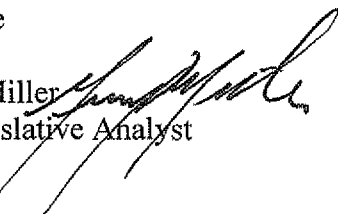


**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: May 17, 2013

TO: Honorable Members of the Housing, Community & Economic Development
Committee

FROM: Gerry F. Miller 
Chief Legislative Analyst

Council File No: 12-0647-S1
Assignment No: 12-06-0519

Proactive Enforcement of the Los Angeles Foreclosure Registry

SUMMARY

In order to address the blight caused by the escalating number of foreclosures in the City of Los Angeles, in 2010 the City Council adopted the Foreclosure Registry Program. The program requires lenders to register residential property with the Los Angeles Housing Department (LAHD) within 30 days of filing a Notice of Default (NOD), which is the official start of the foreclosure process. It was envisioned that the information contained in the registry would be used to contact the appropriate parties should homes become blighted during the foreclosure process. After two years, it became apparent that the Foreclosure Registry Program needed to be revised in order to become more effective at addressing foreclosure blight. On June 13, 2012, the City Council adopted Motion (Garcetti-Alarcón) to amend the Foreclosure Registry Program Ordinance (No. 181185) to include an enforcement fee to fund proactive inspections of registry properties by City code enforcement staff.

The Chief Legislative Analyst (CLA) organized a working group comprised of Council District 13, the City Attorney, LAHD, Los Angeles Department of Building and Safety (LADBS), the Mayor's Office, and the City Administrative Officer (CAO), which collaborated to design a program capable of remediating foreclosure blight in the City. The best practices of Oakland (which has a successful proactive program) and other cities in California were studied during the development of this proposal. This report recommends that the foreclosure registry be proactively inspected by City personnel and proposes an LADBS fee of \$274.33 per inspection and use of an existing LAHD fee of \$201.50 per inspection. The Mayor's FY 2013-2014 Proposed Budget includes funding for six LADBS inspectors who will be responsible for inspecting properties on the Foreclosure Registry alongside existing LAHD inspectors. The Mayor's Budget does not address LADBS system start-up costs of \$527,000. However, funding is currently available in the Code Enforcement Trust Fund to pay for these start-up costs. The report recommends additional modifications designed to make the registry a more effective deterrent to foreclosure blight. It also recommends that the City Attorney prepare opinions to determine if the City can require responsible parties to maintain NOD Vacant properties and NOD Tenant Occupied Multifamily properties. It is further recommended that LAHD and LADBS update the Council quarterly on the status of the program and present the City's latest

foreclosure data. While the Mayor's Budget proposes the consolidation of LADBS with the Department of Planning and an expanded function and new name for LAHD, this report uses the current department names as Council has not yet approved these changes.

The proposed Proactive Foreclosure Registry Program has the following three goals:

1. To prevent the growth of neighborhood blight by ensuring that lenders are inspecting and maintaining their Vacant NOD, Occupied Real Estate Owned (REO), and Vacant REO properties;
2. To mitigate blighted foreclosed homes; and
3. To ensure that the City has adequate information on properties in the foreclosure process in order to contact those responsible should blight be discovered through proactive enforcement.

The program would require responsible parties to:

1. Register, inspect, and report on Occupied NOD properties; and
2. Register, inspect, report, and maintain Vacant NOD properties, Occupied REO, and Vacant REO properties.

Code enforcement staff from LADBS and LAHD will proactively enforce the following properties on the registry:

1. Vacant NOD
2. Occupied REO
3. Vacant REO

LAHD will additionally enforce the responsible party's registry, inspection, and reporting requirements.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Approve the proactive enforcement of the Foreclosure Registry using Los Angeles Housing Department and Los Angeles Department of Building and Safety personnel to conduct inspections of select properties on the Foreclosure Registry;
2. Approve revisions to the Foreclosure Registry Program, including adding monthly inspection and reporting requirements for responsible parties, and other revisions as described in this report;

