stated that since we had completed our audit fieldwork, they have implemented several system improvements to the Registry, including data validation for local contacts. In addition, they indicated that in 2014 HCID began providing data from the Registry to LADBS on a monthly basis; however, due to a lack of enforcement resources, LADBS may not yet have inspection capabilities in place. We considered HCID's comments and suggestions as we finalized this report.

BACKGROUND

From 2007 through 2013, more than 56,000 single family and multi-unit residential properties were foreclosed upon in the City of Los Angeles. Foreclosed properties that become vacant can lead to blighted conditions, negatively impacting the surrounding neighborhood.

Trustees have the option of foreclosing either judicially, by filing a complaint with the court seeking a judgment for foreclosure and sale, or nonjudicially, by exercising the power of sale contained in the Deed of Trust that secures a mortgage/promissory note.⁶ When given the option, most Trustees choose to foreclose nonjudicially, as it saves the expense of court costs. This is the case in California, where nonjudicial foreclosure is the most common method of foreclosure used by Trustees. Judicial foreclosures are generally used only when Trustees seek to also get a deficiency judgment against a borrower (as deficiency judgments are unavailable in nonjudicial foreclosures.⁷)

The foreclosure process begins with a recorded Notice of Default. When a borrower fails to timely and/or fully makes his/her mortgage payments, the Trustee records a Notice of Default (NOD) on behalf of the beneficiary with the County Registrar-Recorder. The NOD notifies the Trustor (borrower) and the public that a default has occurred under the Deed of Trust and the property enters into the foreclosure process.

If the borrower does not take action to cure the default, the next stage of the foreclosure process is when the Trustee records a Notice of Trustee's Sale with the County Registrar-Recorder. The Notice of Trustee's Sale cannot be recorded until three months after the recording of the Notice of Default. The Trustee's Sale completes the foreclosure process and the property is either sold to a 3rd party or the beneficiary takes ownership if there are no other bidders willing to bid at, or in excess of the accumulated debt pursuant to the subject loan/note. Properties that are not sold to a 3rd party, but are *taken back by the lender* are also known as bank-owned or REO properties (Real Estate Owned by the lender).

During the foreclosure process, homeowners or tenants may neglect or vacate a property. Despite the City's ordinances that have been in effect for years related to securing vacant buildings to prevent nuisance conditions, some properties are not maintained by the responsible party. In some cases, banks who were owners of record did not maintain the properties, as evident in the lawsuits filed by the City Attorney against two large banks (Deutsche Bank in May 2011 and U.S. Bank in July 2012).

The City has taken several steps to help stabilize neighborhoods, protect tenants' rights, and address the blight that can be caused by vacant properties. One primary action was to implement a Foreclosure Registry Program.

⁶ Cal. Civ. Code § 2924; Cal Civ. Proc. Code § 725a

⁷ Cal. Civ. Proc. Code § 580d.

Ordinance 181185 added Article 4 to Chapter XVI of the Los Angeles Municipal code and established HCID's responsibility for the Foreclosure Registry. Key provisions for registration, maintenance and enforcement are noted below:

Registration of Properties in Foreclosure

- Beneficiary/Trustee must register the property within 30 days of issuing a Notice of Default, which includes:
 - Identifying a local, empowered responsible party for the property and
 - Payment of an annual registration fee of \$155 per calendar year;
- Subsequent registration is due January 1st, and considered delinquent on January 31st;
- Registration requirements are considered met if the foreclosed property is registered with the Mortgage Electronic Registration System (MERS);
- Persons responsible for the property must be empowered to conduct weekly inspections of the Property;
- If the property is occupied but remains in default it shall be inspected by the beneficiary/Trustee, or his designee, monthly until the Trustor or other party remedies the default;
- Properties must meet annual registration, security and maintenance standards as long as they remain vacant;
- Registrant must report changes within 10 days; and
- If HCID determines non-compliance with registration requirements, and if it sends a 30-day notice and the property remains out of compliance for registration, HCID may charge \$250 per day in penalties.

Maintenance and Enforcement of Maintenance Requirements

- The City's ability to pursue abatement procedures on nuisance, hazardous or substandard properties is detailed;
- DBS is established as the enforcement agency for vacant properties; and
- Vacant properties may be subject to administrative penalties of \$1,000 per day, not to exceed \$100,000, if the building is not maintained and also requires a posting notice. Penalties are issued to the Responsible Party.

HCID is responsible for the administration of the Foreclosure Registry Program through its Regulatory Compliance and Code Enforcement section. However, the enforcement activities of performing inspections of abandoned residential properties falls under the jurisdiction of LADBS. The initial Ordinance and subsequent amendment did not provide a budget or staffing for enforcement activities. In 2011, HCID developed a referral program wherein staff could refer blighted properties to DBS; however, this program was not implemented due to a lack of coordination. The City has not assessed or collected any penalties from the implementation of the Foreclosure Registry. In June 2013, the City Council asked the City Attorney to draft an amendment to the Ordinance that addresses enforcement, and the City's 2013-14 budget included additional resources to accomplish targeted enforcement activities for this program.

Online Registry Portal

In anticipation of the Ordinance to establish the Program, HCID began development of informational materials including a mail-in application for registration in June 2010. Initially, HCID accepted mail-in registrations along with payments by check. HCID developed the online Registry portal, released in September 2010, which is accessed through HCID's website. The beneficiary/Trustee or its designee (e.g. property manager, realtor) becomes a registrant by entering the portal and obtaining a user name. After confirmation of a valid email address, the registrant then enters the property into the Registry by Assessor's Parcel Number (APN). The system validates that the address is located in the City of Los Angeles and the registrant then enters the name, address, and phone number of the beneficiary/Trustee and the property management company, if applicable. Additional information, required as of January 2013, includes occupancy status and foreclosure status. At the end of the registration process, the registrant selects the payment method, paying either by credit card or e-check. Mail-in payments were also allowed through May 2013. The property remains in the Registry as "active" until the registrant requests removal.

