

Item 50  
Dec 4, 2012

(O-2013-38 REV.)

ORDINANCE NUMBER O- 20228 (NEW SERIES)

DATE OF FINAL PASSAGE DEC 18 2012

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 4, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING A NEW TITLE OF "REGISTRATION OF DEFAULTED OR FORECLOSED RESIDENTIAL PROPERTIES," OF DIVISION 11; AND BY ADDING SECTIONS 54.1101, 54.1102, 54.1103, 54.1104, 54.1105, 54.1106, 54.1107, 54.1108, 54.1109, 54.1110, 54.1111, 54.1112, 54.1113, and 54.1114, ALL RELATING TO THE REQUIREMENT FOR LENDERS TO REGISTER DEFAULTED AND FORECLOSED RESIDENTIAL PROPERTIES.

WHEREAS, defaulted and foreclosed residential properties often fall into neglect, lack proper maintenance and security, and lower property values, especially when structures on these properties become vacant or are not legally occupied; and

WHEREAS, it is important that the City of San Diego has accurate and current information regarding the names, telephone numbers, email addresses, and mailing addresses of beneficiaries or trustees who hold an interest in deeds of trust for defaulted residential properties, so that these properties can be easily monitored and tracked by code enforcement personnel; and

WHEREAS, it is important that the City of San Diego has accurate and current information regarding the names, telephone numbers, email addresses, and mailing addresses of beneficiaries or trustees to whom title has transferred as a result of a foreclosure sale or deed in lieu of foreclosure, so that these properties can also be easily monitored and tracked by code enforcement personnel; and

WHEREAS, accurate contact information for lenders and financial institutions responsible for these properties is often difficult to obtain, and a registry requirement will allow the City to better protect residential neighborhoods due to the lack of adequate maintenance and security which often occurs at these properties; and

WHEREAS, amendments to the Municipal Code requiring that beneficiaries or trustees who hold an interest in deeds of trust for defaulted residential properties, and beneficiaries or trustees to whom title has transferred as a result of a foreclosure sale or deed in lieu of foreclosure, register accurate contact information with the City of San Diego will provide a mechanism for the City to identify, inspect, monitor, and track these properties; and

WHEREAS, fees charged as part of the registration process can be used to recover the costs incurred by the City for the creation and maintenance of the registry, and the inspection and investigation of registered properties; and

WHEREAS, failure to comply with the registration requirements may result in the assessment of civil penalties; NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 5, Article 4, of the San Diego Municipal Code is amended by adding Division 11 titled "Registration of Defaulted or Foreclosed Residential Properties," and by adding sections 54.1101, 54.1102, 54.1103, 54.1104, 54.1105, 54.1106, 54.1107, 54.1108, 54.1109, 54.1110, 54.1111, 54.1112, 54.1113, and 54.1114, to read as follows:

**Chapter 5: Public Safety, Morals and Welfare**  
**Article 4: Public Hazards and Public Nuisances**  
**Division 11: Registration of Defaulted or Foreclosed Residential Properties**

**§54.1101 Purpose and Intent**

It is the purpose and intent of this Division to require lenders who issue a *Notice of Default* or foreclose on residential properties to register current contact information with the City so that code enforcement officials can track, inspect, and monitor these properties, and easily identify and contact the *responsible party* if the property lacks maintenance or security, thereby protecting the safety, welfare, and property values of neighborhoods.

**§54.1102 Definitions**

The words and phrases used in this Division have the meanings set forth in this section. Defined terms appear in italics:

*Assignment of Rents* means an instrument that transfers the beneficial interest under a *deed of trust* from one lender to another.

*Beneficiary* has the same meaning as in San Diego Municipal Code section 54.0302.

*Beneficiary's Designated Agent* means a servicing company or other entity that has contracted with a *beneficiary* to collect installment payments on a note secured by a *deed of trust*, or administer any default or foreclosure

process, or perform other duties related to a note secured by a *deed of trust*.

*Deed in Lieu of Foreclosure* has the same meaning as in San Diego Municipal Code section 54.0302.

*Deed of Trust* has the same meaning as in San Diego Municipal Code section 54.0302.

*Director* has the same meaning as in San Diego Municipal Code section 11.0210.

*Enforcement Official* has the same meaning as in San Diego Municipal Code section 11.0210.

*Legal Owner* means the person or entity having record title to the property as shown in the San Diego County Recorder's office.

*Legal Owner's Designated Agent* means a servicing company, property management company, or other entity that has contracted with the *legal owner* to ensure the property is in compliance with state law or the Municipal Code or to perform duties related to the maintenance and security of the property.

*Notice of Default* has the same meaning as in San Diego Municipal Code section 54.0302.

*Property in Default* means a residential property within the City of San Diego that is subject to a current *notice of default*.

*REO Property* means a real-estate owned residential property for which title has transferred to the *beneficiary* or *beneficiary's designated agent* as the result of a foreclosure sale or *deed in lieu of foreclosure*.

*Responsible Party* means, for a *property in default*, the *beneficiary* or the *beneficiary's designated agent*; and for an *REO property*, the *legal owner* or the *legal owner's designated agent*.

*Statement of Intent* has the same meaning as in San Diego Municipal Code section 54.0302.

*Trustee* has the same meaning as in San Diego Municipal Code section 54.0302.

*Trustor* has the same meaning as in San Diego Municipal Code section 54.0302.

*Vacant Structure* has the same meaning as in San Diego Municipal Code section 54.0302.