3. Request the City Attorney to prepare an opinion on whether or not the City can require responsible parties to maintain NOD Vacant properties and hold them accountable for the conditions of these properties under the new Proactive Foreclosure Registry Program;
4. Request the City Attorney to prepare an opinion on whether or not the City can require responsible parties to maintain NOD Tenant Occupied Multifamily properties whose owners have abandoned and hold the responsible parties accountable for the conditions of these properties under the new Proactive Foreclosure Registry Program;
5. Request the City Attorney, with the assistance of the Chief Legislative Analyst, the Los Angeles Housing Department, and the Los Angeles Department of Building and Safety to prepare and present an amendment to the Foreclosure Registry Program Ordinance (No. 181185) within 30 days to include proactive inspections of select properties on the Foreclosure Registry, inspection and reporting requirements, other revisions discussed in this report, and other such revisions necessary to ensure a successful program consistent with the intent of the City Council.
6. Direct the Los Angeles Housing Department and the Los Angeles Department of Building and Safety to report to the City Council quarterly on the Foreclosure Registry Program's efforts to mitigate foreclosure blight and the status of foreclosures in the City of Los Angeles.

FISCAL IMPACT

The Foreclosure Registry Program will have no impact on the General Fund if the Council approves the Foreclosure Registry Inspection Fee as proposed and included in the Mayor's Proposed FY 2013-2014 Budget. The existing LAHD registry fee and inspection fee will fund ongoing LAHD registry and inspection costs.

BACKGROUND

As a result of the foreclosure crisis that began in 2007 and hit its peak in 2009, thousands of residential properties in the City of Los Angeles have fallen victim to disrepair and negligence. These blighted properties, at a minimum, erode property values and neighborhood aesthetic and at the worst attract gangs, vagrants, drug use, prostitution, and other illegal activity. The City responded to this growing problem with the creation of the Foreclosure Registry Program. Effective in July 2010, the program was established to protect residential neighborhoods from the blight caused by the lack of adequate maintenance and security of homes progressing through the foreclosure process. Upon the filing of a Notice of Default (NOD), the lender (including any beneficiary or trustee who holds or has an interest in a deed of trust on the property) is required to register the property with LAHD within 30 days. If the lender fails to comply with the registry requirement, the ordinance provides for a \$250 per day penalty. The current registry fee of \$155 supports the systems and administrative personnel required to manage the registry. Lenders once had the option to register their properties with Mortgage Electronic Registration Systems (MERS) and avoid registering with LAHD and remitting the registry fee. In November


2012, the Council amended the Foreclosure Registry Program to delete this option, requiring that all lenders register with LAHD and remit the fee effective January 1, 2013.

One of the problems encountered by the City in its efforts to address the growing blight caused by foreclosed homes was contacting the lender and other parties responsible for the maintenance of the property. Due to the complex nature of mortgage instruments popular in the run up to the crisis, this information was not always readily available. The City of Los Angeles created a foreclosure registry as a tool for notifying the appropriate parties in the event that the City has determined that blight exists on the property. After two years, based on a variety of community surveys it is clear that the blight caused by the foreclosure process merits a stronger response than is possible from the existing foreclosure registry. In order to effectively enforce property standards and prevent the foreclosure process from blighting communities, the City Council requested that the City Attorney amend the Foreclosure Registry Program to include an enforcement fee on foreclosed properties that would be levied at the Notice of Default, provide dedicated code enforcement staff to conduct proactive inspections of registry properties, contain provisions requiring direct communication between banks/investor-owners of foreclosed properties and LADBS, and a requirement that banks/investor-owners report monthly on the status of their foreclosed properties.

MAYOR'S FY 2013-2014 PROPOSED BUDGET

As of April 2013, there is a balance of approximately \$3.2M in the Foreclosure Registry Account. The Mayor's FY 2013-2014 Proposed Budget appropriates \$1.55M from this account for the funding of one (1) LADBS Senior Building Mechanical Inspector and five (5) LADBS Building Mechanical Inspectors who will be responsible for inspecting properties on the Foreclosure Registry. The Mayor's Budget does not fund LADBS system start-up costs of \$527,000. The Proposed Budget also recommends a Foreclosure Registry Inspection Fee of \$274, which was determined by a LADBS fee study. This fee will support the ongoing costs of these six inspectors and one Clerk Typist, who will provide clerical and office support.