The Ordinance requires beneficiaries or Trustees, who hold, or have an interest in a Deed of Trust on a property within the City of Los Angeles, to renew their registrations each year. Beneficiaries or Trustees are required to notify the City with changes to their property's status, including the removal of their properties from the Registry. A registrant can access the Registry and request removal when that property is no longer in the foreclosure process, either as a result of the owner curing the default or the beneficiary/Trustee selling the property to a 3rd party. The registrant must attach required documents evidencing the cure or sale. However, registration remains required if the bank forecloses and takes ownership of the property as an REO. Upon entering the request for removal, the registration changes from an "active" status to "pending". HCID program administrators verify the removal of a property after reviewing the required attached documents. If the required documents are approved by HCID, the inactivation is approved and the registration is changed to "inactive" status. Every January, registrants must re-register their properties until the property is out of the foreclosure process; that is, either when a) the default was cured, or b) it was foreclosed

upon by either being sold to a 3rd party at a Trustee's Sale or the ownership reverted to the beneficiary.

OBJECTIVES, SCOPE AND METHODOLOGY

The primary objective of this audit was to evaluate the efficiency and effectiveness of the Foreclosure Registry Program to ensure the appropriate upkeep of properties during foreclosure and reduce neighborhood blight. Specific objectives included:

1. Identify and assess the Department's data validation process, wherein they ensure completeness of reporting of property registration, including their coordination with other parties, such as the L.A. County Assessor's Office. This would include ensuring timeliness of registration, and subsequent years' registration, if applicable, and the expected increase of registrants based on the removal of the exemption.
2. Determine if HCID assessed and collected all registration fees and penalties, and monitored the resolution of the properties.
3. Assess HCID's processes to verify the validity of beneficiary/Trustee contact information and timeliness of change notification.
4. Verify that HCID had a process in place to coordinate and communicate with the Department of Building and Safety regarding the beneficiary/Trustee's inspection reports, and substandard maintenance or blight.

Our audit was performed in accordance with Generally Accepted Government Auditing Standards and covered Ordinance development from the first Council motion made in June 2008 through June 2013, with a review of Registry information from July 2010 through May 22, 2013. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork was conducted from April through June 2013.

We interviewed HCID management including the Assistant General Manager, the Senior Hearing Officer, the Chief of Code Enforcement, and the Systems Director. We also interviewed Program Administration staff, the Systems personnel and HCID accounting personnel. Outside of HCID, we interviewed the DBS Chief of Code Enforcement, and the current CLA analyst involved in this program. We reviewed the Foreclosure Registry Ordinance, applicable Municipal codes, policies and procedures, system release documentation, a PowerPoint presentation to the General Manager, and foreclosure and NOD reports prepared by the Policy and Planning Division. We also conducted walkthroughs of processes related to payment, foreclosure or NOD registrations, and the information systems used by HCID to support the program.

We also analyzed information contained in HCID's Foreclosure Information Management System (FIMS) from inception in 2010 through May 22, 2013 (capturing all the registrations entered into the Registry) and historical data from HCID for completed foreclosures (2007 – 2012) in the City and NOD data in City of L.A. zip codes (2010 – 2012). NOD data from RealQuest for 2013. For our comparative illustration, we obtained data directly from DataQuick for counts of NODs, Notices of Trustee's Sale, Trustee's Sales (Trustee's Deeds, i.e. completed foreclosures) and REOs for 2007 – 2012 and deeds in lieu of foreclosure for 2011 – 2012.

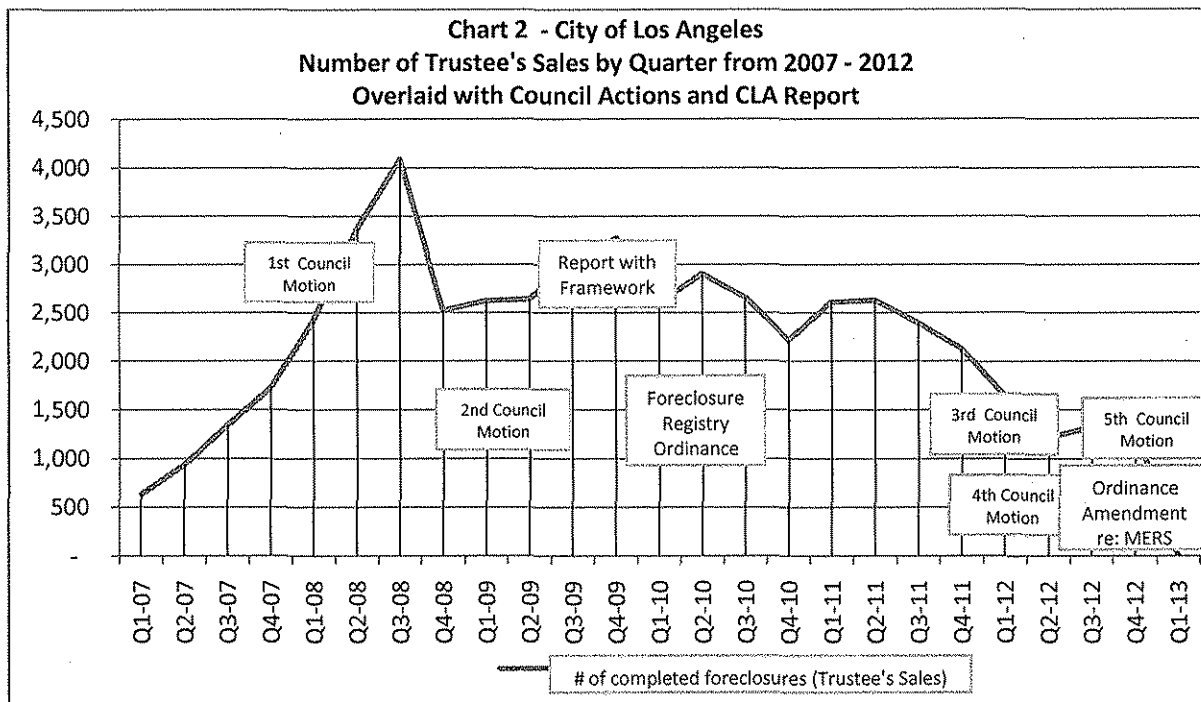
AUDIT FINDINGS

SECTION I: IMPLEMENTATION OF THE FORECLOSURE REGISTRY PROGRAM

The City has several programs in place to help stabilize neighborhoods, protect tenants' rights, and address potential blight that can be caused by vacant properties. One of the primary actions taken in response to the economic downturn and resulting foreclosure crisis in Los Angeles was to implement a Foreclosure Registry Program.