**§54.1103 Enforcement Authority**

The Director of the Development Services Department, or any other City department is authorized to administer and enforce the provisions of this Division. The Department Director or anyone designated by the Department Director to be an *Enforcement Official* may exercise any

enforcement powers as provided in Chapter 1, Article 2, Division 1 of this Code.

**§54.1104 Enforcement Remedies**

The exclusive remedy to enforce the provisions of this Division is the imposition of administrative civil penalties pursuant to Section 54.1111.

**§54.1105 Strict Liability Offenses**

Violations of this Division shall be as treated strict liability offenses regardless of intent.

**§54.1106 Joint and Several Liability**

In the event there is more than one *responsible party* for a single property, each *responsible party* shall be jointly and severally liable for compliance with the provisions of this Division.

**§54.1107 Duty to Register**

(a) The *responsible party* for a *property in default*, shall register the property with the *Director* within 10 calendar days of issuing a *notice of default*, or if the *notice of default* was issued prior to the effective date of this ordinance, within 30 calendar days of the effective date of this ordinance.

- (b) The *responsible party* for an *REO property* shall register the property with the *Director* within 10 calendar days of the transfer of title or, if the title was transferred prior to the effective date of this ordinance, within 30 calendar days of the effective date of this ordinance.
- (c) Registration shall be filed on City-approved forms which shall require the following information, as well as any additional information deemed necessary by the *Director*:
- (1) The name, telephone number, email address, street address, and mailing address of the *responsible party*, and whether the party is the *beneficiary, beneficiary's designated agent, legal owner, or legal owner's designated agent*.
  - (2) A direct contact name and telephone number for the *responsible party*.
  - (3) The name, telephone number, email address, street address, and facsimile number of any local property management or property preservation company responsible for the maintenance, security, and marketing of the property.
  - (4) Whether there is a *vacant structure* on the property.
  - (5) If there is a *vacant structure* on the property, a copy of the *statement of intent* filed with the City pursuant to San Diego

Municipal Code section 54.0313 shall be provided with the registration form.

**§54.1108 Duty to Update and Renew Registration**

(a) The initial registration of a property shall be effective for the duration of the calendar year in which it is made with the exception that the *responsible party* shall provide to the *Director* any change in the information previously submitted to the City or otherwise required under this Division including but not limited to: a change in the identity of the *responsible party*, a change in the status of the property, and any change in contact information, within 10 calendar days of the date of the change.

(b) For any registered property that is still subject to the registration requirements of this Division on January 1 of each year, the *responsible party* must submit a renewed registration by no later than January 31 of that year.

**§54.1109 Duty to Pay Registration Fee**

(a) The *responsible party* shall pay a fee set in an amount established by the City Council to cover the costs of the registry of defaulted and foreclosed residential properties maintained by the *Director*, including, but not limited to: the creation and maintenance of the registry; the inspection and investigation of registered properties to ensure



compliance with the requirements of this Division. These costs shall be determined within 60 days of the effective date of this ordinance and thereafter annually by the City, in accordance with the City Council's User Fee Policy. The fee schedule shall be filed in the Ratebook of City Fees and Charges in the City Clerk's Office.

(b) The registration fee shall be paid with the initial registration and with each annual renewal.

**§54.1110 Penalty for Failure to Comply with Registration Requirements**

Any *responsible party* that fails to comply with the registration requirements of this section may be liable for an administrative civil penalty in the amount of \$100 per day for each day of non-compliance, not to exceed \$5,000 in a calendar year.

**§54.1111 Right to Appeal Penalty**

An appeal of a penalty imposed under this Division shall follow the procedures set forth in Division 5 of Article 2 of Chapter 1 of this Code.

**§54.1112 Failure to Pay Penalties**

The failure of any person to pay a penalty imposed under this Division within the time specified by the City in a written notice may result in the City using any legal means to recover the civil penalties, including

referring the matter to the City Treasurer to file a claim with the Small Claims Court.

**§54.1113 Allocation of Penalty**

Civil penalties collected pursuant to this Division shall be payable directly to the City Treasurer and deposited in the civil penalties fund established pursuant to Section 13.0402 of the San Diego Municipal Code.

**§54.1114 Termination of Registration Requirement**

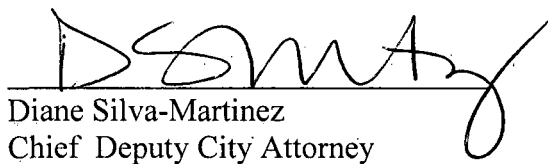
If a registered property is no longer subject to the registration requirements of this Division, the *responsible party* shall report this information to the *Director* within 10 calendar days.

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the sixtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

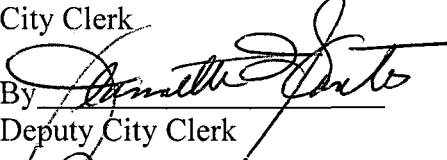
  
Diane Silva-Martinez  
Chief Deputy City Attorney

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11/13/2012 REV.  
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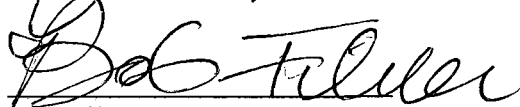
I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of DEC 04 2012.

ELIZABETH S. MALAND

City Clerk

By   
Deputy City Clerk

Approved: 12/18/12  
(date)

  
Bob Filner, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
Bob Filner, Mayor