The budget additionally recommends that all functions currently performed by the Department of Building and Safety be transferred to the new Department of City Planning and Development, effective January 1, 2014. The budget additionally recommends that the Los Angeles Housing Department be combined with portions of the former Community Development Department and be renamed the Housing and Community Investment Department. This revised department will continue to fund the inspectors necessary for carrying out inspections of Multifamily Occupied properties under this proposed program.


Clay McCarter
Analyst

- Attachments: 1. The Proactive Foreclosure Registry Program
2. Proposed Program Procedure
3. Foreclosure Process
4. LADBS Fee Study

THE PROACTIVE FORECLOSURE REGISTRY PROGRAM

The purpose of the proposed Proactive Foreclosure Registry Program is to prevent the blight that often results at foreclosed homes by ensuring that lenders are inspecting and reporting on their Occupied NOD properties and inspecting, reporting, and maintaining their Vacant NOD and REO properties. Through this expanded program, the City will obtain greater detail on the properties in the foreclosure process and will be able to contact those responsible should blight be discovered through proactive City enforcement.

The following properties are subject to the program:

- NOD Occupied
- NOD Vacant
- REO Occupied
- REO Vacant

The parties responsible for complying with the registry are as follows (hereafter “responsible parties”):

- Any beneficiary or trustee, who holds, or has an interest in, a deed of trust on a residential property in foreclosure located within the City of Los Angeles; and
- Beneficiary of a deed of trust who has gained title to residential property located within the City of Los Angeles due to foreclosure sale or deed in lieu of foreclosure/sale.

Within 30 days of filing an NOD against a residential property in the City of Los Angeles, the responsible party will be required to register, inspect, and report on the status of the property.

The following chart provides a summary of the actions required of the responsible party per property type:

	NOD Occupied	NOD Vacant	REO Occupied	REO Vacant
Registration	X	X	X	X
Monthly exterior blight inspection and submittal of inspection report to LAHD	X	X	X	X
Hiring of Property Management Company if located in excess of 100 miles from the property	X	X	X	X
Maintenance requirement		X	X	X
Posting of property management information		X	X	X

Registration Procedure

A responsible party subject to this program must register a property to the Foreclosure Registry on LAHD's Foreclosure Registry website. The online registration form will require detailed information on the property, property manager, lender, and servicer. As in current practice, the registration will be valid for the calendar year or remaining portion of the calendar year in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due. *Responsible parties who fail to register are subject to a penalty of \$250/day.*

Initial and On-going Monthly Exterior Inspections

As part of the initial registration, the responsible party is required to provide a report of an exterior inspection of the property which documents the condition of the premises. The findings of the inspection will be disclosed by the responsible party on an online form as part of the property registration. The property must continue to be inspected every month thereafter and a report submitted on or before the 1st day of the following month until the property is removed from the registry. All properties on the registry are subject to this requirement. During the registration process, the responsible party must provide details of who will be conducting the monthly inspections, including contact information. *Responsible parties who fail to inspect and report on a monthly basis are subject to a penalty of \$250/day.*

Change in Status

As the property progresses through the foreclosure process, upon any change in status the responsible party is required to update the registry within 10 days. This includes but is not limited to a servicer change, vacancy, filing of an REO, etc. Responsible parties are also required to de-register the property within 10 days once the property is no longer subject to the registry, as a result of the NOD being cancelled or the property being sold to a third-party, etc. Program fees will not be refunded. *Responsible parties who fail to update the registry within 10 days are subject to a penalty of \$250/day.*

Maintenance Requirements

Responsible parties are required to maintain NOD Vacant, REO Occupied, and REO Vacant properties according to City law. If the property is not in compliance, the responsible party is to bring the property into compliance.

Hiring of a Property Management Company

As in the current program, if the responsible party is located in excess of 100 road/driving miles from the property, it is required to hire a property management company. For the following property types, the responsible party is additionally accountable for ensuring that the property management company posts information on the property including the name of the management company and a contact telephone number:

- NOD Vacant
- REO Occupied
- REO Vacant

If responsible parties are required to post a property and fail to do so, they are subject to a penalty of \$250/day.