Effective July 8, 2010, the City required Trustees of properties in foreclosure to register the property within 30 days of issuing the NOD and pay an annual registration fee of \$155. HCID was established as the responsible department for the Foreclosure Registry, while enforcement of property maintenance standards was assigned to the Department of Building and Safety (DBS). Vacant properties in foreclosure that are not sufficiently maintained may be subject to administrative penalties of \$1,000 per day, not to exceed \$100,000.

In September 2010, the Foreclosure Registry Portal was released allowing online registrations and payments. However, the timing of the City's requirement to register properties missed the height of the foreclosure crisis, as shown in Chart 2, where the number of Trustee's Sales appeared to have peaked in 2008.



Source: HCID and L.A. City Council Files: 08-1545, 09-0365, 12-0647, 12-06747-S1

The high number of completed foreclosures in the City made it imperative that the Registry Program be adequately planned, developed and implemented with sufficient resources to ensure properties were registered, fees were collected and property maintenance was enforced. However, the Program took almost a year and a half to

implement, missing the opportunity to address conditions of potential blight when the foreclosure crisis was at its peak. As a result, the Program's effectiveness was hampered from the start. During the time it took to enact the City ordinance and start the Registry, there were approximately 34,000 completed foreclosures from 2007 through 2010 that would have been subject to the City's requirements for registration and property maintenance.

Finding No. 1: The City enacted a partially funded and flawed Ordinance that made beneficiaries/Trustees responsible and required registration and maintenance at a stage in the foreclosure process when they may not have had the legal status to enter properties to perform inspections or may not have been equipped to comply.

There are legal obstacles to enforcing the registrations, inspections, and maintenance by the beneficiary/Trustee for properties on which they are not the owner of record (and for which they may never obtain that legal status). The Ordinance cast too wide of a net in its attempt to solve the problem of potential neighborhood blight by requiring beneficiaries or Trustees to register the greater population of all properties receiving a Notice of Default recording, versus addressing abandoned and blighted properties affecting neighborhoods.

The Ordinance required beneficiaries or Trustees to register properties at the time of recording an NOD, when they were not the owner of record, and only a portion of those properties may have actually been or will ever become abandoned. The Trustee may record an NOD after a mortgage becomes delinquent, however, at that stage, the property owner may still occupy the property and take alternative actions to retain it. There are difficulties with the Ordinance as it requires beneficiaries or Trustees, or their designee, to inspect the property, yet there may not be a need and/or they may not have legal status to enter the property.

Additionally, the Ordinance only considered the funding necessary to implement the Registry; it did not adequately address the additional resources necessary for enforcement activities. The Ordinance did not include funding for proactive enforcement, and continued the status quo of complaint-based enforcement. The Ordinance has not been effective and has required amendments, including the removal of the MERS exemption to the Registry requirement. The City Council has also requested an amendment to support proactive enforcement, which had not yet been completed as of the time of the audit. As the Council's intent was to ensure vacant properties were properly maintained, the Ordinance should have focused on and funded enforcement efforts for vacant properties in the foreclosure process.

Finding No. 2: The City did not adequately plan and develop its Foreclosure Registry Program, including identifying the resources/tools necessary for implementing an effective Program.

The primary objectives of the Foreclosure Registry Program were to provide the City with a means to identify properties that were entering the foreclosure process and to mitigate the risk of blighted conditions, should the property become vacant and neglected. In order for the Program to be effective, HCID needed to establish processes to ensure all foreclosed properties could be identified, and that the appropriate resources/tools were available to ensure compliance with both the registration and property maintenance requirements.

However, the City's framework for establishing the Foreclosure Registry Program did not adequately assess the data necessary to ensure registration of all applicable properties and that resulting monitoring and enforcement efforts could take place. The City lacked a complete Registry, and there was no consideration for establishing a proactive enforcement program until a recent Council directive allowed for an inspection fee to be assessed for these properties, thereby funding additional inspectors.

CLA Framework for the Registry

On February 17, 2009, the Housing, Community and Economic Development Committee (HCED) of the City Council instructed the Chief Legislative Analyst (CLA), City Administrative Officer (CAO), HCID and DBS to work with the City Attorney to create an ordinance(s) that would require owners of vacant and/or foreclosed properties to register with the City (or be subject to fines and civil penalties) and create a shared database of foreclosed properties to be used by DBS, HCID and the Department of Water and Power (DWP).

The CLA submitted the Working Group's framework for a Foreclosure Registry Ordinance to the HCED Committee in November 2009 and recommended that beneficiaries or Trustees could satisfy the City's requirement for registration by registering properties with MERS. Those properties were not subject to the City's registration fee. The CLA's report indicated that MERS representatives reported that "approximately 60% of all mortgages are represented in their database"; and negotiations were "ongoing with two other major lenders, which would result in access to information for approximately 90% of loans through MERS." The implication was that almost all foreclosed properties would be registered through MERS and be exempt from the City's Registry. Further, the CLA's report indicated that the City had access to MERS, implying that the City would be able to confirm a foreclosed property was either registered through MERS or the City's Foreclosure Registry; thereby ensuring the City had a complete "inventory" of properties and that all beneficiaries/Trustees had complied with the City's requirements.

However, four years after the CLA's recommendation, MERS was determined to be unusable and was deleted from reference in the City's Ordinance as an acceptable

alternative to registering properties with the City. Neither the CLA nor HCID could explain or provide support as to why the MERS exemption was included in the initial framework. More importantly, neither department could substantiate that MERS was preliminarily tested to ensure that it met the City's needs for access and usability. For example, MERS does not capture a property's Assessor Parcel Number (APN) but relies on the property's street address, making it difficult for HCID to compare registry databases and County Assessor data to ensure the City's Registry is complete. In addition, MERS is unable to provide consolidated reports or data downloads to facilitate registration confirmation. Instead, each property has to be researched individually.

HCID did not identify MERS' limitations and develop alternative solutions for several months after the Program's start date; and even after identifying problems with MERS data, the Department did not proactively seek resolution from MERS. HCID determined that MERS was not usable for the City's needs sometime in early 2011, at least six months after the Program's effective date, and HCID program administrators cited ongoing problems with accessing and using MERS data. In addition, HCID was aware that a substantial number of properties were not registered in MERS or the City's Registry. A March 2011 presentation to HCID management by program staff indicated that based on a sample of 450 properties from the National Community Stabilization Trust (NCST)⁸, 26% of the properties were not registered with either MERS or the City (based on September 2010 data).

HCID indicated they approached the County Registrar-Recorder to obtain foreclosure data to facilitate populating and/or verifying the Registry. According to HCID system's staff, though the County could provide document images by individual look-up, HCID was unsuccessful in obtaining tabular data on these properties necessary to import into a database.

Despite knowing that the foreclosure registries were incomplete, HCID continued to pursue using MERS. In April 2011, HCID requested database access or downloads from MERS, indicating that there were challenges with using MERS for individual property look-ups. There was no HCID follow up with MERS or proactive search for alternative data sources until MERS finally informed the Department in November 2011 that it could not provide the requested information. Through action by the City Council, the MERS registration exemption was eliminated in November 2012; more than two years after the City's initial ordinance was enacted.

Another problem with the framework and resulting Ordinance was the requirement for the beneficiary/Trustee, or their designee, to perform periodic inspections of all registered properties, beginning at the NOD stage when they may not have legal access

⁸ NCST is a national non-profit organization that was formed in response to the housing crisis. It provides a mechanism for transferring foreclosed properties from lenders, services, investors, and Government Sponsored Enterprises to local housing programs working to stabilize communities from foreclosures.

to perform them. The framework did not consider their ability to perform the inspections or address how those inspections would be verified by the City (see Finding #4).

Ongoing Registry Issues

Subsequent to the MERS' data issues, HCID arranged for an alternative source of NOD data to compare to the Registry and ensure its completeness. However, HCID's contract with a third-party vendor was not finalized until February 2013; and data was not provided to Program Administrators until late May 2013. As of our fieldwork completion, HCID had still not been able to fully utilize the vendor's data. As a result, the City still lacks a complete and consolidated database to identify non-compliant beneficiaries and Trustees who have initiated foreclosures of residential properties.

Enforcement Efforts

While the CLA's framework recommended a registration fee to cover the administrative costs of the Registry, there was no mention of enforcement or inspection fees. The framework did not adequately address proactive enforcement of the City's property maintenance requirements for registered vacant properties; instead, it recommended a complaint-based enforcement system due to budgetary and staff constraints.

DBS is authorized to abate vacant structures and recover the abatement costs. As previously noted, the Program allowed for administrative penalties of \$1,000 per day to a maximum of \$100,000 for vacant properties that are not maintained. However, our audit disclosed that HCID did not have a process to routinely submit registered property data to DBS to facilitate enforcement efforts to occur.

HCID did not include DBS in their design of the Foreclosure Information Management System (FIMS); and in spite of the Council's intent for a shared database, as of our fieldwork date, HCID had not provided any Registry information to DBS. They did not have an established process in place to communicate vacant property information or observed conditions. This issue is further explained in Finding #5.

In May 2013, the CLA submitted a report to Council recommending proactive inspections of NOD vacant properties, and developed a cost recovery inspection fee. The FY 2013-14 budget also included additional positions at DBS to perform the inspections.

Without a process to provide registered property data to code enforcement inspectors, the City's enforcement efforts will continue to be lacking. In addition, administrative penalties cannot be assessed, and blighted conditions may continue unabated.

Opportunity to Re-examine Ordinance

While foreclosures still occur, the number has significantly decreased since 2008 when the City Council first introduced the concept of a Foreclosure Registry. Given this

reduced volume and the lessons learned from the City's or other jurisdictions' experiences, the City has an opportunity to re-assess the Ordinance and Program. For example, the City could revise the Ordinance related to requiring beneficiaries or Trustees to register properties, and instead use NOD and REO data to proactively contact beneficiaries or Trustees and request registration. While this may require more staff time on HCID's part, this could result in a more comprehensive and accurate database. Refer to Appendix II for the recommended model approach.

Finding No. 3: HCID did not implement adequate procedures to ensure beneficiaries/Trustees comply with the Foreclosure Registry Program, thereby missing the opportunity to assess and collect renewal fees and administrative penalties for non-compliance.

NOD Recordings and Registrations

HCID relied on beneficiaries or Trustees to comply with self-registering properties through MERS or the City. As the City's designated authority over the Foreclosure Registry Program, HCID should have developed procedures to provide reasonable assurance that beneficiaries or Trustees complied with those requirements, including exploring alternative ways to confirm whether the Registry was complete.

As previously noted, HCID found through an internal analysis that not all properties in the foreclosure process were registered with MERS or the City, and had no procedures to confirm that all beneficiaries or Trustees complied with the City's Foreclosure Registry requirement.

While HCID's Policy and Planning Unit had access to NOD and foreclosure data through DataQuick, it was not used for the Program. HCID indicated that due to the previous MERS exemption and their inability to confirm what properties had been listed on MERS, they could not effectively analyze this NOD data to identify missing registrations. Even after the MERS exemption was eliminated, HCID did not use this information, indicating that the data format could not be easily or systematically compared to the Registry. A new vendor contract was finalized in early 2013, and NOD data was provided in May 2013; however, as of our fieldwork completion, HCID had not yet implemented procedures to ensure registration compliance.

We compared NOD data for the period January 1 through April 18, 2013 to the City's Registry and identified 1,471 properties that were not registered with the City. Based on our review, HCID appears to have missed collecting new registration fees. Further, these unregistered properties could have been assessed administrative penalties for non-compliance.