Proactive City Inspections

When the responsible party updates the registry and indicates that the property is an NOD Vacant, REO Occupied, or REO Vacant, and after they remit the one-time proactive inspection fee, the properties will be proactively inspected by City code enforcement personnel from either LADBS or LAHD as follows:

- **LADBS (exterior inspection including pools and spas):** NOD Vacant, REO Occupied Single Family, and REO Vacant. It is estimated that 5,000 properties will be inspected by LADBS each year. The responsible party will be directed to pay the inspection fee at the point of updating the property's status on the registry. Inspectors will be looking for signs of exterior blight, including, but not limited to
 - Waste/rubbish/debris
 - Graffiti
 - Excessive vegetation
 - Inoperable vehicles
 - Appliances

Should inspectors discover blight, an order will be written to abate the blight and delivered to the owner of record.

- **LAHD (exterior/interior inspection):** REO Occupied Multifamily. At the point of a multifamily property's change in status to REO Occupied, LAHD will review the property and schedule an inspection if the property is not already under a current SCEP (Systemic Code Enforcement) case or other code enforcement action.

The proactive inspection fee covers the first inspection by City code enforcement personnel and is only remitted once per calendar year while the subject property is on the registry. Should the inspectors discover violations or the public file a complaint, the responsible party could be subject to additional inspections/fees. If a property subject to a proactive City inspection must be re-registered, an additional inspection fee must be remitted (once the property becomes eligible for a proactive inspection) along with the renewal registry fee.

Proactive Inspections of NOD Vacant Properties

Due to the lengthy nature of the foreclosure process, it can take approximately one year between the filing of an NOD and the lender assuming control of the property at the REO stage. Before the home is transferred to the lender, some owners may elect to vacate the property, possibly creating an environment for blight to accumulate. This grey zone between the absentee owner

and the lender who has not yet gained control can cause blight to go unmitigated and negatively affect the community. In order to prevent blight, responsible parties will be required to maintain and post their NOD properties upon vacancy. It is important to note that should a City inspection discover a violation, the City is required to send a notice to comply order to the owner of record. In the case of formerly owner-occupied single family homes that have been vacated, this order to comply could place further burdens on the owner who is losing their home through foreclosure. Our office recommends that the City Attorney be requested to analyze whether or not the City can require responsible parties to maintain NOD Vacant properties and hold them accountable for the conditions of these properties under the new Proactive Foreclosure Registry.

An additional issue that requires clarification from the City Attorney concerns cases where the owner of an NOD Occupied multifamily property abandons the property, leaving tenants vulnerable to blight. Our office recommends that the City Attorney provide an opinion on the feasibility of treating these properties under the NOD Vacant category, including requiring responsible parties to maintain and post the properties.

Registry and Inspection Fees

It is recommended that the existing registry fee of \$155 be continued, this fee will cover LAHD's management of the registry. The proposed proactive LADBS inspection fee is \$274.33 per inspection. The department has provided a detailed fee study listed as Attachment 4. The proactive LAHD inspection fee is recommended at \$201.50 per inspection and is the existing inspection fee used by LAHD in its code enforcement programs.

PROPOSED PROGRAM PROCEDURE

The responsible party would be required to perform the following actions depending on the property type:

After Recordation of Notice of Default

Within 30 days the responsible party must:

- Inspect the property
- Register the property with LAHD
- Pay the registry fee to LAHD
- Submit a property inspection report to LAHD

If property is an **NOD Occupied**, the responsible party:

- Inspects property monthly
- Submits property inspection report to LAHD monthly
- Upon change in status, updates registry within 10 days

If property becomes an **NOD Vacant**, the responsible party:

- Pays the one-time proactive inspection fee to LADBS
- Inspects property monthly
- Submits property inspection report to LAHD monthly
- Posts property management information
- Maintains property
- Upon change in status, updates registry within 10 days

After Recordation of Real Estate-Owned Property (REO)

Within 10 days the responsible party must update the registry.