Annual Registration Renewals

The City requires that properties in the foreclosure process be registered annually. However, HCID did not establish a procedure to ensure all registrations were renewed and paid or if the registration should be classified as "inactive". Registrants should either pay the annual renewal fee in January or submit documents proving that the property is no longer in the foreclosure process (either through the existing owner curing the default or a Trustee's Sale).

From July 2010 through May 22, 2013, there were 25,783 registrations, with 19,782 registrations shown as active. Our review disclosed that the database contains inaccurate and incomplete information as described below.

- Based on our review of foreclosure reports, on average, a foreclosure process can take up to 20 months. However, our review of the Registry disclosed nearly 2,500 registrations that are still noted as "active" beyond this timeframe. These are properties that were registered in 2010 and 2011 but only registered once; the registration was not renewed or paid in subsequent years. It is likely that these properties are no longer in the foreclosure process, but HCID did not take appropriate steps to ensure this was the case, and update the Registry.
- There were 3,059 properties registered in 2012 that did not renew in 2013. Since the Registry did not indicate a request for removal and the average time for a completed foreclosure had not yet been met as of our fieldwork completion, these properties appeared to be subject to the Registry requirements and registration fees for 2013. As a result, there may have been significant uncollected registration fees.

While the system does generate automated emails at year-end to registrants reminding them to renew, only limited follow up was done by HCID staff.

Note: Subsequent to our audit fieldwork, HCID indicated that they now utilize NOD data from RealQuest to electronically match entries to their Foreclosure Registry Program and send noncompliance letters to the registrants. While management indicated they did not consider it practical to follow up on all non-renewals to determine an accurate status, this could be pursued by using RealQuest data related to subsequent dispositions of properties with previous NOD recordings.

SECTION II: FORECLOSURE INFORMATION MANAGEMENT SYSTEM

HCID developed a property information database, referred to as Prop, to provide information to its various applications, including the Foreclosure Information Management System (FIMS). Prop obtains data from multiple sources such as the Bureau of Engineering's address data, ITA's GIS repository, ITA's LUPAMS⁹, and from Department inspection staff, the public, and third-party vendors.

For the Foreclosure Registry Program, HCID developed the Online Foreclosure Registry Portal for beneficiaries or Trustees to register properties as they initiate the foreclosure process. Information from the Registry Portal is connected to HCID's databases, such as Prop that links the APN to the property address, the Billing Information Management System (BIMS) and the Foreclosure Information Management System (FIMS). FIMS collects the registration data and is used by HCID to access and monitor all registrations.

A registrant must first set up a user ID and provide a valid email address. The property can then be registered by entering the Assessor's Parcel Number (APN). The Portal validates the address by accessing Prop to ensure that it is a valid City address. The user selects the foreclosure status (NOD, foreclosure or REO), the occupancy status and attaches documents if they have an NOD or an NOD release. The user enters the beneficiary/Trustee's name, address, phone number and email address, and the same contact information for the property manager. After providing the information on the property, the registrant then selects the payment option for submitting the \$155 registration fee.

Finding No. 4: HCID did not develop robust, comprehensive information systems, which resulted in registry data being incomplete and invalidated records with unpaid registration fees.

Information systems must be designed to ensure the validity, completeness and accuracy of transactions and data, especially when the data is relied on for determining compliance with City requirements. Our review of FIMS and foreclosure registration data disclosed that some critical information was not captured or was invalid, and registration fees that were denoted as "mail-in" were automatically cancelled when payment was not received within 45 days.

Incomplete/Invalid Registry Data

HCID's development of the Registry did not capture data critical to ensuring compliance with the Program was required to be completed and valid in order for the registration to

⁹ LUPAMS is the City's "Land Use Planning and Management System, which captures property ownership data from the Los Angeles County Registrar-Recorder's Office.

be accepted. Instead, some data fields were optional for the registrants, resulting in incomplete registry data and invalid data was not rejected.

Occupancy Status

The Registry was not developed to ensure all necessary data was captured in order for a registration to be accepted. For example, prior to 2013, the registration process did not require registrants to report the property's occupancy status (vacant or occupied) and foreclosure status (NOD, Foreclosure, or REO). While all properties in the foreclosure process remain subject to the annual registration requirement and registrants are responsible for ensuring security and maintenance standards are upheld, the significant enforcement penalties apply only to vacant properties, which are at highest risk for blight. Therefore, it is critical that the occupancy status be a required data field to be completed by the registrant. HCID addressed this issue in January 2013, and new and renewed registrations are now required to report the occupancy status. However, our review noted many "active" registrations in the Registry without this information, as beneficiaries or Trustees had not re-registered their properties.

Local Contact

Beneficiaries or Trustees are required to provide their names and contact information. Beneficiaries or Trustees, or their representatives, are also required to furnish a "local" contact (within 100 driving miles distance of the subject property) to manage the property. This is to ensure that there is a responsible party who is authorized to perform actions necessary to comply with City code enforcement orders. However, the property management contact information field was developed as optional for entry and as a result, based on our review of all registrations as of March 2013, nearly 10,000 property registrations or 40% did not include a local management contact.

Further, there were no data validation checks in the programming that would reject invalid address entries for local contacts. We observed more than 400 invalid addresses for contacts that had street names such as "Unknown" and "Unavailable".

Note: subsequent to our audit fieldwork, HCID indicated that they added data validation checks to ensure that registrations include a local contact.

Revenue Collection

The Registry Portal was developed to allow registration fees to be paid by credit cards, e-checks, or mail-in payments. Since there could be delays in receiving mail-in payments, there should be a process to track the receipt of that payment, and follow-up to ensure the payment was received. Failure to pay the registration fees may subject the registrant to penalties of \$250 a day for noncompliance. Therefore, it is critical that HCID have a process to identify properties with unpaid registration fees.

Through May 2013, registration fees could be mailed-in; however, the Registry system was not designed to facilitate adequate follow-up relative to delayed payments. While there is a system-created transaction, the item is cancelled after 45 days if payment is not received. The system treated unpaid registrations as errors, and deleted the entire registration entry unless someone manually intervened to determine its validity. HCID staff conducted no further research to determine if a property should continue to be registered and collection efforts should ensue. There were no collection efforts if a registrant failed to mail in the payment, and the transaction was cancelled as if it did not happen.