If property becomes an **REO Occupied**, the responsible party:

- Pays the one-time proactive inspection fee to LADBS or LAHD (if multifamily) if haven't already
- Inspects property monthly
- Submits property inspection report to LAHD monthly
- Posts property management information
- Maintains property
- Upon change in status, updates registry within 10 days

If property becomes an **REO Vacant**, the responsible party:

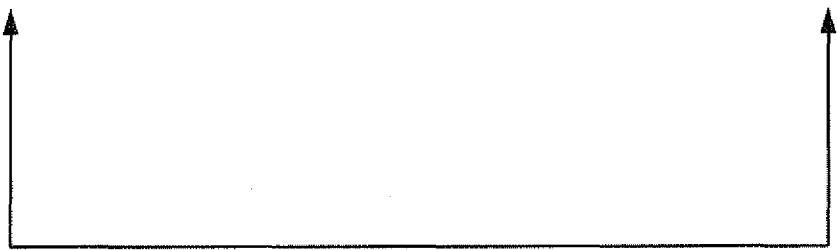
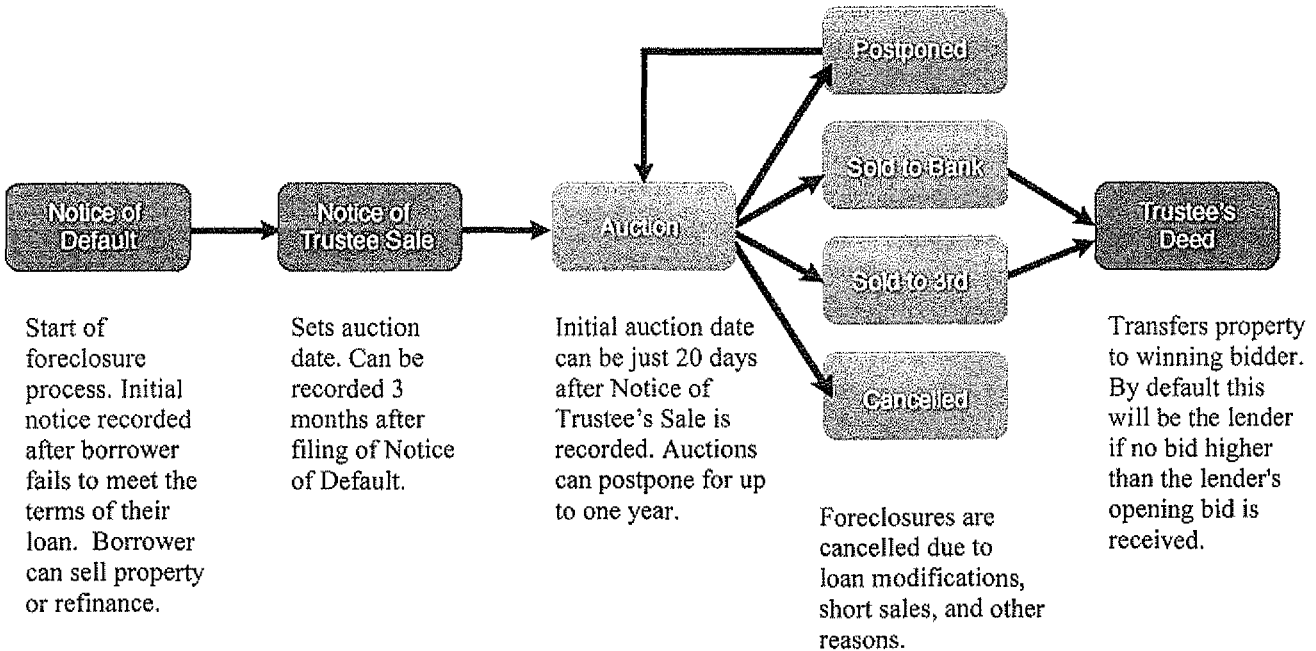
- Pays the one-time proactive inspection fee to LADBS if haven't already
- Inspects property monthly
- Submits property inspection report to LAHD monthly
- Posts property management information
- Maintains property
- Upon change in status, updates registry within 10 days

Removal of Property from Registry

Once a property is no longer subject to the registry, the responsible party must remove it from the registry within 10 days.