During our audit, in June 2013, HCID management discontinued the option for mail-in payments; only payments made on-line are accepted. While we noted more than 1,000 cancelled transactions that potentially represented uncollected registration fees, HCID indicated that subsequent to our fieldwork they had reviewed a sample of these cancellations and found that some had been errors, and beneficiaries or Trustees had re-registered the properties.

As a result of inadequate system development, the Foreclosure Registry could not be relied on to provide accurate information for determining who was responsible for complying with code enforcement orders and that registration fees due the City were collected. HCID missed the opportunity to send out notices of non-compliance and capture fines or penalties, which could have generated revenue to fund the enforcement program.

SECTION III: ENFORCEMENT & PENALTIES

The underlying intent of the City's Foreclosure Registry Program was to provide a mechanism to identify properties that were entering the foreclosure process, and to enforce property maintenance standards for vacant properties that were in foreclosure, in order to protect neighborhoods from blight.

Finding No. 5: HCID lacked a process to make formal referrals to the Department of Building and Safety of vacant foreclosed properties and to ensure responsible parties perform inspections of foreclosed properties.

Vacant properties in foreclosure were required to be inspected by the beneficiary / Trustee or their designee, and properties must have a posted notice as to the contact for the property, should any problems arise. Vacant properties are subject to administrative penalties of \$1,000 per day, not to exceed \$100,000 if the property is not maintained. DBS is responsible for enforcing property maintenance requirements.

While the framework and resulting Ordinance mandated that beneficiaries or Trustees perform periodic inspections of all registered properties, HCID had no process to ensure they actually conducted these inspections. As previously stated, this mandate also did not consider that the beneficiary/Trustee may not have legal access to a property at the NOD stage, when it is to be registered.

As noted in Finding #2, HCID did not include DBS in the development of FIMS nor did they share the registration database with DBS. We also noted that HCID did not have procedures to formally refer foreclosed properties that may have blighted conditions to DBS.

According to HCID management, some referrals were informally communicated to DBS when HCID staff observed what they believed were blighted vacant properties during their routine work, such as habitability inspections of occupied apartment units for the systematic code enforcement program. However, these referrals and any disposition of them were not documented by HCID and there is no evidence of inspections performed either by the beneficiary/Trustee or DBS.

We selected a sample of 45 properties listed as active on the Foreclosure Registry, and observed one property in a blighted condition and that it did not have the required posting for the local property contact. We also observed two blighted properties that were not included in HCID's Foreclosure Registry, but were listed in a separate NOD database that HCID obtained from DataQuick. These properties were never registered with the City and also did not have a posting of local responsible property management company.

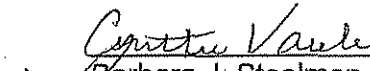
Without having a complete and accurate Foreclosure Registry, a formal routine referral process to DBS for at-risk properties and active enforcement including ensuring beneficiaries or Trustees are held responsible or pay penalties, blighted conditions of foreclosed vacant properties can continue to exist. While we observed only a few blighted properties from our sample, there is a high likelihood that others exist, especially since HCID does not confirm that beneficiaries or Trustees perform the mandatory inspections.

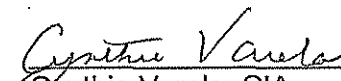
Recommendation:


HCID management and the Mayor and City Council should determine whether the Municipal Code pertaining to the Foreclosure Registry Program should be significantly revised to require more proactive involvement by the City to monitor properties in the foreclosure process. This approach should be focused on the intent to protect neighborhoods from blight caused by vacant foreclosed properties. See Appendix II for a recommended approach to redesigning the Foreclosure Registry Program.


Unless and until significant modifications are made to the current Foreclosure Registry Program, HCID should address the findings that relate to the existing program by implementing the recommendations, as shown in Appendix I.

Respectfully submitted,


Barbara J. Steelman, CIA
Internal Auditor III


Cynthia Varela, CIA
Chief Internal Auditor


Siri Khalsa, CPA
Deputy Director of Auditing


Farid Saffar, CPA
Director of Auditing

APPENDIX I: SUMMARY OF FINDINGS & ACTION PLAN

Description of Finding		Recommendations		Entity Responsible for Implementation	Ranking
1	The City enacted a partially funded and flawed Ordinance that made beneficiaries/Trustees responsible and required registration and maintenance at a stage in the foreclosure process when they may not have had the legal status to enter properties to perform inspections or may not have been equipped to comply.	1.1	HCID and the Mayor and City Council should determine whether the Municipal Code pertaining to the Foreclosure Registry Program should be significantly revised to require more proactive involvement by the City to monitor properties in the foreclosure process. This approach should be focused on the intent to protect neighborhoods from blight caused by vacant foreclosed properties. <i>See Appendix II for a recommended approach to redesigning the Foreclosure Registry Program.</i>	HCID Mayor City Council	1
<i>Unless and until significant modifications are made to the current Foreclosure Registry Program, HCID should implement the following recommendations to address the audit's findings, as noted below.</i>					
2	The City did not adequately plan and develop its Foreclosure Registry Program, including identifying the resources/tools necessary for implementing an effective Program.	2.1	HCID Management should take immediate steps to utilize the NOD database from RealQuest to ensure a complete Foreclosure Registry.	HCID	1
3	HCID did not implement adequate procedures to ensure beneficiaries/ Trustees comply with the Foreclosure Registry Program, thereby missing the opportunity to assess and collect renewal fees and administrative penalties for non-compliance.	3.1	HCID Management should: Develop and implement procedures to periodically review and monitor registrations to ensure the Registry is accurate.	HCID	1
		3.2	Review one-time registrations to determine accurate status and whether registration fees are due.	HCID	1
4	HCID did not develop robust, comprehensive information systems, which resulted in registry data being incomplete and invalidated records with unpaid registration fees.	4.1	HCID Management should: Develop and implement system modifications to ensure a complete and accurate Foreclosure Registry, such as required data fields for a local property management contact.	HCID	1

5	HCID lacked a process to make formal referrals to the Department of Building and Safety of vacant foreclosed properties and to ensure responsible parties perform inspections of foreclosed properties.	5.1	HCID Management should: Provide DBS with a complete list of all registered vacant properties on a regular basis or grant access to the database so DBS has the needed information for enforcement; to perform inspections and address potential blight.	HCID	1
		5.2	Confirm that the Program includes a requirement for owners, upon completion of the foreclosure process, to provide evidence of their inspections; thus allowing the City to monitor their compliance.	HCID	2

Description of Recommendation Ranking Codes

1 – High Priority: The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

2 – Medium Priority: The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. The recommendation should be implemented within six months.

3 – Low Priority: The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

N/A- Not Applicable

APPENDIX II: RECOMMENDED APPROACH FOR REDESIGN OF THE FORECLOSURE REGISTRY PROGRAM

The Controller's Office offers for consideration a recommended approach to replacing the ineffective Foreclosure Registry with a new *Distressed Property GeoRegistry* that would be more comprehensive, efficient and technologically advanced - along with changes to the fees and fines, as outlined below.

I. Purpose and form of new *Distressed Property GeoRegistry*:

- Create a data-driven and results-focused tool that could support a comprehensive and effective neighborhood preservation program.
- Use available public and subscription data to create an always up-to-date geo-coded virtual map of all properties facing foreclosure, foreclosed upon, vacant and/or nuisances.
- Provide detailed information to City Departments and decision makers about distressed properties, responsible parties, complaints, inspections, calls, current conditions, assistance which may have been offered, including access to referrals to other agencies and non-profit organizations that may provide assistance.
- Serve as a tool for tracking, prioritizing, decision-making and accountability to minimize the impact of properties which may become distressed or foreclosed upon.
- Ensure responsible parties perform the legally mandated maintenance and inspections and ensure the Ordinance has clear and enforceable provisions for enforcement agencies to carry out its mandates.

II. City department users and those who could benefit from the *Distressed Property GeoRegistry*:

- Economic & Workforce Development Department
- Housing & Community Investment Department (HCID)
- Human Relations Commission
- Department of Building & Safety
- Planning Department
- Los Angeles Police Department
- Los Angeles Fire Department
- Office of the Mayor
- City Council
- Neighborhood Councils
- Community Groups

III. Data

A new *Distressed Property GeoRegistry* would provide data regarding each property when an NOD is recorded, including information received by subscription(s) to foreclosure data services and information that the City might otherwise gather, including:

A. Information/data from Subscription(s) services*:

- Property profile – including lot size, square footage, improvements, assessed value, street and aerial views, tract map(s), etc.
- Deed(s) of Trust information – including original loan(s) amount(s), recorded beneficiary (lender), Trustee and Trustor(s). May be multiple for multiple loans/Deeds of Trust
- Contact(s) information of record
- Recorded Substitution(s) of Trustee(s), grant deeds, quitclaims, etc. (as might be applicable)
- Notice of Default – including recordation date and date of delinquency and sums delinquent
- Notice of Trustee's Sale – including intended auction/sale date, amount needed to cure, minimum bid, etc.
- Bankruptcy filing(s)
- Continued sales dates (where sales may be postponed)
- Trustee's Deed Upon Sale – evidencing sale to a third party purchaser or acquisition by the beneficiary (lender)
- Information regarding foreclosures cured, as may be available

** Note that while much of the information above is typically derived from L.A. County Registrar-Recorder records, various subscription services offer much of the information and database in a more usable format.*

B. Information from the L.A. County Registrar-Recorder:

- The City of L.A. could consider entering into an agreement / MOU with the County Registrar-Recorder, whereby a Default Property Statement of Information would be required to be filed to accompany each NOD or Notice of Trustee's Sale. Such a Default Property Statement of Information (perhaps similar to the already existing Preliminary Change of Ownership Report form required to record grant or quitclaim deeds) might include:
 - For recorded NODs and Notices of Trustee's Sale – Current contact information for the lender, loan service and Trustee, along

with contact information for an individual or department at the lender and/or servicer that would be a party the City could contact for various purposes if needed.

- For recorded Trustee's Deeds Upon Sale and for recorded Deeds in Lieu of Foreclosure -- contact information for the new owner -- including a responsible lender, beneficiary, purchaser, servicer, broker or manager liaisons..
- Phone and e-mail information should be provided for the above contacts on the form(s) filed with the recorded notices and/or deeds.

- Note: The Land Records Division of the Bureau of Engineering currently receives property ownership change information from the County Registrar-Recorder's Office. The data received may be expanded to include the contemplated Default Property Statement of Information.

C. Information/data from City Departments that could be added and/or overlaid including, but not limited to:

- Complaints, investigations and nuisance information regarding certain properties
- Code Enforcement actions
- Inspections history
- Outreach which may have been conducted by City agencies to assist the homeowner or to help remedy problems, including referrals to outside agencies and non-profit organizations
- Law enforcement calls and actions

IV. Potential uses for the *Distressed Property GeoRegistry* by the City and its departments might include outreach, referrals and related programs for:

- Neighborhood preservation
- Foreclosure prevention and assistance
- Loan and loan-guarantee programs for owners in foreclosure
- Loan and loan-guarantee programs for buyers of foreclosure properties
- Code enforcement
- Counseling and mediation
- Repair assistance
- Partnerships with non-profits

- Investment fund
- Forbearance and relief programs
- Legal assistance
- Credit counseling
- Down-payment assistance
- Purchase programs for blighted properties

V. Registration and registration fees:

A. Current Ordinance:

Under the Current Foreclosure Ordinance, a beneficiary/Trustee must register a property within 30 days of recording a Notice of Default and must pay a \$155 fee per calendar year.

B. Problems with Current Ordinance:

Problems cited in the Audit (see Findings #1 and #5) include detailed practical and legal obstacles to enforcing the registrations, inspections, and maintenance by lenders for properties where they are not yet the owners of record (and for which they may never obtain that legal status – or right to perform any work on such properties).