THE FORECLOSURE PROCESS

The foreclosure process, outlined below, begins when a lender notifies the trustee that the owner has defaulted on the loan. The trustee issues a Notice of Default, which notifies the borrower and the public that the loan may be foreclosed. This notice provides for an opportunity for the borrower to dispute the default claim or to bring the loan current. If the loan continues to be in default, the trustee will remit a Notice of Trustee Sale, which notifies the borrower that the property will be auctioned. The Notice of Trustee Deed is the point when a property is considered foreclosed.



Average of 1 yr from NOD filing to foreclosure sale.

At the Trustee Sale Auction, one of four actions may be taken. Source: ForeclosureRadar.

**Enhanced and New General Fund Revenue
Full Cost Recovery for the Foreclosure Inspection Program
Fiscal Year 2013-14**

The following provides information on various tasks and classifications involved in formulating a full cost recovery fee to operate the Foreclosure Inspection Program. The implementation of Foreclosure Registry Inspection Program will affect the following systems in the Department of Building and Safety: Online Payments System, Code Enforcement and Inspection System (CEIS), mobile CEIS, Cashiering System and Financial Services System. In addition to the required enhancements to these current systems, interface programming with LAHD's systems is required to allow both systems to automate communication between the two systems. The programming efforts are estimated to be completed in six months and will require 1 DBA, 2 Systems Programmer II's, 1 Systems Analyst II and 1 Business Expert (Sr Building Mechanical Inspector).

Foreclosure Registry Tasks Per Case	Average Annual Site Trips (A)	No. Hours Per Task Annually (B)	Average Total Time Spent Per Task (hrs.) (A*B)=C	Average Time Spent Annually	No. of Staff Needed per Class	Classification Performing Task (D)	Hourly Rate Based on 2080 hrs. Annually ^{1,2,3}	Total Hourly Fee (C)*(E)=(F)
New Staff								
Inspector Case Processing/Research	1	1.00	1.00	5,000	2.50	Building Mechanical Inspector	\$ 88.62	\$ 88.62
Travel Time to Job Site	1	0.50	0.50	2,500	1.25	Building Mechanical Inspector	\$ 90.91	\$ 45.45
Conduct Field Inspections	1	0.50	0.50	2,500	1.25	Building Mechanical Inspector	\$ 90.91	\$ 45.45
Oversight of Inspector's Work	1	0.40	0.40	2,000	1.00	Sr. Building Mechanical Inspector (New)	\$ 98.74	\$ 39.50
Clerical Case Processing	1	0.40	0.40	2,000	1.00	Clerk Typist (New)	\$ 48.43	\$ 19.37
Existing Staff								
Financial Processing and Reconciliation	1	0.10	0.10	500	0.25	Accountant II	\$ 64.67	\$ 6.47
Cash Receipt Accounting	1	0.05	0.05	250	0.13	Accounting Records Supervisor II	\$ 76.41	\$ 3.82
Respond to Financial Questions	1	0.10	0.10	500	0.25	Clerk Typist	\$ 47.57	\$ 4.76
Supervisory Oversight and Review	1	0.05	0.05	250	0.13	Principal Inspector	\$ 107.16	\$ 5.36
Application and Server Maintenance	1	0.05	0.05	250	0.13	Systems Programmer II		
Estimated Time							3.10	
							Subtotal \$ 258.80	
							Systems Development Surcharge (6%) \$ 15.53	
							Total Fee Per Property \$ 274.33	
							Projected Number of Billable Properties Annually 5,000	
							Projected Estimated Revenue FY 2013-14 \$ 1,371,633	
							First Year Start Up Costs⁴ \$ 526,779	

¹ Fiscal Year 2013-14 Wages and Count.

² CAP 34 includes Department Administration 18.33%, Fringe Benefits 45.89%, Central Services 8.68% and Compensated Time Off 21.22% = 94.12%; posns full time to the Program receive CTO.

³ Expenses include mileage (Inspectors), Printing and Binding, Contractual Services, Office and Admin, Operating Supplies, and Equipment.

⁴ First year start up costs will be from the Foreclosure Registry Account, which currently has a balance of \$2.6M; revenue account and fund information can be obtained from the Los Angeles Housing Dept.