The Ordinance arguably cast too wide of a net in its attempt to solve the problem of potential neighborhood blight by requiring beneficiaries or Trustees to register the greater population of all properties receiving a Notice of Default recording, versus more specifically addressing bank-owned properties (REOs) and/or abandoned and blighted properties.

C. Recommended Steps:

- Obtain more detailed NOD information from other sources, stop requiring registration at time of NOD by beneficiaries or Trustees
- Institute instead a registration and registration fee requirement for all properties wherein ownership rights have transferred to a beneficiary pursuant to a Trustee's Sale or a Deed in Lieu of Foreclosure.
 - Council and Mayor may want to consider the relative benefits and possible burdens of extending a similar registration and registration fee requirement for properties also acquired by third-party purchasers pursuant to a Trustee's Sale.

- Prepare a cost-based estimate of fees that will fund the revised program's costs, including registration and inspection costs upon initial implementation, to be followed by a formal fee study to ensure all program costs are covered
- Use the funds currently available in the program account to scope, create and promulgate the new Distressed Property GeoRegistry
- Use the funds to establish a preliminary evaluation program at time of registry with the purpose of categorizing the condition of the property (possibly a letter grade to indicate condition of blight or absence thereof)
- Seek to reach an agreement with the L.A. County Registrar-Recorder to promulgate a Default Property Statement of Information (see Section III. B)

VI. Inspections

A. Current Ordinance:

Under the current Foreclosure Ordinance, a beneficiary/Trustee or their representative is required to inspect all properties wherein an NOD has been recorded. Occupied properties must be inspected monthly; vacant properties must be inspected weekly. The Department of Building & Safety (DBS) is responsible for inspection and possible enforcement related to properties listed on the Registry.

B. Problems with Current Ordinance:

In addition to the problems detailed herein above in Sec. V.B of this Appendix (and cited in the Controller's audit (see Findings #1 and #5), the sharing of information by Housing with DBS (and vice versa) has not reached its potential – and the program provided no funding for City inspection activities.

C. Recommended Steps:

- Coupled with the revised registration and registration fee requirement noted in Section V, herein above, institute a standard DBS inspection fee for all properties wherein ownership rights have transferred to a beneficiary pursuant to a Trustee's Sale or a Deed in Lieu of Foreclosure.
 - Council and Mayor may want to consider the relative benefits and possible burdens of extending a similar standard DBS inspection fee for properties also acquired by third-party purchasers pursuant to a Trustee's Sale.
- At such time as a transfer of property has occurred pursuant to the foreclosure (typically upon the recordation of a deed evidencing the change of

ownership), the new owner would, as provided under current laws, be responsible for compliance with all building and safety ordinances. Moreover, following a DBS inspection (as contemplated herein above) the new property owner would be required to timely comply with all notices to correct.

- The focus of inspections on vacant properties would typically be for identification and abatement of nuisances, whereas for properties that are occupied, issues of habitability would be the focus of such inspection(s) as well.
- All existing inspection and nuisance related ordinances and remedies would continue to also apply to property owners who are in the foreclosure process – but who still are owners of a problem property.
- Finally, the City should also explore supplemental ways to gather inspection-like data to populate and/or supplement information on the Distressed Property GeoRegistry, possibly including: information/photos submitted by neighbors via a crowd-sourcing-like smart phone App or via the City's existing 311 App; or utilizing DOT parking enforcement personnel or DWP meter-reading personnel to photograph properties where problems may have been reported.

VII. Fines & Penalties

A. Current Ordinance:

The current Foreclosure Registry Ordinance made changes to Los Angeles Municipal Code; it added Article 4 to Chapter XVI – Housing Regulations and amended Chapter IX – Building Regulations, both of which included administrative penalties.

Chapter XVI – Housing Regulations

Article 4, Section 164.04 Registration of Properties in Foreclosure.

“If the beneficiary and/or trustee fails to comply with this section within 30 days of LAHD’s notification, the beneficiary and/or trustee shall pay a penalty in the amount of \$250 per day for each day subsequent to LAHD’s notification.”

Article 4, Section 164.08 Violation/Penalty.

“Violations of this chapter shall be treated as strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement under the Los Angeles Municipal Code. Administrative

penalties imposed pursuant to this ordinance shall not exceed \$100,000 per property.”

Chapter IX – Building Regulations

Article 1, Section 98.0716 Vacant Structure Penalty.

“(a) Any Responsible Person in charge of a structure that meets the definition of a Vacant Structure as provided in this division for 30 consecutive calendar days may be liable for an administrative penalty of \$1,000 per structure per day, not to exceed \$100,000 per property per calendar year...” subject to certain exceptions.

B. Problems with Current Ordinance:

While the current Ordinance provides for administrative penalties for registration, security and maintenance requirements, in fact, as of the audit date, no penalties were assessed or paid as a result of the Ordinance. The Ordinance did not include funding for proactive property inspections, which hindered full implementation of the Foreclosure Registry Program. Moreover, there are both practical and legal obstacles to enforcing maintenance requirements on lenders/trustees -- for properties wherein they are not (yet) owners -- and where they may not (yet) have any rights to perform curative work upon such properties.

C. Recommended Steps:

- Revise and clarify the existing fines and penalties that are currently imposed upon lenders /trustees under the current Ordinance such that such fines and penalties be more appropriately imposed only upon bank-owned properties -- that is to say properties wherein ownership rights have transferred to a beneficiary pursuant to a Trustee’s Sale or a Deed in Lieu of Foreclosure.
- All other fines and penalties imposed upon property owners as provided in various building and safety ordinances should remain in full force and effect.
- Provision should be made to ensure that beneficiaries or third party purchasers who acquire title pursuant to a Trustee’s Sale or a Deed in Lieu of Foreclosure are not necessarily fined or penalized for the nuisances or code violations created by a foreclosed-upon borrower or other party wherein the owner has initiated eviction proceedings and wherein the foreclosed-upon borrower or other party may be continuing to occupy the problem property illegally and without rights of tenancy following transfer of ownership of such a property.